

Political Theory and Linguistic Criteria in HAN Feizi's Philosophy

Aloysius P. Martinich

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Abstract HAN Feizi's 韓非子 thought, I argue, contains a political theory that justifies principled, law-governed government. A key element of his theory is a solution to the problem of rectifying names. He recognized that the same word can have varying criteria of application depending on the purpose of the practice that requires a criterion. Some criteria for a practice are good and some bad. A wise ruler knows which criteria are good and appropriate to ruling. His view is illuminated by considering the phenomenon of paradiastole and a contemporary view about the relationship between meaning and criteria of application.

Keywords HAN Feizi 韓非子 · Thomas Hobbes · Rectification of names · Criteria · Paradiastole

1 Introduction

A common interpretation of HAN Feizi's 韓非子 philosophy is that he did not have a political philosophy, but rather provided amoral advice to rulers, much as Niccolò Machiavelli did in *The Prince*. While much of his writing provides practical advice with no obvious appeal to morality, I hope to show that his writings contain a political theory that justifies principled, law-governed government that serves the interests of its subjects or citizens. My intention here is to treat HAN Feizi as a philosopher¹ and not for his significance in the history of Chinese philosophy. I begin with the problem of the rectification of names and paradiastole in Section 2. In Section 3, the precise problem about names is shown to result from the fact that a word with a fixed meaning may have various criteria of application attributed to it. In Section 4, it is shown that these criteria are nonsemantic but often confused with meaning. Section 5 explains

¹I will treat HAN Feizi as a hypothetical and ideal author. As a hypothetical author he is similar to Homer, the reputed author of the *Iliad* and *Odyssey*. As an ideal author, HAN Feizi is taken to mean by his words what yields the best philosophical view. Although the actual historical person HAN Feizi may not have written all of the *Hanfeizi*, the author here called "HAN Feizi" did.

that HAN Feizi advocated that rulers apply politically relevant terms with criteria appropriate to healthy political functions. Section 6 explains that HAN Feizi's insistence that political values always trump nonpolitical values resulted in the mistaken belief that he had no normative view at all. In Section 7, I argue that he promoted a politically appropriate and principled theory.

2 The Rectification of Names and Paradiastole

The concept of the rectification of names (*zhengming* 正名) in Chinese philosophy is familiar; but it is not easy to express it as a philosophical problem. So it is not obvious what direction a solution should take. In this section I suggest that HAN Feizi adumbrated the right solution in the course of discussing “*xingming* 形名,” “*xingming* 刑名,” and sometimes “*mingshi* 名實.” Although by *xingming*, HAN Feizi sometimes means “job-performance” or “job-description,” the phrase has the more general sense of thing-name.²

Kongzi 孔子 introduced the issue of the rectification of names in this speech to one of his disciples:

When names are not correct, what is said will not sound reasonable; when what is said does not sound reasonable, affairs will not culminate in success; when affairs do not culminate in success, rites and music will not flourish; when rites and music do not flourish, punishments will not fit the crimes; when punishments do not fit the crimes, the common people will not know where to put hand and foot. (*Analects* 13.3)

For Kongzi, the rectification of names is sometimes a political action. As HSIAO Kung-chuan 蕭公權 says, “Explained in modern terms, what he [Kongzi] called the rectification of names meant readjusting the powers and duties of ruler and minister, superior and inferior, according to the institutions of the most flourishing period of the Zhou dynasty. When asked what the first task of government is, he answered, ‘Let the prince be a prince, the minister a minister, the father a father and the son a son’” (Hsiao 1979: 99). As familiar as Kongzi's description is, it is not clear what its importance is because a prince's being a prince and a minister's being a minister are tautologies.

The problem of the rectification of names received some clarification when Kongzi said, “Thus when the gentleman names something, the name is usable in speech, and when he says something this is sure to be practicable. The thing about the gentleman is that he is anything but casual where speech is concerned” (*Analects* 13.3). In this passage, Kongzi says that gentlemen speak seriously and this includes speaking precisely so that they can be understood. This is not bad advice; but if it is the correct solution to a supposedly classic problem, then the problem is not deep enough to deserve the name “classic.” If we supplement Kongzi's answer with the claim that to know the right names for things is to know one's role in society and that this will create social harmony, something more substantive is being said. However, the supposed

² Creel's influential argument that *xingming* should be understood as performance-job title (or description) has been challenged by Lau (1973) and Makeham (1994: 70–74). See Creel 1970.

depth of the problem about the mysterious relation between names and correctness remains elusive.

The deep issue about the rectification of names, or at least an important aspect of that issue, is illuminated by the phenomenon of paradiastole, the figure of speech in which a term with a positive connotation is applied to something that deserves a term with a negative connotation or vice versa. In *The Peloponnesian War*, Thucydides laments the decadent use of language in Athens:

The received value of names imposed for signification of things was changed into arbitrary. For inconsiderate boldness was counted true-hearted manliness; provident deliberation, a handsome fear; modesty, the cloak of cowardice; to be wise in everything, to be lazy in everything. A furious suddenness was reputed a point of valor. (Thucydides 1959: 204–205)³

One of HAN Feizi's notable examples of paradiastole occurs in this passage:

Who fears death and shuns difficulty, is the type of citizen who would surrender or retreat, but the world reveres him by calling him “a life-valuing gentleman.” Who studies the way of the early kings and propounds theories of his own, is the type of citizen that would neglect the law, but the world reveres him by calling him “a cultured and learned gentleman.” Who idles his time away and obtains big awards, is the type of citizen who would live on charities, but the world reveres him by calling him “a talented gentleman.”⁴ (Han 1959: 237)

Another occurs in this passage:

[H]e who makes certain to avenge any wrong done to his brother is called an upright man, and he who joins his friend in attacking the perpetrator of an insult is called a man of honor.... Likewise he who manages to get clothing and food without working for them is called an able man, and he who wins esteem without having achieved any merit in battle is called a worthy man. (Han 1964: 104–105)

HAN Feizi does not believe that a person who joins his friend in attacking a perpetrator of an insult is a man of honor.

He uses an apt metaphor to describe the kind of misuse of names involved in paradiastole: “When names are twisted, things shift about” (*ming yi wu xi* 名倚物徙). What is needed is for things to “stay in place” (*ming zheng wu ding* 名正物定) (Han 1964: 36). The general idea is that when speakers use, say, “brave,” to refer to a reckless person, then the word is twisted and in being twisted a reckless person moves from their proper place to the place appropriate for brave persons; and if “prudent” is

³ Thomas Hobbes, who is sometimes compared to HAN Feizi, admired Thucydides, and his first major publication was a translation of *The Peloponnesian War*. He was greatly affected by Thucydides' point, as indicated by this quotation from *Leviathan*: “For one man calleth *Wisdom* what another calleth *feare*; and one *cruelty*, what another *justice*; one *prodigality*, what another *magnanimity*; and one *gravity*, what another *stupidity*” (Hobbes 1651: 17).

⁴ This passage continues in the same way about other negative characteristics and then turns to positive qualities that “the world despises” (Han 1959: 237).

used to refer to a coward, then that word is twisted and the coward moves from his proper place too. Although HAN Feizi is using the general word for names here, he may be thinking specifically of job titles for government positions. When an improper criterion is connected to a job title, the word is twisted and the wrong person moves into the job.

According to classical Greek and Roman rhetoricians, what happens in paradiastole is that evaluative names, which are supposed to denote certain kinds of events or character traits, are used to refer to different kinds of events or character traits, which have or deserve the opposite evaluation. This explanation is inadequate. Paradiastole typically involves some deception, either self-deception or a deception directed at the audience. The various elements of paradiastole can be laid out as follows:

Paradiastole occurs if and only if

- (i) a word W semantically denotes things that have the property F (or have F -ness);
- (ii) a person P successfully uses W to refer to an object O , and O does not have F ;
- (iii) O has a property G that leads to the mistake that O is F ;
- (iv) things that are F are praiseworthy or objectionable in virtue of being F ;
- (v) things that are G are objectionable or praiseworthy, respectively; and
- (vi) P is either self-deceived about using W to refer to O or P is using W to refer to O in order to deceive A .

Although paradiastole is sometimes restricted to cases in which something bad is called “good,” it would be easy to provide examples that show that the direction of misnaming can go in either direction, as indicated by conditions (iv) and (v). In paradiastole, the normative valence of F -ness has to be the opposite of G -ness, as indicated by condition (vi). Suppose that the words “obese” and “voluptuous” denote the same set of objects. Although one has a negative connotation and the other a positive one, uses of neither word involve paradiastole with respect to the other because, by supposition, conditions (i) and (ii) would not be fulfilled.

One may ask how it can happen that a word that denotes O , on some occasions, denotes something other than O ? The answer begins by pointing out that the question is stated incorrectly. Words denote and speakers refer. A word that semantically denotes O always denotes O , but a speaker may be able to use that word to refer to something other than O . This phenomenon, which is well known in the philosophy of language, was introduced with respect to descriptions that involved no evaluative terms.⁵ It is reasonable to extend the class of paradiastole to evaluatively neutral terms when some evaluation is motivating the use of the term. However, for our purposes no decision has to be made on this matter. Our examples will be about cases in which the consequences of using a word or phrase to denote something other than its proper object are dangerous to the stability of the civil state. When in political affairs something is called by the wrong name, the chances of poor decisions increase. So the problem of paradiastole is to devise a way of preventing things of one kind from being used to refer to something of a contrary kind.

⁵ The phenomenon was first introduced in Donnellan 1967. The secondary literature on this problem is enormous.

3 Criteria and the Rectification of Names

No Chinese philosopher cared more about the stability of the civil state than HAN Feizi. A crucial condition for achieving stability is getting the right people for the right jobs, and doing this depends on having criteria that identify those and only those who will satisfy the job descriptions for their jobs. In one passage in which HAN Feizi makes this point, he begins with nonpolitical examples:

If one were only to note the quantity of tin used in the alloy, examine the color of the metal, but apply no other test, then even the famous Smithy OU 區 could not guarantee the sharpness of a sword. But if one sees it strike off the heads of water birds and cut down horses on land, then even the stupidest slave would not doubt that the sword is sharp. If one were only to look at a horse's teeth and examine its shape, then even the famous judge of horses, Po Lo 伯樂 could not guarantee the quality of the horse. But if one hitches it to a carriage and observes how it covers a certain distance of ground, then even the stupidest slave can tell whether the horse is good or not. (Han 1964: 124–125)

HAN Feizi means that what is needed is an appropriate operational test that will allow one to determine an appropriate standard or criterion for a purpose (Martinich and Stroll 2007: 26–31). An appropriate test for “sharp sword” is that it cuts off the heads of certain animals; an appropriate test for a good horse is that it pulls a carriage a certain distance within a certain time. His point about criteria is quite general. He then applies the point to an incident from the *Analects*:

Similarly, if one were only to observe a man's features and dress and listen to his speech, then even Kunzi [Kongzi] 孔子 could not be certain what kind of person he is. But if one tries him out in government office and examines his achievements, then even a man of mediocre judgment can tell whether he is stupid or wise. (Han 1964: 125)

Appointing men to office “on the basis of reputation alone” (*yi yu* 以譽) is not a good criterion: “In such cases ... the state will fall into disorder” (Han 1964: 23). When rewards are not tied to appropriate performance, “the officials will turn their backs on law, seeking only to establish weighty personal connections and making light of public duty” (Han 1964: 23). Also, since most rulers are average, one needs criteria that an ordinary person can use.

While HAN Feizi does not make any linguistic claims in the passages just discussed, he does in “The Two Handles”: “Make certain that name and result match, then the people will stick to their posts. If you discard this and look for some other method to rule, you will win the name of one who is profoundly deluded” (Han 1964: 39). The right criteria or standards connect names with the right things. Names are correct when the ruler “establishes the standard [that is correct],⁶ and abides by it, and lets all things settle themselves” (Han 1964: 36). Although HAN Feizi is not especially interested in language, language is so pervasive in human life that it is difficult for supposedly

⁶ Clarifying words have been added in brackets when the translation of HAN Feizi's text may be misleading.

nonlinguistic practices not to be related to linguistic phenomena. Understanding many practices requires some views about language, perhaps not blacksmithing or wall-building, but certainly politics. In the cases that HAN Feizi considers, reputations and job descriptions, the inextricable link to language is evident. As such, reputations and job descriptions can be distorted or twisted by paradiastole.

The correct solution to the problem of paradiastole is the one HAN Feizi insists on, namely, to use functional criteria to determine the denotations of terms relevant to the success of the government. If the criterion for wisdom is giving advice that strengthens the state, then no one will be misled by clever words that cause weakness or produce nothing. If the health of the state is enhanced by an outcome, then the policy that caused it was good; and if its health is damaged by an outcome, then the policy that caused it was bad. Because paradiastolic speech can be exposed by the application of functional criteria, it becomes ineffective.

4 The Confusion of Meaning and Criteria

One may object that my discussion of HAN Feizi is mistaken because I am connecting it too closely with language. HAN Feizi, the objection continues, was interested not in words but deeds. He simply wanted members of the government to perform their job effectively and provided specific practical advice to this end.

There are two objections here. One is that because HAN Feizi was concerned about practical advice, he was not a theoretical thinker. The reply to this is that if his concerns were only practical, he would not be read as a philosopher. His practical recommendations are grounded in general principles. The other objection is that my attributing a linguistic theory to him is unfaithful to his interest in deeds, not words. My initial reply to this objection is that it exaggerates the consequences of marking the difference between words and their denotations. As J. L. Austin pointed out, whether we say we are defining elephants or the word “elephant” both the word and elephant are illuminated (Austin 1970: 124). The closeness between words and deeds or facts is reflected in characteristic T-sentences:

(S) “Snow is white” is true if and only if snow is white.⁷

(J) “The minister did his job” is true if and only if the minister did his job.

The apparent triviality of these sentences is due to the close connection between the words uttered to express a fact or action and the fact or action itself. The point can also be expressed using the distinction of logical positivists between the material and formal modes of speech. In the material mode, one may say that snow is white. Virtually the same thing is said in the formal mode, by saying “snow” denotes something white. And, “‘snow’ denotes something white” says virtually the same thing as “snow is white” (Carnap 1934).

⁷ For a speaker of English, S is not linguistically informative. Philosophers sometimes considered that an objection to such sentences. They should not have thought so because T-sentences are not supposed to be informative. They play a role in the project of giving the truth conditions for the infinite number of sentences that constitute English or some other language, not the simplest sentences of the language.

Someone may now object that the logical positivists were mistaken in trying to assimilate the formal mode to the material mode. Talking about words presupposes knowledge of a specific language while talking about the things denoted by words does not. It is not necessary for me to evaluate this last objection because a crucial feature of criteria for the application of words forestalls it. The criterion for the correct application of a word is not the same as the meaning of the word or any other semantic phenomenon, except in nonordinary cases when the criterion is stipulated to be the meaning. Consider some uncontroversial, nonpolitical cases. "Round" means *having a smooth curved plane around a central point*. Billiard balls and ball bearings are standard examples of things that are round.⁸ If a billiard ball or ball bearing had the precise shape of a typical orange, it would not be round. However also consider that oranges are round fruit, while bananas are not. How can an orange-shaped object not be round when oranges, which are orange-shaped, are round? The apparent contradiction is resolved by considering that different criteria are appropriate for roundness. To say that an orange is round for a fruit but not round for playing billiards is not to say something contradictory. The phrases, "for a fruit" and "for playing billiards," imply that different criteria are appropriate. The appropriate criteria are not intrinsic to the meanings of the words but to the purposes of a relevant speaker and hearer. Orange-shaped billiard balls are not round because their shape does not allow them to function satisfactorily in playing billiards. The criterion appropriate to their use in billiards requires a degree of smoothness and symmetry greater than that had by ordinary oranges. By this criterion, oranges are not round. However it is inappropriate and unnecessary to apply the criteria for round billiard balls to fruit. By the criteria appropriate to fruit, oranges are round.⁹ Very little in this long paragraph has said anything about words. All talk of words could have been eliminated. We can say quite naturally that oranges are round by one criterion and billiard balls are round by one. Here we are talking only about oranges and billiard balls and not about words. What is lost in this way of speaking is information about what is necessary for using words for communication.

It is easy to confuse the meanings of words with the criteria for their uses. Thomas Hobbes, for example, holds that words such as "wisdom," "fear," and "cruelty" have two "significations" or meanings. One is "the signification of what we imagine of their nature"; the other is "a signification ... of the nature, disposition, and interests of the speaker" (Hobbes 1651: 17). Hobbes is mistaken. Even if we accept his explication of the first kind of signification or meaning, he is wrong in thinking that what a word's use reveals about "the nature, disposition, and interests of the speaker" is any part of the meaning of the word. While word-meanings are relatively stable even though they often change over time, the projects and dispositions of people are so various that they could not be recorded in a dictionary entry for a word; and it would not be appropriate to do so if they could be. A competent speaker of a language, as such, does not have to know what those dispositions are in order to know the meanings of words like "wisdom" and "fear." Certainly a person navigating through life needs to be able to

⁸ One might say that the word "spheroid" is the one relevant here. However, people in fact use "round" for both three and two dimensional objects.

⁹ The epistemological theory "contextualism" is an analog although at least some contextualists think that criterial variations are parts of the meaning of the word "know." For the theory, see DeRose 2009 or Fantl and McGrath 2009.

identify speakers' psychological states, in part on the basis of what words he is using in a particular context, but this knowledge of psychology is not itself linguistic knowledge.

That the words discussed above are not ambiguous with respect to a fixed meaning is shown by the fact that they pass a standard test for synonymy, the "so are"-test.¹⁰ Sentences (1)–(3) are not semantically anomalous, while (4) is:

- (1) Billiard balls are round and so are oranges.
- (2) Good citizens are just and so are good laws.
- (3) Torturers are cruel and so are policies of torture.
- (4) *Bank of America is a bank and so is the edge of the Colorado River.

So criteria are usually nonsemantic; and they often change without changing the meaning of the words involved. The meaning of the phrase "the time of a world class mile run" was the same in 1960 as it is in 2010 although the criterion for it has changed from 4:00 minutes to 3:45 minutes. Consequently,

- (5) The time of a world class mile run in 1960 would not be the time of a world class mile run in 2010

is not semantically anomalous. Other simple, noncontroversial cases of words with multiple criteria are "flat" (tables and mesas) and "tall" (children and NBA players). A controversial but instructive case, I believe, relates to the word "cruel." The U.S. Constitution forbade "cruel and unusual punishment" in 1790 and forbids it in 2013. However, the criterion for "cruel and unusual" has changed over the centuries. This is the basis for holding some punishments that historically were constitutional today are unconstitutional. HAN Feizi too believed that the criteria for various things should change as conditions change, as indicated in this passage:

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 times. Circumstances change according to the age, and ways of dealing with them change with the circumstances. ... So I say that as circumstances change the ways of dealing with them alter too. (Han 1964: 99, 100)

HAN Feizi may seem implicitly to be criticizing a person who considers a sage's action in terms of the sage's psychology but gets it wrong. Does the punishment come from compassion or cruelty? However, HAN Feizi's point is that psychology is irrelevant. The criterion for the punishment of some offense, say, stealing a bowl of rice, should vary according to the circumstances of scarcity and plenty. The sage has not changed the meaning of "theft" or "punishment" or even "compassion" or "cruelty." He is

¹⁰ Another test, which the same words pass, is the conjunction test: so "round" is shown to be univocal in the relevant cases by the acceptability of "Billiard balls and oranges are round." In contrast, "bank" fails the test: "The Bank of America and the edge of the Colorado River are banks."

adjusting the criterion of the appropriate severity of punishment for stealing a bowl of rice, or, speaking in terms of *xingming*, adjusting the criterion for the phrase “appropriate severity of punishment for stealing a bowl of rice.”

Gottlob Frege thought that the meaning of a name was the method by which the denotation of a name was presented. My point is that a criterion also often mediates between a word and its denotation. Although meanings and criteria typically do different jobs; it is not surprising that HAN Feizi did not notice the difference between them since the distinction is subtle and has only recently been clarified by philosophers of language. Also, for him the more important point is that rulers have too often adopted the wrong criteria: “It is obvious that benevolence, righteousness, eloquence, and wisdom are not the means by which to maintain the state” on the grounds that these virtues lead to state disasters (Han 1964: 100). Even well-intentioned thinkers have been mistaken. In particular, he was critical of Confucians who thought that the criterion for being a good ruler should be the same as the criterion for being a benevolent parent.¹¹ A ruler qua ruler is not like a parent for most of the reasons that John Locke gave in his *First Treatise of Government* and Jean-Jacques Rousseau gave in *Discourse on Political Economy*. When he says that a “ruler’s shedding tears when punishments are carried out in accordance with the law” is “a fine display of benevolence” (Han 1964: 102), he is being sarcastic.

HAN Feizi’s sarcasm may also be detected in these passages, the first of which was quoted earlier:

[H]e who makes certain to avenge any wrong done to his brother is called an upright man, and he who joins his friend in attacking the perpetrator of an insult is called a man of honor. Such a man performs deeds that are regarded as upright and honorable. (Han 1964: 104–105)

and

Indeed to give alms to the poor and destitute is what this world calls a benevolent and righteous act; to take pity on the hundred surnames, and hesitate to inflict censure and punishment on culprits is what the world calls an act of favour and love. To be sure, when the ruler gives alms, to the poor and destitute, men of no merit will also be rewarded. (Han 1939: 127)

HAN Feizi’s disapproval of this way of talking is confirmed when he says: “But the deeds of such able and worthy men actually weaken the army and bring waste on the land. If the ruler rejoices in the deeds of such men, and forgets the harm they do by weakening the army and bringing waste to the land, then private interests will prevail and public profit will come to naught” (Han 1964: 105). Again, his use of the phrase “able and worthy men” is sarcastic.

One might object that HAN Feizi is not explicitly mentioning criteria in these passages. While that is true, what he is saying only makes sense if some distinction

¹¹ HAN Feizi might also have questioned whether Confucians had identified the correct criterion for parental benevolence on the grounds that it did “not prevent children from becoming unruly” (Han 1964: 101); but that is not apposite to the political issue.

is made between the meaning of the words and the appropriate criterion for their use. For example, giving alms to the poor and destitute is obviously not the meaning of “benevolent and righteous act”; yet such an action is what makes it appropriate, according to the people HAN Feizi is criticizing, to apply the words “benevolent and righteous act” to that action. A related objection is that giving alms to the poor and destitute are nonlinguistic actions and as such do not seem to have any essential connection to meaning. I agree that the actions are not part of the meaning of “benevolent and righteous act.” When the nature of linguistic criteria was described, I pointed out that they are nonsemantic. They are nonsemantic bridges between words and the things that words denote. The words “benevolent and righteous act” denote benevolent and righteous acts in virtue of the actions of giving alms to the poor and destitute for the people HAN Feizi is criticizing. Now HAN Feizi does not substitute politically appropriate criteria for such words as “benevolence” and “righteousness,” probably because he thinks that politics requires different virtues. HAN Feizi draws a sharp line between the political and the nonpolitical, as we shall see in the next section.

5 The Hegemony of Political Criteria

Given that we should focus on the words appropriate for politics, there is still the issue of selecting the right criterion for those words. That is, one may mistakenly think that a certain context calls for some word with a nonpolitical criterion when in fact some word with a political criterion is called for.¹² HAN Feizi illustrates this with the story of a man who reported his father as a thief when he discovered that his father had stolen a sheep (Han 1964: 105–106).¹³ The man satisfied the criterion for being an honest citizen. However, the local magistrate had him put to death because the man violated the criterion for being a good son. In this case, the local magistrate acted wrongly, according to HAN Feizi, because the magistrate applied a word with nonpolitical criterion when the context required a word with a political criterion.¹⁴ This should have been obvious to the magistrate exactly because he was a magistrate. For HAN Feizi, one’s political office trumps any other perspective one might take.

The same kind of contextual issue and tension between political and nonpolitical criteria occurs in a second story. Three times a man with an aged father fled from battle. Kongzi judged the man to be virtuous and recommended him for a post in the government (Han 1964: 106). HAN Feizi thinks that this is good evidence of how “Confucians ... bring confusion to the law” (Han 1964: 105). A state cannot survive if citizens put their private responsibilities ahead of their public ones. His judgment is that “the interests of superior and inferior are ... disparate ... [I]t is hopeless for the ruler to

¹² It often happens that two or more relevant criteria compete for being the best one. For example, is the most valuable player (MVP) the player who has the best statistics for their performance (however that is agreed upon), or is it the person whose absence, more than that of any other person in the league, would make the team as a whole worse? Sometimes empirical information can settle the issue, but sometimes there is no objective answer and a decision has to be made.

¹³ HAN Feizi is probably alluding to *Analecets* 13.18. This story may be compared to the one in Plato’s *Euthyphro*, in which a son prosecutes his father for impiety.

¹⁴ This discussion is cast in terms of criteria for words because the problem is that of *xingming*; but casting it in terms of criteria for concepts does not substantially change the issue. See Section 4 above.

praise the actions of the private individual and at the same time try to insure blessing to the state's altars of the soil and grain" (Han 1964: 106).

An objection to the use of criteria for helping one determine the denotation of a name may come from a different direction. A skeptic may say that criteria are of no help at all. For any criterion, one may ask why that is the criterion rather than something else; if one needs a second criterion to determine that the first criterion is a good one, then one can ask the same question of the second criterion. The skeptic continues that even if a criterion is the correct one, one can never be certain that what one thinks is an event that satisfies (or violates) the criterion actually does satisfy (or violate) it. These are familiar skeptical objections. The proper reply is that criteria are not designed to answer the skeptic. They are practical means of solving a practical problem.

6 The Right Criteria for Rulers

A genuine problem with criteria is they may seem to be appropriate when they are not. This is not a skeptical problem but a practical one. Suppose that it is necessary to hire a *strong* person for some job and that the criterion adopted for being strong is the ability to clean and press 150 lbs. That seems sensible. However further suppose that the job requires the person to work in the summer sun for eight hours a day carrying 25-lb. rocks. It is quite possible that a person who satisfies the given criterion does not have the right sort of strength. HAN Feizi is aware of this problem when he criticizes Lord Shang 商 for holding that a soldier who cuts off one head in battle ought to be promoted one grade in rank, and a soldier who cuts off two heads in battle ought to be promoted two grades. He says,

Now governmental skill requires wisdom and talent; beheading in war is a matter of courage and strength. To fill government offices which require wisdom and talent with possessors of courage and strength, is the same as to order men of merit in beheading to become physicians and carpenters. (Han 1959: 216)

One may object that in this passage HAN Feizi is simply criticizing a particular law of Lord Shang and hence has nothing to do with criteria. However that is not right. In this passage, HAN Feizi is talking at a high level about the properties of political criteria. He is pointing out that a general feature of criteria for persons with governmental skill is that they have wisdom and talent, rather than courage and strength. Being wise and talented are not however criteria because they do not specify any operational test. The difficult practical problem is knowing how to devise criteria for governmental skill, not to mention military skill, medical skill, and carpentry skill. HAN Feizi's point is that Shang's law is a bad law because its criterion is a bad criterion for governmental skill; this does not preclude its being a good criterion for military skill.

7 HAN Feizi's Political Theory

Because he thinks morality is irrelevant to politics, HAN Feizi thinks Confucian, not to mention Daoist and Mohist, morality is irrelevant to the problem. This does

not mean that he has no interest in the well-being of individuals. He says, “The sage in governing the people ... seeks only for the people’s benefit. Therefore, the penalty he inflicts is not due to any hatred for the people but to his motive of loving [caring for] the people” (Han 1959: 326).¹⁵ He wants in particular to “prohibit the strong from exploiting the weak and the many from oppressing the few, enable the old and the infirm to die in peace and the young and the orphan to grow freely” (Han 1939: 124).

He seems to think political normativity either exhausts morality or at least outweighs it. Good and bad actions are measured according to the contribution they make to the stability of the state. Consequently, he advises rulers about “good [orderly] government,” not just any government at all (Han 1964: 25); and orderly government requires an ethos of self-restraint. “Both Heaven and man have their fixed destinies. Fragrant aromas and delicate flavors, rich wine and fat meat delight the palate but sicken the body. ... Therefore renounce riot and excess, for only then can you keep your health unharmed” (Han 1964: 35); “If the ruler of men wishes to put an end to evil-doing [bad behavior], then he must be careful to match up names and results” (Han 1964: 32). Far from condoning a ruler’s egotism, he says, “A ruler must never make selfish [private] use of his wise ministers or able men” (Han 1964: 25). He does not tolerate self-serving or kin-serving behavior in ministers either: “In the court of a doomed state, [p]owerful families seek only to benefit each other and not to enrich the state; the high ministers seek only to honor each other” (Han 1964: 24; see also 22, 25, and 117). He insists on principled governance based on strict adherence to the law.

If the magistrates enforce the laws, then vagabonds will have to return to their farm work and wandering knights will be sent to the battlefield where they belong.... [T]he laws of the state must not be ignored. (Han 1964: 81, 126)

The rulers admired by HAN Feizi are those who “relied upon law and policy, and took care to see that rewards and punishments were correctly apportioned” (Han 1964: 26). He emphasizes that it is important that the sovereign follow the laws: “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” (Han 1964: 109). People of high and low station in life are equally subject to the law (Han 1964: 28). This means that he supported equal protection of the law, or perhaps we should say equal vulnerability to the law (Han 1959: 128). The health of a state is jeopardized when the ruler does not “make important decisions on the basis of law” he has established (Han 1964: 24). A healthy state requires “men of integrity and public spirit” (*gengjie zhi shi* 耿介之士) (Han 1964: 117).¹⁶ Ministers must be “men of superior understanding and ability” (*shengtong zhi shi* 聖通之士) and “worthy and wise” (*xianzhi* 賢智) for the purpose of ensuring “good [orderly]

¹⁵ HU Xueping 胡雪萍 brought this passage to my attention.

¹⁶ Although the term *gengjie* 耿介 does not occur in Confucian writings as a virtue, it does occur in *Songs of the South* (*Chu Ci* 楚辭) as a moral term to describe the integrity of government ministers. For example, it occurs in the section “Jiu Bian 九辯.” I owe this point to TSOI Siwing 蔡思穎.

government” (*zhi* 治) (Han 1964: 129). The language of the above quotations indicates that the qualities HAN Feizi requires of people are those almost universally acknowledged to be virtues: integrity, public spirit, superior understanding, and wisdom.

If HAN Feizi’s political theory incorporates any kind of morality, say, political morality, it is a Spartan morality (cf. Hsiao 1979: 394), as indicated by this passage:

Now the ruler presses the people to till the land and open up new pastures so as to increase their means of livelihood ...; he draws up a penal code and makes the punishments more severe in order to put a stop to evil ... He levies taxes in cash and grain in order to fill the coffers and granaries so that there will be food for the starving and funds for the army ... He makes certain that everyone within his borders understands warfare and sees to it that there are no private exemptions from military service; he unites the strength of the state and fights fiercely in order to take its enemies captive. (Han 1964: 128–129)

One may object that it is not accurate to talk about HAN Feizi’s morality at all because he does not indicate that either the ruler or his subjects need to be morally motivated. A reply might begin by pointing out that I have not said that he does have a moral theory. More pertinent is the point that it is unfair to criticize him for not producing a moral theory when that was not his project. I have been emphasizing that HAN Feizi’s theory is politically normative; and it is arguable that political morality does not require the kind of motivation one expects in nonpolitical morality. The almost complete absence of nonpolitical, moral motivation is also conspicuous in the work of Hobbes, who wrote,

The virtue of a subject is comprehended wholly in obedience to the laws of the commonwealth. To obey the laws, is justice and equity ...; and nothing is injustice or iniquity, otherwise than it is against the law. ... The virtues of sovereigns are such as tend to the maintenance of peace at home, and to the resistance of foreign enemies. ... In sum, all actions and habits are to be esteemed good or evil by their causes [that is, the command of the sovereign] and usefulness in reference to the commonwealth (Hobbes 1844: 219)

The close connection that HAN Feizi sees between nonselfish behavior and the good of the state is combined in this passage:

In our present age he who can put an end to private scheming and make men uphold the public law will see his people secure and his state well-ordered; he who can block selfish [private] pursuits and enforce the public law will see his armies growing stronger and his enemies weaker. Find men who have a clear understanding of what is beneficial to the nation and a feeling for the system of laws and regulations, ... then the ruler can never be deceived by lies and falsehoods. Find men who have a clear understanding of what is beneficial to the nation and the judgment to weigh issues properly, and put them in charge of foreign affairs; then the ruler can never be deceived in his relations with the other powers of the world. (Han 1964: 22)

How does the claim that HAN Feizi endorses a political morality fit with the standard interpretations that the ruler is above the law and that HAN Feizi allows the ruler to govern arbitrarily? Concerning the ruler's being above the law, HAN Feizi is committed to this as a logical consequence of his support for absolute sovereignty. For ancient Roman legal theory through early modern legal and political theory, the sovereign was held by many and possibly most theorists to be *legibus solutus*. Trying to make a supreme ruler subject to the law is pointless since the ruler, as the person who makes the law, could always make a law that freed him from all laws. If the ruler were subject to any other "law," then someone other than he could judge and punish him if he broke the law. If anyone else had this power, however, the stability of the state would be inherently threatened; and what would inherently threaten an institution cannot be part of that institution.

8 Conclusion

The major philosophical contribution of HAN Feizi's philosophy is the proposition that a healthy state is one in which laws are enforced and in which the ruler establishes functional criteria for the job titles and other words relevant to enhancing the stability of the state. The problem and relative value of stability is disputed. Within 21st-century Western liberalism, the problem of stability is the problem of supplying citizens with the motivation to sustain the principles of liberal theory. At one level of abstraction, the answer is relatively easy, notwithstanding the devilishness of the details. It is rational for citizens to maintain the principles of justice either because rationality as self-interest dictates it, or because it is a consequence of being a rational being or because of human equality in the relevant respects, or in some other similar way.

Stability in this sense is not an issue for HAN Feizi for at least two reasons. One is that his theory is antiliberal and anti-individualistic. He does not believe that individuals have any political or natural rights; so there is no need to explain why people would sustain those principles. It is sufficient that people under the threat of severe and swift punishment will obey the law. The other reason this kind of stability is not an issue is that he is interested in a different kind of stability. For him political philosophy is directly about the well-being of a civil state and only indirectly about the well-being of individuals. He certainly understood that a healthy state requires healthy subjects, and in fact he thought that a healthy state would create healthy subjects, in the sense of subjects who would contribute to the stability of the state. The production of healthy subjects is a means to the ultimate end of a healthy state. He, like Plato, was a state-centered political theorist in contrast with liberal, citizen-centered political theorists. Studying HAN Feizi's philosophy may remind us that fascist and state socialist political theories belong to the same state-centered tradition. Mussolini's Italy, Hitler's Germany, and Stalin's Soviet Union, however, were particularly bad with respect to stability; and I doubt that HAN Feizi would have approved of the destructive practices of these rulers.

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References

- Analects*. 1979. Trans. by D. C. Lau. Harmondsworth: Penguin Books.
- Austin, J. L. 1970. *Philosophical Papers*. Edited by J. O. Urmson and G. J. Warnock. New York: Oxford University Press.
- Carnap, Rudolf. 1934. *The Logical Syntax of Language*. London: Routledge & Kegan Paul.
- Creel, Herrlee. 1970. *What is Taoism? And Other Studies in Chinese Cultural History*. Chicago: University of Chicago Press.
- DeRose, Keith. 2009. *The Case for Contextualism: Knowledge, Skepticism, and Context*, vol. 1. Oxford: Oxford University Press.
- Donnellan, Keith. 1967. "Reference and Definite Descriptions." *Philosophical Review*.
- Fantl, Jeremy, and Matthew McGrath. 2009. *Knowledge in an Uncertain World*. New York: Oxford University Press.
- Han, Feizi. 1939. *The Complete Works of Han Fei Tzu*, vol. 1. Trans. by W. K. Liao. London: Arthur Probsthain.
- _____. 1959. *The Complete Works of Han Fei Tzu*, vol. 2. Trans. by W. K. Liao. London: Arthur Probsthain.
- _____. 1964. *Han Fei Tzu: Basic Writings*. Trans. by Burton Watson. New York: Columbia University Press.
- Hobbes, Thomas. 1651. *Leviathan*. London.
- _____. 1844. *Behemoth*. In *English Works*, vol. VI, edited by William Molesworth. London: J. John.
- Hsiao, Kung-chuan. 1979. *A History of Chinese Political Thought*. Trans. by F. W. Mote. Princeton: Princeton University Press.
- Lau, D. C. 1973. "Review of Herrlee G. Creel, *What is Taoism and other Studies in Chinese Cultural History*." *Asia Major* 18: 121–123.
- Makeham, John. 1994. *Name and Actuality in Early Chinese Thought*. Albany: State University of New York Press.
- Martinich, A. P., and Avrum Stroll. 2007. *Much Ado about Nonexistence*. Lanham, MD: Rowman & Littlefield.
- Thucydides. 1959. *The Peloponnesian War*. Trans. by Thomas Hobbes. Chicago: University of Chicago Press.

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