"Creating government lies in individuals": Zhang Shizhao and the Paradoxes of Founding

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ABSTRACT

This paper is a working draft of the first substantive chapter of my book project, which examines the political theory of the early twentieth century thinker Zhang Shizhao 章士釗 (1881-1973). In the manuscript, I argue that Zhang's theorization of political action under conditions of political collapse draws attention to an often overlooked problem in political theory: namely, how individuals may act efficaciously and non-coercively before collective action with others on however minimal a shared goal is even possible. A member of a key transitional generation in China, Zhang received a traditional Confucian education in his youth, but by adulthood had turned to learning Western political theory as a means of uncovering the secrets of European and American "wealth and power." Long regarded by historians as a British-style "classical liberal," Zhang in fact engages a far greater range of thinkers and concerns—including traditional Chinese ones—that belie any particular political agenda. In this chapter, I explore how Zhang confronts the paradoxes of founding a self-ruling regime without presuming the emergence either of a benevolent Lawgiver or of spontaneous consensus. Contemporary Euro-American political theorists, themselves usually citizens of mature democracies, often theorize the paradox of founding as a motif of the circularity of politics or of the ongoing, daily contestation of legitimacy in already-established regimes. Because founding is an actual historical event for Zhang, however, he cannot disavow its paradoxes by pretending that they can be resolved in the process of everyday political action. Seeking to realize an architectonic vision of political life that encompassed not only himself, but also an entire community who had not spontaneously converged on that vision, Zhang re-thinks the possibility of transformative founding action using a variety of resources culled from Chinese political experience and theory. These possibilities inform his advocacy of those specific practices—including self-awareness, the use of one's talent, and accommodation of difference—that in later chapters I develop as part of Zhang's theory of individual political action.

In this paper, all references to Zhang's work are taken from volume 3 of his *Collected Works* 章士釗全集 (Zhang 2000), hereafter abbreviated ZQJ. All translations from the Chinese, including from secondary sources, are my own unless otherwise noted.

When Zhang Shizhao returned to China from Great Britain in 1912, he found himself in a very different place than the one he had left four years ago. In 1908, the land called China was still governed by the Qing, though its elites were struggling to square new "Western" ways of governing with deeply entrenched habits and institutions that survived nearly two thousand years of continuous imperial rule. In 1911, China became, in name at least, a republic, committed to the principles of self-rule embodied in Western theories of democracy, liberalism, and constitutionalism. Zhang should have been happy; this is what he had been advocating all along. While in Great Britain, Zhang had made extra money—and his reputation—writing articles for a Shanghai newspaper that explained why China could and should adopt British-style constitutional self-government to protect human rights and advance the rule of law. In fact, Zhang knew more about the theoretical foundations of these Western institutions perhaps better than anyone writing in Chinese at the time. Apparently, however, he did not know enough—not enough to explain why, after the provisional constitution was ratified in 1913, no one took it seriously; why, once human rights were recognized as keys to Chinese political regeneration by most elites, the government did not seem to be respecting them; why, once self-rule was declared after a short but violent revolution, no one seemed willing to stay in China and build parliaments, assemblies, and courts to replace the imperial bureaucracy that no longer existed.

Zhang quickly realized there were deeper, more general questions at stake than simply what kind of regime to build. Confronting nearly total political collapse, Zhang's work after 1914 turned decidedly speculative, concerned less with institutional design than with institutional foundation. Zhang mined both novel Western theories and longstanding Chinese debates to develop a rich theoretical vocabulary for exploring the sources of effective transformation of political community. Which comes first, people committed to self-rule or the institutions that

make self-rule possible? Why wasn't elite-led, top-down reform effective in fostering

democratic practice among China's masses—and what was the alternative? How can taking

political action make sense as "political" *before* the communities that could underwrite or

legitimate such action exist?

In asking these questions, Zhang broached the fundamental tensions of founding self-

ruling regimes. He recognized that certain personal and collective qualities needed for successful

self-rule in a political community—qualities such as autonomy, tolerance, and collective

identity—seem to have a character such that their establishment requires acts different from, and

often contradictory to, those that constitute their subsequent practice. At the same time, he found

top-down imposition—the usual response to paradoxes of this kind—not only illegitimate but

puzzlingly ineffective. Democracy and constitutionalism, Zhang realized, were not simply ideas

localized in individual minds, but ways of life which required the spontaneous participation of an

entire community to give their institutional forms meaning and effective force. To make

political arguments that at the same time invoke rather than disavow the kind of society Zhang

wished to bring into being, he required a shared vocabulary, a language of common purposes and

ends, that did not yet exist. Zhang must found this set of shared practices and language even as

he realizes the incapacity of himself, or any one person, to do so.

Confronted with these paradoxes, Zhang frames the tensions of founding in an

importantly different way than do many contemporary political theorists, who use founding

narratives not to illumine the events that establish polities but to underscore the recurring

problems of ordinary political action. In most of the political communities of the modern West,

"founding" as an inaugural, polity-establishing event is no longer relevant. What remains

perpetually subject to contestation and "re-founding," these theorists argue, is how and on what

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grounds power invoked in the name of the community can be constrained without appeal to a transcendent principle (Arendt 1965, 170). Founding stands as a motif of the circularity of politics, specifically the ongoing contestation of authority, rather than a moment of real action (e.g., Honig 1991; Olson 2007). Founding narratives like those of Locke and Rousseau are thereby rendered not blueprints for polity-building but stylized lessons about the inescapable circularity of all political action.

Yet in a world in which democracy and rule of law are simultaneously uncontested (at least publicly) as supreme political values but remain among the most difficult of all political institutions to establish permanently, the negotiation of legitimacy in mature regimes does not seem to loom nearly as large as does Zhang's more literal founding dilemma: how can we—or I—get a particular kind of regime off the ground in the first place? Even if ordinary political action in mature regimes does resemble the paradoxical task of "founding," not all acts of founding exhibit the characteristics of ordinary political actions. Founding acts are not always *in medias res* interventions that can draw upon already-existing habits, institutions or public figures for their efficacy. Zhang's political theory draws attention to the fact that founding acts must first constitute power before authority becomes intelligible as a problem; they must foster a shared consciousness of self-rule before collective self-determination is even possible. These very real paradoxes of Zhang's founding moment cannot be dismissed as ahistorical tropes, elements of post-hoc political myths designed to efface inaugural violence or to justify particular political positions. A circular basis for founding—in which the right people and the right institutions are seen always as mutually constitutive, rather than one being ontologically or historically prior to the other—may exploit, but does transcend, such paradoxes when they appear in real historical time.

What does transcend those paradoxes? Zhang does not offer a definitive answer, but by recasting the problem of founding he offers conceptual resources to think through both the dilemmas of founding in real historical time and the nature of subsequent political action. Zhang puts forward the possibility that individual action may be capable of bringing about self-rule where one does not, and has never, existed, but he does not do so by positing the ontological priority and autonomy of individuals. Nor does he play benevolent Lawgiver to impose a new way of life on the Chinese people. Zhang interprets founding as the gradual reorientation of personal practices and outlooks toward unprecedented, society-wide ways of living and governing, precipitated but never determined by the incremental, exemplary actions of ordinary individuals.

The chapters that follow detail Zhang's attention to the steps in this transformative process—from self-awareness (自覺), to local engagement of one's talents (自用才), to inter-subjective accommodative negotiation (調和)—but each of these solutions hinge on his responses to the paradoxes of founding. Theorizing within a tradition and to an audience that did not produce self-ruling practices like those in Britain and America, Zhang tries to explain how the individual self (己 or 我, the "I") can perform both the constituting of the people and the constituting of the government—indeed, *must* perform it, given the absence of widespread agreement and of shared political norms. As an incremental process that unfolds through time and in a variety of spaces, this constitution of the government does require ongoing work in the form of everyday political practice.[1] For Zhang, however, it is founding that informs everyday action, rather than the other way around. His ultimate solution suggests that individual action

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[1] I am indebted to Emily Nacol for pointing out the importance of the temporal dimension to Zhang's non-coercive politics.

can be undertaken in a way that is effective without being impositional, individual without being atomized.

The First Paradox of Founding: Mass Versus Elite

Zhang inhabited a world whose unprecedented fragmentation – political, social, and cultural – rendered unavailable the shared meanings that underwrite political action.   The changes he sought were not immanent in his own traditions, and so could not be "recovered" and brought into the service of contemporary problems; but Western-style democratic norms could not yet constitute shared bases for action either. He did not have the luxury of pretending as if the Chinese, as a "people," already existed, or that this collection of over 800 million individuals had all already ingested the concept of public space in which transformative political action could be staged. Zhang's theorizing, in other words, must begin from either the not-yet or the almost-gone.

Like other well-educated elites of the early republican period, Zhang confronted these issues through the lens of another paradox, related to founding but not reducible to it. Recognizing that political and social reform turned crucially on the character of the Chinese masses, yet believing that the masses could not reform themselves, elites pondered how they could include the common people in their nation-building projects without at the same time imposing this project on them. Often what emerged was a discourse not *of* the common people, but *on* the common people (Judge 1997, 166). Zhang was himself a member of the elite, trained from early youth for the civil service exams that would guarantee him lifetime employment in the imperial bureaucracy.   When the exams were abolished in 1905 and republican rule was instituted in 1911, the crisis of the elite did not lessen but intensified: "the people" came to

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occupy, at least in name, an unprecedented position of sovereignty, but elites remained the center of both political action and contemporary political imaginations.

This new, awkward problem of mass versus elite was often articulated as an issue of political education, built on the same premise of elite-led social transformation that underlay their political agency in the late empire. The prominent intellectual Liang Qichao advocated mass-education campaigns; Sun Yatsen, leader of the political association later to become the Nationalist Party, insisted upon political tutelage under party leadership; and the elected president Yuan Shikai came to promote benevolent dictatorship. Zhang dismissed these proposed solutions as not only elitist, and therefore threats to both the practice and foundation of an eventual democracy, but also as ineffective. To Zhang, political regimes meant nothing without the commitment of the people who both founded and sustained them. This is not a democratic insight for Zhang, but an empirical one, derived from his recognition that any kind of regime is grounded in the everyday practices of its subjects or citizens. Zhang points out that were the Chinese masses as inept as elites were painting them no functional government—including despotism—could get off the ground (ZQJ, 31).[2] At the same time, without a tradition of self-rule, the Chinese people were bereft of the practices that could motivate and sustain a self-ruling government.

This paradox, which appeared to Zhang and his contemporaries as a tension between mass action and elite leadership, is often articulated as a tension between ruler and ruled, between those who initiate political community and those who comprise it. The *Social Contract* of Jean-Jacques Rousseau offers what is probably the most famous articulation of this paradox:

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[2] The insight that modernization and political reform was something *everyone* in Chinese society needed to do was recognized over a decade earlier by Liang Qichao in his agenda-setting 1902 serial *Xinmin shuo* (On Renewing the People). Theresa Lee (2007, 317) traces this conclusion to Liang's depiction of despotism as a political system that corrupts everyone in society, both ruler and ruled.

In order for a nascent people to appreciate sound political maxims and follow the

fundamental rules of statecraft, the effect would have to become the cause; the

social spirit, which should be the product of the way in which the country was

founded would have to preside over the founding itself; and, before the creation of

the laws, men would have to be what they should become by means of those same

laws (Rousseau 1987, Book II, Ch. 7).

Rousseau's reading of the problem helps explain why founding remains such a troublesome

matter for a self-ruling regime. To distinguish itself from other, more imposing regimes

(including tyranny), a republic or a democracy must call into being a majority, or at least a

collective, to participate in its functioning and to share its values. But avoiding tyrannical

imposition first demands an identity between what these people as individuals want—the

particular will—and what these individuals as a people want—the general will. For Rousseau, a

benevolent Lawgiver relieves these tensions by setting up those laws that can both educate and

constitute a polity.

Before going on to consider Zhang's response to this seeming paradox, including his own

reading of Rousseau, it may be helpful to survey how contemporary Anglophone theorists have

interpreted the paradox of founding as a means of redirecting its central concerns. Rousseau's

extrapolitical solution of a Lawgiver draws attention to the difficulties of truncating what are

ultimately the "chicken-and-egg" dilemmas that, in the view of many contemporary theorists,

mark all action in self-ruling regimes. On the basis of these similarities, Rousseau's narrative

has been appropriated to unravel the problems of founding that seem to recur daily even in already-established regimes.[3]

Founding, Legitimacy and Action

Rousseau's influential statement of the founding problem identifies one of the primary issues at stake as the creation not of people as individuals with particular characteristics, but of "*a* people" as a cohesive group, whose members self-identify with both the group and each other. Contemporary theorists have come increasingly to recognize that, speaking realistically, the people as a group is never consistently present when political actions are taken, and its consent is never fully acquired. It must therefore be called into being whenever, as in everyday political interventions, individuals take actions in its name—creating a paradox akin to that Rousseau characterized as a pre-political problem (Keenan 2003, 11-13). Because self-ruling regimes in principle are meant to embody widely shared, collective aims, political action within such regimes must assume that certain commitments to self-ruling practices exist already by a body of persons who can act together; otherwise, political action undertaken in the name or under the auspices of the community becomes imposing or coercive, precisely that which by definition it cannot be.

The act of a literal founding, on this account, appears violent and impositional, and so too do the political actions in a mature regime that may mimic it. William Connolly warns that the violence of a literal founding threatens to recur throughout democratic practice—in the form of "a series of cruelties, dangers, and violences in the present that need to be addressed" (Connolly

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[3] "Every day," Honig points out, " new citizens are born, and still others immigrate into established regimes. Every day, already socialized citizens mistake, depart from, or simply differ about the commitments of democratic citizenship. Every day, democracies resocialize, capture, or reinterpellate citizens into their political institutions and culture in ways those citizens do not freely will, nor could they" (Honig 2007, 3).

1995, 137)—and can only be brought under control by a community understood to exist in perpetuity, rather than deliberately constructed in a moment of spontaneity or force. Similar wariness about the impositions of unilateral action prompts Hannah Arendt to look to mutual promise-making as a self-constituting method of community formation, a move which reinterprets polity-establishment as itself bound up with ongoing political practices rather than episodic events (Arendt 1965). Her solution, like Connolly's, presumes a community—in this particular case, one that already understands the meaning and force of promising and engages in the practice regularly.

Rather than see these presumptions about already-existing communities as illogical, however, Bonnie Honig argues that their very lack of foundation gestures toward—and helps to further pry open—the gaps between performative capacity and transcendental referent that, according to Jacques Derrida, is a structural foundation of all utterances (Honig 1991, 105). These irresolvable gaps allow Honig to transform the moment of founding into a story about everyday resistances to authority that, on her account, ironically figure as constitutive practices of authorization (111). Others join Honig in insisting that legitimacy is not only the primary, but the *only* problem of founding, because "it would not be a problem to create an illegitimate system of laws *de novo*. This could simply be done by force: 'obey these laws or suffer the consequences'" (Olson 2007, 331).

For the most part, these approaches read founding as an always-existing problem whose resolution motivates the real work of daily political action. It is probably true, after all, that the work of building political structures and the individual characters that inhabit them is a circular one, because institutions and characters are themselves mutually constituted and reciprocal (Frank 2005, 1, 11). Founding as an actual, polity-establishing event, then, is a "myth" (or, in

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Honig's Derridan vocabulary, a "fable")—valuable for its symbolic richness but not its prescriptive design. All that remains is a story about how subsequent actions taken against popular will can be legitimate. Paul Ricoeur realized this dilemma as both necessary yet irresolvable; he called it "the political paradox." Founding myths are necessarily adduced from contemporary reality; they are events that have never taken place, because it is in the very nature of political legitimacy to be recoverable only in retrospection, after the community has been united. "Political thought proceeds from the state, to citizenship, to civism [i.e., the virtues of citizenship] and not in the reverse order" (Ricoeur 1984, 252, 254).

The problem "founding" typifies, then, is not so much about how to establish regimes as about how to constitute authority—which, because it is continually contested in regimes of self-rule, can be considered a recurring rather than an episodic problem. When "founding" moments are seen to perpetually occur in this way, they no longer appear as true beginnings. Rather, they draw attention to the embedded nature of political actors whose interventions draw inevitably from the "always already" available political resources that community life affords (Pitkin 1984, 1998; Honig 2007). The paradoxes of founding are thereby assuaged by situating them in an already-existing, self-ruling polis, in which authority is daily contested but the difficulty of actually constituting the people is set aside as a problem no longer relevant. Authority can then grounded in the promise of ongoing negotiation, secured either by the years of proto-democratic practices that preceded the official establishment of particular regimes (Wolin 1989; Connolly 1991; Arendt 1965), or in the promise of a dynamic constitution to evolve toward realization of those values the original founding could not initially satisfy (Olson 2007).

Yet when no community yet exists to contest authority in a particular way, the paradoxes of founding do not disappear. They return with a vengeance, but on a different register. The

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specific issues that vexed Republican-era reformers like Zhang Shizhao were not those of legitimacy, but rather those that *preceded* the very possibility of legitimacy: How can principles of self-rule—the very principles that make legitimacy accessible as a grounds for contestation—be inculcated in a populace whose only political experience has been subjection under an absolute monarch, and whose political conceptualizations seem unable to render claims to self-rule intelligible? And upon what grounds can a self-ruling community take shape, if not through top-down impositions that would themselves inhibit the practices that constitute self-rule? Perhaps as a result of these more pressing questions, the constitutive tensions of Rousseau's work—including his narrative of founding—were not primarily articulated by early republican Chinese reformers as problems of legitimacy. Rather, Chinese thinkers sought to extract from Rousseau's social contract narrative a blueprint for regime-building and collective self-rule. Zhang's own interventions in these debates help to elaborate his own views regarding the paradoxes of elite rule in mass society, but he does not embrace a politics of either mass or elite. Instead, Zhang uses the language of social contract to re-think the capacities for political action on both sides. Confronting founding as a real and immanent event, Zhang is forced to truncate the circularity that for many contemporary political theorists assuages founding's paradoxes. In the process he is led to identify for individuals a more central role in both political founding and ongoing, regime-sustaining action.

A Chinese Founding Narrative: The Social Contract

Rousseau's *On the Social Contract* (民約論) stood for many years beginning in the late nineteenth century as the one of the only sources of Western political theory available in Chinese, endowing its themes and vocabulary with an unusual polemical potency (Dong 2003, 81). Early

revolutionaries used Rousseau's work to articulate their opposition to Manchu rule not only in terms of resistance to a foreign oppressor, but also in terms of "natural" equality and popular sovereignty (Lam 1989, Ch. 2). The language of social contract amplified earlier attempts by Qing-era progressives, including Huang Zongxi and Gu Yanwu, to forge a conceptual separation between the ruler and the society he ruled. Yan Fu 嚴復, in one of the earliest and most well-known invocations of social contract language in Chinese, argued that imperial-era political relationships between ruler and minister, minister and people underscored the identity between the Chinese state and the imperial house, in the process confounding the ruler's good with the people's good. To eradicate this conflation, Yan urged the cultivation of "the people's intelligence, strength, and virtue" to fit them for self-rule (Yan 2004 (1895), 91).

Ironically, although his rhetoric seems to indicate support for widespread political participation, Yan stopped well short of arguing for democratic government. Like many influential thinkers at the time, including Liang Qichao, Yan too claimed that "the time was not yet right" for doing away with monarchical structures because the customs and habits of the people "were not yet adequate to sustain self-rule" (Yan 2004 (1895), 92). In an essay written for Liang's *Yongyan* journal in 1914, almost twenty years after his first encounter with Rousseau, Yan reaffirms his suspicion of popular self-rule by denying any empirical basis for "natural" rights and equality. The obvious incapacity of the Chinese to reform themselves, Yan believes, is strong evidence that not only was Rousseau wrong about rights being "natural," but that his prescriptions for democratic transition had no applicability in the Chinese case (Yan 1998 (1914), 757-758). Yan's reading is somewhat extreme compared to that of other Chinese contemporaries,

but typical insofar as it dismisses freedom and equality as substantive concepts of rights centered on individuals.[4]

The persistent and widespread distrust of popular self-rule in this era demonstrates the extent to which invocations of freedom and equality buttressed arguments against specific forms of government but did not extend to a theoretical examination of the foundations of government per se, and their possible relationship to individual rights and capacities. In the absence of a hereditary ruler, intellectual elites stepped into largely unquestioned positions of rulership, as they assumed the handles of various mechanisms of social control, including education and economic regulation. Pro-democracy arguments, far from being theoretically linked to the anti-monarchical sentiments of the 1911 revolution, were seen as functionally and conceptually distinct from support for "self-rule" (自治).

In contrast, Zhang makes founding actions a central part of his appropriation of Rousseau. The naturally-existing capacity for pre-governmental action implied in Rousseau's "state of nature" goes far toward helping Zhang articulate a response to the mass versus elite paradox that does not take elite rule as central. These ideas were spelled out in a 1915 essay devoted to refuting Yan's attacks on Rousseauian natural right.[5] In this exchange, Zhang defends neither radical democracy nor liberal values; in fact, at no point does Zhang offer explicit reasons to support any of Rousseau's ideas, even as he exposes as spurious Yan's own attacks on them.[6] Rather, I see Zhang using Rousseau to re-examine a longstanding debate in Chinese thought

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[4] One important exception was Liu Shipei, whose essay "On the Social Contract" identified the individual as the primary unit of Rousseau's analysis (Dong 2003, 77).

[5] "Reading Yan Fu's 'The Social Contract,'" 讀嚴幾道《民約平議》, *The Tiger*, May 10, 1915.

[6] In fact, Zhang explicitly distances himself from Rousseau when he insists from the very beginning that he is not a supporter of Rousseau's theory of republicanism, discussion of which Zhang fears can easily result in "empty speculation" (19). Although most commentators on Zhang's work take this essay as an instance of Zhang's commitment to liberal rights (e.g., Lam 2002; Weston 1998), I argue that Zhang's "defense" of Rousseau simply points out that Rousseau's claims are reasonable (though contestable) given certain conditions.

between what, following Rousseau, was now called the "naturally given" (天賦之) and the "manmade" (人造之) . By drawing an explicit link between these issues and the purposes and capacities of the political realm, Rousseau's *Social Contract* helps Zhang to think through what is within the scope of humans (separately as individuals, or aggregated as states) to achieve politically.

Zhang begins his essay by explaining, contra Yan's slight mischaracterization, that Rousseau's ideas of freedom and equality are not descriptions of an irrefutable reality but instead are normative prescriptions for political association. Zhang goes on to defend the empirical possibility of a spontaneous contract arising from a state of warfare, mainly by pointing out that others (including Thomas Hobbes and the Tang dynasty literatus Liu Zongyuan) have drawn the same conclusion from available evidence (ZQJ, 21-22). Against Yan and Liang, both of whom see the social contract as brokering agreements between collectives (usually states, 國), Zhang insists, following Rousseau (I.4), that 'the contract is between individuals" (ZQJ 23).

This devolution to individual choice for Zhang is linked to the inefficacy, rather than the bold illegitimacy, of force as a foundation for political association. This claim turns on how Zhang understands the "natural rights" whose protection in Rousseau's account motivate the establishment of a government. For Zhang, the tension between Rousseauian "will" and "force" seems to map a tension between innate capacity, on the one hand, and the contingencies of external, structural influence, on the other. When Yan interprets the fragility of human infants as evidence that they possess no naturally given freedom, and the obvious interpersonal differences in intelligence and ability as proof that equality is nonsensical (Yan 1998 (1914), 758-759), Zhang responds by drawing a distinction between innate capacity and the event of being born. He calls only the former "natural" (ZQJ, 25), analogizing this concept of "natural" to

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the neo-Confucian (*xinxue*) concept of *liangzhi* (良知, "innate moral knowledge"). To neo-Confucians like Wang Yangming, *liangzhi* was an always-already source of moral-philosophical insight into the world that was perpetually in danger of being obscured by what were seen as externally derived passions and material influences.[7] To recover and develop this natural, moral capacity, Wang advocated meditative self-cultivation and the daily practice of Confucian virtues. *Liangzhi*, however, was not "natural" in the *ziran* (自然) sense; that is, these capacities could not develop necessarily simply as part of the process of living or maturing, nor could they be duplicated by the application of external encouragement. As "naturally given" (*tian fu* 天賦), *liangzhi* required self-motivated, directed efforts (*gongfu* 功夫) to actualize its potential.

By seeing natural rights as more like *liangzhi* and less like ongoing biological processes, Zhang characterizes them as widely diffuse, innate capacities that exist prior to government but not to the deliberate human effort to cultivate them. Although not spontaneously effective, these capacities must be self-directed; they cannot be imposed by government or created through force, because the government can work only on material that is already there in individuals. Quoting Herbert Spencer's refutation of Bentham, who insisted that governments "create" rights, Zhang insists on an a priori basis for the free actions of individuals and their unforced capacities for action:

> Two meanings may be given to the word 'creating.' It may be supposed to mean the production of something out of nothing; or it may be supposed to mean the giving form and structure to something which already exists. There are many who think that the production of something out of nothing cannot be conceived as

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[7] In Wang Yangming's words, "The nature endowed in us by heaven is pure and perfect…It is the original substance of the clear character which is called innate knowledge of the good" (translated in Chan 1963, 661).

effected even by omnipotence; and probably none will assert that the production

of something out of nothing is within the competence of a human government

(Spencer 1901, 389; cited in ZQJ 327).

These beliefs have profound implications for how the tensions of founding can be defined and

assuaged. By insisting that governments cannot create something out of nothing, Zhang implies

a definite beginning to a political regime, albeit one sited ambiguously in both naturally-existing

capacities and in deliberate human effort. Zhang's analogy of "natural rights" to *liangzhi*

suggests that it is ordinary people who inaugurate the possibility of self-rule: just as they are said

to possess *liangzhi*, so too do they have a "natural" capacity for independent and creative action.

Zhang's thoughts on *liangzhi* reflect contemporary Chinese rights-thinking, which

interpreted "rights" (權利, *quanli*) more often as capacities or ethical orientations than as legal

sanctions that draw or guarantee spheres of privacy around autonomous individuals. Zhang does

not, however, reproduce the ethical imperative of *liangzhi* that many of his contemporaries

believed made rights effective politically. By seeing *liangzhi* as analogous to, rather than

constitutive of, the natural rights that ground the capacity for political action, Zhang dissociates

them from the particular ethical prescriptions many of his contemporaries, including Liang

Qichao and Liu Shipei, believed were the cause of their effectiveness (Angle 2002, 154, 168). To

Zhang, "rights" simply mark the innate capacity of anyone to act, not only to act morally.[8] He in

fact denies, contra Yan Fu, that Rousseau believed these "natural" conditions were inherently

good at all. Zhang claims that "the good Rousseau ascribes to these original [state of nature]

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[8] In other essays, including "On Accommodation as Founding" (《調和立國論》), Zhang elaborates how he believes disparate moral (and immoral) visions of political life can work together to found and sustain polities. I discuss this possibility more fully in later chapters.

people simply points to the time before they began fighting with slaughtering each other…it is not the goodest good" but a relative term only (ZQJ 26).

These capacities for action Zhang identifies with Rousseau's concept of "will": it is these innate capacities that construct the social contract. Force cannot create them or sustain them, because as Rousseau pointed out once the source of forceful imposition is lost so too are the activities that found and sustain a polity. Yan believes rights and capacities can be created by means of violence, and Zhang acknowledges that the capacities of "rights" are like force in that they exert powerful influences on existing environments and can even depose tyrants (ZQJ 34).

As Su Dongpo [蘇東坡, 1037-1101 CE] has said, "What does the ruler rely upon? In the *Book of Documents*, it is written: …'When [their hearts-and-minds are] gathered together, they are as loyal ministers; when scattered apart, they are as enemies.'…Therefore I say, what does the ruler rely upon? Simply the hearts-and-minds (心) of people." When "gathered together," this means gathered together as in a contract; when "scattered apart," this means dissolving the contract. This should be obvious. Therefore, when the people['s hearts-and-minds] are scattered, they regard their ruler as an enemy, and oppose him. This [opposition] has nothing to do with what Rousseau calls force (ZQJ 34).

Although the people may use force, as the Chinese did when they founded the republic, their actions cannot be confounded with coercion *simpliciter* because the capacities that make them possible are always innate and personal—expressed in their "heart-and-mind"—and do not disappear as the force behind coercion disappears (ZQJ 34-5).

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The social contract solves part of the mass and elite paradox for Zhang: as a widely diffuse capacity for action, "rights" understood as *liangzhi* are something all—not only elites—possess and can use efficaciously to transform their society and to establish their government. Political action, far from being circular and bound up in already-existing institutions, truncates the moment individuals activate their innate capacities. But Zhang has not yet solved the original founding paradox: even if these innate capacities, and their successful exercise, is within the purview of all, the great unanswered question is then why they have not yet been activated. Who are the prime movers, if any? And how can their limited interventions as individuals have any real effect on collective, shared environments?

Another Chinese Founding Narrative: "Creating government lies in people"

In an essay promisingly titled "The Foundations of Government" (《政本》), Zhang anticipates his social contract vocabulary by insisting that the "root" of government lies in people and their talent. The essay inaugurated Zhang's new journal of public opinion, *The Tiger* 《甲寅雜誌》, which he founded while in exile in Tokyo in 1914, further marking its significance to Zhang's attempts to unravel founding narratives. The essay begins by claiming that toleration of differences is the foundation of government, but goes on to elaborate where and how that toleration can be found: "As I see it, creating government lies in people; those people exist and government flourishes. The successes and failures of government must be accounted for in the achievements and failures of individual talent (人才). Government is the leaves and branches, but talent is its roots" (ZSZQJ 5).

Zhang's statement here about the root of government residing in people is a word-for-word allusion to the neo-Confucian text *The Doctrine of the Mean* 中庸, which stood for centuries at the center of late imperial Chinese debates over the relationship of individual self-cultivation to statecraft.[9] The original reads, with added punctuation:

子曰：“文武之政，布在方策。其人存，則其政舉；其人亡，則其政息。人道敏政，地道敏樹。夫政也者，浦盧也。” 故為政在人，取人以身，修身以道，修道以仁。

A very literal (and heavily interpolated) translation would read:

…the Master [Confucius] said: "The government (政) of Kings Wen and Wu is spread upon the wooden tablets and the bamboo strips. [This shows that] once [these?] person (s) exist(s), then [the?] government stands firm. [When] [this or these?] person(s) disappear, then [the?] government ceases. The way of [these?] person(s) is amenable to government as the way of the land is amenable to growing vegetation. Thus [their?] government is [as] an easily-growing rush." Therefore, the creation of government lies in person(s); selecting person(s) lies in character; the cultivation of one's own individual character proceeds on the basis of the Way; and the cultivation of the Way is grounded in benevolence (仁)

(*Doctrine of the Mean*, Ch. 19).[10]

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[9] This short work was extracted from the larger, Han-era canonical text *The Book of Rites* by the neo-Confucian Zhu Xi, and was required reading for the civil exams since the Song era. As a text extremely familiar to Zhang's educated audience, Zhang does not cite the text explicitly.

[10] This translation is my own, but I draw heavily on Wang Yunwu's annotated Chinese edition (1977) and James Legge's English translation (Legge 1971 (1893)).

As indicated by my frequent use of brackets, this Chinese founding narrative is rich with ambiguity, much of it traceable to the lack of number, gender, or identifying articles (such as "the" or "this") in classical Chinese. Zhang's own invocation exploits this acrobatic versatility, even as he anchors his invocation of "doing government lies in people" firmly within the received meaning of the text. Combined with his reading of Rousseau, Zhang's allusions to this neo-Confucian text suggest both a way of situating action and a way of generating it that relies exclusively neither on the raw capacity of autonomous, pre-political individuals nor on pre-existing constituents of an established political community.

The traditional (and, for the imperial civil exams, authoritative) meaning of the *Doctrine* narrative, as interpreted by Zhu Xi, holds that once individuals of King Wen and King Wu's extraordinary stature exist, then government can be established. "The creation of government" lies more specifically for Zhu in "the *selection* of persons" for government service, which interpolates into the original text a specific capacity for the sage kings Wen and Wu (Zhu 1983 reprint, 28). These kings are not only sagely founders, but also, necessarily Zhu thinks, discriminating judges of men. The "people" of which the *Doctrine* speaks, in other words, are held to be specific people (Wen, Wu, and their selected ministers) with specific talents (for administering government efficiently and with a sense of moral purpose). No "popular" agents ("masses," or 民) are invoked; rulership is confined to men of exceptional purpose who (presumably) are the only ones capable of setting a government in motion.

The *Doctrine*'s celebration of top-down political establishment seems to mimic Rousseau's account of a benevolent lawgiver, but the exceptional persons who "raise government" in this narrative do not leave once the task of founding is accomplished. Bonnie

Honig suggests that the exit of Rousseau's lawgiver links to a persistent image in Western narratives of a "foreign founder," whose unique potency for founding polities (especially democratic polities) also threatens them once they are established. Whether it be Dorothy from the *Wizard of Oz* or the Biblical Moses, founders who liberate peoples or establish law for them also implicitly deny that those people can do the same for themselves. When the founder leaves voluntarily, he helps to expunge from the people's memory their own political impotence; when he is cast out, the newly-governed can both disavow their own capacities for violent founding and deny that some acts must be undemocratic to be effective (Honig 2001, 23-40).   In the *Doctrine* case, however, the very purpose of Wen and Wu as founders is to remain solidly within the structures they have created and to thereby begin transmitting; they mark "the wooden tablets and the bamboo strips" so that their practices—which the *Doctrine* identifies with the very beginning not just of a particular polity, but of government itself—can be perpetuated. It is precisely by means of their ongoing interventions in politics that "the government stands firm" and becomes like "an easily-growing rush." This founding narrative focuses on enduring sustenance, rather than a single felicitous intervention sandwiched between a sudden moment of rescue and an equally unforeseen exit.

In fact, the *Doctrine of the Mean* is only one of many narratives in the Chinese corpus that read political founding in terms of ritual transmission or organization by exceptionally attuned sages, rather than innovative imposition by an external lawgiver. In his extensive survey of early Chinese political and cultural creation narratives, the Sinologist Michael Puett identifies a persistent bias in proto-Confucian and classical Confucian texts against deliberate innovation, which, when it appears at all, is usually associated only with bandits, rebels or other unworthies. "Despite the many differences between these texts, they all share an attempt to develop a

framework wherein creation is denied altogether, and sages serve simply to organize correctly that which was found originally in nature" or, sometimes, to reappropriate and transform the negative, violence-rooted creations of unsavory characters (Puett 1998, 476). Creation was explicitly associated with violence and disruption; "founding" work, then, had to be done by other means.

The founding event(s) of the *Doctrine* passage, appropriately, turn in large part on transmission, and so too does Zhu's own appropriation of them. By delineating a genealogy for the text, Zhu locates its authenticity and authority in its transmission. He goes on to see this narrative as an important component in the "transmission of the Dao" (道統) which Zhu identified as the true but long-neglected heritage of those Confucians who would oppose the incursions of Buddhism (Zhu 1983 reprint, 14-16). Many contemporary sinologists (e.g., Makeham 2003) trace these transmission narratives and the practices of textual analysis that embody them to Confucius' own insistence that his scholarly accomplishment lies not in creation but transmission: "述而不作，信而好古" ("I transmit but do not create; I believe in and love the ancients.")[11] Confucius and his followers see their task as preserving ancient Zhou ritual by implementing it in the present, not by creatively adapting it but by carefully replicating it. Wen and Wu are exemplary instances of this preservation, in which "founding" as a generative possibility is explicitly disavowed.[12]

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[11] The Confucian tradition, in fact, is unique among canonical traditions for identifying scriptural redaction and transmission as the quintessential work of its founder (Henderson 1991, 113). s

[12] Shortly before Zhang gained prominence in the early twentieth century, transmissive founding appeared again as Chinese thinkers responded to the rise of Western hegemony in Asia. Chinese reformers, especially those associated with the revisionist, philological Gongyang school of Confucianism, sinicized Western pasts and futures through recourse to a transmission narrative. In the mind of these anxious Chinese elites, the very "dao" that bound them to the ancient sages and demanded transmission to the future also anticipated Western inventions and served as the foundation for an as-yet unrealized Western heritage. Westerners, in other words, were seen as part of "daotong" transmission (Wang 1995, 34).

This is not to say that transmissive founding precludes innovation or change. Despite Confucius' protestations, transmission is more than simply replication: by being linked so tightly to an inaugural act, transmission is configured as transformative—it is an act that changes (or perhaps precipitates change in) a community otherwise fragmented or wayward. In the *Doctrine* narrative, this act consists primarily in the inauguration of certain orientations, worldviews, or moral attitudes that then go on to support particular kinds of institutions, a task amplified by and reflected in acts of transmission. Successful transmission implies the founder's exceptional attunement to an existing situation; he or she must divine precisely those actions that will resonate with an entire community, without resorting to violent or institutional impositions. It is a reiteration of existing practices with an eye toward initiating new ones that themselves can go on to generate new institutions and practices.

How does founding as a transmissive practice throw light on the tensions of Zhang's founding narrative? Although the lineages Zhu constructs in his own story of transmission— from Mencius in the Warring States period to the Cheng brothers in the early Song dynasty— mean to authorize his own appropriations of the text, Zhang's insistence that "creating government lies in people" suggests that the problem of founding is not, in the first instance, to ground legitimacy. Rather, it is to find prime movers that will set into motion some kind of society-wide transformation. To Hanna Pitkin, the resonance necessary for all such inaugural action implies an already-existing community whose collective values are the empirical and normative basis for further effective action: "No leader stands in relation to his followers as a craftsman to material, imposing form on inanimate matter. He must always deal with people who already have customs, habits, needs, beliefs, rules of conduct, who already live somewhere in some manner" (Pitkin 1984, 99). By suggesting that founders "transmit" rather than create ex

nihilo, Zhang seems to endorse this circular notion of political action, rejecting in the process founding narratives that pivot on the historical or normative priority of either individuals or political institutions.[13]

But what kinds of actions can be taken in situations of extreme political fragmentation, in which creating a community turns on motivating disparate individuals to take action in ways that are not directly resonant with *any* already-existing environment? The transmission performed by the *Doctrine*'s sage kings—and, by extension, implied in Zhang's allusion to them—seems to signal a different kind of political intervention, the constitutive components of which are not spontaneous consent or episodic resistance but resonance and exemplariness. These extraordinary individuals act by setting a law that is binding not because it is an expression of universal reason or consent, but because it is an exemplary act that compels through its virtue, however imperfectly the full contours of that virtue may be captured in extant written words.[14] The *Doctrine* develops earlier themes found in the *Analects* of Confucius as well as the text attributed to Mencius to explain how the ruler's virtue acts as a potent, transformative influence on the hearts-and-minds of the people, independently of any institutions that may mediate his power. A well-known example is from the *Analects*: "The Master said, 'The rule of virtue can be compared to the Pole Star, which commands the homage of the multitude of stars simply by remaining in its place'" (2.2).

Pitkin denies that exemplariness or imitation can constitute a true model of founding for self-governing polities, because the very act of imitating what is exemplary belies the

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[13] Sheldon Wolin and Jill Frank join Pitkin in embracing an idea of political action as a circular and self-perpetuating activity that privileges neither individual efforts nor institutional influences, but instead draws forth new possibilities from the interaction of both (Frank 2005; Wolin 1994; Pitkin 1998, 1981).

[14] Zhu Xi explicitly laments these omissions in his preface to the *Doctrine*. In fact, it was precisely the inability of words to convey this virtue that Chinese exegetical practices often emphasized oral transmission (especially through the teacher-student relationship).

innovation—and hence the autonomy—necessary for founding acts. One can imitate such

founders' innovation "only by not imitating anyone" (Pitkin 1984, 272); whereas true imitation

of their actions would refute the autonomy such founding was trying to instill (Pitkin 1984, 268-

273). Pitkin therefore links founding to the situated practices of citizenship that read autonomy

as embedded in practices of mutuality, in which free citizens hold "each other to the civil limits

defined by their particular tradition" which they recognize as already-given "yet honor or alter as

conscious 'co-founders'" (Pitkin 1984, 315).

When capacities for self-rule are not defined in terms of autonomy, however, many of

Pitkin's objections to the characterization of efficacious founding acts as exemplary ones appear

irrelevant; so too does the analogy of founding to everyday practices of mutually constituted

citizenship. The model of transmissive founding, with its constitutive political actions of

exemplariness and imitation, can be interpreted in another way that recognizes the situatedness

of political actors without at the same time conflating (and thereby eliding) the episodic,

founding act with the everyday acts that sustain any particular regime.

In most strands of Confucianism, acting effectively meant to act according to

cosmologically sanctioned ritual and (what amounted to the same thing) in a way that would

inspire others.[15] Yet an important consequence of the individual's position was that although he

or she acted through embedded social relationships, his or her political motivations were seen to

arise beyond and (sometimes) in tension with them. Self-cultivation—the reestablishment of an

individual's inner core with cosmological patterns or historical exemplars like Kings Wen and

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[15] It is difficult to square what I am calling "effective actions" with what would be identified in the Western tradition
as explicitly "political" ones per se, because so many of the former took the form of non-verbal interventions in
personal relationships. A typical example is from the Analects: when asked by one of his students why he did not
participate in government, Confucius responded, "The *Book of History* says, 'Oh! Simply by being filial [to his
parents] and friendly to his brothers a man can exert an influence upon government.' In so doing a man is, in fact,
taking part in government. How can there be any question of his having actively to 'take part in government'?"
(Analects 2.21). I discuss the implications of such a view for political action more fully in chapter six.

Wu—more often provoked the active re-ordering of external environments on the basis of this vision than it did political quietism. The cultivated individual stood as the sole source of both action and authority in much of Chinese political thought and imperial experience, encouraging a heightened critical spirit that often rejected the necessary impositions of external institutions (Chang 1990, 28). This was the fundamental motivation behind the late imperial "statecraft" tradition (經世, *jingshi*), in which world-ordering in the form of administrative innovation was seen as directly complementary to, rather than a replacement for, self-cultivation activities (Chang 1983; Rowe 2001, 327-330).

The independence of the junzi's motivation suggests that the very potency of sagely founding, therefore, can lie only partly in what is already-there; what exists already can help to sustain their exemplary act, but it cannot generate it. It is true that as a transmissive act, founding takes place over time, rather than in a single moment; it is neither instantaneous nor (as Zhang's "rights" discussion makes clear) concentrated in one place or person. Sagely founding, in other words, is ongoing, and can be read into everyday political practice. The opposite possibility, however—that everyday political action can displace founding acts—is both nonsensical and dangerous. Emphasizing circularity or the already-there as a means of assuaging founding's paradoxes would dissolve all possibility of true founding: what generates and motivates sagely founding is not the sages' intuitive manipulation of commonly shared principles or ideas, but their critical distance from those ideas. Sages discern the possibility for something never-before-seen and as a consequence perform a singular, exemplary act that founds precisely because it was not determined by existing social circumstances.

This aloofness is, ultimately, an event of personal vision that temporally precedes acting upon the world even as it makes action in the world possible. As Sheldon Wolin explains it (albeit in a very different context),

The paradigm observer is not the man who sees and reports what all normal observers see and report, but the man who sees in familiar objects what no one else has seen before. Thus the world must be supplemented [by this individual's perspective, her insight] before it can be understood and reflected upon (Wolin 1969, 1073).

Wolin's choice of words is revealing: sometimes, certain acts of seeing *supplement* the world; they are visions brought to, rather than drawn from, the existing worldly reality of the potential political community.

This redescription of founding acts is not to ascribe impossible autonomy to singular, founding individuals. It simply indicates a framework by which individuals can act independently of currently-existing political ideals and realities, without denying that what makes such aloofness possible may be traceable to equally embedded, idiosyncratic experiences within or outside the political community itself. Sages are efficacious founders because they transcend the dichotomy of ordinary and exceptional. They are both ordinary enough to remain functional members of their communities long after the founding moment, but exceptional enough to discern and act independently upon orders that do not already exist. To found is to be exemplary in a resonant but unique and hitherto unprecedented way.

Such idiosyncratic insight exists always, but its recognition as a source of politically potent leverage does not. The centrality of idiosyncrasy, or what Zhang in other essays theorizes as "difference," goes far toward resolving the tensions between mass and elite that marked all political action in the Republican period, because idiosyncrasy need not rely on elite action for either its inauguration or its imitation. It can be both initiated and witnessed at all levels of society. As such, it forms a bridge between sagely founding and Zhang's earlier discussion of those innate though underdeveloped capacities he identifies with "rights": exercising these capacities turns in large part on embracing one's idiosyncratic experience and forging ahead with exemplary acts that both challenge and change existing environments. There is always something particular to each—and every—individual that is never reducible to structure, to external influence, to the always-already. The *Doctrine* narrative as Zhang invokes it—that is, as an instance of how "individuals" (人) "created government" (為政) rather than a hagiographic myth about deified sages—suggests that founding turns in large part on each individual tapping this innate capacity, now specified as idiosyncrasy. These individuals foster rather than disavow their personal alienation from what is already there, but couple this feeling of "difference" with the faith that their disparate visions can eventually have meaning in a future political community of which they will all remain a part.

The need for aloofness and "difference" in the act of founding also helps to mitigate the mass/elite dilemma as Zhang personally experienced it: that is, as one individual importer of Western ideas who realizes the practice of those institutions requires an entire community's spontaneous participation. The borrowing he sought to initiate is grounded in a certain kind of founding that gives structure and meaning to what is imported; and founding is itself a kind of borrowing that demands comprehensive stage-setting— if not wholesale replication—before

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more creative interventions can be meaningful. Although Zhang's attempt to import

unprecedented institutions into the Chinese milieu renders many indigenous practices useless or

dangerous, such borrowing also provided a perspective from which to view Chinese political

realities in a new and reinvigorated light. Those new, foreign practices at the heart of his

vision—specifically, those seen to cluster about British and American liberal-democratic

regimes—were precisely what motivated him to look beyond existing realities and to encourage

others to cultivate whatever internal resources lay *beyond*, rather than within, the structural

determinants of contemporary political despair.

Conclusion

Zhang's response to the paradoxes of founding, then, banks on both innovation and

continuity; it refuses to accept as a goal or a premise the impossibly autonomous self, but it

insists that individual interventions in political life—those actions that both found political

regimes and sustain them—can and must lie beyond the predictable margins of an established

political community and its set of habits. Founding is a process that, while never existing apart

from a socially constructed milieu mutually constituted by both institutions and individuals,

remains irreducibly individual.

Zhang's analysis, and the forms of action he derives from it, encourage us to condemn

the privileging of legitimacy, or conflating acts that found regimes with acts that sustain them, as

sleights of hand that displace the real work of founding. Only by reading all self-ruling polities

as mature, well-established communities can political self-sufficiency be endowed by an already

existing historical acceptance of the regime, and only from the perspective of Euro-Atlantic

political experience can such a view ever make sense. Founding on this account loses the paradoxical edge that made it useful as a model for sustaining action in the first place, and becomes simply another instance in which Western political theory solves problems only for itself.

This is not to say that the connections these Western theorists draw between the act of founding and the act of sustaining cannot mutually inform each other. These theorists are right to emphasize that the novelty of founding is not a characteristic exclusive to it, and that founding narratives can offer conceptual resources to work through the everyday political interventions that orient democratic communities to new directions. Where they err, however, is in assuming that one can substitute for the other. Zhang turns instead to investigating how the internal struggle of individuals can be influenced by external environments without being reduced to them. Zhang has not solved, once and for all, the problem of who acts and how they act effectively, so much as identified a new tension of political action that displaces the one between individual imposition and community identity or agency (tensions that animate the founding narratives of Rousseau, Honig, Pitkin, and others). This tension, as I see it, arises in those balancing acts that mark Zhang's two founding narratives: between the exceptional and the ordinary, and between innate, unpredictable capacity and external environments. Founding, and the political actions it informs, are as much internal, personal struggles against external conditions as they are the functional creation and legitimization of political institutions. Although this new tension of Zhang's is perhaps irresolvable, the location of its assuagement suggests an important alternative space in which founding acts can be performed: *within* as well as between persons. Drawing the tensions of founding along an internal/external rather than an individual/community axis, Zhang locates efficacious, democratically legitimate means for

changing worldly reality not in collective action that must first assume some form of commonality, but in independent, individual cultivation of what lies beyond those "always-already," structurally determined elements of political community.

These efforts do not elide inter-subjective elements or impositions of political forms, but they do approach politics in a way that is not always concerned to build majorities or gather together allies to one's cause. Most importantly, Zhang's approach to politics does not turn on a belief that such action must always be collective action, because he realizes that collective action itself presumes either a founding, or a long series of prior commitments and practices to make it possible. The activities that Zhang identifies as political action—self-awareness, the self-use of talent, and accommodation—appear disorganized and tentative at the local level; but globally, Zhang believes they cumulate in institutions and discernable collective patterns. His political theory turns on the insight that while "global" processes often remain beyond the reach of one individual, local environments are almost always tractable in some degree to individual control. Zhang's work, as I present it in this book, is centered on the problem of how to take political action before the communities that may sustain such action exist. By acting on their local environments, revising their inner visions, working through their inner struggles, confronting the demands, feelings, and talents of others, and most importantly, convincing themselves that their actions, however incremental and small, matter to global outcomes, individuals can harness their own diffuse and uncertain power before collective action is possible. For Zhang, these foundings are individual endeavors that spread by means of example as much as by persuasion; and they need not await benevolent lawgivers or assume an existing community to begin its work.

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