SYNOPSIS

This thesis attempts to probe into Han Fei's legalist thought from a historical perspective with an emphasis on its accommodation of Confucian ideas. Viewed in such light, Han Fei's thought had indeed bequeathed to later times a Legalist-Confucian legacy, in which Confucian ideas were subsumed under Legalist thinking. This legacy has been overlooked by many scholars who regard Han Fei as a mere synthesizer of legalist thought.

Simply put, Han Fei's syncretic legalism advocates the ruler's strategic use of fa (law) and shu (craft) to consolidate and sustain his shi (positional leverage) over his subordinates and subjects. But the application of such legalist strategy is not meant to be rigid; in fact, Han Fei's legalist thinking was sensitive to changing historical circumstances. While he stressed the primacy of rule of law during what he called the "historical phase of power and strength," which he identified as his own time, he made allowance for non-legalist ideas to maximize the leverage of his syncretic legalism. To be sure, Han Fei was hostile to rule by moral power during the so-called Warring States Period when military power and brute force sustained by rule of law ruled the day. His reason is twofold. First, rule by moral power was simply ineffective in the cut-throat world of survival politics. Second, Confucian scholars who endorsed rule by moral power were considered an obstacle to the effective implementation of rule of law in Han Fei's times. However, "circumstances change with time, so should the ways of dealing with them vis-à-vis change," Han Fei argued. He indeed acknowledged that rule by moral persuasion was, in reality, viable and effective in ancient times. Thus, it is conceivable that Han Fei's brand of syncretic legalism could accommodate Confucian ideas as the age of competition for power and strength was phased out following the unification of China under the First
Emperor of Qin. This thesis shows that in his syncretic legalism, Confucian ideas of benevolence and rightness were also given a new twist and contributed to the ultimate political machine of the Qin regime that was characterized by ruthless law.

The profound historical significance of Han Fei’s Legalist-Confucian legacy began with the Qin empire, and it was manifested in its rulership and legal codes. This thesis argues that not only was Han Fei’s philosophy of governance was instrumental for Qin’s centralized autocratic monarchy, but its practical advice for eliminating rivals and consolidating power was also visible in a variety of power struggles of crucial significance. These include the First Emperor’s quelling of the rebellion of Lao Ai and the removal of Lu Buwei. In both cases, it was Han Fei’s theory of shu that was apparently at work in the emperor’s strategic plans. Nevertheless, the Qin regime also fervently promoted Confucian values at the local level, a policy that was in perfect keeping with Han Fei’s doctrinal allowance for Confucian ideas. Similarly, while the Qin legal codes drew heavily on Han Fei’s doctrinal insistence on maintaining and safeguarding the ruler’s supreme position over his subordinates and subjects, appropriation of Confucian ideas on ritual order to reinforce this legalist design was also evident in the formulation of the legal codes. Meanwhile, the active role played by the emperors in compiling the legal codes in the Qin and succeeding dynasties demonstrates that they were using fa and shu to consolidate shi, a trademark strategy recommended by Han Fei.