

# DIFFERENCES AND INTEGRATION OF POLITICAL THOUGHT BETWEEN ANCIENT CHINESE CONFUCIANISM AND LEGALISM

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**Abstract:** Confucianism and Legalism are not only the two most influential ideological schools in pre-Qin China but also the main schools of thought in ancient Chinese intellectual history. This is due to their respective social nature and contrasting political values. In Pre-Qin Confucianism, rooted in the belief in the innate goodness of human nature, there is a strong emphasis on the significance of historical traditions. It promotes values such as benevolence, righteousness, propriety and wisdom, and seeks to redefine "Rite" by incorporating new values. It places great importance on the rule of virtue and aspires to achieve a state of Universal Harmony. Pre-Qin Legalism, driven by the inherent human inclination towards self-interest and personal gain, formulates a governance philosophy grounded in utilitarianism. It prioritizes the present and advocates for profound transformations through the implementation of strict "law" to attain national prosperity and military strength. As a result, ancient China formed different traditions of the rule of virtue and law, laying the foundation for the complementary nature of Confucianism and Legalism. This article analyzes the factors of differentiation and the process of integration in Confucian and legalist political philosophy, aiming to provide insights into the construction of contemporary political philosophical systems.

**Keywords:** Political philosophy. Confucianism. Legalism. Integration of Confucianism and Legalism.

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**Resumen:** El confucianismo y el legalismo no sólo son las dos escuelas ideológicas más influyentes de la China anterior a Qin, sino también las principales escuelas de pensamiento de la historia intelectual de la antigua China. Esto se debe a su respectiva naturaleza social y a sus valores políticos contrapuestos. En el confucianismo anterior a Qin, arraigado en la creencia en la bondad innata de la naturaleza humana, se hace mucho hincapié en la importancia de las tradiciones históricas. Promueve valores como la benevolencia, la rectitud, el decoro y la sabiduría, y trata de redefinir el "rito" incorporando nuevos valores. Concede gran importancia al imperio de la virtud y aspira a alcanzar un estado de Armonía Universal. El Legalismo Pre-Qin, impulsado por la inherente inclinación humana hacia el interés propio y el beneficio personal, formula una filosofía de gobierno basada en el utilitarismo. Prioriza el presente y aboga por profundas transformaciones mediante la aplicación de una "ley" estricta para alcanzar la prosperidad nacional y la fuerza militar. Como resultado, la antigua China formó diferentes tradiciones del imperio de la virtud y la ley, sentando las bases de la naturaleza complementaria del confucianismo y el legalismo. Este artículo analiza los factores de diferenciación y el proceso de integración en la filosofía política confuciana y legalista, con el objetivo de aportar ideas para la construcción de los sistemas filosóficos políticos contemporáneos.

**Palabras clave:** Filosofía política. Confucianismo. Legalismo. Integración de confucianismo y legalismo.

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## DIFFERENCES AND INTEGRATION OF POLITICAL THOUGHT BETWEEN ANCIENT CHINESE CONFUCIANISM AND LEGALISM

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**Abstract:** Confucianism and Legalism are not only the two most influential ideological schools in pre-Qin China but also the main schools of thought in ancient Chinese intellectual history. This is due to their respective social nature and contrasting political values. In Pre-Qin Confucianism, rooted in the belief in the innate goodness of human nature, there is a strong emphasis on the significance of historical traditions. It promotes values such as benevolence, righteousness, propriety and wisdom, and seeks to redefine “Rite” by incorporating new values. It places great importance on the rule of virtue and aspires to achieve a state of Universal Harmony. Pre-Qin Legalism, driven by the inherent human inclination towards self-interest and personal gain, formulates a governance philosophy grounded in utilitarianism. It prioritizes the present and advocates for profound transformations through the implementation of strict “law” to attain national prosperity and military strength. As a result, ancient China formed different traditions of the rule of virtue and law, laying the foundation for the complementary nature of Confucianism and Legalism. This article analyzes the factors of differentiation and the process of integration in Confucian and legalist political philosophy, aiming to provide insights into the construction of contemporary political philosophical systems.

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### INTRODUCTION

Confucianism and Legalism are the core elements of ancient Chinese political philosophy, originating from distinct aspects of traditional Chinese culture. Confucianism, inherited from the moral and humanistic traditions that developed since the Yin and Zhou dynasties, elevated traditional ideas into a humanistic school of thought. On the other hand, Legalism, influenced by the experiences of successive transformations during the disintegration of kinship politics in the Western Zhou dynasty, constructed a comprehensive political methodology and implemented it, forming a school of thought based on the interests of the monarchy. During the later period of the Warring States period, the moral ideals of Confucianism failed to find any realization, while Legalism fulfilled its dream of serving a strong state in the state of Qin. When the Confucian philosopher Xunzi visited Qin and witnessed the flourishing and well-organized governance under Legalism, it deeply influenced him. He realized that Confucian political ideals could become possible within the political methodology of Legalism. Consequently, he advocated prospering propriety and respect for laws. The convergence of Confucianism and Legalism emerged in Xunzi's thoughts. After the establishment of a unified political situation in China, the integration of Confucian and

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legalist philosophical thoughts was no longer determined by the thinkers' will . Instead, it became a historical inevitability determined by the objective relationship between political patterns and sociocultural foundations.

## **1 OPPOSING FACTORS IN ADMINISTRATIVE THOUGHT**

### **1.1 OPPOSITE FOUNDATION — VIEW ON HUMAN NATURE**

Human nature is an important proposition that ancient Chinese thinkers paid attention to. During the period of contention among a hundred schools of thought, such as Confucianism, Mohism, Taoism, Legalism and other ones, all discussed human nature, focusing on the good and evil of human nature. Confucius and Mencius, prominent Confucian philosophers, upheld the belief that human nature is inherently good. However, the subsequent Xunzi brought about a significant shift in the understanding of human nature within Confucian thought, proposing that human nature is inherently inclined towards evil. Legalism held a clear theory that human nature is evil. Judging the good and evil of human nature is not only the speculation of ancient philosophy, but also, to a large extent, the starting point of ancient thinkers' political theories (Jia, 2019, p. 273). In the realm of political philosophy in Confucianism and legal theory, the human beings' inherent nature, whether good or evil, serves as a crucial theoretical foundation in determining how to govern individuals and society. It influences decisions on whether to administer a country through propriety and virtues, educate the populace through propriety and music, or rule the nation based on laws. This perspective also influences the approach of rewarding good behavior and punishing wrongdoing, as well as the methods of education and guidance within a legal framework.

Among the Confucian administrative thinkers, it was Confucius who first clearly raised the issue of human nature. His most famous sentence on human nature is “By nature, men are nearly alike; by practice, they get to be wide apart” (Zhang, 2019, p. 32). It refers to each person's natural essence, and “practice” refers to acquired efforts and behaviors, such as education, learning, each person's environment and habitual behavior restricted by external conditions, etc. Confucius' theory of human nature established the direction of the theory of human nature after Confucianism. Although Confucius' theory did not expand, he pointed out that the reason why people are different is due to the difference in acquired customs. Mencius was the first Confucian to elaborate on the issue of “human nature” more systematically. He believes that the reason why everything in the world is different stems from the different nature of each. The man's essence, which is different from animals and makes him human, lies in human nature. He said: “The tendency of man's nature to be good is like the tendency of water to flow downwards. There are none but have this tendency to be good, just as all water flows downwards” (Zhao, 2017, p. 57). He also said: “Benevolence,

righteousness, propriety, and knowledge are not infused into us from without. We are certainly furnished with them. And a different view is simply owing to want of reflection". Human nature is not only the basis for personal ethical and moral life but also the basis for the monarch to implement political opinions. For the first time, he put forward the theory of "human nature is inherently good", believing that benevolence, righteousness, propriety, and knowledge are the human beings' four virtues. As long as they work hard, everyone can reach the state of supreme goodness and become a saint. Confucius (2019, p. 25) said:

The so-called Saint, his virtue and the law of nature are one, changes without a trace, seeks the truth of everything, gets along with nature, blends the truth into himself. Is bright like the sun and moon, and behaves like a god. People don't know his virtue, even their neighbors. This is a Saint.

Because they believed in the goodness of human nature, both Confucius and Mencius pinned their hope of rescuing the ills of the times on the ruler's governance and virtue, that is, the restoration of Confucian core morals, such as filial piety, loyalty, forgiveness, benevolence, righteousness, propriety, knowledge and trust. To restore and maintain these moral items, everyone becomes a gentleman or even a sage, and the country and society can be stable and harmonious. The central content of virtue is "filial piety", which is the source of all goodness and the foundation of benevolence and righteousness. For this reason, Confucius (2019, p. 15) earnestly and tirelessly remarked:

A young man, when at home, should be a good son; when out in the world, a good citizen. He should be circumspect and truthful. He should be in sympathy with all men, but intimate with men of moral character. If he has time and opportunity to spare, after the performance of those duties, he should then employ them in literary pursuits.

Mencius believes that the essence of "filial piety" is "benevolence and righteousness." He states that "The reality of benevolence is to serve relatives; the reality of righteousness is to obey elders". (Zhao, 2017, p.32). Filial piety is the greatest good, the foundation of life, far surpassing all external norms (Lin, 1999, p. 58). Father's benevolence, son's filial piety, monarch's benevolence and minister's loyalty are in line with human nature and with the requirements of human goodness, and are justified as they should be. Therefore, "respecting others" and "being close to relatives" are both good, and it is inhumane and for evil to violate respecting and respecting relatives. While the theories of human nature put forth by Confucius and Mencius, which lean towards inherent kindness, may be seen as somewhat idealistic, they depict human beings as fundamentally possessing good-natured qualities. This perspective reveals the humanistic sentiments of Confucianism, emphasizing the value of life and highlighting a deep concern for human welfare. It also reflects the emphasis within

Confucian political thought on fostering goodness through virtue and benevolence, rather than solely relying on punitive measures to deter evil.

Legalism focuses on reality. The school of thought acknowledges the ongoing development of history and the evolving nature of society. Consequently, it diverges significantly from the perspective of Confucianism on human nature. Legalists approach their analysis from the standpoint of individuals' specific and realistic interests and desires. They employ the concepts of "good" and "evil" to interpret human nature and attribute self-interest and personal gain to it. Legalists believe that people possess inherent selfishness, favoring profit and detesting harm. Individuals are driven by self-centeredness rather than a concern for the collective, their motives revolve around seeking personal gain, avoiding harm, pursuing happiness and accumulating wealth. These traits are considered unchangeable. Legalist thinkers, including Guan Zhong<sup>2</sup> and Shang Yang<sup>3</sup>, in earlier times, and Han Fei, in later periods, all champion the notion that human nature is inherently flawed (Zhao, 2006, p. 123). In *Guanzi*, it is stated: "People, in general, cherish life and abhor death; they covet profit and detest harm". "Benefit comes, harm goes. The inclination of human beings to pursue personal gain is likened to water naturally flowing downhill" (Chi, 2009, p. 55).

This fundamental nature of pursuing profits is unchangeable, applying not only to ordinary individuals but to everyone as well. Shang Yang proclaimed: "Now when bandits and thieves disregard the prohibitions set by the ruler above and violate the code of conduct expected from subjects below, they humiliate themselves and endanger their own lives. Yet, they persist due to their pursuit of personal gain". He also said: "The nature of the people is such that when hungry, they seek food; when burdened, they seek leisure; when in pain, they seek pleasure; and when humiliated, they seek honor" (Shang Yang, 2011, p. 66). These are the emotions and desires of the people.

In the late Warring States period, Han Fei, the renowned master of Legalism, advocated the "expanded theory of evil humanity." Han Fei combined the concept of human nature with the perspective of historical evolution, demonstrating through social evolution, economic necessities and psychological desires that human nature is inherently evil. He argued for the inevitability of establishing strict laws and the necessity of severe punishments. Han Fei regarded self-interest as a fundamental aspect of human nature, stating that a person's preference for good and aversion to evil is like possessing one's property. To illustrate this point, Han Fei used a metaphor: "Eels are like snakes, and silkworms are like caterpillars. When people encounter snakes, they are frightened; when they see caterpillars, their hair stands on end. The fisherman catches eels, while the woman picks up silkworms. Both actions are driven by self-interest" (Zhang, 2016, p. 69). This metaphor serves as a warning to rulers,

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<sup>2</sup> Guan Zhong: Statesman, military strategist, legalist representative figure in the Spring and Autumn Period.

<sup>3</sup> Shang Yang: Statesman and legalist of the Warring States period.

emphasizing that everyone is driven by selfish motives. Han Fei urged rulers not to trust anyone, as individuals can manipulate and even harm each other, including their parents, spouses and children. “Regarding children, parents’ attitude towards them is as follows: when a son is born, they congratulate each other, but when a daughter is born, they kill her”. Han Fei unabashedly exposed the dark side of human nature. Contrary to Confucian ideals that emphasize benevolence as a means to inspire subordinates, Han Fei believed that such notions were naive and misguided. He argued that even familial relationships were governed by naked self-interest, let alone the relationships between rulers and subjects, which lacked any familial affection (Luo, 2011, p. 9). Han Fei used extreme examples to demonstrate that the pursuit of personal gain is shared by both common people and rulers. He asserted that all human behavior is driven by self-interest, and people’s psychological tendencies revolve around “[...] fearing punishment and celebrating rewards,” which he considered innate. These desires inevitably lead to conflicts and struggles. Han Fei concluded: “When people possess desires, their plans become chaotic. When their desires become excessive, their evil intentions prevail, leading to disastrous consequences” (Zhang, 2016, p. 55).

To sum up, the legalist theory of human nature revolves around realistic desires, such as “likes and dislikes” and “interests and harms”, positioning the relationship among people as a naked interest relationship. Priority is given to fame and wealth, while family bonds and moral principles take a secondary role. The human beings’ nature is born with and is caused by the likes and dislikes of “people’s hearts” and “human feelings”. And it will not change at all. So moral education is useless. People are pursuing material things, satisfying fame, wealth and glory all their lives, and they don’t stop until they die. The views on the human nature of Confucianism and Legalism laid the foundation for their political philosophy.

## **1.2 OPPOSITION BETWEEN THE RULE OF PROPRIETY AND LAW**

“Rite” is a concept that Confucianism has been using and emphasizing, which was initially expressed as unwritten customs and traditions, and later formed concrete provisions on this basis. Early propriety encompassed a wide range of elements, including various laws, regulations, rules, systems, and even moral norms, etiquette and propriety. As a result, “Rite” played a significant societal role in pre-Qin society. Zuo’s Commentary on The Spring and Autumn Annals stated: “Propriety governs the state, establishes order, regulates the people, and benefits future generations” (Wang, 2012, p. 25). Summary of the Rules of Propriety Part 1 of *The Book of Rites* proclaimed: “Morality embodies benevolence and righteousness; without propriety, it cannot be achieved”. To educate and guide the common people, propriety must be in place. In resolving disputes and lawsuits, propriety must be employed. Between ruler and subjects, superiors and subordinates, parents and children, and siblings, propriety must be established. In the realm of officialdom and learning, without propriety,

there can be no closeness. In governing the court and leading the military, administering laws and regulations, propriety's dignity and authority must prevail. In prayer, offering sacrifices, and paying respects to gods and ancestors, without sincerity and solemnity, propriety cannot be upheld (Wang, 2021, p. 15). These discussions not only illustrate the significant social role of "rite" but also indirectly reflect its extensive connotations.

Confucius lived during a time of significant historical turbulence, marked by the virtuous rulers' absence and the decline of ceremonial rituals and music. During the Spring and Autumn Period, the patriarchal system, established on the foundation of clans in the Western Zhou Dynasty, eroded. The system shifted from being based on hereditary blood ties among patriarchs to a contentious martial dominion held by princes and ministers. Confronted with these circumstances, Confucius acknowledged the limitations of his influence and assumed the responsibility of "restoring propriety." His aim was to reconstruct the moral relationships and political structure of human society through the lens of proper conduct. According to Confucianism, the hierarchical classification of human society is natural. Within the family, differences in seniority, age, gender and blood relationships naturally determine people's status, and their behaviors are influenced by factors, such as seniority and closeness. In society as a whole, due to variations in social class, there are divisions of superiority and inferiority among individuals. The role of propriety is to confirm and uphold this established hierarchical order (Wang, 2007, p. 101).

In contrast to Confucianism's emphasis on the "rule of propriety" that maintains the hierarchical order of the aristocracy, the legalists put forth the concept of the "rule of law" which takes law as the standard of governing, acting under the law without exempting the privileged and without a hierarchy of punishment. This proposition aims to ensure that both nobles and commoners are subject to equal penalties. Shang Yang, a prominent legalist figure, was the first to advocate this proposition. Shang Junshu's "Rewards and Punishments" states:

There is no differentiation in punishment. Whether they are ministers, generals, officials, or common people, anyone who disobeys the king's orders, violates state regulations or breaks the established system shall not be exempt from punishment. If one had achieved military merits, but later committed an offense punishable by law, it would not result in a reduction of punishment. Similarly, if one had performed good deeds in the past but later committed an error, it would not undermine the enforcement of the law (Gao, 2011, p. 96).

According to Shang Yang, except for the monarch, all individuals are equal in the application of the law. This proposition, in summarizing the historical lessons of the collapse of legal systems due to favoritism, challenged the Confucian tradition of "officials not being subject to punishment" and "tolerating and concealing between relatives." It shattered the old legal principle that "officials are not punished for their offenses" and reflected a certain

level of equality under the law, wherein nobles and commoners were equally subject to legal consequences, signifying historical progress. However, this proposition had its limitations, as excluding the monarch from the legalists' theory of the "rule of law" presented significant flaws that could not be overcome.

### **1.3 OPPOSITION BETWEEN THE RULE OF VIRTUE AND PUNISHMENT**

Confucius placed great importance on morality. In his view, morality encompasses a comprehensive ideological system. Individuals should respect and cultivate morality, striving to improve their moral character through daily actions. A virtuous ruler, who governs with moral excellence, is compared to the North Star, around which other stars revolve. Effective governance of a country involves not only the application of political and criminal laws, but also the people's education through morality and etiquette, fostering their submission. If governance relies solely on political laws and punishments, without a foundation of morality, "[...] the people may escape punishment but remain shameless" (Zhang, 2019, p.25). Even if people are free from crimes, they lack a sense of shame.

Confucius emphasized the primacy of "morality," with virtue being the core, encompassing the broadest moral category of good and evil. The "virtue" here refers more to the good virtue, the patriarchal morality maintained by the ruler. Therefore, Confucius' concept of "morality" is closely intertwined with the notion of "propriety." Mencius further developed the concept of rule by virtue and expressed it as "benevolent governance" (Song; Wang, 2012, p. 95). In Mencius' "Gongsun Choushang", it is stated: "Everyone has a heart that cannot bear to see others in pain. The kings had this heart, and now they have corresponding policies. With such a heart and policies, the world can be governed and held in the palm of your hand" (Zhao, 2017, p. 48). Here, the "corresponding policies" refers to Mencius' idea of "benevolent governance." Mencius also refers to this as "a heart that cannot bear to see others in pain" as "the milk of human kindness", emphasizing its crucial role. Mencius' theory of benevolent governance fully developed people-centered thinking within the traditional concept of rule by virtue, highlighting the decisive role of protecting the people's well-being in the world.

In line with this notion, Mencius also discussed the distinction between a "kingly way" and a "rule by force of dictators". "Relying on sheer strength or forces and using benevolence and righteousness as a pretext to conquer the world can lead to hegemony over the feudal lords" (Zhao, 2017, p.49). On the other hand, by implementing benevolence and righteousness through moral means, one can win the hearts of the people and gain their loyalty... Relying on sheer strength to force people into submission will not lead to genuine loyalty; rather, people will comply only because of the overwhelming power. On the other hand, when people are guided by moral principles, they will willingly and sincerely submit.

It is similar to the more than seventy disciples who wholeheartedly followed and submitted to Confucius. That is to say, through the implementation of benevolent governance, they were able to win the allegiance of the people (Song, 2009, p. 126). The term “virtue” here obviously does not refer to the external measures of virtuous governance but rather emphasizes the difference between convincing people through virtue and force. It highlights the genuine submission of Confucius’ disciples, who were charmed by his moral personality. The disparity between a “kingly way” and a “rule by force of dictators” lies in whether benevolent governance is based on “morality” or “power.” The former emphasizes moral education, while the latter relies on coercion. The rule of virtue, based on benevolent governance, represents the “kingly way” pursued by Mencius, reflecting his emphasis on the supremacy of morality and showcasing a strong moral idealism.

In pre-Qin Confucianism, “teaching” was considered a practical means to realize “morality” and promote moral education. Moral education became the primary method through which Confucianism sought to transform rulers and guide the people toward moral conduct. This established the central position of morality in the development of Confucianism. The Confucian school believed that “teaching” was the means of implementing virtue and putting it into practice. It was closely related to “propriety,” which served as the specific operational standard of “morality.” While “propriety” provided the specific norms, “teaching” served as the means. Confucius was one of the earliest advocates of moral education. His ideas, such as “Education for all without discrimination” and “When three walk together, there must be one who can teach me” (Zhang, 2019, 15), were both educational methods aimed at cultivating individuals’ moral character. This is reflected in the principle of “Do not do to others what you do not want done to yourself,” which seeks to cultivate moral qualities and enhance moral cultivation (Ren, Yuan, 2019, p. 45). Mencius also emphasized the connection between education and morality, and the service function of education to morality. He emphasized the importance of filial piety in education, linking it with moral cultivation. Mencius believed that human nature could be nurtured. In his view, everyone is born with innate goodness, and through moral education, individuals can become virtuous sages akin to Yao and Shun.

Legalists also seek effective strategies for long-term social stability, but they reject the idea that a well-ordered society can be maintained solely through moral education. They question the notion that one or two sages or gentlemen can change societal trends and establish a country’s order. Contrary to the emphasis on Confucian moral education and “benevolence,” Legalism asserts that human nature is inherently self-interested and focused on self-preservation. The number of naturally altruistic individuals is small, limited to a few sages, while the majority of people are considered “ordinary” individuals. Therefore, relying solely on benevolence is insufficient to cultivate reliable altruistic behavior. Shang Yang remarked: “The benevolent can display benevolence towards others, but cannot make

others benevolent; the righteous can love others, but cannot make others spread love. Hence, benevolence and righteousness alone are insufficient to govern the world” (Shang Yang, 2011, p. 66). To effectively manage social disorder, a strict system of rewards and punishments must be established through law, enabling accurate and swift maintenance of social order. Punishment is to suppress evil, not to persuade good. Therefore, legalism emphasizes encouraging virtuous behavior through rewards, rather than solely relying on moral education. In contrast, punishment serves as a deterrent to restrain evil and prevent wrongdoing.

If you govern by punishment, the people will fear; being fearful, they will not commit villainies; there being no villainies, people will be happy in what they enjoy. If, however, you teach the people by righteousness, then they will be lax, and if they are lax, there will be disorder; if there is disorder, the people will suffer from what they dislike. What I call profit is the basis of righteousness, but what the world calls righteousness is the way to violence (Henglin, 2021, p. 129).

Han Fei, a prominent legalist, advocated the policy of “teaching with the law,” suggesting that “[...] in a well-governed state, there is no need for extensive writings and teachings; the law itself serves as the primary means of instruction, with officials acting as the teachers” (Zhang, 2016, p.19). Han Fei strongly criticized the rigid and conservative thinking of adhering to the sages’ wisdom, opposing the Confucian emphasis on benevolence, righteousness and morality. He advocated for the use of severe punishments, stating: “In applying punishments, light offences should be punished heavily; if light offences do not appear, heavy punishments will not come. This is said to be abolishing penalties using penalties” (Zhang, 2016, p.23). The purpose of severe punishment is to instill fear in the people, preventing them from breaking the law and ensuring the effective implementation of legal principles. Han Fei believed that fear of punishment would lead individuals to act cautiously and thoughtfully, using reason to govern their behavior. It can be seen from Han Fei’s argument that his purpose of severe punishment is not to punish people but to avoid the occurrence of evil through heavy punishment (Li, 2022, p. 23). He admired Shang Yang’s concept of “severe punishment for light offenses” — “Those who are good at maintaining order in ancient times prohibited what was considered trivial, and stopped what was easy because of the difficulty in stopping it”. He believes that “light offenses” are easy to commit and easy to eliminate. By imposing severe punishments on those who commit “light offenses,” a deterrent atmosphere can be created, causing people to fear and refrain from impulsive actions driven by desires. They would be less likely to take significant risks for minor benefits. Through this, the power of reason can be used to control one’s behavior, ultimately achieving effective governance of the entire society.

At the same time, Han Fei concretized the implementation of severe punishments and harsh laws by introducing measures, such as collective responsibility and exposing treason.

He proclaimed: “The laws against the wicked and deceitful begin by prohibiting its intentions, followed by prohibiting its speech, and then prohibiting its actions” (Zhang, 2016, p.3). Not only are actions that violate the monarch’s laws prohibited, but even discussions about alternative schools of thought are also forbidden. Any speech deemed ‘unlawful’ is opposed. Merely prohibiting speech is not sufficient, while the most effective approach is to prevent the emergence of dissenting ideas among the public. Han Fei believed that “For those who disobey laws, harbor ulterior motives, engage in private teachings, and oppose the current social order, if their actions are not prohibited, their organizations not dismantled to dissolve their factions, but instead they are respected, this is a serious oversight on the part of those in power” (Zhang, 2016, p.17). This is where Han Fei is more thorough than Shang Yang. He utilizes the system of collective responsibility to encourage mutual surveillance and disclosure among officials and citizens. “If there are still those connected to oneself who are prohibited, it is only natural for one to spy on others, fearing that they may not escape punishment. Those with treacherous intentions should not forget, as there are many who spy” (Zhang, 2016, p.18). Combining the two systems of collective responsibility and exposing treason, the negativity in human nature is released without any scruples, and they can be unimpeded by borrowing the hand of power. That is to say, every trivial matter is treated as a clue to crime, weaving a vast net across the entire country – ensuring that “[...] no light offense is tolerated” (Xia, 2021, p. 88).

## 2 FUSION OF CONFUCIANISM AND LEGALISM

The Warring States period was characterized by division and turmoil. Confucian ideas about governing the country, based on morality and propriety, appeared pedantic and unrealistic in the face of intense conflicts and were largely set aside. The harsh social realities overshadowed their teachings on the rule of virtue and benevolence. The ideal of cultivating inner virtues and promoting social harmony became unattainable for Confucianism. Confucian political ideals faced severe challenges. For Confucianism to progress further, it needed to incorporate relevant arguments and theories from Legalism. While Legalism disregarded or even rejected morality, the powerful governance established through “rule by law” required supplementation and correction through Confucian principles of people-oriented governance and the rule of virtue. Xunzi, who emerged from within Confucianism, fearlessly absorbed reasonable thoughts from various schools, particularly Legalism, greatly transforming the early Confucian ideological system and creating a blended system that emphasized both “propriety” and “law.” Xunzi believed that the rule of propriety required the support of the rule of law, and the rule of law needed the guidance of the rule of propriety. At the political and legal levels, these two aspects could blend and complement each other, setting a precedent for the integration of Confucianism and Legalism.

## **2.1 GRAND CEREMONY AND HEAVY LAW**

Differing from traditional Confucianism, Xunzi advocated the idea of grand propriety and law, which encompassed the combination of etiquette and law in a broader sense. This integration aimed to control and rebuild social order. While people's reverence and fear of the law contributed to its internal control, Xunzi emphasized that the primary function and meaning of the law resided in external control. Although the education of propriety and righteousness could persuade people without employing rewards and make them obey without imposing punishments, it could not address all the issues prevalent in society. Therefore, relying solely on propriety as a control method was insufficient. The disorder caused by the inherent evil of human nature required remedies through law and prohibitions enforced through severe punishments. Only by utilizing the law as an external control mechanism, all behaviors that disrupted social order could be restrained and penalized. Thus, indoctrination and punishment needed to be employed equally, leveraging their distinct social functions to jointly ensure stability and order in society (Li, 2018, p. 103). It is not difficult to see that the political status of "law" in Xunzi's thought has indeed been greatly promoted, and it and "rites" together constitute two indispensable means for the monarch to govern the country. In spite of this, Xunzi did not treat them equally, but insisted that "rites" was higher than "law", because "rites" was the value basis and guiding principle for the sages to formulate "law". In this sense, Xunzi started the process of "Confucianization of law", and it was from this that the measures of external Confucianism and internal law adopted by successive Chinese dynasties began (Yan, 2023, p.7).

## **2.2 PRINCIPAL VIRTUE AND SECONDARY PUNISHMENT**

The Qin Dynasty relied solely on laws and established a comprehensive legal system. However, the excessive use of punishments and severe penalties without proper moral guidance led to over-correction and cruel punishments, ultimately leading to the downfall of the Qin Empire. The failure of legalistic approach of the Qin Dynasty served as a lesson for the rulers of the Han Dynasty. Based on Qin's legal framework, they sought to integrate Confucian ethics and law, establishing a novel legal framework and opening a fresh era that emphasized virtue as the primary guiding principle with punishment serving as a supplement.

The Han Dynasty inherited the system of the Qin Dynasty, but scholars, such as Dong Zhongshu and Gongsun Hong, introduced Confucian ethics and principles into the law. They added annotations to the laws and regulations, infusing them with compassion and empathy. In the fourth year of the Diji era, during the Emperor Xiaoxuan's reign of the Han Dynasty (91BC-48BC), an imperial edict was issued, stating: "From now on, if a son conceals

his parents, a wife conceals her husband, or a grandchild conceals their grandparents, none of them shall be held accountable”. (Zeng, 2008, p.119). These efforts aimed to humanize and rationalize the legal system by incorporating Confucian ethics. Dong Zhongshu’s theory of yin and yang in heaven and earth further emphasized the importance of virtue. He believed that virtue is represented by yang, while punishment represents yin. Punishment is associated with death, while virtue is associated with life. Correspondingly, yang, often in the summer, to give birth and nourish for the job; yin is often empty in the dead of winter and is not used, so heavens approves the rule of virtue and does not advocate punishment. This assertion highlights the relationship between virtue and punishment, establishing the primacy of Confucian ethical values over strict adherence to the law (Kong; Zhou, 2013, p. 61).

Propriety and law complement each other and serve as tools for feudal rulers to govern their people. Confucius formulated the concept of the integration of propriety and laws for “morality”, “propriety”, “politics” and “punishment”, emphasizing the dominance of morality and the supplementary role of punishment. This idea has become the consensus among the ruling classes since the Han Dynasty. In his work *Chinese Law and Chinese Society*, esteemed historian Qu Tongzu curated numerous historical judicial practice materials to instill moral values in individuals. These materials employed the Confucian principle of “no litigation” to impart moral education to those involved in legal disputes. This approach fostered a proactive mindset of case management aligned with moral guidance. By means of moral education and mediation, the disputing parties frequently experienced a sense of self-reflection and voluntarily embarked on reform efforts. This process, to a certain extent, contributed to enhancing societal stability. Confucianism advocates the rule of propriety, considering propriety as the foundation for governing in an ideal society, while Legalism emphasizes the rule of law as the basis for a stable country. Both approaches aim to rule the world, and rulers have favored them.

## CONCLUSION

Both the development of Confucianism and the use of Legalism in governance demonstrate us a fact: just as the rule of propriety cannot be separated from the rule of law, the rule of law cannot be separated from the rule of propriety, and the construction of a stable and harmonious order is precisely the need for a dialectical combination of virtue and law. In other words, a well-functioning order requires the integration of propriety and laws, and the complementary nature of value orientations. On one hand, it reflects the rational need for external norms alongside the pursuit of inner morality; on the other hand, justice and coercion in the rule of law cannot be separated from the human initiative and emotional appeal. Only by combining the rule of virtue and the rule of law can a harmonious order be better realized.

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