The Value of History in Dispute: Confucianism, Chinese Legalism,

and the Political Significance of the Past

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1. Introduction: why history?

One of the enduring themes in early Chinese political thought is the role history plays in structuring philosophical ideas and political discourse. As Kongzi says, “the Zhou is resplendent in culture, having before it the example of the two previous dynasties. I am for the Zhou.”[[1]](#footnote-1) Confucians in general are known for sharing a reverential attitude toward the past and are often derided for blindly following whatever it dictates. Not only do various historical narratives presuppose and structure philosophical thinking, but also the attitude toward history itself is the source of normativity in many Chinese political narratives. The view that Confucians assign unnecessarily lofty value to tradition thereby holding back social progress is not just a modern critique—though it has been very popular among East Asian intellectuals since the late nineteenth century—but widely shared by Chinese intellectuals in the Warring States period. Although some disputes arose from hyperbolic caricature, these thinkers were engaging in a serious debate on how one ought to conceive of the past especially the intellectual and political heritage transmitted over generations. Among them, Legalists, the archrival of Confucians widely known as heretics seeking radical change, made especially polemical critiques of Confucians’ reverence of the past.

Despite the central role played by the narrative of history—whether one is for or against it, it has by far received little serious *philosophical* attention. The upshot is that it remains unclear both what exactly is under dispute and what led to their dispute in the first place. That said, there are a variety of tentative perspectives on the issue. Given that it is the Confucian position that these ancient thinkers target, commentators often start out with Confucians’ narrative on history.

The first approach is simply to take it the way it is—Kongzi’ faith in the past is a “conservative reaction”[[2]](#footnote-2) grounded in a blending of his memory with “a conception of the good socio-politico-cultural order which he already envisioned” in ancient texts prior to their time.[[3]](#footnote-3) According to this understanding, Confucians hearken back to the past because they see what is ideal in the past. There are also many subvariants of this view ranging from emulating past practices to learning from past sages’s good judgements and characters.[[4]](#footnote-4) The second view is that a prolonged state of domestic tranquility achieved by early Zhou rulers—without further substantial ethico-political meanings—resonated with Confucians’ affection for stability.[[5]](#footnote-5) These two readings connect what happened in the past—or at least what early Confucians saw from the past—with the political order of their time. Similar to the views above, Roger Ames agrees that Kongzi’s love for the past stems from his belief that how sage-kings cultivated virtues and ruled over the empire exemplifies the “cultural tradition” that Kongzi sought to transmit. He, however, adds that Kongzi inveighed against simply reconstituting the ancient way of life because of the “practical function of the formal aspects of Confucian learning,” which takes the past as a useful tool for educating and improving the humanity.[[6]](#footnote-6) One trace of Ames’s reading is therefore that cultivating a reverential attitude toward history is instrumentally valuable for making Confucian teachings palatable.

The difficulty with the first two readings of grounding Confucian ideals in the past is that, despite Kongzi’s claim that “I transmit but do not innovate,”[[7]](#footnote-7) keen observers would agree that there were major breakthroughs in Kongzi’s and other early Confucians’ (especially Mengzi and Xunzi)’s teachings. The past, therefore, cannot just be a reservoir of already displayed ideas but a harbinger of new ones. Ames’s view does add a progressive flavor, but many details are still missing—what progressive values can be made of this reverential attitude toward the past, and whether learning from the Zhou dynasty, which Kongzi held dear, is indeed more effective than directly invoking sage-kings of the legendary past. If people find sage-king narratives more pertinent, can they dispense with the Zhou tradition and directly appeal to sage-kings alone?

Partly because of the ambiguity of the Confucian rationale behind revering the past, the nature of its critiques is also subject to dispute. One prominent critique of the Confucian position comes from Legalists whose thought profoundly shaped not only the early Chinese society from which they emerged as a formidable force but the whole imperial history of China. Ames identifies two strands of Legalist critiques—one being that “inasmuch as Legalist policies were new and revolutionary, they could not count on the authority and sanction of history,” and the other being that “since historical models are open to subjective interpretation by their advocates, there is no objective standard on which to base acceptance or rejection of proposed policies.”[[8]](#footnote-8) Clearly, Legalists might find historical precedents as obstacles to their own principles, but they could have recognized the authority of history and invoked it in a way that worked in their favor, especially given that a rejection of the past may unnecessarily provoke controversies that work against Legalists’ pragmatic implementation of their policies. Although sometimes we do see Legalists like Hanfei recognizing the ideal of sage-kings but turns it on its head by saying that though it is an ideal, it is not very practical, it is either a relatively rare undertaking or a heuristic for putting forward his own agenda independent of what others believe sage-kings did.

In this light, the value of history as seen through the gaze of Confucians and Legalists is still up for debate and many details wait for philosophical clarification. I argue that Confucians’ and Legalists’ different attitudes towards history have less to do with what happened in the past and whether they are conservative or revolutionary, but with their contrasting attitudes to the spontaneity emerging from social relationships and political control by the state. Underlying the dispute are their contrasting understandings of the degree to which political change can and should be brought about through deliberate human design. I will show that believing that embracing the past (Confucianism) is conservative while rejecting it (Legalism) is progressive is simplistic and misguided. In addition, my discussion also aims to challenge the dominant paradigm through which contemporary theorists frame their debates. The bulk of the debate in Confucian political theory today is framed by Confucianism as a moral and political perfectionism as if it by default favors state intervention, and state neutrality which looks askance at perfectionist intervention, which then leads to intricate discussions of how perfectionist intervention can be justified.[[9]](#footnote-9) As a result, it seriously glosses over the anti-interventionist drive already rooted in Confucian political thought.

That said, the goal of this paper is both clarificatory in the sense of making clear where Confucians and Legalists differ and explanatory in the sense of explaining *why* they presented these differences. When it comes to spontaneity, one’s first instinct may turn to Daoism, another key school of thought in ancient China which I will also touch on in my discussion, but I nevertheless focus on Confucianism and Legalism both because they have developed sophisticated reasoning for and against revering the past with Legalists’ specifically targeting Confucians and because they jointly and decisively left a huge imprint on subsequent Chinese history. In the following, I reconstruct their debate by closely examining different arguments made for and against history and retrieve the underlying rationale for their differences. The subsequent two sections clarify Confucians’ and Legalists’ attitudes toward history respectively, which will be followed by a section on the significance of social spontaneity in Chinese political thought.

1. Confucianism and revering history
2. The value of the past: early or later kings?

One of the puzzles of Confucian political thought is why Confucians continued to turn to the past, invoking as framers of their thought not only sage-kings and ministers in the legendary past but also the Western Zhou dynasty, which just preceded the chaotic time that early Confucians lived through. Confucians’ affection for the narratives of sage-kings is well recorded in the *Mengzi* where Duke Wen of Teng saw Mengzi “always citing as his authorities Yao and Shun.”[[10]](#footnote-10) There are indeed countless invocations of legendary sage-kings in the Confucian texts who preceded the three dynasties of Xia, Shang, and Zhou, and whose period is said to be one of peace, stability, and mutual care. Scholars conveniently call Confucian political teachings as endorsing the model of “inner sagehood, outer kingliness,” referring to the exemplary precedent set by sage-kings in terms of their moral virtues and benevolent rule.

Historical knowledge is not only invoked in terms of emulation of sagely figures but in “rectification of names.” When Zilu asks Kongzi, “if the Lord of Wei left the administration of his state to you, what would you put first,” Kongzi says, “if something has to be put first, it is, perhaps, the rectification of names.” He further clarifies its importance to a confused Zilu by saying that when names are not correct, it will trigger a wave of deadly consequences that finally leads to inappropriate rituals and punishments and “the common people will not know where to put hand and foot.” “The thing about the gentleman,” says Kongzi, “is anything but casual where speech is concerned.”[[11]](#footnote-11) Getting the names right requires that “﻿let the ruler be a ruler, the subject a subject, the father a father, the son a son.”[[12]](#footnote-12) Rectifying names is a complex idea and political undertaking, but commentators generally agree that it involves both a descriptive part concerned with linguistic and semantic accuracy and more importantly a moral part which is crucial to upholding ethical values in light of moral persons humans are and the moral relationships they need to sustain. What is crucial, in light of history, is that the way one goes about rectifying names is not by inventing new names but by carefully studying the names assigned to different social and political status as practiced in previous, orderly periods especially early Zhou. Historical knowledge therefore directly informs benevolent politics and indirectly serves as a proxy for rectification of names according to proper standards.

One remarkable twist to this narration of the past is that early Confucians explicitly endorsed the Zhou tradition, the last dynastic legacy in the sequence of Xia-Shang-Zhou wantonly disrupted by the emergence of hegemons and warfare among belligerent states, despite that they often saw less of sagehood and kingliness as the time came closer to their own. Given that legendary sages such as Yao and Shun are often juxtaposed with later Zhou kings (Wen and Wu), it seems that for Confucians, they all participated in cultivating and acting on the Confucian Way of benevolent politics (*renzheng*), and there is no qualitative difference in their ruling or their ascendence to rule.[[13]](#footnote-13) But why did they particularly follow the Zhou tradition, instead of, say, those of Xia and Shang (Yin) that preceded it? In the *Analects*, Zizhang askes Kongzi, “can ten generations hence be known?” Kongzi replies, “The Yin built on the rites of the Xia. What was added and what was omitted can be known. The Zhou built on the rites of the Yin. What was added and what was omitted can be known. Should there be a successor to the Zhou, even a hundred generations hence can be known.”[[14]](#footnote-14) Kongzi’s reasoning here seems to be that we follow Zhou not because there are qualitative differences among Xia, Yin, and Zhou such that Zhou is superior, but because Zhou is closer to our time and what happened in Zhou is more *accessible*. Given that sages lived in legendary times, the only plausible way in which one can realistically gauge their sagely characters and actions is through the most accessible and tangible resources embodied in the rules and rituals transmitted over time.

If accessibility is at stake and it matters to such an extent that we should go for what is available to us rather than trust suspicious sources or rely on whatever we make of them, one can be puzzled by the dispute between those following Mengzi and Xunzi regarding emulation of the past. Despite sharing common ground in appealing to the past for wisdom and authority, there is a marked difference between Kongzi and Mengzi on the one hand, and Xunzi on the other. Xunzi is famous for upholding the view that one ought to learn from later Kings *rather than* ancient sage-kings like Yao and Shun. He specifically took on what he calls “vulgar Confucians” associated with Mengzi for the latter’s teaching that the current ruler should model themselves on the ancient sage-kings. Xunzi’s view is worth quoting at length:

*The vulgar Ru (Confucian)…follow the model of the Ancient Kings only in a general way, though enough to bring disorder to the age. Having erroneous methods and eclectic learning, they do not realize that they should model themselves on the Later Kings in order to unify the rules and regulations and are unaware that they should exalt ritual and moral principles and give less importance to the* Odes *and the* Documents*…They invoke the Ancient Kings to cheat the stupid and seek a living from them…The cultivated Ru (Confucian) model themselves after the Later Kings, unify rules and regulations, exalt ritual and moral principles, and give less importance to the* Odes *and the* Documents.[[15]](#footnote-15)

Although Xunzi does not explicitly mention Mengzi’s name here, it prima facie goes against Mengzi’s and even Kongzi’s “learning from ancient sages” approach. Xunzi goes on to say that the reason we should emulate later kings partly stems from cultivated Confucians’ humility insofar as “when they know something, they say that they know it; and when they do not know it, they say that they do not. Within they do not delude themselves about what they know.” Cultivated Confucians follow later kings also because “they use the shallow to handle the deep, the recent to handle the ancient, the one to handle the myriad.”[[16]](#footnote-16) That said, Xunzi is not entirely clear about whom these later kings are—they may refer to King Wen and Wu of Zhou, those kings after Wen and Wu, or hegemons in the Spring and Autumns period.

If we leave aside Xunzi’s doubt on Mengzian thinkers’ moral integrity and the possibility that Mengzi may not hold exactly the same view attributed to him by Xunzi, for the sake of philosophical argument, the real issue then boils down to a methodological dispute. Xunzi is not against the ideal of political rule under Yao and Shun per se. Rather, the “ritual principles” Xunzi holds dear were created by “Ancient Kings” to address disorder arising out of humans’ proclivity to satisfy their desires without limits.[[17]](#footnote-17) As a staunch Confucian thinker, Xunzi is as committed to the sage-king model as is Mengzi. In his rebuke of abdication narratives on Yao and Shun, Xunzi vehemently defends the supremacy of exemplary charismas of Yao and Shun. Similarly, against the charge that Yao and Shun were not good at educating the people, Xunzi claims that Yao and Shun were the most skilled rulers in terms of moral education. Instead, the idea that Xunzi contests is the *way* in which we learn from early sage-kings. Xunzi believes that the only correct way in which we can learn from, transmit the teachings of, ancient kings is by learning from later ones. Xunzi’s reasoning is that the rituals and regulations we inherit were tested over time and that *we know* that they work. The *Odes* and the *Documents*, which belong to the genre of the classic literary works, on the other hand, codify the kind of knowledge not entirely appropriate to changing times, which is why laying out political blueprints right out of them is misguided. This echoes Kongzi’s accessibility idea above, which is that emulating the later kings renders ancient kings’ teachings accessible to later generations.

The question, however, remains whether the issue is only about accessibility. For on a purely functionalist reading, only a few learned Confucians like Kongzi need to access the past, whether that of early or later periods, and lay out the ideal of Confucian politics embodied in sage-kings’ words and deeds. For others, they can understand the ideal itself under Kongzi’s teachings without similarly delving into intricate historical details. This may strike moderns as a division of labor between philosophers and historians of ideas. There seems no particular reason to believe that the validity of ideals depends on the historical context from which it stems or that in order to make sense of these ideals, one needs to study their historical origin. In other words, if accessibility is the only reason we have for revering the past, it seems that historical knowledge, after all, is largely redundant as long as some learned elite can access it and retrieve ethico-political ideals from it on everyone else’s behalf. Therefore, we need some other explanations to understand Confucians’ profound historical attachment.

At this point, it seems worthwhile to distinguish between instrumental and non-instrumental justifications of history offered by Confucians and map the disagreement among Confucians onto it. One purely instrumental justification is that whatever value history holds, invoking the past, especially that of sage-kings, is instrumental to helping people understand and accept Confucian teachings, which is akin to the formal aspect of learning from the past that Ames points out. In contrast, non-instrumental justifications consist in the way in which history is expressive of Confucian values. One non-instrumentalist reasoning is that the past embodies the Confucian ideals of benevolence, righteousness, and ritual propriety, which serves as concrete examples of how these lofty ideals have worked before and can possibly play out in the future.[[18]](#footnote-18)

Another variant of non-instrumentalist reasoning is that one can never fully grasp the nature and content of these values without a historical touch. In other words, history not only serves as an example of how the ideal that we lay out in advance can play out but more crucially, the meaning of the ideal itself is incomplete and incomprehensible without first procuring historical knowledge. The example of mathematical formulae can help us understand the difference between these two variants of non-instrumentalist reasoning. For example, the formula “(a-b)2 = a2 + b2 – 2ab” works and can express its validity without specific examples. Putting in numbers can show that it works but that it is a valid formula does not depend on any numbers we put in. This reasoning is akin to the first variant of non-instrumental justification insofar as we can understand benevolent politics without concrete examples, and its normative significance does not depend on the latter. In contrast, the second variant holds that one cannot possibly flesh out what benevolent politics means without concrete examples from the past, in which case these historical examples are *constitutive* of the normative meaning of benevolence.

With this conceptual setup, it seems implausible to confine appropriation of historical knowledge to the first variant of justification. For if history only proffers specific examples of high ideals, it is difficult to make sense of Confucians’ devotion to the past as a *necessary* route toward the whole panorama of virtue cultivation and political thinking. Hypothetically, one could get rid of history, whether they are the history of earlier or later kings, and directly hew to an analytical dissection of Confucian virtues, were historical examples only about showing how the abstract formulae of moral principles play out. Historical examples, in this context, are not indispensable for understanding and sustaining Confucian virtue politics. The second approach, therefore, offers a plausible way of making sense of Confucians’ spectacular attachment to historical knowledge without diminishing the possibility that the accessibility view and the first explanation of history’s expressive value also plays some role. Following this reading, historical knowledge *constitutes* a crucial part of the epistemic reservoir for delivering virtue politics.

1. Spontaneity and respect for the people

My discussion so far, however, only shows that in order for Confucians to successfully justify their historical attachment, the second, stronger claim about the value of history is necessary. It, however, does not by itself offer a reason for appreciating the value of history in this way. One may be tempted to ask, why do Confucians believe that historical knowledge constitutes a crucial part of governing wisdom necessary for virtue politics? Here, we should revisit the pragmatic view held by Kongzi and explicitly defended by Xunzi—their view that what is worthy of learning is that which, in light of contemporaries’ lived experience and recent memories, proves to have *worked* and delivered virtue politics without purely analytical conjectures. These traditions include laws, policies, regulations, rituals, and customs, all tested and transmitted over time through a long process of adaptation and transformation.

But what are the thresholds of assessing whether the historical legacy *works*? Further, whom does it work *for*? On a strictly conservative reading, we gauge what works by closely following the reality, and take for granted, in British conservative Edmund Burke’s words, whatever “made power gentle and obedience liberal.”[[19]](#footnote-19) The conservative reading is so popular as to gloss over the rather radical change Kongzi sought after as a remedy for his tumultuous time. It belies the *radical* potential of the distinctive mode of critiques offered by Confucians, which invokes familiar vocabularies shared and recognized by the ruling elite yet turns on a challenge of their meaning and experience within the political community. For instance, although ritual has long played a key role before Kongzi, he dramatically reinterpreted it as a moralized virtuosity and a conduit for virtue politics.[[20]](#footnote-20) Following Zhou is therefore not tantamount to preserving the status quo or only seeking piecemeal change; rather, it fosters a transformation of fundamental perspectives on the meaning of political rule. Further, the conservative reading also reduces to simplicity the standards of legitimate historical knowledge within Confucianism. Confucians do not treat every trace of the past as worthy of worship; rather, they strategically selected the past experience suited to their normative vision. Confucian virtue politics, for instance, does not condone rules that *only* work for the cunning ruler even if hypothetically there is this kind of rule that sustains itself over time.

If we shelve the conservative reading and project the pragmatic view (the second strand of the non-instrumental reading) onto the broader theme of Confucian political thought, it becomes clear that learning from history helps to facilitate political governance in a way that makes the common people feel content and at ease, and nurtures—to use my terminology—*the spontaneity emerging from the society*. For sure, every significant social role and relationship should be put at ease—including those between ruler and minister, father and son, and among feudal lords themselves, each of which needs to spontaneously act according to moral demands. The bedrock of this spontaneous force is, however, the common people (*min*), who all Confucians have valorized as carrying the weight of legitimizing political rule. After all, what political rule *works* has a specific connotation in the Confucian context, which is virtue politics that benefits the people. For Confucians, the politics that works is a moralized one where “the people are of supreme importance, the altars to the gods of earth and grain come next; last comes the ruler.”[[21]](#footnote-21) In other words, *looking back at the recent past is the crucial way by which one learns about what works to relieve the suffering of the people and put them at ease*. In connecting Confucians’ specific approach to history and their valorization of the people, I nevertheless remain agnostic here about whether Confucian political order as a whole is “rule for the people,” let alone by the people.[[22]](#footnote-22) All I claim here is that whether its entire *telos* lies in serving the people or not, the value of history, for Confucians, lies in benefiting them in a certain way because what works is that which is comfortably accepted by them.

That said, Confucians have a complex view of what political order works to the benefit of the people. Confucians have keenly distinguished between kingly rule and hegemony without unwittingly condemning the latter. There is a vast grey zone between the extremes of disorder and chaos and the ideal of rule by sage-kings. On some occasions, Confucians praised hegemons and their ministers (e.g., Guanzhong of Qi) for their ability to eliminate chaos and command some degree of grassroots support.[[23]](#footnote-23) The benefit for the people also not only includes their material and moral wellbeing as their objective conditions but their *composure*, that is, how they feel and express their wellbeing, which is the agential aspect of Confucians’ popular care. Although many commentators have focused on the former, Confucians’ grassroots concerns include both aspects. Typical cases of governance over the people in Confucian texts are not intrusively interventionist—on the contrary, the emphasis has always been on the care that needs to be taken to make sure that the people are content, relaxed, and at ease without too many initiatives of deliberate state action. Rituals are necessary, for Kongzi, precisely because it can obviate the need to appeal to laws and institutions, which are interventionist.[[24]](#footnote-24) A noble person would even find bringing “peace and security to the people taxing,”[[25]](#footnote-25) the delivery of which presumably does not hinge on any intrusive state intervention.

The dual aspects—perfectionist yet non-intrusive—of popular concern can be found in both largely-scale, purely political cases of power transfer and in Confucians’ protection of family-centered social fabrics. In Mengzi’s remarkable narration of Yao’s abdication of power to Shun, Mengzi says that “Heaven gave it to him, and the people gave it to him,” and that “if (Shun) had just just moved into Yao’s palace and ousted his son, it would have been usurpation of the empire, not receiving it from Heaven.”[[26]](#footnote-26) Mengzi explicitly says that one crucial sign of legitimate power transfer is the people “at ease.” He then quotes the *Book of History* as saying “Heaven sees with the eyes of its people; Heaven hears with the ears of its people.”[[27]](#footnote-27) Although there are fierce interpretive disputes on whether this implies democratic legitimacy and to what extent the people have political agency, it is clear that Mengzi’s justificatory force does not go from a higher body (be it a transcendental god, a sage, or a ruler) to ordinary people, but rather go the other way round from ordinary people to legitimation of political rule.

What is distinctive of Confucians’ commitment to social spontaneity is that they do not respect the people qua individuals but as members of the social unit of family. Confucians see family as a natural entity where fundamental human values are to be taught, and it is not the business of the state to interfere with family affairs. Early Confucians not only believed in the extensionist model of virtue cultivation whereby one cultivates virtues in family first and extends virtuous care to outer social and political spheres, but more importantly that one’s first moral duty lies with family not with the ruler, which created a particularly vexing dilemma of choosing between filial piety and political loyalty in the later imperial history of China. Says Mengzi, “﻿The Way lies at hand yet it is sought afar; the thing lies in the easy yet it is sought in the difficult. If only everyone loved his parents and treated his elders with deference, the Empire would be at peace.”[[28]](#footnote-28) When Sage-King Shun’s father unjustly killed a man and he could not save his father without jeopardizing the justice system, he “looked upon casting aside the Empire as no more than discarding a worn shoe. He would have secretly carried the old man (Shun’s father) on his back and fled to the edge of the Sea.”[[29]](#footnote-29) While I disagree with El Amine’s politics-centric views, she made an especially pertinent observation when she says that “the qualities expected of the common people are not the cardinal Confucian virtues of ren, rightness, and wisdom that Confucius expects of himself and his disciples.”[[30]](#footnote-30) The underlying rationale is that Confucians put the spontaneous life of family first and expect family units to figure out their own rhythm of ethical commitment with minimal external interference. Even when interference is inevitable, it is more about the ruler setting examples for inspiration than about fusing Confucian ideas into specific laws and policies. In short, *qinqin* (family) is lexically prior to *zunzun* (politics).

1. Legalism and hostility toward history

We have gone a long way from Confucians’ reverence for the past to a discussion of how it is inherently bound up with their respect for social spontaneity. For Confucians, only those past rituals, institutions, and policies that the common people comfortably live with are worthy of emulation and preservation. Most notably, it includes the heritage that protects the basic social fabric of family. If history is valuable as a key component of virtue politics and seems innocuous enough, why would one be opposed to learning from it? Confucians’ respect for grassroots spontaneity can be seen more clearly when contrasted with their archrival Legalists’ take on history. In their grotesque attacks on those clinging to the past, Legalists argued that radical change is the only means of tightening and extending state control over the society.

In “Revising the Laws,” the opening chapter of the *Book of Lord Shang*, Shangyang marshals a variety of arguments to debate with ministers including Ganlong and Duzhi in front of Lord Xiao of Qin, who was willing to conduct political reform but hesitated to do so. In fierce exchanges of arguments, Ganlong argues that “﻿the sage instructs without altering the people’s [habits]; the wise attains orderly rule without modifying the laws.’ Go along with the people in instructing them, and you will succeed without effort. Rely on laws to attain proper rule: then the officials will be well versed [in the law], and the people will be at peace.”[[31]](#footnote-31) Ganlong’s view seems to be a dogmatic version of the Confucian stance—it shares with Confucians the willingness to “go along with the people,” but is dogmatic in the sense of being reluctant to change existing customs and laws. Gongsong Yang (Shang Yang) retorted back by saying that these views are held by ordinary men and simple-minded scholars who cannot be trusted with sophisticated tasks. As he continues,

*﻿[founders of the] Three Dynasties did not use the same rituals but still became monarchs; the Five Hegemons did not employ the same laws but still became hegemons. Hence, the wise [man] creates laws, whereas the ignorant is restricted by them; the worthy revises rituals, whereas the unworthy is bound by them*.[[32]](#footnote-32)

Shangyang’s view is that the historical worthy were not hesitant in revising rituals and laws to adapt to changing times, which is reasoning from 1) *historical facts*. Historical precedents of initiating reforms show that reforms can lead to success. If there is one thing that one does learn from history, that is change as the constant norm.

Duzhi, another minister, replied saying that if the benefit is not enormous, then it is better to err on the side of caution, and that “one who imitates antiquity does not err; one who conforms to rituals has no deviations.” This time, Shangyang offered a different line of reasoning by saying,

*﻿Former generations did not adopt the same teaching: So which antiquity should one imitate? Thearchs and Monarchs did not repeat one another: So which rituals should one conform to? …Rituals and laws are fixed according to the times; regulations and orders are all expedient; weapons, armor, utensils, and equipment, all are used according to their utility.[[33]](#footnote-33)*

Shangyang points out 2) the *logical inconsistency* of those revering the past to emphasize the changing nature of laws and rituals. He listed historical examples of Sage-Kings Yao, Shun, King Wen, and King Wu to show not only that they succeeded precisely because they established new laws and rituals but more importantly that followers of the past are logically inconsistent. For if revering the past is the norm, whom ought one to imitate if every success story is different? It turns out again that the past teaches us that only changing according to circumstances is the norm.

In addition to historical facts and logical inconsistency, Legalists believe that one should not blindly follow the past because it will lead to 3) *inimical consequences*—whether it is blindness to the specific situations of our time (for Shangyang) or the disturbance of state order (for Hanfei). In “Opening the Blocked,” Shangyang claims that “the sage does not model himself after the past, nor does he follow the present,” and the reason is that “when you model yourself after the past, you lag behind the times; when you follow the present, you are blocked by [other’s]power.”[[34]](#footnote-34) What he means by following the present is a blind emulation of other states. Again, he narrates how the Ways of Xia, Shang, and Zhou were different, which rendered their rule kingly. He uses the example of King Wu of Zhou to show that he did not follow the conventional patterns of annexation and power struggle but “elevated yielding” and “held [his rule] by righteousness.”[[35]](#footnote-35) The Ways of both legendary sage-kings and Tang and Wu “have been blocked for a long time,” which is why the states were engulfed in war.

But what is exactly the nature of the *Ways* of kings that have been blocked? After all, all early Chinese thinkers were what AC Graham calls “disputers” of the Way, and it seems that clarifying Shangyang’s Way is crucial to understanding why he endorsed such a defiant attitude to history. Following his diagnosis of dogmatism blocking the Way, Shangyang claims that it has everything do with controlling the people and strengthening the state. In his remarks “to clarify these points”—which bear the full weight of justifying seeking change in defiance of the past—Shangyang says that “﻿in the past, the people were simple and generous; nowadays, the people are crafty and deceitful,”[[36]](#footnote-36) which makes policies in the past redundant (as the people changed). Whether Shangyang had an evolutionary view of the change of human features is up for debate, and it does seem that the people would not evolve back such that old laws and institutions might work again, but it is not so much why the people changed as how the state can control them that matters.

At Shangyang’s time, “establishing whatever the people like and dismissing whatever the people detest is called ‘righteousness,’ while establishing whatever the people detest and eliminating whatever they like is called ‘unrighteousness,’” and consequently, “the name and substance of these two should be exchanged.”[[37]](#footnote-37) Shangyang turns the moralized term of righteousness upside down by enjoining the ruler to keep people worried and overawed because only in this way would they live in conformity and not disturb state order. When the ruler establishes what the people detest, they will worry and become thoughtful and fearful, which will generate order. There can be no more efficient way of controlling the people than by keeping them preoccupied and worried about punishment. When the people are happy, they will become relaxed and ultimately indulge in what they enjoy, which will undermine state order. The overall chain of reasoning is therefore that turning to the past will pacify and embolden people to defy state order, which makes state control over them untenable. In short, state control bears the full weight of justifying renouncing the past and embracing change.

How about Hanfei, who synthesized all strands of Legalist thought? In a tacit reference to Confucians, Hanfei similarly argues that emulating the past disturbs state control because 1) situations always change, and more crucially, 2) changing situations imply a transformation of normative standards. As Hanfei laments, “all stupid scholars in the world do not know the actual conditions of order and chaos but chatter nonsense and chant too many hackneyed old books to disturb the government of the present age,” and consequently, “whoever listens to their words, will incur danger. Whoever employs their schemes, will invite confusion.”[[38]](#footnote-38) This seems to be a caricature of the Confucian stance because not all Confucians strictly follow old books—Hanfei, deliberately or not, distorted Confucians’ approach to canonical texts, which often uses them as a heuristic for promoting moralized agendas, and more crucially, dismissed Confucians’ pragmatic attachment to the *recent* past. But even if Hanfei can depict a more reasonable and pragmatic image of Confucianism, this does not mean that the gap between Confucians’ and Hanfei’s positions are narrowed down. For what Hanfei means by the “conditions of order and chaos” has specific Legalist meanings.

In “Five Vermin,” Hanfei appeals to many concrete examples to show that what changes is not just a shift of situations the ruler finds itself in, but *the kind of order* one pursues. What is at first glance obvious is that circumstances change. Sages in remote ages “fastened the trees and turned a drill” and Gun and Yu in their times “opened channels for the water,” but those doing the same now would be ridiculed by the contemporaries. What is given short shrift is the hidden message that the normative standards of order also shift as society moves along—or to use his own words, “circumstances change with the age and *measures change according to circumstances*.”[[39]](#footnote-39) In remote antiquity, the sage ruler killed birds, insects, and beasts to “shelter people from harm.” Similarly, the sage ruler “twisted a drill to make fire” to change the deadly smell such that the people “made him ruler of All-under-Heaven.” Later, Hanfei, by a sleight of hand, marvelously shifts the normative standard from protecting the people to safeguarding the state (even at the expense of the people). King Yan should have not imitated King Wen because doing so costed him losing the *state*. Zigong failed the state of Lu because he strove for virtue while people in Hanfei’s age *rightfully* pursue territorial expansion. It is “therefore a common trait of the *disorderly state* that its learned men adore the ways of the early kings.”[[40]](#footnote-40) Consequently, a commitment to protecting the people curiously morphoses into a concern over orderly statecraft, which, as we will see, materializes *at the expense of* the people.

It is worth noting here Xunzi’s ferocious critique of the kind of view Hanfei supports—that changing circumstances imply the change of normative standards. In response to the Legalist view that “the circumstances of the ﻿the past and the present are quite different,

and the Way by which to bring order to the anarchy of today must be different,” Xunzi claims that this kind of trick does not work because “the sage uses men to measure men, circumstances to gauge circumstances, each class of thing to measure that class, the persuasion to measure the achievement, and the Way to observe the totality, so that for him the ancient and modern are one and the same.”[[41]](#footnote-41) Xunzi implies that as sages use their moral standards—which constitute virtue politics—to judge of public affairs, they can see unchanging principles among changing circumstances. The challenge to establish virtue politics is rather the result of “the great antiquity of the period,” not because the doctrine of virtue politics does not work.

Hanfei, however, has his Legalist reasoning to ward off this Xunzian rebuttal because he does not buy into the doctrine of virtue politics in the first place. Hanfei rejects emulation of the past along with Confucians’ endorsement of love and partial care precisely in the context of praising Shangyang’s reformist mentality that helped to secure the ruler’s control—over both ministers and the whole society. For Hanfei, “who can hold his august position skillfully, finds his state in safety; who does not know how to utilize his august position, finds his state in danger.” Hanfei speaks highly of Duke Xiao of Qin’s implementation of Shangyang’s reform, which not only rendered punishment harsh but also rewarded whistleblowers such that people turned on one another and became mutually hostile to the benefit of the ruler. Distinctive of Hanfei’s thought is that keeping the ruler’s power is not only about managing wayward ordinary people but also cunning ministers. The ruler should always rule in a way that makes “the people inevitably do him good but never relies on their doing him good with love.”[[42]](#footnote-42)

To be fair to Hanfei, it seems that he is not simply concerned with securing the power of the corrupt ruler for their private gains but with an institutionalized notion of absolute rulership in the public interest. Hanfei’s ideal rulership is one of “non-exertion” (*wuwei*), who does not arbitrarily intrude into how the bureaucracy functions.[[43]](#footnote-43) One can interpret Hanfei’s rulership either as instrumentally leading to a strong state or essentially constitutive of state order or perhaps both, but however one conceives of his rulership, *the incumbent ruler’s* iron grip over power is always in the public interest. In this context, Hanfei, like Shangyang, prescribed state-centric recipes against *vox populi*. As he says, “severe penalty is what the people fear, heavy punishment is what the people hate. Accordingly, the wise man promulgates what they fear in order to forbid the practice of wickedness and establishes what they hate in order to prevent villainous acts. For this reason *the state is safe* and no outrage happens.”[[44]](#footnote-44)

It becomes clear that Legalists’ seemingly defiant attitude toward history, which has been widely interpreted as radical and anti-conservative, has a deeply conservative twist—if we mean by conservatism a penchant for *conserving* established state order where a powermonger rules by an iron fist. They detest history, customs, and conventions because they see most of them as standing in the way of a strong state. What they substitute for the historical legacy is a series of laws and institutions designed to mold the people in the image of an obedient yet trembling herd. The people, let along their social relationships, do not have intrinsic value in the Legalist state and even their instrumentality to the state is always fragile. Their partial attachment to the social fabrics of family is not only something that bears little value but can potentially endanger state order if the people prioritize familial care over their duty to the state. The state does not serve to advance the popular interest, which may seem deeply disturbing to modern eyes, but which is, for Legalists, a natural corollary of state-centric order. If necessary, the state needs to sacrifice the people and act against popular interest to maintain state order. It is in this sense that Shangyang offers his polemical remark that “when the people are weak, the state is strong; when the people are strong, the state is weak. Hence, the state that possesses the Way devotes itself to weakening the people.”[[45]](#footnote-45) Like agriculture, a strong army, and harsh yet non-discriminating laws, an obedient and fearful people—that is, only this type of people—is a key ingredient of the Legalist vision of statecraft. As we have seen, for both Shangyang and Hanfei, rejecting history is a crucial means of keeping people malleable and submissive for the sake of nurturing this state-centric vision.

It is worth noting here that by construing the Legalist stance on history as motived by state control, my account differs from the prevailing reading of Legalism as political contra moral. As a recent advocate of this reading, Eirik Harris offers a view of Hanfei’s Legalism (and by extension, Legalism in general) as purely interested in “provid(ing) a political order, a political system under which the state can be rich and strong,” which is made up of “economic and military order.” Consequently, “the heart of Hanfei’s disagreement with Confucians comes down to the question of whether the problems facing society are, at their foundation, moral problems.”[[46]](#footnote-46) While it is true that Confucians endorse a politics infused by family-centric values and Legalists find it abhorrent to drag familyism into politics, applying the moral/political dyad as a lens to Legalism, though not necessarily wrong, conceals more than it clarifies.

First, it seems puzzling to speak of an order as political without specifying *what* makes it political. One can think of a political approach as supporting political morality which rejects abstract morality applied to politics and which embraces moral talks that are always attentive to the characteristics of politics.[[47]](#footnote-47) Alternatively, a political approach may bracket off morality entirely from politics and only speak of prudential solutions in changing political circumstances, which in turn may allow for a variety of normative orientations ranging from anarchism and radical democracy to Leninism and Machiavellianism.[[48]](#footnote-48) Second and relatedly, while Harris’s view leans toward a variant of the prudential view, it cannot explain why it *specifically* implies the state’s terrifying control over ordinary people as the Legalists do. As we have seen, at the heart of Legalist thinking is not any kind of non-moralism but an explicit endorsement of the state taking total control of the society. Following my reading, Legalists’ stance is non-moral to the extent that it does not take humans as the ultimate conveyer of values. Further, it is a specific variant of non-moralism that valorizes as the telos of political order the state where the people are only one among many ingredients of social forces that the state needs to wisely manipulate.

1. Social spontaneity and state control

To recap my discussion so far, I have argued that Confucians’ and Legalists’ contrasting attitudes toward history are best seen as rooted in their different normative judgements of the relationship between state and society. While Confucians opt for a socio-political order where the state respects the spontaneity emerging from the society and largely keeps family intact as a basic social unit and a natural extension of human relationality, Legalists are united in their advocacy for state-centric order to which an obedient and fearful people is instrumental. Confucians attach themselves to history, especially that of recent practices, to safeguard what has proved to work for keeping family life going in a way that is ethically beneficial to family members, which in turn requires them to naturally constrain perfectionist state intervention and respect the agency of each family. For Confucians, this will not in any way undermine state order; on the contrary, by respecting the dynamics of social spontaneity, Confucian rulers can secure the most stable and humane state order. This stance is deeply contested by Legalists who believe that rejecting history is necessary for building up a strong and stable state. This is so because, for Legalists, a strong state can be achieved only if one rejects exactly those past experiences that proved to work for the people, which are at odds with the maxim of keeping the people weak, fearful, and obedient. Only if one tears apart all the legacy that makes people feel comfortable and creates a fearmongering state order afresh can the state take over the society and assume complete control.

In offering a paradigm of social spontaneity and state control to explain Confucians’ and Legalists’ contrasting attitudes toward history, I do not claim that this is the end of the story. Perhaps there are further rationales lying behind their different treatment of the state-society relationship. For example, one can further think that they were motivated by their different understandings of Heaven or of normative demands following from different understandings of human nature. And then further questions can be asked why they understood Heaven and human nature in different ways, and how exactly these differences structured their reasoning. To inquire into the ultimate ground of reasoning, however, seems futile to me and will only lead to disputes *ad infinitum*. Instead of chasing a non-ending regression in reasoning, I claim that the state-society relationship holds the *key* in the otherwise infinite chain of arguments that explains differences between Confucians’ and Legalists’ attitudes toward history, the crucial importance of which is missing in alternative accounts.

For instance, the “morality versus politics” approach is seemingly functional in illuminating Confucians’ and Legalists’ different treatment of morality, but they cannot explain why Confucians’ concern over morality leads to respect for family and emulation of the past while Legalists’ purely political motivations only lead to statism and further rejection of the past. It is not logically impossible to think of a thorough moralist rejecting the past (say, a crude consequentialist) and an anti-moralist invoking historical narratives. An alternative paradigm of “partiality versus impartiality” suffers similar challenges. Recently, Tao Jiang offered a reading of early Chinese political thought by claiming that “the competing visions (among different schools of thought) can be characterized as a contestation between partialist humaneness and impartialist justice as the guiding norm of the newly imagined moral-political order.”[[49]](#footnote-49) While this approach highlights the contrast between Confucianism and Legalism in meaningful ways, it only touches on part of the truth in the same way that blindmen only touch on part of the elephant in the old Buddhist story. For this account can hardly explain why partiality leads one to single out family as a unique social unit that resists intrusive state intervention and further why impartiality in Legalism should take a statist form *going against* the people, which seems hardly moral in any meaningful sense of the term. The divide between social spontaneity and state control, in contrast, stands at the heart of Confucians’ and Legalists’ distinct approaches to history.

I have by far invoked the idea of social spontaneity without providing further details, and it seems necessary now to pin down its significance. The relationship between state and society is undergirded and constrained by a fundamental difference in Confucians’ and Legalists’ understandings of the nature of socio-political order. In the case of Confucianism, socio-political order, to borrow Adam Ferguson’s phrase, stems from “the result of human action, but not the execution of any human design.”[[50]](#footnote-50) Later thinkers in the twentieth century such as Michael Polanyi and FA Hayek labelled it as “spontaneous order.” Hayek distinguishes between *taxis*, an organizational order “which has been made by somebody putting the elements of a set in their places or directing their movements,” and *cosmos* in which “a multiplicity of elements of various kinds are so related to each other that we may…form correct expectations concerning the rest.”[[51]](#footnote-51) We do not need to take on board all of Hayek’s comprehensive views on their respective characteristics to understand that c*osmos* is a naturally grown order while *taxis* is artificial and deliberately made. While the idea of spontaneous order is most famously associated with Austrian economists and free marketeers, there is no reason to confine a broad notion of spontaneous order to the free market and common law. As proponents of spontaneous order have recognized, it is seen and studied across various fields of biology, physical science, anthropology, and linguistics. Many ancient tribes had informal rules that were naturally transmitted, and the majority of human languages were not made by anyone but adopt their current forms and syntaxes through a complex process of adaptation and evolution. The intelligibility of spontaneous order, broadly construed, is not locked up with libertarian values.

The relevance of spontaneous order in our context is that what makes it possible for Confucians and Legalists to hold different perspectives on history is that Confucians signed up to a spontaneity-based understanding of order while Legalists largely understood socio-political order as artificiality entirely malleable for political purposes. Confucians hearken to the recent past and protect family-based order because they see value in social institutions including family as part of a naturally grown system where family members can cultivate virtues, and whose spontaneity needs to be protected. Confucians’ respect for social spontaneity is not tantamount to giving social spheres free rein. It does not rule out some artificial rules protecting it, in the same way that Hayekian free marketeers do not dismiss laws protecting individual liberty. But it is also not just built on the idea of cultivating virtues through “a spontaneous ‘second habit’” molded by rituals,[[52]](#footnote-52) but the kind spontaneity flowing from respecting one’s *first habit* and way of life. Legalists, on the other hand, do not believe that socio-political order, by which they mean state order, has, or should have, any affinity with family and private life. Not only is political order man-made and entirely at the disposal of rulership but it *ought* to remain artificial in order to stamp out inimical influence from one’s naturally grown familial partiality. The ruler should certainly not rule by whim—which is why Legalists are well-known for rule by law—but the nature of political order is such that it is always ready to be taken up and molded by the ruler for topdown manipulation and state-building.

In this light, despite holding drastically different views on the value of history, both Confucians and Legalists were committed to reform as neither were satisfied with the status quo, and so it is deeply misleading to characterize Confucians as conservative and Legalists as radicals or reformists. Rather, their differences lie in the *different ways* in which they are inclined to go about social and political reforms. While Confucians pursue a kind of reform that builds on, and nurture, the social spontaneity of family life, Legalists seek reforms that dismiss and undermine social spontaneity through man-made state-centric order.

In conceiving of the dispute between Confucians and Legalists on the value of history as largely emanating from their different understanding of socio-political rule, one may think that I am exaggerating spontaneity within Confucian thought, and I now turn to two specific challenges as a way of wrapping up my discussion. The first challenge may cast doubt on the degree to which Confucian political order allows for spontaneous order. Even if Confucians allow more room for social spontaneity than Legalists do, one may argue that this accommodation of social spheres is still undergirded by Confucians concern over the overall governability of ordinary people and stability of political order. If families unite to challenge political order, then surely that will face fierce objection from Confucians. In addition, Confucians only allow for the voluntary endorsement of morality and a reflective engagement in moral life falling short of embracing “self-legislation and radical free expression of the individual’s will,”[[53]](#footnote-53) which means that a Confucian state would not tolerate families expressing a radical approval of values incompatible with Confucian virtues.

Admittedly, Confucians have an ethical understanding of family relationships and expect family members to act on certain norms. It surely is not the case that any familial way of life goes. However, it is also remarkable that we rarely see Confucian texts advocating for the ruler’s intrusion into family life. The way in which political order relates to ordinary people’s family life consists of 1) the ruler’s setting a good example for the people to follow, 2) their providing necessary material and social goods for them, and 3) when having to exact their cooperation in terms of taxation and military action, it is more of a matter of complying with their way of life (使民養生喪死無憾), imposing as light burdens as possible (使民以時), and avoiding excessive demands from them (不窮其民) [[54]](#footnote-54) than coercing them to meet the state’s needs.[[55]](#footnote-55) In this sense, Ames and Slingerland are not too farfetched in identifying the ideal of non-exertion in Confucianism.[[56]](#footnote-56) Any specific measure of perfectionist intervention from the state, which preoccupies many contemporary thinkers, is curiously missing. My discussion shows that this is no coincidence. First, the idea of virtue itself, by definition, requires that the people identify with, and act on, it voluntarily. Second, not only is it not the state’s business to mess up with familial relationships, but more importantly, state action in this regard would be counterproductive because the state cannot possibly take care of all the details necessary for partial care among family members. Underlying this Confucian position is the view that what is moral is natural (Mengzi) or if not natural, needs artificial affirmation by *voluntary* learning from grassroots (Xunzi). Either way, simple topdown state action is a non sequitur. Therefore, it is more reasonable to see Confucians as supporting an order built on the spontaneity from the society than to posit an artificial tension between state and society, which is only intelligible if one tacitly buys into non-Confucian assumptions.

A second challenge to my association of Confucians’ attachment to past practices with social spontaneity may turn on the affinity of bodily and family metaphors in Confucian politics with the idea of organism. In Confucian texts, the family metaphor is hugely popular not only in family relationships themselves but in its application to the political realm. The idea is that the ruler ought to take care of ordinary people in the same way that parents take care of their children, which is affirmed by Mengzi’s catchphrase “(the ruler) being the parent of their people” (為民父母).[[57]](#footnote-57) The idea that body politics is the family writ large implies that Confucians not so much respect social spontaneity as adopt the view that different social roles have their part to play in upholding an organic operation of body politics. Each person and social unit (family) are not, strictly speaking, spontaneous; rather, they are programmed to move in a fashion that molds the whole system as an organic body. Chun-chieh Huang goes further to argue that classical Chinese political theories including Confucianism “are entirely in the perspective of the human body.”[[58]](#footnote-58) The organism of Confucian politics is not only a family writ large but a human body with the ruler as the brain and ministers and the people as their “hands and feet.”[[59]](#footnote-59)

To be clear, the organistic view is a branch of modern social theory that is internally complex and has influenced other disciplines including economics and politics, though its root can be traced back to ancient thought. While the theory itself shares some resemblance with spontaneity to the point where Hayek claims that organism is one subset of spontaneous order, it has its own genealogy and is associated with such modern social theorists as Comte, Spencer, and Durkheim. Some variants of social organism—including Spencer’s—have also been posthumously given the ignominious name of “social Darwinism.” Without going into details about the complex debate on social organism and without attributing to organism pejorative assumptions against it, I need to point out that one important feature of organistic theories is that social order *progresses* from primitive conditions to complex organistic systems. The idea of scientific progressivism lies at the heart of Comte’s positivist view of organism, Spencer’s claim that society not only increases in size but also in structure and functions, and Durkheim’s view that society progresses from mechanical solidarity to the organic one. This kind of evolution, however, is entirely missing in, and contradictory to, Confucian thought. Early Confucians not only did not believe in linear progressive evolution but took some social regressions as the starting point of their thinking. This is why Confucians lamented that the age they lived in was *inferior* to that of sage-kings, and the increased size of the state and more complex division of labor did not herald a better organic society.

The second reason why using organism can be misleading is that the tropes about the body and the family in Confucian politics are not so much an affirmation of organic politics as if it resembles a human body or a naturally functioning eco-system but a heuristic for making the case that the ruler *should* care about the people given the fragility of political relationships and the lack of natural kinship between ruler and ruled. When Mencius discusses the idea of “the ruler being the parent,” it does not imply their natural entitlement but a way of asking the ruler to fulfil their public duties. Therefore, his claims on this metaphor in politics, unlike those in family relationships, are always conditional. The message is always that *if* the ruler desires the verisimilitude of parental authority, they need to care about ordinary people with the same intensity of care they express toward their own children. The same is true of the bodily metaphor—*if* a ruler treats ministers and ordinary people the same way they treat their own body, they can secure their loyalty. In short, Confucians recognize the spontaneity of socio-political order without equating it with organism. What turns out to be organistic in this sense is actually Laozi’s and Zhuangzi’s Daoist thought, which is conventionally dubbed as spontaneous (rather than organistic) and which invokes nature (*ziran*) not just useful as a heuristic tool but a genuine model to follow in one’s pursuit of the organistic flow. Invoking learning from the mother nature, Laozi claims that “hence the sage says, I take no action and the people are transformed of themselves.” In the same vein, Zhuangzi’s Kongzi says approvingly of a disabled man as “look(ing) on the alterations of all things as his own fate, and thus hold(ing) fast to their source.” This genuine adherence to organistic nature’s self-transformation is missing in Confucian accounts (especially Xunzi’s).

1. Conclusion

In this article, I both clarified where Confucians and Legalists differ in their attitudes toward history and explained why they differ in the way they do. Confucians are pragmatically attached to the recent past, especially those laws, practices, and rituals that have worked to put the people at ease. In contrast, Legalists trenchantly criticized the Confucian position because history stands in the way of their vision of statecraft. In explaining their contrasting attitudes, I adopted the paradigm of social spontaneity and state control and argued that underlying their contrasting perspectives on history are different normative positions toward the extent to which social spontaneity needs to be nurtured and accommodated in political order, and further, their understandings of the nature of socio-political order. Recognizing respect for social spontaneity can help us reevaluate so-called “Confucian perfectionism” and the specific way in which it plays out in contemporary engagement.

History has always served as a powerful narrative on which political agendas hinge. Studying ancient thinkers’ attitudes toward history and dissecting their rationales is not only of scholarly interest. Mao Zedong’s quasi-Legalist statecraft precipitated the catastrophic Cultural Revolution where one of its central ideological missions was to destroy the Four Olds—“Old Ideas, Cultures, Customs, and Habits”—and denounce Confucianism. While there is no longer similar hostility against history in contemporary China, the ruling power’s readiness to conduct radical political campaigns in defiance of recent successful market-based practices and restore state control over its population (as we have seen in dramatic Zero-Covid policies) serves as the vivid evidence that the struggle between Confucianism and Legalism on history and the kind of order they incline to implement is far from over. It continues to resonate with contemporary politics in China and all those societies structured by these twin legacies.

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1. *Analects* 3.14. All translations of the *Analects* are from Dim Cheuk Lau, *Confucius: the Analects* (London: Penguin, 2000). [↑](#footnote-ref-1)
2. AC Graham, *Disputers of the Tao: Philosophical argument in ancient China* (Chicago: Open Court, 2015), 9. [↑](#footnote-ref-2)
3. Benjamin Schwartz, *The World of Thought in Ancient China* (Harvard University Press, 1985), 65. [↑](#footnote-ref-3)
4. See Eric Hutton, "Han Feizi's Criticism of Confucianism and Its Implications for Virtue Ethics," *Journal of Moral Philosophy* 5, no. 3 (2008). [↑](#footnote-ref-4)
5. Roger Ames, *The Art of Rulership: A Study of Ancient Chinese Political Thought* (Albany, NY: SUNY Press, 1994), Ch. 1. [↑](#footnote-ref-5)
6. Ibid., 4. [↑](#footnote-ref-6)
7. *Analects* 7.1. [↑](#footnote-ref-7)
8. Ames, *The Art of Rulership: A Study of Ancient Chinese Political Thought*, 11-12. [↑](#footnote-ref-8)
9. See Sungmoon Kim, *Public Reason Confucianism: Democratic Perfectionism and Constitutionalism in East Asia* (Cambridge: Cambridge University Press, 2016); Zhuoyao Li, *Political Liberalism, Confucianism, and the Future of Democracy in East Asia* (New York: Springer, 2020). [↑](#footnote-ref-9)
10. *Mengzi* 3A1. All translations of the *Mengzi* are from Dim Cheuk Lau, *Mencius* (London: Penguin, 1970). [↑](#footnote-ref-10)
11. *Analects* 13.3. [↑](#footnote-ref-11)
12. *Analects* 12.11. [↑](#footnote-ref-12)
13. *Analects* 2.23, 15.11; *Mengzi* 2A1, 3A1. [↑](#footnote-ref-13)
14. *Analects* 2.23. [↑](#footnote-ref-14)
15. *Xunzi* 8.10. All translations of the *Xunzi* are from John Knoblock, *Xunzi: A Translation and Study of the Complete Works* (Stanford Stanford University Press, 1988). [↑](#footnote-ref-15)
16. Ibid. [↑](#footnote-ref-16)
17. *Xunzi* 19.1a. [↑](#footnote-ref-17)
18. One can see this as an instrumental reading, but as historical examples are *manifestations* of ideals, I consider it a variant of instrumentalism. [↑](#footnote-ref-18)
19. Edmund Burke, "Reflections on the Revolution in France," in *Reflections on the Revolution in France* (New Haven: Yale University Press, 2008), 66. [↑](#footnote-ref-19)
20. Schwartz, *The World of Thought in Ancient China*, 67-85; Tao Jiang, *Origins of Moral-Political Philosophy in Early China: Contestation of Humaneness, Justice, and Personal Freedom* (New York: Oxford University Press, 2021), 72-96. [↑](#footnote-ref-20)
21. *Mengzi* 7B14. [↑](#footnote-ref-21)
22. For a debate on the democratic potential of Confucianism, see Loubna El Amine, *Classical Confucian Political Thought: A New Interpretation* (Princeton, NJ: Princeton University Press, 2015), Ch. 1; Tongdong Bai, *Against Political Equality: The Confucian Case* (Princeton, NJ: Princeton University Press, 2019), Ch. 2. [↑](#footnote-ref-22)
23. *Analects* 14.18. [↑](#footnote-ref-23)
24. *Analects* 14.41. [↑](#footnote-ref-24)
25. *Analects* 14.42. [↑](#footnote-ref-25)
26. *Mengzi* 5A5. [↑](#footnote-ref-26)
27. Ibid. [↑](#footnote-ref-27)
28. *Mengzi* 4A11. [↑](#footnote-ref-28)
29. *Mengzi* 7A35. [↑](#footnote-ref-29)
30. El Amine, *Classical Confucian Political Thought*, 30. [↑](#footnote-ref-30)
31. *BLS*, 1.3. All translations of the *Book of Lord Shang* (*BLS*) are from Yuri Pines, *The Book of Lord Shang* (New York: Columbia University Press, 2017). [↑](#footnote-ref-31)
32. Ibid. [↑](#footnote-ref-32)
33. *BLS*, 1.4. [↑](#footnote-ref-33)
34. *BLS,* 7.3. [↑](#footnote-ref-34)
35. *BLS*, 7.3. [↑](#footnote-ref-35)
36. *BLS*, 7.4. [↑](#footnote-ref-36)
37. Ibid. [↑](#footnote-ref-37)
38. *Hanfeizi*, Ch. 14. All translations of the *Hanfeizi* are from Wen Kwei Liao, *The Complete Works of Han Fei Tzu* (London: Arthur Probsthain, 1939). [↑](#footnote-ref-38)
39. *Hanfeizi,* Ch. 49 (my emphasis). [↑](#footnote-ref-39)
40. Ibid. [↑](#footnote-ref-40)
41. *Xunzi* 5.5. [↑](#footnote-ref-41)
42. *Hanfeizi*, Ch. 14. [↑](#footnote-ref-42)
43. See e.g., *Hanfeizi*, Chs. 5 and 16. [↑](#footnote-ref-43)
44. *Hanfeizi*, Ch. 14. [↑](#footnote-ref-44)
45. *BLS*, 20.1. [↑](#footnote-ref-45)
46. Eirik Lang Harris, "Han Fei on the Problem of Morality," in *Dao Companion to the Philosophy of Han Fei* (New York: Springer, 2013), 115. [↑](#footnote-ref-46)
47. See Bernard Williams, *In the Beginning Was the Deed: Realism and Moralism in Political Argument* (Princeton: Princeton University Press, 2005). [↑](#footnote-ref-47)
48. See Raymond Geuss, *Philosophy and Real Politics* (Princeton, NJ: Princeton University Press, 2008). [↑](#footnote-ref-48)
49. Jiang, *Origins of Moral-Political Philosophy in Early China*, 36. [↑](#footnote-ref-49)
50. Adam Ferguson, *Ferguson: An Essay on the History of Civil Society* (Cambridge: Cambridge University Press, 1995), 119. [↑](#footnote-ref-50)
51. FA Hayek, *Law, Legislation and Liberty: a New Statement of the Liberal Principles of Justice and Political Economy* (London: Routledge, 2012), 35. [↑](#footnote-ref-51)
52. Schwartz, *The World of Thought in Ancient China*, 85. [↑](#footnote-ref-52)
53. Joseph Chan, "Moral Autonomy, Civil Liberties, and Confucianism," *Philosophy East and West* (2002). [↑](#footnote-ref-53)
54. Xunzi aigong. [↑](#footnote-ref-54)
55. *Mengzi* 1A3; 5A4. [↑](#footnote-ref-55)
56. Ames, *The Art of Rulership: A Study of Ancient Chinese Political Thought*; Edward Slingerland, *Effortless Action: Wu-Wei as Conceptual Metaphor and Spiritual Ideal in Early China* (Oxford: Oxford University Press, 2007). [↑](#footnote-ref-56)
57. *Mengzi* 1A4, 1B7, 3A3. [↑](#footnote-ref-57)
58. Chun-chieh Huang, "The ‘Body Politic’in Ancient China," *Acta Orientalia Vilnensia* 8, no. 2 (2007): 34. [↑](#footnote-ref-58)
59. Mengzi 4B3. [↑](#footnote-ref-59)