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A NEW COMPARISON BETWEEN CONFUCIAN SOFT-POWER AND LEGALIST HARD-POWER POLITICAL PHILOSOPHIES

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ABSTRACT: *In recent years, comparative scholars and commentators have attempted to find ways to best characterize the opposition between Confucianism and Legalism. For example, it has been argued that Confucianism exemplifies "idealism", whereas Legalism is a version of "realism" and that their dispute can be construed as a clash between the broader philosophical frameworks of idealism and realism. While casting these opposing political philosophies as such can shed some light on the differences between the two schools of classical Chinese philosophy, these conceptual labels are too broad to capture their fundamental differences, which in my view are their different understandings of political power. To better understand their dynamic relationship, I propose to characterize the debate between Confucianism and Legalism in terms of soft power and hard power. Specifically, I argue that Confucianism is primarily a political philosophy centered on soft power. In contrast, Legalism is for the most part a hard-power oriented statecraft. I further argue that the two political philosophies are not only opposite but also complementary to each other. I have reached my conclusion through carefully examining and comparing Confucianism and Legalism through the lens of contemporary Western theories of power. Both theoretical argumentation and historical evidence show that smart power which grows out of judicious combination of hard power and soft power can achieve the desired effect in political and geopolitical arenas.*

Keywords: *Confucianism, Legalism, soft power, hard power, smart power*

1. INTRODUCTION

Great thinkers in the Western tradition such as Plato, Aristotle, Montesquieu, Thomas Hobbes, John Locke, Max Weber, and others discoursed at length about political power. In this paper, however, I will mainly focus on contemporary political thinkers such as Robert Dahl, Steven Lukes, and especially Joseph Nye. I call the conceptual framework they have developed "the tripartite theory of power", so named because it involves a three-way distinction: hard, soft, and smart power, and use it as the analytical tool to examine and characterize the nature of the debate between Confucius' soft-power and

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Legalist hard-power statecrafts.[1]

In his seminal paper, "The Concept of Power," Dahl defined power in social relational and behavioral terms: "A has power over B to the extent that he can get B to do something that B would not otherwise do" (Dahl, 202-203). From this definition, we can see that power presupposes social relations. Accordingly, Robinson Crusoe who lived a solitary life for twenty- eight years on an island did not have power in the above sense. A person has power in so far as he can get *others* to do what they would not otherwise do.[2] This definition of power is concise, elegant, and intuitively appealing. Let's call it "the thesis of power." Dahl's definition, however, seems to imply that power is always coercive. Critics, such as Steven Lukes, have argued against this narrow conception of power. According to Lukes, the thesis of power falls short of capturing other significant aspects of power, such as A's ability to shape the preferences, norms, and values held by B. Suppose A wants to get B to do X, but B is unwilling to do it. To get B to do X, A may have more than one instrument of power at his disposal: he may force B to do X by threats of violence (because he is physically stronger than B or he has a weapon); A may incentivize B to do X by offering him a reward if he has financial resources). Or he may try to change B's beliefs or desires with respect to X if he is a skillful persuader or has a charismatic personality).[3] Lukes has broadened the concept of power by noting that power is not necessarily coercive; there can be different means to achieve one's goals in power relationships; power is not one-dimensional, but rather multi-faceted. His broader conception of power may be called "the antithesis of power" in contrast with Dahl's. Joseph Nye has further developed the conception of power by highlighting different dimensions of power in Lukes' analysis. According to Nye, power exercised using coercion or violence is called "hard power". In contrast, power whose instrument is persuasion or attraction is referred to as "soft power". While the goal is to make others do what one wants, this goal may be achieved through soft power, hard power, or a combination of both. When

[1] In his article "The Debate Between Confucianism and Legalism: A Reconstruction," Chenyang Li provides a nuanced view of the debate between Confucianism and Legalism. Rather than viewing the two as diametrically opposed, he argues that they represent different approaches to governance that can be complementary and mutually reinforcing. Li notes that while Confucianism emphasizes the importance of individual morality and virtue, Legalism focuses on the importance of rules and regulations in maintaining social order. In this paper, I categorize Confucian individual morality and virtue as soft power and Legalist coercive law and punishment as hard power after carefully examining and comparing Confucianism and Legalism through the lens of contemporary Western theories of power.

[2] However, there are some difficulties with this definition. For example, if I ask my friend to do something he would not otherwise do, do I have power over my friend? Presumably my friend also has power over me because he can get me to do something I would not otherwise do. But what is it that makes me or my friend do what we would not otherwise do? Why do we feel obligated to do something for a friend for their sake? It seems that in friendship there is what may be called "reciprocal power." Morality is another example. Society shapes our preferences, values, or norms. That is exactly how soft power operates. In contrast to morality, law operates through punishments. A key difference between law and morality is the way they each operate. In general, law is hard power, whereas morality is soft power. However, this distinction should not be taken as absolute.

[3] I would argue that the effect of soft power tends to be gradual and unhurried in contrast with hard power which is usually fast acting.

it is a wise combination of both hard power and soft power, it is called "smart power." The idea of smart power developed by Nye can be understood as the synthesis of power as it preserves both the elements of the thesis and antithesis of power. While smart power is the most sophisticated of the three, hard power is the most fundamental. In the political arena at least, soft power alone is hardly efficacious without hard power lurking in the background.

By introducing the novel terminology of "soft power", "hard power," and "smart power", the American political scientist Joseph Nye has thrown the multidimensions of the concept of power into high relief and made a major contribution to theorizing power in the contemporary context. In his hugely influential paper "Soft Power" (1990), Nye introduced the neologism "soft power" to refer to a new tool for maintaining the United States' leadership position in international politics. As mentioned earlier, power is usually defined as an ability to get others to do what they otherwise would not do. To have this ability one must possess certain resources.[4] Nye writes,

> [P]ower means an ability to do things and control others, to get others to do what they otherwise would not. Because the ability to control others is often associated with the possession of certain resources, politicians and diplomats commonly define power as the possession of population, territory, natural resources, economic size, military forces, and political stability (Nye 1990, 154).

According to Nye, there are three ways to influence the behavior of others to get what one wants—coercion, payment, and attraction.[5] The first two are subsumed under "hard power", whereas the third under the neologism "soft power". "Hard power enables countries to wield carrots and sticks to get what they want" (2007). It is by nature coercive. In this connection, as we will see, Legalism in classical China exemplifies the hard-power statecraft, whereas Confucius' way is *essentially* a form of soft-power political ideology.

While Nye's discussion of hard, soft, and smart power is confined to *world politics*, it is important to keep in mind that power has much broader applications—it plays a vital role in *domestic politics*, corporate management, parenting, education, military, or any organization, community in which there exists a power differential. In addition to coercive hard power, Nye sees

[4] A gun is a quintessential example of hard power resources. Suppose someone holds a weapon to your head and demands your wallet. His gun is a resource of hard power, but not hard power itself. He can force you to surrender your wallet because he has a gun. His ability to force you to give up your wallet is hard power. He has that ability because he possesses a hard power resource.

[5] Nye writes, "Smart power" is a term I developed in 2003 to counter the misperception that soft power alone can produce effective foreign policy. Power is one's ability to affect the behavior of others to get what one wants. There are three basic ways to do this: coercion, payment, and attraction. Hard power is the use of coercion and payment. Soft power is the ability to obtain preferred outcomes through attraction. If a state can set the agenda for others or shape their preferences, it can save a lot on carrots and sticks. But rarely can it [soft power] totally replace either [reward or punishment]. Thus the need for smart strategies that combine the tools of both hard and soft power." Joseph S. Nye, Jr., "Get Smart: Combining Hard and Soft Power", *Foreign Affairs*, 88(4), 2009, 160-163.

> a second, more attractive way of exercising power than traditional means. A state may achieve the outcomes it prefers in world politics because other states want to follow it or have agreed to a situation that produces such effects…This second aspect of power—which occurs when one country gets other countries to want what it wants—might be called co-optive or soft power in contrast with the hard or command power of ordering others to do what it wants. (Nye 1990, 166).

By referring to hard power as the "*traditional means*" of influencing others to get what one wants, Nye seems to imply that the soft power approach is new. This, however, is inaccurate. As will become clear from the ensuing discussion, Confucius was a staunch advocate of soft power statecraft. If we try to find a salient example of soft power statecraft in the annuals of political thought, Confucius' teachings may very well fit the bill.

But what are the essential differences between hard power and soft power? While there may be many differences such as materiality and quantifiability, the only difference that seems to hold up under scrutiny is that hard power is "coercive", whereas soft power is "attractive" or noncoercive. All other differences may be subject to controversy. When B willingly does what A wants him to do, not because A offers him a reward or other incentives, but because A's influence has made him share A's values or goals, he is under the sway of A's soft power. The key difference between hard power and soft power may be summarized as follows: hard power changes the *behavior* of others, but soft power changes their *minds* or *beliefs* and *desires* which are the internal spring of their actions.

Since its coinage, the phase "soft power" has gained significant traction and inspired a sizable literature. Nevertheless, it is still a work in progress. More recently, Nye and other scholars have developed the *smart power* theory (2007).

> Smart power is neither hard nor soft—it is *the skillful combination of both*. Smart power means developing an integrated strategy, resource base, and tool kit to achieve American objectives, *drawing on both hard and soft power*. It is an approach that underscores the necessity of a strong military, but also invests heavily in alliances, partnerships, and institutions at all levels to expand American influence and establish the legitimacy of American action. (Nye 2007, 7)

Although the terminology such as "soft power" and "smart power" are new, the concepts and practices can be found in a Chinese classic text called the *Zuo Commentary* (*Zuo-Zhuan* 左传)[6] in which Confucius purportedly praised an integrative domestic policy that combined a soft, lenient approach with harsh and punitive measures. Given what we know of Confucius' way, it should be taken with a grain of salt that Confucius would make such laudatory comments on integrative statecraft. Nevertheless, this classic text shows that ancient Chinese statesmen were no strangers to the application of smart power.

[6] *Zuo-Zhuan* 左传, often rendered as the *Zuo Commentary*, is an ancient Chinese chronicle of the history of the Spring and Autumn period with commentaries.

2. CONFUCIUS' WAY AS SOFT-POWER ORIENTED STATECRAFT

If we examine Confucius' way through the lens of Nye's three-way distinction of power (hard, soft, and smart varieties), it will become evident that it is *predominately* soft-power oriented.[7] I'll begin with a well-known fact that Confucius' way of governance was rejected by all the feudal rulers with whom he had an audience. In contrast, the Legalist statecraft was adopted at least by many feudal lords, not least the rulers of the Qin state. Let's explore why Confucius' political ideas and the Legalist way of governance were treated differently. I would argue that there are two reasons. The first reason is that Confucius and the rulers who rejected his ideas had different goals. Confucius' goal was to restore the authority of the *Zhou* monarchy and revive the golden age of the *Zhou* dynasty,[8] whereas the feudal rulers of his time aimed at becoming the supreme ruler of all the territories of the *Zhou* dynasty themselves. To achieve their ambition, they had to defeat their competitors, namely other feudal lords. The only way to defeat them was to have a large and powerful military. The questions on their minds were how to build a powerful military and how to win battles and wars against their rivals. They sought counsel for the sole purpose of enriching their states and building powerful militaries. However, all Confucius could offer was advice on how to discipline themselves in accordance with ritual. Confucius himself acknowledged that people who have different goals should not counsel each other.[9] If so, then why would he bother to travel to various feudal states and seek an audience with the rulers, knowing that their goals were different from his? It could be that Confucius had hopes that he could persuade at least one ruler to share his political vision and adopt his ideas of virtuous governance. In contrast, the Legalist ideas dovetailed nicely with the feudal rulers' agenda and needs.

The second reason is that those rulers' understanding of power was diametrically opposed to Confucius'. For them, power principally meant coercion whose resources were economy, population, natural resources, food supply, and above all, military force.[10] But that was not how Confucius understood power. For him, political power should be noncoercive, as evidenced in many passages in the *Analects*. His understanding of power fits precisely the definition of soft power in Nye's framework. On the other hand, the most famous Legalist thinker Han Fei made it abundantly clear that power should be exercised through "two handles"—punishment and reward, and that is exactly how Nye defines hard power.

As noted earlier, Confucius' political vision was to restore the authority of the Zhou kings and revive the golden age of the *Zhou* dynasty. This can be seen clearly in the *Analects* 16.2:

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[7] I say "predominately" because although Confucius believed in the efficacy of soft power, he would not be so politically naïve as to advocate soft power exclusively.

[8] It is generally considered that Confucius was a conservative political thinker.

[9] 15.40 子曰．"道不同，不相为谋。"

[10] Some countries such as postwar Japan, have a vibrant economy without a strong military.

> When the Way prevails in the world, rituals, music, punitive expeditions, and attacks against foreign powers issue from the Son of Heaven.[11]
>
> When the Way does not prevail in the world, these things issue from the feudal lords. When they issue from the feudal lords, it is seldom more than ten generations before the lords lose control of them. When they issue from ministers, it is seldom more than five generations before the ministers lose control of them, and once household ministers seize control of state commands, it is seldom more than three generations before they lose control of them.[12]

For Confucius, the Zhou monarch was the Son of Heaven whose authority was legitimized by the Mandate of Heaven. But in his time, the Zhou monarchy had lost effective control of the feudal lords who intended to usurp the power of the monarch. Confucius and his contemporaries often described this abnormal, deteriorating state of affairs as *wu dao* (无道), literally "no way". In this passage Confucius warned the dire consequences of the usurpation of power. Assuming that Confucius was aware that his goals and those of the feudal lords were diametrically opposed, he wanted to persuade them to change their ways. In other words, he wanted to persuade the rulers to want what he wants, that is, upholding the political order with the Zhou sovereign at the zenith of the power hierarchy. The feudal lords, however, did not share Confucius' vision of the ideal political order. To them, Confucius was nothing but a political consultant who did not have the power to force them to change their ways. Their goal was not the restoration of the old political order, but the establishment of a new one with a triumphant feudal lord at the top after fierce military struggles.

Now let's focus on Confucius' understanding of political power and contrast it with the Legalist construal. At the outset, I would argue that the *overarching distinction* between their respective conceptions of power lies in Confucius' catchy summary of his statecraft as opposed to the Legalist variety: For Confucius, "One governs a state by means of ritual" (*Analects*, 11.26), whereas his Legalist critics such as Han Feizi would emphatically say that one governs a state *not* by means of ritual, but by *law*. Ritual operates in a similar fashion as morality. No one forces you to be moral or ritually proper. Like morality, ritual is soft power. In the *Analects* 4.13, Confucius elaborates on his ritual-based statecraft as follows, "Can you govern the state with ritual and a deferential approach? Then you will have no difficulty. If you cannot govern the state with ritual and a deferential approach, then what use is ritual?"[13] On the other hand, the Legalist instrument of governance consists of what Han Feizi refers to as "the two handles"—punishments and rewards, both of which are the quintessential instrument of hard power.

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[11] To be sure, Confucius did not oppose the use of force *per se*, what he opposed was the usurpation of authority. It would be normal 有道 that the expeditions and attacks against foreign powers issue from the highest authority of the land, namely the Zhou monarch; it would be abnormal 无道 otherwise.
[12] Translated by Edward Slingerland, *Confucius Analects*, Hackett, 2003.
[13] Watson's translation.

In the *Analects* 14.41, Confucius remarks, "If those above love ritual, then the common people will be easy to manage."[14] In 13.4, Confucius appeared to elaborate on that point by claiming that if a ruler or high-ranking official loves ritual, the common people will not dare to be disrespectful; if he loves righteousness, they will not dare to be disobedient; if he loves trustworthiness, the common people will not dare to be dishonest. In other words, if the ruler loves ritual, there won't be political disorder or conflicts. Confucius further argues that the ruler who loves ritual, righteousness, and trustworthiness, is *charismatic*—all the people will be *attracted* by him and flock to him of their own accord and *happily* work for him. Clearly what Confucius alludes to is *soft power* as it operates through attraction or noncoercion. He firmly believes in the *attractive* soft power of the virtuous ruler. Such a ruler is powerful as he enjoys the support of the common people. Other rulers who do not subscribe to Confucius' way will presumably either have a hard time managing the common people or they will cease to be rulers because his people will leave him for the rulers who govern by exercising soft power.

Confucius explicitly opposes the use of hard power as the principal political instrument. In the *Analects* 12.19,[15]

> Ji Kangzi asked Confucius about governing, saying, "If I were to execute those who lacked the Way in order to advance those who possessed the Way, how would that be?" Confucius responded, "In your governing, Sir, what need is there for executions? If you desire goodness, then the common people will be good. The Virtue of a gentleman is like the wind, and the Virtue of a petty person is like the grass—when the wind moves over the grass, the grass is sure to bend."[16]

In this passage, we see a direct clash between the two opposing understandings of political power. Ji Kangzi was the most powerful minister of the state of Lu. Like many rulers and high-ranking officials, he had a narrow conception of power. For him, power meant the hard variety. If he wanted the common people to behave, cruel punishment would be his first and only choice. Executions would have a terrifying effect on the common people who would fall in line because they were afraid of being punished if they did not. Confucius strongly disagreed with this view of power. In the *Analects* 2.3, he said,

> If you try to guide the common people with coercive regulations and keep them in line with punishments, the common people will become evasive and will have no sense of shame. If, however, you guide them with Virtue, and keep them in line by means of ritual, the people will have a sense of shame and will rectify themselves.[17]

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[14] Ibid.
[15] 12.19 季康子问政于孔子，曰："如杀无道，以就有道，何如？"孔子对曰："子为政，焉用杀？子欲善而民善矣。君子之德风，小人之德草。草上之风，必偃。"
[16] Translated by Edward Slingerland, *Confucius Analects*, Hackett, 2003.
[17] Ibid.

Confucius makes it clear that in governing, there is no need for executions which are the quintessential instrument of hard power. There is a better way to rule over the common people—If the ruler desires goodness, then the common people will be good. This is one of Confucius' central claims. In other passages he makes a similar point. In 13.6, for example, Confucius remarks, "When the ruler is correct, his will is put into effect without the need for official orders. When the ruler's person is not correct, he will not be obeyed no matter how many orders he issues."[18]

Confucius' way was not adopted by the feudal lords of his time because he insisted on the correctness of his understanding of political power and how it was supposed to be exercised. Confucius maintained that when a ruler's orders were not obeyed, the ruler, rather than the ruled, would be to blame. The ruler should remedy the problem by rectifying his own conduct in accordance with ritual.[19] In contrast, Legalist theorists offered a simple and straightforward solution to the same problem: punishments. Confucius believed in governing without the use of force; he believed in the absolute efficacy of leading by example; he believed in right operating independently of might. His contempt for and aversion to hard power can be seen in many passages in the *Analects*.[20] Particularly in 13.6, Confucius remarked, "When the ruler is correct, his will is put into effect without the need for official orders. When the ruler's person is not correct, he will not be obeyed no matter how many orders he issues."[21] He made similar remarks on other occasions (12.19, 13.13) as well, demonstrating that this is his considered, entrenched doctrine, rather than a casual, offhand comment.

As noted earlier, when a ruler's orders are not followed, it is the beginning of political disorder for which Confucius counsels a simple remedy—the ruler in question should conduct himself correctly, i.e., according to ritual. Clearly Confucius believes in the attractive power of the ruler's ritual-based charisma (*de* 德).[22] It is unclear, however, how it is supposed to work. There are two passages, 4.11 and 4.16, in which he sets the gentlemen and the commoners apart. In 4.11, Confucius remarks, "Where gentlemen set their hearts upon moral force (*de*), the commoners set theirs upon the soil. Where gentlemen think only of punishments, the commoners think only of

[18] Ibid.
[19] *Analects* 13.6.
[20] *Analects* 2.3, 12.7, 13.4, 15.1.
[21] Slingerland's translation.
[22] In the *Readings in Classical Chinese Philosophy* (2001), edited by Philip J. Ivanhoe and Bryan W. Van Norden, the concept of *de* (virtue) is explicated as follows: Originally *de* meant "royal virtue", namely "the spiritual force a king cultivates through proper sacrifice and deportment that allows him to gain and maintain his rule. This sense of
de being a kind of power remains central for many of its later meanings. Most generally, it could designate the natural effect or power—good, bad or indifferent—that a person or thing had upon those nearby. For Kongzi, *de* came to mean something like 'moral charisma'—a property that any good person could cultivate and have. It retained the connotation of having a 'magnetic' capacity to draw, influence and inspire others that was part of the earlier notion of 'royal virtue'" (357). *De* understood as the soft power of moral charisma is borne out by many passages in the *Analects*, not least 13.4.

exemptions."[23] He observed in 4.16, "The gentleman understands rightness, whereas the petty person understands profit." If the gentlemen and the common people had different values and motivations—for the former, it is rightness that motivates them, whereas for the latter, it is profit, then how could the common people flock to the virtuous ruler just because of the latter's virtue or correct conduct without needing any material incentives? If they could gravitate toward the virtuous ruler, then they would no longer be the profit-minded commoners, but the rightness-minded gentlemen. But that would collapse Confucius' own distinction between the gentlemen and the common people. Thus, while Confucius strongly believes in the soft power statecraft, it is unclear as to how it is supposed to operate.

According to Confucius' way, all those feudal rulers were lacking in political legitimacy *bu-zheng* (不正) because it was a brazen violation of ritual propriety to usurp the authority of the Son of Heaven. If they could all exercise self-control in accordance with ritual, the chaotic, moribund empire would revert to the Golden Age of the *Zhou* Dynasty. This is what Confucius meant when he told his best disciple Yan Hui (颜回) that if one day all the rulers could restrain themselves in accordance with ritual, the divided empire would return to *ren* (Goodness), meaning unity, order, peace, harmony, and happiness (*Analects* 12.1).

As mentioned earlier, Confucius' goal is to restore the order, peace, and harmony prevailed in the heyday of the *Zhou* Dynasty. This objective can be achieved through the exercise of soft power, namely ritual, music, leading by example, and moral force, exclusive of hard power such as execution, coercion, and violence. He opposes corporeal punishments as a means to maintain order and advises the rulers to lead their people through the soft power of moral force. Nowhere does Confucius express his soft power-centered statecraft more clearly than in passage 2.3,

> If you try to guide the common people by coercive regulations and keep them in line with punishments, the common people will become evasive and will have no sense of shame. If, however, you guide them with Virtue and keep them in line by means of ritual, the people will have a sense of shame and will rectify themselves.[24]

As we can see in this passage, Confucius opposes "coercive regulations" and "punishments", both of which are defining characteristics of hard power. He believes that hard power resources such as food supply and armed forces are dispensable. While he concedes that governing requires an adequate food supply, a strong military, and the trust of the common people, he nevertheless believes that only the trust from the common people is absolutely necessary. When his disciple Zigong asks him which

[23] Translated by Arthur Waley. It should be pointed out that among the translators of the *Analects* there is a disagreement on how *xiaoren* 小人 is understood. Clearly Waley understood *xiaoren* as the commoners. However, according to D.C. Lau, at least as far as this passage is concerned, small men are a subgroup within the ruling class who are not virtuous. On this issue I am with Waley because the meanings of *xiaoren* in other passages such as 12.19 and 13.4 corroborate Waley's understanding. By exemptions, Waley referred to

[24] *Confucius Analects*, Edward Slingerland, trans., Hackett, 2003, 8.

should be given up first if one of them must be dispensed with, Confucius gives a predictable answer that is consistent with his soft power approach to governance: "I would give up the military first" (The *Analects* 12.7). In the *Analects* 15.1, there is an interesting exchange between a ruler and Confucius:

> The duke Ling of Wei asked Confucius about tactics. Confucius replied, "I have heard all about sacrificial vessels, but I have not learned military matters." On this, he took his departure the next day.[25]

That Confucius showed little interest in military matters is also consistent with his opposition to the use of hard power as the instrument of statecraft. When the rulers were vying for power and supremacy, they would naturally seek consultation on military strategies and tactics. At the time, Confucius was perhaps *the* authority on the Zhou ritual, but his expertise on ritual was hardly in high demand among the feudal lords for the obvious reason that it could not help them win wars. I believe that this is the main reason as to why none of the rulers with whom Confucius had an audience offered him a position, for they were not living in the halcyon days of peace and tranquility but caught up in a wartime exigency.

The above textual evidence has unmistakably shown Confucius' aversion to death penalty, his lack of interest in military matters, his firm belief in the superiority of soft power of virtue, ritual, music, and ruling by example over the hard power statecraft of punishment, coercion, and violence. It lends strong support to my view that Confucius' political philosophy is *primarily* soft-power oriented. I say "primarily" because while Confucius was a firm believer in the superiority of soft power statecraft, he was not at all naïve or devoid of commonsense. He would not oppose the use of force as a last resort or under certain circumstances. In the *Analects* 11.17, Confucius said,

> The head of the Ji Family is wealthier than even the Duke of Zhou ever was, and yet Ran Qiu collects taxes on his behalf to further increase his already excessive wealth. Ran Qiu is no disciple of mine. If you disciples were to sound the drums and attack him, I would not disapprove.[26]

Of course, Ran Qiu was his disciple. One might argue that there is a sense in which Confucius treated this disciple as a family member who had gone astray. Confucius was not inciting violence against a stranger but meant to teach Ran Qiu a lesson, so he might rectify his mistake in the future. My point is that Confucius was not a soft power advocate in the absolute sense. He would also approve of the use of force when it was legitimately authorized. In 16.2, for example, he said, "When the Way prevails in the world, rituals, music, punitive expeditions, and attacks against foreign powers issue from the Son of Heaven."[27] Punitive expeditions and attacks against foreign powers are

[25] Translated by James Legge.
[26] Translated by Slingerland, Hackett, 2003.
[27] Ibid.

justified if they issue from the highest authority whose power is legitimatized by the Mandate of Heaven.

Although Confucius did not have the opportunity to see the rise of Legalism or personally confront Legalist proponents, he would strongly disagree with what the famous Legalist thinker Han Fei (Watson 2003) calls the "two handles"—punishment and reward, both of which are the instrument of *hard power*. As quoted earlier, Confucius counseled s against executing wrongdoers. He firmly believed in the efficacy of governing by setting a good example for the governed. Confucius' soft power approach is not lost on Mencius, commonly regarded as his greatest follower, who shared his predecessor's soft-power political philosophy.

In *Mencius*, 4B5, Mencius declared, "When the prince is benevolent, everyone else is benevolent; when the prince is dutiful, everyone else is dutiful."[28] It seems to follow that when everyone is benevolent and dutiful, there is no need for hard power. A concern might be raised about this Confucian doctrine. One might argue that contrary to Confucius and Mencius, even if a ruler desires goodness, there is no guarantee that everyone else will be good. For instance, hardened criminals and sociopaths will unlikely become benevolent and dutiful just because the ruler is so. What should be done about such deviant characters? If there were no punishments, crimes would be committed with impunity. It seems that hard power is required to maintain social order and peace. In *Mencius* 4B28, Mencius presented a scenario, which I believe poses a potent challenge to the Confucian soft-power statecraft. Mencius remarked,

> He who loves others is always loved by them; he who respects others is always respected by them. Suppose a man treats one in an outrageous manner. Faced with this, a gentleman will say to himself, "I must be lacking in benevolence and courtesy, or how could such a thing happen to me?" When, looking into himself, he finds he has been benevolent and courteous, and yet this outrageous treatment continues, then the gentleman will say to himself, "I must have failed to do my best for him." When, on looking into himself, he finds that he has done his best and yet this outrageous treatment continues, then the gentleman will say, "This man does not know what he is doing. Such a person is no different from an animal. One cannot expect an animal to know any better."[29]

If, as Mencius asserted, he who loves others is *always* loved by them, then how could there be an unkind, unreasonable, and unruly person as described by Mencius? Perhaps Mencius would reply that he is not a man, but an animal.[30] But indignation alone cannot solve the problem. People like that must be dealt with because they can cause real harm to society—they may commit crimes, start riots or conspire to overthrow the government. The Confucian soft power approach would be ill-equipped to deal with such troublemakers. Confucius himself was aware of the problem.

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[28] *Mencius*, D.C. Lau, trans., Penguin Books, 1970, 129. This view should not be considered too far-fetched. I would argue that this phenomenon can be explained by what may be referred to as a theory of imitation according to which we human beings have a remarkable ability to imitate others, especially those we admire or respect. In ancient China, virtuous rulers were revered to the utmost degree.

[29] Ibid., 134.

[30] In today's parlance, the man described by Mencius may be called a "sociopath" or "psychopath".

Outraged by the Ji family's flagrant disregard for the Zhou sovereign's prerogative to use eight rows of eight dancers, he lashed out at the usurpers, "If this can be tolerated, what cannot be tolerated?" (*Analects*, 3.1).[31] As previously quoted, Confucius in 13.4 insisted that if a ruler loves the ritual, then none among his people will dare to be disrespectful; if the ruler loves righteousness, then none among his people will dare to be disobedient. Presumably no one cared more about the Zhou ritual than the Zhou kings. If so, then why were they unable to maintain their authority over the feudal lords who dared to be disrespectful, disloyal, and disobedient? The answer is not that the *Zhou* kings did not love ritual, but rather that they did not have adequate hard power to punish insubordination and rebellious behavior. A valuable lesson from the decline of the *Zhou* dynasty is that soft-power approach alone uncomplemented by hard power is not viable. This lesson has contemporary relevance because all societies, East and West, past and present, are faced with the jointly concerned issue of maintaining order, unity, and peace.

3. LEGALIST HARD-POWER CENTERED STATECRAFT

Having presented the textual evidence in support of my claim that Confucius' political philosophy is primarily soft-power oriented, I will now argue that the Legalist way exemplifies hard-power centered statecraft. When it comes to discussion of the Legalist way, most commentators tend to focus on Han Fei's writings. While Han Fei 韩非 (280-233 BCE) was an excellent synthesizer of his predecessors' ideas, he did not have an opportunity to implement those ideas due to his untimely demise allegedly at the hands of Li Si 李斯 (284-208BCE), a top aide to the ruler of the Qin state, who was jealous of Han Fei's talent. At the time when Han Fei had an audience with the Qin ruler—the future first emperor of the *Qin* dynasty, the Legalist reforms implemented by Shang Yang (390–338 BCE), the advisor to Duke Xiao of Qin 秦孝公 had already borne abundant fruit—the dramatic transformation of the Qin state from an economic backwater to a formidable military powerhouse. Shang Yang's Reforms 商鞅变法, under the auspice of Duke Xiao of Qin, had helped unleash tremendous productive energy suffocated by the hereditary social system according to which members of the nobility enjoyed wealth and privileges without having to work, whereas the common people (peasants and slaves) had to toil and struggle to make ends meet, without any hope of moving up the economic ladder and social hierarchy. Shang's goal was twofold: to enrich the Qin state and strengthen its military. His reforms mainly relied on *hard power* tactics, namely punishments and rewards, as *incentives* for agricultural productivity and battlefield effectiveness of the Qin military. In contrast, Confucius and his followers had little to say about how to motivate the common people to be productive or combat effective. As noted earlier, Confucius maintained that if a ruler loved ritual, the common people would flock to him and work for him. What's missing in his argument is perhaps this: The ruler who loved ritual would not levy taxes on the

[31] Confucius, *The Analects*, D. C. Lau, trans., The Chinese University Press, 1992, 19.

common people as harshly as the ruler who did not love ritual. However, the ritual loving ruler would not have an abundance of resources in his coffers because he did not know how to motivate his people to be highly productive or reform the social and political system to unleash suppressed or untapped productive energy. For Confucius, motivating soldiers to be combat effective would be out of question because he showed no interest in military matters.

Shang Yang has implemented a series of reformative measures to augment Qin state's hard power (Zhan 2002, 105-106). These measures embodies the Legalist understanding of political power. Shang's twofold goal, as noted earlier, is to enrich the state and to strengthen the military (富国强兵), both of which are hard power resources that are interconnected and mutually reinforcing—without a thriving economy, the military cannot be strengthened; without a strong military, valuable resources are vulnerable. It is hard to know whether conquering all other feudal states was on the ruler's mind at that time. It is most likely that the ultimate goal of unifying all parts of China under the Qin banner is gradually taking shape over several generations. What lies at the heart of Shang's economic and military strategies is the idea of motivation—how to tap into common people's potentials and maximizing their utmost capacities in furtherance of the above twofold goal. Other things being equal, people who are highly motivated will achieve a higher level of productivity. Clearly, under the stagnant system of hereditary aristocracy, the common people's productivity and creativity are suppressed, because rank, honor, wealth, and land ownership are awarded based on heredity, not on productivity. Confucians' fatalist dictum—"Life and death are governed by fate, wealth and honor are determined by Heaven" (死生有命,富贵在天) (*Analects* 12.5) reflects the social stagnation under the hereditary aristocracy. It does not occur to Confucius and his followers that a social reform can change that and place their destiny in their own hands. In contrast, it is Legalist thinkers who initiate the reforms to radically change the society where there is hardly any social mobility: no matter how hard the common people toil, they and their descendants will remain stuck in the lowest echelons of society. But due to Shang's reforms that has brought about drastic changes to the Qin state, the path to wealth and honor is now open to and within the reach of the common people if they can demonstrate a high degree of agricultural productivity or combat prowess.

The reforms carried out by Shang Yang abolishes the traditional system of hereditary aristocracy and inaugurates the system of new aristocracy based on military merits, rather than birth. Under the new system, there are twenty ranks of nobility, which are awarded to those who have killed enemy combatants on the battlefield. On those who have killed enemy officers, a higher rank of nobility will be conferred. A rank of nobility comes with alluring material rewards including houses, land, servants, even finer food. "[A] score of honorary ranks with exemption from labor service or taxes and (at certain levels) conferment of income from certain lands and people were used to create a new elite separate from the old aristocracy and dependent upon the ruler" (Fairbank and Goldman 2006, 57). No wonder soldiers in the Qin military are highly motivated and eager to engage their enemy in battle as it is an opportunity for them to obtain ranks of nobility with attendant privileges and material rewards. In the

changes to the economy Shang Yang has brought about, agriculture takes pride of place—farming and weaving are rewarded, whereas commerce is marginalized. Highly productive slaves will be set free. The old unproductive well-field system has been abolished. "[T]he common people were permitted to buy and sell land, which stimulated farm enterprise" (*Ibid*). On the other hand, those who are engaged in commerce, indolent and/or indigent will be forced to work as slaves for the government. Another reformative measure is that for a family having two or more male adult children who have not moved out to set up their own households, the taxes (赋税) will be doubled. This policy has led to the thriving of small individual farms and increased the revenue for the Qin state.

As noted earlier, a fundamental difference between Confucius' way and the Legalist statecraft is that Confucius insists on ritual as the principal tool of government, whereas for Legalist theorists, it is law that takes pride of place in their governance toolkit. While ritual, like morality, is a means of soft power, law with its attendant enforcement of sanctions or penalties is quintessentially hard power. "[C]riminal laws were promulgated so that severe punishments as well as rewards would be known to everyone and equally applicable to all persons. Legalist doctrines of government aimed at enforcing laws to support agriculture and strengthen the state over the family" (Fairbank and Goldman 2006, 58). The law-centered Legalist reforms have ushed in a fairer and more egalitarian system as opposed to the highly inegalitarian and stratified society Confucius and his followers want to preserve and perpetuate. Besides the soft power statecraft, Confucians are also known for two doctrines: One is that love has degrees. The other is stated in the Confucian classic *Li Ji* (the Book of Rites): the rules of ritual do not go down to the commoners and the penal code does not go up to great officers. Both of these doctrines presuppose an inegalitarian society.

Shang Yang's reforms were not without precedents. Before him, there were two famous reformers—Wu Qi (吴起) and Li Kui (李悝). Wu Qi under the auspice of King Dao of Chu (楚悼王) who ruled the state of Chu from 401 to 381 BCE, carried out a series of reforms (Zhan 2002, 104). He believed that the sorry state of Chu's economy and armed forces was caused by the fact that there were too many government officials and hereditary aristocrats who fed off the state but contributed nothing in return. In today's parlance, they are called "free riders" or "parasites". Wu's reforms were intended to remedy Chu's parasite (or free rider) economy by depriving many aristocrats of their land, property, and privileges and by laying off many government officials. The resultant revenues and savings were used to train soldiers to increase their fighting prowess.

Li Kui (455-395 BCE) was the prime minister under Marquis Wen of Wei 魏文侯—the ruler of the state of Wei (Zhan 2002, 102-104). His reforms, based on the principle of giving food, salary, or position to those who are productive or meritorious, deprive hereditary aristocrats of their property and privileges. His reformative policies encourage peasants to work hard to get the most out of the fecundity of the soil. According to his estimate, industrious peasants can increase grain production by three

dou per *mu*[32], whereas those who are lazy will reduce grain production by the same amount. Li Kui uses this estimate to call on peasants to work the land diligently. He has implemented the "Fair Grain Pricing Law", according to which the state will purchase surplus grain from peasants in good years and sell to them in bad years at comparable prices to keep grain prices stable and prevent price gouging. His reforms have made the state of Wei prosperous, and its booming economy enables the state to strengthen its military. However, Li understands that higher productivity means very little if property rights and fruits of one's labor are not secure, so he has written the *Book of Law* (Fajing, 法经), the first two sections of which focus on legal protection of property from theft and banditry.

As mentioned earlier, the main goal of the reforms carried out by Wu Qi, Li Kui, and Shang Yang is twofold—to enrich the state and strengthen the military. All the rulers of the feudal states want a prosperous economy and a powerful military to help them defeat all other states or at the very least not to be bullied by them. So they need advisors to tell them how to vitalize their economies and strengthen their militaries. Wu Qi, Li Kui, and Shang Yang are hired because their policy ideas and suggestions meet the needs of the respective rulers. In contrast, all Confucius can offer is *ethical advice*—how to be a virtuous ruler who abides by ritual and treats the common people kindly; he has little to say about how to incentivize agricultural productivity and combat effectiveness because he is not interested in such practical matters as he believes that to be a virtuous leader, a familiarity with ritual, music, poetry, and history is sufficient.

The solution to the problem of social and political disorder offered by Legalist reformers was diametrically opposed to Confucius' way in that they placed great emphasis almost exclusively on *hard power* resources—a coercive state and powerful military. Their hard power-oriented approach found an eager audience among the rulers of the feudal states, motivated by existential exigency or ambition, whereas Confucius' soft power solution was rejected by all the rulers. Even though on the surface, Confucius' way seemed ethically admirable, it was the Legalist hard power approach that helped build the formidable Qin state that eventually unified China, thus bringing to an end to the endless wars that had lasted more than five hundred years from the late Spring and Autumn period to the end of the Warring States period. When all is said and done, it is the Legalist way, rather than Confucius' way, that saved lives.

If the Legalist hard-power approach was so effective, then why was the *Qin* Dynasty, established by hard power, the shortest-lived of all the dynasties in the history of China? Although the answer to this question requires an analysis beyond the scope of this paper, from a general, philosophical perspective, I would argue that even though the Legalist hard-power approach was instrumental in the creation of the mighty Qin *State*, it was no longer a winning strategy in the maintenance of the newly established Qin *Empire.* How did the first Qin emperor (Qin Shi Huangdi) solve a problem like winning hearts and minds of the peoples in the conquered states, who were full of resentment and hostility? Unfortunately, he made the mistake of continuing to apply the same old hard-charging tool to the new social and political reality because it served

[32] One *dou* is approximately 53 pounds, so three dou would be 159 pounds; one mu is about 0.16 acre.

the Qin state so well in the recent past and because his political vision was too narrowly confined to the Legalist hard power philosophy to allow him to tap into other philosophical resources. It was a mistake of his own making because he had banned all other schools of Chinese philosophy, not least Confucianism. So it may be said, at the risk of oversimplifying, that a key reason that the Qin Empire was short-lived, toppled by the uprising and insurgency, and replaced by the Han Empire is that the Qin emperors failed to adapt to the new social and political reality. More specifically, they failed to enact appeasing, lenient, soft power policies in dealing with the diverse peoples from different political, cultural, and historical backgrounds. In other words, they failed to adopt a smart power strategy according to which a combination of soft and hard power is used efficiently and wisely to best effect.

In stark contrast with the shortest-lived *Qin* Dynasty, the *Han* Dynasty was one of the longest surviving dynasties in Chinese history. Its staying power may be attributed to its integration of diverse resources of statecraft: Daoism, Legalism, Confucianism, and so on. In the early years of the *Han* Dynasty, the emperor practiced the Daoist statecraft of nonaction (*wu-wei*) and noninterference, which in the short run improved the economy and ameliorated the lives of the common people. But such laissez-faire policies proved to have serious side effects: the feudal lords grew so powerful that they put themselves above the the imperial court, and they even openly rebelled against the emperors; the economy was in disarray; the expanding power of merchants and powerful families enabled them to annex more and more lands from peasants; many peasants removed themselves from the household registration because they wanted to avoid the feudal servitude; the Han's foreign policies of appeasement of and concession to the invading Huns in the north encouraged them to continuously invade and plunder the Han territories (Zhan, 173-174). This case seems to show that the Daoist statecraft of *wuwei* is problematic, to say the least. What works in nature may not work in the management of an empire.

To characterize the Daoist statecraft in terms of the soft power and hard power dichotomy, I would argue that it is neither "soft" nor "hard" because it is supposed to let things take their course without interference with how things develop. Most likely, it would result in anarchy (state of nature), an outcome both Legalists and Confucians wanted to avoid. The Han Empire learned a lesson from the failings of the *Qin* Dynasty it superseded. On the recommendation of the scholar-official Dong Zhongshu (179-104 BCE), Emperor Wu of Han (156-87 BCE) elevated the soft power-centered Confucianism to the height of official ideology of the *Han* Dynasty. This, however, does not mean that the hard power-centered Legalist policies were repudiated or abandoned. On the contrary, the emperor adopted the Qin's aggressive and expansionist foreign policies and waged many costly wars against the Huns and imposed exorbitant taxes to fund those wars. Emperor Xuan of Han aptly summed up the Han system as a hybrid of the Legalist way of hegemony and the Confucian way of sage kingship (Zhan, 175). In other words, *it was an integration of hard-power and soft-power oriented political philosophies, which* is what Nye and others would refer to as "smart power", that enhanced the enduring strengths of the *Han* Dynasty.

4. CONCLUSION

In this paper I have examined through the lens of contemporary Western theories of political power the controversy between Confucianism and Legalism and argued that Confucius' way is *primarily* a soft power approach to the problem of social and political disorder of his time, whereas the Legalist way is *fundamentally* a form of hard power statecraft.[33] Scholars have used other conceptual frameworks to help understand their differences. For example, Eirik Lang Harris and Henrique Schneider (2022) have categorized Legalist political philosophy with its emphasis on *reward* and *punishment* as a form of *realism*, and Confucius' way as a version of *idealism* because of its focus on the cultivation of virtue. While their realist versus idealist contrast is illuminating in a broad sense, it seems to me that the contemporary theories of power developed by Dahl, Lukes, and Nye are better tools of analysis that not only help us better understand the fundamental differences between Confucius' way and its Legalist counterpart, but also bring us to the forefront of the geopolitics: the competition between the United States and China. Although the focus of this paper is on delineating and characterizing Confucius' and the Legalist solutions to the social and political problems of their times—the decline of the *Zhou* dynasty and the interstate rivalry and warfare among the feudal states, the implications of this study transcend the purview of local or historical interests.

The 21st century has been witnessing the ongoing great competition between the existing superpower—the United States on the one hand, and a rising superpower—China, on the other. The United States wants to retain its leadership in world politics, whereas China attempts to expand its sphere of influence. Both countries adopt smart-power strategies and foreign policies. But smart power approaches can only go as far as the strategical goals they serve. The two nuclear-armed countries must decide what their end goal is. Is it the annihilation of their opponent? Is it peaceful co-existence? Is it the maintenance of the status quo? Only when each sees the other as a partner and treats them as such, rather than a rival or enemy, in dealing with jointly concerned issues such as the climate change through constructive engagement, can there be hope for humanity on this fragile and only planet we call "home". If power is defined as the ability to influence others to get what one wants, we must think carefully about what we want. Smart power not only means a combination of hard and soft power, as Nye defines it, but also means *setting inclusive goals* that others want to achieve. Inclusion should be a defining characteristic of smart power. If both the United States and China set their goals that are essentially self-centered and exclusive, how can they cooperate with each other to solve the most serious challenges facing humanity today?

[33] While I argue that Confucius' way is best characterized as a soft-power approach, a caveat is in order: he would not categorically oppose the use of force. At least two passages, 14.21 and 16.2, in the *Analects* lend support to this nuanced view.

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