

THE EARLY LEGALIST SCHOOL OF CHINESE POLITICAL THOUGHT

THE LEGALISTS AS "IMPERIALISTS"

THE popular modern use of "Imperialism" and "Imperialist" gives the terms a far wider connotation than might be approved by purists or conservative lexicographers. But this vague use, as it appears in slogans in this country, has a certain convenience and in this loose sense it serves as a convenient heading under which to collect various views of the legalists; for in whatever sense the term "Imperialist" may be used it may be aptly applied to most of the "Fah Chia."

As an epithet of opprobrium "imperialism" is commonly taken to imply the converse of "democracy," especially where the chief element in the latter is held to be equality. The Legalist observing the way of nature seemed to behold inequality everywhere—men everywhere seemed to be born unequal—and like the Confucianists they were convinced that public order depended on the maintenance of such inequalities and distinctions of rank. It may be doubted whether any contemporary thinkers differed fundamentally from them in this respect though the expounders of the theory of "shang hsien" or the promotion of the most capable may have approximated to a theory of "equality of opportunity."

These essential distinctions of rank were of various kinds. Thus the "Kuan Tse" lists "Eight Constants," viz:—"Between ruler and subjects, justice; between high and lowly, distinction; between older and younger, grades; between rich and poor, standards." In another chapter we have this statement: "In a kingdom one cannot raise everyone, because if everyone were in a place of honour one could perform nothing for the good of the country. It is necessary to have superiors and inferiors and different ranks—and that they be established according to 'tao.'" According to the same work, ordered society came into being as a result of the desire of the crowd to be ruled by sages, that they might

be protected from tyrants. Sze Tse insists on the importance of distinction in much the same sense. Thus he says, "When in the case of ruler and subject, father and son, sovereign and minister, elder and younger, relatives and strangers, each keeps to his own sphere (or function), then there is good government." This might have been said by any Confucianist; but as in other matters so in this of rank the Legalists differ from others mainly in carrying their views to extremes. We have noted the opinion of Shang Yang, "When the people are stronger than the government the state is weak. when the government is stronger than the people the state is strong." According to some of the Legalists, however, power comes from rank rather than rank from strength or power. Thus Shen Tao goes so far as to observe that "While Yao was a common man he could not rule three men, but Chieh being emperor was able to throw the whole empire into disorder." Again he says, "If Yao had been under Li Shu, the people would not have listened to him, but occupying the imperial throne and being sovereign of the empire, what he commanded was carried out what he forbade ceased. Thus we may see that the most excellent wisdom is not sufficient to make the people obey and the mere appointment to a position enables a man for its duties."

Han Fei Tse takes other instances in support of a similar argument: "Chong Ni was the sage of the world; he was careful of his practice and understood the Way; he travelled through all the states proclaiming benevolence and righteousness and seventy men became his disciples. Yet those who came to honour benevolence and righteousness were few and those who were able to act righteously were hard to find—indeed there was but he alone who practised benevolence and righteousness. Now Duke Ai of Lu was an inferior ruler, but he occupied the position of sovereign in his state, so that within his borders there was none that dared to be an unfaithful subject. For the people submit to authority and if there is authority submission is easily gained. Thus Chong Ni was the subject and Duke Ai the ruler" ("Five Kinds of Maggots"). In this passage "authority" evidently signifies government position.

Passages quoted in previous chapters will have made it clear that most of the Legalists did not consider ability or wisdom and certainly not learning as constituting a qualification for office or rank. For Wei Yang there was only one qualification and that was military distinction acquired in the service of the state. How

was such military merit to be estimated? To fix it there was, says L. Wieger, "un moyen simple mathématique, le nombre de têtes d'ennemis coupées, rapportées par chaque brave (et des quittances de primes touchées par lui pour ses têtes)." It was thus that in his "Historical Records" the "Prince of History" was able to enumerate the number of heads cut off after each victory of the state of Ch'in, reaching in the battle of Chen Ping to the terrible total of four hundred and fifty thousand in one day—"le plus grand massacre que l'histoire universelle ait enregistré, je crois," as Father Wieger comments.

This is perhaps a suitable place to say something concerning the "Militarism" which characterised the more typical Legalists. Many of the earlier Legalists such as Kuan Tse and Li Hui are credited by old writers with favouring a policy which is described in a phrase which may be translated "Enriching the Country and Strengthening the Military Power." In the chapter on "Agriculture and War" in the work attributed to Shang Yang, the complaint is made that the result of giving posts to the learned is that the people "all avoid farming and soldiering and concentrate on clever speaking, as the people all desire office and stipends." Again in the chapter entitled "One Word" it is stated that "the people's delighting in agriculture and war depends on their ruler's honouring farmers and warriors." It may be of interest to note that the "Kuan Tse" in its present form contains a chapter specifically intended to refute the anti-militarist arguments of the Mehists, which indicates its comparatively late date.

Han Fei also has the teachings of Meh Ti clearly in mind in the following passage, quoted by Hu Shih: "What are mutually incompatible should not coexist. To reward those who kill their enemies in battle and at the same time to praise acts of benevolence and mercy; to honour those who capture cities and at the same time believe in the doctrine of universal love. . . . how can an efficient and strong state result from such self-contradictory acts?"

To return a moment to the subject of rank and position from which this digression on militarism started, it may be noted that Han Fei did not regard the granting of rank as distinct from office as making for good in the state. In his chapter on "Preparedness Within" he says: "According to tradition and the records of the 'Spring and Autumn' the infractions of the law which led to great

disorders came from ministers who had obtained very high rank. When the law has been really effective, it has always been the work of those of humble station."

Imperialism is, however, more properly applied to theories of the desirability of the extension of the power of one state over other states, or at least to the desirability of the extension of the sway of a ruler. In this sense too the Legalist was an imperialist, though his imperialism might or might not be of the type described as "liberal." The outline given of the life of Kuan Tse, the statesman, shows him to be a liberal imperialist. Many of the views expressed in the book under his name are also of this type. Let us take for example the following passage from the third chapter of "External Teachings": "In the matter of ruling there are three classes of people in the world: those who rule others, those who are ruled by others, and those who can neither rule others nor be ruled by others. These may be distinguished as follows:—Those who have a sound character and are respected for their justice, who are not fond of giving titles, whose people are many and whose army is strong and yet do not use the forces of their state to stir up trouble, but, when there is some matter affecting the empire, put the interests of their own state in the background; these are they who rule others. Those, who in all the above respects are the exact opposite, are those who are ruled by others. Those who, when others advance, also advance and retreat when others retreat, who praise what others praise, decry what others decry; such men can neither rule others nor be ruled by them; they cannot profit those whom they greatly love, nor harm those they bitterly hate; whereas the sage-kings honoured what should be honoured. . . . The sage-kings did not make friendships by the exchange of goods, they did not divide up territory, regarding the empire (and its divisions) as fixed. . . . They did not depend upon a show of force to protect their borders and yet there was peace on their frontiers and consequently good relations with neighbouring countries. This again meant they had to promote suitable policies." Again returning to the subject the author insists, "In order to govern and make war it is necessary to assure order at home; only after that can one send armies across the frontiers and lead them to victory, otherwise one destroys oneself." Similar passages from the "Kuan Tse" have been quoted in previous chapters.

Liang Ch'i Ch'ao, however, calls attention to a chapter in the "Kuan Tse" which attributes to Kuan Chung an economic imperialism of the most cynical type. The story is doubtless apocryphal in the main but is worth giving as illustrating ideas which must at least have occurred to the author: "Duke Huan asked "How shall I subject Lu and Liang?" Kuan Tse replied, "The people of Lu and Liang are accustomed to make a kind of dark coarse pongee. Let Your Highness wear this and order the Court to do likewise, then the people will imitate you. Next you will forbid the people of Ch'i to make it, so the material will have to be obtained from Lu and Liang. Consequently the people of those two states will leave farming and take to manufacturing this pongee." Duke Huan replied, "Agreed!" Kuan Tse then informed the merchants of Lu and Liang that if they would make him a thousand rolls of this pongee he would pay them three hundred *chin* of gold and that when they had finished one tenth he would pay for the first thirty. (He hinted that it would simplify the revenue collecting for these states.) The princes of Lu and Liang heard this and ordered their people to make this pongee. Thirteen months later Kuan Tse sent men to Lu and Liang who reported that the towns were so thick with people that the dust they made on the roads was such that one could see nothing ten paces away. Then Kuan Tse said, "The people of Lu and Liang may be subjected." "How?" asked Duke Huan. "Let Your Highness now take to wearing fine silk", replied Kuan Tse, and lead your subjects to give up wearing pongee and also close your frontiers to the pongee of Lu and Liang." Duke Huan agreed. Ten months later Kuan Tse sent men to Lu and Liang who reported that the people were starving; the princes of these states had ordered their people to give up making this pongee and to return to farming, but they could not get a harvest for another three months and meanwhile the price of grain in those states was ten times the price in Ch'i. In twenty four months six tenths of the people of Lu and Liang had emigrated to Ch'i. In three years the princes of Lu and Liang offered their submission to Ch'i. To understand this story which occurs in the chapter entitled "Light and Heavy," it must be realised that under-population and not over-population was regarded as the great problem of the time.

(To be continued)