



## Han Feizi's Criticism of Confucianism and its Implications for Virtue Ethics\*

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### Abstract

Several scholars have recently proposed that Confucianism should be regarded as a form of virtue ethics. This view offers new approaches to understanding not only Confucian thinkers, but also their critics within the Chinese tradition. For if Confucianism is a form of virtue ethics, we can then ask to what extent Chinese criticisms of it parallel criticisms launched against contemporary virtue ethics, and what lessons for virtue ethics in general might be gleaned from the challenges to Confucianism in particular. This paper undertakes such an exercise in examining Han Feizi, an early critic of Confucianism. The essay offers a careful interpretation of the debate between Han Feizi and the Confucians and suggests that thinking through Han Feizi's criticisms and the possible Confucian responses to them has a broader philosophical payoff, namely by highlighting a problem for current defenders of virtue ethics that has not been widely noticed, but deserves attention.

### Keywords

Bernard Williams, Chinese philosophy, Confucianism, Han Feizi, Rosalind Hursthouse, virtue ethics

Although Confucianism is now almost synonymous with Chinese culture, over the course of history it has also attracted many critics from among the Chinese themselves. Of these critics, one of the most interesting is Han Feizi (ca. 280–233 BCE). For according to an early source, Han Feizi studied under

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one of the greatest Confucian masters of his age, Xunzi, but later turned his back on Confucianism.<sup>1</sup> We do not know what led Han Feizi to reject Xunzi's teachings, but he clearly dislikes the Confucians a great deal, even going so far as to include them in his famous list of 'five vermin' (五蠹 *wu du*) that prey like parasites upon the body politic. While Han Feizi's animosity toward the Confucians is thus very apparent, it is less obvious whether he actually has good arguments against them, and that is the issue I want to explore here, especially since this question has received little in-depth discussion in English literature on Han Feizi.<sup>2</sup>

If Han Feizi really did study with Xunzi, then one might expect Han Feizi's criticisms of the Confucian tradition to be especially incisive, because they would be coming from someone with inside knowledge of Confucianism. Of course, there is no guarantee that this is the case—upon investigation, we may ultimately decide that Han Feizi simply misunderstood Confucianism, or that he simply did not present good arguments against it, either unintentionally or on purpose. Indeed, some have called his arguments 'question-begging' and outright 'blind' to the values espoused by Confucians.<sup>3</sup> However, here I will contend that when we reconstruct the debate between Han Feizi and the Confucians, trying to be sympathetic to both sides and trying not to make a straw man out of either, we can see Han Feizi as a thoughtful and powerful critic, one whose arguments are not based simply on misunderstanding,

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<sup>1</sup> The source claiming that Han Feizi studied with Xunzi is the biography of Han Feizi in Sima Qian's *Shi Ji*. However, this account was written well after Han Feizi's death, and it is the only early source to make such a claim. Also, Xunzi is almost never mentioned by name in the *Han Feizi* (for the one clearest mention of him, see note 23 below), and the text never calls him Han Feizi's teacher. These facts have led some to suspect that the *Shi Ji* account is unreliable. Even if that is so, and Han Feizi in fact never studied with Xunzi, it has no substantive impact on the thesis of this paper, because we can still ask how well Han Feizi understood those he was criticizing and to what extent his criticisms have force. I regard the story of Han Feizi studying with Xunzi as merely a useful tool for trying to imagine how Han Feizi might have grasped Confucian views quite well and anticipated their responses to certain criticisms.

<sup>2</sup> To my knowledge, the most extended discussion of this topic in English is to be found in Chung-ying Cheng, 'Legalism versus Confucianism: A Philosophical Appraisal', in C. Cheng, *New Dimensions of Confucian and Neo-Confucian Philosophy* (Albany, NY: State University of New York Press, 1991), pp. 331–38. Among Chinese and other non-English publications, there is more treatment of this matter, though still less than one might perhaps expect for a topic of such prominence in the text. Cf. Liangshu Zheng 鄭良樹, *Han Feizi Zhijian Shumu* 韓非子知見書目 (Taipei: The Commercial Press 商務印書館, 1993), pp. 123–28, for a list of some of these writings.

<sup>3</sup> Cf. Cheng, 'Legalism versus Confucianism', p. 332. As will become clear, I disagree with Cheng's assessment. However, in order to leave enough space to set out my proposed interpretation, I will not be arguing against him directly. I leave it to my readers to judge whose reading of Han Feizi is more persuasive.

erroneous reasoning, or lack of effort, and who therefore poses a genuine difficulty for the Confucians that has no simple answer. Let me stress that in making this claim I do *not* mean to show that Han Feizi ultimately ‘wins’ the debate, because that project is far too long and complicated to undertake here.<sup>4</sup> My aim is rather the more modest one of demonstrating that Han Feizi has put his finger on a serious problem for Confucian views and that he cannot be easily dismissed.

In addition, a growing number of scholars have proposed that Confucianism should be regarded as a form of virtue ethics,<sup>5</sup> and this view makes possible interesting new approaches to understanding not only Confucian thinkers, but also their critics. If Confucianism is a form of virtue ethics, we can then ask to what extent Chinese criticisms of it parallel criticisms that have been launched against virtue ethics, and what lessons for virtue ethics in general might be gleaned from the challenges raised to Confucianism in particular. Accordingly, in tracing out Han Feizi’s debate with the Confucians, I will be drawing from writings by contemporary proponents of virtue ethics and their critics, because I hope to show how comparison with this literature provides a helpful tool for sharpening our analysis of the ancient Chinese texts, and at the end I will suggest how the exercise of thinking through Han Feizi’s criticisms and possible Confucian responses has a broader philosophical payoff, namely by highlighting a general problem for current defenders of virtue ethics that has not been widely noticed, but deserves attention.

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<sup>4</sup> Accordingly, here I am also not going to discuss the plausibility of Han Feizi’s advocacy of *fa* (法, conventionally rendered in English as ‘laws’) as the crucial element of government. Stress on *fa* is one of the most distinctive aspects of Han Feizi’s philosophy, and so any judgment of the ultimate value of Han Feizi’s views would have to include treatment of that issue. As noted in the main text, my concern here is solely his criticism of Confucianism, and the matter of whether Han Feizi’s own positive proposals are any better than those of his rivals is really a distinct issue that deserves separate consideration.

<sup>5</sup> Cf. Nicholas Gier, ‘The Dancing *Ru*: A Confucian Aesthetics of Virtue’, *Philosophy East and West* 51.2 (2001), pp. 280–305; Edward Slingerland, ‘Virtue Ethics, the *Analects*, and the Problem of Commensurability’, *Journal of Religious Ethics* 29.1 (2001), pp. 97–125; Bryan Van Norden, ‘Virtue Ethics and Confucianism’, in M. Bo (ed.), *Comparative Approaches to Chinese Philosophy* (London: Ashgate Publishing, 2003), pp. 99–121; *idem*, *Virtue Ethics and Consequentialism in Early Chinese Philosophy* (New York: Cambridge University Press, 2007); and Jiyuan Yu, ‘Virtue: Confucius and Aristotle’, *Philosophy East and West* 48.2 (1998), pp. 323–47. My own argument for such a view is set out in Eric Hutton, ‘Virtue and Reason in Xunzi’ (unpublished PhD thesis, Stanford University, 2001). The interpretation of Confucianism as a form of virtue ethics is not uncontroversial. It has been challenged, for example, by Yuli Liu, *The Unity of Rule and Virtue: A Critique of a Supposed Parallel Between Confucian Ethics and Virtue Ethics* (Singapore: Eastern Universities Press, 2004). However, it would detract too much from my main topic to engage in debate over that matter here. It suffices for my purposes here that the virtue ethics reading is a plausible and widely supported interpretation of Confucianism.

Before proceeding to these tasks, though, let me clarify two aspects of my approach here. First, it is important to note that Han Feizi criticizes many thinkers and philosophical movements, and his remarks often target different groups simultaneously. Thus, some passages to be discussed below are attacking not just Confucians, but others as well. I will not be commenting on these latter aspects of the text, however, because although it is certainly worthwhile to examine all of Han Feizi's criticisms of other thinkers, in this paper I want to concentrate solely on the ways he strikes at Confucianism.

The second matter to be clarified is my use of 'Confucian' and 'Confucianism', since scholars have recently noted ways in which the conventional translation of the Chinese term *ru* (儒) as 'Confucian' can be misleading, and they have also highlighted problems with using '-isms' in the analysis of early Chinese thought.<sup>6</sup> While I acknowledge the worries raised by these scholars, using such terms need not always be gravely distorting, either, and this is particularly the case as applied to the *Han Feizi*. For at the beginning of chapter fifty of the text, we find the following statement as part of a tirade against 'fools' and 'charlatans':

Among the most prominent kinds of learning in this age are the *ru*... The greatest of the *ru* was Confucius... Since the death of Confucius, there have been the *ru* of Zizhang, the *ru* of Zisi, the *ru* of the Yan family, the *ru* of the Meng family [i.e. Mencius], the *ru* of the Qidiao family, the *ru* of the Zhongliang family, the *ru* of the Sun family, and the *ru* of the Yuezheng family. Thus, after Confucius... the *ru* split into eight factions and...each faction claims that they are the true representatives of [the way of] Confucius.<sup>7</sup>

Here, not only does Han Feizi quite clearly use the term *ru* to refer to Confucius and those who follow him, but moreover he labels it a kind of 'learning'

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<sup>6</sup> Cf. Nathan Sivin, 'On the Word "Taoist" as a Source of Perplexity. With Special Reference to the Relations of Science and Religion in Traditional China', *History of Religions* 17.3-4 (1978), pp. 303-330; Michael Nylan and Mark Csikszentmihalyi, 'Constructing Lineages and Inventing Traditions through Exemplary Figures in Early China', *T'oung Pao* 84 (2003), pp. 59-99; and Kidder Smith, 'Sima Tan and the Invention of Daoism, "Legalism", *et cetera*', *The Journal of Asian Studies* 62.1 (2003), pp. 129-56.

<sup>7</sup> All references to *Han Feizi* are according to the numbering for the version that appears in D.C. Lau and F.C. Chen (eds.), *A Concordance to the Han Feizi* 韓非子逐字索引 (Hong Kong: The Commercial Press 商務印書館, 2000). This volume is part of the Chinese University of Hong Kong Institute of Chinese Studies Ancient Chinese Texts Concordance Series, and hereafter, this book and all other works from this series will be referred to as 'HKCS' for convenience. This passage is from *Han Feizi*, HKCS 50/150/16-19. The translation is adapted from Philip J. Ivanhoe and Bryan Van Norden (eds.), *Readings in Classical Chinese Philosophy* (Indianapolis: Hackett, 2nd edn, 2005), pp. 351-52. All further translations here are my own, unless noted otherwise.

(學 *xue*), and thus insofar as we are trying to understand Han Feizi's views in this essay, it is appropriate to speak of 'Confucians' and 'Confucianism', since he himself identifies his targets (or at least one set of them) in this way.<sup>8</sup>

Accordingly, I will use 'Confucian' to refer to Confucius and his immediate followers, as well as those who subsequently championed Confucius' ideas about how to live, and 'Confucianism' will refer to the views of these people, but with the following qualification. The passage just cited shows that Han Feizi also recognizes disagreements among these 'Confucians', so that 'Confucianism' is not a highly unified body of thought for him (nor for me). Given this diversity within Confucianism, a study of Han Feizi's criticisms of Confucians should ideally consider each of the different Confucian views in turn. However, besides limitations of space, our materials themselves do not permit such a thorough investigation, because Han Feizi does not describe the views of all the Confucian factions in detail, and we currently lack solid textual evidence to understand each of them on our own. Hence, my argument here that Han Feizi has a strong criticism of the Confucians is meant as a claim about the Confucians *generally*, based on the best and most substantive accounts of their ideas, rather than being a claim about *every* individual Confucian of the early period, since we simply lack evidence of some of their views.<sup>9</sup>

More specifically, then, in speaking of Han Feizi's criticisms of 'Confucianism', I intend primarily the early Confucian views for which we have good evidence and which Han Feizi likely intends to attack, namely those represented in the *Analects*, *Mencius*, and *Xunzi*. I include the *Analects* and the *Mencius*, since these texts are our most reliable sources for the thought of Confucius and Mencius and their disciples, and Han Feizi explicitly mentions these figures in the list of names cited above.<sup>10</sup> I also include the *Xunzi*, because it seems clearly to fall under the conception of 'Confucian' with which

<sup>8</sup> The same applies, *mutatis mutandis*, to my use of the terms 'Mohists' and 'Mohism' here.

<sup>9</sup> Archeological excavations may one day remedy our lack of evidence. Certainly, the finds at Mawangdui and Guodian, along with the so-called 'Shanghai Museum' manuscripts, have shed new light on Chinese thought in the early period. However, scholars are still vigorously debating to what extent these newly discovered materials can even be classed as 'Confucian', and their relation to the Confucian factions listed by Han Feizi is certainly unclear, so I have not included them in my considerations here.

<sup>10</sup> There is considerable controversy concerning the extent to which the *Analects* accurately reflects the views of the historical Confucius. However, even if a given passage does not accurately represent the ideas of Confucius, most scholars agree that the bulk of the *Analects* was put together by later followers of Confucius, and hence it is still possible to use it as evidence for the Confucian ideas that Han Feizi is attacking. The same applies to my use of materials from the *Mencius* and the *Xunzi*. Accordingly, none of my points here depend upon correctly identifying whether a given Confucian really said what is attributed to him, so long as it is still granted that the text from which the quote is drawn represents the views of *some* Confucian or other.

Han Feizi and we are operating here.<sup>11</sup> Han Feizi's criticism as described in what follows seems to me to apply about equally to all three of these texts, but for the sake of simplicity I will not be tracing out in detail how each is subject to the problems Han Feizi identifies, and instead I will be using representative quotes from one or another of them. Readers interested in seeing further evidence concerning particular texts are invited to consult the notes.

With these clarifications out of the way, let us begin by examining a passage from Han Feizi that is fairly typical of some of his complaints against Confucianism:

When a sage governs a state, he does not wait for people to be good in deference to him. Instead, he creates a situation in which people find it impossible to do wrong. If you wait for people to be good in deference to you, you will find that there are no more than ten good people within the borders of your state. But if you create a situation in which people find it impossible to do wrong, the entire state can be brought into compliance. In governing, one must use what works in most cases and abandon what works in only a few cases. Therefore, the sage does not work on his virtue, he works on his laws.<sup>12</sup>

First, although this passage does not explicitly mention Confucianism or name Confucian thinkers, it definitely contains an implied criticism of Confucianism, since one prominent tenet of Confucian thought is the idea that a sagely ruler relies on his 'virtue' to inspire people to be good and thereby bring order to the state. This view is famously expressed in *Analects* 2.3, which depicts Confucius as saying, 'If you try to guide the common people with coercive regulations and keep them in line with punishments, the common people will become evasive and will have no sense of shame. If, however, you guide them with virtue and keep them in line by means of ritual, the people will have a sense of shame and will rectify themselves'.<sup>13</sup> Indeed, the

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<sup>11</sup> The text of the *Xunzi* proclaims at various points (most famously in chapter six) that it follows the true way of Confucius, as opposed to Mencius and others who have distorted it, so by its content it fits the model of the *ru* that Han Feizi attacks. Also, in the passage cited in the main text where Han Feizi lists the various Confucians who squabble over the legacy of Confucius, the reference to the 'Sun family' faction has been regarded by some as a reference to Xunzi, since his family name, Xun (荀), often appears as 'Sun' (孫) in early sources (including elsewhere in the *Han Feizi*, cf. note 23 below). If that is correct, then Han Feizi definitely means to attack Xunzi along with Mencius and Confucius, and we are further justified in using the *Xunzi* as a source text for considering the views of those criticized by Han Feizi.

<sup>12</sup> HKCS 50/152/10-11. Translation adapted from Ivanhoe and Van Norden, *Readings in Classical Chinese Philosophy*, p. 357.

<sup>13</sup> Translation adapted from Edward Slingerland, *Confucius: The Analects* (Indianapolis: Hackett, 2003). For similar sentiments in the *Mencius*, cf. 2A3, and in the *Xunzi* see HKCS 10/44/5-8 (D.C. Lau and F.C. Chen (eds.), *A Concordance to the Xunzi* 荀子逐字索引 (Hong Kong: The Commercial Press 商務印書館, 1996)) and William Hung (ed.), *A Concordance*

passage from Han Feizi above almost seems intended as a direct rebuttal of this claim.<sup>14</sup>

The fundamental point of Han Feizi's attack seems to be that the Confucian view is impossibly idealistic, because they hopelessly over-estimate the number of people who can be transformed and made good through the power of virtue. In making this criticism, Han Feizi is attacking both the Confucians' goal and the methods they propose to achieve it. For as the quote from the *Analects* shows, the Confucians want political order, but more importantly they want that order to result from the fact that the people are themselves good and self-restrained. Furthermore, on the Confucian view the way to achieve that order is, in the first instance, by being good oneself, which they think will in turn move others to goodness. Thus, when Han Feizi denies the power of virtue to transform others, he is saying both that the Confucian approach to achieving order will not succeed and that one simply cannot achieve the Confucian state in which the majority of people are good and orderly of themselves.<sup>15</sup> Instead, Han Feizi thinks that at most, one can get them to be law-abiding, but getting the majority of them to be truly good is simply out of the question. (Note that Han Feizi's argument above is thus aimed mainly at the idea of *governing* through the transformative effects of virtue, not at moral cultivation *per se*. He has little complaint against the common people trying to cultivate themselves morally, so long as it neither results in their being disobedient to the ruler nor interferes with their fundamental tasks of farming and warfare. He is, though, still quite pessimistic about how many people can or ever will become genuinely good, either on their own or through the influence of others.)

In response to Han Feizi, the Confucians could simply retort that they are not being overly idealistic. They might claim that since history tells us that the

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to *Hsün Tzu* 荀子引得 (Beijing: Harvard-Yenching Institute, 1950), 33/10/36-39. (This latter volume is from the Harvard-Yenching index series, and hereafter this book and all others from that series will be referred to as 'HYIS' for convenience.)

<sup>14</sup> Of course, the idea that a sage governs by means of *de* (德 'virtue') is not limited to the Confucians alone—it also appears in the *Daodejing*, for example—and in that regard Han Feizi's criticism is not limited to just the Confucians, either. However, it seems fair to say that the Confucians are certainly at least one major intended target of the passage from Han Feizi.

<sup>15</sup> In saying this, I do not mean that there is no place at all for 'virtue' (德 *de*) in Han Feizi's thought. For example, the 'Jielao' (解老) chapter of the *Han Feizi* contains quite a bit of positive discussion of *de*. However, some scholars have suspected that this and similar chapters were not written by Han Feizi. Resolving that controversy is beyond the scope of this essay, so for my evidence I have excluded those chapters that are not clearly consistent with the ideas that run throughout the bulk of the text. In the overwhelming majority of chapters in the *Han Feizi*, *de* has little role to play in the way of life and methods of government that the text proposes. I thank Eirik Harris for pressing me on this issue.

ancient sages Yao, Shun, Yu, and Tang, along with King Wen, King Wu, and the Duke of Zhou, brought about a golden age of harmony and prosperity by relying on the power of virtue to transform their subjects and make them good, this shows that the Confucian vision is quite realistic. While Confucian texts do regularly appeal to history, as a strategy for argument this response is not very good, because it depends on the Confucians being right about the details of events that supposedly happened several hundred to two thousand years or more before the life of Confucius, as Han Feizi himself points out.<sup>16</sup> Such historical accuracy is difficult enough for us now, and only more so for those in ancient China. Also, from early on, rival accounts of the sages were circulating, so the Confucian version of history was already contested. For these reasons, it would not be very persuasive for the Confucians to claim that their views are realistic, at least not on the basis of such archaic history.

However, the Confucians have available another strategy. Although it is often a powerful criticism to say that a given view is too idealistic to succeed in practice, such is not always the case. For people may put forward ideals that they know can never be fully realized, because they nonetheless value the way that the ideal can shape action.<sup>17</sup> As an example, the ideal of ‘world peace’ is a lofty goal, but one whose prospects may seem vanishingly slim, especially in recent years, and human nature being what it is, world peace may ultimately

<sup>16</sup> Cf. *Han Feizi*, HKCS 50/150/20–24.

<sup>17</sup> For a statement of such a view in the Western tradition, see Josiah Royce, *The Philosophy of Loyalty* (New York: Macmillan, 1908), pp. 284–85, who defends the pursuit of such ‘lost causes’ as follows:

One begins, when one serves the lost cause, to discover that, in some sense, one ought to devote one’s highest loyalty to causes that are too good to be visibly realized at any one moment of the poor wretched fleeting time world... Loyalty... seeks, therefore, something essentially superhuman... In its highest reaches it always is, therefore, the service of a cause that was just now lost—and lost because the mere now is too poor a vehicle for the presentation of that ideal unity of life of which every form of loyalty is in quest.

I should note that, as a psychological matter, one might dispute the claim that people can really pursue ideals that they consider unachievable. For instance, one might claim that, even when such people say they know their ideals are unachievable, deep down they really do not believe this, and it is only because they think there still might be some glimmer of hope for realizing their ideals that they continue to pursue them. William James seems to adopt this sort of position (cf. William James, ‘The Will to Believe’, in J. McDermott (ed.) *The Writings of William James: A Comprehensive Edition* (Chicago: University of Chicago Press, 1977 [1896])). Determining which psychological account is correct goes beyond the scope of this paper. However, my primary point concerns the kind of justification that might be offered for pursuing an ostensibly unrealizable ideal, and as I go on to argue, the Confucians seem to adopt a position of the kind I describe in the main text. Even if they happened to be deceived about their own motivations, we can still consider the logical force of their position as a reply to Han Feizi. I thank Erin M. Cline for discussion of these latter issues.



be unachievable. Nevertheless, someone might insist on maintaining world peace as an ideal, even while understanding that it cannot be attained, on the grounds that such an ideal at least helps motivate people to strive for peace, whereas any other ideal would be worse, and might encourage people to tolerate or even to endorse violent conflict. (Note that I do not mean to support this last claim myself, but offer it only as an example of how someone might reason.) When someone espouses an ideal in this way, it will not be persuasive to object that his or her goal is impossible. Moreover, in acknowledging that the goal is impossible to achieve, the person is admitting that his or her methods are incapable of bringing it about, and therefore it will likewise be ineffective to object that those methods will not succeed in achieving the goal.

In the case of the Confucians, while they often speak as though they intend their ideals to be fully achievable, at times they also sound as if they are offering them more along the lines just described, namely as ideals they realize cannot be truly attained, but which they consider worth pursuing nonetheless. Perhaps the clearest instance of this is *Analects* 18.7, where Confucius' disciple Zilu says, 'When the gentleman takes office, it is in order to do what is *yi* ('righteous'). As for the fact that the Way will not be put into practice, this he already knows'. *Analects* 14.38 might be taken in this vein also. There, when Zilu tells a gatekeeper that he studies with Confucius, the gatekeeper replies, 'Isn't he the one who knows that what he pursues is impossible and yet persists anyway?'<sup>18</sup> Since these words come from the gatekeeper, and not Confucius or his disciples, it is difficult to know how best to take them. On the one hand, the gatekeeper apparently intends to be critical, which might incline one to think that Confucius would not agree with his remark. On the other hand, it seems hard to understand why the gatekeeper would say that Confucius himself *knows* he is trying to achieve the impossible (as opposed to trying to achieve the impossible without knowing it) unless that is a fact that Confucius has somehow advertised about himself. Also, whereas many other passages that depict people criticizing Confucius end with rebuttals from Confucius or his disciples (e.g. *Analects* 14.39, 18.6), this passage stops with the gatekeeper's comments. That makes it seem as though we are to accept the gatekeeper's characterization of Confucius as accurate (while rejecting the implied criticism in it), especially when we keep in mind that the *Analects* was put together by Confucius' followers, who intended it to present a positive view of Confucius. To that extent, this passage would likewise support understanding the Confucians as putting forth an ideal that they themselves accepted as not completely possible.<sup>19</sup>

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<sup>18</sup> Translation modified from Slingerland, *Confucius: The Analects*.

<sup>19</sup> For similar sentiments in the *Mencius*, cf. 2B13, where Mencius seems to countenance the possibility that Heaven does not wish for order in the world, and so there is nothing human

If that is right, then in criticizing the Confucians for being too idealistic, Han Feizi would have simply missed the mark. However, I think we can find in Han Feizi another criticism that strikes more directly and powerfully at the Confucian position. The basic picture is as follows. On the reading just proposed, the Confucians advocate their particular ideal while knowing that it is not fully achievable, because they think it is nevertheless still a good ideal to pursue and one that, as a guide for action, makes the world a better place rather than a worse one. In general, the way to attack someone holding such a position is not to focus on the feasibility of the ideal, but rather to deny that having and acting on such an ideal tends to make things better. I want to claim that Han Feizi presents an argument of this sort, but in order to establish this point, I want first to review some recent criticism against virtue ethics, because it seems to me that Han Feizi's approach is interestingly similar, and so considering those discussions will help us to think more clearly about Han Feizi's views.

Now contemporary virtue ethics is not a highly unified philosophical movement with a well-defined and distinctive position, but for present purposes we need not worry about what is the most plausible account of virtue ethics. Instead, the most relevant point for my concerns here is that a prominent strand of thinking in virtue ethics emphasizes that the behavior of an ideally virtuous person sets the standard for—or at any rate indicates—how people ought to act. One of the most developed attempts to work out this idea comes from Rosalind Hursthouse, who proposes that 'An action is right iff it is what a virtuous agent would characteristically (i.e. acting in character) do in the circumstances'.<sup>20</sup> The practical effect of this view and others like it is to encourage non-virtuous people to imitate the virtuous person and hopefully in the process become virtuous themselves.

However, critics have pointed out that the virtuous person is not always a proper role model for the non-virtuous person. While there are a variety of arguments to this effect,<sup>21</sup> I want to consider just one, which was stated by Bernard Williams. The use of Williams as an example may surprise some, because Williams was generally sympathetic to many aspects of virtue ethics, but in fact he could also be quite critical of some ideas associated with it.

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beings can do to bring it about. Despite this possibility, Mencius himself is not dissuaded from pursuing the Way. Cf. also *Xunzi* HYIS 103/28/36–41, HKCS 25/141/3–8, where the idea is suggested that the times may simply be such as to make order impossible, but people should still cultivate themselves.

<sup>20</sup> Rosalind Hursthouse, *On Virtue Ethics* (New York: Oxford University Press, 1999), p. 28.

<sup>21</sup> For an essay that raises a very serious challenge to Hursthouse's view and others like it, see Robert Johnson, 'Virtue and Right', *Ethics* 113.4 (2003), pp. 810–34.

In particular, while responding to an essay by John McDowell, Williams expresses the following worry about imitating the virtuous person:

Aristotle's [ideally virtuous person]...was, for instance, supposed to display temperance, a moderate equilibrium of the passions which did not even require the emergency quasi-virtue of self-control. But, if I know that I fall short of temperance and am unreliable with respect even to some kinds of self-control, I shall have good reason not to do some things that a temperate person could properly and safely do. The homiletic tradition, not only within Christianity, is full of sensible warnings against moral weight-lifting.<sup>22</sup>

To flesh this out a bit more, imagine two people, a healthy woman who possesses the virtue of temperance, and a man having serious weight problems due to binge eating, who with great difficulty exercises only tenuous control over his gluttonous appetites. Imagine further that both are invited to a party and arrive to discover that the host has laid out an extensive buffet in the dining room. For the woman with temperance, it is perfectly appropriate to wander in and out of the dining room as she eats and chats with others, since there is no temptation to over-indulge, but for the man with gluttonous appetites, it is better to stay out of the dining room altogether, lest he revert to his old ways. In such a case, it seems that the right thing for the man to do is not the same as 'what the virtuous person would do'.

Such criticism calls into question the use of the virtuous person as an ideal, by showing how that ideal provides the wrong kind of guidance. That point in turn brings us back to the issue from which we began, namely how to construe Han Feizi's criticisms of Confucianism. As mentioned earlier, since the Confucians may allow that their ideal is not fully realizable, merely accusing them of being too idealistic is not a good criticism, and instead, if Han Feizi is going to make his attack stick, he must claim that their ideal itself is the wrong kind of ideal to follow. In my view, Han Feizi does exactly this, arguing along lines similar to those just described. Let me now review the evidence for such a reading.

Han Feizi makes copious use of examples from history in his arguments, but there is one incident to which he refers repeatedly, and which obviously made a deep impression upon him.<sup>23</sup> This is the story of Lord Zikuai of Yan.

<sup>22</sup> Bernard Williams, 'Replies', in J. Altham and R. Harrison (eds.), *World, Mind, and Ethics: Essays on the Ethical Philosophy of Bernard Williams* (Cambridge: Cambridge University Press, 1995), p. 190. One might label this the 'Kids, don't try this at home!' objection.

<sup>23</sup> The incident is mentioned several times over five different chapters: HKCS 7/10/11-13, 35/109/16 – 35/110/13, 38/123/9-10, 39/127/17-24, and 44/134/27-30. The most extended discussion is in chapter 35. This story may have been especially memorable for Han Feizi, since according to one reference (ch. 38), the king of Yan turned down Han Feizi's own teacher, Xunzi, in favor of Zizhi, a fatal mistake.

As he is depicted in the text, Lord Zikuai seems a decent man, in many ways better than most other rulers of his age:

Lord Zikuai of Yan was the descendent of Duke Shi of Shao. He possessed land several thousand *li* square, with several hundred thousand spearmen. He did not indulge in the pleasures to be had with young boys and girls. He did not listen to the sound of bells and stone chimes. Within the palace grounds, he did not build pools and towers, and outside the palace grounds, he did not engage in trapping and hunting. Moreover, he himself took up the plough and hoe to cultivate the fields. The way Zikuai belabored his body so as to care for the people was thus so great that even those whom the ancients called sage kings and enlightened rulers, in tiring their bodies and caring for the world, were not greater than this.<sup>24</sup>

The idea that the king worries about the people's welfare and—at least occasionally—takes up the implements of farming to aid in working the fields were traits commonly attributed to the ancient sage kings (especially Yu)<sup>25</sup> at the time. The fact that Zikuai does these things seems to show that he was consciously trying to imitate them, and apparently with some success, since his accomplishments are said to rival those of the ancient sages.

Despite these qualities, Zikuai is *not* a sage in Han Feizi's eyes, but rather provides an example to be avoided, for he had a fatal flaw that cost him both his state and his life. The passage just cited continues:

Nevertheless, Zikuai died and his state perished after being taken away from him by Zizhi, and he was ridiculed by all under Heaven. What is the reason for this? It is because he did not understand the way to employ ministers.<sup>26</sup>

In typical fashion, Han Feizi does not explain here what passed between Zikuai and Zizhi, but rather assumes that his readers will know the story, because it was a quite infamous affair in recent history.<sup>27</sup> The particular events he

<sup>24</sup> HKCS 44/134/27-30. In conversation, Masayuki Sato has pointed out to me that the description of the king eschewing music in this passage implies that Zikuai was trying to be a good king on the model of the Mohists, rather than the Confucians. This may be so, but it does not particularly affect my argument here, because the criticism of trying to follow the ancient sage kings, and especially imitating their actions of handing rule over to a sagely minister, will apply just the same to the Confucians as to the Mohists.

<sup>25</sup> Yu supposedly engaged in physical labor personally to help clear away floods and prepare land for cultivation. Versions of the tale can be found at: *Han Feizi*, HKCS 49/145/29-30; *Zhuangzi*, HYIS 91/32/25-27 (William Hung (ed.), *A Concordance to Chuang Tzu* 莊子引|得 (Beijing: Harvard-Yenching Institute, 1947)); *Xunzi* HKCS 25/121/12-13, HYIS 93/25/23-24; and *Analects* 14.5.

<sup>26</sup> HKCS 44/134/30-31.

<sup>27</sup> The affair was infamous enough to be mentioned in bronze inscriptions of the time. Cf. the discussion of the 'Zhongshan Wang Cuo' vessel by Gilbert Mattos, 'Eastern Zhou Bronze Inscriptions', in E. Shaughnessy (ed.), *New Sources of Early Chinese History: An Introduction to the Reading of Inscriptions and Manuscripts* (Berkeley: The Society for the Study of Early China and

references are as follows. Zizhi, who was one of Zikuai's ministers, managed to dupe Zikuai into handing over power to him. Zizhi, however, turned out not to be a competent ruler. The state grew more chaotic, and after a few years, the state of Qi invaded (around 314 BCE). During the conquest Zikuai was killed, and Zizhi met with an especially grisly fate, being made into meat paste.<sup>28</sup> Here, Zikuai's fault is said merely to be that he did not understand how to choose and employ ministers, and insofar as Zizhi was neither as honest or capable as Zikuai thought, it is clear that this is a fault in Zikuai.

However, this is not the entire picture. For we should examine exactly *how* Zizhi managed to get power from Zikuai. In fact, the text records five detailed versions of the story (which attests to Han Feizi's acute interest in the matter). While these versions all differ, in their broad outlines they are quite similar, so I will review just one as an example:

Pan Shou said to the king of Yan, 'My king would do best to hand over the state to Zizhi. The reason why people call Yao a worthy is that he tried to hand over the state to Xu You, but Xu You was adamant in not accepting it, and thus Yao was famous for trying to turn over the state to Xu You, but in fact did not lose the Empire. Now if my king were to turn over the state to Zizhi, Zizhi will be adamant in not accepting it, and thus my king will have fame for trying to turn over the state to Zizhi, and will have the same conduct as Yao'. Thereupon the king of Yan accordingly took the state and assigned it to Zizhi.<sup>29</sup>

Here Pan Shou refers to a common legend that, because the sage kings were truly concerned for the well-being of their people and the state rather than for keeping power to themselves, as they grew older they sought out worthy ministers with whom to entrust the government. These worthy men, though, were likewise not interested in power, so they either refused or accepted only with much reluctance.<sup>30</sup> Either way, the state was well governed, and both sides were acclaimed for the way they displayed great virtue. In the case of Yan, Zizhi initially made a show of refusing the throne, but—contrary to poor king Zikuai's expectations—he eventually accepted it, and things only went downhill from there.

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The Institute of East Asian Studies, University of California, 1997), pp. 104–111, esp. p. 109. The event is also mentioned in the *Mencius* explicitly at 2B8, and implicitly at 1B10, 1B11, and 2B9.

<sup>28</sup> The story of Zikuai and Zizhi is recorded in various places, but a fairly standard account is contained in the *Shi Ji* 史記, in the biography of Su Qin 蘇秦 (cf. Sima Qian, *Shiji* 史記 (Beijing: Zhonghua Shuju, 1998), p. 2268). Zizhi's gruesome end is reported by the *Zhushu Jinian* book five 竹書紀年卷五, Annals of King Yin 隱王, year two (for a translation, cf. James Legge, *The Shoo King* (Taiwan: SMC Publishing, Inc., [1893] 1991), prolegomena p. 175).

<sup>29</sup> HKCS 35/109/28–31.

<sup>30</sup> For a telling of the Xu You tale, cf. *Zhuangzi* HYIS 2/1/22–26. For a case of reluctant succession, cf. *Mencius* in 5A5.

In analyzing the king's downfall, we should see that part of the king's mistake was his faith in Pan Shou, and in a sense it is the same mistake as the one Han Feizi notes in the previous passage cited, namely that Zikuai did not know how to choose and employ appropriately people to serve him. For according to the stories, Pan Shou was secretly a henchman of Zizhi, and the two conspired to bring about the king's resignation.<sup>31</sup> More generally, one broad theme that the various stories of Zikuai's downfall share in common and which Han Feizi emphasizes is that a ruler must exercise great care when choosing whom to trust, lest his power be stolen away. However, another important element in the story is the king's desire to imitate the sage Yao by giving up his throne to a worthy minister, because it is this desire that makes him vulnerable to manipulation by Zizhi.<sup>32</sup> This desire to imitate great rulers of the past is something we already saw hinted at in the first passage about Zikuai, and in all the other versions of the story, it is this kind of desire that leads the king into disaster.

In the section of text containing these five stories, Han Feizi does not particularly emphasize this desire as a fault,<sup>33</sup> but elsewhere he criticizes anyone who is wedded to the past, with special reference to the ideal of ceding rule to a worthy minister:

The ancients strove to the utmost after virtue. People of the middle ages chased after clever stratagems. In today's world, they contest over who is strongest. In ancient times, there were few problems to attend to, and the preparations needed

<sup>31</sup> HKCS 35/110/1-7.

<sup>32</sup> Of course, it is not the desire alone that makes the king vulnerable in this way. The king's susceptibility to being manipulated also stems from the fact that he makes this desire known, and so lays open to his ministers an opportunity to gain influence over him. Han Feizi recognizes this point and explicitly treats it as a factor leading to the king's downfall at HKCS 7/10/8-16.

<sup>33</sup> Actually, this depends on a textual problem. The five stories about the king of Yan and Zizhi are intended as explanations for lines that originally read '明主者，鑒於外也，而外事不得不成，故蘇代非其王。人主鑒於上也，而居者不適不顯，故潘壽言禹情' (HKCS 35/106/16-17). If we understand 上 in the second sentence as referring to 上古, then that sentence would mean, 'The ruler of men perhaps may mirror himself against antiquity...and thus you have the example of Pan Shou discussing the facts about Yu'. In that case, Han Feizi would be explicitly using the story of Zikuai being deceived by Pan Shou to illustrate the idea that the ruler should not try to imitate past sages, which is the point I want to stress. However, some manuscripts have 士 instead of 上, and one of the stories contains the line '夫人主之所以鏡照者，諸侯之士徒也' (HKCS 35/110/4-5). This argues in favor of reading 士 instead of 上, so the sentence in question would then mean, 'The ruler of men perhaps may take a mirror for himself from his scholars, but those residing with him may be neither suitable nor forthright, and thus you have the example of Pan Shou discussing the facts about Yu'. While the latter reading (using 士) is less favorable to me, I believe it is possible to support my point using other passages from the *Han Feizi*, which I do in the main text, so ultimately the resolution of this textual problem is not essential to my interpretation.

were simple. Things were basic, coarse, and not perfected. Thus, there were those who made farm implements from shells and pushed carts by hand [to do their work]. In ancient times, people were few, and so they were close to each other. Goods were plentiful, and so people thought little of profit and gave way to each other easily, and as a result there were those [e.g. the sages Yao and Shun] who, yielding and giving way, handed over the Empire to others. That being the case, engaging in yielding and giving way, esteeming kindness and generosity, and taking as one's way benevolence and munificence—these are all push-government [i.e. government methods as crude as pushing a cart by hand]. When one dwells in a time of many problems, to use implements suited for few problems is not the kind of preparation made by a wise person. To face an age of great contention, but follow in the tracks of those who yielded and gave way, is not the way a sage brings about order. And so, the wise person does not ride in a push-cart, and a sage does not practice push-government.<sup>34</sup>

First, although Han Feizi does not mention the case of Zikuai yielding the throne to Zizhi here, given that he shows strong interest in the story in other places, it seems most likely that he has that case in mind when attacking those who would follow ancient ways by 'yielding and giving way'. Second, note that Han Feizi does not criticize the action of giving away the throne *per se*; here, at least, he seems to accept that it was a sagely thing to do for the ancients.<sup>35</sup> Rather, his point is that what was appropriate for the early kings is not appropriate for modern rulers, and if we think of this in terms of the lesson learned from the case of Zikuai and Zizhi, then the thrust of his argument seems to be that modern rulers should not imitate past sages, lest disaster follow.<sup>36</sup>

Now the idea that one should follow the ways of the ancients was a central part of Confucianism, and the Confucians were fond of the stories about sage kings ceding their rule to a worthy minister as a manifestation of their

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<sup>34</sup> HKCS 47/140/20–24. Commentators disagree about how to construe parts of this passage. Here I follow the reading of Qiyou Chen 陳奇猷, *Han Feizi Jishi* 韓非子集釋 (Taipei: 華正書局 Huazheng Shuju, 1987).

<sup>35</sup> Han Feizi's exact view on this is difficult to pin down. He nowhere denies that the sage kings of old ceded the throne to others, and in one place he seems to describe it as the natural thing to do, given the circumstances (e.g. HKCS 49/145/28 – 49/146/6). However, elsewhere he seems to say that it set a bad precedent which has led to chaos ever since (HKCS 51/153/11–21), but even there he does not seem to deny that it was an effective decision for the ruler at the time. It is worth noting that Xunzi displays a certain hostile attitude toward the legends about the sages abdicating, so perhaps Han Feizi picked up part of Xunzi's view here (cf. *Xunzi* HYIS 67/18/53 – 68/18/72; HKCS 18/86/6 – 18/87/5).

<sup>36</sup> It is worth noting that in the *Zhuangzi*, at HYIS 43/17/34–35, there is a passage that is very similar to the arguments we find in Han Feizi. However, given the many problems in dating the later chapters of the *Zhuangzi*, it is difficult to tell whether Han Feizi is influenced by the *Zhuangzi* author or vice versa.

virtue.<sup>37</sup> Hence, in making such remarks Han Feizi is criticizing the Confucians,<sup>38</sup> and his criticism is—at a general level—like that of Williams, in that he is pointing out how trying to live up to the Confucian ideal may well make things worse, rather than better. To that extent, Han Feizi is casting doubt on the worthiness of their ideal as a guide for action in the first place, and as I noted earlier, this is precisely the kind of strategy needed to ensure that his attack against the Confucians hits home, beyond merely complaining that their aim is unachievable and that their methods will not work (which Han Feizi does as well, of course).

Before considering how the Confucians might respond, however, it is worth considering the degree of similarity between the arguments by Han Feizi and Williams a little further. In Williams's example, the reason why the non-virtuous person should not imitate the virtuous person is that it can be dangerous for someone who is defective or has lesser ability to attempt what a person who is perfected or who has much greater ability does. The quotes from Han Feizi, though, suggest a different concern, namely that conditions have changed so much that the methods used by the ancients simply cannot be effective any longer, *regardless* of whether one is a sage or not, and that is why it is dangerous to use them. In this respect, Han Feizi's point is not exactly the same as the one that Williams is making.

However, although Han Feizi criticizes those who would follow the ancients in the last passage cited, he himself occasionally seems to encourage rulers to imitate past sages like Shun and Yu.<sup>39</sup> In such instances, the actions of the sages that he praises are more or less the same policies that he usually recommends, namely heavy use of punishments and rewards, but such passages show that Han Feizi's position is not a straightforward rejection of the

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<sup>37</sup> Cf. e.g. *Analec*s 20.1 and *Mencius* 5A1 (esp. '帝將胥天下而遷之焉'), 5A4 (esp. '堯老而舜攝'), 5A5, 5A6. Although Mencius denies that the king can directly give the empire to anyone, he accepts the basic idea that the king chose a worthy person to rule in his place. I discuss Mencius further in the main text, p. 441. For a nice example of how Mencius encourages imitating the sages, see 6B2. As mentioned above (cf. note 35), Xunzi seems suspicious of the legends about sages abdicating, but the basic point of the objection, as I note in the main text, has to do with the idea of imitating the ancients, and the *Xunzi* frequently promotes that idea, e.g. HYIS 45/12/36 – 46/12/39, 63/17/24–26, 106/31/1–5, HKCS 12/59/1–3, 17/81/4–6, 31/145/1–5, so the *Xunzi* is still subject to the problem that Han Feizi is raising.

<sup>38</sup> As before (cf. note 14 above), the criticism here may not be limited to the Confucians, since the Mohists also frequently defended their views by reference to the ways of the ancient sages. However, the Confucians seem to have emphasized the legend of sages ceding the throne more than the Mohists did, which makes it more likely that the Confucians are the primary target of such remarks by Han Feizi.

<sup>39</sup> For example, HKCS 19/33/11–15 reads like a Confucian text in praising the former kings, but the government methods praised there are the same sort that Han Feizi promotes throughout the rest of the text.



past.<sup>40</sup> Rather, his view seems to be that in some cases it might be alright for contemporary rulers to imitate the sages (when the ancient techniques can still work), but in other cases not. That in turn raises the question of how to determine which of the ancient ways can be followed and which can not, and who is able to make such judgments.

By and large, Han Feizi seems to think that those ancient methods depending on the ruler to possess good character and act virtuously toward his subjects will not work in current times. However, he does not state outright that they can never work again, and a few passages imply that they might still be usable. For instance, in the midst of a discussion of the importance of the ‘power of position’ (勢 *shi*), Han Feizi comments:

The reason why I discuss the power of position is for the sake of...mediocre rulers. These mediocre rulers, at best they do not reach the level of [the sages] Yao or Shun, and at worst they do not behave like [the arch-tyrants] Jie or Zhou. If they hold to the law and depend on the power of their position, there will be order; but if they abandon the power of their position and turn their backs on the law, there will be disorder. Now if one abandons the power of position, turns one's back on the law, and waits for a Yao or Shun, then when a Yao or a Shun arrives there will indeed be order, but it will only be one generation of order in a thousand generations of disorder.<sup>41</sup>

In contrasting Yao and Shun with Jie and Zhou, Han Feizi seems clearly to be thinking in terms of the traditional view accepted by the Confucians, on which Yao and Shun ruled with benevolence and righteousness, and Jie and Zhou ruled with cruelty and debauchery. Therefore, when he then considers what would happen when another Yao or Shun arrives (as opposed to just a nameless ‘sage’), I take him to be referring to a sage who is like Yao and Shun precisely in the respect of ruling with benevolence and righteousness. Since he says that when such a Yao or Shun comes, there will indeed be order, Han Feizi thus seems to acknowledge that someone might be able to rule effectively using the virtue-based techniques of the past sages, though it would require sagely character and intelligence to make this work (for another passage of this sort, see p. 442 below). Yet, as this same passage indicates, Han Feizi regards such people as exceedingly rare, and for that reason he proposes a different method that can work for the far more common ‘mediocre’ rulers.<sup>42</sup>

<sup>40</sup> Ruying Liu 刘如瑛, ‘Lüe Lun Han Fei de Xian Wang Guan’ 略论韩非的先王观, *Jiang Huai Lun Tan* 江淮论坛 1982(1), pp. 102-104, gives a nice and succinct discussion of this issue.

<sup>41</sup> HKCS 40/129/7-9. Translation from Ivanhoe and Van Norden, *Readings in Classical Chinese Philosophy*, pp. 330-31.

<sup>42</sup> In conversation, Li Chenyang has suggested to me that in this regard Han Feizi is suggesting yet another kind of criticism of the Confucians, namely that they have no acceptable ‘fallback’

While ultimately Han Feizi would probably prefer not to rest the fate of the government on any particular strengths of the ruler, but instead depend on a system of laws and administrative techniques that will work for all but the most kind or most cruel rulers, insofar as Han Feizi's claim is thus that the mediocre rulers incapable of governing successfully by virtue should avoid trying to follow the past sages' approach, his thought does seem much closer to Williams's argument that agents of lesser ability and virtue should not imitate those of greater ability and virtue, because disaster will likely result. In this light, the story of Zikuai and Zizhi serves as an especially powerful case for Han Feizi against the Confucians, because on a very plausible reading of the passage cited earlier, in yielding the throne Zikuai was motivated more by concerns for enhancing his reputation and keeping his power than he was by any genuine desire to find the most worthy person to administer the state. To that extent, he was trying to make a show of virtue that he did not really possess, which helps explain his failure—but such morally 'mediocre' rulers as Zikuai are precisely the norm, according to Han Feizi's view, and hence one should avoid those ideals (e.g. that of the Confucians) that will normally lead to ruin. While Han Feizi is not so explicit as all this, one can perhaps see at least a hint of this Williams-style concern about the abilities of agents in his treatment of the story of Zikuai and Zizhi in this vein, given how he sometimes stresses Zikuai's lack of understanding.<sup>43</sup>

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plan for when it turns out that their ideals cannot be realized. This is an interesting and plausible idea that deserves more consideration. However, I will not be discussing it further here, in order to be able to give sufficient attention to the line of argument I am already tracing out in the main text.

<sup>43</sup> There is another passage that seems to support understanding Han Feizi's worry in this way. At HKCS 38/121/24 – 38/122/5, Han Feizi relates the tale of Duke Wen of Jin and the eunuch Pi. When Duke Wen was early on exiled from his state, Pi was sent to try to assassinate him twice, but failed both times. When Duke Wen eventually manages to return to Jin and become ruler, the eunuch Pi requests an audience with him. Through an intermediary, the Duke asks why the eunuch acted with such alacrity in trying to kill him previously, implying that the eunuch must harbor some hatred against him. Pi answers that he was merely following orders and that he has no personal hatred toward the Duke. He also cites the story of Guan Zhong, who nearly shot and killed Duke Huan of Qi, but was later employed by Duke Huan, who realized that Guan Zhong would make an effective minister. Commenting on this story, Han Feizi notes that rulers such as Duke Huan and Duke Wen were capable of making use of such previously hostile men. He then remarks:

The lords of subsequent ages have not been as intelligent as these two dukes, and the ministers of subsequent ages have not been as smart as those two men. When a minister who is not loyal serves a lord who is not intelligent, then if the lord does not realize his disloyalty, then one will have villainy such as that of Cao of Yan, Zihan, or Tian Chang [who murdered their lords]. Or if the lord does realize the minister's disloyalty, then the minister will use the examples of Guan Zhong and the eunuch to explain himself. The lord is then sure

To sum up briefly where we have arrived, Han Feizi is complaining that following the Confucian ideal and imitating the past sages will likely make things worse, and there are two possible reasons for this that are distinct, though not incompatible: simply because of changes in the world, what worked in the past will likely fail miserably in the present, even if practiced by equally capable people;<sup>44</sup> or, even if the world has not changed substantially, lords of inferior quality will likely encounter calamity if they attempt what more capable lords were previously able to accomplish. Williams's point concerns primarily the latter case, whereas Han Feizi tends to stress the former, but there are also moments where Han Feizi seems a bit more like Williams. At any rate, regardless of exactly how similar one takes Han Feizi to be to Williams, to the extent that Han Feizi's criticism stresses the disaster that will likely result from imitating the sages, his basic point is the same as Williams, and at this juncture let us turn to consider how the Confucians might respond.

To begin with, the Confucians might dispute the example being used against them. Certainly, Mencius' remarks at 2B8 suggest that not all Confucians would endorse Zikuai's deed:

Shen Tong [a minister of Qi] asked in a private capacity, 'May a punitive attack be launched against Yan?'

Mencius answered, 'It may. It was not allowable for Zikuai to give Yan to another person, nor was it allowable for Zizhi to receive Yan from Zikuai. Suppose there were a well-bred man here whom you liked, and to whom you privately gave your official rank and salary without telling the king, and suppose this well-bred man likewise received these things from you without a mandate from the king—would that be permissible? How is that any different from this [i.e. the affairs in Yan]?'

Mencius clearly disapproves of Zikuai and Zizhi, and even thinks that they deserve punishment, though the remainder of the passage (not translated here) shows that he thinks Qi was wrong to have undertaken the task of punishing Yan. His reasons for disapproving of Zikuai and Zizhi, which are merely

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not to execute him, because he thinks himself to have the virtue of Duke Huan or Duke Wen. When a minister is enemy to the lord, but the lord's intelligence cannot get clear about this and instead gives him more materials with which to work, while the lord thinks himself smart and is not on guard, then if his ruling lineage is no more, is this not most probable?

Here it seems pretty clear that the problem is that inferior lords are trying to imitate superior rulers and getting themselves into trouble doing so.

<sup>44</sup> It is worth noting that on this reading of Han Feizi, we can now see an additional reason why it will not be persuasive for the Confucians to respond to Han Feizi's charge of being too idealistic by insisting that history shows their aims and methods to be realistic. For even if the Confucians were right about the past, Han Feizi will respond by arguing that what succeeded for the sages

hinted at above, are made more explicit at 5A5 and 5A6. According to those passages, the ancient sage kings did not directly give the empire to their successors. Instead, they recommended those men to Heaven, to whom the empire really belongs, and Heaven accepted them as successors. Accordingly, Mencius' view would seem to be that the state of Yan, as a landholding originally granted by the Zhou dynasty king, belongs to the Zhou king (and ultimately to Heaven), not to Zikui individually, so Zikui had no authority to give it away on his own, but at most could only recommend to the Zhou king that Zizhi succeed him.<sup>45</sup> Confucians might then follow out Mencius' thought by saying that Zikui does not represent a case where someone succeeded in imitating the sages but met with disaster.

Such a response to Han Feizi's criticism, however, would not serve the Confucians well. For one thing, Han Feizi has other examples that seem less subject to the same complaint. Consider the following:

In ancient times, King Wen dwelled between Feng and Hao, with a territory of only a hundred *li* square. He practiced benevolence and righteousness and was friendly to the Western Rong [a barbarian tribe], and subsequently came to be king over all under Heaven. King Yan of Xu lived to the east of Han, with a territory of five hundred *li* square. He practiced benevolence and righteousness, and thirty-six states cut off pieces of their territory [i.e. to present as a tribute and symbol of submission] and came to pay him court. [The king of Chu] feared being harmed by him, so he raised troops and attacked Xu and subsequently destroyed it. Thus, King Wen practiced benevolence and righteousness and came to be king over all under Heaven, but King Yan practiced benevolence and righteousness and lost his state. This shows that benevolence and righteousness were useful in ancient times, but are not useful in present times.<sup>46</sup>

Here, the problem does not seem to be that King Yan did not succeed in imitating the sage king Wen. On the contrary, the problem seems rather to be that he was *too* successful. For as the Chinese scholar Lin Weiyi has astutely noted, in this passage Han Feizi seems to admit that virtue *does* have suasive power even in his own contentious age, since he says that thirty-six states were won over by King Yan's benevolence and righteousness.<sup>47</sup> King Yan was thus

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in the past simply may not succeed for different rulers in the present or future, and thus the appeal to history proves nothing.

<sup>45</sup> For more discussion of Mencius' views on this matter, cf. David Nivison, 'Mengzi as a Philosopher of History', in A. Chan (ed.), *Mencius: Contexts and Interpretations* (Honolulu: University of Hawai'i Press, 2002), especially pp. 296–98.

<sup>46</sup> HKCS 49/146/8–11.

<sup>47</sup> Cf. Weiyi Lin 林緯毅, *Fa Ru Jian Rong: Han Feizi de Lishi Kaocha* 法儒兼容：韓非子的歷史考察 (Taipei: Wenjin Chubanshe 文津出版社, 2004), pp. 31–33. It is an interesting question to what extent this admission may undermine Han Feizi's other remarks about the importance of virtue for good government. I cannot pursue that line of inquiry here, however. At the

succeeding quite well in following the path of King Wen, but this very success made him a threat to Chu and so brought about his destruction. Now we are not told the details of King Yan's rule, so it might perhaps still be open to the Confucians to argue that King Yan was not *really* properly imitating King Wen. Yet, for the Confucians to dispute in this fashion every such example that Han Feizi raises does not seem a promising strategy, because it will begin to look like special pleading if it turns out that any time someone ostensibly acting as the Confucians direct meets with disaster, it is because they were not really correctly imitating the sages. Furthermore, such a tactic would threaten to undermine the Confucians' own views, since in some cases they seem to admit that truly virtuous people may fall victim to disaster through their good behavior.<sup>48</sup>

Apart from these worries, though, there is another, more fundamental problem with trying to escape Han Feizi's criticism by arguing that Zikuai did not successfully imitate the sages. In particular, such a tactic seems to miss the point of Han Feizi's criticism, for (subject to certain qualifications already noted above) Han Feizi is aiming to discourage people from even *trying* to imitate the past sages, not just from *successfully* imitating the past sages. Indeed, since Han Feizi thinks we cannot be sure about the distant past, he seems committed to a high degree of pessimism about people's ability to follow in detail the actual behavior of sages like Yao and Shun.<sup>49</sup> His repeated criticisms of imitating past sages would then be pointless, if he thought almost no one could truly imitate them anyway. Accordingly, the only charitable way to understand his criticisms of imitating the past is to construe them more broadly, namely as applying to those attempting to imitate the past, regardless of whether or not they actually do it correctly. On this understanding, the Confucian strategy considered in the previous few paragraphs will not make a difference even if successful, because Zikuai was clearly *trying* to follow the

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very least, this seems to show that when Han Feizi says in the passage that benevolence and righteousness are not 'useful' (用 *yong*) for governing, what he means is that they are not *sufficient* for governing well, not that they are completely ineffective.

<sup>48</sup> For example, Xunzi seems to think of Bi Gan as a genuinely virtuous person, and Bi Gan tried to save his lord, the tyrant Zhou, from impending doom by remonstrating with him, but Zhou responded by having his heart cut out (cf. *Xunzi*, HYIS 50/13/10-19, 66/18/24-29; HKCS 13/63/28 – 13/64/9, 18/84/14-18). In this case, to say that whenever doom befalls a seemingly good person, it is because that person is not really good, would threaten to undermine the belief in Bi Gan's goodness, and likewise for other figures whom the Confucians esteem. For similar cases in the *Analects*, cf. 18.1, which mentions Bi Gan, and also 15.9, which notes that death may be the price of virtue. This last idea is also expressed in the *Mencius* in 3B1, for example.

<sup>49</sup> Cf. note 16 above.

model of the sages, even if he did not succeed perfectly, and to the extent that this attempt led him into disaster, that provides reason enough against trying to imitate the past sage kings.<sup>50</sup> Thus, if the Confucians are going to defend themselves against Han Feizi's attack, they must adopt a different strategy.

Now there is an alternative available to the Confucians. Namely, they can deflect the attack launched by Han Feizi against their ideals by claiming that such criticism misconstrues the role that these ideals are supposed to play in guiding people's actions. Since I have been suggesting a parallel between Bernard Williams and Han Feizi, let me go back to Williams for a moment in trying to explain this idea. His argument gets its bite by taking the idea of 'what the virtuous person would do in the circumstances' to refer to fairly specific actions and then pointing out the dangers of imitating those actions—in terms of my earlier example, 'what the temperate person does at the party' is to go in and out of the dining room partaking of the buffet, but that is not what the person fighting gluttonous appetites should do. Similarly, Han Feizi takes it that the Confucians want rulers to 'govern as the ancient sages would', but then points out how the specific actions taken by the past sages, such as ceding the throne, result in ruin when copied by others. In both cases, it is presumed that the point of upholding the virtuous person or sage as an ideal is to encourage people to imitate the *specific* things they did.

However, one might reject this understanding of the role of the ideal figure. If so, there are at least three alternatives to consider. Before discussing those options, though, let me note what this approach means in terms of the story of Zikuai. Specifically, it means that the Confucians would be saying that Zikuai's actions do not in any way represent what they are advocating. For Zikuai was trying to imitate the *actions* of the sages, but that is not what they are advising people to do. Rather, on the alternative view, what the Confucians espouse is not the simple imitation of actions—something which perhaps even they could admit<sup>51</sup> would indeed be subject to the kind of critique that

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<sup>50</sup> It is worth noting that although Williams's stand on this issue is unclear, a similar idea seems to be suggested in his original critique, in particular in his analogy with weight-lifting (cf. p. 433 above). Namely, I may hurt myself by being unable to stay steady once I have the weights over my head, but if the weights are too heavy for me, I may also tear muscles and injure my back just *trying* to lift them, while still not budging them an inch. Thus, if I am not up to the task, I have good reason not even to attempt it.

<sup>51</sup> The discussion at *Mencius* 4A17 of whether or not to save one's drowning sister-in-law in violation of ritual propriety might serve as an example of how the Confucians recognized this problem. Similarly, *Analects* 9.3 suggests an acknowledgment that strict adherence to the dictates of ritual may not always be best, and the *Xunzi* repeatedly advocates an ability to adapt in response to changing circumstances, e.g. HYIS 7/3/15, 17/6/50, 23/8/87, 28/9/48, 45/12/25, 52/14/17, HKCS 3/10/2–4, 6/25/2, 8/32/11, 9/37/19, 12/58/3, 14/67/8.

Han Feizi articulates—but rather the imitation of something else, and since Zikuai was not even *trying* to imitate (much less succeeding in imitating) this, his downfall and other similar stories about the perils of imitating past sages' actions do nothing to impugn the Confucian ideal.

If one does not take what is most admirable and worthy of imitation in the virtuous person or sage to be the particular things he or she does, then what should one be trying to imitate instead? The first possibility to consider is that it is the ideal figure's *good judgment*—the ability to pick the course of action that is truly best. On this view, the advice to imitate the sages amounts to the idea that one ought to 'do what' they did, but *internally and mentally*, rather than *externally and physically*, or in other words, to think the same way they thought. For evidence that Confucians might adopt this approach, we may look to the *Xunzi*, which in counseling the novice states, 'When the teacher explains thus-and-so, and you also explain thus-and-so, then this means your understanding is just like your teacher's understanding'.<sup>52</sup> Since here the text focuses on understanding (知 *zhi*), it is clearly not advising one merely to parrot one's teacher, but rather to come to have the same way of thinking.

At first glance, this view may appear to provide a way out of the difficulties posed by Han Feizi and Bernard Williams. For one thing, judgment is not the same as action, but rather good judgment may be expressed in a variety of different behaviors. Moreover, good judgment may include sensitivity to one's own limitations, whether actions used in the past will still work, and so on. Accordingly, different people applying the same kind of thinking in different situations will likely arrive at different deeds, and hence one who is trying to imitate the sages need not be committed to pursuing lines of action that, either because of one's own deficiencies or because of the circumstances, tend toward disaster.

There are, however, two ways of construing this idea of imitating the ideal figure's good judgment, and both are subject to problems. First, if we conceive of the ideal figure as arriving at decisions about what to do through some particular deliberative procedure, then imitating his or her judgment will involve imitating that person's specific train of thought. Such a construal, though, seems susceptible to the same criticism from Han Feizi and Williams, only this time directed at the agent's thought processes instead of his or her actions. In particular, they might argue that just because a sage thinks in a

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<sup>52</sup> *Xunzi*, HYIS 5/2/38, HKCS 2/8/2. Compare *Analects* 13.5, which makes it clear that in learning the *Odes* one is supposed to go beyond merely being able to recite them from memory, and *Mencius* 5B8, which suggests that the proper aim of studying ancient works is ultimately to understand and 'befriend' the people who composed them.

certain way, this does not entail that it is the appropriate way for not-yet-sagely intellects to think. If I am not as smart as a sage, then using the same methods as a sage to decide what to do may simply be too hard for me to do without horrendous results,<sup>53</sup> or even if I am capable of applying the same deliberative methods correctly, under sufficiently different circumstances those methods might be precisely the wrong way to think.<sup>54</sup>

The other construal of imitating the ideal figure's good judgment, which can avoid this problem, is that one should imitate the person *simply* in picking out the best course of action, where no particular thought process is presupposed. If one treats this point as the basis for modeling oneself after the virtuous person or sage, then the recommendation to imitate that person will be a recommendation to 'do *as*' the person would do, i.e. to take careful measure of the situation and judge appropriately, rather than a recommendation to 'do *what*' the person would do, where this amounts to a prescription for particular actions or even particular ways of thinking. In turn, since on this understanding the object of emulation is now extremely general, namely just 'getting it right', this conception of how to follow the ideal will not fall prey to the kind of objection that Williams and Han Feizi raise, because it is not committed to *any* fixed patterns of action or thought that might be beyond the agent's ability or that might lead to disaster in different circumstances.

One might wonder, however, whether the Confucians could really adopt the sort of strategy just outlined. In fact, a very similar view was proposed by at least one Confucian, the eighteenth-century thinker Zhang Xuecheng. On Zhang's view, the greatness of the sages rests in their choosing the exact right response to their particular historical context. For this reason, it would be a mistake to try to do the same things that earlier sages did. This view is clearly expressed in Zhang's 'Letter to Chen Jianting Discussing Learning', which criticizes what Zhang regards—fairly or not—as an excessive preoccupation among his fellow Confucians with composing treatises (especially philological studies of the Classics, as practiced by Dai Zhen).<sup>55</sup> Zhang writes:

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<sup>53</sup> For instance, even if the deliberative process includes a step where one considers one's own weaknesses, if the person undertaking the deliberation has an overly optimistic view of his own abilities (as many novices do), then the deliberation will still go awry.

<sup>54</sup> For example, imagine general A who tries to think like great generals of the past. Now imagine that he must fight against general B, who knows the approach of those past generals, and knows as well that general A will try to think like them. Accordingly, general A will be at a disadvantage, because general B will be able to anticipate how he is likely to formulate his strategy and will be well positioned to neutralize it. In such circumstances, it is better for general A *not* to strategize as previous generals have.

<sup>55</sup> For a more extended discussion of the relation between Zhang Xuecheng and Dai Zhen than I can provide here, cf. Ying-shih Yü, 'Zhang Xuecheng vs. Dai Zhen: A Study in Intellectual Challenge and Response in Eighteenth Century China', in P.J. Ivanhoe (ed.), *Chinese Language*,



Learning has not yet advanced much since antiquity, because Confucians of later times have taken the Six Classics as their model and Confucius as their teacher in a mistaken fashion. Confucius put the Way into practice but was unable to obtain an official position, so he [edited and] transmitted the Six Classics in order to hand down their teachings for myriad future generations, yet this was something Confucius did because he had no other choice. Even though later Confucians no longer live [as Confucius did] in the time when the Zhou dynasty was declining and there was nothing to be done about it, they still insist that in order to model oneself after Confucius and take him as one's teacher, one must compose and transmit writings to pass on to future generations. But how can one say that they have no other choice? Why do they so disregard the people of their own time, while being so dedicated to future generations? Thus, those who study Confucius should study what it was that Confucius studied [i.e. how best to respond to his own time], and should not study what Confucius had no other choice but to do.<sup>56</sup>

Hence, for Zhang, the way to follow the sages is *not* to try to do what they did, but rather to learn to appreciate how they made the right decision for their situation, then look to one's own circumstances and take appropriate action for one's own time.

Although Zhang lived many centuries after Han Feizi, the roots of Zhang's view go way back in the Confucian tradition. In fact, one can see hints of it in Han Feizi's onetime teacher, Xunzi.<sup>57</sup> Indeed, one might even interpret the remarks from Xunzi about imitating the teacher's 'understanding' cited earlier along such lines. Chapter twenty-one of the *Xunzi*, which discusses the causes and cures for 'fixation' or 'obscuration' (蔽 *bi*) that prevents people from truly grasping the Way, contains the following remarks:

Thus, among the cases of fixation, one...can be fixated on origins, or one can be fixated on ends. One can be fixated on what is far away, or one can be fixated on what is nearby... One can be fixated on the ancient past, or one can be fixated on the present. In whatever respect the myriad things are different, they can become objects of fixation to the exclusion of each other. This is the common problem in the ways of the heart... The sage knows the problems in the ways of the heart... So, he is neither...for the origins, nor for the end results, is neither for what is near, nor for what is far away,...is neither for the ancient past, nor for the present.<sup>58</sup>

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*Thought, and Culture: Nivison and his Critics* (Chicago and LaSalle, IL: Open Court, 1996), pp. 121-54.

<sup>56</sup> Cf. Xuecheng Zhang 章學誠, 'Yu Chen Jianting Lun Xue' 與陳鑑亭論學 ('Letter to Chen Jianting Discussing Learning'), in X. Zhang, *Zhang Xuecheng Yishu* 章學誠遺書 (Beijing: Wenwu Chubanshe 文物出版社, 1985), p. 86 (卷九, 文史通義外篇三).

<sup>57</sup> David S. Nivison, *The Life and Thought of Chang Hsüeh-ch'eng (1738–1801)* (Stanford: Stanford University Press, 1966), p. 166, notes a similarity between Xunzi and Zhang that is much like what I suggest here.

<sup>58</sup> *Xunzi*, HYIS 78/21/6 – 79/21/29, HKCS 21/102/12 – 21/103/18.

Here Xunzi seems to say explicitly that the sage is neither tied to past ways, nor does he simply follow present customs. Instead, the sage picks what is best based on the circumstances, and in some cases this may mean following ancient ways, and in other cases departing from them. Now this is not to say that Xunzi holds the exact same position as Zhang Xuecheng—and other parts of the *Xunzi* argue against any easy attempt to equate their views—but rather to note that even at Han Feizi's time, there was a possibility that the Confucians could respond along the lines contemplated earlier.<sup>59</sup>

There is, however, a price to be paid for adopting such a view, one that perhaps explains why Xunzi and other early Confucians did not adopt something like Zhang's view in the first place. For if one argues that what is great and worthy of imitation in the sages is the general way they responded correctly to their specific circumstances, rather than the particular actions they took or the ideas they conceived, then the model of the sages seems to provide very little substantive guidance for those trying to follow in their footsteps. In other words, the Confucian view would have escaped criticism, but only at the risk of becoming vacuous. In turn, that would leave the Confucians with little ground to stand upon in rejecting Han Feizi's rival proposals for how to live and run the government, and in fact, they would be hard pressed to distinguish their own position from Han Feizi's. For Han Feizi himself says, '[T]he sage does not expect to follow the ways of the ancients or model his behavior on an unchanging standard of what is acceptable. He examines the affairs of the age and then makes his preparations accordingly'.<sup>60</sup> Perhaps the Confucians might insist that, to the extent they could agree with this, the

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<sup>59</sup> For passages in other early Confucian texts that could be taken as suggesting the idea that what is valuable and worthy of imitation in the sage is a kind of highly flexible good judgment, cf. those mentioned in note 51 above. Also, there is another way in which one might see this idea among the early Confucians. The Confucian notion of *yi* (義, usually translated as 'righteousness' or 'appropriateness') is commonly interpreted as being a virtue that consists in having correct judgment that is flexible and case-specific. I reject this interpretation, but will not dispute it here, because that discussion would take us too far away from our main topic. However, it is important to see that even if one accepts the common interpretation of *yi*, the Confucian view so construed is subject to the same objections that I note in what follows in the main text, namely that if *yi* consists simply in 'correct judgment', where this is highly flexible, then it lacks content to guide the beginner or justify the specific approach to government favored by the Confucians. Also, even on the common interpretation of *yi*, this virtue is something that must be slowly cultivated and is not immediately available to a beginner, so it is likewise subject to the worries I consider on p. 449 of the main text.

<sup>60</sup> HKCS 49/145/18-19. Translation from Ivanhoe and Van Norden, *Readings in Classical Chinese Philosophy*, p. 340. Nivison, *The Life and Thought of Chang Hsüeh-ch'eng*, pp. 124-25 points out that Zhang Xuecheng has sympathies with Han Feizi and that Zhang's own attempts to distance himself from Han Fei's views are problematic.

sage would still never disregard morality in reacting to his circumstances, but given that the Confucians also think of the sage as someone who brings—or can bring—order to the whole world, the burden of proof seems to be on them to explain why establishing order would never require disregarding virtue, as Han Feizi suggests. (One wonders if Han Feizi has not, in the end, proved himself too good a student of Xunzi, by taking the idea cited from Xunzi earlier and running it to its logical conclusion—Han Feizi might say: morality itself can become an object of fixation, and so a true sage will not be wedded even to morality.)

There is one final possibility to consider, which is that the object of imitation is the ideal figure's *good character*, the tendency to be motivated by certain desires and feelings. On this construal, the advice to imitate the sages amounts to the idea that one ought to 'be as' they were, i.e. virtuous, rather than to act or think as they did. This is more substantive than just 'getting things right', and as before, such a view looks like it might provide a way out of the difficulties posed by Han Feizi. For insofar as proper feelings and desires may be compatible with different behaviors and different ways of deliberating, it will again turn out that one who is trying to imitate sagely character need not be committed to pursuing lines of action or thought that tend toward disaster. Furthermore, this approach certainly seems to suit the Confucians well, because they are indeed deeply concerned with how people are motivated on the inside, and not just how they act on the outside.

The problem with this approach, however, is that according to the Confucian view, as well as most contemporary proponents of virtue ethics, one cannot simply will oneself into the proper character. Rather, the cultivation of character takes time and is a process that works through habituation.<sup>61</sup> Furthermore, not just any kind of action will serve for the proper habituation, but only certain kinds of action. Yet, the idea that imitating the character of the ideal person involves a process of cultivation, which in turn requires certain kinds of actions, simply raises the specter of Williams's and Han Feizi's criticism all over again. For it may turn out that the kinds of actions necessary for cultivating the appropriate character are precisely of the sort that tend to one's ruin.

To give an example of this worry, suppose I want to imitate a strongman. On the view under consideration, I want to imitate him in *being strong*, rather

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<sup>61</sup> For example, consider Confucius' statement in *Analects* 2.4 that it took him seventy years to get to the point where he could follow his desires without going astray, Mencius' warnings at *Mencius* 2A2 neither to neglect nor rush the process of moral cultivation, and Xunzi's remarks at *HYIS* 2/1/17–18, 89/23/68–69; *HKCS* 1/2/9–10, 23/116/13–15 about the need for slow 'accumulation' (積 *ji*) of efforts in order to achieve sagehood.

than the particular things he does, such as lifting 300 lbs, which would be extremely dangerous for me even to try, if I am a weakling. (Here I rely on Williams's formulation of the problem rather than Han Feizi's, because Williams's is more straightforward, but one could easily imagine versions of the problem, *mutatis mutandis*, in terms of Han Feizi's worry.) Nevertheless, it may turn out that the only way for me to become strong is by lifting heavy things, which is still quite dangerous.

Now there is an objection that could be raised to this last point, in order to save the Confucian position. Namely, just as in the way that, as a matter of fact, many people do manage to become strong by lifting heavy things without seriously injuring themselves, so by analogy it would seem possible to imitate the virtuous person's virtue without a high probability of falling into disaster. Note, however, that at this point the relation between action and the ideal has now become rather tenuous; the actions required in such imitation may bear only a very vague resemblance to the actions of the ideal figure (e.g. the strong person pulls airplanes along the ground with his bare hands, but the beginner lifts 5-lb dumbbells). If so, then it will be difficult to use the actions of past sages to justify particular regimens of practice for current imitators, and that would again undercut the Confucians' ability to justify their preferred form of government against Han Feizi's proposals—the problem of vacuity has thus returned. In terms of the analogy, if my goal is to *be strong*, and I could accomplish this in more than one way, say by lifting heavy things *or* by taking drugs, etc., then the goal of being strong will not serve to justify one over the other. Similarly, Han Feizi sometimes seems to suggest that if one *really* wants to be a benevolent ruler, as the Confucians espouse, one should follow his proposals rather than theirs,<sup>62</sup> and if the Confucians admit that there might be many ways to be benevolent in order to avoid Han Feizi's initial criticism, they will again have trouble ruling out this possibility.

The argument of the preceding three paragraphs still leaves open one further move, the last I will consider. The previous argument works by assuming that the beginner must imitate the sage's actions in order to become virtuous, but then notes how, in order to avoid Williams's and Han Feizi's critiques, that demand must be reformulated as the idea that the beginner must *in some sense* imitate the sage's actions in order to become virtuous. Yet, once one has relaxed the sense in which one will allow the beginner to imitate the sage's actions, the sage's actions no longer provide a clear guide for how to behave. This argument, though, takes it for granted that the beginner should be striving to imitate the sage's manifestation of already-achieved virtue, and then plays on

<sup>62</sup> E.g. HKCS 42/130/24 – 42/131/1, 53/156/12-15, 54/156/19-27.

the discrepancy between the actions allowed on the weak sense of imitation and the sage's 'heroic' displays of virtue to undermine the role of the sage as a guide for action. Instead, one might propose that what the beginner needs to imitate is not already-achieved virtue, but rather virtue-in-progress. That is to say, rather than doing 'what the sages did' in order to become virtuous, the novice should do 'what the sages did in order to become virtuous'. On such a view, the actions of perfected sages can remain a model in the sense of an end goal to aim at, but the beginner has a separate model for cultivation.<sup>63</sup> This 'practice model' would consist of less heroic and more homely actions to imitate, actions that are accordingly more likely to be safe for such a person to do in any circumstances, and hence this model would be less susceptible to the worries raised by Williams and Han Feizi.

The Confucians do not explicitly distinguish between such models, and if anything they tend to focus on heroic figures like Yao, Shun, and Yu, which is perhaps what makes them a ripe target for Han Feizi. However, such a distinction does not seem incompatible with their views, either.<sup>64</sup> Yet, while distinguishing a 'practice model' from 'goal model' in this way would help, it would not necessarily solve the problems for the Confucians entirely. For the actions to be imitated on a 'practice model', even if far less demanding than that of the 'goal model', could still be subject to the problems pointed out by Williams and Han Feizi, especially those of Han Feizi, if one grants that circumstances can vary enough to make almost *any* given type of action likely to be ruinous. Much would depend on exactly how such a 'practice model' is formulated.

In sum, Han Feizi's challenge seems to raise a genuine difficulty for the Confucians that cannot be answered in any simple and straightforward fashion.<sup>65</sup> On the one hand, insofar as they cast their proposals for how to live and how to run the state in terms of imitating the sages, where the sages provide a fairly substantive model, they face the problem that following this ideal might actually make things worse. On the other hand, if they take the sages as a model for imitation only in the sense that they provide examples of right judgment or good character, rather than specific guides for action and thought,

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<sup>63</sup> This idea was suggested to me by P.J. Ivanhoe.

<sup>64</sup> More positively, one might see hints of such a distinction in passages such as *Analects* 19.12, which seems to treat things like sweeping the floor, answering questions, and entering and withdrawing from a room as more basic practices in self cultivation that are to be followed by different and more advanced practices later.

<sup>65</sup> I should add that I do not intend to claim that the line of argument I have been tracing out is the *only* powerful criticism of the Confucians to be found in the *Han Feizi*. I am perfectly willing to admit that there may be other such arguments in the text (cf. note 42 above for a possible example), but I have not considered them here, so as to be able to concentrate on the particular case where I think Han Feizi does make a strong criticism.

then they undermine the distinctiveness of their own position and their ability to reject alternative proposals like those of Han Feizi. For the Confucians to escape this problem, they must treat the sages as a model for imitation at some general level, general enough to avoid the kind of problem raised by the case of Zikuai, but not so general that what is worthy of imitation is merely the sages' right judgment or good character (where these have little connection to particular patterns of action and thought). Articulating and defending that middle position, however, is no easy task. Let me stress that in saying this I do *not* mean that the Confucians have no answer to Han Feizi's challenge. I think that they may well have an answer in their conception of ritual and its relation to virtue, especially because ritual may help provide something like the kind of 'practice model' discussed above.<sup>66</sup> To examine that matter, though, is too big a task to undertake here, so I will not attempt it now. At minimum, what I do want to emphasize is that the kind of middle position the Confucians must occupy to escape Han Feizi's attack is, like most other middle positions in philosophical debates, a tricky spot to occupy, and it is certainly not immediately clear that the Confucians do successfully occupy it, even when their discussions of ritual and virtue are taken into account.

Since I have suggested a parallel between Han Feizi's attack on Confucianism and contemporary criticisms of virtue ethics, let me close by trying to extract from the Chinese texts a lesson for contemporary philosophers. Two ideas are often considered to be part of virtue ethics. One, as seen in Hursthouse, is the claim that the virtuous person's behavior indicates or sets the standard for how to act, and that in this respect virtue ethics can provide substantive guidance for people. The other is that the virtuous person's judgment cannot be reduced to a grasp of rules, because no set of rules is sufficient to cover every possible situation of moral choice—or to put it another way, there are unique situations calling for case-specific judgments that resist codification, and the virtuous

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<sup>66</sup> In addition, the Confucians may have other resources to draw upon in answering Han Feizi's challenge. For example, early Confucians often stress the importance of having a teacher to guide one's ritual practice (e.g. *Xunzi* HYIS 5/2/37–38, HKCS 2/8/1–2), and presumably such a teacher would help steer students away from practices for which they are not ready or which would have disastrous results in the current circumstances. Of course, these other Confucian ideas face challenges of their own, such as the difficulty for a novice—especially a ruler—in identifying a good teacher (a point that Han Feizi himself occasionally raises). As with the case of ritual, examining whether and how these other notions can serve to defend the Confucians is too complicated a project to pursue in this paper, so I cannot do more than simply acknowledge these possibilities here. I thank one of the referees for the *Journal of Moral Philosophy* for pressing me on this point.

person is one who makes the correct judgments in such cases.<sup>67</sup> In thinking through the Chinese texts, though, we discover that these two elements may be in tension with one another. On the one hand, the first claim leads to the idea that one should imitate the virtuous person's actions. On the other hand, insofar as the virtuous person is conceived as making correct judgments in unique circumstances, then it will be a mistake to imitate those actions in any other situation. At most, one can imitate the virtuous person in responding properly to the particular salient features of the situation, but since this is something that has no fixed form, the injunction to imitate the virtuous person winds up yielding no specific guidance.<sup>68</sup>

The way to avoid this tension is for advocates of virtue ethics on the one hand to recognize that not every action of the virtuous person is so unique as to resist generalization—that is what makes it possible for their advice to imitate the virtuous person to be meaningful and helpful for those who are not virtuous—and on the other hand to recognize that not all actions of the virtuous person can serve as a model for imitation. However, sorting out exactly which of the virtuous person's actions should be imitated, and which not, is a difficult task. In attempting it, the advocates of virtue ethics would perhaps also do well to distinguish something like a 'practice model' from a 'goal model'. Since the Confucians (or at any rate, some of them) hope to occupy this kind of middle ground, and since their notion of ritual may help in building an appropriate 'practice model', this suggests that those interested in virtue ethics could perhaps learn something from how the Confucians tried to do this, though that is, as I have said, a task I must leave for another time.

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<sup>67</sup> For example, cf. John McDowell, 'Virtue and Reason', in *idem*, *Mind, Value, and Reality* (Cambridge, MA: Harvard University Press, 1998), pp. 50-73, and Jonathan Dancy, *Moral Reasons* (Cambridge, MA: Blackwell, 1993).

<sup>68</sup> To put this point in jargon that may be more familiar to contemporary philosophers, there seems to be a tension between using 'the good person criterion' as a guide for action and adopting a particularist stance toward moral judgments.