

# Public Policy in Legalist Thought and Its Application and Impact in Contemporary China

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### Abstract:

The Legalism is one of the most influential and representative political philosophies of ancient China, and it has continued to have an enduring influence on public policy making and the governance model of contemporary China. This article will explore the sustained influence of Legalism on governance in contemporary China by exploring the core principles of Legalism as well as its main ideas on public policy and governance. The main core principles and ideas of Legalism are: the rule of law, strict adherence to the law, and the strategic use of state power. This study aims to highlight the continuity of ancient philosophical thought in shaping the current political landscape, while also demonstrating and emphasising the importance of understanding these historical origins in order to understand Chinese governance patterns.

**Keywords:** Legalist thought; public policy; China.

## 1. Introduction

Throughout the history of the development of Chinese political thought, we will know that Legalist thought must be a very shining star, it played an important role in the construction and development of ancient Chinese political philosophy and even the political system of ancient China. The core idea of Legalism is that maintaining the order of state and social stability through strict laws and strong governance. The thinkers who laid the foundation of Legalism are Han Fei Zi and Shang Yang, etc. The important writings of Legalism that have been handed down in history include Han Fei Zi, Shang Jun Shu, Guan Zi, etc. [1, 2]. [1, 2]. Although Legalist thought has been controversial in Chinese history, the political thought of ruling the country according to

the law that it advocates has had a profound impact on the development of China through the ages, and it still influences China's public policy making and governance model.

The purpose of this paper is to explore the public policy principles which in the Legalist thought and their application and influence in contemporary China. By analysing the core ideas in Han Fei Zi and Shang Jun Shu, we will understand the basic philosophical principles of Legalist thought. Subsequently, we will draw on the scholarship of contemporary scholars to examine how Legalist thought plays a role in and influences the rule of law in modern China [3, 4]. Finally, this paper will analyse the practical application and impact of Legalist thought in contemporary Chinese governance and public policy based on the results of previous research. The current Chinese gov-

ernance model is often described by scholars as ‘flexible and enduring pragmatic authoritarianism’ [5], a model that coincides with Legalism’s emphasis on strict governance and rigorous policy implementation. Through comparative analyses, this paper will illustrate how Legalist thinking is reflected in the governance strategies of today’s Chinese government, and then explore its specific implications for China’s public administration and economic policies.

Based on some readings and studies, we can learn that Legalist thought has played a very far-reaching influence on some Chinese political governance and policy making. For example, the Chinese government’s traditional focus on the rule of law, strict law enforcement, and pragmatic adaptation to changing circumstances can be traced back to Legalist doctrine. Meanwhile, works such as Peter R. Moody’s *Legalism and Governance in China: Han Fei-tzu and Contemporary Chinese Politics* emphasise the role that the enduring influence of Han Fei-tzu’s thought in shaping China’s political landscape [6]. In addition, the combination of Legalist thought and Chinese public administration is crucial to understanding how China is governed. The impact of Legalist thought on the modern Chinese political and legal system, as discussed in various scholarly papers and articles, emphasises the influence of Legalist thought on the formulation and implementation of public policy. These insights provide a comprehensive understanding of how ancient Legalist principles continue to shape governance in contemporary China.

To conclude, by systematically analysing the core principles of Legalism and their specific applications in modern China, this paper aims to reveal the continuing influence of this ancient philosophical thought on current governance practices. This analysis provides a fresh perspective for understanding China’s public policies and modes of governance, highlighting the enduring influence of Legalist thought in shaping the way China governs and administers itself.

## 2. The Connotations of Legalist Thought

### 2.1 Background of the birth of Legalism

Legalism was born in the Spring and Autumn and Warring States periods, which can be called one of the most dramatic periods of social, political and economic change in ancient Chinese history. The political structure and social relations at that time were becoming complicated with the shaking of the patriarchal feudal system of the Western Zhou Dynasty. The circle of rulers, which had previously been maintained by the ‘rule of etiquette’ through blood

ties, had become distant and even turned against each other due to the dilution of blood ties. At the same time, the private ownership of land brought about by the collapse of the well-field system made merchants (capitalists) active in Chinese society at that time, and the social management style that previously depended on the distribution and management of land gradually disappeared, and China at that time urgently needed to seek a new mode of governance in order to maintain the normal functioning of the country’s political structure and social relations once again [7].

As a result, many schools of thought were born in the society at that time, forming a hundred schools of thought, among which the more socially active ones included Confucianism, Taoism, Mohism, and Legalism, etc. The Legalists were already popular at that time. At that time, Legalism was already respected by the rulers of many vassal states, because the situation faced by the vassal states at that time was that the power and status of the heavenly prince of the Zhou Dynasty was declining, while the power of the vassal states around the world was increasing, and the vassal states would frequently fight and go to war in order to protect themselves and fight for hegemony [7]. Therefore, how to make the ruling position of the vassal states more secure and how to develop the state more powerful became the key concern of many vassal states, and the reform and centralization of power advocated by the Legalist thought to strengthen the power of the monarch and enhance the strength of the state was appreciated and welcomed by many vassal states, including Qin, which united the six kingdoms later on.

### 2.2 The Theoretical Basis of Legalism

In the face of the declining Zhou Dynasty, what distinguishes Legalist thinking from other thinking is that it is more concerned with how to solve the problems faced by the vassal states when the decline of the Zhou Dynasty became an objective fact, i.e., internal and external problems. In the face of this problem, the core advocacy of the Legalist thinkers was to rule the country by ‘law’, and the Legalist thinkers also gave a reasonable explanation to explain the necessity of the operation of the ‘law’ for the state. An important theoretical foundation of Legalist thought was based on the assumption of human nature. It is written in both the *Book of Shang* and the *Han Fei Zi* that the Legalists believed that human nature is inherently evil and seeks to avoid harm, and therefore the state needs to regulate and control its people through strict laws, and to motivate people’s behaviour through a system of rewards and punishments: rewards for obedience, and severe punishments for rebelliousness. This is the reason

and basis for the Legalist idea of the rule of law.

### 2.3 Specifics of Legalist Thought

The Legalists' ideas were based on pragmatism, emphasizing the absoluteness and authority of laws and institutions, and advocating the maintenance of state order and the strengthening of state power through strict laws and effective political means. Legalists believed that strong centralized power and monarchical autocracy were the key to maintaining state unity and legal authority. The core strategy of the Legalists in governing the state was 'law and magic'. Among them, 'law' refers to clear laws and regulations, 'art' refers to the use of various political manoeuvres and strategies, and 'potential' refers to the use of political and social power. According to the Legalists, through the organic combination and application of these three, the state and society can be effectively managed and long-term peace and security of the state can be achieved. At the political level, Legalists advocated the centralization of all political power in the hands of the monarch and the strengthening of central control over localities through the establishment of a complete bureaucratic system. Under this political system, the monarch has the highest power, and the officials strictly carry out the monarch's orders to ensure the consistency and effectiveness of the orders, so as to unite most of the forces in the society to enhance the strength of the state and solve the problems faced by the state [1, 5]. At the same time, at the social level, the Legalists advocated harsh and severe laws and favoured the use of severe laws and penalties to maintain social order and national security. Through the policy of 'organising households and regulating the people', i.e. strict household management, the control and supervision of the people were strengthened [2].

Legalism stresses that individual interests must be subordinate to national interests, and that national interests are above all, and that legal means are used to ensure that everyone's behaviour is consistent with the national interests, thus making the development of the country more efficient. On the economic level, the Legalist economic thought advocates 'emphasising agriculture and suppressing commerce', believing that agriculture is the foundation of the state and should be given priority, while commercial activities should be subject to certain restrictions and control. At the same time, the Legalists also advocated the unification of weights and measures and currency, in order to strengthen the central government's control and management of economic activities, and to improve the state's financial revenue and economic efficiency [3].

On the military level, the Legalists put forward the idea of 'enriching the state and strengthening the army', advocat-

ing the strengthening of the state's economic and military power to ensure the security and stability of the state. The Legalists supported militarised management and believed that the combat effectiveness and efficiency of the army could be enhanced through strict military training and discipline [3]. At the same time, military thinking was applied to the civil society to strengthen the social order and state apparatus with military organisation and management, thus enhancing the strength of the state.

In short, Legalist thought proposed a pragmatic and often harsh approach to governance, emphasising the rule of law, centralisation and the strategic use of power to maintain national stability [3]. Its influence was particularly evident during the Qin dynasty, which implemented Legalist principles to unify China and lay the foundation for the imperial system [6]. Although Legalist thought has been criticised for its authoritarian tendencies, its ideas on law and governance continue to resonate in modern political thought in various forms, particularly in discussions about state control and the role of law in society.

## 3. Legalist Thought in Public Policy

Legalistic thought offers a unique perspective on public policy, with pragmatism, centralisation and the rule of law as its key ideological foundations.

### 3.1 rule according to the law

The central premise of Legalist public policy is the primacy of law, which is seen as the basis for maintaining order and ensuring the stability and prosperity of the State. Legalists, especially those such as Han Feizi and Shang Yang, emphasised that the law must be clear, open and uniformly applied, with no exceptions based on social status or personal relationships [1]. This uniformity of law ensures that all members of society, regardless of their status, are subject to the same rules and regulations. In terms of public policy, this means that policies must be formulated within a solid legal framework that ensures consistency and prevents arbitrary governance. The emphasis on the rule of law in legalistic thought stems from a rather pessimistic view of human nature, which holds that individuals are inherently selfish and are prone to chaos if they are not subject to strict legal constraints. The enactment and enforcement of laws were therefore seen as crucial to curbing these tendencies and maintaining social harmony.

### 3.2 Centralisation of power

Centralisation of power is another fundamental aspect of Legalist thinking, especially in the area of public policy.

Legalists believed that for a country to be strong and stable, power must be centralised in a central authority and that the ruler has absolute control [4,5]. Centralisation allows for the uniform implementation of policies across the country and prevents local powers from becoming too autonomous, as a way of safeguarding the central authority from potential challenges and avoiding the division of the country or the instability of the regime. In practice, this means that policies or related regulations of public policy should be formulated and implemented by the central government, with minimal delegation to local authorities. This approach aims to create a cohesive and unified State where all regions are governed by the same set of rules and policies, thereby reducing the risk of fragmentation and ensuring that national resources are used efficiently and effectively. Consolidation of power is also seen as a means of protecting the State from internal and external threats, as a strong central authority is better able to respond to crises and enforce the law.

### 3.3 the role of “statecraft”

The concept of ‘statecraft’ (shu) plays a crucial role in legalistic public policy. This refers to the methods and strategies employed by the ruler to maintain control over the bureaucracy and ensure effective implementation of policies. Legalists advocate that rulers use a system of rewards and punishments to manage their officials and ensure that they are loyal and efficient [6]. In public policy, this means focusing on accountability and efficiency within government. Policies should include mechanisms for monitoring and evaluating the performance of officials, rewarding those who are effective and loyal and punishing those who are corrupt or inefficient. The role of the ruler is to remain strategic, using these techniques to manipulate and control the bureaucracy to ensure that policies are implemented as intended. This focus on statecraft emphasises the importance of practical governance techniques in achieving public policy goals, rather than relying solely on moral or ethical constraints.

### 3.4 Control over society

Social control is another important element of Legalist public policy. Legalists believed that in order to maintain social order and stability, the state must strictly control the population [1, 2]. To do this, a clear and strict system of laws must be established, accompanied by strict enforcement mechanisms. In terms of public policy, this means that policies should be put in place to regulate social behaviour and ensure that people comply with the law. The use of incentives and penalties is at the centre of this approach, with the State rewarding those who obey

the law and punishing those who break it. This system of rewards and punishments is a powerful tool for shaping social norms and maintaining social order, as it establishes a clear incentive structure that encourages individuals to behave in ways that are favourable to the State. The emphasis on social control reflects the Legalist view that the state must play an active role in managing society rather than relying on national self-regulation and management.

### 3.5 Serving the national interest

Another characteristic of public policy in Legalist thought is that it is highly utilitarian, with the primary goal of policy being to serve the interests of the state and to ensure its survival and prosperity [3]. Legalists are less concerned with moral or ethical considerations than with what is practical and effective. In the context of public policy, this means that policies should be evaluated based on their outcomes rather than their compliance with moral principles. The success of a policy is measured by its ability to achieve the desired outcome, such as maintaining order, promoting economic growth or strengthening the military capability of the state. This pragmatic approach to public policy is reflected in the Legalists’ emphasis on policies that strengthen the power of the state, such as those that promote economic development, increase agricultural productivity and strengthen the military. Legalists believe that the power and wealth of the state is the ultimate measure of its success, and therefore public policies should be formulated with these goals in mind.

### 3.6 Considerations for national security

Finally, concern for national security and development is a central theme of legalist public policy. According to legalists, the primary goals of the state are to ensure national security and promote national development [6]. This means that public policy should prioritize the strengthening of the state’s military and economic capabilities, as these are seen as the basis of national power. Policies that promote industrialization, military expansion and efficient allocation of resources are seen as essential to ensure the survival and prosperity of the state. In this context, the State is seen as an entity that must constantly endeavour to build its strength and protect itself from internal and external threats. The Legalist approach to public policy therefore involves a continuous focus on strengthening the state’s capacity and ensuring that all policies contribute to this overarching goal.

In sum, Legalist thought provides a unique framework for understanding public policy that is deeply rooted in the principles of law, centralization and pragmatism. Legalist public policy emphasizes the importance of a strong

legal framework, centralization of power and the use of pragmatic governance techniques to achieve state goals. It favoured strict social control and a utilitarian approach to policymaking, with the primary goal of strengthening the state and ensuring its security and prosperity. Although legalist thought has been criticized for its authoritarian tendencies, its emphasis on the rule of law, efficient governance and national security continues to resonate in modern political thought in various forms, especially when discussing State control and public policy in authoritarian regimes.

#### 4. Current Implementation and Impacts in China

In contemporary China, the essence of legalism has been newly interpreted and applied in the construction of the rule of law. The concept of the rule of law advocated by the Legalists, with its emphasis on the universal applicability and strict enforcement of the law, coincides with the strategy of the rule of law being promoted in modern China [8]. Nowadays, the rule of law is not only the basic way of governance in China, but also an important support for the modernization of China's governance system and capacity.

The concept of 'rule of officials' in Legalism, which emphasizes the management and supervision of officials, echoes the demand for government officials to be aware of the rule of law in China's current political governance. President Xi Jinping's proposal to build a high-quality political and legal team is a modern application of Legalism's idea of governing officials. Moreover, as the leaders and practitioners of national rule of law construction, government officials' rule of law literacy is directly related to the implementation and realization of the spirit of the rule of law and social justice in society [9]. At the same time, the universal applicability and fairness of the law is the core of Legalism, which is also reflected in the practice of the rule of law in modern China. Nowadays, China advocates the rule of law and emphasizes that everyone is equal before the law, and no one is above the law. This notion of equality is the very foundation of the rule of law concept of Legalism, and an important cornerstone of the construction of a contemporary society based on the rule of law [9]. In the relationship between law and morality, although the Legalists emphasized the importance of law, they did not exclude the role of morality in social governance. Therefore, the modern Chinese government organically combines law and morality, so that the two together constitute an important tool for social governance, in which the law is used to regulate behaviour and

morality to guide people's hearts and minds, jointly promoting social harmony and stability [9]. Finally, the Legalist emphasis on the authority of the law is reflected in the construction of the rule of law in modern China. The authority of the law is the foundation of a society based on the rule of law, and the rule of law can play its due role only if the whole society respects the law and abides by it. In conclusion, the application and development of legalism in the construction of the rule of law in modern China not only reflects the modern value of traditional culture, but also provides an important ideological resource and practical guidance for promoting the modernization of the national governance system and governance capacity.

#### 5. Conclusion

In summary, the continuing influence of Legalism on contemporary Chinese governance highlights the enduring relevance of ancient political philosophy in shaping modern state governance. This study describes some core principles of Legalist thought, such as pragmatism, the primacy of law, and etc. And also this essay talk about how these principles have been adapted and integrated by the Chinese government into contemporary Chinese political governance strategies. The continued application of Legalism in modern China not only reflects the adaptability of these ancient concepts, but also highlights their critical role in maintaining state stability, enforcing discipline, and guiding public policy.

This study is meaningful in that it contributes to an understanding of the historical origins of China's current governance paradigm and the philosophical underpinnings that continue to influence policymaking. By linking ancient Legalist principles to contemporary practices, this study also provides a perspective on the ideological continuity of governance in China. In addition, examining how Legalist principles have evolved in response to China's changing political, economic, and social dynamics will help to further understand the adaptability and resilience of this philosophical tradition in the context of modern governance, as well as to gain a deeper understanding of the logic of political governance and policymaking in China.

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