

I. Introduction



December 1973, Hunan province, near Changsha, ancient state of Chu. Working on a site known as Mawangdui Han Tomb Three, archaeologists make a discovery that promises to dramatically alter and enrich our understanding of the life and philosophy of ancient China. They excavate from the tomb of a prince—the son of Li Cang, prime minister of Changsha—over 300 pieces of lacquerware, some 100 wooden figurines, bamboo containers of food, silk paintings, and most important for students of intellectual history, silk scrolls dating back to the early Han. In addition to charts, maps, and diagrams, the scrolls contain more than 120,000 characters, including the two oldest known versions of the *Lao Zi* (called *Lao Zi A* and *B*) plus many previously lost essays on a wide variety of topics: yin yang, five phases, medicine, Daoist yoga, astronomy and astrology. Perhaps of greatest concern for philosophers, however, are the four silk manuscripts of the Huang-Lao school that precede the *Lao Zi B*.¹

1. The Silk Manuscripts of Huang-Lao

Prior to the Mawangdui discovery, sinologists were more confused than clear about the school of thought known as Huang-Lao. In the absence of extant texts, knowledge of the school, gleaned from a handful of citations in historical records and other classical works, was fragmented and contradictory.² One knew that the *Huang* (黃) refers to Huang Di, the mythical Yellow Emperor; the *Lao* (老) to Lao Zi, the alleged founder of Daoism. One knew that Huang-Lao doctrines dominated both the worlds of politics and thought in the early Han: Sima Qian notes in the *Shi Ji* that in addition to Han Emperors Wen and Jing and the Empress Dowager Dou, many prominent political figures—including Cao Can, Chen Ping, and Tian Shu—favor Huang-Lao and take it as the basis of their policies.³ Intellectually, several important philosophers such as Shen Buhai, Shen Dao, and Han Fei are, according to Sima, former students of Huang-Lao thought.⁴

Prior to this find, one also knew that the Huang-Lao school lost favor

abruptly around 140 B.C. when Han Wu Di, siding with the Confucians and Dong Zhongshu, prohibited other ideologies and banned Huang-Lao thought from court.⁵ And one knew that by the late Han, Huang-Lao was associated with Daoist religion, immortality, sexual yoga, and traditional medicine. Apart from these tantalizing tidbits, little was known.

With the discovery of the Mawangdui Silk Manuscripts of Huang-Lao, the world of sinology has gained one of the key pieces to the classical puzzle. After two millennia, it is now possible to resolve many of the mysteries of Huang-Lao and answer such queries as why what were thought to be esoteric immortality teachings would be so popular among leading Han political figures and philosophers. Contrary to the picture painted by the scattered references to Huang-Lao and the Yellow Emperor in the late Han, Huang-Lao thought is first and foremost a sophisticated political philosophy that, on a most general level, represents a synthesis of classical Daoism and Legalism.

Yet although the Mawangdui discovery has enhanced understanding of ancient Chinese philosophy, several factors have conspired to diminish the returns reaped from this extraordinary find. First, although many scholars have repeatedly called for close study of the silk manuscripts of Huang-Lao (hereafter *Huang-Lao Boshu* 黄老帛書 or simply *Boshu*), little has been published, particularly in Western languages. Only a handful of articles, generally of an introductory character, have appeared in English.⁶ Although numerous articles have appeared in Japanese and Chinese, there are but two book-length treatments of this important topic.⁷ Further, there is as yet no complete translation of the text in English, Japanese, or even modern Chinese.⁸

The obstacles to translation and analysis, moreover, are formidable. Though the silk scrolls have held up remarkably well considering the circumstances, parts of the text have been lost to water damage and others rendered unintelligible by the obliteration of all or parts of a key word or words. When faced with such predicaments in other classical texts, one is often able to turn to an extensive commentarial tradition to fill in the lacunae. In the case of the *Boshu*, however, there are no extant commentaries. Only rarely is it possible to reconstruct a damaged passage on the basis of a similar passage in the classical corpus.

The lack of commentaries contributes, moreover, to a larger problem for Huang-Lao studies. So little is known about Huang-Lao thought that it is difficult to determine how to approach the text. In working with classical writings, one can usually rely on the work of previous scholars to provide a hermeneutical framework to guide one's interpretive efforts. Yet with the *Boshu*, one is for all intents and purposes on one's own. There are no other

extant texts from the school. The few references to Huang-Lao in the classical literature are of little assistance in that they link Huang-Lao to a wide variety of political and philosophical figures: one is left wondering how a single system of thought could possibly serve both the harsh Legalism of Han Fei and the lenient laws and relaxed governing style of Cao Can. Even where there is an abundance of information, it hinders more than helps: in the late Warring States and Han periods, the Yellow Emperor is broadly claimed as patron saint. The *Han Shu* alone lists works with *Huang Di* in the title under the categories of Daoism, yin yang, five phases, militarism, calendars, astrology, astronomy, medicine, sexual yoga, immortals, and more.⁹ With such a wide range of Yellow Emperor images, one is hard-pressed to state definitively which “Huang Di” is signaled by *Huang-Lao*.¹⁰

As for the text itself, although unquestionably a great boon, it too is a source of difficulties: for starters, we do not know the title, author(s), or date. Whereas the four individual sections are titled, the text as a whole is not. Indeed, not only is the title uncertain, one cannot even be sure that the four sections form a single work. Similarly, with respect to authorship, not only is the author unknown, but single authorship is itself a matter of debate. And although archeological evidence constrains the latest possible date of copying to 168 B.C., the date of composition of the original remains much contested.¹¹

Further, the synthetic nature of the text compounds the translation-interpretation problem: one finds in the *Boshu* many strands of thought. Recognizing the vocabulary of a particular school or philosopher, scholars have rushed to interpret Huang-Lao in terms of that school or philosopher. Unfortunately, however, one finds in the *Boshu* the technical jargon of Daoism, Legalism, Confucianism—even Mohism. There are words and expressions redolent of Lao Zi, Han Fei, Shen Dao, Shen Buhai, Guan Zi, Mo Zi, Xun Zi, Yin Wen Zi, and the authors of various chapters of the *Huai Nan Zi*, *Lu Shi Chun Qiu*, and the “Outer Chapters” of the *Zhuang Zi*.

As a result, the enormous potential of the discovery of the *Huang-Lao Boshu* to assist in clarification of the relationship between the various pre-Han and Han philosophical schools is being compromised by the willingness on the part of contemporary scholars to appeal to it without first clearly delineating its conceptual content. In the absence of a clear statement as to the unique philosophical import of the *Boshu* in particular and Huang-Lao thought in general, all late Warring States and early Han literature that has any Daoist-Legalist content is being relegated to the Huang-Lao school. To illustrate, many recent articles have centered on the legal philosophy of the new text, arguing that the author represents a “close

parallel” to Han Fei Zi,¹² that he differs from Han Fei Zi but is similar to Shen Dao and Shen Buhai,¹³ that his legal philosophy is based on Lao Zi’s dao,¹⁴ that it is basically the same as the Jixia Daoism of parts of the *Guan Zi*, and so on.¹⁵ Others have applied the label *Huang-Lao* to the *Huai Nan Zi*,¹⁶ *Lu Shi Chun Qiu*,¹⁷ *He Guan Zi*,¹⁸ *Yin Wen Zi*¹⁹ and “Tian Dao” chapters of the *Zhuang Zi*.²⁰

Given the current state of disarray in Huang-Lao studies, what is needed is a careful discussion of the differences between the various pre- and early Han philosophical systems as well as a comparison of their similarities. Paying close attention to how the *Boshu* differs from other works allows one to appreciate the novelty of Huang-Lao thought. It then becomes possible to stipulate what one means by *Huang-Lao* and to provide criteria for distinguishing Huang-Lao from other schools, thus clarifying rather than obfuscating the relations among ancient Chinese philosophers and schools. Further, by reexamining one’s ideas about classical Chinese philosophies in light of the recent discovery, one not only comes to a better understanding of the *Boshu* but of the other schools as well.

In the following chapters, I argue that Huang-Lao promotes a foundational naturalism²¹: the way of humans (*ren dao* 人道) is predicated on and implicate in the normatively prior way of the natural order (*tian dao* 天道). Correlated to this foundational naturalism is the natural law theory of the *Boshu*: the laws that govern society are construed as objective laws of a predetermined natural order discoverable by humans.

Foundational naturalism coupled with a natural law theory differentiates Huang-Lao thought from that of other ancient schools, including classical Daoism. Ironically, however, the standard practice has been to read Lao Zi and Zhuang Zi as if they were Huang-Lao Daoists, attributing to them the metaphysical view of a single, predetermined natural order to be followed by humans. The view I explicate as that of the *Boshu* will therefore seem familiar to those acquainted with the standard reading, or misreading as I argue, of Lao Zi and Zhuang Zi. One of the main objectives of this work is then to challenge the traditional account of classical Daoism and demonstrate that the differences between classical Daoism and Huang-Lao thought go well beyond the latter’s adoption of a rule of law rejected by the former.

The import of the thesis that Huang-Lao advocates a foundational naturalism is that it not only saves the phenomena, as it were, by accounting for the significant differences and similarities between Huang-Lao and other figures and schools, but does so—to borrow the terminology of scientific theory valuation—in an elegant and fertile fashion in that it offers a concise explanation as to *why* Huang-Lao would adopt and reject those

features that it does. It provides, in short, a clearly delineated conceptual statement as to what is unique about the philosophy of Huang-Lao.

Yet the thesis is philosophically important not only for its hermeneutical value in understanding the *Boshu* and explicating the relationship between Huang-Lao and other schools of thought. It is equally important because it sheds light on previously inexplicable developments in Chinese thought. For instance, Derk Bodde and Clarence Morris were at a loss to account for the “naturalization” of law in China. They had discovered that, “because the spheres of man and nature were thought of as forming a single continuum,” violations of law in the Chinese world represent not just transgressions of the human social order but disruptions of “the total cosmic order.” Yet they further note that such a concept of law could not have arisen from early Confucians because “law to them was itself a violation of the social order. Nor could it have started with the Legalists, since these men used law quite consciously to destroy and remake the old social order.”²² The classical Daoists, for their part, rejected codified law as a means of effecting social order. Who, then, was responsible for the “naturalization” of law? Writing before the Mawangdui discovery, Bodde and Morris had no way of knowing that the primary force was the school of Huang-Lao whose natural law theory grounded the laws governing the human order in the cosmic natural order.

Finally, the claim that Huang-Lao advances a natural law theory predicated on foundational naturalism is philosophically significant in that it challenges many commonly held views about “Chinese” philosophy. Joseph Needham has argued that, whereas natural law does exist in ancient China in the form of Confucian rites or *li* (禮) (a misreading of Confucius, I argue), natural law is not grounded in the laws of nature. He asserts this in part because he does not think that “Chinese” organismic cosmology allows for a conception of natural laws in the natural science sense.²³

Roger T. Ames and David Hall have claimed that order in (classical) Chinese thought is best characterized as aesthetic rather than logical in part on the grounds that classical Chinese philosophy, Confucianism in particular, lacks the notion of transcendence that has dominated Western thought and undergirds logical order.²⁴ In a similar vein, Chad Hansen has argued that the Chinese have no concept of truth. More specifically, Chinese philosophy lacks the notion of semantic truth that has been so dominant in the Western philosophical tradition.²⁵

I argue that there is a notion of transcendence in Huang-Lao thought. That is, in the Huang-Lao system the natural order has normative priority over the human world. It is not a matter of humans fashioning the Way, but of following the Way. Although this is not the ontological transcend-

ence that one finds in certain readings of Plato or Christianity, it nevertheless contrasts sharply with the interactive, mutually determining *tian ren he yi* (天人合一—interrelation of human and *tian*: nature/heaven) model that dominates much of Chinese thought—even, incidentally, that of cosmologists such as Dong Zhongshu with whom Huang-Lao shares, I contend, a common ancestry. Further, this conception of transcendence obviates Needham's objections against natural laws in the natural science sense and a fortiori against juristic natural law grounded in the laws of the natural order. It also underwrites Huang-Lao's realist or semantic theory of language, attesting to a semantic conception of truth that Hansen claims does not exist in Chinese thought.

That Huang-Lao thought fails to conform to the positions of the preceding renowned scholars need not undermine the validity of their views as generalizations about (classical) Chinese philosophy. Rather, Huang-Lao is the exception to the rule. It constitutes a major countercurrent in the flow of Chinese intellectual history. Therein lies its value. As a challenge to many textbook generalizations about the nature of Chinese thought, it forces one to rethink and qualify previously held views and, in the process, to develop a greater appreciation of the richness and diversity of thought in ancient China.

1.1 Text

The *Huang-Lao Boshu* consists of four sections, each with title and number of characters appended: *Jing Fa* (經法—Canonical Laws)²⁶ 5000 characters; *Shiliu Jing* (十六經—Sixteen Classics) 4564 (or 4354) characters; *Cheng* (稱—Weighing by the Scales) 1600 characters; *Dao Yuan* (道原—Origins of the Way) 464 characters. The exact numbers cannot be verified because water damage has destroyed parts of the text.

A coterie of mainland Chinese scholars including Zhang Zhengliang, Zhu Dexi, Qiu Xigui, Tang Lan, and Gu Tiefu began the onerous task— as crucial as it is demanding—of transcribing the silk manuscripts into modern characters. A transcription into simplified characters appeared in *Wen Wu* (1974).²⁷ In 1975, Tang Lan produced his seminal work on the *Huang-Lao Boshu* in which he discusses the title, dating, authorship, and content of the text. In addition, he produced a simplified character version of the text with photocopies of the original silk manuscripts. To this he appended a section by section table of passages in the classical corpus similar or identical to passages in the *Boshu*.

In 1980, Wen Wu Publishers came out with a three volume hardback edition of the silk manuscripts in modern complex characters. Volume 3 contained the Huang-Lao texts as well as the two versions of the *Lao Zi*.

Extensively annotated, this edition also contained high-quality photo-reproductions of the original manuscripts. The state of the art in textual criticism, it is the version I have relied on for my translations.

1.2 Title

Tang Lan believes the silk manuscripts are the *Huang Di Si Jing* (黃帝四經—Yellow Emperor's Four Classics). His arguments are complex and at times difficult to follow. He notes, first, that of possible works listed in the *Hanshu* bibliography, the "Yi Wen Zhi," only the *Huang Di Si Jing* is in four sections. Listed under the category of Daoism are, in addition to the *Huang Di Si Jing* in four *pian* or sections, the *Huang Di Ming* (黃帝銘) in six sections, *Huang Di Jun Chen* (黃帝君臣) in ten sections, and *Za Huang Di* (雜黃帝) in fifty-eight sections. The latter three are rejected by Tang primarily on the basis of the number of sections, as is one other possibility, *Li Mu* (力牧) in twenty-two sections.²⁹

Second, Tang suggests that an honorific title in which the accolade *jing* (經—classic) is conferred on works attributed to the Yellow Emperor would be appropriate given the circumstances. First, two of the sections—*Jing Fa* and *Shiliu Jing*—contain the word *jing*. The other two sections, although not referred to as *jing*, are, Tang claims, written in the style of classics. Second, the scrolls were copied in the early Han, most likely in the time of Wen Di, during the period when Huang-Lao is emerging as the dominant court ideology. Tang reiterates that Han Emperors Wen and Jing and Empress Dowager Dou are all said to have studied or been fond of the teachings of Huang-Lao. Further, the arrangement of the texts suggests that the work is indeed of the Huang-Lao school in that the four Yellow Emperor sections precede the *Lao Zi*. As a subargument, Tang notes that

the 'Dao Jing' section of the *Sui Shu*, 'Records of Jing Ji,' states: 'In the Han, there were in circulation texts by the masters of thirty-seven schools. . . . The four parts of the Yellow Emperor and the two parts of the *Lao Zi* were the most profound.' The *Yellow Emperor* in four parts mentioned here obviously refers to the *Yellow Emperor's Four Classics*. . . It can be seen that the doctrine of Huang Di and Lao Zi is the four parts of the *Yellow Emperor's Four Classics* and the two parts of *Lao Zi*. Scholars of the Southern Dynasty most likely were still able to encounter the Huang-Lao text in this combined form. From this record, it can be further established that the four parts concerning the Yellow Emperor and the doctrine of *xing ming* (形名—forms and names) which precede the *Lao Zi B* must indeed be the *Yellow Emperor's Four Classics*.³⁰

The fact that the Yellow Emperor is a major character in one of the sections, the *Shiliu Jing*, further supports Tang's claim that the four sections represent the doctrines attributed to the Yellow Emperor. Drawing the various strands of the argument together, Tang contends that it is reasonable that a text espousing Huang-Lao ideas favored by the ruling elite would be accorded the title *jing*, especially in that by the early Han the *Lao Zi* was already considered a "classic" (*jing*). Thus the four silk manuscripts preceding *Lao Zi B* are, Tang concludes, the *Yellow Emperor's Four Classics*.

Gao Heng and Dong Zhian offer a second hypothesis.³¹ They suggest that the *Shiliu Jing* section is the *Huang Di Jun Chen* (The Yellow Emperor on the Ruler and Ministers) in ten sections. In the initial stages after the discovery, the *Shiliu Jing* (Sixteen Classics) was read as *Shi Da Jing* (Ten Great Classics)—the characters *liu* (六—six) and *da* (大—great) being very similar in appearance. This may have been a factor in Gao and Dong's reasoning. At any rate, as they point out, there are in fact fourteen rather than sixteen sections. Moreover, nine sections contain discussions between the Yellow Emperor and his ministers or descriptions of their activities. It is possible that a scribe divided what were originally ten sections into fourteen sections. And, given the content of the chapters, particularly the interplay between ruler and ministers, it is possible that the *Shiliu Jing* section could be the lost *Huang Di Jun Chen*.

Both the Tang and the Gao and Dong claims are, however, problematic. As for the latter, there are fourteen sections rather than ten. Further, the *Shiliu Jing* section already has a title. If it is to be taken as a separate work, there would be no need for a second title. Finally, if the *Shiliu Jing* is the *Huang Di Jun Chen*, then what are the other sections?

Tang's claim, although much more probable, simply cannot be verified. As many have pointed out, it is possible that the early bibliographies are not complete.³² Given Huang-Lao's status as the ideology favored by leading philosophers and politicians alike, there were surely many works written about or under the aegis of Huang-Lao. Indeed, the Yellow Emperor is cited so often in the Han that it would be surprising if some Huang-Lao texts were not overlooked. The *Boshu* could be one of those which escaped the attention of the early bibliographers. To be sure it is unlikely that a work of such sophistication and philosophical import would go unnoticed by scholars who, toiling in the service of politicians, have available the vast resources of the state. Of all academicians, they would seem the most likely to be aware of a major treatise in political philosophy.

Nevertheless, that the *Boshu* might have been missed by the bibliog-

raphers remains a possibility, albeit a remote one. As little hinges on a final determination of the title, I will avoid begging the question by referring to the Mawangdui silk manuscripts preceding the *Lao Zi B* as the *Huang-Lao Boshu* or simply *Boshu*.

1.3 Authorship

There are two fundamental issues with respect to authorship. First, are the four sections penned by a single person or more than one person, or perhaps written by several but edited by one? Second, who is this person(s)?

Tang Lan believes one hand is responsible. He claims that, although the writing styles of the four parts differ, the parts are all interrelated and, judging by the content, form a single whole. Tu Wei-ming also comments that the four sections “exhibit a remarkably unified pattern of thought.”³³ Long Hui, based on a philological study, seconds Tang’s assertion. In particular, he argues that the occurrence in different sections of several unusual phrases indicates that they are composed by a single person.³⁴

Others take exception to Tang and Long’s assessment. Qiu Xigui and Uchiyama Toshihiko contend that, although the works exhibit a unity of thought, that does not necessarily entail that they are by one person.³⁵ Wu Guang and Wei Qipeng deny not only that they are the work of a single hand but that they are composed at one time. Wu notes that the *Cheng* section is composed of brief passages edited together and suggests that the various sections evidence different trends of thought.³⁶

The issue of authorship, like that of title, does not appear resolvable given the evidence now available. Even the criteria are problematic. That certain unusual phrases are repeated, although suggestive, is not sufficient to prove the essays are the work of a single author. People of the same school often employ similar phrases, especially if they are meant in a technical sense relative to that school. Lacking other texts from the Huang-Lao school, it is difficult to rule out this possibility. Students likewise often adopt the jargon of their teachers for a variety of reasons. They may do so because that is how they have come to frame the issue or, alternatively, to cover up the fact that they have not thoroughly understood the ideas. Or they may simply be compelled to employ terminology agreeable to the teacher. In the highly deferential master-disciple relation that existed in ancient China, that a disciple would parrot the words of his master is unexceptional. A third explanation of the repeated occurrence of unusual language is that one person may have edited all four essays, thereby bringing a measure of consistency in terminology and thought to the work. Whereas a

more detailed philological analysis might reveal patterns of speech so idiosyncratic that they could not be but from one person, the repetition of a few unusual phrases is insufficient to demonstrate single authorship.

The second main criterion for judging the works to be of one person is consistency of thought. But consistency is largely in the eye of the beholder. On a very general level, the text can be said to be consistent—but then so can many works by different people of roughly the same orientation.

What degree of consistency is required to demonstrate single authorship? There are several inconsistencies between and within the four sections. For instance, in the “Lun Yue” section of the *Jing Fa*, the author states that the way of heaven is for achievements to be pursued and realized in three seasons and for punishments and killings to be carried out in one season (57:66a). In the “Guan” section of *Shiliu Jing*, however, the author states that, although spring and summer are the time for rewards, both fall and winter are the seasons for punishments (62:85b).

Similarly, in the “Guo Tong” section of *Shiliu Jing*, the author has the Yellow Emperor arguing for a Shen Nung-like egalitarianism. All are to be treated equally and to share the same standard of living—with the exception of the ruler.³⁷ Yet this contradicts the many statements throughout the four sections that class distinctions—economic, social, and political—are natural and necessary.³⁸ In fact, Guo Tong raises precisely this counter-argument, though to no avail as the Yellow Emperor repeats his order that all are to be made equal.³⁹

Further, as even those who claim the four essays to be the product of a single hand acknowledge, the styles differ markedly. *Jing Fa* is a straightforward, somewhat mechanical exposition of a political philosophy. There is very little cosmology. *Dao Yuan*, on the other hand, is primarily cosmology. In contrast to the rather tight, discursive argumentation of *Jing Fa*, *Cheng* is a collection of short, largely unconnected reflections. *Shiliu Jing*, for its part, is a wordy piece dealing with the mythology and hagiography of the Yellow Emperor.

It is of course possible for one person to discuss a range of topics and to write in notably different styles, particularly when the topics differ. The style one employs when relating popular legends about the Yellow Emperor need not, and in the hands of a good writer, probably would not, coincide with that used to compose a treatise in political philosophy. Yet again one must ask at what point do differences in style become, if not themselves differences of content, at least proof of different thinkers or authors?

There is no clear cut answer. Different people will assess the issue differently. For my part, I believe, as many have claimed, that the four essays do evidence a high degree of unity of thought. There are certainly

no more numerous or egregious inconsistencies than in many other philosophical works. After all, few, if any, achieve perfect marks for consistency when subject to the kind of critical scrutiny that the *Boshu* has undergone. Indeed, that the level of consistency is as high as it is speaks well of the author(s) when one considers the difficulty of the writing process in the days before word processors: writing on silk and bamboo permits little opportunity for editing and revision. Nevertheless, one cannot say for sure whether the four essays are the work of one person or not. For that reason, it would be more accurate to refer to the author(s) of the *Boshu*. Stylistically, however, that approach is unappealing. Consequently, I will simply refer to the author, though one should bear in mind the possibility of multiple authors.⁴⁰

The second issue has to do with the identity of the author. Tang, noting the long history of Legalism in Zheng, suggests he is a Legalist recluse from that state. Long Hui, however, has compiled considerable philological evidence to support the claim that the author is from Chu. He notes that the *Boshu* contains many sayings, proverbs, and expressions of Chu. The author also evidences a familiarity with Chu geography, mentioning such places as Bowang Mountain. Third, the pattern of quotations suggests a Chu author: there are many quotations from other Chu works, especially the *Guo Yu*; and many Chu authors cite the *Boshu*, including the authors of the *Wen Zi*, *Huai Nan Zi*, and *He Guan Zi*. Fourth, the *Boshu* displays rhyme patterns similar to *Huai Nan Zi*, some of which are peculiar to the Chu dialect.⁴¹

Wu Guang concurs with Long's assessment, noting that the *Boshu* exemplifies considerable Daoist influence, and that Daoists such as Lao Zi, Huan Yuan, He Guan Zi, and the authors of the *Huai Nan Zi* are all associated with the state of Chu. That the writings of a Huang-Lao Daoist from Chu would turn up in a tomb near Changsha is not surprising as Changsha is a major capital and center of learning in the Han.⁴²

Zhong Zhaopeng suggests a third possibility, that the author is a Huang-Lao scholar from Qi. The *Shi Ji* (87.2436) provides the following lineage: "Le Chen Gong studied the Yellow Emperor and Lao Zi, his original teacher was called He Shang Zhang Ren (Old Man of the River), whose origins are unknown. He Shang Zhang Ren taught An Qisheng who taught Mao Xi Gong who taught Le Xia Gong who taught Le Chen Gong who taught Gai Gong. Gai Gong taught at Gao Mi and Jiao Xi in the state of Qi and served as instructor to prime minister Cao Can." Zhong then documents that in the historical records, Gai Gong, Le Cheng Gong and An Qisheng are all linked to the state of Qi.⁴³

Zhong and Long/Wu's positions, strictly speaking, are not incompat-

ble. The author could be a person from Chu who studied and wrote in Qi, most probably at the Jixia Academy, a known center of intellectuals and Huang-Lao scholars. Or he could be a person who spent time in Qi and then moved to or back to Chu. Although I discuss the relation of Huang-Lao thought to the Jixia Academy in greater detail later, it seems safe to say that the author was either from Chu or had spent considerable time there and that he was familiar with, perhaps even partially responsible for, the Huang-Lao thought of the Jixia Academy.⁴⁴ At any rate, Tang's suggestion that the author was a Legalist recluse from Zheng is unlikely given the philological evidence compiled by Long.

1.4 Dating

The date of composition of the original text of which the *Mawangdui Boshu* is a later copy is hotly debated. Assessments congregate around the following four periods:⁴⁵ mid-Warring States (394–310 B.C.),⁴⁶ late Warring States (309–221 B.C.),⁴⁷ late Warring States to Qin-Han (309–140 B.C.),⁴⁸ early Han (206–135 B.C.).⁴⁹

Mid-Warring States

In arguing for a mid-Warring States dating, Tang Lan points to the *Shi Ji* (63.2146), which states that “Shen Buhai’s studies were based on Huang-Lao and took *xing ming* (forms and names; performance and stipulated duties) as central.” Shen Buhai was born in 405 B.C. according to Tang⁵⁰ and came to power in 354 according to Herrlee Creel.⁵¹ As it took some years for Huang-Lao to become known, the Huang-Lao school, Tang reasons, must have originated about 400 B.C. The *Shi Ji* (74.2347) adds: “Shen Dao was a person from Zhao, Tian Pian and Jie Zi from Qi, Huan Yuan from Chu. All studied the arts of Huang-Lao Daoism. . . . Shen Dao wrote a work on twelve topics.” Though Shen Dao’s work is no longer extant, enough fragments are available to gain some impression of his thought.⁵² Several scholars have pointed out similarities between his ideas and those of Huang-Lao.⁵³ Tang notes, moreover, that several fragments attributed to Shen Dao are similar or identical to passages in the *Boshu*. He then suggests that Shen Dao cited the *Boshu*. Because Shen Dao is associated with the Jixia Academy during the reign of the Qi rulers Wei and Xuan, the *Boshu* must be earlier and therefore must be a work of the early fourth century B.C.⁵⁴

Tang also offers a second line of argument. The *Shi Ji*, as noted previously, traces Huang-Lao thought from He Shang Zhang Ren to An Qisheng to Mao Xi Gong to Le Xia Gong to Le Chen Gong to Gai Gong who taught Cao Can, the prime minister of Qi appointed by Liu Bang, the

first Han emperor. Tang argues that there are five generations of master-disciple relations from He Shang Zhang Ren to Gai Gong, which he calculates adds up to about 100 years. Tang claims Gai Gong instructed Cao Can in the early third century B.C. and adding 100 years to that pushes the origins of Huang-Lao back to the early fourth century B.C.⁵⁵ Long Hui, for philological reasons, concurs with Tang's mid Warring States dating. He contends that phonetic considerations, particularly rhyming of *-io* with *-ie(g)*, supports a fourth century B.C. date of composition.⁵⁶

Many scholars have challenged this early dating. The argument that early philosophers such as Shen Dao and Shen Buhai studied Huang-Lao is problematic. First, it is possible that Sima Qian is anachronistically reading Huang-Lao ideas into the thought of these thinkers. He does, after all, have a vested interest. Several have pointed out that both he and his father, Sima Tan, the author of "On the Essentials of the Six Schools," praise Huang-Lao doctrines and refrain from any criticism.⁵⁷ By contrast, though quick to point out the strengths of the other schools, the Simas do not hesitate to balance their remarks with specific criticisms. Further, they are writing under the patronage of rulers known to have been partial to Huang-Lao doctrines. They might feel compelled to portray Huang-Lao thought in the best possible light to please those in power. One way to do so would be to push the origins of Huang-Lao thought as far back as possible in that within the Chinese world ideas are revered more for their lasting power than their novelty. That subsequent major thinkers draw on Huang-Lao as the source of their ideas enhances the status of the Huang-Lao school.

Second, there is no way to verify that it is the *Boshu* that these early thinkers are studying. The *Boshu* need not be the seminal work of the Huang-Lao school. Indeed, one suspects on the basis of its sophistication alone, quite apart from the many other reasons for dating it later, that the *Boshu* represents a culmination of Huang-Lao thought rather than an exploratory early work. As for the similarities of the *Boshu* to the fragments of Shen Dao—or for that matter to other works such as the *Guan Zi*, *Guo Yu* and *He Guan Zi*—there is no *prima facie* reason that the passages in the *Boshu* could not be citations of the others. One must first ascertain which work precedes which to know who is citing whom.

With respect to Tang's second argument, Zhong Zhaopeng and Wu Guang have compiled extensive historical documentation demonstrating that all of the figures from He Shang Zhang Ren to Gai Gong are late Warring States to early Han persons.⁵⁸ This leaves Long's argument based on phonetic considerations as the main justification for a mid-Warring States dating. Nobody has directly challenged Long on this point, most

likely because few have the expertise to evaluate his claim. Conversely, however, it is difficult to place much confidence in a dating based solely on a few abstruse philological points, particularly when there are strong arguments to contrary.

Late Warring States to Qin-Han

The arguments for the claim that the *Boshu* belongs to the late Warring States are much the same as those for the claim that it belongs to the late Warring States to Qin-Han. Hence I will consider them together, examining first the common arguments. There are basically two types of arguments: one based on the content of the *Boshu*, where it is suggested that the ideas fit the intellectual, historical and political conditions of the late Warring States to early Han; the other based on features or terms of the text.

As for the latter, Wu Guang notes that early and mid-Warring States texts do not add titles to chapters. This practice starts with Xun Zi and Han Fei, who generally append two-word titles, as is most often the case in the *Boshu*. Second, Wu points out that the *Boshu* draws heavily on the *Lao Zi*, which is not compiled until the mid-Warring States. Actually, many sinologists date the appearance of the *Lao Zi* even later, around 250 B.C.,⁵⁹ making Wu's argument all the stronger—though of course the ideas could have been disseminated in oral form for much longer. Wu also calls attention to the phrase *qian shou* (黔首—“black-heads,” that is “commoners” who are dark-skinned from working in the fields). Wu contends that this term originates in the Warring States. Uchiyama seconds this notion. In addition, Uchiyama comments that the phrases *san gong* (三公—three dukes) and *wu di* (五帝—five emperors) are also Warring States terms.⁶¹

While the place of Huang-Lao thought in general and of the *Boshu* in particular within the intellectual, legal, and political history of ancient China is a major theme of the following chapters, a brief statement at this point may help clarify the dating issue. Intellectually, the *Boshu* exemplifies the late Warring States and early Han trend toward syncretism. Whereas in the mid-Warring States the leading schools of thought—Confucianism, Mohism, Daoism—joust with each other, by the end of the Warring States there is a marked tendency toward unification, cross pollination, and synthesis. Wu refers to this tendency to appropriate ideas from one's intellectual rivals as “the flowing together of the 100 schools” (*bai jia he liu*—百家合流). Indeed, Sima Tan describes Huang-Lao as a synthesis of the best ideas of all schools (*Shi Ji* 130.3289): “[Huang-Lao] practice accords with the great order of the Yin Yang school, selects what is good from the doctrines of Confucians and Mohists, and combines them with the essential points of the School of Names and the Legalists.”⁶²

That the *Boshu* incorporates yin yang theory further suggests, as Uchiyama contends, a late rather than mid Warring States dating.⁶³ A. C. Graham has argued that yin and yang, historically part of the six *qi* (氣),⁶⁴ are used primarily as classificatory terms up to 300 B.C., when philosophers begin to construe them as the primal pair of cosmological forces underlying the natural processes.⁶⁵ In the *Boshu*, yin and yang are used in both a classificatory and a causal sense.⁶⁶ The author does not, however, develop the implications for human control over the natural processes through manipulation of *qi* that plays such a central role in Dong Zhongshu's interactive microcosm-macrocosm philosophy and the immortality practices of the *fang shi* (方士—often referred to as “magicians”).⁶⁷ This suggests that the author of the *Boshu* might have been writing at about the time yin and yang are undergoing the transformation from primarily classificatory terms to causal cosmological forces, which by Graham's reckoning, is the late Warring States.⁶⁸

The political ideas of the *Boshu* also appear to reflect the political conditions of the late Warring States to Han. One of the central tenets of the *Boshu* is that it is the ruler's responsibility to bring peace to the people by unifying the empire—even if that requires the use of force. The unification of the empire is the political counterpart of the intellectual movement toward unity in thought. Much as the intellectual jousting must be put aside in favor of a common solution to problems, so must the territorial predation of warlords be brought to an end to curtail the losses of war and allow for rebuilding the economy. That a Warring States author would see the need to end the feuding and rejuvenate the economy is not surprising. And indeed the *Boshu* not only puts forth economic policies aimed at restoring prosperity, but limits the ruler's deployment of the military to just causes.⁶⁹

Many mainland scholars, employing the tools of Marxist historiography, contend the emergence of Huang-Lao can be traced to the transition from “slave” to feudal society.⁷⁰ Greatly oversimplified, the view is that, as society changed in the Warring States, a land-owning class began to arise with the nascent feudal order. The newly arisen land-owning class requires its own ideology to replace the Confucian ideology that served the nobility of the old system. As a meritocracy, the Huang-Lao system allows for the upward mobility of the new ruling class. On the other hand, Huang-Lao upholds class distinctions. In fact, its foundational naturalism provides an unshakable basis for class distinctions by grounding them in the natural order: in nature, valleys complement mountains, yin complements yang; in society, the lowly complement those of superior character. In a similar way, the Huang-Lao legal system, designed to diminish the power ceded the nobility under the Confucian system in which “the *li* (rites) do not

reach down to the common people, penal law does not reach up to the great officials,"⁷¹ serves the interests of the new elite. Though Huang-Lao ideologists justify their laws by claiming them to be "natural," implicate in the natural order or the Way (dao) as it were, they are only natural given the class perspective—attitudes, beliefs, and values—of the emerging power group.⁷²

As for the military philosophy of Huang-Lao, Gao Heng and Dong Zhian argue that the right to engage in just wars represents the right of the newly arisen land-owning class to defeat in the name of justice the noble class of the former slave order and unify the empire. They and many others suggest that it is no coincidence Huang-Lao emerged out of the Jixia Academy in Qi.⁷³ The ruling house of Qi belonged to the infamous Tian family that usurped power from the established ruling house of Jiang, which traced its legitimacy back to the founding of the Zhou dynasty. As Benjamin Schwartz points out, the murder of the legitimate ruler by Tian Wen Zi in 481 B.C. constituted one of the stock examples of illegitimate use of force to seize political power.⁷⁴ Some suggest that the rulers of Qi then became patrons of the arts and humanities in an attempt to regain public support. Others suspect that the real motives for sponsoring intellectual debate and new ideas was to generate an ideology that will justify their usurpation. The views are not incompatible. Liu Weihua and Miao Runtian argue that Qi rulers, realizing that military might would not be sufficient to maintain the empire, sponsored the Jixia Academy in hopes of stimulating debate between schools. This debate would generate a new ideology that synthesized the best of each school and that could serve as a basis for a new empire that the people would support. Huang-Lao, with its call for an active if people-oriented government and its support of righteous wars and unification of the empire, is the result.

It is worth noting as supporting evidence for this view that the first authenticated reference to the Yellow Emperor is a bronze inscription attributed to King Xuan of Qi in which the king claims the Yellow Emperor as the ancestor of the Tian clan.⁷⁵ The Yellow Emperor is often portrayed in the literature as the ultimate ancestor of the Chinese people and a gallant warrior who was the first to unify the empire.⁷⁶ That a leader looking to justify rule by conquest would claim the Yellow Emperor as ancestor would be reasonable. It would be equally reasonable for scholars working under the patronage of such rulers to present their new political philosophy under the aegis of the Yellow Emperor.

In any event, those who favor a late Warring States as opposed to a late Warring States to Qin-Han dating believe there are good reasons to rule out a Qin to Han dating. The main one is that the *Boshu* never men-

tions the harsh Qin regime by name. There is no doubt that the author of the *Boshu* is opposed to the austere Legalist policies of Qin. As I argue later, his foundational naturalism is an attempt to provide a theoretical basis for limiting the all-powerful Legalist sovereign.⁷⁷ Further, his call for lenient laws and a government that relies on moral suasion and benevolence to complement military strength is readily understandable as an attempt to redress the imbalances of the strict Qin dictatorship. Were the author writing after the collapse of the Qin, he would have no reason to avoid reference to Qin. On the other hand, were he writing during the Qin, he would have the best of all reasons to avoid direct criticism: if caught, he would face certain execution. Yet for that very reason it is unlikely that someone would write a work so critical of Qin's Legalist policies during the height of Qin's powers. Thus, the most likely date of composition is the late Warring States.

Early Han

Arguments for a Han dating are primarily contextual. Many of the conditions that lead to a Warring States dating continue to exist in the Han. Post-Qin society was still plagued by social instability and the threat of war. The need for a single ruler to unify the empire and put an end to the destruction remained, making a Han dating possible.

In fact, the Han seems a more likely candidate in some ways. It is, after all, during the early Han that the Huang-Lao school reaches its zenith of popularity and political power—a likely time for a sophisticated political work such as the *Boshu* to appear. Further, that so many Han political figures adopt Huang-Lao policies is itself proof that the philosophy of the *Boshu* fits the times.

No doubt the lenient laws and people-oriented policies promoted in the *Boshu* are warmly welcomed after the despotic brutality of the Qin. As Nishikawa Yasuji observes, the *Boshu*'s policy of respecting local customs is typical of Han politicians said to favor Huang-Lao. Rather than simply enforcing the whims of the ruler, one first consults with the local officials to determine the specific needs and conditions of the people. And in contrast to the dictatorial Qin government that sought to regulate the lives of the people in great detail, Han Huang-Lao leaders were known for their noninterventionist, hands-off style of government (*qing jing wu wei* 清靜無為).⁷⁸ From an economic perspective, the *Boshu*'s emphasis on lower taxes and moderation in the ruler's use of the people's labor as well as its call for frugality on the part of the ruler make sound fiscal sense for a state seeking to recover from the ravages wrought by Qin.

Thus both politically and economically, the government-for-the-

people policies of the *Boshu* fit the post-Qin era. Indeed, Jiang Guanghui argues that the willingness of the author and Huang-Lao proponents to circumscribe the power of the ruler and to redirect the resources of the state to the people reflects the insecurity of Han rulers who, in the wake of the power struggle following the collapse of Qin, feared rebellion.⁷⁹ The demise of Qin created a power vacuum. In the ensuing struggle, Liu Bang, the eventual victor and first Han emperor, was forced to make concessions to local power brokers to gain their support. In the early years of his rule, he lacked the strength to impose his will. He was forced to acquiesce to the demands of the local leaders and masses. Hence he turned to Huang-Lao policies in an effort to consolidate his power base by gaining the support of the people through lenient laws and favorable economic measures of the type advocated by the author of the *Boshu*. This works so well, the story goes, that by the time of Han Wu Di, the state was once again prosperous and the people's faith in the government restored. As a result, Han Wu Di was able to pursue a more active role for the government and try to regain some of the authority for the central government that the early Han leaders had been forced to relinquish to local authorities. To do this required, however, a new ideology. Dong Zhongshu with his New Text Confucianism was waiting in the wings to answer the call.

The abrupt demise of Huang-Lao is the subject of a later chapter. For now, the issue at hand is the dating of the *Boshu*. Although the Huang-Lao policies of the *Boshu* fit early Han conditions, they also fit the conditions of the late Warring States. Those seeking to unify the state in the turbulent Warring States period confronted the same need to gain the support of the people and local power brokers. Further, an author of the late Warring States would surely have been aware of the theoretical and practical limitations of Qin's Legalist policies. Qin was a dominant state long before it unified the empire in 221 B.C. It would not be difficult to project the future of the empire under Legalist rule by observing life within the Qin state. Therefore the author of the *Boshu* could have written a work critical of Qin policies that constrained the power of the Legalist sovereign and reconfirmed the commitment of the government to serve the people before Qin unification. Given the other arguments cited previously—particularly, the absence of any mention of Qin—the *Boshu* would appear to be a late Warring States rather than a Qin or Han product.

In the matters of dating and authorship, however, there is room for disagreement. Hence I avoid as much as possible basing my interpretation of the *Boshu* on a narrowly defined period. How one dates the text of course will affect one's interpretation. Nevertheless, inasmuch as the conditions between the late Warring State and early Han are in many ways

similar, my interpretation of the *Boshu* is compatible with either a late Warring States or a Qin to early Han dating.

2. Methodology

The nature of Huang-Lao thought as a deliberate synthesis of the best ideas of other schools makes it difficult to clearly articulate its uniqueness within the tradition. One must examine not only the ways in which Huang-Lao is similar to other schools from which it borrowed ideas, but how it differs from them. I argue that the uniqueness of Huang-Lao lies in its promotion of a foundational naturalism. The foundational character of Huang-Lao is manifest in various ways: in the *Boshu*'s epistemology, metaphysics, philosophy of language, jurisprudence, and so on. Although I discuss each of these areas, a few words may be in order as to why I have given such a central place to law and morality and the relation between them as illustrative of the differences between the philosophy of Huang-Lao and other classical schools.

To begin with, the importance of law within the Huang-Lao school is widely acknowledged. Indeed, as noted earlier, many commentators have made law the centerpiece of their analysis, arguing for a similarity between the author of the *Boshu* and Han Fei, Shen Dao, Shen Buhai, and so on. Organizing the analysis around each philosopher's views about law and morality offers easy access to the differences between them, in part because law and morality are central concerns of Chinese philosophers. It is a commonplace that Chinese philosophy is predominantly social and political philosophy: rather than being preoccupied with metaphysical quandaries, Chinese thinkers tend to center their aim on the Socratic question of how we as individuals and as a society (ought to) live. This is not to claim that Chinese philosophers are completely unconcerned with metaphysics. Most thinkers engage in some metaphysical speculation, and some more than others. The author of the *Boshu* is one of those more inclined toward metaphysical musing. Indeed, his social and political views are grounded in his metaphysics. Yet when all is said and done his primary philosophical concerns remain social and political—one of the most important being the role, nature and normative basis of law as a means for effecting socio-political order.

Law, for better or worse, is a cornerstone of social and political philosophy, and not only for those schools such as Huang-Lao that favor a rule of law. Even those schools that consider law and morality to be nothing more than the will to power of the ruling class and hence deny the normative legitimacy of law take a philosophical stand in their rejection of law

and morality. One learns much about the differences between the thought of Huang-Lao and Lao Zi, for instance, from the latter's dismissal of laws and his reasons for doing so.

2.1 *Philosophy of Law: A Hermeneutical Framework*

To understand the claim that Huang-Lao sponsors a natural law theory, we must first determine, as far as possible, what constitutes natural law. This is not as straightforward as one might suppose. The natural law tradition is extremely heterogeneous, arguably embracing such unlikely bedfellows as Plato, Hamurabi, Mohammed, Aquinas, Kant, and some have suggested, Confucius, Han Fei, and Shang Yang.⁸⁰ To clarify what I intend by natural law, it may be helpful not only to examine key features of natural law theory as construed by contemporary jurists, but to contrast it with other philosophies of law such as legal positivism and Dworkin's interpretive account of the law as integrity.

A fundamental tenet of natural law theory is that there is a necessary relation between law and morality.⁸¹ Advocates of natural law on the whole take exception to the legal positivists' notion that "what pleases the prince has the force of law."⁸² They do not believe that one is obligated to obey the law simply because it is the will of a sovereign or sovereign body that has the power to enforce it. Nor do they allow that such an obligation is generated solely on the grounds that certain specified institutional procedures were followed in legislating the law.⁸³ There need to be, they contend, some ethical or rational reasons underlying our laws and our obligation to obey the law—hence their rallying cry: "an unjust law is no law at all."⁸⁴

More specifically, these reasons that justify the law, create an obligation to obey the law, or simply account for the nature and origin of the law, are, at least on what I shall call a strict reading of natural law theory, foundational reasons. To clarify the foundational nature of natural law arguments, it might be instructive to first contrast it with an alternative methodology, that of coherence, as exemplified in the works of John Rawls and Joel Feinberg.⁸⁵

For Rawls and Feinberg, the objective of the ethical reasoning process is to achieve an equilibrium between one's judgments and one's personally and communally held moral beliefs or intuitions. Coherence theories aim to make one's system or web of beliefs coherent by bringing one's ethical judgments into line with one's intuitions. They are nonfoundational in that no belief is privileged as most basic or fundamental. There are no first principles that serve as the foundation on which to build up an edifice of moral argument, no axiomatic moral truths from which one spins out a moral system through deduction or formal logical argument.