

**SELECTIONS FROM THE HAN FEIZI:
CHAPTER 49, "THE FIVE VERMIN"**

Introduction

Han Fei (d. 233 BCE) was a student of the philosopher Xunzi (c. 310-c. 219 BCE), but abandoned Confucian philosophy in favor of the more pragmatic and hardheaded approach of men like Lord Shang (Shang Yang or Gongsun Yang, d. 338 BCE), whom we collectively label as "Legalists." Han Fei worked as an official for the state of Qin until he was executed in 233 BCE, allegedly on charges manipulated by a fellow official, Li Si (d. 208 BCE), who was also formerly a fellow student under Xunzi. Han Fei is most famous, however, for having developed a thorough and systematic synthesis of Legalist and Daoist philosophy, which we see in the book which bears his name -- a book of which he is possibly the real author, but which at any rate is accepted as a reasonably accurate representation of his thinking.

Document Excerpts with Questions (Longer selection follows this section)

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Selections from the Han Feizi:
Chapter 49, "The Five Vermin"

"There was a farmer of Song who tilled the land, and in his field was a stump. One day a rabbit, racing across the field, bumped into the stump, broke its neck, and died. Thereupon the farmer laid aside his plow and took up watch beside the stump, hoping that he would get another rabbit in the same way. But he got no more rabbits, and instead became the laughingstock of Song. Those who think they can take the ways of the ancient kings and use them to govern the people of today all belong in the category of stump-watchers!"

...

"Humaneness may make one shed tears and be reluctant to apply penalties, but law makes it clear that such penalties must be applied. The ancient kings allowed law to be supreme and did not give in to their tearful longings. Hence it is obvious that humaneness cannot be used to achieve order in the state. ..."

...

"Hardly ten men of true integrity and good faith can be found today, and yet the offices of the state number in the hundreds. If they must be filled by men of integrity and good faith, then there will never be enough men to go around; and if the offices are left unfilled, then those whose business it is to govern will dwindle in numbers while disorderly men increase. Therefore the way of the enlightened ruler is to unify the laws instead of seeking for wise men, to lay down firm policies instead of longing for men of good faith. Hence his laws never fail him, and there is no felony or deceit among his officials. ..."

Questions:

1. What is Han Fei's attitude toward the past? How does it compare to the attitude of the Confucian scholars?
2. What assumptions about human nature underlie Han Fei's ideas about government and law?
3. Han Fei suggests that one cannot staff a bureaucracy by looking for wise and good men. What alternative does he suggest? Is his alternative realistic?
4. Would you prefer to work in a government run according to Han Fei's ideas, or in a government run according to the ideas of Confucius?
5. Would you prefer to live in a state governed according to the principles of Confucius and Mencius, or one governed according to the principles of Han Fei?

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When Yao ruled the world, he left the thatch of his roof untrimmed, and the raw timber of his beams was left unplanned. He ate coarse millet and a soup of greens, wore deerskin in the winter days and rough fiber robes in summer. Even a lowly gatekeeper was no worse clothed and provided for than he. When Yu ruled the world, he took plow and spade in hand to lead his people, working until there was no more down on his thighs or hair on his shins. Even the toil of a slave taken prisoner in the wars was no bitterer than his. Therefore those men in ancient

times who abdicated and relinquished the rule of the world were, in a manner of speaking, merely forsaking the life of a gatekeeper and escaping from the toil of a slave. Therefore they thought little of handing over the rule of the world to someone else. Nowadays, however, the magistrate of a district dies and his sons and grandsons are able to go riding about in carriages for generations after. Therefore people prize such offices. In the matter of relinquishing things, people thought nothing of stepping down from the position of Son of Heaven in ancient times, yet they are very reluctant to give up the post of district magistrate today; this is because of the difference in the actual benefits received. ...

When men lightly relinquish the position of Son of Heaven, it is not because they are high-minded but because the advantages of the post are slight; when men strive for sinecures in the government, it is not because they are base but because the power they will acquire is great.

When the sage rules, he takes into consideration the quantity of things and deliberates on scarcity and plenty. Though his punishments may be light, this is not due to his compassion; though his penalties may be severe, this is not because he is cruel; he simply follows the custom appropriate to the time. Circumstances change according to the age, and ways of dealing with them change with the circumstances. ...

Past and present have different customs; new and old adopt different measures. To try to use the ways of a generous and lenient government to rule the people of a critical age is like trying to drive a runaway horse without using reins or whip. This is the misfortune that ignorance invites.

Now the Confucians and the Mohists all praise the ancient kings for their universal love of the world, saying that they looked after the people as parents look after a beloved child. And how do they prove this contention? They say, "Whenever the minister of justice administered some punishment, the ruler would purposely cancel all musical performances; and whenever the ruler learned that the death sentence had been passed on someone, he would shed tears." For this reason they praise the ancient kings.

Now if ruler and subject must become like father and son before there can be order, then we must suppose that there is no such thing as an unruly father or son. Among human affections none takes priority over the love of parents for their children. But though all parents may show love for their children, the children are not always well behaved. ... And if such love cannot prevent children from becoming unruly, then how can it bring the people to order? ...

Humaneness may make one shed tears and be reluctant to apply penalties, but law makes it clear that such penalties must be applied. The ancient kings allowed law to be supreme and did not give in to their tearful longings. Hence it is obvious that humaneness cannot be used to achieve order in the state. ...

Now here is a young man of bad character. His parents rail at him, but he does not reform; the neighbors scold, but he is unmoved; his teachers instruct him, but he refuses to change his ways. Thus, although three fine influences are brought to bear on him -- the love of his parents, the efforts of the neighbors, the wisdom of his teachers -- yet he remains unmoved and refuses to change so much as a hair on his shin. But let the district magistrate send out the government soldiers to enforce the law and search for evildoers, and then he is filled with terror, reforms his conduct, and changes his ways. Thus the love of parents is not enough to make children learn what is right, but must be backed up by the strict penalties of the local officials; for people by nature grow proud on love, but they listen to authority. ...

The best rewards are those that are generous and predictable, so that the people may profit by them. The best penalties are those that are severe and inescapable, so that the people will fear them. The best laws are those that are uniform and inflexible, so that the people can understand them. ...

Those who practice humaneness and rightness should not be praised, for to praise them is to cast aspersion on military achievements; men of literary accomplishment should not be employed in the government, for to employ them is to bring confusion to the law. In the state of Chu there was a man named Honest Gong. When his father stole a sheep, he reported the theft to the authorities. But the local magistrate, considering that the man was honest in the service of his sovereign but a villain to his own father, replied, "Put him to death!" and the man was accordingly sentenced and executed. Thus we see that a man who is an honest subject of his sovereign may be an infamous son to his father.

There was a man of Lu who accompanied his sovereign to war. Three times he went into battle, and three times he ran away. When Confucius asked him the reason, he replied, "I have an aged father, and if I should die, there would be no one to take care of him." Confucius, considering the man filial, recommended him and had him promoted to a post in the government. Thus we see that a man who is a filial son to his father may be a traitorous subject to his lord.

The magistrate of Chu executed a man, and as a result the felonies of the state were never reported to the authorities; Confucius rewarded a man, and as a result the people of Lu thought nothing of surrendering or running away in battle. Since the interests of superior and inferior are as disparate as all this, it is hopeless for the ruler to praise the actions of the private individual and at the same time try to ensure blessing to the state's altars of the soil and grain.

In ancient times when Cang Jie created the system of writing, he used the character for "private" to express the idea of self-centeredness, and combined the elements for "private" and "opposed to" to form the character for "public." The fact that public and private are mutually opposed was already well understood at the time of Cang Jie. To regard the two as being identical in interest is a disaster that comes from lack of consideration. ...

The world calls worthy those whose conduct is marked by integrity and good faith, and wise those whose words are subtle and mysterious. But even the wisest man has difficulty understanding words that are subtle and mysterious. Now if you want to set up laws for the masses and you try to base them on doctrines that even the wisest men have difficulty in understanding, how can the common people comprehend them? ... Now in administering your rule and dealing with the people, if you do not speak in terms that any man or woman can plainly understand, but long to apply the doctrines of the wise men, then you will defeat your own efforts at rule. Subtle and mysterious words are no business of the people.

If people regard those who act with integrity and good faith as worthy, it must be because they value men who have no deceit, and they value men of no deceit because they themselves have no means to protect themselves from deceit. The common people in selecting their friends, for example, have no wealth by which to win others over, and no authority by which to intimidate others. For that reason they seek for men who are without deceit to be their friends. But the ruler occupies a position whereby he may impose his will upon others, and he has the whole wealth of the nation at his disposal; he may dispense lavish rewards and severe penalties and, by wielding these two handles, may illuminate all things through his wise policies. In that case, even traitorous ministers like Tian Chang and Zihan would not dare to deceive him. Why should he have to wait for men who are by nature not deceitful?

Hardly ten men of true integrity and good faith can be found today, and yet the offices of the state number in the hundreds. If they must be filled by men of integrity and good faith, then there will never be enough men to go around; and if the offices are left unfilled, then those whose business it is to govern will dwindle in numbers while disorderly men increase. Therefore the way of the enlightened ruler is to unify the laws instead of seeking for wise men, to lay down firm policies instead of longing for men of good faith. Hence his laws never fail him, and there is no felony or deceit among his officials. ...

Now the people of the state all discuss good government, and everyone has a copy of the works on law by Shang Yang and Guan Zhong in his house, and yet the state gets poorer and poorer, for though many people talk about farming, very few put their hands to a plow. The people of the state all discuss military affairs, and everyone has a copy of the works of Sun Wu and Wu Qi in his house, and yet the armies grow weaker and weaker, for though many people talk about war, few buckle on armor. Therefore an enlightened ruler will make use of men's strength but will not heed their words, will reward their accomplishments but will prohibit useless activities. Then the people will be willing to exert themselves to the point of death in the service of their sovereign.

Farming requires a lot of hard work, but people will do it because they say, "This way we can get rich." War is a dangerous undertaking, but people will take part in it because they say, "This way we can become eminent." Now if men who devote themselves to literature or study the art of persuasive speaking are able to get the fruits of wealth without the hard work of the farmer

and can gain the advantages of eminence without the danger of battle, then who will not take up such pursuits? So for every man who works with his hands there will be a hundred devoting themselves to the pursuit of wisdom. If those who pursue wisdom are numerous, the laws will be defeated, and if those who labor with their hands are few, the state will grow poor. Hence the age will become disordered.

Therefore, in the state of an enlightened ruler there are no books written on bamboo slips; law supplies the only instruction. There are no sermons on the former kings; the officials serve as the only teachers. There are no fierce feuds of private swordsmen; cutting off the heads of the enemy is the only deed of valor. Hence, when the people of such a state make a speech, they say nothing that is in contradiction to the law; when they act, it is in some way that will bring useful results; and when they do brave deeds, they do them in the army. Therefore, in times of peace the state is rich, and in times of trouble its armies are strong. ...

These are the customs of a disordered state: Its scholars praise the ways of the former kings and imitate their humaneness and rightness, put on a fair appearance and speak in elegant phrases, thus casting doubt upon the laws of the time and causing the ruler to be of two minds. Its speechmakers propound false schemes and borrow influence from abroad, furthering their private interests and forgetting the welfare of the state's altars of the soil and grain. Its swordsmen gather bands of followers about them and perform deeds of honor, making a fine name for themselves and violating the prohibitions of the five government bureaus. Those of its people who are worried about military service flock to the gates of private individuals and pour out their wealth in bribes to influential men who will plead for them, in this way escaping the hardship of battle. Its merchants and artisans spend their time making articles of no practical use and gathering stores of luxury goods, accumulating riches, waiting for the best time to sell, and exploiting the farmers.

These five groups are the vermin of the state. If the rulers do not wipe out such vermin, and in their place encourage men of integrity and public spirit, then they should not be surprised, when they look about the area within the four seas, to see states perish and ruling houses wane and die. ...