

The Symbolic Economy of the *Hanfeizi*

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The term “Legalism” has been generally used to refer to a group of Chinese thinkers who achieved some prominence during the Warring States period (481–222 B.C.). This group of thinkers typically includes, but is not necessarily limited to, Guan Zhong,¹ Li Kui, Wu Qi, Shen Dao, Shen Buhai, Shang Yang, Li Si, and Han Fei. These figures and their contributions to statecraft represented an opposing political vision from other competing schools of thought at the time—schools such as Confucianism, Mohism, and Daoism.

My use of the term “Legalism,” however, is different. I use it to refer to a group of extant texts that possess distinctly shared characteristics. More specifically, I use the term to refer to the political visions expressed in *Book of Lord Shang*, the “Shen Buhai fragments,” the “Shen Dao fragments,” the *Han Feizi*, and even select chapters in the *Guanzi*.²

Regardless of how the term is used, the remarkable success of the political philosophy associated with it is impossible to ignore. Known especially for its harsh criticisms of early Confucian thought that championed individ-

ual efforts to cultivate virtue as the primary solution for the state’s most significant political, economic, and military challenges, Legalist thought was arguably more congruent with the bellicose and highly competitive political climate of its time.

This exceptional suitability most famously culminated in Legalism becoming the official state ideology of the Qin dynasty (221–207 B.C.), which unified the Chinese empire for the first time. Even after the collapse of the Qin dynasty, however, the legacy of Legalist thought carried on. Although the Han dynasty adopted Confucianism as its official state ideology, it nevertheless maintained much of the Qin empire’s governing infrastructure. Perhaps more importantly was the ongoing legacy of structural competition, along with a merit-based hierarchical ranking system meant to reflect the results of this competition, being used as a method of organizing the empire—a legacy that lasted throughout imperial Chinese history.

In this paper however, I will focus on Legalist thought as revealed in the *Hanfeizi* (*HFZ*)³—a text traditionally attributed to Legalist founder, “Master Han Fei.”⁴ In particular, much of the analysis in this piece comes from the “Outer Compendium of Explanations,

¹ It is important to note that Guan Zhong is the only figure that is thought to have lived during the Spring and Autumn period (770–482 B.C.).

² A longer discussion of the textual core, or distinctly shared characteristics, of Legalist texts can be found in Brandon King, *Adapting with the Times: Fajia Law and State Development* (Dissertation, Chinese University of Hong Kong, 2015).

³ OCELL 33 uses Confucians (*Ru* 儒) and their behavioral rituals to illustrate a unique aspect of the *HFZ*’s political vision: a pedagogical mission. For a deeper discussion of the pedagogical quality of the Legalist political vision, see: Brandon King, “The [Not So] Hidden Curriculum of the Legalist State in the Book of Lord Shang and the Han-Fei-Zi,” *Comparative Philosophy* 9, no. 2 (2018): 69–92.

⁴ The authorship of OCELL has been a subject of debate, but the possibility of Han Fei’s authorship has not been ruled out. In fact, Lundahl saw enough justification to consider the inner and outer “Compendium of Explanations” chapters “authentic.” See: Bertil Lundahl. *Han Fei Zi: The Man and the Work*. (Stockholm: Institute of Oriental Languages, Stockholm University, 1992), 146–153.

Lower Left” (OCELL),¹ which is a subdivision within a larger unit of chapters in the *Hanfeizi* (HFZ). Each subdivision begins with assertions and advice about governance, followed by stories or excerpts meant to illustrate them. Throughout, I will explore how rewards and state organization accomplish a state objective beyond coordinating the interests of the ruler and his subjects.⁵

Typically, examinations of pedagogy are reserved for texts associated with the Confucian tradition. In contrast, Legalist texts,⁶ such as the *HFZ*, the *Book of Lord Shang* (*BLS*), the “Shenzi Fragments,” the “Shen Buhai Fragments,” and the *Guanzi*, are considered either anti-pedagogical or unconcerned with populace learning.

Indeed, we can find passages in the *BLS* that specifically criticize Confucian moral cultivation and education. However, if we reexamine Legalist texts with a broader, sociological conception of pedagogy, one that recognizes how learning and education can take place beyond the context of individual cultivation, then it becomes apparent that the Legalist political vision does facilitate a distinctly shared collective culture through specific state practices.

While much of the analysis of Legalist texts focuses on the ruler, methods for creating and maintaining social order, and the advantages

and disadvantages of their promoted statecraft, approaching Legalist governance as pedagogy requires more exploration of the shared experience of state subjects. Grounding itself on the distinctly shared conception of law found in Legalist texts, this methodology concentrates its attention on rewards and what their associated state institutions communicate to the populace. So, while there is an appreciation for the importance of punishment and its deterring effects, I am most interested in the aspects of statecraft that facilitate positive action common amongst the populace.

Additionally, I also appreciate the Legalist view of history—perhaps best articulated in the *BLS* and *HFZ*. In other words, Legalist pedagogy should be understood as context-dependent, or responding to the problems of its time through requiring the subject’s contribution to state wealth and strength.

In short: The ruler creates laws that are infused with values suitable for the times and circumstances. Laws then facilitate a social practice through rewarding contributions to collective survival and prosperity that are in accordance with state values, while punishing the subject’s pursuits of profit and fame that occur at the state’s expense. In this sense, the law and its reinforcements fundamentally shape individual identity according to what the ruler defines as collective need.

Precedent for Treating Legalist Thought as Pedagogical

It should be noted that this study would not be the first to suggest that there is a pedagogical quality to Legalist governance.

Xu argued that the *HFZ*’s law can be conceptualized as moral education. Since the *HFZ* insists that there are only a few people who can be relied upon to engage in goodness on their

⁵ Schneider argued that the *HFZ* ideal state possesses a public “justice” (*gong yi* 公義), one of “order giving and order taking” (Schneider 2014: 30), that aligns the ruler’s interests with those of his ministers and the rest of his populace. See: Henrique Schneider, “Han Fei and Justice,” *Cambridge Journal of China Studies*, 9, no.4 (2014): 20–37.

⁶ I will not engage in a discussion over the ways the term “Legalist” has been problematized. An extended discussion of this can be found in Paul R. Goldin, “Persistent Misconceptions about Chinese ‘Legalism,’” *Journal of Chinese Philosophy* 38, no. 1 (2011): 88–104. Generally, I will follow the argument in favor of the use of the term “Legalist” found in King (2015).

own accord, the law primarily educates by blocking the pathways that would allow subjects to engage in malfeasance, while causing subjects to conform to what the state architecture of governance encourages and discourages. Xu also asserted that law is made public and clear, accommodates the natural inclinations of human beings, and generally employs subjects according to their respective talents. Through these aspects, the *HFZ*'s law teaches and transforms subjects on a social level rather than relying on them to do so on an individual basis.⁷

Xie described the *HFZ*'s method of education through five aspects of his own. The quality of education is rigid and non-accommodative to the love found in interpersonal relationships. In addition, the *HFZ*'s law is used as a primary source of teaching. As a result, the people will learn qualities and behavior the state considers desirable from the good faith and mutual trust demonstrated by the implementation of the law and the ruler-subject relationship. Xie also argued that the ruler himself should exemplify the aforementioned desirable character traits and behaviors to further reinforce the teachings in the law.⁸

Shi has asserted that the Legalist notion of law uses morality to assist in the implementation of the legal system by praising those who earn rewards and eliminating those who deserve punishment.⁹ By way of contrast, Harris put forth an argument that would bring into question the moral nature of Legalist governance.

He suggested, given the objectives of the ideal state in the *HFZ*, that Legalist statecraft encourages behavioral conformity with a non-moral normativity.¹⁰ Pines likewise noted that the *BLS* does not speak of any “active dissemination of ideas or ideals amongst the populace.”¹¹

Zhou, however, pointed out how some parts of the *HFZ* refer to Confucius approvingly or as an authoritative source. This, according to Zhou, is evidence of a general reverence for Confucius and his ideas about legal reinforcement, the reliability of the state apparatus, fairness, balance, and the division between the ruler and ministers.¹² Regardless of one's position, it is clear that discourse about the moral and educational concern in Legalist text challenges how they are traditionally interpreted.¹³

So, whether or not *HFZ*'s reference to Confucians represents an appeal to authority or merely a mouthpiece through which it communicates its own ideas, the text nevertheless depicts a culture within which economic and symbolic capital are accumulated through the enforcement of state law—that is, they are

⁷ Xu Jianliang 許建良, *Xian Qin Fajia De Daode Shijie* 先秦法家的道德世界 (Beijing 北京: Renmin Chubanshe 人民出版社, 2012), 345-369.

⁸ Xie Yun Fei 謝雲飛. *Hanfeizi Xilin* (Taipei 臺北市: Dong Da Tushu Youxiangongsi 東大圖書有限公司, 1989), 104-105.

⁹ Shi Xianqun 時顯群. *Fajia “yifazhiguo” sixiang yanjin* 法家“以法治國”思想研究 (Beijing 北京: Renmin chubanshe 人民出版社, 2010), 175.

¹⁰ Eirik Lang Harris, “Han Fei on the Problem of Morality,” in Paul R. Goldin (Ed.), *Dao Companion to the Philosophy of Han Fei*, (New York: Springer, 2013), 126.

¹¹ Yuri Pines, *The Book of Lord Shang: Apologetics of State Power in Early China* (New York: Columbia University Press, 2017), 95.

¹² Zhou Chi Cheng 周熾成. “Lun Hanfeizi Dui Kongzi Jiqi Sixiang De Renshi He Taidi” 論韓非子對孔子及其思想的認識和態度, *Zhexue Yanjiu* 哲學研究 no. 11 (2014): 31-32.

¹³ Zhao asserted that Legalist government was mainly about enhancing the power of the ruler and making the waging of war more efficient. This, according to Zhao, partly explains how absolutism remained in China while the Europeans experienced the emergence of liberalism and socialism much sooner. See: Zhao Dingxin. *The Confucian-Legalist State: A New Theory of Chinese History* (New York: Oxford University Press, 2015).

meant to inculcate and reinforce state-based valuation¹⁴ of the subject's worth.¹⁵

I have previously argued that the state apparatus described in Legalist texts inherently possesses the pedagogical quality of Philip Jackson's "hidden curriculum."¹⁶ Focusing on one aspect of it, this study will elaborate on the *HFZ*'s "symbolic economy," how it works, and what function it serves. Drawing from the thought of Bourdieu¹⁷ and Goffman,¹⁸ this study ultimately hopes to show that deep understanding of the ideal state found in *HFZ* and other so-called Legalist texts requires a sociological or institutional approach to state values and pedagogy.

¹⁴ My use of "values" here follows that found in King (2018: 3). My conception of "values" refers to the activities that state law most positively reinforces. In other words, I am considering the pursuit of one's personal gain through what the state considers a recognizable contribution to its wealth and strength as behavior that necessarily upholds state values.

¹⁵ In fact, Yi went so far as to assert that the idea of a ruler informing the law with norms and standards that define social practice, determine individual fortune, and facilitate the state's economic development through the encouragement and restraint of specific behaviors originates with Pre-Qin Confucian thought. Yi Xian Rong, "Xian Qin Rujia Zhidu Sixiang Ji Xiandai Zhuandai—Yu Xiangdai Zhidu Jingji Xue Bijiao Yanjiu"

先秦儒家制度思想及現代轉化—比較研究, *Qi Lu Xue Kan* 齊魯學刊 no. 5 (1995): 22. Yi even mentioned that "Outer Compendium of Explanations, Upper Left" chapter quotes Confucius in an effort to describe how the ruler acts as the embodiment of the political system: "When the basin is square, the water in it will also be square. When it is round, the water in it will be round." (Yi 1995: 22)

¹⁶ King, 2018.

¹⁷ Pierre Bourdieu, *The State Nobility: Elite Schools in the Field of Power*, translated by Loïc Wacquant, (Cambridge: Polity Press, 1996).

¹⁸ Erving Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*, (Garden City, N.Y.: Doubleday, 1961).

State Work Ethic

The *HFZ* imagines proper administration of the law to subtly teach subjects what is sometimes referred to today as the "myth of personal responsibility," a phenomenon associated with conservative politics seeking to legitimize the influence of market forces on social outcomes.

Subjects are supposed to internalize the idea that they are the makers of their own fate, with their material circumstances and social prestige being solely authored by their own efforts.¹⁹ This explains why the *HFZ* conceptualizes the rewarded as feeling no indebtedness to the ruler, because they understand that they *deserve* the reward, and the punished as feeling no resentment, because they understand that they *deserve* the punishment.²⁰ This attitude is also illustrated in *HFZ* by the amputee who explains why he did not seek vengeance against Zi Gao.²¹

In addition to the so-called "myth of personal responsibility," "Prominent Teachings"²² adds that when a state lacks a culture of merit, it not only encourages free-riding but creates an impoverishing welfare state. The chapter says:

The learned men-of-service of the present generation speak of order a lot saying: "Give the poor and destitute land in order to enrich those who lack resources." Now suppose there is a person [in] similar [conditions] to others that does not experience a bumper-harvest year and is without the benefit of a side (additional) income; yet,

¹⁹ This can be found in the "Five Vermin" (*Wu Du* 五蠹) [49] chapter. See: Chen Qiyu 陳奇猷, *Hanfeizi Xin Jiaozhu* 韓非子新校注 (Shanghai 上海: Shang Hai Gu Ji Chu ban she 上海古籍出版社, 2000), 19.49.1111-1112.

²⁰ *Ibid.*, 16.38.906.

²¹ *Ibid.*, 12.33.722.

²² *xian xue* 顯學 [50].

by himself, he is able to become self-sufficient. If it is not due to his diligence, it is due to his frugality. Now suppose there is a person [in] similar [conditions] to others that did not suffer famine, major illness, significant calamity, and committed crimes. Yet, by himself, he has become poor and destitute. If it's not due to his extravagance, it is due to his laziness. The extravagant and lazy are poor. The diligent and frugal are wealthy. Now, when the ruler levies taxes in order to give to poor households, this is to steal from the diligent and frugal and give to the extravagant and lazy. Under these conditions, it is impossible to desire and demand the people to endure suffering (making great effort in agriculture) and be frugal.²³

This judgment against the poor indicates an ideological commitment to establishing a culture of personal responsibility. Not only are the poor described as extravagant and lazy, but the act of levying taxes and providing assistance to the poor is called stealing (*duo* 奪) from the wealthy whose riches are assumed to be a product of diligence and frugality (*jian* 儉). The wealthy are therefore more deserving of greater material welfare and social privilege.

Moreover, material conditions are actually indicators of the presence of certain virtues or character flaws. The state credits the wealthy with possessing the virtues of diligence and frugality, while disparaging the poor for their extravagance and laziness. The wealthy earned their privilege while the poor deserve to suffer for their depravity. This explains why taxing the wealthy to give to the poor interrupts what the *HFZ* views as an already distributively just outcome. This kind of tax policy, just as important-

ly, discourages a work ethic that is central to its sociopolitical project.

The Symbolic Economy

Reinforcing subjects' cultivation of a work ethic and personal responsibility for their material and social conditions, the state's architecture of governance in *HMZ* creates what this study is calling a "symbolic economy."²⁴

Assuming a natural inclination towards profit and fame and an aversion to danger and loss,²⁵ wealth and social privilege serve as motivating forces. The more extraordinary a subject's performance in state-promoted pursuits, the more merit she accumulates. This results in higher rank, office, wealth, and social status. Through these causal relationships, the state correlates individual performance of state values with their material conditions and prestige.

OCELL 33 begins to depict the ritualistic foundation for such a sociopolitical project when it assigns greater value to that which is in a higher spatial position. It states:

Viscount Jian of Zhao said to his attendants: "The mat in the carriage is too beautiful. Indeed, the crown, however humble [in appearance], must be worn on the head. Shoes, however noble [in appearance] must be worn on the feet. Now, the carriage mat is extraordinarily beautiful. What shoes can I wear [on it]? Wearing the beautiful below and the humble above is to harm the foundation of righteousness."²⁶

The above passage's promoted form of righteousness (*yi* 義) does not have the same meaning as what we find in the *Analects*.

²³ Ibid., 19.50.1134.

²⁴ Inspired by Bourdieu (1996).

²⁵ Chen, *Hanfeizi Xin Jiaozhu*, 4.14.279.

²⁶ Ibid., 12.33.736.

For instance, the *Analects* says: “With regard to the world, the gentleman has no predispositions for or against any person. He merely associates with those he considers right.”²⁷ Slingerland notes that this passage is often understood metaphorically. It describes how a Princely Man (*junzi* 君子), the embodiment of correct Confucian practice, “relies upon his internal moral sense” of right, along with his “situational responsiveness.”²⁸ To put it another way, an internal sense of righteousness guides the morally excellent man to the most appropriate behavior even when there is no external set of standards coercing him.

On the other hand, righteousness in our OCELL 33 passage refers to what is organizationally right, or just, based on an assignment of values to spatial position external to the self. Fundamentally, it contains no reference to specific ruler-approved channels for the subject’s pursuit of personal gain. Instead, it represents a general symbolic expression of assigned spatial values.

What is spatially higher should represent greater value than that which is spatially lower. More specifically, our passage insists on two correlative relationships. The beauty of one’s clothing or accessories should reflect their value; while their value should correspond with their spatial position. This explains why the carriage mat being so beautiful presented a problem. The Viscount requested the mat’s removal because he lacked shoes, which would be positioned above the mat, which had greater beauty.²⁹

²⁷ Edward Slingerland, *Confucius: Analects: With Selections from Traditional Commentaries* (Indianapolis, IN: Hackett Publishing, 2003), 32.

²⁸ *Ibid.*, 32.

²⁹ Luo metaphorically interpreted a similar passage from OCELL 33 that asserts how the crown, regardless of its relative beauty, should always be spatially higher than shoes. This, according to Luo, explains how a minister

Our chapter of focus then connects this anatomy of symbolic organization to the ritualistic behavior of the Confucians. One story in OCELL 33 says:

King Xuan of Qi asked Kuang Qian: “Do the Confucians (*Ru*) shoot dice?” Kuang Qian replied: “No.” The King asked: “Why?” Kuang Qian says: “Those who shoot dice attach great importance to the owl. The winner must discard the dice [effectively doing so to the engraved owl]. To discard the dice is to discard that which is esteemed. The Confucians consider this harmful to righteousness. Therefore, they do not shoot dice.” The King again asked: “Do the Confucians shoot [birds] with stringed arrows?” Kuang Qian replied: “No, because to do so is to shoot from below harming what is above. This is like a subject harming his Prince from below. The Confucians consider this harmful to righteousness. Therefore, they do not shoot [birds] with stringed arrows.”³⁰

The beginning of the passage makes clear that what this study is calling “spatial position” should not be interpreted too literally. In other

must use his worthiness in service to his superior, the ruler. If a minister allows his own fame and reputation to undermine the ruler’s authority, this will bring chaos to all under Heaven and should therefore be punished. See: Luo Shi Lie 羅世烈, “Ruhe Renshi Ru Fa Liang Jia De Sixiang—Jing Da Li Jin Quan Tongzhi” 如何認識儒法兩家的思想——敬答李錦全同志, *Sichuan Daxue Xuebao: Zhixue Shehui Kexueban* 四川大學學報：哲學社會科學版 no. 3 (1982): 50-57.

³⁰ Chen, *Hanfeizi Xin Jiaozhu*, 12.33.737-738. Chen Qiyou explained that there is an owl engraved on the dice. The objective is to land on the owl, but when this occurs the dice must be discarded. When one rolls and the dice do not land on the owl, then they can remain.

words, the Confucians (*Ru*) didn't shoot dice because of the conceptual value of the engraved owl on them. To discard an object with an image of a living organism that is generally associated with a higher spatial position than Confucians offended their sensibilities about what is organizationally right. Not only is the engraved owl not a living organism, but its spatial position is not necessarily above the Confucian shooting dice. Nevertheless, the conceptual value of what the engraved owl represented required deferential behavior.

Yet the passage does specifically connect the spatial position and value generally associated with a bird to state organization. The text considers shooting birds flying above from a lower spatial position analogous to regicide or harming one's ruler. This is not necessarily asserting that birds generally have more value than human beings. However, it is worth noting that the ritual of showing reverence to that which is spatially higher corresponds with a ritual of showing deference to those in positions of greater cultural value. The spatial ritual is not about recognizing a superiority of the birds themselves relative to humans. Rather, it is meant to inculcate and reinforce a norm that recognizes the value of position and, by extension, social station through ritual practice.

Extrapolating this value system to the state level creates a hierarchy of state worth based on individual achievement of merit. Of course, this idea can also be found in the *Mozhi*. In "Exalting Worthiness II" we read:

Therefore, the sage kings of old particularly followed exalting worthiness and employed utilizing ability and there were no factions with fathers and older brothers, no partiality towards the noble and rich, and no favoritism towards those of fine appearance. They selected those who were worthy and gave them high positions, enriching and

ennobling them by making them officers and chiefs. Those who were unworthy they curbed and demoted, impoverishing and debasing them by making them followers and servants. In this way, the people were all encouraged by their rewards and intimidated by their punishments, and followed each other in becoming worthy. In this way, the worthy were numerous and the unworthy few. This was spoken of as "exalting worthiness."³¹

In the *Mozhi*, merit is primarily defined by virtue. The above passage argues that creating social hierarchy according to this ideal has two main benefits.

First, it harmonizes social relations. This form of social organization prevents factionalism, partiality, and favoritism. Since all three of these phenomena spring from people prioritizing their pursuit of personal gain at the state's expense, we can say that this form of statecraft seeks to shape how its countrymen conceptualize their self-interest.

Second, if we define a "worthy" as a person who ideally exemplifies state values, then promoting the most virtuous helps to maximize the population of these individuals. This occurs in at least three ways. When a person's actions lack worthiness, or they pursue their personal gain and violate the law, they are impoverished, debased, and made into servants and followers. This necessarily results in the experience of deprivation relative to other countrymen with more privilege, wealth, and status. Thus, superiors effectively serve as extensions of the law that embody the relatively better material and social fates that await inferiors upon more successful performance of state values. As a result,

³¹ *shang xian zhong*尚賢中 [9], *Mozhi* 9:1, Ian Johnston. *The Mozhi: A Complete Translation*. (New York: Columbia University Press, 2010), 63.

inferiors become even more motivated to redirect their pursuits of personal gain to be in accordance with state rewards. Recognizing that personal gain can only be achieved by obtaining state rewards, subjects will concentrate their time and energy toward activities that develop the state.

Similarly, OCELL 33 promotes a form of state organization in which those with greater state worth are given more wealth and social privilege. Our chapter of focus immediately follows its earlier examination of Confucians ritual saying:

The King [Xuan of Qi] again asked: “Do the Confucians play the *Se* harp?” Kuang Qian said: “No. Now, the *Se* harp uses small strings to make large sounds and large strings to make small sounds. This interchangeability of large and small is akin to the [social positions of] noble and base being interchangeable. The Confucians consider this harmful to righteousness. Therefore, they do not play the instrument.”³²

Besides assigning value to spatial relation like high and low, the above passage treats relative size the same way. The text indirectly but explicitly tells us that big strings should make bigger sounds than relatively smaller strings, because size should not simply describe physicality.

Size should also signify quantity and stature. Hence, the Confucians considered the interchangeability of big and small on the *Se* harp as analogous to the interchangeability of noble and base. Big strings should signify greater and more powerful sounds relative to smaller strings, the same way nobility should indicate greater wealth and more social prestige or influ-

ence relative to base people. When nobility does not signify greater stature or power, this undermines the state’s attempt to instill certain values and traits within its populace.

Yet OCELL 33 extends its vision for a hierarchy of wealth and privilege further. It also explains how its ideal state develops character traits within individual subjects through state practice and its notion of what is organizationally right. To more concretely accentuate this point, the text demonstrates how excessive indulgence in virtue can weaken the state’s pedagogical mission: “If ministers engage in modesty and frugality, then rank will be insufficient to encourage and reward them.”³³

Recall how “Prominent Teachings” promoted frugality as an admirable trait that was associated with individual wealth relative to the laziness or extravagance of the poor. In this chapter however, frugality is discouraged as a harmful virtue. Immoralist, amoralist, or anti-pedagogical readings of these passages may attribute the discrepancy to a logical inconsistency in the *HFZ*, the two chapters having different authors, or Han Fei himself pandering to two different audiences.

Song however argued that the assertion that the *HFZ* rejects morality is misguided. He insisted that we must view passages that seemingly reject virtue within the context of the public-private dichotomy running throughout the text. When this occurs, the reader will find that when the *HFZ* rejects virtue, it is speaking of *private* virtue that can enable emotion to harmfully affect public working relationships.

He additionally argued that the *HFZ* explicitly illustrates an ethical consciousness that champions the promotion of those who engage in good deeds and punishing those who commit evil, like in chapters “Having Standards”³⁴

³² Chen, *Hanfeizi Xin Jiaozhu*, 12.33.738.

³³ *Ibid.*, 12.33.720.

³⁴ *you du* 有度 [6].

and “The Way to Maintain a State.”³⁵ According to Song, this perspective even challenges the notion that Han Fei’s thought represents a form of despotism.³⁶

With slight disagreement, this study argues the difference in attitudes toward frugality reflect the public-private (*gong si* 公私) conflict,³⁷ where the public’s welfare depends on complexity within the symbolic economy. On the one hand, the frugality present in “Prominent Teachings” was law-abiding and contributed to the public, consistent with production within ruler-approved channels. On the other hand, OCELL 33’s notion of frugality hinders the pedagogical effects of the symbolic economy.

In other words, frugality, especially combined with modesty (*bei* 卑), can result in social and political superiors, who are theoretically the most high-achieving and should therefore be amongst the wealthiest subjects, failing to reflect their state worth with beautiful clothing, rare accessories, or any other markers to distinguish themselves from their relatively inferior countrymen. When social and political superiors do not show their enviable wealth and so-

cial privilege, they fail to act as extensions of the law that has rewarded them. They shirk their responsibility to produce the necessary envy and relative deprivation within their fellow countrymen—envy and deprivation that will encourage them to perform better.

If subjects are not adequately motivated to obtain personal gain within state-promoted channels, this threatens the state rewards system itself. To illustrate this point, OCELL 33 provides two stories:

Meng Xian Bo was the chief minister in the state of Lu. Below his hall, he grew pulses and lamb’s quarters (weeds) and outside of his gate grew thistles and thorns. He did not have two dishes (or more) in a meal and did not sit on extraordinarily thick place mats. His concubines did not wear silk, and, at home, he did not feed his horses. When going out, he did not ride his carriages. Shu Xiang heard this and told Miao Ben Huang. Ben Huang disapprovingly said: “This to cast out and use the lord’s rank and emoluments in order to [individually] gain favor with subordinates.”

According to a different source: Meng Xian Bo was appointed to High Official and Shu Xiang went to congratulate him. By the gate, there was a horse not eating grain and Meng Xian Bo asked: “Why don’t you have two horses and two carriages?” Xian Bo replied saying: “I saw countrymen still having looks of hunger. Because of this I do not feed my horses. As for the elderly, many walk on foot. Therefore, I do not use two carriages.” Xiang said: “I first came to congratulate your appointment to High Official. Now I congratulate your frugality.” Shu Xiang then went to Miao Ben and said: “Join me in congratulating the frugality of Xian Bo.” However, Miao Zi said: “Congratulate what? Rank, emoluments, flags,

³⁵ *shou dao* 守道 [26].

³⁶ Song Hong Bing 宋洪兵. “Hanfeizi De Beju Mingyun Jiqi Sixiang Tezhi” 韓非子的悲劇命運及其思想特質, *Wen Shi Zhi Shi* 文史知識 no. 6 (2015): 39.

³⁷ It should be noted that Goldin has challenged the interpretation of *gong* as “public”. He has argued that the HFZ presents a doctrine of self-interest in which *gong* merely refers to the ruler’s self-interest. See: Paul R. Goldin, “Han Fei’s Doctrine of Self-Interest,” in *After Confucius: Studies in Early Chinese Philosophy*, (Honolulu: University of Hawaii Press, 2005), 58-65. Brindley has opposed Goldin’s view, however. She interpreted the notion of the *gong* as a notion of the “public” which acted as a “transcendent ideal” that kept “royal power in check” in the late Warring States period (481-222 B.C.). For more elaborate discussion of this, see: Erica Brindley, “The Polarization of the Concepts *Si* (Private Interest) and *Gong* (Public Interest) in Early Chinese Thought,” *Asia Major* 26, no. 2, (2013): 1-31.

and banners are what is used to differentiate merit and demerit and distinguish the worthy from the unworthy. Therefore, the law of the state of Jin holds that High Grand Masters have two carriages and two harnesses. Middle Grand Masters have two carriages and one harness. Lower Grand Masters have one harness. This is to clarify rank and grade. Moreover, High Officials must engage in military matters. For this reason, they must engage in maintenance for their carriages and horses, train foot soldiers, and prepare chariots for waging war. Upon war-time, they prepare contingencies. If there is peacetime, they provide service to the court. Now, he is bringing chaos to the government of the state of Jin and lacks the preparation for contingencies in order to achieve some conception of moral integrity and use it to glorify his own private reputation. What can we commend about Xian Bo's frugality? Again, congratulate what?"³⁸

Notice how the first story doesn't mention the virtue frugality at all. However, it does describe many acts that would be described as frugal, namely not having two dishes (or more) in a meal, not sitting on extraordinarily thick place mats, not feeding horses, and concubines not wearing silk.

This suggests that the text's critique targets specific behaviors rather than engaging in a general attack on virtue. Nevertheless, our passage expresses substantial disagreement with Meng Xian Bo's behavior, which is called frugality in the second story. Ben Huang accuses Meng Xian Bo of attempting to curry populist favor amongst subordinates. Essentially, Meng Xian Bo is characterized like other evil ministers who are described throughout the *HFZ*: displaying a frugality that is self-interested and

harmful to the state. Why? The second story most directly explains how behavior exemplifying frugality can be harmful.

Meng Xian Bo exemplifies a frugality based on his own individual assessment of state welfare and needs. Despite his good intentions, this kind of frugality treats the obtainment of rank, emolument, and other social privileges as solely an individual matter. Shu Xiang takes note of Meng Xian Bo's admirable intentions and commends him for them. Therefore, he augments the problem by providing social recognition and positive reinforcement for Meng Xian Bo's expression of frugality based on his personal evaluation and objectives.

Miao Ben enters the situation as the voice of reason and champion of state objectives. He highlights the importance of prioritizing the public welfare and order above private interests in two main ways. First, he points out how Meng Xian Bo's behavior produced effects diametrically opposed to his intentions. Choosing not to feed his horses, Meng Xian Bo failed to properly maintain them and make them war-time-ready. This shirks his responsibilities to adequately prepare for battle. Such instances of frugality deleteriously affect the state's ability to defend itself, thereby weakening the state more than it saves it wealth.

Second, and most importantly, Meng Xian Bo refusing to use the two horses and two carriages to which he is entitled harms the efficacy of the symbolic economy and impedes the state's pedagogical mission. Miao Ben shows that Meng Xian Bo's behavior was not only out of step with the spirit of the law because he was not distinguishing himself as he should, but it also demonstrated little to no awareness that rewards are a collective enterprise. When the state bestows rewards on Meng Xian Bo, he becomes a pedagogical force himself, acting as an extension of the law for others who want to strive for similar material circumstances and

³⁸ Chen, *Hanfeizi Xin Jiaozhu*, 12.33.745-746.

social privilege. His wealth and status signal to other subjects an enhanced quality of life upon upward mobility.

Instead, Meng Xian Bo's frugality presents him to the rest of the state as though he is base or less esteemed. Such a public appearance fails to motivate others to invest in the state's larger sociopolitical project. Effectively ignoring the organizational ideal (or what earlier passages referred to as righteousness), Meng Xian Bo's frugality shirks his duty to reflect his state worth with the markers the state provides.

Therefore, Meng Xian Bo's frugality represented a prioritization of his own "private" evaluation of state conditions or even a self-centered desire to accrue more social adoration above the preservation of the public's symbolic economy.

Law and the Creation of Social Groups

We can say that the wealthiest and noblest subjects are not supposed to just abide by the letter of the law, but also embody the *spirit* of the law. Their behavior's association with material welfare and upward mobility legitimizes state practice.

Hence, the *HFZ*'s ideal state compares well with what Pierre Bourdieu called the "rite of institution," producing a separate group of those with rank and merit, while ritually excluding those outside of it through wealth and social privilege.³⁹ In other words, law provides the "rational justification" for social groupings, especially explaining why the elite deserve their status, privilege, wealth, and power.⁴⁰ How it accomplishes this is complex.

³⁹ Pierre Bourdieu, *The State Nobility: Elite Schools in the Field of Power*, 73.

⁴⁰ *Ibid.*, 73.

First, the state teaches through institutional conditions and arrangements. In other words, values and human development are primarily taught through the conditions under which a subject lives in the state as opposed to a specific and overt content.⁴¹ Second, due to its establishment of state hierarchy on the basis of performance merit, law in the state creates the foundation of symbolic capital or the legitimated recognition of wealth and social privilege. The *HFZ*'s ideal subject enjoys more resources—like privilege, wealth, and power—the more she increases her performance merit. There is also an increase in the value or worth within state culture that she represents in the eyes of his ruler, fellow subjects, and, most importantly, herself.⁴²

This should at least partially explain to us why the *HFZ* consistently rejects any condition in which subjects who lack merit receive rewards. It destroys the symbolic organization of the entire state system and flies in the face of the work ethic it attempts to cultivate.

Exclusion from symbolic capital and cultural worth is meant to teach non-elite subjects character traits that are associated with the cultural worth or value of a social superior. Making visible the juxtaposition of the exemplary embodiment of state values and the failure to cultivate them, symbolic capital is what sustains the pedagogical value of rewards as a reinforcement for the law. It also is revealing of why the *HFZ*, in "Five Vermin," envisions the law as the only teaching and officers as the only teachers.⁴³ Social superiors are necessarily the most qualified to act as "teachers" to inferiors. This is the case for two reasons.

⁴¹ *Ibid.*, 84.

⁴² For more detail see: King, 2018.

⁴³ Chen, *Hanfeizi Xin Jiaozhu*, 19.49.1112. These exact phrases can also be found in the *Book of Lord Shang*'s last chapter, "Fixing Divisions" 定分 [55].

The mere existence of those with membership in the more privileged social ranks legitimizes state values to those who have less privilege, status, power, wealth, and no rank. From this pedagogical perspective, social superiors are even more than embodiments of the various fates associated with extraordinary performance within the confines of the law. They offer a range of social performances, cognitive frameworks, and collective habits, all of which are associated with greater personal gain.

At the same time, social superiors also represent greater competence, character development, and discipline. They represent those who have more successfully obtained objects of value (profit and fame) within the established social environment. This is what enables the symbolic to communicate with what the *HFZ* conceptualizes as human nature. Indirectly, higher social groupings communicate the range of possibilities that lower groupings can explore if they wish to achieve greater material and social outcomes.

To be clear, this symbolic economy does not seek to eliminate an individual's sense of self-interest. Rather, the state is exercising its most direct pedagogical influence by regulating how subjects display their personal success. Through this aspect of active governance, the conferring of rank and emolument does not merely change the way inferiors view superiors. It also changes the way the superiors view themselves.

Bourdieu explains that this has the “social force of a collective representation,” not just getting those who are excluded to view those of status, wealth, and privilege as “different,” “deserving,” or “worthy,” but to get those who are included to recognize their own “difference” and “worthiness.”⁴⁴

⁴⁴ Pierre Bourdieu, *The State Nobility: Elite Schools in the Field of Power*, 104.

On the whole, the administration of the OCELL 33's ideal state facilitates “many acts of separation and aggregation” within the populace.⁴⁵ The acts are both the “cause and effect”⁴⁶ of the progression of state development. Exceptional behavior or performance within ruler-approved boundaries results in the obtainment of the reward (effect) for an individual subject. Once rewards (recognition) are obtained, this only serves to perpetuate the subject's appetite for rewards even more, causing them to engage in the same category (within ruler-approved channels) of behavior and performance that earned them rewards in the first place (cause).

Interestingly, this same phenomenon occurs with punishments as well. It is exceptional behavior or performance outside those boundaries that results in the suffering of punishment or deprivation (effect). Once punishments or deprivation (sanction) are meted out, this motivates a subject to never engage in the same category (outside ruler-approved channels) of behavior and performance that cause them to suffer punishment in the first place (cause).

As a result, OCELL 33's ideal state possesses the duality of what Pierre Bourdieu has called the “unending” processes of “circular reinforcement.”⁴⁷

Conclusion

Examining our chapter of focus within the *HMZ* with a sociological lens provides insight into the subject's experience of a “Legalist” state.

Primarily teaching behaviors through the distribution of wealth and nobility, the law in OCELL 33 cultivates compliant patterns of behavior that create and reinforce a collective uni-

⁴⁵ *Ibid.*, 104.

⁴⁶ *Ibid.*, 104.

⁴⁷ *Ibid.*, 104.

ty and key cultural distinctions within it. It refers to a condition in which social practice successfully corresponds with internalized values—all of which are state-approved. Therefore, comprehensive understanding of the ideal state in the HFZ mandates an *institutional* approach to pedagogy. This leads us to conceptualizing the ideal state in the HFZ much like Erving Goffman's "total institution": "a place of residence and work where a large number of like-situated individuals ... together lead an enclosed, formally administered round of life."⁴⁸

Researching the experience of patients in mental hospitals, Goffman described how they implemented a "ward system,"⁴⁹ in which there are "a series of graded living arrangements."⁵⁰ The worst level was characterized by deprivation, or a living situation with little material comforts, consisting of "nothing but wooden benches to sit on," "quite indifferent food," and "a small piece of room to sleep in."⁵¹

This is contrasted with the "best level."⁵² Patients in these living circumstances are given "a room of one's own, ground and town privileges, contact with staff that are relatively undamaging, and what is seen as good food and ample recreational facilities."⁵³ These graded living arrangements are directly correlated with the rules for the patients in the mental hospital. Punishments often result in a loss of privileges and downgrades in one's living arrangement, while steadfast obedience allows for possible upward mobility into better living arrangements.⁵⁴

Goffman describes this ward system as a "resocialization chamber" in which the promotions and demotions are "officially interpreted as psychiatric relapses or moral backsliding."⁵⁵

What also occurs is a reconceptualization of the self. Upon a demotion in living arrangement, the self also loses significant status within the institutional complex. In other words, there is a positive correlation between how one values herself and how others value her, on the one hand, and the institution's decisions to promote and demote, on the other.

In this sense, institutional arrangements do not really support the self as much as they constitute it.⁵⁶ Therefore, we fail to comprehensively engage the experienced self when it is assumed to be "a property of the person to whom it is attributed."⁵⁷ Instead, with an institutional approach, we can conceptualize the self as a product of social forces and relationships that resides in "the pattern of social control" and prevailing arrangements within a regulated space.⁵⁸

Therefore, moral concern in the HFZ should be thought of in the way Goffman conceived of the "moral career."⁵⁹ He described it as the "sequence of changes" in the way an individual conceives of "selves," including "his own" and others.⁶⁰

OCELL 33's symbolic economy not only challenges our current understanding of the political vision found in the HFZ and other Legalist texts, but it also urges us to think about state action today, on at least two levels.

First, it reminds us of the power and influence state institutions can and do have on citizen behavior. Mechanisms of economic and

⁴⁸ Erving Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*, 11.

⁴⁹ *Ibid.*, 137.

⁵⁰ *Ibid.*, 138.

⁵¹ *Ibid.*, 138.

⁵² *Ibid.*, 138.

⁵³ *Ibid.*, 138.

⁵⁴ *Ibid.*, 138.

⁵⁵ *Ibid.*, 150.

⁵⁶ *Ibid.*, 154.

⁵⁷ *Ibid.*, 154.

⁵⁸ *Ibid.*, 154.

⁵⁹ *Ibid.*, 154.

⁶⁰ *Ibid.*, 154.

political control do not merely incentivize or deter. They impose and distribute values and meaning to such an extent that we cannot fully understand ourselves without taking into account the social forces and relationships they facilitate. Ignoring the hegemonic forces at work in the definition of valuable production, legitimate knowledge, and useful habits results in the reproduction of an already established sociopolitical order. An investment in a symbolic economy by those with political and economic power can play a very important role fortifying such an outcome.

Second, adequately recognizing the stakes involved in defining culture requires the establishment of counteracting forces against state hegemony. Such a move requires us to unlearn institutional ways of being and the habits they promote. Given this, the turn to John Dewey is more than appropriate.

Dewey insisted that the “task before us” was to develop a “creative democracy.”⁶¹ On the one hand, this idea reminds us of our agency in authoring our “personal way of individual life”⁶² while also warning about the dangers of conceptualizing democracy as a political mechanism that perpetuates itself “automatically.”⁶³

On the other hand, Dewey’s conception of democracy relied heavily on a “working faith” in the human capacity for intelligent judgment and cooperative action along with the potential to cultivate personal attitudes and working relationships that can combat the enemies of equality, justice, and freedom.⁶⁴ Rather than thinking of our “dispositions and habits” as mere “expressions, projections, and extensions” of our

“personal attitudes,”⁶⁵ my analysis of OCELL 33 suggests that we must consider the extent to which institutional arrangements create and shape our character traits and how we measure their worth.

Instead of getting “rid of the habit of thinking of democracy as something institutional and external,” perhaps we should heighten our awareness of how democracy is both internal—acculturated as “a moral ideal” and “way of personal life”—and external—functioning as institutional power capable of constituting the self, facilitating or hindering self-determination, and shaping intelligence and its value through prevailing arrangements and a variety of social forces.⁶⁶

Dewey’s thought still inspires us to utilize our “inventive effort and creative activity”⁶⁷ to develop democratic spaces and institutions that are critical, encourage social engagements that imagine greater possibilities, and work toward the realization of much needed change. However just as the *HFZ* and other Legalist texts advocated for a contextually-defined and symbolically-reinforcing pedagogy that responded to the conditions and problems of their historical period, so too must our democratic spaces and institutions today respond to the tensions, struggles, and symbols that pervade our social, political, and economic reality.

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⁶¹ John Dewey, “Creative Democracy—The Task Before Us,” in Jo Ann Boydston and Larry A. Hickman (Eds.), *John Dewey: The Later Works, vol. 14*, (Charlottesville, VA.: IntLex Corporation, 1996), 224.

⁶² *Ibid.*, 226.

⁶³ *Ibid.*, 225.

⁶⁴ *Ibid.*, 226-227.

⁶⁵ *Ibid.*, 226.

⁶⁶ *Ibid.*, 228.

⁶⁷ *Ibid.*, 225.

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