

Thomas Crone / Paul Fahr / Christian Schwermann (eds.)

Perduring Protest?

Perspectives on the History of
Remonstrance in China

Bonn University Press





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Matthias Becher, Jan Bemann und Konrad Vössing

Thomas Crone / Paul Fahr /
Christian Schwermann (eds.)

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Series Editors' Preface

Two phenomena of socialization lie at the heart of the Collaborative Research Centre (CRC) 1167 at the University of Bonn, '*Macht and Herrschaft. Premodern Configurations in a Transcultural Perspective*'. We place *power* and *domination* under the microscope and interrogate them with the tools of comparative research. Both phenomena have impacted human coexistence at all times and worldwide; as such, they are primary subjects of investigation for scholars in the humanities. Our multi-disciplinary research network aims to bring together the skills of many different participating fields as part of interdisciplinary cooperation, and to develop a transcultural approach to the understanding of power and domination.

Our selection of case studies from a wide variety of regions provides a fresh perspective on both similarities and differences across the different regions. In this series, we present collections of essays, which stem from workshops organised by our subprojects, as well as monographs that reflect on the main interests and research within individual subprojects.

It would not have been possible to publish the fruits of these important exchanges within this series without the generous financial support from the German Research Foundation (*Deutsche Forschungsgemeinschaft*) and the continued commitment of the University of Bonn, which provided the necessary research infrastructure. We would like to express our sincere thanks to both.

Matthias Becher – Jan Bemann – Konrad Vössing

Introduction

This volume explores the practice of *jian* 諫 in written sources of early China, reaching from the word's first mention in bronze inscriptions of the tenth century BCE to the period of the Northern Song dynasty (960–1127 CE). Over these two thousand years, but certainly also for the remaining imperial period and to some extent even today, the purpose of *jian* was to convey criticism and admonition to those in power. These could be high-ranking governmental officials, kings, and emperors, but also parents, husbands, or even elder siblings. This, at times significantly institutionalised, act of protest has been commonly translated as *remonstrance* in English research literature. While the title of our volume already indicates that we have decided to maintain this translation, we intend to do so consciously. In what follows, therefore, we attempt to achieve a more comprehensive understanding of the translation's conceptual and cultural background by cautiously exploring the semantic and institutional history of *remonstrance* in Europe and the West since the late medieval period. By sharing the results of this investigation, we also hope to draw attention to both the potential merits of the comparative reading between European and Chinese history of remonstrance and the yet-unsolved questions that result from this translation.

The English noun *remonstrance* is commonly traced back via Middle French to the medieval Latin verb *remonstrare*, which was in turn derived from the classical Latin verb *monstrare* ('to show'). According to the 'Oxford English Dictionary', *remonstrance* appears to have at least partially retained its original sense for some time, denoting a 'written or spoken demonstration, statement, or account' and 'a manifestation or sign of some fact' up until the nineteenth century.¹ In fact, in the case of the derived verb *to remonstrate*, its related meaning of 'to point out, to make clear' remains in occasional use even today. However, the common meaning of *remonstrance* today is the concept of objecting and protesting against a certain action. And while the precise circumstances that led to this concept's advance have yet to be investigated, it is intriguing to note that its European etymological

1 OED Online, <http://www.oed.com/view/Entry/162260> (2019/05/01).

siblings and cousins appear to have ultimately settled for similar meanings as well. Thus, we have *remontrance* in French, *Remonstrat* in German, *rimostranza* in Italian, *remonstracja* in Polish, and many more similarly derived expressions in other European languages, which all share a very similar and interrelated range of denotations. These words usually refer to a set of mostly standardised and formalised practices followed by governmental officials, students, or citizens in general that serve the purpose of appealing against certain normative decisions, most typically legislative proposals and laws.

Unfortunately, until today, we have lacked a comprehensive and transnational history of these practices that collectively form what we will henceforth refer to as the European or Western institution of remonstrance. What we do have, however, is a series of relatively well-documented historical incidents involving instances of remonstrance that took place within different central or western European states during the early modern era. There are, for instance, the remonstrances related to disagreements between the French parliament and its kings during the time of the *Ancien Régime*, the theological dispute between the *Remonstrantse Broederschap* and the Dutch Reformed Church in 1610, and the Grand Remonstrance against King Charles I of England in 1641. We lack precise information regarding if and how these single instances were causally and conceptually interlinked. However, their seemingly simultaneous and unprecedented occurrence within different countries and socio-political settings suggests that the institution of remonstrance began to find wide-spread use among officials, nobles, and the clergy who intended to protest against the decisions of their political and spiritual leaders during the sixteenth and seventeenth centuries. The historical magnitude of these events also renders it plausible to regard them as responsible for the semantic shift described above. That is, what terms such as *remonstrance*, *remontrance*, or *Remonstrat* nowadays refer to might be the institutional offspring and descendants of these early modern practices.

The few academic studies written to date on the early European institution of remonstrance generally indicate that it originated within the practice of petitioning, *petitio*, which was first established under the Roman emperors.² Roman petitions were originally meant to communicate pleas and requests of private persons and officials to the emperor and were transmitted in writing via his administration. They were the literary counterpart to *supplicatio*, an event during which citizens in need would publicly announce their concerns at the emperor's statue and beg for the magistrates' assistance.³ Serving as a more dignified in-

2 For the Roman institution of petition, see Tor HAUKEN, *Petition and Response: An Epigraphic Study of Petitions to Roman Emperors 181–249*, Bergen 1998.

3 For the relation between *petitio* and *supplicatio*, see Fred S. NAIDEN, Appendix 6: Epistolary Supplication, in: Fred S. NAIDEN, *Ancient Supplication*, Oxford et al. 2006, 385–388.

strument for those who could read and write, petitions often focused on grievances caused by malfeasance by local officials and administrative personnel. The emperor would commonly respond to petitions with what was referred to as *subscriptio*, a note that clarified how the particular case should be handled. Since these verdicts possessed judiciary status, they were collected and became an important part of later legal codes, such as the ‘Code of Justinian’.

The institutions of petition and rescript were later adopted by the Catholic Church. During the twelfth century, Pope Alexander III (r. 1159–1181) is said to have accepted a petition filed by a clergy member in Ravenna asking him for a fief. However, the clergy member had apparently concealed that he had already received several pieces of land from the Church, and, therefore, the archbishop of Ravenna protested against the pope’s decision to grant the fief.⁴ While we, unfortunately, do not know the precise content and wording of this first episcopal remonstrance, which had yet to be formally recognised, the pope’s reply to the archbishop has survived in the ‘Decretals’ of Gregory IX (r. 1227–1241) known as the ‘Liber extra’:

Si quando aliqua tuae fraternitati scripta dirigimus, quae animum tuum exasperare videntur, turbare non debes neque moveri, aut credere, quod personam tuam velimus contemptibilem reddere vel despectam, quia te sicut carum fratrem nostrum et immobilem columnam ecclesiae affluentissima caritate diligimus, et honoris et exaltationis tuae desideramus modis omnibus incrementum. Nam etsi saepe fratribus et coepiscopis nostris secundum varietatem eorum, quae nobis suggeruntur, aspere et dure scribamus, hoc tamen non ex minori affectione contingit, sed ut clamoribus querelantium secundum Deum et iuxta officii nostri debitum satisfacere comprobemur. Quapropter monemus prudentiam tuam et hortamur attentius, quatenus de cetero non movearis, neque turberis, nec tuus animus deiiciatur, si tibi durum vel asperum scripserimus; sed sicut vir providus et discretus Qualitatem negotii, pro quo tibi scribitur, diligenter considerans et attendens, aut mandatum nostrum devote et reverenter adimpleas, aut per literas tuas quare adimplere non possis sufficientem et rationabilem causam praetendas quia nos patienter sustinebimus, si non feceris quod prava nobis fuerit insinuatione suggestum.

“If eventually we shall direct anything to you, as our brother, by means of the written word, so that your mind seems to get upset, you shall not be confused or affected or believe that we wish to render your person contemptible or despicable, since we esteem you as our dear brother and unwavering pillar of the Church with utmost love and hope for the increase of your honor as well as your reputation by all possible means. For, if we frequently write to our brothers and fellow bishops concerning their disagreements, that are brought to our attention, abrasively and harshly, however, this does not happen because of a lack of affection, but so that we are acknowledged for satisfying the clamor of those lamenting in accordance with God and the obligation of our office. Therefore, we urge your prudence and insist fervently that your soul shall not be disturbed or

4 Hans-Jürgen GUTH, *Ius remonstrandi: das Remonstrationsrecht des Diözesanbischofs im kanonischen Recht*, Freiburg i. d. Schweiz 1999, 6.

confused or feel humiliated, when we write to you something harsh and abrasive, but, as a cautious and tactful man who carefully considers and pays attention to the nature of the matter concerning which we wrote to you, either devotedly and reverently execute our instruction, or put forth in your letters a sufficient and reasonable explanation why it is impossible for you to fulfil it, since we will patiently contain ourselves if you have not done what has been brought to our attention by way of evil insinuation.”⁵

In an almost excessively mellifluous tone, the pope commends the archbishop for his prudence and diligence. In doing so, he attempts not only to reassure him but also potentially to gain his assistance by granting him the right to ignore temporarily future rescripts if they appear to be based upon insufficiently informed decisions. He further kindly requests the archbishop that in such cases, he should name the specific reasons that led to this decision and submit them to him in writing. While there is no particular reason to doubt the archbishop’s sincerity, it should nonetheless be noted that the pope takes for granted that his bishop’s protest was originally intended to serve the Church’s interest.

By being included in the ‘Decretals’ in 1230, this yet-unnamed right for a bishop to object to a pope’s directive if it is potentially harmful to or unfit for his diocese eventually became what much later came to be known as *ius remonstrandi*, the ‘right to remonstrate’. Experts of canon law generally agree that, having been exercised repeatedly for centuries, *ius remonstrandi* essentially remains in force today, despite not being included in the codices ‘Iuris Canonici 1917’ and ‘1983’. Moreover, given its potentially wide-reaching implications for Church administration, the *ius remonstrandi* has often become the topic of academic or even public debate. There have, for instance, been advocates proposing that it should be bestowed upon Catholic Church members in general. Others have argued that the *ius remonstrandi*, as described by Alexander III, is in fact far more than just a right to object to a law, as Alexander appears ultimately to demand that his archbishop either follow his commands or object to them. As scholars of canon law have pointed out, this approach could actually imply not only a right but also a *duty* to remonstrate in cases where the pope’s decision may be potentially harmful to a diocese or the Church in general.⁶

Additional evidence in favour of a connection between the institutions of petition and remonstrance is found in the English nobles’ and clergy members’ protest against King Edward I (r. 1272–1307) in 1297. Because Edward intended to send an army to Flanders to protect his possessions, he had begun to raise taxes significantly, seize goods, and demand that his subjects join his troops. However, for various reasons, some of his clergy and nobles rebelled against his plans.

5 Corpus iuris Canonici, pars secunda: Decretalium collectiones, ed. Emil Ludwig RICHTER/Emil FRIEDBERG, Leipzig 1881, Decretales Gregorii p. IX. [liber extra] 1.3.5, 18.

6 For an overview of these and related issues, see GUTH 1999, 13–32.

Led by Roger Bigod (c. 1143–1221), Earl of Norfolk, and Humphrey de Bohun (c. 1267–1322), Earl of Hereford, they drafted a petition to the king, who himself had recently re-established this ancient Roman practice.⁷ After distributing French and Latin copies of their petition to other potential supporters, they officially presented their concerns to Edward in August 1297 at Udimore, claiming to speak for the entire kingdom. In the French version of the text, which is often believed to represent the original, the petition tellingly refers to itself as *monstraunces*, thus still missing the intensive prefix of succeeding terms. As the text appears to be one of the first remonstrances that have survived the ages, we will cite it in full:

Ces sont les monstraunces qe erceveskes, eveskes, abbes, priours, countes, et barounes, et tout la comuniautie de la terre monstrent a nostre seignour le roy, et humblement lui prient, cor a leur seignour, qe cestes chosez voill redresser et amendere al honour de lui et a la salvacion du pople.

En primes, il semble a tote la communalte de la terre qe le garnisement qe feet lur fuit par le bref nostre seignour le rey ne fuit pas assez sufficiaunt, pur ceo qe il ny avoit nul certain lu assignee ne especifie ou ils deverient alere, car solom le lu covyent il fere la purveiaunce, et puissent aversne le quele il duissent lui fere servis ou nounge.

Pur ceo qe dit est comunialement qe nostre seignour le rey vout passer en Flaundres, avis est a tout la communalte de la terre qe la ne deyvent il nul servis fere, pur ceo qe eaus ne lur predecessours ne lur auncestres unkes en cele terre servis ne firent. Et tut fuit il issint qe ils dussent le service la ou aliours, ils ne aveient pas poer de fer le, pur ceo qe ils ount este tant greves de diverses talliages et diverses prises, cest asavoir des furmentez, aveynes, braes, leynes, quires, boefs, vaches, chars sales, saunz nul dener paier, dount ils sei dussent aver sustenu et mayntenu.

Il dient estre ceo qe eide ne pount il fere pur la poverte qe ils sont einz par les talliages et les prises avantdites, car il ne ount a pein dount ils se pount sustenir, et multz en sont qe ne ount pas lur sustenance ne lur terres gaynes.

Estre ceo tote la communalte de la terre se sentent durement grevez qe ils ne sont pas menes solom lez leys et lez usages de la terre par les queux eus e lur auncestrez avaunt eus solayent estre menez, ne ils ne ount lur fraunchises les queux ils solayent avoir, mes sont mys hors voluntriement, par qoi ils se sentent durement grevez.

Estre ceo clerks et lays se sentent durement greves de ceo qe ils solayent estre menes solom les poyntes de la graunt chartre, les quex poyntes sont tut le pluis tresseillez, laquele chose est tres graunt damage ou pople: par qoi ils prient a nostre seignour le rey quil voille qe cestes choses soient redressez, al honour de lui et a salvacion de son pople.

Estre ceo tote la communalte de la terre se sentent durement grevez de lassise de la foreste, qe nest my gardie si com ele solait estre en arere, ne la chartre de la foreste under, mes fount atachmentz volonters hors de lassise autrement qe homme ne solait.

Estre ceo tut la communalte de la terre se sentent durement grevez de la maltolt de laynes qe est si grevouse a chescun sake de la layn entire xls., et de la layn brisee a chescun sake v

7 Paul BRAND, Petitions and Parliament in the Reign of Edward I, in: *Parliamentary History* 23.1 (2004), 14–38.

marcs, pur ceo qe la layn d'Engleterre est a poye la moyte de la valu de tout la terre par an, e si amunte la maletoute par an a poy al quinte de la value de totte la terre par tiel pris. Pur ceo qe la communalte de la terre volent honour et sauuetie a nostre seignour le rey sicome il deyvent voler, ne lur semble pas qe ceo serroit a lui ne preu ne honur de passer en Flaundres si il ne fust plus assure pur lui e pur sa gent des Flandresses ke il ne nentendent quil seyt uncore, et auxi pur la terre d'Escoce, la quele se comence a lever contre lui tant com il est ore en terre, e bien entendent qe ils en frayent en plus mauveise maner si ils fuissent seure qe il fuit la mere passe; e ne my seulement eaus, mes altres terres qi ne sount pas uncore bien affermez.

“These are the *monstraunces* that archbishops, bishops, abbots, priors, earls, and barons and all the community of the land demonstrate (*monstrent*) to our lord the king, and they humbly pray him as their lord that he be willing to redress and amend these things for his own honour and for the preservation of the people.

First, it seems to all the community of the land that the warning that was given them by the writ of our lord the king was not sufficient, because there was no definite place specified where they should go, for on the place depends the provision to be made and they could have known whether they ought to do him service or not.

Because it is commonly said that our lord the king wishes to cross over into Flanders, it seems to all the community of the land that there they are not bound to do any service because neither they nor their predecessors or ancestors ever did service in this land. And even though it were that they ought to do service there as elsewhere, they would not have the power to do it because they have been so reduced by the various tallages and various prices, that is of corn, oats, malt, wools, hides, oxen, cows, salted flesh, without payment of the money with which they would have to support and maintain themselves. They say, besides, that they cannot pay an aid on account of the poverty they are in due to the aforesaid tallages and prices, because they scarcely have wherewith to support themselves and there are many of them that have no means of support and cannot till their lands.

Besides, all the community of the land feel themselves greatly aggrieved that they are not treated according to the laws and customs of the land by which their ancestors used to be treated, nor have they their liberties which they used to have, but are arbitrarily put out, on which account they feel themselves greatly aggrieved.

Besides, clerks and laymen feel themselves greatly aggrieved in that they used to be treated according to the clauses of the great charter, whose clauses are all neglected to the great loss of the people: on which account they pray our lord the king that he be willing for these things to be put right for his own honour and for the preservation of the people.

Besides, the community of the land feels themselves greatly aggrieved about the assize of the forest which is not kept as it used to be in the past, nor the charter of the forest either, but attachments are made at will outside the assize otherwise than used to be done. Besides, all the community of the land feel themselves greatly aggrieved by the maletote on wools which is very burdensome – on each sack of whole wool 40 and of broken wool on each sack 5 marks – because the wool of England is worth nearly half what the whole land is worth a year, and the maltote paid at such a rate amounts in the year to a fifth of what the whole land is worth.

Because the community of the land desire honour and safety for our lord the king, as they should, it does not seem to them that it would be for his good to cross over into Flanders without being more assured for himself and his followers about the Flemings and also about the land of Scotland which is beginning to rise against him whilst he is now in the land, and they well believe that they [the Scots] would do it in a worse way if they were sure that he had crossed the sea, and not only they but other lands that are not yet properly settled.”⁸

While it was probably not the most pressing issue at the time the petition was drafted, the concern raised at the end would very soon become the proverbial last straw that broke the camel’s back; in September 1297, the Scots defeated the English army at the Battle of Stirling Bridge and, thereby, forced Edward to reconsider his plans.

Again, the exact manner of how the pope’s rescript, the *monstraunces* of 1297, and other seemingly isolated instances of remonstrance might be connected to each other has not been investigated yet. That said, the degree to which the content of the *monstraunces* appears to almost mirror Pope Alexander III’s demands is surely remarkable. Just as Alexander III is interested in knowing why his order was not followed and assumes that the archbishop’s refusal is well-intended, so too do the *monstraunces* itemise their motives extensively and emphasise that they truly intend to protect and not to challenge the rule of King Edward. While both incidents occurred at different times and places, they share intriguing similarities that deserve further contemplation.

If we, at least momentarily, set aside the possibility of a direct causal relationship between the events, we would have to conclude that this correspondence was, in fact, likely shaped more by the similarity of both events’ specific socio-political settings than their broadly shared cultural history. That is, it was the reduction of hierarchy by means of juridification that defined the course and outcome of both incidents rather than the fact that both were founded on historically linked institutions and eventually adopted similar and interrelated names, though this is not entirely irrelevant. Evidently, both remonstrances resulted from conflicts of interest between different, unequally powerful and authorised parties, which had, consensually or not, begun to establish formally binding rights and duties to address and avoid such conflicts. In this regard, the shared institution of petition appears to have been the tip of the iceberg, as only a brief glimpse into the events’ immediate history shows that both took place during important periods of legal change. In Alexander III’s case, the right to

8 J. G. EDWARDS, *Confirmatio Cartarum and Baronial Grievances in 1297*, in: *The English Historical Review* 58.230 (1943), 147–171. For a slightly different version of the text, see Jeffrey H. DENTON, *A Worcester Text of the Remonstrances of 1297*, in: *Speculum* 53.3 (1978), 511–521. Translation (with minor changes): *English Historical Documents*, ed. Harry ROTHWELL, 12 vols., vol. 3, London 2004, 468–470.

remonstrate was granted at a time when the Catholic Church had not only started to organise and centralise its laws but also, following the papal election reform in 1059, witnessed an increase in the officially legitimised influence of high-ranking clergy on the Church's leadership. Likewise, in the *monstraunces* text, Roger Bigod and Humphrey de Bohun actively invoked the Magna Carta signed in 1215, which Edward was forced to confirm again in 1297 in direct response to their protest. Therefore, to secure the future cooperation of their subordinates, Alexander III and Edward I added another institutional layer to these former agreements by choosing to tolerate their subordinates' disobedience, as long as they produced sufficient reasons for their protest; such explanations also certified the protesters' overall loyalty and support.

Faced with a judiciary document as influential as the Magna Carta and a ballot-based transfer of power such as the papal election, it becomes evident that our decision to speak of 'remonstrance' in Chinese texts as early as the tenth century BCE has much more far-reaching consequences than the commonness of this translation suggests. What institutions, rights, and duties was *jian* based on to warrant such a comparison? Are we misleading our readers by implying that institutional and judiciary breakthroughs of a similar magnitude must have occurred during or even prior to this early period of Chinese history, nearly two thousand years before these European developments?

One way of addressing these concerns is to point to the expression of conventional wisdom *traduttore, traditore*, "to translate is to betray". Thus, one could simply acknowledge the differences that existed and exist between *jian* and remonstrance and attempt to justify oneself with the highly probable fact that any other translation of *jian* would eventually fail as well. However, a slightly different but, in our view, more desirable approach would be to draw attention to the fact that this perceived 'problem' can, in fact, lead us to various unsolved questions; and the search for answers may result in new insights and a better understanding of one or possibly both institutions. This is why instead of simply acknowledging that early China possessed no equivalent to a Magna Carta or an election-based transfer of power, we wish to emphasise the fact that the institutions of *jian* and remonstrance appear nonetheless to have often operated in reliance upon remarkably similar mechanisms. But how far does this resemblance reach and what historical factors contributed to their overlap and divergence? These are the questions that strike us as valuable and upon which this volume attempts to shed light by collecting evidence pertaining to the Chinese side of this bipartite topic.

To lay the groundwork for this comparative reading of both institutions, we will briefly summarise some features of European remonstrance mentioned above, including those pertaining to early modern institutions, as well as their occasional contemporary successors. As a thorough and balanced discussion of this very diverse and only superficially studied set of practices is beyond what we

can accomplish in this introduction, the following list is a collection of only the most rudimentary and salient aspects obtained from several primary and secondary sources on this topic.⁹ However, as the contributions to this volume demonstrate, this list of basic features is significant once we face the institution of *jian*, which emerged under different historical and cultural circumstances:

1. Remonstrances are expressions of protest and criticism by hierarchically inferior agents against their superiors. They typically occur between agents that belong to the most powerful strata of human society, such as a monarch and his nearest counsellors, nobles, or parliament.
2. To remonstrate is a highly formalised process. It consists of different steps and behavioural rituals and requires complementary social roles. Therefore, it relies on written, formulaic documents (and possibly also the recital thereof) rather than on improvised oral speech.
3. Remonstrances do not challenge but sustain hierarchy. Often the right to remonstrate is transformed into a duty to remonstrate, as it is believed to serve a commonly shared interest. Remonstrances are ultimately utilitarian as they seek what is beneficial to one involved party or both.
4. At the same time, remonstrances are expressions of dissent. They are manifestations of socio-political tensions and are treated in explicit distinction from non-confrontative appeals for help and assistance.
5. To remonstrate is a highly communicative action in the sense that it does not simply articulate objection, but it also attempts to explain in great detail why the objection has been articulated. It may even further provide suggestions on how the particular matter ought to be resolved.

9 Apart from those already mentioned above, the following articles and monographs have been consulted: An exact collection of all remonstrances, declarations, votes, orders, ordinance, proclamations, petitions, messages, answers, and other remarkable passages between the Kings most excellent Majesty, and his high court of Parliament beginning at his Majesties return from Scotland, being in December 1641, and continued until March the 21, 1643. Which were formerly published either by the KINGS Majesties command or by order from one or both Houses of Parliament. With a table wherein is most exactly digested all the fore-mentioned things according to their several Dates and Dependencies, London 1643; Arthur LE MOY, Remonstrances du Parlement de Bretagne au XVIIIe siècle: TEXTES INÉDITS Précédés d'une Introduction, Paris 1909; Documents Illustrating the Crisis of 1297–98 in England, ed. Michael PRESTWICH, London 1980; Matthew LEVINGER, La rhétorique protestataire du Parlement de Rouen (1753–1763), in: *Annales* 45.3 (1990), 589–613; Michel ANTOINE, Les remonstrances des cours supérieures sous le règne de Louis XIV (1673–1715), in: *Bibliothèque de l'École des chartes* 151.1 (1993), 87–122; Dagmar FELIX, Das Remonstrationsrecht und seine Bedeutung für den Rechtsschutz des Beamten, Köln 1993; Dieter ROMANN, Remonstrationsrecht und Remonstrationspflicht im Beamtenrecht, Dissertation, Hochschule für Verwaltungswissenschaften Speyer 1996; Oliver CHALINE, La pratique des remonstrances au XVIII^e siècle (Paris, Rouen, Rennes), in: *Annales de Bretagne et des Pays de l'Ouest* 122.2 (2015), 89–104.

As tentative and, to some degree, interrelated as these five points may be, they are still much more precise than what is commonly associated with the word *remonstrance*. The earlier-cited ‘Oxford English Dictionary’, for instance, defines *remonstrance* broadly as “a protestation, an objection; an expression of disapproval or disagreement; a warning against a particular course of action” and, more narrowly, as “a formal statement of grievances or similar matters of public importance, presented to a governing body or monarch; a petition”.¹⁰ ‘Black’s Law Dictionary’ provides three different meanings: first, “a presentation of reasons for opposition or grievance”; second, “a formal document stating reasons for opposition or grievance”; and third, “a formal protest against governmental policy, actions, or officials”.¹¹ Thus, what we have outlined above only roughly corresponds to one or two aspects of these definitions and could be considered more specific and elaborate. The entire semantic scope of the word *remonstrance* extends significantly further.

That said, the contributions in this volume will likely make for more rewarding and enjoyable reading if compared to this specific concept of the *institution* of remonstrance rather than the collective sum of all actions that can be referred to by the same name. This is because the practice of *jian* in ancient and medieval Chinese texts appears to share an often stunningly high degree of resemblance to European *remonstrance*. In fact, several aspects of the European institution listed above are virtually identical to the definitions and conceptual outlines established by the authors of this volume.¹² However, while such commonalities are thought-provoking, we hope that this comparison not only encourages a search for universals but also creates opportunities to identify crucial and intriguing differences between Chinese and European institutions, which must be explained within their relevant cultural and historical frameworks. It is the sum of both types of questions that we believe can bring us to a closer understanding of *jian* and remonstrance. Had we chosen to work with a broader, non-specific understanding of the term *remonstrance* or left *jian* untranslated, there would have been significantly fewer occasions for these questions to arise.

It is difficult to determine when and how the terminological and conceptual transfer between the Chinese institution of *jian* and the European institution of remonstrance first occurred. The Jesuit missionaries of the sixteenth and seventeenth centuries are obvious candidates, given that they likely had extensive knowledge of both institutions. However, an examination of their extant works yields mixed results. Martino Martini’s (1614–1661) ‘*Sinicae Historiae Decas Prima*’, for instance, mentions historical events of high-ranking political and

10 OED Online, <http://www.oed.com/view/Entry/162260> (2019/05/01).

11 Bryan A. GARNER (ed.), *Black’s Law Dictionary*, 9th edition, St. Paul, MN 2009, 1409.

12 Compare particularly in Crone, 30–36

military personnel protesting against the Chinese emperor that are commonly classified as *jian* in Chinese sources. Yet not only does Martini not use terms like *remonstratio*, but his choices when translating these events do not suggest that he perceived individual instances of *jian* as conceptually interrelated.¹³ On the other hand, the French translation of ‘Sinicae’ (‘Histoire de la chine’), published in 1692, often speaks of *remontrances* when referring to the same type of incidents, making it one of the first works published in a Western language that acknowledges the existence of a comparable institution behind such protests.¹⁴ Thus, it appears that it was not the Jesuit missionary Martini, but Louis-Antoine Le Peletier, the French translator of Martini’s work, who connected *jian* to the institution of remonstrance (or *remontrance*) when imagining the ways that the emperor and his advisors interacted under these circumstances. From afar, Le Peletier’s discovery is as fascinating as the fact that the Italian Martini was less inclined to see the same institution in the Chinese material with which he worked directly. While the meaningfulness of this single instance is limited, it nonetheless illustrates the many different ways that this conceptual transfer could have happened.

Based on the traces left by Chinese-European dictionaries, we can conclude that the first conscious attempt to link *jian* and remonstrance must have occurred sometime before or during the early nineteenth century. Robert Morri-

13 Instead, Martini often simply states that someone had delivered a “speech” (*oratio*) or answered (*respondit*) a superior. Compare Martino Martini, *Sinicae historiae decas prima: res a gentis origine ad Christum natum in extrema Asia, sive magno Sinarum imperio gestas complexa*, Monachium 1658, <http://mdz-nbn-resolving.de/urn:nbn:de:bvb:12-bsb10359602-2> (2019/05/11), 95, 234.

14 My search was based on the SOAS collection of early European works on China, which has conveniently been made available by Brill in their online database ‘Western Books on China up to 1850’. According to my results, there are a few other seventeenth-century works that occasionally mention a Chinese institution of remonstrance, but they do so sporadically: ‘Histoire des choses plus memorables advenues tant ez Indes Orientales’, written by Pierre Du Jarric (1566–1617) between 1608 and 1614; ‘Histoire universelle de la Chine’, a French translation of Alvaro Semedo’s work (1585–1658) published in 1667; and ‘Histoire des deux conquerans Tartares’ by Pierre Joseph d’Orléans (1641–1698), published in 1690. The last work contains one reference found within a memorable anecdote according to which Adam Schall von Bell (1591–1666) himself once privately remonstrated against the Chinese Emperor Shunzhi 順治 (r. 1638–1661) after the latter began to neglect his official affairs following the loss of one of his favourite concubines. However, Le Peletier’s translation mentions the term *remontrance* far more often (approximately thirty times) and, in most cases, in direct reference to a protest against a Chinese king or emperor. See Martino Martini, trans. by Louis-Antoine LE PELETIER, *Histoire de la Chine*, 2 vols., vol. 1, Paris 1692, 96, 140, 157, 176, 184, 245, 409, 515; vol. 2, Paris 1692, 2, 27, 28, 39, 108, 109, 237, 244, 261, 286, 288, 303, 313, 414, 431, 439, 446, 447, 450, 454. Given the early origins of the institution of remonstrance in France and its rise to political prominence during the seventeenth century, it is intriguing that all of the abovementioned works were written by French authors who themselves had never travelled to China.

son's (1782–1834) 'A Dictionary of the Chinese Language', published between 1815 and 1823, is the first dictionary extant today that connects the two terms: “諫 KĒEN. To discriminate by speech; to point out the right and the wrong, particularly to superiors, as a minister to his Prince, and to induce to alter what is wrong; to remonstrate; to endeavour by reproof and argument to arouse from error”.¹⁵ The entry “to remonstrate” also appears in *fu* 莠 (phonetically transcribed as *peih* by Morrison), *zheng* 証, *zheng* 諍, and *ti* 譏, indicating that Morrison probably followed closely the Chinese definitions found in the 'Kangxi zidian' 康熙字典, which link all four terms to *jian*.¹⁶ Whether Morrison further relied on a bilingual dictionary when composing these entries will likely remain a mystery. The only surviving bilingual reference work that Morrison mentions is the manuscript dictionary 'Dictionarium Sinico-Latinum' (or 'Hanzi Xiyi' 漢字西譯) of Basilio Brollo (1648–1704). Extant copies do not mention *remonstrare* or similar terms and instead translate *jian* as “to take hold of” or “to rebuke someone so that she/he comes to her/his senses” (*aliquem corripere ut resipiscat*) and “to hold back, to restrain, to reprove” (*reprehendere*).¹⁷ It follows that Brollo cannot have been the source for Morrison's translation.

However, it is interesting to note that Brollo appears to have conceived of *jian* as an attempt to halt and contain another person's action. This is at least strongly suggested by the definitions he chose, as both can be understood not only as denoting actions of blame and criticism but also as references to nonverbal attempts to hinder someone from continuing their wrongheaded endeavour. Since *jian* (OC *krâns) appears to have been exoactively derived from the verb *lan* 攔/闌 (“to stop, to block”, OC *rân)¹⁸ and an important purpose of *jian* was to prevent a superior's wrongful action, Brollo's glosses reveal a remarkably high degree of understanding of the institution itself.

James Legge's (1815–1897) choice of *remonstrance* as his standard translation of *jian* in his translations of the Chinese Classics was another important milestone on the road to forming a conceptual affiliation between the two terms. Considering his work's influence on later generations, it is likely that his choice paved the way for countless other translations of ancient and traditional Chinese literary works published during the twentieth century that followed the same standard. The translation was also soon adopted in monographs and articles about the political systems of traditional China, including, first and foremost, in

15 Robert Morrison, *A Dictionary of the Chinese Language*, in *Three Parts*, Part 1, 3 vols., vol. 3, London 1815–1823, 3, 372.

16 Morrison 1815–1823, vol. 1, 588–589; vol. 3, 353, 369, 376.

17 Basilio BROLLO, *Dictionarium Sinico-Latinum*, Online Publication, Berlin 2014, <http://resolve.r.staatsbibliothek-berlin.de/SBB0000958600000000> (2019/05/12), 302.

18 All reconstructions used in this volume follow those of Axel SCHUESSLER, *Minimal Old Chinese and Later Han Chinese: A Companion to Grammata Serica Recensa*, Honolulu 2009.

Charles Hucker's research on governmental institutions of the Ming and Qing Dynasties and his reference work 'A Dictionary of Official Titles in Imperial China'.¹⁹ Collectively, these translations and research works explain why later studies in Western languages focusing on the institution of *jian* itself often use both terms interchangeably without ever discussing or questioning the appropriateness of this translation.

One of the earliest instances of such research is an article by Léon Vandermeersch, who created the first historical overview of the institution and its development throughout the entire imperial period.²⁰ However, other studies quickly followed, such as, for example, those of David Schaberg, who examined the early origins of *jian* from a literary perspective.²¹ Michael Schimmelpfennig discussed the alleged "five kinds of remonstrance" (*wu jian* 五諫) mentioned in Han dynasty sources and concluded that several of them cannot have existed in actual practice.²² Another contribution to the field was the doctoral dissertation of Virginia Suddath, who argued that *jian* is at the heart of the Confucian approach to ruler-oriented protest and criticism and that even the writings of the self-professed anti-Confucian intellectual Lu Xun still appear to adhere to this institution.²³ Most recently, Chang Su-ching has attempted to divide the early practice of Chinese remonstrance into different rhetorical categories and attribute them to different historical stages.²⁴

In addition to consolidating the naturalness and prevalence of the translation *remonstrance*, some of these recent studies have allowed this term to begin to develop a life of its own. Schaberg, for instance, not only includes speeches marked as *jian* in his category of 'remonstrance' but also compositions of admonitory verse referred to as *zhen* 箴, based on commonalities between the two.²⁵ In a similar vein, Chang subsumes "court discussions" or "conferences" (*yi* 議) – a practice that emerged in the third century BCE in which a monarch's personal advisors would discuss an intended policy in his presence – under the header

19 See, in particular, Charles O. HUCKER, *The Censorial System of Ming China*, Stanford 1966, 131–147, 205–234; *A Dictionary of Official Titles in Imperial China*, Stanford 1985, 148–149.

20 Léon VANDERMEERSCH, *L'institution chinoise de remonstrance*, in: *Études chinoises* 13.1–2 (1994), 31–45.

21 David SCHABERG, *Remonstrance in Eastern Zhou Historiography*, in: *Early China* 22 (1997), 133–179; *Playing at Critique: Indirect Remonstrance and the Formation of Shi Identity*, in: Martin KERN (ed.), *Text and Ritual in Early China*, Seattle 2005, 194–225.

22 Michael SCHIMMELPFENNIG, *Blunt or Hidden: The Problem of Defining Different Ways of Remonstrance in Traditional China*, in: *Asian and African Studies* 11.1–2 (2007), 7–20.

23 Virginia D. SUDDATH, *The Junzi doth protest: Toward a philosophy of remonstrance in Confucianism*, Dissertation, University of Hawai'i at Manoa 2005.

24 CHANG Su-ching, *Three Rhetorical Modes in Pre-Qin Court Remonstrances*, in: Garret P.S. OLBERTING (ed.), *Facing the Monarch: Modes of Advice in Early Chinese Court*, Cambridge, MA/London 2013, 42–68.

25 SCHABERG 1997, 151–153.

‘remonstrance’.²⁶ Thus, decades after its steady dissemination within translations of early and traditional Chinese texts and the related academic discourse, the term *remonstrance* has almost silently begun to represent more than the institution of *jian* alone. It appears on the verge of becoming a central key term for traditional Chinese institutions of ruler-targeted criticism and admonitory advice in general.

This recent development requires our attention, as it is almost certainly caused not only by the commonness of the translation *remonstrance* but also by the fact that the institution of *jian* played an important role in pre-modern Chinese society, be it inside or outside the bureaucracy of the monarchic government. Our sources provide us with countless descriptions, anecdotes, and even normative instructions pertaining to this institution. These foster the impression that many manifestations of socio-political and ideological dissent in early Chinese texts occur within the conceptual framework of *jian*, i.e. *remonstrance*. Therefore, another factor that likely contributed to the rise of the term *remonstrance* must have been the omnipresence of its counterpart *jian*, which, judging by the number of times it is mentioned, appears to have decisively influenced the ways that people of different rank and position handled tasks requiring mutual support and agreement. At the same time, despite our predecessors’ laudable accomplishments as outlined above, this institution has remained a largely unexplored topic. Hence, we have decided to return to the topic of *jian* in this volume to bring more light to this historically complex and wide-ranging phenomenon.

The volume opens with a paper by **Thomas Crone**, who attempts to lay the volume’s conceptual foundation by conducting a semantic analysis of the earliest documented usages of the word *jian* as found in sources of the pre-Qin period. After singling out the three most dominant conceptual aspects, he argues that the earliest reference to the term in a bronze inscription from the tenth century BCE strongly suggests that *jian* had already developed as an institutionalised practice followed by close advisors of the Zhou kings. Moreover, it possibly also existed outside the royal court. Crone uses fourth- and third-century BCE narratives to point out that *jian* potentially occurred within very different socio-political settings and in similarly diverse literary and oral formats. While extant texts tend to focus on instances of remonstrance between high-ranking officials and their monarchs, this preference may tell us more about the social background of the texts’ readers than the historical reality of *jian* that existed behind these texts. Referring to the aforementioned circumstance, in which *jian* appears to have occupied a dominant position within the conceptual field of ruler-targeted ad-

26 CHANG Su-ching 2013, 63–68.

vice and criticism, he concludes by proposing that the history of *jian* in its entire complexity may comprise significantly more than commonly assumed.

Remaining within the historical framework of the pre-Qin period, **Felix Bohlen** also explores the dynamics of remonstrance from a literary perspective. Focusing on the Shanghai Museum manuscript ‘The Remonstrance of Bao Shuya and Xi Peng’ of the late fourth century BCE, he investigates the narrative structure of the work and attempts to retrieve information on its potential readership and its socio-political background. In his analysis, Bohlen shows that the text makes extensive use of historical *exempla* across different narrative layers. Based on additional evidence obtained from transmitted texts and a reinterpretation of the manuscript’s second title, Bohlen reaches the intriguing conclusion that the text itself could have served the function of an *exemplum* as well and may have belonged to a collection of historical anecdotes prepared to be learned and cited by (aspiring) court officials and counsellors.

In the next paper, **Paul Fahr** explores the purpose of the institution of remonstrance through a study of the biography of the chancellor Wang Jia 王嘉 (d. 2 BCE) as found in ‘Hanshu’ 漢書. He portrays Wang as a conscientious and unrelenting critic of his lord, Emperor Ai of Han 漢哀帝 (r. 7–1 BCE). Wang is said to have remonstrated repeatedly against Ai’s favouritism towards his lover Dong Xian 董賢, as documented by three memorials that Ban Gu inserted into his account of Wang Jia’s fate. Fahr argues though that the chancellor’s main incentive was not to prevent his emperor from bestowing certain private favours upon one of his subjects. Rather, Wang used this opportunity to remind his emperor of certain general principles of decision-making and, in doing so, arguably sought to strengthen the position of the ministerial elite *vis-à-vis* the throne. Fahr proposes that the institution of remonstrance was less a means to benefit its addressee, as traditional Chinese theory holds, than a tool to check his power.

Béatrice L’Haridon examines parts of the ‘Hou Han shu’ 後漢書 regarding the role of remonstrance towards the end of the Eastern Han dynasty when the rule of the Han emperors was at a turning point. Drawing on memorials of famous Eastern Han ministers and other high-ranking officials, such as Chen Fan 陳蕃 (d. 168), Li Yun 李雲 (d. 159), and Dou Wu 竇武 (d. 168), among others, she points out growing tensions between scholar-officials and the eunuchs at the imperial court. She observes that remonstrances increasingly adopt a harsh and dramatic tone and, in some extreme cases, lead to the punishment and death of the particular official. Indirect and relatively polite expressions of protest appear to have become a rarity in this often highly conflictual and hostile political atmosphere. Moreover, L’Haridon points out that while remonstrances may initially take inauspicious signs and natural disasters as an occasion to demand policy changes, this pretext is frequently dropped if the emperor does not re-

spond to his officials' protest in the requested manner. This tendency, she argues, corresponds to a general preference of the 'Hou Han shu', which does not value religious discourse as much as concentrated efforts to manage human affairs correctly.

In the last but one paper of this volume, **Eugen Wiens** surveys remonstrances submitted between the Han and Song dynasties that respond to imperial amnesties. He demonstrates that just as the practice of general amnesties was common to the imperial court, so it was common to protest against them. Moreover, Wiens observes that many of the relevant remonstrances are remarkably alike, following similar lines of argumentation and drawing on the same scriptures and passages when substantiating their claims with testimony. The same is also often true of the official responses to the attempts to protest against these amnesties. Therefore, Wiens suggests that these arguments for and against amnesties form a complex and long-reaching historical discourse, whose development is best understood when analysed across different periods instead of in the concrete historical embeddedness of single instances.

In the last contribution to this volume, **Christian Schwermann** leaves the realm of early China to return to the medieval and modern European institutions of remonstrance, compare these structurally to certain aspects of the Chinese tradition of remonstrance and, in a final step, to examine whether and to what extent the latter might have influenced the expression of dissent in the People's Republic of China up to the present day. By analysing two prominent cases of dissent in the late 1950s and 2000s, he comes to the conclusion that both pre-modern remonstrants and modern (or even contemporary) political critics were not only silenced and eliminated in similar ways, but that the latter staged their critiques as remonstrances in order "to achieve a particularly strong effect, anchored in pre-modern institutionalism".²⁷

While the underdeveloped state of research on this topic prevents us from reaching clear and detailed conclusions, the first and preliminary impressions gained from our Chinese sources nonetheless deserve discussion and elaboration. What, for instance, does it say about early China if institutions such as remonstrance existed as early as 1000 BCE, likely over two millennia before their European counterparts? Why is it that early Chinese remonstrances almost exclusively survive within historiographical works or other narrative collections, but the original speeches and memorials have been lost? What do we make of the peculiarities of these remonstrances when compared to their European counterparts? What about their tendency not only to protest but also to teach and

²⁷ See Schwermann, 196–197. At this point it is appropriate to point out that, for the sake of consistency, we use traditional characters throughout, except for quotations from texts originally printed in simplified characters as in Christian Schwermann's contribution to this volume.

instruct their recipients? Does this characteristic reflect actual practice and constitute a distinguishing feature of early Chinese remonstrance or does it merely stem from the didactic ambitions of those who created and refined the corresponding narratives? We may not be able to satisfyingly answer these questions, but we consider it worth a try.

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A Different Flavour: The Concept of “Remonstrance” (*jian* 諫) in Texts of the Zhou Period

Abstract

*This paper explores the semantic nuances of the word *jian* 諫 in texts of the Zhou period. It argues that almost all instances of *jian* in extant literature are directed at social and political authorities, pursue a prohibitive intent, and serve a didactic purpose by educating the recipient about the problem at hand. The combined presence of these three features distinguishes most remonstrances from other modes of counsel and makes them recognisable even in cases where they are not explicitly marked as *jian*. At the same time, however, remonstrances occur in various socio-political contexts, suggesting that they were composed and performed in a broad range of styles. While the narratological focus of extant Zhou period literature suggests that remonstrance was primarily a mode of administrative communication between high-ranking court advisors and sovereigns, there is unmistakable evidence that it occurred in many other parts of society as well. This finding should encourage us to see in remonstrance a fundamental method of criticism and counsel that shaped human interaction and communication throughout various social strata of Zhou period societies.*

The sixth volume of the Qinghua bamboo manuscript collection contains two copies of a text that depicts the young Lord Wen of Zheng 鄭文公 (r. 673–628 BCE) paying a last visit to a noble named Taibo 太伯, his apparent head of governmental affairs.¹ The text recounts that Taibo has fallen ill and will die soon. When his sovereign asks him how he is supposed to rule his country without him, Taibo gives him some final advice by quoting an allegedly ancient saying:

為臣而不諫，卑(譬)若饋而不酖(貳)。

“To be a servant and not to remonstrate is like feasting someone with only one type of dish.”²

1 We do not know much about Taibo (lit. ‘Grand Eldest Brother/Uncle’). The text states that he was the son of Ziren Chengzi 子人成子. The Qinghua editors speculate that Taibo’s father may have been the founder of the Ziren lineage, Ziren Yu 子人語. Ziren Yu was the son of Wen’s grandfather, Zhuang 莊 (r. 744–701 BCE). Thus, Taibo may have been Wen’s elder (or eldest) cousin.

2 Qinghuajian 清華簡, eds. Li Xueqin 李學勤 et al., Qinghua daxue cang Zhanguo zhujian 清華大學藏戰國竹簡 (8 vols.), vol. 6, Beijing 2016, 58, 119.

Taibo then recounts the eventful history of the house of Zheng, beginning with its founder and Wen's great great grandfather, Huan 桓 (r. 806–771 BCE), until the violent conflicts between Wen's father and his brothers, which had subsequently led Zheng into decline during the early seventh century BCE. Turning to Wen, Taibo admonishes him not to waste his time with playful idleness but to listen carefully to his subordinate nobles and advisors. Without their counsel, Taibo argues, Wen “would be like an ill [person] without a physician” (*pi ruo ji zhi wu yi* 譬若疾之無醫).³ Reminding him that it is in his own hands whether later historical narratives about him will resemble those of the glorious Shang Tang 商湯 or those of the miserable Shang Zhou 商紂, Taibo concludes his speech with another dictum:

君之亡(無)𨾏(問)也，則亦亡(無)𨾏(聞)也；君之亡(無)出也，則亦亡(無)內(入)。

“Without questions [OC *məns], you will also have no answers [OC *mən]; without expenses [OC *k-hlut], you will also have no revenues [OC *nup].”⁴

While Taibo's emphasis on asking advisors for counsel and criticism is commonplace in Chinese didactic historical anecdotes of the Eastern Zhou period, to compare remonstrance to serving food of different types and flavours appears to be an ambitious and idealistic simile.⁵ The upward-directedness of the verb *kui* 饋, which more precisely refers to hosting a guest of higher rank, indicates that this comparison was chosen with great care. However, to relate an expression of criticism to the act of hosting an esteemed guest seems one-sided and heavily indebted to the conceptual perspective of the remonstrator. In fact, given the positive bias that the text exhibits towards ministers and advisors, one could even go as far as to suspect that the saying was not ancient at all but was the product of wishful thinking invented by the text's authors – low-ranking nobles and scribes, i. e. the historical successors of those to whose advice Lord Wen was told to listen.

It is not my intention to discredit this line of interpretation in general. Like those of many other anecdotes in Eastern Zhou historical literature, the text's socio-political and ideological preferences are undeniable and may, in fact, tell us more

3 Qinghuajian, vol. 6, 62, 68, 119, 125.

4 Qinghuajian, vol. 6, 62–63, 68, 119, 125. Old Chinese (OC) Reconstructions used in this paper are those of Axel SCHUESSLER, *Minimal Old Chinese and Later Han Chinese. A Companion to Grammata Serica Recensa*, Honolulu 2009.

5 For the lexicographic identification of the graph 飮, see CHENG Yan 程燕, *Qinghua liu kaoshi san ce* 清華六考釋三則, 2016, http://www.bsm.org.cn/show_article.php?id=2525 (2019/06/03); CAO Fangxiang 曹方向, *Qinghua liu “kui er bu er” shi jie* 清華六“饋而不二”試解, 2016, http://www.bsm.org.cn/show_article.php?id=2529 (2019/06/03); SU Jianzhou 蘇建洲, ‘Qinghua liu: Zheng Wen Gong wen Taibo’ “kui er bu er” bushuo 《清華六·鄭文公問大伯》「饋而不二」補說, 2016, http://www.bsm.org.cn/show_article.php?id=2535 (2019/06/03).

about its authors and readers than historical realities.⁶ However, this should not prevent us from taking note of actual cultural habits woven into such narratives to increase the plot’s plausibility and persuasiveness. At least in regard to *jian* 諫 as a way of ‘intellectually feasting’ the monarch, comparable conceptions seem to have been shared more broadly than this single instance suggests. In fact, based upon a reference to *jian* in a Western Zhou bronze inscription discussed below, it seems reasonable to conclude that despite the uncertain archaism of Taibo’s saying, the perception of remonstrance as an intellectually ‘nurturing’ process may have already existed for several centuries by the time the manuscript was written.

Hence, I emphasise that when facing *jian* and its English translation *remonstrance*, we should avoid assuming that the institution referred to was nothing but a bureaucratic means for officials to protest against the decisions of someone superior. While much of this view does indeed encapsulate the use of *jian* in Zhou period sources, *jian* was commonly understood to represent more than only an expression of protest. As a closer examination of its textual testimony demonstrates, from the earliest times *jian* was perceived to possess not only an *obstructive* but also an *instructive* purpose. Along with case-specific criticism, Zhou period remonstrators often used the occasion to introduce their superior to fundamental principles of personal and governmental behaviour. As the content of these teachings regularly overshadows the original issue and in some cases is even offered pre-emptively, it is evident that *jian* was intended not to challenge authority and leadership openly but to steer it in the right direction. Therefore, as in Taibo’s case above, what was implicitly regarded as a right was often explicitly claimed to represent a duty.

In this paper, I take this peculiarity of ancient Chinese remonstrance as an occasion to conduct a detailed conceptual examination of the term *jian* and the institution behind it. Following a common approach of cognitive semantics, I have separated my discussion into ‘prototypical’ characteristics and more peripheral aspects of *jian*. I will emphasise that while Zhou period remonstrances commonly share a relatively fixed amount of characteristics, which allow us to distinguish them from alternative modes of counsel and criticism, their submission and presentation appear to have been common in various socio-political circles. Therefore, it can be assumed that these remonstrances came in an equally broad range of formats. Consequently, I will end this paper by arguing that we should refrain from regarding Zhou period remonstrance as a concept and institution that existed predominantly between high-ranking court advisors and rulers. Instead, we should attempt to treat it as a historically widespread cultural phenomenon. This approach encourages us to apply the concept more broadly to

6 Compare also David SCHABERG, *A Patterned Past. Form and Thought in Early Chinese Historiography* (Harvard East Asian monographs 205), Cambridge, MA/London 2001, 258–270.

comparable but unmarked instances and to understand remonstrance as a fundamental method of criticism and counsel targeted at superiors that characterised interaction and communication in various social strata of Zhou period societies.

1 Zhou Period Remonstrance

If one wanted to define the most salient features of remonstrances in Zhou period texts, one would probably end up with a short list of two or three items. The first and most obvious is remonstrance's upward direction, namely that its submitter or presenter is necessarily always someone subordinate to its recipient, whether in terms of aristocratic title, official position, gender, or age. There have been claims that *jian* (OC *krâns) can also be aimed at persons of subordinate rank, but these are most likely merely instances of graph loaning, where the homophone term *jian* 監 (OC *krâm, 'to supervise, to examine') is intended.⁷ If we subtract these instances from our pool of references, nearly all remaining usages of *jian* in Zhou period literature address an upward-directed expression of criticism. In fact, as I address later on, even in cases where the submitter and recipient are formally said to be of the same rank and status, the remonstrance indicates that the actual power relationship is not that of equals. This indicates that it is informal and factual hierarchy that ultimately decides if a certain act is considered to be remonstrance or not. Thus, while the act of remonstrating can be superficially read as an attempt to direct and guide a certain individual, it is always also an indirect expression of submission and a sign that the remonstrator finds it impossible to command his or her opponent.

This feature distinguishes remonstrance from other, more general modes of criticism that presuppose an egalitarian or even authoritarian power constellation. In an anecdote of the 'Han Feizi' 韓非子, for instance, we are told that the court musician Kuang 師曠 once threw his lute at Lord Ping of Jin 晉平公 after Ping had openly bragged before his advisors that the greatest benefit of

7 For instance, the editors of the 'Jinwen changyong zidian' note in their entry on *jian* that most bronze inscriptions use the graph to write a verb that refers to a downward-directed action. See CHEN Chusheng 陳初生/ZENG Xiantong 曾憲通 (eds.), *Jinwen changyong zidian* 金文常用字典, Xi'an 1987, 254. However, a comparison of the received and manuscript version of the 'Wu wang jian zuo' 武王踐阼 shows that the graphs *jian* 諫 and *jian* 監 could be used as loans in pre-Qin times. See Shangbojian 上博簡, eds. MA Chengyuan 馬承源 et al., *Shanghai bowuguan cang Zhanguo Chu zhushu* 上海博物館藏戰國楚竹書, 9 vols., vol. 7, Shanghai 2008, 21, 157–158, 167. The same proposal has also been made with regard to a passage of the 'Han Feizi' by CHEN Qitian 陳啟天, *Ceng ding Han Feizi jiaoshi* 增訂韓非子校釋, Taipei 1994, 166. As I demonstrate in my discussion of the Da Yu ding 大盂鼎 inscription in the second part of this paper, *jian* 監 ('to supervise, to examine') fits perfectly into the general context of the respective inscriptions.

being a ruler was that no one dared to disagree with him. In a comment on the anecdote, the ‘Han Feizi’ criticises Kuang for having failed to be a good “servant” (*chen* 臣) by “opposing” (*fei* 非) Lord Ping. The comment emphasises that Kuang did not express his discontent appropriately in the form of a “servant’s remonstrance” (*ren chen zhi jian* 人臣之諫) but instead chose to conduct “a lord’s punishment” (*ren zhu zhi zhu* 人主之誅).⁸ Thus, remonstrance is implicitly understood to represent a noncoercive way for servants to criticise their lords.

The second most dominant feature is that remonstrances typically come in the shape of uttered responses to a decision or action and often commence with a prohibition in the style of *bu ke* 不可 (“this is not permissible”).⁹ As mentioned in the introduction to this volume, this trait may have been derived from the possibly etymologically ancestral verb *lan* 攔/闌 (OC *rân, ‘to stop, to block’).¹⁰ Fittingly, probably the earliest extant written record of the word *jian*, which is found inscribed in the tenth century BCE bronze vessel Da Yu ding 大盂鼎 (JC: 2837), happens to have been written with the graph 𠄎, consisting of the phonetic *jian* 柬 and the two significs *yan* 言 (‘speech, talk’) and *men* 門 (‘door’). Thus, while the first signific suggests *jian*’s communicative character, the second appears to reflect its generally obstructive and preventive intention.

However, a closer examination shows that it would be an etymological fallacy to infer that a remonstrance’s intention was only to stop an ongoing or planned action of someone superior. This becomes particularly evident in instances that are not portrayed as prohibitions in response to a concrete wrongheaded undertaking or decision. Take, for instance, the following anecdote found in the Qinghua manuscript ‘Zhao Jianzi’ 趙簡子, dated to the late fourth century BCE, which depicts a remonstrance given by the Jin 晉 noble Fan Xianzi 范獻子 (?–501 BCE) to Zhao Jianzi (?–475 BCE), a high-ranking minister of Jin:

𠄎(趙)東(簡)子既受𠄎(承)𠄎(將)軍，才(在)朝，𠄎(范)獻子進諫曰：「昔𠄎(吾)子之𠄎(將)方少，女(如)又(有)𠄎(過)，則非子之咎，𠄎(師)保之臯也。就𠄎(吾)子之𠄎(將)𠄎(長)，女(如)又(有)𠄎(過)，則非子之咎，傳母之臯也。今𠄎(吾)子既為(政)𠄎(將)軍(已)已。女(如)又(有)𠄎(過)，則非人之臯，𠄎(將)子之咎。子𠄎(始)造於善，則善人至，不善人退。子𠄎(始)造於不善，則不善人至，善人退。用𠄎(由)今以𠄎(往)，𠄎(吾)子𠄎(將)不可以不戒已(已)！」

8 Han Feizi 韓非子, eds. WANG Xianshen 王先慎/ZHONG Zhe 鍾哲, HAN Feizi jijie 韓非子集解, Beijing 1998, 15.355.

9 This feature has received particular attention with regard to instances of *jian* in the ‘Zuozhuan’ and ‘Guoyu’. Compare David SCHABERG, Remonstrance in Eastern Zhou Historiography, in: Early China 22 (1997), 133–179, here 141; CHEN Zhihong 陳致宏, ‘Zuozhuan’ xu “jian” xilun, 《左傳》敘“諫”析論, in: Xingda Zhongwen xuebao 興大中文學報 2009, 85–104, here 90; HE Denghong 何等紅, ‘Zuozhuan’ jian li xushi yanjiu zhi xushi moshi 《左傳》諫例敘事研究之敘事模式, in: Qiqihaer daxue xuebao 齊齊哈爾大學學報 2015.1, 96–99, here 99.

10 Compare the introduction of this volume, 20.

“After Zhao Jianzi had been appointed general and resided at the court [of Jin], Fan Xianzi submitted a remonstrance saying: ‘In the past, when you were still young, if you committed an error, it was not your sin, but the crime of your teachers. When you grew older, if you committed an error, it was not your sin, but the crime of your foster mother. Now you have already become the chief general of the military. If you commit an error, it will not be the crime of someone else but your sin. If you begin to advance to goodness, then good men will come and bad men will leave. If you begin to advance to badness, bad men will come and good men will leave. Therefore, from today on, you must be careful!’”¹¹

The manuscript then continues with another dialogue between Zhao Jianzi and his advisors, separated by a periscope marker and thematically unrelated to the remonstrance of Fan Xianzi.

Note that there is no concrete incident that allows us to conclude that Fan Xianzi’s remonstrance was an act of protest against an action Zhao Jianzi had conducted or was about to conduct. The occasion for his speech was simply that Zhao Jianzi had been appointed to become general and thereby ascended to a position of high accountability and significance. This is why Fan Xianzi’s remonstrance reads like general admonitory advice that was intended to raise Zhao Jianzi’s awareness of the potential challenges and dangers of his new office. His final suggestion to do “good” (*shan* 善) and attract “good men” (*shan ren* 善人) is applicable to almost any situation and, thereby, meant to teach a fundamental lesson on successful administrative work in general.

As a result, in this case, the English word *remonstrance* becomes a rather awkward choice when translating *jian*. While we could replace it with a term more appropriate to the context, such as *admonition* or *instruction*, it is crucial to note that the contextual and syntagmatic embedment of *jian* does not suggest that the term is used in a different sense in this passage. Not only does it continue to refer to an individual’s attempt to constrain the actions of a superior, but it is also explicitly noted to have been “submitted” (*jin* 進) to its recipient, alluding to the formalised and possibly even epistolary character of *jian*. Both circumstances neatly match those of countless passages in which the noun seems to refer to an expression of protest against a planned or ongoing endeavour and has, therefore, generally been rendered as *remonstrance*. Thus, the reason that *remonstrance* seems an unfit term in this passage is not due to a sudden conceptual change in its original context but more likely because the conceptual core of the word *jian* itself does not fully concur with that of the (modern) usage of the word *remonstrance*.¹²

11 Qinghuajian, vol. 7, 43–44, 107.

12 As stated in the introduction to this volume, there are now obsolete or rare usages of the noun *remonstrance* (or the verb *remonstrate*) that signify ‘explanation’ or ‘demonstration’ and, hence, could potentially provide adequate translations for *jian*.

Similar examples can be found elsewhere in Zhou literature as well, indicating that the usage given above cannot be shrugged off as an exception. For instance, in the chapter ‘Wang zhi’ 王制 (Royal Institutions) of the ‘Liji’ 禮記 (Book of Rites), the king is said to annually “receive” (*shou* 受) remonstrances in the form of lists of name and day taboos compiled by his grand astrologer; these indicated to him things he was generally required to avoid during the coming year.¹³ In the ‘Han Feizi’, the Song general Gou Qiang 購強 is depicted as remonstrating (unsuccessfully) against Duke Xiang of Song 宋襄公, urging him to attack his opponent’s army while it had not yet lined up in battle formation.¹⁴ While Gou Qiang’s remonstrance is a reaction to Duke Xiang’s *potential* fault, it is portrayed to be of a pre-emptive character, as the text does not indicate how the Duke himself planned to attack his enemy. This also applies to another anecdote recorded in the ‘Lüshi chunqiu’ 呂氏春秋 (Master Lü’s Spring and Autumn Annals), in which one of his grand masters remonstrates against Lord Jian of Qi 齊簡公, warning him of animosity between two of his personal servants and suggesting he rid himself of one of them.¹⁵ Again this warning appears to have been expressed in general foresight that troubles *could* occur if certain measures were not adopted.

Moreover, even in cases that commence with the unmistakable prohibition of a specific act, the overall intention of the remonstrance often seems heavily characterised by what Su-ching Chang has referred to as the “instructive mode”.¹⁶ After briefly protesting against a sovereign’s measure or plan, such *jian* often quickly move away from the concrete incident that incited their submission and instead broadly explain types of behaviour and strategies that should be adopted instead. As Schaberg and others have noted, in parts of the ‘Guoyu’ 國語 (Discourses of the States) and ‘Zuozhuan’ 左傳 (The Zuo Traditions [on the ‘Spring and Autumn Annals’]), these segments are often supported by and illustrated with “inherited language”: popular sayings, historical exempla, quotations of classical scriptures, and general references to ancient rituals and conventions.¹⁷

13 “The grand scribe protocols the rites. He takes bamboo slip records and submits name and day taboos [to the throne]. After fastening and purifying himself, the Son of Heaven receives the remonstrance. The minister of accounting reports the harvest results to the Son of Heaven. After fasting and purifying himself, the royal household intendant receives the report.” (大史典禮，執簡記，奉諱惡。天子齊戒受諫。司會以歲之成質於天子。冢宰齊戒受質。) Liji 禮記, ed. Ruan Yuan 阮元, Liji zhengyi 禮記正義, in: Shisanjing zhushu 十三經注疏 (2 vols.), Beijing 1980, 13.117.

14 Han Feizi, 11.283–284.

15 Lüshi chunqiu 呂氏春秋, eds. XU Weiyu 許維通/LIANG Yunhua 梁運華, Lüshi chunqiu jiaoshi 呂氏春秋校釋 (2 vols.), Beijing 2009, 17.465–466.

16 CHANG Su-ching, Three Rhetorical Modes in Pre-Qin Court Remonstrances, in: Garret P.S. OLBERDING (ed.), Facing the Monarch. Modes of Advice in Early Chinese Court (Harvard East Asian Monographs 359), Cambridge, MA/London 2013, 42–68, here 43–54.

17 SCHABERG 1997, 141; CHANG 2013, 43.

Collectively these parts of the remonstrance often reach a size and intellectual depth that significantly overshadow the original occasion. One of the most impressive examples of such an instance is found in an anecdote recorded in the ‘Guoyu’, in which Lord Wen of Guo 虢文公 remonstrates against Zhou King Xuan’s 周宣王 (r. 827–782 BCE) decision not to conduct personally the ritual ploughing of the royal fields. After explaining the social and religious purpose of the ritual to Xuan, Wen provides his sovereign with a detailed and extensive description of the entire ritual.¹⁸ As the citation and discussion of this example would reach beyond the scope of this paper, I cite a more compact instance found in the ‘Zuozhuan’ and ‘Guoyu’, which possesses the same characteristics:

二十三年，夏，公如齊觀社。非禮也。曹劌諫曰：「不可。夫禮，所以整民也。故會以訓上下之則，制財用之節。朝以正班爵之義，帥長幼之序。征伐以討其不然。諸侯有王，王有巡守，以大習之。非是，君不舉矣。君舉必書。書而不法，後嗣何觀？」

“During the summer of the twenty-third year, Lord [Zhuang of Lu] went to Qi to watch the sacrifice to the spirit of the soil. This was against the rites. Cao Gui remonstrated and said: ‘This is not permissible. As for ritual, it serves the purpose of ordering the affairs of the subordinated lineages. Thus, [the subordinated lineages] gather to teach precepts followed by those above and below and to establish restrictions on resources and expenses. They attend audiences to adjust ranks and positions and to promote the principle of seniority. And if they do not comply, they will be sanctioned with punitive campaigns. The rulers of the states attend the royal audience, and the king conducts trips of inspection in order to practice [these rituals] on a large scale. A ruler does not undertake what contravenes [ritual]. All of his undertakings must be written down. If what is written down is not exemplary, what will later descendants set their eyes upon?’”¹⁹

This remonstrance is clearly much more than Cao Gui’s attempt to prevent or stop the ruler of Lu from committing a violation against ritual. Not only does Cao Gui briefly explain why the ruler of Lu should not contravene ritual, but he also uses the opportunity to instruct his sovereign on the purpose and content of ritual.

As Felix Bohlen and Paul Fahr’s contributions to this volume show, instructive and pre-emptive remonstrances remained an object of intellectual interest throughout different periods and circles of the Zhou, as well as, most certainly, in later periods.²⁰ Hence, it is necessary to add a third item to our list of salient,

18 Guoyu 國語, ed. Xu Yuangao 徐元誥, Guoyu jijie (xiuding ben) 國語集解 (修訂本), Beijing 2002, 1.15–22.

19 Zuozhuan 左傳, ed. Yang Bojun 楊伯峻, Chunqiu Zuozhuan zhu 春秋左傳注 (4 vols.), Beijing 1981, Zhuang 23.1, 225. For the ‘Guoyu’ version of the same narrative, see Guoyu, 4.144–146.

20 BOHLEN, 58; FAHR, 91–99.

prototypical features. Apparently remonstrances could develop more pre-emptive and didactic natures, and, thereby, they were often intended not only to prevent a particular mistake but also to steer their recipient more generally away from harm by guiding him or her in the direction of success. Thus, prohibitions and counterproposals articulated in the form of remonstrances commonly emphasise that their observation is in the recipient’s interest. While this line of argumentation often involves references to former legal and social conventions, compliance with these rules is not typically valued for its own sake. Instead, even in texts that value traditional conventions and rituals, such as the ‘Zuozhuan’ and ‘Guoyu’, remonstrators often spend considerable time and energy pointing out that adherence to such rules is ‘profitable’ (*li* 利) to the recipient.²¹ Thus, while the importance of ancient customs and precedents for the practice of remonstrance has understandably received much scholarly attention, what is shared by *jian* throughout almost every text is not its devotion to cultural memory and tradition but its emphasis on how it benefits the personal or political future of the remonstrance’s recipient.

Accordingly, there are no remonstrances that directly challenge the recipient’s control and power to make the final decision on the particular matter. As has been frequently observed, remonstrances represent a type of criticism towards superiors that does not attempt to question but instead consolidates their authority. Moreover, in a passage of the ‘Zhuangzi’ 莊子, remonstrance even appears as a complementary counterpart to *jiao* 教 (‘education, teaching’),²² denoting an ‘instrument of rectification’ (*zheng zhi qi* 正之器) that moves in the opposite direction of *jiao*, reaching from the bottom to the top. The Tang scholar Cheng Xuanying 成玄英 (seventh century AD) notes in his commentary on the passage: “servant and son remonstrate against those above; ruler and father educate (*jiao*) those below” (*chen zi jian shang jun fu jiao xia* 臣子諫上君父教下).²³ Thus, the two measures are claimed to differ in their hierarchical embedment but not in their instructive nature.

At the same time, this feature also distinguishes remonstrance from forms of criticism that belong to the semantic field of ‘lament’ and ‘defamation’, which in ancient Chinese contained words such as *bang* 謗, *fei* 誹, *yuan* 怨, and *yi* 議. While these terms are regularly paralleled with and related to the practice of remonstrance in early Chinese texts, it is clear that they represent a separate

21 Compare also CHEN 2009, 94.

22 The passage in question states: “resentment and affection, taking and giving, remonstrance and education, giving birth and killing, these eight are instruments of rectification.” (怨、恩、取、與、諫、教、生、殺：八者，正之器也。) Zhuangzi 莊子, eds. CAO Chuji 曹礎基/HUANG Lanfa 黃蘭發, Nanhua zhenjing zhushu 南華真經注疏 (2 vols.), Beijing 1998, 5.300.

23 Zhuangzi, 5.300.

category. They are hostile and destructive forms of criticism that intend to harm (and not to support) their addressee and, due to fear of retribution, take place in their addressee's absence. Hence, in historical anecdotes of the 'Guoyu' and 'Zuozhuan', defamatory talk, unlike remonstrance, is commonly attributed to people of lower strata who have no access to their ruler.²⁴ Moreover, 'Lunyu' 論語 (Analects of Confucius) 19:10 famously distinguishes 'defamation' (*bang*) from *jian* by arguing that the latter can be confused as the former if there is a lack of "trust" (*xin* 信) between the subject and the object of criticism.²⁵

Along with the anecdotal references to *jian* cited above, these core features of *jian* largely support the simile quoted at the beginning of this paper. As remonstrances were expected to be constructive and helpful advice, it is easy to see why they would be compared to the practice of 'feeding someone superior' (*kui*). Regardless of whether a remonstrance was truly a beneficial and enjoyable experience for its recipient, the conceptual evidence from pre-Qin sources does suggest that *jian* was commonly understood to be of a 'nutritious' character, containing valuable teachings and ideas to save a sovereign from failure and misery. Thus, while a remonstrance's immediate purpose may have been 'stopping' (*lan*) the recipient from committing a certain fault, this purpose seems often to have served as a pretext for communicating matters and ideas of broader, general concern.

2 Peripheral Aspects

Any attempt to identify additional features shared by Zhou period remonstrances faces the challenge that extant textual material portrays remonstrance in an abundance of different socio-political settings and various oratory or literary formats. Moreover, this diversity does not appear to have been a recent development, as the earliest records of the word *jian* in Western Zhou bronze inscriptions suggest that its practice was commonly followed by very different groups and strata of the early Zhou period. For instance, the aforementioned inscription of the bronze vessel Da Yu *ding* 大盂鼎 supports the idea that the "handing in of remonstrances" (*ru jian* 入諫) had become an institutionalised practice between close advisors and the Zhou kings. This inscription, generally believed to date to the twenty-third year of King Kang of Zhou's reign 周康王 (1005/03–978 BCE), portrays the king as demanding that his subordinate Yu 盂 remonstrate continuously against him while the king simultaneously awards him with additional tasks and presents:

24 Zuozhuan, Xiang 14.6, 1017; Guoyu, 17.504.

25 Lunyu, 22.741.

唯九月，王在宗周，令(命)孟。王若曰：「孟，不(丕)顯文王，受天有大令(命)。在武王嗣文王(作)邦，辟(闢)厥匿，匍(撫)有四方，峻正(政)厥民。[...]已！女(汝)妹(昧)辰又(有)大服。余唯即(既)朕小學，女(汝)勿(無)訖(弊)余乃辟一人。今我唯即井(型)康(稟)于文王正德。若文王令二(三)正，今余唯令女(汝)孟召(紹)焚(榮)，敬擁(雍)德埏(經)。敏朝夕入(諫)，享(享)奔走，畏天畏(威)。」

“In the ninth month, the king was in Zongzhou and gave a mandate to Yu. The king said as follows: ‘Yu, the greatly illustrious King Wen received the Great Mandate from Heaven. When King Wu inherited from Wen the founding of the country, he drove off its enemies,²⁶ pacified the regions of the four quarters and ruled their lineages. [...] Alas! Day and night, you have been of great service [to me]. Already when I attended primary school, you did not deceive me, your lord, the one man. Today I pursue the upright grace of King Wen. Just like King Wen mandated his ministers, I mandate you today, Yu, to extend [his] glory, to revere and enjoy the principles of grace. Diligently hand in remonstrances during morning and evening audiences, rejoice in bustling around, and fear the awe-inspiring power of Heaven.’” (Da Yu *ding* 大孟鼎, JC: 2837)

The king then continues to order Yu to “diligently supervise punishments and litigations” (*min jian fa song* 敏諫[監]罰訟)²⁷ and to help him to “examine the subordinated lineages and border regions received by the former kings” (*xing xian wang shou min shou jiang tu* 省先王受民受疆土). For this purpose, he awards Yu with control over 1709 domestic servants, commoners, and nobles. Thus, by all appearances, Yu was (or at least had become) a figure of high rank and status, whose support of the throne was of great significance to the king. This is also supported by the fact that the inscriptions of the Da Yu *ding* and Xiao Yu *ding* 小孟鼎 (JC: 2839) reveal that Yu was a descendant of the Nangong 南宮 lineage, which is elsewhere reported to have been a powerful ally of the house of Zhou since the reign of King Wen.²⁸

Under these circumstances, it appears highly doubtful that the king asked Yu to interfere continuously with his decisions when he commanded him to “hand in remonstrances during morning and evening audiences” (*chao xi ru jian* 朝夕

26 It has been common to read the noun *te* 慝 in the sense of ‘evil’ or ‘wickedness’ here. However, as it is mentioned in the context of King Wu’s victory over the regions of the four quarters, it likely meant something like ‘hostile forces’ or ‘enemy’. For similar usage of the noun *te*, compare Zuo Zhuan, Xi 28.3, 465.

27 As noted earlier, I suspect that the graph 諫 used in this passage is in fact a loan for *jian* 監 (‘to supervise, to examine’). Similar instances of loaning may also be found in the inscriptions of: the Da Ke *ding* 大克鼎 (JC: 2836), “to supervise and administer the royal household” (*jian yi wang jia* 諫义王家); the Fan Sheng *gui gai* 番生簋蓋 (JC: 4326), “to supervise [the regions of] the four quarters” (*jian si fang* 諫四方); Shu Shi *zhong* 叔尸鐘 (JC: 272), “to supervise the punishing of the low-ranking lineages” (*jian fa shu min* 諫罰庶民); and a few others. In all of them, the word written as 諫 evidently refers to an action that serves an administrative and controlling purpose, which renders *jian* 監 a suitable candidate.

28 Li Feng, *Landscape and Power in Early China. The Crisis and Fall of the Western Zhou, 1045–771 BC*, Cambridge et al. 2006; 127–128.

入讞[諫]). Given Yu's status, such an appeal would likely have been very risky and potentially counterproductive. Instead, its immediate context and an almost verbatim repetition of this phrase in an entirely unrelated passage of the 'Guoyu' suggest that this line was a formulaic expression of reverence from Kang to Yu, encouraging him to supply the royal house with counsel and advice.²⁹ Moreover, the commanding tone of the king's speech suggests that this seemingly polite gesture was probably a diplomatic manoeuvre. By officially inviting Yu to represent and advocate for his own interests at court, Kang paved the way for Yu to support and become an active part of his governmental plans and affairs. As discussed above, by remonstrating against him, Yu would, in fact, reassert his formal submission to the rule of King Kang.

All this suggests that court remonstrances had already developed into a well-established and culturally refined practice by the time the Da Yu *dīng* inscription was cast. Remonstrance was regarded not simply as a right of court advisors but also as an obligation they had to fulfil. However, this may not be everything the Western Zhou bronze inscriptions tell us about remonstrance. A relatable but quite different perspective on the phenomenon has been provided by the so-called Su you 肅卣 vessel, excavated in Shanxi in 2005 and dated to the reign of King Mu 穆 (956–918):

白(伯)氏易(錫)𠄎(肅)僕六家，曰：「自𠄎(擇)于庶人。今𠄎(厥)僕。」我興邑競(強)諫，𠄎(禁)芟(原)昔(籍)。大宮井爭(請)王。卑(俾)𠄎(叔)、禹父、改父復付(附)𠄎(肅)，曰：「非令。」曰：「乃兄𠄎(僭)鼻(畀)女(汝)，害義。敢禹(稱)令，尚女(汝)。」𠄎(肅)有(佑)王于東征，付(附)𠄎(肅)于成周。

“The eldest brother bestowed on Su six families of retainers and said: ‘Select by yourself from the many men. Today they are retainers.’ Our district of Xing remonstrated forcefully and prohibited scraping off the original household registration entries. [The head of the] ancestral temple asked the king [for a ruling]. [The king] sent Uncle Quan, Father Chen, and Father Wang to allocate [the retainers] back to Su. [They] said: ‘It was against orders.’ They said: ‘Your elder brother has unduly awarded you; he has violated against what is right and proper. We dare to proclaim [the king’s] order to reward you.’ [When] Su served the king during his campaign to the east, [the king] allocated [the retainers] to Su in Chengzhou.”³⁰

Dong Shan’s proposal to treat the two graphs 競諫 as written representatives of the adverb-verb collocation “to remonstrate forcefully” (*qiangjian* 強諫) has not

29 Guoyu, 17.503. Note that variations of the subsequent phrases *xiang ben zou* 享奔走 (“rejoice in bustling around”) and *wei Tian wei* 畏天威 (“fear the awe-inspiring power of Heaven”) are found in other synchronous inscriptions as well, suggesting that both were equally formulaic expressions.

30 Apart from a few exceptions indicated below, my transcription largely follows that of DONG Shan 董珊, Shanxi Fengxian Hengshui M2 chutu Su you mingwen chutan 山西絳縣橫水M2出土肅卣銘文初探, in: Wenwu 文物 2014.1, 50–55.

remained uncontested. Li Xueqin and, following him, Li Jiansheng have both argued that the graphs refer to personal names of two of the six families that had been handed to Su.³¹ However, this interpretation has left many scholars unpersuaded,³² as the phrase’s general context suggests that it explains why the six families are first reported to have been given to Su by his eldest brother and then said to have been “allocated back” (*fu fu* 付[附]) to Su. What can be said with much certainty is that something must have happened that denied Su his (originally illegitimate) gifts until the king himself stepped in and handed the retainers to Su after receiving his support during a military campaign.³³ The possibility that someone had remonstrated against the decision of Su’s brother offers a plausible solution to this problem.

Another challenge to Li Xueqin’s and Li Jiansheng’s interpretation concerns the two consecutive phrases *jin jue pu* 今厥僕 (“today they are retainers”) and *wo Xing yi* 我興邑 (“our district Xing”) placed immediately prior to the hypothetical mention of the “forceful remonstrance”. Syntactically similar phrases recorded in contemporaneous and later texts strongly suggest that the latter represents one linguistic unit and refers to a settlement named Xing ruled by the Su lineage.³⁴ Therefore, it is implausible to interpret the prefixed *jue pu* as consisting of the possessive pronoun *jue* (‘his’) and the noun *pu* (‘retainers’). This would result in a conglomeration of two nominal phrases – a very challenging if not entirely incomprehensible combination, syntactically speaking. However, contemporaneous bronze inscriptions not only show that *jue* could in fact represent a plural

31 Li Xueqin 李學勤, Fengxian Hengshui er hao mu you ming shidu 絳縣橫水二號墓卣銘釋讀, in: Jinyang xuekan 晉陽學刊 2014.4, 144–145; Li Jiansheng 李建生, Fengxian Hengshui M2 Peng Bo mu tongyou mingwen yanjiu 絳縣橫水M2棚伯墓銅卣銘文研究, 2014, <http://www.gwz.fudan.edu.cn/Web/Show/2251> (2018/10/11).

32 Compare TANG Hongzhi 唐洪志, Su you shiyi 肅卣拾遺, 2014, <http://www.gwz.fudan.edu.cn/Web/Show/2398> (2018/10/11); WANG Ning 王寧, Shanxi Fengxian Hengshui M2 chutu Su you mingwen jianshi 山西絳縣橫水M2出土肅卣銘文簡釋, 2014, http://www.bsm.org.cn/show_article.php?id=2010 (2018/10/11); WU Xuefei 吳雪飛, Shanxi Fengxian Hengshui Xi Zhou mu chutu Su you bushi 山西絳縣橫水西周墓出土肅卣補釋, in: Kaogu wenwu 考古與文物 2016.3, 64–68; Li Kai 李凱, Su you zhi “pu” yu Xi Zhou junshi zhidu 肅卣之“僕”與西周軍事制度, in: Hangzhou shifan daxue xuebao 杭州師範大學學報 2018.1, 27–31.

33 As Li Kai and Susanne Adamski have recently argued, the term *pu* 僕 (‘retainer’) may, in fact, refer to military personnel in these inscriptions, who probably even accompanied Su on his campaign. See Li 2018; Susanne ADAMSKI, The “Sù yǒu 肅卣” Inscription and the Debate on Western Zhōu Social Dependence, 1045–771 B.C. (unpublished manuscript).

34 This was first noted by WANG 2014, who lists the phrases *wo you Zhou* 我有周 (‘our/my possession of Zhou’) and *wo Zheng bang* 我鄭邦 (‘our/my country Zheng’) on the Mao Gong ding 毛公鼎 (JC: 2841) and Zheng Yi Bo ling 鄭義伯鱣 (JC: 9973) as evidence. One could further point out that even received sources contain similar phrases (e.g. *wo Chu guo* 我楚國 or *wo Zheng guo* 我鄭國) and thereby continue to corroborate his proposal.

pronoun ('they'),³⁵ but they also suggest that *pu* could be an intransitive verb, used in the sense of 'to be/serve as a retainer'.³⁶ This is why the most plausible reading is to treat the first phrase as an independent clause or sentence ("today they are/serve as retainers") attached to what is previously said by Su's brother.³⁷ Accordingly, the second phrase "our district Xing" becomes the subject of the next sentence, which then requires a predicate – a gap that is fittingly filled by the hypothetical adverb-verb collocation "to remonstrate forcefully". Thus, Dong Shan's proposal appears syntactically superior to Li Xueqin's and Li Jiansheng's proposal.

The remaining parts of my translation largely follow that of Dong Shan. After having submitted the remonstrance, the district of Xing prevents the six families from becoming Su's retainers.³⁸ To solve the conflict, the head of the local ancestral temple asks the king for help. The king then acknowledges that Su's brother did not possess the right to turn some of his men into Su's retainers, but he nonetheless decides to allocate them back to Su. This seemingly contradictory decision is then suggested by the context to have been related to Su's support of the king in a military campaign. Interestingly, the inscription makes no effort to conceal the fact that the king's decision not to comply with the apparently legitimate claims raised by the remonstrance may have been part of reciprocal deal between him and Su. It suggests that such mutually beneficial decisions were accepted practice among nobles at court.

35 Wu Zhenyu 武振玉, *Liang Zhou jinwen cilei yanjiu* (xuci pian) 两周金文詞類研究 (虛詞篇), Dissertation, Jilin University 吉林大學 2006, 57.

36 See the inscription of the early Western Zhou Period vessel *Ling ding* 令鼎 (JC: 2803): "The King steered the chariot and Zhai Zhong was/served as [his] retainer." (王馭, 濂(蔡)仲(僕)。) I am indebted to Susanne Adamski for this instance. For a record of the verb *pu* in later texts, compare Zuo Zhuan, Ai 2.2, 1611: "In the past, the ruler of Wei had travelled to the outskirts and Zinan had served as his retainer." (初, 衛侯遊于郊, 子南僕。)

37 Contextually speaking, it makes the most sense to treat it as part of what is said by Su's brother, since the most recent outcome of the events is clearly stated at the very end of the inscription. This renders it implausible to suggest that earlier descriptive parts of the inscription may commence with *jin* 今 ('now, today'), indicating that the following represents the current state of affairs.

38 Note that Dong Shan conjectures that the clause following the mention of remonstrance is intended to state that the people of the settlement "completely scraped off the slave registration entries" (*xian shan li ji* 咸芟隸籍). My assessment is that the radical *quan* 泉 of the phrase's third graph 𠂔 is of phonological value and may be a loan for *yuan* 原 ('former, original'), while the potential phonetic *jin* 金 (OC *kəm) of the first graph 𠂔 allows it to be read as written form of the word *jin* 禁 (OC *krəms, 'to prohibit, to forbid'). For records of the word *jin* 禁 in excavated texts written with the phonetic *jin* 金, see WANG Hui 王輝, *Guwenzi tongjia zidian* 古文文字通假字典, Beijing 2008, 779. The second term *shan* 芟 (OC *srām, here translated as 'to scrape off') might be related to *shan* 刪 (OC *ʃan, 'to erase, to delete [a manuscript]'), a later expression first found in texts of the Han Period.

Without concealing the fundamentally hypothetical nature of this reading, it should be emphasised that it draws a very different picture of the practice of remonstrance than the *Da Yu ding*. In both, the efficacy of remonstrance depended upon the grace of its recipient and, thereby, ultimately of the king himself; it was he who allowed his subjects to voice dissent, so it was also he who could overrule and ignore their claims. However, the *Su you* inscription departs from the *Da Yu ding* by suggesting that the right to remonstrate had already become more than just a privilege shared by a limited circle of high-ranking aristocrats. It seems to have been prevalent among various parts and strata of Western Zhou society and used between different groups of people. Moreover, unlike in the inscription of the *Da Yu ding*, remonstrance does not appear simply to have served the purpose of providing a superior with constructive advice but rather was meant to articulate and protect the interests of subordinated groups and individuals.³⁹ While this single, uncertain reference does not allow wide-reaching conclusions, it does raise the crucial question of the extent to which remonstrance had already turned into a diverse instrument during the first centuries of the early Zhou period and was used broadly within very different strata and circles.

According to anecdotes collected in much later works of the Eastern Zhou period, such as the aforementioned ‘Zuozhuan’, ‘Guoyu’, ‘Han Feizi’, and ‘Lüshi chunqiu’, remonstrance appears to have become pervasive in later times. Unsurprisingly, most Eastern Zhou narratives portray remonstrance as a practice followed by grand masters and other distinguished advisors of kings and monarchs. However, there is also a smaller but not insignificant number of examples that depict people of more common backgrounds remonstrating against their superiors. For instance, the ‘Zuozhuan’ contains a passage in which the “private attendants” (*shi zhe* 侍者) of Lord Xi of Zheng 鄭僖公 remonstrate against their sovereign and are finally killed by him after repeating their protest.⁴⁰ In the ‘Han Feizi’, the “middle archery guards” (*zhong she shi* 中射士) of King Ling of Chu 楚靈王 are said to have remonstrated against his abduction of the heir apparent of Song 宋 and his disrespectful behaviour towards the ruler of Xu 徐.⁴¹ The same work contains an anecdote of a remonstrance submitted by an unspecified group of “retainers” (*ke* 客) in Jingguo 靖郭, objecting against Grand Master Tian Ying’s 田嬰 plan to wall Jingguo’s capital Xie 薛.⁴² In all three cases, particular individuals were able to perform their remonstrances through local presence and personal involvement, in spite of their lack of high official rank and status.

39 Together with the inscription of the *Da Yu ding*, the *Su you* may, therefore, provide us with evidence that the institution of remonstrance already served both of the fundamental functions outlined by Paul Fahr in his contribution to this volume. See FAHR, 81.

40 Zuozhuan, Xiang 7.8, 953.

41 Han Feizi, 3.60–61.

42 Han Feizi, 8.195.

In many examples, remonstrances also occur between different members of the family. Thus, there are narratives about sons remonstrating against their fathers and mothers⁴³ or younger brothers remonstrating against elder brothers.⁴⁴ While all the respective remonstrators appear to be of distinguished and aristocratic background, they remain largely anonymous within the narratives, suggesting that their concrete identity and rank do not play a significant role. Moreover, in some parts of the ‘Lunyu’ (4:18) or ‘Liji’, we find normative instructions on how to remonstrate against one’s parents that are clearly intended to apply to (noble) families in general and not only to those of high-ranking rulers.⁴⁵ This suggests that even in the more private environment between family members, the formalised approach towards remonstrance was not necessarily abandoned. Moreover, there is evidence that remonstrance could reach beyond the realms of politics and family matters into the relationship between teachers and their disciples. In the ‘Lüshi chunqiu’, for example, we are told that the Mohist Xu Ruo 徐弱 once remonstrated against his master, Meng Sheng 孟勝, urging him not to sacrifice himself when protecting the city of Yang 陽 to guarantee the survival of the Mohist doctrine.⁴⁶ Also, in one of the excavated Chu manuscripts stored at the Shanghai Museum, Confucius’ disciple Ziyou 子游 is said to have been remonstrated against by his ‘followers’ (*menren* 門人) after one had died of hunger on their journey through the states of the central plains.⁴⁷

Remonstrances even occur between individuals that are formally of the same rank. For example, the ‘Han Feizi’ contains an anecdote according to which Yan Zhuoju 顏涿聚 remonstrated against Tian Chengzi 田成子 during a boat trip, warning him that by spending too much time at sea, he may provide others with an opportunity to conspire against him.⁴⁸ While both characters were officially grand masters, the narrative is clearly based upon the premise that Tian Chengzi had de facto usurped governmental control over Qi 齊. This detail shows that

43 Compare Zuozhuan, Xiang 21.5, 1061: “In the past, Shuxiang’s mother had been jealous of Shuhu’s mother’s beauty and not allowed her [to be with their husband]. Her sons all remonstrated against their mother.” (初，叔向之母妒叔虎之母美而不使。其子皆諫其母。)

44 Han Feizi, 14.338: “Gong Yixiu was minister in Lu and liked fish; the entire country competed to buy fish to give it to him. Gong Yixiu did not accept [the presents]. His younger brother remonstrated saying: ‘Why is it that you like fish but do not accept [the presents]?’” (公儀休相魯而嗜魚，一國盡爭買魚而獻之，公儀子不受。其弟諫曰：「夫子嗜魚而不受者，何也？」)

45 Liji, 5.39, 27.235; Lunyu 論語, eds. Liu Baonan 劉寶楠/Gao Liushui 高流水, Lunyu zhengyi 論語正義 (2 vols.), Beijing 1990, 5.155.

46 Lüshi chunqiu, 19.521–522.

47 Shangbojian, vol. 8, 15, 121.

48 Han Feizi, 3.72–73. Note that the passage itself does not mark Yan Zhuoju’s speech as *jian*. However, the chapter’s first paragraph explicitly calls Yan Zhuoju a “remonstrating noble” (*jian shi* 諫士) in reference to this anecdote, which indicates that the chapter’s compiler regarded his reaction as a remonstrance. See Han Feizi, 3.59.

remonstrance did not necessarily depend upon formal conventions and hierarchy but could reflect dynamic and non-institutionalised power structures. As such power structures are common to human society in general, it is unlikely that the practice of *jian* was reserved for a limited circle of people.

This evidence suggests that imperial scholars’ impression that in ancient times “everyone served as a remonstrator” (*ren ren jie jian guan* 人人皆諫官) is not entirely misleading.⁴⁹ That said, taken at face value, it possesses the danger of oversimplification. Did members of the Zhou societies’ lowest strata, whose very existence could depend heavily on their lords and rulers, truly possess a right to remonstrate? As our extant textual material tends to marginalise the living conditions of these groups, it is difficult to find a satisfyingly solid answer to this question.

Nevertheless, the socio-political diversity of *jian* suggests that its format and purpose may have been similarly colourful. This is not to say that remonstrance did not become increasingly institutionalised among certain circles, as has been repeatedly claimed.⁵⁰ However, such trends could not have equally affected all groups, and different people and circles may, therefore, have even developed different (institutionalised) practices. Indeed, some works depict remonstrances as complex compositions enriched by lists of historical exempla and quotations. However, others suggest that towards the end of the Zhou period, remonstrances could be of a more allusive character, hiding criticism of sensitive issues in certain similes and riddles to be deciphered by their recipient.⁵¹ It has also been frequently noted that parts of the ‘Shijing’ 詩經 (Book of Odes) and ‘Chuci’ 楚辭 (Songs of Chu) mark themselves as *jian*, suggesting that there were not only prosaic but also poetic varieties of remonstrances.⁵² This is also supported by anecdotal accounts found in the ‘Zuozhuan’ and ‘Guoyu’, which state that former kings and rulers used to order their “artisans” (*gong* 工) to recite and sing remonstrances to them.⁵³

49 WEI Yuan 魏源, in: idem., *Wei Yuan ji* 魏源集 (2 vols.), Beijing 1976, 68. See also L’Haridon’s contribution to this volume.

50 SCHABERG 1997, 177–179. CHAO Zhongchen 晁中辰, *Zhongguo jiangyi zhidushi* 中國諫議制度史, Beijing 2015, 9–15.

51 Compare David SCHABERG, *Playing at Critique. Indirect Remonstrance and the Formation of Shi Identity*, in: Martin KERN (ed.), *Text and Ritual in Early China*, Seattle, WA/London 2005, 194–225, here 197–199. Note that Schaberg doubts that these allusive remonstrances reflected actual practice.

52 I. e. the “Min lao” 民勞 and “Ban” 板 odes of the ‘Shijing’ and the “Qi jian” 七諫 rubric of the ‘Chuci’. Compare LIU Yuqing 劉毓慶/FANG Ming 方銘, *Shi Sao fenlei xuanjiang* 詩騷分類選講, Beijing 2007, 143–166.

53 *Zuozhuan*, Xiang 14.6, 1017; *Guoyu*, 1.3, 11; 17.501. On the semantic scope of the terms *gong* 工, *bai gong* 百工, and *duo gong* 多工, see LIN Sen 林森, *Shang Zhou shiqi “bai gong” yanjiu* 商周時期“百工”研究, in: *Shixue jikan* 史學集刊 2014.1, 105–112. In addition to Lin’s persuasive emphasis on the relatively high status of artisans and artisan lineages during the late Shang and early Zhou periods, I add that such passages further demonstrate that these alleged

Regardless of the historical accuracy of these claims, they nonetheless strongly support the notion that artistic presentation of remonstrances must have been known to the authors and readers of these narratives.

This variety of genres and categories is somewhat reflected in the rather complex set of collocations that the noun and verb *jian* possessed to distinguish between the different ways in which a remonstrance was submitted or presented. Thus, apart from the aforementioned word *qiang* 強 ('forceful'), adjectives or adverbs such as *zhi* 直 ('straightforward'), *gu* 固 ('persistent'), *zhou* 驟 ('repeated'), *zhong* 忠 ('faithful'), 'indirect' or 'allusive' (*feng* 諷), and *wei* 微 ('subtle') stand out as being repeatedly used in combination with *jian*. While only a few of these expressions fit into a neatly defined category, collectively they demonstrate that the authors and speakers behind the respective texts felt a shared necessity to classify conceptually the precise manner of how a certain individual remonstrated.⁵⁴

Another issue fundamental to any attempt to create a typology of remonstrances for the Zhou period is the question of whether *jian* were only presented orally or submitted in written form as well. While Han sources demonstrate that the latter had become a commonly established practice during the early imperial period,⁵⁵ the Zhou period evidence is ambiguous. On the one hand, verbs frequently used in combination with *jian*, such as *ru* 入 ('to hand in'), *jin* 進 ('to submit'), and *na* 納 ('to hand in, to take in'), not only document the formalised, institutionalised nature of *jian* but also suggest its physical and written nature.⁵⁶ As the reliance on written documents for governmental work appears to

"craftsmen families" apparently also included people trained in performative arts, such as singing and music. David Keightley, for instance, has noted that even oracle bone inscriptions suggest that *duo gong* may, in fact, refer to musicians involved in sacrifice ceremonies. Compare David N. KEIGHTLEY, *Working for his Majesty. Research Notes on Labor Mobilization in late Shang China (ca. 1200–10145 B.C.), as Seen in the Oracle-Bone Inscriptions, with Particular Attention to Handicraft Industries, Agriculture, Warfare, Hunting, Construction, and the Shang's Legacies* (China Research Monograph 67), Berkeley 2012, 36–46, here 39–40.

54 See also SCHABERG 2005, 202–203; Michael SCHIMMELPFENNIG, *Blunt or Hidden. The Problem of Defining Different Ways of Remonstrance in Traditional China*, in: *Asian and African Studies* 11.1–2 (2007), 7–20.

55 See Enno GIELE, *Imperial Decision-Making and Communication in Early China: A Study of Cai Yong's Duduan* (Opera sinologica 20), Wiesbaden 2006, as well as the contributions of FAHR, 90, and L'HARIDON, 112, to this volume.

56 Compare, for instance, the verb *na* (or the cognate verb *ru*), whose direct objects almost exclusively consist of non-abstract objects, such as financial resources or human individuals. Moreover, although there is some textual evidence that 'words' (*yan* 言) and 'orders' (*ling* 令) or 'mandates' (*ming* 命) could also be described as being 'submitted' (*ru*) and 'taken in' (*na*), these collocations again appear to refer to modes of communication that relied upon written manuscripts. Take, for instance, the office of the "Receiver of Statements" (*na yan* 納言), first mentioned in the *Shujing*. As the particular passage suggests, the purpose of this office was to

have already been common during the earliest centuries of the Zhou period,⁵⁷ there is reason to take the semantic content of these verb-noun collocations seriously. However, this phenomenon is at odds with the fact that almost all Zhou period narratives and passages mentioning remonstrance indicate an entirely oral presentation of *jian*.⁵⁸ While it is possible that much of the oral presentation was based upon written manuscripts, these texts are never mentioned.⁵⁹

Therefore, the vagueness of remonstrance’s socio-political settings and literary or oral format suggests that we should not regard its practice by high-ranking court advisors – the predominant protagonists of the extant textual and anecdotal material – as stereotypical of Zhou period remonstrances in general. There was probably much more to the phenomenon of remonstrance than what is portrayed in extant texts. While *jian* surely possessed certain unchanging core features, there were also aspects that remained open to adjustment, allowing it to be applied in manifold ways and settings.⁶⁰

3 Conclusion

David Schaberg has observed that among the countless speeches recorded in the anecdotal material of the ‘Zuo zhuan’ and ‘Guoyu’, remonstrances stand out as “having a generic name of their own”.⁶¹ In other words, while the narratives of both works frequently allow court advisors and other nobles to raise their voices

“hand out and take in” (*chu na* 出納) royal “mandates” (*ming*), e.g. to receive and distribute written appointments (*ming shu* 命書) of the King. See Shangshu 尚書, ed. Ruan Yuan 阮元, Shangshu zhengyi 尚書正義, in: Shisanjing zhushu 十三經注疏 (2 vols.), Beijing 1980, 3.20.

57 For a survey on the sociopolitical significance of literacy in Western Zhou times, see Li Feng, Literacy and the Social Contexts of Writing in Western Zhou Bronze Inscriptions, in: Li Feng/ David Prager Branner (eds.), Writing & Literacy in Early China. Studies from the Columbia Early China Seminar, Seattle/London 2011, 271–301.

58 In fact, apart from the ‘Wang zhi’ passage mentioned earlier, I have been unable to identify any anecdote in which the remonstrance is contextually suggested to have been handed in in a written form.

59 Han Dynasty records suggest that oral and literary submissions may have often gone hand in hand, as orally presented remonstrances may have been based upon previously drafted and submitted manuscripts. On this, see Giele 2006, 154–157 et passim.

60 See, for example, Felix Bohlen, Die Darstellung der Remonstration im *Guoyu*: Eine erzähltheoretische Untersuchung (Veröffentlichungen des Ostasien-Instituts der Ruhr-Universität Bochum 72), Wiesbaden 2023, 23–44, for the suggestion that remonstrances in received texts have to be seen as ‘literary remonstrances’, i.e., literary texts that stood in a kind of parasitic relationship to remonstrances in the form of administrative documents and reshaped the latter in terms of both style and contents. This would also explain why received remonstrances sometimes tend to instruct rather than formulate objections to decisions of rulers; see above.

61 Schaberg 1997, 142.

in front of their rulers and extensively speak their minds on various matters, their words are either marked as *jian* or not marked at all.

While we should not overstate the significance of this phenomenon, as both works most certainly include other types of speeches,⁶² the more specific claim that critical advice and warnings submitted to rulers are almost always referred to as *jian* when being verbally specified is generally unproblematic and can be extended to many other Zhou period texts as well. This is not to ignore that the words *zheng* 爭/諍/証 ('to contest, to protest') and *shen* 諗 ('to remind sb.') in particular seem to have occasionally been used instead of *jian*. However, there are not more than a handful of relevant usages of *shen* and *zheng*, and both seem to have operated largely as hyponyms or close synonyms within the conceptual scope of *jian*.⁶³ Moreover, as there are almost no quotations that use *zheng* and *shen* in Zhou period literature, it is impossible to determine if and how such speeches differed from ordinary *jian* at a rhetorical level. Thus, based on the available linguistic and conceptual data, there is reason to believe that *jian* was principally the epitome of critical and admonitory advice submitted to rulers in the ancient Chinese language.

This finding is not inconsequential for the study of the early Chinese history of remonstrance, as it implies that many speeches and compositions that fit the conceptual criteria outlined above but are not referred to as *jian* may be reasonably regarded as remonstrances as well. At least in the extant textual corpus, there are not many other modes of 'speaking truth to power'. Moreover, the vagueness of the concept in terms of format and socio-political setting encourage us to speculate that most instances of criticism and admonition directed at superiors in received and excavated Zhou period sources can be, and probably were, regarded as manifestations of *jian*. Therefore, we may learn about re-

62 The (generally unnamed) category of the prophecy, for instance, is never referred to as *jian* but, at least in one instance, as 'exhortation' (*jie* 戒). See Zuo zhuan, Zhao 15.1, 1369. For a general survey of prophecies in the 'Zuo zhuan', see Marc KALINOWSKI, La rhétorique oraculaire dans les chroniques anciennes de la Chine. Une étude des discours prédictifs dans le Zuo zhuan, in: Extrême-Orient, Extrême-Occident 21 (1999), 37–65.

63 *Zheng* is treated as a more forceful variety of remonstrance in passages of the 'Xunzi' 荀子, 'Lüshi chunqiu', and 'Zhuangzi'. Compare Xunzi 荀子, eds. WANG Xianqian 王先謙/SHEN Xiaohuan 沈嘯寰, WANG Xingxian 王星賢, Xunzi jijie 荀子集解 (2 vols.), Beijing 1988, 9.250; Zhuangzi, 6.357–358; Lüshi chunqiu, 9.205. For a discussion on the meaning of *shen* and its relationship to remonstrance, see LIU Wenqiang 劉文強, Lun 'Zuo zhuan' zhong de "jian" 論《左傳》中的「諫」, in: Dongwu zhongwen xuebao 東吳中文學報 2013.2, 11–32, here 15–17. Note that literature referred to as *zhen* 箴 is sometimes confused with remonstrance. However, quotations of *zhen* in pre-Qin texts suggest that they were antecedents of the so-called *guan zhen* 官箴, a type of admonitory verse literature that began to thrive during the Qin, Han, and post-Han periods. See ZHAO Junling 趙俊玲, Shuo "guan zhen" "si zhen" – jianji 'Wenxin diaolong' yu 'Wenxuan' dui zhenwen de pinglu 說“官箴”“私箴”——兼及《文心雕龍》與《文選》對箴文的評錄, in: Qian yan 前沿 2011.20, 180–184.

monstrance in the pre-Qin and imperial periods by moving beyond the name *jian* to its conceptual parameters outlined above. While such a study would significantly exceed the scope and purpose of this paper, fortunately, many other contributions to this volume have adopted such an approach. Indeed, it is only if we understand remonstrance as a conceptually distinguished yet broadly practiced institution that we can begin to understand the complexity of its scope and historical development.

Hence, while Taibo’s speech, cited at the beginning of this paper, is not itself described as *jian*, its content and general intent make it plausible to treat it as such. Not only does Taibo attempt to guide the future rule of Lord Wen in the right direction, but he also instructs him by citing historical exempla and sayings, as is characteristic of remonstrances in the ‘Zuozhuan’ and ‘Guoyu’. Moreover, the fact that Taibo’s speech is prompted by Lord Wen’s demand for council does not eliminate the possibility that it was perceived as a remonstrance. As we have seen above, the submission of remonstrances was not necessarily conducted in a proactive and unsolicited fashion; rather, it could take place in response to an invitation or even obligation. Thus, when persuading Lord Wen to appreciate the different ‘flavours’ of what his future advisers serve to him, Taibo himself is, in fact, ‘feasting’ his sovereign as well.

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Narrative Discourses on Power and Rule: The Anecdote and the Exemplum in the Shanghai Manuscript 'The Remonstrance of Bao Shuya and Xi Peng'

Abstract

This paper analyses the plot and structure of the anecdote 'The Remonstrance of Bao Shuya and Xi Peng'. This anecdote is a text of the so-called Shanghai manuscripts, a corpus of numerous manuscripts on bamboo slips from the Warring States Period (c. 480–221 BCE). The anecdote narrates events involving the ruler of the state of Qi, Lord Huan of Qi (Qi Huan-gong), and his advisors Bao Shuya and Xi Peng. When Lord Huan witnesses an eclipse of the sun, he becomes worried about calamities befalling his country. He inquires with his advisors, who interpret the eclipse as an inauspicious omen and criticise Lord Huan for his shortcomings in ruling the state. Therefore, Lord Huan asks his advisors for council to improve and reform his rule and government. In return, Bao Shuya and Xi Peng tell their ruler the story of King Wu Ding, who was able to stabilise his rule with the assistance of his competent advisor Zu Ji. The story about Wu Ding serves as an example to illustrate good rulership by making use of competent advisors. Using this example, Bao Shuya and Xi Peng can convince Lord Huan to promote competent advisors to improve his rule. At the end of the anecdote, Lord Huan's reign is stabilised and even prospers. Based on an analysis of the anecdote's narratological structure, this paper argues that this manuscript is not a factual record of historical events, but an exemplum which serves to illustrate the importance of selecting wise and competent advisors for governing a state. Thus, even though Lord Huan (and probably his advisors Bao Shuya and Xi Peng) were historical personages, the manuscript's story and events are likely to be deliberately constructed to serve its function as an illustrative example directed at a ruler. Not only the internal structure but also paratextual evidence indicate that such anecdotal texts were used to remonstrate with one's ruler.

The institution of remonstrance in early China and its contemporary reception was manifested textually in various forms, one of which is the literary representation of remonstrance in anecdotal narratives.¹ Anecdotes narrating scenes

¹ 'Anecdote' is defined as: "[E]ine kurze, zunächst mündliche Erzählung von einem merkwürdigen Vorfall, der – glaubwürdig, aber nicht bezeugt – einer bekannten Person widerfahren [...] ist [...]. Ihrem Ursprung und Zweck nach ist die Anekdote eine mündliche Form; die schriftliche (aber variable) Aufzeichnung bezweckt das Wiedererzählen. Sie hat nicht not-

of counsel that involve political rulers and their advisors occur frequently in the corpus of received texts of early China. One ruler figure² frequently encountered in the traditional narratives is Lord Huan of Qi 齊桓公 (Qi Huan-gong, r. 685–643 BCE) along with his staff of advisors,³ most prominently Guan Yiwu 管夷吾 (i. e. Guanzi/Master Guan 管子), Bao Shuya 鮑叔牙, and Xi Peng 隰朋. In addition to the received texts, recently discovered manuscripts now add further, previously unknown narratives of a similar kind to the corpus. The manuscript ‘The Remonstrance of Bao Shuya and Xi Peng’ (*Bao Shuya yu Xi Peng zhi jian* 鮑叔牙與隰朋之諫)⁴ from the corpus of the so-called Shanghai manuscripts⁵ provides another narrative adaptation of contemporary concepts of *Herrscherkritik* (criticism directed at the ruler), in particular, and of power and rule, more generally, attached to the figures of Lord Huan and his advisors.

wendig einen Autor, sondern lediglich einen Erzähler, der gern anonym bleibt [...]”. Cf. Heinz SCHLAFFER, Anekdoten, in: Klaus WEIMAR et al. (eds.), *Reallexikon der Deutschen Literaturwissenschaft*, 3 vols., vol. 1, Berlin/New York 2007 (Revised Ed., Orig. Ed. 1997), 87–89, quote on p. 87. On the question of an anecdote’s factualness, it is said: “[D]ie erzählte Geschichte muß nicht wahr, wohl aber müssen ihre Personen wirklich sein”. This definition makes the narrative character of the anecdote apparent. Thus, the anecdote examined in the present paper is considered a narrative, characterised by two basic structural elements: a narrator (*Erzählsubjekt*) and a story (i. e. plot; *histoire*), cf. Manfred SCHMELING/Kerst WALSTRA, *Erzählung*, in: *Reallexikon der Deutschen Literaturwissenschaft*, vol. 1, 517–519, here 517. Another similar definition of ‘anecdote’ is given in Paul VAN ELS/Sarah A. QUEEN, *Anecdotes in Early China*, in: IDEM (eds.), *Between History and Philosophy. Anecdotes in Early China*, Albany 2017, 1–37, here 7. Here too, the literarily constructed character of the anecdote is emphasised. On the anecdote in early China in general, cf. *ibid.*, esp. 7–24.

- 2 ‘Figure’ (alt. ‘character’) denotes the concept of a deliberately constructed (i. e. artificial) entity, fulfilling a function for the narrated *histoire*. The concept of ‘person’, on the other side, denotes a factual, historical personage, cf. Manfred PFISTER, *The Theory and Analysis of Drama*, trans. by John HALLIDAY, Cambridge 1988 (Ger. Original Ed. Munich 1977), 161. As the anecdote under investigation is considered a narrative and not as ‘historiography’, I use ‘figure’ to denote an entity in the anecdote’s plot and ‘person’ to denote a historical, factual personage.
- 3 In the following, ‘advisor’ is used as a generic term for those who are situated in the direct vicinity of the ruler, have access to him, and serve with any kind of advisory criticism, irrespective of their specific rank and office in the bureaucratic hierarchy.
- 4 The recension of the text consulted here is based on the rearrangement of the bamboo slips by CHEN Jian 陳劍, which is now the established standard, see CHEN, Tantan ‘Shangbo (wu)’ de zhujian fenpian, pinhe yu bianlian wenti 談談《上博（五）》的竹簡分篇、拼合與編聯問題, 2006, http://www.bsm.org.cn/show_article.php?id=204 (2018/8/15). His rearrangement incorporates the manuscript ‘Jing jian nei zhi’ 競建內之, which in the original edition of the Shanghai corpus was mistaken as a separate and independent text. In the following, I use his numbering to refer to the respective slips (here abr. J for ‘Jing jian’ slips; B for ‘Bao Shuya’ slips, respectively). The transcription is based on GAO Ronghong 高榮鴻, *Shangbo Chu jian Qi guo shiliao yanjiu* 上博楚簡齊國史料研究, M.A. Thesis, National Chung Hsing University 國立中興大學 2008, 18–21.
- 5 *Shangbojian* 上博簡, ed. MA Chengyuan 馬承源 et al., *Shanghai bowuguan cang Zhanguo Chu zhushu* 上海博物館藏戰國楚竹書 (9 vols.), vol. 5, Shanghai 2005.

Using this manuscript text as an example, this case study aims to contribute to the literary structuralist analysis of such narratives.⁶ At the beginning of the investigation, in addition to a summary of the anecdote's plot, I present a detailed analysis of the text's internal *Herrscherkritik*. The analysis of the criticism within the text provides the basis for closely examining a specific device of *Herrscherkritik* – the exemplum. Doing so provides a concrete understanding of the structure and functioning of the internal criticism. Finally, I present hypotheses concerning the manuscript's *Sitz im Leben* and attempt to situate its anecdote in the transmitted literary tradition of early China in terms of its potential relationship to the 'Guoyu' 國語 (Discourses of the States) and 'Zuozhuan' 左傳 (The Zuo Traditions [on the 'Spring and Autumn Annals']). The collected evidence adds to the overall picture of the literary representation of contemporary concepts of power and rule in the context of *Herrscherkritik* and counsel in early China.

1 'The Remonstrance of Bao Shuya and Xi Peng': Structure and Internal Criticism

As stated in the introduction, this paper focuses on the text 'The Remonstrance of Bao Shuya and Xi Peng'.⁷ The manuscript is of unknown authorship but can be dated to the Warring States period (c. 480–221 BCE). The anecdote narrates events involving Lord Huan, the ruler of the state of Qi 齊, and his close advisors Bao Shuya and Xi Peng.⁸ The latter harshly criticise their lord regarding his

6 Therefore, the case study at hand aims not to match the anecdote's plot and events with the traditional historical account, nor will there be any attempt to verify or falsify those events. There have been attempts to do so, though not very satisfactorily; cf. the general remarks and open questions in Li Xueqin 李學勤, Shishi Chu jian 'Bao Shuya yu Xi Peng zhi jian' 試釋楚簡《鮑叔牙與隰朋之諫》, in: Wenwu 文物 2006.9, 90–96, esp. 94–95. Thus, this case study takes a narratological approach, considering the manuscript text as an independent textual unit.

7 The text's title is on slip B9.

8 However, Guanzi, unquestionably the most prominent advisor personage associated with Lord Huan in the transmitted texts, does not appear in the discussed anecdote. About Bao Shuya, other narratives recount that he held the office of "Grand Remonstrator" (*dajian* 大諫) (e.g. in Guanzi 管子, ed. Li Xiangfeng 黎翔鳳/LIANG Yunhua 梁運華, Guanzi jiaozhu 管子校注 [3 vols.], Beijing 2004, 8.423). However, this may be merely a retrospective attribution of Warring States period concepts of institutionalised offices for remonstrance (Allyn RICKETT dates the relevant chapter from the 'Guanzi' corpus to around 300 BCE; see the introductory comments in RICKETT, Guanzi. Political, Economic, and Philosophical Essays from Early China, 2 vols., vol. 1, Princeton/New Jersey 1985, 319). Besides, Bao Shuya was, in later textual traditions, like in the chapter "Zheng jian" 正諫 of the 'Shuoyuan' 說苑, presented as a straightforward remonstrator, who was successful in admonishing Lord Huan and causing him to self-reflect on his own shortcomings; cf. Shuoyuan 說苑, LIU Xiang 劉向, ed. XIANG Zonglu 向宗魯, Shuoyuan jiaozheng 說苑校證, Beijing 1987, 9.219–220.

personal moral conduct and way of ruling the country, while also proposing solutions for the political misery at hand. The reason for the harsh criticism is an eclipse of the sun, witnessed by Lord Huan and his two officials. This cosmic anomaly seems to worry the ruler to such an extent that he immediately inquires of his advisors whether a deeper reason lies behind it.⁹ Bao and Xi interpret the eclipse as an inauspicious omen and predict that calamities will befall the country and the ruler himself:

公問二大夫：「日之食也，曷為？」鮑叔牙答曰：「星弁（變），災。」[...] 鮑叔牙答曰：「害將來，將有兵，有憂於公身。」

“The lord asked his two dignitaries: ‘An eclipse of the sun, why did it happen?’ Bao Shuya answered: ‘That was a shift of the celestial bodies; [that means] calamities.’ [...] Bao Shuya replied: ‘Catastrophes will come; there will be warfare; and woe will befall your body.’” (J1, J5)

The frightened Lord Huan continues to inquire into how to avert the predicted calamities. Bao and Xi take this as an opportunity to reproach their lord for his recent misdeeds: that he takes too much pleasure with women, that he is too excessive in hunting, and, as his most severe shortcoming, that he does not devote enough effort to selecting proper officials for the government. This accusation particularly refers to the appointed “Prime Ministers” (*xiang* 相)¹⁰ Shu Diao 豎刁 and Yi Ya 易牙, both of whom would deliberately cause Lord Huan to neglect his governmental responsibilities, resulting in great harm to the people. At last, Lord Huan is persuaded and agrees to implement political reforms according to his dignitaries’ proposals, by which the government would be steered back to proper order. In response, Lord Huan devotes himself carefully and attentively to supervising the selection of upright and competent officials to avert the danger of his own downfall:

乃命百有司曰：「[...] 凡其所以衰喪，忘其考實也。二三子勉之，寡人將考實。」

“[Lord Huan] thereupon issued orders to all responsible officials, saying: ‘[...] That [the Zhou rulers] declined and perished was because they forgot to examine the sincerity [of their selected officials]. You, gentlemen, should make an effort, and I will examine the sincerity [of my officials].’” (B1, B2)

9 Similar narratives occur in the corpus of transmitted texts, in which a solar eclipse is interpreted as an omen that signifies a defective governmental apparatus, e.g. in Zuozhuan 左傳, ed. YANG Bojun 楊伯峻, Chunqiu Zuozhuan zhu 春秋左傳注 (4 vols.), Beijing 1981, Zhao 7.4, 1287–1288; for a further discussion compare the section “Structural, Formal, and Conceptual Relations to Transmitted Texts” in this paper.

10 One of the highest-ranking governmental offices in the state of Qi, cf. Zuo Yandong 左言東, Xian Qin zhiguan biao 先秦職官表, Beijing 1994, 288 (no. 0411.4).

According to the narrator's account, Lord Huan was finally able to avert the predicted calamities by means of his courageous measures:

是歲也，晉人伐齊。既至齊地，晉邦有亂，師乃歸；雨，平地至膝，復；日差亦不為災，公亦不為害。

"In the same year, people from Jin attacked Qi. When [the Jin army] reached the territory of Qi, political unrest broke out within the domain of Jin; thereupon, the army withdrew. [In Qi] there were heavy rains that flooded everything up to the knees but then dispersed. The eclipse did not bring disaster; and the lord did not experience any damage." (B8)

Now with the plot of the anecdote laid out, the paper's focus will shift to the *Herrscherkritik* articulated in the text. First, it must be emphasised that the paper's focus is mainly on the criticism internal to the text, i.e. the criticism of Bao Shuya and Xi Peng directed at the intended addressee Lord Huan. It is not possible to argue definitively regarding the intention, function, and addressee of the text, though I will present a plausible context based on my interpretation of the evidence. The following analysis outlines the central aspects of the internal criticism directed at the ruler and conceptualises them.¹¹

The speakers of the criticism are easily identified as Bao Shuya and Xi Peng. The main target of their critique are Lord Huan's individual misdeeds and shortcomings:

隰朋答曰：「公身為亡道，不遷於善而說之，可乎哉？」

"Xi Peng replied [to Lord Huan's question about how to avert the predicted calamities]: 'You personally do not follow the [right] way. Not to change to goodness but [hoping] to avert it (i.e. the predicted calamities) – is that permissible?'" (J5, J6)

Their central accusations are that Lord Huan, on the one hand, has deviated from the proper exercise of rulership (*wang dao* 亡道) and, on the other hand, has made no effort to improve himself (*bu qian yu shan* 不遷於善). Bao and Xi name concrete individual failings concerning the first category of criticism in particular:

隰朋與鮑叔牙皆拜，起而言曰：「公身為亡道，擁華孟子，以馳於倪市。驅逐田弋無期度。或（又）以豎刁與易牙為相[...]。」

"Bao Shuya and Xi Peng both bowed and rose saying: 'You are not following the right way; together with [your concubine] Hua meng-Zi, you rushed to the market in Ni.'¹²

11 On aspects of analysing *Herrscherkritik* see Karina KELLERMANN/Alheydis PLASSMANN/Christian SCHWERMANN, Criticising the Ruler – Possibilities, Chances, and Methods. Introduction, in: IDEM (eds.), Criticising the Ruler in Pre-Modern Societies – Possibilities, Chances, and Methods (Macht und Herrschaft 6), Göttingen 2019, 11–32, esp. 13–24.

12 Lady Hua meng-Zi is identified as Lady Song Hua Zi 宋華子, known from other anecdotes in transmitted texts. In Zuozhuan, Xi 17.5, 373–376, it is recounted that Lord Huan was fond of

You go hunting without observing the appropriate restrictions. You have also appointed Shu Diao and Yi Ya as Prime Ministers [...].” (J9, J10)

The two figures Shu Diao and Yi Ya are the main point of criticism and personification of the ruler's failing in selecting competent officials.¹³ It is important to note that we only learn indirectly about the denounced Shu Diao and Yi Ya, namely by the quoted 'figure's speech' (*Figurenrede*), i.e. Bao and Xi's diegetic comments. The denunciations read as follows:

二人也朋黨，羣獸要朋 [...]。今豎刁匹夫，而欲知萬乘之邦，而潰腹，其為猜也深矣。易牙，刁之與者，而食人，其為不仁厚矣。公弗圖，必害公身。

“[Bao and Xi said:] ‘These two (Shu Diao and Yi Ya), they form a political clique and gang together like wild animals [...]. Now Shu Diao is but an upstart commoner (*pifu*), who just wants to have power over a mighty domain with ten thousand chariots and even accepted his own castration for it.¹⁴ His deviousness is truly remarkable! Yi Ya is the accomplice of [Shu] Diao and feeds you with human [flesh].¹⁵ His wickedness is extraordinary! If you, lord, do not consider it, you will certainly suffer damage.’” (J10, B5)

different women, among whom was the mentioned lady Song Hua Zi (i.e. Hua meng-Zi). Another similar escapade of Lord Huan is also disputed in the ‘Shuoyuan’: “Can Lord Huan be called decent and modest? With [his] lady, he rode a cart and rushed into [another] town. This is not decency and modesty.” (將謂桓公恭儉乎？與婦人同輿馳於邑中，非恭儉也。) Cf. Shuoyuan, 8.182.

- 13 The passage “Moreover, you have appointed Shu Diao and Yi Ya as prime ministers” (或 [又] 以豎刁與易牙為相) is taken as one reference point for dating the plot. According to traditional historical accounts, Shu Diao and Yi Ya were appointed to serve as prime ministers after Guanzi, who held this office until his death. According to the ‘Shiji’ 史記, Guanzi died in 645 BCE (41st year of Lord Huan of Qi). The ‘Shiji’ narrates how Lord Huan asked Guanzi on his deathbed for counsel regarding who should serve as prime minister after his death. Guanzi urged him not to appoint Shu Diao and Yi Ya, since both are of dubious character, but his attempt was in vain (cf. Shiji 史記 [10 vols.], Sima Qian 司馬遷, Beijing 1959, 32.1492). On this issue, cf. Li Xueqin 2006, 94.
- 14 The ‘Han Feizi’ 韓非子, for example, contains an anecdote that narrates the self-castration of Shu Diao to obtain access to the inner circle of power: “Lord [Huan] asked [Guanzi]: ‘That being so, how about Shu Diao (as appointed successor for Guanzi)?’ Guan Zhong (i.e. Guanzi) said: ‘That is not permissible! [...] You are jealous, and you like [the women of] your harem. Shu Diao castrated himself to take control of the interior. He did not even care for his own body. How could he then care for his ruler?’” (公曰：「然則豎刁何如？」管仲曰：「不可。公妒而好內，豎刁自獷以為治內，其身不愛，又安能愛君？」) Han Feizi 韓非子, ed. WANG Xianshen 王先慎/ZHONG Zhe 鍾哲, Han Feizi jijie 韓非子集解, Beijing 1998, 3.73.
- 15 Similar depictions are echoed in anecdotes transmitted in the ‘Han Feizi’: “The lord (i.e. Lord Huan) asked: ‘How about Yi Ya (as successor for Guanzi)?’ Guan Zhong said: ‘That is not permissible! Yi Ya served you as head cook. The only dish that you have not yet tasted was human flesh. Thus Yi Ya steamed his son's head and served it [...]’” (公曰：「然則易牙何如？」管仲曰：「不可。夫易牙為君主味，君之所未嘗食唯人肉耳，易牙蒸其子首而進之 [...]」) Ibid., 3.74. Another instance, which exemplifies the collaboration of Shu Diao and Yi Ya for the sake of their own goals, is in Zuozhuan, Xi 17.4, 374–376: “The steward/head cook Wu (i.e. Yi Ya, cf. the commentary ibid., 374) found favour with

Bao and Xi have nothing positive to say about the denounced ministers. With regard to the technique of characterisation, the narrative operates by means of an explicit and figural ‘outside commentary’ (*Fremdkommentar*) by the diegetic figures Bao and Xi; that is, their commentary attributes a set of negative characteristics to the criticised Shu Diao and Yi Ya in their absence.¹⁶ These characteristics include: forming a clique, deviousness, wickedness, likeness to wild beasts, and being ‘upstart commoners’, which denies their affiliation with the elite.¹⁷ However, the ‘outside commentary’ is also a way of characterising the figures who comment on others. By characterising their ‘negative opponents’ Shu Diao and Yi Ya, Bao and Xi implicitly distinguish themselves as associated with ‘positive’ characteristics.¹⁸ In sum, the prime ministers personify the central point of the criticism directed at Lord Huan regarding the selection of incompetent officials.

Remarkably, Lord Huan has the ability to accept that he was wrong and to return to the ‘proper way’. Thus, the ruler Lord Huan is presented not as a hopeless case but as a dynamic figure, flanked by the static figures of Bao and Xi (‘competent’) and Shu Diao and Yi Ya (‘incompetent’).¹⁹ Therefore, the reason for the present political misery lies, on the one hand, in the prime ministers’ negative influence on Lord Huan and, on the other hand, on the ruler’s neglect of truly upright and competent advisors. The latter becomes evident in the following statement:

the lady Wei Gong Ji and through the eunuch Diao (i.e. Shu Diao) presented delicacies to the lord; so [Yi Ya] also gained favour [of the lord]. [...] Lord Huan of Qi died. Yi Ya entered [the palace] and through the help of the harem favourites, he and the eunuch Diao killed many court officials and installed Prince Wukui [as ruler].” (雍巫有寵於衛共姬，因寺人貂以薦羞於公，亦有寵。[...] 齊桓公卒。易牙入，與寺人貂因內寵以殺群吏，而立公子無虧。) This and the preceding examples demonstrate that many classical anecdotes are variations of familiar contemporary themes, plots, and figures, as has also been pointed out by David SCHABERG, *A Patterned Past. Form and Thought in Early Chinese Historiography*, Cambridge, MA/London 2001, 322.

16 On the relevant technique of characterisation, cf. PFISTER 1988, 183–195; on ‘explicit-figural characterisation’, see *ibid.*, 184–189.

17 The text-external recipient, however, is not given a means of verifying the attributed set of information, nor can he judge the ‘credibility’ of the conveyed information. One could possibly assume that Bao and Xi had strategic aims and tactical considerations for themselves, thus denouncing and slandering the absent ministers while in the presence of their lord; see the general remarks on the category of ‘credibility’ in Fotis JANNIDIS, *Figur und Person. Beitrag zu einer historischen Narratologie*, Berlin/New York 2004, 202–203. However, Lord Huan, as the intended addressee and recipient, apparently considers the given information reliable and trustworthy.

18 On ‘implicit self-characterization’, see PFISTER 1988, 186. PFISTER stresses that techniques of characterisation cannot be regarded as isolated units but “[...] constantly overlap or are superimposed on one another” (*ibid.*).

19 On static and dynamic figure conception, cf. PFISTER 1988, 177–178.

轂而迷之，不以邦家為事，縱公之所欲。[...] 公弗詰誅。臣雖欲訐（諫），或（又）不得見，公固弗察。

“By confusing you, [Shu Diao and Yi Ya] cause unrest, so that you (Lord Huan) do not consider the affairs of the state to be your primary duty but just give free rein to your desires. [...] But you do not call [Shu Diao and Yi Ya] to account and punish them. We want to remonstrate, but we do not get an audience with you. You still do not take a close look [at these matters].” (J10, B4, B5)

Apparently, the institution of remonstrance is conceptualised as a channel of communication for advisory criticism intended to aid the ruler; but it works only under the condition that the ruler proactively grants such audiences in which counsel can be articulated. The passages given so far illustrate that the criticism within the text conveys a very concrete lesson. It teaches that a good ruler should do two complementary things; not only must he have competent officials at his disposal – after all, Bao and Xi are members of the ruling circle – but also he should proactively make full use of them, by allowing them to participate in governmental affairs. As the following analysis of the exemplum shows, the anecdote is a narrative vehicle of this very teaching – a narrative discourse on power and rule.

2 The Exemplum of Gao Zong and His Advisor Zu Ji: Structure, Function, and Teaching

First, we must establish a definition of the ‘exemplum’ for the upcoming discussion. Peter von Moos proposes the following definition: “[...] Exemplum [bedeutet] eine rhetorische Form oder Funktion, mit der vergangenes Geschehen in persuasiver Absicht auf einen gegenwärtigen Problemfall bezogen wird”.²⁰ Let us briefly elaborate on the characteristics of the exemplum in this concise definition, which will help us to comprehend the discussed text and its embedded exemplum more thoroughly. The argumentative-rhetorical exemplum attempts, with the aid of the narration of ‘historical’ precedents and the personages in-

20 “The exemplum denotes a rhetorical/argumentative figure or function in which past events are persuasively related to a present case.” Cf. Peter von Moos, *Das argumentative Exemplum und die ‘wächserne Nase’ der Autorität im Mittelalter*, in: W.J. AERTS/M. GOSMAN (eds.), *Exemplum et Similitudo. Alexander the Great and Other Heroes as Points of Reference in Medieval Literature*, Groningen 1988 (a), 55–84, here 58. Peter von Moos explicitly distinguishes this type of argumentative-rhetorical exemplum, rooted in classical rhetoric, from the type in which entire text genres are functionalised as an exemplum, e.g. the fable, tale, or *Histörchen*. Thus, exempla, as understood here, are not a genre by themselves but merely a *Funktionstext*. The former definition denotes the exemplum in a narrow sense, the latter in a broader sense. For further remarks, see the following paragraphs and references.

volved,²¹ to generalise a certain rule²² for the solution of a present problem.²³ However, the exemplum need not have a historiographic intention, as has been pointed out by Peter von Moos.²⁴ Primarily, the exemplum serves the subjective interests of a certain party. It can be adapted, transformed, modified, and instrumentalised on every occasion according to one's specific needs and aims. The supposed 'historicity' serves to increase the exemplum's persuasive capacity; thus, historical accuracy is only of secondary importance – if any.²⁵ Ideally, however, there should be an analogy between the exemplum and the problem to be solved.²⁶ According to the given definition, therefore, an exemplum as an argumentative-rhetorical device is not bound to a particular textual genre.²⁷ Apart from these functional aspects, the exemplum is characterised by certain structural features: 'insertion' (*Inseratcharakter*), 'isolability' (*Isolierbarkeit*), and a 'meaningful analogy' (*sinnstiftendes Analogans*) with regard to its contextual utilisation.²⁸

21 Because the exemplum by definition utilises 'historical' events and/or personages, one can infer a potential group of intended addressees (esp. on an external level); short narratives, allusions, or the simple mention of a name require an adequately 'well-read' circle of addressees, familiar with the presented 'historical' plot (cf. von Moos 1988a, 58–59). This idea may also apply to the discussed case, in which a ruler figure (Gao Zong of Shang) appears without any further introductory remarks (see the discussion below); one may infer that the addressee (the text internal figure Lord Huan but also the external circle) was familiar with this figure and, hence, can likely be associated with the elite. The kind of exemplum, which is reduced to nothing but a person's name (*elocutionelle Verwendung*), may underpin this hypothesis (on this type of exemplum, cf. Gerd Dicke, Exempel, in: *Reallexikon der Deutschen Literaturwissenschaft*, vol. 1, 534–537, here 534). One could think of the many cases in which the name of the last tyrannical Shang ruler Zhòu 紂 is mentioned and utilised as a negative example to admonish an addressee of the ruling elite. Thus, certain names must have triggered concrete associations with the intended addressees (on an internal as well potentially on an external level). If not, then the exemplum is badly chosen.

22 On induction in the context of an exemplum, cf. von Moos 1988a, 60–62 and Paul Goldin, Non-deductive Argumentation in Early Chinese Philosophy, in: van Els/Queen 2017, 41–62, here 49–51.

23 Cf. Dicke 2007, 534.

24 Peter von Moos, *Geschichte als Topik. Das rhetorische Exemplum von der Antike zur Neuzeit und die historiae im "Policraticus"* Johanns von Salisbury, Hildesheim et al. 1988b, XI, 68.

25 Compare Goldin's (2017, 49–50) general remarks that an anecdote, intended to function as an instructive example for an argumentative purpose, is primarily concerned with its persuasive and illustrative function, rather than veracity in the sense of historical accuracy. On the modification of anecdotes in argumentative texts, see the case study of Christian Schwermann, *Anecdote Collections as Argumentative Texts. The Composition of the Shuoyuan*, in: van Els/Queen 2017, 147–192, esp. 150–153, 167–168.

26 Cf. von Moos 1988a, 62–63.

27 However, Walter Haug discusses whether there are certain text genres that can serve the function of an exemplum in practice more adequately than other genres, cf. Haug, *Exemplensammlungen im narrativen Rahmen: Vom 'Pañcatantra' zum 'Dekameron'*, in: Walter Haug/Burghart Wachinger (eds.), *Exempel und Exempelsammlungen (Fortuna Vitrea 2)*, Tübingen 1991, 264–287, esp. 264–270.

28 Cf. Dicke 2007, 533–534.

With this theoretical definition and these characteristics in mind, we will proceed to investigate the relevant passage of the anecdote. The ‘problem case’ that the diegetic figures face is undoubtedly the eclipse of the sun, interpreted as an unfortunate omen that signifies the dissolution of political order. Lord Huan, confronted with this misery, asks his advisors Bao and Xi for counsel and solutions to avert the predicted calamities. At this point, Bao and Xi present an exemplum.

鮑叔牙與隰朋曰：「[...] 昔高宗祭，有雉雊於彝前。召祖己而問焉曰：『是何也？』祖己答曰：『昔先君格王，天不見害，地不生孽，則祈諸鬼神，曰：『天地明弃我矣！近臣不諫（諫），遠者不謗 [...]。』今此祭之得福者也，請量之以益給。既祭之後，焉修先王之灋。』高宗命傅說量之以祭，既祭，焉命行先王之灋，發古慮，行古作。廢作者死，弗行者死。不出三年，狄人之服者七百邦。此能從善而去禍者。」

“Bao Shuya and Xi Peng said: ‘[...] Once when Gao Zong was offering sacrifice, a pheasant appeared and crowed in front of a sacrificial vessel. [Gao Zong] summoned Zu Ji and asked him: ‘What does that mean?’ Zu Ji replied: ‘When once in the time of the former lords and wise kings, heaven did not show any calamities and the earth did not bring any disaster [upon the people], then they made prayers to the spirits and deities, saying: ‘Heaven and earth clearly abandoned me!’²⁹ Close ministers do not remonstrate, and those from afar do not speak bad about me behind my back [...].’³⁰ Now, if this

29 This is saying that even an inauspicious omen sent by heaven can serve as a sort of corrective ‘early warning system’ for a ruler, indicating that his rule is endangered and should be reformed and improved. If adequately interpreted, even an inauspicious omen could thus have this positive ‘side effect’. On the contrary, if heaven does not show any indicators, the ruler is left in uncertainty. This idea is echoed in the ‘Chunqiu fanlu’ 春秋繁露: “The root for all calamities and strange events originates in every respect from the failures of a state. Just when the failures of a state start to sprout, heaven brings out calamities and woe to blame and warn it. [When heaven] blames and warns it, but it does not take note of the [sudden] changes, then [heaven] shows strange and unusual [events] to frighten and shock it [...]. From this, one can see that heaven’s intention is benevolent and that it does not want to harm men [...]. Because heaven did not show calamities and earth did not bring any disaster, King Zhuang of Chu thus prayed to the mountains and rivers, saying: ‘Heaven, will it let me perish? [It] does not talk about my mistakes [...].’ From this point of view, heaven’s calamities arrive because they respond to failures [...]. A sage ruler and worthy lord appreciates receiving remonstrance from loyal ministers; how much more [appreciated is] receiving heaven’s reprimands?” (凡災異之本，盡生於國家之失。國家之失乃始萌芽，而天出災害以譴告之；譴告之而不知變，乃見怪異以驚駭之 [...]. 以此見天意之仁而不欲陷人也 [...]. 楚莊王以天不見災，地不見孽，則禱之於山川，曰：「天其將亡予邪？不說吾過 [...]。」以此觀之，天災之應過而至也 [...]. 聖主賢君尚樂受忠臣之諫，而況受天譴也？） See Chunqiu fanlu 春秋繁露, ed. Su Yu 蘇輿/ZHONG Zhe 鍾哲, Chunqiu fanlu yizheng 春秋繁露義證, Beijing 1992, 30.259–261. It is worth noting that remonstrance is conceptualised as having a function similar to celestial omens; both serve to highlight shortcomings, rectify failures in governance, and thus help to secure the rule.

30 That criticism expressed directly and in one’s absence is not an indicator of poor rule but an ideal state of governance is reflected in a remonstrance in the ‘Guoyu’. When remonstrating against King Ling of Chu 楚靈王, Lord Zi Zhang of Bai 白公子張 said: “Qi Huan and Jin Wen

[sacrifice] ought to bring blessings, then measure the appropriate amount of offerings and provide them. After performing the sacrifice, [you] should restore the laws of the former kings.' Gao Zong ordered Fu Yue to measure the offerings for sacrificing. After performing the sacrifice, [Gao Zong] issued a decree to carry out the laws of the former kings, to take up the old considerations, and to put the old plans into practice. Anyone who discarded these plans and those who did not practice them were put to death. Within three years, those of the Di-people who submitted [to Gao Zong] amounted to seven hundred domains. This was someone who was capable of averting disaster by following [the advice] of a competent [advisor] (*cong shan*).” (J6, J2, J7, J4, J3, J8)

The exemplum narrates events involving the figures of the Shang king Gao Zong 高宗 (i. e. Wu Ding 武丁) and his advisor Zu Ji 祖己.³¹ Gao Zong, performing a sacrifice, witnesses a pheasant crow in front of a sacrificial vessel. The frightened Gao Zong inquires of Zu Ji how to interpret this extraordinary occurrence. According to Zu Ji, it signifies that the proper political order has been disrupted and political reforms, based on the model of past tradition, are urgently required to avert calamities. Gao Zong implements the proposals of his advisor, with the positive effect of not only stabilising his own rule but also increasing his power.³²

A closer look at the central structural categories shows that the exemplum is embedded in the frame narrative at an intradiegetic level.³³ Bao and Xi are the narrators of the intradiegetic story; Lord Huan is their intended addressee and de facto recipient. Distinguishing different levels of narration makes the exem-

(i. e. Lord Wen of Jin 晉文公) [...] possessed the state by means of virtue. Close ministers remonstrated and ministers from afar criticised [...]. Until today [they] are regarded as esteemed rulers [...].” (齊桓、晉文 [...] 以德有國。近臣諫，遠臣謗 [...], 至於今為令君 [...].) Guoyu 國語, ed. Xu Yuangao 徐元誥, Guoyu jijie (xiuding ben) 國語集解 (修訂本), Beijing 2002, 17.504.

31 An alternative version of this narrative is transmitted in the ‘Shangshu’ 尚書, chapter “Gao Zong rong ri” 高宗彤日.

32 Besides Zu Ji, another prominent advisor associated with Wu Ding/Gao Zong in the textual tradition is Fu Yue 傅說. On anecdotal variations of the Fu Yue/Wu Ding theme in early transmitted and excavated texts, cf. Felix BOHLEN, Vom Mauerstampfer zum Minister: Zur Darstellung der Ratgeberfigur Fu Yue im Spiegel antiker chinesischer Texte, in: Dominik BÜSCHKEN/Alheydis PLASSMANN (eds.), Die Figur des Ratgebers in transkultureller Perspektive (Studien zu Macht und Herrschaft 6), Göttingen 2020, 21–50.

33 Across different texts, a subordinated level of narration is marked by the time expression *xi* 昔 (“once; formerly”). Numerous examples can be found, e.g. in the ‘Guoyu’: “Lord Moufu of Zhai remonstrated: ‘Once our former kings have served for generations as minister of agriculture [...].’” (祭公謀父諫曰: 「昔我先王世后稷 [...].」) Guoyu, 1.3–6. Even in early bronze inscriptions, the function as a marker of subordinate narrative level is evident: “The king made an announcement to the young princes of the trunk lineage in the *jingshi* and said: ‘Formerly in the time of your deceased, honourable father, [he] was capable of assisting King Wen [...].’” (王誥宗小子于京室曰: 「昔才爾考公氏, 克弼文王 [...].」) He zun 何尊, JC: 6014. It is worth noting that the function of *xi* differs from that of the other time expression *chu* 初 (“at the beginning; previously”); *chu* has rather the function of an analepsis at the level of the frame narrative.

plum's structural features of 'insertion' and 'isolability' apparent. Additionally, based on the given summary of the frame and embedded story's plots, one might already sense certain parallels between them – a 'meaningful analogy', as we will see. To clarify and verify this impression concerning the supposed analogies, it seems helpful to underscore relevant elements of the respective plot levels, using the concept of 'function', in the sense of Vladimir Propp (1895–1970).³⁴ The concept of 'function' helps to denote fundamental components of the plot levels, in terms of both their surface and, more importantly, deep structures. By abstracting the plots to their respective deep structures, we can compare them with each other more conveniently and better discern their inherent analogies. At both levels of narration, ruler figures are about to undertake a task.³⁵ Both witness an unusual event, causing them to summon and consult with their respective advisors. The advisors interpret the event as an unfortunate omen, explain the reason behind it (i. e. political misery), and propose solutions. The rulers successfully implement the proposed solutions, stabilising and securing their rule.

The plots of the two narrative levels, abstracted to their deep structures, are determined by equivalent and constant functions, causing and unfolding an analogical course of events. Only in terms of the plots' surface structures do the narrated diegeses vary: Lord Huan and Gao Zong serve as 'ruler figures'; the solar eclipse and a pheasant in front of a vessel serve as '(inauspicious) omens'; Bao and Xi, on the one hand, and Zu Ji, on the other, serve as 'competent advisors'.³⁶

These analogies are striking, and the exemplum of Gao Zong and Zu Ji seems suitably persuasive in its wider context. Therefore, these analogies help explain why the addressee of the frame narrative – Lord Huan – eventually comprehends and interprets the analogies, infers the proper solution, and applies this principle to the present problem. Another factor that may facilitate the intended reception is the exemplum's relative brevity, by which it can better fulfil its function.³⁷ Moreover, in addition to these formal factors, Bao and Xi ensure that the addressee understands the exemplum's message in their intended sense by con-

34 Vladimir PROPP, *Morphologie des Märchens*, trans. and ed. by Karl EIMERMACHER, München 1972 (Rus. Original Ed. Leningrad 1928, Reprint Moskva 1969), esp. 25–27.

35 The upper end of the first bamboo slip (J1) is partially damaged, therefore only one part of the introducing paragraphs is readable. Scholars assume that there must have been more introductory text continuous with the lines following "Bao Shuya and Xi Peng followed [Lord Huan]" (鮑叔牙與隰朋從). Within the given context, it seems plausible that the preceding text told of a journey or the like of Lord Huan, cf. the discussion in GAO Ronghong 2008, 27–30. For the relevant slip, cf. Shangbojian, vol. 5, 166.

36 On 'constant' functions that are determined by the actions of a figure and not by its attributes on the surface structure, see PROPP 1972, 25–27.

37 On an exemplum's brevity, see the discussion in Timothy R. JACKSON, *Die Kürze des Exemplums am Beispiel der 'Elsässischen Predigten'*, in: Klaus GRUBMÜLLER/L. Peter JOHNSON/Hans-Hugo STEINHOFF (eds.), *Kleinere Erzählformen im Mittelalter*, Paderborn et al. 1988, 213–223, esp. 214–217.

cluding their exemplum with an epigram (*Epimythion*). By means of the epigram, the intended moral is summarised, abstracted, and made explicit.³⁸ Bao and Xi close their story of Gao Zong and Zu Ji, stating:

此能從善而去禍者。

“This was someone who was capable of averting disaster by following [the advice] of a competent [advisor] (*cong shan*).” (J8)

This epigram, which rephrases the teaching in an abstracted form, transfers the moral of an individual exemplary case to trans-situational dimensions; that is, the specific teaching can be detached from the individual precedent, transferred, and applied to similar cases. The combination of the described key factors of the exemplum – a meaningful analogy, brevity, and an epigram – increases the likelihood of an adequate interpretation by the addressee. From the text’s frame narrative we know that the teaching, illustrated by the exemplum, ultimately caused Lord Huan to self-reflect critically.

公曰：「吾不知其為不善也。」

“The lord said: ‘I did not know that I am so incompetent.’” (J8)

Therefore, Bao and Xi present a convincing and persuasive exemplum that fulfils its function.

Moreover, the exemplum is tailored to the interests of a party, as pointed out before. The ‘factual’ situation is adapted and modified to meet the advisors’ individual interests. One suspects that Bao and Xi highlight the teaching “follow the advice of a competent advisor” (*cong shan* 從善) not only to admonish their lord but also to strengthen their own position of power.³⁹ They convince their lord that heeding competent advisors has important positive effects for a ruler, allowing him not only to avert dangers and stabilise his rule but also to increase

38 Epigrams are used in numerous other texts, like the ‘Guoyu’. In the chapter “Lu yu” 魯語, an epigram is likewise articulated by a diegetic figure’s speech: “Wenzi heard of it (a subordinate’s self-reflection and self-improvement) and said: ‘Those who make a mistake but are capable of correcting it are superior among the people.’” (文子聞之曰：「過而能改者，民之上也。」) Guoyu, 4.173. In another ‘Guoyu’ case, the heterodiegetic narrator makes the teaching explicit: “Yue extinguished Wu and attacked the upper states. The rulers of Song, Zheng, Lu, Wei, Chen, and Cai, who held jade utensils, (as a consequence) came for audience (to the court of Yue). The reason (for the success) was only because [Goujian] (King of Yue) was able to submit to his advisors and complete their plans.” (越滅吳，上征上國，宋、鄭、魯、衛、陳、蔡執玉之君皆入朝。夫唯能下其群臣，以集其謀故也。) Ibid., 19.562. A similar case occurs in the ‘Guoyu’ chapter “Qi yu” 齊語; the narrator gives a brief epigram to summarise the lesson, which can be drawn from the narrative involving Lord Huan and his successful way of becoming a hegemon; cf. *ibid.*, 8.241.

39 Paul Fahr makes the same point with regard to remonstrance in early imperial times in his contribution to the present volume.

his power. By stressing the benefits of *cong shan* through narrative means, Bao and Xi thus find a subtle way to integrate themselves into the political decision-making process. Using narrative as a vehicle, they successfully denounce their antagonists Shu Diao and Yi Ya and remove them to the political sidelines, while simultaneously paving the way, backhandedly, to participate in the ruler's power. With the aid of the exemplum, they propagate their role as indispensable aides for political decision-making and supporting pillars of stable political order. These textual aspects suggest that Bao and Xi's exemplum is indeed bound to their very own political ambitions and interests.

Hence, one might further assume that the anecdote had a certain ideological affiliation to the contemporary stratum of advisor officials, who themselves pursued concrete political interests. Consequently, it seems likely that the intended addressees for this sort of anecdote, which functioned as a vehicle for advisors' participation in power, probably comprised the highest stratum of rulership. Remonstrance, therefore, as represented in narrative, is conceptualised as a means of criticism internal to the ruling system, which has a stabilising effect on the existing political order but by no means challenges it. From the standpoint of advisors, remonstrance could help to confine certain dangers, such as an incompetent ruler, but not overthrow him. After all, advisors were members and beneficiaries of the ruling order. However, in the eyes of the officials, power and rule needed to be placed on the shoulders of many, not just one.⁴⁰ From this perspective, Bao and Xi seem to be driven less by an altruistic ethos of upright and sincere officials than by their own substantive interests of power, which they clothe nicely in the form of an anecdote.

3 Structural, Formal, and Conceptual Relations to Transmitted Texts

As the preceding account shows, the passage discussed is an exemplum *par excellence*. It fulfils the normal criteria of exempla in functional and structural dimensions. Nevertheless, it is worthwhile to discuss and hypothesise further

40 Remonstrance, conceptualised as an institution that serves to stabilise the state by means of critical advice, can therefore be associated with the positive concept of 'constructive dissent' (*he* 和, lit. "harmony"), as reflected in the speech of scribe Bo 史伯 in Guoyu, 16.470–473, esp. 472. In this sense, remonstrance can be considered beneficial for a ruler. On the concept of 'constructive dissent' in the context of power, rule, and decision-making in early China and medieval Europe, cf. Paul FAHR/Christian SCHWERMANN, Konsensuale Herrschaft im alten China: Eine begriffsgeschichtliche Annäherung, in: Linda DOHMEN/Tilman TRAUSCH (eds.), Entscheiden und Regieren. Konsens als Element politischer Entscheidungsfindung – Ruling and Consent-based Decision-making (Macht und Herrschaft 9), Göttingen 2019, 177–196.

concerning aspects external to the manuscript and their potential relation to transmitted texts.

It has been shown that the analogies of the two narrative levels are characterised by structural, conceptual, and – as I will argue below – functional coherence. The structural coherence occurs through the identical course of events, especially in terms of their deep structures. The conceptual coherence refers to the illustration and propagation of the same teaching – i. e. *cong shan* – across both narrative levels. The functional analogy comprises what might be called a ‘double-layered’ exemplum structure. In what follows, I would like to suggest that the manuscript’s anecdote of Lord Huan, Bao, and Xi might have functioned as an exemplum itself, thus conveying a specific moral and propagating certain concepts of proper governance to addressees external to the text. Based on the proposed concept of a double-layered exemplum, I will argue that the message conveyed to the external addressees is *cong shan*.

Let us turn back to the anecdote’s epigram, which, as explained above, helps to make the inherent lesson of the exemplum involving Gao Zong and Zu Ji explicit to the addressee. It seems reasonable to suggest that due to the analogies described, both narrative layers function to convey the same moral. However, the frame narrative, in contrast to the embedded story, operates more cautiously; an epigram, like that of Bao and Xi, is not stated. Rather, the anecdote concludes with the passage known to us, narrating the events that happened after Lord Huan implemented the demanded political reforms, i. e. the absence of predicted calamities. This last passage functions as an evaluation of the preceding events; it verifies the validity of the proposed advice and thus indirectly praises the ruler’s proper and responsible handling of the situation. The teaching itself is not made explicit but only implied. A concise summary and abstraction is missing. With regard to its illustrative function, the text itself thus operates with a complementary structure, consisting of ‘explicit individual teaching’ (*explizite Einzellehre*) at the intradiegetic narrative level and ‘implicit individual teaching’ (*implizite Einzellehre*) at the extradiegetic level.⁴¹

This cannot be a mere coincidence but is instead a deliberate construction. The systematic analogies suggest that the manuscript’s anecdote likewise functioned as an exemplum in the context of advisory criticism, illustrating an ideal concept of proper rulership. The anecdote persuades an addressee external to the text of the identical moral *cong shan*, through an intratextual organisation of the illustrative examples. Assuming that the anecdote was used in the context of critical advice towards a ruler, the advisor external to the text adopts an indirect strategy for mediating his criticism. By telling an anecdote in which the figures

41 These thoughts on implicit and explicit teaching were inspired by Sabine OBERMAIER, *Erzählen im Erzählen als Lehren im Lehren?*, in: *Wolfram-Studien XVIII* (2004), 99–125.

function as the prime medium of criticism, the remonstrators avoid the dangers of directly facing a monarch.⁴² In so far as we accept this hypothesis, we can speak of a three-fold criticism: two layers of critical advice within the anecdote and one external to the text. Considering the anecdote as an exemplum allows us to consider it as ‘functional text’ (*Funktionstext*),⁴³ which serves a didactic function similar to that of a ‘mirror of princes’.⁴⁴ Hence, the historical factuality of this anecdote should not be the primary concern. The ongoing scholarly discussion about the different, sometimes contradictory, presentations of certain personages and events in anecdotal narratives in contrast to the transmitted historical accounts should not bother us so much. As stated earlier, exempla or exemplary anecdotes are, by definition, not committed to historical accuracy but to the interests of a particular party.⁴⁵

A further hypothesis about the anecdote’s alleged *Sitz im Leben* can be made by taking two perspectives: firstly, by considering the transmitted texts ‘Guoyu’ and ‘Zuozhuan’; and secondly, from material clues regarding the bamboo manuscript itself. Regarding the first approach, the exemplum at a subordinated level of narration, as noted earlier, is a structural feature also observable in other anecdotal

42 That the technique and strategy of (safe) criticism directed at rulers was a central concern is reflected in Liu Xiang’s theory of remonstrance in the chapter “Zheng jian” of the ‘Shuoyuan’: “Now, if you do not remonstrate against your lord, you will put him in danger. If you remonstrate stubbornly, you will put yourself in danger [...]. The wise man assesses the lord and weighs the proper time. By adjusting his relaxing and urging (i. e. the intensity of his speech/criticism), he does what is appropriate in his situation.” (夫不諫則危君，固諫則危身 [...]. 智者度君權時，調其緩急而處其宜。) Shuoyuan, 9.206; transl. based on SCHWERMANN 2017, 158.

43 On the instrumentalisation of texts of different genres (e.g. fable, myth, anecdote) as exempla, cf. DICKE 2007, 534.

44 ‘Mirror of princes’ thus does not denote a specific literary genre. Rather, it can be considered a category of functional texts subsuming different text types, which can serve the function of a didactic text for the ruling elite. Cf. Dietmar PEIL, Fürstenspiegel, in: Reallexikon der Deutschen Literaturwissenschaft, vol. 1, 640–642, esp. 640.

45 One example is the remonstrance of Lord Zi Zhang of Bai 白公子張 directed at the cruel King Ling of Chu: “Lord Bai remonstrated again [...] saying: ‘Qi Huan and Jin Wen [...] did not indulge in excess; their hearts were good and their virtue sound; and they possessed the state by means of virtue. Close ministers remonstrated and ministers from afar criticised [...]. Until today, they are regarded as esteemed rulers. Huan and Wen were like this. You, my lord, do not assess [yourself] with respect to these two redeemed lords but seek self-enjoyment – is this permissible?’” (白公又諫 [...] 曰: 「齊桓、晉文 [...], 不敢淫逸, 心類德音, 以德有國。近臣諫, 遠臣謗 [...], 至於今為令君。桓、文皆然, 君不度憂於二令君, 而欲自逸也, 無乃不可乎?) Guoyu, 17.502–505. Obviously, the figure of Lord Huan is modelled to serve as a positive example which should persuade King Ling to accept remonstrance, thus serving the interests of Zi Zhang. Here, the exemplary presentation of Lord Huan contradicts those presentations of him as indulging in immoral conduct. However, if we consider his figure merely as a modifiable exemplum, these contradictions become explainable. A closer analysis of this specific anecdote as a means of political criticism is given in BOHLEN 2020, 30–35.

dotes. For example, in the ‘Guoyu’, the scribe Su 史蘇 predicts calamities for the domain of Jin 晉 after Lord Xian of Jin 晉獻公 (r. 676–651 BCE) took Li Ji 驪姬, a woman from the Li tribe of the Rong barbarians 驪戎, as his wife, following a military campaign against her tribe. The form that the disaster will take cannot yet be predicted, but one scenario seems particularly likely. The marriage of the Jin ruler to a woman from a barbarian tribe has numerous historical precedents. From his historical knowledge, scribe Su infers a timeless principle: a ruler should not marry a woman of an alien tribe because she will seduce him to irrationality, inevitably causing dangerous political unrest. Scribe Su, among other dignitaries, fears that the lord of Jin will face the same fate, dooming himself and probably the entire domain to perish. The relevant passage reads as follows:

飲酒出，史蘇告大夫曰：「有男戎必有女戎。若晉以男戎勝戎，而戎亦必以女戎勝晉，其若之何！」里克曰：「何如？」史蘇曰：「昔夏桀伐有施，有施人以妹喜女焉，妹喜有寵，於是乎與伊尹比而亡夏。殷辛伐有蘇，有蘇氏以妲己女焉，妲己有寵，於是乎與膠鬲比而亡殷，周幽王伐有褒，褒人以褒姒女焉，褒姒有寵，生伯服，於是乎與虢石甫比 [...]。周於是乎亡。今晉寡德而安俘女 [...] 雖當三季之王，不亦可乎？ [...]」

“When [scribe Su] came from drinking alcohol [with Lord Xian of Jin], he told the other dignitaries: ‘If there are male warriors, there must certainly exist female warriors. If Jin defeats the Rong tribes with male warriors, then the Rong will certainly defeat Jin with a female warrior. How can this be coped with?’ Li Ke said: ‘How’s that?’ Scribe Su said: ‘Once (xi) Jie of Xia attacked the tribe Youshi and Youshi people gave Mei Xi to him as his wife. Mei Xi found favour [with her lord]. Thus together with Yi Yin,⁴⁶ she equally contributed to the downfall of the Xia. Xin of Yin (i.e. Di Xin 帝辛/Zhòu 紂) campaigned against the Yousu and the Yousu people gave Dan Ji to him as his wife. Dan Ji gained favour [of her lord] and thus together with Jiao Ge⁴⁷ equally contributed to bring down the Yin. King You of Zhou attacked Youbao and the Youbao people gave Bao Si to him as his wife. Bao Si enjoyed favour [of her lord]. She gave birth to Bofu and collaborated with Shifu of Guo [...].⁴⁸ Thereupon, the Zhou perished. Now (jin) our lord of Jin lacks virtue but is being seduced by a captive woman, [...] – how can we not compare [him] to those last three ruling kings?’”⁴⁹

This exemplum is ideal in its pragmatic construction. The ‘narrative surplus’ is relatively limited, and the plot is not too complex but is reduced to significant events. There are few figures, and the narration is characterised by a high tempo of

46 According to tradition, Yi Yin 伊尹 assisted Tang 湯 in conquering the Xia and founding the Shang dynasty.

47 Jiao Ge 膠鬲 was an eminent minister under Di Xin but then supported King Wu of Zhou 周武王 in overthrowing the Shang.

48 The story of Shifu of Guo, who was appointed to serve as *qingshi* 卿士 (“Royal Minister”, highest office at the court, cf. Zuo Yandong 1994, 215 [no. 0401.3]) at the king’s court, and Bao Si is narrated in a speech in Guoyu, 16.473–475.

49 Guoyu, 7.250–251.

narrated time (i. e. summary mode of presentation). Nevertheless, scribe Su gives sufficient information to illustrate this relevant principle and thus to facilitate its proper induction.⁵⁰ Within Su's speech, the problem faced by the diegetic figures of the frame narrative is marked with *jin* 今 ("now"). The historical precedents, which interrelate with the present situation, are marked with *xi* 昔 ("once"). The exemplum thus aims to raise awareness among the other advisors of upcoming calamities, which at this point of the story are still unknown but likely involve political unrest. From this point on, throughout the events of the frame narrative, the advisors desperately try to bring their lord back to the right path and to contain the danger of his evil mistress; but their attempts are ultimately in vain. The *femme fatale* Li Ji deliberately provokes constant turmoil.⁵¹

The same analogies between the frame and intradiegetic narratives that characterise the 'Guoyu' anecdote are also present in 'The Remonstrance of Bao Shuya and Xi Peng'. Both texts contain a 'double-layered' exemplum structure. The individual teaching inferred from the exemplum of scribe Su is nearly identical to that of the frame narrative. Thus, it appears that the narrative of Lord Xian of Jin and Li Ji is another instance in which a 'historical precedent' functions as an exemplum.⁵² The analogies of the intratextual layers are not only structural but, consequently, also functional. This is the same phenomenon described in the anecdote 'The Remonstrance of Bao Shuya and Xi Peng'. Formal criteria serve as another indicator that the anecdote of Lord Huan of Qi and his advisors can be associated with anecdotes compiled in the 'Guoyu'. As these anecdotes are

50 For remarks on an 'ideal' construction of exempla, cf. JACKSON 1988, 217. For a similar discussion, especially with regard to the balance of narrative surplus (*narrativer Überschuss*) and the exemplum's function, see HAUG 1991, 266–267.

51 Li Ji unscrupulously advances her intrigue and slander campaigns. She causes the prince, who is not her own son, to commit suicide. Other princes, among them the later Lord Wen of Jin 晉文公 (i.e. Chong'er 重耳) and Lord Hui 惠公 (i.e. Yiwu 夷吾), are driven into exile, cf. Guoyu, 8.281; interestingly, these events are foretold by the omniscient narrator at the beginning of the frame narrative to praise the foresight of scribe Su, cf. *ibid.*, 7.256; at a later point of the story a diegetic non-omniscient figure is expecting the predictions of the scribe to become true: "At dawn Li Ke met Pi Zheng and said: 'All of what scribe Su has predicted will come true!'" (旦而里克見丕鄭，曰：「夫史蘇之言將及矣！」) *Ibid.*, 8.277. Only with the death of Lord Xian of Jin (651 BCE), followed by a bloody power struggle involving several potential heirs to the throne, was political order restored.

52 It is worth noting that the narrative of Lord Xian of Jin and Li Ji was adopted into later texts, where it obviously serves the function of an exemplum. For instance, in the 'Lienü zhuan' 烈女傳, Li Ji is assigned to the category of "evil mistress" (*nie bi* 孽嬖) together with the spouses mentioned in scribe Su's speech (cf. Lienü zhuan 烈女傳, ed. WANG Zhaoyuan 王照圓, Lienü zhuan buzhu 烈女傳補注, Shanghai 2012, 7.298–300). The narrative was also incorporated into Shuoyuan, 4.83–84. Another instance is a remonstrance by Shusun Tong 叔孫通, grand tutor (*taifu* 太傅) of the heir apparent, against the Han Emperor Gao 高帝 (i.e. Liu Bang 劉邦, r. 206–195 BCE), transmitted in the 'Shiji' (99.2724–2725), in which the precedent is used to advise against replacing the legitimate heir apparent to the throne.

characterised by a high proportion of “speech(es)” (*yu* 語) and the so-called “three-part form” (*san duan shi* 三段式), comprising an introduction, a main-body, and a coda,⁵³ we can relate the manuscript to anecdotes with similar forms.⁵⁴

Last but not least, there are conceptual characteristics shared by the anecdote under investigation and the transmitted texts ‘Guoyu’ and ‘Zuozhuan’. As argued above, the anecdote of Lord Huan is a narrative representation of contemporary discourses on power and rule. The narrative’s core message is the necessity of competent officials and their participation in the political decision-making process. Narratives of this type convey the teaching that good advice and its consideration by a ruler will eventually have the positive effect of stabilising a monarch’s rule.⁵⁵ There are other narratives in the corpus of transmitted texts that echo this concept, as, for example, in the ‘Zuozhuan’:

夏，四月，甲辰，朔，日有食之，晉侯問於士文伯曰：「誰將當日食」對曰：「魯、衛惡之，衛大魯小。」[...] 公曰：「詩所謂『彼日而食，于何不臧』者，何也？」對曰：「不善政之謂也。國無政，不用善，則自取謫于日月之災，故政不可不慎也。務三而已：一曰擇人，二曰因民，三曰從時。」

“In summer, in the fourth month, on the *jiachen* day, the first day of the month, there was an eclipse of the sun. The Lord of Jin (i.e. Lord Ping of Jin 晉平公) asked *shi* Wenbo: ‘Who might deserve the eclipse of the sun?’ He replied: ‘Lu and Wei will suffer for it. In Wei, there will be great suffering; in Lu, less.’ [...] The lord said: ‘What does the

53 Lord Huan, Bao Shuya, and Xi Peng witnessing the solar eclipse constitutes the introduction. The long scene of advice, dominated by quoted figures’ speeches, constitutes the main body. The coda are the events indicating that Lord Huan successfully averts the calamities. For a detailed discussion of the ‘three-part form’ cf. Yu Zhihui 俞志慧, ‘Guoyu’ ‘Zhou, Lu, Zheng, Chu, Jin yu’ de jiegou moshi ji xiangguan wenti yanjiu 《國語》〈周、魯、鄭、楚、晉語〉的結構模式及相關問題研究, in: Hanxue yanjiu 漢學研究 2005.2, 35–63, esp. 38–46. See also SCHABERG 2001, 171–183, esp. 182–183. In the ‘Guoyu’, as well as in the Shanghai manuscript, the coda in anecdotes that narrate events involving ominous disaster and predictions are introduced by the time-marking phrase *shi sui ye* 是歲也 (“In this year”). For instance: “Second year of King You, the three rivers in the Western Zhou [domain] were shaken (i.e. by an earthquake). Bo Yangfu said: ‘Zhou will perish [...]’ In this year (*shi sui ye*), the three rivers dried up and Mount Qi collapsed. In the eleventh year, King You was then destroyed and the Zhou thereupon moved eastward.” (幽王二年，西周三川皆震。伯陽父曰：「周將亡矣！[...]」是歲也，三川竭，岐山崩。十一年，幽王乃滅，周乃東遷。) Guoyu, 1.26–27. That the events narrated in the coda are mostly told by the narrator, lacking figure speech, is another structural similarity of the anecdotes in both the ‘Guoyu’ and manuscript.

54 Similar formalistic attempts were undertaken by ZHAO Yuansu 趙苑夙, Shangbojian Chu wang ‘yu’ lei wenxian yanjiu 上博簡楚王「語」類文獻研究, PhD Dissertation, National Chung Hsing University 國立中興大學 2013, here 322–331. He concludes that the Shanghai texts might have served as the material that later became known as “speeches” (*yu*).

55 Interestingly, narratives of remonstrance compiled in the ‘Guoyu’ operate mainly the opposite way, i.e. by using negative examples, in which the ruler does not heed the advisory remonstrance of his official, thus causing negative effects and even his downfall. It is thus a different mode of conveying the same conceptual teaching.

ode refer to when it says “That eclipse of the sun / In what way have we failed to be good?”⁵⁶ Wenbo replied: ‘It refers to poor governance. If the state lacks [good] governance and does not make use of competent men, it brings upon itself punishment in the form of calamities of the sun and moon. Therefore, one has to be careful about [proper] governance. Be devoted to three things and nothing more: first, choosing [the right] men; second, acting in the interests of the people; and, third, acting in accordance with the seasons.’⁵⁷

Remarkably, this narrative makes a connection between a solar eclipse, as an inauspicious omen,⁵⁸ and supposed poor governance that does not make use of competent officials (*yong shan* 用善). This narrative is, undoubtedly, another case of the literary representation of the contemporary concept *cong shan*, which is merely rephrased as *yong shan*. Moreover, taken together, the cited ode, the exegetical remarks internal to the text, and the discussed manuscript suggest that the literary adoption of a solar eclipse as an indicator of poor governance derived from a contemporary idea external to the text. Another instance from the ‘Zuozhuan’, in which *cong shan* is held up as ideal conduct for a ruler, is the following:

晉樂書救鄭，與楚師遇於繞角。楚師還。晉師遂侵蔡。楚公子申、公子成以申、息之師救蔡，禦諸桑隧。趙同、趙括欲戰，請於武子，武子將許之。知莊子、范文子、韓獻子諫曰：「不可，吾來救鄭，楚師去我 [...], 戰必不克。雖克，不令。[...]不如還也。」乃遂還。

“Luan Shu of Jin went to the aid of Zheng⁵⁹ and encountered Chu troops at Raojiao. The Chu troops turned back. Jin troops thereupon invaded Cai. Prince Shen and Prince Cheng of Chu led the troops of Shen and Xi to the aid of Cai and blocked them in Sangsui. Zhao Tong and Zhao Kuo wanted to fight and requested permission from Wuzi

56 Transmitted in the ‘Shijing’ 詩經, Ode 193 ‘Shi yue zhi jiao’ 十月之交 (The Conjunction of [Sun and Moon] in the Tenth Month). In the ode, a solar eclipse is interpreted as an inauspicious omen, caused by poor governance. The full verse is: “Sun and Moon announce calamity; / They do not follow their [regular] paths. / The states of the four quarters lack [proper] government; / [They] do not employ their good [men]. / That this moon is eclipsed / Is but an ordinary matter, / But that this sun is eclipsed, / In what way have we failed to be good?” (日月告凶、不用其行。四國無政、不用其良。彼月而食、則維其常。此日而食、于何不臧。) Shijing 詩經, ed. Ruan Yuan 阮元, Mao Shi zhengyi 毛詩正義, in: Shisanjing zhushu 十三經注疏 (2 vols.), Beijing 1980, 556; slightly modified transl. of Bernhard KARLGREN, The Book of Odes. Chinese Text, Transcription and Translation, Stockholm 1974, 138.

57 Zuozhuan, Zhao 7.4, 1287–1288. Slightly modified translation of Stephen DURRANT/Wai-ye LEE/David SCHABERG (trans.), Zuo Tradition. Commentary on the “Spring and Autumn Annals”, 3 vols., vol. 3, Seattle, WA/London 2016, 1419.

58 The predictions of Wenbo become true: in the eighth month, Lord E of Wei 衛侯惡 (i.e. Lord Xiang of Wei 衛襄公) dies, cf. Chunqiu, Zhao 7.5, 1282; resp. Zuozhuan, Zhao 7.11, 1293. In Lu, in the eleventh month, the minister Jisun Su 季孫宿 (i.e. Ji Wuzi 季武子) dies, cf. Chunqiu, Zhao 7.7, 1282; resp. Zuozhuan, Zhao 7.14, 1296. On the text-internal interpretation of the correlation of the eclipse and these unfortunate events, cf. Zuozhuan, Zhao 7.14, 1296.

59 Zheng was an ally of Jin but was militarily threatened by Chu (cf. Chunqiu, Cheng 6.9, 829).

(i. e. Luan Shu). Wuzi was about to agree when Zhi Zhuangzi, Fan Wenzi, and Han Xianzi remonstrated saying: ‘This is not permissible. We came to aid Zheng. The Chu army moved away from us [...]. If we fight, we will surely not win. Even if we do win, it will not be good [...]. It is better to turn back.’ [The Jin army] thus turned back.’⁶⁰

The three advisors in this anecdote remonstrate and warn against a hasty attack on the troops of Chu. They argue that even if Jin achieves a momentary victory, in the long run, this would only foster the anger and vengeance of Chu, which would not win anything. As the narrator tells us, the farsighted advice and temporary restraint benefited Jin two years later:

晉樂書侵蔡，遂侵楚，獲申驪。楚師之還也，晉侵沈，獲沈子揖初，從知、范、韓也。君子曰：「從善如流，宜哉！ [...]

“Luan Shu of Jin invaded Cai and then invaded Chu, capturing Shen Li (a minister of Chu). With the Chu troops turning back, Jin invaded Shěn and captured Jichu, the lord of Shěn. This was a consequence of following the advice of Zhi (i. e. Zhi Zhuangzi), Fan (Fan Wenzi), and Han (Han Xianzi). A noble man would say: ‘To follow good advice is as natural as water flowing downwards! That is proper, indeed!’ [...]⁶¹

In this episode, the narrator attributes the Jin victory in battle, crowned by the capture of the Shěn ruler, to the competent advisors and the ruler heeding their remonstrance. This is no mere retelling of the events by the narrator; rather, this specific way of narrating and arranging the events is a narrative means of propagating the message that heeding the advice of competent men will eventually lead to success and triumph. The narrator’s composition, i. e. the selection and (re)organisation of the story’s elements, highlights the causality between practicing *cong shan* and political success. In addition, the commentary of the ‘noble man’ (*junzi* 君子) underlines the lesson to be inferred from this narrative. Therefore, *cong shan* is a concept denoting the ideal conduct of rulers (*Herrscherhandeln*) – the same teaching illustrated and exemplified in ‘The Remonstrance of Bao Shuya and Xi Peng’. Additionally, the discussed narratives make evident that remonstrance in its literary representation was conceptualised as a constructive and stabilising factor of rulership. The passages above support the notion that the manuscript’s anecdote has much in common with the transmitted texts in its conception of good governance. Moreover, we can also assume that this type of narrative within the ‘Guoyu’ and ‘Zuozhuan’ is characterised by a biased affinity to the contemporary class of officials and advisors. If the ‘Remonstrance of Bao Shuya and Xi Peng’ had been incorporated into the corpus of the transmitted texts, likely no one would have perceived it as out of place.⁶²

60 Zuozhuan, Cheng 6.11, 830; transl. based on DURRANT/LEE/SCHABERG 2016, vol. 2, 761.

61 Zuozhuan, Cheng 8.2, 838; modified transl. of DURRANT/LEE/SCHABERG 2016, vol. 2, 771.

62 Moreover, Li Ling 李零 convincingly argues that such manuscripts of “historical narratives/anecdotes” (*gushi* 故事), like the Shanghai texts, could be considered as the original material

In addition to the text-orientated aspects discussed so far, the material evidence of the bamboo manuscript itself can shed light on the text's hypothetical *Sitz im Leben* as an exemplary anecdote in an advisory context. On the back side of slip J1, we find the following note:⁶³

競（強）建（諫）內（入）之⁶⁴

Forceful remonstrance, hand it in. (J1 verso)

Scholars have widely discussed this note without reaching any definite conclusion.⁶⁵ This paper's proposed reading adds another hypothesis. The proposed reading suits the use of anecdotes as a supportive implement for remonstrance. If we imagine the manuscript as a bamboo scroll, the backside of the slip in question would have been on the visible topside of the scroll, functioning as something like a label. Perhaps this manuscript was archived and grouped together with other similar anecdotal texts and drawn upon by an advisor to aid his (urgent) remonstrance.⁶⁶ However, as we lack sufficient evidence of the manu-

which was later compiled to form the 'Zuozhuan' and 'Guoyu'; cf. LI, Jianbo *gushu yu xueshu yuanliu (xiuding ben)* 簡帛古書與學術源流（修訂本）, Beijing 2008, 293–300. On *shi* 事 in the sense of '[historical] narrative/anecdote' in ancient texts, see also Christian SCHWERMANN 2017, 176–178 (fn. 34).

63 See Shangbojian, vol. 5, 3, 18, 168.

64 This transcription is not by GAO Ronghong 2008 but by Thomas CRONE and myself. For reading *jing* 競 (OCM *ganh) as *qiang* 強 (*ganh; alt. 疆) and *jian* 建 (*kans) as *jian* 諫 (*krans) note the evidence in transmitted texts: "Yu set up the drum for remonstrance in the court." (禹立建（諫）鼓於朝) Guanzi, 18.1047; see also the relevant commentaries in *ibid.*, 18.1048–1049, no. 5. Moreover, the collocation of *jing/qiang* and *jian* occurs in transmitted texts and in epigraphic texts, like the Su *you* 肅卣 inscription: "Our settlement Xing remonstrated forcefully." (我興邑競諫) See DONG Shan 董珊, Shanxi Fengxian Hengshui M2 chutu Su you mingwen chutan 山西絳縣橫水M2出土肅卣銘文初探, in: Wenwu 文物 2014.1, 50–55. An example from the transmitted texts: "Earlier, Yu Quan had remonstrated forcefully with the prince of Chu. But the prince did not follow it." (初，鬻拳強諫楚子，楚子弗從。) Zuozhuan, Zhuang 19.1, 211; for *nei* 內 (*nêp; alt. 納) as *ru* 入 (*nêp), cf. WANG Hui 王輝, Guwenzi tongjia zidian 古文文字通假字典, Beijing 2008, 766–767 (nos. 5191, 5193). The common phrase of "bring in" (*ru/na*) plus "remonstrance" (*jian*) is even evident in an early Western Zhou inscription: "[You, Yu,] day and night diligently bring in remonstrance." (敏朝夕入諫（諫）) Yu ding 盂鼎, JC: 2837. The reconstructed wording suits the semantic field of remonstrance in early China (cf. the article of Thomas CRONE in this volume). For the Minimal Old Chinese (OCM) reconstructions cf. Axel SCHUESSLER, Minimal Old Chinese and Later Han Chinese. A Companion to Grammata Serica Recensa, Honolulu 2009.

65 Cf. the gathered treatises on this issue in GAO Ronghong 2008, 206–210.

66 Regarding the alleged *Sitz im Leben*, also consider the following speech on the qualities and competences of "good/ideal servants" (*liang chen* 良臣) by scribe An 史黯: "Because I do not consider [them] (i.e. the servants of Fan 范 and Zhonghang 中行) as good. As for those serving a lord, they remonstrate against wrongdoings and reward good conduct [...]. Day and night [good servants] should recount [accounts of] success and failure and hand (*na*) them in [...]." (「臣以為不良故也。夫事君者，諫過而賞善 [...], 朝夕誦善敗而納之 [...].」)

script's origin and provenance, we should humbly accept that this issue is unlikely to be settled and that our proposal can only remain a hypothesis.⁶⁷

4 Conclusion

The Shanghai manuscript 'The Remonstrance of Bao Shuya and Xi Peng' can be considered as an outstanding specimen of anecdotes negotiating the relationship between rulers and their advisors. By analysing this manuscript, this paper has shed light on the structural and functional aspects of a specific rhetorical device, i. e. the exemplum. The exemplum under investigation, situated at a subordinated narrative level, fulfils the standard definition of an exemplum, both in functional and structural ways. A detailed analysis of the exemplum served as a starting point to propose some further thoughts on the *Sitz im Leben* of the manuscript's anecdote. Due particularly to the analogies between the levels of narration and the apparent homogeneity of their respective teachings, it seems reasonable to assume that the anecdote itself served the function of an exemplum. The uniform moral illustrated across the levels of narration can be abstracted to the simple formula of *cong shan*, i. e. that a ruler should follow and implement the advice of competent officials. The epigram of the embedded exemplum makes this particular moral explicit. The frame narrative, though lacking an epigram, also clearly conveys the same moral, except that it is not explicit but implicit. Thus, if we accept that the anecdote had the function of an exemplum, we ultimately have to accept that the text is not committed to historical accuracy but is primarily concerned with a specific party's subjective interests. That is, the 'historical' precedents are not an account of facts but help the anecdote to fulfill its persuasive function.

Therefore, in considering the anecdote of Lord Huan and his advisor as a pragmatic persuasive-didactic text, we should situate it in the context of political advice and criticism within the ruling elite of the Warring States period. Perhaps the text was used by officials to illustrate the concept of *cong shan* to their lord, to show its potential benefits, and to persuade him to put it into practice. Moreover, after thinking through all that the concept of *cong shan* entails, we can assume not only that the text was associated with the contemporary class of advisors but that anecdotal narratives were used in the struggle over power distribution among the elites in vertical directions – i. e. among a ruler and his lower ranking elites. The

Guoyu, 15.452. It is imaginable that the manuscript's anecdote of Lord Huan and his advisors was such an account of success. Moreover, the wording of the last phrase fits well with our reconstructed reading of the backside note of slip J1.

67 These thoughts are inspired by Thomas CRONE.

concept of *cong shan* stresses the importance of having competent advisors at a ruler's disposal and demands their proactive consultation for and integration in decision-making processes; the narrative is thus a disguised vehicle for participation in power. Remonstrance, in its literary representation, is conceptualised as a tool for constructive and internal criticism, indispensable to stabilising the ruling system while not challenging it. As depicted in the Shanghai manuscript narrative, heeding remonstrating officials and criticism directed at a ruler are indicators not of poor but of good governance. However, from the standpoint of officials, remonstrance should also help to restrain potential dangers, like an incompetent and shortsighted ruler, by facilitating the officials' own participation in power.

Finally, the discussion above has suggested that the anecdote 'The Remonstrance of Bao Shuya and Xi Peng' is akin to transmitted texts like the 'Guoyu' and 'Zuozhuan', with structural, formal, and conceptual parallels. Hence, if we accept that the manuscript functioned as an exemplum, we might infer that similar narratives in the 'Guoyu' and 'Zuozhuan' served the same didactic function of illustrating proper governance, like a mirror of princes. The respective anecdotes' style, form, and mode of narration might differ in some respects, but in their function, they are likely to be similar. Although the note on the backside of the first bamboo slip might be an indicator of the manuscript's implementation in an advisory context, such texts may also have been multifunctional. Therefore, I do not exclude the possibility that these anecdotal texts could also have been implemented in other contexts apart from the potential function proposed here. But this would be for another paper.

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Remonstrating under Difficult Circumstances: The Case of Wang Jia in ‘Hanshu’, Chapter 86

Abstract

This paper examines the function of remonstrance within the early imperial state. It argues that high officials made use of this instrument to improve their own position vis-à-vis their emperor. This is to say that remonstrances, in addition to their respective concrete concerns, could also fulfil a more general function. They were occasionally employed to limit the monarch’s choice of action and to commit him to certain general standards of behaviour. In this sense, this institution was indeed part of the “checks and balances” of early imperial government as argued by Hans Bielenstein. The article argues for this conclusion by focusing on the 86th chapter of Ban Gu’s ‘Hanshu’. It examines three letters of remonstrance that Chancellor Wang Jia submitted to Emperor Ai at the end of the first century BCE. In these texts, Wang Jia protests against the preferential treatment of the emperor’s male lover Dong Xian. However, an analysis of the historical circumstances of these letters as well as their content shows that the chancellor was less concerned with concrete political decisions. Rather, he used the opportunity to impose certain general rules of conduct on his monarch. These include the obligation to consult with his advisors, to keep private and public interests apart, emotionally as well as financially, to respect public opinion, and, finally, to live up to his predecessors’ legacy as well as to his role as emperor. By drawing attention to these general issues of good rulership, Wang Jia sought to save his dynasty from ruin. At least, this is the significance that the historiographer assigns to these writings in the context of the whole chapter. Thus, Wang Jia’s remonstrances raise basic questions concerning the exercise of imperial power in Han dynasty China, which transcend the specific occasion for their submission.

1 Introduction

The institution of remonstrance is a familiar element of the political culture of ancient China. Students of Classical Chinese learn about it when they come across one of the many anecdotes figuring a brave or clever remonstrant, who dares to speak truth to power. Still, many of its features are yet underexplored. It is widely held, for example, that the founding of the Chinese empire marks an important watershed in the history of this institution, because offices of re-

monstrance were firmly established only then.¹ When we scrutinise the historiographical record, however, the matter appears to be more complicated than expected. We find, for example, that only in the first century BCE after the death of Han Wudi 漢武帝 (r. 141–87 BCE), people explicitly ascribe the duty to remonstrate to certain offices. The first list of offices of remonstrance dates to as late as the second century CE. Finally, the officials in question, first of all the grandees (*dafu* 大夫), were not members of the regular bureaucracy staffed at certain offices, but rather consultants, who could be made use of for different purposes.² The institutionalisation of remonstrance in the early Empire, therefore, seems to have undergone a more complicated process than is commonly believed.

Another controversial question regards this institution's function in early Chinese government. The traditional view holds that the justification of the institution of remonstrance lay in the interest of the one remonstrated against. This was typically, though not necessarily, the ruler and, by implication, their dynasty.³ Monarchs themselves could actively apply this instrument to enhance their own reputation and legitimation. This idea is occasionally hinted at in 'Hanshu' 漢書 (Documents of the Han).⁴ However, a different answer to the

1 This conclusion has already been reached by premodern Chinese historians; see Qunshu kaosuo 群書考索, Zhang Ruyu 章如愚, in: Siku quanshu 四庫全書 (Wenyuange 文淵閣 edition, 1500 vols.), ed. Yong Rong 永瑢 et al., Shanghai 2003, vols. 936–938, here 937, "Houji" 後集, 22.15b–16a (pp. 304b–305a), 25.21a (p. 338b); Han Tang shijian 漢唐事箋, Zhu Li 朱禮, in: Wanwei biechang 宛委別藏 (120 vols.), ed. Ruan Yuan 阮元, Shanghai 1988, vol. 60, "Qianji" 前集, 1.4a–6a (pp. 7–11). Cf. Charles O. HUCKER, The Censorial System of Ming China, Stanford, CA 1966, 17; Léon VANDERMEERSCH, L'institution chinoise de remontrance, in: Études chinoises 13.1–2 (1994), 31–45, here 33–34. HUCKER stresses the non-bureaucratic nature of these offices during the early empire; see HUCKER 1966, 18, 22, 28. David SCHABERG argues that references to similar government posts in the pre-imperial age are later constructions; see David SCHABERG, Playing at Critique. Indirect Remonstrance and the Formation of *Shi* Identity, in: Martin KERN (ed.), Text and Ritual in Early China, Seattle/London 2005, 194–225, here 221–222, note 39.

2 I have treated this topic at length in my German dissertation; see Paul FAHR, Remonstrations als Institution. Ein Beitrag zum Herrschaftsverständnis im frühen chinesischen Kaiserreich (Veröffentlichungen des Ostasieninstituts der Ruhr-Universität Bochum 71), Wiesbaden 2021, 82–95.

3 See Xunzi 荀子, ed. WANG Xianqian 王先謙, Xunzi jijie 荀子集解 (2 vols.), Beijing 1988, 9.250; Xiaojing 孝經, in: Shisan jing zhushu 十三經注疏 (8 vols.), ed. Ruan Yuan 阮元, Taipei 2001, vol. 8, 7.3a–4a (pp. 48a–b) (from here on, all references to works that form part of the Thirteen Classics relate to this edition); Shuoyuan 說苑, Liu Xiang 劉向, ed. XIANG Zonglu 向宗魯, Shuoyuan jiaozheng 說苑校證, Beijing 2000, 9.206; Baihutong 白虎通, ed. CHEN Li 陳立, Baihutong shuzheng 白虎通疏證 (2 vols.), Beijing 1994, 5.226.

4 During the reign of Emperor Xuan 宣帝 (r. 74–49 BCE), e. g., the provincial official Zheng Chang 鄭昌 declared in a memorial mainly concerned with legal matters that saintly rulers did not put persons responsible for remonstrance into office to make their own virtue (*de* 德) more visible but to prevent them from becoming idle; see Hanshu 漢書 (12 vols.), Ban Gu 班固 et al., Beijing 1962 (reprint 1975), 23.1102. Thereby, he at least implied that the institution of remonstrance could indeed be utilised to the former cause.

question of remonstrance's function, not often openly stated in early transmitted sources, considers remonstrance as a bureaucratic instrument to check the sovereign's power.⁵ Hans Bielenstein, in particular, has advanced this point of view.⁶ In the present paper, I would like to follow this second line of reasoning further to argue that high officials under the Han indeed used officially sanctioned means of protest to restrict the emperor's power. Yet they did not do this only to influence policy decisions according to their and their peers' opinions; rather, I propose that they at times – rather selfishly – utilised this institution to enhance their standing vis-à-vis the monarch.

That officials remonstrated against their lord to pursue personal interests is occasionally made explicit in the historiographic sources of the Western Han 西漢 dynasty (206/202 BCE–6 CE).⁷ Especially when this period, which spanned roughly two centuries, drew to a close, high officials in the central government seem to have fallen under such pressure that they forcefully resorted to remonstrance to modify the relationship between their group and the throne. This phenomenon can be grasped most clearly during the reign of Emperor Ai.⁸ A model case in this regard are the remonstrances of the emperor's chancellor Wang Jia 王嘉 (d. 2 BCE), a man from one of the mausoleum towns near the

5 The Grandee Remonstrator (*jian dafu* 諫大夫) Bao Xuan 鮑宣 (d. c. 3 CE) once warned Emperor Ai 哀帝 (r. 7–1 BCE) that the empire would not follow his decisions if he decided to weaken his own position and treat bad ministers generously. Among other things, Bao reminded his ruler of the remonstrating officials around him to bolster his claim; see Hanshu, 72.3090–3091.

6 See Hans BIELENSTEIN, *The Restoration of the Han Dynasty, Volume IV. The Government*, in: *Bulletin of the Museum of Far Eastern Antiquities* 51 (1979), 1–300, here 53: “The Han rulers were not autocrats. While there existed no written constitution, custom allowed total power to neither the emperor nor the bureaucracy. The two limited each other. [...] The emperor did not own the empire, he was not above the law, and his performance was under continuous institutional scrutiny. Special censors were appointed whose duty it was to criticise the failings of the ruler.” Note that BIELENSTEIN was sceptical of how efficiently these “censors” fulfilled their official duties; see *ibid.* and IDEM, *The Bureaucracy of Han Times* (Cambridge Studies in Chinese History, Literature, and Institutions), Cambridge et al. 1980, 25–26, 30.

7 A useful example in this regard is the first remonstrance of Liu Xiang 劉向 (79–8 BCE), inserted in his official tradition (*zhuan* 傳) in chapter 36 of the ‘*Hanshu*’. In what was originally a “sealed document” (*fengshi* 封事), i. e. a memorial intended to be read exclusively by the monarch, Liu denounces the opposing court faction to improve his own chances of political rehabilitation, as well as to support a group of allied officials at court; see Hanshu, 36.1932–1947. Interestingly, Ban Gu 班固 (32–92), who seems to have held a very favourable opinion of Liu Xiang, does not conceal Liu's intention at all, stating it bluntly when introducing the text.

8 For a neat overview of Ai's reign, see Homer H. DUBS et al., *The History of the Former Han Dynasty* by Pan Ku. Translation, Volume Three, Baltimore 1955, 1–14; Michael LOEWE, *Crisis and Conflict in Han China*. 104 BC to AD 9, London 1974, 252–285; IDEM, *A Biographical Dictionary of the Qin, Former Han and Xin Periods* (221 BC–AD 24) (*Handbook of Oriental Studies, China* 16), Leiden/Boston 2000, 378a–383b; IDEM, *The Men Who Governed Han China. Companion to A Biographical Dictionary of the Qin, Former Han and Xin Periods* (*Handbook of Oriental Studies, China* 17), Leiden/Boston 2004, 628–631.

capital who was not related to the family of Wang Mang 王莽 (45 BCE–23 CE). These texts are partly inserted into the traditions pertaining to He Wu 何武 (d. 3 CE), Wang Jia, and Shi Dan 師丹 (d. 3 CE) in the 86th chapter of the ‘Hanshu’.⁹ In them, Wang takes issue with certain status enhancements that Emperor Ai wished to confer upon his young homosexual lover Dong Xian 董賢 (d. 1 BCE) and others. As I argue below, the chancellor did not just oppose these concrete, impending measures. Rather, he used the occasion to speak in the interest of himself and his peers, the “senior ministers” (*dachen* 大臣), as well as the regular bureaucracy, and, simultaneously, to remind his emperor of the way a good monarch should reach decisions and fulfil his role.

In the following section, i.e. part two of this paper, I outline those elements of the political climate during Aidi’s reign that are relevant to the present discussion. Secondly, in part three, I briefly discuss the context of chapter 86 in ‘Hanshu’ to understand why Ban Gu inserted Wang’s writings into his work. Subsequently, in part four, I focus on Wang Jia’s three memorials – official letters of remonstrance that he submitted to Emperor Ai. Finally, in part five, I sum up the findings and propose some questions concerning future research on this topic. As the ‘Hanshu’ is the unrivalled primary source for the political history of the period in question, it is the historiographic text most cited in the following pages.

9 See Hanshu, 86.3488–3503 for the tradition regarding Wang Jia. It has been variously noted that ‘quotations’ of documents in the early standard histories do not necessarily reflect the original wording of the respective texts; see, e. g., Hans BIELENSTEIN, *The Restoration of the Han Dynasty. With Prolegomena on the Historiography of the Hou Han Shu*, in: *Bulletin of the Museum of Far Eastern Antiquities* 26 (1954), 1–209, here 44; Enno GIELE, *Imperial Decision-Making and Communication in Early China. A Study of Cai Yong’s Duduan* (Opera Sinologica 20), Wiesbaden 2006 (a), 191. This can be easily proven by comparing different quotations of the same document in one historiographic text, as most recently noted in FAHR 2021, 45–53, and by Kathrin LEESE-MESSING concerning the ‘Sanguo zhi’ 三國志; see Kathrin LEESE-MESSING, *Tradition im Wandel. Historiographiegesehichtliche Studien zu Chen Shous Sanguo zhi* (Lun Wen. Studien zur Geistesgeschichte und Literatur in China 21), Wiesbaden 2016, 137–142. In case of the ‘Hanshu’, Chinese and Taiwanese scholars have reached the same conclusion; cf. Wu Fuzhu 吳福助, *Hanshu cailu Xi Han wenzhang tantao* 漢書採錄西漢文章探討 (Wen shi zhe daxi 7), Taipei 1988, 20–36; Yao Jun 姚軍, *Hanshu caizhi Xi Han wenzhang yanjiu. Jianlun Hanshu yu sanbu ji zhong Xi Han wenzhang zhi bijiao* 漢書採摭西漢文章研究: 兼論漢書與三部集中西漢文章之比較, Dissertation, Lanzhou 2010, 56–69. Finally, Michael LOEWE has pointed to the fact that the way of composition and the language of excavated manuscripts often differ from the documents transmitted in the early histories; see Michael LOEWE, *The Government of the Qin and Han Empires*, 221 BCE–220 CE, Indianapolis 2006, 107–108. All this implies that we must not assume to have access to original documents when discussing the memorials of Wang Jia. Rather, we have what Ban Gu and his co-authors deemed appropriate to the context of the respective chapter. This context is discussed in part three of this paper.

2 High Officials under Pressure

Wang Fuzhi 王夫之 (1619–1692) once pointedly declared that during the reigns of Emperor Cheng 成帝 (r. 33–7 BCE) and Emperor Ai, there were no rulers and ministers any more but only women.¹⁰ From all we know, this is an overstatement. Yet it hints at the fact that high officials were in a difficult position during the last decades of the Western Han dynasty. Their precarious position stemmed, on the one hand, from the influence of two former consorts of Emperor Yuan 元帝 (r. 49–33 BCE) during these later courts, i. e. Wang Zhengjun 王政君 (71 BCE–13 CE), Wang Mang's aunt, and Empress Fu 傅 (d. 2 BCE), Aidi's grandmother. Moreover, from around 5 BCE onwards, the aforementioned Dong Xian began to receive the emperor's favour, so that, in Ban Gu's words, "his standing shook the court" (*gui zhen chaoting* 貴震朝廷).¹¹ He was promoted to the post of commander-in-chief (*dasima* 大司馬) in 1 BCE, and, after even the venerable Chancellor Kong Guang 孔光 (d. 5 CE), a former superior to Dong Xian's father, had paid him his respects, "his power was equal to that of the ruler" (*quan yu renzhu mou yi* 權與人主侔矣).¹² To put it more broadly, during Aidi's reign, government was to a high degree dominated by people who enjoyed a close, personal relationship to the monarch.

At the same time, with Emperor Ai, the leading officials faced an emperor quite different from his predecessor; Aidi was a young man eager to reinforce his personal authority in order to take up earlier models of rulership allegedly embodied by the Han emperors Wu and Xuan. At least, this is what Ban Gu recounts at the end of Aidi's annals.¹³ This interpretation of the emperor's role at court garners some support from the classics, as is evident from the political rhetoric found in 'Hanshu'.¹⁴ It also figures prominently at the end of Liu Xiang's chapter 'Jundao'

10 See Du Tongjian lun 讀通鑑論, Wang Fuzhi 王夫之, in: Chuanshan quanshu 船山全書 (16 vols.), ed. Chuanshan quanshu bianji weiyuanhui 船山全書編輯委員會, Changsha 1988, vol. 10, 5.194.

11 See Hanshu, 93.3733.

12 See *ibid.*, 93.3738.

13 See *ibid.*, 11.345.

14 In the song 'Lofty is that Southern Mountain' (Jie Nanshan 節南山) of the 'Shijing' 詩經 (Classic of Songs), the ruler, allegedly King You 幽 (r. 781–771 BCE), is criticised for not ruling personally (*fu gong fu qin* 弗躬弗親); see Shijing, in: Shisan jing zhushu, vol. 2, 12a.5a (p. 395a). Han writers used the phrase *gongqin* 躬親 to urge their emperor to take care of government matters himself; see, e. g., Hanshu, 85.3445 in Gu Yong's 谷永 (d. 8 BCE) answer to Emperor Cheng. In the chapter 'The Great Plan' (Hongfan 洪範) of the 'Shangshu' 尚書 (Venerable Documents), the Count of Ji 箕子 tells King Wu 武王 (r. 1049/45–1043 BCE) that the ruler alone should bestow rewards and punishments on his subjects (*wei bi zuo fu, wei bi zuo wei* 惟辟作福, 惟辟作威); see Shangshu, in: Shisan jing zhushu, vol. 1, 12.15a (p. 174a). Critics of Han times referred to this passage to protest against the transfer of authority to others than the sovereign; see, e. g., Hanshu, 36.1959 in a remonstrance of Liu Xiang against the Wang family's power, as well as *ibid.*, 86.3494 in Wang Jia's second memorial on the influence of Dong Xian.

君道 (The Right Way of the Ruler) in his ‘Shuoyuan’ 說苑 (Garden of Explanations), supposedly submitted to court ten years before Aidi ascended to the throne.¹⁵ Moreover, even Ban Gu seems to give Aidi some credit for his ambition when he reveals the emperor’s alleged intention to reclaim the power of the ruling house and laments his early death.¹⁶ However, what Ban Gu probably did not approve of, and Liu Xiang would not have approved of, were the punishments Aidi inflicted on some of his highest officials, notably his chancellor Wang Jia in 2 BCE.¹⁷ Others did not lose their lives but their positions, at least temporarily, at the instigation of opposing court factions, especially that of Empress Fu.¹⁸

As the preceding account rests solely on the ‘Hanshu’, which is by no means a contemporary representation of events, it is unclear how much historicity we should ascribe to it, even if Ban Biao 班彪 (3–54 CE) or Ban Gu could have relied on eyewitnesses for the period in question.¹⁹ Michael Loewe has stressed that it is

15 See Shuoyuan, 1.32–33. In this last anecdote, which argues in a rather different direction than the rest of the chapter, a man called Zihan 子罕, acting as chancellor of Song 宋, urges his ruler to convey upon him the authority to enact punishments, only to drive him out of the country and usurp his prerogatives a year later. For the date of the text’s submission, see Christian SCHWERMANN, Anecdote Collections as Argumentative Texts. The Composition of the *Shuoyuan*, in: Paul VAN ELS/Sarah A. QUEEN (eds.), *Between History and Philosophy. Anecdotes in Early China*, Albany 2017, 147–192, here 176, note 33.

16 See Hanshu, 11.345.

17 For Wang Jia’s death in prison, see *ibid.*, 86.3499–3502. The other documented case in this regard is that of Chancellor Zhu Bo 朱博 who took his own life in 5 BCE to avoid trial for denouncing another high official according to the will of the emperor’s grandmother Fu; see *ibid.*, 83.3407–3408. This case obviously differs from that of Wang Jia, since Ban Gu was highly critical of Zhu Bo’s conduct; see his final remarks *ibid.*, 83.3409. At the end of Aidi’s annals, Ban Gu does not explicitly criticise the emperor for punishing some of his high officials severely. The same is true for the chapter summary at the end of the work; see *ibid.*, 100b.4239. However, as Ban Gu attributes Wang Mang’s ascendancy to the lack of proper court personnel, we should probably understand him that way; see *ibid.*, as well as *ibid.*, 93.3741 at the end of his chapter on the emperors’ male lovers.

18 To list a few examples: In 7 BCE, Wang Mang’s petition for release from office was granted after he had severely angered the emperor’s grandmother Fu; see Hanshu, 99a.4042. Fu Xi 傅喜, her younger cousin, who had remonstrated against her participation in government several times, lost his post as general of the right (*youjiangjun* 右將軍) in the same year; see *ibid.*, 82.3380. He returned as commander-in-chief in the next year, to be dismissed again only one year later by Aidi under his grandmother’s pressure; see *ibid.*, 82.3381. In 5 BCE, Chancellor Kong Guang lost his post after being slandered by the emperor’s grandmother Fu and Zhu Bo; see *ibid.*, 81.3357–3358. In the paragraph immediately before this passage, Ban Gu sums up Fu’s influence over her grandson, stating that with her wishes “she made him unable to walk on straight paths” (*shi shang bu de zhi dao er xing* 使上不得直道而行); see *ibid.*, 81.3356. (The editors of the Zhonghua 中華 edition prefer to omit *er* 而 after *zhidao* 直道, following the Jingyou 景祐 edition from 1035 CE, as well as the Palace edition from 1739. This is unwarranted, in my opinion, since the phrase 直道而行 is attested to elsewhere in ‘Hanshu’; see e. g. *ibid.*, 5.153, 99c.4194.)

19 Michael LOEWE has recently surmised that Ban Gu may even have talked to people who witnessed court life under Yuandi and Chengdi; see Michael LOEWE, Ban Gu: Copyist, Creator

a difficult task to reconstruct the monarch's personal involvement in political matters.²⁰ Therefore, the historiographer's contention that Aidi acted out of personal ambition may be a typical example of the psychological explanations introduced by the authors of the early standard histories to justify the respective course of events.²¹ Moreover, it underscores Aidi's personal difference from his predecessor, Emperor Cheng, which is obvious from the 'Hanshu' in many respects.²² On the other hand, the promotion and demotions of Fu Xi, as well as the punishment of Zhu Bo, may hint at the emperor's initiative. Maybe this is what Michael Loewe had in mind concerning Aidi's personal involvement in government. It seems unclear, however, if these actions can be attributed to the emperor in person or should rather be attributed to rival groups, whose interests Aidi had to balance.

What we can assume with some confidence then is that Aidi's reign saw fierce struggles of opposing court factions, as is evident from frequent changes at the highest level of government. These changes imply that neither the imperial in-laws nor Dong Xian and his family could control the court completely.²³ How these machinations worked in detail, we shall probably never know. The final result, however, seems clear; the position of the leading officials was weakened to such an extent that Wang Mang and his aunt encountered almost no rival when they purged the court of possible enemies immediately after the emperor's

and Critic, in: *Bulletin of the School of Oriental and African Studies* 78.2 (2015), 333–355, here 335. In the case of Yuandi, this seems rather improbable, as LOEWE acknowledges himself.

20 See Michael LOEWE, *The Former Han Dynasty*, in: Denis TWITCHETT/Michael LOEWE (eds.), *The Cambridge History of China. Vol. 1: The Ch'in and Han Empires. 221 B.C.–A.D. 220*, Cambridge 1986, 103–222, here 179; Michael LOEWE, *The Concept of Sovereignty*, in: *ibid.*, 726–746, here 746. In the first of these two passages, LOEWE adds that in Aidi's case, the emperor's personal participation can be reconstructed, at least to a certain extent.

21 Hans BIELENSTEIN has pointed out in his study on Fan Ye's 范曄 (398–446) 'Hou Han shu' 後漢書 (Documents of the Later Han) that its author invented or fleshed out speeches in order to explain why individuals acted in certain ways; see BIELENSTEIN 1954, 58. Ban Gu did that as well, though in the present case he states the respective motive of Emperor Ai directly.

22 Chengdi is said to have been fond of women, though Aidi is said to have been less so; see *Hanshu*, 10.330, 11.345. Chengdi, who apparently did not suffer any serious ailment until the day he died, used to sneak out of the palace anonymously, whereas Aidi could not move his limbs due to some disease; see *ibid.*, 10.316, 11.345, 97b.3989. According to Ban Gu's judgement, Aidi did not confer as much power on the Fu and Ding families as Chengdi once conferred on the Wang family; see *ibid.*, 97b.4002. Finally, Chengdi is said to have accepted direct words, whereas Aidi repeatedly punished his highest advisers; see *ibid.*, 10.330, 11.345. However, Ban Gu does report at least one instance where Chengdi's angry response to critique put one of his advisers in danger; see the case of Gu Yong, *ibid.*, 85.3465.

23 Hans BIELENSTEIN has calculated that in the last fifteen years of the Western Han dynasty, office holders changed in the highest posts of government more often than before; see BIELENSTEIN 1980, 148. He interprets this phenomenon as a way of weakening the high officials' stand; see *ibid.*, 146. Cf. IDEM, *Is there a Chinese Dynastic Cycle?*, in: *Bulletin of the Museum of Far Eastern Antiquities* 50 (1978), 1–23, here 9, 18.

death.²⁴ This explanation is supported by Ban Gu himself, as well as later writers.²⁵ It is underpinned further by several memorials inserted into ‘Hanshu’, which stress the want of able court personnel during Aidi’s reign, though these memorials too may have been part of factional efforts.²⁶ It has been argued that this period witnessed no structural crisis in the relationship between the emperor and his chancellor.²⁷ However, Ban Gu’s account in chapter 86 of his work and, in particular, Wang Jia’s memorials prove otherwise.

3 Chapter 86: An Overview

Chapter 86 of the ‘Hanshu’ includes the accounts of three officials: He Wu, Wang Jia, and Shi Dan. These accounts are not only grouped for chronological reasons. Rather, a closer look reveals that the chapter’s parts are connected by several shared features:

- a. All three men served Emperor Ai as “senior ministers”:²⁸ firstly, He Wu held the post of grand minister of works (*dasikong* 大司空) briefly in 7 BCE and of

24 See Hanshu, 99a.4044–4046.

25 This is implied, in my opinion, when Ban Gu says at the end of the chapter including Wang Jia’s tradition that the efforts of Wang Jia and He Wu, both of whom he calls “insignificant/lightweight” (*ququ* 區區), resembled an attempt to block the Yangtze or the Yellow River with a basket full of earth; see Hanshu, 86.3510. It is also implied when he says at the end of the chapter including Dong Xian’s tradition that Wang Mang could usurp the Han dynasty’s mandate after Aidi’s death because the emperor’s leading officials, meaning especially Dong Xian himself, were weak figures; see *ibid.*, 93.3741. Su Che’s 蘇轍 (1039–1112) ‘Disquisition on Emperor Ai’ (Aidi lun 哀帝論) takes this line of reasoning up; see Quan Songwen 全宋文 (360 vols.), ed. ZENG Zaozhuang 曾棗莊/LIU Lin 劉琳, Shanghai 2006, vol. 95, 2080.315.

26 See Li Xun’s 李尋 long reply to Aidi in 7 BCE, Hanshu, 75.3183–3191; the first memorial in Wang Jia’s tradition, also from the beginning of Aidi’s reign, *ibid.*, 86.3488–3492; and, finally, Bao Xuan’s two memorials in 3 BCE, as well as 2 BCE, *ibid.*, 72.3087–3091, 72.3091–3093. The last three texts mention persons who should be promoted or demoted; Wang Jia’s memorial as well as Bao Xuan’s second memorial proved successful in this respect.

27 See ZHU Zongbin 祝總斌, Xi Han zaixiang zhidu bianhua de yuanyin 西漢宰相制度變化的原因, in: Lishi yanjiu 歷史研究 1986.2, 110–126, here 123. This article has recently been translated into English; see IDEM, Reasons for Changing the System of Prime Ministers in the Western Han Dynasty, trans. by Carissa FLETCHER, in: Chinese Studies in History 46.4 (2013), 45–85.

28 The term “senior minister” (*dachen* 大臣) is used in chapter 86 for all three men respectively while they held one of the three highest posts in government, i. e. when they were part of what BIELENSTEIN calls the “cabinet”; see Hanshu, 86.3484, 86.3486, 86.3500–3501, 86.3507; BIELENSTEIN 1980, 7 et passim. It occurs also in Ban Gu’s final remarks at the end of Aidi’s annals: “he repeatedly punished senior ministers” (*lü zhu dachen* 婁誅大臣), as discussed above. In the corresponding passage in the summary of the same chapter in ‘Hanshu’, chapter 100, the term “ministers [supporting the ruler as the feet of a] tripod” (*dingchen* 鼎臣) is used, where the three feet of the tripod correspond to the three officials of the cabinet. This makes sense insofar as Zhu Bo and Wang Jia both held the position of chancellor before they died, as

grandee secretary (*yushi dafu* 御史大夫) for just two months in 2 BCE; secondly, Wang Jia became grandee secretary in 5 BCE and chancellor in 4 BCE, a post he held for two years; finally, Shi Dan became commander-in-chief after Aidi's accession in 7 BCE, soon being transferred to the post of grand minister of works, though he was dismissed the following year.

- b. None of these men held one of the highest government posts for a long time, and all met disgraceful removal from office. He Wu was dismissed in 7 BCE because the emperor's companions allegedly slandered him for being unfilial; he was again removed from court after Wang Mang returned to power in 1 BCE and resorted to suicide in 3 CE to avoid becoming victim to Wang Mang's followers. Wang Jia died in prison in 2 BCE after he was accused of "misleading the state and deceiving the emperor" (*mi guo wang shang* 迷國罔上) by recommending officials who had been punished before.²⁹ Shi Dan's fate witnessed ups and downs; under Aidi he was released from office in 6 BCE by means of a long and rather sharp letter of dismissal and sent home without noble rank a few months later.
- c. All three men resorted to various means to prevent the ascent of persons whom they considered detrimental to the well-being of the dynasty. He Wu

also noted above. On the other hand, the phrase in question could be used more generally for eminent court dignitaries as in "the dukes (i.e. the members of the cabinet), the ministers, and [other] senior officials" (*gong qing dachen* 公卿大臣), which occurs several times in 'Hanshu'. (Note that just before Aidi's accession in 7 BCE, as well as during his reign, the cabinet underwent significant changes, which also affected the titles of the respective offices; see DUBS et al. 1955, 11–14; LOEWE 1974, 256–263; BIELENSTEIN 1980, 11–17, and, more recently, Luke HABBERSTAD, Recasting the Imperial Court in Late Western Han. Rank, Duty, and Alliances during Institutional Change, in: Michael NYLAN/Griet VANKEERBERGHEN (eds.), Chang'an 26 BCE. An Augustan Age in China, Seattle/London 2015, 239–262.)

- 29 The respective passage in Wang's tradition says: "Jia was detained in prison for more than twenty days; he was not fed / did not eat, spilled blood, and died." (嘉繫獄二十餘日，不食，歐血而死。) See Hanshu, 86.3502 (punctuation modified). DUBS apparently prefers the first reading and takes this to mean that the former chancellor was starved to death; see DUBS et al. 1955, 6. According to LOEWE, who opts for the second possibility, the passage should be understood in the sense that Wang willingly starved himself to death; see LOEWE 2000, 529b. In the respective table of the 'Hanshu', Wang Jia's end is described in this way: "he was sent to prison and died because of (?) *yu*" (*xia yu yu si* 下獄瘐死); see Hanshu, 18.712. The term *yusi* 瘐死, which occurs several times in the tables of 'Hanshu' and in one of Xuandi's edicts, seems to be a legal term denoting the death of a prisoner caused by – among other things – hunger or cold; see *ibid.*, 8.252–253, Ru Chun's 如淳 (3. cent. CE) commentary; cf. YANG Shuda 楊樹達, Hanshu kuiguan 漢書窺管, Shanghai 1955 (reprint 1984), 1.70–71. It seems rather unlikely, of course, that a former chancellor would starve in prison due to the prison guards' everyday carelessness. This would favour DUBS' interpretation. On the other hand, I do not see a way to rule out the possibility that the death of a person who refused to eat could be referred to by *yusi* as well. Therefore, the matter must remain undecided for the moment.

used his favourite vehicle of political participation when he refused to recommend Wang Mang to become grand master of ceremonies (*taichang* 太常), as well as commander-in-chief, after Aidi's death. Wang Jia handed in three memorials to protest against the enfeoffment of Dong Xian and the subsequent enlargement of his fief. Shi Dan finally took a single vote (*yi* 議)³⁰ to opt against enhancing the status of the emperor's grandmother and mother, as well as against establishing an imperial shrine for the emperor's father in the capital.

- d. The efforts of all three proved futile. Wang Zhengjun appointed her nephew Wang Mang as commander-in-chief regardless of He Wu's lack of recommendation, Dong Xian enjoyed the emperor's favour until the latter's death, and Aidi not only raised the titles of his mother and grandmother but also established an official shrine for his father in the capital a few months after Shi Dan's dismissal.

These similarities are confirmed by Ban Gu's final remarks at the end of the chapter, as well as in the last chapter of his work. He attests to the good intentions and proper judgment of all of them, but he adds that, in the cases of He Wu and Wang Jia, who paid for their convictions with their lives, their attempts were completely hopeless given the influence of Wang Mang and Dong Xian.³¹ More recently, Chinese scholars have also attested to the chapter's common focus.³²

Considering this focus, it becomes clearer why Ban Gu decided to incorporate Wang Jia's memorials into this chapter. It was not because he thought them important in themselves, nor because he was interested in Dong Xian's fate at this point (otherwise he would have included them in chapter 93, which concerns Dong Xian), nor even because he considered them very important to Wang Jia's

30 On votes in early imperial court conferences, see GIELE 2006a, 183–200; IDEM, *Votum (yi) und Sondervotum (boyi)* in Diskussionen am frühen chinesischen Kaiserhof, in: Heiner ROETZ (ed.), *Kritik im alten und modernen China* (Jahrbuch der Deutschen Vereinigung für Chinarstudien 2), Wiesbaden 2006 (b), 63–71.

31 See Hanshu, 86.3510, 100b.4265.

32 According to Li Jingxing 李景星 (1876–1934), “He Wu, Wang Jia, and Shi Dan held the highest office with loyalty and straightforwardness; all of them did not evade disaster. [They lived] during their state's decline and were what is commonly called ‘stone pillars amidst a rapid stream’. Therefore, [Ban Gu] assembled the traditions [pertaining to them in one chapter].” (何武、王嘉、師丹以忠直居相位，而皆不免於禍，在國家末運，所謂中流砥柱也，故合傳。) See Li Jingxing 李景星, *Sishi pingyi* 四史評議, ed. HAN Zhaoqi 韓兆琦/Yu Zhanghua 俞樟華, Changsha 1986, 242. (Note that *xiangwei* 相位 cannot mean “the chancellor's post”, as He Wu never was chancellor.) Liu Xianxin 劉咸忻 (1897–1932) simply says: “These three persons were all loyal and straightforward senior officials at the end of the [Western] Han dynasty.” (三人皆漢末忠直大臣。) See Liu Xianxin 劉咸忻, *Sishi zhiyi* 四史知意, in: IDEM, *Tuishishu, zengbu quanben, bingji* 推十書增補全本丙輯 (4 vols.), ed. Li Cheng 李誠/DUAN Yu 段渝, Shanghai 2009, vol. 1, 228.

life, though they undeniably marked a turning point in his career. Rather, I would argue, Ban Gu presented them as examples of a last, desperate opposition against forces that finally brought the dynasty to a temporary end.³³ This end was, according to Ban Gu, accelerated by the weak stand of the leading officials at court, which possibly stemmed from Aidi's ambition to re-establish the monarch's personal authority. It is this context that should be considered when reading these texts, rather than Aidi's personal affection for Dong Xian or the size of the latter's fief.

4 Wang Jia's Memorials

The central place in the tradition pertaining to Wang Jia is held by three memorials sent to Emperor Ai. These can be contextualised as follows:

In 3 BCE, Aidi, wishing to confer nobility on Dong Xian, made a pretence of rewarding Dong Xian's participation in uncovering an alleged conspiracy against the throne. To do so, he changed the text of a memorial reporting the matter, which was handed in by someone else, substituting that person's name with Dong's. Ban Gu says that because Aidi feared Wang Jia would oppose this measure, he first sent his empress's father Fu Yan 傅晏 to show the respective imperial edict to his two highest officials, Wang Jia and Grandee Secretary Jia Yan 賈延. Both replied with a sealed response, voicing an objection to the monarch's plan. Aidi was moved by their words and suspended the enfeoffment.³⁴

A few months later Aidi conferred nobility on Dong Xian and others, apparently again without consulting with his officials. On the same occasion, he

33 This focus can be used to explain other peculiarities of the chapter as well; it may be asked, e. g., why Ban Gu recounts extensively He Wu's career as provincial censor before he reached one of the highest posts in the central government but only gives the barest outline of Wang Jia's and Shi Dan's biographies before those two men became chancellors; see Hanshu, 86.3481–3485, 86.3488, 86.3503. He does this, I would argue, to characterise He as a fair judge of others, who liked to recommend talented persons. This impression functions as background for He's twofold refusal to recommend Wang Mang, especially in the second case, where he and another official recommended each other instead of the well-respected Wang; see *ibid.*, 86.3487. The same idea applies to Ban Gu's long narration of Wang Jia's end after his third and final remonstrance; the enraged emperor charges his chancellor with another offence and calls conferences twice to discuss his guilt and its consequences. Wang Jia refuses to commit suicide when sent to prison, where he is interrogated and claims to be guilty, not according to the original accusation but because he did not promote the good and remove the vicious. After he had died in prison, the emperor read his statements and promoted those persons to high posts whom Wang had claimed to be worthy; see *ibid.*, 86.3499–3503. In the context of the whole chapter, these passages stress two aspects: first, the dire need for able court personnel, and second, the final, brave stand of the former highest official in government against a headstrong but errant monarch.

34 See Hanshu, 86.3492.

severely reproached his officials because they had been unable to suppress the aforementioned conspiracy. This step shows how strained the relationship between the monarch and his ministers must have become by then. According to Dubs, it even constituted an open break with the “unwritten constitution” of the empire, as the emperor acted against the expressed opinion of his leading officials.³⁵ A few months later, on the occasion of a solar eclipse on the first day of the year, corresponding to 5 February 2 BCE, the emperor and his confidants evidently tried to improve the throne’s relationship with the bureaucracy by issuing an edict, in which Aidi explicitly blamed himself for the cosmic disharmony, as well as for certain flaws in government. At least implicitly, the emperor even apologised for having previously reprimanded his leading officials erroneously.³⁶ Wang Jia answered Aidi’s call for straightforward critique by handing in a second sealed memorial, in which he took issue with the emperor’s inappropriate treatment of Dong Xian. Ban Gu notes that the emperor was displeased and could not diminish his affection for Dong.³⁷

Around two weeks later, on 21 February, Aidi’s grandmother died. The emperor subsequently had the Empress Dowager neé Wang transfer her alleged final will to the chancellor and grand secretary, instructing them to double the households of Dong Xian’s fief and to bestow fiefs on three persons from or related to the Fu family who had received respective titles before. Thereupon, Wang Jia returned the edict together with a written remonstrance, in which he severely reprimanded the emperor and the empress dowager.³⁸ Enraged, Aidi

35 See DUBS et al. 1955, 5; cf. Homer H. DUBS et al., *The History of the Former Han Dynasty* by Pan Ku. Translation, Volume Two, Baltimore 1944, 8–11 for more information on Emperor Wu’s first break with this so-called “unwritten constitution”. DUBS does not explain how he exactly understands this term. I have argued elsewhere that there did in fact exist such a ‘constitution’, which was not unwritten, however, although it was not codified. This constitution existed in form of written cases of precedent, which were administered by certain officials, the “precedent managers” (*zhanggu* 掌故). (BIELENSTEIN calls them “Authorities on Ancient Matters”.) These texts were later compiled to form the basis of the so-called “dynastic histories”, that is ‘Shiji’ 史記 (Records of the Scribes), ‘Hanshu’, and the like. It was these works which constituted the early Empire’s constitution that DUBS seems to speak of; see FAHR 2021, 109–170.

36 The text of this edict is given in Aidi’s annals; see *Hanshu*, 11.343.

37 See *ibid.*, 86.3494–3497.

38 According to Wei Hong’s 衛宏 work ‘Han jiuyi’ 漢舊儀 (The Old Ceremonial of the Han Dynasty), edicts could be sent back to the imperial secretariat when their content contradicted prevailing regulations; see Han jiuyi 漢舊儀, Wei Hong 衛宏, in: *Hanguan liu zhong* 漢官六種, ed. SUN Xingyan 孫星衍, Beijing 1990, 71. This did probably happen in the present case, where the phrase “return the sealed (edict)” (*fenghuan* 封還), which Wei Hong uses, occurs twice; see *Hanshu*, 86.3498, 86.3500. Later writers have considered Wang Jia’s decision a precursor of a later institution called *fengbo* 封駁 (reject [an edict and send it back] sealed); see Rizhilu 日知錄, Gu Yanwu 顧炎武, ed. HUANG Rucheng 黃汝成, *Rizhilu jishi* 日知錄集釋 (3 vols.), Shanghai 2006, 9.525–527.

ordered his chancellor to proceed to the imperial secretariat where he, apparently in person, charged him with another misdemeanour. Wang Jia acknowledged his fault and met the inglorious end already sketched above.³⁹

While only Wang Jia's last memorial is explicitly marked as remonstrance (*jian* 諫), it is justified to treat all three texts as such for the following reasons:

- a. Judged by their content, the three memorials form one unit of increasingly explicit critique (see below).
- b. The fact that Wang handed in three memorials corresponds to the traditional idea that a person should, if necessary, remonstrate three times to prevent his or her superior from committing a grave mistake.⁴⁰
- c. Elsewhere in his work, Ban Gu calls Wang's memorials a form of protest (*zheng* 爭) and remonstrance (*jianzheng* 諫爭).⁴¹

In what follows, I will discuss those arguments of Wang Jia's remonstrances that are relevant to the present paper. In other words, I will focus only on arguments that pertain to the emperor's office and his relationship to leading governmental officials as well as others.

4.1 Consult Advisors and Value Their Advice

In his first memorial, Wang Jia stresses the monarch's need to cooperate with his official advisers. He should not, according to Wang, decide the conferral of a fief upon Dong Xian and others alone but call for an open discussion of the matter:

陛下仁恩於賢等不已，宜暴賢等本奏語言，延問公卿大夫博士議郎，考合古今，明正其義，然後乃加爵土。

“Since Your Majesty's humane kindness towards Xian and the others does not come to an end, Your Majesty should reveal the wording of their original memorial and ask the dukes, ministers, grandees, erudites, and gentlemen consultants [for their opinion], so that they may investigate and assemble [possible precedents] in the past and present,

39 See Hanshu, 86.3498–3503.

40 See Liji 禮記, in: Shisan jing zhushu, vol. 5, 5.14a–b (p. 95b); Gongyang zhuan 公羊傳, in: ibid., vol. 7, 8.11a–b (p. 102a); Shuoyuan, 9.206; Lunheng 論衡, Wang Chong 王充, ed. Liu Pansui 劉盼遂/HUANG Hui 黃暉, Lunheng jiaoshi 論衡校釋 (4 vols.), Beijing 1990 (reprint 1996), 12.534; Baihutong, 5.229.

41 See Hanshu, 45.2180, 81.3359, 86.3510, 93.3735. In these instances, 爭 is probably a short form for *zheng* 爭, to be pronounced in the fourth tone in modern Standard Chinese. According to ‘Xunzi’, this word denotes a form of protest where the remonstrator is willing to die for his own conviction if his advice is not heeded, as contrasting to *jian* 諫 where he leaves his lord instead; see Xunzi, 9.250; cf. Shuoyuan, 2.50–51 for a modified version of these definitions. Note that ‘Xunzi’ has 爭, whereas ‘Shuoyuan’ has 諍.

and clearly set right what is appropriate. Only after that shall Your Majesty confer ranks and fiefs upon them.” (Hanshu, 86.3492 [punctuation modified])

Apparently, the chancellor argues in the sole interest of his ruler:

暴平其事，必有言當封者，在陛下所從；天下雖不說，咎有所分，不獨在陛下。

“If the memorial is judged openly,⁴² there will surely be someone to say that they should be enfeoffed, so that it is upon Your Majesty whose opinion to follow. Although the empire would not be happy about it, the blame would be shared and not solely rest upon Your Majesty.” (ibid.)

Yet this is an ambiguous argument, as Wang clearly demands that the emperor’s official consultants should be included in the decision-making process.⁴³ The relationship between the emperor and his officials is mentioned again in Wang’s second memorial, where he reminds Aidi of his predecessors. Emperor Cheng, for example, did tolerate harsh critique of his allegedly private matters:

孝成皇帝時，諫臣多言燕出之害，及女寵專愛，耽於酒色，損德傷年，其言甚切，然終不怨怒也。

“During the reign of the Filial Emperor Cheng, the remonstrating officials often addressed the harm caused by the emperor’s private excursions, as well as the fact that his female favourites usurped all his affection and that he was addicted to wine and beauty, thereby diminishing his virtue and reducing his own lifespan. Their words were very sharp, but he never resented [his officials] or became angry with them.” (ibid., 86.3494)

In short, even if the emperor wishes to express his personal gratitude to certain individuals, he should first ask his senior ministers for their opinion. And he should tolerate their criticism of his allegedly private relationships.

42 WANG Xianqian 王先謙 (1842–1917) wants to follow two editions that have *xia* 下 (hand down) instead of *ping* 平; see Hanshu buzhu 漢書補注 (2 vols.), WANG Xianqian 王先謙, ed. YAN Lan 嚴嵐, Yangzhou 2006, 86.8b (vol. 2, p. 1453a). In that case, one would have to translate “to reveal the memorial and hand it down [to the officials to discuss it]”. Instead, I take *ping* 平 to be a short form of *ping* 評 (judge, evaluate); cf. FENG Qiyong 馮其庸/DENG Ansheng 鄧安生 (eds.), Tongjiazi huishi 通假字彙釋, Beijing 2006, 156b–157a.

43 Wang urges the emperor to convene a conference attended by the leading members of the regular bureaucracy, as well as by his official advisers like the grandees. This type of conference differs from the one attended by the emperor’s close companions only. This second kind of gathering was later employed by Aidi to initiate the downfall of Wang Jia himself; see Hanshu, 86.3500–3501; cf. ibid., 83.3407–3408, for a similar case concerning Aidi’s chancellor Zhu Bo. It presumably functioned as a tool to enforce the will of the emperor and/or his confidants. For a general overview of the early empire’s court conferences, see LIAO Boyuan 廖伯源, Qin Han chaoting zhi lunyi zhidu 秦漢朝廷之論議制度, in: IDEM, Qin Han shi luncong 秦漢史論叢, Taipei 2003, 157–200 (first published 1995).

4.2 Keep Apart What Is Public and What Is Private

The notion that even the emperor cannot do as he pleases is raised again in Wang's second and third memorial by introducing two related terms: "private" (*si 私*) and "public" (*gong 公*):⁴⁴

寵臣淳于長、張放、史育，育數貶退，家貲不滿千萬，放斥逐就國，長榜死於獄。不以私受害公義，故雖多內讖，朝廷安平，傳業陛下。

"As for [Emperor Cheng's] male favourites Chunyu Zhang, Zhang Fang, and Shi Yu, Yu was demoted (alternatively: dismissed from office) several times; his family's wealth did not reach up to ten million cash. Fang was expelled from court and sent home on his fief. Zhang was beaten to death in prison. [In this way Emperor Cheng] did not forsake his public (*gong*) obligations because of his personal (*si*) affections, and though there was much criticism concerning his personal matters, the court was at peace and he could pass his heritage on to Your Majesty." (ibid., 86.3494–3495)

今賢散公賦以施私惠，一家至受千金，往古以來貴臣未嘗有此，流聞四方，皆同怨之。

"Now Xian spends public (*gong*) revenue in order to dispense private (*si*) largesse.⁴⁵ One single family receives as much as one thousand catties of gold. Since ancient times, none of the esteemed subjects has ever done something like this; news of it spread to the four directions, and everybody resents it in the same way." (ibid., 86.3498)

According to Wang, if the emperor's personal affection is at odds with what is commonly considered right, he should follow the latter. This same principle applies in the realm of finance as well. Accordingly, the emperor should not use common property, i. e. tax revenue, to allow his lover to demonstrate private

44 For a recent survey of Zhanguo 戰國 period (475–221 BCE) notions of these two terms, see Erica BRINDLEY, The Polarization of the Concepts "Si" (Private Interest) and "Gong" (Public Interest) in Early Chinese Thought, in: Asia Major 26.2 (2013), 1–31. In an article by Liu Zehua 劉澤華, which BRINDLEY also mentions, LIU argues that the emphasis placed on *gong* during the Chunqiu 春秋 (770–476 BCE) and Zhanguo periods accompanied the rise of autocratic rule at that time; see LIU Zehua 劉澤華, Chunqiu Zhanguo de "li gong mie si" guannian yu shehui zhenghe (shang) 春秋戰國的"立公滅私"觀念與社會整合(上), in: Nankai xuebao (Zhaxue shehui kexue ban) 南開學報(哲學社會科學版) 10.4 (2003 [a]), 63–73; IDEM, Chunqiu Zhanguo de "li gong mie si" guannian yu shehui zhenghe (xia) 春秋戰國的"立公滅私"觀念與社會整合(下), in: ibid. 10.5 (2003 [b]), 87–94. However, like BRINDLEY, he notes that this notion of *gong* was not necessarily congruent with the monarch's personal interest or property; see BRINDLEY 2013, 2–3, 18, 23–24, 29; LIU 2003b, 88–89. This is exactly what Wang Jia stresses in the following two passages.

45 YANG Shuda proposes adding *wei* 為 before *Xian* 賢, making Emperor Ai the implicit subject of the whole clause; see YANG 1955, 9.663. This emendation is indeed tempting, as the introductory word *jin* 今 (now) marks a contrast with the preceding sentence, which has the frugal Emperor Wen 文帝 (r. 180–157 BCE) as its subject. Nonetheless, I do not think it is strictly necessary because Wang Jia had already criticised Aidi's generosity towards Dong Xian two sentences before.

sympathies. This distinction was firmly built into the organisation of the Western Han central government, as the monarch's private expenses fell under the jurisdiction of one official, and the public purse under that of another.⁴⁶

4.3 Be Concerned about Public Approval

That the emperor cannot simply follow his personal intentions but should take the common interest into account is further stressed by Wang Jia in a way that can be observed many times in passages of the 'Hanshu' concerning that period: by appeal to public opinion, to the "wishes of the multitude" (*zhongxin* 眾心), to rumours circulating among the common folk, and so on. Already at the beginning of the first memorial, Wang mentions that "the ordinary people made a great fuss" (眾庶匈匈) when Aidi conferred a noble rank upon Dong Xian and the others and that until the present day "rumours" (*liuyan* 流言) about this had not ceased because Dong Xian enjoyed a high reputation at court.⁴⁷ In the following passage, the chancellor justifies his request for a conference to discuss this matter by claiming that "otherwise [he] would be afraid that [the emperor] may to a great extent lose the approval of his people, and that all between the four seas will turn their necks in his direction and criticise [this decision]".⁴⁸ This theme is taken up again in Wang Jia's second memorial where he describes the negative consequences of Aidi's generosity towards Dong Xian. Wang compares the

46 See BIELENSTEIN 1980, 46. This general division of financial administration is made explicit in a fragment probably dating to the Eastern Han dynasty 東漢 (23–220 CE), which is quoted in Liu Zhao's 劉昭 (fl. 502–519) commentary on Sima Biao's 司馬彪 (240–c. 306) monographs, now attached to Fan Ye's 'Hou Han shu': "The ruler uses taxes to cover the public expenses; he uses taxes [on products derived from] mountains, marshes, and ponds to make up for his private expenses." (王者以租稅為公用，山澤陂池之稅以供王之私用。) See Hou Han shu 後漢書 (12 vols.), Fan Ye 范曄/Sima Biao 司馬彪, Beijing 1965 (reprint 1973), "zhi" 志, 26.3592. That the bestowal of rewards and presents belonged to the emperor's private expenses is stated in a memorial of a certain Wujiang Long 毋將隆; see Hanshu, 77.3264. In this text, Wujiang reprimands Aidi for presenting Dong Xian, as well as the emperor's wet nurse, with weapons stored in the imperial armoury. He takes issue with the fact that the emperor "uses the public expenses of the empire to supply private persons [who wield some influence due to the emperor's favour]" (以天下公用給其私門). This would run counter to the institutions of Han government, which were designed to "keep what is public and what is private apart" (*bie gong si* 別公私). See also a fragment of Huan Tan's 桓譚 (c. 43 BCE–c. 28 CE) 'Xinlun' 新論 (New Disquisitions), Xinlun 新論, Huan Tan 桓譚, ed. ZHU Qianzhi 朱謙之, Xinjiben Huan Tan Xinlun 新輯本桓譚新論, Beijing 2009, 11.49; cf. Hsin-Lun (New Treatise) and Other Writings by Huan T'an (43 B. C.–28 A. D.) (Michigan Papers in Chinese Studies 20), trans. by Timotheus POKORA, Ann Arbor 1975, 49.

47 See Hanshu, 86.3492.

48 See *ibid.*: 不然，恐大失眾心，海內引領而議。

emperor's reputation before he acceded to the throne with public opinion concerning Aidi's acts of kindness in the present:

陛下在國之時，好詩書，上儉節，徵來所過道上稱誦德美，此天下所以回心也。

"When Your Majesty resided on your fief, Your Majesty liked the 'Songs' and 'Documents' and gave highest priority to frugality. When Your Majesty later was summoned [to the capital, the people] on the roads Your Majesty passed praised Your Majesty's virtue and goodness. This is the reason why everybody in the empire put his or her hopes upon Your Majesty." (ibid., 86.3495)

To the contrary, now, the emperor sends out officials to provide the Dong family with material supplies necessary for conducting certain family business, like the receiving of guests or weddings. For that purpose, they even confiscate goods in the market, which apparently causes great turmoil in the capital: "All the traders are in great unrest, they make a hubbub in the streets, and the many officials are in confusion."⁴⁹ He adds that even the common people were agitated, referring to the previous year's disorder due to their worship of the Spirit-Mother of the West (Xiwangmu 西王母).⁵⁰ Finally, Wang again emphasises the change in public opinion regarding the emperor:

陛下素仁智慎事，今而有此大譏。

"Your Majesty has always been humane, wise, and careful about your obligations, and now, to the contrary, there is this great critique." (ibid., 86.3496)

Judging these statements is not easy, especially as modern scholars hold different views on the importance of public opinion during the early empire.⁵¹ That capital

49 See ibid., 86.3496: 百賈震動，道路譁譁，群臣惶惑。

50 This popular cult of 3 BCE is described in only three passages found in 'Hanshu'; see Homer H. DUBS, *An Ancient Chinese Mystery Cult*, in: *The Harvard Theological Review* 35.4 (1942), 234–239. Paul GOLDIN has argued that the word *wang* 王 in that goddess's appellation does not mean "king/queen" or "ruler" but rather "spirit", "numinous", or similar; see Paul GOLDIN, *On the Meaning of the Name Xi wangmu, Spirit-Mother of the West*, in: *Journal of the American Oriental Society* 122.1 (2002), 83–85.

51 Yuri PINES states that respect for the people's opinion constituted a central element of political thinking during the Warring States era; see Yuri PINES, *Envisioning Eternal Empire. Chinese Political Thought of the Warring States Era*, Honolulu 2009, 207. Heiner ROETZ holds that this period saw the emergence of a "dynamic public sphere" that was brought to an end by the "monopolistic authoritarianism of a new central state"; see Heiner ROETZ, *Closed or Open? On Chinese Axial Society*, in: *Bochumer Jahrbuch zur Ostasienforschung* 39 (2016), 137–169, here 163–164. (This article refers to much other work on the same topic.) However, Michael NYLAN and Charles SANFT have argued that the early emperors at least accrued great expenses in influencing public opinion; see Michael NYLAN, *Toward an Archaeology of Writing, Text, Ritual, and the Culture of Public Display in the Classical Period (475 B.C.E.–220 C.E.)*, in: Martin KERN (ed.), *Text and Ritual in Early China*, Seattle/London 2005, 3–49, here 23–37; Charles SANFT, *Communication and Cooperation in Early Imperial China. Publicizing the Qin Dynasty* (SUNY series in Chinese Philosophy and Culture), Albany 2014. Maybe,

merchants voiced their discontent when officials took away their wares seems conceivable. But how should we understand Wang Jia's claim in his final memorial that the intended status enhancements must not be brought to the empire's (*tianxia* 天下) attention?⁵² Who constitutes "the empire" in this kind of utterance? In this context, this phrase likely does not refer to every person under the Han administration but may be understood as a rhetorical way of drawing the emperor's attention to the presumed opinion of the regular capital bureaucracy, as well as, perhaps, to other inhabitants of the capital and its environs. That "people walking in the streets" (*xingdaoren* 行人) were by then assumed to take an interest in official matters and shared respective documents is attested to elsewhere in 'Hanshu'.⁵³ However, whether we should believe Wang Jia's words in

therefore, public opinion was something the ruling elites did not so much respect, but increasingly tried to manipulate. Mark Edward LEWIS, on the other hand, holds that the government tried to restrict entrance to public spaces and to screen the monarch from contact with the common population; see Mark Edward LEWIS, *Public Spaces in Cities in the Roman and Han Empires*, in: Walter SCHEIDEL (ed.), *State Power in Ancient China and Rome*, New York 2015, 204–229. Martin POWERS emphasises the importance of the "public" and "public opinion" in Han society, at least from the first century BCE onwards; see Martin POWERS, *Art & Political Expression in Early China*, New Haven/London 1991, 92–96 with further references. On rumour as a form of public opinion, see LU Zongli [呂宗力], *Rumor in the Early Chinese Empires*, trans. by WEE Kek Koon, Cambridge 2021 (Ch. Original Ed. Hangzhou 2011), esp. 296–303.

52 See Hanshu, 86.3498.

53 The old Grand Minister of Works Shi Dan once had one of his subordinates write down the text of a memorial he intended to submit to the throne. When his opponents at court learned that this man had secretly copied the text, they slandered Shi Dan, claiming that "all the people walking in the streets possess [a copy] of the document Dan had handed in as a sealed memorial" (*Dan shang fengshi xingdaoren bian chi qi shu* 丹上封事行人徧持其書). When Aidi again asked his close advisors about the matter, they asserted that a loyal servant should not have "let the officials and common people pass on and copy [the text of a memorial], so that [knowledge of its content] spread to the four directions" (*ling limin chuanxie liuwen sifang* 令吏民傳寫流聞四方). The subsequent letter of dismissal referred to this event as well, stating that information concerning Shi's sealed memorial had "spread at court and in the marketplaces" (*buwen chaoshi* 布聞朝市), and that people everywhere slandered him. Yet, in a written plea in defence of the former grand minister of works, the Prefect of the Masters of Writing (*shangshuling* 尚書令) Tang Lin 唐林 said that "the well-informed people in the capital all considered it appropriate to restore Dan's fief and rank, as well as to allow him to attend certain court audiences, because this is what the people in the four directions hoped for" (京師識者咸以為宜復丹邑爵, 使奉朝請, 四方所瞻仰也); see Hanshu, 86.3506–3509. These descriptions are, of course, not sober accounts of what was happening outside the palace at that time. Nonetheless, what they describe must have been at least conceivable by then; otherwise, it is hard to explain why both Shi's opponents and supporters decided to argue as they did. The same holds true, in my opinion, for the claim that many common people copied, distributed, and obviously read the document in question, even though this probably required more than "functional" or "basic literacy"; cf. Robin D. S. YATES, *Soldiers, Scribes, and Women. Literacy among the Lower Orders in Early China*, in: LI Feng/David Prager BRANNER (eds.), *Writing & Literacy in Early China*, Seattle/London 2011, 339–369, here 340, 367.

this regard is another issue; it must have been a tempting way of arguing, as the emperor could not easily falsify his chancellor's claims. In a situation where "a petty servant [knew] nothing of the affairs inside the imperial palace" (*xiaochen bu zhi nei shi* 小臣不知內事) and "a servant outside the emperor's inner circle nothing of the affairs at court" (*waichen bu zhi chao shi* 外臣不知朝事), Wang Jia may have found it appropriate to remind his ruler of the opposite fact: that Aidi was not necessarily aware of the public opinion outside his palace precincts.⁵⁴

In any case, does this line of reasoning relate to the aforementioned arguments? Not only does Wang Jia demand of his ruler that he consult persons beyond the palace walls and consider common interest but also that he take notice of those persons' opinion. This opinion constituted an important hint as to what was right or wrong, according to Wang: "I hope that Your Majesty be cautious about the one he alone is attracted to (i. e. Dong Xian), and examine him, about whom all the people are in collective doubt."⁵⁵ In other words, not only the opinion of his advisors should matter to Aidi in Wang's view, but the sentiments of his subjects in general.

4.4 Uphold the Dignity of Your Office and the Achievements of Your Ancestors

The first three topics of argumentation have focused, broadly speaking, on the relationship between the emperor and other living persons. In addition, the chancellor addresses the emperor's office even more directly. As claimed above, Wang's memorials are marked by an increasing severity. This applies to his description of Dong Xian; whereas in his first remonstrance, Wang calls him only by name, in his second he implies that Dong is nothing but a "servant in the emperor's favour" (*chongchen* 寵臣), even a "petty person" (*xiaoren* 小人). In his final letter to the throne, he bluntly calls Dong a "servant who won the emperor's favour through flattery only" (*ningxing zhi chen* 佞幸之臣).⁵⁶ More importantly

54 Both quotations are taken from Li Xun's answer to Aidi; see *Hanshu*, 75.3184–3185. The terms "petty servant" (*xiaochen* 小臣) and "servant outside the emperor's inner circle" (*waichen* 外臣) are humble self-designations. In the text's opening passage, Li stresses that he was actually waiting for an appointment inside the Emperor's Weiyang 未央 palace at that time; see *ibid.*, 75.3183. Nonetheless, even if these sentences are rhetorical expressions of humility, they probably still convey the idea that a lower servant of the emperor was neither expected nor obliged to know exactly what was happening inside the palace. Wang Jia, on the other hand, seems to admonish his ruler that he should be aware of what is happening outside of it.

55 See *Hanshu*, 86.3497: 唯陛下慎己之所獨鄉，察眾人之所共疑。

56 See *ibid.*, 86.3492, 86.3494, 86.3497–3498. The word *ning* 佞 refers primarily to a person's verbal skills, meaning something like "eloquent", "skillful", or, pejoratively, "to flatter". However, in this case, I suspect it draws attention to Dong Xian's visual appearance, as opposed to some allegedly inexistent inner qualities; cf. Sima Qian's 司馬遷 (145 or 134–

though, this increasing severity applies to the chancellor's remarks on the role of the emperor itself. In his first memorial, Wang advises his ruler to secure the consent of at least one other official. In his second memorial, Wang urges Aidi to fulfil his tasks diligently, make sure that his prerogatives do not devolve to lower servants, and desist from great spending in the Dong family's favour. Finally, in his last remonstrance, the chancellor resorts to different means; not only does he reproach his emperor for abandoning his authority as ruler, a possible hint to Aidi's own standard mentioned above, but he also insinuates that Aidi does not even care about his loss of authority:

高安侯賢，佞幸之臣，陛下傾爵位以貴之，單貨財以富之，損至尊以寵之，主威已黜，府藏已竭，唯恐不足。

“Xian, Marquis of Gao'an, is a servant who won Your Majesty's favour through flattery only; Your Majesty uses all available ranks and positions to honour him, depletes [public] resources to enrich him, even harming Your Majesty's utmost esteem to confer favours upon him. Your Majesty's authority as ruler is already gone, the storehouses are already empty, but Your Majesty is only afraid that it may not suffice.” (ibid., 86.3498)

Wang also states quite clearly that the monarch is not entitled to decide as he pleases. The first sentence in Ban Gu's version unmistakably underscores this:

臣聞爵祿土地，天之有也。《書》云：『天命有德，五服五章哉！』王者代天爵人，尤宜慎之。

“Your servant has heard that ranks, salaries, and land belong to heaven. In the ‘Documents’ it says: ‘Heaven appoints the virtuous, they wear five types of clothes with five types of pattern.’⁵⁷ The rightful king acts in place of Heaven when he bestows ranks upon his subjects and, therefore, should be especially careful about it.” (ibid.)

However, not only Heaven obliges the young emperor to abstain from certain excesses, but also his filial duty towards his ancestors commits him to restraint:

臣驕侵罔，陰陽失節，氣感相動，害及身體。陛下寢疾久不平，繼嗣未立，宜思正萬事，順天人心，以求福祐，奈何輕身肆意，不念高祖之勤苦垂立制度欲傳之於無窮哉！

“These subjects (i. e. those men whom the emperor wished to confer favours upon, including Dong Xian) are arrogant, presumptuous, and deceitful. For this reason, Yin

c. 90–80 BCE) use of this word at the beginning of his “Ningxing liezhuan” 佞幸列傳 (Collected Traditions of People who have Won the Emperor's Favour through Flattery), Shiji 史記 (Dianjiaoben ershishi shi xiudingben, 10 vols.), Sima Qian 司馬遷 et al., Beijing 2014, 125.3877, as well as Ban Gu's description of Dong's first encounter with the emperor, Hanshu, 93.3733. That the clever use of speech and a beautiful appearance were conceptually linked, at least when employed for improper means, is attested to in Lunyu 論語, in: Shisan jing zhushu, vol. 8, 1.2b–3a (pp. 5b–6a).

57 This quote derives from the chapter ‘Gao Yao mo’ 皋陶謨 (The Counsels of Gao Yao) from the first section of the ‘Shangshu’; see Shangshu, 4.22a (p. 62b).

and Yang have lost their rhythm, the cosmic energies are stirred and stimulate each other, the resulting harm even extends to the people's bodies; Your Majesty's illness has not gotten better for a long time, and an heir has not yet been established. Your Majesty should think about how to rectify the myriad undertakings and respond to the expectations of heaven and the people in order to seek blessings. How would it be appropriate to take oneself lightly, to give free rein to one's passions, and not to think about the efforts Gaozu (r. 206/202–195 BCE) undertook to establish the institutions [of the Han dynasty],⁵⁸ which he wished to pass down to his successors infinitely?" (ibid.)

In other words, Wang Jia implies that the emperor's power is restricted not only by institutions of decision-making, like conferences, or by public opinion, but also by a certain notion of rulership itself. To remind one's ruler of this ideal was not uncommon during the final decades of the Western Han dynasty,⁵⁹ but it was obviously a dangerous matter; remonstrances of the first two centuries BCE regularly include a passage in which the author justifies his critique. Wang's three letters to the throne do the same.⁶⁰ Only in the last one, though, does the chancellor admit to have "broken the taboos" (*fan jihui* 犯忌諱).⁶¹

58 The word *zhidu* 制度 pertains to a lexical field of 'norm' or 'institution', which conceptualised the dynasty's most basic rules, that is, as noted above, its "constitution". Lukáš ZÁDRAPA has recently studied this lexical field in pre-imperial sources; see Lukáš ZÁDRAPA, Structural Metaphor at the Heart of Untranslatability in Ancient Chinese and Ancient Chinese Texts: A Preliminary Study of the Case of the Lexical Field of 'Norm', in: *Acta Universitatis Carolinae Philologica* 4 (2017), 11–50. For its early imperial expressions, cf. FAHR 2021, 19–26 et passim.

59 For remarks concerning the emperor's obligations towards his predecessors, see Liu Xiang's remonstrance against the influence of the Wang family during Chengdi's reign, as well as Gu Yong's reply to the same emperor on the occasion of the sighting of black dragons, *Hanshu*, 36.1961, 85.3463. For the idea that the emperor does not own offices and ranks and, therefore, is not entitled to grant them to whomever he prefers, see Bao Xuan's aforementioned remonstrance, *ibid.*, 72.3089–3090. Interestingly, whereas Wang Jia ascribes possession of ranks, salaries, and land to heaven above, Bao Xuan says that offices and ranks belong to the empire (lit. "all under heaven") below (*tianxia* 天下). This difference can be observed in similar contexts as well; whereas Gu Yong had claimed that the empire did not belong to one person but to the empire itself (天下乃天下之天下, 非一人之天下也), Bao Xuan held that it belonged to august Heaven above (天下乃皇天之天下也); see *ibid.*, 85.3467, 72.3089. In any case, unlike awards and presents that were ideally taken from the ruler's private (*si*) possessions (see above), offices, ranks, fiefs, and even the whole empire belonged to the realm of the public (*gong*), probably because conferral or governing thereof necessarily affected others as well. This differentiation is clearly referred to in Li Xun's answer to Aidi; see *ibid.*, 75.3185, beginning with *liang you bu de yi* 良有不得已.

60 See *ibid.*, 86.3492 (臣嘉 [...] 思報厚恩也), 86.3497 (孔子曰 [...] 不敢自惜), 86.3498 (孝經曰 [...] 唯陛下省察). Compare, e. g., the opening passage of Liu Xiang's first remonstrance in his tradition, *ibid.*, 36.1932–1933 (臣前幸得以骨肉備九卿 [...] 死無所恨) or the final passage of Bao Xuan's letter of remonstrance to Aidi, *ibid.*, 72.3091 (臣雖愚戇 [...] 盡死節而已).

61 See *ibid.*, 86.3498.

5 Conclusion

The discussion above can be summarised as follows. Aidi's reign saw tense conflicts at court, which placed the leaders of the regular bureaucracy in a precarious position. If this situation resulted from the emperor's personal ambition to follow the example of certain predecessors remains a difficult, open question. On the other hand, Ban Gu stresses that other persons, notably the emperor's grandmother Fu and his personal favourite Dong Xian, exerted great influence on the young monarch. The high officials' resistance against these persons, who endangered their stand at court, constitutes Ban Gu's major concern in chapter 86 of his work. When this historical background is considered, Wang Jia's remonstrances reveal two layers of meaning. At first glance, they seem to be directed against certain status enhancements to be conferred on Dong Xian. However, when read in relation to the topic of monarchical rule, they reveal a second agenda concerning Aidi himself; the chancellor emphasises that his emperor should make use of the court conference as a well-established institution of decision-making, respect public interest as well as public opinion, and attend to certain notions of rulership. These points restricted the ruler's space of action and were arguably intended to improve the senior ministers' position and influence. A motive emerges here, which is described in Thomas Crone's and Eugen Wien's contributions to the present volume as well: the remonstrance's concrete occasion often comes as a handy opportunity to confront one's addressee with advice of a more abstract level. If this interpretation is correct, the memorials of Wang Jia prove that the institution of remonstrance could be employed not just to benefit the ruler, as its traditional interpretation holds, but, to the contrary, to benefit his critics in their relationship to their superior, as well as to voice political criticism in general.⁶² As such, it was an important element of what Hans Bielenstein dubbed the "checks and balances" of early imperial government.⁶³ This preliminary conclusion may sound straightforward. Nonetheless, we may discern further questions that could eventually lead to the contention that the matter is much more difficult. Concluding this article, I will raise three such points:

Firstly, the institution of remonstrance could be harnessed for a variety of political goals and, in particular, to the advantage of both the ruler and his confidants, and his officials. Wang's second remonstrance, for example, directly followed the emperor's explicit call for critique. As noted above, this availability of institutional or conceptual instruments to rulers, confidants, and officials alike holds true also for the court conferences or certain concepts like *gong* (public) and *si* (private), which could likewise be utilised by the ruler to pursue

62 On this last point, compare also Christian Schwermann's paper in the present volume.

63 See BIELENSTEIN 1980, 143.

his ends or those of the persons around him. For this reason, we must always consider the possibility that a letter of remonstrance served, at least to a certain extent, an emperor's strategy of self-representation.

Secondly, we must consider the possibility that the narration of early historiographical sources is biased in certain ways which relate to the present discussion. As noted above, Ban Gu tends to unveil the personal motivation of crucial historical actors to explain the course of events. This seems to hold true especially for the ruler; according to Wang Jia's tradition, Aidi initiated Wang's downfall because of his personal affection for Dong Xian and his wrath after his chancellor refused to enlarge his lover's fief.⁶⁴ In contrast to the emperor's emotion and irrationality, Wang Jia's opposition seems fuelled solely by the beliefs and arguments laid out to the reader through the texts inserted into 'Hanshu', chapter 86. However, this account is open to question. For example, we may ask whether Ban Gu's depiction of Western Han emperors relies on earlier stereotypes.⁶⁵ Or we must at least consider that Wang was dismissed from office and sent to prison because he had not lived up to the duties of his office, even though Wang Jia's tradition tells us otherwise.⁶⁶ In a memorial to Emperor Guangwu 光武帝 (r. 25–57 CE), the Grand Palace Grandee (*taizhong dafu* 太中大夫) Liang Tong 梁統 (d. c. 40 CE) even accused Wang of carelessly altering well-established laws, thereby doing away with the institutional legacy of the Han dynasty.⁶⁷ No record concerning these legal reforms during Wang Jia's chancellorship is found in Ban Gu's 'Hanshu'.⁶⁸

64 See Hanshu, 86.3497, 86.3499–3500.

65 In 'Han Feizi' 韓非子 (Master Han Fei) the ruler is compared to a dragon that kills everybody who touches the inverted scale beneath his throat; see Han Feizi 韓非子, ed. CHEN Qiyou 陳奇猷, Han Feizi xin jiaozhu 韓非子新校注 (2 vols.), Shanghai 2000, 4.268–269.

66 When Wang Jia was reprimanded by Aidi for having recommended officials that even he had previously found guilty, the chancellor allegedly did not defend himself but acknowledged his fault; see Hanshu, 86.3500. At the ensuing two conferences, nobody, not even those who argued that the chancellor should not be tried in prison, claimed that Wang was innocent; see *ibid.*, 86.3500–3501. In prison, finally, Wang tried to defend himself, though rather unsuccessfully; see *ibid.*, 86.3502–3503. These accounts seem more reliable than Ban Gu's statements concerning the emperor's personal sentiments, as they probably derive from written documentation. The existence of imperial diaries known from later times, on the other hand, which may possibly have included notes on the emperor's reaction to certain events, cannot be proven for the Western Han dynasty, as has been argued by the Republican scholar ZHU Xizu 朱希祖 (1879–1944); see ZHU Xizu 朱希祖, Han shi'er shi zhuji kao 漢十二世著紀考, in: Guoli Beijing daxue guoxue jikan 國立北京大學國學季刊 2.3 (1930), 397–409; *IDEM*, Han Tang Song qijuzhu kao 漢唐宋起居注考, in: *ibid.*, 2.4 (1930), 629–640, here 629–630. Hans BIELENSTEIN and Anthony HULSEWÉ have opposed this conclusion without, in my opinion, adducing decisive evidence to the contrary; see BIELENSTEIN 1954, 21–22; Anthony HULSEWÉ, Notes on the Historiography of the Han Period, in: William G. BEASLEY/Edwin G. PULLEYBLANK (eds.), *Historians of China and Japan (Historical Writing on the Peoples of Asia)*, London/New York/Toronto 1961, 31–43, here 41.

67 See Hou Han shu, 34.1167.

Finally, we may ask whether Bielenstein's model of institutional "checks and balances" at the highest level of central government is useful for discussing cases like the present one. Mark Edward Lewis argues that imperial power during the Qin and Han empires was not effectively checked upon by the regular bureaucracy, at least not since the time of Emperor Wu.⁶⁹ This contention may find support in Wang Jia's fate as well, as even the chancellor as chief representative of the regular bureaucracy could not permanently pose effective resistance to Aidi's will and Dong Xian's influence. Followers of Bielenstein, on the other hand, may argue that Wang did make some attempt to harness certain institutions like the one of remonstrance or to refuse to implement an imperial order. They may also claim that Aidi's reign saw the breakdown of proper government and that the chancellor's abortive resistance in fact proves how important the aforementioned "checks and balances" were considered even then.⁷⁰ Finally, they may point to the fact that Aidi and his confidants appear to have not held all power at court; this is proven by the emperor's self-critical edict, as well as the fact that he promoted to high offices those persons that Wang had recommended just before his death. Ban Gu explains this decision once again by referring to the emperor's personal sentiments.⁷¹ However, this does not need to be the only explanation. Maybe Wang's former supporters still yielded enough influence to make the emperor revoke his former decisions. Maybe others had also come to the conclusion that the young emperor had gone too far in his treatment of his former chancellor. Maybe the dynasty's 'constitution' or, as I would prefer to call it, its 'institutional order' still yielded enough force to guide people's expectations and behaviour at least to a certain extent.⁷²

In sum, even a relatively short text like Wang Jia's tradition in 'Hanshu' 86 allows for a range of different interpretations concerning the fundamental question of power in early imperial government. Further research along these three lines of investigation may lead to the conclusion that the case of Wang Jia needs to be reconsidered once again.

68 See *ibid.*, note 9.

69 See Mark Edward LEWIS, *The Early Chinese Empires. Qin and Han* (History of Imperial China), Cambridge, MA/London 2007, 63–64: "The formal bureaucracy had no effective base of independent power. Far from developing the power to check the emperor or significantly affect policy, the bureaucrats of early imperial China sank into impotence, serving only to execute policies formulated by others."

70 At the end of his chapter on emperors' male favourites, Ban Gu says explicitly: "The Han dynasty declined during the reigns of Emperor Yuan and Emperor Cheng; it was destroyed during the reigns of Emperor Ai and Emperor Ping." (漢世衰於元、成，壞於哀、平。) See *Hanshu*, 93.3741.

71 "After Wang Jia had died, the emperor read his answers from prison and remembered Jia's word" (死後上覽其對而思嘉言); see *ibid.*, 86.3503.

72 On the early Empire's institutional order, which was at the heart of the contemporary understanding of legitimate dynastic rule, cf. FAHR 2021, 162–170, 293–304, et *passim*.

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Remonstrance in a Declining Empire: The Case of Chen Fan, Minister to Emperors Huan and Ling of the Eastern Han Dynasty

Abstract

Chen Fan 陳蕃 was deeply involved in the political conflicts during the reign of Emperors Huan 桓帝 and Ling 靈帝, mainly by writing memorials of remonstrance, which were transmitted in his biography included in Fan Ye's 范曄 'Hou Han shu' 後漢書. Chen Fan's writings especially illustrate the publicity and harsh style of the remonstrance as a performance, and the tragic failure of this specific political practice at the end of the Eastern Han dynasty. After a general contextualisation of political communication and its issues in the Eastern Han period, I present each of the eight remonstrances compiled in the biography in order to characterise Chen Fan's specific style, as well as the way in which the historian, Fan Ye, presents them, notably by noting in detail the reactions and the consequences of each remonstrance. Then I study the resonances of these remonstrances, which are not isolated pieces of political literature, but relate to each other, whether they are contemporaneous, or of different periods.

興王賞諫臣

“A great king rewards his subjects for being able to offer remonstrance.”¹

Since the end of the first century CE, the power of the scholar-officials was challenged not only by the consort clans but also by the eunuchs, whose privileged position at the emperor's inner court became strategic when successive weak emperors heavily relied on them to preserve their personal power. During the year 159, the young Emperor Huan 桓帝 (r. 132–168) was thus able to depose of the powerful General-in-Chief Liang Ji 梁冀 (d. 159) and his clan thanks to the eunuchs' support. In the following decades, political life at court, as well as in the commanderies, was characterised by an exacerbation of conflicts between eunuchs, whose legitimacy was often proportionate to their personal allegiance to the emperor, and officials, whose legitimacy relied, at least theoretically, on their fulfilment of Confucian virtues and their mastery of classical knowledge. The transition between the reigns of Emperors Huan and Ling 靈帝 (r. 168–189) was a

1 Guoyu 國語 (2 vols.), ed. Shanghai shifan daxue guji zhenglizu 上海師範大學古籍整理組, Shanghai 1978, 12.410.

turning point for the Eastern Han imperial regime, sounding the death knell for any serious reform capable of setting a new equilibrium. In what may be considered as desperate attempts to promote reforms, many memorials of remonstrance, sometimes harsh, were submitted to both emperors by diverse personalities, such as the minister Chen Fan 陳蕃 (d. 168), the specialist of classics and portents Xiang Kai 襄楷 (d. 188?),² and the county magistrate Li Yun 李雲 (d. 159).

Chen Fan's case is highly interesting for at least two reasons: Chen Fan became grand tutor (*taifu* 太傅) when Dou Wu 竇武 (d. 168)³ was general-in-chief (*da jiangjun* 大將軍), thus receiving broad power, which nonetheless proved to be insufficient to reduce the eunuchs' influence at court. As one of the highest dignitaries, he was implicated in two different kinds of attempt to reform the regime: through remonstrance, supposedly an official and virtuous way of reforming, characterised by a certain form of publicity, as shown below; and through "scheming" (*mou* 謀), characterised by secrecy and possibly seen as endangering imperial authority instead of improving it through political persuasion. That may be why Chen Fan is associated with Wang Yun 王允 (137–192) in the same biographical chapter; both men were not directly related to each other,⁴ so the historian's intent is to underscore some parallelism or contrast between their respective activities and destinies. Wang Yun was a reformist high official, active at a later period, not through remonstrance but scheming, also in association with a powerful general-in-chief; after Emperor Huan's death, Chen Fan associated with Dou Wu to overthrow the most powerful eunuchs,⁵ and in a

2 Xiang Kai's remonstrances have been the object of a detailed study by Rafe de Crespigny, *Portents of Protest in the Later Han Dynasty: The Memorials of Hsiang K'ai to Emperor Huan*, Canberra 1976.

3 Dou Wu, scion of a powerful family and a scholar with good knowledge of the classics, was the father of Empress Dou, Dou Miao 竇妙 (d. 172), who became regent Dowager at the death of Emperor Huan.

4 There is yet a tenuous link between both figures, in so far as Wang Yun was the young official who killed the corrupt eunuch Zhao Jin 趙津 (d. 165), thus indirectly provoking the execution of his superior Liu Zhi 劉質 (d. 166). Chen Fan wrote two memorials exhorting the emperor to spare Liu Zhi's life.

5 The achievement of the association between Dou Wu and Chen Fan is described in some detail in the biography of Dou Wu. See *Hou Han shu* 後漢書 (12 vols.), Fan Ye 范曄 et al., Beijing 1965, 69.2241: "(At the beginning of year 168) when [Dou] Wu was controlling the policy at court, he had the intention of executing the eunuchs, and, in fact, Grand Tutor Chen Fan had already developed a stratagem to this purpose. On one occasion, they met together at the court, and Chen Fan said privately to Dou Wu, 'Cao Jie, Wang Fu and the other eunuchs manipulate power since the time of the late emperor. They have spread corruption and disorder in all the empire; they are responsible for the unrest among the people. If we do not execute them now, it will be difficult to make plans later.' Dou Wu fully agreed, and Chen Fan was so delighted that he stood up, pushing away his mat." (武既輔朝政，常有誅翦宦官之意，太傅陳蕃亦素有謀。時共會朝堂，蕃私謂武曰：「中常侍曹節、王甫等，自先帝時

similar way, after Emperor Ling's death, Wang Yun associated with He Jin 何進 (d. 189) for the same purpose.⁶ However, in contrast to Chen Fan, his actions seem to be far less coherent over time. He later associated with the general Dong Zhuo 董卓 (d. 192), before having him killed when he realised that he would be a danger to the Han empire. Moreover, the historian does not record any of Wang Yun's words, again in sharp contrast to the extensive quotation of Chen Fan's remonstrances, indicating their value in the historian's eyes. Indeed, although Chen Fan was a man of action, his biography⁷ is centred on the remonstrance genre and on the effect produced by this kind of political literature, which proved to be tragic at the end of the Eastern Han dynasty.

Besides being a high minister in the Han government, Chen Fan was also an important figure for the reformist officials, who strongly opposed imperial policy, with the support of many students of the imperial academy. The chapter immediately following Chen Fan's biography concerns the "proscription of the party" (*danggu* 黨錮). This "party", or "faction", refers to a group of literati, officials or not, of diverse social backgrounds. They aspired to a deep reform of the state, especially of the recruitment system, which was considered completely ruined by corruption and favouritism, and developed an alternative system of recommendation through their activity of "pure judgement" (*qingyi* 清議). But their adversaries were prompt in denouncing them as "forming a clique", which led to two proscriptions, in 166 and in 168, the second being significantly more violent and long-lasting, to be lifted only in 184. These events are narrated through the biographies of the 'heroes' whose list, quite heterogeneous in its composition, was established by the students of the Imperial Academy and circulated in the capital during the 160s.⁸ Chen Fan occupies a high position on this

操弄國權，濁亂海內，百姓匈匈，歸咎於此。今不誅節等，後必難圖。」武深然之。蕃大喜，以手推席而起。）

6 The biographies of Dou Wu and He Jin are also grouped in the same chapter. Both Dou Wu and He Jin were close relatives to a regent dowager, respectively Empress Dou and Empress He. According to Hans BIELENSTEIN, the general-in-chief was de facto regent, but Rafe de CRESPIGNY considers that the ultimate power was in the regent dowagers' hands; see CRESPIGNY, "Administrative Structure", in: IDEM, *A Biographical Dictionary of Later Han to the Three Kingdoms (23–220 AD)* (Handbook of Oriental Studies: China 19), Leiden/Boston, MA 2007, 1217.

7 For convenience's sake, I use "biography" to translate the term *zhuan* 傳 (transmission, tradition). However, texts like Chen Fan's biography especially give reason to question the common translation of *zhuan*, as they are more akin to an organised compilation of texts than to a biographical narrative.

8 See Rafe de CRESPIGNY, *Politics and Philosophy under the Government of Emperor Huan, 159–168 A.D.*, in: *T'oung Pao* 66.1 (1980), 41–83, here 55: "In their constant criticism of the government and policies of Emperor Huan, the students chanted slogans of praise and blame concerning individual officials, and they also prepared lists of their favourites. These lists varied in content, and they included the names of senior and respected ministers, such as Chen Fan, together with the leaders of the students themselves, such as Guo Tai."

list as he appears as one of the “three lords” (*san jun* 三君), the first category in the list, which brings together men who are “worshipped and supported by the whole realm” (一世之所宗也).⁹ Like in the case of other admired or vilified dignitaries of this time, a seven-character chant circulated that was intended to encapsulate Chen Fan’s spirit: “Fearless of powerful enemies, Chen Zhongju (i. e. Chen Fan)” (不畏強禦，陳仲舉).¹⁰

After Chen Fan was killed in the disorder following the failed attempt to overthrow the eunuchs in 168, the students’ leader and great judge of character Guo Tai 郭太 (127–169) is said to have mourned him with deep sorrow:

建寧元年，太傅陳蕃、大將軍竇武為閹人所害，林宗哭之於野，慟。既而歎曰：「『人之云亡，邦國殄瘁』。『瞻烏爰止，不知于誰之屋』耳。」

“In the first year of the Jianning reign period (168 CE), when [he found out that] the Grand Tutor Chen Fan and the General-in-Chief Dou Wu had been slain by the eunuchs, Linzong (i. e. Guo Tai), out in the country, keened them, deeply pained. Afterwards, he sighed and said, ‘Good men perish / And the country is diseased and dying.’¹¹ Look up at the crow about to roost, / On whose house?’¹² and that was all.”¹³

Guo Tai’s lament for Dou Wu and Chen Fan may seem impersonal as he only quotes two passages of the ‘Book of Odes’ (*Shijing* 詩經), but it implies that both men were equal to the antique sage ministers whose voices are supposed to be transmitted in this classic text and that the loss of these men can only mean the end of the Han dynasty. The very scene is also significant, as the intensity of Guo Tai’s pain is described with the same expression once used for Confucius mourning his beloved disciple Yan Hui 顏回.¹⁴ But at the same time, Guo Tai gives rein to his pain “out in the country” (*yu ye* 於野) because it was forbidden to pay tribute to Dou Wu and Chen Fan in public, indicating that the empire has been turned on its head, with the greatest sages even being deprived of proper ritual funerals.

Chen Fan’s specific prestige appears to have been greatly enhanced by the style of his remonstrances, which were transmitted through the centuries following the

9 Hou Han shu, 67.2187. For the translation, see CH’EN Ch’i-yün, Confucian, Legalist, and Taoist Thought in Later Han, in: Michael LOEWE/Denis TWITCHETT (eds.), Cambridge History of China. Volume 1: The Ch’in and Han Empires. 221 B.C.–A.D. 220, Cambridge 1986, 766–807, here 797.

10 Hou Han shu, 67.2186.

11 Shijing 詩經, ed. Qu Wanli 屈萬里, Shijing quanshi 詩經詮釋, Taipei 1991, 546, ‘Da ya’ 大雅 (Major Odes), poem ‘Zhan yang’ 瞻仰.

12 Shijing, 352, ‘Xiao ya’ 小雅 (Minor Odes), poem ‘Zheng yue’ 正月.

13 Hou Han shu, 68.2226. Translation by Mark L. ASSELIN, A Significant Season. Cai Yong (Ca. 133–192) and His Contemporaries, New Haven, CT 2010, 253 (slightly modified).

14 Lunyu 論語, ed. YANG Bojun 楊伯峻, Lunyu yizhu 論語譯注, Beijing 1980, 112, 11:10: “When Yuan (i. e. Yan Hui) died, the Master keened him, deeply pained.” (顏淵死，子哭之慟。)

fall of the Han dynasty, until Fan Ye 范曄 (398–446) compiled the ‘Hou Han shu’ 後漢書 (History of the Later Han).¹⁵ Through the interweaving of Chen Fan’s ‘biography’ and his successive remonstrances, the reader becomes familiar with the story of a man who repeatedly stood in the way of imperial decision. In fact, the very first *liezhuan* 列傳 in Chinese historiography, that of the two eremitic brothers Boyi 伯夷 and Shuqi 叔齊, already contained a remonstrance (not a written memorial but an oral admonishment in these ancient times), expressed while the brothers literally stood in the sovereign’s way:

及至，西伯卒，武王載木主，號為文王，東伐紂。伯夷、叔齊叩馬而諫曰：「父死不葬，爰及干戈，可謂孝乎？以臣弑君，可謂仁乎？」左右欲兵之。太公曰：「此義人也。」扶而去之。

“When [Boyi and Shuqi] arrived, the Earl of the West had died and [his son] King Wu was leading an expedition east against Zhou (the last king of the Shang dynasty) carrying the wooden spirit tablet [of the Earl of the West], whom he called King Wen. Boyi and Shuqi pulled on his horse’s reins and remonstrated with him: ‘Your father is dead and you have not buried him. Instead, you resort to buckler and bill. Can this be called filial? For a vassal to kill his lord, can this be called humane?’ The attendants wanted to cut them down. Taigong said, ‘These are men of principle.’ He had [his attendants] help them up and send them away.”¹⁶

In this early occurrence of the remonstrance genre in a biography, we already find a number of crucial elements later illustrated in Chen Fan’s remonstrances: a literal stop imposed on those in power, symbolised here by the temporary halt imposed on the military expedition; an appeal to values transcending the king’s immediate interest; the publicity and harsh style of the remonstrance as a performance; and the non-binary nature of the answer: the remonstrance does not necessarily require approval or rejection, but can also be treated with respectful acceptance, as illustrated by Taigong.

15 Some fragments of biographical writings about Chen Fan can be found in Dongguan Hanji 東觀漢記, ed. Wu Shuping 吳樹平, Dongguan Hanji jiaozhu 東觀漢記校注 (2 vols.), Henan 1987, 17.756, as well as in Xie Cheng’s 謝承 ‘Hou Han shu’ 後漢書, Sima Biao’s 司馬彪 (240–c. 306) ‘Xu Hanshu’ 續漢書, and Yuan Shansong’s 袁山松 (d. 401) ‘Hou Han shu’ 後漢書; see Bajia Hou Han shu jizhu 八家後漢書輯注 (2 vols.), ed. Zhou Tianyou 周天游, Shanghai 1986, vol. 1, 119, vol. 2, 466 and 671 respectively. Xie Cheng’s fragments contain an extract from the third remonstrance on the excessive number of women in the palace; Sima Biao’s fragments contain a passage from the fourth remonstrance on the “three desolations”. Both remonstrances are recorded in Fan Ye’s ‘Hou Han shu’, as presented below.

16 Shiji 史記 (10 vols.), Sima Qian 司馬遷 et al., Beijing 1959, 61.2123. For the translation, see William H. Nienhauser (ed.), The Grand Scribe’s Records. Vol. VII: The Memoirs of Pre-Han China by Ssu-ma Ch’ien, Bloomington/Indianapolis, IN 1994, 3 (slightly modified).

1 Remonstrances at the End of the Eastern Han Dynasty

Since the first empire of Qin 秦 (221–207 BCE), the duty of remonstrance had institutional counterparts, notably with the establishment of the offices of household counsellors (*guanglu dafu* 光祿大夫), palace counsellors (*taizhong dafu* 太中大夫), and remonstrant counsellors (*jian dafu* 諫大夫, whose name was changed to *jianyi dafu* 諫議大夫 under the Eastern Han dynasty).¹⁷ But remonstrance could potentially be practised by any subject in the empire, including non-officials.

Memorials of remonstrance were an important political tool in the hands of officials, who could send their critiques to the throne to exert a direct influence on the emperor. At least under Emperor Wen 文帝 (r. 179–157) and Emperor Cheng 成帝 (r. 33–7 BCE), there was a specific category of recruitment based on the ability to offer direct remonstrances (“able to be outspoken and to offer a sharp remonstrance” [*neng zhi yan ji jian* 能直言極諫]), and both emperors published two edicts (in 178 and 165, and in 30 and 12 BCE) calling for the recommendation of this kind of talent.

Nevertheless, the emperor was not the only audience targeted by remonstrances against his policy. In the case of oral remonstrance made at court, in the presence of the emperor’s entourage, the audience was larger. Written remonstrances were also given certain publicity. In general, they would be examined by the imperial secretariat (*shangshu* 尚書) before being transmitted to the emperor, except for “sealed memorials” (*fengshi* 封事), which could be opened and read only by the emperor himself, without going through the possible censorship of the secretariat. Moreover, in the ‘Sanguo zhi’ 三國志 (Records of the Three Kingdoms), we find a significant mention of the existence and circulation of drafts of remonstrances:

羣前後數密陳得失，每上封事，輒削其草，時人及其子弟莫能知也。論者或譏羣居位拱默，正始中詔撰羣臣上書，以為名臣奏議，朝士乃見羣諫事，皆歎息焉。

“[At that time,] Chen Qun (d. 236), on several occasions, wrote secretly about the successes and failures [of the government]. Every time he sent a sealed memorial, he would destroy the draft. Hence, his contemporaries and his disciples could not know anything about it. Among the debaters, some criticised Chen Qun for remaining silent despite his privileged position. During the Zhengshi (240–249) era, an imperial order was issued to compile the ministers’ memorials in order to make a book entitled ‘Memorials of the Great Ministers’ out of them. The gentlemen at court then discovered Chen Qun’s remonstrances and all sighed with admiration.”¹⁸

17 For a detailed and historical view of the institution of remonstrance in China from early times until the Qing 清 dynasty (1644–1911), see CHAO Zhongchen 晁中辰, *Zhongguo jianyi zhidu shi* 中國諫議制度史, Beijing 2015.

18 *Sanguo zhi* 三國志 (5 vols.), Chen Shou 陳壽, Beijing 1959, 22.638.

Chen Qun's decision to destroy his drafts was noted by the historian because it was quite exceptional, and, by contrast, famous literati most likely had drafts of their remonstrances circulated among their disciples, thus contributing to the formation of a limited but authentic 'literate public sphere'. If we refer to the different meanings of 'public' defined by Jürgen Habermas in his 'Strukturwandel der Öffentlichkeit',¹⁹ 'public' here means that this literate sphere took public affairs as its main concern (though the literati involved in this sphere did not always occupy a position in government). Moreover, it could eventually constitute a kind of counterpower against the state, especially in the form of remonstrances, past and contemporaneous, circulating among the literati.

The potential power of these words did not go unnoticed by the eunuchs; in one case at least, the historian notes that they had memorials destroyed, after having denounced them as "fake words" (*eyan* 讒言).²⁰ Such a step was nevertheless considered as a serious breach of an ancient principle in political philosophy, particularly developed in the Confucian tradition. Indeed, offering remonstrances was one of the duties of a minister loyal to his sovereign. As such, they were sometimes even "requested" by the emperor in reaction to disasters or strange events.²¹ Based on historical precedents narrated in the classics or in historiographical works, it was considered a duty of the sovereign to accept remonstrances, or at least to tolerate them even in case they were judged too harsh or inaccurate.

Nonetheless, the reigns of Emperors Huan and Ling were considered a very adverse time for putting into practice this Confucian duty of remonstrance. In the 150s, when Liang Ji was still General-in-Chief, Liu Tao 劉陶 (d. 185) concluded his remonstrance with this pessimistic comment:

19 Jürgen HABERMAS, *The Structural Transformation of the Public Sphere. An Inquiry into a Category of Bourgeois Society*, trans. by Thomas BURGER, Cambridge, MA 1991 (Ger. Original Ed. Neuwied/Berlin 1962), 2–3. Compare Fahr, 93–97.

20 Hou Han shu, 57.1858 (biography of Liu Yu 劉瑜, who was a friend of Chen Fan): "After Liu Yu was executed, the eunuchs had all his memorials burnt to ashes, claiming that they were all but fake words." (瑜誅後，宦官悉焚其上書，以為讒言。) By this step, the eunuchs also prevented the memorials from becoming part of the official historiographical record. According to Michael LOEWE, the recording of past remonstrances would be a way for the historian (in this case Ban Gu 班固 [32–92]) to express his own critical view on a particular reign: "There is however a further way in which he could do so (express a direct denunciation) more openly, and this was by repeating or summarizing the memorials or speeches wherein a brave official declared his views." See Michael LOEWE, *Problems of Han Administration. Ancestral Rites, Weights and Measures, and the Means of Protest*, Leiden 2016, 278.

21 Compare Paul Fahr's contribution to this volume. See, for example, Hou Han shu, 7.289 and 7.301 (request for remonstrances following the earthquake of 162 CE under Emperor Huan), or *ibid.*, 8.332 (under Emperor Ling).

臣敢吐不時之義於諱言之朝，猶冰霜見日，必至消滅。臣始悲天下之可悲，今天下亦悲臣之愚惑也。

“Your servant has uttered untimely principles in front of a court refusing any warnings²², and thus he is like frost and ice facing the sun, doomed to melt and disappear. Originally, your servant was sad over the sad destiny of the empire, and now it is time for the empire to be sad over my folly.”²³

Since his remonstrance was not examined, Liu Tao did not meet such a bad fate in the end, but the metaphor of the ice facing the sun says much about the mistrust and imbalance between the minister and the sovereign, in a somewhat crude expression that could have proven dangerous for the author of the remonstrance.

Remonstrance is an important subject in the ‘Hou Han shu’ composed by Fan Ye, which quotes almost one hundred memorials of this kind. One “discussion” (*lun* 論) entirely devoted to this subject is found in a chapter (‘Hou Han shu’ 57/47) that brings together the biographies of historical figures whose common characteristic is the writing of direct remonstrances. It follows the biographical account of the low-ranking official Li Yun, who sent a daring, and somewhat suicidal, remonstrance to Emperor Huan.²⁴

禮有五諫，諷為上。若夫託物見情，因文載旨，使言之者無罪，聞之者足以自戒，貴在於意達言從，理歸乎正。曷其絞訐摩上，以銜沽成名哉？李雲草茅之生，不識失身之義，遂乃露布帝者，班檄三公，至於誅死而不顧，斯豈古之狂也！夫未信而諫，則以為謗己，故說者識其難焉。

“Among the five types of remonstrance [mentioned in ritual compendia], indirect remonstrance is the best one: making the situation apparent through external things and developing the meaning through literary expression allow the speaker to remain without guilt, while the listener is able to draw lessons for himself. The value of this kind of remonstrance lies in the way it can express ideas with compliant wording and [make] the principles [in question] be set right again. How could one harshly denounce the faults of those above in order to gain fame? Li Yun was a lowborn scholar, unaware of the principle of [avoiding] needless death;²⁵ he submitted an open letter of remonstrance to the emperor, which would be transmitted to the three excellencies, and then, con-

22 According to the commentary, the expression *hui yan* 諱言 precisely means “refusing remonstrances”.

23 Hou Han shu, 57.1844.

24 Thus embodying what David SCHABERG calls a “suicidal commitment to frank communication with the ruler”, by contrast with indirect remonstrance, which manifested “an ideal of tact, rhetorical cunning and self-preservation”. See David SCHABERG, *Playing at Critique: Indirect Remonstrance and the Formation of Shi Identity*, in: Martin KERN (ed.), *Text and Ritual in Early China*, Seattle/London 2005, 194–225, here 196.

25 This sentence alludes to the fact that Li Yun was a low-rank official, remote from the court, and hence unaware of the implicit rules governing the practice of remonstrance. During the Eastern Han dynasty, remonstrance was mainly a written exercise, but the presence of the remonstrator at court may nevertheless give an idea of the level of criticism that was possible.

demned to death, he did not regret [his bad end]; how would [his conduct resemble] that of the wild men of the past!²⁶ [If a gentleman] offers a remonstrance without first having won the trust [of the emperor], it will be considered slanderous.²⁷ Hence the [good] persuader knows the danger [of persuasion].”²⁸

Without doubt, memorials of remonstrance at the end of the Eastern Han dynasty did not align with the practice of “indirect remonstrance” (*fengjian* 諷諫), which was the most valuable kind of remonstrance according to Fan Ye and other authors before him.²⁹ Some memorials relied on the interpretation of omens and portents, considered as signs of the successes and failures of the imperial government. By presenting their remonstrance as an interpretation of “natural” and/or “extraordinary signs” (*zaiyi* 災異), the literati versed in this science were able to retreat behind what could be considered as messages sent by “heaven/nature” (*tian* 天).³⁰ In Xiang Kai’s case, the interpretation of portents developed in his remonstrances may have protected him from tragic consequences, but this was not always enough to save one’s life, as is amply demonstrated in chapter 75 of the ‘*Hanshu*’ 漢書 (History of the Former Han),³¹ devoted to specialists in *zaiyi* who lost their lives as a result of their criticism of power. In fact, the literati who chose to express “indirect remonstrance” preferred not to write memorials of remonstrance but rather essays. This is the case of Chen Zhong 陳忠 (d. 125):

忠內懷懼慙而未敢陳諫，乃作摺紳先生論以諷，文多故不載。

“Chen Zhong felt fear and anger in his heart but did not dare to send a memorial of remonstrance; hence, he composed a ‘Discourse of the Literatus’ in order to criticize indirectly (*feng*), which is too long to be recorded here.”³²

In this context, the remonstrances written by Chen Fan present specific, direct, and down-to-earth expression and argumentation, which almost never invoke

26 Allusion to ‘Lunyu’ (17:16): “Those wild men of the past were straight, whereas crazy men of our time are impostors.” (古之狂也直，今之狂也詐而已矣。) Lunyu, 187.

27 Allusion to ‘Lunyu’ (19:10): “One should first win the trust (of one’s superior) before offering a remonstrance; if one has not won his trust, such a remonstrance will be considered as slanderous.” (信而後諫，不信則以為謗己也。) Lunyu, 201.

28 Hou Han shu, 57.1853–1854.

29 We find the same idea in the ‘*Baihu tong*’ 白虎通 which is believed to compile the results of the discussions held in 79 CE by literati in the presence of Emperor Zhang 章帝 (r. 75–88), but which may also contain passages written at the end of the Eastern Han dynasty.

30 On this topic, see Hans BIELENSTEIN, *An Interpretation of the Portents in the Ts’ien-Han-shu*, in: *Bulletin of the Museum of Far Eastern Antiquities* 22 (1950), 127–143; Wolfram EBERHARD, *The Political Function of Astronomy and Astronomers in Han China*, in: John K. FAIRBANK (ed.), *Chinese Thought and Institutions*, Chicago 1957, 33–70; and CRESPIGNY 1976.

31 ‘Biographical chapter on Sui Hong, Xiahou Shichang, Xiahou Sheng, Jing Fang, Yi Feng and Li Xun’ (*Sui liang Xiahou Jing Yi Li zhuan* 睚兩夏侯京翼李傳).

32 Hou Han shu, 56.1558.

portents.³³ His biography, which quotes his main remonstrances while specifying their context and consequences, thus constitutes an important source for presenting this alternative type of argumentation.

2 Remonstrances in Chen Fan's Biographical Account

Chen Fan's biography includes eight of his memorials, of which six are remonstrances against imperial policy. Chen Fan wrote at least two other memorials of remonstrance that are not quoted in his biography: a memorial making a case for Li Yun's life and, hence, included in Li Yun's own biography,³⁴ and a collective memorial based on the interpretation of portents. Here, I will present each of the remonstrances compiled in the biography to show how they touched upon every aspect of imperial policy at the end of Eastern Han dynasty and how we could characterise their distinctive style of expression.

(a) Chen Fan's first official criticism recorded in his biography³⁵ is a "refutation" (*bo* 駁 or *boyi* 駁議), a genre whose function was to refute a general opinion at court. It criticises both the use of military force in the southern commanderies of Lingling 零陵 and Guiyang 桂陽 and the opening of recommendations for official positions without further examination. In a relatively simple and direct style, with only one reference to the spirit of the founder of the Han dynasty, Gaozu 高祖 (r. 202–195), it insists on the responsibility of the local officials and on the necessity of denouncing recommendations based not on a thorough scrutiny of the would-be administrator's quality, but rather on personal acquaintance and complacency. As for all the other memorials quoted in this biography, the historian notes the reactions to this criticism. Here, the remonstrance is said to have aroused hostility from the emperor's immediate circle (most probably the General-in-Chief Liang Ji), and the young Chen Fan was removed from the court and appointed administrator of the remote commandery of Yuzhang 豫章 (in the southern region of Yangzhou 揚州, present-day Jiangxi). This is the first rebuke in a long series, and it presents the historian with the occasion to characterise Chen Fan's very nature and charisma, thus inextricably linking this historical figure with his writing of remonstrances. The expression characterising Chen Fan as "upright and sharp by nature" (*xing fangjun* 性方峻) is most probably inspired by the formula uttered by another

33 With the exception of the joint remonstrance of 166 attributed to Chen Fan, Liu Mao, and Hu Guang or Liu Ju (see below). On this text, which is not quoted in the *Hou Han shu*, see CRESPIGNY 1976, 57–58.

34 *Hou Han shu*, 57.1852.

35 *Hou Han shu*, 66.2160–2161.

famous judge of character, Xu Shao 許劭 (150–195),³⁶ who was frequently associated with the aforementioned Guo Tai.

A memorial of remonstrance written for Li Yun is mentioned but not quoted in the chapter. It aroused the emperor's anger, and Chen Fan was dismissed and sent home.

(b) The second remonstrance was written after Chen Fan had returned to court and was appointed minister of the household in 159 (*guangluxun* 光祿勳; one of the nine ministers below the three excellencies). It is a direct attack on the contemporaneous practice of enfeoffing undeserving favourites (often eunuchs), on the great number of concubines in the imperial harem, and, on the injustice in the recruitment for office on the one side and in the judiciary system on the other side – a theme that was to prove crucial in the following years. It is introduced by a short and strong definition of the duty of remonstrance:

臣聞有事社稷者，社稷是為；有事人君者，容悅是為。今臣蒙恩聖朝，備位九列，見非不諫，則容悅也。

“Your minister heard that for those who serve the altars of soil and grain, the altars are their only preoccupation; for those who serve the prince, [the prince's] pleasure is their only preoccupation. Now I receive the blessings of this sacred court and my position is among the Nine Ministers; if I find wrongdoings, but do not offer remonstrance, this would mean that my only preoccupation is Your Majesty's pleasure.”³⁷

Chen Fan then criticises some underserved favours granted by the emperor to personalities close to him, referencing not a sage king of remote antiquity but again the founder of the Han dynasty:

高祖之約，非功臣不侯。而聞追錄河南尹鄧萬世父遵之微功，更爵尚書令黃雋先人之絕封，近習以非義授邑，左右以無功傳賞，授位不料其任，裂土莫紀其功，至乃一門之內，侯者數人。

“It was Emperor Gaozu's promise that no man should be made a marquis unless he had performed some worthy service, and yet I have heard that Deng Zun, father of the Intendant of Henan Deng Wanshi, has been granted posthumous honours for very minor achievements, and the terminated inheritance of the fief once held by the an-

36 Hou Han shu, 68.2234 (Biography of Xu Shao): “Xu Shao went to Yingchuan and had many acquaintances with famous elders, except with Chen Shi. Furthermore, when Chen Fan lost his wife and went back home for her funeral, all his fellow countrymen went to the funeral, except for Xu Shao. Someone asked for the reason for this, and Shao answered: ‘Taihou's (i. e., Chen Shi's) way is so wide that it is difficult to cover it all (through mere acquaintance). Zhongjiu's (i. e., Chen Fan's) nature is so sharp that it is difficult to get through. That is why I did not pay a visit to either of them.’ The majority of his judgments were of the same type.” (劭嘗到潁川，多長者之遊，唯不候陳寔。又陳蕃喪妻還葬，鄉人畢至，而劭獨不往。或問其故，劭曰：「太后道廣，廣則難周；仲舉性峻，峻則少通。故不造也。」其多所裁量若此。)

37 Hou Han shu, 66.2161.

cestors of the Prefect of the Masters of Writing Huang Jun is now being restored. Close companions receive fiefs without good cause, attendants are handed rewards without having achieved anything, and within a single family there may be several men with marquisates.”³⁸

On the second point – the excessive number of women in the palace – Chen Fan briefly refers to the cosmological theories of his time, which would not be the case in his later remonstrances (with the exception of the joint remonstrance of 166). The last point is also dealt with in a very concise and direct manner:

夫獄以禁止姦違，官以稱才理物。若法虧於平，官失其人，則王道有缺。而令天下之論，皆謂獄由怨起，爵以賄成。

“The role of the prison is to put a stop to treachery and disobedience; the role of the administration is to evaluate talents and to organise the world. If the law lacks impartiality, if the administration lacks fitting personnel, then the royal way remains uncomplete. Furthermore, it creates ground in the empire for discourses denouncing penal law as a means to fulfil a personal grudge and ranks as accomplishments obtained through bribery.”³⁹

Quite exceptionally, some points of this remonstrance were taken into account by the emperor, who reduced the number of women in the palace and the honours given to Huang Jun 黃儁.

(c) The third remonstrance focuses on one particular point, the imperial hunting, criticising its bad timing in a crucial season for agricultural activities. This remonstrance is given a precise date, the 6th year of the Yanxi 延熹 era (i. e., 163). It refers to three distinct periods in history: First, Chen Fan reminds the ruler of the principles found in the Classics, which strictly limit hunts except when carried out in the service of sacrifices. He seizes the occasion to underscore that these principles were formulated in times of peace and abundance and to stress sharply the contrast with the present time of “three desolations” (*san kong* 三空; i. e., desolation in the fields, at court, and in the granaries).

Then, Chen Fan returns to the present, using strong words to denounce the emperor’s lack of consideration for his people:

又前秋多雨，民始種麥。今失其勸種之時，而令給驅禽除路之役，非賢聖恤民之意也。

“Last autumn, there were heavy rains, and only now are the people beginning to plant their wheat. Now, Your Majesty not only missed the right time to encourage them to sow their grain, but You have instead ordered [that they take part in the hunt], using corvée

38 Ibid., 66.2161. Transl. Rafe de Crespigny, Emperor Huan and Emperor Ling. Being the Chronicle of Later Han for the Years 157 to 189 AD as Recorded in Chapters 54 to 59 of the Zizhi tongjian of Sima Guang (Faculty of Asian Studies Monographs: New Series, No 12), 2 vols., vol. 1, Canberra 1989, 23.

39 Hou Han shu, 66.2161.

labour to hustle the prey and clear the roads. This is not the policy of a worthy sage who cares for his people.”⁴⁰

Maybe with the purpose of justifying the harsh style of his remonstrance, Chen Fan concludes with a reference to famous remonstrances of the pre-imperial period: Yanzi’s 晏子 remonstrance to Lord Jing of Qi 齊景公 (r. 547–489 BCE)⁴¹ and Lord Moufu of Zhai’s 祭公謀父 remonstrance to King Mu of Zhou 周穆王 (r. 956–918 BCE).

This remonstrance was “not accepted” (*bu na* 不納). Over the next two years, Chen Fan’s career experienced ups and downs. He was first forced to resign following his attempt to establish a fair system of selection for office. He was then rehabilitated by being made palace counsellor (*taizhong dafu* 太中大夫) and, in 165, when he was about to be nominated grand commandant (*taiwei* 太尉), one of the three excellencies at the head of the Han government,⁴² he wrote a text of renunciation, which was perhaps intended more to recommend men of integrity, such as Hu Guang 胡廣 (91–172), Wang Chang 王暢 (d. 169), and Li Ying 李膺 (d. 169), than to renounce office. Chen Fan’s wish was not granted by the emperor.

Here, the biography presents a short but interesting narrative, which indicates that, in addition to written remonstrances, Chen Fan also practiced oral remonstrance. Following the eunuchs’ regaining of power and their attacks on officials like Liu You 劉祐 (d. 168) and Li Ying, Chen Fan is said to have strongly yet unsuccessfully advocated their case before the emperor:

蕃因朝會，固理膺等，請加原宥，升之爵任。言及反覆，誠辭懇切。帝不聽，因流涕而起。

“Then, Chen Fan, on the occasion of a court assembly, firmly explained the case of Li Ying and the others, asking for an imperial pardon and for their promotion. He repeated his arguments with a fully authentic expression and passionate integrity. The emperor did not listen to him, and Chen Fan left, shedding tears.”⁴³

Chen Fan’s tears may remind us of Liu Tao’s metaphor of the ice melting in front of a deaf sun. In any case, this scene undoubtedly introduces an escalation of tension between the remonstrating minister and the emperor.

40 Ibid., 66.2162. Transl. CRESPIGNY 1989, vol. 1, 40 (slightly modified).

41 Yanzi or Yan Ying 晏嬰 was considered one of the most brilliant statesmen of the Spring and Autumn period. The ‘Yanzi chunqiu’ 晏子春秋 in eight *pian* 篇 collects the remonstrances he is supposed to have addressed to Lord Jing of Qi, mainly in the first two *pian* (sometimes entitled ‘Jian’ 諫 [Remonstrance]). In his study of the remonstrance as a specific mode of communication, HUANG Mingfen 黃鳴奮 devotes a chapter to Yan Ying’s remonstrances; see HUANG, Shuifu junzhu – Zhongguo gudai de fengjian chuanbo 說服君主——中國古代的諷諫傳播, Beijing 2001, 222–271.

42 This was possible due to the ousting of powerful eunuchs like Hou Lan 侯覽 (d. 172) in the same year.

43 Hou Han shu, 66. 2163.

(d) Chen Fan's fourth remonstrance⁴⁴ was written to defend Liu Zhi 劉質 (d. 166) and Cheng Jin 成璜 (d. 166), two officials famous for their deep knowledge of the classics and for their outspokenness. They had executed eunuchs who were accused of corruption and abuse of power despite an imperial amnesty. According to Rafe de Crespigny, "the whole affair, with Chen Fan's argument that the letter of the law was irrelevant to men of good will, and the intense interest among the students of the University, the junior officers of the bureaucracy and gentry officials who sought reform, played a critical role in damaging the relationship between the imperial court and the administration which should serve it".⁴⁵

In fact, there were two remonstrances: first, a collective remonstrance was submitted to the emperor by the three excellencies, the Excellency over the Masses (*situ* 司徒) Liu Ju 劉矩 (d. 169?),⁴⁶ the Excellency of Works (*sikong* 司空) Liu Mao 劉茂 (d. 170?), and Chen Fan, then grand commandant. The fragments of this remonstrance, which are quoted by Yuan Shansong and transmitted in the commentary to the 'Wuxing zhi' 五行志 (Records of the Five Phases) chapter,⁴⁷ show that it relied on the interpretation of portents. The emperor expressed his "disapproval" (*bu yue* 不悅) after reading this remonstrance, and indictments were prepared for charging the three excellencies. As a consequence, Liu Mao (and perhaps Liu Ju) decided to abandon his criticism, whereas Chen Fan maintained his and returned with another remonstrance, this time written from a personal viewpoint. This 'second version', which is transmitted in Chen Fan's biography, no longer relies on portents but criticises imperial policy and even the personal stature of the emperor in a very direct and harsh way. It discusses precedents from the history of the Han dynasty and measures the present emperor against his predecessors. In doing so, Chen Fan does not even compare the emperor to the sage of antiquity but to "a clan of no importance":

陛下超從列侯，繼承天位。小家畜產百萬之資，子孫尚恥愧失其先業，況乃產兼天下，受之先帝，而欲懈怠以自輕忽乎？誠不愛己，不當念先帝得之勤苦邪？

"Your Majesty has risen from the rank of a feudal lord to inherit the supreme position. Even in a clan of no importance that accumulated many possessions sons and grandsons would be ashamed if they were to fail to maintain the achievement of the past.

44 Ibid., 66.2164–2165.

45 See CRESPIGNY 2007, 89.

46 Liu Ju was grand commandant from 161 to 162 and in 168. He does not seem to have been excellency over the masses during the year 166. According to the 'Annals of Emperor Huan', the position was held by Hu Guang at the time.

47 Hou Han shu, 14.3296. The joint remonstrance is also briefly quoted in the commentary to the 'Annals of Emperor Huan' (ibid., 7.316), after the mention of different disasters and strange events like fires that consumed gates of the imperial palace in Luoyang, bizarre words heard at night, and strange sounds of drums.

Surely this is still more true when the possessions include the whole empire, handed down by the former rulers; and yet you wish to neglect them in order to indulge in your frivolous interests! Even if you do not care for yourself, shouldn't you care for the hard work of your predecessors, who established [the dynasty in the first place]?⁴⁸

It is hard to imagine how Chen Fan dared to use such a comparison and to ask the emperor such insolent questions. His specific style appears here most conspicuously; there is no subtle analysis of strange events, no cautious reference to the classics, no praise to compensate his criticism. According to this account, it seems that when the classical, cautious exercise of remonstrance was not accepted by the emperor, who furthermore broke with precedent, Chen Fan chose not to be silent but to adopt an extremely harsh style. He was not so far from the "madness" of Li Yun, but, unlike Li Yun, his high position allowed him to throw all his weight into the battle. After having attacked the very personality of the emperor, he does not subtly suggest certain political change; instead, he directly argues for the execution of the corrupted favourites and urges the emperor to follow Liu Zhi and Cheng Jin's path and eliminate the eunuch attendants:

小黃門趙津、大猾張汜等，肆行貪虐，姦媚左右，前太原太守劉瓚、南陽太守成瑨，糾而戮之。雖言赦後不當誅殺，原其誠心，在乎去惡。至於陛下，有何惜惜？[...] 而今左右羣豎，惡傷黨類，妄相交構，致此刑誅。聞臣是言，當復喊訴。陛下深宜割塞近習豫政之源，引納尚書朝省之事，公卿大官，五日壹朝，簡練清高，斥黜佞邪。如是天和於上，地洽於下，休禎符瑞，豈遠乎哉！

"The Junior Attendant of the Yellow Gates Zhao Jin, and that great rascal Zhang Fan and his people all acted with cruelty and greed, and they curried favour with your attendants. The former Grand Administrator of Taiyuan Liu Zhi, and the former Grand Administrator of Nanyang Cheng Jin arrested and executed them. Although it may be said that the action took place after an amnesty and so the men should not have been put to death, the essential point is that these officers had hearts sincerely concerned with the elimination of evil. From Your Majesty's point of view, what cause is there for anger? [...] Yet now this group of eunuch attendants, a gang of evil-doers, because they are angry at the penalties inflicted upon other members of their gang, have spread wild stories to bring [these officers] under threat of serious punishment. Even these words of mine may lead to their tearful complaints. Your Majesty should take action to remove opportunities for your eunuch attendants to be involved in administration. You should personally receive the documents (*shi*) of the imperial secretariat and the court administration; dukes, ministers, and [other] high officials [should] come to court every five days and appoint and promote only those who are pure and of high moral quality, and to criticise and eliminate those who are wicked and base. Thus, Heaven will be in harmony above, and Earth will be contented below. Good fortune and auspicious influences, would they be far at hand?"⁴⁹

48 Hou Han shu, 66.2164. Transl. CRESPIGNY 1989, 1.72 (slightly modified).

49 Hou Han shu, 66.2164. Transl. CRESPIGNY 1989, 1.72–74.

Chen Fan's writing of remonstrance clearly abandons the field of astronomy as its source of argumentation to turn towards the field of Han history, where he tries to find precedents to Liu Zhi and Cheng Jin's decision to fight injustice without consideration for imperial amnesty. He relates how, under Emperor Wen, Shentu Jia 申屠嘉 (d. 155 BCE) was chancellor of the state and decided on his own initiative to execute the wealthy and disrespectful Deng Tong 鄧通. Emperor Wen did not criticise Shentu Jia's decision but instead asked for Deng Tong's pardon. Likewise, under Emperor Guangwu 光武帝 (25–57), Dong Xuan 董宣 had the lover of the princess Liu Huang 劉黃, a sister of the emperor, executed for having killed a man, and the emperor rewarded him for his loyalty.

Once again, the historian carefully notes the reactions to Chen Fan's remonstrance, this time not only of the emperor but also of the eunuchs. While the emperor became even more furious and did not accept a single point of the remonstrance, the eunuchs recognised Chen Fan as their enemy, though they did not dare to attack him as he was a widely admired high official. The historian adds here that remonstrances and protestations were useless and that Liu Zhi and Cheng Jin died in prison.

(e) The fifth remonstrance⁵⁰ quoted in Chen Fan's biography is also precisely dated, in this case to the ninth year of the Yanxi era, that is, 166 CE, but questions about its authenticity can nonetheless be raised. It is a "sharp remonstrance" (*jijian* 極諫), which apparently followed the arrest of Li Ying and other reformist literati. The remonstrance refers to them as being proscribed from office or unfairly executed, though at this moment, they had only been placed in jail. Moreover, when Li Ying and the others were arrested, Chen Fan had most probably left office.⁵¹ Crespigny suggests that such an interpolation was made to show the solidarity between Chen Fan and Li Ying. This interpretation is perfectly coherent, even more so if we consider that earlier in the biography, the historian carefully mentioned the tears that Chen Fan shed when unable to protect Li Ying. I may also add that for the judgement on characters, which is another kind of contemporary protest literature, the historian mentions the difficulty of dealing with later forgeries. In the case of Guo Tai, who was as famous for his judgements as Chen Fan was for his remonstrances, some judgements circulated that were inspired by his style but were not authentic, and the historian notes that he tried to set these aside:

50 Hou Han shu, 66.2166–2167.

51 For a detailed account of the discussions about the authenticity of this remonstrance, see Crespigny 1989, 2.385–387, and also Crespigny 1980, 50, note 13, and Rafe de Crespigny, Political Protest in Imperial China: The Great Proscription of Later Han, 167–184, in: Papers on Far Eastern History 11 (1975), 1–36, here 12.

後之好事，或附益增張，故多華辭不經，又類卜相之書。今錄其章章效於事者，著之篇末。

“The later connoisseurs⁵² sometimes built on [Guo Tai’s judgement] and added [new judgements]. Most of them are characterised by unnecessary flowery language, which is not modelled on the classics, and sound like the judgements found in the books on divination and physiognomy. Now I only record at the end of the chapter those judgements which are clear and authentic.”⁵³

The same phenomenon, the writing of remonstrances in the name of Chen Fan, by then a dead hero, may have happened in the case of this remonstrance as well, and the historian may have included a successful forgery. The style of this remonstrance is more abstract than usual, and it presents different ancient examples to show that the emperor should adopt a more humane policy, that is, a ‘collective’ policy, elaborated by the ruler and his ministers, who are like different parts of the same body:

湯武雖聖，而興於伊呂；桀紂迷惑，亡在失人。由此言之，君為元首，臣為股肱，同體相須，共成美惡者也。

“Even though Cheng Tang and King Wu were great sages, their rise was due to (the ministers) Yi Yin and Lü Shang; even though Jie and Zhou were benighted rulers, their failure was due to the fact that they failed to surround themselves with good persons. From this point of view, the ruler may be the head, and the ministers his arms and shoulders; they need each other as the parts of one, unique body, and together they produce harmony or evil.”⁵⁴

The imperial reaction is also mentioned after the end of the remonstrance:

帝諱其言切，託以蕃辟召非其人，遂策免之。

“The emperor hated the severity of his words and used as a pretext for dismissing him the accusation of having employed wrong persons.”⁵⁵

(f) After this failure of the reformist party and the seemingly irreversible conflict with the imperial authority, Emperor Huan’s death in 168 gave new hope because the Empress Dou, now dowager, and even more her father, Dou Wu, were well-disposed to the reformists. Chen Fan was immediately summoned back to hold the post of grand tutor (*taifu* 太傅) with control of the imperial secretariat (*lu shangshu shi* 錄尚書事). But he firmly refused the enfeoffment offered to him by

52 The term *haoshi* 好事 or *haoshizhe* 好事者 is difficult to translate. It refers to those eager to transmit things of the past, but it sometimes has a negative connotation, suggesting an overzealous manner, an absence of discernment.

53 Hou Han shu, 68.2227.

54 Ibid., 66.2166.

55 Ibid., 66.2167. This accusation sounds rather ironic as one of Chen Fan’s main pre-occupations was the employment of the right persons in the imperial administration.

the empress. The historian then develops an explanation about the strong ties linking Chen Fan, the Empress Dou, and her father, most probably to make clear the hope raised by their alliance and maybe also the excessive self-confidence that would ultimately result in the destruction of Chen Fan and Dou Wu's political plans and their violent deaths. The last remonstrance written by Chen Fan played a tragic role in these events. Although Chen and Dou's political plans involved the destruction of the powerful court eunuchs and thus were meant to be kept secret, Chen Fan exposed himself when he first sent a memorial of remonstrance officially calling for the punishment of corrupted eunuchs. Moreover, the eunuchs were specifically identified in the text, thus making this memorial of remonstrance resemble a memorial of accusation:

今京師囂囂，道路誼譁，言侯覽、曹節、公乘昕、王甫、鄭懿等與趙夫人諸女尚書並亂天下。附從者升進，忤逆者中傷。方今一朝羣臣，如河中木耳，汎汎東西，耽祿畏害。[...] 今不急誅，必生變亂，傾危社稷，其禍難量。願出臣章宣示左右，並令天下諸姦知臣疾之。」

“Now the capital district is in turmoil, and the streets are full of shouting and uproar. [People] say that Hou Lan, Cao Jie, Gongsheng Xin, Wang Fu, and Zheng Li, together with the Lady Zhao [Rao, the wet-nurse,] and other members of the harem staff, are all bringing the empire into disorder. Those who support this group rise and prosper; those who oppose them suffer injury. All the ministers of the court are like trees in the Yellow River, tossing east or west in the flood. They do nothing but draw their salaries and seek to avoid trouble. [...] Unless [Your Majesty] hastens to execute the members of this group, there will certainly be trouble and change. The very altars of the land and grain (i.e., the state) are threatened with immeasurable misfortune. I wish that Your Majesty would show my memorial to all Your attendants, so that the evil-doers of the empire may know my hatred for them.”⁵⁶

The historian provides the following analysis of such a dangerous step:

蕃自以既從人望而德於太后，必謂其志可申，乃先上疏曰 [...].

“Chen Fan, considering himself as providing for the hopes of the people and as being admired by the empress dowager for his virtue, thought that his intentions could surely be made known, and thus he first sent a memorial to the throne, saying [...]”

The sentence at the end of the remonstrance may indicate Chen Fan's political intention; he asks for a 'publication' of his remonstrance, probably to show that he has the empress dowager and the young emperor's complete support and to give more legitimacy to the coming repression and reform than a secret 'coup d'état' would have. But, surprisingly, the memorial was not accepted by the empress dowager, and the eunuchs struck first. The reformists, who had been

56 Ibid., 66.2170. Transl. CRESPIGNY 1989, 1.97 (slightly modified).

given a glimpse of a coming “Great Peace” (*taiping* 太平),⁵⁷ were again placed in terror. Dou Wu was forced to commit suicide; Chen Fan was sent to prison and killed there by a guard. Chen Fan’s corpse was picked up by his friend Zhu Zhen 朱震 (d. 168), who mourned him and also saved his son Chen Yi 陳逸 at the cost of his own life, preferring to die rather than to reveal where Chen Yi was hidden.

3 Remonstrances and Their Resonances

Chen Fan was by far the most productive writer of remonstrances at the end of the Han dynasty (at least if we consider those transmitted in the ‘Hou Han shu’), and so his ‘biography’ appears as a fabric made of his most memorable remonstrances. Yet going beyond the biographical chapter reveals other resonances of his influence in both contemporaneous and later remonstrances that may help us to decipher the historical meaning of Chen’s words.

3.1 Contemporary Resonances

Before Chen Fan, and directly inciting one of his written remonstrances, Li Yun represents an extreme case in the practice of remonstrance, which may have gone even further than the already risky practice of “sharp remonstrance” (*jijian*). A passage of his remonstrance, in which Li Yun applies the “rectification of names” (*zheng ming* 正名) on the very word of “emperor”, seems to have aroused extreme anger in his sovereign:

孔子曰：「帝者，諦也。」今官位錯亂，小人諂進，財貨公行，政化日損，尺一拜用不經御省。是帝欲不諦乎？

“Confucius once said: ‘Emperor (*di*) means to judge (*di*).’ Now political positions are upside down, petty persons make their career by flattery, corruption is taking place publicly, the civilising effect of the administration is growing weaker by the day, and the imperial ordinances are not even examined by Your Majesty. Is this because the emperor (*di*) wishes to not make use of his judgment (*di*)?”⁵⁸

By examining how the concrete imperial activity corresponds, or, in Emperor Huan’s case, does not correspond, with the title given to him, Li Yun treats the imperial function as any other function in the Han administrative system, thus refusing any comforting allusion to the sacred status of the emperor. Emperor

⁵⁷ Hou Han shu, 66.2169.

⁵⁸ Ibid., 57.1852. See the translation of a part of Li Yun’s memoir by Rafe de Crespigny, The Second Year of Yen-hsi; Notes to the Han Chronicle of A.D. 159, in: Journal of the Oriental Society of Australia 10 (1975), 7–25.

Huan was clearly aware that such a rectification of name was highly dangerous for his own legitimacy. This case also reveals the possible criminalisation of direct remonstrance by using the legal charge of “great lack of respect” (*da bu jing* 大不敬). Indeed, the necessity of avoiding being charged with lack of respect was an important reason for employing “indirect remonstrance” (*fengjian*) instead of ordinary remonstrance.

If the emperor was shocked by Li Yun's abrupt rectification of name, the empire seems to have been shocked by Li Yun's death penalty. This public reaction confirms that harsh criticism of imperial policy, and of the emperor himself, was an integral part of Han political culture. Moreover, Li Yun's condemnation for “direct remonstrance” (*zhijian* 直諫) is reported in the “Annals of Emperor Huan”.⁵⁹ Li Yun being a low-level official, his appearance in imperial annals is rather unexpected and may be explained by the traumatic aspect of the event.

As mentioned above, Chen Fan wrote a remonstrance to make a case for Li Yun's own remonstrance, which constitutes a compelling ‘mise en abyme’ and also an attempt to save the very practice of direct remonstrance. Here again, Chen Fan stresses the remonstrator's intention, which should be more important than his possible breach of the rules, hence, arguing for the primacy of the duty of remonstrance over the duty of “deference” (*jing* 敬) towards the sovereign. He reaffirms that remonstrance has been at the core of the Han system since its foundation:

李雲所言，雖不識禁忌，干上逆旨，其意歸於忠國而已。昔高祖忍周昌不諱之諫，成帝赦朱雲鬚領之誅。今日殺雲，臣恐剖心之譏復議於世矣。

“Though Li Yun's words show no respect for taboo, offend the emperor, and run counter to his plans, nevertheless he did have the good intention of showing loyalty to the state. In earlier times, Emperor Gaozu tolerated the criticisms of Zhou Chang, even when they showed no respect for taboo, and Emperor Cheng pardoned Zhu Yun, though he was worthy of execution [by separating] neck and waist. If You kill Li Yun now, I fear that the people of the empire may rather compare You to [Zhou Xin] who cut out the heart [of his minister Bi Gan].”⁶⁰

The case of Li Yun's remonstrance remained a subject for debate under the following dynasty. Emperor Ming of the Wei 魏明帝 (r. 226–239) once asked the famous literatus Wang Su 王肅 (195–256) whether it would have been possible not to put Li Yun to death after his saying on the very meaning of the word “emperor”. Wang Su replied that Emperor Huan would have shown more authority if he had spared Li Yun's life, as Li Yun, despite his clumsiness, only “wanted to support the state” (*nian cun bu guo* 念存補國).⁶¹

59 Hou Han shu, 7.307.

60 Ibid., 57.1852. Transl. CRESPIGNY 1989, 1.19 (slightly modified).

61 Sanguo zhi, 13.418.

Another remonstrator, Xiang Kai, took the stage to defend Li Yun and to save Liu Zhi and Cheng Jin. Like Chen Fan before him, he sent two successive memorials, the second one being far more aggressive than the first. But unlike Chen Fan, he placed Li Yun's case in the broader context of an excessive use of punishments, viewed from a cosmic rather than moralistic viewpoint, and thus including not only the bloody repression of virtuous remonstrators but also the destruction of powerful families:

臣聞殺無罪，誅賢者，禍及三世。自陛下即位以來，頻行誅伐，梁、寇、孫、鄧，並見族滅，其從坐者，又非其數。李雲上書，明主所不當諱，杜眾乞死，諒以感悟聖朝，曾無赦宥，而并被殘戮，天下之人，咸知其冤。漢興以來，未有拒諫誅賢，用刑太深如今者也。

"I have heard it said that if innocent people are killed and worthy men are punished, misfortune will extend to three generations. Since the beginning of Your Majesty's reign, there have been continual executions. The Liang, Kou, Sun, and Deng families have all been destroyed,⁶² while great numbers of their associates, far too many of them, shared in their fall. Li Yun sent in a memorial of the type no wise ruler can ignore; Du Zhong asked for death with a sincerity that should have affected all Your court. Yet for neither of them was there pardon or compassion, and both of them were slain. Everybody in the empire recognised the injustice. Since the time that the Han arose, there has never been a period like the present as far as rejecting remonstrances, executing worthy men, and using the law with such excessive severity is concerned!"⁶³

In the lines that follow, Xiang Kai does not draw on the virtues of the founding emperors of the Han dynasty but reveals the contradiction between Emperor Huan's interest in the Huang-Lao 黃老 and the Buddha's teaching and his own severe lack of *wuwei* 無爲 ("spontaneous efficacy", which at the political level means to use leniency and non-intervention) and love for life.

The enduring links between the three remonstrators are stressed in a story found in the 'Jiuzhou chunqiu' 九州春秋 (History of the Nine Regions), which is quoted in the commentary to the 'Records of the Three Kingdoms' and later in Sima Guang's 司馬光 (1019–1086) 'Zizhi tongjian' 資治通鑑 (Comprehensive Mirror to Aid in Government). The story goes that Chen Yi, Chen Fan's son who was saved by a courageous friend, met Xiang Kai in 188, twenty years after his father's death. Encouraged by the latter's cosmological interpretations of the situation, Chen Yi plotted a coup with Inspector Wang Fen 王芬 (d. 188) to overthrow Emperor Ling:

62 The Liang family was killed after the fall of the General-in-chief Liang Ji. Sun is the name of his wife Sun Shou 孫壽 (d. 159), who shared the same fate. The Kou family was related to the Deng family (which comprised an empress) and suffered a bad fate under Emperor Huan. The Deng family fell after her empress was ousted in 165. Its most powerful member, Deng Wanshi 鄧萬世 (d. 165), died in prison.

63 Hou Han shu, 30.1077. Transl. CRESPIGNY 1976, 23–24 (slightly modified).

於是陳蕃子逸與術士平原襄楷會于芬坐，楷曰：「天文不利宦者，黃門、常侍真族滅矣。」逸喜。

“Chen Yi, son of the former Grand Tutor Chen Fan, met the master of astrology Xiang Kai at the residence of Wang Fen, [inspector of Ji Province]. Xiang Kai said, ‘The stars are not favourable to the eunuchs. All the Yellow Gates and the Regular Attendants will surely be destroyed.’ Chen Yi was glad of it.”⁶⁴

Hence, whereas the father Chen Fan tried to exert a strong influence on the emperor through his remonstrances, the son Chen Yi was ready to overthrow the emperor to place another member of the Liu 劉 family on the throne. Interestingly, Cao Cao 曹操 (155–220) is said to have refused to participate in this coup, which failed;⁶⁵ but years later, Cao Cao’s own son put a definitive end to the Han dynasty, replacing the Liu family with his own family and founding the Wei 魏 state.

3.2 Later Resonances

After Chen Fan’s failure to reform the imperial regime through remonstrance, other remonstrances were written to denounce the injustice done to him and to ask for his rehabilitation. One important occasion for protest appeared in the summer of 169 when strange events and natural disasters⁶⁶ led the emperor to request remonstrances. The ‘Hou Han shu’ transmits two memorials whose common point was to argue strongly for Chen Fan’s rehabilitation – one written by one of the highest officials, and the other by a simple gentlemen cadet. The former, Zhang Huan⁶⁷, offered a remonstrance that contained a passage specifically devoted to the necessity of rehabilitating Chen Fan and Dou Wu:

昔周公葬不如禮，天乃動威。今武、蕃忠貞，未被明宥，妖眚之來，皆為此也。宜急為改葬，徙還家屬。其從坐禁錮，一切蠲除。

64 This fragment of the ‘Jiuzhou chunqiu’ is quoted in the commentary to the ‘Annals of Cao Cao’, *Sanguo zhi*, 1.4. The ‘Jiuzhou chunqiu’ was written by the historian Sima Biao and presents a record of the last years of the Eastern Han dynasty organised according to the nine regions of the empire. Only fragments remain. Transl. CRESPIGNY 1989, 1.207.

65 *Sanguo zhi*, 1.4.

66 There are some differences between the events recorded in the biographies and those recorded in the ‘Annals of Emperor Ling’: Whereas the biographies of Xie Bi 謝弼 (d. 169) and Zhang Huan 張奐 (104–181) (*Hou Han shu*, 57.1858 and 65.2140, respectively) mention that a dark snake appeared above the imperial throne and a great wind uprooted trees, the ‘Annals’ (*ibid.*, 8.330) only mention great wind, rain, and hail.

67 A distinguished literatus and general, he played an indirect role in Chen Fan and Dou Wu’s ultimate failure. Seemingly unaware of the plans of the reformists at the capital, he did not join Dou Wu’s armies and gave his support to the eunuchs. After these events, he expressed his regrets at having been instrumentalised by them. His remonstrance of 169 may have been the occasion to clarify his political position.

“[In former times,] the burial of the Duke of Zhou was held without the proper rites, and heaven then showed its power.⁶⁸ Now Dou Wu and Chen Fan were loyal and upright, but they did not receive Your imperial clemency, and this is the source of these evil omens. As a matter of urgency, they should be given a proper burial, the members of their households and their dependents should be brought back from exile, and all those who have been condemned to suffer proscription on their behalf should be released from that penalty.”⁶⁹

The gentleman cadet Xie Bi also offered a remonstrance, but his words for Chen Fan and the reformists cost him his post and, soon after, his life:⁷⁰

又故太傅陳蕃，輔相陛下，勤身王室，夙夜匪懈，而見陷羣邪，一旦誅滅。其為酷濫，駭動天下，而門生故吏，並離徙錮。蕃身已往，人百何贖！宜還其家屬，解除禁網。夫台宰重器，國命所繼。今之四公，唯司空劉寵斷斷守善，餘皆素餐致寇之人，必有折足覆餗之凶。可因災異，並加罷黜。徵故司空王暢，長樂少府李膺，並居政事，庶災變可消，國祚惟永。

“Furthermore, the late Grand Tutor Chen Fan, who supported Your Majesty and dedicated his life to the imperial house day and night, without ever resting, nevertheless fell victim to all the traitors and was suddenly destroyed. This incredible cruelty frightened the whole empire. Chen Fan’s disciples and former clerks were all exiled and proscribed from office. Now that Chen Fan is deceased, even one hundred men would not be able to replace him! It would at least be appropriate to let his relatives come back and to lift the proscription. The great ministers are the sacred vessels of the state, thanks to which it can be perpetuated. Now, among the four dukes,⁷¹ only the Excellency of Works Liu Chong⁷² remains devoted to what is good; the others receive their salary for doing nothing (lit., they “eat for free”), [thereby] causing mischief. The tripod legs will be broken for sure, and its content will be spilled on the floor.⁷³ You should follow [the

68 According to the ‘Great Commentary to the Shangshu’ 尚書大傳, “When the Duke of Zhou died, King Cheng considered having him buried in Chengzhou (i. e., the second capital of the Zhou dynasty), but heaven [sent] storm, rain, and great wind (or, as suggested by Paul Fahr, if 風 is a variant of 諷, ‘heaven sent storm and rain to criticize him’); the grain was flattened, and great trees were unearthed. People in the kingdom were struck with terror. Then, King Cheng had the Duke of Zhou buried in Bi (near the first capital), thereby expressing that he would not dare to treat him like a subject.” (周公薨，成王欲葬之於成周，天乃雷雨以風，禾即盡偃，大木斯拔，國人大恐。王葬周公畢，示不敢臣也。) See *Shangshu dazhuan* 尚書大傳, ed. Liu Dianjue 劉殿爵, *Shangshu dazhuan zhuzi suoyin* 尚書大傳逐字索引, Taibei 1994, 16.

69 Hou Han shu, 65.2140–2141. Transl. CRESPIGNY 1989, 1.104.

70 Forced to resign and return home, he was killed there under a false accusation by a nephew of the powerful eunuch Cao Jie 曹節 (d. 181).

71 The four dukes are the Grand Commandant Liu Ju, the Excellency over the Masses Xu Xun 許訓, the Grand Tutor Hu Guang, and Liu Chong 劉寵.

72 Liu Chong was in fact excellency over the masses (*situ*).

73 Allusion to the 50th hexagram (*Ding* 鼎) in the ‘Zhouyi’ 周易. The commentary to the fourth line says: “The legs of the tripod are broken, and the prince’s meal is spilled.” (鼎足折覆公餗。) See Zhouyi 周易, ed. ZHOU Zhenfu 周振甫, Zhouyi yizhu 周易譯注, Beijing

indication given by] the disasters and strange events, dismiss all of them, call back the former Excellency of Works Wang Chang, the Steward of the Changle Palace Li Ying, and have them manage public affairs. Then, disasters will hopefully be reduced and the destiny of the state perpetuated.”⁷⁴

A few decades later, Cao Cao would also begin his political career as a writer of remonstrances before abandoning this activity; during the proscription period, he wrote a memorial for the rehabilitation of Dou Wu and Chen Fan and, in 182, another memorial denouncing the corruption of the government. Then, as Crespigny puts it, “Cao Cao realized the exercise was pointless and wrote no more”.⁷⁵ The difficulty of rehabilitating Chen Fan seems to symbolise the impossibility of saving the institution of remonstrance and walking the path of reform.

4 Conclusion

The number of Chen Fan's remonstrances and the growing frustration and feeling of urgency that can be read through their style paradoxically reflect the profound crisis at the head of the state; Chen Fan was powerful enough to indulge in crude and direct words of criticism but was powerless regarding reform of the state, despite his high position in the administration. Thus, he developed his will of reform through the genre of remonstrance.

The interesting conclusion to the ‘Annals of Emperor Huan’ reveals a potential rivalry between two different discourses, both vying to win the ear of the emperor and to save the declining Han dynasty: the discourse of remonstrance, which implies a reliance on the ruler-minister partnership to deal with the most urgent problems of the time, and the discourse of religious salvation. The latter is not well represented in the ‘Hou Han shu’, as its author(s) considers this discourse not only inefficient but also to be hastening the decline. The historian's conclusion to the ‘Annals of Emperor Huan’ indicates that one of the main problems during this reign was the emperor's preference for “listening to the spirits” rather than to humans:

前史稱桓帝好音樂，善琴笙。飾芳林而考濯龍之宮，設華蓋以祠浮圖、老子，斯將所謂「聽於神」乎！及誅梁冀，奮威怒，天下猶企其休息。而五邪嗣虐，流衍四方。自非忠賢力爭，屢折姦鋒，雖願依斟流澌，亦不可得已。

1991, 177. Note that the tripod (*ding* 鼎) was a common metaphor for the – usually three – highest officials in Han government.

74 Hou Han shu, 57.1858–60.

75 See CRESPIGNY 2007, 35.

“The ancient history”⁷⁶ praised Emperor Huan for appreciating music and being a good player of zither and *sheng* flute. He revered the Palace of the Bathing Dragon⁷⁷ by planting fragrant trees; he prepared an imperial carriage for worshipping the Buddha and Laozi. This is what is called ‘listening to the spirits’!⁷⁸ When he condemned to death Liang Ji and thus unleashed his authority and anger, the empire still continued to foster some hope that [this violence] would end. But the five traitors⁷⁹ continued to act with cruelty and to spread [corruption] all over the empire. If it were not for loyal and competent [advisors]⁸⁰, who forcefully remonstrated with the emperor and repeatedly broke the blade of the evildoers, [the emperor] would have wished in vain even for clinging to the feudal lords of the Kan family or being banished to Zhi (because he would have been murdered by said evil persons).⁸¹

The importance given to this activity of remonstrance remains obvious in Sima Guang’s great general history. In a discussion about the end of the Han dynasty, he asserts that remonstrances at court, on the one hand, and private discussions on morality and politics, on the other hand, enabled Han society to maintain its standards, despite the government’s corruption and decay:

然猶鯨鯨不至於亡者，上則有公卿、大夫袁安、楊震、李固、杜喬、陳蕃、李膺之徒面引廷爭，用公義以扶其危，下則有布衣之士符融、郭泰、范滂、許劭之流，立私論以救其敗，是以政治雖濁而風俗不衰。至有觸冒斧鉞，僵仆於前，而忠義奮發，繼起於後，隨踵就戮，視死如歸。夫豈特數子之賢哉！亦光武、明、章之遺化也。

“Yet the reason the state continued and did not fall into destruction was that above there were excellencies, ministers, and high officials, such as Yuan An, Yang Zhen, Li Gu, Du Qiao, Chen Fan, and Li Ying, who would confront the emperor with historical precedents and protest at court, and who struggled to support the state with justice and honour in its time of danger. And below there were scholars of plain clothing, such as Fu Rong, Guo Tai, Fan Pang, and Xu Shao,⁸² who held private discussions to help in that time of chaos.

76 The “ancient history” is the ‘Dongguan Hanji’ 東觀漢記.

77 According to the ‘Xu Han zhi’ 續漢志, this palace was a place for the worship of Laozi.

78 Allusion to Zuo Zhuan 左傳, ed. YANG Bojun 楊伯峻, Chunqiu Zuo Zhuan zhu 春秋左傳注 (4 vols.), Beijing 1981, Zhuang 32.3, 252: “The Scribe Yin said: ‘When a country is about to flourish, [its ruler] listens to the people. When about to perish, [its ruler] listens to the spirits.’” (史記曰：「國將興，聽於民；將亡，聽於神。」)

79 According to the commentary, the five traitors are Shan Chao 單超 (d. 160), Xu Huang 徐璜 (d. 164), Zuo Guan 左管 (d. 165), Tang Heng 唐衡 (d. 164), and Ju Yuan 具瑗. These five eunuchs allied with Emperor Huan to overthrow the General-in-Chief Liang Ji.

80 According to the standard commentary of the ‘Hou Han shu’ by Li Xian 李賢 (655–684) and others, “these loyal and competent [ministers] were Li Ying, Chen Fan, Dou Wu, Huang Qiong, Zhu Mu, Liu Shu, Liu Tao, and others who offered sharp remonstrances in order to break the traitorous plans of the eunuchs”. (忠賢謂李膺、陳蕃、竇武、黃瓊、朱穆、劉淑、劉陶等，各上書極諫，以折宦官等姦謀之鋒也。)

81 Hou Han shu, 7.320–321.

82 All these “scholars of plain clothing” (*buyi zhi shi* 布衣之士) were famous for their great ability to utter right judgments on the character of their contemporaries.

Therefore, the customs did not deteriorate even though politics became muddy. As for those who took axe and scythe upon themselves and lay stiff (i. e., dead) on the ground, as well as those who loyally and righteously rose up to follow them, and one by one went to execution [because] they regarded their own death as [a kind of] homecoming (i. e., nothing to be feared), this was not only due to the worthiness of these gentlemen but also because of the inherited influence of Emperors Guangwu, Ming, and Zhang.”⁸³

Here, it is the remonstrators, rather than the benighted Emperors Huan and Ling, who appear as the real heirs of the first emperors of the Eastern Han dynasty. Although being deeply rooted in their specific political context, their words are addressed not only to the emperor, but also to contemporary officials and scholars, and to those of the past and future, insofar as each remonstrance is part of a whole marked by intertextuality.

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Errant Grace? Criticism of Amnesties in Imperial China with a Focus on the Tang Dynasty

Abstract

Remonstrances, i. e. criticism addressed to the ruler, could be directed against his personal behaviour or, more generally, against his political decisions respectively his entire policy. Examples of criticising rulers in the earliest historical records oppose the abuse of power by them, in a certain sense advocating for the people and urging rulers to adhere to a certain role model. Rulers of imperial China, however, also faced criticism when they tried to fulfil the role model by certain measures. By making use of the tradition of writing remonstrances, critics argued against the widespread practice of granting amnesties. This paper examines critiques of amnesties in general and remonstrances in particular.

Amnesties performed an important function in the political and legal system of imperial China. Although amnesties were granted already in the pre-imperial period, the tradition of granting amnesties numerous and on a relative regular basis dates back to the time of the Western Han 西漢 dynasty (202 BCE–8 CE). Up to the Song 宋 dynasty (960–1279), different dynasties continued this practice more or less consistently, so that in this respect this historical period, which is the period of interest in this paper, can be regarded as coherent. Remonstrances against amnesties from this period of imperial China unfold their critique by quoting early, often pre-imperial statements on pardons in general. In this context, it can be observed that remonstrances repeatedly quote from a narrow corpus of material and, in some cases, not even link their own arguments to these quotations. Considering the close connection between the literati, the remonstrances, and the literati's preference for references to earlier, authoritative statements, it is even more surprising to find systematic omissions of relevant passages from the classical writings. With that in mind, this paper addresses the reasons why the remonstrators chose to pick their quotations from a very limited scope of material. To help answering this question, the pre-Song period remonstrances are compared to those from the Song dynasty, which stand out in this respect, and other critical statements from the entire period in question.

Despite the uniformity of the material that the critiques refer to and the limited number of transmitted remonstrances, the investigated texts can be classified into two categories. The majority of the remonstrances that form the first category present their objections exclusively on an abstract or ideological level. Such memorials do not show any reaction to a particular political style of the reigning emperor or to specific political decisions. In this sense, they do not offer any practical proposals for change. Rather, they are repetitive and lack depth and creativity. The paper argues that the purpose of such remonstrances is better

understood if they are viewed as response to comments of the proponents of amnesties and, even more so, to the amnesty edicts. Together with the amnesty edicts and texts of the supporters of amnesties they read as a continuous ideological debate. These remonstrances can be seen as influential at least insofar as parts of their arguments or quotations resonated with political decision makers.

The paper shows that there are reasons to assume that the authors of the second category of remonstrances did not intend to participate in the debate about fundamental values and ideological positions by means of their texts. The few examples of this second type differ from the first category by the following characteristics: If not explicitly directed against specific decisions, such remonstrances at least object to the particularly excessive use of amnesties by the ruler. In addition, they address the socio-political consequences of these policies and their drawbacks in people's everyday lives. The exaggerating or polemical way in which these remonstrances are written gives their words a sense of urgency. The critiques finally make concrete suggestions to find a compromise and/or outline their ideal way of dealing with amnesties. The discussion of remonstrances against amnesties and their classification into two categories demonstrate the different functions that these remonstrances could have.

Criticising the ruler has a long and rich tradition in Chinese history. Early literature mentions three pioneers of this practice, who were acknowledged by Confucius (551–479 BCE) as being “humane” (*ren* 仁) as a result. In this role, Wei Zi 微子, Ji Zi 箕子, and Bi Gan 比干 gained a reputation as they all shared the fate of facing an immoral ruler, Zhòu 紂 of Shang 商. Their criticism was aimed primarily at the monarch's personal failures, his excesses and depravity, as well as his tyrannical and arbitrary decisions, such as, for example, imposing unjustified and cruel punishments.¹ Criticism of the ruler in early China could also be of a more extensive nature and, in the broadest sense, censure his complete politics.

1 A passage from ‘Lunyu’ 論語 (Analects) says: “The viscount of Wei left him, the viscount of Chi became a slave on account of him and Pi Kan lost his life for remonstrating with him. Confucius commented, ‘There were three benevolent men in the Yin [ca. 1300–1046 BCE].’” (微子去之。箕子為之奴。比干諫而死。孔子曰。殷有三仁焉。) See Lunyu 論語, in: Shisan jing zhushu 十三經注疏 (8 vols.), Taipei 2001, vol. 8, 18.1 (p. 164a). Translation from Lunyu, trans. by D. C. LAU, Confucius. The Analects (Chinese Classics: Chinese-English Series), Hong Kong 1983, 183. Depictions of these occurrences, meaning the reaction of the three mentioned persons to the conduct of the ruler Zhòu, are found in early literature, for example in the ‘Shiji’ 史記 (The Scribe's Records). Cf. Shiji 史記 (10 vols.), Sima Qian 司馬遷, Beijing 1975, 3.104–108. Remonstrating and its institutionalisation are ascribed to even earlier times. The legendary rulers are said to have set up places for remonstrating when they instituted certain facilities, and thereby they encouraged the people to practice it. The welcome of criticism is said to have brought fame to these rulers. According to our sources, the reign of Di Xin 帝辛, mentioned above by his posthumous name Zhòu, dates back to 1086–1046 BCE. Cf. Edward L. SHAUGHNESSY, Calendar and Chronology, in: Michael LOEWE/Edward L. SHAUGHNESSY (eds.), The Cambridge History of Ancient China. From The Origins of Civilization to 221 B.C., Cambridge 1999, 19–29, here 23–25.

According to Charles O. Hucker, Confucius and Mencius (371–289 BCE) set an example for later remonstrations as they confronted the rulers of their time with their perceptions of good rulership; nor did they recoil from exposing their addressees.² Even in the Ming 明 era (1368–1644), Emperor Hongwu 洪武 (r. 1368–1398) was agitated about Mencius' disrespectfulness towards his ruler.³

In contrast to the earliest examples of criticism of rulers, during imperial China, emperors were criticised less often for a cruel ruling than for showing leniency and refraining from imposing penalties. Such remonstrances do not disapprove of individual amnesties, rather they plead for different assumptions and values with the aim of changing the principles of rulership. In particular, they argue against a certain type of rulership that is based on granting grace frequently and at relatively regular intervals.

Remonstrances against the practice of granting amnesties from the Han 漢 (206 BCE–220 CE) to Song 宋 (960–1279) periods, especially from the Tang 唐 dynasty (618–907), are the subject of this paper. Over a dozen remonstrances with this object of criticism have been transmitted from this period. Within this group, two basic categories can be recognised. The majority of remonstrances about amnesties discuss the problem on an abstract-philosophical level, which is beyond the realm of everyday life. In these texts, the authors use a very restricted corpus of aphorisms and anecdotes in order to confirm their proposition. The structure of these texts and their line of argument draw on a pattern that is passed on and reused repeatedly by subsequent critics. Disconnected from daily politics, these remonstrances are instead a medium for debates about the guiding principles and values of politics; in this sense, many remonstrances in this group cannot be described as a response to a certain act of grace. Instead, considering the texts' content, they seem to be a response to the reasons and justifications that the emperors introduce in the numerous decrees announcing an act of grace. As such remonstrances were submitted repeatedly – though sometimes with significant time intervals in between – they entered into a hypothetical dialogue with the periodically granted acts of grace. Taken together, both groups of texts can be considered as partaking in an ongoing political debate on certain fundamental principles of government.

Other remonstrances that do not correspond with this first pattern, which we can call 'ideational remonstrances', contain elements similar to other criticisms not submitted to the court. Regarding rhetoric means, they also use the corpus of aphorisms and anecdotes, but, in contrast, they point to specific consequences of

2 Cf. Charles O. HUCKER, *The Censorial System of Ming China*, Stanford 1966, 7 and Charles O. HUCKER, *Confucianism and the Chinese Censorial System*, in: David S. NIVISON/Arthur F. WRIGHT (eds.), *Confucianism in Action*, Stanford 1959, 183–208, here 194.

3 Cf. HUCKER 1959, 199.

granting amnesties frequently and to the problems of everyday life. Therefore, their criticism increases in keenness; they do not simply express disapproval but rather make specific suggestions for a shift in direction. In this sense, the nature of these texts is unlike the theoretical and philosophical debate of the fundamental principles found in the first group of remonstrances. Instead, these remonstrances demand action, and, in doing so, they comply with the original model of criticising the ruler. The historical circumstances confirm this perception, as remonstrances in this second group were submitted in times when the emperors used the tool of amnesties excessively. Although the characteristics of the second type of remonstrances are more similar to the three pioneers mentioned above, it is the first type of remonstrances that was later incorporated into text collections such as ‘Lidai mingchen zouyi’ 歷代名臣奏議 (Memorials and Disputations of Famous Officials Throughout the Ages) to depict exemplary ways of remonstrating.⁴ In this paper I will introduce these two types of remonstrances and discuss the reasons for their different approaches. The results of this discussion unveil the different functions that remonstrances could have in the political sphere in imperial China.

1 Amnesties in Pre-Imperial and Medieval Times

The historical beginnings of granting amnesties are unclear, in relation to both the circumstances of the early amnesties, which can only be partly reconstructed, and the exact dating. There is a theory regarding the origin of amnesties by Cui Shi 崔寔 (c. 120–170) from the Han period:⁵

4 This text is a collection of excerpts of memorials and quotations from other sources dating back to the earliest writings up to the Yuan 元 dynasty (1279–1368), which was compiled by Huang Huai 黃淮 (1367–1449) and Yang Shiqi 楊士奇 (1365–1444), among others, during the Ming dynasty. The purpose of this collection is to provide a handbook on politics and, hence, to provide a collection of exemplary memorials. Cf. Lidai mingchen zouyi 歷代名臣奏議, Yang Shiqi 楊士奇 et al., ed. Ji Yun 紀昀 et al., in: Yong Rong 永瑤 (ed.), Siku quanshu 四庫全書 (1500 vols.), Shanghai 2003, vol. 433, 1–2.

5 Cui Shi was a leading political thinker of the late Eastern Han 東漢 dynasty (25–220), often classified as a legalist. In 146, he first declined a call to the court. After 151, he spent most of his career as a low-level official or a governor at the border. Among the low offices he held was that of a gentleman consultant. This position involved serving as a censor and presenting advice to the throne. It was probably at this time that he wrote the ‘Jianyi dafu zhen’ 諫議大夫箴 (Admonition for the Grandee Remonstrator and Consultant). Ironically, although Cui Shi was often associated with the legalistic movement and criticised amnesties in particular, he wrote, or maybe had to write, a ‘Dashe fu’ 大赦賦 (Rhapsody on the Grand Act of Grace). It is a typical praise piece, which he wrote in honour of a pardon that Emperor Huan 桓帝 (r. 146–168) issued. Cf. David KNECHTGES, Cui Shi, in: David KNECHTGES/Taiping CHANG (eds.), Ancient and Early Medieval Chinese Literature. A Reference Guide (Handbook of Oriental Studies. Section Four China, vol. 25/2), 4 vols., vol. 1, Brill/Leiden/Boston 2014, 170–172. Which of the

大赦之造，乃聖王受命而興，討亂除殘，誅其鯨鯢，赦其臣民，漸染化者耳。及戰國之時，犯罪者輒亡奔鄰國。遂赦之目誘還其逋逃之民。

“Concerning the origins of the Grand Acts of Grace, when the wise rulers arose by receiving their mandate, they pacified the rebellion, removed the evildoers, and executed the leaders, then they pardoned their subjects and gradually influenced and changed them. During the Warring States period 戰國 (480–222 BCE) the delinquents always fled to the neighbouring states. Therefore, they were pardoned in order to incite the refugees to return.”⁶

Although amnesties were already granted on a large scale during the Warring States period, the institutionalised practice of doing so only developed in the Western Han dynasty 西漢 (206 BCE–8 CE). In the state of Qin 秦 (221–207 BCE), amnesties had been granted already, which were designated as Grand Acts of Grace (*dashe* 大赦). Even though the First Emperor (Qin Shi Huang 秦始皇, r. 221–210 BCE) seems to have deliberately decided against such a step, Han Gaozu 漢高祖 (r. 202–195 BCE) drew on the likely earlier custom of granting an amnesty at the emperor’s enthronement.⁷ But it still took another century to gradually establish a tradition of amnesties, which, according to Brian McKnight, was then followed relatively continuously until Song times.⁸ The reign of Emperor Han Wudi 漢武帝 (r. 141–87 BCE) was a milestone in this development, as during this time the practice of granting amnesties was imprinted with Confucian thought. Since this reign, for example, amnesties were not only granted at the occasion of the emperor’s enthronement but on other occasions as well, such as state sacrifices or a visit at the ancestral temple. Amnesties were then granted more frequently and at relatively regular intervals. Different types of amnesties developed, some restricted to a specific group of people and some directed at a specific region. The most extensive form of amnesties was called “Grand Act of Grace” (*dashe*). These were effective throughout the empire and were, with very few exceptions, unrestricted, even, for example, for delinquents condemned to death. In contrast to early Western Han times, these Grand Acts of Grace were not limited to pardoning, as further measures were added, like temporal tax reductions, offerings for the poor, or other benefactions. In the period between the Han and the Tang dynasty, the practices in the north and south took different ap-

two texts he wrote first is not clear. For a possible dating of the ‘Dashe fu’ see PENG Chunyan 彭春艷, *Hanfu xianian kaozheng* 漢賦繫年考證 (Wen shi zhe yanjiu congkan), Shanghai 2017, 225–226.

6 Quan Hou Han wen 全後漢文, in: Quan shanggu Sandai Qin Han Sanguo Liuchao wen 全上古三代秦漢三國六朝文 (4 vols.), ed. Yan Kejun 嚴可均, Beijing 1999, vol. 1, 46.10 (p. 726a) (punctuation modified).

7 Cf. Brian E. McKNIGHT, *The Quality of Mercy. Amnesties and Traditional Chinese Justice*, Honolulu 1981, 13–15.

8 Cf. McKNIGHT 1981, XI.

proaches, with the north being more moderate and granting a significantly smaller number of Grand Acts of Grace. Not only did the Tang dynasty unify the different traditions, but it also standardised the rules of granting amnesties by integrating them into the legal codex. Its legalisation helped to reconcile the tradition of granting amnesties with the law and to reduce social upheavals, e. g. by introducing a rule of reimbursement of stolen goods in order to qualify to be pardoned.⁹

Comparatively speaking, according to McKnight, early and medieval imperial China is extraordinary regarding the high number and regular frequency of amnesties.¹⁰ In the Tang dynasty alone, which lasted less than 300 years, there were over 180 chances to evade punishment by a Grand Act of Grace. In other words, less than every two years on average, there was a Grand Act of Grace, which constituted only one form of amnesties.¹¹ An official from the Song period estimated that only about ten percent of all death sentences were in fact enforced eventually.¹²

2 Early Statements on Amnesties and Their Reception in Remonstrances

It can be inferred from the fact that amnesties were topics of discussions in texts from the Warring States period that at the latest from that time they started to play an important role. They are also mentioned, at least in the form of individual pardons, in the Classics. The ‘Shujing’ 書經 (Book of Documents), for example, suggests not pardoning a crime that was committed with intent; “Inadvertent offenses and those which might be caused by misfortune were to be pardoned, but those who offended presumptuously or repeatedly were to be punished with death”. (眚災肆赦，怙終賊刑。)¹³ Even if amnesties are not explicitly referred

9 For an overview, see the relevant chapters in Brian McKNIGHT 1981 and CHEN Junqiang 陳俊強, *Wei Jin Nanchao enshe zhidu de tantao* 魏晉南朝恩赦制度的探討, Taipei 1998. Compare further CHEN Junqiang 陳俊強, *Huangquan de ling yi mian*. Beichao Sui Tang enshe zhidu yanjiu 皇權的另一面: 北朝隋唐恩赦制度研究, Beijing 2007, Anthony F. P. HULSEWÉ, *Remnants of Han Law*, Leiden 1955, 225–250, and SATAKE Akira 佐竹昭, *Kodai ōken to onsha* 古代王權と恩赦, Tōkyō 1998.

10 Cf. McKNIGHT 1981, X–XI.

11 Cf. CHEN 2007, 61. During the Tang dynasty, 188 of the total 453 amnesties were Grand Acts of Grace, which is a ratio of 41%.

12 This calculation relates to the year 1201 when only 181 of the total of 1811 inflicted death sentences were actually enforced. The rest of the convicts were released. Cf. Song huiyao jigao 宋會要輯稿 (8 vols.), ed. Xu Song 徐松, Beijing 1987 (reprint Beijing 2006), 170.43–44 (p. 6715).

13 See Shangshu 尚書, in: Shisan jing zhushu, vol. 1, 3.14a (p. 40). For the English translation, see James LEGGE, *The Shoo King Or The Book of Historical Documents. With Minor Text*

to, the text implies that the unconditional pardoning of (larger) groups of people should be refrained from.

There is much more direct insistence on the waiver of amnesties in a text that is certainly not fully written by its alleged author Guan Zhong 管仲 (d. 645 BCE) and also cannot be solely ascribed to legalistic influence. Although ‘Guanzi’ 管子 (The Works of Master Guan) is a compilation not only of legalistic but also Confucian and Daoist teachings, many passages still focus on the impartial application and enforcement of the law.¹⁴ The chapter ‘Fa fa’ 法法 (Conforming to the Law), which was possibly also not written by a single author but consists of passages compiled from different sources, closes with the words: “He [the enlightened ruler] does not neglect the laws because of love for the people. The laws are more to be loved than the people.” (不為愛民虧其法，法愛於民。)¹⁵ Two previous passages in this chapter assess the negative impacts of amnesties, as for instance:

凡赦者，小利而大害者也，故久而不勝其禍。毋赦者，小害而大利者也，故久而不勝其福。故赦者，犇馬之委轡，毋赦者，痠腫之礪石也。

“In general, the granting of pardons is of little benefit and great harm; in the long run, nothing is more disastrous. The non-granting of pardons is of little harm and great benefit, and in the long run nothing can be more beneficial. Thus, granting pardons is the same as releasing the reins of a [running] horse, while not granting them is the same as probing a festering boil with a stone lancet.”¹⁶

The ideas in this passage are, without exaggeration, ubiquitous in the debates about amnesties. Throughout the centuries from Han to Tang times and beyond, hardly any criticism about amnesties exists that does not recite them, even if not in their entirety. How these ideas were integrated into a remonstrance is illustrated by Zhang Yun 張允 (886–950)¹⁷:

管子云：『凡赦者小利而大害，久而不勝其禍。無赦者小害而大利，久而不勝其福。』又，漢紀云：『吳漢疾篤，帝問所欲言。對曰：唯願陛下無為赦耳。』如是者何。蓋行赦亦不以為恩，不行赦亦不以為無恩。為罰有罪故也。竊觀自古帝

Corrections and a Concordance Table, in: *The Chinese Classics*, vol. 3, Taipei 1985 (Orig. London 1865), 39.

14 Cf. Allyn W. RICKETT, *Guanzi. Political, Economic, and Philosophical Essays from Early China*, 2 vols., vol. 1, Princeton 1985, 3–14.

15 *Guanzi* 管子, ed. Li Xiangfeng 黎翔鳳, *Guanzi jiaozhu* 管子校注 (3 vols.), Beijing 2004, 6.316. Translation by RICKETT 1985, vol. 1, 268.

16 *Guanzi*, 6.298. Translation by RICKETT 1985, vol. 1, 256.

17 During his career, Zhang Yun held several posts that belonged to the remonstrance offices. According to his biography, Emperor Gaozu 高祖 (r. 936–942) of the Later Jin 後晉 (936–947) liked his remonstrance, and, as a reward, entrusted Zhang with tasks from the office of historiography. Cf. *Jiu Wudai shi* 舊五代史 (6 vols.), Xue Juzheng 薛居正, Beijing 1976, 108.1429.

王，皆以水旱則降德音而有過。開獄牢以放囚，冀感天心，以救其災者。非也。假有二人訟，一有罪一無罪。若有罪者見捨，則無罪者銜冤。銜冤者彼何疏，見捨者此何親乎。如此則是致災之道，非救災之術也。自此小民遇天災則喜，皆相勸為惡。曰國家好行赦，必赦我以救災。如此則是國家教民為惡也。且天道福善禍淫。若以捨為惡之人，而使變災為福，則又是天助其惡民也。細而災之，必不然矣。或曰，天降之災，蓋欲警戒人主，節嗜慾，務勤儉，卹鰥寡，正刑罰，不濫捨有罪，不僭殺無辜，使美化行於天下。聖德聞於上，則雖有水旱，亦不為沴矣。豈以濫捨有罪，而反能救其災乎。彰其德乎。是知赦之不可行也。明哉明哉。

“The ‘Guanzi’ says: ‘In general, the granting of pardons is of little benefit and great harm; in the long run, nothing is more disastrous. The non-granting of pardons is of little harm and great benefit, and in the long run nothing can be more beneficial.’ The granting of amnesties brings about little benefit but causes great harm. If carried on for a long time, then the damage caused cannot be overcome. If no amnesties are granted it brings about little harm but is of great benefit. After a long time without any amnesties, their accumulated blessings are limitless.’ The chronological records of the Han further say: ‘When Wu Han (d. 44) got ill and his condition was serious, the emperor asked him if there was still something left he would like to tell him.’ He responded: ‘I only wish that Your Majesty would not grant any amnesties.’¹⁸ What induced Wu Han to have such a desire? To him pardoning is not benevolence, and non-pardoning does not mean that no kindness is shown. It is [only] done for the reason of punishing the criminals. I dared to observe [the course of actions] of the emperors from ancient times; after natural disasters, like floods or droughts, they issued *Deyin*-edicts (‘Virtuous Remarks’, i. e. imperial acts of grace) and pardoned offenders. They opened the prison gates to release the inmates, they did so because they hoped to move Heaven’s heart, so that Heaven would save them from these catastrophes. That was wrong! Assume there is a lawsuit between two persons. One is guilty of a crime, while the other one is not. If the offender is released, then the innocent will bear a grudge because he suffered injustice. Consequently, is not the one suffering injustice being dissociated and the released one being drawn closer? Being so, then this is the way to induce a catastrophe. This is not a means of rescuing from catastrophes. If, henceforth, the common people suffer from natural disasters, they rejoice. All encourage each other to do evil. They say to themselves: The

18 This episode is told in Wu Han’s 吳漢 biography in the ‘Hou Hanshu’ 後漢書 (History of the Later Han). Cf. Hou Hanshu 後漢書 (12 vols.), Fan Ye 范曄, Beijing 1997, 18.684. Despite his low social origin Wu Han rose to become one of the outstanding generals of his time and made great contributions to the seizure of power and its stabilisation by the founding emperor of the Eastern Han, Liu Xiu 劉秀 (r. 25–57), who is better known by his posthumous name Guangwu 光武. Emperor Guangwu’s special appreciation for Wu Han is expressed, inter alia, by an episode that is mentioned in this quotation: Emperor Guangwu is said to have rushed to him personally when Wu Han got seriously ill. On this occasion, Wu Han gave his last advice to the emperor, saying: “I who am stupid and have no insight and knowledge only wish that Your Majesty does not pardon by any means.” (臣愚無所知識，唯願陛下慎無赦而已。) See Hou Hanshu, 80.684. The wish that Wu Han voiced on his deathbed fits well with the account in his biography. The military campaigns lead by Wu did not stop at atrocities, and he is said to have approached the common people with exceeding hardness. The inclusion of this anecdote at the end of his biography may be motivated by this description.

state is fond of granting amnesties and, therefore, is obliged to pardon us to secure rescue from catastrophes. This being so, the state trains the people in condemnable conduct. The heavenly way is rather to reward what is good and to punish what is evil.¹⁹ If people who committed an offence are released and, thereby, mischief is turned into blessings, then again Heaven secures help for the wicked. It is definitely not true that if one shows restraint in granting amnesties, then Heaven [reacts by] sending natural disasters. Some say that Heaven induces natural disasters to warn the ruler to moderate his cravings, to devote himself to the virtues of diligence and modesty, to show compassion for widowers and widows, to rectify the penalties, and not to release criminals excessively, not to presume to kill innocent people, but to let the virtuous transformation of the people be carried out throughout the realm. If Heaven perceives the ruler's wisdom and virtue, even though droughts or floods appear, they will not be considered as ill omens. How can excessive pardoning of delinquents bring about rescue from natural disasters or manifest (the ruler's) virtues? Hence I know that amnesties should not be executed. It is so obvious! It is so obvious!"²⁰

As do most remonstrances about pardons, Zhang Yun introduces his criticism by quoting the above passage from the 'Guanzi'. In some cases, it is not a prerequisite that the author's own following comments and arguments build on the 'Guanzi' passage in terms of content. The material quoted here is, as in many other cases in post-Han times, supplemented with a reference to the anecdote of Wu Han. Less often, and missing in this instance, there is also a hint toward an aphorism of unknown origin, which, according to Wang Fu 王符 (c. 90–c. 165), dates back to antiquity.²¹ With these passages mentioned above, the corpus of remarks used by remonstrators is already encompassed, if not entirely exhausted.

In this regard, the early imperial culture of remonstrance is not so different from that of Zhōu times, which David Schaberg has characterised by its resort to "inherited language".²² This term denotes the indirect or introductory expression of the remonstrator's own criticism by using aphorisms, anecdotes, historical events, and, above all, quotations from previous remonstrances. Among critics of amnesties, there seems to have been an unwritten convention of referring to earlier criticisms and drawing on a narrow corpus of well-known quotations.

The compilation of this corpus raises some questions, whose answers help to draw conclusions about the functions of remonstrances in early and medieval imperial China. First, the traditionally strong bond between remonstrances and the group of scholar-officials and literati draws attention. The use of "inherited

19 A quotation from 'Shangshu', 8.10 (p. 112b).

20 Quan Tangwen 全唐文 (11 vols.), ed. Dong Hao 董誥, Beijing 1996, 855.5–6 (pp. 8968b–8969a).

21 See note 31.

22 Cf. David SCHABERG, Remonstrance in Eastern Zhou Historiography, in: Early China 22 (1997), 133–179, here 151–155.

language” in the remonstrance culture of Zhōu times clearly required profound knowledge. According to Chao Zhongzhen 晁中辰, the institutional integration of remonstrances into the administrative organisation of the Tang dynasty already took this need for knowledge into account, as primarily aspiring scholars and literati were assigned to the remonstrance bureaus.²³ This might explain why references could not be missing in the presentation of their criticism, regardless of whether they underline their own discussion or not. After all, these references indicated awareness of the disputes and interpretations of earlier philosophers. Moreover, to evoke authoritative voices and let one’s own views shimmer through them is well known as a special discipline of Chinese scholars.

Meanwhile, it is the connection between remonstrances and the literati that leads to the question of why this particular quotation from ‘Guanzi’, given above, played such a prominent role among the critics and was recited incessantly. The chapter ‘Conforming to the Law’, just few lines prior to the one adduced above, for example, offers a far more provocative statement. The habit of pardoning is exaggerated with the following formula:

惠者多赦者也，先易而後難，久而不勝其禍。法者先難而後易，久而不勝其福；故惠者民之仇讎也，法者民之父母也。

“One who is merciful grants many pardons. At first, this is easy but later it becomes difficult, and in the long run nothing is more disastrous. [The ruler] who adheres to the law grants no pardons. At first, this is difficult, but later it becomes easy and in the long run nothing is more beneficial. Therefore, he who shows mercy is the enemy of the people, while he who adheres to the law is the father and mother of the people.”²⁴

Yue Yun 樂運 (b. 540), in his exceptional remonstrance, discussed below in more detail, confirms that this passage was not completely forgotten. Still, it would probably have offended most emperors. Considering the continual politics of frequently granting amnesties during most emperors’ reigns, which was rationalised as being benevolent to the people and endowed the emperor with legitimacy, it seems likely that referring to the emperor as to the “enemy of the people” (*min zhi chouchou* 民之仇讎) was a highly critical matter. This comment is all the more surprising because the criticism in these texts is rarely connected to the emperor’s person. Reproaching rulers directly, as idealised in early literature, was no longer exemplary in later times, as revealed in the brief glimpse into his experiences in the remonstrance bureau that Bo Juyi 白居易 (772–846) shared

23 The close institutional relationship between the literati and the remonstrance offices can be traced back to the historical connection between the literati and the practice of remonstrating based on and influenced by Confucian ideals. Cf. CHAO Zhongchen 晁中辰, *Zhongguo jianyi zhidu shi* 中國諫議制度史, Beijing 2015, 294–304.

24 Guanzi, 6.298. Translation by RICKETT 1985, vol. 1, 257.

with his friend Yuan Zhen 元稹 (779–831) in a personal letter.²⁵ Furthermore, there is no indication that remonstrances were submitted as a reaction to a specific amnesty or decision for granting one. In most cases of very strong criticism, which are assigned to the second group of remonstrances ('socio-political remonstrances'), introduced below, the petitions were submitted in reaction to the numerous amnesties granted in the author's times.

Besides, the remonstrances show no features that indicate that their purpose was to influence specific decisions of day-to-day politics. No specific demands or detailed suggestions for alternative directives can be found. Rather, they appear to be more a debate about fundamental principles of government. Emperor Gaozu's 高祖 (r. 936–942) reaction to Zhang Yun's petition is also significant; he approved Zhang's objections and promoted him afterwards without indicating a shift in politics. This might also be considered a means of assessing the successfulness of a remonstrance.

3 Influence of the Remonstrances

In general, today's readers know little about the ruler's response to remonstrances, as the critics did not demand specific decisions from the addressee. If, however, the objective was to launch a debate about political principles and values or to influence such a debate, then other success criteria should be considered. A fundamental shift in the politics of amnesties, such as their long absence, did not take place in the period of interest. Still, in single instances, it can be discerned that the ideas and values transmitted in the 'Guanzi' passage took root in the (emperor's) mind due to their constant reiteration, even if they did not always have a moderating influence on the habit of pardoning. In a decree regarding the announcement of a Grand Act of Grace during Tang Xuanzong's 玄宗 (r. 712–756) reign, for example, concessions are made in terms of the evaluation of amnesties' impacts.

25 In delicate matters involving the highest political decision-makers, Bo Juyi preferred to criticise discretely by thematising their wrongdoings in poems. His intention was that the poems would spread among the people and thus become known to the emperor and his ministers. See Bo Juyi *ji jianjiao* 白居易集箋校 (6 vols.), Bo Juyi 白居易, ed. ZHU Jincheng 朱金城, Shanghai 2003, 45.2792. Cf. Bo Juyi 白居易 (772–846), Po Chü-I as a Censor. His Memorials presented to Emperor Hsien-Tsung during the years 808–810, transl. and explained by Eugene FEIFEL, Mouton 1961, 38. From 808 until 810 Bo Juyi held the position of an imperial censor to the left (*zuo shiyi* 左拾遺). In the official hierarchy, this was a rather low rank. Nevertheless, it was Bo's most active phase in shaping politics, even though he climbed the career ladder later on.

赦令所作，其來尚矣。是則奸人之幸，嘗思奔馬之喻。朕但欲令其畏惡，化之為善 [...]。

“The times when amnesties started to be granted belong to the far past! Nevertheless, pardons constitute a lucky chance for the villains and usually the metaphor of a galloping horse comes to mind. I only wish to induce them [i. e. the villains] to fear evil and want to train them to do good, [...]”²⁶

Zhongzong's 中宗 (r. 684 and 705–710) amnesty edict phrases it even more impressively:

但赦者，小利而大害。始泰而終否。著小人之幸，非君子之幸。今歲已來，頻敷渥命。徒長僥倖，愈犯憲章。非所以宏獎風猷，發揮名教。深慮無知者因茲獲罪，有識者緣此致譏。遐思管仲之篇，緬想吳漢之說。

“With respect to amnesties, they are of little benefit but cause great harm. In the beginning, there is peace [i. e. they bring peace]; in the end [i. e. over the long term], however, it is not the case. They bring forth the happiness of the common man but are not the happiness of the nobleman. Since [the beginning of] this year, amnesties have already been granted repeatedly. This only increases undeserved benefactions, and the common people contravene the law and regulations even more. This is not the way to promote moral principles and to propagate orthodox values. I am deeply worried that ignoramuses will commit crimes for this reason and wise people will, therefore, jeer extremely. I have pondered the relevant passages of Guan Zhong and thought about Wu Han's remarks for a long time.”²⁷

The illustrative metaphor of a galloping horse and other memorable formulas, such as the juxtaposition of the common and the noble man, work effectively to express a critical view on the subject.

4 Comparison to Other Critiques

Moreover, it can be observed that remonstrators were inflexible in their criticism of amnesties. Their use of references is static as they only quote material used by former critics. Any reference to recent history or its interpretation with respect to ‘inherited speech’ is missing completely. For comparison, consider Han Yu's 韓愈

26 See ‘Gaiyuan Kaiyuan yuannian dashe tianxia zhi’ 改元開元元年大赦天下制 (Edict Granting a Grand Act of Grace to the World due to Changing the Reign Period to the First Year of Kaiyuan), in: Tang da zhaoling ji 唐大詔令集, ed. Song Minqiu 宋敏求, Beijing 2008, 4.21. This edict is dated to 713.

27 See ‘Dashe Luozhou zhi’ 大赦雒州制 (Edict Granting a Grand Act of Grace for Luo Prefecture), in: Quan Tangwen, 16.3 (p. 191b). According to the annals of the ‘Jiu Tangshu’ 舊唐書 (Old History of the Tang), this was already the fourth amnesty in one year when it was issued on 27 September. The next amnesty followed just two months later. Cf. Jiu Tangshu 舊唐書 (16 vols.), Liu Xu 劉昫, Beijing 1975, 7.135–141.

(768–824) criticism of the worship of the Buddha's finger bone relic for which he refers to recent history, i. e. imperial history beginning with the Han dynasty, and adds a narrative to its development to support his point of view.²⁸ What a comparable treatise on amnesties might look like is illustrated by the second Tang emperor, Taizong 太宗 (r. 626–649), who admonished himself:

貞觀七年，太宗謂侍臣曰：『天下愚人者多，智人者少。智者不肯為惡，愚人好犯憲章。凡赦宥之恩，惟及不軌之輩。古語云：『小人之幸、君子之不幸。一歲再赦，善人暗啞。』凡養稂莠者傷禾稼。惠姦宄者賊良人。昔文王作罰，刑茲無赦。又蜀先主嘗謂諸葛亮曰：『吾周旋陳元方、鄭康成之間，每見啟告理亂之道備矣。曾不語赦。』故諸葛亮理蜀十年，不赦而蜀大化。梁武帝每年數赦，卒至傾敗。夫謀小仁者、大仁之賊。故我有天下已來，絕不放赦。今四海安寧，禮義興行。非常之恩，彌不可數。將恐愚人常冀僥倖，惟欲犯法，不能改過。』

“In the seventh year of the Zhenguan period (627–649), Taizong said to his ministers: ‘In the empire the foolish people are prevailing, and the wise people are in the minority. The wise are not willing to do evil, but the foolish contravene the law and regulations lightly. Any type of kindness, like amnesties or pardons, is beneficial only for law-breakers. An ancient idiom says: ‘The happiness of the common man is the mischief of the nobleman. If an amnesty is granted twice within one year, then the good people fall silent.’”²⁹

28 The remonstrance against the worship of the Buddha bones, or, to be more specific, the tradition of bringing the Buddha bones from a temple to the court, exhibiting them there for three days, and, during that time, hosting big festivities in their honour, was included in Han Yu's biography in the 'Jiu Tangshu'. Cf. Jiu Tangshu, 160.4198–4200.

29 This refers to an idiom that also belongs to the fund of external material in the ideational remonstrances. The earliest references can be traced back to Cui Shi's 'Zheng lun' 政論 (Disquisitions on Government) and Wang Fu's 'Qianfu lun' 潛夫論 (Discourses of a Recluse), each in differing variants and also deviant to the quotation here. It is doubtful that the message of the two early references matches with the quotation in this passage. There are diverse opinions regarding the reading and its meaning. The 'Discourses of a Recluse' has the following variant: “If pardoning several times in one year, then even the weak children will sigh crestfallen” (一歲載赦，奴兒噫嗟). See 'Qianfu lun' 潛夫論, Wang Fu 王符, annotated by Wang Jipei 汪繼培, Shanghai 1978, 4.220. In the 'Zheng lun' it says: “If one pardons twice a year, even the weak children get angry.” (一歲再赦。奴兒暗啞。) See Quan Hou Han wen, 46.10 (p. 726b). Many commentators define *yinwu* 暗啞 as meaning “get angry”, “seethe with rage” or “bear resentment”, each having a slightly different nuance. This latter reading of the expression also suits the context of the 'Discourses of a Recluse'. When quoting this aphorism, Song authors changed *nu* 奴 to *hao* 好 and read *nu'er* 奴兒 as “good people” (*haoren* 好人), which equals the meaning in the quoted text using the characters *shanren* 善人. The version in 'Tang huiyao' 唐會要 (Essential Documents and Regulations of the Tang Dynasty) matches these divergent readings, whereas the 'Tongdian' 通典 (Encyclopaedic History of the Institutions of Government) proposes an additional reading: “the women and children get angry” (婦兒暗啞). See Tang Huiyao 唐會要 (3 vols.), ed. Wang Pu 王溥, Shanghai 1935, 40.728; Tongdian 通典 (5 vols.), ed. Du You 杜佑, Beijing 1988, 169.4386. The 'Tongdian' variant was revised several times and, over time, “good people” (*shanren* 善人) was added as well. When preparing a block print in Ming times, the editors could draw on a copy from the Northern Song (960–1127) period and decided in favour of

Nourishing the weeds and grass will harm the cereal plants, just as pardoning villains will harm the good people. In early times, when King Wen of Zhōu determined the sentences, there were no amnesties in applying the punishments [of the offenders]. Thus, Liu Bei (r. 221–223), the founder of the Shu kingdom (221–263), said to Zhuge Liang (181–234): ‘When associating with Chen Yuanfang (d. 199) and Zheng Kangcheng (127–200) [i. e. Zheng Xuan 鄭玄], every time I was enlightened comprehensively about the way of order and chaos. Never did they talk about amnesties.’ Therefore, when Zhuge Liang administered Shu for ten years, no amnesties were granted and the state of Shu experienced a big transition. Liang Wudi (r. 502–549) granted several amnesties each year until he was defeated eventually. Striving for a little humanness will be the ruin of great humaneness. Therefore, since I have been in the possession of the empire, I never pardoned [villains] and set them free. Today, there is peace and quietness in all four directions, rites and righteousness flourish and are being performed, this is [already] an exceptional kind of grace, which is extensive and immeasurable. It is still to be feared that the foolish will always have great hope of obtaining [undeserved] luck and will be willing to break the law, and this way they are not able to correct their faults.’³⁰

Taizong draws ample attention to former emperors and their advisors in recent history. By constructing the opposites of Shu and Liang, he develops a narrative pattern for the history of imperial China from the point of view of the granting of amnesties. Remonstrances on the same topic, however, regularly refrain from doing so in favour of reference to literary commonplaces or stock phrases.

In addition to being used to establish firmly the metaphor of the galloping horse and concomitant ideas, consciously or unconsciously, there are further plausible reasons for this way of remonstrating, in which certain materials are used repeatedly. It is certainly possible that officials sought to distinguish themselves in a simple way by submitting remonstrances when they imitated the remonstrances of former critics. Another plausible objective could have been to specifically recall and affirm the previous dismissive attitude towards amnesties. At the same time, some amnesties were justified in related edicts with the argument that granting amnesties was a tradition.³¹

an older version. How exactly this idiom was used in Tang times and whether this passage was tampered with over time cannot be finally answered.

30 Zhenguan zhengyao 貞觀政要, Wu Jing 吳兢, in: Siku quanshu, vol. 407, 8.19 (p. 518a) (punctuation added).

31 For example, in the amnesty edict from 713, introduced above.

5 Evaluation of the Relevant Statements in the Classical Writings and Remonstrances of the First Type

Considering that several passages from texts categorised as classics could be referred to for supportive purposes, deeper questions regarding the basis of the quoted material arise. As explained above, Tang Taizong quoted such a passage about King Wen 文 (r. 1099–1050 BCE) from the ‘Shujing’ in his statement on this topic. Does this mean that the remonstrators take a position regarding a certain philosophical thought when they, as so rarely seen, forego quoting the classical texts? Can the omission of quotations from the classical writings be seen as a stylistic device to demand the enforcement of the law, and, at the same time, as a request to not go beyond what is proper according to the Confucian notion of a beneficent and good-natured ruler? Comparing these texts with petitions that plead for or demand the granting of amnesties supports this hypothesis. The authors supporting amnesties affirm idealised Confucian notions and a world-view in which the emperor is able to appease Heaven and change the people by the virtue of grace. This juxtaposition evinces that the debate between Legalism and Confucianism, that is between governing through strict application of the law and governing based on the exercise of virtue, continued in a subtle way.

To illustrate these two principles of governing, two such petitions will be presented below. In Eastern Jin 東晉 (317–420) times, Guo Pu 郭璞 (276–324) appealed against an overly strict application of the law with the intention of suggesting an amnesty: “If the water is too clear, there will be no fish. If the government monitors the people excessively, then the masses will resist.” (故水至清則無魚，政至察則眾乖。) ³² According to Guo Pu, amnesties serve as a corrective measure for a government that is oriented towards law enforcement. A Tang official called Lu Zhi 陸贄 (754–805) phrases it more directly:

伏以國之令典，先德後刑。所後者法當舒緩。故決罪不得馳驛行下。所先者體宜疾速。故赦書日以五百里為程。誠以聖王之心，務宏慶惠。必迴翔於行罰，而企躍於舒恩。

“With regard to laws and norms of the realm, benevolence is given precedence and the penalties are subordinated. All that is subordinated should be approached slowly and reluctantly. Therefore, if penalties have been set, they should not be transmitted downwards via a quick report [to the subordinate offices]. Predominant matters, however, should be implemented urgently. For this reason, the amnesty decrees prescribe [the amnesty to be announced] in the vicinity of 500 *li* [approximately 250 km] [within one day].” ³³ With the attitude of a wise ruler, You [i. e. the emperor] are indeed

32 Jinshu 晉書 (10 vols.), ed. Fang Xuanling 房玄齡, Beijing 1974, 72.1907.

33 The directive of announcing amnesties by express delivery of the highest priority, which is measured in distance per time, was generally part of the related edict and is found in more

striving to grant grace and benefactions generously. Thus, You waver and certainly hesitate when executing a penalty and leap with joy when granting benefactions [i. e. amnesties].³⁴

According to Lu Zhi, the manifestation of imperial benevolence by means of granting amnesties takes precedence over consequent law enforcement.

By their choice of arguments, proponents of amnesties confirm an ideology prominent in the decrees for the announcement of an amnesty in varied ways. In many cases, the official justification for the Grand Acts of Grace consists of the abovementioned grounds, or these represent at least a part of the reasoning. More specifically speaking, as the formal authors of the decrees, the emperors reaffirm their will to cultivate the virtues of humanity and mercy. The emperors also refer to Heaven's will, which will be appeased, and thus bestow blessings through pardoning that remove all sorts of resentment that people harbour. They show assurance in the model character of this measure and the positive influence of a fresh start for the people. For example, one of Tang Taizong's decrees says:

嘗恐縲紲之中，含冤靡訴。憲網所及，無辜致罪。一物有怨，責深在余。今歲惟暮春，時屬生長，宜順天布澤，與物更新。可大赦天下。

"I am afraid all the time that among the prison inmates, there is someone who suffers injustice and does not file an appeal; [and] that among those who were caught by the net of the law, there is an innocent one who was punished. If there is resentment because of one single case, then the guilt weighs heavily upon me. At the end of spring this year, a time which focuses on growing and thriving, I shall comply with Heaven and spread grace in order to grant all beings a fresh beginning. The realm is granted a Grand Act of Grace."³⁵

Almost a hundred years later, Xuanzong placed emphasis on the people's ability to change:

朕但欲令其畏惡，化之為善，庶比屋可封，豈開羅為惠，[...]。

than two dozen amnesties from the Tang period. The default formula for this directive generally says, with very few exceptions: "The amnesty decree shall be distributed within [a radius of] five hundred *li* 里 in one day and shall be announced throughout the realm, and it shall be arranged that all people are aware of it." (赦書日行五百里。告布遐邇。咸使聞知。) In some cases, the following instruction is added: "and the persons in charge shall implement it" (主者施行). Cf., for example, Tang da zhaoling ji, 5.27–28. Lu Zhi must have been very familiar with the rules and standards of amnesty edicts as he wrote several of them. Although they were officially issued by the emperor, they are still listed in Lu's collected works, which are today known as 'Hanyuan ji' 翰苑集 (Collection from the Hanlin Garden). Cf. Hanyuan ji 翰苑集, Lu Zhi 陸贄, in: Siku quanshu, vol. 1072, 1.1–3.5 (pp. 576b–592b).

34 Quan Tangwen, 475.11–12 (pp. 4849b–4850a).

35 Quan Tangwen, 5.15 (p. 65b).

“My only wish is to induce [the common people] to dread evil and to transform them to do good; my hope is that [everywhere] house beside house, there are people³⁶ that are found worthy to be enfeoffed. Is the opening of the net for catching birds not seen as a benefaction?”³⁷

Among the justifications of amnesties, there are some philosophical elements that seem to have been especially persistent. The idiom “to grant the people a new beginning” (*yu min geng shi* 與民更始), which can be found in many variants, is one example. In the amnesty edict on the occasion of his accession to the throne, the second Qin emperor (Qin er shi 秦二世, r. 210–207 BCE) already used this expression, though in a slightly modified version, as is evident from a manuscript unearthed in 2013, which is not transmitted in other literature.³⁸ This wording can also be found in many texts related to the granting of amnesties in the Han dynasty and following times. Wang Fu, who dedicates one full chapter of his work ‘Discourses of a Recluse’ to criticism of amnesties, complains straightforwardly about the talk of a new beginning in edicts.³⁹ The idea of an amnesty enabling a

36 This quotation, though in a slightly modified version, can be traced back to the ‘Xinyu’ 新語 (New Discourses), in which Lu Jia 陸賈 (c. 228–c. 140 BCE) juxtaposes the different conditions of the people under the reign of good and bad rulers. Under the reign of Yao 堯 and Shun 舜, there were plenty of worthy people, so that house by house there could be found a person who was worthy to be enfeoffed due to his virtue. The opposite is said for the reign of Jie 桀 and Zhòu, where amongst the people somebody could always be found who needed to be punished. Cf. Xinyu 新語, Lu Jia 陸賈, ed. WANG Liqi 王利器, Xinyu jiao zhu 新語校注, Beijing 1997, 65.

37 Quan Tangwen, 254.19 (p. 2576a). The concept referred to originates from an anecdote concerning Cheng Tang 成湯, the alleged founder of the Shang dynasty (?–c. 1045 BCE). It is said that Cheng once saw how somebody stretched a net for catching birds. He was appalled at the fact that all four sides of the net were closed as this would exhaust the birds. Thus, Cheng opened the net at three sides and saw to it that only those birds were caught in the net, which, according to his instructions, were destined to be caught. According to Sima Qian 司馬遷 (135 or 145–87 BCE), Cheng’s act won him the feudal lord’s recognition of his virtuousness. For an early version of this anecdote, see Shiji, 3.95. As can be derived from this exemplary anecdote, the image of a catching net was usually used as a metaphor for the penal code, the law in general, and especially for a strict interpretation of the law.

38 Instead of *yu min geng shi* 與民更始 or *yu tianxia geng shi* 與天下更始 (“to grant the world a new beginning”), this edict mentions the expression *yu qianshou geng shi* 與黔首更始, where “black-heads” (*qianshou* 黔首) also means “the people”. For a textual criticism of this edict, see Reinhard EMMERICH, Chinas zweiter Kaiser in neuem Lichte?, in: Shing MÜLLER/Armin SELBITSCHKA (eds.), Über den Alltag hinaus. Festschrift für Thomas O. Höllmann zum 65. Geburtstag, Wiesbaden 2017, 53–87. For the expression in question, see *ibid.*, 66.

39 “Even though people are cleansed of guilt year after year, still it has never happened that scoundrels and useless officials were willing to change their attitude, show remorse, and, thereby, correspond to the edicts. Usually, if officials report [their] issues [i. e. misdemeanours], these small offences that were committed before an amnesty turn out to be an obstacle for current proposals. That being so, edicts [claiming] change, improvement, and a new beginning also cannot be trusted.” (歲歲灑之，然未嘗見姦人冗吏，有肯變心悔服稱

new beginning for the whole realm is connected to the wording of “accumulated resentment” (*xu yuan* 蓄怨) or the idea that this resentment will be dissolved by such a measure.⁴⁰ To an even greater extent than “grant a fresh start”, this phrase was picked up directly or indirectly and reinterpreted in many remonstrances. One example is Zhang Yun’s remonstrance quoted above, which calls attention to the resentment of the victims.

The comparison between those remonstrances and the edicts reveals that there are far more references to each other than simply the picking up and re-interpreting of certain phrases. The line of argument in the remonstrances can be seen as a counterpart to the structure of the justification of amnesties in many transmitted edicts. As partly seen in Zhang Yun’s remonstrance mentioned above, the remonstrators reinterpreted the virtue of humanity, which the emperors adorned themselves with, as harmful for the greater humanity. The emperors were not in line with Heaven, they argue, as Heaven’s work is aimed at punishing evil. In their reasoning, Heaven is not appeased by such measures and, consequently, does not provide protection from natural disasters, as the emperors intended. In the end, pardoning does not lead the people to change for the better. On the contrary, the remonstrators argue, the people would take it as an opportunity to commit even more crimes.

In this respect, the remonstrances can be seen as continuous interaction with the petitions that requested the emperors’ pardon and even more with the amnesty edicts. As a reaction to amnesty edicts, the remonstrances specifically challenged the justification of the measure and offered alternative readings.⁴¹ By justifying the granting of amnesties abstractly, setting it in a broader narrative framework, and associating it with the legitimacy of the emperors’ own position, the emperors remained on an idealistic level. Hence, the introductions of the decrees are comprised of ideological expositions, which precede the discussion of everyday matters. In isolated cases, the subsequent explanations reveal specific reasons for the amnesty, e. g. the introduction of a new law, the loss of balance in law enforcement, or a combat against tax evasion. However, the remonstrances do not discuss the latter, more tangible motives; instead they also discuss the matter on an ideological level. This fact again illustrates that the critics were not

詔者也。有司奏事，又俗以赦前之微過，妨今日之顯舉。然則改往修來更始之詔，亦不信也。） See Qianfu lun, 4.224.

40 Wang Fu points out that among many of his contemporaries, the prevailing view was that amnesties were the means of choice to resolve accumulated resentments. See Qianfu lun, 4.208. Some of the critics oppose this notion and turn this assertion into the opposite. In this sense, Wang Fu claims that by pardoning one “increases resentment and considers it a virtue” (*lian yuan yi wei de* 欽怨以為德). See Qianfu lun, 4.227.

41 Note that the text of transmitted edicts from before the Tang dynasty is generally shortened and condensed. Still, even in these cases we regularly find the ideological arguments mentioned above. Therefore, a high degree of continuity can be concluded in this regard.

concerned with single amnesties. Rather, as the practice of pardoning was a regular feature of government, critics took aim at the ideological basis of this tradition.

Within the struggle for interpretive authority, it is astonishing that the classics are afforded so little room in these texts. Possible reasons for this have already been discussed above. The official Yue Yun who lived during Xuandi's 宣帝 (r. 578–579) reign in the Northern Zhou 北周 dynasty (557–581) gives an example of how an amnesty's legitimacy could be questioned by referring to the classics or ancient times. According to his official biography and other biographical sources, Yue Yun, who closely studied remonstrances, as his authorship of a text titled 'Garden of Remonstrances' (*Jianyuan* 諫苑) suggests, is said to have approached the emperor in a particularly straightforward and critical manner, allegedly reproaching Xuandi for eight misdemeanours. Being aware of the danger of his endeavour, he demanded that his coffin be carried with him to the audience with the emperor.⁴² His sharp rebuke to the emperor for his pardoning practices is not only remarkable in terms of the reference to the classics. Quoting an additional, rather mocking, passage from the 'Guanzi' brings his rebuke very close to being an invective:

臣謹案周官曰：『國君之過市，刑人赦。』此謂市者交利之所，君子無故不遊觀焉。若遊觀，則施惠以悅之也。尚書曰：『眚災肆赦。』此謂過誤為害，罪雖大，當緩赦之。呂刑云：『五刑之疑，有赦。』此謂（刑）疑從罰，罰疑從免。論語曰：『赦小過，舉賢才。』謹尋經典，未有罪無輕重，溥天大赦之文。逮茲末葉，不師古始，無益於治，未可則之。故管仲曰：『有赦者，奔馬之委轡。不赦者，痼疽之礪石。』又曰：『惠者，民之仇讐。法者，民之父母。』吳漢遺言，猶云『唯願無赦』。王符著論，亦云『赦者非明世之所宜』。豈可數施非常之惠，以肆姦宄之惡乎。

“Respectfully, I quote the ‘Offices of Zhou’ (i. e. the ‘Zhouli’ 周禮): ‘If a ruler passes by a marketplace, delinquents will be pardoned.’⁴³ This means that the market is a place of reciprocal benefit. The ruler does not visit it without cause. If he visits it, then he will carry out kind deeds in order to bring happiness to the people. The ‘Venerable Documents’ say: ‘Mistakes and offences caused by misfortune are to be pardoned.’⁴⁴ It means

42 According to his biography, Yue Yun was an especially brave and straightforward remonstrator, who confronted the ruler with criticism on many occasions and did not shrink from any affront. The dominant theme of an upright and frank critic runs through his whole biography and is underlined by three cases. One of these is the remonstrance against amnesties, which will be introduced below. A further interesting aspect in his biography concerns the question of whether single remonstrances should be regarded as a kind of letter of application. His biography says that Yue Yun always had the desire to be appointed to the remonstrance office. Until the end, his desire was denied. For his biographies, see *Beishi* 北史 (10 vols.), Li Yanshou 李延壽, Beijing 1974, 62.2218–2223 and *Zhoushu* 周書 (3 vols.), Linghu Defen 令狐德芬, Beijing 1987, 40.721–725.

43 Cf. *Zhouli* 周禮, in: *Shisan jing zhushu*, vol. 3, 14.24 (p. 221b).

44 Cf. *Shangshu*, 3.14 (p. 40b).

that in case somebody causes harm because of carelessness or by mistake, even if his guilt weighs heavy, [his sentence] is to be reduced or he shall be pardoned. The chapter 'Marquis of Lü on Punishments' [in the 'Book of Documents'] says: 'If there are doubts in terms of applying the Five Penalties, there is the option of pardoning.'⁴⁵ It means that when there are doubts as to the sentence of any of the five [corporal] punishments, then a fine should be imposed. When there are doubts as to imposing any of the [five] fines, then a pardon should be granted. The 'Analects' say: 'You should pardon small, erroneous mistakes and promote worthy and talented persons.'⁴⁶ I have studied the classical texts diligently: There is no such thing as distributing the edict of a Grand Act of Grace to all the delinquents in the whole realm, no matter of how bad their crimes have been. Only in these later times people do not emulate remote antiquity anymore. This is not beneficial to orderly rule and should not be taken as a model. Thus, Guan Zhong said: 'Wherever there are amnesties, it equals the situation of releasing the reins of a galloping horse. Not to pardon equals probing a festering boil with a stone lancet.' He said furthermore: 'Mercy is the enemy of the people. The law is the father and mother of the people.'⁴⁷ Wu Han's last words had been these: 'I only wish there were no more amnesties.' In his written discussion Wang Fu likewise says: 'Amnesties are not appropriate for bright times [i. e. times of good ruling].'⁴⁸ How can extraordinary amnesties be granted repeatedly to exculpate the evil of those scoundrels.'⁴⁹

In his petition, Yue Yun presents several quotations from various works of the classics and, though omitting some passages, cunningly suggests their completeness with his claim that in the writings there are no references to amnesties covering the whole realm. His hermeneutic interpretation of these quotes aims at a differentiation between pardons granted under certain circumstances and amnesties.

45 Cf. *ibid.*, 19.25 (p. 300b).

46 Cf. Lunyu, 13.1 (p. 115a).

47 Cf. Guanzi, 6.298.

48 This comment cannot be found in the transmitted texts written by Wang Fu. Probably this attribution to Wang is erroneous. Instead, it is supposedly a reference to a remark by Meng Guang 孟光, which is included in the 'Chronicles of the Three Kingdoms' (*Sanguo zhi* 三國志): "Amnesties are a one-sided measure and not something that should exist in bright times [i. e. well-governed times]. Only in times of extreme decline, when there is no alternative for it, one can execute it in response to the circumstances." (夫赦者，偏枯之物，非明世所宜有也。衰弊窮極，必不得已，然後乃可權而行之耳。) See *Sanguo zhi* 三國志 (5 vols.), Chen Shou 陳壽, Beijing 1959, 43.1023–1024. With these words, Meng Guang is said to have criticised Fei Yi 費禕 (d. 253), the most important person in the political arena at that time, in 246, immediately after an amnesty was issued in front of the entire staff. Fei Yi's response to this comment is also odd as he showed Meng respect and apologised with a gesture but did not pay further attention to this issue. Because Fei Yi held a dominant position in the polity and was supposedly responsible for the most important decisions, Meng Guang's criticism, though only expressed orally, should be classified as a remonstrance.

49 Zhoushu, 40.722.

Glancing briefly at remonstrances from the Song dynasty reveals considerable changes compared to the period discussed above, as they are increasingly written in more diverse and individual ways. Well-known quotations are not always recited verbatim but are sometimes paraphrased in the author's own words. The narrow corpus is enhanced, and new material from Tang times, among other anecdotes, is integrated. In addition, Song remonstrances are more comprehensive and multi-layered because, amongst other reasons, they not only argue against amnesties in general but also refute specific aspects or correlations. Pang Ji 龐籍 (988–1063), for example, addresses the relation between suburban sacrifices and amnesties.⁵⁰ Zhou Biaochen 周表臣, on the other hand, criticises the reflex to grant an amnesty swiftly once a natural disaster occurs.⁵¹ A distinctive characteristic of Song criticism of amnesties is to highlight classical texts and the interrelated perceptions of ancient times, be that in the form of quotations or by proving that amnesties were not given any room in those times and their texts. Antiquity also serves as the source for Zhou Biaochen to illustrate that pardoning as a response to natural disasters is not effective.

臣伏見，國家每因天文之異，水旱之災，大則行德音於天下，小則曲赦於西京。臣竊惑焉。夫數赦之為害，古人論之詳矣。蓋古者赦過宥罪，行於過失遺亡，而不以惠姦。[...] 昔成湯之時，其旱可謂久矣。湯以六事自責而已。未嘗聞赦也。高宗有飛雉之鳴，可謂異矣。祖己訓之，以正厥事而已。未嘗聞赦也。周宣王之時，其旱亦可謂久矣。詩美其側身脩行而已。未嘗聞赦也。夫遇災應變得，如成湯高宗宣王，不亦可乎。而必赦姦宄，以為惠，不亦異乎。

“Reverently, I disclose my view: Incessantly, after unusual celestial phenomena or natural disasters, like floods or droughts, the government grants an amnesty for the whole empire in the case of big events and grants regional amnesties in the western capital [i. e. Luoyang 洛陽] in the case of small events. I dare to be confused about this. Pardoning excessively brings about mischief. The people from ancient times have already discussed it thoroughly. In antiquity, offences were pardoned, and they were lenient with delinquents in cases where mistakes had been made or if refuges were involved, but not in order to show mercy to the wicked.⁵² [...] In the past, during Cheng Tang's times, there was a drought period which, as can be said, persisted for quite a time. Tang only accused himself of six matters.⁵³ No word was heard about an amnesty.

50 Cf. Lidai mingchen zouyi, vol. 439, 218.21–23 (pp. 251b–252b). The description of his person in the ‘History of the Song dynasty’ (*Songshi* 宋史) matches his criticism of amnesties. Pang Ji is said to have been very knowledgeable about the law and intransigent in its application. In his role as commander, he resorted quickly to severe physical punishments to maintain strict discipline amongst the soldiers. See *Songshi* 宋史 (40 vols.), Tuo Tuo 脫脫 et al., Beijing 1977, 311.10198–10202.

51 Cf. Lidai mingchen zouyi, vol. 439, 218.29–31 (pp. 255b–256b).

52 In the pre-imperial period, amnesties were issued in order to induce people who had fled to neighbouring areas to return. See in this regard the statement of Cui Shi above.

53 This anecdote is recounted in the ‘Xunzi’ 荀子: “During the reign of King Tang, there was a drought, and he offered a prayer, saying: ‘Has my rule not been well regulated? Have I caused

During Gaozong's reign, there was a crowing of a flying pheasant. This can indeed be referred to as unusual. Zu Ji then instructed Gaozong that he should amend his affairs due to this occurrence.⁵⁴ There was never a word about an amnesty. In the time of King Xuan of Zhou (r. 827–782 BCE), there was again a drought which also can be said to have lasted a long time; the 'Book of Songs' only extols the restlessness by which he cultivated his demeanour.⁵⁵ There was never a word about an amnesty. Once facing calamity, you should satisfy [the challenges of the time] by your own transformation, like Cheng Tang, Gaozong, and King Xuan did. Is this not to be agreed with? Do scoundrels need to be pardoned, and this matter taken to be benevolence? Is this not peculiar?⁵⁶

A further discrepancy between Tang and Song remonstrances can be observed by considering one of Bo Juyi's examination papers that deals with the legitimacy of amnesties. His answer, which is modelled on a remonstrance and is partly identical to a former remonstrance, aims less at a middle course between rejection and advocacy than a first look suggests. Still, Bo makes compromises in his introduction:

臣謹按書曰：『眚災肆赦。』又易曰：『雷雨作解。君子以赦過宥罪。』斯則赦之不可廢也必矣。管子曰：『赦者奔馬之委轡也。不赦者痼疽之礪石也。』又諺曰：『一歲再赦。婦兒暗啞。』斯又赦之不可數也明矣。然則赦之為用，用必有時。數既失之。廢亦未為得也。何者。赦之為德大矣。為賊亦甚矣。大凡王者踐祚改元之初。一用之則為德也。居常致理之際，數用之則為賊也。故踐祚而無赦，則布新之義缺。而好生之德廢矣。居常有數赦，則惠姦之路啟，而召亂之門開矣。由此而觀，蓋赦者可疏而不可數也。可重而不可廢也。用捨之要，其在茲乎。

"Respectfully, I quote the 'Venerable Documents': 'Mistakes and offences caused by misfortune are to be pardoned.'⁵⁷ The 'Classic of Changes' (i. e. the 'Yijing') further says: 'When rain starts and a thunderstorm is gathering, then the ruler follows by pardoning delinquents and reducing sentences.'⁵⁸ Thus, the granting of amnesties should definitely not be disregarded; this is for sure! 'Guanzi' says: 'Granting amnesties equals releasing the reins of a galloping horse. Not granting any amnesties equals the festering

the people to suffer ills? Why has the lack of rain reached such extremes? Are my halls and chambers extravagant? Have women's pleadings influenced me too much? Why has the lack of rain reached such extremes? Has giving of presents been going on? Have slanderous men been rising higher? Why has the lack of rain reached such extremes.'" (湯旱而禱曰：「政不節與？使民疾與？何以不雨至斯極也！宮室榮與？婦謁盛與？何以不雨至斯之極也！苞苴行與？讒夫興與？何以不雨至斯極也！」) See Xunzi 荀子, ed. WANG Xianqian 王先謙, Xunzi jijie 荀子集解 (2 vols.), Beijing 1988 (reprint 1996), 27.504. For the translation, see Xunzi. The Complete Text, trans. and with an introduction by Eric L. HUTTON, Princeton 2014, 305.

54 The appearance of the pheasant was interpreted as fateful because it happened on a day of sacrifice. This occurrence is recounted in Shangshu, 10.8–10 (pp. 142b–143b).

55 The song (no. 258), titled 'Milky Way' (*Yunhan* 雲漢), praises King Xuan's conduct during a draught. Cf. Shijing 詩經, in: Shisan jing zhushu, vol. 2, 18/2.12–23 (pp. 658b–664a).

56 Lidai mingchen zouyi, vol. 439, 218.29–31 (pp. 255b–256b).

57 Quote from the Shangshu, 3.14 (p. 40b). See also above on page 153.

58 Cf. Zhouyi 周易, in: Shisan jing zhushu, vol. 1, 4.24 (p. 93b).

of a boil with a stone lancet.⁵⁹ Further a proverb says: 'If amnesties are granted repeatedly in one year, then women and children fall silent.'⁶⁰ This shows that there should not be many amnesties; this is clear! Then, however, amnesties are to be granted expediently, and as regards expediency, the right time must be found. If there are many amnesties, the purpose is missed. If refrained from completely, the purpose is also not achieved. Why? Pardoning means making virtue great. But the concomitant harm is also huge. Generally speaking, if a righteous ruler grants it once at his enthronement or when he changes the era name, this will be considered as virtuous. By and large, all emperors grant it at their enthronement or if the era name is changed. If implemented once, then it is regarded as virtuous. If implemented repeatedly in ordinary and peaceful times, then it is regarded as mischief. Therefore, if not granting an amnesty after one's enthronement, then there is a lack of integrity for not granting a new beginning. Also, the virtue of appreciation of life is despised. To grant many amnesties during ordinary times will pave the way for favouring villains, and the door is opened for chaos and uprisings. From this point of view, amnesties should be used seldomly and should not be numerous. They should be appreciated and not be disregarded. The key to applying amnesties or refraining from doing so, isn't it rooted in that?⁶¹

Bo Juyi does not refute the passages within the amnesty edicts hitherto cited to legitimise the measure by stringent exegesis or by contrasting their content to other passages from the canon. Surprisingly, he juxtaposes the quotations from the classical scriptures with the well-known comment from 'Guanzi' and assigns them the same value by attaching the same importance to both positions. By doing so, he does not attack the emperor's interpretation of the passages and, thereby, the legitimacy of the amnesty itself; rather he acknowledges it but looks for a discussion on another level, i. e. its implications for the political practice. Some decrees suggest that the ruler should follow the course of nature, which stipulates a time every year when life is to be promoted and flourishes, and grant amnesties periodically. However, Bo offers a different perspective; his proposal envisages a generational cycle instead of a seasonal cycle. Ultimately, he banishes the granting of Grand Acts of Graces from the policy-making process and limits it to only being part of the enthronement process.

Bo Juyi's conclusion is similar to the recommendations of the opponents of granting amnesties, who actually deny amnesties any legitimacy, at least in the few cases where they add a specific proposal. Therefore, it is surely no coincidence that Bo's discussion follows former critiques of amnesties. Although the examination situation needs to be taken into account in this case, it can still be supposed that up until Tang times either the remonstrators were not willing to challenge the official interpretation of the two main passages, which are Bo's first

59 See also pages 141, 154.

60 See note 29.

61 Quan Tangwen, 671.26–27 (pp. 6847b–6848a).

quotes and which are also quoted in some amnesty edicts, or, as in the case of Bo Juyi, that they granted the official interpretation a certain amount of legitimacy. In summary, it can be concluded that until Tang times certain passages from the classical texts did not underpin the criticism of amnesties. It is possible to imagine that the omission of authoritative texts was a reaction to the decrees. In a few cases, the emperors try to justify a Grand Act of Grace with a direct reference to the classics, most often a passage from the 'Yijing', which Bo Juyi quotes in his examination answer. Remonstrances are, therefore, primarily a reply to the respective edicts, and refuting the ideas advocated in these edicts was paramount.

While Bo Juyi presents a nuanced picture of the views on pardons in the classical writings, Yue Yun defuses the tensions therein. Yue Yun, whose remonstrance has some distinctive features, thus presumably does not reflect the majority opinion of his contemporaries as well as other critics from this period. The different interpretation of the classical scriptures also represents an explanation of why his approach of deriving the rejection of the amnesties from the interpretation of the relevant passages of the classical scriptures was unique in the period up to Song times. In the Song period, however, numerous critics of amnesties followed both his concept and his interpretation of the classical scriptures. Despite his distinctive approach, Yue Yun, like other remonstrances of the first type, argues exclusively on an ideological level.

6 Second Category of Remonstrances against Amnesties

In comparison to the remonstrances discussed above, I would like to underscore distinctive features from two selected critiques that stand out from the majority. These exceptional cases help to clarify the character of usual remonstrances through comparison. Even if these special cases share content and stylistic features with most remonstrances, they still generate a remarkably different impression. Wang Fu presents a very early and, for this time, probably the most comprehensive critique of amnesties in his work 'Discourses of a Recluse'. As Wang did not submit his critique to the emperor, the text cannot, strictly speaking, be classified as a remonstrance.⁶² However, the relationship between

62 Wang Fu's background as the son of a concubine as well as his character, his uncompromising integrity, and especially his direct and forthright manner are said to have been obstacles to his career as an official. Although he had friendly relationships with officials in respected posts and was well informed about what happened at court, he did never hold an office himself. While feeling bitter about this, he lived a secluded life until his death and meanwhile wrote the 'Discourses of a Recluse' over a long period of time. Some argue that it took him over thirty years. Cf. Rainer HOLZER, *Das Ch'ien-fu lun des Wang Fu. Aufsätze und Betrachtungen eines Weltflüchtigen*, Heidelberg 1992, 9–16 and David R. KNECHTGES, Wang Fu, in: David

Wang's disapproval of amnesties and the remonstrances against Grand Acts of Grace should not be ignored. Many arguments from Wang's discussion, which is relatively well structured, were adopted by later remonstrances. The fundus of quotations used in later remonstrances was also influenced by Wang. This becomes especially obvious when he introduces an aphorism said to go back to antiquity, which is taken up by later remonstrators.⁶³ Furthermore, there are instances in which ideas or remarks are wrongly attributed to Wang that cannot be found in his discussions or are evidently derived from other authors.

These observations indicate that Wang Fu's text served as a kind of repertoire of thoughts and ideas, at least for the early remonstrances. Other elements in Wang Fu's text, however, are not considered, for example, his speculations about the true reasons for such politics, which hide behind ideological arguments. Above all, the socio-political dimension of Wang's criticism, for example, the presentation of the consequences for everyday life, did not find its ways into other remonstrances. Wang expresses the socio-political consequences in an exaggerated way:

洛陽至有主諸合殺人者，謂之會任之家，受人十萬，謝客數千。又重饋部吏，吏與通姦，利入深重，幡黨盤牙，請至貴戚寵臣，說聽於上，謁行於下。[...] 今案洛陽主殺人者，高至數十，下至四五，身不死則殺不止，皆以數赦之所致也。由此觀之，大惡之資，終不可化，雖歲赦之，適勸姦耳。[...] 近時以來，赦贖稠數，故每春夏，輒望復赦；或抱罪之家，僥倖蒙恩，故宣此言，以自悅喜。誠令仁君聞此，以為天教而輒從之，誤莫甚焉。論者多曰：『久不赦則姦宄熾，而吏不制，故赦贖以解之。』此乃招亂之本原，不察禍福之所生者之言也。凡民之所以輕為盜賊，吏之所以易作姦匿者，以赦贖數而有僥望也。

"In Luoyang, it has already reached the stage that organised gangs have emerged, which specialise in (contract) murders, so-called 'families for mediating tasks', with which one hundred thousand people are affiliated, and their clients amount to thousands. At the same time, the ministry officials are being bribed, so that they collaborate with them; and if the yield is high enough, then even rivalling groups work together. Even the imperial relatives and favoured ministers use such services; this is openly talked about in the highest circles and their actions are made known to their subordinates. [...] In our days, the leading murderers from Luoyang have as many as several dozen but at least four or five deaths on their conscience, and as long as they do not have to pay with their own life, the killing will not stop. It has come this far through the multitude of amnesties! Seen from this perspective, a natural predisposition to evil cannot be amended after all. Yearly amnesties practically encourage new profanities. [...] Recently, amnesties and ransoms have become so numerous that every year in the spring or summer the people expect an amnesty. Of course, some of the families who bear the

KNECHTGES/Taipng CHANG (eds.), *Ancient and Early Medieval Chinese Literature. A Reference Guide (Handbook of Oriental Studies. Section Four China, vol. 25/2)*, 4 vols., vol. 2, Brill/Leiden/Boston 2014, 1166–1167.

63 See note 29.

guilt of a crime long for such fortune to receive grace and, therefore, propagate such speeches in order to give themselves delight. If a humane-minded ruler actually listens to it, even seems to perceive in it Heaven's teachings, and follows it straightaway, then his misconception could not be bigger. Among the discussants many argue: 'A long absence of amnesties will let infringements increase rapidly. In this case the responsible officials cannot tackle the situation and, therefore, amnesties and ransoms are required to resolve this threat.' This is the origin of bringing about chaos, and these speeches disregard where misfortune and blessings actually originate. That the people act as thieves and robbers so casually in the first place and the respective officials act treacherously and wickedly without any hesitation traces back to numerous amnesties and the hopes relating thereto."⁶⁴

This discussion appears less austere and objective and more as an expression of Wang's consternation; he concretely describes grievances and ostensible personal experiences, puts thoughts and ideas in people's mouths, and describes the development of organised crime, connecting it with amnesties. The emotionality and the subjective character that we see in Wang's discussion are missing in the remonstrances. Yet these aspects in particular make evident the urgency for action.

These stylistic devices are also employed by Liu Zhiji 劉知幾 (661–721) in a less intense form.⁶⁵ He addresses his remonstrance to Wu Zetian 武則天 (r. 690–705), who granted amnesties particularly frequently during her time as regent and empress. The reason for Wu's politics and her breaking with traditional amnesty politics applied in preceding times can be seen in her lack of legitimacy. Much more frequently than her predecessors, Wu campaigned for the support of the masses and tried to increase her degree of legitimacy. One of her first measures of this kind was the "Twelve-Point Reform Programme" (*Shi'er shi* 十二事) from

⁶⁴ Qianfu lun, 4.214–220.

⁶⁵ As noticed above when discussing Yue Yun and Wang Fu, this is another remonstrance that does not follow the usual pattern and, therefore, may seem provocative, written by a person that is notable, direct, forthright, courageous and driven by high ideals. Liu was notorious for his audacity as he dared to challenge even Confucius. According to his own account, people sneered at him even when he was young because as a child he criticised ancient philosophers thoughtlessly. His biography in the 'Jiu Tangshu' confirms that he chose very forthright and sharp words even in his first petitions. Liu's thirst for high ideals is also evinced in the incident in the History Office, which would seem the ideal office for him; however, he handed in a letter of resignation after a short time because he was frustrated and realised that he would not be able to maintain his principles under those conditions. For his biography, see Jiu Tangshu, 102.3168–3174. For his autobiographical remarks in the 'Shitong' 史通 (Comprehensive Treatise on History), cf. Shitong 史通, Liu Zhiji 劉知幾, ed. Pu Qilong 浦起龍, Shitong tongshi 史通通釋 (2 vols.), Shanghai 1978, 10.288–301. Compare further Lin Shimin 林時民, Liu Zhiji Shitong zhi yanjiu 劉知幾史通之研究 (Wen shi zhe xueji cheng 172), Taipei 1987, 22–29 and Edwin G. PULLEYBLANK, Chinese Historical Criticism. Liu Chih-chi and Ssuma Kuang, in: William G. BEASLEY/Edwin G. PULLEYBLANK (eds.), Historians of China and Japan, London et al. 1961, 135–166, here 136–151.

674, in which Wu declared her great concern for the people. Beginning from exactly this year, a change of amnesty politics can be noticed.⁶⁶ Since Gaozong's enthronement, amnesties had been granted in an interval of two, three, or sometimes even four years, but from 674 on, there was an amnesty almost every year (except for 677 and 681).

Under these circumstances, Liu Zhiji does not seek a general debate about the legitimacy of amnesties but rather to halt their excessive granting. Therefore, Liu's remonstrance contains little discussion about the principles and no claims that hint at a categorical rejection of amnesties. His remarks lead to an appeal to use amnesties more restrictively. In a similar though less intensive way to Wang Fu, Liu describes the expectations of the people that develop due to habitual

66 That Wu Zetian increasingly tried to gain legitimacy and support from the masses is logical in view of the resistance she faced from the highest officialdom and aristocracy, which was primarily due to the fact that Wu did not come from a big north-western aristocratic family and her informal ruling power constituted a break with the traditional Confucian role allocation. However, forcing back this group and, thereby, freeing the court from its dominance in different ways was not born solely of her individual aspiration to power but was a continuation of the politics already launched during Taizong's reign. Nevertheless, her legitimacy deficit resulted in an acceleration of this development and pushed her to vie further for the support of the masses to an extraordinary degree. She appears to have pursued a two-fold strategy: to present herself as the preserver of order and stability, especially of the dynasty, and to make known her worries about the hardships of the people, proving this concern by providing tangible material and financial aid. Some indications suggest that the Grand Acts of Grace played a crucial role in her actions – the more so because they ideally unified both of her objectives. In her amnesty edicts, which had an especially wide coverage concerning the beneficiaries, Wu conferred ideas and thoughts on legitimacy in a particularly flexible way and on a large scale. She addresses and bemoans widely spread grievances in surprisingly forthright ways. Furthermore, in her Grand Acts of Grace, she granted especially generous tax reductions and material benefits, significantly surpassing her predecessors. Considering that she broke with previous politics in this matter and issued amnesties in much shorter intervals, i. e. annually, supports the above interpretation of the importance of amnesties to her policies. The beginning of this kind of leadership style can be traced back to 674, when she publicly proposed the “Twelve-Point Reform Programme”, including wide-reaching concessions to the common people as well as to the officialdom, e. g. to reduce taxes and labour services. The course of events in 684, when not even one year had passed since Gaozong's death, substantiates this impression. The granting of a Grand Act of Grace in her own name, including particularly lavish gifts, was perceived by contemporaries as a preparational step for her seizure of power and led to a rebellion of the relatives of the Tang imperial family led by Li Jingye 李敬業 (d. 684). As the recruiting of participants for this undertaking was unsuccessful, which certified a successful strategy of Wu Zetian, the rebellion was suppressed quickly. The same applies to the fact that she could hold power for so long despite economic and foreign policy crises under her aegis. For an account of the developments at that time and the role that Wu played therein, see Denis TWITCHETT/Howard J. WECHSLER, Kao-tsung and the Empress Wu, in: Denis TWITCHETT (ed.), *The Cambridge History of China. Volume 3: Sui and T'ang China. 589–904*, Cambridge et al. 1979, 242–289, Richard W. L. GUISO, *The Reigns of the Empress Wu, Chung-tsung and Jui-tsung (684–712)*, *ibid.*, 290–332 and Richard W. GUISO, *Wu Tse-t'ien and the Politics of Legitimation in T'ang China (Occasional papers 11)*, Bellingham, WA 1978, 51–86 and 155–159.

pardoning, including, among other things, the rise of people or groups who make use of amnesties systematically. Yet in contrast to Wang Fu, Liu expresses little consternation but rather presents his view polemically, for example, when he says that the job title “thief” (*duorang* 敔攘) should be listed in the household register for those people, who take advantage of amnesties. Liu’s remonstrance is cited in full below:

臣聞小不忍，亂大謀。小仁者，大仁之賊。竊以赦之為用。復何益于國哉。若乃皇業權輿，天地初闢，嗣君即位，黎元更始，則時藉非常之慶，申以再造之恩。必求之政術。猶為未允。況乃時非變革，代屬清平，而輒降彼謬恩，原茲罪罰者乎。是以歷觀復古，兩漢舊事。匡衡儒學之俊才，吳漢弼諧之良輔，至於讜言規主，惟願勿赦。劉先主亦嘗謂諸葛亮曰：『我周旋陳元方鄭康成間，每見啟告理亂之道備矣。曾不語赦也。』若劉景升季玉父子，歲歲赦宥，何益於理。及後主嗣業，蜀赦漸多。故孟光於眾中責費禕曰：『夫赦者，偏枯之物。非明世所宜有也。』今主上仁賢，百寮稱職，有何旦夕之急，而數惠奸宄之徒。上違天時，下違人理。豈具瞻之美，所望於明德哉。自是蜀政凌遲，浸以彫弊。自皇家受命，赦宥之澤，可謂多矣。近則一年再降，遠則每歲無遺。至若違法悖禮之徒，無賴不仁之輩，編戶則敔攘為業。當官則賄賂是求。莫不公然故犯，了無疑憚。設使身嬰桎梏，跡窘狴牢，而元日之朝，指期天澤。重陽之節，佇降皇恩。如其付度，咸果釋免。且下愚不移，習性難改。雖頻煩肆眚，每放自新，而見利忘義，終焉不易。用使俗多頑悖，時罕廉隅。為善者不沐恩光，作惡者獨承僥倖。若乃方正直言之士，守善嫉惡之夫，每欲覽轡埋輪，效鷹鷂而報國。褰帷露冕，去蝥賊以安人。而遇赦無以效其功，閱恩無所施其巧。古語云：『小人之幸，君子不幸。』其斯之謂也。伏望遠覽匡吳陳鄭之說，近尋劉葛費孟之談，而今而後，頗節於赦。

“I have heard that if one does not endure [i. e. show leniency] in the little things, then one destroys big plans. [To practice] a little humaneness means harming great humaneness.⁶⁷ In my humble view, I [still] presume granting amnesties expedient. Then, in which instances are they beneficial for the governmental polity? Once it occurs that a rulership is established, Heaven and Earth are opened [i.e. the realm is at the beginning], or a subsequent ruler ascends the throne, then the people [obtain] a new beginning. In these times, one draws upon an exceptionally joyful occasion, and makes it known by the benevolence of granting new life. This is a political strategy that needs to be pursued [in this way]. Nevertheless, it is unfair. How much more does this apply if one, in times with no uprisings and changes and periods that are peaceful and quiet, arbitrarily grants such an errant grace and pardons crimes and punishments?

Therefore, I have analysed antiquity and the old matters of both Han dynasties. As a Confucian scholar, Kuang Heng (d. 30 or 29 BCE) had exceptional skills; Wu Han was a fine assistant who helped [the ruler] and harmonised with him. When they advised their ruler with frank words, their wish was that [he] would not grant amnesties anymore. The founder of the [Shu-Han] dynasty, Liu Bei, also once said to Zhuge Liang: ‘When

67 Cf. Han Feizi 韓非子, ed. WANG Xianshen 王先慎, Han Feizi jijie 韓非子集解, Beijing 2003, 3.59: “The ten faults: first, to practice petty loyalty results in harming larger loyalty.” (十過：一曰行小忠，則大忠之賊也。)

associating with Chen Yuanfang and Zheng Kangcheng, every time I was enlightened comprehensively about the way of order and chaos. Never did they talk about amnesties.’ As for Liu Jingsheng (i. e. Liu Biao 劉表 [142–208]) and father and son Liu Yan 劉焉 (d. 194) and Liu Zhang 劉璋 (i. e. Liu Jiyu [d. c. 220]), who granted amnesties annually, how was this beneficial for ruling?⁶⁸ When the subsequent ruler inherited the position, the [number of] amnesties increased gradually in the Shu kingdom. Therefore, Meng Guang criticised Fei Yi (d. 253) in public: ‘Amnesties are a one-sided measure and not something that should exist in bright times [i. e. well-governed times].’ Today, Our Majesty possesses humaneness and virtue, and the officials live up to their tasks, so why the urgency to pardon the group of villains repeatedly in a short period? Above this ran counter to Heaven’s order, below it ran counter to human principles. How is this the good that is looked up to, and how is this the enlightened virtue that is hoped for? Because of this the government of Shu has been in decay, gradually until its demise. Since the imperial family [i. e. the Zhōu dynasty (690–705)] received the heavenly appointment, the benevolence by pardons can be seen as numerous. Recently, within one year [amnesties] were granted repeatedly, and [for a long time] they were not refrained from year by year. Regarding the group of lawbreakers and rites twisters, the kind [of people] that are scoundrels and have no humaneness, if listing them in the household register, ‘thief’ [should] be indicated as their job title, if they are working as officials, then bribes are what they seek. They all break the rules publicly and intentionally without any doubt or fear. Even if they wear neck shackles and hand and foot cuffs, and are left behind in prison, starting at the beginning of the first day of the year, they refer to and hope for the grace of the emperor. At the Double-Ninth-Festival [on the ninth day of the ninth month], they expect the decree of imperial grace. As expected, eventually all are set free. Furthermore, the totally foolish cannot be transformed because a moulded character is hard to change. Although there are pardons very often and every time they are set free to a new beginning, they still behave as having forgotten integrity [as soon as] they sense a benefit, how could they eventually change? The use [of amnesties] causes the habits to become increasingly ignorant and rebellious and the time to fall short of honesty and conscientiousness. Those people who do good enjoy no favour. Only the evildoers benefit from the grace! The noble behaving honestly and speaking appropriately and those who preserve good and hate evil wish to keep

68 These remarks can be traced back to a comment from Zhuge Liang that he is said to have made while acting as chancellor and which is included in his writings. Cf. Zhuge Liang 諸葛亮集, Zhuge Liang 諸葛亮, Beijing 1974, 2.50. The persons mentioned by Zhuge were all warlords, and their regional power base was conquered by Liu Bei, the founder of the Shu-Han kingdom. Their destiny must have been vivid in their contemporaries’ memory, especially in those of the Shu-Han leader’s circle, and served as a cautionary tale. It is certainly not surprising that the last century of the Eastern Han, like the period of the Three Kingdoms (220–280), played such an important role in the remonstrances against amnesties. With the increasing length of the Eastern Han period, the measure of pardoning was used excessively. Even early on, literati like Wang Fu expressed their opposition towards it. By the end of the Han dynasty, there are indications of a zeitgeist opposed to amnesties. Furthermore, many officials, especially from the emperor’s inner circle, such as Zhuge Liang, were attached to legalistic thought. Consequently, the short period following the Han dynasty was perceived as an interregnum within the history of pardons.

themselves in check at all times and to bury the wheel [i. e. to adhere to the law], by imitating eagles and falcons [i. e. acting loyal and fearless], they serve the state. Once [the ruler] raises the curtains, reveals his cap [i. e. the ruler bestows favour on the noble people], and removes the scum and robbers, he thereby calms those people. When encountering amnesties, however, they have nothing to achieve from their meritorious service. When experiencing such a grace, there is nowhere where they can put their skills to good use. A proverb from antiquity says: 'The happiness of the little man is the mischief of the nobleman'. That is the meaning of it. Bending with humility, I express the wish that Your Majesty examines the speeches of Kuang, Wu, Chen, and Zheng of former times, researches the discussions of Liu, Ge, Fei (i. e. Fei Yi 費禕), and Meng from recent times, and from now on deals with amnesties more restrictively."⁶⁹

Not only the socio-critical aspect and Liu's speculation on political strategies as motives for amnesties, but also their skillful association with the quoted material, which is used as a framework for his discussion, are worth highlighting.

7 Conclusion

Most remonstrances that concern amnesties served as a medium for debates about basic political principles. They consist of philosophical or ideological discussions that interact in a certain sense with the relevant edicts granting amnesties. The structure and argumentation of the remonstrances become more comprehensible if they are perceived as a response to the justifications for amnesties mentioned in these edicts. Only in rare cases do the remonstrances exhibit the characteristics of the three pioneers and their criticism of rulers as transmitted by early literature, addressing and criticising concrete grievances and the consequences of political decisions and actions.

The first category of remonstrances discussed in this paper shows specific features, like the deliberate omission of quotes from the classical texts, the reasons for which can only be speculated about. Nevertheless, they illustrate that critical views were passed on in specific forms and resubmitted after a certain time, whereby they were commemorated. Accordingly, the object of the remonstrance's criticism was not a specific political event or action but rather a centuries-old tradition. Pardoning was, in a certain way, part of the basic framework of governance. The periodical dispute about this transmission shows a dynamic debate about the basic political order and the principles of political leadership, even if the preservation of the tradition purports a static, persistent political system.

69 Tang Huiyao, 40.728–729 (punctuation modified).

In what way the above-presented method of remonstrating – by imitating former critiques and taking on their source material – was used as a means for career leaps or in the hope of furthering a career is one aspect still to be investigated. Unfortunately, the number of remonstrances within this category is too small to trace a pattern, and there is no information at all about the background of some authors. Indeed, this study's results are certainly subject to certain reservations due to the question of transmission. For example, was the selection of remonstrances to be transmitted deliberate or unintentional; that is, was a specific type favoured? And, are the remonstrances transmitted in their original length without any amendments? Investigations into the selection processes are of importance beyond the history of transmission. Research related to the selection for collections of exemplary remonstrances is even more interesting for the period following the one observed in this study. The lack of the second category of remonstrances, which addressed concrete everyday problems, in the 'Lidai mingchen zouyi', for example, is *prima facie* astonishing.

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The Place of Remonstrance in Chinese History: Its Function, Institutional Embedding, and Legacy

Abstract

Unlike civil servants in modern Germany, imperial Chinese remonstrance officials (jian-guan 諫官) were not legally protected when they remonstrated against decisions of their superiors. Within the framework of Confucian role ethics, it was considered the minister's duty to warn his prince against making mistakes. By analogy, it was deemed the duty of a son to protect his father from wrong decisions. Conversely, however, both father and prince were not prohibited from punishing their son or minister if they thought they could not accept his dissent.

Apart from this important difference, there are some revealing structural similarities between the institutions of remonstrance in East and West, which will be described and explained in terms of their function in the first part of this paper. Subsequently, drawing on Arnold Gehlen's (1904–1976) theory of institutions, among others, it will be attempted to clarify how remonstrance was integrated into the 'institutional body of the country' (guoti 國體) and how its existence was grounded in ancient institutional thought. Finally, it will be examined whether and to what extent this pre-modern institution continues to influence the political life of the People's Republic of China, even though its constitution no longer provides for complaints bodies. It will be shown that remonstrance lives on to some extent to this day and shapes public life both in the way critics articulate their dissent and in the way so-called Paramount Leaders (Zuigao lingdaoren 最高領導人) deal with political criticism.

What is the legacy of pre-modern Chinese remonstrance? What traces did it leave in Chinese institutional history, and what was actually its place in it, especially vis-à-vis the European institution of remonstrance? The answers to these questions are far from clear, for while some have regarded remonstrance as an expression of political dissent and as one of the most important means – or even institutions – to check “the power of the topmost authority” in China,¹ others

1 See, for example, Léon VANDERMEERSCH, L'institution chinoise de remonstrance, in: *Études chinoises* 13.1–2 (1994), 31–45; Heiner ROETZ, On Political Dissent in Warring States China, in: Karina KELLERMANN/Alheydis PLASSMANN/Christian SCHWERMANN (eds.), *Criticising the Ruler in Pre-Modern Societies – Possibilities, Chances, and Methods. Kritik am Herrscher in vormodernen Gesellschaften – Möglichkeiten, Chancen, Methoden* (Macht und Herrschaft 6),

have declared it to be a sterile form of formalized objection, predictable or even restrained in its points of attack.² Take, for example, the following assessment of remonstrance officials (*jianguan* 諫官) by Rudolf G. Wagner (1941–2019):

“Ihre Marginalität wird deutlich aus der Tatsache, dass sie ihre Remonstranzen nur auf die Weisen des Altertums und die diesen zugeschriebenen Normen vortragen können, und dass sie mit ihrer Verweigerung der Legitimität des Neuen und seiner Denunziation als dekadenter Abweichung als Ewiggestrige auftreten, denen keiner zu widersprechen wagt. Das Rebellionsmodul enthält die Rebellion gegen die Abweichung von den hohen Idealen, nicht aber die gegen die Ideale selbst. Damit seine Verwendung in einem Leben Legitimität gewinnt, müssen viele Umstände zusammenkommen, über die das Individuum keine Kontrolle hat. Die Chancen für den Erfolg sind gering und es gehört eine oft sektiererische Verbissenheit dazu, dem täglichen Druck zur Konformität standzuhalten.”³

This portrayal of remonstrance officials as inveterate reactionaries who are said to have marginalized themselves with their perceived “sectarian doggedness” (*sektiererische Verbissenheit*) is highly instructive. The way remonstrance is characterized as a “module of rebellion” or an act of “rebellion” points to a fundamental misunderstanding of its institutional significance. In fact, remonstrance in pre-modern China was the exact opposite of an institutional ‘module of rebellion’. As Paul Fahr has shown,⁴ it served to protect the existing monarchical order and preserve a dynasty by challenging decisions and actions of the ruler that violated the norms of that very order. Therefore, remonstrants never questioned the order as such but rather judged the performance of a superior, usually a particular monarch, from within, as it were, namely according

Göttingen 2019, 211–236; and Martin POWERS, Theories of Dissent and Their Institutional Correlates in China, in: *ibid.*, 299–308, here 299, for the quote.

2 See Roger AMES, Order and Protest: The Confucian Experience, in: Daniel W. Y. Kwok (ed.), *Protest in the Chinese Tradition* (Occasional Papers 2), Honolulu 1989, 25–41; Daniel W.Y. Kwok, Moral Community and Civil Society in China: Enigmas Viewed from the Traditions of Protest and Political Advice, in: Léon VANDERMEERSCH (ed.), *La société civile face à l'État dans les traditions chinoise, japonaise, coréenne et vietnamienne* (Études thématiques 3), Paris 1994, 17–28; Virginia D. SUDDATH, *The Junzi Doth Protest: Toward a Philosophy of Remonstrance in Confucianism*, Dissertation, University of Hawai'i 2005; and Rudolf G. WAGNER, *Biographie als Lebensprogramm. Zur normativen Funktion der chinesischen Biographik*, in: Walter BERSCHIN/Wolfgang SCHAMONI (eds.), *Biographie: 'So der Westen wie der Osten'? Zwölf Studien*, Heidelberg 2003, 133–142. In fact, there were probably both: serious remonstrances that were genuinely concerned with the issue at hand, and formalized remonstrances that protested just for the sake of protesting. See Eugen Wiens' contribution to this volume.

3 See WAGNER 2003, 141–142. Compare the discussion of this assessment by Paul FAHR, *Remonstrance as Institution: Ein Beitrag zum Herrschaftsverständnis im frühen chinesischen Kaiserreich* (Veröffentlichungen des Ostasien-Instituts der Ruhr-Universität Bochum 71), Wiesbaden 2021, 228–229.

4 See *ibid.*, 171–231.

to the norms of that order of which the latter was the supreme head. For this reason, they were not primarily concerned with “denying legitimacy to the new” (*Verweigerung der Legitimität des Neuen*) and “denouncing it as a decadent deviation” (*seiner Denunziation als dekadenter Abweichung*), but rather with underscoring the legitimacy of the old and marking deviations from it as such and preventing them so as to protect the ruling house and the monarchy itself.

In the following, the results of recent research on remonstrance in pre-modern China will be summarized in terms of (1) its structural comparability with corresponding European institutions, (2) its institutional embedding in the monarchical order of the empire, and (3) its legacy in modern China, and further substantiated by the analysis of new sources.

One might wonder what influence remonstrance should have on contemporary China if there is no such institution there anymore. It is true that the constitution of the People’s Republic of China no longer provides for remonstrance offices and other complaints bodies.⁵ After 1949, only internal control institutions were established at all administrative levels,⁶ i. e., organs of the state and the Chinese Communist Party that are functionally and structurally similar to the surveillance agencies of the empire.⁷ They were merged according to the principle of ‘one institution, two brands’ (*yi ge jigou, liang kuai paizi* 一個機構，兩塊牌子) in 2018 when the National Supervisory Commission (Zhonghua Renmin Gongheguo Guojia Jiancha Weiyuanhui 中華人民共和國國家監察委員會), a new “supersized anti-corruption agency”, was established as a “fourth branch of government” besides the State Council (Zhonghua Renmin Gongheguo Guowuyuan 中華人民共和國國務院), the Supreme People’s Court (Zhonghua Renmin Gongheguo Zuigao Renmin Fayuan 中華人民共和國最高人民法院), and the Supreme People’s Procuratorate (Zhonghua Renmin Gongheguo Zuigao Renmin Jianchayuan 中華人民共和國最高人民檢察院).⁸ Measured against conditions in the empire, where remonstrating was sometimes suppressed or remonstrance offices were even abolished at times, namely, for

5 For an overview, see Sebastian HEILMANN (ed.), *Das politische System der VR China*, Wiesbaden 2016. For an English translation see IDEM (ed.), *China’s Political System*, Lanham 2017.

6 See HEILMANN 2016, 57–58, 100–103, 124–125, and 134–135.

7 See Charles O. HUCKER, *Governmental Organization of the Ming Dynasty*, in: *Harvard Journal of Asiatic Studies* 21 (1958), 1–66, here 48–56, and IDEM, *The Censorial System of Ming China*, Stanford 1966. Compare IDEM, *A Dictionary of Official Titles in Imperial China*, Stanford, 1985, 536a and 593b–594a.

8 See LI Li and WANG Peng, *From Institutional Interaction to Institutional Integration: The National Supervisory Commission and China’s New Anti-corruption Model*, in: *The China Quarterly* 240 (December 2019), 967–989, here 980. Note that the leading surveillance agency of the Ming period, the so-called Censorate or, literally, ‘Chief Surveillance Office’ (*duchayuan* 都察院), was “a top-echelon agency” of the central government as well and was also designed “as a unified surveillance organ”; see HUCKER 1985, 74a.

example, during the Qin 秦 (221–207 BCE), Yuan 元 (1279–1368), and Ming 明 (1368–1644) dynasties,⁹ and where such measures were considered an indication of despotism,¹⁰ this may well be taken as evidence of the increasingly totalitarian character of a system that tended to be autocratic from the start.¹¹

But even if remonstrance offices have disappeared, the form as well as the contents of political criticism seem to remain under the influence of the pre-modern institution of remonstrance to this day. This will be discussed in the last part of this paper, based on Liu Xiaobo's 劉曉波 (1955–2017) 'My Self-Defense' ('Wo de zibian' 我的自辯) of December 23, 2009, and Peng Dehuai's 彭德懷 (1898–1974) letter of protest against the errors of the 'Great Leap Forward' (Da yue jin 大躍進), which was submitted to Mao Zedong 毛澤東 (1893–1976) at the Lushan Conference (Lushan *huiyi* 廬山會議) on July 14, 1959.¹² Against the constitutional background described above, these are cases of self-empowerment, but it will be seen that the two critics nevertheless continue to draw on the tradition of objecting to misconduct or wrong decisions by a monarch in order to cast their dissent, as it were, in an institutional form that existed in the past but is still familiar today, and thus to legitimize it. Moreover, in the second case, which will be analyzed in more detail, it will become clear that the ruler addressed here dealt with the letter of protest and its author in the same way as an emperor would have done in a case in which he rejected a remonstrance and wanted to punish its author for having submitted it.

9 See Shiji 史記 (10 vols.), Sima Qian 司馬遷 et al., Beijing 1959, 6.278, Elisa Levi SABATTINI, How to Surpass the Qin: On Jia Yi's Intentions in the *Guo Qin lun*, in: *Monumenta Serica* 65.2 (2017), 263–284, here 277–278, HUCKER 1958, 48, and IDEM 1985, 61b.

10 See SABATTINI 2017 and Frederick W. MOTE, The Growth of Chinese Despotism: A Critique of Wittfogel's Theory of Oriental Despotism as Applied to China, in: *Oriens Extremus* 8.1 (1961), 1–41. MOTE characterizes Yuan period administrative reforms as a "brutalization of Chinese Government" (ibid., 17) and blames the Mongol rulers for the development of despotism in the following Ming period: "The Yüan period made few positive contributions to Chinese government. By destroying much of the restraint inherent in a highly-civilized atmosphere, however, it contributed to the growth of despotism. Out of this period of violence and lack of restraint appeared the forces that were to create the new Ming dynasty." (ibid., 18).

11 Note, by the way, in this context that the term *jiancha* 監察, "to supervise, investigate", which still functions as an attribute in the titles of surveillance agencies and agents, dates back to the Qin dynasty, which strengthened internal control institutions but suppressed remonstrating. See above and HUCKER 1985, 145b, s.v. *chiên-ch'á shih* 監察史 (no. 793).

12 For the Lushan Conference, a meeting of leading Party cadres, who came together at Mount Lu 廬 National Park in Jiangxi 江西 Province from July 2 to 30, 1959, to discuss the gains and losses of the Great Leap Forward, see Jürgen DOMES, Peng Te-huai: The Man and the Image, London 1985, 88–98.

1 Remonstrating in East and West: Some Parallels

When attempting to avert a breach of the monarchical order, Chinese remonstrance officials did not necessarily see themselves as die-hard conservatives, as Wagner argued,¹³ nor were they protected from or immune to being contradicted. On the contrary, their objections probably provoked more often than not the disapproval of the person against whose decisions or behaviour they were remonstrating, or the protests and calumnies of his followers, and in case of repetition not infrequently led to their being dismissed or even more thoroughly disposed of. This is reflected in a rule that is already widely quoted in ancient texts.¹⁴ It states that a minister ought to resign if he has remonstrated three times in vain in one and the same matter:

三諫而不用則去，不去則身亡，身亡者，仁人所不為也。

“If he [a loyal minister] has remonstrated three times [with his lord], and [his advice] has not been heeded, he [ought to] leave. If he does not leave, he will bring destruction upon himself. To bring destruction upon himself is what a humane man does not do.”¹⁵

Compare, for example, the corresponding formulation in the chapter ‘Quli xia’ 曲禮下 (Minute Rituals, Part Two) of the ‘Liji’ 禮記 (Book of Rites), which juxtaposes the relationship between a remonstrating minister and his prince with that between a critical son and his parents, thus deriving the minister’s duty to remonstrate from Confucian role ethics, and also emphasizing that remonstrating must not take place in public:

為人臣之禮，不顯諫。三諫而不聽，則逃之。子之事親也，三諫而不聽，則號泣而隨之。

“As for the ritual propriety of someone else’s [i.e. a prince’s] minister, he does not remonstrate in public. If he has remonstrated thrice but is still not heeded, he [may] abscond from him [i.e. his lord]. As for a son serving his parents, if he has remonstrated thrice but is still not heeded, he [may] pursue them, wailing and weeping.”¹⁶

13 See WAGNER 2003, 141.

14 See Christian SCHWERMANN, Anecdote Collections as Argumentative Texts: The Composition of the *Shuoyuan*, in: Paul VAN ELS/Sarah A. QUEEN (eds.), *Between History and Philosophy: Anecdotes in Early China*, Albany, NY, 2017, 147–192, here 157–159, 186, n. 77.

15 See Shuoyuan 說苑, ed. XIANG Zonglu 向宗魯, *Shuoyuan jiaozheng 說苑校證*, Beijing 1987, 9.206, and SCHWERMANN 2017, 157.

16 See Liji 禮記, ed. Ruan Yuan 阮元, *Liji zhushu 禮記注疏* (Sibu beiyao 四部備要 edition), Taipei 1965, 5.8b–9a. Compare Gongyangzhuan 公羊傳, Zhuang gong 24.8–9 (Chunqiu jingzhuan yinde 春秋經傳引得: Combined Concordances to Ch’un-Ch’iu, Kung-yang, Kuliang and Tso-chuan, ed. William HUNG, [Harvard-Yenching Institute Sinological Index Series, Supplement No. 11], 4 vols., vol. 1, Taipei 1966, 71), Baihutong 白虎通, ed. CHEN Li 陳立, *Baihutong shuzheng 白虎通疏證* (2 vols.), Beijing 1997, 5.228–229, Lunheng 論衡, ed.

Even in these detailed regulations on questions of its presentation and repetition, the pre-modern Chinese institution of remonstrance resembles its European counterpart, which seems to have originated in medieval canon law, was continued in the French Ancien Régime and in England,¹⁷ and has survived in Germany to this day in the ‘Federal Civil Servants Act’ (‘Bundesbeamten-gesetz’, ‘BBG’). Take the ‘BBG’ as an example: on the one hand, it obliges German civil servants to remonstrate with their immediate superior if they have doubts about the lawfulness of an official order, and on the other hand, it stipulates that they may repeat their protest only once, namely to the next higher superior, if the order is upheld by the immediate superior even though they have remonstrated and even though their doubts about the legality of the order remain.¹⁸ If the next higher superior confirms the order of the immediate superior, the remonstrating officer must carry it out unless it violates human dignity or is cognizably criminal or contrary to regulations:

Bedenken gegen die Rechtmäßigkeit dienstlicher Anordnungen haben Beamtinnen und Beamte unverzüglich bei der oder dem unmittelbaren Vorgesetzten geltend zu machen. Wird die Anordnung aufrechterhalten, haben sie sich, wenn ihre Bedenken gegen deren Rechtmäßigkeit fortbestehen, an die nächsthöhere Vorgesetzte oder den nächsthöheren Vorgesetzten zu wenden. Wird die Anordnung bestätigt, müssen die Beamtinnen und Beamten sie ausführen und sind von der eigenen Verantwortung befreit. Dies gilt nicht, wenn das aufgetragene Verhalten die Würde des Menschen verletzt oder strafbar oder ordnungswidrig ist und die Strafbarkeit oder Ordnungswidrigkeit für die Beamtinnen und Beamten erkennbar ist. Die Bestätigung hat auf Verlangen schriftlich zu erfolgen.¹⁹

Here, the duty to remonstrate arises from the unlimited responsibility of civil servants for their official actions and limits their duty to obey. On the one hand, it is based on the duty of loyalty, i. e. the obligation to prevent damage to the superior. On the other hand, it serves to protect civil servants from possible claims for damages on the part of the superior.²⁰ This is why civil servants may also demand that the confirmation of an order be given to them in writing by their superior after remonstrance has taken place. As is also clear from Section 36, Paragraph 2, of the ‘Civil Servants Status Act’ (‘Beamtenstatusgesetz’, ‘BeamStG’), objections must be made through the proper or official channels.²¹ It follows from this that, as a rule,

HUANG Hui 黃暉, *Lunheng jiaoshi 論衡校釋* (4 vols.), Beijing 1990, 12.534–535, and *Shiji* 38.1610, and 127.3217.

17 See Thomas Crone’s introduction to this volume.

18 See Johannes RUX, *Das Remonstrationsrecht – eine Tradition des liberalen Rechtsstaates?*, in: *Beamte Heute* (March 1992), 10–14.

19 See BBG, Section 63, Paragraph 2, http://www.gesetze-im-internet.de/bbg_2009/_63.html (04.01.2023).

20 See RUX 1992, 10.

21 See BeamStG, Section 36, Paragraph 2, https://www.gesetze-im-internet.de/beamstg/_36.html (04.01.2023).

they are not made public. Apart from the superior, no one normally finds out about a remonstrance, not even the remonstrant's colleagues.²²

Exceptions such as the case of the so-called Göttingen Seven, seven professors of the University of Göttingen who remonstrated against the abrogation of the constitution of the Kingdom of Hanover by King Ernest Augustus (r. 1837–1851) on November 1, 1837, and published their letter of protest on November 18, 1837,²³ only confirm this rule. They also prove that remonstrants can suffer serious disadvantages from their protest, including dismissal from office. This even applies to the recent past, as the well-known case of the German tax investigator Klaus Förster (1933–2009) shows. As head of the Bonn tax investigation unit at the Sankt Augustin tax office, Förster had uncovered the Flick party funding scandal, better known as the Flick Affair,²⁴ in 1975, but in 1976 he received an order from the Cologne tax authorities to stop his investigations for the time being. After remonstrating against this order, he was removed from office in early 1980 and finally retired from civil service in 1983.²⁵ Obviously, remonstrating is not necessarily conducive to a career in Germany either. For this reason, it is probably rarely practiced there today. Exact figures are not available, however, since information on remonstrances, as mentioned above, is generally not made public.

Both in Europe and in China, remonstrances had (and in Germany still have) the function of helping to preserve the political order, be it monarchical or democratic. It is precisely this function that explains the parallels mentioned above, namely the limitations on the repeatability of remonstrances and their non-public nature. If there were no limits on the repeated submission of individual remonstrances, administrative processes could be severely impeded. Only in exceptional cases were remonstrances made public – in Europe after the opening of the relevant archives or when a remonstrant broke the rules and involved the press, in China, if they were handed down in dynastic histories. Remonstrances are never an outlet for a fundamental critique of the existing political system; rather, their function is to protect the existing order from en-

22 For this observation and for the following examples, see RUX 1992, 10.

23 See Rudolf SMEND, *Die Göttinger Sieben*, in: IDEM, *Staatsrechtliche Abhandlungen und andere Aufsätze*, Berlin 2010, 391–410, and Miriam SAAGE-MAASS, *Die Göttinger Sieben – demokratische Vorkämpfer oder nationale Helden? Zum Verhältnis von Geschichtsschreibung und Erinnerungskultur in der Rezeption des Hannoverschen Verfassungskonfliktes*, Göttingen 2007.

24 See Neil GREGOR, *Big Business, Barbarism and Benefaction: The Flick Affair*, in: *Patterns of Prejudice* 31.2 (1997), 51–58.

25 See RUX 1992, 10; *Unglaubliche Geschichte*, in: *Der Spiegel* 46/1982 (November 14, 1982), <https://www.spiegel.de/politik/unglaubliche-geschichte-a-016f5f2c-0002-0001-0000-000014354839?context=issue> (15.01.2023); Hans LEYENDECKER, *Ermittler im Flick-Skandal ist tot: Unerschrockener Aufräumer*, in: *Süddeutsche Zeitung* (February 6, 2009), <https://www.sueddeutsche.de/kultur/ermittler-im-flick-skandal-ist-tot-unerschrockener-aufraeumer-1.471546> (15.01.2023).

croachment and, in the case of monarchical orders, to protect the ruler from himself if necessary or from endangering the continued existence of his dynasty. In this respect, the criteria established in the introduction to this volume as basic features of European remonstrances are confirmed for both European and Chinese remonstrances not only by the examples given here, but by all the cases discussed by the contributors, and can now – in the light of their findings – be further specified as follows:²⁶

- (1) Remonstrances are protests by subordinates against decisions of their superiors or demands on the latter to comply with certain rules of conduct that are considered the norm within the framework of the existing order.
- (2) They are drafted in formulaic written form and submitted to the superior in a highly formalized procedure. They must be handed in through the applicable official channels and are therefore not public and cannot be repeated an unlimited number of times.
- (3) They do not only sustain existing hierarchies within a given political order, but they are intended to protect the order itself, be it monarchical or democratic. Remonstrants usually accept the rules of their community one hundred percent. Exceptions, for example in the form of stylized literary recreations of remonstrances, only confirm this rule.²⁷
- (4) At the same time, remonstrances are expressions of dissent at levels where factual issues and questions of decorum are decided.
- (5) They constitute compound illocutionary speech acts of argumentation, and as such are related to the perlocutionary act of convincing,²⁸ for they do not only articulate objections, but also give detailed reasons why the latter are articulated, and propose alternative courses of action.²⁹

2 The Place of Remonstrance in the ‘Institutional Body’ of the Empire

As an argumentative act, remonstrating, including its proposals for alternative courses of action, is determined by the norms it seeks to protect. The arguments of a remonstrant are subject to a given set of rules which guide him when writing his remonstrance and which have such an impact that his critique can only be articulated within the framework of this very set of rules. While modern German

26 Compare Thomas Crone’s introduction to this volume, p. 17.

27 See Felix Bohlen’s contribution to this volume.

28 See Frans H. VAN EEMEREN/Rob GROOTENDORST, *Speech Acts in Argumentative Discussions: A Theoretical Model for the Analysis of Discussions Directed towards Solving Conflicts of Opinion*, Dordrecht 1984, 19–74.

29 See Thomas Crone’s contribution to this volume.

remonstrances are guided by the constitution, i. e. the Basic Law for the Federal Republic of Germany (*Grundgesetz für die Bundesrepublik Deutschland*) and the German civil service law, in pre-modern China compendia of precedents in the form of official dynastic histories formed the set of rules for remonstrating.³⁰ The scope within which pre-modern Chinese remonstrance officials (*jianguan*) could move was thus limited precisely by those historical precedents (*gushi* 故事) they cited to demand compliance with the norms of the existing monarchical order. The examples of monarchical action gathered in the dynastic histories unfolded their institutional potential by initiating or triggering certain scenarios of decision-making, as it were.

The German philosopher and anthropologist Arnold Gehlen (1904–1976) was the first to recognize the impact of institutions on the agency of human actors. He described this influence metaphorically as the “voting power of things” (*Stimmrecht der Sachen*), which “acts through” the representative of an institution who is fully absorbed in his task: “Wer sich völlig in eine große, d. h. von den objektiven Realitäten her dominierende Aufgabe verwandelt hat, wird unwiderstehlich, weil das Stimmrecht der Sachen durch ihn hindurchwirkt.”³¹

Gehlen’s insight that institutional behaviour is decisively, and usually unconsciously, controlled by the rules of the institutions, which the respective actors reproduce almost automatically with their actions, is connected to his theory of man as a deficient being (*Mängelwesen*).³² Gehlen argues that humans, unlike animals, are not primarily driven by instincts and therefore need institutions, i. e. regulating patterns of behaviour (*Verhaltensmuster*)³³ or symbolic orders of action (*Handlungsordnungen*)³⁴, to ensure their survival:

“The biological starting point of Gehlen’s theory of institutions is man’s special position in the animal world. The biological research mentioned above had indicated that man’s organism and its environment must be understood differently from those of other animals, so that special analytic categories must be devised for the human case. These categories emerge from a morphological comparison of human and non-human

30 See FAHR 2021, 109–170.

31 See Arnold GEHLEN, *Urmensch und Spätkultur: Philosophische Ergebnisse und Aussagen*, Frankfurt a. M. 2004 [First Ed. Frankfurt a. M. /Bonn 1956], 76.

32 See Arnold GEHLEN, *Der Mensch. Seine Natur und seine Stellung in der Welt*, Frankfurt a. M. 2016 [First Ed. Berlin 1940], 3–17.

33 See Gerhard GÖHLER, *Der Zusammenhang von Institution, Macht und Repräsentation*, in: IDEM (ed.), *Institution – Macht – Repräsentation. Wofür politische Institutionen stehen und wie sie wirken*, Baden-Baden 1997, 11–62, here 15: “Soziale Institutionen sind relativ auf Dauer gestellte, durch Internalisierungen verfestigte Verhaltensmuster und Sinngebilde mit regulierender und orientierender Funktion.”

34 See Karl-Siegbert REHBERG, *Institutionen als symbolische Ordnungen. Leitfragen und Grundkategorien zur Theorie und Analyse institutioneller Mechanismen (TAIM)*, in: Karl-Siegbert REHBERG/Hans VORLÄNDER (eds.), *Symbolische Ordnungen. Beiträge zu einer soziologischen Theorie der Institutionen*, Baden-Baden 2014, 43–83, especially 53–54.

organismic development. Essential steps in the development, which occur in the foetal period of the other higher mammals, take place after birth in the case of man, especially during the first year of life. This means that, in a unique way, the development of the human organism involves an interaction with an extra-organismic environment. The 'unfinished' character of the human organism at birth is closely related to its unspecialized instinctual structure. The non-human animal is released into the world at birth with drives that are already specialized and firmly directed to an environment that is specific to its species. That is, the animal lives a more or less completely instinctual life, and its world is both specialized and closed (*Weltgeschlossenheit*). By contrast, the human individual at birth possesses drives that are unspecialized and undirected to a specific environment. Man is characterized by 'instinctual deprivation' (*Instinktarmut*), and, moreover, has no species-specific environment. Unlike the animal, man has an 'open world' (*Weltoffenheit*). This has the further consequence that man's biological condition is characterized by instability. His undirected drives accumulate without being provided with biologically given releases (*Triebueberschuss*). Therefore, if human life is to attain any degree of stability, this must be provided by non-biological means.

Man, finding himself in a state of rupture with his own biological constitution, must stabilize and and specialize his activity through structures produced by himself. He must construct his own world. This world, which is culture, must aim at the firm structures which are lacking biologically. To be sure, these man-made structures can never be as firm as those of the animal world. They must be continuously produced and re-produced in human activity. As a result, they are inherently precarious and predestined to change.

Social institutions are the core of this process of cultural stabilization. They are the culturally produced forms by which human activity is given coherence and continuity. They serve to channel man's undirected drives (*Zucht*) and thus to relieve him of the tensions caused by the accumulation of these drives (*Entlastung*). The institutions produce a stable 'background' for human activity (*Hintergrundserfuellung*). The institutionalized sectors of conduct then permit 'spontaneous', barely reflective, almost automatic actions. Only if this 'background' has been produced can there be a 'foreground' for deliberate, reflective, purposeful actions. In other words, the burden of human living would be too heavy without a 'background' of routinized activity the meaning of which is taken for granted. Out of the many possible ways of actualizing a meaningful world the institutions select a few which, in well-integrated societies, are subjectively experienced as the only conceivable ones.³⁵

Whether Gehlen's conception of man, his emphasis on the stabilizing function of institutions and his justification of the legitimacy of state order based thereon are questionable from an ideological point of view is of no concern in this context.³⁶

35 See Peter L. BERGER/Hansfried KELLNER, Arnold Gehlen and the Theory of Institutions, in: *Social Research* 32.1 (1965), 110–115, here 111–112.

36 For a critique, see, for example, Hans BLUMENBERG, *Anthropologische Annäherung an die Aktualität der Rhetorik*, in: IDEM, *Wirklichkeiten, in denen wir leben: Aufsätze und eine Rede*, Stuttgart 1981, 104–136, here 115.

What is decisive for the question of the place of remonstrance in Chinese institutional history, however, is that ancient Chinese statist thought produced a notion of man as a deficient being that resembles the Gehlenian in several respects.³⁷ The most advanced formulation of this idea can be found in the ‘Lüshi chunqiu’ 呂氏春秋 (Springs and Autumns of Master Lü), the compilation of which was finished in 239 BCE:

凡人之性，爪牙不足以自守衛，肌膚不足以扞寒暑，筋骨不足以從利辟害，勇敢不足以却猛禁悍，然且猶裁萬物，制禽獸，服狡蟲，寒暑燥溼弗能害，不唯先有其備，而以羣聚邪。羣之可聚也，相與利之也。利之出於羣也，君道立也。故君道立則利出於羣，而人備可完矣。

“It is the inborn nature of all men that their nails and teeth are insufficient to protect them, their muscles and skin inadequate to ward off extremes of cold and heat, their sinews and bone insufficient to win them benefit or save them from harm, their bravery and daring inadequate to repel the fierce and restrain the violent. Despite all this, they are able to manage the myriad things, control birds and beasts, subdue noxious things and poisonous pests, and keep cold, heat, drought, and flood from doing harm. Does not all this occur simply because they prepare for things in advance and flock together in groups for that purpose? They can flock together in groups because living together in groups brings them mutual benefit. They derive benefit from flocking together in groups because the proper way of rulership is established. Thus, when the proper way of rulership is established, men derive benefit from flocking together in groups and, as a consequence, it is possible for them to be completely prepared for these threats.”³⁸

Although this text ultimately serves to legitimize monarchical rule, it justifies its establishment as well as the formation of monarchical societies by arguing that man is a deficient being, characterized by the absence of organs of attack and by what Gehlen would have called instinctual deprivation (*Instinktarmut*), namely by inadequate “bravery and daring”, as the author puts it, and can only ensure his survival by forming communities and developing social institutions for them.

Just as with Gehlen, the statement of man’s inborn ‘unfinishedness’ and his consequent inferiority to wild animals aims at a hidden assertion of his superiority, which he allegedly owes to cultural stabilization, especially through the formation of social institutions. Against this background it becomes under-

37 See Rolf TRAUZETTEL, Zur historischen Semantik und Begriffsgeschichte des Wortes ‘Mensch’ in China, in: Justin STAGL/Wolfgang REINHARD (eds.), Grenzen des Menschseins. Probleme einer Definition des Menschlichen (Veröffentlichungen des Instituts für Historische Anthropologie 8), Wien/Köln/Weimar 2005, 175–192, here 184; and Heiner ROETZ, Klassischer Konfuzianismus: *Lunyu*, *Mengzi* (*Menzius*) und *Xunzi*, in: Gregor PAUL (ed.), Staat und Gesellschaft in der Geschichte Chinas: Theorie und Wirklichkeit (Staatsverständnisse 87), Baden-Baden 2016, 25–50, here 44–45.

38 See Lüshi chunqiu 呂氏春秋, ed. CHEN Qiyu 陳奇猷, Lüshi chunqiu jiaoshi 呂氏春秋校釋, Shanghai 1984, 20.330. Translation modified from John KNOBLOCK/Jeffrey REGEL, The Annals of Lü Buwei, Stanford 2000, 510–511.

standable that classical Chinese since the fourth century BCE had an abstract concept of institutions, the stabilizing norm-setting potential of which was seen as anchored in particular in the established practice of remonstrance.³⁹ The guiding idea of this particular institution, according to Fahr, was that it should serve as a protective mechanism for the entire institutional order of the dynastic community (*guojia* 國家, *dynastischer Herrschaftsverband*).⁴⁰ The monarchical order that was to be protected by this mechanism was metaphorically referred to as the “institutional body of the country” (*guoti* 國體), and its norms were denoted in particular by the metaphors of “wagon track” (*gui* 軌) and “measure” (*du* 度), including in the composites *fadu* 法度, “laws and regulations; norms and standards”, and *zhidu* 制度, “regulations; system of dealing with the performance of certain social interactions by applying regulations; institutions”, still in use in modern Chinese.⁴¹

Returning to the question posed at the outset, remonstrance obviously had a central place in the monarchical order of the Chinese empire, serving to protect its institutions against encroachment, especially by the monarch. It was precisely this protective that for many centuries helped to limit the monarch’s power and to even make sure that the administration and its processes of governing could be run smoothly without necessitating the interference of the emperor, who in fact was often reduced to his ceremonial and ritual functions.⁴²

39 See Lukáš ZÁDRAPA, Structural Metaphor at the Heart of Untranslatability in Ancient Chinese and Ancient Chinese Texts: A Preliminary Study of the Case of the Lexical Field of ‘Norm’, in: *Acta Universitatis Carolinae Philologica* 4 (2017), 11–50, and FAHR 2021, 19–26.

40 See *ibid.*, 188, 194, 212–213, 227. For a discussion of the term *guojia* as a designation for the dynastic community (*dynastischer Herrschaftsverband*), i. e., the imperial family extended to include the court officials who referred to themselves as bondservants (*chen* 臣) to the monarch, see *ibid.*, 26–39, and GAN Huaizhen 甘懷真, *Zhongguo zhonggu shiqi ‘guojia’ de xingtai* 中國中古時期「國家」的型態, in: *IDEM*, Huangquan, liyi yu jingdian quanshi: Zhongguo gudai zhengzhishi yanjiu 皇權、禮儀與經典詮釋: 中國古代政治史研究 (Ruxue yu Dongya wenming yanjiu congshu 7), Taipei 2003, 199–248.

41 See FAHR 2021, 19.

42 See Yuri PINES, *Envisioning Eternal Empire: Chinese Political Thought of the Warring States Era*, Honolulu 2009, Samuel E. FINER, *The History of Government from the Earliest Times*, 3 vols., vol. 1: *Ancient Monarchies and Empires*, Oxford 1997, 480–483, and Christian SCHWERMANN, *Wie man ‘die Kontrolle in der Welt ganz für sich allein hat, ohne von jemand anderem kontrolliert zu werden’. Ein antikes chinesisches Plädoyer für die Errichtung einer Autokratie*, in: Dittmar DAHLMANN/Diana ORDUBADI (eds.), *Die autokratische Herrschaft im Moskauer Reich in der ‘Zeit der Wirren’* (Studien zu Macht und Herrschaft 2), Göttingen 2019 (a), 91–118, here 92–93.

3 The Legacy of Remonstrance in Modern China

In view of the history of remonstrance in China, which spans more than two millennia, one can ask – and thus take up the first part of the opening question – whether it has left its mark on modern China, that is, whether it possibly continues to influence the political life of the People's Republic of China today, even though its constitution no longer provides for remonstrance offices. And indeed, the thrust, form, and very content of dissent still seem to be under the influence of the pre-modern institution of remonstrance even after 1949.

The two probably best-known examples should suffice here. As Paul Fahr pointed out, the Chinese dissident and human rights activist Liu Xiaobo invoked, amongst other things, the precedent of Emperor Wen of the Han (Han Wendi 漢文帝, r. 180–157 BCE) to claim the right to criticize rulers.⁴³ Interestingly, he did so while defending himself in a Chinese court on December 23, 2009, almost a century after the fall of the empire, against charges of having collected signatures for 'Charter 08' ('Lingba xianzhang' 零八憲章),⁴⁴ which he himself had signed and co-authored:

無論在中國還是在世界，無論是在古代還是現當代，因言治罪的文字獄都是反人道反人權的行為，有悖於大勢所趨、人心所向的時代潮流。回顧中國歷史，即使在家天下的帝制時代，從秦到清，文字獄的盛行，歷來都是一個政權的執政污點，也是中華民族的恥辱。秦始皇有統一中國之功，但其“焚書坑儒”之暴政卻遺臭萬年。漢武帝雄才大略，但其閹割太史公司馬遷之舉則倍受病詬⁴⁵。清朝有“康乾盛世”，但其頻繁的文字獄也只能留下罵名。相反，漢文帝在二千多年前就廢除過因言治罪的“誣謗罪”，由此贏得了開朝⁴⁶仁君的美名和歷代推崇的“文景之治”。

“Whether in China or elsewhere in the world, in antiquity or in the modern and contemporary era, literary inquisition through the criminalization of speech is an act against humanity and human rights. It runs counter to the prevailing trends and the will of the people in our time. If we look back on Chinese history, even in the imperial era of family-based rule, from the Qin (221–206 BCE) to the Qing (1644–1911 CE) dynasties,

43 See FAHR 2021, 229–230.

44 'Charter 08' is a manifesto published on December 10, 2008, and inspired by 'Charter 77'. It calls for, among other things, the abolition of one-party rule, the separation of powers and the independence of the judiciary, the recognition of human rights, the privatization of state-owned enterprises and land and the protection of private property, and the establishment of a democratic Federal Republic of China. See Lingba xianzhang 零八憲章, <http://www.2008xianzhang.info/chinese.htm> (06.03.2023), and, for an English translation, Charter 08, in: Human Rights in China (HRIC), <https://www.hrichina.org/en/content/238> (06.03.2023).

45 The text of the Chinese original is probably corrupt here. Instead of *bing gou* 病詬 it should read: *goubing* 詬病, “blame and shame”, see Hanyu da cidian 漢語大詞典, ed. Luo Zhufeng 羅竹風, 12 vols., vol. 11, Shanghai 2006, part 1, 184a, s.v. 詬病.

46 Again, the text of the Chinese original seems to be corrupt here. FAHR 2021, 230, n. 194, suggests *kaiming* 開明, “enlightened”, instead of 開朝, “to found a dynasty”.

the prevalence of literary inquisition had always been a stain on those in power in a given regime and a disgrace for the Chinese nation. The First Emperor of the Qin dynasty achieved the unification of China, but the tyranny of his ‘burning books and burying Confucius [sic!] scholars alive’ lived on in infamy. Emperor Wu of the Han dynasty was a man of great talent and vision, but his decision to have the Grand Historian Sima Qian castrated brought him blame and shame. The Qing dynasty experienced ‘the golden age of great prosperity from Kangxi to Qianlong emperors’, but the frequent literary inquisitions during their reigns left them with a bad name. Conversely, Emperor Wen of the Han dynasty gained a reputation as an enlightened and benevolent ruler for abolishing the practice of literary inquisition for ‘crimes of slander’ more than two thousand years ago. His reign and that of his son, Emperor Jing (known as the ‘rule of Wen and Jing’, [sic!]) have been revered by successive generations.⁴⁷

The demand for recognition of human rights, especially the right to freedom of speech, is clothed here in a critique of the ruler’s behaviour, namely his suppression of criticism, and thus presented in the traditional gesture of remonstrance. The direct addressee of Liu Xiaobo’s critique, in the logic of traditional remonstrance, was President Hu Jintao 胡錦濤 (b. 1942), who served as so-called Paramount Leader (Zuigao lingdaoren 最高領導人) of the People’s Republic of China from 2002 to 2012.

Note in this context that the author refers to “bad names” (*maming* 罵名) that the Kangxi 康熙 (r. 1661–1722), Yongzheng 雍正 (r. 1722–1735), and Qianlong 乾隆 (r. 1735–1796) emperors are said to have acquired through their persecution of literati for their writing (*wenzi yu* 文字獄). The term *maming* is a colloquial expression for an institution that is attested since antiquity.⁴⁸ Pre-imperial and early imperial remonstrants threatened their rulers that they would be given a bad posthumous name (*eming* 惡名, *chouming* 醜名 or *ximing* 細名) after their demise if they did not adhere to the norms of the existing monarchical order.⁴⁹ Since posthumous names, which were intended to sum up the quality of a reign and of which even ancient lists with glosses on their meaning and use have survived, were bestowed on deceased rulers by decision of court conferences in the Western Han 漢 period (206/202 BCE–6 CE), the threat of conferring a bad posthumous name served as leverage for remonstrating ministers at that time.⁵⁰

47 See LIU Xiaobo 劉曉波, Wode zibian 我的自辯, in: Remembering the Winner of Nobel Peace Prize Dr. Liu Xiaobo! 懷念諾貝爾和平獎得主劉曉波博士!, <https://liuxiaobo2010.wordpress.com/selfdefense/xb/> (17.02.2023).

48 See Hanyu da cidian 2006, vol. 12, part 2, 832b, s.v. 罵名.

49 See Christian SCHWERMANN, Schlechte Namen, Leserlenkung und Herrscherkritik in antiken chinesischen Texten, in: Matthias BECHER/Hendrik HESS (eds.), Machterhalt und Herrschaftssicherung: Namen als Legitimationsinstrument in transkultureller Perspektive (Macht und Herrschaft 8), Göttingen 2019 (b), 75–128.

50 See *ibid.*, 116–119, and Hans VAN ESS, The Origin of Posthumous Names in ‘Shih-chi’ 14, in: Chinese Literature: Essays, Articles, Reviews (CLEAR) 30 (2008), 133–144.

Exploiting traditional superstitions about the magical effect of names, they used to refer to the ‘bad names’ of legendary tyrants to force the incumbent to change his style of government or revise certain decisions.⁵¹ Even though bad posthumous names, such as those collected in the chapter ‘Shi fa’ 諡法 (Standards for [the Bestowal] of Posthumous Names) of the ‘Yi Zhou shu’ 逸周書 (Unaffiliated [i. e. Non-Canonized] Documents of the Zhou),⁵² gradually fell into disuse after antiquity, and the threat to bestow them became, in a sense, an empty one, alluding to bad names remained popular and seems to have been increasingly taken as an indication of a bad posthumous reputation.⁵³ Liu Xiaobo probably resorted to allusions to bad names and precedents, such as that of Emperor Wen, either because, whether consciously or unconsciously, he was still under the influence of traditional remonstrance, or because he expected to gain more argumentative force from alluding to ancient exempla in the style of pre-modern remonstrants.

While a human rights activist like Liu sought to commit the government to certain general norms of behaviour, specifically the recognition of freedom of speech, other critics were concerned with getting the rulers to correct wrong decisions. Here, too, they often took their cue from the example of imperial remonstrants. Thus, Peng Dehuai dressed his critique of the Great Leap Forward (Da yue jin) from 1958 to 1961 in the form of a letter of protest,⁵⁴ which Frederick Teiwes likened to a “memorial to the throne” and which Peng in fact submitted to Mao Zedong at the Lushan Conference as if it had been a “sealed document” (*fengshi* 封事) intended for the Chairman’s eyes alone.⁵⁵ In the manner of a pre-modern remonstrant, the author does not criticize Mao’s increasingly autocratic rule as such, but merely calls on him to correct certain mistakes made during the first two years of his disastrous campaign of economic and social reconstruction and begins with attempts to gain the goodwill of the addressee:

51 See Yi Zhou shu 逸周書, ed. HUANG Huaixin 黃懷信/ZHANG Maorong 張懋鎔/TIAN Xudong 田旭東/LI Xueqin 李學勤, Yi Zhou shu huijiao jizhu 逸周書彙校集注 (2 vols.), Shanghai 1995, 6.660–756. Compare SCHWERMANN 2019b, 78, and Wolfgang BAUER, Der chinesische Personennamen: Die Bildungsgesetze und hauptsächlichsten Bedeutungsinhalte von Ming, Tzu und Hsiao-Ming (Asiatische Forschungen 4), Wiesbaden 1959, 223–245 and 275–278.

52 See SCHWERMANN 2019b, 117–119.

53 See *ibid.*, 78. Compare Hanyu da cidian 2006, vol. 7, part 1, 555a, s.v. 惡名, which incorrectly gives the meaning “bad reputation” (*huai mingsheng* 壞名聲) for all uses of the word *eming* 惡名.

54 The characterization of the text as a “letter of opinion” (*yijianshu* 意見書), found, among others, in DOMES 1985, 90–91, is not only trivializing and misleading, but also obscures the parallels to the tradition of remonstrance.

55 See Frederick C. TEIWES, Peng Dehuai and Mao Zedong, in: The Australian Journal of Chinese Affairs 16 (1986), 81–98, here 90. For the history of the Great Leap Forward see Frank DIKÖTTER, Mao’s Great Famine: The History of China’s Most Devastating Catastrophe, London/New York 2010.

主席：

这次庐山会议是重要的。我在西北小组有几次插言，在小组会还没有讲完的一些意见，特写给你作参考。但我这个简单人类似张飞，确有其粗，而无其细。因此，是否有参考价值请斟酌。不妥之处，烦请指示。

甲、一九五八年大跃进的成绩是肯定无疑的。

根据国家计委几个核实后的指标来看，一九五八年较一九五七年工农业总产值增长了百分之四十八点四，其中工业增长了百分之六十六点一，农副业增长了百分之二十五（粮棉增产百分之三十是肯定的），国家财政收入增长了百分之四十三点五。这样的增长速度，是世界各国从未有过的。突破了社会主义建设速度的成规，特别是像我国经济基础薄弱，技术设备落后，通过大跃进，基本上证实了多快好省的总路线是正确的。不仅是我国伟大的成就，在社会主义阵营也将长期的起积极作用。

“Chairman:

This Lushan Meeting is important. In the discussions in the Northwest Group, I commented on other speakers' remarks several times. Now I am stating, specially for your reference, a number of my views that I have not expressed fully at the group meetings. I may be as straightforward as Zhang Fei, but I possess only his roughness without his tact. Therefore, please consider whether what I am about to write is worth your attention, point out whatever is wrong, and give me your instructions.

A. The achievements of the Great Leap Forward in 1958 are indisputable.

According to figures verified by the State Planning Commission, total industrial and agricultural output value in 1958 increased 48.4 per cent over 1957. The increase in industry was 66.1 per cent, and that in agriculture and sideline production, 25 per cent (it is certain that grain and cotton registered a 30 per cent increase). State revenue rose 43.5 per cent. Such a rate of increase is unprecedented in the world; it exceeds the established speed of socialist construction. In particular, the Great Leap Forward has basically proved the correctness of the General Line for building socialism with greater, quicker, better and more economical results in a country like ours, hampered by a weak economic foundation and by backward technology and equipment. Not only is this a great success for China, it will also play a long-term positive role in the Socialist Camp.”⁵⁶

Peng's allusion to the precedent of Zhang Fei 張飛 (d. 221 CE), the famous general of late antiquity who supported Liu Bei 劉備 (161–223 CE, r. 221–223 CE as emperor of Shu Han 蜀漢) in founding the Shu Han Empire, serves his self-characterization as an outspoken and intrepid advisor. It must not be read as a veiled reference to Mao in the sense that Peng wanted to equate him with Cao Cao 曹操 (155–220 CE, r. 216–220 as king of Wei 魏), Zhang Fei's malicious and scheming adversary, as Jürgen Domes assumed.⁵⁷ Such a tactic of communication would not only have been suicidal from the outset, but also would have made no

56 See PENG Dehuai 彭德怀, Peng Dehuai zishu 彭德怀自述, Beijing 1981, 281, and PENG Dehuai, *Memoirs of a Chinese Marshal – The Autobiographical Notes of Peng Dehuai* (1898–1974), trans. by ZHENG Longpu, Beijing 1984, 510–511.

57 See DOMES 1985, 91.

sense at all in the context of Peng's positive assessment of the Great Leap Forward in the first paragraph of his letter and his overall constructive approach.⁵⁸

Rather, this allusion seems to be intended to remind the addressee of the letter that, just like Liu Bei, he owes his victories to a decisive degree to the military achievements of his general. Together with the exaggerated recognition of the previous successes of the Great Leap Forward, it serves as an introductory *captatio benevolentiae*, which is usually also found at the beginning of traditional remonstrances.⁵⁹ In order to gain the benevolent attention and, in the end, the approval of the leadership, be it monarch or Chairman, for corrections of the latter's decisions, it is crucial from the point of view of a remonstrance official to first please them and then to remind them of what binds the sender and receiver of the critique to each other and of the mutual obligations that arise from these bonds.⁶⁰ After a brief summary of the alleged achievements of the Great Leap Forward, Peng lists the failures and also explains what, from his perspective, are their causes:

一九五八年的基本建设，现在看来有些项目是过急过多了一些，分散了一部份资金，推迟了一部份必成项目，这是一个缺点。基本原因是缺乏经验，对这点体会不深，认识过迟。因此，一九五九年就不仅没有把步伐放慢一点，加以适当控制，而且继续大跃进，这就使不平衡现象没有得到及时调整，增加了新的暂时困难。

“But as we can see now, an excessive number of capital construction projects were hastily started in 1958. With part of the funds being dispersed, completion of some essential projects had to be postponed. This is a shortcoming – one caused mainly by lack of experience. Because we did not have a deep enough understanding, we came to be aware of it too late. So we continued with our Great Leap Forward in 1959 instead of putting on the brakes and slowing down our pace accordingly. As a result, imbalances were not corrected in time, and new, temporary difficulties cropped up.”⁶¹

58 See TEIWES 1986, 91, who argues that Peng did not intend to attack Mao or challenge him politically, as DOMES 1985, 91–93, believes, but rather wanted to “to provoke Mao through a private communication” and thus induce him to take additional measures “to modify the Great Leap”. I agree that no challenge was involved, but suggest that Peng may have conceived of his letter not as a private communication, but as a formal pronouncement of protest in the tradition of imperial remonstrance.

59 See Christian SCHWERMANN, Rhetorical Functions of Quotations in Late Pre-Imperial and Early Imperial Memorials on Questions of Civilian-Military Leadership, in: *Asiatische Studien/Études Asiatiques* 68.4 (2014), 1069–1114, here 1100.

60 See Christian SCHWERMANN, Evidenzverfahren höfischer Kommunikation im frühen chinesischen Kaiserreich, in: Matthias BECHER/Katharina GAHLER (eds.), *Herrscher und Eliten zwischen Symbiose und Antagonismus. Kommunizieren in vormodernen Herrschaftsstrukturen* (Studien zu Macht und Herrschaft 16), Göttingen 2023, 127–137, here 131–133.

61 See PENG 1981, 282, and PENG 1984, 511.

In addition to the lack of economic expertise, Peng also criticizes the blind activism that led to the mass construction of small backyard steel furnaces (*tufa liangang* 土法煉鋼) in the countryside and the production of low-grade steel:

在全民炼钢铁中，多办了一些小土高炉，浪费了一些资源（物力、财力）和人力，当然是一笔较大损失。但是得到对全国地质作了一次规模巨大的初步普查，培养了不少技术人员，广大干部在这一运动中得到了锻炼和提高。虽然付出了一笔学费（贴补二十余亿）。即在这一方面也是有失有得的。仅从上述几点来看，成绩确是伟大的。但也有不少深刻的经验教训，认真地加以分析，是必要的有益的。

“In the nationwide campaign for the production of iron and steel, too many small blast furnaces were built with a waste of material, money and manpower. This, of course, was a rather big loss. On the other hand, through the campaign we have been able to conduct a preliminary geological survey across the country, train many technicians, temper the vast numbers of cadres and raise their level. Though we paid a steep tuition (we spent over 2,000 million yuan to subsidize the effort), there were gains as well as losses in this endeavour.

Considering the above-mentioned points alone, we can say that our achievements have been really great, but we also have quite a few profound lessons to learn. It would be to our benefit to make an earnest analysis.”⁶²

Interestingly, the officially commissioned English translation of the letter published by the Foreign Languages Press in 1984 differs from the wording of the original at a crucial point. Peng explicitly says that “there were losses as well as gains” (*you shi you de* 有失有得), in that order, and not that there were “gains and losses”, as the Party normally announces when a campaign has not gone as desired.⁶³ This was even noted by the Chairman himself, who in his speech at the Lushan Conference on July 23, 1959, replied, among other things, that “to place ‘gains’ in the second position is obviously done after much deliberation.”⁶⁴ But even if the losses in terms of resources, including human resources, come first, the critic still tries to take into account the gains, albeit these merely consist of valuable technical and organizational experiences of technicians and cadres, for which one has “paid a steep tuition” (*fuchule yi bi xuefei* 付出了一笔学费), from his point of view.

Considering the indication of costs amounting to more than two billion Yuan 圓 Renminbi 人民幣 invested for these “gains”, one might come to the conclusion that this is a clear-cut case of sarcasm and that Peng wants to polemicize against the presentation of the Great Leap Forward as a success story, that is, that he is biting critical of Mao’s policy in places like these, even making a frontal

62 See PENG 1981, 283, and PENG 1984, 513.

63 See DOMES 1985, 91–92.

64 See *ibid.*, 95.

attack against the Chairman.⁶⁵ Aside from the stark contrast between monetary input and productive output, however, the text does not appear to contain any other indications of irony.⁶⁶ Even Peng's statement that "[i]n handling problems in economic construction, we are not as competent as we are in dealing with political problems like the shelling of Jinmen and the putting down of the rebellion in Tibet" is apparently dead serious and devoid of any irony.⁶⁷ The argumentative context of the following statements on the "objective situation" (*keguan xingshi* 客观形势), in particular with regard to the insufficient supply of food and cotton cloth to the population, is so garbled that it is impossible to say whether they are meant ironically or not.⁶⁸ Moreover, the author would reduce his praise of the achievements of the Great Leap Forward at the beginning of his letter to absurdity if he were to polemicize against them in the further course.

Peng's communication tactics become comprehensible when viewed on the foil of pre-modern remonstrances and their ingratiating rhetoric, which sometimes contrasts sharply with their critical contents. On the one hand, the author expresses the highest esteem for his addressee and explicitly grants him the possibility to reject his criticism as misguided, on the other hand, he strongly urges the correction of errors. He is particularly adamant when it comes to complacency and self-congratulation – note that the cult of personality around the so-called Great Helmsman (*da duoshou* 大舵手) was emerging at the time – and what he characterizes as the result of petty-bourgeois fanaticism and left-wing radical excesses:

过去一个时期，在我们的思想方法和工作作风方面，也暴露出不少值得注意的问题。这主要是：

1、浮夸风气较普遍地滋长起来。去年北戴河会议时，对粮食产量估计过大，造成了一种假象。大家都感到粮食问题已经得到解决，因此就可以腾出手来大搞工业了。在对发展钢铁的认识上，有严重的片面性，没有认真地研究炼钢、轧钢和碎石设备，煤炭、矿石、炼焦设备，坑木来源，运输能力，劳动力增加，购买力扩大，市场商品如何安排等等。总之，是没有必要的平衡计划。这些也同样是犯了不够实事求是的毛病。这恐怕是产生一系列问题的起因。浮夸风气，吹遍各地区各部门，一些不可置信的奇迹也见之于报刊，确使党的威信蒙受重大损失。当时从各方面的报告材料看，共产主义大有很快到来之势，使不少同志的脑子发起

65 See *ibid.*, 91–95. Compare Roderick MacFarquhar, *The Origins of the Cultural Revolution*, 3 vols., vol. 2: *The Great Leap Forward 1958–1960*, New York 1983, 213–216.

66 On this point, I beg to disagree with Domes 1985, 91–92, who argues that Peng does not only turn to irony, but even criticizes Mao "caustically" (*ibid.*, 92).

67 See PENG 1984, 514–515. Compare PENG 1981, 284: 我们在处理经济建设中的问题时，总还没有像处理炮击金门、平定西藏叛乱等政治问题那样得心应手。For the bombing of Jinmen 金門, see Michael Szonyi, *Cold War Island: Quemoy on the Front Line*, Cambridge 2008. For the Tibetan Uprising in March 1959, see CHEN Jian, *The Tibetan Rebellion of 1959 and China's Changing Relations with India and the Soviet Union*, in: *Journal of Cold War Studies* 8 (2006), 54–101.

68 See PENG 1984, 515, and PENG 1981, 284. Compare Domes 1985, 92.

热来。在粮棉高产、钢铁加番的浪潮中，铺张浪费就随着发展起来，秋收粗糙，不计成本，把穷日子当富日子过。严重的是相当长的一段时间，不容易得到真实情况，直到武昌会议和今年一月省市书记会议时，仍然没有全部弄清形势真象。产生这种浮夸风气，是有其社会原因的，值得很好的研究。这也与我们有些工作只有任务指标，而缺乏具体措施是有关系的。虽然主席在去年就已经提示全党要把冲天干劲和科学分析结合起来，和两条腿走路的方针，看来是为多数领导同志所领会，我也是不例外的。

2、小资产阶级的狂热性，使我们容易犯左的错误。在一九五八年的大跃进中，我和其他不少同志一样，为大跃进的成绩和群众运动的热情所迷惑，一些左的倾向有了相当程度的发展，总想一步跨进共产主义，抢先思想一度占了上风；把党长期以来所形成的群众路线和实事求是作风置诸脑后了。在思想方法上，往往把战略性的布局 and 具体措施，长远性的方针和当前步骤、全体与局部、大集体与小集体等关系混淆起来。如主席提出的“少种、高产、多收”、“十五年赶上英国”等号召，都是属于战略性、长远性的方针，我们则缺乏研究，不注意研究当前具体情况，把工作安排在积极而又稳妥可靠的基础上。有些指标逐级提高，层层加码，把本来需要几年或者十几年才能达到的要求，变成一年或者几个月就要做到的指标。因此就脱离了实际，得不到群众的支持。诸如过早否定等价交换法则，过早提出吃饭不要钱，某些地区认为粮食丰产了，一度取消统销政策，提倡放开肚皮吃，以及某些技术不经鉴定就贸然推广，有些经济法则和科学规律轻易被否定等，都是一种左的倾向。在这些同志看来，只要提出政治挂帅，就可以代替一切，忘记了政治挂帅是提高劳动自觉、保证产品数量质量的提高，发挥群众的积极性和创造性，从而加速我们的经济建设。政治挂帅不可能代替经济法则，更不能代替经济工作中的具体措施。政治挂帅与经济工作中的确切有效措施，两者必须并重，不可偏重偏废。纠正这些左的现象，一般要比反掉右倾保守思想还要困难些，这是我们党的历史经验所证明了的。去年下半年，似乎出现了一种空气，注意了反右倾保守思想，而忽略了主观主义左的方面。经过去年郑州会议以后一系列措施，一些左的现象基本上纠正过来了，这是一个伟大的胜利。这个胜利既教育了全党同志，又没有损伤同志们的积极性。

“A number of problems that have developed merit attention in regard to our way of thinking and style of work. The main problems are:

1. A growing tendency towards boasting and exaggeration on a fairly extensive scale. At the Beidaihe Meeting last year, the grain output was overestimated. This created a false impression and everyone thought that the food problem had been solved and that we could therefore go all out in industry. In iron and steel, production was affected with such extreme one-sided thinking that no serious study was conducted on equipment for steel making and rolling and ore crushing as well as for coal mining and other mineral ores and for making coke, on the source of pit-props, on transportation capacity, on the expansion of the labour force, on the increase in purchasing power, on the distribution of market commodities, etc. In sum, we did not have a balanced overall plan.

It was also a lack of realistic thinking that gave rise to these errors. This, I am afraid, was the cause of a series of our problems.

The exaggeration trend has become so common in various areas and departments that reports of unbelievable miracles have appeared in newspapers and magazines to bring a great loss of prestige to the Party.

According to what was reported, it seemed that communism was just around the corner, and this turned the heads of many comrades.

Extravagance and waste grew in the wake of reports of extra-large grain and cotton harvests and a doubling of iron and steel output. As a result, the autumn harvest was done in a slipshod manner, and costs were not taken into consideration. Though we were poor, we lived as if we were rich.

What is particularly serious in all this is that it was very hard for us to get to know the real situation for a fairly long period. We did not have a clear idea of the situation even at the time of the Wuchang Meeting and the meeting of secretaries of provincial and municipal Party committees held in January this year.

The tendency towards boasting and exaggeration has its social cause, which is worth studying. It also has to do with our practice of fixing production quotas without corresponding measures to meet them.

Though Chairman Mao reminded the Party last year of the need to combine soaring enthusiasm with a scientific approach and the principle of walking on two legs,⁶⁹ it seems that his instructions have not been grasped by most leading comrades, and I am no exception.

2. Petty-bourgeois fanaticism which makes us vulnerable to 'Left' errors. In the Great Leap Forward of 1958, I, like many other comrades, was misled by the achievements of the Great Leap Forward and the zeal of the mass movement. As a result, some 'Left' tendencies developed in our heads. We were thinking of entering a communist society in one stride, and the idea of trying to be the first to do this gained an upper hand in our minds for a time. So we banished from our minds the mass line and the working style of seeking truth from facts, which had been cultivated by the Party for a long time.

In our way of thinking, we have often muddled up the relationship between strategic goals and concrete measures, between long-term principles and immediate steps, between the whole situation and part of it, and between big collectives and small collectives. The Chairman's calls such as 'strive for a high yield on a smaller area and bring in a big crop', 'catch up with Britain in 15 years', etc., are long-term strategic goals. But we have not studied them carefully and have not paid enough attention to the specific current conditions so as to arrange our work on a positive, safe and reliable basis. Because they were raised at every level, some quotas, which could only be met after several or a dozen years, became targets to be fulfilled in one year or even a few months. By so doing, we divorced ourselves from reality and lost the support of the masses. For example, the law of exchange at equal values was negated and the slogan of 'giving free meals to all' was raised much too early; in some areas, state monopoly purchase and

69 For the "Principle of Walking on Two Legs" (*liang tiao tui zou lu de fangzhen* 兩條腿走路的方針), which "emphasised small-scale, labour intensive (often using native and traditional), methods of production within the framework of long-term priority for large-scale and capital intensive techniques", see Prasenjit DUARA, *The Great Leap Forward in China: An Analysis of the Nature of Socialist Transformation*, in: *Economic and Political Weekly*, vol. 9, no. 32/34 (Aug. 1974), 1365–1367, 1369–1371, 1373–1375, 1378–1381, 1383–1385, 1388–1390, here 1370. See also PENG 1984, 493: "[...] a series of policies for the simultaneous development of industry and agriculture, heavy and light industries, enterprises run by the Central government and those run by local authorities, etc."

marketing of grain was abolished for a time when the slogan of ‘eating as much as you like’ was raised on the grounds of bumper harvests of grain. Some techniques were popularized hastily even before they were tested and approved. Some economic and scientific laws were rashly neglected. All this was a ‘Left’ deviation. In the eyes of comrades showing such a deviation, everything could be done by putting politics in command. They forgot that the aim of putting politics in command was to raise political consciousness in work, guarantee the increase in the quantity of products and improvement in their quality, and bring into play the enthusiasm and creativeness of the masses to speed up our economic construction. Putting politics in command cannot replace economic laws, let alone concrete measures in economic work. We must stress both putting politics in command and taking effective measures in economic work; we should not emphasize one thing at the expense of the other. Generally, correcting ‘Left’ tendencies is more difficult than eliminating Right conservative ideas. This has been proved in the history of our Party. During the latter half of last year, there seemed to be an atmosphere in which people paid attention to combating ‘Right’ conservative ideas but ignored the ‘Left’ tendencies of subjectivism. Thanks to a series of measures adopted after the Zhengzhou Meetings held last winter, some ‘Left’ tendencies have been basically corrected. This is a great victory, which has educated comrades of the whole Party without affecting their enthusiasm.”⁷⁰

This is clearly the most outspoken and devastating part of Peng’s critique.⁷¹ It deserves being quoted in full for its striking argumentative moves. The author presents himself as a custodian of the one-party rule of the Chinese Communist Party, thus legitimizing his criticism of the excesses of the Great Leap Forward as if he were an imperial remonstrance official who understood his office and his activity as protectives of the monarchical order. Accordingly, Peng does not challenge the order that has been in place since 1949, but affirms it, arguing that radical leftist ideas have moved the Party so far away from its original ideals that it has lost much of its credibility. This is the strategy of so-called internal criticism (*interne Kritik*), which does not question the existing order as such, but considers the actual state as a decline from its original condition, conceived as an ideal, and therefore calls for a return to the norms and values of the founding fathers or beginnings of this order.⁷² In addition to an orientation toward the laws of economics and the findings of science, Peng therefore proposes a return to “the mass line and the working style of seeking truth from facts, which had been cultivated by the Party for a long time” (*dang changqi yilai suo xingcheng de qunzhong luxian he shishi qiushi zuofeng* 党长期以来所形成的群众路线和实事求是作风) in order to regain the support of the people.

70 See PENG 1981, 284–286, and PENG 1984, 515–519.

71 Compare DOMES 1985, 92.

72 See Rahel JAEGGI, *Kritik von Lebensformen* (stw 1987), Berlin 2014, 261–276. Compare FAHR 2021, 229.

Unfortunately, the officially commissioned English translation of the letter somewhat obscures what Peng actually wanted to say here. In fact, there is no mention of “truth” in the Chinese original. Literally, the proverb *shi shi qiu shi* 實事求是 should be translated as follows: “to strive for what is right on the basis of facts”.⁷³ Now, of course, what is right can be different from what is true. In fact, here it means what is expedient and refers to acting expediently under any given set of circumstances: to do what is expedient is what is right. This time-honoured maxim of Chinese pragmatism was not only familiar to Peng Dehuai; as is well known, it also characterized the approach of his comrade-in-arms Deng Xiaoping 鄧小平 (1904–1997, r. 1978–1989 as de facto Paramount Leader), who rehabilitated him in December 1978,⁷⁴ and stands for post-1978 reform era politics in general.

In other words, Peng distanced himself from Mao’s radical ideological style of government and instead recommended a pragmatic approach that was based on the realities of the economy and the needs of the people and disregarded ideological principles when circumstances warranted.⁷⁵ This is particularly evident when he qualifies Mao’s slogan “Putting Politics in Command” (*zhengzhi gua-shuai* 政治挂帅) and advocates that “[w]e must stress both putting politics in command and taking effective measures in economic work; we should not emphasize one thing at the expense of the other.”⁷⁶ At the same time, however, Peng did not attack the Chairman directly because his position as a critic was not legally protected. Acting in the style of an imperial remonstrance official, he risked his life by objecting to Mao’s economic policies. This is also why he at best implicitly ascribed responsibility to Mao by pointing out that he himself – like most leading comrades – did not grasp his slogan of combining enthusiasm with a scientific approach and the “Principle of Walking on two Legs”.⁷⁷

In doing so, he was in a sense following the advice Liu Xiang 劉向 (79–8 BCE) had given almost two millennia earlier in his treatise on the art of remonstrance, which has been transmitted as chapter 9, ‘Zhengjian’ 正諫 (Rectifying Re-

73 See Hanyu da cidian 2006, vol. 3, part 2, 1616a, s.v. 實事求是, compare Hanshu 漢書 (12 vols.), Ban Gu 班固 et al., Beijing 1962, 53.2410, where the saying was coined.

74 See DOMES 1985, 124–128.

75 Compare the definition of *quan* 權 in Paul R. GOLDIN, The Theme of the Primacy of the Situation in Classical Chinese Philosophy and Rhetoric, in: Asia Major (third series) 18.2 (2005), 1–25, here 19: “[...], literally ‘weighing one thing against another,’ or disregarding an otherwise binding norm (*jing* [經]) when exigent circumstances warrant.”

76 See above, PENG 1984, 518, and PENG 1981, 286: 政治挂帅与经济工作中的确切有效措施, 两者必须并重, 不可偏重偏废. Compare the translation by DOMES 1985, 93: “Equal importance must be attached to putting politics in command and to effective measures in economic work; neither should be overstressed or neglected.”

77 For the “Principle of Walking on Two Legs”, see n. 69 above.

monstrance), of his ‘Shuoyuan’ 說苑 (Garden [i. e., Collection] of Illustrative Examples):⁷⁸

夫不諫則危君，固諫則危身，與其危君寧危身。危身而終不用，則諫亦無功矣。智者度君權時，調其緩急，而處其宜，上不敢危君，下不以危身。故在國而國不危，在身而身不殆。

“Now, if you do not remonstrate with your lord, you will put him in danger. If you remonstrate stubbornly, you will put yourself in danger. It is better to put yourself in danger than to put your lord in danger. However, if you put yourself in danger and in the end [your advice] is not heeded, the remonstrance will be fruitless. The wise man assesses the lord and weighs the proper time. By adjusting his relaxing and urging, he does what is appropriate in his situation. Above he does not dare to put [his] lord in danger, below he thereby does not put himself in danger. Therefore he is concerned with [his own] state so that [his] state is not in danger, and he is concerned with [his own] person so that [his] person is not in danger.”⁷⁹

This advice neatly illustrates the predicament in which imperial remonstrance officials found themselves. Confucian role ethics obliged them to object to the decisions of their superiors if they violated the norms of the existing order or even endangered the latter. At the same time, however, they were not protected from retaliation if the superior felt unjustly attacked or could not bear criticism. Even if these officials did not remonstrate stubbornly, i. e., more than three times in one and the same matter, or did not remonstrate with their lord in public or if they assessed his personality correctly and weighed the proper time for their protest, “adjusting [their] relaxing and urging” (*tiao qi huan ji* 調其緩急), to use Liu Xiang’s felicitous phrase, they always had to expect not only to be dismissed from office, but also to pay for the formal pronouncement of their opinion with their lives.

Peng Dehuai found himself in the same dilemma. He did what he presumably thought was his duty in much the same way as generations of remonstrance officials had done before him. His letter of protest was – at least in part – what Liu Xiang would have called a “straightforward remonstrance” (*zheng jian* 正諫).⁸⁰ Moreover, he was confronted with a ruler who not only rejected criticism, but tended to punish critics for having criticized him. Instead of discussing the letter with Peng, Mao had the General Office of the Central Committee copy it and distribute it to all participants of the Lushan Conference.⁸¹ He thus made it accessible to what Peter von Moos called a partial or fractional public (*Teilöf-*

78 See SCHWERMANN 2017, 156–166, and David SCHABERG, *Playing at Critique: Indirect Remonstrance and the Formation of Shi Identity*, in: Martin KERN (ed.), *Text and Ritual in Early China*, Seattle/London 2005, 194–225.

79 See Shuoyuan, 9.206; translation modified from SCHWERMANN 2017, 158.

80 See Shuoyuan, 9.206, and SCHWERMANN 2017, 157–158.

81 See TEIWES 1986, 90, and DOMES 1985, 91.

fentlichkeit).⁸² After Mao's death, this was to prove crucial in getting the letter out of this limited public sphere and into the universal public. For this reason alone, it has been preserved and is still extant today as an important source on the articulation and suppression of dissent during the Mao era. Therefore, it is important to reiterate that the letter was not intended as a "private communication" nor was it made into a mere "inner-Party document" by Mao, as Teiwes claims.⁸³ It was intended as a *formal statement of objection* to decisions by the Chairman that Peng considered erroneous and was then *deliberately leaked* by the Chairman to the *limited public* of the inner-Party leadership.

Within this limited public sphere, Mao succeeded in isolating Peng as a rightist and removing him from his posts as Minister of Defense and First Vice-Chairman of the Central Military Commission of the Communist Party of China (Zhongguo Gongchandang Zhongyang Junshi Weiuyuanhui 中國共產黨中央軍事委員會).⁸⁴ Peng never recovered from this blow, despite a partial rehabilitation and brief return from early retirement in the fall of 1965, when Mao entrusted him with the management of industrial development in southwest China.⁸⁵ He was sent to prison on December 25, 1966, just a few months after the start of the Cultural Revolution (1966–1976), and died there on November 29, 1974, after years of interrogations, torture, and so-called struggle sessions (*pidou* 批鬥).⁸⁶ According to Domes, he had been seriously ill from late 1972 onwards, and yet did not receive medical aid, "presumably due to direct orders from Mao".⁸⁷

What makes this case so particularly interesting is that in punishing the critic, the criticized followed the precedents for responding negatively to remonstrances in the empire in much the same way that the critic followed the precedents for submitting them. First, note the parallels between the cases of Peng Dehuai and Liu Xiaobo. As shown above, they voiced political criticism in the style of pre-modern remonstrants. As a consequence, both were not only sent to prison for the rest of their lives, but were even left there to die without medical assistance. Liu Xiaobo, like Peng, did not receive "adequate medical treatment

82 See Peter von Moos, *Das Öffentliche und das Private im Mittelalter. Für einen kontrollierten Anachronismus*, in: Gert Melville/Peter von Moos (eds.), *Das Öffentliche und Private in der Vormoderne* (Norm und Struktur 10), Köln/Weimar/Wien 1998, 3–83, especially 34–35, and *idem*, 'Öffentlich' und 'privat' im Mittelalter. Zu einem Problem historischer Begriffsbildung (Schriften der Philosophisch-historischen Klasse der Heidelberger Akademie der Wissenschaften 33), Heidelberg 2004, especially 55–56.

83 See Teiwes 1986, 90, and compare n. 58 above.

84 See Domes 1985, 95–100.

85 See *ibid.*, 111–117.

86 See *ibid.*, 117–124. For struggle sessions – public rallies where so-called class enemies were paraded before large crowds, interrogated, tortured, and forced to make false confessions – see Lawrence R. Sullivan, *Historical Dictionary of the Chinese Communist Party*, Lanham 2022, 390.

87 See Domes 1985, 123.

before he became terminally ill”.⁸⁸ After refusing to plead guilty, undertake self-criticism, or commit suicide,⁸⁹ both were first punished with social death and then sent to physical death.⁹⁰ They were left to rot alive, as it were.⁹¹

Second, note the striking parallels between the cases of Peng Dehuai and Liu Xiaobo and those of imperial remonstrants who had fallen out of favour with their monarchs. At the very least, they were stripped of their offices and transferred to the periphery, from where they were usually not recalled, ending their lives in ignominy and far from the court. Others were immediately executed or left to rot in prison, so to speak, unless they were granted the grace of being allowed to commit suicide.⁹² Take, for example, the fate of Li Si 李斯 (c. 280–208 BCE), chancellor of the First Emperor of Qin and architect of the Chinese empire.⁹³ According to the ‘Annals of the First Emperor of Qin’ (‘Qin Shi Huang

88 See Statement by Ms Berit Reiss-Andersen, Chair of the Norwegian Nobel Committee, in: The Nobel Prize (July 13, 2017), <https://www.nobelprize.org/prizes/peace/2010/statement/> (04.03.2023); compare Joseph CAMPBELL, Chinese Dissident Liu Xiaobo Dies in Custody, Struck by Liver Cancer, in: Reuters (July 13, 2017), <https://www.reuters.com/article/us-china-rights-idUSKBN19Y1MV> (04.03.2023); Christian SHEPHERD, Chinese Nobel [sic!] Rights Activist Liu Xiaobo’s Cancer beyond Surgery – Wife, in: Reuters (June 27, 2017), <https://www.reuters.com/article/uk-china-rights-idUKKBN19I0CK> (04.03.2023).

89 On evidence for the offer to Peng to commit suicide see PENG 1984, 521–522, and TEIWES 1986, 91 and 98, n. 77.

90 Here I adapt the extrusive concept of social death developed by Orlando PATTERSON with regard to slavery; see Orlando PATTERSON, *Slavery and Social Death: A Comparative Study*, Cambridge/London 1982, 41: “In sharp contrast with the intrusive conception of death was the extrusive representation. Here the dominant image of the slave was that of an insider who had fallen, one who ceased to belong and had been expelled from normal participation in the community because of a failure to meet certain minimal legal or socioeconomic norms of behavior.” Compare DOMES 1985, 100, on the expulsion of Peng Dehuai from Zhongnanhai 中南海 after he had been removed from his posts: “By late September 1959 he was moved from the residential area of the major Party Leaders, the Chungnanhai in Peking, to an old run-down estate in the outskirts of the capital, called the Wu-chia hua-yüan (Wu Family’s Garden [Wujia Huayuan 吳家花園]). Of his whole staff only his bodyguard and personal secretary were allowed to stay with him. Before he quit his old premises, he handed over his Marshal’s uniform, his fur coat and his decorations to the Ministry of Defence.”

91 Compare DOMES 1985, 121, for a pertinent quote from a speech, which was held by Lin Biao 林彪 (1907–1971), Peng’s successor as Minister of Defense, at a struggle session in late August 1967 in a Beijing stadium before 40,000 soldiers of the People’s Liberation Army and which Peng Dehuai had to listen to in chains and on his knees: “P’eng Te-huai has always ganged up with this man or that man, he has committed this mistake, then that mistake, all because of his ambition. This rightist opportunist must be thoroughly exposed, he must be struggled against to the end, until he stinks. Nothing else is good enough.”

92 Note that Peng Dehuai explicitly ruled out the alternative of committing suicide for himself in a meeting with Mao. Compare n. 89 above and see PENG 1984, 521–522, and TEIWES 1986, 98, n. 77.

93 Siehe Derk BODDE, *China’s First Unifier: A Study of the Ch’in Dynasty as Seen in the Life of Li Ssu* (Sinica Leidensia 3), Leiden 1938; Yuri PINES, *From Teachers to Subjects: Ministers Speaking to the Rulers*, from Yan Ying 晏嬰 to Li Si 李斯, in: Garrett P. S. OLBEDING (ed.),

benji' 秦始皇本紀), he fell from grace and "was imprisoned, sentenced to the Five Punishments (*wu xing* 五刑)⁹⁴ and executed because he had remonstrated against the imposition of additional taxes, construction work on the Epang Palace (Epang gong 阿房宮) and other kinds of corvée."⁹⁵

Another highly enlightening case is that of Han Yu 韓愈 (768–824), who served as Vice Director in the Ministry of Justice (*xingbu shilang* 刑部侍郎) at the court of Emperor Xianzong 憲宗 (r. 805–820) of the Tang 唐 dynasty (618–907).⁹⁶ After Xianzong had ordered on February 6, 819, that a finger bone said to belong to the Buddha be venerated at court as a relic,⁹⁷ Han Yu submitted his 'Memorial on the Buddha Relic' ('Lun Fo gu biao' 論佛骨表), in which he famously remonstrated against the worship of the finger bone, strongly condemning the growing Buddhist influence on the court as well as on the whole country:⁹⁸

"The memorial implied Hsien-tsung 'served the Buddha,' then maintained the Buddha was merely a 'barbarian'; so, His Majesty had become the servant of a barbarian. Even more serious was the assertion that the coming of Buddhism to China had shortened the life spans of the emperors. Han Yü no doubt thought to utilize Hsien-tsung's well-known fear of death and pursuit of 'immortality'. But in a society that considered even the casual mention of death a serious breach of etiquette, Han Yü's suggestion that the Son of Heaven was condemning himself to an early death must have seemed an unforgivable lapse of good taste bordering on the treasonous."⁹⁹

Xianzong was so enraged that he presented Han Yu's remonstrance to his ministers at a court conference the following day and demanded that he be executed.¹⁰⁰ After two ministers, Pei Du 裴度 (765–839) and Cui Qun 崔羣 (772–832), had pleaded in vain for Han Yu's pardon, they sent word to the emperor through relatives of the empress that all the worthies thought the punishment was

Facing the Monarch: Modes of Advice in the Early Chinese Court (Harvard East Asian Monographs 359), Cambridge MA/London 2013, 69–99; Reinhard EMMERICH, Chinas Zweiter Kaiser in neuem Lichte?, in: Shing MÜLLER/Armin SELBITSCHKA (eds.), Über den Alltag hinaus: Festschrift für Thomas O. Höllmann zum 65. Geburtstag, Wiesbaden 2017, 53–87; and Christian SCHWERMANN 2019a, especially 109–110.

94 The so-called Five Punishments are tattooing, amputation of the nose, amputation of the leg below the knee, castration and decapitation. See SCHWERMANN 2019a, 110, n. 62. Cf. Shiji, 87.2562, according to which not only the Five Punishments were carried out on Li Si, but his body was also severed at the waist. In addition, his relatives up to the third degree (i. e. parents, brothers, wife and children) are said to have been exterminated by applying kin punishment.

95 See SCHWERMANN 2014, 1083, and Shiji, 6.271–273.

96 See Eugen Wiens' contribution to this volume, p. 146–147.

97 See Jiu Tangshu 舊唐書 (16 vols.), LIU Xu 劉煦 et al., Beijing 1975, 15.465–466.

98 For the remonstrance see *ibid.*, 160.4198–4200.

99 See Charles HARTMAN, Han Yü and the T'ang Search for Unity, Princeton 1986, 85.

100 See Jiu Tangshu 1975, 160.4200.

too severe.¹⁰¹ Only then did Xianzong show mercy and on February 12, 819, had Han Yu transferred to remote Chaozhao 潮州 for disciplinary reasons and demoted to the position of prefect (*cishi* 刺史).¹⁰² At that time, Chaozhou, which was located on the south coast of China in what is now Guangdong 廣東 Province, was estimated to be 7,667 *li* 里 (one *li* equals half a kilometer) from the capital at Chang'an 長安.¹⁰³ It was not until after Xianzong's death on February 14, 820, that his successor Muzong 穆宗 (r. 820–824) summoned Han Yu back to the imperial court.¹⁰⁴

If Xianzong had lived longer, Han Yu would probably never have returned to the court. He would have spent his last years in a malaria-infested backwater of the empire. His emperor wanted to destroy him, as Mao did his adversary Peng Dehuai, by disseminating and criticizing his memorial at a court conference. He only failed to achieve his goal because some of his ministers sided with the remonstrant and left no stone unturned to save the life of their colleague. Because there was no legal protection for remonstrants, they ultimately had to take the path of court intrigue by enlisting the support of the empress and her relatives.

4 Conclusion

The cases discussed above show that there are certain patterns across time in how Chinese rulers dealt with remonstrances and political criticism. For example, until quite recently, they have tried to eliminate remonstrants or critics by sharing their memorials with a partial or fractional public (*Teilöffentlichkeit*), and, having secured the acclamation of the latter, by removing them from office, depriving them of their freedom, and causing them to die a social and, ultimately, also physical death. This documents a certain weakness in the position of those in power, who obviously did not rule so autocratically that they did not need the consent of their elites, which they elicited in conferences.¹⁰⁵ In this respect, Chairman Mao proceeded in 1959 just as Emperor Xianzong of the Tang had 1,140 years before him.

The fact that the institution of remonstrance lives on to some extent to this day and shapes public life is thus evident both in the way rulers deal with political criticism and in the way critics articulate their dissent. For example, Peng Dehuai was able to achieve a particularly strong effect, anchored in pre-modern in-

101 See *ibid.*

102 See *ibid.*, 15.466, and 160.4200–4201.

103 See HARTMAN 1986, 87.

104 See CHEN Keming 陳克明, *Han Yu nianpu ji shiwen xinian* 韓愈年譜及詩文繫年, Chengdu 1999, 570.

105 See SCHWERMANN 2019a, 92–95.

stitutionalism, by staging his critique as a remonstrance. Even though he later paid for his protest with his life, in the medium term Mao had to bow to his criticism and revise his policies of economic and social construction. To quote Gehlen once again, by proceeding in the manner of a remonstrant Peng had “completely transformed himself into a great task, i.e., one dominated by objective realities”.¹⁰⁶ His protest became “irresistible because the ‘voting power of things’ (*Stimmrecht der Sachen*) acted through him”.¹⁰⁷ Even in the People’s Republic of China, remonstrating with the Chairman still seems to be seen as a viable path to actualizing a meaningful political world.¹⁰⁸

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106 See above, and GEHLEN 2004, 76.

107 Ibid.

108 See BERGER/KELLNER 1965, 112.

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