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PERSISTENT MISCONCEPTIONS ABOUT CHINESE "LEGALISM"

The reasons for avoiding the term "legalism" in the study of classical Chinese philosophy were summarized years ago by Herrlee G. Creel.[1] Most scholars would probably agree, if pressed, that the term is flawed, and yet one continues to find it deployed in published books and articles—almost as though no one is prepared to admit that it has to be abandoned. I believe that "legalism" is virtually useless as a hermeneutic lens; indeed, in many contexts it obscures more than it clarifies. Even as a bibliographical category, as it was frequently used in imperial times, its value is questionable. In the following pages, I shall first review the weaknesses of the term "legalism," then ask why scholars persist in adopting it even though they can hardly be unaware of its defects. Finally, I will briefly indicate why the term "legalist" should no longer be employed.

I. Where Does "Legalism" Come from?

"Legalism" is an imprecise Sinological translation of the Chinese term *fajia* 法家. As far as one can tell from the extant sources, *fajia* was invented by Sima Tan 司馬談 (d. 110 BCE),[2] father of the famous historian Sima Qian 司馬遷 (145?–86? BCE), in his essay on what he called "the six houses of thought" (*liujia* 六家). Sima Tan's aim was to sketch what he took to be the six main schools of pre-imperial philosophy, and then to show how the group that he called *daojia* 道家 incorporated the strengths of each of the other five, but without succumbing to any of their weaknesses.[3] (Incidentally, *daojia* cannot mean "Daoism," as it is so often translated today, because it is apparent from Sima's text that he used the word as an abbreviation for *daode* 道德 *jia* 家—but that would be a matter for a different article about a different set of persistent misconceptions.)

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Sima Tan's syncretic maneuver was a common one in early Chinese writing. This, moreover, uses the following approach: disparate thinkers may have been right about one particular thing, but they were not necessarily right about anything else; consequently, one view may supersede the rest by encompassing all of them, and that one view, consequently, is right about *everything*. The most famous example of the use of this, moreover, is the "All under Heaven" ("*Tianxia*〈天下〉") chapter of the *Zhuangzi*,[4] but the oldest is probably Xunzi's "Dispelling Obfuscation" ("*Jiebi*〈解蔽〉"). There Xunzi lists several prominent earlier thinkers, asserts that each one was "beclouded" by one particular corner of the way, and concludes that only Confucius perceived the Way in its totality.[5]

> Confucius was humane and wise, and moreover not beclouded; therefore his study of techniques of attaining order[6] was sufficient to bring him [to the level of] the Former Kings. One school (*jia*) attained the Way of Zhou;[7] he held it up and applied it, and was not beclouded by accumulated details. Therefore his virtue was equal to that of the Duke of Zhou, and his name on a par with those of the Three Kings. This is the blessing of not being beclouded.[8]

Xunzi's use of the keyword *jia* 家 suggests that this document may have been a model for Sima Tan, who used the same rhetorical device, but with the purpose of arguing that the *daojia*, not Confucius or his followers, were the ones who had attained the privileged synoptic viewpoint. This is what Sima Tan had to say about *fajia*:

> The *fajia* are strict and have little kindness, but their alignment of the divisions between lord and subject, superior and inferior, cannot be improved upon. . . . *Fajia* do not distinguish between kin and stranger or differentiate between noble and base; all are judged as one by their *fa*. Consequently they sunder the kindnesses of treating one's kin as kin and honoring the honorable. It is a policy that could be practiced for a time, but not applied for long, . . . So I say: "they are strict and have little kindness." But as for honoring rulers and derogating subjects, and clarifying social divisions and offices so that no one is able to overstep them—none of the Hundred Schools could improve upon these.[9]

The weakness of *fajia* philosophy, on this account, is that it forces everyone to abide by cold-blooded rules; the strength is that it inhibits dissension by clearly demarcating everyone's role in society.

What exactly does Sima Tan's neologism *fajia* mean? Although they are very common words in the Chinese language, neither *fa* nor *jia* is straightforward in this context. There are two main theories about the meaning of *jia*. The older one is that it means "school of thought" (not, of course, implying any institutional structure, and so "school" as in "the Realist school," not as in "The Wharton School of Business").[10]

With this understanding *fajia* would mean "the *fa* school of thought." Jens Østergård Petersen has recently argued that it means "specialist" or "expert" instead[11]—a usage that has survived in modern Chinese (as in *yishujia* 藝術家, "artist," *jianzhujia* 建築家, "architect," and so forth).[12] Petersen could be right—that is to say, classical Chinese grammar and usage do not rule out his interpretation apodictically—but any understanding of *jia* in Sima Tan's article must take into account a phenomenon that I think Petersen does not explain adequately. Sima Tan never uses the phrase *Mojia* 墨家 to refer to Mohists or *Rujia* 儒家 to Confucians; instead, he always calls them *Mozhe* 墨者 and *Ruzhe* 儒者. Petersen writes: "*Rujia* and *Mojia* were impossible constructions to Sima Tan because *Ru* and *Mo* denote groups of people, and one cannot (in any meaningful sense of the word) specialize in belonging to such groups."[13] The problem is that *Rujia* and *Mojia* are both amply attested after Sima Tan, and the ancients never expressed doubt about the meaningfulness of such phrases.[14] Moreover, *Rujia* and *Mojia* do not have to be construed as "specialist in being a Ru" and "specialist in being a Mo" or anything silly like that; they can simply mean "Ruist specialist" and "Mohist specialist."

That is, this would be the case if their use of *jia* means "specialist." Sima Tan's pointed use of the terms *Ruzhe* and *Mozhe* should suggest that he was *not* referring to specific people when he said *jia*.[15] This is because of all the names that he used to designate schools of thought, only *Ru* and *Mo* were current in pre-imperial times and employed by thinkers as a mode of self-identification. It made perfect sense to call oneself (or one's opponent) a *Ru* or a *Mo*, but no one ever called himself (or his opponent) a *fajia* or a *daojia*. *Mozhe* was the most natural way of referring to Mohists in classical Chinese texts. In *Mencius* 3A.5, Yi Zhi 夷之, the Mohist whose philosophy Mencius famously goes on to crush, is introduced straightforwardly as *Mozhe Yi Zhi* 墨者夷之. In the *Lüshi Chunqiu* 《呂氏春秋》 tale about the contingent of Mohists who chose to kill themselves after being abandoned by their patron, rather than fleeing and thereby disgracing their tradition, they are once again called *Mozhe*—and indeed refer to themselves as such.[16] Similarly, although the question of whether *Ru* refers exclusively to Confucianism is a matter of much scholarly controversy these days, it is undeniably the term that Mohists used when they wished to identify Confucius and his followers.[17]

So we have demonstrated that when Sima Tan referred to philosophies corresponding to organized schools of thought that his audience would have had no trouble recognizing, he used the word *zhe*; when he referred to philosophies that did not correspond to any organized school of thought, he used the word *jia* in an inventive sense, meaning "house of thought." In both cases, it should be recognized, Sima Tan's

criteria were purely ideological; personal relations play no role in his schema. *Fajia* refers to the view that kinship and social status should be disregarded by administrative protocols, which treat everyone equally and thereby elevate the sovereign over the rest of humanity. If you believe this, you belong to the *fajia* too. If not, you belong somewhere else on the intellectual roadmap.

If *fajia* means roughly "the house of *fa* philosophy," then, the other difficult term remains to be explained. What is *fa*? The translation "legalism" reflects the supposition that *fa* means "law." But this is a grave error. Although *fa* can surely include "law," it covers a much larger semantic range, and it is precisely in this larger range that the word usually has to be located. The two basic meanings of *fa* are "method" and "standard."[18] Although "law" is one of the most prominent senses of *fa* in Modern Chinese, it is only a derived meaning; in classical and preclassical Chinese, the ordinary way of referring to the law was *xing* 刑 (now usually relegated to the sense of "punishment"). Even in imperial China, *fa* tended to mean something more like "government program" or "institution" than "law"—as in, for example, the failed "Green Sprouts Policy" (*Qingmiao Fa*《青苗法》), which was Wang Anshi's 王安石 (1021–1086) attempt to establish a government credit bureau.[19]

Creel's objection to translating *fajia* as "legalism" is still valid today and deserves to be repeated:

> When Sima Tan used the name *fajia* for this school, apparently for the first time, he may not have intended *fa* to mean merely "law." He was clearly aware that the school had two emphases, and may have availed himself of the fact that *fa* means both "law" and "method." It has both of these senses (sometimes simultaneously) in *fajia* literature, and even in the *Shangjun shu* 商君書. "Method" seems to be the sense in which Shen Buhai used *fa*, in all of the quotations of his words known to me. The *Han Feizi* 韓非子 quotes Shen as saying: "What is called 'method' (*fa*) is to examine achievement [as the ground for] giving rewards, and to use ability as the basis upon which to bestow office."[20]

Obviously, "law" would not work very well for *fa* in this line from *Han Fei Zi*, since the issue is administrative recruitment and management. But this passage is not as decisive as Creel represented it to be, for there is no way to be sure that Han Fei (d. 233 BCE) quoted Shen Buhai 申不害 (d. 337 BCE) accurately. Creel did not offer any other example of Shen Buhai's use of *fa* that might corroborate this usage, and although his later study of the extant fragments of that thinker includes a helpful concordance listing eight uses over four separate passages,[21] none of these is dispositive.

Creel need only have turned, however, to the fragments of Shen Dao 愼到 (b. *c.* 360 BCE), which were being collated and analyzed at

the very same time by P. M. Thompson.[22] For here there are unmistakable examples of *fa* in the same sense that Han Fei attributed to Shen Buhai: it is used there as an impersonal administrative technique of determining rewards and punishments in accordance with a subject's true merit. If anyone deserves to be recognized as a member of *fajia*, it is Shen Dao, who was criticized by Xunzi for being "beclouded by *fa*" (*bi yu fa* 蔽於法).[23]

> If the lord of men abandons *fa* and governs with his own person, then penalties and rewards, seizures and grants, will all emerge from the lord's mind. If this is the case, then those who receive rewards, even if these are commensurate, will ceaselessly expect more; those who receive punishment, even if these are commensurate, will endlessly expect more lenient treatment. If the lord of men abandons *fa* and decides between lenient and harsh treatment on the basis of his own mind, then people will be rewarded differently for the same merit and punished differently for the same fault. Resentment arises from this. So the reason why those who apportion horses use *ce*-lots, and those who apportion fields use *gou*-lots, is not that they take *ce* and *gou*-lots to be superior to human wisdom, but that one may eliminate private interest and stop resentment by these means.[24] That is why it is said: "When the great lord relies on *fa* and does not act personally, affairs are judged in accordance with *fa*." The benefit of *fa* is that each person meets his reward or punishment according to his due, and there are no further expectations of the lord. Consequently resentment does not arise, and superiors and inferiors are in harmony.[25]

Just as in Creel's quote from *Han Fei Zi*, it would be inappropriate to confine *fa* here to the meaning of "law." Shen Dao is talking about administrative methods, notably those of reward and punishment, serving primarily to keep inferiors docile and gratified. Where specific laws may be conducive to these ends, it would naturally be acceptable to incorporate them into one's *fa*—and Shen Dao freely uses the term *fa* in a sense akin to "law" when the circumstances warrant it.[26] But it would be a serious misunderstanding of this philosophy to infer that only laws count as *fa*. Creel rightly emphasized that Shen Buhai's most important administrative recommendation was *xingming* 刑名/形名, or comparing an official's "performance" (*xing*) to the duties implied by his "title" (*ming*), and then rewarding or punishing him accordingly.[27] This idea does not presuppose a legal code—or any legal consciousness whatsoever.

Han Fei himself frequently used *fa* in the same sense, as in the following:

> So an enlightened ruler employs *fa* to pick his men; he does not select them himself. He employs *fa* to weigh their merit; he does not fathom it himself. In this way ability cannot be obscured nor failure prettified. If those who are [falsely] glorified cannot advance, and likewise

> those who are maligned cannot be set back, then there will be clear distinctions between lord and subject, and order will be easily [attained]. In this way the ruler can only use[28] *fa*.[29]

Once again, *fa* does not fit any ordinary understanding of the word "law."

A final example appears in the ancient article entitled "The Seven Kinds of Standard" ("*Qifa* 〈七法〉"), now included in the *Guanzi* 《管子》. There *fa* is defined as (i) principles of nature, or *ze* 則; (ii) models, or *xiang* 象; (iii) mensuration, or *fa* 法; (iv) tutelage, or *hua* 化; (v) incentives and deterrents, or *juesai* 決塞; (vi) *xinshu* 心術, the hardest of the seven to translate—literally "techniques of the heart-mind," although here it has an effective meaning of virtue and moral reasoning; and (vii) units of calculation, or *jishu* 計數. Then we read:

> Trying to issue proclamations and commands while being unenlightened with respect to *ze* is like establishing sunrise and sunset on the basis of a spinning wheel or trying to stabilize the tip of a stick while shaking it. Trying to select materials[30] and investigate their uses while being unenlightened with respect to *xiang* is like cutting something that is long in order to make it short or extending something that is short in order to make it long. Trying to govern and unite the multitude while being unenlightened with respect to *fa* is like writing with your left hand while stopping it with your right. Trying to change customs and improve education while being unenlightened with respect to *hua* is like bending a wheel in the morning and trying to ride a carriage with it that evening. Trying to incite the multitude and move the people while being unenlightened with respect to *juesai* is like making water flow backwards. Trying to have your commands carried out by your people while being unenlightened with respect to *xinshu* is like standing with your back to the target and being cocksure of controlling [the arrow?]. Trying to organize great undertakings while being unenlightened with respect to *jishu* is like trying to travel through a river gorge without boat or oars.[31]

Of these seven types of *fa*, only the fifth, or incentives and deterrents, corresponds in any way to "law," and it too has a wider semantic field. (We shall return to *xinshu* and "The Seven Kinds of Standard" below.)

If "legalism" is such a misleading translation of *fajia*, where did it come from? I can offer two conjectures. First, as mentioned above, "law" is the prepotent sense of *fa* in the modern language; early Sinologists, who were not always sensitive to the distinctions between ancient and modern usage, may have assumed all too hastily that *fa* meant something like "law" in classical times as well. Second, the history of the word "legalism" in Western culture before the discovery of Chinese philosophy is surely relevant. In Christian theology, "legalism" refers to the misguided belief that salvation can be attained solely by adhering to laws. (It is sometimes explained as the opposite of antinomianism, or the belief that obeying laws is unnecessary, as

salvation is attained by God's grace alone.) The word is, of course, invoked less frequently today in this pejorative and theological sense than in previous centuries. An early example is *The Marrow of Modern Divinity*, by Edward Fisher (fl. 1627–1655), a theological dialogue that includes a character named Nomista, who is introduced simply as "a Legalist."[32] This is all the information the reader needs in order to understand that Nomista will be bested before the book is finished.

Further research will be required to determine when and how the term "legalism" was first used with reference to China, but it seems likely that the first Sinologists, many of whom as missionaries were sympathetic to Confucianism and may have shared its suspicion of man-made laws, would have applied "legalism" as a theological term to the Chinese context. Scholars of the past tried to find Western analogues for every aspect of Chinese culture that they could;[33] if Mozi was China's utilitarian, and Sima Qian China's Herodotus, then it would only have seemed fitting for Han Fei to be China's legalist.

II. What Is Wrong with "Legalism?"

Summarizing what we have learned so far, "legalism" as a technical term in the study of Chinese philosophy is doubly misleading. First, as a translation of *fajia*, it is inaccurate because *fa* can include more than simply "law." Second, the concept of *fajia* is itself partisan and anachronistic; it was invented retrospectively by Sima Tan for his own discursive purposes. It had less to do with evenhandedly surveying the various Warring States philosophers than with urging his particular brand of syncretism as the most versatile worldview for his own time. However, it is not enough simply to dismiss "legalism" as an inaccurate translation of a partisan and anachronistic concept, for it can sometimes be useful as a heuristic device. ("China" might be one such example; so might "Europe.")[34] Consequently the most important obligation of this article is to show that, in addition to all its other problems, "legalism" is not useful as a heuristic device.

Offhand comments by scholars who continue to use the term suggest that they do so because they believe it can serve as a convenient shorthand for a coherent and readily recognizable philosophy. Take this recent disclaimer by Scott Cook in his article, "The Use and Abuse of History in Early China from *Xun Zi* to *Lüshi Chunqiu*":

> The term "Legalist" (always given in quotation marks) I use in the conventional manner for such thinkers as Shang Yang 商鞅 and Han Fei 韓非, who, according to historical sources and works attributed to their names, held a similar set of tenets concerning the rule of law and strict application of rewards and punishments; I do not intend it to

> refer to any sort of coherent "school." Whether Shang Yang held precisely such views as purported in the speeches attributed to him is debatable, but given the nature of his reforms, it is certainly plausible that he did, and it is clear at any rate that someone of his time was proffering such views.[35]

It should be emphasized that this apology is not essential to Cook's otherwise judicious study—and Cook might complain that by singling it out, I am caviling at a passing remark in a footnote. But the train of thought is revealing. "Legalism," Cook tells us, can be usefully applied "in the conventional manner" as a reference to such thinkers as Shang Yang and Han Fei—and although we do not know precisely what Shang Yang (i.e., Gongsun Yang 公孫鞅, d. 338 BCE) said, it is clear at any rate that *someone* proffered the views that we conventionally attribute to Shang Yang. "Someone" living when? Evidently, we think we know what "legalism" means, but we cannot specify it perspicuously ("a similar set of tenets concerning the rule of law and strict application of rewards and punishments"), and we have an even harder time trying to identify the figures who advocated it. It may apply to Han Fei—but we are not sure of whom else.

What I think most people have in mind when they say "legalism" is the "amoral science of statecraft" that A. C. Graham reconstructed in his *Disputers of the Tao*.[36] Legalism, in Graham's view, consists of adapting institutions to changing situations and overruling precedents where necessary; it concentrates power in the hands of the ruler; and by this means, above all, it maintains control of the factious bureaucracy. Morality is irrelevant to government because most people are close to the middle of the pack in the virtue–vice continuum, and methods of establishing order must consequently be useful for mediocre rulers with mediocre subjects.[37] Graham associated several texts with this "science": *Han Fei Zi*, the Shen Dao fragments, *Guanzi*, the lost *Lizi*《李子》, the *Book of Lord Shang* (*Shangjun Shu*《商君書》), and the fragments of Shen Buhai. To Graham's credit, he read the extant portions of these documents and incorporated them into his discussion (although the actual content of the original *Lizi* is anybody's guess). Subsequently he dubbed Han Fei "the great synthesiser of Legalism"[38]—old-fashioned intellectual history had a lot of synthesizers[39]—and proceeded to sketch the fundamentals of the "amoral science" largely on the basis of the *Han Fei Zi*.

The tendency to extol Han Fei as the great synthesizer and focus on the *Han Fei Zi* at the expense of other ancient Chinese political philosophers can be traced to Han Fei's self-serving depiction of Shen Dao, Shen Buhai, and Gongsun Yang. He took them all to be authors of single political concepts, which only Han Fei himself combined into a coherent philosophy. (This pretense was, in its way, akin to Sima

Tan's syncretic argument for *daojia*: "My rivals each understand one thing, but only I understand everything.") Therefore if we err in regarding Han Fei as the one legalist who supersedes all the others, it is because we have uncritically accepted his own account of the development of legalism.

> Someone asked: "Of the sayings of Shen Buhai and Gongsun Yang, which are the more urgent for the state?"
>
> I responded: "They cannot be measured against each other. If people do not eat, they will die within ten days; at the height of a great cold snap, without wearing clothes one will also die. This is to say that [if one were to ask] whether clothing or food are more urgent for people, [the answer would be] that neither one can be done away with; they are both implements for sustaining life. Now Shen Buhai speaks of 'technique' and Gongsun Yang speaks of 'standards.' 'Technique' is to bestow offices corresponding to [people's] abilities;[40] to hold them responsible for their real achievements in accordance with their titles; to grasp the handles of life and death; and to supervise the abilities of the thronging ministers. This is what the lord of men wields. The term 'standards' means that ordinances and commands are manifest in the administrative bureaux; laws and punishments are certain in the people's minds; rewards are generated for those who are careful about standards; and penalties accrue to those who defy commands. These are what subjects take as their preceptor. If the lord is without technique, then he will be beclouded above; if subjects are without standards, they will be disorderly below. Neither one can be done away with; they are both implements of emperors and kings."[41]

To say that "Shen Buhai speaks of 'technique' and Gongsun Yang speaks of 'standards,'" as though these were the only topics they discussed, is a sophisticated falsification, for Shen Buhai referred to *fa* quite often (as we have seen), and, if the received text of *The Book of Lord Shang* can be trusted,[42] Gongsun Yang addressed many other administrative questions. "Agriculture and war" (*nong zhan* 農戰) may have been his single most important slogan. As a policy, this meant forcing the populace to attend solely to agriculture, which was reckoned as one of the least pleasurable human activities, so that in wartime they would only relish the prospect of leaving their ploughshares and fighting for the state.[43] Moreover, the first accomplishment that Sima Qian lists in his account of Gongsun Yang's reforms is dividing the populace into groups of five and ten (which were called *shiwu* 什伍 and modeled after military command structures) and instituting a principle of mutual responsibility so that each member of a group would be liable for the misconduct of any other member.[44] This was part of a comprehensive plan to eliminate the hereditary aristocracy, with its claims of inalienable privileges, and institute a rigidly stratified society in which one's status was tied entirely to one's service to the state.[45]

According to Mark Edward Lewis, Gongsun Yang's reorganization of the military went so far as to redraw the map of Qin 秦:

> The final major reform associated with the extension of military service throughout the state of Qin was the construction of *qian* [阡] and *mo* [陌]. As the cumulative research of modern scholars has shown, these were a network of paths built under Shang Yang as part of his reforms in Qin, and they formed a rectangular grid over the agricultural fields. Because they were evenly spaced, they divided the countryside into equal-sized blocks of land.
>
> According to one source, this grid covered the state of Qin, and a recent study using large-scale topographical maps to examine the patterns of fields in China has shown that throughout much of the north, particularly in the former areas of Qin and Jin [晉], roads and footpaths form a striking pattern of rectilinear layouts, everywhere oriented north-south and east-west. Regularity on this scale would be impossible without state intervention, so this evidence offers dramatic, visual testimony to the impact of the reforms of Shang Yang and earlier Warring States reformers on the Chinese countryside.[46]

While it may be farfetched to identify Gongsun Yang personally as the architect of the orderly plan of roads and fields throughout northern China, Lewis's basic point stands: Gongsun Yang was as much a military reformer as a legal one. Han Fei, who served (and died) in Qin, could hardly have been ignorant of the full scope of Gongsun Yang's program. Han Fei could portray himself as the "great synthesizer" of previous political philosophers only by misrepresenting their breadth and complexity.[47]

Graham's "amoral science of statecraft" may be adequate for the philosophy of Han Fei, but it fails for some of the texts that he himself placed within the "legalist" camp. Consider the "Four Cords" ("*Siwei* 〈四維〉") of the *Guanzi*:

> In the state, there are Four Cords. If one cord is removed, [the state] will careen; if two cords are removed, it will be imperiled; if three cords are removed, it will be overthrown; if four cords are removed, it will be annihilated. What careens can be stabilized; what is imperiled can be secured; what is overthrown can be raised up; but what is annihilated cannot be restored.[48] What are the Four Cords? The first is ritual; the second is righteousness; the third is probity; the fourth is shame. Ritual is not to overstep the right measure; righteousness is not to promote oneself [at the expense of others]; probity is not to conceal one's vices; shame is not to pursue deviance. So if people do not overstep the right measure, the superiors' position is secure; if they do not promote themselves, there will be no craftiness or deceit among the populace; if they do not conceal their vices, they will act with self-engendered integrity; if they do not pursue deviance, perverse things will not come into being.[49]

The text goes on to make a remarkable claim that Shen Dao, Shen Buhai, Han Fei, and the like might never accept the claim that "Laws

and punishments are not sufficient to terrify [the people's] intellects."[50] Clearly we are dealing with a very different sort of political philosophy, one that values social stability no less than Han Fei and his peers, but pursues this goal through the inculcation of honesty and good behavior rather than law and punishments—and couches its arguments in undisguised moral language.[51] This sounds very much like *xinshu*, "the techniques of the heart-mind," or the sixth of the seven kinds of *fa* defined elsewhere in the *Guanzi*, namely in "The Seven Kinds of Standard": "To be true, sincere, generous, giving, temperate, and compassionate—these are called *xinshu*."[52] To Han Fei, these are precisely the sort of unreliable virtues that *fa* is supposed to ferret out, yet here we read that they constitute one type of *fa* in themselves!

One way to resolve the problem that not all ancient theorists spoke of *fa* as an "amoral science" would be to define legalism in such a way as to eliminate the entire tradition of *xinshu*. And this was the route that Graham took in defending his rubric: *xinshu*, he says, "is one of the elements in the *Guanzi* statecraft which is foreign to classic Legalism, and we shall not be meeting it again."[53] Indeed, we never meet it again, because Graham carefully steers us away from it. This raises yet another problem with the category of "legalism": It leads us to ignore usages in other textual traditions that do not square with our preconceptions of what *fa* should denote. The *Heguanzi*《鶡冠子》, for example, uses the word *fa* dozens of times, in senses that include "natural model," "organizational principle," and "human law."[54] This range is not very different from what we have seen in the *Guanzi*, and is also reflected in the silk manuscripts from Mawangdui 馬王堆.[55] Yet none of these are usually considered legalist documents.

What then did Graham mean by "classic Legalism"? First Graham told us that legalism was represented by a handful of specific texts. Yet one of these texts turned out to offer political ideals that were incompatible with "amoral science." Consequently he promptly excised it, leaving us with Han Fei—and, once again, we are not sure of whom else. Would it not be clearer (and more accurate), when we wish to refer to the philosophy of Han Fei, merely to say "the philosophy of Han Fei" and leave all the -isms out of it? By using "legalism" to mean little more than "the philosophy of Han Fei and those parts of any other philosophy that we deem comparable to it," scholars only perpetuate the current regrettable state of affairs in which we overemphasize Han Fei and neglect all the other political philosophers. To be sure, he was incontestably the finest writer among them, but we may not be so certain that he was the most original thinker. It is astounding, as well as profoundly disap-

pointing, that there has been not a single English publication on Shen Dao and Shen Buhai since the work of Thompson and Creel. Even in Chinese, the situation is little better.

One final criticism of Graham's "amoral science of statecraft" deserves to be mentioned. This characterization is not wholly satisfactory even when restricted to the *Han Fei Zi*, for Han Fei does not always deal with statecraft. One of the most basic interpretive mistakes of Western readers, who are accustomed to the philosophical style of Hobbes, Locke, and so on, is to approach Chinese material with the presumption that Chinese thinkers must have addressed the same questions and problems as their Western European counterparts. I find no evidence that Han Fei was trying to work out anything like a general theory of the state. Often, he is most interested in how to save one's hide:

> Whether one is the ruler of a state of ten thousand chariots or the lord of a state of a thousand, among one's consort, ladies, and the son chosen to be Heir Apparent, there are those who desire the early death of their lord. How do I know this to be so? Between husband and wife, there is not the kindness of a relationship of flesh and bone. If he loves her, she is intimate with him; if he does not love her, she is estranged. There is a saying: "If the mother is favored, her son will be embraced." This being the case, the reverse is: if the mother is disliked, her son will be disowned. The lust of a man of fifty has not yet dissipated, whereas the beauty and allure of a woman of thirty have faded. If a woman whose beauty has faded serves a man who still lusts, she will be estranged and disesteemed until her death;[56] her son will be viewed with suspicion and will not succeed to the throne. This is why consorts and ladies hope for their lord's death.
>
> But if the mother becomes a dowager and her son becomes the ruler, then all of her commands will be carried out, all of her prohibitions observed. Her sexual pleasure will be no less than with her former lord, and she may arrogate to herself power over the ten thousand chariots[57] without suspicion. Such is the use of poison, strangling, and knifing.[58] Thus is it said in the *Springs and Autumns of Tao Zuo*: "Less than half of all rulers die of illness." If the ruler of men is unaware of this, disorders will be manifold and unrestrained.[59] So it is said: If those who benefit from a lord's death are many, the ruler will be imperiled.[60]

One might respond that seeing to the ruler's safety can still be regarded as a matter of statecraft, inasmuch as threats to his person could also destabilize the state. But the interests of the ruler and the impersonal state need not coincide. In any case, in the above scenario Han Fei does not seem to envision much turmoil resulting from the sovereign's assassination. All proceeds more or less as before, only now there is a new ruler on the throne—and a new dowager pulling strings behind him.

More importantly, in other chapters Han Fei offers brazen counsel to *ministers* about protecting their welfare, and his advice is often antithetic to the interests of the ruler.

> Eulogize other people who act in the same manner [as the ruler]; take as a model those affairs of others that are similar to his plans. If there is someone as vile as he, you must use [that person's] greatness to prettify him, as though he were harmless. If there is someone who has had the same failures as he, you must use [that person's] brilliance to prettify him, as though there were no real loss. If he considers his own strengths manifold, do not cause him to regret[61] his [past] difficulties. If he considers his decisions brave, do not anger him by reprimanding him. If he considers his plans wise, do not diminish him [by citing] his failures. Only if there is nothing contrary[62] in your general import and nothing stringent in your speech will your wisdom and rhetoric gallop forward to the ultimate. This is the way of attaining both intimacy without suspicion and effectual speech.[63]

Such advice, however, is limited to this one chapter, which is openly addressed to other ministers; elsewhere, ministers who try to gauge the king's mind in order to further their careers are called "treacherous" (*jian* 姦):

> Treacherous ministers all want to accord with the ruler's mind in order to attain a position of trust and favor. Therefore, if the ruler likes something, the ministers will duly praise it; if the ruler hates something, the ministers will accordingly disparage it.[64]

The fact that Han Fei endorses the calculated pursuit of self-interest, even if it means speaking disingenuously before the king, is not easily reconcilable with the notion that he was advancing a science of statecraft. But I have stated my view of this issue in a prior publication, and need not repeat the details here.[65]

III. Conclusion

The foregoing has attempted to demonstrate that "legalism" is an inadequate translation of *fajia*; that *fajia* is itself a partisan and anachronistic term; and that the conventional understanding of "legalism" as "an amoral science of statecraft" results in a diminution of our perspective on ancient Chinese political philosophy and an unproductive fixation on Han Fei. Intellectual categories are like social institutions in one respect: As soon as the cost of maintaining them outweighs the benefits that they provide, it is time to abolish them.

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ENDNOTES

Editor's Note: An editorial concern regarding this article's thesis has been raised, dealing with what English rendering might now be best employed to represent *fajia* 法家. Unfortunately, this request has not been responded to by the author, and so still remains a significant problem to be addressed.

1. "The *fa-chia*: 'Legalists' or 'Administrators'?" (1961), reprinted in Creel's *What Is Taoism? and Other Studies in Chinese Cultural History* (Chicago and London: University of Chicago Press, 1970), 92–120.
2. Cf. Kimura Eiichi 木村英一, *Hōka Shisō no Kenkyū*「法家思想の研究」(Tokyo: Hōbundō, 1944), 20. I know of only two older uses of the phrase *fajia*, and neither one can be said to adumbrate Sima Tan. The best-known is *Mencius* 6B.15, where D. C. Lau, *Mencius: A Bilingual Edition*, revised edition (Hong Kong: Chinese University Press, 2003), 285, sensibly translates it as "law-abiding families." The other is in the "*Shan Zhishu* 〈山至數〉" chapter of the *Guanzi*《管子》, where commentators are baffled by the term, inasmuch as it cannot mean anything like Sima Tan's *fajia*. The best explanation is probably that of He Ruzhang 何如璋 (d. 1891), namely that *fajia* refers to methods of an expert in economic affairs. See Ma Feibai 馬非百, *Guanzi Qingzhong Pian Xinquan*《管子輕重篇新詮》(Beijing: Zhonghua Shuju, 1979), II, 379n.3. At any rate, it is by no means certain that "*Shan Zhishu*" is older than Sima Tan. See, for example, W. Allyn Rickett, *Guanzi: Political, Economic, and Philosophical Essays from Early China* (Princeton: Princeton Library of Asian Translations, 1985–1998), II, 407.

   Fa is listed with *ming* 名, *Ru*, and *Mo* as one of the four dominant schools of thought in the "*Dadao Shang* 〈大道上〉" chapter of *Yin Wenzi*《尹文子》; text in Xu Zhongliang 徐忠良, *Xinyi Yin Wenzi*《新譯尹文子》, ed. Huang Junlang 黃俊朗 (Taipei: Sanmin Shuju, 1996), 6. Cf. Li Rui 李鋭, *Xinchu Jianbo de Xueshu Tansuo*《新出簡帛的學術探索》(Beijing: Beijing Normal University Press, 2010), 75. But I am of the opinion that the received text of the *Yin Wenzi* is forged.
3. See Sarah A. Queen, "Inventories of the Past: Rethinking the 'School' Affiliation of the *Huainanzi*," *Asia Major* (third series) 14, no. 1 (2001): 55ff.
4. For this and other examples, see Kidder Smith, "Sima Tan and the Invention of Daoism, 'Legalism,' *et cetera*," *Journal of Asian Studies* 62, no. 1 (2003): esp. 131–37.
5. Cf. Paul Rakita Goldin, *Rituals of the Way: The Philosophy of Xunzi* (Chicago and La Salle: Open Court, 1999), 101ff.
6. Following the commentary of Hao Yixing 郝懿行 (1757–1825).
7. Both *jia* 家 and *zhou* 周 can be construed in two different ways. *Jia* can mean "school of thought," as in the above translation, and also "specialist, expert," as will be discussed below. *Zhou* can refer to the Zhou Dynasty, as in the above translation, and can also mean "round, universal." It is likely that Xunzi intended all of these connotations.
8. Compare the translation in John Knoblock, *Xunzi: A Translation and Study of the Complete Works* (Stanford: Stanford University Press, 1988–1994), III, 103.
9. "*Taishi Gong Zixu* 〈太史公自序〉," *Shiji* (Beijing: Zhonghua Shuju, 1959), 130.3289 and 3291. Compare the translation in Smith, "Sima Tan and the Invention of Daosim, 'Legalism,' *et cetera*," 141.
10. Geoffrey Lloyd and Nathan Sivin, *The Way and the Word: Science and Medicine in Early Greece and China* (New Haven and London: Yale University Press, 2002), 55, make much of this *caveat*. But their own rendering of *jia*, namely "lineage" (53f.), is potentially even more misleading, as Sima Tan never implies that members of a *jia* are bound by either literal or fictive kin relations.
11. Jens Østergård Petersen, "Which Books Did the First Emperor of Ch'in Burn? On the Meaning of *Pai Chia* in Early Chinese Sources," *Monumenta Serica* 43 (1995): esp. 34ff.
12. Wang Li 王力, *Hanyu Shi Gao*《漢語史稿》, revised edition (Beijing: Kexue Chubanshe, 1980), 230, argued that the *jia* of *fajia*, in line with the traditional view, refers to schools of thought (*xuepai* 學派), and cannot be associated with the *jia* of *yishujia* or

jianzhujia, but he did so on the dubious grounds that *fajia* is (or appears to be) an uncountable noun and *yishujia* is undoubtedly a countable one.

13. Petersen, "Which Books Did the First Emperor of Ch'in Burn?", 35, with Romanization converted.
14. Liu Xiang 劉向 (79–8 BCE) is reported by Xun Yue 荀悅 (148–209 CE) to have used the phrase (perhaps in his *Bielu*《別錄》); see "*Xiaocheng Huangdi Ji Er*〈孝成皇帝紀二〉," *Hanji*《漢紀》, in *Liang Han ji*《兩漢紀》, ed. Zhang Lie 張烈 (Beijing: Zhonghua Shuju, 2002), 25.436.
15. Cf. Li Rui, *Xinchu Jianbo de Xueshu Tansuo*, 74.
16. "*Shangde* 〈上德〉," in Chen Qiyou 陳奇猷, *Lüshi Chunqiu Xin Jiaoshi*《呂氏春秋新校釋》(Shanghai: Guji Chubanshe, 2002), 19.1266. See Kanaya Osamu 金谷治, *Kanaya Osamu Chūgoku Shisō Ronshū*「金谷治中國思想論集」(Tokyo: Hirakawa, 1997), I, 312f. and 404; and A. C. Graham, *Disputers of the Tao* (Chicago and La Salle: Open Court, 1989), 44f.
17. As in the chapter "Refuting the Confucians" ("*Fei Ru* 〈非儒〉"). The strongest objections to interpreting *Ru* as "Confucianism" have come from Michael Nylan, for example, *The Five "Confucian" Classics* (New Haven and London: Yale University Press, 2001), 2n. (Nylan calls *Rujia* 儒家 the "classicist affiliation.") Contrast Chen Lai, "'*Ru*': Xunzi's Thoughts on *ru* and Its Significance," trans. Yan Xin, *Frontiers of Philosophy in China* 4, no. 2 (2009): 157–79.
18. See, generally, Chad Hansen, "*Fa* (Standards: Laws) and Meaning Changes in Chinese Philosophy," *Philosophy East and West* 44, no. 3 (1994): 435–88.
19. See, for example, Paul J. Smith, "State Power and Economic Activism during the New Policies, 1068–1085: The Tea and Horse Trade and the 'Green Sprouts' Loan Policy," in *Ordering the World: Approaches to State and Society in Sung Dynasty China*, eds. Robert P. Hymes and Conrad Schirokauer, Studies on China 16 (Berkeley: University of California Press, 1993), 76–127.
20. Creel, *What Is Taoism?*, 93. The *Han Fei Zi* passage is from "*Wai Chushuo Zuo Shang* 〈外儲說左上〉;" text in Chen Qiyou 陳奇猷, *Han Fei Zi Xin Jiaozhu*《韓非子新校注》(Shanghai: Guji Chubanshe, 2000), 11.32.708.
21. Creel, *Shen Pu-hai: A Chinese Political Philosopher of the Fourth Century B.C.* (Chicago and London: University of Chicago Press, 1974), 399.
22. *The* Shen Tzu *Fragments*, London Oriental Series 29 (Oxford: Oxford University Press, 1979), which was based on his PhD dissertation (University of Washington, 1970). Creel was aware of P. M. Thompson's work (see, e.g., *Shen Pu-hai*, 311), but does not seem to have studied the *Shenzi* fragments.
23. "*Jiebi*," *Xunzi Jijie*, 15.21.392. See also "*Fei Shier Zi* 〈非十二子〉," *Xunzi Jijie*, 3.6.93. Cf. Goldin, *Rituals of the Way*, 71ff.
24. Shen Dao repeats this strange example of casting lots for horses and fields in *Qunshu Zhiyao*《群書治要》 *Guoxue Jiben Congshu*《國學基本叢書》, 37.636. Xunzi refers to casting *gou*-lots in "*Jundao* 〈君道〉," *Xunzi Jijie*, 8.12.230f.; he also mentions *chou* 籌 lots, which are apparently strips or chips of bamboo, and might be similar to what Shen Dao means by *ce*-lots. I am not aware of further information about these practices.
25. From the lost chapter entitled "*Junren* 〈君人〉"; the source-text is *Qunshu Zhiyao*, 37.639. This corresponds to Thompson's fragments nos. 61–65 (267–69).
26. Most famously, "Even if a law is not good, it is still better than having no law" (*Qunshu Zhiyao*, 37.636, i.e., Thompson's fragment no. 23 [242])—the strongest basis for supposing that he was, in our parlance, a legal positivist. Cf. Goldin, *Rituals of the Way*, 120n.57. See also Thompson, *The* Shen Tzu *Fragments*, 271n.1: "Master Shen said: 'Law does not come down from Heaven, nor out of the Earth; it merely emerges in human society, and accords with people's minds.'"
27. Creel, *Shen Pu-hai*, 119–24; and *What Is Taoism?*, 79–91.
28. Following the commentary of Sun Kaidi 孫楷第 (cited by his courtesy name, Sun Zishu 〈孫子書〉).
29. "*Youdu* 〈有度〉," *Han Fei Zi Xin Jiaozhu*, 2.6.92. Compare the translations in Burton Watson, *Han Feizi: Basic Writings*, translations from the Asian Classics (New York: Columbia University Press, 2003), 24; and W. K. Liao, *The Complete Works of Han Fei*

tzu: A Classic of Legalism, Probsthain's Oriental Series 25–26 (London: Probsthain, 1939–59), I, 40.

30. This can also mean "trying to select talented men."
31. Li Xiangfeng 黎翔鳳, *Guanzi Jiaozhu*《管子校注》, ed. Liang Yunhua 梁運華 (Beijing: Zhonghua Shuju, 2004), 2.6.107. Compare the translation in Rickett, *Guanzi*, I, 130.
32. *The Marrow of Modern Divinity: Touching Both the Covenant of Works, and the Covenant of Grace, with Their Use and End, Both in the Time of the Old Testament, and in the Time of the New . . . in a Dialogue betwixt Evangelista, a Minister of the Gospel, Nomista, a Legalist, Antinomista, an Antinomian, and Neophytus, a Young Christian* (London: G. Calvert, 1645). More recently, see Joseph Fletcher, *Situation Ethics: The New Morality* (Louisville: Westminster John Knox, 1966), 18–22.
33. Cf. Russell Kirkland, "Hermeneutics and Pedagogy: Methodological Issues in Teaching the *Daode Jing*," in *Teaching the Daode Jing*, eds. Gary D. DeAngelis and Warren G. Frisina, AAR Teaching Religious Studies Series (Oxford: Oxford University Press, 2008), 150.
34. Cf. Eric Hobsbawm, *On History* (London: Abacus, 1998), 287–301. (This Abacus edition of the book is larger than the original, which was published in London by Weidenfeld & Nicolson, 1997.) Before Hobsbawm, the indeterminacy of the name "Europe" was not widely acknowledged.
35. Scott Cook, "The Use and Abuse of History in Early China from *Xun Zi* to *Lüshi chunqiu*," *Asia Major* (third series) 18, no. 1 (2005): 45n.1.
36. Graham was preceded by Arthur Waley (1889–1966), *Three Ways of Thought in Ancient China* (London: George Allen & Unwin, 1939), 199, who had referred to the *fajia* as "the Amoralists."
37. Graham, *Disputers of the Tao*, 267–85.
38. Graham, *Disputers of the Tao*, 268. See also Benjamin I. Schwartz, *The World of Thought in Ancient China* (Cambridge and London: Harvard University Press, Belknap Press, 1985), 339–43; and, most recently, Karyn L. Lai, *An Introduction to Chinese Philosophy* (Cambridge, 2008) (sic), 174.
39. For example, Wm. Theodore de Bary and Irene Bloom, eds., *Sources of Chinese Tradition*, vol. I: *From Earliest Times to 1600*, 2nd ed., (New York: Columbia University Press, 1999), 295: "while striving to secure exclusive patronage for the Confucian canon, Dong [Zhongshu 董仲舒, fl. 152–119 BC] endeavored to synthesize many intellectual trends that had historically stood beyond the purview of the Confucian tradition" (and cf. 298). In Zhu Xi 朱熹 (1130–1200) they find another "synthesis" (697). See also Fung Yu-lan, *A History of Chinese Philosophy*, trans. Derk Bodde, 2nd ed. (Princeton: Princeton University Press, 1952–53), II, 533.
40. Following the commentary of Ōta Tadashi 太田方 (1759–1829).
41. "*Dingfa*〈定法〉," *Han Fei Zi Xin Jiaozhu*, 17.43.957f. Compare the translation in Liao, *The Complete Works of Han Fei tzu*, II, 212.
42. On the authenticity of the *Shangjun Shu*, see esp. Zheng Liangshu 鄭良樹, *Shang Yang Jiqi Xuepai*《商鞅及其學派》(Taipei: Xuesheng Shuju, 1987), 3–224; also Zhang Linxiang 張林祥, *Shangjun Shu de Chengshu yu Sixiang Yanjiu*《商君書的成書與思想研究》(Beijing: Renmin Chubanshe, 2008), 27–109; and Yoshinami Takashi 好並隆司, *Shōkunsho Kenkyū*「商君書研究」(Hiroshima: Keisuisha, 1992), 235–54.
43. "*Nong Zhan*;" text in Jiang Lihong 蔣禮鴻, *Shangjun Shu Zhuizhi*《商君書錐指》(Beijing: Zhonghua Shuju, 1986), 1.3.19–26. Cf. J. J. L. Duyvendak (1889–1954), *The Book of Lord Shang: A Classic of the Chinese School of Law*, Probsthain's Oriental Series 17 (London: Probsthain, 1928), 83.
44. "*Shangjun Liezhuan*〈商君列傳〉," *Shiji*, 68.2230.
45. The classic study of Gongsun Yang's social reforms is Yang Kuan 楊寬, *Shang Yang Bianfa*《商鞅變法》(Shanghai: Renmin Chubanshe, 1973). See also Zheng Liangshu, *Shang Yang Pingzhuan*《商鞅評傳》(Nanjing: Nanjing University Press, 1998), 103–53; Yoshinami, *Shōkunsho Kenkyū*, 75–102; and Léon Vandermeersch, *La formation du Légisme: Recherche sur la constitution d'une philosophie politique caractéristique de la Chine ancienne*, Publications de l'École Française d'Extrême-Orient 56 (Paris: École Française d'Extrême-Orient, 1965), 23–39. On the system of ranks based on

military exploits, see, for example, Zhu Shaohou 朱紹侯, *Jungong Juezhi Kaolun* 《軍功爵制考論》 (Beijing: Shangwu Yinshuguan, 2008), 27–38 and 175–89.

46. Mark Edward Lewis, *Sanctioned Violence in Early China*, SUNY Series in Chinese Philosophy and Culture (Albany, 1990), 63, citing Frank Leeming, "Official Landscapes in Traditional China," *Journal of the Social and Economic History of the Orient* 23 (1980): 153–204. Leeming himself did not attribute these patterns to Gongsun Yang's policies. For a different view of *qian* and *mo*, see Ōta Yukio, "On Paths for Agriculture (*qian mo* 阡陌)," *Memoirs of the Research Department of the Toyo Bunko* 57 (1999): 14–32. We know that *qian* and *mo* were real, as they are mentioned in a Qin law from 309 BCE; see A. F. P. Hulsewé, *Remnants of Ch'in Law*, Sinica Leidensia 17 (Leiden: E. J. Brill, 1985), 211 (strip 2).
47. Han Fei engages in a similar sort of reductionism vis-à-vis Shen Dao in "*Nan Shi* 〈難勢〉," *Han Fei Zi Xin Jiaozhu*, 17.40.939–40, where he argues as though the doctrine of *shi* (namely, that the ruler should rely on his positional advantage rather than his virtue or wisdom) were Shen Dao's sole intellectual innovation. We know from the *Shenzi* fragments that this is not the case.
48. Following the commentary of Li Xiangfeng.
49. "*Mumin* 〈牧民〉," *Guanzi Jiaozhu*, 1.1.11. Compare the translation in Rickett, *Guanzi*, I, 54 (who curiously omits the line "*bu bi e ze xing zi quan* 不蔽惡則行自全").
50. "*Mumin*," *Guanzi Jiaozhu*, 1.1.13.
51. Hu Jiacong 胡家聰, *Guanzi Xintan* 《管子新探》 (Beijing: Chinese Academy of Social Sciences Press, 1995), esp. 26–76, characterizes the political philosophy of *Guanzi* as "Qi legalism" (*Qi fajia* 齊法家), which he distinguishes from the "Qin legalism" (*Qin fajia* 秦法家) of Shang Yang and Han Fei. He explains the concern for morality among the "Qi legalists" of the *Guanzi* as their "adoption of Confucian doctrine" (26). See also Kanaya, *Kanaya Osamu Chūgoku Shisō Ronshū*, II, 445. This sort of rationalization, although conventional in east Asian scholarship, always fails to explain *why* the thinkers in question would have adopted other people's doctrines.
    On moral governance in *Guanzi* generally, see, for example, Zhang Lianwei 張連偉, Guanzi *Zhexue Sixiang Yanjiu* 《管子哲學思想研究》 (Chengdu: Ba Shu Chubanshe, 2008), 122–50.
52. "*Qifa*," *Guanzi Jiaozhu*, 2.6.106.
53. Graham, *Disputers of the Tao*, 275, with Romanization converted.
54. Wang Pei 王沛, "*Heguanzi yu Zhanguo Shiqi de 'Fa' Guannian* 〈《鶡冠子》與戰國時期的'法'觀念〉," *Huadong Zhengfa Xueyuan Xuebao* 《華東政法學院學報》 6 (2005): 83–89. See also Carine Defoort, *The Pheasant Cap Master (He guan zi): A Rhetorical Reading*, SUNY Series in Chinese Philosophy and Culture (Albany: State University of New York Press, 1997), 188ff. Graham himself bemoaned the fact that the *Heguanzi* receives too little attention; see his "A Neglected Pre-Han Philosophical Text: *Ho-kuan-tzu*," *Bulletin of the School of Oriental and African Studies* 52, no. 3 (1989): 497–532; and *Unreason within Reason: Essays on the Outskirts of Rationality* (La Salle: Open Court, 1992), 122f.
55. The clearest study remains R. P. Peerenboom, *Law and Morality in Ancient China: The Silk Manuscripts of Huang-Lao*, SUNY Series in Chinese Philosophy and Culture (Albany: State University of New York Press, 1993), esp. 273–83.
56. Following the commentary of Chen Qiyou.
57. A synecdoche for the state.
58. Following the commentary of Hong Yixuan 洪頤煊 (1765–1833).
59. Reading *zi* 資 in the attested sense of *zi* 恣.
60. "*Beinei* 〈備內〉," *Han Fei Zi Xin Jiaozhu*, 5.17.322. Compare the translation in Watson, *Han Feizi*, 86f.
61. Following the commentary of Chen Qiyou.
62. Following the commentary of Wang Xianshen 王先慎 (1859–1922).
63. "*Shuinan* 〈說難〉," *Han Fei Zi Xin Jiaozhu*, 4.12.261.
64. "*Jianjie Shichen* 〈姦劫弑臣〉," *Han Fei Zi Xin Jiaozhu*, 4.14.278.
65. Paul R. Goldin, *After Confucius: Studies in Early Chinese Philosophy* (Honolulu: University of Hawaii Press, 2005), 59–65.