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# Worth Vs. Power: Han Fei's "Objection to Positional Power" Revisited

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**Abstract:** This article discusses the chapter "Objection to Positional Power" (Nan shi 難勢) of *Han Feizi* 韓非子. It provides a full translation cum analysis of the text and explores systematically the chapter's structure, rhetoric, and its political message. The discussion, which contextualizes the chapter's message within broader trends of the Warring States-period political debates, demonstrates that beneath the surface of debates about "positional power" (*shi* 勢) versus "worth" (*xian* 賢), the chapter addresses one of the touchiest issues in Chinese political thought: that of the intrinsic weakness of hereditary monarchy. Furthermore, "Objection to Positional Power" also addresses problems of the meritocratic system of rule and elucidates some of the reasons for Han Fei's dislike of meritocratic discourse. By highlighting some of the chapter's intellectual gems I hope to attract further attention to the immense richness of *Han Feizi* as one of the most sophisticated products of China's political thought.

**Keywords:** *Han Feizi*, meritocracy, positional power (*shi* 勢), ruler, Shen Dao

## Introduction

Chapter 40 of *Han Feizi*, "Objection to Positional Power" (Nan shi 難勢), is one of the most sophisticated philosophical texts in the entire corpus of pre-imperial political writings. It is one of the ideological centerpieces of *Han Feizi* and it is duly addressed in most studies that deal either with Han Fei's 韓非 (d. 233 BCE) political thought or, more generally, with the concept of "positional power" (*shi* 勢) and its relation (or the lack thereof) to the ruler's individual qualities.<sup>1</sup> Scholars were further attracted to the chapter due to its unusual triologue form – namely, presenting a thesis, an anti-thesis and an anti-anti-thesis – which generated heated

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<sup>1</sup> Speaking of Anglophone studies only, see Graham 1989: 278–282; Ames 1994: 72–75 and 87–94; Yang 2013: 57–61; Harris 2016: 87–93.

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debates about the text's bottom line.<sup>2</sup> Having benefitted immensely from the predecessors' discussions, I think we can advance further toward systematic exploration of this chapter's structure, rhetoric, and, most importantly, its political message.<sup>3</sup> In what follows, by providing a full translation cum analysis of the chapter,<sup>4</sup> I shall contextualize it within broader trends of pre-imperial (i. e. pre-221 BCE) Chinese political thought and highlight some of its hidden subtexts. I hope to demonstrate that beneath the surface of debates about "positional power" versus "worth" (*xian* 賢), the chapter addresses one of the touchiest issues in Chinese political thought: that of the intrinsic weakness of hereditary monarchy. Furthermore, "Objection to Positional Power" allows also broad inferences about problems of meritocratic system of rule, a topic which recently attracts considerable attention among scholars of Chinese political thought and political culture.<sup>5</sup> By drawing attention to the chapter's intellectual gems I hope to give further prominence to the immense richness of *Han Feizi* as one of the most sophisticated products of China's political thought.<sup>6</sup>

## The trialogue form

The major peculiarity of "Objection to Positional Power" chapter is its trialogue form. It starts with introducing Shenzi's (i. e. Shen Dao 慎到, fl. ca. 300 BCE) view that in a proper political system only positional power (*shi* 勢) matters, whereas individual qualities of the ruler are of no importance. This view is refuted by a Confucian-minded critic: the system which does not take into consideration the ruler's worth may eventually deteriorate into woeful tyranny. Then the third voice comes (in all likelihood that of Han Fei himself). The counter-reply explains why for the properly functioning political system the question of the ruler's qualities is irrelevant: under hereditary principles of succession, there is no way to ensure the incumbent's abilities and morality.

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<sup>2</sup> Summarized in Song Hongbing 2008, Yang Janguang 2012, and Yoshida 2012: 26–28.

<sup>3</sup> The most comprehensive study of "Objection to Positional Power" chapter heretofore is that of Yoshida (2012). It contains many insights, but still leaves much room for further engagement.

<sup>4</sup> In my translation I utilized the insights of previous translators (Ames, Graham, and Harris, note 1 above), and benefitted immensely from the draft translation of *Han Feizi* by Christoph Harbsmeier.

<sup>5</sup> See, e. g. Bell and Li 2013.

<sup>6</sup> There was recent considerable increase in interest in Han Fei's thought in the West (and to a lesser extent in China). For most notable studies of the last decade, see, e. g. Song Hongbing 2010 and Goldin 2013a.

Han Fei acknowledges that the effective political system that he advocates may be hijacked by a malicious tyrant; but tyrants, much like sages on the throne, are exceptions. A good system should cater to the needs and abilities of average mediocre monarchs, who are the norm in the world of hereditary succession of power. A viable political system is the one that functions well under mediocrities, not the one which requires sage helmsmen.

Two first segments of the discussion are easily identifiable: they are introduced by “Shenzi said” 慎子曰 and “the replier to Shenzi said” 應慎子曰. The third is more problematic: it is introduced by “the counter-reply says” 復應之曰. This formula is not attested in any known pre-imperial text; and the tripartite division of the debate itself is highly uncommon. Little surprise then that several early editors of the text read 復應之曰 as “I continue the reply, saying,” adding this part to the speech of Shen Dao’s refuter.<sup>7</sup> This inaccuracy in turn led not a few scholars to misunderstand the text completely. Not a lesser figure than Liang Qichao 梁啟超 (1873–1929) had wrongly concluded that Han Fei opposed Shen Dao’s views. Liang’s misunderstanding resulted in his analysis of the so-called Legalist thought as comprising two deviant sub-currents: “the principle of rule by techniques [of government]” (*shuzhizhuyi* 術治主義), associated with Shen Buhai 申不害 (d. 337 BCE), and “the principle of rule by positional power” (*shizhizhuyi* 勢治主義), associated with Shen Dao. In Liang’s interpretation, which derived overwhelmingly from his misreading of “Objection to Positional Power” chapter, “real” Legalists (i. e. Han Fei), rejected both sub-currents.<sup>8</sup> Although Liang’s misunderstanding had been corrected long ago by such authoritative scholars as Guo Moruo 郭沫若 (1892–1978), Xiao Gongquan 肖公權 (1897–1981), and Chen Qitian 陳啓天 (1893–1984) and was rejected in the overwhelming majority of studies of *Han Feizi*, it is still echoed in a few Chinese publications, prompting its renewed refutation well into the twenty-first century.<sup>9</sup>

That the text features three rather than two viewpoints will be demonstrated below and does not require further discussion here. What is important is to

<sup>7</sup> For details, see Yang Junguang 楊俊光 2012.

<sup>8</sup> Liang Qichao 1996 (1921): 173–182, esp. p. 175. Needless to say, the entire attempt to distinguish between “real” and “deviant” Legalists (or Confucians, Mohists, and the like) is hugely counterproductive, as it presupposes existence of neatly defined ideological camps, which was not the case in the Warring States period. For the weakness of the “Legalist” label, see Goldin 2011.

<sup>9</sup> The debates about the “third voice” in the chapter under discussion are summarized in Song Hongbing 宋洪兵 2008, Yang Junguang 楊俊光 2012, and Yoshida Koichi 吉田滋一 2012: 26–28. Song Hongbing presents in greater detail Liang Qichao’s mistake and its refutation. Among Western scholars, I did not notice anybody who followed Liang Qichao’s erroneous views.

notice the exceptionality of the debate format in *Han Feizi*. Recall that debates as such are almost non-existent in the Warring States-period (Zhanguo 戰國, 453–221 BCE) literature. Whereas many texts present the Master's (zi 子) polemic with his opponents, the latter are rarely allowed to utter more than a few sentences. Even in historical or quasi-historical texts, such as *Stratagems of the Warring States* (*Zhanguo ce* 戰國策) that supposedly depicts court debates, a direct discussion in which both sides present convincing arguments is a rarity.<sup>10</sup> It is only much later, in the first century BCE *Records of Salt and Iron* (*Yantie lun* 鹽鐵論) that both sides are allowed to present lengthy arguments, and a reader is given a chance to weigh pluses and minuses of both the government's policies and the opposition's demands.<sup>11</sup> In Han Fei's own time, a fair presentation of an opponent's view was highly exceptional. It is perhaps yet another reason for Liang Qichao's confusion.

A reader of *Han Feizi* will not fail to notice that lengthy quotations from what the thinker considers erroneous views is one of the hallmarks of the book's style, especially in its so-called "Objections" ("Nan" 難) chapters. Han Fei (or other contributors to the text that bears his name) appears to be delighted to present at length his opponents' ideas and then refute them point by point.<sup>12</sup> The most interesting of these chapters – and the closest to "Objection to Positional Power" in its form – is chapter 39, "Objections, Four" ("Nan si" 難四), which presents two different interpretations of four historical anecdotes, thus allowing no less than three voices (the original one and those of two interpreters) to be heard. Whether or not the latter chapter presents two conflicting analyses of every anecdote (for instance by two disciples of Han Fei) or, which is more likely in my eyes, just demonstrates Han Fei's skills as a great polemicist, able to provide more than one interpretation of any topic, remains to be discussed. What is clear is, first, that chapter 40 clearly belongs stylistically and topically to the same bunch of chapters like other "Objections," and, second, that the anti-Shen Dao voice therein is not that of Han Fei himself but of his intellectual rival.

Han Fei's readiness to present at length his opponent's ideas (and allow them to sound convincing enough to mislead Liang Qichao and many other readers) reflects Han Fei's remarkable self-confidence. Besides, as I hope to demonstrate below, the chapter testifies to Han Fei's exceptional analytical skills. These surpass even those of his (putative) master, Xunzi 荀子 (d. after 238 BCE), who was equally renowned for being able to engage a variety of

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<sup>10</sup> For one exceptional case in *Stratagems*, see Pines 2018.

<sup>11</sup> Polnarov 2018.

<sup>12</sup> For the "Nan" chapters as a whole, see Zhang Suzhen 1987. For their unusual usage of historical anecdotes, see perceptive analysis of David Schaberg 2011.

opponents' views.<sup>13</sup> Yet Xunzi never gives his opponents such a considerable space as Han Fei does. Nor does Han Fei himself allow elsewhere such a lengthy and fair presentation of the opponents' views as in the "Objection to Positional Power" chapter. Never again does he resort to the clear trialogue format, which allows him not only to defend Shen Dao against his opponent, but also demonstrate his own superiority over Shen Dao. The chapter under discussion remains a sole testimony to an interesting experiment in sophisticated argumentation.

## Shen Dao's views

The chapter starts with a lengthy quotation of Shen Dao's views.

慎子曰：「飛龍乘雲，騰蛇遊霧，雲罷霧霽，而龍蛇與螭蜺同矣，則失其所乘也。賢人而詘於不肖者，則權輕位卑也；不肖而能服於賢者，則權重位尊也。堯為匹夫，不能治三人；而桀為天子，能亂天下：吾以此知勢位之足恃而賢智之不足慕也。夫弩弱而矢高者，激於風也；身不肖而令行者，得助於眾也。堯教於隸屬而民不聽，至於南面而王天下，令則行，禁則止。由此觀之，賢智未足以服眾，而勢位足以屈賢者也。」

Shenzi said: The flying dragon rides the clouds; the winged snake travels on the mists. But when the clouds are gone and mists dissipate, then they become the same as worms and ants. It is because they lost what they can ride upon. If the worthy bend to an unworthy, it is because their authority is light and position is debased. If the unworthy submit to the worthy, it is because [the latter's] authority is heavy and position is respected.

When Yao was a commoner, he was not able to govern three people, whereas when Jie was the Son of Heaven, he was able to put All-under-Heaven in turmoil. From this I know that the positional power suffices to rely upon, whereas being worthy and wise does not suffice to be admired. So, if the crossbow is weak, but the arrow flies high, it is because it rides on the wind. If one is unworthy, but his orders are implemented, it is because he obtained assistance from the masses. Should Yao be a slave, the people would not listen to him; yet when he faced south and ruled All-under-Heaven, his orders were implemented, and his prohibitions were obeyed. Judging from this, worthiness and wisdom do not suffice to subjugate the masses, whereas positional power and status suffice to subdue the worthies.<sup>14</sup>

The above passage appears almost verbatim in the largest surviving fragment of *Shenzi*, the "Wei de" (威德, "Awe-inspiring potency") chapter, which was pre-

<sup>13</sup> For the debate about whether or not Han Fei was Xunzi's disciple, see Sato 2013.

<sup>14</sup> All the translations from "Objection to Positional Power" chapter are based on comparison between *Han Feizi jijie* edition (collated by Wang Xianshen 王先慎 [1859–1922]) and *Han Feizi xin jiaozhu* edition (collated and annotated by Chen Qiyou 陳奇猷 [1917–2006]). In translating Shen Dao-related passage, I borrow from Harris 2016: 107–108.

served in the seventh century compendium *Essentials of Orderly Rule from Multiple Books* (*Qunshu zhiyao* 群書治要).<sup>15</sup> There is no reason to doubt that this passage is a reliable introduction to Shen Dao's ideas. It epitomizes one of Shen's major contributions to traditional Chinese political thought: new understanding of the nature of the ruler's authority. Shen Dao, as other thinkers and statesmen of the Warring States period (including Han Fei himself), was part of the broad intellectual trend dubbed by Liu Zehua 劉澤華 (1935–2018) the ideology of China's "monarchism" (*wangquanzhuyi* 王權主義).<sup>16</sup> Thinkers of various ideological inclinations shared the belief that only under a singular omnipotent sovereign could a viable political order emerge. Yet whereas the idea of monarchic rule was almost unanimously accepted (with a possible single exception of *Zhuangzi* 莊子), the nature of the monarch's authority, his relations with the ministers, and the monarch's desired qualities were bitterly contested.<sup>17</sup> Shen Dao entered these debates with a radically novel perspective.

Many – probably most – thinkers of the Warring States period cherished the ideal of a ruler as a moral paragon and not just a political leader. This view is epitomized, for instance, in Mozi's 墨子 (ca. 460–390 BCE) model of an ideal state, embedded in his "Elevating Uniformity" (or "Conforming Upwards," "Shang tong" 尚同) chapters. In Mozi's narrative, the primeval society was plagued by woeful beastlike turmoil, which ended only when "the worthiest and most capable" (*xianke* 賢可) of men was selected (or elected?) to become the Son of Heaven. This primeval Son of Heaven established strict hierarchic rule, in which every unit was led by the worthiest leader. Mozi readily acknowledged that this was not the situation of his days and that current sovereigns fell short of his moral expectations. Yet this was in his eyes an aberration: normally the world should belong to the worthiest.<sup>18</sup> Mengzi 孟子 (ca. 380–304 BCE), who shared the belief that only a benevolent person would be able to attain the cherished goal of universal political unity,<sup>19</sup> attempted to solve the problem of the current ruler's inadequacy by introducing the figure of a ruler's teacher, a "Great Man" who would "rectify the wrongs in the ruler's heart."<sup>20</sup> Other texts, such as *Great Learning* (*Daxue* 大學) stressed the ruler's self-cultivation: "From the Son of Heaven down to the commoners, all are united in considering self-cultivation as the root" (自天子以至

<sup>15</sup> For the authenticity of *Shenzi* fragments, see the comprehensive discussion by Thompson (1979).

<sup>16</sup> Liu Zehua 2000, 2013–14.

<sup>17</sup> Pines 2009: 25–107.

<sup>18</sup> See Mozi III.11–13: 109–153 ("Shang tong"). See more in Pines 2009: 31–34 and 58–63.

<sup>19</sup> Mengzi 1.6; 7.3; 14.13.

<sup>20</sup> Mengzi 7.20.

於庶人，壹是皆以修身為本).<sup>21</sup> Specifics differed, but the bottom line – expectations of the ruler to be a moral leader of society – remained intact.<sup>22</sup>

The seeds of reaction against these inflated expectations of a sovereign's moral and intellectual capacity may have appeared before Shen Dao. In some of the relatively early chapters of the *Book of Lord Shang* (*Shangjunshu* 商君書, attributed to Shang Yang 商鞅 [d. 338 BCE] and his followers) we encounter a new idea of rulership. For instance, the narrative of the state formation in “Opening the blocked” (“Kai sai” 開塞) chapter depicts the ruler as an essential part of political mechanism who, by his mere presence, allows the unification of the polity (and eventually of All-under-Heaven). In this narrative what matters is the ruler's position rather than his qualities.<sup>23</sup> Yet overall, the *Book of Lord Shang* remains focused on the state-society relations (namely, how to direct the entire population toward agriculture and warfare), and pays relatively little attention to the concept of rulership or to ruler-minister relations. In *Shenzi* fragments, in contrast, the latter problems occupy the central place. It is justified to say that Shen Dao was the one to revolutionize the discourse of rulership.

Shen Dao observes that in the real political life, the ruler's individual qualities do not impact his authority. What matters is the power (*shi* 勢) that derives from his status as a ruler. The term *shi*, as had been extensively discussed elsewhere,<sup>24</sup> refers primarily to the advantages that derive from one's position, or, in certain (mostly military) contexts, from favorable circumstances. The ruler's commands are heeded not because of his personal abilities, but exclusively because of his position of authority. Thus, should the sage Thearch Yao occupy a menial's position, he would “not be able to govern three people.” That Yao could bring about orderly rule to All-under-Heaven was not a result of his worth per se but primarily of the lucky fact that he occupied a position, which allowed him to realize his plans. Yet this combination of worthiness and power was an exception. Normally, insofar as worthies occupy low position, they have no chance but to yield to unworthy superiors.

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<sup>21</sup> Cited from *Sishu zhangju*, p. 4.

<sup>22</sup> To the above examples one may add that of *Laozi* 老子 and related texts, which expect of the ruler to become “sage” (*shengren* 聖人), which potentially places him at an even higher level than an ordinary morally cultivated person. See more in Pines 2009: 36–44. For the exceptional role of “sages” in philosophical, religious, and political discourse of the Warring States period, see Puett 2002.

<sup>23</sup> For “Kai sai” chapter, see Pines 2017: 166–171; for the ideology of *Book of Lord Shang* in general and for the dates of its individual chapters, see *ibid.*, p. 25–99.

<sup>24</sup> Ames 1994: 65–107; cf. Luo Duxiu 2002; Jullien 1995.

Shen Dao summarizes: “If one is unworthy, but his orders are implemented, it is because he obtained assistance from the masses.”

The latter sentence, which can be read as a prophecy about the state of affairs in electoral democracies, pertains to the key point of Shen Dao: the issue of political legitimacy. “The masses” in China did not vote, but their consent with the ruler’s authority was crucial for his success. Especially, the conscripts’ obedience on the battlefield was critically important for the polity’s survival. Moralizing thinkers – such as Mengzi or Xunzi – insisted that only a morally upright ruler would gain the subjects’ loyalty.<sup>25</sup> Shen Dao, in contrast, argues that the ruler’s power to issue commands has nothing to do with his qualities and derives exclusively from his position of authority. This applies in particular to the administrative apparatus and the ruler’s ability to ensure obedience of his underlings. The conclusion is clear: the ruler should concern himself with preserving his positional power, i. e. by preventing emergence of alternative loci of authority, as is specified in Shen Dao’s fragments, and, with much greater clarity, in *Han Feizi*.<sup>26</sup>

Shen Dao is unequivocal: for the ruler, moral self-cultivation is a waste of time, as it will not benefit his functioning. This cynic observation may appall many modern readers, just as it appalled the Confucian critic of Shen Dao whose views we shall survey below. Yet the astuteness of Shen Dao’s analysis cannot be easily dismissed. Think of an army, for instance, where preservation of the chain of command and of the singular authority of every commander over his unit is by far more important than ensuring the best possible commander at the top. A subordinate officer may very well surpass his commander in intellectual abilities, but for the sake of military discipline, which is vital for preserving the army as such, it is important that he obey commands. In Shen Dao’s age of the Warring States, when the similarity between the state and the army was much higher than during other periods of Chinese history, the advantages of unified command – in the army and in the state – were clear to many thinkers.<sup>27</sup>

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<sup>25</sup> See, e. g. *Mengzi* 1.3, 1.5, 1.6, 2.12 *et saepe*; *Xunzi* VI.10: 182–183 (“Fu guo” 富國), VIII.12: 234 (“Jun dao” 君道), XI.16: 293 (“Qiang guo” 疆國) and so forth.

<sup>26</sup> For Shen Dao’s emphasis that it is essential for the leader to prevent “doubts” of his leadership and prevent contention for power, see *Shenzi*, “Potency established” (“De li” 德立) (Harris 2016: 118–119). In *Han Feizi*, this notion permeates many chapters; see details in Pines 2013a.

<sup>27</sup> Actually, the equation of a state and an army was explicitly done by anonymous followers of Shen Dao, whose views are cited in “Zhi yi” (執一) chapter of *Lüshi chunqiu* 呂氏春秋 (17.8: 1132). For the pivotal role of military concerns for the state organization in the Warring States period, see Lewis 1990.



Shen Dao is not concerned with the question whether the separation of the power to issue commands from one's worthiness is a bad thing or not. His goal is to caution the ruler against the dispersal of his authority: the result of this dispersal will be political turmoil. Shen Dao does not gloss over the possibility that a vicious tyrant – like the infamous last ruler of the legendary Xia 夏 dynasty, Jie 桀 – would abuse his enormous power and “put All-under-Heaven in turmoil.” But then, how to deal with this possible abuse of positional power? Shen Dao remains silent. This weakness is duly exposed by his Confucian opponent, who enters the scene.

## Confucian criticism

應慎子曰：飛龍乘雲，騰蛇遊霧，吾不以龍蛇為不託於雲霧之勢也。雖然，夫釋賢而專任勢，足以為治乎？則吾未得見也。夫有雲霧之勢而能乘遊之者，龍蛇之材美也；今雲盛而螾弗能乘也，霧醲而螻不能遊也，夫有盛雲醲霧之勢而不能乘遊者，螾螻之材薄也。今桀、紂南面而王天下，以天子之威為之雲霧，而天下不免乎大亂者，桀、紂之材薄也。

The replier to Shenzi said: The flying dragon rides the clouds and the winged snake travels on the mists. I do not deny that the dragon and the snake rely on the positional power of clouds and mists. Nonetheless, if you cast away worthiness and rely exclusively on positional power, would it suffice for orderly rule? If so, I have never noticed this. If, having the positional power of clouds and mists, the dragon and the snake are able to ride and travel on them, it is because of their splendid skills. Now, even if the clouds are dense, a worm cannot ride on them; even if the mist is thick, the ant cannot travel on it. That the worm and the ant cannot ride and travel on dense clouds and thick mist, is because of their meager skills. Now, Jie and Zhòu faced southward and ruled All-under-Heaven, turning the awesome majesty of the Son of Heaven into their clouds and mists. And yet, All-under-Heaven did not escape great turmoil. It is because of the meager skills of Jie and Zhòu.

The “replier to Shenzi” starts with eloquent defence of the common view that the ruler's worthiness is essential for his adequate functioning. Seizing Shenzi's example of a dragon and a flying snake whose flight depends on the “positional power” of clouds and mists, he reminds that favorable circumstances alone do not suffice to ensure flight. After all, worms, ants, (and humans) are not able to fly not because of the absence of “positional power” of clouds and mists, but because of their personal inadequacy. And speaking of the rulership, the example of tyrants Jie and Zhòu (紂 [d. ca. 1046 BCE], the bad last ruler of the Shang dynasty), whose malfunction had not just resulted in gross oppression of their subjects, but, ultimately, brought about their own downfall, suffices to caution against Shen Dao's cavalier assault on the irrelevance of the ruler's worthiness.

This argument of Shen Dao's opponent unmistakably resembles that of Han Fei's alleged teacher, Xunzi:

荀卿子說齊相曰：「處勝人之執，行勝人之道，天下莫忿，湯武是也。處勝人之執，不以勝人之道，厚於有天下之執，索為匹夫不可得也，桀紂是也。」

Master Chamberlain Xun [Xunzi] attempted to persuade the chancellor of Qi saying, "If one occupies position of authority that prevails over others and also practices the Way that prevails over others, then nobody under Heaven will hate him – such were [kings] Tang and Wu [the founders of the Shang and Zhou dynasties]. If one occupies position of authority that prevails over others, but does not employ the Way that prevails over others, then, even if his positional power is so abundant as to possess All-under-Heaven, he would seek in vain [to end peacefully one's days] even as a commoner – such were Jie and Zhòu."<sup>28</sup>

The disastrous end of two ultimate tyrants, Jie and Zhòu – who were overthrown by their righteous subjects-turned-foes, kings Tang and Wu – became the stock example for those dissatisfied with excessive emphasis on positional power as the primary asset of the ruler. Indeed, should this power alone suffice to ensure proper rule, then how one could explain the miserable fate of these sovereigns? Xunzi emphasizes the importance of the proper Way, whereas Shen Dao's opponent cited in *Han Feizi* focuses on the ruler's worth instead, but their arguments are fundamentally the same. With all due respect to the positional power, it is secondary to the ruler's moral adequacy in ensuring his success. Yet having postulated this, Shen Dao's critic goes one step further, to question the very legitimacy of preoccupation with positional power at the expense of the ruler's morality:

且其人以堯之勢以治天下也，其勢何以異桀之勢也，亂天下者也。夫勢者，非能必使賢者用之，而不肖者不用之也。賢者用之則天下治，不肖者用之則天下亂。人之情性，賢者寡而不肖者眾，而以威勢之利濟亂世之不肖人，則是以勢亂天下者多矣，以勢治天下者寡矣。夫勢者，便治而利亂者也。故《周書》曰：「毋為虎傅翼，將飛入邑，擇人而食之。」夫乘不肖人於勢，是為虎傅翼也。桀、紂為高臺深池以盡民力，為炮烙以傷民性，桀、紂得成肆行者，南面之威為之翼也。使桀、紂為匹夫，未始行一而身在刑戮矣。勢者，養虎狼之心而成暴亂之事者也，此天下之大患也。勢之於治亂，本末有位也，而語專言勢之足以治天下者，則其智之所至者淺矣。

Besides, if the right person takes the positional power of Yao to bring order to All-under-Heaven, how does his positional power differ from that of Jie, who put All-under-Heaven in turmoil? After all, positional power cannot ensure that it would be used by the worthy and not used by the unworthy. When the worthy uses it, then All-under-Heaven is ruled well;

<sup>28</sup> Xunzi XI.16: 295 ("Qiang guo" 疆國); translation modified from Hutton 2014:166. The Xunzi connection of the argument by Shen Dao's opponent was noticed by Graham 1989: 279. For Xunzi's views of positional power, see Ames 1994: 84–87.

when the unworthy uses it, then All-under-Heaven is in turmoil. Human basic disposition and innate nature are such that the worthy are few and the unworthy are numerous. If you use the advantages of awe-inspiring positional power to assist the unworthy who put our generation in turmoil, then there will be many of those who would use positional power to put All-under-Heaven in turmoil and few of those who would use positional power to bring orderly rule to All-under-Heaven.

Thus, positional power is beneficial to order and [also] advantageous to turmoil. Therefore, the *Zhou Documents* say: “Do not give the tiger wings, or else he will fly into the town, pick out the people and devour them.”<sup>29</sup> So, to let the unworthy ride on positional power means to give wings to the tiger. Jie and Zhòu erected high terraces and dig deep ponds and thereby exhausted the people’s strength; they roasted people alive and thereby harmed the people’s nature. Jie and Zhòu were able to accomplish their profligate behavior because the awesome majesty of facing south became their wings. Should Jie and Zhòu be mere commoners, they would face punishment and execution even before they started one [of their misdeeds]. Positional power is what nourishes the heart of a wolf or a tiger, and [allows them to] accomplish the deeds of violence and turmoil. It is the great disaster of All-under-Heaven. Fundamentally, positional power has nothing to do with orderly rule and turmoil. And yet [Shen Dao’s] discourse speaks exclusively of positional power as sufficient to order All-under-Heaven: this means that the reach of his wisdom is shallow.

The assault on positional power here becomes much harsher than in the first part of the counter-Shen Dao’s reply. The full implication of Shen Dao’s own admittance – that positional power of Jie allowed him to wreak havoc in All-under-Heaven – is now exposed. Jie and Zhòu were arch-villains, whose combination of vanity and sadism brought about the collapse of their states and their own extermination. The invocation of these two examples was akin to *reductio ad Hitlerum* in modern political debates:<sup>30</sup> it sufficed to totally disarm an opponent. The conclusions are unequivocal. Positional power which allows the sadists to roast people alive “is the great disaster of All-under-Heaven.” And the critic of Shen Dao goes one step further. He reminds of what was probably a common (even if rarely articulated) conviction of Chinese thinkers: “human basic disposition and innate nature are such that the worthy are few and the unworthy are numerous.” This observation – which, as we can mention *en passant* can be used to highlight the intrinsic contradiction between the ideas of democracy and meritocracy – is used in the above discussion to further undermine the appeal of positional power. Insofar as this power lends itself to any user, and insofar as, statistically, most users would be inept and immoral, potentially even becoming self-destroying sadists like Jie and Zhòu, then the very invocation of positional power in political discussions should probably be outlawed.

<sup>29</sup> This quotation refers to “Wu jing” 寤儆 chapter of *Remainder of Zhou Documents* (Yi Zhou shu 逸周書) (Yi Zhou shu III.31: 333).

<sup>30</sup> Strauss 1965: 42.

After this – unprecedentedly ferocious – assault on the very discourse of positional power, the critic turns to a milder argument in favor of renewed concern with the ruler's qualities: without adequate skills, no positional power will suffice to rule the state well:

夫良馬固車，使臧獲御之，則為人笑，王良御之，而日取千里。車馬非異也，或至乎千里，或為人笑，則巧拙相去遠矣。今以國位為車，以勢為馬，以號令為轡，以刑罰為鞭策，使堯、舜御之則天下治，桀、紂御之則天下亂，則賢不肖相去遠矣。夫欲追速致遠，不知任王良；欲進利除害，不知任賢能，此則不知類之患也。夫堯、舜亦治民之王良也。

As for good horses and a solid chariot, if you make a mere slave drive them, he will become the laughing stock of All-under-Heaven; but if [the master charioteer] Wang Liang drives them, this chariot will make a thousand *li* per day. It is not that the chariot and the horses are different, but in one case it covers a thousand *li* and in the other case it is laughable – then it is because skill and incompetence are far apart from each other. Now, take the ruler's status to be the chariot, positional power to be the horses, orders and ordinances to be the reins, and punishments and rewards to be the whips. When you let Yao or Shun drive it, All-under-Heaven is ruled well; but when Jie and Zhòu drive it, All-under-Heaven is in turmoil – then, it is because the worthy and the unworthy are far apart from each other.

Thus, if you want to ride fast and reach far, but do not know how to employ Wang Liang, and if you want to promote benefits and eradicate harms, but do not know how to employ the worthy and the able, then this is the trouble of not understanding this analogy. And Yao and Shun are the Wang Liangs of governing the people well.

The argument here reminds the one with which the critic opened his assault on Shen Dao, but here he is engaged in a more direct conversation with Han Fei himself. By utilizing Han Fei's favorable simile, “now, take the ruler's position to be the chariot, and positional power to be the horses” (今以國位為車，以勢為馬),<sup>31</sup> the opponent reminds that only the charioteer's skills would ensure the chariot's smooth advancement. The subsequent argument, namely that orderly rule is attainable only through employing “the worthy and the able,” is by itself not controversial. Actually, bitter debates about the nature of one's “worthiness” and about the abuses of meritocratic discourse aside, thinkers across the ideological spectrum agreed that only persons of proven abilities should staff government positions.<sup>32</sup> However, Shen Dao's opponent makes a grave mistake by applying this very understanding to the rulers. After all, as everybody knew well, the rulers ascended their throne not due to meritocratic selection but due to their birthright alone. And, as Shen Dao's opponent readily acknowledged,

<sup>31</sup> For this simile, see, e. g. *Han Feizi xin jiaozhu* XIII.34: 765–766 (“Wai chushuo you shang” 外儲說右上) XIV.35: 808 (“Wai chushuo you xia” 外儲說右下).

<sup>32</sup> Pines 2013b.

“human basic disposition and innate nature are such that the worthy are few and the unworthy are numerous.” If so, how one can ensure persistent rule by the likes of Yao and Shun? Being unable to answer this question, Shen Dao’s critic enters into a trap. Han Fei is swift to utilize this weakness.

## Han Fei’s reply

That Han Fei comes to defend Shen Dao’s views of positional power is not surprising; after all, elsewhere the *Han Feizi* cites verbatim these views approvingly as reflecting its own ideas.<sup>33</sup> Yet the refutation of Shen Dao’s opponent allows Han Fei to raise the discussion of the positional power to new heights:

復應之曰：其人以勢為足恃以治官；客曰「必待賢乃治」，則不然矣。夫勢者，名一而變無數者也。勢必於自然，則無為言於勢矣。吾所為言勢者，言人之所設也。今日堯、舜得勢而治，桀、紂得勢而亂，吾非以堯、桀為不然也。雖然，非一人之所得設也。夫堯、舜生而在上位，雖有十桀、紂不能亂者，則勢治也；桀、紂亦生而在上位，雖有十堯、舜而亦不能治者，則勢亂也。故曰：「勢治者則不可亂，而勢亂者則不可治也。」此自然之勢也，非人之所得設也。若吾所言，謂人之所得設也而已矣，賢何事焉？

The counter-reply to this says: That man [Shen Dao] considered the positional power as sufficient to rely on in ruling the officials. You, my guest, say: “One should wait for the worthies and only then there will be orderly rule.” This is wrong. As for positional power: it has one name but countless changes. Should positional power be so of itself, there would be no need to speak of positional power. The positional power of which I am speaking is that set up<sup>34</sup> by humans.

Now [your argument is]: when Yao and Shun obtain positional power, there is orderly rule, and when Jie and Zhòu obtain positional power, there is turmoil. It is not that I consider [the example] of Yao and Jie as wrong. Nonetheless, this is not something that a human being can set up. Should Yao and Shun be born and be at the supreme position, then even ten Jie and Zhòu would not be able to create turmoil: this is the positional power that brings about orderly rule. Should Jie and Zhòu also be born and be at the supreme position, then even ten Yao and Shun would not be able to attain orderly rule: this is the positional power that brings about turmoil. Hence it is said [about these cases]: when the positional power brings about orderly rule, this cannot be turned into turmoil; when the positional power brings about turmoil, this cannot be ordered. Yet this is a positional power which is so of itself, it is not what the humans set up. What I am talking about is only what the humans can set up; what I am talking about is

<sup>33</sup> See, e. g. *Han Feizi xin jiaozhu* VIII.28: 552 (“Gong ming” 功名).

<sup>34</sup> Note that according to recent research, the term *shi* 勢 (\*ŋjet-s) itself may have derived from “setting up” (*she* 設; \*ŋjet) (discussed in Goldin forthcoming).

only the positional power that humans can attain.<sup>35</sup> What has one's worthiness to do with this?

Han Fei's refutation of the opponent's view starts with reminding him that Shen Dao did not speak of positional power as a philosophical abstraction. He was concerned with concrete administrative question: what gives the ruler the authority to govern his officials? The answer was that this authority derives from the position of rulership itself rather than from one's individual qualities. By hijacking the discussion from the realm of administration to the realm of moral abstractions, Shen Dao's opponent misses the essential point: a political thinker should concentrate on perfecting the administrative mechanism rather than bothering himself with unattainable utopia of the sages' rule.

Having reminded the opponent of the discussion's focus, Han Fei presents a singularly sophisticated analysis of the nature of positional power. He distinguishes between the positional power which is so by itself (*ziran* 自然, which is tempting to translate as "natural" positional power), and the one which is set up by the humans. The former refers to the power that derives not just from the position of authority but also from the ruler's individual qualities. Yet these qualities cannot be set up through human intervention. Han Fei's readers do not require a reminder of the obvious: in hereditary monarchy, the ruler's position is determined by his birthright, and his abilities play little if any role in ensuring succession. The ruler is "born" to his position; and this is "so by itself." Since we can neither ensure that a sage ruler akin to Yao ascends the throne nor prevent the appearance of an evil tyrant of the Jie and Zhòu type, we should not concern ourselves with the question of the ruler's worthiness. The topic of the ruler's qualities simply does not deserve discussion.

Having dissociated once and for all the positional power from the question of the ruler's qualities, Han Fei summarizes with a rhetorical question: "What has one's worthiness to do with this [i. e. with the men-set positional power]?" This question is followed by a small humoristic digression:

何以明其然也？客曰：「人有鬻矛與楯者，譽其楯之堅，物莫能陷也，俄而又譽其矛曰：『吾矛之利，物無不陷也。』人應之曰：『以子之矛陷子之楯何如？』其人弗能應也。」以為不可陷之楯，與無不陷之矛，為名不可兩立也。夫賢之為勢不可禁，而勢之為道也無不禁，以不可禁之勢【賢】，【與無不禁之勢，】此矛楯之說也。夫賢勢之不相容亦明矣。

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<sup>35</sup> These two sentences cause major confusion to the editors and transmitters of *Han Feizi*, who proposed different amendments to the text (see summaries in *Han Feizi xin jiaozhu*, 947n5 and *Han Feizi jijie*, 391–392). I think that both phrases as appear in Wang Xianshen's *Han Feizi jijie* edition make perfect sense and no amendment is needed.

How can I make it clear that this is so? One of my guests<sup>36</sup> told: “There was someone who was offering a shield and a lance for sale. He praised the strength of the shield: ‘Nothing can pierce it!’ After a while he again praised his lance saying, ‘My lance is so sharp, it will pierce any object.’ Someone responded to this saying: ‘If using your lance, Sir, I pierce your shield, what happens?’ The man did not know what to answer.” It means that a shield that cannot be pierced and a lance that can pierce anything, can per definition not coexist. If the worthy’s positional power cannot be stopped, while the way of positional power is that it can stop everything, then if with that unstoppable {worth, you engage positional power which can stop anything},<sup>37</sup> that is a shield-and-lance contradiction in your theory. It is clear then that worth and positional power cannot absorb each other.

Textual corruption of the penultimate sentence hinders our reconstruction of Han Fei’s exact message but its bottom line is clear nonetheless: the thinker points out that the political system cannot be based on the mixture of worth and positional power. Just like the “impenetrable shield” and “all-penetrating” spear cannot coexist so do worthiness and the positional power. This argument, even if literally appealing, is misleading, though. In practice, both concepts are not contradictory but are simply unrelated. The first belongs to the realm of human’s individual qualities, a marginal topic for Han Fei, who believes that, politically speaking, every actor is purely self-interested, and there is no possibility to alter this situation through moral cultivation.<sup>38</sup> The second belongs to the realm of adequate administrative arrangements, which, in order to be functional, should not be based on naïve expectations of exceptionally good or exceptionally bad leaders. This point is exposed in full in the next part of Han Fei’s argument:

且夫堯、舜、桀、紂千世而一出，是比肩踵踵而生也。世之治者不絕於中，吾所以為言勢者，中也。中者，上不及堯、舜，而下亦不為桀、紂。抱法處勢，則治；背法去勢，則亂。今廢勢背法而待堯、舜，堯、舜至乃治，是千世亂而一治也。抱法處勢而待桀、紂，桀、紂至乃亂，是千世治而一亂也。且夫治千而亂一，與治一而亂千也，是猶乘驥、駟而分馳也，相去亦遠矣。

Besides, if Yao and Shun or Jie and Zhòu appear even once in a thousand generations, this is like being born shoulder to shoulder and being treading on each other’s heels. [Yet] the average [rulers] cannot be cut out of the generations of orderly rule. The positional power of which I am talking is about the average [rulers]. The average is he who does not reach Yao or Shun above, but also does not behave like Jie or Zhòu below. When one embraces the law and acts according to the positional power, there is orderly rule; when one turns

<sup>36</sup> Here *ke* does not refer to an opponent but to another “guest” (retainer, disciple?) of Han Fei.

<sup>37</sup> The text is corrupt here and I follow the tentative amendment of Gu Guangqi 顧廣圻. Chen Qiyong (in *Han Feizi xin jiaozhu*, 948n8) suggests a further amendment of 與 到 處: “if with the unstoppable worth you occupy the position of power that can stop everything ...”.

<sup>38</sup> See more in Goldin 2013b. The very same conviction – that humans are selfish and that this situation is a given and cannot be meaningfully amended – is shared by the *Book of Lord Shang* and *Shenzi* (Pines 2017: 65–67; Harris 2016: 25–36).

his back on laws and dismisses positional power, there is turmoil. Now, if one discards the positional power, turns back to the law and waits for Yao and Shun, so that when Yao and Shun arrive there will be orderly rule, then in a thousand generations, only one will be well ruled. If one endorses the law and dwells in positional power, and then waits for Jie and Zhòu so that when Jie and Zhòu arrive there will be turmoil, then in a thousand generations, only one will be in turmoil. So, to have one orderly generation among a thousand of turmoil or to have one generation of turmoil among a thousand of orderly rule – this is like galloping [in opposite directions] on the thoroughbreds Ji and Er: the distance between them will be great indeed!

This passage is remarkable for its candor. It is one of the very rare instances in pre-imperial (not to say of imperial) Chinese texts in which the normality of the ruler's mediocrity is postulated. The problem of the ruler's qualities and their relations to the issue of hereditary succession was a sensitive one. Whereas in the middle-Warring States period not a few thinkers entertained the hope of bypassing the problem of hereditary succession by convincing a ruler to abdicate in favor of a worthier candidate, this ideal proved unrealizable, and was duly discarded.<sup>39</sup> Since then, the contradiction between the meritocratic principle of appointing officials and the hereditary principle of appointing the supreme ruler became ever more self-evident. As noticed above, many – probably most – thinkers expected of the monarch to become an intellectual and moral paragon. Nobody, however, had a clue how to ensure the succession of morally upright individuals. Shen Dao's opponent, who first appealed to the principle of "elevating the worthy" and then inferred that this principle should be applied to the rulers as well, fell in a common pitfall of wishful thinking. This was a strategic mistake that was mercilessly exposed by Han Fei.

Han Fei reminds that those positioned at the helm of the state are normally not the brightest individuals. But nor they are monsters. Most of them are "average" (or "mediocre" *zhong* 中) individuals. The term *zhong* in not a few texts can attain a positive meaning of "holding to the mean" (as in the *Doctrine of the Mean* [*Zhong yong* 中庸]) and the like;<sup>40</sup> but in *Han Feizi* there is no trait of these positive connotations. "The average is he who does not reach Yao or Shun above, but also does not behave like Jie or Zhòu below." These are quotidian rulers of meager talents, but it is these mediocrities – rather than the extremes of morality of vice – to whose needs a well-functioning political system should cater.<sup>41</sup> Shen Dao ignored the implications of a tyrant exploiting the utmost power of his position. Han Fei, in distinction, is ready to acknowledge that this

<sup>39</sup> See Pines 2005; cf. Allan 2016.

<sup>40</sup> Xu Keqian 2012.

<sup>41</sup> For Han Fei's low expectations of the rulers, amid his strong monarchistic rhetoric, see Graziani 2015.



flaw is inevitable. Yet such lapses of the system are a rarity: they will recur once in “a thousand generations.” Regrettable as they are, these lapses are not sufficient reason to discard laws, political institutions, and techniques of rule, which enable the state to function under an average ruler. Han Fei explains:

夫棄隱括之法，去度量之數，使奚仲為車，不能成一輪。無慶賞之勸，刑罰之威，釋勢委法，堯、舜戶說而人辨之，不能治三家。夫勢之足用亦明矣，而曰「必待賢」，則亦不然矣。

Besides, if you abandon the methods of straightening the wood, and discard the technique of standards and measures, then, even should you let [the legendary inventor of the chariot] Xi Zhong to make a chariot, he would be unable to complete a single wheel. If you lack the encouragement of official felicitations and rewards and the awe of punishments and penalties, if you cast away the positional power and dismiss the law, then even should you let<sup>42</sup> Yao or Shun go from door to door and debate things with everyone, they would be unable to order three households. This clarifies that positional power is sufficient to use, whereas to say “we must wait for the worthy” is obviously wrong.

Standards and measures, techniques of rule and laws – all these are indispensable means of orderly rule. They are not devised to serve exceptionally astute individuals. But for the “average” – the majority – they are adequate. Having clarified this, Han Fei turns to the opponents’ example of the need of a great charioteer to allow the chariot to run smoothly and refutes this claim:

且夫百日不食以待梁肉，餓者不活；今待堯、舜之賢乃治當世之民，是猶待梁肉而救餓之說也。夫曰：「良馬固車，使臧獲御之則為人笑，王良御之則日取乎千里」，吾不以為然。夫待越人之善海遊者以救中國之溺人，越人善遊矣，而溺者不濟矣。夫待古之王良以馭今之馬，亦猶越人救溺之說也，不可亦明矣。

Moreover, if a famished person does not eat for a hundred days, while waiting for fine millet and meat, he will not survive. Now if you wait for worthies like Yao and Shun so that only then the people of our generation will be ordered, this is just like is explained in waiting for fine millet and meat in order to save the famished. So when you say, “As for good horses and a solid chariot, if you make a mere slave drive them, he will become the laughing stock of All-under-Heaven; but if Wang Liang drives them, this chariot will make a thousand *li* per day,” I consider this wrong. If you wait for a great sea-swimmer from Yue in order to save someone who is drowning in the central states,<sup>43</sup> though the people from Yue are good enough at swimming, the person who is drowning will not be helped. If you wait for Wang Liang from antiquity in order to steer the horses of modern times this is just

<sup>42</sup> Adding “let” following the parallel with the previous sentence.

<sup>43</sup> Recall that Yue back then referred to coastal areas in eastern and southeastern China, where locals were much more adept at swimming than the dwellers of the “central states” in the middle to low Yellow River basin.

like is explained like the man from Yue saving a drowning person. Obviously, it is unacceptable.

A starving person cannot wait for fine dishes to fill in his stomach; a drowning person cannot wait for a skilful swimmer to save him. Charioteers of Wang Liang's skills are exceptional, whereas the need in travelling fast to great distances is quotidian. Yet this need can be dealt with through a well-functioning relay system:

夫良馬固車，五十里而一置，使中手御之，追速致遠，可以及也，而千里可日致也，何必待古之王良乎？且御，非使王良也，則必使臧獲敗之；治，非使堯、舜也，則必使桀、紂亂之。此味非飴蜜也，必苦菜、亭歷也。此則積辯累辭，離理失術，兩末之議也，奚可以難夫道理之言乎哉？客議未及此論也。

Now good horses and solid vehicles can go fifty *li* before they are given a single rest at a relay station. Even if you make a mediocre person steer them when you pursue someone going fast or is trying to cover a long distance, you can achieve your objective. Why must you wait for Wang Liang of antiquity?

The political system is akin to the relay system. It is based on average abilities of its users. It should not base itself on extraordinary personalities. It may not be able to achieve remarkable performance of Wang Liang's type (i. e. the utopian reign of Yao and Shun), but it can function for generations (more precisely, for one thousand generations unless hijacked by a monster). This is Han Fei's solution to political problems of his era. Having said this, he goes to the final argument.

Now, to argue, when it comes to steering vehicles, that if you do not employ Wang Liang then you are bound to employ a mere slave, and when it comes to orderly rule that if you do not employ Yao and Shun then you are bound to let Jie and Zhòu wreak havoc, this is like saying that tastes – if they are not sweet and honeyed – must be bitter like *kulai* and *tingli* plants. If you pile up sophistries and accumulate formulations like this, then you deviate from principles and lose the techniques – this is the debate of two extremes. How can you depart from the words of the Way and Principle? Your arguments do not reach the level of that [Shen Dao's] theory.

Speaking of Yao and Shun versus Jie and Zhòu is “the debate of two extremes,” that is deliberate hijacking of political discussion to the moralizing realm of villains and heroes, whose examples are irrelevant. At the very end of the chapter Han Fei shows what may be considered one of the hallmarks of his writings – his immense dislike of self-serving and misleading moralizing discourse. “Accumulating arguments and piling words, departing from principles and losing the techniques” is precisely what Han Fei detests. Ditto for repeated manipulative invocations of the examples of sages (Yao and Shun) and villains

(Jie and Zhòu). Elsewhere, Han Fei goes as far as to suggest outlawing this discourse altogether.<sup>44</sup> In “Objection to Positional Power,” Han Fei does not go that far, but he dismisses his opponent for abandoning the Way (*Dao* 道) and Principle (*li* 理). These, in Han Fei’s eyes, refer primarily to creating an adequate political system. With this regard, the advantages of Shen Dao (and Han Fei) over their nameless opponent are obvious.

## Epilogue: Meritocracy versus the “Rule by Standards”

It is time now to ask: what did Han Fei want to achieve by penning his “Objection to Positional Power” chapter? Was it just to defend Shen Dao, with whom Han Fei might have felt some intellectual affinity? I doubt that this was the case. Such a systematic defense of one’s intellectual predecessor – including lengthy presentation of the predecessor views and then almost line-by-line refutation of the opponent’s criticism – is unparalleled in the Warring States-period literature. Or was Han Fei just looking for a chance to demonstrate anew his eloquence and superb analytical skills? Possibly so.<sup>45</sup> Yet I think there are deeper motives behind the composition of Han Fei’s essay. Through refuting Shen Dao’s refuters, Han Fei is able to address anew one of the crucial issues in his own political theory: the superiority of institutional solutions to political problems over those based on the inflated expectations of the incumbents’ personal skills.

Recall that one of the major intellectual and practical breakthroughs of the Warring States period was the advent of meritocracy. Notwithstanding fierce debates about the implementation of meritocratic principles and about pluses and minuses of the discourse centered around “elevating the worthy and employing the able” (*shangxian shineng* 尚賢使能), there was overwhelming agreement in favor of discarding the traditional pedigree-based system of appointments and replacing it with a flexible system in which individual’s qualities rather than birthright matter.<sup>46</sup> Yet rapid proliferation of meritocratic ideas gave rise to a curious intellectual phenomenon of excessive adoration of the worthies. Numerous texts from the second half of the Warring States period

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<sup>44</sup> Two most notable examples are in “Five vermin” (“Wu du” 五蠹) and “Loyalty and Filiality” (“Zhong xiao” 忠孝) chapters; *Han Feizi xin jiaozhu* XIX.49: 1112 and XX.51: 1155.

<sup>45</sup> This demonstration of the author’s sophisticated rhetorical skills is most evident in “Objections, Four” chapter of *Han Feizi*, which I am going to analyze in a separate study.

<sup>46</sup> Pines 2013b.

express a common belief that appointing able aides should be the primary solution to any political malady. Take for instance *Lüshi chunqiu* 呂氏春秋, a major multi-authored compilation from ca. 240 BCE, which was penned with a goal of providing the blueprint for the future imperial unification.<sup>47</sup> This text is truly overbearing with its insistence that the ruler's only task should be finding worthy aides. *Lüshi chunqiu* abounds with stories of wise rulers who attracted worthy men-of-service (*shi* 士) and benefited enormously from their services, and those who failed to do so bringing disaster on themselves.<sup>48</sup> Taken as a whole, the text can be read as a brazen promotion campaign by the men-of-service.<sup>49</sup>

For Han Fei and like-minded thinkers (including his major “Legalist” predecessors, such as Shang Yang, or Shen Dao), this belief in meritocratic appointments as the primary remedy to all political and social ills appeared as either naïve or outright manipulative. The so-called worthies were too often unscrupulous individuals who adopted the mantle of morally upright “noble men” (*junzi* 君子) only to indulge their selfish interests. For sure, Han Fei did not reject the need in worthy aides; but he resolutely opposed the discourse that turned the worthies into ultimate saviors of the political system.<sup>50</sup> A viable political system in his eyes should discard any concern with the officials' or the ruler's personal qualities, and be based instead on the rule through impersonal standards (*fa zhi* 法治, frequently, and inaccurately, translated as the “rule of law”).<sup>51</sup> Han Fei had famously defended his insistence on these standards as follows:

今貞信之士不盈於十，而境內之官以百數，必任貞信之士，則人不足官。... 故明主之道，一法而不求智，固術而不慕信。

Today, there are no more than ten honest and trustworthy men-of-service, but there are hundreds of offices [to fill in] within the boundaries. If you make it mandatory to appoint only honest and faithful men-of-service, there will be not enough personnel to fill in official positions. ... Hence, the Way of the clear-sighted ruler is to unify standards/laws and not seek the wise, to strengthen techniques [of rule] and not admire trustworthiness.<sup>52</sup>

Han Fei is clear: seeking upright and wise employees is a waste of time. In a properly functioning state, the regulations and the laws will prevent officials from advancing their machinations. Morally upright ministers do exist, but they

<sup>47</sup> Knoblock and Riegel 2000.

<sup>48</sup> See, e. g. *Lüshi chunqiu*, “Ai shi” 愛士 8.5: 458–460; “Zhi shi” 知士 9.3: 490–491; “Shi jie” 士節 12.2: 622–624, “Jie li” 介立 12.3: 627 *et saepe*.

<sup>49</sup> See more in Pines 2009: 115–134.

<sup>50</sup> Yuan Lihua 2005.

<sup>51</sup> For the inaccuracy of this translation, see Goldin 2011.

<sup>52</sup> *Han Feizi xin jiaozhu* XIX.49: 1109.

are a rarity and the political system should not be based on exceptional personalities. Rather, it should enable the ruler to employ an average (i. e. self-interested and potentially plotting) minister.

Han Fei's suggestion of the rule by laws/standards as advantageous over naïve reliance on the official's moral and intellectual capabilities was reasonable but not flawless. It was Xunzi who noticed that whereas law-abiding officials are not bad, they cannot deal with anything which lies "outside the standards/laws" and hence are inadequate.<sup>53</sup> Worse for Han Fei, his dismissive attitude toward the officials' morality contradicted the dominant mood of adoring righteous men-of-service. Take for instance the authors of *Lüshi chunqiu* mentioned above. For sure they would not accept Han Fei's argument that "there are no more than ten honest and faithful men-of-service."

It is against this backdrop that we can apprehend the possible hidden goal behind Han Fei's debate over the positional power. Recall that this power was part of the broader set of impersonal standards (which included "methods" 數, "techniques" 術, "laws" 法, "standards" 度, and so forth) which Han Fei (and his fellow "Legalists") considered as superior to the reliance on the incumbent's morality. Yet once the focus of the discussion shifted from ministers to rulers, Han Fei's position became incomparably stronger. Whereas many would be appalled by his blatant claim that "there are no more than ten honest and faithful men-of-service," few would disagree with his historical verdict: sages and monsters on the throne are exceptions; the majority of the rulers are just mediocrities. And once this verdict is accepted, then it would be logical to acquiesce to Han Fei's proposal that a viable method of running the state should cater to the needs of the average, mediocre rulers. Then comes the second logical inference: a standards-based government is advantageous over the system that over-relies on the employees' morality and skills.

Needless to say, my view of the hidden agenda of "Objection to Positional Power" chapter will forever remain an educated conjecture. What is beyond doubt is that the chapter presents one of the most engaging discussions of the nature of rulership, of the ruler's authority, and of the dangers of over-zealous reliance on meritocratic norms of government at the expense of designing impersonal institutions. I hope that my contribution will become a small homage to Han Fei's intellectual brilliance.

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<sup>53</sup> Xunzi V.9: 151 ("Wang zhi" 王制).

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