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Privacy in Early Confucian and Taoist Thought

Christina B. Whitman

“Privacy” is a term that eludes definition,¹ perhaps because it has been used to encompass so much of what Western liberal thought finds essential to human dignity.² Most vaguely stated, it refers to certain aspects of “the right to be left alone,”³ although it is not coextensive with that phrase.⁴ In order to clarify the inquiry of this paper into the value of privacy in Confucian and Taoist thought, I shall begin by distinguishing among several possible approaches.

(1) At one level, “privacy” is merely descriptive. It distinguishes between what is open or overt and what is concealed. The existence of the concept of privacy in this sense is a subject for sociologists and anthropologists—those who study manners, living conditions, and taboos concerning body parts and sexual activities. In another neutral usage, “privacy” distinguishes family life from “public” life.⁵ The latter is the sphere of culture and politics; the former, the sphere which tends to the necessities of survival. “Privacy” in these neutral, descriptive senses can be found to some degree in all cultures.⁶

(2) “Privacy” may represent a claim of right—for example, a right to be free from certain government actions or a right to government protection from private actors. Whether premodern Chinese thought accommodates or supports such claims of right will not be of primary concern here.

(3) Related to but distinct from the question of claims of right is the question whether a concept of “privacy” as valuable or desirable exists in traditional China. The subject of my inquiry is privacy as a value, rather than privacy as a claim of right. Do early Confucians and Taoists view privacy as worthy of emulation? I put to one side for the moment the question whether this value, if it does exist, is seen as supporting a claim against the government for protection or for forbearance from action.

Only three aspects of the broad concept “privacy” will be explored in this essay: privacy as providing a sphere for intimate personal relationships with family and friends, privacy as freedom from surveillance for purposes of gathering personal information, and privacy as freedom from interference by government or social controls. These concepts describe quite different

concerns. They are often grouped together under the single term “privacy,” but not without some strain.⁷

Because “privacy” takes a variety of forms in Western thought, it is not surprising that there is no perfectly parallel concept in classical Chinese writings. It is more interesting to ask whether there are Chinese counterparts to the more specific formulations of the terms, and whether early Chinese schools of thought cherish values that are inconsistent with the development of an appreciation of privacy comparable to that now found in the West.

Our own concern with privacy, or at least our urgency in defense of the concept, is in large part a twentieth-century phenomenon. In the United States, privacy has achieved independent status as a legal right only in the last eighty years,⁸ and its position is far from secure.⁹ The recent increase in attention to privacy in America can be attributed to the development of new means of intruding into people’s lives: modern technology permits surveillance without detection on a scale that was previously inconceivable, the mass media compete for audiences by trafficking in information about the personal foibles and intimate relationships of prominent individuals, and the behavioral sciences give academic respectability to inquiries into the most mundane habits of ordinary people. It can also be argued that privacy is taken more seriously now because it is more attainable in a modern, industrial society than at any other stage in human history. People no longer need live out their lives in a small community with a long memory. Mobility and urbanization permit anonymity, which, in turn, guarantees a certain amount of privacy.

A comparison between a modern Western value and its counterpart, if any, in very early Confucian and Taoist belief is inevitably somewhat strained. But it serves a purpose. If nothing else, it helps us to define what is unique about our own views, thereby keeping us from assuming that our talk about privacy refers to some universally shared, thus necessarily correct, human value.

A comparison across cultures and across centuries reveals that even twentieth-century articulations of the value of privacy draw on assumptions about human nature and the relationship of the individual to society that go beyond modern innovations. In many respects, our concern with privacy reflects values that exist in earlier Western thought and that have counterparts in premodern China. Many, maybe most, of the activities that lead us to esteem privacy and the “private” life were also of greatest importance in early China—family, friends, self-development, introspection. Indeed, there may be more that joins us than distinguishes us.

But there is one characteristic of our current approach that is inconsistent with early Confucian and Taoist perspectives, though not with all Chinese thought. That characteristic is the tie between the value of privacy and certain notions of human autonomy. In particular, our twentieth-century devotion to privacy reflects our modern belief that a human being is fully autonomous only if he is free to discover what is distinctive about himself as an individual. This goes beyond choice of a unique life-style. Rather, it reflects one strain in

Western thought of the last two centuries that holds that man understands himself best when he sees himself as separate from other men. This is not a universally accepted view, even in twentieth-century America; indeed, we are deeply ambivalent about both the theory and its manifestation in arguments for privacy.

In summary, we value privacy because it permits each person to discover and develop what is unique about himself. Our notion of privacy allows the individual to stand apart from all others. Confucians and Taoists do not give the goal equal emphasis. They, too, value intimate relationships and self-discovery, but the reasons behind these values are inconsistent with our emphasis on individual uniqueness.

Linguistic Analogues

Although there is not, as I have suggested above, any neat analogue to the broad term "privacy" in the classical texts of Confucianism and Taoism, there are usages reminiscent of that concept.

Some of these are neutral, descriptive usages. The context, rather than the concept, provides negative or positive value. *Yin* (to hide, put aside, or cover) is used in that sense in the *Analects*: "The Master said, 'My followers, I know you believe that I am hiding something from you. I am hiding nothing from you'" (*yi wo wei yin hu, wu wu yin hu erh*).¹⁰ And in the *Chung-yung*: "[Shun] loved to question others and to ponder their words. . . . He put aside [*yin*] what was error in them and made much of what was good."¹¹ But *yin* is also used in the *Analects* to refer to an inappropriate secretiveness: "There are three errors which may be made in service to a gentleman. One may speak before his turn; this is called *tsao*. One may not speak when one's turn comes; this is called *yin*. . . ."¹²

Szu comes closest to signifying "privacy" in the Western sense. Although it most often has unfavorable connotations (among its meanings are "adultery," "male/female sex organs," and "urine"), it can also be used in a neutral way. For example, *szu* signifies family, as opposed to communal, ownership in Mencius's description of the well-field system: "The public fields are in the center, and eight families each have one hundred *mu* for their own use" (*pa-chia chieh szu pai-mu*).¹³ Mencius also uses *szu* to refer to unauthorized, and thus improper, actions:

Suppose there were an officer here, with whom you were pleased, and suppose that without telling the king, all on your own [*szu*], you gave him your salary and your rank, and suppose that the officer, also without the king's command and all on his own [*szu*], passed them on to his son—would this be permissible?¹⁴

Szu is often used to refer to the pursuit of private interests and, in this sense, implies selfishness. Both Mencius and Hsün Tzu, although they disagree fundamentally about the basic goodness of human nature, disparage conduct of this sort and argue that the external environment should not be structured in such a way as to drive men to pursue private interests at the

expense of society as a whole. Lao Tzu also condemns the pursuit of *szu*, although he is, as is his wont, more ironic: "Is it not precisely because he does not pursue personal ends that the sage can achieve his personal ends?" (*fei i ch'i wu szu yeh, ku neng ch'eng ch'i szu*).¹⁵ And, "[Let the people] regard simplicity and hold fast to the uncarved block, let them have few personal ends [*shao szu*] and little desire."¹⁶

Szu is primarily a negative concept in both Confucian and Taoist texts, but there are other concepts that are akin to "privacy" and yet are regarded more positively. Confucius looks favorably on concealment when it reflects family loyalties, even at the expense of the state:

The Duke of She said to Confucius, "Among our people there are men who are upright. If their father has stolen a sheep, they will report him." Confucius said, "Among my people those who are upright are not like that. A father will conceal [*yin*] his son's wrongdoing, and a son will conceal [*yin*] his father's wrongdoing. Their uprightness lies in this."¹⁷

And Confucius urges withdrawal from public life in calamitous times: "When the Way does not prevail, then hide [*yin*]."¹⁸

Of greater significance is the Confucian emphasis on introspection (*nei-hsing*) as one means of self-cultivation: "When you see a worthy man, emulate him. When you see one who is not worthy, then look within" (*nei tzu-hsing*).¹⁹ "If when he looks within [*nei-hsing*] he finds no blemish, why should he be anxious, why should he fear?"²⁰ "If your goals are not achieved, you should always turn within to seek the cause within yourself."²¹ "Therefore the superior man examines his own heart [*nei-hsing*] to see that there is no blemish there."²²

The Taoists also stress the virtues of inwardness and of things concealed. The first line of the *Tao-te ching* is "The Tao that can be described is not the constant Tao." There is also: "The Tao is hidden [*yin*] and has no name";²³ and "Therefore the sage knows himself and does not reveal himself" (*pu tzu-hsien*).²⁴

Reserve and withdrawal, and even the keeping of confidences, are valued in these texts, but, as we shall see, these references do not form a coherent concept precisely analogous to our "privacy." The discrepancy arises from different views about the ends to be served by introspection and withdrawal from public life. In Confucian and Taoist thought, the ultimate purpose is union of the individual with something greater—the natural ordering of men and nature, in Confucianism; or the all-encompassing Tao, in Taoism. In contemporary Western thought, withdrawal is prized primarily because it allows the individual to define himself as unique, distinctive, and autonomous.

Privacy for Intimate Relationships

The first form of privacy that I will discuss is privacy for family and friendship. Privacy of this sort is defended as providing a necessary context for intimate relationships, for the building of personal bonds.²⁵ Privacy is said

to be valued because it allows people the freedom to define these relationships in ways that suit their own needs, relatively immune from social constraints.²⁶ Privacy permits relaxation and thus a certain degree of freedom from the burden of others' expectations. It also allows individuals to choose to expose themselves to different degrees with different people, creating a range of more or less intimate relationships.

Family and friends are of immense importance in China, as everywhere. The central role of the family in Confucianism gives it far greater doctrinal importance than it has in most Western systems of thought, and friendship is given even greater importance in Confucian poetic texts. Even Taoist poets mourn the loneliness of a reclusive life: "Those who have left I cannot reach. For those who will come I cannot stay."²⁷ "Where is my friend, now kept from me by mountains and hills?"²⁸

Yet, Confucian and Taoist thinkers articulate reasons for valuing these personal relationships that are quite unlike the pursuit of intimacy, self-definition, and freedom of development that is at the core of the Western theory of privacy. The Confucian articulation and, in a different way, the Taoist articulation are inconsistent with our belief that even an ideal state must leave a space for an intimate side of life, shared with family and friends. This belief is based on the conclusion that only such an entirely separate sphere can serve the nonpublic needs that are a part of every human being.

In early Confucian thought, family life is not seen as providing an opportunity for special ties unlike any experienced elsewhere. Instead, it is said to replicate natural hierarchies that ideally dictate all human organization, including the bond of a citizen to his ruler. The family is a model for relationships between individuals and the state. The *Ta-hsüeh* [The great learning] provides one of the most explicit expressions of the family's place as a basic unit of the political structure:

[The ancient sages] who wished to govern well their states would first bring order to their families.²⁹

What is meant by "To govern well one's state one must first bring order to one's family" is: there has never been a man who could not instruct his family but could instruct the people. Therefore, the superior man achieves instruction for his own state without going beyond his own family.³⁰

The theme in these selections is that modes of conduct appropriate for the family life are also those appropriate to politics and rule. The ruler should treat his subjects as a father would his sons, and a child's feelings toward his parents mirror those of the subject to his ruler. The state is thought of as a large family, and relations among family members are not different in kind from political relationships. This suggests that compassion and care should play a significant role in political life, but it also suggests that intimacy is not the predominant aspect of family life.

Therefore, family life does not exist in a completely separate sphere. There is a distinction between family life (*nei*) and the public life of the world (*wai*), but the rules governing these areas overlap. Through his ties to his family, the

individual, at least in theory, cannot draw totally apart, leaving the rest of the world behind. Instead, he learns and affirms his social nature and his social role. In instructing King Hsüan of Ch'i, Mencius described the extension of family feeling to all mankind:

The *Book of Poetry* says:

He was a model to his wife,

And to his elder and younger brothers.

With this he governed his home and his nation.

This means that you should extend your affections to all these others.

Therefore, if you put forth your natural warmth, that will be sufficient to protect all within the four seas.³¹

The mutual support of loyalties between family and state, with the ruler as the ultimate father, did not always work in practice as it was described in theory. Family feeling could become so strong that it would interfere with political obligations. Confucius's example, quoted above, of the "upright" sons who protect their thieving fathers suggests that it might have been regarded as most honorable to put family affections before loyalty to the state. Legal codes from the Han dynasty on tolerated family loyalties at the expense of the state. In practice, we have reason to believe, men found it easier to identify with family and village than with the more remote government of the ruler. The family, then, could serve as a refuge into which the individual could withdraw from a hostile world. But this was seen as the "negative" aspect of family life. It remains significant that this strong sense of family bonding was justified in most early Confucian texts, not because it is natural and necessary for groups of people to set themselves off from society, but because these bonds could, and should, serve as a means of drawing people of all families toward each other in a natural social hierarchy, universally accepted because it reflects universal family experiences.

There is an additional respect in which the Confucian view of personal relationships appears to be inconsistent with our expectations of the ends to be served by privacy for intimate relationships. As I have indicated above, an argument made in support of this form of privacy is that it allows an individual to structure each relationship in a different fashion. That is, privacy provides the conditions for developing relationships of varying degrees of intimacy. It allows a person to use the disclosure of personal information as a way to increase intimacy. As intimacy deepens, the people involved come closer together by revealing more of themselves. Privacy permits one person to have a range of relationships—from relatively impersonal business relationships, in which little personal information is shared, to the extreme intimacy of marriage and enduring friendship. Theoretically, the latter are most free of the constraints created by abstract concepts of role because the unique qualities of the individuals involved are most revealed.

In short, privacy permits variety and deviation from social expectations. Noninterference, at least theoretically, allows friendships and family roles to develop in an open-ended fashion. Western realities may depart from theory as much as Chinese realities. In practice, many intimate relationships in our

own society follow set patterns decreed by societal expectations which have been assimilated by the individuals involved. But when we focus on ideals, the contrast with Confucianism is marked. The early Confucian texts do not interpret family life as open-ended. Instead, society—including the family—is seen as functioning in quite specific patterns that are understood to be universal because they are innate in human nature. It is precisely because these patterns are thought to exist in every family group that the family can be used as a model for the organization of the state. There is little, if any, expectation of individual variation.

Early Taoism places no comparable emphasis on family and social bonds. Indeed, such ties are regarded as reflecting distinctions and discriminations that are inconsistent with a real understanding of the unitary Tao. Lao Tzu and Chuang Tzu valued solitude above all else. The closest analogue in Taoist thought to familial or friendship privacy is found, not in these texts, but in the more poetic and less philosophical manifestations of Taoism. In the latter group of texts there is an acknowledgement of the importance of friendship, and in this acknowledgement, as in some Confucian poems, friendship is portrayed as a preferable alternative to conventional, public society. Friendship allows withdrawal. The Seven Sages of the Bamboo Grove, a group of eccentrics who lived in the tumultuous third century A.D., are one obvious manifestation of this perspective.

But this vision of friendship, like the Confucian understanding of the family, remains basically inconsistent with our theory of privacy for the sake of intimacy. First, in Taoism, as in Confucianism, withdrawing with a group of intimates is not regarded as an inevitable human response of the sort that would be appropriate, even necessary, in a properly functioning society. Instead, withdrawal is regarded as a means of survival, an unfortunate necessity in troubled times. Again, the Seven Sages provide a useful example. They lived in a time when men who took positions of prominence lived precariously. Avoidance of social ties and obligations was a means of self-preservation, and those who took this avenue were understood to risk great loneliness.³² Thus, survival, rather than intimacy, is the primary justification for this version of Taoist withdrawal.

Second, the form that “withdrawal” from society took among Neo-Taoists in the time of the Seven Sages does not really have much to do with privacy at all. Instead, these men survived (to the extent that they were successful) by becoming eccentrics and exhibitionists. One of them, Liu Ling, was known for wandering nude about his house. He always traveled with a servant who carried a flask, for drinking, and a shovel, which could be used, if necessary, to dig Liu’s grave. This was not a man who craved privacy.

Third, and most significant, to the extent that Taoist withdrawal is not an aberrant manifestation but is rooted in classical Taoist doctrine, it represents a turning away from society for union with something (the Tao) that goes beyond the transitory ties of friendship. Submerging one’s self in the Tao is tied to the quest for survival, for, it is argued, the only way to defeat the fear of death is to forego one’s attachment to life. Friendship, then, is not valued as an

end in itself; far less is it seen primarily as a route by which an individual can discover and define his uniqueness. The ultimate goal is to rise above attachment—attachment to one's own uniqueness and attachment to one's friends—and to understand that all are part of the single Tao: "A man with special attachments is not a man of love."³³ As a man comes to understand the Tao, he becomes more truly himself and, Chuang Tzu at least would emphasize, he comes to appreciate his individuality within this wholeness. Communion with the Tao is not conformity. Yet, it is significant that one's true self, one's individuality, can be best understood only through attention to that which is in all things.

In conclusion, both early Confucianism and early Taoism value intimate relationships, but the ultimate goal in both philosophies is to rise above particular human ties to achieve a greater union—be it with all men in a society ordered according to the patterns innate to human nature or with the Tao. Neither school conceives of friendship and family life as a self-contained part of life, distinct from all other activities but essential as an avenue for personal growth. In Confucian thought, this area of life is not separate. In Taoism, a separate realm would not be necessary in an ideal state, for an individual need not withdraw to be part of the Tao. Indeed, one who has achieved perfect understanding of the Tao would not make the sorts of discriminations that form the basis of personal achievements.

Yet, it is with respect to this form of privacy that we come closest to early China, for this privacy for intimate relationships is privacy at its most "social." By definition it involves relationships among people. Freedom from surveillance and freedom from social control, which I will discuss next, emphasize instead the self-sufficient autonomy of each individual. This is not to say that autonomy, in the sense of self-fulfillment and freedom from constraint, is irrelevant to familial and friendship privacy. Individual autonomy can be exercised through one's choice of friends and in one's free adoption of a particular family role. Early Confucianism and Taoism also recognize that people play many roles. The difference lies in the ultimate goal understood to be furthered through these roles. In the Chinese philosophies, the goal is union, not uniqueness.

Freedom from Surveillance

Another common understanding of privacy is freedom from observation or surveillance. Typically this refers to protection from efforts to gather information about hidden aspects of an individual's life. Privacy in this sense is valued, again, because it promotes autonomy. Privacy allows for self-definition, choice of behavior, and expression free of social pressures. Privacy leaves room for nonenforcement of social norms—as, for example, those concerning aberrant sexual conduct. To some extent, the call for privacy in this sense reflects the post-Freudian belief that certain human characteristics are beyond the control of society and thus not properly of concern to institutions that could impose sanctions. There is, of course, an overlap with

privacy for intimate relationships; one aspect of such privacy is the right to be free from observation while with friends and family.

Although much of the current concern with surveillance is uniquely modern, caused by new techniques for monitoring and collecting data on people's activities, this concern does rest on more broadly applicable views about the proper ends of government and society's capacity to affect behavior. These views are inconsistent with certain core assumptions of Confucianism and Taoism.

Confucianism and, to a lesser extent, Taoism are primarily concerned with the role of government as a moral influence on individual behavior. That emphasis entails two assumptions—that a certain degree of moral consensus is possible and that society can play a significant role in guiding an individual's moral life. The form which this guidance takes differs profoundly between the two schools of thought. In Taoism, as we shall see, it looks more like nonguidance.

Confucian ideology stresses an ordered society, built on a system of parallel hierarchies, which guides man through moral example toward correct attitudes and correct behavior. Given this framework, the idea of a separation between things properly of government concern and those of no concern to anyone but the individual is unintelligible. The implications of this perspective can best be seen in the debate between the early Confucians and the Legalists. The Legalists urged the establishment of clear "legal" rules of behavior and were, by implication, willing to tolerate some "private" areas which would not be addressed by these rules or at least not observed by the enforcers. The Confucians rejected the Legalist position precisely because it left some areas free. Persuasion was preferred to compulsion as a means of regulating behavior—not because it would leave more room for deviance from social norms, but because it would result in more consistent conformity. Persuaded men conform even when the enforcer is not around, while law controls only through fear of sanction.

Therefore the superior man will watch himself when he is alone. But the small man—when he is alone and idle he will do evil without limit. Only when he sees a superior man does he try to hide his misdeeds.³⁴

Thus, Confucian views are inconsistent with the belief that freedom from government surveillance is desirable. This is not to say that surveillance itself is considered to be a good thing. On the contrary, it is viewed as ineffective, and a decreased reliance on legal sanctions may lead to less surveillance in fact. But Confucianism is willing to tolerate, indeed advocates, the pervasive, all-encompassing degree of social control that is abhorrent to the opponents of surveillance. Moral education replaces law for the Confucians because they are willing to accept a state ideology that dictates all significant aspects of human conduct; this ideology is acceptable because it is believed to reflect moral dictates also found in each individual, i.e., it is natural. Confucians are willing to say that, if the state is running properly, there need be no room for individual moral choices that differ from those made by society. An

interesting example of the difference between Confucian and Western perspectives on this point can be found in their respective attitudes toward criminal confessions. The Fifth Amendment of the United States Constitution provides that no person “shall be compelled in any criminal case to be a witness against himself.” In part, this is justified as a privacy right—the right to refuse to aid the government in obtaining information against one’s self. Such freedom from self-incrimination is not acknowledged in China, where confessions have been encouraged, at least since the T’ang dynasty, by reductions of punishment. The Ch’ing-dynasty code even permits the use of torture to extract confessions of guilt.

Taoism, unlike Confucianism, does not contemplate the achievement of a moral consensus. Chuang Tzu sees no role for government at all, and Lao Tzu, who does, explicitly values noninterference. In Lao Tzu’s view, failure to govern is the ideal form of government and the form most likely to be successful: “Through nonaction lay hold of all under heaven.”³⁵ As in Confucianism, the ruler guides his people, but he guides them toward nonaction by being himself a model of nonaction.

At first glance, this may look like an argument for freedom from government surveillance, and it is. But it is not an argument for privacy of the sort that we are familiar with. Lao Tzu does not contemplate that freedom from observation will allow room for the development, on the part of each human, of a unique sense of self. The advantage of noninterference for him is that it furthers the elimination of distinctions among individuals. My explication of the third form of the value of privacy will help to clarify this point.

Freedom from Control

Privacy, defined most broadly, is freedom from social control—that is, freedom from interference by the state, other institutions, or other people. The two forms of privacy discussed above are more specific subsets of this generalized value.

Privacy as freedom from social control is valued because we see it as essential to the individual uniqueness which we understand to be essential to moral autonomy. Privacy permits individuals to think and do as they please—to develop their own “true,” and “unique,” personalities. Our insistence that uniqueness is essential to autonomy assumes that individuals can and should exercise moral choice in a variety of different ways (or that no society can be sure of the proper moral choice) and that personal development should be guided by these choices rather than by what we consider to be externally imposed roles and expectations.

Autonomy of this sort need not be equivalent to selfishness, or the pursuit of private gain, for an individual may choose to pursue ends that go beyond his own interests, or even beyond those of a narrowly defined group, such as his family. But this view does focus on the individual at the expense of the overall functioning of society: “autonomy” emphasizes the development of

personal character, especially the unique qualities and aptitudes of each individual. A view premised on moral autonomy is willing to tolerate, in pursuing that goal, departure from social norms.

There is much in early Confucianism and Taoism that is resonant of this view. A key Confucian concept is the cultivation of the self, and this cultivation takes place, in part, through introspection. The goal of self-cultivation is often described as a state of tranquility. Tranquility implies a lack of external interference. Mencius, for instance, gives instructions on "remaining unmoved in one's mind" (*pu-ung hsin*), free from biases and fears generated by the world in which man lives. The *Ta-hsüeh* also preaches tranquility, a state made possible by the moral knowledge that is arrived at through introspection: "Only when you know where to rest can you be calm. Only when you are calm can you be quiet. Only when you are quiet can you be at peace. Only when you are at peace can you be thoughtful. Only when you are thoughtful can you achieve the end."³⁶ The Taoists, too, seek tranquility. Chuang Tzu talks of freeing the mind and achieving a tranquil state:

Yen Hui replied, "I cast away my arms and legs. I dismiss my wisdom. I separate myself from my body and get rid of my mind, to become one with the great Tao. This is called sitting and forgetting."³⁷

The perfect man uses his mind like a mirror. He neither grabs nor welcomes.³⁸

Although a common symbol of Neo-Taoism is the hermit (*yin-che*) who has cut himself off from the world, neither Chuang Tzu nor the Confucians are talking about physical withdrawal. For Chuang Tzu, "tranquility" is, rather, adaptation to all that comes. For the Confucians, it comes from, among other things, understanding one's natural role in the world.

In Taoism, as I noted above, the emphasis on adaptation leads to the argument that a wise ruler (who will, by definition, also be a sage) is tolerant and does not interfere:

Therefore it is said that the ancients who tended the empire had no desires and the empire was complete. They did not act and all things were transformed. They were deep and quiet and all the people were calm.³⁹

In the *Tao-te-ching*, this sort of rule is advocated because it leads to a peaceful, if somewhat boring, society: "The neighboring state is so very close that they could hear the sounds of each others' cocks and dogs, but the people would grow old and die without having gone there."⁴⁰ Noninterference, in Lao Tzu's view, is a device for social control. In *Chuang Tzu*, on the other hand, there is a suggestion, more familiar to Western proponents of privacy, that noninterference will lead to vigor and variety: "To treat things that are different as if they were the same is to be great. To act without limiting one's uniqueness is to be broad. To be many without being the same is to be rich."⁴¹

Thus, we find in early Confucianism and Taoism: (1) a strong emphasis on self-development; (2) arguments for nonaction, noninterference, or tolerance; and (3) a suggestion, in Chuang Tzu, that this is appropriate because it allows

variety to flourish. The first point is particularly important because it suggests that some value is placed on the moral autonomy of the individual. Indeed, both Confucianism and Taoism contemplate that there will be times when the good man will not support the state. However, it is significant that neither philosophy contemplates that such opposition will be necessary or appropriate in an ideal state. In a properly ordered state, the knowledge and personal growth that come through introspection will still be necessary, but they will bring the individual into harmony with his social environment.

Confucianism and Taoism appreciate that men have a rich internal life, but this does not, in these philosophies, lead to the conclusion that society must permit a private sphere for individual development free from social control. The attention in China to self-cultivation does not reflect a judgment that the cultivation process is ultimately valuable because it permits deviations from social norms and allows each individual to develop distinctive values and beliefs. Self-determination in this sense, with emphasis on what is unique rather than on what is shared, is not the end to be achieved. This is of critical importance, for freedom from interference without the expectation that people, when left to themselves, will go different ways, is not what we mean when we talk about "privacy."

I will elaborate on this point, first in terms of Confucianism. Through introspection, the Confucians hold, the individual comes to understand ethical ideas, but these ideas are defined in terms of social relationships. Autonomy is valued, but men acting autonomously are expected to discover what is shared rather than what is unique. The end of self-cultivation is to understand natural hierarchies and to appreciate one's proper place in these hierarchies. Understanding, although achieved by looking within, makes the individual aware of what he has in common with other men. Every man, it is believed, finds the same feelings, the same moral imperatives, and the same impetus toward proper conduct. There is no sharp division between what an individual thinks and does in public and what he thinks and does in private. Cultivation of the self illuminates both public and private roles. The proper result is not deviance, but conformity—conformity to the natural distinctions that pervade all of life.

Moreover, the ultimate goal of self-cultivation, to a Confucian, is not private, but public: to take one's proper place in society, and to stand as a model for others. This is the route to a properly ordered world:

Tzu-lu asked about the superior man. Confucius replied, "He trains himself to be reverent." Tzu-lu said, "Is that all?" Confucius said, "He trains himself to bring peace to other men." Tzu-lu said, "Is that all?" Confucius replied, "He trains himself to bring peace to all people. Even Yao and Shun could find no fault in that."⁴²

In a sense, then, the early Confucians contemplate actual autonomy of lifestyle as well as moral autonomy. Where society does not accurately reflect the natural hierarchies, man will go his own way when he looks within. But in an ideal society, there is no distinction between what is accomplished by social control and what is accomplished by self-control.

The Taoists, on the other hand, in urging that men look for the "Tao within," do not expect that the contemplative will discover a natural hierarchy, or indeed, any natural distinctions. Nor do they expect that one who achieves realization will or can direct the insights of others. But there is still, as in Confucianism, an expectation that man, when left alone, will discover what is shared. The Taoist takes this even further than the Confucian, for the Taoist sage comes to understand that he is one with all things. The Confucian turns from private ends (*szu*) to understanding public distinctions. The Taoist turns from private ends to understanding that there are no distinctions.

The Six Dynasties Taoist texts contemplate that the wise man will preserve himself by withdrawing. This emphasis on self-preservation, most explicit in poetic Taoism, does indicate a certain attention to private ends. But, as described in the philosophical texts, it is not a distinct human personality that is being preserved. Rather, escape from the vicissitudes of the world becomes possible when the sage realizes that his unique qualities, even his body, are unimportant: "The only reason why I suffer pain is that I have a body; if I had no body, what pain would I have?"⁴³ What is important is the permanent and universal Tao, not its temporary manifestation in human beings. In an ideal society, the ruler-sage will leave his subjects alone. He will do this not because leaving them alone is a desirable thing in itself (the end of Taoism is the elimination of desire), but because it is the best way to help them find the Tao.

In both early Confucianism and Taoism, freedom from interference is seen as necessary to personal development, but the goals of personal development are not open-ended and do not, ultimately, vary from person to person. The individual is led, instead, to something beyond himself which is shared by all men. This does not mean annihilation or loss of individuality. Rather, one becomes more truly one's self through understanding what is shared. In an ideal society, freedom from social control is not particularly important, for the ends of society and the ends of self-cultivation are identical.

Conclusion

There are certain concepts, valued by early Confucians and by Taoists, that might, at first glance, suggest that privacy as we understand it is perceived as desirable. These concepts include friendship, family bonds, noninterference, self-cultivation, introspection, and withdrawal from society. But a closer look reveals that the end we in twentieth-century western society seek to advance by respecting privacy has no counterpart in early Confucian or Taoist thought. The key to this lack of fit lies in our view that privacy allows an individual to exercise free choice as part of a process of self-determination that has little to do with the larger world. Privacy of family and of friendship allows personal definition of intimate relationships. Freedom from observation provides room to experiment and to deviate from accepted behavior. Privacy that hinges on freedom from social control allows each individual to develop in a distinctive direction that best fits his unique

characteristics. These justifications reflect our view of the individual (we prize the unique) and our view of society as furthering the considered choices and the self-knowledge of distinctive individuals. It also explains the ambivalence and even confusion about privacy found in the West, for privacy, for us, is ultimately justified by a sort of radical selfishness.

Early Confucian texts do not balk at pressures to conform because they accept the existence and desirability of pervasive social norms. Privacy merely hinders the achievement of the ideal society when it gives room for nonenforcement of norms or the development of peculiar, and thus irrelevant, characteristics. Little value is placed on a unique sense of self. What a man learns when he looks within brings him back to society.

Taoism initially appears to be more receptive to the theory of privacy, for it talks of tolerance and opposes conformity. However, the goal in Taoism, too, is to find what is common to all men. The Taoists differ from the Confucians in rejecting the necessity of social norms and hierarchy. However, something other than the individual's own freely made choices—namely, the Tao that is in both the individual and all things—determines the direction of individual development.

NOTES

1. The literature is vast. See Judith J. Thomson, "The Right to Privacy," *Philosophy and Public Affairs* (Summer 1975), 4(4):295-314; Thomas Scanlon, "Thomson on Privacy," *Philosophy and Public Affairs* (Summer 1975), 4(4):315-22; Edward J. Bloustein, "Privacy as an Aspect of Human Dignity: An Answer to Dean Prosser," *New York University Law Review* (December 1964), 39(6):962-1007; William L. Prosser, "Privacy," *California Law Review* (August 1969), 48(3):383-423.
2. See Bloustein, "Privacy as an Aspect of Human Dignity."
3. "Privacy" was so described in the law review article credited with giving the concept legal respectability in the United States. See Samuel D. Warren and Louis D. Brandeis, "The Right to Privacy," *Harvard Law Review* (December 1890), 4(5):193-220.
4. Anglo-American law has for centuries protected individuals from other violations of "the right to be left alone" without acknowledging any right to privacy. For example, the common law provides causes of actions for intentional touching, called battery, *Vosburg v. Putney*, 80 Wis. 523, 50 N.W. 403 (1891); negligently caused harm to one's person, *Brown v. Kendall*, 60 Mass. (6 Cush.) 292 (1850); and false and defamatory communications, *Thorley v. Lord Kerry*, 4 Taunt. 355, 128 Eng. Rep. 367 (1812). Indeed, all of the common law of torts can be described as vindicating "the right to be left alone."
5. See Hannah Arendt, *The Human Condition* (Chicago: The University of Chicago Press, 1958), 22-37.
6. John M. Roberts and Thomas Gregor, "Privacy: A Cultural View," in *Nomos XIII: Privacy*, ed. J. Roland Pennock and John W. Chapman (New York: Atherton Press, 1971), 199-225.
7. See Prosser, "Privacy." The American constitutional law of privacy (e.g., *Roe v. Wade*, 410 U.S. 113 [1973], holding state criminal abortion legislation to be a violation of a constitutional right to privacy) and the common-law recognition of a right to recover for violations of a right to privacy (e.g., *Melvin v. Reid*, 112 Cal. App. 285, 297 P. 91 [1931], cause of action for public disclosure of embarrassing private facts; and *Galella v. Onassis*, 487 F. 2d 986 [2d Cir. 1973], cause of action against "paparazzo" photographer for following plaintiff and other harassment) have developed totally independently of each other. The former deals with government intrusions upon citizens' choices in private matters, such as family planning. The latter addresses disputes among individuals arising out of conduct

that, for example, exposes the plaintiff to unwanted public attention.

8. The most famous early decision recognizing the right of privacy is *Pavesich v. New England Life Insurance Co.*, 122 Ga. 190, 50 S.E. 68 (1905).
9. See Harry Kalven, Jr., "Privacy in Tort Law—Were Warren and Brandeis Wrong?" *Law and Contemporary Problems* (Spring 1966), 31(2):326-41. Kalven does not question the value of privacy. He describes it as "one of the truly profound values for a civilized society" (326). But he questions whether this value should be protected by giving those who are deprived of privacy a cause of action for damages in tort.
10. *Analects*, 7:23.
11. *Doctrine of the Mean*, sec. 6.
12. *Analects*, 16:6.
13. *Mencius*, 3A:3:19.
14. *Ibid.*, 2B:8:1.
15. *Lao Tzu, chang 7*, in *Ssu-pu ts'ung-k'an* (SPTK) [Comprehensive collection of the four topics] (Shanghai: Shang-wu Yin-shu-kuan, 1937-38), pt. 49(3), *shang 4a*.
16. *Ibid.*, *chang 19*, in SPTK, pt. 49(3), *shang 9b*.
17. *Analects*, 13:18.
18. *Ibid.*, 8:13.
19. *Ibid.*, 4:17.
20. *Ibid.*, 12:4.
21. *Mencius*, 4A:4:1.
22. *Doctrine of the Mean*, sec. 33, in Wan Hsin-ch'üan et al. (ed.), *Ta-hsüeh chung-yung ching-chu* (THCYCC) [Annotated edition of *The Great Learning* and *The Doctrine of the Mean*] (Taipei: Cheng-chung Shu-chü, 1969), 111.
23. *Lao Tzu, chang 41*, in SPTK, pt. 49(3), *hsia 3b*.
24. *Ibid.*, *chang 72*, in SPTK, pt. 49(3), *hsia 17b*.
25. Charles Fried, *An Anatomy of Values: Problems of Personal and Social Choice* (Cambridge: Harvard University Press, 1970), 140-44.
26. See *ibid.*, 142.
27. Juan Chi, "Yung huai shih" [Poems of deepest feeling], no. 32, in Huang Chieh (ed.), *Juan pu-ping yung-huai-shih chu* [Annotated edition of *Poems of Deepest Feeling by Juan Chi*] (Hong Kong: Shang-wu Yin-shu-kuan, 1961), 42.
28. Hsi K'ang, "Tseng Hsiu-ts'ai ju-chün shih-chiu-shih" [Nineteen poems presented to a first degree graduate on his entering the army], no. 8, in Ting Fu-pao (ed.), *Ch'üan Han San-kuo Chin Nan Pei Ch'ao Shih* [Collected poems of the Han dynasty, the period of the Three Kingdoms, the Chin dynasty, and the period of the Northern and Southern dynasties] (Taipei: I-wen Yin-shu-kuan, 1960?), 286.
29. *Ta-hsüeh*, in THCYCC, 5.
30. *Ibid.*, 24.
31. *Mencius*, 1A:7:12.
32. Juan Chi, "Yung huai shih," no. 1, in *Juan pu-ping yung-huai shih chu*, *supra*, 1-2.
33. *Chuang Tzu*, chapter 6, in SPTK, pt. 49(6), *chüan 3*, 4b-5a.
34. *Ta-hsüeh*, in THCYCC, 21.
35. *Lao Tzu, chang 57*, in SPTK, pt. 49(3), *hsia 10a*.
36. *Ta-hsüeh*, in THCYCC, 4.
37. *Chuang Tzu*, chapter 6, in SPTK, pt. 49(6), *chüan 3*, 26b.
38. *Ibid.*, chapter 7, in SPTK, pt. 49(6), *chüan 3*, 35b-36a.
39. *Ibid.*, chapter 12, in SPTK, pt. 49(7), *chüan 5*, 2a.
40. *Lao Tzu, chang 80*, in SPTK, pt. 49(3), *hsia 20b*.
41. *Chuang Tzu*, chapter 12, in SPTK, pt. 49(7), *chüan 5*, 2b.
42. *Analects*, 14:45.
43. *Lao Tzu, chang 13*, in SPTK, pt. 49(3), *shang 6b*.

Glossary

- Cheng-chung shu-chü 正中書局
- Ch'üan Han San-kuo Chin Nan-pei-ch'ao Shih* 全漢三國晉南北朝詩
- Chuang Tzu 莊子
- Chung-yung* 中庸
- fei i ch'i wu ssu yeh, ku neng ch'eng ch'i ssu* 非以其無私邪故能成其私
- Hsi K'ang 嵇康
- Hsüan (King of Ch'i) 齊宣王
- Hsün Tzu 荀子
- Huang Chieh 黃節
- I-wen yin-shu-kuan 藝文印書館
- Juan Chi 阮籍
- Juan pu-ping yung-huai-shih chu* 阮步兵詠懷詩註
- Lao Tzu 老子
- Lui Ling 劉伶
- nei* 內
- nei-hsing* 內省
- nei tzu-hsing* 內自省
- pa-chia chieh ssu pai-mu* 八家皆私百畝
- pu-tung hsín* 不動心
- pu tzu-hsien* 不自見
- Shang-wu yin-shu-kuan 商務印書館
- shao ssu* 少私
- Shun 舜
- ssu* 私
- Ssu-pu ts'ung-k'an* 四部叢刊
- Ta-hsüeh* 大學
- Ta-hsüeh chung-yung chu* 大學中庸注
- Tao-te ching* 道德經
- Ting Fu-pao 丁福保
- tsao* 躁
- “Tseng hsiu-ts'ai ju-chün shih-chiu shou” 贈秀才八軍十九首
- Tzu-lu 子路
- wai* 外
- Wan Hsin-ch'üan 萬心權
- Yao 堯
- Yen Hui 顏回
- yi wo wei yin hu, wu wu yin hu erh* 以我爲隱乎吾無隱乎爾
- yin* 隱
- yin-che* 隱者
- “Yung Huai Shih” 詠懷詩