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Proud Vermin: Modern Militias and the State

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ABSTRACT





Contemporary arguments about private paramilitary organizations often focus on the threat of physical violence that they pose to the state: if such organizations garner enough physical power, then they can overtake the state via violent coup. Inspired by the legalist scholar Han Feizi's position, we contend that such organizations also represent a sociopolitical, existential threat to the state. Specifically, their tendency for ideological expansion and subsequent gathering of political influence undermines state institutions, even without the use of overt physical force. Consequently, the sociopolitical enterprise of having a unified, stable state is incompatible with the existence of, and public political support for, private paramilitary organizations, regardless of their actual or potential physical power. This argument succeeds regardless of the moral status of such paramilitary groups. Such groups, when they match the essential components of the description Han Feizi provides, are practically and politically antithetical to the integrity of the state.

KEYWORDS

Militias; PMSCs; paramilitary; Han Feizi; comparative philosophy

Introduction

In the third century BCE, the legalist scholar Han Feizi devised what was functionally a political hit list that targeted certain sorts of people and roles thought to jeopardize and undermine the integrity of the state. Along with scholars, charlatans, and deceptive courtiers, Han Feizi singles out for elimination “private swords” (i.e., mercenaries) due to their “gathering groups of disciples and establishing codes of integrity with the aim of making names for themselves while transgressing state prohibitions.” As these mercenary groups rise, they pull citizens out of both the workforce and the entrenched political institutions and culture, facilitating mass disruption of stately order. What is worse, Han Feizi contends that such practices can occur right under a government's nose, as these private swords are sometimes patronized by prevailing political authorities. Although Han Feizi's lambasting of allowing and supporting mercenary groups is set against the backdrop of an ancient, statist political philosophy, his warnings still apply to states today vis-a-vis private paramilitary groups. A recent example of how such groups prove disastrously disruptive to sociopolitical stability appears in the form of U.S.-based paramilitary organization the Proud Boys, which has styled itself as a “volunteer security force” and received (at least) unofficial

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endorsement from certain prevailing political authorities including former President Donald Trump.

Typically, contemporary arguments about private paramilitary organizations focus on the threat of physical and military violence that they pose to the state: if private paramilitary organizations, or alliances of such organizations, garner enough physical power, then they can literally take over the state via a violent coup (Scahill 2007). Borrowing from and extending Han Feizi's position, we contend that such organizations also represent a distinct sociopolitical, existential threat to the state, regardless of their physical power and capabilities. Specifically, their intrinsic tendency for ideological expansion and subsequent gathering of political influence undermine state institutions, and public trust in such institutions, even without the use of overt physical force. Notably, this argument succeeds regardless of the moral status of such paramilitary groups: be they right or wrong, morally good or morally bad, such private swords, when they match the essential components of the description Han Feizi provides, are practically and politically antithetical to the integrity of the ship of state. Perhaps the ship of state, in some cases, ought to be sunk – but this is a further claim, and one on which we do not focus here. Rather, our point is that the sociopolitical enterprise of having a sufficiently unified, stable state is incompatible with the existence of, and public political support for, private paramilitary organizations, regardless of their actual or potential military power. No state can suffer the existence of private militias of any kind and remain stable.

Han Feizi: against “private swords”

As a prince and scholar of the late (and aptly named) “Warring States” period in China's history (~475–221 BCE), it may come as little surprise that Han Feizi (“Master Han Fei”) is renowned for developing a political philosophy that aims chiefly at eliminating sociopolitical strife and establishing order throughout not only a given state, but also the realm (*tianxia*) at large. To this extent, Han Feizi's philosophy shares much in common with other classical Chinese thought, including ideas found in Confucian and so-called Daoist texts.¹ Yet Han Feizi's project is distinct in its approach to the upheaval of the times in which it was written. Unlike the Confucians, who emphasize the need for moral cultivation and scholarship, or the Daoists, who emphasize adaptive ease and naturalness (*ziran* 自然), Han Feizi's approach might be construed as a realist (if at times brutal) political pragmatism.² Han Feizi argued forcefully that the only way to end the perpetual warring was for a ruler to first establish absolute control of their own state with clearly expressed and consistently enforced laws and standards. This included a system of rewards and punishments doled out according to actual results (as opposed to the mere potentiality or appearance of worthiness, a weakness he attributed to his Confucian rivals).³ Once the state was so clearly controlled, and strong military and agricultural enterprises were established, the ruler could (and arguably should when opportune) seek to expand and subdue political and military risks outside the state (i.e., other rulers and their states). This, according to Han Feizi, was the general method by which a ruler could come to control the realm as a whole and quell unrest.⁴

Among the many recommendations Han Feizi makes for securing one's own state is the elimination (by force, if necessary) of certain occupations or types of person that he sees as inherently disruptive to the orderly functioning of the state. In his “Five Vermin”

(“*Wudu*” “五蠹”) essay, Han Feizi calls out five of the “most wanted” such characters: historians/scholars, foreign speakers/agents, private swords/mercenaries, deceptive courtiers, and charlatan craftsmen. Each of these so-called “vermin” is said to undermine the integrity of the state in a unique and impactful way; for the purposes of this project, we attend strictly to the problems posed by so-called “private swords” (*sijian* 私劍), sometimes also referred to as “cavaliers” (*xia* 俠). According to Han Feizi, such persons pose multiple threats to the state’s integrity: among other issues, they directly disrupt public affairs and standards, undermine the ruler’s ultimate authority, and demonstrate the ineffectiveness of the state’s laws.

Crucially, private swords posed a problem in terms of the very nature of their occupation: they were professional fighters available for hire to anyone with money, meaning that their loyalty to the state relied (at least partly) on receiving economic and other kinds of patronage from the prevailing political authority. Such patronage could also mean that, despite holding no official or courtly position, these swordsmen were often granted legal and sociopolitical exceptions unavailable to other ordinary individuals, including protection from punishment for wrongdoing.^{5,6} While it is unclear if Han Feizi thinks these swordsmen are protected strictly due to a ruler’s admiration or, perhaps additionally, fear of their skills, the fact that their transgressions go unpunished runs counter to one of his major precepts of effective rulership, namely that appropriate punishment or reward should never be remitted.^{7,8} For, if punishment is avoided by being skilled with a sword (or, alternatively, if legal and sociopolitical favor can be earned through having such skills-for-hire), then people will be inclined to take up swords themselves for their own protection and benefit without clear regard for the wellbeing of the state. Such activities will disrupt the state’s order, as people will begin to act only when it is clearly to their benefit, rather than in accordance with the laws and any public, official position they might hold.

Note that, for Han Feizi, it is not the presence of those who are licensed and able to commit political violence that is the problem; rather, it is the presence of those who are licensed and able to commit political violence without holding an official or courtly position. To have those who are both outside of the official state apparatus and who are licensed and able to use physical force as they see fit (without censure by said state) is a recipe for political instability and, if allowed to continue unchecked, political disaster. At a bare minimum, their very existence encourages other private individuals within the state to also take up arms and disregard certain aspects of the law, clearly a deeply problematic political consequence.

Such problems are exacerbated by what Han Feizi takes to be the fundamental incompatibility of the personal codes of honor upheld by private swords and the needs and standards of the state. Han Feizi writes that:

Rewarding the slaughtering of foes while favoring expansiveness and charitableness; awarding titles and prosperity for the razing of cities while purporting the doctrine of impartial care;⁹ hardening armor and rallying warriors for deployment against challenges while ornamenting oneself with beautiful girdles; ... and discarding those who respect authority and revere the law while supporting gangs of wandering cavaliers and private swords: when venerating such things, strong and orderly rule is impossible.¹⁰

Much like other, overtly problematic sociopolitical practices and policies (e.g. hypocrisy in word and deed, trying to reconcile conquest and mercy, inconsistency in

administering laws, etc.), Han Feizi contends that patronizing mercenary groups results in a clash between the authority of the state and the honor codes of the mercenaries. He asserts that such incompatibilities lead to logistical and political difficulties when it comes to maintaining clarity with regard to codes of governance and mobilizing the resources of the state. On the one hand, upholding and advancing independent political-moral stances (the private swords' codes of honor) muddles the ruler's own position. If private swords serve as the ruler's enforcers but express views orthogonal or antithetical to those espoused by the state, then Han Feizi thinks the people will become confused as to what political-moral stances they themselves should adopt and may well take up positions that imperil rather than support the state. On the other hand, the codes by which private swords operate allow them discretion as to when to deploy their skills – it is not simply at the behest of the ruler, but when they choose to accept the commission to intercede on the ruler's behalf. If a commission would have the mercenaries go against their personal code of honor, then they might decline the commission, thus denying the state needed resources. Importantly, such a refusal is perfectly within the mercenaries' purview; unlike the official, public armed forces of the state, private swords are not obliged to obey the military commands of the ruler. They are, for lack of a better expression, wild cards who are free to come, or not, when the ruler calls on them. Consequently, Han Feizi enjoins rulers not to embrace the bravery of private swords, but simply to ensure that the state's public, official soldiers are well-provisioned and appropriately rewarded for service.

Relatedly, Han Feizi warns of a toxic effect that groups of private swords have on otherwise ordinary private individuals, regardless of their physical power or the level of the patronage they actually receive from public officials. He notes that such organizations “gather groups of disciples and establish codes of integrity with the aim of making names for themselves while transgressing state prohibitions.”¹¹ The charismatic nature of cavaliers, coupled with their legal and sociopolitical license and tendency to uphold their own moral codes, is seen by Han Feizi as posing a sociopolitical, existential threat to the state. In addition to their propensity for distorting and undermining prevailing legal arrangements and sociopolitical norms (two core tools of governance), Han Feizi points out that such mercenary organizations have the intrinsic tendency to pull able-bodied persons out of the state's regular workforce. Specifically, these groups provide a charismatic ideological alternative to that of the state proper: people are drawn to the ideals of the mercenary groups and away from belief in and obedience to the prevailing political authority. The nature of mercenary groups, in short, is to gather adherents and grow larger and more powerful over time.¹²

As mentioned already, these mercenary groups may not have the preservation of the state as a primary (or even auxiliary) goal or value. Again, private swords are motivated both by monetary reward and an independent code of ethics; their allegiance does not lie primarily with the state, but with themselves. As such, they cannot be regarded as reliable agents of the state; their tendency is to engender veneration for independent moral-political ideals rather than veneration for the prevailing political authority. This undermines the integrity of the state by lessening the general population's willingness to adhere to its public rule. At worst, an organization of private swords that cultivated enough of a reputation and gained enough supporters (both in terms of active disciples and dependents, and passive tolerance) would be able to establish enclaves

within a given state, and threaten ideological, if not actual revolution (further destabilizing the state). Thus, Han Feizi concludes, private swords and their groups ought to be considered “vermin,” infestations that must be exterminated to secure order in the state.

Mercenaries and militias in the twenty-first century

Han Feizi’s arguments against permitting private swords extend from his broader commitment to an early form of statism, in which the ruler’s power and authority must be considered absolute and legitimate beyond question.¹³ This, Han Feizi argues, is the only way to ensure that the state can be maintained amidst the chaos of the Warring States period: without a strong central authority and total popular compliance with the mandates of said authority, the state is liable to crumble in the face of internal divisions and external challenges. Ordering and preserving the state should be the primary (and perhaps only) goal of government; all other responsibilities are secondary at best.

Despite ongoing conflicts worldwide, we are arguably a far cry from the turmoil of the Warring States period. New technologies have helped to mitigate problems of resource shortages, the evolution of trade has helped to link formerly disparate communities, and the rise of the modern state has displaced feudalism. One might wonder, then, whether Han Feizi’s highly directed argumentation against private swords is too context-specific to be useful; that is, absent his particular political and social structure, are his arguments applicable today?

We submit that, despite the flaws associated with Han Feizi’s larger project, there are reasons to take seriously his rejection of private swords and apply his rationale to modern-day paramilitary groups. Specifically, we argue that Han Feizi raises legitimate concerns regarding the ideological, existential threat that such groups pose to the socio-political enterprise of maintaining a modern state. Private paramilitary organizations that combine specific codes of conduct with the belief that such codes, rather than the law, have ultimate authority to dictate their actions, and that have a willingness and ability to use physical violence in defense of their beliefs and codes, represent a challenge that the state, to maintain its political dominance, cannot abide. To put the point abstractly, these conditions are jointly necessary; when all are present, the state’s persistence as such comes under an imminent and unique threat. It is not just the threat of physical force that is doing the work here, or the presence of private, possibly anti-state ideologies; it is the combination of a tight-knit, organized group that shares an ideological code, a belief within the group that their ideological code trumps the law, a willingness and ability to physically fight on the basis of and for that code, and implicit or explicit political support, or at least tolerance, for that group.

In our contemporary world, such groups take the form of private military or security companies (PMSCs), paramilitary organizations, or militias. Although such organizations are common and so are often overlooked by the public, as Han Feizi foresaw, they have proven to be notoriously difficult to either define or politically and legally regulate. For the purposes of this project, we adopt the following account of paramilitary groups,¹⁴ including militias, which identifies such organizations as those that both retain private, rather than public, standing vis-a-vis the relevant state or states, and that are engaged in (at least a majority) of the following practices:

1. Maintaining local defense.
2. Upholding law and order.
3. Violating human rights and fostering insecurity.
4. Controlling security in weak states.
5. Recruiting members from local communities.

We acknowledge that the concept of “militias,” in particular, is subject to scrutiny; as of this writing, how best to conceive of militias, and whether there can be legal or illegal militias, remains a matter of debate.¹⁵ Nonetheless, we regard this account as succinct enough to give an adequate (albeit contentious) description, while remaining sufficiently broad so as to encapsulate the intuitive, everyday understanding of such paramilitary groups.

Furthermore, we also acknowledge that PMSCs, while arguably more easily conceptualized, engage in a wide variety of practices that extend beyond contracting with the government to engage in armed combat. As Don Mayer (2009, 389) notes:

Private security companies can be either armed or unarmed companies; some protect people (as with Blackwater’s mission for the State Department in Iraq), and some protect a perimeter or specific place or group of things (oil wells, for example). Then there are security sector reform and development companies that provide long-term solutions for the problems of weak or failing states; these companies will do training for militaries, border guards, and prison guards, and may rebuild education systems or other critical public infrastructure.

This is helpful, as it clarifies the broad extent to which a private organization may be said to serve as a security company (volunteer or otherwise). It also fits nicely with Han Feizi’s account of how mercenary groups are not merely fighters, but organizations that establish their own non-combat missions and concomitant ideologies, functionally creating a microcosm of culture and control within, but formally separate from, extant prevailing political entities.¹⁶ To take a quick historical example, consider the Chicago mob run by Al Capone during the 1920s and 1930s. Individual Chicagoans famously began turning to their local mob members for protection, rather than to the ineffectual Chicago police and local political structure. While Al Capone never outright staged a coup, his private security organization supplanted public structures to the extent that the Chicago mob organized and opened some of the first soup kitchens and breadlines at the beginning of the Great Depression.¹⁷

At present, scholarship on the difficulties posed by paramilitary organizations (be they militias or PMSCs) focuses primarily on the challenges that such entities pose to *jus ad bellum*, *jus in bello*, and *jus post bellum* obligations and concerns (e.g. Baker 2011; Barnes 2017). In particular, in the wake of Abu Ghraib and other incidents, there are many questions regarding the accountability of paramilitary organizations engaged in war crimes or potential war crimes. As Mayer (2009, 390) observes,

As yet, there is no international or regional claims tribunal that would have jurisdiction. Consequently, much of the litigation has taken place in U.S. courts, where plaintiffs (often military personnel, U.S. civilian contractor employees, or Iraqi nationals) have filed actions against U.S.-based PMSCs or their individual employees, whether based on U.S. law or international law. In U.S. courts, defendants have many available defenses whether the action is based on intentional or negligent tort. These include (among several other arrows in the defense attorney’s quiver) the “state secrets doctrine” [and the “political question doctrine”].

Especially in the U.S., paramilitary organizations are often given generous opportunities for distancing themselves from charges of international or domestic crimes or atrocities. For example, so long as a PMSC's actions are sufficiently tied to those of the U.S. government, the company's actions may be granted functional immunity from any civil liability.¹⁸ Any foreign or international legal action, by contrast, would require extradition or cooperation between the U.S. and a foreign body or bodies and, as of this writing, the U.S. government has almost unfailingly protected its contractors.¹⁹ Even beyond the U.S., the exact status of paramilitary organizations remains murky at best in international law. Consequently, the fact that such organizations pose the domestic and international legal and political problems that they do should come as no surprise. These destabilizing effects of paramilitary organizations on international and domestic rule of law are relatively obvious and showcase Han Feizi's concern about the immunities and special permissions that tend to be granted to such groups by states which fail to see the inherent sociopolitical dangers of said groups.

Importantly, PMSCs not only threaten international and domestic rule of law; they also, in line with Han Feizi's warning, pose ideological threats to the modern state. These groups operate in an extralegal, paramilitary capacity, and are built on or around core systems of values and beliefs that, regardless of whether they align with extant political authorities, undermine obedience to said authorities. They thus present an independent ideological alternative, and so have the inherent tendency to disrupt, corrupt, fracture, or even dissolve states from within. Disruption, corruption, fracturing, and dissolution of this sort are achieved by the confluence of phenomena and conditions described earlier: paramilitary organizations draw material and human resources away from the state in general, nonviolently and violently enforce their own codes of culture and beliefs, and may do so with impunity when patronized or tolerated (even if temporarily or unofficially) by powerful political benefactors. To see this, consider the post-2014 destabilization of Iraq by non-state entities such as Al-Qaeda and Daesh²⁰ and the subsequent rise of militias in the region. As documented by Rached and Bali (2019, 220–221), following the rise of Daesh in many of the Sunni-dominated cities of Iraq and the effective defeat of Iraq's official military and security forces,

the former Iraqi government [was forced] to ask Shia cleric Ali Sistani to make a Fatwa ... calling the young Shia in ... Iraq to fight against ISIS under the authority of the popular mobilization forces. That made it possible and legitimate for the creation and spreading [of] non-state armed Shia groups in Iraq. By controlling the state institutions, [these groups] became an important umbrella for ... most Shia political parties and now through joining the[m], the Shia politicians provide [garner] popular support among Iraqi Shia ... [This] opened the door for the creation and spread of militias in order to fight the ISIS hazard. Now, these armed groups are acting as state representatives, and to a great extent, they challenge Prime Minister Haider Abdi's cabinet.²¹

While such militias have been at least marginally successful in driving out Daesh forces from Shia-dominant cities and subsequently protecting those municipalities, they have also persisted as standing entities and expanded their role from mere peacekeeping to either taking control from, or standing in place of, local and regional political institutions. This arrangement, in turn, obstructs the very possibility of any political stability or unity that could be achieved under a broader Iraqi government. Their presence prohibits a coherent or cohesive state.

Moreover, in addition to establishing control (i.e., a kind of pseudo-sovereignty *a la* Al Capone) in their respective territories, the Shia militias rely heavily on private violence and ideological suasion (for instance, Shias turning to the popular mobilization forces rather than the Iraqi government for guidance) as a *modus operandi*. The concomitant political turmoil has further plunged the region into chaos. Again, this is exactly the result that Han Feizi predicts should prevailing political authorities promote, patronize, utilize, or even tolerate militia or mercenary groups: by empowering such organizations to enact violence on behalf of their own ideological code and to operate with (even relative) impunity and license, these groups are effectively unleashed to do as they please. Consequently, the supplantation of any extant political authority is virtually inevitable, and the state (as formally known) collapses, or at the very least loses its monopoly on *de facto* and *de dicto* authority and force.

The recounting of Iraq's recent decline into military and ideological turmoil supports Han Feizi's principled condemnation of paramilitary organizations. Nonetheless, one might push back that while such groups pose both forceful and ideological existential threats in states that are already precariously positioned, more established states, perhaps especially democratic states, might be less susceptible to the dangers that paramilitary organizations pose. After all, one might think that states strengthened and stabilized by the rule of law and democratic norms will be able to easily absorb, de-fang, or, if necessary, dismantle such groups on the basis of their actions. In our penultimate section, we argue that such hopeful expectations are unsupported by recent sociopolitical events. Using the Proud Boys as an example, we argue that the threat posed by paramilitary organizations, as outlined by Han Feizi, persists even in a country like the U.S.

The Proud Boys: modern "vermin"

The Proud Boys was officially established in 2016 by VICE Media co-founder Gavin McInnes, who initially described the group as a fraternity/drinking club of "Western chauvinists who refuse to apologise [*sic*] for creating the modern world, [who] long for the days when 'girls were girls and men were men'."^{22,23} At first glance, the organization might be construed as little more than a social organization and outlet for certain strains of conservative, traditionalist, and misogynist thought.²⁴ A deeper dive into the community's core tenets and organizational structure, however, reveals a complex, tribal, and militant order. As introduced in *Proud Boy Magazine*, the thirteen core tenets of the Proud Boys include:

minimal government, maximum freedom, anti-political correctness, anti-drug war, anti-masturbation, closed borders, anti-racial guilt, anti-racism, pro-free speech, pro-gun rights, glorifying the entrepreneur, venerating the housewife, and reinstating a spirit of Western chauvinism.²⁵

Even without delving into the content of the individual tenets, this standing ideology alone entails an organization far more structured and directed than a meandering social drinking club. Clear political stances and constraints on personal, interpersonal, and social behavior suggest something more akin to a distinct sociopolitical group with a prevailing ideology of the sort that Han Feizi depicts in his account of private swords. What is more, much of what is professed in the Proud Boys core tenets is at

odds with the liberal democratic culture (or, at least, the official political culture and structure) that is (arguably) established in the U.S. Constitution.²⁶

This understanding of the Proud Boys as a structured group with a distinct ideological code of conduct and propensity to use violence in service of that ideology is reinforced by considering the organization's membership and hierarchical criteria. The American Defamation League (ADL) has detailed levels one through four as follows:

To attain level one, an initiate must publicly state: "I am a proud Western chauvinist, I refuse to apologize for creating the modern world."

To reach level two, the initiate must endure a beating by his comrades while reciting the names of five breakfast cereals. This is ostensibly to demonstrate "adrenaline control."²⁷ ...

To achieve the third level, an initiate must get a Proud Boys tattoo. ...

Finally, the fourth level, which McInnes did not describe in the foundational document, is an honorary degree awarded for "a material sacrifice or service by a brother." McInnes said in an interview that the fourth degree is awarded for "a major fight for the cause. You get beat up, kick the crap out of an antifa."²⁸

The clearly ritualistic nature of many of the requirements to ascend through the membership ranks, as well as the permission and endorsement of ideological claims in conjunction with physical violence, reflect the fact that the Proud Boys' structure and aims extend beyond what might be conventionally thought of as a club. Rather, it is a microcosm of culture unto itself that operates within, but separate from, the prevailing political authorities, and that appears to refuse to recognize the law as ascendant. As such, it is plausible to state that the Proud Boys' social and political influence is to corrupt, undermine, or erode the official sociopolitical structure and the public's general adherence to it.

Still, one might not be convinced of the danger such a group poses: the bigotry of the Proud Boys might be construed as solely a moral issue, rather than a legal or political one, and their predilection for violence might appear as little more than a willingness by individuals to engage in combat, rather than as the directed group efforts that one might associate with militias and other paramilitary organizations (such as the mob or the Iraqi militias described above). While the Proud Boys could be decried as (morally) deplorable, they might not be thought to pose any credible military threat to the integrity of the state. After all, the U.S. military is more than a match for even well-organized and well-funded illiberal gun enthusiasts. Moreover, it is not within the (liberal) state's purview to police morality; so, the state has no business policing such an organization based on its mission alone. To the extent that individual Proud Boys act illegally, the state is well able to respond swiftly and effectively in its own and its members' defense.²⁹

While it is true that the Proud Boys are not officially (self-)described as a militia or paramilitary organization, they meet the relevant criteria. Notably, and despite their public-facing presentation as something akin to a social club or advocacy group, the Proud Boys are well-documented as organizing, inciting, and engaging in violence against their declared enemies. It is common for members to refer to rallies and demonstrations as "battles," such as the "Battle for Berkeley" or "Battle of Portland," and to depict themselves not simply as persons exercising their rights to assembly and speech, but as warriors in a righteous, necessarily violent campaign (Bacon 2019; Jeong 2020; Veklerov, Johnson, and Tucker 2017). Such language and depictions

ensure that the group maintains an appearance that is, on the one hand, distinct from those they regard as foes (e.g. “antifa,” “SJWs,” etc.) and, on the other, situates them as heroes in their pro-white, pro-patriarchal, anti-liberal narrative of “defending the West.”³⁰ Lest such language be regarded as empty or hyperbolic, Proud Boys members and associates have acted on this ethos in a variety of incidents. A report documenting the recent Portland protests recounts how

... the Proud Boys joined a group of right-wing demonstrators who rushed across a street and began attacking people who had set up a leftist counterprotest. At one point, a large man in a bulletproof vest knocked a much smaller counter-protester to the ground, an event the Proud Boys celebrated later when they posted video of the attack. “Hulk smash!” it said (Bernstein 2018).

Such street violence matches other militant, oppressive tactics by Proud Boys members. Samantha Kutner, recounting the testimony of a bartender involved in a recent Proud Boys incident targeting women, notes a focus on practices of doxing, cultural appropriation, triggering victims, and otherwise provoking persons and groups with views opposing their own into some form of confrontation (Kutner 2020, 11). The use of warlike rhetoric, classifying “others” as “enemies,” and employing tactics of targeting and confrontation are not only accepted within the Proud Boys ranks, but actively encouraged. What is more, it is used to help bolster their ranks and spread their influence, drawing otherwise ordinary individuals to their oppositional, subversive, violent organization and ideology that is, by its very nature, antithetical to the aims and integrity of the state. Regardless of whether the Proud Boys see themselves as representing an ideological existential threat to the state, they nevertheless are one: as Han Feizi points out, the combination of ideological insularity and capture, violence, and a refusal to give unto Caesar what is Caesar’s, opposes – or at the very least works to supplant – the state itself.

Given this active, systematic engagement in ideologically-driven, violent altercations (Wilson 2018b), the Proud Boys cannot be regarded merely as a gang of rabble rousers or individual bad apples. Indeed, several organizations, including the American Defamation League (ADL), Southern Poverty Law Center (SPLC), and Armed Conflict Location and Event Data Project (ACLED) have designated the Proud Boys as a radical hate organization, a subset of which have further argued that the Proud Boys ought to be classified as a terrorist group.^{31,32}

Perhaps most damning is the fact that the Proud Boys possess a “tactical arm” of their operation. This subgroup, called the Fraternal Order of the Alt-Knights (FOAK), is both more militant and more overtly bigoted than the mainline Proud Boys group but is, nonetheless, still a part of the organization.³³ With the founding of FOAK, the Proud Boys moved from demonstrating and brawling to being a more overtly paramilitary organization. Reportedly, they actively train for urban and rural combat environments (ACLED 2020) and engage in volunteer security operations.³⁴ For example, the 2017 incident in which Proud Boys members descended on Islamberg (Tompkins, NY), caravanning through the hamlet while intimidating the local Muslim community, was billed as an act of “Homeland Security,” with members acting under the (false) impression that the community was a hotbed of radicalization (Kutner 2020, 5, 12). Given these organizational features, it is reasonable to conclude that the Proud Boys meet not only the general criteria of a modern paramilitary organization, but also Han Feizi’s criteria for

a mercenary group. The Proud Boys organization functions (a) as a militia or militia-like entity within the borders of the United States, whose (b) ideology effectively disrupts or upends societal order by undermining the general population's acceptance of the prevailing political authority and culture, and which is (c) supported or at the least tolerated by extant political powers.

Regarding the support of extant political powers, it is widely accepted that the Proud Boys are championed, rhetorically and otherwise, by past U.S. President Donald Trump and his political and social associates. The Proud Boys look on Trump as a lightning rod,³⁵ with Trump's particularly symbolic language of a mythical "West" that is "worth defending with your life" providing a source of "empowerment for warlike mass action aimed at reinforcing a universalized white, male, heterosexual, and entrepreneurial political subject ... exemplify[ing] how demagoguery motivates individuals to engage in warlike militancy" (Vitolo-Haddad 2019, 281).³⁶ The Proud Boys see Trump as, at least rhetorically, endorsing the crusade outlined in their aforementioned core tenets. What is more, they and others view Trump as endorsing not only their aims, but also their more violent means.³⁷ A Proud Boys member who identifies himself as "Joe Biggs" on Parler expressed that Trump's words "basically said to go fuck them up! this makes me so happy" (Coaston 2020). Trump's language thus serves as patronage insofar as it furthers and legitimizes the ideals, attitudes, and activities of the organization.

A thorough analysis of the rhetoric of Trump, associated conservative U.S. politicians, and the Proud Boys, including their shared proclivity for spreading misinformation and conspiracies,³⁸ helps to further elucidate this connection. Indeed, Kutner points out that much of the Proud Boys' behavior mirrors the tendencies of Hitler's *Sturmabteilung*. The Proud Boys have: (1) provided protection to far-right speakers and provocateurs; (2) disrupted events by feminists, democratic socialists, and women's marches, among other opposing parties; and (3) intimidated marginalized communities through rallying, stalking, violence, frivolous litigation, and mass reporting campaigns (Kutner 2020, 13). Such behaviors highlight how quickly paramilitary organizations, however minor, can expand to serve much more nefarious purposes if given political patronage or even toleration (against this backdrop, "stand back and stand by" becomes a highly disconcerting statement). Assuming Kutner's comparison to the *Sturmabteilung* is apt, and the links between grassroots paramilitary organizations and sociopolitical degradation are well-founded, then the association between the Proud Boys, Trump, and other conservative U.S. politicians is worthy of concern.

As observed by ACLED, militia groups like the Proud Boys have come to overwhelmingly pledge their support to Trump and his chosen successors, consorts, and allies, despite their general antifederalist sentiments, with the aim of preserving and advancing the particular culture, ideology, and narrative they see them endorsing. These groups are not merely posturing: the Proud Boys and other such groups are already engaged in paramilitary activities, some of which exceed the previously recorded cases of brawling and rioting and move into conspiratorial or coup-like operations.³⁹ While Trump has continuously fallen short of explicit calls for the Proud Boys and other such groups to rise up as his own personal army, his, and his consorts', apparent endorsement of their violent methods and aims sets the stage for the sort of political upheaval predicted by Han Feizi (as reflected by the violent and illegal disruption of the certification of electoral votes on January 6, 2021).

Following Han Feizi's point, we should worry that political patronage for, or even unofficial toleration of, paramilitary organizations will inevitably affect the political stability of the U.S. Just as cleric Ali Sistani's fatwa against Daesh spurred the formation of Shia militias and the subsequent cascading political collapse in Iraq, so too can conservative U.S. politicians' official or unofficial endorsement of militias lead to armed insurrection in U.S. streets.⁴⁰ It is clear that such groups pose credible threats to national security and the integrity of the state. Their members commit violence in public, yet their threats are defended as jests and their bullying, doxing, and violent provocations are protected. Even in the wake of Trump's electoral defeat, such groups continue to recruit and are, perhaps, further galvanized in their pursuit of "Western chauvinism" for all. Notably, the threat posed is not purely dependent on such militias' actual levels of physical power; rather, it is the disruptive nature of their virulent ideology that induces sociopolitical defection among members of the population, and yields a potential to gain power, that threatens the political status quo and integrity of the state.

This is the nightmare scenario that Han Feizi warns against; regardless of our moral commitments, we must acknowledge the political fact that paramilitary forces are by their very nature antithetical to the orderly maintenance of the state. Given their ideological insularity, violence, and refusal to acknowledge the rule of law, it is plausible that their persistence (in combination with their relative political license), even in a country like the U.S., will lead to further factionalism and state collapse. Ultimately, the codes of the private swords are, by definition, private: they cannot operate with political legitimacy without overriding the rule of the state. As such, the state is faced with two possibilities: it can either destroy these organizations and their independently operating ideologies, or it can attempt to fold them into the legitimate public political order (thereby effectively making the ideologies part of the state apparatus). It is for these reasons, then, that paramilitary organizations should neither receive political patronage nor be tolerated to exist privately within the state. Notice that this argument in no way relies on any particular moral theory; it cuts equally against progressive and regressive paramilitary organizations. All it relies on is the standard political assumption that the maintenance of the state is desirable or, at the very least, practically necessary.

Conclusion: false equivalencies and moral progress

Given the arguments up to this point, one might object that the reasons we give for prohibiting private paramilitary organizations also count against allowing certain forms of political protest and community self- and other-defense that we may otherwise want to endorse. While Han Feizi might agree that the Proud Boys and the Black Lives Matter movement (BLM) are equally dangerous, we here depart from his extreme statism to argue that such comparisons are false equivalencies for at least two reasons. First, as we have argued throughout, part of the danger posed by militias is their willingness and even eagerness to use potentially lethal violence to support and further their ideological capture of the population. Contrast this with organizations like BLM and – to the extent that it can be called an organization – antifa: both very clearly argue that violence, if it may be used at all, must only be used as a last resort, when all other mechanisms for political suasion, change, and self- and other-defense have failed.⁴¹ This stated commitment to nonviolence is supported by the fact that recent BLM protests have been

overwhelmingly peaceful (Mansoor 2020). To the extent that violence has occurred during these protests, it is most commonly the result of provocation by police and/or far-right counter-protesters (including Proud Boys members and QAnon members) (Chenoweth and Pressman 2020).

Secondly, it is notable that both antifa and BLM explicitly recognize the rule of law, even if they do not allow themselves to be arrested in all cases (because of worries about police brutality and structural injustices in the criminal justice system).⁴² This is in stark contrast to the Proud Boys and other similar paramilitary organizations that seem to regard laws, and especially laws against violence, as non-binding, to be disregarded when it suits them.⁴³ When considering how to categorize political groups, then – as vermin-like paramilitary organizations or as legitimate protest movements – a first step should be to consider their attitudes toward both the use of violence and the rule of law. Even continuing to set aside essential moral questions about such groups, from a purely sociopolitical perspective we can see that it is inapt to claim equivalency in cases where groups differ in their positions vis-a-vis the acceptability of violence and the ultimate authority of the state.⁴⁴

We would be remiss, however, if we closed without briefly considering the moral perspective, not least in a journal devoted to military ethics. Both antifa and BLM are arguably forms of justified community defense. Antifa is literally opposition to fascism, that most violent, unjustly aggressive of political philosophies, and BLM is a defensive response to centuries of unjust white aggression, terror, and violent suppression and oppression. By contrast, the Proud Boys and other U.S.-based militias and paramilitary organizations are not responding to unjust aggression or unjust threats of aggression. Rather, they *are* the unjust aggressors. Now, it is true that chains of aggression are difficult to trace; but it can be done, and their existence sets the moral lines of which groups have a right to defend themselves, and which do not. Morally speaking, we claim that there is a clear line in the sand: some political groups are fighting for justice, while others are fighting for injustice.

The beauty of our argument, though, is that we need not rely on this moral claim to reach the judgment that paramilitary groups are antithetical to the state. By taking up Han Feizi's analysis and bringing it to bear on our contemporary situation, we conclude that regardless of whether the state itself is liberal or illiberal, just, sufficiently just (*a la* Rawls), or downright unjust, paramilitary organizations, when they meet the jointly necessary conditions we have laid out, are incompatible with the broader sociopolitical enterprise of maintaining a sufficiently unified, stable state. Now, it is of course open to question Han Feizi's assumption that the maintenance of the state is truly necessary; perhaps some, if not all, states must be discarded for moral progress to be made. That, however, is a further, much more radical inquiry, and one that we do not address here. If the integrity of the state is among our chief values, then even the most ideologically benign militias cannot be tolerated; they must be expurgated on principle.

Notes

1. Although texts such as the *Dao De Jing* and *Zhuangzi* are classified as Daoist in modernity, there was no actual Daoist school during the Warring States period. The label is thought to

- first appear in the writings of Sima Qian, the grand historian of the early Han Dynasty who attempted to collect and classify what philosophies he could from the past.
2. In the Western tradition, we might usefully compare Han Feizi to Hobbes (2010) and other political realists, such as Machiavelli (1985) and, in the 20th century, Morgenthau (1948).
 3. For this reason, Han Feizi is traditionally classified as a “legalist” (*fajia* 法家) philosopher, although some modern scholars, such as Paul Goldin (2011) reject this label as inaccurate and anachronistic.
 4. With his focus on the need for the state to develop a monopoly on physical power and control in order to become and remain stable, Han Feizi is remarkably similar to Weber (2015). With his emphasis on pragmatic expansion for security and risk-reduction reasons, he also, to an extent, invites comparisons to Clausewitz (1984) and other Western realist philosophers of war. These comparisons, while not exact, help to situate Han Feizi’s philosophical thought squarely within the realm of military and political ethics.
 5. Translations are by Colin J. Lewis unless otherwise noted. Translations are based on transcriptions of the *Han Feizi* text taken from the Internet “Chinese Text Project,” <https://ctext.org/hanfeizi> (Han Feizi n.d.).
 6. Original transcription: 犯禁者誅而群俠以私劍養 – “Every transgression of prohibitions should be punished, but cavaliers are granted patronage because of their private swords” (Compare with Sahleen 2001, 343). We construe patronage broadly here, to include financial, political, legal, and other kinds of favor from the prevailing political authority.
 7. Original: 是以賞莫如厚而信使民利之罰莫如重而必使民畏之法莫如一而固使民知之故主施賞不遷行誅無赦譽輔其賞毀隨其罰則賢不肖俱盡其力矣.
 8. An additional concern that Han Feizi raises is that such partial treatment shows a ruler’s personal preferences, which Han Feizi views as a liability: if people learn a ruler’s preferences, then they can manipulate and exploit the ruler’s authority thereby (original: 去好去惡臣乃見素去舊去智臣乃自備).
 9. Here, Han Feizi likely has in mind the Mohists (*Mojia* 墨家), another Warring States school who advocated a doctrine of “impartial care” (*jian ai* 兼愛) and argued against aggressive warfare while simultaneously serving as mercenaries. Although the Mohists supposedly only fought defensive wars, Han Feizi seems to regard their avowed position as fundamentally incompatible with their practices and the running of an orderly state.
 10. Original: 斬敵者受賞而高慈惠之行拔城者受爵祿而信廉愛之說堅甲厲兵以備難而美薦紳之飾... 廢敬上畏法之民而養遊俠私劍之屬舉行如此治強不可得也.
 11. Original: 其帶劍者聚徒屬立節操以顯其名而犯五官之禁. Compare with Sahleen (2001, 351). Literally, the passage refers to the prohibitions of the Five Ministries, but we omit this note so as not to further complicate the passage for those unfamiliar with Warring States period bureaucracy.
 12. Notice that this power can take the form of physical, military, or sociopolitical power. To Han Feizi, all are equally dangerous, representing as they do a threat to the integrity of the state. For our purposes, we are focused on the sociopolitical aspect primarily.
 13. Readers familiar with the Western political philosophical tradition will here notice Han Feizi’s similarities to both Hobbesian and Weberian conceptions of the state.
 14. We are here influenced by Saeid Golkar’s (2015) work on the subject of militias in the Middle East, and Rached and Bali’s (2019) subsequent elaboration.
 15. See, for example, MacFarquhar (2020) and MacFarquhar et al. (2020).
 16. As we will see shortly, the same arguably applies to militias as well.
 17. *The Rock Island Argus*, Friday, November 14, 1930, page 1.
 18. As Mayer notes, this was the case in the dismissal of charges against Titan in the Ibrahim v. Titan and CACI case (393).
 19. To a fault, as with past U.S. President Donald Trump’s 2020 Blackwater pardon.
 20. Commonly known in the West as ISIS or ISIL. We use Daesh here to respect the local Iraqi position that the group should not be given any legitimate political status whatsoever.
 21. Modified for grammar.

22. <https://officialproudboys.com/uncategorized/announcing-the-new-proud-boys-bylaws-and-our-chairman/>.
23. As of this writing, McInnes has distanced himself from the group, citing legal concerns (Wilson 2018a). The group is currently chaired by Henry “Enrique” Tarrío.
24. Notably, the organization has recently resisted the label of “alt-right,” preferring instead to be called “alt-light” insofar as they reject the label of being racist or bigoted against religious groups, despite their use of intimidation tactics against Muslims and anti-Semitic slurs (Kutner 2020, 15).
25. As of this writing, all (or nearly all) Proud Boys sites have been taken down by their hosts. This list is the one reported in Vitolo-Haddad 2019 (286).
26. This is not to say that the U.S. always operates according to liberal political theory, but rather that such theory is ostensibly baked into the legal-political structures that govern the country.
27. The slight oddity of this criterion is part of an internet culture of engaging in antisocial, harmful behavior ironically, for the “lolz” or laughs. As Whitney Phillips (2015) details, such criteria can operate as a pre-emptive defense against charges of malice and wrongdoing.
28. This is taken from <https://www.adl.org/proudboys>. On the same page we find that in October 2018, as law enforcement sought members of the Proud Boys for their role in the fight outside the Metropolitan Republican Club, Proud Boys leadership released a “clarified” set of bylaws that seemed to contradict their prior, violent rhetoric. The new language reads: “Any requirement that a brother commit a violent or illegal act as a condition precedent to receiving a fourth degree is, by this bylaw, abolished.”
29. Consider entities like the Mormon Church or Westboro Baptist Church: neither entity is policed on the basis of its mission, but only on the basis of individual actions.
30. Indeed, these (mistaken or exaggerated) callbacks to the Crusades have been previously highlighted and analyzed in Peter McLaren’s (2020) work, especially with regard to invocations of the Knights Templar and of enemies as “infidels.”
31. See <https://www.adl.org/proudboys>, <https://www.splcenter.org/fighting-hate/extremist-files/group/proud-boys>, and Stall, Kishi, and Raleigh (2020).
32. There are conflicting reports as to whether the FBI does (or ever has) classified the Proud Boys as a hate group or terrorist organization. The Colorado Information Analysis Center, on the other hand, has explicitly recorded the Proud Boys as being engaged in White Supremacist Extremism (Wilson 2020). As of the January 6, 2021 insurrection, the discussion has reopened.
33. As of this writing, FOAK, established in 2017, has reportedly been “folded into” the main organization, and it is unclear whether this has had a pacifying or exacerbating effect on the organization’s general activities (<https://www.splcenter.org/fighting-hate/extremist-files/group/fraternal-order-alt-knights-foak>).
34. <https://www.adl.org/proudboys>. See also Castor (2020).
35. Reportedly, at least some chapters of the group lovingly refer to him as “Daddy” (Disser 2016). See also Carless (2020).
36. Similarly, McLaren (2020) notes that the impact of Trump’s rhetoric as advocacy for violence parallels that of “medieval occult rituals and traditions” for instilling a sense of purpose and direction in organizations such as the Knights Templar (1012).
37. As evidenced by Trump’s 2021 impeachment by the House of Representatives for, in part, “incitement of insurrection,” and encouraging “imminent lawless action at the Capitol.”
38. Analysts looking to stem the tide of violence by organizations like the Proud Boys have also placed at least partial blame on Trump’s and conservatives’ support, noting that insofar as Trump and his allies continue to spread conspiracies and disinformation, militants will continue to look on their words as an endorsement for their radical violence (Allam 2020).
39. As Stall et al. note, such groups “train for urban and rural combat while also mixing public relations, propaganda works, and ‘security operations’ via both online and physical social

platforms to engage those outside of the militia sphere ... and have even brought Proud Boys and QAnon-linked groups into the fold” (2020).

40. Indeed, as articulated in December 2020 accounts of several college students to the *Washingtonian*, we may be nearer to such events than one might think (Beaujon 2020). Moreover, the D.C. clashes on January 6, 2021, including Proud Boys members in body armor, look very much like a private army for Trump, and have since been labeled as insurrectionists (Peñaloza 2021).
41. Regarding BLM’s commitment to nonviolence, see Christopher J. Lebron (2017). Regarding antifa’s commitment to use violence only as a last resort, see Mark Bray (2017) (especially chapter 6).
42. See M4BL (2016), Bray (2017, ch. 6).
43. Here recall the violent 2016 occupation of the Malheur National Wildlife Refuge by Ammon Bundy and other armed militia members.
44. Interestingly, this is one way in which institutions such as the FBI distinguish between extremist groups and terrorist groups. The Westboro Baptist Church is an extremist group (as were many communes in California in the 1960s, for that matter), but not a terrorist group.

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