

RESEARCH ARTICLE

Being One of Us: The Role of Mutual Recognition and Emotion in Shaping Legal Consciousness in a Taiwanese Neighbourhood Dispute

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Abstract

Literature on neighbourhood disputes has explored legal consciousness by focusing on identity, personal relationships, and community norms. However, it still remains unclear how affective factors and one's sense of identity can influence the social practice of law and how the recursive relationship between law, emotion, and identity can influence life in particular communities. This study explores the dynamics of identity/alterity construction, and the role of emotion in shaping these dynamics during a neighbourhood conflict in Taipei, Taiwan. This dispute highlights how ordinary Taiwanese people's legal consciousness is constituted through a culturally embedded sense of emotion (*qíng*) and belonging (*zǐjīrén*). Analysis of "The Noodle Shop Case" advances our understanding of the social presence and authority of law and the ways in which the role of law changes according to how individuals feel as they seek both mutual recognition and justice.

Keywords: legal consciousness; identity; alterity; emotion; sense of belonging; interpersonal conflict

1. Introduction

Through their everyday expressions and interactions, people continually engage with law's multiple concepts and meanings. While doing so, they also explore the responses of others and try to discern how their own actions produce feelings and reactions in other people. When conflicts arise, individuals must choose either to control their anger or let it be known to others, whether to concede to the other party or to seek recourse or remedy. As they consider their options, however, individuals also search continuously for an accepted and respected place in human society that can facilitate a peaceful, safe, and balanced life. In many instances, therefore, the quest for justice is not merely an objective process based on the invocation of officially sanctioned methods, principles, and rules, but rather a subjective process negotiated through reference to cultural obligations and to the interpersonal exchange of the credit and debt of human sentiments.¹ The sense of what seems fair or just, of how a given culture defines who is responsible or who should repay, has deep connections to this social and emotional construction of reality. Thus, law should not be seen solely as a framework for dispute resolution, nor should conflict be considered only as a danger to be controlled rather than an inherent part of social and political life.² Even the most mundane instances of conflict and law in everyday life can offer unique insights into people's subjective understandings of justice as achieved

¹ Mauss (1954); Bohannan (1957); Gluckman (1965).

² Strathern (1985).

collaboratively with others. This article draws upon one example, based on a case-study of a neighbourhood conflict in Taiwan.

Life in Taipei city has gone through a rapid change in the past 40 years, economically, politically, legally, and culturally. These changes have brought with them an increase in population causing Taipei's streets and neighbourhoods to be bustling centres of immense human activity. Despite this, there are some overcrowded areas where residents still prefer to live out of their need for a convenient and central location, which is often coupled with the desire to reside in a neighbourhood that is considered prestigious by many. The disputants of "The Noodle Shop Case"—the case-study presented in this paper—are two such neighbours who have known each other for more than 40 years. A relationship such as this can be rather intimate, sometimes even more so than with family, highlighted by the well-known Taiwanese saying "a far off relative is not as helpful as a near neighbor." However, depending on interactions and how someone self-identifies, neighbours who have lived in such close proximity for such a long time, can still be rather distant and behave like strangers who never look at each other when crossing paths on the road. Because of the intimate nature of the relationships found in social groups such as those found in neighbourhoods, one's sense of identity and belonging often depends on subjective and emotional acts of testing and adjusting appropriate distances for subject positions, along a boundary line between belonging and not belonging, which is referred to in this paper as being "one of us."

At first glance, law would seem to have little to do with how neighbours negotiate and settle their disputes—let alone how accepted they *feel* by others—because very few people go to court. In the 1980s, however, anthropologists began to examine the reasoning behind an American's choice to turn to the law during a dispute.³ Studies done on the sense of community, namely "insiders or outsiders" and the effect it has on one's sense of justice, have shown that the sense of self, as well as one's relation to the community, is vital to how one's legal consciousness is shaped and formed, especially when some kind of social transformation is taking place.⁴ After exploring how identity and legal consciousness shape each other in mid-western neighbourhood disputes in Illinois, David M. Engel suggests that the identity of "insiders or outsiders" determines one's feelings about using the law. His research found that insiders tend to perceive going to court as implying an attempt to "cash in on their own misfortune"—a feeling that often impedes them from using the law.⁵ Barbara Yngvesson reminds us, on the other hand, that in Massachusetts, involving the law does not always mean damaging or keeping a relationship from continuing, and that sometimes the law can help reshape how identity and affinity are played out.⁶ Based on this finding of law's recursive effect,⁷ Kathryn Hendley emphasizes the internal moral code and communitarian ideals of a neighbourhood to explain the avoidance of law that was characteristic of post-Soviet Russian disputes.⁸ These studies all acknowledge legal consciousness as developing not only on the terms of rational cognitive activities, but also from the intertwining of interpersonal emotions, and Taiwan is no exception.

Even though modernization has made Taipei life more governed by the rule of law than ever before, where almost any problem can be related to the legal structure of the local government or the state, the law is rarely invoked as a means of achieving justice. Contemporary legal consciousness literature has expanded its analysis to the discerning

³ Greenhouse (1986); Greenhouse, Yngvesson, & Engel (1994).

⁴ Engel (1984); Merry (1990); Greenhouse, Yngvesson, & Engel, *supra* note 3.

⁵ Engel, *supra* note 4.

⁶ Yngvesson (1985).

⁷ Engel & Munger (2003).

⁸ Hendley (2011).

of the different identities that may influence law's role⁹ and from this new branch of research, a theoretical trend has emerged that looks more closely at the external and internal *relational* aspects of subject formation or identity work.¹⁰ This important research has indeed opened up the space to discuss legal consciousness through the perspective of identity, personal relationships, and informal community norms regarding morality; however, it still remains unclear how one's sense of identity and belonging helps shape the role of law and how this recursive process shapes human life. If it is indeed the case that when conflicts occur justice is not often sought in court (through the application of the law), but rather through the exchange of moral sentiment (as driven by the local meaning of social authority, obligations, and identity),¹¹ it follows, then, that law does not necessarily act through its formal precepts. Instead, it can be regarded as a generality pertaining to the local way of continuity of identity construction in which emotion plays a role, subject to the moral legitimation of what is right or wrong.

This study explores the dynamics of identity/alterity construction in Taipei, Taiwan and the role of emotion in shaping these dynamics throughout the disputing process. It is posited that the driving force of emotion and its cultural meaning contributes to the identification of the self and/or the construction of alterity or otherness. As a result, these identity framing activities have an influence on disputants' legal consciousness that includes the presence and non-presence of law as well as the social authority of law and the acceptance of law's legitimacy; and the mutual recognition of social order in the formulation of interpersonal and community relations. The following is an illustration of this process presented as the retelling of the story of the "The Noodle Shop" and the analysis of the legal consciousness observed in the interactions between the disputants.

2. The Noodle Shop Case

Many people have experienced issues arising from a shared space, such as clutter in the hallways of apartment complexes, untidy and unkempt gardens or yards, signboards erected on buildings, or the hodgepodge of unlicensed street vendors clogging alleyways and sidewalks. In Taipei, it may appear that no clear rules regulate the use of such spaces, despite the existence of local and state rules that address each of these issues. Regardless, people mostly tend to stay quiet and keep their heads down concerning such problems to avoid being socially or morally conspicuous. That is, perhaps, until something acts as a tipping point.

Mrs "Chen," a retired teacher in her seventies and mother of two, lived on the fourth floor in a four-storey building in downtown Taipei for about 40 years. Ten years into her residence, she built the fifth-floor structure without permission and kept it as her own for the next 30 years; this type of renovation was not unusual and apparently widely accepted and practised in the neighbourhood. On the first floor next door, there was a highly frequented noodle shop but with only a few tables, inside and on the veranda, to seat the large number of hungry people always waiting to enjoy the coveted noodles. In fact, the establishment was so popular that many parked illegally along the road from seven to twelve every morning as they eagerly had breakfast or lunch. The owner of this noodle shop, or "Laoban" (meaning: boss), was also a long-time resident of the neighbourhood, his father having owned the place previously. He was successful and had been able to expand his shop over the years; however, much of his success was owed to his occupation of the veranda and his suspected evasion of paying taxes by not providing receipts to customers.

⁹ Engel & Munger, *supra* note 7; Clark (2007); Kirkland (2008).

¹⁰ Engel, *supra* note 4; Lamont & Molnár (2002); Wang (2019).

¹¹ Auerbach (1983); Engel (2016); Hertogh (2018).

Despite these being understood as illegal behaviours, he and his business were loved and accepted by the community.

Every day she went out, Mrs Chen had to make her way through Laoban's crowded shop, navigating the tables and servers bringing out dishes. It was a daily and highly unpleasant experience for Mrs Chen, but it was not until the spring of 2014 that the conflict event took place. According to Mrs Chen, she was making her way through the crowded veranda to get to the street as she did every day, but on the day in question, Laoban not only glared and swore at her while she was passing, but also warned her threateningly to "be careful" when she went out. Then Laoban finished by throwing an empty bowl at her, which missed and fell loudly to the ground; Mrs Chen was stunned, but walked away. Laoban, on the other hand, shared a different impression of the events that transpired. While he admitted to throwing the bowl, he showed no remorse. In his mind, his actions were justified because he believed that Mrs Chen had secretly told the city government about his illegal additions to the noodle shop and he blamed her for having to remove an awning that he had built above a dishwashing station to keep dry from the heavy seasonal rains.

When asked about this accusation, Mrs Chen denied having told the city about his illegal awning and she was angry at Laoban for claiming that she was the reason it was torn down. According to her daughter, the more Mrs Chen thought about it, the angrier she became, and that same night, she decided to go to the police station to report the case, asking her daughter and son-in-law to go with her. When she arrived at the police station, she remained composed outside but, upon entering, she changed her behaviour. Instead of remaining calm as she had in the car, Mrs Chen showed a sudden and intense burst of emotion and passionately stated her fears, grievances, and desire to take the matter to court. However, the police officer did not seem to view the situation as a legal matter, even when Mrs Chen stressed that she felt like her life was in danger, and suggested that the matter be kept private and offered to help mediate a resolution. Despite resenting the informal solution of their dispute, she accepted it at that time because it seemed like the only option, and she did not want to offend the police officer. Later, however, when Mrs Chen got home, she realized that she had not received a transcript of the report nor the three-part form that acts as a receipt or proof of the case being formally filed; it became clear that the police had done nothing and would do nothing. She shared that she believed they were indifferent to her case because, according to her, there was a connection between law enforcement and the noodle shop owner. Knowing that the report would have to be recorded on a call, Mrs Chen phoned the citizens hotline (for local but formal grievances) the next morning; she knew that a more transparent approach to her case would be taken.¹² After doing this, the district police immediately called Laoban and co-ordinated to meet in the afternoon at Mrs Chen's apartment to discuss and resolve the issue.

Before the negotiation took place, Laoban came across Mrs Chen's son and daughter on the street and pleaded with them in the hopes of gaining their sympathy. He tried to explain his anger at their mother regarding her behaviour, but it did not matter to them that he was worried about his business because their mother had supposedly touched his side dishes, nor did they care that he suspected that their mother had told the police about his illegal awning; her children were simply not moved by his plight. At the negotiation meeting later that day, the police, Mrs Chen, her children, Laoban, and the lead researcher (as an observer) were all present. Although Mrs Chen highlighted Laoban's "righteous" deed of volunteering as a citizen firefighter to help the police and her son insisted on

¹² The citizens' hotline was established in 2005 to provide Taipei citizens with a "one-stop service" for filing grievances. According to procedure, a call is recorded as a means of pushing call receivers to resolve the issue and report back to the citizen with a follow-up call. Since the call receivers have to file records on a database, Taipei citizens can go on the website to learn about the processing of their case and trace the various stages of the issue at hand.

banishing the noodle shop from the veranda, the focus of the negotiation veered towards Mrs Chen's overall safety: her son clearly explained to the police that his mother needed to feel safe where she lived and could not if she was being threatened. When he promised to take the matter to court and insinuated that the police would be punished too if some action was not taken, the police changed their demeanour. Suddenly they took the matter more seriously and directed Laoban to apologize for his misconduct.

When the police suggested this type of resolution, Laoban quickly changed the way he spoke, from emotional to pragmatic, stating that he would consider apologizing to Mrs Chen, but needed time to think. A couple of days later, however, when a second round of negotiation was to occur, Laoban did not appear and instead his wife acted on his behalf. Because of Laoban's failure to be present, Mrs Chen's son insisted that the shop owner write a note of apology and place it on the door of his shop for one month to publicly display that he was truly repentant and, as the son said, to make the owner feel "ashamed." Laoban's wife said that she did not know how to write such a letter, so Mrs Chen's son drafted and posted the announcement, which read as follows:

I, [name], on the morning of [month] [day], due to falsely trusting the rumors stating that my neighbor, Ms. [surname], had informed on me, causing my illegal construction to be demolished, threw a bowl at her and threatened her, causing her mental damage. I'm very regretful. This announcement will be posted for one month since [month] [day] to express my apologies.

No further legal action was taken that day or any day, and the use of the veranda never stopped, but the apology was posted for all of the community to see. Although the announcement was supposed to be posted on the door of the shop for a month, it was secretly torn down after a week or so with no further confrontation. Mrs Chen shared in her final interview that she owed the noodle shop owner's eventual willingness to apologize to her persistence, but also to the police's desire to keep a low profile. In Laoban's final interview, it was easy to observe how his fear of being banned from using the veranda, and perhaps of being punished further for tax evasion, motivated him to compromise. Although the issue was never formally taken to court and the physical environment around her had not changed, Mrs Chen accepted the apology as a satisfactory form of justice and the conflict was brought to a close.

3. Framing identity and emotion in relation to law

3.1 The social understanding and use of the law

Similar to Southeast Asian societies, Taiwan experiences a distinct legal plurality in which new legal regimes have not replaced existing ones, but rather have added new textures and aspects as each was introduced.¹³ Some studies of legal consciousness in Taiwan have noted the marginalization of law, by considering how an informal regulatory system produces a social order associated with interpersonal relationships that ultimately makes little reference to law¹⁴ and others have examined features that extend beyond rationality into cultural schemas embedded in everyday social transactions.¹⁵ Although the police in Taiwan have an ambiguous role, their patterns of enforcement more than likely had a general effect on the disputants' perceptions of their social presence which in turn influenced the structure of police interactions when enforcing the state law, mediating between the

¹³ Engel & Engel (2010); Benda-Beckmann & Benda-Beckmann (2013); Chua & Engel (2019).

¹⁴ Winn (1994); Potter (1994).

¹⁵ Martin (2007); Bernstein (2008); Wang, *supra* note 10.

law and neighbourhood rituals, as well as when balancing between reason, law, and sentiment.¹⁶ How the disputants interpreted authority (i.e. the police's behaviour) and the ways in which these interpretations affected their orientation toward law (i.e. the acceptance of law) were intertwined with the emotions, beliefs, and shared imagination of their culture (i.e. the normative complex).

As each involved party navigated the conflict, the shape and nature of their relational legal consciousness had a defining effect on the power and applicability of law within the local interactions of community life. The case of "The Noodle Shop" involved several layers of the law: illegal occupation of public property; illegal temporary parking; old illegal building structures or additions (before 1996) with delayed demolition; new illegal building structures or additions (after 1996) that should be dismantled immediately; local tax law and evasion; criminal law concerning physical safety; and finally, law enforcement regulations. However, as the conflict unfolded, different laws seemed to be more relevant at different phases in terms of how people self-identified and how they perceived the law's efficacy, importance, and social presence. The concept of "legal or illegal" did not usually come to the foreground, and mostly depended on how an individual understood and brought about the meaning at a particular stage of the relationship.

While Mrs Chen openly expressed her grievances during interviews about Laoban's illegal construction, occupation, and tax evasion, she made a firm choice to keep silent about these issues when filing the report—perhaps to protect the existence of her own illegal construction; perhaps to protect her self-image and position in her community; or perhaps because she was ironically delighted about the illegal occupation of the veranda and the illegal vehicle parking, both of which aligned with the image of prosperity. On the other hand, Mrs Chen's son, in defence of his mother as is normal for a son to do in Taiwanese culture, took a more active and aggressive approach towards Laoban's transgressions. Although he did indeed mention the illegal use of the veranda, he stayed focused on the aspects of the conflict that were mainly associated with her safety—aspects that were not a threat to the police themselves—and this motivated them to make Laoban take responsibility for his actions. The son said:

Laoban looked arrogant at first, didn't think he was wrong, and complained a little bit about the police for pushing him to come. Later, I told him that his words "be careful when going out and avoid being seen" would be considered a criminal threat and could be taken to court, according to our lawyer. I turned to the police and asked for his opinion. The police nodded, and then Laoban suddenly became "a deflated ball."

By only discussing the throwing of the bowl and the threat on the street, the Chen family kept the focus on criminal law, which not only secured Mrs Chen's welfare and dignity, but also allowed the police to keep any potentially illegal arrangements (with Laoban) confidential. Mrs Chen's contradictory attitude toward the various laws associated with this conflict reveal that her morality, emotions, and sentiments were, by nature, not individualist, objective, and universal, but embedded in a moral meaning and identity provided by the conversation in seeking recognition within a group or by (significant) others.

It would seem that in order to explore the social use of the law or a person's understanding of the law, we must enter the social context of people, relationships, social networks, and collective beliefs. These factors have an external as well as internal influence that prompts people to decide when to use the law in conflicts.¹⁷ Because identity encompasses the essence of personhood in one's daily interactions, people tend to emotionally

¹⁶ Martin, *supra* note 15.

¹⁷ Macaulay (1963); Morgan (1999).

protect those things—beliefs, values, group consensus, and affiliations—that constitute their sense of self. Each of these constituent elements is fundamentally relational in character, linking the self to others, and each of them draws on shared emotions and imaginations.¹⁸ The next section of the discussion positions the analysis of legal consciousness within this scope and enables us to better understand the process by which individuals' identity and emotion influence how they view the law and respond to conflict.¹⁹

3.2 Identity and identification in legal consciousness

The study of the recursive construction of legal consciousness and the sense of self has tracked whether and how one's identity influences the use of law and how legal interpretations might change an individuals' perception of themselves, thus guiding them to construct new meanings.²⁰ When this sense of self or identity is threatened or challenged through conflict, individuals respond in ways that reinforce their allegiance to consensuses or affiliations. It is the identity/emotion frame that serves to draw borders around what is and is not important, what should and should not be said, or what is and is not right, acting as a means by which to crop the information and perspectives that are contradictory or that do not align with a person's legal consciousness.

Mrs Chen's behaviour was dependent on how she saw herself, how she wanted to appear in front of her community, and how she wanted to be seen by the local authorities. Although she did not fight back when she was threatened by Laoban, the shame that she felt from the public incident and the implication it had on her identity drove her to resort to the law in going to the police that same evening and then phoning the hotline. In these instances, she dramatized the event and played the victim in order to earn sympathy and appear as morally justified in her actions. When that did not get the result she wanted, she refrained from taking the same approach in the negotiation meeting and instead let her son do the talking in order to avoid appearing as someone who would disrupt the harmony of the community. The formation of her legal consciousness was collectively and relationally forged from the cognitive integration of both disputants' minds and feelings in their mutual construction of one another, and was dependent on interpersonal interactions that were essential to establishing a good relationship with each other, their community, and consequently with the law.²¹

In Engel's analysis of neighbourhood disputes, individuals sometimes fear being labelled as immoral.²² The story of "The Noodle Shop" takes this a step further, by pointing out that legal consciousness is more dynamic and communal, as opposed to individual, and involves a deeply emotional and social process.²³ This highlights not only the influence of cognition, but also the intuitional power of cultural emotion that is embedded in the community consensus that is more than likely the true analytic focus of legal consciousness.²⁴ Since Laoban and Mrs Chen knew each other for over 40 years, their moral sentiments helped to map their sense of justice according to their everyday interactions, but this was based more on interactive intuition fuelled by cultural emotion than individualistic interests or rationality. Jonathan Haidt's social intuitionist model may be an additional and valuable illustrator of moral decision-making. Haidt suggests that people generate quick adaptive responses consistent with evolutionary inclinations (i.e. harms/care, fairness/

¹⁸ Abrego (2019); Wang, *supra* note 10.

¹⁹ Rothman & Olson (2001).

²⁰ Engel & Munger, *supra* note 7; Clark, *supra* note 9; Kirkland, *supra* note 9.

²¹ Abrego, *supra* note 18; Chua & Engel, *supra* note 13; Wang, *supra* note 10.

²² Engel, *supra* note 4.

²³ Young (2014); Abrego, *supra* note 18; Chua & Engel, *supra* note 13.

²⁴ Engel & Engel, *supra* note 13; Engel, *supra* note 11; Kim (2016); Liu (2018).

reciprocity, in-group loyalty, authority/respect, and purity/sanctity) that are aimed at developing ethical happiness in relationships, social groups, and organizations.²⁵ According to Haidt's model, moral sentiment leads to a sort of mapping of one's sense of justice through mutual recognition as an individual feels respected, accepted, appreciated, cared for, and/or honoured. What people intuitively consider fair or unfair, however, is still likely to vary in terms of values, standards, and the various mechanisms that are under the subjective influence of different social relations, interpersonal interaction processes, and local history.

The role of law, therefore, is not only a tool that can be used, but also a constituted element that is intricately woven into the fabric of daily life and culture. Mrs Chen's approach to using the law transforms its concrete meaning, namely a way to achieve justice, into one that is more abstract, namely a way to earn recognition. Thus, a person's decision to take a certain approach is more a product of the perceptions of other people and their legal consciousness. As argued by Kathryne M. Young, each subjects' relational self is seemingly generated by the image of one's self as a good citizen who helps maintain social order, which is constructed through the perceived response of others and is formed continuously within their interactions.²⁶ If the concept of the relational self implies that individuals are not free and independent, but rather interdependent and mutually protected in interpersonal relationships,²⁷ as was the case in Engel and Engel's research,²⁸ it would appear that how individuals perceive each other and how they intuitively act to obtain the recognition of others are the most important components in the construction of legal consciousness.

However, the idea that *identity* is central to understanding the dynamic construction of legal consciousness has been challenged by Rogers Brubaker and Frederick Cooper as problematic because they find the term to be too ambiguous; they suggest including the "identification of oneself and of others" to specify the agents that do the identifying.²⁹ In line with their position, this paper includes the process of identification, in which invoking agents do the identifying, through the interactive development of a collective self-understanding, solidarity, or "groupness."³⁰ Throughout this process of identification, people are morally and emotionally called upon to continuously identify or characterize themselves and others, according to social roles, as belonging to some category that they feel others perceive them in.³¹ As Brubaker and Cooper emphasized, "one may be called upon to identify oneself—to characterize oneself, to locate oneself vis-a-vis known others, to situate oneself in a narrative, to place oneself in a category—in any number of different contexts."³² How one identifies oneself and how they are identified by others, namely self- and other-identification, are fundamentally situational and contextual.

In the process of identification, the disputants in "The Noodle Shop" developed their senses of self, the meanings of the event, and the reciprocity of the relationship, all within the emotional consensus of the community. The expressiveness was conveyed in Mrs Chen and Laoban's relational expectations of each other, or rather in an ideological avoidance of conflict as a means to foster harmony.³³ Each confirmed their various views toward the situation by using or not using the possible logics, reasoning, and discourses of law as they struggled for identification. For example, Mrs Chen shaped Laoban's identity by tolerating

²⁵ Haidt (2006).

²⁶ Young, *supra* note 23.

²⁷ Mackenzie and Stoljar (2000), pp. 259–79; Chen, Boucher, & Tapias (2006); Nedelsky (2011).

²⁸ Engel & Engel, *supra* note 13.

²⁹ Brubaker & Cooper (2000).

³⁰ Chua & Engel, *supra* note 21; Wang, *supra* note 10.

³¹ Somers (1994); Brubaker & Cooper, *supra* note 29.

³² Brubaker & Cooper, *supra* note 29, p. 14.

³³ Nader (1990).

the inconvenience brought by his illegal activities, but his behaviour exceeded her limits, causing her to feel taken advantage of and mistreated. In the interview, she commented:

His business is doing very well, which blocks the veranda, making it inconvenient for passing through. Since he is our neighbor we do him the favor of allowing him to enjoy this benefit, expecting him to appreciate our good nature ... there was no way I would make the report. There is nothing to be told. Even if I did, he had no right to treat me like this. I treated him so well over the years. He is acting as if he is the one being mistreated.

When Laoban encountered Mrs Chen's son and daughter on the street before the negotiation with the police, he attempted to gain favour by describing his personal grievance with their mother's bad behaviour and her lack of sympathy. In expressing his feelings in this way, Laoban added emotional meaning to his violent act, which he felt exempted him from taking responsibility. In the interview, he emphasized:

When she goes past, she [sometimes] touches my side dishes. If customers see that, how can I do business? My business is small. I normally suffer in silence and swallow my anger. Recently, however, she secretly told the city government that I made illegal additions to my noodle shop; I only built a small awning to keep myself from getting wet when doing dishes on a rainy day. How can someone treat such a little wish with no understanding and sympathy? My anger became unbearable to the extent that I threw things at her.

Both Mrs Chen and Laoban's identity formation was based on the construction of the other's alterity or otherness and was a means by which to balance the identity/emotion frame. Laoban's outburst and emotional identification functioned to construct his internal self by using orientalist grammar (i.e. "you are bad and therefore I am good")³⁴ and by criticizing Mrs Chen's detrimental behaviour to his little business. He emphasized his worthiness of sympathy. Similarly, Mrs Chen established her alterity from Laoban when she mentioned his illegal behaviours and described him as arrogant and humiliating, while constructing her identity as virtuous and obedient.

In order to achieve an ethical position and win the conflict, both disputants tried to adopt the meanings of community to fulfil their perceptions of self-confidence, self-respect, and self-esteem, and, in doing so, they felt they had brought some form of balance to the situation and gained more autonomy.³⁵ Within their interactions, the disputants tried to simultaneously, in Goffman's terms, play a role and give an impression.³⁶ Along these lines, a person when acting as a disputant is always carrying with them a moral claim—a claim to status conferred by the specific role taken in an interpersonal conflict.³⁷ As Goffman put it, "society is organized on the principle that any individual who possesses certain social characteristics has a moral right to expect that others will value and treat him in an appropriate way."³⁸ This expressiveness, based on community consensus, consciously or unconsciously guided the disputants in shaping their identity in such a way that would help them to be identified by others as morally justified so that they could achieve their best interests or earn public respect. Although their moral judgements developed over the course of the conflict, they both managed to show their suffering and

³⁴ Baumann & Gingrich (2006).

³⁵ Honneth (1996), pp. 173–4.

³⁶ Goffman (1959), p. 2.

³⁷ Andersen & Born (2007); Sturkenboom (2014).

³⁸ Goffman, *supra* note 36, p. 13.

innocence in tune with the roles that the law prescribed, which laid the bedrock necessary for constructing strong moral foundations for their stories.

3.3 The influence of *Zijirén* and *Qing* in feeling a sense of justice

The story of “The Noodle Shop” illustrates a process of identity/alterity construction that relies heavily on the shared experiences, perceptions, and norms of a culture.³⁹ In post-authoritarian Taiwanese society, multiple cultural traditions of values, ideas, concepts, and practices have indeed been incorporated into the local understanding and practice of law, which has contributed to the many and varied layers of the legal and social norms that compose the normative complex.⁴⁰ That being said, in the context of Taipei, even at the level of administrative proceedings, people tend to depend more on subjective and ethical norms than on the objective law as a means to justify their actions in conflicts.⁴¹ Studies have shown that legal consciousness incorporates the factors that determine not only law’s effect on cognitive transformation,⁴² but also its constitutive role in shaping and determining social relations.⁴³ The current study adds further to this insight by suggesting that the process is recursive in that the emotional and relational activities that people engage in are also shaping their legal consciousness.

The shifting boundary associated with social positioning—of belonging or not belonging, of being an insider or outsider—has a special meaning in Taiwanese culture that is referred to as being *zijirén* (meaning “one of us”). Wang suggested that the attainment of *zijirén*—a desired level of affinity with others—has a substantial impact on the inner meanings and formation of relational legal consciousness as individuals seek mutual recognition as a means of establishing their sense of self and by default a sense of justice.⁴⁴ In situations in which morality comes into question in Taiwanese culture, it is emotion and this sense of belonging that push disputants to play out a story in which their identity is expressed and acknowledged as morally good. They may make use of the law, either by avoiding it or using its elements, but ultimately the goal is mutual recognition and emotional bond between the disputants as well as with other people who are not involved in the dispute.

Before the day on which Laoban threw the bowl, the community consensus in the neighbourhood ensured that, for over a decade, Mrs Chen and Laoban were emotionally balanced and at some level *zijirén*. Mrs Chen felt she deserved respect from Laoban, not only due to being older and a customer, but also due to her good nature and tolerance of his business, while Laoban, on the other hand, felt that he had been a good person and businessman by always being polite with his neighbours and keeping the veranda accessible. Since the neighbourhood had always (silently) accepted the illegal construction, the situation became the status quo, but the closeness between them was challenged when the main conflict event occurred: Mrs Chen suddenly felt labelled as “bad” in relation to local consensus and this disrupted her sense of *zijirén* as related to her social role as a responsible neighbour and member of the community. For Laoban, he felt blindsided despite his efforts and had suddenly put himself in a position to be identified as anything but *zijirén*. The development of the conflict’s resolution shows how he had to adjust his attitude and behaviour to be able to regain the balance that he once had and restore some semblance of belongingness.

³⁹ Rosaldo (1984); Crapanzano (1990).

⁴⁰ De Sousa Santos (2002); Vita (2012); Donlan (2015).

⁴¹ Bernstein, *supra* note 15.

⁴² Scheingold (1974); Lovell (2012).

⁴³ McCann (1994); Ewick & Silbey (1998); Engel & Munger, *supra* note 7.

⁴⁴ Wang, *supra* note 10.

In Confucian societies, the subjective force of *qíng* (情, meaning feeling/emotion or fact/situation) serves as a culturally embedded normative compass and has a great impact on the manner in which most people perceive and react to situations, interactions, and conflicts.⁴⁵ In essence, *zìjǐrén* and *qíng* are intrinsically linked; when people search for mutual recognition, their *qíng* may lead them to test the boundaries for establishing a co-operative level of *zìjǐrén* that will ultimately decide the role of law in a given situation. The combined effect of the *qíng* and *zìjǐrén* culturally symbolic yet silent force plays a central role in people's thoughts and actions,⁴⁶ and includes the understanding of the legal consciousness of others that, when aligned or in sync, brings about a collective sense of legitimacy. When there is a disruption to this alignment or shared understanding, legitimacy is questioned and then modified to suit the new social order. As a result, *qíng* plays a decisive role in determining how people feel in terms of being or not being identified with and has a great effect on how the past is perceived, remembered, and retold, often governing how the concepts and reasoning of law may or may not play a role. This was observed throughout the interviews, when Mrs Chen remembered and retold parts of the story that did not seem to be in accordance with the facts presented by other parties.

For instance, after resolving the dispute, Mrs Chen denied her hysterical and emotional outburst at the police station, and even claimed that she did not recall ever going there to file a report (despite having mentioned it in an audio-recorded interview). This surprised Mrs Chen's daughter who, along with her husband, had witnessed the outburst firsthand. The daughter could not understand her mother's lapse of memory and shared:

I cannot believe my mother forgot about the police station. On that day, my mother was very angry at home, her tone was still calm. On the way to the police station, she spoke more and more angrily, seemingly preparing herself for a fight or argument So, I didn't expect her to burst into tears when we entered the police station. The police . . . moved forward to comfort her, but when my mother described the situation, she presented herself very poorly. I don't know if it was acting or real. For the first time in my life, I saw my mother crying in front of strangers.

Mrs Chen's denial of the event may very well have been merely an act of forgetting, perhaps due to her age, but what is more likely is that the situation as it progressed no longer aligned with her *qíng*. It seems that in the process of constant demarcation and distinction in everyday life, *qíng* helps determine emotional functioning, or rather how people (should) identify and feel, and therefore how they should act or what they should remember as factual. On the day on which Laoban threw the bowl at her, she chose to take on an identity (i.e. an emotional victim of abuse) that she felt might serve her in achieving justice or some sort of authoritative action taken by the police. When this version of herself did not prove to be of use and the law did not exert its force in her defence, she instead chose to take on another identity (i.e. respectful and rational elderly neighbour) that aligned more with social norms and expectations of a woman of her age and status.

Charles Taylor explores the politics of recognition and sources of self by emphasizing the dialogical characteristics of human nature in social interactions.⁴⁷ He proposed that, while developing an identity or sense of self, people fundamentally depend on the feedback of others; when Mrs Chen did not get the feedback from the police at the station that she was seeking, she altered her identity to better suit the changing situation and, as a result,

⁴⁵ Liu, *supra* note 24; Wang, *supra* note 10.

⁴⁶ Comaroff (1992).

⁴⁷ Taylor (1989).

her emotional functioning had to change as well. It is to say that as Mrs Chen's *qing* was reoriented, her memories of the event followed suit and only the meanings that served her the most were, in her mind, factual. The dynamics of her *qing* were forged not only by an appraisal of the stimulus as mismatching with goals or expectations, but also by the cultural meaning system that prescribed the nature of particular emotions related to her identity and her place within the community.⁴⁸ This culturally embedded emotional functioning guided Mrs Chen's cognitive development as an external "scaffolding" that went beyond the opposing forces of spontaneous emotions and social manipulations.⁴⁹

It follows, then, that the process of moral judgement and decision-making, especially in cases of conflict, involves a series of complex feedback loops that waver between social intuition and rationalization.⁵⁰ This characterization echoes other studies that question whether the use of the traditional, linear process of perception-emotion-choice-action⁵¹ is appropriate or complete when describing how and when people invoke the concepts and reasoning of law in everyday life.⁵² For Mrs Chen, it can be inferred that her legal consciousness must not have solely been guided by rational and linear judgements because her attitude towards and engagement with the law and its social presence was contradictory and unpredictable at many moments of the conflict.

4. Conclusion

Neighbourhoods, and the conflicts that occur within them, are prime examples of highly subjective communal spaces where interpersonal relationships, interpretations, and reactions are dependent not only on the perceptions of the self and the self-other relationship, but also on the local cultural understanding of emotion that influences the way law is understood and used in the disputing process. By focusing on the interpersonal interactions within these types of disputes, and the cultural significance of the interactions and exchanges that take place within relationships, this paper has explored how various communicative and relational aspects are connected to the shared imaginings of identity and mutual recognition, as well as the collective construction of legal consciousness. Building upon the existing literature that highlights the role of identity, community consensus, and relational factors in the formation of legal consciousness, the current research has gone further and suggests that the process is heavily influenced by the construction of identity/alterity, as based on cultural emotions and the sense of belonging, as well as through an acceptance of newly drawn emotional boundaries between others.

The relationship between law and the subjective, shared consciousness of those involved in the story of "The Noodle Shop" was intertwined with their emotionality, identity, sense of belonging, perception of social power, and overall belief in how the world should be according to community consensus. Mrs Chen and Laoban acted on the identities provided by the local order while modifying the events as the dispute progressed to suit their personal versions of the conflict and of themselves. Due to the predictability and social acceptance of the enforcement of law—which was mutually acknowledged by disputants at that time and space—the police eventually set the stage to mediate a reconciliation and a resetting of disrupted social boundaries. Mrs Chen and Laoban were able to rebuild the bonds of their *zījīrén*, the hidden social order inherent in their interactions,

⁴⁸ Shweder & Haidt (2000).

⁴⁹ Griffiths & Stotz (2000); Griffiths (2003), p. 59; Kotchemidova (2010).

⁵⁰ Haidt, *supra* note 25.

⁵¹ Felstiner, Abel, & Sarat (1980–81).

⁵² McCann, *supra* note 43; Sarat & Kearns (1995); Ewick & Silbey, *supra* note 43.

which then allowed a new kind of positive mutual recognition. By the end of the dispute, both parties were able to bring balance to their sense of self—both morally and emotionally—assured their security in diverse ways, and re-established a new understanding of reality as defined by their shared sense of *qíng*. This included a resetting of their sentiments regarding the other party's relationship with the community, their normative beliefs, and their convictions about social order.⁵³

Different socio-legal spaces may, while resetting law's legitimacy, encourage a certain kind of subjectivity that is recognized within a given cultural context, including how emotions are experienced and valued, and how this affects the cognitive and collective construction of reality and legal consciousness. This case-study is not representative of a traditional one-size-fits-all rational decision-making process, but rather describes the formation of people's legal consciousness as a unique and co-constitutive process of reciprocal movement between subjective self-images, identities, and feelings. The overall objective of this paper is to advance our understanding of how the role of law changes according to the social consensus, identities, and mutual recognition that is inherent in interpersonal relationships by highlighting how people's legal consciousness and identities are constituted through a culturally embedded sense of emotion.

The analysis of "The Noodle Shop Case" has shown how disputants strive towards regaining social recognition of the self, and how they redefine the role of law and the local meanings of justice, through an emotional, social, and collective process. To fill the remaining gaps in our understanding, however, more research is needed regarding the patterns of emotional boundary setting, and the role of power and agency in dynamic relationships. A deeper investigation into the variable perspectives on authority at various socio-hierarchical levels (i.e. within the family, educational institutions, and the government), and how this influences modern morality and legal consciousness would also help to better illuminate the features of relational influences, thereby shedding more light on how ordinary people navigate conflicts in everyday life.

Acknowledgements. The author thanks the anonymous interviewees in Taiwan, whose actions and insights made the actual contribution to the understanding of the legal pluralism and social order of our island and beyond.

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⁵³ Greenhouse, Yngvesson, & Engel, *supra* note 3.

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Appendix: Methodology

The particular dispute of “The Noodle Shop Case” is taken from my anthropological field notes when I conducted field observations of three different neighbourhoods in Taipei and New Taipei city from 2014 to 2018.⁵⁴ From the 22 cases collected,⁵⁵ this case was chosen and researched following a longitudinal mini-ethnographic case-study design⁵⁶ that is ideal for an in-depth analysis of everyday interactions of a group or a culture.⁵⁷ The fieldwork carried out included direct observations and unstructured interviews. The interviewees were asked to recall their interactions with the other disputants, especially in regard to shared conversations and the emotions felt toward the other disputants’ words or actions. Sometimes, the interviewees were asked to explain what they felt and thought about the meaning of the situation, in addition to what they thought about the other disputant’s thoughts and feelings. If they described an emotional interaction, they were asked to share more about their feelings and interpretations. I kept a reflective journal to facilitate cross-examination (or triangulation) and to ensure reliability and validity of results that are based on different sources of data.⁵⁸

The story of “The Noodle Shop” illustrates an event worthy of analysis in that it contains violent and emotional interactions, clear intentions to confront the issue, authoritative mediation during negotiations, and other fascinating perceptions for dispute resolution as observed and recounted by all involved parties. While this type of common and mundane case-study is uniquely valuable in furtherance of the theory of disputing, the data collected from “The Noodle Shop” are suitable for a deeper analysis for two other reasons. First, due to the abundance of data retrieved from all involved parties, it enhances our understanding of how the self is shaped by social context and how social identities adjust in response to external context in disputing negotiation. As a result, I gradually adopted the perspective of Erving Goffman’s “imagery of the theater” in which “actors” employ front and back stages, props, and costumes in an attempt to manage the impression of “audiences.”⁵⁹ Second, “The Noodle Shop” contains complex elements of multiple legal orders⁶⁰ in which different laws may produce their own efficacy and legitimacy that is subjectively differentiated through the consensus in terms of common emotions.

⁵⁴ The lead researcher lived in Taipei and New Taipei city during the time in which the fieldwork was conducted and, in order to avoid bias, care was taken to recognize personal values, beliefs, and perspectives that differed from those of the interviewees when interpreting the actions and reflections of others. See Fields & Kafai (2009); Marshall & Rossman (2016).

⁵⁵ The collection of all 22 conflict cases followed a case-study design, as it is considered the best manner in which to identify the mechanism underlying events over time. See Andrade (2009); Yin (2014). Data collection was carried out via semi-structured interviews and a reflective journal of observations.

⁵⁶ Fusch, Fusch, & Ness (2017).

⁵⁷ Holloway, Brown, & Shipway (2010).

⁵⁸ *Ibid.*

⁵⁹ Goffman, *supra* note 36, p. 2.

⁶⁰ Engel & Engel, *supra* note 13; Young, *supra* note 23.