Introduction: Han Fei and the *Han Feizi*

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Han Fei 韓非 was the name of a prolific Chinese philosopher who (according to the scanty records available to us) was executed on trumped up charges in 233 B.C.E. *Han Feizi* 韓非子, meaning *Master Han Fei*, is the name of the book purported to contain his writings. In this volume, we distinguish rigorously between Han Fei (the man) and *Han Feizi* (the book) for two main reasons.

First, the authenticity of the *Han Feizi*—or at least of parts of it—has long been doubted (the best studies remain Lundahl 1992 and Zheng Liangshu 1993). This issue will be revisited below; for now, suffice to it to say that although the contributors to this volume accept the bulk of it as genuine, one cannot simply assume that Han Fei was the author of everything in the *Han Feizi*. Indeed, there is a memorial explicitly attributed to Han Fei's rival Li Si 李斯 (ca. 280–208 B.C.E.) in the pages of the *Han Feizi* (Chen Qiyou 陳奇猷 2000: 1.2.42–47); some scholars fear that other material in the text might also be the work of people other than Han Fei.

Second, and no less importantly, even if Han Fei is responsible for the lion's share of the extant *Han Feizi*, a reader must be careful not to identify the philosophy of Han Fei himself with the philosophy (or philosophies) advanced in the *Han Feizi*, as though these were necessarily the same thing. When we read the works of philosophers, whether Eastern or Western, we generally assume, without too much fuss, that the authors meant what their writings say. Recent trends in hermeneutics have led some critics to assail this as naïve (e.g., Keane 1988), but we still tend to assume that Hobbes endorsed what he wrote in *Leviathan*, Zhu Xi 朱熹 (1130–1200) endorsed what he wrote in his *Collected Commentaries on the Four Books, by Chapter and Verse* (*Sishu zhangju jizhu* 四書章句集注), and so on. The case of Han Fei and the *Han Feizi* is more complex because Han Fei was slippery. What Han Fei said varied with his expected audience, a point that most scholarship on the

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Han Feizi—from the beginnings right down to the present day—has not taken seriously into account. Most of his chapters are addressed to kings; at least one, "The Difficulties of Persuasion" ("Shuinan" 說難), is addressed to ministers; and for many chapters we can only guess at the intended audience.

As with so many other figures from this period, almost all our information about the life of Han Fei comes from his entry in *Records of the Historian* (*Shiji* 史記), by Sima Qian 司馬遷 (145?-86? B.C.E.). Scholars have rarely questioned the accuracy of this biography (Sima Qian 1959: 63.2146–55), and its credibility would seem to be bolstered by the fact that it names several chapter titles found in the received *Han Feizi*, before quoting "The Difficulties of Persuasion" *in toto*. Clearly Sima Qian read at least some part of what we now call the *Han Feizi*. Fortunately, the details of Han Fei's life are not crucial to interpreting the *Han Feizi*, and the major pieces of information in Sima Qian's biography, namely that Han Fei was descended from the ruling house of Hán and that he was executed in 233 B.C.E. after being entrapped by Li Si, are probably not far from the truth. As an adult, he abandoned Hán and sought his fortune as a minister in Qin 秦, the mighty western state that would soon annex Hán before unifying all of China under the famed First Emperor (r. 221-210 B.C.E.). It is in Qin that he must have written the essays that have secured his name for all time, and it is in Qin that he succumbed to the skulduggery of court politics, which he himself described so memorably in his works.

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To understand the attitude of the *Han Feizi*, and the issues in which the text does and does not take an interest, one might imagine a counselor speaking before a newly crowned king. "You are the king!" he says. "Congratulations—everyone wants to kill you now. Listen to me, and you might survive." All his lovers and sycophants, it turns out, only wish the ruler dead, because they all stand to profit from his demise.

> A ruler's troubles come from trusting others; if he trusts others, he will be controlled by them. A minister does not have a relationship of flesh and bone with his lord; he cannot avoid serving only because he is bound by [the ruler's] power. Thus ministers spy on their lord's heart without even a moment's respite, while the ruler dwells above them, indolent and haughty. This is why, in our time, lords are bullied and rulers are assassinated. If a ruler puts great trust in his son, treacherous ministers will be able to take advantage of the son and fulfill their private interests. Thus [the minister] Li Dui 李兌 mentored the King of Zhao [i.e. Huiwen 惠文, r. 299-266 B.C.E.] and starved the Ruler's Father [i.e. King Wuling 武靈, r. 325-299, who had abdicated in favor of his son].[1] If a ruler puts too much trust in his wife, treacherous ministers will be able to take advantage of the wife and fulfill their private interests. Thus Jester Shi 優施 mentored Lady Li 麗姬 [d. 651 B.C.E.], killed [Crown Prince] Shensheng 申生 [d. 656 B.C.E.] and installed [her son] Xiqi 奚齊 [665-651 B.C.E.].[2] If someone as intimate as one's wife and as close as one's son cannot be trusted, then none among the rest can be trusted either.
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> Whether one is the ruler of a state of ten thousand chariots or the lord of a state of a thousand, among one's consort, ladies, and the son chosen to be the Crown Prince, there are

[1] See Sima Qian 1959: 43.1813–15.

[2] See Xu Yuangao 2002: 8.275–81.

> those who desire the early death of their lord. How do I know this to be so? Between husband and wife, there is not the kindness of a relationship of flesh and bone. If he loves her, she is intimate with him; if he does not love her, she is estranged. There is a saying: "If the mother is favored, her son will be embraced." This being the case, the reverse is: if the mother is disliked, her son will be disowned. The lust of a man of fifty has not yet dissipated, whereas the beauty and allure of a woman of thirty have faded. If a woman whose beauty has faded serves a man who still lusts, she will be estranged and disesteemed until her death; her son will be viewed with suspicion and will not succeed to the throne. This is why consorts and ladies hope for their lord's death.
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> But if the mother becomes a dowager and her son becomes the ruler, then all of her commands will be carried out, all of her prohibitions observed. Her sexual pleasure will be no less than with her former lord, and she may arrogate to herself power over the ten thousand chariots[3] without suspicion. Such is the use of poison, strangling, and knifing. Thus is it said in the *Springs and Autumns of Tao Zuo*: "Less than half of all rulers die of illness." If the ruler of men is unaware of this, disorders will be manifold and unrestrained. Thus it is said: If those who benefit from a lord's death are many, the ruler will be imperiled. (Chen Qiyou 2000: 5.17.321–22)

Although Han Fei emphasized that none of the ruler's associates can be trusted, most of what appears in the *Han Feizi* deals with the ruler's relations with his ministers. Evidently, they were regarded as the party most likely, in practice, to cause him harm, because they were indispensable: by Han Fei's time, states were already so large and complex that a ruler could not hope to oversee the administration personally (Chen Qiyou 2000: 2.6.107). But relying on ministers is dangerous, because they act in their own interest, not that of their employer and certainly not that of the kingdom they represent.

> Abroad, they act as ambassadors to the other lords; within the state, they only waste [its resources]. They wait for the precipice of a crisis and terrify their ruler, saying: "If you do not establish your relations through me, [your allies] will not be intimate with you; if you do not address [your enemies'] resentment through me, it cannot be defused." The ruler then trusts them and listens to them in matters of state. They debase the name of the ruler in order to make themselves prominent; they destroy the riches of the state for the profit of their own families. I, your servant, would not call them wise. (Chen Qiyou 2000: 2.6.100)

In Han Fei's technical language, the problem is that lords do not distinguish between *gong* 公 and *si* 私. *Si* is the easier of the two terms to translate: it means "private," especially in the senses of "private interest" or "judgments reached by private (and hence arbitrary) criteria." Ministers who make proposals always do so out of *si*, in expectation of some private benefit. *Gong* is derived from the old word meaning "patriarch" or "duke" (Goldin 2005a: 185n. 6), and by Han Fei's time it had come to refer more broadly to the interests of the ruler. In modern writing, *gong* is often translated as "public," but this is misleading, as there was nothing like our concept of "the public interest" in ancient China. (Thus a phrase like *gongyong che* 公用車 means "vehicle for public use" in modern Chinese, but would have meant "vehicle for the [exclusive] use of the Duke" in the classical language.) Many scholars interpret *gong* as something like "the general interests of the state as opposed to the private interests of its ministers" (see, for example, the chapter below by Bryan W.

[3] A synecdoche for the state.

Van Norden), but I would be cautious about this too, because the interests of a particular ruler—even long-term, prudential interests—are not necessarily identical to those of the abstract state.[4] The interests of the state might even entail the abolition of the monarchy itself; this would have been unthinkable to Han Fei, but despotism is usually not an economically efficient system.

Han Fei himself defined *gong* straightforwardly as "that which opposes *si*":

> In ancient times, when Cangjie 蒼頡 invented writing, he called acting in one's own interest *si*; what opposes *si*, he called *gong*. So Cangjie certainly knew already that *gong* and *si* oppose each other. (Chen Qiyou 2000: 19.49.1105)

What a ruler needs, then, are instruments of *gong* that will thwart his minions' aspirations of *si*.

> The Yellow Thearch had a saying: "Superiors and inferiors fight a hundred battles a day." Inferiors conceal their private interests, which they use to test their superiors; superiors wield gauges and measures, with which they divide their inferiors. Thus the establishment of gauges and measures is the ruler's treasure; the formation of cliques is the ministers' treasure. The [only] reason why ministers do not assassinate their lords is that they have not formed cliques. Thus if superiors lose an inch, inferiors gain a yard. (Chen Qiyou 2000: 2.8.170)

Rulers are not defenseless against the depredations of their ministers; to counter their inferiors' crafty profit-seeking, lords can "wield gauges and measures" (*cao duliang* 操度量). Han Fei had much to say about these instruments, which are better known by the name of *fa* 法 (literally "methods" or "standards"). Elsewhere, I have defined *fa* as "an impersonal administrative technique of determining rewards and punishments in accordance with a subject's true merit" (Goldin 2011: 68).[5] Armed with this crushing weapon, a ruler can keep his underlings docile and productive, but he must always remember that they wish for nothing more fervently than to throw off the yoke of *fa*. A ruler who fails to recognize this is soon to be disabused:

> In this case, the thronging ministers will ignore *fa* and will stress the implementation of their private interests, making light of the duke's *fa*. They will come in multitudes to the gates of men of consequence, but not one will come to the ruler's court; they will deliberate a hundred times for the convenience of their own families, but will not make a single plan for the ruler's state. Although the number of such men attached [to the ruler's administration] may be great, it is not because they esteem their lord; although all administrative offices may be

[4] Nor do I think the usage of *gong* in *Springs and Autumns of Mr. Lü* 呂氏春秋 (e.g., Chen Qiyou 2002: 1.44–46), to which the *Han Feizi* is often compared, is identical. In *Springs and Autumns of Mr. Lü*, which envisions a single ruler governing a united and uncontested empire, the interests of the sovereign and those of all humanity begin to converge. *Han Feizi* still seems to conceive of the ruler as but one competitor among many.

[5] The Mohist Canons explain *fa* as instruments, including "such three things as ideas, compasses, and circles" (Wu Yujiang 1993: 10A.40/42.477 = A 70), that help determine whether something conforms to a standard. An object is round, for example, if it conforms to a circle (Graham 2003: 316–17). The chapter "Standards and Models" ("Fayi" 法儀), similarly, discusses *fa* as models, inspired by those used by craftsmen, that can be used to bring order to the world (Wu Yujiang 1993: 1.4.29–35). I am grateful to an anonymous referee for suggesting a correspondence between *fa* in the *Han Feizi* and Mohist usage.

> filled, it is not because they take responsibility for the state. Thus the ruler will have the title of "ruler," but in reality he will be dependent on the families of the thronging ministers.
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> Thus I, your servant, say: "There are no men in the court of a doomed state." When [I say] "there are no men in the court," it is not that the court itself is dwindling. I mean that [powerful] families feel obliged to benefit one another, not to enrich the state. Great ministers feel obliged to esteem one another, not to esteem the lord. Lesser ministers accept their salaries and tend to their connections; they do not act in accordance with [the requirements of] their office. The reason is that the ruler has made his decisions not by means of *fa*, but by trusting his inferiors. Thus the enlightened ruler uses *fa* to choose his men; he does not select them himself. He uses *fa* to measure their merit; he does not gauge it himself. Those who are capable cannot be demeaned; those who fail cannot prettify themselves. Those who are praised [baselessly] cannot advance; those who are criticized [slanderously] cannot be made to retire. Thus the distinctions between lord and subject will be clear, and order will be easily attained. But this will be possible only if the ruler adopts *fa*. (Chen Qiyou 2000: 2.6.91–92)

Simply put, *fa* refers to laws and policies inimical to private interests.[6]

> If the lord makes use of such techniques, the great ministers will not be able to make decisions on their own authority; those who are familiar [with the ruler] will not dare to sell their influence. If the administration carries out *fa*, vagabond commoners will have to rush to their tilling and knights-errant will have to brave danger at the battlefront. Thus the techniques of *fa* are a disaster for thronging ministers and men-of-service. (Chen Qiyou 2000: 4.13.273)

But how does *fa* work in practice? The first answer is that a ruler must harness people's self-serving nature by rewarding and punishing them as their behavior warrants. Rewards and punishments are called "the two handles" (*erbing* 二柄), which the ruler must always keep firmly within his grasp. As Albert Galvany insightfully explains in his contribution to this volume, it would be a mistake, according to the *Han Feizi*, to try to reform people's visceral likes and dislikes; rather, the very impulses that lead them to profit at the king's expense can be turned against them with devastating effect. The root of the solution is provided by the problem itself: as long as the ruler's rewards and punishments are ineluctable, his subordinates will exert themselves to secure rewards and avoid punishments. Indeed, it is precisely those ministers who claim to be guided by principles beyond reward and punishment—in other words, the allegedly selfless and high-minded ones extolled by *other* schools of thought—who arouse suspicion. For if a ruler cannot control a minister with rewards and punishments, he cannot control that minister by any means at all.

For this reason, one of Han Fei's most important counsels is that a ruler must never allow a functionary to reward or punish on his own authority. That would amount to transferring all real power to a future usurper.

> The tiger dominates the dog because of his claws and fangs. If one made the tiger relinquish his claws and fangs, and allowed the dog to use them, the tiger would be dominated by the dog. The ruler uses punishments and rewards to control his ministers, but if the lord relinquished his punishments and rewards, and allowed his ministers to apply them, the lord would be controlled by the ministers.
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> Thus Tian Chang 田常 requested titles and stipends of his sovereign, which he distributed among the thronging ministers; in dealing with the lower classes, he used large measures

[6] I borrow this phrase from Watson 1964: 81.

> [to dole out grain] and spread it among the Hundred Surnames. In this manner, Lord Jian [of Qi, r. 484–481 B.C.E.] lost control of rewards, and Tian Chang applied them; thus Lord Jian was assassinated.[7]
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> Zihan 子罕 [fl. 556–545 B.C.E.] said to Lord [Ping] of Song 宋平公 [r. 575–531 B.C.E.]: "Now rewards and gifts are what the people like, so you, Lord, distribute them yourself; executions and penalties are what the people dislike, so I, your servant, request to administer these." Thereupon the Lord of Song lost control of punishments, and Zihan applied them; thus the Lord of Song was bullied.[8]
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> Tian Chang applied only rewards [i.e. without control over punishments], and Lord Jian was assassinated; Zihan applied only punishments, and the Lord of Song was bullied. Thus if ministers in today's age apply *both* punishments *and* rewards, rulers of the age will be in even greater danger than Lord Jian and the Lord of Song. Thus when rulers are bullied, assassinated, obstructed, or demeaned, if they lose control of punishments and rewards, and allow ministers to apply these, they will unfailingly be endangered or even perish. (Chen Qiyou 2000: 2.7.120–21)[9]

Being so crucial to a ruler's self-preservation, rewards and punishments must be brought to bear precisely as they are earned; a ruler must never let his personal preferences affect his terrible dispensation of the two handles.

> Thus, in bestowing rewards, an enlightened lord is bountiful like a seasonable rain; the Hundred Clans benefit from his fecundity. In carrying out punishments, he is dreadful like a thunderclap; even spirits and sages cannot absolve themselves. Thus the enlightened lord does not reward recklessly or remit punishments. If he rewards recklessly, meritorious ministers will let their enterprises slide. If he remits punishments, treacherous ministers will find it easy to do wrong. For this reason, those whose accomplishments are real must be rewarded, even if they are lowly and base; those whose transgressions are real must be punished, even if they are close and beloved. Then the lowly and base will not become insolent nor the close and beloved haughty. (Chen Qiyou 2000: 2.5.81)

Rewards and punishments must be dispensed without regard for rank or reputation:

> If they are promoted to powerful positions on the basis of their reputation, ministers will abandon their [ruler] above and associate with those below; if recruitment to office is handled by cliques, then the people will feel obliged to foster relationships and will not seek employment by means of *fa*. Thus the administration will lose all men of ability and the state will be in turmoil. If they are rewarded on the basis of their reputation and punished on the basis of calumny, then people—who like rewards and dislike punishments—will absolve themselves of the duke's business and carry out their private operations instead, forging associations to promote one another. (Chen Qiyou 2000: 2.6.91)

> *Fa* does not curry favor with the noble-born, [just as] the plumb-line does not yield to curves. What is assigned by *fa*, the wise cannot decline and the brave dare not challenge. In applying the law to transgressions, one does not pardon great ministers; in rewarding good conduct, one does not pass over commoners. (Chen Qiyou 2000: 2.6.111)

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[7] See Sima Qian 1959: 32.1512.

[8] The details of this affair are not found in any source known to me, but there is an interesting passage in the *Zuozhuan* 左傳 (Yang Bojun 1981: 1157) in which Zihan asks Lord Ping for permission to dispense extra grain in order to save the people during a famine. The similarity to what is said above of Tian Chang seems too uncanny to be coincidental.

[9] A similar example: "With respect to dispensing rewards, unlocking discretionary funds, or opening the heaping granaries, all things that benefit the populace must emerge from the lord. Do not allow ministers to privatize rewards" (Chen Qiyou 2000: 2.9.190).

It stands to reason that by not currying favor with the noble-born or passing over deserving commoners, an administration guided by *fa* would disappoint anyone expecting traditional privileges based on social status. The text uses the familiar example of Lord Shang 商君 (i.e. Gongsun Yang公孫鞅, ca. 385–338 B.C.E.), whose radical reforms alienated bigwigs unaccustomed to submitting to the same protocols as mere husbandmen. As soon as they got the chance, Lord Shang's enemies had him rent asunder by chariots, but this does not mean that his policies were wrong—for the ruler and his state benefited mightily from them (Chen Qiyou 2000: 4.13.275).

Han Fei recognized that *fa* will not only outrage the aristocracy, but will inevitably come into conflict with popular morals as well. By doing what they have been taught to believe is righteous and honorable, people will inevitably subvert the interests of the ruler. One chapter takes up the example of vengeance killings, which are known to have been a nuisance for early administrators (Lewis 1990: 80–94; Dalby 1981; Ch'ü 1961: 78–87; Yang Lien-sheng 1957).

> Nowadays, those who make sure to attack anyone who impugns their brothers are considered honorable; those who join against an enemy when their friends are insulted are considered faithful. When such honorable and faithful acts are brought to fruition, the *fa* of the lord above is violated. The ruler might esteem such honorable and faithful acts, and forget about the crime of violating his prohibitions, and thus the people compete in feats of bravery and officials cannot prevail over them. (Chen Qiyou 2000: 19.49.1102; cf. 18.48.1082)

Filial piety (*xiao* 孝) is another widely respected virtue that is singled out for its destructiveness. Later in the same chapter, Han Fei refers to Upright Gong 直躬, a figure known from *Analects* 13.18:

> In Chu 楚 there was Upright Gong; his father stole a sheep, and [Gong] reported this to an official. The Prime Minister said: "Let [Gong] be killed"; he considered [Gong] upright to his lord but crooked to his father, and [the Prime Minister] convicted him in requital. Seen from this perspective, a lord's upright subject is a father's cruel son.
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> There was a man of Lu 魯 who followed his lord into battle; three times he went into battle and three times he fled. When Confucius asked him the reason, he replied; "I have an aged father; if I die, there will be no one to take care of him." Confucius, considering this filial, recruited and promoted him. Seen from this perspective, a father's filial son is a lord's renegade subject.
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> Thus the Prime Minister executed [Gong], and in Chu treachery was [thenceforth] never communicated to any superiors; Confucius rewarded [the man of Lu], and the people of Lu [thenceforth] thought nothing of surrendering or fleeing [in battle]. What is beneficial to superiors and inferiors being so dissimilar, if a ruler sanctions the actions of commoners, and at the same time seeks good fortune for his altars of Soil and Grain [i.e. his state], he surely will not come close. (Chen Qiyou 2000: 19.49.1104–5)

Once again taking aim at Confucians, Han Fei argued that winning the hearts of the people is a doomed strategy because they cannot even recognize what is best for them:

> Now those who do not know about governing always say: "Win the hearts of the people!" If you could govern just by desiring to win the hearts of the people, [the legendary counselors] Yi Yin 伊尹 and Guan Zhong 管仲 [d. 645 B.C.E.] would be of no use; you would need to do no more than listen to the people. But the people's wisdom is useless because it is like the mind of an infant. If you do not shave an infant's head, its belly will hurt;[10] if you do not

[10] The basis of this belief is unknown; some commentators suspect that the text is garbled here.

> lance its boil, the pus will increase. In order to shave its head or lance its boil, one person must hold it down while the kind mother cures it, but it whoops and hollers unceasingly, for the infant does not know the great benefits brought about by this small discomfort. (Chen Qiyou 2000: 19.50.1147)

The ruler oversees four great enterprises: colonization of new land, penal law, taxation, and military service; all four contribute to order and security, "but the people do not know enough to rejoice in them" (*ibid.*). Instead of worrying about his popularity, the ruler should listen to advisors like Yi Yin and Guan Zhong (that is to say, like Han Fei himself), and carry out his impersonal administration with ironclad resolve.

This is not to say that the ruler can simply trample on the common folk as he wishes. If he abuses them to the point of desperation, they will turn to powerful ministers for succor—and that outcome would surely not be in the ruler's interest. Thus he must maintain a minimum standard of well-being in the realm, lest the people appeal to potential demagogues for deliverance:

> If there is too much *corvée* work, the people will become embittered; if the people are embittered, the power [of local officials] will rise; if the power [of local officials] rises, those who can exempt [the people from service] will become influential; if those who can exempt [the people from service] are influential, such magnates will become wealthy. To embitter the people by enriching magnates, to let the power [of local officials] arise by [allowing desperate people] to rely on ministers—this is not very beneficial to the world. Thus it is said: If *corvée* work is lessened, the people will be secure; if the people are secure, there will be no men of influence and power below; if there are no men of influence and power below, the power [of local officials] will be extinguished; if the power [of local officials] is extinguished, all rewards will remain the province of the sovereign. (Chen Qiyou 2000: 5.17.323)

Notice that the argument is framed according to the *ruler's* interests, not those of the people; the welfare of the people is relevant only to the extent that their misery, if channeled by opportunists, can jeopardize the ruler's authority. It would be wrong to interpret this passage as a defense of the people's interests as an overriding concern in their own right.

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But how can a ruler, surrounded as he is by ministers intent on hoodwinking him at every turn, be sure that he is correctly apportioning rewards and punishments as they are earned? How can he know who deserves to be rewarded and who to be punished? To address this problem, Han Fei advocated another technique of *fa*: "performance and title" (*xingming* 刑/形名). Instead of imposing some preconceived vision of bureaucratic organization, a ruler simply responds as each minister makes his talents and aspirations apparent.

> One who speaks spontaneously produces a "title"; one who acts spontaneously produces a "performance." When "performance and title" match identically, then everything returns to its essence without any action on the part of the ruler. (Chen Qiyou 2000: 1.5.66)

> Thus the thronging ministers utter their words; the lord hands down their duties according to their words and assesses their accomplishments according to their duties. If their accomplishments match their duties and their duties match their words, they are rewarded. If their

> accomplishments do not match their duties or their duties do not match their words, they are punished. According to the way of the enlightened lord, ministers do not utter words that they cannot match. (Chen Qiyou 2000: 1.5.81)

The best way to select a deputy for some task is not to seek out the minister whose particular talents one judges to be most appropriate, for then the scheming ministers at court will dissimulate so as to appear most appropriate for the positions that they covet for their own self-interested reasons. Rather, the best method is simply to wait until one enterprising minister offers to do the task. This then becomes the minister's "title." After the appointed term, the ruler compares the minister's "performance" to his "title," and rewards or punishes accordingly. Restated in modern terms, this means that if a certain bridge needs to be repaired, one does *not* pick the minister who seems to know the most about repairing bridges; rather, one waits until some minister comes forward with a proposal to do it at a certain cost and within a certain timeframe. Once again, the key is to turn the ministers' selfishness against them. As in a standard "call for bids" today, in which competing businesses submit carefully calculated proposals for a contract with a local government or agency, Han Fei assumed that ministers will naturally promise as much as they can in order to win the "title," but will be wary of promising too much, lest they be held responsible for any deficit.

One difference, of course, is that a call for bids today will usually specify the task to be completed, whereas Han Fei advised rulers to leave the very definition of the task to the competing ministers. Han Fei does not seem to have anticipated the objection that by waiting for ministers to come forward with their own proposals, the government effectively lets them set the agenda, and certain types of problems might be systematically neglected. For example, it is hard to imagine how modern problems like overfishing or global warming could be solved by this method because self-interested ministers could not readily anticipate profit in those areas (though we must not pretend that we have solved such problems ourselves). One modern criticism of pharmaceutical companies, similarly, is that they focus on developing medicines that will be profitable, not necessarily the ones most needed by mankind (Angell 2005).

Another difference between *xingming* and our "calls for bids": whereas no contractor today would expect to be penalized for finishing a project *under* budget, Han Fei wrote that a minister who ends up delivering more than he promised should be punished as surely as if he had underperformed. Ministers must live up to their "title"—no more and no less.

> Thus if the thronging ministers make great statements, but their achievement is small, they are punished, not because one punishes small achievements, but because one punishes achievements that do not match their "title." If the thronging ministers make small statements, but their achievement is great, they are punished too, not because one is displeased by great achievements, but because not matching the "title" is considered more damaging than [not] having great achievements.
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> In the past, Marquis Zhao 韓昭侯 of Han [r. 362–333 B.C.E.] once got drunk and fell asleep; the Supervisor of the Hat saw that his lord was cold, and put a robe over him. When [the marquis] awoke from his sleep, he was pleased, and asked his attendants: "Who put this robe on me?"

> The attendants replied: "The Supervisor of the Hat." The lord accordingly found both the Supervisor of the Robe and the Supervisor of the Hat guilty of a crime. He found the Supervisor of the Robe guilty of dereliction in duty, and he found the Supervisor of the Hat guilty of overstepping his office—not because [the marquis] did not dislike being cold, but because he considered the overextension of offices more damaging than cold. Thus the enlightened ruler domesticates his ministers as follows: ministers cannot attain merit by overstepping their offices or failing to match the words they put forth. If they overstep their offices, they are to die; if they fail to match [their words], they are to be convicted. If they keep to their offices and remain faithful to their words, the thronging ministers will be unable to form cliques and act in one another's behalf. (Chen Qiyou 2000: 2.7.126; cf. also 5.18.330)

Implementing *xingming* requires that the ruler be the *last*, not the first, to speak; in ancient times, this was probably not the habit of most rulers. Thus the *Han Feizi* frequently reminds its lordly reader, in language manifestly borrowed from the *Laozi* 老子, that he ought not to reveal his inner thoughts, or even to try to outwit his underlings by dissembling (for dissembling too can be detected); instead, he should present a blank poker-face to the outside world, leaving his enemies without any toehold whatsoever.[11]

> The Way of Listening is to be giddy as though soused. "Lips! Teeth! May I not be the first [to speak]! Teeth! Lips! Be dumber and dumber. Let others deploy themselves, and accordingly I shall know them." Right and wrong whirl around him like spokes on a wheel, but the sovereign does not complot. Emptiness, stillness, non-action—these are the characteristics of the Way. By checking and comparing how it accords with reality, [one ascertains] the "performance" of an enterprise. (Chen Qiyou 2000: 2.8.156)

Like every other aspect of *fa*, moreover, *xingming* must be maintained even when the ruler is with his bedfellows, entourage, or kin:

> With the women in his harem, an enlightened lord amuses himself with their sex but does not carry out their petitions or grant them any personal requests. With his attendants, he must hold them responsible for what they say as he employs them; he does not allow them to speak extravagantly. With his father, elder brother, and great ministers, he listens to what they say, but must use penalties to hold them accountable for the consequences; he does not let them act recklessly. (Chen Qiyou 2000: 2.9.190)

Unable to share his innermost thoughts and feelings with anyone around him, or to love or hate or be motivated by any emotion at all, a ruler is the loneliest of men. We are even told that he ought to sleep alone, lest he reveal his plans as he mutters in his dreams (Chen Qiyou 2000: 13.34.782–783).

All these harsh measures are necessary because people are fickle and self-interested (or, more precisely, fickle because self-interested), and *fa* is the only way to guarantee their obedience. There are other political philosophies, notably Confucianism, that might seem more agreeable because they appeal to virtue and principle, but the problem, for Han Fei, is that one can wait eons before finding people who are motivated

[11] Much of the same logic applies to the game of poker (e.g., Caro 2003). Similarly, in chess, some players at the highest level have adopted a style "to have no evident plan," in response to the ability of strong computers to analyze and then demolish specific strategies (Max 2011).

by virtue and principle. A political philosophy that relies on a sage ruler is effective only when the ruler is a sage. And that does not happen very often.

Several passages in "The Five Vermin" ("Wudu" 五蠹) repeat this theme[12]:

> Among the men of Song there was one who tilled his fields; in his fields there was a stump. A rabbit ran by, crashed headfirst against the stump, broke its neck, and died. Thereupon [the man] set aside his plow and kept watch by the stump, hoping to get another rabbit, but no other rabbit was to be gotten, and he became the laughingstock of Song. Now those who wish to use the governance of the Former Kings to bring order to the people of our time are all of the same type as the stump-watcher. (Chen Qiyou 2000: 19.49.1085)

> Learned men today persuade a ruler not to take advantage of his invincible power, but to make it his duty to carry out benevolence and righteousness, and thereby become a "king." This is like demanding that a ruler measure up to Confucius, and that all the people of our age be like [Confucius's] disciples. This is a strategy that cannot be successful. (Chen Qiyou 2000: 19.49.1097)

> Today there are no more than ten faithful and trustworthy men-of-service, but the offices in the realm number in the hundreds. If one must assign them to faithful and trustworthy men-of-service, there would not be enough men for the offices, and if there are not enough men for the offices, the orderly will be few and the disorderly will be many. Thus the Way of the enlightened ruler is to unify the *fa* instead of seeking out the wise, to consolidate his techniques instead of admiring the trustworthy. Thus *fa* will not fail, and among the thronging ministers there will be no treachery or machination. (Chen Qiyou 2000: 19.49.1109; cf. also 19.50.1141–42)

* * *

Judged by the texts presented so far, Han Fei would rank as an outstanding writer, but a derivative thinker. Readers of the *Han Feizi* are immediately struck that they are in the presence of one of the most distinctive voices in all of Chinese literature (cf. Yang Yi 2011: 75–84). "Thus, in bestowing rewards, an enlightened lord is bountiful like a seasonable rain; the Hundred Clans benefit from his fecundity. In carrying out punishments, he is dreadful like a thunderclap; even spirits and sages cannot absolve themselves" (Chen Qiyou 2000: 2.5.81)—few philosophers writing in any language have been able to muster such rhetorical power. Not surprisingly, the *Han Feizi* is the source of a large number of so-called "set phrases" (*chengyu* 成語) in Modern Chinese (Li Linhao and Chen Sufang 2009). But none of the ideas that we have seen to this point would have been considered original in the third century B.C.E. *Xingming* is borrowed, with hardly any innovation, from philosophers working a century earlier, especially Shen Buhai 申不害 (Creel 1974), and the foundational understanding of *fa* as an impersonal administrative technique is anticipated by another fourth-century thinker, Shen Dao 慎到 (b. ca. 360 B.C.E.), who wrote in a surviving fragment:

> If the lord of men abandons *fa* and governs with his own person, then penalties and rewards, seizures and grants, will all emerge from the lord's mind. If this is the case, then those who receive rewards, even if these are commensurate, will ceaselessly expect more; those who receive punishment, even if these are commensurate, will endlessly expect more lenient treatment. If the lord of men abandons *fa* and decides between lenient and harsh treatment on the

[12] Cf. also Chen Qiyou 2000: 17.40.946.

> basis of his own mind, then people will be rewarded differently for the same merit and punished differently for the same fault. Resentment arises from this. Thus the reason why those who apportion horses use *ce*-lots, and those who apportion fields use *gou*-lots, is not that they take *ce* and *gou*-lots to be superior to human wisdom, but that one may eliminate private interest and stop resentment by these means.[13] Thus it is said: "When the great lord relies on *fa* and does not act personally, affairs are judged in accordance with *fa*." The benefit of *fa* is that each person meets his reward or punishment according to his due, and there are no further expectations of the lord. Thus resentment does not arise and superiors and inferiors are in harmony. (Thompson 1979: fragments 61–65; see also Soon-ja Yang's chapter, below)

No learned appeals to historical example, and fewer arresting similes, but philosophically this exposition of *fa* is no different from anything in the *Han Feizi*.

The material that remains to be considered, however, complicates the picture. As stated at the outset, Han Fei's positions varied with his audience, and so far all we have discussed are essays addressed to rulers. In one extraordinary chapter, "The Difficulties of Persuasion," Han Fei turned his attention to ministers. And here we find him unabashedly encouraging them to maximize their interests by taking advantage of their sovereign's frailties.

> Eulogize other people who act in the same manner [as the ruler]; take as a model those affairs of others that are similar to his plans. If there is someone as vile as he, you must use [that person's] greatness to prettify him, as though he were harmless. If there is someone who has had the same failures as he, you must use [that person's] brilliance to prettify him, as though there were no real loss. If he considers his own strengths manifold, do not cause him to regret his [past] difficulties. If he considers his decisions brave, do not anger him by reprimanding him. If he considers his plans wise, do not diminish him [by citing] his failures. Only if there is nothing contrary in your general import and nothing stringent in your speech will your wisdom and rhetoric gallop forward to the ultimate. This is the way of attaining both intimacy without suspicion and effectual speech. (Chen Qiyou 2000: 4.12.261)[14]

Such advice, however, is limited to this one chapter; elsewhere, ministers who try to gauge the king's mind in order to further their careers are called "treacherous" (*jian* 姦):

> Treacherous ministers all want to accord with the ruler's mind in order to attain a position of trust and favor. Therefore, if the ruler likes something, the ministers will duly praise it; if the ruler hates something, the ministers will accordingly disparage it. (Chen Qiyou 2000: 4.14.278)

"The Difficulties of Persuasion" also broaches topics in epistemology and the philosophy of language that are not discussed to any comparable extent in the work of Han Fei's predecessors. Consider the following instructive anecdote:

> In the past, Lord Wu of Zheng 鄭武公 [r. 770–744 B.C.] wished to attack Hu 胡, so the first thing he did was to marry his daughter to the Lord of Hu in order to make amusement his

[13] Shen Dao alludes to lotteries for horses and fields elsewhere too; little is known about the practice.

[14] Consider also: "If [the ruler] has a desire to show off his wisdom and ability, present him with different proposals of the same general type, so as to leave him a wide swath; this will make him support proposals tending toward our side—but pretend that you are unaware, so that he exercises his own wisdom" (Chen Qiyou 2000: 4.12.261; cf. 18.48.1075).

> [sole] intention. Then [Lord Wu] asked his thronging ministers: "I wish to make use of my troops; whom would it be acceptable to attack?"
>
> Grand Master Guan Qisi 關其思 replied: "It is acceptable to attack Hu."
>
> Lord Wu was enraged and executed him, saying: "Hu is a brother state. How could you say to attack it?" When the Lord of Hu heard of this, he assumed that Zheng would treat him as a relative, so he did not prepare for [an incursion from] Zheng. The men of Zheng invaded Hu and seized it.
>
> In Song there was a rich man whose walls were damaged by exposure to the elements. His son said: "If you do not rebuild them, there will surely be thieves." His neighbor's father said the same thing. One night, as expected, there was a great loss to his wealth. His family considered his son very wise, but suspected their neighbor's father.[15]
>
> What these two men [namely, Guan Qisi and the neighbor's father] said fit the facts, and yet in the more extreme case one was executed, and in the less extreme case one was suspected [of burglary]. This is because it is not difficult to know, but it is difficult to place one's knowledge. (Chen Qiyou 2000: 4.12.266 f.)

The rich man's son and his neighbor's father both say the same thing, but the implications of their utterances are fundamentally divergent. In the case of the son, the family naturally assumes that the boy has his father's financial interests in mind, and lauds him for his ability to anticipate disaster. But in the case of the neighbor's father, the same assumption is no longer natural; indeed, the very opposite is plausible. To use the terminology of contemporary philosophy of language: the two statements, though lexically identical, have radically different implicature (e.g., Grice 1989: 24). The same sentence does not mean the same thing when spoken by two different men with two different ostensible intentions. It is the situation, more than the words themselves, that determines the significance of any statement; or, to formulate the same principle in different words: there is no such thing as a statement with universally valid implications (see further Goldin 2005b: 6 f.).

* * *

"The Difficulties of Persuasion" bears on the vexed question of the authenticity of the *Han Feizi*. It is remarkable that a minister who follows Han Fei's prescriptions in one chapter would be condemned as a traitor in another. Scholars sometimes cite such contradictions as evidence that the *Han Feizi* could not have been written by one man (e.g., Rong Zhaozu 1936: 31a–33a). As I have written elsewhere (Goldin 2005a: 62), the weakness of this theory is that it does not take into account the underlying similarities: the basic issue in all these contexts is the natural and inevitable antagonism between the ruler and his ministers. Han Fei's avowed opinion simply changes with his audience. Now he may excoriate duplicitous ministers; now he may explain how to gull a king. (A chapter called "Finding It Hard to Speak" 難言, Chen Qiyou 2000: 1.3.47–59, tries to help the king understand the hazards facing his courtiers, which prevent them from speaking too openly, and shows what "The Difficulties of Persuasion" might have looked like if it had been addressed to the sovereign; cf. the chapter by Hunter, below.) It is impossible to say which is the "real" Han Fei, because in neither authorial mode does Han Fei disclose his

[15] Compare Chen Qiyou 2000: 8.23.520.

personal views. And, for this reason, most scholars today are disinclined to accept such contradictions as decisive evidence that one or another chapter could not have been written by Han Fei (cf. Lundahl 1992: 92–113).

But certain other internal contradictions are more difficult to resolve. For example, at the end of a passage enumerating the familiar benefits of instituting *fa*, Han Fei added what would appear to be an innocuous ornament:

> If the law is harsh, the noble will not dare to disparage the base. If *fa* is made known, the sovereign will be esteemed and not impugned; if the sovereign is esteemed and not impugned, the ruler will be strong and will hold firm to the essentials. Thus the former kings valued *fa* and transmitted it. If the ruler relinquishes *fa* and uses his private judgment, superior and inferior will not be distinguished. (Chen Qiyou 2000: 2.6.111)

Here we are told not only that *fa* is effective, but that the former kings "valued and transmitted it." In a rhetorical context in which appeals to the past were more frequent than in our own discourse (e.g., Goldin 2008), the additional reference to the former kings is not trivial. But it clashes with the more typical expressions of disdain for anyone guided by the example of the ancients. As Yuri Pines shows below ("From Historical Evolution to the End of History"), the *Han Feizi* ridicules those who would attempt to solve today's problems by yesterday's means.

> Those who know nothing of rulership always say: "Do not change old ways; do not alter what has endured." Sages do not pay attention to whether there should be change or no change; they do no more than rule correctly. (Chen Qiyou 2000: 5.18.334)

> Those who would praise the ways of Yao 堯, Shun 舜, Yu 禹, Tang 湯, and Wu 武 for today's age must be ridiculed by the new sages. Thus sages do not expect to cultivate the past and do not take any enduring postulates as their *fa*. They sort through the affairs of the age, and institute expedients accordingly. (Chen Qiyou 2000: 19.49.1085)

Are we supposed to concern ourselves with the deeds of the former sages or not? For most chapters, the answer would be "not," but there are a few other passages where the former kings are invoked as a positive example (e.g., Chen Qiyou 2000: 5.19.359) or the reader is warned against altering precedents (e.g., Chen Qiyou 2000: 6.20.400). We do not have enough information about the original context of the various chapters to explain such discrepancies with any certitude. The chapters expressing indifference toward the former kings may have been written for a ruler who dismissed them as intellectual relics (perhaps the King of Qin?), the others for a ruler who was not prepared to abandon tradition entirely (perhaps the King of Hán?). There is no way to know.[16]

On the level of cosmology, there are even more puzzling contradictions. Most of the text is intelligible without specific cosmological commitments: we do not need to know much about how the universe operates because we know how *people* operate, and that is all that matters in politics. One of the peculiarities of Sima Qian's biography, however, is that he goes out of his way to state that Han Fei favored a particular cosmological theory:

[16] Specific historical examples are sometimes deployed in contradictory ways; for example, Guan Zhong's deathbed advice to Lord Huan of Qi 齊桓公 (r. 685–643 B.C.E.) is praised in one chapter (Chen Qiyou 2000: 3.10.228–29) and criticized in another (Chen Qiyou 2000: 15.36.849–52).

> He enjoyed the study of "performance and title" and methods and techniques [of governance], but he came home to his roots in Huang-Lao. (Sima Qian 1959: 63.2146)

Huang-Lao is a philosophy named for Huang and Lao, i.e. the Yellow Thearch (*Huangdi* 黃帝) and Laozi. As it has been analyzed from manuscripts excavated at Mawangdui 馬王堆, Huang-Lao exemplifies what R.P. Peerenboom has aptly called "foundational naturalism":

> First, as a *naturalism*, humans are conceived as part of the cosmic natural order understood as an organic or holistic system or ecosystem. In the language of Huang-Lao, dao as the cosmic natural order embraces both the way of humans (*ren dao* 人道) as well as that of nonhuman nature (*tian dao* 天道). Second, Huang-Lao privileges the cosmic natural order: the natural order has normative priority. It is taken to be the highest value or realm of highest value. Third, and correlate to the second, the human-social order must be consistent and compatible with the cosmic natural order rather than nature and the natural order being subservient to the whims and needs of humans.
>
> Huang-Lao advances a *foundational* naturalism in that the cosmic natural order serves as the basis, the foundation, for construction of human order. (Peerenboom 1993: 27)

Some passages on *dao* in the extant *Han Feizi* bear out Sima Qian's assertion. The most famous is the opening of the chapter called "Zhudao" 主道 (which can mean either "The Way of the Ruler" or conceivably "Making *dao* One's Chief [Concern]"):

> The Way is the origin of the Myriad Things, the skein of right and wrong. Therefore, the enlightened lord holds to the origin in order to know the source of the Myriad Things and masters the skein in order to know the endpoints of gain and loss. Thus, in emptiness and tranquility, he awaits commandment—the commandment for titles to assign themselves and for duties to determine themselves. Since he is empty, he knows the essence of objects; since he is tranquil, he knows what is correct for everything that moves. One who speaks spontaneously produces a "title"; one who acts spontaneously produces a "performance." When "performance and title" match identically, then everything returns to its essence without any action on the part of the ruler. (Chen Qiyou 2000: 1.5.66)

But this would seem to contradict the statement, encountered above, that sages "do not take any enduring postulates as their *fa*" (*bufa changke* 不法常可, Chen Qiyou 2000: 19.49.1085). If anything qualifies as an "enduring postulate," it is the *dao* itself, "the skein of right and wrong." (*Chang* and a synonymous term, *heng* 恆, were frequently deployed in connection with the *dao* in contemporaneous literature,[17] and thus a phrase such as *changke* would immediately make any reader think of the *dao*.) Time and again, the *Han Feizi* has insisted that the patterns of the past are not in themselves relevant to the world today, because circumstances necessarily change, but now we seem to read that there are certain eternally valid principles after all.

[17] The most famous example is probably "There is a constancy to Heaven's processes" 天行有常, the statement with which Xunzi begins his "Discourse on Heaven" ("Tianlun" 天論; Wang Xianqian 1988: 11.17.306). Another illustrative line comes from the anonymous Guodian text for which the editors chose the (untranslatable) title *Cheng zhi wen zhi* 成之聞之: "Heaven lays down a great constancy with which to rationalize human relations" 天降大常,以理人倫 (strip 31; Liu Zhao 2003: 137); it quickly becomes clear that this "great constancy" is the *dao* (Goldin 2005a: 44).

I can propose several possible explanations of this conundrum, presented here in what I consider increasing order of probability:

1. The simplest explanation would be that passages affirming the primacy of *dao* were written by someone else. It may be significant that the two chapters displaying the most pointed use of *dao* rhetoric, namely "The Way of the Ruler" and "Brandishing Authority" ("Yangquan" 揚權), are not included in the brief list of Han Fei's writings given by Sima Qian (Sima Qian 1959: 63.2147). Another example cited above is from "Illustrating Lao" ("Yu Lao" 喻老), whose authenticity is often doubted. But this hypothesis faces the objection that even if Sima Qian did not ascribe "The Way of the Ruler" and "Brandishing Authority" to Han Fei, he got the idea that Han Fei was a devotee of Huang-Lao from *somewhere*—presumably from portions of Han Fei's work that he did not cite specifically.
2. Han Fei may have changed his mind over the course of his life, and died too soon to edit out the inconsistencies in the papers that he left behind. (In this connection, it is important to remember that the *Han Feizi* did not exist as such in his own day; it was put together after his death, by an unknown editor or editors, out of the many essays attributed to him.)[18] One can only speculate, on this theory, whether he began his career as a nihilist and gradually came to accept "foundational naturalism," or whether he began with a conventional acceptance of *dao* as the great irresistible natural force, and eventually discarded it as unverifiable or irrelevant in practice. (Yang Yi 2011: 18–26 argues for the latter.)
3. Bearing in mind Han Fei's counsels in "The Difficulties of Persuasion," perhaps we need to accept that Han Fei was unafraid to contradict himself as occasions demanded. Before a king with a cultivated appreciation of *Laozi* and related texts, Han Fei duly spoke with what might be called "*Laozi* diction"; before a king with no such philosophical concerns, Han Fei focused on ministers and their cajolery, leaving out all the metaphysics. We are frustrated when he appears incoherent because coherence is our concern, and not his.
4. Lastly, it is noticeable that references to the ineffable *dao* tend to be followed very quickly by concrete and familiar administrative recommendations (cf. Pines, "Submerged by Absolute Power," below). The major purpose of using "*Laozi* diction" seems to be to show how that scripture helps one become a better ruler by teaching one to imitate the empty and inscrutable *dao*. For example, immediately after the opening paragraph of "The Way of the Ruler," we read:

> Thus it is said: The lord ought not to make his desires apparent. If the lord's desires are apparent, the ministers will carve and polish themselves [to his liking]. The lord ought not to make his intentions apparent. If the lord's intentions are apparent, the ministers will display themselves falsely. Thus it is said: Eliminate likes; eliminate dislikes. Then the ministers will appear plainly. Eliminate tradition; eliminate wisdom. Then the ministers will prepare themselves. (Chen Qiyou 2000: 1.5.66)

[18] I am indebted to Yuri Pines for this observation. Sometimes the compiler is thought to be Liu Xiang 劉向 (79–8 B.C.E.), but the evidence for this is not solid (Lundahl 1992: 73).

This is once again the philosophy of the poker-face, and could be defended with or without any particular cosmology. The reason why the lord ought to conceal his desires is not that the normative *dao* decrees such-and-such, but that his ministers will cannibalize him if given half the chance. The reference to the *dao* is useful solely because the *dao* was commonly understood, in the intellectual world after *Laozi*, as privileging no single characteristic over any other. If the lord can impersonate the *dao*, and reveal no tendencies of his own, he is sure to triumph over his adversaries.

A similar pattern is found in "Brandishing Authority." The relevant passage begins with distinctive "*Laozi* diction":

> The Way of Using Unity is to place titles at the forefront. If titles are rectified, things are fixed; if titles are askew, things deviate. Thus the Sage holds to unity in stillness; he causes titles to assign themselves and duties to determine themselves. (Chen Qiyou 2000: 2.8.145)

But then it immediately moves to the theme of letting ministers initiate the process of *xingming* by making their own proposals, and then unfailingly rewarding or punishing them as their "performance" demands:

> He does not let his colors be seen; thus inferiors align themselves straightforwardly. He delegates tasks by according with [their proposals], causing them to make their own duties. He grants [rewards] according to their [merit], so that they promote themselves. He sets the benchmark and abides by it, causing all things to settle themselves. The sovereign promotes according to the "titles"; if he does not know the "title," he traces their "performance." The extent to which "performance and title" match like two halves of a tally is what generates [reward or punishment]. If the two are perfect and reliable, inferiors will present their true nature. (*ibid*.)

Han Fei's approach to the *Laozi* is reminiscent of early commentaries to that text (such as the *Xiang'er Commentary* 想爾注; e.g., Bokenkamp 1997: 30–31) in that he tried to show how the language of the original could be illuminating for *his* purposes, not to offer what we would uphold, by our academic criteria, as a faithful interpretation. The *Laozi* refers to "names" (*ming* 名)? Oh, that refers to the "titles" that ministers propose for themselves. The *Laozi* says the *dao* is "empty" (*xu* 虛) and "still" (*jing* 靜)? These are the characteristics that a ruler would do well to embody if he does not want to be exploited. What the original authors of the *Laozi* may have meant by their work is not nearly as important as what you can gain from it.

Perhaps the point of all the references to *dao* is that change is only to be expected on superficial levels, but the most fundamental processes of the universe are inalterable. However, unlike other texts that openly advance such a view,[19] the *Han Feizi* never clarifies the matter along these lines. The fact that the text is content to leave the matter unresolved is revealing in itself. We do not know what Han Fei believed,

[19] E.g., *The Master of Huainan* 淮南子 (Major *et al*. 2010: 13–22). Similarly, the "Tian Zifang" 田子方 chapter of *Zhuangzi* 莊子 states that beasts that have attained perfect equanimity "may make small changes but do not lose their great constancy" 行小變而不失其大常也, in other words their most basic patterns of behavior (Guo Qingfan 1961: 7B.21.714).

and we cannot ever know, because Han Fei did not deign to tell us. His concerns lay elsewhere. Throughout the *Han Feizi*, what we read are statements not about truth, but about how truths can be profitably applied. He did not declare whether he thought human beings can improve themselves, to take a parochial Confucian concern; what matters is that most never will, and a shrewd ruler can apply this knowledge with awesome results. "It is not difficult to know, but it is difficult to place one's knowledge" (Chen Qiyou 2000: 4.12.267).

This book brings together contributors with diverse intellectual backgrounds and institutional affiliations spanning North America, Europe, and Asia. The goal has been to represent the widest possible array of approaches rather than to advance a specific interpretive agenda. Although we have reached a gratifying degree of consensus on the major elements of Han Fei's philosophy, readers will still be able to discern each contributor's unique voice, and some controversies remain.

The first section, "Han Fei's Predecessors," consists of two papers exploring the roots of Han Fei's philosophy in earlier sources. Yuri Pines begins by discussing the conception of history in the *Han Feizi* and related texts, including *The Book of Lord Shang* (*Shangjun shu* 商君書), which were founded on the conviction that "imitating antiquity" (*fagu* 法古) does not yield the best results in today's raucous times. Next, Soon-ja Yang offers the first study of Shen Dao to have appeared in English in many years. On the basis of the surviving fragments of Shen Dao's writings, Yang concludes that his most basic idea was *fa*, which she understands as "an objective standard of rewards and punishments which the ruler should follow." Yang also considers the theoretical question of whether Shen Dao should be construed as a legal positivist or a natural law theorist, and ends with thoughts on Shen's influence on Han Fei.

The next section contains three chapters elucidating "The Philosophy of Han Fei." Yuri Pines, in his second contribution to this book, reviews the various administrative techniques that a mediocre ruler can use to safeguard his dominion, but comes to an unexpected conclusion: since these techniques require "specialists of Han Fei's ilk," his vision, in the end, is of a centralized monarchy in which intellectuals "display their utmost respect to the monarch—but rule the realm in his stead!" Next, Albert Galvany articulates a distinctively European reading of the *Han Feizi* as a document of political philosophy. Inspired by Michel Foucault's notion of "discipline," Galvany argues that Han Fei's system of governance, "by accommodating the innermost nature of the individual and modifying his will … takes on the task of repressing deviation before it materializes in action or even in words." This is a world in which subjects cannot but obey, because the surrounding political structures are devised to attack and disarm their very nature. Finally, Eirik Lang Harris provides a thorough survey of the relevant passages supporting Han Fei's argument that "relying on morality in politics [is] necessarily detrimental to the flourishing of the state." Harris contrasts Han Fei with many contemporaries—especially Xunzi 荀子 (ca. 310-ca. 210 B.C.E.)—who tried to work virtue and morality into their political system.

The conspicuous contrast between Han Fei and Xunzi leads us to our third section, "Han Fei and Confucianism." Bryan W. Van Norden begins with a judicious

acknowledgment of the differences between Han Fei's political discourse and that of Confucians, but then contends that *both* have a place in today's society. On the one hand, we would hope that the Director of the Federal Bureau of Investigations will "do the tasks that have been assigned to [him or her]—and resolutely to refuse to do anything else," just as Han Fei's Supervisors of the Hat and Robe should stick to their own responsibilities and not meddle with anyone else's. On the other hand, Van Norden reminds us that laws need to be interpreted: "Judges and juries must apply concepts like 'informed consent,' 'reasonable doubt' and 'preponderance of evidence.' And when they apply these concepts they are exercising *wisdom*" (emphasis in original). A little bit of virtue helps.

In the second paper in this section, Masayuki Sato reviews the historical evidence behind the commonplace supposition that Han Fei studied with Xunzi, concluding that there is little basis for it. Sato goes on to show that Han Fei's conception of human nature is not necessarily indebted to that of Xunzi (as Neo-Confucians, in their zeal to criticize Xunzi, always assumed), because there were ample intellectual resources in Han Fei's time for a theory of human nature as inalterably self-interested.

The final section consists of "Studies of Specific Chapters": first Michael Hunter places "The Difficulties of Persuasion" into its rhetorical context, with the important observation that rhetorical effectiveness was a major concern for a variety of Warring States thinkers. On Hunter's view, Han Fei holds that persuasion (*shui*) is not inherently objectionable "so long as it is engaged in by advocates of law and expertise who willingly risk life and limb out of a sincere desire 'to save the age.'" This is followed by Sarah A. Queen's exhaustive analysis of "Explicating Lao" ("Jie Lao" 解老) and "Illustrating Lao," two partial commentaries on the *Laozi* whose authorship has been hotly contested. Although they are included in the extant *Han Feizi*, it is by no means clear that Han Fei himself wrote them; instead of focusing on this intractable question, Queen discusses their distinguishing characteristics and value as early records of *Laozi* interpretation.

Lastly, Masayuki Sato surveys East Asian scholarship on the *Han Feizi* in an invaluable appendix.

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A word on methodological particulars. All translations in this volume are original unless otherwise indicated. As our standard text, we have adopted *Han Feizi, with New Collations and Commentary* 韓非子新校注, by Chen Qiyou 陳奇猷 (i.e. Chen Qiyou 2000), but contributors refer to other commentaries as necessary. To help readers check references easily, we have used the *Newly Re-edited Anthology of the Various Masters* (*Xinbian Zhuzi jicheng* 新編諸子集成) editions of classical philosophers wherever possible, as they are prized for their accuracy and comprehensiveness, and are widely available. All citations are indicated in full in the bibliographies at the end of each chapter.

The names Hán 韓 (when referring to that kingdom) and Zhòu 紂 (the last ruler of the Shang 商 dynasty) are Romanized with their appropriate tone marks so as to distinguish them from Han 漢 and Zhou 周, respectively.

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