Traditional Chinese Political and Legal Philosophy
Spring 2019; 2 credits; T13:45-15:45; Rm. 525, NYU Shanghai;
Prof. Tongdong Bai (baitongdong@fudan.edu.cn); Office hours: by appointment; Office: Rm. 2516, Western Guanghua Tower, Fudan University.

Required texts (electronic course package will be provided, and purchase of the following texts is not necessary)
4) Burton Watson (tr.) (1964), *Han Fei Tzu, Basic Writings*. New York, Columbia U. Press. (BW)
5) Supplement materials: selected legal cases in traditional China and other related materials, to be provided electronically by the instructor. (SUP)

Supplementary texts
6) W. K. Liao, *The Complete Works of Han Fei-tzu*
   [http://www2.iath.virginia.edu/saxon/servlet/SaxonServlet?source=xwomen/texts/hanfei.xml&style=xwomen/xsl/dynaxml.xsl&chunk.id=tpage&doc.view=tocc&doc.lang=bilingual](LWK)

Course Description
China in the so-called pre-Qin period (770 B.C.E.-221 B.C.E.) experienced a profound political transition. Competing schools of political philosophers offered proposals to restore order, which would lay the foundations of the political and legal framework for traditional China in the next 2,000 years. The so-called “Legalists” were advocates of the rule of law, although critics claim that they were actually advocates of the rule by law. Early Confucians criticized the Legalist approach and proposed the rule of virtue, although this proposal has often been blamed for the lack of the spirit of law in traditional and contemporary China. Both schools advocated an equality-based meritocracy, but they differed on what should be considered merits. In this course, we will examine some primary texts by the Legalist philosopher Han Fei Zi and some early Confucians (mostly Confucius and Mencius) in order to understand their general legal and political philosophy. We will also investigate how they treated particular legal issues such as the conflict between the interest of society and the interest of the law, laws of international relations, etc. To help us understand the implications and the influences of these philosophical ideas, we will also look into some real legal codes and legal judgments in traditional China. Through these studies, I hope that not only can we understand the legal philosophies of these thinkers and how they influenced traditional Chinese legal practices, but also see their relative merits and shortcomings to each other and to Western legal ideas.
Grading:

1) Essays: Each essay (4 in total) should be from 4 to 6 pages for graduate students, and from 3 to 5 pages for undergraduate students; it should be double-spaced, printed, preferably double-sided, and stapled; and the font size should be no bigger than 12. Please submit a hardcopy of the first three essays in class and an electronic copy (Word version) of all essays to me on the same day as the essay is due. A late essay will only be accepted if the student asks for an extension and the request is granted by me before the deadline. You have the complete freedom to choose your own topic as long as it is covered in class and within the designated range of texts (to be given before each assignment). In each essay, you will be expected to explain one specific point that the philosopher(s) in question makes, try to point out possible difficulties and misunderstandings associated with this point, and try to make clarifications and defend this point as best as you can. The use of examples, primary text(s), and texts from relevant literature to challenge or support the point in question is encouraged. Grades will depend on how clearly you explain and how carefully and deeply you examine this point. In other words, grades will depend on how much effort you have put into reading and thinking.

2) Presentations: Each student will be asked to do one presentation during the course, either individually or in a two-person group (depending on the number of students taking the class). In the presentation that takes place at the beginning of each class, it is expected that the student(s) can offer a recapitulation of the discussion of the previous class, and raise a question or make a comment on anything that is discussed in the previous meeting. The presenters also need to be prepared to answer questions from the students and/or me. The whole presentation should not exceed 10-15 minutes.

3) Your participation in class discussions will affect your grades, although not in an explicitly quantitative way.

4) Any evidence of plagiarism will be handled according to university policies.

5) The final grade: A number grade will be given to each essay or presentation. Each essay is worth 22.5% of the final number grade, and the presentation is worth 10% of it. Then, the weighted average grade will be converted to a letter grade. A significant number of absences may affect your final grade. Here is the conversion table between number grades and letter grades:

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<thead>
<tr>
<th>Letter Grade</th>
<th>A+</th>
<th>A</th>
<th>A-</th>
<th>B+</th>
<th>B</th>
<th>B-</th>
<th>C+</th>
<th>C</th>
<th>C-</th>
<th>D</th>
<th>F</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number Grade</td>
<td>98-100</td>
<td>95-97</td>
<td>90-94</td>
<td>87-89</td>
<td>84-86</td>
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<td>77-79</td>
<td>74-76</td>
<td>70-73</td>
<td>60-69</td>
<td>59 and below</td>
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Schedule (12 weeks)

Week 1 (01/29) Introduction
Readings: Chapter 1 of BTD (“Modernity before Its Time”)

Weeks 2-6 (02/12, 19, 26, 03/06, 12) Early Confucians: Rule of Virtue vs. Rule of Law
Readings (passages from the Analects and from the Mencius are from L-A and L-M respectively):
1) The social glue: 9.6, 17.21, 3.3, 18.6, 2A6, 6.30, 1B5, 1.2, “The Western Inscription” (#9 of SUP), a passage from Records of Instruction (#11 of SUP); [additional readings: 7.1, 7.20, 7.28, 3.14, DOM28, 9.3, 8.2, 12.1, 15.11; 9.1, 12.22, 4.3, GL10, 14.34, 18.7, 4B19, 4B12; 4.15, DOM13, 15.3, 14.24, 15.21, DOM28, 12.2, 15.24, 2.21, 12.11, DOM9, DOM10, 4A5, 1A7, 2A6; 2.6-2.8 (3.1, 3.2), 4.19, 14.2, 4.21, 2.5, 4.20, 1.11 (14.40), 4.18, 5A2; 7A26, 3B9, 7A45]

2) The conflict among duties: 13.18, 7A35; [additional readings: 5A3]

3) Rule of virtue vs. rule of law: GL4 (#13 of SUP), 12.17, 12.19, 12.18, 13.6, 13.3, 20.2, 1A7, 2.3.

4) International relations: 16.1, 13.16, 1A5, 1A7, 1B13-15, 1B10, 3B5; [additional readings: 17.5, 14.16, 20.2; 6B9, 1A5, 2B8, 14.21, 1B11, 2B9, 7B13, 1A1, 2A3, 7A30, 4A9]

5) Animal rights: 7.27, 1A7, 1A4; [additional readings: 7.14, 10.17, 3.17]

6) Confucian “bureaucracy”. A) Equality: 7.7, 15.39, 6B2 [additional readings: 5.13, 6.19, 7A4, 6A7] B) For the people and of the people. 12.9, 5A5, 7B14; 3A4, 1A7; 12.11, 1B6, 1B8; 4B3, 3.19. [additional readings: 11.17, 12.7, 13.9; 1B7, 3A3, 1B4, 15.2] C) Hierarchy: 17.3, 6.21, 15.8, 8.9, 17.2, DOM12 (#12 of SUP), 3A4 [additional readings: 16.9, 7A31, 5B9, 5A6]

Weeks 7-11 (03/19, 26, 04/09, 16, 23) Han Fei Zi: An Early Advocate of the Rule of Law and Rational Bureaucracy
Readings: #1 of SUP; Chapters 49, 50, 5, 6, 7, and 8 of BW; and #2-#8 of SUP.

Week 12 (04/30) A Synthesis?
1) Make legal ruling on the basis of Confucian teachings: the six cases (#14 of SUP).
2) Summary: #15 of SUP