

Legalist School

Fǎjiā 法家

Legalism was a school of thought that advocated strict adherence to the law of a single iron-fisted ruler as the only way to combat humankind's inherent selfishness. Legalists have been frowned on as rigid totalitarians for most of China's history; nonetheless, they have been very influential on later policymakers.

The Legalist philosophy was based on thinking that emerged during the turbulence of China's Warring States period (475–221 BCE). The Legalists advocated absolute control by a central authority and were radically opposed to Confucianism in nearly every way. While Confucianists believed that a well-balanced society would result if every person knew his or her place in society, behaved morally, and adhered to an ancient system of rituals, the Legalists were more cynical in their outlook: They believed that humankind was innately selfish and that society could flourish only if people recognized that fact. One long-standing tradition the Legalists bequeathed to China was the idea of the rule of law, which advocated that no one, not even the prince, was above the law.

The principles that would combine to form the Legalist doctrine were aimed at rejuvenating a state by promoting agricultural development and at strengthening military power. But due to the ruthless application of these doctrines by the rulers of the short-lived Qin dynasty (221–206 BCE), which united China into an empire

for the first time, Legalism became vilified as a philosophy for centuries to come.

Fa, Shu, and Shi

Three groups of thinkers from the Warring States period, with separate but related points of focus, coalesced during the Han dynasty (206 BCE–220 CE) into the single school known as Legalism. (For the purposes of this discussion, the terms *Legalist* and *Legalism* are applied to the three groups and their principles as they developed and eventually synthesized.) The thinkers had been known separately as the scholars of *fa* (law), *shu* (statecraft), or *shi* (power of position).

Shi can be translated as “power,” or “authority derived from position.” Shen Dao 慎到 (c. 350–275 BCE) was an itinerant scholar who stressed the importance of *shi* for rulers in maintaining their absolute governance over the people. He held that instead of talent and wisdom, power derived from position was what enabled the potent ruler to subdue the masses. He used a metaphor: “If one uses a weak bow, but the arrow is yet carried high, then it is the wind which speeds up the arrow.” In other words, if men of talent are subjugated by worthless men, it is because the latter possess the power derived from their position, not because they are inherently better people. The ruler's subjects do not dare to disobey him, not because they love him, but because they fear his power.

Shu, meaning “statecraft,” or “methods of governing,” was the second point stressed by the Legalists. An early

thinker who stressed *shu* was Shen Buhai 申不害 (d. 337 BCE), a minister in the state of Han. His works have not survived, but his ideas were influential for later thinkers, namely Han Fei Zi 韓非子 (c. 280–233 BCE), originally a prince of the state of Han but who defected to the state of Qin and later came to epitomize the Legalist school by encompassing many previous lines of thinking into his own.

The ideal ruler, according to Shen Buhai, achieved *shu* by simultaneously keeping close tabs on his ministers and delegating responsibility to them. In this way the ruler could save his energy for more important matters, such as remaining in power. Han Fei Zi built on the ideas of Shen Buhai, writing that the ruler should wield *shu* by keeping his methods secret and unfathomable to his inferiors. If his underlings were unable to guess his weaknesses, the ruler would have the advantage.

Fa (law) was perhaps the most important point advocated by the Legalists. Shang Yang 商鞅 (c. 390–338 BCE), an influential minister in the state of Qin, was an early Legalist who advocated strict (but evenly applied) governance by law. He was a reformist of the time who initiated the establishment of new laws for the state of Qin.

The state of Qin had been greatly strengthened by adopting Legalist policies to promote its agricultural production and military power. But it was not until the ruling of the first emperor of Qin, when he had successfully conquered various states and unified the whole empire, that a series of policies adhering to the Legalist doctrine were enacted, including the reorganization of the country into counties and prefectures. Under the new system, power was concentrated in the central administration. The country was divided into forty prefectures, and the assignment of the local officials to their stations was (in theory) decided by ability and merit. In addition, the standardization of weights and measures was implemented, and the rewarding of farmers who cultivated wasteland and the denigration of merchants and scholars (whom Lord Shang thought of as parasites) were practiced. Shang Yang himself came to a bad end: After the crown prince (whose nose was once cut off upon Shang Yang's orders) came to power upon the death of the king, he ordered Shang Yang to be torn apart by horse-drawn chariots and his entire family executed.

Han Fei Zi—who was born a century after Shang

Yang, became an enthusiastic believer and disseminator of Shang's ideas, and also came to a bad end, being forced to commit suicide in prison—had this to say about the importance of *fa*:

In his rule of a state, the Sage does not depend on men doing good of themselves, but makes it so that they can do no wrong. Within the frontiers of a state, there are no more than ten people who do good of themselves, whereas if one makes it so that the people can do no wrong, the entire state can be kept peaceful. He who rules a country makes use of the majority and neglects the few, and so does not concern himself with virtue but with law. (From the “The Conspicuous Schools” of “The Treatises of Han Fei Zi,” cited in Liao)

In this way Han Fei (the *Zi* of the name means “master”) foreshadowed the thinking of Niccolò Machiavelli, who in Italy 1,700 years later wrote about the ideal prince who rules by power rather than by morals.

Legalism versus Confucianism, Daoism, and Mohism

In opposition to Confucianists such as Mencius (372–289 BCE), who insisted on the goodness of human nature and held that the evil behavior of human beings could be rectified by conforming to ancient standards of decorum and ritual, Han Fei and the Legalists believed in the fundamental evilness of human nature. Only by putting people's collective self-interest to good use could the ideal ruler stay in power.

This also put them in opposition to the two other major schools of thought vying for position at the time. Daoism, a vastly influential school of thought, held that only by keeping to the laws of nature (*Dao*, “the Way”) would the ideal moral state be reached. Mohism, founded on the teachings of Mo Ti (c. 470–390 BCE), taught the importance of universal love, treating everybody, not just family members (as Confucianists taught), with due respect and love. These schools of thought were not always mutually exclusive, and it must be remembered that the thinkers

themselves did not think of themselves as Legalists. Shen Dao, for instance, is considered both a Daoist and a Legalist, thinking, as he did, that nature was an amoral force to be obeyed. The wise ruler knew how to use this fact to his advantage.

Han Fei was the first to combine the three core ideas of Legalism. He believed that *shi*, *shu*, and *fa* could not be neglected: To make an arrow straight by stretching or to make a wheel round by bending, it is necessary to use external force. According to Han Fei, the external force being used is none other than the power of the ruler: *shi*. Laws and methods are equally indispensable, but without power or authority by which to carry them into practice, the ruler is ineffective.

When there is the ability but not the power (*shi*), even the talented will be unable to rule the evil. Thus, when Yao [who, as an ancient Sage, became an intelligent ruler] was an ordinary man, he was unable to govern three persons. This was not because he was unworthy, but because of the lowliness of his position. And when he became the emperor, his order was put into implementation and his prohibition was effective. This was due to the loftiness of his position. (From “Arguing on Shi” in “The Treatises of Han Fei Zi,” cited in Liao)

The core concept of the Legalists was to insist on the importance of a single, unified set of laws applied uniformly. According to Han Fei, ruling the state with laws also meant that once the laws were formulated and put into practice, any doctrine of private individuals objecting to the laws should be taken as heterodoxy (dissent) and be prohibited, because those heterodox doctrines would weaken the efficacy of the laws. There was no possibility of debate or resolution of differences for the Legalists.

Under the Qin regime, the first in Chinese history to adopt a philosophy as a method of governance, dissent became punishable by death under the influence of the Legalists. As Han Fei said: “There can not be words of two men that are equally authoritative, nor can there be two laws that are both the best. Therefore words not in accord with laws and commands must be prohibited.” (From “On Argument” in “The Treatises of Han Fei Zi,” cited in Liao)

Han Fei insisted that since all people acted in their own interests, it should be better to leave them alone in mutual competition. As he saw it, selfishness was what made the system of rewards and punishments both possible and necessary. Therefore, he opposed the equal division of land advocated by Confucius. He said: “Now for the superior to collect from the rich man so as to distribute to the poor home, is to take from the industrious and the economical and give to the wasteful and the lazy. To wish thus to lead the people to increased activity and frugality is impossible.” (From “The Conspicuous Schools” in “The Treatises of Han Fei Zi,” cited in Liao)

He went into further detail:

When a man sells his services as a farmhand, the master will give him good food at the expense of his own family, and pay him money and cloth. This is not because he loves the farmhand. The master says: “In this way, his plough of the ground will go deeper and his sowing of seeds will be more active.” The farmhand, on the other hand, exerts all his skill cultivating the fields. This is not because he loves his master. The farmhand says: “In this way, I shall have good soup, and money and cloth will come easily.” Thus, he expends his strength as if between them there were a bond of love such as that of father and son. Yet their hearts are centered on utility, and they both harbor the idea of serving themselves. (From “Collection of Legendary Stories” in “The Treatises of Han Fei Zi,” cited in Liao)

Han Fei was an advocate of the absolute monarch. The absolute monarch needed the absolute authority of the ruler. Drawing on the ideas of his Legalist-influencing forerunners, Han Fei designed a set of strategies for the feudal ruler to maintain highly concentrated power. Han Fei faced a turbulent society. The traditional society that had been ruled by means of mores and rites was in the process of collapse during the Warring States period. New opportunities opened to the landlords and farmers as well as to a number of merchants. The nobles at various levels either tried hard to keep their existing social status or attempted to get more power, as the original privileges did not matter in a changing society.



An actor at a mock legal trial plays a magistrate from imperial times, when Legalism championed the law of a single iron-fisted ruler. PHOTO BY JOAN LEBOLD COHEN.

The Qin dynasty lasted a mere fourteen years, a victim of peasant uprisings and infighting. Because local officials were frightened to report insurrections, fearing that by doing so they could be accused of criticizing the central government (a potentially fatal error), peasant uprisings spread across the land. The peasantry had been subjected to years of forced labor on various large-scale projects, not to mention the regime's disastrous economic policies that treated merchants as parasites and executed entire families as criminals. Many of the ideas of the Legalists, however, lived on far beyond the short life of the Qin dynasty, the only dynasty in Chinese history to attempt to govern by Legalist doctrine.

YU Qiyu and Bill SIEVER

Further Reading

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