

Communications to the Editor

TO THE EDITOR:

The rejoinder of William G. Boltz (*JAS*, November 1997, henceforth referred to as Boltz 2) to my letter in the same issue adds more fabrication to his misleading review (*JAS*, February 1997, henceforth referred to as Boltz 1) of my book, *China's Legalists: The Earliest Totalitarians and Their Art of Ruling* (M. E. Sharpe, 1996). I have to further clarify the issues.

1. In his rejoinder Boltz adds another fabricated accusation against the author:

Nor has he commented on his choice of "Legalism" as a suitable translation of *fa jia* . . . Does Professor Fu assume that just because modern Chinese *fa* matches English 'law' in much of its everyday twentieth-century usage it can be taken for granted that English 'law,' and its learned 'legal,' are appropriate translations for the word *fa* more than two millennia earlier? Professor Fu's own comments here (citing himself, pp. 7, 159) regarding the "Legalist" opposition to the rule of law and observing that the "Legalists" had little if anything to say about jurisprudence per se, suggest that he himself senses the imprecision of the term "legalism" for what he wishes to discuss. To say that raising such questions is like "pulling rabbits out of thin air" strikes me as gratuitous and unresponsive (Boltz 2).

Boltz now accuses me of using the term "legalism" as a translation of *fa jia*, which is another brazen fabrication like all of Boltz's unsubstantiated allegations. The fact is the term "legalism" never appears in the book. This time the allegation can be verified easily. *If Boltz can find the term "legalism" in the book I shall plead 'guilty as charged.'* *If he cannot find the term "legalism" in the book, would Boltz finally admit he is a habitual fabricator who routinely engages in fabrication and misrepresentation?*

Boltz's fabrication also proves that as a reviewer he never even took the trouble to check or to finish reading the book, but fabricated charges after charges based on his own conjecture and imagination. This new allegation is like a repeat act of the magician pulling rabbits out of thin air, but this time the performance is really too sloppy.

2. What is even more comical is the fact that one of the many scholars who actually uses the term "legalism" is none other than Graham in his book, *Disputers of the Tao*, where the Legalist school is discussed under the title "Legalism" in 25 pages which Boltz cites as providing "The best representation of the Legalist thought" (Boltz 1). Another scholar who uses the term "legalism" is Vandermeersch in his book *La formation du légisme* which Boltz characterizes as a "magisterial work" (Boltz 2). Thus the very two books, which are highly recommended by Boltz, use the term "legalism" that he condemns as unsuitable. But Boltz directs a lengthy and fatuous accusation of the use of this term against me: I do not use the term in my book.

The only explanation for making such an infantile accusation against an 'innocent party' but overlooking the 'real culprits' is that Boltz has neither finished reading Graham's book nor mine when he wrote the review and the rejoinder. Perhaps he has

never read many other books dealing with Chinese philosophy in English which all use this 'objectionable' term.

I point out this fact not to discredit Graham and Vandermeersch, who are accomplished scholars, but to underline the infantile nature of Boltz's accusation. Although Boltz should be commended for not directing such an asinine criticism against Graham, I cannot fathom why Boltz condemns me, when I actually mention the question of the appropriateness of the English term "Legalist," and do not use the term "legalism," while he has only praise for Graham who actually used this "unsuitable" term. Why such blatant double standards? Even if the book used the term "legalism" (which it does not), why would anyone engage in such egregious practice of malicious discrimination? Does Boltz have any regard for fact, logic, truthfulness and sense of decency?

3. Moreover, I do not believe the use of the term "legalism," which is used by many accomplished sinologists, including Graham, to be a fault when it is clear from the context what it connotes.

Boltz also decided to ban the classification that identifies the Legalist school and other schools of thought. He announces the reason for his ban: "To adopt Sima Qian's classification is inevitably to impose an early Han scholastic paradigm . . ." (Boltz 2). Does Boltz seriously mean that the Confucian, the Legalist, the Mohist and the Daoist should not be classified as schools of thought simply because such classification was made by the Simas? Unfortunately such classifications are still used by almost all scholars of Chinese philosophy.

Boltz has also decided to ban the use of the term "Legalist" which is used at present by all books dealing with this school of thought. It is interesting to note that Boltz himself used the term Legalist throughout his review (Boltz 1), but now that he has decided to ban its use he uses the term in quotation marks ("Legalist") in his rejoinder (Boltz 2). Boltz is certainly entitled to make all kinds of suggestions, but I seriously doubt if anyone will follow his advice. Almost all scholars, including Graham, use and will continue to use this term. Furthermore, the Legalists did have great impact on the development of Chinese law.

4. In his original review Boltz accuses the book because "Even the suitability of the English term "Legalist" and the appropriateness of its connotation as a translation of the phrase *fa jia* goes unexamined" (Boltz 1). In my reply I pointed out that the book indeed raises this problem, therefore such an allegation is a distortion. In his reply Boltz admits he is now aware that my book indeed raises this problem. But instead of admitting his distortion, Boltz changes the subject and charges me of "sensing" the problem but objects to "raising the problem" (Boltz 2). By such a ploy of double misrepresentation, Boltz wishes to skirt the issue of his own distortion.

Contrary to Boltz's distortion, I do not and never did object raising the problem of the appropriateness of the English term "Legalist." Indeed, raising the problem of the appropriateness of the term is not like pulling rabbits out of thin air, but for Boltz to allege that the book does not even examine the problem is like pulling rabbits out of thin air. Trying to confuse these two separate issues is like the act of a magician transforming rabbits into frogs.

5. In his rejoinder (Boltz 2) Boltz repeatedly uses the ploy of changing subjects to circumvent the issue of his fabrication and distortion.

In his review, Boltz faults the book's bibliography for not including Graham's book which he claims as offering the best "representation of the Legalist thought in English" and hence accuses the book of "showing little familiarity with earlier studies" (Boltz 1). When I point out that though it is a good book, its 25-page treatment of this school is not the best treatment of this topic when compared with

other works, instead of admitting that his claims and accusations are without merit, Boltz skirts the issue and names Vandermeersch's book (Boltz 2) to skirt the issues of his distortion and unfamiliarity with earlier studies.

In his review Boltz accuses the book because "there is nothing new here at all" (Boltz 1). It is pointed out that the book, aside from introducing the Legalists's life, works and thought, discusses their impact on China's political development, institution building, and political culture from the imperial era to the present; in terms of Chinese politics their influence was even more important than that of the Confucians; the congruence of Legalist tenets with modern Marxism-Leninism; their attitude towards the common people as human chattel; their proposed political institutions as the earliest version of totalitarianism; the nationwide campaign endorsed by Mao to promote the Legalists during the period from 1973 to 1976; etc, which are some of the themes of the book that have either never been treated or neglected by most other books which have reference to the Legalists. Instead of admitting his claim that the book "offer[s] nothing new" is a malicious misrepresentation he changes the subject and now argues "I am not certain that exclusivity in writing a book about the "Legalists" is a virtue" (Boltz 2).

6. Boltz criticizes the book's bibliography for including five specific books because "some of this finds no mention in the book at all" (Boltz 1). It is pointed out that contrary to his distortion all the five books listed by him are mentioned and quoted, and therefore should be included in the bibliography in accordance with basic norms of professional decency. Now Boltz again skirts the issue by admitting his "wording in the review was careless" but changes the issue whether these should be included in the bibliography. He now claims that these should not even be cited because these references are of "superficially passing kind" (Boltz 2).

On what basis does Boltz conclude that the references are superficial? In a moment of unguarded candor Boltz admits that he still has "not found the Weber discussion" but "don't doubt that it is there, in a few lines, somewhere" (Boltz 2). Yet Boltz is confident to assert that the reference to Weber "contribute next to nothing of substance" (Boltz 2) even though he does not know how and where Weber is referred. This clearly demonstrates that when Boltz makes unsubstantiated allegations both in the review and in the rejoinder, they are wholly based on his imagination and fabrication. (I am sure Boltz will now concoct some ad hoc justification.)

The fact that he wrote his review without finish reading the book is also revealed by his own words: "I have overlooked the statement in the preface" (Boltz 2). They show Boltz did not even fulfill the minimal responsibility of a reviewer: finish reading the book.

7. In the review Boltz repeatedly uses the ploy of quoting two or three sentences from the book out of context and suggests that these are all what it has to say about a subject when, in fact, the book has much more to elaborate (Boltz 1). When this is pointed out, Boltz again changes the original allegation to justify his magic act of vanishing the rabbits. He now admits he "did pass over all these specific topics [on statecraft] in silence" solely because it consists of 15 topics in "only twenty-five pages of his book" (Boltz 2). This is like saying 'Probably I am not totally truthful when I say there is nothing more. But what's the big deal, these are only 25 pages.' Yet if length is the criteria, why does he praise a 25-page length discussion as "the best presentation of the Legalist school" (Boltz 1)?

8. In Boltz's review he accuses the book's depiction of the Legalist "utopia" as "outlandish" (Boltz 1). When it is pointed out that based on the Legalist texts there

is nothing outlandish to depict their ideal social order as one where the ruler is high up in Heaven and the persecuted dissidents and heretics punished in Hell, Boltz now suggests that comparing their suffering to Hell is “Danteësque” and that these victims of political persecution should be more properly compared with “toadying and sycophant ministers and scholars” (Boltz 2). Boltz’s analogy reminds one of China’s Cultural Revolution when the burning of books and burying alive of Confucian scholars by Emperor Qin Shihuang was hailed by the Maoist ideologues as “revolutionary action against the reactionaries.” Boltz’s argument is similar to the defenders of totalitarian regimes who object to analogizing Auschwitz and Kolyma with Hell, but then compare the victims of the Nazi holocaust to Goebbels, and equate political prisoners in Stalin’s Gulag to Beria. Boltz’s analogy is not Danteësque but Orwellian.

Now that Boltz reveals he has read the book’s preface, he must be aware that the author was a political prisoner during the Mao era. I can assure him that I have never been considered “politically correct” or worthy to have the honor of being appointed as a Party commissar, if that is what he wants to imply by making such a truly outlandish and asinine analogy.

There is nothing “outlandish” to compare the suffering and torture experienced by the victims, whether in Emperor Qin Shihuang’s prison or Hitler’s Auschwitz, to Hell. Anyone who has any rudimentary knowledge of Chinese penal history knows that the various form of penal punishment invented and used by the ancient Legalists and rulers were indeed somewhat Danteësque. I suggest Boltz should finish reading the book where some forms of such penal punishment are mentioned.

9. Boltz quotes from the book: “The Legalists . . . believed that human nature is evil.” Then he argues: “nowhere does Han Fei say ‘human nature is evil’ . . . Shang Yang does not say human nature is ‘evil’ nor does Shen Buhai, nor does any other ‘Legalist’” (Boltz 2). This argument is inane. It is like accusing some scholars for saying “the Legalists were Realists” because nowhere in the ancient texts appear the term “Realist.” Yet, from the Legalists texts it is quite clear that they had a very low regard of human nature and they were “Realist” though they did not use exactly the same terms. All these are well documented in the book based on the texts of *Han Fei Zi*, *Shangjun shu*, *Shen Buhai*, and others. Boltz also criticized the book for not mentioning Xun Zi. If he cares to finish reading the book, he will find on p. 29: “Xun Zi’s insistence that ‘human nature is evil’ (Xun Zi, chap. 23) also left a great impression on his two disciples.” May I remind Boltz that these two happened to be Han Fei and Li Si.

11. Boltz faults the book for identifying China’s ancient Legalists as totalitarians. He writes: “Totalitarianism is, properly understood, a phenomenon of the modern world, a term and concept defined entirely by twentieth century events” (Boltz 2). This shows Boltz’s apparent ignorance of the concept “totalitarianism” and little familiarity with earlier studies. If Boltz had finished reading the book, he would have found a ready answer on pp. 152–53 to his ill-informed assertion:

For modern Western civilization, twentieth-century totalitarianism has been a novel phenomenon and experience. Yet most elements of the idea, practice, and institution of the totalitarian social order were already formulated in ancient pre-Qin China. . . . Many Western scholars were also aware of totalitarian elements in the pre-modern world many decades ago. As Karl Popper observed: “That what we call nowadays totalitarianism belongs to a tradition which is just as old or just as young as our civilization itself” (Popper 1962, vol. 1, 1). Barrington Moore identified key features of the totalitarian complex not only in the traditional Chinese Qin dynasty and other

dynasties, but also in other premodern non-Western civilizations (Moore 1958, chap. 2; 1966, 205–7, 260–61).

Probably Boltz will again change the subject and now accuse the book of making references to the works of Popper and Moore because these “are of only the most superficially passing kind” (Boltz 2). Even if these references are only a few lines, they are nonetheless good refutations against uninformed and gratuitous assertions.

12. Boltz first charges that the book has no conclusion. When I point out that “in fact, there are quite a few conclusions . . . Probably Boltz did not read the book or . . . they offended his sensibility of political correctness,” Boltz confirms my suspicion by countering that even if there are conclusions they “are glib superficialities” (Boltz 2). This is like saying: ‘Yes, perhaps I am not honest when I say the book has no conclusion. But so what, I simply don’t like these conclusions.’ This is the first time I have seen a reviewer openly justifying his distortion by proclaiming whatever in a book he disapproves should be consigned to oblivion and should never exist. A repeat magic act of vanishing the rabbits.

Based on the above, one can conclude that Boltz has now become addicted to the act of distortion. He has also added the acts of transforming rabbits into frogs and vanishing the rabbits in his repertoire of magic tricks. I am waiting expectantly to watch more of Dr. William G. Boltz’s performance of magic acts worthy of the great Houdini.

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