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A Confucian Theory Of Crime

Nicholas Lassi

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A CONFUCIAN THEORY OF CRIME

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Nicholas Lassi

Date 03/05/2018

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ABSTRACT

This dissertation is an analysis of pre-Qin Confucian philosophy as it pertains to crime and the crime related issues of personal control and social control. From this analysis of pre-Qin Confucian philosophy, a wholly new and distinct theory of crime is developed. Material relating to crime, and the crime related issues involving personal control and social control, is filtered out of an assortment of prominent pre-Qin Confucian texts (namely those of Confucius, Mencius, and Xunzi), dissected and juxtaposed with historical and modern Western criminological thought, and ultimately systematized into a unified Confucian theory of crime. This endeavor works to enrich our understanding of crime from a Confucian perspective, to advance our understanding of crime in general, and to enrich our understanding of Western criminological thought. An assortment of Western criminologically based empirical studies and theory are drawn upon to develop a prism from which to view and analyze Confucian criminological thought. A main directive of this dissertation is to enhance Western theories of crime and punishment by comparing them to, and, when appropriate, merging them with, Confucian philosophy, all within the context of theory building. Novel theoretical frameworks are generated from the merging of, and observations made between, the philosophical work of the pre-Qin Confucians and the criminological theory from such notable criminologists as Gabriel Tarde, Travis Hirschi, Michael Gottfredson, Edwin Sutherland, and John Braithwaite. Examples of deep theoretical connection and enrichment between traditions include Hirschian social bonding theory and Confucian ritual, and Gottfredson and Hirschi's parenting approach to crime

prevention (within the context of self-control theory) and Confucian parenting practices. A Confucian theory of crime is generated from this filtering process, analysis, and theory building, which details the Confucian theory for the causes of crime, and, also, the Confucian remedies for these causes. Three major remedies for criminality are constructed from the Confucian texts, these are: A focus on family unity and family cohesion, properly educating children both in a formal educational setting, and, importantly, in the home under the tutelage of the parents, and, lastly, the inclusion of ritual and ritualized patterns of prosocial behavior within the home, school, and community, so as to ingrain a deeper meaning and understanding of the tenets required by society to ensure its effective functioning.

CHAPTER 1) INTRODUCTION

“If by keeping the old warm one can provide understanding of the new, one is fit to be a teacher.”

Confucius (2008, 2.11, p. 7)

Confucius, arguably the wisest and greatest of all the exceptional Chinese sages, was deeply involved in crime prevention and crime related issues. Confucius was supposedly the Minister of Crime in his home state of Lu, and there is some indication that his ability to reduce crime and control the citizenry was enormously effective. Distinguished Confucian scholar and translator James Legge (1815-1897) describes Confucius’ seeming effectiveness as Minister of Crime and as the magistrate of Chung-tu:

As magistrate of Chung-tu he produced a marvelous reformation of the manners of the people in short time...A thing dropped on the road was not picked up. There was no fraudulent carving of vessels.

The duke Ting, surprised at what he saw, asked whether his rules could be employed to govern a whole State, and Confucius told him that they might be applied to the whole kingdom...From this [his effectiveness and competence in other sectors of government] he was quickly made minister of Crime, and the appointment was enough to put an end to crime.

There was no necessity to put the penal laws in execution. No offenders showed themselves. (as quoted in Confucius, [1893] 1971; p. 72)

His personal control, social control, and deviance reduction philosophy, when instituted within his home state in his capacity as the Minister of Crime, was apparently so effective (the state of Lu was so productive and harmonious) that he became a threat to neighboring states, which, through a supposed conspiracy amongst the leaders of these neighboring states, ultimately precipitated his removal from power (Confucius, [1893] 1971). Crime and crime related issues were at the forefront of much of Confucius' professional life, and, it could be argued, this significantly shaped his overall philosophy. This dissertation is an account of the relationship between Confucian theory and crime; it is a means to better understand, explore, and represent the pre-Qin Confucian philosopher's positions on the causes of crime and the remedies for crime.¹ This dissertation generated a novel theory of crime, henceforth to be labeled *A Confucian Theory of Crime*, from the theory and thought of the seminal pre-Qin Confucians. Material corresponding to crime, and, what could be argued, the crime centric issues of personal control and social control, was filtered out of prominent pre-Qin Confucian texts, compared to and merged with Western criminological theory—while at the same time building theory—and, from this filtering and theory building, a Confucian theory of crime was generated.

¹ The “pre-Qin” period is any time before the advent of the unification of China under the Qin Dynasty (the Qin Dynasty was in existence from 221-206 B.C.E).

The notable ethnographer and anthropologist, Wade Davis (2009), when discussing the value of cross-cultural research, writes that, “The world can only appear monochromatic to those who persist in interpreting what they experience through the lens of a single paradigm, their own. For those with the eyes to see and the heart to feel, it remains a rich and complex topography of the spirit” (p. 6). It is through comparative and cross-cultural research, such as the research that is conducted within this dissertation, that the foundation for the enrichment of theory, new interpretations of theory, new understandings, theory building, and new ideas is poured. Cross-cultural studies have the potential to enhance criminology in a way that raises consciousness, deepens theory, excites the imagination, and emboldens the spirit. Additionally, cross-cultural studies may protect against the development (the word development rings even more true in criminology as it’s a relatively new field) of a homogenous field consisting of status quo theory with few rivals or alternative viewpoints. It is within the marketplace of ideas that true progress and understanding can be attained. Comparative studies and cross-cultural studies are emblematic of this marketplace, and they are often instrumental in the development of new theory and ideas. As a growing field, it’s important to continuously engage in reevaluation, self-reflection, and consultation with other cultural approaches, lest we become locked into our standard approaches, limiting our room for growth and progress. Cross-cultural examinations, and in this case, historical cross-cultural examinations and theory building, allows for a reexamination and reinterpretation of the field of criminology through a foreign prism. How better to know one’s own theoretical tradition, to understand another unique philosophical tradition, to understand who we are as people, and to understand the universals we share and the differences that we celebrate,

then to juxtapose one culture's philosophical tradition with the philosophical tradition of a relatively distinct culture. This dissertation exists because culture is important. Culture, through its traditions, rituals, laws, philosophies, theories, and language, provides meaning and solidarity to our lives in an otherwise cold and disinterested universe. Culture likely molds us into who we are as individuals, and it likely molds us into who we are collectively as a community or as a society. Therefore, a study of this nature is arguably important and of value to the field of criminology.

It can be argued that the Confucian philosophical tradition is still wildly influential within modern China. Within Chinese cities today there exists a great affection and regard for professors, teachers, self-improvement, personal cultivation, and education in general. There are relatively high percentages of intact families, and a youth population with a reputation for respecting and honoring parents, families, the elderly, and their ancestors (Pang, 1993). It is a culture in which parents are dedicated to the education and instruction of their children; parents often spend much of their life savings to get their children into the best schools, into after-school educational programs, or to send them abroad for study. It's not only the formal education of the children that is of concern for the typical Chinese or East Asian family. When the children return home from a long day at school, education and lessons of some form often continue within the family or in other less formal settings (e.g. after school academic tutors or private piano lessons). Confucian historian Homer Dubs (1951) illustrates the role that Confucius plays in China's intense attachment to academics:

Because Confucius was a great scholar, scholarship has ever since been esteemed in China more than anywhere else in the world. Until quite modern times, there were more books in China than in all the rest of the world. Confucius has made a deep impression upon his country. (p. 31)

Given that China enjoys relatively low crime rates, an argument could be made that Chinese society is fairly harmonious (United States Department of State, 2014). So, how is it that Chinese culture and East Asian cultures have such great ability to regulate and control individual behavior, often prompting people to seek long-term gains at the expense of immediate pleasure? How is it that the people of Chinese and other East Asian societies often delay gratification in the form of rigorous study, discipline, and hard work all for future benefit (to the extent that standardized academic test scores measure rigorous study, discipline, hard work, and delayed gratification, China ranks at or the near the top of the international rankings (OECD, 2015))? Why is it that adult sons and daughters readily sacrifice their time and money to care for their elderly parents? It's probable that they have an internal moral compass endowed to them by nature that's tuned by socialization which works to direct their actions, all people likely possess this moral compass in varying degrees, but some cultures generally and statistically produce more deviance and crime than others (take American culture as an example of a higher crime-rate culture). What calibrates the Chinese moral compass to make it so effective? What provides the moral justification for virtuous behavior when anti-social or selfish behavior may be more profitable? In many cases, it could be asserted, this prosocial behavior stems from the explicit or residual effects of the Confucian philosophical tradition. Many of the prosocial

behaviors, productive behaviors, and modalities of thought we find today in modern China and around East Asia (mainly in South Korea and Japan) were developed and rigorously promoted by Confucian scholars for over two millennia—at the same time, Confucianism was and is rigorously studied and followed by large numbers of the people in these populations. Confucianism works, through clear philosophical instruction in the form of moral lessons and ritual, to cultivate a morality that is based on empathy, social harmony, family, filial piety, delayed gratification, self-control, moderation, and self-improvement, which, it could be asserted, often leads people down a relatively honest and law-abiding path. Passed-down, generation after generation, the philosophy, stories, parables, ritual, and lessons of these Confucian scholars—through written texts, instruction, or by simply witnessing the behavior of others more inclined or more knowledgeable—arguably constitute the philosophical foundation of Chinese morality and personal conduct.

When a grown Chinese son or daughter frets over how they will help cover the living and medical costs accumulated by their elderly parents—as it is their filial duty to watch over and provide for them in their ailing years—the Confucian school can arguably be credited as instrumental in upholding these prosocial familial thoughts and duties, as it is the Confucian tradition that has made filial piety a top priority within their overall philosophy. When students rise to their feet with their backs straight to address their teachers and respond to questions in the classroom, they are likely directly or indirectly following Confucian “rites” or rituals that represent the cornerstone of Confucian philosophy and Chinese culture (and as we shall see, these rituals represent mechanisms employed to generate greater personal control, social control, and social harmony, formally drawing adolescents and juveniles into family and social systems). When a subordinate

worker living in modern China defers expressing any opinion counter to those expressed by their superiors, once again, the Confucian philosophers can at least claim partial credit for this cultural phenomenon. This type of behavior may be partially the result of the Confucian doctrine that people must by default defer and show respect to those residing on a greater plain within the social hierarchy than themselves.

Moving on to a couple brief examples of how pre-Qin thought in general may have influenced Chinese society as a whole: When a manager, administrative personal, or human relations officer is faced with a difficult decision that could upset one of two competing or conflicting parties and resolves to take “no action,” believing (or hoping) that the dispute will simply fade away or take its own course and find a natural middle-ground (which is not an uncommon tactic in China), they are, potentially, consciously or unconsciously following the long standing Taoist tradition of “action through no action.” In this way, it is believed that all forces within nature or society will eventually find their natural or appropriate place, and that to push against a prevailing or natural direction will bring about unnecessary struggle and difficulties. As we shall see, the Confucians incorporated several Taoist theories into their canon as well. When a Chinese police officer posts a list of rules or policies on a public wall or street corner, rules of which are clearly stated and must be followed by all citizens and not just the common person, this officer is knowingly or unknowingly abiding by the Legalist reforms of clearly stating a law, making the law public, and applying the law to everyone.

Returning to Confucianism, not only does Confucianism still radiate throughout much of Chinese culture, but it’s now undergoing a resurgence both within China and internationally—making this study timely. Private Confucian based educational schools

for children are gaining traction within China as an alternative to the standard schooling system. Chinese government sponsored Confucian institutes that emphasize Confucianism, the Chinese language, and Chinese culture in general are becoming more and more common internationally as a way for China to project its “soft power.” Bell (2009) defines “soft power” as, “The values and practices that win over the hearts and minds of foreigners...such soft power must be built on local cultural resources” (p. 26). Confucianism is expected to continue to play an instrumental role in China’s future approach to soft power. It’s not uncommon to find an assortment of Confucian books on the shelves of popular Chinese bookstores, and see Confucian oriented television shows running on Chinese television. Confucianism is becoming a major bridge of introduction to China and Chinese culture in many foreign and domestic places. As China’s economic reach and soft power continues to grow throughout the world, Confucianism will likely spread at an accelerated pace, thus, it’s important that the field of criminology introduce itself to what will undoubtedly be an influential and highly visible philosophy in the coming decades. As Yang Muzhi writes in the preface to *Xunzi* (1999):

Today it is impossible for any nation’s culture to develop without absorbing the excellent aspects of the cultures of other peoples. When Western culture absorbs aspects of Chinese culture, this is not just because it has come into contact with Chinese culture, but because of the active creativity and development of Western culture itself; and vice versa. (p. 15)

The power and influence of the Confucian tradition, it could be argued, remains evident for large portions of the Chinese, South Korean, and Japanese populations. Theory with this capacity to continually grip, regulate, and, what is advanced in this dissertation, prevent the deviant behavior of hundreds of millions of people, warrants a large scale and rigorous examination regarding its criminological importance, and that is exactly what is carried out in this study. This work continues in the long tradition of closely examining the cultural undercurrents of an ancient society to better comprehend an issue, theory, or field of study.

Confucianism was chosen as the central tradition of study for this dissertation as it is the dominant classical philosophical school within China, and because of its great influence throughout Chinese history. The three main traditions that are referred to within this study, Confucianism, Taoism, and Legalism, were founded and gained prominence in roughly the same time period in ancient China; Confucianism and Taoism were founded around 550 B.C.E., and Legalism was established around 250 B.C.E. All three traditions had their own periods of influence and significance, and all had periods of insignificance and decline, but the overwhelming social and cultural power, in general, rests with Confucianism. These periods of significance or insignificance often vacillated depending on who happened to be the emperor or who held power. Despite Confucianism's profound influence within Chinese culture, China's long history and diversity prevent it from claiming supreme cultural or philosophical representation; Yan Xuetong explains:

In the last three thousand years, no school of thought has been more powerful than Confucianism. Even Confucianism, however, cannot

represent all of Chinese thought...The size of the Chinese population and the length of Chinese history make it very difficult for any school of theory to represent all of this diversity. (Yan, 2011; pp. 254-255)

All the same, Confucianism was the most dominant tradition for the longest stretch of time—from the 10th century C.E. through the early 20th century C.E., Confucianism was by a large margin the most influential philosophical tradition in China. It was during this long stretch of time that the Chinese educational system and the government revolved around the study and knowledge of Confucian texts. Prior to this thousand-year block of dominance, Confucianism also had long stretches of great influence.

Regarding the hierarchy amongst the pre-Qin traditions within this study, it's as if the Confucian school was the sun and the other two major pre-Qin traditions, Legalism and Taoism, were planets orbiting it. In historical impact and importance, the Confucian school was the sun, and so it was within this research. The other pre-Qin traditions were incorporated opportunistically to offer alternative Chinese theories to the Confucian tradition—to highlight differences between traditions and clarify Confucian thought through methods of comparison. Ultimately, the other two pre-Qin traditions, Taoism and Legalism, were regulated to supportive roles. The cultural influence of the other pre-Qin traditions is relatively limited among the Chinese today and the same was true for much of Chinese history. Therefore, to incorporate a rigorous study of Legalism and Taoism into the dissertation on a similar footing as Confucianism is to add unnecessary information, and it would bog down the dissertation to the point that it would likely lose focus and

direction. Chen (2016) explains the importance of Confucianism in comparison with other traditions within China:

It is well known that in the Chinese religious tradition of “Three Teachings,” Confucianism has been the dominant “Teaching,” and Chinese culture is also called a Confucian culture... Thus when “Confucianism” is used in a broad sense, it may stand as being synonymous with Chinese culture or Chinese tradition as a whole. (pp. 22-23)

Once the focus was squarely on the Confucians, the task was set on determining which Confucian philosophers to analyze to get the best material representation of the philosophy’s influence on China and East Asia generally. The traditional method of Confucian theoretical analysis, derived from the time of the Neo-Confucian scholars (roughly 1000-1905 C.E.) and still widely used among New-Confucian scholars (1920’s to the present time), is to examine the foundational material (the classic pre-Qin Confucian material) and extrapolate lessons and guidance from it to make interpretations for modern times (Berthrong, 2014). Berthrong (2014) describes how scholars continually emphasize the classics in their employment and interpretation of Confucian thought:

This is an inherited research pattern from the extended Neo-Confucian phase of Confucianism in East Asia. You begin with the foundations, the ancestors if you like, and then you make a case for your revised commentary

or modern transformations. No tradition is more historically minded than Confucianism, and this extends to the New Confucians as well. (p. 647)

This is exactly the platform that was followed in this dissertation.

It is often the case that when modern researchers examine pre-Qin scholars, when they are working to interpret contemporary issues through a Confucian lens or undergoing a comparative analysis, the three traditions of Confucianism, Taoism, and Legalism act as the researcher's focus of interpretation and/or comparison (Cheung & Chan, 2005; He, 2011; Hue, 2007; Li & Tsui, 2014; Pan et al., 2012; Yan, 2011). This dissertation examined five prominent pre-Qin philosophers: Confucius, Mencius, Xunzi, Lao Tzu, and Han Feizi. These five philosophers, who were active from the 7th to the 3rd centuries B.C.E., are pertinent to criminal justice issues as they were, for the most part (particularly with the Confucians), regular consultants to feudal state leadership. These feudal state rulers were engaged in the process of presiding over, regulating, punishing, and controlling their people. Thus, issues regarding social control, self-control, punishment, and the causes of crime are widely covered within these pre-Qin scholars' philosophical and theoretical texts (Lao Tzu's work is more limited in this area, but this is of little consequence for this dissertation). These five philosophers can be divided into three main schools of thought:

- Confucianism: Confucius, Mencius, and Xunzi
- Legalism: Han Fei Zi
- Taoism: Lao Tzu

Mozi, and the school of Mohism in which he founded, is somewhat marginalized within this work. Mohism is regarded as important in a Chinese historical context, but it was not as influential or as instructive of Chinese thought in the classical or pre-Qin era (or any other era to be exact). This is particularly true when Mohism is examined next to Confucianism, but it pertains to the other two lesser dominant traditions of classical Chinese philosophy, Legalism and Taoism, as well. One likely explanation for the minimization of Mohism within Chinese culture is that it espouses the significance of gods and other supernatural entities, which typically runs counter to orthodox Chinese thought founded on Confucian, Taoist, and Legalist values. While it's true that Confucianism, Taoism, and, to a much lesser extent, Legalism sometimes allude to supernatural elements within their work—consider Confucian notions of a “son of heaven (the emperor)” ruling because they have obtained a “mandate from heaven”² to do so, or the Taoist concept of

² The “mandate of heaven (Tianming)” is a pre-Confucian concept that was adopted by the Confucians wherein he who is endowed with the most morality and virtue (amongst those vying for rule) will be afforded, via heaven, the right to rule. If a ruler fails in his duties to his people, for whatever reason, but it's typically attributed to a failure to follow ritual and engage in moral behavior, then the mandate given to him by heaven is forfeited and a new ruler will likely emerge to take his position (Gardner, 2007). Zhao (2009) labels the mandate of heaven “performance legitimacy,” and writes, “The strong performance aspect of state legitimacy allowed the ancient Chinese people to judge their ruler in performance terms” (p. 421). Heaven, during the pre-Qin Zhou dynasty (11th century B.C.E.—221 B.C.E.), often took on the form of a giant anthropomorphic entity that kept watch over the

the “Tao,” which is a somewhat vague, all-encompassing, somewhat supernatural, somewhat natural, “force”—they pale in comparison to Mohism, where much of the philosophical foundation for this work is based on the supernatural.

An assortment of different texts relating to Confucian work, and different versions of their original work (different translations, different interlinear commentators, etc.) was consulted and examined. The inclusion of different translations of Confucius’s *The Analects* for the explanatory power of their different interlinear commentary is important to note. Multiple translations were used with the work of Confucius. For the other philosophers, only one or two translations were used as there is either a very limited number of translations available or there is only a limited number of mainstream or more standardized translations available (take the limited availability of English translations of Xunzi’s work as an example). Confucius’ work is different though; mainly because Confucius’ work is arguably the most important and the most in need of additional commentary. The theory and thought of the work of Mencius and Xunzi is clearer, more fleshed-out, and more explanatory. All major English translations of *The Analects* provide essentially the same translations regarding words used, concepts transmitted, and overall meaning—with some minor wording differences interspersed throughout. A singular example of one of the major textual disparities is that one translated text uses the word “shame” and another translated text uses the word “conscious” within the context of a

people and granted mandates for rule. It is the work of the Confucians that minimized or eliminated the importance of any such omnipotent presence, watering it down and turning it into a more mystical force.

guilty feeling, which is potentially an important consideration within a Freudian perspective. When the translations are significantly different and used within the dissertation, such as what occurred in the previous example, a record of it was made within the dissertation. Confucius' quotes are worded in a way that are fairly simple and straightforward to read and translate, it's the interlinear commentary or the scholarly interpretations which provide an added element of thorough, and often unique, explanation. To reiterate, the motivation for the inclusion of different translations often rests in the different interlinear commentary they provide. The interlinear commentary from a particular translation often enables the reader to view Confucius' words and theory from a different vantage-point; to understand the text in a way that they may not understand using other texts. Numerous translations were incorporated into this dissertation because they provide more information to create a more well-rounded interpretation of Confucius' material.

This type of large scale, academic undertaking—generating and analyzing the Confucian interpretation of crime and the crime centric issues of self-control and social control, and summoning Confucian theory to better understand Western criminological thought and build theory—has not been conducted in any comprehensive form until the advent of this dissertation. Academic journal articles have been produced concerning the law and the legal system and how they relate to these pre-Qin Chinese scholars, and John Braithwaite has touched on Confucian theory in his work involving restorative justice, but nothing corresponding directly to a thorough general analysis of the Confucian material from a purely criminological perspective has been attempted, nor has a Confucian theory for crime ever been advanced. Also, legal studies and law related academic research are

distinct from the field of criminology. Both fields encompass their own separate areas of academic focus within the realm of crime, punishment, and the law, and both fields engender their own unique and distinct theoretical makeup. Though, both fields do influence one another, as Wolfgang (1963) conveys:

Criminology should be considered as an autonomous, separate discipline of knowledge because it has accumulated its own set of organized data and theoretical conceptualisms...such a position does not negate the mutual interdependence existing in the contributions to this discipline by a variety of other field specializations. Thus, sociology, psychology, psychiatry, the law...may individually or collectively make substantial contributions to criminology without detracting from the idiosyncratic significance of criminology as an independent subject matter of scientific investigation and concern. (p. 156)

Therefore, research that is conducted within the academic field of law, though at times confused as being representative of criminology, should not be considered and defined as wholly criminological in nature. Certain elements of law related research may have criminological components, but under most circumstances these fields are fairly distinct. Those who make the mistake of thinking that law and legal studies are demonstrative of the work of criminologists in general, it could be argued, fail to consider an entire field of established autonomous academic study.

The foundational texts used for the dissertation were chosen based on their perceived social and cultural influence within China, as well as their perceived influence within the tradition in which they operate. The texts that were analyzed as main source material are as follows:

Confucius. ([1893] 1971). *Confucian analects, the great learning, and the doctrine of the mean* (J. Legge, Trans.). New York: Dover Publications.

Confucius. (2008). *The analects* (R. Dawson, Trans.). Oxford University Press.

Confucius. (2016). *Doctrine of the mean: Bilingual editions, English and Chinese: A Confucian classic of ancient Chinese literature* (J. Legge, Trans.). Independent Publishing Platform.

Han Feizi. (2003). *Basic writings* (B. Watson, Trans.). Columbia University Press.

Lao Tzu. (2013). *Tao te ching*. Independent Publishing Platform.

Mencius. (2004). *Mencius* (D. C. Lau, Trans.). Penguin Classics; revised edition.

Xunzi. (1999). *Xunzi* (J. Knoblock & J. Zhang, Trans.). Hunan People's Publishing House.

Xunzi. (2003). *Basic writings* (B. Watson, Trans.). Columbia University Press.

In addition to the main source material from each pre-Qin philosopher, many other related books and academic articles were examined and utilized in a supportive capacity.

Hermeneutic methods were employed as the base method of operation and interpretation.

Several philosophical texts and theory from Western criminological scholars played a significant role within this dissertation. Some of the major Western criminological

and philosophical texts incorporated into this dissertation for analysis, comparison, and theory building purposes include:

Aichhorn, A. ([1925] 1935). *Wayward youth*. New York: Viking Press.

Bonger, W. (1916). *Criminality and economic conditions*. Boston: Little, Brown and Company.

Braithwaite, J. (2003). *Restorative justice and responsive regulation*. Oxford University Press.

Engels, F. ([1845] 1892). *The condition of the working class in England* (Wishnewetzky, Trans.). London: Swan Sonnenschein & Co.

Gottfredson, M. & Hirschi, T. (1990). *A general theory of crime*. Stanford, CA: Stanford University Press.

Guerry, A. ([1833] 2002). *Essay on the moral statistics of France* (H. P. Whitt & V. W. Reinking, Trans.). New York: The Edwin Mellen Press.

Hirschi, T. (1969). *Causes of delinquency*. Berkeley: University of California Press.

Quetelet, A. (1842). *A treatise on man and the development of his faculties* (R. Knox, Trans.). Edinburgh: William and Robert Chambers.

Shaw, C. R. & McKay, H. D. (1942). *Juvenile delinquency in urban areas*. Chicago: University of Chicago Press.

Sutherland, E. H. ([1934] 1939). *Principles of criminology* (3rd ed.). Philadelphia: Lippincott.

Tarde, G. (1903). *The laws of imitation* (E. C. Parsons, Trans.). New York: Henry Holt and Company.

A thorough understanding of Western criminological thought was imperative when making comparisons and observations of the likes this dissertation pursues.

It's important to restate this information for the purpose of summation: this dissertation provides an analysis of the written material of the pre-Qin Confucians as it pertains to crime and the crime centric issues of personal control and social control. The purpose is to enrich our understanding of crime by developing a systematic and unified theory of crime through the philosophies and teachings of the eminent pre-Qin Confucian scholars. Within this analytical process, a distinct Confucian theory for crime emerges, as well as concrete Confucian proscriptions for the reduction of criminal behavior. The Confucian interpretation of the causes of crime, as well as their recommendations for the remedies for crime, were generated through thorough examination of the major Confucian texts. Through this research process, and the accompanying theory building that was undertaken, a better understanding of Western criminological thought was pursued. This study has drawn upon an abundance of Western criminologically based empirical studies and philosophies for purposes of theory building, comparison, and analysis. Western criminological theory and criminological research was analyzed within the context of the Confucian philosophical interpretation of crime. A major thrust of this dissertation involved the enrichment of Western theories of crime by juxtaposing them, and blending them, with pre-Qin Confucian texts during the theory building process.

A Rich Tradition of Confucian and Pre-Qin Focused Theory Building and Comparative Studies

Such textual exegesis has a rich tradition in the social sciences and has proven fruitful as a generator of research. An excellent example of this is recent work by Yan (2011). Yan used the philosophies of prominent pre-Qin Chinese scholars to create a framework for modern Chinese maneuvering on the international level. Yan connected the teachings and philosophy of notable scholars within pre-Qin Confucianism, Legalism, Taoism, and Mohism (amongst others, but mainly these four) to relevant issues confronting China today on the international stage. He explained how China can benefit from the information provided by the pre-Qin scholars as it engages in its relationships and hegemonic struggles with neighboring countries and other powers around the world. He also compared the work of pre-Qin scholars to modern Western and Chinese theories of foreign policy. Yan's work provides lessons for the future of Chinese diplomacy and statecraft, and it delivers a backdrop for a uniquely Chinese system of international engagement. His methodology and research objectives were the inspiration for this dissertation. His work acted as a blueprint that was followed as similar lessons were sought within the field of criminology.

Bell (2008) used pre-Qin Confucian philosophy to provide prescriptions for many of China's current concerns, from their use of soft power to influence other states to how Confucian ritual can promote greater altruism and less domineering behavior by the economically advantaged in their engagement with the economically disadvantaged. For example, in a highly inventive theoretical construction, Bell proposed that the seemingly

mysterious and mystical aspects of traditional Confucian ritual may provide a kind of transcendent experience between rich and poor that promotes solidarity, commonality, and community. It is in this solidarity, commonality, and community, he argued, that peace, charity, and relationships may be generated between the different economic classes. His use of Confucianism to describe China's modern social, economic, and cultural environment is instructive and valuable for the promotion of Confucianism as a moral philosophy within China and abroad. Bell's work also succeeds in capturing a more complete understanding of Confucian principles—by analyzing both the good and the bad of Confucian theory—to better comprehend them in a modern context. To be aware of potential theoretical short-comings and criticisms is to better prepare for them and remedy them. For instance, he described the many benefits of ritual within Chinese society, such as the containment of desires and social harmony, and without compunction then turned to his concerns and criticisms of these ritualized social processes, writing that ritualized dining (where the family gathers together to eat in a way that promotes personal control, filial piety, and family harmony) may have the negative residual effect of promoting familial centrism, which often operates at the expense of the community or the state—with the effects likely felt most strongly among the poor and disadvantaged within society. Continuing down this critical avenue, Bell described the negative definitional connotations associated with the word “ritual” in the English language, making the astute observation that definitional accounts such as yield, give-in, and concede, may potentially be an unprofitable Confucian marketing strategy and detrimental to the promotion of Confucian ritualized behavior abroad. Bell's work with Metz (Bell & Metz, 2011) is also a good representation of the type of cross-cultural comparative study that this dissertation pursues.

Bell and Metz (2011) constructed a dialogue between Confucianism and the Sub-Saharan African tradition of Ubuntu, exploring similarities and differences, and ultimately capturing an overarching value system corresponding to both philosophies.

Quinney's (2006) incorporation of Buddhist philosophy into the criminologically based peacemaking process, particularly as this process relates to punishment and corrections, corresponds with the gestalt of this dissertation. Quinney injected the Buddhist conception of "oneness" with others ("oneness" as people exist in an interconnect web of human experience) into modern Western punishment practices (the prison system and corrections, mainly), and resolved that the two philosophies as they currently stand (Buddhism and the American prison system) are incompatible in their interpretation of humanity and society. Recognizing this, he found that the prison system in general should be abolished in favor of a more empathetic and sympathetic rehabilitative correctional system. Buddhism teaches that people are all interconnected in a web of humanity and that pain experienced by one is felt throughout this web. Quinney (2006) developed his peacekeeping philosophy from major elements of this ancient philosophical system, writing:

When we see clearly that separation between self and other is a false perception of reality, we understand that harm done to one is harm done to all, and that the care taken with one is care given to everyone. It is all fabric, this web of life...There is no world out there that is separate from the one in here. When you are in prison, I am in prison also...Only when we are in tune with—in harmony with—the impermanent, ever-changing reality, will

we begin to break down the walls of the prison. Abolition of the prison is an integral and seamless part of enlightenment and human liberation. (pp. 274-275)

He also utilized what is known as the *koan* in the Buddhist tradition to provide criminologists, or future criminologists, a new and more intimate way of interpreting and perceiving criminality. Per Quinney (1998), “The koan opens the intuitive mind; the koan takes us beyond linear sequential thought and moves us to an intimate and direct perception of the question” (p. 35). Quinney (1998) provides instruction for viewing criminal behavior through the medium of *koan* visual methods and communication devices. This dissertation followed his theory development and theory building process closely, substituting out the Buddhist belief system and instead infusing Confucian teachings into the criminological field to develop new theory, novel interpretations, unique understandings, and mergers between both philosophical paradigms (Confucianism and Western criminological theory). In addition, this dissertation integrated new ideas and concepts such as *Li*, *Qi*, and *Ren* into the criminological lexicon and philosophical paradigm, much like Quinney (1998) did with his addition of the *koan*.

Hue’s (2007) research on Confucianism, Taoism, and Legalism regarding teaching styles in Hong Kong schools is instructive as it represents the type of research framework this dissertation implemented. The procedure of concern is one where Hue connected the philosophies of each individual pre-Qin tradition to classroom management methods, and in the process merged the two (pre-Qin traditions and classroom management methods) into coherent strategies for future teaching applications. Each tradition, with its own

distinguished view on human nature and social relationships, was shaped by Hue into a teaching style that future teachers can employ to benefit their students and the learning environment. For example, Hue compared classroom managerial styles based on Confucian, Taoist, and Legalist philosophies as they pertain to interpersonal interaction and behavior regulation, and then developed three distinct perspectives on classroom management.

Within the Legalist tradition (a tradition that is generally considered authoritarian, punishment centric, rule based, and affirms clear distinctions between social roles), Hue (2007) developed the Legalist managerial philosophy of *Shu* that is expressed in this classroom managerial theory:

Using the managerial skills of Shu: The use of commands and orders was adopted as a managerial strategy. Teachers used a very clear statement as a command, or order, to tell the students that they were supposed to do something as instructed...students were expected to show their submission as a way of respecting the leadership and authority of the teachers. (p. 42)

The corresponding Taoist classroom managerial philosophy generated from Hue's (2007) undertaking indicates major dissimilarities when compared to the Legalist tradition. The main tenets of Taoism are "action through no action," and allowing the "Way" or the "Tao"—which is the natural cause of events or the "middle way"—to guide behavior rather than pushing against or challenging the "Way." Hue (2007) writes of the Taoist tradition:

Complementary roles of teachers and students: The roles of the teachers and students were ‘mutually complementary and mutually interdependent’...they had to avoid dominating one another. It was not good if students were always requested to show their conformity and submission to teachers and perceived their teachers as powerful figures of authority. (p. 41)

Lastly, and most importantly for our purposes, Hue (2007) developed a classroom managerial philosophy from the social control and relationship based philosophies of the Confucians. The Confucians emphasize the good in human nature, the benefits of unity and conformity within groups (often predicated upon ritual), the value of social hierarchies, and the great potential which people possess for self-improvement and self-cultivation. It was within this philosophical context that Hue (2007) developed a corresponding teaching method, writing:

No one is unchangeable: Most of the teachers held a positive view that the intrinsic nature of students was originally good...In practice, they put effort into managing the diversity of students’ needs in an effective manner so that none of them would be left behind or given up on. In any circumstance where something went wrong in the classroom, the teachers could look at the potentials of the students involved and accordingly develop strategies to help them change. (p. 40)

Comparing the Confucian classroom managerial philosophy to the Taoist and Legalist classroom managerial philosophies, we see important differences that have the potential to educate future teachers on divergent pedagogic frameworks. Similar comparisons were made within this dissertation. Within Hue's study, Confucian theory was placed into the context of classroom management and teaching styles and then compared to other pre-Qin philosophies. In this dissertation, Confucian theory was placed into the context of crime and the crime centric issues of self-control and social control, and was then compared to and merged with Western criminological thought—all, it could be argued, on a much larger scale.

Even though the pre-Qin Confucian, Taoist, and Legalist traditions initially offered little by way of specific classroom management theory, one can take their general philosophical ideas of social control, ritual based classroom interaction, interpersonal relationships, the governing dynamics of teacher and student, etc. and connect them to, and merge them with, corresponding classroom managerial styles, creating novel managerial philosophies, or at the very least, creating more depth to existing managerial philosophies. Creating more depth to existing classroom managerial philosophies may generate a better understanding of those initial philosophies and may provide a greater justification for (or arguments against) those existing managerial philosophies. This dissertation did this within the context of criminological theory and criminal justice. Although the Confucian tradition offers little in relation to a thorough and well developed criminological theory, I was able to extract its general philosophical ideas regarding crime, punishment, human behavior, personal control, social control, impulsivity, social harmony, social and personal learning, community engagement, etiquette/ritual, and other associated concepts, and attach them to,

fuse them with, and build upon corresponding criminological theories. Through this process, novel theory was pursued, more depth to the initial Western criminological theories was pursued, and a better understanding of Confucian thought as it pertains to criminality and crime was sought. This process, it could be argued, was effective in developing a unique understanding of Confucian thought as it relates to crime and Western criminological theory. It may also provide greater justification for certain existing criminological theories.

Cheung and Chan (2005) examined the work of the pre-Qin scholars (Confucianism, Legalism, Taoism, and Mohism) in relation to the business and managerial strategies of prominent CEOs in China. Where Hue (2011) took each pre-Qin philosopher's ideas, kept them separated from one another, and formed unique classroom management philosophies for each tradition independently, Cheung and Chan (2005) examined the behavior of CEOs, connected that behavior to theories within the philosophies of the pre-Qin scholars, and formed one unique overarching pre-Qin philosophy of business and managerial operations. Cheung and Chan essentially created one super pre-Qin philosophy that best suited their understanding of business and managerial operations. This dissertation also worked to create one overarching Confucian criminological philosophy by extracting the most prominent criminological thought from the pre-Qin Confucian cannon, unifying that thought into a common thread, and solidifying the overarching theory through processes of theory building and theory development with corresponding Western criminological thought. In doing so, an avenue for Confucian thought to achieve possible real-world application within the West was constructed. Through the generation of an

overarching Confucian theory of crime, Confucian relevance within criminology is, it could be argued, most palpable and palatable.

In chapter four of this dissertation, amongst theory building and the merging of theory, a comparative study of crime, and the crime centric issues of personal control and social control between the Confucian tradition and Western criminological thought, is presented. Li's (2000) research represents a good example of this type of comparative study. He compared Confucianism to Legalism in terms of their philosophical positions on legitimate power and the law. For example, Li began his work with a comparison of Legalist laws and Confucian rites—mechanisms each philosophical tradition uses to standardize behavior and establish social control. Li (2000) writes of the difference between laws and rites:

The rites have a strong moral overtone, whereas the Legalist laws are more neutral. Moreover, the rites address private matters and behaviors, such as the rules regarding mourning and filial relations. The laws, however, deal more with public affairs. The rites indicate to the population what it must do in a given situation... The Legalist laws, on the other hand, indicate rather what the people cannot do, and what will befall them if they do not follow the laws. (p. 51)

This dissertation worked to provide similar comparisons, but rather than purely comparing laws to rites as they relate to legitimacy, as was the work of Li, this dissertation engaged in comparisons between the Confucian philosophical tradition and Western criminological

theory using crime and crime centric issues of personal control and social control as its analytical base.

Corresponding with this dissertation, Li and Tsui (2014) used Confucianism, Legalism, and Taoism to better understand modern managerial and leadership methods. They advanced the notion that in the modern Chinese business world, theory extolled by the Legalist tradition, with its emphasis on punishments and rewards to motivate people and its system of meritocracy, constitute the makeup of managerial means for subordinate control. Legalism, they argued, is closely followed in the modern Chinese business world by Confucian ideas of a more pronounced hierarchal structure, benevolence, and empowerment (meritocracy certainly corresponds closely with Confucianism as well). Taoism, with its notions of “non-action” and a greater “hands-off” approach to subordinate control, appears to have the least influence on Chinese managerial behavior. In this way, the philosophies of the pre-Qin scholars were placed in a hierarchy of importance, dependent upon how well they captured the managerial and leadership qualities in question. This dissertation also applied the technique of a hierarchal or ranking structure when comparing the philosophies of the Confucian scholars to Western criminological thought. In doing so, a more lucid illustration of which material from which Confucian scholar is attached to which Western criminological thought and how intensely this attachment occurs is offered.

An abundance of work in a variety of academic fields has been produced in the last decade concerning Confucian interpretations and prescriptions for current issues and modern theory. The merging of Confucian philosophy into other theoretical systems and philosophies ranges from constitutionalism in modern day China to how doctors should

approach patients in medical settings (Chan, 2013; Fu-Chang, 2001; Ivanhoe, 2013; Jiang, 2012; Kim, 2014; Kim, 2015).

Jiang (2012) developed a Confucian based bureaucratic framework for modern day China, focusing on legislative practices, supervisory roles, and leadership ability. Jiang organized Confucian philosophy into its most relevant parts as they pertain to political philosophy, and constructed theories and systems around them.

Fu-Chang (2001) used Confucianism to help bridge the gap between Western and Asian understandings of the term “personhood” to enhance medical practices. Using Confucius’ definition of “person,” he generated a more integrated understanding of the term “personhood,” so as to better comprehend how a patient is to be treated within a medical setting. For example, Fu-Chang found that under the Confucian system, a doctor should view the patient as comprised of two parts: The first is as an autonomous agent making independent decisions based on the available medical evidence—an agent that lobbies for his/her own best interests. Here the patient is effectively making his/her decisions based on the best scientific and empirical evidence available; the Confucians are at times (in a rudimentary and culture centric way) empirically focused. Per Fu-Chang (2001), the second part of the patient, within the Confucian system, represents:

A relational being with certain family, community and social-historical contexts: a small self encompassed by one or many greater selves. In a Confucian context, the family, more than the individual, is often considered as one basic unit in the two aspects of doctor-patient relationships. (p. 48)

It is under this two-part construct of personhood that a doctor can potentially monitor and consider the decision-making process of the patient—understanding and respecting the role the family plays in what the patient decides to do, but at the same time not allowing the family to dictate or override the decision-making process of the individual. If one is better able to understand the essence of what “personhood” represents for different people and different cultures, one may improve how one approaches and interacts with people. Similarly, within this dissertation, a Confucian interpretation of crime (and the crime centric issues of personal control and social control) was generated and merged into theory from prominent Western criminological philosophies. Through this endeavor, a deeper description of crime and criminality in general was pursued. For example, Hirschian social and familial bonding (particularly that of attachment) was employed for theory building and theory integration because of the importance it places on family relations, community relations, and the transmission of proper social behavior and moral ideals. These Hirschian bonding properties arguably correspond with Confucian philosophy, particularly Confucian ritual. The theoretical interpretations of the causes of crime were extracted from both philosophical systems and, because they are complementary in many respects, merged into a theoretical whole wherein theory was built, all the while analyzing and explaining differences, similarities, and other important components within this merger. This process may have produced definitions and concepts that enhance the essence of the terms and ideas within the traditions themselves.

Confucianism has been discussed and compared to other philosophies and theories within the field of Chinese law. This sort of law related research is distinct from this dissertation in that it operates purely within a legal and legislative framework. Aside from

Braithwaite's work concerning restorative justice, never, from my analysis, in academic research has the work of Confucius been examined from a purely criminological or criminal justice perspective (outside the realm of law). Chan (2013) compared Confucian views toward the law and humanity with those of the Legalist tradition. He contends that Confucian ideas are incompatible with those of Han Fei Zi and other Legalists because the Legalists treat the citizenry as objects to control, using cold, sterile, sanitized, and indifferent laws and legal systems as their mechanisms of control, all the while neglecting to incorporate humanity into their philosophical and practical orientation. This apparent lack of humanity within the Legalist legal system, Chan explains, creates a legal environment and society that the Confucians considered to be, "cruel, abusive, and therefore inhumane" (Chan, 2013, p. 104). The Confucians are not wholly opposed to laws as a platform for social control, particularly as a last resort when ritual isn't being properly followed or a ruler fails his people. This being so, Confucius and Mencius have serious concerns about the effectiveness of legal systems or laws as social control mechanisms, and they have concerns about the Legalist indifference to humanity. Mencius understood the significance of laws and regulations when he cites the importance of their use by the great sage kings, but he, as Chan (2013) explains, also stresses the necessity of a "voice of humanness as part of the voice of reason of law" (p. 102). Chan's study provides a window into a major philosophical division between two of the most influential pre-Qin traditions, all taking place within a field closely related to criminology. At the end of the day, understanding these types of philosophical differences, and the debates and conflicts they engender, helps us to reexamine our own current systems (in this case the benefits and problems associated with a legal system strongly infused with humane considerations as

opposed to a legal system predicated solely on a strict militaristic interpretation of unbending and highly punitive law), and they potentially provide new conceptual ideas and theoretical models for policymakers.

Similar to how Confucian theories of crime and prominent Western conceptions of crime are compared in the fourth chapter of this dissertation, Hackett and Wang (2012) compared Confucian and Aristotelian definitional accounts of “virtue.” Hackett and Wang compared accounts of “virtue” as it pertains to ethics to enhance training programs and improve leadership capabilities within organizations. The authors juxtaposed the interpretations of “virtue” from both Aristotle and Confucius, and combined like definitional elements to create a general standard between the two that can potentially be incorporated into leadership programs. For example, this standard of “virtue” generated from the work of Confucius and Aristotle can potentially be incorporated into leadership selection and personnel promotion. Comparing definitions of concepts and building theory from these concepts, cross-culturally and/or historically, allows us, it could be argued, to better understand these concepts in general, to better understand the conceptually interrelated world in which we live, and to better understand who we are as human beings (how we relate as members of one world, and how we come to represent distinct cultures). Mainly though, it could be asserted, these comparisons afford us the opportunity to better understand the concepts in question. They likely allow us to view concepts from different vantage points, different philosophical perspectives, and different cultural lenses to obtain a richer understanding of a specific concept or idea.

In addition, Confucian philosophy has been analyzed within the context of the economic systems of socialism and capitalism regarding certain managerial philosophies

and practices (Yang, 2012). It was compared to Aristotle, again, but this time regarding definitional accounts of “friendship” (He, 2007). It’s been compared to Christianity in relation to ethical behavior and ethical thinking (Lee & Ruhe, 1999). In the end, comparing Confucian texts to other philosophies and theories is not a novel concept. Rather, there is a great deal of academic literature that provides evidence of the benefits derived from this sort of academic pursuit. Yet, one area that remains nearly absent concerns comparisons made between the Confucian philosophical tradition and Western criminological thought using crime and the crime centric issues of self-control and social control as the analytical focus.

Shifting to examples of the use of Taoist philosophies and Taoist prescriptions to enrich our understanding of modern issues, Jing and Van de Ven (2014) examined the Chengdu Bus Group case study using the yin-yang model of change, which is a central concept of Taoism. From this study, Jing and Van de Ven (2014) provide lessons concerning “when to act and when to exercise strategic forbearance in orchestrating continuous change process” (p. 52). Per the authors, Taoism, and its yin-yang model of change, provides a superior and all-encompassing framework to guide behavioral change within organizations and people (in this case the Chengdu Bus Group). This yin-yang model, they argued, utilizes optimal amounts of force and momentum to guide change under an assortment of different circumstances. Fang (2011) used the yin-yang model within Taoism to examine the makeup of cultures. She determined that all cultures are composed of “opposing, paradoxical, and potentially incompatible cultural values” (p. 45), and by viewing culture within the context of the yin-yang framework, we may better understand cultural similarities in business and international relations. Additionally,

Taoism has been compared to Immanuel Kant with respect to both parties' interpretation of nature, interthing intersubjectivity, and the environment (Pang-White, 2009); and it was again compared to Immanuel Kant concerning both parties' understanding of the notion of "nothingness" (Wenning, 2011).

Much fruitful research has been generated with the use of Legalism as the object of study and comparison. Chen (2013b) compared the work of Han Fei Zi, a founder and central figure of Legalism, to Confucianism regarding the law and humanity. He determined that the main difference between the two traditions, this issue was briefly covered in the Confucian section but it is valuable to understand the argument from Han Fei Zi's perspective as well, is the level of importance of humanity or "humanness" afforded within the legal system. Han Fei Zi rejected "humanness" within the legal system in most forms, and instead opted for a cold, sanitized, and sterile legal system that possessed the potential and often the prerogative to be cruel and indifferent to the whims and desires of humanity. Han Fei Zi's legal system, compared to a Confucian legal model which emphasizes the importance of humanity and benevolence, offers a compelling counterpoint to the established humanitarian and humanistic punitive orientation prevalent, it could be argued, in China and much of East Asia both now and for much of history. This rather indifferent and conservative Legalist view of the law arguably provides balance to the more liberal, humanitarian, and, to take a turn for the critical, sometimes (it could be reasoned) wishful thinking of the pre-Qin Confucian legal worldview. Chen's research is effective at pointing out the general differences between the two philosophical traditions. Confucianism is generally more humanistic in orientation, with a great emphasis on benevolence, relationships between people, personal rehabilitation, education, ritual, and

self-cultivation, all with the goal that people can become better citizens and that society can continuously improve itself. Han Fei Zi's philosophy, in relation to Confucianism, is more militaristic and mechanistic in nature. His focus is on eliminating bias and variability within the legal system, strengthening punishments to induce fear in people (thus deterring unwanted behavior), and making certain that emotion, social status, social relations, or other outside stimuli do not influence the cold and somewhat detached machinery that represents the Legalist legal system.

Legalism has been compared to Confucianism, Taoism, and Western legal systems regarding the law. He (2011) compared Legalism to all the above as well as to Mohism in his examination of morality and the law. Per He (2011), the major distinctions between the four pre-Qin traditions regarding governing practices are as follows:

Confucianism claimed that the State was better to be governed by virtue rather than by coercive law. Mohism advertised "impartial care" and "universal love" and was thus against wars among States. The key concept of Taoism was about "men-cosmos correspondence," which was in a way similar to the natural law in Western legal theory. Chinese legalism, however, focused on strengthening the political power of the ruler. Different from the other three schools, Chinese legalism emphasized that the function of law was a social control institution. (p. 646)

The other major pre-Qin traditions are generally united in their condemnation of the Legalist view of the law and legal system, considering it merciless and too stringent.

He's (2011) research found similarities among the pre-Qin traditions concerning the value of naming things. Both Legalism and Confucianism, He argued, are absorbed in the value of naming and defining concepts. By naming, per the Legalists and the Confucians, a more complete fleshing out of ideas may occur, a common language of behavior is possible, the categorization of behaviors is possible, and for those deviant behaviors, a categorization of the accompanying punishments is possible. Confucius (2008) said this of the importance of putting names to behaviors, and then properly defining and categorizing those names:

If names are not rectified, than words are not appropriate. If words are not appropriate, than deeds are not accomplished. If deeds are not accomplished, then the rites and music do not flourish. If the rites and music do not flourish, then punishments do not hit the mark.³ If punishments do not hit the mark, then the people have nowhere to put hand or foot. (13.3, p. 49)

³ Rites, ritual, and music were considered mechanisms of personal and social control. Rites and rituals, the Confucians argued, control people through behavioral patterns and social hierarchies, and music controls as it unifies and pacifies people in communal pleasure and synchronous behavior. Gardner (2007) writes of the unifying effect of music, "Music had the function of ritual, which both promotes harmony in man and serves to express the inner harmony he embodies" (p. 17). Thus, the connection between rites, music, and behavioral control.

In other words, the events and the words we use to describe these events must align. Legal and social guidelines, they argued, are predicated on this alignment. The Legalists took this idea into a somewhat different direction by rigorously incorporating naming, defining, and categorizing into law based societal management systems that utilized punishments and rewards as mechanisms of control.

CHAPTER 2) A GENERAL INTRODUCTION TO THE CONFUCIAN PHILOSOPHERS AND PRE-QIN THOUGHT

“Mencius said to the disciple Kâo, 'There are the footpaths along the hills; —if suddenly they be used, they become roads; and if, as suddenly they are not used, the wild grass fills them up. Now, the wild grass fills up your mind.’”

Mencius (as quoted in Legge, 1895, VII. pt. 2. 21., p. 487)

From the 10th century C.E. to the early 20th century C.E. Chinese children would study Confucian texts as the focus of their education. They would do this with the hope of one day getting high marks on the important imperial civil service examinations, which were in large part a test of one’s knowledge of Confucian philosophy and Confucian text.⁴ Those students who did exemplary on their civil service examinations would often receive great social and economic advantage over those without these accolades. Many parents would be eager to marry their daughters to these high achievers, they would often acquire favors in business and politics, and they would often obtain other forms of special treatment in many areas of life. The reason for this special treatment is that students who excelled within the realm of Confucian thought were usually given the opportunity to become bureaucrats and/or state officials, and, thus, could obtain high levels of social status and political power.

⁴ This academic focus on Confucianism is returning to China in a significant way. Confucian texts are a regular part of the curriculum in most modern Chinese high-schools, wherein prominent passages from Confucius, Mencius, and Xunzi are studied intently.

Confucian command within the educational system and within society in general consisted of one major block of time, lasting from the 10th century C.E. to the early 20th century C.E., with many other smaller periods of influence prior to this one-thousand-year domination (most notably the first completely Confucian centric dynasty, the Han Dynasty (206 B.C.E.—220 C.E.)). It was the Song Dynasty in 960 C.E. that instituted civil service exams with a focus on Confucian thought. It was taken for granted over the near millennia of Confucian supremacy of Chinese culture that a man of any quality would be well versed in the teachings of Confucius, Mencius, and Xunzi; Confucian scholar James Legge describes the Confucian influence within this domain:

It is from them [the works of the pre-Qin Confucians] almost exclusively that the themes proposed to determine the knowledge and ability of the students are chosen. The whole of the magistracy of China is thus versed in all that is recorded of the sage, and in the ancient literature which he preserved. His thoughts are familiar to every man in authority, and his character is more or less reproduced in him. (Confucius, [1893] 1971, p. 93)

This kind of cultural hold over people corresponds closely with the hold exhibited by the *Bible* over many Europeans during the middle ages—it permeated all aspects of social and political life. The Confucian tradition reigned as the most prominent moral and intellectual force in China for over one-thousand years, finally losing dominance and stature in the upheaval, rebellion, and turmoil of the early 20th century. Yet, over the last twenty years Confucianism has undergone a massive renaissance within China. The great economic

boom in China over the previous thirty years has created a large and comfortable middle-class that, secure in their finances, are looking to their roots as a source of philosophical guidance, direction, and “meaning of life” material, and it is often in Confucianism that they turn.

In a way, pre-Qin Confucianism represents something akin to the middle ground between what the Confucians considered the extremes of the Legalist and Taoist philosophical doctrines. Legalism is a system of social control utilizing unbending and strict guidelines derived from wartime principles. Militaristic like in their philosophical legalistic doctrine, the Legalists advocated abolishing special privileges for those who can obtain them, they promoted a system of law that favors equality among the people, they provided clear and concise laws and guidelines for the people to follow, and they encouraged harsh punishments and sanctions for those who break the law. The Confucians complained that the Legalist philosophical orientation rarely incorporates the importance of the family, ritual, and individual dignity into their theory. The Confucians believed that a legal system without a central focus on the implementation of rites and rituals as mechanisms of social control and social unity is a system built on inauthentic adherence and doomed for failure. The Legalist philosophical system is doomed, the Confucians contended, because without social control through humanistic and proactive ritual the people will lack an authentic respect for themselves and society, will not feel shame when contemplating deviance, will be deficient in societal unity, and, rather than act on the side of being prosocial and working to help build a more harmonious society, people will be playing a game of cat and mouse with the authorities as they try to obtain as much pleasure as possible while avoiding the pain and punishment that is perpetually seeking them out.

The Confucians, particularly Confucius and Mencius, believed that if people are unable to develop an authentic belief in the importance of family and society through the execution of codified ritual, and instead live their lives on a base and instinctual avoidance of punishments, society will devolve into a sort of reptilian brain based behavioral wasteland.

Legalist scholar Han Fei Zi valued stern, militaristic, and unbending adherence to the law, and he believed that if the law is broken, harsh punishments directed from the ruler, and only the ruler, was the appropriate response. Again, Confucius and Mencius diverge from Han Fei Zi's reactionary response to criminal behavior, contending that rehabilitation and self-cultivation through study, education, self-reflection, and adherence to ritual has the power to bring harmony back so society, and to bring the deviant back to socially productive behavior. Although, Confucius and Mencius did accept punishment as a kind of last resort. If the ruler fails to provide a positive example to emulate or fails in his ritual based duties and the people fall into deviance, punishments, Confucius and Mencius believed, are often a necessary, though unfortunate, way to temporarily control society. It isn't until the failed ruler rights himself or is overthrown and a new system instituted, or until the ruling parties correct themselves or their policies, that punishments can then be, to a certain degree, minimized again. Xunzi advocated for the institution of rewards and punishments into the Confucian system of ritual centric social control as a more permanent fixture of behavior control. Xunzi believed that the most effective means of social control and individual restraint encompasses both ritual and a formal system of punishment, placing a greater emphasis on the value of ritual.

On the other side of the spectrum, Lao Tzu favored the elimination of most socially constructed social control mechanisms, and effectively took a laissez-faire approach to

government in general. Rather than appeal to government intervention on social issues, Lao Tzu advocated for society to adhere to “the Dao” or “the Way,” which is the force that, he theorized, pulls people into harmony with one another. The Confucians generally rejected this philosophy as one that is inadequate to properly regulate a complex hierarchal social system. Without the oversight of a regulatory system or a systematized guiding mechanism in a fractured and hierarchal society with many competing interests, the Confucians argued, the viability, safety, and long-term prosperity of that society will be severely compromised. Under Lao Tzu’s doctrine, the Confucians believed, people will be free to behave in any way they chose, and if that is the case, the needs of some (perhaps the strong or the well-connected) will be inappropriately favored over the needs of others, creating a highly destabilized, and, ultimately, unfair, chaotic, and anarchistic environment. Instead, the Confucians advocated for a hierarchical social system predicated on ritual to control behavior, regulate society, and generate harmony. Ultimately, the Confucians found, what they believed to be, solid philosophical ground between the two pre-Qin philosophical polarities, one of a cold, calculating, punishment driven system of social control, and one of a more free-flowing, laissez-faire, and noninterventionist model of social stability.

Confucian texts, much like the *Bible*, often have several authors and many interpretations. Confucius himself never personally wrote anything that remains with us. Instead, his spoken words were recorded by his disciples, and a compendium of his major work, entitled *The Analects*, was compiled after his death. So, it is in this regard that *The Analects* is much like the four Gospels of the *Bible*. *The Analects* is essentially a medley of smaller passages and limited statements that offer advice and guidance regarding ritual,

personal control, social control, how to achieve and prosper in life, how to properly rule a kingdom, and many other areas of more practical concern.

Mencius, second only to Confucius in influence and popularity within the Confucian tradition, likely did author his work, entitled *Mencius*. Mencius expanded on the work of Confucius, incorporating his own thought into Confucius' theory. He detailed his interactions with rulers of the feudal states and the subsequent exchanges between himself and his followers regarding these initial interactions. Mencius would often debate and advise rulers with respect to international/inter-state relations, social control, social hierarchies, personal development, personal conduct, etc. and would then later return to his disciples, describe his experiences, expand on the material covered, and field their questions. These interactions represent a portion of Mencius' expansive body of work and theory. Mencius' work, as previously stated, expands and elaborates on Confucius' text, all the while generally staying true to Confucius' original philosophical orientation. *Mencius* also provides a large amount of original material that covers similar subject matter.

Xunzi, the last of the three great pre-Qin Confucian philosophers, was the more conservative and, arguably, the more practical of the Confucians, which at times put him at odds with Confucius' and Mencius' relatively more lofty ideology. While both Mencius and Xunzi share core Confucian beliefs, it is Xunzi that deviates regarding both the inherent moral makeup of human nature and the implementation of punishment. Though much of Xunzi's life is unknown, scholars are fairly certain that he wrote his own material (Xunzi, 2003). Xunzi's text displays an advanced style of argumentation that came of age during his time period, wherein long, ordered arguments encompass several smaller pieces of

supporting information. When juxtaposed with other Confucian texts, the clarity and order of Xunzi's work stands out as supreme.⁵ Regarding the pedagogical methods employed within their work, Confucius, Mencius, and Xunzi often used moral lessons from history (with a great focus on the philosophies of the earlier Chinese sages and sage kings)⁶ and analogies to instruct their disciples and followers.

Pre-Qin Confucianism, it could be argued, contains many components that incorporate or closely align with the basic tenets of both empiricism and positivism. As a tradition, it generally holds great value in investigation in the pursuit of truth. For example, Confucius ([1893] 1971) states, "Wishing to be sincere in their thoughts, they first extended to the utmost their knowledge. Such extension of knowledge lay in the investigation of things... Things being investigated, knowledge became complete. Their knowledge being complete, their thoughts were sincere" (*The Great Learning*; Intro, 4 & 5., p. 358). The pre-Qin Confucians generally considered empirical means of information gathering as a highly effective mode of understanding the world (though, as we will see, this was not

⁵ This clarity and advanced style of prose is a product of the time period in which Xunzi existed. Xunzi began his work at a much later date than both Confucius and Mencius (200 years after Confucius' death and around 10 years after Mencius' death), at a time when, "the spread of literacy and the increased interest in philosophical and technical literature marked the late years of the Zhou, the art of prose advanced remarkably in organization, clarity, and subtlety of expression" (Xunzi, 2003, p. 12).

⁶ A sage, per Confucius (2008), is "someone who benefited the people far and wide and was capable of bringing salvation to the multitudes" (p. 23).

always practiced). Xunzi (1999) writes of the importance of gathering information from the senses, “One who has heard about something but not seen it, even though he is broadly learned, will surely fall into error” (8.19, p. 197). The pre-Qin Confucians limit the influence of any supernatural force, and unlike in the West where there has historically been a strong emphasis on the duality of soul and body, human beings, in the Confucian tradition, constitute one organic mass effectively devoid of extra bodily elements.⁷ Chaibong (2001) explains the Confucian rejection of the metaphysical:

⁷ Though, references to spirits are readily alluded to in some of the important Confucian material, particularly that which explains rites or ritual. For example, in *The Book of Rites*, wherein the authors and editors of the material may be unknown or vague (the material in this book is generally attributed to Confucius; though, there is a great deal of skepticism on this front) and, thus, the material should be taken with a certain degree of hesitation, the authors make statements such as, “In mourning for a parent, there is no restriction to (set) times for wailing. If one be sent on a mission, he must announce his return (to the spirits of the departed)” (Legge, 2016, p. 115), and, when speaking to the proper ritualistic sacrifices the mourner is required to make, the text states, “Does he know that the spirit will enjoy (his offerings)?” (Legge, 2016, p. 127). One last excellent example of the general separation and distinction between the major pre-Qin Confucian philosophers (the theory of Confucius, Mencius, and Xunzi), their rejection of the metaphysical, and some of the actual ritual practices espoused by the Confucians in material such as *The Book of Rites*, is this quote in *The Book of Rites*, “To bury on the north (of the city), and with the head (of

Confucianism does not accept the soul-body, *res cogitans-res extensa* dichotomy so dear to Western thought. It does not recognize the soul or the cogito as a separate realm of human existence, let alone a privileged one...One would have to go further and say that for Confucianism, body is all there is. (p. 316)

The Confucian concept of *qi* is as close as the major pre-Qin Confucians come to the inclusion of non-organic matter into their theoretical framework, but *qi* was considered much more natural than supernatural or extra bodily (*qi* is considered a psycho-material substance that promotes certain behaviors). It could be argued that *qi* is entirely bodily in the same sense that Freud's super-ego is bodily or in the sense that the conscious mind is bodily. Confucianism is often lumped in with major Western religions as if the tradition possesses supernatural or metaphysical elements, yet, other than the Confucians adhering to the idea of "the Way," in something akin to the Taoist sense of the word,⁸ and Mencius

the dead) turned to the north, was the common practice of the three dynasties—because (the dead) go to the dark region" (Legge, 2016, p. 129).

⁸ Northrop Frye provides an excellent encapsulation and interpretation of "the Way" as presented within Taoism:

In Chinese Taoism the Tao is usually also rendered "way," by Arthur Waley and others, though I understand that the character representing the word is

advocating self-cultivation to become sage-like and, thus, closer to heaven, Confucius, Mencius, and Xunzi actively avoided talk of the supernatural and often rebuked it when prompted to comment. Confucius and Xunzi are more closely aligned in their strong disregard for the spiritual and supernatural when compared to Mencius, though all three were generally opposed to, or disregarded, the idea. Confucius (2008), when responding to a question about death and the dead from one of his disciples, famously said, “If one does not yet understand life, how does one understand death?” (11.12, p. 40).

When examining the concept of positivism, it’s instructive to turn to DiCristina (2012) for definitional and contextual purposes. DiCristina, when defining positivism, broke the term up into four major parts. Each part of DiCristina’s definition will be responded to separately using Confucian principles to provide a more complete

formed of radicals meaning something like “head-going.” The sacred book of Taoism, the *Tao te Cing*, begins by saying that the Tao that can be talked about is not the real Tao: in other words we are being warned to beware of the traps in metaphorical language, or, in a common Oriental phrase, of confusing the moon with the finger pointing to it. But as we read on we find that the Tao can, after all, be to some extent characterized: the way is specifically the “way of the valley,” the direction taken by humility, self-effacement, and the kind of relaxation, or non-action, that makes all action affective. (Frye, 1990, pp. 91-92)

understanding of the relationship between Confucianism and positivism. The first portion of DiCristina's (2012) definition of positivism is as follows:

First, most forms of positivism in criminology assume that our behavior, individual or collective, is shaped by natural causes of one kind or another (e.g., biological, psychological, or social factors); free will is denied or significantly limited, and supernatural causes, such as spirits, are excluded from consideration. (p. 70)

Confucianism is closely aligned with the first portion of DiCristina's (2012) definition of positivism. As was covered previously, pre-Qin Confucian theory greatly limits or denies any influence of the supernatural, opting instead for natural, social, educated, and at times empirically generated,⁹ explanations. It was Xunzi (2003) that made the most damning and extended condemnation of the supernatural when he not only rejected the idea of divine intervention, but repeatedly showed contempt for it:

You pray for rain and it rains. Why? For no particular reason, I say. It is just as though you had not prayed for rain and it rained anyway. The sun and moon undergo an eclipse and you try to save them; a drought occurs and

⁹ Though the Confucians elaborated profoundly on the importance of knowledge generated through the investigation of phenomena, much of their theory is derived from the teachings and ideas of the ancient sages and sage kings—which is decidedly nonscientific in nature.

you pray for rain; you consult the arts of divination before making a decision on some important matter. But it is not as though you could hope to accomplish anything by such ceremonies. They are done merely for ornament. Hence the gentlemen regards them as ornaments, but the common people regard them as supernatural. He who considers them ornaments is fortunate; he who considers them supernatural is unfortunate. (pp. 89-90)

Much of Confucian theory revolves around promoting the importance of educated and natural explanations for social or psychological phenomena. Though it's important to recognize that much of Confucian theory is nonempirical in constitution, as it is derived from the theory and ritual of the ancient sages. Nevertheless, throughout all major pre-Qin Confucian texts, the Confucians emphasized the value of a constant and continuous investigation and inquiry into phenomena, particularly into one's social environment. The Confucians regularly expressed the belief that most phenomena should be closely examined and thoroughly understood. There is another major issue, though, that requires acknowledgement, and that is that their explanations often came in the form of what is called cultural positivism. Confucian interpretations of naturally occurring phenomena are almost always examined through a lens deeply influenced by cultural elements. This results in a tradition that, although placing great theoretical importance on thought, interpretation, and philosophy derived through scrupulous investigation, is undeniably influenced by ancient Chinese and Confucian culture as well. Hall and Ames (1987) explain Confucian cultural positivism thusly:

Confucius is, in fact, a cultural positivist. That is to say, he is one who posits the received cultural tradition as the authority *sine qua non* for all knowledge and conduct. Having said this, we must also note that...within the presumed limitations of such a positivist orientation, Confucius adumbrates an extremely subtle and complex vision of the personal, social, and cosmological implications of the process of philosophic thinking. (p. 68)

So, although the Confucians advance theoretical positions supporting an empirically based worldview, the theories of which they themselves lived by and preached were, to a great extent, generated nonempirically. Their theories are nonempirical because, as was mentioned before, they are generally borrowed theories from ancient sages (the theories and logic provided by the ancient sages represent the definition of nonempiricism). In addition, the theories the Confucians did produce, through their forms of empiricism and investigation, were often informed and tainted by their unique type of cultural positivism. Therefore, though the Confucians regularly supported and advocated for an empirically based worldview, much of their work and theory can be seriously criticized from a couple of different angles.

Regarding free will, Confucius, it could be reasoned, denied both the polarities of free will and hard determinism, instead opting for a middle ground with a strong lean towards determinism. To tie together the Confucian rejection of the supernatural and the Confucian position on free will, it's beneficial to appeal to the words of Li (2014), "There

may be a variety of reasons why classical Confucian philosophers did not develop a concept of free will. One of these reasons is that there was no such need. Confucianism does not recognize an omnipotent and omniscient god. There is no need for theodicy” (p. 905). It could be argued that it’s most appropriate to describe Confucius as a soft determinist or a compatibilist. The evidence in support of Confucian soft determinism begins with the Confucian concept of luck as it pertains to morality and intellectual endowment. Confucius espoused on the notion of luck and its relationship to one’s acquisition of competence and morality. Per Confucius, people are born with greater or lesser amounts of internal psycho-material stuff (*qi*) that either works to aid self-advancement and the acquisition of moral behavior or hinder it. It is with inherited intelligence or inherited ability, and the luck that is associated with it, that, it could be asserted, Confucius was making an argument against free will. Because people are born with unequal internal competencies, Confucius (2008) maintained that:

Those who know things from birth come first [emphasis added]; those who know things from study come next; those who study things although they find them difficult come next to them; and those who do not study because they find things difficult, that is to say the common people, come last. (16.9, p. 67)¹⁰

¹⁰ Confucius believed that his favorite disciple, Yan Hui, was in the first category— “those who know things from birth.” This information is alluded to in this exchange between Confucius and a disciple by the name of Zigong:

People are either born lucky or unlucky, born with advantage or disadvantage, and set on a path or direction from there. Yet, to limit this somewhat deterministic viewpoint, Confucius explained that people have the capacity to consciously redirect their behavior, to a certain extent, through education and study. This explanation of Confucius' thought is written with the recognition that whether one has the capacity to learn from elements within one's environment and go on to change one's behavior because of this learning may not (and likely does not) weaken the argument for determinism as a viable philosophical theory. Learning and behavioral change because of environmental stimuli is categorically still deterministic in nature—neurological changes reflecting environmental influences are completely acceptable within standard interpretations of determinism. Li (2014) writes of

The Master said to Zigong, “Who is better, you or Yan Hui?” Zigong answered, “How dare I even think of comparing myself to Yan Hui? Hui learns one thing and thereby understands ten. I learn one thing and thereby understand two.” The Master said, “No, you are not as good as Hui. Neither of us is as good as Hui.” (Confucius, 2003, 5.9, p. 42)

Confucius thought that he himself resided in the second category, saying this of himself, “I am not someone who was born with knowledge. I simply love antiquity, and diligently look there for knowledge” (Confucius, 2003, 7.20, p. 71).

this conscious ability for behavioral redirection within the context of the free will and determinism philosophical arena:

In the Confucian view, a person should establish a goal in life for personal cultivation and orient oneself in the right direction. After such an orientation has been set, the person needs constantly to strengthen and reinforce such a goal so that it continues to guide his or her life without withering. Therefore...“directions” is more appropriate than “will.” (p. 904-905)

Though, per Confucius, if one is exceedingly intelligent or excessively incompetent one does not change and one is more determinant in his/her nature. No amount of reading, learning, or otherwise will improve or diminish his/her station in life, he/she is effectively locked into his/her life trajectory. Confucius (2003) said this about the inability for some people to change, “Only the very wise and the very stupid do not change” (17.3, p. 200). This passage closely corresponds with the Confucian notion that some people are simply born knowing “the Way,” some are born with a great capacity to learn “the Way,” and others are born unable to grasp “the Way.” Thus, those who already know “the Way” do not change because there is no need to change, they already know “the Way” and a change would be a foolish diminishment of self. The incompetent are incapable of knowing “the Way” or they simply failed to study and learn “the Way” and will not change. This analysis arguably provides a fair encapsulation of Confucius’ somewhat tepid foray into the free will discussion. For the most part, people are fated to behave the way in which they are born or as nature has determined, but people can cultivate themselves and change

themselves in a way that potentially puts limits on these general deterministic ideas. On a somewhat related note, Mencius was arguably more predeterminate in his philosophical orientation; strongly asserting the power of destiny to direct people's lives. Mencius (2004) writes of our predeterminate destiny:

Though nothing happens that is not due to Destiny, one accepts willingly only what is one's proper Destiny. That is why he who understands Destiny does not stand under a wall on the verge of collapse. He who dies after having done his best in following the Way dies according to his proper Destiny. It is never anyone's proper Destiny to die in fetters.

Seek and you will get it; let go and you will lose it. If this is the case, then seeking is of help to getting and what is sought is within yourself. But if there is a proper way to seek it and whether you get it or not depends on destiny, the seeking is of no help to getting and what is sought lies outside yourself. (VII. A. 2-3., p. 145)

It is also important to note that Confucius believed that people should not gloat over the predicament of a criminal, nor should they consider the criminal evil within a moral or religious context. Instead, Confucius asserted that people should pity the criminal and

refuse to malign the criminal. The philosopher Tsang,¹¹ whose work is prominently represented in the original text of the *The Analects*, and, it could be argued, is likely highly representative of Confucian thought (as it was published side-by-side with Confucius' material in Confucius' main text) explains, "When you have found out the truth *of any accusation*, be grieved for and pity them, and do not feel joy *at your own ability*" (Confucius, [1883] 1971, XIX. XIX., p. 345). Confucius further explains that people should look inward and engage in self-examination and self-correction as opposed to the external condemnation and attack of others, stating, "To assail one's own wickedness and not assail that of others;—is not this the way to correct cherished evil?" (Confucius, [1893] 1971, XII. XXI. 3, p. 260).

The Confucian rejection of free will fits in rather seamlessly with the Confucians other positions on luck, metaphysics, and the treatment of criminals within the realm of moral determinism, particularly the kind of moral determinism championed by notable philosopher and neuroscientist Sam Harris (2012). Harris, although not a criminologist, is a recognizable public intellectual and philosopher who publicly speaks to criminal justice issues within the context of free will and determinism. He is probably the most visible public intellectual to speak on these issues within the last decade and has a large and influential platform in which his ideas are conveyed. When this portion of Confucius' philosophy is taken as a whole—the rejection of dualism, luck, a lean toward determinism,

¹¹ Philosopher Tsang's work is included in the main text of *The Analects* as if it is representative of Confucius' thought, or as if it should be representative of Confucius' thought.

and empathy for criminals—it acts as a corollary to the punishment proscriptions and general moral outlook of Sam Harris.

Harris (2012), much like the Confucians, removes any notion of a spirit or a soul from taking responsibility for the deviant behavior of people (in other words, he removes dualism from the table), and he believes that once this extra bodily explanation is exorcised, then the thoughts and actions of people must be the product of their unconscious mind (which is a product of one's biological system), as their thoughts must emerge from somewhere, they simply cannot arise out of nothing. A main tenet of science and of determinism is that for every action there must have been a prior cause that produced that action, and there must have been a prior cause that produced that second action, and so on back in time effectively until the big bang. When the genesis of our thoughts is inserted into this line of reasoning, Harris contends, it is the workings of our unconscious mind that represent the prior cause of our thoughts; the unconscious mind of which is the product of other prior causes, namely our genes, our environment, and our childhood experiences/past experiences. We are, it could be argued, not in control of our unconscious mind. Thoughts simply arise out of the unconscious mind—they arise out of this unconscious space without our consent—and direct our actions. We are essentially being deceived into believing that our conscious mind is in control and actively making decisions when the true director of everything is the unconscious mind and unconscious processes—it is the unconscious mind that produces all our conscious thoughts. Dostoevsky ([1864] 2008), in his seminal work *Notes from the Underground*, expertly describes the inculpability of self in biological chains of events:

In consequence again of those accursed laws of consciousness, anger in me is subject to chemical disintegration. You look into it, the object flies off into the air, your reasons evaporate, the criminal is not to be found, the wrong becomes not a wrong but a phantom, something like a toothache, for which no one is to blame, and consequently there is only the same outlet again—that is, to beat the wall as hard as you can. (p. 12)

To reiterate Harris’s position, our unconscious mind produces our conscious thoughts and is made up of our genes, our childhood experiences/past experiences, and our environment—all of which are the product of luck. Harris (2012) explains the importance of luck in the production of conscious thoughts and character formation:

The men and women on death row have some combination of bad genes, bad parents, bad environments, and bad ideas...Which of these qualities, exactly, were they responsible for? No human being is responsible for his genes or his upbringing, yet we have every reason to believe that these factors determine his character. Our system of justice should reflect an understanding that any of us could have been dealt a very different hand in life. In fact, it seems immoral not to recognize just how much luck is involved in morality itself. (p. 49)¹²

¹² A piece of prominent Confucian material (the author being undetermined, though Confucius is often understood to be the source of the material) alludes to the workings of

Falling in line with Confucius' notions concerning materialism, luck, and an aversion to viewing criminals in a negative or vile light, Harris (2012) explains the moral directionality of his and, arguably, much of Confucius' theoretical position, "This shift in understanding represents progress toward a deeper, more consistent, and more compassionate view of our common humanity—and we should note that this is progress away from religious metaphysics" (p. 48).

Here we find a corresponding theoretical picture of punishment and criminality between Confucius and Harris. Both remove metaphysics as a behavioral explanation, both emphasize the importance of luck in how we individually came to be, and both contend

the unconscious mind in its explanation of thought and behavior, or what the author calls "desires," as well. Within the work of *The Book of Rites* there exists thought that seemingly parallels Harris' unconscious mind materialistic theory for the genesis of behavior:

The things which men greatly desire are comprehended in meat and drink and sexual pleasure; those which they greatly dislike are comprehended in death, exile, poverty, and suffering. Thus, liking and disliking are the great elements in men's minds. *But men keep them hidden in their minds, where they cannot be fathomed or measured* [emphasis added]. The good and the bad of them being in their minds, and no outward manifestation of them being visible... (Legge, 2016, p. 183)

that criminals should not be labeled or construed as monsters or evil. As was explained previously, the major pre-Qin Confucians generally dismissed any notion of a soul or an afterlife. Harris (2012) too rejects dualism or metaphysics on empirical grounds. For Confucius, luck produces a level of “knowing” at birth,¹³ which greatly influences later behavior. For Harris, luck essentially explains everything: the genes one receives, one’s childhood experiences, one’s environment, etc. (people cannot choose these things, it is simply the luck of the draw; we are no more the author of our childhood experiences or family environment than we are the author of the DNA that constructs our neurological system). Lastly, both Confucius and Harris refuse to vilify criminals; instead, they opt for a more compassionate view of criminals and their circumstances. The inclusion of Harris into Confucius’ interpretation of free will, materialism, morality, and punishment offers an interesting parallel philosophical framework from which to understand and analyze the Confucian position.¹⁴

¹³ Luck was thought to produce one’s allotment of “qi” provided at birth. Gardner (2007) describes “qi” as “psychophysical stuff,” and he explains how the Confucians generally believed that differentiations of this “psychophysical stuff” corresponds closely with one’s ability to know “the Way” and understand moral principles directly from birth; he writes, “One born knowing it is one born with the most perfect allotment of psychophysical stuff, so pure and refined that the moral principle is self-evident, without any effort or learning” (p. 26).

¹⁴ For more on Harris’s position on free will and criminality see Harris’s (2012) book *Free Will* and seek out the chapter titled “Moral Responsibility.”

The second and third parts of DiCristina's (2012) definition of positivism are as follows:

Second, they hold that these causal factors have consistent effect on behavior; in other words, law-like relationships exist between phenomena.

Third, they emphasize that these causes can be identified through systematic observation, especially through the methods of the natural sciences, or at least the presumed methods of the natural sciences. (p. 70)

Although the Confucians generally advocated for a rigorous investigation into all matters within the social realm, they possessed no systematic method of scientific inquiry in general, and neglected most investigation outside the arena of human interaction, human psychology, statecraft, and sociology. The Confucians, instead, made broad, sweeping statements that allude to the importance of systematic empirical study and investigation, but their theory lacks specifics. For example, Confucius states, "To this attainment—i.e., perfect sincerity—there are requisite extensive study of what is good, accurate inquiry into it, careful consideration of it, clear distinguishing about it, and earnest practical application of it" (Dawson, 1915, p. 16), and Xunzi (1999) writes:

When they meet with extraordinary things and bizarre transformations that have never been seen or heard of before, by brusquely picking up one corner, they are able to state its guiding principle and proper category and can respond to them without cause for hesitation or embarrassment. When

they extend the model to measure them, everything is perfectly covered as though the two halves of a tally were being joined together. (8.18, p. 195)

Important and enlightening words for such an early period in human history surely, but a formal system of scientific inquiry it is not. Pre-Qin Confucian arguments are not formulated or expressed in any fashion that we might now consider to be scientific; perhaps it's best to think of the Confucian theoretical orientation as being scientific in spirit. Confucius, when not transmitting the thought and theory of the ancient sages, investigated the world around him using his own powers of empiricism, and provided theoretical statements pertaining to his conclusions. The statements Confucius made are not reinforced by much evidence, nor are they linked in any organized way. Mencius and Xunzi do provide much more organization and systemization within their work and they offer numerous examples and references as supporting material, yet this philosophical framework is still far removed from anything identifiable as positivistic or scientific in nature. Providing unsubstantiated examples and references to stories and sage Kings from bygone eras, though something of a pivot toward an evidence centric orientation, does little to comfort the scientifically minded. At times, Xunzi actively opposed certain forms of inquiry into the natural environment. Though Xunzi was an advocate for categorizing and defining all entities within the natural environment and for the careful empirical observation of the events and seasonal changes taking place within the natural world,¹⁵ any

¹⁵ Xunzi (1999), in making clear that he is not opposed to the study of the natural world, writes of the importance of careful empirical observation of the natural environment:

consideration into the mechanics behind many of these natural processes, he believed, is to be avoided. Xunzi (1999) writes of the necessity of avoiding inquiry into the mechanics of nature:

The [perfect] Man, however profound, does not apply any thought to the work of Nature; however great, does not apply his abilities to it; and however shrewd, does not apply his acumen for inquiry into it. This indeed may be described as “not competing with Nature in its work.” (17.2, p. 535)

Needham and Ronan (1978) best summarize the relationship between the Confucians and systematic scientific inquiry:

Confucianism was not scientific in outlook: the universe had a moral order and the proper study of mankind was man, not a scientific analysis of

The [officials] charged with recording the events of Heaven simply observe that its configuration can be fixed by regular periods. Those charged with recording the affairs of Earth simply observe how its suitability for crops can foster yields. Those charged with recording the events of the four seasons simply observe how their sequence can give order to the tasks of life...These expert officers should attend to matters of Nature...(17.5, p. 539)

Nature. Certainly Confucius taught a rationalist system that was opposed to any superstitious or even supernatural forms of religion, but it was an outlook that concentrated interest on social questions to the exclusion of all non-human phenomena. The rational element that could have encouraged the growth of a scientific outlook was not allowed to do so. (p. 80)

It is in this dearth of a fully systematic and scientific approach to theorizing that the Confucians, it could be argued, most resemble the classical school of criminology. The classical school of criminology placed greater focus on the theoretical at the expense of the scientific; as DiCristina (2012) writes of the classical school, they engaged “in nonempirical reasoning (logic) rather than the systematic collection and analysis of empirical data” (p. 15). Although the Confucians resemble the classical school in their scientific approach and systematic collection of data (or lack thereof), their overall theoretical position is, it could be maintained, one of empiricism and investigation, albeit within their somewhat limited and culture centric scope of interpretation.

The Confucians are not without personal contributions to science, though. Confucius advocated and practiced a kind of free marketization of thought and theory, and he extolled the virtue of suspending judgment until sufficient information is available. As was previously mentioned, Confucius placed great emphasis on the investigation of phenomena; as just one of many examples, Confucius (2008) said, “I am one who through my admiration of antiquity is keen to discover things” (7.20, p. 25). Confucius also believed that one must learn the names of the animals and plants in one’s natural environment, which is in a way a move toward systematic scientific discovery within the

natural world. Confucius (2008) said this regarding the naming and categorization of things within one's environment, "One also gains much knowledge concerning the names of birds and beasts and plants and trees" (17.9, p. 70). Xunzi greatly expanded on this notion by asserting that an entity should be broken-down and classified until it is fully defined and explained. Animals are to experience the full weight of taxonomy; Xunzi (1999) writes:

Although the myriad things are of multitudinous types, there are occasions when we want to refer to them collectively by name. One thus calls them "things." "Thing" is the name of greatest generality. By extending the process, one makes terms more general names, and from these generalized names one further generalizes until one reaches the point where there are no further generalizations to be drawn, and only then does one stop. There are other occasions when one wants to refer to things in part, so one refers to them as "birds" or "animals." "Bird" and "animal" are the names of the largest divisions of things. By extending the process, one draws distinctions within these groups, and within these distinctions one draws further distinctions until there are no further distinctions to be made, and only then does one stop. (22.6, pp. 715-717)

In addition, Xunzi (2003) advocated that theory and the implementation of theoretical designs meet the requirements of external validity when judgements of practical effectiveness are made; Xunzi (2003) writes, "If a man sits on his mat propounding some theory, he should be able to stand right up and put it into practice, and show that it can be

extended over a wide area with equal validity” (s. 23, p. 167). Incorporating the concept of external validity into the implementation of policy is certainly a move into a more robust and refined scientific outlook. Emblematic of the Confucian dedication to exacting data is their practice of demanding that scribes, when copying materials, leave any space blank in which they are unsure of the character. This method was in opposition to the common practice of faking or fudging a character to complete a text and satisfy convention (Needham & Ronan, 1978).¹⁶

The fourth and final piece that completes DiCristina’s (2012) definition of positivism is as follows:

Most conceptions of positivism in criminology suggest that upon identifying the causes of crime, we often have the capacity to alter them and, thus, change the course of individual or collective behavior. Hence control of behavior is perhaps their most common practical objective. (p. 70)

¹⁶ When explaining and providing examples for how his time period was experiencing a degeneration of ethics and morals, Confucius, using this “blank space in the text” example, recalled more measured, scrupulous, and high-minded times, “Even in my *early* days, a historiographer would leave a blank in his text...Now alas! There are no such things” (Confucius, [1893] 1971, XV. XXV., p. 301).

Although the Confucians believed that they had identified the causes of crime and had developed solutions to change the deviant behavior of criminals, they did not possess a scientific method that they could employ to test their theories. They gathered some empirical data from the environment around them, and they collected information from examples, stories, and philosophies of the past, but they were without the capacity to conduct rigorous scientific studies of the kind necessary to produce valid evidence of behavioral change—certainly nothing relating to the kind of evidence needed to satisfy the stringent requirements of positivism or the scientific method. Therefore, Confucian theory can, it could be argued, only be vindicated or rejected within our modern system, as it is we who are capable of controlled scientific experiments. Nevertheless, when, from a historical standpoint, we consider philosophies that not only had the capacity to change the course of individual or collective behavior, but in fact did accomplish this behavioral change on a large scale, Confucianism is undoubtedly at the top of this list. From a criminological perspective, an argument can be levied that the Confucian experiment changed or altered the behavior of more human beings throughout human history than anything else. Not only did it change or alter the behavior of large populations throughout history, but, as the crime rates of people from East Asian Confucian based societies will attest, it may have changed people in a positive and society beneficial way. When viewed from the perspective of behavioral control, the Confucian philosophy, it could be asserted, may have eclipsed all other philosophical traditions and theories in overall influence and impact.

Confucius



Figure 1. Confucius (551-479 B.C.E.).

Confucius (551-479 B.C.E.) and his disciples were purportedly living in a time of social decline and regional instability. He lived during the late Spring and Autumn Period (770-481 B.C.E.), an age in which moral behavior, personal ethics, and appreciation for the arts was in deterioration throughout the Zhou empire. It was within this social context that Confucius sought individual and societal direction from the sages and sage kings who lived hundreds of years prior to Confucius, in what Confucius thought to be more peaceful and harmonious times.¹⁷ It's important to note again that it is believed that for a significant

¹⁷ The sages and sage kings who greatly influenced the teachings of Confucius mainly lived during the early Zhou Dynasty (otherwise known as the Western Zhou Dynasty (11th

period of time Confucius held the title of “Minister of Crime” in his home state of Lu (Dubs, 1946).¹⁸ Notable Confucian scholar and translator James Legge, in his exegetical

Century-771 B.C.E.). The Zhou Dynasty as a whole was in existence from 1046 B.C.E. to 256 B.C.E. (Confucius, 2008; Encyclopedia Britannica, 2016).

¹⁸ The position of Minister of Crime (or Director of Crime, depending on the translation) was purportedly the highest title awarded to non-nobility (Dubs, 1951). Xunzi (1999), writing nearly 250 years after Confucius held the position, describes the duties of the Minister of Crime:

The duties of the director of crime are to eliminate violent behavior and proscribe cruelty, to guard against public lewdness and eliminate evildoers, and to discipline them with the Five Punishments so that the violent and cruel will change their ways and dissolute and evil deeds will not be performed. (9.24, p. 247)

The five main punishments that were to be meted out by the Minister of Crime are, by order of seriousness of offense, the following: Branding or tattooing, cutting off the nose, cutting off the feet, castration, and death. The Confucian text, *The Shu King*, provides an excellent example of the guidelines and instruction considered by the Minister of Crime when making sentencing determinations concerning particular cases (the passage begins by explaining the procedure to follow when there is doubt as to whether or not the accused is guilty of the crime in question):

commentary of *The Analects*, describes Confucius' supposed effectiveness as Minister of Crime (and potentially as acting premier) in Confucius' home state of Lu, "He was Minister of Crime, and also, according to the general opinion, acting premier. He effected in a few months a wonderful renovation of the State, and the neighboring countries began to fear that under his administration, Lu would overtop and subdue them all" (Confucius, [1893] 1971, in Legge's commentary of XVIII. IV., p. 332). Under this and other similar

When, in a doubtful case, the punishment of branding is forborne, the fine to be laid on instead is 600 ounces (of copper); but you must first have satisfied yourselves as to the crime. When the case would require the cutting off the nose, the fine must be double this;—with the same careful determination of the crime. When the punishment would be the cutting off the feet, the fine must be 3000 ounces;—with the same careful determination of the crime. When the punishment would be castration, the fine must be 3600 ounces;—with the same determination. When the punishment would be death, the fine must be 6000 ounces;—with the same determination...(In the case of others not exactly defined), you must class them with the (next) higher or (next) lower offences, not admitting assumptive and disorderly pleadings, and not using obsolete laws. Examine and act lawfully, judging carefully, and proving yourselves equal (to every difficulty). (Misc. Confucian School, 1879, XXVII. 5., pp. 262-263)

administrative positions, Confucius advised local rulers on the best means to control populations, reduce deviance, and produce social harmony.

He was born in what we now refer to as Shandong province, which is located on the east coast of China, in the city of Qufu. He began his work as a teacher, and through his superior teaching abilities and theory was promoted to advisory roles within local governments. He developed his theory by analyzing the works of the ancient sages and sage kings, and, once completed, took his ideas to several major ruling parties and sought to have his theory widely instituted within their reign. As his philosophy is derived from the thought and ritual prescriptions of the ancient sage kings, Confucius considered himself a transmitter of theory and thought, rather than a producer or author of theory. James Legge describes how Confucius fashioned himself a conduit rather than an originator:

Confucius, then, did feel that he was in the world for a special purpose. But it was not to announce any new truths, or to initiate any new economy. It was to prevent what had previously been known from being lost. He followed in the wake of Yao and Shun, of T'ang, and king Wan. Distant from the last by a long interval of time, he would have said that he [Confucius] was distant from him [a sage King] also by a great inferiority of character, but still he had learned the principles on which they all happily governed the country, and in their name he would life up a standard against the prevailing lawlessness of his age. (Confucius, [1893] 1971, p. 95)

He ultimately failed to persuade these rulers of the merits or advantages of his philosophy, and achieved little appreciation during his lifetime. He experienced anguish over the fact that his philosophy and worldview was not instituted within at least one of the prominent pre-Qin states. It is as if he was preaching to the rulers and the emperors, but all that could hear him were his humble disciples, students, and those in stations further removed from the higher echelons of formal power. A Jin Dynasty official and scholar, Miao Bo, illustrates Confucius' misfortune in this regard, "[Confucius] regretted that he could not lead a state of one thousand chariots. [He felt] as if he were cutting a chicken with an ox-knife.¹⁹ He had no full scope for his talents" (as quoted in Harbsmeier, 1990, p. 134). Confucius then spent the later years of his life opening schools and teaching his disciples. Upon his death, Confucius was buried in the city of Qufu.

Confucius provides instruction on how people should conduct themselves, how authority and government should operate and rule, and the guiding principles and structure of hierarchal systems within society. Confucius also describes man's place in the universe,

¹⁹ This phrase is in reference to a statement made by Confucius when he happened upon the sound of music on his travels. The scene transpired thusly, "The Master having come to Wu-chang, heard there the sound of stringed instruments and singing. Well pleased and smiling, he said, 'Why use an ox-knife to kill a fowl?' (Confucius, 1971, p. 319). Distinguished Confucian scholar and descendent of Confucius, Kong Anguo (156-74 B.C.E.), interprets Confucius' phrase as a metaphor meaning the following, "Why should one use a powerful method to sort out a small matter?" (as quoted in Harbsmeier, 1990, p. 133).

he provides explanations for people's motives and drives, he gives advice on how people can flourish and succeed in society, and he provides theory regarding why people turn bad or fail in their personal conduct or work. There is a general focus on self-cultivation within the theory of Confucius; how people can better themselves through ritual and education and become what the Confucians call "the superior man" or "Junzi."²⁰ Consequently, much emphasis is placed on learning, self-improvement, self-reflection, and ritualistic behavior. In this way, Confucian ideas closely mirror many current rehabilitative efforts that center on education and self-cultivation as methods for correction and moral rectification. Confucius' repeated prescriptions for the development of moral behavior, personal improvement, personal control, and social control come with deep underlying criminological implications and crime prevention theory.

Confucian Interlinear Commentary

²⁰ The word "junzi" literally means "the emperor's son" in Chinese. Confucius used the word in a more general sense to describe a gentleman or an exemplary man. Now the common translation of the word "junzi" is "the superior man."



Figure 2. Notable Confucian commentator Zhu Xi (1130-1200 C.E.)

Classical texts, such as those that were examined for this dissertation, are often not easy to understand or interpret in modern times, thus, scholars will often provide interlinear commentary to aid the reader. From the 10th century to the early 20th century (which is considered the height of Confucian influence and popularity in Chinese society) it was standard procedure for the Confucian texts to contain interlinear commentary to better explain the original material. A good representative of this interlinear commentary is an eminent Neo-Confucian scholar by the name of Zhu Xi (1130-1200 C.E.). Confucian texts often contain important interlinear commentary written by a scholar like Zhu Xi. Zhu Xi is likely the most well-known and well-regarded Confucian commentator, and his commentary (and commentary like his) was frequently sought throughout this dissertation for clarification and explanatory purposes. Notable Confucian scholar and translator James Legge explains the influence of Zhu Xi on Confucian scholarship:

But the names [important Confucian commentators] of the Sung dynasty are all thrown into the shade by that of Chu Hsi [Zhu Xi], than whom China has not produced a greater scholar. He composed, or his disciples compiled, in the twelfth century, three Works on the Analects:—the first called ‘Collected Meanings;’ the second, ‘Collected Comments;’ and the third, ‘Queries.’ Nothing could exceed the grace and clearness of his style, and the influence which he has exerted on the literature of China has been almost despotic. (Confucius, [1893] 1971, p. 20)

It is often valuable to have a guide provide commentary when reading Confucian material (particularly that of Confucius himself) because the messages the Confucians convey are often somewhat limited in explanation (which requires an expert to explain the complete meaning behind the message), the Confucians sometimes use complicated or vague analogies and metaphors which are often germane to the time period in which they were written, and the material is often shrouded within the context of the time period in which it was written (which requires an expert to explain the material in such a way that the names and places mentioned heighten the material’s explanatory power rather than diminish it), and, as an extension of the first point, Confucius’ statements are often deliberately ambiguous and enigmatic, requiring the reader to cautiously navigate his philosophical pallet. Confucius (1971) explains the motivation behind his obfuscation and opaqueness, “I do not open the truth to one who is not eager to get knowledge, nor help out any one who is not anxious to explain himself. When I have presented one corner of a subject to any one, and he cannot learn it from the other three, I do not repeat my lesson” (p. 197).

It is Zhu Xi, and others like him, who were turned to in this dissertation for clarification purposes and for a more detailed explanation of the Confucian texts. The commentary provided by Zhu Xi and others like him is the customary educational material for the Chinese understanding of Confucian texts. It is immensely important material as this commentary appears under most of the main Confucian texts and basically instructed learners on how to understand and interpret much of the Confucian philosophy for hundreds of years. For example, throughout much of Chinese history, students were instructed to stand before the class and recite for the teacher passages written by the great Confucian scholars. Once this was complete, the teacher would ask each individual student to explain what the passages meant. The students were then obligated to expand on the material and provide evidence of a more complete understanding of that particular portion of the text. It was at this time that the explanation given by the student was to correspond closely with that of the formal interlinear commentary or the student would be sent back to his seat in shame (often after a thwack with a bamboo stick) to continue to better his knowledge in that particular area of study (Gardner, 2007).²¹ This is the influence of the interlinear commentary. Thus, it is through the work of Confucius, Mencius, Xunzi, and through interlinear commentary by scholars like Zhu Xi that students in China learn Confucian philosophy.

²¹ The gender designation “his” is used here as throughout most of Chinese history it was solely the male who was formally educated.

Mencius



Figure 3. Mencius (372-289 B.C.E.)

Where Confucius developed the skeleton for the Confucian tradition, Mencius (372-289 B.C.E.) added muscle to the bone. Mencius and Confucius make up the twin pillars of Confucianism. The work of Confucius came first, which is a collection of the essential elements of the general theories with a relatively limited range of application and thoroughness, and then Mencius came along approximately one-hundred years after Confucius and greatly expanded upon Confucius' material by providing rich theoretical substance to his concepts and theory. Mencius delved deeper into Confucius' theories, expanded on them, and incorporated many of his own into this philosophical tradition.

Confucius may be the originator, but it is Mencius who is often considered the more influential and important contributor to Confucian philosophy.

Mencius came of age at a time when Legalism was just gaining prominence, and many of his ideas reflect his rejection of Legalist doctrine. A prime example of this is in how he placed great emphasis on human nature being intrinsically good—in that people are born good. Stating that Mencius’s position is that human nature is inherently good is effective for purposes of generalization, but to be more precise, Mencius believed that humans are oriented toward good or have a predilection toward good that requires nourishment from its surroundings to maintain its state of good. People are effectively pointed in the direction of good from the outset of their lives, but require recalibration and constraint to maintain their inherent direction.²²

It is Mencius’ writings that truly place an emphasis on the inherent condition of human nature within Confucianism; shifting the idea that man is inherently good from a

²² The notion that humans are inherently good is in opposition to Han Fei Zi’s position on human nature (though Han Fei Zi arrived on the philosophical scene after Mencius’ time, his theory is, arguably, most representative of the Legalist position). Han Fei Zi contended that selfishness and egotistical behavior is inherent within people, making them inherently bad, and that the evil nature of people can only be contained or controlled by negative consequences being applied to them or positive incentives being received by them—all of which are to be meted out by the machinery of the state. In other words, Han Fei Zi believed that people are inherently bad, and if one wants to shape the behavior of the people a system of rewards and punishments will need to be instituted.

vague and minor Confucian idea into an area of focus all its own. The notion that people are inherently good is briefly and vaguely alluded to in *The Analects*, wherein Confucius (2008) said, “By nature close to each other, but through practice far apart from each other” (17.2, p. 69). This, in conjunction with other similar statements made by Confucius, many Confucian scholars interpret as meaning that human beings are intrinsically good (Chen, 2013a). Yet, it’s fairly obvious that it’s an obscure statement and ultimately unconvincing.²³ There is a slightly more solid quote that is attributed to Confucius in the first chapter of the Confucian text *The Great Learning* that better speaks to the inherently good nature of humans, “The way of great learning lies in letting one’s inborn luminous virtue shine forth, in renewing the people, and in coming to rest in perfect goodness” (Gardner, 2007, p. 4). Whatever the case may be, it was Mencius who picked up the mantle of human nature, expanded on it, made it a central tenet of his philosophical platform, and, in doing so, made it a central tenet of Confucianism in general.²⁴ Mencius (2004), in

²³ Notable modern Confucian scholar Chen Lai (Chen, 2010), after quoting Confucius’ previous statement on human nature, writes, “In contrast to the theories of Mencius and Xunzi, Kongzi [Confucius] in the Lun Yu [Analects] did not clearly present his thoughts on human nature” (p. 33).

²⁴ To say that the consensus among Confucians throughout history, or even during the time of Confucius’ seventy disciples, was that humans are naturally and inherently good is incorrect. Debates and dissenting opinions have persisted throughout Confucian history regarding the inherent nature of human beings, effectively preventing a solidification of

response to one of his disciples offering the opinion that just as water flows both east and west, so too are men both good and evil, wrote this famous water based analogy regarding the inherent nature of man:

any convergent position from a purely academic and objectivist standpoint; Chen (2010) explains:

From a historical perspective, the theory that human nature is good cannot be the core that defines what counts as Confucian. Otherwise, other than Mengzi [Mencius], all the Confucian thinkers from the pre-Qin to Sui-Tang periods would be considered to have deviated from the core of Confucian thought. (p. 47)

Nevertheless, the notion that human nature is good has been the prevailing interpretation of the Confucian tradition for at least the last one-thousand years. Chen (2010) illustrates the common understanding of human nature from the Confucian perspective:

Of course, the theory that human nature is good has at least in form become the mainstream Confucian doctrine on human nature since the Song period. In this sense, we can say that as Confucianism developed, more and more Confucian thinkers had the tendency to hold that human nature is good. (p. 48)

Human nature is good just as water seeks low ground. There is no man who is not good; there is no water that does not flow downwards.

Now in the case of water, by splashing it one can make it shoot higher than one's forehead, and by forcing it one can make it stay on a hill. How can that be the nature of water? It is circumstances being what they are. That man can be made bad shows that his nature is no different from that of water in this respect. (VI. A. 2, p. 122)

Thus, Mencius explains, it is unnatural to deviate from good; one's nature must be made to do so. It takes extra effort to push oneself from the path of moral behavior. One is born with a good nature and through circumstance or ill fortune they are channeled into deviance. Mencius (2004) continues in a more general sense, "As far as what is genuinely in him is concerned, a man is capable of becoming good. That is what I mean by good. As for his becoming bad, that is not the fault of his native endowments" (VI. A. 6, p. 125).

The third and last great name in pre-Qin Confucianism is a scholar by the name of Xunzi (300-230 B.C.E). Xunzi arrived on the scene when Mencius was nearing the end of his life. Mencius is considered to be more liberal and progressive in his philosophical approach, while Xunzi is recognized to be more conservative and something of a hardliner in his theoretical orientation. Although both philosophers operated within the general confines of the Confucian tradition, their unique philosophical orientations and contributions do at times put them in opposition to each other. These differences are

valuable in the way they educate the reader regarding the different forms Confucianism can take.

Mencius and Xunzi, much like Mencius and Han Fei Zi, held differing views about whether human nature is inherently good or bad. For Mencius, humans are naturally good. The reason humans are naturally good, per Mencius, is that people have an immediate and unconscious reflex to do good, show empathy, and behave selflessly. In other words, the default position for the unconscious human mind is for good. Mencius appealed to psychology when making his argument for the nature of man. A famous parable of Mencius' (2004) highlights his position concerning an unconscious orientation or unconscious reflex to do good:

Suppose a man were, all of a sudden, to see a young child on the verge of falling into a well. He would certainly be moved to compassion, not because he wanted to get in the good graces of the parents, nor because he wanted to win the praise of his fellow villagers or friends, nor yet because he disliked the cry of the child. (II. A. 6., p. 38)²⁵

The man in Mencius' example had an immediate and natural reaction of compassion for the child. The man unthinkingly and unconsciously responded with empathy, selflessness, and compassion, and went to save the child. An evil man, Mencius argued, would have

²⁵ During Mencius time, children falling into wells was not an uncommon occurrence. Wells were simply holes in the ground with minimal measures taken to prevent accidents.

acted on his own selfish accord, seeking the benefits of non-compassion; rather than operating from a position of compassion, a selfish man may have acted to achieve a good reputation among the townspeople or garner a reward from the child's parents. It's also possible that if the man was inherently evil or selfish, he would have recognized the potential liabilities of interfering with a child that might fall. In that, if the child fell in the well while he was in the process of trying to save the child, he might be mistakenly blamed for pushing the child in, or he may be faulted for failing to save the child. A selfish man will immediately run these scenarios through his mind and choose the most beneficial for himself. Yet, Mencius believed, this is not the case. He contended that our immediate unconscious reactions, which according to him are always good, reflect our true nature.

On the other hand, Xunzi believed that man is inherently bad. The reason men are inherently bad is because men have natural desires that require quenching, and, because resources are finite (be it available mates, food, materials, natural resources, etc.), men are constantly in conflict with other men to fulfill these desires. Therefore, if the nature of man is one of conflict, and conflict is destructive and bad, then men are intrinsically bad. Mencius countered this position by explaining that both humans and animals possess desires, but, in addition to desires, humans have something akin to a conscious mind that separates them from animals and governs in a way that overrides their natural desires. This conscious mind (what Mencius calls the "mind-heart" or "hsin")²⁶ engages in higher level

²⁶ The "mind-heart," or "hsin" in Chinese, is considered by the Confucians to be a mechanism found in the actual physical heart of a person and it influences or directs both thought and emotion (Shu-Hsien & Kwong-loi, 1996).

functioning, and encompasses a natural disposition for good. Xunzi downplayed the importance of the conscious mind and its ability to override our natural state of conflict. This philosophical wedge between Mencius and Xunzi ultimately helped precipitate a greater marginalization of Xunzi within the Confucian tradition. For much of Chinese history it was the work of Mencius that represented the standard, second only to Confucius, while Xunzi registered in third position in popularity.²⁷ It is only in the last two-hundred years that Xunzi's work has achieved greater recognition within China.²⁸

²⁷ It was Zhu Xi who first formally solidified Mencius' position on human nature as the standard within Confucianism (Lee, 2016).

²⁸ Han Fei Zi believed that contradictory theories within Confucianism weakened Confucianism to the point that legitimacy is severely compromised. It is logical for Han Fei Zi to take this position as the two parties are competing philosophical traditions, and it can reasonably be argued that differences and conflicts between Mencius and Xunzi leaves the Confucian tradition open for attack. Han Fei Zi (2003) illustrates the damage caused by disagreements within the tradition, "Their doctrines and practices are different or even contradictory, and yet each claims to represent the true teaching of Confucius...But since we cannot call Confucius...back to life, who is to decide which of the present versions of the doctrine is the right one?" (p. 119). Han Fei Zi (2003) continues his criticism, this time using a temperature analogy to make his point:

As ice and live coals cannot share the same container for long, or winter and summer both arrive at the same time, so, too, motley and contradictory

Xunzi

“Stars that fall, trees that give out strange sounds²⁹—such things occur once in a while with the changes of Heaven and earth and mutations of the yin and yang. You may wonder at them, but do not fear them.”

Xunzi (2003, p. 88)

doctrines cannot stand side by side and produce a state of order. If equal ear is given to motley doctrines, false codes of behavior, and contradictory assertions, how can there be anything but chaos? (p. 121)

²⁹ This is likely referencing the importance afforded to the different creaking and swaying sounds of sacred trees planted around alters (Xunzi, 2003).



Figure 4. Portrait of Xunzi (300-230 B.C.E.).

Often considered the most practical, pragmatic, and realistic of the pre-Qin Confucian philosophers, Xunzi (300-230 B.C.E.) has had a major influence on Chinese thought—within the Confucian tradition, the Legalist tradition, and as a stand-alone philosopher. He is so influential, that Bell (2008) wrote that his “ideas, arguably, did more to shape the actual politics of East Asian societies than anyone else” (p. 39). Xunzi is best remembered for his pessimistic take on human nature, and it is because of this that the Chinese generally defer to the more sunny and optimistic teachings of Mencius in this regard (who, as previously mentioned, believed that people are inherently good). Xunzi (2003) writes of human nature, “Man’s nature is evil; goodness is the result of conscious activity” (s. 23, p. 161). Even though Xunzi believed that people are intrinsically evil, he was optimistic about their ability to rise above their natural dispositions through education, self-cultivation, and, most importantly, by studying and following ritual. Xunzi (2003)

explains the importance of ritual in separating oneself from one's inherently evil nature, "To indulge the emotional nature leads to the quarreling of brothers, but to be transformed by ritual principles makes a man capable of yielding to strangers" (s. 23, p. 165). In concert with these necessary personal improvement efforts, he believed that it is imperative that the rulers and those in power aid their people in this improvement by providing them with adequate educational facilities, and other social and academic amenities that assist in this process. This idea of self-improvement, and the influence of leadership in this process, is a cornerstone of Xunzi's thought, and a reoccurring theory amongst all major Confucian philosophers.

The life of Xunzi is shrouded in mystery. Regarding his work, scholars are fairly confident that he wrote his own material, rather than having his words reproduced elsewhere at a later time (Xunzi, 2013). The knowledge that he likely wrote his own material limits the possibility that his words were later corrupted by those with an agenda as his words were retransmitted or during a compilation process. His written material, along with a short biography of him, was compiled around one-hundred years after his death. What was formed in the end, what we now call the *Xunzi*, makes up the source material that is analyzed in this work. It's uncertain when exactly Xunzi was born, but we can place his birth at a time when Mencius was in the twilight of his life, around 300 B.C.E. He was born in the once powerful, but at that time fading, state of Zhao, and he died around the year 230 B.C.E. in one of the three major Warring States known as Chu, in the southern area of what was then China (Xunzi, 2016). We are first introduced to him when he was fifty years of age, at a time when he was working as an academic and advisor to the court of Qi. Like his Confucian counterparts, Confucius and Mencius, Xunzi had many disciples. His most

notable disciple was Han Fei Zi (280-233 B.C.E.), who later went on to be the central figure in the Legalist philosophical tradition (which was quite the sore spot for future Confucians).

Much like Confucius and Mencius, Xunzi was not widely appreciated during his lifetime. He was given prestigious positions within government, which in a way is a form of consolation, but due to the chaotic period in which he lived (the Warring States Period), he was forced to change locations and titles periodically to appease the wishes of whoever happened to be in power at the time. This was a time in which many philosophical traditions competed with one another for dominance (philosophical matters were by no means settled at this relatively early, and chaotic, stage in Chinese history), and, thus, philosophers like Xunzi would often be forced to move to different locations (both within a state and within China) for several reasons. They would be forced to move because new rulers supported one philosophy over another, because of philosophical disagreements within the courts themselves, because of power struggles or intrigue within the courts, etc. The central takeaway here is that his ideas and theory were little known outside of his limited area of influence during his lifetime (Xunzi, 2003).

Xunzi's philosophical work takes the core teachings of Confucius and Mencius and expands on them. Incorporated in this expansion is the realism and practicality of Legalism, and Daoist principles relating to their form of what we now call quietism. Quietism is an acceptance of the way things are rather than exerting great effort to try to change things that simply are not meant to be changed. Magee (2010) defined quietism this way, "Acceptance of the world and acceptance of the finitude of human understanding...One could affirm the finitude of human understanding while not accepting the world

unconditionally” (p. 458). It is in this idea that Xunzi significantly diverts from Confucius and Mencius, particularly regarding the behavior of the ruler. Confucius and Mencius unbendingly and unrelentingly demanded that rulers be almost sage-like in their behavior, their governance, and their adherence to ritual, because, they argued, the ruler is closely imitated by the masses and the ruler sets the ritual standard from which the common people follow. Xunzi asserted that rulers should be pushed to behave morally and they should be held to the highest of standards as well, but at the same time he is also very practical and understood the nature of the position in which the ruler occupied (threats coming from many directions, competing factions within the court and society, the unfair nature of the world, etc.). He also recognized that to become a ruler or to act as a ruler one must be ruthless at times, and to try to completely wash this person of their previous behaviors, behaviors that many times raised them to the pinnacle of power, is not only misguided and unlikely to succeed, but is likely to precipitate the expulsion of Confucianism from the court or from the state (which was not uncommon) (Xunzi, 2003). When it came to the behavior of the ruler, Xunzi’s philosophical positions tended to allow him a bit more moral and operational leeway, and moral maneuverability, when compared to other prominent Confucians. Xunzi was also more accepting of punishments as means of social control. He effectively advocated for a combination of both rituals and rewards and punishments as the method for social regulation and social control, breaking with Confucius and Mencius and their great emphasis on ritual at the expense of punishment. It is not difficult to see how Xunzi’s practical approach to the functioning of government inspired the Legalist philosophies of Han Fei Zi. It’s almost as if Han Fei Zi took many of Xunzi’s most hardline, practical, and conservative ideas, expanded on them, and rode them to, what he considered

to be, their logical conclusions—conclusions which resulted in many of the core tenets of Legalism.

Xunzi also strongly believed in the importance of charitable behavior and helping those who cannot help themselves. In addition, much of his work revolves around theory and operation to ensure the safety and security of society. Xunzi (2003) writes of how rulers can instill feelings of safety and security within the population:

Select men who are worthy and good for government office, promote those who are kind and respectful, encourage filial piety and brotherly affection, look after orphans and widows and assist the poor, and then the common people will feel safe and at ease with their government. (s. 9, p. 39)

Xunzi is extremely charitable for those who require government assistance through no fault of their own, but if one tries to cheat the system or take advantage of the ruler's kind nature, he/she is to be dealt with swiftly and mercilessly. Xunzi (2003) writes of these cheats and free-loaders, "Employ them, provide them with food and clothing, and take care that none are left out. If anyone is found acting or using his talents to work against the good of the time, condemn him to death without mercy" (s. 9, p. 36). It is through this kind of example that one can get a sense of the hardline and conservative nature of Xunzi's philosophical work.

Along with the core Confucian concerns of personal control, self-improvement, societal control, statecraft, and ritual, Xunzi explored many other issues that we wrestle with today, including the optimal size of government, the most effective methods of

personal rehabilitation, the circumstances or conditions in which the government should interfere with or enhance the lives of citizens, and the nature of the educational material that should be taught in schools (Xunzi argued that there be a major focus on the classics).

CHAPTER 3) THE CRIMINOLOGICAL THEORY OF THE PRE-QIN CONFUCIAN PHILOSOPHERS AND PRE-QIN THINKERS

This dissertation breaks Confucian thought concerning crime, the causes of crime and the remedies for crime, into three main complementary sections: Family cohesion, education, and ritual. Each of the three pre-Qin Confucians are described and defined in terms of their interpretation of crime (the causes of crime and the remedies for crime) within the context of these three headings. The clear majority of Confucian theory concerning crime revolves around the family system (mainly family cohesion, family unity, ritual within the family, education within the family, and the roles encompassed within the family), education (moral, ritual, and scholastic based; both informally in the home and in formal educational settings), and ritual (forms of personal etiquette; the delineation of family and social hierarchies as means of behavior control and social stability).

Some of the material that was used to generate *A Confucian Theory of Crime* from the three pre-Qin Confucians may seem redundant at times, as Confucius, Mencius, and Xunzi, it could be asserted, find agreement with each other in the vast majority of their material—in a more general sense (splitting hairs will undoubtedly create more divisions) and within the realm of explanations for deviant behavior (prescriptions for the reduction of deviance, and other criminologically based thought). Nevertheless, a presentation of each individual scholar's work concerning crime is beneficial in showing the different ways in which they view certain topics in which they agree, and for detailing where and why they disagree in particular areas.

As was just mentioned, the three pre-Qin Confucians do disagree at times. Most disagreements consist of a two-party divergence with Confucius and Mencius on one side of the argument and Xunzi on the opposing side. The two main areas of criminologically

based discord between Confucius/Mencius and Xunzi concern: 1) The incorporation of punishments and rewards into a ritual based system of personal control and social control, and 2) (this is mainly a disagreement between Mencius and Xunzi) the inherent nature of human beings—are humans born good or bad? Both subjects are, it could be reasoned, not completely central to *A Confucian Theory of Crime*; both, as we will see, are not firmly related to the Confucian theory for the causes of crime, nor are they explicitly related to the remedies for crime.

The first main disagreement between the Confucians, the incorporation of punishments and rewards into a ritual based system of personal control and social control, is, it could be argued, of fairly minor importance to *A Confucian Theory of Crime*. This is because all three Confucians strongly asserted that ritual is fundamental to personal control, social control, and crime prevention, with the only contention being the extent to which punishments and rewards should be inserted into the ritual based social system. Thus, ritual will receive a great amount of focus within this work, as it is fundamental for all three pre-Qin Confucians and a topic rarely considered within criminology. The divergence rests in the extent to which Xunzi wanted to implement a system of rewards and punishments into the regular day-to-day operations of the Confucian system of ritual based personal and social control. Xunzi believed that rewards and punishments should play a more active role within the ritual based system of personal and social control, while Confucius and Mencius asserted that punishments of this nature should be minimized and typically act as a last resort when ritual has failed, the ruler has failed his people, or other egregious calamities persist throughout the state. Xunzi's recommendation to incorporate a more significant amount of punishments and rewards into the traditional system based on ritual, it could be

argued, does not fundamentally change the overall additive value of the addition of ritual into criminological theory. Ultimately, it is the, what could be reasoned, humanistic, proactive, positive, and life-enhancing nature of ritual that is the focal point of the prescription for criminality across the board for the Confucians, with punishments and rewards, and many of the implications associated with a punishment centric social system, taking a secondary position (and within Xunzi's philosophy, a more enhanced and forthright secondary position).

The second disagreement lays in the Confucian interpretation of the inherent nature of human beings—whether people are inherently good or bad. This debate is, arguably, not integral to Confucian theory concerning the causes of crime or the remedies for crime. The inherent nature of humans plays a role in Xunzi's explanation for the use of, and for the importance of, ritual—that is, humans are inherently evil and require ritual to redirect them toward a moral existence. Mencius, on the other hand, believed that humans are inherently good, or, more specifically, humans are predisposed to be directed toward good, and require ritual as means to keep them pointed in the direction of good. Ritual is effectively used for quite similar purposes—morality building, personal control, and social control. In effect, people require regulation in the form of ritual, whether they need it because they are inherently evil or because they are inherently good yet require constant restraint and recalibration. All roads lead to the necessity of ritual for behavioral control; the genesis of the road will be covered thoroughly, but within the overall framework of the theory, it seems to be of minimal importance. The importance of ritual will be explained later in more general terms for modern times. Ultimately, the explanations given for the necessity

of ritual diverge in ways that are, it could be maintained, not fundamental to the general theory being presented.

Thus, differences amongst the Confucians concerning the material in *A Confucian Theory of Crime*, though they are thoroughly explored, are likely of minimal importance regarding the overall gestalt of this work. If this was a paper written solely on Confucian punishment or the inherent nature of human beings from a Confucian standpoint, then the differences amongst the scholars would be of great importance. This is not the case within *A Confucian Theory of Crime*. Within *A Confucian Theory of Crime* and the three main sectors that constitute this theory—family cohesion, education, and ritual—all three philosophers, it could be reasoned, mainly engage in complimentary theory.

Also, it should be noted that the Confucian's did not clearly define exactly what constituted as crime. Thus, we are not entirely sure that what they believed was criminal closely resembles modern interpretations of criminality; there may be differences in both the nature of criminal behavior and the level of criminality for which it was assigned.

Family Cohesion

The family unit and family cohesion is central to Confucian explanations of crime and for Confucian remedies for crime. The family, the Confucians believed, is the root of the acquisition of individual behavior and it is the nucleus of society. The type and quality of affection exhibited between family members, and the moral lessons and ritual based guidance transmitted within the family from the parents to the children, the Confucians argued, represent a major factor in determining the children's future behavior, particularly in generating the self-control and self-possession required to suppress deviant behavior.

This affection and guidance is to begin immediately after the child is born and continue unabated in an intense manner for an extended period of time (certainly throughout childhood). Confucius (1971) explains the initial phase of the parenting procedure, “It is not till a child is three years old that it is allowed to leave the arms of its parents” (17.21, p. 328). If the child is not expected to leave the parent’s arms for the first three years of life, it takes no great stretch of the imagination to extrapolate from that the intense supervision and engagement that is expected in the subsequent years of the child’s life. This quote is emblematic of the intense dedication and supervision expected of parents throughout the life of the child. Other more general examples of the extreme dedication to the family expected within Confucianism include Confucius’s observation that:

Now filial piety is the root of (all) virtue, and (the stem) out of which grows (all moral) teaching...Our bodies—to every hair and bit of skin—are received by us from our parents, and we must not presume to injure or wound them:—this is the beginning of filial piety. When we have established our character by the practice of the (filial) course, so as to make our name famous in the future ages, and thereby glorify our parents:—this is the end of filial piety. It commences with the service of parents; it proceeds to the service of the ruler; it is completed by the establishment of the character. (Misc. Confucian School, 1879, pt. 1., p. 465)

Filial piety, Confucius believed, represents acting on the information and guidance transmitted by our forefathers; he explains, “Now filial piety is seen in the skillful carrying

out of the wishes of our forefathers, and the skillful carrying forward of their undertakings” (Confucius, [1893] 1971; *The Doctrine of the Mean*, XIX, 2., p. 402). Mencius (2004), in a terse statement concerning the analyses of character predicated upon filial piety, writes, “No benevolent man ever abandons his parents” (I. A. 1., p. 4). The pre-Qin Confucian book of ritual, known as *The Book of Rites* or the *Li Ki*, conveys the Confucian family centric worldview completely and beautifully; *The Book of Rites* illustrates the influence of the parents on the son, “He should be (as if he were) hearing (his parents) when there is no voice from them, and as seeing them when they are not actually there” (Legge, 2016; Qu Li 1., p. 11), and it explains how the son should behave toward his father, stating:

In serving his father, (a son) should conceal (his faults), and not openly or strongly remonstrate with him about them; should in every possible way wait on and nourish him, without being tied to definite rules; should serve him laboriously till his death, and then complete the mourning for him for three years. (Legge, 2016, Tan Gong 1., p. 67)

When the family system becomes chaotic and disjointed, when the parents fail to suitably govern and instruct their children, or when ritual is not taught or properly exhibited within the family, deviance and criminality, according to the Confucians, is likely to follow. In other words, the genesis of crime is found in improper parenting and a chaotic family life.

It is within the family, the Confucians believed, that the greatest love and affection is shown. Family centric gradations of love exhibited within society—wherein people show greater love for family members when compared to other nonrelated members of the

society—is, per Mencius, evidence that the family is of most importance in the development and wellbeing of people. This can be thought of as love being radiated out from the family in concentric rings. Love is most intense within the immediate family, love and affection diminish somewhat amongst slightly more distant relatives such as cousins, it is further removed from people who exist within one's community and neighborhood, and so on extending to foreigners and even the animal kingdom. Thus, according to the Confucians, it is within the family, where the most authentic love and affection exists, that rehabilitation is expected to take place for those engaged in criminal behavior, and it is within the family that lessons on ritual and morality are expected to be provided to children to prevent criminal behavior. This Confucian presumption of family centric rehabilitation and crime prevention exists, they believed, because love and affection is naturally strongest and most authentic within the family. When authentic love and affection is strong, as it often is within an immediate family (relative to the love and affection shared between nonrelatives or strangers), people, Mencius argued, take it upon themselves to authentically nurture and provide for each other. Among family members, Mencius asserted, there is a greater unconscious drive to show love and sacrifice for one another when compared to behavior corresponding to other nonrelated members of society. Mencius (2004) explains this unconscious attachment to close family members:

Presumably there must have been cases in ancient times of people not burying their parents. When the parents died, they were thrown in the gullies. Then one day the sons passed the place and there lay the bodies, eaten by foxes and sucked by flies. A sweat broke out on their brows, and

they could not bear to look. The sweating was not put on for others to see. It was as outward expression of their innermost heart. They went home for baskets and spades. If it was truly right for them to bury the remains of their parents, then it must also be right for all dutiful sons and benevolent men to do likewise. (III. A. 5, p. 63)

This sweating and instinctive turning away from the gruesome scene of parental decomposition likely represents a deep unconscious affection for close relatives. This unconscious love and affection mobilized the children to act in a way that shows difference and benefits the family. As a correlate, Mencius (2004) was once asked if people love one another equally, regardless of blood affiliation, and this is his response, “Does Yi Tzu [the questioner] truly believe that a man loves his brother’s son no more than his neighbor’s newborn baby?” (III. A. 5, pp. 62-63). Through this response, Mencius is conveying that a man will love a close blood relative more than a nonrelated person in the community. It is from this love that a dedication to the well-being of one’s children is generated (and, conversely, it is from this love that filial piety is exhibited by the children for the benefit of the parents). It is from this dedication to the children that, through moral and ritual based instruction, the children develop self-control and a working morality. Ultimately, the Confucians asserted that this love and affection is the motivating force that compels parents to educate their children (again, through moral and ritual based instruction) and develop them in a way that promotes self-control and a working morality. It is this family centric love, the Confucians believed, that prevents children from becoming deviant and criminal.

Within the Confucian tradition, parents are expected to instruct their children on matters pertaining to morality, ritual, and general knowledge. This education is to be long-term, rigorous, and constant. Parents are to promote scholarly and morality based instruction both informally within the home and in formal educational institutions. The prominent pre-Qin Confucian text *The Great Learning* provides a good example of the Confucian position concerning parental expectations, “What is meant by ‘In order rightly to govern the State, it is necessary first to regulate the family,’ is this:—It is not possible for one to teach others, while he cannot teach his own family” (Confucius, [1893] 1971, *The Great Learning*, IX, I., p. 370). Though this advice is directed toward the ruling classes in this instance, it speaks to two important elements within the family-education equation. The first element, though it may seem rather obvious, is that parents must instruct their children. The second element is that once parents have mastered the task of instruction within the home, they can then be considered capable of providing advice for others; in other words, if one is incapable, through poor instruction, incompetence, or other circumstances, of producing morally sound and competent children, their ability to instruct others and provide advice for community members may be seriously questioned. Mencius (2004), when explaining the educational components of the relationship between father and son, writes, “When a man comes of age his father gives him advice” (III. B. 2, p. 65). Rounding out the parental instruction portion of the introduction to Confucian criminological thought, Xunzi (1999) advises fathers on the proper way to interact with and educate their sons, “He assigns his son tasks, but does not change expression over it. He guides him using the Way, but does not use physical compulsion” (27.19, p. 861). The father is expected to “guide” his son in a manner that does not include physical intervention

or corporal punishment. Of highest importance are the rituals that are expected to be taught and practiced within the family. It is within this ritual based framework of social behavior and social hierarchies that children are expected to learn and practice many forms of self-control, self-regulation, filial piety, and hierarchy recognition, all of which is anticipated to result in greater personal control and diminished expressions of deviance and criminality. Lastly, and importantly, Confucius, in his capacity as Minister of Crime, was confronted with a domestic dispute between a father and son. Confucius was prompted by a superior to execute the son for his being unfilial towards his father; Confucius refused this request on the grounds that the father had failed to properly educate his son on filial piety. From this episode, the importance Confucius placed on a father educating his son is clear. This important and informative event, interpreted and described by James Legge, transpired thusly:

A father having brought some charge against his son, Confucius kept them both in prison for three months, without making any difference in favour of the father, and then wished to dismiss them both. The head of the Chi was dissatisfied, and said, ‘You are playing with me, Sir minister of Crime. Formerly you told me that in a State or a family filial duty was the first thing to be insisted on. What hinders you now from putting to death this unfilial son as an example to all the people?’ Confucius with a sigh replied, ‘When superiors fail in their duty, and yet go to put their inferiors to death, it is not right. *This father has not taught his son to be filial* [emphasis added];—to

listen to his charge would be to slay the guiltless. (Confucius, [1893] 1971, p. 74)

Per Confucius, if the parents fail to control and regulate their children through ritual, moral instruction, and other scholastic based educational pursuits, their children may become a disgrace, and behave in a way that is emblematic of what he describes as the “mean man” or the “petty man,”—in other words, they can potentially become antisocial or deviant.³⁰ Confucius spoke on numerous occasions about the importance of behavioral

³⁰ The “mean man’s” predilection for deviance and criminality, Confucius maintained, is pronounced under times of severe hardship. On one occasion, Confucius and his disciples were running low on food supplies and, as a result, were in desperate circumstances. This experience afforded Confucius the opportunity to explain to his disciples that under these conditions the “mean man” will often turn to deviance. This event, described by James Legge, transpired thusly (a portion of this piece was quoted previously):

On the way, between Ch’an and Ts’ai, their provisions became exhausted, and they were cut off somehow from obtaining a fresh supply. The disciples were quite overcome with want, and Tsze-lu said to the master, ‘Has the superior man indeed to endure in this way?’ Confucius answered him, ‘The superior man may indeed have to endure want; but the mean man, when he is in want, gives way to unbridled license (Ana XVII. VII).’ (Confucius, [1893] 1971, pp. 80-81)

control and self-regulation. Here are three concise examples of his position: Self-control's relationship with virtue, "To subdue one's self and return to propriety, is perfect virtue" (Confucius, 2016, 12.1, p. 294); consistency of behavior and its relationship with disgrace, "Inconstant in his virtue, he will be visited with disgrace" (Confucius, 2016, 13.22);³¹ and finding balance, avoiding extremes, and their relationship with recklessness, "The superior man's embodying the course of the Mean is because he is a superior man, and so always maintain the Mean. The mean man's acting contrary to the course of the Mean is because he is a mean man, and has no caution" (Confucius, 1966, p. 354).³² It is, the Confucians asserted, from the interaction between parent and child that the child can acquire personal control, attain self-possession, and avoid perilous extremes.

Corresponding closely to self-control, Confucius and Xunzi believed that those who are unable to acquire the ability to engage in long-term planning and exhibit delayed gratification will not live productive lives and will be lacking in virtue. Confucius (2003) said this of long-term thought and planning, "A person without concern for what is far away is sure to encounter worries close at hand" (15.12, p. 179). Xunzi (1999) writes of

³¹ Confucius is directly quoting from an interpretation of the I-Ching, in a section titled *Persevering* (Turner & Saleminck, 2015).

³² The "Mean" referred to in this quote represents maintaining a cognitive balance, a cognitive and social harmony, a kind of equilibrium within the mind, and avoiding dangerous extremes. This balance and harmony is developed through years of study, ritual, self-examination, and reflection.

the value of delayed gratification, “In itself is not this “considering the long view of things and thinking of the consequences” something quite excellent indeed!” (4.13, p. 91). This cognitive framework, a framework centered on self-control, self-possession, long-term thought, and delayed gratification, is to be developed and nurtured within the family system under the guidance of the parents. If the parents fail in this important endeavor, all the negative behavioral qualities and negative social attributes corresponding to people who lack these qualities have the potential to reveal themselves—extending to criminal conduct.

Confucius was not only a strong advocate of parents monitoring their children’s behavior, but he believed that one should engage in a conscious monitoring of one’s own internal thoughts and personal behavior. Confucius (1966) said this of the necessity of monitoring one’s own internal dialog for deviations that require correction, “The superior man must be watchful over himself when he is alone...This is an instance of saying—“What truly is within will be manifested without.” Therefore, the superior man must be watchful over himself when he is alone” (p. 324). The key here is that one should engage in an active vigilance and maintenance of one’s thoughts and actions to lead a controlled and regulated existence. It is, it could be argued, the early parental monitoring that makes individual internal monitoring feasible and effective.

It is, the pre-Qin Confucians argued, the responsibility of the father to teach his children and regulate his family. If the father is immoral, uneducated, and uncultivated, his ability to produce a vibrant and productive family will be greatly diminished. Mencius (2004) illustrates this point, “If you do not practice the Way yourself, you will not have your way even with your own wife and children” (VII. B. 9, p. 159). Confucius spoke of the importance of the father within family regulation when he said:

It is said in the Book of Poetry, ‘Happy union with wife and children, is like the music of lutes and harps. When there is concord among brethren, the harmony is delightful and enduring. *Thus* may you regulate your family, and enjoy the pleasures of your wife and children.’ (Legge, 1893, *Doctrine of the Mean*, XV. V. 2., p. 396)

When the father fails in his duty to cultivate himself morally, ritualistically, and intellectually so as to properly instruct and govern his children, the Confucians argued, the resulting chaotic family environment will likely produce children lacking in similar qualities.

Of all the relationships existing within the social hierarchy, the Confucians believed that the father-son relationship is the most vital. When this relationship is destroyed or severely disrupted—because of father absenteeism, the father lacking in morals or cultivation, etc.—the future behavioral outlook of the son is not expected to be promising. It may be that, because of the father’s failure to cultivate himself or understand his role within the upbringing of his children, the son will be unable to acquire the moral framework—a moral framework that is derived from instruction in ritual and morality—necessary to prevent deviance and wrongdoing. Thus, the father’s position within the Confucian based family system is vitally important and a major determining factor in the future behavior (criminal or otherwise) of his children.

The family, within Confucian doctrine, is the center and focal point of existence. Society comes secondary to, and functions as a product of, the operation and quality of the

family system. Mencius (2004) explains the hierarchal nature of Confucian society in these general terms, “There is a common expression, “The Empire, the state, the family.” The Empire has its basis in the state, the state in the family, and the family in one’s own self” (IV. A. 5, p. 79). Confucius (2008) provides a more detailed theoretical construction of this idea:

Few indeed are those who are naturally filial toward their parents and dutiful towards their elder brothers but are fond of opposing their superiors; and it never happens that those who do not like opposing their superiors are fond of creating civil disorder. The gentleman concerns himself with the root; and if the root is firmly planted, the Way grows. (1.2, p. 3)

If the family, or the root, is disorganized, broken, or destroyed, the Confucians asserted, the state will likely experience the same fate.

The family and the family as a unit or system is valued over all else within pre-Qin Confucian philosophy—even to the extent that it supersedes the law and the state. If the father engages in serious criminal behavior, it is expected, according to both Confucius and Mencius, that the son cover-up for the crimes of the father so that the father’s crimes will not be detected by the authorities or that the father will not be apprehended by the authorities. Conversely, the same holds true if the son is the criminal, wherein the father is

expected to take on the role of “The Wolf” in the motion picture Pulp Fiction.³³ Confucius (2008) explains how the son is expected to cover for the crimes of the father and vice versa:

The Duke of She told Master Kong [Confucius]: ‘In my locality there is a certain paragon, for when his father stole a sheep, he, the son, bore witness against him.’ Master Kong said: ‘In my locality those who are upright are different from this. Fathers cover up for their sons and sons cover up for their fathers. Uprightness is to be found in this.’ (13.18, p. 51)

Mencius took this notion several steps further, asserting that not only should a son aid in the flight of his criminal father, but that 1) he should cover for his father even if his father commits serious offenses such as murder, and 2) he should be prepared to ruin or greatly diminish his own life—even going so far as having a King abdicate his throne to save his criminal father—in the process. Mencius (2004) explains the acceptable behavior of an Emperor when the Emperor’s father commits a serious criminal offence:

³³ “The Wolf” was a character played by Harvey Keitel in the film Pulp Fiction whose work consisted of cleaning crime scenes and disposing of bodies so that crimes were undetectable to authorities. Reference to this film may seem out of place in a dissertation on Confucianism, but the behavior of the “The Wolf” is highly representative of that expected of either the father or the son within Confucian theory.

T'ao Ying asked, 'When Shun was Emperor and Kao Yao was the judge, if the Blind Man [Emperor Shun's father] killed a man, what was to be done?' 'The only thing to do was to apprehend him.' 'In that case, would Shun [the Emperor] not try to stop it?' 'How could Shun [the Emperor] stop it? Kao Yao [the judge] had authority for what he did.' 'Then what would Shun have done?' 'Shun looked upon casting aside the Empire as no more than discarding a worn shoe. He would have secretly carried the old man on his back and fled to the edge of the Sea and lived there happily, never giving a thought to the Empire.' (VII. A. 35., p. 153)

In this case, many will consider the behavior of the son or the father, when covering for the other, to be immoral, but it needs to be clearly conveyed that if any behavior is expected to disrupt the unity of the family or dissolve the family it is to be rejected in favor of any action that will ensure the continuation of a united and functional family, particularly the continuation of the most vital relationship, that between the father and the son.

This cannot be overstated: The family is truly the center of the Confucian worldview and responsible for the conduct of the children, both moral and immoral. The Confucians believed that the future behavior of the children is derived from the conduct of the parents. If the parents fail to educate their children on issues concerning morality and ritual, the children will be more likely to engage in deviance and criminality.

Within the Confucian tradition it is expected that that ruler or those governing the people will ensure that families have safe and acceptable environments in which to live and thrive. It is expected that the ruling classes will support the children of the working classes in their development by treating the parents fairly, ensuring that families have enough food to eat, and by guaranteeing that the parents have sufficient time to spend with their families. If these needs are not met, the Confucians maintained, higher levels of deviant behavior are likely to result. Mencius (2004) illustrates the role of the ruler in relation to the wellbeing of the common family:

Only a gentleman can have a constant heart in spite of a lack of constant means of support. The people, on the other hand, will not have constant hearts if they are without constant means. Lacking constant hearts, they will go astray and fall into excesses, *stopping at nothing* [emphasis added]...Hence when determining what means of support the people should have, a clear-sighted ruler ensures that these are sufficient, on the one hand, for the care of the parents, and, on the other, for the support of the wife and children, so that the people always have sufficient food in the good years and escape starvation in bad; *only then does he drive them towards goodness* [emphasis added].

In good years life is always hard, while in bad years there is no way of escaping death. Thus simply to survive takes more energy than the people have. What time can they spare for learning about rites and duty. (I. A. 7, pp. 13-14)

Thus, it is imperative, within Confucian theory, that the ruling classes provide families with adequate provisions and adequate time to properly develop their children within the family system. Failing to provide these measures for families is tempting the people to turn to criminality or rebel against the state.

Education

The pre-Qin Confucians asserted that life-long education and self-cultivation is vital in the production of morality and ethics within people and in the generation of harmony within society. Education, study, and personal improvement are, after the family system itself, of utmost importance within a Confucian society. Education and self-cultivation are the harbingers of family unity and family regulation; they are also the means for individual progress and individual control. Control within the mind, within the family, and within society is founded on education in the form of academic lessons, moral instruction, and ritual based training. James Legge describes Confucius' position on education and the moral repercussions entailed within:

One of his remarkable sayings was,—‘To lead an uninstructed people to war is to throw them away (Ana. XXIII. XXX.).’ When he pronounced this judgement, he was not thinking of military training, but of education of the duties of life and citizenship. A people so taught, he thought, would be morally fitted to fight for their government. (Confucius, [1893] 1971, p. 92)

This education is expected to take place, the Confucians argued, both informally within the family and within formal educational institutions. Education and self-cultivation touches on nearly every aspect of society, the Confucians thought, from the individual level to the state level, strengthening morality and reducing criminality. To reiterate, Confucian theory and Confucian society revolves around education and self-improvement in the areas of academics, morality, and ritual.

When learning and education are promoted and valued within a society, the Confucians asserted, that society will likely experience greater harmony and regulation. Xunzi believed that under these more cerebral social conditions, rituals and laws will find stronger social support and, as a result, a clear and controlled atmosphere will persist throughout the land. When learning and education are not valued or taken seriously, he argued, respect for authority and teachers will be scarce, and the people will take on self-satisfied and unproductive airs. Under these more philistine social conditions, lawlessness and criminality will wreak havoc throughout the land and harmony will be lost. It is in this way that Xunzi believed that learning and education are major determinates of social harmony. Xunzi (1999) explains:

When a country is on the verge of great florescence, it is certain to prize its teachers and give great importance and breadth of learning. If it does this, then laws and standards will be preserved. When a country is on the verge of decay, then it is sure to show contempt for teachers and slight masters. If it does this, then its people will be smug. If the people are smugly self-

satisfied, then laws and standards will be allowed to go to ruin. (27.97, p. 911)

If there is disunity or chaos within the family, Confucius believed that it is often the result of a father lacking in personal cultivation and education. Confucius explains the deregulation that can potentially occur within the family because of an uneducated father:

Wishing to regulate their families, they first cultivated their persons [emphasis added]. Wishing to cultivate their persons, they first rectified their hearts. Wishing to rectify their hearts, they first sought to be sincere in their thoughts. Wishing to be sincere in their thoughts, they first extended to the utmost their knowledge. (Legge, 1893, *The Great Learning. Text of Confucius, IV.*, pp. 357-358)

Thus, it is vital, per Confucius, that the father dedicate a not insubstantial portion of his life to personal cultivation, study, and reflection, lest his family experience destabilization, disruption, and deviance. If the father is uneducated and uncultivated, he may be incapable of transmitting the necessary moral lessons and ritual instructions to his children, rendering his children adrift in a social sea without the moral and cognitive framework needed to navigate and orient themselves in a way that produces self-control and prosocial behavior.

Education in general, Confucius asserted, reduces impulsivity, tampers emotional outbursts, pacifies individuals, and promotes self-control. Education, in other words, acts as a regulatory mechanism which functions to reign in emotions and impulsive behavior.

Confucius (2008) explains the regulatory power of learning, “There was a certain Yan Hui! He was fond of learning. He did not vent his anger on those who did not deserve it, and he did not repeat an error” (6.3, p. 20).³⁴ Xunzi (1999) takes this notion a step further and associates those who do not engage in learning or refuse to learn with wild beasts, stating, “Those who undertake learning become men; those who neglect it become as wild beasts” (1.8, p. 13). The wild beast within becomes particularly noticeable, Confucius observed, when people do not *love* learning. Confucius (2008) spoke of the violence and destruction that can potentially ensue if people do not love learning and make it an integral part of their lives:

If one loves humanness but does not love learning, the consequence of this is folly; if one loves understanding but does not love learning, the consequence of this is unorthodoxy; if one loves good faith but does not love learning, the consequence of this is damaging behavior; if one loves straightforwardness but does not love learning, the consequence of this is rudeness; if one loves courage but does not love learning, the consequence

³⁴ Yan Hui was Confucius’ favorite student. There are numerous shrines and temples throughout Asia that commemorate this relationship. Yan Hui died at a relatively young age (around the age of forty). When he died, Confucius lost his composure and exclaimed, “Alas, Heaven has bereaved me, Heaven has bereaved me!” (Confucius, 2008, 11.9; p. 39). Confucius never fully recovered from Yan Hui’s death and would refer to Yan Hui’s character years after he had died.

of this is rebelliousness; *if one loves strength but does not love learning, the consequence of this is violence* [emphasis added]. (p. 70)

Learning, per Confucius, Mencius, and Xunzi, refines the mind and tames our impulsive, unwieldy, and animalistic nature.

Mencius fully understood the mind's capacity to stray from the path of virtue and righteousness. People are continually tempted to stray from their inherently good nature, thought Mencius, and without learning and education to insulate people from these impulses, deviant and damaging behavior may result. When people do stray, it is study, learning, self-cultivation, and ritual that works to recalibrate their moral compass, rectify their conduct, and return them to the path of moral behavior. Learning is considered the key to rehabilitate and return the deviant back to his or her naturally good and moral path. Mencius (2004), in one of his most eloquent and moving passages, illustrates this notion:

Benevolence is the heart of man, and rightness his road. Sad it is indeed when a man gives up the right road instead of following it and allows his heart to stray without enough sense to go after it. When chickens and dogs stray, he has sense enough to go after them, but not when what strays is his heart [Mencius used the word "heart" to describe the intellect and mind]. The sole concern of learning is to go after this strayed heart. That is all. (VI. A. II, p. 129)

While at the same time those who fail to cultivate themselves and engage in learning, the Confucians thought, will be at a greater risk to remain in the woods, far removed from the path of virtue, exhibiting deviant and criminal behavior.

Certainly, under these circumstances, wherein the individual strays and fails to learn as means of rectification, the individual and the individual's family suffers, but it should be noted again that the Confucians believed that society largely suffers as well. The Confucians believed that morality based education and ritual instruction are exceedingly valuable in the development of family unity and for the moral and intellectual development of children, and they also believed that the family is the material from which society is constructed. The Confucians, as can be expected, bridged this gap and argued that learning and education represent the mechanisms that brought harmony and stability to society. Ultimately, the Confucians claimed that for society to function effectively, there needs to be a concerted effort within families and within society to promote and engage in education based practices.

It is learning, education, and self-cultivation that should be one's focus, the Confucians contended, and not the acquisition of material possessions. Those who trade education and learning for a single-minded drive for material possessions will likely suffer psychologically and fail to develop morally. Per Confucius and Xunzi, it is the "petty person" or the "vulgar person" who chases possessions at the expense of personal development; Confucius (2003) explains, "The gentleman understands rightness, whereas the petty person understands profit" (4.16, p. 35). Xunzi (1999) follows with a more scathing critique, writing, "Those who have no education, lack rectitude and moral principles, and consider wealth and material gain as exalted are vulgar common people"

(8.18, p. 193). Xunzi believed that once one is engaged in matters of the mind, material possessions will be of little consequence, but if matters of the mind are less important than profit and its accompanying greed and selfishness, one's mindset is no different from that of a robber. Xunzi (1999) explains how learning and personal cultivation provide a buffer that distances people from this unhealthy drive for material possessions, "Absorbed in the examination of his inner self, he will scorn mere external things" (2.5, p. 33). Mencius (2004) provides a similar, yet more expansive, theory concerning the temptation of external goods, and he explains the value of developing a mind with the capacity to override these petty desires:

The organs of hearing and sight are unable to think and can be misled by external things. When one thing acts on another, all it does is to attract it. The organ of the heart can think. But it will find the answer only if it does think; otherwise, it will not find the answer. This is what heaven has given me. If one make one's stand on what is of greater importance in the first instance, what is of small importance cannot usurp its place. In this way, one cannot but be a great man. (VI. A. 15, p. 131)

In other words, a drive for material possessions at the expense of education is a harbinger of unhealthy behavior and deviance. An obsession with external things, the Confucians asserted, produces greed, envy, vulgarity, and a petty mind—all potentially culminating in deviance and criminality.

Learning, self-cultivation, and a dedication to the mind represent for the Confucians the most effective means to reduce desires and alleviate envy. Rather than a focus on the acquisition of material possessions, those who engage in self-cultivation concern themselves with reputation, morality, and personal enlightenment. Mencius (2004) thoroughly illustrates this idea in the next two passages; the first passage of which he writes:

There is nothing better for the nurturing of the heart than to reduce the number of one's desires. When a man has but few desires, even if there is anything he fails to retain in himself, it cannot be much; but when he has a great many desires, then even if there is anything he manages to retain in himself, it cannot be much. (VII. B. 35, p. 165)

Within this theoretical framework, of paramount importance is the reduction of desires and the retention and expansion of knowledge. If one is to generate a solid moral foundation built on learning, education, self-cultivation, and reflection, then all potentially unhealthy desires, ranging from more primal desires like fine food to more extravagant desires, will be minimized; Mencius (2004), in his second passage, explains this notion, "Being filled with moral virtue, one does not envy other people's enjoyment of fine food and, enjoying a fine and extensive reputation, one does not envy other people's fineries" (VI. A. 17, p. 132). There is criminological evidence that envy, under highly inequitable economic conditions, is potentially a precursor for some forms of criminality (this theory will be explained in greater detail in the heart of this text).

As was briefly mentioned earlier, learning is considered integral to the Confucian rehabilitation process. Confucius, and to a large extent Mencius and Xunzi, were strong supporters of rehabilitation as the principle response to deviant and criminal behavior. Confucius' believed that when one committed a crime, it is not the crime itself, but a failure to rehabilitate oneself after the crime, that constitutes the true crime or the truly egregious act. Confucius (2008) conveys his theory concerning rehabilitation thusly, "If one commits an error and does not reform, this is what is meant by an error" (15.30, p. 63). This reformation is to be achieved through the transformative properties of rigorous and prolonged study, self-reflection, and personal cultivation. Xunzi (1999) explains how learning and study have the power to transform and rehabilitate those who have deviated or those at some kind of cognitive or intellectual disadvantage:

Though born-base were I to wish to be noble, or though stupid were I to be wise, or though poor were I to wish to be rich—would this be possible?

I say: It can be done only through learning...A short time ago I might have been like a bound convict, yet suddenly I might control all the important resources of the world—Is this not the case of being rich though originally poor?...The man [who has pursued learning] is as self-sufficient as a wealthy man—Is not this a case of being rich though originally poor? (8.7, pp. 176-177)

Learning in the form of emulation and imitation, the Confucians believed, also has the power to correct deviant behavior and assert a moral framework into the lives of those

who have previously been without such prosocial structure. Confucius (2008) explains the rehabilitative power of the ruler or “superior person” in their roles as models emulated by the masses, “To govern means to correct. If you take the lead by being correct, who will dare not to be corrected” (12.17, p. 46). Under these circumstances, the imitation and emulation of the rulers, the ruling classes, and the “superior people,” represent a form of rehabilitation. This type of learning also looms large in Confucian theory as a more general, unidirectional, top-down learning that consists of behavior acquisition that can be either prosocial or criminal in nature. According to Confucian thought, people on the lower strata of society learn how to conduct themselves, through the processes of emulation and imitation, from those who reside within the upper echelons of the social hierarchy—and this learned behavior runs the gamut from socially productive ritual to socially destructive criminal conduct.

Of those who are emulated and imitated within this learning process, it is the rulers or the governors of whom the Confucians spilled the most ink. Much of Confucius, Mencius, and Xunzi’s theory revolves around advising rulers and explaining to them their roles as behavioral models within society—and social learning, particularly top-down social learning, represents a substantial portion of their theoretical admonitions. Xunzi (1999), in a continuation of this theoretical position, illustrates how common people respond to and learn from a ruler who has developed an outstanding morality:

Only after having been certain to cultivate rectitude in his own person does he require it little by little of his subjects, for this is more awe-inspiring than punishment or penalties. When these...manifestations of moral power are

perfected in the ruler, his subjects will respond to him as a shadow or echo. Even though he should desire that his illustriousness not be spread far and wide, it would happen in any case. (10.15, p. 295)

This, from the Confucian standpoint, across the board moral behavior is the social outcome of instituting a moral and beneficent ruler. On the other side of the behavioral spectrum, when the ruler exhibits immoral and cruel behavior, his people will, in a similar fashion to the moral behavior described previously, emulate and imitate his immoral behavior and conduct themselves in a manner that reflects his immorality. Mencius (2004) explains how people will also learn from and emulate immoral leadership, and the destructive societal implications derived from such a phenomenon:

Hence, only the benevolent man is fit to be in high position. For a cruel man to be in high position is for him to disseminate his wickedness among the people...when those above ignore the rites, those below ignore learning, and lawless people arise, then the end of the state is at hand. (IV. A. 1, p. 77)

Thus, the Confucians believed that a ruler can, to a certain extent, control the populace with examples of moral behavior and expressions of proper ritual. People existing on the lower levels of the social hierarchy will emulate this moral behavior and this prosocial ritual and behave morally themselves; as Mencius (2004) explains, “When the prince is benevolent everyone else is benevolent; when the prince is dutiful everyone else

is dutiful” (IV. B. 5., p. 89). In this way, the ruler, the ruling classes, and the superior people have, to a certain extent, the capacity to effectively control and regulate the behavior of the population through social learning processes.

Moving from learning from rulers or governors to learning from the more general “superior man,” we find a similar trend of a unidirectional, top-down, imitation and emulation in which the superior instruct and guide the inferior. For example, when Confucius was preparing to travel to the far eastern regions of the Asian mainland and spread his philosophy amongst what he considered to be barbarian tribes, someone asked if he would be able to live in such underdeveloped conditions, in which Confucius (2003) replied, “If a gentleman were to dwell among them what uncouthness would there be?” (9.14, p. 91).³⁵ Continuing in this line of reasoning, Confucius (1971), when arguing that “superior men” have the power to transform others around them with their magnetic morality, stated, “Of superior virtue was such a man! If there were not virtuous men in Lu, how could such a man have acquired this character?” (p. 173). It is under this theoretical model, the generalized “superior man” learning model, that the common person is expected to learn and emulate the behavior of those with a greater understanding of morality and those in a superior intellectual position. It is both the rulers and those members of society so excellent that they are regarded as morally superior, the Confucians believed, who

³⁵ Confucian scholar and commentator, Ma Rong (77-166 C.E.), interpreted this statement as meaning that, “Everywhere the gentleman [the superior man] dwells is transformed” (Confucius, 2003, p. 91).

maintain the means to transform the thinking and behavior of those on the lower levels of the social hierarchy.

The Confucians typically considered those who are in a superior moral and intellectual position to others as “superior men” or “gentleman” capable of transmitting moral behavior through emulation and imitation processes. Yet, that was not always the case, as Confucian learning can come in several different forms from a multitude of sources (instruction, imitation, and environmental), some sources of which are antisocial and immoral. Nevertheless, regarding learning in the form of emulation and imitation, it is the rulers or the ruling classes and the “superior men” whom the Confucians believed generally drive social learning and set the agenda for ritual instruction and universal behavior. The inferior, the Confucians argued, learn from and emulate the superior; and the inferior learn and emulate prosocial behavior and ritual, or, if the conditions are right, they learn and emulate deviant and criminal behavior.

This unidirectional, top-down, social learning process is, to the Confucians, also a mechanism of social control. Within Confucianism, the social hierarchy and one’s place within it is a major part of the social fabric. People, within the Confucian tradition, know and understand their position within society and act accordingly (or are expected to act accordingly). Within this hierarchical system, per Confucian theory, people learn from and emulate the thought and behavior of those on the higher strata of society; behavioral instructions, ritual, and behavioral models flow downward from the rulers, governors, and superior people to the common people, and the common people incorporate these instructions, rituals, and behavioral models (prosocial or deviant) into their behavioral schema. These instructions and behavioral models effectively control and regulate the

behavior of the populace. Within the Confucian social hierarchy, individual citizens and society are expected to respect the disparate positions that form the social structure—citizens are to find honor in taking up these various stations in society, and people are to behave and learn behaviors according to their positions within the social hierarchy. Gardner (2007) describes how people are expected to behave within these controlled Confucian social hierarchies:

A good person acts as he should as a son toward his father; in the next moment, he acts as he should as a young man toward his aged next-door neighbor; and in the following moment, he acts as he should as a husband toward his wife. Each of these relational contexts calls for a different expression of goodness in one's behavior: filial devotion and affection in the first, respect and deference in the next, and guidance and care in the last. This is what is meant when the Master says, in *Maintaining Perfect Balance* (ch. 14.1), "The superior man does what is proper to the station in which he finds himself." (p. 140)

All three major pre-Qin Confucians were strong believers that people learn from various elements within their immediate environments as well. People, the Confucians argued, will adjust their behavior depending on the nature and makeup of their environment; people effectively learn behaviors from their surroundings and act in a way that reflects these environmental conditions. If one lives in a neighborhood or environment which exudes immorality, a disdain for self-cultivation, and an avoidance of ritual, one will,

the Confucians maintained, likely take on a related mindset and behave in a similar way. Confucius (2008) explains this notion in more general terms, “It is humanness which is the attraction of a neighborhood. If from choice one does not dwell in humanness, how does one obtain wisdom” (p. 13). Xunzi (2003) enthusiastically expands on this notion, exclaiming, “For the environment he is subjected to will cause him to be in danger. An old text says, ‘If you do not know a man, look at his friends; if you do not know a ruler, look at his attendants,’ Environment is the important thing! Environment is the important thing!” (s. 23, p. 174). Mencius’ work is probably the most notable and well known of the Confucian theory concerning the environment in behavior acquisition. In a parable that will be covered in much greater depth in the main body of the dissertation, Mencius’ mother recognized that Mencius was learning from and imitating the behavior of those around him as she moved from one location to the next seeking a suitable living environment for which to raise the young Mencius. The lessons learned from both his and his mother’s behavior during this period would stick with Mencius and become a pillar of his theory. A good example of how Mencius valued the importance of the environment in determining behavior stems from an observation he makes concerning the role of the environment or the neighborhood in channeling people into different professions. Mencius (2004) connects a “calling” or vocation with the environment in which it operates, and then explains the resulting implications of this union:

Is the maker of arrows really more unfeeling than the maker of armor? The maker of arrows is afraid lest he should fail to harm people, whereas the maker of armor is afraid lest they should be harmed. The case is similar with

the sorcerer-doctor and the coffin-maker. For this reason one cannot be too careful in the choice of one's calling.

‘Confucius said, “The best neighborhood is where benevolence is to be found. Not to live in such a neighborhood when one has the choice cannot by any means be considered wise.” (II. A. 7, p. 39)

In closing this section on environmental learning and the acquisition of behavior, both prosocial and deviant, it's valuable to provide three quotes from Xunzi that I find best capture the essence of Confucian social learning theory. The first quote is an analysis of the relationship between the choice of companionship and the behavioral implications resulting from this important decision:

If he associates with good companions, he will be able to observe conduct that is loyal and respectful. Then, although he is not aware of it, he will day by day progress in the practice of benevolence and righteousness, for the environment he is subjected to will cause him to progress. But if a man associates with men who are not good, then he will hear only deceit and lies and will see only conduct that is marked by wantonness, evil, and greed.
(Xunzi, 2003, s. 23, p. 174)

The second quote is like the first in that it speaks to associations, but it also inserts the community into the behavioral acquisition framework. From the addition of the community into environmental learning and behavioral acquisition there is a recognition that learning

is taking place on a multitude of levels—in this case he is covering individual and community level learning. Xunzi (1999) explains the importance of choosing the right community in which to live and choosing the right companions in which to develop relationships, “Therefore a gentleman will take care in selecting the community he intends to live in, and will choose men of breeding for his companions. In this way, he wards off evil and meanness, and draws close to fairness and right” (p. 17). The last representative quote from Xunzi (1999) that speaks to environmental learning and behavior acquisition is a short song which he inserted into his work in a section labeled “Working Songs” that goes as follows:

When doors and gates are barred,
going astray through delusion is magnified.
Rebellion and anarchy will be the dark night that has no end, no limit.
Right and wrong will be reversed and interchanged.
Partisan cliques will cheat their superior
and hate the correct and the upright. (25.37, p. 813)

Ritual

Rituals or rites are indispensable to Confucian theory, particularly in the areas of personal and societal control. Rituals, generally stated, represent stable and distinct behavioral patterns that are commonly recognized by society as such. The Confucians believed that rituals (also known as *li*) are a major facilitator of moral cultivation and personal improvement. It is through ritual, the Confucians argued, that people can develop

a cognitive framework centered on self-discipline, self-control, authentic regard for the social system, authentic respect for the family (with filial piety as the main goal), and an appreciation for the prescribed societal role given to them by society. Rituals were also considered means to bind members of a family together, unite members of a community together, and bind the public to the ruler in a way that is harmonious and regulated. Rituals detail the various social positions, as well as the accompanying behaviors expected within these positions, in which people are expected to reside—all occurring within the prevailing social hierarchy. Rituals, the Confucians asserted, greatly influence society in that they make clear the, usually, positive and prosocial behaviors expected of people as they operate within their social position. It is also through rituals that norms and expectations are conveyed to young people and to other members of society—ritual, in effect, acts as the bridge over which this behavior centric information is transmitted within families and within society. The prominent pre-Qin Confucian text *The Book of Rites* describes, what the Confucians believed to be, the regulatory and behavior altering nature of ritual:

The rules of propriety [Confucian rituals] serve as instruments to form men's characters, and they are therefore prepared on a great scale. Being so, the value of them is very high. They remove from a man all perversity, and increase what is beautiful in his nature. They make him correct, when employed in the ordering of himself... (Legge, 2016, *The Li Ki*, p. 197)

Confucian rituals, which generally emphasize the importance of filial piety, respect for the family, a dedication to education, a regard for the social hierarchy, and explicit

codes for personal behavior, are a product of the theory and instruction of the sages and sage kings of the ancient past. It is the traditional, historical, and sacred nature of the rituals, along with the reverence placed upon them by their adherents, which arguably give the rituals a mystical and timeless quality on a footing with the more mainstream Abrahamic religious traditions.

The Confucians believed that rituals strengthen family bonds and strengthen social bonds. They bring fathers and sons together in a system of reciprocity,³⁶ they unite families, and they unite communities through forms of public ritual—the most effective of which may be musical performances or performing arts exhibitions.

Music and public displays of the performing arts represent major social rituals for the Confucians. Xunzi (2003) describes the unity and harmony that is achieved both within the family and within the community because of music:

When it is performed within the household, and father and sons, elder and younger brothers listen to it together, there are none that are not filled with a spirit of harmonious kinship. And when it is performed in the community, and old people and young together listen to it, there are none who are not

³⁶ In its most general terms, the reciprocal relationship between father and son is one where the son engages in filial piety and the father exhibits kindness to the son; the pre-Qin Confucian text *The Great Learning* pithily illustrates this notion, “As a son, he rested in filial piety. As a father, he rested in kindness” (Confucius, [1893] 1971, *The Great Learning*, III. 3, p. 362).

filled with a spirit of harmonious obedience. Hence music brings about complete unity and induces harmony. (s. 20, p. 116)

Ritualized music, Xunzi maintained, brings harmony to families, and, if played in public spaces, produces a recognition among the youth of their position within the social hierarchy, which ultimately results in greater personal control and deference. Xunzi provides an interesting theoretical take on the containment and regulatory influence of ritualized dance and other forms of the performing arts on the performers themselves: When dancers match their movements to conform to a dance, conform to music, and conform to the other performers engaged in a dance or performance, a greater personal control is achieved. If a dancer is to fall out of line, break the rhythm, break synchronicity, etc. they may experience negative feelings or negative effects both personally and from within the group. The potential to experience these negative repercussions may motivate the performer to express greater personal control within the performance, and by extension, may produce greater personal control within other aspects of their lives. Xunzi (2003) details this learned control as a product of ritualized dance thusly, “When he learns to observe the proper positions and boundaries of the dance stage and to match his movements with the accompaniment, he can move correctly in rank and his advancements, and retirings achieve order” (s. 20, p. 116). We can see that this ritual based behavior and this ritual based social interaction takes place on several different levels (namely the individual, group, and societal levels), and it may have the potential to produce people who possess higher levels of behavioral control.

These rites and rituals typically focus on what people *should* do in social situations and they diagram how people *should* generally behave. In a way, these rituals are more on the positive and proactive end of the social control spectrum, softly prodding people into prosocial behaviors through behavioral instruction founded on tradition, sagely advice, culture, and history. Confucius' favorite student Yan Hui, as quoted in *The Analects*, explains how Confucius used the means of culture and ritual within his instruction, "He broadens me with culture and restrains me with ritual" (Confucius, 2008, 9.11, p. 32). This humanistic and proactive educational approach assumes a certain degree of respect for the human capacity and human inclination to do what is right, what is moral, and behave in a way that is beneficial for society. Under this theoretical approach, punishments and rewards are minimized in favor of, what the Confucians generally believed to be, a superior system of social control founded on self-improvement, self-cultivation, family unity, and a general social progression. The Confucians took for granted that people will follow ritual, as they considered ritual the most logical means for entrance into a productive and enlightened existence. At the same time, they thought that the other main option, a system of social control solely predicated on fear and punishment avoidance—a machinery of laws within what they believed to be a cold and detached legal system—will produce people with insincere and inauthentic thought processes who operate on base Skinnerian impulses (Xunzi advocated for rewards and punishments to play a more prominent role within the machinery of social control). It is through ritual and its humanistic educational orientation, the Confucians believed, that people develop an authentic working morality and an authentic respect for the norms and institutions that constitute a society—people, in effect,

do what is right because they truly believe in the importance and the value of the social system. Ritual was thought to produce this authentic belief.

These ritual based regulatory conditions, the Confucians contended, provide an advantageous, and more humane, tool for rulers to employ as they engage in the process of controlling or placating the masses. Rulers wishing for people to be more controlled in their behavior (thus, it could be argued, diminishing social instability and crime), more productive, and more harmonious are, per the Confucians, to place a great emphasis on ritual as a behavioral framework within society and within their own personal lives as rulers. The Confucians believed that the public emulates and learns from the behavior of the ruling classes and the superior people. If the behavior of the rulers and superior people revolves around proper ritual, the people will likely acquire that ritual based behavior and exhibit it within society. So, in this way the ruler and the superior people play a role in leading and guiding the populace with their ritual centric behavior. The ritual promoted by the ruling classes is expected to be absorbed and followed by the masses. If proper ritual is relayed to the people, Confucius thought, the people will find refuge in it and willingly submit to the rulers. Confucius (2008), as was previously referenced, explains how ritual will work to the ruler's advantage as it has the capacity to generate an authentic admiration and respect for the ruler and the state, thus, allowing the ruler to govern a more controlled and harmonious society:

If you lead them by means of government and keep order among them by means of punishments, the people are without conscious in evading them.

If you lead them by means of virtue and keep order among them by means of ritual, they have a conscious and moreover will submit. (II. 3, p. 6)

The underlying purpose of Confucian ritual is control and harmony—personal and social control, and family and community harmony. The focus of much of ritual is on intrafamily hierarchical interaction, which consists of making clear the various obligations each member of a family has within the family system. The ritual based hierarchical family system is essentially a microcosm of the ritual based social system, wherein social behavior is predicated upon one's position within the social hierarchy. These two hierarchical systems work in tandem, often reflect each other in their operation, and ultimately represent mechanisms for control and harmony. These hierarchical systems control personal behavior, the Confucians argued, when people take on their proscribed familial and social responsibilities as they exist within an interlocking web of expectations. When these two systems (the family and society) are operating smoothly, people are expected to experience greater harmony—both within the family and within society.

Confucian ritual comes in many forms: From large scale marriage rites and mourning prescriptions to localized public celebrations and performances revolving around music and dance to the far more common and intimate forms of daily personal etiquette. The small forms of personal etiquette are of most value for our purposes as they were thought to work as a universal and continuous mechanism for personal control and self-possession. What is personal etiquette if not a number of guidelines that limit and regulate behavior? Confucian ritual is mainly a series of injunctions concerning small forms of personal etiquette in social situations. These etiquette centric admonitions were believed

to act as a restraining mechanism, controlling and regulating the behavior of the individual within the family and within society, and they were believed to have the capacity to control the behavior of the population as a whole. Xunzi (2003) describes the containment qualities of rituals or rites, “Rites trim what is too long and stretch out what is too short, eliminate surplus and repair deficiency, extend the forms of love and reverence, and step by step bring to fulfillment the beauties of proper conduct” (s. 19, p. 104). When people enter this ritual based system, and engage in these small exercises of personal control in a dedicated fashion for an extended period of time, it could be argued, this controlled behavior becomes ingrained within the unconscious mind and second nature to the participants, disciplining and regulating the mind and the accompanying physical behaviors attached to it. Because of adherence to ritual based etiquette, the mind is in effect engulfed in a series of small cognitive exercises in personal control that potentially strengthen its ability for self-restraint and self-possession. Xunzi (1999) illustrates the role that small forms of personal etiquette play in reducing deviance and criminality:

If one’s manner and appearance, bearing and deportment, entrances and exits, and one’s rapid steps proceed according to ritual principles, they will be cultured. But when they do not, they will seem arrogant and obstinate, depraved and perverted, utterly commonplace and savage. (2.2, pp. 28-29)

It’s important here to make explicit the direct line from the family to education to ritual to criminality. Under the Confucian system, the *family* is tasked with *educating* the children on matters pertaining to *ritual*. Per the Confucians, if the parents fail in this

necessary instruction, for reasons explored in the previous section, proper ritual based conduct will likely be lost among the children, and in its place deviance and criminality may later materialize.

Xunzi theorized that people are inherently bad or evil, and, thus, require socially constructed mechanisms—rituals—to reign in and control their immoral or evil desires. Xunzi (1999) explains the genesis of these socially constructed regulatory mechanisms:

How did ritual principles arise? I say that men are born with desires which, if not satisfied, cannot but lead men to seek to satisfy them. If in seeking to satisfy their desires men observe no measure and apportion things without limits, then it would be impossible for them not to contend over the means to satisfy their desires. Such contention leads to disorder...The Ancient Kings abhorred such disorder; so they established the regulations contained within ritual... (19.1, p. 601)

Ritual represents the most effective controlling mechanism, per Xunzi, and is instrumental in distancing an individual from his or her intrinsically evil disposition. Rituals, he argued, pull people into a behavioral context in which desires can be achieved within reason and within limitation, all taking place in a controlled and regulated social arena. Xunzi (2003), uniting theory on human nature, education, and ritual, explains how a failure to engage in ritual and education will produce violence and criminality:

Since man's nature is evil, it must wait for the instructions of the teacher before it can become upright, and for the guidance of ritual principles before it can become orderly. If men have no teachers to instruct them, they will be inclined toward evil and not upright; and if they have no ritual principles to guide them, they will be perverse and violent and lack order. (s. 23, p. 162)

Xunzi's theoretical position basically boils down to the idea that without ritual to control and regulate people's desires, they will return to their natural state of chaos, selfishness, evil, and immorality. Once again, Xunzi (2003) explains in general terms the importance of ritual in the reduction of criminality, "If he does not possess ritual principles, his behavior will be chaotic and if he does not understand them, he will be wild and irresponsible" (s. 23, p. 166).

Punishment

Mencius generally believed that only the rulers or those governing the people, by the power invested in them by Heaven, have the authority to punish.³⁷ Normal citizens cannot publicly or generally take it upon themselves to punish other citizens. Mencius (2004) provides a clear and definitive answer to the question of who largely has the right to enact punishment:

³⁷ Per Xunzi (2003), these punishments usually consist of: "Tattooing of criminals, cutting off the nose, cutting off the feet, castration, and death" (s. 9, p.51).

Suppose a man killed another, and someone were to ask, “Is it all right to kill the killer?” I would answer, “Yes.” But if he further asked, “Who has the right to kill him?” I would answer, “The Marshal of the Guards has the right to kill him.” (II. B. 8, p. 47)

Though usually aligned with Mencius’ theory of punishment, within Confucius’ theory of punishment there is a caveat that corresponds closely with the importance he placed on immediate family relations, particularly of that between parent and son. Confucius contended that if a father or a mother is killed the son has a responsibility to avenge his parent by killing the perpetrator. Hauntingly, Confucius rejected the notion that the killer and the murdered man’s or murdered woman’s son should continue to live “under the same heaven” (Legge, 2016, p. 91). It appears as if Confucius advocated for state intervention concerning punitive matters for most other public non-son/parent relations. In other words, it is the parent-son relationship that requires a special form of personalized vigilantism. Confucius explains this important qualification in *The Book of Rites*:

Zi-xia asked Confucius, saying, “How should (a son) conduct himself with reference to the man who has killed his father or mother?” The master said, “He should sleep on straw, with his shield for a pillow; he should not take office; he must be determined not to live with the slayer under the same heaven. If he meet with him in the market-place or the court, he should not have to go back for his weapon, but (instantly) fight with him.” “Allow me

to ask,” said (the other), “how one should do with reference to the man who has slain his brother?” “He may take office,” was the reply, “but not in the same state with the slayer; if he be sent on a mission by his ruler’s orders, though he may then meet with this man, he should not fight him.” “And how should one do,” continued Zi-xia, “in the case of a man who has slain one of his paternal cousins?” Confucius said, “He should not take the lead (in the avenging). If he whom it chiefly concerns is able to do that, he should support him from behind, with his weapon in his hand.” (Legge, 2016, p. 91)

In the case of the father or mother being murdered, whether the son should allow for the legal system to run its course before acting, or if the son should seek immediate justice regardless of the legal situation, was not clearly conveyed. This presents a grey area in which we can only speculate. On the one hand, it seems likely that given Confucius’ record of deferring to state intervention on these issues, and because Confucius held the title of “Minister of Crime,” that he may have advocated for the formal legal system to exert its punishment or play itself out before the son’s retributive action is put into motion. On the other hand, Confucius’ family centric worldview may lead one to believe that he considered the formal legal system a detached entity operating independently from the behavior of the son in this case, thus, deserving little consideration. One can only speculate on Confucius’ position concerning these procedural issues.

Xunzi believed that punishments delivered by the state must be certain, implemented on a continuum based on the severity of the crime, and conducted in public.

Xunzi (2003) writes of the necessity of certain, graded, and public punishment, “The violent shall be repressed, the evil restrained, and punishments shall be meted out without error. The common people will then clearly understand that, if they do evil in secret, they will suffer punishment in public” (s. 9, pp. 44-45), and he added that, “The gradations of punishment...assure that no crime shall go unpunished” (s. 19, p. 114). Advocating for public punishment is to be expected as it was quite common throughout most of world history. It wasn’t until the early 19th century in the United States that punishment in general was segregated to areas behind the walls of jails and penitentiaries.

Confucius advocated that rulers and governing bodies err on the side of leniency and restraint when meting out punishments.³⁸ Punishments, per Confucius, are meant to

³⁸ The Legalists strongly diverged with Confucius on this point. Han Fei Zi believed that it is important that rulers execute severe punishment as a general rule, otherwise offenders will fail to change their behavior. He thought that people will only change when they confront extreme resistance to their behavior. Han Fei Zi (2003) explains the motivations for his rejection of lenient punishment, “In doling out punishment he is as terrible as the thunder; even the holy sages cannot assuage him...and if his punishments are too lenient, then evil ministers will find it easy to do wrong” (p. 19). For the legal system to operate efficiently, Han Fei Zi argued, not even the ruler can obtain leniency from the court when his family or friends are to be punished. The elimination of leniency and favoritism within the court was of great importance to the Legalists. Han Fei Zi (2003) writes of privileged relationships within the legal system, “If he has truly committed error, no matter how close and dear to the ruler he may be, he must be punished” (p. 19).

rehabilitate and correct the offender's behavior, they are not meant to be a form of retribution or reprisal (Confucius', it could be argued, contradictory thought concerning a son's expected retributive behavior in response to a murdered parent seems to weaken this position somewhat). Confucius' opposition to retributive punishment runs counter to most historical justifications for punishment, which were for revenge or retaliation. Hoffding (1912) writes of the general historical makeup of punishment, "Historically, punishment has been developed from the instinct of revenge or retaliation" (p. 691). Additionally, per Confucius, to be overly punitive is to bring unnecessary shame on not only the criminal, but potentially on the ruler as well. In that, if the people are behaving criminally, it may be that they are imitating the immoral behavior of the ruler, or that their criminal behavior is a response to the disorganizing or detrimental effects of the ruler's policies. Either way, Confucius believed that criminal behavior may reflect poorly on the ruler's ability to govern. Thus, for a ruler to enact severe punishments or to punish widely is potentially a shameful proposition for himself. If the ruler is in a position where severe punishments are generally warranted or exhibited, Confucius argued, his administration and authority can be questioned. Though, this doesn't mean that Confucius took a soft stance on criminals. He still advocated for justice to be distributed to those who deviate. Consider this quote from Confucius as evidence that he was not altogether soft on those who "injure" others, "Recompense injury with justice, and recompense kindness with kindness" (Confucius, [1893] 1971, XIV. XXXVI. 3, p. 288).

Xunzi took a unique position concerning the amount of punishment that should be provided to the convicted. Continually more hardline in his criminological approach, Xunzi (1999) at times advocated for harsh punishments, writing:

If there is to be order, then punishments must be heavy, and if there is to be chaos, then punishments must be light. The treatment of criminal offenders in a period of good government is sternly harsh, and their treatment in a chaotic age is exceedingly light. (18.3, p. 569)

In this way, harsh punishments are to be applied during times of social stability and proper governance because the criminal will essentially be out of excuses for their conduct. If the government is operating according to ritual principles and is engaging its people in a fair way, Xunzi thought, then the criminal's claim that the act is in some way the result of his or her unfortunate circumstances brought on by the government or society will be lacking in legitimacy. Unable to make these claims, the criminal will then take on majority responsibility and be punished accordingly.

Continuing with Xunzi's predilection for harsh punishments, it is not uncommon to find him promoting the death penalty for people who engage in behavior detrimental to the state—those who threaten the wellbeing of the government, those employed in government who exhibit nefarious schemes, etc. For example, Xunzi (1999) writes, "Those who are obedient should be established; those who are not should subsequently be executed" (16.5, p. 521). Harsh punishments, per Xunzi (1999), are ultimately used for their deterrent effect.

Yet, at other times, Xunzi (1999), falling in line with Confucius' position on leniency, counseled restraint in the amount of punishment that should be manifested; he writes:

In punishing, one should not wish to go to wrongful excess...If one punishes with excess, then injury may reach the gentleman. If unfortunately transgressions are unavoidable, then it is better to confer rewards beyond what is warranted and not to punish to wrongful excess. (14.10, pp. 499-451)

As was previously mentioned, Xunzi asserted that punishments are particularly deserving when the state is in order and rituals are being conducted properly. If the ruler is radiating moral and virtuous behavior for the people to emulate, the laws are clearly stated and fairly applied, and the rites and rituals are being followed, then those who are engaged in deviant and criminal behavior, despite these positive conditions, are truly criminal and fully deserving of a punitive response. Xunzi (2003) explains:

When the commands of the government have been fixed and the customs of the people unified, if there should be those who depart from the customary ways and refuse to obey their superiors, the common people will as one man turn upon them with hatred, and regard them with loathing, like an evil force that must be exorcised. Then and only then should you think of applying penalties. Such are the kind of men who deserve severe punishment. What greater disgrace could come to them? If they try to profit by evil ways, they find themselves confronted by severe punishment. (p. 77)

On the other hand, if the state is in disorder and/or rituals are not being followed, then society will likely not be in a position to judge the behavior of the deviant in the same way they may have under more favorable societal conditions. Under these disorganized or chaotic social conditions, the criminal is to receive a reduced punishment.

It's likely that Xunzi is more punitive with those threatening the state and more punitive with those exploiting the power entrusted to them by the state for their own selfish purposes. He is also more punitive in orientation during time periods experiencing social stability and proper governance. He is less harsh with the common person committing more pedestrian crime, particularly during times of social unrest, times when the government is not following proper ritual, or times when the government is not functioning morally or ethically.

Within the lengthy block quote directly above, there is obviously a clear difference between how Confucius and Xunzi viewed criminals. Confucius believed that criminals are to be pitied and that any perceived superiority over them is to be publicly stifled. Xunzi, on the other hand, did not hesitate to conjure words like "hate" and "evil" when explaining how criminals are to be viewed. Granted, Xunzi's descriptions came after first predicating them with the notion that all other excuses for the criminal's behavior had been exhausted, but this is not always the case. Nevertheless, in this instance Xunzi is writing within a particular and much specified context—viewing criminals from a moral perspective after other key alternative explanations for their behavior have been exhausted—a context in which Confucius' opinion does not exist (only to say that he disagrees in a general sense).

This overall philosophical wedge is a microcosm of the more conservative and, arguably, the more black and white disposition of Xunzi (it should be recalled that Xunzi's most famous disciple, Han Fei Zi, went on to essentially represent the philosophy of Legalism), and the more liberal nature of the philosophy in which Confucius and Mencius extolled.

Confucius (2008), as was briefly alluded to earlier, believed that punishments must fit the crime, stating, "If punishments do not hit the mark, then the people will have nowhere to put hand or foot" (13.3, p. 49). By "hit the mark" Confucius meant that punishments must be proportionate to the crime for them to have the intended effect. Xunzi (1999) concurred, writing, "Each reward or punishment...was given as a recompense that accorded with the nature of the conduct involved. Even one action not having proper recompense in this balance scheme would be the beginning of chaos" (18.3, p. 569). Egregious deviance warrants a proportionately strong punishment. On the other hand, minor infractions warrant proportionately weaker penalties. Confucian punishments fall on a continuum that generally exhibit restraint, are measured in their execution, and are dependent upon the criminal act committed.

Within Confucius' position regarding punishment, retribution or just deserts seldom factor into the punishment equation (take Confucius's understanding of the proper behavioral response of the son after the murder of a parent as one of the few examples of retributive justice). Retribution is simply not discussed or acknowledged much within Confucius' texts. Instead, as mentioned earlier, Confucius believed that one is to pity the criminal, and, in addition, one should not gloat or delight in the misfortune of the offender's predicament. Punishment is generally not to be retaliatory in nature, instead it is a last-

resort when corruption or incompetence have taken hold of the ruling powers (returning to notions of imitation or emulation of the ruler by the citizenry), and/or the people have, for whatever reason, strayed from the moral, ritual based, path. The function of punishment, from Confucius' perspective, is to right society's ship or keep society afloat until new leadership acquires power, the current leadership corrects themselves, the people return to proper ritual, or the chaos of the day subsides (so to put), it is generally not designed for retribution. If the rulers are doing their jobs properly—behaving morally, radiating virtue, and, importantly, adhering to proper ritual—the people, the Confucians argued, will follow and emulate them, and, thus, there will likely be little crime. If the people are behaving criminally, it is possible that they are following any deviant or misguided behavior that might be emanating from the rulers, and, if this is the case, Confucius argued that it is immoral to freely punish people for the actions of the leadership. Confucius' theory of punishment, within the confines of imitation theory, can adequately be illustrated through a conversation between Confucius and a ruler by the name of Ke K'ang Tse:

Ke K'ang Tse asked Confucius about government, saying, 'What do you say to killing the unprincipled for the good of the principled?' Confucius replied, 'Sir, in carrying on your government, why should you use killing at all? Let your desires be shown to be for what is good, and the people will be good. (Dawson, 2002, p. 181)

In other words, rulers are to conduct themselves and the state in such a way that the citizenry are provided no deviant behavior to emulate or greedy policies to rage against. If,

despite fair and harmonious social conditions, a person still engages in criminal behavior, punishments, Confucius asserted, should generally be meted out in the form of rehabilitative efforts.

Xunzi (2003), always the pragmatist, believed that when it comes time to implement the machinery of punishment, for whatever reason, this punishment, in addition to its rehabilitative qualities, is to operate as a deterrent for both the offender and the public. Xunzi writes of the deterrent effects of punishment, “To forestall violence and cruelty, prevent licentiousness, and wipe out evil, employing the five punishments as a warning, causing the violent and the cruel to change their ways and the wicked to desist from wickedness” (Xunzi, 2003, s. 9, p. 51), and, “As a general rule the fundamental reason for punishment is the need to prohibit acts of violence, to instill hatred of evil acts, and further to warn men against committing them in the future” (Xunzi, 1999, 18.3, p. 567).

Han Fei Zi’s theories on crime and punishment provide a good example of a framework that constitutes a somewhat alternative approach to Confucian ritual based social control. A main pillar of Han Fei Zi’s contribution to criminology is his ideas regarding the importance of instituting rewards and punishments within society to accomplish his deterrent agenda and further the power for the ruler. Let’s focus on Han Fei Zi’s use of rewards and punishments to influence behavior for purposes of comparison. Confucius and Mencius generally reduce in value Han Fei Zi’s ideas concerning the importance of rewards and punishments to control and influence behavior. The Confucians contended that behavior is controlled when rulers cultivate a level of morality and virtue so great that it will, by way of example and charismatic force, direct the people into righteous conduct. In addition, behavior is substantially controlled through ritual instituted

by the ruler, the community, and the family. Thus, a fair portion of the Confucian philosophy as it pertains to controlling the masses is in a way a unidirectional learning theory in the spirit of Gabriel Tarde (1843-1904; 2015), wherein the population learns and imitates the behavior of the ruler or the ruling classes. The ruler sets the standard of behavior, usually through ritual, and everyone is expected to instinctively and authentically follow it.

Per the Confucians, learning righteous behavior from a ruler of high moral standards also acts as a means of rehabilitation for the deviant. A morally upright and virtuous ruler, the Confucians theorized, not only has the potential to lead the masses toward righteous behavior, but he also has the capacity to correct and reform the behavior of those who have strayed. Confucius (2003), when advising rulers on how to create a stable society, explains the role that the leadership plays in determining how the masses conduct themselves:

The state of Lu had a case of a father and son filing civil complaints against each other, and Ji Kangzi wanted to have them executed. Confucius said, “You cannot execute them...When the common people do something that is not right, it is only because their superiors have lost the Way.” (p. 134)

Confucius believed that implementing ritual among the people is a major source of societal containment. Ritual and rites are considered cultural events, standardized social behavior, social guidelines, societal norms, and personal etiquette that unites people together. Rituals, the Confucians contended, unite people together within the family, and

they unite people together collectively within the community or within society—using the social hierarchy as the backdrop for this engagement. By instituting and promoting these traditional rituals among the people, Confucius reasoned, shame and a conscious (or what the Freudians call a “superego”) proliferates among the people, authentic respect for the social system is produced, punishment becomes less of a necessity, and ultimately society becomes more harmonious. It’s important to note here an issue that will be covered at great depth throughout the dissertation, and that is that the Confucians did not discount punishment entirely (Xunzi actively promoted it to a certain extent). They understood that it serves a purpose and is at least temporarily effective in base-level social regulation.

Of the three great Confucian philosophers, Confucius, Mencius, and Xunzi, both Confucius and Mencius were generally copacetic in their minimization of Han Fei Zi’s views concerning the importance of rewards and punishments. It was Xunzi (it should be acknowledged that Han Fei Zi was Xunzi’s disciple, but I see no reason why they cannot be compared on merit as equals), who broke from the standard Confucian narrative and took more of a middle-ground between Confucius and Han Fei Zi regarding punishment. Xunzi (2003) accepted the Confucian position regarding the importance of ritual in societal regulation, writing, “Those who obey the dictates of ritual will achieve order; those who turn against them will suffer disorder. Those who obey them will win safety; those who turn against them will court danger” (s. 19, p. 98). He also recognized that emulating a moral ruler offers the public certain benefits, yet he seems to temper this notion somewhat. More importantly, he firmly supported the implementation of regular rewards and punishments as means of social control, not only as a failsafe, but as a constant within

society. Xunzi (2003) explains how the ruler is to exercise the disbursement of rewards and punishments:

Encourage them with rewards, discipline them with punishments, and if they settle down to their work, then look after them as subjects; but if not, cast them out...If a man comes forward in good faith, treat him according to ritual; if he comes forward in bad faith, meet him with punishment. (s. 9, p. 36)

It appears as if he is deviating from the standard Confucian doctrine regarding emulation of the ruler and an across the board ritualization of society to institute social order/control. While he was writing of the benefits of ritual, he was also advancing theories corresponding to the usefulness and importance of rewards and punishments on a general basis—ultimately placing rewards and punishments on an equal footing with ritual.

We can clearly see that Xunzi's philosophical orientation regarding punishment corresponds closer to Han Fei Zi's position when compared to both Confucius and Mencius. Ultimately, we find that Confucius' and Mencius's position is generally incompatible with that of a purely Legalist based system of social control.

Another substantial difference between Han Fei Zi and the work of Confucius and Mencius is that if someone breaks the law within the Legalist legal system it is he/she who is solely responsible for his/her actions. On the other hand, under the philosophy of Confucius and Mencius, if someone does not follow the law per its prescribed dictates, the blame can potentially fall on the doorstep of the leadership and the ruling parties. The

blame may be directed toward the leadership (to a certain extent) rather than the individual perpetrator, because under the Confucian system the individual may be emulating or operating under the influence of the deviant behavior of a ruler or a governing body. In other words, a corrupt ruler or a ruler who fails to exhibit traditional ritualistic practices, Confucius and Mencius argued, potentially creates a social environment conducive to criminality, thus, allowing the perpetrator a certain amount of leeway in considerations of blame. Criminal behavior is, per general Confucian philosophy, “about the nature of the ruler rather than the fidelity to law” (He, 2011, p. 654). In this example, we again witness two conflicting systems of law that would vie for influence over the rule of law and the structure of the legal system in China for over two-thousand years.

Throughout many periods of Chinese history, this conflict resulted in the notion of “Confucianism on the outside; Legalism on the inside,” where the rulers would propagate the idea that the country or the state was operating under the influence of Confucian philosophical ideals regarding social regulation and the rule of law, but, in reality, they were generally following the cold, calculating, and unbending Legalist doctrine. To better illustrate this idea, there is an equivalent phrase that states, “On the yang side, or superficially, it is Confucianism, but on the yin side, or deep down, it is legalism (Yang Yu Yin Fa)” (Hu, 2007, p. 42). In other words, to pacify and satiate the people, the rulers led them to believe and operate under the assumption that the legal system, like most other aspects of Chinese society and Chinese culture, fell under the umbrella of a ritually led Confucian system of societal regulation—a system that can potentially hold the ruler accountable for social disorder, deviance, and crime. Yet, to realize the efficient functioning of the day-to-day operations of a complex and multifaceted legal system and

society, the rulers placed great emphasis on the tenets and philosophy of the Legalist tradition.

Although there is no in-depth examination of the Legalist and Taoist traditions in the main portion of this dissertation, they are regularly alluded to, and so it is beneficial to obtain a more thorough understanding of their position regarding punishment as means of social control. The Legalist approach to realize social control, as previously mentioned, is to extend rewards and punishments to citizens depending on whether their behavior meets the requirements set by the law. Han Fei Zi (2003) believed that rewards and punishments are useful to not only maintain a harmonious society and to get people to put out their best efforts, but punishments are also exceedingly valuable as a mechanism for the ruler to utilize when working to hold and preserve power.³⁹ The ruler should use punishments, Han Fei Zi argued, so that the people fear him. It is with this fear that the ruler can control his people. In this way, punishments and rewards are at least partly ruler centric—in that they are to be opportunistically applied by the ruler to serve his own selfish purposes. Additionally, Han Fei Zi maintained that punishments are to be distributed solely by the ruler himself. If the ruler does not dispense with the punishments himself, his ministers or other government officials who have the power to mete out punishments can garner the fear of the public, acquire power from this fear, and potentially dethrone the ruler. Han Fei Zi (2003) writes of the importance of a ruler centric system of rewards and punishments:

³⁹ Punishments and rewards are known within Legalism as “The Two Handles,” of which Han Fei Zi (2003) describes as punishment and favor: “To inflict mutilation and death on men is called punishment; to bestow honor and reward is called favor” (p. 29).

Now if the ruler of men does not insist upon reserving to himself the right to dispense profit in the form of rewards and show his sternness in punishments, but instead hands them out on the advice of his ministers, then the people of the state will fear the ministers and hold the ruler in contempt, will flock to the ministers and desert the ruler. This is the danger that arises when the ruler loses control of punishments and favors. (p. 29)

Han Fei Zi (2003) continues with the use of fear to control the people and expanded on the importance of ruler centric punishment using a zoologically based metaphorical argument:

Let the ruler apply the laws, and the greatest tigers will tremble; let him apply punishments, and the greatest tigers will grow docile. If laws and punishments are justly applied, then tigers will be transformed into men again and revert to their true form. (p. 40)

In this instance, we can see that a great portion of Han Fei Zi's philosophy is centered on preserving power and the controlling capacity of the ruler.

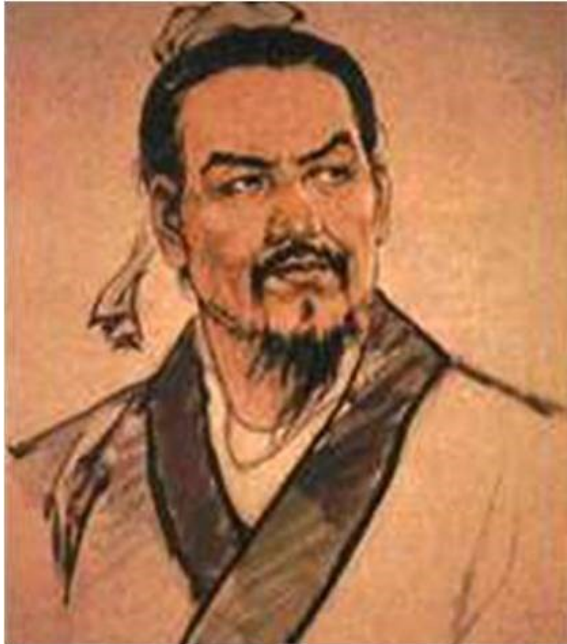


Figure 5. Portrait of Han Fei (280-233 B.C.E.)

Lao Tzu, like Confucius and Mencius, minimized the importance of rewards and punishments. Instead of rewards and punishments, Lao Tzu argued that people are to follow “the Tao” or “the Way.” He did not engage in extremes of large rewards or harsh punishments, he dismissed controlling others using fear tactics, and he generally promoted a rehabilitative and “hands-off” punishment style. He believed that there is no need to punish because the workings of the universe, or “the Tao,” will naturally create order and stability. A peaceful and harmonious society will arise naturally, Lao Tzu contended, without the need for governmental interference; thus, the role of government is to be minimized. Lao Tzu (2013) writes of punishment:

When a great man rules, the people are hardly aware of his existence.

A ruler who is merely good wins the affection and praise of his subjects.

A common ruler is feared by his subjects, and an unworthy ruler is despised.
(p. 17)⁴⁰

Rather than emphasize deterrence through rewarding and punishing behavior in the Xunzi and Legalist sense, Lao Tzu minimizes the importance of punishment in general. Lao Tzu (2013) writes of the minimization of punishment, “The good he treats with goodness; the not-so-good he also treats with goodness” (p. 49).

⁴⁰ There is little evidence to show that Lao Tzu existed. There remains some secondary evidence pointing to his existence, wherein people were writing of him long after he had died, but, even so, it is highly probable that his work is a collection of material gathered from an assortment of different, yet likeminded, scholars (Mark, 2012). Whether he existed or not, there exists a classic and quite comical story of a meeting between himself and Confucius. The mythical exchange between Confucius and Lao Tzu transpired thusly: Confucius was reading a book when Laozi paid him a visit and asked, “What book is this?” [Confucius replied]: “It’s about ritual. You see, even a sage will read that sort of book.” Laozi replied: “Fair enough! A sage will read it. But why are you reading it?” (as quoted in Harbsmeier, 1990, p. 139).



Figure 6. Laozi

Lao Tzu, like Confucius and Mencius, generally rejected a punishment based system of rule, but for different reasons. He rejected the Confucian belief that the public emulated the ruler to any great extent. Although a behavioral connection between ruler and subject is alluded to in the *Tao Te Ching*, it is a brief and somewhat vague comment, and pales in comparison to the more concrete statements made in the Taoist text that downplay the importance of the relationship between ruler and subject. For the sake of comprehensiveness, the comment connecting ruler and subject in emulation is, “When a ruler lacks faith, so will the people” (Lao Tzu, 2013, p. 17). Instead of ruler intervention, Lao Tzu believed that a deviant will naturally revert to the correct path. As water finds an even plain, he argued, people also possess a moral equilibrium in which they continuously revert. People might stray from the path of virtuousness, but their inherent nature will pull them back to the correct path, back to “the Way.” Lao Tzu (2013) writes of this natural correction or reversion after deviance, “Peace is meant to be our natural state. A whirlwind

never outlasts the morning, nor a violent rain the day. Just as heaven and earth return to peace, so should we” (p. 23).

Legalism, Taoism, and Mohism are compatible, He (2011) maintained, within the realm of issues concerning equality within the legal system. All three schools of thought support a more egalitarian justice system, wherein all people are considered relatively equal under the law. The Confucians, on the other hand, generally believed that the laws and societal guidelines that govern society should be meted out, to a certain extent, dependent upon one’s position within the social hierarchy. Xunzi (1999) explains the hierarchical nature of a Confucian based society and its ability to create social harmony:

The Ancient Kings acted to control them [the population] with regulations, ritual, and moral principles, in order thereby to divide society into classes creating therewith differences in status between the noble and base, disparities between the privileges of age and youth, and the division of the wise from the stupid, the able from the incapable. All of this caused men to perform the duties of their station in life and each to receive his due; only after this had been done was the amount and substance of the emolument paid by grain made to fit their respective stations. This indeed is the Way to make the whole populace live together in harmony and unity. (4.14, p. 93)

Han Fei Zi rejected this notion of a hierarchal legal system, contending that for a legal system to operate efficiently the law should make no differentiations or distinctions between people because of their rank or position in society. Although Han Fei Zi did make

an exception to this regarding certain ruling elites, his philosophy nowhere near resembles the hierarchal societal and legal framework exhibited by the Confucian tradition. The Confucians generally rejected egalitarianism in most forms, strongly asserting that it is the hierarchal social system and its corresponding rituals and rites that, to a certain extent, regulate and control behavior. The Confucians believed that if people are firmly set within their societal roles, and these societal roles are made clear and recognized by all (which was often the case in pre-modern China), a greater social harmony will persist throughout the empire.

Returning to Confucianism and punishment in general, one major caveat to Confucius' policy regarding the distribution of punishment is his prohibition of inviting government interference or government involvement into certain matters that take place within the family. He believed that there are times when disorder within the family can be regulated within the family itself, generally free of external judicial processes. This theoretical position is consistent with his overarching philosophy that the family comes before all else, wherein family cohesiveness and autonomy takes precedence over the concerns of the community or even the state. Take the famous conversation between the Duke of She and Confucius as a prime example of Confucius' and Mencius' thought regarding punishment and family obligations—as was quoted previously:

The Duke of She told Master Kong (Confucius): 'In my locality there is a certain paragon, for when his father stole a sheep, he, the son, bore witness against him.' Master Kong said: 'In my locality those who are upright are different from this. Fathers cover up for their sons and sons cover up for

their fathers. Uprightness is to be found in this.’ (Confucius, 2008, 13.18, p. 51)

A similar example is given in the book of *Mencius*, wherein Mencius (2004) describes the behavior of a legendary fictitious king whose blind father had committed murder. The king chose to abdicate his throne and flee his kingdom with his criminal father, rather than subject his father to punitive acts administered by the state.

Within this system, there are infractions that take place within the family that are to be met with resolution from within the family as well, as opposed to a public or government centric punishment. One main justification, the Confucians believed, for a family centric punishment regarding these internal matters is that it is also generally the family’s obligation and responsibility to rehabilitate and correct the behavior of the deviant, whether the criminal act takes place within the family or amongst the public. Therefore, they thought it reasonable for the family to both resolve deviance within the family and assert itself in the rehabilitation of the deviant. At the same time, per Confucian theory, ruling institutions are bound to respect the notion that the family has a superior position in these internal cases. There is a general agreement throughout Confucian theory that the family is the most important element within society, as it is considered the nucleus that holds the state and the people together, and, as such, it is recognized that the family is to be afforded a certain amount of autonomy and respect regarding matters that occur within the family itself.

CHAPTER 4) A CONFUCIAN THEORY OF CRIME: COMPARISONS AND THEORY BUILDING WITH WESTERN CRIMINOLOGICAL THEORY

“Let us consider anew the subject of our labor: the question of crime. And let us assume that the question of crime has something to do with the most basic truth. A truth that is in the realm of absolute reality, a truth on the nature of life and death and our place in the world of things.”

Richard Quinney (1998, p. 35)

Family Cohesion

The Family, Parenting, and Self-Control

“If you were a specter or a water-imp
you could not be caught sight of;
but since you have a face with the normal countenance and eyes,
I regard you as a man who observes no limits.
I am writing this good song
to show the extremes of your turning back and twisting away.”

From an *Ode* and quoted in Xunzi (1999, 8.6, p. 173)

The importance of the family in teaching and promoting virtuous behavior is paramount in the Confucian tradition. The lessons and examples passed down by the parents to the children, mainly through ritual, moral instruction, and forms of academic learning, were considered by the Confucians to be the root from which moral behavior springs. Confucius (2008), as noted earlier, said this about the role of the family in the prevention of civil disorder:

Few indeed are those who are naturally filial towards their parents and dutiful towards their elder brothers but are fond of opposing their superiors; and it never happens that those who do not like opposing their superiors are fond of creating civil disorder. The gentleman concerns himself with the root; and if the root is firmly planted, the Way grows. Filial piety and fraternal duty—surely they are the roots of humaneness. (1.2, p. 3)

The root of humaneness, for the Confucians, is the family; particularly in the actions of the parents concerning the upbringing of the children and in the filial piety reciprocated to the parents later in life. Who we become as human beings, the Confucians argued, is a direct result of the type of family environment from which we emerge. Those who acquire the proper moral lessons and behavioral patterns will likely go on to be dutiful towards their parents, family, community, superiors, country, and ruler. Those children who engage in productive behaviors and interactions with their parents, the Confucians reasoned, will engage in a continuation of these behaviors and interactions with other inhabitants within their communities and within society—all of which is expected to generate a harmonious society generally unburdened by civil misconduct and deviance. Per the Confucians, the genesis of one's behavior—the most important contributing factor in one's future behavioral trajectory—is the moral guidance, ritual instruction, and educational lessons provided by one's parents or one's family unit.

The Chinese, and East Asians in general, are well known for their more controlling and demanding parenting practices. The term “tiger mother” is commonly, and often

unfairly, batted about when referring to Chinese or East Asian parenting practices. The designation “tiger mother” in American popular culture represents a domineering, ultra-controlling, manipulative, and hyper-disciplinarian parenting style. The idea of the Chinese “tiger mother” has become a controversial subject in American culture. A large national debate about appropriate parenting practices was sparked by the bestselling memoir *Battle Hymn of the Tiger Mother*, written by Yale law professor Amy Chua (2011). Chua detailed her more extreme “tiger mother” based parenting practices and the positive effects they had on her children. Although Chua and her notion of a “tiger mother” is an immoderate example of Chinese parenting, it is arguably instructive of the essence of Chinese parenting practices. Though most modern Chinese parents do not fully subscribe to such conservative or extreme parenting practices, many elements of these more traditional and conservative methods of childrearing still resonate soundly within much of Chinese society—and they can, it could be reasoned, be attributed to Confucian philosophy (Chao, 1994).

To provide a general feel of the Confucian parenting zeitgeist, it’s valuable to turn to the work of Chao (1994) and to the concepts of *chiao shun* and *guan*. Chao states that Chinese parenting practices often follow the principles of *chiao shun* and *guan*. *Chiao shun* and *guan* parenting practices represent, Chao asserts, a universal form of Confucian social theory exhibited both within Chinese society in general and within individual households specifically.

Chiao shun, one half of the Confucian derived Chinese parenting principles of *chiao shun* and *guan*, is a term synonymous with training or preparation through education—it’s best to remember this as the training half of the Confucian infused whole of Chinese parenting. It is through *chiao shun* that parents mold and fine-tune their

children's behavior and cognitive competencies for competition within the classroom and ultimately within society. This molding and fine-tuning of behavior and thought consists of educating children within the household, particularly on matters relating to the socially proscribed behaviors that Chinese society and Chinese culture deem valuable. This training ranges from teaching children how to interact with others and how to show respect for elders (often within a hierarchal social framework) to more scholastic and self-improvement based learning. This is also considered to be the softer side of the parenting equation, where, according to Chao (1994):

In the child's early years, the mother provides an extremely nurturing environment for the child by being physically available and by promptly attending to the child's every need. When children reach school age, the mother provides the support and drive for them to achieve in school and to ultimately meet the societal and familial expectations for success. This training, then, takes place in the context of a supportive, highly involved, and physically close mother-child relationship. (p. 1112)

Transitioning from the softer training techniques of *chiao shun* to the more intense and controlling piece of the Confucian derived parenting directives, we turn to the more "tiger mom" involved parenting practices of *guan*. The term *guan* mainly encompasses two components, "to love" and "to govern," which is effectively saying that love and governance of the child are one and the same (Chao, 1994). In other words, to strongly govern the child is to show love. The word *guan* or *guanjiao* is also closely related to strict

parental monitoring, which, as we will see, is a concept central to Gottfredson and Hirschi's self-control theory. In defining *guan*, Wang and Supple (2010) explain that "Behavioral indicators of *guanjiao* mainly include monitoring and teaching, and parental warmth is intertwined with monitoring and control instead of being outwardly expressed" (p. 483). Parents, as directed through the Confucian derived tenets of *guan*, are expected to govern and monitor the behavior of their children, seeking opportune times to provide lessons and control behavior through acts of disciplinary punishment.

The standard explanation for the implementation of the principles of *chiao shun* and *guan* is to ensure the overall health and harmony of the family, and, to a lesser extent, society. As mentioned earlier, *chiao shun* and *guan* are both considered to be mainly derived from Confucian thought, Chao (1994) explains:

Both the notions of *chiao shun* and *guan* have evolved from the role relationships defined by Confucius...These are relationships between sovereign and subject, father and son, older brother and younger brother, husband and wife, and friend and friend, with father and son being the most important. Because these [Confucian] relationships are structured hierarchically, the subordinate member is required to display loyalty and respect to the senior member, who is required to responsibly and *justly govern, teach, and discipline* [emphasis added]. (p. 1113)

The pre-Qin Confucians and Gottfredson and Hirschi (1990), it could be reasoned, find common ground as to the general source of criminal behavior: Improper parenting and

chaos within the family. These two parties also appear to be in general agreement as to the most beneficial and effective means to parent, mainly that of *guan* or certain forms of *guan*. Gottfredson and Hirschi (1990) contend that low self-control and impulsivity are the harbingers of most forms of criminal behavior. They define low self-control as the absence of personal limitations, engagement in risk taking behaviors, a preference for physical activity over cognitive or intellectual pursuits,⁴¹ an inability to delay gratification, and a lack of long-range thought and planning.

As a correlate to the importance Gottfredson and Hirschi place on self-control, Xunzi (a small portion of this quote was presented earlier) describes the implications of failing to culture and secure long-term thinking, behavior centered on delayed gratification, and self-control, writes:

Now in real life, though a man knows how to raise chickens, dogs, pigs, and swine as well as oxen and sheep, when he eats he dares not have wine and meat. Though he has surplus knife-and spade-shaped coins and stores in cellars and storehouses, he does not presume to dress in silk. Though the miser has treasures deposited in boxes and trunks, he dares not travel by horse and carriage. Why is this? Not that men do not desire to do this, but

⁴¹ Xunzi (1999) commented on the value of placing an emphasis on living a life of the mind over physical engagements, or what he called “physical strength,” as well, when he writes, “There is an ancient saying: The gentleman uses inner power; the petty man uses physical strength” (10.7, p. 279).

because, considering the long view of things and thinking of the consequences of their actions, they are apprehensive that they may lack means adequate to perpetuate their wealth. In this way, they, too, moderate what they expend and control what they desire, harvesting, gathering, hoarding, and storing up goods in order to perpetuate their wealth. *In itself is not this “considering the long view of things and thinking of the consequences” something quite excellent indeed!* [emphasis added] Now, the sort of person who lives in a haphazard manner and is only superficially aware of things does not grasp even this. So he consumes his provisions in an utterly extravagant manner, not considering the consequences, and suddenly he finds himself forced into difficult straits and impoverished. This is why he will freeze, starve, be reduced to holding a begging gourd and sack, and will wind up as a skeleton lying in a drainage ditch. (1999, 4.13, pp. 89-91)

Confucius, in a quote presented earlier, placed great importance in one’s ability to engage in long-term thinking and long-term planning as well; of this he said, “A person without concern for what is far away is sure to encounter worries close at hand” (Confucius, 2003; 15.12, p. 179), and, “Put service first and reward last—is this not the way to accumulate virtue?” (Confucius, 2003, 12.21, p. 135).

Low self-control, per Gottfredson and Hirschi (1990), is likely a result of improper or inconsistent childrearing practices generally exhibited anywhere from the birth of the child to age eight. Low self-control, from a Confucian perspective, is likely derived from

parenting that exhibits limited *chiao shun* and *guan* or parenting that exhibits limited supervision, monitoring, punishment, guidance, education, and ritual. To illustrate the importance in which both Gottfredson and Hirschi and the Confucians place on parental supervision and involvement, witness how both Gottfredson and Hirschi and Confucius enumerate the years in which parental monitoring or deep parental attachment is important. Gottfredson and Hirschi assert that from birth to age eight parents must be vigilant in the supervision and punishment of their children, lest they become impulsive and prone to crime later in life. Correspondingly, Confucius explicitly states that a baby must not leave the arms of its parents until after three years of age. Confucius' (1971) position regarding parental monitoring and childcare, a portion of this quote was noted earlier, is best explained by an interaction he had with a disciple by the name of Tsai Wo that went as follows:

Tsai Wo asked about the three years' mourning for parents, saying that one year was long enough. [Tsai Wo then went on to explain the motivations for his belief. Confucius responded by admonishing and criticizing Tsai Wo (he often admonished Tsai Wo for various reasons) for the short mourning period. The passage then continued] Tsai Wo then went out, and the Master said, 'This shows Yu's [Tsai Wo] want of virtue. It is not till a child is three years old that it is allowed to leave the arms of its parents. And the three

years mourning is universally observed throughout the empire. Did Yu enjoy the three years love of his parents? (17.21, pp. 327-328)⁴²

⁴² Tsai Wo (also known as Zai Yu) is one of the more interesting and provocative of Confucius' disciples. Considered a gifted and elegant speaker, he would debate and openly contest Confucius on certain theory, habitually inciting Confucius to criticize him and attack his personal character. Tsai Wo arguably serves two important purposes within the Confucian readings: First, his objections to some of Confucius' theoretical positions provide an instructive counterpoint that required Confucius to either clarify his initial position or expand on his initial theory to defend from these criticisms. Second, Confucius was usually highly restrained and measured in his words and actions (the death of Yan Hui aside), but when Tsai Wo entered the picture Confucius seemingly became a bit more liberal and animated in his words and demeanor. These interactions with Tsai Wo provide a unique and colorful addition to Confucius' character and to the literature. When one receives pushback or criticism, how he/she responds usually adds a new and interesting dimension to his/her character or philosophy. Take the episode where Confucius found Tsai Wo sleeping during the daytime as an example of Tsai Wo revealing an alternative side of Confucius' demeanor: "Tsai Wo being asleep during the day time, the Master said, 'Rotten wood cannot be carved; a wall of dirty earth will not receive the trowel. This Yu [Tsai Wo]!—What is the use of my reproving him?'" (Confucius, 1971, 5.10, p. 176). The verbiage employed by Confucius when interacting with Tsai Wo is unlike most of his general material. It is when Tsai Wo begins to speak or when he enters the scene within the text that one knows the likelihood for theoretical or textual fireworks is high.

From this case, the baby isn't to leave the arms of its parents until after age three, one gets an inkling of the great level of supervision, attention, and instruction expected in the subsequent years of the child's life.

Per Gottfredson and Hirschi (1990), those parents who are incapable—for whatever reason: single-parent families, unstable marriages, step-parent families, etc.—of engaging in proper supervision and regulation of their children, significantly raise the risk that their children will develop low self-control and impulsivity. It is from this low self-control that these children may later develop conduct disorder, become delinquent, and participate in criminal behavior. There is an assortment of empirical evidence in support of Gottfredson and Hirschi's self-control theory—aside from the wide array of evidence provided in Gottfredson and Hirschi's (1990) seminal work, *A General Theory of Crime*. Pratt and Cullen (2000) conducted a meta-analysis examining 21 empirical studies that revolved around low self-control and its effects on criminality and deviance. Their analysis reveals strong support for Gottfredson and Hirschi's theory that low self-control has a significant influence on criminality, and they found large effect sizes across the board attesting to their results. Pratt and Cullen (2000) write of their findings:

The meta-analysis reported here furnishes fairly impressive empirical support for Gottfredson and Hirschi's theory. First and most noteworthy, their central concept—low self-control—consistently had an effect size that exceeded .20. When compared with other studies that have examined

predictors of criminal behavior, this effect size would rank self-control as one of the strongest known correlates of crime. (pp. 951-952)

Gottfredson and Hirschi (1990) believe that productive or acceptable childrearing practices are achieved when parents satisfy three conditions regarding their children's behavior:

- (1) Monitoring or tracking the child's behavior.
- (2) Recognition of deviant behavior when it occurs.
- (3) Consistent and proportionate punishment for the deviant behavior when it is recognized.

Thus, if parents sufficiently supervise and discipline their children, both Gottfredson and Hirschi and the Confucians believe, their children will likely not engender the low self-control and behavioral problems which are prevalent in so many criminals and deviants. It is Gottfredson and Hirschi's parenting proposals that are, one could argue, closely connected to Confucian notions of parenting. We find a close theoretical connection between both philosophical parties regarding parental monitoring, punishment, impulsivity, and self-control. Both Gottfredson and Hirschi's theories regarding self-control and Confucian based parenting practices share the general concept that parents must diligently supervise and govern the behavior of their children to prevent future deviance and produce well-adjusted people.

Confucius wrote widely of the importance of the general Hirschian and Gottfredsonian concept of “self-control.”⁴³ As previously stated, Confucius (2016) asserted that self-control is the road to perfect virtue, “To subdue one’s self and return to propriety, is perfect virtue” (12.1).⁴⁴ Philosopher Tsze-hsia, a disciple of Confucius whose words were prominently recorded in the main text of *The Analects* and whose material is likely highly representative of Confucian thought, believed that the behavior of a man must always be controlled. When looking at, approaching, and listening to a man of self-control, Tsze-hsia maintained, one should experience a person who when, “looked at from a distance, he appears stern; when approached, he is mild; when is heard to speak, his language is firm and decided” (Confucius, [1893] 1971, XIX. IX., p. 342). A man must be cautious and hesitant in his behavior, Confucius reasoned, rather than impulsive and reckless. To obtain this cautious and hesitant cognitive orientation, Confucius maintained,

⁴³ Lao Tzu (2014), of the Daoist tradition, commented on the importance of self-control as well when he wrote that, “By patience, you can discipline your desires. By self-control, you can develop strong character” (p. 10).

⁴⁴ Other sources have translated or interpreted this quote differently. Slingerland (Confucius, 2003) understands it as a return to ritual rather than a return to propriety, in conjunction with self-control and subduing oneself. Slingerland translates Confucius as stating, “Restraining yourself and returning to the rites constitutes goodness” (Confucius, 2003, 12.1, p. 125). This difference is of minimal importance regarding the point being made, which is that the Confucians placed great significance on self-control and subduing oneself.

a man must follow the Mean and find balance in his life. Self-control is the second major focus of the Confucian philosophical constellation that corresponds with Gottfredson and Hirschi's self-control theory (more intensive parenting practices represent the two parties' first commonality). This evidence establishes a strong link in theoretical orientation between these two philosophical movements. Confucian parenting practices, family orientation, and self-control theory, and Gottfredson and Hirschi's self-control theory of criminal behavior, it could be argued, greatly enrich and complement one another's philosophical positions.

Representative of Gottfredson and Hirschi's ideas about self-control is the Confucian text, *The Doctrine of the Mean*, which is a guide to living a measured and controlled life (Confucius, 2016). Supposedly constructed by Confucius's grandson Zisi, and said to have been passed down to Zisi's disciple Mencius, who purportedly expanded on the text, *The Doctrine of the Mean* is an integral part of the Confucian canon.⁴⁵ Much of the material was supposedly compiled and written by Zisi, but the genesis of the material, the original theories and ideas, are, in large part, thought to be those of Confucius.

⁴⁵ Zisi's authorship of *The Doctrine of the Mean* was formalized after Zhu Xi attributed the text to him during the Song dynasty. Prior to Zhu Xi's attribution there was never any strong, unified scholarly attribution given to Zisi, as there is supposedly little textual evidence that this is the case. Authorship of the text is still a contentious subject. There is even speculation that Xunzi authored a significant portion of it. Nevertheless, given the evidence we have today, it is generally, though reservedly, thought that Zisi was the majority author/compiler of the text (Gardner, 2007).

It is for this reason that when I incorporate or quote work from this text I will attribute ownership to Confucius.⁴⁶ For over eight-hundred years this text served as one of the four canonical Confucian texts and one of the main Confucian works studied for the highly important Chinese imperial civil service examinations. *The Doctrine of the Mean* is a text dedicated to instruction in matters pertaining to finding and retaining balance in one's actions and decisions (finding and holding a kind of equilibrium and self-possession within one's mind). Much of this text is focused on self-control and self-possession, and the importance that these concepts have in the development and continuation of a harmonious society.

Confucius and Xunzi placed great significance in self-policing conscious thoughts, wherein one regularly monitors their own thoughts and behaviors. They believed that one should be constantly checking and evaluating one's level of self-control, one's thoughts, and, correspondingly, one's internal dialog. Confucius (1966), in a statement that was previously discussed, said this regarding the importance of regular internal self-evaluation, "The superior man must be watchful over himself when he is alone... This is an instance of the saying—"What truly is within will be manifested without." Therefore, the superior man must be watchful over himself when he is alone" (p. 324), and Xunzi (1999) wrote, "In broadening his learning, the gentleman each day examines himself so that his awareness will be discerning and his actions without excess" (1.1, p. 3). Monitoring behavior is a

⁴⁶ Notable Confucian translator James Legge (1815-1897) uses Confucius' name when issuing general ownership of the material, though it is commonly recognized that Zisi physically presided over the material.

common thread binding the Confucian theory of self-control and Gottfredson and Hirschi's self-control theory. Confucius and Xunzi held in high regard the regulatory functions of what many now refer to as the superego or the conscious, contending that one must constantly monitor oneself, even (or especially) when alone, and in doing so one will obtain greater personal/cognitive balance, self-control, and self-possession.

Both Gottfredson and Hirschi and Confucius believe in the importance of monitoring the behavior of one's children so that they will develop greater self-control and less impulsivity. Dedicating time and energy to be consciously aware of thoughts and actions, and to properly and effectively monitor these thoughts and actions (whether they are one's own internal thoughts and outward actions or one's children's thoughts and actions), the Confucians argued, is exceedingly valuable if one wishes to become a fully functioning, self-possessed, and self-controlled human being, or if they wish for the same for their children. At the end of the day, the evidence compiled from the Confucian literature suggests that the Confucians generally agree with Gottfredson and Hirschi that monitoring, tracking, having the ability to recognize the deviant behavior of one's child, and having the capacity to properly punish the child for any potential deviant behavior is imperative in the prevention of future deviance.

Family Structure as a Determinant of Parenting Practices and Future Delinquency.

"The Lonely Wife

Harken! There is thunder.

On South Hill's lofty crest.

Hence why must he wander,
Nor dare a moments rest?
True-hearted husband, fain, oh fain
Were I to see thee home again.
Hearken! Now the thunder
Rolls lower on South Hill.
Hence why must he wander,
Nor ever dare be still?..."

Misc. Confucian School (1891, p. 353)

Gottfredson and Hirschi's (1990) self-control theory, it could be reasoned, corresponds closely with Confucian theories of family bonds and family unity as well. As was mentioned earlier, Gottfredson and Hirschi contend that impulsivity is the main source of criminality. Impulsivity, Gottfredson and Hirschi assert, is the product of a dearth of self-control, much of which is a manifestation of poor parenting practices. Poor parenting has several causes, but the destruction of family bonds and family unity, they reasoned, is a major culprit. Gottfredson and Hirschi believe that family characteristics and family composition have a significant influence on the development of children's self-control. Regarding the impact of "broken" homes on criminality, when compared to intact homes, Gottfredson and Hirschi (1900) write, "In most (but not all) studies that directly compare children living with both biological parents with children living in 'broken' or reconstituted homes, the children from intact families have lower rates of crime" (p. 103). Stated differently, when a parent (most often the biological father) exits the family unit and is

replaced by a stepparent or is not replaced at all, the potential for the children to later behave criminally rises significantly. This is not only, according to Gottfredson and Hirschi, the result of the addition of an abusive or unloving nonbiological parent into the family unit, but even if the stepparent is a positive role model, has the capacity to transmit valuable moral lessons, and has the stepchildren's best interests in mind, the ability for the stepchildren to recognize this and allow themselves to attach and form bonds with this positive unrelated influence becomes severely diminished (possibly from issues stemming from past abandonment, previous broken bonds, problems associated with any new relationship, schedule and time limitations, and previous failed parent-child relationships). In other words, the ability for children in these reconstituted homes to display elements of the important Confucian concept of filial piety toward their parents (particularly the stepparent), even though they may be high quality parents and worthy of filial piety, becomes increasingly compromised, which may contribute to higher levels of later criminality from the children. Gottfredson and Hirschi (1990) describe the potential criminogenic effects of a stepparent infused family system:

The missing biological parent (in the overwhelming majority of cases, the father) is often replaced at some point by a stepparent...As compared to natural parents, stepparents are likely to report that they have no "parental feelings" toward their stepchildren, and they are unusually likely to be involved in cases of abuse (Burgess, 1980). The other side of the coin is the affection of the child for the parent. Such affection is conducive to nondelinquency in its own right and clearly eases the task of child-rearing.

Affection is, for obvious reasons, less likely to be felt toward the new parent in a reconstituted family than toward a biological parent in a continuously intact family. (pp. 103-104)

Single-parent households, step-parent infused households, and other forms of reconstituted households all, it could be argued, generally contribute to a weakening of family bonds and family unity; a large number empirical studies have confirmed this assertion (Brannigan, Gemmel, Pevalin, & Wade, 2002; Perrone, Sullivan, Pratt, & Margaryan, 2004). Brannigan et al. (2002), when discussing familial effects on impulsivity within the context of self-control theory, writes that “Family structure affects conduct disorders and aggression directly” (p. 137). Correspondingly, Perrone et al. (2004) found that it is not only parenting practices that influence a child’s level of self-control, but that *family structure* is significant in determining a child’s level of self-control as well. The two behavioral precursors of parenting practices and family structure, they argued, essentially work in conjunction with one another to shape the character of the child. Perrone et al. (2004) write of the relationship between parental monitoring and family context within Gottfredson and Hirschi’s self-control model, “This analysis indicates the importance of family context, not simply patterns of parental monitoring and supervision, to the explanation of delinquency” (pp. 306-307).

The Confucians dedicated no small amount of their teachings to the importance of a cohesive and unified family unit. Confucius alleged that the family and family unity is so important that it supersedes the law (Confucius, 2008, 13.18, p. 51). He believed that one should be loyal to one’s family first and foremost, and then to society and the legal system.

Mencius, following in a similar line of thought, is instructive in diagramming the superior position of the family and family loyalty over the law and the state within Confucianism. Mencius believed that family loyalty supersedes allegiance to the empire, and he believed that it is more important than reigning as emperor. Not only this, but he claimed that one's allegiance to the state and one's position as emperor is to be cast aside to protect one's father if one's father is engaged in serious criminal behavior (Mencius, 2004, VII. A. 35. p. 153). This is how strongly the Confucians believed in the importance of family loyalty and family unity. The son, out of filial piety and family devotion,⁴⁷ is to prevent, either actively or passively, any governmental intervention or prosecution of the father—despite the father's obvious criminal behavior. The Confucians argued that the same altruistic behavior is required of the father when the son needs similar assistance. Family loyalty supersedes the law, even if the behavior of a family member is harmful or destructive to the community.⁴⁸ The Confucians considered family unity and family loyalty, particularly the loyalty between child and parent, fundamental to the functioning of the individual, and the functioning of society. This information provides an excellent framework for

⁴⁷ Filial piety, when adult children care for and honor their parents into their later years of life, is a pillar of Confucian thought and of Chinese society in general. Filial piety is so deeply engrained in modern Chinese culture, arguably because of Confucianism, that crime rates rise significantly before the Chinese New Year holiday as son's scramble for extra cash to buy presents for their parents (Bell, 2008).

⁴⁸ It is this type of exception based theoretical position that is so antithetical to the unbiased and dispassionate system of societal operation espoused by Legalists such as Han Fei Zi.

understanding the importance of family unity, family loyalty, and family cohesion within the Confucian tradition. At the end of the day, the family is expected to operate within its own cohesive system.

Marriage is of great importance to the Confucians. It is considered integral to the functioning of the state, and, if disregarded, is thought to potentially generate wholesale deviance and criminality. *The Book of Rites* illuminates the significance of marriage within Confucianism:

Those [ceremonies] of marriage, to exhibit the separation that should be maintained between males and females...prevent the rise of disorder and confusion, and are like the embankments which prevent the overflow of water. He who thinks the old embankments useless and destroys them is sure to suffer from the desolation caused by overflowing water; and he who should consider the old rules of propriety useless and abolish them would be sure to suffer from the calamities of disorder.

Thus if the ceremonies of marriage were discontinued, the path of husband and wife would be embittered, and there would be many offences of licentiousness and depravity. (Misc. Confucian School, 1885, XXIII. 7-8, p. 259)

The Confucians took family loyalty and family unity seriously, but they also believed that if a child's parents engage in any unethical or harmful customs in their roles as representatives of the family or within the vicinity of the child, then prosocial and

community based ritual proceedings must take precedence in the child's life—rather than the developmentally detrimental examples or lessons provided by the parents. In other words, ritualized practices must take over in this case to create a barrier or protective shield between any unethical or immoral behavior of the parents and the development and cultivation of the child.

Confucius and Mencius asserted that the family is not only the foundation for the development of the child's behavior, but it is also the foundation for the stability of the state as well. When families are cohesive, operating with high moral principles, engaged in ritual, and when parents are properly educating their children, Confucius and Mencius argued, harmony will be found throughout the state. Mencius (2004), as previously conveyed, explains the influence that the family exerts over the quality and well-being of the state, "There is a common expression, "The Empire, the state, the family." The Empire has its basis in the state, the state in the family, and the family in one's own self" (IV. A. 5., p. 79). Confucius ([1893] 1971) made a similar statement, "Their persons being cultivated, their families were regulated. Their families being regulated, their States were rightly governed. Their States being rightly governed, the whole kingdom was made tranquil and happy" (The Great Learning: The Text of Confucius, Intro, 5., p. 359). Ultimately, per Confucius and Mencius, the negative repercussions of rotting family environments echo throughout the state.

The quality of the family, per the Confucians, is generally predicated on the quality of the parents (particularly that of the father as he was the member of the family that was formally educated) and their ability to suitably educate their children on proper ritual and on issues concerning morality. If the father is uncultivated and relatively unsophisticated,

ignores his duty to educate his children, ignores ritual, or behaves in an unseemly or corrupt manner in general, it is thought that the family will suffer and ultimately deteriorate. If similar familial behavior persists throughout many families, Confucius and Mencius argued, the state suffers and potentially crumbles.

The Confucians believed that the moral behavior of the children directly corresponds to the moral behavior and actions of the father. It is the father who is expected to teach his children moral behavior and self-control through ritual and other lessons. Without the father present to instruct his children on matters moral, social, and ritual, the Confucians argued, his children will likely not learn proper moral behavior and it will be difficult for them to conform to societal standards, which can ultimately lead to deviance and criminality.

Whether the Confucians advocated for the father to formally teach his children, from an academic perspective, is a complicated and disputatious subject. The Confucians believed that the father must regulate the behavior of his children, apply lessons through ritual, and act as a model of morality to be emulated. Confucius, as previously discussed, spoke of the father's duty to regulate his family:

It is said in the Book of Poetry, 'Happy union with wife and children, is like the music of lutes and harps. When there is concord among brethren, the harmony is delightful and enduring. *Thus* may you regulate your family, and enjoy the pleasures of your wife and children.' (Legge, 1893, Doctrine of the Mean, XV. V. 2, p. 396)

These “regulations” surely constitute a form of a rigorous moral, personal, and behavioral education. Naturally, any time someone is being regulated they are being educated. The Confucian position becomes complicated when Mencius explicitly wrote that the father is not to tutor or formally educate his children. The father is not to engage his children in this way, Mencius argued, because the friction and familiarity generated in the learning process has the capacity to disrupt the natural ease exhibited within the father-son relationship. The learning process, he reasoned, often creates anger, disappointment, and frustration in the teacher when the pupil fails in his study or fails in his understanding of the material—it is unacceptable for the father to experience this in his relationship with his son. At the same time, the son experiences emotions of distaste and displeasure when he witnesses hypocritical behavior undertaken by the father concerning forms of moral instruction. In other words, Mencius believed that a kind of “Do as I say, not as I do” hypocritical moral education emanating from the father may disrupt the relationship, stunting the sons moral and intellectual growth. Mencius explains:

Kung-sun Chau said, ‘Why is it that the superior man does not himself teach his son?’

Mencius replied, ‘The circumstances of the case forbid its being done. The teacher must inculcate what is correct. When he inculcates what is correct, and his lessons are not practiced, he follows them up with being angry. When he follows them up with being angry, then, contrary to what should be, he is offended with his son. *At the same time, the pupil says, “My master inculcates on me what is correct, and he himself does not proceed in a*

correct path.” The result of this is, that father and son are offended with each other. When father and son come to be offended with each other, the case is evil.’ (Legge, 1895, IV, pt. 1, XVIII, p. 308)

Under this theoretical framework, the father is expected to be somewhat of a detached hero in his children’s lives, keeping a more distant reserve so as not to become too familiar with the day-to-day experiences of his children. The father is to revel in his children’s accomplishments, grieve over their failures, and act as an excellent example to be emulated regarding ritual behavior and moral conduct—all the while instituting something of a psychological and physical buffer between himself and his children. This is not to say that the father should be unaffectionate or cold to his children in his self-imposed taciturnity, as Song Dynasty Confucian scholar Sima Guang (1019-1086 C.E.) writes:

To ‘keep at a distance’ refers not to being cold or alienating, but rather to being timely in the way one allows one’s son to approach, and always receiving him with ritual propriety. The point is simply that father and son do not consort with one another day and night in an indecently familiar manner. (quoted in Confucius, 2003, p. 198)

Consequently, under certain parameters Mencius advised that other people formally educate one's children.⁴⁹ The questions then become: what constitutes education? And, at what point does the father's instruction and guidance make him an educator? There is a grey area here that is difficult to reconcile. A father regulating his children's behavior, as the Confucians require, certainly represents a kind of informal education; the same is true when the father acts as an example to emulate, and when he incorporates ritual into the lives of his children. The Confucians advocated for the father to take the lead in these areas of education and much more in his relationship with his children. As mentioned earlier, the educational lessons encompassed within the regulation of others, conveyed through ritual and discipline, arguably represents the foundation of instruction. It may not involve intense formal instruction within a classroom environment under the tutelage of a professional, but learning taking place within the home between a father and his children, the relationship that the Confucians considered to be of the greatest importance, is undoubtedly a form of serious education. It seems that whether Mencius accepts it or not, under these conditions, the father, though not explicitly acting as a formal educator, is teaching and educating his children. It was, after all, Mencius who pointed out the holistic or multidimensional nature of learning and education when he stated that, "The way of truth is like a great road. It is not difficult to know it. The evil is only that men will not seek it. If you go home and search for it, you will have an abundance of teachers" (Legge, 1895, VI, pt. 2, III, p. 426), and he continued by stating that, "There are many arts in teaching. I refuse, as inconsistent with

⁴⁹ Mencius illustrates this notion thusly, "The ancients exchanged sons, and one taught the son of another" (Legge, 1895, IV, pt. 1, XVIII, p. 308).

my character, to teach a man, but I am only thereby still teaching him” (Legge, 1895, VI, pt. 2, XVI, p. 448).

Confucius’ personal behavior provides an excellent example of the reserved education that is to be exhibited by the father—this example also nicely ties together the section regarding the educational responsibilities of the father. Confucius’ son, Boyu, and a disciple by the name of Ziqin engage in a conversation concerning Confucius’ pedagogic orientation that illuminates the position of the father in his children’s education:

Ziqin asked Boyu, “Have you acquired any esoteric learning?”

Boyu replied, “I have not. My father was once standing by himself in the courtyard and, as I hurried by with quickened steps, he asked, ‘Have you learned the *Odes*?’ I replied, ‘Not yet.’ He said, ‘If you do not learn the *Odes*, you will lack the means to speak.’ I then retired and learned the *Odes*. “On another day, my father was once again standing by himself in the courtyard and, as I hurried by with quickened steps, he asked, ‘Have you learned ritual?’ I replied, ‘Not yet.’ He said, ‘If you don’t learn ritual, you will lack the means to take your place.’ I then retired and learned ritual.

“These two things are what I have been taught.”

Ziqin retired and, smiling to himself, remarked “I asked one question and got three answers: I learned about the *Odes*, I learned about ritual, and I learned how the gentleman keeps his son at a distance.” (Confucius, 2003, 16.13, pp. 197-198)

Certainly, Confucius was engaged and deeply concerned with the education of this son. Though not actively instructing his son on the particulars of the material in this specific case, he was keeping a constant pressure on him to improve and study, which is undoubtedly an important component in the educational equation and a form of education in itself (i.e. an education on the value of study and ritual). Another good example of the Confucians advocating for the father to participate in the instruction of his children, an example that was briefly discussed previously, comes from advice provided to rulers in the Confucian text *The Great Learning* which goes as follows, “What is meant by ‘In order rightly to govern the State, it is necessary first to regulate the family,’ is this:—It is not possible for one to teach others, while he cannot teach his own family” (Confucius, [1893] 1971, *The Great Learning*, IX, 1. p. 370). Confucius further advises that the son absorb his father’s behavior, incorporate it into his own conduct, and not stray from this behavioral model; Confucius ([1893] 1971) states, “While a man’s father is alive, look at the bent of his will; when his father is dead, look at his conduct. If for three years he does not alter from the way of his father, he may be called filial” (I. XI, p. 142). Xunzi adds further evidence that the father should play a significant role in the education of his children. As was previously mentioned, Xunzi (1999) believed that a father is expected to educate his son using “the Way” as means of instruction, “In his relations with his son, the gentleman loves him but does not show it in his face. He assigns his son tasks, but does not change expression over it. He guides him using the Way, but does not use physical compulsion”

(27.19, p. 861).⁵⁰ Lastly, Mencius provides comments that explicitly refer to the necessity of fatherly advice and instruction. For example, Mencius (2004), as noted earlier, writes, “When a man comes of age his father gives him advice” (III. B. 2, p. 65). From my interpretation of the material from all three pre-Qin Confucian philosophers, the father is expected to play a substantial role in the moral and personal cultivation of his children. Ultimately, the amount of material speaking to the father’s role as a fundamental guiding entity in the lives of his children is simply overwhelming, dwarfing the sparse quips advocating for a detached and noninterventionist father. Other than the advice concerning the value of education provided by Mencius’ mother to a young Mencius, there is little mention of the mother’s role in the education (both moral and academic) of her children.

The Confucian focus on the actions of the father is not surprising. During the pre-Qin period, it was the males who were formally educated, thus, it was the father who was expected to provide the moral education (and some forms of general education) for his family. Therefore, the Confucians believed that it is imperative that the father be morally sound, educated, and cultivated in the appropriate social conduct and etiquette. If the father undertakes the role as the educator of proper personal conduct and morality, as he is

⁵⁰ The phrase “Does not use physical compulsion” is instructive in that it appears as if Xunzi is advocating for the removal of corporal punishment as a parenting method. Xunzi is likely correct in his rejection of this practice. More and more research is revealing that children who experience substantial amounts of corporal punishment later exhibit significantly higher levels of aggression, violence later within their own families, mental health issues, and reduced IQ (Durrant & Ensom, 2012).

instructed to do, then it is important that he himself exemplify the same qualities in which he is tasked to cultivate in others, otherwise, the Confucians contended, he may fail in his role as educator and example to emulate. Mencius (2004), as previously quoted, explains that the father must cultivate himself both morally and intellectually to garner the respect and admiration necessary to gain influence within his family:

If you do not practice the Way yourself, you will not have your way even with your own wife and children. If you do not impose work on others in accordance with the Way, you cannot have your way even with your own wife and children. (VII. B. 9, p. 159)

Within the Confucian tradition there are five human relationships (or wulun): father and son, husband and wife, ruler and minister, elder brother and younger brother, and friend and friend. It is the consensus among the Confucians that the relationship between father and son is of most significance. Lan (2015) illustrates the importance placed upon the father-son relationship within Confucianism, “As the most crucial human relationship in the Confucian tradition, the father-son relationship can be seen as the central expression of Confucian ethics” (p. 630). The potential negative effects experienced by the son when this relationship, what the Confucians believed to be the most crucial of the human relationships, is disrupted or destroyed by absenteeism of the father has been documented time and again in the academic literature (literature to be covered in the next section). Within Confucianism, it is imperative that the father remain with the family, educate and cultivate himself (particularly in the ways of morality and ritual), and transmit his

knowledge and his understanding to his children in the form of instruction, ritual, and as a model to emulate.

Many major criminological theories tend to take a more nuanced approach to the directionality between the family and the environment as to the cause of crime, emphasizing the interplay between both the neighborhood, community, and environmental conditions and the conditions of the family in the development of criminality. Many criminological theories also actively work to minimize the importance of the family within the criminal equation, focusing instead on environmental, economic, or social influences. There is evidence of a partnership between the family and the neighborhood, community, and general environment that conspires in the germination of crime (Merton, 1938; Park, Burgess, & McKenzie, 1925; Shaw & McKay, 1942; Sutherland, 1939). See the chapter titled “Family Disruption and Critical Explanations” within this dissertation for more information on this subject. Nevertheless, it is entirely possible, as the Confucians generally believed, that the family is mainly responsible for the social and environmental conditions in which it rests; in other words, it’s possible that it is deviant or destructive families or deviant people that produce criminogenic communities and not the other way around. More and more empirical evidence is coming out in support of these general Confucian assertions, placing the constitution and operation of the family at center stage in the cause of criminality (Abrahamsen, 1949; Arthur, 2006; Gottfredson & Hirschi, 1990; Turner, Finkelhor, Hamby, & Shattuck, 2013).

Theorizing about and studying the role that the family plays in the development of adolescent delinquency has a long and rich tradition within criminology (Bonger, 1916; Glueck & Glueck, 1950; Gottfredson & Hirschi, 1990; Hirschi, 1969; Johnson, 1986; Nye,

1958; Sampson & Laub, 1994; Thornberry, 1987). Research consistently shows that traditional, intact families, wherein the father remains with the family to help raise the children, provide, on average, a more nurturing environment for the children—ultimately producing lower levels of juvenile delinquency and deviance (Antecol & Bedard, 2007; Harper & McLanahan, 2004; Knoester & Haynie, 2005; Swisher & Roettger, 2012; Wells & Rankin, 1991).⁵¹ With regard to single-parent families, family integration, and violent behavior, Knoester and Haynie (2005) write, “Adolescents who live in neighborhoods with lower proportions of single-parent families and who report higher levels of family integration commit less violence” (p. 767). The authors go on to explain that neighborhoods that are made-up of mainly single-parent households experience more crime when compared to neighborhoods consisting of mainly traditional, two-parent households. Thus, children, per Knoester and Haynie, living in neighborhoods with higher percentages of intact families go on to commit fewer crimes, on average, when compared to their peers from neighborhoods that are predominately single-parent.

A meta-analytic study conducted by Wells and Rankin (1991) examined fifty published journal articles relating to the behavioral patterns of adolescents in either intact families or non-intact families. They determined that the rates of conduct disorder from children residing in non-intact families are ten to fifteen percent higher than from children in intact families. Demuth and Brown (2004) also found that single-parent households are positively correlated with adolescent conduct disorder, commenting:

⁵¹ Traditional, intact families consist of two biological parents who are married.

Parental absence undermines direct and indirect controls, which in turn accounts for the higher levels of delinquency among adolescents residing in single-mother and single-father families versus two-parent-married families. Parental absence is negatively associated with involvement, supervision, monitoring and closeness. (p. 78)

Harper and McLanahan (2004) examined the influence of non-intact families on adolescent delinquency while considering socioeconomic status, racial inequities, education, and other environmental influences. Even when accounting for these other factors, they still found significantly more delinquency in non-intact homes. McCord (1996) examined longitudinal evidence in relation to family behavior and violence over a thirty-year period and found that family characteristics predict later violence. McCord (1996) explains the ability to predict later violence from family behavior and family context, “Observations of families evaluated while the participants were adolescents predicted their violent criminality measured 30 years later; this finding supports the conclusion that family interaction and socialization practices contribute to the causes of violence” (p. 147).

Therefore, an argument could be made that the importance of the father within the family, as suggested by empirically based criminological research, sociological research, psychological research, and Confucian philosophy, is immense. The Confucians understood the importance of an intact family, particularly intact families with high father involvement and high father cultivation, at a time before empirically driven data and peer reviewed studies revealed similar evidence. For the Confucians, the parents, and their conduct, are the root of a child’s future moral behavior and future success, and modern

research tends to support their strong assertion. With the United States having only forty-six percent of children (people younger than eighteen) living in a home with two married parents operating within their first marriage, as much as thirty-four percent of children being raised by a single parent (Livingston, 2014), and with evidence that the majority of downtrodden and crime riddled communities are composed of high percentages of single-parent families (Knoester & Haynie, 2005), perhaps future policy makers concerned with long-term crime prevention might look to the Confucians, and their theory regarding family cohesion and family unity, as potential crime prevention strategies.⁵²

Hierarchal Chaos and Father Absenteeism.

This portion of the dissertation ties together the Confucian hierarchal social system and the importance of the father as a function of the development of the son, all as it pertains to self-control and criminality. The Confucians believed that a rigid hierarchal social system is important in generating personal control, self-possession, and social harmony. Regarding the importance of the social hierarchy, and the importance of knowing one's place in the social hierarchy, Confucius ([1893] 1971) stated, "*There is government, when the prince is prince, and the minister is minister; when the father is father, and the son is son*" (12.11, p. 256). This hierarchal system exists both within society and within individual families, the Confucian maintained, and it is to be advanced to ensure the healthy

⁵² Projected trends regarding family makeup show a future increase in single-parent households. Single-parent households in the United States are expected to increase by twelve percent from the early 2000's to 2025-2030 (OECD, 2011).

functioning of both structures. Wang (2016) explains the morality and social atmosphere that is expected to be generated from this type of hierarchal system, “The Confucian acceptance of the provisional authority of superiors is intended for the general cultivation of moral character and the promotion of organic associations that can function autonomously without any authoritative injunction” (p. 560). This hierarchal Confucian social structure was founded on the “five relationships” which consist of ruler and subject, husband and wife, father and son, older brother and younger brother, and friend and friend. As stated earlier, the Confucians believed that the father-son relationship is of greatest importance. Mencius (2004) details the “five relationships” and the expectations encompassed within:

Love between father and son, duty between ruler and subject, distinction
between husband and wife, precedence of the old over the young, and faith
between friends. Fang Hsun said,
Encourage them in their toil,
Put them on the right path,
Aid them and help them,
Make them happy in their station,
And by bountiful acts further relieve them of hardship. (III. A. 4)⁵³

⁵³ Confucius ([1893] 1971) communicated similar information when he spoke of “universal obligations” among people, “The duties are those between sovereign and minister, between father and son, between husband and wife, between elder brother and younger, and those

Xunzi (2003) succinctly captures the general framework for much of the hierarchically based Confucian social system:

The gentleman...is also careful about the distinctions to be observed. What do I mean by distinctions? Eminent and humble have their respective stations, elder and younger their degrees, and rich and poor, important and unimportant, their different places in society. (s. 19, p. 94)

The Confucians detail this hierarchical picture using codified ritual prescriptions for behavior; these ritual prescriptions are found in most of their major works (most intensely presented in the Confucian text *The Book of Rites*).⁵⁴ These rituals are centered and

belonging to the intercourse between friends. Those five are the duties of universal obligation” (The Doctrine of the Mean, XX, 8., p. 406).

⁵⁴ A good example of how ritual lays the groundwork for the social hierarchy is when Confucius ([1893] 1971) explained how the royal hierarchy functions as a product of ritual:

By means of the ceremonies of the ancestral temple, they distinguished the royal kindred according to their order of descent. By ordering the parties present according to their rank, they distinguished the more noble and the less. By the arrangement of the services, they made a distinction of talents and worth. In the ceremony of general pledging, the inferiors presented the

predicated on a strict hierarchal social system; Laurence, Gaopei, and Herbig (1995) explain, “By giving prominence to the principle of Li [ritual], Confucianism calls for maintaining the established social order. According to Confucius, everyone has a fixed position in society and, provided each person behaves according to rank, social harmony is achieved” (para. 11). It is within this hierarchal social system that people are expected to operate, and, the Confucians reasoned, it is within this system that control and harmony are maintained (See Gassmann (2000) for a detailed investigation into the Confucian centric hierarchal system). If a hierarchy is not instituted within a society, Xunzi (2003) thought, the social implications will be chaos, fragmentation, and a lack of personal security. Xunzi (2003) explains the societal ramifications of not having a hierarchical presence within society:

Men, once born, must organize themselves into a society. But if they form a society without hierarchical divisions, then there will be quarreling. Where there is quarreling, there will be chaos; where there is chaos, there will be fragmentation; and where there is fragmentation, men will find

cup to their superiors, and thus something was given the lowest to do. At the *concluding* feast, places were given according to the hair, and thus was made the distinction of years. (Confucius, [1893] 1971, *The Doctrine of the Mean*, XIX. 4, pp. 402-403)

themselves too weak to conquer other beings. Thus they will be unable to dwell in security in their houses and halls. (s. 9, p. 48)

The Confucians strongly advocated for family unity and family cohesion. It is expected that the father remains with the family to raise his children. It is the father's role, the Confucians believed, to instruct his children on matters pertaining to ritual based behavior and on issues concerning morality. Also, the father is to be a model from which his children learn how to properly behave and function within society. The father is expected to regulate the behavior of his children, and, in the same way, act as a controlling influence on his children. It should be recalled that unity within the family was so important to Confucius and Mencius that it supersedes even the law and the state (Confucius, 2003, 13.8; Mencius, 2004, VII. A. 35). The family, particularly family unity, is the foundation of human existence; in other words, all things are a product of the family system.

The Confucian orientation toward the family system, social relationships, and hierarchy formation has likely had a great influence on Chinese society, and may explain why East Asians tend to tilt toward social relationships and social hierarchies over other forms of social behavior (for more on the East Asian cultural tendency to tilt toward social relationships and social hierarchies see: Nisbett & Masuda, 2003; Nisbett, Peng, Choi, & Norenzayan, 2001). This Confucian family centric position (encompassing relationships and hierarchies) and emphasis on social relationships may have been the product of, or it may have worked in conjunction with, the farming and agricultural landscape of much of East Asia in ancient times (Ji, Peng, & Nisbett, 2000; Nisbett & Masuda, 2003; Nisbett, Peng, Choi, & Norenzayan, 2001). Nisbett and Masuda (2003) explain the general

relational orientation and hierarchical positioning within East Asian societies, “East Asians live in complex social networks with prescribed role relations” (p. 11163). Ancient agricultural activities may have intensified social relationships within East Asian societies because, as Nisbett, Peng, Choi, & Norenzayan (2001) write:

Chinese civilization was based on agriculture, which entailed that substantial cooperation with neighbors was necessary to carry out economic activities in an effective way. This is especially true of the rice agriculture common in the south of China. China was organized at the level of the large state very early on, and society was complex and hierarchical: The king and later the Emperor and the bureaucracy were ever-present controlling factors in the lives of individual Chinese. Harmony and social order were thus central to Chinese society. (p. 303)

Nisbett and Masuda (2003) also speculate that it was the hierarchical nature of ancient irrigation systems that precipitated a greater integration of social hierarchies into East Asian cultures. Nisbett and Masuda (2003) describe the possible importance of irrigation in hierarchy formation thusly, “Irrigated agriculture, characteristic of much of East Asia since ancient times, requires effective hierarchies, adding more vertical constraints to the vertical and horizontal constraints within the family and village” (p. 11169). So, it might be that these agricultural based environmental conditions helped produce (and maintain) the Confucian theory that went on to influence East Asian societies. These theoretical

positions represent some of the working mechanisms that may have fostered the rise and acceptance of Confucian thought.

Every time people interact with others, it could be argued, they are playing a game. This game is most intense during the initial interaction period (the period on first contact or the first series of interactions) and continues throughout the relationship. A focus of this game is to determine a person's position in the social hierarchy. Hierarchies and hierarchy formation has been a constant throughout human history and remains omnipresent in our modern society (Halevy, Chou, & Galinsky, 2011).⁵⁵ It's often valuable from a social standpoint to determine positioning within hierarchies so that people can behave per their social position. Any deviation from the proscribed dictates of the hierarchical system can result in embarrassment, shame, severe reprimands, or regulation to a social position from which extrication is impossible. A hierarchal position is negotiated, usually unspoken and often unconsciously, between the participants themselves and their social environment. This hierarchal positioning is continually taking place and hierarchies are continually being built as people engage in interaction with numerous people in numerous environments. Once again, these manifestations arise so that people can assume their hierarchal roles in accordance with others as determined by the people involved and the social

⁵⁵ Dominance hierarchies have existed in nature before life sprouted on land. Take the interesting dominance hierarchies exhibited by lobsters for instance (Hoepfner, 1997). Humans and lobsters diverged evolutionarily around 300 million years ago, yet both species' evolutionary trajectories have not shed the use of these important dominance hierarchies.

environments/social hierarchies. As we will see, hierarchies were developed through evolutionary processes mainly for the general purpose of sexual selection.

It is within these hierarchal roles, it could be reasoned, that behavior is constrained and control is achieved (Friesen, Kay, Eibach, & Galinsky, 2014). People, arguably, become subdued by, and defer to, those who have (usually) earned their higher position within the dominance hierarchy. A subordinate will regularly defer to his superiors, a private will regularly defer to his officer, and a son will regularly defer to his father. People must be constantly conscious and vigilant of what is expected of them within a hierarchy, and adjust their conduct based on which hierarchal system and which hierarchical position they happen to find themselves. It is throughout these continuous displays of hierarchal adherence and these continuous cognitive exercises in submission and deference, that people, it could be argued, generate and maintain control. People operate within hierarchal roles, and people operate within numerous social hierarchies simultaneously (e.g. the hierarchy within the home, the hierarchy within the extended family, the hierarchy at a dinner party, the work hierarchy, the immediate hierarchy in any given social interaction). Because of our natural predilection for existence within numerous hierarchies (as we will see, people are likely naturally prone to form hierarchies), restraint, submission, and deference is likely developed and maintained. Friesen, Kay, Eibach, and Galinsky (2014) found that hierarchies may provide the necessary psychological control for people existing on both the high and low levels of the social hierarchy; the authors state:

The need for structure may be an especially powerful explanation of hierarchy preference because this motive is not contingent on dominance

concerns or status quo conditions but is a general psychological need held by both low-status and high-status group members. The desire to achieve structure through hierarchy can thus explain why people would be attracted to hierarchy even if they are in a relatively low social position... (p. 603)

To properly develop and thrive within hierarchies, it's important that people learn when it is necessary to submit and defer to others in greater authority. The social hierarchy is potentially a major component in what keeps people restrained, subdued, and controlled until they are fit or mature enough to move on to the next level within society (higher levels which will usually require even more personal restraint and control). Without this naturally derived, often sequential (regulated sequence of developmental stages), controlling mechanism, people's ability to grow, learn, and mature within each stage of the developmental process may be diminished. The social hierarchy also often provides structured incentives for people to move up in the hierarchy (Halevy, Chou, & Galinsky, 2011; Willer, 2009). It is through this slow, incentivized, developmental process that arguably provides the opportunity for people to improve on themselves and advance within these social hierarchies (Ridgeway, 1987); because, as Ridgeway (1987) writes, "Status in group tasks is based primarily on expectations about task performance, rather than on behavioral domination" (p. 692). Within modern human societies it is, among other things, generally task performance and competency, rather than physical conflict or physical prowess (though, there are exceptions), that greatly determines dominance hierarchy positioning—this is evidenced by minimal body-size dimorphism between males and females and the small size of canine teeth among males (Plavcan, van Schaik, & Kappeler,

1995; Thoren, Lindenfors, & Kappeler, 2006; Willer, 2009). It is usually competence and ability, and not outright physical dominance, that constitute dominance and determine status within modern human dominance hierarchies—which likely naturally promote self-control, self-discipline, self-cultivation, and personal development. When making these statements it is important to observe that other factors may play a role in determining positioning within the social hierarchy—factors such as one’s educational opportunities, socioeconomic status, personal connections, family connections, etc. may all influence social positioning.

This hierarchically based process was refined through millions of years of primate evolution, ultimately resting in a system in which those unsuited (for whatever reason, but the most obvious and valuable for our purposes here is age and maturity) to lead, control, provide for the hierarchy, and make the correct decisions are repressed by this hierarchical system—a system of which, in its most undiluted and fundamental form is arguably that between father and son. In the case of adolescents, this repression is often temporary; when it concerns perpetually unfit cases, the hierarchal repression is likely permanent (i.e., those adults continually unable to properly orient their lives, provide for the hierarchy, display competence, or compete are permanently regulated to the lower levels of the social hierarchy). In other words, one reason that evolution chose this hierarchical method, it could be reasoned, is because it was the most effective way to control the behavior of children and adolescents, ultimately raising them in a way that is suitable for the advancement of the group and for the advancement of the individual (Hardy & van Vugt, 2006).

Males and females have conspired over millions of years of evolution to build male dominance hierarchies—a hierarchy from which women skim-off the upper levels when choosing mates. By male dominance hierarchies I mean that males construct dominance hierarchies in which they themselves exclusively compete—think of the National Football League or the National Hockey League as modern examples of these male only dominance hierarchies—for females (Nakahashi & Horiuchi, 2012). Females build dominance hierarchies as well, but the male interaction with these dominance hierarchies is quite different. When seeking a mating partner, men are generally less choosy than women about where their potential mate is located on the social hierarchy. A woman's socioeconomic status is typically of little indication of her value in the reproductive arena; in other words, when selecting a mate, men generally don't care much about the woman's socioeconomic status. While at the same time, a man's socioeconomic status is a significant indicator of his reproductive value and his reproductive prospects (Feingold, 1990, 1992; Kenrick, Sadalla, Groth, & Trost, 1990). The work of Kenrick et al. (1990) sufficiently encapsulates the spirit of this phenomenon:

Our findings on the particular variables replicated the findings of both Buss and Barnes (1986) and Sadalla et al. (1987). In line with Buss and Barnes's results, males were generally more selective regarding physical attractiveness, whereas females were more selective regarding traits related to resource allocation. In line with Sadalla et al., dominance was also found to be more important to women as a minimum criterion for mate selection.

(p. 114)

Men hold no qualms about mating down social hierarchies (in fact, men typically mate across and down social hierarchies), while women usually prefer to mate across and up social hierarchies, and, thus, women use the male dominance hierarchy as means to locate the higher status men and peel-off the upper levels when looking to acquire a mate. The male dominance hierarchy is ultimately a way for women to choose suitable men for reproduction and a way for men to determine amongst themselves who should go on to be eligible to procreate (who's capability, fitness, and attributes will be best suited to represent and maintain the group). Buss and Barnes (1986) explain:

Intrasexual selection in humans probably operates indirectly, through social hierarchies, rather than through direct competition. Men may compete for elevation in hierarchies, and women tend to favor high-status men (Symons, 1979; Trivers, 1972). Differential access to women is attained more through the medium of hierarchies, and less through direct competition. (p. 559)

This is why historically around fifty-percent of men have two children (that is, one child with two different women; these are typically the more dominant men who reside on the upper echelons of the dominance hierarchy) and around fifty-percent of men have zero children (those men on the bottom rungs of the dominance hierarchy who are unable to attract a mate). All fertile women are typically able to find a mate and reproduce (Favre & Sornette, 2012; Wilder, Mobasher, & Hammer, 2004). In other words, historically we have had twice as many female ancestors than male ancestors. Therefore, the stakes are arguably

higher for men because many will not be able to reproduce at all, and so the motivation for men to climb the dominance hierarchy (and take risks) is seemingly far greater, lest they be excluded from mating opportunities (effectively ending their particular genetic line). The stakes are high for women as well, as they compete and maneuver for the men with the best qualities (qualities conferring strong genetics and the potential to acquire resources), but when the choices are: 1) guaranteed propagation where the mate selection is variable (female situation) or 2) a position where there is a fair chance of no propagation whatsoever (male situation)—an argument can reasonably be made that males reside in a state where the stakes are more pronounced.

This reproductive pressure, along with stress associated with resource shortages, causes those primates (including humans) residing on the lower levels of their particular dominance hierarchies to generally feel more stress and experience more health issues than those higher on the dominance hierarchy—this is particularly the case when the dominance hierarchy is stable (this stress varies depending on the type of hierarchy, and those at the top of the hierarchy often experience high levels of stress too,⁵⁶ but this is generally true in stable hierarchies); as Robert Sapolsky (2005) writes, “Strong associations between social status and health thus occur in numerous species, including humans, with the poor health of those in the “wrong” rank related to their surfeit of physical and psychosocial stressors”

⁵⁶ High ranking members of a primate hierarchy often feel great stress during times of hierarchal chaos or when they are required to reassert their dominance over others. They also exhibit greater stress in hierarchal systems wherein they maintain their dominance through fighting rather than through psychological control (Sapolsky, 2005).

(p. 652). Consider the physical and psychological stressors of residing on the bottom rungs of the social hierarchy, stressors such as food shortages, unstable shelter, a dearth of mating opportunities, etc. These more fundamental stressors likely far outweigh any potential stress sustained by those existing near the upper portions of the dominance hierarchy.

Mating opportunities are likely the reason that men are inherently predisposed to be attracted to social hierarchies and predisposed to climb social hierarchies; Cant, English, Reeve, and Field (2006) explain, “Dominant status thus represents a major ‘prize’ in the life history of social animals, and we can expect strong selection on strategies that help an individual reach the top of the hierarchy” (p. 2977). Men are, it could be asserted, inherently predisposed to attach themselves to social hierarchies, work within the hierarchical system, and move upwards within the hierarchy. Those men incapable of engagement within hierarchal systems and men lacking the capacity to move up within these systems, one could reason, likely did not go on to reproduce at the same rate as those more hierarchically inclined men. Those men who did attach themselves to hierarchies, and thrive within these hierarchies, likely did go on to reproduce, thus, propagating their hierarchy friendly DNA into the future.

A problem presents itself when dominance hierarchies break down or become highly unstable. When dominance hierarchies break down or become highly unstable the likelihood for chaos, violence, and destruction within a social system rises substantially (Almeida, Goncalves-de-Freitas, Lopes, & Oliveira, 2014; Monnin & Peeters, 1999; Wong & Balshine, 2011). In other words, it could be argued that the most peaceful social environment is one where there is a healthy and stable dominance hierarchy. For example, when the dominance hierarchies of chimpanzees become unstable or chaotic the level of

violence and death within the hierarchy may increase significantly; this is particularly evident in power struggles for the position of alpha (de Waal, 2007). Not only is there often violent conflict between participants for higher positions within the hierarchy, under these unstable and chaotic conditions, but one's role within a broken or highly unstable hierarchy becomes far less clear. Should the individual begin to fight to maintain their position or fight to attain greater dominance? Should the individual defer to and follow certain others? And who? Should the individual act in accordance with their own internal determinations? Are they capable or do they have the maturity to make the correct decisions? Should the individual take a shot at a higher position within the hierarchy while disorganization and a shakeup is present? Should the individual abandon this social hierarchy altogether (if possible), finding it too unhealthy, unstable, risky, unprofitable or chaotic to persist? When hierarchies are broken or chaotic, the restraining qualities operating within the hierarchy may be significantly compromised, thus, the potential for violence rises, greater risks may be taken, people may begin to take initiatives that otherwise wouldn't normally be taken (for better or worse), dominance may be asserted in a variety of ways that may be outside of the normal hierarchal system, or it might not, but the point is that the social and psychological atmosphere becomes chaotic and personal behavior likely becomes highly variable and unstable.

Most people require, it could be argued, the controlling forces of a naturally occurring hierarchal system to operate in a healthy and productive way. It is likely the case that when people lose personal control or lack personal control that they often immediately turn to hierarchies for control and stability (Friesen, Kay, Eibach, & Galinsky, 2014; Whitson & Galinsky, 2008); hierarchies also often become more visible and attractive

during times of general uncertainty (Jones, 2003). It is when the hierarchical system is unstable that the potential for chaos and violence rises. Too much of an uncontrolled environment, one could reason, and the chaos of the unstructured environment may begin to wreak havoc on the mind, potentially resulting in a form of Durkheimian anomie where the mind becomes free to entertain numerous possibilities, many of which may lead to dangerous and unfortunate circumstances.

Durkheimian anomie also often reveals itself when adolescents reside in single-parent or nonintact families; Garnefski and Diekstra (1997) explain the potential internal chaos experienced by adolescents under these conditions, “Adolescents from one parent and stepparent families reported a lower self-esteem, more symptoms of anxiety and loneliness, more depressed mood, more suicidal thoughts and more suicide attempts than children from intact families” (p. 201). Adolescents may require a naturally occurring and intimate hierarchal controlling mechanism to ground them in their station in life, and at the same time edge them into healthy progressive growth.

What is likely one of the most fundamental and important dominance hierarchies in the life of an adolescent male? That between father and son; because as Nock (1988) explains:

The family serves as a prototype of all authority relationships. By virtue of living in nonhierarchical families, children from single-parent households are handicapped in their ability to function in institutions that are fundamentally hierarchical, namely, education, the economy, and occupations. (p. 957)

As was previously mentioned, the Confucians believed that the father and son hierarchy is of the most importance. It is through this father-son Confucian hierarchy, and the discipline and education it provides, that the son is expected to generate the capacity to distance himself from his animalistic and unproductive nature. Mencius (2003) details the genesis story of social hierarchies, emphasizing the disciplinary and educational value hierarchies provide:

Once they have a full belly and warm clothes on their back they degenerate to the level of animals if they are allowed to lead idle lives, without education and discipline. This gave the sage King further cause for concern, and so he appointed Hsieh as the Minister of Education whose duty was to teach the people human relationships: love between father and son... (III. A. 4, p. 60)

This father-son dominance hierarchy is arguably the most clear, educational, and persistent hierarchy throughout the lifespan of the son. When this hierarchy is intact and healthy, the son likely has a greater potential to defer, learn from, and submit to the father, growing and developing in a controlled and measured manner, engaged in submission under the kind, yet domineering, presence of the father. The son may be less likely to act out and make decisions independently as he recognizes that there are those higher on the social hierarchy that may not agree and may, in short time, remonstrate him. The son, it could be argued, will likely carry this controlled and subdued mindset into other social hierarchies within

society. A son needs to learn to defer to the those who are higher in social hierarchies than himself, and much of this deference may be acquired through constant and long-term father and son interaction as it is played out within their own contained and intimate dominance hierarchy. Under these contained and intimate conditions, the feeling of one's role within a hierarchy, one's determined position, is likely palpable; this constant recognition of one's hierarchal position, it could be argued, restrains and subdues behavior.

When this dominance hierarchy—arguably one of the most fundamental dominance hierarchies in the life of an adolescent male—breaks down or is removed because of father absenteeism or father abandonment, the likelihood for psychological instability, psychological uncertainty, and chaos rises. Bishop and Lane (2000) write of the psychological and behavioral “symptoms” that may result from father absenteeism:

Many of these symptoms, such as deficits in cognitive and social competence, as well as internalizing and externalizing behavioral problems, have underlying psychodynamic bases in disturbances in object relations, separation-individuation, aggression, and sexual identity, all of which influence personal identity and self cohesion. (p. 105)

The negative effects of father absenteeism significantly impact education, employment, and, most importantly for our purposes, criminality (Krein, 1986; Siegman, 1966; Zimiles & Lee, 1991). With concern to father absence and the potential antisocial behavior of children, Siegman's (1966) study conveys that, “father-absence is associated with [children exhibiting] antisocial behavior” (p. 73), and he also found strong evidence that father

absenteeism produces a higher likelihood of the son exhibiting compensatory exaggerated masculinity. The restraining qualities encompassed within this important dominance relationship arguably no longer exist. The son may no longer have a fundamental understanding that his life will consist of playing a series of roles within a series of social hierarchical games, and that in most of these roles he will be deferring and submitting to others higher than himself within the hierarchical structure. The son may fail to recognize that under normal conditions there will be times when he will be higher in a social hierarchy and times when he will be lower, but most often he will be required to restrain his behavior to compete and thrive within the hierarchical game. When this structured father-son hierarchal system breaks down, it may be replaced with chaos and violence, because when a social hierarchy breaks down or is highly unstable, the likelihood for chaos and violence naturally increases. The son may only understand different forms of uncertainty, chaos, and violence as a life orientation, as his development will consist of one where his most fundamental hierarchy is broken or absent.

The son's response to the loss of this all-important dominance hierarchy may be to seek an outside hierarchy as his main source for hierarchical control—this is often manifested in gang membership. A human, it could be argued, is naturally predisposed to enter intimate hierarchies and, thus, if it's convenient, will be pulled into a structure in the form of a gang (Ruth, 1996). Gang membership is often preferred by the son as a substitute hierarchy (this is the case for several reasons: gang membership is the standard and established route to success or dominance in certain areas; poverty; the family environment that a gang provides; a system that provides dominance and an economic path for people who lack such a path, etc.), but the disenfranchised son may also find his alternative

hierarchy in socially productive arenas such as sports or academics. If the son does choose an alternative hierarchy it will, it could be reasoned, likely not be nearly as effective as a guiding and controlling mechanism as the intimate, intense, authentic, and prolonged dominance hierarchy naturally constructed between father and son.

Either the son will enter an alternative hierarchy—arguably a weak substitute for what is required with concern to the healthy development of the son—or the son may take it upon himself to be the dominant male and exaggerate his masculinity. Biller (1970) concisely conveys this notion:

Father absence seems associated with sex-role conflict and an overstriving toward masculinity which frequently takes on aggressive acting-out behavior. This is suggested from a number of different sources: cross-cultural studies (Bacon, Child, & Barry, 1963; Burton & Whiting, 1961), behavior patterns and rates of juvenile delinquency in lower-class gangs (McCord, McCord, & Thurber, 1962; Miller, 1958; Rohrer & Edmonson, 1960), retrospective reports of father-absent young adults (Siegman, 1966), and incidence of particular types of psychiatric referrals (MacDonald, 1938; Wylie & Delgado, 1959). (pp. 186-187, the references made above are included in the works cited section for referral)

The son, without a regular dominating and guiding force in his life, may prematurely assert himself into his father's dominate position and engage in exaggerated forms of masculinity as compensatory measures, in effect becoming a hierarchy onto himself. The son may feel

entitled to this advanced hierarchical position, and justify his behavior by believing that he has suffered because of his abandonment, and, thus, it is rightfully his as a product of his suffering; Bishop and Lane (2000) explain:

The suffering resulting from these failures [father abandonment, the unhealthy reactions of the mother in response to this abandonment, and the ensuing negative psychological issues experienced by the son] gives rise to resentment and indignation, and unmet childhood wishes become entitled demands...Childhood omnipotence is either injured or allowed to be excessive, which is also an injury, for which recompense is sought. (p. 115)

When the son assumes the role of dominant male within his general vicinity, the dominance he projects may be unearned, inappropriate, misaligned with social expectations, and ultimately socially unacceptable, thus, potentially resulting in chaos, disorder, and deviance. The son may recognize that his self-appointed dominance is not being reciprocated or acknowledged by those in his vicinity and resort to violence and criminality to assert a form of dominance (a man with gun demanding cash from a passerby is exerting a form of crude dominance on the victim and on the community) or to lash out at those who have rejected his attempts at dominance (lash out at those who have, in effect, rejected his suffering). The son, because of this broken or nonexistent father-son dominance

hierarchy, may not have acquired the requisite self-control,⁵⁷ knowledge, and moral fortitude—that may have been attained over years of engagement within an intimate father-son dominance hierarchy—to properly govern himself and those around him. A false sense of dominance and exaggerated masculinity, along with a lack of controlling restraints and an undeveloped mind, all, it could be argued, conspire to produce an individual ripe for deviance.

Pregnancy, Motherhood, Education, Birth Defects, and Deviance

The Confucians (particularly the work of Mencius as insight for the theoretical expansion produced by Zhu Xi) generally believed that people are born with differing cognitive dispositions or differing amounts of what they call *qi*.⁵⁸ *Qi* is considered a kind

⁵⁷ This is evidenced in research conducted by Mischel (1958) that found significantly higher rates of impulsivity amongst sons with absentee fathers.

⁵⁸ It appears that Xunzi did not generally think that people are born with significantly different moral predispositions; he seemingly believed that all people are born bad or immoral with limited differentiation between them. Two key quotes from Xunzi best exemplify his thinking here, “The children of Han and Yue and of the tribes of Yi and Mo are all born making the same sounds, but they grow up having different customs because the process of education has effected such changes in them” (Xunzi, 1999, 1.2, pp. 4-5), and the more concise, “The gentleman from birth is no different from other men; he is just good at ‘borrowing’ the use of external things” (Xunzi, 1999, 1.3, p. 5). Yet, at the same time, Xunzi (1999) contradicts his previous statements, writing, “Although they all seek

of psycho-material energy that influences behavior. Therefore, people are born with differing cognitive dispositions; they are born with varying amounts of *qi*. Those who are born with greater quantities of *qi* will be more predisposed to moral actions, while those lacking in *qi* will be more likely to engage in deviant behavior. Confucian scholar Daniel K. Gardner (2007) explains the general Confucian position on *qi*:

Every person is...born with an endowment of *qi*. The quality as well as the quantity of this psychophysical stuff, in contrast to human nature, differ from one individual to another. Some psychophysical stuff is clearer than others, some more refined than others, some lighter and less dense than others. It is this endowment of psychophysical stuff then that accounts for individuation among human beings, giving each person his or her particular form and specific characteristics. And it is this endowment of psychophysical stuff, depending on its degree of clarity and density, that

the same things, they employ different ways in pursuit of them; although they have the same desires, they have different degrees of awareness concerning them: this is due to inborn nature” (10.1, p. 263). In this final case, Xunzi is indeed claiming that people possess different degrees of awareness due to their inherited disposition. Thus, it seems from the latter example that he is differentiating people from a standpoint of qualities obtained at birth, but the extent of the differentiation is unclear. The stronger argument seems to be that Xunzi believed that there is limited moral differentiation between people at birth, but there is a lot of room for speculation.

either enables a person's innately good human nature to shine forth or obscures it, thereby preventing it from becoming manifest. (p. 134)

This theory corresponds with biosocial ideas such that people who are born with better or worse functioning brains will have a higher or lower predisposition for criminality (Raine, 1998; Raine, 2013). The focus of much of the current research in this area of criminology is on the neuro-cognitive abilities of the child as a product of the behavior of the parents—primarily that of the mother during and in the immediate years after pregnancy. Confucian ideas regarding an inherent predisposition to adversarial behavior based on one's cognitive disposition at birth or one's *qi* allotment at birth relate to current biosocial theories regarding the damaging neuro-cognitive effects of reckless parenting. Pregnant mothers who smoke cigarettes,⁵⁹ use narcotics, drink alcohol,⁶⁰ or are malnourished,⁶¹ often deliver profound negative effects onto their children's emotional and behavioral wellbeing. Mothers engaging in these risky behaviors raise the chances that their offspring will be born with some kind of cognitive deficit, the source of which is often located in the

⁵⁹ Women who smoke cigarettes during pregnancy are three times more likely to have children who grow up to become violent criminals (Rasanen et al., 1999).

⁶⁰ Women who drink alcohol during pregnancy are significantly more likely to raise children who engage in later criminality (Streissguth et al., 2004).

⁶¹ Pregnant women who lack proper nutrition are two times more likely to have children diagnosed with antisocial personality disorder later in life (Neugebauer et al., 1999).

prefrontal cortex,⁶² all of which will in turn raise the likelihood for impulsivity and deviance (Brennan, Grekin, & Mednick, 1999; Brennen, Grekin, Mortensen, & Mednick, 2002; Neugebauer, Hoek, & Susser, 1999; Raine, 2013; Rasanen, Hakko, Isohanni, Hodgins & Jarvelin, 1999; Streissguth et al., 2004). In addition, complications during pregnancy and exposure to neurotoxins before or after birth may negatively influence cognitive functioning and contribute to criminality (Anderson, 2007; Raine, Brennan, & Mednick, 1994). It would be incorrect to say that these children are born with a natural predisposition to crime. Many children that are born with cognitive deficits are that way because of negative environmental influences effecting the children both inside and outside of the womb. These cognitive deficits may disrupt healthy thought processing, which results in impulsivity, an inability to control anger, a propensity to seek short-term pleasure at the expense of larger, long-term, gains, etc., all of which may substantially raise the risk for criminality. In a very real way then, this cognitive shortfall could be thought of in Confucian terms as a deficit in *qi*. This lack of *qi*/lower cognitive functioning may make people more impulsive and less self-controlled, thus, potentially predisposing them to engage in criminal conduct (Lochner & Moretti, 2004). So, for example, mothers who smoke during pregnancy run the risk of having a baby born with less *qi* than the average baby.

⁶² The prefrontal cortex sits in the front of the cranium, directly behind the forehead. It is responsible for regulating behavior, emotion control, long-term planning, and decision making. This part of the brain also takes the longest time to become fully developed.

The Confucians believed that those suffering from cognitive deficits or deficits of *qi* (from birth or through unfortunate life events) can acquire more cognitive functionality or *qi* through education based rehabilitative efforts. They believed that learning and education are the keys to improved cognitive functioning or a greater acquisition of *qi*, improvements of which will enable people to live with more moral fortitude. Gardner (2007) describes how the Confucians believed that education can alter internal stores of *qi* or cognitive functionality, producing a rehabilitative effect within individuals:

For, whereas we are all born with the same human nature, which is in every instance good, we are also born with individuated endowments of psychophysical stuff [*qi*]. This of course explains why some people are dullards and some people are weak. But with effort—especially studying and learning—we can all transform our particular endowment of the stuff and return to what it means to be truly human. (p. 123)

Similarly, many criminologists and psychologists contend that those who are born with cognitive birth defects or who are born with other deficits that negatively influence psychological functioning can engage in preventative and rehabilitative efforts to alleviate these adverse effects. The most efficient method of ensuring that children have a fair chance of being born with highly functional cognition and appropriate levels of *qi* may be by educating future mothers on the hazards of reckless behavior before, during, and after pregnancy—mainly, the greatest effect may be generated by preventative education for mothers prior to pregnancy, failing this, educating pregnant mothers already engaged in

these types of negative behaviors about the potential future adverse effects of a continuation of them, and educating mothers post-pregnancy about the proper care and nutrition that is required for the child. Nurse visitations implemented to provide pregnant woman and future mothers with the education necessary to prevent these unfortunate outcomes have been shown to be particularly beneficial in reducing future criminality (Olds et al., 1998; Raine, 2013). As a correlate, one major reason these nurse visitations are effective is that they likely generate a home environment conducive to learning (Eckenrode et al., 1998; Olds et al., 2010). For single mothers and mothers living in poverty, the effects of nurse visitations are particularly beneficial when it comes to rates of deviance among their children (Eckenrode et al., 1998). The Confucians believed in the corrective power of education to improve one's cognitive functioning or one's level of *qi*, and current empirical evidence shows that this same idea can be expanded to incorporate the education of the mother to act as a potential preventative and protective measure against the acquisition of a dysfunctional mind or of low levels of *qi*.

Moving from the education of the mother to the education and rehabilitation of the individual directly affected, Flores (2003), writing for the U.S. Department of Justice, recommended several educationally based interventions for delinquent children, a large percentage of whom suffer from biological impairments (biological impairments often found in the neurological system because of the aforementioned social and environmental disturbances). These educationally based initiatives recommended by Flores include: classroom and behavior management programs, multicomponent classroom-based programs, social competence promotion curriculums, and conflict resolution and violence prevention curriculums. Now we are moving into the heart of the Confucian model of

rehabilitation for those afflicted with a biological deficit (again, an affliction often produced because of the parental mismanagement mentioned earlier): improved education of the individual directly affected to increase their level of cognitive functioning or *qi*. Blomberg, Bales, Mann, Piquero, and Berk (2011) examined the relationship between post-release reoffending and schooling among juveniles and found that incarcerated juveniles who were released and:

Returned to and attended school regularly were less likely to be rearrested within 12 and 24 months. Moreover, among youths who were rearrested, those youth who attended school regularly following release were arrested for significantly less serious offenses compared to youths who did not attend school or attended less regularly. (p. 355)

Similar evidence was found in Brier's (1994) research regarding recidivism rates of juvenile delinquents with learning disabilities. It's important to first note that a significant percentage of juvenile delinquents are learning disabled; somewhere near 30% to 50% of juvenile delinquents suffer from some form of learning handicap (Brier, 1989). Brier (1994) provided a treatment group of delinquent juveniles with educational classes that consisted of "reading, functional arithmetic, and communications skills" (p. 216), and found that those delinquents who underwent this educational program had significantly lower rates of recidivism when compared to a matched control group that did not receive

this educational treatment.⁶³ It's apparent from these empirical studies that education comprised of book and text learning within a classroom environment may have, as the Confucians theorized, the ability to correct and rehabilitate many of those who are deficient in certain cognitive and psychological respects.

To provide visible and cutting-edge evidence that enhancing the processing power of the prefrontal cortex (possibly the seat of *qi*) results in a reduction of deviance, let's look at work being conducted within the realm of the relatively new field of biofeedback treatment. Raine (2013) notes the positive results coming from biofeedback treatment clinics, wherein psychological imbalances, particularly those in the prefrontal cortex, are managed through brainwave stimulation and brainwave rehabilitation.

Raine (2013) tells a compelling story about a severely delinquent boy named Danny, who, as it turns out, had an under-aroused and under-used prefrontal cortex; in other words, his brain wasn't operating the way a normal adolescent's brain should operate. The Confucians believed that a person's cognitive functioning or their *qi* can be rehabilitated through cognitive stimulation in the form of learning and study, ultimately

⁶³ Validity issues become apparent when one group receives attention while the other does not, regardless of the effectiveness of the treatment. In studies of this nature, it may be the educational treatment that provides the difference in effect or it may be that the treatment group receives greater attention from those involved in the experimental process. It's likely that educational treatment was solely the cause of the diminished delinquency, yet, it may be a combination of both the treatment and the added attention, or it may simply have been the added attention; the answer is unclear.

resulting in a reduction of deviant behavior. Raine subscribes to and promotes the same idea, updated with cutting-edge technological methods. Raine (2013) writes of the rehabilitative effects of biofeedback treatment using Danny's experience as an example:

The first clinical evaluation confirmed excessive slow-wave activity in Danny's prefrontal cortex—a classic sign of chronic under-arousal. Then came thirty sessions of biofeedback. Danny sat in front of a computer screen with an electrode cap on his head, which measured his brain activity as he played Pac-Man on the computer. Danny controlled Pac-Man, trapped in a maze, and his task was to move around, gobbling up as many pellets as he could. He could only move Pac-Man by maintaining sustained attention—by transforming his frontal slow-wave theta activity into faster-wave alpha and beta activity. If his attention lapsed, Pac-Man stopped. By maintaining his concentration, Danny was able to retrain his under-aroused, immature cortex, which has constantly craved immediate stimulation, into a more mature and aroused brain capable of focusing on a task. (p. 290)

Over time, the brain waves coursing through Danny's prefrontal cortex quickened and normalized. He had, per the Confucians, acquired more *qi*. Through heightened stimulation and activity of the prefrontal cortex, Danny's behavior changed dramatically, and he is now a fully functioning and law-abiding member of society.

The field of biofeedback technology is expanding rapidly. It has now reached the point where people can don a sleek and vastly improved electrode cap and move and

manipulate objects in real time in a three-dimensional space using nothing but their brain waves and brain activity. The future implications for rehabilitation and other forms of cognitive correction in this field are, one could reason, nearly unbounded. Consider the rehabilitative power of future cognitive therapy sessions conducted in a life-like computerized three-dimensional environment where a series of artificially intelligent councilors interact with and reward the delinquent only when he or she is using fast-wave alpha and beta brain stimulation. It is the combination of pre-frontal brain stimulation/brainwave rehabilitation and rehabilitative psychological techniques such as cognitive behavioral therapy that may bring about a new age of rehabilitation and correction for those most serious cases of delinquency.

Another promising method found within the family environment that may be effective in improving cognitive functioning or *qi* includes the introduction of vitamins, minerals, omega-3 fatty acids, and other nutritional supplements into children's diets to provide the nutrients necessary to enable healthy brain growth (Clayton, Hanstock, Hirneth, Kable, & Garg, 2002; Gesch, Hammond, Hampson, Eves, & Crowder, 2002; Zaalberg, Nijman, Bulten, Stroosma, & van der Staak, 2010). Correspondingly, Mencius believed that for people to think clearly and behave virtuously they must be privy to appropriate amounts of food. Mencius (2004) asserted that an improper diet affects judgement, writing:

hunger and thirst interfere with his judgment. The palate is not the only thing which is open to interference by hunger and thirst. The human heart [the "human heart" represents a combination of the mind and the heart], too,

is open to the same interference. If man can prevent hunger and thirst from interfering with his heart, then he does not need to worry about being inferior to other men. (VII. A. 27, p. 151)

Though Mencius did not directly connect child malnutrition to diminished levels of cognitive ability or *qi* in later life, an indirect association is, arguably, evident. In addition, Bell (2003) points out that the Chinese character for harmony, (和), is, “composed of two parts: (米), meaning “grain,” and (口), meaning mouth. In other words, a decent supply of food (grain in the mouth) underpins social harmony and (conversely) the absence of food leads to conflict (see Tan Huay Peng, *Fun with Chinese Characters: The Straits Times Collection* [Singapore: Federal Publications, 1980], p. 147)” (p. 224).

Also, it has been shown that mindfulness meditation may improve brain functioning. It may work to better regulate emotions, and it may increase gray matter density in the brain (Davidson, Kabat-Zinn, Schumacher, Rosenkranz, & Muller, 2003; Holzel, Carmody, Vangel, Congleton, & Yerramsetti, 2011; Lutz, Brefczynski-Lewis, Johnstone, & Davidson, 2008). This type of meditation corresponds with Confucian prescriptions for self-reflection, contemplation, and a repetitious internalization of the words of the ancient sages. For Confucius, true morality and virtue is derived from sustained reflection on the texts in which one studies and reflection on the rituals in which one adheres. Of this Confucius said, “Learning without due reflection leads to perplexity; reflection without learning leads to perilous circumstances” (Ames & Rosemont, 1998, p. 79).

Family Love, Universal Love, and Crime Prevention

A major rift between Mozi and the Confucian tradition lay in Mozi's crime reduction and crime prevention prescriptions that revolve around his idea of "universal love." Mozi believed that "universal love" can fix all social ills, ranging from crime to poverty. His idea is that if we all love each other equally, and provide love for all, a harmonious and crime free society will emerge. Mozi (2013) describes how universal love will eliminate thievery and robbery within society:

In all cases it arises through lack of mutual love. Even if we come to those who are thieves and robbers in the world, the same applies in so far as they love their own household but don't love the households of others. Therefore, they plunder the households of others in order to benefit their own households. A robber loves himself but not others. Therefore he robs others in order to benefit himself. How is this? In all cases it arises through lack of mutual love...Great officers each love their own household but don't love the households of others. Therefore they bring disorder to the households of others in order to benefit their own household...If there were universal love in the world, with the love of others being like the love of oneself, would there still be anyone who is not filial?...If there were regard for the persons of others like one's own person, who would rob? Therefore, thieves and robbers would also disappear. (p. 74)

Under Mozi's doctrine, there is to be no differentiation in the treatment and affection shown between oneself and one's parents, one's children, the family next door, or people living on the other side of town. None are to receive special treatment, not even oneself. He believed that the behavior shown to one's family is to be no different from the behavior shown to a stranger. Per Mozi, it is vital that one develop an outlook wherein the needs of any stranger will have as pressing an influence on oneself as the wishes of one's own family; and if this policy is instituted throughout a state, crime and deviance will no longer be a pressing issue. Mozi (2013) writes of the love of strangers:

People would view others' states as they view their own states; they would view others' households as they view their own households; they would view other people as they view themselves...Individual people would love one another and would not injure one another. (p. 77)

The Confucians rejected this notion of universal love outright, contending that our natural inclination is that of gradations of love (or love that falls on a spectrum or continuum). The idea of graded love means that we first and most intensely love those closest to us, our immediate family members, and that we expand our love out from there at different levels depending on familial and proximal relatedness. Our love is strongest with our immediate family, slightly less strong with our extended family (aunts, uncles, cousins, distant cousins, etc.), then, as we move away from our family, our love diminishes in proportion to our familial and proximal position with the loved. In other words, our love diminishes more and more as we move to our distant relatives, then to the community, the

county, the state, etc. Smith (1991) likened this love to a series of concentric circles, writing, “As for the increase of this heart-mind that is *hsin*, it expands in concentric circles that begin with oneself and spreads from there to include successively one’s family, one’s face-to-face community, one’s nation, and finally all humanity” (p. 182; as quoted in Lan, 2015). Bell and Metz (2011) observed that Confucianism extends its relational spectrum to explicitly include foreigners and the animal kingdom, writing:

The web of caring obligations that binds family members is more demanding than that binding citizens (or perhaps legal residents), the web of such obligations that bind citizens is more demanding than that binding foreigners, the web binding humans is more demanding than that binding nonhuman forms of life, and so on. (p. 88)

Thus, Mozi, per the Confucians, fails to consider the gradational nature of our inherent feelings. Mencius (2004) writes of universal love, “Mo (Mozi) advocates love without discrimination, which amounts to the denial of one’s father. To ignore one’s father...is to be no different from the beasts” (III. B. 9, p. 73).

Rather than adhere to the universal love crime prevention philosophy of Mozi, the Confucians believed that the family, as it is the root and focal point of love and affection, reduces crime through the moral education and cultivation of the children; and it is also the family, as a product of its authentic love and affection, that is to rehabilitate criminal elements within the family. The position that the family is the center of love and affection is instrumental to the Confucian worldview, and it is considered paramount in crime

reduction and crime prevention. Crime prevention takes place within the family, the Confucians argued, as that is where the intense love and affection resides. The family unit is the place where people will show the greatest love and authentically work to help and cultivate one another. Nichols (2011), in an excellent examination of this debate within the context of evolutionary theory, stressed the Confucian emphasis on the father-son relationship as a primary example of Confucian familial exceptionalism. To make his point, Nichols stressed how the family is so important within Confucianism—the love and affection is so strong between family members—that sons are expected to cover-up for the misdeeds of their fathers and fathers are expected to cover-up for the misdeeds of their sons.

Before closing the Confucian side of the argument there is a passage from Mencius that is particularly instructive in understanding the Confucian position regarding the centrality of the family within ideas of love and affection, which ultimately builds up to an outright rejection of Mozi's position. This passage, which was briefly mentioned earlier, is a rebuttal to a compelling argument made in favor of universal love from a Mohist philosopher by the name of Yi Tzu. Earlier in this dissertation Mencius' parable of the baby on the well was discussed. This parable represents the position that people are inherently good. People are inherently good because they have good unconscious drives, such as the automatic and unconscious drive to save a baby from falling in a well. Mencius believed that these unconscious and immediate drives to help others in need operate simply out of pure good. Yi Tzu, meeting Mencius in person, took Mencius' "baby on the well" parable and used it as evidence against Mencius' theory that there are gradations of love. Yi Tzu argued that because any man will unthinkingly and unconsciously run to save the

baby out of an inherent good, the natural disposition for all people is universal love. It makes no difference who is on the well or who is running to the well, all people automatically and unconsciously behave in a way that is inherently good and universally good, and this is evidence of universal love. Mencius' (2004) response to Yi Tzu, as noted earlier, was the following, "Does Yi Tzu truly believe that a man loves his brother's son no more than his neighbor's newborn baby?" (III. A. 5, pp. 62-63). Mencius then provided Yi Tzu with his parable about the unconscious drive to bury relatives, which was quoted previously. After hearing Mencius' response, Yi Tzu "looked lost for quite a while and replied, 'I have taken his point'" (Mencius, 2004, III. A. 5, p. 63). So, it is likely that Mencius position is that under very special circumstances, where one's immediate and unconscious behavior is being tried, that one will respond with universal love or universal reflexive love, but once one is allowed time to process information, and place events or other people into one's cognitive gradational framework, that biases are sure to present themselves. Lai (1991) succinctly rectifies the discrepancy:

Having posted the 'child in peril' parable as a case of natural compassion shown to *any* child, Mencius now seems to declare [it] a 'special case' that should *not* be so freely universalized. Under more normal or less urgent circumstances, one would not love all children equally. One naturally loves a nephew more than a neighbour's child. So much is clear. (Lai, 1991, p. 55, as quoted in Nichols, 2011, p. 622)

An important corollary to Mencius's points on social relations and universal love is that Mencius would repeatedly appeal to natural or biological metaphors in his writings; Bloom (1997) illustrates this point:

Noteworthy also is the fact that Mencius repeatedly uses agricultural metaphors: images of shoots, seedlings, plants, and trees, and the analogy of organic growth and development—a mode of expression that has the effect of locating human nature in the processes of nature as a whole and emphasizing both natural processes and the need for nurture. (p. 24)

The importance of Mencius' attraction to natural metaphors and its connection to graded love will become more apparent in the next section concerning kin selection and natural selection, but it's valuable to set the stage here.

In conclusion, we have two competing theories provided by two major philosophical traditions regarding crime reduction and crime prevention: First, Mozi's theory of universal love, wherein if everyone is to love everyone else equally there will be little crime. There will be little crime because stealing from someone else or hurting someone else will be akin to stealing from oneself or hurting oneself—as everyone will love each other equally and will provide for each other in a corresponding fashion. The second competing theory for crime prevention and crime reduction is the Confucian theory of a graded love, wherein close family members are loved most intensely and much more time and resources are dedicated to their personal cultivation (both moral and educational) and personal well-being (through sustenance and living conditions). The Confucians

believed that through this family centric developmental process, children acquire a moral framework conducive to prosocial behavior and they acquire the capacity to regulate and control themselves, thus, preventing deviance and criminality. Let's examine what modern science and evolutionary theory has to say regarding this debate.⁶⁴

Kin Selection.

The inherent need to provide greater love to close family members, as espoused in the Confucian tradition, can be tied to evolutionary theory and Darwinian natural selection, particularly as it relates to an adaptive strategy within natural selection known as kin selection. First, let's identify what kin selection is and why it's important in this discussion.

⁶⁴ In an excellent lesson in humility, I thought that I had developed a novel, though fairly obvious, theory by incorporating evolutionary theory (kin selection) into the “universal love” versus “familial love” debate between the Mozi and Mencius, only to find eight months after its completion that Nichols (2011) had already effectively and eloquently inserted kin selection into the general debate. Though, with a cursory reading of both interpretations one can see we both come to the debate from different angles—my work centers on each philosophical party's theory on crime prevention within the debate, while Nichols engages the debate from within a more generalized, non-crime reduction context. Additionally, the structures of our arguments are dissimilar. The underlying commonality is the general introduction and incorporation of kin selection into the debate. Once I arrived at Nichols work, I benefitted from it and integrated some of his sophisticated interpretations into this piece.

Kin selection is a brilliant evolutionarily based theory developed by notable evolutionary biologists William Hamilton and John Maynard Smith in the nineteen-sixties, and later popularized by Robert Trivers in the early to middle nineteen-seventies in conjunction with his equally impressive work on reciprocal altruism. Kin selection is a form of Darwinian natural selection operating at the level of the family, or genetically related groups of organisms, instead of explicitly at the level of the individual. It's a method for gene replication or gene propagation utilized by some species, and it explains why people have evolved to behave altruistically to those who are genetically joined with them. The basic idea is that a gene can achieve its continued existence or propagation through two main strategies, individual mating and kin selection. The first strategy, individual mating, is the survival and reproduction of the gene directly from within the body in which it is contained. This is accomplished by an individual gaining access to a mate, and, through reproductive processes with their mate, directly propagating their genes into the next generation. It's the case of one person individually spreading their own genes through reproduction with another individual. The second method, kin selection, is the survival and propagation of one's genetic information by enhancing the reproductive success of those who carry similar genetic information (genetically related family members or kin). This is typically achieved by one member of a family sacrificing some or all his/her genetic fitness (reproductive and survival capacity) so as to improve the genetic fitness of another member of one's family or several other members of one' family. This type of sacrificial or fitness reducing behavior is acceptable from a gene-level perspective because in the game of gene propagation all that matters is that the gene is passed to the next generation, it does not matter which body the gene is in—and genetically related family members carry significant

amounts of each other's genetic information. To put this in perspective of proportionalities, those family members more closely related to you likely carry greater amounts of your genes, while those more distant in family relation likely carry fewer of your genes, and nonrelatives carry fewer still. For example, one-half of your genes are shared with your children, yet only around one-eighth of your genes mirror those of your cousin, thus, the odds that you would be willing to sacrifice fitness for your children (or be altruistic toward your children), as opposed to your cousin, are far greater.

At the end of the day, as long as your genes continue on into the future, then, from a genetic standpoint, success has been achieved. One body can sacrifice itself or lose a significant amount of fitness for another body, and that is perfectly acceptable from a gene-level perspective if that other body contains a substantial portion of the same genetic information as the sacrificial body. Again, it doesn't matter which body moves on into the future as long as the gene does. As Gottschalk (2002) writes, "If a gene in my body can find a way to assist any copies of itself that reside in another body, that gene will spread" (pp. 268-269). From kin selection theory, we can understand why parents stick around to raise their offspring: It's simply one genetic entity working to ensure the fitness of another genetic entity that shares its genes. In fact, one can see evidence of kin selection by examining the cellular relationships operating within a single body; Gottschalk (2002) explains:

The gene's-eye view can play hell with our common sense ideas about an individual and a social group. But, it also allows you to see the "altruistic" sacrifice that your white blood cells make on behalf of all the other cells

that are you...Your body is like an ant colony wherein every “ant” (i.e. cell) is perfectly related to every other “ant”. Thus, every cell in you submerges its interests to the good of the group...The idea is to see through the organism to the replicating entities themselves. Even the altruism that occurs between organisms that are not genetically identical, is working in the interests of the genes that are shared. It is still the *copies of genes* that are benefiting. (p. 276)

Kin selection, through the general processes of natural selection, has effectively engrained within humans a predisposition to altruistically provide greater material goods for, and engage in a greater emotional connection with, those who share the same genetic information—with little or no expectation for reciprocity. This kind of relational behavior exists because it has been highly effective in the past in ensuring the continued existence of one’s genetic information. People who possessed genes that predisposed them to behave altruistically (to show love) to others who shared their DNA (children, siblings, cousins, etc.) have historically passed on greater amounts of their genetic information, genetic information which contained these same altruistic genes, to future generations. As Gottschalk (2002) states regarding altruistic genes replicating altruistic genes, “The solution...is to think in terms of genes and to get altruistic genes to benefit themselves by benefiting other bodies which contain copies of the altruistic gene” (p. 270). Viewed from a different direction, those humans (kin selection has not been selected for by many other species, but it has been selected for among humans) that possessed genes for, say, abandoning their offspring to fend for themselves after birth were out reproduced by those

who were endowed with genes that promoted altruistic behavior toward their offspring after birth. Thus, kin selection amongst humans has generally been a more effective reproductive strategy than, say, abandonment selection or a Mozi centric form of universal love selection. Ultimately, because this behavior is so effective, it essentially became the norm amongst humans. This behavior, more specifically, the genes that generate these neurocognitive mechanisms that promote this behavior, became engrained in the makeup of our DNA because these genes are highly effective in propelling genes (themselves) into the future (for more on beneficial genes furthering their existence in subsequent generations see Dawkins, 1976). From a Darwinian perspective, it could be argued, to love someone is to, for the most part, invest altruistically in their genetic success/reproductive success—invest one’s time, emotional energy, resources, and fitness, so that another person, almost always another blood relative,⁶⁵ can survive, become more reproductively fit, and pass on their genetic information.

⁶⁵ Non-family member altruism is much more prevalent when it is reciprocal. Reciprocal altruism between nonfamily members generally operates under different conditions and it necessitates different behavioral guidelines (usually necessitating the capacity for memory and punishment). The relationships and altruism being described here between family members are often zero sum at the personal, non-gene level. For more on non-kin reciprocal altruism see Trivers (1971), and for a useful study on a Confucian interpretation of family and social relations seen through the lens of reciprocal altruism see Nichols (2011, p. 618-622).

Another prime example of biologically centered criminological evidence against Mozi's "universal love" theory of crime reduction is found in what is commonly referred to as the "Cinderella effect." The "Cinderella effect" explains that the likelihood of a child being abused or killed by a parent is far higher when that parent is a not genetically or biologically related to them. In other words, rates of child abuse in stepparent families far exceeds that of biologically intact families (Daly & Wilson, 1988; Schnitzer & Ewigman, 2008; Stiffman, Schnitzer, Adam, Kurse, & Ewigman, 2002). Stiffman et al. (2002) estimates that children "were eight times more likely to die" (p. 615) at the hands of a non-genetically related adult living in their household when compared to a household that consisted of an intact, two biological parent arrangement. Evolutionarily speaking, when a parent abuses their biologically related child, the chances for that child to be successful in the propagation or continuation of the abusive parent's genes later in life is reduced (consider the reproductive implications of severe brain trauma from physical abuse or the reproductive implications of severe emotional and psychological abuse; the significance of this abuse extends to the death of the child, in that, if the child is killed his/her reproductive capacity is reduced to zero). Because the child, under these adverse conditions, has a reduced chance of propagating his/her genes, the genetic predisposition for this abusive behavior from a biological parent is greatly diminished—the genes that promote abusive behavior from parents to their biological children are more likely not to survive into future generations. On the other hand, when a non-biologically related parent (usually the stepfather) abuses a stepchild, that behavior will often not affect the continuation of his abusive genes (and, thus, the continuation of this type of abusive behavior). Gottschalk and Ellis (2010) succinctly capture this phenomenon, "From an evolutionary perspective,

individuals who harm close genetic relatives are less likely to pass genes on to future generations than are individuals who harm distant relatives or nonrelatives” (p. 66). In one of nature’s sad twists, the stepparent’s abusive behavior may actually help in the propagation of his abusive genes. By abusing his non-genetically related child, he is, in effect, forcing that child away from him, away from the home he shares with the child’s biological mother, and, most importantly, away from his resources, so that he can begin to propagate his own genes with the child’s mother and share his resources with his biological children. It should be noted that these gene replication strategies typically take place at an unconscious level and should in no way be a condemnation of the many excellent stepparents out there. I am simply interpreting and explaining average rates of child abuse amongst these two groups of people.

This same type of behavior is witnessed repeatedly in the animal kingdom, usually on a more vicious level. The behavior of male lions is instructive for illustration purposes. When the alpha male gets old or shows vulnerability, another male lion will emerge, kill or drive away the alpha, take over the pride, and then usually proceed to kill all the previous alpha’s cubs and begin to mate with the lionesses—starting the process of passing on his genetic information. Killing all the previous alpha’s cubs also precipitates a renewed sexual receptivity amongst lionesses.

Therefore, when parents raise their own biological children (showing love in the pre-Qin philosophical sense), the likelihood for child abuse is much lower than if the mother were to take a member of the outside community into the home to interact with and raise her children (show love). The propensity for a relative to show love to a genetically related child, and, at the same time, not abuse them, is significantly higher than a non-

genetically related person, all because the genetically related pair share a great proportion of the same genetic information and that genetically related relative wants that genetic information to prosper and propagate. The propensity for a non-genetically related person to show love to the child, and not abuse them, is reduced because they do not share the same genetic information and, thus, this person is more likely to be indifferent to the child's future reproductive success. Daly and Wilson (1988) summarize this reduction in affection due to genetic differences, "One implication is that substitute parents will often care less profoundly for "their" children than will genetic parents" (p. 520).

In continuation with the profound emotion and care exhibited by parents to their biological children and the accompanying evolutionary explanations, Nichols (2011) used Confucian examples of fathers covering up for their sons and sons covering up for their fathers (e.g. the son concealing his father's theft of a sheep (Confucius, 2003, 13.8, p. 147) and King Shun abdicating his throne and fleeing with his blind father after the father had committed murder (Mencius, 2004, VII. A. 35, p. 153)) and he explained how this behavior is highly beneficial from an evolutionary standpoint: A son will, from an evolutionary perspective, cover for the deviance of his father so as not to lose the future resources and social status that are to be provided to him by the father. If the father's criminal behavior is acknowledged by the public, Nichols asserted, it's likely that the son's social status will be jeopardized and, thus, the son will likely lose reproductive fitness. Additionally, it's likely that the father's ability to acquire or keep resources after this acknowledgement will be minimized or eliminated (depending on the crime in question) and, thus, the son's ability to receive these resources and acquire the corresponding reproductive fitness will meet the same fate. It is from these resources and the social status provided by the father that the

son may be better capable of finding a mate and reproducing. So, from an evolutionary standpoint, the son's reaction to the father's behavior is likely of great importance; Nichols (2011) explains, "In the patrilineal Confucian tradition the son's receipt of resources given him by his father will eventually set the son's own social standing and by extension his reproductive opportunities" (p. 617).

When a father covers for his son, the explanation for his behavior is seemingly more straightforward: He is securing, Nichols (2011) argues, the safety and continuation of his genetic stock. Conversely, when explaining why sons cover for fathers it's a bit more round-about where concerns for future resources and social standing potentially play a role—perhaps it's a significant role (the son may die as a result of the father's behavior: death due to a loss of resources, family banishment, etc.) or it may play no role (the son's resources and status are unaffected by the father's criminal behavior), whatever the result, it's likely that the impact on gene propagation is less direct under these circumstances. The point is that there is more of a direct line between the son's life being in jeopardy due to the son's criminal behavior and the father's gene's being at hazard of exhibiting an expression of finitude. All of this provides a large incentive for the father to disabuse himself of formal morality and social expectations, allow himself to be swept up by evolutionary forces, and protect his criminal son. Nichols (2011) expertly sums up this idea:

When a father conceals crimes of his son, the father increases his son's opportunities to give the father more grandchildren. Objective, impartial justice comes a distant second to the father's interest in seeing his line not

only preserved but preserved with social standing. The diminished importance of impartial morality covaries with the influence of kin-directed emotions in a moral psychology founded on adaptive, fitness-enhancing processes. (p. 617)

What has happened is that through natural selection humans have developed a central nervous system that rewards (usually through a release of pleasurable neurochemicals) behaviors conducive to reproduction and survival. The behavior of showing love and affection (emotionally and materially) for family members (those who share significant amounts of similar DNA) has been an exceedingly effective adaptive behavioral strategy for ensuring that one's genetic information reaches the next generation. Thus, nature has, through the process of natural selection, provided humans with a neurological system that positively rewards us with pleasurable neurochemicals when we behave altruistically toward close family members. Mencius believed that to love universally was to deny one's father, and that may be true, but what it means is that to love universally is to deny one's own human nature. It means denying the adaptive neurological programming that nature has instilled in people through naturally selective processes that are ultimately responsible for our continued existence—it means denying the naturally selective processes that are responsible for this effective method of survival and gene replication. In the end, it could be argued that evolutionary biology provides support for the Confucian view that the crime reduction prescription of universal love is unrealistic. Universal love may be unrealistic because we possess a natural predisposition, engrained within our DNA, to love our family members first. Therefore, the foundation in which

Mozi's preventative remedy for criminality is based, that of "universal love," is, it could be reasoned, untenable for both the Confucians and Darwinian natural selection/modern science.

Parenting and Shame

The Confucians find value in the concept of shame, particularly the importance of people feeling shame to prevent deviant behavior. This emphasis on shame, it could be argued, is not unlike the Freudian tradition's focus on the influence of the superego on guilt in relation to behavior regulation. Although Freud did not write on crime in any comprehensive way, he did speak to it indirectly in several ways,⁶⁶ and the limited theories and ideas he did provide that directly corresponded to criminality are instructive for criminologists and future psychoanalysts studying criminal and deviant behavior. A note on terminology: The words "guilt" and "shame" are often used interchangeably here. Merriam-Webster (2016) defines "shame" as: "A feeling of guilt, regret, or sadness that you have because you know you have done something wrong; ability to feel guilt, regret, or embarrassment; dishonor or disgrace." Merriam-Webster defines "guilt" as: "A bad feeling caused by knowing or thinking that you have done something bad or wrong." These two definitions are, one could reason, mostly interchangeable, and will be treated as such. Additionally, both the Confucian and Freudian texts are translations to English from their

⁶⁶ To gain a clear picture of this consult Freud's (1953) work *Civilization and Its Discontents*.

languages of origin, which makes trying to parse out small differences between the two words an unnecessary and unprofitable diversion.

Freud's understanding of the role that shame and guilt play in the criminal process splits into two distinct theoretical directions: The theory of the overdeveloped superego and the theory of the underdeveloped superego. Freud (1916) believed that criminality comes from one having either an overdeveloped superego, wherein one will feel an overabundance of guilt and shame, or an underdeveloped superego, in which one will feel little to no guilt or shame. Let's first discuss the Freudian idea of an overdeveloped superego. The psychoanalytic tradition made its foray into criminology with Freud's 1916 short publication, *Criminality from a Sense of Guilt*, wherein he theorized that deviance is the product of an overdeveloped superego and the accompanying excessive unconscious guilt and shame that comes with it. Freud described deviance from this perspective in the following way: People often generate overdeveloped superegos—usually stemming from poor parenting practices or an overly active Oedipus complex. People with overdeveloped superegos regularly feel great guilt and great shame, and they don't know why they feel this guilt and shame.⁶⁷ To understand why they feel this great guilt and shame, people

⁶⁷ Interestingly, Freud (2010) asserted that the genesis of shame was a reaction to recently (evolutionarily speaking) compromised genitals. His contention is that as our pre-human ancestors clamored down from the jungles onto the African plains around five million years ago, and in doing so embraced bipedal mobility, the recognition of their then exposed and jeopardized genitals induced the initial shame. Correspondingly, Mencius twice wrote of

shame, and both times when he did he invoked nakedness in the same passage. For example, Mencius (2004) wrote:

Liu Hsia Hui was not *ashamed* [emphasis added] of a prince with a tarnished reputation, neither was he disdainful of a modest post...When he was passed over he harbored no grudge, nor was he distressed even in straitened circumstances... “You are you and I am I. Even if you were to be stark naked by my side, how could you defile me?” Hence hearing of the way of Liu Hsia Hui, a narrow minded man will become tolerant and a mean man generous. (V. B. 1, p. 112)

It could be said that nakedness strikes to the core of shame, and within the idea of nakedness lay the vulnerability of the genitals.

Though, Freud’s interpretation of nakedness is not a novel one. The connection between nakedness and feelings of shame or negative feelings in general have been explored since the dawn of recorded history. For example, in Genesis 3, when Adam ate from the tree of knowledge, the scales fell from eyes, he became aware of his nakedness, he hid from God in shame, and a series of negative results were purportedly experienced by him, Eve, and all of humanity. In Adam’s case, nakedness and shame are closely related—it seems that a great part of his shame may have been produced by his nakedness, but, so as not to go too far, shame may have also been greatly influenced by his initial act of eating from the tree of knowledge.

engage in criminal behavior. People engage in criminal behavior so that they can be punished for their criminality, and from this punishment they receive an explanation for why they have this constant guilt and shame. In other words, one may commit a criminal act to provide an explanation for their previous shame. The reason for their initial shame (punishment from later criminality) is misguided, though, as their shame is really a consequence of poor childhood development at the hands of unsound parenting practices or an overly active Oedipus complex, but the individual is not aware of this, and, instead, commits crime and undergoes punishment to provide a reason for their initial guilt and shame. Freud (1953), in his seminal work, *Civilization and Its Discontents*, explains the chronological order of events that produce this great sense of guilt and the resulting need for punishment:

The chronological sequence would thus be as follows: first, instinct-renunciation due to dread of an aggression by external authority—this is, of course, tantamount to the dread of loss of love, for love is a protection against these punitive aggressions. Then follows the erection of an internal authority, and instinctual renunciation due to dread of it—that is, dread of conscience. In the second case, there is the equivalence of wicked acts and wicked intentions; hence comes the sense of guilt, the need for punishment. (pp. 112-113)

Freud (1916) writes of the effects of an overdeveloped sense of guilt:

Paradoxical as it may sound, I must maintain that the sense of guilt was present before the misdeed, that it did not arise from it, but conversely—the misdeed arose from the sense of guilt. These people might justly be described as criminals from a sense of guilt. The pre-existence of the guilty feeling had of course been demonstrated by a whole set of other manifestations and effects. (p. 332)

The notable psychoanalyst August Aichhorn (1878-1949;1935) adds to the theoretical makeup of Freud's overdeveloped superego theory by asserting that criminals who return to the scene of the crime or who are sloppy in their criminality have an unconscious desire be punished, which is brought on by strong unconscious feelings of guilt and shame. Ultimately, Aichhorn (1935) believed that if guilt and shame are too strong for the conscious mind to accept, it is pushed deep into the recesses of the unconscious mind where it may return later in the form of criminality.

Of the two popular Freudian theoretical directions regarding criminality, the second direction will be discussed shortly, the overdeveloped superego theory seems the weaker. It's an important theory to note, though, as it's fundamental to the Freudian tradition, a unique addition to criminological theory, and, as we shall see, it provides an interesting counterpoint to the more, one could assert, palatable Confucian position on shame, guilt, and crime. Yet, even Freud, at the end of his career, questioned how much his theory of an overdeveloped superego contributed to criminality. He seemingly gave up on the idea, leaving it for future psychoanalysts to pick up the torch; which they did and produced an abundance of research on the topic (Klein, 1988; Schmidl, 1946).

It is with Freud's second and more prominent theoretical position, that of the negative effects of a dearth of superego, that the Confucian and the Freudian traditions closely align. Freud believed that due to a disruption in the development of the superego in childhood, the influence of the superego becomes diminished, allowing more room for the id (responsible for the more primal, instinctual, or reptilian brain based drives) to take hold and dictate behavior. Children who suffer from abusive or severely neglectful parents are, per Freud, less likely to develop a healthy superego. In addition, criminal or deviant parents, who themselves likely possess weak superegos, are more likely to imprint weak superegos onto their children through their examples, antisocial messages, abuse, and general misconduct. It is from this diminished superego and the resulting heightened presence of the id, Freud maintained, that criminals can engage in deviant acts, all without any sense of guilt or shame (guilt and shame that would otherwise be produced by a healthy superego) to prevent them from doing so. Freud (1916) writes of the criminogenic effects of an underdeveloped superego, "Among adult criminals we must no doubt accept those who commit crimes without any sense of guilt, who have either developed no moral inhibitions or who, in their conflict with society, consider themselves justified in their action" (p. 333).

Yet, again, Freud's theoretical offerings in this domain are scant, and, thus, we again look to August Aichhorn (1935) for a more comprehensive theoretical approach to Freud's initial position. Aichhorn believed that an underdeveloped superego, which is typically the result of neglectful or damaging childrearing practices exhibited by the parents, works in concert with an unrestrained and impulsive id, promoting deviance and criminality. The central focus is on a superego that is poorly developed. This poorly

developed superego, Aichhorn theorized, is incapable of acting as an unconscious cognitive watchmen or supervisor over the primal influences of the id. Without an effective unconscious watchman, he argued, one may not feel shame and guilt when the primal desires of the id make themselves known to the mind. Without this unconscious shame or guilt, the barriers to delinquency and deviance are removed—the Freudian tradition labels this type of cognitive condition an “id dominant” personality (Freud, 1950).

Shame was a uniquely Confucian concept during the time of Confucius, Mencius, and Xunzi. No other major tradition (Lao Tzu, Mozi, or the work of the Zhuangzi) offered any insight or theoretical interpretation corresponding to this significant cognitive experience (Geaney, 2004). For Mencius and Xunzi, shame represents a dividing line between human and beast. Humans possess shame, they argued, and beasts do not. Men who behave as if they are without shame are essentially beasts of men. Mencius (2004) writes of the resulting implications of a dearth of shame, “Whoever is devoid of the heart of shame is not human” (II. A. 6, p. 38). It is in this way that shame is mechanism that determines social status for the Confucians: Those who behave in a manner in accordance with one who has a great deal of shame are at the top of the social hierarchy, while those whose conduct is indicative of no or low levels of shame (e.g. engaging in criminal and deviant behavior) are at the bottom of the social hierarchy.

The Confucians, as mentioned, took an opposing view of the Freudian theory of the overdeveloped superego, the resulting strong feelings of guilt, and the criminality it produces. They believed that it is important to have shame to prevent deviance, a notion in which both the Confucians and the Freudians generally agree; the major difference between the two traditions here is that the Confucians do not explicitly put a limit on shame. There

is no mention of potential adverse effects of an overabundance of guilt or shame within the Confucian tradition. The Confucians simply state that if one lacks shame they will have a greater propensity for engaging in animalistic and deviant behavior. Mencius (2004) wrote this about the value of shame, “A man must not be without shame, for the shame of being without shame is shamelessness indeed” (VII. A. 6, p. 146). There is a slightly different translation of this statement that is provided in the literature that is useful, “A man may not be without shame. When one is ashamed of having been without shame, he will afterwards not have occasion to be ashamed. The sense of shame is to a man of great importance” (Legge, 1895, VII, VI, p. 451). Mencius also adds that it is shame that prevents untoward schemes from coming to fruition, writing, “Those who form contrivances and versatile schemes distinguished for their artfulness, do not allow their sense of shame to come into action” (Legge, 1895, VII, VII, 2, p. 452). So, as Mencius theorized, shame “comes into action” before the criminal act to prevent it from occurring. Confucius initiated his tradition’s understanding of shame when he incorporated it into his advice to rulers regarding controlling populations of people; Confucius (2016) said:

Lead the people with administrative injunctions and put them in their place with penal law, and they will avoid punishments but will be without a sense of shame. Lead them with excellence and put them in their place through roles and ritual practices, and in addition to developing a sense of shame, they will order themselves harmoniously. (2.3)

The main takeaway from Confucius' passage, for our purposes regarding shame, is that if people cultivate healthy amounts of shame they will have the capacity to regulate themselves in an authentic fashion. When the people, Confucius argued, are engaged in shame producing and shame promoting emulation of a virtuous leader, behavior predicated on a strict social hierarchy and ritual, crime and deviance will likely be minimal, and, thus, laws and punishment will need not play an essential role within society. Those without shame, Mencius argued, lack the capacity to reflect on the harm and damage they might cause prior to the commission of a criminal act, thus, making the act more likely to occur. It's those without shame or those with low levels of shame, the Confucians believed, that are most likely to engage in deviant behavior.

The central Freudian explanation of crime, that of a lack of guilt generated from an underdeveloped or distorted superego stemming from abusive or neglectful parenting, and a major Confucian account of crime, that of a lack of shame in general, correspond to one another, one could argue, in a way that adds a rich texture to both philosophical parties.

Family Disruption and Critical Explanations

The Effects of Inequality and Corruption on the Parents.

At the outset, there are three points we must entertain that I find best encapsulate the Confucian position concerning the influence of leadership on criminality:

1) A ruler who is immoral and lacks virtue has the potential to lead people by his example into deviance and criminality. If he then punishes these people for the behaviors in which he himself is responsible, then his behavior is unjust and unsound. It is unfair to induce a

certain behavior from people, and then turn around and punish them for behaving in that way.

2) If a leader, through moral and virtuous behavior, wins the hearts of his people, the people will willingly submit to him and behave in a similarly moral and virtuous manner. People will voluntarily and happily submit to a fair and moral ruler, and, as a result, engage society in a way that is fair and moral. It is through this positive relationship that punishment is likely unnecessary, as the people will emulate the ruler's moral and righteous behavior. When people submit to force—when they submit to a ruler who rules through intimidation and fear—they do so unwillingly and under duress. When the people were subjected to force, they will not feel shame in their misdeeds; instead, the people will operate with a Skinnerian punishment avoidance mindset. It is under these circumstances that people will fail to internalize their mistakes and fail to take heart in rectifying them. Mencius (2004) explains the transformative force of the ruler:

One who puts benevolence into effect through the transforming influence of morality will become a true king...When people submit to force they do so not willingly but because they are not strong enough. When people submit to the transforming influence of morality they do so sincerely, with admiration in their hearts. (II. A. 3, p. 36)

3) People emulate and learn from both virtuous and immoral rulers. Thus, there are circumstances where there is little need to punish or blame certain criminals within society, because they are simply emulating, or responding to, the deviant behavior of the ruler or

those who govern them. In addition, people can be rehabilitated by the influence of a moral and honorable ruler, but without this positive influence in society, many people will remain mired in immorality.

We can transpose these Confucian ideas into a critical criminological form, in that if a ruler or those in a leadership capacity degrade their people, if they do not provide for them living wages, or if they do not provide for them a suitable living environment, and the people respond in a similarly negative, selfish and criminal way, it is the ruler or those in power who are considered responsible for the actions and criminal behavior of the people. For the emperor or those in power to punish their people under these circumstances, per Confucian theory and the theory of several notable critical philosophers and critical criminologists, represents unfair and unwarranted behavior.

Marxist criminologists share a great deal of common ground with Mencius concerning the causes of crime. Mencius believed that if the rulers and members of the ruling class are greedy, cruel, and do not provide fair wages for the common people, they will drive people to criminality out of desperation. When Mencius and the other pre-Qin Confucians are compared with Marxists criminologists, interesting patterns and correlates reveal themselves, ultimately providing unique and novel insights into the thought of both traditions.

Notable Marxist criminologist Willem Bonger (1876-1940) published theories of criminal behavior that bear striking resemblance to those of Mencius. Per Bonger (1916), crime is often the result of unfair societal (mainly economic) conditions. He believed that within a capitalist economic system people will engage in crime as a result of social and economic injustice. Here we find a direct connection to Mencius. Per Mencius, where there

is abusive, cruel, unequal, or unfair behavior, brought on by those in power, the people may resort to criminal activity out of desperation. Bonger explained that within a capitalist economic system, common people are often forced into demoralizing and demeaning labor for minimum compensation, and are often forced to live in conditions conducive to the destruction of the family. Because of this mistreatment, Bonger argued, the common, low-level workers may find it in themselves to lash out at society in the form of criminal behavior—lest they lose their humanity. It is usually people closest to those lashing out—family members, community members, other proletariat,⁶⁸ etc., rather than the real culprits, the bourgeoisie⁶⁹—who are the recipients of this acting out, criminal behavior. This lashing out, Bonger maintained, typically consists of physical assaults or theft within the assailant's community. Bonger (1916) explains what he deems to be the genesis of criminality:

So great devourers and so wild, that they eat up, and swallow down the very men themselves. They consume, destroy, and devour whole fields, houses, and cities...there noblemen and gentlemen, yea and certain abbots, holy men no doubt, not contenting themselves with the yearly revenues and

⁶⁸ In Marxist philosophy, the proletariat are those people who reside on the lower strata of society and are engaged in, typically, laborious work for the benefit of the bourgeoisie. The proletariat, in effect, sell their labor to the bourgeoisie for sustenance and survival.

⁶⁹ In Marxist philosophy, the bourgeoisie represent those people who own the means of production. The bourgeoisie are those who benefit from the labor of others (usually the proletariat worker).

profits...leave no ground for tillage, they inclose all into pastures; they throw down houses; they pluck down towns, and leave nothing standing, but only the church to be made a sheepphouse...By one means therefore or by other, either by hook or crook they must needs depart away, poor, silly, wretched souls, men, women, husbands, wives, fatherless children, widows, woeful mothers, with their young babes, and their whole household small in substance and much in number...Away they trudge, I say, out of their known and accustomed houses, finding no place to rest in...For by suffering your youth wantonly and viciously to be brought up, and to be infected, even from their tender age, by little and little with vice, then in God's name to be punished, when they commit the same faults after being come to man's state, which from their youth they were ever like to do; in this point, I pray you, what other thing do you, than make thieves and then punish them? (pp. 4-7)

In the end, Bonger argued, the bourgeoisie produce rage in a man due to their draconian treatment of him and his family. The degraded man unleashes his rage on others near himself in the form of crime, Bonger asserted, and the bourgeoisie then punish the man for his behavior. As we will soon see, Bonger's theoretical position is closely related to that of Mencius and Xunzi.

When the rulers and those who own the means of production do not provide the populace with enough of what they need to live and prosper—in the form of food, materials, time with loved ones, social support, etc.—the people, per Marxist

criminologists, will not be able to develop morally. It is this stunted and stilted moral development that, they believed, leads to deviant behavior. Those who develop criminal tendencies, due to their unfortunate circumstances, are then, as was previously covered, unfairly punished by those in power. Mencius (2004) theorized that it is as if these people are punished twice by those in power. They are initially punished with low pay, a terrible living environment, the mistreatment of their family members, and degrading working conditions. They are then punished a second time after the commission of a criminal act—an act of which is the product of their terrible development, which itself is the result of the actions of those in power. Mencius (2004), as quoted and briefly discussed earlier, explains how the powerful are setting a trap for their people when they engage with them in this manner:

Only a Gentleman can have a constant heart in spite of a lack of constant means of support. The people, on the other hand, will not have constant hearts if they are without constant means. Lacking constant hearts, they will go astray and fall into excesses, *stopping at nothing* [emphasis added]. To punish them after they have fallen foul of the law is to set a trap for the people...Hence when determining what means of support the people should have, a clear-sighted ruler ensures that these are sufficient, on the one hand, for the care of the parents, and, on the other, for the support of the wife and children, so that the people always have sufficient food in good years and escape starvation in bad; only then does he drive them towards goodness.

In good years life is always hard, while in bad years there is no way of escaping death. Thus simply to survive takes more energy than the people have. What time can they spare for learning about rites and duty. (I. A. 7, pp. 13-14)

Mencius ended the previous passage by essentially summarizing the Marxist position regarding how the proletariat, under an oppressive system, are forced to relinquish the education and instruction of their children. These laborers often lose any opportunity for personal-cultivation as well, which is an important component to possess if parents are to effectively educate and cultivate their children. When parents are uneducated, unsophisticated, and uncultured, the Confucians reasoned, their ability to provide meaningful moral guidance, instruction, or ritual based education for their children may be limited. When times are tough, as they arguably almost always were for the working laborers under an industrialized capitalistic system or an unfair and corrupt ruling system, the laborers (the parents) are often working long hours for little pay.⁷⁰ With long hours of often back-breaking labor and little pay, any self-improvement of the laborers, and, thus, the improvement and positive development of the laborer's children, may not reach

⁷⁰ Consult George Orwell's *The Road to Wigan Pier* for an excellent first-hand description of the horrific working conditions found in the industrial sections of northern England in 1936; and peruse Jack London's *The People of the Abyss* for a vivid account of the grotesque working and living conditions in the slums of London's Whitechapel District at the turn of the twentieth century.

meaningful levels. It is under these destructive circumstances, in a capitalist society for the Marxists and under corrupt and immoral leadership for the Confucians, that many proletariat and working-class people (“common people” in Confucian parlance) find themselves living and raising families today and throughout significant stretches of human history—it is also under these social and economic conditions that people may find refuge in criminality.

Mencius (2004) expanded on his theory that crime is often the result of the greed and opportunism of the powerful later in *Mencius*, writing:

How can a benevolent man in authority allow himself to set a trap for the people? Hence a good ruler is always respectful and thrifty, courteous and humble, and takes from the people no more than is prescribed. Yang Hu said, “If one’s aim is wealth one cannot be benevolent; if one’s aim is benevolence one cannot be wealthy.” (III. A. 3, p. 55)

Mencius’ position is effectively this: If the rulers aim is wealth and opportunism, the people will suffer and lack heart.⁷¹ When the people suffer and lack heart, they will engage in

⁷¹ Lao Tzu (2013) concurred with Mencius in that a greedy ruler or a greedy ruling class is detrimental to the well-being of the family and to society, writing, “The wise ruler does not accumulate riches, but seeks to quiet the hearts of his people. He soothes their appetites and strengthens their bones. He treasures innocence and simplicity, and protects the innocent from the schemes of the clever” (p. 3), adding, “The misery of the many supports

deviant behavior. If the reason that people break the law is as a response to the ruler's behavior, it is inappropriate for the ruler to punish these law breakers. Xunzi took a similar position concerning the role in which the ruling powers play in criminality—mainly in relation to the creation of robbers and thieves. Xunzi (1999) asserted that people on the lower echelons of society will refrain from thievery and robbery when provided a fair standard of living; he writes:

As a general rule, men who take to robbing have some reason for their actions. If it is not to provide against shortages, then it is to ensure that they have a surplus. But since under the sage kings everyone was prosperous, was provided a generous living, and was content from knowing full sufficiency; none tried to obtain surpluses in excess of what was needed. Thus, robbers did not steal and thieves did not break in...Therefore Confucius said: When the world possesses the Way, robbers are the first to be changed. (18.7, p. 585)

the happiness of the few. Such “happiness,” alas, only conceals misery” (p. 58). Lao Tzu (2013) went on to explain that “the Tao,” which is Taoism’s social divining rod in a sense, is a mechanism with the power to equalize society, and if the people follow the Tao’s prescriptions, then, “It takes from those who have much, and gives to those in need” (p. 77).

These ideas correlate so closely with that of the Marxists and the critical criminologists that a case can be made that Mencius and Xunzi were, to a limited extent, two of the earliest critical philosophers operating within the realm of criminological theory.

The Effects of Inequality and Corruption on the Children.

Mencius (2004) believed that a good ruler will ensure that the children under his command are cared for and supported, and in turn the children will gravitate towards moral behavior. When a selfish or unworthy ruler fails to support the nation's children, he argued, the children will grow into deviance and society will falter. Confucius ([1893] 1971) also made statements to this effect, such as, "When the sovereign treats compassionately the young and helpless, the people do the same" (The Great Learning, X. 1, p. 373). Bongger (1916) believed similarly, only he generally substituted out the ruler for those who owned the means of production (though, the ruling class and those who own the means of production are often one and the same), and ultimately blamed capitalism for creating a system wherein this result is, he argued, nearly a forgone conclusion. Like the Confucians, Bongger placed much of the genesis of deviant behavior on the makeup and structure of the family—the family, in Bongger's case, being a product of the society under which it rests. Bongger contended, again, much like the Confucians, that it is the parent's responsibility to teach their children to be moral. Parents need to invest time and energy, he argued, to properly educate their children so that they can acquire the necessary moral framework to become productive members of society. The problem is, per Bongger, that the capitalist system generates an economic environment wherein both proletariat parents are often required to work long hours for minimal pay for the family to survive. These long hours

away from home, engaged in strenuous labor with minimal compensation, ultimately produces terrible living conditions, and a terrible social environment in general, for the children. Because the parents toil long hours, Bonger maintained, they have little time to cultivate a working morality that is teachable to their children. They have little time for self-cultivation, and, thus, little in the way of substance to motivate and educate their children. Even if they can properly articulate systematic moral instruction to their children, he reasoned, their work requires so much of their time and energy that they are simply incapable of properly carrying it out.

The low wages provided for the proletariat, the Marxist theorists argued, ensure that their living conditions are of low quality. Proletariat families generally live in quarters courtiers, where sickness and disease is perpetual. This results in an environment, they argued, unsuitable for the moral and educational development of children. The Marxist theorists believed that these terrible conditions often force these hapless children out onto the street, which is equally or even more detrimental to their wellbeing when compared to life in their dilapidated and unsupervised home environments. Notable Marxist philosopher Frederick Engels (1820-1895) vividly describes the living conditions of the working classes within Scotland (conditions he believed are a product of the inequities produced by the capitalist system and an indifferent ruling class):

When one remembers under what conditions the working people live, when one thinks how crowded their dwellings are, how every nook and corner swarms with human beings, how sick and well sleep in the same room, in the same bed, the only wonder is that a contagious disease like this fever

does not spread yet further. And when one reflects how little medical assistance the sick have at command, how many are without any medical advice whatsoever, and ignorant of the most ordinary precautionary measures, the mortality seems actually small. (Engels, 1869, p. 108)

The difficulties, per both Engels and Mencius, of raising children to any decent standard are immense under these unfortunate conditions. If criminal behavior is the product of these environments, then Mencius and Xunzi generally find fault in the rulers, and Engels and Bonger generally lay blame on the bourgeoisie and the capitalists (it should be noted again that the ruling class and the bourgeoisie are often the same people). Both Engels and Mencius believed that for a ruler to punish people living in these terrible circumstances, rather than intervene and aid the unfortunate, is immoral and unjust. Xunzi believed that it is up to the rulers and those in power to ensure that people do not suffer in this way. He asserted that working-class people and those in the lower-classes are to be treated humanely and with dignity, writing:

They [the upper-classes and ruling parties] caused the people in summer not to suffer from the oppressive heat of the sun and in winter not to freeze from the coldness. They did not through haste impair the people's strength, nor through delay did they initiate projects after the proper season. By completing projects that were undertaken and firmly establishing their

accomplishments, both the upper and lower classes became prosperous.
(Xunzi, 1999, 10.15, p. 293-295)⁷²

⁷² Han Fei Zi disagreed with Mencius, Xunzi, and the Marxists regarding how the proletariat are to be treated. Showing continued contempt for the common people, Han Fei Zi believed that people are not competent enough to understand their place in society, and, thus, their complaints regarding their hardships are to be dismissed as the misguided opinions of the childlike masses. He thought that the people will complain about everything anyway, no matter how big or how small, and so it is best for the ruling parties to be harsh with them or disregard their pleas for a more equitable economic or social system. He also believed that the ruler should turn a deaf ear to the masses so that they better understand, and become resigned to, their general position within society. Han Fei Zi (2003) writes of the countenance of the common people, “Duke Huan rode in an armored carriage. All these were precautions against danger from the people. For the people, in their stupid and slovenly way, will groan at even a small expenditure and forget the great profits to be reaped from it” (p. 95). Han Fei Zi accepted and embraced the idea that there will forever be a constant struggle between the superior and the inferior. It is a game that different factions play within society, he argued, and the ruler must not allow himself to be swayed, either emotionally or politically, by this social conflict. Han Fei Zi (2003) illustrates this class struggle, “The Yellow Emperor used to say, “Superior and inferior fight a hundred battles a day.” The subordinates hide their private desires and see what they can get from the ruler; the ruler employs his standards and measures to weigh what they are up to” (p.40). It is imperative that these standards and measures are instituted by the ruler, Han Fei Zi

Per Engels, the proletariat father, because of his exploitation by the bourgeoisie, is often incapable of earning enough money to sustain a family, thus, the mother, under these conditions, is also forced into this harsh labor market to help support the family. Due to these circumstances, the conditions within the family deteriorate exponentially, as it is the mother, per the Marxist theorists, whom nature has endowed with the greatest capacity to display the love and affection that is necessary for the development of the children. It is the mother who is, again from the Marxist perspective, the natural educator and nurturer. The mother is the last line of defense that separates the children from the streets—the last barrier that separates a person from deviance and criminality. Engels (1892) writes of the destruction of the family and the other negative effects experienced by the children due to the mother’s absence:

The employment of the wife (in the factory) dissolves the family utterly and of necessity, and this dissolution, in our present society, which is based upon

maintained, to track and judge the behavior of the people. Yet, the ruler is not to be personally involved in this social struggle (or social battle), instead, he is to recede into the darkness, essentially becoming invisible to the people. Han Fei Zi believed that the ruler should leave the people alone to conduct their own business and fight their own personal battles, interrupting them only to execute harsh punishment whenever necessary. Han Fei Zi (2003) explains the self-imposed isolation expected of the ruler, “He [the ruler] changes nothing, alters nothing, but acts with the two handles of reward and punishment” (p. 35).

the family, brings the most demoralizing consequences, both for parents and for the children. A mother who has no time to trouble herself about her child, to perform the most ordinary loving services for it during the first year, who scarcely indeed sees it, can be no real mother to the child, must inevitably grow indifferent to it, and treat it unlovingly, like a stranger. The children who grow up under such conditions are entirely ruined for later family life, can never feel at home in the family which they themselves found, because they have always been accustomed to isolation, and they contribute therefore to the already general undermining of the family in the working class. (p. 144)

It is also the case, per Bonger, that the children of many of the proletariats, due to the low wages their parents are paid or because their parents often die as a result of their terrible working conditions, lack of health care, crowded living conditions that promote the spread of disease, etc., are forced into labor as well. When children are forced to work, Bonger asserted, it stunts their educational, social, and moral development. Due to the limited abilities of the children, they are only assigned the most rudimentary and monotonous tasks in their labor, and so they effectively become robotic in their daily actions, which greatly limits and stunts their personal development. Children are also exploited by their employers and workmates, Bonger argued, and within their work are forced to interact with other morally delinquent youth and unappealing adult role models (adult role models who are themselves often the product of the same system). It is in this environment that children are easily corrupted, he reasoned, with little chance for personal

redemption or opportunities later in life. The bourgeoisie, per Marxist theory, are little concerned with the existence of these unfortunates. This situation often provides a great benefit for the bourgeoisie, in that the wages paid to children are less than those paid to adults, raising the profit margin for the bourgeoisie even higher. The bourgeoisie simply care about making as much profit as possible, the Marxists maintained, with little regard for the lives that contribute to their wealth. This creates an environment for children, they argued, that is conducive to social and personal degradation, impulsivity, moral deficiencies, and, ultimately, crime. Bonger (1916) describes the consequences of indifferent, opportunistic, and selfish leadership as it corresponds to working children:

The work of children brings them into contact with persons to associate with whom is fatal to their morals. Long working hours and monotonous labor brutalize those who are forced into them; bad housing conditions contribute also to debase the moral sense, as do the uncertainty of existence, and finally absolute poverty, the frequent consequence of sickness and unemployment.
(p. 667)

Those proletariat children who are not forced to work, Bonger explained, are often pushed out into the street to spend their days. It is in the street, often a cesspool of crime and debauchery, in which many children receive their moral education. Bonger (1916) conveys the dearth of educational opportunities afforded to these part-time street children:

Here we meet first, insufficiency of the pecuniary means which education requires; second, bad housing conditions, which oblige the children to pass a great part of the day in the street; third, the total absence of pedagogical ideas; fourth, the absence during the greater part of the day of the father of the family, and in many cases even of the mother. (p. 487)

All this negative treatment, Engels theorized, culminates in a burning hatred for the bourgeoisie and the ruling parties. It is those who own the means of production who provoke in the common worker an animalistic rage. This rage, Engels maintained, is often unleashed in the form of criminality. This criminal behavior is usually directed toward those whom the proletariat have opportunity to affect, other common workers and laborers within their vicinity.

It is the position of the Confucians and many critical criminologists that the blame for much of the criminality that occurs in society falls squarely on the doorstep of the leadership and those in power. It is their indifference and neglect that pushes the common laborer over the edge. The laborer simply has no other recourse but to engage in their own personal rebellion in the form of criminality and deviance, lest they lose their sense of self; Engels (1869) explains:

The workers are cast out and ignored by the class in power, morally as well as physically and mentally. The only provision made for them is the law, which fastens upon them when they become obnoxious to the bourgeoisie. Like the dullest of the brutes, they are treated to but one form of education,

the whip, in the shape of force, not convincing but intimidating. There is therefore no cause for surprise if the workers, treated as brutes, actually become such; or if they can maintain their consciousness of manhood only by cherishing the most glowing hatred, the most unbroken inward rebellion against the bourgeoisie in power. They are men so long only as they burn with wrath against the reigning class. (p. 118)

Xunzi's (2003) words closely mirror those of Engels regarding the seething hatred that is built up within the common workers when they are oppressed by the ruling classes:

If the rulers and superiors do not treat the common people in accordance with ritual principles, loyalty, and good faith, but rely solely upon rewards, punishments, force, and deception, oppressing them and trying merely to squeeze some kind of service and achievement out of them...the bonds that should hold them will melt, and inferiors will turn upon and seize control of their superiors. (pp. 76-77)

Particularly insightful is the connection made between Engels and Mencius in relation to the use of punishments or force to control the people/workers. Engels writes that the bourgeoisie act not to "convince" the workers through good will and moral conduct, but instead use punishments as means of "intimidation." This nearly mirrors one of the main tenets of Confucianism, in that people behave morally when they are convinced to engage in moral behavior through compelling ritual practices exhibited and promoted by

the ruler, and when they learn moral behavior from the actions of a benevolent and moral ruler. People, per the Confucians, do not act morally and internalize moral principles solely through the intimidation based application of punishments and rewards.

Empirical research seems to support the assertions made by both the Confucians and the Marxist criminologists that social inequality and unfairness produces hatred, rage, and deviance. Emblematic of this behavioral response to inequality is work conducted with capuchin monkeys and their rejection of unequal payment. Brosnan and de Waal (2003) studied the emotional and behavioral reactions of capuchin monkeys who are provided with unequal rewards for equal work. Brosnan and de Waal placed two capuchin monkeys who were familiar with each other (they otherwise lived together in a group) side by side in separate transparent plastic cages. The capuchin monkeys were taught a simple task in which they exchanged coins for rocks with the experimenter for the reward of a piece of cucumber. It was when one monkey began to receive the more delicious grapes as her reward, rather than her previous reward of cucumbers, that the other monkey (the monkey still receiving only cucumbers), who was completing the same task as the monkey now receiving the grapes, began to reject their system of work and reward. The monkey still receiving the cucumber for her work refused to eat the cucumber. Instead, she elected to throw the cucumber at the experimenter, shake her cage in violent rage, throw the coins and the rocks, and in general engage in adversarial and confrontational behavior with the experimenter. Brosnan and de Waal (2003) believe that this rejection of inequitable circumstances is likely a “human universal,” writing, “Although there exists substantial cultural variation in its particulars, this ‘sense of fairness’ is probably a human universal that has been shown to prevail in a wide variety of circumstances” (p. 297). Similar

responses have been found in other nonhuman species. Chimpanzees respond to inequality with emotional outbursts, and members of the canine family (dogs, wolves, etc.) regulate the rough play of their young so that penalties and punishments will ensue if social boundaries are crossed and inequality presents itself (Brosnan, 2006). This visceral, deep seated anger, often followed by displays of physical aggression, is a common response to inequality in many species, and it appears to be a universal human behavior.

The result of this philosophical juxtaposition is a recognition that Confucian and Marxist criminological theory complement each other in fundamental ways. Both philosophical schools recognized the potential negative consequences inherent in an unequal society or in a society in which the elites are indifferent to or complicit in the suffering of the masses. This is particularly the case, they argued, in unequal societies in which the elites fail to properly govern, revel in greed, and demean sectors of the population with terrible working and living conditions. It is the conduct of those in power, the Confucians and the Marxists argued, that strikes directly to the root of society, the family, and most importantly, the children. The Confucians contended that the moral teachings passed down from the parents to the children represent the foundation of society. This educational process is often time consuming and rigorous; it likely requires patience, love, and affection from, it could be argued, at least moderately cultured, educated, and morally sound parents. Without this educational experience, the Confucians and the Marxists asserted, children will likely falter and slide into criminal behavior. The Confucians and Marxists ultimately believed that if the elites and those in power do not provide for the parents a quality environment in which to engage their children, and the

time and opportunity to do so, the social fabric will begin to tear, criminals will be created, and disharmony will spread.

The Confucian tradition and Han Fei Zi once again find disagreement in their interpretation of the role of government in relation to social and economic theory. The Confucians generally took a more socialistic position, in that people are naturally good (Xunzi obviously did not concur with this particular portion of the theory) and capable of thriving given the opportunity, and, thus, the ruler should work to lift the people out of poverty by ensuring that the people are educated and treated with compassion. In other words, the Confucians generally thought that most people, given the opportunity and the right circumstances, will thrive and engage society in a harmonious way. Han Fei Zi, on the other hand, took a more libertarian stance, believing that differences among people, typically predicated on internal discipline and contentiousness, propelled them into different stations in life. Han Fei Zi contended that people usually end up in their position within society based upon their will to succeed, and that the lazy must not be rewarded for their laziness at the expense of the industrious. If people are poor, he thought, there is a legitimate reason for that, and so shall they remain. The plight of the poor laborer was of no concern to Han Fei Zi. He generally assumed that the gifted or those that worked the hardest will rise to the top, while the less gifted, the lazy, or those who spent money frivolously will struggle and be marred in poverty, and that this is the unchangeable nature of the social system. Barring some major unforeseen personal or environmental catastrophe, he maintained, no governmental intervention on behalf of the poor is warranted. Han Fei Zi (2003) writes of the ruler's role in shaping the social system to provide relief for the lower-classes:

When the scholars of today discuss good government, many of them say, “Give land to the poor and destitute so that those who have no means of livelihood may be provided for.” Now if men start out with equal opportunities and yet there are a few who, without the help of unusually good harvests or outside income, are able to keep themselves well supplied, it must be due either to hard work or frugal living. If men start out with equal opportunities and yet there are few who, without having suffered from some calamity like famine or sickness, still sink into poverty and destitution, it must be due either to laziness or to extravagant living. The lazy and extravagant grow poor; the diligent and frugal get rich. Now if the ruler levies money from the rich in order to give alms to the poor, he is robbing the diligent and frugal and indulging the lazy and extravagant. If he expects by such means to induce the people to work industriously and spend with caution, he will be disappointed. (p. 122)

Education

Education, Self-Cultivation, and Deviance

“A person who is constantly aware of what has yet to be learned and who, from month to month, does not forget what has been learned, can be said to truly love learning.”

Confucius (as quoted in Bell, 2008, p. 152)

“The gentleman [the superior man] says: “Learning must never be concluded.””

Xunzi (1999, 1.1, p. 3)

There is a great emphasis placed on education and self-cultivation within the Confucian tradition. Personal improvement through knowledge and education, the Confucians contended, enhances the unity and quality of the family, and, in the long-run, produces greater social harmony. The Confucians also believed in self-cultivation as means to create a moral, fair, and level mind.

The Confucians considered self-cultivation and education the key to a healthy and well-adjusted family. If the family is not functioning in a healthy way, they reasoned, it is often due to the father lacking in self-cultivation and education. As previously discussed, Confucius illustrates this notion in the following way:

Wishing to regulate their families, they first cultivated their persons.
Wishing to cultivate their persons, they first rectified their hearts. Wishing to rectify their hearts, they first sought to be sincere in their thoughts.
Wishing to be sincere in their thoughts, they first extended to the utmost their knowledge. Such extension of knowledge lay in the investigation of things. (Legge, 1893, *The Great Learning. Text of Confucius*, IV, pp. 357-358)

If the family is not operating effectively (perhaps due to a father lacking personal cultivation), the Confucians argued, the children will likely not possess the capacity to reach their potential in moral understanding, education, and study, thus, rendering them

prone to deviance and criminality. Yet, if the parents, particularly the father (as it was the male who was formally educated during the writing of the pre-Qin texts), has cultivated himself intellectually and morally, the Confucians theorized, he will then have the ability and wherewithal to properly regulate his children, transmit moral lessons, educate on matters corresponding to ritual, and effectively raise his children in a scholastic environment. Producing well-developed and moral children was thought to bring unity and harmony to the family. In the end, the Confucians believed that a family that is united, harmonious, and thriving, due to its attention to education and personal improvement, brought stability and harmony to the community, the state, and the empire.

Confucius (2008) theorized that a lack of learning, particularly a lack of a *love* of learning, will produce violent and damaging behavior, and Xunzi viewed those who fail to engage in learning to be on par with wild beasts; Xunzi (1999), as quoted previously, writes, “Those who undertake learning become men; those who neglect it become as wild beasts” (1.8, p. 13). In other words, learning can work to control the mind, reduce impulsive behavior, and tame our animalistic nature. Remember that Gottfredson and Hirschi (1990) first proposed that an appropriate punishment in response to child misconduct is essential in impulse control, and, thus, crime reduction. What is punishment within the self-control theoretical context but a form of base level education taking place in a person’s younger years of life. So, it is in this respect that Gottfredson and Hirschi and Confucius find a great deal of common ground. Thus, it could be argued that the educational component of punishment advocated by Gottfredson and Hirschi and education and learning in general advocated by Confucius both conspire, using similar strategies and processes, to reduce impulsivity and control behavior.

For Mencius, learning limits our selfish desires and magnifies our naturally good and moral behavior. Overemotional thoughts and an overabundance of behavior centered on the self, Mencius argued, destabilizes our inner equilibrium, which diminishes moral and virtuous behavior. To remedy this or avoid it altogether, he argued, people can turn to self-cultivation through learning and education. Mencius (2004) was also cognizant of the ability for the human mind to deceive itself, to become complacent, and to stray. He believed that to prevent this deception, complacency, and instability from occurring, people must be vigilant in the upkeep of their intellect.

Many criminologists throughout the history of criminology have advanced or supported the idea that a lack of a proper education or dropping out of school is a precursor to criminal behavior. Cohen's (1955) subculture theory is an early representation of the importance of education within the realm of criminality. Cohen theorized that boys low on the socioeconomic strata are forced to compete with middle-class boys for social status. Within this competition, he argued, the middle-class boys have distinct advantages over the lower-class boys educationally and socially. These advantages stem from the notion that the struggle between the two groups takes place using middle-class standards of behavior, in a middle-class educational arena, using what Cohen termed the "middle-class measuring rod." Lower-class boys also grow up in families, Cohen theorized, that do not put much emphasis on education, do not instill within them the importance of middle-class goals, and do not provide much in the way of developmental guidance. It is an existence within this challenging family and social system, he reasoned, that is the precursor to a reduction in the lower-class boy's educational attainment and general competence. Bad grades, violent outbursts (due to improper parenting, low education, and frustration with

the system), and an antagonistic relationship with teachers plague lower-class boys. Cohen reasoned that these unfortunate circumstances likely result in a nearly insurmountable educational disadvantage for lower-class boys. It is from this disadvantage, Cohen asserted, that lower-class boys are effectively unable to compete with middle-class boys for social status, rendering their plight within society all the more clear and seemingly permanent. Recognizing that they will never be in a position where they can garner the necessary level of achievement within education that is needed to properly compete and succeed within society (not to mention achieve the American dream), Cohen theorized, the lower-class boys turn to a delinquent subculture (gangs) to achieve social status. It is in this delinquent subculture, Cohen argued, that lower-class youth can find status, and it also provides an avenue to lash-out at a middle-class system in which, because of their upbringing and lack of education, they are unable to successfully compete within or join. To achieve status within these delinquent subcultures the lower-class boys engage in behaviors that are antithetical to middle-class culture—they need to reject the rejecters with their deviance, so to speak, to climb this antisocial hierarchy—and in this, criminality is realized. This unfortunate result, Cohen theorized, is predominantly a response to the lower-class boy's inability to successfully compete with middle-class boys in the education sector.

Notable criminologists Cloward and Ohlin (1960) also placed a great emphasis on the impact that educational failures have on criminality. Cloward and Ohlin began their theory with the premise that Western societies generally promote and reward wealth acquisition, considering it the main measure of success. They argued that Western societies have devised a formal, legitimate way for people to attain wealth, and that way is through the formal education system. The education system in the West, they argued, revolves

around competition amongst students for intellectual and scholastic achievement, and within this competitive system there are those who are unable to achieve. Thus, it is those who lack the intellect, are unmotivated, or simply fail to study who are rejected or sidelined from this formal system of wealth acquisition, with few remaining options for which to turn. Those who are unsuccessful in this scholastic competition, they theorized, often seek illegitimate means to acquire wealth. If a society places wealth as a central indicator of personal worth and social status, and through academic competition there are those who are unable to legitimately acquire wealth, it may be reasonable to assume, as Cloward and Ohlin argued, that many will turn to illegitimate means to acquire wealth.

Phillips and Kelly (1979), by analyzing cross-sectional and longitudinal studies, provide evidence that not only does educational failure lead to criminality, but that the directionality is indeed that of scholastic failure leading to misconduct, and not misconduct leading to scholastic failure. Lochner and Moretti (2004) examined data from the FBI's uniform crime report (UCR) as well as census data as it pertains to incarceration, and found that "schooling significantly reduces criminal activity" (p. 183). Their results remained consistent even when controlling for outside variables such as family background and individual differences.

Just as the Confucians theorized, those who are not indoctrinated with the importance of education and study, and fail to self-cultivate through a lack of learning and academic engagement, may have a greater propensity for deviance and criminality. Yet, it's not only the individual or his or her family that may suffer from a failure to pursue an education or participate in self-cultivation. The Confucians theorized that the family is the root of social harmony, and when children are uneducated or morally underdeveloped,

because of a lack of particular kinds of education, the social system breaks down and disorder ensues; or in the words of Lochner and Moretti (2004), “There are benefits to education not taken into account by individuals themselves, so the *social return* [emphasis added] to schooling is larger than the private return” (p. 183).

Education versus Materialism.

“Nature hath made men so equall, in the faculties of body, and mind; as that though there bee found one man sometimes manifestly stronger in body, or of quicker mind then another; yet when all is reckoned together, the difference between man, and man, is not so considerable, as that one man can thereupon claim himselfe any benefit, to which another may not pretend, as well as he. For as to the strength of body, the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others, that are in the same danger with himselfe...From this equality of ability, ariseth equality of hope in the attaining of our Ends. And therefore if any two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies; and in the way to their End, endeavor to destroy, or subdue one an other.”

Thomas Hobbes (1651, Chap. 13, pt. 1, 2)

The Confucians generally believed that people are to direct their focus on self-cultivation and learning rather than place a great emphasis on the acquisition of material possessions. Chen (2003) explains the extent to which the Confucians emphasized material attainment, “Confucianism privileges self-restraint, the inner life, the incubation of virtues, and the subordination of natural desires and selfish material interests to higher moral

demands” (p. 261). If one places a lot of energy on acquiring material possessions, the Confucians argued, one’s mind will become corrupted with selfish desires; Confucius (2003) illustrates this point [the next three short quotes were exhibited earlier in this dissertation, but it’s valuable to reanimate them again for purposes of explanation], “The gentleman understands rightness, whereas the petty person understands profit” (4.16, p. 35). Xunzi (1999) follows in a similar vein, writing, “Absorbed in the examination of his inner self, he will scorn mere external things” (2.5, p. 33); “Those who have no education, lack rectitude and moral principles, and consider wealth and material gain as exalted are vulgar common people” (8.18, p. 193); and, “Dealing in transactions of profit, quarreling over goods and valuables, having no concern for polite refusals or for yielding precedence...greedily aware only of profit—such is the bravery of peddlers and robbers” (4.5, p. 75). These selfish desires were thought to be a detriment to the psychological health of the individual (Confucius called those who suffer from this affliction the “small man” or the “petty person”), transforming them into vulgar, undisciplined, uncontrolled, and greedy people. It is from this unhealthy and corrupt psychological state, the Confucians argued, that deviance and criminality may arise. Mencius (2004), in this case advising a prince on what will befall him if his people pursue profit over morality, often wrote of the importance of cultivating the mind over seeking material possessions:⁷³

⁷³ It is worth noting that Mencius did not reject the acquisition of material assets in general. He understood the importance of acquiring material possessions if one is to live a secure and reasonably comfortable life. It is the excessive drive or obsession with material possessions that he believed will lead people to calamity.

If a subject, in serving his prince, cherished the profit motive, and a son, in serving his father, and a younger brother, in serving his elder brother, did likewise, then it would mean that in their mutual relations, prince and subject, father and son, elder brother and younger brother, all cherished the profit motive to the total exclusion of morality. The prince of such a state is sure to perish. (VI. B. 4, p. 136)

From these examples, we can get a sense of the chaos and failings that the Confucians believed are likely to result from an overemphasis on external things and selfish motives founded on profit.

Xunzi asserted that violence and conflict arises from the natural human inclination for the selfish acquisition of resources. It is this unhealthy drive for resources, this single-minded quest for materials, that he believed produces poisonous competition and conflict among people, ultimately resulting in criminality. Xunzi (2003), as noted earlier, writes of the genesis of envy, violence, and crime:

Man's nature is evil; goodness is the result of conscious activity. The nature of man is such that he is born with a fondness for profit. If he indulges this fondness, it will lead him into wrangling and strife, and all sense of courtesy and humility will disappear. He is born with feelings of envy and hate, and if he indulges these, they will lead him into violence and crime, and all sense of loyalty and good faith will disappear. (s. 23, p. 161)

In other words, if one's main motivation is the acquisition of material possessions, this passion may consume him, creating jealousy, resentment, and, finally, criminal behavior. Criminologists later theorized that this is often the case in cities where large inequalities exist. The 19th century French statistician Adolphe Quetelet (1796-1874) proposed the idea that it is those cities where there is a sharp, obvious, and sudden difference between wealth and poverty that will experience the highest crime rates. People, particularly those in poverty, may develop jealousies and passions for material acquisition under these inequitable circumstances. This strong jealousy was theorized by Quetelet to be the product of a constant recognition of what one does not have in relation to others. Consider the man who languishes in poverty and yet is repeatedly subjected to examples of the extravagancies and decadence that surrounds him in these large cities, with no prospect for acquiring any for himself. It is certainly the case that for him to restrain certain forms of jealousy and envy requires a Herculean effort on-par with the self-restraint of Lao Tzu himself. The perceived unjust nature of their reality, and the need to acquire social status through the acquisition of material possessions, may consume people under these circumstances (for more on "justice sentiments" and distributive justice see theory proposed by Jasso (1980)). These passions, combined with the temptations and open targets people often encounter every day as they live in and around wealthy areas in large cities,

may result in the commission of significantly higher percentages of crime (Cohen & Felson, 1979; Quetelet, 1842).⁷⁴

Correspondingly, Quetelet (1842) found that it is in the poorest areas, devoid of any nearby wealth, and in many rural areas, where inequality is not an issue since everyone is essentially poor, that the least amount of criminality is exhibited. Quetelet (1842) describes his findings thusly:

As to the greater number of crimes against property to be observed as we advance towards the north, I think we may attribute it, in great measure, to the inequality between riches and wants. The great cities, and the capitals especially, present an unfavorable subject, because they possess more

⁷⁴ Cohen & Felson (1979) describe how the rise in the number and kind of portable material goods that exist within modern society has likely generated a social atmosphere where low risk and high reward illegal behavior often outweighs the costs associated with apprehension and punishment, thus, potentially raising crime rates:

Substantial increases in the opportunity to carry out predatory violations may have undermined society's mechanisms for social control. For example, it may be difficult for institutions seeking to increase the certainty, celerity and severity of punishment to compete with structural changes resulting in vast increases in the certainty, celerity and value of rewards to be gained from illegal predatory acts. (p. 605)

allurements to passions of every kind...It is remarkable that several of the poorest departments of France and at the same time the least educated, such as Creuse, Indre, Cher, Haute-Vienne, Allier, etc., are at the same time the most moral, whilst the contrary is the case in most of the departments which have the greatest wealth and instruction. (p. 89)

Quetelet's contemporary within the school of moral statistics, Andre-Michel Guerry (1802-1866), concurred, adding additional evidence to the notion that internal drives and passions for material gain may become unregulated in highly inequitable environments. Guerry ([1833] 2002) showed, using cartographic images in his groundbreaking work *An Essay on Moral Statistics*, a similar phenomenon regarding a disturbed passion for materialism under inequitable conditions, writing:

The poorest departments are those with the fewest crimes against property...the departments where there is the least wealth are nonetheless not those where there are the most indignant persons, and that the departments where the most considerable fortunes are found are precisely those where poverty is at the same time most extreme for a certain part of the population. (p. 84)

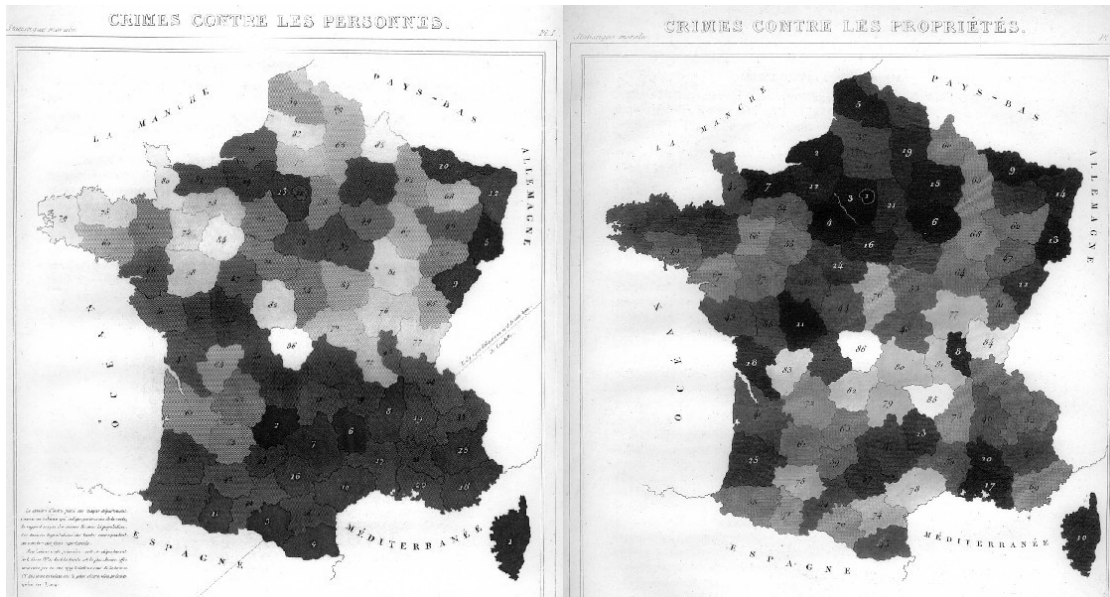


Figure 7. Guerry's cartographic representation of crimes against people (left photo) and property crime (right photo) in France.

The notion that significant economic inequalities may produce greater levels of violent crime has been cautiously supported by several modern empirical studies (Blau & Blau, 1982; Harer & Steffensmeier, 1992; Hipp, 2007; Kelly, 2000). There is little evidence supporting the theory that economic inequality raises the likelihood for property crime (though, Hooghe, Vanhoutte, and Bircan (2011) do provide evidence connecting economic inequality and property crime). Kelly's (2000) analysis of Uniform Crime Report (UCR) data found a strong relationship between violent crime and income inequality, but no relationship between property crime and income inequality. Kelly (2000) writes of the influence that inequality has on violent crime:

It [the results] showed that for violent crime the impact of inequality is large, even after controlling for the effects of poverty, race, and family composition. Although most crimes are committed by the most

disadvantaged members of society, these individuals face greater pressure and incentives to commit crime in areas of high inequality. (p. 537)

Conversely, and somewhat perplexingly, Hooghe, Vanhoutte, and Bircan's (2011) study of crime and inequality in Belgian municipalities concluded that there is no correlation between economic inequality and violent crime (which is contrary to much established thinking on this issue), but that economic inequality and property crime are significantly correlated. Returning to work advocating a connection between violent crime and inequality, when examining general income inequality and the more specific within race income inequality and its criminogenic effects in 19 major U.S. cities, Hipp (2007) found that, "Both overall inequality and within racial/ethnic group income inequality were positively associated with violent crime types" (p. 690). Harer and Steffensmeier (1992) found the same positive criminogenic effects pertaining to overall economic inequality among whites (White-to-White economic inequality), but did not find similar significant results for African Americans. The seminal work of Blau and Blau (1982) argues that both within race and between race economic inequality, among both Whites and African Americans, increases violent crime (results which run counter to the Harer and Steffensmeier's (1992) findings concerning African American within race inequality). Blau and Blau (1982) explain this across the board violence and inequality relationship:

Socioeconomic inequalities, between races and within them, are positively related to high rates of violent crime in SMSAs [125 of the largest metropolitan areas], and when they are controlled, poverty is not related to

these rates. Thus, aggressive acts of violence seem to result not so much from lack of advantages as from being taken advantage of, not from absolute but from relative deprivation. (p. 126)

To reiterate, modern empirical evidence seems to support the notion that economic inequality significantly raises the likelihood for violent crime, but it generally does not seem to have the same effect on property crime.

The school of moral statistics and modern empirical evidence adds strength and complementary support to the Confucian theory that an overemphasis on the acquisition of material goods may corrupt the soul and lead people to deviant behavior. Confucius' concern with humanistic and intellectual aims at the expense of the acquisition of material possessions is evident throughout *The Analects*. One of his most telling passages that speaks to this involves an incident known as "the burning of stables" and Confucius' unorthodox response to these events: "One day the stables burned. When the Master returned from court, he asked, "Was anyone hurt?" He did not ask about the horses" (Confucius, 2003, 10.17, p. 106). Confucius' comment was surprising and instructive for his time period, as the horses in question were extremely costly and valuable, while their human minders were considered expendable and unworthy of notice by the general public. Thus, one may have expected him to focus his attention on the property, rather than the people involved (Confucius, 2003). Xunzi believed that the natural inclination for human beings is one of selfishness and a quest for material acquisition, but that through the restraining qualities of a hierarchal social system, an emphasis on the inner-self, education, and ritual people can diminish these natural predilections (for more on Xunzi's position on

selfishness and hierarchal norms refer to Yan 2011, p. 34). Xunzi (2003) explains how education and ritual can distance people from their inherently materialistic, envious, and conflict prone constitution:

Any man who follows his nature and indulges his emotions will inevitably become involved in wrangling and strife, will violate the forms and rules of society, and will end as a criminal. Therefore, man must first be transformed by the instructions of a teacher and guided by ritual principles, and only then will he be able to observe the dictates of courtesy and humility, obey the forms and rules of society, and achieve order. (pp. 161-162)

Therefore, the general Confucian prescription of educating children on the importance of study, self-cultivation, and self-improvement—essentially a life dedicated to the mind—rather than placing great emphasis on the acquisition of material goods, may be a productive method of crime prevention.

Education and self-cultivation can potentially be an effective method of crime prevention because it may aid in the alleviation of possible jealousies and resentments that might occur because of the great inequalities found in larger cities. In other words, this cultivation of the mind over the acquisition of material possessions might act as a buffer that insulates people from this unhealthy covetousness and jealousy. As those who reside on the lower levels of the socioeconomic ladder engage in higher minded intellectual concerns, other worries may recede into the background. As was previously discussed, this may be because, “Being filled with moral virtue, one does not envy other people’s

enjoyment of fine food and, enjoying a fine and extensive reputation, one does not envy other people's fineries" (Mencius, 2004, VI. A. 17., p. 132), and, as Mencius (2004) later concluded, because:

There is nothing better for the nurturing of the heart than to reduce the number of one's desires. When a man has but few desires, even if there is anything he fails to retain in himself, it cannot be much; but when he has a great many desires, then even if there is anything he manages to retain in himself, it cannot be much. (VII. B. 35, p. 165)

In addition, a dedication to the life of the mind and to education may also provide the poor with legal opportunities for success, as it may awaken innovation and provide added value to their viability within the job market.

Lao Tzu was in general agreement with the Confucians on this point. In one of the most beautiful and insightful passages of the *Tao Te Ching*, Lao Tzu (2013) wrote of the negative consequences of an unhealthy drive for the acquisition of material goods, "Not to desire material things is to know the freedom of spirituality; and to desire them is to suffer the limitations of matter" (p. 1), he then continued with the more concise and criminological observation that, "Overvaluing riches encourages thievery. Ignore the things which incite greed, and the people's hearts will be at rest" (p.3). Yet, philosophical positions between the Confucians and the Lao Tzu differ substantially wherein the appropriate alternative for wealth acquisition and materialistic drives is concerned, particularly when it comes to education and self-improvement. Where the Confucians

prized self-improvement and rigorous education, Lao Tzu generally opposed it, opting for people to follow “the Way” instead. Lao Tzu found that life is best lived in an almost childlike trance as one follows “the Tao” (“the Way”), rather than engage oneself in what he considered to be the counterproductive, disorienting, and often painful business of pushing back against “the Tao” by involving oneself in disquieting scholarly endeavors. Lao Tzu (2013) rejected the academic pursuits that the Confucians held in such high regard, writing:

There is a vast difference between book learning and true knowledge of the Tao!...Common people have plenty; scholars are never satisfied. Common people are vibrant with common sense; scholars seem dull and confused. Common people are useful; scholars are useless...Oh how I long to be as a child, suckling milk from mother Tao! (p. 20)

When Lao Tzu’s philosophical position regarding education is compared to that of Xunzi the difference is quite stark. Xunzi (2003), in a prime example of the Confucian traditions general position on education and self-improvement, writes of the importance of study and living a life of the mind:

If the man in the street applies himself to training and study, concentrates his mind, and will, and considers and examines things carefully, continuing his efforts over a long period of time and accumulating good acts without

stop, then he can achieve a godlike understanding and form a triad with Heaven and earth. (p. 171)

China's rising economic inequality has not been matched with corresponding rising crime rates. This is a somewhat perplexing issue for criminologists like Martin Daly who study the effects of economic inequality on crime rates (for Martin Daly's comprehensive work concerning crime and economic inequality consult Daly (2016)). Daly has attempted to explain this phenomenon by referring to a time-lag or delayed onset of criminality and/or a more liberal use of capital punishment in murder cases that reduce the pool of repeat offenders, thus, potentially lowering crime rates, but both of his explanations appear unsatisfactory. There is no indication that crime or violent crime in China is going to rise because of economic inequality. Just as the crime rates in Japan and South Korea are relatively low, China's crime rates, I believe, will likely not vary much from this general trend—regardless of economic conditions. A culture founded on Confucian philosophy provides a compelling explanation for this phenomenon.

Rehabilitation

Human nature is inherently good, per the Confucians (in general terms; Xunzi excluded), and through learning, self-cultivation, self-reflection, contemplation, and ritual criminals can rehabilitate and rectify themselves so that they are returned to their natural state. Rehabilitation is central to Confucian theories regarding punishment and societal responses to criminal behavior. Confucius believed that if one committed a crime they are to be rehabilitated rather than punished in the general sense of the word. One can make the

argument that rehabilitation is a form of punishment, as it is still one entity exhibiting forceful maneuvers or change on another entity, but from the Confucian perspective rehabilitation is an opportunity for self-improvement. Confucius (2008), as quoted previously, said this of the importance of self-correction and rehabilitation, “If one commits an error and does not reform, this is what is meant by an error” (15.30, p. 63). He is credited with making a similar statement in the *Exoteric Commentary*, stating, “If you make a mistake but then change your ways, it is like never having made a mistake at all” (Confucius, 2003, p. 186). Confucius not only believed that one has the power to correct one’s mistakes through rehabilitation, but he also believed that to shirk these rehabilitative efforts is so egregious that it itself is the real mistake. Rehabilitation, the Confucians asserted, mainly occurs through learning to be moral. Per the Confucians, learning to be moral, and, thus, rehabilitation, can take place in two ways: The first way rehabilitation can occur is through rigorous education, study, personal cultivation, self-improvement, self-reflection, contemplation, and a focus on ritual. The second method of rehabilitation is through the emulation and imitation of an enlightened ruler or superior men.

The first way in which rehabilitation takes place, per the Confucians, is through education and self-improvement. Confucius ([1893] 1971), as was previously referenced, describes how learning influences the generation of morality, “It is not easy to find a man who has learned for three years without coming to be good” (VIII. XII, p. 212). For the Confucians, educating oneself is fundamental to existence—it is the path to success, the genesis of social harmony, and the direct route to becoming a fully enlightened and moral human being. They believed that we should always be working to improve our minds and moral aptitude through reading, studying, listening to knowledgeable others, engaging in

contemplation, and participating in other forms of self-cultivation and education; and their ideas in relation to personal rehabilitation are no different. If one strays from the path of virtue, one must work diligently through laborious study to cultivate a greater personal morality; it's valuable to requote Xunzi (1999) here for purposes of clarity:

Though born-base were I to wish to be noble, or though stupid were I to be wise, or though poor were I to wish to be rich—would this be possible?

I say: It can be done only through learning...A short time ago I might have been like a bound convict, yet suddenly I might control all the important resources of the world—Is not this a case of being rich though originally poor?...The man [who has pursued learning] is as self-sufficient as a wealthy man—Is not this a case of being rich though originally poor?
(8.7, pp. 176-177)

Similarly, Confucius believed that rehabilitation is possible even if one is born at a deficit. Being born at a disadvantage (perhaps a greater predilection for impulsivity or risk-taking behaviors that lead to criminality), Confucius argued, does not preclude someone from rising out of his/her unfortunate circumstances (whatever they may be) and bettering or rehabilitating themselves. One might simply have to work harder or study more in one's rehabilitation or moral cultivation efforts than others. In other words, if one is born at a disadvantage, say with an innate tendency to be unruly and impulsive, he/she has the capacity to rehabilitate and correct him/herself through rigorous study and education. So, within the Confucian theoretical paradigm, whether one's deviant behavior is acquired

through birth, through moral corruption during the life-course, or through misfortune within the life-course, rehabilitation through study and education is not only possible and effective, but it is considered by the Confucians to be the default response to the exhibition of criminality. Confucius (1966) explains the rehabilitative power of education for those born or living with some kind of cognitive disadvantage:

Some are born with the knowledge of those duties; some know them by study; and some acquire the knowledge after a painful feeling of their ignorance. But the knowledge being possessed, it comes to the same thing. Some practice them with natural ease; some from a desire for their advantages; and some by strenuous effort. But the achievement being made, it comes to the same thing. (p. 386)

Confucius acknowledged that he himself did not fall into the first category (a natural predisposition to this knowledge of duties or this understanding in general), but, instead, achieved his knowledge and understanding through rigorous personal cultivation and study.

A sizable amount of current criminological research concurs, for the most part, with the Confucian position that education is an effective method of moral rehabilitation. The interest within this area amongst criminologists often involves the impact of prison education programs on offender recidivism and employment. It is within this context that education will be examined here regarding its rehabilitative powers. It appears that education has the potential to change and rehabilitate behavior to a certain extent. In Nally,

Lockwood, Knutson, and Ho's (2012) study of the influence of inmate education on recidivism and post-release employment, 1,077 inmates were placed in a treatment group in which they received an assortment of educational programs, and 1,078 inmates acted as a control group and received no educational programs. The authors found strong and compelling evidence that correctional education significantly reduces post-release recidivism among inmates; Nally et al. (2012) write:

An offender who has not attended correctional education programs during incarceration is approximately 3.7 times more likely to become a recidivist offender after release from IDOC (Indiana Department of Correction) custody when compared with an offender who has participated in a variety of correctional education programs during incarceration. The recidivism rate is 29.7 percent among offenders in the group who attended a variety of correctional education programs. On the contrary, the recidivism rate reached 67.8 percent among offenders in the comparison group who did not attend correctional education programs during incarceration. This study's results imply that correctional education programs may serve as an important mechanism in reducing the recidivism among released offenders.

(p. 69)

A three-state recidivism study conducted by Steuber and Smith (2003) found that educating incarcerated offenders generally produces overall reductions in recidivism, compelling the authors to conclude that, "The research reported here shows strong support

for educating incarcerated offenders” (p. 17). In the end, Steuber and Smith (2003) recommended that correctional facilities “increase correctional education funding and enhance existing programs” (p. 17). Wilson, Gallagher, and MacKenzie (2000) and Davis, Bozick, Steele, Saunders, and Miles (2013) both conducted separate meta-analytic studies on the influence of correctional education programs on post-release recidivism. Both research parties came to the same conclusion: Inmates involved in correctional educational programs go on to recidivate at significantly lower rates when compared to those inmates who are not involved in correctional education programs. Wilson et al. (2000) examined 33 comparison groups and found that the recidivism rate among those who were engaged in educational programs was around 39 percent, which is significantly less than the 50 percent recidivism rate for those who did not participate in these educational programs. Additionally, they found that it was the educational programs, and not the work programs, that achieved the greatest reductions in recidivism. Davis et al. (2013), in their highly publicized study, analyzed higher-quality research (research with the strongest methodological properties) in their meta-analytic study and found a “reduction in the risk of recidivating of 13 percentage points for those who participate in correctional education programs versus those who do not” (p. xvi). This 13-point reduction in recidivism is higher than Wilson et al.’s finding of an 11-point reduction in recidivism. In the end, these meta-analyses provide evidence that correctional education programs have the potential to significantly improve one’s chances for rehabilitation.⁷⁵ These empirical studies provide

⁷⁵ Rehabilitation was measured by significantly lower percentages of recidivism rates and significantly higher percentages of post-release employment.

evidence that education is likely important in the rehabilitative process, adding strength to Confucian theories regarding the value of study, education, and self-cultivation in the rehabilitation of offenders. These inmates had strayed from the moral path and found themselves in prison, and those who studied and were involved in educational programs had a significantly higher likelihood of being rehabilitated.⁷⁶

The second way in which rehabilitation takes place, per the Confucians, is through a conscious and continuous emulation of rulers or highly moral people (what the Confucians call “the superior men”). The Confucians believed that people are prone to emulate the behavior and actions of the ruler and superior people—whether the ruler’s or the superior person’s behavior is moral or immoral. Thus, if the ruler is morally sound and virtuous, rehabilitation can be found in authentic emulation and study of the ruler. The same form of rehabilitation from imitation was thought to be true when the imitated is a superior person as well. If the deviant is in a position in which they can imitate or emulate a superior member of the community or of society, the Confucians reasoned, they will be

⁷⁶ These kinds of studies should be taken with a certain degree of skepticism as they are often fraught with methodological concerns. The most damning of these concerns is that those inmates who choose to participate in these studies often possess higher levels of motivation and drive to pursue educational opportunities. Thus, researchers are often working with a self-selected group of participants who may be different from those who elect not to involve themselves with these studies in any way (to not even make themselves eligible to be selected for the treatment group by rejecting any involvement in the research whatsoever).

a prime candidate for rehabilitation. In his commentary on the specific material from *The Analects* dedicated to learning from superior people, Zhu Xi explained how emulation of the “awakened” will rehabilitate those who have strayed, returning the deviant to their original state:

To learn means to ‘emulate.’ Human nature is good in everyone, but some are awakened to it before others. Those awakened to it later must emulate what those awakened earlier do. Only then can they understand goodness and return to their original state. (Gardner, 2007, p. 11)

Thus, although people inherent unequal amounts of refinement or an unequal understanding of morality, or some people lose a certain degree of understanding at some point in the life-course for whatever reason, none, the Confucians believed, are lost due to an inability for rehabilitation. All people, Confucius claimed, have the potential for rectification, one just needs to possess the ability to understand when personal rehabilitation is warranted and engage in the rehabilitation process through the emulation of one’s moral superiors—be it a superior community member or a righteous ruler.⁷⁷ Xunzi

⁷⁷ Though all people have the potential to be rehabilitated through rigorous study and emulation of the “superior man,” both Mencius and Xunzi asserted that there are those whose crimes are so egregious and whose personal constitution is so obstinate and repugnant that they are to be excluded from the rehabilitative process in favor of pure punishment. Mencius (2004) explains, “The K’an kao says, “He who murders and robs and

(1999) illustrates the importance of a role model or a teacher in personal development and morality formation:

If a man who is intelligent lacks a teacher and the model, he will certainly become a robber. If he is brave, he will surely become a murderer. If versatile, he will certainly produce disorder...An intelligent man who has both a teacher and the model will quickly become comprehensively skilled. If brave, he will quickly become awe-inspiring. If versatile, he will quickly complete his tasks...Having a teacher and the model is man's greatest treasure, and lacking a teacher and the model his greatest calamity. (8.20, p. 199)

It is through this process of constant emulation and imitation, the Confucians argued, that one who has deviated from the path of proper moral behavior can be corrected. It is from this correction that people can be returned to their natural state, which, per the mainstream understanding of Confucianism (Xunzi aside), is inherently good (in a general sense).

The academic literature regarding the emulation of somewhat detached and distant high-profile role models, such as presidents, politicians, and celebrities, and its influence

is violent and devoid of the fear of death is detested by the people.” One can punish such a person without first attempting to reform him” (V. B. 4, p. 116); and Xunzi (2003) follows by stating, “In the case of incorrigibly evil men, punish them without trying to reform them” (s. 9, p. 35).

on rehabilitation or moral improvement appears to be nonexistent. The Confucians are likely to find little empirical evidence to support or refute their general emulation theory. The idea that a president or world leader, through his/her moral and virtuous behavior, has the capacity to sway public moral behavior to any great extent would be quite difficult, though perhaps not impossible, to prove. Through the implementation of certain policy, the president's capability to change public behavior, public opinion, or the public zeitgeist in general may be achievable to a certain extent, but this is a complex subject with a multitude of variables at play. So, to try and tease out the influence of a single leader in modern societies, while at the same time factoring in the political smorgasbord of competing interests, legislative processes, cultural influences, historical influences, personal motivations, and other external and internal variables on crime rates, rates of rehabilitation, acts of moral behavior, etc., would be daunting endeavors. Similarly, to delve into the influence that historical politicians and historical rulers exerted on the moral behavior of the public as a product of their general social and economic policy would be a massive undertaking, encompassing a multitude of variables and concerns, ultimately rendering this kind of an examination outside the scope of this dissertation. Volumes of books could be filled as a result of this sort of venture.

There have been many academic studies conducted relating to the impact of community mentors and local role models on delinquent behavior, self-improvement, and rehabilitation. A community mentor or local role model can, in certain circumstances, arguably be considered the equivalent to the Confucian notion of the "superior man." Tolan, Henry, Schoeny, Lovegrove, and Nichols (2014) conducted a meta-analytic study concerning the effects of mentoring programs on at-risk youth as measured by aggression,

drug use, and academic functioning. After an examination of 46 academic studies, Tolan et al. (2014) determined that mentors and mentoring programs likely have a “significant impact on delinquency and associated outcomes for youth at risk of delinquency” (p. 170). Because of these findings, they then go on to advocate for greater implementation of mentoring programs as an intervention for delinquents. DuBois, Holloway, Valentine, and Cooper (2002) ran a similar meta-analytic review, measuring the influence of mentoring initiatives on youth delinquency. They included 55 academic studies as their data source. Like Tolan et al. (2014), DuBois et al. (2002) found that mentoring programs are significantly effective in reducing youth delinquency. DuBois et al. (2002) explain the extent of the influence mentoring programs have on youth delinquency, “Youth mentoring programs do indeed have significant capacity to reproduce through more formal mechanisms the types of benefits that have been indicated to accrue from so-called natural mentoring relationships between youth and adults” (p. 187). Additionally, they found that the more that a youth is at-risk, the more benefit that is achieved from having a mentor or role model in their lives. The link between modern criminological theory and Confucian thought regarding the value of mentors or role models in the rehabilitation, personal cultivation, or the delinquency reduction process is quite strong. The emulation of superior people does, as the Confucians claimed over two millennia ago, seem to have the potential to rehabilitate and reduce delinquency within certain contexts and under certain conditions.

Though a question remains as to whether someone considered a role model or community mentor in our modern age meets the rigorous standards and requirements set by the Confucians to qualify as a “superior man” under their definition. Once again, to be considered a “superior man” one must possess superior moral and intellectual qualities,

generally garnered over an extended period of rigorous study, self-examination, contemplation, and adherence to ritual. The “superior man” is effectively a beacon emanating wisdom and morality for others to follow. It is certainly possible that a fair percentage of community mentors in these studies had, through rigorous moral cultivation, education, self-reflection, and self-examination, reached this high level of moral and intellectual attainment, but we are not certain that this is the case, which leaves a great deal of ambiguity regarding modern-day mentor centered research and its representativeness of the Confucian theory of rehabilitation through imitation and emulation.

Although a strong supporter of rehabilitation, Confucius (2008) apparently did not believe that certain older men can be rehabilitated, stating, “If hateful things are seen in one at the age of forty, that is indeed how one will end up” (17.26, p. 17). No rehabilitation for (certain) old men. Yet, Confucius seems somewhat conflicted or unclear in his views regarding ageing out of personal rehabilitation, and his views concerning the capacity for a continuation of positive change or continued self-improvement at later stages in the life course. He strongly believed in the existence of lifelong self-improvement and self-cultivation, and he theorized that people undergo different phases of intellectual and moral growth throughout life, extending essentially until death. Yet, he seemingly put an expiration date on criminal rehabilitation at the age of forty. Confucius (2008) famously said this of his own personal record of self-cultivation:

At fifteen I set my heart on learning, at thirty I was established, at forty I had no perplexities, at fifty I understood the decrees of Heaven, at sixty my

ear was in accord, and at seventy I followed what my heart desired but did not transgress what was right. (2.4, p. 6)

Here Confucius essentially conveys that even into one's later years in life a substantial amount of moral and intellectual development can still be attained. Perhaps it's a case where Confucius believed that his kind of higher level moral development, which, according to him, proceeds throughout the lifespan, is possible amongst those whose lives are dedicated to personal cultivation. He may have considered this higher-level personal development different from that of the more general intellectual development of those less initiated or those less inclined (the common people, so to speak), and that it is much further removed from that of the common criminal. So, the situation may be thought of as one wherein if the common person, who has not dedicated his or her life to self-cultivation, education, ritual, a study of the classics, etc., behaves egregiously up to middle-age, rehabilitation or change is improbable. Confucius may have thought that after forty years of age the uneducated and uncultivated commoner is effectively forever suspended in character, his or her brain solidified in their old behavioral patterns and incapable of much moral and intellectual development. Conversely, Confucius may have thought that someone dedicated to lifelong self-cultivation and self-improvement (and the continuous personal change and transformations that occur in this type of venture) can and does change within certain dimensions.

Nevertheless, it seems that Confucius ultimately believed that change and moral development, and, thus, the potential for a certain degree of rehabilitation, continues throughout the duration of one's lifespan. Bell (2008) provides two possible explanations

for why the Confucians believed that morality can be improved throughout one's life. The first explanation is that as one gets older he/she accumulates more time to read and study; Bell (2008) explains, "From a [Confucian] moral point of view, we need to study, to learn what others have thought and said, in order to get ideas to improve the way that we lead our lives" (p. 152). The Confucians believed that as one gets older they simply have had more time to acquire knowledge, and this knowledge increases morality—thus, the potential for rehabilitation. True study and self-cultivation is a long-term endeavor; the longer one studies, it was thought, the greater one's ability to make moral decisions. Bell (2014) adds that there is likely a biological component working independently or in concert with long-term learning, in that older people are typically not as influenced or occupied by emotions associated with the sex drive. Because of the absence of these sexual preoccupations, the thoughts of older people may be less clouded or occupied, and, thus, they may have more time to dedicate to pure study and pure contemplation. Bell (2014) explains the disruptive nature of "sexual passions":

Confucians assume that wisdom normally grows with age as people's life experience deepens; when adult children care for elderly parents, for example, they cultivate such virtues as empathy and humility. Moreover, the elderly are usually less subject to the sexual passions that often get in the way of sound judgement. (Bell, 2014, p. 49)

The age trajectory component of this theory also closely corresponds to what is found within age-crime curve data. The age-crime curve is a statistical representation of

the rise and fall of crime rates within a population as measured by the ages of the offenders. The age-crime curve consistently shows that there is a steep rise in crime amongst males beginning around the age of 15, peaking at about age 21, and from there criminal behavior begins a steady decline as people age (Farrington, 1986; Sampson & Laub, 1992). In other words, the lion's share of crime takes place in one's younger years of life, between the ages of 15 and 25, and gradually drops as one gets older. It is also the case that in these younger years of life one has experienced relatively little exposure to serious and prolonged moral cultivation, which may result in more pronounced levels of deviance. Thus, as the Confucians believed, long-term engagement with moral cultivation may have the potential to generate a strong moral constitution or rehabilitate and correct one's deviant behavior. This is perhaps the best theoretical representation of a Confucian explanation for the age-crime curve.

Bell's (2008) second explanation for the Confucian position on lifelong moral improvement is that, "The elderly are more likely to have *experienced* different roles and forms of life that increase the capacity for moral judgment" (p. 152). The Confucians argued that it is through increased and continuous exposure to different rituals (and exposure to different social roles working in conjunction with these rituals)—all taking place throughout a significant period of time—that one develops a greater sensitivity to moral action. This gradual appreciation for moral conduct, achieved through these various social and familial roles (and their accompanying ritual), was thought to generate a higher probability for personal rehabilitation and correction. Stated differently, the Confucians believed that as one transitions into different phases throughout life, and in doing so acquires different positions and responsibilities (formal, informal, and ritual based) within

the family and within society, one garners more wisdom and understanding, which was thought to increase moral judgment, and, again, improve the outlook for rehabilitation and correction. Also, as one gets older one simply gains more life experience, one learns from mistakes, one has trials and tribulations one overcomes or withstands, etc., all of which is likely conducive to the acquisition of wisdom. The different roles that people take on throughout life, the varied and numerous rituals in which they partake, the transitions they make in their life-course, and the lessons they learn along the way, all conspire, the Confucians asserted, to generate greater moral judgement and understanding, which ultimately paves the way for rehabilitation and personal redemption. As was previously discussed, the Confucian text *The Book of Rites* (otherwise known as the *Li Ki*) states that the traditional ritual and major life-course event of marriage provides a controlling and organizing effect on people, ultimately reducing depravity and disorder:

Those [ceremonies] of marriage, to exhibit the separation that should be maintained between males and females...prevent the rise of disorder and confusion, and are like the embankments which prevent the overflow of water. He who thinks the old embankments useless and destroys them is sure to suffer from the desolation caused by overflowing water; and he who should consider the old rules of propriety useless and abolish them would be sure to suffer from the calamities of disorder.

Thus if the ceremonies of marriage were discontinued, the path of husband and wife would be embittered, and there would be many offences

of licentiousness and depravity. (Misc. Confucian School, 1885, XXIII. 7-8, p. 259)

These ideas closely parallel many of the theories and theoretical components that exist as a part of the life-course tradition within criminology, particularly in adult-stage turning points and change. The life-course tradition may be best illustrated by research conducted by Sampson and Laub (1993a) and Moffitt (1993). The general thesis amongst these notable criminologists is that social forces produce “turning-points” that alter the life-course trajectories for offenders.⁷⁸ These social forces and ritualized life events usually take place within the early adult and adult stages of an individual’s life-course trajectory and take their form in such formal processes as marriage, education, employment, military involvement, the birth of a child, and so on. Sampson and Laub (1993b) fully capture this notion:

Turning points are closely linked to role transitions, and conceptually, they are helpful in understanding change in human behavior over the life course...Some positive turning points in the course of their [a sample of

⁷⁸ A small subset of offenders are considered by Moffitt (1993) to be “life-course persistent” offenders. These offenders generally begin to deviate at a young age and continue to engage in crime throughout their lives. Life-course turning points and other rehabilitative efforts often have little effect on these, usually, most serious cases. Sociopaths and psychopaths are often considered to be “life-course persistent” offenders.

disadvantaged, persistent adolescent delinquents] were cohesive marriage, meaningful work, and serving in the military. (p. 317)

Empirical research tends to support the notion that ritualized turning points (or distinct life events that occur as people emerge out of youth and into adulthood) significantly influence life-course trajectories, redirect people away from criminality, and provide a platform for personal rehabilitation, correction, and refinement (Sampson & Laub, 1993a; Sampson, Laub & Wimer, 2006; Uggen, 2000; Warr, 1998). One of the most celebrated ritualized life events and one of the traditional rituals previously covered, marriage, appears to have the potential to significantly modify life-course trajectories. Sampson, Laub, and Wimer (2006) found a 35 percent decrease in the probability for continued criminality among men who become married during their criminal career. Theorizing as to the various means by which marriage changes the behavior of previously deviant men, Sampson, Laub, and Wimer (2006) state that marriage provides:

Opportunities for investment in new relationships that offer social support, growth, and new social networks; structured routines that center more on family life and less on unstructured time with peers; forms of direct and indirect supervision and monitoring of behavior; or situations that provide an opportunity for *identity transformation* [emphasis added] and that allow for the emergence of a *new self or script* [emphasis added]. (p. 468)

The ritual and new familial role of marriage may provide an avenue for people to engage in the process of, allow me to requote Sampson, Laub, and Wimer (2006) for purposes of emphasis, “identity transformation and that allow for the emergence of a new self or a new script” (p. 468), both concepts which are highly rehabilitative in nature.

Lao Tzu (2013) concurred with the general Confucian position on rehabilitation, writing, “The wise man, trusting in goodness, always saves men—none is an outcast to him. Trusting in goodness, he saves all things—nothing is worthless to him. He recognizes hidden value” (p. 27), and he continues on this subject later in the *Tao Te Ching*, commenting, “Why should a man be destroyed for his mistakes? Even a criminal can be reformed...The Ancients esteemed the Tao because those who seek it will find it, and by it sinners can be saved” (p. 62). Confucius and Lao Tzu also find common ground regarding how offenders are to be treated and engaged. Lao Tzu (2013) contended that no matter the behavior of the offender, he/she should be treated with a certain amount of compassion and sympathy, writing, “The good he treats with goodness; the not-so-good he also treats with goodness—for goodness is its own reward. The faithful he treats with good faith; the unfaithful he also treats with good faith—for good faith is its own reward” (p. 49).

Unidirectional Learning

“As a general rule, people, even the most wicked, are much more naïve and simple-hearted than we suppose. And we ourselves are, too.”

Fyodor Dostoevsky, *The Brothers Karamazov* ([1879] 2009, c. 1)

The ruler or the “superior man,” the Confucians believed, by his elevated morality and virtue, has the capacity to transform the populace or those in their direct vicinity into righteous citizens. This is how the ruler is expected to control his people, by his virtue. The presence that that ruler exerts over his people, a presence refined by the ruler’s virtue and morality, or, conversely, by his deviant and harmful behavior, was considered so overpowering that the people will submit to him (if the ruler’s behavior is virtuous), emulate his behavior, and live in harmony (or if the ruler’s behavior is harmful, live lives of criminality and chaos) under his leadership. Confucius (2008) said this regarding the influence of the ruler, “The practice of government by means of virtue may be compared with the pole-star, which the multitudinous stars pay homage to while it stays in its place” (2.1, p. 6). The ruler, the Confucians argued, has the capacity to induce morality from his subjects by virtue of his own magnetic righteousness; this magnetic morality is transmitted to his people via expressions of ritual, displays of benevolence, and through emulation and imitation as the ruler acts as a model for the population to follow. Moving from the cosmos to more earthly policies, Confucius (2008), in continuation of the power of the ruler to influence the behavior of the masses, stated (as previously quoted), “To govern means to correct. If you take the lead by being correct, who will dare not to be corrected” (12.17, p. 46). This passage also speaks to the rehabilitative power of the ruler. Not only is the ruler capable of leading the masses who are naturally receptive to moral conduct, but he can rehabilitate those who have deviated as well. Confucius (2008) further expands on his imitation centric theory of behavior acquisition in his engagement with a leader by the name of Ji Kang Zi: “Ji Kang Zi was worried about thieves, so he put a question to Master Kong. Master Kong replied: ‘If you yourself did not desire these things, they would not

steal them even if they were rewarded” (12.18, p. 46). This moral and virtuous “presence,” propagated by the ruler and transmitted in the form of ritual and exhibitions of morality, does not only control and regulate the behavior of the population, as people follow and emulate the ruler, but it also has the capacity to generate moral and virtuous behavior in those who have not exhibited it or have at some point lost it. An excellent example of Confucian unidirectional learning theory and the power of the ruler or the “superior man” to influence others is when Confucius was planning to go live and spread his philosophy to what the Confucians called the nine Yi barbarian tribes living on the far east of the East Asian mainland. Someone questioned whether he could acclimate himself to these less sophisticated social and cultural conditions, wherein Confucius (2003), as was previously referenced, quelled these concerns by explaining that if people are led by those of superior moral character, they will take on this moral constitution and behave in a virtuous manner (9.14, p. 91). This example helps to convey the notion that Confucian unidirectional learning theory places its concentration on two parties: The ruler, who holds the greatest power to enact behavioral change in others given his supreme station in society, and the “superior man,” which represents a person who also has the capacity to influence behavioral change in people due to his or her advanced moral cultivation.

Confucius also believed that punishments will not have to play a large role within society, in general, if the ruler exhibits morality and virtue. This is because the great morality and virtue of the ruler will lead the people to harmony or correct the people through the processes of emulation, imitation, and ritual. One of Confucius’ (2008) most famous metaphors expresses this idea, “If you desire good, the people will be good. The nature of the gentleman is as the wind, and the nature of the small man is as the grass.

When the wind blows over the grass it always bends” (12.19, p. 47). As was discussed earlier, Mencius (2004) concurred, stating, “When the prince is benevolent, everyone else is benevolent; when the prince is dutiful, everyone else is dutiful” (IV. B. 5, p. 89).⁷⁹

Just as a virtuous and moral ruler can lead his people, through a process of imitation, emulation, and the administration of proper ritual, to moral behavior, so too can the immoral, corrupt, and deviant ruler, the Confucians argued, lead his people into immorality and criminality. Confucius (2008) states, “If you promote the straight and set them above the crooked, then the people will be obedient. If you promote the crooked and set them above the straight, then the people will not be obedient” (2.9, p. 8). For the ruler to generate this moral force to produce social harmony and rehabilitate others, the ruler himself is expected to be truly moral and virtuous. If the ruler is not truly virtuous, the Confucians maintained, he will be unable to correct others. Mencius (2004) writes of the inability of

⁷⁹ There was a period in early Confucianism when theory regarding the emulation of a virtuous ruler, a regulatory system predicated solely on ritual, and the minimization of punishment was taken to its extreme and put into effect; Cheng (1948) explains, “Emperor Wen of the Han Dynasty (207 B.C. to 220 A.D.), who attempted to practice Confucian humanism, tried even to dissolve the courts, tear down prisons, and abolish punishment and torture of every kind. But the execution of his plan was of short duration” (p. 462). Emperor Wen’s plan to institute this more extreme form of Confucianism was unsuccessful, lending some credence to Xunzi’s more balanced punitive approach—wherein emulation and ritual is joined with nearly equal amounts of rewards, punishments, and an emphasis on a formal legal system.

an immoral ruler to produce virtue in his people, “What can one do about those who bend the Way in order to please others... There has never been a man who could straighten others by bending himself” (III. B. 1, p. 65). Moreover, if the ruler is brutal or immoral, the people will naturally emulate his deviant and immoral behavior. Mencius (2004), in a piece that was referenced earlier, continues with a more explicit thesis on the ruler’s power to spread immorality throughout the state:

Hence, only the benevolent man is fit to be in high position. For a cruel man to be in high position is for him to disseminate his wickedness among the people... when those above ignore the rites, those below ignore learning, and lawless people arise, then the end of the state is at hand. (IV. A. 1, p. 77)

The through-line here is that the Confucian learning theory is generally unidirectional. Behavior is generated at the top of the social hierarchy, and those on the lower levels of the social hierarchy emulate and imitate this behavior. The inferior learn from the superior, and the inferior learn both moral and immoral behavior from the superior. Although the Confucians usually described the superior person as the ruler, they also accept any person of superior moral quality as a potential candidate for moral emulation or imitation by others. The difference between any superior person as a mechanism for imitation and a ruler is that the magnitude of a ruler’s ability to influence society is so much greater. It is because of this greater influence that the ruler is of more importance for the Confucians, compared to the superior man in general, and, thus, the

ruler is covered to a far larger extent within the Confucian texts. Additionally, the work of the Confucians is commonly directed to the ruler and his sphere of influence, as the Confucians generally acted as advisers to the courts and lesser ruling entities, so it is not surprising that the attention paid to the superior man is secondary to that of the ruler.

The Confucian theory of unidirectional learning is fundamental to their overall philosophy of social control and crime prevention. The notion that the inferior naturally learn from the superior (be it through their actions or through their ritual prescriptions/ritual exhibitions) and the hierarchal learning structure present in this exchange, represents, for the Confucians, a natural mechanism of societal control. People are effectively controlled and regulated through their existence within their station in life. It is from one's position within the social hierarchy that one learns from those in positions above oneself for moral and ethical guidance. This natural inclination to learn from and imitate those who exist on a higher social plain is, for the Confucians, a form of social control; people are guided and regulated by those above them on the social hierarchy. Thus, it is important that those on the higher levels of the social hierarchy exhibit moral behavior and follow the proscribed rituals as they have greater power to influence others. Everyone plays a role within this hierarchal system for social harmony to exist. Parents, children, community members, supervisors, superior people, rulers, etc. all contribute to and arguably benefit from this hierarchal system—a system in which unidirectional learning, acting as a regulatory mechanism, is an instrumental piece of the equation. The ruler and those on the higher levels of the social hierarchy maintain order and produce harmony through ritual prescriptions and through their moral conduct; in return, those on the lower levels of the social hierarchy submit to and serve their overseers in a way that is sincere and authentic.

In summary, the main tenets of the Confucian hierarchal unidirectional learning system are as follows: common people learn from and emulate the moral and virtuous behavior of the ruler and superior people. Common people also learn criminal and deviant behavior from the ruler or those in power—in that the ruler or those in power send signals to the masses that immoral behavior is appropriate and the people follow accordingly.

Gabriel Tarde's (1843-1904) learning theories, it could be argued, best complement and correspond to those of the pre-Qin Confucians. Tarde was an early and highly influential French criminologist whose work often centered on learning and imitation theory. DiCristina (2012) captures the importance of Tarde within the criminological learning tradition:

His theory of imitation represents an important precursor to the twentieth-century learning theory of Edwin Sutherland, Daniel Glaser, Ronald Akers, and other criminologists. In fact, both Sutherland and Akers explicitly refer to imitation in their theories, although both also add that the learning of criminal behavior goes well beyond just imitation. (p. 170)

One of Tarde's major contributions to criminology is his development of the "laws of imitation," of which his second law is of most interest for our purposes. His second law of imitation examines the directionality of imitation within the context of crime. Imitation to Tarde meant that one party recognizes the behavior of another party and copies or emulates it, regardless of the nature of the behavior. He believed that people of lower socioeconomic status imitate those of higher socioeconomic status, and that this is especially true for

criminal behavior.⁸⁰ Imitation, per Tarde, influences all walks of life; Tarde (1903) asserted this in his *The Laws of Imitation*, “Everything, even progress towards equality, is effected by imitation and by the imitation of superior classes” (p. 230). Novel criminal behavior, Tarde theorized, is generated by royalty and the ruling classes, behavior which then becomes standard amongst deviants within this high stratum of society, and is eventually imitated and incorporated into the culture of the lower classes (Tarde, [1886] 2014). Wilson (1954) wrote a definitive synopsis of Tarde’s philosophy regarding imitation and criminality:

⁸⁰ Edwin Sutherland, Ronald Akers, and other like-minded modern learning theorists are excluded from this section of analysis as their ideas are less representative of Confucian unidirectional learning theory. These more modern learning theorists (Sutherland, Akers, etc.) generally place their focus on intimate learning within the context of interpersonal relationships. The Confucians, on the other hand, rest the bulk of their learning theory on emulation between the ruler or the superior man and the subject (the commoner or the inferior man), whom engage in a learning relationship that is often not explicitly relational or intimate in nature (though ritual may work to bridge this gap; for theory exploring how ritual may work to generate productive and positive relationships between the socioeconomically advantaged and the socioeconomically disadvantaged see Bell (2008)). Sutherland’s learning theory is best suited for our later discussion regarding the merging of more intimate learning theories with ecological theories, all within the realm of Confucian thought.

The second law concerns the direction in which imitations are spread. Usually the superior is imitated by the inferior. From the annals of crimes, Tarde traced such crimes as vagabondage, drunkenness, death by poisoning and murder. These crimes originally were the prerogative only of royalty, but by Tarde's lifetime, the latter part of the nineteenth century, they occurred in all social levels. After the royalty disappeared, capital cities became the innovators of crimes. Indecent assault of children was first found only in the great cities, but later occurred in surrounding areas. Such fashions as cutting corpses into pieces began in Paris in 1876 and vitriol-throwing (a woman disfiguring her lover's face) first occurred in that city in 1875. Both of these fashions soon spread to other parts of France. (pp. 5-6)⁸¹

As conveyed in Wilson's summation, Tarde unknowingly expanded on the Confucian idea of unidirectional learning from the ruler or the superior man to the subject to include learning from large cities to smaller cities, and from urban areas to rural areas. In addition, he believed that learning takes place at a greater rate of speed in more concentrated populations than in less concentrated populations (this is because ideas can be transmitted faster between those in closer proximity to one another). He also asserted that the poor imitate the wealthy. So, for Tarde it isn't simply directional learning from ruler to subject or from superior to inferior, though this is central to his theory, but a whole

⁸¹ Wilson's summary is derived from Tarde's work, *La Criminalite Comparee* (1886).

host of different learning practices wherein the directionality is from the advantaged to the disadvantaged are employed within his theoretical model.

Most importantly, for our purposes, Tarde believed that criminals learn their criminal behavior by imitating the behavior of the rulers, the aristocracy, those in power, or those higher-up on the socioeconomic hierarchy than themselves. As a foundation for his criminologically based imitation theory, he presents evidence of a general imitation of the superior by the inferior. This general imitation consists of all manner of behavior and thought. Tarde (1912) describes general imitation in his work, *Penal Philosophy*:

The superior is imitated by the inferior to a greater extent than the inferior by the superior. Propagation from the higher to the lower in every sort of fact: language, dogma, furniture, ideas, needs. The great fields of imitation; formerly aristocracies, today capitals. Similarity of the former and the latter.
(p. 326)

Continuing in his discussion of general imitation, Tarde explains how if one is to enter the house of a peasant and examine his possessions, they will be of the style and fashion originating from the aristocracy and ruling classes—making the point that the materials and possessions of the inferior are imitations of the materials and possessions of the superior. After rummaging through the possessions of this luckless man, Tarde then sets his sights on the peasant himself. This is Tarde (1912) describing what will happen if one is to approach a peasant seeking conversation:

Draw this peasant into conversation. You will find he has not a single sentiment of family or patriotism, a single wish, a single desire, which was not originally a peculiar discovery or initiative, propagated from the social heights, gradually down to his low level.

It is especially in fostering the spread of example that a social hierarchy is useful; an aristocracy is a fountain reservoir necessary for the fall of imitation in successive cascades, successively enlarged. (p. 329-330)

Examine the wording that Tarde (1912) employs within the passage above, “fostering the spread of example that a social hierarchy is useful” (p. 330). It is closely related to the hierarchy centric philosophical position of the Confucians. For the Confucians and for Tarde, hierarchy and learning from example are foundational to their philosophies of behavior acquisition. A merger is beginning to form between a major criminological theorist and Confucianism.

Once his theory of general imitation was established, Tarde (1912) moved on to the pearl in the oyster that is his imitation theory: The imitation of criminal or deviant behavior. To paint a picture of his imitation theory of crime, Tarde provides historical examples of unidirectional imitation of criminal behavior that had occurred within France. Targeting such deviant behaviors as excessive drinking, poaching, assassination, pickpocketing, arson, and so on, he offers a rich portrait of behavioral and imitation patterns found within society. Tarde (1912) explains the unidirectional nature of imitation with reference to criminal behavior:

Vices and crimes were formerly propagated from the nobles to the people. Examples: drunkenness, poisoning, murder by command...Counterfeit money. Pillage and theft.

There are serious reasons for maintaining that the vices and the crimes of today, which are to be found in the lowest orders of the people, descended to them from above...Poisoning is now a crime of the illiterate; as late as the seventeenth century it was the crime of the upper classes, as is proven by the epidemic of poisonings which flourished at the court of Louis XIV...The power to kill, from which was derived the right to kill, has been, in every primitive society, the distinguishing indication of the upper classes...Arson, the crime of the lower classes today, was one of the prerogatives of the feudal lords...Counterfeiting today takes refuge in a few caverns in the mountains, in a few underground places in towns; we know that for a long time it was a royal monopoly. (pp. 331-334)

It's clear to see that Tarde's imitation theory of crime corresponds closely with the Confucian unidirectional learning theory of crime, in that inferior people imitate superior people, even though the superior person may be criminal or deviant. Xunzi (2003), whose thought is most emblematic of Tarde's "laws of imitation," goes so far as to use the Tardian word "imitation" in his prescriptions for crime prevention, writing, "After this [a form of punishment] the common people will become enlightened and will learn to obey the laws of their superiors, to *imitate* [emphasis added] the ways of their ruler, and will find rest and delight in them" (s. 15, p. 77).

The unidirectional imitation and learning that takes place within Tarde's hierarchal version of society is closely related to the Confucian trickle-down theory of learning and emulation within their own hierarchal social system. Tarde is usually credited with developing one of the first concrete learning theories within criminology. Certainly, there were criminological learning theorists before Tarde, but none of his stature or influence. Now it is clear to see that he mustn't be afforded sole credit for this seminal criminological theory. This theoretical concept was conceived of and fully developed two-thousand and three-hundred years prior to Tarde's publications. The true development of unidirectional learning theory (superior to inferior), as it pertains to crime and deviance, extends back over two millennia. Therefore, it could be said that Confucian unidirectional learning theory constitutes the backbone of one of the most well-known and innovative early theories within the criminological tradition.

Han Fei Zi offered an interesting rebuke to Confucianism's, and by extension Tarde's, unidirectional learning theory. Han Fei Zi rejected unidirectional learning on the grounds that if the great sages and the truly benevolent have the capacity to draw others to them in emulation and imitation, then why was the greatest sage of all of Chinese history, Confucius, only able to acquire 70 disciples in total? If emulation and imitation is truly the way people obtain their morality, Han Fei Zi argued, more people surely would have emulated the greatest of all the sages, but this was not the case as Confucius acquired few acolytes and had little impact on the general social condition during his lifetime. Han Fei Zi (2003) writes of Confucius' failure to attract disciples and influence the state despite his status as the greatest sage in all of China:

The people will naturally bow to authority, but few of them can be moved by righteousness. Confucius was one of the greatest sages of the world. He perfected his conduct, made clear the Way, and traveled throughout the area within the four seas, but in all that area those who rejoiced in his benevolence, admired his righteousness, and were willing to become his disciples numbered only seventy. For to honor benevolence is a rare thing, and to adhere to righteousness is hard. Therefore, within the vast area of the world only seventy men became his disciples, and only one man—he himself—was truly benevolent and righteous. (p. 103)

Han Fei Zi (2003) believed that it is only the authority endowed to the ruler in his position as ruler that has the aptitude to change or control the behavior of men. Respect and difference for authority is, per Han Fei Zi, inherent in human nature, and Confucius' behavior toward rulers and those in positions of political power was no exception to this natural reflex. Whether the ruling figure is competent in his work or if he is not competent in his work is of no great consequence. It is the authority that he possesses that holds precedence over many other qualities. Han Fei Zi (2003) explains how it is the power of authority that controls the behavior of people:

Duke Ai of Lu was a mediocre ruler, yet when he ascended the throne and faced south as sovereign of the state, there was no one within its boundaries who did not acknowledge allegiance to him. The people will bow naturally to authority, and he who wields authority may easily command men to

submit; therefore Confucius remained a subject and Duke Ai continued to be his ruler. It was not that Confucius was won by the duke's righteousness; he simply bowed before his authority. On the basis of righteousness alone, Confucius would never have bowed before Duke Ai; but because the Duke wielded authority, he was able to make Confucius acknowledge his sovereignty. (p. 103)⁸²

⁸² In addition, the Legalists believed that the ruler's authority should only be exercised when it is necessary. The Legalists typically prefer that the ruler be unseen and unnoticed by the public. The ruler's personal qualities, per the Legalists, are not to be made public, and his personal affairs, both good and bad, are to be unknown to the public. The underlying point is that the ruler is expected to recede into the background, existing and operating behind the machinery of the state, exerting little personal influence over the citizenry. Once the machinery of government is set in motion and operating smoothly, the Legalists argued, the ruler is to have little involvement or influence over the day-to-day conduct of the people or the day-to-day operation of the government. As Burton Watson writes in the introduction to *Han Fei Zi* (2003):

The Daoist sage withdraws from the world to a mysterious and transcendental realm. The Legalist ruler likewise withdraws, deliberately shunning contacts with his subordinates that might breed familiarity, dwelling deep within his palace, concealing his true motives and desires, and surrounding himself with an aura of mystery and inscrutability. Like the head of a great modern corporation he sits, far removed from his

It could be said that Confucius was not high enough on the power hierarchy to generate the type of imitation aura that is required to produce behavioral change in the general population (to meet the standard set by Han Fei Zi in his argument against imitation and emulation). If one is to follow this line of argument, he was not even eligible to be widely imitated by the masses, which in a way renders Han Fei Zi's rebuke open for

countless employees, at his desk in the innermost office and quietly initials things. (p. 10)

Xunzi, asserting that the ruler acts as the supreme example in which to be emulated, naturally rejected this notion. If the ruler is to recede into the background, Xunzi argued, his ability to influence his people as a source of emulation and imitation will be severely diminished. Xunzi (1999) writes:

In accord with popular opinion, persuaders of the thesis: "For the Way of the ruler secrecy is beneficial." ...This is not so. The ruler is to the people as a singing master who provides the tune; the superior is to his subordinates as the gnomon that provides the standard...If the gnomon is shrouded in darkness, then subordinates have nothing to act in accordance with...It would be the equivalent to having no ruler at all, and no harbinger of disaster could be greater than this. (18.1, p. 555)

In making his point, Xunzi (1999) later quotes one of the *Documents* that states, "He [the ruler] was able to make bright his illustrious inner power" (18.1, p. 557).

criticism. Though, this argument is weakened by the notion that Confucius was no commoner, instead, he resided as a member on a lower branch of the gentry tree, and, thus, potentially did possess the means to conjure change through imitation and emulation. This, along with the fact that Confucius was a “superior man” with a profound message, may have rendered him a prime candidate for mass emulation and imitation.

Intimate and Environmental Learning

“Virtue is never solitary; it always has neighbors”

Confucius (2003, 4.25, p. 37)

The Confucians believed that people learn and emulate behaviors, and that whether someone learns one kind of behavior or another is dependent upon the location or environment in which he/she lives. Throughout the work of Confucius, Mencius, and Xunzi, the environment in which one lives, and its impact on one’s behavior, is no trivial matter. Confucius believed that the neighborhood or environment in which one lives shapes one’s conduct. He did not believe that a life of morality and wisdom can be readily achieved in environments lacking in decency and virtue. Confucius (2008), in a piece that was noted earlier, illustrates the importance of the environment within the Confucian tradition, “It is humaneness which is the attraction of a neighborhood. If from choice one does not dwell in humaneness, how does one obtain wisdom” (p. 13). Xunzi (1999) provides an excellent analogy, that I will refer to as the “servant’s crane analogy,” which specifies the importance of the environment in determining one’s disposition:

In the western regions, there is a tree called the “servant’s crane” that has a trunk only four inches long and grows on the top of a high mountains, yet it looks down into chasms a hundred fathoms deep. It is not that this tree’s trunk is able to grow to such length; rather, it is the result of its situation.

(1.4, p. 7)

Mencius, in his theory and from the parables illustrating his mother’s behavior, may have been the strongest advocate of the influence of the environment on personal conduct and thought. There is a short story in *Mencius* that exemplifies Mencius’ feelings about the transformative power of one’s environment:

Mencius went to Ch’i from Fan. When he saw the son of the King of Ch’i from a distance, he sighed and said, ‘A man’s surroundings transform his air just as the food he eats changes his body. Great indeed are a man’s surroundings. Otherwise, are we not all the son of some man or another.’

(Mencius, 2004, VII. A. 36, p. 153)

The Confucians, as has been covered, were strong believers that people imitate, emulate, and learn their behaviors from others. For the Confucians, learning theory and ecological theory (where crime is a product of negative environmental influences) often goes hand-in-hand. Confucian work (particularly that of Mencius and Xunzi) in this line of theory, one could argue, resembles something of a combination of Edwin Sutherland’s ([1934] 1939) differential association theory, wherein learning takes place within the

community in an intimate setting, and the environmental and ecological theories of crime on the theoretical level of Shaw and McKay (1942) and Park and Burgess (Park, Burgess, & McKenzie, 1925). This statement made by Xunzi (2003), which was previously discussed, is arguably representative of this combined theoretical model:

If he associates with good companions, he will be able to observe conduct that is loyal and respectful. Then, although he is not aware of it, he will day by day progress in the practice of benevolence and righteousness, for the environment he is subjected to will cause him to progress. But if a man associates with men who are not good, then he will hear only deceit and lies and will see only conduct that is marked by wantonness, evil, and greed. (p. 174)

The Confucian social learning theory and the Confucian ecological theory are, it could be maintained, two parts of the same model, and, thus, will be considered one theory made of two complementary parts.

The first party representative of the Confucian combined theoretical model of learning and environment is that of Edwin Sutherland (1883-1950) and his highly influential differential association theory. Sutherland was first influenced in his theoretical work by the Chicago school of sociology (particularly the work of Park and Burgess (Park, Burgess & McKenzie, 1925)), a school of which Shaw and McKay (1942) later came to represent. The genesis for Sutherland's work regarding learning at an intimate level, which is arguably the foundation of his differential association theory, was his study of

professional theft rings (Sutherland, [1934] 1937). It was here he discovered that one does not simply choose to become a professional thief as one chooses to join many other seemingly straightforward and easily entered professions. Instead, one needs to be deemed worthy of membership in a tight-knit group of professional thieves. For one to join this kind of criminal enterprise, Sutherland asserted, one needs to be selected, one needs to learn and understand the belief system of the group, and one needs to be rigorously trained. For example, if one wants to be a successful car thief, one simply cannot just go out, start stealing cars, and bring them to random auto-repair shops to be chopped. It's undoubtedly a far more complicated process. One needs to be properly trained in methods of automobile theft (so they need to find someone who has the necessary skills and is willing to train them), they need to understand the code of conduct within the environment in which they operate (e.g., they cannot steal cars in another gang's territory or risk retaliation), and they need a place to bring the car to be chopped (they can't just bring the vehicle to any random auto-body shop; there must be prior relationships established based on trust). To obtain this training, knowledge, and these connections, Sutherland maintained, thieves are selected, indoctrinated, and taught within a system. In addition, one must usually be present (usually living) in an environment where people engage in a certain kind of criminal behavior. If one is living in a relatively crime-free gated community somewhere in the suburbs and he/she wants to become a car thief, his/her opportunities will likely be severely limited, but if he/she lives in a highly populated urbanized neighborhood that encompasses chop-shops and other active car thieves, his/her chances will improve.

The Confucian social learning theory of behavior and Sutherland's differential association learning theory, it could be argued, closely intertwine, so it's important to have

a complete understanding of both to strengthen the foundation for theoretical construction. The main components of Sutherlands ([1934] 1992) highly influential theory regarding the criminal learning process, *The Theory of Differential Association*, are as follows:

1. Criminal behavior is learned.
2. Criminal behavior is learned in interaction with other persons in a process of communication.
3. The principal part of the learning of criminal behavior occurs within intimate personal groups.
4. When criminal behavior is learned, the learning includes (a) techniques of committing the crime, which are sometimes very complicated, sometimes very simple; (b) the specific direction of motives, drives, rationalizations, and attitudes.
5. The specific direction of motives and drives is learned from definitions of the legal codes as favorable or unfavorable.
6. A person becomes delinquent because of an excess of definitions favorable to violation of law over definitions unfavorable to violation of law.
7. Differential associations may vary in frequency, duration, priority, and intensity.
8. The process of learning criminal behavior by association with criminal and anticriminal patterns involves all of the mechanisms that are involved in any other learning.
9. While criminal behavior is an expression of general needs and values, it is not explained by those general needs and values, since noncriminal behavior is an expression of the same needs and values. (Sutherland, 1992; pp. 88-90)

Mencius provides a famous story that I find best exemplifies the connection between Sutherland's learning theory and Confucian philosophy.

Mencius (2004) tells an absorbing story about his mother, Zhang,⁸³ moving the family from one unacceptable location to the next, searching for the best environment in which to raise her son. Mencius' father died when he was three years old, and so he was raised solely by his mother. Mencius mother was looking to find a place to settle and raise her son. At each stop in which the family settled, she watched as a young Mencius ingratiated and integrated himself into his new environmental and social conditions. Mencius' method of ingratiating himself into these disparate communities was by emulating the behavior of the local inhabitants. This is how the story transpired: Mencius and his mother initially lived next to a cemetery, and Mencius took to imitating the behavior of the mourners (often paid mourners) in the funeral parades, crying and wailing as they did. Unsettled by this behavior, and wanting more for her son outside the realm of continuous emotional outbursts, Mencius' mother began her search for a new location to raise her child. They next moved near a bazaar where merchants sought to sell their wares through acts of persuasion. Mencius again began to emulate those in his immediate vicinity,

⁸³ Zhang is one of the most well-known and influential characters in Chinese history. On a personal level, I find her advice and metaphors regarding education, conscientiousness, and the influence of the environment often referenced by Chinese friends in casual conversation (sometimes playfully/jokingly and at other times in a serious manner that is meant to be representative of Chinese thought in general).

this time imitating the salesman as they attempted to convince potential customers that they should part with their cash for ownership of the merchant's product. When he wasn't acting the salesman, he was listening, transfixed, as the merchants told stories of their escapades on the road and of their business excursions. Mencius' mother found this kind of lifestyle unfitting for her son as well and resolved to move again. She then settled next to a school, which prompted the young Mencius to emulate the study habits of the other students and imitate the speaking style of the intellectuals. It was in this scholastic and intellectual environment that Mencius' mother took comfort and ultimately remained. It was here that Mencius cultivated and educated himself.

Mencius' mother understood the impact that one's environment has on one's development and future prospects. She understood the natural impulse people possess to want to fit in and ingratiate themselves into their surroundings. People are predisposed to want to fit into groups, and we often fit into groups by learning and emulating the behavior of the in-group members—often regardless of whether the in-group behavior is good or bad. Sutherland understood this, and developed one of the most influential and prominent criminological theories to reflect that. Mencius' mother's shrewd actions undoubtedly left a strong impression on Mencius, as learning within varied environments, and the resulting implications from this learning, play a prominent role within his philosophical approach. The importance that other people (and their operations within one's vicinity), the environment, and the geographic location in which one lives has on future behavior and life-course direction is a lesson that remained with Mencius throughout the totality of his life, and it significantly influenced his philosophical teachings.

Matsueda (2001) conveniently synthesized Sutherland's differential association theory into three main parts to make it more palatable for practical application. Per Matsueda's interpretation of differential association theory, if these three criteria are achieved, a person may be more likely to engage in criminal behavior. Let's put this into context with the behavior of Mencius as he moved from one location to the next emulating and imitating the behavior of the inhabitants around him. Though criminal behavior was not involved in Mencius' learning experiences, his behavior is instructive for purposes of theoretical integration and comparison. It is acceptable to use Mencius' parable as an example because Sutherland (1992) promoted differential association as a theory applicable for both criminal and noncriminal behavior. Part 8 of Sutherland's (1939) theory of differential association from his work, *Principles of Criminology*, most succinctly explains his position, "The process of learning criminal behavior by association with criminal and anticriminal patterns involves all of the mechanisms that are involved in any other learning" (p. 90).

The first criteria for the instigation or precipitation of criminality, per Matsueda (2001), is that "the person has learned the requisite skills and techniques for committing crime" (p. 127). By witnessing and learning the behaviors of the mourners, salesmen, and scholars, Mencius acquired the requisite skills and techniques necessary to behave as they did. The inhabitants in his local communities, particularly those in the bazaar and the school, knew the proper techniques to behave in a certain way, and they transmitted them to Mencius in an intimate setting. It could be argued that convincing others to buy one's product is an art form that usually requires a certain amount of learning—developing the sales pitch, choosing the right vocal tones and vocabulary, asking the requisite questions,

reading the customer's behavior, expressions, and responses, and closing the deal are all techniques that are typically learned from seasoned salespeople in the field or in the classroom (both occurring in intimate environments). Similarly, the development of proper study habits, personal etiquette, and speaking style necessary to succeed in the classroom is usually something that requires learning in an intimate environment. Ultimately, by learning the skills and techniques necessary to behave as members of his local environments (to behave in a way that, though not criminal, was somewhat negative in orientation (paid mourners) and unacceptable to his mother), Mencius is, it could be asserted, able to meet the first criteria of Matsueda's condensed interpretation of Sutherland's differential association theory.

Matsueda's (2001) second criteria is that "the person has learned an excess of definitions favorable to crime over those unfavorable to crime" (p. 127). When Mencius was living next to the bazaar, the merchants told Mencius stories about their travels and escapades. Mencius must have responded positively to these stories as they did not dissuade him from continuing to emulate the merchants or remain in their presence. In effect, Mencius learned definitions favorable to a particular kind of behavior from the merchants—the life of the merchant or salesman is filled with travel and adventure—and he continued to act that behavior out, thus, it could be argued, meeting Matsueda's second criteria of Sutherland's condensed version of differential association as well.

Matsueda's (2001) third criteria is that "the person has the objective opportunity to carry out the crime" (p. 127). This third criteria corresponds closely, one could argue, with the parable that Mencius provides as well. Mencius had the opportunity to carry out his assorted actions and imitations because he found himself living in geographical locations

in which those types of behaviors were not only acceptable, but promoted as a way of life amongst the local people. Much of whether the opportunity existed for Mencius to behave in a certain fashion depended upon the location in which he lived. It also seems as if Mencius was left to his own devices or was away from his mother for significant periods of time, allowing these foreign elements to make an impression on his behavioral processes. This element of Mencius' story, one could reason, meets the requirements set forth by Matsueda's third criteria of the condensed and more practical form of Sutherland's theory of differential association. The second part of the Confucian social learning and ecological theory will shed greater light on this more location or environment dependent aspect of behavior acquisition.

The second party representing this interlaced model of Confucian theory is that of Clifford Shaw and Henry D. McKay (1942), and their theories regarding social disorganization and criminality. Shaw and McKay believed that social-structural characteristics within certain geographic areas, such as the Park and Burgess (Park, Burgess & McKenzie, 1925) coined "zones of transition" (these "zones of transition" are transient and unstable areas typically bordering city centers, downtown areas, and industrial areas), produce greater amounts of criminal behavior when compared to other areas. The idea, first proposed by Park, Burgess, and McKenzie (1925), is that criminality tends to relent more and more as one moves further away from the city center and neighboring "zones of transition." The "zones of transition" and the city centers become "areas of mobility," meaning that they usually experience a great state of flux and disorganization as a product of their fast paced social and economic environment, large

population turnover, and continuously changing socioenvironmental makeup; Park, Burgess, and McKenzie (1925) explain:

Where mobility is the greatest, and where in consequence primary controls break down completely, as in the zone of deterioration in the modern city, there develop areas of demoralization, of promiscuity, and of vice.

In our studies of the city it is found that areas of mobility are also the regions in which are found juvenile delinquency, boys' gangs, crime, poverty, wife desertion, divorce, abandoned infants, vice. (p. 59)

This progressive relenting of crime taking place in larger cities was initially visually displayed by Park, Burgess, and McKenzie using concentric circles. These concentric circles show that crime radiates out from the city center and extends to the outer reaches of the city, exhibiting less and less frequency the further the circle is from the central areas. Park and Burgess' work is landmark in making the case for the existence of influential socioenvironmental forces as causal factors for crime. These socioenvironmental forces, they theorized, permeate the structural fabric of major cities at different rates and act as harbingers for behavioral inducements.

Shaw and McKay (1942) discovered that there are certain geographical areas within cities that are hotbeds for crime, despite these areas having waves of different ethnic groups passing through them over the course of several decades. They determined that it is not the ethnic group that is responsible or somehow flawed, as there were waves of different ethnic groups passing through these particular areas at different time periods, rather, it is the

deteriorating and disorganized environment in which these ethnic groups live or pass through over time that produces this criminal behavior. In other words, it is certain environments or specific geographical areas within cities, and not any kind of deficiency within the individuals themselves or particular ethnic groups, which generate the lion's share of deviant and criminal behavior.

Shaw and McKay's (1942) social disorganization theory and Confucian theory regarding the role that the environment plays in relation to the development of certain kinds of behavior, it could be argued, possess significant similarities. Xunzi (2003), as noted earlier, describes the relationship between the environment in which one lives and its influence on their later conduct, "Therefore a gentleman will take care in selecting the community he intends to live in, and will choose men of breeding for his companions. In this way he wards off evil and meanness, and draws close to fairness and right" (p. 17). Mencius' mother also knew that different locations throughout the city were invoking different behavioral responses in her son, and her lessons undoubtedly left an indelible mark on Mencius. The Confucians believed that if one does not live in a place of enlightened thought and harmony that one may not obtain the wisdom and moral guidance necessary for a prosocial and productive life. Thus, the Confucians generated and promoted many of the tenets and theory that would later be, it could be argued, independently developed and refined by modern criminologists and come to be known by such names as social disorganization theory or other forms of learning or ecological theory.

Lao Tzu, taking a related, though slightly altered track, believed in the rehabilitative power of learning at the local, intimate level. He argued that the righteous can lead and educate those who have strayed from proper conduct, but this learning typically needs to

take place within a localized environment, such as a neighborhood or community area. Lao Tzu (2013) writes about learning at an intimate level, “The good man becomes the instructor of the evil man, and the evil man becomes the good man’s treasure. Each becomes valuable to each other” (p. 27). Lao Tzu (2013) later added to these comments, stating, “One person becomes a model for other persons, one family for other families” (p. 54).

Education, Narcissism, and Deviance

“Am I indeed possessed of knowledge? I am not knowing. But if a mean person, who appears quite empty-like, asks anything of me, I set it forth from one end to the other, and exhaust it.”

Confucius ([1893] 1971, 9.8, p. 219)

“The Master [Confucius] was entirely free of four things. He was not selfish, insistent, stubborn, or egotistical.”

Quoted from Confucius’ *The Analects* (Gardner, 2007, 9.4, p. 30)

The pre-Qin Confucians believed that selfishness, egotistical behavior, and narcissistic behavior produces immorality and deviance. They have terms for both psychologically healthy people and those who suffer from unhealthy narcissism: “the superior man” and “the small man.” The superior man is one who holds society’s rites and rituals in high regard, authentically believes in them, and follows through with them at the appropriate time. Confucius (2008) illustrates the thoughts and actions of the superior man,

“Righteousness the gentleman (the superior man) regards as the essential stuff and the rites are his means of putting it into effect” (15.18, p. 62). Family is exceedingly important for the superior man, wherein respect for parents, elders, and ancestors is vital, as is the education and moral guidance of his children. In addition, the superior man is in a constant state of self-cultivation; he is regularly focused on self-improvement through study and personal reflection. Confucius (2008) explains the superior man’s orientation for self-cultivation, “What the gentleman seeks in himself the small man seeks in others” (15.20, p. 62).

The small man, on the other hand, represent those who are selfish, egocentric, and lacking empathy for the plight or wellbeing of others. The small man, the Confucians maintained, has little regard for the traditions, rites, and rituals that they thought control behavior, unify the family, unify the community, and bring harmony to the state. Instead, his pursuits consist of immediate pleasure, the pursuit of profit, and the accumulation of fortune. Confucius (2008) expounds on the folly of the small man, “The gentleman is familiar with what is right, just as the small man is familiar with profit” (4.11, p. 14). Most egregiously, it is the small man who lacks personal control and self-restraint; the Confucian text *The Doctrine of the Mean* explains, “The small man turns his back on perfect balance and the constant because, as a small man, he is devoid of fear and restraint” (Gardner, 2007, C. 2. 2, p. 113). Lastly, and importantly for our purposes, Confucius’ ([1893] 1971) comments on the deviant and criminal nature of the small man (or the “mean man” as is translated in this case), “The superior man may indeed have to endure want, but the mean man, when he is in want, gives way to unbridled license” (XV. I. 3, p. 294).

The Confucian solution to the small man's predicament is that through learning, education, self-cultivation, self-reflection, ritual, and the emulation of moral and virtuous leaders, much of his selfish and narcissistic behavior can be eliminated. The Confucians believed that this process, if properly executed, will produce a person who is restrained, controlled, benevolent, kind, and selfless—all of which will increase empathy, reduce criminality, and create a more harmonious society. Ultimately, the Confucians put great stock in the need for people to reduce their narcissism, as they believed that it will decrease deviant behavior and create a more harmonious society.

Naturally, a certain amount of narcissistic and egoistical behavior is necessary for proper human functioning, social competition, and survival, but at a certain point a line is crossed where people develop unhealthy high levels of grandiosity and unhealthy low levels of empathy. When a person develops this kind of noxious imbalance they have what is defined by *The Diagnostic and Statistical Manual of Mental Disorders* (5th ed., DSM-5, American Psychiatric Association, 2013) as narcissistic personality disorder. Per the American Psychiatric Association (2013), the definition of narcissistic personality disorder is as follows:

A pervasive pattern of grandiosity (in fantasy or behavior), need for admiration, and lack of empathy, beginning by early adulthood and present in a variety of contexts, as indicated by five (or more) of the following:

1. Has a grandiose sense of self-importance.
2. Is preoccupied with fantasies of unlimited success, power, brilliance, beauty, or ideal love.

3. Believes that he or she is “special” and unique and can only be understood by, or should associate with, other special or high-status people (or institutions).
4. Requires excessive admiration.
5. Has a sense of entitlement.
6. Is interpersonally exploitative.
7. Lacks empathy: is unwilling to recognize or identify with the feelings and needs of others. (American Psychiatric Association, 2013)

The field of criminology, it could be reasoned, has provided empirical support for the Confucian position concerning the negative implications of narcissism. A positive correlation between narcissism and crime has been borne out in recent criminological research (Blickle, Schlegel, Fassbender, & Klein, 2006; Kocsis & Irwin, 1998; Raine, 2013; Vaughn, Delisi, Beaver, Wright, & Howard, 2007). In the area of violent crime, Stone (2007), in his paper, *Violent Crimes and Their Relationship to Personality Disorders*, concluded that “Narcissistic traits are almost universally in this domain (violent crime), since violent offenders usually place their own desires and urges far above those of other persons” (p. 138). Bushman, Baumeister, and Diener (1998) found, through their experiments on aggression and narcissism, that, “people who are emotionally invested in grandiose self-views are the most aggressive...we found that narcissism combined with ego threat yielded the highest levels of aggression” (p. 227). They concluded that whether people respond to negative evaluations of themselves from others with aggression and anger depends on their level of narcissism. In other words, those who are deemed higher

in levels of narcissism respond with more aggression. White-collar criminals were also found to have significantly higher levels of narcissism when compared to their non-criminal colleagues (Blickle, Schlegel, Fassbender, & Klein, 2006). Blickle et al. (2006) examined personality differences between non-criminal white-collar managers and former criminal white-collar managers using the DSM-III-R narcissism inventory scale and found that, “Narcissistic tendencies were stronger in white-collar criminals than in non-criminal managers” (p. 228). Within this research, we find support for the Confucian theoretical position that high levels of narcissism can be detrimental to society and can lead to criminality. Those with an unhealthy focus on themselves, and an aversion to empathetic feelings for others, may find benefit in the Confucian prescription of self-cultivation through education, studying the texts, self-reflection, adherence to ritual, and emulation of superior people. This is because, as Marcus (2003) writes of the Confucian remedy for the narcissistic behavior of the small man, “The cultivation of a greater sensitivity for others’ suffering, including a cultivation of a greater sensitivity to nature and the cosmos as a whole, is the most direct route to the good life as Confucians conceptualize it” (p. 75). The effectiveness of study and self-cultivation may stem from its ability to generate greater humility in people. Serious knowledge acquisition may have the power to humble people. The adage that “the more you know, the more you realize that you don’t know,” is a recognition that many of us have come to experience, and if those exhibiting unhealthy high levels of narcissism are to be confronted with this idea as a product of their personal cultivation, it may produce a humbling effect capable of reducing narcissism and reducing criminality.

Learning, Education, and Restorative Justice

Restorative justice is unique amongst criminological theories in that Confucius is briefly mentioned in the literature. Confucian beliefs regarding the importance of social harmony, the interrelated and interconnected nature of society, the benevolence people are to show to one another, the preference for rehabilitation over outright punishment, the importance afforded to learning from mistakes, and the value placed on self-improvement and self-cultivation all, it could be argued, mesh well into the restorative justice philosophy in general. Wong and Mok (2010) define restorative justice as a system that:

Empowers crime victims, offenders, and communities to take an active part in resolving the impact of crime...(it) involves all stakeholders and parties concerned in a search for solutions that promote repair, reconciliation, and reparation...repairing the harm that has been caused by a crime and empowering all those affected, such as offenders, victims, and their families. (p. 23)

The critical motivation for Confucian justice is not to safeguard the proper functioning of the legal process or to ensure that the guilty parties are punished—as is a major tenet of the Western legal tradition and the Legalist tradition within China—but, instead, its general function is to return the deviant back to a moral and law abiding person, and, as a product of this, return the community or society back to a united, healthy, and whole, entity, that is both harmonious and well-balanced. This, again, is accomplished by

returning the deviant to an existence that is moral and compatible with societal standards. As was conveyed earlier in this text, Confucius sought to minimize punishment and maximize rehabilitation, self-cultivation, and societal integration. Confucius (2008), as previously discussed, explains the negative effects of a social system predicated on the actions and decrees of a cold and indifferent legal system, “If you lead them by means of government and keep order among them by means of punishments, the people are without conscious in evading them” (p. 6).⁸⁴ If the law is the default mechanism used to regulate behavior, and punishments and penalties are the central controlling apparatus, the Confucians argued, people will fail to internalize societal expectations and guidelines, and, instead, as is often theorized in behavioral psychology, simply structure their lives around Skinnerian pain and pleasure principles. Like Skinner’s rat’s avoiding the food pellet dispensing lever that offers a recurring electrical shock while favoring the food pellet lever that is free of this positive electrical punishment, people may, under this punishment avoidance mindset, eschew committing crimes where the likelihood for apprehension (punishment) is high. Similarly, people may favor criminal behavior, and favor committing crime in environments, where the expectation of apprehension is minimal. The result is behavior centered on the avoidance of punishment/pain in certain areas and under certain conditions until the opportunity is available to achieve ill-gotten gains or pleasure. Without

⁸⁴ Zhu Xi interpreted this phrase to mean that with only punishment and the law acting as the controlling mechanism, the drive to toward criminality will still linger in the back of one’s mind. Zhu Xi writes of this lasting drive, “Although they will probably not dare to do anything bad, the tendency to do bad will never leave them” (Confucius, 2013, p. 8).

feelings of shame and other deep seated cognitive-emotional responses to the prospect of, or engagement in, harmful actions—deep seated cognitive-emotional responses such as feelings of empathy for others, feelings of social solidarity, authentic respect for ritual, an internal punishment meted out by a cognitive regulatory mechanism in something akin to a superego, etc.—deviance and criminality, the Confucians generally believed, will continue unabated.

Rather than seek to intimidate an offender and impose the will of the state through punishment, Confucius advocated for a “rectification of the mind” through rehabilitation and self-cultivation. This “rectification of the mind” is to take place in an arena that is humane, compassionate, and non-judgmental. Confucius (1971) explains how rehabilitation and self-cultivation can become stifled and collapse when one is put into conditions similar to that of a detached, or potentially threatening, system of formal punishment, “The cultivation of the person depends on rectifying the mind, *may be thus illustrated*: —if a man be under the influence of passion, he will be incorrect in his conduct. He will be the same if he is under the influence of terror...or under that of sorrow and distress” (p.368). Confucius believed that a safe and compassionate environment is a more productive venue for personal rehabilitation and rectification, and this theoretical position corresponds more closely with the restorative justice paradigm than it does to the more traditional punitive system of justice.

As a correlate to the notion that offenders should not be vilified or ill-treated, the philosopher Tsang, [whose work is prominently represented in the original text of the *The Analects*, and, it could be argued, is highly representative of Confucian thought (as it was published side-by-side with Confucius’ material in Confucius’ main text)], when advising

judges and government officials on how to treat and respond to offenders, stated, “When you have found out the truth *of any accusation*, be grieved for and pity them, and do not feel joy *at your own ability*” (Confucius, [1883] 1971, XIX. XIX., p. 345). The previous statement was discussed earlier in the introduction to the Confucian philosophers, but there is value in reanimating this information again as it’s an important statement that puts the reader in the proper mindset. Also instructive of Confucius’ position on this point is an interaction that Confucius had with a disciple by the name of Tsze-Kung that went as follows, “Tsze-Kung said, ‘Has the superior man his hatreds also?’ The Master said, ‘He has hatreds. He hates those who proclaim the evil of others’” (Confucius, [1893] 1971, XVII. XXIV. 1, p. 329). Zhu Xi’s commentary on this passage completes this idea when he wrote that, “Proclaiming the faults of others indicates that one lacks a sense of compassion and tolerance” (Confucius, 2003, p. 211).

Therefore, if society is seeking to alter the behavior of an offender, Confucius maintained that it is imperative that the offender be engaged in a way that is conducive to healthy moral and intellectual growth—they need to be treated humanely and with a certain degree of respect. Per Confucius, the societal approach to the rectification of the offender is to come from a place of compassion and understanding (within limits), wherein personal improvement and self-cultivation (forms of rehabilitation) are promoted over a system of punishment, pain (both physical and psychological), and vilification. It is within this theoretical approach, it could be argued, that the work of Confucius complements and enriches restorative justice theory.

Within previous Confucian social systems, to bring someone to court or sue someone was considered a shameful act for the initiator of the litigation (Liu, 2007). This

shame and disrespect was mainly brought on by the disharmony which the community was forced to endure because of the litigation process. In addition, this shame and disrespect was compounded by local officials adverse to formal legal proceedings as it raised questions as to their ability to govern in a way that promoted harmony. Chen (2003) conveys the pressure placed on local officials to ensure minimal litigation:

Local officials would be highly evaluated by their superiors if there was little or no litigation in the regions under their jurisdiction, which indicated that people were living in harmony. Conversely, a high litigation rate would reflect badly on the performance of the relevant local officials, who should engage in self-criticism as to why they failed to ensure that their subjects should adhere to the Confucian norms of self-restraint and mutual deference. (p. 262)

Confucius (2008) made this famous statement regarding the importance of minimizing the role of the legal system within society, “At hearing legal proceedings I am no different from anybody else, but what is surely necessary is to bring it about that there is no litigation” (12.13, p. 46). The belief is that a virtuous person will be able to navigate the social waters and regulate himself and those around him (usually through ritual based practices) so as not to put himself in a position where recourse within the court system is necessary. This being stated, the Confucians also understood the challenges associated with this theoretical position, and that appeals to the legal system are often necessary, but, from

the perspectives of Confucius and Mencius, legal interventions, and the inevitable punishments that accompany them, are to be considered a last resort.

It was often the case within Confucian legal systems of the past that if two parties brought a disagreement to the court the judge would advise them to come to a peaceful and friendly compromise amongst themselves outside of legal recourse. It was thought that a natural resolution produced within the community creates a more stable and long-term harmony both between the parties involved and throughout society as a whole. This is why conflicts and disagreements amongst people were often resolved through the mediation of a local sage or respected elder at informal gatherings of families. Within these informal settings, public apologies would be given and arrangements for compensation or penalties determined, all within a communal environment (Liu, 2007).⁸⁵ The Confucians believed

⁸⁵ Han Fei Zi felt that the resolution of crimes within an informal community setting is to be avoided in favor of clear laws enforced by a formal system of justice. Per Han Fei Zi, a formal system of laws and a dispassionate system of justice limits favoritism toward the powerful and limits other biases that may arise in more informal systems of justice. Xunzi (1999) took a similar view, writing, “Being partial and partisan and lacking any constant standards are the perversion of the process of adjudicating governmental affairs” (9.2, p. 213). The potential for this kind of bias may be particularly visible in a Confucian society where the pronounced social hierarchy may sway the mediation process. Chen (2003) expertly illustrates the incongruity between a Confucian hierarchical social system and their support for informal community mediation:

that a resolution achieved within the community, an idea that closely corresponds to restorative justice practices, produces long-term social harmony. This community mediation is in opposition to what the Confucians generally viewed as the cold and sanitized court proceedings and judicial decisions found in a more traditional, punishment centric, legal system; a system which, Confucius argued, may produce an inauthentic

Unlike modern litigation, procedural safeguards or due process do not apply to traditional mediation. There is institutionally nothing to guard against the mediator being biased against the socially inferior or weaker party...the principles of *li* [ritual] that inform the traditional mediation system themselves prescribe hierarchal social roles and relationships, and are inconsistent with the modern liberal notion of equality before the law. (p. 271)

When judgements and punishments are carried out in community settings, Han Fei Zi asserted, the legal process becomes less clear, notions of a dispassionate justice system are weakened, and the entire process is left open to infiltration from those who may not be operating from an impartial or fair position. Han Fei Zi (2003) explains how the state must reject a ritualized community based mediation system, and instead institute a formal judicial system based on settled law, “He advised him to burn the *Book of Odes* and *Book of Documents* [pre-Confucian ritual based texts and historical texts] and elucidate the laws and regulations, to reject the private requests of powerful families and concentrate upon furthering the interests of the royal families” (p. 83).

adherence to the norms and expectations that are foundational to moral behavior and social harmony.⁸⁶

Braithwaite (2003) recognized that Confucian ideals and restorative justice practices are generally compatible and complementary. Here he explains the Confucian connection to the field of restorative justice:

Confucius's quest can be read in part as a search for practices of good government that enable people to understand the effects their actions have on one another and that naturally expose the virtue of the virtuous so that others will follow them. Virtue is inculcated by quiet good example rather than by denunciation. (p. 23)

⁸⁶ Lao Tzu (2013) concurred with the Confucian position regarding the avoidance of the legal system. In a chapter in the *Tao Te Ching* simply titled "Avoid Lawsuits," Lao Tzu (2013) explained that lawsuits are to be avoided, even if it means the forgiveness of debts and sacrificing personal rights, and if this is accomplished "the Tao" will take favor on the lawsuit avoider. Lao Tzu (2013) forwarded his position on lawsuits thusly:

Where there is a legal dispute between two parties, even after it is resolved bitterness remains. How can this be avoided? It is virtuous to keep one's obligations, but a wise man goes beyond even this—he does not insist on his rights, but forgives the debts of those who owe him. He knows that the Tao will reward him for staying out of court. (p. 79)

Though Braithwaite and the field of criminology in general have written briefly about Confucianism and its relationship with restorative justice, there are several broad statements indicating a close connection between the two parties—this is the extent of the analysis that was available within my examination of the criminological literature; so, in the subsequent pages I will expand upon the existing material and deliver a detailed explanation of its contribution.

Braithwaite (2003) writes that within the Confucian tradition there exist ideas and practices that many now consider “restorative” in nature. These practices occur in two fundamental ways: understanding and emulation by example. The first way that offenders can be restored within the Confucian tradition, per Braithwaite (2003), is if, “people understand the effects their actions have on one another” (p. 23). The Confucians do not mention offender-victim or offender-community dialog, in the standard restorative justice sense, so as to generate an understanding within the offender of the effects of their harmful behavior. Instead, the Confucians advocate for personal cultivation through moral education, ritual, self-reflection, and self-cultivation. All this self-improvement is to take place within some form of educational setting or learning environment, rather than in communication with the victim or non-educational community agencies. Per the Confucians, the offender is to be educated in topics relating to the cosmic order, social solidarity, ritual, the golden rule, empathy for others, moral behavior, and other similar community centric and compassion based thought, but this understanding and learning is not designed to take place within the setting that traditional restorative justice generally advocates (in dialog with the victim and other members of the community). Much of

Confucian restoration is to be a solitary endeavor; wherein the individual is to be engaged in rigorous study and contemplation for extended periods of time. One could argue that this type of restoration is not unlike that advocated and instituted by the Quakers at the time of the founding of the modern prison system in the United States (early nineteenth-century). Though, the Confucians do not place an emphasis on confinement and isolation in the way the Quakers initially conceived of their system of punishment.

Once the offender becomes a more enlightened and a more moral human being, Confucius theorized, through a laborious study of the texts, personal reflection, ritual, and other forms of self-improvement, he/she can then begin to understand the pain he/she has caused the victim and the community. This moral education is not meant to be a fleeting experience or consist of rote learning (with its focus solely on repetitive memorization), instead, Confucius wanted the offender to fully embrace these moral lessons and codes of conduct, and deeply incorporate them into the essence of his being through this educational process. He wanted this rehabilitative and restorative moral education to become a permanent fixture of the offender's character. Confucius (2003) spoke of the importance of having genuine and authentic belief to generate truly moral behavior, "As far as present-day filial piety is concerned, this means being able to provide sustenance; but even dogs and horses are all able to receive sustenance. If reverence is not shown, how does one tell the difference" (p. 6). Within this quote, Confucius is aiming to show the value of authentic and sincere belief as it works in conjunction with its corresponding physical behavior; asserting that without sincerity of thought, the foundation for which behavior rests upon is likely unstable and short-lived. It is in moral reeducation for an extended period of rigorous study and reflection, Confucius argued, rather than limited time spent with the victim or

community members/community mediators, that one develops authentic morality and genuine empathy for others.

It is within this extended study and reflection, the Confucians theorized, that lasting moral change is made. Reflection, as noted earlier, is emphasized when Confucius conveys the importance of both learning and reflection in this statement, “Learning without due reflection leads to perplexity; reflection without learning leads to perilous circumstances” (Ames & Rosemont, 1998, p. 79). Certainly, limited meetings with the victim and members of the community may be productive, but without rigorous moral reeducation (studying the texts and their associated rituals) and extended personal reflection, as Confucius argued, there may be a greater likelihood of a superficial and fleeting belief in the moral code; Confucius (1971) illustrates this point succinctly, “Fine words and an insinuating appearance are seldom associated with true virtue” (p. 139).

Confucius was generally skeptical of too much talk, and he was certainly opposed to people speaking without first having acquired the requisite self-cultivation and education required to warrant deep, meaningful, and prolonged communication. Confucius (2003) concisely illustrates the importance of measured communication, “People in ancient times were not eager to speak, because they would be ashamed if their actions did not measure up to their words” (p.36),⁸⁷ and he follows this up by briefly stating that, “The Good person

⁸⁷ Neo-Confucian scholar Wang Yangming (1472-1529 C.E.), in his commentary in Confucius’ (2003) *Analects*, interprets this passage thusly, “The Ancients valued action, and were therefore shy with their words and did not dare to speak lightly. People nowadays

is hesitant to speak” (p. 126). Xunzi (1999) supported Confucius’ theoretical position that surface level interactions will seldom yield true virtue. Xunzi (1999) is writing with the ruling class in mind in this first example, but the message is clear for all, “For if one depends merely on artful connivance, bows of obeisance, and entreaties, and serves them out of fear, this too will be insufficient to maintain the state and secure the person” (10.21, p. 311); Xunzi (1999) writes more generally of flippant communication in this second example, “Speaking only to flatter...such is the understanding of the petty man” (23.17, pp. 769-771).⁸⁸ Going to meetings with the victims and community members, repenting, and, what could potentially be the case, saying what they want you to say is, the Confucians would likely argue provided the evidence available, no substitute for a rigorous and long-term moral reeducation garnered through study and reflection. Confucius (1971) illuminated the importance of laborious study over fleeting and transitory interaction when he said, “Do not be desirous to have things done quickly; do not look at small advantages. Desire to have things done quickly prevents their being done thoroughly. Looking at small advantages prevents great affairs from being accomplished” (p. 270). Once this moral reeducation is complete, one can then go on to show love and empathy to others, including both the victim and the community. It is at this later point in the restorative process, from

value words, and therefore loudly flap their tongues and blabber nonsense at the slightest instigation” (p. 37).

⁸⁸ Mencius provides additional support for this theoretical position within the specific realm of rigor over expediency when he wrote that, “A person who is keen to advance will be quick to retreat” (Gardner, 2007, 7A. 44, p. 100).

a Confucian theoretical perspective, that healing between the victim, offender, and the community can commence.

The second method to be utilized to repair and restore the relationships between the offender, victim, and community within the Confucian theoretical framework, per Braithwaite (2003), is to ensure that the offender, “is inculcated by quiet good example rather than by denunciation” (p. 23). It is this avenue of Confucian restoration that is, arguably, closer to the traditional idea of restorative justice. Per restorative justice theory, if the victim is a moral and virtuous person, the offender has the potential to emulate them and learn from them through interpersonal interaction. Additionally, if moral and upstanding members of the community enter the picture to mediate the process, they too can act as a resource that the offender might emulate. Time spent with highly moral victims and highly moral community members, while engaged in the process of emulation and communication, per general restorative justice theory, provides a healthy venue of healing for all parties involved. The offender receives the benefit of rehabilitation and personal redemption through this interaction, and the victim receives closure and healing from the knowledge that the offender feels remorse, and from the knowledge that they were instrumental in a process that changed the offender’s life for the better. Confucius (1971), as previously referenced, when speaking of the impact that moral people can have on society if others are willing to submit to them, learn from them, and emulate them, states, “Of superior virtue indeed is such a man! If there were not virtuous men in Lu, how could this man have acquired this character?” (p. 173). By this Confucius meant that if one is interacting with virtuous and moral people, that person has the potential to acquire the character and disposition of these virtuous and moral people. Early Confucian philosopher

and disciple of Confucius, Yu Chung-yu (otherwise known as Tsze-lu), his words recorded in Confucius's (1971) *The Analects*, provides a clear illustration of the Confucian position regarding the restorative power of intimate interactions between superior men and weak men, "When parties upon whom a man leans are proper persons to be intimate with, he can make them his guides and masters" (p. 143).

Although Confucius advocates learning from and emulating highly moral victims and other highly moral community members involved in the restorative justice process, this intimate interaction and learning likely comes secondary to personal restoration through rigorous education and self-cultivation. This is because the Confucians believed that education, study, and reflection are the most effective methods to garner a longer lasting, authentic, and complete understanding of morality. There is one additional important element in this equation, and this is that the moral fortitude of the victim and the community mediator is at best questionable. It's likely that the victims or other community members involved in the restorative process do not possess the high moral fiber necessary to satisfy Confucian standards for proper learning through the emulation of superior people. Confucius believed that people learn moral behavior from "superior men," in other words, they learn from and emulate the elite members of society, and it's unlikely that there is a large enough percentage of victims falling into that category for Confucian theory to fully convert to the standard restorative justice narrative. Many victims may be decent people, but decent doesn't meet the "superior man" standard. Additionally, a significant percentage of victims are themselves offenders. Entorf (2013) writes of the constitution of most victims, "Offenders are more likely than non-offenders to be victims, and victims are more likely than non-victims to be offenders" (p. 1). Ultimately, it's unlikely a high enough

percentage of victims and community mediators radiate the type of moral superiority necessary to fulfill Confucian requirements. Though many of the victims and members of the community who act as mediators or community representatives wish to actively engage with the deviant in true Confucian style restoration and rehabilitation, they simply may not possess the moral fortitude and skills required to expertly navigate this delicate ground. Many may be eager to help, but few likely possess the means; as Mencius (2004) wrote, “The trouble with people is that they are too eager to assume the role of teacher” (IV. A. 23, p. 86). Braithwaite (2015) does briefly mention “treatment” from “virtuous people” who manifest a “transparently superior way of living” (p. 186), in relation to social control in his study of several different East Asian philosophies, but he never bridged the gap between how the Confucians defined and understood the nature of superior people and the makeup of those whom actually (or theoretically) operate in these restorative justice settings. It’s important to make this distinction, because as Xunzi (1999) wrote:

There are four techniques for being a teacher but a superficially broad general acquaintance is not one of them. One who requires deference, is majestic in manner, and instills a fearing respect may properly be regarded as a teacher. One who is white-haired with age and is trustworthy may properly be regarded as a teacher. One who in reciting and explaining neither transgresses nor errs may properly be regarded as a teacher. One who recognizes the distinguishing characteristics of things in making assessments may properly be regarded as a teacher. Thus, although there are

four techniques for being a teacher, a superficially broad general acquaintance is not one of them. (14.9, p. 449)

In the end, Confucianism, within the narrower confines of these two methods of restoration proposed by Braithwaite (2003), does not, one could argue, make a direct connection to restorative justice principles. This is because Confucian restoration involves: 1) Intense and prolonged personal cultivation through the study of texts, engagement in ritual, and reflection. It does not generally involve communication with victims, community members, or other noneducators. 2) The imitation of people who truly possess a sound moral constitution (a moral constitution that is derived from years of personal development and improvement). It does not generally involve the imitation of random members of the community in the form of victims and community mediators.

Nevertheless, as was conveyed in the introduction to this chapter, Confucian theory as a whole complements and contributes a unique perspective to restorative justice theory. The great amount of attention the Confucians place on unity within the community, avoidance of punitive responses to crime in favor of rehabilitation and understanding, and a socially inclusive theoretical framework all generally overlap and connect on a deep level with restorative justice concepts. This being conveyed, it should be recognized, and it hasn't yet, that when it comes to the more fundamental and practical aspects of victim-offender and victim/mediator-offender restoration, as opposed to more abstract theoretical positions, Confucian philosophy and restorative justice theory diverge from one another in profound ways.

Han Fei Zi (2003), it seems, finds common ground with the Confucians with respect to the inability of the victim, community members, or common people to rehabilitate or teach offenders within something akin to a restorative justice system. Han Fei Zi is well known for his contempt of the common person, and this is particularly true when the wisdom and competence of the common person was considered. Han Fei Zi (2003) compared the wisdom of the masses to that of children, writing, “The reason you cannot rely upon the wisdom of the people is that they have the minds of little children” (p. 129), and he continued by directly stating that, “The wisdom of the people is not sufficient to be of use” (p. 130). Yet, any agreement between the Confucians and Han Fei Zi regarding restorative justice arguably ends here, as Han Fei Zi rejected the idea that people can learn to be benevolent and virtuous from others. He contended that benevolence and righteousness are a product of man’s inherent nature and no amount of teaching or guidance will produce change. Han Fei Zi (2003) writes of education’s inability to rehabilitate people:

If someone were to go around telling people, “I can give you wisdom and long life!”, then the world would regard him as an impostor. Wisdom is a matter of man’s nature, and long life is a matter of fate, and neither human nature nor fate can be got from others. Because the man tells people he can do what is impossible, the world naturally considers him an impostor. To say you can do something which you cannot do is simply to make an empty assertion, and an empty assertion cannot affect human nature. Likewise, to try to teach people to be benevolent and righteous is the same as saying you

can make them wise and long-lived. A ruler who has proper standards will not listen to such an idea. (pp. 127-128)

Ritual

“Like the universal blanket of frost and snow,
like the brilliant light of the sun and moon.

If he acts on behalf of ritual principles, he will survive,
if he does not, he will perish.”

An *Ode* quoted in Xunzi (1999, 11.10, pp. 331-332)

Ritual, Music, the Arts, and Social Bonding

Travis Hirschi is arguably one of the most well-known and prominent criminologists of the modern era. He is the author and co-author of two of the most influential criminological theories of the twentieth century: his social control theory, released in 1969 and published in his book *Causes of Delinquency*, and his self-control theory of crime, released in 1990 with Michael Gottfredson and published in their book *A General Theory of Crime*. This chapter will center on Hirschi’s earlier theory—his social control theory. Hirschi’s social control theory was founded on the belief that human nature is inherently bad. We are all animals seeking gratification, Hirschi argued, and left to our own devices will obtain it by selfish means—obtain gratification irrespective of moral concerns. Hirschi (1969) describes the inherent makeup of human beings as they exist in their natural state, “Given that man is an animal, “impulsivity” and “aggressiveness” can also be seen as natural consequences of freedom from moral restraints” (p. 18). So, Hirsch

believes, if we are all, by our animal instincts, devoid of a sound moral base and prone to criminality, it's not why we commit crime that needs explanation, that is inherent in us as self-gratifying mammals, rather, the question that requires our attention is what prevents people from committing criminal acts—what restrains these animal instincts? His answer lays in the social bonds and connections that exist between an individual and the individual's family or society. It is these bonds that pull an otherwise unwieldy and amoral mammal into a system in which natural inclinations are muted and prosocial behaviors are rewarded. Per Hirschi, these social bonds consist of four parts: Attachment, commitment, involvement, and belief—all of which he considered complementary and valuable in the prevention of delinquency and criminality. It is Hirschi's contention that when people have greater engagement and immersion in these four bonding dimensions, criminal behavior will be less likely to occur when compared to those who have what he referred to as "shallow bonds." Hirschi's focus and research was mainly on juvenile behavior and the bonds that pull a juvenile into a prosocial system, and, so, that will be my reference point as well. It should be noted that although Hirschi's social bonding theory was originally intended for and commonly caters to adolescent and juvenile behavior, it could be argued that it is generally applicable to adult behavior as well (Salvatore & Taniguchi, 2012).

Attachment, Commitment, Involvement, and Belief.

Hirschi's First Social Bonding Mechanism: Attachment.

The first bond that pulls an individual into a prosocial system or healthy family system, per Hirschi (1969), is *attachment*. Attachment concerns the positive relationships juveniles and adolescents form with other important people in their lives. Effective

attachment is derived from the ability of parents and community members to make meaningful connections with adolescents and transmit proper moral codes of conduct and behavioral lessons to these adolescents. These relationships typically consist of juvenile-parent, juvenile-family, and juvenile-school connections and bonds. Hirschi (1969) explains the importance of attachment in general, “The essence of internalization of norms, conscience, or super-ego thus lies in the attachment of the individual to others” (p. 18). It is those juveniles who have close attachments to their parents, families, and other institutions, Hirschi argued, that are less likely to engage in delinquent and deviant behavior.

The parent-child relationship is the main focus of Hirschi’s attachment theory, as he considered it to be of most value in the bonding process. It is the parents to whom the child first attaches and attaches most intensely, the parents who are generally tasked with teaching the child to behave appropriately in social environments, and the parents who represent the standard of which the child mainly emulates and seeks approval. In addition, Hirschi believed that other members of the community, such as teachers, coaches, peers, and religious figures, may also play important roles in the attachment process—though these relationships are typically less intense and influential when compared to the parents. The parents are the focal point here, per Hirschi (1969), because if a child fails to generate attachments to his parents, his ability to develop attachments to other members of the community may become severely disrupted as well. Conversely, when the relationship or attachment between a child and a community member fails to materialize, his ability to form attachments with his parents or other community members is likely not as significantly compromised. For example, if a boy fails to attach to his parents, the

likelihood that he will be able to develop a healthy attachment with his teacher is significantly diminished. Yet, if the boy fails to attach to his teacher, the impact on his ability to attach to his parents is likely minimal (though, obviously, this is generally not a good indicator of productive future behavior). It is in this way that the family, according to Hirschi, is likely the root of attachment, and if damaged, may negatively influence most other ongoing or potential relationships.

Hirschi's (1969) research indicates that juveniles who experience less attachment to their parents are significantly more prone to engage in delinquency and criminal behavior. In addition, those juveniles who experience less attachment to their parents are more likely to affiliate with criminal elements within society. Hirschi (1969) remarks on the potential criminological implications of disrupted parent-child attachment, "The child unattached to his parents is simply more likely to be exposed to "criminogenic influences." He is, in other words, more likely to be free to take up with a gang" (p. 85). It is the affection, love, regard, communication, and identification shown between child and parent, Hirschi argued, that is integral to bond and attachment formation. It is this close bond and attachment that develops between parents and their children, he theorized, that provides an avenue for the effective transmission of a moral education, the transmission of societal norms, and the expression of societal expectations. It is from this effective transmission of morals, norms, and expectations that the superego or the conscious is strengthened and empowered. Hirschi (1969) writes of the formation of a child's morality as being a product of parental attachment, "If the child is alienated from the parent, he will not learn or will have no feeling for moral rules, he will not develop an adequate conscience or superego" (p. 86).

Importantly, Hirschi found that the amount of time that adolescents spend in the act of communication with their parents has little influence on the likelihood that they engage in later delinquency. Instead, he argued that it is the focus of the communication that is likely important. It is in effect not the quantity of the communication, but the substantive nature and quality of the communication that is likely determinative of future deviance. Certainly, a minimal level of communication must be attained to have any signifying effect, but after that rather relatively insignificant requirement is met, it is the focus of the communication that represents a significant predictor of future behavior, not the amount of communication. With a parental concentration on quality communication (i.e. the transmission of moral lessons, expectations, appropriate individual behavior, and appropriate social behavior.), thought Hirschi, adolescents will have a greater capacity and tendency to recall and act on the advice of their parents when put in a position that could result in deviance. Under these conditions, the words, warnings, and moral lessons of the parents are theorized to emerge in the consciousness of the juvenile like an angel on his/her shoulder, influencing and directing his/her behavior. If the parents fail to provide these lessons and warnings within their communication, Hirschi argued, and instead engage in superficial pedestrian communication with their children, the angel that appears on the juvenile's shoulder prior to potential delinquency may not have anything of value to say, it may provide no meaningful guidance, or may not possess the persuasive capacity to prevent deviance. Hirschi (1969) writes of the value of focused communication between parent and child:

Those who spend much time talking with their parents are only slightly less likely than those who spend little time talking with their parent to have committed delinquent acts. All of which suggests that it is not simply that fact of communication with the parents but the focus of this communication that is crucial in affecting the likelihood that the child will recall his parents when and if a situation of potential delinquency arises. (p. 91)

As was previously discussed, the Confucian *Book of Rites* elaborates on a similar need for this phantom presence in the minds of children when absent their parents, “He should be (as if he were) hearing (his parents) when there is no voice from them, and as seeing them when they are not actually there” (Legge, 2016, Qu Li 1., p. 11)

In addition to parental attachment, Hirschi argued that the bonds attaching adolescents to their teachers, adolescents to other members of the school system, or adolescents to other members of the community play a not insignificant role in behavioral regulation and crime prevention. Hirschi (1969) found that those boys who generally hold positive attitudes towards their teachers and their school engage in less criminal behavior later in life compared to those boys with a distain for their teachers and the school system. Additionally, those boys with a distain for their teachers and the school system obtain lower grades compared to those peers with a favorable attitude toward school. Nevertheless, Hirschi asserted that teachers and members of the school system likely rank a distant second in importance when compared to parental influence in issues of attachment.

Hirschi’s (1969) theory and data indicate that the degree of attachment between child and parent and the focus of their communication likely plays a role in determining

levels of delinquency. In addition to this, Hirschi theorized that the degree of parent-child attachment likely has great implications for the social system and for social harmony in general. In that, if the interworking's of the family are disrupted and attachment fails to materialize, the negative impact and costs experienced by the community and society are potentially immense. Hirschi (1969) writes of the societal implications of strong parent-child attachment, "The more strongly a child is attached to his parents, the more strongly he is bound to their expectations, and therefore the more strongly he is bound to conformity with the legal norms of the larger system" (p. 94). Thus, according to Hirschi, disruption in the attachment of parent and child likely increases the potential for societal disruption.

Healthy attachment and bonding between parent and child is one of the central tenets of Confucianism. The relationship between the child and the parent, the Confucians believed, is crucial and irreplaceable in the moral education and development of the child. Within the Confucian philosophical tradition, each member of a family has specific duties in which they are expected to fulfill. Children are obligated to show respect and difference to their parents (as well as the all-important filial piety later in life), and in return the parents provide safety, materials, kindness, education, and moral guidance for their children. Both parties play a reciprocal role within the Confucian tradition, but even though the relationship is reciprocal, those operating on the lower levels of this relationship hierarchy (the children) need to default to obedience to those higher than themselves. All members of a family are expected to understand and abide by the roles prescribed to them within the family's ritual based hierarchical system. So much of what drives this family system is the ability of the parents to instill in their children—through education, examples, ritual, and proper guidance—the value of behaving morally (the value of being good to others,

following the golden rule, exhibiting empathy toward others, etc.). Encompassed within this reciprocal relationship is the absolute necessity that children show respect and difference to their parents, family members, elders, ancestors, the community, and the state—with the greatest emphasis directed toward the parents.

Per the Confucians, the family is the core from which virtuous behavior radiated, and if the parents fail in their obligation to educate and guide their children morally, the family will also become the core from which deviant behavior springs. Without attachment to the parents, the Confucians argued, a child will not develop the appropriate cognitive framework (what people often now describe as a robust conscious or superego) necessary for a productive and law-abiding life.

The parallels between the Confucian focus on the parent-child relationship and Hirschi's theory of attachment are, one could argue, striking. First, both philosophical parties contend that it is the family that overshadows all other forms of relationships and attachments. For Hirschi it is the child's attachment to his or her parents that is paramount to delinquency prevention, superseding the influence of teachers, coaches, religious figures, and other influential members of the community; and the same is true for the Confucian tradition as well, with the parent-child relationship superseding not only the community and society, but often serious laws, the legal system, and the state as well. Correspondingly, both Hirschi and the Confucians agree that the family holds the greatest influence over the functioning and operation of other segments of society; in that if families are destroyed or are not functioning properly, other sectors within society will experience greater negative effects when compared to the negative societal effects sustained had other relationships within society been destroyed instead.

The Confucians believed that it is through the family that social harmony in general is achieved. When family systems are in order and operating smoothly, thought the Confucians, social harmony will be firmly established and the state will be able to function without strain. Conversely, when family systems are in disarray—when children and juveniles are not attached to their family units, when parents are not instructing their children in lessons of upright and moral behavior, when filial piety is not being displayed, and when ritual and etiquette are not being adhered to within families—society may deteriorate and devolve into chaos and criminality. It is the child's relationship with the parents that represents the core and genesis of the child's behavior, and it is from this relationship that the health and wellbeing of society is determined. The Confucians believed that what takes place within the family radiates out and influences the community and the state, and, it should be noted again, it does this to a far greater extent than the community or the state influences the family. Hirschi (1969), finding the same to be the case, wrote that attachment to parents increases conformity within the larger social system (certainly greater conformity or nonconformity within the social system will have major consequences for the social system itself, for the community, and for the state). Thus, Confucius and Hirschi are aligned on this point: parent-child attachment is crucial for preventing deviance and for preventing societal destabilization. In the end, how a family functions, and the attachments that are generated or not generated between parent and child, per the Confucians and Hirschi, likely has deep societal repercussions.

Hirschi's attachment bond offers unique, interesting, and surprising parallels to the Confucian concept of ritual. Rituals, generally stated, are established behavioral patterns with their own unique meaning. For the Confucians, rituals are tremendously important

and are covered at great length in all of their major texts. Bell (2008) describes Confucianism as an “action-based” ethical philosophy, wherein “One learns by participating in different rituals and fulfilling different responsibilities in different roles, and the wider the life experience, the greater the likelihood that one has developed the capacity for good moral judgement in this or that situation” (p. 152). It is in ritual engagement within the family and within society, the Confucians argued, that morality is developed and reinforced, and, at the same time, social bonds are strengthened. Confucian rituals or *Li* are mechanisms instituted to insure harmony and cohesion within the social structure—they are behavioral norms and forms of personal etiquette meant to maintain a societal balance and control behavior. Wang (2012) illustrates the controlling effects of ritual (*Li*), “In the process of exercising Li, individuals keep a tight rein on their feelings, emotions, and desires as a means to restraining their behavior to meet the standards of communal life” (p. 89). Rituals represent a mechanism used for emotion regulation and impulse control, the Confucians maintained, all for the general purpose of self-control and self-possession. Xunzi (1999), asserted that ritual, as it operates in tandem with the social hierarchy, is a means to both control and foster the desires of people—to find a middle-point between indulgence and yearning; Xunzi, as noted earlier, writes, “The Ancient Kings abhorred...disorder; so they established the regulations contained within ritual and moral principles in order to apportion things, to nurture the desires of men, and to supply the means for their satisfaction” (19.1, p. 601). A harmonious, cohesive, and stable society was thought to be one where Confucian rituals regarding interpersonal interaction and self-

control are actively promoted and properly executed.⁸⁹ As Wang (2012) explains, the Confucians believed that ritual creates order, and, in doing so, limits impulsivity and behavior detrimental to society:

⁸⁹ The ability for the common person to sufficiently execute Confucian ritual has been questioned. Han Fei Zi took issue with what he believed to be the vague and abstract nature of Confucian ritual. The average man or woman, Han Fei Zi maintained, simply cannot interpret the complex and abstract nature of many of the Confucian rituals or prescriptions for social conduct. Thus, within this line of reasoning, rituals will ultimately be ineffective when used for social control. The public, Han Fei Zi argued, requires clear, easily understandable, broadly applicable, and straightforward rules for personal conduct—something of which Confucian ritual may not be the most effective at providing. Han Fei Zi (2003) explains the detrimental effects of the subtleties and mystery encompassed within Confucian ritual:

Even the wisest man has difficulty understanding words that are subtle and mysterious. Now if you want to set up laws for the masses and you try to base them on doctrines that even the wisest men have difficulty in understanding, how can the common people comprehend them?...Now in administering your rule and dealing with the people, if you do not speak in terms that any man and woman can plainly understand, but long to apply the doctrines of the wise men, then you will defeat your own efforts at rule. Subtle and mysterious words are no business of the people. (p. 109)

In accordance with Confucianism, the nature of ritual lies in various orders including the order of the mind, the order of the community and the order of society...If ritual is destroyed, the state will be on the brink of collapse because ritual brings about order, peace, and regulation by constraining the terrible and destructive power that originates from personal impulses. (p. 90)

The Confucians spoke and wrote so much of ritual that massive volumes of their guidelines for proper ritualistic behavior were produced. The main piece of their ritual based material, *The Book of Rites*, was a highly influential Confucian text for much of Chinese history (Confucius, 2013). This text is not covered in great depth in this

On the other hand, it has been theorized that the mystery and mystical nature of Confucian ritual, derived from its long tradition, historical influences, formal support, esteem, and pageantry, represent some of the ingredients that help produce its effectiveness in the areas of self-control and social control (Bell, 2008). For example, many modern religions often employ mystery and mystical elements within their rituals and teachings to induce a sense of awe in their followers or others in society. Thus, for modern day Confucians to remove or minimize the mystical nature of ritual, to appease the Legalists with their, one could argue, cold and sterile approach to the modern legal system, may be to limit its effectiveness and strength.

dissertation (though it is thoroughly examined and extensively quoted), as the material contained within usually consists of detailed and intricate rules for interpersonal interaction and personal etiquette, and, thus, lays outside the realm of what this dissertation is trying to accomplish. For our purposes, it is the overall effect that the rituals have on society, the family, and the individual that is of value, not a complete dissection of each of the individual rituals themselves (which would be an unnecessary diversion—though information corresponding closer to criminological matters is assimilated into this dissertation). Yet, it is beneficial to provide some general examples of the rituals and guidelines encompassed within this text so that the reader may achieve a better understanding of the makeup and composition of these Confucian rituals.

Many of the rituals encompassed within *The Book of Rites*, and other similar Confucian material, speak to the relatively mundane day-to-day interactions among people and the personal etiquette expected of people in these social situations. For example, *The Book of Rites* expounds on the appropriate dining etiquette expected among two men of different social rank who are dining together:

When feasting with a man of superior rank and character, the guest first tasted the dishes and then stopt. He should not bolt the food, nor swill down the liquor. He should take small and frequent mouthfuls. While chewing quickly, he did not make faces with his mouth. When he proceeded to remove the dishes, and the host declined that service from him, he stopt. (Confucius, 2013, p. 164)

Next, we will move from the dinner table to the schoolhouse. The appropriate manner of interaction between adolescents and those in authority, particularly those interactions taking place within the schoolhouse and the home, are comprehensively explained in Confucian ritual based texts. Another representative example of the material provided in *The Book of Rites* involves the interface between elder and student:

In going to take counsel with an elder, one must carry a stool and a staff with him (for the elder's use). When the elder asks a question, to reply without acknowledging one's incompetency and (trying to) decline answering is contrary to propriety. (Confucius, 2013, p. 2)

From this example, we can see how ritual pulls an adolescent into an educational system, not with exhalations explaining how not to behave, as is often the case in modern school and legal systems (systems often mirroring Legalist philosophy), rather, with prescriptions detailing how to behave to achieve the most favorable outcome for oneself or one's family. The final example of what *The Book of Rites* offers Confucian society will focus on the limits of a son's autonomy within the family. This is a valuable topic as it attaches the son to the family in several important ways; *The Book of Rites* explains:

A filial son will not do things in the dark, nor attempt hazardous undertakings, fearing lest he disgrace his parents. While his parents are alive, he will not promise a friend to die (with or for him), nor will he have wealth that he calls his own. (Confucius, 2013, p. 3)

From this illustration, we can see how ritual attempts to attach a son to his family. Though this particular piece resembles a more Legalist form of personal control in its structural argument (in that the guidelines are structured in a commandment-esque ‘thou shall not...’ rhetorical form), the admonition is derived from a social or humanistic base of instruction rather than a purely legal standpoint, thus, perhaps softening the material somewhat, potentially making it more palatable for internalization and consumption. In addition, these traditional admonitions are the product of advice handed down for centuries by relatives, ancestors, and sage kings, arguably rendering them more potent, as they come prepackaged with mystical qualities and the approval of history. It is within these examples that one can see how ritual shapes the way that society and the family operate; they show how social interaction is accomplished within different environments and among people of differing social status. Most importantly, it is these rituals, these guidelines for personal etiquette, which, the Confucians argued, bind and attached people to their families and to society—thus, controlling and regulating their behavior.⁹⁰ Per the Confucians, ritual is the force that pulls people into prosocial units and into positive social systems. It is within these rituals

⁹⁰ Rituals, Confucius argued, may also be used as means of social control by the ruling classes. Whether people are bonded and attached to society through familial or community ritual, ritual of which is often derived from and promoted by the ruling classes, or they are being controlled outright by their rulers through ritual examples, no small amount of social control in general is occurring. Therefore, these two ideas are, it could be argued, closely related and often overlap with one another.

that a child becomes attached to his/her parents, and a child becomes attached to society. It is also within these rites and rituals, it could be argued, that Hirschi's element of attachment finds rich support and a new dimension of engagement.

Remember that Hirschi's (1969) element of attachment represents a social bonding mechanism through which adolescents internalize societal expectations, familial expectations, and moral behavior in the process of communication with their parents. Also, as previously mentioned, it is the focus and quality of the communication between the parent and the child that Hirschi believes likely has the greatest potential to alleviate delinquency and deviant behavior, not the quantity of the communication. As we will see, these two theories are, it could be argued, closely related to how the Confucians regard parent-child ritual based interaction. Hirschi expresses this focused communication in terms of a more generalized transmission of norms and expectations from parent to child, and the Confucians focus their communication on norms and expectations as well, but the difference between the two is that the Confucian norms and expectations are often transmitted in the form of distinct and socially acknowledged rituals. Hirschi asserts that the mechanism that transmits norms, expectations, and moral lessons is the emotional connection or bond between parent and child (employing abstraction notions of love may be a suitable way to describe this Hirschian communicatory vehicle). Hirschi (1969) writes of this emotional connection, "As is well known, the emotional bond between the parent and the child presumably provides the bridge across which pass parental ideals and expectations" (p. 86). The same parent-child emotional bonding process is recognized as a major source of information transmission by the Confucians as well (there is, obviously, a general and natural connection between parent and child; though, there are exceptions,

such as parents who engage in filicide and parents who abuse their children), but in addition to this, the Confucians utilize ritual as an avenue for the transmission of many of the norms, expectations, and moral lessons. It is through ritual, the Confucians theorized, that the emotional bonding mechanism between parent and child, that is, the Hirschian bridge from which norms and expectations cross, is strengthened and reinforced.

With the incorporation of ritual, one could argue that it is not just the words and expectations of the parents that are being internalized by the child, but the accumulation of the words and expectations of a society or a culture as a whole—the traditional teachings, norms, morals, etiquette, music, and the performance arts that exist within an interrelated social web that incorporates the family, ancestors, the academic community, the community in general, community leaders, sages, sage kings, and the ruler—that are influencing and directing the child’s behavior and thought processes. This additional communicatory and persuasion centered supporting scaffolding engendered in ritual may provide a distinct advantage in the formation of a child’s moral foundation.

The haphazard behavior exhibited or developed semi-independently by a series of disconnected families (which is often the case in many Western societies) may not produce as strong of an effect on the behavioral regulation, emotional regulation, impulse control, intellectual development, and general well-being of children when compared to the traditional, historical, documented, cherished, systematic, and state sponsored ritualization of behavioral prescriptions engendered within Confucian philosophy. When the construction or selection of norms and behavioral prescriptions, or other activities that resemble ritual, is left to the unreliable and disorganized devices of various independent parents or groups of semi-independent parents—parents who bring to the table their own

biases, preferences, inadequacies, personal histories, and, potentially, exotic and misguided ideas—the results may not only be unpredictable and highly variable, but they may be highly ineffective or damaging as well. Under these more varied conditions, the children may recognize that their homespun family orientation is receiving little support and acknowledgment from the wider community and social system or they may recognize that their family orientation is simply unlike that of others (children may reject these distinctions because they, it could be argued, are much more prone to engage in group think, tribalism, or follow trends when compared to adults—as children grow older and their brains develop they increase their potential to think independently and break away from group think and the herd mentality), thus, possibly weakening its ability to effectively transmit moral lessons, produce well-adjusted members of society, and control behavior. Therefore, traditional rituals strongly connected to a common (often formal) social source may have greater potency and controlling power. It may be profitable for those who continue to operate within Hirschi's (1969) theoretical framework to consider advocating for a more generalized ritualistic transmission of social norms and morals within the family and social system. These ritual centric transmission methods may be useful in strengthening and reinforcing the bonding and attachment process naturally occurring between parent and child, thus, potentially improving the capacity for internalization and authentic adherence to these norms and morals.

There is a fair amount of academic research, particularly within the field of psychology, supporting the notion that ritual is likely beneficial within the family. Kiser, Bennett, Heston, and Paavola (2005) examined the link between the psychological health of children and family rituals, and found that “Family rituals are a correlate of child well-

being” (p. 357), and that “The constructive use of family rituals is reliably linked to family health and to psychosocial adjustment” (p. 357). Malaquias, Crespo, and Francisco (2015) analyzed the social connectedness, depression, and anxiety of 248 Portuguese students in relation to the ritual behavior of their families. From the self-report questionnaires given to the students, Malaquias et al. (2015) found that, “Family ritual meaning was positively related to social connectedness and negatively related to depression” (p. 3009), and they continued by explaining that:

When adolescents reported stronger family ritual meaning, they also reported higher levels of social connectedness...A possible mechanism that explains this finding is the security that is provided by family rituals: feeling more secure and connected to one’s family can facilitate and promote the *formation of bonds* [emphasis added] with others who are outside the family context. (p. 3013)

Santos, Crespo, Silva, and Canavarro (2012) conducted a cross-sectional study of 149 Portuguese children who had been diagnosed with asthma, and they analyzed the influence that family ritual has on family cohesion, family conflict, the physical health of the child, and the emotional and behavioral wellbeing of the child. They found that “Stronger family ritual meaning predicted a more positive family environment (i.e., higher cohesion levels and lower conflict levels), better health-related quality of life, and fewer emotional and behavioral problems in youths” (Santos et al., 2012, p. 557). These results follow several other studies that found significant positive relationships between family rituals and the

healthy cognitive functioning of adolescents, family rituals and the emotional wellbeing of adolescents, and family rituals and family cohesion (Fiese & Kline, 1993; Fiese, Koley, & Spagnola, 2006).

When Confucian ritual is incorporated into the upbringing of children, the children, it could be argued, are not simply behaving in a way that they see fit or in a way that their parents told them to behave because it was supposedly the right thing to do, instead, they are behaving in a particular way because it is how their parents, ancestors, ancient sages, community members, leaders, and society as a whole (a society with a pronounced orientation and reflection on the past and ancestral philosophy; partly signaled by its promotion of ritual) have instructed them to behave. It is potentially a more potent and effective way to draw young people into a social system that rewards conformity, self-control, the moderation of desires, self-improvement, learning, and social harmony. The word “conformity” is often saddled with negative connotations in the Western world, but conforming to, what could be considered, positive, prosocial, civilization advancing, and life-enhancing behavioral systems is arguably anything but wholly negative; and within this Confucian context should be considered accordingly. Through Confucian ritual, and the type of ritual that consists of Confucian based properties, societies, it could be maintained, garner the ability to create a unified front composed of many prominent people within the child’s life to act as a barrier against deviance and impulsivity. It is this unified group of people (both living and deceased), and their ritual based behavioral prescriptions, that the child may be less likely to abandon. It may be far easier to turn away from the solitary words of one’s father, believing that he is a misguided or a foolish man, than it is

to turn away from rituals generated by society as whole, and passed down through the ages by one's ancestors and the great sages of the past.

For example, it is with the Confucian ritual based procedures that correspond to the different stages a student traverses through within education, and the ritualistic processes that take place within the classroom between teacher and student,⁹¹ that a student potentially develops a higher likelihood of a more intense bond and attachment to education, self-improvement, and to those individuals involved within the educational process. With ritualistic burial and the accompanying mourning procedures required of relatives—often lasting more than one year, particularly when one's parents are the deceased⁹²—one potentially develops a greater attachment to one's family and ancestors.

⁹¹ These educational stages culminated, throughout much of Chinese history, in a highly important civil service examination. Today this capping exam is known as the “gaokao” exam, which determines who enters university and in which university they enter.

⁹² Confucius mourned his mother's passing for three years, as was tradition. Three years of mourning is the maximum allotted period for grieving, per Confucian ritual, and is typically reserved for the death of a parent. Periods of mourning are divided into a hierarchy based upon the deceased's position within the family, the deceased's relationship with the mourner, and the deceased's position within society. Xunzi (2003) most adequately explained the motivations for the different mourning periods:

How is the mourning period divided up? For parents it is divided on the basis of a year. Why? Because in that time heaven and earth have completed

Additionally, the lessons provided to young people who witness the mourning of others may be of great benefit in their own personal self-cultivation and understanding of the value of society and the value of the tenets that make up society. Confucius' behavior around mourners is emblematic of how ritual influenced his thoughts and actions, but more importantly, it's representative of how ritual attached Confucius to society; for example, "When he (Confucius) encountered people wearing mourning dress or ceremonial headdress and robes or people who were blind, even if they were younger than himself, he always rose to his feet when he saw them and, when he passed them, he always made haste"

their changes, the four seasons have run their course, and all things in the universe have made a new beginning...Why do the mourning periods of some relatives last only nine months or less? In order to show that they do not meet the completion of a year...The three year mourning period is the highest expression of the way of man and the mark of greatest honor. (p. 111)

The three years of mourning reserved for the death of a parent reflects the first three years of a child's life, a period in which the child is wholly dependent on the parents. In that, if the parents sacrifice three years of their lives entirely to the child, those three years are to be returned in the form of mourning when a parent dies. Confucius (2003) explains this ritual, "A child is completely dependent upon the care of his parents for the first three years of his life—this is why the three-year mourning period is the common practice throughout the world" (p. 210).

(Confucius, 2008, p. 32).⁹³ Here one can see how he attached himself to others and to society through the respect and difference he showed those who were in pain, who were suffering, or who were at some kind of social or physical disadvantage. Through these ritualistic behaviors, he was binding himself closer to continuous and lasting moral conduct. Once someone gets into the pattern of these prosocial ritualistic behaviors, it could be argued, these behaviors become second nature and unconsciously reflexive in an almost Pavlovian sense, strengthening authentic and unconscious morality within one's cognitive framework. The reverse is true, one could reason, of the mourning rituals for those who exhibit serious forms of criminal behavior. Ritual centric mourning practices for deceased criminals are designed to produce an anti-bonding or divorcing effect, distancing the family and the community from the deceased criminal and expediting a return to normalcy for the

⁹³ Making haste is considered by the Confucians to be a physical gesture of respect. Confucian scholar and commentator Fan Ziyu believed that Confucius' behavior constitutes an unconscious and authentic ritualistic reflex, writing:

The mind of the sage is such that he grieves along with those who are in mourning, feels respect for those who hold official rank, and feels pity for those who are disabled. It is likely that the Master rose to his feet and hastened his step spontaneously, without having consciously intended it.
(Confucius, 2003, p. 89)

survivors of the departed. Xunzi (1999) diagrams the ritual centric mourning procedures for serious criminals:

The funeral of a castrated criminal does not involve uniting his family and neighbors, but brings together only his wife and children. His inner and outer coffins are but three inches thick, with only three thicknesses of grave cloth covering his corpse and with no decorations permitted on the inner coffin. His procession is not permitted to proceed by day, but they must bury him under the cover of darkness. They wear everyday clothing when they follow along going to bury the corpse. When they return from the burial, there is no term of weeping and wailing, no sack-cloth mourning clothes, no gradations of proper lengths of mourning for near and distant relatives. Each returns to the ordinary course of his life and resumes his business as before. As soon as his body is interred in the earth, everything ends as though there had never been a funeral. Truly this is the ultimate disgrace. (19.10, pp. 619-621)

With Confucian ritual, attention is dedicated to the hierarchal roles designated to family members and members within the larger society. This is particularly the case when rituals prescribe procedures for interpersonal and social interactions,⁹⁴ which are meant to

⁹⁴ Wherein, in the most general sense possible, respect and difference should be shown to those above, and kindness, patience, and understanding to those below.

promote regulated and controlled behavior. For example, when Confucius was in a formal public setting, such as a government court, this is how he would engage, in accordance with ritual, both those who out-ranked him and those in a lower social position than himself: “Speaking with lower grandees he was affable, and when speaking with higher grandees he was forthright. When the ruler was present he was respectful but self-possessed” (Confucius, 2008, 10.2 p. 35). Ritual provided Confucius with the controlling and regulating guidelines necessary for these varied social settings as they existed within his social hierarchy. Through years of studying and practicing these rituals, Confucius was able to carry this controlled and self-possessed mindset with him into these social settings and interpersonal interactions, and, consequently, behave admirably and appropriately within these assorted environments. So it is that rituals represent a major attaching mechanism for the Confucians, securing one’s integration into the family and into society.

It was initially under the philosophy of Confucius in which the importance of ritual was articulated in a theoretical sense, thus, allowing the connection between Hirschi’s attachment bond and ritual to be realized, but it is through the work of Xunzi that a true merging of ideas can, one could argue, be forged. Xunzi, like Hirschi, believed that people are inherently bad. He asserted that it is through ritual and self-cultivation that people can rise above their evil nature and behave in a cohesive, civilized, and non-violent manner—it is through ritual that social order and social bonding is achieved. Xunzi (2003), as discussed earlier, explains the importance of ritual in the attainment of personal control and social order:

Since man's nature is evil, it must wait for the instructions of the teacher before it can become upright, and for the guidance of ritual principles before it can become orderly. If men have no teachers to instruct them, they will be inclined toward evil and not upright; and if they have no ritual principles to guide them, they will be perverse and violent and lack order. (s. 23, p. 162)

The basic tenets of Hirschi's theory of attachment, it could be asserted, align with those of Xunzi. Both agree that human nature is inherently evil and requires controlling influences. Hirschi (1969) contends that men are no different from the other mammals that constitute the animal kingdom and, thus, are oriented with the same inherently self-serving predisposition. Xunzi (2003) recognized that people are inherently and injuriously competitive, constantly seeking profit in a similarly evil and self-serving fashion. Both philosophers assert that the transmission of norms and expectations are necessary to pull people into a social system and bond them or attach them to this social system. Xunzi (2003) writes of the importance of ritual in this transmission, "Ritual principles laid down certain regulations in order to reform man's emotional nature and transform it and guide it in the proper channels" (s. 23, p. 162). Hirschi's (1969) thoughts reflect those of Xunzi when he describes the passing or transmission of guidelines and expectations from parent to child, "The emotional bond between the parent and the child presumably provides the bridge across which pass parental ideals and expectations" (p. 86). Both agree that social order can only be attained if this bonding process is successful; Xunzi (2003), as briefly touched on earlier, proposed that, "If he does not possess ritual principles, his behavior will

be chaotic and if he does not understand them, he will be wild and irresponsible” (s. 23, p. 166), and Hirschi (1969), in his own way, concurred, writing, “The bond of affection for conventional persons is a major deterrent to crime. The stronger this bond, the more likely the person is to take it into account when and if he contemplates a criminal act” (p. 83). Both Xunzi and Hirschi theorized that for a child to achieve self-control it is necessary for the parents to transmit social norms and expectations to their children. Hirschi believes that the emotional bond between parent and child acts as the bridge over which this transmission takes place; while Xunzi believed that much of this bridge is constructed from ritual based elements, and that from this ritual the necessary emotional bond between parent and child is reinforced and strengthened—thus, making rituals a major avenue for these transmissions.

A significant difference between Confucian ritual based attachment and the transmission of rules and regulations within much of American society, and why one could argue that Confucian ritual may be a more effective method of familial bonding and social bonding when compared to modern American behavioral control methods, is that it may be more difficult to feel truly and authentically attached to the guidelines, regulations, and philosophy championed by the machinery of a punishment centric legal system or school system, even though these guidelines may be coming from or transmitted by loving parents or concerned administrators. It is often the case that parents in American society transmit social norms and expectations using laws and the legal system as determinates of what the child should not do (the emphasis here is on what the child should not do, rather than what the child should do). For example, the parent explains to the child that they should not do this or that they should not do that because they will be breaking the law, the police will

arrest them, they will go to jail, they will need to go to court, or they will need to experience other similar legal repercussions. As was covered previously, the Confucians believed that a punishment centric social system produces an inauthentic respect for the norms and tenets that unify society, thus, minimizing shame and fostering deviance.

Additionally, the transmission of these law based guidelines and regulations from the legal system to the juvenile or the adolescent may be taking place within an environment that is inequitable both socially and economically—obviously, an environment in which many of the people vulnerable to criminality exist—which may add an additional element of dissuasion or contention into what is often already a tenuous relationship between the juvenile or adolescent and the legal system/the state. The legal system and formal laws are considered by many (e.g. many critical criminologists and underprivileged people) to be the harbinger and enforcer of social and economic inequality, and, thus, interpreted in an already adversarial way by many who are living in these high-risk, downtrodden, and crime riddled areas. When society or parents explain to juveniles and adolescents that they need to respect and obey a policing system, court system, and law structure—systems and structures that these adolescents and juveniles may perceive as working against them (however this perception is generated: personal experience, the media, hearsay, social media, TV shows, movies, etc.)—the effectiveness of this persuasion method concerning moral development, the internalization of social norms and expectations, and behavioral control may be highly variable. It may, under these circumstances, be unprofitable to only promote adherence to the legal system or government regulations.

Rather than repeatedly being told what not to do by, what may be considered, a cold, sterile, and detached legal system, like one is a child that can only understand the base implications of punishment, with Confucian ritual one is taught and shown how to behave, one is taught how to engage and interact with family members and others in society, one is taught how to succeed within society, and one is taught how to view the world, all of which is accomplished in a, arguably, more humanistic, proactive, and positive way. Ultimately, with the implementation of Confucian ritual, one is treated as a responsible entity capable of absorbing information and orienting one's life on the bases of this positive and effective knowledge. Ritual may provide greater meaning in people's lives when compared to written law or some abstract concept of society or community, and, thus, it is through ritual that morals and expectations may potentially be more effectively transferred and understood by young people.

Not only did Xunzi believe that ritual in general is a major harbinger of familial attachment, but he also placed great stock in the ability of ritualized forms of music and other performing arts to attach children to families, attach children to society, pull families together in a cohesive and positive way, attach families to society, and create a harmonious society in general. Music, and its accompanying dances, pageantry, theatrics, ornaments, garments, costumes, war reenactments, military uniforms, etc., is made up of an assortment of social and psychological mechanisms, Xunzi argued, that have the capacity to bring people together, strengthen social bonds, and generate harmony within society. Simply stated, Xunzi believed that music serves as a highly effective attachment and bonding mechanism within the family and within society.

Xunzi theorized that the bonding and unifying power of music occurs in two locations: within the family, and within society or the community. Music conducted within the family was thought to generate feelings of kinship and produce familial attachment amongst different generations and between brothers. Music conducted within society or within the community was thought to generate greater obedience to social norms and develop personal control as musicians and dancers exhibit their skills in front of others in a synchronized manner. This extra-familial musical arena, Xunzi argued, is one in which disparate groups interact musically in a social environment, and, as a product of these musical interactions, the Confucian hierarchical system within society is recognized and strengthened (e.g. the expectations between the old and the young within society are illuminated). Xunzi (2003), as quoted previously, writes of the location dependent bonding experience of music:

When it is performed within the household, and father and sons, elder and younger brothers listen to it together, there are none that are not filled with a spirit of harmonious kinship. And when it is performed in the community, and old people and young together listen to it, there are none who are not filled with a spirit of harmonious obedience. Hence music brings about complete unity and induces harmony. (s. 20, p. 116)

One could argue that it may only be through the ritual based mediums of music, dance, and other performance arts that when a family or community attains harmony, camaraderie, and unity as a group the effect is enhanced to an almost transcendent

emotional experience amongst the people. In other words, music, and its accompanying performance arts, may influence people in a way that moves beyond mere day-to-day enjoyable social interactions or minor celebrations and reaches deep into the soul. Music, and the transcendent experience that it arguably produces, may have a more earthly and primitive connection with everyone involved; this effect, it could be reasoned, is life affirming, unity inducing, and truly meaningful for those involved. Xunzi (2003) explains the sublime and unifying effect, as well as the lessons in personal control exhibited in synchronized movements, in which music and dance produce when people play music and dance in unison:

When all the posturings and movements, all the steps and changes of pace are ordered and none are lacking in the proper restraint, when all the power of muscle and bone are brought into play, when all is matched exactly to the rhythm of the drums and bells and there is not the slightest awkwardness or discord—there is the spirit of the dance in all its manifold fullness and intensity. (s. 20, p. 121)

The same ritual based musical and rhythmic mechanisms that potentially have the capacity to motivate and inspire warriors into battle (through tribal war dances, the marching based performances and music of military parades, etc.), may enhance and reinforce social bonds within the family, community, and society as well. To put it another way, if a behavioral mechanism potentially has the capacity to motivate and induce young

men to risk their lives and die in battle, then an argument could be made that it likely has the capacity to bond and unify families and communities in a civilian environment.

Psychological research seems to provide support for Xunzi's position regarding the positive relationship between music and family attachment (Boar & Abubaker, 2014; Demos, Chaffin, Begosh, Daniels, & March, 2012; Kirschner & Tomasello, 2010; Pearce, Launay, & Dunbar, 2015). In their cross-cultural study of musical rituals within the family and their effects on family cohesiveness, Boar and Abubaker (2014) found that listening to music as a family positively influences family cohesion and attachment. Family cohesion, within this context, occurs at each stage of the developmental trajectory of the children as well; Boar and Abubaker (2014) explain, "Developmental analysis show that musical family rituals are consistently strongly related to family cohesion across developmental stages" (p. 1). Demos et al. (2012), in their study concerning music, physical synchronization, and spontaneous coordination, state that music acts as a type of social glue, connecting and uniting people. Illustrating the influence music has on interpersonal connectivity, Demos et al. (2012) write, "Rocking with the music made participants feel connected to their partners, possibly because they assumed that they were sharing the same experience of synchronizing to the music" (p. 52). Kirschner and Tomasello (2010) studied music making among 4-year old children and whether this behavior results in spontaneous cooperative and helping behavior. The authors found that, "When performed in a manner akin to that typical in traditional small-scale societies, joint music making enhances prosocial behavior in 4-year old children" (Kirschner & Tomasello, 2010, p. 361).

Hagen and Bryant (2003) contend that music and dance may have once served as a major function of coalition signaling between non-kin groups. Per the authors, the

evolution of the organization of nonrelated humans into cohesive groups may have been controlled and systematized through the social worth identifiers of music and dance. Throughout history it may have been quite difficult to determine which non-kin group a kin-group should choose when building necessary and important coalitions—this may have been particularly the case when working with an assortment of disparate groups of families and communities. Then, with their differing levels of worth and cohesiveness, how does one kin-group determine if another non-kin coalitional candidate group is cohesive, organizationally healthy, and internally stable? Hagen and Bryant speculate that it is through the help of music and dance that one kin group determines if another kin group is suitable for coalition building. Music and dance, they argue, provide a set of signals that can be used by one kin group to signal to another kin group that the signaler group is unified, healthy, internally stable, and a good choice in which to dedicate time and energy in the formation and upkeep of a proper coalition. To choose to form a coalition with an unstable, weak, volatile, unhealthy, or disorganized group (a group that is likely incapable of competently playing music together or affectively exhibiting forms of dance together) will likely be unprofitable, and potentially detrimental and destructive, for one's own kin group. Therefore, it may be important to have the visual and auditory displays of music and dance to act as a screening method to ensure that the chances of this happening are slim. Music and dance, Hagen and Bryant maintain, may also signal to another group that one's group is seeking to form a coalition or is in the coalition building market. Stated differently, it precipitates coalition building between hesitant and skeptical parties; in the words of Hagen and Bryant (2003), music and dance act as “a *motivation* [emphasis added] to act collectively to achieve important goals” (p. 27). Ultimately, music and dance may

have served as a signal to other kin groups that the signaler kin-group is suitable for coalition development and cooperation in matters of warfare, military alliance, raids, defense, and other socially and militaristically beneficial interactions. Hagen and Bryant (2003) write of their coalition signaling theory:

Humans are unique among the primates in their ability to form cooperative alliances between groups in the absence of consanguineal ties. We propose that this unique form of social organization is predicated on music and dance. Music and dance may have evolved as a coalition signaling system that could, among other things, credibly communicate coalitional quality, thus permitting meaningful cooperative relationships between groups. (p. 21)

Coalitional signaling theory represents a form of social cohesion development at the non-kin, community, and societal level. It is through the process of developing music and dance that the individual group itself may become more bonded and attached, one could argue, with a major goal being that the group becomes bonded and attached to other kin groups. Thus, within music and the arts, bonding and attachment may be happening on two distinct levels: Within group bonding and between group bonding.

Interestingly, synchronized ritual behavior is institutionalized within the modern Chinese business world, particularly in sectors requiring little to no training or education for their workers prior to employment, and sectors composed of large numbers of migrant workers. For example, retail workers and restaurant employees often engage in compulsory

synchronized dances, exercises, and group songs on the sidewalks in the front of the businesses in which they work. These synchronized dances are often accompanied by loud music from stereo systems, with added corporate and national slogans vocalized by someone in a managerial or leadership position tasked with directing the activities. This scheduled behavior typically takes place before the business officially opens for the day or before an anticipated rush of customers. I've personally witnessed this behavior in many iterations countless times throughout my many years in China. Per Bell (2008), this synchronized ritual behavior is conducted to “express commitment to the good of the company, and more broadly, to the ideal of progress for the country (the lectures sometimes include patriotic content)” (p. 50). To expand on Bell's interpretation, it's possible that these ritualistic behaviors also *unify* the workers in a common cause. This musical and dance based exhibition may unify the employees to work as one cohesive entity for the good of the company (in a way that is cost effective). This business focused, (it could be argued) commitment generating, synchronized dancing strategy may be a microcosm of the potential unifying power of dance on a broader societal level. Just as somewhat hastily thrown together dances on the sidewalk in front of a business may promote unity and comradery amongst the workers for the ultimate benefit of the company, public dance in general may have the capacity to unify families and unify communities, potentially pulling people into prosocial family systems, and attaching them to their communities—which ultimately may minimize deviance and promote greater harmony amongst the people.

Conversely, it has been argued that there is no selective adaptation for music itself (what people commonly think of as “music”) that promotes benefits in the arena of natural selection. Pinker (1997) believes that the application of music in society may be an offshoot

of an assortment of singular evolutionarily effective qualities that people possess, that when combined, create the overall effect that is derived from “music.” In other words, there may be nothing intrinsic in music itself that is or was evolutionarily beneficial to humans, but that music encompasses several individual, evolutionarily beneficial, components that provide the illusion that it is music itself creating these bonds within society. Thus, it may be the confluence, or the individual contributions, of these assorted adaptive qualities that are influencing behavior and not music as a stand-alone entity. Pinker (1997), arguably the foremost and most public proponent of this theoretical position, writes:

Music confers no survival advantage...I suspect that music is auditory cheesecake, an exquisite confection crafted to tickle the sensitive spots of at least six of our mental faculties. A standard piece tickles them all at once, but we can see the ingredients in various kinds of not-quite-music that leave one or more of them out. (p. 534)

Pinker asserts that it may be six individually useful adaptive components that conspire to produce the illusion that music itself is functionally beneficial. Pinker’s six components are language, auditory scene analysis, emotional calls, habitat selection, motor control, and what he calls “something else” (an assortment of other potential causes of less importance or less likelihood). To go into further detail regarding the six components that Pinker contends may constitute the effect of music is to go beyond the scope of this dissertation; for more information see Pinker (1997). Nevertheless, whether we attribute these bonding or attachment effects to what we generally refer to as “music” or to the number of

individual evolutionarily beneficial parts that may coalesce to form the effect that is music, this effect may possess the capacity to bond people to social systems and control behavior. Music conducted in groups or individually, and the formal instruction as to the playing of musical instruments, may be a valuable piece of general education within schools, offender rehabilitation establishments, and prisons.

Moving from the role that music and dance in general plays in bonding and attaching people to society to the importance of dance itself in personal control, personal discipline, social control, and attachment, we find that Xunzi (2003) believed that the ritual based performance art of dance has the power to train and educate the dancer in the areas of self-control, personal discipline, physical boundaries, and social attachment. The limited and contained movements within dances and synchronized performances were thought to be exercises in personal control and social attachment. Through each step of a dance routine, one must not step out of line or deviate from the dance or the group. If mistakes are made and one deviates from the group, it is likely a shameful or negative experience for the dancer and for the group. Xunzi (2003), as previously noted, illustrates the controlling and regulatory effects of dance, “When he learns to observe the proper positions and boundaries of the dance stage and to match his movements with the accompaniment, he can move correctly in rank and his advancements, and retirings achieve order” (p. 116). This process was considered effective in behavior regulation at the individual level, and it acts as an effective metaphor for social behavior within the Confucian system in general: Control yourself and stay within the confines of your prescribed role, perfect yourself through rigorous personal improvement and cultivation within that role, become cohesive

and bond with your group to achieve synchronicity, and do this for the benefit of both yourself and the group.

Xunzi (2003) believed that it is often in synchronized and choreographed group dances that social attachment and community building is achieved. The acts of communicating and engaging in cooperation in an intimate setting with other members of the community through synchronized dance, Xunzi reasoned, brings communities together, strengthens social bonds, and adds value and cohesion to society. Empirical evidence seems to support Xunzi's theories regarding synchrony and social cooperation (Lakin & Chartrand, 2003; Valdesolo, Ouyang, & DeSteno, 2010; Wiltermuth & Heath, 2009). Wiltermuth and Heath (2009) conducted several studies to determine if group cooperation is generated or enhanced from the implementation of synchronized behaviors among the participants. What they found is that social attachments are significantly strengthened by behaviors and exercises that involve synchrony, such as dance. Wiltermuth and Heath (2009) speculated that their results (synchronized behaviors may strengthen social attachments) are the product of evolutionary mechanisms developed for survival, particularly as they relate to the free-rider problem, writing:

Our results suggest that cultural practices involving synchrony (e.g. music, dance, marching) may enable groups to mitigate the free-rider problem and more successfully coordinate in taking potentially costly social action. Synchrony rituals may have therefore endowed some cultural groups with an advantage in societal evolution. (p. 5)

In this way, dance or marching demonstrations may be a leftover mechanism that has evolved to determine who is contributing and working within a group and who may be acquiring excess benefits without exerting the appropriate effort (the idea behind the free-rider problem). Putting aside the free-rider issue, the underlying point regarding Wiltermuth and Health's (2009) study is that synchronized behaviors such as dance produce higher levels of social attachment and cooperative behavior among people.

Dancing in a group may also provide a clear reminder of one's role within the larger social system, and this may have an additive controlling effect on people. When one is constantly reminded that they are there to play a small role in a much larger system, their capacity for excessive or exaggerated actions and behaviors may be diminished, while their humility may be simultaneously increased. In the end, the message being sent to people, within the confines of this theoretical picture, is that one must act in unison with the group to achieve harmony and social benefit. Synchronized dancing is, per Xunzi and the available empirical evidence, a potential method that may be used to increase self-control, self-possession, social control, and social attachment.

It is also thought that synchronized behaviors such as dances, military marches, and military parades may form cohesion within a group in the process of attaining the goal of signaling fighting ability or military prowess. Militarized synchronicity, if properly executed, likely signals to outsiders that a group can act as a unified entity to accomplish its militaristic or offensive/defensive objectives. Synchronicity, per Fessler and Holbrook (2016), is integral in:

Assessments of agonistic coalitional strength, this derives primarily from their connection to inferences regarding the degree of cohesion and coordination obtaining among the members of the given coalition. In short, those who move in sync do indeed signal that they can act effectively in concert in agonistic conflicts. (p. 7)

It could be argued that those groups that are better able to mobilize in a unified lock-step march or engage in complex precision dances may be more likely to be unified in battle, may be more likely to obey and carry out orders, may be more likely to be effective as a military unit, may be less likely to flee the battlefield, and may be less likely to care about the self and more likely to care about the group or the cause—which are obviously essential elements within the military.

In the end, family and community bonds may be formed in the synchronization process, and in the public display of synchronization the goal may be to signal cohesion and coordination within a social or militaristic context (even seemingly innocent synchronized dances may contain underlying and unconscious displays of militaristic competence). So it is that the Confucian position regarding music and the performance arts, and the ability of music and the performance arts to generate attachments and bonds within the family and within society, may represent another important attachment or bonding mechanism to be incorporated within the constellation of criminologically based social bonding mechanisms.

Additionally, Xunzi (2003) believed that music and dance, particularly when conveyed in a militaristic fashion or in a way that has recognizable undertones of

impending conflict, is a way to exercise emotions in something akin to the Freudian death instinct. Within the Freudian psychoanalytic tradition, it is alleged that everyone possesses a death instinct or death drive (also known as Thanatos). This death drive is a primal desire to destroy or kill that is thought to be located deep within the psyche. Freud (1953) snidely explains the death instinct, “Those who love fairy-tales do not like it when people speak of the innate tendencies in mankind toward aggression, destruction and, in addition, cruelty” (p. 99). The death instinct, thought Freud, can be satiated by acts of destruction and aggression, or by punishing others for their crimes or transgressions. Freud (1953) writes of the need for people to engage in destruction to satiate this yearning of the ego, “The instinct of destruction, when tempered and harnessed (as it were, inhibited in its aim) and directed toward objects, is compelled to provide the ego with satisfaction of its needs and with power over nature” (p. 101). Through the process of punishing criminals for their deviance, the inhabitants of society are thought to be collectively satisfying this death instinct. Freud believed that this death instinct must be satisfied to achieve a state of psychological calm, psychological equilibrium, and social tranquility, and that the punishment of others is the main, and least risky or least socially damaging, mechanism used to accomplish this need for psychic relief or psychic balance. If people fail to satisfy these instincts through public displays of punishment, Freud argued, they will need to find alternative, usually socially detrimental, ways of quelling these instincts, such as committing crime or being destructive in general. In Xunzi’s (2003) writing concerning the need to satisfy emotional desires, the Freudian undertones are evident, “If the people have emotions of love and hatred, but no ways in which to express their joy or anger, then they will become disordered” (p. 119). Xunzi theorized that when men marched in rank as if

going off into battle and when men danced with shields and battle-axes they are providing for themselves and for onlookers an outlet in which to direct their hatred and evil, or, one could reason, they are satiating their death instincts. Xunzi thought that it is through this show of military force, and the mechanisms of death and destruction that these displays arguably represent, that personal order and social control is maintained. In other words, this show of a potentially destructive force in public is a way for the people to let off the steam that would otherwise manifest itself in disorder and criminality. Xunzi (2003) illustrates the hatred or evil that is conjured under these conditions, “As singers blend their voices with the leader, so good or evil arises in response to the force that calls them forth” (p. 119). When conducted correctly, Xunzi and Confucius argued, the sounds and experiences encapsulated within music, dance, and its accompanying environment releases hatred—ultimately sedating men, making them more obedient and more harmonious.

Confucius also asserted that music has the power to vent anger and alleviate aggressive impulses. If people experience a flow of aggressive and violence laced emotions, they are advised by Confucius to turn to music, turn to song, and turn to their instruments, and this will quell their rage. An excellent example of Confucius’ promotion of music as a remedy for the reduction of aggressive impulses is when Confucius was taken prisoner for a brief period after being mistaken for a wanted criminal of whom he physically resembled. While in captivity, one of Confucius’ disciples became infuriated at the circumstances which befell them and seemed on the verge of an almost suicidal retaliation. Confucius responded to his disciple’s behavior by first providing a spoken lesson on the value of music as a vessel to channel anger, and then he continued with a sorrowful song which supposedly pacified the intense scene and released them from their

bondage. A portion of the compelling tale of the brief captivity of Confucius and his disciples, originally told in the “Zither Song” and quoted from Confucius (2003), is as follows:

The people of Kuang reported to the Lord of Kuang, “That Yang Hu who troubled us before has now shown up again.” Thereupon they led a force to surround Confucius, and did not let him go for several days. Seized by sorrowful emotions, Zilu [one of Confucius’s disciples] suddenly went into a fury, staring about him with enraged eyes, hand on his sword, shouting in a loud voice like the sounding of bells or the beating of drums. Confucius said to him, “Zilu, come here. Now you want to make a name for yourself with your display of contentiousness, but such behavior will be the death of me. If you instead give vent to your emotion by singing of your sorrow, this will bring nothing but peace to my heart.” Thereupon Confucius took out his zither and began to sing, and the notes that he played and words that he sang were filled with intense sorrow. (p. 121)

In Xunzi’s (2003) writings of the bonding and unifying power of music and the arts, he explicitly attacks Mozi’s position on the subject by name, ending many of his arguments regarding music with the statement, “And yet Mozi criticizes it. Why?” (s. 20, p. 117). Xunzi (1999) believed that to create a world without music, a situation in which Mozi wanted to see come to fruition, will be to create the conditions for social anarchy; he writes:

The misfortune truly common to the whole world is the injury brought about by social anarchy. Why, then, not investigate who it is that generally seeks to create social anarchy? In my view it is Mozi who with his “Condemnation of Music” produces social anarchy throughout the world...” (10.11, p. 285)

Xunzi was displeased that someone hadn't corrected or punished Mozi for his, what he considered to be, misguided and possibly harmful criticisms directed at music and the arts. Xunzi's explanation for the lack of resistance or repudiation of Mozi's beliefs from Mozi's contemporaries on this point is that all those with the intellectual wherewithal to recognize a misinformed and potentially harmful theory, the sage kings and other notable academics of old, were all dead. Only the philistines and the brutes remained, and, as such, they had complied with the erroneous doctrines of Mozi without compunction. Xuniz (2003) writes of Mozi's ability to escape criticism:

Because he criticized music, one would expect Mozi to have met with some punishment. And yet in his time the enlightened kings had all passed away and there was no one to correct his errors, so that stupid men continue to study his doctrines and bring jeopardy to themselves. (s. 20, p. 120)

Mozi rejected music and arts of all forms. This rejection is not due to a personal distaste for the sounds or visual aspects of the performances, in fact, he personally respected and enjoyed the arts, but he could not in good conscious allow music and the arts

to prosper and endure while at the same time people go hungry, live in poor conditions, and wear tattered clothing. Mozi's (2003) position is that playing music, listening to music, dancing, or reenacting military adventures does not feed people who are hungry or clothe those who are suffering from the cold. Mozi (2003) believed that a governmental focus on music or the arts is a misallocation of valuable government resources, stating, "Suppose we strike the great bells, beat the sounding drums, strum lutes, blow pipes and brandish shields and battleaxes. Will this enable the people to find materials for food and clothing? I certainly don't think this will ever be so" (p. 165). He believed that government resources dedicated to the development and training of musicians and the construction of the musical instruments they employ should instead be deployed to those more deserving and in need. Regarding what he considered to be the impractical and unproductive allocation of public resources for the arts, Mozi (2003) writes:

Nowadays, kings, dukes, and great officers make musical instruments, taking it to be the business of the state...They will certainly have to levy heavy taxes from the ten thousand people to make the sounds of the struck bell and beaten drum, and of lutes and pipes. In ancient times, the sage kings also levied heavy taxes from the ten thousand people to make boats and carts...In this case, then, if musical instruments gave back something that was in accord with the benefits of the people like this, then I would not dare condemn them. That is to say, if there was some proper use for musical instruments like that of the sage kings' use of boats and carts, then I would not dare condemn them. (p. 165)

Mozi also asserted that government spending on music and the arts, usually funded by taxes extracted from the masses, only goes to benefit the pleasure senses of the elite and the powerful. The commoner, he argued, has very little time, money, or opportunity to enjoy music or the arts in any meaningful capacity. Ultimately, Mozi believed that until everyone in society is comfortable and satisfied with the most pressing and fundamental aspects of their lives, music and the arts need to be abolished completely.

The Legalist scholar Han Fei Zi (2003) also rejected having the state sponsor the arts, but took a somewhat different argument than the one levied by Mozi. Where Mozi thought money dedicated to the arts is better served by providing services to the poor, Han Fei Zi considered the arts to be a flippant and an unnecessary diversion from the practical goals of the state. He believed that the government should promote employment more central to the rise of state—e.g. employment that is more agriculturally based or work revolving around military build-up—over work related to the arts or to mercantilism. The arts needlessly pull resources away, not from the poor as Mozi believed—Han Fei Zi was generally not interested in the plight of the poor—but from more practical and state enhancing projects that will ultimately benefit the ruler and society in a way that is clearly recognizable. Han Fei Zi (2003) writes of the position in which the arts are to hold within society:

An enlightened ruler will administer his state in such a way as to decrease the number of merchants, artisans, and other men who make their living by wandering from place to place, and will see to it that such men are looked

down upon. In this way he lessens the number of people who abandon primary pursuits (i.e. agriculture) to take up secondary occupations. (p. 117)

Han Fei Zi's position on the arts corresponds closely with his general platform of focusing on the fundamentals within society, not on what he considered to be the slick talk of the intellectuals or the philosophers. His position on social issues is, one could reason, completely practical and pragmatic, wherein the fundamentals of society and those engaged in fundamental occupations within society are to be celebrated and formally supported by the state, while the artists, philosophers, wandering sages, and intellectuals are to be regulated to the periphery of society, holding positions of limited status. Han Fei Zi wanted to eliminate or severely minimize all but the most visceral and recognizably beneficial sectors of society. It is no wonder that when the Legalist philosophy first garnered complete political control after the unification of China under the Qin flag in 221 B.C.E. that they took to destroying all remnants of Confucianism and other competing philosophical schools.⁹⁵ This movement to eliminate the arts and other competing

⁹⁵ This is best exemplified by one particularly unfortunate and gruesome episode known as the great burning of the books and the burying of scholars, undertaken in the year 213 B.C.E. Notable Confucian scholar and translator James Legge, with images of the great wall and a displeased tyrant father conjured within the mind, vividly recounts the story of the burying of the scholars:

philosophies began early in the history of Legalism, and what better place to start then with the destruction of the immediate philosophical competition. Han Fei Zi (2003) speaks to the motivations of intellectuals and artists, and to the end results of a society operating under the cloak and influence of intellectuals and artists:

In the year after the burning of the Books, the resentment of the emperor was excited by the remarks and flight of two scholars who had been favorites with him, and he determined to institute a strict inquiry about all of their class in Hsien-yang, to find out whether they had been making ominous speeches about him, and disturbing the minds of the people. The investigation was committed to the Censors, and it being discovered that upwards of 460 scholars had violated the prohibitions, they were all buried alive in pits, for a warning to the empire, while degradation and banishment were employed more strictly than before against all who fell under suspicion. The emperor's eldest son, Fu-su, remonstrated him, saying that such measures against those who repeated the words of Confucius and sought to imitate him, would alienate all the people from their infant dynasty, but his interference offended his father so much that he was sent off from court, to be with the general who was superintending the building of the great wall. (Confucius, [1893] 1971, p. 9)

These are the customs of a disordered state: Its scholars praise the ways of the former kings and imitate their benevolence and righteousness, put on a fair appearance and speak in elegant phrases, thus casting doubt upon the laws of the time and causing the ruler to be of two minds. Its speech-makers propound false schemes and borrow influence from abroad, furthering their private interests and forgetting the welfare of the states alters of the soil and grain. (p. 117)

Within this important remark made by Han Fei Zi, one can find direct criticism of the philosophical system of the Confucians (“Its scholars praise the ways of the former kings...” (Han Fei Zi, 2003); the philosophies of the former kings were the inspiration or blueprints for much of the Confucian theoretical paradigm), as well as appeals to nationalism and the more practical aspects of the operation of the state (“Its speech-makers propound false schemes and borrow influence from abroad...” (Han Fei Zi, 2003)).

The debates that took place amongst the Confucians, the Mohists, and the Legalists still play out today as we decide as a country how much taxpayer money should be earmarked for the arts, if any. It’s not uncommon to hear prominent intellectuals argue Mozi’s position and reject the application of any taxpayer money to the arts, leaving funding to private entities within society. These debates become significantly more common and intense in times of economic recession; when budgets are cut, the arts are often one of the first divisions to experience reduced funding or outright elimination.

Hirschi's Second Social Bonding Mechanism: Commitment.

The second bond that bridges the gap between the individual and prosocial behavior, per Hirschi (1969), is *commitment*. Hirschian commitment concerns one's stake in society—the amount of investment one has put into society. If one has a strong commitment or investment in society, Hirschi believed, they will refrain from criminality due to the possibility that they may lose their valued investment if they are caught breaking the law. Going to college, getting a good job, paying taxes, buying a house, buying a car, building up a bank account, etc., are all, Hirschi maintained, investments people make in themselves and in society. The more one is committed and invested in these social goals and activities, he theorized, the less likely they will be willing to engage in the kind of deviant behavior that will put their investments at risk. Hirschi (1969) explains the risk assessment process:

The person invests time, energy, himself, in a certain line of activity—say, getting an education, building up a business, acquiring a reputation for virtue. When or whenever he considers deviant behavior, he must consider the costs of this deviant behavior, the risk he runs of losing the investment he has made in conventional behavior. (p. 20)

Hirschi contended that people are generally bonded to society through the legitimate means of education and quality employment. The more that people are invested in society through

their education and employment, Hirschi argued, the more they have to lose, and, thus, the less likely they are to engage in criminal behavior.

Though the Confucians did not exactly touch on the commitment aspect of social bonding in the way that Hirschi specifically developed the idea, they understood and promoted the necessity of a person to have a great commitment to education, self-cultivation, employment, and the improvement of the family unit—all for the development of personal control, the alleviation of criminality, and the promotion of social harmony. The Confucians also recognized the shame and misfortune that would befall themselves and other people if they were to stray into deviance. Yet, the building of social investments in the strict Hirschian sense of the idea appears to be completely absent from the writings of the Confucians and the other major pre-Qin philosophers. Nevertheless, it should be noted that much of the work that Confucius did in his day-to-day existence, particularly in the latter part of his life, involved founding and operating schools—Confucius was a teacher. Confucius believed that through investment in education and self-improvement one can provide a greater contribution to one's family and to society. In this way, Confucius understood the value of investment in education and the investment in the cultivation of one's children to recoup later rewards within the family and within society.

Corresponding to Hirschi's idea of commitment, Confucian theories regarding the father's education and the education of the father's children can, one could reason, be considered investments in the parents' own overall wellbeing as filial piety is recouped at a later date. The process is as follows: The more a man commits to his own education, the more he may be able to invest in his children's education (through his own personal educational abilities; in that he may be better capable of correctly instructing his children).

The more education his children receive, it could be argued, the greater the employment opportunities for his children. The better the employment opportunities his children receive, the more money and comfort afforded the father in his later years of life as his children exhibit acts of filial piety. This process theoretically results in commitment bonds being formed between a man and his family, and residual commitment bonds being formed between a family and society. It is this investment, it could be maintained, that a father will not want to risk by engaging in criminal behavior. The Confucians promote a commitment to education for the betterment and harmony of the family and society, yet, the benefits to society may be partly due to the residual effect of the parent's selfish desire for comfort later in life when the requirements of filial piety are initiated.

Within the Confucian texts, education, employment, and the investments encompassed within, play a not insignificant role in social bonding. Confucius explains the influence that educational investments have on the individual, the household, the state, and the empire:

Only after things are investigated does knowledge become complete; knowledge being complete, intentions become true; intentions being true, the mind becomes set in the right; the mind being so set, the person becomes cultivated; the person being cultivated, harmony is established in the household; household harmony established, the state becomes well governed; the state being well governed, the empire becomes tranquil.
(Gardner, 2007, p. 5)

Per the Confucians, it is through investment in education, investment in self-cultivation, and investment in one's children that bonds are formed between a man and his family, and a man and the state—all of which are expected to result in greater harmony generated both within the family and within the state.

Hirschi's Third Social Bonding Mechanism: Involvement.

The third bond pulling people toward a positive engagement with society, as theorized by Hirschi (1969), is *involvement*. Involvement is the extent to which one is involved in socially acceptable activities. If one is involved in socially acceptable activities, Hirschi thought, it leaves little time for foul play. For example, if a juvenile is busy after school with football practice or ballet, he/she simply will not be privy to the free time that is often required for delinquency. Because of these time constraints, Hirschi argued, the window for delinquency becomes smaller, thus, minimizing delinquency. The adage, "Idle hands are the devil's workshop," best encapsulates Hirschi's notion of involvement.

Hirschi's theory of involvement in its purest form is not something that was specifically discussed amongst the Confucians. The idea that involvement in socially productive activities will simply provide less time for other deviant activities, thus, reducing delinquency, is a specific component of this theory and not transferable to any pre-Qin philosophical tradition. It's also important to note that involvement may be the weakest theoretical piece of Hirschi's four social bonding mechanisms. Hirschi (1969) himself, when writing of the importance of the amount of time spent with parents—or *involvement* with parents—stated, "Since most delinquent acts require little time...the amount of time spent with parents would probably be only a minor factor in delinquency

prevention. So called “direct control” is not, except as a limiting case, of much substantive or theoretical importance” (p. 88). In other words, he believed that the quantity of time spent in parent-child interaction is of minimum value, as it takes little time when free of parental control to engage in delinquent behavior. Instead, as was covered in the attachment portion of Hirschi’s theory, he argued that it is likely the quality and focus of the communication and interaction between parent and child that is of greatest importance, and the same, one could argue, may be true for other (non-parent/child) prosocial behaviors and interactions as well. All the same, this interpretation of Hirschian theory, quality versus quantity of time spent, is regulated to parent-child communication and not to general prosocial activities and behaviors. That is, it’s possible that if you provide adolescents and juveniles enough positive community based social activities or prosocial activities in general, their schedules may be bombarded with prosocial activities to the point that significant deviance is less feasible.

Yet, it’s important to note that the pre-Qin Confucians certainly did not advocate for children to have free-range in their behaviors or activities, nor are children to be allotted excess time to “find their own way” in the world unrestrained by the controlling mechanisms of parental, school, ritual, or societal involvement and supervision. Children, as a part of the Confucian social system, need to constantly be engaged in personal cultivation and personal improvement, usually under the watchful eye and guidance of an authority figure within an education based atmosphere, be it in the classroom or in the home. In addition, within the Confucian social system, children are expected to live and operate under the yoke of detailed ritual guidelines. They are to remain within this ritual system, a system that offers minimal room for deviance, throughout the full expanse of

each and every day; Confucius (2003) explains, “Do not look unless it is in accordance with ritual; do not listen unless it is in accordance with ritual; do not speak unless it is in accordance with ritual; do not move unless it is in accordance with ritual” (12.1, p. 125). The pre-Qin Confucians may not have explicitly acknowledged this policy to be one of crime prevention within the limited context of Hirschian involvement, but they advocated for this continuous supervised cultivation as one for the benefit of long-term behavioral control and self-regulation, all for the sake of deviance avoidance, order, and social harmony. So, with that I will move on to Hirschi’s final and more Confucian involved bonding mechanism, *belief*.

Hirschi’s Fourth Social Bonding Mechanism: Belief.

The final bonding mechanism proposed by Hirschi (1969) is *belief*. Hirschi asserted that one needs to truly and authentically believe in the value of behaving morally for the good of society if one is to consistently behave in a moral and non-criminal manner. If one does not have these true and authentic feelings of respect for society’s morals and the well-being of others, Hirschi argued, the likelihood for crime and deviance is heightened. Hirschi asserted that without this authentic belief in the importance of virtuous behavior and the value of social order, one will not feel bound to these societal obligations and standards, and will likely go on to deviate from them. In other words, if one is simply going through the motions, not receiving or not participating in a moral education or other forms of moral development, and not internalizing and truly embracing the necessary moral tenets of society, the prospects for a morally sound existence will likely be greatly diminished.

Regarding the importance of belief within the social bonding machinery, Hirschi (1969) writes:

We assume that there is variation in the extent to which people believe they should obey the rules of society, and, furthermore, that the less a person believes he should obey the rules, the more likely he is to violate them.

A person's beliefs in the moral validity of norms are, for no teleological reason, weakened. The probability that he will commit delinquent acts is therefore increased. When and if he commits a delinquent act, we may justifiably use the weakness of his beliefs in explaining it, but no special motivation is required to explain either the weakness of his beliefs or, perhaps, his delinquent act. (p. 26)

It is in the belief bond that Confucius (2008) provides rich detail in a way that, one could argue, meaningfully adds to and affirms Hirschi's (1969) social bonding theory. Confucius dedicated no small portion of his teachings to the importance of authentic and sincere thoughts and behavior, particularly as they pertain to ritual. Confucius was completely convinced of the great influence that authenticity has on people, their relationships, and the rituals in which they engage themselves. Confucius ([1893] 1971) speaks of how mindfulness and an authentic regard for ritual, morals, and the material people study for personal cultivation is likely required for personal control:

When the mind is not present, we look and do not see; we hear and do not understand; we eat and do not know the taste of what we eat.

This is what is meant by saying that the cultivation of the person depends on the rectifying of the mind. (The Great Learning, VII. 2-3, p. 368)

This philosophical position is a flash-point of which both scholars, Confucius and Hirschi, arguably engage in complementary and important theoretical contributions.

Much of what governs people, according to the Confucian tradition, are the relationships and the societal positions (societal roles within the social hierarchy often transmitted through ritual) that people experience within the social framework—father and son, ruler and subject, community leader and community member, etc.—but if one does not possess a truly authentic feeling of respect and regard for the other person as they exist within their respective social role (no matter their position), the relationship will begin to fracture, erode, and disintegrate. When these ritual based relationships weaken and falter, the Confucians argued, the ability to regulate and control one's own personal behavior and the behavior of one's children is diminished, which leads to higher levels of criminality and deviance. Confucius (2008), as noted earlier, explains the importance of authenticity using an excellent example from the animal kingdom, "As far as present-day filial piety is concerned, this means being able to provide sustenance; but even dogs and horses are able to receive sustenance. If reverence is not shown, how does one tell the difference?" (2.7, p. 6). Confucius (2008) later continues in the same direction, this time beautifully and persuasively using ritual as his analogy when lecturing on the importance of authentic

behavior and thought, “When one talks repeatedly of ritual, does one really mean jades and silk? When one talks repeatedly of music, does one really mean bells and drums?” (17.11, p. 71). In other words, what Confucius is conveying in his latter passage is that simply dressing in jades and silk and mindlessly going through the motions does not qualify as ritual or an action of any substantial purpose. If one does not possess an authentic belief in what he/she is doing in his/her inner-most being, Confucius thought, then his/her actions are of marginal consequence. Confucian commentator Wang Bi (226-249 C.E.) fully clarifies this idea, writing, “The governing principle of ritual is respect; jade and silk are merely the means for expressing and adorning respect. The governing principle of music is harmony; bells and drums are merely the tools which music is made” (Confucius, 2003, p. 205). Returning to Confucius’ initial animal based analogy, Confucius believed that any parent can feed their children (horses and dogs can feed their children—it’s of no great accomplishment), any adult offspring can also feed their parents, and any child can blindly or mindlessly acquiesce to their parents or to society, but if people do not truly believe in the value of their ritual based actions, contemplate and understand them fully, and apply meaning and ceremonial adherence to them, they will ultimately remove themselves from these social institutions and become susceptible to deviance and criminality.

The Confucians thought that if people truly do not believe in what they are doing, do not believe in the importance of the ritual or in the value of being a moral and productive member of society, they may be corrupted and stray from the path of virtue. People must, as Confucius (1971) states, “Hold faithfulness and sincerity as first principles” (1.8, p. 141), because once one strays from the path of authentic virtue, the Confucians argued, criminality or deviance may ensue. It is, per Confucius, the superior person who possesses

sincerity. A lack of sincerity is the mark of a person who has not yet cultivated superior attributes; Confucius explains, “Is it not just an entire sincerity which marks the superior man?” (Legge, 1893, *The Doctrine of the Mean*, c. XIII, 4, p. 395). Mencius concurred with Confucius, incorporating self-examination and self-awareness into determining sincerity when he wrote, “There is no greater delight than to be conscious of sincerity on self-examination” (Legge, 1895, VII, pt. 1, c. IV, 2). Per Hirschi, Confucius, and Mencius, truly believing that being a moral person is the right thing to do for oneself and for society represents a major determining factor in whether one behaves morally over the long-run.

How does one achieve this belief in morality, this sincerity? According to Confucius, and this is where it could be argued that Confucian thought meaningfully adds to Hirschi’s social bonding mechanism *belief*, sincerity is cultivated through the acquisition of knowledge and through the investigation of phenomena. A curiosity that generates knowledge, he thought, will lead one on a path of sincere thought and expression; of this Confucius, as was previously discussed, states:

Wishing to be sincere in their thoughts, they first extended to the utmost their knowledge. Such extension of knowledge lay in the investigation of things.

Things being investigated, knowledge became complete. Their knowledge being complete, their thoughts were sincere. Their thoughts being sincere, their hearts were then rectified. Their hearts being rectified, their persons were cultivated. Their persons being cultivated, their families were regulated. (Legge, 1893, *The Great Learning*, c. 1, 4-5, pp. 357-358)

Confucius ([1893] 1971), in the same vein, adds (this quote was discussed earlier in a somewhat different context), “To this attainment [sincerity] there are requisite the extensive study of what is good, accurate inquiry about it, careful reflection on it, the clear discrimination of it, and the earnest practice of it” (The Doctrine of the Mean, XX. 19, p. 413). The influence of knowledge and investigation on the acquisition of sincerity corresponds closely with other Confucian prescriptions for personal cultivation, morality building, rehabilitation, social harmony, and crime reduction. The Confucians believed that morality was a product of self-cultivation through study, education, ritual, reflection, and the attainment of knowledge. It is likely that a person who is moral or highly moral will be more sincere in his/her behavior. From this we can see the interplay amongst the benefits of a life lived in the pursuit of knowledge. At the same time, Confucius’ theory that education and knowledge produce morality and sincerity leaves him vulnerable to the obvious criticism that highly intelligent people often use their knowledge and intelligence for purposes that are socially destructive and harmful; take the behavior of white collar criminals like Bernie Madoff or those behind the Enron scandal as examples. Nevertheless, the takeaway, and potential theoretical addition to Hirschian belief, is that sincerity may be acquired and strengthened through education, study, and the cultivation of a personal curiosity.

Ritual as Etiquette

“Generally speaking, that which makes man man is the meaning of his ceremonial usages. The first indications of that meaning appear in the correct arrangement of the

bodily carriage, the harmonious adjustment of the countenance, and in the natural ordering of the speech. When bodily carriage is well arranged, the countenance harmoniously adjusted, and speech naturally ordered, the meaning of the ceremonial usages becomes complete, and serves to render correct the relation between ruler and subject, to give expression to the affection between father and son, and to establish harmony between seniors and juniors.”

The Book of Rites (Legge, 2016, p. 249)

Much of what the Confucians describe as rituals are not simply ceremonies, large events, rigid guidelines to maintain the social hierarchy, or means to designate familial and social role relations (though these examples certainly qualify), but instead are often basic guidelines regarding personal etiquette—how to conduct oneself physically and socially in certain social situations (e.g. how to behave at the dinner table, how to conduct oneself in the presence of rulers, and how to properly interact with one’s teacher). It is these basic forms of etiquette, these fundamental movements of the body and articulations of speech guided by Confucian theory, which are expected to shape and train one’s moral conduct and control one’s behavior. Cline (2016) defines ritual and personal etiquette within the Confucian tradition:

The rites [ritual] are a diverse set of traditional moral and religious practices and norms, including what we would call rules of etiquette, social customs, and religious rituals. They specify how one should behave across a broad range of circumstances, including how one should move, speak, dress, eat,

and so on, while also including rituals such as funeral rites and ancestral sacrifices. (p. 245)

And Olberding (2016) provides an excellent stamp on the importance of personal etiquette within Confucian ritual by explaining that:

The Confucians care deeply about ordinary conventions of etiquette, and the moral development they recommend treats being well-mannered as essential to being a good person...the early Confucians treat etiquette and manners, *li*, as distinctively authoritative in guiding moral conduct and shaping character. (pp. 422-423)

From Cline's and Olberding's interpretations and definitions of ritual within Confucianism, and through even a cursory examination of the pre-Qin Confucian literature that speaks to ritual, one can see the great importance placed on simple forms of personal etiquette, and one can find examples and testaments explaining how it is expected to be effective in shaping morality and shaping behavior.

A prime example of Confucian ritual, and one that occurs throughout modern China every day, is when a student is called upon by their teacher to speak, the student will hastily and respectfully stand up from their chair, with their back completely straight, and reply. I can say from experience that this unprompted action seems to be reflexive, second nature, and unconsciously conducted. This form of etiquette or ritual was codified in the Confucian ritual based text *The Book of Rites* (Liji), a book that represents one of the five classics of

Confucian literature; a book which possesses this etiquette based passage relating to rising when responding to elders or to teachers:

When sitting by his side, and the teacher puts a question, (the learner) should not reply till (the other) has finished. When requesting (instruction) on the subject of his studies, (the learner) should rise; when requesting further information, he should rise. When his father calls, (a youth) should not (merely) answer ‘yes,’ nor when his teacher calls. He should, with (a respectful) ‘yes,’ immediately rise (and go to them). (Legge, 2016, Qu Li I, 32, p. 17)

Even within this one block of ritual, one amongst a long litany of similarly important etiquette based rules in the Confucian canon, one can find an assortment of important admonitions that may, when turned into proper ritual through constant adherence and study, have the capacity to control and contain personal conduct—thus, potentially minimizing deviance, correcting societal problems, and fomenting social harmony. Within the first sentence of the above quote we find a rule that may possess the capacity to result in improved patience and self-restraint for the child (“should not reply till (the other) has finished”). In the second sentence both the brain and the body are expected to work in concert to generate a heightened respect for elders, strengthen forms of filial piety, and generate greater personal discipline (“(the learner) should rise”). The confluence of cognitive and bodily action, it could be argued, strengthens social bonds and further develops one’s internal controlling mechanism or superego. In addition, through these

ritual based behaviors, it could be maintained, one is better able to recognize one's position within the social hierarchy, which may add an additional restraining measure. A continual recognition that one's father, mother, teachers, etc., exist in a higher social position than oneself may put limits on one's conduct (one is repeatedly reminded that they are not the center of the universe, and not only that, but they are not even at the top of their immediate surroundings or their immediate social hierarchy—their parents, teachers, and elders are in this favored position; in other words, one is repeatedly reminded of one's limits or restraints), it may generate humility, and it may promote deference to the opinion and advice of those who hold higher social standing. In the third and fourth sentences, once again words and physical action are expected to merge to develop a more concrete form of respect for elders—a type of respect and difference that is predicated on not only words but physical action as well (“with (a respectful) ‘yes,’ immediately rise (and go to them)”). In addition to patience, self-restraint, delayed gratification, respect, and self-discipline, this etiquette based interaction with one's elders and teachers may produce reciprocity and humility; Cline (2016) explains:

Addressing and greeting an older family member or a teacher in the proper manner is not only an expression of respect and appreciation for them (something which usually contributes to more harmonious interactions); it reminds us of our relationship with that person, the things she or he has done for us, the ways in which she or he is a role model for us, and so on, which can shape our character in subtle ways by contributing to the cultivation of virtues like reciprocity and humility. (p. 247)

When these small acts of basic etiquette are repeated regularly they may become reflexively ritualistic and unconscious in their operation, and we arguably see them in this second nature form in China today. These small acts of personal etiquette, encompassed within ritual, may become engrained within people, it could be argued, and this engrained ritual may possess the capacity to control behavior, contain behavior, and unite people together in a way that produces a harmonious society. This etiquette based form of ritual, the Confucians maintained, likely reduces impulsivity, deviance, and criminal behavior. Xunzi (1999), as noted earlier, writes of the importance of etiquette based ritual in personal control and behavior regulation:

If one's manner and appearance, bearing and deportment, entrances and exits, and one's rapid steps proceed according to ritual principles, they will be cultured. But when they do not, they will seem arrogant and obstinate, depraved and perverted, utterly commonplace and savage. (2.2, pp. 28-29)

This, again, because of small acts of basic personal etiquette.

Steven Pinker is a strong believer in the influence of etiquette on behavior control and self-possession. In Pinker's (2011) criminological work, *The Better Angels of Our Nature: Why Violence has Declined*, he dedicated nearly an entire chapter to etiquette and its controlling or civilizing potential, particularly as it relates to violent crime. In a chapter

titled “The Civilizing Process”⁹⁶ Pinker explores the seminal work of the sociologist Norbert Elias, placing emphasis on Elias’ studies of etiquette and criminality from medieval Europe to modern times. Elias ([1939] 2000) theorized that due to the introduction and popularity of etiquette manuals and etiquette in general in medieval Europe, people have garnered more personal refinement, self-control, and self-regulation, all contributing to a gradual reduction of crime and violence over the centuries. From his analysis of medieval etiquette manuals, “Elias observed changing conceptions of shame and embarrassment with respect to, among other things, bodily propriety and violence” (Linklater & Mennell, 2010, p. 384). Here, in general terms, Elias ([1939] 2000) explains the fundamentals of his theory:

The individual inclinations and tendencies which medieval writings on etiquette were concerned to control were often the same as can be frequently observed in children today. However, they are now dealt with so early that certain kinds of “bad habit” which were quite commonplace in the medieval world scarcely manifest themselves in present-day social life.

...The degree of restraint and control over drives expected by adults of each other [during the middle-ages] was not much greater than that

⁹⁶ The chapter acquired its name in homage to Norbert Elias’s ([1939] 2000) book of the same name; a book of which is the source of much of Pinker’s (2011) explanation and theory within this area of study.

imposed on children. The distance between adults and children, measured by that of today, was slight.

Today the ring of precepts and regulations is drawn so tightly about people, the censorship and pressure of social life which forms their habits are so strong, that young people have only two alternatives: to submit to the pattern of behavior demanded by society, or to be excluded from life in “decent society”. A child that does not attain the level of affect-molding demanded by society is regarded in varying gradations from the standpoint of a particular caste or class, as “ill”, “abnormal”, “criminal”, and “impossible”, and is accordingly excluded from the life of that class. (pp. 119-120)

Pinker (2011) merged data showing that crime has fallen in Western Europe, from its high levels in the 11th and 12th centuries to the all-time lows experienced in modern Europe, with Elias’s theory, to better legitimate Elias’s claims regarding the correlation between the reduction of violence and the rise in personal etiquette.

It’s important to note that Elias’ theory of personal control and violence reduction founded on etiquette includes the confluence of several different social forces that he believed work in tandem with the rise of etiquette, but etiquette plays the leading role within his theoretical framework. The major social forces theorized by Elias ([1939] 2000) as accompaniments to etiquette include: a greater division of labor, technological breakthroughs, a more advanced centralized taxation scheme, and the swallowing up of

minor territories or minor ruling agencies by monarchies. Elias ([1939] 2000) explains this confluence of factors in these general terms:

The “civilizing” process, seen from the aspects of standards of conduct and drive control, is the same trend which, when seen from the point of view of human relationships, appears as the process of advancing integration, increased differentiation of social functions and interdependence, and the formation of ever-larger units of integration on whose fortunes and movements the individual depends, whether he knows it or not. (p. 254)

These medieval etiquette books and etiquette manuals, that provide information which we now think of as somewhat commonsensical, archaic, and comical, were, at the time of their publication and long after, considered culture shifting, civilization molding, sophisticated, and important behavioral blueprints; Pinker (2011) explains:

Today we think of these books...as sources of handy tips for avoiding embarrassing peccadilloes. But at one time they were serious *guides to moral conduct* [emphasis added], written by the leading thinkers of the day. In 1530 the great scholar Desiderius Erasmus, one of the founders of

modernity, wrote an etiquette manual called *On Civility in Boys* which was a bestseller throughout Europe for two centuries. (p. 121)⁹⁷

It is from these etiquette manuals or “guides to moral conduct” that the process of personal refinement and self-control is thought to be accelerated and carried out. We witness the results every day in the reflexive nature of our more refined interactions and behaviors (from a relative standpoint).

It is unlikely that each individual piece of etiquette was introduced into the social zeitgeist, memorized, internalized, and performed. Instead, as Pinker (2011) theorized, it

⁹⁷ Desiderius Erasmus’ work *On the Civility in Boys*, and the influence it exuded, was a major focus of much of Elias’ ([1939] 2000) theory. In addition to many other areas of inquiry, Elias used the words of Erasmus to capture the general societal and cultural rot that was prevalent during the middle-ages, and the corresponding need for etiquette reform. Elias ([1939] 2000) writes of the potency and popularity of Erasmus’ work:

The concept of *civilitate* received specific stamp and function under discussion here in the second quarter of the sixteenth century. Its individual starting-point can be exactly determined. It owes specific meaning which became socially accepted to a short treatise by Erasmus of Rotterdam, *De civilitate morum puerilium* (On Civility of Boys), which appeared in 1530...The multitude of translations, imitations and sequels is almost without limit. (p. 47)

is more likely that large numbers of similar pieces of etiquette were introduced into the social ether, and from this pool of known (and often unknown but intuitively discerned from the known) behavioral guidelines, smaller numbers of generalized psychological gestalts or abstract notions of proper behavior were formed in the minds of the citizenry that were influential in behavior modification and regulation. Pinker (2011) explains how this process likely worked:

[Pinker first provided a large number of examples of somewhat similar rules for personal conduct detailed in medieval etiquette manuals] The sheer quantity of the advice tells a story. The three-dozen-odd rules are not independent of one another but exemplify a few themes. It's unlikely that each of us today had to be instructed in every rule individually, so that if some mother had been remiss in teaching one of them, her adult son would still be blowing his nose into the tablecloth. The rules in the list (and many more that are not) are deducible from a few principles: Control your appetites; Delay gratification; Consider the sensibilities of others; Don't act like a peasant; Distance yourself from your animal nature. And the penalty for these infractions was assumed to be internal: a sense of shame. (p. 123)

This personal refinement likely produces greater control within the individual, Elias argued, as it, to continue in Elias's tradition of using Freudian terminology in explanation, likely strengthens and emboldens the superego.

It is through etiquette, Elias and Pinker theorize, that people are educated on personal limitations (most of etiquette is by its very nature designed to limit behavior) and empathy for others (e.g. do not point your steak knife at another person when you are making a point because how would you feel if someone did the same to you?). Over the centuries, they argue, this education became ingrained in the collective conscious or social zeitgeist, effectively acting as an informal controlling mechanism operating on internal penalties of shame, ultimately reducing the likelihood of impulsivity and criminality. Pinker (2011) considers how greater adherence to etiquette may equate to lower levels of impulsivity and criminality, “One possibility is that self-control is like a muscle, so that if you exercise it with table manners it will be stronger across the board and more effective when you have to stop yourself from killing the person who just insulted you” (p. 127).

Elias believed that etiquette came into fashion after many small fiefdoms began to come under the protection (both voluntarily and involuntarily) of a monarchy or large-scale ruling entity. Under this protection, he explained, the formerly independent nobles and knights were obligated to travel to the king’s court to curry favor with the king, the court, and other members of the ruling house. The crown, wanting to keep peace and hold control of their territory, naturally sought to grant positions of power and extend favor to those residing in these newly enveloped satellite fiefdoms whom he could trust to carry out his wishes—people who seemed “put-together,” in control of themselves and their behavior, reliable, able to operate within the traditions of the court, etc. The nobles and knights of these formerly wayward fiefdoms recognized that to gain an advantage or maintain their status they had to refine themselves in the ways of etiquette and personal conduct in accordance with the culture of the court and the crown. It is this initial nobleman/knight

and king/court interaction, Elias reasoned, that precipitated the popularity and rise of etiquette. Elias ([1939] 2000) writes of the new expectations demanded of the noblemen and knights newly incorporated into the power structure of the king:

A new constraint, a new, more extensive control and regulation of behavior than the old knightly life made either necessary or possible, was now demanded of the nobleman. These were consequences of the new, increased dependence in which the noble was now placed. He is no longer the relatively free man, the master in his own castle, whose castle is his homeland. He now lives at court. He serves the prince. He waits on him at table. And at court he lives surrounded by people. He must behave toward each of them in exact accordance with their rank and his own. He must learn to adjust his gestures exactly to the different ranks and standing of the people at court, to measure his language exactly, and even to control his eyes exactly. It is a new self-discipline, an incomparably stronger reserve that is imposed on people by this new social space and the new ties of interdependence. (p. 182)

Then, in true Tardian and Confucian unidirectional learning fashion, this upper-class etiquette movement, Elias theorized, slowly trickled down to the rest of society as the lower classes learned and acquired the behaviors of proper etiquette from the upper-classes. Other social forces, such as a greater division of labor, and the higher levels of social and economic interdependence it brought, were thought to have accelerated the process. Pinker

and Elias ultimately believe that as a result of this shift toward etiquette, “A culture of honor—the readiness to take revenge—gave way to a culture of dignity—the readiness to control one’s emotions” (Pinker, 2011, p. 126).

It is through Elias’s work and theory that we are provided evidence of the potentiality that etiquette and ritual have to shape personal behavior and shape society—exactly as the Confucians had theorized. The Confucians were steadfast in their support and promotion of etiquette as a means of behavioral regulation, social bonding, and crime reduction, a theory congruent with the thought and theory of one of the twentieth century’s greatest sociologists, Norbert Elias. When interpreting Confucian ritual theory, it may be the case that the criminologically minded reader will exhibit less interest or concern for the more mundane or oftentimes monotonous etiquette based ritual that is regularly provided in Confucian texts, instead favoring and dedicating greater attention to the larger and more extravagant rituals (e.g. marriage rituals and funeral rituals). I was certainly guilty of this myself. Yet, as was revealed over the course of this chapter, this is a critical mistake when seeking Confucian mechanisms that produce personal and social control. Basic personal etiquette encompassed within Confucian ritual was considered, and perhaps is, instrumental and foundational in behavioral control and moral cultivation. Future researchers may find benefit in compiling the vast array of Confucian ritual, synthesizing the corresponding parts, and placing these abstracted gestalts into a modern context for practical use on a population wide level.

The Confucian ritual/etiquette theory of personal and social control, and Elias’s etiquette based theory of the “civilizing process” that works to explain behavioral control and violence reduction over vast spans of time, in a fundamental way, one could argue, is

analogous with the highly visible “broken windows theory” of crime and crime prevention developed by criminologists James Q. Wilson and George L. Kelling (1982). The “broken windows theory” is most commonly considered the theoretical foundation for the controversial “zero-tolerance” policing policy implemented in New York City in the early 1990’s by then mayor Rudolf Giuliani and police chief William Bratton. The general idea behind the “broken windows theory” is that small crimes that disfigure neighborhoods, crimes (or the remnants of crimes) like littering, loitering, public drunkenness, graffiti, broken windows, jumping turnstiles in the subway, etc., all contribute to a general feeling of disunity, mismanagement, a lack of community supervision, and a lack of social or community cohesion, which in turn signals to both residents and outsiders that a particular area is fertile ground for the execution of more, and higher-level, criminal behavior. In other words, when small acts of disobedience are left unattended, it may send a signal to others that a particular area is fair game for crime, and from here these relatively trivial acts of disobedience may snowball into more serious forms of criminality. Wilson and Kelling (1982) provide an excellent example of the snowballing of criminal behavior that accrues from the signals that simple acts of disorganization and crime send:

At the community level, disorder and crime are usually inextricably linked, in a kind of developmental sequence. Social psychologists and police officers tend to agree that if a window in a building is broken and is left unrepaired, all the rest of the windows will soon be broken. This is true in nice neighborhoods as in rundown ones. Window-breaking does not necessarily occur on a large scale because some areas are inhabited by

determined window-breakers whereas others are populated by window-lovers; rather, one unrepaired broken window is a signal that no one cares, and so breaking more windows costs nothing. (Online resource)

This broken window may act as a metaphor for not only other small forms of criminal behavior and communal disfigurement, but personal etiquette as well. I contend that basic forms of personal etiquette—the ability to continually execute ritualized etiquette—represent cognitive windows of personal control. If fundamental acts of personal etiquette are not properly taught and transmitted to children, one could argue, these windows of basic etiquette become “broken,” and if left unrepaired this controlling etiquette may not become second nature and engrained within the psyches of children. If etiquette does not become ingrained and second nature, one could reason, it may send a signal to the more impulse laden and pleasure-seeking parts of the brain that the mechanisms responsible for self-control and behavioral containment are weak, and from here more and more uncontrolled personal behavior may snowball, potentially resulting in higher levels of deviance and criminality. If, as in the “broken windows theory,” the build-up of small acts of criminal behavior and other forms of disorganization in an area operate as a signal to people that major forms of crime in that area should not be a problem, the build-up of broken cognitive windows, in the form of conduct lacking in etiquette (broken etiquette) and the corresponding small displays of personal control encompassed within etiquette, may send a signal to the deeper recesses of the mind that larger forms of unregulated behavior are acceptable. It’s as if one’s mind is a microcosm of a community in the “broken windows theory,” wherein when small acts of personal etiquette begin to

break-down, or do not exist, it sends a signal to the id, or the reptilian part of the brain, that even the most basic behavioral restraints are lifted and that the satiation of primal impulses take first order. Wilson and Kelling (1982) write that, “Serious street crime flourishes in areas in which disorderly behavior goes unchecked,” meaning that small acts of disorder may create the social conditions ripe for larger manifestations of criminality. The same line of thinking may correspond with etiquette, wherein small acts of etiquette-free conduct reveal a mind that has failed to retain the necessary control required to prevent larger manifestations of criminality. Conversely, the build-up of small forms of ritualized personal etiquette may act as a controlling mechanism when, as Pinker (2012) wrote of etiquette, “you have to stop yourself from killing the person who just insulted you” (p. 127).

It may be that the build-up of small forms of etiquette reach a Gladwellian “tipping point” wherein one’s internalization and practice of etiquette passes a certain threshold (likely a different threshold for everyone) and the person becomes significantly more self-possessed and generally in control. Gladwell (2000) writes of tipping points within the context of the “broken windows theory” and its implementation in New York City:

When crime began to fall in the city...Bratton and Giuliani pointed to the same cause. Minor, seemingly insignificant quality-of-life crimes, they said, were Tipping Points for violent crime.

Broken Windows theory and the Power of Context are one and the same. They are both based on the premise that an epidemic can be reversed,

can be tipped, by tinkering with the smallest details of the immediate environment. (p. 146)

The same theory that Gladwell applies to social environments could potentially be transposed to the individual mind as well. Cognitive tipping points, as determined by the accumulation of large or small amounts of personal etiquette (or “the smallest details” as Gladwell calls them), may be the explanatory mechanism that accounts for a certain amount of self-control.

If the potential foundation of personal behavior and personal control, the ability to exhibit small acts of etiquette in particular situations (the ability to say “please” and “thank you,” to politely ask for things at the dinner table, to open a door for an elderly person, to allow the person with grocery bags in their hands to go ahead of you, to show difference to elders and superiors in a number of ways, etc.), is lost or “broken,” one could argue, then when an individual is placed in a position where greater personal restraint is warranted, restraint far surpassing that which is required for simple acts of etiquette (e.g. a heated confrontation, infidelity, insults, etc.), the individual may not possess the cognitive makeup necessary to refrain from impulsivity and criminality. Xunzi (1999) wrote generally of the value of retaining what is small to properly engage in larger future events, “By holding on to what is very small, he can undertake tasks that are extremely large, just as with a short ruler only five inches long one can measure the whole square of the world” (3.10, p. 63). Again, it’s as if the neurological seat of etiquette or personal control (generally understood to be the prefrontal cortex) sends a signal to the interior part of the brain, which is responsible for one’s pleasure drives, emotions, impulses, etc., that the metaphorical

windows have been broken, the controlling mechanisms required for the employment of basic etiquette do not exist, and the limbic system is free to operate with little restraint. If the prefrontal cortex cannot engage in even small forms of personal control in the form of etiquette, then what chance is there for regulating the larger, and often more unwieldy, primitive pleasure and reward based impulses of the limbic system?

Personal etiquette, it could be argued, is a lot like a constantly humming and, arguably, underappreciated controlling mechanism operating in the back of one's mind; it is continually required for self-possession and self-control, but little noticed. The same is theorized to be true for the "broken windows theory." A neighborhood removed of small forms of crime and visuals of disorganization, a removal process that requires continued attention (constantly humming), is a lot like an underappreciated controlling mechanism operating in the background of society, often without conscious notice, but potentially necessary for social control and crime prevention. As Xunzi (1999) wrote in a section titled *The Accumulation of Minutiae*, "It is that as minor matters come along, they are numerous. Only as they are strung together day by day do they become of wider significance. As they accumulate, they become of great importance" (16.7, pp. 525-527); basic personal etiquette may follow a similar course, particularly as it pertains to violence and criminality.

In addition, it is theorized within the "broken windows theory" that when police stop and engage people for small crimes such as loitering or jumping turnstiles it will diminish the likelihood of their committing larger crimes down the road. In other words, when the id is constantly being checked by an outside force, in this case by the police, its influence will be stunted, and it will internalize this outside antagonistic pressure as painful or unfavorable and adjust its conduct accordingly (it may not always adjust in a socially

healthy way; instead, a feeling of injustice may be produced, potentially followed by deviance or rebellion). The key, it could be argued, is to develop an internal watchman (the superego or conscious) at an early stage in life through the instruction of ritualized etiquette, so that an outside force such as the police or the state, which provides varying degrees of results (look at the high rates of recidivism in the United States), doesn't have to play its unsteady role later in one's life.

CHAPTER 5) A CONFUCIAN THEORY OF CRIME: THE THEORY AND PRACTICAL APPLICATIONS

“The Master said, “Zigong! Do you take me to be one who has come to understand through learning a wide variety of things?”

Zigong responded, “Yes. Is this not the case?”

“It is not. I bind it all together with a single thread.””

Confucius (2003, p. 174)⁹⁸

⁹⁸ Confucian scholar and commenter, Liu Baonon (1791-1855 C.E.), described the phrase “bind it all together with a single thread” as meaning that Confucius could practice his philosophy in addition to developing it and teaching it, writing:

The point is the efficacy of being able to put learning into practice. If one is not able to do this, it is like being a person who can “recite the many odes by heart but, when delegated a government task, is unable to carry it out, or when sent out into the field as an envoy, is unable to engage in repartee. No matter how many odes he might have memorized, what good are they to him?” [13.5]. (Confucius, 2003, p. 175)

Notable Daoist and historian He Yan (190-249 C.E.) interpreted Confucius’ statement as one corresponding to a unified theory derived from insights into the root or origin of a phenomena; He Yan wrote:

The universal applicability of Confucianism may be a concern to the reader. It's reasonable to hold the suspicion that Confucianism may only be able to exert its influence in certain East Asian countries or certain East Asian cultures; after all, as Chen Lai (Chen, 2006) points out, some scholars erroneously “describe the history of Confucianism as a developmental process of “three periods from the local knowledge of Qufu [Confucius’ hometown] to Confucianism”” (p. 82). In this lays the explicit assertion that the philosophy is “localized” to whatever extent one wishes to confine it—tribe, city, state, etc. But, as Chen contends, this type of concern is likely mistaken. The development of Confucius’ philosophy was likely one centered on the acquisition of universal knowledge from sages and sage kings ruling and influencing the great dynasties of the past. Confucius’ did not seek knowledge from his localized position or his tribal experiences in Qufu, instead he sought and generated what he believed to be a universal philosophical understanding from amongst the best possible information and historical evidence that was available to him.

All of the various roads in the world lead to the same place, and all of the myriad thoughts one might have come to the same conclusion. Know the origin of things, and then the myriad excellences will be mastered. Therefore, it is not necessary to learn a wide variety of things in order to understand the one [underlying principle]. (Confucius, 2003, p. 175)

Perhaps it is a combination of the two explanations, first the latter and then the former.

Chen's (2006) theoretical argument for the universal nature of Confucian thought is highly compelling and persuasive:

The significance of Confucius' thought lies in that he transcended geographical and tribal restrictions, and committed himself to providing universal moral knowledge and life truth. As far as we know, it was a lifetime responsibility for Confucius to inherit the ancient civilization that had developed from Xia to Shang [long reigning ancient dynasties before Confucius' time], and continued to Zhou [the dynasty in which Confucius lived]...Thereby, Confucius transcended Qufu's [Confucius' hometown] and Lu's [Confucius' home state] restrictions and thus became the continuator of the ancient civilization. (p. 82)

Trying to develop a coherent overarching criminological theory that best exemplifies Confucian thought is naturally fraught with problems. The main issue is that, as we have seen in this dissertation, Confucianism represents or is in some way connected to several disparate criminological theories or ideas. Thus, it's important to parse out the relationships or connections that may be tenuous or that are not engaging the core elements of Confucian thought so as to leave only the pronounced and fundamental philosophy. Once the more fringe or less constitutional associations were brushed away, a major Confucian criminological theory gained traction. What I'm calling *A Confucian Theory of Crime* incorporates both the causes of crime and the prescriptions for crime in one theoretical framework. Mainly though, *A Confucian Theory of Crime* can potentially be

applied as a theoretical framework for crime reduction policy. As has been detailed throughout this dissertation, *A Confucian Theory of Crime* is made up of three main pillars that operate both independently and in concert with one another. These three parts are: family cohesion, education, and ritualization within the family and society. Xunzi's theoretical positions are used extensively as a backdrop for explanation and quotation as they are highly representative of Confucian thought and are likely, it could be argued, the most practical and the most applicable for policy formation when compared to the other central pre-Qin Confucian philosophers. These policy recommendations are generally meant to be directed to the United States, as this is my frame of reference for social change; though, they can potentially be applied universally.

Family Cohesion

“If only everyone loved his parents and treated his elders with difference the empire would be at peace.”

Mencius (2004, IV. A. 11, p. 82)

The most important elements within *A Confucian Theory of Crime* are family cohesion, a dedication to the family, and a parental focus on ritual and self-cultivation. It is vitally important, within this theoretical framework, that the parents exert all effort in remaining together, the family remain intact as one cohesive unit, and that the parents dedicate themselves to the cultivation of their children. Per Confucian theory, the family unit represents the root determinant of the child's future behavior, whether that behavior be good or bad. The family was also considered to be the root of societal health and social

harmony; when families are disrupted or broken-up, the Confucians argued, society will likely deteriorate and suffer.

When the family unit is unsettled or broken-up, the children, on average, may not have the same opportunities for moral development that are provided to children in intact families. The ability for children growing up in these disrupted and unstable circumstances to lead productive adult lives may become significantly less likely when compared to those children growing up in intact and stable families. Ultimately, a childhood spent in disrupted and unstable familial circumstances increases the likelihood for later deviance and criminality. Empirical research proves time and again that there is a direct and significant connection between serious family disruption and future criminality (Abrahamsen, 1949; Arthur, 2006; Bronte-Tinkew, Moore, Capps, & Zaff, 2006; Cobb-Clark & Tekin, 2014; Gottfredson & Hirschi, 1990; Schwarz, 2006; Turner, Finkelhor, Hamby, & Shattuck, 2013). When politicians and the media endeavor to explain the causes for criminal behavior and poverty in America, the breakdown of the American family is, one could argue, seldom mentioned. In actuality, it seems that the topic is actively avoided. If it's true that a destructive family environment is a major predictor of future criminality, then avoiding the issue and failing to seek potential solutions to the problem likely allows for the cycle of crime and violence to continue unabated.

Empirical evidence supports the notion that criminogenic effects are likely enhanced when fathers abandon their children and their families, as was detailed earlier in this dissertation. Cobb-Clark & Tekin (2014) illustrate the influence that fathers have in determining the likelihood that their sons engage in criminal behavior, "Adolescent boys engage in more delinquent behavior if there is no father figure in their lives...the presence

of a father figure during adolescence is likely to have protective effects, particularly for males, in both adolescence and young adulthood” (p. 327). Father absence likely has a negative impact on nearly all aspects of a child’s social life, but the most disconcerting is that of homicide rates among the abandoned sons; Schwartz (2006) explains this unfortunate phenomenon, “Father absence has the most robust relationship with homicide rates” (p. 1306). In addition, the child’s cognitive and emotional capacities may be severely influenced by father absenteeism. Mackey (1998) provides an excellent summary of these potential cognitive and emotional effects, “A consistent, if not invariant, pattern is that children—with their biological/ongoing father in residence—have higher cognitive skills, greater emotional stability and maturity, greater school achievements...than children raised without a father (see Adams, Milner, & Schrpf, 1984; Bereczkei & Csanaky, 1996; Biller & Solomon, 1986; Blankenhorn, 1995; Hamilton, 1977; Hanson, McLananhan, & Thomson, 1996; Lamb, 1976, 1981; Lynn, 1974; Stevenson & Black, 1988; Wallerstein & Kelly, 1980)” (para. 15). It’s often beneficial to view this issue from a numbers standpoint. A two-parent arrangement in the home often provides the parents a more effective means to monitor and supervise the child’s behavior (parents can trade-off on who supervises the child while the other rests or works; and there may simply be a parent around the child more often), it may provide more parent-child interaction time to increase the child’s moral and academic development, and it may provide parents more time away from the child to work or rest (one parent is with the child and while the other is acting autonomously) so as to recharge to be better able to reengage with the child at a future time. Parents can become “burned-out” and resentful as a response to over-engagement and over-stimulation, and this can negatively affect the child and the parent-child relationship. A single parent, with

the stress of work and raising a child without the relief provided by a partner, may experience lower energy levels and other negative psychological effects. If our society begins to shed light on the issue, and works to solve it collectively, we, it could be argued, can improve the lives of children around the country and around the world. This is no trivial issue; people's lives hang in the balance. We are talking about the lives of children. We are talking about young people shooting and killing other young people on a regular basis. The stakes are high, and if our society is unwilling to seriously examine what is potentially the root of criminality and deviance, we are doing a great disservice to our fellow human beings, to our society, and to the world.

Perhaps if the issue is not addressed as one of father abandonment and destructive families, but instead couched as the Confucian prescription for success and social harmony, as encompassed within the other soon to be mentioned elements within *A Confucian Theory of Crime*, it may receive greater social acceptance. Once again, it's important to highlight the fact that the Confucians believed that the family is the root of all behavior. A stable and cohesive family, in which the parents remain together and focus on the education and the moral cultivation of their children, will, the Confucians theorized, generally produce productive, moral, and law-abiding citizens.

As was previously mentioned, the presence of the father within the family is likely a highly important factor in the crime reduction equation. It is the father that typically abandons the family (Wells, 2006). The male propensity to leave the family was likely naturally endowed to him in his anatomical makeup. The male does not give birth to the child, thus, his natural investment in the reproductive process is less than that of the female. The male can simply inseminate the female and walk away, leaving the arduous, time

consuming, and resource intensive process of childbirth and childrearing to the female. Ellis and Walsh (1997) explain the differential investment positioning among the genders, “In nearly all species, but especially among mammals, males are not directly involved in gestating offspring, nor do they invest nearly as much time and energy in their offspring after birth as do females” (p. 234). Nature is not equitable wherein reproduction is concerned. Thus, it is the father, one could argue, that must be taught the value of remaining with the family to provide a good example for his children, to provide resources for his children, and to provide the necessary moral lessons for his children. Confucius (2003) explains the importance of having the children seek the father to act as an example and teacher, “When someone’s father is still alive, observe his intentions, after his father has passed away, observe his conduct” (p. 5). This statement is arguably best interpreted within *The Analects* by the commentator Kong Anguo (156-74 B.C.E.) when he wrote, “When his father is still alive, the son is not able to act as he wants [because he must obey the father’s commands], so one can only observe his intentions in order to judge his character” (Confucius, 2003, p. 5). The underlying point that the Confucians are making here is that the father often acts as a controlling mechanism within the house, wherein the children cannot act in whatever way they wish, but, instead, must act per what the father dictates. The Confucians asserted that the father is to engage his son with feelings of, ““ren” (benevolence, humanity), “ci” (kindness), “ai” (love, affection) or “renci” (humanness and kindness)” (Lan, 2015, p. 632). In return, the son was expected to reciprocate with, ““xiao” (filial piety), “shun” (compliance, obedience), and “jing” (reverence) or “xiaoshun” (filial obedience), and “shaojing” (filial respect)” (Lan, 2015, p. 632). It is in this reciprocal relationship, one could argue, that emotional bonds are built, familial investments are

made, and self-control is achieved. Recall that within the Confucian tradition, the bond between father and son is the most important of all social relations. Zhu (2002) captures the influence this father-son relationship has on the son, the family, and society:

Confucian ethics is founded on love (human-heartedness), which in turn is extended from the love between father and son. All moral principles including justice are derived from this extension of love. The mutual love of father and son then becomes the governing principle in the case of Confucianism. (p. 2)

Therefore, from the perspective of this dissertation, it's imperative that the father remain within the family system to provide love, kindness, instruction, guidance, material support, and a ritual based education for his children.

Yet, this is not a one gendered educational prescription for family unity, family cohesion, and crime reduction. A female's education and instruction in this regard is arguably as equally important, if not more so, than the males. Males, one can argue, are socialized by the demands, expectations, and requirements of the female. When it comes to sex, sexual access, and mating, males are often easily manipulated by females. To gain sexual access to the female, the male, it could be reasoned, must often adapt and conform himself to the requirements of the female. If females require that their potential mates be responsible, driven, cultivated, providers (or have the potential to provide for a family), and quality people (the qualities that are beneficial for long-term pair bonding and childrearing), then males will, it could be argued, generally socialize themselves to meet

those expectations (perhaps grudgingly). If women are satisfied with a fleeting encounter with a handsome face in the night, along with the short-term benefits and low investment this type of behavior engenders, then men will often be more than willing to provide it for them. When the father is not expected to adhere to the requirements of long-term intentions, family investment, and the cultivation of positive personal characteristics that are beneficial for childrearing, the children that are produced as a consequence of these minimal expectations will often be at a disadvantage both socially and economically in our modern knowledge based economy. If women are instructed to be more particular, discerning, and shrewd when deciding with whom they mate—seeking a quality man with long-term goals, a character founded on delayed gratification, and one in possession of indicators corresponding to family investment, rather than a man operating in a way akin to the r investment strategy in the r/K selection theory⁹⁹—both the female and her children

⁹⁹ The “ r ” mating strategy or gene propagation strategy within r/K selection theory is one where the parents produce large numbers of offspring and provide little material benefits for them or other kinds of investment to ensure their healthy development and well-being. This is essentially the shot-gun style gene replication strategy—just shoot many entities carrying your genes out into the world and hope that some hit the mark and reproduce again. The “ K ” mating strategy or gene propagation strategy is one where the parents have few children and put great effort and investment into ensuring their survival. The parents invest time and resources in the survival and reproductive capabilities of a small number of offspring, likely raising the chances that their offspring will reach reproductive age. This

may have a greater chance for future success. If women require and expect these prosocial¹⁰⁰ attributes of the men in which they allow sexual access and ultimately engage in propagation, the men, it could be maintained, will generally socialize themselves to meet the expectations of the females. If sexual behavior, and the children that result from it, is not predicated on the man possessing positive, pro-social, and investment based qualities,

is effectively the sniper style gene replication approach—with great focus and concentration the parent shoots a single bullet at the reproductive capacity target.

Both reproductive strategies represent a gamble. In “r” selection theory, the risk is that none of the many offspring produced by the parents will continue to pass on their genetic information because they lacked the resources or proper development to survive or acquire a mate (to further illustrate this, it may be that though there are many, they are unable to compete with the more investment intensive “K” selection offspring). For instance, the “r” selection focused giant sea turtle has left dozens of unguarded eggs along the beach, but most are quickly eaten up by predators. In “K” selection theory, the risk is that the parents have put all their eggs into one well designed and well protected basket, but that basket still has the potential to be overturned, leaving the parents without future genetic representation.

¹⁰⁰ The word “prosocial” is, one could reason, appropriate here as—it is acknowledged that these mating strategies are, from a gene’s eye viewpoint and natural selection standpoint, neither right nor wrong, neither social nor antisocial, and that it is only the effectiveness of gene dissemination that is of concern—the “K” selection method is likely the more socially beneficial reproduction strategy in our modern world.

but on just, say, a handsome face or flashy jewelry, then the cycle of crime and poverty, one could assert, will likely continue unabated.

Therefore, if the educational system thoroughly teaches young men, through hundreds of hours of education over the course of their academic careers, that long-term pair bonding, delayed gratification, and family investment are the most optimal ways to live, succeed, acquire a mate, and raise high achieving children, and, at the same time, it instructs women on the benefits of the same behavior, while stressing the importance of choosing a man (when deciding to have children or engage in a long-term relationship) suitable for childrearing and child investment, crime rates and poverty levels will likely, it could be argued, fall and social harmony and quality of life will likely rise. There may need to be a major shift in the cultural zeitgeist in the United States to make this happen. I argue that this cultural shift to Confucian values should be rigorously promoted at the community, school, state, and national levels.

In addition, the government can work to ensure that parents are given suitable time and resources to properly raise their children. Overworked and underpaid parents are likely at a disadvantage in terms of their capacity to raise their children to the best of their ability.

Until American society begins to promote these ideas again, through educational, community, media, and political channels, our ability to achieve long-term crime reduction results and social harmony may falter. There are social policies that can be instituted, in conjunction with media assistance and political messaging, that may work to bring families together in a cohesive and unified way. Some examples of these social policies are: Greater tax incentives and other financial rewards provided to parents who remain together and raise their children. Marriage, couples, and family therapy that is free to the public. There

may need to be a concerted government sponsored media push to not only destigmatize therapy in general, and marriage, couples, and family therapy in particular, but to actively promote it. At-home nurse visitations that are mandatory for new mothers regardless of socioeconomic status. These nurse visitations can provide new mothers and new fathers with information and training on how to properly care for, feed, educate, and punish their children. Additionally, the visiting nurse can promote and destigmatize couples therapy and other governmental programs (such as the educational program described in the next section) that are designed to improve the home environment, strengthen familial bonds, and enhance the wellbeing of the children. Lastly, a movement within public education to repeatedly educate high-school age students of the benefits of waiting to have children until they are at least in their mid-twenties, stable in their relationships, and stable in their careers. These educational classes can explain the benefits of stable family units (with the major focus being on having a father in the home), the value of delayed gratification, how to handle problems and conflicts within the home environment, how to properly raise, educate, and punish children (lessons relating to child psychology), etc. During each semester of high-school, at least two weeks can be dedicated within the student's home-room class (or its equivalent) to educate the students on these important issues. This is not to say that parents should be pushed to stay together. Certainly there are times when divorce, separation, and the break-up of the family is necessary, but as a society we should dedicate great expense and time to provide services for couples and families to prevent this from happening. We must work together collectively as a society to minimize the likelihood of the formation of highly unstable, chaotic, and high-risk unions, and to prevent the dissolution of the family after family formation. If, as the Confucians and a sizable

amount of empirical evidence asserts, the family is the root of much future behavior, and any major disruption of the family may have criminogenic effects on children, then it is imperative that our society bands together and focuses on improving and strengthening the root.

Education

“Study as though you will not catch up to it, as though you fear even losing sight of it.”

Confucius (quoted in Gardner, 2007, p. 29)

The second element within *A Confucian Theory of Crime* is education. An intact, properly functioning, and united family is the first, and most integral, part of the equation, now as an intact unit the parents must pool their efforts into the formal and informal moral and scholastic education of their children. Xunzi (2003) explains the benefits of a proper education:

If wood is pressed against a straightening board, it can be made straight; if metal is put to the grindstone, it can be sharpened; and if the gentleman studies widely and each day examines himself, his wisdom will become clear and his conduct be without fault. (p. 15)

If children are not being properly educated, negative outcomes become significantly more likely to occur (Buonanno & Leonida, 2006; Groot & van den Brink, 2010; Lochner & Moretti, 2004). The Confucians theorized that the two most damaging outcomes of a failed

education are: 1) The children will not develop morally. Per the Confucians, this is particularly prevalent if the children are not receiving moral guidance from within the home. The Confucians believed that it is the parent's responsibility to pass on to their children a sound moral base through constant lessons, examples, and, importantly, ritual. It is not enough that a parent simply provides the necessary moral lessons and examples for their children, they are to convey this information in such a way that their children genuinely and authentically believe that being moral and ethical is the correct way to behave. The parents can typically achieve this, the Confucians argued, through ritual and the compassionate education of their children. The Confucians believed that a failure to develop morally, to fail to self-cultivate, study, reflect, and adhere to ritual, represents a major contributor to criminal behavior and deviance. 2) The child's future employment prospects, the type of neighborhood in which the child will later live, the people in which they will be consorting, their quality of life, and, because of this, their future behavior will all be influenced by the child's education. Xunzi (2003) illustrates the different paths afforded to people predicated on their education, "Children born among the Han or Yue people of the south and among the Mo barbarians of the north cry with the same voice at birth, but as they grow older they follow different customs. Education causes them to differ" (p. 15).

It is of paramount importance, one could reason, that parents ensure that their children are being properly educated—both within the home and in formal educational institutions. Buonanno and Leonida (2006) explain the potential consequences of a missed education, "Education, measured as the average years of schooling of the population, has a negative and significant effect on crime rates and that crime rates display persistence over

time” (p. 713). Groot and van den Brink (2010) provide evidence of the societal benefits of education, “Substantial savings on the social costs of crime can be obtained by investing in education” (p. 279), and they attribute this education-equals-less-crime-and-greater-social-benefit relationship to the idea that, “Education learns you to control your emotions, i.e. by schooling you can increase your restraint and self-control” (p. 289). Therefore, it’s likely important that parents engage in communication with their children’s teachers and school administrators to ensure that their children are complying with the demands of the institution, and if their children are not, the parents, teachers, school counselors, and school administrators must work together to generate a solution that is *parent centric* in orientation. It’s likely important that these four parties (parents, teachers, school counselors, and school administrators) all work together under a framework that places the parents front and center in the education and cultivation process. If the child is doing poorly in school, it is the parents who need to be scrutinized and pressured to instigate a change of course in their child’s behavior—as it is the parents and the family that is the root of behavioral control and behavioral change within Confucian theory and much empirical criminological research. This being the case, barring some unethical or blatantly improper behavior by the teachers or administrators, blame for the failings and misconduct of the child should not be placed on the teachers or the administrator’s shoulders. The teachers likely have hundreds of children they must teach and control, and they most likely do not have the time or the energy to fully engage each student in this way; teachers are usually at schools to provide knowledge and guidance for their students, that is what they are usually trained to do, and, it could be argued, schools exist as entities for education and personal cultivation. Where behavioral control, impulse control, and well-rounded

authentic moral development is concerned, *A Confucian Theory of Crime* dictates, the focus must be on the parents and what they are doing to reshape the behavioral patterns of their wayward children within the home or community environment. As the Confucians theorized, this parental control and focus must begin at an early stage in the child's development (much earlier than the child's entrance into a formal educational system) and continue throughout the child's development. So often the parents and society immediately blame the teachers for the behavioral and academic failings of their children, but if the teachers are doing their jobs adequately and reasonably, then, one could reason using the Confucian theoretical framework, the focus must shift almost entirely back to the parents. In place of the blame which is often, arguably, misdirected toward the teacher from the parents and society for the failings of the child, reverence and respect for the teacher should return so that education is cherished, respected, and acquires a ritualistic adherence within society and within the family. *The Book of Rites* codifies this idea thusly, "In pursuing the course of learning, the difficulty is in securing the proper reverence for the master. When that is done, the course (which he inculcates) is regarded with honour. When that is done, the people know how to respect learning" (Legge, 2016, p. 229). Xunzi (1999), as discussed previously, describes what transpires societally when reverence and respect for teachers is abandoned:

When a country is on the verge of great florescence, it is certain to prize its teachers and give great importance and breadth of learning. If it does this, then laws and standards will be preserved. When a country is on the verge of decay, then it is sure to show contempt for teachers and slight masters. If

it does this, then its people will be smug. If the people are smugly self-satisfied, then laws and standards will be allowed to go to ruin. (27.97, p. 911)

The most essential issue, from a Confucian standpoint, is that the parents are regularly engaged in their children's education and moral cultivation. The parents must repeatedly emphasize the importance and value of education to their children, with the goal being that their children truly and authentically believe in the importance of education and act on that authentic belief. The task of moral cultivation and personal cultivation in general, it could be argued, should not be one directed at the school system, as it is often only the parents who have the natural capacity and authentic motivation that is required to properly engage children in this way—remember that it is family centrism that, per the Confucians, produces authentic attachment.

Parents should begin this process immediately after their children are born and continue the process into adulthood. The school system, one could argue, generally does not have the ability or the capacity to accomplish this developmental necessity. It seems likely that some forms of emotional intelligence can be learned in an academic setting (Peter & Brinberg, 2012), though this is highly debated (there is also an ongoing debate about whether emotional intelligence can be suitably measured at all; and debates about whether the whole concept is a myth, the rebranding of other concepts, and similar criticisms (Becker, 2003; Mayer, Salovey, & Caruso, 2004)), with little empirical evidence to support the assertion that emotional intelligence can be learned (Mayer, Salovey, & Caruso, 2004). The school system certainly plays an important part in the educational

development of the child along with other, often more peripheral elements of personal and moral cultivation, but once the character and moral trajectory of the child is set at an early stage in the child's life, perhaps even before the onset of schooling and potentially even before the age of five, it may be challenging and or even futile for the school system to try to reset the behavioral and cognitive foundation of the child and redirect the behavioral trajectory of the child. School, one could assert, is often confused as being tasked with the role of the parent in the personal and moral cultivation of the child. This confusion may represent an unfortunate societal mistake. At this point in the child's developmental process, it could be reasoned, the behavioral trajectory is likely already gaining steam. Gottfredson and Hirschi (1990) detail how the school system has trouble regulating behavior, developing self-control, and socializing children after the parents initially failed in this important endeavor:

The evidence suggests, however, that in contemporary American society the school has a difficult time teaching self-control. A major reason for this limited success of the modern school appears to stem from the lack of cooperation and support it receives from families that have already failed in the socialization task. When the family does not see to it that the child is in school doing what he or she should be doing, the child's problems in school are often directly traceable to the parents. (p. 106)

Thus, it is likely up to the parents to transmit the necessary social expectations and moral lessons to their children at a young age so that they can better develop self-control and later

thrive within the school system. It is also likely important that the parents cultivate their children with, at the very least, basic education so that they develop the intellectual capacity to delay gratification, minimize impulsiveness, and absorb more complex cognitive and behavioral frameworks.

If the parents are unable or do not know how to properly transmit these messages to their children and educate their children on issues of morality, social expectations, and academics, there may need to be, one could reason, a government organization that helps parents in this process. It may be best that this government organization not be the school system, or be directly associated with the formal school system, as its focus should be on the communication and transmission of morals and other forms of education from parent to child when the child is in its stage of life before formal education and at the early onset of formal education. This organization would, at the parent's behest, send psychologists and education specialists to the homes of families in need of direction in matters of moral education and self-cultivation. These specialists would make multiple home visits to improve communication between parent and child, provide educational resources for the parents so that they can properly educate their children, and, in general, work with the parents to produce a home environment conducive to moral and academic improvement. It may not require much time, money, or energy to set the parents on the right track with their children. Several home visitations from these specialists and, when provided with the necessary materials, many parents may be in a good position to move forward in a productive way with their children—we have evidence of success in the related area of home visitations conducted by nurses (Eckenrode et al., 1998; Olds et al., 1998; Olds et al., 2010). Not only this, but these parents may then be in a position to spread what they

have learned to their friends and to their community, potentially turning whole neighborhoods and communities around. If nurse visitation programs are any indication, the social benefits of a program like this may be immense, while the cost to the taxpayer may be relatively minimal. In other words, the social and economic rewards generated from this program (in taxes paid back into the system from law abiding citizens and cost reductions in the already strained courts and corrections systems) may likely far outweigh the relatively small investment required.

The operation may proceed somewhat like this: First, it's vital that there be a massive media and government campaign prior to the implementation of a program of this nature. This media campaign can advertise the benefits of engaging with members of this government organization (it's understood government sponsored media campaigns in places like the United States may be complicated by competing interests and a general adversarial political environment, but let's proceed as if government or certain sectors of government are capable of pushing a plan of this nature through the media by spokespeople and other channels of communication). The motto or the advertising tagline for this organization may be something like "You want your child to be the best in school, we do too, so call us and we can coach you up on how to make this happen at no cost to you." At the same time, this program and the therapy/methods attached to it could be destigmatized through cooperation with the media and appearances and speeches made by high ranking politicians, public intellectuals, and celebrities. Additionally, this program could potentially be promoted by hospitals and the nurses making home visitations to new mothers and new fathers—as was mentioned in the previous section. Parents, recognizing the benefits that this organization provides, would call this organization seeking help, and

the government would dispatch to their homes a couple of highly qualified members of both the fields of psychology and education. The specialists would then counsel these families for several weeks (or whatever was necessary based on an evaluation) free of charge. This program may also be incorporated into probation and parole requirements for parents who violate the law. Because of these visits, parents would have the opportunity to acquire effective parenting techniques centered on the promotion and implementation of both informal and formal moral and scholastic education. This passage, published in the *Record of Ritual* and quoted in Confucius' (2003) *Analects*, best encapsulates the importance of combining the efforts of both the school system and the family system to fully develop the moral and cognitive abilities of children:

When it comes to instruction in the great learning, every season has its appropriate subject, and when the students withdraw to rest, they are required to continue their studies at home...Therefore, when it comes to learning, the gentleman holds it dear, he cultivates it, he breathes it, he rambles in it. Because of this, he is at ease while learning and feels affection for his teacher, takes joy in his friends and trusts in the Way. This is why, even when separated from the support of his teacher, he does not go against what he has been taught. (p. 137)

This would be a program and movement purely dedicated to the advancement of moral and general education within the family. A system like this may be vital to the improvement of the family, poverty reduction, economic advancement, social harmony, and crime

prevention. It has been stated previously, but it bears repeating, the parents are to begin this process as early in the child's development and educational experience as possible.

It's important to reiterate once again that the bulk of this educational movement revolves around education (particularly moral education) and self-cultivation taking place within the home environment under the instruction of the parents. The Confucians believed that much of the moral and ritual based education a child receives takes place within the home from the child's parents. There is only so much the school system can do to cultivate the minds of young people, particularly from a moral standpoint, and, it could be argued, without the support and engagement of the parents within the home at an early age, the efforts of the school system often achieve little success.

I have antidotal evidence that it may not be the resources delegated to the school, but rather the emphasis the parents place on education within the home that is the determining factor in the student's success. I've taught young people in many schools throughout China, from the best universities in Beijing to extremely poor schools in the mountains of western China (Sichuan Province), and there was always one underlying thread determining the success and quality of the student: The level of importance the parents (or the family in general) place on the education of their children. In the poorest places in China, with economically poor families, disadvantaged school systems, large class sizes, and nothing but blackboards, chalk, and worn books from which to learn, one can find highly motivated and high-quality students if the parents are engaged and invested in the educational process at home. If the parents are in on the effort, as they often are in China, one can hold class with nothing but a chalkboard and chalk and there will be a high likelihood of academic success. But if parental involvement is removed from the equation,

as is often the case at some of the overly funded private schools for wealthy children in China, places in which I've taught, then one will often find disengaged, disinterested, truant, and failing students. In this case, the parents were simply not interested in personally attending to their children's education, devalued education as means for success, etc. Whatever the reason, they had money and were busy/disinterested, and, thus, often placed nearly the entire burden of their children's education, both moral and academic, on the school. As was mentioned, schools may not be effective when this burden is placed upon them. This is because teachers and staff may not possess the capacity to engage in the authentic, long-term, and rigorous emotional and psychological investment required to nurture scores of moral and successful children. Yet, I believe that these same negative results will remain consistent if the family is poor and disinterested in education as well. Ultimately, it may not be the amount of money involved in the educational process that determines success, but the amount of personal dedication and personal investment in which parents place on their children's education. A seminal study by Hanushek (1986) first shed light on the potential futility of injecting additional funding into already strongly (or adequately) funded school systems. Hanushek (1986) writes:

While few people would go so far as to say that school expenditures could not have an important effect on performance, it is at the same time possible to conclude that *expenditures are unrelated to school performance* [emphasis added] as schools are currently operated. The fact that a school spends a lot on each of its students simply gives us little information on whether or not it does well in terms of value added to students. (p. 1166)

A recent study conducted by Neymotin (2010) affirmed this assertion. Neymotin analyzed how the implementation of redistributive reforms within the Kansas school system influenced graduation rates and test scores. A decade's worth of data pertaining to academic achievement was examined, and it was discerned that there is only, "weak evidence that recent changes to school funding in Kansas had any role in increasing graduation rates. There is also little evidence of the effect of changes in school funding on improving test scores" (Neymotin, 2010, p. 89); this led Neymotin (2010) to conclude that, "Recent changes in public school educational finance in the state of Kansas are shown to have had little positive effect on student educational achievement" (p. 88).

Since, as Hanushek (1986) wrote, "expenditures are unrelated to school performance," then what is related to academic performance? The Confucians believed that it is education and character building within the family. This being stated, it's important to recognize that educational prospects are often predicated on social class, geographic location, and socioeconomic status, and these factors likely play a significant role in determining a child's educational outlook. Children raised and schooled in poverty stricken environments, it stands to reason, will most likely not be afforded the same educational and developmental opportunities as those who are raised and schooled in affluent areas.

Ultimately, it may be more effective to focus on what the Confucians considered to be the root of a child's moral and scholastic education: Parental involvement in the educational and personal development of the child within the home. Ultimately, education and moral development may need to begin in the home at an early age—it is at this age that

the foundation for future behavior is likely being set—and it is here that society may need to dedicate its resources.

Ritual

The final element within *A Confucian Theory of Crime* is ritual. At this point in the crime reduction process we are dedicating a large sum of public spending and energy to improving family cohesion and incorporating education into the family structure. It's possible that within the realm of self-cultivation and morality building that education alone is not enough to fully prevent deviance—often, as the Confucians believed, a third rail is required to provide functional behavioral support and to generate a more authentic belief in the importance of behaving morally and supporting society. This behavioral framework, the Confucians argued, is ritual. Xunzi (2003) explains the implications of failing to incorporate ritual into one's learning:

To lay aside the rules and ritual and try to attain your objective with the *Odes* and *Documents* alone is like trying to measure the depth of a river with your finger, to pound millet with a spear point, or to eat a pot of stew with an awl. You will get nowhere. (s. 1, p. 21)

He continued by illustrating the regulatory elements encompassed within ritual and their connection to learning:

To deny guidelines and law and attempt to do everything your own way is to be like a blind man trying to distinguish colors or a deaf man, tones. Nothing will come of it but confusion and outrage. Therefore, learning means learning to regard ritual as your law. (Xunzi, 2003, s. 2, p. 31)

To solidify and strengthen familial bonds and place education in a moral context for which it is applicable for regulation within daily life, the Confucians asserted, ritual is critical. Zhu Xi pulls both elements, self-cultivation and ritual, together in his commentary of the *Analects*, indicating how they both play-off each other to mold a well-regulated person; Zhu Xi writes:

When it comes to learning, a gentleman desires broadness, and there is therefore no element of culture that he does not examine. When it comes to self-control, he desires restraint, and his every motion must therefore be in accordance with ritual. Having been disciplined in this way, he will not go against the Way. (Confucius, 2003, p. 62)

The restraining qualities of ritual, which the Confucians considered highly potent and fundamental to their philosophy, are likely of great importance with regard to crime prevention. Ritual is at its core a mechanism implemented to control behavior. Rituals exist, the Confucians reasoned, to control both the impulses and deviant aspirations of the individual, and to control the behavior of groups of people within society. Ivanhoe (1991a) succinctly describes the controlling power of ritual on the individual:

They [ritual or rites] redirect, regulate, and refine the desires, embellish the search for satisfaction, and ultimately enhance the satisfaction we experience. Because the rites prevent disorder, lead to the satisfaction of our desires, and extend and enhance our satisfaction, they have great instrumental value. (p. 310)

Without ritual to create meaning in the lives of people as they exist within a family system and to create meaning for the existence of the family system itself, one could argue, the bonds that hold the family together may begin to unravel, potentially resulting in deviance and criminality. This may be so because rites “describe society as a web of interlocking relationships, based upon the paradigm of the family, in which every member fulfills a specific role and is dedicated to the general welfare of all” (Ivanhoe, 1991b, p. 57). This being the case, if rituals are disregarded or minimized, then familial relationships may fray, family roles may lose meaning, bonds may be broken, and individual behavior may become more unpredictable and more unsteady.

Ritual, the Confucians argued, also has the capacity to fashion a deep and authentic belief in social roles, familial roles, social obligations, familial obligations, and moral behavior. This authentic belief is necessary, as was conveyed in the Hirschian social bonding portion of the dissertation, for the longevity of close social and familial bonds, and for engagement in long-term moral and virtuous behavior; Xunzi (2003) clarifies, “Only if a man abides by laws and at the same time comprehends their wider significance and applicability can he become truly liberal and compassionate” (p. 31). It’s important to

reiterate, within the context of the words of Ivanhoe (1991b), that it is not simply the ability to conduct rituals or to act out rituals that is the prerogative of Confucian ritual (recall Confucius' earlier words about feeding one's children not constituting ritual without the appropriate authenticity and sincerity attached to the action, as dogs and horses also feed their children), instead, Confucius is advocating for the merging of the ritual or the ritualized act with an authentic belief in the good or the value of that act. Ivanhoe (1991b) explains Confucius' position regarding the need for authentic behavior and authentic ritualized behavior:

Confucius' li [ritual or rites] were not just a set of rules for acting. He did not just want people to act in a certain way, he wanted them to act out of certain dispositions. He wanted people to care for, not just take care of, their parents, to develop the virtue of filial piety, not just act filially. Confucius believed that the cultivation of certain virtues allowed one to live the best kind of life... (pp. 57-58)

Though the Confucians considered ritual the framework from which the development of self-control and moral behavior can be achieved, it is the unification of engagement in the physical ritualized act and an authentic belief (what I recognize to be a deep mindfulness or unconscious positive attachment to the ritual or act) in that act that was theorized to truly produce this morality and self-restraint.

Ritual exists in many forms in our modern age. The act of a family sitting down to dinner together every evening may serve as a small daily ritual that holds a great purpose:

family bonding, family cohesion, the transmission of moral lessons, the development of self-control through an emphasis on dinner table etiquette, etc. In addition to family bonding and self-control, ritualized family dinners, and the consistent communication and supervision they engender, may provide secure knowledge that the children are eating the healthy foods that promote proper brain functioning (which may work to ensure suitable levels of cognitive based “*qi*”). A family visiting the children’s grandparents and other older members of the family on holidays, birthdays, celebrations, or on the weekends represents somewhat larger rituals that serve a similar purpose: family bonding, family cohesion, the opportunity to transmit moral lessons and knowledge from one generation to the next generation, the ability to practice forms of filial piety within the family, and a recognition of the hierarchal nature of the family system and one’s role within it. It should be restated for emphasis, these visitations and interactions with elders represent a form of filial piety, and they may provide valuable lessons and reminders for the children about the different roles engendered within the family system. What is important is that predictive patterns of frequent (weekly or bi-weekly) ritualized behaviors are developed within the family that pull the family together for a significant amount of quality time. During this quality time, the Confucians argued, the transmission of moral lessons and ritual based behavioral procedures directed from parent to child must be achieved. Xunzi (2003) points out the importance of small rituals within daily living and their relationship to behavioral regulation and quality of life:

If all matters pertaining to temperament, will, and understanding proceed according to ritual, they will be ordered and successful; if not they will be

perverse and violent or slovenly and rude. If matters pertaining to food and drink, dress, domicile, and living habits proceed according to ritual, they will be harmonious and well regulated; if not they will end in missteps, excesses, and sickness. (s. 2, p. 26)

In addition to having regular meals together as a family throughout the week, at least twice a week, parents should help their children with their homework (or if they are younger, teach or read to their children) and, importantly, provide their own moral and educational lessons for their children. Parents should also ritualistically talk with their children about their children's lives, but as was covered in the Hirschian attachment portion of the dissertation, the topic of conversation should regularly turn to issues that illustrate proper moral and ethical behavior—in other words, simple, run of the mill conversations may not, as the Confucians argued, achieve the desired results. Again, it is quality over quantity. It may be important that parents turn their children's ongoing experiences, their trials, tribulations, and successes into platforms from which to merge lessons on morality, self-control, delayed gratification, empathy, etc.

On the weekends families can ritualistically visit museums or other local cultural event centers to hear the weekly speaker, attend a book reading, or simply find a place to read. These educational public events continue to bring education, self-cultivation, and a healthy curiosity for the world into the lives of children. Importantly, these events may provide a vital lesson that achievement can be garnered through education and self-cultivation—through these educational visits, the child may understand that if they do well

in their education, they too can be up at the podium teaching and giving public lectures (imitation based actions).

Additionally, a family should learn to play and sing music together, learn to play an instrument together, or engage in some other performance art together (dance, martial arts, etc.) to exercise what the Confucians believed was the unifying power of music and the performing arts. Learning an instrument may not only provide cognitive stimulation and increased academic ability, but it may bring about a unifying pleasure that binds the family and the community together in profound ways (Cabanac, Perlovsky, Bonniot-Cabanac, & Cabanac, 2013).

It may be important that parents focus on properly transmitting the fundamental elements of behavioral etiquette to their children. Once proper etiquette is ritualized over long periods of adherence, one could argue, personal control may be improved, impulsivity may be restrained, and criminality may be dampened. Small acts of basic etiquette are a major form of ritual within the Confucian tradition, and they are considered responsible for controlling behavior and developing morality. Parents today must first place great emphasis on teaching these fundamentals to their children when their children are young, and all else may grow from there. For example, it may be important that parents teach their children proper dinner table etiquette and monitor the behavior of the children once the etiquette is introduced. Parents can teach their children how to properly request certain materials on the table, how and when to say “please” and “thank you,” how and why they should wait for all the food to arrive on the table before beginning to eat, why they should wait for elders to begin to eat before they themselves begin to eat, how to properly use a fork, knife, and other dining utensils, the list goes on and on. It is from mastering these

most basic behaviors and forms of etiquette—from being able to control and restrain oneself under these most basic conditions—that more general, and serious, forms of self-control and self-possession may be achieved.

It may be most effective to combine these ritual based experiences in personal growth with explicit lessons in learning and discipline. Through this engagement, not only will the child be perpetually connected to ritual, but these rituals may also provide a more pronounced learning and discipline focused experience. This may be accomplished by blending rituals with task oriented objectives. For example, within the rituals of family dinners or folding laundry, parents can instruct their child to set the table before each meal or help the parents fold and return the clothing after it is removed from the laundry machine. The parents can begin these rituals early in the child's life so that they fall into a pattern and it becomes the norm. Over time the child will likely develop the capacity to properly set the table or fold and replace laundry—this capacity and their results contingent upon the child's developmental stage (this is what's known as the child's "zone of proximal development"). Naturally, the parents must regulate their expectations based on the development of the child. More and more of these task oriented rituals may be incorporated into the ritual of the dinner experience, laundry experience, etc. until the child is engaged in numerous, it could be argued, discipline producing, cognition enhancing, and family bonding exercises.

In addition to a parental emphasis on ritualized personal etiquette, schools could provide etiquette classes for children ages 7-18; the etiquette becoming more advanced as the child traverses through the school system. It will likely be important that the school system provide classes on more general or universal forms of etiquette with a discernable

effort not to move in the direction of one particular culture (or, conversely, perhaps it may be beneficial to include the etiquette of all major cultures as examples). These more universal forms of etiquette can focus on how to interact with and show respect to elders, teachers, parents, employers, coaches, community members, etc., how to conduct oneself at the dinner table, how to behave in certain social situations, and so on.

Ritual can also be somewhat flexible and forgiving. Confucius did not advocate for rigorous and dogmatic adherence to ritual. He believed that ritual that is too rigorous will fail to produce harmony as it can never be achieved as planned, and, thus, will ultimately create disappointment, resentment, and disunity. The focus should be on achieving personal control and harmony within the group rather than dogged adherence to ridged ritual; Confucius (2003) explains, “When it comes to the practice of ritual, it is harmonious ease that is to be valued...If you merely stick rigidly to ritual in all matters, great and small, there will remain that which you cannot accomplish” (1.12, p. 5). Continuing in this line of reasoning, Confucius advocated that people maintain a ritual, perhaps in an imperfect state, rather than lose it for practical or economic reasons. At the same time, he made it clear that rituals should not be changed for trivial or preferential reasons; Confucius (2003) said:

A ceremonial cap made of linen is prescribed by the rites, but these days people use silk. This is frugal, and I follow the majority. To bow before ascending the stairs is what is prescribed by the rites, but these days people bow after ascending. This is arrogant, and—though it goes against the majority—I continue to bow before ascending. (9.3, p. 87)

Confucius' theory behind this quote was brought to my attention through the excellent work of Cline (2016). She provides a concise reiteration of traditional explanations regarding this important area of Confucian ritual theory:

As traditional commentaries on this passage explain, replacing the more expensive cap of hemp [linen in the above quote] for a silk cap is an acceptable amendment to the ritual because it allows those who cannot afford the more expensive cap to continue to practice the ritual, which help to keep the ritual alive. This change does not alter the meaning and purpose of the ritual, since the head-covering has symbolic importance, but not the material. This is what makes bowing after—instead of before—ascending the stairs an unacceptable change for Kongzi [Confucius]: bowing is a way of asking permission to enter, and as a result, to bow after one has already entered and ascended the stairs defeats the purpose of the ritual. (Cline, 2016, p. 246)

Though I agree with the information that Cline presents regarding the first decree made by Confucius concerning the practicality of ritual over the loss of ritual, I'll take second portion of her explanation a step further and propose that Confucius' overall meaning is that people should avoid changing or altering rituals just to satiate the fashions of the day (unless there are legitimate and practical motivations influencing their behavior), as they lose some of their importance and their mystical qualities. Either way, Confucius' theories

and Cline's reiteration/interpretations offer valuable lessons for modern ritual practitioners—lessons that can be absorbed into our modern crime prevention policies.

Additionally, emotion and authentic ritual is to be valued much more than the pageantry and theatrics of ritual. The Confucians believed that it is better to be sparse and meaningful than extravagant and empty. To use a modern example regarding education, it may not be the money spent on iPads or laptops for each student to use in class or at home that will increase levels of student success, but, instead, it may be the meaning and authenticity generated between parent and child or teacher and student that will determine student success in academia. Confucius (2003) speaks to the value of erring on the side of sparse, yet meaningful ritual, "When it comes to ritual, it is better to be spare than extravagant" (p. 18).¹⁰¹ Bell (2008) tied a bow on the importance of emotion, in particular the superiority of emotion over other more superficial elements of ritual within Confucianism, when he wrote, "The main point of ritual is to civilize our animal natures, and if people are just going through the outward routines without any emotion, they are not likely to transform their natures" (p. 40).

Greater personal and social benefits may be achieved if the family, the community, and the state follow a somewhat more historical and traditionalized form of ritual, rather than ritual generated from the unpredictable whims of independent parents. If ritual is derived from traditional and historical precedent and is sanctioned by the community, community leaders, the school system, the state, etc., it not only may add validity and

¹⁰¹ Zhu Xi first interpreted this statement as one of emotion and authenticity over cultural pageantry (Confucius, 2003).

respectability to the rituals, but it may also add a type of mysticism often only available in those longstanding and institutionalized rituals and traditions. Bell (2008), when interpreting Xunzi's position on traditionalized ritual, writes, "If people regard such rituals as arbitrary human creations or as practices that could be invented or changed at will by themselves or their less than perfect contemporary political leaders, the rituals may be subject to ongoing questioning and may be less effective" (p. 47). Xunzi (1999) alludes to the power of mystery and mysticism in converting people to certain behaviors when he describes how a ruler should be presented to his people, "They [the ancient Kings and sages] knew that if, in creating the position of ruler and superior...if he were not made majestic and powerful, he would prove inadequate to proscribe the violent and overcome the cruel" (10.12, p. 287). This mystery and mysticism, likely at least partly derived from longstanding and traditional ritual, may increase the potential for ritual to influence and regulate members of the community in the same way that the mystery and mysticism associated with more traditional religions often has the capacity to provoke emotion and sentiment from many nonbelievers. The institution of traditional ritual within modern society could potentially be achieved by working to better connect families, communities, and government institutions with the universe of different rituals that exist around the world. When this information is out within society and people are becoming aware of its value, they may take it upon themselves to study the material and incorporate many of the behavioral proscriptions into their own conduct and the operation of their families. For example, the main works of the Confucians, the Buddhists, the Daoist's, etc., can be modernized so that the rituals and concepts can be more easily understood and practiced,

and this material can then be promoted within communities as possible sources of personal and family development.

A Confucian Theory of Crime is founded on the premise that ritual, and the prosocial elements encompassed within, represents the guiding instructional framework for the development and maintenance of personal behavior. Specifically, the moral development of the child should be derived from instruction on how to live in accordance with ritual and other prosocial behaviors, as the Confucians believed, and it should not be derived from lessons predominately provided by a formal legal system. The focus of behavioral instruction, the Confucians argued, should be on the teaching of positive behaviors—using proactive rituals and moral lessons as the general means for information transmission. Behavioral instruction, under the general Confucian theoretical framework, should not consist of a constant drumbeat of how not to behave and it should not consist of a communication of the inevitable penalties for misbehavior (a social framework founded mainly on the punishment based Legalist theory of behavior control). A child is to be directed into the arena of personal enlightenment and self-cultivation, rather than one of punishment avoidance and risk calculation. Rather than saying to the child or the adolescent, “don’t do this” and “don’t do that” or “here is the penalty for this” and “here is the penalty for that,” the foundation for behavioral instruction, one could reason, should be centered on statements such as, “here is how you accomplish this,” “here is how you conduct yourself,” “here is how you improve yourself,” and “this is the path to success.” Xunzi (1999), in a thorough and all-encompassing treatise on the subject, best explains the folly of a social system predicated on penalties and deductions, rather than instituting a

social system founded on personal moral development as a product of ritual and self-cultivation:

Shen Dao [founding member of the Legalist tradition] had insight into “holding back,” but none into “leading the way.” Laozi had insight into “bending down,” but none into “straightening up.” Mozi had insight into “uniformity,” but none into “individuation.” Song Xing had insight into “reducing,” but none into “increasing.” If there is only “holding back” and no “leading the way,” then the masses will have no gate to opportunity. If there is only “bending down” and no “straightening up,” then the noble and base cannot be distinguished. If there is only “uniformity” and no “individuation,” then governmental regulations and commands will not be carried out. If there is only “reducing” and never “increasing,” then the masses cannot be transformed. (17.15, p. 553)

Thus, it could be argued that adolescent and juvenile development should not revolve around formal punishments in accordance with a codified law or some other penalty based system of social control, by then (the introduction of formal punishments) it may be too late—as the opportunity for true moral development, a solidification of a healthy superego or conscious, an authentic belief in societies values and rituals, and the acquisition of a moral life-course trajectory may have passed them by (the window for truly obtaining these prosocial attributes is likely small and probably exists in early childhood and young adolescence). Slingerland (Confucius, 2003), in his translation and compilation of

Confucian interlinear commentary, provides two instructive examples of early Confucian scholars interpreting and commenting on Confucius' notable quote regarding early moral and intellectual cultivation as means for social harmony, rather than initiating litigation after the fact. Confucius' (2003) initial quote is, "When it comes to hearing civil litigation, I am as good as anyone else. What is necessary, though, is to bring it about that there is no civil litigation at all" (12.13, p. 132). Confucian scholar Wang Su (195-256 C.E.) adds clarity and explanation to this passage by commenting, "One can bring it about that there is no litigation at all by transforming the people beforehand" (as quoted in Confucius, 2003, p. 132). Confucian philosopher Fan Ziyu (1041-1098 C.E.), in his interpretation of Confucius' quote, places emphasis on the importance of early personal cultivation within the context of life-course theory and life-course trajectories by stating, "Hearing civil litigation is like trying to fix the branches or stop a river that is already flowing: if you had simply rectified the roots or purified the source, there would simply be no litigation at all" (as quoted in Confucius, 2003, p. 132). Learning moral behavior through the mediums of ritual, study, reflection, and other forms of morality based education must begin early in the child's life and continue into at least early adulthood. It's imperative that the reader recognize the pattern of early involvement in the child's life by the family, preferably the parents, using moral education and ritual as channels of development.

It's important to reiterate that we are dealing with three main elements in the Confucian crime reduction and crime prevention equation: 1) The Family: the parents play a fundamental role within this theory in that they first provide the moral and general education to the child beginning at a young age. Also, the parents are to instruct the child on the proper way to conduct ritual based behaviors, and instruct the child as to the

importance of these ritualistic behaviors (the parents take on the positions of both teacher and role model in the transmission of these rituals). 2) Education: the child is to begin his/her general and moral education as early in their developmental process as possible. This moral and general education must be accompanied by a rigorous education on ritual. Importantly, most of this education, particularly throughout childhood, must take place within the confines of the home under the instruction and watchful eye of the parents. 3) Ritual: the child is to learn that being moral and behaving in a prosocial way (in other words, being a good person) is the correct way to live, and they must truly and authentically believe it—this is where ritual plays an invaluable role. The child must learn and engage in structured prosocial rituals, the Confucians argued, to acquire the necessary self-control, familial attachment, societal attachment, and proper behavioral framework to become a productive and moral adult. As was covered in much greater depth earlier in the dissertation, ritual may act as a pathway to acquiring an authentic belief in the value of positive and socially constructive behavior.

Confucius, Mencius, and, to a large extent, Xunzi operate within a paradigm that reduces the influence of the legal system as a mechanism of social control and behavioral development. They wanted to exist in a world where pressure from a legal or punitive system is unnecessary and severely limited. Children, under the Confucian system, are set on the proper behavioral track at the beginning of their lives, and through ritual, education, and parental support they are expected to experience no desire to deviate from it. If a child and the child's family follow the Confucian path into adulthood, the Confucians believed, the legal system will be so alien to that person's sphere of influence and operation that it will effectively be considered nonexistent, or at the very least non-influential. Within the

Confucian system, people are always moving in the direction of greater enlightenment, more personal improvement, greater familial unity, and greater social harmony, and at the same time moving away from a punishment based social framework and punishment based mindset, rendering the legal system of little relevance. This is the Confucian way, and this is *A Confucian Theory of Crime*.

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Figures

Figure 1. Unknown artist (1770). *Confucius (551-479 B.C.)*. Wikipedia Commons.

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Figure 2. Unknown artist. *Zhu Xi*. Wikipedia Commons.

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Figure 4. Unknown artist. *Portrait of Xunzi*. Wikipedia Commons. Source:

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Figure 5. Unknown artist. *Portrait of Han Fei*. Wikipedia Commons.

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Figure 6. Unknown artist. *Laozi*. Wikipedia Commons.

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