

## Lecture 9

### The Legalists: The Significance of their Political Innovations

In this lecture we will look at the political influence of the Legalists, in other words, at the political framework initiated by the Legalists and its significance. There were three pivotal points in the history of China: The first was when the Duke of Zhou [12<sup>th</sup> cent. BCE] created Zhou ritual and instituted music for it. The second was when the Legalists changed the political and social structure of the Spring and Autumn [722-481 BCE] and Warring States [489-222 BCE] periods. The third stretches from the Xinhai [1911] Revolution to the present, a period of search for democratic governance. From this we can see the importance of the work of the Legalists and their creation of a new political framework.

The political framework launched by the Legalists involved “abolishing feudalism and establishing commanderies and prefectures” as well as completing the structure of an autocratic monarchy. The autocratic monarchy was launched by the Legalists in response to the need for change in the political and social structures of the time. The Legalists had a strong practical sense which enabled them to undertake the work that the age called for. The need for political and social change was a natural development and the Legalists were able to confront change. They did not act in accordance with any fixed ideals. The Confucians and Daoists met these problems by revealing the ideals for man’s life. They did not have enough practical sense, however, to respond to the practical needs of the time. Instead, they turned in the direction of establishing propriety-based moral education [*lijiao* · ritualist teaching]. This may help us understand why Confucius [Kongzi , 551-479 BCE] and Mencius [Meng Zi, 371?-289? BCE] failed to realize their political aspirations.

If one wants to do actual work, be a statesman, one must have a strong sense of practical reality. It is not enough to enunciate broad principles. Those principles may not be wrong but they may not be relevant to the immediate questions at hand, and therefore

cannot solve those questions. This was often the flaw of the Confucians. For example, at the time of Emperor Xiaozong [r. 1163-1190] of the Southern Song dynasty, the critical political problem was the Northern Campaign, which meant the recovery of the two capitals. But, instead, Master Zhu [Zhu Zi, 1130-1200] talked to Xiaozong about the principles of sincerity, rectification of the mind, moral cultivation, ordering of the family, government of the country, and pacification of the empire.<sup>1</sup> Another example occurred at the end of the Ming dynasty, during Emperor Chongzhen's reign [1628-1644], when the land was beset by natural disasters and civil rebellion, with problems at home and threats abroad. There were various political, financial, and military crises. But despite that, Liu Jishan [1578-1645] still talked to Sizong (Emperor Chongzhen) about such grandiloquent principles as "As long as Your Majesty's mind is at rest then the empire will be at rest." When the emperor heard these words he remarked sadly: "Alas, how impractical." Thrice elevated and thrice dismissed, Liu in the end was not appointed to a position of power.<sup>2</sup> Although his principles were not wrong they were useless in addressing immediate political problems. One might say that these principles were the necessary but not the sufficient condition for solving those problems.

But why did the political framework launched by the Legalists take the form of an authoritarian monarchy? The principle work of the Legalists consisted of "abolishing feudalism and establishing commanderies and prefectures," converting the fiefs of the nobles into *jun*[commanderies] and *xian* [prefectures]. In modern terminology, it was to turn the fiefs into objective political units of the nation, which was tantamount to a direct blow to the aristocracy. It liberated the head-of-state, the sovereign, from the bonds of the nobles, gaining for him a transcendent, objective position. In the aristocratic society, the relation between the head-of-state and the nobility (sons and grandsons of dukes) was much too close. The head-of-state was not only the head of a family or lineage, or of the nobility, he was more importantly the head of a nation. In striking a blow at the nobility, the Legalists effected the "exaltation of the monarch," liberating the head-of-state from the entangling bonds of aristocratic blood ties, and gaining for him a transcendent, objective status. This was the liberation of the head-of-state.

Before this, the political power of the various states was in the hands of the nobility. Therefore it was government by the aristocracy. Since the work of the Legalists now served to repress the nobility, then who was there to step into politics to assist the head-of-state in handling political questions? It was the *shi* [scholar-official, also translated serviceman]. The rise of the *shi* was a great turning point in Chinese society. In the aristocratic society there were already *shi*, but they were simply the household officers of the dukes and grand masters [*dafu*]. They held no political power. The *shi* occupied a position between the nobles and the commoners. They had knowledge and were intellectuals. With the emergence of the Qin [255-209 BCE] and Han [BCE 206-CE 221] dynasties, the system of prime minister [*zaixiang*] was introduced. When the *shi* entered politics, they were neither nobles nor members of the family and lineage of the head-of-state. As a result their position was transcendent and objective. It was only with the rise of the class of scholar-officials and their entry into politics that Chinese politics acquired an objective meaning, and politics became politics.

*Zhengzhi* [politics, polity-based governance] is not the same as *lizhi* [government by functionaries or bureaucracy]. That is why even today there is still the distinction between political officials [*zhengwu guan*], and bureaucrats [*shiwu guan*]. Political officials must take part in policy-making; hence they play a political role. Bureaucrats, on the other hand, do not take part in policy-making but only implement policy, being so-called *guanli* [functionaries], or what in the West is called the civil service. In Chinese history, although the scholar-official class rose and participated in politics, later evolving into the *zaixiang* [prime minister] system, the distinction between politics and bureaucracy was never made clear. That is why in the period since the establishment [1912] of the Republic people who understand politics have said: "Historically, China under autocratic monarchy had *lizhi* [government by bureaucracy] but no *zhengzhi* [polity-based governance]." The prime minister was a political official who had to take part in policy-making. Originally the position should have been political, but since that political nature could not be maintained, the system became *lizhi* [government by bureaucracy]. Why could it not be maintained? Although theoretically the office of prime minister was one with policy-making responsibilities, in fact the decision-making powers still resided in the emperor. Thus everyone below the emperor was a functionary,

and thus there was only government by bureaucracy and no government by politics. The reason why there is a clear distinction between the political official and the bureaucrat is because we have come to understand that *zhengzhi* [polity-based governance] means something different from *lizhi* [governance by bureaucracy]. The political office is the result of election, while the bureaucrat who implements policy is not casually replaced.

The abolition of feudalism by the Legalists resulted in the repression of the nobility, the liberation of the head-of-state, the rise of the scholar-official, and his participation in politics. This implied that politics was being objectified. In government by the aristocracy, the blood ties between the sovereign and the nobility were too close, obscuring the objective character of governance. In other words, governance was in a subjective mode and subordinated to blood ties. The scholar-official, however, was not bound to the head-of-state by kinship ties but participated in governance by virtue of his knowledge, talents, and abilities. Thus the objective nature, or meaning, of governance was more easily revealed. To the aristocracy of the Warring States Period [489-222 BCE], “He who eats meat is base [肉食者鄙].”<sup>3</sup> Hence they used the household officer [*jiachen*家臣] to assist them in their affairs. Later when the aristocracy fell into decline the scholar-officials began to participate directly in politics and governance, no longer being only the household stewards of nobles. In this way they acquired objective positions. The *shi* [scholar-official, serviceman] represented the emancipation of the intellectual. Henceforth Chinese society would have the four categories of scholar-official, farmer, artisan, and merchant.

Mr. Liang Shuming [1893-1988] has described the 2000-year-old society of China as being “Ethics-based and occupation-differentiated [倫理本位，職業殊途].”<sup>4</sup> This is quite correct. Scholar-official, farmer, artisan, and merchant are differences of occupation not differences of class. “Class” has a specific meaning in the West and in India. Roughly speaking, there are four classes, namely monks, nobles, commoners, and the base. In China, scholar-official, farmer, artisan, and merchant are occupations, not classes, for in a family brothers can belong to any of these occupations. The basis of Chinese society is ethics, regardless of occupation. This results from the humanism of Confucianism. The ethical relation is the basis and foundation of Chinese society.

Above this foundation, men's lives take different paths, differing in occupations. This has been the pattern of Chinese society after the work of the Legalists. Strictly speaking, therefore, the concept of class cannot be applied to Chinese society. Thus the Communist Party's interpretation of Chinese history with the model of the class struggle of the West is inapt and even more so is their arbitrary use of class struggle. For example, they call farmers who own a relatively large amount of land landlords, but they use no criterion. In the school they call the teachers the ruling class and the students the class being ruled. In the family they call the parents the ruling class and the children the class being ruled. This is a total abuse of the word "class." Is this not tantamount to inciting people to kill and plunder?

When the *shi* ceased being an officer employed in the household of the nobleman, when on the strength of his own knowledge and talents he acquired an objective position in society, leading to the occupational categories of scholar-official, farmer, artisan, and merchant in Chinese society, it represented the emancipation of the scholar-official. When the head-of-state could now become a head-of-state without being enmeshed in the blood ties of the aristocracy, now acquiring a transcendent position, it represented the emancipation of the head-of-state. This is to speak of the emancipation of the head-of-state and the scholar-official politically, in other words, it meant "the abolition of feudalism and the establishment of commanderies and prefectures." Aside from this, there were the common people. They have to be considered from the economic standpoint of the production system, namely the well-field system.

The economic work of Legalism consisted of abolishing the well-field system. Although this system was not necessarily as tidy as Mencius [371?-289? BCE] described it,<sup>5</sup> not as universal, it was still, broadly speaking, the ancient system passed down by the Xia [2205?-1766? BCE], Shang [1766?-1122? BCE], and Zhou [1122?-255 BCE] dynasties. The *Book of Poetry* also says: "Rain down on our common field, then on my private plot."<sup>6</sup> As we have previously stated, the positive side of enfeoffment and the establishment of feudal states was the collective cultivation of land. For example, when Pe Qin [11<sup>th</sup> cent. BCE], a descendant of the Duke of Zhou [Zhou Gong], was enfeoffed

in Lu, it did not mean that he alone went there to take office but that he took many family and clan members there to cultivate the land together.<sup>7</sup> This was what *tuntian* 屯田 [settle and cultivate] meant. When many villeins collectively tilled the soil, they formed a *tun* 屯 (cun 村) [village]. This is the origin of the word *cun* [village]. Thus, in the beginning, land must have been publicly owned, with the leader of the collective distributing it to the people to be cultivated, and the farmer having only the right to farm but not the right to privately own the land. The system of distribution was generally the well-field system. The produce from the private plot (privately cultivated not privately owned) in the one hundred *mou* was privately owned, while the produce of the one hundred *mou* that was collectively cultivated was paid to the public treasury. Obviously, this cannot be compared to the slave system of Greece, for the well-field system was not a system of slavery. In the Communist commune, every person must contribute his labor and then the product of his labor is completely turned over to the government, which distributes it according to labor points earned. This is truly a system of serfs and a far cry from the farmers of the well-field system. In the ancient well-field system, each family got the produce of one hundred *mou* and eight families living together formed a small village. The village was equipped with the necessary facilities, and villagers enjoyed a comfortable life.<sup>8</sup> As a result, the Three Dynasties of Xia, Shang, and Zhou were historically described as *wangdao* [the Way of Kings]. “One heard cocks crowing and dogs barking, but until they died of old age people [of different villages] did not communicate with one another.”<sup>9</sup> This was the picture of the ancient agricultural society.

Although people enjoyed a comfortable life under the well-field system, yet from the standpoint of the value of the spiritual life and of historical development the peasantry were still bound by the well-field system and without sufficient freedom to move around. This was the consequence of not having the right to own land privately. Although there was the method of *yuan tian* 爰田 [change in land distribution and tillage] every three years according to soil-quality, the power to distribute rested in the hands of the nobles, still leaving farmers with little room in which to maneuver. As the well-field system continued, as population increased, and as society became more complex, taxation according to *mou* [acreage] emerged. Under the *shui mou* [taxing by the *mou*] system of taxation, payment in the form of produce from the public land was abolished and

replaced by one of “taxing by the *mou*,” a method that did not accord with ancient propriety.<sup>10</sup> The appearance of taxation by *mou* meant that the well-field system was about to change. It meant that the public authority (the aristocracy) would no longer be responsible for distribution. Instead, the farmer who lived on a plot of land for an extended period of time would own it, leading gradually to private ownership of land. Once private ownership arose the well-field system naturally fell into disuse. Thus in China private ownership of land did not come about through strife but through natural evolution. It was a situation of “he who tills the land will own it”. After an extended period of cultivating the land, the farmer gradually obtained the right of private ownership.

The Legalists vigorously abolished the well-field system because they wanted to increase and develop arable land. When Shang Yang was in Qin he advocated *kai qianmo* 開阡陌.<sup>11</sup> Usually *qianmo* is misinterpreted and the real meaning of the well-field system is lost. *Qianmo* referred to the dikes that bounded the well-field, in other words, the embankments. They took up land and thus *kai* 開 in *kai qianmo* meant *kaichu* 開除 [remove] and not *kaishe* 開設 [create]. Opening up and removing the dikes would increase acreage and thereby increase production. This interpretation was discovered by Mr. Qian Binsi 錢賓四 [1894-1990], who has given us a very clear account of the 200-year history of the Warring States period [489-222 BCE].<sup>12</sup>

The abolition of *qianmou* [dikes] meant land reclamation and increased production. Together with taxation by *mou*, they created private ownership of land. In other words, farmers were now able to own land privately, with greater freedom of maneuvering; no longer were they bound to the nobleman’s fief but could now stand as individual entities. The significance of this goes further, and that is that private ownership of property cannot be totally abolished. Westerners have profound respect for the concept of private property, a concept that sits lightly with the Chinese; at least there has been no awareness of it as a legal principle. Private ownership is the basic foundation of the free economy; without privately owned property there can be no free economy. Thus private property cannot be abolished. A free economy and private property are not the same thing as capitalism. Although a free economy if uncontrolled can become capitalism, it does not necessarily have to become capitalism. We acknowledge that capitalism has its defects,

but these defects can be controlled or eliminated. For these reasons a certain degree of socialism is feasible, but we cannot as a result of this negate private property or a free economy. And our opposition to the defects of capitalism should not lead us to oppose private property or a free economy. Why is this so? Because private property is the defense line of the human individual and protects the dignity of the human being. Freedom does not simply mean the freedom to be educated or the freedom to strike; it is freedom to live in a certain manner and freedom to choose an occupation. Thus freedom represents a variety of human rights; it represents the defense line of the individual and of human dignity. Absence of private property means that one will not be free to choose one's way of life or one's work. If even one's food has to depend on government distribution, what freedom or human dignity can there be?

Once granted private ownership of land, the farmer gained the freedom to maneuver. Although the farmer enjoyed a comfortable life under the well-field system, he was merely a potential in it, without an objective status. He was merely a man of ancient times before the age of Emperor Xi [Xi Huang or Fu Xi, first legendary emperor of China, 3<sup>rd</sup> millennium BCE] who is described in the lines: "At dawn I rise and work, at sunset I rest; what has the Emperor's power to do with me?" Such a man was merely in a potential state, which was unreasonable and not enough. Once the farmer gained the freedom to maneuver, he became an independent entity and could live a life of freedom. It also amounted to a liberating step in spiritual development. Therefore one may see the abolition of the well-field system as the emancipation of the farmer. Now he would have an objective status in society, becoming a member of the state and no longer a subject of the nobleman's fief.

Similarly, the head-of-state became the sovereign of a state who represented political power, and was emancipated from the aristocracy. The scholar-official, who rose in society without having kinship ties with the sovereign, was now emancipated from the nobleman's household, and could participate directly in politics, and through political maneuvering acquire objectivity. Although in the past there was only bureaucracy [in China] and no government by polity [*zhengzhi* 政治, this government by bureaucracy [*lizhi* 吏治] had a certain objectivity because although policy-making was decided by the emperor, which made it subjective, when policies were disseminated to

the various provinces and prefectures for implementation, there was considerable objectivity. For example, in the past the head of a prefecture was never chosen from the natives of that prefecture because this was a means of avoiding complications from local and kinship ties. Economically, the farmer was also emancipated from the nobleman's fief to become a member of the state. The work of the Legalists signified the triple emancipation of the head-of-state, the scholar-official, and the common man and their attainment of an objective status.

From the perspective of the expression of the spirit and the development of history, this was of course an advance from government by the aristocracy, but its significance was recognized only in the present day. Past scholars have always looked upon the Spring and Autumn period and the Warring States period as periods of decline. They denounced Legalism wholesale because they failed to understand the significance of the work of the Legalists. We have already observed in the last lecture that the thinking of Shen Buhai [d. 337 BCE] and Han Fei [d. 233 BCE] was wrong, but that the Legalists of the earlier period had their merits. From the standpoint of the expression of the spirit, the work accomplished by the earlier Legalists realized certain objective values; the expression of the spirit is simply the expression of values. Historically there was a yearning for the Three Dynasties of the Xia, Shang, and Zhou because they were seen as embodying the Kingly Way. Naturally there was a reason for this. But on the other hand we should pay attention to the significance of the expression of the spirit and the development of history. That is why we have explained the significance of the Legalists' work as enabling the head-of-state, the scholar-official, and the common man to attain an objective status. This is the first step in recognizing the significance of the Legalists.

Next we should assess whether the positions of these three categories were fully objectified. There is a great distance between being emancipated and being fully objectified. What do we mean when we say "fully objectified"? What is the meaning of not being fully objectified? These questions must be carefully examined, because it is an important crux in understanding Chinese history and in understanding the autocratic monarchy.

The Legalists' work of repressing the nobility meant the exaltation of the monarch, enabling the head-of-state to acquire a transcendent, objective position. But this did not mean that the head-of-state's position was fully objectified. The Legalist's exaltation of the monarch resulted in the position of the head-of-state becoming unlimited, and from being unlimited it became infinite. Later the emperors became infinite beings. This was making the head-of-state absolute and not fully objectifying it. Any part of a human political organization that is not limited according to a principle or law is said to be not objective. An entity becomes objective when it obeys a political principle or law and is limited by it. When exaltation of the monarch does not give a specified place to the monarch so that he is not governed by political principles or laws, the monarch becomes an absolute being, an arbitrary will, which means that the monarchy is not objectified. Then even if the monarch is liberated from the aristocracy and acquires a transcendent position, he still falls into a subjective mode and is not objectified. He becomes an unlimited absolute being, and in this way an autocratic monarchy is formed. But the political head-of-state cannot be an absolute being. Only God is an absolute being. According to Shen Buhai's argument, the monarch was above the law, making him the dark den of secrecy. In other words the monarch became an absolute being in the subjective mode. The monarch could not objectify himself and so a despotic monarchy was formed.

In a government organization no rank should be infinite. Every rank should be objective, every rank an objective position. Hegel [1770-1831] maintained that an infinite being cannot be objectified. In Hegel's philosophy the objective spirit meant a nation of laws. A nation is not an absolute being but is formed through mutually opposing limits. From the Confucian perspective, dutifulness 義道 [*yidao*] is objective and begins from *zunzun* 尊尊 [respecting those deserving respect]. Humaneness [*rendao*] is subjective and begins from *qinqin* 親親 [treating kin as kin, loving one's kin].

The head-of-state is one rank among political ranks. It was originally an objective entity, but the Legalists' exaltation of the head-of-state exceeded the rank, resulting in erosion of objectivity and the formation of the autocratic monarchy. This meant the negation of objectivity. That is why succeeding generations were dissatisfied with the

autocratic monarchy and looked back with yearning to the Kingly Way of the Three Dynasties. This is because men of the past did not understand that abolition of feudalism and the well-field system represented an advance from the aristocratic society and that it had value, the value being in the objectified positions of the head-of-state, the scholar-official, and the common man. But the Legalists were unable to handle and respond to the emancipation of these three categories properly, in other words, to fully objectify them. The result was the formation of the political mode of the autocratic monarchy which lasted 2000 years up to the Xinhai [1911] Revolution. We have just discussed how the position of the head-of-state was not fully objectified.

Now let us consider the *shi* [scholar-official]. When the Legalists emancipated the scholar-official from the position of officer in the nobleman's household, enabling him to participate directly in politics and thereby objectifying politics, could the position of the scholar-official be fully objectified? Did it become fully objective in character? The scholar-official later evolved into the prime-ministerial [*zaixiang*] system, with control of governing power [*zhiquan*], which of course meant the scholar-official would have an objective position. But neither this objective position nor the objective character of politics could be fully objectified. The crux lay in the fact that the emperor was an infinite being, not subject to any legal limitation. As a result, neither the objective position of the scholar-official nor the objective character of politics could be protected. The prime minister was appointed and employed by the emperor. His appointment or dismissal, promotion or demotion, had no legal basis but was tied to the will of the emperor. Thus when the emperor's position could not be objectified, neither could the position of the scholar-official.

This is a high-order question in Chinese history which should be understood by all of us. Mr. Qian Binsi has consistently argued that historically China did not have an autocratic monarchy.<sup>13</sup> If this is so, then the Xinhai Revolution would have been meaningless. Mr. Qian attached great importance to the prime-ministerial system of the Han [BCE 206-CE 221] and Tang [CE 618-907] dynasties, maintaining that under this system the emperor was not autocratic. For example, this system was seen in the three offices [*san sheng* 三省] of the prime minister of the Tang dynasty: the *zhongshu sheng*

was in charge of edicts, the *menxia sheng* had charge of enfeoffment and sanctions, the *shangshu sheng* was the executive branch, in charge of implementation. Broadly speaking, they represented a division of three powers, which is to say the emperor was not autocratic. If we do not consider the source of power but merely consider the governing power, then superficially it would be so. But in fact it was not so. For the emperor had unlimited power, by which he could dismiss officials at will and therefore the prime minister's position had no protection. This did not mean that there were no good monarchs under an autocratic monarchy; but the question of whether a monarch was good or bad is different from the question of whether the monarchy had limits and whether it was objectified. It is one question whether the position of prime minister was an objective one, another whether this objectivity could be fully protected. Under the structure of the autocratic monarchy, neither the objective position of the prime minister nor the objective character of politics was ultimately protected.

Mr. Qian had a reason for his argument, however. He was objecting to Fei Zhengqing 費正清 [John King Fairbank, Harvard historian, 1907-1991] and others like him who said that Communist tyranny was not completely contrary to the Chinese tradition because historically China always had an autocratic monarchy. But to avoid speaking of the autocratic monarchy for this reason is unacceptable. The autocratic monarchy is a question of political mode and political structure. Besides, Communist tyranny and the autocratic monarchy are completely different things. Communist tyranny is a totalitarian tyranny derived from Marxism, whereas the autocratic monarchy is a system in which governance is not fully objectified but one which does not intervene in society in general. We cannot on this account avoid speaking of the autocratic monarchy.

Confucians have always been dissatisfied with the notion of making the empire one's own household. This question is especially illuminated when the country is defeated, but one which has never been solved. Although the autocratic monarchy was launched by the Legalists and reached completion in national unification under the Qin and Han dynasties, yet even in the roughly 200 years of the Western Han period [BCE 206-25 CE] the autocratic monarchy "which treated the empire as one's own household" had not

reached consolidation; at least in public opinion and in the general consciousness it had not solidified. For example, when Emperor Wen of the Han dynasty first ascended the throne [179 BCE] he still felt that only the virtuous should rule the country.<sup>14</sup> By the time that Emperor Wu [r. 140-86 BCE] of the Han employed Dong Zhongshu [170-104 BCE] to restore ancient institutions and transform culture, the thinkers of the Western Han were divided into two schools: one in favor of a system of *shanrang* 禪讓 [abdication of the throne to the worthiest]; the other in favor of the doctrine of *wude zhongshi* 五德終始 [Beginning and Ending with the Five Virtues]. Only after Emperor Guangwu [r. CE 25-58] of the Han did the autocratic monarchy which “treated the country as its own household” become a definite and fixed system. After this it was no longer debated. But although debate ceased, the question would re-appear whenever the nation met defeat, especially if defeat was at the hands of foreigners. For the notion of “making the empire one’s own household” was fundamentally contrary to reason. Questions of this sort ought to be debated by the Neo-Confucian philosophers [*lixuejia*, Rationalists] or thinkers, not literary men or historians. Most historians are turned inward towards the ascertainment of historical facts. The facts and materials they understand are first-order questions. But the question of “treating the nation as one’s own household” is a question of a higher order, a second-order question, therefore not an easy one to grasp. The Neo-Confucian philosophers have a tradition in this respect. For example, when the Southern Song dynasty [1127-1280] fell to the Yuan dynasty [the Mongols, 1280-1368], and the Ming dynasty [1368-1644] to the Qing [the Manchus, 1644-1911], this question emerged again and again and was debated by the Neo-Confucian [Rationalist] philosophers. They had to reflect on their own history and culture just as we have to reflect on Chinese culture today. The people of the past had to reflect on it again and again, which shows that this is a higher-order question.

Autocratic monarchy is a question of political structure. If we deny that there was an autocratic monarchy in China then the Xinhai Revolution [1911] would have been meaningless. But just because there was an autocratic monarchy should not be justification for associating it with Communist tyranny. The two are unrelated. Although there are unreasonable aspects in the autocratic monarchy, it endured for 2000 years,

which shows that it had considerable adaptability; even if there was discontent it was a system that was difficult to replace. However much the Neo-Confucian philosophers yearned for the Kingly Way of the Three Dynasties and however much Gu [Gu Yanwu, 1613-82], Huang [Huang Zongxi, 1610-95], and Wang [Wang Chuanshan, 1619-92] excoriated the notion of “treating the empire as one’s own household,” they failed to come up with a better solution. From this we can see that it is extremely difficult for political structure to take a step forward. The period from Yao and Shun down to the Three Dynasties of Xia, Shang, and Zhou was one of government by the aristocracy. Through the work of the Legalists autocratic monarchy was established, lasting until the Xinhai Revolution. The democratic government that was implemented after the Xinhai Revolution was borrowed from the West, and although sixty years have elapsed it is still not on track. If it had really gone on track then the nation would have been based on democracy, and the Communists would not have emerged. This shows us that it is extremely difficult to accomplish a political structure. Formerly, during long periods of political chaos, government was unable to get on track. How much more so during this time of structural transition? It also took the Legalists 200 years to bring about structural transition; so we can see the great difficulty.

We cannot say that because in the past there was a prime ministerial system the monarch was not autocratic. The prime minister had governing power [*zhi quan*], assisting the emperor in governing the empire, while political power [*zheng quan*] rested with the emperor. Because political power could not be objectified, neither could the governing power of the prime-ministerial system be objectified. Thus governing power and political power should each be separate and each objectified. Sun Yat-sen was correct when he separated the two. During the Warring States period political power was in the hands of the aristocrats. There were at that time the realities of political power and governing power, although they might not have been concepts. When the Legalists exalted the monarchy in the process of bringing about structural change without properly defining the monarchy, which represented political power, it resulted in political power not being objectified. When a unified empire under the Qin and Han dynasties succeeded the feudal states of the Spring and Autumn and Warring States periods, an autocratic

monarchy was formed, again without objectifying the emperor, who represented political power.

Ever since the Xia, Shang, and Zhou dynasties, political power among the aristocracy had been hereditary. When Duke Xiang of Qi [1122-265 BCE] avenged a nine-generation wrong he was praised by the Sage. This was the “great vengeance” of the *Chun Qiu Da Yi* [*The Great Meaning of the Spring and Autumn Annals*]. Revenge on the part of the average commoner was based on the principle *qin qin* [treating as kin kin, loving one’s family]; thus revenge did not exceed five generations. But since the head-of-state was hereditary and was the repository of political power, where he was concerned vengeance of “even if a hundred generations was permissible.”<sup>15</sup> This was obeying the principle of *zun zun* [giving respect to those deserving respect]. It meant that political power could not be interrupted and that it was impermissible to destroy one’s state. Destroying one’s state was a heinous crime because one should “revive an extinguished state, continue a truncated line [a house without heirs].”<sup>16</sup> The state pertains to the objective spirit. And since respecting those deserving respect is the way of duty, it represents the objective spirit.

In aristocratic society, political power came from the emperor of the Zhou dynasty enfeoffing his vassals and establishing states. The nobles being hereditary meant that political power was hereditary. Qin was still a noble house of the Warring States period, while Han was a great turning point in Chinese history. Emperor Gaozu of the Han dynasty, while Han was a great turning point in Chinese history. Emperor Gaozu [r. 206-194 BCE] of the Han dynasty won the throne as a commoner, an event that was “a remarkable change, unprecedented since ancient times.” He created a new situation, namely “winning the empire by force of arms.” Political power was gained by irrational means because it was based on military strength. But “what he could win on horseback he could not govern on horseback.”<sup>17</sup> Therefore he had to employ scholar-officials or the intellectuals, to help him govern the empire. “Help” is a polite way of putting it, because the scholar-official had no control over political power, which had been won by the emperor by armed force.

At present [1978] the Communist Party wants to hold peace talks with Free China [Republic of China, Taiwan]. Actually what they want to solve is still the question of political power. It is different from the negotiations between the United States and the Soviet Union. What those two nations discuss in their negotiations is not freedom or totalitarianism but another level such as nuclear arms limitation. What we would negotiate, on the other hand, is the question of political power. What is preventing the unification of China is the unlawful dictatorship of the Communist Party. Wouldn't China be unified as soon as they relinquish Marx, Engels, Lenin and Stalin, abolish Marxist ideology? Who among the Chinese intellectuals who have gone over to the Communist side dare discuss this question with the Communist Party? It has become untouchable. All that the Communists are doing is exploiting the scientific and technological knowledge of those intellectuals so that they can build atom bombs for them. But this is precisely a question that intellectuals should discuss. Even if you are implementing science and technology you should affirm a free society, affirm the independence of education and scholarship, for otherwise science and technology would only be a political slogan. And intellectuals should therefore not go over to their side to be their lackeys. As soon as intellectuals hear them talk about "promoting science and technology" they rush over to join them, which is tantamount to committing collective suicide.

Since the political power of the authoritarian monarchy was attained by armed force, it could not be objectified and accordingly neither could governing power be objectified. They were all under the control of the emperor. This has been the plight of intellectuals in China these last 2000 years. Thus the Chinese intellectual is in a painful situation. From this we can see that the Chinese intellectual has his own fate. As long as the question of political objectification remains unsolved the intellectual will remain unemancipated; in other words, he will be unable to rectify his fate<sup>18</sup> and will in reality have his own fate. We can draw many conclusions from this that will give a picture of Chinese history. Let us refer briefly to a few outstanding examples.<sup>19</sup>

The first act in the fate of Chinese intellectuals was Emperor Qin Shi Huang秦始皇's burning of books [213 BCE] and burying alive of scholars. Besides Shen Buhai and

Han Fei who advocated the absolute exaltation of the monarch, there was Li Si [fl. ca. 221-213-BCE] who advocated: “Make law the teaching [*jiao*], make the functionary the teacher [以法為教，以吏為師].”<sup>20</sup> “*Jiao*” should be understood as education, consisting of ritual, music, and the moral teaching of the sages, with persons of virtue as teachers, and should not be “Make law the teaching, make the functionary the teacher.” No one has ever had the temerity to make such a statement; it is the crime of Legalism. But this is what is practiced by the Communist Party today. Their cadres are the “functionary,” and the “law” that people learn at cadre schools is simply Marxism. Thus they have the slogan “We want the red, not the expert.” Although at present Deng Xiaoping [1904-97] wants modernization and technologization, he has relinquished neither the red nor the law (Marxism). In other words, he wants “both the red and the expert.” This is the Communist Party’s crime.

"Make law the teaching, make the functionary the teacher" led to an extreme tyranny under which there was no education and education was impossible. At the time, the Confucian’s fondness for harking back to the Three Dynasties of Yao, Shun, and Yu as well as the sages of old was regarded as seditious speech among the masses, and as using the ancients to ridicule the present. This led the emperor Qin Shihuang to burn books and bury Confucian scholars alive. So those who practice tyranny will always cut off history and culture. Their policies are always cross-sectional, not vertical, because they want to cut off history and culture. The emperor's book-burning was intended to burn up history. So I would like to remind everyone that if we want to combat the Communists we must not be without historical consciousness and cultural consciousness, for Communist totalitarianism wants to cut off history in the same way. The reason they pull out Marx, Engels, Lenin, and Stalin before us is because they want to get rid of the more than 4000 years of Chinese history and culture. That is why not only books but many ancient artifacts and monuments have been destroyed by them. They say that all history before Communist rule was "class history," or "pre-history." Before the War of Resistance Against Japan [1931-1945] they used such slogans to confuse Chinese youth. So everyone should have an awareness of history and culture. Only then will we be able to see things clearly and not be duped by them.

The second act was the Party Proscription Calamity [*danggu zi hu*], of the closing years of the Eastern Han dynasty. This was when the intellectuals' attempt to take part in politics resulted in a complete debacle, with tragic consequences. The 200-year history of the Eastern Han consists of the history of the struggle between the intellectuals and several groups around the emperor. Since the position of the emperor was not objectified or rationalized, the groups surrounding him, such as the emperor's family and relatives on the paternal side, the relatives on the distaff side, and the palace eunuchs, were all irrational. The emperors always had methods of dealing with the relatives on the paternal side, despite the constant internecine strife among them, especially on the matter of succession at the beginning of a dynasty, as in the cases of Cao Pi [r.220-227], Emperor Taizong [r. 627-650] of the Tang dynasty, and Emperor Chengzu [1403-1425] of the Ming. Besides this, there were the distaff relatives and the eunuchs, who represented the inner court. Later the eunuchs led a struggle against the outer court represented by the intellectuals (the prime minister's adherents). The distaff relatives allied sometimes with the eunuchs and sometimes with the outer court. "The Proscription of Political Parties" referred to the defeat of the intellectuals in their feud with the eunuchs and its cruel and tragic denouement. For example, in the attempt to catch Zhang Jian 張儉 [115-198], the eunuchs "razed several prefectures."<sup>21</sup> The arrest of Fan Pang was also most poignant.<sup>22</sup> Both Zhang Qian and Fan Pang 范滂 [137-169] were principals in the Party Proscription Calamity. They were gentlemen who stood for their principles [*qijie zhi shi* 氣節之士].

Under the autocratic monarchy, intellectuals were either killed or humiliated and disgraced, but there were always scholar-officials who stood by their principles. These scholar-official martyrs were of course highly laudable, but they should not have been necessary and they were a great tragedy. This does not mean that a person should not regard *qijie* 氣節 [courage to stand up for one's principles] as important or morals as important. But the martyred scholar-officials were men who appeared only because of the special situation of the absolutist monarchy, just as "When the family is poor the filial son will emerge," and "When the nation is in chaos the loyal minister will appear." We are not saying that the filial son and the loyal minister are not laudable, but would who

wants one's family to become poor or one's nation to fall into chaos? That is why there is always something inauspicious about the poor family producing the filial son or the disordered nation producing the loyal minister. It is on this level of meaning that we say that the scholar-official martyr should not be necessary. The *mingshi* [Gentlemen of Note] of the Wei-Jin period also rarely met a good end. That is why it is very hard for the intellectual to conduct himself in such a way as to preserve his life under an autocratic monarchy. In the democracy of the present day we no longer see this kind of scholar-official martyr and such tragedy can be avoided.

At the end of the Tang dynasty and during the Five Dynasties period [907-960], Zhu Wen [the emperor, 852-912] also treated intellectuals with great cruelty. He threw the "*qing liu* [pure stream]" intellectuals into the muddy waters of the Yellow River in order to make the "pure stream" a "polluted stream."<sup>23</sup> The Song dynasty was comparatively speaking the most civil towards intellectuals. Historically Emperor Taizu of the Song [927-976] has always been extolled for his humanity, virtue, tolerance, and magnanimity. That is why, despite its political weakness, the Song dynasty was still able to maintain its rule for more than 300 years.

Emperor Taizu, Zhu Yuanzhang [r. 1368-1399], of the Ming dynasty, implemented the policy of putting the scholar-official [*shi*] above the grand master [*dafu*]. He made no attempt to be civil towards the intellectuals who became officials. Not only did he have a prime minister put to death, but he also used the method of "administering the cane in court" to shame great ministers. This was in total contravention of the Chinese tradition, which held that "The scholar-official may be put to death but not shamed." In the closing years of the Ming dynasty, there was a rehearsal of the proscription of political parties, namely the Dong Lin Party. People like Gao Panlong高攀龍 [1562-1626] and Gu Xiancheng顧憲成 [1550-1621] feuded with the palace eunuchs, resulting again in numerous deaths. These were also scholar-official martyrs. Later the Dong Lin Party became the Fu She [Restoration Society]. After the fall of the Ming it was completely suppressed by the Manchu Qing dynasty and disappeared.

Thereafter intellectuals no longer dared discuss politics.. As a result there emerged in the Qianlong [1736-1796] and Jiaqing [1796-1821] reigns the scholarly discipline of philology [*kaoku*, evidential research]. This was a very important mark of a turning point. Before this, even though there were tragic outcomes, intellectuals could still discuss politics. This showed that under the autocratic monarchy the traditional intellectual still had the desire and the aspiration to participate in politics. But after the Manchus became rulers of China, intellectuals could no longer discuss politics and so they turned to philological studies. Emperor Qianlong even publicly issued an edict saying that the scholar-officials of the past were unreasonable, that at the drop of a hat they would avow that they "made the empire their own responsibility." If this were the case, then what was the purpose of an emperor? He actually held this attitude, which completely crushed the idealism of the Chinese intellectuals. As a result, as soon as the vitality of the nation was thwarted, the cultural life became distorted, resulting in the emergence of the philological studies of the Qianlong and Jiaqing reigns. This was an abnormal situation that grew out of the distortion. Thereafter the tradition and vitality of Chinese philosophy were truncated. No longer could intellectuals continue the Chinese intellectual tradition. And when China came into contact with the West at the end of the Qing period and the beginning of the Republican period, when the nation faced the challenge of an array of major problems, Chinese intellectuals had already lost their capacity to respond. This was because they had been deracinated from their intellectual tradition. Without an intellectual tradition there can be no thought, no ability to think, and therefore no concepts and, worse, no ability to conceptualize. Merely to have an emotional, an everyday practical intelligence is not enough.

After the May Fourth Movement [1919] Marxism emerged. Under the Communist Party, intellectuals have suffered a persecution that is more severe than that of any previous period. These days [1978] intellectuals rush to join the Mainland as soon as they hear their propaganda on science and technology. They are not much different from the *xiuca*-degree scholars of the past whose only desire was to win the distinction of *zhuangyuan* [the top candidate] in the imperial examinations. They are still forgetful of the intellectual's own essential nature, forgetful of the responsibilities they should be shouldering. So they have once more dropped into the sphere of the *xiuca* [holder of the

former first-level degree]. Since they have dropped into this sphere, they then will have the *xiucai*'s personal fate, which is to be killed or shamed. The Communist Party's principal method of dealing with intellectuals is to shame them. Take the example of Fung Yu-lan [Feng Youlan, philosopher, 1895-1990]. He keeps confessing his transgressions. Will he ever stop? He can only give total obedience to the directions of the Communist Party. A person who does this will no longer have any sense of shame. If a person's actions must implicate three generations, including grandparents and grandchildren, how can it be tolerated? Actually, this satanic holocaust under the Communists was created by the intellectuals themselves. If intellectuals had not in the beginning served as their cheerleaders, the Communist Party would not have come into power. And now the intellectuals still want to go and serve as cheerleaders. Isn't that collective suicide? That is why unless governance gets on track it will be extremely difficult for the intellectual to preserve himself and be free to make choices. He will have his personal fate, which is to be killed or shamed; he will not obtain his proper destiny.

Thus although the scholar-official was emancipated from the position of an officer in a nobleman's household and obtained an objective position, this objective position was not assured because there was no supporting power. Everything was monopolized by the emperor. As a result politics and governance also failed to be fully objectified. The emperor's status could not be objectified, with the result that the prime ministerial system also failed to be objectified.

Let us now take a look at the side of the common people. The common man was emancipated from the well-field system, becoming a unit of the entire society with an independent status. But in the end this position could not be fully objectified. The Chinese people have always been very free, but it was a potential freedom, which meant that at any time they could lose their freedom. The common people of China have been a free people in a potential condition. In other words, they have been people whose freedom has not been legalized. To use modern terminology, they were citizens without explicit rights and duties. Under these circumstances, the people were not free with respect to governance and the law. Therefore their freedom was an unbridled and

unprotected freedom. Thus the nation could only respond to the emancipation of the common people from the well-field system educationally and culturally but not politically and legally. As a result the people had no active right to participate in the politics and law-making of the nation. In other words, they were not fully objectified. Thus while you may praise and feel nostalgic about the society of bygone times you may also deride and denounce it. The crux lies in the fact that the people were not fully objectified.

If you want to understand the meaning of Chinese history you should try to read Hegel's philosophy of history. Although Hegel did not know much about China, and in fact only half understood what he knew, his explanation is on the whole quite correct. His philosophy of history does not range widely over literature, art, philosophy, science, and so on, but instead focuses on constitutional law and political and social structures. With this approach, it is not necessary to know a lot of concrete historical facts. He said that Chinese culture represented the childhood stage, Greece represented the stage of youth, Rome represented middle age, and the Germanic world (broadly to mean Western Europe) was mature, perfected, old age. More specifically, the childhood age is one in which there is only the freedom of one man. China belonged to this situation, where only the emperor was free. Hegel went further to say that this sort of freedom is not true freedom because it is the freedom pertaining to a subjective state where freedom is exercised according to an arbitrary will. Therefore the emperor was irrational, one not rationalized and without objective meaning. Mao Zedong [1893-1976] exemplifies this. Unrationalized freedom may be divided into two modes: one is a soft license, the other a hard license. The former refers to the relatively kind and moderate emperor, what is usually called the good emperor, for without rational limits, he is still governed by emotions and passions, and his freedom is still not real freedom. What we commonly call a tyrant represents the hard kind of license. All freedom that is unrationalized and cannot "stand up in propriety" [*li yu li* 立於禮] is manifested as arbitrary will.

We know that in Greece and Rome only some men were free, for Greece and Rome still acknowledged that they had slaves. We know, however, that in the Germanic world all men are free. This is the contribution of the French Revolution. It means that after the Renaissance Western Europe attained democracy based on a freedom protected by the

law. Marx also praised the United States as having the best kind of society because the United States did not have an aristocracy or a privileged class.

This theory of Hegel's is not generally accepted. However, although we may not be happy with it, we all ought to acknowledge that it is in fact true, for otherwise why should there have been the Xinhai Revolution? Why should people demand that the nation be based on democracy? They demand democratic government because they want to solve this problem, in other words, to advance from freedom for one man to freedom for everyone. This is a correct understanding of history and we should all pay attention to it.

Hegel used other terms, such as that China had only rational freedom and no subjective freedom; that Greece represented beautiful freedom, and so forth. All these terms are apposite and sagacious, which is why they are not easily understood by the average person. His books should be read more carefully.

What does Hegel mean when he says that the Chinese people have only "rational freedom" and no "subjective freedom"? "Rational freedom", also called substantial freedom, means that freedom is in a potential state, is freedom-in-itself and has not passed through the self-awareness of each individual. In order for freedom-in-itself to become actual requires that it must first pass through self-awareness. If it has not passed through individual awareness, then even if there is freedom, it is freedom in the potential state. Liberty and equality can only be attained through struggle, and for struggle to take place everyone must feel that he is an independent individual. The awareness of this stage is subjective, which is to say that freedom presents itself in the subjective awareness; thus it is subjective freedom. When people who have this self-awareness struggle to attain freedom, and the attained freedom is then protected by law, then this is objective freedom, and only this is true freedom. Without the protection of law self-awareness will forever be in the midst of struggle, which is unacceptable. In order for the struggle to settle down, there must be written guarantees specifying rights and duties. Only in this way can there be objective freedom. Since China did not have "subjective freedom" it naturally would not have had "objective freedom," and therefore it only had "rational freedom," namely "substantial freedom," or "freedom-in-itself," or "potential freedom." Actually at this stage freedom has not yet emerged. In China freedom was

only manifested in the reasonable arrangements of the laws made by the emperor with respect to the bureaucracy. It was not manifested as subjective freedom. This was what Hegel meant when he said: "Whatever in us (meaning in the West) pertains to subjective freedom is here (meaning in China) approached from the standpoint of the state." <sup>24</sup>

If it is understood that Hegel's theory was directed at political modes, then it can be seen that Hegel was quite right. When I first read Hegel's book on the philosophy of history as a student, I felt on the one hand that it made quite a lot of sense, and on the other hand I recalled that from the time of Confucius down to the Song [960-1280] and Ming [1368-1644] Neo-Confucian philosophers, the emphasis in Confucianism has been on vigilance in solitude, self-cultivation, and self-examination--was not all this self-awareness? How could one conduct moral practice without attaching importance to self-awareness? The two sides presented a dilemma. After pondering this question I realized that Hegel was speaking of political modes whereas the self-awareness and subjective freedom that Confucius, Mencius and even the Neo-Confucian philosophers spoke of did not apply to politics but to moral cultivation and the work of becoming a sage. Thus in China there were on the one hand numerous sages and on the other hand there were fools and "men from before the time of Xi Huang [Fu Xi, first legendary emperor of China, 3<sup>rd</sup> ? millennium BCE ]." This has been a long-standing problem of Chinese culture. This then resolved the dilemma. Chinese culture of course had its value. Its flaw, however, lay in its political mode, and therefore Hegel's theory had its truth. Only in this way can we look squarely at and understand Chinese history. Thus after the Legalists finished their work in China, there only remained the question of "development" [*xingfa*興發], and no longer the question of "emancipation." How can the Communists be seen as emancipating? They have corralled the people into communes, a plight worse than before their emancipation from the well-field system. Furthermore, Hegel attached so much importance to subjective freedom that he could not possibly approve of totalitarianism. That is why last time we said that what Hitler put into practice was Nietzsche [1844-1900]'s philosophy not Hegel's. The reason why British and American philosophers dislike Hegel is also because they have not understood the meaning of his philosophy.

Once we have understood the meaning of the absolutist monarchy launched by the Legalists, then we can understand the special conditions produced by this political mode. Besides those already mentioned, there were a number of other questions, such as the difficult position of the prime minister. When the question of political mode could not be resolved, and governance could not be fully objectified, the only alternative was to turn to the quest for a "sagely ruler and wise prime minister." And because the three elements of head-of-state, scholar-official, and common people could not be objectified, the prime minister was unable to obtain the support of the people but found himself in a narrow and confined situation, and one fraught with difficulties. Moreover, dynastic succession could not be transferred in a legal manner, with the result that it occurred either through usurpation or through revolution, and thus national order and disorder followed each other in an everlasting cycle. All these have been historically the flaws of the Chinese body politic. These flaws have forced us to advance a step from autocratic monarchy in the direction of democratic government, a goal for which we have striven from the time of the Xinhai Revolution to this very day. Only when we have established a nation based on democracy can we solve the questions that we have described.

Democracy is the last political mode. Progress in the future will not be progress in political structure but in the enrichment of social content. Thus founding a nation based on democracy is work that must be undertaken. The Communist Party, which declared that this is the democracy of the third class [the third estate], wants to leap over it, which is wrong. Although in the West the emergence of democracy may well be the contribution of the third class, once democracy emerges, it is everlasting and universal and cannot be limited by any one class. Chen Duxiu [1879-1942], who in his later years came to realize certain things, said: "If there is no basic human rights in socialism, then it is not worth a halfpenny." Chinese intellectuals ought to have a proper understanding of their own history and culture. Their concepts should not be confused and they should not misconstrue the essential points of a question. Only then can they shoulder the responsibilities of the age.

In these two lectures we have discussed the main work of the Legalists, which moved along with the current of history and the development of the times and not according to ideals. Questions of practical reality must be solved within this reality.

Questions must be examined with care and the ideal must constantly enter into our consideration. Once we have understood questions on this level, then we are in a position to overcome the Communist scourge and no longer need we be confused and duped by their groundless and absurd claims. These are questions of common knowledge. You will only understand questions of this kind if you take a good look at the writings of Gu [Yanwu], Huang [Zongxi] and Wang [Chuanshan], and the debate between Master Zhu and Chen Tongfu [1143-94].<sup>25</sup>

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<sup>1</sup> See *Songyuan Xue'an* [*Studies of Song and Yuan Philosophers*], *juan* 48, "Huiweng Xuean Shan [Biography of Huiweng, Part I] ": "On this trip, when the emperor accosted him on the road, he talked to him about rectifying the mind [*zheng xin* ] and making the will sincere [*cheng yi*]. His Majesty was disinclined to hear about it, and enjoined him to speak no more of it. The Master replied: ' What I have learned in life are simply these four words [i.e., *zheng xin cheng yi*]. How can I conceal them and deceive you my king?'"

<sup>2</sup> See *Mingru Xuean* [*Studies of Ming Confucian Scholars*], *juan* 62, "Jishan Xuean [Study of Liu Jishan]": "His Majesty looked at Wen Tiren and said: 'How impractical, the words of this man Liu.' ... Although an order was issued to dismiss Liu from office and return him to the status of a plain citizen, His Majesty never forgot the Master but sighed at court, saying that none of the ministers of the court could equal a great minister like Liu Zongzhou in incorruptibility, steadfastness, and fearlessness in speaking out."

<sup>3</sup> *Zuo Zhuan*, tenth year of Duke Zhuang : "In spring, the army of Qi attacked us. As the Duke was about to set forth to battle, Cao Kui requested an audience. A fellow villager said to him: 'Why do you bother being concerned in this matter when it is meat-eaters who are advising him on strategy?' \_Kui said: 'Meat-eaters are base and incapable of being far-sighted', and he went in to the audience."

<sup>4</sup>See Mr. Liang Shuming's *Zhongguo Wenhua Yaoyi* [*The Essentials of Chinese Culture*], ch. 5 and 8.

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<sup>5</sup> *Mencius* 3A.3: "The *Shijing* [*Book of Poetry*] says: 'Rain down on our communal fields, then on our private plots.' From this we can see that to help meant that there were communal fields, and that even in the time of the Zhou dynasty there was the helping of one another....One square *li* made a well-field, which consisted of nine hundred *mou*, the central *mou* being the communal field. Each of eight families had a private plot of one hundred *mou*, and together they farmed the communal field. Only after the communal work was done did they dare turn to private work."

<sup>6</sup> See *Shijing*, "Xiao Ya [Minor Odes] ": "Da Tian 大田" chapter.

<sup>7</sup> Fourth year of Dinggong [Duke of Ding]: "Allocated to the Duke of Lu great chariots and great banners, the *huang* pendants of the Xiahou clan [clan of the king of the Xia], the bow named Fanruo of Fongfu, six lineages of the people of Yin consisting of the Tiao clan, Xu clan, Xiao clan, Suo clan, Changshao clan, and Weishao clan, making him leader of the members of their ancestral temples and gathering together their fragmented clans, leading their multitudes, giving them the laws of the Duke of Zhou, so that they would adhere to the mandate of Zhou. Thus they were made to serve Lu and bring glory to the shining virtue of the Duke of Zhou. Allocated to the Duke of Lu were lands and fields doubly large, together with sacred chanters, temple officiants, diviners, and chroniclers, with appurtenances, records and tablets, with ministers, officers, and ceremonial vessels, so that they would follow the people of Shangyan, giving them Boqing as their lord, and enfeoffing him at the ruins of Shaohao."

<sup>8</sup> *Mencius* 3A.3: "...set up schools to educate them...in the villages those who belonged to the same well-field going out and coming in were companions to one another, in guarding and watching they helped one another, in sickness they supported one another; and so the people lived together in love and harmony."

<sup>9</sup> *Dao De Jing*, ch. 80.

<sup>10</sup> *Chun Qiu* [*Spring and Autumn Annals*], Xuan Gong 宣公[Duke Xuan] fifteenth year: "*Chu shui mou* [Began taxing the *mou*]." *Gongyang zhuan* [*Gongyang Commentary*] says: "What is *chu*? It means began. What is *shui mou*? It means taxing by the *mou*." *Zuo Zhuan* says: "To begin taxing by the *mou* was against propriety."

<sup>11</sup> Sima Qian, *Shiji*, *juan* 68, "Shangjun Liezhuan 商君列傳 [Biography of the Lord of Shang]", number 8: "He opened up the embankments and boundaries of the fields, and taxes were equalized."

<sup>12</sup> See Qian Mu, *Guoshi Dagang* [*An Outline of Chinese History*], fifth ed.v(Taipei: Commercial Press, 1978), p. 59.

<sup>13</sup> Qian Mu, *Guoshi Dagang*, Introduction, pp. 13-15.

<sup>14</sup> *Shiji*, *juan* 10, "Xiaowen Benji [Biography of Xiaowen]", number 10: "The King of Daisaid: 'It is a heavy responsibility to carry out the observances of the ancestral temple of Emperor Gao. Being an inarticulate person, unworthy of the ancestral temple, may I request the king of Chu to think of someone more appropriate. I dare not accept the honor.' All the ministers prostrated themselves and begged him to accept the position."

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The King of Dai faced west and declined three times, then faced south and declined twice....Then he ascended the throne as emperor."

<sup>15</sup> *Spring and Autumn Annals*, Zhuang Gong [Duke Zhuang] third year: "The *hou* [marquis] of Ji great-removed [*daqu*] his state." The *Gongyang Commentary* says: "What is the meaning of great-removed? It means extinguish. Who extinguished it? Qi extinguished it. Why did it not say Qi extinguished it? It was a euphemism to protect Duke Xiang. The *Spring and Autumn Annals* used euphemisms to protect the wise and good. In what was Duke Xiang wise and good? In revenge. For what grievance? One concerning a distant ancestor. How many generations before? Nine generations. Can one take revenge even if the grievance is of nine generations duration? Yes, even of one hundred generations. Can a family do this? No. Why can a state do it? The state and the prince are one body. ...Why are the state and prince one body? The prince of a state has the state as his body, for feudal lords are hereditary through generations; therefore the state and the prince are one body."

<sup>16</sup> *Analects*, 20.1.7.

<sup>17</sup> Sima Qian, *Shiji*, *juan* 97, "Li Sheng Lu Jia Lie Zhuan [Biography of Li Sheng Lu Jia]", number 37: "Lu Sheng would often go and advocate his ideas before the emperor, quoting from the *Book of Poetry* and *Book of History*. Emperor Gao rebuked him saying: 'Your prince [i.e., I, your emperor] won the empire on horseback. What use has he for books of poetry and history?' Lu Sheng replied: 'He may have won it on horseback, but can he govern it on horseback?' "

<sup>18</sup> *Mencius*, 7A.2: "Mencius said: "It is all fate [*ming*, Heaven's decree]. We should accept it in its proper form. That is why the person who understands fate will avoid standing underneath a high wall. To exhaust one's Dao and die is the right fate. To die in clamps and shackles is not a proper fate."

<sup>19</sup> See Mou's "Zhongguo Zhishi Fenzi de Mingyun" [The Fate of the Chinese Intellectual]. Originally published in *Dongxi Feng* [East-West Wind] magazine, no. 6, Hong Kong. Also in *Zhishi Fenzi yu Zhongguo* [The Intellectual and China], first ed., pp. 59-69, Shibao Chuban Gongsu [Time Publishing Co.] 1980.

<sup>20</sup> Sima Qian, *Shiji*, *juan* 6, "Qin Shi Huang Benji [Biography of Qin Shi Huang]", no. 6: "The prime minister Li Si said: '....The people as members of families engage in farming and crafts; the *shi* [scholar-official] studies laws, ordinances, punishment, and prohibitions....I humbly request that the officials in charge of records burn all books except chronicles of Qin; that officers of the law burn with rubbish anyone who dares keep literature containing words of the *Book of Poetry* and *Book of History* and of the various schools of philosophy, that anyone who dares speak of the *Book of Poetry* and *Book of History* be executed and their bodies abandoned in the marketplace; that anyone who uses ancient times to criticize present times be executed together with his clan....that the only books that shall be exempt shall be books on medicine, divination, and planting. For those who wish to study laws and ordinances, they shall take the functionary as their teacher.' An edict said: 'Approved.'"

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<sup>21</sup> *Hou Han Shu* [History of the Latter Han Dynasty], juan 67, "Danggu Lie Zhuan [Biographies of Persons in the Proscription of Parties]", no 57: "By chance, Jian was escorted by Du in leaving the frontier, and so he was spared. During the entire proceedings, those sentenced to double execution numbered some ten men, the members of their lineage being exterminated together with them, and commanderies and prefectures were left devastated."

<sup>22</sup> *Ibid.*: "When his mother arrived to bid him farewell, Pang said to her: 'Zhong Bo is possessed of respect and will be able to support and care for you in your old age. I will follow Long Shu to the yellow springs [i.e., death]. Each of us has our own allotted life and death. Only now the Great Person [i.e., Mother] will have to endure the unbearable truncating of her kindness and love. Please do not grieve too much.' His mother replied: 'Now that your name will take its place beside those of Li and Du, what regret is there in death? If one has a glorious name and then asks for a long life, can one have both?' Pang received his mother's words kneeling. He made his obeisance several times and then departed."

<sup>23</sup> *Zi Zhi Tong Jian* [Complete Mirror for Governance], juan 265, "Tang Ji [Chronicles of Tang]" 81, "Emperor Zhaoxuan, *tianyou* second year: "At the time [the emperor] Quanzhong (Zhu Wen ) collected Shu and the others, together with court officials who had been demoted, more than thirty men in all, at Baima Yi [White Horse Post-Station], where all of them were executed in one evening and their bodies thrown into the river. Earlier, when Li Zhen repeatedly sat for the *jinshi* degree examination but without success, he became filled with hatred for the scholar-officials who had risen through the examinations and said to Quanzhong: 'Since these men are in the habit of calling themselves the pure stream, we should throw them into the Yellow River and make them the muddy stream.' Quanzhong laughed and carried out his suggestion."

<sup>24</sup> See Mou Zongsan, *Lishi Zhexue* [Philosophy of History] (Taipei: Xuesheng Shuju, 1974), part 1, ch. 3, sect. 2. "Rational freedom [*li shang de ziyou* , freedom in reason]" is comparable to the Buddhist Tiantai school's "*Li* [reason] is Buddha" [*li ji fo*], and "subjective freedom" also can be explained as "intuitive freedom," which is comparable to the Tiantai school's "to contemplate and unravel ultimate reality is Buddha" [*guan jie ji fo*].

<sup>25</sup> See Mou, *Zhengdao yü Zhidao* [The Dao of Polity and the Dao of Governance], chaps. 9 and 10, in *Complete Works*, vol. 10.