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Ritual Origins of the Warring States

Mark Edward LEWIS

In standard treatments of the Warring States period, ritual stands in an adversarial relation to the emerging political institutions of the period. Modern scholars, who derive their ideas largely from the scholastic polemics of the period, identify major developments like written legal codes, universal military service, ranks of merit, and “bureaucratic” administration with the theories expounded in texts by “Legalist” writers. By contrast, accounts of ritual as a form of governance figure largely in the writings of the *ru*. This adversarial stance in the philosophical writings suggests that the new institutions of the Warring States emerged from a rejection of the cultic bases of Zhou royal authority, and that appeals to rites in the period were conservative, if not archaic. I shall argue in this paper that the major institutional developments of the period were in fact largely derived from or dependent upon the rituals employed in Zhou society. These rituals included both those fundamental to the earlier Zhou state and those which had been employed in religious activities outside the political realm. Seeking to create new institutions, the reforming kings and ministers of the Warring States period had recourse to modes of action and speech that were held to be efficacious, and these were largely drawn from the sphere of religious ritual. Certain rituals, particularly those which had defined the Zhou order, were directly adapted to meet changing circumstances, while others provided a repertoire of ideas and images that were used to reinvent the nature of royal power.

“Ritual” has been applied in modern social theory to such a wide range of actions that it has lost all meaning, and its early Chinese equivalent *li* suffered a similar fate within the “Confucian” discourse. In order to impart some significance to the argument of this paper, I will restrict the term “ritual” to formalized, communicative action that relates its performer in some way to a superhuman power. In Zhou China this would include the closely related realms of religious cult and court ceremonial. Thus, the proposition that the Warring States had ritual origins asserts that the creation of this policial structure relied on the manipulation of powers derived from the world of the spirits and the performance of actions patterned on those intended to invoke such powers.

As a background to this paper, I should note two earlier efforts to link archaic religious practice to the emergence of “bureaucratic” administration in China. In his article “Shang Theology and the Genesis of Chinese Political Culture,” David Keightley argued that the later prominence of bureaucratic administration in Chinese government and culture could be traced back to features of Shang religion. Specifically, he argued that the systematic, “rational” character of the late Shang ritual complex, in which routinized divinations confirmed established practices and fixed offerings mechanically procured anticipated results, provided a model or template for the emergence of later “bureaucratic” government. He also noted such features as the pivotal role of writing

and the concern with number (of offerings) as evidence of a “bureaucratic” mentality in the Shang state.¹

Keightley’s discovery in the Shang of the origins of a “mentality” predisposed towards a form of government that would not appear in China for more than half a millennium is peculiar, for in a subsequent article he has demonstrated that the Shang had no bureaucracy, but depended upon the physical presence of the king or his relatives to impose royal writ.² Indeed, the Shang dynasty is unique among “bronze age theocracies” precisely in the absence of a developed bureaucracy, an absence demonstrated not through any argument from silence but by the nature of the Shang state as reflected in the oracle records. In his earlier article Keightley makes no effort to explain how Chinese religion came to be bureaucratic without any familiarity with a bureaucracy, and this silence is not surprising, since such an explanation would necessarily entail an appeal to a timeless, mystical essence of the Chinese race, a people whose very nature had made them “bureaucratic” since time out of mind.

While Keightley’s choice of model and rhetoric is questionable, the phenomenon to which he points is genuine. The links between Shang religion and later government administration reflect not the “bureaucratic” nature of Shang religion, but rather the religious origins and ritual bases of Warring States and imperial government. This argument was made at considerable length by Léon Vandermeersch in the second volume of his *Wangdao ou la voie royale*, published two years after Keightley’s article. The section of this work devoted to ritual notes the same characteristics of Shang religion as those described by Keightley. However, it explains them not through any appeal to an as yet non-existent bureaucracy but rather through a theoretical reflection on the nature of Shang “ritualism” with its associated logic of formal order which Vandermeersch labels “morpho-logique”.³ Without accepting his essentialist definition of “ritual” as the priority of forms over ends, and rejecting his grand opposition of a Western civilization defined by a logic of cause and effect against a Chinese civilization defined by a logic of inherent structure and internal consistency, I think that Vandermeersch is correct in tracing certain basic forms of later Chinese politics to the ritual practices of the Shang and Zhou states. In this paper, which is too brief to discuss Professor Vandermeersch’s detailed treatment of this question, I present a model of the manner in which rule through cult was progressively developed into rule through “bureaucratic” administration.

As rituals are above all a form of bodily action (a fact recognized by the early Chinese in such homophone glosses (*li*) on (*li*) as (*li*) “to stand” or “to walk”), they tend to have a strongly physical and spatial character and thus to be enacted in specific loci. For purposes of exposition I will organize this paper around three such loci: 1) the courts (*ting*) of the local officials, 2) the court (*chao*) or (*ting*) of the ruler, and 3) within the person of the ruler. In each of these three “theatres” power was created through distinctive modes of formalized actions. The characteristic actions in the local courts were dictated by written legal codes, those at the central court by patterned confrontations of the ruler and his ministers, and those in the person of the ruler by the techniques invoked to achieve a “sage” intellect. The links of these practices to religious ritual and earlier court ceremonial form the body of this paper.

1. David N. Keightley, “The Religious Commitment: Shang Theology and the Genesis of Chinese Political Culture”, *History of Religions* 17:3-4 (1978): 211-24.

2. David N. Keightley, “The Late Shang State: When, Where, and What?” in David N. Keightley, ed., *The Origins of Chinese Civilization* (Berkeley: University of California, 1983), pp. 523-64.

3. Léon Vandermeersch, *Wangdao ou la voie royale: Recherches sur l’esprit des institutions de la Chine archaïque* (Paris: École française d’Extrême-Orient, 1977, 1980), vol. II, pp. 267-497.

Rituals of law

Before analyzing the ritual origins of law in early China, it is worth noting that in those societies with a codified legal system the institutionalized pursuit of justice has always been a domain of ritual *par excellence*. To realize the indispensable role of ritual in institutionalized law one has only to think of a trial as conducted in the modern world — the ceremonial rising as a judge clad in his distinctive robes (and sometimes wig) enters the room, in England the equally distinctive costumes of the attorneys, the use of verbal formulae couched in archaic tongues such as Latin or legal French, the routine use of oaths. Law is also, along with religion, the classic ground for examples of performative speech — promises, oaths, ceremonies of naming — which are now routinely invoked to account for early Chinese ideas about language as a form of ritualized social control.

Given the centrality of ritualized action and speech in modern legal practice, it is surprising that modern scholars have been so willing to believe in an early Chinese law defined by a radical opposition to ritual. This idea, as noted above, was derived largely from the inter-school polemics of the late Warring States, but the discovery of new materials, and the re-reading of received texts in the light of these discoveries, reveals a radically different picture of the relation between ritual and law in the period when the administrative state was being developed in China.

The most important of these discoveries are the finds of covenant (*meng*) texts at Houma, Wenxian, and Qinyang. Stories in the *Zuo zhuan* portrayed a world in which powerful spirits were ritually invoked through blood sacrifice to enforce the terms of oaths sanctified through smearing the lips with blood and taking blood into the mouth. These oaths were used to form alliances between states or lineages, and they often dictated the rules to be observed by the participants in the covenant. Later texts identified these covenants with the oaths known as “bonds” (*yue*) and asserted that such oaths were the bases of legal codes in the state and regulations within the army. The covenant texts discovered in archaeological excavations revealed a transitional stage between the inter-lineage covenants of the Spring and Autumn aristocracy and the law-based polities of the late Warring States.⁴ In this transition we can see how the religious rituals of the old Zhou elite played a fundamental role in the emergence of law.

Detailed studies of the covenant texts reveal several key points regarding the origins of law. First, these covenants, which date from the very end of the Spring and Autumn period, were elements in the internecine wars of the period and formed the primary mode of state expansion. The participants in these sacrificial rituals were the lesser members of the elite who dwelt in the secondary (or tertiary) towns of the emerging Zhao realm. In the range of these oaths we see the downward extension of state power, an extension which took the form of the application of an established ritual to new purposes and the widening of the circle of those permitted to participate. As Gosei Tadako has shown, the early landholdings of individual lineages were not contiguous but fragmented, and the creation of a unified polity required the incorporation of the territories of previously independent groups. The ritual of covenant performed the dual function of binding unrelated groups together in the emerging states, and expelling

4. For general treatments of the covenants see Mark Edward Lewis, *Sanctioned Violence in Early China* (Albany: SUNY Press, 1990), pp. 43-50, 67-80; Susan Roosevelt Weld, “Covenant in Jin’s Walled Cities: The Discoveries at Houma and Wenxian”, (Ph.D. dissertation, Harvard University, 1990).

other elements from the new body politic.⁵ Those who accepted the oaths imposed by the Zhao clan were bound by certain rules of conduct, and these rules were rendered potent through the invocation of spirits by blood sacrifice.

Second, while the major actors in the rites were still the lineages, the targets of expulsion were named individuals. In such bans on individuals and specified categories of their kin, we see the origins of the collective responsibility which would form a basic principle of Warring States legal codes. These bans also give us the earliest surviving evidence of the direct action of the state upon the individual that was to define political power in the Warring States and early empires. We will return to this issue of the creation of the “administrative individual” in a later discussion of the uses of naming.

Shiga Shūzō is one of the few scholars to develop a model of the evolution of law in pre-Qin China. He identifies the most important features of “primitive” law as oath, covenant, curse, and mutilating punishments. Oaths created solidarity among large groups, usually warriors about to enter battle, while covenants invoked powerful spirits to establish binding ties between figures not linked by kinship or political subordination. Both rituals also served to denounce wrong-doers and expel them from the community of mutual obligation. Such exile was a form of death sentence in a world where security still depended on the threat of vengeance by the victim’s kin group. Mutilating punishments, for their part, were a form of internal exile which equally expelled the criminal from the human community.⁶ However, while the covenants had been a form of “primitive” law, through their enunciation of binding rules for those within the community, they also formed the basis for the more elaborate codes of conduct developed in the late Warring States.

Before proceeding to a consideration of the legal materials discovered at Yunmeng and Baoshan as evidence of the later development of law in Warring States China, we should note a second ritual basis of Chinese law, the casting of bronze vessels. Inscribed vessels, which were originally implements of the sacrificial cult, were used in Zhou China to record awards and privileges bestowed by the monarch upon his “vassals” and officials. They preserved records of the granting of fiefs, titles, and regalia, and consequently served as permanent charters for lineage privileges and powers. By the late Western Zhou and the Spring and Autumn period bronzes had also come to play a role in law, for they recorded decisions in disputes over land and also punishments, e.g., the condemnation of a cowherd to be whipped and tattooed recorded on a vessel discovered in the cache at Dongjia cun.⁷ The *Zuo zhuan* records that by the mid-sixth century such sacred ritual vessels had become the medium for public proclamations of newly created law codes - Zheng state in 536, Jin in 513.⁸ Thus the sacred vessels used to fix power and privilege under the early Zhou state were adopted to perform the same function for the written, codified powers of the territorial states that emerged in the Warring States period.

This sacralization of written law did not vanish with the development of more elaborate codes written on bamboo or wooden strips, for even these continued to be tied to religious rites. We have obtained substantial samples of Warring States law from Yunmeng and Baoshan precisely because such texts were buried in tombs. Modern

5. Gosei Tadako, “Shunjū jidai no Shin no daifu Ki shi, Yōzetsu shi no ōzato ni tsuite”, *Chūgoku kodaishi kenkyū* (Tokyo: Chūgoku kodaishi kenkyū kai, 1968), pp. 183-209.

6. Shiga Shūzō “Chūgoku jōdai no keibatsu ni tsuite no ichi kōsatsu – sei to mei o tegakkari to shite”, in Shiga Shūzō, ed., *Ishii Ryōsuke sensei kanreki shukuga: Hōseishi ronshū* (Tokyo: Sōbunsha, 1977), pp. 5-36.

7. Du Zhengsheng, *Bian hu qi min : chuantong zhengzhi shehui jiegou zhi xingcheng* (Taipei: Lianjing, 1989), pp. 229-44. The inscription is on p. 239.

8. Yang Bojun, *Chun qiu Zuo zhuan zhu* (Beijing, Zhonghua, 1981), Zhao 6, pp. 1274-76; Zhao 29, p. 1504.

scholars have debated whether the texts were buried (immediately under the corpse in the case of Yunmeng) because they were powerful, sacred texts that would protect the deceased in the afterlife, or whether they were simply another element in the general program of equipping the tomb with all the materials needed to continue the deceased's mode of living in the world beyond. In either case, they played a role homologous to that of the Zhou bronzes, for they were texts that the deceased had received from the ruler to whom he was thereby subjected, while simultaneously granting him authority over the common people. As numinously charged texts which both bound and empowered, and which had to be carried into the afterlife to preserve the status of the deceased, the legal texts of Yunmeng and Baoshan were direct successors of the ritual/legal documents cast on Zhou funerary bronzes.

The legal texts were also successors of the Jin covenants, for like the latter they established control over political actors linked directly to the ruler and then used these men to transmit royal policies to lower levels. The actors in the covenants were the local clans, so those who participated in the sacrificial rites and left their names on the buried texts were the heads of locally powerful lineages within the Zhao sphere. The ritual invoked the power of the spirits to bind these lineage chiefs to the ruler of the emerging state, and through the chief they bound the lesser members of the lineage. In the same way, the legal texts at Yunmeng and Baoshan are devoted primarily to the control of local officials, and the common people appear only in a secondary role. Like the earlier bronzes and covenants, the law codes of the Warring States were ritually bestowed upon the chosen agents of the state, binding them to the ruler in the very act that created their authority, and through these ritually created servants the laws were imposed upon the general populace.

The primary focus of the Yunmeng legal texts upon controlling the officials can be demonstrated by a survey of their content.⁹ The first and longest section, the "Eighteen Statutes", deals almost entirely with rules for official conduct, guidelines for keeping accounts, and procedures for the inspection of officials. The second section, the "Rules for Checking", is concerned entirely with the maintenance of official stores and the records thereof. The content of the third section, "Miscellaneous Statutes", is the same as that of the first two. The fourth section, "Answers to Questions Concerning Qin Statutes", defines terms and stipulates procedures in order to assure that officials interpret and execute items of the code in the manner intended by the court. The fifth section, "The Models for Sealing and Investigating", instructs officials how to conduct investigations and interrogations so as to secure and transmit accurate results.

This emphasis on the control of officials is reinforced in the text "*On the Way of Being an Official*" (*Wei lizhi dao*) that was buried together with the legal documents at Yunmeng.¹⁰ In this brief exhortation, the official is charged to obey his superiors and not set his mind against them, to control his own wants and desires, and to build roads so that directives from the center will be transmitted rapidly and without modification. It praises loyalty, absence of bias, deference, and openness to the actual facts of cases as the highest virtues. It attacks personal desires, acting on one's own initiative, resisting superiors and concentrating on private business as the worst faults. In short, it proclaims the new ideal of the official as a responsive conduit who transmits the facts of his locality to the court and the decisions of the court to the countryside without interposing his own will or ideas. The concerns of the legal documents enunciate the same ideal. Thus the physical bestowal of the statutes and associated documents at or in the wake of

9. The following account is based on *Shuihudi Qin mu zhu jian* (Beijing, Wenwu: 1978). A translation is available in A. F. P. Hulsewe, *Remnants of Ch'in Law* (Leiden: E. J. Brill, 1985).

10. *Shuihudi*, pp. 281-93.

the ceremony of appointment would have been central to the law's function, and this "ritualization" of the code was carried forward in the central role granted to it in burial.

If the ritual bases of law are clearest in the organization and uses of the texts, their contents also are permeated by the ritual practices of the period. This is shown not only in specific items, such as the statute which adopts the ritual program of the "Monthly Ordinances" as law, or the regular incorporation of family relations into items in the code, but more significantly in underlying principles.¹¹ Two of the most notable, both of which can be traced to the rituals of the Zhou and the religious practices of the period, are the modeling of punishment as a form of *do ut des* reciprocity and the fundamental place granted to titles and names.

As Donald Harper has demonstrated in several unpublished papers, the divination materials found together with the legal texts in the Baoshan tomb reveal a system of curing/exorcism through sacrifice which still follows the patterns demonstrated in the Shang divinatory materials.¹² The doctor/diviner performs divination to ascertain the identity of the spirit that is causing the disease, its relation to the patient, and the type and number of sacrifices necessary to assuage the spirit. It is a mechanical form of reciprocity or exchange with no moral dimension.

A similar process of identification of the spirit "culprit" and mechanical ritual performances of expulsion or appeasement informs much of the "Demonography" found in the Yunmeng tomb, a text whose title functions in the legal documents as a technical term meaning "interrogation" but which also refers to the commanding of spirits through the use of written spells.¹³ As Shirakawa Shizuka has demonstrated, in Zhou documents the term meant "to obligate oneself to the spirits by means of a written document," and as Harper traces in detail, this term for the use of writing in relations with the spirits was applied to the Warring States legal practice of making written records of testimony by witnesses. Indeed there is a close connection between religious and legal language throughout the texts excavated at Yunmeng.¹⁴

These texts on exorcism and demon control share with the legal documents not only a common vocabulary and a role as apotropaic or status-granting objects in burial, but also a common mental universe in which order is maintained and safety preserved through the identification of malefactors and the application of graded responses sufficient to counteract the threat imposed or damage inflicted by the hostile agent. Indeed, the links between the Yunmeng legal documents and the "occult" materials are even closer than this, for a guide to thief catching appears in the "*Book of Days (Rishu)*", a hemerological manual indicating which days were favorable or unfavorable for certain activities. The guide provides descriptions of the physical appearance of the thief depending on the day on which the crime occurred. Moreover, other strips deal with auspicious or inauspicious days to take up a post, and indicate the consequences of holding audiences at various times of the day. Since these mantic texts were buried

11. *Shuihudi*, pp. 26-27, 181, 182, 183, 261-62, 263.

12. Donald Harper, "Iatromancy, Prognosis, and Diagnosis in Early Chinese Medicine", (Paper delivered at the Lu Gwei-Djen Memorial Workshop 'Innovation in Chinese Medicine', Needham Research Institute, Cambridge, England, March 8-11, 1995), pp. 5-11. Similar arguments appear in Professor Harper's forthcoming chapter in *The Cambridge History of Ancient China*.

13. Donald Harper, "A Chinese Demonography of the Third Century B.C.", *Harvard Journal of Asiatic Studies* 45 (1985): 470-98.

14. Shirakawa Shizuka, "Sai sho kankei jisetsu" in *Kōkotsu kimbungaku ronshū* (Kyoto: Hōyū shoten, 1974), pp. 328-29; Harper, "Demonography", pp. 471-79; Katrina McLeod and Robin Yates, "Forms of Ch'in Law", *Harvard Journal of Asiatic Studies* 41:1 (1981): note 57. In this note they discuss the use of legal terms in a religious context in the story of Bozong in the *Zuo zhuan*. See *Zuo zhuan zhu*, Cheng 5, pp. 822-23. See also the same story in *Guo yu* (Shanghai: Guji, 1981) "Jin yu 5", pp. 405-06.

together with the legal materials, it is likely that the deceased official or his subordinates employed them in the course of their administrative activities. As Robin Yates has justly argued, the administrative and mantic texts must be studied together in order to avoid serious misconceptions.¹⁵

The links of legal practices to ritual procedure and the “magical” universe of the accompanying tomb texts are also revealed in the scales of punishments. The texts do not exhibit any sense of an absolute immorality in an act which merits a specific punishment in and of itself, nor do they operate on the “legalist” philosophic principle of imposing routinely severe punishments in order to intimidate potential criminals. Instead, the legal texts, though far from complete, suggest a model in which a criminal act entails a form of obligation that must be redeemed through the performance of certain acts or the paying of certain objects. Actors of different statuses had a different repertoire of means for “paying off” the obligation created through violations of the codes. Consequently, the status of the actor had to enter into the calculation along with the nature of the crime in order to produce an appropriate punishment.

In contrast to the standard presentations of the “law vs. ritual” debate, in which law was to be universally imposed on all without consideration of rank, while in ritual “punishments did not reach up to the high officials”, the Qin code and the Baoshan materials both clearly tailor punishments to accord not merely with the crime but also the status of the accused. The primary status distinctions invoked in the code are those between officials and people with no office, and those pertaining to the holding of ranks gained through military service. However, underlying these distinctions was perhaps a broader principle that the form of punishment would be determined by the relation of the culprit to the ruler, a relation which was marked by the receipt of certain items that entered into the reciprocal exchanges entailed in the penal codes. Such a structure entails that legal punishments could not be understood outside of a broader framework created by the ritual bestowals of the ruler which resulted in specified relations, statuses, and obligations. Most importantly, one would have to also include those rewards that formed the second of the “two handles” by which the ruler controlled his servants.

The clearest example of this are the titles of rank. These ranks were received as gifts from the ruler in exchange for service, and they were the chief rewards obtainable by the common people. Holders of the titles could surrender them in certain judgements in order to receive a lesser punishment than would otherwise have been the case.¹⁶ Thus prior reward established a closer relation to the person of the ruler by moving the subject up the scale that ranked the male population in descending order from the throne. This relation to the ruler in turn meant that an identical later crime would be punished less severely than would otherwise have been the case. In short, the principle of reducing or remitting punishments in respect of status, a principle that was held to characterize the ritual theory of sanctions, was worked out in a highly elaborated form in the Qin legal order.

A second example of modifying punishments as a consequence of status was the treatment of officials. The Qin code usually punished violations by officials with fines,

15. *Yunmeng Shuihudi Qin mu* (Beijing: Wenwu, 1981), strips 827 verso, 814 verso; 886-895. See Kudō Moto'o, “Suikochi Shin bo chikkan ‘nissho’ ni tsuite RK M”, in *Shiteki* (Tokyo: Waseda Daigaku, 1986), pp. 36ff; A. F. P. Hulsewe, “The Wide Scope of Tao ‘Theft’ in Ch'in-Han Law”, *Early China* 13 (1988): 182-83; Robin Yates, “Some Notes on Ch'in Law”, *Early China* 11-12 (1985-1987): 245.

16. *Shuihudi*, pp. 92, 93-94, 101-02, 102-03, 103, 136-47; Du, *Bian hu qi min*, pp. 317-72; Lewis, *Sanctioned Violence*, pp. 61-64.

expressed as a certain number of suits of armor.¹⁷ Thus individuals even closer to the ruler, who already received some protection as the holder of higher rank, also enjoyed the added privilege of redeeming misconduct with forced contributions of materiel to the army. Most scholars assume that this was a form of financial penalty, since the suits would presumably have been purchased, and hence the Qin code hints at the additional principle that not only could those who received titles from the ruler use them to redeem their crimes by returning them, but also those who received cash from the ruler in the form of salary could return it to him in order to escape servitude. However, this principle is not absolute, for fines of armor were also imposed on individuals accused of various forms of cash-related crimes and lapses in the performance of military duties, regardless of whether or not they were office holders.¹⁸

If holders of rank could escape or reduce punishment through the surrender of those ranks, and holders of salaried office through the purchase and presentation of suits of armor, people with neither rank nor office could redeem their crimes only through providing labor. Consequently, the primary types of punishment in the Qin code were the various forms of labor service or state slavery.¹⁹ Once again, the punishment imposed reflected the ties of the individual to the ruler, for the presentation of labor service was the primary obligation of the free peasant. Just as for officials and title holders, the punishments for peasants stipulated in the penal codes reflected their links to the ruler, and in this case the penalties were an increase of existing obligations.

The one major element of the penal statutes that was not entirely linked with this scheme of reciprocity tied to status — with status defined by the receipt of titles and offices from the ruler — was the use of mutilating punishments. This was an archaic feature of Warring States law, dating back at least to the Shang and Zhou, when law was still defined through oaths and curses that invoked the gods. However, even these archaic punishments were partially incorporated into the system of status-based reciprocity, for graded degrees of mutilation were adapted to the position and privileges of the convict. A whole range of mutilations, from the shaving of beards and hair, through tattooing and cutting off the nose or foot, to castration or death, were all at the disposal of the official acting as judge in order that he could make minute distinctions in the scale of punishments and finely balance them against past rewards.²⁰

The system of punishments in the Qin code clearly shared basic underlying ideas and practices with the divinatory and exorcistic practices of the period, in which one had to first identify the “culprit” and then determine the appropriate response in terms of his identity and status. They also incorporated the minute, mathematical gradations that had characterized sacrificial responses to “misbehavior” since the Shang. Finally, they were steeped in ritualistic notions of status as defined by differential relations to the ruler created through a hierarchy of gifts. Warring States law was thus as much intended to instantiate a ritually designated hierarchy defining the entire social order as it was to impose obedience through the force of sanctions.²¹

The all-encompassing hierarchy created through the system of ranks was itself an extension and modification of earlier ritual practices. The Zhou state had featured a

17. *Shuihudi*, pp. 97, 113-14, 114-15, 115-16, 116-17, 117-18, 120, 121, 121-122, 122, 123, 123-24, 125, 125-26, 127-29, 130-31, 131-32, 132-33, 133-35, 136, 136-37, 137, 138, 138-39, 140-41, 142, 148; Hulsewe, *Remnants*, p. 18.

18. *Shuihudi*, pp. 122, 139, 143-44, 144-45, 145-46.

19. Hulsewe, *Remnants*, pp. 14-18; Liu Hainian, “Qin lü xingfa kaoxi”, in *Yunmeng Qin jian yanjiu* (Beijing: Zhonghua, 1981), pp. 171-206.

20. Hulsewe, *Remnants*, p. 14-18.

21. Although not discussing the Qin laws, Jean Lévi makes a similar argument regarding the organization of the bureaucracy in the *Zhou li*. See Jean Lévi, *Les fonctionnaires divins: politique, despotisme et mystique en Chine ancienne* (Paris: Seuil, 1989), pp. 229-34.

variety of titles held by rulers of states and their leading ministers, and these titles had been theoretically received from the king. The city-states of the Zhou world evolved into territorial states through the extension to the populace at large of the traits that had defined the nobility, and through the gradual elimination of the nobility itself. One such trait had been the possession of titles, so the distribution of titles to the entire male population was a universalization of a ritual practice that had defined the old polity. Indeed, many of the titles in the Qin twenty-rank hierarchy had figured as titles of nobility, or were created through modification of old titles.²²

This practice of regulation through the awarding of titles points to another feature of Warring States administration derived from earlier ritual practices: the granting of family names. While still subject to debate on many points, our current understanding of Shang and Zhou naming practices suggests that the patronym (*xing*) had not existed under the Shang, but had first appeared under the Zhou as a function of the division of the single royal ancestral cult into a multitude of lineages and sub-lineages. The establishment of distinct and permanent cults to the founders of the various feudal states and the lineages of hereditary officials was followed in time by the royal granting of family names to all those who traced descent to a common cultic ancestor. Thus the patronym appeared first as a noble privilege received as a royal gift, and commoners originally had no family names.²³

There is no direct evidence of the extension of this privilege to the masses. However, the various states began to register their populations by name in association with the extension of military service and the recognition of ownership of individual landholdings. Such registration may well have begun as early as the eighth century B.C., and it was certainly in practice by the sixth.²⁴ Clearly the registration of tens of thousands of households would scarcely have been possible solely on the basis of personal names, so it is a reasonable hypothesis that the granting of surnames to the populace took place in association with the process of registration. While no government registers have survived, other remains provide evidence of the appearance of family names among the common people during the Warring States period. Inscriptions on pottery found in excavations at the capital of the state of Qi often include the names of craftsmen. Inscriptions on pots produced in government workshops include the personal name of the craftsman, his political unit, and the location of the workshop. Those from the hands of private craftsmen record personal name, town, and quarter. Thus there is no evidence of family names in the early examples, where place of residence was used instead. However, where craftsmen were organized on kin lines and produced certain vessel types over generations, the name of the founding ancestor came to identify the workshop and was adopted as a clan name. In addition, pre-Qin seals contain thousands of examples of individuals with family names.²⁵ Thus it was in the early Warring States that the phrase “many surnames (*baixing*)” ceased to refer to the nobility and came to mean “the common people”. Just as the incorporation of the common people into state administration entailed the granting of ritual titles, it also included the gift of a family name based on the model of the old Zhou nobility. This practice figured not only in registration but also in the execution of law, for the section entitled “Models for Sealing and Investigations” from

22. Du, *Bian hu qi min*, pp. 318-32.

23. *Zuo zhuan zhu*, Yin 8, pp. 60-62; *Guo yu*, “Zhou yu xia, pp. 103-04; Vandermeersch, *Wangdao*, vol. 1, ch. 4; Akatsuka Kiyoshi, *Chūgoku kodai no shūkyō to bunka* (Tokyo: Kadokawa, 1977); Li Xueqin, “Kaogu faxian yu gudai xing shi zhidu”, *Kaogu* (1987:3):253-57, 241; Allen J. Chun, “Conceptions of Kinship and Kingship in Classical Chou China”, *T'oung Pao* 76 (1990): 16-48.

24. Du, *Bian hu qi min*, pp. 22-33.

25. Sun Jingming, Li Jian, and Zhang Longhai, “Linzi Qi gucheng nei wai xin faxian de taowen”, *Kaogu* (1988:2): 83-87; Luo Fuyi, ed., *Guxi huibian* (Beijing: Wenwu, 1981).

the Yunmeng documents states explicitly that any testimony begins with the name, status (*i.e.*, rank), and legal residence of the witness.²⁶

Given their fundamental importance to the state, it is not surprising that population registers, and the maps which were routinely associated with them, came to serve as metonyms for authority and as the hallmark of the ruler. Indeed these written depictions of population and territory came to magically embody the objects they represented. Thus when Jing Ke made his celebrated attempt to assassinate Qin Shihuang, he used as a pretext a mission intended to surrender territory to Qin through the formal presentation of the relevant registers and maps.²⁷

While the registration of names is most clearly linked to earlier Zhou ritual, there also is evidence that at least by the late Warring States it had become an element of religious practice and depictions of the spirit world. The clearest example is the story recorded on the bamboo strips excavated at Fangmatan from a third-century B.C. Qin tomb.²⁸ In this story a man committed suicide to avoid the disgrace of an unjust execution. Documents addressed to the god known as the "Master of Life Spans (*siming*)" led to his body being dug up by a white dog at the command of a scribe (*shi*) of the god and gradually restored to life. The story closes with a series of strictures from the resurrected corpse on the proprieties of sacrificial ritual, which probably accounts for its inclusion in the tomb. This story clearly shows that people of the Warring States already believed in an underworld bureaucracy functioning through registration and record keeping, and that communication with the spirits took the form of submitting written documents patterned on those employed by terrestrial governments. It is also significant that the underworld administration is invoked to correct a death resulting from failings of earthly legal administration. References to "spirit registrars" controlling the human life span also figure in anecdotes in the *Mozi* and the *Guo yu*, as well as accounts in the early Han *Huainanzi*.²⁹ The celebrated Chu silk manuscript likewise contains evidence of a bureaucratic pantheon in existence in the Warring States. Thus appeals to lists of names registered by the spirits had clearly become an element in Chinese religious practice by the late Warring States. The links of this belief to state administration will be considered again in the conclusion of this paper.

A final element of Warring States local administration linked to ritual practices is the form of interrogation described in the final section of the Yunmeng legal documents. As was noted above, the term for this procedure was derived from older practices using writing to make pledges to spirits. While we cannot recover a full picture of the courtroom rituals of the Qin, a model for the ceremony of interrogation is presented.³⁰ The official is instructed to listen to the words of each witness and to carefully record the testimony. Even if the official knows that the witness is lying, he should wait until the statement is finished. When the testimony is completed, the official should then challenge all weak points and contradictions, and again record the explanations or defenses offered by the witness. Each time new explanations are given,

26. *Shuihudi*, pp. 247-49. Most of the examples in this section also indicate the need to record name and rank.

27. *Zhan guo ce* (Shanghai: Guji, 1978) "Qi 1", p. 115; "Qi 2", pp. 350, 351; "Yan 3", pp. 1134, 1138; *Xunzi jijie*, annotated by Wang Xianqian, in *Xin bian zhuzi jicheng*, vol. 2 (Taipei: Shijie, 1974) 4 "Rong ru", p. 37; 8 "Ru xiao", pp. 73 (2), 74; 10 "Fu guo", p. 128; *Han Feizi jishi*, annotated by Chen Qiyu (Shanghai: Renmin, 1974) 49 "Wu du", p. 1067; *Shi ji* 53, p. 2014; 75, p. 2354.

28. Li Xueqin, "Fangmatan jian zhong de zhiguai gushi", *Wenwu* (1990:4): 43-47; Donald Harper, "Resurrection in Warring States Popular Religion", *Taoist Resources* 5:2 (December, 1994):13-28.

29. On the stories from the *Mozi* and the *Guo yu*, as well as related material, see Jeffrey K. Riegel, "Kou-mang and Ju-shou" *Cahiers d'Extrême-Asie: Special Issue, Taoist Studies II* 5 (1989-90): 57-66; *Huainanzi*, in *Xinbian zhuzi jicheng*, vol. 7, (Taipei: Shijie, 1974) 8 "Ben jing" p. 119.

30. *Shuihudi*, pp. 246-47.

the official must repeat the process of notation and challenge. Finally, when the witness cannot provide further explanation of weak points, persists in changing his or her account, and refuses to confess, then the official should resort to beating to extract a confession. However, the use of the bastinado in the interrogation must be included in the final report.

In this procedure the official repeatedly allows the witness to state his or her case and try to prove that it corresponds to the material facts. The official remains silent but keeps an exact account of the witness's words and then checks the accounts for internal consistency and their relation to material evidence. This corresponds to the procedures described in various texts, notably the *Han Feizi*, under the rubric of “forms and names (*xing ming*)”, a ritual of ruler-minister interaction that was central to imposing the control of the monarch. Here we find it, however, being applied at the lower levels of administration. The local official stands in the position of the ruler and the witness in the position of the official, the latter being forced to name himself and give an account of his actions that will be transformed into writing, while the former sits silently and measures everything against his knowledge of the facts. This model of administration through a hierarchical series of staged personal encounters was fundamental to Warring States government, but it was also a version of the formalized confrontations of superior and inferior envisaged in the Confucian theory of ritualized order, a theory that itself developed from the staged encounter of man and spirit in the performance of divination and sacrifice. These ideas, along with their relation to Warring States administrative practice and theory, under the rubric of the “rectification of names”, will be discussed further in the next section.

Rituals of Control in the Court

The first section demonstrated how the various elements of local administration in the Warring States — law codes, hierarchies of rank, registration of names — all derived from Zhou ritual procedures and evolved in association with religious beliefs and practices of the Warring States period. If the role of these developing forms of administration at the local level was to control the population through the agency of officials who were themselves tightly constrained by the law codes that gave them power, the central court was marked by the staged confrontations of the ruler with his courtiers. Such meetings were highly ritualized in character, entailing the wearing of certain costumes, the adopting of a fixed distribution in space, the assuming of specified postures, and the performance of choreographed actions. These court ceremonials are touched on in passing in both philosophical and narrative texts from the Warring States, and certain elements are described in detail in the Han ritual classics. However, in this paper I will not attempt a general account of court rituals, but rather follow the pattern set in the first section of looking for the ritual background to those elements of the Warring States which have been regarded as forms of “practical” administration or a ruthless *realpolitik*. Just as the focus of the first section was on the ritual origins and character of Warring States law, attention here will center on the ceremonial and religious elements of “techniques (*shu*)”, those procedures by which the ruler sought to control his ministers and compel them to serve his interests.

Unlike the case of local administration through legal codes, for which we possess actual “working” documents that stipulate conduct, our evidence for the central courts comes largely from narrative or philosophical sources. The sole significant exception is the body of legal materials discovered near Baoshan in a tomb dated to 316 B.C., in

what was then the state of Chu. These documents, somewhat earlier than those from Yunmeng, reveal the level of government above the local administrator. The man buried in the tomb had been chief legal officer to the king of Chu, and there was entombed, along with the aforementioned divinatory texts, a substantial body of documents dealing with legal administration. However, whereas the Yunmeng materials consist primarily of rules and models for official conduct, the Baoshan texts record large number of individual cases that were transmitted from local officials to the central court for adjudication. These cases include failures to register population, denunciations by one official of the highhanded behavior of another, and brief notes on a wide variety of criminal trials and their examinations by higher levels. The documents record the plaintiffs and defendants, the officials who first examined the case, those to whom reports were sent, and in one case a note on the back of a strip giving directions for dispatch to yet another official. Some strips reveal details of legal practice. Most interesting is the case on strips 131-39, which shows that both parties could summon large numbers of witnesses—one side called 211—and that these were all obliged to swear blood oaths with appended curses (*mengzu*) before giving testimony. The case is also of interest in that the king himself became involved.³¹ The giving of testimony by both parties likewise figures in a story in the *Zuo zhuan*, but in this account both the accuser and the defendant were obliged to prepare their own written accounts in advance and bring them to the court session.³²

The absence of other detailed accounts of procedures at the central court reflects the fact that we are above all concerned with the actions of the ruler, which were not susceptible to detailed prescriptions, and that the effectiveness of many of these procedures depended on their being kept secret. Nevertheless, from passing references in stories and philosophical accounts, we can reconstruct certain elements of contemporary practice, and link these both to earlier Zhou rituals and analogous procedures from the religious realm.

The confrontation of the ruler and minister is a common theme in Warring States writings, but it is written from two distinct perspectives. Since most philosophical works, and many of the anecdotes, were written by and for scholars, these accounts depict the ruler as a passive sounding board for the arguments and rhetoric of some wandering “persuader”. *Mencius*, *Xunzi*, and the *Book of Lord Shang* all contain scenes in which the eponymous master addresses a ruler, and books such as the *Zhanguo ce* and the *Yanzi chun qiu* consist almost entirely of meetings between diplomats or ministers and their rulers. However, such books are more revealing of the ideas and self-images of Warring States scholars than of administrative practice. For such information one must turn to those passages which deal with ruler-minister relations from the perspective of the ruler.

The first meeting between ruler and minister would be the ceremony of appointment. This involved the prostration of the new official before the ruler and the awarding of a title and seal of office. Seals, which were used to validate official commands, were worn at the official’s waist as an insignia of power, but it was a power that was visibly removable. Seals were inscribed with the characters for the title of the office and were used to validate official commands through the reproduction of these

31. Hubei Jingsha tielu’kaogu dui, *Baoshan Chu jian* (Beijing: Wenwu, 1991), pp. 9-12 provide a summary of the contents of the strips pertaining to legal matters.

32. *Zuo zhuan zhu*, Xiang 10, pp. 983-84. This case is used in Jia Gongyan’s commentary to the *Zhou li* to demonstrate the use of written accusations. See *Zhou li zhushu* (*Shisan jing zhushu* edition) 34 “Da si kou j”, p. 15b.

characters in clay. The surrender of seals of office figures as a recurring incident in the biographies of the period.³³

Parallel to the granting of seals to civil officials was the bestowal of half a tiger tally on a general. The latter could mobilize his troops and set out on an expedition only if he received the ruler's half of the tally. Tallies were also used to permit entry and exit at border passes and in the inner chambers of the ruler. Like other elements in the new modes of administration, the use of tallies also had its religious correlate, for the ancient sages were said to "match tallies" with the spirits as a sign of attaining world rule. In a context related to religion, the tally was also the standard for the potency (*de*) of the perfected man.³⁴ The despatching of an expedition also involved a ceremonial meeting of ruler and general in which the former bestowed the axes of command, symbolic of the powers of life and death, upon the latter.³⁵

A more regular ritual involved the use of other tallies to control local officials. These ceremonies stipulated the use of "contracts (*juan*)" in the annual statistical assessment of officials' performances. Patterned on, or offering the pattern for, contracts used in land purchase agreements and presumably other commercial arrangements, such contracts consisted of budget projections written on a single sheet of silk, which was torn in half. One half was kept by the ruler and one by the local official. Each year the official was obliged to come to court, a variant of the Zhou system in which vassals had shown loyalty by attending the court of the ruler, and to present a statistical report on stocks in public granaries, registered population, new land opened to cultivation, tax and labor services collected, and the state of public security. Through matching reported figures with projections, the ruler could assess the performance of the individual official.³⁶ Such procedures fit closely with Han Fei's account of the practice of "form and name *xing ming*".

33. *Zuo zhuan zhu*, Xiang 29, p. 1155; *Shi ji* 6, p. 227; 79, pp. 2412, 2416; 80, p. 2428; *Zhan guo ce* "Qin", p. 220; "Zhao 3", p. 699; "Hann 2", p. 972; *Han Feizi jishi* "Shuo lin shang", p. 419, "Wai chu shuo zuo xia" pp. 694, 709; *Lü shi chun qiu jiaoshi*, annotated by Chen Qiyu (Shanghai: Xuelin, 1984) "Zhi yi", p. 1133. For an introduction to archaeological evidence pertaining to seals, see Li Xueqin, *Eastern Zhou and Qin Civilizations* (New Haven: Yale University, 1985), pp. 399-417.

34. On military tallies see *Shi ji* 6, p. 227; 77, pp. 2380-81; Wang Guowei *Guan tang ji lin* 2nd ed. rev. (Beijing: Zhonghua, 1959), 18 "Qin Xinqi hu fu ba", p. 11a; Li Xueqin, *Eastern Zhou and Qin Civilizations*, pp. 235-37. The best known "tallies" pertaining to crossing border passes are the famous *E jun qi jie*. These contained long inscriptions inlaid in gold that permitted the holder to pass specified frontier posts without paying transit tax, and also gave details of communication routes on land and water. See Guo Moruo, "Guanyu E jun qi jie de yanjiu", *Wenwu* (1958:4): 3-6; Yin Difei and Luo Zhangming, "Shouxian chutu de E jun qi jie", *Wenwu* (1958:4): 8-11; Li Xueqin, *Eastern Zhou and Qin Civilizations*, pp. 167-68. On "matching tallies" with spirits, see *Shi ji* 1, p. 6. On tallies as a sign of power in Taoism, see *Zhuangzi jishi*, annotated by Guo Qingfan, in *Xin bian zhuzi jicheng*, vol. 3, 5 "De chong fu", pp. 85-100; *Laozi dao de jing zhu*, annotated by Wang Bi, in *Xin bian zhu zi jicheng*, vol. 3, 79, p. 46.

35. Lewis, *Sanctioned Violence*, pp. 23, 126.

36. On annual reports and contractual "tallies" see *Xunzi jijie* 11 "Wang ba", p. 146; 12 "Jun dao", p. 151; *Shang jun shu zhuyi*, annotated by Gao Heng (Beijing: Zhonghua, 1974), 4 "Qu qiang", pp. 109, 113-14, 24 "Jin shi", p. 497; *Guanzi jiaozheng*, annotated by Dai Wang, in *Xin bian zhuzi jicheng*, vol. 5, 8 "Xiao kuang", p. 124; *Zhou li zhushu*, 2 "Da zai" pp. 24a-b; 3 "Xiao zai", p. 10a; 7 "Si shu", p. 2a; *Mozi jiangou*, annotated by Sun Yirang, in *Xin bian zhuzi jicheng*, vol. 6, 70 "Hao ling", p. 363; *Han Feizi jishi* 14 "Wai chu shuo shang", p. 284; 15 "Nan er", p. 835; *Jing fa* (Beijing: Wenwu, 1976) "Xing shou", p. 80. Such "contract tallies" may also have been used in legal documents, see *Zhou li zhushu* 35 "Chao shi", p. 22b; 14 "Si shi", p. 19a. On the history, form and content of tallies in contracts, see Zhang Chuanxi, *Qin Han wenti yanjiu* (Beijing: Beijing Daxue, 1985), pp. 140-50, 167-208; Lao Kan, "The Early Use of the Tally in China", in David Roy and Tsuen-hsuei Tsien, eds., *Ancient China: Studies in Early Civilization* (Hong Kong: Chinese University, 1978), pp. 91-98.

We observed above the fundamental role of names in Warring States local government, and how this was rooted in Zhou ceremonies of control through the bestowing of names. However, most accounts of “form and name” situate it within the broader context of the idea of “rectification of names (*zhengming*)”.³⁷ The focus upon names as a means of rule appears for the first time in several passages in the *Lun yu*. The longest is Confucius’s reply to Zi Lu regarding what policy he would advocate for the state of Wei, to which the master replied that he would begin by rectifying names. In response to Zi Lu’s incredulity, he goes on to argue that if names are not correct then words do not correspond to the world, affairs are not regulated, rites and music do not flourish, punishments are incorrect, and the people do not know how to act. Thus the correct use of names is the foundation of the system of rites which in turn makes possible the adequacy of punishments. Other passages linked to this doctrine are Confucius’s statement to Duke Jing of Qi that the ruler must be made a ruler, the subject a subject, the father a father, and the son a son; his exclamation about a ritual vessel that does not match its name; a discussion of the different terms by which a ruler’s wife will be named depending on the speaker; and the argument over whether the term “upright (*zheng*)” should be applied to those who reported the crimes of kin, or to those who kept them hidden.³⁸ From these passages it is clear that the earliest theory of authority through naming emerged in the context of rites — with the nomenclature applied to kin and to ritual vessels held to be fundamental — but that even at this stage it was already concerned with the application of correct naming in the realm of law and punishments.

This concern with names was developed in three forms within the Confucian tradition. First, the chapter on the rectification of names in the *Xunzi* responded to arguments regarding the adequacy of names developed by the later Mohists and “sophists” such as Gongsun Long by articulating a more sophisticated form of the theory of ruling through naming. Second, the *Gongyang zhuan* interpreted the *Chun qiu* as a coded text in which such factors as the choice of titles and the mention of a name were held to indicate moral judgements equated with the rewards and punishments bestowed by a ruler. In this theory the text was the blueprint for an imaginary kingdom of Lu, and Confucius ruled as “uncrowned king” through choices in the application of names. Since the condemnations were largely justified by the argument that certain actions were “contrary to ritual (*feili*)”, this text still identified “rectification of names” with ritual correctness, and insisted that rites were the basis of the proper state. The third form in which “rectification of names” developed within Confucianism was the detailed discussion of terms of kinship in the ritual classics — most notably the “Sangfu” chapter of the *Yili* and the “Tangong” chapter of *Liji* and their Han commentaries. These texts not only provided rubrics for the different forms of kin ties, but also specified certain types of obligation and taboo, *e.g.*, which forms of marriage constituted incest, and they explained the social and political ramifications of the failure to observe these strictures.

As the Confucian writers developed ever more elaborate theories of correct ritual nomenclature as the basis of social order, a parallel discourse applied such theories in the realms of law and administration. Unfortunately the evidence regarding the earliest phases of this development is relatively late, but it still dates from the Warring States period. The first figure associated with the links of theories of nomenclature and law is Deng Xi. In the *Lü shi chun qiu* he is described as a clever sophist in the state of Zheng who taught people how to win legal cases through the manipulation of language. The

37. On this topic see *Extrême-Orient - Extrême-Occident* 15: *Le juste nom* (1993).

38. *Lun yu zhengyi* yq, annotated by Liu Baonan and Liu Gongmian, in *Xin bian zhuzi jicheng*, vol. 1, 13 “Zi Lu”, pp. 280-83, 291; 12 “Yan Yuan”, p. 271; 6 “Yong ye”, p. 129; 16 “Ji shi”, p. 364.

Zuo zhuan states that he drafted a legal code on bamboo strips and was executed in 501 B.C. Fragments of a book attributed to Deng Xi, which is listed in the bibliographic chapter of the *Han shu* as the first text of the “school of names”, indicate that his followers combined elements of rhetoric and dialectic with a concern for legal administration.³⁹ A second celebrated sophist, Hui Shi, was also reputed to have drafted a law code, and he figures prominently in the chapters on naming in the *Lü shi chun qiu*.⁴⁰ While these hints do not provide detail for a historical reconstruction, they clearly suggest that systematic discussion of the adequacy of naming developed in association with the drafting of legal codes, and that the idea of ruling through law was inextricably intertwined with a political version of the hitherto ritually defined “rectification of names”.

The most elaborate development of the relation between the control of names and administration appears in the *Han Feizi*. Before examining its accounts of *xingming*, it is worth noting two anecdotes in the book that link, in an unfavorable light, sophists and the development of law. One story tells of Ni Yue, a leading sophist from Song. He defended the celebrated paradox that “a white horse is not a horse”, and he defeated all his rivals in debate. However, when he rode a white horse through a customs post (*guan*) he was compelled to pay the tax on horses. Here the law code and administrative regulations figure as the ultimate arbiters of language, refuting the philosophers’ specious manipulation of empty terms.⁴¹

The second anecdote deals not with laws but with techniques for controlling ministers. When Zi Zhi was chief minister of Yan, he pretended to have seen a white horse dash past the gate. His subordinates all said that they had seen nothing, save for one who ran out through the gate after the supposed horse, and upon his return claimed to have seen the animal. Through this stratagem Zi Zhi was able to identify an unreliable flatterer amongst his entourage.⁴² In this ironic tribute to the argument of Gongsun Long, Han Fei presents a white horse which is indeed not a horse, but merely an empty word set as a trap. As Jean Lévi has pointed out, this story also anticipates the famous account in *Shi ji* of how Zhao Gao established his control of the court by identifying a deer as a horse, and then executing those who dared to contradict him.⁴³

As for the technique of “forms and names” itself, Han Fei cites it in several passages.⁴⁴ The ruler is advised to hold himself quiet and allow the ministers to name and give form to themselves, i.e., to give an account of what they will accomplish. These “names” and “forms” which the ministers take upon themselves are to be set in

39. *Lü shi chun qiu jiaoshi*, 18 “Li wei” pp. 1177, 1178; *Zuo zhuan zhu*, Lord Ding year 9, pp. 1571-72; *Han shu* (Beijing, Zhonghua, 1962) 30, p. 1736. For a study of the fragments attributed to Deng Xi, see Hellmut Wilhelm, “Schriften und Fragmente zur Entwicklung der staatsrechtlichen Theorie in der Chou-Zeit”, *Monumenta Serica* 12:5 (1947): 41-96. Another reference to the links of “form and name” and the philosophers of language appears in *Zhan guo ce*, “Zhao er”, p. 646. The earliest use of the term “form and name” appears in the military treatises, although its precise referent is not clear. See *Shiyi jia zhu Sunzi* (Shanghai: Guji, 1978), p. 97; *Sun Bin bing fa* (Beijing: Wenwu, 1975), p. 121.

40. *Lü shi chun qiu jiaoshi*, 18 “Yin ci”, p. 1187; “Bu qu”, pp. 1196-98; “Ying yan”, p. 1210.

41. *Han Feizi ji shi*, 32 “Wai chu shuo zuo shang”, p. 629.

42. *Han Feizi jishi*, 30 “Nei chu shuo shang”, p. 568.

43. Jean Lévi, “Quelques aspects de la rectification des noms dans la pensée et la pratique politique de la Chine ancienne”, *Extrême-Orient - Extrême-Occident* 15 (1993): 42-43. See also pp. 23-25.

44. *Han Feizi ji shi*, 5 “Zhu dao”, pp. 67-69; 7 “Er bing”, pp. 111-12; 8 “Yang quan”, pp. 121-24; 25 “An wei”, pp. 484; 32 “Wai chu shuo zuo shang”, p. 663; 37 “Nan er”, pp. 830-31; 45 “Gui shi”, pp. 934-36, 939-40. For a useful discussion of the *Han Feizi*’s theory of “form and name” in its historical context, see John Makeham, *Name and Actuality in Early Chinese Thought* (Albany: SUNY, 1994), ch. 2-4.

writing, and in time the ruler can match them against the actual results obtained. If they match, the official is rewarded; if not, he is punished. In other passages the application of “forms and names” figures as one step in a longer process. The ruler must first listen to the views and reports of all his ministers, next obtain programs of performance, then match programs against results, and finally bestow rewards and punishments. This theory corresponds to the use of “contracts” and annual verifications described in accounts of administrative practice.

Just as control of the rural populace through written law was paralleled by procedures for commanding inhabitants of the spirit world, or for the spirits to control men, so the theory of rule through correct naming had religious parallels. Confucius, the putative creator of the theory of government by the rectification of names, was also identified as a master of naming in the realm of the spirits. The only hint of this in the *Lun yu*, where Confucius is said to avoid talk about spirits and prodigies, is the single passage in which he urges study of the *Zhou Odes* as a means to learn the names of birds, beasts, grasses, and trees.⁴⁵ Since many animals and plants cited in texts of the period had religious or magical significance, this passage probably is not simply speaking of a knowledge of zoology or botany. However, the earliest account which portrays Confucius as a master of occult names appears in the *Guo yu*, where he identifies a strange creature found by a man digging a well, and then lists the names of the prodigies associated with wood, stone, water, and earth. In another passage he identifies by name the source of a giant bone uncovered by a landslide at Kuaiji, and explains its significance.⁴⁶ In the *Zuo zhuan*, Zi Chan cures the illness of the Duke of Jin by identifying the strange creature that appeared to him in a dream.⁴⁷ Identifying and naming prodigies in order to properly respond to them or prevent them doing harm is likewise a central function of the “Demonography” from Yunmeng. Thus the Confucius of the *Guo yu* and the Zi Chan of the *Zuo zhuan* function as seers who are able to master strange phenomena through their ability to name them, and this same power was offered to those who used mantic texts.

The *Zuo zhuan* assigns a similar role to the ancient sage Yu. According to this text, Yu cast bronze tripods with images of all the harmful demons so that people who entered the mountains or waters could identify noxious spirits and thereby avoid harm.⁴⁸ The passage does not refer to Yu “naming” the demons, but some of them are named, and the same names appear in Confucius’s list of prodigies, the list of demons expelled in the Han exorcism, the list of demons in Wang Mengshou’s nightmare poem, and related sources. It is significant also that these tripods which provided knowledge of and mastery over spirits were the famous Nine Tripods that embodied world sovereignty. The tradition of Yu as the sage who ruled through his ability to name spirits is also developed in the *Shan hai jing*. This work provides a list of magical creatures, both auspicious and malevolent, and identifies the effect they will have if they are seen or eaten. It locates where the creatures live, describes what they look like, and gives their names. At the end of the earliest section of the book, it is stated that the work was compiled by Yu as part of his task of recreating the world after the flood, and the complete Han version ends with Yu’s restoration of the world, so the book is clearly linked to the tradition cited in the *Zuo zhuan*.⁴⁹ If the *Shan hai jing* included illustrations, as several scholars have argued and the text itself sometimes suggests, then its links to the story of the tripods would be even closer.

45. *Lun yu zheng yi*, 17 “Yang Huo”, p. 374.

46. *Guo yu*, “Lu yu xia”, pp. 201, 213.

47. *Zuo zhuan zhu*, Zhao 7, pp. 1289-90. See also Zhao 1, pp. 1217-21.

48. *Zuo zhuan zhu*, Xuan 3, pp. 699-700.

49. *Shan hai jing jiaozhu* (Shanghai: Guji, 1980), pp. 179-80, 472.

These traditions of the sage and the ruler as the namer of strange creatures and spirits are not limited to accounts of controlling evil powers. The listing of the names of rare animals, plants, and minerals is a major feature of the Han rhapsody, and in the case of rhapsodies on the imperial hunting parks and capitals this was certainly in part a literary ritual of power. As Donald Harper has argued, the notion of “word magic”, of commanding men and spirits through the spell-binding power of naming, was central to the rhapsody genre, just as it underlaid legal terminology.⁵⁰ When Sima Xiangru presented the emperor with a hunting park transformed through the magic of words into the entire world of men and spirits, he enacted yet another version of the idea of ruling through the ability to name.

Thus the theory and practice of ruling through naming, whether the Confucian, ritual-based “rectification of names” or the legalist “form and name” as an administrative procedure, developed in close association with a whole range of religious, mythological, and literary traditions in which words granted the speaker a magical power over the objects which he could name. This mode of ruling through the granting or recognition of names, in both central and local courts, was another aspect of Warring States administration derived from religious rituals.

The Ritual Invention of the Sage-King

Just as earlier Zhou rites and contemporary religious practices were fundamental to the development of the control of the populace through legal codes and the direction of officials through administrative procedures, they were also essential to the invention of the central political institution of the period, the cosmically potent ruler. The powers of the Shang and Zhou kings had been grounded in religious practices such as divination and sacrifice, and as high diviners or chief sacrificers to the most potent spirits they had enjoyed an element of “celestial” power. This role as intercessor between the spirits and man through the agency of sacrifice continued to be important to the rulers of the Warring States and early imperial China, but the ruler-centered state also led to a new insistence on the cosmic powers of the ruler as embodiment of Heaven or the Way. This entailed the ruler’s ability to surpass the condition of ordinary humanity and become a spiritually potent being through his supreme mental powers. These powers took three primary forms, each of which were the internalization of ritual operations: 1) the ability to unerringly respond to phenomena through a modified version of trance or spirit possession, 2) the ability to introduce appropriate change through an intellectual form of divination, and 3) the ability to engage in spirit travel through a cosmological version of the processions of the earlier kings. In each case the earlier ritual forms continued to figure as external rituals paralleling the internal powers of the ruler.

The first new power attributed to the true ruler was an ability to respond spontaneously and unerringly to whatever events or policies were presented to him. The preceding section treated the *Han Feizi*’s theory of “forms and names” and the associated administrative techniques as “practical” procedures of government that developed in association with traditions of word magic. In fact, the theory of “forms and names”, like that of the “rectification of names”, was steeped in religious beliefs and rituals re-worked as cosmological theories. In several accounts of “forms and names” in the *Han Feizi* the ruler’s ability to control his subordinates through the bestowing of

50. Donald Harper, “Wang Yen-shou’s Nightmare Poem”, *Harvard Journal of Asiatic Studies* 47:1 (1987): 240-41, 254-82.

names and assignments hinges upon his identification with the cosmic Way and a consequent transformation into a virtual divinity. Thus the chapter “Zhu dao” states:

The Way is the beginning of all things and the guiding principle of judgements. So the wise ruler holds to the beginning in order to know the origin of all things, and regulates guiding principle in order to know the cause of failure and success. Therefore, empty and reposed he waits for the course of nature to enforce itself so that all names will be defined of themselves and all affairs will be settled by themselves. Empty, he knows the essence of fullness; reposed, he corrects all motion. Who utters a word creates himself a name; who undertakes an affair creates himself a form. Compare forms and names and see if they are identical. Then the ruler will find nothing to worry about as everything reverts to its reality.⁵¹

The chapter continues in a similar vein and concludes that if the ruler holds himself still and simply responds to his ministers’ initiatives, he will distinguish the maladroit from the skillful without making a conscious selection, and know without thought or calculation what will produce good fortune or calamity. His rewards will appear spontaneously like a timely rain, and his punishments like a bolt of lightning.

The same interplay between “form and name”, sagely intelligence, and cosmic origins/principles figures repeatedly in the silk manuscript from Mawangdui that has been identified as the *Huangdi si jing*. Thus the very first section “The Model of the Way (*Dao fa*)” discusses the formation of things out of the primeval blackness (*ming ming*) and then asserts that these can be known only through “emptiness and non-possession. As soon as the most minute beginnings have taken shape, then there must be forms and names. When forms and names are established, then black and white are distinguished.”⁵² The chapter “Basic Points of Assessments (*lunyue*)” makes a similar argument:

Therefore in observing the world the one who holds to the Way must closely examine the origin of things, and ascertain their forms and names. When the forms and names are settled, opposition and obedience will be assigned their positions; death and life will be divided; survival, perishing, rising, and falling will have their places. Then one checks it against [*can*, also a key technical term in the *Han Feizi*’s theory of ‘form and name’] the constant way of Heaven and Earth, and one can settle wherein lie calamity or good fortune, life or death, rising or falling. Therefore in all actions one will never lose the controlling principle.⁵³

Other passages discuss the links between name and reality (*shi*) or between name and achievement (*gong*), and they appeal to the same model of a sagely intellect that penetrates into the origins/principles of all things and hence can unfailingly guide the course of the state.⁵⁴ The last and shortest of the four texts, the “Origin of the Way (*Daoyuan*)”, gives an account of the emergence of the universe from the primal chaos.

51. *Han Feizi ji shi* 5 “Zhu dao”, p. 67. The significance of the ideas in this passage is suggested by the fact that versions of the phrase about names being “defined of themselves” and affairs “settled of themselves” appear not only again in the *Han Feizi*, but also in numerous other texts of the period. See *Han Feizi jishi*, “Yang quan”, p. 121; *Jing fa*, “Dao fa”, p. 3, “Lun”, pp. 29-30, “Untitled”, p. 88; *Shenzi* quoted in *Qun shu zhi yao* (SPTK), 36 “Da ti”, p. 26b; *Shizi*, quoted in *Qun shu zhi yao*, 36 “Fen” p. 15a; *Guanzi jiaozheng*, “Bai xin”, p. 24; *Huainanzi*, in *Xin bian zhuzi jicheng*, vol. 7, 10 “Miu cheng” pp. 153, 158; *Shi ji*, pp. 1637, 3292; *Jiazi xin shu jiaoshi*, annotated by Qi Yuzhang (Taipei: Qi Yuzhang, 1974) 8 “Dao shu”, p. 921.

52. *Jing fa* (Beijing: Wenwu, 1976), pp. 1-2.

53. *Jing fa*, p. 39.

54. *Jing fa*, pp. 23, 24, 28-29, 41-42, 45, 48, 49-50, 57, 60, 62, 73, 80, 83, 88.

This account is closely linked to those in the chapters on the “Origin of the Way” in the *Wenzi* and at the beginning of the *Huainanzi*. However, unlike the other two texts, the Mawangdui account repeatedly employs the pairing of “form” and “name”. According to it “forms and names” do not exist in the primal chaos, and they emerge only when objects begin to take form. The common people, however, cannot recognize the objects. They are known only by the sage, and he rules through bestowing correct names.⁵⁵

While these appeals to cosmology as the basis of appropriate administration through “forms and names” are not immediately based in religious ritual, there is evidence that they derive from the re-working of religious practices of the period. Specifically, they originate in meditation or trance procedures which are mentioned in various early “Daoist” works and which provide the basis of the psycho-physiological theories which from at least the third century B.C. “embraced both self-cultivation and politics into one coherent system based upon a cosmology of the Tao.”⁵⁶

Studies of these theories have concentrated primarily on the four chapters of the *Guanzi* describing meditative practices: “The Techniques of the Heart/Mind (*xingshu*)” (in two chapters), “The Disclosure of the Heart/Mind (*baixin*)”, and “Inward Training (*neiye*)”. The last of these is the earliest, probably dating to the fourth century B.C., and the other three appear to be later commentaries upon it. Consequently, “Inward Training” is the most valuable for revealing the religious roots of the Taoist cosmopsychological synthesis. From accounts in the *Guo yu* we know that people of the Warring States period employed “spirit intermediaries (*wu*)”, illuminated beings who could hear and see the spirits (*shen*) and into whom the latter would descend.⁵⁷ “Inward Training” is based on the experiences of such people, but it places them within the model of a world based on a quintessential energy (*jing* or *jingqi*) which forms all things.

In all things the quintessential
Transforming becomes the living.
Below it generates the Five Grains,
Above becomes the constellated stars.
Flowing between heaven and earth,
Call it the ghostly and daimonic (*guishen*).
Who stores it in the breast
Call the sage.⁵⁸

Here spirit possession as an element of religious ritual is re-imagined as a process of guiding the quintessential cosmic energies into the heart/mind of the devotee. Indeed, at one point the text speaks explicitly of a spirit which alternately enters and departs from the practitioner.

There is a daimon of itself within one's person.
Now it goes, now it comes.
None is able to imagine it.
Lose it, there is sure to be disorder.
Grasp it, there is sure to be order.
If reverently you clean its abode,

55. *Jing fa*, pp. 101-02.

56. Harold D. Roth, “Psychology and Self-Cultivation in Early Taoistic Thought”, *Harvard Journal of Asiatic Studies* 51:2 (1991): 649. See also Harold D. Roth, “Redaction Criticism and the Early History of Taoism”, *Early China* 19 (1994): 1-46.

57. *Guo yu*, “Wu yu”, pp. 559-560; *Han shu*, 25a, p. 1189.

58. *Guanzi jiaozheng*, p. 268. Translated in A. C. Graham, *Disputers of the Tao* (La Salle: Open Court, 1989), p. 101.

The quintessential of itself will come.⁵⁹

The method of drawing in these spirits or energies depends upon the control of all passions and emotional disturbances through measured breathing and other meditative procedures. "In the anxious or sad, pleased or angry, the Way has nowhere to settle." Once the heart is fixed, then the senses all become acute and the limbs become firm. The ingested energy vitalizes the body and the spirit, and it allows the one it fills to truly know. Having achieved such a state, one can govern the entire world.

Grasping the One, not letting it slip,
He is able to lord it over the myriad things.
The gentleman employs other things,
Is not employed by other things.
If you grasp the pattern of the One,
An ordered heart resides within,
Ordered words issue from the mouth,
Ordered tasks are imposed on others.
That done, the world will be in order.

...

Concentrate the energy, be equal to the daimonic,
and all the myriad things will be present at your disposal.⁶⁰

The close ties in this text between meditative procedures, spirit possession, and the emergent theory of the sagely mind also figure in the early chapters of the *Zhuangzi*, which may be roughly contemporary. Thus the "Discourse on Evening Things Out" tells how Ziqi of Nanguo put himself into a trance through controlled breathing and thus made his body "like withered wood" and his mind "like dead ashes". As A. C. Graham has argued, there is a close connection between this account of trance and the stories of cooks, carpenters, swimmers, boatmen, and insect catchers who are able to perfect their arts through the achievement of total concentration and spontaneity. These figures provide the model for the Daoist sage who differs from them only in that he does not devote his concentrated energies to a single task, but rather applies them to all events. "The utmost man uses the heart like a mirror; he does not escort things as they go nor welcome them as they come; he responds and does not store."⁶¹

This image of the mind of the sage as a mirror or water (which also figures elsewhere in the *Zhuangzi*) and the insistence on the mind's total detachment and spontaneous response appear likewise as the ideal psychology of the ruler in the *Xunzi*. The chapter "Dispelling Obsession" devotes considerable attention to the ruler's mind, and it follows the ideas outlined above. It presents the same metaphors of the mirror and water, places the same emphasis on emptiness and stillness, and repeats the same strictures on neither welcoming nor clinging. It differs from the "Daoist" works in its references to the classics and the insistence on the early sage-kings as the ultimate model, but the ideal of the mind and the techniques of its cultivation derive directly from the earlier texts, or from a common pool in religious practice.⁶²

The links between these texts and the accounts of the cosmic and psychological underpinnings of administration through "names and forms" in the *Han Feizi* and the *Jing fa* are quite clear. All speak of a sagely intellect which through stillness and concentration can identify itself with the origins or principles of all things and thereby

59. *Guanzi jiaozheng*, p. 270. Graham, *Disputers*, p. 104.

60. *Guanzi jiaozheng*, pp. 270, 271. Graham, *Disputers*, p. 103.

61. Graham, *Disputers*, pp. 186-88.

62. *Xunzi jijie*, 21 "Jie bi", pp. 263-71.

control them through appropriate response and correct naming. Since this model of the mind derives from practices of trance practiced by religious specialists of the period, they offer a clear example of the religious underpinnings of the re-invention of rulership during the Warring States period.

The second attribute of the ruler fashioned through re-imagining religious rites as internal powers was the identification of the ruler as a master of change.⁶³ Divination had been one of the primary bases of royal authority in the Shang state, and while it may not have been so central under the early Zhou, most major state actions continued to require divination. The development of administrative forms of government during the Warring States did not eliminate the old model of ruler as diviner. Instead the ability to perceive the evolving patterns that underlay the flux of circumstance and to select appropriate actions to meet them was identified as an intellectual skill that was the hallmark of leadership. This talent figures in all the new roles that defined the Warring States order — general, diplomat-rhetorician, and reforming minister — but it was above all the defining attribute of the ruler.

This idea of the ruler as master of change had two primary forms. The texts that were later identified as “legalist” simultaneously insisted on the necessity of obedience to existing laws while defending the innovations that created the Warring States. They did this through a model of history in which the evolution of society necessitated periodic institutional innovations. The man who could perceive the need for such innovations and discover their proper form was the sage-ruler. “Hence,” as the *Shang jun shu* argued, “the wise invent the standards by which the foolish are curbed; the worthy reform the conventions by which the inadequate are constrained.” Likewise the *Han Feizi* states, “Those who praise the way of Yao, Shun, Tang, and Yu to the present age will certainly be laughed at by the new sages. The sage does not assign truth to high antiquity, nor take as law any constant proprieties. He assesses the affairs of the age and prepares himself in response to them.” Or as it is summarized in the *Lü shi chun qiu*, “Those who do not dare discuss the laws are the masses. Those who defend the laws to the death are the officials. Those who change the laws in response to the times are the rulers.”⁶⁴

Parallel to the definition of the sage as master of innovation in the sphere of law, the *ru* schoolmen developed a model of history based on successive sagely innovations in the realm of rites. From the assertion in the *Lun yu* that the rites were secondary expressions of underlying principles and hence should be changed to meet circumstances, a range of Confucian thinkers from the redactors of the *Zuo zhuan*, through Xun Kuang, on to Shusun Tong and Fu Sheng in the Qin academy progressively developed the idea that rites were liable to periodic change, and that this was the role of the sage. The *Gongyang* tradition’s assertion that the imaginary kingdom of Lu established by Confucius in the *Chun qiu* was a prophecy of the Han was also based on this idea.⁶⁵

Again, as we have seen in the texts cited earlier in the discussion of the cosmic bases of “forms and names”, the Daoist tradition also emphasized the ability to change and the refusal to cling to the established state of affairs as fundamental to the true ruler.

63. Mark Edward Lewis, “The Sage as Master of Change”, (Paper delivered at the Annual Meeting of the Association for Asian Studies, Washington, D.C., April 6-9, 1995); Martin J. Powers, “The Dragon, *Qi*, and Pre-Imperial Discourses of Power”, (Paper delivered at the Annual Meeting of the Association for Asian Studies, Washington, D.C., April 6-9, 1995).

64. *Shang Jun shu zhuyi*, 1 “Geng fa”, p. 10; *Han Feizi jishi*, 49 “Wu du”, p. 1040; *Lü shi chun qiu jiaoshi*, 15 “Cha jin”, p. 936.

65. Mark Edward Lewis, “Les rites comme trame de l’histoire”, in Viviane Alleton and Alexei Volkov, eds., *Notions et perceptions du changement en Chine* (Paris: Collège de France, Institut des Hautes Études Chinoises, 1994), pp. 29-39.

As Isabelle Robinet has demonstrated, this idea was developed at length in three chapters of the *Huainanzi*, the early Han summa which drew together the various strands of Warring States proto-Daoism.⁶⁶

Straddling the various intellectual traditions were the calendrical ritual texts that appeared at the end of the Warring States and in the early Han — and which were also echoed in the Qin code. In these texts the ruler read the signs of imminent change in the natural world, and adapted his own conduct accordingly. He modified his diet, changed his music, altered his physical appearance, and even transformed his character in response to the signs offered by nature. He practiced compassion in the spring, but killed without mercy in the autumn and winter. The model of the sage who alters in accord with his reading of natural signs and patterns is also fundamental to the *Huangdi si jing*.⁶⁷

A final element of religious ritual that fed into the Warring States invention of rulership was the sacred procession. The Shang state was defined by the marches of the king who led his forces across the landscape in ceremonial hunts and military campaigns. He “showed the flag to his allies”, intimidated his enemies, and engaged in a succession of sacrifices at the sacred sites through which he passed, renewing his ties to the land and creating his own spiritual authority through the feeding of the spirits. The early Zhou kings also engaged in regular campaigns and processions, and Warring States texts preserved traditions of the Duke of Zhou, as well as the sages Yao and Shun, making sacred progresses through their realms. Indeed, such processions figured prominently in the political theory of the period.⁶⁸

Warring States rulers continued to travel to the sacred sites of their realms to offer sacrifice, and the ritual processions of the First Emperor of Qin are described in detail in the *Shi ji*.⁶⁹ However, parallel to the continued practice of ritual processions, the model of spirit travel adopted from the “shamanistic” cults of the period increasingly came to the fore. The best-known example of this phenomenon is the use of the language of spirit-travel to speak of politics in the “Li sao”, and David Hawkes has studied at length the background of this theme.⁷⁰ The same topos was subsequently adopted by Sima Xiangru in his “Rhapsody on the Great Man” wherein spirit travel became the ultimate form of the emperor’s ascent to universal authority and immortality.⁷¹

Spirit travel also figures as a topos in the myths of the sage-kings. The most famous of these is the journey, recorded in the *Han Feizi*, of the Yellow Emperor with his retinue of divinities to Mt. Tai for the performance of the pure *shang* music.⁷² While this journey was based on the invocation of spirit retinues in rituals for the protection of processions, by the dead as well as the living, it also provided a model for the actual

66. Isabelle Robinet, “Des changements et de l’invariable”, in Charles Le Blanc and Rémi Mathieu, eds., *Mythe et philosophie à l’aube de la Chine impériale: Études sur le Huainan zi* (Montréal: Université de Montréal, 1992), pp. 3-13.

67. The major calendars of ritual and legal metamorphosis are the opening sections of the first twelve chapters of the *Lü shi chun qiu*, the “Yue ling” chapter of the *Li ji* (probably assembled from the *Lü shi chun qiu* during the Han), and Chapter Five of the *Huainanzi*. See also *Guanzi jiaozheng*, 40 “Si shi”, pp. 238-241, 41 “Wu xing”, pp. 242-44. For a sampling of the calendrical passages in the *Huangdi si jing*, see Lewis, *Sanctioned Violence*, pp. 316-17, note 140.

68. Keightley, “The Late Shang State”, pp. 548-58; Ogura Yoshihiko, *Chūgoku kodai seiji shisō kenkyū* (Tokyo: Aoki, 1970), pp. 62-73.

69. *Shi ji*, 6, pp. 241-52, 256, 260-64; 28, pp. 1366-69.

70. David Hawkes, “The Quest of the Goddess”, in Cyril Birch, ed., *Studies in Chinese Literary Genres* (Berkeley: University of California, 1974), pp. 42-68.

71. *Shi ji*, 117, pp. 3056-62. See also “Yuan you”, in *Chu ci buzhu*, annotated by Hong Xingzu (SPTK ed.), 5. These two poems are closely related, although the exact nature of the relationship is disputed.

72. *Han Feizi ji shi*, 10 “Shi guo”, pp. 171-72.

travels of the emperor, as well as the spirit travels which would be the expected culmination of certain rites, as indicated in the works of Sima Xiangru.⁷³

Although the case of spirit travel is not strictly parallel to the others, in that it was primarily used as a way of re-imagining actual rituals rather than for the invention of a sagely intelligence, all of these transformations of religious rites into models or tokens of the ruler's daimonic powers were part of the single process of culturally creating a ruler whose divine attributes could match his exalted place as the center and embodiment of the new state order. It is also significant that whereas the realms of law and court administration were largely created through reworking the ritual bases of the Zhou order by means of a rationalizing cosmology, the re-invention of rulership tended to draw more directly on the contemporary religious realm and what is commonly described as "shamanism". The rituals of the Zhou political order offered little to those seeking images for the supreme wisdom and power necessary to the one man who defined the state, so they had recourse to models of the divine inspiration that transformed ordinary men into beings with magical powers. But in its primary reliance on models derived from religious rites, the re-invention of rulership was part of the same process as the creation of legal administration and the techniques of the court.

Under the Shang and Western Zhou, state power and the ruling elite had been defined through a set of cultic practices organized primarily around the ancestral cult. In both these states, which were however quite distinct in organization, the authority of the living was underpinned through their privileged access to the spiritual powers of dead kin. This access was based on ties that were preserved in the sacrificial cult. Membership in the ruling elite and the relative rankings of its individuals and lineages were thus determined by differential roles within a hierarchy of sacrificial cults. In the Zhou state these cults were organized in a segmented hierarchy determined by the position of the founder of the line with relation to the Zhou king.

This form of polity based on the power of ranked ancestral spirits had at least two important consequences for later developments. First, since the authority of the spirits and their relations to the living were based on their place within the kin order, this spirit world had a highly formal character in which the powers attributed to spirits and the forms of cult they received were determined entirely by their position or rank. Moreover, since the relation of the dead to the living changed with each new death and succession, over the course of time each individual spirit moved through a set of positions in Heaven, and the spirits' capacities changed as they became further removed from the living. In short, the structure of the ancestral cult established the precedent of a graded hierarchy in which position took priority over personal character and each named individual moved through a series of ranks. Consequently the Shang-Zhou ancestral cults, which determined the structure of the state as well as those of kin groupings, embodied several of the basic principles attributed to "bureaucracy" in the later state.

Second, the predominance of the ancestors of political actors in religion and the close relations of the kinship system and the state meant that the archaic polity already tended to transpose political structures directly into the world of the spirits. The Shang and Zhou gods were organized according to the principles that defined the ruling social group, and the passage of time entailed the steady transfer of actors from the latter to

73. Lewis, *Sanctioned Violence*, pp. 182, 187-94.

the former. As a result, the power of the spirits followed the same principles and had the same structures as political power in the world of men, and the spirits were themselves simple transpositions of what had been living rulers or ministers. Thus the principle observed by Jean Lévi for imperial China, that gods were transformations of dead men, was both an organizing rule of the archaic state and the ultimate origin of the “bureaucratization” of the Chinese spirit world.

The exact details of this “bureaucratization” still elude us, but the basic mechanism is becoming clear. As noted above, in the Western Zhou state the spirit world was a replica of the structures of the Zhou state, into which the actual participants in the Zhou polity were transposed at the times of their deaths. As Lothar von Falkenhausen has noted, the predominance in burials of weapons of war and implements of sacrifice — the tools necessary for the two “great services” that defined the Zhou elite — shows that the burial ritual was intended to transfer the ritually and politically significant aspects of the individual to the next world.⁷⁴ With the state and spirit world established as mirror images, each new extension of the Zhou state to wider realms of society entailed a similar extension of the spirit realm, and this was facilitated by the fact that the political order was expanded through modifications and extensions of cultic practices.

The extended use of covenants brought a new range of the population into the purview of the gods and spirits invoked to enforce them, even as it sanctified new uses of writing to impose order and obligations. Since matching copies of the covenants were despatched to the gods and preserved in state archives, the covenants entailed a parallel bureaucratization of the human state and the realm of the spirits at a pivotal point in state development. In the same process, the casting of laws on bronzes assimilated emerging legal codes to the status of communications with the spirits. Somewhat later, the receipt of legal codes and official documents along with an appointment played the same role as the earlier casting of bronzes to record the receipt of privileges, and these codes and documents became appurtenances of burial that established the status of the deceased in the next life. In this way the expanding spirit world was increasingly filled with officers and the documents that empowered them. The early imperial practice of offering cult to dead officials was a direct outgrowth of such practices.⁷⁵ The granting of surnames and titles to the individual households that were registered and drawn into military service probably also entailed an extension of ancestral cult to the lower reaches of the population, a process reflected in the song of the spirits of dead warriors in the “Guo shang” poem of the *Chu ci*.⁷⁶ Thus the underworld came to include not merely those who participated in covenants and received legal charges, but those who were the objects of registration. This is the state of belief in the third century B.C., as reflected in the document from the Fangmatan grave.

This process of the transformation of a politicized spirit world defined by kin genealogy to a politicized spirit world defined by office is clearly indicated by the belief, for which the earliest record is the *Zuo zhuan*, that offices had a genealogy. Based ultimately on the hereditary transfer of office that had defined the Zhou state, this passage relates how the roles of the four directional gods — divinity appearing here as an office — were filled by four brothers of Shaohao. These divine offices were then passed down within a family line that maintained sacrifices to the first holder of each office. This tradition of treating divinity as an office that was passed from father to son was

74. Lothar von Falkenhausen, “Sources of Taoism: Reflections on Archaeological Indicators of Religious Change in Eastern Zhou China”, *Taoist Resources* 5:2 (December, 1994): 4.

75. Lévi, *Fonctionnaires divins*, pp. 257-63.

76. *Chu ci buzhu* 2, pp. 22-25.

carried forward in the calendrical chapters of the *Lü shi chun qiu* and related literature.⁷⁷ Nor were such offices restricted to gods, for Sima Qian traces his own family's tradition of serving as astrologers back to the mythic Chong and Li who were charged with the task of administering the separate affairs of Heaven and Earth after their separation.⁷⁸

While the geographic and social extensions of the state were achieved primarily through the re-working of the cultic practices of the Zhou, a process that turned the kin-based Zhou spirit world into a parallel spirit bureaucracy, another set of cultic practices was invoked to create a new model of leadership. The new power of the monarch and the parallel claims of his scholar advisers were justified through developing the trances and spirit travels of the "shamans" of early China into a rationalized vision of a sagely mind that could grasp the principles of the cosmos and wield them to insure proper order in the world. This development was a correlate of the shift from formalized kin structures to formalized ranks as the organizing principle of the state, for the shift from the former to the latter voided claims to rule through kin ties to the spirits, and shifted them to claims of expertise. The only expertise that justified world mastery was command of the comprehensive, cosmic Dao, so the ruler merged with the sage to create a new figure that infused the new form of polity with meaning. Just as the process of creating the Warring State from the old Zhou order entailed parallel earthly administration and celestial bureaucracy, so the emergence of a ruler-centered state entailed the conflation of the person of the ruler with the single power/process that guided the world of nature.

GLOSSARY

Proper names

Chen Qiyou 陳奇猷

Dai Wang 戴望

Du Zhengsheng 杜正勝

Gao Heng 高亨

Guo Moruo 郭沫若

Guo Qingfan 郭慶藩

Hong Xingzu 洪興祖

Li Jian 李劍

Li Xueqin 李學勤

Liu Baonan 劉寶楠

Liu Gongmian 劉恭冕

Liu Hainian 劉海年

Luo Fuyi 羅福頤

Luo Zhangming 羅長銘

Qi Yuzhang 祁玉章

Qi 齊

Qin 秦

Sun Jingming 孫敬明

Sun Yirang 孫詒讓

Wang Bi 王弼

Wang Guowei 王國維

Wang Xianqian 王先謙

Yang Bojun 楊伯峻

Yin Difei 殷滌非

Zhang Chuanxi 張傳璽

Zhang Longhai 張龍海

77. *Zuo zhuan zhu*, Zhao 29, pp. 1502-04; Jean Lévi, *Fonctionnaires divins*, pp. 228-29; Riegel, "Kou-mang and Ju-shou", pp. 73-76. This idea of divinity as an office carried forward into Han debates on ritual. See Fujikawa Masakazu *Kandai reigaku no kenkyū* (Tokyo: Fūkan Shobō, 1968), pp. 62-74.

78. *Shi ji*, 130, p. 3295; *Guo yu*, "Chu xia", pp. 559-64.

baixin 白心
baixing 百姓
can 參
chao 朝
de 德
feili 非禮
gong 功
guan 關
guishen 鬼神
jing 精
jingqi 精氣
juan 卷
li 立
li 吏
li 禮
lǚ 履
lunyue 論約
meng 盟
mengzu 盟詛
ming ming 冥冥
neiye 內業
sangfu 喪服
shen 神
shi 實
siming 司命
su 術
ting 庭
wu 巫
xing 姓
xing ming 形名
xingsu 心術
yue 約
zhengming 正名
zhi 直

Huainanzi 淮南子
Huangdi si jing 黃帝四經
Jiazi xin shu 賈子新書
Jing fa 經法
Jinyu 晉語
Laozi Daode jing zhu 老子道德經注
Liji 禮記
Lǚ shi chun qiu 呂氏春秋
Lun yǔ 論語正義
Mozi 墨子
Qin Han wenti yanjiu 秦漢問題研究
Qun shu zhi yao 群書治要
Rishu 日書
Shan hai jing 山海經
Shang jun shu 商君書
Shi ji 史記
Shuihudi Qin mu zhu jian 睡虎地秦墓竹簡
Tangong 檀弓
Wei lizhi dao 為吏之道
Wenzi 文子
Xunzi 荀子
Yili 儀禮
Yunmeng Qin jian 雲夢秦簡
Yunmeng Shuihudi Qin mu
 雲夢睡虎地秦墓
Zhan guo ce 戰國策
Zhou li zhushu 周禮注疏
Zhuangzi 莊子
Zhudao 主道
Zhuzi 諸子集成
Zuo zhuan 左傳

Texts

Baoshan Chu jian 包山楚簡
Bian hu qi min 編戶齊民
Chun qiu Zuo Zhuan zhu 春秋左傳注
Chun qiu 春秋
Dao fa 道法
Daoyuan 道原
E jun qi jie 鄂君啟節
Gongyang zhuan 公羊傳
Guantang ji lin 觀堂集林
Guanzi 管子
Guo yu 國語
Guxi huibian 古璽匯編
Han Feizi 韓非子
Han shu 漢書