The Right of Resistance in Ancient China

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Abstract: this paper analyses the fundamental ideas about the right of resistance against a tyrannical government in the political thought of the “hundred schools” of ancient China. In the history of China, the periods known as Spring and Autumn (770-463 BC) and the Warring States (463-221 BC) were times of conflict and political instability caused by the increasing power of centralized and competing states. During this time of crisis many schools of thought appeared with different philosophical and political ideas. Among these ideas we find the defence of the right of resistance based both on the respect for tradition and on the nature of man in the Confucian school; the Taoist anarchism; the defence of a limited government based on a natural law theory of the Huang-lao school; the Mohist condemnation of aggressive war and the Legalist justification of absolute power.

Key words: history of political thought, ancient China, right of resistance, hundred schools
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Introduction

The right to resistance is considered as the legitimate action which members of a community have to oppose unjust and oppressive decisions made by political power. This right can be formulated in differing ways and degrees, comprising actions such as simple passive resistance to extremes like tyrannicide.

All of these questions have been subject to extensive study and debate in Western political tradition since its beginnings. Nevertheless, Chinese political thought also developed some of these issues from the start, as a result of debates between the diverse Schools of thought that dealt with political and social phenomena at a time fraught with change, war and the centralization of power.

China during the Periods of Spring and Autumn (770-463 BC) and Warring States (463-221 BC)

According to the Historical register of Sima Qian in Chinese classical historiography, at the beginning there were five legendary Emperors, The Yellow Emperor being the first of them. Other Emperors such as Yao and Shun represented the peak of virtues for Confucian and mohist thinkers, and Emperor Yu gave way to the first Dynasty when his son was spontaneously appointed his successor by the people. This would be the first of Three Dynasties: The Xia, Shang and Zhou which Chinese tradition dates between 2000 and 221 B.C.\(^1\). Each one of them reigned over a prolonged period of time, but their leaders suffered a progressive moral degeneration which lead to tyrannous kings who were finally overthrown and replaced by a new dynasty. Thus, the Xia dynasty ended with the reign of Jie and was superseded by the Shang Dynasty. This dynasty in turn, was replaced by the Zhou, after overthrowing the tyrant Zhou.

This particular dynasty is divided in two periods. The fist lasted from 1040 to 771 BC where a

\(^1\) For a study of this period see Dolors Folch, *La construcción de China: el período formativo de la civilización china* (Barcelona: Ediciones Península, 2002)
feudal type sociopolitical system was established. The king, in the Capital, was the center of political and religious loyalties while around him existed a pleiad of territories controled by feudal lords. This system, unified around the King’s religious authority was idealized by thinkers such as Confucius.

The latter period started in 770 BC, in which hostile barbaric tribes kill the King and the capital is moved to the east (which is why this period is also known as Zhou of the East) and ended with the establishment of the Qin Dynasty in 221 BC. In turn, this period is divided in two. The first is known as the Spring and Autumn period (770-463 BC) and the second as The Warring States period (463-221 BC). In both periods there is a steady disintegration of the feudal system. As well as a weakening of the figure of the Zhou King, who ended his days with mere residual importance, there were numerous feudal lords who lost their lands and status. Together with this, there was a shift to centralization of power in the hands of the main feudal lords. This lead to the creation of diverse states who warred continuously to expand their territory while multiplying laws and increasing taxes. At the end of this process, a single state, The Qin State, stood victorious. It annexed itself to the rest of the territories and its first Emperor, Shih-huang-ti, formally abolished the feudal system.

While the feudal system was in place, the lords had used a bureaucratic system of Civil Servants who came directly from the nobility for government work. But, with the disintegration of this system, several nobles lost their status and their lands, while the common people rose to the level of Civil Servant. According to Feng Youlan, the diverse schools of thought known as the “hundred schools” arose from the old nobles, specialized in hereditary occupations in the service of the governing aristocratic families, who lost their positions and spread around the country.

The doctrine of The Mandate of Heaven

When the Zhou overthrew the last representative of the Shang Dynasty and established a new one,

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they justified their action by invoking the Mandate of Heaven. According to this mandate, a natural order of the Universe existed, derived from a celestial and sovereign god (Tian, Heaven). The sociopolitical order should reflect this natural order. As the last sovereign of the Shang, after a long process of lineage decline, breached the principles derived from this cosmopolitical order (not obeying the Will of Heaven, placing an excessive confidence in the power of his royal ancestors and violently oppressing the population) the Zhou believed it was legitimate to overthrow King Shang, a tyrant, because he had lost Heaven’s blessing. This modification in celestial will could be discerned by observing astronomical shifts and changes, such as special planetary alignments. The doctrine of Heaven’s Mandate is established in the Book of Documents (Shu King) a collection of memories from the mythical times of Yao and Shun to the first rulers of the Zhou Dynasty. In The Great Declaration King Wu explains how the Shang ruler had lost the Mandate of Heaven, due to his depravity:

“Heaven and earth is the parent of all creatures; and of all creatures man is the most highly endowed. The sincerely intelligent (among men) becomes the great sovereign; and the great sovereign is the parent of the people. But now, Shâu, the king of Shang, does not reverence Heaven above, and inflicts calamities on the people below. Abandoned to drunkenness and reckless in lust, he has dared to exercise cruel oppression. He has extended the punishment of offenders to all their relatives. He has put men into offices on the hereditary principle. He has made it his pursuit to have palaces, towers, pavilions, embankments, ponds, and all other extravagances, to the most painful injury of you, the myriads of the people. He has burned and roasted the loyal and good. He has ripped up pregnant women. Great Heaven was moved with indignation, and charged my deceased father Wăn to display its terrors; but (he died) before the work was completed”\(^3\)

Although until recently the consensus among specialists was that this doctrine was mainly an

\(^3\) *The Sacred books of China: The texts of Confucianism. Part I The Shu King, the Religious Portions of the Shi King, the Hsiao King*, trans. James Legge (Oxford: Clarendon Press, 1879) p.96
original development by the Zhou governors to justify what, in any other case, would be considered a usurpation of political power, there are authors who believe that a continuity exists between the Mandate of Heaven of the Zhou and the prevalent ideas in the time of the Shang Dynasty. David W. Pankenier states that:

“In view of the evidence of a fundamental consistency between late Zhou cosmological conceptions and their second millennium BC antecedents, the Zhou claim to have re-established the continuity of a cosmopolitical tradition that took its cues from Heaven and the natural order appears well founded”

In any case, the doctrine of the Mandate of Heaven has deep political implications. It was an important method to fight a tyrannical government and it would influence the political thought of many schools.

**Confucius**

Confucius is the main philosopher of the Ru school of Chinese thought and his influence in Chinese culture and civilization is enormous. Nevertheless, this thinker was unable to be so influential while alive. He lived between 551 and 479 BC, at the end of the Spring and Autumn period, and it was during this time of great social changes and political instability that he spread his teachings. His main objective, however, was not philosophical reflection in itself, but political practice. Confucius aimed at influencing the politics of his time and for that, he traveled from kingdom to kingdom offering governors his counsel with the hope of putting his government ideals into practice. He thought he was destined to restore the model of society identified with the first governors of the Zhou Dynasty and not until the end of his days, did he sadly admit he would never be able to fulfill this task. Confucius presents us, through conversations with his disciples collected in the Analects,

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a political philosophy which, even though it does not adopt a right to resistance, does establish a series of principles favorable to this right. These principles were later developed by his followers, fundamentally by Mencius.

Firstly, Confucius believed the government should behave in an ethical manner. He says that:

“To ‘govern’ means to be ‘correct’. If you set an example by being correct yourself, who will dare to be incorrect?”

To behave upright every man, and therefore the leader, should adopt a series of virtues, the most important of which is what is usually translated as benevolence or humanity (ren). This virtue embraces a complex web of moral obligations of man towards himself and others. Although Confucius does not give a systematic description of this virtue, in the diverse dialogues with his disciples, he explains attitudes and behavior which lead to achieving benevolence. For example, in one, Confucius tells us to love everyone. In another he states that he who can, should extend courtesy, tolerance, kindness, conscientiousness and generosity and this will increase humanity in the world.

Confucius never tries to establish a theoretical foundation of these virtues, as Mencius would later do, based on the nature of things. Zigong, one of his disciples tells us in the Analects that:

“The Master's cultural brilliance is something that is readily heard about, whereas one does not get to hear the Master expounding upon the subjects of human nature or the Way of Heaven”

The main pillar of Confucius' teachings is tradition. For him, Chinese tradition had left behind a series of moral principles and sociopolitical institutions which reached their maximum expression in

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6 Confucius, *Confucius Analects*, p.44
the first governments of the Zhou dynasty and which were also necessary to reinstate to end the serious distortions and social instability of the time. This instability was caused, in large part, by the bad behavior of the rulers at that time who did not respect institutions and moral principles handed down by tradition. They merely looked to increase their power and influence. For scholars in official posts, it was a moral obligation to react to this behavior, to the point of even risking life and limb. And even though Confucius does not justify rebellion against a despotic legitimate sovereign, he does defend a kind of gentle resistance in such cases. Firstly, a counselor must reprimand his king if the ruler makes unwise decisions. In the case that the monarch does not heed the cautions, one is not obliged to follow his orders and may resign and flee from his post. As a last resort, one must accept goal or death before unjust decisions.

Furthermore, Confucius believed that a gentleman (junzi) was one who had developed and perfected moral virtues through study and practice. In other words, Confucius gave a moral significance to the term 'gentleman', independent to the social origin of the individual. Gentlemen are a kind of natural aristocracy which the ruler has to use as ministers and counselors, although it was perfectly possible for a gentleman to not have an official position (as happened to Confucius). Taking into account that the model of behavior to follow is that of the gentleman, and confronted with unfair monarchic decisions, he does not have an unconditional obligation of obedience, we may conclude that Confucius establishes a very solid terrain to justify disobedience on behalf of any man who aspires to behave morally before a tyrannical leader.

Confucius was also very skeptical with respect to the positive law enacted by government (fa) and considered rites (li) a superior mechanism of social organization. While the former was an instrument used by rulers to achieve objectives through punishment and reward, rites consisted in a series of guided and ceremonial acts which expressed moral principles and traditional social obligations as a whole. This distinction is very similar to what Friedrich Hayek establishes between ‘taxis’ and ‘cosmos’. The first concept refers to specific orders directed at the achievement of specific objectives, deliberately enforced and it is common to organizations. Whereas the second
concept refers to a spontaneous order which has arisen evolutionarily, and not designed by anybody. This spontaneous order, does not have to have a specific objective but allows for the growth of social life.\(^7\)

For Confucius the multiplying of rules enacted by the ruler did not only represent a sign of moral decline, but was also a useless method in the organization of society. On the other hand, respect for rites developed people's moral virtues and favored a peaceful order in the absence of coercion:

“When the ruler is correct his will is put into effect without the need for official orders. When the ruler’s person is not correct, he will not be obeyed, no matter how many orders he issues” \(^8\)

He also tells us that:

“If you try to guide the common people with coercive regulations and keep them in line with punishments, the common people will become evasive and will have no sense of shame. If, however, you guide them with Virtue and keep them in the line by means of ritual, the people will have a sense of shame and will rectify themselves” \(^9\)

This set of moral principles and social guidelines represented by rites, independent of the ruler's specific objectives and also establishes strict limits of conduct, is a powerful counterweight of political power. \(^10\)

The deep social instability of Confucius' time would be, therefore, due to the trend toward breaking up on behalf of feudal lords while concentrating and centralizing political power over the extended


\(^8\) Confucius, *Confucius Analects*, p.141

\(^9\) Confucius Confucius Analects, p.8

\(^10\) As Hayek says: “el grado de poder de control sobre el orden extenso y más complejo será mucho menor que el que podamos ejercer sobre un orden deliberadamente construido o taxis…cualquier deseo que podamos tener relativo a la particular posición de los elementos individuales o la relación entre individuos particulares o grupos no podrá ser satisfecha sin perturbar el orden general.” Hayek, *Legislación, Derecho y Libertad*, p.61
order represented by rites.

Another important element which serves as a political counterweight in Confucius’ work, derived from respect to rites, is his resolute defense of the five basic relationships of traditional Chinese society, articulated in the following pairs: ruler-subject, father-son, husband-wife, older brother-younger brother and the relationship between friends. Each one of these relations distinguishes between the functions and behavior of the members of every pair, setting down, in turn, a series of reciprocal actions between them. Thus, for example, a subject must obey a ruler, but the ruler must rule fairly. For society to be in order, each person must obey the obligations of their position in every one of those pairs. Confucius considers family relations of enormous importance, as well as all obligations and loyalties derived from them. When a ruler of a kingdom, praised the action of a man who reported his own father for stealing a sheep, Confucius said that:

“Among my people, those who we consider ‘upright’ are different from this: fathers cover up for their sons and sons cover up for their fathers. ‘Uprightness’ is to be found in this.”

Evidently, a way of thinking which promotes family ties and loyalty among members before government interests cannot be well received by those looking for the maximization of political power. This was criticized by thinkers of the legalist school, which would confront the Confucian school directly. Robert Nisbet reminds us that intermediate associations such as the family or clan, where the individual socializes in direct contact with other members in the group, impose serious restrictions on the growth and centralization of political power by establishing laws, obligations and moral principles independent to itself. Those who seek to increase the scope of action and capacity of political power do not only try to break these intermediate associations but also bring all supporting doctrine into disrepute.

Lastly, we must also mention the doctrine of the rectification of names, which Confucius considered

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11 Confucius, *Confucius Analects*, p.147
of great importance. According to this principle, each name should adequately describe the reality to which it applies. As Feng Youlan says each name has certain meanings which constitute the essence of the class of things to which this name applies. If names are applied incorrectly to realities not described by the name, language loses all object and, as a consequence, moral principles and traditional sociopolitical institutions are also lost. Thus, concerning political organization, a ruler who does not respect the obligations of his post is not really a ruler, since he does not possess the characteristics which his name describes. Mencius would later base his doctrine of the right of resistance and tyrannicide on the principle of the rectification of names.

**Mencius**

Mencius was another of the main philosophers of the Confucian School. He was born in the state of Zou in the 4th century BC and like Confucius and many others, he was a traveling philosopher in search of a ruler who would put his teachings into practice to institute peace and justice in violent times. When he abandoned his political activity, he wrote the book titled after him. Mencius is the most important author in Chinese political philosophy with respect to right of resistance. His reflections made rulers turn pale, after holding conversations with him about this delicate subject, because Mencius did not hesitate to expose that which he thought correct even when in danger of attracting the ruler's hostility.

For Mencius, in every man there exist determined innate tendencies toward virtue which are necessary to develop in an adequate environment to perfect them. That is, the nature of man is good but cannot be developed without the necessary conditions (like the nature of a seed is to become a tree but it needs an adequate environment to do so). The most complete development of human nature is represented by the kings Yao and Shun as well as Confucius himself. However, every man, according to Mencius, has a mind that cannot bear the suffering of others and, to develop this incipient virtue, must exercise it through “the extension of one's activities to include others”. In

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13 Feng, Breve historia de la filosofía china, p.62
other words, man must expand those cases in which he feels loathing for others’ suffering to more and more general cases. For example, it is natural for a father to love his sons. To develop his virtue, he must widen this feeling to include more and more people. The ruler must also do this to become a real king like Yao and Shun, and not into any feudal lord of the time.

The real king, who practiced benevolence, did not depend on force to survive. The people are not subjects by force but by virtue and this is done voluntarily, exactly like Confucius' seventy disciples followed him voluntarily. Mencius says that:

“One may become King with even a small territory of a hundred leagues square. If your majesty applies benevolent government to the people, lessens punishments, reduces taxes and ensures that there is deep plowing and careful weeding”14

Mencius insists on the need to reduce taxes so people may prosper, be happy and attract more population from neighboring countries (which was important at a time when wars and starvation decimated the population)15

What would happen if the ruler did not rule fairly and justly? Is it possible to react in some way against an unfair ruler? Mencius states that one can through the application of the Confucian principle of the rectification of names. In the first place he rejects any justification of a reason of state, a crime is a crime, whoever commits it:

“Is there any difference between killing a person with a club and killing him with a blade? The king said ‘there is no difference’ Mengzi continued, Is there a difference between using a blade and government? The king said ‘There is no difference”16

15 For a study of Mencius’ proposal of tax reform see Charles Adams, *For Good and Evil, the Impact of Taxes on the Course of Civilization* (Lanham, Maryland: Madison Books, 2001) pp.45-51
16 Mencius, *Mengzi*, p.5
Mencius compares the action of a king who rules unfairly with that of particular individuals or lower ranking officials who do not perform the tasks they have been entrusted with. Similar to what Manegold de Lautenbach would later do in the middle ages. If the incompetence of this subject to perform tasks is proved, their services are no longer required:

“Mengzi spoke to king Xuan of Qi saying ‘If among Your majesty’s ministers there were one who entrusted his wife and children to his friends and traveled to the distant state of Chu, and when he returned his friend had let his wife and children become cold and hungry, how should he handle this? The king said, ‘Abandon his friend’

Mengzi said, ‘if the chief Warden is not able to keep order among the nobles, how should one handle this?’
The king said, ‘Discharge him’
Mengzi said, ‘If the region within the four borders is not ruled, then how should one handle this?’
The king turned toward his attendant and changed the topic”17

If the king does not rule fairly he stops being king and becomes another individual against whom defensive action can be taken, including assassination. In this way, when one of the kings of the period (referring to the last Shang king) asked Mencius if it is acceptable for subjects to assassinate their rulers, he said:

“One who mutilates benevolence should be called a ‘cripper’. A crippler and mutilator is called a mere fellow. I have indeed heard of the execution of this one fellow Zhou, but I have not heard of it as the assassination of one’s ruler”18

17 Mencius, Mengzi, p.24
18 Mencius, Mengzi, p.26
Nevertheless, these measures must be taken respecting a series of conditions, which are found dispersed in several passages in Mencius' work. For example, the right to overthrow the king and establish a new dynasty may only be done as a last resort, when the king behaves in such a corrupt way as the last kings of the Xia and Shang dynasties:

“If a dynasty has the World, Heaven will dismiss it only if the rulers are like tyrant Jie and tyrant Zhou”.

And even in this case it should be certified that the king has lost prevalent customs and other signs of good government from past times. It is also necessary to count on the support of the most virtuous nobles and the voluntary adherence of the people. In the case that the king does not reach such a high degree of corruption, one of his ministers may temporarily substitute him, as long as he can be reinstated once reformed. If he does not, the minister will be accused of usurpation. These measures are destined to ensure just and fair governing over a people, which is the most important part of the sociopolitical structure, while the king is the least important part. As such, for Mencius, the legitimacy of a monarch does not depend on hereditary succession. According to him, there is a double source of legitimation for a king: The will of Heaven and the satisfaction of the people. When the old king chooses a successor, Heaven does not show any discontent by signs such as atmospheric phenomena (rain, wind and thunder, the people are satisfied with the new ruler and government affairs are well administrated, the new king may rule legitimately. Clearly, if the legitimacy of this political power derives from this double source, all attacks on the will of Heaven and its natural order or against the well-being of the people are motives for its withdrawal. Thus, for Mencius, resistance against a tyrannical government is justified.

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19 Mencius, *Mengzi*, p.125
Xunzi

The third figure of Confucianism is Xunzi, who lived during the third century BC. Xunzi was a professor in a famous school of literates, the academy of Jixia in the kingdom of Qi, at a time in which the systematic application of legalist government ideas placed the kingdom of Qi on the road to the conquest and unification of all of China.

Xunzi was a brilliant thinker who maintained numerous principles of Confucianism but who also introduced certain novelties which lead to an erosion of Confucian political philosophy. The most well known statement of this philosopher’s work is summed up in the slogan that human nature is bad, directed at Mencius’ statements that man is innately good. For Xunzi this means that man is born feeling multiple desires which conflict among themselves and with those of other individuals. If these natural urges are not corrected, society would fall into chaos and no individual would have guarantees to satisfy his desires. To rectify this and allow life in society, learned men invented moral principles and rules for social behavior expressed in the rites (li). Every man who uses his intelligence to analyze the rites may discover the need of them because they allow for the satisfaction of people's desires in a peaceful way through the social division of labour:

“all people desire and like the same things, but since desires are many and the things that satisfy them relatively few this scarcity will necessarily lead to conflict…yet even the able find it impossible for an individual to hold every office. if people live in alienation from each other and do not serve each other’s needs, there will be poverty, if there are no class divisions in society there will be contention”

Apart from controlling the cultural mechanism of rites it is also necessary to control the behavior of common people who have not reached the moral development of the gentleman (junzi) by way of sanctions and punishment:

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“from the position of the knight up to the supreme position, all must be moderated through ritual and music. The ordinary masses, the hundred clans, must be controlled by law and norms of behavior”.  

This positive law decreed by the ruler cannot be discrete but must be subject to the principles of reason:

“governmental ordinances, edicts, regulations and standards that are not in accord with reason by so much as the tip of a hair should not be applied to the hundred clans”.  

Reason therefore shows us the characteristic elements of the ideal government system. They are the same for all historical periods. In this system the ruler should protect the following and respect of rites, he must apply punishment justly using objective standards and must limit expenses and reduce taxes to enrich the population. Through these government rules, the king would attract the population and allow other kingdoms to join voluntarily. He who achieves these things will be a real king legitimimized by Heaven while he who violates all these obligations will place his kingdom in danger and will finally be destroyed. Nonetheless Xunzi also foresees a third possibility between these two extremes which is the lord protector: a ruler who, although he does not follow Confucian ideals of virtue, he at least applies rational principles of government which do not place his kingdom in danger and allow him to stay in power. In the absence of a real king to unify China through voluntary adhesion brought about by his moral authority (something highly improbable at that time), Xunzi seems to accept the lord protector as the “second best option”.

Even though Xunzi establishes several limits to the kings action and defends a type of society based on social division of labour as a guarantee of prosperity, some of the elements of his philosophy lay

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21 Xunzi, Xunzi, vol.2, p.123
22 Xunzi, Xunzi, vol.2, p.167
the path for the final victory of the school of law, which defends the absolute power of the king (not in vain Han Fei Zi, one of the most important defenders of legalism was disciple of Xunzi). The fact that moral principles of society are considered tools designed by specific men for specific purposes, the characterization of human nature as a fountain of conflicts and the defense of punishments and rewards to control common people, are all elements of the legalist school of thought.

If the sages of ancient times invented the moral rules to organize society, why cannot the same be done by a king who aspires to unify the empire like the fist Qin dynasty emperor would do, following legalist advice? If the criteria to respect traditional ceremonial rituals is utility, why maintain them when they form an obstacle for the obtaining of the king's objectives?

Mozi

Another of the schools of thought that emerged at that time was represented by Mozi (who lived in the 4th Century BC). He was a contemporary of Confucius and one of his first philosophical rivals. Mo Zi seems to come from a new substratum of men of humble origins who aspire to progress thanks to their skills and knowledge. He was made famous for helping cities under siege in the continuous wars of the period, using his knowledge of defensive tactics.

One of the main points of disagreement between Mozi and the Confucian school came from his doctrine of universal love. For him, the social disorder of those times stemmed from the selfishness of those who did not love others as they loved themselves. To end wars and aggression each person should love others as they love themselves. Expanding the doctrine of love toward everyone nobody would hurt anyone else, in the same way that they would not hurt themselves.

On the other hand, Confucians defended gradual love. They thought it more natural for individuals to love their relatives more than strangers. Respect and good will towards others would derive, as in Mencius' case, from the extension of the activity of one's self to include more people.

Mozi did not share the Confucian respect for tradition either, represented in rites, funerals and music, because, according to him, those things move people away from their daily occupations and
lead to an excessive expenses in unnecessary things. Mozi says that a determined practice cannot be justified solely because it is a custom. There are certain barbaric and violent customs that are unfair and which should be condemned. For him, a determined practice can only be justified if it is beneficial for the people and rejects the rest as useless or superficial. Both principles of universal love and utility come from the will of Heaven (Shang Ti) that loves every man and wants prosperity and benefit for them.

Unfortunately, Mozi does not consider the main principles of justice based on the will of Heaven as a set of general and abstract rules, but believes that from them, one can plan and regulate several aspects of people's daily lives in detail, deciding which are beneficial or not. This is how Mozi proposes the moderation of expenses in funerals, the reduction of the period of mourning, the banning of music and the production of every type of asset, eliminating those too luxurious or unnecessary. He even says that people should be forced to marry and establish a home for themselves early in life to promote population growth. Mozi believes all these things should not be left to the whims of the people, and that the ruler should use force and punishment to impose them, molding their behavior.

The task of the king and the origin of political institutions are explained through one of the first statements in the history of political thinking in the theory of the social contract. According to this philosopher, at the beginning of history men lived in a state of nature in which disorder and selfishness reigned. To end this situation men decided to choose the best one among them to rule. Even though this theory gave the ruler great power to regulate and plan uncountable acts in the lives of his subjects, it also imposed limits which could not be breached. In the contract, Mozi does not give origin to moral principles but establishes the most skilled among the men as the one in charge of developing and defending the principles of government stemming from Heaven. By supporting

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23 This has led many scholars to argue that Mozi is a utilitarian philosopher. However Hao Changchi argues that since Mozi’s moral theory is primarily concerned with the fulfillment of the material needs of the other it cannot be defined as utilitarian. Hao Changchi, “Is Mozi a utilitarian philosopher”, Frontiers of Philosophy in China 1 (3), pp. 382-400.

24 “En los tiempos primitivos, cuando comenzó a haber hombres...El desorden reinaba en el mundo. Se comportaban como fieras. Entonces cayeron en la cuenta de que el desorden provenía de que no tenían superiores que los governaran y decidieron que sería mejor elegir al mejor de ellos”. Mozi, Moti, Política del amor universal (Madrid: Editorial Tecnos, 1987) p.41
the principles of justice in a transcendental order, that is, in the will of Heaven, if the ruler breaches these principles he loses his function as the enforcer of social order. In this case political institutions lose all sense and fall into the state of nature. At the time of Mozi, kings and feudal lords behaved inadequately because they did not defend universal love, waged unjust wars and choked the population with taxes to finance spending. Mozi proposed that governments should limit their expenses, reduce taxes and renounce starting aggressive wars or they would be punished by Heaven.

In this condemning of wars of aggression one can detect a Mohist idea of the right of resistance against an unjust government. In the first of the three discourses against unjust aggression we find in Mozi’s book (attributed not to the historical Mo Zi but to his followers), the condemnation is based upon the right to private property. An argument similar to that of Cicero or Saint Augustus is used in comparing criminal actions by government. It says that if a thief enters someone’s orchard to steal fruit, this is a crime and should be punished. If the theft is large, the crime is large. In turn, murder is a major crime because it produces greater harm. The kings of the world condemn these things, calling them unrighteous. Nonetheless when it comes to the greater unrighteousness of attacking states, they applaud it, calling it righteous.

In the second of the discourses it is said that the wars of aggression cause extensive damage leaving the population exhausted with taxes, mobilizing enormous amounts of resources for destruction and sending thousands of men to their death just to satisfy the expansionist cravings of some depraved rulers. Furthermore, they are one of the characteristics that Mo Zi denominates violent government, as opposed to just government.25

In the third of the discourses against unfair aggression, aggressive and defensive war are differentiated. The wars waged to finish off the tyrant Jie, the last king of the Xia dynasty, and the tyrant Zhou, the last king of the Shang dynasty, were right and just wars, done to stop the atrocities

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25 In violent government “El Estado poderoso ataca al pequeño y débil; la casa poderosa usurpa a la débil; el fuerte roba al débil; el noble desprecia y desdena al humilde; el listo y astuto engaña al simple e ignorante. Este en nada aprovecha, arriba, al Cielo, en medio a los espíritus de los difuntos y, abajo, a lo hombres. Y, no siendo de provecho alguno para estos tres, no lo es para nadie. Por eso todo el mundo le llama con el ignominioso calificativo de tirano”. Mo zi, Moti, Política del amor universal, p.101
of some criminal rulers who offended Heaven and oppressed the people.

In conclusion, it can be said that Mozi is coherent when deciding which government actions (like wars of aggression or lavish expenses financed by taxes) harm the common people. But he is incoherent when regulating particular individual actions in detail. Firstly, because one cannot oblige anyone else to behave morally through violence and punishment. Any action done under coercion is not a moral action. If we want to urge others to love all men, we can only do it by persuasion and never using violence. Punishment and violence can, in any case, be adopted as defensive measures against aggression. Secondly, because Mozi seems to want to impose on the whole population his own preference for an austere and frugal life, without contemplating the possibility that people may improve living conditions through innovation and economical development, without governmental prohibitions. As Benjamin Schwartz says:

“I suggest that Mo Zi shares with Confucius and with many of the ‘creative minorities’ of other contemporary civilizations, such as the Hebrew prophets and even Aristotle, a diagnosis of civilization which may associate a concern with technological innovation (including the social inventions of trade and money) not so much with ‘progress’ as with war and immoderate luxury and display-with what was considered as the pathologies of civilization”

Furthermore, the condemning of unjust aggression can be used to condemn the mohist model of government itself. As we have seen in one of the passages of the Mo Zi, the condemning of unjust aggression is based on the comparison of the aggression on private property (if someone steals fruit from another's orchard). But the same unjust aggression on other's possessions happens if the ruler forces his subjects to produce consumer goods in a certain way, even though buyers and sellers prefer it differently, if voluntary actions are forbidden, or if one is forced to do undesirable deeds like marry at an early age. Faced with these aggressions, defending oneself should also be

The Taoist anarchism

In this time of political instability, wars and social unrest, many thinkers believed that they had a moral obligation to try to restore peace and bring prosperity to their people. With this objective in mind they developed their philosophical doctrines. But other philosophers thought, instead, that it was more important to avoid the political struggle of the time. We can identify two tendencies in this withdrawal from politics: the moralists who retire in protest against the corruption of the times and the man who simply prefers the comforts and tranquility of private life.\textsuperscript{27}

The latter is best represented by Yan Zhu who teaches one to avoid all social relations that could be harmful to one’s own life. The Taoists Laozi and Zhuangzi would be representatives of the second tendency (though in the book Zhuang Zi we can also find ideas akin to those of Yan Zhu).

For Laozi and Zhuangzi the fundamental principle is the Tao and its manifestation is non action (wu wei). The Tao is a reality that cannot be defined because it has no specific attributes, it has no forms and no limits but it is the origin of all definite realities. The Tao manifests itself on nature, which is an order that runs spontaneously and without deliberate planning or premeditation. To conform to the Tao man must follow the principle usually translated as non action (wu wei). This does not mean avoiding every action but acting spontaneously following the natural course of things. When applied to the political activity of the king that means that he must refrain from interfering with the lives of his subjects as much as possible. For Laozi the more restrictions, prohibitions and laws there are, the more poverty and violence develop as a consequence. This has led some scholars to welcome the Taoists as the first defenders of a laissez-faire policy. Murray N. Rothbard states that:

\begin{quote}
“The Taoists are the world’s first libertarians, who believed in virtually no interference by the State
\end{quote}

\textsuperscript{27} A.C. Graham, \textit{Disputers of the Tao: Philosophical Argument in Ancient China}, (Peru, Illinois: Open Court, 1989) p.54
This statement has been challenged by Roderick T. Long who claims that there are many ideas in the political philosophy of Taoism inconsistent with libertarianism:

“The Taoists oppose government control because it is too rational; trying to impose planning on society and trying to impose coherence on one’s own thoughts are equally bad, and for the same reasons”

It is true that the Taoists, especially Laozi, disliked things such as commerce, tools, material improvement and knowledge as they disliked all the interventions of the state. For them they are all characteristics of civilization and civilization is nothing but an artificial departure from the natural simplicity of the Tao. However, one can dislike commerce and civilization and still be a libertarian. As long as you reject violence and aggression it does not matter which kind of life you think more appropriate for man. The problem with Laozi is that before applying the principle of non action he urges the king (supposedly a sage king and follower of the Tao) to put an end to all the representations of civilization in order to restore the primitive nature of ancient times.

“A small settlement [community] with few inhabitants. Even though they have labor-saving implements, see to it that they are not used. See to it that they take death seriously and do not wander far off. Although they may have boats and carts, see to it that no one rides them; and that though they have arms and weapons, no one will drill with them; see to it that they return to the knotted cord [rather than writing], that they be content with the food they have, that they be pleased with the clothes they have, and satisfied with their dwellings and enjoy their own customs. The

neighboring settlements may be so close that one can hear the cocks crow and the dogs bark, but the people may grow old and die without going back and forth.”  

As Anderson points out:

“What the language suggests is not a spontaneously, emerging, anarchist state of affairs but a state of affairs brought about by a sage ruler”

This problem does not arise with Zhuangzi. He expects nothing from politics and defends the principle of non action saying that if a man of virtue were obliged to rule the world he would not act. He is skeptical of the possibility of reforming a tyrannical king and compares the feudal Lords with robbers and murderers. However this is an anarchism that precludes any action against a tyrannical government. These two Taoists do not explicit any kind of right for legitimate resistance against these murderous kings, which they see as an unavoidable feature of those corrupt times. Since to remove a king for his actions would be an example of an action motivated by a conscious and deliberate purpose it will represent the attempt of an unenlightened mind that has not yet attained the Tao. For these two philosophers the only proper way for the wise man is to retreat from public life.

The Huang-Lao school.

This school of thought takes its name both from a mythical character of ancient times, the Yellow Emperor (Huang-Di) and from the supposed author of the Laozi, Lao Dan. This was a Taoist school that flourished in the academia of Jixia in the state of Qi (from the fourth century B. C). One of the main works of this school is the “Four books of the Yellow Emperor” (Huangdi sijing). If the Taoists could be the first defenders of anarchism, the Huang-Lao school, as exposed in the Huangdi

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31 Schwartz, The World of Thought in Ancient China, p.213
32 Zhuangzi, Zhuang Zi (Barcelona: Editorial Kairós, 1996) p.111
shijing, shares many ideas with the political view of classical liberalism.

In this work we find a philosophy that reinterprets many Taoist ideas and shares common assumptions with the legalists while imposing serious restrictions on government. For the Huangdi sijing, as for Laozi and Zhuangzi, the Tao is an ineffable reality, origin of all specific things. Nevertheless, for Laozi and Zhuangzi, following the Tao means rejecting all purposive action which leads them to reject such things as civilization and material improvement. For the Huangdi sijing the principle of non action means something different: basically, the king should establish a government based on law and refrain from interfering with the social structure derived from the Tao. Like the legalists the Huangdi sijing places a high importance on the use of laws, punishments and rewards. But while legalism recognizes no other law but the one which the king imposes on the people, for the Huang-lao school, the Tao, not man, is the foundation of all law.  

We could say that the Huang-lao school defends a limited government based on the natural law of the Tao. The main functions of government are to defend and maintain law and order inside and to defend the country against foreign enemies. The king must use punishment and reward to see to it that laws are respected, but must be just in his judgment and avoid the temptation to use the law for any private interest. It is also important to maintain a strong national defense against foreign invasion but the king must not wage aggressive and unjust wars.

In domestic policy the government must win the approval of its people avoiding as much interference with their lives as possible. It is important to reduce taxes and prohibitions as well as to respect the people’s customs and habits.

If the king does not follow these rules of government disorder and injustice will spread in the country, the people will be impoverished and the defense against foreign enemies will weaken. As a consequence the king will lose the approval of his people as well as soon losing his position or even

33 “El Tao engendra las leyes. Las leyes son el criterio para medir lo que se gana y lo que se pierde, y el fundamento para distinguir con claridad lo recto de lo torcido. Por eso quienes se aferran al Tao generan leyes, no se atreven a ignorarlas. Capaces de hacer de la leyes su propia norma de conducta, pueden luego entender de los grandes negocios del mundo y nunca caen en extravió”. Los Cuatro Libros del Emperador Amarillo (Madrid: Editorial Trotta, 2010) p.111

34 “Se deben respetar los usos y costumbres, para ganarse la voluntad del pueblo…(para hacer que el pueblo obtenga) beneficios, es menester levantar las prohibiciones, relajar los fielatos y reducir las alcabalas”. Los Cuatro Libros del Emperador Amarillo, pp.107-108
his life. We find in the Huangdi sijing many pieces of advice that remind us of the doctrine of the Mandate of Heaven as exposed in the Book of Documents. If the king does not follow the law laid down on us by Heaven and becomes a tyrant he will be punished by either the action of men or punishment from Heaven.\(^{35}\)

We have in the Huang-Lao a philosophy that establishes numerous limitations and restrictions on political power which\(^{36}\), if contravened, would result in the elimination of the king and his substitution for another one better fit for the job.

**The School of Law**

The ideas of the School of Law represent a total departure with many of the ancient Chinese customs and traditional ideas about government and society. The legalists thinkers, unlike the thinkers of others schools, are only interested in the most effective methods to increase and maintain the power of the state. They disdain traditional political and social institutions and independent moral principles, and insist on the idea of positive law (fa) as the only proper method to rule society. They are the men for the feudal lords of the period, which, in their continuous struggle for political supremacy, need new methods of government and a new legitimation of their power. With the legalists all possibility of legitimate resistance against an oppressive government disappears, leaving the people at the mercy of their absolute ruler.

One of the most important legalist thinkers, who was also a minister in the State of Qin, is Lord Shang (4th Century BC). Tradition attributes to him the famous book of Lord Shang, in which are described many of the political reforms that the state of Qin implemented under his advice. The objective of these reforms is to make the state as strong as possible and to put an end to the influence of all intermediate institutions and associations.

\(^{35}\) "Si se ofende al Cielo se perderá el territorio y cambiará el soberano. Si no se respetan las leyes constantes del Cielo, y no se economiza la fuerza del pueblo, hágase lo que se haga, nada se logrará. Alimentar la muerte y castigar la vida, a eso se dice contravención; en ese caso, si no hay hombre que castigue con la muerte será el Cielo el que por fuerza ha de castigar", Los Cuatro Libros del Emperador Amarillo, pp.107-108

Lord Shang establishes a new system of land tenure, where the farmers could become individual proprietors of their lands. This was, probably, done in order to collect directly the taxes that went to the feudal lords before. Agriculture and war were to be considered the only two beneficial activities for the state; all other activities, especially commerce, should be heavily regulated and discouraged through prohibitions, taxation and punishment. The only way for an individual to improve socially should be through agriculture or war, so punishments and rewards are made uniform and published to fit this objective. Lord Shang also establishes a new organization of the people into groups of five or ten men, who were mutually responsible for each other, and were obliged to denounce each other’s crimes. If they did not denounce they were subjected to horrifying punishments. The importance of the traditional family-system was attacked by discouraging people from living together. All traditional virtues such as benevolence, justice or filial piety are attacked: the people should not follow any other norm of conduct but the law laid down on them by the ruler. All this things are done to make the people weak and dependent on government:

"If the government takes such measures as the people hate, the people are made weak, and if it takes such measures as the people like, the people are made strong. But a weak people means a strong state, and a strong people means a weak state."  

The importance of positive law is the most relevant feature of the legalist system applied by Lord Shang. Law is the tool that government must use to achieve its goals:

"When about to establish a state, it is necessary to examine standards and measures, to pay attention to law and order, to be vigilant in government duties, and to consolidate occupations with what is primary. When standards and measures are regulated in accordance with the times, the customs of the country may be changed and the people will follow the standard regulations; if rules and laws

are clear, the officials will commit no depravity; if the duties of the government are dealt with uniformly, the people will be available for use; if occupations with what is primary are consolidated, people will take pleasure in agriculture and will enjoy warfare. Now a sage, in establishing laws, alters the customs and causes the people to be engaged in agriculture, night and day.”

Another legalist thinker is Han Fei Zi (3rd Century BC), who is the great synthesizer of this school. Han Fei Zi, like Xunzi who was his master, believes that everybody acts motivated only by personal interest. To avoid the disorder that would follow if people were allowed to act freely he designs a system of government. He integrates three main ideas of other legalist thinkers in his system. The first one is the already mentioned Lord Shang’s idea of law (fa). The ruler should establish a system of norms of conduct for everyone, designed to increase the power of the state, enforced through punishments and encouraged by rewards. The second is the theory of employment (shu) of Shen Buhai. This is a theory designed to make sure that the people at the service of the king are really efficient in their jobs. The king should employ and reward his ministers and public servants based on their capacities and achievements. The third idea is the art of ruling (shi) of Shen Dao. The ruler must not act or propose any course of action. He must let his ministers and other officials propose different plans to meet an objective, reward through law he who achieves success and punish he who fails. With this system the state will be well ruled. The people is considered just another tool or resource at the hands of the ruler. The power of the king over his subjects is absolute.

Following the legalist policies the State of Qin would finally defeat the other kingdoms of the period and unify China under the rule of Shi Huang Di, the first emperor of the Qin Dinasty. This emperor would combine all the characteristics of a tyrannical ruler. He will heavily tax his people, continually enforced them to work on public works such as the Great Wall or in the army, establish

38 The Book of Lord Shang, p.234
39 “Para que los mandatos de los monarcas sean cumplidos y acatadas sus prohiziones, han de tener poder y autoridad: poder absoluto para emitir y no emitir penas de muerte y autoridad para someter al pueblo”, Han Fei Zi, El Arte de la Política: los Hombres y la Ley, (Madrid: Editorial Tecnos, 2010) p.117
a harsh system of punishments, persecute and kill the literates and scholars, forbid and destroy the works of the different schools of thought and disarm the people to reduce all possibility of rebellion.

Conclusions

The political thought of the hundred schools of Ancient China is rich and diverse, and many of the main philosophers of the period have an idea (an embryonic one for some of them, and a well developed one for others) of the legitimate right of resistance against a tyrannical government. Nonetheless they embrace some ideas that are detrimental to this right and help explain the initial success of the School of Law.

In the first place we have the idea that men should be promoted for office on the basis of merit and ability. This idea breaks down the hereditary principle of the feudal nobility and all the ideology associated with it. This meritocratic principle, instead of promoting liberty, works against it because the kings are going to attract men of talent from all social classes. These men are those who are capable of increasing the power of their masters. The more they free themselves from the moral restrictions attached to old customs and practices the more success they achieve, so the kings tend to select advisers both intelligent and amoral. The defenders of a government based on ethical principles are progressively discarded.

The second idea is the importance that all these philosophers attach to the principle of universal government. For all of them one of the main purposes of the true king was to unify the world under a single government, just like the sage rulers of the past had done. Unfortunately they never thought that political decentralization and peaceful and virtuous government were compatible. The legalist ideas of government proved much more useful to achieve the end of political unification than the principles of virtuous government defended by other schools.

The third idea is the moral constructivism of some of these philosophers. Whether they say that morality is just a useful invention of sage kings (like Xunzi) or that political power is the only way to put an end to the natural disorder of society (like Mozi) they place an enormous power in the
hands of the king to control society and to mould people’s behavior.

We also have to take into account the ability of the state to manipulate the ideologies that place restrictions on its actions. When the Qin dynasty was overthrown Confucianism would become the official doctrine of the Han dynasty. But it was a Confucianism deprived of many of its most characteristic features and mixed with legalist ideas of government. Under the cover of a respected ideology such as Confucianism many legalist reforms would continue to exist in the political system of the Han dynasty. Without intermediate institutions to counteract the power of the State it is much more difficult to give support to doctrines that defend the right of resistance.

40 For an analysis of this ability of the state see Bertrand de Jouvenel, *Sobre el Poder: Historia Natural de su Crecimiento* (Madrid: Unión Editorial, 1998)
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