

# Han Feizi's Political Philosophy and Today's China

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## ABSTRACT

Han Feizi is a Chinese thinker who lived in the 3rd century BCE and had the opportunity to inspire the Emperor Qin Shi Huangdi who is acknowledged as the founder of the Empire of China. Taking the path of his realist Confucian teacher Xunzi (contrary to Mengzi who was an idealist Confucian), he believed in the evil character of the human being, as basically everyone only prioritizes its own needs. Therefore Han Feizi deems it most important that the ruler establishes order and peace in society. As such Han Feizi teaches a political theory that differs from the mainstream of the other classical Chinese thinkers in general who consider social ethics as most significant. To establish harmony in society, he finds strict laws, shrewd statecraft and clear authority more decisive than the personal moral virtues of the ruler as taught by Confucius. In order to govern effectively and efficiently, the ruler should employ the “two handles” of governing by punishing law breakers and rewarding law abiders proportionally vis-à-vis all his subjects. It was indeed that kind of governance that was pursued by Mao Zedong while dealing with the officials of the Communist Party of China, resembling that what the Government of China did to deal with civil unrest in Tibet in the 1950s and 2008, and now in Urumqi as well.

**Key Words:**

•*Dao* (道) •*Non-action* (*wuwei* 無爲) •*Law* (*fa* 法) •*Authority* (*shi* 勢) •*Statecraft* (*shu* 術) •*Punishment* •*Reward* •*Two handles* (*er bing* 二柄) •*Order* •*Justice*.

Following the murder of two Uighur people in Guangdong, riots broke out during the early week of July 2009 in Urumqi, capital city of the far western Province Xinjiang of China. The riots in Guangdong and entailing later on in Urumqi had their roots in problems of economic injustice. On 11 July 2009 the BBC London reported that the Government of China urged those implicated in the riots to give in, promising them lenient treatment while at the same time ensuring that those who try to escape the law will be met with harsh punishment. It is quite intriguing to note that reward was also promised to those who turn in perpetrators. The BBC news immediately reminded me of Han Feizi's philosophy of government.

### Life and Work

Han Feizi 韓非子 (ca. 280-233 BCE) stemmed from the Kingdom of Han which was situated in Central North China, approximately in the present Shaanxi Province. He lived during the era of Qin Shi Huangdi 秦始皇帝 (259–210 BCE) who established the Qin Dynasty (221–206 BCE) and became the first Emperor of China. The name "Qin" of the Dynasty became the name "China" of the People's Republic of China. Han Feizi stuttered and had difficulty expressing himself verbally. To compensate for his handicap, he developed skill as a writer and sent all of his opinions to the court in writing. Han Feizi was acknowledged as one of the best writers of rhetorical prose of his time, and his prose is still admired by the Chinese.<sup>2</sup> He was renowned among classical Chinese thinkers for having a brilliant mind and being a prolific writer. It was indeed those qualities that raised Qin Shi Huangdi's interest in him, but also roused the envy and suspicion of his former classmate, Lisi 李斯, Prime Minister at the Qin imperial court. Lisi eventually caused Han Feizi to drink poison, much the same procedure like Socrates (470-399 BCE) underwent two centuries earlier, albeit in the case of Han Feizi without trial.

The classical School of the Legalists of China or *Fajia* 法家 as it is known was developed by Shangyang 商鞅 (d. 338 BCE), Shenbuhai 申不害 (d. 337 BCE) and Shendao 慎到 (350-275 BCE). However, Han Feizi has been widely accepted as the most important theoretician of the School. He

synthesized the concepts set out by Shangyang, Shenbuhai and Shendao altogether in his book *Han Feizi* which contains 55 chapters. He focused on political theory rather than ethics as was used to be in classical Chinese discourses. He approached the problem of mankind from the perspective of the ruler rather than from the interest of the people. In his political theory Han Feizi presented his view on three main issues: the nature of the human being, the nature of society, and his ideal system of government.

Compared to the majority of classical Chinese thinkers who tend to mirror on the past, Han Feizi like the other Legalists approached the problems of mankind in a different way. "While Confucianism and Daoism focus on the *ideal*, Legalism is founded on the *real*. While Confucianism and Daoism build on the *potentiality*, Legalism is constructed on *necessity*."<sup>3</sup> Already Shang Yang stated: "When the guiding principles of the people become unsuited to the circumstances, their standards of value must change. As conditions in the world change, different principles are practiced."<sup>4</sup> While Confucius and the other classical Chinese thinkers relied on recipes developed in the past that was rooted in the agrarian tradition, for Han Feizi new problems of the day brought about by social change should be dealt with by commensurate methods as well. He saw the problems of social change simply as a result of economic necessity, much the same like that what China is facing now as the consequence of its modernization. He stated: "In the past there were few people and plenty of supplies, and therefore people did not quarrel. But nowadays people do not consider a family of five children as large, and each child having again five children, before the death of the grandfather there may be twenty five grandchildren. The result is that there are many people but few supplies, and that one has to work hard for a meager return. So the people fall to quarreling."<sup>5</sup> The ruler must keep such trend of quarrels in check, if he wants to ensure his control over the society and keep it in order.

## Daoist Influence

Shen Dao was a Legalist and a Daoist at once, and such idiosyncrasy is further adopted by the Legalists. Han Feizi's doctrine of "governing by doing nothing" resembles very much the Daoist doctrine of "doing by doing nothing" (*wei wuwei* 爲無爲). He wrote: "It is when each rests in its appropriate place that superior and inferior are in a state of non-activity (*wuwei* 無爲). When the cock is made to preside over the night and the cat is commanded to catch rats, each being used according to its ability, then the

superior is without any concern.”<sup>6</sup> I may recall in this relation what Deng Xiaoping 邓小平 (1904-1997) said in 1961 at the Guangzhou conference, what later became his most famous quotation: "I don't care if it's a white cat or a black cat. It's a good cat so long as it catches mice."<sup>7</sup>

We should not be misled, however, as the principle of “doing nothing” or non-action is intended only for the ruler in terms that the ruler do not need to have his hands full with duties of government, and everything will be done by officials and the people, each in their respective function and role. Nevertheless, this system only works provided that the ruler appoints his officials according to the principle of *xingming* 刑名, or naming the right person for the right job. Han Feizi wrote: “When the actuality and name are seen to be in agreement, what comes forth from them is utilized. When the two are both true to one another, inferiors display their natures ... When actualities and names are in agreement, superior and inferior are in harmony with one another.”<sup>8</sup> Therefore, in order to make sure that all subjects will carry out their respective obligations, the ruler has to follow the principle of *zhengming* 正名 (rectification of names), the principle of *fa* 法 (law) and the principle of the “two handles” of governing (*er bing* 二柄). If the ruler has complied with these requirements, he does not have to bother about matters as to how the details of governing should be carried out. If it is well done, he rewards the minister, if not the ruler punishes him.<sup>9</sup> This procedure will then be carried out all the way down to the lowest echelons of government. No doubt then if all officials down to the village head will make sure that he will not get punished by his superior.

Although Han Feizi's doctrine of "governing by doing nothing" was in some ways indeed inspired by Daoism, he interpreted the Daoist doctrine to further serve his own ideals of efficient and effective governance. He defined the metaphysical *Dao* 道 rather epistemologically as: “...that by which all things become what they are. It is that with which all principles are commensurable.”<sup>10</sup> His understanding of “principle” is essential in the frame of his doctrine, as he further wrote: “Principles are patterns according to which all things come into being, and *Dao* is the cause of their being. Therefore it is said that *Dao* put things in order (*li* 禮禮). ... In all cases principle is that which distinguishes the square from the round, the short from the long, the coarse from the refined, and the hard from the brittle.”<sup>10</sup> This principle of distinction will become the base of Han Feizi's method for the ruler to make appointments of officials and set their suitable job description.

Only when the distinction of realities is clear cut will the ruler be able to

establish the principle of *wuwei* (無為 *non-action*), as by then everyone will carry out their respective role and function accordingly. The difference lies in the discriminatory application of the non-action principle. While in Daoism it is believed that the universe will be in harmony (*he* 和) if every human being does nothing, for Han Feizi this rule applies only for the ruler, who should let the ministers, officials and the people do their respective jobs. It is this principle that became the core of Han Feizi's method of government: doing by doing nothing, governing by not governing. The discrimination reflects also the difference between Daoist naturalism and Han Feizi's Legalism. The Daoists regard the human being the naive way, resembling the *tabula rasa* of John Locke (1632–1704). The Chinese Legalists view the human being merely as an evil creature. As a result, the Daoists can afford to maintain a liberal stance of *laissez faire et laissez passer*, while the Chinese Legalists deemed it indispensable to totally control the behavior of the people.<sup>12</sup> The totalitarian tendency in Han Feizi's Legalism is therefore obvious.

Despite the Government's extreme methods of handling the Urumqi riots like they also reverted to during the Tibet uprising in March 2008,<sup>13</sup> China's rulers since the days of Confucius used to believe in "the other way around" of history and its currents. As defined by the *Yinyang* 陰陽 symbol, darkness is possible only because there is simultaneously also light. Power exists hand in hand with submission; war is there because there is peace, etc. History has always been seen as a dynamic cycle of the extremes in the universe governed by their "rule of reversal". Every extreme endowed its counterpart, what is on the top can only come down, what is on the bottom can only come up. Like the *Daodejing* 道德經 said: "Passing on, it becomes remote, having become remote, it returns.... A violent wind does not last for a whole morning, and a sudden rain does not last for the whole day."<sup>14</sup> To go further and further means to revert again. While addressing the World Economic Forum in Davos in January 2009, in the deep of the winter and the steep of the world economic recession, Prime Minister Wen Jiabao 温家宝 suggested that "The harsh winter is almost over, and spring is already on the corner". Thereby he expressed exactly the Daoist spirit of how to deal with the world economic crisis. Han Feizi also referred to Daoism in some ways, albeit in his own interpretation.

## Han Feizi's Doctrine

Han Feizi's Legalism is a political philosophy that is pragmatic and does

not deal with questions like what is the nature of man or the purpose of his life as discoursed by the Confucians, Daoists or Mohists. For Han Feizi, the need for efficient and effective government is bound with the human very basic character *per se*. He shared the conviction of his great Confucian teacher Xunzi 荀子 (ca. 312–230 BCE) who believed in the human nature that is evil. Contrary to Xunzi who was a realist, his Confucian predecessor Mengzi 孟子 (ca. 372 – 289 BCE) was more an idealist who believed in the good nature of the human being. Han Feizi saw the evil nature of the human being reflected in their common and identically same self-interest, “we all seek to maximize benefits for ourselves and we all try to avoid harm to ourselves.”<sup>15</sup> His doctrine has no room for human kindness (*ren* 仁) that is highly valued by Confucius. Nor is there place for compassion or universal love (*jian-ai* 兼愛) as embraced by Mozi 墨子 (ca. 470–ca. 391 BCE).

Han Feizi based his doctrine on five principles: 1) *non-action* (*wuwei* 無為); 2) the evil nature of man, 3) rectification of names (*zhengming* 正名); 4) the central role of law (*fa* 法); and 5) at the sinologists named the “two handles” of governing (*erbing* 二柄).<sup>16</sup>

To Han Feizi, the procurement of the needs of the people inclines to become increasingly scarcer if compared to their ever increasing number.<sup>17</sup> He has indeed foretold the rules on population set out by Robert Malthus (1766–1834) twenty centuries later. Confronted with such an increasing pressure, it became only logical that the Legalists emphasized the primacy of the state over the individual. Therefore Han Feizi provided no room for discussion about human basic interests like individual well being and freedom. Individuals may well promote themselves by merit, however, which is a practice that has been adopted earlier by Confucius (Kong Fuzi 孔夫子, 551-479 BCE).

Effective government should deal with the single obsession in every human being in that it only and always seek benefit and avoid harm for itself. He made this paradigm clear by referring to the standard relationship between the peasant and the landlord. The peasant will work hard and the landlord will pay him well not because of mutual compassion, but simply because “...their hearts are centered on utility, and they both harbor the idea of serving themselves. ... if one has a mind to do benefit, it will be easy to remain harmonious. ... But if one has a mind to do harm, even father and son will become separated and feel enmity toward one another.”<sup>18</sup> For Han Feizi that self-interest exists even in the relationship between husband and wife: “... a father and a mother when they produce a boy congratulate one another, but when they produce a girl, they put it to death. ... This is because the

parents think of their later convenience, and calculate about what is profitable in the long run. Thus even parents show calculating minds in their attitude toward their offspring.”<sup>19</sup> Han Feizi shows that human society is simply an inter-locked network of profits and interests.<sup>20</sup>

There is no relationship where the human being would not seek what is good for itself and/or avoid harm to itself. Han Feizi saw that basic attitude to be a solid ground for his strategy to turn all citizens into law abiding subjects. The ruler should reward those who abide by the law and punish those who break it. The ruler does not govern by the rule of law, but he rather rules by law. Although the rule by law may be despised by our times, modern jurisprudence generally has no room for the incentive of rewarding those who abide by the law. In that respect Han Feizi's Legalism may well sound more just compared to our modern legal system.

In Han Feizi's calculation, it is indeed the profit motivation in man that must be exploited to guarantee the efficiency and efficacy of governing by relying on punishment and reward, because everybody will then compete to abide by the law in order to be rewarded and avoid breach of law in order to be safe from punishments.

### **Rule by Law**

The law or *fa* 法 has a function of utmost importance in the doctrine of Han Feizi. A legal system that is carried out meticulously and systematically will guarantee the efficiency and efficacy of governance of a ruler, and in turn increases his *shi* 勢 (authority). Nevertheless, to avoid confusion among the folk, the law must not only be firm, it must also be just. A just ruler promulgates a set of laws that enables everybody to live in peace and in harmony with his neighbors.<sup>21</sup> As such the firm ruler and the strict laws have no objective that is arbitrarily, save to make sure that the state runs well, as is reflected in Han Feizi's statement: “The 'intelligent ruler' rules the state by law. Once the laws have been formulated, he makes them known to everyone so that the people of the state will respect and obey them. Not only this, but he also guides his own conduct by legal standards. Once these standards exist, therefore, even should there later be a mediocre ruler, he would suffice to conduct government.”<sup>22</sup> That sounds perfect as the rule by law applies not only for the people but also for the ruler. Therein does indeed lay the guarantee of good laws: they guarantee the well being of the state even if it is governed by a weak ruler.

He saw the main task of government being none else but to establish

order and justice. To achieve it, the ruler should conduct government by reliance on *fa* 法 (*law*), *shu* 術 (*statecraft*) and *shi* 勢 (*authority*). The law is a set of rules that determines as to what is right or wrong with the behavior of man in society. The law must be clearly codified and made public in order that every adult subject knows it. To be effective, such law must not only be firm, but also just. Obedience to the law must be rewarded while those who break it must be punished. This would lead to situation where the behavior of every individual is predictable for others. A strict legal system would guarantee the well being of the state. With such legal system, the state will remain in order despite a possible unfortunate situation where a weak ruler sits the throne.

A ruler gains statecraft or *shu* 術 when he applies shrewd tactics and keeps most of his affairs for himself. The ruler must be unfathomable vis-à-vis his ministers in order for him to have the situation always under his single control. The ruler must not trust his ministers because they always harbor the imminent wish to overthrow him. To prevent that risk, he must reward ministers who are loyal and must harshly punish those who are disloyal. The "two handles" of reward and punishment are the means by which a ruler may encourage ministers to be loyal and may prevent them from being disloyal. The logical consequence would be that the ministers will compete with each other to demonstrate their loyalty and make sure that they are on a safe distance from disloyalty. No doubt, there is also the risk that one betrays the other in order to be rewarded. If a ruler does not reward those ministers who are loyal nor does he punish those who are disloyal, he may well lose the loyalty of his ministers and will not be able to govern effectively.<sup>23</sup> Nonetheless, Han Feizi expected rulers to be prudent in a way that he listens to ministers who say the truth and avoid greedy behavior.<sup>24</sup> Reward and punishment has nothing to do with moral good or bad, however, it is simply a matter of usefulness or uselessness for public order and harmony (*he* 和). Han Feizi like Machiavelli maintained that politics and morality are unrelated issues.<sup>25</sup> Indeed, in many ways Han Feizi reminds us of Niccolo Machiavelli of the XVI century, albeit there is no indication that Machiavelli was ever aware of Han Feizi. To support his effective governance the ruler must assert his authority or *shi* 勢 as such to make it clear that only he rules and that he has no competitor in the realm of his power. In modern constitutionalism this is what we call "sovereignty".

### ***Realpolitik***

There was a remarkable revival of Han Feizi's doctrines during the Sui



Dynasty (581-618) as it was deemed effective to help reconsolidate China out of the chaotic Three Kingdoms Period (220-581) that followed the Han Dynasty (206 BCE-221 CE). The Sui Dynasty was well regarded as having paved the way for the next other strong Tang Dynasty (618-907), resembling the Qin Dynasty that prepared the arrival of the Han Dynasty. The Tang Dynasty indeed continued the structure and government practice of the Sui Dynasty, albeit with lesser stringency. One millennium later following the establishment of the People's Republic of China, Mao Zedong 毛澤東 was known to have compared himself to Qin Shi Huangdi and openly applied some of the *Fajia* doctrines and methods. One among the many is the practice of punishment of failures or rewarding accomplishments of China's Communist Party officials. Interests in the thoughts of Han Feizi revived again when his works were re-approached from the perspective of Marxism and Maoism during the late 1970s and early 1980s, when the helm of the nation was passed over from Mao Zedong to Deng Xiaoping.<sup>26</sup> Starting with the 1990s, however, Deng Xiaoping's successors tend to cautiously give way to the rule of law rather than rule by law of the Legalists.<sup>27</sup>

When ethnic riots broke out in Urumqi during mid July 2009, the Government of China resorted to harsh measures entailing in apparently more than 200 deaths. In a way, the Government of China actually resorted to a standard procedure applied by most governments in an era where "hard power" was the typical rule of the day. Nevertheless, the Government also urged those implicated in the riots to give in, promising them lenient treatment while at the same time making it clear that those who try to escape the law will be met with severe punishment. It is quite intriguing to note that reward was also promised to those who turn in perpetrators. This policy exactly mirrors Han Feizi's method of ruling by law rather than governing by the rule of law. Are there parallels between Han Feizi's doctrines on the one hand and the method the Government of China dealing with civil turmoil on the other hand?

Xinjiang 新疆 ("New Frontiers") has a long history and was always subject to the interest of its big power neighbors of the past like Turkey, Persia and Russia, apart from China. It became integrated into China's sovereignty only in 1884, while Tibet (Xi Zang 西藏) followed suit in 1910 still during the reign of the Qing Dynasty (1644-1912). As used to be in history, integration of territories brings with it tragic disintegration of communities and even societies. To make matters more complicated, the Government of China has systematically moved Han people to settle in Xinjiang, like they have done in Tibet as well. As a result, the Uighur people

making 45% of the Xinjiang population have become almost a minority in their own homeland, while the Han people make up 40% (from 6% in 1949) and other ethnics fill the 15% gap in the population of the far flung Province. There is little reason for not believing that this is a population policy that serves to ensure political dominance.

### **Revising Han Feizi**

It remains interesting to watch how the Government of China would further deal with the dilemma in Xinjiang (and eventually also in Tibet) and respond to world's criticism, particularly the Muslim world. Indeed, *Zhongguo Renmin Gongheguo* or in English "The People's Republic of China" still means exactly "The People's Republic of the Middle State", just like the Chinese in olden days viewed their country being situated in the middle of the world under heaven. Yet on the stage of world history where it finds itself now, China cannot marginalize its peripheral minorities and world opinion. The Government of China has its hands full with ecological deterioration, economic rift between coastal cities and inner provinces, and problems resulting from a complex social change triggered by Deng Xiaoping's "Four Modernizations" (*Sige Xiandaibua* 四个现代化) in the 1980s. Even Han Feizi maintained that "new times come with new problems and need new solutions" which sounds quite anti-Confucian that used to refer to "old recipes that have proven well". The rulers and the people of China have always been true pragmatist in the best sense of the term. They have managed it to merge the paradoxes of Daoism, Confucianism and Buddhism into an idiosyncrasy that have been their *Lebensanschauung* through the centuries and millennia.

The People's Republic of China is not only a big country, it is now a superpower. However, as admitted by Deng Xiaoping the Peoples Republic of China: "is both strong and weak, rich and poor".<sup>28</sup> As such, no country with china's dimensions can afford to let social and economic rifts brew into political disorder. Han Feizi believed that a unified nation under one supreme power is preferable to constant warfare between multiple nation-states.<sup>29</sup> There is no doubt that China needs to be governed by a strong government, otherwise we risk dealing with Fenby's stern warning: "...if China gets into trouble, the effect will be felt across the globe".<sup>30</sup> However, as globalization brings with it problems with dimensions unprecedented in China's as well as in world history, it apparent at China's leadership would need to come up with a more sophisticated idiosyncrasy to better cope with their domestic

challenges ranging from the growing demand for respect to human rights to the daunting need to overcome social injustice. At the global platform somehow China cannot ignore the increasingly widespread call for international best practice. As playing hardball has become more and more effective to dealing with various crises around the world at is now pretty transparent and applying soft power has gradually demonstrated its more positive outcomes, China's leadership might well consider redefining their strategies, exactly in the pragmatic spirit of Han Feizi's political philosophy

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## End Notes:

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<sup>2</sup> Scott, Alex, *Han Feizi*, <http://www.angelfire.com/md2/timewarp/hanfeizi.html>, 2004.

<sup>3</sup> Liu: 188.

<sup>4</sup> Fung 1976: 159, quoting the *Book of Lord Shang Yang*, II, 7.

<sup>5</sup> Fung 1976: 159, quoting *Han Feizi*, ch. 49.

<sup>6</sup> Fung I: 331, quoting *Han Feizi*, ch.8.

<sup>7</sup> [http://en.wikipedia.org/wiki/Deng\\_Xiaoping](http://en.wikipedia.org/wiki/Deng_Xiaoping).

<sup>8</sup> Fung I: 324, quoting *Han Feizi*: ch.8.

<sup>9</sup> Fung 1976: 161.

<sup>10</sup> Liu: 199, quoting *Han Feizi*, ch.20.

<sup>11</sup> Liu: 199, quoting *Han Feizi*, ch.20.

<sup>12</sup> Fung 1976: 162-163.

<sup>13</sup> *TIME*, 20 July 2009: 20-21.

<sup>14</sup> *Daodejing*, ch. 25 and 23.

<sup>15</sup> Liu: 183.

<sup>16</sup> Liu: 196. Scott: 2.

<sup>17</sup> Fung 1976: 159.

<sup>18</sup> Fung I: 327, quoting *Han Feizi*: ch.8.

<sup>19</sup> Fung I: 327, quoting *Han Feizi*: ch.46.

<sup>20</sup> Liu: 184.

<sup>21</sup> Scott: 3.

<sup>22</sup> Fung I: 322, quoting *Han Feizi*: ch.38.

<sup>23</sup> Scott: 2.

<sup>24</sup> [http://en.wikipedia.org/wiki/Legalism\\_\(Chinese\\_philosophy\)](http://en.wikipedia.org/wiki/Legalism_(Chinese_philosophy)).

<sup>25</sup> Liu: 192.

<sup>26</sup> Liu: 183.

<sup>27</sup> [http://en.wikipedia.org/wiki/Legalism\\_\(Chinese\\_philosophy\)](http://en.wikipedia.org/wiki/Legalism_(Chinese_philosophy)).

<sup>28</sup> Fenby: 678.

<sup>29</sup> Liu: 203.

<sup>30</sup> Fenby: xxxi.

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