The Right and The Expedient: A Warring States Dialectic

Peter R. Moody¹

Received: 14 November 2015 / Accepted: 22 December 2015 / Published online: 24 February 2016
© Fudan University and Springer Science+Business Media Singapore 2016

Abstract

Objectives and Design One theme in the political thinking of the Warring States era was whether political action and human action generally were and should be governed by considerations of abstract morality or by expediency. This study explores how this dialectic played itself out in the Confucian, Mohist, Taoist, and Legalist traditions.

Materials and Methods The study examines the original texts, as they have come down to us, of the major Warring States traditions, critically comparing them and the ideas they articulate against each other, against later Chinese thinking, and against certain trends of contemporary political thinking.

Conclusions The Confucian tradition, reacting against what was perceived as the social and political deterioration of contemporary society, attempted to restore order on the basis of a universal set of objectively valid moral principles that included the satisfaction of human needs and interests, but was in itself independent of particular interests or desires. The circumstances of the times, however, undermined the credibility of such universal moral claims, and rival interpretations, when they did attempt to ground morality, fell back upon loosely utilitarian principles. But this morality void of objective grounding also failed to provide a convincing principle of order. With the Legalist school order came to be based on moral principles, but on individual will and the ability to impose that will on others.

Keywords Warring States · Confucianism · Utilitarianism · Morality · Legalism

✉ Peter R. Moody
pmoody@nd.edu

¹ Department of Political Science, University of Notre Dame, Notre Dame, IN 46556, USA

1 Introduction

Confucius says: The gentleman considers what is right (or just, proper, honorable); the little man considers what is expedient (or profitable, beneficial, advantageous, useful) (君子喻於義, 小人喻於利) (Analects 4:16). In the waning days of the Cultural Revolution the strange campaign to criticize Lin Biao and Confucius depicted Confucius as a champion of the decadent slave-owning aristocracy, a class vainly attempting to ward off the threat to their ruling position from the progressive newly emerging landlord class. The landlords, like any rising class, favored practical action, whereas declining classes “idealistically” natter on about abstract principles.

This interpretation, admittedly, sounds like a joke. But putting away questionable Marxist dogmas concerning slave-ownership, feudalism, landlords, and the like, there may be some validity to the old Maoist interpretation. Confucius lived at a time when the social order based upon hereditary status was giving way to a more fluid, even amorphous order, and the traditions and accepted truths cherished by Confucius were treated as irrelevant or obstructive by the new men rising to the top.¹ And there is a certain cross-cultural notion of an “aristocratic” ethos which treats the direct search for profit or advantage with disdain, something fit for the vulgar. And this is easily explained in Marxian terms: the aristocratic ethos has ample utility for those who benefit from the aristocratic order, if perhaps less for everyone else. Critics of the aristocracy, or those who aspire to replace it in positions power and privilege, will not assert their claims on principled aristocratic terms, but in terms of general or particular benefit. When the social conditions sustaining the old order change, the ethos rationalizing that order is ripe for debunking. The Dao De Jing explains (Verse 38; Chan 1963, 158):

Therefore, only when Tao is lost does the doctrine of virtue arise.
When virtue is lost, only then does the doctrine of humanity (*ren*—仁) arise.
When humanity is lost, only then does the doctrine of righteousness (*yi*—義) arise.
When righteousness is lost, only then does the doctrine of propriety [*li*—禮] arise.
Now propriety is a superficial expression of loyalty and faithfulness, and the beginning of disorder.²

The Confucian virtues are all symptoms and products of the loss of the original Virtue and, implicitly, these Confucian virtues are not virtues at all but are means whereby some, mostly the powerful, deceive themselves and seek to deceive others. But it is vulgar Marxism to reduce the issue to mere class interest. There is also a general human tendency, not universally adhered to, to admire action based upon

¹ For the classic analysis of the dramatic changes taking place at the time, see Hsu (1965).

² In ancient Chinese discourse, the concept of utility is sometimes contrasted with what is right (義), sometimes with what is good (humane) (仁). In contemporary ethics, exemplified in the Kantian or Rawlsian traditions, “good” is given a subjective interpretation—what I value—and is properly subordinate to the right or the just. In Chinese thinking, though, the good is generally seen not as what I value but as what is in itself of value, and there seems to be little possible conflict between the two. Compare, however, Liu (2010).

principle or a sense of honor, and to look down on behavior motivated by sheer expediency. The “aristocratic” ethos would seem to reflect at least a version of a general human moral sense.

The transition from Spring and Fall to the Warring States corresponds with what one school of thought identifies as the “axial age”, a period in which persons in different cultures around the world independently came to self-awareness concerning the place of humanity and human society in the general scheme of all things. The movement is sometimes said to show a transcending of the “conventional level” of ethical theory, a “going beyond” the sense that the social order and its moral foundation are part of the given order of things [Roetz, in Bellah and Joas 2012, 257]. Tongdong Bai (2012) identifies this seminal period in the formation of Chinese culture with modernization, somewhat along the lines of David Apter’s conception of modernity in terms of rationalization, especially instrumental rationality: “To be modern means to see life as alternatives, preferences, and choices” (Apter 1965, 10).

This reinforces the Maoist interpretation of Confucius as a reactionary: Confucius was indeed aware of life as alternatives, and he deplored the alternatives those around him chose to take. He probably did not literally hope to revert to the ancient, but, rather, to show how what he took to be ancient ways could and should function in his own day. He did not “transcend” conventional ethics, for in his view (music ruined, ritual lost) there no longer were any conventions. Rather, he remade the older aristocratic ethos, rebuilding it as a rational and universal moral system.

Modernization tends to weaken those social structures and forces supporting a moral consensus (or the hegemonic morality). Some form of utilitarianism can then serve as a default morality—we cannot agree on general principles, but perhaps can come together on what is expedient or inexpedient; and a focus on self- or collective interest may even be a way to curb the violent passions unleashed by a commitment to what others perceive as false or arbitrary transcendent values (Hirschman 1977).³ But a social order built upon the satisfaction of interests may lack a sound foundation, and may fail when interests cannot be satisfied (Habermas 1975). In Warring States discourse a recurring theme centered on whether “interest” or “love and justice” were or should be the motives for human action.

2 “Interest” (利) in Warring States Discourse

The term *li* (利) does not have a single cover-all English rendering. The range of meanings relevant to this analysis includes: profit; advantage; benefit; interest; expediency; utility. The character shows a stalk of grain with a knife to the right, suggesting the original sense of sharp—a quality that would be advantageous in a sickle or scythe. The classic texts frequently use the term in this sense. Confucius says (Analects 15:10): if a workman wants to do a good job, he will first sharpen his tools—*li qi qi*, 利其器. The *Mozi* defines the *li*, the benefit or advantage of a thing,

³ Or, as Samuel Johnson put it, “There are few ways in which a man may be more innocently employed than in getting money”.

as its ability to perform its proper function. “If”, for example, “a carriage can carry weight over distance, if it is safe to drive and easy to full, if it can reach its destination without accident—that is the advantage (or utility) of a carriage” (Mozi 21).

There is nothing problematic in *li* taken by itself. Confucius, we are told (Analects 9:1), rarely spoke of *li*,⁴ but when he did it was not always to disparage it. In what may be one of the earlier and more “authentic” chapters of the Analects,⁵ he is said to assert: Those who are good are at peace with humanity (仁); those who are wise see the advantages of humanity. So while goodness is not the same as advantage, there is, at least sometimes, an advantage to humanity (and, indeed, it is not excluded that in some cases whether something is good (*ren*) or not depends on its “advantage”). But in the general Confucian strain, we should act for the sake of good or right, not for the advantage that such action might bring.

Confucius also says: “One way to be generous without great expenditure is to allow the people to seek benefits that they themselves find beneficial” (Analects 20:2). The Warring States traditions take it for granted that the pursuit of personal advantage is a major motivation for human action, and that good government involves providing those subject to it with benefit. Xunzi explains: “Not even (the great sages) Yao or Shun could eliminate the people’s desires for benefit. Nor could they force a preference for justice (義) over benefit” (*Xunzi*, 30). Xunzi also notes that people desire justice as well as benefit, and even great tyrants cannot force a preference for benefit over justice. The desire for both is built into us.⁶ But a kind of utilitarianism was taken for granted in the conventional wisdom of the time. The early Han dynasty scholar Sima Qian even purports to demonstrate, in exemplary eighteenth-century English liberal fashion, how the quest for personal profit serves the common good:

When each person works away at his own occupation and delights in his own business, then, like water flowing downward, goods will naturally flow forth ceaselessly day and night without having been summoned, and the people will produce commodities without having to be asked. Does this not tally with reason? Is it not a natural result? [Translation in Watson (1993), 434]

But what applies to the voluntary exchange of material goods is not necessarily a paradigm for the totality of social life, and there also was a consensus that it is improper to seek one’s own advantage at the expense of someone else. The unequivocal utilitarian Mozi is at pains to explain that the rational pursuit of our own wellbeing entails promoting the wellbeing of many. Mencius’s “public policy” recommendations generally involve the promotion of the welfare of the people. But in the Confucian tradition the pursuit of profit must be done according to some

⁴ The same verse asserts he also rarely spoke of fate or of humanity (仁), a topic on which he had a great deal to say.

⁵ See Brooks and Brooks (1998).

⁶ But not all would agree with this latter point—Xunzi’s problem student Han Fei did not; nor, in a perhaps different way, did Mozi.

moral standard, the Tao. So for Mencius the quest for general wellbeing is not for the sake of wellbeing itself, but because it is the right thing to do.

Confucius could hear the Tao in the morning and in the evening die content. But Laozi says: The Tao that can be spoken of is not the lasting Tao. One suspects that this “Tao that can be spoken of” is the Confucian Tao, a supposedly objective moral order that in the Taoist tradition⁷ is at best a social construct, attachment to which blinds us to the true nature of things.⁸

The Taoist approach can be interpreted as consistent with a (moderate) hedonistic-utilitarian approach to life: we follow our natural desires (without forcing them), our perception of what suits us. The Adam-Smithian approach taken by Sima Qian, cited above, probably reflects the Huang-Lao school, a tendency related to Taoism (Peerenboom 1993; Ames 1983). But the Taoist traditions contained in the Laozi⁹ and Zhuangzi are more individualistic than social in their outlook. A more explicitly political application of the general Taoist ontology is found in the Legalist tradition, which takes it simply as a given that we are motivated by what will yield benefits or advantages to us, and strives to arrange “circumstances” in such a way that our pursuit of our own advantage results in public order.

3 Mozi and Principled Utilitarianism

The Confucian “project” was to restore coherence to a world where the sense of coherence had been lost. The Taoist rejoinder was that any coherence there was did not imply a humanly relevant objective moral order. Without a moral order, it seems intuitive enough to structure our lives according to our particular sense of what is personally desirable or useful.

Some accounts have Mozi as a one-time student in the school founded by Confucius. Mohist teaching is formulated in explicit rejection of Confucius, although many of the specific criticisms of Confucians in the Mohist texts (for example, that the Confucians have a perverse obsession with “fate”; that they have to be asked before they will do anything to help anyone) are not those that students today would find the most compelling. The most striking difference is that Mozi explicitly rejects the Confucian distinction between the right and the expedient: the good and the right can be defined only in terms of what is beneficial or profitable. Some Chinese modernists have argued that Mozi represents the ethos of the lower

⁷ “Taoist” is problematic, in that it may not have been identified as a separate school until the Han dynasty, and the supposed classic texts of Taoism are not fully congruent with each other. See, for example, Creel (1970). I don’t attempt to address the technical arguments, but use the term Taoism (or Daoism, if one prefers) in the older conventional sense, as that set of themes elaborated in the *Laozi* and the *Zhuangzi*.

⁸ This analysis assumes what I think is the current consensus, that the *Laozi* postdates the *Analekts* and, if it comes to that, the *Zhuangzi*; and a further assumption is that it is an explicit critique of the kind of Confucian tradition presented in the *Analekts*.

⁹ The *Laozi*, however, as is often pointed out, often comes across as advice to the prince. But the advice (in general—do nothing, let things alone, let nature take its course) is not framed in such a way that allows us to infer just how the prince should go about doing nothing.

strata of Warring States times, as opposed to Confucius's advocacy for the establishment.¹⁰

Mozi assumes we all have a sense of what we desire, and that, as a first cut, there is no standard beyond that. On the other hand, we are mentally alert enough to recognize that our pursuit of our own good regardless of the good of others is likely to be self-defeating. The nobility love only their own holdings and so attack each other; family heads love only their own families and so exploit other families; individuals are out for their own interests and will seek them at the expense of others. And all these “others” will act in the same way (Mozi, 15). So the strong abuse the weak, the rich the poor, the many the few—and so on. The world is in chaos and everyone is miserable.

The way out, obviously, is to exercise universal love—love all others as we love ourselves—and pursue mutual benefit. If we loved others as we loved our own selves, others would love us back, and the evils of the world would vanish. The problem is, the “gentlemen of the world” fail to grasp this elementary insight. If they only thought things through, they would realize that their own greatest benefit would arise through mutual love, leading them to wish to benefit others.

One standard Confucian critique of Mohism is its failure to make proper distinctions, particularly between those who are close to us and those who are less close.¹¹ Another conception of the Mohists, from the Warring States onward, is that they are soft-headed sentimentalists, with all their loving without distinction.¹² This may have been true subjectively of individual Mohists, but their concept of love is not based upon sentiment or, if it comes to that, on any appreciation of the other for his own sake. Mohism is similar to early utilitarianism, with its “benevolence” arising from self-regarding calculation and striving for the greatest good for the greatest number. The Mohists could be hard-headed enough in figuring what is to society's advantage. Thus, one might kill robbers (or even “one man”) in order to preserve the world, just as one might amputate an infected finger rather than lose the entire hand (Mozi, Ch. 44).

Mozi backs up his utilitarianism with references to God, Heaven—another reason, in addition to his utilitarianism, for his onetime high reputation in scholarly Christian circles.¹³ Mozi's Heaven, however, unlike the Confucian Heaven or Way of Heaven, is not an objective standard of good in itself. Conformity to Heaven for Mozi is, like everything else, a matter of prudential calculation. Heaven bestows benefits upon those who benefit others and brings calamity to those who do not. If it

¹⁰ For example, Yang (1947).

¹¹ Today Confucianism is often faulted for a narrow particularism. This may not be fair, though, if we go beyond “love” to considerations of responsibility and justice. It is one thing for me to give away all I possess to the poor or to some worthy cause, if I answer only to myself. If I am responsible for a family, or have control of someone else's goods, then I am in justice much more constrained in my generosity.

¹² Compare, for example, the Ming dynasty fable, “Hunt in the Central Mountains” (Ma, c. 1500) wherein a Mohist rescues a wolf being chased by hunters, only to be informed by the wolf that it does him little good to avoid being killed by the hunters only to starve to death later: the Mohist must now allow himself to be devoured. Fortunately, an unfatuous Confucian happens along and manages to slay the wolf.

¹³ Tseu (1965), argues, perhaps not entirely soundly, for the similarities between Mozi's thinking and traditional Catholic scholastic philosophy.

comes to that, Heaven itself calculates utility: everyone wants the good of what is his own; the world and everything in it belong to Heaven; so Heaven benefits when the world prospers.¹⁴

An implication of the standard Confucian critique is that Mozi neglects family obligations: universal love implies “denial of one’s father” (Mencius 3B:9); Mozi is also faulted, perhaps perversely, for his supposed willingness to make extreme personal sacrifices for the sake of bestowing some dubious benefit to the world (Mencius 7A:26). The perversity here is that while the Mohist system is founded on self-interest, Mohists were perceived (and perhaps acted) as selfless altruists. The disconnect between the calculating attitude implicit in the system and its practical application may be evidence of something lacking in the principle.

In principle, Mozi would seem to have no problem with the formula, The greatest good for the greatest number. A standard criticism of the formulation is that it can be taken to indicate approval of gratuitously harming a few if that would bring net benefit or pleasure to the many, but there is little or at best ambiguous evidence to indicate Mozi would agree with this. He does endorse executing robbers because robbers actively disturb the general peace and security (and it is possible that his subsequent proposal that the execution of “one man” might be expedient may well take as a given that the particular man deserves it). His utilitarianism, like some other forms of that teaching, does seem to ignore the possibility of differing capacities for pain and pleasure. If I am moderately inconvenienced by being robbed while the plunder greatly enhances the wellbeing of the robber, it is not clear that the sum of welfare is enhanced by punishing him. Contemporary welfare economics explicitly disallows such “interpersonal comparisons of utility”, so the unambiguous measure of improved wellbeing becomes a kind of Pareto optimum or Nash equilibrium—in effect, some policy that will make at least one person better off without making anyone worse off, or an outcome everyone would prefer to any alternative (Arrow 1963). Such situations, however, are generally not relevant to the more difficult political or social choices. The decision to eschew interpersonal comparisons and treat everyone’s preferences the same is, in the contemporary models, a methodological one: but it is as arbitrary as any other procedure, and its intuitive defensibility rests upon non-utilitarian ethical or moral considerations concerning the equal dignity of persons or some similar concern.

Mozi also may not resolve adequately the problems related to collective action (Olson 1965). I am to benefit others because if I do they will benefit me back. But in a world built upon the pursuit of advantage, it is even better if everyone else acts according to Mozi’s logic, while I do as I please. But, of course, this insight will occur to everyone else as well. The classic resolution of this prisoner’s dilemma is that everyone will defect, look after the short-term interests of Number One.¹⁵ The

¹⁴ The sustained discussion of Heaven is in chapters 26–28.

¹⁵ Mozi probably finds the solution in the exercise of political authority, in effect the Legalist resolution, although he is unwilling to follow the Legalist reasoning. Rather, he postulates that we should all “identify with the superior”, with the king, the most superior of all, identifying with Heaven. But all this identification itself rests upon self-interest, and so should hold only insofar as it is in our self-interest. Another approach might be to consider our relationships not as a one-shot thing but as an iterated game, applying “tit-for-tat”: on the first go-round we return good for evil, but if the response is more evil, our

Confucian response does not explicitly address this, but the opening chapter of Mencius may point to it: if we base ourselves on self-interest, we will never go beyond self-interest. As Wang Yangming says, Mozi's universal love is a love without root, without starting point (in Chan, 676).

4 Mencius and Xunzi: The Confucian Elaboration

The Analects develops no argument: it is a set of aphorisms, anecdotes, assertions tending to restate (and in the process transforming) a traditional code of conduct that was being eroded by new social forces. Mozi attacked this moral structure from a utilitarian perspective, while the Taoists purported to demonstrate the arbitrary and baseless nature of the traditional code. Those who would defend the Confucian perspective had to learn to make an argument, to refute what Mencius called the teachings of “Mo and Yang.”¹⁶ Mencius says (3B:9) that he does not like to argue (and, indeed, in many ways he is not very good at it), but knew that he had to. And so did Xunzi, with somewhat greater analytic skill.

At the opening of the book bearing his name, Mencius visits King Hui of Liang. The king greets him courteously: “Sir, you have not thought a thousand miles¹⁷ too far to travel. You must surely have some way to bring profit to my state.” Mencius priggishly reprimands the king for this harmless bromide: Why must the king think of profit? If the king thinks to profit his state, the great nobles will think to profit their own holdings, families will seek profit for their members, individuals will look out for themselves. The result will be usurpations, murders, chaos—disorders, as Lady Bracknell puts it, exceeding the worst excesses of the French revolution. But perhaps the *Mencius* here is recapitulating the similar claims made in Mozi 15, the demonstration of the profitability of universal love. Mencius asserts, rather, that self-interest, however enlightened, will not lead to altruism. The starting point must be love and justice (仁義). Elsewhere (6B) Mencius asserts that he would not urge, as Mozi would, a king to avoid war because war brings no profit. War actually does sometimes bring profit, so this cannot be a general argument against aggressive war—that is, even if aggressive war is often unprofitable, sometimes it is not: so the argument becomes simply that kings or states should avoid wars that would, on balance, bring them harm.

Profit or advantage is (at least in some things) not to be sought directly, but is a consequence of doing the right thing. If we do act on the basis of calculation, we should do so within the limits of what is right; and we should also realize that some things are beyond our control (up to “fate”)—and since we cannot control the

Footnote 15 continued

next reply is in kind. Eventually, supposedly, we all learn to cooperate. But we seem to be moving farther and farther away from any exercise of mutual love (Axelrod 1984).

¹⁶ Yang Zhu is, in perspective, a pretty minor figure; but one wonders whether in the *Mencius* he figures as a kind of stand-in for Zhuangzi. Some of the sections in the book by that name supposedly reflect Yang's ideas.

¹⁷ A thousand li—里: actually closer to 350 miles; but the expression is conventional.

outcome, we might as well do what is right; recognizing, also, that the right thing does not guarantee a profit or benefit.

Mencius's opening passage presents a kind of paradox—if we directly seek advantage, we will come to ruin. So if we want benefits, we need to do what is right. The position here may be similar another familiar claim, that those who seek to save their lives will lose them. On the other hand, good public policy generally speaking involves fostering the wellbeing of those subject to it: there is no necessary conflict between what is right and what is expedient. Mencius assumes that merchants or manufacturers conduct their business with an eye to profit, and finds nothing wrong with that (assuming, as he seems to, that profit does not come at the cost of justice or fair dealing). Also, while we should do the right thing and accept the consequences, we also need to be prudent, avoid tempting fate.¹⁸

For Mencius, doing the right thing is to act in accord with our “nature” (xing, 性), that which distinguishes us as human beings. Mozi has us come to virtue as a result of calculations of interest, while the Taoists assert that the virtues of the Confucians and Mohists are social conventions that violate the Tao, the overall nature of things. Mencius asserts, to the contrary, that these virtues define what it means to act according to the Way as it pertains to human beings: love and justice constitute the Way; they do not violate it. The “naturalist” Gaozi says: Nature is food and sex. Mencius's response is that desire for food and sex is inherent in all animals and so the proposition does not distinguish human beings from other beings.¹⁹ As human beings we are all born with certain sentiments or tropisms, and these, with proper education, develop into the virtues (2A:6). And the virtues have their origins in spontaneous human sentiments. In the olden days, supposedly, people did not bury their dead parents, but threw the bodies into a ditch. Passing by some days later people would see the carcasses rotting away, eaten by animals and bugs; and they could not bear the sight: and so developed funeral rituals, those exercises so disdained by the Mohists (3A:4).²⁰ And by analogy our sense of proper behavior develops from similar circumstances, and the rituals are the outward expression of inward sentiment. What ultimately holds us to the proper conduct is our own sense of self-worth, what we are able to “bear”—in a negative sense, avoiding the kind of conduct which would cause us to be unable to stand ourselves; in a positive sense, living up to what we know (or feel) we should be (7B:31).

Obviously, we are not all equally susceptible to shame, and some of us may feel no shame about anything. Like Ox Mountain, without proper care our original natures may be denuded, obliterated (6A:8). Moral sentiments are common to all human beings, so Mencius famously comments that one in whom no trace of these sentiments remains is not a human being (非人也). This can be accepted as a tautology, if we take Mencius's claims about human nature to be “ontological”

¹⁸ As Mencius says, we will not choose to sit under a crumbling wall (7A:2).

¹⁹ Rather, I infer this to be Mencius's response, outlined in 6A. Actually Mencius sketches out, but does not elaborate, this response in the text prior to Gaozi's comments about food and sex; and after the comment the conversation drifts into an interesting but off-the-point discussion of whether justice, like love, is “internal”, or whether it is “external”, a matter of social convention.

²⁰ Although, whatever the Confucians might say, Mozi opposed only unnecessarily expensive funerals, not funerals altogether.

rather than empirical: but his claim may not be perniciously tautological. It can seem to make a certain amount of sense to say that someone who no longer feels compassion for others or shame for ignoble behavior, who is devoid any notions of the rights or pains of other people, has become “dehumanized”, has become a beast or worse than a beast.

Being human has a moral aspect to it (Mancilla 2013; Van Norden 2002). This moral measure of humanity is “validated” by something beyond animal humanity: by a providential Heaven (although the concept is more fully developed by the Song and Ming neo-Confucians): “If we fully know our minds (or hearts) we will know nature (性), and if we know our nature we will know Heaven” (7A:1). Our hearts and minds (in the classical Chinese tradition our intellectual and emotive faculties are conjoined) manifest Heaven. We fulfill our nature by acting in accord with the Way of Heaven; and if we act merely on the basis of expediency we violate our nature.

This providential heaven gives a standard for an objective moral order.²¹ But the concept also was losing credibility during the Warring States era, as is most dramatically seen in the Taoist tradition (“Heaven and earth are unkind (*buren*, 不仁))”.

Xunzi’s view of Heaven is conceptually close to that of the Taoists: Heaven is a term to designate the regularities in the world, an impersonal process independent of human feelings or desires—not *buren* in the sense of being cruel or mean, but simply because the category of *ren* does not apply. Heaven does not shrink distances because it is inconvenient for us to walk somewhere, or make winter warmer because we are uncomfortable in the cold. If we pray for rain and it does rain, this shows it was going to rain anyway (although—how does Xunzi know?) (Xunzi, 17).²²

Xunzi would be hard-put to claim there is an intrinsic moral order, and this lack is a partial explanation for his assertion that human nature is evil (or bad). He agrees with Mencius that we do have a moral sense, but denies we have a spontaneous inclination to act upon it. Rather, with Mozi, our “natural” behavior is to act for our own benefit or advantage, even at the expense of others, including others to whom we owe deference and respect. So, as with Mozi, the strong oppress the weak, the rich the poor, the many the few; children disregard their aged parents; subjects flout their rulers (Ch. 23).

Xunzi does not exactly claim that we will come to proper behavior by taking a longer view of our advantage. Rather, our naturally bad nature is trained and tamed through “ritual” (or “propriety”; manners; rules of social behavior (*li*, 禮)), supplemented by government laws and regulations. Education is the process of assimilating and internalizing ritual, making ourselves good through our efforts and the efforts of our teachers and rulers—and in that sense morality is “artificial”, man-

²¹ For practical purposes this may often be a distinction without a difference, but for Mencius (and probably Confucius) Heaven provides a standard of intrinsic good or right, whereas for Mozi our conformity to Heaven results from Heaven’s ability to reward and punish—a moral order based on will.

²² The Chinese title of this chapter is “On Heaven” (論天), but in his translation Wing-tsit Chan renders Heaven as Nature. This is not the human nature that Mencius thought good and Xunzi thought evil but, rather, Nature as the universe around us—rocks, trees, laws of physics, so forth.

made (*wei*, 偽). These rules were discovered and formulated by the “sages”, persons of the same foul nature as ourselves but smarter than the general run of us. The result is an ethical system for practical purposes indistinguishable from Mencius’s: the properly cultivated gentleman will eschew the profitable and advantageous in favor of the good and right.

While the rules of behavior are man-made, they are not arbitrary. The sages did not invent them, but discovered them. Xunzi sometimes seems to claim that we must “fight” against Heaven: Heaven is indifferent to our desires and values, and to live proper lives we need to find ways to counter Heaven’s processes. But this fight against Heaven in fact means adapting to the givens set down by Heaven: it is an accommodation rather than a fight. Thus, we plant and reap at the proper season, try to assure the crops receive adequate water, wear clothes and build houses to shield us from the cold, so forth. And human society is, in the end, also governed by the processes of Heaven, natural processes: if we are to live together, there are certain things that must be done to make this possible.

Human society is as subject to Heaven-set parameters as anything else is. In Warring States discourse the term used to refer to words as words is “finger” (*zhi*, 指)—that which points to, indicates, designates a concept (which in its turn stands for a “thing”). The rules of propriety are the “fingers”, indicators, pointing to good social order: if we stick to them life is ordered; if we deviate, there is chaos. As Confucius says, “The prime function of ritual is to bring harmony” (禮之用和為貴) (Analects 1:12). Human life is possible only in association with others; but Xunzi believes we are not inclined to consider the wellbeing of others. Ritual, then, designates those rules that must be followed if essentially anti-social beings are to live together in some semblance of peace. If all the business about sages and such seems too quaint, Xunzi’s thesis could easily be recast in terms of social evolution.

At the same time Xunzi does believe we have a genuine moral sense, and once it is properly instilled we act upon it regardless of personal advantage. In the end, though, this too may reduce to a kind of utilitarianism, although one rather more broadly urbane than that of Mozi. It is, like Gaozi’s justice, something external than us rather than coming from within. Since we lack an intrinsic moral compass, Xunzi’s morality can come through as authoritarian and legalistic: morality is a matter of following the rules and moral education is a matter of learning the rules, rather than the cultivation of a moral sense that ultimately allows us to know how to respond to the situation without mechanical reference to a rule.

Xunzi’s own conception of moral sense is that it is inchoate and not something that we spontaneously adhere to (Harris 2013). It becomes internalized in the process of our practice of ritual. In Confucius’s usage, ritual is an as-it-were metaphorical extension of the notion of the older religious rituals (a differentiation which makes sense perhaps only in our (and Xunzi’s) “post-axial” circumstances) to the totality of social life; but there is also an implication that ritual itself contains its own inherent power or virtue (Fingarette 1972). Xunzi also attributes power to ceremony, but its power is not in its ostensible object, but in its “*wen*” (文), its aesthetic and social value, its ability to foster cohesion, somewhat like the Feuerbachian analysis of religion as the congregation’s self-apotheosis. But if religion or ceremony can be reduced to covert social functions, then what motive is

there to take them seriously in the first place—to get up Sunday mornings and drop money in the collection plate?

If morality can be reduced to following rules, there is in principle no need for an internal moral sense, whether innate or inculcated. Virtue is not spontaneously its own reward, but we can make it so. If we can be persuaded to follow the rules because so doing leads to our benefit and violating them leads to pain, then we should be able to eliminate the middleman, that is, Xunzi's ritual or ceremony.

5 Legalism as a Culmination of Warring States Thought?

Confucius says: The humane person finds peace in humanity; the wise person finds benefit in humanity (or goodness) (仁者安仁; 智者利仁) (Analects 4:2). This is hard to translate, since “humanity”, ren, here means not the human race but, rather, those traits and sentiments appropriate to a human being as well as a sense of fellowship with all human beings (some suggest “humankindness” as a translation: the kindness appropriate to a human being, and a sense of being a part of all humankind). It is the highest virtue in the Confucian canon and can sometimes be taken as the sum of all virtues. Problems of literal translation aside, it is also hard to figure out specifically what Confucius means here. Perhaps one translation (or interpretation) might be: Those who are humane value [the virtue of] humanity for itself; those who are wise value humanity for the benefits it brings. Virtue is its own reward, but the practice of virtue also often (but probably not always) brings along other rewards. Nonetheless, if we are wise we will practice virtue because that is the way to gain benefits: the position of Mozi and (in a more subtle manner) Xunzi. But may Confucius's dictum carry some implication that it is possible to be too wise for our own good? The assumption here is that this “virtue” refers to an internal condition or disposition. But if it is practiced for the sake of reward, it could well be more efficient and reliable to generate the desired behavior by means of manipulation of reward and punishment, without worrying about what is going on inside people's minds.

Han Fei (c. 280–233 BC), the major Legalist thinker, probably accepted the general Taoist ontology,²³ including the postulation of a universe not oriented toward human ideas or sentiments. Han Fei, however, is more explicitly concerned with achieving order through the exercise of social control than are the Warring States representatives of Taoism. At one point Han Fei studied under Xunzi, and it is reasonable to think that he was influenced by his teacher, even if he nowhere explicitly acknowledges his debt.²⁴ Han Fei, in any case, does take it for granted that we are motivated by concerns of personal advantage, although he does not add

²³ The *Han Feizi* contains two chapters explicating the *Laozi*, the earliest commentary on a Chinese classic. Sima Qian puts Han Fei's biography in the same chapter as those of Laozi, Zhuangzi, and the Yellow Emperor, all Taoist exemplars.

²⁴ There may be only one reference to Xunzi in the *Han Feizi*, and it gives no comment on Xunzi's theories. Rather, Xunzi is taken to represent one school of Confucianism among several, the gist of the discussion being that no one is able to say with any precision just what the original teachings of the school were.

that this shows our nature to be evil.²⁵ Han Fei has no need to pronounce moral judgment on this sort of thing: things are what they are.

We pursue our own advantage, and what is to our advantage depends on “circumstance”, shi (勢). We are capable of generosity, but only if the cost to ourselves is not too great. In discussing a similar problem, Mencius says that people generally behave well in good times but fall into evil ways when times are bad. This shows that our original good nature can be swayed by circumstance, and somehow reinforces his point that our original nature indeed is good (6A:7). Han Fei comments that in good years people are willing to feed passing strangers; in times of famine they will starve their baby brothers (HF 49:3). Our behavior (in general, and for the general run of us²⁶) is adequately accounted for by the conditions we find ourselves in, without any need to refer to internal tendencies or dispositions.

In the end, for Xunzi “ritual”, the moral, legal, and ethical rules that guide behavior, serve a utilitarian function: they produced harmony. A harmonious society is a general good, but not necessarily a particular good, and there would be no sufficient reason for one disadvantaged by harmony to act in a way to achieve it. Han Fei asserts, though, that the same function can be achieved more directly, by control over reward and punishment. People will keep order when they are rewarded for doing so or when they are punished, reliably and harshly, when they fail to do so. This condition is achieved by concentrating all power in the state, which then monopolizes the distribution of rewards and punishments.

But until the science of cybernetics has become even more advanced than it is now, concentrating power in the “state” means in effect concentrating power in a single ruler who, however, must exercise that power for the good of the state and not for his own personal ends and desires. But that ruler, who is the same sort of being as the rest of us, will certainly have his own personal desires in mind, and the preservation of the state cannot be assumed to be the foremost of these, something Han Fei points out both frequently and at length. But any attempt to check the ruler’s autonomy or to exercise control over how he deploys his power defeats the logic of the system: the ruler’s job is to control, not to be controlled. Also, Han Fei assumes that most of those offering advice to the ruler are serving their own personal ends, and laments how rulers listen to self-serving sycophants rather than honest “gentlemen of law and technique” such as, presumably, himself. But by hypothesis the ruler should no more trust such gentlemen than he should anyone else.

Mencius asserts that if we take utility, whether personal or social, as our premise, we will never get beyond utility. The quest for utility must be guided by or

²⁵ Han Fei is not really concerned with human nature in the way Mencius and Xunzi are. A search through the on-line Chinese Text Project shows 18 uses in 13 paragraphs of the character 性 in the Han Feizi. It usually means something like “temperament” or general pattern. For example, the xing of the relationship between mother and child is that they love each other (HF, 48:6). More often the term is used in the compound qingxing (情性), “feelings”, “sentiments”.

²⁶ Both those who are very, very good and those who are very, very bad cannot be swayed by external circumstances or by considerations of advantage or disadvantage. For Han Fei, people of that ilk constitute a problem for public order, although, fortunately, they are sufficiently rare that they need not be considered in the formulation of policy.

embedded in some set of considerations transcending the advantages to be gained, an end worth pursuing even at the cost of advantages. The modern mentality tends to see through all such references to transcendent ends, identifying them as ways of pursuing or rationalizing or own particular goals (while attempting to persuade others to forego theirs). And if we see through all moral claims, there is nothing but fickle material advantage to bind us to each other. This is part of the “legitimation crisis” of modern society (Habermas 1975). A legitimate social or political system is an expression of a more general moral order and is legitimate to the degree that it conforms to that order. But in the modern mindset, there is no credibility to a notion of an objective moral order transcending advantage and expediency.

References

- Ames, Roger T. 1983. *The art of rulership in ancient Chinese political thought*. Honolulu: University of Hawaii Press.
- Apter, David. 1965. *The politics of modernization*, 10. Chicago: University of Chicago Press.
- Arrow, Kenneth. 1963. *Social choice and individual values*. New York: Wiley.
- Axelrod, Robert. 1984. *The evolution of cooperation*. New York: Basic Books.
- Bai, Tongdong. 2012. *China: the political philosophy of the middle kingdom*. London: Zed Books.
- Bellah, Robert, and Hans Joas (eds.). 2012. *The axial age and its consequences*. Cambridge: Harvard University Press.
- Brooks, E.Bruce, and A.Taeko Brooks. 1998. *The original analects: sayings of Confucius and his successors*. New York: Columbia University Press.
- Chan, Wing-tsit. 1963. *A source book in Chinese philosophy*. Princeton: Princeton University Press.
- Creel, Herrlee G. 1970. *What is Taoism*. Chicago: Chicago University Press.
- Fingarette, Herbert. 1972. *Confucius: the secular as sacred*. New York: Harper and Row.
- Habermas, Jürgen. 1975. *Legitimation crisis*. Boston: Beacon Press.
- Harris, Erik Lang. 2013. The role of virtue in Xunzi's political philosophy. *Dao* 12(1): 93–110.
- Hirschman, Albert O. 1977. *The passions and the interests: political arguments for capitalism before its triumph*. Princeton: Princeton University Press.
- Hsu, Cho-yun. 1965. *Ancient China in transition: an analysis of social mobility 722-222 BC*. Stanford: Stanford University Press.
- Liu, Qingping. 2010. A moral argument for the priority of the right over the good: a case study of the Confucian ethics. *Journal of Chinese Political Science* 15(3): 245–256.
- Ma Zhongxi. *Zhongshan Lang Zhuan* (np, nd—c. AD 1500).
- Mancilla, Alejandra. 2013. The bridge of benevolence: Hutcheson and Mencius. *Dao* 12(1): 57–72.
- Olson, Mancur. 1965. *The logic of collective action: public goods and the theory of groups*. Cambridge: Harvard University Press.
- Peerenboom, Randall. 1993. *Law and morality in ancient China: the silk manuscripts of Huang-Lao*. Albany: SUNY Press.
- Qian, Sima. 1993. *Records of the grand historian (translated by Burton Watson), revised edition*. Hong Kong: Columbia University Press.
- Tseu, Augustus A. 1965. *The moral philosophy of Mo-tzu*. Taipei: China Printing.
- Van Norden, Bryan W. 2002. Righteousness in Mencius. *Dao* 2(2): 45–77.
- Yang, Rongguo. 1947. *Kong Mo di Sixiang (the thought of Confucius and Mozi)*. Shenghuo Shudian: Shanghai.

Peter R. Moody is Professor of Political Science at The University of Notre Dame in South Bend, Indiana. Moody specializes in Chinese politics. His more recent books include *Conservative Thought in Contemporary China*, *Tradition and Modernization in China and Japan*, *Political Change in Taiwan*, and

Political Opposition in Post-Confucian Society, Political Change on Taiwan: A Study of Ruling Party Adaptability. He has published on Chinese politics, Asian international affairs, Chinese political thought, international relations theory, and theory of political parties.