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Opposites Attract

*The Fusion of Confucianism and the Qin Dynasty's Legalism in the People's
Republic of China Today*

Elyse Tompkins

Abstract

The aim of this research is to examine the seemingly opposite Legalist outlook of the Qin dynasty against the philosophy of Confucianism, and determine the extent to which they have impacted the government and society of the People's Republic of China today. It is common in Eastern cultures to blend two seemingly opposite ideas, which is partially how this mixture of Legalism and Confucianism works in the current government. The Qin dynasty employed the legalist governmental philosophy, which allowed one ruler to effectively control all of China. This set up the principle of a concentrated government over the vast Chinese land that has remained throughout the centuries. Aspects of the Qin Dynasty have become ingrained in the culture of China, as evident in their government structure and harsh punishment system, which will be further examined in this paper. Confucianism has impacted the societal makeup of the Chinese culture since the fifth century BCE. Many Chinese today identify themselves as "Confucian in public and Daoist in private." This paper examines the effects of Confucianism more in depth on both the society and government in China today. The aim of the research is to examine how much Legalism and Confucianism have blended together to create China today.

It may very well be impossible to analyze the exact reasons why anything is the way it is; the blend of events is unpredictable. However, Legalist principles and Confucian ideas are prevalent in modern China today. This paper will try to examine the fusion of these two seemingly opposite ideas to understand how they make up the Chinese government, military, punishment system, the state's view on religion, and the society of China today. It is important to examine these effects because it will give a rare insight into why China is the way it is: a large state with over a billion people controlled by a strict "communist" government that is pretty effective in its rulings.

Historical Background: Legalism

The Qin dynasty gave China its first sense of unity, which has lasted until present times; this unity was achieved through the harsh system of Legalism, which ironically brought about the downfall of the Qin dynasty but strengthened later Chinese

governments. Emperor Shih Huangdi brought the multiple separate Chinese nation-states together by force and molded them into a single country through standardizations. Ever since, China has consistently reverted back to a unified state, even after times of periodic disunity. The Legalist system that was required in order to achieve this unity is not always looked upon benevolently because it was not a benevolent system in the least. In fact, it was a totalitarian government that flourished by keeping its people miserable. However, Legalism was significantly strong under Shih Huangdi, and after his death the dynasty quickly disintegrated. Nevertheless, China was unified more or less permanently through the methods of a madman, as some depict him to be.

The Qin dynasty owes its existence to Legalism, but so does China as a whole. Without Legalism, China very well might not have become united and centralized the way it is today. Though the Chinese may hold understandable contempt for Shih Huangdi and the Qin dynasty, it is important that they keep his gratitude towards them as well. Just like any person embarrassed by his past, China knows that its Legalist origins made it into the country it is today. Moreover, Legalist ideas are not strictly found in the Qin dynasty, but can be compared to other governments (especially autocratic ones), and the ideas seem to have been recycled through many schools of thought and governmental structures.

Legalism is a term for a political governing system in which the government is exceedingly strong. The state is put above individual interest and war is the primary action of the government. William Theodore de Bary and Irene Bloom say, "In its earliest form, 'Legalism' was probably the outgrowth of a need for more rational organization

of society and resources so as to strengthen a state against its rivals.”¹ This is exactly its effect on the state of Qin during the Warring States Period in ancient China. Legalism was an autocratic form of governing that focused on punishments and rewards; legalists believed that people were incapable of acting civilized without a strong government to mold them. These punishments not only were for the criminals; sometimes they would also be put upon the leaders in charge of the criminals via “collective responsibility,” in an effort to keep everyone in line.² (from the *Guanzi* by Guan Zhong in Bary, pg. 192). A quote from the *Guanzi* that perfectly explains this is: “When punishments are imposed, they shall not be applied to the guilty person alone. When rewards are granted, they shall not be bestowed merely on the person credited with the achievement.”³ The implications of this were that it minimized the individual and focused on people as units. This was exactly what Legalists wanted. Similar to fascism, the “people” in a Legalist state were simply pawns of the government, useless unless working to strengthen the state. War was the most important thing, because it not only expanded the area to be governed, but it kept the people in line and gave the ruler more power.

According to Dorothy Perkins, “Legalism was one of the four most important schools among the ‘Hundred Schools of Thought’ that developed during a period of socio-political ferment.”⁴ The Hundred Schools of Thought was comprised of various approaches to running a logical government, in reaction to the Warring States Period (explained momentarily). The Hundred Schools of Thought thrived between 551 and 233

¹ “Legalists and Militarists,” In *Sources of Chinese Tradition*, compiled by Wm. Theodore De Bary and Irene Bloom, 190-91, 2nd ed. Vol. 1. (New York: Columbia University Press, 1999), 190.

² W. Allyn Rickett, “The *Guanzi*,” in *Sources of Chinese Tradition*, compiled by Irene Bloom and Wm. Theodore De Bary, 192-93, 2nd ed. Vol. 1. (New York: Columbia University Press, 1999) 192.

³ Rickett 193.

⁴ Dorothy Perkins, *Encyclopedia of China*, (New York, Rountable Press, 1999), 273.

BCE and is responsible for the creation or organization of the following philosophies: legalism, Daoism, Confucianism, and Mohism, to name a few.

Han Fei Tzu (known as the founder of legalism; explained in detail later) characterized legalism as having these four attributes: punishments and rewards; increased production; taxes for the ruler; and a strong military.⁵ Yet this must be expanded upon, because he did not see legalism in its prime—having died before the Qin dynasty. Thus for the purpose of comparing degrees of legalism within a government in today's context, the necessary principles found in a legalist state are as follows: a centralized government, an autocratic ruler, one party, the state is more important than the individual, warfare is emphasized and used often, secret networks to stop potential rebellion, propaganda, strict laws with clear and consistent punishments, harsh punishments and rewards for adherence to laws, emphasis on agriculture, no government handouts, control through fear, and a dismal outlook on scholars⁶ and human nature. The primary example of a legalist government is the Qin Dynasty under Emperor Shih Huangdi between 221 and 201 BCE, which will be discussed in the next section.

Warring States Period

During the Warring States Period in the Hundred Schools of thought, legalists attempted to bring government back to rationality instead of the chaotic mess it was under the Zhou dynasty (immediately preceding the Qin dynasty). The Zhou dynasty was comprised of many feudal states and occurred between the years 1100 and 256

⁵ Burton Watson, "Li Si: Legalist Theories in Practice," in *Sources of Chinese Tradition*, edited by Wm. Theodore De Bary and Irene Bloom, 206-12, 2nd ed. Vol. I. (New York: Columbia University Press, 1999), 206.

⁶ The nations could not be successfully dictated to if intelligent people incessantly pointed out faults.

BCE. These states' rulers had freedom to rule as they wished on the stipulation that the state gave military support to the Zhou Emperor and declared themselves under his rule. It worked well until the states began fighting among themselves for power; they each desired power and the rule of the empire. They managed to overtake the Emperor, which caused more power struggles. This time is referred to as the Warring States Period. This was just as it sounds: the feudal states competed for power in an attempt to become the new central ruler of the empire. They eventually reduced themselves down to seven states: Qin, Wei, Han, Chu, Qi, Yan, and Zhao. As the wars waged, China thrived culturally. This is when the Hundred Schools of Thought emerged. Philosophy and intellect prospered in an attempt to make up for the wars preoccupying the current heads of states.

The victor of the Warring States was Prince Cheng, ruler of Qin since 246 BCE. The state of Qin was not gentlemanly or sophisticated (according to other Chinese states at this time), but it excelled in warfare. The proof of this was in their conquering of the other states. It was this barbarianism that allowed Qin to succeed in their wars, because they did not necessarily follow the proper war etiquette.⁷ Qin at this time was a Legalist state, which had been strengthened by the leadership of Shang Yang (390-338 BCE), who will be discussed later.

Shih Huangdi and the Establishment of the Qin Dynasty

Prince Cheng established the empire of Qin in 221 BCE. He named himself Qin Shih Huangdi (literally: First Sovereign Emperor). He took this name from the legendary Yellow Emperor of China (Huangdi). The Yellow Emperor (circa 2696–2598 BCE) allegedly unified China commissioned many improvements to daily life. The Yellow

⁷ *Empires ascendant: time frame 400 BC-AD 200*, (Alexandria, Va.: Time-Life Books, 1987), 140.

Emperor also allegedly knew secrets on alchemy and immortality, and went to heaven as an immortal. This idea of immortal life fascinated Emperor Shih Huangdi, and became one of his obsessions. Qin Shih Huangdi tied himself to this successful ruler of Chinese past as a way of legitimizing his rule and increasing his popularity. He also did this to attach himself to the immortality of the Yellow Emperor, hoping he could achieve it as well:

Legends claim that after the Yellow Emperor organized his kingdom, he ascended into the sky as an immortal being. King Zheng (Cheng) of Qin... gave himself the title Qin Shi Huangdi... to associate himself with the supernatural powers attributed to Huangdi. He built himself a splendid mausoleum at Mount Li in anticipation of joining the band of immortals after he died on Earth.⁸

Shih Huangdi focused on tying himself to immortality via links to past times of prosperity to improve his reputation.

C.P. Fitzgerald says that “the Ch’in-Han revolution was the most profound and far-reaching social upheaval in all Chinese history.”⁹ Though this is a strong statement, it is based on a solid fact: the establishment of the Qin Dynasty destroyed the long-standing feudalist states through a revolution from the top, put in place by Shih Huangdi and his advisors. Shih Huangdi used specific methods to achieve this unity. He had former kingdoms’ walls torn down to assert uniformity and he collected all weapons from individuals. He had these weapons melted and made into statues and bells. Twelve statues from this metal were displayed in the new capital city of Xianyang. In addition, Shih Huangdi made it illegal to own weapons for personal use. Many did not like this, but it prevented an armed revolution on the new government. Moreover, Shih Huangdi redistributed the territories. There were now a total of thirty-six regions called “commanderies.” With the Emperor’s expansionism, the commanderies eventually

⁸ Perkins, 600-601.

⁹ C.P. Fitzgerald, *China: a Short Cultural History*, (USA, Westview Press: 1985), 137.

increased to forty-eight. Over time, he acquired the Ordos region, South China, Vietnam, and Fukien.

The aristocracies and families of the old kingdoms were brought to the capital to be distracted and isolated from their former kingdoms. The former rulers were given the collective name "Sons of Heaven" and were in charge of sacrifices to Heaven. In the place of the former aristocrats in China, new, intelligent men from the middle class were put in charge of the commanderies. This idea of meritocracy that Shih Huangdi initiated assured that the new officials would be faithful to him and his government. They owed Shih Huangdi their success because he chose them for their intelligence and gave them their status. This meritocracy became a common theme in China as the years and dynasties progressed.

The new Qin government not only abolished the old feudal kingdoms, it strengthened the Emperor's power through centralization. The new arrangement is described as such:

The emperor's top deputies were his chancellor or prime minister, the military commander in chief, and a 'grandee secretary,' who oversaw the performance of government officials. Below these was a cabinet of nine ministers with jurisdiction in areas such as justice, ceremonial rites, and the treasury.¹⁰

Shih Huangdi kept his chief advisor Li Si (a legalist) as such when he took the title of Emperor. Shih Huangdi and his advisors decided to transfer the old legalist principles of the state of Qin to the new dynasty of Qin, simply by expanding the laws and practices to every part of the empire. The Emperor had high hopes for his legalist government; he thought it would last "ten thousand ages."¹¹ Unfortunately (or fortunately, depending on your point of view), the empire only lasted fifteen years. The Qin dynasty died with

¹⁰ Timeframe 141.

¹¹ Fitzgerald 138.

Shih Huangdi; it was not the same after the First Emperor was no longer in power, but this will be elaborated upon in due time.

Shih Huangdi: His Life and his Obsessions

Shih Huangdi was a peculiar man partial to obsessions. According to Timeframe, "Everything about him, his fears and hatreds as well as his plans and visions, was exaggerated, magnified beyond human scale."¹² However, the sources on Shih Huangdi which portray him this way were by Han historians, who were Confucian; their values as Confucian required them to look upon legalism with disdain. Thus the Han critics may have been harsh towards Shih Huangdi in description because of their hatred for his policies. Just as likely, though, Shih Huangdi was every bit as crazy and ruthless as he is made out to be. His mother was a courtesan and his father may have been Lu Buwei, a court advisor for the state of Qin. Regardless, when Prince Cheng was 13 he became King Cheng of Qin. Until he was 21, Lu Buwei and his mother were regents. His paranoia started early on in his reign: he had Lu Buwei sentenced to death because of a supposed plot against him. Shih Huangdi then appointed Li Si as his advisor, or Chancellor of the Left.

Shih Huangdi was a cruel ruler; he took his Legalist principles to the extreme and enforced harsh, disproportional punishments for violators of his laws. He recruited people to be hard laborers and soldiers, utilizing them without thought or care. A failed assassination attempt in 227 BCE had deepened Shih Huangdi's already prevalent paranoia, pushing him further to his search for immortality. Shih Huangdi slept in a different room each night and promised death to any who told of his current whereabouts.

¹² Timeframe 142.

In his search for immortality, Shih Huangdi became entranced with Daoism, despite his distaste for religions. However, Daoism was originally intended to reconnect with one's own nature, which was one of many conflicting beliefs between Shih Huangdi's Legalist principles and his affinity for Daoism. One example of the conflicting interests between the two was that Legalism requires a strong government, while Daoism prefers a minimalist one. Daoist rulers are supposed to not seem like rulers at all and leave things up to the people. So, Shih Huangdi disregarded the parts of Daoism that did not correlate with his Legalist policies and instead focused on the immortality aspects of the religion. Daoists practiced alchemy—which they said would lead to immortal life through eating certain herbs and minerals (such as sulfur). In an effort to pursue this, Shih Huangdi made trips around his empire in search of immortality; for example, he was the first ruler who climbed Mount Tai—a sacred mountain—to make sacrifices to become immortal. He traveled to the East coast many times in search of the elixir of life, stopping in villages along the way to strengthen his power. He met with the local governments and took part in religious sacrifices to “reconnect” with the people.

There were Eight Immortals in Daoism at Shih Huangdi's time, who supposedly acquired the title from being good, sacrificing, and meditating. How Shih Huangdi expected to achieve immortality through Daoism is open to interpretation, because he certainly did not perform good deeds in terms of his governing decisions. However, in search of these immortals, Shih Huangdi is said to have sent some of the first settlers to Japan (according to legend). He gave permission to a large group of magicians to travel to the Penglai Islands, supposedly the home of the Daoist Immortals. The magicians required hundreds of men and women to accompany them, so Shih

Huangdi sent them along. He never saw them again, so he never knew if they found the elixir of life or not. Perhaps they feared his wrath if they did not find such elixir. Supposedly, this is how Japan first became colonized.

Shih Huangdi's paranoia reached its peak in 211 BCE. Unlike Julius Caesar, Shih Huangdi took the ill omens he encountered and heard about to heart and set out once more to find immortality. He went with a number of companions, including Li Si and many of his eunuchs and concubines. On the trip, Shih Huangdi became deathly ill, so wrote a letter to his son Fu Su asking him to be his heir again. That letter never reached Fu Su.

Fall of the Dynasty

The Qin dynasty fell as quickly as it rose. Li Si and the powerful royal eunuch Chao Kao kept the letter Shih Huangdi wrote to Fu Su and let Shih Huangdi perish on board the ship. They told no one of the Emperor's death, and wrote a new letter to Fu Su from "Shih Huangdi" asking him to kill himself, to which Fu Su complied. They did this in order to prevent Fu Su from having them executed when he came to power. When the ship reached shore again, Li Si and Chao Kao had a fish cart follow the Emperor's cabin to hide the stench of his decaying corpse. They were then able to secure Shih Huangdi's weak son Huhai to be the next Emperor, Er Qin Shih Huangdi (Second emperor of the Qin dynasty). Within the next four years, Er Shih Huangdi, Zhao Gao, and Li Si had undone the former Emperor's work—though Er Shih Huangdi was merely a puppet in the advisors' decisions. In 208 BCE, Zhao Gao arranged for Li Si's execution by way of being split in two at his waist. Zhao Gao and Er Shih Huangdi then arranged the murders of other children of Shih Huangdi. Zhao Gao then convinced Huhai to commit suicide and he put another relative, Zi Ying, on the throne to be the King (not Emperor).

The new king then sentenced Zhao Gao to death, but the damage was done. During Er Shih Huangdi's "reign," uprisings had spread throughout China around 209 BCE, led by a rebel named Ch'en She. Descendents of former feudal kings were put in charge of their former states and in 207 BCE—forty-six days after being King—Zi Ying was forced to surrender to the rebel Liu Bang, who was to form the Han dynasty.

Territory was given to those who had fought during the rebellions, but the newly restored feudal system did not last long. Fitzgerald declares that this is the best example of how thoroughly the Qin dynasty destroyed the feudal system, because even though it had a brand new chance to reassert itself, the feudal system failed quickly. Fitzgerald explains that Qin "was destroyed, divided and humbled. No better opportunity could be asked for; if the feudal system was the true solution for the troubles of the state, it had now a fresh lease of life, but it collapsed at once."¹³ This is the first proof of the permanent unity of China.

The rapid deterioration of the Qin dynasty was in part because of Shih Huangdi's personality. He was paranoid, secretive, and cruel; this led to his unpopularity and Huhai's easy controllability, since Li Si and Chao Gao were two of the few who knew how Shih Huangdi ruled the empire (or so they thought). Shih Huangdi also burned books and proclaimed himself a divinity, which contributed to his popular dislike. When Chao Kao was in power, his paranoia also pulled the empire down; his paranoia of assassination led to his dismissal of many good generals he feared would rise against him, and to the execution of Li Si. Chao Kao also gave more taxes and enforced harsher laws, which led to more exiles and convicts. The instability of the time added to the disintegration of the dynasty. Moreover, those in the government were all afraid

¹³ Fitzgerald 152.

and distrustful of each other, so none tried to fix the Legalist system. Thus the system imploded on itself; the fear meant for the people extended to the officials, leading Shih Huangdi to be the only one who could have reformed the government. Thus, the only way out was a revolt because officials were too afraid for their lives to attempt to make changes. They did not know whom they could trust.

As stated before, the Han dynasty, established after the Qin, did not like Shih Huangdi or his legalism. Their reports may be exaggerated, but Chia I (a Han historian) wrote *The Faults of Qin*, which outlined the supposed causes of the downfall of the dynasty. It declared that Shih Huangdi was greedy, untrustworthy, and increased punishments and tortures in the empire. Chia wrote, "When a man has the rank of Son of Heaven, and all the wealth of the empire as his riches, and yet cannot escape being massacred, it is because he has failed to distinguish between the means by which power is safeguarded and the causes which lead to disaster."¹⁴ The people did not like the constant warfare, conscription of laborers, and extreme measures that Shih Huangdi took to minimize criticism of his mode for governing.

Standardizations

Shih Huangdi standardized currency, weight and lengths, laws, taxes, and script. His coins were to be used throughout the empire; they were round and copper with a hole in the middle for easy carrying (they could be strung together). Weight and length units were standardized in order to improve trade both between commanderies and to outsiders. Unifying the laws and taxes further cemented the idea of a united Chinese Empire because they were all treated the same way. They were treated poorly and severely, but they were treated the same no matter what. One of the most remarkable

¹⁴ Fitzgerald 150.

and important standardizations, though, was the standardization of writing. Dialects throughout the empire were different, but the characters were identical. This not only helped with trade, laws, and communication in general, but it is still a unifying factor of China today. Current Chinese scholars are able to read Qin documents, and documents of later times, because of this standardization. If Shih Huangdi had allowed different commanderies to maintain their individual writing, his firm grasp of the empire would not have been achieved. Communication would have been a defeating obstacle; he would have had to translate his laws and declarations to each different language, which was not what his empire or Legalism was about. His people were supposed to accommodate to him, not the other way around.

Shih Huangdi on the Past and Religion

As mentioned, though Shih Huangdi liked the alchemical part of Daoism, he distrusted religions in general. This is in part due to Legalism's focus on the here and now with a disdain to the past. Shih Huangdi disregarded the past because he did not want to be compared to it.¹⁵

In 213 B.C. some scholars and officials attempted to persuade (Shih Huangdi) to decentralize some of his power by allowing feudal states to have a degree of autonomy. Li Si, speaking for the emperor, replied that scholars who study the past to criticize the present created only chaos. He drew up an order from Emperor Qin Shi Huangdi that all books except those written about practical topics such as agriculture, medicine, and divination were to be burned.¹⁶

Anyone who disagreed with this Book Burning was to be buried alive. The emperor's own son, Fu Su—first heir to the Emperor—was exiled because he opposed the book burning. In 212 BCE Shih Huangdi put 460 scholars to death because he “thought” they were plotting against him—though perhaps they were merely reading and discussing

¹⁵ However, he did want to be associated with the Yellow Emperor. It is funny how people pick and choose things.

¹⁶ Perkins 408.

books Shih Huangdi did not want them to look at. Shih Huangdi burned books in an effort to minimize criticism about his government, but it actually made them criticize and hate him even more. Some brave souls successfully saved a few copies of ancient texts (especially those on Confucius), but for the most part, our knowledge of ancient China today is limited because of the lack of texts from the Book Burning.

Legacy of the Qin dynasty

The Qin dynasty was a time of a strong, harsh tyranny, but its impact on China was unprecedented. It united China in a way that it had yet to see, which was due to its legalist system of government. This sense of unity was furthered by standardizations employed throughout the empire. Most importantly, the Legalist philosophy employed by the government allowed for one ruler to effectively control all of China, which set up the principle of a concentrated government over the vast Chinese land that is still in use today. Present day China has a love/hate attitude towards Shih Huangdi; they think he was a cruel leader who destroyed access to their history from his book burning, but they appreciate what he contributed towards China culturally. Shih Huangdi's focus on meritocracy also led to the establishment of a new class of educated elite known as *chun tzu* (which had formerly been the aristocracy). Overall, "Shih Huang Ti has earned the detestation of all succeeding generations of Chinese scholars for his burning of the books and his contempt for the past, but their denunciations have not availed to destroy his true monument, the ideal of a unified empire, which he left as a legacy to all succeeding dynasties."¹⁷

Shang Yang and Han Fei Zi

The person attributed with the enacting of Legalism in the state of Qin is Shang

¹⁷ Fitzgerald 138.

Yang (Lord Shang); his major work is *The Book of Lord Shang*. Lord Shang was a prime minister who strengthened Qin with his legalist policies in the mid-300s BCE. Shang Yang had been born and raised in Wei, next to Qin, but was not appointed Prime Minister even though he had worked for the previous one and had been recommended.¹⁸ This led him to accept a position for King Xiao of Qin in 356 BCE. This proved a good step for Qin and a poorly-thought decision by Wei. Shang Yang's reforms to Qin were far-reaching and long-lasting:

As prime minister, Shang Yang built up Qin into a powerful military machine following the principles of the Legalist School of Thought. He centralized the administration of the counties within the state and divided the population into groups of families that had to provide prescribed numbers of young men to serve in the army. He attracted immigrants from other states by raising the status of peasants through such policies as allowing them to buy and sell land.¹⁹

This was, more or less, a rubric as to how Shih Huangdi would set up his empire. Both Shang Yang and Shih Huangdi were harsh with their punishments, but they did provide rewards to promote good behavior. Shang Yang similarly had two Confucian documents burned (*Book of Songs* and *Book of History*), which shows the dislike of religion and the past even at this early stage of Legalist development. Shang Yang was killed after King Xiao passed away. His successors had taken parts of Wei and all of Shu by 316 BCE because of the foundation built by Shang Yang.

If Shang Yang was known for practicing Legalism, Han Fei Zi is remembered as having recorded it. Han Fei Zi was born in Han and wanted to make Han into a strong military power. The Han government did not listen to Han Fei Zi, so he recorded his views, which laid out the principles of Legalism. One of his most important works was the

¹⁸ Perkins 448.

¹⁹ Ibid. 448.

book *Han Feizi*²⁰. It focuses on *shi* (power), *fa* (law), and *xing ming* (performance and title). When Han Fei Zi was sent to Qin by his government in 233 BCE, he did not return; he was offered a position in Qin and accepted. Qin leaders seemed to be able to know who the state would benefit the most from, and had no problem if they were not a native to Qin. This is significant because during the Qin dynasty, this absence of discrimination allowed the dynasty to thrive instead of being torn apart by racism.

Abolition of Aristocracy and Centralization of Power

One of Li Si's policies that Shih Huangdi enacted was the previously mentioned abolition of feudalism. "The entire area of China was brought under the direct control of the central court through an administrative system of prefectures and counties."²¹ Shih Huangdi did not want any feudal kingdoms or aristocrats taking power from him, so brought them close to him so he could keep an eye on them. To secure the abolishment of feudalism, Shih Huangdi and Li Si enacted various standardizations already discussed in this paper. Li Si praised Shih Huangdi for all his harsh actions: "Now Your Majesty is the first to accomplish a great achievement. He has founded a glory which will endure for ten thousand ages. This is what narrow scholars cannot understand."²²

The organization of the state in Legalism is specific. Legalism focuses on maximizing the state's efficiency and giving as much power as possible to the concentrated government, which has already been discussed. The Emperor was in charge completely and resolutely, and used military might to defeat any who dared to say differently. The laws that the government enacted had to be strict and clear so that

²⁰ Legalists seemed to not care about the frivolity of creative titles. What good to the state would that be, after all?

²¹Watson (Li Si) 206.

²² Fitzgerald 144.

the unintelligent subjects could easily understand them. They needed predictability with dire consequences to train the people into lawfulness.

Attitude to Education, Scholarship, the Past, and Religion

Education and scholarship was a waste of time because it did not help with the state's power. Legalism did not care about intellect, only power. Talking about nothing was not efficient, thus there was no place for it in the Legalist doctrine. Han Feizi said that "men of literacy accomplishment should not be employed in the government, for to employ them is to bring confusion to the law."²³ By this he means that their debate about the interpretation of laws only leads to the confusion of the people. This is why all laws must be simple, clear, and always upheld, no matter what the perpetrator's rank or job. Also, Legalists did not want scholars criticizing their methods, especially by comparing it to past governments. The Legalists advocated for a straightforward formula towards the "justice" system that would apply to everyone regardless of rank. Similarly, Han Feizi says that "the enlightened ruler works with facts and discards useless theories. He does not talk about deeds of humaneness and rightness, and he does not listen to the words of scholars."²⁴ A Legalist ruler should not care about morals, only about laws.

In *Han Feizi* there is a story of a rabbit that trips on a stump. The farmer who owns the land and finds the rabbit wants to kill more rabbits this way, so sits there and waits. However, no more rabbits come, so the farmer looks like a fool and the town makes fun of him. Han Feizi says that this is what governments that focus on the past do; they are stumpwatchers because they waste their time on something that will not work again.²⁵

²³ Watson (Feizi) 201.

²⁴ Ibid. 205.

²⁵ Ibid. 199.

Han Feizi also makes it his responsibility to point out flaws he sees in other forms of government, especially by citing that Confucians and Mohists praised the ancient times when rulers and subjects had a father-son relationship. Han Feizi points out:

But though all parents may show love for their children, the children are not always well behaved.... And if such love cannot prevent children from becoming unruly, then how can it bring the people to order?... Humaneness may make one shed tears and be reluctant to apply penalties, but law makes it clear that such penalties must be applied.²⁶

He thus explains one of the weaknesses of the Confucian and Mohist governments. Han Feizi goes on to say that love of parents is not enough to scare children into behaving; they will not behave until the army is set upon them. He says that “people by nature grow proud on love, but they listen to authority.”²⁷ This dismisses Confucianism because of its nature of focusing on love.²⁸ Fei Zi maintains that if love is praised by the government then the military is automatically condemned. Since the military is a necessary part of Legalism, love could not be included.

Legalists do not like religion because of its loose interpretations. Religions can come from the same prophet but are practiced different ways, which does not give a clear answer as to who is right. Legalists like things that are straightforward and easy to interpret, so they understandably take issue with religions. In *Han Feizi*, Han Feizi says that “Confucius and Mozi both followed the ways of Yao and Shun, and though their practices differed, each claimed to be following the real Yao and Shun. But since we cannot call Yao and Shun back to life, who is to decide whether it is the Confucians or the Mohists who are telling the truth?”²⁹ Since there is no proof as to who is correct,

²⁶ Ibid. 200.

²⁷ Ibid. 201.

²⁸ Perhaps this is the reason that the Confucian Han dynasty enacted Legalist principles in their bureaucracy—because a purely Confucian government was not effective.

²⁹ Ibid. 204.

those that follow religions are idiots because they believe things without question.³⁰ Legalists believe that this will lead to chaos.

Moreover, Legalism despises Confucianism. Han Feizi says “When the Confucians of the present time counsel rulers, they do not praise those measures that will bring order today, but talk only of the achievements of the men who brought order in the past.”³¹ He condemns them for staying in the past and not working on the efficiency of the present. Confucius believed that people can be taught morals, which was opposite to the fundamental belief of Legalism that they cannot.

Historical Background: Confucianism

Confucianism is a popular social philosophy around the world, based on the teachings of Kong Fuzi, otherwise known as Confucius (551-479 BCE). He believed there was a natural universal order and that humans simply needed to listen to it. One of the values he stressed was *xiao*, or filial piety. Respect for your superiors was important to him, whether it be child/parent, wife/husband, or student/teacher. Another value Confucius taught was *ren*, or humaneness; for Confucians, one must be considerate and loving to everyone. This extends to the relationship between a ruler and his/her subjects: rulers should rule through virtue. One more main value was *junzi*, which can be translated to the “cultivated man.” Cultivation was the key to improving society, regardless of socio-economic class. Education, Confucius believed, was the meaning of life. Yet this does not have to be intellectual education, but at least an education in

³⁰ This is ironically what Legalists want from their people in the first place, but without question of the Legalist government. That makes it ok apparently.

³¹ Ibid. 205.

morality. Finally, *li*, or ritual, was vital in leading a good life in Confucian terms.³²

The primary Confucian document is the *Analects*. It stresses the aforementioned values, as well as laying out guidelines for a simple daily life. Moreover, because of *ren*, business should be conducted honestly, rather than profitably. Finally, when asked about spiritual beings, "The Master said, 'Before you have learned to serve human beings, how can you serve spirits?' 'I venture to ask about death.' 'When you do not yet know life, how can you know about death?'"³³ This exemplifies Confucius' focus on the present day and present concerns, not about the after-life.

From this explanation of Confucianism, it follows that Confucianism can be characterized by the following: filial piety (or respect in general), an attitude of love towards others, self-cultivation, ritual, and honesty. It is also important to note how Confucianism contrasts with Legalism, and the intense dislike each has for the other.

Han dynasty

The Han dynasty (206 BCE to 220 CE) following the Qin was a time of imperial expansion; it gained control of the Silk Road, which helped China become a dominant power in the world economy—which is true today as well. The founders of the Han dynasty "knew firsthand the suffering that its (the Qin's) harsh rule had brought to the people... Under their leadership the new regime of the Han was marked by plebeian heartiness and vigor, simplicity and frugality in government, and abhorrence of the Legalist doctrines of the hated Qin."³⁴ Its government was originally set up based on

³² Irene Bloom, "Confucius and the Analects," in *Sources of Chinese Tradition*, compiled by Wm. Theodore de Bary and Irene Bloom, 41-63, 2nd ed., Vol. I. (New York: Columbia University Press, 1999), 42-3.

³³ *Ibid.* 54.

³⁴ Daniel W. Y. Kwok, "Jia Yi: 'The Faults of Qin,'" in *Sources of Chinese Tradition*, compiled by Wm. Theodore De Bary and Irene Bloom, 228-30. 2nd ed. Vol. 1. (New York: Columbia University Press, 1999), 228.

Confucian ideas, but reached a point of rebellion. The Confucian idea of love and respect was not enough to keep the empire under control. This forced a reformation of the government, and legalist principles were snuck into the new structure. Charles O. Hucker says that, "some thinkers began to revive Legalist arguments for strong laws, strict enforcement, and harsh punishments. Thus Ts'ui Shih (c. 110-70), in his treatise *Cheng-lun* (On Governance), combined lip-service to Confucianism with thoroughly Legalist arguments."³⁵ Ts'ui Shih says that punishment must be applied in order for the country to prosper by comparing punishments to remedies for a sickly body and love as nourishment. He says that nourishment (love and virtue) would not help the person get better, but remedies (punishment) would. Similarly, a healthy person needs nourishment, not medicines.³⁶

After the restructuring of the government, the Han dynasty was quite stable, and later dynasties looked to it as an example. Though the government was in many ways Legalist, the military was not a big part of this dynasty. The thriving Silk Road spread Chinese influence around the world, even though Confucians shied away from merchants. Their technology also took off. Some examples were paper, compasses, rudders, sea drills and blood pumps. The Han dynasty was tolerant of many diverse religions as well.

Modern China: A Closer Look

The People's Republic of China was established in 1949 under the leadership of Mao Zedong. It has evolved over the years from an idealized, socialist, dictatorship into a pragmatic, quasi-socialist system run by a few members of its party. Its official party is known as the Chinese Communist Party (CCP) and is currently headed by General

³⁵ Charles O. Hucker, *China's Imperial Past*, (Stanford, Stanford University Press, 1975), 200.

³⁶ *Ibid.*

Secretary Hu Jintao and President Premier Wen Jiabao. The Party is the government, with only a minor area for complaints. The Party claims it is a democracy, with four levels of representative congresses: towns, counties, provinces, and the National Party Congress (NPC). Each smaller level is supposed to elect the congress above it, with the people at the bottom electing those to their representative districts. However, in practice the opposite is the case. The NPC-members actually choose everyone else, and the democratic “elections” are predetermined by those in power. The NPC meets once a year and consists of roughly 3000 representatives. They are “elected” every 5 years.

The CCP’s structure is known as democratic centralism, based on the idea by Vladimir Lenin. This means that debate is encouraged within the party, but once a decision is made, the entire party must remain united on the issue. According to Alan Hunter and John Sexton, however, “the centralism was stressed far more than the democracy.”³⁷ This simply refers to how the “elections” are not free and fair, and the party can do what it wants. Interestingly enough, China’s military considers itself loyal to the CCP and not the state of China. Yet unlike the Mao era of communism, the party takes a pragmatic approach to governing, thanks to Deng Xiaoping—who essentially took over after the death of Mao. The Party now focuses on making the government efficient, instead of turning their leader into a god, like under Mao.

I keep saying that the Party has control, but in reality, only a few within the Party run China. Hunter and Sexton point out: “Real power is in the hands of those individuals who sit on a small number of key Party bodies. The main policy-making body for the

³⁷ Alan Hunter and John Sexton, *Contemporary China*, (New York: St. Martin's Press, 1999) 102.

whole of China is the Standing Committee of the Politburo.”³⁸ This Committee is in charge of policies; its Secretariat controls the daily goings-on. The Military Affairs Commission also holds much power—especially in the economy, which will be discussed momentarily. The position of greatest power, though, is theoretically the General Secretary.

Economy

China has what is called a Socialist Market Economy, which is a hybrid of socialism and capitalism. Hunter and Sexton say, “Over the last twenty years China has moved from a centrally planned economy under an ideology-driven regime to a dynamic market economy with a political leadership largely made up of technocrats.”³⁹ Part of this change was due to the aforementioned Deng Xiaoping. He criticized the fact that people accepted Mao’s word on everything; Deng’s slogan was “seek truth from facts.”⁴⁰ He wanted the government to be pragmatic and not based on one person’s individual and undisclosed reason. His advice was heeded, and “towards the end of 1977 the media began to carry articles on the subjects of science, democracy and the personality cult.”⁴¹ People were eventually allowed to own private property, and private world trade was advocated. Marxism no longer has a huge role in everyday life or in governmental policies. Deng’s efforts opened the economy and helped it flourish through exportation. However, this is specifically for the state of China as a whole; domestically, China has a wide range between the rich and poor. Those who are poor are extremely poor, especially compared to poverty in the US.

Analysis

³⁸ Ibid. 103.

³⁹ Ibid 108.

⁴⁰ Ibid.

⁴¹ Ibid.

China has in many respects remained consistent with its roots—whether in respect to its people’s respect for traditions and the past, its four levels of government (which existed both in ancient times and today, with its provinces remaining in roughly the same areas),⁴² or its centralized rule. But to what extent has China fused its roots of Legalism and Confucianism into its makeup today? And what can we learn from this answer?

Government: Centralized Autocracy?

Legalism requires a centralized dictator, which the PRC today does not have. In the PRC today there is less of an emphasis on an autocratic ruler and more on an autocratic party. Sure, one person has most power, but the party is not reliant on that one person. For instance, when Deng died, there was a smooth transition into the next frontrunner. Thus the party is stronger than the individual in charge—who until the 1990s did not necessarily have to be formally elected to an office. Deng, for one, had no official position, but was able to significantly affect policies. Though this was not the case under Mao (there was a power struggle after his death—just like after Shih Huangdi), over the years the CCP has grown stronger. Under Legalism, however, the person with the most power has an actual position; in Shih Huangdi’s case, it was Emperor. Similarly, according to the *Analects*, official position is important: “If you don’t have the official position, you can’t plan the affairs of government.”⁴³ Thus according to the literal interpretation of the primary Confucian document as well as the main principle of Legalism, Deng should not have been able to have as much power as he did.

⁴² Ibid. 104.

⁴³ A. Charles Muller, trans., *The Analects*, January 17, 2011, accessed March 25, 2011, <http://www.acmuller.net/con-dao/analects.html>, 8:14.

Hunter and Sexton argue that the CCP is not autocratic, though: "China's political system has been described as totalitarian, but this is not an adequate characterization of its practical operation. Divisions within the leadership have often created space for the expression of popular resistance to Party policies."⁴⁴ Thus they believe that the inherent weakness of allowing the Party to dominate allow for divisions, which lead to citizens being allowed to protest. Hunter and Sexton cite a demonstration (1976) and a democracy movement (1979), as well as the influence of local governments. However, few totalitarians have absolute influence over every aspect of their citizens' lives; there will usually be a breakdown somewhere. The fact remains that the CCP does not just control the government: it controls the media, internet, education, economy, and military (to name a few). Hunter and Sexton themselves point out that "There are party branches in almost all institutions, including factories, offices, shops, schools, colleges and army units."⁴⁵ The extent of this influence implies an autocratic nature. The fact that the CCP allows for some demonstrations or protests merely implies that they either did not think the fight was worth the trouble, that they did not think it was harmful to their rule, or—of course—that they knew they could not win the battle. To discredit the examples Hunter and Sexton offer, there is the obvious example of Tiananmen Square in 1989. The Premier Li Ping could not tolerate the protests, therefore the violence began.

Regardless, there is no doubt that the government is centralized—which is a main point in Legalism. This is evidenced by the aforementioned fact that the NPC chooses the rest of the power-holders, and that all the provinces and regions within them must report to the NCP and the national Party. Additionally, both the PRC and the

⁴⁴ Hunter and Sexton 102.

⁴⁵ Ibid. 101.

Qin dynasty were secretive in their policy making, not allowing those outside the few to understand how things came about. But how does Confucianism play a role, and if so, to what extent? In contrast to Legalism, Confucianism pushes for a government based on respect and trust. It requires that the government rules justly.⁴⁶ Confucius says that “When the government is just, you may speak boldly and act boldly; when you have an unjust government, you may act boldly, but be careful of what you say.”⁴⁷ Sometimes the Chinese government allows people to speak out publicly, but often it does not. It must be assumed that the CCP believes it is acting in its best interests, but do the members believe they are acting in the best interest of the country? It would be impossible to get a concrete answer to this question, since there is more than one person involved, but the official answer is likely “yes.” Yet is this because of Confucianism? This is even harder to answer. Thus other aspects of government in Confucianism must be examined.

The *Analects* says that “When the Way prevails in the realm, the common people do not debate politics among themselves.”⁴⁸ There is no denying that in China today there are many people who do in fact discuss current predicaments at least occasionally; so either their government is unjust or they do not adhere to Confucian principles. Perhaps one of the reasons there is not a full-scale revolution (if the Chinese believe their government is not just) is because of another Confucian principle that says that by “being a good son and friendly to ones brothers and sisters you can have an effect on government”—this is an important idea because it implies that democracy is not needed, because people can help the government just by being a good

⁴⁶ Muller 12:17.

⁴⁷ Ibid. 14:3.

⁴⁸ Ibid. 16:2.

Confucian. In 12:11, he says that each person should stick to his own role and allow others to carry out their position. However, 15:7 says that those who believe the government is unjust should keep their positions to themselves in order to be “gentlemanly.” Of course, these lines are based on the literal interpretations of a non-Confucian, so perhaps I am missing a bigger picture.

According to 6:8, those in government should be efficient, talented, and intelligent⁴⁹—13:2 adds virtuous.⁵⁰ Moreover, they should provide adequate food, weapons, and instill confidence in the people towards their work.⁵¹ Confucius goes on to say that “From ancient times, death has come to all men, but a people without confidence in its rulers will not stand.”⁵² Perhaps this is part of the reason that the CCP chooses when to suppress its people and when not to, in order to keep enough confidence in the people to allow the government to stand. The *Analects* also says a few times that if the government runs correctly, others will flock to it.⁵³ Perhaps this is the goal of the CCP.

So has the government been molded by Legalism, Confucianism, both, or neither? What does this say about China today? There seems to be undeniable relationships between the three in respect to the current government, but it is hard to distinguish if this is because it is merely being looked for. It is likely that because of the continuation of Legalism from the Qin dynasty into the Han dynasty, the centralized rule today was influenced by Legalism. The Qin dynasty had such an impact on the future dynasties, thus after the fall of the Qing dynasty, Mao must have gained confidence

⁴⁹ Ibid. 6:8.

⁵⁰ Ibid. 13:2.

⁵¹ Ibid. 12:7.

⁵² Ibid.

⁵³ Ibid. 2:1 and 13:6.

that his totalitarian system would work because of the centralized government from two millennia before. Moreover, because of the strong ties that Chinese have to the past—and because Confucianism has been so important for the past 2500 years—it is likely that Confucianism has played a role in the current government. All three advocate for the government to be run by the government and to put the interests of the state above those of the individual.

Military: An Economic Genius?

Confucian doctrine is for peace: many of the lines in the *Analects* mention war in a derogatory way. One example is in 7:13, which mentions that “The things with which the Master was cautious, were fasting, war and sickness.”⁵⁴ Thus one can interpret this as hesitancy on part of Confucius towards war. Confucius also mentions that “In doing government, what is the need of killing? If you desire good, the people will be good. The nature of the Gentleman is like the wind, the nature of the inferior man is like the grass. When the wind blows over the grass, it always bends.”⁵⁵ This quote refers to violence against one’s own people, but can be extended to war as well. Since he mentions repeatedly that others will flock to a Confucian government, it is arguable that violence is not needed towards other states because they will eventually admire it. Legalism, on the other hand, has a clear-cut definition on war and the military: use it. As mentioned, war strengthens the emperor, expands the state, and keeps the people in line. It is a vital part of the Legalist system; without it, the emperor could not enforce his will.

Today, the PRC’s economy is effectively run by the military. Hunter and Sexton explain: “The PLA has moved aggressively into business over the past decade. Officially,

⁵⁴ Ibid. 7:13.

⁵⁵ Ibid. 12:19.

the purpose of the army's commercial activities is to relieve pressure on the state's defence (*sic*) budget, by making the military partly self-financing. But what began as a limited form of self-sufficiency has grown into a multi-billion dollar business that some believe is threatening the military effectiveness of China's armed forces."⁵⁶ Moreover, many of those in power in the CCP were military figures: Mao, Deng, and Lin Biao⁵⁷—just like Shih Huangdi. However, China's foreign policy must be taken into account. The PRC does not constantly invade other countries to expand its empire, as in Legalism. They are trying to expand their government, just not necessarily through war: they have been trying to reintegrate Taiwan ever since it split. They also were successful in taking back Hong Kong in 1997. For areas that are not ethnically Chinese, it seems that economic domination is enough.

Thus the PRC seems to combine Confucian and Legalist principles in terms of military power. The military is a big part of the government (Legalism) but only towards its own people (also somewhat Legalist, but not Confucian). In terms of foreign policy, the PRC tends to focus on aspects other than war, like through economic domination (Confucianism—the not focusing on war part). However, since the economy is run by the military, it could be argued that the military influences foreign policy. Yet since this is not actual war, which is what Legalism requires, we are back to the idea that it is partially Confucian in terms of foreign policy but Legalist in terms of domestic policy.

Discipline

Legalism necessitates clear and consistent, harsh punishments to enforce strict laws—not necessarily in accordance with the crime. It also calls for rewards for adherents. In contrast, Confucius in the *Analects* says, "If you govern the people

⁵⁶ Hunter and Sexton 133.

⁵⁷ *Ibid.* 101.

legalistically and control them by punishment, they will avoid crime, but have no personal sense of shame. If you govern them by means of virtue and control them with propriety, they will gain their own sense of shame, and thus correct themselves.”⁵⁸ As the first part of the Han dynasty testifies, the Confucian method of punishment cannot work by itself, since the Han dynasty adopted Legalist principles in order to call for order to the land. The shame is just not enough to keep from discord. The PRC today leans towards the Legalist spectrum, and Amnesty International reports that “The vast majority of executions (in Asia, which had the most in the world) were carried out in China,”⁵⁹ and report that China had more than a thousand executions in 2009 alone.⁶⁰ Capital punishment is not just for murders; minor thefts can lead to execution.⁶¹ According to Hunter and Sexton, courts do not try hard to defend the accused: “their role is mainly to persuade the defendant to plead guilty, and to request a lenient sentence on the grounds of good character.”⁶² Recently, the capital punishment laws were reviewed, and 13 of 68 will be removed from the list. They all pertain to the economy and “They include tax fraud, the smuggling of cultural relics or precious metals, tomb robbing and stealing fossils.”⁶³ Amnesty International claims that they are not used much anymore and were only conceded to look as if they are making headway on human rights. Similarly, prison labor camps were common under Mao, but have supposedly become

⁵⁸ Muller 2:3.

⁵⁹ “The Death Penalty in Asia in 2009,” Amnesty International, accessed March 26, 2011, <http://www.amnesty.org/en/death-penalty/death-sentences-and-executions-in-2009/asia>.

⁶⁰ “Abolish the Death Penalty,” Amnesty International, accessed March 26, 2011, <http://www.amnesty.org/en/death-penalty>.

⁶¹ Hunter and Sexton 138.

⁶² Ibid.

⁶³ Chris Hogg, “China Ends Death Penalty for 13 Economic Crimes,” BBC, February 25, 2011, accessed March 26, 2011, <http://www.bbc.co.uk/news/world-asia-pacific-12580504>.

utilized less.⁶⁴ The ones that still exist are concealed by the government and in bad conditions. This can be seen as similar to a person getting sent to the Great Wall or Shih Huangdi's tomb to work for the rest of his life.

The methods of enforcing Chinese laws are harsh. In 2008 melamine was found in milk formulas for infants; melamine is usually used in concrete, plastic, and fertilizers, but in this case was used for protein. The catastrophe proved embarrassing for China, who punished those involved severely. 300,000 babies became sick from the milk, and at least six died. One man, Zhao Lianhai (whose own child became sick from the milk), created a website to inform parents about the situation. He advocated compensation, and was sentenced to incarceration for two and a half years because of the "social disorder" he caused. His lawyer has stated that "The crimes he was accused of were nothing more than what regular citizens would do to defend their rights."⁶⁵ But the CCP has the habit of punishing those whose opinions differ from party line for causing this "social disorder." It is a common theme, and also happened to Liu Xianbin—an activist who writes articles calling for democracy in China.⁶⁶ He was recently sentenced to ten years in jail for his articles—but this is not the first time he has served time for going against the CCP.⁶⁷ His wife was at the trial, and reportedly said, "Today I saw how legal tools were used to convict someone who is not guilty."⁶⁸ Thus there is alleged corruption in the courts to target those the CCP deems subversive.

⁶⁴ Hunter and Sexton 138.

⁶⁵ "China Jails Tainted Milk Activist Zhao Lianhai," BBC, November 10, 2010, accessed March 26, 2011, <http://www.bbc.co.uk/news/world-asia-pacific-11724323>.

⁶⁶ He also was involved in the Tiananmen Square protests in 1989.

⁶⁷ Michael Bristow, "China Activist Liu Xianbin Jailed for 10 Years," BBC, March 25, 2011, accessed March 27, 2011, <http://www.bbc.co.uk/news/world-asia-pacific-12859050>.

⁶⁸ Ibid.

Ai Weiwei is a Chinese artist who has spoken up for human rights in the country. He had plans to open a new art building, which had originally been approved. It was then declared that the building was illegal and it had to be destroyed. Weiwei had planned to throw a party for the destruction, but men came and put him under house arrest. "‘I'm under house arrest to prevent me from going to Shanghai. You can never really argue with this government,' Mr Ai told the Associated Press by telephone."⁶⁹ Again, the CCP punished someone for trying to point out an injustice in the government.

The CCP is also strict with its one child policy, enacted in efforts to control population. It seems that the CCP is trying to punish violators in new ways. "Family-planning officials in the southern county of Puning, in Guangdong province, were going to shocking new extremes to catch and punish violators of the country's infamous one-child policy: They were seizing family members of women who had given birth illegally and were holding them hostage... (to) coerce the women into submitting to sterilization."⁷⁰ Haworth claims that this is to appeal to the Chinese sense of duty to family (which will be discussed momentarily). The relatives are held in poor conditions to guilt the violators into submitting themselves for sterilization. One woman interviewed said she had to be sterilized but under unsanitary and unsafe conditions while others were being sterilized in the same room. This supposedly happened during spring of 2010 during an "Iron Fist Campaign" that was mentioned on local Chinese television, but nowhere else.

⁶⁹ "Chinese Artist Ai Weiwei Says He Is under House Arrest," BBC, November 6, 2010, accessed March 26, 2011, <http://www.bbc.co.uk/news/world-asia-pacific-11703775>.

⁷⁰ Abigail Haworth, "International Report," *Marie Claire*, December 2010, 136.

It seems that in the PRC, their stance on punishment is Legalist with minimal—if at all—Confucian influence because the CCP does not trust others to shame themselves into acting “correctly.” Hunter and Sexton claim that Chinese like having a tough stance on crime on average,⁷¹ but where should it stop? How much discipline is enough to punish a crime? Also according to Hunter and Sexton, the government is trying to fix its police force to make it into an actual police force instead of ideology watchers.⁷² However, it is important to note that this was where the first part of the Han dynasty was weak, because it trusted people to act right on their own. Thus the fact that Confucianism does not play much of a role in punishment in the PRC today does not mean that it was disregarded—other dynasties after the Han as well as the PRC knew that it was a weak part in Confucian rule, and that punishments had to be given in order to keep peace.

Religion

Shih Huangdi was clearly against religions, and Confucianism is not concerned with religions, but the PRC has an interesting stance. It is officially atheist according to the CIA World Factbook but allows for some state-approved religions (this rule is a little more lax in the south, since it is harder to control in the rural areas). The legal religions can be approved if they are not rebellious to the state or the work of foreign powers trying to infiltrate China.⁷³ “(W)hile the new guidelines (instituted in 1982 about “religious freedom”) tolerated religion, they also stated that believers would be closely supervised and that activities falling outside defined limits would be quashed.”⁷⁴ Thus there is only a

⁷¹ Hunter and Sexton 139.

⁷² Ibid. 139-140.

⁷³ Ibid. 173.

⁷⁴ Ibid.

minimal acceptance of religion, which could be too critical of the state to allow it to be free.

Buddhism and Daoism are the most dominant forms of religion in China, but there are also Christians and Muslims. Hunter and Sexton say, "Chinese religion tended to be centered on the family and the local community."⁷⁵ Thus religion is not for the most part mass-organized like many Western religions; people keep it to themselves and their family. This goes against the CCP, since the CCP should be more important. This was more the case under Mao, which is partly why he allowed for religious persecution and incarceration. It is important to note that Mao himself turned into a demi-god while in power; his portrait was everywhere, people bowed to his image while confessing, and everyone carried the Little Red Book of his sayings. This was acceptable, though, because it was useful to the state.

Though there is a connection between Legalist intolerance of religions and the PRC's, it cannot be said that they definitely have a cause and effect relationship. The nature of a dictatorship requires complete loyalty to the state instead of to another higher being. However, if Legalism truly became ingrained into the Chinese culture and government-framework, it is definitely possible that the Legalist principles made it likelier that the state would dismiss religions.

Society and Hierarchy

Society in the PRC today seems strictly Confucian. The family is the basis of life, and their culture is based on the Confucian ideals of respect and love. Because of this, it is a male-dominated society, especially in rural areas. When there were communes under Mao, the gender problems relaxed a little; as the communes have been

⁷⁵ Ibid. 169.

disregarded, men have taken the reigns again—along with age-old traditions.⁷⁶ Hunter and Sexton describe it as Westernized but with certain traditional values emphasized. They also say it is traditional, but the traditions do not have to be that old. They go on to say, “The mass entry of women into the workforce in the Maoist period, the one-child policy and other factors have transformed many customs and attitudes at family level.”⁷⁷ Regardless, women become part of their husband’s family upon marriage and a big extended family is ideal. These traditions have been around for centuries. It is specifically Confucian for the females to become part of their husband’s family and that women do not have their own reputation. Similarly, family and filial piety is still strong: one woman interviewed in Haworth’s article says, “‘Children mean happiness to people here. The bigger your family, the greater your joy. It’s as simple as that.’”⁷⁸ Hunter and Sexton agree: “Throughout most of traditional China, and until very recently, family and kinship structures formed the most powerful network of authority over the individual.”⁷⁹ They also describe family as having an “unusually unbreakable bond.”⁸⁰ These examples are because of the strong Confucian culture. Legalism does not seem to have much of a cultural influence, since the state is not as important. Yet the CCP does not want this to be the case. In this way, they have enacted multiple laws that target the idea of family as most important; it seems that this is in efforts to heighten the importance of the state. For example, having a one-child limit not only helps with population control, but also forces a new kind of family to emerge, one that is not as big. By restructuring the family, it allows people (especially women) to focus on careers

⁷⁶ Ibid. 129.

⁷⁷ Ibid. 124.

⁷⁸ Haworth 138.

⁷⁹ Hunter and Sexton 128.

⁸⁰ Ibid. 127.

instead—which help the PRC in expanding its influence on the world. Thus the PRC seems to be enacting laws to make the Legalist values supersede the Confucian ones. After multiple generations, there is a good chance that the notion of family will be redefined.

Confucianism has a stranglehold on social hierarchy as well. Confucianism stresses respect between the lower and higher subjects of all relationships: student/teacher, subject/ruler, children/parents, wife/husband. This is still true today (though feminism *is* becoming more prominent, especially in urban areas. Arranged marriages are no longer required, the Land Law of 1950 allowed women to own and inherit property, they have access to education and jobs, and the One-Child Policy allows them to have careers).⁸¹ Because of this, “saving face” is important. Chinese can be passive-aggressive in order to not seem impolite and to keep their position in the hierarchy. Hunter and Sexton claim reputation is more important than money in China.⁸² Legalism requires devotion and silence from its subjects, which may have influenced Chinese culture over the years, and perhaps encouraged or supported the Confucian need for it.

Conclusion

It is impossible to show exactly how China has come to be the way it is. So many factors have contributed to its culture, government, etc. However, by focusing on two concepts (Confucianism and Legalism) it is possible to slightly understand how China has evolved into its current state. Confucianism and Legalism somehow blend together to create a powerful, centralized land, rich with culture. Its government has many

⁸¹ Ibid. 141-142.

⁸² Ibid. 151.

Legalist principles but Confucian as well. In regards to its military, it blends Confucian attitude towards war in foreign policy while keeping Legalist points in regards to its domestic policy. Legalism continues to influence discipline, but only because the Confucian stance proved ineffective. Religious indifference by the government could come from Confucianism, but the close watch of religions comes from Legalist paranoia. Finally, it seems that the CCP attempts to inject Legalism into the Confucian society in order to gain more respect for the state. These are important findings because it shows the impact that the past has on the present. This shows how human thought through time is not so different, and begs the question: does our way of thinking ever evolve? Or do we simply recycle ideas other people have come up with years ago or miles away?

Works Cited

"Abolish the Death Penalty." Amnesty International. Accessed March 26, 2011.

<http://www.amnesty.org/en/death-penalty>

Bloom, Irene. "Confucius and the *Analects*." In *Sources of Chinese Tradition*. 41-63. 2nd ed. Vol. I. New York: Columbia University Press, 1999.

Bristow, Michael. "China Activist Liu Xianbin Jailed for 10 Years." BBC. March 25, 2011.

Accessed March 27, 2011. <http://www.bbc.co.uk/news/world-asia-pacific-12859050>.

"China Jails Tainted Milk Activist Zhao Lianhai." BBC. November 10, 2010. Accessed

March 26, 2011. <http://www.bbc.co.uk/news/world-asia-pacific-11724323>

"Chinese Artist Ai Weiwei Says He Is under House Arrest." BBC. November 6, 2010.

Accessed March 26, 2011. <http://www.bbc.co.uk/news/world-asia-pacific-11703775>.

Empires ascendant: time frame 400 BC-AD 200. Alexandria, Va.: Time-Life Books, 1987.

Fitzgerald, C.P. *China: a Short Cultural History*. USA: Westview Press, 1985.

Gernet, Jacques. *A History of Chinese Civilization*. UK: Cambridge University Press, 1996.

Haworth, Abigail. "International Report." *Marie Claire*, December 2010.

Hogg, Chris. "China Ends Death Penalty for 13 Economic Crimes." BBC. February 25, 2011. Accessed March 26, 2011. <http://www.bbc.co.uk/news/world-asia-pacific-12580504>.

Huang, Ray. *China: a Macro History*. Armonk, NY: M.E. Sharpe, 1997.

Hucker, Charles O. *China's Imperial Past*. Stanford: Stanford University Press, 1975.

Hunter, Alan, and John Sexton. *Contemporary China*. New York: St. Martin's Press, 1999.

Kwok, Daniel W. Y. "Jia Yi: 'The Faults of Qin.'" In *Sources of Chinese Tradition*, compiled by Wm. Theodore De Bary and Irene Bloom, 228-30. 2nd ed. Vol. 1. New York: Columbia University Press, 1999.

"Legalists and Militarists." In *Sources of Chinese Traditions*, compiled by Wm. Theodore De Bary and Irene Bloom, 190-91. 2nd ed. Vol. 1. New York: Columbia University Press, 1999.

Lewis, Mark Edward. *The Early Chinese Empires: Qin and Han*. Cambridge, MA: Belknap of Harvard UP, 2007.

Muller, A. Charles, trans. *The Analects*. January 17, 2011. Accessed March 25, 2011. <http://www.acmuller.net/con-dao/analects.html>.

Perkins, Dorothy. *Encyclopedia of China*. New York: Rountable Press, 1999.

Portal, Jane. *The First Emperor: China's Terracotta Army*. Cambridge, Mass.: Harvard University Press, 2007.

Rickett, W. Allyn. "The *Guanzi*." In *Sources of Chinese Tradition*, compiled by Wm. Theodore de Bary and Irene Bloom. 192-93, 2nd ed. Vol. 1. New York: Columbia University Press, 1999.

Rodziński, Witold. *The Walled Kingdom: a History of China from Antiquity to the Present*. New York: Free Press, 1984.

"The Death Penalty in Asia in 2009." Amnesty International. Accessed March 26, 2011.
<http://www.amnesty.org/en/death-penalty/death-sentences-and-executions-in-2009/asia>

Watson, Burton. "Li Si: Legalist Theories in Practice." In *Sources of Chinese Tradition*, compiled by Wm. Theodore De Bary and Irene Bloom. 206-12. 2nd ed. Vol. I. New York: Columbia University Press, 1999.

Watson, Burton. "The *Han Feizi*." In *Sources of Chinese Tradition*, compiled by Wm. Theodore de Bary and Irene Bloom. 199-206. 2nd ed. Vol. I. New York: Columbia University Press, 1999.