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本期主編：范瑞平

## 家庭與生命倫理

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The Family: Crucial to and Divisive in Bioethics

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家庭與生命倫理  
The Family and Bioethics

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### 摘要

晚近國際生命倫理學的个人主義色彩仍然甚濃，本文以如何保護醫療弱勢人群（病人）為例，指出國際生命倫理委員會2009年報告書這方面的弊病。文中一方面解釋了儒家倫理學的“家庭共決”模式，為何應當作為保護醫療弱勢人群的首重保障，另一方面也梳理出其它價值體系的相關觀點，發現某些西方學者也有類似看法，只是未為重視。筆者最後以香港公立醫院對終止維持生命治療及預設醫療指示的道德指引為例，說明儒家的家庭共決模式實際如何運作。

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## 家道與“齊家”功夫

倪培民

### 摘要

本文藉分析“家”的生物學、社會學和理想價值之三重不同含義及其相互關係，指出社會學意義的家和應當作為人類家園的社會，目的在於為人的生存和生命的延續提供理想條件。雖然家的形式對生活的方式和質量都有很大制約，但如果家不“齊”，任何形式的家都可能成為牢籠。齊家既是人類生存的基本功，也是一門艱深藝術。宋明儒的“功夫”概念為理解儒家齊家思想提供了一把鑰匙。家的理想狀態，需由個人自身的高度修養以及“權（衡）”的功夫而來，而不能只靠權威、家規或對文化傳統的尊重。齊家學說不僅照顧到弱勢者對家庭的需要，也提供了由“道中庸”而致“極高明”的途徑。正是從家庭開始而往外延伸的人際關係，使人的生命得以超出自我，並獲得“即凡而聖”的意義而成就不朽。儒家“四海之內皆兄弟”的精神擴展了親緣關係，使其能夠在現代社會中容納非傳統的家庭形態，並指導我們在各種家庭形態允許的條件下獲得美好生活。儒家“家齊而後國治，國治而後天下平”的觀念，與著名西方家庭療法大師薩蒂爾之觀念、早期馬克思的人本主義觀念和美國文化人類學家艾斯勒關於復歸遠古“夥伴關係”的觀點，都有相通之處：人類應當在更高級的形態上，消除人的自身生產被物質經濟生產所左右的異化，並以具理想價值意義的家為模式去改造社會，從而達致把天下家園化的目標。

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### 摘要

家庭是社會-生物學的實在，有關如何適當地表述這種實在的爭論劇烈，處於文化戰爭之中心。本體-形上家庭觀認為，家庭是有規範性的社會實在，父母子女具有給定的身份角色，應當尊敬祖先，支持後代。這種家庭觀受傳統宗教（如基督教和儒教）所推崇。自由主義家庭觀則認為，家庭不過是其成員的創造，應以平等自由的觀念為主導，因而各種類型的家庭均無不可。這兩種不同的家庭觀對於生命倫理的重大問題，及其相關公共政策蘊涵不同的處理方式，關涉人類生活的未來。

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## **The Family as the Primary Protector of the Vulnerable: Confucian versus Medical Ethics**

**Lo Ping Cheung**

### **Abstract**

Individualism is still very much alive in “international” bioethics. Using two documents from the International Bioethics Committee as examples (Proposed Outline for a Report on Respect for Human Vulnerability and Personal Integrity, 2009; Report of the IBC on the Principle of Respect for Human Vulnerability and Personal Integrity, 2011), and focusing on hospital patients as a vulnerable group, this essay points out the pitfalls of individualistic bioethics. Confucianism advocates family co-determination rather than individual self-determination, and this model of decision making can serve as the first bulwark in protecting vulnerable patients. This model of medical decision making is not unique to Chinese culture, but is actually advocated by a small number of Western scholars. This essay also illustrates how family co-determination in medical decisions works using the example of two recent policies introduced in Hong Kong public hospitals, viz., forgoing life-sustaining treatment for the terminally ill and the use of advance directives.

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## **Family Co-determination Model: A Wise Clinical Choice**

**Zhang Xinqing**

### **Abstract**

Professor Lo strongly argues that family co-determination, rather than self-determination or family-determination, is one of the best choices for protecting the vulnerable in a healthcare setting. The assumption underlying the family co-determination model is that of an individual as a person-in-the-family rather than as an isolated individual. I provide some proofs to enhance the Confucian bioethical base of family co-determination. Based on a national survey of health professionals and patients, I conclude that family member involvement in clinical decision making contributes to better communication between doctors and patients, which is a key factor in alleviating the degree of tension.

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## On the Moral Identity and Moral Responsibility of the Confucian Individual

Cai Yu

### Abstract

This article reviews Professor Lo Ping Cheung's paper, "The Family as the Primary Protector of the Vulnerable: Confucian versus Medical Ethics." The paper describes human behavior by way of historical narrative, thus offering a historical perspective on philosophical research. His notion of "family co-determination" instead of "parent-determination" also brings a developmental attitude to philosophical research. At the same time, we discuss the moral identity and moral responsibility of the Confucian "individual." The moral identity of the Confucian "individual" includes both specific cultural identities and a specific social identity. Confucian individuals are the successors, developers and creators of Confucian culture, and also the practitioners and successors of family virtues. These are their moral responsibilities. This article also makes recommendations on forming and expressing family decisions in practice. First, family decisions should be taken by those members of the family who have the capacity to make a decision. However, taking the view of the family as the ethical unit, a family decision should be made on the family's specific circumstances, with no need for administrative or legal provisions. Second, in accordance with current practice, a representative of the family who has the capacity to make medical decisions should sign an informed consent form. When the views of the patient and his or her family are not consistent, the general principle is that the doctor should follow the patient's decision. Yet there might be some cases in which the doctor should not follow the decision of the patient; for example, if the patient makes a decision that endangers his or her life due to a lack of knowledge, emotional state or other reasons. In this case, the other family members will put forward their different views based on their responsibility to the patient, and the doctor may comply with the latter.

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## Shared Physician- and Family-based Decision Making, and Pluralism

Chan Ho Mun

### Abstract

For historical reasons, medical practice in Hong Kong is regulated by a legal system inherited from the UK. The system is in the liberal tradition. Po alleged that the Health Authority's "Guidelines on Life-sustaining Treatment in the Terminally Ill" illustrate the practice of the family co-determination model in Hong Kong. This paper argues that on the contrary, due to the legal constraints with which the guidelines must comply, they carry a very strong liberal flavor. There are limitations to documentary research. To understand the practice in Hong Kong, we need to conduct empirical studies on the views of healthcare professionals, patients, and their families, and how they make decisions in real-life situations. Due to the cultural influence from both the East and the West, some degree of pluralism survives in Hong Kong. My empirical study shows that the shared physician- and family-based decision making model is most popular in Hong Kong, while a significant minority opts for the liberal model.

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## **Ethical Limits and Difficulties of the Family Co-determination Model**

**Liu Junrong**

### **Abstract**

The role of the family as “the first guarantee” of vulnerable groups is extremely limited and not always effective. When disagreements arise between patients and their family members, family co-determination can do nothing to help. Respecting patients’ autonomy should be taken as the premise of family co-determination; the government and society undertake more important responsibilities in the protection of vulnerable groups.

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## **Human Vulnerability and Bioethics**

**Lawrence Yung**

### **Abstract**

In his paper, Professor Lo Ping Cheung complains that bioethics is under the undue influence of liberal individualism. He argues that in prioritizing individual autonomy, the United Nations’ “Universal Declaration on Bioethics and Human Rights” (2005) and the International Bioethics Committee’s “Proposed Outline for a Report on Respect for Human Vulnerability and Personal Integrity” (2009) not only allow but also advocate egoistic behavior. In contrast to Lo’s view, in advocating family co-determinism in healthcare, Confucian bioethics is in a better position to provide primary protection to the vulnerable.

To defend the Declaration (2005) I draw on the IBC Report (2011) and argue that in enshrining the principle of respect for human vulnerability and personal integrity as a universal value in bioethics, the Declaration seeks to prompt greater solidity between moral strangers and different stakeholders in healthcare and research and the application of emerging technologies in the biomedical sciences. I also argue that the family may fail to protect “the vulnerable,” as vulnerability is a human condition and it occurs in the context of healthcare as a result of personal disability, in addition to environmental burdens and social injustice.

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**Abstract**

Starting with a brief analysis of the biological, sociological, and axiological senses of the term “family,” this article points out that the purpose of a sociological family is to provide ideal conditions for human survival (which is primarily biological) and flourishing (which is axiological).

Although the sociological family structure significantly affects both the way of life and the quality of life, any sociological family can become a fetter instead of a home if family relations are not properly regulated. Regulating the family is both a basic principle for human survival and a challenging art, which is best understood through gongfu [aka. kung fu], a term that Song-Ming Confucians used frequently to describe the purpose of Confucian learning.

While authority and rules of conduct are necessary for regulating the family, effective authority must rely on virtue for its transformative effect, and rules of conduct must be accompanied by the use of discretion, an art that cannot be formalized. Both the exercising of authority and the application of rules are means rather than ends. Their proper use depends on whether they are conducive to the growth, transformation, and enablement of the relevant members. Rigid adherence to authority and rules can be potentially counter-constructive, as illustrated by cases of medical ethics in which adherence to patients’ rights to be kept informed and to give consent may prove to be inhumane to the patient, and yet adherence to the family’s right to make decisions for patients may also lead to problems. The matter has to be determined not merely on the basis of respecting cultural traditions, but ultimately on the well-being of the people involved.

The theory of regulating the family not only accommodates the need for family in various stages and conditions of human life in which a person is vulnerable – which is difficult to perceive in the West as the predominant conception of the “person” is modeled after a male, adult, autonomous rational being – it also provides a path for “reaching to the highest and brightest limits.” It is in the human relations starting from the family that a person’s life can go beyond the individual self and obtain sacredness within the secular life and thus become immortal.

The Chinese culture informed by the Confucian teaching of “rectification of names” has a rich variety of “names” to specify human relations, and hence is able to instill the sense of role-specific responsibilities. Yet the Confucian spirit of “all within the four seas are brothers” stretches family relations beyond the biological, and thereby allows Confucianism to embrace non-traditional types of family, such as adoptive families, cohabitation, same-sex marriage, and other modern institutions of living together such as kindergartens and nursing homes. It offers valuable instructions for obtaining the gongfu of leading a life as good as the structure of the family allows.

The far-reaching significance of “regulating the family” is evident in the Confucian idea that “when the family is regulated, the state will be in order; and when the state is in order, there will be peace throughout the world.” The idea has resonances in the contemporary “family therapy” of Virginia Satir, the humanism of early Karl Marx, and Riane Eisler’s idea of reviving the “partnership” relation of the pre-historical era: humans must eliminate the alienation of allowing material production and economics to dominate the creation of human life; we must reform our society according to the axiological concept of the family so that the world can become our shared home.

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## **On Ni's Dao of the Family**

**Tang Wenming**

### **Abstract**

Professor Ni's essay on the role of the family provides insights into Confucian ethics. Here I indicate four points. First, the proper approach to understanding Confucian ethics is through virtue theory, not deontology. Second, filial piety can be used as the pretext for grabbing egoism. Third, filial piety entails an equilibrium between private and public interests. Fourth, the reconstruction of the three cardinal guides is necessary in modern society. I also point out two problems with the essay. First, the Confucian idea of marriage is based on the intergenerational relationship between parents and children, not romantic love between a man and a woman. Second, in practice, the strategy is important but the principle is fundamental.

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## **Gongfu and the Family**

**Xiao Si**

### **Abstract**

In this response essay, Xiaosi, the author of [Philosophy of Family], made five points in response to Ni Peimin's article, "The Way of the Family and the Gongfu of Regulating the Family."

1. Gongfu is indeed a philosophically significant concept that uniquely reflects the features of the Chinese Philosophical tradition. Ni's recent works that advocate this concept provide a valuable contribution to philosophy.

2. In his additional notes on Gongfu, Xiaosi points out that a sense of "enduring" or "lasting" and a sense of spending time in an accumulative fashion are two indispensable elements for an appropriate understanding of Gongfu.

3. Greek philosophy does not seem to be included in this concept, which is unfortunate.

4. Gongfu and familization may well be connected, each facilitating understanding of the other.

5. Xiaosi also made two criticisms against Ni Peimin's article.

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**Self-cultivation, Family-regulation, and *Lunli*****Yu Kam Por****Abstract**

This review essay is confined to two issues in Professor Ni Peimin's paper: (1) the relationship between self-cultivation and family-regulation; and (2) the difference between family-based ethics and lunli. First, it is argued that self-cultivation is a necessary, but not a sufficient, condition for family regulation. Neither is family regulation a necessary condition for self-cultivation. Even with the emphasis on the role and importance of gongfu, self-cultivation is still not sufficient for family regulation. Second, it is argued that there is a big difference between family-based ethics and the Chinese concept of lunli, which is individual-centered and relation-based. The Chinese concept of lunli requires each individual to play his or her part, which can differ from person to person even within the family, rather than directing everyone to the same common goal, such as the well-being or harmony of the family.

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**Sentiment or Hope?****Wang Xiaolin****Abstract**

This article proposes a different view from that offered by Professor Ni in "Regulating the Family and Gongfu." Professor Ni argues that the family forms the base from which a person's life can go beyond the individual self, obtain sacredness within the secular, and become immortal, in addition to providing the basis for social harmony. This article agrees that the notion that family serves not only as a refuge in the secular life of Chinese Han people, but also as a sacred place in their soul, is a cultural phenomenon. At the same time, however, this article argues that adopting the family as the basis for rejuvenating our tradition is merely an unrealistic assumption.

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**Abstract**

Professor Ni's paper, "The Way of the Family and the Gongfu of Regulating the Family," tells us that the right way to regulate the family, the country, and the world relies on self-cultivation. Prof. Ni's insightful description indicates that there is a misunderstanding of "authority" and absolute obedience, and proposes a healthy way of understanding respect for authority as "helping those to grow well". Prof. Ni is confident of the advantages of the traditional family-centered life. In response to the example regarding informed consent and family decision making, the authors comment that Professor Ni ultimately depends on the competent parent who can grasp the skill and art of "balance and right". How, though, can we expect and rely on such a person existing? This point is the main argument of this review. The Confucian notion of family embodies many functions, including the excellent core values of "love, trust, safety, etc," but family cannot hold the responsibility for everything, including totally surrogate decision making.

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**Abstract**

The family is a socio-biological reality. Humans form socio-sexual pairs, which are often also reproductive units. How to characterize these social entities is a matter of considerable dispute, placing the family at the heart of cultural, social, and political disputes regarding the nature of appropriate law and public policy. Competing views of the family have important implications for healthcare policy and bioethics. On the one hand, there is an ontological-metaphysical account of the family, which appreciates the family as a normative social reality that, as far as possible, should be realized by particular families. This account brings with it pre-existing roles for husbands and wives, fathers, mothers, and children. This view of the family tends to be multi-generational, looking back with respect and support to previous generations, while looking forward with love and concern to succeeding generations. This metaphysical-ontological view of the family is traditionally endorsed by Confucians and Christians. Because it regards the family as a normative socio-biological unit, it supports the autonomy and integrity of the family, treating members of the family somewhat as a state treats its citizens. This view of the family endorses family-based consent and policies of confidentiality in preference to individually oriented ones. It also favors forms of healthcare financing, such as family-oriented health savings accounts, that increase both the financial and the social capital of the family. This approach to the family, which is inclined toward authoritarian and authoritative parenting, tends to produce children who are better able to shoulder their future roles as adults. Finally, this view of the family favors the begetting of children. The traditional view of the family is currently under critical pressure from libertarian/liberal construals of the family, which regard the family as the creation of its members and/or as guided by overriding concerns for individual liberty and equality. This view is at peace with reproduction outside of wedlock, with limited family responsibility and autonomy that undermines status obligations to past generations, and to the production and nurturing of future generations. Non-traditional forms of family, including homosexual families, are accepted, if not affirmed. The libertarian/liberal construal of the family endorses individual, not family consent, for medical treatment. It also favors individually directed policies regarding confidentiality, and forms of financing that support the interests of individuals over those of families. Because of the account's endorsement of individual freedom and/or individual liberty, it requires that adolescents in many if not most circumstances should be allowed to make their own healthcare decisions, even in the face of mounting evidence that adolescents do not usually have the capacity of decision-makers who have come of age. The libertarian/liberal account of the family is at best neutral to the begetting of children. The differences between these two approaches to the family bear not only on healthcare policy and bioethics, but also on the long-term financial and social stability of society. Quite different futures are at stake.

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## **The Family and the Cultural Crisis of Bioethics**

**Wang Jue**

### **Abstract**

The issue of the family has long been repressed and de-emphasized on the agenda of contemporary bioethics. In stark contrast, in his latest essay Engelhardt gives the family a central place in accounting for some profound social-political controversies in recent bioethical debates. The question therefore arises: what difference would it make to bioethics if we were to treat the family as a central and divisive issue in bioethics? This question helps us to assess the significance of Engelhardt's essay. In this paper, I try to answer this question and also consider Engelhardt's essay from the perspective of cultural crisis. First, I argue that by bringing the family to the fore, Engelhardt is not concerned with one new item on the agenda of bioethics, but with an overall cultural crisis originating from the libertarian/liberal construal of family prevailing in the contemporary, secular, quasi-post-modern world. Second, I show that the mainstream Western bioethics proves to be part of this crisis, rather than its cure. Therefore, the ultimate goal of Engelhardt's essay is to examine the limit and possibility of dominant Western bioethical discourse, with a view to honestly assessing the social, financial, and moral costs involved in an increased presence of post-traditional families. Finally, following this line of thought, I suggest that an inter-cultural dialogue is the key to dealing with the crisis under discussion.

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## **Confucianism on Family Ethics and Ethical Issues: A Response to Professor T.H. Engelhardt**

**Lee Shui Chuen**

### **Abstract**

In response to Engelhardt's emphasis of the status of family in the bioethics and culture war, I would argue that Confucianism takes the family as the basic social ethical unit, which circumscribes not only the individual's interpersonal responsibilities within the family, but also everyone's social and political relations at large. Family is both the starting point and the end point of one's life, hence we have responsibilities of filial piety to our parents and to nurture our children. Through mutual responsibilities, the family provides shelter, provisions, safety, loyalty, affection, and moral support for its members. Such an ethical family provides the best education and balanced character development for the child, which leads to a prosperous and fruitful life. Hence, it is more than just to give the family the legal status in a family member's medical and bioethical decisions. Chinese traditional medical practice demands that physicians treat a patient and the patient's family as relatives with great empathy and affection. The ideal is a Confucian doctor. Bioethical and medical decisions are determined within the family in a harmonious fashion and to the greatest benefit of the patient.

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## **Informed Consent in Chinese Medical Practice: The Whole Family as a Decision-maker**

**Wang Mingxu, Ma Le, and Yuan Hui**

### **Abstract**

H. Tristram Engelhardt indicates that the ontological or metaphysical account of the family is superior to the libertarian-liberal account of the family with respect to significant issues in bioethics. By appealing to the development of the concept of informed consent and relevant medical laws and institutions, illustrated by examples from China, this essay supports Engelhardt's view and emphasizes the cultural and ethical importance of the family functioning as a whole in the process of proper medical decision making and the protection of the fundamental interest of the patient.

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## **The Ideal of the Family and Bioethics**

**Sun Muyi**

### **Abstract**

The family financial account provides a type of supplement to economic checks in developing societies, which further facilitates the reform of healthcare. The ontological/ metaphysical family mode faces a challenge as the basis of the family financial account. The author focuses on the cooperation between humanitarian dedication and responsibilities, which are the solution to the family bioethics issue.

In contrast to this new form of family mode, the libertarian/ liberal account fits the postmodern culture better, with more emphasis on individual freedom, feminism, and equality of medical rights. At the same time, however, it lacks an understanding of the solidarity and fraternity between generations. Hence, it is important to use "overlapping consensus" theory to mediate and balance the two types of family financial account. Moreover, the author uses the comparison and competition between the two accounts to address the differences between right and wrong, good and bad. He also points out the means to revise and improve in the process of practice.

Although this article does not take into account the problems in actual execution, his ideas about the future prospects for human health protection remain optimistic.

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**Abstract**

Tristram Engelhardt, Jr. offers erudite and compelling arguments for the view that all families should try to realize the traditional family. Although I tend to agree with him from a personal standpoint, I doubt that this view can be justified to those with whom we are in reasonable disagreement about the family. I make three critical points. First, although Engelhardt stops short of saying that the state should encourage people to form traditional families, or discourage those who do not, some state perfectionists might do so. From the perspective of public reason, it is unjust for the state to favor some conceptions of what is good over others, if these conceptions are all reasonable. Moreover, those whose conceptions of the good are not favored will feel that they are disrespected. Second, insofar as Engelhardt thinks that all families should try to realize traditional families, the traditional family would not be perceived as good by those who do not like children. Moreover, it would be difficult to persuade those who have decided not to have children for reasons of career, burden, or more altruistic concerns. Third, against Engelhardt's stance against the "egalitarian aspirations" of liberalism, I argue that women too often sacrifice their possible careers for the sake of the family, even when they hold advanced degrees from prestigious universities, or professional qualifications. This kind of injustice is too uncomfortable to ignore.

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