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Abstract

Extract:

One central issue which interested ancient Chinese thinkers was how to regulate human relations and how to govern a country. The Confucianist school represented by Confucius and Mencius and the Legalist school represented by Han Fei both made brilliant expositions on the art of government.

Keywords

Confucian and Legalist theories, government, economics

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On Two Ancient Chinese Administrative Ideas: Rule of Virtue and Rule by Law

by Zhang Xiangming (1)

One central issue which interested ancient Chinese thinkers was how to regulate human relations and how to govern a country.(2) The Confucianist school represented by Confucius and Mencius and the Legalist school represented by Han Fei both made brilliant expositions on the art of government.

Confucian Rule of Virtue

Thinkers cannot prevent asking what human nature is when they ponder on how to administer a state and foster social development. It is essential for them to understand and grasp human nature in order to devise practicable administrative measures. Confucius and Mencius contended that human being share a similar and good nature, and that each individual has the potentiality for being virtuous.(3) Hence the best way to govern is to set moral models for the masses to follow and to strengthen moral education.

Since Confucius and Mencius deemed that human nature is good and that everyone can be upright, they underlined the role of rulers' personality for society: the performance of the social ruling-body can help the common people to change their behaviour.(4) Accordingly, Confucius posed an idea that the populace would follow the rulers without being ordered and behave in terms of morality as long as the rulers are virtuous, or be disobedient and even vicious if the rulers are wicked. Mencius similarly maintained that the destiny of a country lies in the words and deeds of the ruling-body and that the personality of those in power affects social safety. Therefore, both Confucius and Mencius held that the rulers must govern themselves to be excellent in speech and conduct in order to ensure social stability.

According to Confucius and Mencius, the virtue of the rulers is symbolised by being benevolent towards their subordinates. Confucius demanded that the rulers love their people, pay respect to the needs of the people, and not impose their dislikes upon them. Mencius attached great importance to benevolence and said that humankind is benevolent by nature, and will not be truly human if the virtue of benevolence is abandoned. He contended that those in power can be benevolent as long as they want to be and that they can bring the country into great harmony only when they govern by means of being beneficent to the people.

In order to carry the virtue of benevolence into practice, Confucius and Mencius suggested many valuable ideas on administration that can be divided into three respects in general.

The first is on how to deploy talent. It is common sense that there must be a team of qualified administrative personnel to govern if society is to run well. Confucius made excellent remarks on repeated occasions how to select the capable.(5) He maintained that a person's past and present must be carefully observed and his words and deeds be deliberately considered if he is to be thoroughly

understood. It is also good to listen to the people to find extra talent in addition at the grassroots. According to Confucius, a person is not necessarily good if he is praised by all and not doomed to be bad if he is criticised by all: he is only good when he is welcomed by the good and opposed by the bad. Therefore, the rulers must be cautious to analyse the people's voice when the capable are to be selected. The circumstances should be created that assure the opportunity for those capable and virtuous people who are not necessarily good at gaining popular support, and prevent promoting those incompetent and vicious men who are skilled in forming cliques. Mencius paid the same attention to talent as Confucius did and he claimed that the key to social stability and prosperity is to promote the competent and demote the incompetent; he consequently put forward many ideas on how to find and use such talent.(6)

The second is how to assure the people's subsistence. Economy is the basis for social development and humankind cannot exist without food and clothing at any time, so economy is always an important topic for both ancient and modern thinkers. Confucius and Mencius took the livelihood of the common people seriously.(7) According to Confucius, the prerequisite for the governing class to win the heart of the people is to ensure enough food for them, and for those in office not to interfere with the farmers while they are busy with crops, so as to assure the farmers enough time to till the land. Moreover, the rulers should not cruelly exploit farmers, ensuring thus that they have a moderate burden. The rulers should repress their selfish desires and oppose extravagance and waste. Otherwise, the excessive extortion from the people to support the wealth and waste of the rulers can result in not only material shortage but also social chaos. Similarly, Mencius suggested ideas on how to ensure the people's livelihood. The main points were to grant fixed property to the people, levy less taxes and only demand that people work for the government when they are free from essential agricultural duties. His ideal was to make the people replete in good years and prevent them from starvation during famine years.

The third is on how to educate the people. Although economic life is important to human society, it would be dangerous if humankind seeks nothing but material enjoyment. Hence, it is very important to educate the people to form a noble character once their material demands are met. Confucius and Mencius valued the function of education very highly and held that education is an import force to render society civilised.(8) Mencius considered that humankind would behave as animals if only satisfied with luxurious food, excellent clothes and comfortable shelters without being educated. Accordingly the sage must come into being to implement moral education for the people in order to guard against the code of ethics being ruined. Confucius also underlined the effect of education on social morality and deemed it the top priority for the rulers to educate the people after their subsistence problems are solved. According to Confucianism, two functions result from education: the first is to establish social moralities that guide mass conduct, the second is to check evildoings and reduce penalties. Owing to such an attitude towards education, Confucius declared an atrocity the government policy of executing criminals who committed crimes because of lack of education. Mencius named the government's conduct of enslaving the people without educating them a calamity.

The Legalist's Rule by Law

Han Fei's attitude towards human nature is quite different to that of Confucius, and he claimed that human nature is bad and that every individual thirsts for fame and gain, riches and honour, ease and comfort, and wants to free himself or herself from poverty and destitution, suffering and toil.(9)

The wealth of society is limited and human selfish desire is boundless, so the consequences would be dangerous if all people were permitted to seek enjoyment without contribution: society would become stagnant and chaotic, with people deceiving or being deceived, plundering or being plundered. How can society run smoothly under such circumstances? Han Fei deemed it best to use rewards and punishments to govern society.(10)

As human nature is bad and each individual wants to reap without sowing, Han Fei deemed that the lords put rewards and punishments into effect: those who have contributed to the state are to be rewarded with wealth and rank and those who have damaged the state are to be put in prison or even executed. As everyone desires to be rich and noble and wants to extricate himself from poor and lowly conditions, Han Fei considered it effective to employ bonuses and penalties to encourage merit and repress evils. Seeing the functionality of this system towards society, Han Fei underscored that rulers must be strict and fair in meting out rewards and punishments. He contended that rewards and punishments must be made without reference to rank and that rulers must be prudent to avoid the phenomenon whereby those who are useless to the country are rewarded and those who are contributive to society are punished. If the rulers are not capable of taking advantage of rewards and punishments, the initiative and creativity of the people will be damaged and the perverse trends of the evildoers will not be subdued. Han Fei advocated that the meritorious must be rewarded and evil must be penalised.

Han Fei held that law must be made to regulate the granting of rewards and the imposition of penalties.⁽¹¹⁾ In order to maintain social justice, Han Fei deemed that law must be the criterion of mass conduct and the tool for rulers to assess the merits of their subordinates. In order to render law known to all, Han Fei considered that law must be relatively stable, easy to understand, and made public. As far as the substance of law is concerned, Han Fei advocated that legislation should be advantageous by selecting the capable, encouraging merit, punishing evil, promoting development and purifying society.

Similarities and Differences Between Confucianism and Legalism

Since the Confucianist school and the Legalist school treated human nature quite differently, they designed different state-managing measures: one claimed the rule of virtue, and the other the rule of law. Which is right? Which is more practicable?

The Confucian rule of virtue and the Legalist rule by law are both the product of ancient Chinese hierarchical society, which is demonstrated in the following aspects. First, both the Confucianist and Legalist school maintained that men should be divided into two kinds: the lords are supposed to be sacred and great, whose mission is to promulgate order among their subjects; the masses are supposed to be relatively ignorant and insignificant, whose duty is to obey the orders of their lords and act as their lords expect. Second, both Confucian virtue and Legalist 'law' seem to restrain the rulers in form, but they are the means to maintain social hierarchy in essence. Confucius, Mencius and Han Fei all advocated that monarchical power is paramount.⁽¹²⁾ They did not demand democratic rights for the masses. Third, although Confucius and Mencius encouraged the rulers to love the people, this does not mean that they thought all the people equally deserved the same solicitude. Although Han Fei recommended that the government should rule by law, which seems impartial, he advocated that the law be enacted by the lords solely. The lords place themselves above the law. The law is thereby a monarchical means to control the people, not the people's means to restrain the lords. The lords are by no means on an equal footing with the people. Hence we cannot mention the rule by law proposed by Han Fei in the same breath as democracy and the rule of law advocated today.

The Confucianist school believed that human nature is good and each individual is potentially virtuous, so it underscored moral influence and held that the conduct of the rulers can affect the performance of their subordinates in order to reform society. Therefore, its policy for governing the country is quite simple: the rulers first cultivate their own persons, then regulate their own families, and then order their own states. That is to say, the rulers exercise moral cultivation to set examples in order to lead the masses into the world of virtue.

Conversely, the Legalist school deemed that everyone hopes to seek fame and fortune and wants to free themselves from poverty and lowly conditions. Consequently, the rulers must enact law to carry

rewards and punishment into practice, thereby regulating individual behaviour to ensure sound social order.

The Confucianist school stressed moral effect on society and claimed that moral education and exemplars can influence the people, which is reasonable to some degree, but it regarded governance as the process to change people through moral influence, which puts undue emphasis on the role of morality. On the other hand, Confucius and Mencius spared no effort to appeal to the rulers to rectify themselves in order to run the country, but they did not suggest any institutional restriction on the evil rulers except moral condemnation. This tended to render moral regulation as the means for rulers to control subordinates, while in practice they themselves were not restrained at all.

The Legalist school underscored legislation and emphasised distribution of wealth as an instrument to govern society. It advocated that rulers assess the people in the light of their achievements so as to implement the policy of rewards. This method appraises people through individual meritorious service and employs rewards to requite individual contribution, which is easy to operate and quite rational. But the Legalist school considered all human relations in society as bare relations of gain and loss, which simplified the complex nature of society. Moreover, the Legalist school absolutely rejected the regulation of morality on society and emphasised the function of rewards and punishments, which is doomed to result in a social atmosphere of indifference and cruelty.

Conclusion

We are facing many of the same questions as our ancestors. Although time passes quickly, it is possible for us to inherit the excellent part of our ancient culture. There must be certain limitations in our cultural legacies due to the restrictions of ancient social development, so we must treat this inheritance with a critical eye. As far as Confucian and Legalist theories are concerned, we can draw lessons from their discussion on morality and law because we still need morality and law today. Meanwhile, we must recognise that the purport of their ideas is not to safeguard equality, democracy, justice and participation, but to maintain hierarchical social order, so we should reject the dross of Confucian and Legalist theory.

We firmly believe that a functional system and noble morality are indispensable for any society to run smoothly. Such a system is fundamental. Furthermore, only a system that not only regulates the masses but also restrains the leaders, especially the senior leadership, can allow society to operate soundly.

References

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2. Editorial comment: in Confucian thought human relations and governance were two deeply unified aspects of one ethical issue. English readers might like to consult standard translations such as Confucius, *The Analects*, trans. D.C. Lau, Harmondsworth, Penguin, 1979; Mencius, *Mencius*, trans. D.C. Lau, Harmondsworth, Penguin, 1988; Watson, Burton (trans.) *Basic Writings of Mo Tzu, Hsün Tzu and Han Fei Tzu*, N.Y., Columbia University Press, 1967; De Barry, Wm. Theodore & Bloom, Irene *Sources of Chinese Tradition from Earliest Times to 1600*, Second Edition, N.Y., Columbia University Press, 1999. An extremely useful version of the *Analects*, with parallel English, classical and modern Chinese lines, will be found in *The Analects of Confucius*, trans. by Li Tianchen, Qufu, Shandong University Press, 1991.
3. 'Mankind are near by nature, but they are far by habituation', *Analects*, Chapter 17. 'It is as water goes downwards, human nature is good. Nobody is not good in nature, water does not fail to go upwards', Mencius, Chapter 12.
4. As for the effect of the conduct of the rulers upon the behaviour of the common people, both Confucius and Mencius made many observations, see the *Analects*, Chapters 12 & 13, and Mencius, Chapter 7.
5. As to how to find and deploy talent, see the *Analects* Chapters 2, 5, 13 and 15.

6. Mencius attached great importance to the issue of talent, see Mencius, Chapter 2 and 7.
7. For the discussions by Confucius and Mencius on economic life in detail, see the *Analects*, Chapter 1 and 12, and Mencius, Chapter 1 and 5.
8. For the discussions on education by Confucius and Mencius, see the *Analects*, Chapter 13 and 20, and Mencius, Chapter 5 and 12.
9. For discussions of human nature, see Han Fei, Chapters 33, 37, 38 and 54.
10. For his views on reward and punishment, see Han Fei, Chapters 6, 19, 46 and 48.
11. See Han Fei, Chapters 26, 32, 38, 41 and 47.
12. Mencius said: 'The people are to be valued most, the altars of the grain and the land next, the ruler last' (Chapter 14). Many scholars hold that Mencius maintained democratic rights for the common people on the basis of such remarks. However, this is an entirely mistaken interpretation of Mencius' position, for which see the excellent explanation in Cai Shangsi, *Zhong Guo Li Jiao Si Xiang Shi*, China Hong Kong Book Limited Company (Zhong Hua Shu Ju Hongkong You Xian Gong Si), 1991, 8, pp31-32.

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