

# Dasan's Philosophy of Law

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## Abstract

In general, Confucians have taken a dim view of the law. They have felt warranted in this view by a reading of Confucius' *Analects* 2.3 in which the Master apparently disparages law-centered governance. Two great Confucian philosophers, however, Zhu Xi and Jeong Yakyong (widely known by his pen name, Dasan), view the role of law in society differently. Like all Confucians, they teach the cultivation of virtue, but alongside building social harmony through ritual and good character, these two philosophers perceive that social order also requires the penal law. In this paper, I argue that Zhu Xi and Dasan, and Dasan in particular, follow the evidentiary lead of the classical Chinese philosopher Mozi to support their legal philosophy. Mozi offered three standards for establishing truth claims: empirical evidence from common life, authoritative evidence, and evidence of outcomes. Mozi's empirical standard takes evidence of common life from what ordinary people have seen. Zhu Xi and Dasan take the evidence of common life, not from what the people have seen, but from common understandings contained in the written language. They use this approach to arrive at a different understanding of *Analects* 2.3 than other Confucians, one that relates the content of that passage to *Analects* 12.17. They interpret the passage on a philological basis that supports the presence of penal law from a perspective of ordinary life. For authoritative evidence, Zhu Xi and Dasan like Mozi appeal to the authority of the ancient sages, who register their support for penal law. Dasan also follows Mozi's evidentiary lead in the evidence of outcomes by fully developing a consequential picture of how the absence of law detrimentally affects society. On this point, Dasan establishes a new and revolutionary legal outlook that differs from that of Zhu Xi. I show Dasan taking lessons from the classical Legalists to arrive at this position warranted by the evidence of outcomes. Having satisfied the three evidentiary standards, Dasan thus establishes the importance of the penal law from a Confucian perspective.

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In a very famous passage, *Analects* 2.3, Confucius stigmatizes the law for all his future followers:

If you try to guide the common people with coercive regulations and keep them in line with punishments, the common people will become evasive and will have no sense of shame. If, however, you guide them with Virtue, and keep them in line by means of ritual, the people will have a sense of shame and will rectify themselves. (Slingerland 2003, 8)

On the face of it, this passage seems to take a very dim view of the law. Rulers who rely on guiding the people with law and punishments will make the people worse than they would be without the law. Rulers should guide the people in a different manner. H. L. A. Hart (2012) and T'ung-Tsu Ch'ü (1961) have both observed that the concept of law incorporates features of customary practice. For Confucians who follow the above received view of this passage, the body of *li* 禮, the code of customary practices originating perhaps in the religious rituals of misty antiquity that regulate the gamut of life, constituted the real law. By internalizing *li*, one develops deep-seated dispositions—virtues—to act toward the good. Inculcating *li*, the people become aligned and harmonious both in their external actions and in their internal states. Confucius suggests on this reading that if a ruler seeks to control people's conduct by telling them what to do and threatening them if they do not do it, their internal states will degenerate and not match their actions, and eventually their actions will come to match their degenerate internal states. A harmonious society cannot be built in this fashion. Confucius might be read, then, as advocating jettisoning the punitive law and letting all conduct within society be guided entirely by *li*.

The punitive law, however, takes a steadfast place in human consciousness. Opponents of the Confucians, Legalists, arose in the period of classical Chinese thinking and offered *fa* 法, law with positive and negative incentives, rewards and punishments, as a means of regulating conduct in society as an alternative to *li* and to virtue. The political chaos out of which classical Chinese thinking emerged finally ended with the unification of the Chinese state under the Qin dynasty, and

when it did, the Legalists' approach to maintaining order was the one that was accepted. But the unifying Qin dynasty was short-lived, and the succeeding Han dynasty offered official recognition of Confucianism. Ch'ü teaches us that both the Qin and the Han incorporated punitive law devised by Legalists into their social order. The Confucians, however, embedded elements of *li* into that law after their official recognition. Ch'ü calls this the "Confucianization" of the law (1961, 10). This hybrid construction of the law, then, gave room for both *li* and punitive action.

I will argue that two important Confucian philosophers, the great Neo-Confucian philosopher Zhu Xi 朱熹 (1130-1200) and the Korean Silhak philosopher Jeong Yakyong 丁若鏞 (1762-1836; by whose pen name, Dasan 茶山, I will identify him in the rest of this paper), take precisely this hybrid construction as their understanding of the law. This is an unusual confluence since Dasan usually directs a great deal of his thinking toward overthrowing what he sees as illegitimate interpretations of the Confucian canons coming from Zhu Xi and the Cheng-Zhu Neo-Confucian school. Dasan thought that Song Neo-Confucian interpretations of the classic Confucian canons allowed elements of Daoism and Chan Buddhism to surreptitiously sneak into their understandings of what the Confucian masters meant. With respect to the law, however, Zhu Xi and Dasan have an overlapping area of agreement. Both these philosophers give an interpretation of *Analects* 2.3 quoted above that combines Confucian cultivation through *li* with Legalist penal law. I will investigate here both their approaches to countering the received view of *Analects* 2.3. To do so, I will make use of a three-pronged method for establishing evidence. I hope to show that both Zhu Xi and Dasan make implicit use of this method, but that Dasan embraces it more vigorously and develops it more energetically. The method itself is similar to the evidentiary method of the non-Confucian, classical Chinese philosopher, Mozi.

Mozi had established three "gnomons" or gauges that taken together can be used to establish the truth of a claim. The first of these gauges is precedent. Mozi looks to the records of the ancient sage kings to see if authoritative support for the claim is to be found among them. The second gauge is evidence. This gauge is satisfied not by the sage kings but by the general observations of ordinary people. The last gauge

is application, and it is established on the basis of outcomes resulting from the imposition of the claim (Ivanhoe and Van Norden 2005, 111). Mozi uses this evidentiary method to establish the existence of ghosts. He finds evidence from the records of the sage kings in support of the existence of ghosts, and, so, the first gauge is satisfied. Likewise, he notices the claims of ordinary people to have seen ghosts; so, the second gauge is also satisfied. Finally, he outlines disasters for societies that have not believed in ghosts. So, at last the third gauge is satisfied, and with this, Mozi believes he has established the truth of the claim that ghosts exist (see Ivanhoe and Van Norden 2005, 94-104). Mozi is unlikely to be persuasive to many of us on this point, but the method gives us quite a sophisticated method of warranting or justifying the truth of claims. It has a properly authoritative element, an empirical element of common life, and a pragmatic element to it. Each of the gauges on their own supply some warrant for accepting a claim, but taken together the gauges synergistically lend support to each other. In fact, it does seem unlikely that a claim could go array if it had strong authoritative support, strong empirical evidence from common life, and strong pragmatic outcomes.

Zhu Xi and Dasan take a similar methodological approach to establishing the social importance of punitive law. I will outline their approach to the second gauge first. Instead of appealing to what the people have seen, they appeal to what the people have understood as revealed in the common public language. Mozi's first gauge of precedent as established in the records of the ancient sages is exactly the same in Zhu Xi and Dasan. So is the third gauge. I will show Zhu Xi and Dasan moving through these gauges. First, they use the written expression of Confucius to point out a view of ordinary understanding contained in the system of public expression about the penal law. I present their philological findings in support of the perceptions of common life in the first section. In the next section, I show them using the canonical ancient records to establish the authoritative position of the ancient sages in support of penal law. A section later, I emphasize Dasan looking to what proceeded from the neglect of the penal law in Korea, and what might be expected from this continued negligence. In all three gauges the standard of evidence is met, and the conclusion follows that the

appropriate *Confucian* position is one that values punitive law. While they will ride along together some distance on the topic of penal law, in the end, Dasan has to part ways with Zhu Xi. In a fourth section, I address this divergence.

## I. Philological Evidence

Zhu Xi gives commentary on *Analects* 2.3 in which he asserts that “punishments are complementary methods for governance” (Ho 2011, 187). Zhu Xi understands the passage in much the same way, as we will see below, as Dasan does, but neither interpretation squares *prima facie* with what Confucius actually says in this passage. In explaining and promoting punishments, Zhu Xi focuses on a particular character, *zheng* 政. Zhu Xi says that *zheng* 政 refers to legal regulations. Here he seems to implicitly take note of Confucius’ analytic etymology of the same character at *Analects* 12.17, where Confucius understands *zheng* 政 as ruling or governing. Confucius explains there that “to govern’ [*zheng* 政] means to be ‘correct’ [*zheng* 正]” (Slingerland 2003, 133). Looking at these two characters, one can see that 正, the character meaning “correct,” makes up the left half of the character 政, the character meaning “to rule.” Confucius has focused on this lefthand semantic element of correctness in the character for ruling to derive a full meaning of ruling as *being* correct as we get it translated into English by Edward Slingerland. Other translators, however, render this sentence with a significant difference. They share Slingerland’s idea that Confucius derives the full meaning of *zheng* 政 by taking note that the lefthand component means “correct,” but they do not see the full character as indicating that to rule means *being* correct. On the contrary, they understand it as indicating in some way that to rule means *making* correct. The distinction here is between seeing the core meaning of “correct” as an action, i.e., *to correct*, or as a quality, i.e., *to be correct*. Thus, D. C. Lau presents Confucius as saying “to govern [*zheng*] is to correct [*zheng*]” (Lau 1979, 115), and James Legge translates it as “to govern means to rectify” (Legge n.d.-d.). Arthur Waley gives it as “ruling is straightening” (Waley 2000, 158). In each of these translations,

the latter translators understand *zheng* 政 as an action performed by the ruler: the ruler engages in the action of correcting, rectifying, and straightening. Slingerland, on the other hand, sees *zheng* 政 as a quality held by the ruler. I think Slingerland's rendition is clearly more consonant with the message that Confucius gives in the remainder of the passage. Here I want to point out that having the reading of the other translators before us makes Zhu Xi's commentary on *Analects* 2.3 more coherent. He says, "*Zheng* 政 are legal regulations. If there are no punishments or punitive measures, laws cannot stand." In both *Analects* 2.3 and 12.17, Confucius uses the character *zheng* 政. In 2.3, he uses it to mean something like "coercive regulations."<sup>1</sup> In 12.17, as shown above, he uses it to mean something like "being correct" or "making correct." In 12.17, Confucius does not mention punishments, and in 2.3, he speaks of punishments as being counterproductive. In his commentary on *Analects* 2.3, Zhu Xi says that in connection with virtue, "Punishments are complementary methods for governance," and when addressing *zheng* 政 as legal regulations, he says, "If there are no punishments or punitive measures, laws cannot stand; therefore, if a ruler wishes to use laws to guide his people, there must also be legal punitive measures in order to establish harmony among the populace" (Ho 2011, 187). Elsewhere, he evaluates the punitive law positively as supporting the cultivation of virtue (Ho 2011, 188). Zhu Xi views the punitive law as necessary and positive. In looking over these passages from the *Analects*, however, we might wonder how they led Zhu Xi to these evaluations. Where could he have come up with these ideas that seem to fly in the face of the received view? I suggest that in this case, he follows a pattern of supporting his claims about the law that will be similar to the pattern that Dasan uses. Zhu Xi might have been guided in part by philological and etymological considerations.

In *Analects* 12.17, Confucius opens a philological window for understanding *zheng* 政, but he does not follow through with it in the more thorough fashion that Dasan later adopts. Zhu Xi expands slightly on Confucius' opening move. Remember that in 12.17, Confucius is drawing on a component element of *zheng* 政 to determine what it means. He has

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<sup>1</sup> Slingerland: "coercive regulations"; Lau: "edicts"; Waley: "regulations"; Legge: "laws"

noted that the lefthand component, means to “correct” or “be correct.” But what should we make of the righthand component? One way in which characters are combined brings different semantic parts together. This approach to uncovering original meanings of the canonical language is especially prominent in Dasan, as we will see below. If we attribute this same approach in this case to Zhu Xi, we can understand how he might be able to read a necessary and positive aspect of punitive law back into Confucius’ canonical text.

The very appearance of the character in question, *zheng* 政, which Confucius takes mean to govern or to rule and also legal regulations, reinforces the idea that coercion is an integral part of it. The character is an ideograph consisting of two components. The left side, the character 正, which in its core form means “correct,” is itself an ideograph formed from a pictograph of a foot apparently standing before a city (see Creel, Chang, and Rudolph 1948, 121; character 421a). The right side of the character, *pu* 攴 (支), is an ideograph formed from a pictograph of a hand holding a stick, and it means “to beat” (see Creel, Chang, and Rudolph 1948, 71; character 39c). We see this same element as a right side component in the character *jiao* 教, “to teach,” which has a pictograph of a child on the left side and the same pictograph of a hand with a stick in it on the right. It is a symbol of “支 a hand holding a stick, threatening 子 a child, admonishing him to study diligently” (see Creel, Chang, and Rudolph 1948, 74; character 53). The presence of this component suggests force, or compulsion, or coercion. Thus, the suggested meaning of *zheng* 政 is “支 a hand holding a stick, enforcing 正 correctness” (see Creel, Chang, and Rudolph 1948, 121; character 421). The appearance of the character suggests coercing righteousness, and this is exactly the reading that Zhu Xi has taken. For Zhu Xi, the concept of *zheng* 政, governing, actually contains the concept of armed coercion, which he understands as punitive law.

But that is not how Confucius seems to read it. As mentioned, Slingerland’s translation shows Confucius promoting *zheng* 正, correctness, as a quality of the ruler in *zheng* 政, governing. The whole passage of *Analects* 12.17 as translated by Slingerland reads as follows: “Ji Kangzi asked Confucius about governing. Confucius responded, “To ‘govern’ (*zheng* 政) means to be ‘correct’ (*zheng* 正). If you set an example by being

correct yourself, who will dare to be incorrect” (Slingerland 2003, 133). I have said that of the translations examined, Slingerland’s gives a better overall sense of the passage. This is because when connecting governing and correctness, Confucius teaches that the duty of rulers is to *be* correct themselves. The other translators reflect this same message from the second part of the passage, but in the first part, they read *zheng* 政 with the coercive connotation. It is more consistent for Confucius to say that governing means to be correct when he is invoking the conceptual connection between governing and correctness to admonish a ruler to *be* correct. If rulers are correct in their own persons, their examples will bowl over the incorrect propensities of anyone situated below them as the wind bends the grass it blows over (*Analects* 12.19).

How can we make sense of Confucius overlooking this coercive aspect belonging to the ruler in governing? Well, we might not need to. We might say that Confucius in this passage is transforming the concept of ruling by emphasizing an internal coercion. Perhaps the beating stick is to be wielded internally on oneself rather than externally on one’s subjects. Slingerland notes the commentary from the Qing dynasty scholar and professor Zhai Hao (1736-1788) (see Slingerland 2003, 267), who in turn harks back to the classic *Shangshu* 尚書 (*Book of Documents*): “if you are able to make yourself correct how can others dare not to be themselves correct” (see Slingerland 2003, 133n5).<sup>2</sup> Here the idea is that one exercises a forced change on oneself, you *make* yourself correct, and without needing to use external force, the people will see what the ruler has done, and they will also make themselves correct. This is very much in keeping with the Confucian notion of self-cultivation.

Zhu Xi, however, clearly sees the necessity of an *external* coercion. Norman P. Ho (2011) offers an interpretation that aligns Zhu Xi with Confucius even as Zhu Xi advocates for strict and harsh laws. On this understanding, Confucius does not call for fully jettisoning law and punishment as a mechanism for bringing about social order. Law and

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<sup>2</sup> It may be worth noting that Clay Waltham in his modernization of Legge’s classic English translation presents this passage of the *Shujing* 書經 (*Book of History*) a little differently than how it appears in Slingerland: “If you are correct in your own person, none will dare but to be correct” (from Document 25, *The Chiin Ya*; see Legge and Waltham 1971, 225). Both the internal and the external coercive element have disappeared on this reading.



punishment are simply background presumptions about governing. Confucius takes the position that law is necessary but insufficient for bringing about the ideal moral order of Western Zhou. He does not mean to eradicate laws and punishments, instead, he wishes to emphasize the necessity of moral cultivation. The *Analects* show Confucius giving particular, non-universal, moral advice. Sometimes one moral feature must be emphasized, while at other times, some other moral feature must be emphasized.<sup>3</sup>

Zhu Xi makes no direct or explicit identification of the coercive element, *pu* 攴 (攴), in the character *zheng* 政, but this line of reasoning does make sense of Zhu Xi's positive endorsement of punishment when interpreting Confucius, who only makes negative references to punishment. Both Confucius and Zhu Xi do, however, make direct semantic reference to the other component of the character, that of correctness (*zheng* 正). Although modern scholars might be skeptical of the philological study of semantic combinations of ancient compound ideographs, it seems plausible to attribute something of this approach to Zhu Xi. Zhu Xi thus can be seen as using a philological approach to support his philosophy of law. We will see this also in Dasan.

Dasan puts a philological approach at the heart of his method in what Philip J. Ivanhoe refers to as "textual-critical Confucianism" (Ivanhoe 2016, 101). Dasan attempts to recover the primitive meanings of the original Confucian classics by examining the written language they use. The Neo-Confucians of the Song dynasty, who in their younger days, says Dasan, immersed themselves in the study of Chan Buddhism, obscured the original meanings of classics with their commentaries on them (see Ivanhoe 2016, 102). To recover those occluded meanings, Dasan turns to the close reading and philological analysis of the ancient texts themselves. For instance, in criticizing Zhu Xi's metaphysical understanding of *yin* and *yang*, Dasan looks to the characters of *yin* 陰 and *yang* 陽, and sees in them stylized simple ideographs of shade and sunshine, respectively. He uses this philological analysis to criticize Zhu Xi's orthodox Neo-Confucian metaphysical views. Zhu Xi, he says, thinks that "heaven employs *yin*, *yang*, and the five phases to generate

<sup>3</sup> See the famous example at *Analects* 11.22.

the myriad of things” (Dasan 2016, 103). But how could this happen when *yin* and *yang* are nothing other than shade and light, respectively, as indicated by what the characters portray?

Likewise, in examining *Analects* 1.2, he tells us among other things that “[the literal meaning of] *dao* 道 (“the way”),” one of the ideas richest in meaning in classical Chinese philosophy, “is that through which people move” (Dasan 2016, 38). Indeed, that is what the stylized elements of the character seem to show (See Creel, Chang, and Rudolph 1948, 64-5; character 15).<sup>4</sup> Then he tells us that another central idea of Chinese philosophy rich in meaning, *ren* 仁, which is translated variously as “goodness,” “humanity,” “human-heartedness,” “benevolence,” means just what the character rather simplistically indicates. *Ren* is a compound of two characters. On the left is a stylized pictograph of a person (人) that is doubly stylized in its combining form (亻). To the right is the simple ideograph of the number two (二). Dasan tells us, “*Ren* (‘humanity’) signifies two people together” (2016, 38). On its own, though, this only identifies a purely formal relation.<sup>5</sup> Dasan develops this idea beyond mere formality. Humanity or society forms out of the nexus of moral reciprocation between two people, or as Dasan’s translator puts it, “two people fulfilling their moral obligations to one another, thereby preventing any disturbance to their relationship” (42).

Mengzi had said that “the core of benevolence [*ren*] is serving one’s parents” (Mengzi 2008, 101 [4A27]). Serving one’s parents, though, is known as *xiao* 孝, filial piety. Dasan says, “In regard to serving one’s parents, being filial corresponds to a form of humanity wherein a father and a son become the two who are together” (2016, 38). The father and son being together is literally illustrated in the combined components of the character, *xiao*. The top half of the character is a stylized pictograph of an old man. In the full character, the pictograph of the old man rests

<sup>4</sup> Their analysis shows the elements combining to give a meaning similar to what Dasan has offered. There is a stylized eye 目 with an eyebrow, which is thus a head 首. There is a pictograph of a foot 止, similar to what we see in *zheng*, that is stylized and combined with 辶 to indicate it is in motion 辵—shortened to 辶. The idea expressed according to the authors “is a road, to follow which one must look where he is going” (Creel, Chang, and Rudolph 1948, 64).

<sup>5</sup> I would like to thank my reviewer for offering this clarification.

on a pictograph of a child or son. The old man leans on or is supported by the child (see Creel, Chang, and Rudolph 1948, 58, 73; characters 5, 48, and 48a). The father and the son are literally shown being together in a certain relation in the character *xiao*. For Dasan, the relation between what the character *ren* 仁 represents, and what the character *xiao* represents, is decisive. Thus, he says, “Filial piety (*xiao*) and respect for elders are equivalent to humanity (*ren*) and humanity is equivalent to filial piety and respect for elders” (2016, 39). *Ren* must be more inclusive than this. In fact, it must expand outward to all humanity.<sup>6</sup> Dasan has in part let the philological aspect of his method guide him in making judgments on metaphysics and moral philosophy.

He does the same thing in formulating his judgment about philosophy of law. In making his analytical<sup>7</sup> move here, he does not have to part ways with Zhu Xi because Zhu Xi seems to hold a similar analytical view. With respect to philosophy of law, only Zhu Xi’s metaphysical commitments about human nature and the function of law in society separates his legal philosophy from that of Dasan. Concerning *Analects* 2.3, Dasan says, “*Zheng* 政 . . . here refers to laws and institutions, which are the means to rectify the people” (2016, 87). Here we see Dasan taking the same line as Zhu Xi, D. C. Lau, James Legge, and Arthur Waley in thinking of *zheng* not as *being* correct (正) but as *making* correct, or of “rectifying the people.” In other words, he reads *zheng* as being an action rather than a quality. He recognizes means or instruments to use for making the people be correct. He identifies two such instruments for keeping the people in line, as it says in *Analects* 2.3. Dasan says, “Punishments are a means of punishing the evil, and ritual propriety [*li*] is a means of preventing wantonness” (88). In fact, *Analects* 2.3 does mention both punishments and ritual, but Confucius, as we’ve seen, seems to claim there that only one of these, *li* or ritual, counts as a

<sup>6</sup> This is an aspect of the extension envisioned by Mengzi. For Dasan, compassion, one of Mengzi’s four sprouts, was central to morality and allowed a leader to, through extension, become sensitive to the sufferings of the people. See Setton’s treatment of Dasan on *ren*, humanity or benevolence, and *ci* (tz’u) (1997, 110-4). I thank my reviewer for pushing me on this.

<sup>7</sup> By “analytical,” I mean breaking concepts into component pieces for discovery of meaning and evaluation. Analysis of characters is a component aspect of what Ivanhoe calls “textual-critical.”

successful means for keeping the people in line. Like Zhu Xi, however, Dasan thinks that rulers must use punishments, too, to keep the people in line. He says, “When the ruler leads the people with virtue . . . punishments are also used” (89). Like Zhu Xi, Dasan also believes that this invocation of punishment is compatible with Confucius’ message, but Confucius in *Analects* 2.3 only speaks negatively of punishment. How, then, can Dasan consistently put a positive spin on punishment when there isn’t one explicit to 2.3? His analytical and philological method points the way to such a possibility, and that approach squares with what seems implicit in Zhu Xi. The idea of coercive measures is built right into the character of *zheng* 政, the idea of ruling or of laws, and that is reflected in the makeup of the character. Reading the character in this way is consistent with what Dasan has done in interpreting the meanings of the characters *dao*, *ren*, and *xiao* and in many other instances.

What philosophical point might there be to analyzing an ethical concept in terms of this kind of paleography? It is rather like trying to pin down what philosophy is by taking note that its two constituting Greek components, *philo*, love, and *sophy*, wisdom, tell us that “philosophy” means love of wisdom. This kind of analysis just does not capture the practices that constitute philosophy. Nor is it clear that this description excludes instantiations of non-philosophy in which someone loves something without understanding it. I suspect that Dasan holds that the words of the ancients are the only artifacts we have of their ideas that have survived into the present. They are unadorned with the commentarial superimpositions. We think we have Confucius’ words in the *Analects*, and the way they are put together are unique to him. But Confucius has appropriated the public language for his unique expression, and the symbols that any of us concatenate for our own expressions carry with them ordinary and conventional conceptualizations. Each character in classical Chinese is a standalone semantic symbol. Dasan uses paleography to uncover the conventional meanings of words from an earlier time. The paleography is revelatory of ordinary moral conceptualizations of a bygone era. As an evidentiary thinker, Dasan relies on the understandings of ordinary people as reflected in the public language available to all. These com-

mon understandings are represented in the semantic units of the written language. Dasan looks to the written language to discover the ordinary moral understandings that feed his evidentiary stream. This is why I say that in his paleography, he parallels Mozi's epistemological standard of evidence. For Mozi, the standard of evidence was satisfied by what ordinary people had seen. For Dasan, the standard of evidence is satisfied by what ordinary people, albeit literate ones, collectively understand as conveyed through the public language. Like Mozi, however, Dasan recognizes that the evidentiary stream of common experience is not adequate on its own. So, he supplements it by appealing to the sages, as had Mozi before him.

## II. Canonical Evidence

Zhu Xi taught that in the days of the sages, "There were actual instances where virtue and rites were completely unused in governance, and only punishments and laws were used" (as quoted in Ho 2011, 187-8). Under such circumstances, it becomes necessary to emphasize virtue. In Zhu Xi's own day, many of his contemporary Confucians appealed to the *Book of Documents* to support the view that the ancient sage kings had not imposed legal punishments but instead had called for lenience and amnesty (Ho 2011, 190-2). The Song dynasty systematized this philosophical perspective, and Zhu Xi endeavored forcefully against it. He used the *Book of Documents* to show that the sage king Shun had instituted the traditional five punishments. King Wen of Han had eliminated three of these punishments, but Zhu Xi called for their return. For Zhu Xi, the importance of ritual and virtue had been overemphasized in his own day at the expense of the punitive law. He could reconcile this view to that of the Master by showing that Confucius had deemphasized law in order to elevate the standing of virtue at a time when punishments had displaced moral cultivation. Confucius did not, however, intend to eradicate law and punishment. They are complementary.

Like Zhu Xi, Dasan is not satisfied that the philological line of reasoning fully makes his case, so he buttresses it by appealing to

the classic *Book of Documents*. He is unwilling to piggyback off the evidence of the sages supplied by Zhu Xi, so he provides additional confirming evidence. Recall that Zhu Xi had cited the sage king Shun's establishment of the five punishments from "The Canon of Shun" in the *Book of Documents* (Legge and Waltham 1971, 16). Dasan, for his canonical evidence in support of punitive law looks to King Mu of the Western Zhou who was reflecting back on the punitive measures initiated by Shun and executed by his minister of crime Bo Yi 伯夷. Dasan says, "A passage in *Documents*, which reads according to Dasan's reading 'After an announcement of the statutes, Bo Yi 伯夷 frustrated the disobedient people with punishments'" (2016, 89).<sup>8</sup> He continues that this passage, "hints that the former kings issued the five statutes first then frustrated with punishments those who did not follow the teachings" (89). This entire record on punishments from "The Marquis of Lü on Punishments" in the *Book of Documents* seems to have had a significant impact on Dasan, and I will come back to discuss this below when addressing practical legal affairs. After citing King Mu, Dasan then appeals for further support from *The Rites of Zhou*. He quotes the *Dasitu* 大司徒 chapter, which states, "the head minister over the masses [*dasitu*] oversees the myriad of people with the eight local punishments" (89). Although Dasan sees this work as canonical, it could not have been written prior to the Warring States period and seems to reflect Legalist thought (See Puet 2010). In any case, this invocation completes Dasan's second evidentiary claim: the canons show that the ancient sages endorsed punishment.

### III. Evidence from Outcomes

In the last leg of his case, Dasan dovetails his methodology with the Korean philosophical school of Silhak 實學, of which he is thought to be the culminating figure. Although a diffused school of thought, Silhak

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<sup>8</sup> Dasan's reading and Kim's translation here is quite different from what we get in Legge or in Waltham's modernization of Legge. Legge translates the passage: "Bo-yi delivered his statutes to prevent the people from rendering themselves obnoxious to punishment" (Legge n.d.-a). In this place, Waltham follows Legge word for word (1971, 231).

emphasizes philosophy for practical affairs. Recall that in *Analects* 2.3, Confucius points to a practical difficulty of ruling legalistically: it fails to get the people to internalize the law as a guide to conduct. Dasan turns that criticism on its head: any political regime that only emphasizes virtue and self-cultivation fails to protect the people. In taking this position, Dasan follows the lead of King Mu in the *Book of Documents* in seeing that the law and punishments can be “a blessing” (Legge and Waltham 1971, 233), and that those “who direct the government and preside over criminal cases through all the land” act as “the shepherds of Heaven” (Legge and Waltham 1971, 232). This is in fact the guiding image of Dasan’s masterpiece, *Admonitions on Governing the People* (*Mongmin simseo* 牧民心書). He opens this book by invoking this same image: magistrates, those who direct government and preside over criminal cases, are the shepherds of the people, and they bless the people with Heaven’s blessing by discharging the law fairly.

Dasan saw that as a practical matter, strengthening the institution of law could have a positive effect on the lives of ordinary people. So, he set out to invigorate it. Hahm Pyong-Choon (1971) in his classic treatment of Korean legal history and thought poignantly depicts the status of law during the Joseon dynasty in Korea. The dynasty had explicitly established the regime on Neo-Confucian principles. Hahm says that the Korean Confucians “failed to realize that harmony could be achieved through a balance of divergent forces,” including both concentration on virtue and application of the law (28). Holding exclusively to those Confucian moral ideas, the ruling political elite contemptuously neglected the institution of law (19-20). Their attitudes reflected the plain reading of Confucius at *Analects* 2.3, that law functions to make people worse, and so, the institution of law lay underdeveloped. Hahm points out that no commercial or contract law developed, and the tort law and family law collapsed into the criminal law (38-9). Since law was essentially *just* the criminal law, people perceived the law to be equivalent to punishment (19, 21). Koreans found the idea of human equality alien and untenable. Within the legal establishment, social and political inequality manifested as inequality before the law (35-9). People expected and received differentiated legal outcomes stemming from their social positions. Eight special classes

of people enjoyed exemptions from criminal prosecution without the special dispensation of the emperor himself (42). With sanction from the canonical classics of the *Liji* 禮記 (The Book of Ritual) and the *Zuo Zhuan* 左傳 (The Commentary of Zuo), the cultivated elite regulated their conduct in accord with Confucian ritual while the law with its punishments pertained only to the common people. Magistrates judged cases on the unique particularities of the cases instead of on the basis of general law (41). Given these conditions, people could not know what to expect from the law (41). The elites held the law in contempt, and the common people feared its arbitrary cruelty. Nowhere among the social classes did a sense of the desirability of the rule of law arise (21). Hahm explains that the Confucian outlook was too idealistic and lacked a practical grounding (23). The Confucian elite looked back to a moral and social golden age, but their concentration on virtue inculcation resulted in something closer to lawlessness both with factional hostility and violence above and extralegal oppression below.

Mark Setton (1997) makes the briefest intimation that Dasan's approach to moral and political philosophy is anti-Legalistic. He says in his introduction that the final section of his fourth chapter "deals with the political implications of [Dasan's] philosophy, and particularly his theory of government through moral example with its concomitant, anti-Legalistic emphasis on the moral autonomy of the individual" (7). I believe that Setton makes the right judgment of Dasan on moral example and autonomy, but I think it is a mistake to think that these require an anti-Legalist emphasis. Setton expands the perspective he attributes to Dasan to include an uncharacteristic inclusiveness of others including common people. Dasan, perhaps because of his long exile experience away from the political elites in the capital, holds "unprecedented confidence in the ability of the uneducated majority to choose virtuous leaders" (Setton 1997, 120). I will argue here that Dasan goes some way toward bringing aspects of Legalism into the practical spheres of his philosophy, and his reason for making this move stems from just the populist sentiment that Setton rightly identifies. Dasan is concerned for, as Setton puts it, the uneducated majority of common people. Dasan, however, sees the law as an institution capable of elevating, and edifying, and protecting the common people, and



the Legalists provide a broader conception of the law and a broader application of the law that can be used toward this end.

Hahm outlines the general antipathy that Korean Confucians held toward the Legalists. The Legalists, he says, “were despised by every man of virtue” (Hahm 1971, 23). But what is Legalism, and how might it be objectionable? Classical Chinese Legalism (*fajia* 法家) is the confluence of political thought coming from a cluster of philosophers. Han Feizi 韓非子 takes his place as the most preeminent of these thinkers. He builds into his system the ideas of three other thinkers who are not taken to be among the first tier of classical Chinese philosophers: Shen Dao 慎到, Lord Shang 商君, and Shen Buhai 申不害. Other notable but perhaps inconsistent figures include the more collaborative writings found in the *Guanzi* 管子 and the *Huainanzi* 淮南子, both of which have interesting things to say about the law.

Prominent features of the Legalist outlook include the idea of governing and managing conduct by imposing law, punishments and rewards, a coherent bureaucratic organization governed in its own operations by a set of administrative rules, a general conception of human nature as being egoistic, and a general skepticism of the ability and desirability of changing that egoistic nature much. The law is a simple and comprehensible prescriptive edict promulgated from the ruler to the bureaucratic agencies and to the people. An important aspect of Legalism, perhaps originating with Shen Dao, is the idea that positions and offices in the bureaucracy be filled on the basis of merit and competence alone and not on the basis of connection or relationship. “Thus,” says Han Feizi, “an enlightened ruler uses the law to select men and does not try to select them by himself” (Ivanhoe and Van Norden 2005, 319). Here law refers to the internal administrative rules that objectively determine which candidate best qualifies to fill a position opening. Han Feizi gave special importance to the idea that the impersonal and objective law could be used as a tool for bringing a power-hungry political elite under control. For Han Feizi, good government can bring common people under the control of law quite easily. Conversely, the class of political elites are harder to control, and they are more dangerous. Lord Shang and Shen Bu Hai were not only Legalist thinkers but also active policy makers in their states

during the Eastern Zhou. According to Han Feizi, they each succeeded in implementing their respective parts of a comprehensive Legalist doctrine over the common people and the bureaucracy, but they failed to control the ambitious political class (Ivanhoe and Van Norden 2005, 336-9). Han Feizi's conception of law embraces both Lord Shang's punitive criminal law and Shen Bu Hai's public administrative law. Both can be brought to bear against the unruly political elites. In the first place, Lord Shang's implementation of law involved a feature of equality under the law. The law obtained for all individuals, regardless of their ranks. Secondly, using Shen Bu Hai's administrative rules to make objective selections for government office on the basis of merit and competence undermined the ability of powerful political factions to expand their powers by successfully placing their own people in open offices. Dasan in his practical political philosophy welcomes these two ideas.

When presented at this very high level, we might wonder what could be objectionable to Legalism? Well, for one thing, we might not like how strict Legalism is in the punishment it calls for. Han Feizi illustrates just how strict the law can be:

Marquis Zhao of Han once became drunk and fell asleep. The Steward of Caps, seeing that his ruler was cold, placed the Marquis' cloak over him. When Marquis Zhao awoke he was pleased by this, and asked his attendants, "Who covered me with my cloak?" His attendants replied, "It was the Steward of Caps." Consequently, the ruler punished both the Steward of Caps and the Steward of Cloaks. He punished the Steward of Cloaks because he felt the man had failed to fulfill his appointed task, and he punished the Steward of Caps because he felt the man had overstepped the bounds of his position. It was not that the Marquis did not dislike the cold, but rather that he felt that the harm that comes from ministers encroaching on each other's office is even greater than the harm that comes from being cold. (Ivanhoe and Van Norden 2005, 325)

Scholars normally think that the stewards would have been executed, and our modern intuitions tend toward thinking that this flies in the face of the principle of proportionality between the crime and

the punishment. It also violates *mens rea*, the legal principle that a wrongdoer must have knowledge that the act is wrong and intention to do wrong in order to be culpable.<sup>9</sup> Classical Legalism guided the Qin dynasty First Emperor into his conquest of all the other states of the Warring States Period and the establishment of a unified centralized Chinese state. The Qin dynasty with its harsh Legalistic outlook lasted only from 221-206 BCE and was replaced soon thereafter by the Han dynasty, which gave official recognition to Confucianism as the guiding thought of state. The Qin dynasty was remembered negatively thereafter, and its strict and harsh Legalistic techniques became the objects of hatred. As was noted above, the great emperor, King Wen of Han, eliminated three of the five traditional punishments. It is a mistake, however, to think that Legalism was completely eclipsed by Confucianism and disappeared entirely thereafter as a mode of thought in Chinese political affairs. In fact, the Han dynasty, and all dynasties thereafter, incorporated a good deal of Legalist thinking into their political outlooks. The Chinese understanding of the state is probably best conceived, as Dingxin Zhao has recently shown, as “the Confucian-Legalist State” (See Zhao 2015). It should be remembered, as noted above, that perhaps the most preeminent of Neo-Confucians, Zhu Xi, called for the return of implementing strict and harsh punishments and the resumption of the three traditional punishments forbidden by King Wen of Han. Interestingly, it is on this point of strict and harsh penalties that Dasan is least likely to follow the Legalist lead.

If Dasan did embrace some form of or aspects of Legalism, how did he come to do it since as Hahm shows, Legalism had such a negative reputation among the elite *yangban* 兩班 class of Korea? Setton sets out for us a very detailed narrative list of intellectual influences on Dasan. I will refer to two of these. First, Dasan took as one of his major influences, the great Korean Silhak philosopher Yi Ik 李瀾. Setton writes:

<sup>9</sup> Han Feizi might defend himself on the point of knowledge in that the duties of office ought to be strictly set out and promulgated to officeholders, but the intentionality component seems to me to just be a blind spot or a willful repudiation of ordinary moral intuitions in the Legalist's program. I would like to thank Philip J. Ivanhoe for calling my attention to the *mens rea* problem in addition to the proportionality problem.

“Two members of the school of Yi Ik, both of them prominent figures in the Southerners faction, became the most outspoken critics of [Zhu Xi’s] views in the late [*Joseon*]. One was a student of Yi Ik, and the other was [Dasan], an avid reader of Yi’s writings” (Setton 1997, 47). Following Yi Ik, Dasan entered into criticism of the orthodox Cheng-Zhu Neo-Confucianism of Zhu Xi. The Silhak movement that Dasan became associated with admitted a tolerance and openness to other controversial modes of thought including Western ethical and scientific ideas and even Christianity. William Shaw points to a particular direction that this openness takes:

The Shilhak<sup>10</sup> or “practical learning” encyclopediast Yi Ik (1681-1763) . . . explicitly declared his affinity with the legal thought of Han Feizi, though he did not go so far as the famous legalist thinker in downgrading the role that moral example and instruction might play in government. (Chun, Shaw, and Choi 1980, 21)

Here we see that Dasan’s philosophical mentor and teacher, Yi Ik, had already found value in the culminating figure of classical Chinese Legalism: Han Feizi. Dasan’s project and sympathies caused him to be open to Legalism and to incorporate elements of Legalism into his thought while trying desperately to remain in an enlarged Confucian camp. He finds something harmful in the way that traditional Confucian anti-Legalism developed in Korea. Bong Duck Chun draws our attention forcefully to these harms:

Since laws were merely tools to govern the lower-class people and the uncivilized barbarians around China, they were not deemed of importance by the *yangban* as objects of interest or worthy of study. In the words of the Tang poet Su Shih who held the law in proud disdain, “read ten thousand books but not the law.” Reading books on law was not something which *yangban* gentleman did. Officials responsible for legal matters were selected on the basis of examination; not the civil service examination (*Mungwa*), the literary examination which was monopolized by the *yangban* class, but one of several miscellaneous

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<sup>10</sup> I follow their dated Romanization of Silhak here.

technical examinations. Only those who passed the literary examination could rise to the high-ranking posts of government. Those who passed the legal examination were limited to the technical posts below the sixth degree of official rank. Thus, the *yangban* class did not have to study law and indeed did not seek to do so . . . this contempt of law and lack of interest and legal studies on the part of the government in class created a political environment in which laws could be ignored with impunity by the *yangban*. The many cases where peasants or merchants were confined and privately punished in *yangban* houses show that the *yangban* lived outside the law. (Chun, Shaw, and Choi 1980, 11-2)<sup>11</sup>

Dasan, then, saw that political elites used traditional Confucian anti-Legalism to justify impunity to punishment for the *yangban* class while also authorizing oppression toward the common people. A passage of the *Liji* reinforces this attitude: “The rules of ceremony [*li*] do not go down to the common people. The penal statutes do not go up to great officers.”<sup>12</sup> Dasan would certainly have been aware of this passage. As I pointed out at the beginning, Setton points to Dasan’s unprecedented confidence in the common people. The Legalists teach that the law should apply equally to all people, even to ministers. Shang Yang was so committed to this idea that he directed punishment for wrongdoing toward the crown prince of the state. That move cost him his life. Dasan synthesized Legalism with Confucianism because he saw Legalism as a means to elevate ordinary people.

When he sets down his views on local administration in *Admonitions on Governing the People*, Dasan intentionally laces the text with Legalist sensibilities. He often and extensively quotes directly from the statutory legal codes: the *Gyeongguk daejeon* 經國大典 (National Code), the *Sok daejeon* 續大典 (Supplement to the National Code), the *Daejeon tongpyeon* 大典通編 (Comprehensive National Code), and the *Da Ming lu* 大明律 (Great Ming Code). He disparages the fact that in his day, the

<sup>11</sup> I think that the Su Shih of this passage is actually a Song dynasty poet. I thank my reviewer for this catch.

<sup>12</sup> 禮不下庶人, 刑不上大夫.

The translation here is from James Legge (n.d.-b). Again, I would like to thank Philip J. Ivanhoe for calling my attention to this poignant passage of the *Liji*.

strict execution of the law in public operations has fallen out of service, and that recently developed customs run contrary to the statutory law. In Legalistic fashion, he maintains that appointments to public office should be matters entirely decided by the law and should not be matters at all of personal connection. Because the law itself has decided in favor of a candidate, Dasan holds it to be improper to express gratitude to the personnel officials for granting the office. One law that has fallen out of fashion is that magistrates in accord with the National Code itself, are to be formally tested on the content of the statutory codes. This neglect illustrates what Hahm and Chun noted above, the *yangban* class disdained the law, so they did not study it, and they evaded it with impunity. Dasan calls for reinstatement of the examination of magistrates in the national laws and the Ming code. He says that magistrates should always keep a copy of the Great Ming Code on hand as well as a copy of the Comprehensive National Code. “Every time he discharges his duty,” he says, “the magistrate must be mindful of the national law and must never do things that transgress the law” (Dasan 2010, 156). He directly takes on the disdain of the *yangban* class in studying the law:

The study of legalism is generally regarded as vulgar. However, it was legalism that provided Gao Yao with the means to establish virtues among the people; “The Announcement to the Prince of Kong” and “The Marquis of Lu on Punishments” also reaffirm the same; it was also one of the curricula taught in the school of Confucius; thus, Confucius often praised his disciple Zilu for his ability to solve an imprisonment case with a single word. When Confucius served in the court he originally started as vice minister of justice and rose to minister of justice, which means that he took charge of criminal justice. (Dasan 2010, 724-5)

Here again in *Admonitions* we see Dasan referring to the “Marquis of Lü on Punishment” document from the *Book of Documents* with its endorsement of law and punishment as a blessing.

Dasan sees the law and punishments as a protective and equalizing institution that benefits the common people. In a very interesting and idiosyncratic reading of *Analects* 2.3, Dasan in the *Analects of Dasan* (*Noneo gogeumju* 論語古今註) rejects the received interpretation that

Confucius means “keep them in line”<sup>13</sup> with punishments and ritual, respectively. Confucius uses the character *qi* 齊, which is translated here as “keep them in line.” The character is a stylized pictograph of heads of grain growing in a field all at the same height. Dasan says of this character:

I supplement as follows: *Qi* 齊 . . . means to even the tops of things out. Punishments are a means of punishing evil, and ritual propriety is a means of preventing wantonness. They are comparable to trimming things to make them even, when they grow out in a disorderly manner. (Dasan 2016, 88).

Dasan sees the law as a leveling instrument, and he treats it that way in the *Admonitions*. In the section on the administration of justice, he reiterates time and again the disadvantages common people have and the advantages the rich and powerful have before the law. The wise and virtuous magistrate takes measures to level these relations. He goes so far as to say that if magistrates will take time to do their own independent investigations of the cases, in many instances they will discover that the wealthy and the powerful stand deserving of punishment. On Zhu Xi's account, the law and punishments are to be used to keep the common people in line, but on Dasan's really rather revolutionary account, the law and punishments are used as a leveling device of Korean social hierarchy. Going back to the image from the “Marquis of Lü on Punishment” document of the shepherd of Heaven, Dasan says, “The duty of the magistrate lies in repelling the wolves and wild dogs in order to save the sheep.” He calls for severe punishment for official misconduct in those matters that affect “the welfare of the people” (2010, 740).

Contrary to Setton's intimation about anti-Legalism, then, but in keeping with the humanistic spirit he observes, Dasan explicitly embraces Legalism in the *Admonitions on Governing the People*. He does

<sup>13</sup> This is Slingerland's translation (2003, 8). Lau (1979, 63) also uses, “keep them in line”; Legge (n.d.-c.) says, “uniformity sought to be given”; Waley (2000, 80) gives it as “keep order among them”; and in his English translation of Confucius for the *Analects of Dasan*, Kim (2016, 87) renders it as “Keep them orderly.”

so by giving a vigorous endorsement of the law, by stipulating severe, moderate, and light punishments, and then applying them consistently in a way that the people can know what to expect from the law. He also advocates equality under the law, and following Han Feizi, he professes using the law as a means not so much primarily of keeping the people in line but rather of controlling the *yangban* class of political elites. Dasan has finished out his case for the importance of the law by making an appeal to practical considerations. In practice, the neglect of the law has led to social conditions for common people that are out of harmony with Confucian ideals. The practical solution is to reinvigorate the existing law and universalize its application. With respect to the third gauge, then, Dasan believes quite plausibly that neglect of the penal law and unequal treatment have led to harms in Korean society and will continue to do so. Thus, the third gauge like the other two before it, give warrant to the claim that the penal law has a valuable role in Confucian society.

#### IV. Dasan Parting Ways with Zhu Xi

While endorsing a significant part of Zhu Xi's philosophy of law, Dasan in accepting these aspects of the Legalist program parts ways with Zhu Xi in two important areas. The first of these is in the well-trodden area of rejecting Zhu Xi's metaphysics of human nature. Zhu Xi's answer to why people behave wickedly when they contain *li* 理, the ultimate cosmological principle within them, is that *li* finds itself embedded in individuals of varying qualities of *qi* 氣, the material element or "vital stuff."<sup>14</sup> An individual's *qi* might be clear or turbid, and this individuated quality will serve to either reveal or obscure the *li* within. For Zhu Xi,

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<sup>14</sup> The central Neo-Confucian notions of *li* and *qi* are two more extraordinarily rich Chinese concepts that are difficult to get into English. JeeLoo Liu translates *li* as "principle." Angle and Tiwald translate it as "pattern." Liu translates *qi* as "cosmic energy," and Angle and Tiwald translate it as "vital stuff." They note that its original meaning was "breath," but Neo-Confucians expanded it. See Liu (2018, 5-11) and Angle and Tiwald (2018, 23-48). I rendered *qi* here as "material element," which, while intuitive for Western readers, is just not quite broad enough. I have added Angle and Tiwald's "vital stuff" which is broad but a little colloquial. Liu's "cosmic energy" is the limited complement of matter.



the law helps to remove the obscuring *qi* for an individual. Dasan rejects the Neo-Confucian metaphysics here while accepting the value of law's role. We can infer from the emphasis of law, that his view of human nature must include the idea that humans are able to reasonably respond to the law. The Legalists also, of course, have a view of human nature, and it is one in which humans are readily able to respond to the law. The Legalist vision sees humans as strongly egoistic, and thus they follow the law to avoid the pain of punishment. None of the Legalists think that human nature can be altered very much. Along with Zhu Xi's metaphysical understanding of human nature, Dasan also rejects this Legalist alternative vision of human nature that explains how humans can be responsive to the law. Dasan held that humans are endowed by heaven with spiritual capacities that allow them to be cultivated and improved. He differentiates autonomous humans from animals on the basis of their ability to make moral choices.<sup>15</sup> The law pertains to human beings in that they can choose not to abide the law in response to their desires, but they are *responsible* for their choice. Animals, on the other hand, he says, "cannot do other than they do" (as quoted in Setton 1997, 83; from *Mengja youi* 孟子要義 2:19a). Punishment reflects responsibility. The law also helps cultivate humanity by aligning their choices in such a way as to bring harmony.

For Zhu Xi, the law mostly functions to help clarify the internal vision of *li*, but he also makes a straightforward consequentialist claim. Although all people have *li* within them and could presumably with enough cultivation remove the obscuring *qi* enough to realize that *li*, some violations of law are so heinous that a person with realizable *li* within them must be executed. The reason for this is that the *li* within society must be preserved. Law functions, then, to help in the clarifying process, but also to consequentially preserve the social order. This outlook is very much in keeping with the idea that the law pertains to the lower classes, but the elites can cultivate themselves using ritual. Dasan, on the other hand, thinks it is important to impose the law on political elites. The law is an equalizing force, and it functions to protect the common people from the wealthy and the powerful.

<sup>15</sup> See Setton's discussion of Dasan on autonomy (1997, 83-5).

## V. Conclusion

While staying within the parameters of Confucianism, Dasan has given a three-part evidentiary claim about the social importance of law. In the first part, he makes an appeal to ordinary understandings as contained in the written language. These understandings can be elucidated by philologically attending to the etymology and paleography of the moral concepts under consideration. In the second part, he appeals to the cultivated understandings of the sage kings and other wise leaders. These are elaborated in the canonical narratives. Finally, he makes an appeal to what we find in practical affairs. Using his own experience and observations as a magistrate and his observations of common people in his exile, he shows the practical difficulties faced by ordinary people in his Confucian society that neglects the study and application of the law. His proposed solution to these practical difficulties involves sustaining and universalizing the application of the law. He gives numerous examples to show how this can be effective. In this three-part evidentiary approach, Dasan parallels the classical Chinese philosopher Mozi in his three evidentiary standards. Mozi teaches that what ordinary people have seen counts as a standard, what the sage kings have seen counts as a standard, and finally whether a practice yields results also counts as a standard. On considerations in which all three standards are met, one can be quite certain of the correctness of the point under consideration. Dasan's standards are not strictly similar to Mozi's, but they are close parallels. Instead of focusing on what ordinary people have seen, Dasan focuses on what they have understood. The same relation holds for the sages. Dasan takes a sophisticated approach to demonstrating the practical effects of a policy. For Dasan, all three standards align in support of the importance of law.

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