A Review of the Principles and Characteristics of Legalist Thoughts in "Guanzi" Studies in Taiwan, China

Jirong Yang[1]*, Ying Jiang[2]

[1] Institute of Qi Cultural Studies, Shandong University of Technology, Zibo, China

[2] School of Literature and Journalism, Shandong University of Technology, Zibo, China

*Corresponding author, e-mail: muyangnv33@163.com

DOI: 10.37420/j.mlr.2020.006

Abstract: *The researches on the Legalist thoughts in "Guanzi" in Taiwan China had been very popular and special among Taiwan scholars, but it was less understood and systematically reviewed by mainland scholars. Taiwan scholars had not only compared the Legalist thoughts in "Guanzi" with those in other classics, but also they paid attention to the inheritance and fusion of the Legalist thoughts in "Guanzi" as well as in other legislative schools. The concept of the Legalist thoughts, the principles, and the characteristics of the Legalist thoughts in "Guanzi" were their interesting points for Taiwan scholars in their researches. The perspectives of Taiwan scholars could provide some references for scholars in Mainland China and other countries.*

Key words: *Taiwan; "Guanzi"; Legislative thoughts; Legislative principles; Legislative characteristics*

Introduction

Although Ban Gu in his book, "Hanshu Yiwenzhi" ("'Descriptive Accounts of Books' in the History of Han Dynasty") had classified "Guanzi" as a book of Taoism, the other history books and bibliographic works after "Suish Jingjizhi" ("'Directory of Classics in Books of Sui Dynasty'") did not take his view of classifying "Guanzi" as one of Taoism and instead, they agreed with Liu Xin's view of classifying Guanzi as one of Legalism. From the above disagreement, it showed that as early as in the Han Dynasty, people had different opinions about what "Guanzi" should be classified. Besides, it also showed that the thoughts of "Guanzi" were complicated, and it was related to Confucianism, Taoism, and Legalism.

Literature Review

From a political perspective, the Legalist thoughts in "Guanzi" were very prominent (Chi, 2004). As Li Mian (1983), a famous Taiwan scholar, said, "The book of 'Guanzi' is very rich in contents, but its main arguments with repeated discussions were the thoughts and proposition of legalists in the State of Qi, such as 'how to put the state in order,' 'the way of being a sage sovereign' and 'governing the state according to regulations.'" Admittedly, the Legalist thoughts in "Guanzi" were quite prominent, but the research achievements on

legalism in Taiwan were far from many. However, some related books and journal articles on Legalism, and the authors talked about them in their research works of "Guanzi." For example, the particular research monographs included Dai Dongxiong's "Law Thoughts of 'Guanzi'" and Li Zeng's "On Pre-Qin Law Philosophical Thoughts—Based on Pre-Qin Legalistic Principles, Politics, and Philosophy of Legalism." There were also some journal articles written by Huang Junliang, Wu Ke, Xu Wencai, Li Zeng, and Guo Lihua. Besides, some chapters on law thoughts of "Guanzi" in Xu Hanchang's "Research on the Thoughts of 'Guanzi,'" Wang Ruiying's "The New Research on 'Guanzi'" and other scholars' research books on "Guanzi." The author attempts to sort out the research contexts of the Legalist thoughts of "Guanzi" in Taiwan, the concept of Legislative principles, and the characteristics of the Legalist thoughts of "Guanzi."

Concept of the Law in "Guanzi"

As Xu Hanchang said, the law in Guanzi, in its nature, referred to the fixed rules for the world and the rituals for everything. The law should be fixed for the world and serve as rituals and guidelines for everything. Therefore it was followed by people, and it had been the guidelines for everything (Xu, 1990). Xie Yunfei (1983) said, "In terms of the meaning of 'law,' one connotation is 'objective measurement and standard,' and the second is 'the regulation as the most important rule for governing the world and the valuable principle of the world.' Xu Hanchang also analyzed, broadly speaking, the law was the general term for all political systems. For a more detailed distinction, they were renamed as Laws, Rules, and Orders. "The law is used to encourage people to accomplish achievements and stop the violence. Rules are used to clarify duties and stop disputes. Orders are used to govern the people and handle affairs." ("Qichenqizhu" or "Seven Ministers and Seven Rulers") Mei Zhongxie said, "As for the law in its narrow sense, it is divided into three types: one is the law, which refers to all abstract and universal legal norms. "Encouraging people to accomplish achievements" is the active task of the sovereign to govern, including the three crucial policies of management, education, and maintenance. "Stopping violence or atrocities" is the malicious task of the sovereign in governance. The establishment of the police system and the facilities of the "guards" are all fundamental countermeasures for fear of violence. The law is to formulate abstract and universal legal norms as codes so that everyone knows where their rights and interests are. Everyone has its responsibility, and thus competition is meaningless. This statutory law is also called the empirical or positive law, which is also called regulation, such as Regulation of the Han Dynasty, Regulation of the Tang Dynasty, Regulation of the Ming Dynasty, Regulation of the Qing Dynasty.

The specific and individual administrative actions, which are done following the law, are also called Order by Guanzi, and orders govern the people and handle affairs. According to the opinion of modern jurisprudence, this classification is the most reasonable." (Mei, 1990). For the interpretation of the law, Dai Dongxiong said, "Guanzi's 'law' is like the concept of ownership and other powers under modern private law. The 'Orders' by Guanzi referred to various modern administrative orders or appointment orders. The Laws, Rules, and Orders are combined into the generalized method." (Dai, 1985). Xu Hanchang believed that the law in "Guanzi" had not been far from modern jurists (Wang, 1969).

The law of "Guanzi" had many different levels of meanings. From the perspective of the role of the law, Xu Hanchang believed that the law referred to a servant of the people ("Ren Fa" or "Reliance on Law"), and "Fa"

or the law was a practical tool for the sage to govern the people. Then he also pointed out, as Guanzi said, "Law was the main kind of manner that should be abided by everyone. Etiquette was the manner that showed the order between the powerful people and the powerless ones" ("Xingshi" or "Comments on the Situation"). Therefore, both etiquette and law had the function of manner. "Ritual" could be called customary law, and "law" was statute law. The law came out of ritual or extracted important aspects from customary law to make it into statutory law, and the two complemented each other (Xu, 1990). From this perspective, Guo Lihua (2006) pointed out that in terms of the role of "law," "law" was divided into "law, rule, and order," and the role of "law" was to aim at the national promotion and prohibition, the "rule" was to aim at the establishment of "duties" between society, groups, and people to avoid disputes. The role of "orders" was to let people know things and, at the same time, understand how to practice so as not to break the law.

The Legislative Principles of Law Thoughts in "Guanzi"

In the era of "Guanzi," the sovereign was the person to create the law. Of course, the sovereign could not put his own will as the law; otherwise, the people could not keep them and act their duties, so the law would eventually be in vain (Xu, 1990). Therefore, the scholars discussed the legislative principles in "Guanzi" as followed:

Law Was the Way of Nature

Li Zeng (2001) believed that the basic principle of law was the imitation of Tao created by the sovereign. He said that Tao was the natural law that generated all things in the world and regulated the nature of everything to make them become themselves in the universe. The sovereign should formulate the law following these natural principles, or the laws manifested like all things. Tao was the principle on which the sovereign made his legislation. Tao was invisible and intangible, but it was tangible when implemented in the laws of nature and human beings. Wu Ke (1993) also mentioned in his "Guanzi's Legal Thought" that in addition to emphasizing the four seasons followed by interchangeable Yin and Yang as their metaphysical foundation of the law, and another "Tao" worked as the higher principle of the law. Tao was the highest principle of law, and Tao only existed in the heart of the sovereign. Tao may be referred to as a standard way or a regulation, or it may be the principle of dividing interpersonal relationships and a technique of knowing the traitors of the officials, and they were all closely related to the law. Huang Junliang (1990), a Hong Kong scholar, explored the relationship between "Tao" and "Fa" (law). He analyzed that "Guanzi" introduced the way of nature into the way of personnel. For "Guanzi," "Tao" referred to an orderly or regular operation of nature and the personnel world. "Guanzi" only focused on the order and regulation or law from nature and employed them to people to follow. He also said that the order and law about the Tao had an internal connection with the stability and normative-ness of the law, which built a bridge of communication between the Tao and the law. He believed it was the wisdom of people that they applied the law of the universe to human affairs. The principles and norms of law had evolved from the mysterious and natural way to concrete and clear one, written in the classics, and becoming the criminal law as the theorem shared by humankind. Thus the universal significance of law had changed from its idea to its material form. Xu Hanchang (1990) said that the "Qifa" ("Seven Standards or Methods") stated, "It was said that it would be impossible to establish reasonable policies and systems if a sovereign did not know anything about Ze (rule and regulation)." Here,

"Ze" as "rule" was the standard for legislative orders. "Ze" existed in Heaven and Earth, four seasons, water and soil, people, birds and beasts, plants and trees, and it was the eternal Tao. He said the Tao was the eternal natural law between heaven and earth, which was the foundation of the sovereign's legislation. The sovereign imitated the laws of the universe to make his laws to govern the state and the people.

In her "On the View of the Confucianism of Pre-Qin Confucianism and 'Guanzi' from the perspective of 'Being Parents of the People,'" Guo Lihua (2006) pointed out that concerning the root of the law, there were four references in "Guanzi." First, in the entire political system, the source of the "law" was explained as stated in the "Renfa" ("Reliance on Law"), a monarch was a law-bearer or lawmaker. This "bearer or maker" was mainly about the source of power in the political system to issue orders and formulate laws. The second reference to the root of the "law" was that the "Fafa" ("On Conforming to the Law") that explained the establishment of the "law" from the personality model with its sacred and prudent qualities. The third was mentioned in "Shuyan" ("Cardinal Saying"); Hate also, the human heart was fierce, so did the law. Law was developed according to the rules of prosperity. The rules of propriety and titles were based on Tao. It could be seen here that one referred to the traits of the human heart that required the restraint of the "law." The first was the theoretical basis of the "law," pointing out the relationship between "law" and "rites" and "Tao," the purpose was the national society Orderly; the last one was to discuss the relationship between "law" and etiquette, "law" and "right" and "Tao" from the perspective of value. There were four different aspects of the root of "law" related to each other. The unification of China lay in "Tao." She further analyzed that "Tao" was the root of everything and everything. As the humanistic system followed, "Tao" was objective and open, fair, and selfless, which was the principle and the model to be followed when the "law" was formulated.

Legislation in Favor of the People

"Guanzi" believed that the mastery and understanding of human nature should be the prerequisite for the sovereign's legislative governance. Wu Ke (1993) was very affirmative in his article that "Guanzi" was based on the people-oriented concept. There were methods of correcting human feelings, which were referred to in "Guanzi," such as "Jinzang" ("On Maintaining Restrain" or "On Prohibition and Storage"), "Xingshijie" ("Explanation to Conditions and Circumstances"), and "Zhengshi" ("Rectifying the Age" or "On Reducing the World to Good Order" and so on. To implement the policy smoothly and get the cooperation of the people, we must first act following people's favor, combining the purpose of social stability with the prosperity of the country. Individuals could meet their basic needs from law-abiding, and society can be ruled. The method proposed in "Guanzi" was to value and listen to the overall public opinion, to grasp the trend of the times and the trend of people's hearts, which relied on the keen observation of a sage sovereign. For the legislators, they hoped that people would obey the sovereign's order, but as Xu Hanchang said, the desires between the sovereign and its subjects might not be the same. If the sovereign wanted the people to abide by the law, he must legislate it according to the people's favor. Things that People liked were to live and to get benefits, but those that people disliked were to die and to get hurt. "The common people would be happy when benefits were bestowed upon them, and they were angry if they were deprived of their wealth. That was the natural character of human beings." ("Guoxu" or "The State's Store of Grain") If people were willing to keep the laws of the monarchs and follow the orders of the monarchs, then the state would be easily governed.

Wang Ruiying (1990) said in the "Outline of Guanzi Theory" that Guanzi's theory of law emphasized the importance of respecting the public opinion. In "Guanzi," only the sovereign respected people's favor could he be the sage sovereign such as King Tang and King Wu in the Shang Dynasty. Besides, if the sovereign chose to stay with its people, he would do what people like to do and avoid what they dislike; if the sovereign could do so, he could govern the state without working hard. He said that Guanzi's theory was entirely in line with the spirit of modern democracy and politics and that his legislation and implementation were entirely based on public opinions and principles. Besides, he also pointed out that in "Xiaocheng" ("Minor Appraisals") of "Guanzi," it emphasized the importance of respect and the awesome of the people's wisdom, and the people could not be bullied. Otherwise, people would overthrow the sovereign. However, in Xu Wencai's (1990) view, Guanzi's discussions of "loving the people," "respecting the people," and "cherishing the people" were still discussed from the standpoint of the monarch. It was not true that he should love his people in the state with a loving and warm heart.

Moreover, when the people conflicted with the sovereign, the sovereign would get the upper hand and sacrifice the people. The views of Wang Ruiying and Xu Wencai did not contradict each other. In the law of "Guanzi," the sovereign had cherished the people because people's favor was the basis for the law to be acted. When the interest of the people conflicted with that of the sovereign, the law's severity of maintaining the ruling power of the regime would inevitably sacrifice the interests of the people.

Simplified and uninformed legislation

In "Guanzi," "If the regulations were not uniform, it was ominous for the sovereign." ("Renfa" or "Reliance on Law"). "If the orders counted, evil things would occur." ("Qichenqijun" or "Seven Ministers and Seven Rulers") Although the country could not be separated from its law for one day, if the laws and regulations were not unified, or they were of great complexity, it would have been difficult for people to understand, and be at a loss to follow them (Wang, 1990). Therefore, the sovereign should establish a law with simplicity and uniformity. Xu Hanchang said the purpose of the legislation was nothing more than making the people abide by the law, forbidding the people to commit crimes, and ordering the people to follow the sovereign's mind. If the sovereign's laws required too much from its subjects, it would be difficult for people to implement them. If the sovereign's laws prohibited too much, the people would not know what to do. Therefore, we could see that it was essential to establish uniform and straightforward legislation. Simple law was easy to understand for people, and unchanged law was easy to be implemented. People first knew the law, and then they could obey and implement it.

Changes with Time

Law had constancy, but it did not mean that the law would never change. Li Zeng (2001) said that law was eternal from the perspective of Tao and its natural principles. However, in terms of human law, it was the imitation of Tao. The application of fabricated law to personnel needed to be changed according to human conditions, things, timing, and geography, not eternal law. However, he went on to point out that any law, after it had been "established" according to the procedure, it must remain constant within its scope of application. If "there was no law in the country, the minister dared to offense its sovereign and invaded

his situation" ("Junchen Shang" or "The Prince and His Ministers, Part I"), which was dangerous for the state. However, when the law was out of accord with times, it should be abolished, so it still had constancy. Therefore, "changed" and "unchanged" were dialectical for the law. The law required clarification and stability, so the sovereign could not change laws due to personal preferences. However, the law could not be unchanged forever, it should be adjusted, and before establishing laws, the sovereign should not stick to the old ways. Because the social structure and social relations were not unchanged, so the corresponding laws must be amended at any time, and the rules and regulations must be changed over time and consider the differences in national customs (Wu, 1993).

Characteristics of the Laws of "Guanzi"

The laws of "Guanzi" were well organized and well structured, and scholars were concerned about their characteristics. In general, they shared the following features:

Openness

As Wu Ke said, if the sovereign wanted the people to know and obey the law, the public must first understand the contents of the law. Therefore, the order should be announced in advance, and it should be widely known because it was the prerequisite for the people to know and obey the law. Announcement before making rewards and punishments became an inevitable procedure at that time. In this regard, Dai Dongxiong (1985) explained that making laws and regulations open was one of the characteristics of the law since the Spring and Autumn and the Warring States Periods. It was a product of adapting to the needs of the times. At that time, "law" and "rites" had become standard norms. If people needed to abide by the law, it would become the trend to announce the contents of well-known laws and regulations first. Xu Hanchang (1990) pointed out that the announcement of the law meant that the order must be exact, whether the rewards and penalties were appropriate, and whether the orders were made public. The promulgation of laws and regulations required rewards and punishments according to the law. Therefore, the success or failure of rewards and punishment was related to the safety of the sovereign. Therefore, the law must be made public, which was the first characteristic of law theory in "Guanzi."

Fairness

In "Renfa" or "Reliance on Law," "When all people of the state, the sovereign, ministers, ordinary officials, the powerful, and the powerless, could comply with the regulations uniformly, that could be addressed as perfect order...Everything was judged according to rules and regulations. It could be disinterested as Heaven and Earth did." The law was the instrument of the world. If the legislation is unfair and the law was not fairly conducted, governing the country would become a false and empty talk. Therefore, Wu Ke (1993) emphasized that fairness and reasonableness were the most basic requirements of the law. Governing state affairs should bring everything to justice and make the people abide by it, and the standard of justice was the law only.

The sovereign determined the law, but the law must be followed from top to bottom, without exception. He

proposed that the point mentioned in the "Guanzi" Law was utterly different from the proposition that "there was no courtesy to the courts and no punishment to ministers" during the Western Zhou feudal system. It was precise because the law was the standard for measuring everything. Everyone followed it because it was applied to people from top to bottom, regardless of wealth or relationship. The acceptable performance of the law was the guarantee of its execution. This fairness was also the equality explained by Xu Hanchang. He said that legislation should be fair, and the law should be equal. Regardless of relationship, distance, position, people were rewarded and punished by law to be fair. About the equality of the law, the sovereign should be the first to obey the law as the model for the people so that the people would follow the order, and the state would have perfect laws. Li Zeng (2001) believed that the fairness of the law reflected the absolute superiority of the law. All the values compared with the value of the law were surrendered to it, and must obey the law. The sovereign itself, the court officials and people, the system, power, orders, rewards and punishments, and morals must obey the law. He also said that the pre-Qin legalists put the law at the absolute highest point. The law could transcend policies, systems, decrees, administration, sovereignty, rewards, and punishments, but the law could not exceed the highest "Tao" or morality.

Mandatory

Speaking of the compulsion of the law of "Guanzi," Xu Hanchang (1990) pointed out that the manifestation of legal force was the prohibition and punishment of the majesty, the constitutional order, and the rewards and punishments. The combination of these three was the "law." Therefore, "the one who lost the order died, the one who benefited the order died, the person who failed the order died, the person who delayed the order died, and the person who did not follow the order died. On these five occasions, the offenders should be executed without being pardoned, and everything should be done exactly according to the edicts." ("Chongling" or "Of Edicts and Prohibitions") Only with such compulsoriness could the law be followed by the people and show the order between the influential people and the powerless one. The force of the law prevented the public from arbitrarily discussing the orders, which might lose its dignity.

Stability and Timeliness

The two features of the law of "Guanzi" were precisely the two aspects of a problem. As Xu Hanchang analyzed (1990), on the one hand, once legislation had been passed, it could not be changed easily, in order to show its caution and make the people aware of its importance. If the law changed quickly, people would be at a loss and would despise the law. If the law were stable and unchanged, the people would be used to it. Therefore, laws could not be set up quickly, and there must be principles to follow. At the same time, it could not be changed easily because frequent changes might lose people's hearts. On the other hand, legislation must be timely and not out of touch with real politics, society, and people's livelihood. He further said that the law was the tool for governing chaos, which depended on changes in society and the transformations of people's hearts, so the law should also change with the time and customs. There was no need to admire the ancients or keep the present. The governing law should change with the times and the customs for more benefits and avoidance of harm. In other words, according to the time, it was neither conservative nor changing frequently (Wang, 1990).

Conclusion

In summary, we have mainly analyzed how Taiwan scholars interpreted the concept and meaning of law thoughts in "Guanzi," the specific legislative principles in "Guanzi" and the characteristics of laws in "Guanzi" and the richness and value of its law thoughts. As reflected in the above contents, the law thoughts in "Guanzi" profoundly influenced the history of Chinese law thought. Hence, understanding Taiwanese scholars' views were also beneficial to academic exchanges across the Taiwan Straits and all over the world.

References

Chi, W. X. (2004). Research on "Guanzi". Beijing: Higher Education Press, 188.

Li, M. (1983). The Annotation and Intralingual Translation of "Guanzi". Taipei: Taiwan Commercial Press, 7-8.

Xu, H. C. (1990). *Research on the Thoughts of "Guanzi"*. Taipei: Taiwan Student Bookstore, 159, 161-162, 172.

Xie, Y. F. (1983). *Analysis of "Guanzi"*. Taipei: Taiwan Student Bookstore, 138-139.

Dai, D. X. (1985). *Law Thoughts of "Guanzi"*. Taipei: Central Cultural Relics Supply Agency, 73-74, 121.

Wang, D. H. (1969). *The Research of "Guanzi"*. Pamir Bookstore, 23-24.

Guo, L. H. (2006). Discussion on Pre-Qin Confucianism and Guanzi's Concept of Politics from "Being Parents for the People". *Collected Papers at the Sixth Academic Symposium on Qi Culture in China*, China Literature and History Press, 77.

Li, Z. (2001). Law Thoughts of "Guanzi". *Journal of Guanzi Studies*, (1), 6, 17.

Wu, K. (1993). *Free Talks on Qi Culture*. Beijing: Hualing Publishing House, 1993, 138-145.

Huang, J. L. (1990). *"Guanzi" and Qi Culture*. Beijing: Beijing Economic College Press, 165, 168.

Guo, L. H. (2006). From the "Parents of the People" on Pre-Qin Confucianism and Guanzi's Concept of Politics. *Proceedings of the Sixth Qi Culture National Academic Symposium*. Beijing: China Literature and History Press, 77-79.

Wang, R. Y. (1990). *"Guanzi" and Qi Culture*. Beijing: Beijing Institute of Economics Press, 1990, 299-300.

Xu, W. C. (1990). Implementation and Achievement of Law Thoughts of Guanzi. *Journal of Research Institute of China of Fu Jen Catholic University*, (1), 81 .

Hu, J. C. (1995). *The New Research on "Guanzi"*. Beijing: China Social Sciences Press.

Li, M. (1983). *The Annotation and Intralingual Translation of "Guanzi"*. Taipei: Taiwan Commercial Press.

Li, Z. (2001). *Law Thoughts of "Guanzi'" and Li Zeng's "Pre-Qin Law Philosophy Thoughts-Pre-Qin Legal Principles, Politics, and Philosophy of Legalist.* Taipei: National Compilation Museum.

Wang, R. Y. (1983). *The New Theory of "Guanzi"*. Taipei: Taiwan Dali Publishing House.