

I, Law And Justice -

Confucius - "My Success In  
Litigation Comes From  
Deterring Litigation"

Confucius "To Cover Up,  
Father For Son, Son For  
Father, Is Our Way"

A. Law-Rule Bound Institution  
of Conflict Management And  
Resolution

1. Can Be Customary or  
Formal (Written, Constitutional)
2. Judges - Formal Or  
Embedded In Social Institutions  
(Families, For Example)

# II. Western And East Asian Concepts (Theories & Practice) of Justice & Law

## A Justice -

1. Western: Distributive  
Justice - Distribution of the Costs  
and Benefits of Fair Cooperation  
(Cooperation As Cost)

2. East Asia (Confucian)  
Restorative Justice -

Restoration of Broken Human  
Relationships (like Families,  
Commercial Partnerships)

- g. The Courts As Mediators
- o. Arbitrators of Conflict

## B. Process of Law -

1. Western - Litigation of Formal Rights Claims

a. Adversarial Justice - American Law

2. East Asian - Mix of Rule Application And Moral Pedagogy (Teaching of Moral Rightness)

a. Rule Application of Codified Laws With Moral Explanation

## C. Legal Procedures

1. Western - The Application of Neutral/Equal Procedures

a. Evidence As Objective

b. No Bias (In favor of Relationships)

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# D. UNIT of Law

1. Western - Rights Bearing

Individuals

2. Eastern - Institutional /  
Relationships

a. Individuals Categorized  
As Members of Interdependent  
Social Roles (Partners,

Adversaries, Fathers - Sons, etc)

3. Equity - Western

Use of Substantive Considerations  
(Fairness) - Resembles

Confucian Moralizing Law

4. Law As Primary To

Economic Transactions or

Subordinate To Human Feelings

III: A Case - The Widow  
Against Her In-laws -  
China - 1846

A. The County Magistrate  
As Judge

B. Human Feelings On  
Trial

C. The Judges Search  
For Reconciliation  
And Restoration of A  
Broken Family

D. The Judges Use of  
Shaming Punishments  
As Deterrence

E. Restorative Justice