

# Han Fei: His Thought and Work and the Problem of Inconsistencies

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*Han Fei: Jeho myslenie, diela a problém nekonzistentnosti*

*Resumé* Tento článok pojednáva o Han Feiovi, ktorého zaraďujeme medzi najväčších filozofov starovekej Číny. Žil na konci obdobia Bojujúcich štátov a patril k myšlienkovému prúdu, ktorý bol neskôr nazvaný legalizmus. Článok skúma najmä jeho dielo nazvané *Han Feizi* a problém jeho autenticity. Zaoberá sa tiež problematikou nekonzistentností, ktoré možno nájsť v tomto diele. Autor predkladá myšlienky a prístupy, ktoré môžu napomôcť lepšiemu porozumeniu a interpretácii tohto diela a v dôsledku toho aj odstráneniu alebo aspoň pochopeniu niektorých nekonzistentností.

*Abstract* This article deals with Han Fei, one of the greatest philosophers of ancient China. He lived towards the end of the Warring States period and belonged to the stream of thought called Legalism. The main part of the article examines his work *Han Feizi* and the problem of its authenticity, and problems concerning inconsistencies in this work. The author provides ideas how to reconcile some of them by better understanding and different interpretation of the text.

*Keywords* China, Philosophy, Warring States period (453–221 BCE), Legalism · Han Fei 韓非 (?280–233 BCE), *Han Feizi* 韓非子.

## 1 *Han Fei's Life and the Warring States Period*

Han Fei 韓非 (?280–233 BCE) lived towards the end of the Eastern Zhou dynasty (770–221 BCE) during the Warring States period (453–221 BCE) and was one of the leading, if not the most important, proponents of the stream of thought that

was later named as *fajia* 法家 or Legalism.<sup>1</sup> This was a philosophy concerned with the principles of the effective rule and administration of the state by a powerful ruler by not relying on his own morality, wisdom or abilities but rather on objective laws and standards for governing people and effective methods and techniques for controlling ministers and officials to make his position secure and his state good ordered, rich and powerful.

We do not have much information about Han Fei's life; most information comes from a short biographical note in the *Shiji* 史記 (Records of the Historian)<sup>2</sup> from Sima Qian 司馬遷 (?145–86 BCE), thanks to which we know some important facts that could be helpful for better understanding his work and thinking.

Han Fei was born in the state of Han 韓 as one of the royal princes. His origin made his situation a different one, both in a positive and negative way, from other important thinkers and scholars of his times as well as his predecessors, who had come from more modest circumstances. Every royal court had an archive and library with collections of various kinds of writings, books and documents, and Han Fei as a prince had all of these materials available for his studies. Beside this, as a member of the royal family he could see what governing a state meant in all its aspects both theoretically and in practice. His origin gave him a great opportunity to gain immense knowledge concerning history, philosophy and other fields of study as well as various issues relating to practical politics and the administration of the state. According to the Records of the Historian, he studied some time under one of the greatest thinkers of ancient China, the Confucian philosopher Xunzi 荀子 (d. 230? BCE),<sup>3</sup> together with Li Si 李斯 (d208 BCE), who later on became a minister of King Zheng of Qin 秦王政 (259–210 BCE) and who played an important role in the process of conquering all the other states and historically unifying the whole territory into

1 We must be careful when using these terms because they do not fully correspond with reality. See Paul R. Goldin, »Persistent Misconceptions about Chinese “Legalism”«, *Journal of Chinese Philosophy* 38,1 (March 2011), 88–104.

2 Sima Qian 司馬遷, *Shi ji* 史記 [Records of the Historian], 10 vols. (Beijing: Zhonghua shuju, 1963), 7: 63, 2146–2155.

3 For more information concerning the alleged relationship between Han Fei and Xunzi, see Masayuki Sato, »Did Xunzi's Theory of Human Nature Provide the Foundation for the Political Thought of Hanfei?«, in *Dao Companion to the Philosophy of Han Fei*, ed. Paul R. Goldin (Dordrecht: Springer, 2013. Dao Companions to Chinese Philosophy; 2), 147–165.

one empire in 221 BCE, when King Zheng of Qin declared himself the First Emperor of the Qin dynasty (*reg* 221–210 BCE).

As mentioned above, Han Fei received an excellent education which, combined with his intelligence and talent, made him one of the most outstanding personalities of his times. However, in contrast to Li Si and other scholars who wandered without restraint from state to state and offering their services to rulers, he could not freely choose what to do and where to go after finishing his studies because as a member of the Han royal house he felt bound by the sense of personal responsibility for the fate of his state and family. He clearly saw that his state was weak and its central position was strategically disadvantageous because it could be potentially endangered from all directions, especially from the west by the strong state of Qin. He was fully aware that necessary reforms must be adopted which would bring more order and power to his state and raise the chances for its survival, but the Han ruler seemed to be unable to understand this. Han Fei was a stutterer, so he could not use his eloquence to persuade the ruler like other scholars, ministers or advisors could, but he was a great writer and essayist, and he repeatedly submitted memoranda urging the ruler to act. Unfortunately, the ruler did not accept his suggestions. His frustration at such a hopeless situation was fully reflected in his essay *Gu fen* 孤憤 (Solitary Indignation)<sup>4</sup> and, based on his own experiences, in another essay entitled *Shui nan* 說難 (Difficulties of Persuasion),<sup>5</sup> where he analyzed the difficulties which must be taken into consideration when trying to persuade a ruler. Both of these works can be found in the work *Han Feizi* 韓非子 (Master Han Fei),<sup>6</sup> which is supposed to contain the writings of Han Fei and which will be discussed later.

4 Zhang Jue 張覺, *Han Feizi jiaozhu* 韓非子校注 [Han Feizi, with Collations and Annotations] (Changsha: Yuelu shushe, 2006), 11.105–112.

5 Zhang Jue, *Han Feizi jiaozhu*, 12.113–121.

6 For original Chinese text with collations, annotations and commentaries, see Zhang Jue, *Han Feizi jiaozhu*, or Chen Qiyou 陳奇猷, *Han Feizi xinjiaozhu* 韓非子新校注 [Han Feizi, with New Collations and Annotations] (Shanghai: Guji chubanshe, 2000), and *Zhonghua yaoji jishi congkan* 中華要籍集釋叢刊 [Anthology of Collected Explanations on Essential Books of China] (Shanghai: Guji chubanshe, 2000). For the first complete English translation, see Han Fei Tzū, *The Complete Works of Han Fei Tzū. A Classic of Chinese Political Science* [Han Feizi 韓非子], 2 vols., tr. by W. K. Liao (London: Arthur Probsthain, 1939; 1959). For a complete modern English translation, see Han Fei, »Han Feizi 韓非子«, tr. by Christoph Harbsmeier, in *TLS—Thesaurus Linguae Sericae. An Historical and Comparative Encyclopedia of Chinese Conceptual Schemes*, ed. by Christoph Harbsmeier, <<http://tls.uni-hd.de/procSearch/procSearchTxt.lasso>> (19 Apr 2014).

Some of Han Fei's essays found their way to King Zheng of Qin. He was very pleased after reading them but did not know who the author was. His minister Li Si told him that the author was Han Fei, his former fellow student, and the king said he would be very happy to meet this man and talk to him personally. His wish soon came true when King An of Han 韓王安 (*reg* 238–230 BCE), acting under pressure, decided to send Han Fei as an envoy to King Zheng in order to dissuade him from his plan to conquer the state of Han. Han Fei submitted a memorandum to King Zheng, trying to persuade him to change his plan, but he was not successful. Although the king liked him and was fully aware of his outstanding talent, Li Si persuaded him not to believe that Han Fei's suggestions would be advantageous for Qin and to see them only as a means to help his own state to survive and strengthen his own position at the court of the King of Han. Moreover, Li Si urged King Zheng to not allow Han Fei to return back home, because being a clever and very able man, he could cause many problems to the state of Qin in the future. Han Fei was put in prison and finally committed suicide there in 233 BCE, after Li Si allegedly gave him poison, probably indicating that poisoning oneself was the only way to avoid the cruel punishments applied in the state of Qin for breaking the law. The state of Han was conquered and absorbed by the state of Qin in 230 BCE, three years after Han Fei's death.

By looking at Han Fei's life, we can better understand the character of the times he lived in. The disintegration of the old feudal order based on the supreme authority of the ruling royal house of Zhou already began during the Spring and Autumn period (770–453 BCE). This process intensified even more during the Warring States period, when the rulers of the vassal states began to use the title of 'king' which was reserved, according to the old order, only for the head of the royal house of Zhou.

Han Fei's state was established in 453 BCE along with the states of Zhao 趙 and Wei 魏 after the disintegration of the state of Jin 晉 into three parts

For a translation of some chapters into English, see Han Feizi, *Han Feizi: Basic Writings*, tr. by Burton Watson [1964] (New York: Columbia University Press, 2003. Translations from the Asian Classics). For a complete translation into Czech see Chan Fei, *Chan-fei-c'*, 2 vols., translation, commentary and introduction by Lukáš Zádřapa (Praha: Academia, 2011 [ch.s i–xxix] and 2013 [ch.s xxx–lv]). It is a very good translation featuring commentary, annotations and a long introduction presenting the historical and philosophical background as well as other information which is very helpful for a better understanding of the whole work and the thought contained in it.

because of the seizure of power by powerful ministers' families. This year<sup>7</sup> is also regarded as the beginning of the Warring States period, which was characterized by frequent wars and conflicts, especially between the seven powerful states striving for hegemony. The three above-mentioned states established after the partition of the state of Jin were part of this group as was the state of Yan 燕 in the north-east, the state of Qi 齊 in the east, the state of Chu 楚 in the south and the state of Qin 秦 in the west. These powers gradually absorbed almost all the smaller states and fought against each other, often building various coalitions depending on the situation, until the most powerful state of Qin conquered all its rivals and finally unified the whole territory in 221 BCE.

These innumerable conflicts, intrigues and manoeuvres were accompanied by radical economic, social and political changes that put the old institutions under great pressure. Compared with previous times, the states became much more populous, which demanded more effective principles and methods of governing and administration to maintain internal order and accumulate and mobilize enough resources and power to face all kinds of external threats. If the rulers wanted to survive and keep their states safe, they had to launch far-reaching reforms which had a huge impact not only on many aspects of the states and the lives of the people of that period but also on the future development of Chinese society and culture in general. These reforms were supposed to help the rulers administer and control their own states more effectively and flexibly so they could become more powerful and gain a strategic advantage over their rivals in the never-ending wars. This objective was not easy to realize because of a number of reasons. The states needed to be more centralized and the rulers had to rely more on bureaucracy than aristocracy, so having good advisors, ministers and officials was imperative. This presented an opportunity for wise and capable men to show their talent. These men often came from the impoverished lower aristocracy, which meant that although they were not rich or powerful, they still had the resources to receive a good education. Another group of educated men came from families that were not of noble origin but which had become rich enough to provide their sons with a good education thanks to economic and social changes. All these educated men

7 The establishment of the three new states of Han, Zhao and Wei following the disintegration of the state of Jin was officially recognized by the king of Zhou in 403 BCE; some historians take this year as the beginning of the Warring States period.

and scholars gave rise to the new social stratum of *shi* 士,<sup>8</sup> from which advisors, ministers and officials were recruited. If they were competent enough, they could exert so much influence that they virtually held the state's power in their hands. If they were not so lucky and for various reasons did not find anybody who would employ them, they could still find some students and become teachers.<sup>9</sup> Thus, although they could not assert their influence directly by serving their ruler, they could continue to cultivate their knowledge and wisdom and hope their students would find an enlightened ruler who would employ them, adopt their ideas and prove the validity of their thinking.

All these processes and changes lead to an interesting paradox. Although the Warring States period was full of wars, killing and cruelties, it was also a time when various streams of thought that tried to offer various solutions to deal with the problems of these chaotic and harsh times flourished. The most important of these were Confucianism 儒家, represented in the first place by Confucius 孔子 (551–479 BCE), Mencius 孟子 (372–289 BCE) and Xunzi 荀子 (d. ca. 230 BCE); Mohism 墨家, represented by Mozi 墨子 (?470–?391 BCE) and his followers; Daoism 道家, represented above all by Laozi 老子 and Zhuangzi 莊子 (369–286 BCE); The School of Names or Logicians 名家, represented by Hui Shi 惠施 (380–305 BCE), Gongsun Long 公孫龍 (?325–250 BCE) as well as others; and Legalism 法家, represented mainly by Shang Yang 商鞅 (390–338 BCE), Shen Buhai 申不害 (d. 337 BCE), Shen Dao 慎到 (395?–315 BCE), Han Fei 韓非 (280?–233 BCE) and their predecessors.<sup>10</sup>

8 This term is very hard to translate properly. It is usually translated as 'gentleman', 'scholar', 'scholar-official', 'officer', 'man of service', 'knight' or 'intellectual'. For more information about the stratum of *shi* 士 and the political thought of the Warring States period in general, see Yuri Pines, *Envisioning Eternal Empire: Chinese Political Thought of the Warring States Era* (Honolulu, HI: University of Hawai'i Press, 2009), 115–184.

9 A typical example is Confucius (Kongzi 孔子, 551–479 BCE).

10 There were also other thinkers and streams of thought not listed here. The situation was much more complex; for more information about ancient Chinese philosophy in general, see A. C. Graham, *Disputers of the Tao: Philosophical Argument in Ancient China* (La Salle, IL: Open Court, 1989), and Benjamin I. Schwartz, *The World of Thought in Ancient China* (Cambridge, MA: Harvard University Press, 1985). We must also bear in mind that the classification of these streams or 'schools' of thought was only made later on during the Han dynasty (206 BCE–220 CE) and it can be misleading. It should only be taken as a means for basic orientation. We must be careful when dealing with individual thinkers because there is a tendency to automatically ascribe all the characteristics and ideas of the main proponents of a philosophy to all of the

## 2 Han Fei's Thought

Han Fei was part of a school of thought that during the Han dynasty (206 BCE to 220 CE) was named *fajia* 法家, and which is usually translated as Legalism or Legism. Beside Han Fei, Shang Yang, Shen Buhai and Shen Dao, there were also other thinkers considered to be Legalists, namely Guan Zhong 管仲 (d645 BCE), Zi Chan 子產 (d522 BCE), Li Kui 李悝 (455–395 BCE) and Wu Qi 吳起 (440–381 BCE).<sup>11</sup>

These scholars were mainly concerned with the problems of government and state administration as well as the principles and methods that could help a ruler to become more powerful and have a properly ordered state. They were very pragmatic, realistic and practical, and many of them served as high ministers of states, where they helped rulers introduce radical reforms to make their states stronger. These thinkers advocated the concept of 'ruling by laws' 法治 for the governing the state, which was in opposition to the Confucian concept of 'ruling by rituals' 禮治, and many of them wrote the law codes applied in their states. They also differed from other thinkers in their attitude to history and the development of society. Contrary to the Confucians and others, they did not look at the remote past as an ideal to return to. They saw historical development as a natural process which was neither good nor bad; all that needed to be done was to understand this process and adapt to it.<sup>12</sup> In the following passages, I will try to present a short description of the main ideas of Han Fei's philosophy.

We know that Han Fei was a highly educated man and therefore someone well acquainted with the ideas of all the important philosophers in ancient China. He mainly built his philosophy by combining ideas taken from various thinkers and

thinkers included in that 'school', which is not correct. Moreover, there is a problem with some of the thinkers in deciding which 'school' they should belong to.

- 11 Even if we accept the traditional classification of the 'schools' of thought as well as the term 'Legalism' for practical reasons, it is still problematic to decide exactly which thinkers actually belonged to this 'school'. Shen Dao, for example, is seen in some of the texts as a Daoist and not a Legalist. For more information about Legalist philosophy in general, see Zhengyuan Fu, *China's Legalists: The Earliest Totalitarians and Their Art of Ruling*, New Studies in Asian Culture (Armonk: M. E. Sharpe, 1996).
- 12 For more about the different attitudes of Confucianism, Daoism and Legalism towards history, see Roger T. Ames, *The Art of Rulership: A Study of Ancient Chinese Political Thought* (Albany, NY: State University of New York Press, 1994), 1–13.

integrating them into one logically interconnected unit. Most of the ideas which he absorbed can be ascribed to the Legalists, but he also adopted some important ideas from other streams of thought.

There are three concepts crucial for his system: *fa* 法 ('law', 'standard'), *shu* 術 ('methods' and 'techniques') and *shi* 勢 ('position of power', 'political purchase', 'strategically advantageous position'). He took them from Shang Yang, Shen Buhai and Shen Dao, and integrated them into a consistent system.

According to Han Fei, the ruler had to decide to 'rule by laws' 法治. He was convinced that only laws can help a ruler govern the whole state effectively. The laws must be objective, stable, simple to follow and publicly known. As the source of the laws, the ruler is the only one who stands outside the laws, but he should not interfere with those laws already proclaimed. Everybody else had to follow the laws regardless of their origin and relationship with the ruler. If someone broke any of the laws he would be inevitably punished. Moreover, the punishments were supposed to be heavy, even for small transgressions, because it was believed that this would deter people from committing any transgressions in the long run, which meant that at some time in the future the ruler would not need to inflict any punishments on the people at all.

To organize his ministers and officials and make sure the laws were being applied properly, the ruler had to use effective methods (*shu*). It was obvious that he could not control and govern all the people of the state alone. He would use ministers and officials to do this instead, and he would simply just control them and not let them cheat him in search of their own interests.

The ruler could not rely on his morality or on the morality of other people when ruling his state. Instead of this, he had to focus on building and maintaining his position of power (*shi*) because in contrast to the Confucians he did not believe that morality was something a ruler could base his rule on.<sup>13</sup> The ruler must keep supreme power and not let anybody seize it from him.

After observing and examining the behaviour of the people, Han Fei came to the conclusion that human nature was self-seeking and self-interested.<sup>14</sup> According to this view, everybody does what is beneficial and profitable and abhors what is harmful. Therefore, there is a difference between *sili* 私利

13 For more information about the development of the terms *fa* 法 and *shi* 勢, see Roger T. Ames, *The Art of Rulership*, 65–141.

14 For more information about the relationship between Xunzi's and Han Fei's concepts of human nature, see Masayuki Sato, »Did Xunzi's Theory of Human Nature Provide the Foundation for the Political Thought of Hanfei?«, 147–165.

(‘private interests’) and *gongli* 公利 (‘the public interest’).<sup>15</sup> Private interests are the interests of individual people or a group of people or ministers; the public interest is the interest of the whole state and the ruler representing the state. Although there is a clear difference between private and public interests, the ruler should not try to change human nature and ask people to be more moral. Instead he should use this quality of human nature to rule and run a good administration. Due to the essence of human nature, rewards can be used to motivate the people to follow orders and punishments used to discourage them from breaking laws and violating prohibitions. Thus, the system of laws, rewards and punishments must be designed and established in such way so that it would allow people to follow only those private interests which are not harmful to the public interest. Rewards and punishments are the ‘two handles’ (*er bing* 二柄) the ruler uses to control the people and he should always keep them in his hands.

There is one important thing that must be taken into consideration when discussing human nature: the fact that people are naturally self-seeking means that a ruler cannot believe anybody. Not only ministers but even those closest to him, like his wife or children, could betray him if he is not cautious. Thus, he must always be vigilant and use all kinds of methods and techniques to protect himself against all potential threats and deceptions.

One of the most important techniques used by rulers to organize officials and ministers is called *xingming* 形名, also written as 刑名, where *xing* 形/刑 means ‘form’ or ‘shape’, and *ming* 名 ‘name’ or ‘title’. *Xing* 形/刑 refers to the performance or behaviour of a minister, official or anybody else entrusted or ordered to do something, and *ming* 名 refers to the title of the office, law, command and proposal which is made by somebody who is then entrusted to perform it. The ruler should simply check if the performance is in accordance with the title of the office, if the behaviour is in accordance with the law or the command, and if the one who presented the proposal and was then entrusted to realize it really did what he was supposed to and whether this has brought about the effect that was intended by this proposal. If *xing* and *ming* match together, the ruler bestows rewards, but if it does not match he inflicts punishments. Regardless of whether someone did not do what he was supposed to, or did something that was not within his competence, he must be punished.

15 For an interesting article about the doctrine of self-interest and the private and public interest, see Paul R. Goldin, »Han Fei's Doctrine of Self-Interest«, *Asian Philosophy* 11,3 (2001), 151–159. This work presents the interesting idea that if *si* 私 is the self-interest of the minister, *gong* 公 is the self-interest of the ruler.

It must be said that in contrast to the laws, the methods and techniques of rule should stay hidden from other people. They are reserved for the ruler. The ruler should also use various kinds of clandestine methods and techniques, for example, spying, making people inform against each other, misguiding ministers to know their true motives and other techniques used to collect and verify all kinds of information that could help the ruler control his people better.

One of the recommended methods of controlling people is applying the system of mutual responsibility. This means dividing people into small units and making them collectively responsible for the behaviour of the members of this unit. For example, if someone from this unit commits a crime, the whole unit is responsible if they do not report it.

When discussing the economy, the stress must be put on agriculture and the military because these two things are of primary importance for the state and its power. Everything that could harm them must be suppressed. In particular, merchants, artisans and similar professions should be restrained because they are seen as unproductive. In addition to this, any philosophies, ideas and opinions opposing Legalist thinking must be suppressed because they could confuse the people and erode order in the state.

To attain maximum efficiency of the administration, officials must be chosen according to their abilities and not on the basis of recommendations. If already employed, they should be promoted only according to their performance and results and not personal sympathies. Objective methods and standards must be used for assessing the performance of officials.

The relationship between Legalism and Daoism and the adoption of some of the Daoist ideas into Han Fei's system is very interesting.<sup>16</sup> This gives his system a cosmological aspect. The order of the Legalist state with its laws and institutions is seen as something of a parallel model of the natural order of the world with *dao* 道 and its natural patterns, according to which everything happens. The ruler is seen as a crucial link between the natural world and the state (society). He should ensure the state is ordered following natural patterns and principles. But we must keep in mind that although he uses some Daoist concepts, he understands and interprets them in a Legalist sense so that they are in accordance with his Legalist ideas and principles. For example, the concept of

16 Han Fei's biographical entry in Sima Qian's *Records of the Historian* is grouped together with entries about Laozi, Zhuangzi and Shen Buhai. According to Sima Qian, Han Fei's thought stemmed from the teachings of *Huang-Lao* 黄老 [The Teachings of the Yellow Emperor and Laozi], which was a stream of thought combining the ideas of Daoism and Legalism.

*wuwei* 無為 ('non-action'), which is typical for Daoism, is interpreted by Han Fei to mean that the ruler should establish such a system of laws, institutions and state administration that would allow him to keep his position of supreme authority but let the ministers and officials do all the work. While he should control them, he should not act himself or interfere with their work. The ruler should stay *xu* 虛 ('empty') and *jing* 靜 ('still'); he should empty his mind and stay still to see and understand all the things clearly and be totally objective. He should suppress his personality, inclinations, prejudices and feelings and not use his skills, cleverness or morality when ruling the state because they could distort his objectivity and make him interfere with processes which should run automatically without his interference. Moreover, he should not reveal his likes or dislikes or his thoughts or feelings because the ministers would accommodate themselves according to these and would not show their true character and motives. They could then use the ruler's feelings or inclinations to manipulate him and they would try to follow their private interests. He should not begin anything and should let the ministers present their proposals, entrust them with the necessary tasks and then wait for the results. Then he can check to see if the result matches what was proposed and bestow rewards or inflict punishments accordingly. Thus, the whole system runs automatically and objectively and everything is in accord with the natural order in the Legalist sense. In the work *Han Feizi* we can find more chapters with Daoist ideas. There are also two chapters that are commentaries to the text of *Laozi*, but it is not certain if Han Fei is actually their author.<sup>17</sup>

Han Fei tried to design his system for a mediocre ruler and not for a sage ruler with supreme qualities. This meant that it was not supposed to be dependent on the ruler's personality, abilities or moral qualities. He was aware that most rulers were average, so it was deemed necessary to establish institutions and develop methods and techniques which would be both effective and easy to use.

We can see that there are many progressive ideas in Han Fei's thinking, but there are also many views we cannot accept because they are inhuman, ignore

17 Ch.s 20 and 21, »Jie Lao« 解老 [Explaining Laozi] and »Yu Lao« 喻老 [Illustrating Laozi]. See Zhang Jue, *Han Feizi jiaozhu*, 20.174–213 and 21.214–234. These two chapters of *Han Feizi* are the oldest commentaries to *Laozi* that we have today. For an analysis and translation of these two chapters, see Sarah A. Queen, »*Han Feizi* and the Old Master: A Comparative Analysis and Translation of Han Feizi Chapter 20, "Jie Lao", and Chapter 21, "Yu Lao"«, in *Dao Companion to the Philosophy of Han Fei*, 197–256.

people's individuality and suppress freedom in many aspects. Nevertheless, when assessing all of this we must try to stay as objective as possible and instead of judging it *en masse*, we should rather try to understand it in a broader context and assess the ideas and concepts individually.

Han Fei's philosophy is much more complex than presented above and we must read carefully all of his writings compiled in the work *Han Feizi* if we want to get a comprehensive idea about it and understand it properly.

### 3 *Han Fei's Work and Its Authenticity*

As already mentioned, Han Fei's writings can be found in the work *Han Feizi* 韓非子 (Master Han Fei),<sup>18</sup> which contains 55 chapters of different length, style and nature. They were originally individual pieces of writing put together only after Han Fei's death. The names of some chapters have already been mentioned in Sima Qian's Records of the Historian,<sup>19</sup> namely »Gu fen« 孤憤 (Solitary Indignation), »Shui nan« (Difficulties of Persuasion), »Wu du« 五蠹 (Five Vermins),<sup>20</sup> »Nei wai chushuo« 內外儲說 (Inner and Outer Repositories of Illustrations)<sup>21</sup> and »Shuo lin« 林 (說 Forest of Illustrations).<sup>22</sup> Since the Inner and Outer Repositories of Illustrations are further divided into six chapters and the *Forest of Illustrations* into two chapters, the total number of the chapters mentioned by Sima Qian is eleven, thus comprising altogether one fifth of all 55 chapters of *Han Feizi*. Sima Qian did not record the names of all the chapters, but he cited the whole text of the Difficulties of Persuasion<sup>23</sup> and stated that the total number of the words of Han Fei's writings is more than 100,000, which is roughly in accordance with the present versions of *Han Feizi*. This makes us suppose that the text probably has not undergone radical changes since at least the times of Sima Qian (?145–86 BCE).

When dealing with old Chinese works, problems of authenticity and reliability must always be taken into account. The question of whether we can accept the

18 The original title of the work was *Hanzi* 韓子, the title *Han Feizi* 韓非子 was introduced later on to avoid confusion with Han Yu 韓愈 (768–824), the famous thinker, writer and politician from Tang dynasty.

19 Sima Qian 司馬遷, *Sbi ji* 史記, 7: 63.2147.

20 Zhang Jue, *Han Feizi jiaozhu*, 49.645–668.

21 *Ibid.*, 30–35.303–494.

22 *Ibid.*, 22–23.234–273.

23 Sima Qian, *Sbi ji*, 7: 63.2147–2155.

ideas and views contained in the work *Han Feizi* as being identical with the ideas and views of Han Fei naturally arises. Compared with many other old works, the text of *Han Feizi* can be seen as relatively reliable. However, we still do not know exactly if all of it is really authentic. We do not know when exactly the individual writings of Han Fei were put together into one book or who the compiler and editor was. It is supposed that this happened not long after his death and that it was done by some of Han Fei's disciples or followers, or by editors and compilers from the Qin dynasty (221–208 BCE) or Western Han dynasty (206 BCE–9 CE).<sup>24</sup>

The problems related to Han Fei and *Han Feizi*, especially those of authenticity, were analyzed in detail by Bertil Lundahl in his doctoral dissertation.<sup>25</sup> After discussing the general problems concerning the authenticity<sup>26</sup> of the work and analyzing the authenticity of individual chapters, he came to the conclusion that the work *Han Feizi* contains thirteen chapters that can be considered as not authentic: namely *Chu jian Qin* 初見秦 (The First Interview with the King of Qin), »Shi guo« 十過 (Ten Faults), Explaining Laozi, Illustrating Laozi, »Guan xing« 觀行 (Observing Performance), »An wei« 安危 (Safety and Danger), »Shou dao« 守道 (The Way to Maintain the State), »Yong ren« 用人 (How to Use Men), »Gong ming« 功名 (Achievement and Reputation), »Da ti« 大體 (The Great Whole), »Chi ling« 飭令 (Making Orders Strict), »Xin du« 心度 (The Norm in the Heart) and »Zhi fen« 制分 (Making Demarcations Clear). According to Lundahl, these chapters differ from other chapters in terms of themes, ideas, expressions and arguments, or in some other decisive way, and so he assumes that they were probably written by other people.

He considers two chapters, namely *Wen Tian* 問田 (Asking Tian) and *Ren zhu* 人主 (The Ruler of Men), to be authentic in a wider sense because they were

24 Some scholars assume it was Liu Xiang 劉向 (79–8 BCE). Zhang Jue thinks it was done between 230 and 208 BCE in the archives of Qin. See Zhang Jue, *Han Feizi jiaozhu*, 7.

25 Bertil Lundahl, *Han Fei Zi. The Man and the Work* (Stockholm: Institute of Oriental Languages, Stockholm University, 1992. Stockholm East Asian Monographs; 4). Lundahl's work is probably the best one written in English concerning this subject. For the most extensive study written in Chinese, see Zheng Liangshu 鄭良樹, *Han Fei zhi zhusu ji sixiang* 韓非之著述及思想 [Han Fei's Writings and Thinking] (Taipei: Taiwan xuesheng shuju, 1993).

26 He considers the text to be authentic only if it was written in all probability by the one to whom it was ascribed. Those texts which were written by disciples or followers, who recorded the words or ideas of their master without distorting his ideas, can be regarded as authentic in a broader sense. See Lundahl, *Han Fei Zi. The Man and the Work*, 107–108.

probably compiled later on but contained the words of Han Fei; therefore, the ideas in them can be regarded as Han Fei's own.

One chapter, *Cun Han* 存韓 (Preserving Han), contains a memorandum ascribed to Han Fei, which is regarded as authentic but the other two memoranda in this chapter are ascribed to Li Si.

The remaining 39 chapters of *Han Feizi* are considered to be the authentic works of Han Fei. Only the second refutations in the chapter *Nan si* 難四 (Refutations Four) are regarded as interpolations. Considering the themes, ideas, expressions and arguments contained in these chapters, it is possible that they were written by one man and that this man may well have been Han Fei.<sup>27</sup>

Although the arguments presented by Lundahl are reasonable, there are some scholars who do not agree with his conclusions and state that these arguments are not convincing enough to declare some of the chapters 'inauthentic'. One of them is Zhang Jue, who holds the opinion that until there is substantial and objective evidence testifying the lack of authenticity, we should try to accept all the chapters contained in *Han Feizi* as authentic. He also presents some reasonable counter-arguments supporting his position against those who have declared that some of the chapters are not authentic.<sup>28</sup>

I think the truth lies somewhere between these two positions. We must take the arguments of both positions into consideration and be very careful when judging the authenticity of particular chapters or ideas contained in *Han Feizi*. The most important is continuing to improve our understanding of the text by taking into account all the factors relevant for its interpretation and trying to solve as many problems as possible without questioning its authenticity.

Regardless of whether Lundahl's conclusions are correct, we can see that there is a difference between speaking about the thinking of Han Fei as a man and the thinking contained in *Han Feizi* as a work, which can contain some ideas and views of different origin. Therefore, we should be careful when using the

27 Lundahl, *Han Fei Zi. The Man and the Work*, 265–266.

28 Zhang Jue, *Han Feizi jiaozhu*, 12–19. In addition to his opinions and arguments concerning the authenticity of *Han Feizi* in the introduction, there are some arguments concerning the authenticity of particular chapters which are presented in the explanatory notes at the beginning of the chapters.

terms ‘Han Fei’ and ‘*Han Feizi*’ in various contexts because the two terms are not identical.<sup>29</sup>

#### 4 Han Feizi and the Problem of Inconsistencies

Another problem that is closely connected with the question of authenticity is the problem of inconsistency. Everybody who has read *Han Feizi* encounters this problem right at the beginning when reading the first two chapters. In the first chapter entitled »Chu jian Qin« 初見秦 (The First Interview with the King of Qin),<sup>30</sup> the author is suggesting the destruction of the state of Han, which is clearly contradicted in the second chapter, »Cun Han« 存韓 (Preserving Han).<sup>31</sup> Moreover, the text of the first chapter can also be found in the work *Zhanguo ce* 戰國策 (Intrigues of the Warring States),<sup>32</sup> where it is attributed to Zhang Yi 張儀 (d309 BCE). However, it is obvious that he could not be the author because there are many events mentioned in this text that happened only after his death. If we suppose that the author was Han Fei, why would he suggest the destruction of his own country? Maybe it was only a kind of manoeuvre to gain the needed trust of the King of Qin and then he would have a bigger chance to change his decisions in order to help his country. Or was he so cold that he did not care so much about his country and decided to serve the state of Qin? But if this was the case, how could we explain the contradiction with the second chapter where he tried to persuade the King of Qin to preserve the state of Han? It is clear that it is very difficult to resolve this problem. Even now we still do not know exactly who was the real author of the first chapter, and, as already mentioned above, Lundahl and many other scholars consider this chapter to be inauthentic.

In addition to the above, there are many other inconsistencies in the text of *Han Feizi*, so we must try to find the right answer to the question of how we should deal with them and how their relationship to the understanding and interpretation of the text and thinking is contained in it.

29 For the reasons why we should distinguish between these two terms as well as for other ideas, see Paul R. Goldin, »Introduction: Han Fei and the Han Feizi«, in *Dao Companion to the Philosophy of Han Fei*, 1–21.

30 Zhang Jue, *Han Feizi jiaozhu*, 1.1–13.

31 *Ibid.*, 2.13–23.

32 He Jianzhang 何健章, *Zhanguo ce zhushi* 戰國策註釋 [Intrigues of the Warring States, with Annotations] (Beijing: Zhonghua shuju, 1990), 88–101.

One possible way of dealing with the ideas, passages or whole chapters that seem to be irreconcilably inconsistent is to consider them to be inauthentic. After doing so, there arises the question of how these inauthentic elements got into the text of *Han Feizi*. There are a number of possibilities then in answering this question. Perhaps his disciples or followers wrote particular passages or whole chapters. Another possibility is that it was written by some of Han Fei's predecessors and put into the text by his disciples or compilers. It is also possible that the compilers added some documents into the text or wrote some commentaries or annotations. Some inauthentic elements may simply be the consequences of errors made in the process of compilation and editing. We must also bear in mind that the text has been handed down from generation to generation over a period of more than 2000 years; it is quite natural that there will be some corruptions or additions made while copying or transcribing the text. There are, of course, many other possible sources of inauthentic places not listed here, but it is not the intention of the present work to find all of them. I only want to point out that it is not reasonable to stick too rigidly to some of the present versions of the text of *Han Feizi* if we encounter some inconsistencies; these could be explained as corruptions or additions to the text or some other above mentioned factors, or as a combination of a number of factors which allowed some inauthentic passages into the text. On the other hand, we should have substantial evidence if we want to declare some passages or entire chapters inauthentic.

Another possible way to deal with some inconsistencies without questioning the authenticity of a relevant part of the text is to find some other reasons which could have caused them.

One of the arguments that can be used to explain some inconsistencies between different parts of the text in *Han Feizi* is that Han Fei could have written them at different stages of his life and that his ideas, views and opinions underwent changes. This argument sounds reasonable. Everybody's thinking and opinions usually change over the passage of time and in the accumulation of new experiences and knowledge, and I think Han Fei was no exception. But the problem here is that we don't know exactly when the individual chapters were written. We can only try to deduce this indirectly, which can be quite precarious. Lundahl discusses this kind of argument in his study as well; in his opinion, there is no substantial evidence based on which we could know how

Han Fei's thought developed.<sup>33</sup> I agree with this opinion. I think that Han Fei wrote the individual writings contained in *Han Feizi* at various stages of his life, which allows for some inconsistencies being caused by this factor, but we still do not know exactly how to identify them, so it is very hard to use this argument when judging concrete ideas, passages or whole chapters of the work. On the other hand, we cannot ignore this argument when talking about the inconsistency of the work in general.

Another important factor that must be necessarily taken into consideration when analyzing inconsistencies caused by reasons other than lack of authenticity is the purpose and character of individual chapters as well as the whole work.

We know, for example, that some of the chapters were written as memoranda which were aimed at persuading the ruler to adopt Han Fei's ideas and not present a consistent and objective theoretical treatise on some subject. In the *Difficulties of Persuasion*<sup>34</sup> he analyzes all kinds of problems that must be taken into account when a minister is trying to gain the trust of a ruler and persuade him to adopt his ideas. He gives the advice that it is necessary to know the ruler's mind and his character well, and adapt one's words and arguments according to this if one wants to be successful in persuasion. We can suppose that Han Fei followed this advice himself when writing and submitting his memoranda to the throne and adapting the arguments and ideas according to the ruler's personality in order to succeed. That means that although these passages are authentic, it does not mean that they are Han Fei's genuine views and opinions. On the other hand, if he was advising ministers on how to gain the trust and attention of the ruler by currying favour with him or by similar methods, it does not necessarily mean that he taught or recommended to them that they always cheat their ruler and pursue their private interests while pretending to serve him. This could also mean that he was only trying to give help to capable men with the proper techniques and methods for them to be employed by a ruler that was constantly being fooled by those around him who would do anything to dissuade the ruler from employing these able men. According to Han Fei, only men with proper methods and techniques can help their ruler govern the state better and protect him from treacherous ministers and advisors pursuing their private interests. It is obvious that every piece of Han Fei's writings was written with some specific purpose and that its content was adapted to serve this purpose. By reading and interpreting individual

33 Bertil Lundahl, *Han Fei Zi. The Man and the Work*, 124–125.

34 Zhang Jue, *Han Feizi jiaozhu*, 12.113–121.

chapters we should then always try to think about the possible purpose which they aimed to serve.

As already mentioned before, there are 55 chapters in *Han Feizi*. This work is one of the most voluminous when talking about the books of ancient Chinese philosophers, and we can find various types of chapters there in terms of length, style or character. There are memoranda to the throne, analyses of certain problems, treatises on some subjects, commentaries to the text of *Laozi*, chapters and passages that are rhymed, refutations of some ideas, collections of illustrations and advice for rulers and others. It is obvious that *Han Feizi* is far from homogenous when discussing the basic character of its chapters. It has already been mentioned that the individual chapters of the whole work were separate writings, at least most of them, before being put together into a book. Although they contain many common ideas, arguments, expressions, views and other characteristics, they were not written or designed to build a compact, fully consistent and structured work. This is not to say that the thinking contained in *Han Feizi* is not systematic or is chaotic and illogical. This is only to point out that the chapters of this work were not intended, designed or written to be a compact book, so we naturally cannot expect it to be fully consistent. Individual parts of it were very probably written at various times, in various situations and for various purposes, so we should never forget this fact when judging the ideas and passages in *Han Feizi* and considering their inconsistency. Han Fei's intention was surely not to write his writings in such a way that they would one day make a fully consistent unit in a book. Considering all these facts, it would be very strange if there were no inconsistencies in *Han Feizi* even if all the parts of it were authentic.

In addition to the types of inconsistencies described above, there is another type that could be named 'apparent' inconsistencies. This refers to such places which seem to be inconsistent but which could be brought into line with the rest of the text through a different interpretation and understanding.

It is clear that there are many things we still do not know about Han Fei's life, the development of his thought or the particular situations in which individual chapters were written. Knowing these facts would surely help us understand the text and the thinking contained in it better. But as we do not know these things, we must work with the materials we have and try to overcome as many problems as possible. One of the things that could help reconcile some of the inconsistencies in *Han Feizi* is improving our understanding of the special features of Han Fei's thinking and his style of

writing. In the following passages, two of the most typical of them are presented.

I think the most typical feature is his tendency to adopt various concepts, ideas or terms from other thinkers and adapt them according to his needs. His whole philosophy is built in such a way. He adopted the main concepts of his system from his Legalist predecessors but also absorbed some ideas from Daoism, especially *Laozi*. In addition, he was undoubtedly influenced in some aspects by The School of Names, the Mohists and even the Confucians, although he criticized them all extensively. He was able to learn from anybody, whether they were his ideological enemy or ally. On the other hand, it presented no problem for him to also criticize those from whom he had adopted the main concepts of his philosophy. The result is that his philosophical system contains many various components, which are, despite their different origins, integrated into one relatively consistent unit. This was really one of Han Fei's strong points, but it makes the situation a bit complicated for those who read his texts.

The problem is that he not only adopted the ideas of different thinkers but also modified them or interpreted them in a specific way to be in accordance with his whole thinking. But sometimes we do not know exactly to what extent he modified them; although he uses the same terms, the meaning could be slightly or even radically different.

A good example is his use of some Confucian terms in some chapters. Han Fei criticizes the concepts of Confucianism very often, but in some places uses terms representing these concepts in a positive sense, even in the chapters generally considered authentic.<sup>35</sup> How can we explain this? We have no other option but to look at such terms in a different way and admit that their meaning has been modified. For example, as a Confucian concept the term *zhong* 忠 ('loyalty') means that a loyal minister is one who serves the ruler and is at the same time also moral and principled. Used in a Legalist sense, it means that a loyal minister works hard and obediently follows orders without any connotation of morality. Although it is the same term, it has different connotations, so if it is used in a text it does not automatically mean that the author is a Confucian and that he cannot be a Legalist.

35 For example, the typical Confucian term *zhong* 忠 ('loyalty') is used more times in a positive way in Chapter 14 »Jian jie shi chen« 奸劫弑臣 [Ministers Who Betray, Coerce or Murder Their Rulers]. See Zhang Jue, *Han Feizi jiaozhu*, 14.128–129.

The same case is seen in the use of Daoist concepts, as was already mentioned while introducing of Han Fei's philosophy in previous passages. Han Fei was influenced by Daoism, but he interprets its ideas in a Legalist sense. Therefore, when reading the passages of *Han Feizi* containing some of the Daoist terms, we must always keep this in mind and take this into account when interpreting and understanding the text. Nevertheless, his understanding and interpretation of these ideas can be very interesting and stimulating because it makes us look at some of the Daoist texts, especially the text of *Laozi*, from a different point of view.<sup>36</sup>

Another special feature typical for Han Fei is his inclination to use various famous figures, objects, examples, stories or events from history to explain, illustrate and support his ideas. He uses them almost in every chapter and some of the chapters are even collections of such illustrations.<sup>37</sup> This is very helpful for a better understanding of his ideas, but it can sometimes be problematic and we can find some inconsistencies there.

For example, he sometimes uses the same person in one chapter as a positive example but in another as a negative one.<sup>38</sup> Another case is the use of some famous people or things from history with obvious inaccuracies in terms of the period of time or historical facts.<sup>39</sup> We could judge such passages as being

36 A very interesting translation of *Laozi* was made by David Sehnal into Czech. His translation is based on a detailed linguistic analysis of the text. The methods he used and the principles he observed differ from other translators, which makes his translation original and inspiring. In the Appendix of his book there is a vocabulary of the lexemes found in *Laozi*. See *Knihy Laozi: Překlad s filologickým komentářem* [Laozi 老子; The book *Laozi*: A Translation with Philological Commentary], translation, philological commentary and vocabulary of the lexemes of *Laozi* by David Sehnal (Praha: Univerzita Karlova. Filozofická fakulta, 2013. Ediční řada Varia; 7).

37 Ch.s 22 and 23 *Shuo lin shang xia* 說林上下 (Forest of Illustrations, Part One and Two). See Zhang Jue, *Han Feizi jiaozhu*, 22-23.234-273, and ch.s 30-35, »Nei wai chushuo«, see Zhang Jue, *Han Feizi jiaozhu*, 30-35.303-494.

38 The famous figure Wu Zixu 伍子胥 (d484 BCE) is used as a negative example of a minister who does not properly respect the authority of the ruler in ch. 44 »Shuo yi« 說疑 [Explaining Suspicious Behaviour] and as a positive example of a loyal minister in ch. 52 »Ren zhu« 人主 [The Ruler of Men]. See Zhang Jue, *Han Feizi jiaozhu*, 44.582 and 52.697.

39 For example, Bo Le 伯樂, who lived in the 7th c. BCE, and Viscount Jian of Zhao 趙簡子 (d475 BCE) are both protagonists in one story in ch. 23 »Shuo lin« 說林下 [Forest of Illustrations, Part Two]. Bo Le was very good at judging the quality of horses. He is represented in the story as somebody who has this ability and not as himself as a person. See Zhang Jue, *Han Feizi jiaozhu*, 23.254; see also notes 82 and 420 in Chan Fei, *Chan-fei-c'*, 1: 135-326.

inconsistent or inauthentic, but it is more probable that he often used these people and objects to only express some kind of quality which was typical for them or used some people to only refer to their function or position and not to themselves as people. Some inaccuracies can also be found in the stories, events or examples from history; some of the stories are even fabricated. These inaccuracies give rise to suspicions concerning consistency and even authenticity. But I think it is much more probable that he only used the stories, events and examples to convey an idea or message. This means that for Han Fei it was not so important if these things really happened or if all the stated facts were true. The main purpose is to explain or illustrate some concrete ideas and support his views. Thus, if we want to interpret and understand these passages well, we must try to find out what the main idea or message of them is. Then we will very probably know why and how the particular people, objects, events and stories mentioned there were used. Therefore, we must keep in mind that the main idea or message is always crucial and everything else is only of secondary importance.

It is quite obvious that although the text of *Han Feizi* is relatively reliable when compared to the other works of the philosophers of ancient China, there are still many problems concerning authenticity and inconsistency waiting to be solved. Some of these problems cannot be solved for objective reasons. We simply do not have enough historical or other information necessary to do this. However, there are some problems we could solve through a better understanding of the text of *Han Feizi* and the thinking contained in it. Here are some ideas that could be helpful in this sense.

Firstly, before starting to read the whole book, we must be aware that it is compiled from many individual writings which were not written with the original intent of forming one fully consistent unit. They were not written at the same time, under the same circumstances or with the same purpose. The basic nature of the individual chapters is different. We can find memoranda to the throne, treatises on some subjects, collections of illustrations and other kinds of texts. There probably are chapters that are inauthentic. There may be some chapters that are authentic but inconsistent or distorted. There may also be chapters that seem inconsistent, but this inconsistency can be reconciled with the rest of the text by modifying the interpretation and understanding of the whole chapter.

Secondly, when reading the particular chapters, we must try to identify the basic nature of the chapter and the purpose of writing it. It is very probable that Han Fei adapted ideas and arguments according to the purpose of his writings,

so some of them could be inconsistent even if they are authentic. For example, in order to persuade a ruler or gain his trust, he could use some ideas or arguments that are not in accordance with his thinking. It is also possible that some of the passages are really inauthentic or distorted. Some of them may only seem to be inconsistent, but after modifying their interpretation we could maybe reconcile this inconsistency.

Thirdly, when reading particular passages, we should try to find the main idea or message of this passage. We must be aware of the special features of Han Fei's style of writing. The meaning of the individual ideas and terms used in particular passages might have been modified in order to be in accordance with the main idea of the passage, the whole chapter or Han Fei's thinking in general. Some Daoist or Confucian terms used in the text of *Han Feizi* are typical examples. Some of the people or objects mentioned represent only the quality that is typical for them. It is also possible that some people represent only the function, profession or the office they hold and not themselves as people. The stories or events do not have to fully correspond with historical reality even if they are taken from history. Sometimes they can be wholly fabricated. They are only used to serve the main idea and the message of the particular passage or the idea and purpose of the whole chapter.

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