The Difficulty with "The Difficulties of Persuasion" ("Shuinan" 說難)

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"The Difficulties of Persuasion,"[1] the twelfth chapter of the received *Han Feizi*, tends not to figure prominently in studies of the philosophy of Han Fei. Surveys of early Chinese thought conventionally devote entire sections to Han Fei without ever mentioning "The Difficulties of Persuasion," its analysis of the psychological dynamics of *shui* 說 (persuasion), or its advice for would-be persuaders.[2] The lack of interest in the text is not altogether surprising given that it has very little to say about the questions that modern scholars have typically asked of the *Han Feizi* corpus. It advances no identifiable political or intellectual agenda; its advice for persuaders does not adopt an obviously "legalist" (*fajia* 法家) perspective; and it fails to discuss any of the buzzwords—e.g., "laws" (*fa* 法), "expertise" (*shu* 術), and "the force of circumstance" (*shi* 勢)—most closely associated with Han Fei's thought. Indeed, if the text had not come down to us as part of the *Han Feizi* corpus, one would have a hard time assigning it to any particular school of thought. Little wonder, then, that studies of ancient Chinese thought have tended to treat "The Difficulties of Persuasion" as a marginal text in the *Han Feizi* collection.

One gets an entirely different sense of its importance from reading Han-era authors, who mentioned it in conjunction with Han Fei more often than nearly any other chapter in the received *Han Feizi*.[3] The visibility of the text in Han sources,

[1] For full translations of "Shuinan," see Liao (1939–1959: 1.106–12) and Watson (1964: 73–79). I would also like to thank Paul R. Goldin, Luke Habberstad, Martin Kern, Esther Klein, Willard Peterson, and Sara Vantournhout for their comments at various stages in the evolution of this chapter.

[2] One exception is Leo S. Chang's entry on Han Fei in the *Routledge Encyclopedia of Philosophy* (s.v.), which mentions "Shuo nan" (i.e. "Shui nan") in the first sentence.

[3] In addition to the mentions in the *Records of the Historian* and Yang Xiong's *Fayan* 法言 (*Model Sayings*) discussed below, see Ban Gu's *Da ke xi* 答客戲 (*Response to a Guest's Jest*, Ban Gu 1962: 100a.4227). The other most frequently mentioned *Han Feizi* chapter is "Solitary Indignation," which I discuss below.

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particularly in Sima Qian's *Records of the Historian*, is remarkable given the relatively disorganized textual milieu in the period before Liu Xiang's 劉向 (79–8 BCE) editorial interventions on behalf of the Han imperium.[4] Of all the chapters in all the received texts ostensibly dated to the Warring States, Qin, and early Western Han periods, "The Difficulties of Persuasion" is one of the very few to have been named and discussed in multiple Han sources. In Chapter 63 of *Records of the Historian*, which includes the biographies of Laozi, Zhuangzi, and Shen Buhai as well as Han Fei, it is the only text of any of these authors—or any Warring States master, for that matter—to be quoted in its entirety.[5] Consequently, it is also the only chapter in the received *Han Feizi* with an independent reception history. This was a rare privilege: in the entire *Records of the Historian*, only a handful of non-bureaucratic texts were featured in this way.[6] "The Difficulties of Persuasion" is again in remarkably distinguished company when it is referenced in Sima Qian's list of exemplary authors in his postface:

> Formerly, King Wen was detained in Youli 羑里 when he elaborated the *Changes of Zhou*; Confucius was trapped between Chen 陳 and Cai 蔡 when he authored the *Springs and Autumns*; Qu Yuan 屈原 was banished when he composed *Encountering Sorrow* 離騷; Zuoqiu 左丘 had lost his sight when he wrote *The Discourses of the States* 國語; Sunzi 孫子 was crippled when he discoursed on the *Methods of War* 兵法; [Lü] Buwei 呂不韋 was exiled in Shu when he transmitted *Lü's Surveys* 呂覽;[7] and Han Fei was imprisoned in Qin when he explained [*shuo* 說] the "Difficulties" and "Solitary Frustration" 孤憤. Generally speaking, the three-hundred *Odes* are the creations of worthies and sages who gave voice to their frustrations. All of these men were stifled in their intentions, and none of them were able to implement what they advocated. Thus they narrated past events, thinking of those to come. (Sima Qian 1959: 130.3300)[8]

The line "Han Fei was imprisoned in Qin when he explained the *Difficulties*" is a word play on the title, which Sima Qian read here as "explain difficulties" (*shuo nan* 說難) in parallel with the other entries.[9] I shall have more to say below about the inclusion of "The Difficulties of Persuasion" in this list. For present purposes it suffices to point out that Sima Qian ranked it alongside some of the most highly regarded texts of his day (Klein 2010: 58).

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[4] See Ban Gu (1962: 30.1701) for a description of Liu Xiang's project.

[5] For a translation of *Records of the Historian* 63, see Nienhauser (1994).

[6] By "bureaucratic text" I mean texts produced by or for the state, specifically edicts and memorials. Aside from Jia Yi's (c. 201–169 BCE) 賈誼 "Guo Qin lun" 過秦論 ("Assessing Qin's Faults") and Sima Tan's 司馬談 "Liujia zhi yao zhi" 六家之要指 ("Essentials of the Six Schools of Thought"), the other non-bureaucratic texts to be quoted in full are all *fu* 賦 (performance texts) from the biographies of Jia Yi and Qu Yuan 屈原 (*Records of the Historian* 84) and Sima Xiangru 司馬相如 (*Records of the Historian* 117). However, see Kern (2003a) for doubts about the authenticity of *Records of the Historian* 117, and to a lesser extent *Records of the Historian* 84.

[7] I.e., the first 12 chapters of the received *Lüshi chunqiu*.

[8] Although often critical of Han Fei, Wang Chong 王充 (27–100) also mentions Han Fei in his list of exemplary authors (Huang Hui 1990: 84.1177).

[9] The title "Shuinan" apparently lent itself to punning. A comment in the *Records of the Historian* biography of Han Fei reads (Sima Qian 1959: 63.2155), "I only lament that Master Han made *The Difficulties of Persuasion* (說 *lhots) but could not extricate (脫 *lhot or *lot) himself." For reconstructions of Old Chinese, see Schuessler (2009).

Even critics like Yang Xiong 楊雄 (53 BCE–18 CE) and Ban Gu 班固 (32–92) often pinned their criticisms on the text as an ironic symbol of its author's undoing. In Ban Gu's words:

> Merit cannot be achieved emptily; a reputation cannot be established through fakery. Han Fei set down his clever words in order to entice his lord. … After "The Difficulties of Persuasion" was completed, he himself was imprisoned. (Ban Gu 1962: 100A.4227)

These critics saw Han Fei's imprisonment in Qin and death at the hands of Li Si as a convenient parable about "clever deeds breeding disaster, and cunningly crafted words inviting despair" (*qiaoxing ju zai, zhibian zhao huan* 巧行居災,忮辯召患), to borrow a line from Tao Qian's 陶潛 (365–427) poem on the subject (Lu Qinli 1979: 183).[10] From this early perspective, questioning the place of "The Difficulties of Persuasion" in Han Fei's thought would have made little sense; it was apparently as central to Han Fei's legacy as any of his writings on political theory.

The discrepancy between ancient and modern evaluations of "The Difficulties of Persuasion" is a useful reminder that the preoccupations of modern readers of the *Han Feizi* were not necessarily shared by the text's earliest audiences. Such differences matter, because the opinions of people like Sima Qian may have influenced the early formation of the *Han Feizi* corpus. The discrepancy between the texts listed in the *Records of the Historian* biography of Han Fei—"Solitary Frustration," "The Five Vermin," "Inner and Outer Compendia of Explanations," "Forest of Persuasions," and "The Difficulties of Persuasion"—and the 55 chapters mentioned, but not listed, in the imperial bibliography preserved in Ban Gu's *Hanshu* 漢書 (Ban Gu 1962: 30.1735), might suggest that most chapters in the received *Han Feizi* accrued to a core collection over the course of the Western Han period.[11] If so, then the greater part of this core collection consisted of writings having to do with *shui/shuo* 說: "Inner and Outer Compendia of Explanations," "Forest of Persuasions," and "The Difficulties of Persuasion." The transmission and size of the *Han Feizi* corpus may even owe something to the fame (or notoriety) of "The Difficulties of Persuasion," just as *Encountering Sorrow* and the *Nine Songs* (*Jiuge* 九歌) inspired later additions to the *Verses of Chu* (*Chuci* 楚辭) anthology.[12] Chapter 3 of the received *Han Feizi*, "Finding It Hard to Speak" ("Nanyan 難言"), a memorial purportedly written by Han Fei that mimics the title and much of the content of "The Difficulties of Persuasion," is the most obvious candidate for a copycat text.[13]

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[10] The line continues: "Pitiable is Master Han, who died in the end from 'Persuasion's Difficulties.'" Unlike Yang Xiong and Ban Gu, Tao Qian was not harshly critical of Han Fei.

[11] The parallels between "Solitary Frustration" and "The Five Vermin" noted by Zheng Liangshu (Zheng Liangshu 1993: 108–20) lend some support to the idea of a core *Han Feizi*, although Zheng himself does not endorse this view.

[12] For the *Lisao* and *Jiuge* and the texts they later inspired, see Hawkes (1985).

[13] See Zhang Suzhen (1997: 358–77) for the argument that "Nanyan" is a later text that was modeled on "Shuinan." Zhang does not fall into the trap of thinking that the use of the first-person pronoun in "Nanyan" is a mark of authenticity, as Lundahl argues (Lundahl 1992: 163). And where E. Bruce Brooks takes the "inexperience[d]" tone of "Nanyan" as evidence that it is an early work of Han Fei (Brooks 1994: 18ff), Zhang argues persuasively that the text was simply a clumsy imitation.

Speculation aside, my goal in the present essay is to take Sima Qian's presentation of "The Difficulties of Persuasion" seriously, and to explore the consequences of treating it as a core text in the *Han Feizi* corpus.[14] Doing so requires treating *shui* as a fundamental interest of the *Han Feizi* author(s), an activity that is simultaneously one of the root causes of chaos, a key ingredient of good governance, and a mark of the cultivated mind. Besides serving as a counterweight to the usual approaches to the *Han Feizi*, Sima Qian's reading of "The Difficulties of Persuasion" also happens to contradict a line of interpretation that sees the text's advice to persuaders as fundamentally opposed to the ruler-centric political program of the *Han Feizi*. This tension has been taken as evidence that the text is spurious, or that Han Fei espoused an "amoral" worldview. The "amoral" label in particular has enjoyed widespread appeal,[15] whether because a scholar sympathized more with early thinkers like the *ru* 儒 who were denounced by the *Han Feizi* (Chan 1963: 251; Qian Mu 1952: 78–84); because of the desire to show that the *Han Feizi*'s political theory approached the rigor of an "amoral science of statecraft" (Graham 1989: 267); because a scholar sought to minimize Han Fei's importance as a representative of "legalist" thought (Goldin 2011); or because Han Fei was upheld as "the cure for modern China" in opposition to traditional Confucian morality (Lin Yutang 1931: 86–94).[16] Such disagreements—between ancient and modern interests, between Sima Qian and other interpreters, and between "The Difficulties of Persuasion" and other texts in the *Han Feizi* corpus—are signs that the difficulties of persuasion continue to bedevil modern readers. Coming to grips with these difficulties will lead us to examine the self-presentation of the *Han Feizi* author(s), as well as persuasion's ambivalent status in early China and elsewhere.

Shui 說 *in the* Han Feizi

Before turning to "The Difficulties of Persuasion" itself, let us first consider the place of *shui* in the other 54 chapters of the *Han Feizi* corpus. That the character 說 appears 250 times throughout the collection, including in 11 chapter titles,[17] is the first indication that it was a topic of great interest to the *Han Feizi* author(s)/compiler(s). But determining the reading of 說 is complicated by the fact that it writes at least four different words in classical Chinese, three of which appear in the *Han Feizi*: *shui* (to persuade), *shuo* (to explain), and *yue* (to please/be pleased).

[14] See Lundahl (1992: 137–38) for a brief discussion of the reliability of the *Records of the Historian* as a source for Han Fei and the *Han Feizi.*

[15] Harris (2009) is a recent treatment of the amorality of Han Fei's political theory.

[16] Han Fei was also an ally to Marxist historians of the 1970s who viewed traditional Chinese history in terms of the eternal "struggle between Confucianism and legalism" (*ru fa douzheng* 儒法鬥爭).

[17] These are: "Shuinan," the upper and lower "Forest of Persuasions" chapters, the six "Chushuo" chapters, "Bashui" 八說 ("Eight Persuasions"), and "Shuiyi" 說疑 ("Suspicion of Persuaders").

The third reading—*yue*—is relatively unproblematic. But distinguishing between *shui*, "persuasion," and *shuo*, "explanation," is a trickier matter. Although dictionaries from the sixth century CE onwards differentiated these two readings with distinct pronunciations that eventually gave rise to the modern Mandarin readings *shui* and *shuo*, in the early period these words were not so clearly disambiguated.[18] According to Axel Schuessler's reconstruction, 說/"explain" was read as *lhot, and 說/"persuade" as *lhots in the early period, the only difference being a final *-s (Schuessler 2009). William Boltz has argued that both words, along with other members of the same word family—e.g., *tui* 蛻 (slough off), *tuo* 挩 (take away), *shui* 捝 (wipe off), *tuo* 脫 (peel off), and *yue* 悅 (pleased, relaxed)—derive from *dui* 兌 with its core meaning of "take or peel off or away." Boltz also sees the meaning "persuade" as a semantic extension of "explain" (Boltz 1994: 101). The phonological background helps to explain why choosing between the *lhots/"persuasion" and *lhot/"explanation" readings of 說 can be so difficult in early texts.

The key difference between these readings has to do with audience: a *shui* is directed at a specific audience, whereas the ostensibly arhetorical *shuo* has none. In all other respects, *shui* and *shuo* are indistinguishable.[19] A *shui* is simply a directed *shuo*.[20]

Consider the use of *shui*/*shuo* 說 in the first anecdote of "Forest of Persuasions":

> After Tang [the founder of the Shang dynasty] had defeated Jie [the last ruler of the Xia], he feared that the world would say that he was power-hungry, and so he yielded the realm to Wu Guang. Fearing that Wu Guang accept, he sent someone to *shui*/*shuo* him, saying: "Tang killed his lord and wishes to pass on his evil reputation to you. That is why he yields the realm to you." Thereupon Wu Guang threw himself into the river. (Chen Qiyou 2000: 7.22.461)

Right away we can determine that the messenger's statement is a *shui* and not a *shuo* because it is directed at a single individual. But "persuasion" is still not an entirely satisfactory translation in this instance because the messenger neither urges a specific course of action nor resorts to the kinds of rhetorical ploys often associated with persuasion. His *shui* is simply a bald statement of fact whose timely delivery triggers a favorable outcome for Tang.

Complicating matters further, the *Han Feizi* corpus discusses *shui*/*shuo* from a variety of perspectives, each of which highlights a different aspect and application of the term. The first and most dominant perspective emerges from descriptions of the dangers that plague benighted "rulers of today" (*jin renzhu* 今人主). Among "The Five Vermin" and "Eight Types of Treachery" ("Bajian 八姦")—the root causes of "chaos" (*luan* 亂)—are those "self-interested" (*si* 私) parties who would use *shui* to manipulate rulers without any regard for the "common good" (*gong* 公).

[18] See Kern (2000) for a discussion of this development in the context of *shui* and *shuo* prose genres.

[19] See also Reeve (2003: 75–89) and Lundahl (1992: 146n.16) for discussions of the inseparability of the *shui* and *shuo* readings.

[20] Major et al. (2010: 618): "*shui* could be understood as a particular type of *shuo*—that is, as a recorded conversation or exchange in which the chief speaker tries to persuade the listener of a clearly articulated point of view or policy position."

These are "persuaders" in the most negative sense of the word, the men whose thirst for power and privilege wrecks states and ruins lords:

> Ministers seek out eloquent men from among the vassals and nurture those who are skilled at *shui* within the state, whom they then use to articulate their own selfish interests in artful words and fashionable expressions. They show the ruler what is to his advantage, they frighten him with [talk of] calamities, and they enjoin him with empty expressions, thereby ruining him. (Chen Qiyou 2000: 2.9.182)

This *shui* is closely associated with other kinds of duplicitous speech designed to mislead rulers, e.g., *qiaowen zhi yan* 巧文之言 ("artful words"), *liuxing zhi ci* 流行之辭 ("fashionable expressions"), and *bian* 辯 ("clever words" or "hair-splitting").[21] But the ultimate responsibility for allowing such ministers and persuaders to flourish lies with rulers who "are easily moved by clever words and *shui*" (*yì yí yǐ bianshui* 易移以辯說; Chen Qiyou 2000: 2.9.182). According to "The Five Vermin":

> When rulers listen to *shui*, they award honorable ranks and salaries to ministers before their plans are accomplished, and they refuse to punish them when their plans fail. This being the case, why wouldn't wandering persuaders use their *shui* to ensnare rulers and seek good fortune? Thus, heeding the groundless *shui* of the speechifiers is the way to destroy the state and ruin the lord. What is the cause of this? It is because such rulers do not understand common goods versus private interests, do not discern true and false words, and do not always hold their subjects accountable with punishments. (Chen Qiyou 2000: 19.49.1114)[22]

This *shui* is not simply a nuisance to proper governance. In the wrong hands, *shui* distorts a ruler's perception and traps him in a world of the persuader's creation, thereby preventing him from ascertaining and pursuing what is truly beneficial for his state. Their deliberative capacities compromised, such rulers quickly become the "lost lords" (*wangjun* 亡君) of "lost states" (*wangguo* 亡國).

In contrast, the "enlightened rulers" (*mingzhu* 明主) of the *Han Feizi* avoid the fate of lesser rulers by proscribing the *shui* of power-hungry ministers and strictly regulating the flow of information and counsel. In a number of chapters (e.g., Chen Qiyou 2000: 2.8.156, 18.48.1074, and 19.49.1114), the techniques of information management fall under the rubric of "the Way of listening" (*ting zhi dao* 聽之道), "assessing words" (*can yan* 參言), or "listening to words" (*ting yan* 聽言).[23] They also constitute the sixth of the "Eight Canons" ("Bajing" 八經) of governance in chapter 48:

> When a ruler who possesses the Way listens to words, he inspects their utility and determines their results. Only after the results have been determined do rewards and punishments arise. Thus those whose eloquence is useless are not kept at court, and officials whose knowledge

[21] *Bian* 辯 is derived from *bian* 辨, meaning "to distinguish" or "discriminate," and in positive contexts can be translated as "dispute" or "debate." Negative connotations derive from the equation of "being discriminating in one's words" to "speaking cleverly." The gloss of *bian* as *qiaoyan* 巧言 is attested in the Heshang gong 河上公 commentary to *Laozi* 81 ("Trustworthy words are not fine, and fine words are not trustworthy; good men do not speak cleverly, and clever speakers are not good"; Lau 1996: 81/4c).

[22] See also Chen Qiyou (2000: 17.41.950): "Someone asked, 'From what do clever words arise?' I answered, 'They arise from superiors' ignorance.'"

[23] "Tingyan 聽言" ("Listening to Words") is also a section heading in the *Lüshi chunqiu* (Chen Qiyou 2002: 13.702).

> is inadequate to the responsibilities of governance lose their office and salary. Those whose *shui* are grand and boastful are in dire straits, and so villains are found out and face the ruler's wrath. Insincere and groundless words are taken as worthless talk deserving punishment. Subjects' words are always repaid in kind, and their *shui* are always held accountable for their utility. Thus the ruler does not come to hear the words of factions and cliques. (Chen Qiyou 2000: 18.48.1074–75)

Notice that the enlightened ruler does not proscribe *shui* altogether. The goal of "listening to words" is only to weed out speech that has no "use" (*yong* 用) to the state. A strictly regulated *shui* has an important role to play even in the state of the enlightened ruler, who must rely on his ministers to supply him with reliable information and counsel because he has neither the time nor the energy to oversee personally the day-to-day business of his bureaucracy.[24] To quote "Defining Standards" ("Ding fa 定法"):

> The ruler of men looks with the eyes of the entire state, so that no one's sight is clearer; he listens with ears of the entire state, and so no one's hearing is more discerning. Now if those with knowledge will not speak, how can the ruler of men rely on them? (Chen Qiyou 2000: 17.43.962–63)[25]

To satisfy the ruler's information demands, the ideal *shui* minimizes the element of persuasion and maximizes the element of explanation or counsel, thereby empowering the ruler to determine the best course of action without also having to doubt his advisers' motives. The *Han Feizi* author(s) would not have been so anxious about the dangers of self-interested persuaders had he not recognized the indispensability of *shui* to good governance.

As David Schaberg has noted, a common thread running through representations of *shui* in a number of early texts is the imperative to discover *qing* 情:

> [*Qing*] is any truth—objective or emotional—that is subject to hiding and that is brought into the open through human exposition. Whether they are psychological constants, social or natural dynamics, or personal responses to situations, *qing* are the sorts of things that might remain hidden or unknown, and that require discovery to be called *qing*. The moment of exposure or interpretation is apparently crucial, as things that are simply and patently the case rarely earn the name *qing*.[26]

Schaberg's observation suggests a way of sorting the varieties of *shui* in the *Han Feizi*. The first kind of *shui* is illicit because it aims to read and ultimately to control the ruler's *qing*, the desires and inclinations that persuaders might manipulate for their own purposes.[27] The second kind of *shui* is concerned with the particular circumstances of the state. This is the objective, public-minded counsel that is crucial

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[24] In this respect, the *Han Feizi*'s ideal government somewhat resembles that described in the *Zhouli* 周禮 (*Rites of Zhou*), a third-century BCE constitution whose system of information management also makes no room for speech that falls outside the prescribed duties for individual offices. On this feature of the *Zhouli*, see Schaberg (2009).

[25] See also Chen Qiyou (2000: 2.6.107): "If as ruler of men one were to personally inspect the bureaucracy, the day would not be long enough and his energy would not be sufficient."

[26] Schaberg (forthcoming: 19). Schaberg bases this understanding of *qing* in part on Harbsmeier (2004).

[27] On this point, see the *Guiguzi* 鬼谷子 (Xu Fuhong 2008: 7.106): "To persuade a ruler one should thoroughly investigate his *qing*."

to policy-making. Ministers who can discern "the *qing* of order and chaos" (*zhi luan zhi qing* 治亂之情) are indispensable to the ruler (Chen Qiyou 2000: 5.14.287); those who are more concerned with reading the ruler's *qing* are an ever-present threat.

In the *Han Feizi* corpus, the text that best illustrates the relevance of *qing* to *shui/shuo* is "Forest of Persuasions," a collection of anecdotes characterized by Michael Reeve as "ordered study modules" that challenge readers to look beyond surface appearances and identify the underlying dynamics of a situation, as in the following anecdote (Reeve 2003: 409):

> Tian Si 田駟 deceived the Lord of Zou 鄒, who was going to dispatch someone to have him killed. Fearing for his life, tian Si reported this to Huizi 惠子, who then had an audience with the Lord of Zou, saying, "Now if someone winked at you, what would you do?"
>
> The Lord said, "I would have him killed."
>
> Huizi said, "And why wouldn't you kill a blind men who winked both eyes at you?"
>
> The Lord said, "He wouldn't be able to help it."
>
> Huizi said, "In the east, Tian Si offended the Marquis of Qi, and in the south he deceived the King of Chu. In deceiving others Tian Si is like a blind man—why won't my lord refrain from killing him?" The Lord of Zou subsequently spared his life. (Chen Qiyou 2000: 7.22.475)

Criticisms of the dangerous kind of *shui* elsewhere in the *Han Feizi* might lead one to conclude that Huizi deluded the Lord of Zou by persuading him to spare the life of a proven fraud. Presumably, acts of mercy like this one would have encouraged others to deceive him in the future. But the anecdote ends without any comment on the appropriateness of Huizi's *shui* or the Lord of Zou's decision, a silence which suggests that the "Forest of Persuasions" author was less interested in ethics or political theory than in the episode's epistemological implications—the difficulties and possibilities of knowing others' minds, and of determining the best course of action in the face of imperfect knowledge and misleading appearances.[28] In the course of grappling with the anecdotes of "Shuilin," one develops something approaching the skill displayed by Jizi 箕子 in the following episode:

> When Zhòu had ivory chopsticks made, Jizi 箕子 became fearful. Jizi thought that ivory chopsticks certainly would not go with stew in an earthenware tureen, and so Zhòu would have to have small bowls of rhinoceros horn and jade. Jade bowls and ivory chopsticks would not go with leafy greens, and so he would have to have hairy elephants and leopard fetuses. If Zhòu had hairy elephants and leopard fetuses, he would certainly not wear clothes of short hemp or rest under thatched roofs, and so he would have to have brocade cloths in nine layers, lofty towers, and spacious halls. If we follow the implications of this, then the entire world would not be enough for him. A sage sees the subtlety and knows what is germinating; he sees the origin and knows the conclusion. Thus, to see ivory chopsticks and be fearful is to know that the world is not enough. (Chen Qiyou 2000: 7.22.481)

[28] This interest distinguishes "Forest of Persuasions" from the "Chushuo" chapters, which preface anecdotes with the lessons to be drawn from them. One can also compare the *Han Feizi* "Forest of Persuasions" with the *Huainanzi* "Shuilin" 說林 and "Shuishan" 說山 ("Mountain of Persuasions"), which Major *et al*. have characterized as "handbooks for people who knew that they would be asked to speak on a regular basis," or "stereotyped arguments that [a ruler's] advisers and other participants might use in court sessions, so he could distinguish genuinely new ideas from hackneyed talking points" (Major et al. 2010: 623–24).

Taken together, the anecdotes of "Forest of Persuasions" likewise instruct a person—be it a ruler or an adviser or anyone else—to "see the subtlety and know what is germinating; to see the origin and know the conclusion."

"Forest of Persuasions" does not specify the ultimate purpose of this instruction. But a knack for uncovering *qing* is one of the skills associated with the heroes of "Solitary Frustration": "When men with knowledge and expertise are perceptively evaluated, heeded, and employed, they shine light on the dark *qing* of the heavyweights," i.e., those who arrogate the ruler's authority. Similarly, "The Prominent Teachings" criticizes *ru* for their inability to understand *qing*:

> When *ru* of the present age *shui* rulers of men, they do not approve of contemporary methods of governance but speak instead of what worked in the past. They neither investigate bureaucratic and legal matters nor discern the *qing* of treachery and wickedness. (Chen Qiyou 2000: 19.50.1145)

The epistemic virtue at the heart of *shui/shuo* is a skill that rulers and advisers alike must cultivate both in order to evaluate and respond to the macro *qing* of their state and to detect the micro *qing* of those who would mislead the ruler for their own purposes. One could not govern the *Han Feizi*-ian state without it.

The Contradictions of "The Difficulties of Persuasion"

Given the overall presentation of *shui* in the *Han Feizi* corpus, one might expect a chapter entitled "The Difficulties of Persuasion" to describe the challenges facing rulers who would proscribe dangerous *shui*, or perhaps those facing individuals who wished to cultivate the ability to understand and act on *qing* in a variety of contexts. But these were not the difficulties that interested its author. Instead, "The Difficulties of Persuasion" is a text seemingly written from the perspective of the dangerous kind of persuaders, those whom the *Han Feizi* elsewhere condemns as "villainous ministers who would accord with the lord's heart in order to take advantage of his intimacy and favor" (Chen Qiyou 2000: 5.14.278). This interest is revealed in the opening sentence:

> The [real] difficulty of *shui* is not the difficulty of understanding something and having the means to explain it [*shuo*]. Nor is it the difficulty of articulating [*bian* 辯] and being able to clarify my ideas. Nor is it the difficulty of acting boldly and being able to exert myself to the utmost. The difficulty of *shui* lies in understanding the heart of the one to be *shui*-ed, and in being able to match my *shui* to it. (Chen Qiyou 2000: 4.12.254)

In declaring his focus on the psychological dynamics of persuasion, the author also identifies other ingredients of a successful *shui*: the cognitive challenge of "understanding" (*zhi* 知) and "explaining" (*shuo* 說) the issue at hand, the rhetorical challenge of "articulating" (*bian* 辯) and "clarifying" (*ming* 明) it for one's audience, and the personal courage to see a *shui* through regardless of the risks. Of these factors, the need to "understand the heart of the one to be *shui*-ed" is the most crucial, but also the most dangerous feature of *shui* from a ruler's perspective.

The text goes on to outline various "dangers" (*wei* 危) facing the persuader who fails to match his *shui* to his audience's heart, e.g., that "if the one to be *shui*-ed is out to make a lofty name for himself and you *shui* him with the promise of great profit, then you will seem ignoble and be treated despicably, and you will certainly be cast far away" (Chen Qiyou 2000: 4.12.254). At the same time, persuaders must be careful not to reveal that they have divined an audience's secret thoughts, for "affairs succeed when kept secret and talk fails when divulged. Even if it has not yet been divulged, those whose talk touches on a hidden matter will be personally endangered" (Chen Qiyou 2000: 4.12.256). Persuaders who ignore this lesson can expect to meet the fate of guan Qisi 關其思, who was executed by Duke Wu of Zheng 鄭武公 after unknowingly publicizing his lord's secret plan to betray and invade an ally state.[29]

The next section takes up "the business of *shui*" (*fan shui zhi wu* 凡說之務), i.e., "understanding how to enhance what the one to be *shui*-ed takes pride in and to diminish what he is ashamed of." The text then lists a dozen techniques for doing just that, most of which require a persuader to misrepresent the facts of the matter in order to manipulate his audience's desires or inclinations—in a word, his *qing*. For instance, if his audience

> desires to make a show of his cleverness and talent, then the persuader must raise another issue of the same sort and give him plenty of ground so that he takes the *shui* from you; and he must feign ignorance in order to make a resource of his audience's cleverness. (Chen Qiyou 2000: 4.12.261)

"Feigning" (*yang* 佯) is an apt description of the persuader's task according to "The Difficulties of Persuasion." Another is "flattery" (*chanyu* 諂諛)[30]: persuaders are advised to refrain from pointing out audiences' faults, e.g., by "not exhausting someone with his faults if he thinks his own plans clever" (Chen Qiyou 2000: 4.12.261). Instead of urging persuaders to maximize their "usefulness" (*yong*) and "merit" (*gong* 功) to the state—the very criteria according to which an enlightened ruler judges his subjects' words—the text instructs them "to ascertain the lord's likes and dislikes" (*cha aizeng zhi zhu* 察愛憎之主) so as not to incur his ill will. Any concern to promote the "common good" (*gong*) and proscribe "private interest" (*si*) is apparently trumped by the text's endorsement of ruler-directed persuasion.

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[29] An even more colorful illustration of this point is furnished by a "Forest of Persuasions" anecdote in which a minister gleans that his lord is displeased about a tree on the minister's estate that is blocking the southern view from the lord's tower. After initially resolving to cut down the tree, the minister changes his mind and gives the following explanation: "'The ancients had a saying: 'Knowing the fish of the deep is inauspicious.' Now if Tianzi is planning some great deed and I reveal that I apprehend his subtle hints, then I will surely be in danger. There is, as yet, no crime in not chopping down the tree. But knowing what another does not speak of is a great crime indeed" (Chen Qiyou 2000: 7.22.485–86). See also Reeve (2003: 221–23) for a translation and discussion of this passage.

[30] *Chanyu* is not used in "The Difficulties of Persuasion," but it does appear in a negative context in "Suspicion of Persuaders" ("Shuiyi" 說疑, Chen Qiyou 2000: 17.44.974).

But the discrepancies with other *Han Feizi* chapters do not end there. As is evident from its title, "The Difficulties of Persuasion" consistently portrays *shui* as inherently difficult for the persuader, and even "dangerous." This point is driven home in the text's colorful conclusion, here memorably translated by Burton Watson:

> The beast called the dragon can be tamed and trained to the point where you may ride on its back. But on the underside of its throat it has scales a foot in diameter that curl back from the body, and anyone who chances to brush against them is sure to die. The ruler of men too has his bristling scales. Only if a speaker can avoid brushing against them will he have any hope of success. (tr. Watson 1964: 79)[31]

The third section of the text illustrates the risks of persuasion with a handful of anecdotes about figures whose persuasions ran afoul of rulers and others through no fault of their own, e.g., the aforementioned Guan Qisi. In contrast, the impression one has from "The Five Vermin" and other chapters is that rulers are far too susceptible to the influence of those whom they come into contact with. Benighted rulers are beset on all sides by sycophants and influence-peddlers, including "honored consorts" (*gui furen* 貴夫人), "beloved children" (*ai ruzi* 愛孺子), "court entertainers and dwarves" (*youxiao zhuru* 優笑侏儒), "attendants" (*zuoyou* 左右), "fathers and brothers" (*fu xiong* 父兄), "great ministers and court officials" (*tingli dachen* 廷吏、大臣), "swordsmen and bravos" (*dai jian zhi ke bi si zhi shi* 帶劍之客、必死之士), "great ambassadors" (*da shi* 大使) from other states, and, most strikingly, "clever speakers and adept persuaders" (*bianshi neng shuizhe* 辯士能說者).[32] If rulers truly were so "easily moved by clever words and *shui,*" how much of a threat could they have posed to the would-be persuaders who made up the intended audience of "The Difficulties of Persuasion"?

The tensions between "The Difficulties of Persuasion" and the rest of the *Han Feizi* corpus—its persuader-centric perspective, its endorsement of the manipulation of rulers, and its handling of the issue of persuadability—have bothered a number of commentators. Zheng Liangshu's 鄭良樹 strategy for rationalizing this problem was to imagine that it was composed by an older, world-weary Han Fei: "Han Fei bitterly uttered these 12 techniques [of *shui*] one after the other perhaps after experiencing a certain amount of struggle, like a spring silkworm spitting out the silk from its own stomach" (Zheng Liangshu 1993: 555).[33] A time-honored strategy for dealing with inconsistencies in early texts was adopted by Rong Zhaozu 容肇祖,

[31] Also compare this imagery with the depiction of Robber Zhi as a wild beast in his encounter with Confucius in the *Zhuangzi* (Guo Qingfan 1961: 29.990ff.). The portrayal of *shui* as a dangerous business is something that sets "Shuinan" apart from the *Zhanguo ce* 戰國策 (*Stratagems of the Warring States*), another early text with a keen interest in persuasion. According to J.I. Crump, the *Zhanguo ce* in a few passages indicates that persuaders were "exenet from ordinary rules governing *lèse majesté*—resembling somewhat the immunity of the European court fool or jester. … One finds statements by rulers such as 'If this is a persuasion I shall allow it; if it is not you will die!'" (Crump 1996: 46).

[32] These are the eight types of treacherous subjects in "Bajian" (Chen Qiyou 2000: 2.9.181–98).

[33] Zheng follows Zhou Xunchu (Zhou Xunchu 1980: 129–30) in arguing that "Shuinan" was composed towards the end of Han Fei's life.

who argued that "The Difficulties of Persuasion" could not have been written by Han Fei because it was a work of the *youshui jia* 遊說家 (wandering persuaders) or *zongheng jia* 縱橫家 (political strategists), whom Han Fei attacked in other chapters. For Rong, the apparent incompatibility with other *Han Feizi* chapters trumped even the testimony of Sima Qian, who misunderstood the text because of his overwrought emotional state when he composed the *Records of the Historian* (Rong Zhaozu 1982: 666; also Rong Zhaozu 1982: 31–33). Still others have suggested that Han Fei meant the text to be read as a parody and a warning to ambitious persuaders rather than as sincere guide to the art of *shui* (Wang Jue and Hu Xinsheng 2005).

None of these solutions are without problems, not the least of which is the assumption that Han Fei was the kind of principled thinker who eschewed contradiction. Chen Qiyou 陳奇猷 and Zhang Jue 張覺 questioned this very point when they concluded that Han Fei ceded the moral high ground when he composed "The Difficulties of Persuasion": "From a strictly moral perspective, [Han Fei's ideal persuader] was similar to the 'heavyweights' and 'treacherous ministers' of his day," i.e., not strictly interested in what was truly beneficial to the ruler and to the state (Chen Qiyou and Zhang Jue 1990: 454). Paul R. Goldin has more recently questioned the need to rescue Han Fei from the contradictions of the texts attributed to him (including in the introduction to this volume), arguing that one cannot find a systematic, coherent "philosophy" in the *Han Feizi* because its author did not articulate "any absolute scale according to which one can rank objectively the disparate interests of all the actors on the stage" (Goldin 2005: 62). Han Fei had no problem advising rulers in one instance and encouraging persuaders to deceive rulers in another because for him "the only genuine force in the world [was] self-interest."[34] Goldin thus reads the text as a testament to its author's personal principles—or lack thereof.[35]

In these critical readings one hears a faint echo of Yang Xiong's 楊雄 (53 BCE–18 CE4) criticism of Han Fei from his *Model Sayings* (*Fayan* 法言), which also treats "The Difficulties of Persuasion" as a statement on its author's character:

> Someone asked, "Han Fei authored the 'Difficulties of *Shui*,' but in the end he died amid the difficulties of *shui*. What explains this reversal?"
>
> I say, "Surely he died because of the difficulties of *shui*."[36]
>
> "What do you mean?"
>
> "A *junzi* 君子 acts out of ritual and he rests in propriety. He advances when his *shui* meets with his audience's approval, otherwise he retreats. He is resolute in his refusal to worry when his *shui* does not meet with approval. If when *shui*-ing others you worry about not meeting with approval, then there is nothing that will not befall you."

[34] See also Goldin (2011): "The fact that Han Fei endorses the calculated pursuit of self-interest, even if it means speaking disingenuously before the king, is not easily reconcilable with the notion that he was advancing a science of statecraft." Goldin's main target in this essay is the *Han Feizi*'s status as the foremost representative of "legalist" thought.

[35] In making this argument, Goldin discounts the possibility that contradictions between "Shuinan" and other *Han Feizi* chapters are due to multiple authorship (Goldin 2005: 62).

[36] The redundancy in Yang Xiong's response may indicate a corruption in the line (Wang Rongbao 1987: 9.209ff.).

> Someone asked, "When a *shui* does not meet with approval, is that not cause for worry?" "To *shui* without following the Way is cause for worry. If you follow the Way and do not meet with approval, that is not cause for worry." (Wang Rongbao 1987: 9.209–11)

Yang Xiong gave no indication that he noticed any contradiction between "The Difficulties of Persuasion" and other texts in the *Han Feizi* collection. But Yang Xiong did not need to refer to any texts besides "The Difficulties of Persuasion" to criticize Han Fei. For him, Han Fei's "worries" (*you* 憂) about the difficulties of *shui* bespeak an interest in something besides *li* 禮, *yi* 義, and *dao* 道—i.e., objective standards of right and wrong. The truly moral man, the *junzi* 君子, maintains his principles regardless of whether he "meets with the approval of" (*he* 合) his superiors. But when Han Fei was confronted with an intractable audience, he resorted to "*shui* that do not follow the Way," i.e., the kinds of manipulative techniques described in "The Difficulties of Persuasion."[37] From Yang Xiong's perspective, it could only have been written by a man who cared about being persuasive to the exclusion of morality.

Although it does not mention "The Difficulties of Persuasion" explicitly, a memorial attributed to Li Si in chapter two of the *Han Feizi*, "Cun Hán 存韓" ("Preserving Hán"), and supposedly submitted after Han Fei arrived in Qin as an ambassador of Hán, develops precisely this critique of Han Fei:

> Han Fei did not necessarily come here to exert his abilities in order to preserve the kingdom of Hán. He came to enhance his influence in Hán. With his cleverly wrought *shui* and his fine written phrases he embellishes falsehoods and concocts schemes in order to fish for profits from Qin and spy out Your Majesty for Hán's benefit. If Qin and Hán enjoy good relations, then Han Fei will be influential—this is his ulterior motive. Having seen Han Fei's words, how he ornaments his vile *shui* and displays his considerable talent for beguiling rhetoric, Your humble servant fears that Your Majesty will be led astray by his clever words and will heed his thieving heart, and thus not investigate the facts of the matter [*qing* 情]. (Chen Qiyou 2000: 1.2.39–40)

The view that Han Fei was an immoral persuader was also hinted at in a proposal approved by Emperor Wu 武帝 (r. 141–87 BCE) in 140 to reject official candidates who had "mastered the words of Shen Buhai, Shang Yang, Han Fei, Su Qin, and Zhang Yi, and who would throw our government into chaos" (Ban Gu 1962: 6.156). The mention of Han Fei alongside Zhang Yi and Su Qin, arguably the two most infamous persuaders and political strategists from late Warring States anecdotal literature, is another indication that Han Fei had already become associated with the kinds of persuasion condemned in "The Five Vermin." That association is also confirmed by a memorial ostensibly submitted by Dong Zhongshu 董仲舒 (c. 179–104 BCE) in the early part of Emperor Wu's reign: "Following Han Fei's *shui* is tantamount to despising the way of emperors and kings, taking bestial avarice as the norm, and denying that any refinement or virtue can edify the world" (Ban Gu 1962: 56.2510).[38]

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[37] This idea echoes Xunzi: "A *junzi* finds *shui* difficult. If he must *shui* without following the Way, he will not do *shui*" (Wang Xianqian 1988: 19.27.516).

[38] See Arbuckle (1991: 34–46) for a discussion of the problems involved in dating these memorials. The fact that this text is preserved not in the *Records of the Historian* but in the much later *Hanshu* is further reason to suspect its authenticity.

In the conclusion that Han Fei was amoral at best and immoral at worst we have a tidy solution to the problems of "The Difficulties of Persuasion." But it is a solution that encounters the same difficulty as the view that "The Difficulties of Persuasion" is a marginal text in the *Han Feizi* corpus: it, too, flatly contradicts the view of it and Han Fei that one finds in the *Records of the Historian*, which consistently describes author and text in terms that are both positive and moral. The comment that caps Han Fei's *Records of the Historian* biography concludes that he "drew the plumb-line, scrutinized the facts of the matter, and clarified right and wrong." Han Fei is also described as having been sincerely "vexed" (*ji* 疾) about the weakness of his home state of Hán, and having "lamented that honest and upright men were not tolerated by vile and crooked ministers" (Sima Qian 1959: 63.2147). Most of all, it is hard to imagine Sima Qian mentioning "The Difficulties of Persuasion" alongside King Wen and the *Changes* or Confucius and the *Springs and Autumns* had he considered the text as ethically problematic as Yang Xiong and other critics have taken it to be. Is it possible that Sima Qian saw something in the text that Yang Xiong et al. missed? Or did Sima Qian wrongly attribute a moral purpose to Han Fei and "The Difficulties of Persuasion" for his own purposes, perhaps because the Han Fei legend reminded him of the imprisonment and castration he suffered after defending the disgraced general Li Ling 李陵 to Emperor Wu?[39]

One thing that is clear from the *Records of the Historian*'s presentation of "The Difficulties of Persuasion" is that Sima Qian thought of the text in comparative terms as part of a tradition of authors who sublimated their frustrated ambitions in texts. Applied to most of the exemplary authors mentioned in the *Records of the Historian* postface, this perspective is not especially convincing. The *Changes*, *Springs and Autumns*, and *Zuo Commentary* give no indication that they were authored by King Wen, Confucius, and Zuo Qiuming (or anyone else for that matter), and the account of Lü Buwei's 呂不韋 compilation of *Springs and Autumns of Mr. Lü* in *Records of the Historian* 130 flatly contradicts its biography of Lü Buwei. But let us suppose that Sima Qian's impulse to think of "The Difficulties of Persuasion" as part of a tradition was a good one. How might we go about constructing a more convincing account of that tradition?

Early Authors on the Morality of shui 說

"The Difficulties of Persuasion" was by no means the only ancient text to run afoul of the perception that persuasion, and the verbal arts generally, are morally problematic. The persistence of this view is not hard to explain. Considered in and of itself, the

[39] Wai-yee Li (1994: 363–63): Sima Qian "sometimes sacrifices factual accuracy to develop a new conception of writing and to forge a special genealogy for his own enterprise." An excellent recent treatment of the Sima Qian legend is Klein (2010).

art of persuasion *is* inherently amoral. A successful persuader is not necessarily a good person, and a successful persuasion is not necessarily true or moral. To be successful, a persuader need only earn the assent of his audience, a challenge that has more to do with understanding or even manipulating his audience's beliefs, desires, and emotions. In other words, it involves precisely the sorts of knowledge valued in "The Difficulties of Persuasion."

Yang Xiong also saw that a persuasive man is not necessarily a virtuous man. But Yang Xiong pushed that commonsense observation too far in his anti-Han Fei polemics when he argued that persuasion is diametrically opposed to morality. As Aristotle recognized, it is how one chooses to use one's knowledge of the art of persuasion that reveals one's character; merely to possess knowledge of that art is not morally problematic.[40] More to the point, the amoral art of persuasion can also be put to eminently moral uses:

> Poetry and oratory can do more than make lies sound like truth. They are also means for making truth sound like truth—the only means, on many occasions, that are available. As such, they are not simply acceptable to the philosopher but necessary for his purposes. Rhetoric is the art of harnessing and focusing poetical and oratorical energy with such ends in mind. (Cole 1991: 140)[41]

Yang Xiong himself illustrates this point in his *Model Sayings* when he presents his version of a morally respectable *shui/shuo*:

> Someone asked, "Do the Five Classics contain clever words (*bian* 辯)?"
>
> I answered, "Only the Five Classics contain clever words. To *shuo* 說 Heaven, no words are cleverer than the *Changes*; to *shuo* affairs, no words are cleverer than the *Documents*; to *shuo* deportment, no words are cleverer than the *Rituals*; to *shuo* intentions, no words are cleverer than the *Odes*; to *shuo* principles, no words are cleverer than the *Springs and Autumns*. Aside from these, clever words are petty." (Wang Rongbao 1987: 7.215–17)

Despite his criticisms of Han Fei and *shui*, Yang Xiong acknowledged the compatibility of the verbal arts with the moral Way when he embraced a strictly circumscribed version of *shui*/*shuo* and "clever words" (*bian*) based on the Five Classics. An established canon ostensibly precluded the need for one-to-one persuasions (*shui*) and allowed authors like Yang Xiong to claim that they were simply explaining (*shuo*) the wisdom already contained in the canon. Nonetheless, Yang Xiong's tendency to see morality and persuasion (and also morality and verbal artistry)[42] in either-or terms gave polemicists a powerful and convenient argument against their rivals.

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[40] *Rhetoric* 1355a (tr. Kennedy 1991: 3): "sophistry [i.e., the immoral use of rhetoric] is not a matter of ability but of deliberate choice [of specious arguments]."

[41] A colorful example of rhetoric's indispensability is Su Qin's condemnation in the *Zhanguo ce* of the rise of rhetoric, "a rushing, hendiadys-laden tri- and tetrasyllabic harangue with rhyme changes after every couplet." See Kern (2003b: 417–19) for a translation and discussion.

[42] Yang Xiong's comments on the morality of literary (i.e., *fu* 賦) composition closely track his comments on *shui* (Wang Rongbao 1987: 2.45–51). See also Kern (2003b) for a parallel effort to rescue Western Han *fu* 賦 authors from Yang Xiong's moralizing critique.

Another early text that confronted this perception was the *Mencius*. The long-winded answer to the question that opens *Mencius* 3B.9—"Outsiders are all saying that you, Master, are fond of clever words. May I ask why that is?"—only makes sense if one understands the either-or implication of the phrase "fond of clever words" (*hao bian* 好辯). The accusation is not simply that Mencius enjoys showing off his rhetorical artistry from time to time. What bothers Mencius is the implication that he cares about eloquence to the exclusion of all else, and to combat this perception he launches into an elaborate defense of his motivations that includes a brief history of human civilization. His strategy for dealing with the either-or perception of persuasion—here understood in terms of "discriminating" or "well-chosen words" (*bian*)—is essentially a "both-and" defense. Mencius acknowledges that he engages in rhetoric, but it is only because he "cannot do otherwise" (*bu de yi* 不得已). In eras of sage rule, the world has no need of men like Mencius. But when sages do not arise and "vile *shui*" (*xie shui* 邪說) proliferate, virtuous men must come forth to rectify the ills of their age. As a self-identifying "follower of sages" (聖人之徒) like Confucius and the Duke of Zhou 周公, Mencius sincerely desires to save the world. *Bian* is a means to the most moral of ends.

Mencius 3B.9 speaks of *bian* and not *shui*, but a number of early authors recognized that the ability to speak eloquently and with "discrimination" (*bian* 辨) and to debate—all of which are encompassed by *bian*—was integral to presenting a successful *shui*.[43] The author of Chapter 22 of the *Xunzi*, "Zhengming 正名" ("Getting Terminology Right"), linked the two terms in a defense that echoes *Mencius* 3B.9:

> Now the sage kings are no more, the world is chaotic, and treacherous words have arisen. Noble men have no power with which to oversee [the world], and no punitive measures to keep it in check, and so they engage in *bian* and *shui*. (Wang Xianqian 1988: 16.22.422)

Chapter 13 of the *Xunzi*, "The Way of the Subject" ("Chendao" 臣道), develops this idea further in its advice for those who serve "sage lords" (*shengjun* 聖君) versus "ordinary lords" (*zhongjun* 中君) or "brutal lords" (*baojun* 暴君):

> When serving a sage lord, there is only listening and following without remonstration or contention. When serving an ordinary lord, there is remonstration and contention but without flattery. When serving a brutal lord, there is supplementing and trimming but without forcing or defying. Whether hard-pressed in a chaotic era or in dire straits in a brutal state, when there is no way out then one should exalt its admirable qualities, raise up its fine points, avoid its bad points, and conceal its faults, speaking only of its strengths without mentioning its deficiencies. This is the way to perfect its customs. (Wang Xianqian 1988: 9.13.251)

Clearly, desperate times call for some flexibility on the part of even the most virtuous subjects.

Chapter 5 of the *Xunzi* provides an even more robust defense of the *junzi*'s engagement in *shui* and *bian* in a section labeled "the difficulties of persuasion"

[43] See Schaberg (forthcoming) for the effort to tease out the *Mengzi*'s theory of persuasion, specifically with respect to the "four starting-points" (*siduan* 四端) of *Mengzi* 2A.6.

(*fan shui zhi nan* 凡說之難; Wang Xianqian 1988: 3.5.84ff.).[44] The *Xunzi*'s "difficulties of persuasion" has much in common with the *Han Feizi* version, beginning with the acknowledgement that a persuader must match his *shui* to his audience to have any hope of success. He must

> change and shift with the occasion, bend this way and that with the age, now relaxed and now rushed, now overflowing and now lacking. Make them submit to you like a water channel or wood clamp. Twist and they will get what you say without humiliation or injury. (Wang Xianqian 1988: 3.5.85)

Although the *Xunzi* is far more elliptic than "The Difficulties of Persuasion" about specific persuasive techniques, its advice to bridge the gap between the persuader and his audience by working "indirectly" (*wei ke zhi zhi* 未可直至) is not far removed from the *Han Feizi*.

But the *Xunzi*'s "difficulties of persuasion" differs from the *Han Feizi* version in one crucial respect: its advice to persuaders comes packaged with an argument about the moral uses of *shui*. The relevant section opens and concludes with the statement that "a noble man must use clever words" (*junzi bi bian* 君子必辯), and it paints a picture of the *junzi*-persuader whose words always "accord with the former kings" (*he xianwang* 合先王) and "comply with ritual and propriety" (*shun liyi* 順禮義). Like Yang Xiong, the *Xunzi* author presents a morally respectable *shui* that insulates his text against the kinds of charges leveled against "The Difficulties of Persuasion." *Shui* is necessary, and even morally praiseworthy, so long as the persuader has the right motives.

For other authors, Confucius was the model of a virtuous man who made certain concessions to reality for the greater good. The *Huainanzi* 淮南子 (*Master of Huainan*), a text presented to Emperor Wu in 139 BCE by Liu An 劉安 (d. 122 BCE), the King of Huainan, defended Confucius's seemingly inappropriate meetings with Nanzi 南子 and Mi Zixia 彌子瑕, the wife and favorite minister of the Lord of Wei 衛, on similar grounds:

> Confucius desired to practice the Royal Way, and he tried to *shui* [rulers] in the north, south, east, and west but found no partner, and so he relied on the wife of Wei and Mi Zixia desiring to carry out his Way. These are all instances of making safe what is dangerous and getting rid of what is vile, of going from ignorance to enlightenment, and of acting expediently in order to manage situations for the good. (He Ning 1998: 20.1409)[45]

This description of Confucius is preceded by descriptions of Guanzi, the Duke of Zhou, and Yi Yin, all of whom "went out along a crooked way and traveled a dark road because they desired to establish a greater way and accomplish a greater merit" (He Ning 1998: 20.1408). In a similar vein, Liu Xiang's *Garden of Persuasions* (*Shuiyuan* 說苑) connects Confucius with the practice of "indirect remonstrance"

[44] This parallel lends some credence to the claim that Han Fei was Xunzi's student. (But see the chapter by Sato in this volume.)

[45] The meeting between Confucius and Nanzi is also referenced at *Analects* 6.28. The idea of "relying on" (*yin* 因) what is expedience also appears in the *Lüshi chunqiu*'s handling of Confucius's meeting with Mi Zixia (Chen Qiyou 2002: 15.935).

(*fengjian* 諷諫; see Schaberg 2005), again because a virtuous man must resort to "expedient" (*quan* 權) measures when dealing with less than virtuous rulers:

> Confucius said, "I shall follow indirect remonstrance." Not to remonstrate is to endanger one's lord, but to stubbornly remonstrate is to endanger oneself. Even if one prefers to endanger himself, if by endangering oneself one ends up not being employed the remonstration has no merit. The knowledgeable take the measure of their lord and adapt to the times, they are more or less relaxed or urgent [as the situation demands], and they situate themselves as appropriate. Above they dare not endanger their lord, and below they do not endanger themselves. Thus he can be in the state without it being endangered, and he can be in himself without being threatened. (Xiang Zonglu 1987: 9.206)

When compared to passages like these, Yang Xiong's view of the incompatibility of morality and persuasion seems uncompromising in the extreme.

Worries about the morality of persuasion were by no means exclusive to the early Chinese context. The moralist credentials of Aristotle (384–322 BCE) seem unassailable when one reads, say, the *Nichomachean Ethics*. But not even Aristotle has been immune to the criticism that he abandoned his principles when he authored the *Rhetoric*, one of the most significant statements on the art of persuasion known from the ancient world:

> The most striking characteristic of Aristotle's *Rhetoric* is its ambivalence. On the one hand, it attempts to tie itself in with Aristotelian logic, ethics, and politics, while on the other it is a practical handbook for the instruction of public speakers in all techniques and tricks of the trade. So far as the question of value is concerned, we can see in the *Rhetoric*, when the author has foremost in his mind his thought in logic, ethics, and politics, a reflection of the views expressed therein towards matters of value. But when he is in the mood of an author of a practical handbook, any concern for value seems in some places to vanish, leaving us in a realm of amoralism, if not immoralism. (Oates 1963: 335)[46]

Reading the *Rhetoric*, one is indeed struck by a number of passages in which Aristotle wades into territory that seems less than completely ethical. Consider Aristotle's endorsement of the Ovidian dictum that "the highest art is to conceal art" (*ars celare artem*), or the Han Feizian point that "secret plans succeed but divulged words fail" (事以密成,語以泄敗):

> [Authors] should compose without being noticed and should seem to speak not artificially but naturally. (The latter is persuasive, the former the opposite; for [if artifice is obvious] people become resentful, as at someone plotting against them, just as they are at those adulterating wines…) (*Rhetoric* 1404b; tr. Kennedy 1991: 222)

In a section on oaths, Aristotle endorses an obvious double-standard. If one is accused of breaking an oath, "one should conclude that committing perjury is with the mind and not with the tongue" and thereby argue that the oath was broken involuntarily. But if one's opponent is accused of breaking an oath, one should

[46] See also Halliwell (1996: 186): "If this leaves us close to where we started, with an essentially ambiguous and inconclusive verdict on the potential involvement of the rhetorician in the tasks of a philosophically respectable *politikê*, we should by now, I think, be prepared to regard this very indeterminacy as an ineliminable and thoroughly significant feature of the work's interpretation of its subject." For a thoughtful defense of the morality of Aristotle's *Rhetoric*, see Engberg-Pedersen (1996).

argue that "he who does not abide by what he has sworn overturns everything" (*Rhetoric* 1.1377b; tr. Kennedy 1991: 117–18) and should not be forgiven. Then in a discussion of the uses of fear and anger Aristotle condones manipulating the emotions of one's audience:

> [Fear] makes people inclined to deliberation, while no one deliberates about hopeless things. The result is that whenever it is better [for a speaker's case] that they [i.e. the audience] experience fear, he should make them realize that they are liable to suffering. (*Rhetoric* 1383a; tr. Kennedy 1991: 141)

And in a section on maxims, Aristotle recognizes the need to have some prior knowledge of the audience's disposition so that one can tailor one's words accordingly:

> Maxims make one great contribution to speeches because of the uncultivated mind of the audience; for people are pleased if someone in a general observation hits upon opinions that they themselves have about a particular instance…Thus, one should guess what sort of assumptions people have and then speak in general terms consistent with these views. (*Rhetoric* 1395b; tr. Kennedy 1991: 186)

These parallels aside, the presentation of the *Rhetoric* differs from that of "The Difficulties of Persuasion" insofar as Aristotle went to great lengths to defend the morality (or at least the non-immorality) of his enterprise. Lurking in the background of the *Rhetoric* was Plato's Yang Xiong-ian criticism of rhetoric as an illegitimate and immoral art diametrically opposed to the pursuit of the true and the good.[47] His teacher's critique of rhetoric meant that Aristotle, like Mencius, had to defend his writings on the subject with his own "both-and" defense of the moral uses of persuasion:

> [R]hetoric is useful [first] because the true and the just are by nature stronger than their opposites, so that if judgments are not made in the right way [the true and the just] are necessarily defeated [by their opposites]. (*Rhetoric* 1354b; tr. Kennedy 1991: 34)
>
> In addition, it would be strange if an inability to defend oneself by means of the body is shameful, while there is no shame in an inability to use speech; the latter is more characteristic of humans than is use of the body. And if it is argued that great harm can be done by unjustly using such power of words, this objection applies to all good things except for virtue, and most of all to the most useful things, like strength, health, wealth, and military strategy; for by using these justly one would do the greatest good and unjustly, the greatest harm. (*Rhetoric* 1354b–1355a; tr. Kennedy 1991: 35)

Ideally, one would debate issues on the merits without engaging in persuasion; in early Chinese terms, they would simply explain (*shuo*) without needing to persuade (*shui*). But virtuous men are compelled to adopt the manipulative techniques described in the *Rhetoric* by the ignorance of audiences:

> Further, even if we were to have the most exact knowledge, it would not be very easy for us in speaking to use it to persuade some audiences. Speech based on knowledge is teaching, but teaching is impossible [with some audiences]. (*Rhetoric* 1354b; tr. Kennedy 1991: 34)

[47] Plato's *Gorgias* is the source of his most scathing critique of persuasion and rhetoric. See esp. *Gorgias* 453ff.

And Aristotle occasionally prefaced his advice with the caveat that one would not resort to such techniques were it not for the audience's ignorance:

> But since the whole business of rhetoric is with opinion, one should pay attention to delivery, not because it is right but because it is necessary, since true justice seeks nothing more in a speech than neither to offend nor to entertain; for to contend by means of the facts themselves is just, with the result that everything except demonstration is incidental; but, nevertheless, [delivery] has great power, as has been said, because of the corruption of the audience. (*Rhetoric* 1404a; tr. Kennedy 1991: 218)

Ultimately, it is Aristotle's commitment to the truth that forces him to use persuasive techniques with audiences who will not respond to proper "philosophical" demonstration.

Here, then, we have a handful of ancient authors who defended their involvement in persuasion by arguing that the kinds of persuasion they engaged in were necessary, and even morally praiseworthy.[48] And they insisted that what separated themselves from their rivals, the Mengzis from the Yangists and Mohists or the Aristotles from the sophists, was the goodness of their intentions. I suppose one could argue in a Yang Xiongian or Platonic vein that these authors were disingenuous, or that the moral ends did not justify the persuasive means. But it would be unreasonable to deny that these authors at the very least presented themselves as principled men who engaged in persuasion because they "could not do otherwise" (*bu de yi* 不得已). The question then becomes, can we discern similar strategies in "The Difficulties of Persuasion" or elsewhere in the *Han Feizi* for defending the morality (or, at least, the non-immorality) of its advice to would-be persuaders, and for reconciling the text with other *Han Feizi* chapters?

"Solitary Frustration" and the Morality of "The Difficulties of Persuasion"

The author of "The Difficulties of Persuasion" did not foreground a higher purpose à la *Mencius* 3B.9; he did not go out of his way to paint of picture of the righteous persuader à la the *Xunzi*; and he did not explicitly blame his having to engage in persuasion on "corrupted audiences" à la Aristotle's *Rhetoric*. However, as a few scholars have noted,[49] one can find evidence of all of these strategies if "The Difficulties of Persuasion" is read in conjunction with its companion text in

[48] A number of scholars (e.g., Lloyd 1996) have noted that writings on rhetoric and persuasion from early China and ancient Greece and Rome reflect very different sociopolitical contexts. Whereas Greek and Roman orators had to move large audiences, Chinese persuaders dealt with individual potentates in more intimate settings. However, the foregoing discussion indicates that the problem of morality of persuasion to some extent cuts transcends such differences.

[49] My discussion agrees on many points with that of Lundahl (1992: 143–46) and especially Zhang Suzhen (1997: 322–57).

the *Records of the Historian*'s list of exemplary authors and the chapter that immediately precedes it in the received *Han Feizi*: "Solitary Frustration."[50]

"Solitary Frustration" opens with a distinction between "advocates of law and expertise" (*fa shu zhi shi* 法術之士) and political "heavyweights." The former are the righteous crusaders of the *Han Feizi*, the men whose mission it is to implement the *Han Feizi*'s program of *fa* and *shu* for the rulers who employ them. The latter are the entrenched powers-that-be who use their influence with rulers to pursue their own self-interest (*si*) to the detriment of the state. The conflict between these two groups is such that the ascendancy of the one guarantees the rejection of the other. If employed, advocates of law and expertise would see to it that heavyweights are prevented from flourishing. Ever mindful of their own self-interest, heavyweights thus work to keep advocates of law and expertise from power, perhaps even having them assassinated by "private swords-for-hire" (*si jian* 私劍; Chen Qiyou 2000: 4.11.241). This theme is further elaborated in "Mr. He" ("Heshi" 何氏), the chapter that follows "The Difficulties of Persuasion" in the received *Han Feizi*:

> When a ruler of men cannot go against the deliberations of his great ministers, overcome the slanders of his people, and accord with words of true guidance, then even if advocates of law and expertise are martyred, their Way will not be upheld. (Chen Qiyou 2000: 4.13.274–75)

The exposition in "Solitary Frustration" of the "difficulties of implementing laws and expertise" (*fan fashu zhi nan xing* 凡法術之難行)—a phrase which closely parallels the "difficulties of persuasion" (*fan shui zhi nan* 凡說之難)—sets up a series of rhetorical questions:

> And so, how can an advocate of law and expertise advance? And how can a ruler of men ever realize [his errors]? (Chen Qiyou 2000: 4.11.241)

> And so, faced with these overwhelming disadvantages and an entrenched opposition, how can an advocate of law and expertise not be endangered? (*ibid*.)
>
> And so, how can an advocate of law and technique risk death to present his *shui*? And how would a treacherous and wicked minister dare give up his advantage and remove himself from office? (Chen Qiyou 2000: 4.11.245–46)[51]

"Solitary Frustration" is silent on these questions, but their relevance to "The Difficulties of Persuasion" is obvious. They introduce the problem that "The Difficulties of Persuasion" then answers: how should a righteous advocate of law and expertise negotiate the very real dangers of his mission to rescue rulers and their states from chaos and ruin?

Considered from this perspective, the *sotto voce* defense in "The Difficulties of Persuasion" of the morality of its brand of *shui* comes to the fore. One such cue is the text's description of its target audience as "men of service who remonstrate, persuade, discuss, and assess" (*jian shui tan lun zhi shi* 諫說談論之士, Chen Qiyou 2000: 4.12.269). *Jian* 諫 ("to remonstrate") is to offer a particular kind of *shui*, to

[50] As with "Shuinan," the attribution of "Gufen" to *Han Feizi* is attested in Western Han sources. Aside from the *Records of the Historian* 63 and 130 passages discussed above, see He Ning (1998: 20.1424).

[51] These questions are also echoed in "Heshi" (Chen Qiyou 2000: 4.13.275).

criticize a superior in order to correct his mistakes or shortcomings. But unlike *shui*, *jian* was a decidedly moral activity. By and large, those who offer *jian* in early texts are assumed to be motivated by a sincere desire to rectify rulers' conduct. For instance, according to the "Critiques, No. 1" ("Nan yi" 難一) chapter of the *Han Feizi*, "ministerial ritual propriety" (*chen zhi liyi* 臣之禮義) dictated that "one serving as minister should remonstrate when his lord errs" (Chen Qiyou 2000: 15.36.859). Addressing the text to remonstrators was thus a simple way for the author of "The Difficulties of Persuasion" to signal that his advice was meant for well-meaning persuaders, not the power-hungry heavyweights.

Another moral cue is the text's description of "the perfection of persuasion" (*shui zhi cheng* 說之成) in terms which suggest that the ideal persuader will not be unconcerned with objective standards of right and wrong:

> If you are able to fulfill long years of service with the ruler, enjoy his fullest favor and confidence, lay long-range plans for him without ever arousing suspicion, and when necessary oppose him in argument without incurring blame, then you may achieve merit by making clear to him what is profitable and what is harmful, and bring glory to yourself by your forthright judgments of right and wrong. When ruler and minister aid and sustain each other in this way, *shui*/*shuo* may be said to have reached its fulfillment. (tr. after Watson 1964: 77)

The presumption that a persuader will "oppose" (*zheng* 爭) his lord is one indication that flattery was not an end in itself for the "The Difficulties of Persuasion" author. The persuader cultivates a trusting relationship with his lord so that he can present candid advice about "what is profitable and what is harmful."[52] This is the corollary to Aristotle's argument that the truth must be delivered persuasively if it is to seem true: good advice is useless unless it comes from a trustworthy source.[53] Eventually, after demonstrating his reliability and merit, a persuader can abandon the techniques outlined in "The Difficulties of Persuasion" and offer straightforward counsel without fear of recrimination. The calculated, morally problematic *shui* gives way to a less rhetorical and more public-minded *shuo*.

The mention of Yi Yin and Baili Xi 百里奚 as exemplary persuaders is also suggestive:

> Yi Yin became a cook and Baili Xi a slave in order to impose upon their lords. Even though these two men were sages, they were unable to advance without indenturing themselves—such was their degradation. Now if I was taken as a cook or a slave, but I could be heeded and employed in order to save the age, this would not be humiliating to a capable *shi*. (Chen Qiyou 2000: 4.12.265)

[52] This language sets "Shuinan" apart from an early text that truly does not evince an interest in objective standards of right and wrong, the *Guiguzi*. See Broschat (1985) for a study and translation.

[53] Aristotle also saw this point: "it is not the case, as some of the technical writers propose in their treatment of the art, that fair-mindedness on the part of the speaker makes no contribution to persuasiveness; rather, character is almost, so to speak, the controlling factor in persuasion" (*Rhetoric* 1356a; tr. Kennedy 1991: 38). However, Aristotle was reluctant to acknowledge the importance of reputation to the success of a persuasion, and argued that character "should result from the speech, not from a previous opinion that the speaker is a certain kind of person" (*Rhetoric* 1356a; tr. Kennedy 1991: 38).

Yi Yin and Baili Xi are referenced in several chapters of the *Han Feizi* and in every instance are upheld as figures to be emulated. In a passage from "Critiques, No. 1" that redefines a set of terms more closely associated with the *ru* tradition, their "concern for the harms of the world" (憂天下之害) and willing self-abasement even earns them the label "humane and righteous" (*ren yi zhe* 仁義者; Chen Qiyou 2000: 15.36.862). Elsewhere they are praised as "assistants to hegemonic kings" (霸王之佐) who labored day and night in service of their lords (Chen Qiyou 2000: 17.44.973). These are strange models for a self-interested, power-hungry persuader.

"The Difficulties of Persuasion" also hints at a version of Aristotle's "corrupted audience" defense. Although translators and commentators have assumed that "The Difficulties of Persuasion" advises persuaders how to *shui* rulers, in fact the text is far less specific about audience. Only towards the end of the text does it speak of "rulers" (*zhu* 主) or "rulers of men" (*renzhu* 人主), the benighted rulers who are contrasted with the *mingzhu* 明主, the "enlightened rulers." Audiences are more often referred to as "the honored" (*guiren* 貴人) or "those to be persuaded" (*suo shui* 所說). This choice of words was probably not accidental. If the heavyweights of "Solitary Frustration" routinely blocked access to rulers, then an advocate of law and expertise would have to successfully persuade such men in order to gain a ruler's ear.[54] To quote "Solitary Frustration," "When the powerful wrest control of essential state business, then those inside and outside the state must go through them" (當塗之人擅事要,則外內為之用矣; Chen Qiyou 2000: 4.11.240). A story about Confucius from "Forest of Persuasions" also illustrates this point:

> Ziyu 子圉 gave Confucius an audience with the Prime Minister of Shang. After Confucius departed, Ziyu entered and asked what he thought of his guest. The Prime Minister said, "Now that I have seen Confucius, you seem as inconsequential as a flea or louse. I will now give him an audience with the lord."
>
> Ziyu was afraid that the lord would think highly of Confucius, and so he said to the Prime Minister, "Once the lord meets Confucius, you will also seem like a flea or louse." Consequently, the Prime Minister refused to give Confucius a second audience. (Chen Qiyou 2000: 7.22.463)

Here we have what I suspect is a relatively realistic depiction of the challenges facing Warring States (or early imperial) persuaders, who could not have counted on having direct access to rulers.[55] Confucius must first convince a "heavyweight" like Ziyu to grant him an audience with the Prime Minister. Although he succeeds in

[54] The "Nanyan" author also picked up on this point when he wrote that "fools are hard to *shui*" (*yuzhe nan shui* 愚者難說). Compare this with the *Zhuangzi*'s defense of the practice of "lodging words" (*yuyan* 寓言) in others' mouths: "This is not my fault, it is the fault of others" (Guo Qingfan 1962: 27.948).

[55] For the argument that changes in the representation of remonstration reflect changing power dynamics in the Warring States, with rulers having more and more power over persuaders, see Lewis (1999: 597–603) and Schaberg (2005: 196). On the practice of direct remonstrance, see Schaberg (1997).

impressing both men, he fails in the end because his promotion might lead to their demotion. The existence of men like Ziyu would have created a powerful incentive for a righteous yet disempowered persuader to adopt the persuasive techniques endorsed by "The Difficulties of Persuasion."

Considered as a single textual unit, then, "The Difficulties of Persuasion" and "Solitary Frustration" present a *shui* whose techniques are indistinguishable from the *shui* of self-interested, avaricious persuaders. But as Mencius, Xunzi, and Aristotle argued with respect to their own rhetorical endeavors, what separates the good *shui* from the bad is not the *shui* but the *shuizhe* 說者 (persuader). So long as it is engaged in by advocates of law and expertise who willingly risk life and limb out of a sincere desire "to save the age," the *shui* of "The Difficulties of Persuasion" is as unavoidable as Mencius's or Xunzi's *bian*. This is the philosopher's lament: in a world disinclined to heed one's teachings and explanations (*shuo*), one cannot help but engage in persuasion (*shui*), and to confront its difficulties. If the "The Difficulties of Persuasion" author did not foreground his noble intentions like these other authors, perhaps it was because he could reasonably expect his audience to understand his text as a righteous man's "response to the political pathology of his time."[56] Only a virtuous man would willingly face the "difficulties" inherent in *shui*-ing corrupt, ignorant rulers.

The Legacy of Han Fei

Sima Qian had good reason to read "The Difficulties of Persuasion" as a record of its author's noble ambitions**.** Not only is that reading supported by the text itself, it was also the default rhetorical strategy for early authors who rationalized their engagement in *shui* (Lu 1998: 294–96). Nonetheless, it should come as no surprise that the tradition did not embrace Sima Qian's view of "The Difficulties of Persuasion" as a text written by a righteous yet unsuccessful persuader. As we saw earlier, already in the Western Han a number of authors were crafting a very different image of Han Fei as an enemy of traditional morality and its source, the Five Classics. Unlike Mencius and Xunzi, Han Fei was also associated with texts like "The Five Vermin" that attacked the core dogma of the emerging imperial ideology, i.e., that the cultivation of virtue by rulers, his ministers, and the people was The Way to achieve good order (*zhi* 治). The view that "following Han Fei's *shui* [is tantamount to] despising the way of emperors and kings," to quote Dong Zhongshu, soon overshadowed the moral reading of "The Difficulties of Persuasion" and even turned this widely read text into a symbol of its author's immorality. With the establishment of the Five Classics, Han Fei's role in the Chinese tradition

[56] See Leo Chang's (1998) entry on Han Feizi in the *Routledge Encylopedia of Philosophy* (s.v.). For the argument that the *Han Feizi* nevertheless pursues decidedly moral ends, see Wang and Chang (1986: 110–31). Wang and Chang also include a list of passages on the subject of "benefiting the people" (*limin* 利民).

came to resemble that of the Greek sophists in the Western tradition, those rhetorically adept thinkers whose supposed opposition to objective standards of right and wrong made them the perennial others of true "philosophy."[57] That "The Difficulties of Persuasion" could be invoked both to lionize and demonize Han Fei is a testament to the enduring ambivalence of the *shuizhe*/persuader in the Chinese tradition."[58]

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[57] See Ford (1993) for a useful discussion of the role of the sophists in Western intellectual history.

[58] Cole (1991: 13): "Rhetorical discourse is not the opposite of philosophical discourse but rather, in most situations, its complementary contrary, and only capable of being identified and studied by reference to the appropriate philosophical counterpart".

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