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Niccolò Machiavelli: The Han Fei of Italy?

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The history of political thought pivots on Machiavelli's 16th century writings. His concentration on techniques of state survival and his audacious marginalizing of morality were revolutionary. Less well-known is the similar concentration and marginalizing by Han Fei in the China of the 3rd century B.C. Not only were his methods and conclusions similar, but just as Machiavelli was condemned by the Christian world even as his approach came to dominate it, so Han Fei was condemned by the Confucian intelligentsia but changed how Confucians thought.

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I. INTRODUCTION

Niccolò Machiavelli started a new tradition in political philosophy. “I have decided to take a path as yet untrodden by anyone” he said, comparing himself to the conquistadors of his day who “seek unknown waters and lands” (*D.I.Preface*).¹ His friend Francesco Guicciardini told Machiavelli he was “extravagant from the common opinion and inventor of new and unusual things” (as quoted in Giorgini 2013, 627). This extravagance was widely recognized, and just as widely disapproved. Some fifty years after Machiavelli’s death, Innocent Gentillet describes *The Prince* as the corrupter of French politics:

And whoever has read the *Maxims* of Machiavelli that we will treat of hereafter and go into them in considering the specifics of the government of France will realize that the precepts of the *Maxims* of Machiavelli are for the most part practiced and put into effect and execution point by point. ... It is notorious that the books of Machiavelli have for fifteen years been as familiar and ordinary in the hands of the court nobility as the breviary in the hands of the village curate. (Gentillet 1576, 16)

Gentillet was not paying Machiavelli a compliment: he was referring to the St. Bartholomew’s Day Massacre. Freethinker and strategist Frederick the Great of Prussia said, “I have always considered Machiavelli’s *Prince* as one of the most dangerous works ever to be disseminated in the world, “and “Machiavelli’s *Prince* is to morality what the work of Spinoza is to faith: Spinoza sapped the foundations of faith and aimed at no less than to overthrow the edifice of religion: Machiavelli corrupted politics and undertook to destroy the precepts of sound morality” (Hohenzollern 1981, 31)

Modern scholars are just as strong in their claims for Machiavelli’s novelty and influence. Benedetto Croce says that Machiavelli discovered “the necessity and autonomy of politics, which is beyond or rather, below moral good and evil, which has its own laws against which it is useless to rebel, politics that cannot be exorcised and driven from the world with holy water” (Croce 1945, 59). Robert Black says, “[N]o political thinker is more original.... He was the first to vindicate a pluralist society: according to Machiavelli, social conflict was not only inevitable but desirable” (Black 2013, 18). Leo Strauss says that although immoral political behavior is as old as humanity, Machiavelli broke with all earlier philosophers because he was willing to defend immorality publicly (Strauss 1973, 272)

C. Bradley Thompson cites John Adams as recognizing Machiavelli’s pioneer status, “the great restorer of true politics, “who should receive credit for being the first to have “revived the ancient politics” and for “the revival of reason in matters of

¹ We will use the abbreviations P.17, D.I.53, and H.16 for the seventeenth chapter of *The Prince*, book I chapter 53 of *The Discourses*, and chapter 16 of the *Han Fei Zi*. The original text of *Han Fei Zi* comes from Wang Xianshen (Qing Dynasty). *Explaining Han Fei Zi* (韩非子集解). Zhonghua Book Company, 1988, and is translated into English by the authors. We also refer to an English translation by Wenkui Liao. This quotation is from Mansfield & Tarcov’s 1996 translation while the remaining quotations of Machiavelli’s works come from the Constitution Society.

government.” Isaiah Berlin pictures Machiavelli as an inadvertent founder of liberalism, a “major turning point” whose effects were “the bases of the very liberalism that Machiavelli would surely have condemned as feeble and characterless, lacking in single-minded pursuit of power” (Berlin 1997, 57). In his survey of Machiavelli scholarship John Geerken says, “The Machiavelli of recent studies is the father of modern political science, of metapolitics and *raison d’État*, the father of heroic morality and modern comedy, of Machiavellism and anti-Machiavellism; the father of radical, critical, naturalistic humanism; and a father of modern Italian nationalism,” and continues for half a page listing the diverse and contradictory influences attributed to Machiavelli (Geerken 1976, 365). Friedrich Meinecke depicted a dreadful, perhaps hyperbolic prospect, that “Machiavelli’s theory was a sword which was plunged into the flank of the body politic of Western humanity, causing it to shriek and rear up, “a “corrosive poison” because “the achievement of political purposes could if necessary overstep any bounds” Meinecke (1924, 50). Harvey Mansfield puts it most bluntly, saying of *The Prince* that “this momentous book, together with its companion, the *Discourses on Livy*, neither published until after his death, announces an enterprise affecting all human beings today: the creation of the modern world” (Mansfield 2013, 4).

“The creation of the modern world.” Hyperbole or fact? Machiavelli started a new way of thinking about political philosophy, a way long used by practitioners (if perhaps guiltily), but revolutionary for the systematic thinkers who developed it after him, from Bacon to Hobbes to Locke to Marx to modern political scientists, law professors, and economists.²

Yet Han Fei said it all, 1,700 years earlier. Not "all" perhaps. Han Fei said nothing about the republics that so interested Machiavelli. But there are eerie parallels in their ideas, lives, and influence. Machiavelli did not derive any of his ideas from Han Fei, of course, who was completely unknown in the West, but Han Fei, like him, was professional diplomat whose political realism contended against the dominant philosophy of his day and continued to influence it for centuries after his death.³

II. The Two Thinkers’ Lives and Styles

II.1. Han Fei:

Han Fei⁴ (281-233 BC) lived in China in the late Warring States period, when the

² On economists, see Hirshleifer (1994). Hirshleifer begins with the famous Edmund Burke quote which could be another comment on the influence of Machiavelli: “The age of chivalry is gone. That of sophisters, economists, and calculators, has succeeded and the glory of Europe is extinguished for ever.”

³ If Machiavelli has any ancient antecedent, it would seem to be Lucretius, with his unconcern for the other classical writers’ pursuit of virtue. Innocent Gentillet said it was from the school of Epicurus that Machiavelli and the Machiavellians have emerged (*sont sortis*) (Gentillet (1974, II.ii.108–20). On the influence of the Epicureans on Machiavelli, see Rahe (2007).

⁴ Zi (子, "Tzu" in the older Wade-Giles transliteration) which means “master”, is sometimes added to the name “Han Fei” (韩非) as a respectful form of address. “Han Fei Zi” means “Master Han Fei”. The book that contains his work is called *Han Fei Zi* (韩非子). We will follow convention in using “Han Fei” for the man and “*Han Fei Zi*” for the book.

feudal system of the Zhou dynasty had broken down. The last Zhou king had to seek protection from a tiny state, his dominion confined to one city. Also gone were the rituals (礼) that Confucius applauded in the “Spring and Autumn” period of relative order two hundred years before. Confucianism was the most important of the “one hundred schools of thought” (诸子百家). The school to which Han Fei belonged was the Legalists, whose best-known figure before him was Lord Shang Yang. The fragmentation was both ideological and political. China was divided into many states, of which the principal were Qin (秦), Chu (楚), Han (韩), Zhao (赵), Wei (魏), Qi (齐), and Yan (燕).



Figure 1: Han Fei’s Homeland⁵

Han Fei was a prince of Han, a relatively weak state as may be seen from Figure 1. Han had the least territory of the Warring States and was surrounded by the other six. It was thus constantly involved in conflict. Han’s golden age was 352--337 BC, when the prime minister was Shen Buhai, an intellectual predecessor of Han Fei. By Han Fei’s time, Han was at its last gasp. The western state of Qin was proceeding to annihilate the other six states. Adjacent to Qin, Han was among the first to be absorbed. In 262 BC, when Han Fei was nineteen, Qin invaded Han and isolated the county of Shangdang, whose governor offered the county to Zhao. Thus began the biggest war of the Warring States period, the War of Changping. When it ended three years later, four hundred thousand Zhao captives were killed by the Qin army on Han’s soil. Qin hegemony was visibly on its way.

In his early years Han Fei and Li Si, later the prime minister of Qin, were both students of Xun Zi, the leading Confucian of the time. Han Fei worked as a diplomat for Han. An unwavering patriot, he was saddened by Han’s pathetic condition. Hard as he tried to persuade the king with his essays, it was to no avail.

Han Fei was much appreciated by the enemy king of Qin, however, who after reading his *Gu Fen* and *The Five Vermin*, said “Alas, if I could meet and befriend this person, I could die with no regret” (Sima Qian (Western Han)). In 233 B.C., Han had to surrender yet more of its territory to Qin and became a Qin protectorate. At the age of 48, Han Fei was sent on a mission to Qin. After he arrived, Li Si turned against him out of jealousy and successfully urged the admiring King to execute him on the

⁵ Map: "EN-HAN260BCE" by Philg88 - Own work. Licensed under CC BY-SA 3.0 via Commons - <https://commons.wikimedia.org/wiki/File:EN-HAN260BCE.jpg#/media/File:EN-HAN260BCE.jpg>.

grounds that such an able Han patriot was a danger to Qin. Han Fei's writings are handed down to us as the compilation of essays and maxims called the *Han Fei Zi*.

II.2. Machiavelli:

The Renaissance Italy of Niccolò Machiavelli also saw the dismantling of an old era and the building of a new. High in the consciousness of Italian intellectuals was the fall of the Roman Empire and the end of its pagan religious rites. Only the Christian church survived the fall of the Empire, and that in corrupted form. From the turmoil of the centuries in Italy, several warring states emerged, of which in Machiavelli's time Venice, Florence, Milan, the Papal States, and Naples (acquired by Spain in 1504) were the most important, with Florence located in the middle of them. WE NEED TO GET PERMISSION TO USE THIS MAP. I CAN'T FIND THE SOURCE. WE PROBABLY NEED TO DRAW A NEW ONE.



Like Han Fei's, Machiavelli's family had a long and glorious history in his city, though both family and city were in decline. Florence was facing a new threat. Under the rule of the Medici's, Florence had by means of small wars fought by mercenaries (criticized by Machiavelli just as as "swordsmen" were by Han Fei) become one of the most prominent states in Italy. Italy itself was at its millennial height of intellectual creativity, just as China was

at the time of the Hundred Schools--- Machiavelli studied with famous scholars such as Marcello Virgilio Adriani and Paolo da Ronciglione, just as Han Fei studied with Xun Zi (Mansfield 2015; Nederman 2014). But in the same way as the western "Evil Empire" of Qin loomed over Han, rising powers from the west and north--- France, Spain, and Austria--- were starting to overshadow the petty wars of the Italian states. In 1494, when Machiavelli was 25, Charles VIII of France invaded Italy. Because of public outrage over their subservience to France, the Medici lost power.

Four years later, Machiavelli entered public affairs, serving as a diplomat in the new republican government trying to stave off domination by the crude but vigorous rising powers. Although the Italian states ended as Hapsburg puppets some fifty years later, Machiavelli's career as a diplomat was longer and more successful than Han Fei's. In 1512, however, the Medici pope Leo X overthrew the Florentine Republic with the aid of a Spanish army and restored his family to power. Machiavelli's diplomatic career ended with dismissal and torture. It was to Machiavelli's forced retirement that we owe his major books, *The Prince* and *Discourses on Livy*.

II.3. Similarities in Style

The Prince, *The Discourses*, and the *Han Fei Zi* are composed of short chapters full of digressions and rambling that sometimes obscures the main points. They make frequent use of examples from the legendary past (Romulus and Emperor Yao), the historical past (Hannibal and the Chou emperors), and the recent past (Cesare Borgia and the alliances of the Warring States). Sydney Anglo (2005, 298) tells us that "Machiavelli adored aphorisms and maxims, and much of *Il Principe* and the *Discorsi*

Comment [DZ1]: The source should be here:
<https://faculty.history.wisc.edu/sommerville/351/rope.html>

is little else but a stringing together of a wide selection of such gnomic utterances." This is Han Fei's style too. With either writer, the reader must interpret as he reads. Classical Chinese is a gnomic language to begin with, with much ambiguity, allusion, and double meaning, which makes translation difficult. Machiavelli writes in the clearer language of Italian, but he is not only gnomic but esoteric (using the term as a style of rhetoric rather than as mysticism). He wrote to convey ideas, but the intended idea was not necessarily the idea written on the page. Prematurely post-modern, the style is often part of the meaning. A humorous example is in Machiavelli's *Life of Castruccio*, a biography full of false assertions. His friends might have wondered whether Machiavelli himself believed such nonsense, but they would be reassured upon reading of one false character to whom he gave the name of a landlord one of his friends had recommended (Black, 1980, 228). The meaning is clear: "This is hack work; don't take me seriously."

That Machiavelli wrote esoterically is the thesis of Leo Strauss's *Thoughts on Machiavelli*. Machiavelli is the prime example for the idea that Strauss's essay "Persecution and the Art of Writing" made famous: that in past ages philosophers wrote obliquely to avoid persecution while conveying dangerous ideas to philosophic readers (Strauss 1978). Strauss argues that Machiavelli intentionally introduced mistakes in logic and history that the careful reader would notice and understand; that he artfully arranged the order of his chapters to conceal the most dangerous of his ideas; that he used historical examples to represent impolitic current-day examples; that he located premises close to each other but left the reader to articulate the conclusion. Leo Strauss carries this interpretation to an extreme, but even Strauss's harshest critic, J. Pocock, agrees that esotericism was important in reading Machiavelli, however much he ridicules Strauss and Strauss's student, Harvey Mansfield, for the extent to which they apply the idea (Pocock 1975, 387).

Was Han Fei esoteric? We do not know. Whether writing is esoteric is intrinsically non-obvious. Finding what is hidden requires careful attention to the structure within and between sections, the details of word choice and phrasing, the small mistakes in examples. We are not equipped to do that, though we hope that this essay will inspire such investigation by someone immersed in the language and history of the Warring States period. Han Fei did not have the Church to deal with, however, and his philosophic predecessors were relatively recent and lacked authority. Confucius was not yet Aristotle. Indeed, even in Europe Aristotle was not yet Aristotle; one might imagine how Machiavelli would have written if he had lived in the time of Caesar rather than 1,600 years later.

Over a thousand years apart, the similarities in the themes of the two authors are surprising. If one digs into the political situations the two people were in, such similarities will, however, become a certainty rather than surprise. As we discussed above, both of their countries were undergoing turbulence. It was such fear of unrest and even anarchy that provided a similar impetus behind their political theories. Also, both of them were marginalized patriots, both sought to realize their political ideals through appealing to kings, and both wrote works addressed to kings.

III. THE WORLDVIEWS OF MACHIAVELLI AND HAN FEI

Let us now proceed to the ideas that Machiavelli and Han Fei share: evidence-based analysis, the selfishness of man, the importance of law as opposed to virtue, and the irrelevance of religion and morality except as means to an end. Since Machiavelli's work is better known in the West, we will weigh the discussion towards Han Fei.

1. We cannot look to ancient thinkers to learn how to live. The study of government should be based on evidence, realistic and modern rather than utopian and classical.

"We are much beholden to Machiavel and others, that write what men do and not what they ought to do," said Francis Bacon, for older philosophers made "imaginary laws for imaginary commonwealths, and their discourses are as the stars, which give little light, because they are so high" (Bacon 1803, 218). Bacon learned this skepticism from Machiavelli. It has three parts. Knowledge should be based on evidence, former thinkers deserve no deference, and we must look to the actual rather than the ideal. "Men always praise ((but not always reasonably)) the ancient times and find fault with the present" Machiavelli said. His explanation, typically, is the self-interest of historians. "And the first I believe is that the whole truth which would bring out the infamy of those times, and they amplify and magnify those others that could bring forth their glory" (D.II. Introduction). In *The Prince*, Machiavelli says that he will write something more "useful" than those who "have pictured republics and principalities which in fact have never been known or seen" (P.15).

Han Fei is as explicit as Machiavelli in his disdain for the past. The *Han Fei Zi*'s most important chapter is "The Five Vermin" (五蠹) --- scholars, swordsmen, lobbyists, courtiers, and tradesmen (H.49). In antiquity men lived outdoors and ate vegetables, grain, and raw clams and mussels, until sages invented houses and fire-making wood drills, in gratitude for which they were made kings. By our own time, though, proposing the idea of a house would just bring ridicule. Knowledge progresses, so "the sage neither seeks to follow the ways of the ancients nor establishes any fixed standard for all times but examines the things of his age and then prepares to deal with them." Progress is not a Chinese idea, but it is an idea of Han Fei's.

Both thinkers agree that though we may look to the past for examples--- which may illustrate our points even if they are inaccurate or if we have told them inaccurately--- we should not look to it for illumination. The past has no authority. The political writer must be a scientist, to use our modern term, looking for universal rules that apply in all times and all places and that are based on simple principles such as self-interest.

In China, the closest thing to science was the Taoist idea of nature and natural law--- human nature, as applied to politics. The French mass market translator's title

for his translation was apt: *Han-Fei-Tse ou le Tao du Prince*.⁶ Han Fei believed that by paying attention to men's self-oriented desires we can make society orderly. Tao is omnipresent in all events. Follow and preserve its decrees; live and die at the right time. Compare the names of different things, and trace the common source of the principles underlying them (H.8). Stephen Young (summarizing the view of Wang & Chang, 1986), describes the goal of government design as "a perfect correspondence between aspect of the objective, natural order (刑) and cultural constructs of the human mind (名)" (Young 1989). Han Fei goes so far as to analogize politics to geometry in the same way as Hobbes: "Once compasses and squares are established and one angle is made right, the other three angles will come out one after another" (H.8).

Old principles of governance are obsolete. Even if they were correct for their time, times have changed. To govern people now with the policies of the early kings is to be like the man who, after seeing a hare, run into a tree and die cast aside his plough to watch the tree all day and catch another hare (H.49). Han Fei even provides a theory for why appropriate governance has changed: "in olden times, men did not need to till, for the seeds of grass and the fruits of trees were sufficient to feed them; nor did women have to weave, for the skins of birds and beasts were sufficient to clothe them. Thus, without working hard, they had an abundance of supply. As the people were few, their possessions were more than sufficient." (H.49) This is a nice reversal of Marx's idea that communism is the last stage of history. For Han Fei, communism comes at the start, when there is too little luxury for property to exist. Because necessities were abundant and luxuries impossible, "the people never quarrelled" and "neither large rewards were bestowed nor were heavy punishments employed, but the people governed themselves" (H.49).

In such a primitive state, it was easy for ancient kings to be virtuous. "When Yao was ruling All-under-Heaven, his thatched roof was untrimmed and his beam unplanned. He ate unpolished grain and made soup of coarse greens and wore deerskin garments in winter and rough fibre-cloth in summer. Even the clothes and provisions of a gate-keeper were not more scanty than his" (H.49). Thus, an ancient king who abdicated lost nothing. Nowadays, on the other, hand even a prefect "hands down luxurious chariots to his descendants from generation to generation." Subjects and rulers alike now eschew virtue for survival and riches. Han Fei anticipates Thomas Malthus in explaining another obstacle. "Nowadays, however, people do not regard five children as many. Each child may in his or her turn beget five offspring, so that before the death of the grandfather there may be twenty-five grand-children. As a result, people have become numerous and supplies scanty" (H.49).

2. Human nature is self-serving, pursuing self-interest while avoiding danger.

The pursuit of safety and interest and the avoidance of danger is human nature for Han Fei (*Han Fei Zi-Jian Jie Shi Chen* (奸劫弑臣)). When times are easy, so is virtue,

⁶ *Han-Fei-Tse Ou Le Tao Du Prince. La Strat'gie de La Domination Absolue* (1999), Jean Levi, translator. The title of chapter 5 of the *Han Fei Zi* is "The Tao of the Sovereign".

but when times are hard, virtue disappears, Han Fei says. “In the spring of famine years men do not even feed their infant brothers, while in the autumn of abundant years even strange visitors are always well fed” (H.49). This is what Machiavelli and Han Fei strive above all else to avoid.

Machiavelli says that the people are “ungrateful, fickle, false, cowardly, covetous” chasing after interest and running away from contribution (P.17). On this fundamental understanding government should be based. “It is necessary to whoever arranges to found a Republic and establish laws in it, to presuppose that all men are bad and that they will use their malignity of mind every time they have the opportunity” (D.I.3). Some people may seem virtuous, but “if such malignity is hidden for a time, it proceeds from the unknown reason that would not be known because the experience of the contrary had not been seen,” and “which is said to be the father of every truth, will cause it to be discovered” (D.I.3). Oliver Wendell Holmes, Jr. is known in jurisprudence for his “bad man” theory of law--- that in thinking about law, the lawyer or legislator should think about the bad man, since the good man will be good regardless of what the law says (Holmes 1897). Machiavelli goes further, and denies that the good man even exists.

Even the idea of friendship is absent in Machiavelli, notes Paul Rahe (1992, 265), in contrast to Christians and ancients alike. Ingratitude and conspiracy are running themes. “A Prince, therefore, who wants to guard himself from Conspiracies ought to fear more those men to whom he has given too many benefits, than those to whom he had caused too many injuries. For these latter lack the opportunity, the former abound in them” (D.III.6). Chapter III.28 of the *Discourses* is titled, “That the actions of citizens ought to be observed, for many times a beginning of tyranny is hidden under a pious act” and the longest chapter of the *Discourses* is “Of Conspiracies” (D.III.6), which has even been called “a veritable book within the book” (Mansfield and Tarcov, 1996, Introduction).

If anything, Han Fei goes even further, in advising distrust not just of friends, but family:

Even the spouse who is so near and the son who is so dear to the sovereign are not trustworthy, much less can anybody else be trustworthy... when the clique of the queen, the princess, the concubine, or the crown prince, is formed, they want the ruler to die early. For, unless the ruler die, their positions will not be powerful. Their motive is not a hatred for the ruler, but their profits are dependent on the ruler's death. Therefore the lord of men must specially mind those who will profit by his death... Though the ruler guards against what he hates, the causes of his calamity consist in what he loves. (H.17)

Han Fei's view of the world is much like Jeremy Bentham's with its “two sovereign masters, pain and pleasure” (Bentham 1789, Ch. 1). For Han Fei, “The means whereby the intelligent ruler controls his ministers are two handles only. The two handles are chastisement and commendation” Both terms need elaboration. “To inflict death or torture upon culprits, is called chastisement; to bestow

encouragements or rewards on men of merit, is called commendation” (H.7). Crime is prevented not by education or rehabilitation, but deterrence. The good prince established such penalties that, “the greedy robber does not go to the ravine to snatch gold. For, if he goes to the ravine to snatch gold, he will not be safe” (H.26). The prince cannot be popular. Indeed, pity is a vice: in a prince. “Severe penalty and heavy conviction are hated by the people, but by them the state is governed. Mercy and pity on the hundred surnames and mitigation of penalty and punishment are welcomed by the people, but by them the state is endangered” (H.14). Love is unreliable. A king is only safe when people fear and obey him (*Han Fei Zi-Jian Jie Shi Chen*, 奸劫弑臣). Along the same lines, Machiavelli says “every prince ought to desire to be considered clement and not cruel. Nevertheless he ought to take care not to misuse this clemency.” Overuse of mercy will “allow disorders to arise, from which follow murders or robberies,” so “it is impossible for the new prince to avoid the imputation of cruelty” (P.17).

Our authors are realists, not materialists, though. One of Han Fei’s two handles is “commendations”, which is not just rewards but also encouragement. “Wherever lies profit, there people go; wherever fame is offered, there officers die.” Machiavelli too, while he emphasizes incentives, does not require these to be material incentives. The Romans let a consul act on his own responsibility so that “the glory should be all his, the love of which they judged should be a restraint as well as a rule in making him conduct himself well.” (D.II.33).

Whether the incentive be money or glory, though, it is self-centered:

In olden times, when Ts`ang Chieh invented the system of writing, he assigned the element "self-centered" (自环) to the character "private" (私); and combined the elements, "opposite to" and "private", to form the character "public" (公). The contradiction between "public" and "private" was thus from the beginning well understood by Ts`ang Chieh. To regard them both as having identical interest at the present time, is a calamity of thoughtlessness. (H.49)

3. Any Attempt To Order Society Should Be Based on Law, Not Virtue.

Virtue, the moral life derived from objective sources of natural and divine law, was in different ways the summum bonum of the Christian orthodoxy of Machiavelli’s day, and the classical world he comments on. With his focus on the good of the state, Machiavelli is opposed to both Christian obedience to God and to the classical devotion to living the good life. Christianity makes people esteem less “the honors of the world.” It has “glorified more humble and contemplative men rather than men of action” and it has made men “effeminate” (D.II.2). The state cannot use honors to motivate a man who is not selfish and vain enough to be motivated by them. It does not need men who turn their attention to God rather than worldly achievement, and it does need men who yearn for achievement and glory in warfare. Machiavelli’s criticism applies to the Aristotelian ideal as well. “Gentlemen” are those “who live idly on the provisions of their abundant possessions.” Because

they cultivate themselves rather than increasing their possessions, they are “pernicious to every Republic and to every Province” and are “enemies of every civil society” (D.I.55). Like the Christian, the gentleman’s motivations are not greed or fear, so it is difficult for the state to motivate him to achieve its purposes.

Machiavelli often uses the term *virtu* approvingly, but his virtue is different. In *Machiavelli’s Virtue*, Harvey Mansfield says that it has two themes, “the necessity of acquisition” and “opposition to fortune” (Mansfield 1995, 47). The virtuous man is one who seeks to actively manipulate the world, to overcome fortune, in order to acquire what Han Fei calls “commendation” and to avoid what he calls “chastisement.” Such a man in manipulating the world is also manipulated by it; he is particularly responsive to Han Fei’s “two handles.” Change the laws, and he will change his behavior. In contrast to Christian or classical virtue, his virtue is not an end in itself, but a capacity for obtaining possessions or honors.

Capacity as virtue is useful in a prince, too, if he uses it to acquire glory in enriching and defending the state, but it is even better if the prince’s aim is to leave a legacy of good laws. “Kingdoms which depend solely on the virtu of one man, are not durable for long, because that virtu fails with the life of that man, and it rarely happens that it is renewed in (his) successor” (D.I.11). What is better is if his virtue leads to laws that do not rely on any kind of virtue. “The welfare of a Republic or a Kingdom, therefore, is not in having a Prince who governs prudently while he lives, but one who organizes it in a way that, if he should die, it will still maintain itself” (D.I.11). Establishing good laws is difficult, since it requires a passive people to respond to the new incentives, but they are the way to achieve good behavior. “For as good customs have need of laws for maintaining themselves, so the laws, to be observed, have need of good customs” (D.I.18). Thus, in the end it is law that matters, and the only virtue needed is for people to have the will and energy to follow their self-interest.

Machiavelli had two targets, Christian virtue and classical virtue. Han Fei had one, Confucianism, which is close to classical virtue. Stephen Young succinctly provides a summary of Chinese thought up to the time of Han Fei.

Mencius and the Kuan Tzu text explored in different ways the interrelationship between the transcendent charismatic virtue *te* [德] of Confucius and the *ch’i* [气] which drives the circumstances of all *hsiao jen*; Shang Yang pointed out that the *ch’i* of the *hsiao jen* predisposes them to predictable reactions when confronted with rewards or punishments, thus permitting centralized autocracy as an efficient mode of governance;... Shen Pu-hai pointed out how rulers can understand the nature of their subordinates the better to manipulate them; the Taoist texts condemned all preceding commentators for magnifying the advantages of human convention and contrivance when only the natural order, unfolding as itself, brings happiness and contentment; Hsun Tzu ignored the philosophical Taoists to advocate the use of both ceremony and law to achieve community with the *hsiao jen*; his student, Han Fei, then ignored ceremony to buttress Legalist teachings with

an appeal to Taoist principles. (Young 1989)

Thus, Han Fei is at the end of a line of thought consisting of Legalists interested only in pragmatic issues and Confucians and Taoists seeking the good through nature and virtue. For Han Fei, some men indeed may be virtuous, but virtue is not so common a commodity that the state can rely upon it. There are not more than ten truly merciful and faithful men in this country, whereas there are hundreds of official posts.” As a result, “the way of the enlightened lord is to unify laws instead of seeking for wise men, to solidify policies instead of yearning after faithful persons” (H.49).

Explaining to people the way of virtue is futile even for the most talented man, “Without the promise of reward and the threat of penalty, in giving up the law, even if Yao (尧) and Shun (舜) preached from door to door and explained to everybody the gospel of political order, they could not even govern three families” (H.40). Parents have the best incentive to instill virtue in their children, but they fail. For some boys, moral education fails: “with all the three excellent disciplines, the love of his parents, the conduct of the villagers, and the wisdom of the masters, applied to him, he makes no change, not even a hair on his shins is altered” (H.49). On the other hand, if the district magistrate threatens force, he changes his ways.

Han Fei is willing to take following rules to an extreme. Failure to obey should be punished, but so should performance that goes beyond instructions. “Any minister whose word is small but whose work is big should also be punished. Not that big work is not desirable but that the discrepancy between the work and the name is worse than the accomplishment of the big work” (H.7). Han Fei illustrates this with the story of Marquis Chao of Han. Having drunk too much and fallen asleep, his “crown-keeper” put a coat over him to keep off the cold. On awaking, he was at first pleased, but on finding out who had covered him, “the Marquis found the coat-keeper guilty and put the crown-keeper to death. He punished the coat-keeper for the neglect of his duty, and the crown-keeper for the overriding of his post” (H.7) Each person should perform his own task and only his own task.

This applies not just to the crown-keeper but to the prince. He should be content with establishing laws and not attempt to administer them or to exercise mercy or discretion.

The sceptre should never be shown. For its inner nature is non-assertion. The state affairs may be scattered in the four directions but the key to their administration is in the centre. The sage holding this key in hand, people from the four directions come to render him meritorious services. He remains empty and waits for their services, and they will exert their abilities by themselves.... He can go onward with the two handles without making any change. (H.8)

Once the law is in place, the government should operate mechanically, following the rule of law without need of brilliance or virtue. Laissez faire, under law, is best. Indeed, “If the ruler has to exert any special skill of his own, it means that affairs are

not going right” (H.8).

The rule of law is not so pervasive a theme in Machiavelli, but he too agrees that whatever merit brilliancy may have for founders, an established state should use bureaucracy. The founder should not leave his arbitrary power “to his heirs (or) any other: for men being more prone to evil than to good, his successor could employ for reasons of ambition that which should be employed for virtuous reasons by him.” Continuation of a regime requires more people and less discretion than the founding. “One is adept at organizing” because the attempt of the many will fail due to “the diverse opinions that exist among them.” A lasting government, however, needs to be transferred to the many. The thing organized will not endure long if its (administration) remains only on the shoulders of one individual, but it is good when it remains in the care of many, and thus there will be many to sustain it”, because “having once understood this, they will not agree to forego it” (D.I.9). When a “good, wise, and powerful” man appears and establishes laws “then the government may be called free, and its institutions firm and secure; for having good laws for its basis, and good regulations for carrying them into effect, it needs not, like others, the virtue of one man for its maintenance” (*Florentine Histories* IV.1). This is one advantage of France, “which lives in security from nothing else other than those Kings being bound by an infinite number of laws in which the security of his people is realized” (D.I.16).

Han Fei is doubtful that the prince can extend his personal talents far enough in administration to matter. “The lord of men, if he has to inspect all officials himself, finds the day not long enough and his energy not great enough.” This is not only a matter of time, but of how subordinates will manipulate him. “If the superior uses his eyes, the inferior ornaments his looks; if the superior uses his ears, the inferior ornaments his voice; and, if the superior uses his mind, the inferior twists his sentences.” The truly talented prince is wise enough not to rely on himself. “The skilful carpenter, though able to mark the inked string with his surveying eyes and calculating mind, always takes compasses and squares as measures before his marking” (H.6).

Virtue may be good, but nobody can cultivate it except the rich. Obedience to laws is simple, but “virtue” surpasses human understanding.

What the age calls "worthy" consists of merciful and faithful deeds; what it calls "wise" consists of subtle and mysterious words. Such subtle and mysterious words are hard even for the wisest men to understand. Now, of you set up laws for the masses in such terms as are hard for the wisest men to understand, then the people will find no way to comprehend them...

Most of the affairs to be administered are ordinary civil cases. Yet not to use standards that ordinary men and women plainly understand, but to long for those theories which even the wisest do not comprehend; that certainly is the negation of government. (H.49)

Even if virtuous men can be found, they are unreliable compared to someone who cares about rewards and punishments. “Those who make light of rank and bounties,

resign from their offices and desert their posts with ease, and thereby choose their masters, thy servant does not call upright” (H.6).⁷ But even if virtue can be controlled, it is not “scaleable”--- its influence is limited to that of the virtuous person’s individual sphere of contact. Laws, on the other hand, can affect millions of people. Shun was virtuous, but “in saving the fallen, Shun stopped one fault in a year and three faults in three years. ...If he attempted to remove the unlimited number of faults in the limited length of his life, what he could stop in his life would be very little.” Rewards and penalties, though, will run through an entire kingdom, and they will do it quickly. “If the order arrives in the morning, the people will change by the evening; if it arrives in the evening, they will change by the morning. In the course of ten days everybody within the seas will change” (H.36). Not only is law able to exert more influence than the virtuous and accomplished Shuns of this world, it even works for the mediocre prince.

To experience hardships personally and thereby transform the people afterwards was difficult even for Yao and Shun; whereas to make use of one’s august position and thereby correct the people is easy even for an average sovereign. (H.36)

Moral education is absent in M., though omnipresent in the ancients Rahe 266. Han Fei too.

4. Morality and religion are instrumental.

One of Machiavelli’s most important influences was the idea of atheistic analysis of society--- not an analysis that explicitly repudiates God, but one which ignores Him, which in view of His importance if He does exist is to implicitly deny His existence. Religion is termed good or bad not because of its truth, but because of its usefulness. Numa’s religious innovation in Rome was “among the chief reasons for the felicity of that City, for it caused good ordinances, good ordinances make good fortune, and from good fortune there arises the happy successes of the enterprises” (D.I.11) and “truly there never was any extraordinary institutor of laws among a people who did not have recourse to God” (D.I.11). Religion is good and important, “the cause of the greatness of republics,” but not because of divine providence. Rather, “where the fear of God is lacking it will happen that that kingdom will be ruined or that it will be sustained through fear of a Prince, which may supply the want of Religion” (D.I.11). This instrumental attitude towards religions is consistent with what we know of Machiavelli’s private writings and life, which was notoriously irreligious (see Rahe 2007 for evidence on this point).

What goes for religion goes for morality. Chapter 18, “Concerning the Way in Which Princes Should Keep Faith” of *The Prince* says, “those princes who have done

⁷ Note the analogy to Adam Smith’s butcher. “It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest.”(Smith 1776, I.2) The difference is just in whether the self-interested incentive is provided by the market or by the employer.

great things have held good faith of little account, and have known how to circumvent the intellect of men by craft, and in the end have overcome those who have relied on their word." The two ways of carrying on a contest are by laws, like men, and by force, like animals, but "because the first is frequently not sufficient, it is necessary to have recourse to the second." Princes should break their promises--- not "can", but "should", because though "if men were entirely good this precept would not hold, but because they are bad, and will not keep faith with you, you too are not bound to observe it with them." The prince should be evil when evil is useful and good when goodness is useful. He should "appear merciful, faithful, humane, religious, upright", but to maintain the state he often must "act contrary to faith, friendship, humanity, and religion." He should "not to diverge from the good if he can avoid doing so, but, if compelled, then to know how to set about it." (P.18) Chapter 15, "Concerning Things for Which Men, and Especially Princes, Are Praised or Blamed" makes the same point. "For a man who wishes to act entirely up to his professions of virtue soon meets with what destroys him among so much that is evil." In the end, "How one lives is so far distant from how one ought to live, that he who neglects what is done for what ought to be done, sooner effects his ruin than his preservation."

"Because with a few examples he will be more merciful than those who, through too much mercy, allow disorders to arise, from which follow murders or robberies; for these are wont to injure the whole people, whilst those executions which originate with a prince offend the individual only." (P.17)

Han Fei does not prescribe evil so directly as Machiavelli, and he makes little mention of religion, but he tells many stories of how evil leads to success. We will tell just two. Chêng Hsiu was the King of Ching's (荆) favourite concubine. She told a beautiful new concubine that the king liked people to cover their mouth with their hands when they met him. The new girl covered her mouth in her first audience with the king. Later the king asked Chêng Hsiu about this odd behavior. "She has already talked about the bad odour of Your Majesty," she replied. One day, the king, Chêng Hsiu, and the new girl were to go riding in a carriage together. When the new girl came close she covered her mouth. The king became angry and told the coachman "Cut off her nose" (H.31).

The second story foreshadows Han Fei's own fate. The king of Jung (戎王) sent Yu Yü to pay a courtesy visit to the duke of Qin (秦穆公). He so impressed the duke that he told his counsellor, "I have heard that the presence of a sage in a neighbouring country is a constant threat to the enemy countries adjacent to it. Now Yu Yü is a sage, I am worrying about it. What shall I do?" The counsellor advised him to delay Yu Yü's return to Jung and present the king with sixteen "women singers" to corrupt him and raise discord once Yu Yü returned. He did so. The king of Jung started spending every day in drinking parties and listening to music "till half his oxen and horses died off". When Yu Yü returned, he quarrelled with the king and left to serve the duke of Qin instead. The duke appointed him "assistant premier" and learned enough about Jung's military to invade and conquer (H.10).

The countries of Jung and Han shared the same fate, but Yu Yü came to a better end than Han Fei. The Qin king of his time asked the same question as the former Qin duke--- "I have heard that the presence of a sage in a neighbouring country is a constant threat, "--- but came to a simpler answer. He executed Han Fei and conquered Han without him.

Han Fei is conveying the same idea with these stories as Machiavelli: crime pays. Nowadays we are too accustomed to hearing such stories to notice the absence of comment on their immorality. Machiavelli thinks the recovery of ancient virtue consists of the reimposition of the terror and fear that had made men good. When important decisions are to be made, God and Virtue are trivial obstacles. "For where the entire safety of the country is to be decided, there ought not to exist any consideration of what is just or unjust, nor what is merciful or cruel, nor what is praiseworthy or ignominious; rather, ahead of every other consideration, that proceeding ought to be followed which will save the life of the country and maintain its liberty" (D.III.41).

V. DIFFERENCES

The biggest difference between Han Fei and Machiavelli lies in what Machiavelli analyzes but Han Fei ignores. A central concern of Machiavelli's is the design, rise, and fall of different types of regimes---republics, tyrannies, and oligarchies. In this he follows in the classical tradition; Plato's *Republic* and *Laws* and Aristotle's *Politics* discuss constitutional design at length. Scholars have two conflicting attitudes towards Machiavelli: as the promoter of evil in the tyrannical state and as the promoter of virtue in the liberal republic. John Pocock, in his 1975 book *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*, describes Machiavelli as the figure linking Aristotle's republicanism with Thomas Jefferson's. Leo Strauss argues that what is important is not what Machiavelli thinks of republics, but his attitude and objectives. "Contemporary tyranny has its roots in Machiavelli's thought, in the Machiavellian principle that the good end justifies every means" (Strauss 1978, 13). Republicanism is a means to the end of a strong state, but so likewise is tyranny: both are instrumental. Republicanism, however, is a topic on which Han Fei is silent, though he shares Machiavelli's antipathy towards a strong nobility. His concern is the administrative state--- how the king is to control the people and officials.

A second great theme of Machiavelli is foundings, whether of republics or tyrannies. Han Fei does treat of this obliquely when he advocates the king establishing sound laws and then standing back to let others enforce them, but Han Fei's concern is more with survival than with everlasting glory. Ironically, though, it was not Machiavelli's Medici prince, but Han Fei's Qin admirer who was the great founder. A more useful book for the Medici's would have been *The Puppet*. Mere survival was enough for Han Fei as Qin hegemony loomed over China.

VI. THE WEST'S ATTITUDE TOWARDS MACHIAVELLI

We began this article with quotations illustrative of the importance, originality, and influence that has been attributed to Machiavelli, and of the diversity of effects different scholars argue he had on the world. Much of that argument is about what kind of republicanism Machiavelli favored. Machiavelli clearly initiated the modern analysis of republics that was so important between the English Civil War (see Pocock 1975b; Rahe 1992, 2008; Raab 1964) and the French Revolution, and then on to Marx (see Rees, 2004, Chs. 1, 2).

What is more relevant is that Machiavelli was long vilified by the educated public as an immoral innovator, and still is, despite the gradual infiltration of his ideas into the worldview of even his critics. He has been vilified both by those who knowingly follow his methods--- Prussia's King Frederick II being the great example--- and by those who unknowingly have absorbed his modernity. Christopher Marlowe begins *The Jew of Malta* with a prologue by "Machiavel", who says,

"Admired I am of those that hate me most.
Though some speak openly against my books,
Yet will they read me and thereby attain
To Peter's chair..."

In the 16th century Machiavelli was condemned by both Catholics, by Cardinal Pole and by Innocent Gentillet. He was condemned for each of the four ideas we discussed above, but each of those ideas took hold of the modern thinker.

Machiavelli's cold-blooded analytical approach to politics, the idea that anything can be analyzed objectively, is the ancestor of modern economics. More generally, Francis Bacon, founder of modern scientific method, was much influenced by him (Rahe 2008, 255-60; Raab 1964, 73-76). We still are squeamish at the boundaries, to be sure. We are uncomfortable when Menelaos Apostolou (2013) writes an article titled, "The evolution of rape: The fitness benefits and costs of a forced-sex mating strategy in an evolutionary context," and Richard Posner (1983) writes "Suppose a rapist derives extra pleasure from the coercive character of his act. Then there would be (it might seem) no market substitute for rape, suggesting that rape is not a pure coercive transfer and should not, on economic grounds, anyway, be punished criminally, "though he hastens to say "the argument would be weak" and "this may seem to be a hopelessly labored elucidation of the obvious, that rape is a bad thing." But we are not shocked when people argue about the death penalty and drug legalization in terms of costs and benefits, or about taking wealth from some people to give to others, or about compelling some people to operate their businesses in a way that other people want them to. One of us has written articles on the economics of adultery and flag desecration (Rasmusen, 1998, 2002) in the same vein. Morality has receded into the background.

The second idea and third ideas, that human nature is selfish and penalties rather than virtue must be used to control it, is dominant in economics and law. Machiavelli made the appetites primary, and virtue only a means to that end. The quest for fame is merely another appetite: "He believes that human desire knows no bounds, that

self-restraint offers no grounds for satisfaction, and that the moral virtues are, therefore, at best illusory.” (Rahe 1992, 265). Montesquieu’s idea of the separation of powers (Montesquieu 1748) is the solution to this selfishness--- to trust no one, and rely on a balance of power instead. Montesquieu acknowledges his debt to Machiavelli: “I should willingly adopt the maxim of this great man.” (Montesquieu 1748, VI.5) Checks and balances are of course fundamental to modern constitutional design.

The fourth idea, that religion and morality are instrumental, or at least completely separable from political discussion, is standard now even among devout Christians. As Raab (1964, 51) says, even as early as late 17th century, “dualism, particularly--- the ability to swallow Machiavelli in detail without explicitly admitting his secular presuppositions--- characterized not only the response of England, but of Christian Europe.” Not only is there no longer any requirement to ground political discussion in religion, but the “separation of church and state” is used in modern America to absolutely exclude religion from it.

Many ordinary people go so far as to consider moralities not just as input goods for the production of prosperity, but as consumption goods, to be chosen from a menu like desserts.

At the same time, Machiavelli remains vaguely disreputable and “machiavellian” remains a term of reproach. In psychology, “machiavellianism” is one of the “dark triad,” “in the unsavory company of psychopathy and narcissism. (Christie and Geis, 1970; Jakobwitz and Egan, 2006). You can take the twenty-question online “MACH-IV” test to find out how machiavellian you are (<http://www.inc.com/lewis-schiff/leadership-strategy-are-you-machiavellian-find-out.html>). As the magazine article “Machiavelli: Still Shocking after 5 Centuries,” puts it, “Of all the writers in the “realist” canon—from Thucydides and Hobbes to Morgenthau and Mearsheimer — it is Niccolo Machiavelli who retains the greatest capacity to shock” (Patrick 2014). Old Nick pulled off quite a trick: even after successfully shaping a people’s minds, he retains his ability to shock when they read him directly.

VII. The East’s Attitude towards Han Fei

Han Fei, for his deep and epitomizing thoughts, was a bellwether of Legalist school of thought. He stood at the source of over 2,000 years of absolute monarchy in China. As Burton Watson says (1964, 14):

Generations of Chinese scholars have professed to be shocked by its contents--- the rejection of all moral values, the call to harshness and deceit in politics, the assertion that even one’s own wife and children are not to be trusted--- and have taken up their brushes to denounce it. But there has never been an age when the book was unread, and the text appears to have come down to us complete.

Legalism (法家) has always been one of the most important schools of

thoughts in the course of Chinese history, ranking with Confucianism and Daoism. Legalists promote the supremacy of the king and absolute monarchy. They propose ruling the people through rules of law and using the people as resources to strengthen the economy and military. They belittle the interest and freedom of the populace, regarding them as inferior compared with the state and the government. (The word “Legalism” should not be taken literally because it is not quite accurate. The idea is more “incentives” than “laws”.⁸)

Even before Han Fei, the State of Qin adopted the policies of the second most prominent Legalist, Lord Shang Yang (商鞅 (390-338 BC)). Through nationwide advancement of agriculture and wars and suppressing the development of commerce, as well as a series of strict laws, Qin marched towards conquering the entire China by building the first empire in Chinese history after it eliminated the other six warring states.

The Qin Dynasty (221-206 BC) took Han Fei’s teachings to the extreme. The Legalist politics of Qin regarded brutality and tyranny as the premise of ruling, as Sima Qian says in *Biography of The First Emperor--- Records of the Grand Historian of China*. Laws were highly rigid and respected. People who talked about ancient classics were to be executed. Anyone who criticized the present using the past was to have his entire family exterminated. The military was emphasized. General Meng Tian led an army of 500,000 to expel the Huns. General Tu Sui led 500,000 men to gain control over present-day southern China from the Yue people. Magnificent monuments were erected using massive conscription. The total population at the time was around 20 million,⁹ of which 1.4 million were deployed to build the royal palace and mausoleum, 300,000 for the Great Wall, and many more for the national highways and the Ling Canal. It is said that those who left never came back, and that people fled from conscription to become thieves and robbers (Liu (Western Han)).

Although to these policies the Qin Empire owed its grandness and might, they were disastrous for the people. Qin went into decline faster than any dynasty in Chinese history. Qin policy became “Legalism” in Chinese thought, and it did not recover from this notoriety until the time of Mao Zedong, who realized the comparison between himself and the Qin emperor and set out to rehabilitate him.

Legalism receded at the start of the Han Dynasty (汉, 206 BC–220 AD) (different from Han (韩) the state), which succeeded Qin. The leading figure was Dong Zhongshu (董仲舒) (179–104 BC), a Confucian scholar. He proposed that human nature is simple, but without education from the laws of the king it would not become goodness (Dong (Western Han)). Such a view was shared by Xun Zi (荀子, (313-238 BC), the teacher of Han Fei. Xun Zi’s most famous words are that men are born evil, and virtue must be taught. Human nature, he says, is like raw wood, and cannot become perfect on its own without human intervention (Wang 1988). They, more than

⁸ Many scholars have covered this issue. For a recent interesting discussion in English, see Goldin (2011, 38(1): 88-104).

⁹ Qin Dynasty. *Wikipedia*: http://en.wikipedia.org/wiki/Qin_Dynasty. **WE NEED A BETTER CITATION.** – I found the Ch’in chapter in *The Cambridge History of China*, but population is not recorded.

classical Confucianism, emphasize education. Xun Zi, though a Confucian, is something of a mixed figure, since he saw policy as the source of virtue.

Based upon such theories, Dong Zhongshu promulgated the San Gang Wu Chang (三纲五常), an ethics built on rigid hierarchy and divine right of kings (Dong (Western Han)). Dong Zhongshu, Confucianism, and Legalism became one. Emperor Wu (156-87 BC) of the Han Dynasty enthusiastically embraced the idea. He abolished the hundred schools of thoughts and upheld only Confucianism, but in this new version which mixed Legalism into it. The heads of his most powerful government department, the Censorate, were all Legalist scholars who made strict laws like those of Qin. The emperor monopolized salt and iron, seized seigniorage, and levied heavy taxes on wealthy merchants and loan sharks. Some of these monopolizing policies remained constant in Chinese history ever since his time. During his rule, he sent expeditions on all directions and expanded the territory of the Chinese Empire to an unprecedented level. Some refer to him and the First Qin Emperor as “Qin Huang Han Wu” (秦皇汉武) to imply that Legalism stood concealed behind Han’s Confucian policy. Under the cover of Confucianism, Legalism survived. There began two thousand years of “Confucianism on the outside and Legalism in the inside.” Stephen Young says of Confucians, Legalists, and Taoists,

The conversation ended in good measure during the Han dynasty when a synthesis of different points of view was attempted with some success. A covering of Confucian ceremony was placed over a legalist autocracy while the legitimacy of the dynastic overlord was grounded in the ruler's exclusive prerogative to receive the mandates of Heaven, or to understand the Tao, with those mandates at times cognizable through the five-phases prognostications.” (Young 1989)

Later Chinese scholars criticized Han Fei. The father of the famous historian Sima Qian, Sima Tan (165-110BC), comments in his “On the Fundamentals of the Six Schools” that the legalist school of thought applies the law without discrimination according to the relationships and hierarchy between people, then the emotional bonds between relatives and between the elders and juniors are exterminated. This can work as a temporary tactic but cannot be used for the long run. (Reminder to self: add citation) Another famous philosopher in the Western Han Dynasty (206 BC – 9 AD), Yang Xiong(扬雄) says in his book “Fa Yan, Wen Dao” (法言,问道) that the ways of Han Fei and Shen Buhai are merciless to the extreme, and use people like cows and sheep.¹⁰

A famous historian of the Eastern Han Dynasty (25-220), Ban Gu (32-92), writes in his “Book of Han, A Catalog of Books”, that legalism, if executed by harsh people, will lead to relinquishment of education, love, and mercy, but hoping to achieve peace by laws, to the extent that the closest relatives will be hurt and favors will be returned by hatred. Another philosopher of the Eastern Han Dynasty, Huan Tan, says in “Xin

¹⁰ Yang Yang. “Discourses on Han Fei’s none-moralism political thoughts”. Political Studies. (2015, vol. 2)

Yu” (新语) that Han Fei sees the population as mediocre, like herds of sheep and swine, and can all be driven by sheephooks.¹¹ These scholars, among others, constitute a rich literature of Han Fei critiques throughout the two Han dynasties. However, it was during The Northern and Southern dynasties period that the Study of Han Fei really became an established stream of literature.

Liu Bing (刘昺) in the Northern Wei Dynasty is the first to write annotation for “Han Fei Zi” as far as we know. However, the book of annotation has been lost in history. Through the Tang Dynasty multiple versions of annotations for “Han Fei Zi” were published, but they were generally lost already when scholars in the Song Dynasty period tried to look into the subject.

People in the Song Dynasty who study Han Fei focus their energy on criticizing Han Fei, like the people during the Han Dynasty period did. Ouyang Xiu (欧阳修), a famous politician and scholar during the Northern Song Dynasty, maintains that even though the Legalism ideology might be good for the king’s rule, it might get fixated on the details and become too tough, which one mustn’t ignore.¹² Zhu Xi (1130-1200), a leader of the Neo-Confucianism that prevailed starting from the Song Dynasty (960-1279) despises Legalism as seeing only harsh laws and punishments while lacking mercy.¹³ Another Song litterateur, Su Shi (1037-1101), criticizes Han Fei as recommending too little moral education and too much law (Su (Northern Song)). Su Zhe (苏辙), his younger brother, writes that Legalism would lead to distrust between fathers and sons. He says that the Qin Dynasty applied Han Fei’s way for a little while, but the damage of that is long-lasting. If in the unfortunate event Legalism is used in the current time, its harm will be more than one can elucidate.¹⁴ Ironically, the Song Dynasty was a more centralized absolute monarchy compared with the Tang Dynasty (618–907) that preceded it. Han Fei’s belief that Confucian talk does not translate well into deeds seems to have been vindicated.

Han Fei re-emerged into prominence in the Ming Dynasty. Numerous newly-edited versions of Han Fei Zi were published. Many scholars also commented on Han Fei. **Yang Shen (杨慎) writes in ... that**

By the late Qing Dynasty (1644–1912)), when Confucianism came to be criticized it was often for being too much like Han Fei’s Legalism. Reformer Tan Sitong (谭嗣同 1865-1898), who was executed in an attempt to carry out a Chinese version of Meiji Restoration, argued in *Ren Xue* (仁学 (School of Ren)) that the political system over the past two thousand years was the political system of Qin (Han Fei) and was a system for robbers; and the school of thought over the past two thousand years was the school of Xun Zi (a Confucian) and was a school for hypocrites (Tan 1897). Another reformer Kang Youwei (1858-1927) writes in *Da Tong Shu* (大同书 (Book of Da Tong)) that a king who has absolute power over his

¹¹ Yang Yang. “Discourses on Han Fei’s none-moralism political thoughts”. Political Studies. (2015, vol. 2)

¹² <https://zh.wikisource.org/zh-hans/%E6%AD%90%E9%99%BD%E4%BF%AE%E9%9B%86/%E5%8D%B7124>

¹³ “Fajia” (Legalism) *Chinese Wikipedia*:

http://zh.wikipedia.org/wiki/%E6%B3%95%E5%AE%B6#.E5.8E.86.E5.8F.B2.E4.B8.8A.E7.9A.84.E6.B9.B9.E8.A9.95.WE_NEED_A_BETTER_CITATION.

¹⁴ <http://tieba.baidu.com/p/140999796>

country cruelly oppresses his people. He accuses the emperors as traitors to the people and inhuman butchers (Kang 1901). Da Tong 大同, meaning great harmony, is a Confucian ideal of perfect society. Ren 仁, meaning clemency, is the core of classical Confucian thought. The reformers viewed these as a sort of democratic theory distorted for 2,000 years, especially by Legalism. Another leading figure in the political reform of the late Qing period and famous scholar, Qichao Liang wrote in his famous book *Discourses on The Development of Legalistic Studies in China* that legalism is the only doctrine that could save the country at the time. According to Zhong Yu (2015), this legalism here refers exactly to the warring states legalism that Han Fei advances. Qichao Liang went on to say that legalism in China sprouted during the beginning of the Spring and Fall era and prospered during the late warring states period. There were four opponents of legalism, i.e., *laissez faire*, human rule, rule by ritual, and rule by **power**. However, none of the four were capable of curing the problems of the time (ancient period referred to above), so legalism was born. The great scholar Zhang Taiyan (章太炎) (1868-1936) criticizes legalism in “Guo Gu Lun Heng, Yuan Dao Xia” (国故论衡, 原道下) by saying that it lacks mercy and charity. Legalism may build a strong national, but will turn humans into non-humans as a consequence. He questions, “Are nations built for men? Or to labor men with the vanity of a nation? Han Fei is good for a nation, not a man.”¹⁵ Guo Moruo (郭沫若) (1892-1978) another scholar from a slightly later era, condemns Han Fei in his “Book of Ten Critiques” (十批判书) that Legalism scholars see everybody as bad.¹⁶

Indeed, it is quite difficult to separate Legalism and Confucianism by the late Qing dynasty, despite the official adherence to Confucianism. In spite of the emphasis on morality, oftentimes there existed Legalist absolutism with little regard to moral bounds, covered by a Confucian hypocrisy, as Tan Sitong puts it. By the time of Mao Zedong’s (1893–1976) reign, the official position actually did put Han Fei and Qin above Confucius and Han. WE NEED A CITATION FOR THIS

Currently there are two different views of Han Fei: the promoter of the powerful state, and the promoter of freedom from Confucianism. These are not contradictory.

NEEDS MORE

VIII. CONCLUDING THOUGHTS **NEEDS WORK**

The similarities and oppositions in the thoughts of Han Fei and Machiavelli have to some extent mirrored and resulted in the differences between Chinese and Western societies, all the way from the ancient to modern times. While based upon their observation of human nature, they both proclaim absolutism and political realism over moral idealism, they differ in their concern for the people and evaluation of their intelligence, and Machiavelli’s republican theories that are absent in Han Fei’s thought. This may partly account for the presence of a longer and more intense authoritarian political system in Chinese history compared with the West.

¹⁵ Yang Yang. “Discourses on Han Fei’s none-moralism political thoughts”. *Political Studies*. (2015, vol. 2)

¹⁶ Yang Yang. “Discourses on Han Fei’s none-moralism political thoughts”. *Political Studies*. (2015, vol. 2)

Comment [DZ2]: The Chinese word is 势. I am not sure exactly how to translate this word yet.

Why didn't modernism start in China in 200 B.C.? What if Charles V had conquered Europe? What if China had stayed in seven kingdoms (Spain, Florence, Austria, France, England, Turkey, Poland?)

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(11,668 words on Sep 12, APSR restricts to 12000 including references. AJPS does not have a limit.)

The translations are currently the web one for Han Fei and the Max Lerner edited green paperback Eric has for the Discourses and the Prince, I think. But the Machiavelli ones are not all the same, I think, and need to be figured out.

LATEST CHANGES, SEPT. 26.

We need to beef up Machiavelli on virtue. That second and the previous one, on selfishness, are hard to tell apart. We have too much Han Fei and not enough Machiavelli. I've worked on this some. The logical flow needs work too. I haven't looked at the Morality section, but it is probably disjointed.

Now I think we don't want the Chinese characters for most of the names. They are distracting to the reader.

There are too many quotes at the start, in the introduction.

We could use more on how Han Fei was vilified in China over the ages. We skip from about 1200 to 1800 without any comment. Also: Dan, can you find any quotations from other Chinese thinkers about Han Fei? Is there a way to google search for those? From Ming and Ching, especially, we can hope for some criticism of Han Fei.

The Machiavelli translations have to be changed to be all from one translation--- probably the Constitution Society ones.