The *Shenzi Fragments*

A PHILOSOPHICAL ANALYSIS AND TRANSLATION

Eirik Lang Harris

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TRANSLATIONS FROM THE ASIAN CLASSICS

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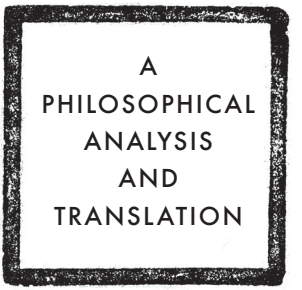

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To Rose E. Harris and Henry J. Harris
for helping me on every step of my Way

On peut braver les lois humaines,
mais non résister aux lois naturelles.
JULES VERNE

Contents

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Chapter 1 of this book includes a substantial expansion and development of ideas first laid out in "Aspects of Shen Dao's Political Philosophy," *History of Philosophy Quarterly* 32, no. 3 (July 2015): 217–34.

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Conventions and Abbreviations

To aid the reader, all quotations of early Chinese texts are preceded by numbers within brackets. When the quotation comes from the *Shenzi Fragments*, only fragment numbers are used. When the quotation comes from other texts, the number is preceded by one of the abbreviations below to indicate the text.

HF	*Han Feizi*
HN	*Huainanzi*
LS	*Lüshi Chunqiu*
LZ	*Laozi*
XZ	*Xunzi*
ZZ	*Zhuangzi*

Unless otherwise specified, references to the Chinese text are to the ICS Ancient Chinese Texts Concordance Series, edited by D. C. Lau and published by the Commercial Press. These are cited according to the numbering system used in the concordances: chapter number/page number/line number, with the above abbreviations to indicate the text.

As they are referred to frequently, the following translations and editions have been abbreviated as follows:

Han Feizi

Liao: *The Complete Works of Han Fei tzu: A Classic of Chinese Legalism*, trans. Liao Wên-kuei. 2 vols. London: Probsthain, 1939, 1959. Cited by volume/page.

Sahleen: Joel Sahleen, "*Han Feizi*," in *Readings in Classical Chinese Philosophy*, 2nd ed., ed. Philip J. Ivanhoe and Bryan W. Van Norden, 311–62 (Indianapolis: Hackett, 2001). Cited by page.

Watson: *Han Feizi: Basic Writings*, trans. Burton Watson (New York: Columbia University Press, 2003). Cited by page.

Huainanzi

Major: *The "Huainanzi": A Guide to the Theory and Practice of Government in Early Han China*, trans. John S. Major et al. (New York: Columbia University Press, 2010). Cited by chapter/page.

Laozi

Ivanhoe: *The "Daodejing" of Laozi*, trans. Philip J. Ivanhoe (Indianapolis: Hackett, 2002). Cited by page.

Lunyu

Slingerland: *"Analects": With Selections from Traditional Commentaries*, trans. Edward Slingerland (Indianapolis: Hackett, 2003). Cited by page.

Lüshi Chunqiu

Knoblock: *The Annals of Lü Buwei*, trans. John Knoblock and Jeffrey Riegel (Stanford: Stanford University Press, 2000). Cited by book/chapter/page.

Mengzi

Van Norden: *"Mengzi": With Selections from Traditional Commentaries*, trans. Bryan W. Van Norden (Indianapolis: Hackett, 2008). Cited by page.

Shenzi

Thompson: P. M. Thompson, *The "Shen Tzu" Fragments* (Oxford: Oxford University Press, 1979). Cited by page.

Xu: Xu Fuhong 許富宏, *Shenzi jijiao jizhu* 慎子集校集注 (Beijing: Zhonghua shuju, 2013). Cited by page.

Xunzi

Hutton: *"Xunzi": The Complete Text*, trans. Eric Hutton (Princeton: Princeton University Press, 2014). Cited by chapter/page/line.

Zhuangzi

Graham: *'Chuang-Tzu': The Inner Chapters*, trans. A. C. Graham (Indianapolis: Hackett, 2001). Cited by page.

With the exception of the translations from the *Han Feizi* and the *Shenzi Fragments*, which are entirely my own, all translations have been modified from the above versions unless otherwise noted.

The *Shenzi Fragments*

Introduction

This is a book on Shen Dao 慎到, or, more accurately, a book on Shen Dao's political philosophy as viewed through the lens of the *Shenzi Fragments* 慎子逸文, a relatively short set of fragments that credibly can be attributed to him.[1] But why a book on Shen Dao? Among many contemporary educated Chinese, mentioning his name draws a blank stare. Even among those who work in the field of early Chinese intellectual history or philosophy, the name Shen Dao rarely calls to mind much of interest. Those who have read the *Han Feizi* 韓非子 may remember Shen Dao as an advocate of positional power, those familiar with the *Xunzi* 荀子 will recall the accusation that he focused on laws to the detriment of all else, while those who remember his appearance in the *Zhuangzi* 莊子 may think of Shen Dao as one who discarded knowledge and the self. Rarely, though, does an examination of Shen Dao's ideas extend to the text that bears his name.[2]

This long-standing lack of a detailed examination of Shen Dao's philosophy is, on a certain level, quite understandable. After all, we know very little about Shen Dao the person, with much of what we think we know coming from *The Grand Scribe's Records* (*Shiji* 史記), compiled centuries after Shen Dao's death. And, rightly or not, the study of Chinese philosophy has long been focused on *figures* within the tradition. Additionally, the received texts and sayings attributed to Shen Dao are of a very fragmentary nature, leading to difficulties in interpretation. Adding to this concern is the fact that there has long been a debate over the authenticity of the fragments that remain.

As we shall see, however, it is possible to overcome these worries and come to a better understanding of the text that does remain. Furthermore, what arises once we have done so is a picture of a political philosophy that is remarkably consistent, full of insight, and aids in our understanding of a wide range of other early Chinese philosophers who followed Shen Dao.

SHEN DAO THE PERSON

Shen Dao seems to have been active in the latter half of the fourth century B.C.E. and the first part of the third and was likely born around 360 B.C.E., dying around 285 B.C.E.[3] If *The Grand Scribe's Records* is to be believed, he was a native of the state of Zhao 趙 (the birthplace of the more famous Xunzi) who, along with a wide array of scholars, was a member of the Jixia 稷下 Academy, which flourished under the patronage of King Xuan of Qi 齊宣王.[4] This academy, the intellectual center of China in Shen Dao's time, seems to have allowed the scholars attached to it to be "free to debate with one another without any of the responsibilities of high office, though they were accorded its honors and emoluments."[5] His relationship with the Jixia Academy seems to have left Shen Dao without need for other employment, and he does not appear to have held any important political or bureaucratic position. Rather, he is depicted as having spent his time writing and debating with others at the academy, including Tian Pian 田駢, Jiezi 接子, and Huan Yuan 環淵. Unfortunately, *The Grand Scribe's Records* gives little space to any of these thinkers and thus his description of their scholarship and interests is sparse. He merely notes that they studied the arts of Huang-Lao and *daode* (黃老道德之術),[6] a comment that offers little help in understanding their thought.

While it would be nice to know more about Shen Dao the person and have a more concrete understanding of those with whom he interacted and from whom he may have drawn inspiration for his ideas, the lack of such knowledge is not problematic from a philosophical perspective. After all, there are grave doubts about the very existence of the eponymous author of one of the most studied philosophical texts of this general period, the *Laozi*

老子 (also known as the *Daodejing* 道德經). Current scholarly consensus is that if such an individual existed, he certainly did not write the text that bears his name. Rather, the *Laozi* is an edited collection of material from multiple sources, but this does not mean that it lacks a coherent message. Rather, as Philip J. Ivanhoe has noted, "just as a cobbler can make use of various scraps of leather to fashion a very fine pair of shoes, an editor can draw upon and augment material from a variety of different sources and shape these into a coherent and elegant composition."[7]

If such cobbling is possible with texts like the *Laozi*, then we should not be too pessimistic about that attributed to Shen Dao, for, while there are ways in which this text is in worse condition than the *Laozi*, there is actually good reason to believe that the vast majority of what remains is from the text that once bore Shen Dao's name. Furthermore, once we begin reading these fragments, it becomes clear that there is a consistent voice running through the fragments, laying out a clear and, so far as we can tell, a unique voice that was deeply in conversation with many of the political ideas of the time. My approach of focusing on the views and arguments we find renders biographical facts largely secondary.

THE *SHENZI FRAGMENTS*

No complete edition of the text bearing Shen Dao's name remains. Rather, all we have are a series of fragments, numbering a mere three thousand or so characters in length. There are records of editions of the *Shenzi* existing in a variety of official libraries through the Tang 唐 dynasty, but by the tenth century, no copies of the text were to be found. However, fragments of the *Shenzi* have been discovered in a variety of sources, the most complete among them being the *Qun shu zhiyao* 群書治要.[8] This text, first published in 631, was seen by its compiler as a collection and distillation of views on governance for the emperor, and it includes seven sections of the remains of the *Shenzi Fragments*. Unfortunately, the *Qun shu zhiyao* was lost in China; fortunately, it was transmitted to and preserved in Japan, making its way back to China in the eighteenth century.[9]

The lack of any direct transmission of the *Shenzi* led to a large debate in the twentieth century over the authenticity of the fragments that remain. The French Sinologist Henri Maspero argued that these fragments are forgeries from the Six Dynasties (222–589),[10] while Huang Yunmei argued that the main fragments are actually a collection of later Legalist fragments.[11] Others, like Liang Qichao, acknowledged that some of the fragments are genuine, but that they are mixed with forged elements.[12] The well-known historian of Chinese philosophy Fung Yu-lan noted that there appear to be two very different sets of ideas attributed to Shen Dao and went so far as to conclude that it is impossible to understand the connection between Shen Dao's ideas as depicted in the *Zhuangzi* and the ideas attributed to him in the *Xunzi* and the *Han Feizi*; he therefore treated the two separately.[13]

Such textual worries are important and have the potential to severely restrict our ability to glean Shen Dao's ideas from the remaining fragments. Luckily, the situation has improved dramatically, due in large part to the work of P. M. Thompson, whose textual analysis and critical edition of the fragments mark a milestone not only in the analysis of Shen Dao's text but also in the field of Chinese textual analysis more generally. Thompson's detailed study provides those interested in understanding Shen Dao's philosophy with a collection of fragments that we are given good reason to think is authentic. That is, in Thompson's words, "there is no evidence, internal or external, to suggest that any hypothesis of spuriousness is more probable than the hypothesis of authenticity."[14] As such, those of us interested in Shen Dao's philosophy are given a starting point for reconstructing and coming to better understand his ideas.

Even if we accept Thompson's analysis as correct and the fragments that he collected together as genuine, there are still numerous hurdles to understanding Shen Dao's ideas. While seven sections of the text involve sustained discourses, each with a clear theme and aim, the other fragments may well seem so removed from their original context as to make any interpretation practically impossible. What are we to make, for example, of fragment [83], "When animals seek cover, they enter the weeds"? Furthermore, even once we believe that we have made sense of the remaining text as a whole (or, indeed, any part of it), we must remain open to the possibility that the fuller

context in which the received fragments were first recorded, a context that is now lost to us, would necessitate a different interpretation. And we must always also keep in mind that the text that remains is but a small subset of what was originally a substantially longer text. Were this full text to surface, it may well lead us to alter our understanding of Shen Dao and his ideas.[15]

THE WORK OF THE PRESENT VOLUME

My goal in this volume is twofold. First, I provide a complete English translation of the *Shenzi Fragments*.[16] Second, I endeavor to lay out the political philosophy found in these fragments. In doing so, I am interested in providing an interpretation of the fragments attributed to Shen Dao that makes sense—one that is charitable and tries to read Shen Dao in such a way that he is saying something significant, that he actually has ostensibly plausible reasons for his views, and that he does not blatantly contradict himself.[17] At the same time, I wish to avoid a problem sometimes seen in scholarly work on Chinese philosophy—namely, an unspoken assumption that Chinese texts need to be interpreted in a way that ensures they speak directly to concerns that we have today. While I believe that many of the issues Shen Dao raises *are* important for contemporary political philosophers and that his proposed solutions warrant careful consideration, these are not premises I begin with. I see such claims as open questions and my analysis and interpretation of the *Shenzi Fragments* as answers, rather than as assumptions that guide or determine how to interpret the text. A further and separate question is whether or not Shen Dao's arguments are actually sound; I do not take the principle of charity to require that I read Shen Dao in such a way that his arguments prove to be sound. Therefore, my examination of his arguments is separate from my acceptance of these arguments or my belief that his arguments are actually useful in the contemporary world.[18]

In addition to this introduction, this volume is divided into two parts. Part 1 contains two analytical chapters. The first works to build up a picture of Shen Dao's political philosophy. In particular, it focuses on the source, nature, and justification of Shen Dao's ideas about political organization

and order. I argue that it is possible to understand his political philosophy only if we first come to understand his conception of the natural realm and how and why he believes that it is essential to model the social and political realm on the natural realm. As we shall see, Shen Dao focuses in on the fixed qualities of the natural world, arguing that it is essential both to replicate the fixity and patterned quality of the natural world in the social and political realm and to replicate certain of the actual natural patterns of the natural world in the social and political realm.

This gets us only so far, however. Coming to a deeper understanding of the natural world will allow us to better utilize it for our benefit. However, this understanding of nature must be augmented by a deeper understanding of human beings. Shen Dao thinks that a successful social and political order requires a deep understanding of human dispositions and characteristics. In particular, Shen Dao believes that there are three aspects of human beings that must be understood and dealt with in order to effectively organize any population: (1) people act based on their own private interests, (2) people's strengths and abilities vary, and (3) feelings of resentment and expectation arise when decisions are regarded as subjective.

Analyzing these traits of human beings and examining the appropriate political response to them is one of the key concerns of the *Shenzi Fragments*. Given his contention that these human characteristics are for the most part unchangeable, it is impossible for him to rely either on the moral cultivation that characterizes Confucian political thought or on the plasticity of human nature that the Mohists rely upon. Therefore, Shen Dao holds up the law as a fixed, unbiased foundation upon which social order can be built. This law, however, cannot simply be whatever the ruler happens to desire—if it is to be effective, that is. Rather, Shen Dao holds that if laws are to be efficacious at ordering the state, they must bear a necessary relationship to facts about the world and the people in it. Coming to better understand this relationship, then, gives us a clearer grasp on Shen Dao's political philosophy and its goals.

The second chapter works to situate Shen Dao in the early Chinese intellectual milieu and upon the philosophical landscape. In particular, I argue that Shen Dao grapples with a range of significant issues that concerned a

wide array of influential intellectuals in early China. Furthermore, his arguments indicate both that he is deeply steeped in the ideas and arguments of his time and that he provides his own unique contributions to these debates. Perhaps not surprising, given what we learn by examining Shen Dao's political philosophy, many of these arguments deal with the characteristics of the natural world and their implications for the social one.

The goal of this chapter is not merely to demonstrate that Shen Dao was deeply tied into the intellectual milieu of his time and addressing similar issues as his contemporaries, however. It endeavors to demonstrate how he actually influenced a range of early Chinese thinkers, including Xunzi, Han Fei, and the compilers of the *Lüshi Chunqiu* 呂氏春秋 and the *Huainanzi* 淮南子. All these texts either attribute certain views to Shen Dao or quote passages from the *Shenzi* and utilize these views to further their own goals—either by opposing them, as in the case of Xunzi, developing them in a particular direction, as in the case of Han Fei, or merely drawing bits and pieces into their own heterogonous political outlook, as in the case of the *Lüshi Chunqiu* and *Huainanzi*.

Part 2 consists of a complete translation of the *Shenzi Fragments* along with limited commentary. As mentioned, this is a translation of all the fragments that Thompson has shown to be authentic.[19] Each section of the translation is preceded by a version of the Chinese text based upon Thompson's collation of the text.[20] While it is a well-worn cliché that every translation is an act of interpretation, I have worked to avoid pushing my overall view of the text's meaning in the translation itself. I certainly have strong views on such matters, as is clearly demonstrated in part 1. However, the interpretative task that gives rise to my conclusions as expressed in part 1 is best defended not by overtranslating but rather by providing arguments for why a variety of passages that might be understood in several different ways actually are best understood in the fashion I propose. I see it as my job to acknowledge in the translation when the language is open textured enough to admit of multiple understandings and my task in the philosophical analysis to defend my particular interpretation.

Interspersed throughout this translation is also brief commentary. In certain ways, this commentary is inspired by the Chinese commentarial

tradition and its goals. This commentarial tradition is particularly useful to contemporary readers, as it attempts to, among other things, clarify terms, explicate references to which the reader may be unfamiliar, point out aspects of the text that may otherwise be overlooked, and note relations between the text in question and a range of other texts of the time. My own commentary attempts to offer such support as appropriate while at the same time refraining from providing substantive interpretation of the passages. The goal is simply to furnish readers with a set of landmarks and guides to better situate them and provide some contextualization. Given that I deal with many of the fragments in my philosophical analysis, there are times when the points raised in the commentary parallel points raised in the first two chapters. While this results in some overlap and repetition, this is warranted in order to provide the support readers need to focus on the translation itself and come to an understanding of the fragments and their richness without having to move back and forth between it and my more complete analysis.

Also included immediately after this introduction is a list of conventions and abbreviations that allow the reader to understand the various idiosyncrasies of style found herein. Following the translation is a finding list allowing the reader to move from the order and organization of the fragments in this translation to the order and organization found in Xu, the most recent (and most thorough) Chinese edition of the text.

A Philosophical Study of the *Shenzi Fragments*

Shen Dao's Political Philosophy

As we saw in the introduction, no complete edition of the *Shenzi*, the volume attributed to Shen Dao, currently exists. However, the fragments that remain can be examined and allow us to begin to build up an understanding of his political philosophy. In doing so, we come to the realization that Shen Dao's ideas were not only important historically but also bear reflection by those engaged in constructive political philosophy. In his historical context, Shen Dao was one of the first political thinkers to openly question the tight connection between ethics and politics that was assumed by a range of thinkers in the Confucian and Mohist traditions. In particular, he provides a range of arguments against the state's relying upon the moral cultivation of even some of its members, focusing not on changing or developing the innate dispositions of human beings but rather on working with the dispositions humans initially have. While he does not provide a detailed analysis of human nature, he does believe that individuals have particular interest sets that are both relatively stable and include a healthy dose of self-interest. Furthermore, as his analogies with the natural world imply, he seems to believe that these interest sets cannot be modified to any substantive degree, and thus it is necessary to motivate and employ those in the state by making it in their interests to act for the state.

Shen Dao's focus on human psychology also led him to be one of the first advocates of a fixed set of rules and regulations in the political realm.

Again, his target seems to be those who wish to bring morality into the political realm. The worry he addresses here, however, is not one of inculcating virtue in the people of the state. Rather, it is a worry about problems that arise if those in positions of power act on virtues such as benevolence and loyalty. States in which rulers are seen to act from their own views of right and wrong or good and bad, will, Shen Dao believes, be states in which a great deal of resentment and untoward expectations will arise. And, when resentment looms large in the hearts of its people, or when its people are continually frustrated in achieving what they believe they have a chance of achieving, the state cannot be as stable and strong as it otherwise would be. Therefore, Shen Dao provides advice on bringing in a fixed set of standards in order to eliminate favoritism—both in fact and in perception.

While Shen Dao's focus is understandably on the particular problems of his time, his ideas on human characteristics, the relationship between morality and politics, the relation between the state and its people, and his concern with the state's employing a publically promulgated and fixed set of standards are all issues that are still being grappled with by political philosophers throughout the world. The particular way in which Shen Dao approaches these issues and his justifications for his various proposals often differ from what we may see today, but in doing so provides additional reasons for further reflection. As such, this chapter may provide not only the beginnings of a picture of Shen Dao's political philosophy but also a set of reasons for continuing to reflect upon his ideas and examine how they may still be relevant today.

SHEN DAO'S CONCEPTION OF THE NATURAL WORLD

While Shen Dao as he appears in the fragments that remain is primarily a political philosopher, large portions of these fragments deal with the natural world and its various qualities. Indeed, and this is a trait that he shares with numerous others in the pre-Qin 秦 era, including Laozi and Xunzi, Shen Dao seems to be a keen observer of the natural world.[1] This interest is quite

practical—he is not interested in understanding its qualities simply for the sake of gaining more knowledge. Rather, his interest in the natural world stems from a belief that a more complete understanding of its qualities will better allow human beings to survive and thrive in a social and political context, and it is in this vein that he begins his analysis of heaven (*tian* 天) and earth (*di* 地) and thus the natural world.[2]

In pre-Qin China, there were a range of views about the relationship between human beings and heaven.[3] Perhaps the most prevalent view was that heaven was an active agent in the human realm, an agent that was in some sense concerned with human beings and their future. Such a view comes across in one of its strongest forms in the *Mozi* 墨子, where it is argued that heaven uses ghosts and spirits not only to make clear its will but also to lead the people to act in accordance with this will.[4] Other thinkers, such as Kongzi 孔子 (Confucius) and Mengzi 孟子 (Mencius), do not conceive of heaven in such an active role but still argue that heaven has a clear plan for human beings and a concern for their well-being. Indeed, both of these thinkers believe that they have been chosen by heaven to carry out its plan and create a harmonious, peaceful society in which humans can flourish.

Such a view of heaven was by no means universal, however. Rather, texts such as the *Laozi* depict heaven as lacking any concern, not merely for human beings but for anything that exists.[5] Instead, heaven (and earth) are depicted as acting of their own accord, not only lacking any particular plan for human beings but also lacking any concern for their existence. On such an account, there is no subjective care and concern either for human beings in general or for any particular group or individuals. Rather, heaven is seen as a fixed force, as the source of regular patterns, of natural forces that arose without regard for human beings. Thinkers advocating such an understanding of heaven and earth believed that since humans live in the world governed by these fixed forces, it is necessary to try to understand them and take them into account when deciding how to act.

The section of the received *Shenzi* titled "Awe-Inspiring Potency" (Wei de 威德)[6] indicates that Shen Dao's conception of heaven and earth is more in line with that of the *Laozi* than with early Confucian or Mohist texts. It opens with the following passage:

> [1–3] While heaven is bright, it does not worry that the people are in the dark. While the earth is bountiful, it does not worry that there is insufficiency among the people. While the sage is potent, he does not worry that the people are endangered. Even though heaven does not worry that the people are in the dark, those who open up doors and windows certainly can take from [heaven] in order to obtain their own illumination, though heaven does nothing. Even though the earth does not worry that there is insufficiency among the people, those who chop down trees and cut grasses can certainly draw from [the earth] in order to obtain their own bounty, though the earth does nothing.

Shen Dao makes it quite clear in this passage that the actions of heaven and earth are independent of human beings in two senses: they do not act out of any concern or regard for human beings and do not bow to human desires or demands. Further, although it is not here stated explicitly, it is clear that heaven and earth do not move in either random or otherwise indecipherable patterns. Rather, they move along regular patterns, patterns that can, at least in part, be understood by human beings and manipulated to their benefit. Shen Dao here is naturalizing the concepts of heaven and earth, providing an interpretation of them as fixed natural forces, and this sets the framework for his entire political philosophy, as we shall see.

Shen Dao does not delve into the metaphysical and epistemological speculation that characterizes parts of other texts such as the *Laozi* or the Huang-Lao manuscripts that make similar moves toward naturalization, and he seems unconcerned with questions about whether it is possible to come to a complete and comprehensive understanding of the inner workings and motivations of heaven and earth.[7] Rather, his concern is more practical. Having observed that the natural world has a patterned quality, he wishes to understand this quality more deeply in order to better comprehend its relationship to and effect on human beings. He is concerned primarily with fathoming those aspects of the natural world that impact humans.

While the understanding of the natural world that Shen Dao seeks to gain is in an important sense scientific in nature, he is not seeking knowledge for its own sake. Rather, he can perhaps be seen more in the light of an

engineer than a scientist, for his focus and emphasis is always on application. Shen Dao's concern with heaven and earth in [1–3] and his focus on heaven's being bright and the earth's being bountiful arise because he realizes that an understanding of these features of the natural world can be applied to allow us to live better lives. Implicit in such a view is his idea that at least insofar as they affect human beings, the patterns of the natural world can be sufficiently recognized and comprehended so as to allow us to effectively utilize the world around us for our benefit.

In demonstrating the observable, patterned quality of nature, Shen Dao often uses the example of water, and perhaps the most prominent instance is the following:

> [68] Those who work to control water build up dikes and undo blockages. Even among the Yi and Mo [barbarians], the methods are similar. [These methods] are learned from water, they are not learned from [the sage-king] Yu.

As with many of the fragments that remain, this one reaches us in a form that is isolated from its original context. However, it still resonates clearly with a range of issues raised in the text, and particularly with [1–3]. Water is here used by Shen Dao as a particular instantiation of his broader view of the patterned and predictable quality of the natural world and our ability to understand and make use of these patterns.[8] Water has qualities that are comprehensible, regular, patterned, and predictable. As such, once we understand these qualities, we can make use of this knowledge to interact with water in ways that benefit us. Indeed, the same general point about water arises in several other passages, as we can see:

> [101] When the sea and the mountains fight over water, the sea will certainly win.

> [110] Where the Yellow River flows through the Dragon Gate, its current flows as quickly as a bamboo arrow [in flight]; even if a team of four horses were to chase it, they could not catch up.

[118] A cauldron from the state of Yan weighs several tons, but if it is loaded in a boat from the state of Wu, then it can be transported. What it relies upon is the Way of flotation.

While these statements may all seem quite inconsequential on their own, what they remind us of is the fact that there are discernible qualities and patterns to be found in the natural world. Passage [101] reveals an understanding that water will always seek out the lowest spots, [110] that the speed of water depends on the width and gradient of the channel in which it flows, while [118] expands this understanding of the qualities of water by demonstrating a grasp of the concept of buoyancy.

What are we to gain from these passages? Certainly, the claim here is not that Shen Dao was China's Archimedes. It is unclear how deep his understanding of the physical properties of water went, and there is no reason for us to suppose that he could calculate the exact size of boat necessary to transport a cauldron weighing a thousand *jun*.[9] What we do see, however, is a recognition that water does not act in an arbitrary fashion but rather that its actions are predictable once one comes to understand its underlying qualities. Furthermore, as can be seen elsewhere in the text, Shen Dao was not interested in this knowledge for its own sake but rather because of what this knowledge allows us to do. What we have here is reason to see Shen Dao as possessing an understanding of the fixed and patterned quality of the natural world and a realization that this quality provides us with opportunities to manipulate the world to our benefit.

USING THE NATURAL WORLD AS A MODEL FOR THE SOCIAL AND POLITICAL REALM

In the preceding section, I argued that Shen Dao believes it essential to come to a greater understanding of the natural world so as to more efficiently and effectively utilize it for our gain. However, this is not the only reason for his interest in the natural world. Rather, he wishes to use the natural world as a model

for the social and political realm. This modeling involves at least two aspects: replicating the fixity and patterned quality of the natural world in the social and political realm and replicating certain particular patterns of the natural world in the social and political realm.[10] Before examining these points in detail, though, it will be fruitful to examine Shen Dao's usage of the term *dao* (道 Way), for this plays into his larger project and allows us to better understand his conception of the relationship between the natural and human realms.

THE WAY

Much of early Chinese philosophy, in both the ethical and political realms, can be seen as a debate over the right *dao*, the right Way.[11] This term, whose original meaning is a physical path, saw its connotation broadened in the early philosophical corpus to refer to a way of doing something and, in many cases, the right way to do these things—whether the thing in question be living one's life, ordering the state, or attacking one's enemy. In the *Laozi* and *Zhuangzi*, the term is conceived even more broadly, referring to the underlying nature of the universe, the way things are.[12]

Given both the importance of this term in early debates and the frequency with which it occurs in many texts, it is perhaps surprising that there is no sustained discussion of the Way in what we have left of Shen Dao's writings. After all, as he desires to understand the natural world and then utilize it as a model for the social one, it might seem natural for him to appeal to the underlying Way of the natural world, in a fashion similar to what we see in the *Laozi*. On the other hand, given Shen Dao's more practical bent (think of him as an engineer rather than a scientist), it is perhaps not particularly surprising that he does not focus on examining the concept of the Way in its broader cosmic sense, focusing for the most part instead on how it relates to the human world.

While Shen Dao does use the term in a broader sense, mentioning the Way of heaven [28] and arguing that the state will be successful when it accords with the Way [86], his usage of the term is usually more restricted, referencing the way of doing certain things. He discusses the Way of the lord

and his subjects [38], the Way of good order [38], the Way of disobedience and chaos [41], the Way of war [140], and the Way of flotation [118].

In these senses, the Way has no moral overtone, for he discusses both the Way of good order and the Way of chaos.[13] Rather, the point in each of these instances is that certain courses of action will have certain results. As such, if a certain result is desired, then there is a particular way that things should be done—a particular way that superiors and subjects should interact, a particular way that leads to good order, a particular way that allows a boat to float on the water, and so on. In making these claims, even those to do with social and political interactions, Shen Dao is not making any sort of moral argument. He is not telling us that there is any sort of moral imperative to follow the Way of the lord and his subjects or the Way of good order or war. Rather, his claim is descriptive. He emphasizes the fact that these Ways are all fixed facts, facts based on the way that the natural world (including the human component, as we shall see) is in fact organized. Thus, while he does not directly analyze the underlying Way of the universe, it is apparent both that he understands the universe as having such an underlying structure and that he believes an understanding of this structure is essential to figuring out how to do things in the social world.

Such a view is further solidified when we examine those instances where Shen Dao uses the Way in its broader sense. For example, his diagnosis of the chaotic political organization of his time is that it is the result of the state's lacking a constant Way. On this account, the political organization current in his time is one in which the patterns of the Way languish [19–20].

Shen Dao's lament here is, however, without positive content, giving little in the way of advice for how things can be improved, how chaos can be eliminated, and just what it would mean for the state to possess the Way and follow its patterns. In order to gather clues in this matter, we have to look elsewhere, and the section of the *Shenzi* titled "Following" (Yin xun 因循) offers some insight:

> [28] The Way of heaven is such that if you "follow" then you will be great, while if you alter then you will be insignificant. To "follow" means to follow the dispositions of people.

These sentences, and the ones following them, are quite rich in their implications, and they will be explored in greater detail later. For now, what is important to notice is that Shen Dao takes the Way of heaven to be in an important sense fixed and unalterable, an external standard that must be adhered to if one is to have any success. This is the more general claim of which Shen Dao's discussion of water is but a single example. It is not only the patterns of water that can (and must) be followed if success in that area is to be achieved. Rather, the broader patterns of the Way, in all their instantiations, must be followed if one's desired aims are to be achieved—and thus, in the social and political realm, where an understanding of people is paramount, the dispositions of the people must be understood and followed in order to achieve any social or political goal.

Elsewhere, Shen Dao is even more specific with regard to just what it means for a state to possess the Way, telling us,

> [77] Therefore, in states that have the Way, when the law is established, then private goodness will not be pursued. When a lord is established, then worthies will not be revered. People are united under the lord and affairs are decided by the law—this is the great Way of the state.

From this, we can glean that states that understand the patterns of the Way in their various manifestations as they relate to political organization will codify and ensure compliance with these patterns by instituting a fixed set of rules and regulations, the content of which we shall examine later.

REPLICATING THE FIXITY OF THE NATURAL WORLD

With this understanding of Shen Dao's conception of the Way in hand, we can return to the question of just what it means to model the social and political world on the natural world, focusing in particular on two aspects that Shen Dao sees as important: replicating the fixed and patterned quality of the natural world in the social and political realm and replicating certain of the actual patterns of the natural world in the social and political world.

Conceptually, the first component here is not very difficult. We have seen that Shen Dao believes that the natural world possesses a fixed and patterned quality that allows us to predict and make use of it. Simply by understanding the patterns of nature, we can more effectively utilize its bounty, since, to the extent that we understand these patterns, we can predict the results of those of our actions that intersect these patterns. If we understand the patterns of water, then we can predict the results of building a dike or a dam in a particular fashion. And, as we saw in [1–3], if we understand the patterns of the sun and the seasons, then we are able to make predictions and plans based on these, opening our windows in the mornings and planting our crops in the spring—in essence, organizing our lives so as to take advantage of these patterns.

It is precisely this fixed and patterned quality of the natural world and the predictability that it gives rise to that Shen Dao wishes to replicate in the social and political realm. In a fashion foreshadowing Han Fei's more nuanced vision of a mechanical, leviathanic state,[14] Shen Dao wishes to organize the political realm such that actions therein will have the same predictable results as actions in the natural world.

In the natural world, our grasp of gravity and our understanding of the limits of which the human body can survive provide us with the knowledge that stepping off a sheer thousand-foot cliff will result in one's death. Furthermore, we see this not as a possible result but as certitude, and thus this knowledge is sufficient to regulate our actions. If we wish to live, we do not step off such cliffs (suitably equipped base jumpers and paragliders notwithstanding).

While Shen Dao does not himself use such startling examples, he does make the same point in other ways. In addition to the examples of water discussed in the preceding, he notes,

> [114] Gongshuzi was skillful at working with wood, but [even] he could not turn the wood of a spindle tree into a zither.

Gongshuzi was renowned for his skill as an artisan, but even he could not take the hard and tough wood of a spindle tree and carve it into a zither. The

limitation is not his skill but rather the particular and fixed qualities of the wood of a spindle tree. Given its patterns and qualities, such wood can be used only in certain ways, and no amount of hope, desire, or expectation on our part will make any difference.[15]

What Shen Dao wishes to point out is that if patterns can be created in the social and political realm that have the same degree of certainty as in the patterns of the natural world, then the political realm will be as predictable as the natural world, and, moreover, it can be ordered. So, for example, if everyone in a society knows that the result of stealing a pig is death, and that this result is as certain as the result of stepping off a thousand-foot cliff, then people will be no more likely to steal a pig than they are to step off the cliff. The order wrought by re-creating patterns in the political realm is not desired for its own sake. Rather, just as the order in the natural world is the basis of our effectively making use of and benefiting from it, so too does Shen Dao envision the order of the political realm as the basis for our effectively making use of and benefiting from social and political interactions.

However, while Shen Dao's call to replicate the order of the natural realm in the political one provides structure for political organization, it may be wondered whether it provides any concrete advice for just what the political structure should look like. After all, saying that a blueprint or a framework is necessary in order to construct a complex building tells us nothing about the actual content of the blueprint or the actual design of the framework. One blueprint may result in the construction of the Pentagon, another in Frank Lloyd Wright's Fallingwater, and still another in the Burj Khalifa. As such, the details matter. It is here that the second aspect of modeling the social and political world on the natural world becomes evident: replicating certain particular natural patterns when ordering the state.

REPLICATING PARTICULAR NATURAL PATTERNS

One of the most important aspects of Shen Dao's ideas on ordering the political realm is his call to accord with the *qing* 情 of human beings. This term, which has a wide variety of meanings in early Chinese texts, refers in Shen Dao's writing to the natural qualities of human beings and can perhaps best

be translated as "dispositions."[16] Now, as the term *qing* appears only twice in the fragments, both times in reference to human dispositions, it may seem strange to claim that according with the *qing* of human beings, as Shen Dao advocates in [28], is an instance of replicating certain particular patterns from the natural world in the political one.

Such a claim becomes more plausible, however, if we recall the passages earlier in which Shen Dao discusses water, particularly [68]. This passage is important not only because we see Shen Dao arguing that the only effective way of dealing with the natural world is to understand and manipulate the qualities of its parts but also because of his not so subtle dig at those (such as the Confucians and Mohists) who argued that our needs can be met if we were but to learn from the great sages of the past. In doing the latter, Shen Dao is drawing yet another connection between the natural realm and the political one and implying that, just as in the natural realm, what is important for success is understanding the qualities of whatever can effect one's endeavors.

The point being made, in both [68] with regard to water and [28] with regard to human beings, is actually quite simple. If someone desires to control some thing X, it is first necessary to understand the qualities of X. So, if we wish to prevent the Yellow River from flooding our crops and destroying our villages, we must first come to understand the distinctive qualities of water, how it is disposed to act. It is only after we have done so that we have any chance of regulating the floodwaters, of building the dikes and dams that can protect our land and crops. In the same way, if, when we move to the political realm, we focus on understanding the qualities of those causal forces that affect order in the state, human beings being principal among them, and act in accordance with these qualities, only then will it be possible to develop an ordered state in which human beings are controlled and manipulated in much the same way as water is controlled and manipulated by dikes and dams.

If, on the other hand, one attempts to alter human dispositions in an attempt to order the state, this will have no more effect than trying to change the qualities of water, and chaos is certain to result. Therefore, while a wide array of proposals for the ordering of the state may be put forward, as indeed

happened in Shen Dao's time, most of these proposals will be ineffective at achieving their goal simply because they do not take as their starting point the facts about their objects of inquiry. It is only once we take the lessons learned from the natural world and apply them to the political realm that success can be obtained.

To see this more clearly, let us return to [28] and the ideas that follow it:

> [28–32] The Way of heaven is such that if you "follow" then you will be great, while if you alter then you will be insignificant. To "follow" means to follow the dispositions of people. Among people, no one fails to act for himself. If you [try to] alter them and cause them to act for you, then there will be none whom you can secure and employ. Therefore, the former kings did not use as ministers those who would not accept a salary, and they did not take as partners in difficult endeavors those whose salary was not large. In circumstances where people are not able to act for themselves, those above will not get any use out of them. Therefore, if you make use of people who act for their own benefit rather than those who act for your benefit, then there are none whom you cannot secure and employ. This is what is called following [their dispositions].

As noted earlier, Shen Dao is here focusing on the political realm, though the connection to the broader natural world is evident. In the political realm, the paramount objects important to the investigation are human beings. And, given that the first step to any successful endeavor is to determine the qualities of the objects crucial to that endeavor, it is important first to come to a deeper understanding of the dispositions of the people and then to act in such a way as to allow the people to continue to follow their dispositions. Indeed, what makes the system that Shen Dao envisions successful is that it *relies* upon people's following their dispositions, just as a dam or dike relies upon water's following its patterns.

Implicit in this discussion is the idea that Shen Dao seems to take the dispositions of human beings to be set and unchangeable, at least in any respect that matters for governing. Just like other elements in the natural world, human actions have certain stable, reliable, and understandable tendencies

and patterns. Furthermore, just as in the case of the dispositions of heaven and earth discussed in [1–6], it is not necessary for human dispositions to include care and concern for others in order for them to be manipulated for the good of society. Rather, simply by recognizing the patterns that arise from the dispositions that human beings actually have, it is possible to make use of the bounty they provide, just as it is possible to make use of the light of the sun and the bounty of the earth.

Shen Dao's analysis of political organization, then, takes as its starting point the realities of what the world is like, what society is like, and what human beings are like. He does not begin with a conception of an ideal social or political order. However, grounding himself in the realities of human dispositions does not mean that Shen Dao is not interested in arriving at an ideal social and political order. As we shall see, he is quite clear about what he believes an ideal state would look like and has a plan for achieving it. His point is that the only way to reach such an ideal is to first come to an understanding of the realities of human beings and the world around us. Only after understanding these factors and how they limit possible outcomes does it even begin to make sense to claim something as ideal and to figure out how to achieve it.[17]

The idea that political thought needs to begin with the state and the people as they actually are, rather than with a vision of how they ought to be, is one way in which the various thinkers who have often been labeled "Legalist" (*fajia* 法家), in particular Shen Dao, Shang Yang 商鞅, Shen Buhai 申不害, and Han Fei seem to be appropriately grouped together.[18] Such a view sets them apart from a range of early thinkers who seem either to view political philosophy as an exercise in applied ethics or otherwise to think that the normativity to be desired in the political realm bears a necessary relationship to the normativity of the moral realm.[19]

While those who regarded themselves as following Kongzi often disagree about what is necessary to cultivate and develop human beings, all predicate their views on the ideal that it is possible for human beings to change and develop morally in important ways.[20] Indeed, it is not just Confucian political philosophy that relies upon people's changing in important ways. Mozi as well believes not only that it is possible to change people's disposition in

substantial ways but also that it is necessary to do so if any sort of political order is to be achieved. Indeed, he seems to hold the view that human dispositions are actually quite plastic, allowing the ruler to easily modify and control them. And, if we turn our attention to the *Laozi*, we see here as well an expression of the view that it is possible for human qualities and dispositions to change, though, on this account, such a change is undesirable and leads human beings into chaos and destruction.[21]

While Shen Dao's view does bear some similarities to the views of these thinkers—like Xunzi and Mozi he believes that humans begin as basically self-interested beings—he differs from these and many other thinkers of his age because he does not believe that attempting to change human dispositions and desires as they exist is the way forward. Such a path simply cannot be trodden, for human dispositions are not amenable to change. While it might be thought that such a pessimistic view about human dispositions and the inability to alter them leaves any potential political theory in a tenuous position, Shen Dao does not see it this way. Rather, on his account, it is possible to organize the state by following the dispositions of its people as they actually exist, just as we can follow the patterned qualities of natural elements such as the sun and trees and grasses in order to make use of them. What is required is not the ability to change the characteristics of any element, be it heaven, earth, or human. What is important is coming to a better understanding of these characteristics, whatever they may be, and basing actions upon them. Railing against the horrors of human selfishness and attempting to change it will have no more success than railing at the fact that water follows the laws of gravity or that the sun's path changes with the seasons and trying to change these. It is only when we modify our actions in light of the qualities of those things that we are dealing with that success becomes possible.

ON HUMAN DISPOSITIONS

So far, we have seen that Shen Dao wishes to base the political realm on the natural world, where part of this involves replicating the patterned qualities

of the natural world in the political one and part of it involves according with the patterns and qualities of the target subjects, which in the political realm includes human beings. Therefore, as the political realm is an artificial realm without innate patterns of its own, it is necessary to figure out exactly what patterns to institute there. This does not mean that there are no restrictions, however, for the elements of political organization do include natural elements, paramount among them being human beings. As such, just as any engineering project involving water needs to take as its starting point the actual qualities of water, so too does the engineering project known as political organization need to take into account the actual qualities of human beings. Thus, we now turn to the task of investigating the relevant qualities that Shen Dao sees in human beings.

PRIVATE INTERESTS

We can begin with the dispositions that Shen Dao refers to in [28–32]. Recall that he there claims that one distinctive quality of human beings is that they act in their own private interests, rather than in the interests of others. Such a view is not unique and appears in a wide range of thinkers, both East and West. Xunzi, for example, recognizes that human dispositions are often self-regarding and easily brought us into conflict (though his solution is to restrain and modify these dispositions), while Mozi recognizes that in a prepolitical situation, everyone had their own conception of right and wrong based on what was beneficial to them. And, of course, Han Fei, who borrowed extensively from Shen Dao's ideas (as he did from a wide range of earlier political thinkers), is famous for his arguments that human beings by and large are born with unchanging interest sets that include a large dose of self-interest.[22] In the Western world, Thomas Hobbes is well known for his views about how the self-interested nature of man, when coupled with his approximate equality, gives rise to extensive conflict in the state of nature.

Saying that Shen Dao believes that people by and large act on private interests does not need to lead us to read Shen Dao as a psychological egoist. That is, he need not be making the stronger (and less plausible) claim that as a matter of fact all individuals are motivated and act solely based on self-

interest at all times. Rather, a weaker reading of [28–32] is possible, giving us the claim that individuals have their own private interests, and that these interests include a healthy dose of self-interest. The point being made is that whatever composes the interest set of particular individuals, it is going to be nonidentical with the interest set of the ruler, or the state, or whoever it is that is trying to make use of a particular individual. Furthermore, given that human interest sets are fairly stable and that people work to fulfill the interests in these sets rather than working to fulfill the interests of others, expecting people to act in ways contrary to these interest sets is a recipe for disaster on a par with expecting water not to follow the laws of gravity.

The question, then, is how to deal with this particular human quality. In certain ways, Shen Dao's response is similar to one we see many centuries later in the Scottish intellectual Adam Smith, who famously argues that "it is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest."[23] Here, Smith recognizes the fact that people have their own private interests, and what is in the interests of one person is not necessarily in the interests of another. So, while it is in my interest to eat dinner this evening, it is not in the interest of the owner of the local market to simply give me the food for my dinner. Rather, the interests of the owner of the local market are going to include obtaining from me something she desires in return for the food she provides me. In Smith's scenario, in order to get dinner, it is necessary to make it worth the while of those involved in providing the meat, the bread, and the brew.

This is the same principle that Shen Dao relies upon in creating his political order. In the scenario he posits, if the ruler wishes to utilize the abilities of the various people in his state for its benefit, he must put into place a structure that provides incentives to these people to exercise their talents and abilities in ways that benefit the state. He cannot rely upon the people in the state to benefit either him or it because of their care and concern. Just as I cannot rely on the generosity of the owner of my local market to provide me with food for dinner, the ruler cannot rely upon the generosity of his people to ensure the success of the state. However, just as I can get food from the local market by making use of the owner's own private interests, so too

can the ruler devise a system whereby it is in the private interests of those in the state to act in the state's benefit.

While Shen Dao's focus on private interests implies that human beings do have actual interests, that they generally understand these interests, and that these interests vary depending on the particular individuals involved and the particular situations in which these individuals find themselves, there are still important questions left unanswered. Unlike the later Han Fei, who made a distinction between perceived and actual interests, and who was rather pessimistic about the average person's ability to grasp the latter, Shen Dao makes no such distinction. As such, he provides us with no discussion of whether it is actually good for individuals to follow their private interests. But that is perhaps not surprising, for his concern is always with the way people actually are, wasting no time wondering whether it is best for them to be this way. Indeed, such a question may have been as foreign to him as the question of whether it is good that water flows downward. In organizing the state, the central question is how to employ the various elements composing the state in ensuring that this state is strong and stable. And this requires an understanding of the dispositions of the elements involved, not an analysis of whether these dispositions ought to be the way that they are. Indeed, it may be part of Shen Dao's worry in [28–32] about those who would not accept a salary—they may be those who have interest sets that the ruler lacks the tools to effectively manipulate.[24]

This attempt to divorce questions of politics from more ethically normative questions of right and wrong puts Shen Dao at odds with a wide range of thinkers in early China who saw the political realm as intimately connected to the ethical realm. He is quite aware of this, and instead of simply putting forward his own position, he also spends time discussing the pitfalls of alternative methods of governance that do not rely on people's acting from their own interest set, as we shall see later.

HUMANS STRENGTHS ARE VARIED

While the implications of humans' having relatively stable private interest sets that include a healthy does of self-interest are certainly vast, this is not

the only human disposition that needs to be understood and factored into discussions about social and political order. Rather, in the section of the *Shenzi* titled "The People Are Mixed" (Min za 民雜), Shen Dao begins,

> [33–37] The people have various strengths. Each has his own abilities and these abilities are not the same. This is a disposition of the people. A great lord is the most superlative of all and provides for all people alike. While the abilities of those below are not the same, they can all be used by him. Because of this, the great lord takes people's abilities as his material and does his utmost to embrace and provide for them, not throwing out some while taking in others. Therefore, he does not establish a single method for seeking [things] from people, and so in what he seeks, he is never disappointed. A great lord is not picky about who can be his subject, and so his subjects are sufficient in number. Since he does not turn anyone away, it is easy to become his subject. Since it is easy to become his subject, none are not included. Since none are not included, he has many subjects. Since he has many subjects, he is called a great lord.

Among the claims Shen Dao is making in this passage is one that may seem quite prosaic—that people have different strengths and abilities. Of course they do! Philosophers, for example, may be quite good at analyzing arguments, but when the sink clogs or the furnace refuses to start, few have a clue about how to respond (other than by picking up the phone and calling a plumber or furnace repair person).

However, Shen Dao believes that there are some important implications to this fairly commonsensical claim, particularly when coupled with the previous claim about people's acting from their own private interests. Given that people have different strengths and weaknesses and thus different talents, if the state is to be well ordered and to flourish, then it is necessary to employ these strengths in the appropriate way.[25] This requires setting up a framework and system that ensures that individuals with the appropriate talents are employed to engage in the appropriate tasks. They are not simply interchangeable cogs in a larger system but rather part of a much more complex (yet still quite mechanical) structure.

The realization that we see in [33–37] also leads to a recognition that the varied talents we see in human beings can all be utilized in the political structure and, indeed, that they are essential components of the system. As such, one of the marks of a good ruler is his ability to identify the various talents of the people in his realm and to find the appropriate positions in the system for these talents. Furthermore, this makes it clear that the mark of a good ruler is not simply his (or his state's) ability to slot individuals into the appropriate posts of a ready-made bureaucratic and social structure. Rather, it involves a recognition that the structure itself may need to be further developed depending upon what talents are discovered.[26] It is necessary to figure out how those in the realm with a wide array of different talents can be employed to further the goal of a strong, prosperous, and stable state.[27]

There is, however, a potential worry about the plausibility of Shen Dao's claim here that we should dig into. The discussion of human talents and abilities that we see in [33–37], and in particular the fact that these talents differ, is open to at least two different interpretations. The argument that Shen Dao puts forward could rest either on the strong claim that the talents and abilities of individuals are completely innate and settled by birth or on the weaker claim that, given how they have spent their lives and what they have done, different people have developed different talents and abilities. While Shen Dao does not provide a clear answer as to which of these claims he is making, some evidence that he wishes to make only the weaker (and less controversial) claim can be adduced from his discussion of the past and what things were like then:

> [17–18] In the past, artisans did not pursue more than one craft, and officials did not hold more than one post. Because artisans did not pursue more than one craft, their tasks were few. Because their tasks were few, it was easy to complete them. Because officials did not hold more than one post, their responsibilities were few. Because their responsibilities were few, it was easy to manage them. Therefore the positions of officials were lifelong, and the tasks of the artisans remained constant. The various artisans' children did not need to pursue formal studies but were able to practice

> their craft and not because they were born with such a skill. They say it was because they engaged in regular activity.

This discussion makes clear that the skills of artisans are not innate but rather arise and develop out of continued practice and habituation. Of course, such a recognition that regular practice and habituation are necessary for any skills to be developed is certainly not unique to Shen Dao, and it can be seen throughout the early Chinese corpus. Mengzi and Xunzi both discuss the importance of focus and single-mindedness in developing any talents, from practical to moral, and Zhuangzi's Cook Ding gained his exalted skills only through tireless practice over a long period; these examples can easily be multiplied.

Given these facts, even if one is agnostic regarding the question of whether individuals have different innate talents and abilities, they clearly will, as a matter of fact, have different developed talents and abilities. Since this is the case, understanding these actual talents and abilities and developing a system that both aids in determining what skills and talents are present in any particular individual and in figuring out how best to employ those skills and talents in the various tasks and offices of the state is going to be of paramount importance for the ruler. Therefore, the fact that humans differ in their talents is as important to successful governing as the facts that different vegetables need to be raised in different ways and that temperatures change with the seasons are important to successful farming.

SUBJECTIVITY GIVES RISE TO RESENTMENT

While the two dispositions discussed so far play important roles in Shen Dao's political philosophy, they do not exhaust those human traits that he sees as important to understand. Rather, there is a third aspect of humans that must be taken into account: the fact that human beings have feelings of resentment and expectation and, more importantly, that these arise in situations where decisions either are, or are seen to be, subjective, arising out of the discretion of those making the decision. While Shen Dao does not explicitly talk about this trait as a "disposition," it is clear that he sees

it as such and recognizes the important role that it plays in guiding human action. In the section of the fragments titled "The Lord and His People" (Jun ren 君人), he says,

> [61–65] When the lord of the people abandons the law and relies on himself to govern, then punishments and rewards as well as firings and hirings will arise out of the lord's heart. If this is the case, then those who receive rewards, even if appropriate, will always expect more, and those who receive punishments, even if appropriate, will ceaselessly expect leniency. When the lord abandons the law and relies on his heart to make judgments about severity, then the same accomplishments will have different rewards while the same crimes will receive different punishments. It is from this that resentment arises. Thus, those who apportion horses draw lots, while those who apportion fields cast coins. It is not because coins or lots are wiser than men, but rather they are the means by which to get rid of private interests and block resentment. Therefore it is said, "Since a great lord employs the laws and does not personally act, affairs are decided by the law." That which the law confers is such that each by means of its divisions receives their rewards and punishments and none expect [anything different] from their lord. Therefore, resentment does not arise and there is harmony between superior and subjects.

As Shen Dao points out elsewhere in these fragments, and as we see argued throughout a range of early Chinese texts, though perhaps most conspicuously in the *Han Feizi*, a variety of problems arise when the ruler attempts to rely on his own personal qualities in order to organize and rule the state. In this passage, however, Shen Dao is pointing to one particular problem that his analysis of human psychology has revealed. On his account, resentment is not something that arises in human beings simply because they do not get what they want. Rather, it arises when people believe that there is a possibility of getting what they want, and this possibility (and often the expectation that goes with it) is frustrated.

We can perhaps better understand this if we use a contemporary example. I have taught both at universities that implement a grading curve limiting

the percentage of students who can receive As and Bs in a course and at universities where no such curve exists. Students at universities where the grading curve exists are very much less likely to come to me to complain about receiving a B in the class than their counterparts at schools where the curve does not exist. This discrepancy does not appear to arise because students at the former institution do not care about their grades while those at the latter do. Rather, it seems to arise because the university with the grading curve has put in place a fixed system. Because of this system, grades are not seen to be related to what is often viewed as the subjective (and thus potentially changeable) views of the instructor but rather to an overarching set of fixed standards. Indeed, it does not matter whether the system is *actually* fixed where there is a grading curve or that it is *actually* subjective where no curve exists. Rather, what is important is how students *perceive* such scenarios—it is this psychological response toward which Shen Dao is pointing. Furthermore, this fixity need not be tied into any notions of fairness.

Additionally, when students at institutions with a grading curve do come to me about their grades, when I explain that their grades will not be changed because doing so would require lowering the grade of a student who had earned a higher score, they do not seem to exhibit resentment toward me as the instructor. This trait certainly does not seem to be shared by students in institutions that lack a grading curve. In the latter case, students often have an expectation that I will change their grades because doing so would be beneficial to them, and they very often resent me when I refuse to do this. After all, their reasoning seems to go, if I am in control of the grades, I must be able to make subjective changes to meet their expectations and desires.

What then do the trials and tribulations of the university grader have to do with Shen Dao's thought? Well, what rules and regulations do, both at the university level and at the political level of the state that Shen Dao actually discusses, is provide clear and fixed standards for making divisions and distinctions. Furthermore, on Shen Dao's view, as these decisions are seen not to rest with any particular individual, there is no one to resent and no one from whom to expect more. Just as the student who ends up with a B+ because 15 percent of the students in his class did better than he

did does not feel resentment toward his instructor, so too does the subject who receives the standard punishment for a crime or a subject who receives a minor reward for a minor achievement not feel resentment toward the political or legal structure or an expectation for something else, at least on Shen Dao's account.

Shen Dao expands further upon the reasoning behind drawing lots and casting coins elsewhere in the fragments, saying,

> [24] Casting coins to divide property and drawing lots to apportion horses is not done because casting coins and drawing lots lead to equal distribution. Rather, they are methods that cause those who do well not to know toward whom to feel grateful and cause those who do badly not to know toward whom to feel resentful. These are the means by which resentment and expectation are blocked.

So long as a system is adhered to, regardless of the actual content of that particular system, resentment and untoward expectation can be minimized. In order to have resentments or expectations, there must be an object upon which to focus these feelings. Absent such an object of resentment, even when the divisions made in the political realm are not to one's benefit, one will still adhere to them. This comes across quite clearly in another interesting fragment:

> [82] If a rabbit runs through the streets, a hundred people will pursue it. This is not because a single rabbit is sufficient to be divided among a hundred people but rather because its allotment has not yet been determined. When allotments have not yet been determined, even Yao would exhaust his strength [to attain it], and even the more so for the masses. If piles of rabbits fill the market, and people pass by without turning their heads, it is not because they do not desire rabbits [but rather because] the allotment has already been decided. When allotment has already been decided, then people, even if they are base, will not contend with one another. Therefore, governing all under heaven and the state rests in making allotments and that is all.

Initially, it may seem that this passage has little to do with advocating a fixed set of standards, and to some extent this is true. Shen Dao is not here emphasizing the fixed nature of the rules and regulations that lead to the allotment of rabbits. However, implicit in his discussion of the fact that, once rabbits are allotted and ownership is decided, contention ceases is the idea that the allotments are not subjective and that they cannot arbitrarily be changed. People accept that the rabbits in the marketplace are owned by others and that the only way to obtain these rabbits is to strike a bargain with the owner. There is no one from whom to beg the rabbits that one desires, no one from whom to request that the allotments be altered.

Again, we see Shen Dao recognizing a potential problem in the organization of social and political order and turning to the natural world for the solution. By modeling the structure of the state on the natural world, by giving everyone a political order that includes a set of rules and regulations that are as fixed as the laws of nature, Shen Dao believes that the potentially chaos-inducing feelings of resentment and expectation can be eliminated. After all, if we understand the features of the natural world, then we will not rail against heaven and earth when, after falling off a steep cliff, we find ourselves unable to fly. In such a situation, we have no expectation that the natural world is going to provide us with any assistance and feel no resentment toward it for not doing so. In the same way, so long as it is equally clear what rules and regulations govern the political realm, resentment and expectation will be absent there as well. And, importantly, this is not because we see the political world as fair or as benefiting us but because we see it as regular, fixed, and unchanging. As such, we will no more entertain the possibility that our whims and desires will be catered to than we do when interacting with heaven or earth.

While Shen Dao works to draw the parallel between the natural world and the political realm in this way, there are still questions left open. One could argue, for example, that it would be possible to do a meta-analysis and evaluation of the political system as a whole in a way that may not be possible with the natural world. In the case of the students raised previously, while they might not resent the instructor for grading on an established curve, they potentially could object to the whole idea of a grading curve.

The grading system deprives the student of reason to resent their professors but may not deprive them of reason to resent the university system itself.

The same argument, then, could be made in the political realm. By making rules and regulations fixed and unalterable, there is no one individual toward whom to feel resentment. In essence, the political system Shen Dao envisions attempts to deprive individuals of a clear target toward which to aim their resentment. It is much more difficult to target a whole institutional system than it is an individual.[28] However, insofar as there is still a ruler in charge of the state, as Shen Dao clearly envisions, it may seem that a clear object of resentment remains. After all, whatever the system is, it is one that is set up by the ruler, and so it would seem fairly easy to transfer resentment toward the system to resentment toward the ruler.[29]

This is not a question that Shen Dao himself examines. However, by setting up the beginnings of a bureaucratic political leviathan, it could be argued that he begins to alleviate this worry. It may not be until Han Fei, however, that we see a full response. By setting up a system in which the ruler is mostly a shadowy symbol of state as opposed to an active force, it may become possible for even a monarchy to lack a clear object of resentment.[30] Certainly, the system Shen Dao envisions, or even the one Han Fei develops, may not completely eradicate resentment or expectation in all individuals, but it does seem to lower the incidence of such reactions, particularly in comparison with systems that allow for exceptions.

LOYALTY

The points raised so far lead naturally to the question of just what the content of the various rules and regulations should be. However, before examining this important question, let us first examine a bit more deeply Shen Dao's criticisms of alternative proposals for ordering the state and managing its people, for these concerns are part of what underlie his positive program and laws. There were others of Shen Dao's time who advocated various forms of moral cultivation, not only for the ruler but for his people as well. The idea was that this moral cultivation not only led to better lives for the

individuals involved but also led to a stronger and more stable state. Prime among the qualities that thinkers in this vein promoted were loyalty (*zhong* 忠) and filial piety (*xiao* 孝).[31] On these accounts, developing filial piety on the part of children leads to more harmonious, stable, and flourishing families, while its political counterpart, loyalty on the part of ministers, leads to a more harmonious, stable, and flourishing state.

Shen Dao, however, sees such a position as quite wrongheaded, but, recognizing that it has an appeal that could lead to his own position on political order being ignored, he addresses it directly in a section of the fragments titled "Understanding Loyalty" (Zhi zhong 知忠). In this short section, we can discern a range of worries that arise not simply when there is an attempt to achieve political order based on loyalty but indeed with using any sort of emotional connection between the ruler and his ministers or subjects as a fundamental foundation for political order. These worries include a concern that a focus on loyalty arises only when things have already begun to go wrong, a misgiving over the fact that loyalty can lead officials to overstep their bounds and create chaos, an apprehension that history provides us with numerous examples of both chaotic times and well-ordered times in which loyal ministers were present that renders the actual power of loyalty suspect, and a suspicion that a focus on the personal qualities of particular individuals gives rise to the conclusion that the moral traits of particular individuals are what are at the center of a stable political organization rather than an appropriate bureaucratic structure.

In what is initially a fairly opaque passage, Shen Dao provides us with a saying that he goes on to explain:

> [49–50] They say, "Gu Sou had a good son, but Shun banished him. Jie had loyal ministers, but his transgressions filled up all under heaven." This being so, filial children do not arise only in families with loving parents, and loyal ministers do not arise only as the subordinates of sagely lords.

This passage uses two examples to highlight two distinct but interrelated ideas: (1) loyalty is insufficient for the task of ordering a disordered world and (2) loyalty and filial piety actually suffice in making things worse than

they otherwise would be. In order to understand these claims, it is necessary to gain a bit of historical context. Gu Sou, or "The Blind Old Man," was the father of the great sage-king Shun and is traditionally and notoriously depicted as an extremely evil person, one who, along with Shun's stepmother and half brother, tried to kill Shun on multiple occasions. However, in spite of this, Shun remained the epitome of filial and fraternal love, caring for and helping his family whenever needed, accepting most of the punishments meted out by his father, and avoiding punishments only when his father was actively trying to kill him.[32]

On such an account, Shun is remarkably loyal to his family, regardless of their actions. However, in the end Shun is forced to banish his father, demonstrating, on Shen Dao's account, that even loyalty and filiality as great as Shun's are incapable of cultivating his father and making him better. Indeed, it may even be that Shen Dao wishes to point out that it was actually Shun's incredible loyalty and filiality that were the cause of Gu Sou's eventual banishment—had he treated his father more harshly early on, then perhaps his father's actions would have been modified. By his lax treatment of his father (not holding him to any set of fixed standards but instead allowing him to do as he wished), Shun may have allowed the situation to get so out of control that in the end banishment was the only option. Regardless of how far Shen Dao may have wished to push this example, it seems clear that the virtue of loyalty or filial piety is insufficient for rectifying disorder in the family.

At the political level, it should be quite apparent why Shen Dao would view such actions on Shun's part as particularly problematic, for it goes completely against the fixity that he espouses. No matter what Shun's family does to him, he remains loyal to them and will not treat them as most would think they deserve. All this does, we can imagine Shen Dao saying, is ensure that the resentments and expectations of his family will continue endlessly.

The problem Shen Dao is alluding to here may be illuminated further if we recall *Mengzi* 7A35. There, Mengzi is asked by one of his disciples what the sage-king Shun would have done had his father murdered someone while Shun was emperor. Mengzi acknowledges that Shun's father would have had to be arrested, in accordance with the laws, but then says that Shun

would have cast aside the empire, fleeing with his father to the seaside, and happily lived out his days caring for his father.

Now, we do not know whether Shen Dao was himself familiar with this discussion between Mengzi and his disciple. However, if he was, then the criticism he raises by bringing up the case of Shun and his father is made even clearer. After all, abdication of the throne in an attempt to help one's relative escape the sanctioned punishment for his actions is hardly an example of the ruler guiding a fixed, ordered state bureaucracy. Rather, it is a prime example of a ruler basing his decisions upon subjective and emotional criteria (as is Shun's earlier treatment of his father). Shen Dao would argue were the people to see the ruler act in such a way, it would destroy any belief in the fixity of the rules underlying the political realm and bring out their subjective expectations and resentments. After all, if the ruler's father can be treated preferentially, then why can others not be so treated? This, then, would be seen as the first crack in the only foundation that could possibly ensure order in the state.

However, Shen Dao is not only concerned with the virtue of filial piety and how this emotional feeling can lead to chaos. Rather, he is worried about the correlative of filial piety in the more general political realm—loyalty. As such, he brings up the example of Emperor Jie, who has been reviled throughout Chinese history as one of its most evil tyrants.[33] Even though Jie was a rapacious, licentious, evil ruler whose actions led to the downfall of his state, loyalty led his ministers to continue serving him faithfully. Indeed, the loyalty among Jie's ministers actually allowed him to create more chaos and disorder than he otherwise could have done. While chaos reigned, loyalty remained.

Thus, the lesson learned by looking at the example of the sage-king Shun—namely, that the ruler must not act out of his personal feelings—is, by dint of the second example, turned directly toward the state's ministers. They too must not act out of their personal feelings of loyalty, for all such action does is enable their ruler to continue his chaotic reign. In both of these cases the point is clear: if individuals high up in the bureaucracy utilize their power to break out of the fixed, regulated bureaucratic structure, then with each step they take away from this structure, not only does the political

realm cease to be modeled upon the natural world but also the seeds of its own destruction are sown.[34]

While important, these are not the only worries with loyalty, however. Rather, Shen Dao wishes to point out a range of other worries, telling us,

> [51] Therefore, in employing ministers, the enlightened ruler ensures that their loyalty does not exceed their responsibilities and their responsibilities do not exceed their positions, and so they will be liable for any excess. As such, his subjects will not dare to be conceited and arrogant on account of their goodness.

Two interrelated worries are indicated here. The first is an extension of the point raised earlier that acting from the virtues will sometimes lead one to step away from the rules governing one's position. However, here the concern is put in slightly different terms, focusing on the idea that problems arise not only when loyalty leads one to be negligent in one's duty but also when it leads one to do more than one is called upon to do.

Now, initially, we may think it strange to worry about instances in which a minister goes above and beyond the call of duty, thinking this to be a good thing. Indeed, such is often thought to be the mark of a sterling minister. Although Shen Dao does not explicate this concern here, we can perhaps come to better understand it by looking at a very similar worry expressed by Han Fei, one of the thinkers who explicitly drew inspiration from Shen Dao. In chapter 7 on the "Two Handles" (Er bing 二柄), Han Fei tells the following story:

> [*HF*1] In the past, Marquis Zhao of Han became drunk and fell asleep. The keeper of caps saw that his ruler was cold and thereupon placed clothing over him. When he woke up, he was pleased and asked his attendants, "Who placed clothing over me?" The attendants replied, "The keeper of caps." The lord therefore punished both the keeper of caps and the keeper of clothing. His punishing of the keeper of clothing was because he took him to have failed his task, and he punished the keeper of caps because he had exceeded his duty. It was not that he did not fear the cold, it was that he

considered the harm of invading [other ministers'] positions to be greater than the cold.[35]

The most notable aspect of this story, of course, is the fact that not only is the keeper of clothing, who was negligent in his duties, punished but so too was the keeper of caps. Many find the latter punishment problematic. After all, the keeper of caps helped his ruler, preventing him from catching cold while lying in a drunken slumber, so it might seem that, if anything, he should be rewarded. However, Han Fei makes it very clear that he does not view the scenario in this light. Rather, he views the actions of both the keeper of the caps and the keeper of clothing as instances of not fulfilling the duties of their respective positions. The keeper of clothing did not live up to his obligations while the keeper of the caps overstepped the bounds of his position. Allowing deviations from the tasks prescribed by governmental positions is, in the mind of Han Fei, to harm the bureaucratic system that has been established.[36]

This worry is very similar to the one that Shen Dao expresses. Those who (perhaps out of a sense of loyalty) exceed the bounds of their position, even if it is to perform some otherwise benign or even positive action, are at the same time attacking the very foundation of the fixed political system that Shen Dao wishes to create. The predictability, stability, and ordered nature of the political organization is in danger if ministers are allowed to make such determinations on any criteria other than those that regulate their positions, even if such criteria are otherwise morally or practically praiseworthy.

Additionally, any such moral qualities will always be in tension with the other dispositions that Shen Dao believes humans all have. In particular is the tension with individuals' private interests, as was examined earlier. Irrespective of what the private interests of an individual are, there are going to be times in which these interests are nonidentical with the interests of the ruler and times when they are nonidentical with the interests of the state. As such, regardless of whether loyalty is directed at the state or the ruler, there will be instances in which it requires individuals to go against their essential concern for their own private interests. This path is quite a dangerous one

to tread, Shen Dao implies, and the dangers to ruler and state increase as the harms to the private interests of the individuals involved increase.

It is just such a point that Shen Dao is contemplating when, in [28–32], he emphasizes that the ruler needs to employ people by making use of their private interests, rather than trying to make use of what they claim to do out of loyalty or for other other-regarding reasons. Attempting to modify individuals so that loyalty wins out over other interests is futile. Again, although it is not made explicit, the comparison with the natural world is evident, and we can imagine Shen Dao noting that expecting people to act against their private interests will have the same results as planting vegetables in the fall and expecting a nice winter harvest or jumping off a sheer thousand-foot cliff and expecting to live—failure is not just likely, it is inevitable.

There is another, related, concern that arises in [51]—namely, the worry that ministers will self-identify as virtuous and take overt pride in their goodness. This is slightly different from the worry with the keeper of the caps, who may well have given no thought to his action before covering up the duke. The concern is that ministers will act out of a belief that they can better understand what needs to be done than anyone else (or any system) could. By relying on their own virtue, the ability that they take themselves to have that allows them to look at any particular situation and discern the salient features of that situation and how it is appropriate to act, without reference to their own defined duties, such ministers will continue to erode the foundations of the state. Their complete belief in their moral goodness (even if warranted) may lead to a conceit and arrogance that could override reasons that they might otherwise have for restraining themselves and acting only within the bounds of their duties. Furthermore, such motivation on the part of the ministers will remove them from the sphere in which the ruler can effectively manipulate and direct them, leaving them less usable as implements of the state. Once more, the worry is that this is harmful to the fixed system that Shen Dao believes most capable of ensuring a strong, stable, and prosperous state.

Associated with this is not only the narrower concern that particular ministers will see themselves and their virtue as essential to the system but

also the more general worry that focusing on the personal qualities of particular individuals, whether they be the ruler, prime minister, or any others, will give rise to the conclusion that the moral traits of particular individuals are actually what constitute the center of a stable political organization. It is for this reason that Shen Dao emphasizes,

> [53–54] Being lord of a failed state is not the fault of a single person. Being lord of a well-ordered state is not due to the strength of a single person. Bringing order to disorder rests in worthy officials holding governmental positions and does not rest in loyalty. Therefore: "When wisdom pervades the empire, its benefit extends to the lord. When loyalty pervades the empire, its harm extends to the whole state."

No one person can ensure the survival of the state, and no one person can ensure its demise. Rather, the success of the state rests on the various cogs in the state machinery acting as they should, fulfilling their directed roles and not overstepping their bounds. The passage Shen Dao quotes, while from an unknown source, further emphasizes this point. It stresses that when one utilizes one's knowledge, which in this context should be thought of as the talents discussed earlier, in going about one's prescribed duties, then everyone in the state shall benefit. However, if one relies on one's loyalty as the basis for one's actions, then the harms will be manifold and disastrous.

In closing his discussion of loyalty, Shen Dao emphasizes his point yet again, this time by comparing the great sage-king Yao with the tyrant Jie:

> [55–56] Thus, that which caused Jie's downfall is not something that Yao could have survived, and yet Yao had unsurpassable goodness, while every bad action was attributed to Jie. So, [what really matters is whether one] secures or loses the right people. Hence, the timber for the imperial court does not all come from the branches of a single tree, and a white fur coat does not come from the pelt of a single fox. The conferring of order or disorder, security or danger, survival or destruction, glory or dishonor are not due to the strength of a single person.

No matter how virtuous, sagely, and good Yao was, if he had been dropped into the circumstances in which Jie found himself, he would no more have been able to survive than Jie, whose downfall marked the end of the Xia 夏 dynasty. What matters is not a single individual. Since the system under which Yao ruled was correct, anyone could have equaled him at ruling *in those circumstances*.

Immediately after making this point, however, Shen Dao says that what really matters is whether one "secures or loses the right people." Initially, this may seem quite puzzling. After all, Shen Dao has just told us that success and failure do not rest in the hands of a single (virtuous) individual. Indeed, this passage would seem more at home in the mouth of Confucians such as Mengzi or Xunzi, philosophers who were concerned precisely with this question—how to get the right sort of people into positions of rule, which, on their account, meant ensuring that the virtuous were in positions of power. As Xunzi says, [*XZ*1], "If one hastens to obtain the right person, then one can rest at ease and the state will be ordered. One's accomplishments will be grand and one's reputation will be fine."[37]

We can, perhaps, look at [33–37] to help shed light on this matter. This passage emphasizes that different people have different talents and that all these various talents must be understood and fit into the state system in the way that maximizes the value added to the system. Unlike the Confucians (and others), who are concerned with finding the next sage to rule (or at least a virtuous prime minister), Shen Dao's emphasis is not on virtue but on role-specific competence. Just as there is no correlation between being virtuous and being an amazing artist (as we can see in the case of Gauguin, among many others), there is no correlation between being virtuous and being an able administrator. However, this does not mean that the "right" individuals are not necessary, for they certainly are. Just as flying me to Tahiti and giving me an easel, canvas, and paints will never in a hundred years yield anything that even my grandmother blinded by love would call art, so too will handing over the position of minister of the interior to me not lead to anything remotely resembling a well-run department of the interior. The right person is necessary—on this Shen Dao would agree with the Confucians. Where he disagrees is on just what constitutes the "right" individual.

For him it is not a moral quality but rather refers to one who has a particular required competence.

Furthermore, this task-specific competence cannot be thought of broadly. There is no broad competence that could be described as a competence in the task of "uniting the world," for example. No single individual has all the talents necessary for engaging in such a task. This is a point that Shen Dao expresses quite eloquently in two metaphors in [56]. He reminds us that the timber that makes up the structure of the imperial court cannot all come from the branches of a single tree. Rather, it requires many trees, many different types of wood. And, in another metaphor, he tells us that a coat of white fox fur cannot come from the pelt of a single fox. As foxes of China have white fur only at their neck and where their legs join their bodies, in order to obtain a sufficient amount of white fur to create a coat, it is necessary to first obtain the pelts of many foxes.

This highlights a way in which Shen Dao differs from Confucians such as Xunzi. They place a high premium on finding the *one* right person, as we saw earlier. This view arises because Xunzi believes that an appropriately qualified prime minister will have all the qualities necessary to allow him to find all the other right people necessary to appropriately order the state. Shen Dao on the other hand stresses two points in opposition to such a view: (1) a single person's intelligence is insufficient for the epistemological task of finding the right people for *all* the necessary positions in the political bureaucracy, and (2) the political system requires multiple individuals, including those who are not particularly moral. The bureaucracy of a successful state is quite complex and requires a wide variety of officials and functionaries, each with particular and quite different talents. Expecting the ruler or the prime minister to have the ability to come to a full understanding not only of the roles to be filled in each position but also the qualities of all those in the state who might fill such roles is an impossible burden.

A related criticism more directly aimed at the moral aspect of views such as the one held by Confucians may also be in evidence. As even Xunzi notes, for many tasks, farming, business, and pottery among them, what is necessary is specific technical knowledge rather than broader moral competencies. Xunzi proceeds to claim, however, that it is necessary for a morally

cultivated individual to act as the official overseeing all such technicians, even though he lacks all their technical skills.[38] We can imagine Shen Dao arguing that often what officials need is actual technical knowledge rather than virtue—thus the virtuous individual is ill fitted for many official positions.

The examples in [56] serve to force us to realize that in order to fit the appropriate pieces into the vast state machinery, it is necessary to understand what pieces are needed where and which particular individuals have the particular skills necessary to occupy the places of these various pieces. Therefore, for Shen Dao, finding the right people is essential to the smooth running of the state in much the same way that finding the right materials to build a dam is essential to holding back water. Indeed, this is a point that Shen Dao sees perhaps more clearly than the later advocate of a mechanized bureaucracy, Han Fei, who far too often seems to lose sight of the importance of individuals in his emphasis of the importance of the system.

THE LAW

So far, we have seen various worries that Shen Dao has with any sort of political order that does not rest upon a fixed, patterned, and regular foundation. Further, we have seen the claim that various human dispositions that might seem to be impediments to the creation of political order can actually be employed to ensure such order. However, we have yet to examine just how Shen Dao envisions the foundation of this order and the overarching framework of the state. Exactly what are the means by which it is possible to ensure a fixed order in the political realm that mimics the fixed order of the natural world? In answering this question, Shen Dao turns to the idea of *fa* 法. This term has a long history in Chinese texts, and its original meaning referred broadly to a "model," but as time passed, it was often also used in a more narrow fashion, referring to the standards or laws instituted by the ruler.[39] Shen Dao uses the term in both its broader and its narrower senses, but his focus in many of the fragments is on the narrower sense of the term.

Throughout his discussion of the law, it becomes clear that one of its defining features is its fixity and lack of bias. Given what we have seen already, it should be immediately obvious why Shen Dao see this as attractive. As he tells us in one of the fragments,

> [23–24] Even if the law is not good, it is still better than having no law at all. Casting coins to divide property and drawing lots to apportion horses is not done because casting coins and drawing lots lead to equal distribution. Rather, they are methods that cause those who do well not to know toward whom to feel grateful and cause those who do badly not to know toward whom to feel resentful. These are the means by which resentment and expectation are blocked.

And, in a fragment that some editions place immediately after [24], Shen Dao says,

> [73] Therefore, milfoil and tortoise shell divination are how decisions are recorded publicly. Balance weights and beams are how true weight is established publicly. Documents and contracts are how trust is established publicly. Standardized measurements are how length and volume are determined publicly. Laws, institutions, rituals, and documents are how norms are set up publicly. In all these cases, establishing public standards is the means by which private interests are eliminated.

There is a range of issues raised by these passages. The first point is that one of the greatest values of the law is that its public nature provides open, clear, and fixed standards, irrespective of its actual content. Law is not, on this account, valued because its content leads to an equal or fair distribution of burdens and benefits among those in society (or by philosophers), nor because it upholds certain moral precepts dearly held by those in society, nor because it directs people to do the right thing (whatever that might be) in their interactions with others in society. Rather, its fundamental value, and a value that makes it important regardless of its actual content, is that it ensures that those who benefit from its regulations have no one toward whom

to feel grateful and that those who are burdened by its regulations have no one toward whom to feel resentful. The law apportions social and political goods in a public and fixed fashion, much in the same way that drawing lots or casting coins does, and as such leaves the participants with no cause for resentment, a point discussed and illustrated in detail by the earlier analogy with various university grading schemes.

This, then, implies that there is no subjective bias in a system set up and regulated by the laws. Rather, much as scales provide a completely fixed method of determining the weight of something and contracts provide a completely fixed method of governing interactions between individuals, laws create behavioral norms that are unalterable. Every one is treated the same by the law, just as scales, contracts, and measures treat their objects in the same way, simply reading off results based on the realities of the objects in question.

The comparison between using the law as the basis for decision making in the social and political world and using milfoil, tortoise shells, coins, or lots as the basis for making a wide range of decisions, when coupled with Shen Dao's claim that bad laws are better than no laws, gives initial credence to the idea that Shen Dao has little concern with the actual content of the law. Such a position may even be strengthened if we accept the following fragment as coming from Shen Dao:

> [Q1] Law does not come down from heaven nor does it emerge from the earth. Rather, it comes from the human realm, according with the human heart, and that is all.[40]

As Soon-ja Yang has noted, this passage seems to indicate that Shen Dao sees the law as "essentially a social institution whose content and very existence is simply a matter of human will."[41] This view accords well with R. P. Peerenboom, who argues that while there are many similarities between Shen Dao's ideas and those of the excavated Huang-Lao manuscripts, on the important feature of the nature and source of the law, they clearly part company, with Shen Dao laying out a position that is in line with that of

legal positivism.[42] In general terms, Yang and Peerenboom are, I believe, on the right track. Given that Shen Dao seems to see the laws as arising from the commands of the ruler, whoever he happens to be, it stands to reason that what counts as law is simply whatever the ruler promulgates as law. And, given that the very act of promulgating laws results in the setting of fixed standards, the value of which has already been discussed, it stands to reason that Shen Dao would feel confident in claiming that even bad laws are better than no laws at all.

However, acknowledging this does not require that Shen Dao accept a claim that the actual content of the law does not matter. Accepting that a set of standards are human conventions (and that they have been invented) does not preclude us from arguing that one specific set of standards is more effective than any other set of standards at realizing a particular goal. Recognizing that law as an institution is necessary—agreeing, for example, with the British political philosopher Thomas Hobbes that the anarchy and chaos of the state of nature is so bad that any ruler is preferable—does not force us to accept along with Hobbes that we can do no better than a ruler who institutes whatever laws he desires.[43]

Rather, it is open to Shen Dao to argue that, given the qualities of the natural world and the dispositions of human beings, certain laws will be more effective and preferable to others, in much the same way that certain ways of working to control, contain, and direct water will be more effective than others. Certainly, the very existence of laws will help lessen chaotic private interests, as Shen Dao regularly notes, just as the very existence of dams will help reduce flooding. However, just as certain types of dams located in certain areas will be more effective at reducing flooding than others, so too may certain laws do a better job of eradicating the negative impact of chaotic private interests and other elements in society that lead away from a well-ordered state and society.

In this vein, there is a range of scholars who believe that Shen Dao envisions a sort of natural law in which the particular laws to be instituted by the state are to be read off of nature, or the Way.[44] However, as Peerenboom points out, [Q1] seems to imply a problem with any such view. If law does

not come down from heaven, and if it does not emerge from earth, but rather arises from the human realm and accords with the human heart, then it certainly does not appear that it is being read off of nature.

Fragment [Q1] also poses a potential worry to the claim defended earlier, that Shen Dao's goal is a political realm modeled on the natural realm, at least in one sense. While it would still be possible to say that the political realm is modeled on the natural world insofar as its laws are as regular, as unforgiving, and as certain as the laws of nature, this passage does endanger the view that the political realm is to be modeled on the natural world in the sense that the specific laws that will be most effective at ordering the state are to be read off of the fixed reality of what the world is like, by understanding the Way.

What, then, are we to make of this? The simplest method might perhaps be to deny that [Q1], which separates the law from heaven and earth and argues that it is merely a human construct, is actually an authentic fragment and thus claim that it does not espouse Shen Dao's position. Indeed, neither Thompson nor Xu includes it in their analyses and collections of the authentic fragments, though it does appear in certain earlier recensions of the fragments. Such a move, however, is not very satisfying, particularly as nothing in the passage must be read as contradicting any of the positions or arguments endorsed elsewhere in the *Shenzi*. Indeed, the position espoused in this passage may actually help to clarify Shen Dao's ideas.

In examining how this fragment may be reconciled with other things that Shen Dao says and in particular how it may allow him to maintain the stronger sense of modeling the political realm on the natural world mentioned previously, it may be informative to take a slight detour and briefly examine certain aspects of Xunzi's discussion of ritual. In doing so, we shall see that there are interesting parallels between Xunzi's analysis of the source of ritual and his defense of a particular set of rituals on the one hand and Shen Dao's analysis and defense of law on the other.

Xunzi was, of course, one of the strongest defenders of the value of ritual in the early Chinese tradition.[45] However, as A. C. Graham has noted, on Xunzi's account, the sages of the past *invented* the rituals that he so pas-

sionately advocated.[46] In his defense of these rituals Xunzi argues that they were developed at least in part for their consequences, to establish order, nourish the people, and provide for their desires. As he says in the beginning of chapter 19, "Discourse on Ritual" (Li lun 禮論),

> [*XZ*2] The former kings hated such chaos, and so they established rituals and *yi* in order to allot things to people, to nurture their desires, and to satisfy their seeking. They caused desires never to exhaust material goods, and material goods never to be depleted by desires, so that the two support each other and prosper. This is how ritual arose.[47]

Given Xunzi's understanding of human dispositions and nature, he concludes that untutored and unregulated human desires lead to chaos and that rituals are needed to appropriately allot things to the people in such a way that their desires are nourished and that they are provided with that which they seek. Doing this, then, requires an understanding of the human Way. As he describes it,

> [*XZ*3] The Way is not the way of heaven nor is it the way of earth. It is that whereby humans make their way and that which the gentleman takes as his way.[48]

So, on Xunzi's account, rituals are based on the human Way, a Way, which, if understood and followed, allows human beings to flourish. As Philip J. Ivanhoe elaborates,

> The rites [rituals] and norms of the Confucian way were established as the rational minds of a series of gifted individuals sought to bring peace, prosperity, stability, and order out of the dangerous chaos of the state of nature. Morality was forged through experience and refined through a long process of experimentation and reflection in the course of which the sages fashioned that form of life which, all things considered, offered human beings the greatest satisfaction and fulfillment.[49]

Furthermore, Xunzi had great confidence that his rituals are the correct ones, that they help to provide a unique solution to the problem of social organization, and that no alternative set of rituals would be able to provide as good a solution. His rituals, he believes, are based on a singular, unique Way. As he says elsewhere, [*XZ*4] "There are not two Ways for the world, and the sage is not of two minds."[50]

What does this detour have to do with Shen Dao? Well, Xunzi acknowledges that the rituals are artificial and invented—they are creations that arise from the social and political situations in which human beings find themselves. However, this does not mean that simply any rituals are acceptable. Rather, there could be deviant rituals—ritual codes that do not achieve the goals that Xunzi sees as the underlying justification of a ritual code. This, though, need not be worrisome because Xunzi is confident that it is possible to determine what the correct rituals are by coming to a fuller understanding of human dispositions and human nature on the one hand and the natural world on the other. Thus, while the rituals cannot simply be read off of the pattern of the Way and the order of the natural world in any simple fashion, by studying and examining the Way of heaven, the Way of earth, and the Way of human beings, it *is* possible to arrive at the unique set of rituals that best allows for human flourishing in a social and political environment. And indeed on his account this is exactly what happened.

This move that Xunzi makes with regard to ritual has striking parallels to the move that Shen Dao makes with regard to the laws. He never denies that what constitutes the law is whatever the ruler promulgates as law, and thus he is not a natural law theorist, at least not in the vein of Aquinas and others. In a similar fashion, Xunzi never claims that the only things that can be called rituals are those things that bear a proper and necessary relation to the underlying Way. Just as Shen Dao would acknowledge that there can be bad laws, so too could Xunzi acknowledge that there can be bad rituals.[51] However, both thinkers believe that the object of their examination—the right laws and the right rituals, respectively—can be determined, and the method for making such a determination is the same. In both cases, what is required is a deep understanding of the natural world, including a thorough understanding of human dispositions.[52] If this understanding is obtained,

then it becomes possible to determine what sorts of methods should be employed to regulate those in the social and political realm.

Now, admittedly, Shen Dao is not as explicit as Xunzi in arguing that there is a singular unique set of standards necessary for optimal human interaction and a strong and stable state. It is certainly possible that the natural world *underdetermines* what the laws ought to be. So perhaps Shen Dao would accept that there are a range of different and perhaps mutually incompatible legal codes that would lead to strong, prosperous and stable states. However, even if this is the case, examining what he does say about the law in more detail makes it very clear that the natural world provides important restrictions on what can count as appropriate laws.

Let us begin this investigation by looking at a fragment that seems to go beyond merely advocating the establishment of inviolable laws with no concern for their actual content. Shen Dao says,

> [78–79] Thus, if in ordering a state, one were to do away with its laws, then there would be chaos; if its laws were to be preserved and not modified, then it would decline; if it were to have its laws but allow private interests to manifest themselves, then this is called not abiding by the law. Those who are willing to exert themselves to serve the law are those of the hundred surnames. Those who are willing to lay down their lives in service of the law are the officials. Those who change the laws in accordance with the Way are the lords and chiefs.

This passage clearly indicates not only that it is necessary to implement a set of fixed standards in order to avoid chaos but also that the actual content of these standards matters. Shen Dao argues that laws must change as circumstances change, or the state will decline, losing its strength, stability, and perhaps even its very existence. In doing this, he is acknowledging that the actual laws implemented in the state are very important. The goal of these laws is to regulate the actions of those within the state, and as such it is necessary to ensure that they bear a certain relationship to the realities of the time. Otherwise, they will not be maximally effective at achieving the goals that justify their existence.

This view is tied in with another claim made in this passage, one that indicates that the laws should be modified so that they continue to accord with the Way. The sort of normativity expressed here is not a moral normativity. Shen Dao is not saying that the ruler has a moral imperative to implement laws that accord with the Way. Rather, what we see here is a nonmoral political normativity.[53] This is a normativity on a par with the normativity inherent in the claim "If you want to pass this class, you should study hard and complete all your assignments." The point is not that you morally ought to study hard and complete all your assignments. Rather it is that if you wish to achieve some thing X, in this case passing the class, then engaging in action Y, in this case studying hard and completing all assignments, is appropriate. In Shen Dao's case, the point is that if you wish to achieve a strong, stable, and prosperous state, the appropriate (and, even, essential) thing to do is to institute laws that accord with the Way.[54] While Shen Dao perhaps lacks the theoretical resources necessary for him to demand that the ruler institute only laws of a certain sort, he clearly indicates that maximally effective laws will be those that accord with the Way.

While such a position is wholly consistent with the other aspects of Shen Dao's views explored earlier and resolves the apparent difficulty of how the laws can be related to the Way when we are told that they do not arise from either heaven or earth, this solution raises a new worry. One might think that this interpretation moves us away from the idea that the political realm should be modeled upon the natural world and that its regularities and patterns should match the regularities of heaven and earth. This is because if the laws change over time, then there appears to be a very important sense in which they do not seem to be modeled upon the regularities of heaven and earth and the natural world. It may be possible, however, to assuage this worry once we come to understand that it is only the specific laws that change, rather than the underlying nature of these laws. Furthermore, when the laws do change, [78–79] is quite clear that they should do so *in accordance with* the Way.

As current conditions change, our way of dealing with them must also change. However, such change does not in and of itself indicate a deviance from the regularities of the natural world. This can perhaps be seen more

clearly if we examine the examples of periods of drought or flooding. If an area is suffering from severe drought or extensive flooding, this does not mean that the patterns and regularities of the natural world have changed in any fundamental fashion. Rather, what such events indicate is that different aspects of the natural patterns have become more or less relevant as certain underlying factors become more apparent. Indeed, this is not limited to purely natural changes in conditions. Rather, human-caused changes in conditions may also lead to changes. Take for example technological advances such as those discussed in one of the shorter fragments:

> [119] Those who travel by sea can sit and reach the state of Yue, because they use a boat. Those who travel by land can stand and reach the state of Qin, because they use a chariot. Qin and Yue are far away, so how can one get there by sitting? It is because one has a vehicle.

Technological advances such as boats, chariots, and others make it easier to visit distant places and may give rise to a whole new set of standards, laws, and rituals. These technological advances all rely upon the Way for their development, and Shen Dao would see the fashion in which society changes because of these advancements as also needing to accord with the Way if they are to truly be beneficial.

We could also understand this point by examining a topic of much concern to us in today's world—large-scale changes in climate. These changes in climate, whether they are natural, as in the case of the Ice Age that characterized the Pleistocene epoch, or man-made, as we see in the world today, do not indicate that the patterns and regularities of the natural world have changed in any fundamental fashion. Rather, different aspects of the natural patterns have become more or less germane as relevant underlying factors become more apparent.

Furthermore, when human beings react to these large-scale changes in climate, whether the response be mass migrations due to natural climate changes or attempts to reduce carbon emissions in response to man-made climate changes, their reactions are based upon their underlying dispositions and interests. In none of these cases need the differences require us to

move beyond the regularities of the external world and of human beings. What success in all of these cases requires is actually a full grasp of these regularities.

Shen Dao recognizes that in order to succeed, it is necessary to understand the regularities of heaven and earth and the dispositions of human beings, in all the various ways in which they may interact. These regularities, then, serve to restrict the sort of laws that ought to be implemented, though the exact way in which they restrict which laws ought to be implemented and the positive advice they offer will depend on the particular circumstances.

THE RULER

We have looked at a range of issues underlying Shen Dao's political philosophy, including, essentially, his conception of human dispositions and how the dispositions of those within the state must be properly understood in order to effectively organize the state. However, this is only part of what the ruler must understand if he is to be efficacious at ruling. He must also understand his own qualities and how these qualities affect how he should rule. It is to this question that we now turn.

We begin with a selection from the fragments that describes positional power (*shi* 勢).[55] This concept is actually the one for which Shen Dao is best known, in no small part because a version of this passage is later quoted by Han Fei. The version found in the fragments reads as follows:

> [10–14] So the winged snake travels on the mists, and the flying dragon rides the clouds. But when the clouds are gone and mists dissipate, then they become the same as worms, because they have lost that upon which they were riding. Therefore, if worthies yield to an unworthy, this is because their authority is too light. If unworthies submit to a worthy, it is because his status is respected. When Yao was a commoner, he could not bring order to neighboring families, while when Jie was the son of heaven, he was able to bring disorder to all under heaven. Looking at it from this viewpoint, being worthy is not sufficient to make the masses bow down, but

> positional power and status are sufficient to make worthies bend. So, those who are not renowned but still decide matters are able to do so because their authority is weighty. If a crossbow is weak, but its bolt flies high, it is because the bolt rides on the wind. If one is not worthy, and yet one's orders are carried out, it is because one has obtained the assistance of the masses.[56]

Ostensibly, this passage is another version of the attack on morality in the political realm that we saw earlier. The great sage-king Yao was not successful because he was an extremely virtuous individual, and the downfall of the tyrant Jie was not based on his cruelty and lack of virtue. Rather, these rulers succeeded or failed based on how effectively they were able to utilize their positional power and status.

Let us, though, examine the analogy provided here in a bit more detail. Shen Dao makes a distinction between the winged snakes and flying dragons on the one hand and worms on the other.[57] The point here is not that there is some essential difference between the two. Indeed, the argument seems to be even stronger—there is no *essential* difference between the two. If the winged snakes and flying dragons lack the clouds and mists upon which they rely to differentiate themselves from worms, all differences will disappear. Winged snakes and flying dragons may well have qualities that worms lack. After all, they do have wings. However, Shen Dao's point is that the wings in themselves are useless unless there exists something that these wings can employ. Without the mists and clouds, the wings cannot function as wings, and so *in fact* they are no different than worms. As such, possession of certain internal qualities, no matter how impressive, is insufficient for achievement. Furthermore, so long as circumstances are right, a lack of internal qualities need not hamper success—after all the arrow of a weak crossbow can fly high so long as it has the assistance of the wind.

The positional power that Shen Dao describes here is the power that the ruler has qua ruler. That is to say, it is the power that his position as ruler, with all its awesomeness, prestige, and leverage, confers upon *whosoever* happens to hold that position. It is the same sort of power that explains why the influence of the king of Thailand far outstrips his enumerated powers and how prime ministers and presidents the world around are able to

get legislative bodies to pass the laws that they want even when a majority within those legislative bodies claim to oppose them.

However, while Shen Dao is clear that positional power is important, his point here is much broader. Positional power is simply a single instance of a more general idea—that external assistance is essential, and that it is of much greater importance than any internal qualities that an individual may possess. This is made clear slightly earlier in the passage where Shen Dao uses two other examples to make his point:

> [7–9] Mao Qiang and Xi Shi were the most beautiful women in the world, but if they were to wear hideous masks, then everyone who saw them would flee. Yet if they were to change and wear fine materials, then people in the streets would all stop [and stare at them]. Looking at it from this viewpoint, then, fine materials assist in beauty. If beautiful women decline them, then their beauty will be obscured. Porters can traverse and climb to the farthest valleys and can walk through the wilds for a thousand miles because of the salve [they apply to their feet]. If the porters decline this salve, then their feet will be hobbled.

Shen Dao is not making the strong claim that the revered beauties Mao Qiang and Xi Shi were not actually beautiful or that the strength and agility of mountain porters is irrelevant. However, he takes great pains to emphasize that external aids are extremely important for their success. A significant reason underlying the perceived beauty of Mao Qiang and Xi Shi is the fine materials they are able to adorn themselves with. And an important source of the ability of mountain porters to walk long distances over rough and difficult terrain is the salve they apply to their feet. Again, these specific examples generalize and, along with his discussion of snakes, dragons, and worms, lead Shen Dao to his conclusion that in all these cases success rests upon receiving support and assistance. If this support and assistance is lost, failure is inevitable, as he notes in [15–16] when drawing his broader conclusion.

Such a view has important implications for the political realm. If even the great sage-king Yao was not a powerful ruler because of his internal

qualities but because of the external support and assistance that he received, then those competing political philosophies predicated on the rule of an all-knowing sage are doomed to failure. In one of the shorter fragments, he says,

> [107] If one discards the Way and [its proper] techniques and gives up standards and measurements, seeking to understand all under heaven through the understanding of one man, whose understanding could be sufficient for this?

The world is a much too complex place for any one individual to fully grasp and understand it alone, even the wisest and most intelligent individual ever to live. Furthermore, Shen Dao makes clear that there is no reason to expect the ruler to be particularly wise and plumbs the implications falling out of this:

> [42–43] The wisdom of the lord is not necessarily the greatest among the people. If his wisdom is not the greatest and yet he wants to use his goodness to completely shelter those below, he will be incapable of succeeding. Even if we were to suppose that the lord's wisdom was the greatest, if as a single lord he were to completely provide for those below, then he would have to toil laboriously. If he were to toil laboriously, then he would be wearied. If wearied, then he would be enfeebled. If enfeebled, then he would again return to the Way of being incapable of taking care of [those below].

There is no reason to expect that the ruler will be a particularly perspicacious individual. This should come as no surprise. After all, even in political organizations where the ruler is chosen, there are often worries about the ruler's intelligence and capabilities, so how much the more so if the ruler is hereditary. Given that the state is too complex for even the wisest of individuals to handle on their own without becoming wearied and enfeebled, resulting in chaos, any system that requires that the average ruler handle everything on his own is sure to fail. Therefore, a system set up to allow the ruler to succeed must include reliance upon the wide-ranging assistance of those below.

This, of course, ties in quite closely with the views discussed earlier, both those about the varied natures of the talents of individuals in society and those about the necessity of setting up a fixed system. After all, if the ruler cannot juggle all the balls in the political air, and if those on whom he therefore needs to rely have their own private interests, then subjectivity—both in the ruler's actions and in the actions that he allows others to take—has the potential for catastrophic results. The judgments of everyone—not just the ministers but the ruler himself—are necessarily suspect, given these facts.

It is for this reason that Shen Dao quotes the saying in [64] "Since a great lord employs the laws and does not personally act, affairs are decided by the law." He expands upon this point in the section titled "The Lord and His Ministers" (Jun chen 君臣):

> [66–67] One who is lord of the people does not listen to the voices of many. He depends on the law and relies upon quantitative techniques in order to assess success and failure. As for words that are not in accordance with the law, he does not open his ears to them. As for labors that are not in accordance with the law, he does not reckon them as accomplishments. As for relatives who do not labor hard, do not employ them in office. In regard to offices, show no preference to relatives. In regard to the law, grant no favor to those you care for. There is nothing done by those above or below that is not in accordance with the law.

Elsewhere, we saw a range of reasons for instituting a fixed political order, but here we see yet another one. Since rulers lack the ability to have a complete and overarching understanding of their state and those within it, they need to rely upon others within the state. However, they cannot assume either that those they rely upon will act in the best interests of the state or that they, as ruler, will be able to recognize when those below are acting in the best interests of the state and respond accordingly. Therefore, any subjective decision made by the ruler will be suspect. In order to ensure that the state remains ordered and that it functions so as to ensure its survival and

flourishing, it is necessary to accord with fixed standards—with a system of law that is immune to subjectivity.

This chapter has attempted to lay out some of the overarching themes to be found in the *Shenzi Fragments*. In addition, I have tried to argue that, while the fragments are quite diverse, often short, and sometimes initially opaque, there is a great deal of consistency across these fragments and that the political organization formulated therein would have been worthy of careful consideration in Shen Dao's time. I have argued that Shen Dao begins with a conception of the natural world as fixed, as following a set of regular, observable, and predictable patterns, and that he wishes to model the social and political realm on the fixity of the natural world. In a fashion that brings to light his talent for engineering, Shen Dao probes just how an understanding of the natural world, along with an understanding of human beings, in particular their dispositions, can allow for the most effective organization of the state. These dispositions include the fact that people act based on their own private interests, the fact that the strengths, talents, and abilities of people vary, and that feelings of resentment and expectation arise not just when desires are frustrated but also when the reasons underlying this frustration are deemed to be subjective.

Just as a good structural engineer can make an effective dam to prevent flooding so long as she understands the qualities of water and of the various materials she uses to build the dam, so too can a social engineer like Shen Dao effectively create a political order by understanding the qualities of all those elements at play in the political realm. Given natural realities and facts about human beings, Shen Dao believes it is clear that the ruler must implement a fixed set of standards and unfailingly adhere to them.

Furthermore, while he is clear that simply having fixed standards is better than the alternative (bad laws are better than no laws at all), Shen Dao does believe that the content of these standards matters. After all, so as to develop and preserve the order and strength of the state, it is important that

these standards accord with the Way. And an understanding of the Way will involve understanding the properties of the world around us and the disposition of all that we interact with, from the natural world to the human world.

Certainly this overview of Shen Dao's ideas is not comprehensive and deals very little with those ideas in the text that are not political in nature. Further, it is limited in its analysis of Shen Dao's political philosophy, laying out only those elements necessary for us to gain an overarching perspective of his ideas. Hopefully, though, such a perspective will aid the reader as she or he goes through the translation, allowing not merely for a better understanding of the elements of the fragments discussed here but also for the gaining of a range of new insights on aspects of the fragments that have not been covered.

A better understanding of Shen Dao's ideas may be particularly fruitful for those interested in early Chinese political philosophy more generally, for these ideas were picked up, developed, and attacked by a range of early Chinese political philosophers from Xunzi to Zhuangzi to Han Fei. Thus, the better we are able to come to understand his ideas, the better we may understand what these thinkers wished to appropriate, what they wished to oppose, and how effective they were at doing so, and it is to this topic that we will turn in the next chapter.

Furthermore, better understanding Shen Dao's political thought may provide us with a variety of resources that can be brought to bear on a range of contemporary issues in political philosophy, from debates between situationalists and virtue theorists to discussions of the role of morality itself in political organization (and perhaps particularly in questions of how to regulate and control not only the actions of individuals but also those of corporate organizations).

Shen Dao in the Early Chinese Intellectual Milieu

As became evident in the previous chapter's examination of Shen Dao's political philosophy, he was deeply embedded in the intellectual milieu of his times. There is no question but that he was grappling with the same general set of issues that interested a wide range of intellectuals from early China, from lesser known thinkers such as Tian Pian, Jiezi, and Huan Yuan to much more well-known philosophers such as Laozi, Zhuangzi, Xunzi, and Han Fei.

However, saying that he was interested in and grappling with the same set of issues as these thinkers is far different from saying that his ideas were influential in early China. After all, every philosophy graduate student at some time or another grapples with the same set of issues as did Socrates, Plato, and Aristotle. It is certainly not the case, though, that all (or, indeed, many) philosophy graduate students contribute to contemporary discussions of these issues in a meaningful way.

Perhaps the reason that Shen Dao has rarely been mentioned throughout the past two thousand years of Chinese political thought is the same reason that no one cites my ideas on Aristotle's doctrine of the mean—they simply have not been seen to contribute in any meaningful way to this discussion. If we wish to posit that Shen Dao was actually influential in early China, we need to find evidence of such influence. And to do so, it is not enough to argue that his ideas are, from our current twenty-first-century perspective,

insightful and important. After all, history is rife with philosophers, artists, and scientists whose genius was not recognized until long after their deaths. Indeed, it is not even sufficient to demonstrate that Shen Dao's critiques of the ideas of those intellectuals of his time who have long been recognized as important were on occasion devastating, for they may not have been recognized as so either during his lifetime or in the centuries following it.

Determining influence is a tricky business. It is easiest, of course, when scholars explicitly demonstrate their indebtedness to others. Indeed, this is one of the reasons that modern standards of scholarship require extensive citations of those whose works upon which we rely. Unfortunately, at least for the task of demonstrating how early Chinese intellectuals influenced one another, the standards of scholarship in that time were quite different, and scholars often felt free to borrow ideas without any sort of explicit acknowledgment of their sources. There were certainly a variety of reasons for this, not the least being that they may not have known the sources of the various texts, ideas, and arguments they were dealing with. Indeed, how much of the arguments they were dealing with found their sources in particular individuals or texts and how much was simply in the air of the times is something we may never know.[1]

The situation may not be as bleak as just painted, however, for we do at times see thinkers directly engaging with one another's views. For instance, if we look at discussions of human nature in pre-Qin China, we see various thinkers explicitly attributing particular views to certain individuals. Mengzi, for example, directly attacks Gaozi's 告子 views on human nature, and Xunzi directly attacks Mengzi's conception of human nature. Furthermore, these are not isolated instances—Mengzi attacks a range of thinkers from Mozi to Yang Zhu 楊朱, and Xunzi does the same, attacking a wide range of thinkers from Tian Pian to Zhuangzi.

More important for our task is the fact that Shen Dao is mentioned in several prominent early Chinese texts, including the *Xunzi*, the *Han Feizi*, the *Lüshi Chunqiu*, and the *Huainanzi*. As such, these texts may provide us with the resources for analyzing the influence of Shen Dao's ideas. However, we must always be aware that the goal of thinkers in this period was not necessarily to faithfully re-create the arguments or positions of others but rather

to push their own positions. Therefore, these references may not necessarily truly reflect Shen Dao's actual views.

So, where does this leave us? Well, given that Shen Dao is mentioned in several texts, there is the possibility that these references may help us discern his influence. However, it is necessary to compare these references with the arguments and positions we see in the *Shenzi Fragments* themselves and see whether they are consistent. Beyond this, as noted, it is difficult to establish any sort of causal relationship. We cannot say, for example, that Han Fei's conception of the law (*fa* 法) was dependent upon Shen Dao's. After all, we can point to no definitive evidence that Han Fei read Shen Dao's writings on law, and there are many texts now lost to us that may have discussed the law in ways similar to what we see in Shen Dao from which Han Fei may have drawn.[2] What we can do, however, is look at ways in which Shen Dao may have influenced political philosophers. This can be done by looking at their style of argument, the positions they advocate, and the positions that they reject, among other things. And, as we shall see, if we do this, we are provided with evidence that Shen Dao's ideas placed him right at the center of the political discussions of the time. Further, given how thinkers like Xunzi and Han Fei argue, and the details they focus on, it is reasonable to assume that, directly or not, their ideas were informed and influenced by the work of Shen Dao.

SHEN DAO'S PLACE IN DEBATES ABOUT THE NATURE AND ROLE OF HEAVEN

As we saw briefly in the previous chapter, one of the debates in early Chinese philosophy was over the nature and role of heaven. Thinkers like Kongzi, Mozi, and Mengzi, despite their numerous differences, all see heaven as a conscious, active, intentional force that has a plan for human beings or provides them with a clear set of guidelines for how to act. Therefore, understanding the desires, intentions, and plans of heaven is essential for both the moral task of figuring out how individuals ought to act and the broader political task of figuring out how society ought to be organized. The

disputations among those thinkers who have such a conception of heaven is often over just what heaven's will and plan actually are and how they are to be discerned.

Shen Dao, however, provides an alternative conception of heaven as an amoral, nonpurposive, and natural force. While the argument for this position is laid out in the previous chapter, as we begin to investigate Shen Dao's thought in relation to others of his time, it may be useful to take a second look at the opening lines of the *Shenzi*:

> [1–3] While heaven is bright, it does not worry that the people are in the dark. . . . Even though heaven does not worry that the people are in the dark, those who open up doors and windows certainly can take from [heaven] in order to obtain their own illumination, though heaven does nothing.

Shen Dao is not unique in proposing an alternative conception of heaven, one that lacks the strong moral normativity found in the conception of heaven in the thought of Kongzi, Mengzi, and Mozi. Rather, thinkers as diverse as Laozi, Zhuangzi, and Xunzi all conceive of heaven as an impersonal, amoral, and natural force.[3] Laozi, for example, is clear on this point, saying, [*LZ* 5] "Heaven and earth are not benevolent; They treat the myriad creatures as straw dogs."[4] Here, "straw dogs" refers to ceremonial offerings that are discarded and trampled upon as soon as the ceremony they are being used for is finished. The point, then, is that heaven and earth lack any concern for human beings, an idea with stark similarities to what we see in passages [1–3] of the *Shenzi Fragments*.

The *Zhuangzi* as well provides us with a conception of heaven as lying above the petty contestations of human beings over what is right and what is wrong, what is good and what is bad. Indeed, it directly attacks the Confucians and the Mohists for endlessly arguing over what perspective to take—an argument that arises because of their differing conceptions of what perspective heaven itself takes. The problem with such an approach, says the *Zhuangzi*, is that heaven does not take *any* perspective. Heaven simply is not in the game of morality, and to take heaven's perspective is to move beyond

the perspective of human morality, toward heaven's holistic, comprehensive, undifferentiated, and naturalistic perspective.[5]

The early Daoists[6] were not the only ones to turn away from the traditional conception of heaven as a moral force; we see a similar shift in Xunzi's writings, as is quite apparent in the opening lines of chapter 17, "Discourse on Heaven" (Tian lun 天論), where he says,

> [*XZ*5] There is a constancy to the activities of heaven. They do not persist because of Yao. They do not perish because of Jie. If you respond to them with order, then you will have good fortune. If you respond to them with chaos, then you will have misfortune. If you strengthen the fundamental works and moderate expenditures, then heaven cannot make you poor. If your means of nurture are prepared and your actions are timely, then heaven cannot make you ill. If you cultivate the Way and do not deviate from it, then heaven cannot ruin you.[7]

Indeed, it is passages such as this that led A. C. Graham to note that Xunzi's conception of heaven at times "looks like a 'scientific' approach to nature."[8] Janghee Lee expands on this view, arguing,

> Insofar as *tian* [heaven] is the cosmological source for all the myriad things and its nature is nonpurposive, the conception of nature resembles modern, impersonal "nature" to a significant degree. However, if we construe "nature" as something that is "mechanical, value-free, and exploitable," it seems inappropriate to render Xunzi's *tian* as "nature."[9]

Unlike Kongzi and Mengzi, in whose footsteps he is following, Xunzi does not believe that morality can be discerned by coming to a greater understanding of the desires and wishes of heaven, for heaven lacks any such desires (Xunzi does, though, retain an awe of the spiritlike and not fully comprehensible power of heaven).

From these passages and others, we can see that for Laozi, Zhuangzi, Xunzi, and Shen Dao, heaven is an indifferent natural force, something that

must be understood and accorded with if one wishes to achieve one's desired aims, but not something that is either actively involved in the human world or that has any concern for this world. However, while these four thinkers share quite similar conceptions of heaven, we see in them several strikingly different responses. And, in many ways, we might think that many of the disputes in early Chinese political thought arise precisely because of these differing responses to a shared understanding of heaven and the natural world.

Although they have numerous differences, both Laozi and Zhuangzi conclude from the conception of heaven as impersonal and amoral that "to emulate Heaven now means casting off the kind of social values that [Confucians and Mohists] advocate."[10] Upon realizing that these social values are unnatural creations that do not accord with heaven or the Way that underlies it, these early Daoists propose returning to our authentic selves, regaining the spontaneity that characterized our prereflective state before we became blinded by the unnatural distinctions and desires that characterize society.[11]

Such a position has a tremendous impact on the sort of political theory that early Daoists can advocate and places severe limitations on the extent to which any sort of developed social or political organization should be pursued.[12] The goal is not to control or change but rather to accord with heaven as it is. Indeed, in the case of Zhuangzi, it seems to lead to turning one's back to the political realm rather than attempting to engage it and create a better society. For Laozi, such an understanding of an amoral, indifferent, nonstriving heaven, when coupled with the belief that artificially created human desires lead to striving and contention among all in society, leads him to advocate for the removal of these artificial elements. Perhaps in an attempt to emulate those aspects of heaven he saw as paramount, Laozi proposes the following ideal society:

> [*LZ*80] Reduce the size of the state;
> Lessen the population.
> Make sure that even though there are labor saving tools, they are never used.

Even though they have ships and carts, they will have no use for them.
Even though they have armor and weapons, they will have no reason to deploy them.
Make sure that the people return to the use of the knotted cord.
Make their food savory,
Their clothes fine,
Their houses comfortable,
Their lives happy.
Then even though neighboring states are within sight of each other,
Even though they can hear the sounds of each other's dogs and chickens,
Their people will grow old and die without ever having visited one another.[13]

While we might call this a primitivist society, and would not be wrong in doing so, the thrust of the argument is not the claim that primitivism is in and of itself a better way to live. Rather, in our context, the point here, as in Zhuangzi, is that of casting off our socially constructed desires and conceptions, returning to our original selves so as to accord with heaven and the Way just as all the other myriad things do. It is in this sense that the early Daoists wish us to accord with heaven and take it as a normative standard.

Xunzi takes a dramatically different approach to the amoral, indifferent nature of heaven. Insofar as it may be thought of as "nature," it does provide constraints for us, constraints that we must accord with, not for moral reasons but for practical ones, much as we saw in Shen Dao. However, unlike the early Daoists, Xunzi does not believe that we should simply try to emulate nature. Rather, humans are importantly different from nature and, indeed, from any of the myriad things, all of which follow fairly fixed patterns. Humans have the ability to move beyond these fixed patterns, to innovate, to create a realm (within the constraints of the natural world) that allows them to flourish in ways they never could were they not to break free from their natural mold.

Xunzi sees such a method as an essential response to heaven's indifference in part because of the dispositions and natures of human beings. As we have just seen, the early Daoists seem to believe that if humans return to their original natures, casting off their artificial desires, they will live in a

state of harmony with their fellow man. Xunzi, on the other hand, believes that limitless desires and appetites are an original component of human beings and, given that natural resources are limited, the limitless desires of human beings will necessarily bring them into conflict. Furthermore, this is not a conflict that can be ameliorated simply by asking for heaven's guidance or interference. Rather, what is necessary is to figure out how, given the constraints of the natural order, human beings can best live together in peace and harmony. It is for this reason that Xunzi goes about his task of creating a society with artificially created divisions, rituals, regulations, and laws.[14]

How, then, does Shen Dao fit into this debate? Well, he agrees with both the early Daoists and Xunzi that heaven is an amoral, impersonal force, and, along with them, he believes that this fact plays an essential role in any normative claims that follow. In addition, as we saw in the previous chapter, Shen Dao goes along with the Daoist assumption that, at least in some cases, we ought to emulate heaven and thus diverges from the position that Xunzi puts forward, arguing rather that we ought to model the human realm upon the natural realm. Furthermore, this proposition involves agreeing with the *Laozi* that the way forward is to accord with the original dispositions of human beings.

However, when it comes to an interpretation of what exactly it means to emulate heaven and accord with human dispositions, Shen Dao's interpretation differs dramatically from the *Laozi* and the *Zhuangzi*, as was evident in the previous chapter. The reasons for his disagreement with them can perhaps be seen by taking a look at a debate between Hui Shi 惠施 and Zhuangzi that appears in the chapter of the *Zhuangzi* "The Signs of Fullness of Power" (De chong fu 德充符):

> [*ZZ*1] Said Hui Shi to Zhuangzi: "Can a man really be without the dispositions of man?"
>
> "He can."
>
> "If a man is without the dispositions of man, how can we call him a man?"
>
> "The Way gives him the guise, heaven gives him the shape, how can we refuse to call him a man?"

"But since we do call him a man, how can he be without the dispositions of man?"

"Judging 'That's it, that's not' is what I mean by 'the dispositions of man.' What I mean by being without the dispositions is that the man does not inwardly wound his person by likes and dislikes, that he constantly goes by the spontaneous and does not add anything to the process of life."[15]

Zhuangzi's invocation of the idea of human dispositions harks back to our earlier discussion of the concept in the *Shenzi*. Recall, for example, the following passage:

[28] The Way of heaven is such that if you "follow" then you will be great, while if you alter then you will be insignificant. To "follow" means to follow the dispositions of people.

While they do not directly address one another's positions, we can draw out of these passages importantly different conceptions of human beings, conceptions that lead these thinkers down vastly different paths when dealing with social and political ideals.

In [*ZZ*1], "human dispositions" refer to the human tendency to dispute and argue over right and wrong. Thus, Zhuangzi aligns himself with Laozi in arguing that it is possible to shed this tendency to see the world through the "artificial" distinctions and desires that characterizes human beings in the society of his time. This allows for the return to a prereflectiveness and a spontaneity that brings one closer to heaven, permitting one to accord with it in all its movements and changes. The point to draw from this for our purposes is that, regardless of what dispositions human beings happen to have at any particular time, it is possible to alter and change them so as to better accord with heaven.

Such a position rests in stark opposition to what we see in passage [28] of the *Shenzi Fragments*. There, Shen Dao argues that any attempt to go against human dispositions is bound to end in failure. We might initially think that Shen Dao and Zhuangzi are not actually in disagreement here, for they may be using the term "dispositions" to refer to different qualities.

After all, Zhuangzi is renowned for using language in often strange and unusual ways.

However, reading further along in passages [28–32] reveals that when Shen Dao talks about dispositions, he is referring in part to the fact that human beings do make distinctions, that they have their own interests. And, in order to have these interests, distinctions, divisions, and desires, they must be operating at the individual level. Thus, at the very least there is an overlap between Zhuangzi's and Shen Dao's conceptions of human dispositions.

What Shen Dao does in his argument is deny that it is possible to make the move that Zhuangzi wishes to make. He does not accept that current human dispositions have been altered by society and that there is thus a more natural state to which to return. Rather, he sees these dispositions as natural to human beings qua human beings. Just as water is so constituted that it will always flow downward, so human beings too are so constituted that they will always pursue their private interests. And, just as the characteristics of water cannot be changed so that it will flow upward, so too human dispositions cannot be altered so as to alleviate the distinctions, divisions, and interests that characterize them. Given this, according with heaven means according with the dispositions that human beings have rather than attempting the futile task of altering them.

Xunzi's take on this issue is quite different, but we can see certain affinities with both Zhuangzi and Shen Dao. Like Shen Dao, Xunzi believes that original human dispositions include limitless desires and appetites. Like Zhuangzi and Laozi, though, he believes that it is possible to cultivate people so that these desires and appetites are no longer operative, at least with their original form and force. However, while Zhuangzi and Laozi seem to believe that we can rid ourselves of desires (in part because they are unnatural accretions to our original nature), Xunzi denies this claim and, rather, relies on our ability to radically sublimate our desires. Unlike all three of these thinkers, though, Xunzi does not see his endeavor as attempting to accord with heaven. Rather, while heaven provides constraints upon what humans can do, it is up to them to create their own uniquely human life, to follow not the Way of heaven but a unique human Way, as we saw in [*XZ*3] in the previous chapter (see page 51).

What we see by looking at these thinkers in relationship to one another is that Shen Dao is clearly grappling with important issues that concern a wide range of important intellectuals in early China and that he has his own unique contributions to make as he challenges many of the assumptions of his contemporaries and provides his own way forward. This, then, begins to provide us with insight into how Shen Dao fits into the early Chinese intellectual milieu. However, we are not limited to investigating ways in which Shen Dao appears to be dealing with issues similar to those of more prominent political thinkers of his time. Rather, we find other thinkers directly referring to his ideas, and perhaps the most prominent instance of this is in the *Xunzi*.

SHEN DAO IN THE *XUNZI*

Xunzi refers directly to Shen Dao and his ideas in several different chapters, and each time in quite a critical fashion. While these passages are not extensive, they do provide us insight into fundamental disagreements Xunzi saw himself as having with Shen Dao. Further, the content of these passages allows us to identify other places in the *Xunzi* where we can find more extended criticisms of ideas Shen Dao held.

Perhaps the central disagreement between Xunzi and Shen Dao is over the question of what is more fundamental to a well-ordered state—people or procedures. As we have already seen, Shen Dao comes down on the side of procedures. Rules, regulations, laws, and other publically promulgated and visible standards are the foundation for his vision of the well-ordered state. Furthermore, he believes that a state that relies on the talents of particular individuals, no matter how virtuous or otherwise qualified they may be, is courting disaster.

Xunzi, on the other hand, consistently argues that the virtuous ruler is fundamental to a well-ordered state. It is simply impossible, on his account, for a state to be stable, strong, and thriving in the long run if it lacks the right people—and the right people are those who are virtuous. Now, this by no means indicates that he is opposed to rules or regulations or thinks that they

are unimportant. Indeed, he seems to understand their value much more so than did either Kongzi or Mengzi. However, he argues that while regulations have an important role to play, this role is secondary. As he says in the opening of chapter 12, "The Way to Be a Lord" (Jun dao 君道),

> [*XZ6*] There are chaotic lords; there are no states chaotic of themselves. There are men who create order; there are no rules[16] creating order of themselves. The rules of Archer Yi have not perished, but not every age has an Archer Yi who hits the target precisely. The rules of Yu still survive, but not every age has a Xia dynasty to reign as true kings. Thus, rules cannot stand alone, and categories cannot implement themselves. If one has the right person, then they will be preserved. If one loses the right person, then they will be lost. The rules are the beginning of order, and the gentleman is the origin of the rules. And so, with the gentleman present, even if the rules are sketchy, they are enough to be comprehensive. Without the gentleman, even if the rules are complete, one will fail to apply them in the right order and will be unable to respond to changes in affairs, and thus they can serve to create chaos. One who tries to correct the arrangements of the rules without understanding their meaning, even if he is broadly learned, is sure to create chaos when engaged in affairs. And so, the enlightened ruler hastens to obtain the right person.[17]

In his insightful analysis of this passage, Roger Ames notes that Xunzi stresses the virtuous individual "as the innovator, interpreter, and executor of the law" while the "role accorded to the objective laws themselves" is ancillary.[18] Laws on their own are useless—it is necessary to have someone implement them. But, more than this, it is necessary for someone who possesses *good judgment* to decide how to interpret, implement, and change these laws. One who lacks such judgment will, regardless of possessing other qualities, inevitably cause chaos when attempting to employ the law. It is only by understanding what underlies the law that it is possible to utilize it effectively.

Thus, it comes as no surprise that Xunzi directly attacks what he sees as Shen Dao's focus on the law. In chapter 6, "Against the Twelve Masters" (Fei

shi'er zi 非十二子), devoted to attacks on those whose views he saw as having a pernicious influence in his time, Xunzi says,

> [*XZ*7] Some of these men exalt law but follow no model. They look down on cultivation and are fond of innovation. Above, they obtain the ear of their superiors; below, they obtain a following among the vulgar. They speak all day long with good form and elegance, but if you repeatedly scrutinize their words and investigate them, they are eccentric and lack foundation, and cannot be used to set straight the state or fix proper social divisions. Nevertheless, they can cite evidence for maintaining their views, and they achieve a reasoned order in their explanations, so that it is enough to deceive and confuse the foolish masses. Just such men are Shen Dao and Tian Pian.[19]

In this passage, Xunzi's concern is not that Shen Dao advocates the law per se. Rather, the concern seems to be that the laws that Shen Dao advocates lack the proper foundation, and as such, there is no reason to think that they will achieve their stated purpose of ordering the state. On Xunzi's account, Shen Dao is missing two things: an understanding of the proper connection between the law and the Way and an understanding of other essential elements such as moral cultivation that are crucial to good order in the political realm.

It is not difficult to see why Xunzi makes the first of these claims, particularly if we recall fragment [23], where Shen Dao claims that having laws is better than lacking them, even if the laws in question are not good. Such a claim initially appears to indicate that Shen Dao does not care about the actual content of the law. And, if [23] is analyzed either in isolation or along with [Q1], which says that law does not come from heaven but rather from the human realm, then it may appear that Shen Dao is susceptible to the argument that his laws lack any foundation, that they lack any necessary connection with the Way.

However, as we saw in the previous chapter, Shen Dao explicitly draws connections between the law and the Way, arguing in passages [78–79] that the content of the law matters and that when it changes, it should do so in

accordance with the Way. Given this, Xunzi's charge that Shen Dao's laws lack any foundation cannot be sustained. Furthermore, it gives us reason to think that Xunzi's accusation that Shen Dao is blinded by his focus on the law is misplaced.[20] After all, the laws, whatever they happen to be, are not foundational for Shen Dao but rather arise from his examination of the natural world and human dispositions.

Does this, though, mean that Xunzi is simply arguing against a straw man and that his attack can thus be summarily dismissed? Not necessarily. While Xunzi's wording is certainly over the top, this may simply be for rhetorical purposes. It may be possible to interpret Xunzi's position in a slightly different light, one that illuminates a deeper disagreement between these thinkers while also showing that the arguments of each are actually quite sophisticated. Xunzi's charge that Shen Dao's conception of the law lacks a model and a foundation need not be interpreted to mean that the content of the law is random or arbitrary. Rather, as he often does, Xunzi may be using terms in a normative sense.

That is to say, his meaning may be that the laws of Shen Dao lack the *proper* model, lack the *proper* foundation, lack the *proper* Way.[21] Indeed, that seems to be the natural way to read Xunzi's claim in [*XZ*7] that Shen Dao was among those who "exalt law but follow no model" (*shang fa er wu fa* 上法而無法). Literally, this passage accuses Shen Dao of "exalting *fa* but following no *fa*." In the context, it is clear that the second *fa* must be read in a different and richer sense than the first *fa* if we are to make sense of Xunzi's complaint. The point is that while Shen Dao exalts the law, he lacks the proper model upon which to base this law.

If this is the case, then Shen Dao and Xunzi are, in the phrase that A. C. Graham used to eloquently title his examination of early Chinese philosophy, "disputers of the *dao*."[22] Given this, along with the fact that Xunzi explicitly claims that laws were created by the sages along with rituals, it is clear that his attack on Shen Dao is not an attack on the concept of employing laws *tout court* but rather an attack on laws that do not have the proper foundation or necessary support.

This dispute over the Way continues, leading us to Xunzi's second worry, that Shen Dao lacks a proper appreciation of the other elements of the Way

that are essential to good order in the political realm. We can begin to see this attack by turning to chapter 21, "Undoing Fixation" (Jie bi 解蔽), of the *Xunzi*:

> [*XZ*8] In past times, there were guest-retainers who were fixated—such were the pernicious schools. Mozi was fixated on the useful and did not understand the value of good form. Song Xing was fixated on having few desires and did not understand the value of achieving their objects. Shen Dao was fixated on laws and did not understand the value of having worthy people. Shen Buhai was fixated on power and did not understand the value of having wise people. Huizi was fixated on wording and did not understand the value of what is substantial. Zhuangzi was fixated on the heavenly and did not understand the value of the human.
>
> Thus, if one speaks of it in terms of usefulness, then the Way will consist completely in seeking what is profitable. If one speaks of it in terms of desires, then the Way will consist completely in learning to be satisfied. If one speaks of it in terms of laws, then the Way will consist completely in making arrangements. If one speaks of it in terms of power, then the Way will consist completely in finding what is expedient. If one speaks of it in terms of wording, then the Way will consist completely in discoursing on matters. If one speaks of it in terms of the heavenly, then the Way will consist completely in following along with things. These various approaches are all merely one corner of the Way. As for the Way itself, its substance is constant, yet it covers all changes. No one corner is sufficient to exhibit it fully.[23]

In this passage, Xunzi explicitly acknowledges that law is one component of the Way. However, on his account, it is only one component among many. Thus, if the state is to fully exhibit and accord with the overarching Way, it is necessary to employ not only law but many other elements as well. Only then can order be achieved. Where Shen Dao goes wrong on Xunzi's account is not in advocating law but, rather, in becoming blinded by it and thus not recognizing the importance of other elements, prime among them virtuous individuals.

Xunzi's concern is not simply with rules and regulations. Rather, he is concerned with the broader argument that Shen Dao makes implying that establishing clearly visible and understandable standards is sufficient for ensuring that the state will be well ordered by eliminating private interests and ensuring that it is not necessary to rely upon contingent motivations such as trust and moral goodness. Such a leap of faith on Shen Dao's part misses some very important considerations, as Xunzi tries to demonstrate in a passage from chapter 12:

> [*XZ*9] Breaking tallies into halves and matching up halves of tallies are the means by which to establish trust, but if the superior is fond of schemes for power, then his ministers below, the hundred functionaries, and deceitful people will take advantage of this to engage in trickery. Drawing lots and tossing coins are means by which to establish lack of prejudice, but if the superior is fond of crookedness and selfish interest, then his ministers below and the hundred functionaries will take advantage of this to engage in one-sidedness. Setting up scales and measuring out weights are means to establish what is balanced, but if the superior is fond of overthrowing people, then his ministers below and the hundred functionaries will take advantage of this to act precariously. Measuring by pecks and bushels and leveling off the tops of containers are means by which to establish what is equitable, but if the superior is fond of greed for profit, then his ministers below and the hundred functionaries will take advantage of this to enlarge collections and cut back on distributions, taking from the people without limit.[24]

Although this passage does not quote Shen Dao, it is quite clear that it takes as its target views such as his. In fragment [70], Shen Dao discusses the use of contracts and tallies as methods to ensure that the parties involved uphold their side of agreements, while [23–24] and [63–64] discuss the benefits of tossing coins. Fragment [73] argues that scales, contracts, and standard measurements are all tools that can be employed to eradicate private interests, and [102] goes so far as to claim that when balance weights and beams are employed, it is impossible to cheat about the weight of any item. On Shen Dao's account, the very act of establishing public standards

of this sort is sufficient to prevent people's acting on the basis of their own private interests. Certainly the vendors in the marketplace have an interest in increasing their profits, but if they are forced to use standard weights and measures, then consumers cannot be cheated with regard to the quantity of goods purchased.

Xunzi does not deny that these various standards can be useful—indeed he effectively assents to their merit. He agrees with several of Shen Dao's claims in [73] and elsewhere, particularly that trust can be established by means of contracts and that standard measurements prevent bias in the determining of length and volume. However, while such a system has a certain efficacy, it has one very significant flaw—it assumes that if such standards exist, then the ruler will abide by them. Indeed, the underlying assumption on Shen Dao's part seems to be that if a broad range of standards, measures, rules, regulations, and laws are established, then this will limit the actions of everyone in the state, preventing any of them from acting based upon their own private interests.

However, in order to do so, *everyone* must be bound by these regulations, and everyone *includes* the ruler. But how, Xunzi implicitly asks in [*XZ*9], can these rules and regulations ensure that the ruler is also bound? If the ruler wishes to engage in scheming and intrigues to increase his power, or if he has his own selfish interests, or if he, like everyone else, has his own private interests and is greedy, then the system would seem to collapse. Indeed, this is not something with which Shen Dao would disagree. He is clear in [75–77] that the law cannot be effective if private interests can still be acted upon. Indeed, it is partially for this reason that Shen Dao draws a connection between the law and the Way, attempting to demonstrate to the ruler that the laws most effective at ordering the state are going to be those that accord with the Way and implying that this provides sufficient reason for the ruler not only to implement such laws but also to restrain himself by these laws.

In a sense, then, Xunzi and Shen Dao are in agreement: in order for rules and regulations to be effective in ordering the state, it is necessary that the ruler himself not violate them. Furthermore, they agree on the claim that it is necessary to have a set of fixed, unbiased principles for governing. As

Xunzi says, [*XZ*10] "To be biased, partisan, and have no guiding principle is a perverted way of judging affairs."[25] The judgments of a true king are, on Xunzi's account, fixed.

We can read Xunzi as implicitly arguing, however, that social engineers of Shen Dao's stripe simply do not understand the implications of their own view. In order to fully understand Xunzi's point, we need to recall two key elements of Shen Dao's position: human dispositions are such that everyone has interest sets that are nonidentical with the interests of the state and the only way to get people to promote the interests of the state is to manipulate circumstances so that it becomes in their interest to do so.

On the theoretical level at least, this can work for the vast majority of people. If the ruler does not wish people to steal, then he will implement laws against stealing and attach strict punishments to these laws. The idea is not that these laws will quell the avaricious desires deep within the human breast but rather that the potential loss will be seen as greater than the potential gain. If stealing a measure of rice results in one's foot being chopped off, one is unlikely to steal the rice. It is not that the existence of the law eliminates one's desire for the rice, merely that one desires to keep one's foot more than one desires to gain a measure of rice.

But what about the ruler? Presumably, the ruler's dispositions are the same as everyone else's. That is, the ruler will have a particular interest set that is nonidentical with the interests of the state. However, he is asked by Shen Dao to put aside these interests and implement a set of laws modeled on the Way. The problem is that there seems to be little incentive for him to do so. There is no independent judiciary in ancient China to hold him accountable for his lapses or to ensure that he restrains himself. Therefore, it should not be surprising to Shen Dao if his ruler is of the sort described in [*XZ*9]. Indeed, such a ruler should be the expected norm. The most Shen Dao can do, it seems, is work to point out to the ruler how such actions endanger the state and try to draw a connection between the ruler's well-being and the well-being of the state. But, if such a method is insufficient when dealing with the rest of the populace, we can imagine Xunzi noting, there is little reason to think that it will be effective with the ruler.

Xunzi believes that what is crucial in order for rules and regulations to work, as we saw in [*XZ*6], is the virtuous individual. It is necessary to have an individual who will not be blinded by his own private interests but will actually work for the good of the state—and laws cannot guarantee this. As he notes in chapter 9, "Enriching the State" (Fu guo 富國), which can in part be read as a conclusion arising from the points raised in [*XZ*6],

> [*XZ*11] Thus, there are indeed cases where having a good model still results in chaos. But from ancient times down to the present, a case where having a gentleman in charge results in chaos is unheard of. There is a saying, "Order is born from the gentleman. Chaos is born from the petty man." This expresses my meaning.[26]

The problem, though, is how to ensure that the state is governed by a virtuous individual. Much like Shen Dao, Xunzi believes that human beings have their own particular interest sets that if followed without regulation will lead to cruelty, villainy, and chaos. Indeed, he argues in chapter 23, "Human Nature Is Bad" (Xing e 性惡), that

> [*XZ*12] if people follow along with their inborn dispositions and obey their nature, they are sure to come to struggle and contention, turn to disrupting social divisions and order, and end up becoming violent.[27]

This seems to leave him in much the same position as Shen Dao, for the two seem to have quite similar conceptions of the original dispositions of human beings and are not sanguine about the potential for social and political stability and order arising from these dispositions. Where Xunzi parts company with Shen Dao, however, is on how we ought to respond to these dispositions. Shen Dao argues that what needs to be done is simply follow innate dispositions, while Xunzi wishes to remold them through a process of cultivation.

A full account of the various aspects of this cultivation process and justifications for them throughout the various social strata of Xunzi's ideal

state is beyond our scope here.[28] What is important for our purposes is to note that Xunzi believes that it is possible to *re-form* our original natures through an extended process of moral cultivation.[29] This cultivation process emphasizes education in, adherence to, and understanding of rituals (*li* 禮) and proper social norms (*yi* 義). These rituals and norms were, as we saw in the previous chapter, invented, with the goal of bringing satisfactions and fulfillment to human lives by according with the realities of the overarching Way.

Now, initially it may seem that such a view is not so different from that of Shen Dao. Indeed, rituals for Xunzi seem to be connected to the Way in much the same way as Shen Dao envisions the laws being connected to the Way. We can, for the moment, leave aside the question of whether they have the same conception of the Way and ask why Xunzi thought his ritual-based model was superior to a law-based model such as Shen Dao's. And to answer this, we can turn to the *Analects*:

> [*LY* 2.3] The Master said, "If you try to guide the common people with coercive regulations and keep them in line with punishments, the common people will become evasive and will have no sense of shame. If, however, you guide them with Virtue, and keep them in line by means of ritual, the people will have a sense of shame and will rectify themselves."[30]

While there are a variety of differences in the views of Kongzi and Xunzi, they agree that there is an essential distinction between using rituals and using laws. Laws, as we saw, work by forcing one to recalculate what will best maximize one's particular interest set. Rituals, on the other hand, when properly inculcated, result in a modification of that interest set. To return to our previous example, laws may well prevent me from stealing a measure of rice because I want to keep my foot. However, they do not eliminate my desire for the rice. And thus, in any instance in which I believe that I can abscond with the rice with no one the wiser and thus avoid punishment, I am certain to do so. Moral cultivation, on the other hand, uses ritual as a tool to *re-form* our natures so that we refrain from stealing the rice, not out of fear of being caught but because of an understanding that doing so is

wrong. Stealing rice would be shameful, and a recognition of this provides moral motivation for refraining in the absence of potential punishment—motivation not available in Shen Dao's theory.

Let us now return to the political level and in particular to the ruler. As we saw earlier, Xunzi believes that Shen Dao cannot provide a sufficient incentive for the ruler to restrain himself, to ignore his own desires and avarices, and to ensure that his actions are in accordance with the various rules, regulations, and laws of the state. Even if he sees them as arising from the Way and understands that holding himself to their standards is the most effective means of maintaining a strong, stable, and flourishing state, insofar as these goals are nonidentical with the ruler's own goals, they will lack motivational force. What Xunzi believes he can offer is this motivational force. He can give the ruler reason to accord with the Way, so long as he undergoes the re-forming process of moral cultivation that connects his desires to the Way.

This debate over the proper way to organize the state does not end here. Rather, it is an issue of perennial concern in Chinese philosophy. Later thinkers like Han Fei work to defend a position similar to Shen Dao's against Xunzi's criticisms, and one of the tasks that works like the *Lüshi Chunqiu* and the *Huainanzi* set for themselves is how to balance the importance of particular individuals with the importance of set procedures.

SHEN DAO IN THE *HAN FEIZI*

The debate over the content and role of the law does not end with Xunzi. Rather, it is revived in the writings of Han Fei. Although he does not acknowledge Shen Dao as the source of his own theory of law, he develops a position that is actually quite similar. There are certainly important differences in the details of his legal theory as well as in his conception of the implications of human nature. However, like Shen Dao, Han Fei develops an overarching political and legal theory that sees as its goal the modeling of the human realm on the natural world, which involves in no small part according with the innate and unchanging dispositions and nature of human beings.[31]

Throughout the *Han Feizi*, we see discussions of the dispositions and natures of human beings, and to a large measure, Han Fei's understanding of these dispositions is quite similar to that of Shen Dao. Han Fei tells us that the dispositions of people are such that they pursue security and profit, avoid danger and harm, and take pleasure in high status while disliking low status. Indeed, he even goes so far as to describe the dispositions of the great sage-kings Shun, Yao, Yu, and Tang as being such that even they were greedy and eager for gain.[32]

We also see discussions about human dispositions in areas far removed from the political arena, including the following from chapter 17 of the *Han Feizi*, "Precautions Within the Palace" (Bei nei 備內):

> [*HF*2] Thus when a carriage-wright makes carriages he wishes for people to be rich and noble while when a craftsman makes coffins, he wishes for people to die young. It is not because the carriage-wright is benevolent while the craftsman is villainous, but rather that if people are not noble, then carriages will not be sold and if people do not die, then coffins will not be bought. [The craftsman's] dispositions are not such that he dislikes people; it is merely that he finds his profit in their death.[33]

One would not be amiss in recognizing the striking parallel between this passage and *Shenzi* [103] "When a craftsman completes a coffin, he does not dislike the fact that people die; where there is profit, odiousness is forgotten." As [103] lacks context, we cannot be certain of the larger point that Shen Dao wishes to make, but it is natural to take it in the way that Han Fei does. Indeed, Han Fei, as is his wont, immediately turns to the political implications of this passage in a fashion that would be perfectly at home in the *Shenzi Fragments*. He warns the ruler that the various factions within the palace all wish for his death—not because they hate the ruler but because, like the craftsman, they profit from his death.

Han Fei's discussion of human dispositions and their implications for political philosophy continues throughout the text, and we can bolster the connection between his ideas and those of Shen Dao by looking at the first

section of chapter 48, "Eight Canons" (Ba jing 八經). This section, titled "Following Dispositions" (Yin qing 因情), clearly brings to mind the extended discussion of "following" found in fragments [28–32]. Not only does Han Fei display a conception of human dispositions that is quite similar to what we see there, we also find a comparable explicit exhortation that it is necessary to accord with these dispositions if one is to create an ordered state. Not stopping there, he ties these dispositions to other elements of political life that are quite familiar from the *Shenzi Fragments*:

> [*HF*3] In general when ordering all under heaven, it is necessary to follow the dispositions of people. The dispositions of people are such that they have their likes and dislikes and thus rewards and punishments can be employed. Because rewards and punishments can be employed, prohibitions and orders can be established, and the Way of good order can be set up. The lord grasps the handles in order to dwell in a position of power and thus what he orders is implemented and what he prohibits ceases. The "handles" refer to the system of executing or letting live while "position of power" refers to the property through which one dominates the masses. If one casts these aside and has no system, then one's authority will be drained. If [the authority to] reward and punish is shared with subordinates, then one's might will be diluted.
>
> And so, the enlightened ruler does not listen to others with loving care nor does he make plans based on passing feelings. And so if when listening to proposals he does not check these things, his authority will be divided up by the wicked. If he does not employ the strength of his intellect, the lord will be depleted by his ministers.
>
> Thus the enlightened ruler in implementing his system is like heaven and in employing people is like a ghost. As he is like heaven, so he cannot err; as he is like a ghost, so he cannot be constrained. He employs his positional power and his teachings are strict, and so even though he goes against [the desires of the people] they do not dare to disobey.
>
> Blame and praise are in accordance with a single system and without discussion. Thus rewarding the talented and punishing the violent is the

ultimate in promoting the good. Rewarding the violent and punishing the talented is the ultimate in promoting the bad: it is what is meant by rewarding those who agree with one and punishing those who disagree.

In rewarding, nothing is as good as generosity, as it causes people to benefit from him. In praising, nothing is as good as discussing excellences as it causes the people to be glorified by him. In punishing, nothing is as good as severity as it causes the people to hold him in awe. In castigating, nothing is as good as being noxious as it causes people to be humiliated by him.

Only then will there be a unified implementation of the law and only then will private factions be prohibited and punished so they cannot harm the system of responding to achievements and crimes. Those who are rewarded and those who are punished are certain to understand why, and when they understand why, this is the utmost of the Way.[34]

This passage is interesting for our purposes not only because it advocates according with human dispositions but also because of the way in which Han Fei proceeds to connect an understanding of human dispositions to three other important elements that are central to Shen Dao's political philosophy—modeling oneself on the natural world, understanding the importance and implications of positional power (*shi* 勢), and establishing a system of inviolable laws. These three components are all addressed elsewhere in the *Han Feizi*, but here he gives us a gloss of the ways in which they work to support and buttress one another. The dispositions of people are such that the ruler can develop methods for guiding their actions. In order for this to be successful, however, he has to understand how to make the best use of the power of his position as ruler and model himself on the impartiality of heaven to ensure that his rules and regulations are as regular and inescapable as are the patterns of heaven and the natural world.

The beginnings of all these ideas are visible in the *Shenzi Fragments*, and it would not be unnatural for one inspired by Shen Dao to move in the direction that we see in [*HF*3]. Furthermore, while Han Fei never acknowledges Shen Dao's influence on the overall framework of his political philosophy, he does explicitly refer to Shen Dao in places, and so we know that he was familiar with at least some of Shen Dao's ideas.

In particular, Han Fei draws on Shen Dao in developing a conception of '"positional power." Chapter 40, "Objections to Positional Power" (Nan shi 難勢), opens with an expanded version of *Shenzi* [10–14] and reads,

> [*HF*4] Shen Dao said: "The flying dragon rides the clouds, and the winged snake travels on the mists. But when the clouds are gone and the mists dissipate, the dragon and snake become the same as worms and ants, because they have lost that upon which they were riding. If worthies yield to an unworthy, it is because their authority is slight and their position low. If unworthies submit to a worthy, it is because his authority is strong and his position respected. When Yao was a commoner, he could not order [even] three people, but when Jie was the Son of Heaven, he could disorder all under heaven. From this I know that positional power and status are sufficient to rely upon, while worthiness and wisdom are not sufficient to be esteemed. If a crossbow is weak but its arrow flies high, it is because it is pushed forward by the wind. If one is unworthy and yet one's orders are carried out, it is because one has attained the assistance of the masses. When Yao tried to teach the slave class, the people would not listen to him. [However,] when he came to face south[35] and rule over all under heaven, his orders were carried out, and what he prohibited ceased. From this, we can see that worthiness and knowledge are insufficient to control the masses while positional power and status are sufficient to cause worthies to submit."[36]

It is unclear whether Han Fei is working from a different version of the *Shenzi* than we currently have or whether he felt free to modify and elaborate on the text to better serve his point. However, the thrust of the argument in this version is the same as that in fragments [10–14], clearly showing Han Fei's indebtedness to Shen Dao.

Shen Dao's version of this passage was examined in the previous chapter, where I contended that he is offering the argument that there is no essential difference between flying dragons and winged snakes on the one hand and worms and ants on the other. There are factual differences, yes, for the former two have wings while the latter two lack them. But the thrust of the argument is that without *external* assistance, they are in essence the same.

In the example here, clouds and mists are essential to a dragon's truly being a dragon, and the analogy leads to the conclusion that in order for a ruler to truly be a ruler, it is essential that he possess positional power.

Han Fei grasps this conception of positional power and incorporates it into his political philosophy. He does not, however, simply appropriate Shen Dao's ideas and move on. Rather, he recognizes that there is a possible response to this argument and so works to develop and defend Shen Dao's claims. In doing so, he first lays out a potential Confucian response to the purported centrality of positional power:

> [*HF*5] Further, when another takes the positional power of Yao to order all under heaven, in what way is his positional power different from Jie's positional power, which caused disorder in all under heaven? This positional power is not such that one can ensure that the worthy use it and ensure the unworthy not use it. If the worthy use it, then all under heaven will be ordered. If the unworthy use it, then all under heaven will be disorderly.
>
> As for the inborn dispositions and nature of humans, [they are such that] the worthy are few and the unworthy are numerous, but if one uses the benefit of awesome positional power in order to aid the unworthy who would disorder the age, then accordingly those who use positional power to disorder all under heaven will be many, and those who use positional power to order all under heaven will be few. As for positional power, it is beneficial to order and advantageous to disorder.[37]

As Roger Ames has noted, such a Confucian response argues that while positional power may be necessary, it is certainly not sufficient.[38] After all, while flying dragons can ride the clouds, nothing will enable worms to fly (except perhaps a tornado, in which case the worm, though he has a position in the air, lacks even a semblance of control). In the hands of a virtuous ruler, this response implies, positional power will aid in the ordering of the state, as it did for the great sage-king Yao. However, in the hands of someone like the tyrant Jie, it only leads to chaos and destruction.

The main point of this response is that the basic problem with Shen Dao's position is that it sees positional power as much more important than

it actually is. In reality, it is merely a tool, and as with all tools, it can be used for good or ill. Just as a properly balanced throwing axe can, in the hands of a skilled thrower, allow her to be crowned champion at the Lumberjack World Championships, the same axe, in the hands of one determined to cause harm, can lead to unmitigated disaster. And, just as the neutrality of an axe is such that it allows the achievement of great harm just as easily as great honors, so too can positional power aid not only in the achievement of great deeds but also in horrendous acts that would otherwise not have been possible. This is made clear in a continuation of the Confucian response:

> [*HF6*] [The tyrants] Jie and Zhou[39] built high pavilions and deep pools, and by doing so exhausted the strength of the people. They burned people alive, and by doing so harmed the nature of the people. Jie and Zhou succeeded in wanton behavior, and the ability to awe others that came from facing south gave them wings.[40] If Jie and Zhou had been commoners, then before they had implemented even one [of these bad acts], they would have been punished by death. As for positional power, if it raises the hearts of tigers and wolves, and succeeds in violent and disorderly affairs, this is the greatest disaster under heaven. As for the relation between positional power and order and disorder, it fundamentally does not have a fixed position, and when [Shen Dao's] words specifically say that positional power is sufficient to govern all under heaven, then his wisdom is shallow in what it arrives at.[41]

If Jie and Zhou had lacked positional power, the argument goes, they would have lacked the capacity to destroy their empires. In their cases, positional power did not lead to order within the state. Rather, it is precisely the positional power itself that gave them the ability to bring chaos to the states they ruled.

Han Fei acknowledges that this is a potential criticism of Shen Dao's position but believes that he can refine and clarify the view such that it is not necessary to allow morality into the equation. At this point, he introduces another, related meaning of the term *shi* 勢, which I have previously translated as "positional power." The term is also used to refer to circumstances,

including those beyond human control. While this may initially seem to be completely unrelated to positional power, such a relationship can be drawn. We can, for example, think of positional power as that power arising due to a particular circumstance. In the case of the ruler, which Shen Dao and Han Fei are most interested in, the circumstance in question is the circumstance of holding the position of ruler. As such, we can think of "positional power" as a subset of a broader concept of "circumstantial power," the power that exists due to a particular constellation of circumstances.[42] If we think of it in this way, then it makes sense that there may be powers arising due to particular sets of circumstances that we have no control over. This is true in two senses—we may have no control over the circumstances themselves and we may have no control over the power that arises from such circumstances.

The fact that there are circumstantial powers that are outside human control is not sufficient to dismantle Shen Dao's reliance on positional power. Rather, since they are outside human control, they have no role to play in discussions of political philosophy. The fact that they need not be incorporated into political theory does not mean, however, that they have no effect on the world or, indeed, on the ruler. They may well have such effects, but it is not something that humans can manipulate. As Han Fei argues,

> [*HF7*] [. . .] Now, it is said that when Yao and Shun attained *positional power*, order resulted, while when Jie and Zhou attained *positional power*, disorder resulted. I do not deny that Yao and Jie were like this. However, [their ability to attain positional power] was not something they established on their own. [. . .][43] When [sage-kings like] Yao and Shun arise and attain high positions, then even if there were ten [tyrants of the sort of] Jie or Zhou [at that time], they would not be able to bring disorder. This is the *positional power* of order. When [those like] Jie and Zhou arise and attain high positions, then even if there were ten [of the sort of] Yao or Shun [at that time], they would also not have been able to bring order. This is the *circumstance* of disorder. Therefore it is said: "If the *circumstances* are orderly, then disorder cannot arise, but if the *circumstances* are disorderly, then order cannot arise." This refers to the *circumstances* that arise of their

> own accord, and it is not something man establishes on his own. Now, as for what I wish to discuss, it is the positional power that man sets up by himself. In this, what use is there for worthies?[44]

In this passage, we see Han Fei defending Shen Dao's position against an apparently strong counterargument that could be raised. He acknowledges that such a response has its history right—there was great disorder during the reigns of the tyrants Jie and Zhou, even though these rulers had the same positional power as was held by the successful sage-kings Yao and Shun. However, he contends, this does not prove the point that positional power is a tool that can be wielded for good or ill. Indeed, in these historical incidents, the good order that arose in the one set of cases, as well as the disorder that arose in the other, are attributable in large part to external circumstances that are outside human control. Order did not arise because Yao was virtuous and disorder did not arise because Jie was vicious. As such, Han Fei believes that the main thrust of Shen Dao's argument remains.

At this point, Han Fei moves from defending the position that Shen Dao has earlier espoused and begins making a unique argument of his own (albeit one that Shen Dao may well have agreed with). The argument goes as follows: Let us assume that the Confucians are correct in their claims that the unique talents of the sage-kings Yao and Shun are such as to contribute to order, while the ineptitude of the tyrants Jie and Zhou contribute to disorder.[45] Even if this were to be the case, it should not cause concern, and it certainly does not help the position of the Confucians. The reason for this is that individuals at these two ends of the spectrum emerge only once every thousand generations.[46] Therefore, Han Fei argues, it is ridiculous to take them as standards for determining how to order the state. As he notes,

> [*HF*8] Those who govern the world are not all of the middle sort [between Yao and Jie], but those for whose sake I talk about positional power are of the middle sort. Those of the middle sort are neither as high as Yao and Shun nor as low as Jie and Zhou. If they embrace the law and dwell in positional power, then there will be order. If they turn their backs on the law and get rid of positional power, then there will be disorder. Now, if one

> wastes one's positional power and turns one's back on the law while waiting for a Yao or a Shun, then only when a Yao arrives will there be order. This would be a thousand generations of disorder to every one of order. If one embraces the law and dwells in positional power while waiting for a Jie or a Zhou, then only when a Jie arrives will there be disorder. This would be a thousand generations of order for every one of disorder. . . . If one abandons the method of using a form for curving wood and abandons calculations for determining length, and then has [the mythical wheelwright] Xi Zhong make a cart, he could not even complete a single wheel. If they lacked the encouragement of favors and rewards and the fear of punishments and death, or if they discarded positional power and abandoned the law, then Yao and Shun, by talking to households and debating with men, would not be able to order even three families. [From this] it is clear that it is sufficient to rely upon positional power, and saying, "it is necessary to wait for the worthy," is incorrect.[47]

Therefore, Han Fei seems to say, even if the Confucians were right to venerate the sage-kings of old, this has no bearing on Shen Dao's argument for the centrality of positional power over the centrality of the virtuous individual. Indeed, Han Fei actually goes further, saying that even if Shen Dao were incorrect in his dismissal of the positive benefits that could be achieved by having a virtuous individual in a position of power, his argument would still stand. Shen Dao could acknowledge (though he does not) that the Confucians were correct in their veneration of the ancient sage-kings. He could even acknowledge (though again he does not) that their moral methods may have been able to order the state in the times of these past sage-kings. None of this, however, is reason to attempt to order the state as it exists in current times with the moral methods of the sage-kings. The talents of these virtuous individuals were so unique and so extreme, a thousand generations will pass before we can even begin to expect to see another such person arise.

The purpose of government, however, is to govern all the time, under all conditions, not just when sages are present. Therefore, given that the vast majority of time will be spent without a sage, the enlightened ruler will seek methods that can work when there is no sage present as well as when there

is. If we follow his methods, Han Fei argues, then the state will be ordered except when circumstances outside human control arise. If we follow a virtue-based system, then there will be order *only* when a great sage is present (and when circumstances permit). The path, to him, is clear.

From this section, it is tempting to look at Han Fei as simply advancing and developing Shen Dao's ideas. However, while this might be the case with regard to the concepts of positional power and circumstances, it is not always the case. Certainly there is substantial overlap in their conceptions of human dispositions and their ideas on how to order the state. And in numerous ways, Han Fei does seem to provide a more worked out and develop version of ideas found in the fragments. However, as we saw, there are also ways in which Han Fei seems to have either missed or ignored certain implications arising from certain of Shen Dao's arguments.[48] As such, it would be a mistake to think that what Shen Dao provides is simply an early and less well worked out subset of the arguments employed in Han Fei's political philosophy.

SHEN DAO IN THE *LÜSHI CHUNQIU*

Shen Dao also makes an appearance in the *Lüshi Chunqiu*, a text compiled over numerous years, perhaps beginning as early as 265 B.C.E. and reaching its current state with the death of its organizer, Lü Buwei 呂不韋, in 235 B.C.E. This text was envisioned by its patron as an encyclopedic compendium of the knowledge of the time and a philosophical manual for the ruler of the emerging Qin dynasty. As such it attempted in part to bring together the various strands of political thought of the time into a cohesive whole.[49]

While the *Lüshi Chunqiu* discusses ideas similar to those seen in the *Shenzi Fragments*, it is often unclear whether the compilers were directly indebted to Shen Dao for these ideas or whether they encountered them as filtered through and expanded on by Han Fei or others. However, in book 17, and in particular the chapter on "Heeding Positional Power/Circumstances" (Shen shi 慎勢), Shen Dao's influence is both clear and explicit.[50] Neither this chapter nor other parts of the *Lüshi Chunqiu* advocate an amoral political

theory of the sort found in Shen Dao (or later in Han Fei). Rather, it advocates a political philosophy and method of ruling that has important ties to morality and sees the justification of the ruler to lie in this morality. However, that being said, when it comes to more concrete aspects of governing and the tools to be employed by the ruler, many of the techniques advocated not only by Shen Dao but also by others whom we might think of as Legalists, such as Shen Buhai 申不害 and Han Fei, come to the fore.

The *Lüshi Chunqiu* quotes a version of fragment [82]:

> [*LS*1] Shen Dao says, "Now, if a rabbit were to run by, a hundred people will pursue it. This is not because a single rabbit is sufficient to be divided among a hundred people, but rather because [its allotment] has not yet been determined. When [its allotment] has not yet been determined, even Yao would exhaust his strength [to attain it], and even the more so for the masses. If piles of rabbits fill the market, and people pass by without turning their heads, it is not because they do not desire rabbits, [but rather because] the allotment has already been decided. When allotment has already been decided, then people, even if they are base, will not contend with one another. Therefore, governing all under heaven and the state rests in making allotments and that is all."[51]

The political connotations of this passage are quite clear—in any sort of social or political organization, if the allotment or distribution of goods is unclear or nonexistent, then contention among members will certainly arise. In the *Lüshi Chunqiu*, this passage is used to support the claim that there needs to be a strict hierarchy in the distribution not merely of goods but also of power, rank, and privilege. In a discussion reminiscent of *Shenzi* [57–60], this chapter argues that there must be a clear hierarchy in the political bureaucracy. If the particular duties and powers of the various parties within the state are not clearly delineated, the *Lüshi Chunqiu* argues, then those with lesser power and position will imitate those above. This imitation then leads to contention and finally to chaos, leading to the destruction of the state itself.[52]

In order to prevent such a catastrophe, the *Lüshi Chunqiu* says, it is important for the ruler to rely upon another concept, earlier analyzed by Shen Dao, that of *shi*, both in its meaning as positional power and in its broader meaning as circumstances. The ruler must rely upon his positional power and ensure that no one else gains a position that allows his power to be compromised. Going further than we see in Shen Dao's writings, and likely also indebted to Han Fei, the *Lüshi Chunqiu* argues for a specific set of techniques that will help ensure the ruler's positional power, including those of weighing strength and weakness, examining relative size, and increasing the number of fiefs within the kingdom.[53] In doing this, the *Lüshi Chunqiu* demonstrates an awareness of a variety of texts and uses a concept attributed to Shen Buhai, and later refined by Han Fei, that of political techniques (*shu* 數), to augment and lay out the details underlying and expressing the ruler's positional power.

Positional power is not the only way in which *shi* is seen to be important, however. Rather, the *Lüshi Chunqiu* also understands the importance of "following circumstances" (*yin shi* 因勢):

> [*LS*2] All true kings come to the aid of the impoverished and miserable. On water one uses a boat, on land a chariot, in the mud a mud sledge, in sand a sand sled, and in the mountains, portage gear. One follows circumstances. Those who follow circumstances will have their orders carried out.[54]

Although this passage does not reference Shen Dao, its indebtedness is clear, in both vocabulary and content. In particular, this section ties together a range of passages from the *Shenzi Fragments*, including [119], which discusses making use of boats and chariots, [81], which discusses the role of mud boards, and [15], which discusses the tools necessary for mountain porters. These are all tied together by referencing (again, without acknowledgment) [28–32], where Shen Dao discusses "following" or according with the dispositions of people. The sense of following found in these passages can be seen as a particular instance of the broader concept that arises in the *Lüshi Chunqiu*, that of following circumstances more generally.

While the *Lüshi Chunqiu* clearly uses an array of ideas and concepts from Shen Dao, and its compilers are obviously influenced by him, it is also evident that they do not see themselves as having identical goals. Rather, as can be seen in [*LS* 2], the goal of appropriating Shen Dao's various methods and ideas is to enable the king to "come to the aid of the impoverished and miserable." This moral goal, which is reiterated and expanded upon in various places throughout the *Lüshi Chunqiu*, is at odds with the vision found in the *Shenzi Fragments*. It does, though, resonate with (and perhaps indicate the influence of) Xunzi, for whom divisions and allotments were extremely important—for both moral and political reasons.

In the eyes of the compilers of the *Lüshi Chunqiu*, Shen Dao's ideas are valuable insofar as they can be appropriated as tools to achieve their own unique aims. As such, the text does not attempt to debate Shen Dao, to analyze which of his ideas are worth keeping and which should be discarded, or to defend how some of his ideas can be removed from the context in which they were devised in order to serve importantly different goals. Faithfully understanding what underlies Shen Dao's vision and engaging it philosophically is simply not something that interests the authors of this text. However, the very fact that the compilers of the *Lüshi Chunqiu* borrow from Shen Dao speaks to the degree to which he was seen as an active participant in the intellectual milieu of this time. Furthermore, it is difficult not to read many sections of the *Lüshi Chunqiu* as continuing the debate we reconstructed between Shen Dao and Xunzi over the relative importance of people and institutions. Recognizing that neither is sufficient on its own, the *Lüshi Chunqiu* works to provide its own account of how to weigh the relative importance of these elements and ensure that they can work together in creating and sustaining a strong, stable, and flourishing state.[55]

SHEN DAO IN THE *HUAINANZI*

Shen Dao also makes an appearance in the *Huainanzi*, another edited collection with aims that are in many ways similar to those of the *Lüshi Chunqiu* but one that was compiled approximately a century later, around

157 B.C.E.–141 B.C.E.[56] Further, like the *Lüshi Chunqiu*, it is often difficult to determine whether the *Huainanzi* is borrowing ideas from Shen Dao or from others such as Han Fei who discussed similar ideas.[57] However, it is still possible to note textual parallels and see that many of the ideas raised in the *Shenzi* find a home in the system envisioned by the *Huainanzi*.[58]

The only direct reference to the *Shenzi* comes in chapter 12, "Responses to the Way" (Dao ying 道應), a chapter that attempts to lay out a comprehensive vision of rulership, explicated by means of fifty-six different anecdotes. Fifty-three of these anecdotes close with quotations from the *Laozi*, while the remaining three close with an anecdote attributed either to the *Zhuangzi*, the *Guanzi* 管子, or the *Shenzi*. The anecdote closing with a passage attributed to the *Shenzi* is utilized to support an argument against excessively relying upon skill, though the import of the quotation itself is not completely clear given apparent textual corruption and the fact that the quotation is found in no other sources, ancient or medieval.[59] However, while the point to be drawn from Shen Dao is obscure, the fact that he is seen as worth quoting, and in particular as worth quoting instead of Laozi, as is the common practice in this chapter, does attest to his significance in the eyes of the compilers of the *Huainanzi*, indicating that his influence extended into the Han dynasty.

Moving beyond direct citations, we see a variety of parallels between philosophical ideas expressed in the *Huainanzi* and those found in the *Shenzi Fragments*. Perhaps appropriately, the majority of these arise in chapter 9 "The Ruler's Techniques" (Zhu shu 主術), a chapter devoted to advising the ruler on governing.[60] Among other things, this chapter is concerned with establishing a set of procedures for governing, including figuring out how best to employ the people and determining what actions the ruler should take—all issues that, as we have seen, concerned Shen Dao.

Chapter 9 is quite concerned with ensuring that the ruler is able to effectively employ the people under his rule. Comparing the ruler's task with that of a skillful craftsman's management of wood, it says,

> [*HN*1] Large pieces are used for boats and barges or pillars and rafters; small ones are used for tholes and pegs. Long pieces are used for eaves and

> rafters; short pieces for red [-lacquered] brackets and capitals. Whether small or large, long or short, each has something for which it is appropriate. The compass and the square [shape them] square or round; each has something for which it is suitable. They have different shapes and varying qualities, but there is nothing that does not find its [proper] use. Of all things in the world, none is more poisonous than the *xidu* plant, but an accomplished doctor puts it in his bag and keeps a supply of it, for it is useful in some treatments. Thus, if among the products of the forest and the thickets, there are none that may be ignored, how much more so is this the case with people?[61]

Such a passage immediately brings to mind fragments [33–37] and [55–56]. Indeed, [*HN*1] can be seen as a metaphor that encapsulates the main thrust of Shen Dao's argument. Just as there are many different types of wood, each with its own unique qualities, there are many different types of people—each with their own abilities. And just as part of what makes a skillful craftsman skillful is his ability to appropriately choose the right piece of wood for the task at hand, what makes a lord great is his ability to find the appropriate position for each and every individual under his rule.[62]

Elsewhere in the chapter, we see another discussion that resonates with Shen Dao's ideas on how to employ people:

> [*HN*2] Thus in ancient times when they made a carriage, the one who painted its surface did not draw designs on it, and the one who drilled holes did not carve designs. Workers did not have two different skills; scholars did not hold two positions; each stuck to his profession and did not interfere with others. Each person obtained what was suitable to him; each thing obtained what gave it security.[63]

Such a view on how to employ people—in both the political and the broader social realms—has clear parallels with several points Shen Dao makes. In particular, we see a resonance with his advocacy of the methods of the past in which artisans pursued only one craft and officials held only one post, allowing them to develop their skills through regular activity, that appears

in [17–18] and a discussion of the disastrous results of giving two people responsibility for the same task, in [58–59].

Chapter 9 also picks up on the idea that it is important to rely upon procedures, laws, and positional power rather than on human talents. In a fashion similar to Shen Dao's, we see a variety of discussions about the problems of relying upon the strength, knowledge, or wisdom of a single individual. Laws are essential, the text says, noting,

> [*HN*3] Law is the standard of measurement for the world, the level and the marking cord of the ruler. [He who] proclaims the laws does so to [impose] law on the lawless; [he who] sets up rewards does so to reward those who deserve rewards.
>
> After the laws are set, those who obey the laws are rewarded, and those who fall short of the marking cord ['s line] are punished. For the honorable and noble, the punishments are not decreased, and for the lowly and base, the punishments are not increased. If somebody disobeys the law, even if he is [otherwise] worthy, he must be punished. If someone meets the standard, even if he is [otherwise] unworthy, he must be found innocent. Thus the Way of the public good will be opened up, and that of private interest will be blocked.[64]

Such a position corresponds quite nicely to Shen Dao's conception of law, particularly its role in blocking private interests and the necessity that it be applied impartially. A few lines later, we see two more themes quite prevalent in the *Shenzi Fragments*: the idea that the laws do not come from heaven but are rather human creations and that not employing the laws is equivalent to not having laws at all.[65] Furthermore, in another section of the chapter, we see a familiar refrain—the idea that removing partiality and subjectivity by establishing fixed laws eliminates resentment and expectation among the populace.[66] Indeed, much like what we see in the *Shenzi Fragments*, the ruler's use of the law is compared to the use of a balance beam, marking cord, and balance weight and beam—all tools that prevent bias.[67]

Reviewing these select passages certainly provides one with the impression that the *Huainanzi* is working with Shen Dao's conception of the law,

even if it has been filtered and refracted through a variety of lenses before reaching the editors. However, a more careful examination of this chapter of the *Huainanzi* makes us realize that there are very important differences as well. Most important among these is the explicit claim that punishments are insufficient for the task of modifying habits and preventing wickedness.[68] Rather, the enlightened ruler must make use of his personal potency and moral charisma in order to change the hearts and spirits of his subjects. This reliance upon eliciting an emotional reaction from the population as a motivating force shows the *Huainanzi* echoing some of the same concerns raised earlier by Xunzi. Indeed, going directly against Shen Dao, chapter 9 advocates that the ruler display a range of moral excellences often associated with Confucian thinkers, including righteousness and loyalty.[69]

There is another, perhaps even greater, way in which the *Huainanzi* takes a conception of law similar to Shen Dao's and recasts it in a form Shen Dao likely never imagined—it actually explicitly applies it to the ruler himself. In the same section from which [*HN*2] and [*HN*3] were pulled, the *Huainanzi* tells us that a system of officials was established in the past in order to restrain the people and that the position of ruler was established in order to restrain the officials. It continues on to declare,

> [*HN*4] Laws, records, ritual, and righteousness were used to restrain the ruler so that he could not exercise absolute authority. When none of the people could blindly follow their own desires, the Way was triumphant.[70]

This section of the chapter reiterates its point by quoting the *Analects* 13.6 to bring out an emphasis on the uprightness of the ruler and concludes,

> [*HN*5] Thus when the prohibitions apply to [even the ruler] himself, then his orders will be carried out among the people.[71]

Such a conception of the role of law is a significant advancement over the ideas found in the *Shenzi Fragments* (and elsewhere in the early Chinese tradition) and may help to alleviate some of the worries previously identified in our discussion of the role of law for Shen Dao. At the same time,

however, it raises new questions about the methods by which the ruler could be required to subject himself to the law, whether there is any means other than moral cultivation leading the ruler to decide to restrain himself in this fashion.

There are numerous other ways in which the philosophy of the *Huainanzi* in general and chapter 9 in particular diverge dramatically from Shen Dao's political theory, but these are beyond the scope of this study. The hope is merely that the ideas illustrated in these passages will lead us to see the *Huainanzi* as continuing to participate in a discussion about political philosophy that is in certain ways influenced by and indebted to Shen Dao.

SHEN DAO ELSEWHERE IN THE EARLY CHINESE TRADITION

As mentioned at the beginning of this chapter, determining influence can be a tricky business, and this is one of the reasons I have limited my discussion of Shen Dao in the early Chinese intellectual milieu to those texts that evince an explicit awareness of Shen Dao and his ideas. However, it is also possible to look through the early Chinese tradition and find a range of texts, both transmitted and excavated, that deal with similar issues to those raised in the *Shenzi Fragments*, and it would be possible to postulate connections between these texts and Shen Dao. In particular, those who have read the *Guanzi*, the *Book of Lord Shang* (商君書 *Shangjunshu*), or the fragments attributed to Shen Buhai will certainly notice that there is significant overlap in the set of ideas that these texts take to be fundamental for analyzing the question of social and political organization and order. And, if we broaden our scope to texts recently unearthed at Mawangdui 馬王堆 and elsewhere, there may be even more connections to make.

Drawing connections among these texts is made more difficult, however, because of the uncertainty surrounding the dates of these texts. Although the *Guanzi* and the *Book of Lord Shang* are both named after real historical figures, the scholarly consensus is that these figures had little if anything to do either with authoring or with compiling these texts. Indeed, it seems

clear that in the case of the *Guanzi* especially, the various chapters came from different hands and were written in significantly different periods.[72] Certainly, though, anyone interested in tracing the development of the concept of law in the Chinese intellectual tradition would want to look not only at the *Book of Lord Shang* but also at several chapters in the *Guanzi*.[73]

It would also be possible to extend such an examination to four texts found in Mawangdui that many have concluded are the *Four Books of the Yellow Emperor* and thus provide a glimpse of Huang-Lao thought.[74] These texts are certainly engaged in a task similar to what we see in the *Shenzi Fragments*, and we see numerous discussions of law, heaven, and the Way. Indeed R. P. Peerenboom has written an excellent book examining the conception of law in these texts and identifying important ways in which he sees it as differing from that seen in other early Chinese texts, including the *Shenzi Fragments*.[75] Again, however, there are a range of worries about the dating and authorship of these four texts that make it quite difficult to draw lines of potential influence. That being said, there are certainly many fascinating studies left to be written that make use of the various threads and connections among these various texts and endeavor to examine similarities within differences and differences within similarities.

Finally, and briefly, it should be noted that we see Shen Dao mentioned in chapter 33 of the *Zhuangzi*, "All Under Heaven" (Tian xia 天下). This chapter, one of the so-called mixed chapters, has been dated by A. C. Graham to around 180 B.C.E.[76] Unfortunately it does not provide us with much of a sense of Shen Dao's influence in the intellectual milieu of the time. He appears as one of numerous thinkers whose views are sketched and then dismissed by the author. The primary interest of this reference is that a variety of nonpolitical views that do not appear in the *Shenzi Fragments* are attributed to Shen Dao. If these attributions are accurate, they indicate that Shen Dao had a wider array of intellectual interests than appear in the remaining fragments.[77] Again, however, the fact that Shen Dao is seen as worth refuting alongside other prominent thinkers such as Mozi, Laozi, and Hui Shi attests to his prominence at the time.

This chapter has attempted merely to begin the process of situating Shen Dao in his historical milieu and understand how he influenced a range of political philosophers who followed him. It is clear that the ideas Shen Dao examines and the ways in which he treats them bear important similarities to ideas being examined by a range of important early Chinese thinkers, including Laozi, Zhuangzi, Xunzi, and Han Fei. Furthermore, many ideas are taken seriously enough to be the subject of refutation by Xunzi and the subject of further development by Han Fei. His appearance in texts such as the *Lüshi Chunqiu* and the *Huainanzi* (even though they do not directly engage with his political theory but rather borrow from it piecemeal) also indicates that he was seen as an important player in the field of early Chinese political philosophy.

However, as noted, this is just the beginning, and it is hoped that the reader takes this analysis, along with the subsequent translation, as an invitation to explore more deeply the intersections between Shen Dao's ideas and those of others in early China. There is much more work to be done in a variety of areas, including examining how not just elements of Shen Dao's political philosophy resonate with elements found in others but also how his style of argumentation is to be found in a range of other texts. Already we have reason to think that Shen Dao was at the center of the political discussions of his time, and further study will, I believe, reveal even more ways in which he influenced both the theoretical discussions and the actual politics of early China.

PART II

A Translation of the *Shenzi Fragments*

A NOTE ON THE ORGANIZATION OF THE TRANSLATION

As noted in the introduction, I follow Thompson's organization of the text and numbering of the fragments. However, the reader should be warned that we have no reason to think that this organization is related to the original organization of the text. The first seven sections comprise extracts from the original *Shenzi* that were collected by the editors of the *Qun shu zhiyao*, as described in the introduction. Sections 8 to 20 come from citations of the *Shenzi* that appear in a range of other texts, as indicated in the translation.

The reader should remain aware that in their current form, the fragments are often far removed from their original context. Unless explicitly combined in the following translation, there should be no assumption that any particular fragment was originally written after the preceding fragment or before the subsequent one or that it bears a necessary relationship to those fragments that surround it.[1]

SECTION 1: 威德 AWE-INSPIRING POTENCY

1–6. 天有明，不憂人之闇也；地有財，不憂人之貧也；聖人有德，而不憂人之危也。天雖不憂人之闇也，闢戶開牖，必取己明焉；則天無事

矣。地雖不憂人之貧，伐木刈草也，必取己富焉；則地無事矣。聖人雖不憂人之危也，百姓準上而比於其下，必取己安焉；則聖人無事矣。故聖人處上，能無害人，不能使人無己害也；則百姓除其害矣。聖人之有天下也，受之也，非取之也；百姓之於聖人也，養之也，非使聖人養己也；則聖人無事矣。

While heaven is bright, it does not worry that the people are in the dark. While the earth is bountiful, it does not worry that there is insufficiency among the people. While the sage is potent, he does not worry that the people are endangered. Even though heaven does not worry that the people are in the dark, those who open up doors and windows certainly can take from [heaven] in order to obtain their own illumination, though heaven does nothing. Even though the earth does not worry that there is insufficiency among the people, those who chop down trees and cut grasses can certainly draw from [the earth] in order to obtain their own bounty, though the earth does nothing. Even though the sage does not worry that people are endangered, those of the hundred surnames who take the sage as their standard from above and harmonize with those below can certainly draw from [the sage] in order to attain their own security, though the sage does nothing. Thus while the sage is able to avoid harming the people when occupying a position above, he is not able to keep the people from harming themselves. However, those of the hundred surnames are able to stop the people from harming themselves. The manner in which the sage possesses all under heaven is that he accepts it; he does not take it. The relationship between those of the hundred surnames and the sage is that they nourish him; they do not make him nourish them. And so the sage does nothing.

[*I translate the term* de 德 *here and throughout as "potency" or "potent." Often, translations of early Chinese texts render it as "virtue." In some texts from this period the term has a moral implication, but not in these fragments. Rather, it can be thought in the sense of a characteristic potency (and in this way, it is similar to the Latin* virtus*). Others have rendered* de *as "power" in similar circumstances.*[2]

It is worth paying attention to Shen Dao's point that human beings are not at the center of the universe. They are a part of the universe, but neither heaven nor earth acts for the sake of human beings. Rather, they engage in regular ac-

tivities, irrespective of the existence of humans. We also begin to see Shen Dao's attempt to depict his conception of the sagely ruler as modeling himself on nature and, in turn, serving as a model for those below.

Also note that "those of the hundred surnames" refers to a particular class of individuals—those with status sufficient to have a surname. They are differentiated from the lower classes, referred to merely as "the people."

The conceptions of heaven, earth, and the sage here bear resemblances to ideas that we see in Laozi *5.*]

7–9. 毛嬙、西施，天下之至姣也；衣之以皮傂，則見者皆走；易之以玄錫，則行者皆止。由是觀之，則玄錫色之助也；姣者辭之，則色厭矣。走背跛躃窮谷，野走千里，藥也；走背辭藥，則足廢。

Mao Qiang and Xi Shi were the most beautiful women in the world, but if they were to wear hideous masks, then everyone who saw them would flee. Yet if they were to change and wear fine materials, then people in the streets would all stop [and stare at them]. Looking at it from this viewpoint, then, fine materials assist in beauty. If beautiful women decline them, then their beauty will be obscured. Porters can traverse and climb to the farthest valleys and can walk through the wilds for a thousand miles because of the salve [they apply to their feet]. If the porters decline this salve, then their feet will be hobbled.

10–14. 故騰蛇遊霧，飛龍乘雲；雲罷霧霽，與蚯蚓同矣；則失其所乘也。故賢而屈於不肖者，權輕也；不肖而能服賢者，位尊也。堯為匹夫，不能治其鄰家，而桀為天子，能亂天下。由此觀之，賢未足以服眾，而勢位足以屈賢也。故無名而斷者，權重也；弩弱而矰高者，乘於風也；身不肖而令行者，得助於眾也。

So the winged snake travels on the mists, and the flying dragon rides the clouds. But when the clouds are gone and mists dissipate, then they become the same as worms, because they have lost that upon which they were riding. Therefore, if worthies yield to an unworthy, this is because their authority is too light. If unworthies submit to a worthy, it is because his status is respected. When Yao was a commoner, he could not bring order to neighboring families, while when Jie was the son of heaven, he was able to bring

disorder to all under heaven. Looking at it from this viewpoint, being worthy is not sufficient to make the masses bow down, but positional power and status are sufficient to make worthies bend. So, those who are not renowned but still decide matters are able to do so because their authority is weighty. If a crossbow is weak, but its bolt flies high, it is because the bolt rides on the wind. If one is not worthy, and yet one's orders are carried out, it is because one has obtained the assistance of the masses.

15–16. 故舉重越高者，不慢於藥；愛赤子者，不慢於保；絕險歷遠者，不慢於御。此得助則成，釋助則廢矣。夫三王、五伯之德，參於天地，通於鬼神，周於生物者，其得助博也。

So, one who is able to lift a heavy weight and climb high is not careless about applying salve. One who dotes on infants is not careless about those who care for them. One who travels over dangerous terrain and across distant plains is not careless about his driver. They are successful because they receive assistance, and if they lose this assistance, they will fail. The potency of the Three Kings and Five Hegemons forms a trinity with heaven and earth, communicates with the ghosts and spirits, and spreads throughout all living things because it receives wide-ranging assistance.

[*Yao was the first of three mythical sage-kings and is traditionally said to have ruled from 2356* B.C.E. *to 2255* B.C.E. *The tyrant Jie, taken to have been the last ruler of the Xia dynasty, reigning from 1818* B.C.E. *to 1766* B.C.E.*, was renowned for his cruelty.*

This discussion of positional power is perhaps what Shen Dao is most famous for. Han Fei quotes a version in his own investigation of positional power in chapter 40. However, reading this passage in its fuller context may lead us to draw a slightly different impression than we get from reading the Han Feizi. *While positional power plays a role here, it is merely one example of a larger phenomenon that Shen Dao wishes to point out—that it is necessary to utilize external assistance if our goals are to be achieved. This emphasis also resonates with Xunzi's argument in the opening of chapter 1 that what makes the gentleman better than others is that he is good at making use of things and in chapter 12 where he discusses how water can support a boat or overturn it.*]

17–18. 古者，工不兼事；士不兼官。工不兼事則事省，事省則易勝；士不兼官則職寡，職寡則易守。故士位可世；工事可常。百工之子不學而能者，非生巧也，言有常事也。

In the past, artisans did not pursue more than one craft, and officials did not hold more than one post. Because artisans did not pursue more than one craft, their tasks were few. Because their tasks were few, it was easy to complete them. Because officials did not hold more than one post, their responsibilities were few. Because their responsibilities were few, it was easy to manage them. Therefore the positions of officials were lifelong, and the tasks of the artisans remained constant. The various artisans' children did not need to pursue formal studies but were able to practice their craft and not because they were born with such a skill. They say it was because they engaged in regular activity.

[*This passage is intriguing as one of the earliest recognitions of the harms of multitasking and the benefits of repeated engagement with particular tasks in order to develop skill. The idea here, that regular practice and habituation are necessary for any endeavor to be successful, can be found throughout the early Chinese corpus. See, for example,* Mengzi *3B6 and 6A9,* Zhuangzi*, chapter 17, and* Xunzi*, chapters 1 and 21. Unlike the* Han Feizi*, however, which makes a similar point, Shen Dao does not seem to be worried about too much power accumulating in the hands of one official.*]

19–20. 今也，國無常道，官無常法，是以國家日繆。教雖成，官不足；官不足則道理匱；道理匱則慕賢智；慕賢智則國家之政要在一人之心矣。

Today, the state lacks a constant Way, and offices lack constant models. Because of this, the state is deteriorating day by day. Even if they have been well educated, [competent] officials will be insufficient [in number]. When officials are insufficient, then the patterns of the Way will languish. When the patterns of the Way languish, there will be a yearning for the worthy and the wise. When there is a yearning for the worthy and the wise, the most crucial elements for governing the entire state will depend on the mind of a single person.

[*Here, Shen Dao seems to argue that the lack of an overarching bureaucratic structure leads to the weakening of the state. Unfortunately, on his account, the recognition of the resultant disorder leads to a failed attempt to find a cure in the form of a worthy and wise individual. It may be useful to compare this with fragments 7 to 16, where Shen Dao notes that the great sage-king Yao was successful only once there was a system in place that allowed him to benefit from outside assistance. In certain ways, this passage is also reminiscent of* Laozi *38.*]

21–22. 古者，立天子而貴之者，非以利一人也；曰：天下無一貴，則理無由通。通理以為天下也。故立天子以為天下也，非立天下以為天子也。立國君以為國也，非立國以為君也。立官長以為官也，非立官以為長也。

In ancient times, setting up the emperor and honoring him was not for the benefit of that single person. It is said, "If the world lacks a foremost object of honor, then patterns will lack what connects them to one another; the connection of these patterns is for the sake of the empire." So, the [position of] emperor was established in order to serve the empire; the empire was not established in order to serve the emperor. The [position of] lord was established in order to serve the state; the state was not established in order to serve the lord. The [position of] prime minister was established in order to serve the officials; the officials were not established in order to serve the prime minister.

[*Note the advocacy of state consequentialism here. This is a position that has important parallels to (along with definite divergences from) other state consequentialists in early China, including Mozi and Han Fei. While Shen Dao's emphasis is on the claim that the state is not put in place to serve the desires of the ruler, he does not say here (as the Confucians do) that the role of the ruler is to serve the people; rather it is to serve the state.*]

23–24. 法雖不善，猶愈於無法。夫投鉤分財，投策分馬，非以鉤策為均也；使得美者不知所以德，使得惡者不知所以怨，此所以塞怨望也。

Even if the law is not good, it is still better than having no law at all. Casting coins[3] to divide property and drawing lots to apportion horses is not done because casting coins and drawing lots lead to equal distribution.

Rather, they are methods that cause those who do well not to know toward whom to feel grateful and cause those who do badly not to know toward whom to feel resentful. These are the means by which resentment and expectation are blocked.

[*Two interesting claims arise here. First, the existence of law is in and of itself a good for the state. Even if the content of the law is not optimal, the structure that it provides allows for a more stable and successful state than the alternative. Second, the point of laws is not to achieve some sort of equal or even equitable distribution of the goods in the state. Rather, it is to set up a system in which resentment and personal gratitude do not arise on the part of those in the system. Note fragment 63 for further discussion on blocking resentment and expectation and fragment 73 for other instances of impartiality.*]

25–27. 明君動事分職，必由慧；定罪分財，必由法；行德制中，必由禮。故欲不得干時，愛不得犯法；貴不得踰規，祿不得踰位；士不得兼官，工不得兼事。以能受事，以事受利；若是者，上無羨賞，下無羨財。

An enlightened ruler, when assigning tasks and appointing offices, does so on the basis of discernment; when deciding punishments and distributing wealth, he does so on the basis of the law; when exercising potency and regulating what is within [his household], he does so on the basis of ritual. Therefore, desires will not lead to interference in the cycle of the seasons, affection will not lead to violations of the law, honors accorded will not go beyond protocol, salaries will not exceed rank, officials will not hold more than one post, and artisans will not pursue more than one craft. Use ability as the basis for awarding tasks. Use the tasks performed as the basis for awarding benefits. If things are done in this manner, then above there will not be an excess of rewards, and below there will not be an excess of wealth.

[*Here again, the emphasis seems to be on the bureaucratic system and not acting in ways that would go against this fixed system. We also see a connection back to the patterns of nature, in particular the pattern of the seasons.*]

SECTION 2: 因循 FOLLOWING

28–32. 天道，因則大，化則細；因也者，因人之情也。人莫不自為也；化而使之為我，則莫可得而用矣。是故先王不受祿者不臣，祿不厚者不與入難。人不得其所以自為也，則上不取用焉。 故用人之自為，不用人之為我，則莫不可得而用矣。此之謂因。

The Way of heaven is such that if you "follow" then you will be great, while if you alter then you will be insignificant. To "follow" means to follow the dispositions of people. Among people, no one fails to act for himself. If you [try to] alter them and cause them to act for you, then there will be none whom you can secure and employ. Therefore, the former kings did not use as ministers those who would not accept a salary, and they did not take as partners in difficult endeavors those whose salary was not large. In circumstances where people are not able to act for themselves, those above will not get any use out of them. Therefore, if you make use of people who act for their own benefit rather than those who act for your benefit, then there are none whom you cannot secure and employ. This is what is called following [their dispositions].

[*Shen Dao seems to voice an anticultivation position here, arguing that it is necessary for the ruler to accord with people's dispositions as they are rather than trying to change them. He also implies that actions said to be for the sake of others should be viewed with suspicion. These points are picked up by the* Han Feizi *in a section of chapter 48 that bears the subheading "Following Dispositions," and the* Huainanzi *elaborates on this point in chapter 20.*]

SECTION 3: 民雜 THE PEOPLE ARE MIXED

33–37. 民雜處而各有所能；所能者不同。此民之情也。 大君者大上也，兼畜下者也；下之所能不同而皆上之用也。是以大君因民之能為資，盡苞而畜之，無去取焉。是故不設一方以求於人；故所求者無不足也。大君不擇其下，故足也；不擇其下則易為下矣。易為下則下莫不容，莫不容故多下；多下之謂大上。

The people have various strengths. Each has his own abilities and these abilities are not the same. This is a disposition of the people. A great lord is

the most superlative of all and provides for all people alike. While the abilities of those below are not the same, they can all be used by him. Because of this, the great lord takes people's abilities as his material and does his utmost to embrace and provide for them, not throwing out some while taking in others. Therefore, he does not establish a single method for seeking [things] from people, and so in what he seeks, he is never disappointed. A great lord is not picky about who can be his subject, and so his subjects are sufficient in number. Since he does not turn anyone away, it is easy to become his subject. Since it is easy to become his subject, none are not included. Since none are not included, he has many subjects. Since he has many subjects, he is called a great lord.

[*Intriguingly, Shen Dao does not seem to believe that there is any sort of person who cannot be utilized by the ruler. The task, then, is to figure out how to make use of the particular talents of everyone in his realm.*]

38–41. 君臣之道，臣事事而君無事；君逸樂而臣任勞；臣盡智力以善其事而君無與焉，仰成而已；故事無不治。治之正道然也。人君自任而務為善以先下，則是代下負任蒙勞也；臣反逸矣。故曰：君人者好為善以先下，則下不敢與君爭為善以先君矣。皆私其所知，以自覆掩；有過，則臣反責君；逆亂之道也。

The [proper] Way of the lord and his subjects is such that his subjects engage in work while the lord has no work to do. The lord is leisurely and happy, while the subjects serve and toil. The subjects exhaust their knowledge and power in order to fulfill their tasks excellently, while the lord does not participate in these tasks. He simply nods his approval and that is all. Therefore, there are no tasks that are not well ordered. This is the correct Way of good order. If the lord personally takes on responsibilities and strives to do good in order to outdo his ministers, this is to take the place of his subordinates by taking on their responsibilities and carrying out their labors, and his subordinates will, conversely, be leisurely. Therefore, it is said, "If a lord of men likes to do better than those below, then those below will not dare to compete with their lord by doing better than him." They will all keep what they know to themselves, covering and concealing it. When things go wrong, those below will conversely hold the lord responsible; this is the Way leading to perversity and chaos.

[*The idea here seems to be that dangers arise when the ruler competes with his ministers. It shifts the ministers' focus to outperforming their lord rather than completing their assigned tasks, and it gives them a potential scapegoat if things go wrong.*]

42–45. 君之智未必最賢於眾也。以未最賢而欲以善盡被下，則不贍矣。若使君之智最賢，以一君而盡贍下則勞；勞則有倦，倦則衰，衰則復反於不贍之道也。是以人君自任而躬事，則臣不事事矣。是君臣易位也；謂之倒 逆。倒逆則亂矣。人君任臣而勿自躬，則臣皆事事矣。是君臣之順，治亂之分，不可不察也。

The wisdom of the lord is not necessarily the greatest among the people. If his wisdom is not the greatest and yet he wants to use his goodness to completely shelter those below, he will be incapable of succeeding. Even if we were to suppose that the lord's wisdom was the greatest, if as a single lord he were to completely provide for those below, then he would have to toil laboriously. If he were to toil laboriously, then he would be wearied. If wearied, then he would be enfeebled. If enfeebled, then he would again return to the Way of being incapable of taking care of [those below]. Therefore, if the lord takes on responsibility himself and personally carries out tasks, then his subjects will not pursue their affairs. This is to change the position of lord and minister and is called inversion and perversity. If there is inversion and perversity, then there will be chaos. If the lord of men delegates responsibility to his ministers and does not personally take on their tasks, then his ministers will all pursue their affairs. This is the proper arrangement between lord and minister, and the difference between order and chaos, and it is essential that this be examined.

[*Recognizing that there is no reason to believe that a hereditary ruler will have any particular talents or capacities, Shen Dao here counsels him not to rely upon himself but rather take advantage of the myriad talents available to him and situate them in a bureaucratic system that can then run efficiently regardless of the ruler's talents. At the same time, Shen Dao shows an awareness of the problems in another potential way of solving this problem, that of relying on the independent talents of his ministers. Given the dispositions discussed in section 2, ministers cannot be counted on to act in the best interests of the state unless a*

bureaucratic system is in place that necessitates that they do. These points about delegating authority are picked up in a variety of texts, including the Xunzi *and* Han Feizi*, though they are developed in a range of different directions.*]

SECTION 4: 知忠 UNDERSTANDING LOYALTY

46–48. 亂世之中，亡國之臣，非獨無忠臣也；治國之中，顯君之臣，非獨能盡忠也。治國之人，忠不偏於其君；亂世之人，道不偏於其臣；然而治亂之世，同有忠道之人。臣之欲忠者不絕世，而君未得寧其上也；無遇比干、子胥之忠而主君毀瘁於闇墨之中，遂染溺滅名而死。

It is not only in chaotic ages or among the ministers of failed states that we find a lack of loyal ministers. It is not only in well-ordered ages or among the ministers of eminent lords that we can find complete loyalty. The loyalty of people in a well-ordered age is not particularly directed toward their ruler. The morality of people in a chaotic age is not particularly directed toward their ministers. Nevertheless, in both well-ordered and chaotic ages, we find loyal and moral people. Ministers who desire to be loyal exist in every generation and yet lords have never yet been able to be secure in their position. Even if rulers encounter those with the loyalty of Bi Gan or Zixu, if they are dissolute and lost in darkness, they will be infected with self-indulgence, ruin their reputation, and be killed.[4]

[*Bi Gan was the uncle of the tyrant Zhou, the corrupt last ruler of the Shang dynasty. Irritated by Bi Gan's continual exhortations to change his ways, Zhou had him eviscerated (in one account Zhou explained his actions as arising from an interest in learning whether a sage's heart had seven orifices). Zixu refers to Wu Zixu* 伍子胥*, a minister of the Spring and Autumn Period who served Fuchai* 夫差*, the last king of the state of Wu* 吳*. After making a recommendation that the king did not like, he was ordered to commit suicide. Because of their failure to heed the recommendation of their advisers, both rulers lost their empires and ended up committing suicide.*

Throughout Chinese history Bi Gan and Zixu have been held up as paradigms of loyalty willing to make the ultimate sacrifice. It is interesting to note, though, how different social and political theorists react differently to the ineffectiveness of these ministers' loyalty. In the Lunyu*,* Mengzi*, and* Xunzi*, they*

are held up as models to be emulated, even if they are ultimately unsuccessful. There are often circumstances beyond the control of the virtuous, these Confucian thinkers acknowledge, and so what individuals should focus on is what they can control—namely, their own virtue and moral cultivation. Shen Dao, however, examines these situations and their import from a political rather than moral perspective, noting the general ineffectiveness of loyalty as a political tool.]

49–51. 由是觀之，忠未足以救亂世，而適足以重非。何以識其然也？曰：父有良子，而舜放瞽叟；桀有忠臣，而過盈天下。然則孝子不生慈父之家，而忠臣不生聖君之下。故明主之使其臣也，忠不得過職，而職不得過官；是以過脩於身而下不敢以善驕矜。

Looking at it from this perspective, "loyalty" is insufficient to rescue a disordered age and has the tendency to exacerbate what is wrong. How can this be seen to be so? They say,

> Gu Sou had a good son, but Shun banished him.
> Jie had loyal ministers, but his transgressions filled up all under heaven.

This being so, filial children do not arise only in families with loving parents, and loyal ministers do not arise only as the subordinates of sagely lords. Therefore, in employing ministers, the enlightened ruler ensures that their loyalty does not exceed their responsibilities and their responsibilities do not exceed their positions, and so they will be liable for any excess. As such, his subjects will not dare to be conceited and arrogant on account of their goodness.

[*This passage raises several distinct ideas and illustrates them through examples. The first example seeks to illustrate that loyalty itself is not sufficient to put in order a disordered world. The sage-king Shun's father was a notoriously evil person who tried to kill Shun on multiple occasions. However, Shun's remarkable loyalty and filiality led him to treat his father with great respect and deference, allowing his father to beat him and running away only when his father was expressly trying to kill him. However, in the end, Shun is forced to banish his father, demonstrating, on Shen Dao's account, that even with such*

loyalty on Shun's part, his father is still bad (or perhaps even that Shun's laxity with his father damaged their relationship rather than reinforcing it). Acting from loyalty led to a situation in which Shun had no option but to banish his father, demonstrating that virtue is insufficient for rectifying disorder in the family. The second example is clearer, demonstrating that loyalty among Jie's ministers actually allowed him to create more chaos and disorder than he otherwise could have done.

Shen Dao also seems to be responding to those who might claim that loyalty among ministers naturally occurs when a virtuous ruler is present. His point is that there is no necessary relationship between the moral qualities of the ruler (or the parent) and the loyalty of his ministers (or children). If this is the case, then something else needs to guide their actions if the state is to survive.]

52. 守職之吏，人務其治而莫敢淫偷其事，公正以敬其業，和順以事其上；如此則至治已。

Officials who maintain their responsibilities all devote themselves to ordering [their tasks] and none dare to be licentious or indolent with regard to their duties. They are public minded and upright and show respect for their occupation and are harmonious and submissive in serving their superior; this is the way to achieve the ultimate in good order.

53–56. 亡國之君，非一人之罪也；治國之君，非一人之力也。將治亂在乎賢使任職，而不在於忠也。故：智盈天下，澤及其君；忠盈天下，害及其國。故桀之所以亡，堯不能以為存；然而堯有不勝之善，而桀有運非之名；則得人與失人也。故廊廟之材，蓋非一木之枝也；狐白之裘，蓋非一狐之皮也。治亂安危存亡榮辱之施，非一人之力也。

Being lord of a failed state is not the fault of a single person. Being lord of a well-ordered state is not due to the strength of a single person. Bringing order to disorder rests in worthy officials' holding governmental positions and does not rest in loyalty. Therefore,

When wisdom pervades the empire, its benefit extends to the lord.
When loyalty pervades the empire, its harm extends to the whole state.

Thus, that which caused Jie's downfall is not something that Yao could have survived, and yet Yao had unsurpassable goodness, while every bad action was attributed to Jie. So, [what really matters is whether one] secures or loses the right people. Hence, the timber for the imperial court does not all come from the branches of a single tree, and a white fur coat does not come from the pelt of a single fox. The conferring of order or disorder, security or danger, survival or destruction, glory or dishonor are not due to the strength of a single person.

[*This passage seems to indicate once again that it is wrong to think of the ruler as the most important component of the state. Rather, it is necessary to have many components—just as when building the imperial court a variety of materials have to be brought together and utilized correctly, so too is this necessary when constructing a political organization.*

The reference to the fox pelt is to the fact that a fox has white fur only on its neck and where its legs join its body, and so the fur from many foxes is necessary to create a white fur coat. The implication again is that if one wishes to create an ordered state, it is necessary to employ the talents of many individuals.

It is interesting that Shen Dao seems to indicate more awareness than the later Han Fei about the importance of individual people.]

SECTION 5: 德立 POTENCY ESTABLISHED

57. 立天子者，不使諸侯疑焉；立諸侯者，不使大夫疑焉；立正妻者，不使嬖妾疑焉；立嫡子者，不使庶孽疑焉。疑則動，兩則爭，雜則相傷；害在有與，不在獨也。

When establishing the son of heaven, one cannot allow the feudal lords to raise doubts.[5] When establishing the feudal lords, one cannot allow the senior officials to raise doubts. When establishing one's principal wife, one cannot allow one's concubines to raise doubts. When establishing one's heir, one cannot allow the sons of one's concubines to raise doubts. If there are doubts, then they will make a move for it. If there are two possible candidates, then there will be contention. If things are mixed up, then there will be mutual injury. Harm lies in sharing with others; it does not lie in keeping things exclusive.

58–60. 故臣有兩位者，國必亂。臣兩位而國不亂者，君猶在也。恃君而不亂矣；失君必亂。子有兩位者，家必亂。子兩位而家不亂者，親猶在也。恃親而不亂；失親必亂。臣疑其君，無不危之國；孽疑其宗，無不危之家。

Therefore, if among ministers two claim the position [of responsibility for some matter], the state will certainly be disordered. If two ministers claim control and the state is not disordered, it is because the lord is still present. If the lord is relied upon, then there will not be disorder, but if the lord is lost, there will certainly be disorder. If among sons, two claim to lead the family, the family will certainly be disordered. If two sons claim this position and the family is not disordered, it is because the parents are still present. If the parents are relied upon, then there will not be disorder, but if the parents are lost, there will certainly be disorder. Among situations where ministers raise doubts about their rulers, no state can avoid danger. Among situations where the son of a concubine raises doubts about the legitimacy of the line, no clan can avoid danger.

[*Again Shen Dao emphasizes a hierarchy in which everyone has their allotted position and that they should not encroach on that of others. He also makes clear that these hierarchical relationships should exist beyond the purely political realm and into realms that we usually think of as personal. For him, anything that can affect the political needs to be brought under control.*

Such a view is not limited to those like Shen Dao and Han Fei who focus on legal and administrative techniques. Rather, it is seen as well in the Mozi*, particularly in chapter 11, and throughout the* Xunzi*. However, Xunzi has the added task of explaining why, while this hierarchy is important, it is also important for ministers to remonstrate with those above them rather than simply according with their superiors.*

Note as well that while it is not explicitly brought up, Shen Dao may wish the reader to recall his discussion in section 3 of the perils of the ruler's exhausting himself by doing too much. If this is the case, then an implication would be that while the state or family is not disordered while the ruler or parents are present, this order is tenuous and leads to exhaustion.]

SECTION 6: 君人 THE LORD AND HIS PEOPLE[6]

61–65. 君人者，舍法而以身治，則誅賞奪與從君心出矣。然則受賞者雖當，望多無窮；受罰者雖當，望輕無已。 君舍法而以心裁輕重，則是同功殊賞，同罪殊罰也；怨之所由生也。 是以分馬者之用策，分田者之用鉤也，非以鉤策為過人智也；所以去私塞怨也。故曰：大君任法而弗躬為，則事斷於法矣。法之所加，各以其分蒙其賞罰， 而無望於君也。是以怨不生而上下和矣。

When the lord of the people abandons the law and relies on himself to govern, then punishments and rewards as well as firings and hirings will arise out of the lord's heart. If this is the case, then those who receive rewards, even if appropriate, will always expect more, and those who receive punishments, even if appropriate, will ceaselessly expect leniency. When the lord abandons the law and relies on his heart to make judgments about severity, then the same accomplishments will have different rewards while the same crimes will receive different punishments. It is from this that resentment arises. Thus, those who apportion horses draw lots, while those who apportion fields cast coins. It is not because coins or lots are wiser than men, but rather they are the means by which to get rid of private interests and block resentment. Therefore it is said,

> Since a great lord employs the laws and does not personally act, affairs are decided by the law.

That which the law confers is such that each by means of its divisions receives their rewards and punishments and none expect [anything different] from their lord. Therefore, resentment does not arise and there is harmony between superior and subjects.

[*It is intriguing that Shen Dao sees resentment and expectations as arising only in situations where emotions and subjectivity are in play. Removal of these and replacement of a fixed system, regardless of its content, is seen to alleviate these instigators of disorder. Note too the resonances with fragments 23–24.*]

SECTION 7: 君臣 THE LORD AND HIS MINISTERS

66–67. 為人君者不多聽；據法倚數以觀得失。無法之言，不聽於耳；無法之勞，不圖於功；無勞之親，不任於官；官不私親，法不遺愛；上下無事，唯法所在。

One who is lord of the people does not listen to the voices of many. He depends on the law and relies upon quantitative techniques in order to assess success and failure.[7] As for words that are not in accordance with the law, he does not open his ears to them. As for labors that are not in accordance with the law, he does not reckon them as accomplishments. As for relatives who do not labor hard, do not employ them in office. In regard to offices, show no preference to relatives. In regard to the law, grant no favor to those you care for. There is nothing done by those above or below that is not in accordance with the law.

SECTION 8: FRAGMENT FROM THE *ZHANG ZHAN COMMENTARY TO THE "LIEZI"*[8]

68. 治水者，茨防決塞，雖在夷，貊，相似如一；學之於水，不學之於禹也。

Those who work to control water build up dikes and undo blockages. Even among the Yi and Mo, the methods are similar. [These methods] are learned from water, they are not learned from Yu.

[*The Yi and Mo were non-Chinese groups from beyond the frontier borders that were considered barbarians for they lacked the culture and customs of the Zhou empire. According to legend, the great sage-king Yu was the third of the mythical sage-kings after Yao and Shun. He founded the Xia dynasty and is traditionally taken to have ruled between 2205* B.C.E. *and 2197* B.C.E. *He was lauded for introducing flood control by means of dikes and dams and using the propensity of water to flow to the low places to drain already flooded areas.*]

SECTION 9: FRAGMENT FROM THE *TEXTUAL EXPLANATIONS OF CLASSICS AND CANONS*[9]

69. 田駢名廣。

Tian Pian's personal name was Guang.

[*Little is known about Tian Pian, though he appears to have been a member of the Jixia Academy.* The Grand Scribe's Records *mentions him as a contemporary of Shen Dao's from the state of Qi and the author of a book on political thought who had political views similar to those of Shen Dao. Unfortunately all that remain of his ideas are a few fragments and scattered references.*]

SECTION 10: FRAGMENT FROM THE *TRANSCRIPTIONS FROM THE BOOKS IN THE NORTHERN HALL*[10]

70. 折券契，屬符節，賢不肖由之；物以此得而不託於信也。

As for breaking contracts into halves and joining together the halves of tallies, both the worthy and the unworthy follow these [procedures]. Things can be obtained in this manner without relying upon trust.

[*Contracts and agreements in ancient China were written on wood or bamboo and then broken in two, with each party keeping one-half of the agreement as proof. They could only be read when reunited, and thus it was impossible for one party to alter or forge the contract. Xunzi also discusses the use of tallies, in chapter 12, but argues that such procedures are ineffective without a virtuous individual to implement them.*]

SECTION 11: FRAGMENTS FROM THE *CATEGORIZED COLLECTION OF LITERARY WRITING*[11]

71. 離朱之明，察毫末於百步之外；下於水，尺而不能見淺深；非目不明也；其勢難覩也。

Li Zhu's clarity of vision was such that he could see the tip of a hair beyond a hundred paces. But if something were submerged in even a foot of water, he would not be able to tell how shallow or deep it was. It is not that his eyes are not keen, it is that the circumstances make it difficult to see.

[*Also known as Li Lou* 離婁*, Li Zhu is frequently mentioned in early Chinese texts such as the* Mengzi *and the* Han Feizi *for his acute vision.*]

72. 堯讓許由，舜讓善卷；皆辭為天子而退為匹夫。

Yao offered to abdicate to Xu You, Shun offered to abdicate to Shan Juan. But they both declined to become the son of heaven and withdrew to become simple men.

[*Little is known about Xu You and Shan Juan beyond what is described here. Chapter 12 of the* Zhuangzi *opens with a depiction of the events described here, and both figures are mentioned in chapter 25 of the* Xunzi.]

73. 故蓍龜，所以立公識也；權衡，所以立公正也；書契，所以 立公信也；度量，所以立公審也；法制禮籍，所以立公義也。凡立公，所以棄私也。

Therefore, milfoil and tortoise shell divination are how decisions are recorded publicly. Balance weights and beams are how true weight is established publicly. Documents and contracts are how trust is established publicly. Standardized measurements are how length and volume are determined publicly. Laws, institutions, rituals, and documents are how norms are set up publicly. In all these cases, establishing public standards is the means by which private interests are eliminated.[12]

[*Xunzi perhaps has ideas such as this in mind as his target in the opening passage of chapter 12 where he emphasizes that the effective implementation of rules and norms is dependent upon having a virtuous individual in a position of power.*]

74. 禮從俗，政從上，使從君。

Rituals should follow customs; governing should follow superiors; officials should follow their lord.

75–77. 法之功，莫大使私不行；君之功；莫大於使民不爭。今立法而行私，是私與法爭；其亂甚於無法。立君而尊賢，是賢與君爭；其亂甚於無君。故有道之國，法立則私善不行，君立則賢者不尊；民一於君，事斷於法，國之大道也。

Among the achievements of the law, none are greater than causing private interests to not be pursued. Among the achievements of the lord, none are greater than causing the people to not quarrel. Now, establishing the law and yet still pursuing private interests leads to conflict between the private and the law, and the chaos of this is greater than if there were no laws at all. Establishing a lord and yet still revering the worthies leads to conflict between worthies and lords, and the chaos of this is greater than if there were no lord at all. Therefore, in states that have the Way, when the law is established, then private goodness will not be pursued. When a lord is established, then worthies will not be revered. People are united under the lord and affairs are decided by the law—this is the great Way of the state.

78–79. 故治國，無其法則亂；守法而不變則衰；有法而行私，謂之不法。以力役法者，百姓也；以死守法者，有司也；以道變法者，君長也。

Thus, if in ordering a state, one were to do away with its laws, then there would be chaos; if its laws were to be preserved and not modified, then it would decline; if it were to have its laws but allow private interests to manifest themselves, then this is called not abiding by the law. Those who are willing to exert themselves to serve the law are those of the hundred surnames. Those who are willing to lay down their lives in service of the law are the officials. Those who change the laws in accordance with the Way are the lords and chiefs.

[*This passage seems to parallel ideas raised in sections 5 and 7.*]

SECTION 12: FRAGMENTS FROM THE *CORRECT INTERPRETATION OF THE "BOOK OF DOCUMENTS"*[13]

80. 蒼頡在庖犧之前。

Cang Jie lived before Pao Xi.

[*Cang Jie was the mythical creator of the Chinese writing system. This is perhaps the earliest textual reference to Cang Jie. In later texts, he is said to have been the scribe of the Yellow Emperor and to have come up with the idea*

for the Chinese writing system by looking at the footprints of birds in the sand. According to legend, Pao Xi, also known as Fu Xi 伏羲*, created the eight trigams (*八卦*) after observing the patterns of heaven and earth. It is unclear, however, whether this creation was attributed to him during Shen Dao's time. While Fu Xi appears in texts like the* Zhuangzi*, it is only as one of the sagely rulers of the past.*]

81. 為毳者患塗之泥也。

The reason one makes mud boards is because one suffers from mud on the roads.

[*This fragment may perhaps be usefully compared with fragment 103.*]

SECTION 13: FRAGMENT FROM *LI XIAN'S COMMENTARY ON THE "HISTORY OF THE LATER HAN"*[14]

82. 一兔走街，百人逐之；非一兔足為百人分也，由未定分也。分未定，堯且屈力而況眾人乎？積兔滿市，過者不顧；非不欲兔也，分已定矣。分已定，人雖鄙不爭。故治天下及國，在乎定分而已矣。

If a rabbit runs through the streets, a hundred people will pursue it. This is not because a single rabbit is sufficient to be divided among a hundred people but rather because its allotment has not yet been determined. When allotments have not yet been determined, even Yao would exhaust his strength [to attain it], and even the more so for the masses. If piles of rabbits fill the market, and people pass by without turning their heads, it is not because they do not desire rabbits [but rather because] the allotment has already been decided. When allotment has already been decided, then people, even if they are base, will not contend with one another. Therefore, governing all under heaven and the state rests in making allotments and that is all.

[*Shen Dao is not alone in the early Chinese tradition in focusing on the importance of divisions and allotments for political order. This emphasis is seen not only among other Legalist thinkers but also prominently in Xunzi's political philosophy. What is particularly interesting about this passage, however, is*

how it could be read as denying any role for morality in organizing and ordering the state. Note also that a version of this passage appears in book 17 of the Lüshi Chunqiu.]

SECTION 14: FRAGMENTS FROM *LI SHAN'S COMMENTARY TO THE "SELECTIONS OF REFINED LITERATURE"*[15]

83. 獸伏就穢。

When animals seek cover, they enter the weeds.

84. 夫德精微而不見，聰明而不發。是故外物不累其內。

Potency is refined and abstruse but is not manifested, keen and clear but does not come forth. Because of this, external things do not wear out one's inner qualities.

[*This fragment can perhaps be usefully compared with section 3, with its exhortation to the ruler not to exhaust himself.*]

85. 世高節士。

The world esteems those who are disciplined.

86. 夫道所以使賢，無奈不肖何也；所以使智，無奈愚何也。若此則謂之道勝矣。

The Way is the means by which one employs the worthy. It has no use for the lowly. It is the means by which one employs the wise. It has no use for the foolish. When one conforms to this, then the Way will be triumphant.

[*The idea seems to be that the Way is not about how to employ base and stupid people in government, because they do not belong in it at all.*]

87. 道勝則名不彰。

When the Way is triumphant, one's reputation is not ornamented.

88. 趨事之有司，賤也。

Those officials who frenetically pursue their duties are undistinguished.

[*Compare with fragments 17–18 and the idea that officials should not be overworked.*]

89. 臣下閉口，左右結舌。

Lesser officials close their mouths, and attendants tie their tongues.

90. 久處無過之地，則世俗聽矣。

If you long reside in a place where there are no transgressions, then you will come to know the customs of your age.

91. 昔周室之衰也，厲王擾亂天下，諸侯力政，人欲獨行以相兼。

Formerly, during the decline of the house of Zhou, King Li brought trouble and chaos to all under heaven, the feudal lords governed by means of force, and the people desired to act as if there were no hierarchy and annex one another's land.

[*King Li of Zhou is depicted in historical accounts as being a particularly decadent and corrupt ruler. Forced into exile after a rebellion by soldiers and peasants, he died in 828* B.C.E.]

92. 眾之勝寡，必也。

The many triumph over the few, this is a certainty.

93–94.[16]

SECTION 15: FRAGMENT FROM THE *RECORDS FOR EARLY LEARNING*[17]

95. 魯莊公鑄大鐘，曹劌入見曰：今國褊小而鐘大，君何不圖之。

While Duke Zhuang of Lu was casting a great bell, Cao Gui entered to have an audience and said, "Now the state is small while the bell is large, why do you not consider this?"

[*Duke Zhuang is thought to have ruled the state of Lu from 693* B.C.E. *to 662* B.C.E. *Cao Gui was a wandering scholar whom the duke put in charge of Lu's troops in order to repel an attack by Duke Huan of Qi. Given the lack of*

context, it is unclear whether Cao Gui is criticizing the expense of the bell or the fact that Duke Zhuang may be violating a sumptuary regulation.]

SECTION 16: FRAGMENTS FROM THE *FOREST OF IDEAS*[18]

96. 小人食於力；君子食於道。

Commoners sustain themselves by means of efforts. The gentleman sustains himself by means of the Way.

97. 詩，往志也；書，往諆也；春秋，往事也。

The *Odes* are past aspirations; the *Documents* are past pronouncements; the *Spring and Autumn Annals* are past affairs.

[*The* Odes *and the* Documents *have long been considered classic repositories of wisdom. The* Odes *was a collection of rhymed poems regarded as having allusive and allegorical messages, while the* Documents *purported to contain the judgments of important historical figures. The* Spring and Autumn Annals *is the generic name for the court chronicles of various states, the title referring to the passage of time.*]

98. 兩貴不相事，兩賤不相使。

Two who are equally honored cannot serve each other. Two who are equally lowly cannot employ each other.

[*This passage is remarkably similar to a passage in chapter 9 of the* Xunzi *where this fact is attributed to the heavenly order of things. It may also be seen as advocating clear hierarchical distinctions of the sort defended in section 5 and elsewhere.*]

99. 家富則疏族聚，家貧則兄弟離；非不相愛，利不足相容也。

When a family is rich, then distant relatives will gather together. When a family is poor, then brothers will separate. It is not because they do not care for one another; it is because profits are not sufficient to accommodate them both.

100. 諺云：不聰不明，不能為王；不瞽不聾，不能為公。

A proverb says,

If one's hearing is not keen and one's eyesight not clear, one cannot be a king.

If one is not blind and deaf, then one cannot be public minded.

[*The blindness and deafness here should be taken figuratively rather than literally. Note that this passage rhymes in the original.*]

101. 海與山爭水，海必得之。

When the sea and the mountains fight over water, the sea will certainly win.

102. 有權衡者，不可欺以輕重；有尺寸者，不可差以長短；有法度者，不可巧以詐偽。

When a balance weight and beam are employed, cheating with respect to weight is impossible. When rulers are employed, discrepancies with respect to length are impossible. When laws and standards are employed, swindling by deception and fraud is impossible.

103. 匠人成棺，不憎人死；利之所在，忘其醜也。

When a craftsman completes a coffin, he does not dislike the fact that people die; where there is profit, odiousness is forgotten.

104–105. 藏甲之國必有兵道。市人可驅而戰；安國之兵不由忿起。

States that store up armor will certainly follow the Way of war. While the ordinary people in the marketplace can be driven to fight, the troops of a secure state do not allow their anger to lead their actions.

SECTION 17: FRAGMENTS FROM THE *YANG LIANG COMMENTARY ON THE "XUNZI"*[19]

106. 勁而害能則亂也；云能而害無能則亂也。

If those with strength harm those with ability, then there will be chaos. If those who are said to have ability harm those who lack ability, then there will be chaos.

107. 棄道術，舍度量，以求一人之識識天下，誰子之識能足焉。

If one discards the Way and [its proper] techniques and gives up standards and measurements, seeking to understand all under heaven through the understanding of one man, whose understanding could be sufficient for this?

108. 有虞之誅，以畫詭當黥，以草纓當劓，以履菲當刖，以艾韠當宮，布衣無領當大辟。此有虞之誅也。

The punishments of Emperor Shun employed the painting of strange designs on the face to represent [the punishment of] tattooing, used grass tassels to represent [the punishment of] the cutting off of the nose, used [the wearing of] grass sandals to represent [the punishment of] foot amputation, used the cutting of one's leather apron to represent [the punishment of] castration, and used collarless cloth shirts to represent capital punishment. These were the punishments of Emperor Shun.

[*We see a criticism of such a characterization of Emperor Shun in chapter 18 of the* Xunzi. *It should be read with fragment 116 in mind.*]

109. 多賢，不可以多君；無賢，不可以無君。

Even if there are many worthies, there cannot be many lords. Even if there are no worthies, there must be a lord.

[*This fragment recalls Shen Dao's argument in section 5 for why hierarchy is essential.*]

SECTION 18: FRAGMENT FROM MR. BAI'S COLLECTION OF CLASSIFIED ITEMS UNDER SIX HEADINGS[20]

110. 河下龍門，其流駛如竹箭；駟馬追之，不能及。

Where the Yellow River flows through the Dragon Gate, its current flows as quickly as a bamboo arrow [in flight]; even if a team of four horses were to chase it, they could not catch up.

[*The Dragon Gate is the name of a set of very narrow gorges and waterfalls on the Yellow River. According to legend, these gorges were carved into the mountains by the sage-king Yu in order to provide an outlet for the water and*

relieve flooding. It received its name because any fish able to swim against the current through the gorges was said to turn into a dragon.]

SECTION 19: FRAGMENTS FROM THE *IMPERIAL DIGEST OF THE TAIPING REIGN PERIOD*[21]

111. 昔者，天子手能衣而宰夫設服，足能行而相者導進，口能言而行人稱辭；故無失言失禮也。

In the past, the son of heaven could dress himself, but his chamberlains arrayed his robes. His feet were capable of walking, but his prime minister led him forward. His mouth could speak, but his intermediaries announced his words. Therefore he was without error in speech and without error in ritual.

[*The opening of chapter 24 of the* Xunzi *includes very similar lines and develops the ideas seen here.*]

112. 有勇不以怒，反與怯均也。

Those who possess bravery do not act in anger but on the contrary [appear to be] the same as those who are timid.

113. 國有貴賤之禮，無賢不肖之禮；有長幼之禮，無勇怯之禮；有親疏之禮，無愛惡之禮也。

States have rituals governing treatment of the honored and the lowly but lack rituals governing the treatment of the worthy and the unworthy. They have rituals governing the treatment of the old and young but lack rituals governing treatment of the courageous and the timid. They have rituals governing treatment of close and distant relatives but lack rituals governing treatment of those cared about and those loathed.

[*This is a rare mention of ritual in these fragments, and while it is the most expansive, the thrust of the fragment is still not fully clear. The point of the distinction may be that the honored and the lowly are officially recognized social positions and thus have rituals associated with them. The worthy and the unworthy, however, are not official social positions, perhaps because such distinctions refer to their levels of intelligence or morality. The same, then,*

would go for the other distinctions. On this reading, the point is that in assessing people's intelligence, courage, likeability, and so forth, ritual should work off of socially recognized and recognizable standards rather than following the subjective attitudes and feelings of a ruler. As a result, rituals become more like the laws that Shen Dao praises.][22]

114. 公輸子巧用材也，不能以檀為瑟。

Gongshuzi was skillful at working with wood, but [even] he could not turn the wood of a spindle tree into a zither.

[*Gongshuzi was a highly skilled artisan, often referred to in conjunction with the keen-sighted Li Zhu, whom we saw in fragment 71. However, even one as skilled as he could not turn the tough wood of the spindle tree into a zither. This fragment may well hark back to the warning in section 2 that success is possible only by following the qualities of whatever is being manipulated. There is an interesting parallel between this fragment and the* Lunyu *5.10, where Kongzi, in reference to a particularly unworthy student, says, "Rotten wood cannot be carved, and a wall of dung cannot be plastered."*]

115. 孔子曰：丘少而好學，晚而聞道；以此博矣。

Kongzi said, "When I was young, I enjoyed studying, but only later in life did I hear the Way. This was how I became widely learned."

[*This fragment parallels the description of Kongzi in chapter 14 of the* Zhuangzi. *There, he is depicted as searching for the Way and, in doing so, seeking an audience with Laozi when he was fifty-one. Compare as well with Kongzi's intellectual autobiography from the* Lunyu *2.4.*]

116. 孔子云：有虞氏不賞不罰；夏后氏賞而不罰；殷人罰而不賞；周人賞且罰。罰，禁也；賞，使也。

Kongzi said, "Emperor Shun neither rewarded nor punished. The Xia dynasty rewarded but did not punish. The Shang dynasty punished but did not reward. The Zhou dynasty rewarded and moreover punished."[23] Penalties are to prohibit. Rewards are to induce.

[*Compare with the ideas in fragment 108.*]

117. 斬人肢體，鑿其肌膚，謂之刑；畫衣冠，異章服，謂之戮。上世用戮而民不犯也；當世用刑而民不從。

Chopping limbs from the body and skewering the skin and muscle are called punishment. Drawing [designs] on clothing or cap and altering ceremonial garments are called humiliation. In early generations, humiliation was employed and people did not transgress. In current times, punishment is employed but the people do not obey.

118. 燕鼎之重乎千鈞，乘于吳舟則可以濟；所託者，浮道也。

A cauldron from the state of Yan weighs several tons,[24] but if it is loaded in a boat from the state of Wu, then it can be transported. What it relies upon is the Way of flotation.

119. 行海者坐而至越，有舟也；行陸者立而至秦，有車也。秦、越遠途也；安坐而至者，械也。

Those who travel by sea can sit and reach the state of Yue, because they use a boat. Those who travel by land can stand and reach the state of Qin, because they use a chariot. Qin and Yue are far away, so how can one get there by sitting? It is because one has a vehicle.

[*The state of Yue was the state furthest south and was used as a trope for the nether regions, while the state of Qin was a landlocked state and thus inaccessible by boat. These states were on the southern and western edges of the Chinese political sphere, respectively, and thus quite far away from Shen Dao, particularly if he were writing at the Jixia Academy in the eastern state of Qi.*]

120. 措鈞石，使禹察錙銖之重，則不識也。懸於權衡，則氂髮之不可差；則不待禹之智；中人之知，莫不足以識之矣。

If you are dealing with something weighing several tens of pounds and ask Yu if you are off by a fraction of an ounce, even he would not be able to tell.[25] But if you suspend it by means of balance weight and beam, then you will not be off by so much as a hair. Thus, one does not need to rely upon the intelligence of a Yu. Rather, the intelligence of average people is sufficient to know this.

121. 君臣之間，猶權衡也。權左輕則右重，右輕則左重　。輕重迭相慨。天地之理也。

The relationship between lords and ministers is like that of a balance weight and beam. When the weight is lighter on the left, it is heavier on the right. When it is lighter on the right, it is heavier on the left. Light and heavy alternate in restraining each other. This is the pattern of heaven and earth.

122. 飲過度者生水；食過度者生貪。

Drinking an excessive amount gives rise to water. Eating an excessive amount gives rise to gluttony.

SECTION 20: FRAGMENT FROM THE *LIBRARY OF THE CLOUDS IN SEVEN SUBDIVISIONS*[26]

123. 晝無事者，夜不夢。

If nothing [important] happens during the day, then one will have no dreams at night.

APPENDIX

Conversion and Finding Chart

As noted elsewhere, the ordering of this translation is based upon P. M. Thompson, *The Shen Tzu Fragments*. Since the most useful Chinese edition of the text, Xu Fuhong 許富宏, *Shenzi jijiao jizhu* 慎子集校集注, orders the text differently, however, this finding chart has been included to aid in checking multiple versions of the original text.

Both Thompson and Xu follow the convention of previous editors of the fragments by placing those fragments found in the *Qun shu zhiyao* first. In that text, the fragments are grouped under seven headings, as listed below. Thompson numbers these fragments, while Xu does not, and so in the following list, I refer to the location in Xu's edition by page number. For the remaining material, which Xu numbers, the finding chart shows which numbered fragments in Xu correspond to those in Thompson. As Xu does not follow Thompson's convention of breaking the fragments down into "minimal rhetorical units," there are times when more than one of Thompson's numbered fragments are considered by Xu to be a single fragment.

	THOMPSON	XU
威德	1–27	pp. 1–23
因循	28–32	pp. 24–28
民雜	33–45	pp. 29–38

	THOMPSON	XU
知忠	46–56	pp. 39–46
德立	57–60	pp. 47–51
君人	61–65	pp. 52–55
君臣	66–67	pp. 56–58
逸文	68	47
	69	44
	70	12
	71	10
	72	11
	73	p. 18 (in 威德)
	74	4
	75	5
	76	5
	77	5
	78	21
	79	21
	80	41
	81	42
	82	22
	83	28
	84	29
	85	49
	86	30
	87	31
	88	32
	89	33
	90	34
	91	35
	92	36
	93?	48
	94?	48
	95	13

THOMPSON	XU
96	46
97	37
98	38
99	39
100	3
101	3
102	7
103	27
104	40
105	40
106	24
107	25
108	8
109	26
110	6
111	9
112	45
113	4
114	14
115	15
116	16
117	8
118	18
119	1
120	2
121	19
122	20
123	43

Notes

INTRODUCTION

1. The most detailed examination of the authenticity of the various fragments that have been attributed to Shen Dao in any language is P. M. Thompson, *The "Shen Tzu" Fragments* (Oxford: Oxford University Press, 1979).
2. The few Western articles dealing with Shen Dao's thought include Soon-ja Yang, "Shen Dao's Own Voice in the *Shenzi* Fragments," *Dao: A Journal of Comparative Philosophy* 10, no. 2 (2011): 187–207, doi: 10.1007/s11712-011-9212-7; Soon-ja Yang, "Shen Dao's Theory of *fa* and His Influence on Han Fei," in *Dao Companion to the Philosophy of Han Fei*, ed. Paul R. Goldin, 47–63 (New York: Springer, 2013); Vitali Rubin, "Shen Tao and Fa-chia," *Journal of the American Oriental Society* 94, no. 3 (1974): 337–46, doi: 10.2307/600068. There is more work done in Asian languages, though even there he has generally been undervalued. The fullest accounts include Chen Fu 陳復, *Shenzi de sixiang* 愼子的思想 (Taipei: Tangshan chubanshe, 2001); Liu Zehua 劉澤華, *Zhongguo zhengzhi sixiangshi, xian Qin juan* 中國政治思想史，先秦卷 (Hangzhou: Zhejiang renmin chubanshe, 1996), 270–84; Xu Fuhong 許富宏, *Shenzi jijiao jizhu* 愼子集校集注 (Beijing: Zhonghua shuju, 2013).
3. Qian Mu gives his dates as ca. 350 B.C.E.–ca. 275 B.C.E., while Thompson believes he was born around 360 B.C.E. and either died or left Linzi 臨淄, the capital of the state of Qi 齊, before 285 B.C.E. See Qian Mu 錢穆, *Xian Qin zhuzi xi nian* 先秦諸子繫年 (Beijing: Zhonghua shuju, 1985), 618; Thompson 131.

4. See William H. Nienhauser Jr., ed., *The Grand Scribe's Records, Volume 7: The Memoirs of Pre-Han China* (Bloomington: Indiana University Press, 1994), 183–84; Thompson 127–28.
5. John Knoblock, trans., *"Xunzi": A Translation and Study of the Complete Works; Volume 1, Books 1–6* (Stanford: Stanford University Press, 1988), 55. This general view of the Jixia Academy is shared by a range of scholars, including John Makeham, *Name and Actuality in Early Chinese Thought* (Albany: SUNY Press, 1994), 170; Masayuki Sato, *The Confucian Quest for Order: The Origin and Formation of the Political Thought of Xun Zi* (Leiden: Brill, 2003), 67–70; Robert Eno, *The Confucian Creation of Heaven: Philosophy and the Defense of Ritual Mastery* (Albany: SUNY Press, 1990), 48, 137. For an alternative understanding, which attacks this conception of the nature and role of the Jixia Academy, see Nathan Sivin, "The Myth of the Naturalists," in *Medicine, Philosophy and Religion in Ancient China: Researches and Reflections* (Brookfield, Vt.: Variorum, 1995), 19–21.
6. The term "Huang-Lao" refers to the philosophy of the Yellow Emperor and Laozi. Unfortunately, the vast majority of its texts have been lost, making it impossible to determine its main features and ideas. However, texts associated with Huang-Lao have recently been excavated from tombs in China and may allow us to begin to reconstruct these ideas. See Robin D. S. Yates, trans., *Five Lost Classics: Tao, Huanglao, and Yin-yang in Han China* (New York: Ballantine Books, 1997). *Daode* refers to the *Daodejing*, the text attributed to Laozi.
7. Philip J. Ivanhoe, trans., *The "Daodejing" of Laozi* (Indianapolis: Hackett, 2003), xv.
8. Wei Zheng 魏徵, *Qun shu zhiyao* 群書治要 (Taipei: Shijie shuju, 2011).
9. For a detailed textual history of the *Shenzi*, see Thompson.
10. Henri Maspero, *La Chine antique* (Paris: de Boccard, 1927).
11. Huang Yunmei 黃雲眉, *Gujin weishu kaobuzheng* 古今偽書考補證 (Nanjing: Jinling daxue Zhongguo wenhua yanjiusuo, 1931).
12. Liang Qichao 梁啟超, *Gushu zhen-wei ji qi niandai* 古書真偽及其年代 (Beijing: Zhonghua shuju, 1955).
13. Yu-lan Fung, *A History of Chinese Philosophy, Volume 1: The Period of the Philosophers (from the Beginnings to Circa 100* B.C.*)*, trans. Derk Bodde (Princeton: Princeton University Press, 1952), 159.

14. Thompson 173. It should be noted that by "authenticity," Thompson does not mean "the authentic words of Shen Dao." The precise relationship between Shen Dao and the work that bore his name is not fully clear. What Thompson means is that we have no reason to doubt that the fragments collected come from a manuscript bearing Shen Dao's name that existed around the beginning of the third century B.C.E.
15. It should be noted that there are six quotations attributed to Shen Dao among the "Shanghai Museum Bamboo Strips," a collection of bamboo strips purchased in 1994 by the Shanghai Museum in the Hong Kong antiquities market. This collection of strips is claimed to date to approximately 300 B.C.E. See Ma Chengyuan 馬承源, ed., *Shanghai bowuguan cang zhanguo zhushu (6)* 上海博物館藏戰國楚竹書 (六) (Shanghai: Shanghai guji chubanshe, 2007), 273–82. I have not included these strips in this volume for a variety of reasons. There is still widely divergent speculation as to the exact meaning of the characters inscribed on the bamboo slips. Different scholars believe that they correspond to quite different Chinese characters. Further, none of the interpretations of these six fragments that arise from any of the proposed transcriptions provide us with material that would affect the general line of interpretation put forward here. Another worry is that there has been no independent verification of the authenticity of the Shanghai Museum Bamboo Strips. For a list of works analyzing these fragments, see Xu, *Shenzi jijiao jizhu*, 117–18.
16. While Thompson included a translation in his PhD dissertation at the request of his committee (see Paul Mulligan Thompson, "The *Shen-Tzu* Fragments" [PhD diss., University of Washington, 1970]), he did not include this translation in Thompson. However, John Emerson has published a translation online that is based on the version in Thompson's dissertation, with minor divergences. See John Emerson, *Shen Dao: Text and Translation*, https://haquelebac.wordpress.com/2012/06/24/慎到-shen-dao-text-and-translation/. There is also a partial translation in French available: Jean Lévi, "Chen Tseu," in *Dangers du discours: Stratégies du pouvoir IVe et IIIe siècle avant J.-C.*, 135–49 (Aix-en-Provence: Alinéa, 1985).
17. Throughout I shall use Shen Dao and the *Shenzi Fragments* interchangeably to refer to the fragments that we have and the ideas contained therein. Thus,

unless clearly indicated otherwise, when I make claims about Shen Dao's beliefs, arguments, or ideas, this should be read as shorthand for the ideas of Shen Dao as they are represented in the remaining fragments that P. M. Thompson has identified as authentic. This policy extends to all early Chinese texts and individuals discussed, unless clearly indicated otherwise.

18. It should be noted that the principle of charity has the potential to be misused. One could, for example, imagine someone thinking, "The only political theory that makes sense is liberal democracy. Therefore, I must interpret thinker X as advocating at least a nascent version of liberal democracy. Doing anything else would imply that thinker X does not make sense." Such a move is not only anachronistic, it also obscures the intent and ideas of those thinkers we are dealing with, preventing us from coming to a richer understanding of their ideas and how these ideas may lead us to reflect upon what we think we know today. For more on such moves on the part of certain scholars of Chinese thought, see Philip J. Ivanhoe, "Interpreting the *Mengzi*," *Philosophy East and West* 54, no. 2 (2004): 249–63.

19. A variety of other material has been attributed to Shen Dao but, given the uncertain nature of these claims, this material has not been included here. For a fuller collection of most of the passages that have at one time or another been attributed to Shen Dao, see Xu, *Shenzi jijiao jizhu*, 97–137.

20. See Thompson 228–303. While this and Xu are the base texts from which I work, I also consult a variety of other editions of and commentaries on the text. These include Cai Rukun 蔡汝堃, *Shenzi jishuo* 愼子集說 (Shanghai: Shangwu yinshuguan, 1940); Gao Liushui 高流水, "Shenzi quanyi" 愼子全譯, in *Shenzi, Yinwenzi, Gongsun Longzi quanyi* 愼子、尹文子、公孫龍子全譯, 1–82 (Guiyang: Guizhou renmin chubanshe, 1996); D. C. Lau and Fong Ching Chen, eds., *A Concordance to the "Shenzi"* 愼子逐字索引 (Hong Kong: Commercial Press, 2000); Qian Xizuo 錢熙祚, *Shenzi: Fu yiwen* 愼子：附逸文 (Beijing: Zhonghua shuju, 1985); Shen Maoshang 愼懋賞, *Shenzi san zhong hezhi: Fu yiwen* 愼子三種合帙：附逸文 (Taipei: Guangwen shuju, 1975); Wang Shumin 王叔岷, "Shenzi yipian yizheng" 愼子佚篇義證, in *Xian Qin Dao-Fa sixiang jianggao* 先秦道法思想講稿, 319–36 (Taipei: Zhongyang yanjiuyuan Zhongguo wenzhe yanjiusuo, 1992);

Wang Sirui 王斯睿, *Shenzi jiaozheng* 愼子校正 (Shanghai: Shangwu yinshuguan, 1935); Xu Hanchang 徐漢昌, *Shenzi jiaozhu ji qi xueshuo yanjiu* 愼子校注及其學說研究 (Taipei: Jiaxin shuini gongsi wenhua jijinhui, 1976).

SHEN DAO'S POLITICAL PHILOSOPHY

1. As noted in the introduction, unless specified otherwise, when I use the names of individuals, it is shorthand for referring to the ideas of these individuals as expressed in the texts that bear their name and is not a claim that these individuals were the actual authors of these texts.
2. We see a very similar conception of the natural world in the slightly later thinker Xunzi. For more on how similar conceptions of the natural world can lead to dramatically different responses, see the following chapter.
3. There are a variety of analyses of the concept of heaven in early texts, with much of the focus on Confucian texts. See, for example, Bryan W. Van Norden, *Virtue Ethics and Consequentialism in Early Chinese Thought* (Cambridge: Cambridge University Press, 2007); Herrlee G. Creel, *The Origins of Statecraft in China* (Chicago: University of Chicago Press, 1970); Michael J. Puett, *To Become a God: Cosmology, Sacrifice, and Self-Divinization in Early China* (Cambridge, Mass.: Harvard University Asia Center, 2002); Philip J. Ivanhoe, "Heaven as a Source of Ethical Warrant in Early Confucianism," *Dao: A Journal of Comparative Philosophy* 6, no. 3 (2007): 211–20, doi: 10.1007/s11712-007-9013-1; Robert B. Louden, "'What Does Heaven Say?': Christian Wolff and Western Interpretations of Confucian Ethics," in *Confucius and the "Analects": New Essays*, ed. Bryan W. Van Norden, 73–93 (Oxford: Oxford University Press, 2001); Robert Eno, *The Confucian Creation of Heaven: Philosophy and the Defense of Ritual Mastery* (Albany: SUNY Press, 1990).
4. See in particular chapters 26, "Heaven's Will" (Tian ming shang 天命上), and 31, "On Ghosts" (Ming gui xia 明鬼下).
5. See, for example, *Laozi* 5, in which heaven and earth are said to treat the myriad things as straw dogs.

6. Given the available evidence, it is unclear whether the titles given to the seven sections of the *Shenzi* found in the *Qun shu zhiyao* are Shen Dao's own labels or if they come from a later editor.
7. Indeed, it is not clear whether Shen Dao believes that heaven has motivations, but if it does, they are apparently built into the patterns of the natural world and do not lead it to act in unpredictable ways.
8. As we shall see, water also serves as an illustration of the predictable patterns of human psychology. And, of course, the usage of water as an analogy for human nature is seen elsewhere in the early Chinese corpus. See, for example, Gaozi's 告子 debate with Mengzi in *Mengzi* 6A2.
9. Of course, given his engineering bent, such knowledge would likely have interested him greatly.
10. An emphasis on what he calls objective standards (*keguan biaozhun* 客觀標準) as a basis for interpreting Shen Dao's thought is also found in Chen Fu 陳復, *Shenzi de sixiang* 愼子的思想 (Taipei: Tangshan chubanshe, 2001). However, the evidence that Chen uses and his overall argument differ in numerous ways from the line of argument pursued here.
11. Indeed this is the reason for the title of A. C. Graham's excellent introduction to early Chinese philosophy. See A. C. Graham, *Disputers of the Tao: Philosophical Argument in Ancient China* (La Salle, Ill.: Open Court, 1989).
12. For a brief but insightful discussion of the term, see David S. Nivison, "Tao and Te," in *The Encyclopedia of Religion: Volume 14*, ed. Mircea Eliade, 283–86 (New York: Macmillan, 1995). An extensive discussion of the term, focused on the Way of the king, is Léon Vandermeersch, *Wangdao, ou La voie royale: Recherches sur l'esprit des institutions de la Chine archaïque* (Paris: École française d'Extrême-Orient, 1980).
13. Unlike the Confucians and Mohists, Shen Dao never refers to moral virtues when describing or discussing the Way.
14. For further discussion of Han Fei's conception of the state, see A. P. Martinich, "The Sovereign in the Political Thought of Hanfeizi and Thomas Hobbes," *Journal of Chinese Philosophy* 38, no. 1 (2011): 64–72, doi: 10.1111/j.1540-6253.2010.01628.x; Albert Galvany, "Beyond the Rule of Rules: The Foundations of Sovereign Power in the *Han Feizi*," in *Dao Companion to the Philosophy of Han Fei*, ed. Paul R. Goldin, 87–106 (New York: Springer, 2013); Eirik

Lang Harris, "Han Fei on the Problem of Morality," in *Dao Companion to the Philosophy of Han Fei*, ed. Paul R. Goldin, 107–31 (New York: Springer, 2013); Yuri Pines, "Submerged by Absolute Power: The Ruler's Predicament in the *Han Feizi*," in *Dao Companion to the Philosophy of Han Fei*, ed. Paul R. Goldin, 67–86 (New York: Springer, 2013).

15. The story of Woodcarver Qing in chapter 19 of the *Zhuangzi* is a close parallel to this, which is not surprising given that we see a very similar conception of the natural world in this text.
16. For a more detailed discussion of the meanings of *qing* in the pre-Qin literature, see the appendix to A. C. Graham, "The Background of the Mencian Theory of Human Nature," in *Studies in Chinese Philosophy and Philosophical Literature*, 7–66 (Singapore: Institute of East Asian Philosophies, 1986), reprinted in *Essays on the Moral Philosophy of Mengzi*, ed. Xiusheng Liu and Philip J. Ivanhoe, 1–63 (Indianapolis: Hackett, 2002). Unfortunately, as the term appears only twice in the fragments, it is difficult to reach the same sort of precise understanding of its meaning for Shen Dao as can be done for certain other texts such as the *Xunzi*. See, for example, Eric L. Hutton, "Xunzi on Moral Psychology," in *Dao Companion to the Philosophy of Xunzi*, ed. Eric L. Hutton (New York: Springer, 2016).
17. Such a view is roughly similar to what Owen Flanagan has termed the principle of minimal psychological realism. See Owen Flanagan, *Varieties of Moral Personality: Ethics and Psychological Realism* (Cambridge, Mass.: Harvard University Press, 1991), chapter 2.
18. For more on this, see Eirik Lang Harris, "Legalism: Introducing a Concept and Analyzing Aspects of Han Fei's Political Philosophy," *Philosophy Compass* 9, no. 3 (2014): 155–64, doi: 10.1111/phc3.12099. For a study and translation of the book traditionally attributed to Shang Yang, see J. J. L. Duyvendak, trans., *The Book of Lord Shang: A Classic of the Chinese School of Law* (London: Probsthain, 1928). For an excellent study of Shen Buhai that attempts to bring together and translate the fragments attributed to him in the early Chinese corpus, see Herrlee G. Creel, *Shen Pu-hai: A Chinese Political Philosopher of the Fourth Century* B.C. (Chicago: University of Chicago Press, 1974).
19. Masayuki Sato's interpretation differs from mine insofar as he asserts that Shen Dao believes that any lasting political authority requires morality. See

Masayuki Sato, *The Confucian Quest for Order: The Origin and Formation of the Political Thought of Xun Zi* (Leiden: Brill, 2003), 134–35.

20. For an excellent introduction to Confucian ideas on moral self-cultivation, see Philip J. Ivanhoe, *Confucian Moral Self Cultivation*, 2nd ed. (Indianapolis: Hackett, 2000).
21. The *Laozi* identifies the ills of its age as arising because over time natural human dispositions have been corrupted, allowing poisonous desires to enter in, and one of its goals is to get people to return to their original, unadorned dispositions.
22. As we will see later, Shen Dao appears to be focusing on the actually perceived and thus potentially subjective interests of individuals.
23. Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, vol. 2 of *The Glasgow Edition of the Works and Correspondences of Adam Smith*, ed. R. H. Campbell and A. S. Skinner (Oxford: Oxford University Press, 1976), 26–27 (I.ii.2).
24. Han Fei later addresses this issue at some length. He recognizes that the two handles of rewards and punishments, while they will motivate the vast majority of people, may well leave some unswayed. These individuals are thus of a great danger to the state and need to be guarded against. See *HF* 14/27/2–4; Liao I/131.
25. We may see in this a similarity to the *Laozi* and *Zhuangzi*, particularly their ideas of not stretching natural material beyond what it can provide.
26. I thank Thai Dang for discussions on this point.
27. Shen Dao would certainly disagree with Shang Yang, whom Han Fei depicts as arguing that the number of heads chopped off in battle should be the basis for promotion through the ranks of the civilian bureaucracy. See *HF* 43/131/32–132/5; Liao II/215.
28. This is a point that both social reformers and terrorists have to face.
29. Indeed, this would in some ways be analogous to transmuting anger at the results of a particularly devastating tsunami, earthquake, or other natural disaster to anger at a deity that is seen as being responsible for the working of the world.
30. And, even if one were to take the ruler as the object of resentment and succeed in killing him in an attempt to change the system, it would soon be clear how little control the ruler had over the system and thus that the resentment was misplaced.

31. There were, of course, many others, including benevolence (*ren* 仁), ritual propriety (*li* 禮), righteousness (*yi* 義), and wisdom (*zhi* 智). However, since Shen Dao himself discusses loyalty and filial piety, it is these two that will be addressed here.
32. For fuller details, see Sima Qian's account of Shun's early life in William H. Nienhauser Jr., ed., *The Grand Scribe's Records, Volume 1: The Basic Annals of Pre-Han China* (Bloomington: Indiana University Press, 1994), 11–12.
33. For more, see Sima Qian's account of Jie's rule ibid., 38, 43–44.
34. I am indebted to Eric L. Hutton for profitable discussions on the meaning of fragments [49–50].
35. *HF* 7/10/1–4; Sahleen 325.
36. This is not to deny that there may be positive consequences to such deviations, merely that these consequences will be far outweighed by the damage to the system itself.
37. *XZ* 12/57/7; Hutton 12/117/18–20.
38. *XZ* 21/104/16–105/3; Hutton 21/230/233–49.
39. There are a range of studies of the term *fa* that argue for this view, including Creel, *Shen Pu-hai,* 144–62; Roger T. Ames, *The Art of Rulership: A Study of Ancient Chinese Political Thought* (Albany: SUNY Press, 1994), 108–41. For a dissenting view, see Chad Hansen, "*Fa* (Standards: Laws) and Meaning Changes in Chinese Philosophy," *Philosophy East and West* 44, no. 3 (1994): 435–88, doi: 10.1111/j.1540-6253.2010.01631.x.
40. Thompson does not consider this fragment as authentic, though some editions of the text do. It also does not appear in Xu's collection of the fragments. The labeling of this fragment as [Q1] is to indicate its questionable authenticity. See Thompson 271n1.
41. Soon-ja Yang, "The Secular Foundation of Rulership: The Political Thought of Han Feizi (ca. 280–233 B.C.) and his Predecessors" (PhD diss., University of Pennsylvania, 2010), 32. She is citing here a description of one of the tenets of positive law from James Bernard Murphy, *The Philosophy of Positive Law: Foundations of Jurisprudence* (New Haven: Yale University Press, 2005), 3.
42. R. P. Peerenboom, *Law and Morality in Ancient China: The Silk Manuscripts of Huang-Lao* (Albany: SUNY Press, 1993), 229–34. For a translation of the Huang-Lao manuscripts, see Robin D. S. Yates, trans., *Five Lost*

Classics: Tao, Huanglao, and Yin-yang in Han China (New York: Ballantine Books, 1997).

43. Indeed, Xunzi begins with a conception of human nature very similar to that of Hobbes and yet builds up a substantial ethical, as opposed to merely political, response. See David Wong, "Xunzi on Moral Motivation," in *Virtue, Nature, and Moral Agency in the "Xunzi,"* ed. T. C. Kline III and Philip J. Ivanhoe, 135–53 (Indianapolis: Hackett, 2000).
44. See, for example, Gao Yinxiu 高銀秀 and Zhang Zhihua 張志華, "Shen Dao fazhi sixiang jianlun" 慎到法制思想簡論, *Jinyang xuekan* 6 (1988): 87–93; Jiang Ronghai 江榮海, "Shen Dao gaishi Huang-Lao sixiangjia" 慎到該是黃老思想家, *Beijing daxue xuebao* 1 (1989): 110–16.
45. For an excellent collection of essays on various aspects of ritual in the *Xunzi*, see T. C. Kline III and Justin Tiwald, eds., *Ritual and Religion in the "Xunzi"* (Albany: SUNY Press, 2014). For a broader discussion of Xunzi, see Paul Rakita Goldin, *Rituals of the Way: The Philosophy of Xunzi* (Chicago: Open Court, 1999). For an extremely comprehensive set of essays on his philosophy, see Eric L. Hutton, ed., *Dao Companion to the Philosophy of Xunzi* (New York: Springer, 2016).
46. Graham, *Disputers of the Tao*, 247. For a similar view, see David S. Nivison, "Response to James Behuniak," *Philosophy East and West* 50, no. 1 (2000): 110–15.
47. *XZ* 19/90/4–5; Hutton 19/201/6–11. This argument is repeated, with slight variations, in several other chapters, including chapters 4 and 9.
48. *XZ* 8/28/15–16; Hutton 8/55/101–3.
49. Philip J. Ivanhoe, "A Happy Symmetry: Xunzi's Ecological Ethic," in *Ritual and Religion in the "Xunzi,"* ed. T. C. Kline III and Justin Tiwald (Albany: SUNY Press, 2014), 55.
50. *XZ* 21/102/5–6; Hutton 21/224/5–6.
51. It should be noted, however, that, for the most part Xunzi uses the term "rituals" as a normative rather than merely descriptive term, and thus it usually has the meaning of "the right rituals."
52. This is not, of course, to claim that Shen Dao and Xunzi share similar positive views. Rather, it is merely to point out that their starting points and methods of investigation are quite similar. However, as their analyses of human beings

and what they are capable of differ dramatically, the solutions that they pose also differ dramatically. For an analysis of Xunzi's political philosophy, see Eirik Lang Harris, "Xunzi's Political Philosophy," in *The Dao Companion to the Philosophy of Xunzi*, ed. Eric L. Hutton (New York: Springer, 2016).

53. In Kantian terms, we may think of it as a hypothetical imperative rather than a categorical imperative.

54. Such a position is similar to the one fleshed out in more detail by Han Fei. See Eirik Lang Harris, "Is the Law in the Way? On the Source of Han Fei's Laws," *Journal of Chinese Philosophy* 38, no. 1 (2011): 73–87, doi: 10.1111/j.1540-6253.2010.01631.x.

55. The character *shi* 勢 refers to a constellation of ideas in early Chinese texts. Perhaps its earliest usage was to refer to a military situation of strategic advantage, and it has been used to describe the configuration of troops, political status as it affects the ability to influence others, and, more generally, conditions or circumstances. For an excellent overview of the history of this term, see chapter 3, "Shih 勢 (Strategic Advantage / Political Purchase)," in Ames, *Art of Rulership*, 65–107. One of the few other studies of this term is found in François Jullien, *La propension des choses: Pour une histoire de l'efficacité en Chine* (Paris: Seuil, 1992), though it is problematic in a variety of ways.

56. Han Fei's version of this passage, which is attributed to Shen Dao, as well as his analysis, appears in chapter 40 of the *Han Feizi*; *HF* 40/127/31–128/4; Sahleen 327. See also the extensive discussion of this passage in relation to Han Fei in the following chapter.

57. Dragons were often taken as symbols of the ruler.

SHEN DAO IN THE EARLY CHINESE INTELLECTUAL MILIEU

1. It should be noted that the influence focused on here is exclusively intellectual. One could also work to assess Shen Dao's *political* influence. This task would be similarly difficult and would involve examining practicing politicians in early China that may have read and been influenced by Shen Dao. Such influence may be discoverable by looking at actual policies and behaviors rather than theoretical treatises, but it is beyond the scope of the present volume.

2. And, of course, when Han Fei does acknowledge indebtedness with respect to the concept of law, it is to Shang Yang, not Shen Dao.
3. They do differ, however, on the question of whether heaven is aware or not. Xunzi does not seem to believe so, but Zhuangzi does.
4. *LZ* 5/2/14–15; Ivanhoe 5.
5. See, in particular, *Zhuangzi*, chapter 2, "The Sorting Which Evens Things Out" (Qi wu lun 齊物論).
6. Here and throughout, when I refer to the early Daoists, I am referring to the writings attributed to Laozi and Zhuangzi. There are numerous debates over school affiliations in early China, but while important to our understanding of certain aspects of the early Chinese intellectual landscape, they do not affect the arguments being made here.
7. *XZ* 17/79/16–19; Hutton 17/175/1–50.
8. A. C. Graham, *Disputers of the Tao: Philosophical Argument in Ancient China* (La Salle, Ill.: Open Court, 1989), 239.
9. Janghee Lee, *Xunzi and Early Chinese Naturalism* (Albany: SUNY Press, 2005), 22.
10. Eric L. Hutton, "Virtue and Reason in *Xunzi*" (PhD diss., Stanford University, 2001), 317.
11. For more on such an interpretation of the early Daoists, see Philip J. Ivanhoe, "Zhuangzi on Skepticism, Skill, and the Ineffable *Dao*," *Journal of the American Academy of Religion* 61, no. 4 (1993): 639–54, doi: 10.1093/jaarel/LXI.4.639; Philip J. Ivanhoe, "Was Zhuangzi a Relativist?" in *Essays on Skepticism, Relativism, and Ethics in the "Zhuangzi,"* ed. Paul Kjellberg and Philip J. Ivanhoe, 196–214 (Albany: SUNY Press, 1996).
12. This characteristic has led many scholars to describe these early Daoists as anarchists. See Roger T. Ames, "Is Political Taoism Anarchism?" *Journal of Chinese Philosophy* 10, no. 1 (1983): 27–46, doi: 10.1111/j.1540-6253.1983.tb00272.x; Frederic L. Bender, "Taoism and Western Anarchism," *Journal of Chinese Philosophy* 10, no. 1 (1983): 5–26, doi: 10.1111/j.1540-6253.1983.tb00271.x; John A. Rapp, *Daoism and Anarchism: Critiques of State Autonomy in Ancient and Modern China* (London: Continuum International, 2012).
13. *LZ* 27/80/8–10; Ivanhoe 83.

14. See in particular chapter 19 of the *Xunzi*. For a more detailed analysis of the role and content of these various divisions and distinctions in Xunzi's political philosophy, see Eirik Lang Harris, "Xunzi's Political Philosophy," in *The Dao Companion to the Philosophy of Xunzi*, ed. Eric L. Hutton (New York: Springer, 2016).
15. *ZZ* 5/15/20–23; Graham 82.
16. The character Hutton translates here as "rules" is *fa* 法, which I translate in the *Shenzi Fragments* as "law."
17. *XZ* 12/57/3–7; Hutton 12/117/1–17.
18. Roger T. Ames, *The Art of Rulership: A Study of Ancient Chinese Political Thought* (Albany: SUNY Press, 1994), 122. For a more extensive discussion of the role of laws in Xunzi, see Eirik Lang Harris, "The Role of Virtue in Xunzi's 荀子 Political Philosophy," *Dao: A Journal of Comparative Philosophy* 12, no. 1 (2013): 93–110, doi: 10.1007/s11712-012-9312-z.
19. *XZ* 6/21/22–22/2; Hutton 6/41/31–40.
20. See [*XZ*8] this chapter, p. 77.
21. Mengzi makes a similar sort of argument against the Mohists and Yang Zhu, disagreeing with the former over what constitutes a father in the true sense and the latter with what constitutes a sovereign in the true sense. For a further discussion of this point, see Philip J. Ivanhoe, *Ethics in the Confucian Tradition: The Thought of Mengzi and Wang Yangming*, 2nd ed. (Indianapolis: Hackett, 2002), 16–17.
22. Graham, *Disputers of the Tao*.
23. *XZ* 21/103/8–13; Hutton 21/226/101–227/122.
24. *XZ* 12/57/11–14; Hutton 12/118/30–46.
25. *XZ* 9/35/19; Hutton 9/69/60–62.
26. *XZ* 9/35/19–20; Hutton 9/69/62–66.
27. *XZ* 23/113/5–6; Hutton 23/248/10–13.
28. For an excellent collection of essays dealing with the intertwined issues of virtue, human nature, and moral agency, see T. C. Kline III and Philip J. Ivanhoe, eds., *Virtue, Nature, and Moral Agency in the "Xunzi"* (Indianapolis: Hackett, 2000).
29. Jonathan Schofer and Philip J. Ivanhoe both discuss Xunzi as offering a *reformation* model of moral cultivation. See Jonathan W. Schofer, "Virtues in

Xunzi's Thought," in *Virtue, Nature, and Moral Agency in the "Xunzi,"* ed. T. C. Kline III and Philip J. Ivanhoe, 69–88 (Indianapolis: Hackett, 2000); Philip J. Ivanhoe, *Confucian Moral Self Cultivation*, 2nd ed. (Indianapolis: Hackett, 2000).

30. *LY* 2/8/29–30; Slingerland 8.
31. For more on Han Fei's theory of law and conception of the Way, see Eirik Lang Harris, "Is the Law in the Way? On the Source of Han Fei's Laws," *Journal of Chinese Philosophy* 38, no. 1 (2011): 73–87, doi: 10.1111/j.1540-6253.2010.01631.x; Eirik Lang Harris, "The *Dao* of Han Feizi," in *The Oxford Handbook of Chinese Philosophy*, ed. Justin Tiwald (Oxford: Oxford University Press, 2016). For a broader collection of essays on the philosophy of Han Fei, see Paul R. Goldin, ed., *Dao Companion to the Philosophy of Han Fei* (New York: Springer, 2013).
32. See, for example, chapters 14, 38, and 44 of the *Han Feizi*.
33. *HF* 17/30/2–4; Watson 87.
34. *HF* 48/142/10–17; Liao II/258–59.
35. In traditional China, the proper ritual position the ruler took in the court was facing south, so to say that someone faces south is to say that he is the ruler.
36. *HF* 40/127/31–128/4; Sahleen 327.
37. *HF* 40/128/6–10; Sahleen 327–28.
38. Ames, *Art of Rulership*, 92–93.
39. Another evil ruler, the tyrant Zhou was the last ruler of the Shang dynasty, traditionally said to have ruled between 1154 B.C.E. and 1122 B.C.E.
40. That is, they attained the awesome positional power that is attached to the position of ruler.
41. *HF* 40/128/16–20; Sahleen 328–29.
42. For the most insightful discussion of the term *shi* throughout the early Chinese philosophical literature, see chapter 3, "*Shih* 勢 (Strategic Advantage / Political Purchase)," in Ames, *Art of Rulership*, 65–107.
43. The portion of the text between brackets is missing from most extant versions of the *Han Feizi*.
44. *HF* 40/128/28–29; Sahleen 329–30. I have italicized the terms "positional power" and "circumstances" in this passage to emphasize that they are translations of the same character, *shi* 勢.

45. I take this not as an admission on the part of Han Fei but rather as a hypothetical scenario, for he is going to show that even if this were true, it would be much better to rely upon positional power than on any moral qualities possessed by rulers.
46. Confucians would not necessarily agree that a thousand generations pass between sages. Mengzi, for example, says five hundred years. However, even were Han Fei to accept this more optimistic number, his basic concern would remain.
47. *HF* 40/129/7–13; Sahleen 330–31.
48. Of course, it is also possible that Han Fei was not aware of all the ideas that we find in the *Shenzi Fragments*.
49. For the most complete analysis of the text as well as discussions of its history, compilation, and contents, see Chen Qiyou 陳奇猷, ed., *Lüshi chunqiu xin jiaoshi* 呂氏春秋新校釋 (Shanghai: Shanghai guji chubanshe, 2002).
50. Indeed, the title of this chapter itself may be read as a play on Shen Dao's name.
51. Translation mine. *LS* 17.6/106/11–14; Knoblock 17/6.5/431–32.
52. *LS* 17.6/106/8–11; Knoblock 17/6.5/431.
53. *LS* 17.6/106/5–7; Knoblock 17/6.5/431.
54. *LS* 17.6/106/2–3; Knoblock 17/6.4/430.
55. Determining the full picture of the *Lüshi Chunqiu*'s political theory and whether it can actually solve the various tensions we have seen in the relationship between people and procedures is, unfortunately, beyond the scope of the present study.
56. For more on the dating and content of this text, see John S. Major, Sarah A. Queen, Andrew Seth Meyer, and Harold D. Roth, trans., *The "Huainanzi": A Guide to the Theory and Practice of Government in Early Han China* (New York: Columbia University Press, 2010), 1–40, and Harold D. Roth, *The Textual History of the "Huai-Nan Tzu"* (Ann Arbor, Mich.: Association for Asian Studies, 1991).
57. There are at least seventy-two references to the *Han Feizi* in the text, indicating that it was an important source of ideas for the editors of the *Huainanzi*.
58. This is not to say that the *Huainanzi* utilizes these ideas in the same way as Shen Dao. Indeed, as in the *Lüshi Chunqiu*, there are many prominent ways in which the political theory of the *Huainanzi* disagrees with that of Shen Dao.

59. It does not appear in the transmitted version of the *Shenzi Fragments*; *HN* 12/118/14–15; Major 12.5/477.
60. The most extensive study of this chapter as a whole is Ames, *Art of Rulership*.
61. *HN* 9/74/16–20; Major 9.22/317.
62. Again, the claim is not that the editors of the *Huainanzi* self-consciously chose this metaphor to explain Shen Dao's ideas, merely that it demonstrates engagement with and development of ideas that Shen Dao saw as central to governing.
63. *HN* 9/70/115–17; Major 9.12/305.
64. HN 9/75/16–18; Major 9.23/320.
65. See *HN* 9/75/26; Major 9.23/321; *HN* 9/75/28; Major 9.23/321.
66. *HN* 9/70/27–28; Major 9.13/306.
67. *HN* 9/69/17–20; Major 9.9/303.
68. *HN* 9/68/11–12; Major 9.4/299; *HN* 9/69/5; Major 9.7/301.
69. See *HN* 9/73/20; Major 9.20/314, *HN* 9/81/110–13; Major 9.30/337; *HN* 9/72/12; Major 9.18/310.
70. *HN* 9/75/18–21; Major 9.23/320.
71. *HN* 9/75/30; Major 9.23/321.
72. In the introduction to each of the chapters in his translation of the *Guanzi*, Rickett provides a brief discussion of the possible dates, though these are not universally accepted. See W. Allyn Rickett, trans., *"Guanzi": Political, Economic, and Philosophical Essays from Early China*, 2 vols. (Princeton: Princeton University Press, 1985, 1998).
73. Among the chapters composing the *Guanzi* that would be of interest are "Clarifying the Law" (Ming fa 明法), "Relying on the Law" (Ren fa 任法), "Seven Standards" (Qi fa 七法), "Laws and Prohibitions" (Fa jin 法禁), and "Conforming to the Law" (Fa fa 法法).
74. There are numerous studies and translations of these four texts, including Chen Guying 陳鼓應, *Huangdi sijing jinzhu jinyi* 黃帝四經今註今譯 (Taipei: Shangwu yinshuguan, 1995); Edmund Ryden, *The Yellow Emperor's Four Canons: A Literary Study and Edition of the Text from Mawangdui* (Taipei: Ricci Institute, 1997); Robin D. S. Yates, trans., *Five Lost Classics: Tao, Huanglao, and Yin-yang in Han China* (New York: Ballantine Books, 1997); Leo S. Chang and Yu Feng, trans., *The Four Political Treatises of the Yellow*

Emperor: Original Mawangdui Texts with Complete English Translations and an Introduction (Honolulu: University of Hawai`i Press, 1998); R. P. Peerenboom, *Law and Morality in Ancient China: The Silk Manuscripts of Huang-Lao* (Albany: SUNY Press, 1993).

75. As is clear in my discussion of the law in chapter 1, I have disagreements with some of Peerenboom's conclusions.
76. A. C. Graham, "How Much of the *Chuang tzu* Did Chuang Tzu Write?" in *Studies in Chinese Philosophy and Philosophical Literature*, 283–321 (Singapore: Institute for East Asian Philosophies, 1986).
77. *ZZ* 33/99/15–25; Graham 279–80.

A TRANSLATION OF THE *SHENZI FRAGMENTS*

1. For more on Thompson's procedures, see Thompson 219.
2. See, for example, Arthur Waley, *The Way and Its Power: A Study of the Tao Tê Ching and Its Place in Chinese Thought* (New York: Grove Press, 1958).
3. Note that the exact process here, which translates literally as "casting hooks," is unknown. However, the point is that a method that ensures impartiality is used, much like we might flip a coin. As such, I follow Eric L. Hutton, who, in his translation of the *Xunzi*, renders these two characters as "tossing coins," as it conveys the same general point.
4. The rendering of this sentence follows from emending 無 to 亦, "even if." Such an emendation is not suggested in any of our textual evidence. However, it does seem to provide us with a more coherent thought here. Wang Shumin 王叔岷 follows a similar strategy, noting, "無猶雖也." See Wang Shumin, "Shenzi yipian yizheng" 慎子佚篇義證, in *Xian Qin Dao-Fa sixiang jianggao*先秦道法思想講稿 (Taipei: Zhongyang yanjiuyuan Zhongguo wenzhe yanjiusuo, 1992), 330. Without emendation, the text would read, "If rulers never encounter anyone with the loyalty of Bi Gan or Zixu but are dissolute and lost in darkness, they will be infected with self-indulgence, ruin their reputation, and be killed." While this reading would make grammatical sense of the passage, the point of the historical reference would be lost.
5. Wang Sirui 王斯睿 reads 疑 as 擬, "to bring about that one is difficult to distinguish from; to act as if one were (someone else), to emulate." This would

lead to the following translation of this and the following lines: "When establishing X, it is to ensure that Y is not able to take up this role." See Wang Sirui, *Shenzi jiaozheng* 愼子校正 (Shanghai: Shangwu yinshuguan, 1935), 4.

6. This title could also be translated as "The Lord of the People," which would accord with how these two characters are used in the first line. I translate it as "The Lord and His People" because the topic of this section is the relationship between the lord and his people and in order to parallel the grammatical structure of the title of the following section, "The Lord and His Ministers."
7. In a review of Herrlee G. Creel's book on Shen Buhai, Derk Bodde argues for a distinction between *shu* 術 and *shu* 數. While both may be rendered by the English word "technique," *shu* 數, Bodde suspects, means "techniques" having to do with the "quantitative aspects of administration: the keeping of population statistics, tax registers, and the like," while *shu* 術 refers to the "personnel aspects of administration: appointment, promotion, and demotion of officials, allocation of responsibility, etc." See Derk Bodde, Review of *Shen Pu-hai: A Chinese Political Philosopher of the Fourth Century* B.C., by Herrlee G. Creel," *Harvard Journal of Asiatic Studies* 36 (1976), 263. (Note as well that while these two terms are homophones in modern Mandarin, they were phonetically quite different in Warring States times.)
8. This commentary to the *Liezi*, the *Liezi zhu* 列子注, was written by Zhang Zhan 張湛 sometime in the fourth century. See Thompson 50.
9. The *Jingdian shiwen* 經典釋文 was an exegetical dictionary to the classics compiled by Lu Deming 陸德明 around 589. See Thompson 56–61.
10. The *Beitang shuchao* 北堂書抄 was a reference work compiled by Yu Shinan 虞世南 before 618. See Thompson 61–62.
11. The *Yiwen leizhu* 藝文類聚 was an encyclopedia compiled between 622 and 624 by a group of scholars led by Ouyang Xun 歐陽詢. See Thompson 62–63.
12. Although perhaps overtranslating, 公 could be read in its sense of "impartially" rather than "publicly."
13. The *Shangshu zhengyi* 尚書正義 is a subcommentary to the *Book of Documents* (*Shangshu* 尚書), written primarily by Wang Deshao 王德韶 and Li Ziyun 李子雲 in 653. See Thompson 69–72.

14. The *Houhanshu zhu* 後漢書注 is a commentary to the *Houhanshu* written under the sponsorship of Li Xian 李賢 and completed in 677. See Thompson 72.
15. The *Wenxuan zhu* 文選注 is a commentary on an early anthology of literature, completed by Li Shan 李善 in 658. See Thompson 72–75.
16. Thompson's numbering comes from his dissertation. Between finishing his dissertation and publishing his book, he determined that the fragments originally numbered 93 and 94 were not authentic, and they are not included here.
17. The *Chuxueji* 初學記 is an encyclopedia compiled by Xu Jian 徐堅 around 725. See Thompson 77–78.
18. The *Yilin* 意林 is an anthology of excerpts from ancient and early medieval philosophical writings put together by Ma Zong 馬總 around 787. See Thompson 79–84.
19. The *Xunzi zhu* 荀子注 is a commentary on the *Xunzi* written by Yang Liang 楊倞 around 819. See Thompson 84–86.
20. The *Baishi liutie* 白氏六帖 is a compendium of literary diction compiled in the early ninth century by Bai Juyi 白局易. See Thompson 86–88.
21. The *Taiping yulan* 太平御覽 was one of three major Song-dynasty encyclopedias. It was compiled by Li Fang 李昉 with the assistance of thirteen others around 983. See Thompson 92–97.
22. I thank Eric L. Hutton for a very helpful discussion on this passage.
23. It is unclear whether the quote ends here or continues for the next two sentences.
24. I render this loosely to more effectively get across the sense of the passage. It says literally, "The weight of a cauldron from the state of Yan is a thousand *jun*." See the following note for further information on weights and measures.
25. I render this loosely to more effectively get across the sense of the passage. It says literally, "If you are dealing with weights of a *jun* and *shi* and ask Yu if you are off by a *zi* or *zhu*, even he would not be able to tell." A *jun* 鈞 = 30 *jin* 斤, while a *shi* 石 = 120 *jin* 斤. During the Warring States period, a *jin*, often translated as a "catty," was between 8.8 and 11 oz. (250–315 g). Therefore, a *jun* was between 16 and 21 lb. (7.5–9.5 kg), and a *shi* was four times this weight, or between 66 and 82.5 lb. (approx. 30–38 kg). These weights were among the largest in use at the time. A *zi* 錙 = 1/4 *liang* 兩 (1 *liang* = 1/16 *jin*),

while a *zhu* 銖 was 1/24 *liang*. Therefore a *zi* was between 0.137 and 0.172 oz. (3.9–4.9 g), and a *zhu* was between 0.023 and 0.029 oz. (0.65–0.82 g). These weights were among the smallest in use at the time. See Qiu Guangming 丘光明, *Zhongguo lidai duliangheng kao* 中國歷代度量衡考 (Beijing: Kexue chubanshe, 1992), 520.

26. The *Yunzhi qiqian* 運笈七籤 is an anthology of Daoist writings attributed to Zhang Junfang 張君房 and dates to around 1019. See Thompson 97–99.

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