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Christian Schwermann

Rhetorical functions of quotations in late pre-imperial and early imperial memorials on questions of civilian-military leadership

Abstract: The present paper analyzes the rhetorical functions of verbal parallels in selected pre-imperial Qín 秦 (prior to 221 B.C.E.) and early imperial Qín (221–206 B.C.E.) and Western Hàn 漢 (206/202 B.C.E.–9 C.E.) memorials. Following the lead of Richard L. Schultz (*The Search for Quotation: Verbal Parallels in the Prophets*, 1999), it furnishes evidence that the authors of these petitions and remonstrances, which normally had to be submitted to the throne in writing before they could be orally presented to kings or emperors, employed quotations not only to embellish their statements or to give authority to them but also utilized them as argumentative figures of thought. In the samples under review, citations serve as elementary links in the argumentative chain of the quoting texts and even add a second layer of meaning to them, thus providing access to their argumentative “deep structure”. Moreover, when employed as structural devices, verbal parallels organize the memorials by introducing new argumentative steps not only from the point of view of contents but also formally through being topicalized and embedded into causal clauses and therefore can serve as criteria for dividing these texts into sense-units.

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“Such early Han writers as Chia I or Ch’ao Ts’o, and their successor Tung Chung-shu, are not found to employ the quotation as a mere literary affectation, but as the necessary basis upon which an argument should rest.”

Gale 1931: xlv.

Both received and excavated early Chinese texts abound with quotations or “inherited speech”, as David Schaberg has once put it.¹ Many of these references

¹ See Schaberg 1999.

are taken from the corpus that was canonized during the mid Western Hàn under the label of *Five Classics* (*Wǔ jīng* 五經). Accordingly, verbal parallels are often studied with regard to their being evidence of the early textual history of the Confucian Classics.

As far as their functions as rhetorical devices in their new contexts are concerned, quotations not only seem to have been understudied,² but also underrated. Very much in line with literary scholars and philologists like Gerhard R. Kaiser (1927–2012), who argued that quotations are employed to embellish the quoting text, to add authority to it – or sometimes also to criticize the quoted authority,³ students of early Chinese literature tend to emphasize that quotations are ornamental elements, that they confer authority on the quoting text by appealing to the canon or that they express a certain ideal, namely that of imitating and thus equalling (perhaps even excelling) a hallowed model. For example, David Schaberg argues that “[c]itations brought an unimpeachable authority to bear both because the texts from which they were taken originated in times of cultural, political, and moral health and because generations of learned people had applied their lessons to contemporary problems.”⁴ In a similar vein, Martin Kern stresses the authority function of citations from the Confucian Classics in excavated manuscripts by characterizing quotation as the “textual equivalent to ancestor worship”:

Through quotation, a new text becomes part of a lineage where the prestige and exalted status assigned to the textual ancestor serves, in turn, as the authority that bolsters the status of its descendant. Reaffirming the old text in its continuous authority and thus contributing to the perpetuation of a textual tradition, the new text, now being part of this tradition, also elevates itself and has its own prospects of future transmission enhanced as long as its close attachment to the old text is cherished by the community to which both texts belong.⁵

Undoubtedly, embellishment, model imitation and transfer of authority from the quoted to the quoting text are important functions of verbal parallels in ancient literature, but putting too much weight on the authority function eventually may lead to the image of a highly asymmetric relationship between quoting and quoted text. The simile of ancestor worship implicitly reduces the quoting text to

² With some notable exceptions like Levi 1995, Schaberg 1999, Kern 2005 and Vierheller 2011.

³ See Kaiser 1972: 6–7.

⁴ See Schaberg 2001: 72. Compare Lewis 1999: 155–163 on the functions of citations of received verse in the anecdotes and speeches of the *Zuǒ zhuàn* 左傳.

⁵ See Kern 2005: 295.

a mere textual “offshoot”, which seemingly depends for its status as well as its significance mostly on paying tribute to its “progenitor”.⁶

Moreover, the three above-mentioned functions do not seem to cover the whole range of purposes associated with citations in classical literatures. In general, according to Richard L. Schultz,⁷ there are at least three further uses of literary borrowings to be considered, namely as “building-block[s] in the author’s argument as it awakens in the memory of the reader another text and context, adding a second substrate layer of meaning to the statement”,⁸ as structural devices, which for example serve as *leitmotifs* in the quoting text, and as bidirectional interpretative devices, which have “a permanent interpretive effect on both the text from which [they are] taken and the text into which [they are] incorporated”.⁹ From this perspective, not only the status of the quoting text is significantly enhanced, as it is implied that the relationship between old and new text is perfectly symmetric, but also the rhetorical function of quotations. These were conceived of and employed as argumentative figures of thought – and, as I will try to show, not necessarily only as “precedent-based arguments”, i.e. as inductive arguments, which referred to precedents as exemplary historical events with a normative value.¹⁰

With regard to Schultz’ second function, i.e. the use of verbal parallels as structural devices, it is important to note that citations formally often stand out against their context in that they are marked as references, either by quotation markers like *yún* 云 or *yuē* 曰, “[it is] said [that]”, and *wén zhī* 聞之, “[I] have heard the following”, or by an explicit reference to the source of the quote. On top of that, they are sometimes given an even more prominent structural position in the text, for example when they are topicalized and in addition to that introduced by causal conjunctions. Marked in this way, they can serve as paragraph tags, i.e. as formal criteria for dividing a text into sections or sense-units.¹¹ Most interestingly,

⁶ Martin Kern and David Schaberg would certainly agree that their principal focus lies on the authority function of references to the Classics. I do not call into question the importance of this function but only want to draw their and other colleagues’ attention to the argumentative functions of quotations.

⁷ See Schultz 1999: 195–199.

⁸ See Schultz 1999: 196.

⁹ See Schultz 1999: 199.

¹⁰ For the term “precedent-based argument” see Schaberg 2001: 73, for the definition of precedents Schaberg 2001: 45.

¹¹ I am grateful to Yegor Grebnev (p.c. 13 September 2013) for pointing out to me that, as regards their structural functions, citations typologically do not seem to behave very differently from other elements in the more rigidly structured texts. However, it appears reasonable to assume that certain structural functions like the division of the text into logical units can indeed be even

Ernst-Joachim Vierheller's recent study of the use of quotes from the *Gōngsūn Lóng zǐ* 公孫龍子 in the "Qí wù lùn" 齊物論 chapter of the *Zhuāng zǐ* 莊子 has established that this very same text-structuring function of verbal parallels is also at work in early Chinese philosophical literature. Vierheller shows how a two-clause statement from the *Gōngsūn Lóng zǐ* is divided into its two constituents, which, slightly modified, appear in two separate sentences in a section of the "Qí wù lùn". Both of them are immediately preceded by identical methodological remarks, which conclude the thesis of the "Qí wù lùn" and the first part of its analysis, and they therefore clearly divide the treatise into three parts: "exposition of a problem followed by an analysis in two parts, each headed by one of the two sentences with traces of the *Gongsun Longzi* sentence [...]"¹²

In the following, I will accordingly focus on the use of inherited speech as an expedient to (1) augment the argument of the quoting text, in fact giving another "turn of the screw" – possibly even the decisive turn – to it, to (2) organize the quoting text and to (3) bridge the textual, cultural and chronological gap between quoted and quoting text. The transformation of meaning, which can be triggered by the incorporation of a citation into a new context and which is characterized as "l'utilisation subversive des citations emboîtées" by Jean Levi,¹³ can be subsumed under the third function.¹⁴ As all three functions may rely on the implication of a greater or smaller context of the verbal parallels, my analysis will have to entail a close reading of both quoted and quoting text.

Assuming that it is more rewarding to sift the evidence of deliberative speech, I will concentrate on the use of quotations in three selected memorials that are ascribed to *Gōngsūn Yāng* 公孫鞅 (executed 338 B.C.E.), *Lǐ Sī* 李斯 (executed 207 B.C.E.) and *Zhǔfù Yǎn* 主父偃 (executed ca. 127 B.C.E.) and have been transmitted in the *Shāng jūn shū* 商君書, in the *Shǐ jì* 史記, and in the *Xīn xù* 新序. I have chosen these specific examples because they illustrate the functions ascribed to

better fulfilled by the use of citations. Due to their distinctive textual features, these are exceptionally well-suited to serve as reliable formal criteria for structuring a text, especially when they are not only marked as references, as is usually the case, but also topicalized and embedded in causal clauses.

¹² See Vierheller 2011: especially 30–32 and 44–45, for the quote 44.

¹³ See Levi 1995: 44. Compare Arbuckle 1995.

¹⁴ It is not at all my intention to imply that I have discovered a strategy of using citations subversively, as one anonymous reviewer claims. On the contrary, I agree that the adaption and reinterpretation of quotations, which was characterized as "subversive" by Levi in 1995, is a well-known and well-described phenomenon. Although "subversive" use is an important rhetorical function of quotations, it does seem to represent only one aspect of Schultz' more fundamental notion that these serve as bidirectional interpretative devices, which help to close the gap between quoted and quoting text.

literary borrowings by Schultz particularly well, notably their use as argumentative figures of thought. Moreover, they deal with two competing, diametrically opposed concepts of good rulership: the idea that the ruler should have absolute power in government, enjoy unlimited autonomy in his decisions and exploit his subjects relentlessly in order to be able to perpetuate his rule on the one hand, and the notion that dynastic continuity is threatened by putting excessive demands on the subjects on the other. The latter topic is discussed by Zhǔfù Yǎn in relation to the campaigns of Hàn Wǔdì 漢武帝, i.e. Liú Chè 劉徹 (r. 141–87 B.C.E.), against the Xiōngnú 匈奴. Thus, the selected texts address the issue of good rulership in terms of both civilian and military leadership. I have decided to include one pre-imperial address by Gōngsūn Yāng to Lord Xiào of Qín (Qín Xiào gōng 秦孝公, r. 361–338 B.C.E.) to show that there are important similarities between late pre-imperial speeches and early imperial memorials as regards their use of references and also to further deepen my discussion of the question as to whether the latter could have been produced orally or at least may have derived from an earlier genre of political speech that was not of literate origin.

1 “Inherited speech” in a pre-imperial address by Gōngsūn Yāng

It does not seem unreasonable to assume that early imperial memorials can be traced back to the speeches held by advisors at Zhànguó 戰國 period (481–221 B.C.E.) courts. Not only is there evidence indicating that their protocols allowed these advisors to present their views orally, but also that their speeches are formally and structurally related to later memorials. In particular, they seem to resemble the memorials in their use of quotations. Take for example the speeches transmitted in the first chapter of the *Shāng jūn shū* on “Changing the Standards” (“Gēng fǎ” 更法). In this case, the context explicitly situates them as having been held orally during a discussion on reforming the penal law and the rites at the court of Lord Xiào of Qín (Qín Xiào Gōng, r. 361–338 B.C.E.), which of course does not preclude that they were based on prefabricated written drafts.¹⁵ According to

¹⁵ I am grateful to Bob Gassmann for pointing this out to me. Moreover, note that the account of the setting of the speech may well be fictitious; see below for the reliability of the frame narratives of memorials in the *Shǐ jì*. Thus, there may have been more of a continuity than a watershed between Zhànguó period speeches and early imperial memorials. Of course, the conspicuous parallels between Gōngsūn Yāng's speech and early imperial memorials might as well be interpreted as evidence that the former is not authentic and was recreated by early Hàn scholars according to how they thought it might have been held. I am grateful to Mick Hunter (p.c. 15 September 2014) for this observation.

the “Annals of the Qín” (“Qín běnjì” 秦本紀) in the *Shǐ jì*, this debate took place in 359 B.C.E.¹⁶ It begins with the lord declaring in the presence of his three ministers Gōngsūn Yāng, Gān Lóng 甘龍 and Dù Zhì 杜摯 that he is willing to change the legal standards as well as the rites to conduct government properly and instruct the people but that he is afraid of All under Heaven criticizing him for that.¹⁷ Gōngsūn Yāng replies in the following way:

臣聞之，疑行無成，疑事無功。君亟定變法之慮，殆無顧天下之議之也。且夫有高人之行者，固見負於世；有獨知之慮者，必見驚於民。語曰：「愚者闡於成事，知者見於未萌。」民不可與慮始，而可與樂成。郭偃之法曰：「論至德者不和於俗，成大功者不謀於眾。」法者，所以愛民也；禮者，所以便事也。是以聖人苟可以彊國，不法其故；苟可以利民，不循其禮。¹⁸

I have heard the following: “He who hesitates in action does not have accomplishments, and he who hesitates in affairs does not have merits.” Let My Lord settle your thoughts quickly about altering the standards and certainly not be concerned about All under Heaven criticizing it. Moreover, he who conducts himself as an outstanding man is, as a matter of course, disapproved of by the world; he who has thoughts of independent knowledge is certainly despised by the people. The saying runs: “The stupid do not even understand an affair when it has been completed, the wise see it even before it has sprouted.” The people must not participate in premeditating the beginnings [of an affair], but they may participate in rejoicing over the completion [of it].¹⁹ The “Standards of Guō Yǎn” say: “He who pays due attention to the highest potency is not in harmony with the vulgar people; he who accomplishes a great work does not take counsel with the multitude.” The standards are a means of sparing the people; rites are a means of facilitating the performance of public work.²⁰ For this reason, a sage, if he were able to strengthen the land thereby, would not model himself on the [established] precedents, and if he were able to benefit the people thereby, would not adhere to the [established] rites.²¹

¹⁶ See *Shǐ jì* 5: 203.

¹⁷ See *Shāng jūn shū* 1: 2.

¹⁸ See *Shāng jūn shū* 1: 2–3. I have slightly modified the punctuation. Compare the parallel version in chapter 9, “Shàn móu” 善謀, of the *Xīn xù* 新序 (*Xīn xù* 2.9: 1155–1158). See also the parallels in the speech of Fēi Yì 肥義 on the introduction of barbarian “Hú dress” (Hú fú 胡服) at the court of Zhào 趙 that is contained in the *Zhànguó cè* 戰國策 (*Zhànguó cè* 2.19: 654).

¹⁹ It is difficult to decide whether this sentence still belongs to proverbial wisdom or not. According to the punctuation of Jiǎng Lǐhóng 蔣禮鴻 in his *Shāng jūn shū zhuī zhǐ* 商君書錐指, it is part of the “saying” quoted by Gōngsūn Yāng. I have decided not to follow this reading and interpret the sentence as Gōngsūn Yāng’s amplification of the preceding saying.

²⁰ For the translation of this sentence and the meaning of ài 愛, “to spare”, see Schwermann 2011: 25–26, n. 105.

²¹ I have modified the translation by Duyvendak 1963: 168–170.

This is truly a treasure trove of “inherited speech”: the speaker uses an array of sayings and references the sources of which can no longer be verified. But what is most interesting about these is that he already appears to employ them in similar ways as nearly two centuries later early imperial scholar-officials did in their memorials, namely as argument-structuring devices. With his speech, Gōngsūn Yāng aims at dispelling his lord’s fear of criticism. He opens his argument with a quotation of a popular saying, thus introducing the common-sense proposition “nothing ventured, nothing gained”, and goes on to argue that “outstanding men” (*gāo rén* 高人), i.e. the members of a meritocratic elite enjoying the privilege to govern others due to their intellectual and professional competence, as a rule meet with the opposition of the ignorant. The next item of proverbial wisdom, which is explicitly marked as a “saying” (*yǔ* 語), introduces the new idea that thanks to his foresight and prescience the ruler is intellectually superior to those below him. Gōngsūn Yāng infers from this that the sovereign should not hesitate to make full use of his mental powers and take care to leave his less intelligent subjects in the dark about his plans lest they spoil his far-sighted arrangements. This line of argument culminates in a quotation from the “Standards of Guō Yǎn” (“Guō Yǎn zhī fǎ” 郭偃之法), possibly a legal text by a Chūnqiū period reformer, which rephrases and thus summarizes the two central propositions of the preceding section. The speech then introduces two amazing, in view of contemporary Confucian notions of laws and rituals maybe even sarcastic, redefinitions of the “standards” (*fǎ* 法) and the “rites” (*lǐ* 禮), describing the former as “a means of sparing the people” (*suǒ yǐ ài mín yě* 所以愛民也), the latter as “a means of facilitating the performance of public work” (*suǒ yǐ biàn shì yě* 所以便事也), hence characterizing both of them as instruments of a reform that is not only in the interest of the ruler but also to the benefit of his subjects. This is the core of Gōngsūn Yāng’s argument, as far as contents and objectives of his proposal for reform are concerned. He concludes his speech with the well-known “modernist” notion that a country should not be governed on the basis of received precedents and rites but reformed according to the needs of the present, i.e. with the help of the instruments redefined in the preceding sentence, thereby once again implicitly appealing to his lord to overcome his fear of criticism and wage legal and ritual reforms in order to strengthen his country.

Two of three references in this speech introduce important links of the argumentative chain, the first of them being an introductory common-sense proposition, the second being an additional explanation as to why this proposition is valid in the ruler’s or meritocrat’s case, referring to his alleged intellectual superiority. The last quotation does not add a new aspect to the line of thought but rephrases the preceding propositions in the words of the “Standards of Guō Yǎn”. As this text has not been transmitted, not much can be said about its status at the

time when the *Shāng jūn shū*, presumably an accretional text, was composed, i.e. probably during the fourth and third centuries B.C.E.²² As a source of authority ascribed to a reformer, who is said to have been active in the second half of the seventh century B.C.E. in Jin 晉,²³ it might have been important both for Gōngsūn Yāng and for the authors of the later chapters of the *Shāng jūn shū*. However, the primary function of the third quotation in this speech seems to be that of condensing the essence of the preceding argumentative steps into two authoritative lines of eight characters each. This amounts to saying that the three items of inherited speech in Gōngsūn Yāng's address form the argumentative backbone of the first two thirds of his speech, not only embellishing but organizing it. Therefore, it is all the more surprising that they are not marked as quotations in a parallel version that has been transmitted in the biography of the Lord of Shāng, i.e. Gōngsūn Yāng, in chapter 68 of the *Shǐ jì*:²⁴

疑行無名，疑事無功。且夫有高人之行者，固見非於世；有獨知之慮者，必見敖於民。愚者闇於成事，知者見於未萌。民不可與慮始而可與樂成。論至德者不和於俗，成大功者不謀於眾。是以聖人苟可以疆國，不法其故；苟可以利民，不循其禮。²⁵

He who hesitates in action does not have a [good] name, and he who hesitates in affairs does not have merits. Moreover, he who conducts himself as an outstanding man is, as a matter of course, criticized by the world; he who has thoughts of independent knowledge is certainly mocked by the people. The stupid do not even understand an affair when it has been completed, the wise see it even before it has sprouted. The people must not participate in premeditating the beginnings [of an affair], but they may participate in rejoicing over the completion [of it]. He who pays due attention to the highest potency is not in harmony with the vulgar people; he who accomplishes a great work does not take counsel with the multitude. For this reason, a sage, if he were able to strengthen the land thereby, would not model himself on the [established] precedents, and if he were able to benefit the people thereby, would not adhere to the [established] rites.²⁶

From the point of view of argumentative structure, this version of Gōngsūn Yāng's address is clearly inferior to the one that has been transmitted in the *Shāng jūn shū*, especially since both his initial appeal to Lord Xiào not to heed the criticism

²² For the composition of the book and for an overview of recent Chinese and Japanese attempts at dating individual chapters of it see Pines 2012: 81–85. For the theory of accretion and/or accumulation of early Chinese texts see Brooks 1994 and Brooks 1998: 201–248.

²³ See *Hán Fēi zǐ* 5.18: 120.

²⁴ I am grateful to one anonymous reviewer for drawing my attention to the differences between the two versions. Note, however, that in the parallel version of Gōngsūn Yāng's speech in the *Xīn xù*, just as in the *Shāng jūn shū*, all instances of inherited speech are marked as quotations; see *Xīn xù* 2.9: 1155–1157.

²⁵ See *Shǐ jì* 68: 2229.

²⁶ Compare the translations by Watson 1993: 91 and Nienhauser 1994: 88–89.

of All under Heaven and the penultimate constituent of the argumentative chain with its important redefinitions of the terms of “standards” (*fǎ*) and “rites” (*lǐ*) are missing. Thus, the speech lacks the reference to its immediate context, i.e. Lord Xiào’s fear of censure, and therefore also its immediate motivation and the frame of its argumentation – recall that the *Shāng jūn shū* version begins with the explicit appeal not to be afraid of criticism and ends with an implicit appeal to the sovereign to overcome his fear and wage reforms to strengthen the country. Moreover, it lacks the very core of its argument, namely the programme of reform as expressed in the redefinitions of the key terms *fǎ* and *lǐ*. Maybe Sīmǎ Tán 司馬談 (died 110 B.C.E.) or his son Sīmǎ Qiān 司馬遷 (c. 145–90 B.C.E.) decided to cut this out because of its apparent sarcasm and explosive ideological power, even if this meant to severely mutilate the line of argument, which they could not have found much to their liking anyway.

Their reasons to delete the quotation markers *chén wén zhī* 臣聞之, “I have heard the following”, and *yǔ yuē* 語曰, “the saying runs”, and to eliminate the explicit reference to the source of one citation (“Guō Yǎn *zhī fǎ*” *yuē* 郭偃之法曰, “The ‘Standards of Guō Yǎn’ say”) are also open to speculation. Both the markers and the explicit reference to the “Standards of Guō Yǎn” are completely retained in the parallel version of the *Xīn xù*,²⁷ which is the work of Liú Xiàng 劉向 (79–8 B.C.E.) and was submitted by him to the throne in 24 B.C.E.²⁸ It stands to reason that the authors of the *Shǐ jì*, who wrote more than half a century earlier, must have had access to the intact version of the speech, too. Since they erased the markers and the reference systematically, it is rather unlikely that they did so because of carelessness. Rather, they might have decided to remove all traces of citations to create the impression that the speech was composed orally and impromptu. Whatever the case, the removal has led to the result that the references are largely divested of their foreign features and reduced to steps in Gōngsūn Yāng’s own line of argument, thus lending additional support to the notion that they were primarily conceived of as arguments from the very start, and not as sources of authority.

But were late pre-imperial speeches or maybe even early imperial memorials produced orally? Could Gōngsūn Yāng, in fact, have composed this address without written preparation? As pointed out above, even middle to late Zhànguó

²⁷ See *Xīn xù* 2.9: 1155–1158.

²⁸ According to Cháo Gōngwǔ’s 晁公武 (d. 1171) *Jùn zhāi dú shū zhì* 郡齋讀書志 (*Jùn zhāi dú shū zhì* 3: 667–668 / 10: 15a–b), the *Xīn xù* was submitted seven years prior to the *Shuō yuàn* 說苑, i.e. in 24 B.C.E. Cháo Gōngwǔ’s dating can be traced back to the Táng 唐 period scholar Mǎ Zǒng 馬總 (d. 823); see his *Yì lín* 意林 3: 5a.

period speeches may have been based on prefabricated written drafts.²⁹ Their elaborate rhetorical composition seems to be characteristic of a literate genesis, and not of “oral poetics”, in many respects, for example its conspicuous intertextual compositional techniques.³⁰ Of course, early Indian traditions teem with citations, be it in ritual, legal or even grammatical contexts, for example in Pāṇini’s grammar (sixth century B.C.E.?), although these traditions were undoubtedly fully oral prior to 300 B.C.E. and preserved verbal parallels by means of orthoepic techniques.³¹ However, Gōngsūn Yāng’s speech does not only abound with references to sayings, proverbial wisdom and earlier legal texts but also employs these to develop a fairly complex argumentative structure. As shown above, they do not serve as sources of authority but as argumentative figures of thought and as structural devices which organize the speech, for example by summarizing preceding propositions. According to Hartmut Scharfe, early Indian texts typically lack this kind of consistent overall organization, relying instead on structural devices like repetition and *bricolage*, which are characteristic of oral composition.³² All of which lends itself to the suggestion that, provided that the Lord of Shāng’s address is authentic, he may originally have composed it in writing – and may possibly have even only read out the written draft when he held the speech, even if his address is too short to draw firm conclusions in this respect.

²⁹ See note 15 above.

³⁰ Compare for example Amodio (2004: 1–32) for the typical traits of a textual culture with an “oral-literate nexus” in medieval England. In view of this evidence, orality and literacy should not be seen as “binary opposites”, but as existing “along a continuum whose termini, ‘primary orality’ and ‘pure literacy,’ ought to be recognized as the theoretical constructs they are and not mistaken for discoverable, accessible real-world states.” See Amodio 2004: 2, 4. In comparison to the Anglo-Saxon tradition, early Chinese literature even seems to show fewer residual characteristics of oral poetics and related practices of oral communities. Thus, Amodio’s description of the situation in medieval England, which deemphasizes the role of oral performance, may well be applied to the late pre-imperial and early imperial Chinese literate community: “Even the most marginal members of medieval society were situated within a textual culture, whether or not they remained largely or wholly unskilled in its mechanics.” See Amodio 2004: 20. Compare Benson 1966 on the literate composition of the *Beowulf*, as opposed to Magoun 1953, who still neglected its textuality. See also Riedinger 1985. For the theory of primary orality and for compositional practices of oral poetics see for example Lord 1960/2000, Havelock 1963, Ong 1982, Foley 1990, and Foley 2002. For an introduction into the history and methodology of oral-formulaic theory see Foley 1988.

³¹ I am grateful to Wolfgang Behr (p.c. 11 August 2014) for drawing my attention to the use of quotations in the early Indian oral tradition, for which see the convenient overview in Scharfe 2002: 8–37. For the first use of writing and the slow spread of literacy see also Hinüber 1989 and Falk 1993. Compare Bronkhorst 1982 for a slightly different view.

³² See Scharfe 2002: 30–34.

2 The composition of early imperial memorials

When we turn to early imperial memorials, which are often much longer, we have to be even more careful when assessing the possibility of their having been produced orally, especially as we know more about the court protocol during that period. In two recent monographs on early imperial official communication in general and “memorials” (*zòu* 奏) in particular, Enno Giele and Garret Olberding occasionally touch upon certain aspects of oral communication at court.³³ By translating *zòu* as “presentation” and “address” or referring to it as a “speech” or even “speech act” or “recorded statement”, Olberding implies that early imperial memorials originally may have been presented orally.³⁴ At first sight, this does not seem to be in line with historical facts. However, we have to differentiate carefully between the situation as it should have been from the point of view of court protocol, i.e. the *prescriptive* perspective, and the situation as it actually appears to have been, i.e. the *descriptions* of acts of memorializing in the sources.

As memorials were submitted by subordinates to their superiors and as there normally was a considerable difference in rank between these two parties, a gap which early imperial court etiquette tended to accentuate, the protocol commonly did not allow for oral presentations. Apparently, it was precisely specified under which conditions oral communication was accepted at court, and in most cases it was reserved for the response of the receiving party, to which the memorial had been addressed and which was allowed to “reply orally” (*kǒu bào* 口報).³⁵ Moreover, it seems to have depended, amongst other things, on the status of the sending party whether answers were given orally or in written form.³⁶ Correspondingly, due to the often remarkable – and therefore marked – gap in status between sending and receiving party, it must have been highly exceptional for the sending party to submit an oral presentation.³⁷

As Olberding himself explains, memorials formally first had to be submitted to the “Department of Memorials” (*zòu cáo* 奏曹) to be reviewed there before they were handed on to the emperor.³⁸ Even when they were presented to the emperor, they normally do not seem to have been recited (or paraphrased) by the sending

³³ For example, see Olberding 2012: 3, Giele 2006: 67, 76, 91, 106, 154, 157, 162.

³⁴ See Olberding 2012: 3, 44.

³⁵ See Giele 2006: 154–157.

³⁶ See Giele 2006: 162.

³⁷ For one such exception, see Giele 2006: 67, compare *Hàn shū* 74: 3135. In this case, it was the father-in-law of the emperor who took the liberty of addressing an oral proposal to the emperor.

³⁸ See Olberding 2012: 42.

party but submitted by members of the imperial secretariat.³⁹ In a similar way, so-called “direct submissions” (*fēng shì* 封事), literally “sealed matters”, which were introduced in 68 B.C.E., actually could not be handed directly to the emperor but were transmitted – and often reviewed – by the palace secretaries, who were eunuchs.⁴⁰

However, this is only the formal side of the process. Olberding may be right in contending that the Department of Memorials existed in name but not always necessarily in function: “Its existence, however, did not signal a consistent or rigorous censorial oversight, nor did its creation indicate an absence of official oversight prior to its creation.”⁴¹ This is corroborated by a passage in the biography of Lǐ Sī in the *Shǐ jì*, where the context seems to indicate that there was leeway to circumvent protocol regulations and memorialize orally.⁴² In the passage in question, the eunuch Zhào Gāo 趙高 is presented as being scheming against Lǐ Sī, at that time Chancellor to the Left under the Second Emperor. After having persuaded the emperor to stop attending audiences and instead indulge in his passions in the seclusion of the inner palace, Zhào Gāo induces Lǐ Sī to remonstrate with him:

高聞李斯以為言，乃見丞相曰：「關東羣盜多，今上急益發繇治阿房宮，聚狗馬無用之物。臣欲諫，為位賤。此真君侯之事，君何不諫？」李斯曰：「固也，吾欲言之久矣。今時上不坐朝廷，上居深宮，吾有所言者，不可傳也，欲見無間。」趙高謂曰：「君誠能諫，請為君候上間語君。」於是趙高待二世方燕樂，婦女居前，使人告丞相：「上方閒，可奏事。」丞相至宮門上謁，如此者三。二世怒曰：「吾常多閒日，丞相不來。吾方燕私，丞相輒來請事。丞相豈少我哉？且固我哉？」⁴³

When [Zhào] Gāo heard that Lǐ Sī was making [public] speeches on account of this [i.e. on account of Zhào Gāo usurping the emperor’s power to make decisions], he paid a visit to the chancellor and said, “East of the pass the bands of brigands multiply whereas His Imperial Highness at present is preoccupied with mobilizing more and more conscript labourers to work at the [site of the] Ēpáng Palace and amasses dogs, horses and [other] useless things. I would like to remonstrate with him, [but] I am of low rank. This is truly a matter for Your Honour. Why don’t you remonstrate with him, My Lord?” Lǐ Sī said, “Definitely! I would have liked to speak up on this in public for quite a long time. [But] at present, His Imperial Highness does not sit in court and stays in the deep recesses of the palace. When I have something to speak up on in public, I am not able to convey it [to him]. When I would like to pay him a visit, he does not have leisure [for it].” Zhào Gāo told him, “If My Lord can really remonstrate with him, please allow me for the sake of Your Honour to tell My Lord when His Imperial Highness is at leisure.” Thereupon Zhào Gāo waited until the Second

³⁹ See Giele 2006: 121–122, 182.

⁴⁰ See Giele 2006: 66–72.

⁴¹ See Olberding 2012: 42.

⁴² *Shǐ jì* 87: 2558. However, note that the narrative might well be fictitious; see below.

⁴³ See *Shǐ jì* 87: 2558.

Emperor was in the midst of feasting and making merriment, with womenfolk sitting in front of him, to send someone to tell the chancellor: “His Imperial Highness is at leisure right now. You can memorialize the affair.” The chancellor turned up at the palace gate and announced his arrival. This happened three times. The Second Emperor said angrily, “I usually have plenty of leisure time, the chancellor does not come. [But] when I am in the middle of feasting and making my private business, he comes immediately to ask about affairs. How does the chancellor dare to despise me?! Or does he even envy me?”⁴⁴

The crucial sentence, which is translated as “You can present your petition” by William H. Nienhauser and his co-translators,⁴⁵ literally means: “You can memorialize the affair”.⁴⁶ The context shows that this was intended as a purely oral presentation, which was not preceded by the submission of a written memorial. However, as explained above, this way of proceeding required bypassing the official channels and therefore must have been the exception rather than the rule. Probably this could only be achieved by the most high-ranking officials like Lǐ Sī. And, in fact, according to the narrative of his biography even he did not succeed in presenting his remonstrance orally but merely allowed himself to be hoodwinked into disaster.⁴⁷

Moreover, when we speak of *zòu* as a literary genre, we are well advised not to confuse written documents submitted to the throne with oral court communication.⁴⁸ Therefore I suggest it is better to translate the noun *zòu* as “memorial” and not as “presentation”. Both the directive, exoactive verb *zòu*, OC (Old Chinese) *ts⁵o-s, “to advance (speech, music, etc.) towards, submit (speech, music, etc.) to (kings)”, and the deverbal noun *zòu*, OC *ts⁵o-s, “what is advanced towards, submitted to (kings)”, belong to the same root as *zǒu* 走, OC *ts⁵o?, in its meaning “to advance, go towards”.⁴⁹ Their translation should reflect the status distinction between sender and receiver, which was normally accentuated in protocol. Therefore, the term *memorial*, which the *Oxford English Dictionary* defines as a “statement of facts forming the basis of or expressed in the form of a petition

⁴⁴ Compare Watson 1993: 199, who translates the last two sentences as “Is it because I’m so young that he treats me this way, or because he thinks I’m stupid?”, and Nienhauser 1994: 351–352, who has “Can the Chancellor think so little of me? Even think me a fool!?”

⁴⁵ See Nienhauser 1994: 351.

⁴⁶ See *Shǐ jì* 87: 2558: *kě zòu shì* 可奏事.

⁴⁷ For the outcome, ultimately ending in Lǐ Sī’s execution and the extinction of his clan, see *Shǐ jì* 87: 2558–2562. Moreover, note that the narrative might well be fictitious; see below.

⁴⁸ Enno Giele, p.c. (6 August 2013).

⁴⁹ Old Chinese reconstructions here and in the following are according to the system of Baxter and Sagart, version 1.00, 20 February 2011, if not otherwise specified. Compare Schuessler 2007: 635. I am grateful to Wolfgang Behr for pointing this out to me. See also Giele 2006: 182.

or remonstrance to a person in authority, a government, etc.”,⁵⁰ seems to be preferable to *presentation* or *speech*. Moreover, it indicates that these texts were usually presented in written form.

As the submission in writing was required, there are many passages that state explicitly that memorials were handed in as written texts. Apart from countless examples of the collocation *shàng shū* 上書, “to hand in a document”, there are dozens of instances of the expression *zòu shū* 奏書, “to submit/memorialize documents”, or its passive form *shū zòu* 書奏, “documents are/were submitted/memorialized”, in *Shǐ jì* and *Hàn shū* 漢書. One of these can be found in the above-quoted biography of Lǐ Sī. Immediately following the text of a memorial by Lǐ Sī on the question as to how to implement autocratic rule, the frame narrative says:

書奏，二世悅。

After the document had been submitted/memorialized, the Second Emperor was pleased.⁵¹

Moreover, the *Shǐ jì* introduces this very same memorial in the following way, making it explicit that it was submitted as a written text and not orally:

李斯恐懼，重爵祿，不知所出，乃阿二世意，欲求容，以書對曰：[...]

Lǐ Sī got scared and frightened. He valued rank and salary and did not know how to extricate himself from it [i.e. from his being held responsible for the rebellion of Chén Shèng 陳勝 and Wú Guǎng 吳廣]. Thus he pandered to the ideas of the Second Emperor, seeking to please him, and replied [to the emperor’s question as to how to enjoy his rule for long] with a document: [...].⁵²

Of course one might argue that this frame story was invented to discredit the chancellor. While the essentials of the plot of Lǐ Sī’s biography may conform to historical fact, the narrative about his motives to draw up the memorial might have been made up by its authors to present him as an opportunistic careerist and sycophant, who merely confirmed the Second Emperor’s convictions to save his own skin.⁵³ For example, this is corroborated by its being at variance with the

⁵⁰ See “memorial, *adj.* and *n.*”, in: *OED Online*, 30 July 2013.

⁵¹ See *Shǐ jì* 87: 2557.

⁵² See *Shǐ jì* 87: 2557. Judging from the frame narrative in the *Shǐ jì*, it is inconceivable that the memorial was produced by a member of an “oral community” or addressed orally to the Second Emperor, as one anonymous reviewer argues.

⁵³ This is how he is characterized in the *tàishǐ gōng yuē* 太史公曰 section, i.e. the judgment at the end of the biography, see *Shǐ jì* 87: 2563. The account of why he composed the memorial may have been adapted to conform to the negative judgment. For contradictions in Lǐ Sī’s biog-

parallel account of the events leading to Lǐ Sī's demise in the "Annals of the First Emperor of Qín" ("Qín Shǐ Huáng běn jì" 秦始皇本紀). Whereas the annals relate that he was imprisoned, sentenced to the Five Punishments (*wǔ xíng* 五刑) and executed because he had remonstrated against the imposition of additional taxes, construction work on the Ēpáng Palace (Ēpáng gōng 阿房宮) and other kinds of corvée,⁵⁴ his biography, as we have seen, tells us that he was afraid of the Second Emperor and paid deference to his wishes for fear of being deprived of his rank. According to this narrative, Lǐ Sī's memorial is just an attempt to please the Second Emperor by compliance and thus a gratifying reply to an earlier statement of the monarch, in which he makes his autocratic ambitions explicit. This statement almost immediately precedes the text of the memorial. The Second Emperor commences the expression of his commitment to the idea of concentrating all power in the hands of the monarch, i.e. himself, with a paraphrase of a section in the chapter "The Five Vermin" ("Wǔ dù" 五蠹) of the *Hán Fēi zǐ* 韓非子,⁵⁵ culminates in the declaration that he wants "to exclusively make use of All under Heaven to satisfy himself" (*zhuān yòng tiānxià shì jǐ* 專用天下適己) instead of "making [his] physical shape suffer and straining his mental energy" (*kǔ xíng láo shén* 苦形勞神) like Yáo 堯 and Yǔ 禹 and ends with the question as to how he can achieve his goal to "fully realize my ambitions, broadly satisfy my desires, enjoy All under Heaven for a long time and not to suffer any harm" (*cì zhì guǎng yù, cháng xiǎng tiānxià ér wú hài* 賜志廣欲，長亨天下而無害).⁵⁶

Obviously, this lurid account in the frame story is at odds with the sequence of events as given in the "Annals of the First Emperor", and it may well be the scandalous story, which not only perfectly matches the negative judgment at the end of the biography but also provides an explanatory narrative context for the propositions of Lǐ Sī's memorial, that is fictitious.⁵⁷ The same qualification applies to the above-mentioned narrative about Lǐ Sī remonstrating orally and thus

raphy and for Simǎ Qiān's partly sympathetic treatment of him see Hardy 1999: 204. Compare Schaab-Hanke 2010a: 46, who argues that similar contradictions in chapter 61 of the *Shǐ jì* may be related to its composite authorship and to Simǎ Qiān's endeavour to emancipate himself from his father's judgments of historical characters by developing his own view in the narrative. For the *tàishǐ gōng yuē* sections of the *Shǐ jì* see Schaab-Hanke 2010b.

⁵⁴ See *Shǐ jì* 6: 271–273.

⁵⁵ See *Shǐ jì* 87: 2553. Compare *Hán Fēi zǐ* 19.49: 443.

⁵⁶ See *Shǐ jì* 87: 2553–2554.

⁵⁷ However, see Kern 2000: 155–163 and Puett 2001: 188–191 for critical assessments of the "Annals". See also Durrant 1994 for an analysis of the "Annals" as a literary text and Pines 2005/2006 for discrepancies between the topoi of Qín history as narrated in the *Shǐ jì* and new archaeological findings.

allowing himself to be hoodwinked into disaster as well as to other accounts of the composition of documents handed down to us in the *Shǐ jì*, and maybe even to the documents themselves, which might have been reworked by its authors.⁵⁸

Yet, even if the context in the *Shǐ jì*, which mentions twice that the memorial was composed in writing, is fictitious, the background of institutional history outlined above and the rhetorical structure of this document itself, which exhibits both a high degree of intertextuality and a sophisticated argumentative structure,⁵⁹ still virtually exclude that it was produced orally in its present form. Firstly, even if Sīmǎ Qián and/or his father invented the tale, it clearly illustrates that they assumed the memorial to have been composed in writing and to have been submitted in written form. Secondly, Lǐ Sī's memorial, just like many other representatives of its genre, is a sophisticated rhetorical show piece, which is steeped in literate practices. Notwithstanding its narrative context it is as such geared at persuading its addressee to make certain decisions.

This implies that its author did not necessarily care for a faithful representation of historical facts. However, the notion of a distortion of facts might be misleading in this context. In an insightful and stimulating paper on “Appeals to History in Early Chinese Philosophy and Rhetoric”, Paul Rakita Goldin contends that early Chinese scholars did not share the modern historian's regard for the accurate depiction of facts, that they, in fact, may not even have had a concept of “evidence” and therefore of “fact”:

For it is evident that ancient Chinese thinkers, at least until Sima Qian [...] – and possibly even later – did not approve or disapprove of statements about history according to how well they fit what we would call facts. Rather, they valued statements about the past that embodied what should have been true, regardless of whether they embodied what was true. History was expected to be edifying, not necessarily factual.⁶⁰

Goldin goes on:

[...] my objection to the statement that an ancient Chinese historian would have felt bound to refrain from ‘distorting’ the past is not so much that it is untrue as that it is essentially meaningless. One can speak of ‘distortion’ only in the context of a conception of the past that regards fact as paramount. Participants in a culture that routinely distorted the past must not have shared our very idea of distorting the past. Asking whether Chinese histo-

⁵⁸ Compare Pines 1997 for the reliability of speeches in the *Zuǒ zhuàn*.

⁵⁹ See note 30 above for intertextual compositional practices as an indicator of literate textual production.

⁶⁰ See Goldin 2008: 81.

rians had qualms about distorting the past reflects the same kind of category mistake, therefore, as asking whether they thought the persons of the Trinity were consubstantial.⁶¹

Goldin's contention might help to explain the above-mentioned contradictions between the portrayal of Lǐ Sī in the "Annals" and in his biography. When there is no concern with the question as to whether an event has really occurred or not and when maybe there is not even a concept of evidence, it is more important to compose convincing stories than to inquire into historical facts. *Récit historique* prevails over *recherche historique*.⁶²

3 Argument-structuring functions of quotations in Lǐ Sī's memorial on autocratic rule

Amongst many other rhetorical devices, Lǐ Sī makes extensive use of quotations not only to embellish his memorial or to confer authority to its propositions but to develop the successive steps of its argument. Just like the Second Emperor, he draws on writings that were later subsumed under the "House of Standards" (*fǎ jiā* 法家) such as *Shēn zǐ* 申子, i.e. *Shēn Bùhài* 申不害, and *Hán Fēi zǐ* to confirm the monarch in his resolve not to sacrifice himself for his people like the legendary emperors Yáo or Yǔ did but to force his people to sacrifice themselves for him so that he would be in a position to hold full sway over his domain.⁶³ One might

⁶¹ See Goldin 2008: 82. Compare the objections of Olberding 2012: 14–15, which I do not find very convincing, though.

⁶² By suggesting that Lǐ Sī does not necessarily represent historical facts faithfully, I do not want to imply that rulers would not be acquainted with the texts their ministers were referring to, as one anonymous reviewer has surmised. Statements of earlier authors or "inherited speech", as Schaberg puts it, are not historical facts. Besides, our sources present even Zhànguó period rulers, let alone early imperial monarchs, as having been in the habit of devouring philosophical texts. Judging from received descriptions of the reading situation, they may have been well acquainted with their contents; see Schwermann 2012: 547–551. What is even more relevant in this respect is that both Lǐ Sī's biography and the "Annals of the First Emperor of Qín" ("Qín Shǐ Huáng běn jì" 秦始皇本紀) present the Second Emperor as paraphrasing a passage from the chapter "The Five Vermin" ("Wǔ dù" 五蠹) of the *Hán Fēi zǐ* in his statements himself; see above. This indicates that he was conversant with the text – or at least that the authors of the *Shǐ jì* thought him to be. See *Shǐ jì* 6: 271, and 87: 2553. Compare *Hán Fēi zǐ* 19.49: 443.

⁶³ I follow Goldin 2011 in his interpretation of the term *fǎ* and his critique of translating *fǎ jiā* as "legalism". "(Penal) law" is a specialized meaning of *fǎ*, which probably evolved only later from its primary meaning "standard"; see Goldin 2011: 91 and Hansen 1994. As Goldin 2011: 91–93 shows, the usage of *fǎ* in received texts that were later subsumed under the "House of Standards" was not confined to the meaning of "law". See also Brown/Sanft 2011: 294, who come to the con-

feel tempted to argue that he does so to impress his ruler with his knowledge of these texts. However, Lǐ Sī's use of quotations is far more sophisticated than the Second Emperor's. Whereas the latter appears to begin his statement with an allusion to the *Hán Fēi zǐ* and a paraphrase of a pertinent section of the chapter "The Five Vermin" mainly in order to lend authority to his proposition – and maybe also to show off with his familiarity with the text –, the former employs citations as building blocks in arguing that there is a technique of assessing subjects and holding them responsible that, once practised, "delegates and keeps all members of a society in a submitting position towards the ruler and thus enables him to reside in the bliss of unchallenged rule".⁶⁴ Moreover, the citations are not only wielded as arguments in themselves but also seem to serve as structural devices to organize the text – and thus to divide it into sense-units. To demonstrate this, I would like to translate the memorial in full:

夫賢主者，必且能全道而行督責之術者也。督責之，則臣不敢不竭能以徇其主矣。此臣主之分定，上下之義明，則天下賢不肖莫敢不盡力竭任以徇其君矣。是故主獨制於天下而無所制也。能窮樂之極矣，賢明之主也，可不察焉！

故《申子》曰「有天下而不恣睢，命之曰以天下為桎梏」者，無他焉，不能督責，而顧以其身勞於天下之民，若堯、禹然，故謂之「桎梏」也。夫不能修申、韓之明術，行督責之道，專以天下自適也，而徒務苦形勞神，以身徇百姓，則是黔首之役，非畜天下者也，何足貴哉！夫以人徇己，則己貴而人賤；以己徇人，則己賤而人貴。故徇人者賤，而人所徇者貴，自古及今，未有不然者也。凡古之所為尊賢者，為其貴也；而所為惡不肖者，為其賤也。而堯、禹以身徇天下者也，因隨而尊之，則亦失所為尊賢之心矣，夫可謂大繆矣。謂之為「桎梏」，不亦宜乎？不能督責之過也。

故韓子曰「慈母有敗子而嚴家無格虜」者，何也？則能罰之加焉必也。故商君之法，刑弃灰於道者。夫弃灰，薄罪也，而被刑，重罰也。彼唯明主為能深督輕罪。夫罪輕且督深，而況有重罪乎？故民不敢犯也。

是故韓子曰「布帛尋常，庸人不釋，鑠金百溢，盜跖不搏」者，非庸人之心重，尋常之利深，而盜跖之欲淺也；又不以盜跖之行，為輕百鎰之重也。搏必隨手刑，則盜跖不搏百鎰；而罰不必行也，則庸人不釋尋常。是故城高五丈，而樓季不輕犯也；泰山之高百仞，而跛牾牧其上。夫樓季也而難五丈之限，豈跛牾也而易百仞之高哉？峭塹之勢異也。明主聖王之所以能久處尊位，長執重勢，而獨擅天下之利者，非有異道也，能獨斷而審督責，必深罰，故天下不敢犯也。今不務所以不犯，而事慈母之所以敗子也，則亦不察於聖人之論矣。夫不能行聖人之術，則舍為天下役何事哉？可不哀邪！

clusion that *fǎ* refers to "legal categories", i.e. "sets of delicts centered around prototypes, which brought constancy, regularity, and clarity to the process of legal decision-making, helping to order it", in the corpus of newly recovered legal texts of the Qín and Hàn. Note that this reference to "classes of offenses focused around prototypical or paradigmatic examples" (Brown/Sanft 2011: 297) and the basic meaning "standard" are related metonymically in the sense that both focus on the notion of exemplars.

⁶⁴ I am grateful to one anonymous reviewer for this felicitous phrasing.

且夫儉節仁義之人立於朝，則荒肆之樂輟矣；諫說論理之臣聞於側，則流漫之志誦矣；烈士死節之行顯於世，則淫康之虞廢矣。故明主能外此三者，而獨操主術以制聽從之臣，而修其明法，故身尊而勢重也。凡賢主者，必將能拂世磨俗，而廢其所惡，立其所欲，故生則有尊重之勢，死則有賢明之謚也。是以明君獨斷，故權不在臣也。然後能滅仁義之塗，掩馳說之口，困烈士之行，塞聰揜明，內獨視聽，故外不可傾以仁義烈士之行，而內不可奪以諫說忿爭之辯。故能犖然獨行恣睢之心而莫之敢逆。若此然後可謂能明申、韓之術，而脩商君之法。法脩術明而天下亂者，未之聞也。

故曰「王道約而易操」也。唯明主為能行之。若此則謂督責之誠，則臣無邪，臣無邪則天下安，天下安則主嚴尊，主嚴尊則督責必，督責必則所求得，所求得則國家富，國家富則君樂豐。故督責之術設，則所欲無不得矣。羣臣百姓救過不給，何變之敢圖？若此則帝道備，而可謂能明君臣之術矣。雖申、韓復生，不能加也。⁶⁵

As for the worthy ruler, he is one who must certainly be able to have a complete grasp of the proper way [of ruling others] and to practice the technique of assessing [others] and holding [them] responsible. If he assesses them and holds them responsible, the ministers will not dare not to exhaust their abilities to obey their ruler. If in this way the roles of minister and ruler are fixed, and the duties of superior and inferior are clear, none among All under Heaven's worthy or unworthy will dare not to do their best and exhaust their capabilities to obey their lord. For this reason the ruler will dominate All under Heaven all on his own and will be dominated by none. He will be able to completely enjoy the highest degree of happiness. Can a worthy and perspicacious ruler fail to investigate this?⁶⁶

Therefore Master Shēn said, "To control All under Heaven and yet not to be unrestrained, that is what one calls 'fettering oneself with All under Heaven'."⁶⁷ There is no other reason for this than⁶⁸ that [the ruler] is not able to assess [others] and hold [them] responsible, but

⁶⁵ See *Shǐ jì* 87: 2554–2557.

⁶⁶ It is unlikely that this sentence addresses the Second Emperor directly, as one anonymous reviewer contends, and therefore it probably does not provide evidence that the memorial as a whole can be read as an oral address to him. There is no honorific form of address like *bìxià* 陛下, "Your Majesty", or *shàng* 上, "Your Imperial Highness", which both occur in Lǐ Sī's last two memorials, see *Shǐ jì* 87: 2559, 2561.

⁶⁷ See *Shǐ jì* 87: 2555: 故《申子》曰「有天下而不恣睢，命之曰以天下為桎梏」者。This is Fragment 20 in Creel's edition of the *Shēn zǐ* fragments, see Creel 1974: 381, who translates: "Shen-tzu said, 'To possess the whole world and yet not [make use of the fact that one may] act without constraint is called using the world to make shackles [for oneself].'" Compare Nienhauser 1994: 349, who translates: "Thus as Shen Tzu said, 'Possessing the world without indulging desires is termed 'shackling oneself with the world'.'" Note that there is an important difference here: whereas Nienhauser's translation implies that Lǐ Sī encourages the Second Emperor to indulge in his pleasures, a translation according to Creel's reading would signify that Lǐ Sī urges the Second Emperor to become more autonomous in his decisions.

⁶⁸ One anonymous reviewer suggests to translate the last one and a half sentences in the following way: "Therefore the saying by Master Shen 'To possess All under Heaven and yet not to be unrestrained is like being fated/ordered "to make All under Heaven into [one's] handcuffs and gyves"' is not different from this." This requires deviation from the punctuation of the *Zhōnghuá Shūjù* edition and insertion of a full stop after *wú tā yān* 無他焉:

on the contrary wears himself out for the benefit of All under Heaven's people, as Yáo and Yǔ did. Therefore one calls it “fettering [oneself with All under Heaven]”. Now, as for him who is not able to cultivate the bright technique of Shēn [Bùhài] and Hán [Fēi] and practice the way of assessing [others] and holding [them] responsible exclusively for the sake of making All under Heaven yield to himself, but [instead] only strives for making [his] physi-

故《申子》曰「有天下而不恣睢，命之曰以天下為桎梏」者，無他焉。不能督責，而顧以其身勞於天下之民，若堯、禹然，故謂之「桎梏」也。

The reviewer goes on to explain: “Then the text continues to argue why Shen’s saying is not different from the idea in the beginning section by means of an explanation why the inability 不能 of assessing and holding responsible is called ‘handcuffs and gyves’ by Shen Buhai.”

That the text could be punctuated in this way strikes me as very unlikely, in view of the following. The two particles *zhě* 者 and *yě* 也 indicate that the entire section has the form of a complex nominal sentence consisting of a topic, i.e. the quote, syntactically speaking the subject nominal phrase, which is signalled by the topic marker *zhě*, i.e. the “pronominal substitute for the head of a noun phrase” (see Pulleyblank 1995: 16, 66–67, 186), and a comment (rheme) on this topic, the predicative nominal phrase, which is introduced by *wú tā yān* 無他焉 and closed by *yě*, i.e. the marker of nominal predications.

Moreover, the phrase *wú tā yān* 無他焉, in all likelihood an extension of *wú tā* 無他, “there is nothing else than”, is short for *wú tā gù yān* 無他(它)故焉, “there is no other reason for this than”. Notwithstanding the unresolved question as to whether *yān* 焉 is a contraction of *yú* 於 and the pronouns *shì* 是, *zhī* 之 or *ān* 安, or no fusion at all (on which see Kennedy 1940 and 1953, Pulleyblank 1991: 33–34, Goldin 2003 and 2004, Smith 2012, and Branner 2014), the phrase *wú tā yān* is cataphoric. Hence, it does not mean “is not different from this [anaphoric]” but “there is no other reason for this than [cataphoric, i.e. “the following]”. Cf., e.g., *Mèng zǐ* 孟子 1A7 (*Mèng zǐ* 1.3: 87): 古之人所以大過人者，無他焉，善推其所為而已矣。 “As for why the men of antiquity greatly surpassed others, *there is no other reason for this than* that they were good at pushing further what they did, and that is all.” [Italics are mine.] Compare also *Xún zǐ* 荀子, chapter 10: “Fù guó” 富國 (*Xún zǐ* 1.6: 183) for the extended form of this phrase: 是以臣或弑其君，下或殺其上，粥其城，倍其節，而不死其事者，無它故焉，人主自取之。 Knoblock (1990: 126–127) translates: “It is just on account of this that ministers sometimes assassinate their lords, that subordinates sometimes murder their superiors, that they will sell their own cities, that they turn their backs on moderate principles, and that there are people who will not die in the pursuit of their duties. This state of affairs *is due to no other cause than* that the ruler of men himself has brought it about.” [Italics are mine.]

For stylistic reasons, I have chosen to transform the topic-comment construction in the memorial into two sentences and to associate them by employing the demonstrative pronoun *this* to refer to the content of the first sentence at the beginning of the second sentence in my translation. Nienhauser (1994: 349) must also have recognized the topicalization when he translated the construction as follows: “Thus as Shen Tzu said, ‘Possessing the world without indulging desires is termed “shackling oneself with the world.”’ *There is only one cause for this*: [the ruler] is unable to call men to account, but instead wearies his frame on behalf of his people, as did Yao and Yü; [...].” [Italics are mine.] Since the first part of this sentence is topicalized and begins with a causal conjunction, it formally marks the beginning of a new sense-unit, i.e. the next step in the sequence of arguments, for which see my analysis of the memorial below.

cal shape suffer and straining his mental energy in order to obey the people in person,⁶⁹ he is a servant of the black-headed commoners, not one who domesticates All under Heaven. How on earth could he be worth to be held in honour? Now, if he makes the others obey himself, he himself will be honoured whereas the others will be humbled. If he himself obeys the others, he will be humbled whereas the others will be honoured. Therefore he who obeys the others will be humbled whereas he whom the others obey will be honoured. From antiquity down to the present, there has never been a case in which it was not like this. All those who were respected as worthies in antiquity were treated like this because of their being honoured whereas those who were detested as unworthies were treated like this because of their being humbled. And consequently, as Yáo and Yǔ were such who obeyed All under Heaven in person, one would accordingly fail to obtain the motivation [required] to be respected as a worthy if one followed and respected them. Now, this can be called a

⁶⁹ Interestingly, the phrase “making [his] physical shape suffer and straining his mental energy in order to obey the people in person” (*kǔ xíng láo shén, yǐ shēn xùn bǎi xìng* 苦形勞神，以身徇百姓) reflects the wording of Simǎ Tán’s critique of the Confucian concept of rulership vis-à-vis the Daoist ideal of monarchic government as formulated in his essay on the “main ideas of the six houses” (*liù jiā zhī yào zhǐ* 六家之要指). See *Shǐ jì* 130: 3289: 儒者則不然。以為人主天下之儀表也，主倡而臣和，主先而臣隨。如此則主勞而臣逸。至於大道之要，去健羨，絀聰明，釋此而任術。夫神大用則竭，形大勞則敝。形神騷動，欲與天地長久，非所聞也。“As for the Confucian scholars, however, they are not like this. They believe that the ruler of men is the proper model of All under Heaven. [According to them,] the ruler [should] take the lead, and the ministers [should] accord [with him], the ruler [should] go first, and the ministers [should] follow [him]. If it is like this, the ruler will make strenuous efforts and the ministers will be at leisure. When it comes to the main points of the great Dào, one [should] dispense with desires and drive out intelligence, one [should] abandon these and rely on techniques instead. Now, as for mental energy, it will be exhausted if one uses it on a grand scale; physical shape will get worn out if one puts it under a great strain. That someone whose physical shape and mental energy are in state of agitation and commotion is willing to partake in the longevity of Heaven and Earth is not something that I have heard of.” Compare *Shǐ jì* 130: 3292: 凡人所生者神也，所託者形也。神大用則竭，形大勞則敝，形神離則死。死者不可復生，離者不可復反，故聖人重之。由是觀之，神者生之本也，形者生之具也。不先定其神（形），而曰「我有以治天下」，何由哉？“It is mental energy which keeps all men alive; it is physical shape which they take refuge in. Mental energy will be exhausted if one uses it on a grand scale; physical shape will get worn out if one puts it under a great strain. If physical shape and mental energy depart, one will die. What is dead cannot become alive again. What has departed cannot return. Therefore the sages attached great importance to them [i.e. to physical shape and mental energy]. When one looks at it from this point of view, mental energy is the root of life, physical shape is the means to maintain life. If one has not first stabilized one’s mental energy [and physical shape], but says, ‘I have got what it takes to govern All under Heaven,’ from where does it accrue?!” For an analysis of the political meaning and background of this passage see Ess 2003: 17–18. Notwithstanding the obvious differences between Simǎ Tán’s ideal of the non-interventionist monarch and Lǐ Sī’s advocacy of autocratic rule, both of them emphasize the importance of employing “techniques” (*shù* 術) of government and rely heavily on the argument that excessive activism on the ruler’s part is detrimental to dynastic continuity.

grave mistake. Is it not fitting to call it “fettering [oneself with All under Heaven]”? It is the fault of not being able to assess [others] and hold [them] responsible.

Therefore Master Hán said, “The doting mother will have spoiled sons, and the strict household will have no defiant slaves.”⁷⁰ Why is this so?⁷¹ Because [the strict household] is able to impose penalties on them with inevitable reliability. Therefore the standards of the Lord of Shāng sanctioned those who discarded ashes on the roads with physical punishment. Now, as for discarding ashes, it is a trivial offence, whereas being exposed to physical punishment is a heavy penalty. It is only the perspicacious ruler who is able to make a thorough assessment of a light offence. Now if the offence is light but the assessment is thorough, how much more so in the case of a heavy offence? Therefore the people do not dare to commit an offence.

For this reason Master Hán said, “A few feet of cloth or silk an ordinary person may not miss an opportunity of taking, but one hundred taels of red-hot molten gold even Robber Zhí may not use an opportunity to snatch at.”⁷² This, however, is not because an ordinary person’s longing is powerful, or because the profit of a few feet [of cloth or silk] is vast, or because the desires of [someone like] Robber Zhí are weak. Nor should one consider the behaviour of [someone like] Robber Zhí as an instance of him taking lightly the weight of hundred taels [of gold].⁷³ If snatching is invariably ensued by punishment through mutilation of the hands, [someone like] Robber Zhí will not snatch at a hundred taels [of gold]. But if penalties are not imposed invariably, an ordinary person will not miss an opportunity of taking a few feet [of cloth or silk]. For this reason, if a city wall is forty feet high, even [someone as strong as] Lóu Jì will not manage to get across it easily. Although the peak of Mount Tàì measures one hundred *rèn*,⁷⁴ a lame ewe grazes on its summit.⁷⁵ Now, as for [someone like]

70 See *Shǐ jì* 87: 2555: 故韓子曰「慈母有敗子而嚴家無格虜」者，[...]. Compare *Hán Fēi zǐ* 19.50: 461: 夫嚴家無悍虜，而慈母有敗子，吾以此知威勢之可以禁暴，而德厚之不足以止亂也。

Compare the translation by Christoph Harbsmeier in *TLS*, 6 August 2013: “Now in a strict household there are no obstreperous slaves but a doting mother will have good-for-nothing sons. From this I understand that through a position of authority one may put a stop to violence, and that through generosity one cannot stop political chaos.”

71 Just like the first quote from the *Shēn zǐ*, this citation introduces a new constituent of the argumentative chain (cf. below). As above, it is marked by the particle *zhě* and topicalized as the first clause of a nominal sentence.

72 See *Shǐ jì* 87: 2555: 是故韓子曰「布帛尋常，庸人不釋，鑠金百溢，盜跖不搏」者，[...]. Compare *Hán Fēi zǐ* 19.49: 447: 布帛尋常，庸人不釋；鑠金百溢，盜跖不掇。I have slightly modified the translation by Christoph Harbsmeier in *TLS*, 12 June 2014.

73 Once again, the citation is topicalized and introduces another step in the author’s argumentation.

74 As one *rèn* 仞 has seven *chǐ* 尺, and as one *chǐ* has an historic value of 23.1 centimeters during the Hàn, but as the peak of Mount Tàì is 1532 meters high, the given elevation *bǎi rèn* 百仞 is not correct.

75 The last two sentences are a paraphrase of the section immediately preceding the previous quotation from the *Hán Fēi zǐ* 19.49: 447: 故十仞之城，樓季弗能踰者，峭也；千仞之山，跛牂易牧者，夷也。故明主峭其法而嚴其刑也。

Compare the translation by Christoph Harbsmeier in *TLS*, 12 June 2013: “Thus as for a city wall ten spans (meters) high, even Lóujì is unable to climb over: this is because it is so steep. As

Lóu Jì, if he has difficulties with an obstacle that is forty feet high, as for a lame ewe, how can she easily surmount a height of one hundred *rèn*? Because the circumstances are different with regard to the gradual development of steepness.⁷⁶ The reason why a perspicacious ruler and a sage king are able to occupy a venerable position permanently, to hold on to [their] preponderant power for a long time and to gain sole control of the profits of All under Heaven is not that they have any extraordinary way [of governing], [but] that they are able to make decisions all on their own, that they are meticulous about assessing [others] and holding [them] responsible and that they make sure of tightening penalties – that’s why All under Heaven does not dare to go against them. Now, if [a ruler] does not concern himself with the reason why [All under Heaven] would not go against him but instead strives for that by which the doting mother spoils [her] sons, he will accordingly not have a clear understanding of the judgements of the sages. Now, if he is not able to practice the techniques of the sages, what can he do about being discarded and turned into the servant of All under Heaven? One cannot help but feel grief for him!

Moreover, if men of frugality and moderation, of benevolence and righteousness stand in court, extravagant and unrestrained merriment will be disrupted. If remonstrating and argumentative ministers interfere at the [ruler’s] side, unconventional and nonconformist aspirations will be thwarted. If the efforts of zealous men of service, who die for the sake of probity, become famous in the world, indulgence in unbridled amusements will be abandoned. Therefore a perspicacious ruler is able to keep these three at bay, to wield the techniques of the ruler all on his own in order to control obedient ministers and to promote his clear standards. Therefore he himself is respected, and his power is preponderant. All worthy rulers will certainly be able to wipe out current contemporary opinions and to grind away current contemporary customs so as to abandon what they dislike and to establish what they desire. Therefore, in life they will have a power that is respected and preponderant, in death they will have posthumous names that [signify] worthiness and perspicaciousness. For this reason a perspicacious ruler makes decisions all on his own. Therefore leverage does not rest with the ministers. Only then can he destroy the paths of benevolence and righteousness, cover the mouths that sputter forth persuasions, obstruct the efforts of zealous men of service, block up acoustic and visual intelligence and secretly have eyesight and hearing only for himself. Therefore, from outside he cannot be toppled by the deeds of the benevolent and the righteous and of zealous men of service, and from within his power cannot be wrested away by the rhetorical skills of remonstrants and of the cantankerous and the quarrelsome. Therefore he is able to act out [his] unrestrained heart in splendid

for a mountain that is two thousand meters high, lame goats find it easy to graze there, because it is not too steep. Therefore the enlightened ruler makes his laws steep and makes his punishments severe.” As the elevation of an unnamed mountain is given as “one thousand *rèn*” (*qiān rèn* 千仞) here, it stands to reason that the authors of the *Shǐ jì* or later copyists misread *qiān* 千 as *bǎi* 百 and that the wrong elevation given in the *Shǐ jì* (see note 74 above) should be emended accordingly.

⁷⁶ This sentence does not refer to a difference in the “circumstances of the precipitous and the level”, as Nienhauser 1994: 349 has it, in order to explain why a lame ewe would be more successful than a strong Lóu Jì. The character 塹, *qiàn*, OC *ts^ham-s, is a loan for *jiàn* 漸, OC *dzam?, “gradual development”; see Wáng 2008: 804, compare *Hànyǔ dà cídiǎn*, 2.1: 1187b.

independence, and none dares to oppose him. Then, and only then, can he be said to be able to clearly understand the techniques of [Master] Shēn and [Master] Hán and to be able to promote the standards of the Lord of Shāng. That the standards have been promoted and the techniques clearly understood but that All under Heaven is yet in disorder, is something I have not heard of yet.

Therefore, [although] it is said that “the way of the king is simple and easy to handle”, only a perspicacious ruler is able to pursue it.⁷⁷ This being the case, it is maintained that if assessment [of others] and [their] being held responsible is earnest and sincere, ministers will have no wickedness. If ministers have no wickedness, All under Heaven will be tranquil. If All under Heaven is tranquil, the ruler will be awe-inspiring and respected. If the ruler is awe-inspiring and respected, assessment [of others] and [their] being held responsible will be carried out with inevitable reliability. If assessment [of others] and [their] being held responsible are carried out with inevitable reliability,⁷⁸ what [the ruler] demands will be gained. If what [the ruler] demands is gained, land and [imperial] house will be rich. If land and [imperial] house are rich, the joys of the lord will be abundant. Therefore, if the technique of assessing [others] and holding [them] responsible is set up, there is nothing what [the ruler desires] that cannot be gained. If the various ministers and the common people are not [even] given the opportunity to make up for their mistakes, what revolts would they dare to plot? Only then the way of the emperor is completely prepared, and one can indeed be said to clearly understand the techniques of lord and ministers. Even if [Master] Shēn and [Master] Hán were to be born again, they would not be able to add to it.⁷⁹

This is one of the most outspoken advocations of autocratic rule, here designated as “the way of the emperor” (*dì dào* 帝道), ever written by a Chinese scholar-official of the imperial period. Lǐ Sī even goes so far as to betray the interests of his own peer group, to advise the emperor to marginalize remonstrating officials like himself and to keep them away from the centre of power, characterizing them as “cantankerous” and “quarrelsome” troublemakers. It is therefore hardly surprising that his early Hân successors, who worked hard to transfer as much power as possible from the monarch’s side to the small circle of central government officials, thus leaving an indelible mark both on the traditional concept of monarchism and on the constitution of the empire and its institutions,⁸⁰ tended to despise him and characterized him as an opportunist “pandering to the ideas

⁷⁷ I have been unable to identify the source of this saying. Diverging from the punctuation of the Zhōnghuá-Shūjǔ-Edition of the *Shǐ jì*, I analyze this section not as two separate sentences but as one complex sentence beginning with a concessive clause, the predicate of which is marked by the particle *yě*: 故曰「王道約而易操」也，唯明主為能行之。Compare *Shǐ jì* 87: 2557.

⁷⁸ Note that this is a weak point in Lǐ Sī’s chain argument, since it is merely a variation of its initial link “if assessment [of others] and [their] being held responsible is earnest and sincere, [...]”

⁷⁹ Compare the translations by Watson 1993: 194–198 and Nienhauser 1994: 348–350.

⁸⁰ For a stimulating discussion of the early Chinese concept of monarchism and the Zhànguó period origins of later imperial ideology see Pines 2009.

of the Second Emperor” (*ā Èr Shì yì* 阿二世意).⁸¹ However, as argued above, the alternative account of the events leading to the demise of Lǐ Sī in the “Annals of the First Emperor” indicates the exact opposite, i.e. that he was a man who not only remonstrated with his emperor but even died for his convictions. With the contradictory primary sources now at hand, there is no way of ascertaining the truth in this matter.

In any case, the present memorial appears to be exceptionally well-crafted and well-argued. Quoting or referring to the three most important thinkers that were later included under the “School of Standards” (*fǎ jiā*), Shēn Bùhài, the Lord of Shāng, i.e. Gōngsūn Yāng, and Hán Fēi, and basing himself on their three central concepts, *shù* 術, “technique”, *shì* 勢, “power”, and *fǎ* 法, “standard”, its author systematically develops the idea that the ideal ruler ought to be able to employ specific procedures of statecraft, namely assessment of his subjects and calling them to account, and that he should tighten penalties and apply the legal standards with inevitable reliability to secure his power base and to make sure that his subjects remain in a submitting position and do not threaten the autonomy of his decision-making lest his rule is challenged and he himself deprived of the privileges of his position. In addition, he employs a number of keywords, which recur repeatedly throughout the memorial and closely reflect its central topics. Similar to the non-interventionist monarch, whose main competence lies in “relying on techniques [of government]” (*rèn shù* 任術),⁸² Lǐ Sī’s ideal ruler should have the capacity to “practice the technique of assessing [others] and holding [them] responsible” (*xíng dū zé zhī shù* 行督責之術), which is mentioned ten times throughout the memorial and seems to refer both to the strict application of penal law and to Shēn Bùhài’s technique of personnel control known as *xíngmíng* 刑名, “performance and title”, i.e. the checking of an official’s performance against his title and thus his job description.⁸³ The crucial importance of this capacity is highlighted by the keywords “ability” or “to be able to” (*néng* 能),⁸⁴ which occur 19 times throughout the memorial and in seven instances refer to the capability of the “worthy and perspicacious ruler” (*xián míng zhī zhǔ* 賢明之主) to practise the technique of assessing his subjects, particularly his ministers, and

⁸¹ See *Shǐ jì* 87: 2554.

⁸² See note 69 above, compare *Shǐ jì* 130: 3289. However, note that Sīmǎ Tán’s ideal ruler should also “dispense with desires and drive out intelligence” (*qǔ jiànxiàn, chù cōngmíng* 去健羨, 絀聰明).

⁸³ See Creel 1970 and Creel 1974: 119–124. Note that, in addition to that, the term *dū* 督, “assessment”, occurs two times with respect to the inspection of “offences” (*zuì* 罪).

⁸⁴ I am grateful to one anonymous reviewer for pointing out to me that the term *néng* is used repeatedly and deliberately.

calling them to account. In most of the other instances the modal verb *néng* governs verbal phrases that refer to related capabilities on the side of the “perspicacious ruler”, for example his ability to pursue the true “way of the king” (*wáng dào* 王道), to assess light offences thoroughly, to make all his decisions autonomously, to act independently and without restraint, to suppress any resistance to his regime and to control his ministers, and thus to perpetuate his rule, to hold on to both power and position for a long time, to monopolize the benefits of the empire for his own profit and, consequently, to “completely enjoy the highest degree of happiness” (*qióng lè zhī jǐ* 窮樂之極).⁸⁵ The notion of autocracy is intimately tied up with the keywords “all on one’s own, independently” and “to have [something] only for oneself” (*dú* 獨), which occur seven times in the collocations or phrases “to make decisions all on one’s own” (*dú duàn* 獨斷, two instances), “to dominate All under Heaven all on one’s own” (*dú zhì yú tiānxià* 獨制於天下), “to gain sole control of the profits of All under Heaven” (*dú shàn tiānxià zhī lì* 獨擅天下之利), “to wield the techniques of the ruler all on one’s own” (*dú cāo zhǔ shù* 獨操主術), “to block up acoustic and visual intelligence and secretly have eyesight and hearing only for oneself” (*sè cōng yǎn míng, nèi dú shì tīng* 塞聰揜明, 內獨視聽) and “to act out one’s unrestrained heart in splendid independence” (*luòrán dú xíng zìsuī zhī xīn* 犖然獨行恣睢之心). In all of these instances, the keyword *dú* serves to present the ideal emperor as an autocrat who acts autonomously in decision-making, controlling his subjects by relying on the technique of assessing them and holding them responsible for their performance, exploiting the benefits of the empire for himself and consuming them without restraint.

However, to focus on his central topics and organize his text, Lǐ Sī does not only employ keywords but also citations. Similar to Gōngsūn Yāng in his speech on legal and ritual reform, he applies these to initiate argumentative steps in his reasoning, rather than referring to inherited speech simply to lend authority to his propositions. Thus, his very first reference to Shēn zǐ introduces the new idea that a ruler who aims at serving the world, as Yáo and Yǔ are said to have done, “fetters” (*zhìgù* 桎梏) himself to it. According to Lǐ Sī, this “welfarist” Confucian approach, which regards the benefit of All under Heaven’s people as the guiding principle of rulership and aims at gaining their support and participation, results in the monarch subordinating and enslaving himself to his subjects, thus turning the political and social hierarchy upside down and depriving himself of his power and privileges instead of truly ruling over his people: “Therefore he who obeys the others will be humbled whereas he whom the others obey will be honoured. From antiquity down to the present, there has never been a case in which it was

⁸⁵ In one instance, the noun *néng* refers to the abilities of his “ministers” (*chén* 臣).

not like this.”⁸⁶ This argument is developed throughout what is the second section of the memorial according to my translation, but is first introduced in the quote from *Shēn zǐ* at the beginning of this section.

At the same time, the complex topic-comment construction of the nominal sentence that contains the reference serves to connect this argument with the one of the first paragraph, which is preoccupied with the technique of assessing subjects and holding them responsible. As the literal translation of this construction elucidates, the topicalization of the quote establishes a causal link between the ruler’s inability to apply this technique on the one and his degradation and humiliation on the other hand, i.e. between the arguments of the first and second section: “Therefore, as for Master Shēn saying that ‘to control All under Heaven and yet not to be unrestrained, that is what one calls “fettering oneself with All under Heaven”’, there is no other reason for this than that [the ruler] is not able to assess [others] and hold [them] responsible, but on the contrary wears himself out for the benefit of All under Heaven’s people, as Yáo and Yǔ did.”⁸⁷ That is, the sentence links the two arguments causally by saying that the ruler shackles himself with All under Heaven because he is incapable of applying the technique of assessing his subjects and holding them responsible. Moreover, the citation serves to organize the line of thought in the second section of the memorial – witness that the term *zhìgù* is repeated twice, first in the sentence “Therefore one calls it ‘fettering [oneself with All under Heaven]’”,⁸⁸ then in the question “Is it not fitting to call it ‘fettering [oneself with All under Heaven]’?”⁸⁹ – and thus to develop its central thesis that by fettering himself to the world a ruler delegates himself to a submitting position towards his own subjects, thereby overturning the monarchic order and destroying his “position of authority” (*wēi shì* 威勢) and also bereaving himself of the advantages of his rank.⁹⁰

⁸⁶ See *Shǐ jì* 87: 2555.

⁸⁷ See *Shǐ jì* 87: 2555. Compare note 68 above.

⁸⁸ See *Shǐ jì* 87: 2555.

⁸⁹ See *Shǐ jì* 87: 2555.

⁹⁰ As there is no context for this quote in the *Shēn zǐ* fragments, it is impossible to decide whether it was originally intended as an encouragement to pleasure-seeking rulers, as Nienhauser’s translation (1994: 349) implies, or rather as an injunction of autonomy of decision-making, as Creel (1974: p. 381–382, n. 9) thought; see note 67 above. However, note that the text of the memorial indicates that Lǐ Sì attached no small importance to the latter. At one point, he even argues that autonomous decision-making on the emperor’s side is prerequisite to anything else; see the causal chain in the penultimate section of my translation: “For this reason a perspicacious ruler makes decisions all on his own. Therefore leverage does not rest with the ministers. Only then can he destroy the paths of benevolence and righteousness, cover the mouths that sputter forth persuasions, obstruct the efforts of zealous men of service, block up acoustic and visual intelli-

Actually, the memorial does not mention the key term *wēi shì* 威勢, “position of authority”, at all, but it is clearly implied by the second quotation, which derives from the chapter “The Illustrious Scholars” (“Xiǎn xué” 顯學) of the *Hán Fēi zǐ*,⁹¹ since the context in the quoted text, a sustained critique of the welfarist and participational approach of Confucian and Mohist scholars, focuses on this concept as the most important instrument to achieve political order:

夫嚴家無悍虜，而慈母有敗子，吾以此知威勢之可以禁暴，而德厚之不足以止亂也。

Now in a strict household there are no obstreperous slaves but a doting mother will have good-for-nothing sons. From this I understand that through a *position of authority* [*wēi shì* 威勢; italics are mine] one may put a stop to violence, and that through generosity one cannot stop political chaos.⁹²

This indicates that Lǐ Sī cites *Hán Fēi zǐ* not only for the sake of lending thrust to his initial propositions that it is important for a ruler to call his subjects to account thoroughly in order not to be relegated to a submitting position towards his subjects, but also to give a decisive turn to his argument by implying that only through securing his powerbase a ruler is able to perpetuate and “reproduce”⁹³ his rule, to permanently “dominate All under Heaven all on his own and to be dominated by none”.⁹⁴ Moreover, the quote, which precludes the third section of the memorial, enables the author to advance his next central argument, namely that it is important to aggravate punishment for offences and apply the legal standards reliably for the sake of deterrence: “Therefore the people do not dare to

gence and secretly have eyesight and hearing only for himself. Therefore, from outside he cannot be toppled by the deeds of the benevolent and the righteous and of zealous men of service, and from within his power cannot be wrested away by the rhetorical skills of remonstrants and of the cantankerous and the quarrelsome. Therefore he is able to act out [his] unrestrained heart in splendid independence, and none dares to oppose him.” Compare *Shǐ jì* 87: 2557, cited above.

91 For further examples of conveying meaning through contextual allusions see my analysis of a memorial by Zhǔfù Yǎn below. As the Second Emperor is reported to have quoted from the *Hán Fēi zǐ* himself (see notes 55 and 62 above), it stands to reason to assume that the author of this memorial expected him to be able to recognize the contextual allusion and understand its import.

92 See *Hán Fēi zǐ* 19.50: 461 as translated by Christoph Harbsmeier in *TLS*.

93 I borrow this concept from Bourdieu 1994.

94 See *Shǐ jì* 87: 2554: 是故主獨制於天下而無所制也。 Both this sentence and the quote from the *Hán Fēi zǐ*, which alludes to the concept of “position of authority”, seem to imply that concentrating as much power as possible in the hands of the emperor to perpetuate his rule is at the top of Lǐ Sī’s agenda and that “complete enjoyment of the highest degree of happiness” is conceived of as a welcome corollary of the former. Moreover, note that it is not at all clear what exactly ‘happiness’ (*lè* 樂) refers to in this context.

commit an offence.”⁹⁵ Once again, the citation is embedded into a topic-comment construction, which, translated literally, reads as follows: “Therefore, as for Master Hân saying that ‘the doting mother will have spoiled sons, and the strict household will have no defiant slaves’, why is this so?”⁹⁶ Alluding to the “legal standards of the Lord of Shāng” (Shāng *jūn zhī fǎ* 商君之法), Lǐ Sī continues to explain that it is so because penal law is applied reliably and relentlessly and thus provides yet another causal link between a reference and its immediate argumentative context, in this case between the reliability of legal standards and Hân Fēi’s deterrence theory.

Witness that the same rhetorical strategy is at work at what is the beginning of the fourth section according to my translation. Once again, a reference, in this case yet another quote from the *Hân Fēi zǐ*, is topicalized. Interestingly, Lǐ Sī cites the chapter “The Five Vermin” (“Wǔ dù”), which has previously been quoted by the addressee of his memorial, the Second Emperor, himself.⁹⁷ Similar to the first two topicalizations, the construction establishes a causal link between the citation and its argumentative context. However, when translated literally, it is far more extended than its predecessors: “For this reason, as for Master Hân saying that ‘a few feet of cloth or silk an ordinary person may not miss an opportunity of taking, but one hundred taels of red-hot molten gold even Robber Zhí may not use an opportunity to snatch at’, this is not because an ordinary person’s longing is powerful, or because the profit of a few feet [of cloth or silk] is vast, or because the desires of [someone like] Robber Zhí are weak; nor should one consider the behaviour of [someone like] Robber Zhí as an instance of him taking lightly the weight of hundred taels [of gold].”⁹⁸ Alluding to the simile of Lóu Jì 樓季 and the lame ewe, which immediately precedes the quoted passage in the *Hân Fēi zǐ*, Lǐ Sī goes on to explain that successful deterrence depends on the “gradual development of steepness” (*qiào jiàn* 峭塹 (漸)) of penal law,⁹⁹ i.e. on its rigour and severity. Thus, the third quotation and the subsequent allusion to the simile of Lóu Jì and the lame ewe serve to illustrate the proposition of the previous section that punishments have to be reliable and severe to make sure that potential offenders are deterred and that the technique of assessing subjects and holding them responsible can be successfully implemented by the monarch.

⁹⁵ See *Shǐ jì* 87: 2555.

⁹⁶ See *Shǐ jì* 87: 2555. Compare note 71 above.

⁹⁷ See note 55 and 62 above and *Shǐ jì* 87: 2553. Compare *Hân Fēi zǐ* 19.49: 443.

⁹⁸ See *Shǐ jì* 87: 2555. Compare note 73 above.

⁹⁹ Compare note 76 above.

Apparently, the memorial contains one more reference, though it is not clear from whence it is derived. Following the penultimate section, which is concerned with the detrimental activities of resistance groups in the empire and oppositional factions at court and the strategies to suppress them, Lǐ Sī introduces the conclusion of his memorial fittingly with an allusion to the “way of the king”, which according to the reference “is simple and easy to handle” (*yuē ér yì cāo* 約而易操). However, this unidentifiable citation seems to be quoted only in order to be immediately refuted, since it is embedded into a concessive clause and subsequently qualified by the statement that “only a perspicacious ruler is able to pursue it [i.e. the way of the king]”.¹⁰⁰ This rhetorical device allows the author to summarize his presentation and condense his reasoning in a final chain argument. Once again, he emphasizes the importance of the technique of assessing subjects by turning its “being implemented sincerely” (*chéng* 誠) into the initial link of his chain argument and by concluding this argument with the inference that the “joys of the lord will be abundant” (*jūn lè fēng* 君樂豐) – provided that, according to the logic of the chain argument, he relies on this same technique of rule.

In all the four instances analyzed above, the references are not only employed for the sake of giving authority to the initial proposition that it is important for a ruler to call his subjects to account, but as argumentative constituents in their own right, adding new and important aspects to the author’s line of thought, advancing and organizing it and, through being topicalized and embedded into causal or concessive clauses, even providing formal criteria for dividing it into sense-units. Thus, even in this very early imperial memorial, it is obvious that inherited speech was not only a source of prestige or a mere embellishment but an argumentative figure of thought and therefore part and parcel of the reasoning and rhetoric of these deliberative texts. And since these, as has been pointed out above and as the elaborate argumentative structure of Lǐ Sī’s memorial indicates, normally were not and also are very unlikely to have been produced orally, they need to be seen – and studied – as specimens of literary rhetoric rather than of public oratory.¹⁰¹

¹⁰⁰ See *Shǐ jì* 87: 2557. Compare note 77 above.

¹⁰¹ Of course, a text that is composed in writing can be performed orally, and if the author is aware that the text will be performed orally, he will create it differently than a text intended solely for silent reading. I am grateful to Yegor Grebnev for qualifying my argument in this respect. However, this does not alter the fact that early imperial memorials are the products of a literate community.

4 The argumentative “deep structure” of Zhǔfù Yǎn’s memorial on the campaigns against the Xiōngnú

The structuring function of quotations is even more prominent and obvious in memorials of the second century B.C.E. To illustrate this point, and to demonstrate how references as figures of thought can also be employed to add a second, hidden layer of meaning to the text, I would finally like to analyze a remonstrance submitted by Zhǔfù Yǎn in 129 or 128 B.C.E. as part of a longer memorial on statutes and ordinances.¹⁰² In his admonition, Zhǔfù Yǎn criticizes the expansionist policy of Hàn Wǔdì, i.e. Liú Chè (r. 141–87 B.C.E.), especially the imminent military campaigns against the Xiōngnú, which were started in 127 B.C.E. His remonstrance has a total of 746 characters, 167 of them, i.e. 22.4 per cent, belonging to explicit quotations. Two of these altogether five quotations can be classified as precedent-based arguments, three others as argument-structuring devices. In the following, I will be primarily concerned with the latter. The two quotations that are clearly precedent-based are part of the discussion of two recent historical parallels or analogues, as Olberding calls them,¹⁰³ namely the abortive campaigns against the Xiōngnú under the First Emperor of Qín and under Liú Bāng 劉邦. Both are taken from earlier admonitions, the first from a remonstrance by Lǐ Sī,¹⁰⁴ the second from a remonstrance by a “Secretary to the Imperial Counsellor” (yùshǐ 御史) named Chéng 成,¹⁰⁵ and both argue that conventional warfare against the Xiōngnú is doomed to failure because they are a non-sedentary people, who cannot be controlled in the long run.

Garret Olberding, who has recently given a translation of Zhǔfù Yǎn’s remonstrance,¹⁰⁶ notes in his overview of propositional categories in Hàn memorials that “propositions of general principle”, as he calls them, are often linked to citations of anonymous sources or quotes from the Classics.¹⁰⁷ Probably due to his preoccupation with the role of “evidence” or “facts” in Hàn memorials, however, he fails to analyze their use of inherited speech systematically and thus overlooks

¹⁰² For Zhǔfù Yǎn, who was executed around or after 127 B.C.E. for having taken bribes, see Emmerich 2002: 473–485 and Loewe 2000: 749–750. Compare his biographies in *Shǐ jì* 112: 2953–2962, and *Hàn shū* 64A: 2798–2804.

¹⁰³ See Olberding 2012: 63–66.

¹⁰⁴ See *Shǐ jì* 112: 2954 and *Hàn shū* 64A: 2800.

¹⁰⁵ See Loewe 2000: 44, compare *Shǐ jì* 112: 2955 and *Hàn shū* 64A: 2801.

¹⁰⁶ See Olberding 2012: 179–183.

¹⁰⁷ See Olberding 2012: 55–60.

that references serve as structural devices organizing the entire text, including the other two categories of propositions postulated by him, namely precedents, i.e. the above-mentioned historical analogues, and details. Moreover, it is indispensable to trace quotations back to their sources and to consider their context in the quoted text in order to detect what Schultz has called the addition of a “second substrate layer of meaning to the statement”.¹⁰⁸ As will become apparent below, it is precisely this second layer of meaning derived from intertextual references and relations that turns the quotes into indispensable links of the argumentative chain of Zhǔfù Yǎn’s remonstrance.

Following an introductory paragraph including the conventional *captationes benevolentiae* and self-degradations characteristic for remonstrative addresses, the author formulates his tenet by quoting parts of the second paragraph of the first chapter of the military text *Sīmǎ fǎ* 司馬法:

司馬法曰：「國雖大，好戰必亡；天下雖平，忘戰必危。天下既平，天子大凱，春蒐秋獮，諸侯春振旅，秋治兵，所以不忘戰也。」¹⁰⁹

The *Rules of the Marshal* say, “Even though a country is large, if it is fond of waging warfare, it will certainly perish. Even though All under Heaven is at peace, if it forgets warfare, it will certainly be in danger. All under Heaven having been pacified, the Son of Heaven performs the [song of] ‘Great Bliss’ and carries out the spring and autumn hunting expeditions, the many lords train their armies in spring and drill their soldiers in autumn. This is the means by which not to forget warfare.”¹¹⁰

This is Zhǔfù Yǎn’s expression of the idea that neither aggressive military campaigns nor total disarmament are viable alternatives for dealing with the Xiōngnú but that it is important to be prepared for armed defense and to aim at military deterrence and containment. Now let us compare this to the context of the quote in the *Sīmǎ fǎ*. It is taken from its first chapter “Benevolence as Root” (“Rén běn” 仁本), which at first sight appears to be an extraordinary opening for a military text as it proposes to prevent warfare through military deterrence and thus fails to meet the conventional expectations of the genre:

戰道。不違時，不歷民病，所以愛吾民也。不加喪，不因凶，所以愛夫其民也。冬夏不興師，所以兼愛民也。故國雖大，好戰必亡。天下雖安，忘戰必危。天下既平，天子大愷，春蒐秋獮，諸侯春振旅，秋治兵，所以不忘戰也。¹¹¹

¹⁰⁸ See Schultz 1999: 196.

¹⁰⁹ See *Shǐ jì* 112: 2954, where by mistake only half of the passage (i.e. 國雖大，好戰必亡；天下雖平，忘戰必危。) is marked as a quotation. I have changed the quotation mark accordingly.

¹¹⁰ I have modified the translation by Olberding 2012: 180, signalling the quotation from the *Sīmǎ fǎ*.

¹¹¹ See *Sīmǎ fǎ* A: 1a–b.

The method of warfare: Do not contravene the seasons, do not cause the people to experience hardship – this is the means by which to spare one’s own people. Do not take advantage of [your enemy being in] mourning, do not draw benefit from disasters – this is the means by which to spare another one’s people. Do not raise the army in either winter or summer – this is the means by which to spare both one’s own and another one’s people. Therefore even though a country is large, if it is fond of waging warfare, it will certainly perish. Even though All under Heaven is calm and secure, if it forgets warfare, it will certainly be in danger. All under Heaven having been pacified, the Son of Heaven [performs the song of] “Great Bliss” and carries out the spring and autumn hunting expeditions, the many lords train their armies in spring and drill their soldiers in autumn. This is the means by which not to forget warfare.¹¹²

Interestingly, Zhǔfù Yǎn omitted the most important part of the second paragraph of the first chapter of the *Sīmǎ fǎ*, namely its first section, which deals with the notion of “sparing the people” (*ài mín* 愛民) as the central aspect and motivation of “benevolent” warfare.¹¹³ Why did he do so? Did he sense that it would have been too great an offence to directly accuse Liú Chè of being a mean-spirited oppressor of his people, who conscripted them as cannon fodder on the fronts of the Xiōngnú wars? Yet, although – or exactly because – the second section of the passage from the *Sīmǎ fǎ* is taken out of its context, the context is still implied, and what we have in effect is an indirect criticism of Liú Chè’s military policy, which aimed at fighting a protracted large-scale conventional war against the Xiōngnú, as being “non-benevolent” (*bù rén* 不仁) and going against the interests of his land and people.¹¹⁴ This mistake is subsequently presented as being all the greater as the above-mentioned precedents, i.e. the campaigns of the First Emperor of Qín and of Liú Bāng, give evidence that conventional warfare against the nomadic Xiōngnú was not only futile but detrimental.

Of course, we have to bear in mind that Zhǔfù Yǎn himself was no philanthropist either. As most of his peers, he conceived of the common people as (1) a valuable resource that must not be wasted but managed sustainably and (2) a potential source of social unrest and hence of danger to the monarch himself in times of economic crisis and distress, “an unstable mass to be controlled and kept in order”.¹¹⁵ Just as for Xún zǐ or Jiǎ Yì 賈誼 (200–168 B.C.E.), “sparing the people” for Zhǔfù Yǎn thus was “an instrument for government, not its purpose”.¹¹⁶ This

¹¹² Compare the translation by Sawyer 1993: 126.

¹¹³ For the meaning of *ài* in this context see note 20 above.

¹¹⁴ My reading is based on the assumption that there existed a textual culture at the Hàn court in which certain texts were widely memorized so that indirect contextual allusions were effective means of communication.

¹¹⁵ See Sabattini 2012: 186.

¹¹⁶ See Sabattini 2012: 180.

becomes evident for example when he attributes Chén Shè's 陳涉 revolt against the Qín to their restless and reckless military activism or when he warns against uprooting and loss of population – and thus of tax revenue – due to economic distress because of prolonged warfare:

且夫兵久則變生，事苦則慮易。乃使邊境之民弊靡愁苦而有離心，將吏相疑而外市，[...]。Moreover, if war lasts long, upheavals [may] occur. If affairs become troublesome, change [may become] conceivable. This then will cause the people in the border regions to be exhausted and distressed and to develop the wish to leave [their places of residence], and the generals and officials to be suspicious of each other and to sell out to foreign [powers]. [...] ¹¹⁷

The proposition that warfare is a waste of resources and merely serves to exhaust the people is introduced by the second argument-structuring quotation, which is also from a military text, *Sūn zǐ's Rules of Warfare* (*Sūn zǐ bīng fǎ* 孫子兵法):

故兵法曰「興師十萬，日費千金」。夫秦常積眾暴兵數十萬人，雖有覆軍殺將係虜單于之功，亦適足以結怨深讎，不足以償天下之費。夫上虛府庫，下敝百姓，甘心於外國，非完事也。 ¹¹⁸

Therefore the *Rules of Warfare* say, “If one raises a hundred thousand troops, expenditures amount to a thousand pieces of gold per day.” Now, the Qín were constantly gathering masses [of men] and dispatching troops, several hundred thousand of them. [But] although they won distinction by overpowering armies, slaying generals, and taking the Chányú prisoner, this served only to ensure resentment and deepen enmity. It was insufficient to compensate for the expense to All under Heaven. Now, those who empty the treasury coffers and military arsenals above and exhaust the common people below just to disport themselves in foreign countries have not brought the matter to an end. ¹¹⁹

This is the second important step in Zhǔfù Yǎn's argument against the Xiōngnú wars. As pointed out above, the first quotation from the *Sīmǎ fǎ* focuses on military deterrence as the appropriate strategy on the Xiōngnú and is supported by the discussion of two recent precedents, namely the abortive campaigns under the First Emperor and under Liú Bāng. The reference to the *Sūn zǐ bīng fǎ* addresses the costs of warfare, its waste of human and material resources – an idea that has already been implied by the indirect criticism of Liú Chè's “non-benevolent” military policy in connection with the first quote. Immediately following the reference to the *Sūn zǐ bīng fǎ*, Zhǔfù Yǎn illustrates the cost argument

¹¹⁷ See *Shǐ jì* 112: 2955. Compare the translation by Olberding 2012: 183.

¹¹⁸ See *Shǐ jì* 112: 2955.

¹¹⁹ Compare the translation by Olberding 2012: 182.

with another variation on the historical precedent of the Qín: in spite of their military success, they were not able to compensate for their losses in both tangible assets and symbolic capital.¹²⁰ This time, however, the quote itself is clearly taken out of context. Compare the first section of chapter 13, “Using Spies” (“Yòng jiàn” 用間), of the *Sūn zǐ bīng fǎ*:

孫子曰：凡興師十萬，出征千里，百姓之費，公家之奉，日費千金，內外騷動，怠於道路，不得操事者七十萬家，相守數年，以爭一日之勝，而愛爵祿百金，不知敵之情者，不仁之至也，非人之將也，非主之佐也，非勝之主也。故明君賢將，所以動而勝人，成功出於眾者，先知也。先知者，不可取於鬼神，不可象於事，不可驗於度，必取於人知敵之情者也。¹²¹ Master Sūn said, “Whenever one raises a hundred thousand troops and sends them on an expedition a thousand *lǐ* away, the expenditures of the common people and the contributions of the ruling house amount to a thousand pieces of gold per day. Inside and outside there is turmoil; [people] exhaust themselves on the roads; and those that do not get to go about their business amount to 700.000 households. [The warring parties may] face each other off for several years to contest for the victory of a single day. And consequently those who, out of niggardliness for a rank and salary worth a hundred pieces of gold, do not know the circumstances of the enemy [represent] the acme of non-benevolence. They are not generals of the people, they are not of assistance to their rulers, they are not rulers destined for victory. Therefore, the reason the perspicacious lord and the worthy general, after having set [their troops] in motion, are victorious over others and the reason their actual achievements exceed those of the masses is [their] foreknowledge. Foreknowledge is something that cannot be obtained from ghosts or spirits, that cannot be imagined by reading patterns into affairs, that cannot be borne out by set physical standards [but] something that must be obtained through others supplying cognizance of the circumstances of the enemy.”¹²²

When quoting this text in his remonstrance, Zhǔfù Yǎn does not only contract five clauses with 21 characters¹²³ into two clauses with eight characters¹²⁴. He also neglects the argumentative context in the quoted text, which does not call for total abolition of offensive warfare but recommends the use of spies to reduce its costs. What Zhǔfù Yǎn is interested in, however, is the cost argument as such, and the quoted text suits his needs in so far as it emphasizes the enormous waste of resources and the “non-benevolence” that lies in the refusal to reduce the costs of warfare.

The same strategy of using citations subversively seems to inform the third and final argument-structuring quotation in the last but one sentence of his re-

¹²⁰ See *Shǐ jì* 112: 2955.

¹²¹ See *Sūn zǐ C*: 40a–41b.

¹²² Compare the translation by Mair 2007: 128–129.

¹²³ I.e. the following five clauses: 凡興師十萬，出征千里，百姓之費，公家之奉，日費千金。

¹²⁴ I.e. the following two clauses: 興師十萬，日費千金。

monstrance. According to Olberding's translation of the text, Zhǔfù Yǎn comes to the following conclusion:

故周書曰「安危在出令，存亡在所用」。願陛下詳察之，少加意而熟慮焉。

It is said in the *Book of Zhōu*: “Safety and danger proceed from the orders given by the ruler; preservation and destruction lies with the means that are employed.” I hope Your Majesty examines all this very closely, gives it a bit of consideration, and thoroughly ponders Your course of action.¹²⁵

The *Book of Zhōu* might refer to the received *Yì Zhōu shū* 逸周書. It contains a short mirror for the prince, which consists of formulaic admonitions.¹²⁶ The title of this text, which has been transmitted as chapter 65 of the *Yì Zhōu shū*, is “Wáng pèi” 王佩, “What the King Abides By”. It is derived from the first sentence of the text, which consists of the following series of admonitions:

王者所佩在德。德在利民。民在順上。合為在因時。應事則易成。謀成在周長。有功在力多。昌大在自克。不過在數懲。不困在豫慎。見禍在未形。除害在能斷。安民在知過。用兵在知時。勝大患在合人心。殃毒在信疑。孽子在聽內。化行在知和。施舍在平心。不幸在不聞其過。福在受諫。基在愛民。固在親賢。禍福在所密。利害在所近。存亡在所用。離合在出命。尊在慎威。安在恭己。危亡在不知時。見善而怠，時至而疑，亡正處邪，是弗能居，此得失之方也，不可不察。¹²⁷

What those who rule as kings abide by depends on potency.¹²⁸ Potency depends on bringing profit to the people. The people depend on being obedient to [their] superiors. Acting in harmony depends on going along with the seasons. If one responds properly to affairs, one will succeed easily. The success of a plan depends on its being comprehensive and superior. Having achievements depends on the strength being great. Flourishment depends on overcoming oneself. Not going astray depends on calculation and restraint. Not encountering trouble depends on taking precautions and being careful. Being aware of impending disaster depends on [seeing it when it] has not yet taken shape. Avoiding harm depends on being able to make decisions. Tranquillizing the people depends on becoming aware of transgressions. The employment of troops depends on knowing the right season. Overcoming great catastrophes depends on harmonizing the hearts of the people. Calamity depends on trust-

¹²⁵ See Olberding 2012: 183, compare *Shǐ jì* 112: 2956.

¹²⁶ Táng Dàpèi 唐大沛 thought it to be a self-admonitory “inscription to the right of the throne” (*zuò yòu míng* 座右銘), see his *Yì Zhōu shū fēn piān jù shì* 逸周書分編句釋 (preface 1836) as quoted in *Yì Zhōu shū huìjiào jízhù* 2.9: 1104. The date of composition is uncertain. The text does not seem to belong to the earliest layer of the *Yì Zhōu shū* and can hardly have been composed prior to the late Warring States or early imperial periods. Niú Hóng’ēn 牛鴻恩 ascribes it to the tradition of Huáng-Lǎo 黃老 thought at the Academy of Jìxià 稷下 in the kingdom of Qí 齊 and accordingly dates it to the late Warring States period, see Niú 2012: 185–187.

¹²⁷ See *Yì Zhōu shū* 9: 6a–7a, punctuation according to *Yì Zhōu shū huìjiào jízhù* 2.9: 1104–1109.

¹²⁸ The following admonition shows that *dé* 德 strictly speaking refers to the *gain of potency* that accrues to a ruler provided that he is able to obey the subsequent guidelines.

ing the untrustworthy. Corrupting one's offspring depends on listening to [those living in] the inner chambers.¹²⁹ Transformation of conduct depends on understanding harmony. Beneficence depends on keeping [one's] heart equitable and fair. Misfortune depends on not learning about one's transgressions. Good fortune depends on accepting remonstrances. The foundation [of the state] depends on sparing the people. Safety depends on keeping close to the worthy. Misery and happiness depend on whom one is intimate with. Benefit and harm depend on whom one is close to. Preservation and destruction depend on whom one employs. Division and unity depend on the giving out of orders. Being respected depends on paying careful attention to one's authority. Security depends on showing polite respect to oneself. Danger and destruction depend on not knowing the right season. To see what is excellent and yet to be negligent, to hesitate when the right time has come, to ignore what is correct and to take one's abode in what is wicked, to fail to be able to dwell in what is right – these are the basic orientations for gain or loss, they must not be left unexamined.

The final part of this chapter contains various snippets of the quotation under review, namely the following:

存亡在所用。離合在出命。尊在慎威。安在恭己。危亡在不知時。¹³⁰

Preservation and destruction depend on whom one employs. Division and unity depend on the giving out of orders. Being respected depends on paying careful attention to one's authority. Security depends on showing polite respect to oneself. Danger and destruction depend on knowing the right season.

If in fact Zhǔfù Yǎn quotes the “Wáng pèi” chapter of the received *Yì Zhōu shū*, which there is no way to know for sure – he might also quote an earlier version of it, or a now-lost repertoire upon which both texts draw, or the material in the *Shǐ jì* might later have served to reconstruct the received chapter –,¹³¹ he paraphrases it in a very loose way. Only one sentence is cited in its entirety and verbatim.¹³² Three components of three different sentences of the “Wáng pèi” chapter are juxtaposed to form the second sentence of the quotation.¹³³ Moreover, the meaning of the sentence that is quoted verbatim and in its entirety seems to be subverted in the memorial – at least according to Olberding's translation. Whereas the immediate context of the “Wáng pèi” chapter, i.e. the two preceding sentences, imply that rise and fall of a kingdom (or an empire) depend on what *personnel* is

¹²⁹ I.e. eunuchs and women.

¹³⁰ Compare *Yì Zhōu shū* 9: 6b. I have marked the snippets that are quoted by Zhǔfù Yǎn by framing them. Compare *Yì Zhōu shū huìjiào jízhù* 2.9: 1108.

¹³¹ I am grateful to Yegor Grebnev for pointing out these possibilities to me.

¹³² I.e. the following sentence: 存亡在所用。

¹³³ I.e. the following sentence: 安危在出令。

employed by the ruler, Zhǔfù Yǎn in Olberding's translation of his memorial refers to the *means* that are employed by the emperor to contain the Xiōngnú.¹³⁴

Thus, at first sight, the differences between the quoted and the quoting texts seem to be significant, so much so as to throw doubt on the conclusion that they are intertextually related. However, immediately preceding the explicit quote of the *Zhōu shū* 周書, as it is called in the memorial, Zhǔfù Yǎn alludes to another sentence of the “Wáng pèi” chapter:

此得失之效也。

These are the symptoms of gain and loss.¹³⁵

This clearly echoes the final section of the “Wáng pèi” chapter:

見善而怠，時至而疑，亡正處邪，是弗能居，此得失之方也，不可不察。

To see what is excellent and yet to be negligent, to hesitate when the right time has come, to ignore what is correct and to take one's abode in what is wicked, to fail to be able to dwell in what is right – these are the basic orientations for gain or loss, they must not be left unexamined.¹³⁶

Moreover, it leads us to the conclusion that we have to reread – and retranslate – the final section of Zhǔfù Yǎn's remonstrance in the light of the final part of the “Wáng pèi” chapter:

夫上不觀虞夏殷周之統，而下（脩）〔循〕近世之失，此臣之所大憂，百姓之所疾苦也。且夫兵久則變生，事苦則慮易。乃使邊境之民弊靡愁苦而有離心，將吏相疑而外市，故尉佗、章邯得以成其私也。夫秦政之所以不行者，權分乎二子，此得失之效也。故周書曰「安危在出令，存亡在所用」。願陛下詳察之，少加意而熟慮焉。¹³⁷

Now, above not to observe the guidelines of [Emperor Shùn 舜 of] Yú, of the Xià, the Yīn-Shāng and the Zhōu, but below to follow the mistakes of the current age is what I am deeply concerned about and what the people feel urgently distressed by. Moreover, if war lasts long, upheavals [will] occur. If affairs become distressing, change [will become] conceivable. This then will cause the people in the border regions to be exhausted and distressed and to develop the wish to leave [their places of residence], and the generals and officials to be suspicious of each other and to sell out to foreign [powers]. Therefore Commanders Tuó and Zhāng Hán managed in this way to achieve their private interests.¹³⁸ Now, as for the reason why the Qín government did not work properly, it was because the power was di-

¹³⁴ See Olberding 2012: 183.

¹³⁵ See *Shǐ jì* 112: 2956.

¹³⁶ See *Yì Zhōu shū* 9: 6b–7a. Compare *Yì Zhōu shū huìjiào jǐzhù* 2.9: 1109.

¹³⁷ See *Shǐ jì* 112: 2955–2956.

¹³⁸ Commander Tuó, i.e. Zhào Tuó 趙佗, was a separatist general of the Qín, who founded the kingdom of Nányuè 南越 and allegedly ruled there from 203 to 137 B.C.E. General Zhāng Hán

vided between these two gentlemen. *These are the symptoms of gain and loss.* Therefore the *Book of Zhōu* says, ‘Security and danger depend on the giving out of orders [by the ruler]; preservation and destruction depend on *whom* one employs.’ I wish Your Majesty would examine this in detail, give it a bit of consideration and carefully premeditate on it.¹³⁹

Obviously, Zhǔfù Yǎn’s final argument is that the fate of the Hàn does not only depend on the means that are employed to contain the Xiōngnú but also – and vitally – on the recruitment of both capable and loyal military officers. When read in the light of what is quoted from the “Wáng pèi” chapter, which deals with the importance not only of enlisting but also of trusting competent and reliable government officials and of heeding their advice, it becomes obvious that a translation that does not take into account the contexts of the quotes in the quoted text or that even identifies the references to it only in part is inevitably misleading in this respect. What is even more important, however, is that both the final section of the memorial and the entire “Wáng pèi” chapter are informed by the ideal of “sparing the people”, which is also mentioned in the context of the quote from the *Sīmǎ fǎ* and which is likewise behind the argument of the second quote from the *Sūn zǐ bīng fǎ*.¹⁴⁰ Just like the first chapter of the *Sīmǎ fǎ*, the “Wáng pèi” chapter explicitly refers to it in one of its admonitions: “The foundation [of the state] depends on sparing the people” (*jī zài ài mín* 基在愛民).¹⁴¹

By now it should have become clear why these three texts are quoted – and partly taken out of context – by Zhǔfù Yǎn: all of them are strongly influenced by the notion of “sparing the people”, i.e. of treating them as a valuable resource and therefore managing them sustainably. The “Wáng pèi” chapter, which is quoted at the end of the remonstrance, even says that this is the “foundation” (*jī* 基) of the state, i.e. the prerequisite for social and political stability, and the most important means for the ruler to maintain his power. Seen as argument-structuring devices, the three quotations thus add to the memorial exactly that which Richard L. Schultz has ingeniously termed a “second substrate layer of meaning to the statement”,¹⁴² namely in this case the idea that it is counter-productive to place the commoners under a financial and economic strain far in excess of their capacity, for example by imposing new taxes or other contribu-

章邯 deserted the Qín in 207 B.C.E. and, after having been defeated by Liú Bāng, committed suicide in 205 B.C.E. See Loewe 2000: 681–682, 710–711.

¹³⁹ Italics are mine. Compare the translation by Olberding 2012: 183.

¹⁴⁰ Niú Hóng’ēn ascribes this concept to the so-called Huáng-Lǎo tradition; see Niú 2012: 185; compare Lewis 1999: 340–342 and 349–350 on the ideals of “minimalist government” and “minimalist interference with people’s livelihoods” as typical traits of “Huáng-Lǎo thought”.

¹⁴¹ See *Yì Zhōu shū* 9: 6b; compare *Yì Zhōu shū huìjiào jǐzhù* 2.9: 1108.

¹⁴² See Schultz 1999: 196.

tions, as this might lead to social unrest and political instability, which pose a threat to the ruling house. By combining his “surface-structure” argument that fighting a protracted large-scale conventional war is the wrong strategy against the non-sedentary Xiōngnú with an implicit warning against the threat to dynastic continuity inherent in putting excessive demands on the subjects, Zhǔfù Yǎn greatly enhances the persuasiveness of his memorial. Whether this was a position that was characteristic of the so-called Huáng-Lǎo thought of the second century B.C.E. is irrelevant in this context. As Zhǔfù Yǎn at the same time also successfully proposed the exact opposite of the alleged typical Huáng-Lǎo policy, namely the further destruction of the titular kingdoms and marquisates through equitable division of them among all the sons of their deceased rulers – the so-called policy of *tuī ēn* 推恩, “extending generosity” (a nice euphemism indeed) –, ¹⁴³ the term “Huáng-Lǎo” does not seem to be a particularly useful analytical tool anyway.

5 Resumé

Hopefully, the present analysis of selected late pre-imperial and early imperial memorials has shown that it is rewarding to consider verbal parallels not only as embellishments or sources of authority but as elementary links in the argumentative chain of the quoting texts and as figures of thought that add a second layer of meaning to these texts, thus providing access to their argumentative “deep structure”. As argument-structuring devices, quotations can also help to organize the text and may even serve as formal criteria for dividing it into sense-units, especially when they are embedded into topic-comment constructions and causal or concessive clauses, as is the case in Lǐ Sī’s memorial on implementing autocratic rule by means of the technique of assessing subjects and holding them responsible for their performance. In this text, each argument-structuring quotation, as distinguished from those citations that are merely used as precedent-based inductive arguments (i.e. as exempla illustrating a proposition), seems to introduce a new argumentative step. Taken together, the references structure the progress of the author’s reasoning, which advances in the following steps:

- (1) the initial proposition that it is important for a ruler to call his subjects to account thoroughly by assessing them
- (2) the argument that by employing this technique he is able to secure his power-base and to prevent being relegated to a submitting position towards his subjects

¹⁴³ See Emmerich 2002: 473–485.

- (3) the argument that a successful implementation of this technique depends on legal standards being reliable and punishments severe so as to make sure that potential offenders are deterred
- (4) the argument that deterrence helps to suppress resistance and thus to ensure autonomy of decision-making on the ruler's part
- (5) the conclusion, which once again highlights the importance of the aforementioned technique of rulership by placing it at the beginning of a chain argument and thus by characterizing it as the prerequisite for preservation of monarchic order and imperial privileges, perpetuation of rule and dynastic continuity.

As a manifesto of autocratic rule, Lǐ Sī's memorial is comparable with Gōngsūn Yāng's earlier speech at the court of pre-imperial Qín, who tries to justify the enforcement of legal and ritual reforms and a possibly sarcastic welfarist and technocratic redefinition of "standards" and "rites" with the ruler's intellectual superiority, likewise relying on proverbial wisdom and a reference to an earlier legal text to organize his argument. From the point of view of monarchic ideology and concepts of good rulership, both are clearly opposed to Zhǔfù Yǎn's view, who not only argues for "sparing the people", but also holds that military reticence on the ruler's side is a prior condition for dynastic continuity. Interestingly, however, he does so by employing quotations to add a second, hidden layer of meaning to his surface-structure argument, thereby implicitly criticizing his emperor as a non-benevolent oppressor of his people, i.e. as an autocrat. As the present exploratory study can only offer sample analyses, it is to be hoped that future research will test the validity of these findings by checking them systematically against a larger corpus of memorials or against texts from other genres.

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