

## Major Rival Schools: Mohism and Legalism

Chris Fraser

### I. Introduction

Viewed through the lens of much later developments, Confucianism and Daoism might seem to have dominated the intellectual discourse of China's Warring States era (481–221 B.C.E.). In fact, however, at the time, the Confucians, or *Ru*, were just one of several widely recognized social or ethical movements, and the figures and texts we now call "Daoist" did not represent an organized school or movement at all, but only a loose network of mentors and pupils with a roughly overlapping doctrinal orientation. Neither can be considered to have approached the status of philosophical orthodoxy or dominance, and numerous other thinkers and ideological communities flourished alongside them in what later became known as the age of the "hundred schools," perhaps the most intellectually fertile period in Chinese history. This chapter introduces two of these rival strands of early Chinese thought, Mohism (*Mo Jia*) and Legalism (*Fa Jia*).

But for their shared opposition to Confucianism, the Mohists and the Legalists had little in common. The Mohists were a well-organized, grass-roots social movement deeply committed to moral, political, and religious ideals and particularly concerned for the welfare of the common people. Mo Di, the charismatic teacher from whom the movement took its name, was arguably the first real philosopher in the Chinese tradition. He and his followers developed a systematic set of moral, political, and epistemological doctrines, supported by detailed arguments, that include history's earliest version of a consequentialist ethics. Mo Di—or Mozi ("Master Mo"), as he became known—flourished in the middle decades of the fifth century B.C.E., near the

beginning of the Warring States era, and the movement he founded continued for two to three centuries after his death. The Mohists deeply influenced the development of early Chinese ethics, political theory, epistemology, philosophy of language, and logic. They also contributed to early Chinese science and mathematics. Some groups of Mohists even became experts in military engineering and defense tactics and were renowned for their defense of besieged cities.

By contrast, Legalism was not an actual school or movement at all, but a taxonomical category invented by Han dynasty historians, who classified the thinkers of the classical age into six major *jia*, or schools of thought. Under the rubric of the *Fa Jia*, or “School of *Fa*”—commonly translated as “Legalism”—they grouped together a disparate set of statesmen and political thinkers who lived at different times, in different states, and advocated no unified doctrine or way of life. What linked these men is that all were theorists or practitioners of a realistic, amoral brand of statecraft aimed at consolidating and strengthening the power and wealth of the state and its autocratic ruler. Their thought was realistic in being premised on what they took to be brute facts about how people actually behave, rather than optimistic beliefs about how people morally ought to or could be led to behave, and on the central fact of their political era, that the world consisted of numerous competing, potentially hostile autocratic states. It was amoral in that they were utterly unconcerned with whether the institutions and methods they advocated were morally justified. These characteristics bring to mind Machiavelli, to whom the Legalists are indeed similar in some respects. But where Machiavelli focused on the arts of the individual ruler, the Legalists were more like social engineers attempting to create foolproof, mechanically reliable institutions for controlling the officials who administer the state and the populace who are the source of its wealth and military

power.

Unfortunately, neither the Chinese nor the English label for these political thinkers is particularly apt. The English “Legalism” derives from interpreting the Chinese word *fa* as “law.” In ancient times, however, *fa* connoted not laws specifically but models or standards, of which laws were one kind. The stock examples of *fa* were tools that provide objective standards of shape, weight, and length, such as the carpenter’s compass, setsquare, and level or the merchant’s weights and measures. As these thinkers use it, *fa* is conceptually closer to a performance standard, backed by incentives for success and disincentives for failure, than to our notion of law. So “the School of Standards” would be a more accurate translation of *Fa Jia* than “Legalism” is. In any case, *Fa Jia* is itself something of a misnomer, since these men were interested in a range of methods of government and not all emphasized *fa* as a focal concept. The “realists” or “authoritarians” might be more accurate labels for them. For the purposes of this chapter, however, we will stick with the conventional designation, the “Legalists.”

Despite their radical difference in orientation, the Mohists and Legalists have at least three conspicuous similarities. One is that *fa*, or explicit, easily applied standards of conduct, have a prominent role for both, Mozi’s conception of *fa* being in effect the ancestor of the Legalists’. Whereas the Mohists aimed to articulate standards of morality, however, the Legalists see standards as determined arbitrarily by the ruler as his purposes require. The Mohists and Legalists also both advocated a centralized bureaucracy staffed by officials appointed on the basis of merit, the Legalists effectively adopting and developing the Mohist doctrine of “promoting the worthy.” In the Legalist version of the idea, however, merit is judged purely in terms of how effectively officials perform their tasks, while for the Mohists it includes moral worth.

A third similarity is that both traditions died out during the Western Han dynasty (206 B.C.E.– 8 C.E.). The Mohist movement was rendered obsolete by political unification, changing customs, economic development, absorption of their major ethical doctrines into Confucianism, and the unappealing harshness of their frugal, self-sacrificing way of life. The Legalists were discredited by the excesses of the totalitarian Qin dynasty, though many of their administrative methods were adopted by the Han and subsequent empires. Aspects of Legalist thought may have lived on for some time in a syncretic combination of Legalist and Daoist ideas known as “Huang-Lao,” named after the mythical Yellow Emperor (Huang Di) and the legendary Daoist sage Laozi.

## II. Mohism

Among the various early Chinese schools of thought, the Mohists were the main rivals to the Confucians in promoting a way of life centered on moral teachings. But where the Confucians were elite ritual specialists, the Mohists came mainly from sub-elite groups, including artisans, small landholders, merchants, and soldiers. (Mo Di himself is likely to have been an artisan, perhaps a carpenter.) They rejected the traditional rituals and music central to the Confucian way of life, seeing them as wasteful and pointless, and instead emphasized thrift and practical utility. Rather than ground their ethics in morally fallible customs or traditions, as the Confucians did, they sought to identify objectively justified moral standards. The central standard they proposed was that morally right practices are those that promote the welfare of all.

The major source text for Mohist thought is an anthology called the *Mozi*, which contains a diverse collection of essays, anecdotes, dialogues, and notes written and compiled by different hands over the course of two centuries or more after Mo Di’s

lifetime. Though the names of a handful of Mohist leaders besides Mo Di have come down to us, none are known to have promulgated original philosophical views of their own. All of the doctrines in the *Mozi* are either attributed to the master or presented anonymously. However, most writing in early China was anonymous, and it was common to attribute one's own ideas to a venerated teacher or wise man, partly out of respect and partly to give them more authority. The various writings in the *Mozi* appear to represent different stages in the development of Mohist doctrines and perhaps the views of several distinct Mohist factions. So it is likely that many of the views in the anthology are not Mo Di's own, but developments, revisions, or new ideas introduced by his followers.

The Mohist movement seems to have originated in Mozi and his early followers' dismay at the war, feuding, crime, exploitation of the poor and weak, and other wrongdoing they saw as endemic to their world. They urgently sought to find a way to restore order (*zhi*) to human society. The Mohists saw people as naturally social, and thus concerned about their family and community, and generally committed to doing what they take to be morally right. But if people have different ideas about what is right, or if they fail to distinguish right from wrong properly—as is likely without proper education and political leadership—conflicts will arise, leading to disorder. The Mohists thus offered two main diagnoses of the causes of disorder. The first was moral disagreement. People followed a plurality of different moral standards, in most cases presumably in ignorance of the right standard. If people are strongly committed to morality yet apply different, incompatible moral standards, they are likely to end up quarreling, and such quarrels will eventually descend into widespread, possibly violent disorder. The Mohists' second diagnosis—partly a consequence of the first—was that, ignorant of the proper moral standards, many

people acted in disregard for the welfare of others. So they did not hesitate to injure others in order to benefit themselves.

As moral activists, the Mohists aimed to rectify this moral disagreement and ignorance and thus achieve social order. They proposed to do this by training everyone to follow a unified moral code. Ideally, this project would be carried out through a government administered by wise, virtuous leaders, who at each level of the state hierarchy—from the village up to the entire world—would teach everyone to draw moral distinctions in the same way. The major method of education would be model emulation: the leaders would set practical examples of distinguishing right from wrong, which everyone would learn from. This training would be reinforced by an incentive scheme in which good conduct was praised and rewarded and bad conduct criticized and punished.

This political and educational system would provide a means for training everyone to apply a unified moral code. But proper order could be achieved only if the content of the shared code was correct. The Mohists thus mounted a search for objective moral standards, or as they saw it, reliably correct, easily applicable models or standards (*fa*) by which to guide judgment and action. These would guide everyone to distinguish right from wrong correctly, just as a straight-edged tool clearly and reliably guides a carpenter in sawing a straight line. The models would provide the content of the unified morality.

In choosing such a model, however, we must be cautious. Human role models, such as parents, teachers, and rulers, and traditional customs, such as the Confucian rituals, are all potentially unreliable. If we model ourselves on them, we might inadvertently follow the wrong kind of example. Instead, the Mohists proposed, we should take as our model the noblest and wisest moral agent in the cosmos, Heaven

(*tian*, also nature or the sky), whom they worshipped as a personal god. The Mohist proposal is not a divine command theory, but an epistemic appeal to a conception of an ideal moral agent, by reference to which we can identify impartial, objectively correct moral standards. Since Heaven is an infallible moral agent, who is benevolent, impartial, and consistent, it will unfailingly set a correct example of what is morally right.

Heaven has not handed down any scriptures we can consult. But what we can do is observe its intentions, as manifested in its actions, and take those as our guide. When we do, what we find, according to the Mohists, is that Heaven all-inclusively cares about and benefits all humanity. It gives us all life and the resources needed for survival. According to traditional lore, it rewarded the ancient sage-kings who advanced the welfare of all and punished the vicious tyrants who mistreated their subjects. Examples such as these show that Heaven desires that people “inclusively care about each other and in interaction benefit each other” and that moral right and wrong can be distinguished by the standard of “promoting the benefit of all under heaven and eliminating harm to all under heaven.” Morally right practices, policies, and acts are just those that tend to advance the benefit of or eliminate harm to all.

The Mohists’ notion of the “benefit of all” is a general conception of the public good comprising material wealth, an abundant population, and sociopolitical order (*zhi*). Core features of order are the absence of war, strife, crime, and hostility and the universal virtuous performance of the paradigmatic social roles of ruler, subject, father, son, and brother. More broadly, order may include things such as people being willing to share knowledge, surplus labor, and surplus resources and the government administering the penal system properly. As this list of goods indicates, Mohist ethics is communitarian, not individualistic. The goods that serve as criteria of morality are

collective or public, in contrast, for instance, to individual happiness or well-being, the basic goods in most familiar Western forms of utilitarianism or consequentialism.

Drawing on this framework of political, epistemological, ethical, and religious doctrines, the Mohists offered systematic arguments for why wars of conquest, extravagant funerals, excessive state spending, and other practices were morally wrong. In their view, each of the rejected practices was detrimental to the general welfare. Their consequentialism led them to develop a platform of ten ethical and political doctrines—some rather idiosyncratic—that they aimed to persuade rulers of their day to adopt. A summary of the ten provides a quick synopsis of the Mohist moral and political reform program.

According to the doctrine of “identifying upward” (*shang tong*, also interpretable as “promoting unity”), the aim of government is to achieve a stable social, economic, and political order by promulgating a unified conception of morality. This project of moral education is carried out by encouraging everyone to “identify upward” with the good example set by social and political superiors. Those who do are rewarded; those who do not are punished. Government is to be structured as a centralized, bureaucratic state led by a virtuous monarch and managed by a hierarchy of appointed officials. According to the doctrine of “promoting the worthy” (*shang xian*), appointments to the bureaucracy should be made on the basis of competence and moral merit, without regard for candidates’ social status or origin.

“Inclusive care” (*jian ai*) was the Mohists’ signature doctrine. To achieve social order and exemplify the virtue of *ren* (moral goodness), people must inclusively care about each other, having as much concern for others’ lives, families, and communities as for their own, and in their interactions with others seek mutual benefit. The Mohists’ second most prominent doctrine was “condemning aggression” (*fei gong*).



Military aggression is morally wrong, for the same reasons that theft, robbery, and murder are: It harms others in pursuit of selfish interest, while failing to benefit Heaven, the spirits, or human society.

According to “moderation in use” (*jie yong*), wasteful luxury and useless expenditures should be eliminated, so as to benefit society and ensure the welfare of the populace. The doctrine of “moderation in burial” (*jie zang*) contends that to promote social order and the economic welfare of the common people, the morally good person avoids wasting resources on extravagant funerals and protracted mourning (early Chinese customs staunchly defended by the Confucians).

The doctrine of “Heaven’s intention” (*tian zhi*) holds that Heaven is the noblest, wisest moral agent in the cosmos, so its intentions are a reliable, objective standard of what is morally right and thus should be respected. Heaven rewards those who obey its intentions and punishes those who defy it, so people should strive to be morally good and to do what is morally right. “Elucidating ghosts” (*ming gui*) contends that social and moral order can be advanced by encouraging belief in ghosts and spirits who reward the good and punish the wicked.

According to “condemning music” (*fei yue*), the morally good person opposes the extravagant musical entertainment and other luxuries enjoyed by rulers and high officials, since they waste resources that would be better used to feed and clothe the general populace. “Condemning fatalism” (*fei ming*) argues that, by teaching that our lot in life is predestined and human effort is useless, fatalism interferes with pursuit of the basic goods that constitute the welfare of all. It is thus wrong and must be rejected.

As these ten core doctrines illustrate, the Mohists saw themselves mainly as a moral, political, and religious advocacy group devoted to pursuing their vision of a

morally right society and way of life, one that promotes the welfare of all. Because of this practical orientation, their ten-doctrine platform alludes only indirectly to the underlying ethical and epistemological theories that support their proposals. To philosophical readers today, however, the latter are the Mohists' main legacy.

### III. Legalism

According to the *Han History*, the “School of *Fa*” included Li Kui (fl. ca. 500 B.C.E.), chief minister of Wei; Shang Yang (d. 338 B.C.E.), chief minister of Qin; Shen Buhai (d. 337 B.C.E.), chief minister of Han; Shen Dao (fl. 310 B.C.E.), a thinker associated with the Ji Xia academy in Qi; and Han Fei (d. 233 B.C.E.), a member of the ruling house of Han, who briefly served as an envoy to Zhao Zheng, the king of Qin who later became China's first emperor. To this list is often added Guan Zhong (d. 645 B.C.E.), chief minister of Qi. Anthologies of writings are associated with all of these men. In Warring States practice, however, attribution of such a compilation to a historical figure did not imply authorship, but only that the person was an appropriate figurehead for the writings in it. The *Guanzi*, for instance, is not a work by Guan Zhong, but a compendium of fourth through second century B.C.E. texts from his home state containing Confucian, Mohist, and Daoist works as well as writings on statecraft. The *Book of Lord Shang* is mainly devoted to statecraft, but probably dates to roughly 240 B.C.E., about a hundred years after the death of Shang Yang. Significant portions of the *Hanfeizi*, the most important of these anthologies, are unlikely to be by Han Fei himself, though scholars generally agree that the main essays on statecraft are. The text named after Li Kui is lost, and only fragments remain of those of Shen Buhai and Shen Dao (the titles of both books are romanized as *Shenzi*, though they are written and pronounced differently in Chinese).

With the possible exception of Shen Dao—about whose thought early texts give widely varying accounts—none of the Legalists were really part of Warring States philosophical discourse in the way the Mohists or Confucians were. Shang Yang and Shen Buhai were highly influential in shaping government institutions, but they were statesmen, not theorists. Han Fei, the grand synthesizer of Legalist thought, influenced the first and second emperors and their chancellor, Li Si, but lived near the end of the classical period and thus had little or no role in pre-imperial discourse. Indeed, while Han Fei is undoubtedly a major political theorist, one could argue that he is not really a political *philosopher* at all. Political philosophy is primarily a normative field, and Han Fei is not the least interested in normative issues such as the justification of political authority, the legitimate scope of state power, or social justice. In contrast to the Mohists and Confucians, who see government as responsible for the welfare of all and the ruler's mandate as resting partly on how well he cares for the populace, Han Fei simply assumes that the aim of government is to promote the interests of the ruler and the state. He takes for granted the legitimacy of a totalitarian autocracy and seeks to articulate institutions and methods by which to maintain stability, consolidate the ruler's power, and increase the state's economic wealth and military might. He does hold that the populace fares better under his system—a version of rule by law—than under the traditionalist, Confucian system—a version of rule of man. But this point is not offered as a justification, only as a claim about the relative potential for misgovernment under the two systems.

One starting point for Legalist thought is the conviction that, contrary to Confucian traditionalism, the ruler must be free to modify or introduce standards and customs, because socioeconomic conditions change over time. Specifically, as the population grows and resources become scarce, different systems of government

become appropriate. Daoist laissez-faire policies and Confucian rule by the morally worthy are thus not mistaken so much as obsolete. Long ago, when the populace was small and resources plentiful, people could have lived in an orderly way without government. As the population grew, conflicts became common but could be resolved by appeal to the moral teachings of worthy leaders. Now, however, the population is enormous and resources limited. Social order can be maintained only through a system of controls enforced by a hierarchy of officials working under the unifying leadership of a ruler. The Legalists can thus grant that Daoist or Confucian political ideals might have worked at earlier stages of history. But once political society grows to a certain scale, these ideals are superseded.

The Daoists and Confucians both held a regressive view of history, seeing their age as the outcome of a long decline from the ideal society of the ancient sage-kings. By contrast, the Legalist view of history is purely descriptive. Society is not better or worse than it used to be, but simply different, so different means of government are called for. Nor does society's tendency to fall into disorder show that people are by nature wanton or unruly—the view of the Confucian Xunzi, under whom both Han Fei and Li Si are said to have studied. The problem is only that mouths are many, resources few. As Han Fei sees it, people in the past were generous not because they were kind, but because resources were abundant; people in his day fight and steal not because they are dishonest, but because resources are scarce. His own approach to government rests on no stronger claim about human nature than that people by nature have likes and dislikes, and so rewards and punishments can be used to make them obey.

How then should the state maintain order? The Legalists proposed a number of keys to successful government, which Han Fei draws together into a coherent system.

He credits his predecessors with articulating three crucial concepts in particular: *fa* (standards, laws), which he attributes to Shang Yang; *shu* (arts, techniques), which he attributes to Shen Buhai; and *shi* (position, power), which he attributes to Shen Dao. He criticizes shortcomings in the approaches of all three men while showing how their core ideas can be combined into a cogent, unified theory.

The first element in this theory is *fa*. *Fa* are explicitly codified, publicly promulgated standards, including laws, standards for satisfactory job performance, and criteria for promotion in the military or the bureaucracy. The aim of *fa* is to clearly specify the standards of conduct people are expected to meet, so that all will understand exactly what they must do and their performance can be evaluated with measurement-like precision. According to Han Fei, *fa* are to replace the moral teachings passed down in books, and the officials who promulgate the *fa* are to replace the virtuous example of the sage-kings. To ensure people conform, the *fa* are backed by reliable, generous rewards for compliance and inescapable, heavy penalties for noncompliance. (Such penalties would have included the traditional “five punishments”: tattooing the face, cutting off the nose, chopping off one or both feet, castration, and death.) If the *fa* are clear and appropriate and the rewards and punishments robust and inevitable, the system will work mechanically to achieve the goals of the state whether or not the ruler and administrators are particularly talented or worthy. Han Fei concedes that such a system may seem harsh in the short term but insists that it works to the long-term benefit of all. He offers this contention not as a justification for why people should submit to the system, but simply as a claim about its effectiveness.

The ruler too must conform to the *fa* without exception, never allowing personal preferences or choices to influence his decisions. He may revise the *fa*, if needed, but

for the system to work, whatever explicit, objective standards he sets up must be applied rigorously and consistently. The standards will thus prevent him from being deceived or manipulated by cunning officials. The system of *fa* is to be so transparent and reliable that it eliminates any opportunity for official corruption or abuse. Since the standards are exact, explicit, and known to all, supposedly no one can get away with bending or violating them. The *fa* are thus a way both of controlling the populace and of limiting officials' power. The system contrasts dramatically with the older, traditional system of rule of man, under which officials punished crimes without appeal to explicit, publicly promulgated laws. In the older system, such laws were rejected as opening up opportunities for litigation and narrowing the scope of officials' discretionary power. The Legalists saw such power as harmful to the ruler's interests, since officials could use it to build their own clout and wealth at his expense. For related reasons, they eliminated traditional differences in treatment between the general population and the officials or aristocracy. Traditionally, those of high rank had been exempt from common punishments or were offered alternatives, such as suicide instead of execution. The Legalists applied a unified system of rewards and punishments to all, recognizing no differences in rank.

*Fa*, then, are explicit, public standards for regulating the behavior of the general populace. But besides controlling the populace, the ruler must also manage the officials in his administration, ensuring that they do their jobs properly and serve his interests, rather than their own. For this, he needs *shu*, managerial arts or techniques. In contrast to *fa*, which are codified and known by all, *shu* are undisclosed, uncodified methods. They are not to be revealed even to the ruler's closest associates, lest those around him use their knowledge of his actual thoughts and desires to manipulate him or curry favor. Techniques to be used by the ruler include appointing officials on the

basis of merit, holding them strictly accountable for the tasks corresponding to their job title, and employing the “two handles” of life and death—or reward and punishment—to ensure they perform their duties. The first of these points is an extension of the Mohist doctrine of promoting the worthy: officials are to be appointed on the basis of demonstrated competence. The second is an extension and modification of the doctrine of the rectification of names (*zheng ming*) endorsed in Confucian and other early texts. Han Fei’s version of the doctrine is called *xing ming* (forms and names), which he tells us refers to “speech and duties” (or “words and deeds”). Officials are assigned duties on the basis of “speech,” here referring to either their job title or their administrative proposals. Their achievements are then measured against their assigned duties and their duties against their words. If all three are in accord, they are amply rewarded; if not, they are severely punished.

The proper functioning of both *fa* (standards) and *shu* (techniques) rests on a third factor: *shi*, a word meaning basically “position,” but usually connoting a powerful or advantageous position. *Shi* is the institutional power of the ruler’s position, which he wields to implement standards of conduct and exercise his administrative techniques. Just as the Legalist system of *fa* contrasts with the Confucian ideal of rule by the morally worthy, the Legalist view that successful rule derives from the ruler’s institutional power contrasts with the Confucian view that it rests on the ruler’s moral worth. Han Fei sees the Confucian view as foolishly unrealistic, on two counts. First, since truly talented and worthy leaders are few and far between, a system of rule by the moral authority of the worthy would condemn us to almost constant misgovernment, interrupted at best only occasionally by the emergence of a sagely ruler. The political system should be designed not around rare, exceptional great men but around the average ruler, who is neither as worthy as the

sage-kings of old nor as vicious as the tyrants. Second, without institutional power, even a great sage cannot rule more than a handful of people. Moral authority and charisma are simply not enough to control a large populace; only power and position can ensure that all will submit to government. Moral worth is thus redundant. To govern successfully, one need only employ *fa* from a position of power (*shi*) while using judicious techniques (*shu*) to manage one's administration. From his position of power, the ruler establishes standards and wields the "two handles" of life and death to ensure that his prohibitions are observed and decrees carried out, and "the way of order is complete."