Power in the Qin Dynasty: Legalism and External Influence over the Decisions and Legacy of the First Emperor of China

Patrick Ouellette
East Asian Studies Thesis
February 1, 2010
Li Si (c. 280 BC – 208 BC) was one of the most influential people during the short reign of the Qin Dynasty (221 BC – 207 BC). He was taught in a Confucian tradition, but upon leaving his native state of Han, adopted Legalist ideas. He used these ideas in his role as advisor to Qin Shi Huang, the First Emperor of China (r. 246 BC – 210 BC). Through the use of primary historical and philosophical works, Li Si’s role in the shaping of the Qin Dynasty becomes clear.

Most of the information concerning Li Si and the Qin Dynasty comes from the Shiji, a historical work written by the historian Sima Qian (c. 145 BC – 86 BC) during the Han Dynasty (206 BC – 220 AD). The Shiji contains various memorials written by Li Si and delivered to the First Emperor, chief among them a speech advocating the presence of foreigners in Qin and a request for the burning of books throughout the Qin Empire. One of the most important innovations to come out of the Qin Dynasty was the unification of the writing system throughout China, a process which Li Si was instrumental in. The effects of this change can be seen on various stones erected throughout China during the initial years of the Qin Dynasty, the remnants of which have passed into the present as the stele inscriptions of Qin Shi Huang. The last important historical source for information about this time period is the Qin Legal Code. Although they were only recently discovered in 1976, they provide insight into the previously unknown world of Qin law, which was, as reported by Han scholars, very harsh.

By examining these primary sources, the role of Li Si and Legalism in the government becomes clear. Legalism emphasized control, so it follows that many of the policy decisions Li Si advocated restricted the rights of the citizens while at the same time putting more power into the hands of the sovereign. By being so influential to the First Emperor, however, Li Si can be remembered as the man behind scenes of the Qin Dynasty, creating innovations that would be remembered as hallmarks of the Qin Dynasty for millennia.
Contents

Introduction ~ 2

Brief Biography of Li Si ~ 4

The Legalist Philosophy ~ 5

Li Si and Han Fei's Relationship ~ 8

Qin's Rise to Power and the Relationship between Li Si and the First Emperor ~ 9

The Expulsion of Aliens ~ 12

The Standardization of Writing ~ 17

The Burning of the Books ~ 19

The Death of the First Emperor ~ 22

Qin Legal Codes ~ 22

The Stele Inscriptions of Qin Shi Huang ~ 24

Conclusion ~ 31
Introduction

Li Si (c. 280 BC – 208 BC) exerted much power on the Qin state as well as during the Qin dynasty, his influence and ideas were the driving force behind the changes that occurred during the reign of the First Emperor, which resulted in Legalist policies that established an important basis for the unification of the Qin. However, when Legalistic ideas and the preservation of the state were brought into question, the state fell. Through the influence and guidance of Li Si and his application of Legalism, the state of Qin was strong and unified and was able to push through policies of control that exemplified the Legalist tradition of Li Si.

After giving a brief introduction to Li Si, this thesis will move toward uncovering and explaining the ideas that defined him. Legalism and the politics of the age will be discussed, and then a close examination of specific policies that came out of the Qin Dynasty will follow. This will lead into another analysis of primary historical sources which help explain Li Si, the Qin Legal Codes and the stele inscriptions of Qin Shi Huang. Through the analysis of primary philosophical and historical sources, conclusions will be reached concerning the nature of the relationship between Li Si and the First Emperor, and the amount of influence Li Si had at the time will be evaluated.

The main primary sources for this study include both historical and philosophical sources: the Shi ji, written some one hundred years later in the Han dynasty by Sima Qian, offers us materials useful in constructing an image of Qin times. It chronicles the entire Qin dynasty, and gives biographies of key figures from that time, including the First Emperor and Li Si. Through the Shi ji, one is able to gain a better understanding of the

---

1 Sections of interest include section 5, “The Basic Annals of Qin,” section 6, “The Basic Annals of the First Emperor of Qin,” and section 87, “The Biography of Li Si.”
events that led up to the unification of China, and is also able to gain insight into the individual characters that were involved. There is some controversy about the validity of some sections, in particular the order of various events that took place during the Qin dynasty, where the Shiji will give two different or conflicting dates for the same event\(^2\), but for the most part one can look to the Shiji as a generally reliable primary source for information on the Qin dynasty.

The other historical sources are the stele inscriptions and the Qin Legal Codes, which were made during the reign of the First Emperor of China, although through them the observer is able to gain insight into Li Si. The stele inscriptions are a group of inscriptions made in various locations throughout the new Qin Empire which commemorate the accomplishments of the First Emperor. As it is generally agreed that Li Si was the author of the inscriptions, the reader can look at the stones, seven in total, and see examples of the small seal script developed by Li Si as the standard form of writing for the entirety of China in that period. Upon reading the inscriptions, one notices the strong Confucian influences, although once the language is sifted through, the ideas put forth are predominantly Legalist ones. The Qin Legal Codes, although by no means the entire collection of laws in effect at that time, represent a better understanding of Qin law than scholars had had prior to their discovery in 1976 – prior to the discovery, scholars only had second hand descriptions of the laws themselves, predominantly from the Han period, which did not look back at Qin times favorably.

Philosophical sources for this thesis are Legalist texts, the Xunzi and the Han Feizi. These are the major works of the namesakes of the books, Master Xun and Han

\(^2\) For more information on this topic, see Bodde’s chapter “A Critical Study of Li Si’s Biography” in his book China’s First Unifier.
Fei, respectively. Xunzi, a Confucian, was Li Si and Han Fei’s teacher. Han Fei was one of the leading Legalists of his time, and in fact, one of the most important Legalists of all time. These texts are important to the understanding of Li Si because Li Si himself did not leave behind any surviving written texts himself. Through the works of his teacher, Master Xun, and his contemporary and fellow student, Han Fei, it is possible to gain an understanding of Legalism in general, and specifically Li Si’s influences and beliefs.

**Brief Biography of Li Si**

The information we have about Li Si can be found from his biography in the *Shiji*. Li Si was born in the Han kingdom in the latter part of the third century BC, although not much is known about his early life. He did not come from noble birth and was thus able to travel outside the boundaries of his home state and establish a career for himself in the neighboring Qin kingdom. When he arrived, he befriended Lü Buwei, who was able to secure him a job as a scribe. Following this, he gained more and more power until, around 219 BC, he was promoted to Grand Councilor of the Left, the highest position he would achieve in his career. It is clear that Li Si was a very influential advisor to the Emperor after unification, but it is also clear through various sources that Li Si and his Legalist ideology influenced the First Emperor’s decisions before he was so named.

The extent to which the Chief Advisor held sway over the Emperor has not been explored extensively since the achievements of the Qin dynasty have traditionally been attributed to the First Emperor rather than to the influence of his advisors. However, it is important to look at the work Li Si did because he was the driving force behind most of the major changes to take place within Qin in the third century BC, evidenced by various important speeches given to the Emperor. The biography in the *Shiji* focuses mainly on
the events that led to his death, two thirds of which focuses on the last two to three years of his life. This is significant because these final years are congruent with the fall of the Qin Dynasty, so by looking at the biography, the reader can also garner information about the reasons behind the fall of the empire and Li Si’s role in this event. Although not much is known about this man’s personal life, through the *Shiji* one can begin to understand the power that he held and the lasting influence he had on the development of China.

**The Legalist Philosophy**

Because of this lack of information, it is important to also look at one of Li Si’s contemporaries, Han Fei, in order to gain more information on Li Si’s views. Han Fei lived at the same time as Li Si and studied under the same teacher as Li Si, the Confucian Xunzi mentioned above. Han Fei’s main work, the *Han Feizi*, is a Legalist account of what a ruler should do – how he should govern the people and how others should receive him. This work represents a very clear outline of the principles of Legalism, and its existence has made Han Fei one of the most influential Legalists from ancient China. Because Han Fei’s work was so prolific, and because Li Si did not leave behind a comparable work, one can look at the *Han Feizi* as an outline of the belief system Li Si followed when advising the First Emperor.

According to the *Han Feizi*, the central idea of Legalism is the absolute power of the person in charge and the supremacy of authority. In order to maintain this authority, the ruler needed to rely on the law. Following this theory, one can look toward an earlier
text, the *Guanzi*, to find the roots of Legalism. This work, a predominately Legalist text named after the 7th century BC Prime Minister of Qi, explains that “the sovereign is the creator of law. The officials are the followers of the law, and the people are the subjects of the law... The wise sovereign holds six powers; to grant life and to kill; to enrich and to impoverish; to promote and to demote.” According to this description, the sovereign has the power to control every aspect of his subject’s lives, and even wields power over his ministers in the form of laws. Legalism has a strong focus on the sovereign, as well as his ultimate authority over everything. It is interesting, then, that court ministers had so much power at this time. While they were preaching about subordination and the absolute power of the ruler, they were manipulating him to follow their ideologies. This paradox will be explored further through Li Si’s memorials on the expulsion of foreigners and the burning of the books in Qin.

In a Legalist state, it is important for the ruler to reign supreme – that is, the person in charge should have absolute power over the laws and workings of the state and should act as a shepherd toward his flock, with the flock representing the people. Han Fei makes it clear throughout his work that the ruler should be absolute in his power, but also that he should not make his desires known to his ministers. In doing this, he would corrupt them and lead them to cater to his wishes, “If the ruler shows a fondness for worth, his ministers will all strive to put a pleasing façade on their actions in order to satisfy his desires. In such a case, they will never show their true colors, and then the ruler will have no way to distinguish the able from the worthless.” In Han Fei’s eyes, a ruler should be completely neutral in all matters in order to gather around himself good

---

5 Ibid. 39
6 Ibid. 44
ministers and administer a stable state. The ruler needs to listen to the unbiased advice of his ministers – in this way they will represent a broader spectrum of opinions, which will make the ruler better informed and help him decide on the right path to take.

Another aspect of Han Fei’s Legalism is the concept of the “two handles” – this refers to punishment and favor. It is the ruler’s sole right to dole out punishment and bestow favor, although he is encouraged to punish more than favor in an effort to balance political terror and despotic benevolence. “If the ruler wields his punishments and favors, the ministers will fear his sternness and flock to receive his benefits... if he discards his punishments and favors and lets his ministers employ them, he will find himself in the control of his ministers.” If the ruler distributes punishment and favor without restraint, or if he does not give them at all, he will find himself under the power of the ministers who, in an ideal Legalist government, should fear him. If the ministers have control, then the ruler ceases to be the absolute despot, and if the ruler ceases to be the absolute despot, then the state is no longer truly Legalist regardless of whether or not the ministers themselves profess Legalism. The good ruler should avoid this trap, although it seems all too common a problem when one daily must interact and listen to ministers. The only way to avoid this situation is to remain neutral and to even-handedly give harsh punishments to those that do wrong and appropriately reward good actions per Han Fei’s suggestion in the last passage.

Han Fei’s Legalism strongly advocates control, so it is no wonder that the King of Qin implemented this ideology both before and after naming himself the First Emperor of China. Legalism is control; it develops the idea that the ruler controls both the common

---

7 Ibid. 42
people and the ministers, while maintaining control over himself in the pursuit of a neutral and calm persona – this condition, however, is inherently unnatural for most. Through the use of Legalism, the First Emperor hoped to create a state that would last well into the future, for ten thousand generations. This state would see the ruler govern with absolute authority while his subjects followed his every order, acting as a flock of well-behaved followers who knew the rules and did their best to follow them.

**Li Si and Han Fei’s Relationship**

These were the Legalist ideas presented in the *Han Feizi*, and although Han Fei was not permitted to leave his home state of Han and advise others per se, rulers in other states read what he wrote. His work was read specifically by the King of Qin. The King found Han Fei’s ideas very interesting, so it is no wonder he valued Li Si’s ideas so highly, since these men were contemporaries and were both instructed by the same teacher. When, around 233 BC, Qin wanted to attack and capture the state of Han, Han Fei was sent to Qin to try to ward off the invasion. Because of Li Si’s intervention Han Fei was eventually imprisoned, where Li Si encouraged him to commit suicide by drinking poison. This event signifies the downfall of Han, but also demonstrates Li Si’s influence over the King of Qin.

Li Si’s adherence to Legalism comes into question when looking at the events that surrounded Han Fei’s death. It seems as though Li Si puts his personal interests above those of the state and works toward an end that will benefit him. The exchange between Han Fei and Li Si which led to Han Fei’s suicide is not evidence of Li Si overstepping his boundaries since ministers were encouraged to submit their opinions to the ruler. When Li Si gives poison to Han Fei, however, he is administering punishment, an action which
should only be taken by the sovereign. The *Shiji*, in the biography of Han Fei, states: “Li Si sent a man who gave [Han] Fei [poisonous] drugs, and induced him to commit suicide. Han Fei had wished to state his own case, but was unable to secure an interview. Later the King of Qin felt regret and sent a man to pardon him, but by that time [Han] Fei had already died.” From this episode it is clear that Li Si violated his own ideas of sovereignty. Han Fei was a Legalist, and it is generally accepted that the two men shared the same ideologies. Han Fei states multiple times that it is the sole responsibility of the ruler to give punishment, yet here Li Si punishes Han Fei for infringing on the favor given him by his sovereign. This shows a lack of trust between Li Si and the King of Qin: instead of accepting the King’s pardon, Li Si went behind his back and usurped one of the powers designated to the ruler in the hopes that it would benefit him. As will be seen later, this will not be the last time Li Si betrays the Emperor’s will in pursuit of his own ends.

Qin’s Rise to Power and the Relationship between Li Si and the First Emperor

Toward the end of the Warring States period (476 BC to 221 BC), there were seven states left vying for power, Chu, Han, Wei, Zhao, Qi, Yan, and Qin. Until the advent of the Legalist Lord Shang (?-338 BC) in the 4th century BC, the state of Qin had been considered a backward and less civilized state than the others. Lord Shang, however, made Legalist reforms within Qin which signify the start of the rise of Qin. King Zhao Zheng, the King of Qin destined to be the First Emperor, came to the throne in
246 BC\textsuperscript{11}. By 221 BC, the last of the six states was annexed and the state of Qin was the ruler of the world. King Zheng then named himself Qin Shi Huangdi\textsuperscript{12}, the First Emperor of China.

Throughout the unification process, Li Si became the most influential advisor to the First Emperor, but how did he attain this position? There is only limited information about Li Si’s life, so it is important to look at the information we do have in order to give life to this figure behind the Qin dynasty. The \textit{Shiji} sites various instances in which Li Si issued memorials, or speeches, to King Zheng. The most important of these are an exclamation of the benefits of foreigners in 237 BC, a demand for the abolition of feudalism in 221 BC, and a demand for the burning of books in 213 BC. In every instance that Li Si issued a memorial to the First Emperor, his advice was followed. It is also known that Li Si was behind the unification of writing in that he was one of the individuals responsible for creating one script for the whole empire. Clearly, the First Emperor held Li Si in great esteem. It can be assumed that the First Emperor asked Li Si’s advice on more than the few instances recorded in the \textit{Shiji}. If the examples given in this work are any indication, the First Emperor most likely followed Li Si’s advice on other matters.

From the information given, it cannot be inferred that Li Si held power over the First Emperor, just that Li Si had a lot of influence over the First Emperor and is indirectly responsible for many of the innovations that people remember the Qin dynasty for. It was his ideas, implemented by the First Emperor, which we remember. In the \textit{Han

\textsuperscript{11} In the same year Li Si became senior scribe under the king. During the 3\textsuperscript{rd} century BC, prior to his accession, King Zhao Zheng started making military victories. In 230 BC, with the guidance of King Zheng, Qin began annexing the other states.\textsuperscript{12} This was the first time the term “huangdi” was used. It was created specifically for the First Emperor and means August Emperor.
Feizi, the author notes the whims of rulers by telling a story in which a ruler became annoyed with a minister whom he had previously highly regarded, in the end having him killed\textsuperscript{13}. As written in the Guanzi, the sovereign has the right to grant life and to kill. The Emperor of Qin was also subject to changes in favor, as can be seen in 212 BC when he had 460 literati buried alive in anger. Clearly it was understood at the time that the sovereign had the power to kill and to grant favor where he saw fit, so it would not have been unusual for the First Emperor to lose faith in Li Si and have him exiled or killed. This did not happen, however, and Li Si stayed in the First Emperor’s favor until his death in 210 BC.

Li Si’s legacy, therefore, is relatively more important than the First Emperor’s. It is true that it was through the First Emperor’s power that changes took place, but Li Si was such an influential force in this process that it is hard to ignore his contributions and attribute every innovation to the First Emperor. At the time, they were dependent on each other and had a mutually beneficial relationship — the Emperor needed Li Si for his ideas, and Li Si needed the Emperor for implementation of the ideas. We see the workings of Li Si in various policy decisions which emphasized the Legalist style of control, specifically the memorial against the expulsion of aliens, the unification of the writing system once the empire became solidified in 221 BC, and the memorial advocating burning and banning all books but those pertaining to practical subjects\textsuperscript{14}. The memorials left in the Shiji feature Legalist language and ideals, so through examining the context with which they were presented, the reader is able to draw conclusions about the effects both the memorials and Li Si had over the First Emperor.

\textsuperscript{13} Xunzi. *Xunzi basic writings*. New York: Columbia UP, 2003. Print. 78
\textsuperscript{14} Bodde 164
The Expulsion of Aliens

The first memorial Li Si presented to the King of Qin concerned whether or not aliens should be expelled from Qin territory. This question arose for one of two reasons: the first reason, given in the eighty-seventh chapter of the *Shiji*, is that a man named Zheng Guo from Han had come to Qin and used the construction of a dam as a covert excuse to drain the Qin Empire of money. Although this is the reason the *Shiji* gives, it has come under question since the fifteenth chapter places the arrival of Zheng Guo ten years before the decree. Therefore, the real reason for the expulsion of aliens can be attributed to the Lao Ai affair, which occurred the year before the memorial was issued. It is likely that the witch-hunt for aliens was a result of this event, which eventually implicated Lü Buwei and would have been a very embarrassing event in Qin history. Regardless, a decree was meant to be issued by the King of Qin requiring all foreigners to leave his kingdom. At this point, Li Si was under consideration for expulsion, so he submitted a memorial in defense of employing aliens in government posts and generally keeping foreign positions safe in Qin.

The following memorial can be divided into three main parts: a discussion of past rulers and their effective use of foreign advisors; the employment of foreign-derived goods throughout the Qin lands; and a plea to accept foreigners who wished to help the Qin kingdom. Li Si’s argument follows a course of traditional Chinese historical thinking, clearly giving a message of control, with the implication that utilizing Legalist

---

15 “Aliens” here should refer to those not native to the Qin region
16 Qian, Sima, *Records of the grand historian*. Hong Kong: Research Centre for Translation, Chinese University of Hong Kong, Renditions-Columbia UP, 1993. Print 181
17 Bodde 61
18 For more information on the Lao Ai affair, see the chapter titled “The King of Qin” in Jonathan Clements’ book *The First Emperor of China*
19 Bodde 61
values would have been a must in order to follow the given advice. This memorial was presented relatively early in Li Si’s relationship with the King of Qin\textsuperscript{20}, so it is interesting that the King so readily accepts Li Si’s speech, especially because it is stated in the \textit{Shiji} that Li Si was the only advisor to speak out against the proposal. This work provides very little information on Li Si prior to this memorial, so the reader can use this speech as the foundation off which to create an understanding of Li Si and what he believed in.

The first section of Li Si’s memorial uses traditional Chinese historical thinking in order to sway the King of Qin. To gain an understanding of what this “historical thinking” is one can look at two sources from roughly the same period as the Qin Dynasty. The first is the Confucian philosopher Mencius (ca. 371-289 BC), who said that no benevolent ruler could govern without historical precedents – one must look to the past in order to determine what is right for the present. The second source is the Grand Historian himself, Sima Qian (145-86 BC). Sima Qian recorded past events in order to pass on their lessons to future generations, he “examined the deeds and events of the past and investigated the principles behind their success and failure, their rise and decay\textsuperscript{21}.” Sima Qian was the most prolific historian of his time, and Mencius is arguably the most famous Confucian after Confucius, so although they lived centuries apart, they shared the same idea of history which has become accepted as a traditionally “Chinese” way of historical thinking\textsuperscript{22}.

\textsuperscript{20} According to a timeline created by Derk Bodde in \textit{China’s First Unifier} based on information gathered from the \textit{Shiji}, the memorial is issued ten years after Li Si relocates to Qin and nine years into the thirty-six year reign of Qin Shi Huang (now just the King of Qin).

\textsuperscript{21} \textit{Turning points in historiography a cross-cultural perspective}. Rochester, NY: University of Rochester, 2002. Print. 34

\textsuperscript{22} For more information on Chinese historical thinking, see Huang Zhunjie’s article in \textit{Turning Points in Historiography}
Li Si looked at the accomplishments of previous rulers in order to make the argument that aliens had an acceptable and appropriate place within the Qin governmental system. “...Duke Mu employed them, and he annexed twenty states and subsequently became overlord of the Western Rong. Making use of Shang Yang’s system of law, Duke Xiao transformed the customs and usages, and the people consequently prospered and the state consequently grew rich and powerful” (Qian 25). Li Si’s argument clearly applies traditional Chinese historical thinking, which is used in an effort to convince the King of Qin to allow aliens a place within Qin society. He pointed to the accomplishments of those in the past and how contemporary thinkers could learn from them in order to build a better future. Another important feature of this passage is the power of the king. Li Si’s language suggests the advisors were merely tools of the state – they were brought in as a resource and used to make the state better. Li Si did not suggest that these foreigners had more power than the king himself – they merely possessed ideas which, if implemented, would benefit the state. This is exactly the kind of relationship Li Si tried to establish with the King of Qin, one in which the king listened to and implemented his various innovations – innovations that heavily emphasized Legalism and state control.

Not only is the importance of intellectual imports discussed, the importance of importing physical resources and luxuries from other states is also explored. Li Si’s speech accentuates Qin’s dependency on cooperating with foreigners and foreign states – without the aide of foreigners and foreign goods Qin would not have been as prosperous as it was when the memorial was issued and the government would have generally exercised less control. Li Si described many priceless items which belonged to the King
of Qin, then continued, “Qin does not produce one among these various treasures, so why
does Your Majesty take pleasure in them? If they must be what the Qin state produces
before they are acceptable, then these night-brightening jade ornaments would not
embellish the court.” Li Si stressed that foreign goods brought prestige to the country.
From this, the reader can infer that when the country gained prestige, the king did as well,
so these items contributed to the king’s status and public image. If he could show his
subjects that he had treasures from across the world and made a show of the wealth he
had, then people would likely respect him more, which would give him more power and
control throughout his lands, and in turn lead to more riches.

Expelling all foreigners while at the same time importing foreign goods goes
against a Legalist ideal – the law must always be followed exactly because without the
law there is disorder. Li Si regarded advisors as commodities: the ruler must use all
resources available to him, including the men giving him advice, in order to rule his
kingdom effectively. If the King of Qin wanted to expel all foreigners and thus boycott
this variety of intellectual resource, it must follow that all foreign items should be
expelled from the country. “If that is so, then what these people take seriously consists of
sexual attraction, music, pearls, and jade, and what they take lightly consists of people.
This is not a method with which to bestride all within the seas or control the feudal
states.” It would be nearly impossible to reject everything of foreign origin, especially
beautiful treasures that brought pleasure to the King and his attendants.

Li Si argued that it would in fact be impossible to do away with foreign luxury
items – he also emphasized his point that advisors and public servants from other regions

---

23 Qian 26
24 Ibid. 27
were the most valuable resources which the king could import. “You are causing public servants from all under Heaven to hold back and not venture to turn their faces towards the west, to halt their feet and not enter Qin. This is what is called ‘contributing weapons to brigands and presenting provisions to robbers’.” Li Si saw the act of expelling aliens and not allowing any man to enter the Qin state as aiding the enemy. That is to say, by not allowing foreigners to enter the state and add to the supremacy of Qin, they were letting these potential resources be used by the other states which in the future could potentially lead to Qin’s downfall. To be sure, there will always be the occasional infiltrator, but to Li Si the risk of removal did not outweigh the prospective positive impact that foreigners would provide.

The King of Qin’s attempted expulsion of foreigners represented his first major policy question at the beginning of his reign. Had he realized when this question came up that he would eventually be the ruler of Eastern Asia, the King may have rejected the thought of expelling foreigners at the start, as Li Si did. This first memorial demonstrates Li Si’s far reaching goals for the kingdom of Qin: in order for the kingdom to become great it needed to import from foreign countries. This included the intellectual import of great minds from other states, Li Si included in this group. Once the kingdom had achieved this greatness, it would become possible to enforce laws on the general population and become the greatest and only empire in the region. In fact, had the King of Qin expelled all foreigners, he would have been forced to expel Li Si, the key to his success in the future, who would have traveled to a different kingdom and set himself up there as an advisor. The expelled advisors from Qin would have strengthened the other

\[25\text{Ibid. 27}\]
kingdoms while Li Si would have provided his new king with Legalist ideas and directed his new state toward greatness – or at least prevent its ruin by Qin.

The Standardization of Writing

Changes needed to be made after the Qin unification of Eastern Asia in order to create a more unified nation: a sense of oneness had to be created within the boundaries of Qin China. One of these changes, and one of the most important to take place at the time, was the standardization of the writing system. During the Warring States Period, each state had its own written system and characters which reflected the different pronunciations in those regions. Once unification occurred, however, the style used by the Qin, the so-called “small seal” script, was simplified, modified and imposed throughout the land. There remained regional differences in pronunciation, but for the first time people from different regions were able to communicate through a mutually intelligible written system.

It was the First Emperor who recognized the need to unify writing, but it was Li Si that was in charge of the changes that took place. It was Li Si’s job to take the “large seal” script, which had been widely used during the Zhou Dynasty, and simplify it into what came to be known as the “small seal” script. All other forms of writing were abolished once this project was completed. This measure, together with the other forms of unification that took place at this time, represents one of the clearest forms of control to take place within the Qin dynasty. It was of paramount concern to both the First

---


27 For instance, the unification of axel widths, weights and measures, and coinage.
Emperor and Li Si to have rules for everything and to have everything put into place, because through rules, and in this case order, there would be unity.

By permanently bringing together a group of people who effectively spoke different languages, the unification of the writing system is one of the most important legacies for the Qin Empire. By simply traveling throughout modern China, it becomes clear that each region has its own language. Within China, these are referred to as different dialects of the same language. However, they would more accurately be classified as different languages since for the most part the “dialects” are not mutually intelligible with each other. The aspect of the Chinese language that is mutually intelligible, however, is the standard form of writing used throughout the country. It is interesting to observe that when using their native dialects, a Shanghainese man could not carry a conversation with a man from Beijing, but that they would be able to communicate in writing without difficulty. This is the direct result of the Qin unification of writing.

Li Si took on a lot of responsibility in this aspect of unification. Not only was he in charge of the change that took place, but it was one of the most important to happen during this period in Chinese history. It is language that brings people together, and had China not been unified under one form of written language, it is likely that China would have split and become multiple entities in the centuries following the Qin dynasty. This places a lot of importance on Li Si’s legacy. It also partly serves as an explanation for the next event to take place within the Qin dynasty, the burning of the books. All the ancient classics in circulation during the time of the First Emperor were written in the “large seal” script, perpetuating the use of this antiquated form. In order to consolidate the
power of the newly created “small seal” and spread its use more efficiently, a mandate was written by Li Si to have certain books within the state burned.

The Burning of the Books

The book burning mandate occurred in 213 BC, at the height of Li Si’s power. His issuance of a memorial advocating the burning of most books throughout the Qin Empire is one of the most talked about events of the Qin dynasty. Although the effects are less obvious today than the lasting effects of the previous two policies, this event created the most drama and put the Qin dynasty as a whole in a bad light. Burning books and burying scholars alive, which occurred the following year, are often criticized by men of later times, but in the context of the time period and the nature of the Qin state, they are not particularly outrageous events. The act of burning books and burying scholars alive are instances of extreme control exercised by the First Emperor through the strong encouragement of his Legalist advisor. The purpose was control. Li Si and the First Emperor wanted to control the flow of information and reduce the threat of negative responses to the way the government was being run.

In the context of Legalism, at least that supported by Han Fei, burning books seems like an appropriate path to take when trying to keep the government in control. In the Han Feizi, the author explains the downfalls of looking to the past for advice on the present: “In the state of an enlightened ruler there are no books written on bamboo slips; law supplies the only instruction. There are no sermons on the former kings; the officials serve as the only teachers.” Later in the same section, “The Five Vermin,” Han Fei writes, “These are the customs of a disordered state: Its scholars praise the ways of the former kings and imitate their benevolence and righteousness, put on a fair appearance

---

28 Han Fei 112
and speak in elegant phrases, thus casting doubt upon the laws of the time and causing the ruler to be of two minds. These two excerpts from the *Han Feizi* make burning books seem like a reasonable undertaking; Li Si recommended the burning of books in an effort to reduce ill-informed criticisms that arose due to too much emphasis on past achievements. After all, the sage kings of ancient times were no longer in power so something must have gone wrong in their leadership. One must look at the present and examine the current situation in order to find the correct path for the future. In recommending the burning of the books, Li Si recommended a move toward a more controlled, and thus enlightened, state.

In addition to exploring the logic behind the decision to burn books, it is also necessary to examine how extreme this measure would have been in the context of ancient times. Li Si did not want all books to be destroyed, he specifically stated in his memorial that “books concerned with medicine, pharmacy, divination by tortoiseshell and milfoil, the sowing of crops, and the planting of trees” would be spared. He also made note that the records of Qin would be saved, while the records of other states were to be destroyed. This is significant because it means that the information that has survived concerning Qin’s history is most likely more reliable than information surviving about the other states during the same period. The goal of burning the books was not eliminating knowledge per se, but keeping knowledge in the hands of a select few in order to control the dissemination of information. This would in turn inhibit the people from using the past to criticize the present.

---

29 Han Fei 117  
30 Qian 29  
31 Bodde 164
The text of the memorial confirms the Legalist views set out above. The memorial was issued in response to a man who professed his reservations toward the bureaucratic system of government set up by the First Emperor, specifically the lack of family members in fiefdoms. In his argument, the man, Chunyu Yue of Qi, referenced the previous two dynasties, the Zhou and Shang, as advocating the continuation of such practices. The First Emperor then asked his ministers to respond to this accusation, hence Li Si’s memorial advocating the burning of books. Li Si’s basic argument is that books are inherently bad because they allow people to look to the past in order to criticize the present. “In their utterances they all spoke of the past in order to injure the present, and they made a display of empty verbiage in order to throw the truth into confusion. People approved what they had learnt in private in order to reject what their superiors laid down.” This is Li Si’s argument throughout the memorial, and evidently it was enough to convince the First Emperor.

The First Emperor’s decision to follow Li Si’s advice to burn books represents one of the most controlling policies from this period. To a present day reader, it was the most radical reform suggested by Li Si. The unceremonious burial of more than 460 scholars the year after the burning and banning of the books might be considered even more radical. If looked at in a Legalist light, however, there was logic behind both these decisions. The buried literati were mainly Confucians, the main body of men that opposed the Legalist school’s denial of the past, as Confucians at that time believed that by looking to the past, one could create a better present and future.

---

32 The books that would be under the ban would be collections of poetry and historical speeches, histories of the other states (excluding Qin), and the writings of various philosophers.

33 Qian 28
The Death of the First Emperor

The events surrounding the death of the First Emperor in 210 BC represent a turning point for the Qin dynasty. Previously, the First Emperor ruled with fear and there was no one to oppose his power. When he died, however, there was an opportunity for those around him, his closest advisors, to take some of the power for themselves. Prior to his death, the First Emperor made clear that he wanted his first born son, Fusu, crowned Second Emperor of Qin. Upon the First Emperor’s death, however, Li Si and the eunuch Zhao Gao ignored this order and made a middle-born son, Huhai, Second Emperor instead. This decision reflects the personal desires of Li Si: he feared Fusu would make another man his chief councilor which would give Li Si a less influential role in the affairs of the government.

Qin Legal Codes

This episode above represents a deviation from control. As soon as the First Emperor died and there was no immediate sovereign to take power, there was a division within the empire that would lead to the end of the Qin dynasty. The state that the First Emperor and Li Si created could not function when there were questions about what should be done next since there had always been someone in clear control. For evidence, one can look at the memorials and policies of the Qin dynasty, as well as the Qin legal codes which have been left to the current generation in part by a Prefectural Clerk\(^{34}\) living in the third century BC. Before the discovery of these texts in 1976, it was believed that the Qin dynasty’s rules and laws were some of the cruelest in Chinese history, although there was very little physical evidence to reinforce this claim other than

\(^{34}\) Referred to as Xi
accusations from the following Han dynasty\textsuperscript{35}. By looking at the Qin law codes, however, the modern reader can see that although there were rules that governed most aspects of life and restricted personal liberties, at this point in time a certain level of control was needed to maintain order in the kingdom.

The sections of the law codes discovered in 1976 spend a lot of time regulating agriculture and giving agricultural rules that farmers had to follow. This makes sense in the context of the times, as agriculture and warfare were the two most important aspects of life during this period\textsuperscript{36}: warfare to obtain more land and keep order within previously conquered territory, and agriculture to keep the masses fed, especially the large armies that paraded the land.

By looking at individual laws, one can see that the bulk of them are regulatory and clearly set out consequences for those who violate the laws, but also provide rewards for those who follow them. For example, “For good results the Overseer of Agriculture is granted a bottle of wine and a bundle of dried meat; the corral keepers are relieved of one turn of duty. For bad results the Overseer of Agriculture is berated, the corral menials are fined two months.” This law refers to the annual evaluation of oxen used in agriculture, providing rewards for farmers that raise healthy oxen and punishment for those whose oxen have lost weight or appear unhealthy. This excerpt shows the rules and regulations in place to maintain order within the kingdom of Qin. There are strict punishments for offenders because without rules there would be less order – with the rules in place the kingdom becomes more efficient and is able to exert more influence throughout the


\textsuperscript{36} Hulsewé 1
world. This is one of the goals of Legalism: through controlling every aspect of the citizens’ and officials’ lives, an ordered kingdom will emerge where everyone knows his place and what is expected of him.

The Stele Inscriptions of Qin Shi Huang

Not only did the government attempt to control every aspect of the citizens’ lives, it also tried to control how history would view the Emperor. This is not only seen in the act of burning all non-Qin state histories, but also in the stele inscriptions left throughout China. Since the legacy of the First Emperor is oftentimes obscured by the impressions of the Shiji, it may seem hard to learn how the government viewed itself. While on his journeys of inspection, the First Emperor visited sacred locations, oftentimes mountains\(^37\), and in many erected an inscribed stone. As a result of the First Emperor’s tour of his empire, subsequent emperors conducted similar tours, a tradition that continued into relatively modern times\(^38\).

Li Si accompanied the First Emperor on his various tours, which in itself reflects the importance of Li Si to the Emperor. The inscriptions, which describe the First Emperor and lay out his accomplishments and role in the unification process, have been attributed to Li Si\(^39\), so one can look to them for more information on him. These inscriptions are meant to embody the legacy of the First Emperor, so Li Si’s use of Legalist ideas, while using a predominantly Confucian syntax, reflects both Li Si’s

\(^{37}\) The Shiji records six such inscriptions, although there were two stones inscribed on the top of Mount Zhifu, one presumably at the top, and one described by the Shiji as appearing on the eastern side

\(^{38}\) Bodde 175

ideological “upbringing” as well as the Legalist influence present in the Qin state and later Qin Empire.

In Martin Kern’s book *The Stele Inscriptions of Ch’ in Shih-huang*, he orders the inscriptions chronologically from one to seven. Most of the inscriptions consist of thirty-six lines and are inscribed on mountains throughout the empire, though there are variations from this theme. Inscription four, as numbered by Kern40, is typical of the inscriptions as a whole. This particular text was inscribed on Mt. Zhifu, which, according to the *Shiji*, is located in the eastern part of the Empire on the Shandong Peninsula. A summary of this inscription follows: the First Emperor had already unified China, but the inscription explains his reasons for unification – it explains why the King of Qin was justified in conquering the other states. It concluded by glorifying the First Emperor and expressing the love his subjects feel toward him. Before looking at the text itself, it is necessary to understand Confucianism and its differences with Legalism, as this will lead to a better understanding of the inscriptions.

Confucianism stressed that a ruler should be self-disciplined, should govern by example, and should treat all his subjects with love and concern41; in essence, the ruler of a state or empire should embody the qualities of the Sage-kings of antiquity42. According to Xunzi, “if the common people are frightened of the government, then the gentleman cannot occupy his post in safety. If the common people are frightened of the government, the best thing to do is to treat them with kindness43.” This philosophy goes against prevailing Legalist thought, which states that “the tiger is able to overpower the dog

---

40 Kern’s translation of inscription four can be found on page 35 of his book, and a translation from the *Shiji* can be found on page 50 of Burton Watson’s translation, *The Records of the Grand Historian*.
42 For more information on the qualities of the sage-kings, see “A Discussion of Rites” in Xunzi
43 Xunzi 39
because of his claws and teeth, but if he discards his claws and teeth and lets the dog use them, then on the contrary he will be overpowered by the dog. This latter quote is in reference to the ruler reserving the sole right to dole out punishments. In a Legalist state, it is better to hold the people and ministers in fear rather than, as Confucianism advocates, to treat them with kindness. This difference, together with looking to the past as opposed to focusing on the present, are the main differences between the two philosophies that caused dissention between these two groups during the Qin period. A closer examination of the fourth stele inscription is now necessary.

It was in His twenty-ninth year,
According to the season of mid-spring,
The mildness of Yang had just arisen.
The August Emperor travelled to the east,
On His tour He ascended (Mt.) Zhifu,
Looked down on and illuminated (the lands by) the sea.
The attending officials gazed in admiration,
Traced back and contemplated (His) excellence and brilliant accomplishments,
Recalled and recited the fundamental beginning:
The Great Sage created His order,
Established and fixed the rules and measures,
Made manifest and visible the line and net (of order).
Abroad He instructed the feudal lords;
Brilliantly He spread culture and grace,
Enlightening them through rightness and principle.
The six kingdoms had been restive and perverse,
Greedy and criminal, insatiable —
Atrociously slaughtering endlessly.

The August Emperor felt pity for the multitudes,
And consequently sent out His punitive troops,
Vehemently displaying His martial power.
Just was He in punishment, trustworthy was He in acting,
His awesome influence radiated to all directions,
And there was none who was not respectful and submissive.
He boiled alive and exterminated the violent and cruel,
Succored and saved the black-haired people,
And all around consolidated the four extremities.

44 Han Fei 29
He universally promulgated the shining laws,  
Gave warp and woof to All-under-Heaven —  
Forever to serve as ritual norm and guideline.

Great, indeed, was [...] within the universe and realm
One followed receptively His sage intent.
The multitude of officials recited His merits,  
Asked to carve (this text) into stone,
To express and transmit the constant model.  

First the Confucian influence will be examined, and then the underlying Legalist themes, which have more of an impact than the Confucian influence, will be discussed. The most obvious Confucian aspect throughout the inscription is the reference to the First Emperor as the “August Emperor” (line 4, 19), and the “Sage” (line 10, 33), as well as the words Li Si used to describe the First Emperor, including “brilliant” (line 14), and “enlightened” (line 15), implementing “rightness and principle” (line 15). These descriptions of the First Emperor recall the Confucian portrayal of the ideal ruler as an enlightened sage. In contrast to the First Emperor, the leaders of the other states are described as “restive and perverse” (line 16), “greedy and criminal” (line 17), and “atrocious” (line 18). By using these words, the author recognizes the right of the King of Qin to conquer the world’s non-enlightened rulers while implementing his own enlightened rule.

Another Confucian aspect of this stele inscription, and in fact the stele inscriptions as a whole, is the feeling of paternalism which the First Emperor projects over his subjects. A feature of Confucianism is that the ruler should treat all his subjects with love and concern, much as a father should treat his children – a sovereign’s job is to watch over his subjects and act as a figure of guidance and authority. This feeling of

---

45 The characters for this phrase are partially missing so the meaning is unclear.
46 Kern 36
paternalism, in fact, is the reason given for attacking the other kings in the first place (line 19). Because of his obligation to the “black-haired people” (this refers to the commoners), the First Emperor invaded the six other states and, according to the inscription, liberated his people. In this view of the First Emperor, he is a savior to the people, a sage-king willing to do anything in order to help his people. This description matches the qualities of a good ruler as presented by the Confucians.

The presence of Confucian language in these inscriptions reveals the influence of Confucianism during the Qin dynasty. When this stone was inscribed, Li Si had not yet issued his memorial demanding book burning and the First Emperor had not yet buried more than four hundred Confucian scholars alive, so it can be assumed that Confucianism was still accepted in the years following unification. Since the inscriptions and the nature of the journeys were not primarily political, it was less important for Li Si to stress Legalist principles. What is significant is the relationship between both the nature of the message and their various locations throughout the empire, and the use of Legalist ideology. The Legalist message showed the control which the Qin government in the person of the First Emperor wielded, so by placing them throughout the empire, the First Emperor showed his control over everything under Heaven. The Confucian elements discussed above together with the language of the text in general, lend a noble tone to the inscriptions. After the initial reading, however, it becomes clear that the real message throughout the inscription is a Legalist one.

The first group of eighteen lines sets the scene: the First Emperor is in his twenty-ninth year and is traveling his lands, and his advisors write down his accomplishments from the beginning of the Empire. The inscription follows with a description of the First
Emperor and the previous feudal lords, as described above. This section mentions the unification and standardizations set out by the First Emperor (line 11), and moves from this into a recognition of the Legalist values that helped form the Empire (line 12). This is an explicit reference to the laws put in place by the Qin Empire that helped bring order and unification to the empire; by making the rules visible, the First Emperor ensured that everyone knew his place and abided by the laws. A further reference to the laws and their supremacy and visibility appears in line twenty-eight. His laws were everywhere and affected everyone, and in addition were right and just, as is shown by the use of the word “shining” (line 28) to describe them.

Another Legalist element found in this inscription is the incorporation of the role of punishments and rewards, as laid out in the Han Feizi under the chapter “The Two Handles”47. In the second section, the last eighteen lines, the inscription describes the First Emperor’s conquest and treatment of the other feudal lords. In dealing with the other feudal lords, he only punished as much as was deserved, and because of these actions, everyone was submissive and those in the right would be able to respect him (lines 22-24). The First Emperor would not stand for the violent and cruel, and laid out a very clear explanation of what would happen to those who did not adhere to his rule (line 25). This stele inscription lays out the principles of the two handles of the ruler: those who were just received rewards—respect and salvation—and those who were evil and cruel received fair punishment—death.

Multiple sources attribute the stele inscriptions to Li Si’s hand. Significantly, Li Si accompanied the First Emperor on all his inspection tours of the empire, which put him in a position to have written the inscriptions himself. There are many sources from

47Han Fei 29
the first millennium AD that ascribe the inscriptions to Li Si, although the *Shiji* is not one of these sources since it does not provide an author for the inscriptions⁴⁸. Another important indicator is that the surviving inscription used the “small seal” script form of writing, developed by Li Si himself. Unfortunately for history, the majority of these inscriptions have not survived the more than twenty-two hundred years since their creation, although there remains one partial text from the Langya inscription⁴⁹. This is important because it allows the viewer to see first hand the script developed by Li Si.

The stele inscriptions give a glimpse into the lives of both the First Emperor and Li Si. When one takes into account other sources’ descriptions of the First Emperor, the claims made about him in these inscriptions can undoubtedly be considered false, so their importance must be considered elsewhere. Their importance lies in the theme of control that pervaded Qin dynasty. The Qin dynasty controlled the world through various means, from burning books to stem the spread of knowledge, to unifying the writing system in order to make more complete the Qin unification. The inscriptions can be seen as a way to control how the First Emperor would be perceived in the future. These inscriptions are some of the only primary sources we have that attempt to give a description of the First Emperor. Although texts such as the *Shiji* refute what is presented in the inscriptions with regard to the First Emperor’s personality, it still presents the texts in what can only be assumed is their original form. Therefore, through the stele inscriptions, Li Si and the First Emperor were trying to control the way in which history would view the Emperor in the future.

⁴⁸ For more information on these sources, see “Other Measures of Li Si,” section 3 in Bodde’s book.
⁴⁹ This remaining inscription is a rubbing and is attributed not to the First Emperor, but to the Second Emperor, on his inspection tour of the empire. The authorship is still believed to belong to Li Si.
Conclusion

There are multiple problems the researcher faces when looking at this topic. Principal among these difficulties is that this dynasty fell more than two millennia ago, so primary sources are understandably limited because of the decay of time. Another difficulty is how short-lived the Qin Dynasty was and how long-lived and relatively important the following Han Dynasty was. Because of this second situation, the Qin Dynasty is often combined in history books with the Han Dynasty even though the governments were dissimilar and warrant distinction. That said, one of the most important scholars on Qin times is Derk Bodde (1909-2003), whose work *China's First Unifier* (1938) not only provides partial translations of the *Shiji*, but also takes an in-depth look at the sections concerning Li Si. Other important scholars on this time period are Michael Leowe (b. 1922), co-author of the *Cambridge History of Ancient China* (1999); Burton Watson (b. 1925), who provides a number of philosophical and historical translations; and Jonathan Clements (b. 1971), who authored several biographies of men from this period.

By looking at the three policy decisions, it can be shown that Li Si wielded a lot of theoretical power throughout his relationship with the First Emperor. He was able to convince his ruler to follow Legalist principles, which in turn led to more control concentrated on the Emperor. The state of Qin had been implementing Legalist doctrines before the rise of the First Emperor, most notably through the person of Lord Shang, but it was the combination of the First Emperor and Li Si that cemented these principles and elevated the state of Qin to the level of the Qin dynasty. Li Si provided the momentum from which the First Emperor decided to allow aliens to remain within the state, as well
as the momentum behind burning the books. He was also instrumental in the unification of the writing system, the effects of which are still clear today.

It is hard to imagine a Qin dynasty without the figure of Li Si, and it is interesting to imagine how history would be different if he had not existed; would these changes have been implemented anyway, or were they the unique creation of this man? Li Si’s ideas, most prominently the idea of Legalism, shaped the state of Qin and continue to color the impression modern researches have about the Qin. Li Si embodied the principles set down on paper by Han Fei, and was one of the greatest practical Legalists of all time.

The expulsion of foreigners, the unification of writing, and the burning of the books are all measures put forth in an attempt to control every facet of life within the Qin Empire. The stele inscriptions represent an attempt to control the way in which the First Emperor would be remembered. The expulsion of foreigners showed the First Emperor’s desire to control who entered the state, although this was met with skepticism in the form of a memorial delivered by Li Si and was subsequently set aside. The fact that the empire was eventually unified speaks to how unnecessary this measure would have been since all Chinese were considered Qin after unification. The unification of writing and the burning of books demonstrate the First Emperor’s desire for the spread and control of knowledge. By unifying the writing system, one medium was created for the spread of ideas so that, instead of each state using variable forms, there would be one written with which to communicate ideas, laws, and mandates. The burning of the books represented a call for the control of information that would have negatively impacted the Qin government – by
burning certain books, the government was making an effort to ‘erase’ the past so that critics could not look back and make judgments about the current government.

Li Si was the driving force behind many of the changes that occurred during the Qin dynasty, under the rule of the First Emperor. Because of this, his legacy is stronger than that of the First Emperor. Through examination of Legalism and various texts written by Li Si, as well as an examination of the actions of this man, it becomes clear how strong both his influence at the time and his lasting impact on China were. The power, authority, or legacy of the First Emperor cannot be denied; however, given the evidence, Li Si had more of a lasting impact on what has evolved into China today.
Bibliography


Fu, Zhengyuan. *Autocratic tradition and Chinese politics*. Cambridge [England]:

Hulsewé, A. F. P. *Remnants of Ch'in law an annotated translation of the Ch'in legal and
administrative rules of the 3rd century B.C., discovered in Yu?n-meng Prefecture,

Kern, Martin, and Chin Shih-Huang. *The Stele Inscriptions of Ch'in Shih-huang Text and
Ritual in Early Chinese Imperial Representation (American Oriental Series 85)*.

Loewe, Michael. *Divination, mythology and monarchy in Han China*. Cambridge:

Man, John. *Terra Cotta Army China's first emperor and the birth of a nation*. Cambridge,

Qian, Sima,. *Records of the grand historian*. Hong Kong: Research Centre for
Translation, Chinese University of Hong Kong, Renditions-Columbia UP, 1993.
Print.

*Turning points in historiography a cross-cultural perspective*. Rochester, NY: University


