

exchange between the Tang, the Song, and the Ming? A very brief history would no doubt have helped to know more about the novelties created by the Ming.

Puk later lists attempts of the Qing to attain higher revenue, like various “para-taxes,” surcharges, fees, taxes, or (extorted) contributions (p. 5) and in some cases anticipates the financial development of the late nineteenth and the twentieth centuries. The “ultimate” solution of the financial problem of the Qing, the *likin/lijin* 釐金 tax, could well have been part of this list.

Finally, when speaking about a “public debt” market, this includes the story of the speculation with salt certificates. Puk follows a number of publications that contrast Great Britain’s success in establishing a system for public debt with the absence of government debt in China, and therefore discusses banking institutions. The speculation case would have given Puk another option to argue for the different shape of capitalism (he only marginally touches the issues of discounting bills of exchange, different modes of bookkeeping and accounting, and stock exchanges on pp. 168–69). As could be seen, people (the notorious “hoarders”) did indeed speculate, but the 1617 deal ended the game by abolishing the institutions. Not only did the government not support banks, but it made the trade with certificates, bills, options, bonds, etc. impossible. Also the trade with credit instruments was non-existent in China, in contrast to Europe, where the first bubble made its appearance as soon as 1720. Some words in this direction would certainly not have overloaded Wing-kin Puk’s rather short book.

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The Shenzi Fragments: A Philosophical Analysis and Translation. By Eirik Lang Harris. Translations from the Asian Classics. New York: Columbia University Press, 2016. Pp. xv + 173. \$55.00.

Eirik Lang Harris is to be commended for publishing the first complete English translation of the extant fragments of an important classical Chinese text, *Shenzi* 慎子 (*Master Shen*), attributed to Shen Dao 慎到 (b. c. 360 b.c.). P. M. Thompson’s pioneering study of the fragments and their history (preface dated 1974, but not published until 1979)¹ sadly provoked little scholarly response until the present

¹ P. M. Thompson, *The Shen Tzu Fragments*, London Oriental Series 29 (Oxford: Oxford University Press, 1979).

century. Thompson's dissertation (1970) had included a complete translation of the fragments, but regrettably they were omitted in the published version.² Harris follows Thompson's organization of the fragments and supplies a completely new translation, preceded by an extended and insightful analysis of their philosophical significance. Having recently complained that the *Shenzi* fragments have not received due attention,³ I am glad that they are finally the subject of a book-length study and translation.

Harris's reconstruction of Shen Dao's philosophy is based on the evidence of the *Shenzi* fragments rather than the scattered references to his ideas to be found in classical literature (such as *Zhuangzi* 莊子). (I have long suspected that the name "Master Shen" in such sources could refer to more than one person.) He does not reopen the question of authorship, accepting Thompson's text-critical work *in toto*, but it is worth pointing out that if *Shenzi* was written by Shen Dao, as Harris's exposition effectively assumes, it would have to be regarded as one of the oldest single-authored works in Chinese history—perhaps the very oldest. The implications would have been worthy of reflection. Harris's disclaimer is inadequate:

When I use the names of individuals, it is shorthand for referring to the ideas of these individuals as expressed in the texts that bear their name and is not a claim that these individuals were the actual authors of these texts. (p. 143, n. 1)

But the name "Shen Dao" is no shorter than the title *Shenzi*, and it is methodologically much weaker. If Harris is really talking about the *Shenzi* fragments and not necessarily a philosopher named Shen Dao, his language should reflect this more transparently. (In Chinese, this is the distinction between *Shenzi qishu* 慎子其書 and *Shenzi qiren* 慎子其人: we possess fragments of *qishu*, but very limited and indeed contradictory information about *qiren*.) I am aware that philosophers tend not to think much hangs on this distinction—but historians do. In order to demonstrate that speaking more accurately of *Shenzi* rather than Shen Dao does not require any prolixity, I shall refer below to *Shenzi* where Harris would have said "Shen Dao."

Harris begins by observing that the conception of Heaven (*tian* 天) in *Shenzi* is like that of *Laozi* 老子 (p. 13), though I think the essentials apply at least as plausibly to *Xunzi* 荀子: Heaven does not intervene in human affairs, but abides by regular patterns that can be discerned and then exploited. Again like *Xunzi*, *Shenzi* claims that we pursue knowledge not for its own sake, but in order to take advantage of natural patterns (pp. 14ff.).

² Paul Mulligan Thompson, "The *Shen Tzu* Fragments" (Ph.D. diss., University of Washington, 1970).

³ Paul R. Goldin, "Persistent Misconceptions about Chinese 'Legalism,'" *Journal of Chinese Philosophy* 38, no. 1 (March 2011), pp. 98–99. Harris does not cite this article.

One of the immutable realities of the world is that human beings are naturally self-interested. Trying to alter this disposition (*qing* 情) would be as foolish as trying to alter the nature of water. Thus the ruler is forced to establish material incentives for his subjects to serve him (pp. 21–28). Unlike *Xunzi*, *Shenzi* does not recommend a programme of moral self-cultivation, which would be fruitless (p. 25). In this respect, readers may have already noticed, *Shenzi* resembles *Han Feizi* 韓非子 (cf. p. 83).

Shenzi proposes a method of dealing with self-interested subjects called *fa* 法, which Harris misleadingly translates as “[the] law.” This choice is surprising, because he understands both the origin and broader senses of the term:

This term has a long history in Chinese texts, and its originally meaning referred broadly to a “model,” but as time passed, it was often also used in a more narrow fashion, referring to the standards or laws instituted by the ruler. (p. 46)

As I have explained elsewhere,⁴ *fa* denotes *impersonal administrative techniques*, especially techniques designed to determine rewards and punishments according to a subject’s true merit (rather than, say, his virtue, reputation, eloquence, intimacy with the ruler, or physical beauty). In Chinese scholarship since Hu Shi 胡適 (1891–1962),⁵ *fa* is often called an “objective standard” (*keguan biao zhun* 客觀標準 or *keguan zhunze* 客觀準則), and at one point in his analysis Harris himself uses the phrase “a fixed set of standards” (p. 35). *Fa* can certainly include laws, but usually it does not, and, notably, it is not one of the common early Chinese terms for legislation, which include *lü* 律 (statute), *ling* 令 (ordinance), *xing* 刑 (penal law), and so on.⁶

⁴ Ibid., pp. 91ff. Cf. also Soon-ja Yang, “Shen Dao’s Theory of *fa* and His Influence on Han Fei,” in *Dao Companion to the Philosophy of Han Fei*, ed. Paul R. Goldin, Dao Companions to Chinese Philosophy 2 (Dordrecht, Netherlands: Springer, 2013), pp. 47–63.

⁵ See his *Zhongguo zhhexueshi dagang* 中國哲學史大綱, *Minguo xueshu jingdian wenku* 民國學術經典文庫 (Beijing: Dongfang chubanshe, 1996), p. 287: “What the *fajia* advocated was not using laws and punishments to govern the state; what they meant by *fa* was a *fa* of objective standards” 法家所主張的，並不是用刑罰治國。他們所說的「法」，乃是一種客觀的標準法。(Earlier in his discussion, p. 279, Hu expressed doubts about the value of the term *fajia*.) This understanding is still frequently echoed: e.g., Xia Yong 夏勇, “Yiwang de wenming—Chongxin renshi gudai Zhongguo de fazhi sixiang” 遺忘的文明——重新認識古代中國的法治思想, *Qinghua fazhi lunheng* 清華法治論衡, 2006, no. 1, p. 23; and Chen Hongyi 陳弘毅 [Albert Chen Hung-ye], *Falixue de shijie* 法理學的世界, *Falü wenhua yanjiu zhongxin wengong* 法律文化研究中心文叢 (Beijing: Zhongguo zhengfa daxue chubanshe, 2003), pp. 154ff.

⁶ For an authoritative review of such terminology, see Anthony J. Barbieri-Low and Robin D. S. Yates, *Law, State, and Society in Early Imperial China: A Study with Critical Edition and Translation of the Legal Texts from Zhangjiashan Tomb No. 247*, *Sinica Leidensia* 126 (Leiden: Brill, 2015), vol. 1, pp. 68–88.

There are, to be sure, important instances where the *Shenzi* fragments do use *fa* in the sense of “law,” and the highpoint of Harris’s book is his solution to a problem that has long troubled readers: how can *Shenzi* say that even a bad law is better than no law (Fragment 23), which sounds like legal positivism, *and also* that lords and chiefs ought to modulate laws in accordance with the Way (Fragment 79), which sounds like natural law theory? Harris’s convincing response is that although the ruler is the source of law, and therefore anything he promulgates must count as law, “*maximally effective laws* will be those that accord with the Way” (p. 54, emphasis added). He also notes that changing situations, such as technological innovations (Fragment 119) or climate change (a modern example), can necessitate changes in the law in order to keep it in accord with the Way (p. 55). One could add that if the *Shenzi* fragments seem inconsistent on this point, it may be precisely because they are fragments: if the original text advanced a larger, more coherent argument about the source of law, we simply do not have access to it.

After this philosophical overview, Harris examines references, both direct and implied, to Shen Dao in classical philosophical texts. The strongest of these discussions is “Shen Dao in the *Xunzi*” (pp. 73–83), where he formulates the conflict as one of emphasis on procedures vs. people, respectively. (In Chinese, one would call this *fazhi* 法治 vs. *renzhi* 人治, but Harris does not make this move.) *Shenzi* repeatedly asserts that trying to rely on the right people is a hopeless approach to government, both because they are self-interested and because they have limited talent, whereas *Xunzi* holds that the government of the Sage King will transcend that of any impersonal administrative procedures, and Confucians (*ru* 儒) are uniquely suited to government service (as in the “Ruxiao” 儒效 chapter).⁷

The translation itself is in the main readable and reliable, and, as stated at the beginning of this review, Harris deserves applause for finally making this rich material available to readers of English. Yet he does not always surpass Thompson’s unpublished translation; on occasion, I had to wonder whether he even consulted it.⁸

⁷ The weakest section in this part of the book is “Shen Dao in the *Huainanzi*” (pp. 96–101), which focuses almost entirely on the “Zhushu” 主術 chapter, and the passages that Harris discusses do not self-evidently refer to Shen Dao. He misses one patent allusion to *Shenzi* (Fragment 111) in this chapter, which I pointed out in *After Confucius: Studies in Early Chinese Philosophy* (Honolulu, HI: University of Hawai‘i Press, 2005), p. 199, n. 18. This is another publication of mine that Harris should have cited, because of my argument that the chapter is an extended reflection on Shen Buhai 申不害 (d. 337 b.c.) rather than Shen Dao (as the very title “Zhushu” implies).

⁸ Harris seems to have used John Emerson’s recent e-book, *Shen Dao: Text, Translation, and Study*, 2nd ed. (N.p.: Éditions Le Real, 2013), as a proxy for Thompson’s translation, with
(Continued on next page)

For one particularly infelicitous example, take Fragments 61–65, for which there happen to be three other available English translations: in addition to that of Thompson, Soon-ja Yang and I published similar but distinct translations in the same volume in 2013.⁹

First, the Chinese text:

君人者舍法而以身治，則誅賞、奪與從君心出矣。然則受賞者雖當，望多無窮；受罰者雖當，望輕無已。君舍法而以心裁輕重，則是同功殊賞，同罪殊罰也，怨之所由生也。是以分馬者之用策、分田者之用鈎也，非以鈎策為過人智也，所以去私塞怨也。故曰：「大君任法而弗躬為，則事斷於法矣。」法之所加，各以其分蒙其賞罰，而無望於君也。是以怨不生而上下和矣。

Harris's translation:

When the lord of the people abandons the law and relies on himself to govern, then punishments and rewards as well as firings and hirings will arise out of the lord's heart. If this is the case, then those who receive rewards, even if appropriate, will always expect more, and those who receive punishments, even if appropriate, will ceaselessly expect leniency. When the lord abandons the law and relies on his heart to make judgments about severity, then the same accomplishments will have different rewards while the same crimes will receive different punishments. It is from this that resentment arises. Thus, those who apportion horses draw lots, while those who apportion fields cast coins. It is not because coins or lots are wiser than men, but rather they are the means by which to get rid of private interests and block resentment. Therefore it is said,

Since a great lord employs the laws and does not personally act, affairs are decided by the law.

That which the law confers is such that each by means of its divisions receives their rewards and punishments and none expect [anything different] from their lord. Therefore, resentment does not arise and there is harmony between superior and subjects. (p. 120)

(Note 8—Continued)

the rationale that it “is based on the version in Thompson's dissertation” (p. 141, n. 16). But Emerson's translation is not identical, and where the two differ, I tend to prefer Thompson's original.

⁹ Soon-ja Yang, “Shen Dao's Theory of *fa* and His Influence on Han Fei,” p. 50; Paul R. Goldin, “Introduction,” in *Dao Companion to the Philosophy of Han Fei*, pp. 11–12.

Not to belabour the point, but this passage is a good example of the inadequacy of “law” for *fa*. The text is talking about the criteria that the lord should apply in rewarding or punishing his subjects. That is not the same thing as legislation.

More specifically, Harris’s “firings and hirings” is incorrect for *duoyu* 奪與, which Thompson handled adroitly in both his dissertation and his published book: “seizures and grants.”¹⁰ Next, “It is not because coins or lots are wiser than men . . .” reflects a misunderstanding of the grammar. The original Chinese is framed as an *yi* 以 . . . *wei* 為 . . . construction (negated by *fei* 非): *fei yi gouce wei guo renzhi ye* 非以鉤策為過人智也. Thus *yi* has to be construed in its full verbal sense of “to take, to consider,” and the sentence means: “It is not that they *consider* coins and lots to surpass human wisdom.”¹¹ Finally, the sentence “That which the law confers is such that each by means of its divisions receives their rewards and punishments and none expect [anything different] from their lord” contains two solecisms in English (“each” and “none” both take the singular, not the plural)¹² as well as a misunderstanding of the Chinese. The phrase *yifen* 以分 refers not to the “divisions” of *fa* (a bizarre notion), but to each subject’s due *allotment*. Thus a cleaner and more accurate translation of the sentence would be: “The benefit of *fa* is that each person meets his reward or punishment according to his due, and there are no further expectations of the lord,” as I wrote in 2013.

These strictures need to be balanced with the acknowledgement that I will seriously consider adopting this book the next time I teach my seminar on classical Chinese thought. Yes, I will have to explain to the class why “law” is an unsatisfactory translation of *fa*, and occasionally I will have to point out other inaccuracies. But Harris’s philosophical analysis is sound, and it will be eye-opening for English-speaking students to see a first-rate example of classical Chinese political thought beyond *Han Feizi*. Let us be honest: a book that you can safely assign to undergraduates is all too rare, and this one meets that standard (*fa*).

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¹⁰ “The *Shen Tzu* Fragments,” pp. 221 and 540; *The Shen Tzu Fragments*, p. 152.

¹¹ To be fair: both Thompson, “The *Shen Tzu* Fragments,” p. 540; and Yang, p. 50, made the same mistake.

¹² It does not reflect well on the press that the copy-editor failed to catch this. In the same vein, the copy-editor should have corrected every incorrect use of the phrase “as such,” which Harris evidently misunderstands as a synonym for “thus” or “therefore.”