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**FROM LORD SHANG TO DEMOCRACY WALL**  
**A SELECT ANNOTATED BIBLIOGRAPHY EXPLORING 3,000 YEARS**  
**OF CHINESE LEGAL HISTORY—IN ENGLISH\***

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This is an incomplete draft of a book-in-progress. It was prepared solely for presentation at the 49<sup>th</sup> annual conference of the American Association for Chinese Studies held at the University of Richmond, October 5-7, 2007, and posting on the Association's website at <http://www.cuny.cuny.edu/aacs/>. The author welcomes questions, comments, and suggestions. Please feel free to e-mail him at [rsturgeon@tourolaw.edu](mailto:rsturgeon@tourolaw.edu) and [roylsturgeon@yahoo.com](mailto:roylsturgeon@yahoo.com).

# *Contents*

*Contents*  
*Acknowledgments*  
*Preface*  
*Abbreviations*  
*Illustrations*

## I

### The Imperial Age, c. 1045 BCE-CE 1911 Rule by Man and Law

- 1 Zhou (Chou) Dynasty through Warring States Era, c. 1045-221 BCE
- 2 Qin (Ch'in) Dynasty, 221-206 BCE
- 3 Han Dynasty, c. 206/202 BCE-CE 220
- 4 Wei, Jin, and Nan-Bei Chao Dynasties, 220-589
- 5 Tang (T'ang) Dynasty, 618-907
- 6 Song (Sung) Dynasty, 960-1279
- 7 Yüan (Mongol) Dynasty, 1279-1368
- 8 Ming Dynasty, 1368-1644
- 9 Qing (Ch'ing, Manchu) Dynasty, 1644-1911

## II

### The Modern Age, 1911-present Searching for the Rule of Law

- 10 Republic of China, 1911-49
- 11 Republic of China (on Taiwan Island/Province), 1949-present
- 12 People's Republic of China (Mainland), 1949-present
- 13 Works Covering More than Two Regimes or of a General Nature

*Index of Authors*  
*Index of Book, Article, and Other Titles*  
*About the Author*

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Touro College Jacob D. Fuchsberg Law Center for providing me financial support in October 2007 to attend the AACCS conference.

## *Preface*

I began researching and writing what became this book-in-progress in early 2005, when I knew almost nothing about Chinese legal history and desired to learn more. I looked for annotated bibliographies and research guides on the subject in English. All I found were a few on the modern age, especially Communist China. What about the previous 3,000 years of verifiable Chinese legal history? How could someone curious about the totality of Chinese legal history (or at least parts of pre-modern and non-Communist Chinese legal history) easily and thoroughly find books, journal articles, and other materials? Little did I suspect back then that I would try to write a book to satisfy my curiosity and, I hope, the curiosity of others.

*From Lord Shang to Democracy Wall: A Select Annotated Bibliography Exploring 3,000 Years of Chinese Legal History—in English* has two parts: imperial and modern. Imperial coverage starts with the Zhou dynasty 3,000 years ago and ends with the fall of the Qing dynasty early last century. Modern coverage starts in 1911 with Republican China (pre- and post-1949) and continues with Communist China, both up to 1982. [Late Qing and modern Hong Kong and Macau are omitted because they were European colonies until the late 1990s. Taiwan and Tibet, however, are not omitted because the Chinese exercised sovereignty—albeit disputed and interrupted.] Thirteen chapters correspond chronologically with the major imperial and modern regimes. Altogether, they will contain around 300 descriptive annotations of, in order of importance, (1) books, (2) journal articles, (3) book chapters, and (4) dissertations written in English or translated into English on China’s fascinating heritage of legal philosophy, codes, cases, and controversies. My bibliography aims to be nearly exhaustive regarding books, but less so regarding the other materials. Journal articles and book chapters that are at least 20 pages long were chosen for annotation over shorter ones, which are still included for the reader’s convenience. And only commercially unpublished dissertations written in the last 20 years are included. Items chosen for inclusion were either written before 1982 or later about the pre-1982 period and published anywhere through 2007. Generally, they are also mostly about law, whether Chinese, China’s international practice, or extraterritoriality in China. Some citations to book reviews as well as tributes to and obituaries of notable scholars have been added. More will be later along with illustrations, chapter introductions, and indexes. To my knowledge, nothing like this book-in-progress has been done before in English (or perhaps even in Chinese). It will, therefore, fill a gap in the literature and prove immensely useful to students, historians, librarians, legal scholars, practicing attorneys, and judges at the dawn of what many are calling the “Chinese century.” Since China has the world’s oldest living civilization, anyone trying to make sense of contemporary Chinese law and foresee the direction of its future growth should first study China’s legal tradition to learn about the past’s influence on the present. This book-in-progress will be a timely and versatile tool to help get people started on that journey. Completion is expected by 2011—coinciding with a historic centennial year in China—and publication by a university or law press soon after.

## *Abbreviations*

To eliminate repetition of full publisher and journal names cited multiple times, abbreviations are used. For publishers, they are as follows:

CA – China Academy  
CIP – China Intercontinental Press  
ChUP – Chinese University Press  
CmUP – Cambridge University Press  
CoUP – Columbia University Press  
CwPC – Ch’eng-wen Publishing Company  
EALSP, HLS – East Asian Legal Studies Program, Harvard Law School  
EJB – E.J. Brill  
EWCP – East-West Center Press  
FLP – Foreign Languages Press  
HKUP – Hong Kong University Press  
HUP – Harvard University Press  
IACSR, NAC, CUHK – Institute of Advanced Chinese Studies and Research, New Asia  
College, Chinese University of Hong Kong  
MN – Martinus Nijhoff  
NYUP – New York University Press  
OUP – Oxford University Press  
PUP – Princeton University Press  
SOAS – School of Oriental and African Studies  
SUNYP – State University of New York Press  
SUP – Stanford University Press  
UCaP – University of California Press  
UChP – University of Chicago Press  
UHP – University of Hawaii Press  
UMSL – University of Maryland School of Law  
UPH – University Press of Hawaii  
UWP – University of Washington Press  
YUP – Yale University Press

And for journals, they are as follows:

*AJCA* – Australian Journal of Chinese Affairs  
*AJCL* – American Journal of Comparative Law  
*AJIL* – American Journal of International Law  
*AJLH* – American Journal of Legal History  
*AM* [n.s., 3.s.] – Asia Major [new series, 3<sup>rd</sup> series]  
*AO* – Archiv Orientalni  
*BCAR* – British Columbia Asian Review  
*CC* – Chinese Culture  
*CJ* – China Journal

*CJAL* – Columbia Journal of Asian Law  
*CaLR* – California Law Review  
*ChLR* – China Law Reporter  
*CQ* – China Quarterly  
*CYILA* – Chinese (Taiwan) Yearbook of International Law and Affairs  
*EC* – Early China  
*EMC* – Early Modern China  
*HICLR* – Hastings International and Comparative Law Review  
*HJAS* – Harvard Journal of Asiatic Studies  
*HKLJ* – Hong Kong Law Journal  
*HLR* – Harvard Law Review  
*JAH* – Journal of Asian History  
*JALH* – Journal of Asian Legal History  
*JAOS* – Journal of the American Oriental Society  
*JAS* – Journal of Asian Studies  
*JCL* – Journal of Chinese Law  
*JCLC* – Journal of Criminal Law and Criminology  
*JCP* – Journal of Chinese Philosophy  
*JSYS* – Journal of Song-Yuan Studies  
*LHR* – Law and History Review  
*LIC* – Late Imperial China  
*LPBR* – Law and Politics Book Review  
*MC* – Modern China  
*MS* – Ming Studies  
*MSJOS* – Monumenta Serica, Journal of Oriental Studies  
*NYRB* – New York Review of Books  
*PEW* – Philosophy East and West  
*RSL* – Review of Socialist Law  
*THJCS* [n.s.] – Tsing Hua Journal of Chinese Studies [new series]  
*TLR* – Tulane Law Review  
*TP* – T'oung Pao  
*UPLR* – University of Pennsylvania Law Review  
*WLR* – Washington Law Review  
*WUGSLR* – Washington University Global Studies Law Review  
*WULQ* – Washington University Law Quarterly  
*YLJ* – Yale Law Journal

## *Illustrations*

I am still determining their content and quantity. I plan to choose 15-20 drawings, maps, and photographs and will talk more about this at the conference.

*I*

*The Imperial Age, c. 1045 BCE-CE 1911*

*Rule by Man and Law*



*Zhou (Chou) Dynasty through Warring States Era,  
c. 1045-221 BCE*

¶ [Briefly discuss law in the Zhou dynasty through Warring States era.]

Ames, Roger T. "Fa (Penal Law)." In *The Art of Rulership: A Study of Ancient Chinese Political Thought*. Albany: SUNYP, 1994: 108-41.

Chang, Chi-yun. "Confucius' Philosophy of Law." *Chinese Culture* 22.3 (1981): ?

Chang, Wejen. *Traditional Chinese Jurisprudence: Legal Thought of Pre-Qin Thinkers*. Ten lectures delivered at Harvard Law School 1990 [and later published in the *Taiwan University Law Journal*]. Additional publication information unavailable.

This book introduces answers offered by the eight most important ancient Chinese thinkers—Confucius, Mo Tzu, Lao Tzu, Chuang Tzu, Mencius, Hsun Tzu, Shang Yang, and Han Fei Tzu—to universal legal questions faced by every civilization. Why does a society need law and authority? What is the relationship among the authorities, the individual, and various social organizations? Who are to make laws and exercise authority? What makes a rule a law instead of an order or a moral precept? What are the connections between law and other norms? Who are to enforce laws and with what means? And what are the limitations to the legislative, judicial, and law-enforcement powers? Each lecture is approximately 20 pages long and followed by notes in Chinese.

Chen, En-cheng. "Han Fei's Principle of Government by Law." In *Chinese Philosophy, Vol. I: Confucianism and Other Schools*. Y.C. Koo et al. Taipei, Taiwan: CA, 1974: **225-37**.

Cook, Scott. "The Debate over Coercive Rulership and the 'Human Way' in Light of Recently Excavated Warring States Texts." *HJAS* 64.2 (Dec. 2004): 399-440.

This article aims to expand upon previous studies by describing in detail the path along which the argument over "virtue" versus "coercion" developed from the early years of the Warring States period until the onset of unification by the Qin. The recent re-discovery of ancient texts help bring this debate into sharper focus. The first part of the article discusses how these texts make the argument against coercive order and in favor of rulership through ritual and musical education (i.e., the human way). The second and final part further describes how this argument and its associated terminology influenced subsequent development of this debate in the later Warring States period and beyond.

Creel, Herrlee G. "Legal Institutions and Procedures during the Chou Dynasty." In *Essays on China's Legal Tradition*. Jerome A. Cohen et al., eds. Princeton: PUP, 1980: 26-55.

This essay searches the extant records of China's earliest verifiable civilization for the development of legal institutions. As early as 3,000 years ago Chinese were making contracts, litigating disputes,

and enlisting others as advocates of their causes. Creel shows the impressive continuity of certain Chinese legal language throughout the millennia. He challenges the view that China lacked promulgated laws until the 6<sup>th</sup> century BCE and that Chou rulers sought to keep their laws secret. And he also disagrees with scholars who have attributed the introduction of principles of social inequality into the laws of the Han dynasty to Confucianism. "A great deal of research remains to be done before we can thoroughly understand the history of legal institutions and procedures during the Chou dynasty. It is clear, however, that in many ways they differed considerably from those existing in Han times and later" (p. 47).

\* Reviewed in *AJCL* 30.3 (Summer 1982): 555-63.

———. *Shen Pu-hai: A Chinese Political Philosopher of the Fourth Century B.C.* Chicago: UChP, 1974.

\* Reviewed in *JAS* 36 (1976): 123-24.

———. *The Origins of Statecraft in China, Volume I: The Western Chou Empire.* Chicago: UChP, 1970.

———. "The Totalitarianism of the Legalists." In *Chinese Thought, from Confucius to Mao Tsê-tung*. Chicago: UChP, 1953: 135-58.

Dai, Shen-yu. "The Confucian Philosophy of Music: A Theory in Jurisprudence." In *Chinese Philosophy, Vol. I: Confucianism and Other Schools*. Y.C. Koo et al. Taipei, Taiwan: CA, 1974: **49-64**.

Csikszentmihalyi, Mark. "Severity and Lenience: Divination and Law in Early China." *Extrême-Orient, Extrême-Occident* 21 (1999): **111-30**.

Duyvendak, J.J.L., trans. *The Book of Lord Shang: A Classic of the Chinese School of Law*. Chicago: UChP, 1963.

This book is the first complete translation in any language of one of the major surviving classics of the ancient Chinese school of philosophy called Legalism (or the School of Law). The first part contains a lengthy introduction (pp. 1-163) by Duyvendak that discusses Lord Shang—aka Shang Yang—in history, as a social reformer, the book bearing his name (probably a compilation of Legalist writings put together by disciples after his violent death in 338 BCE), the Legalists, and the text of the Book itself. The remainder (pp. 167-335) is an annotated translation of the 24 extant chapters, or paragraphs as the translator calls them. Five others have been lost over the millennia. The Book's main purpose is to instruct rulers on how to keep power. And the best way to do this is to adopt and strictly enforce a clear, comprehensive, and public body of law.

\* Obituary by Piet van der Loon, *AM* [n.s.] 5.1 (1955): 1-4, available without charge at <http://www.ihp.sinica.edu.tw/~asiamajor/> (last accessed Sep. 2007).

Fu, Zhengyuan. *China's Legalists: The Earliest Totalitarians and the Art of Ruling*. Armonk: M.E. Sharpe, 1996.

Fung, Yu-lan. "Han Fei Tzū and the Other Legalists." In *A History of Chinese Philosophy: Volume I, The Period of the Philosophers (from the beginning to circa 100 B.C.)*. 2<sup>nd</sup> English ed. Derk Bodde, trans. Princeton: PUP, 1952: 312-36.

Fung is widely considered to have been the leading historian of Chinese philosophy and perhaps the most outstanding Chinese philosopher of last century. Included in his landmark two-volume history first published in the 1930s is a chapter on Legalism. Unlike their Confucian, Taoist, and Mohist rivals that discussed government from the people's perspective, Legalists discussed government entirely from the ruler's perspective. This chapter examines, among other things, the importance of law to Legalists, strictures in rewards and punishments, and the evilness of human nature. His analysis features many quotations from original sources.

Gale, Esson M. "Discourses on Salt and Iron (Yen T'ieh Lun: Chap. XX-XXVIII)." *Journal of the North China Branch of the Royal Asiatic Society* 65 (1934): 73-110.

———. *Discourses on Salt and Iron: A Debate on State Control of Commerce and Industry in Ancient China, Chapter I-XXVIII*. Leiden, Netherlands: EJB, 1931.

Haloun, G. "Legalist Fragments, Part I: Kuan-tsi 55 and Related Texts." *AM* [n.s.] 2.1 (1951): 85-120. Available without charge at <http://www.ihp.sinica.edu.tw/~asiamajor/> (last accessed Sep. 2007).

Lewis, Mark E. *Sanctioned Violence in Early China*. Albany: SUNYP, 1990.

Liao, W.K., trans. *The Complete Works of Han Fei Tzū*. 2 vols. Vol. I: A Classic of Chinese Legalism and Vol. II.: A Classic of Chinese Political Science. London, England: Probsthain, 1939 and 1959.

This set is the first translation of Han Fei Tzū's complete writings into a Western language based on the best Chinese text and commentaries assembled by Chinese and Japanese scholars in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries. Volume I contains a preface and methodological introduction by Liao, Ssū-ma Ch'ien's biography of Han Fei Tzū, a preface and foreword to "The Complete Works of Han Fei Tzū with Collected Commentaries" by Wang Hsien-ch'ien from the late 1890s, and books 1-9 comprising chapters 1-30. Volume II contains a foreword, books 10-20 comprising chapters 31-55, and an index. "The present translation of Han Fei Tzū's work has been worked out principally in view of the author's philosophy in general and political and legal thought in particular. Though etymological problems are not ignored at all, yet have I always seen to it that attention to words does not lead to distraction from thought. It is the author's thought that I have intended to restate intelligibly in English, but it is the Chinese native color that I have expected to preserve as faithfully as possible. Between the horns of this dilemma I have groped towards the realization of this work" (vol. I, p. xxv).

Li, Yu-ning, ed. *Shang Yang's Reforms and State Control in China*. White Plains: M.E. Sharpe, 1977.

This book is an English translation of a work originally written in Chinese by Yang K'uan and published in Shanghai near the end of the Cultural Revolution. It discusses the age in which Shang Yang (aka Lord Shang) was born, his arrival in the state of Ch'in and his struggle with the old

aristocrats, the initial stage of the reforms, the success of further reforms, Shang's murder and the continued struggle of his Legalist school, and the role of Shang's reforms in the transition from the old to the new society. The editor, Li, gives a 107-page annotated introduction surveying opinions about Shang in Chinese history and of China's early Communist-period cultural policy to provide a framework for a better understanding of the materials in this book. The appendix features Ssu-ma Ch'ien's Han dynasty-era biography of Shang, a reprint of chapter three of Duyvendak's *The Book of Lord Shang*, and four related essays and articles written by two Communist and two non-Communist Chinese scholars that provide a more rounded view of the relationship between Legalism and Confucianism in Chinese history. At the end of this book is a selected bibliography of then-recent writings in Chinese about Shang, the titles of which are translated into English.

Liu, Yongping. *Origins of Chinese Law: Penal and Administrative Law in its Early Development*. New York: OUP, 1998.

This book describes the genesis and early development of Chinese law and the penal system from antiquity to the end of the Han dynasty in 220 CE. Unlike previous scholars, Liu divides Chinese legal history into the following three periods: (1) the period of creativity, circa 1600 BCE-220 CE; (2) the period of continuity, 220-1898; and (3) the period of assimilation and change, 1898-present. As a result, his study sets out to remedy certain defects of earlier studies by systematically examining the entire period of creativity and stimulate further discussion from other scholars.

Milburn, Olivia. "Kingship and Inheritance in the State of Wu: Fraternal Succession in Spring and Autumn Period China (771-475 BC)." *TP* 90.4-5 (2004): **195-214**.

Peerenboom, Randall. "Law and Religion in Early China." In *Religion, Law, and Tradition: Comparative Studies in Religious Law*. Andrew Huxley, ed. London, England: Routledge Curzon, 2002: 91-116.

Pokora, Timoteus. "The Canon of Laws of Li K'uei: A Double Falsification?" *AO* 27 (1959): 96-121.

Rickett, W. Allyn, trans. *Guanzi: Political, Economic, and Philosophical Essays from Early China. A Study and Translation*. 2 vols. Princeton: PUP, 1985 and 1998.

———. *Kuan-tzu: A Repository of Early Chinese Thought, Vol. 1*. Hong Kong, British Crown Colony: HKUP, 1965.

Rubin, Vitaly A. "The Theory and Practice of a Totalitarian State: Shang Yang and Legalism." In *Individual and State in Ancient China: Essays on Four Chinese Philosophers*. Steven I. Levine, trans. New York: CoUP, 1976: 55-87.

Schwartz, Benjamin I. "Legalism: The Behavioral Science." In *The World of Thought in Ancient China*. Cambridge: HUP, 1985: 321-49.

Sellman, James D. *Timing and Rulership in Master Lü's Spring and Autumn Annals (Lüshi chunqiu)*. Albany: SUNYP, 2002.

\* Reviewed in *EC* 29 (2004): ?

Sih, Paul K.T. "The Natural Law Philosophy of Mencius." *New Scholasticism* 31 (1957): 317-37.

Skosey, Laura A. *The Legal System and Legal Tradition of the Western Zhou (ca. 1045-771 B.C.E.)*. 3 vols. Ph.D. dissertation: University of Chicago, 1996.

Thompson, P.M. *The Shen Tzu Fragments*. London, England: OUP, 1979.

Turner, Karen. "War, Punishment, and the Law of Nature in Early Chinese Concepts of the State." *HJAS* 53.2 (Dec. 1993): 285-324.

———. "The Theory of Law in the Ching-fa." *EC* 14 (1989): 55-76.

Waley, Arthur. "The Realists." In *Three Ways of Thought in Ancient China*. Stanford: SUP, 1982: 151-88.

Wang, Hsiao-po and Leo S. Chang. *The Philosophical Foundations of Han Fei's Political Theory*. Honolulu: UHP, 1986.

Watson, Burton, trans. *Han Feizi: Basic Writings*. [Pinyin romanization.] New York: CoUP, 2003.

Weld, Susan. "Chu Law in Action: Legal Documents from Tomb 2 at Baoshan." In *Defining Chu: Image and Reality in Ancient China*. Constance A. Cook and John S. Major, eds. Honolulu: UHP, 2004: ?

\* Reviewed in *EC* 26-27 (2001-02): ?

———. "Grave Matters: Warring States Law and Philosophy." In *Understanding China's Legal System: Essays in Honor of Jerome A. Cohen*. C. Stephen Hsu, ed. New York: NYUP, 2003: 122-79.

Wu, John C.H. "Mencius' Philosophy of Human Nature and Natural Law." In *Chinese Philosophy, Vol. I: Confucianism and Other Schools*. Y.C. Koo et al. Taipei, Taiwan: CA, 1974: **113-31**.

Yates, Robin D.S. "Law and the Military in Early China." In *Culture and War in Chinese History*. Nicola di Cosmo, ed. Cambridge: HUP [in press], 2007: ?

———. "Slavery in Early China: A Socio-Cultural Analysis." *Journal of East Asian Archaeology* 3.1-2 (2001): 283-331.

Yuan, Shao-chi. "Some Reflections on Shang Yang and His Political Philosophy." In *Chinese Philosophy, Vol. I: Confucianism and Other Schools*. Y.C. Koo et al. Taipei, Taiwan: CA, 1974: **249-60**.

## *Qin (Ch'in) Dynasty, 221-206 BCE*

¶ [Briefly discuss law in the Qin dynasty.]

Bodde, Derk. *China's First Unifier: A Study of the Ch'in Dynasty as Seen in the Life of Li Ssu (280?-208 B.C.)*. Leiden, Netherlands: EJB, 1938.

\*\* Obituaries in *TP* 90.1-3 (2004): 163-65; *EC* 28 (2003): ?; *JAOS* (Oct. 2003): ?

Cheng, Chun-ying. "Legalism versus Confucianism: A Philosophical Appraisal." *JCP* 8 (1981): 271-302.

Fields, Lanny B. "The Legalists and the Fall of Ch'in: Humanism and Tyranny." *JAH* 17 (1983): 1-39.

Hsiao, Kung-ch'uan. "Legalism and Autocracy in Traditional China." *THJCS* [n.s.] 4.2 (1964): **108-21**.

Hulsewé, A.F.P. "Ch'in and Han Law." In *Cambridge History of China*. Vol. 1. D. Twitchett and M. Loewe, eds. Cambridge, England: CmUP, 1986: 520-44.

———, trans. *Remnants of Ch'in Law: An Annotated Translation of the Ch'in Legal and Administrative Rules of the 3rd Century B.C. Discovered in Yün-meng Prefecture, Hu-pei Province, in 1975*. Leiden, Netherlands: EJB, 1985.

The laws of the state of Qin are synonymous with cruelty in traditional Chinese historiography, and sometimes even in modern studies. The 1975 discovery of a number of Qin laws and regulations has changed this situation significantly, although a complete code has yet to be found. Hulsewé—a philologist and historian, and not a jurist or sociologist—argues that the texts he translates show that Qin sought to influence all spheres of its inhabitants' lives.

———. "The Influence of the Legalist Government of Qin on the Economy as Reflected in the Texts Discovered in Yunmeng County." In *The Scope of State Power in China*. Stuart R. Schram, ed. London, England and Hong Kong, British Crown Colony: SOAS and ChUP, 1985: 211-36.

———. "The Legalists and the Laws of Ch'in." In *Leyden Studies in Sinology: Papers Presented at the Conference Held in Celebration of the Fiftieth Anniversary of the Sinological Institute of Leyden University, December 8-12, 1980*. W.L. Idema, ed. Leiden, Netherlands: EJB, 1981: 1-22.

Idema, W.L. and E. Zürcher, eds. *Thought and Law in Qin and Han China: Studies Dedicated to Anthony Hulswé on the Occasion of His Eightieth Birthday*. Leiden, Netherlands: EJB, 1990.

This book consists of articles honoring an eminent 20<sup>th</sup>-century European sinologist. They all relate to his scholarly concerns: the ideology and institutions of Qin and Han China. In addition to the editors, contributors include Derk Bodde, Ph. De Beer, Jacques Gernet, J. K. Knoll, Robert P. Kramers, David R. Kreczges, , U. Libbrecht, Michael Loewe, M. J. Meijer, Léon Vandermeersch, and Harriet T. Zurndorfer. The book opens with a biographical sketch of Prof. Hulswé and features a bibliography of his books, articles, reviews, and other works from 1930-90.

Lee, K.K. "The Legalist School and Legal Positivism." *JCP* 3 (1975): 23-56.

Lewis, Mark E. "Law." In *The Early Chinese Empires: Qin and Han*. Cambridge: HUP, 2007: 227-52.

Liang, Ch'i-ch'ao. *History of Chinese Political Thought during the Early Tsin Period*. L.T. Ch'en, trans. New York: Harcourt, Brace & Co., 1930.

Liu, JeeLoo. "Hanfeizi (Han Fei Tzu)." In *An Introduction to Chinese Philosophy: From Ancient Philosophy to Chinese Buddhism*. Malden: Blackwell, 2006: 182-205.

Loewe, Michael. "The Laws of the Empire." In *The Government of the Qin and Han Empires: 221 BCE-220 CE*. Indianapolis: Hackett, 2006: **119-34**.

Makeham, John. "The Legalist Concept of Hsing-ming: An Example of the Contribution of Archaeological Documents to the Re-interpretation of Transmitted Texts." *MSJOS* 39 (1990-91): 87-114.

McLeod, Katrina C.D. and Robin D.S. Yates, trans. "Forms of Ch'in Law: An Annotated Translation of the Feng-chen shih." *HJAS* 41.1 (June 1981): 111-63.

This article is a translation, with brief philological annotation, of one of the texts—the procedural and pro forma documents (*feng-chen shih*)—found in a tomb in Hupei province in 1975. Although the bamboo strips on which this text is written form but a small part of the contents of the coffin, they are, in McLeod and Yates's opinion, of considerable importance because they give a rare insight into the workings of the early Chinese legal system at the local level.

Moody, Jr., Peter R. "The Legalism of Han Fei Tzu and Its Affinities with Modern Political Thought." *International Philosophical Quarterly* 19 (1979): **317-30**.

Sypniewski, Bernard P. "The Use of Variables in the Remnants of Qin Law." *MSJOS* 52 (2004): **345-61**.

Wang, Hsiao-po. "The Significance of the Concept of 'Fa' in Han Fei's Thought System." L.S. Chang, trans. *PEW* 27.1 (1977): **35-52**.

Yates, Robin D.S. "Social Status in the Ch'in: Evidence from the Yun-meng Legal Documents. Part One: Commoners." *HJAS* 47.1 (June 1987): 197-237.

A 1975 discovery in Hupei province of a local Qin official's coffin revealed a treasury of legal documents and almanacs written on bamboo slips that had apparently been buried in or shortly after 217 BCE. The contents of these findings shed light on legal procedure, bureaucratic practice, economic structure, and social status—especially that of criminals. This article is the first part of a longer study on social stratification in the Qin. It is concerned solely with the status of "commoner," which unsurprisingly comprised a large and vital part of the population.



## *Han Dynasty, c. 206/202 BCE-CE 220*

¶ [Briefly discuss law in the Han dynasty.]

Arbuckle, Gary. "Former Han Legal Philosophy and the *Gongyang Zhuan*." *BCAR* 1 (1987): 1-25.

Balasz, Etienne. "Political Philosophy and Social Crisis at the End of the Han Dynasty." H.M. Wright, trans. In *Chinese Civilization and Bureaucracy: Variation on a Theme*. New Haven: YUP, 1964: 187-225.

Csikszentmihalyi, Mark. "Law and Punishment." In *Readings in Han Chinese Thought*. Mark Csikszentmihalyi, ed. and trans. Indianapolis: Hackett, 2006: 23-47.

Hinsch, Bret. "Women, Kinship, and Property as Seen in a Han Dynasty Will." *TP* 84 (1998): 1-20.

Hulsewé, A.F.P. "The Long Arm of Justice in Ancient China: A Warrant for the Arrest of a Slave Dated 52 B.C." *Rocznik Orientalistyczny* 47.2 (1991): **85-98**.

———. "Fragments of Han Law." *TP* 76.4-5 (1990): 208-33?.

———. "The Functions of the Commandant of Justice during the Han Period." In *Chinese Ideas about Nature and Society: Studies in Honour of Derk Bodde*. Charles LeBlanc and Blader, eds. Hong Kong, British Crown Colony: HKUP, 1987: **249-64**.

———. "Han China—A Proto 'Welfare State'? Fragments of Han Law Discovered in Northwest China." *TP* 73 (1987): 265-85.

———. "The *Shuo-wen* Dictionary as a Source for Ancient Chinese Law." In *Studia Serica Bernhard Karlgren Dedicata: Sinological Studies Dedicated to Bernhard Karlgren on His Seventieth Birthday, October 5, 1959*. S. Egerod and E. Glahn, eds. Copenhagen, Denmark: Ejnar Munksgaard, 1959: 239-58.

This article discusses the *Shuo-wen* dictionary compiled in 100 CE, which was the first Chinese dictionary arranged according to character structure. Scholars have consulted it ever since. Among other things, it includes quotations of expressions and occasional fragments of the Han code that had originally been compiled about three centuries before and modified over the years. Hulsewé writes that "[t]hese rare references are extremely valuable, as they constitute so many direct quotations of a legislation, the bulk of which has vanished forever" (p. 239).

———, trans. *Remnants of Han Law, Vol. I: Introductory Studies and an Annotated Translation*

of Chapters 22 and 23 of the History of the Former Han Dynasty. Leiden, Netherlands: EJB, 1955.

Han law is the law of the unified, bureaucratic empire at the very start of this dynasty's four-century reign. Although changes occurred constantly in the following centuries, the main principles of imperial rule as laid down by the Han persisted, even down to details in both administrative and penal law. This book contains studies on the contents of the Han code, on the administration of justice, punishments, ideas about intent and negligence, and the existence of privileged groups, followed by an annotated translation of a treatise on penal norms.

Johnson, Wallace. "A Note on Han Law." *JALH* 1 (2001): **69-71**. Available without charge at <http://jalh.ku.edu/article/hanlaw.pdf> (last accessed Sep. 2007).

Kroll, J.L. "Chang T'ang's Statutes on Going beyond the Official Functions." *AO* 38 (1970): **313-30**.

Ku, Mei-kao, trans. *A Chinese Mirror for Magistrates: The Hsin-yü of Lu Chia*. Canberra, Australia: Australian National University, 1988.

Li, Xueqin and Xing Wen. "New Light on the Early-Han Code: A Reappraisal of the Zhangjiashan Bamboo-slip Legal Texts." *AM* [3.s.] 14.1 (2001): 125-46. Available without charge at <http://www.ihp.sinica.edu.tw/~asiamajor/> (last accessed Sep. 2007).

Loewe, M. "Huang Lao Thought and the Huainanzi." *Journal of the Royal Asiatic Society* [3<sup>rd</sup> series] 4.3 (Nov. 1994 or 1999): **377-95**.

———. "Han Administrative Documents: Recent Finds from the North-West." *TP* 72 (1986): 302-?

Mufson, Steven. "The Book of Hard Cases." *Legal Affairs* (May-June 2002): **70-71**. Available without charge at [http://www.legalaffairs.org/issues/May-June-2002/story\\_mufson\\_mayjun2002.html](http://www.legalaffairs.org/issues/May-June-2002/story_mufson_mayjun2002.html) (last accessed Sep. 2007).

Oba, Osamu. "The Ordinances on Fords and Passes Excavated from Han Tomb Number 247, Zhangjiashan." David Spafford, Robin D.S. Yates, and Enno Giele, trans. and eds.; with Michael Nylan. *AM* [3.s.] 14.2 (2001): 119-41. Available without charge at <http://www.ihp.sinica.edu.tw/~asiamajor/> (last accessed Sep. 2007).

Peerenboom, R.P. *Law and Morality in Ancient China: The Silk Manuscripts of Huang-Lao*. Albany: SUNYP, 1993.

This book explains the importance of the Huang-Lao school (a combination of Legalism and Daoism) within the intellectual tradition of China by comparing its philosophical position, particularly its understanding of the relation between law and morality, to the views of major thinkers of the pre-Qin and early Han periods. Peerenboom writes that this ". . . reveals Huang-Lao to be a unique and sophisticated social and political philosophy that, until its expulsion from court by the Emperor Wu and subsequent adoption by Daoist religion, served as the ideological foundation for the post-Qin reforms of the early Han" (preface, p. xi). The 1973 archaeological discovery of four important

scrolls of classical thought known as the *Huang-Lao Boshu* (Silk Manuscripts of Huang-Lao) coupled with advancements in contemporary jurisprudence make possible a reassessment of ancient Chinese legal philosophies. And Peerenboom's study is the first detailed, book-length treatment in English of these lost treasures.

\* Reviewed in *YLJ* 106.6 (April 1997): 1885-1950.

Sanft, Charles. "Six of One, Two Dozen of the Other: The Abatement of Mutilating Punishments under the Han Emperor Wen." *AM* [3.s.] 18.1 (2005): ?

Scogin, Jr., Hugh T. "Between Heaven and Man: Contract and the State in Han Dynasty China." *Southern California Law Review* 63 (1990): 1326-1404.

Tu, Wei-ming. "The 'Thought of Huang-Lao': A Reflection on the Lao Tzu and Huang Ti Texts in the Silk Manuscripts of Ma-wang-tui." *JAS* 39.1 (Nov. 1979): **95-110**.

Vankeerberghen, Griet. "Family and Law in Former Han China (206 B.C.E.-8 C.E.): Arguments Pro and Contra Punishing the Relatives of a Criminal." *Cultural Dynamics* 12.1 (2000): **111-25**.

Wallacker, Benjamin E. "The Spring and Autumn Annals as a Source of Law in Han China." *Journal of Chinese Studies* 2.1 (1985): **59-72**.

Xu, Gan. "Rewards and Punishments." In *Balanced Discourses: A Bilingual Edition*. John Makeham, trans. Beijing, China and New Haven: FLP and YUP, 2002: **265-69**.

Yates, Robin D.S. *Five Lost Classics: Tao, Huang-Lao, and Yin-Yang in Han China*. New York: Ballantine, 1997.

*Wei, Jin, and Nan-Bei Chao Dynasties, 220-589*

¶ [Briefly discuss law in the Wei, Jin, and Nan-Bei Chao dynasties.]

Holmgren, J. "Race and Class in Fifth Century China: the Emperor Kao-tsu's Marriage Reform." *EMC* 2 (1995-96): 86-117. Available without charge at <http://www.aall.ufl.edu/EMC/vol2/vol2holmgren.pdf> (last accessed Sep. 2007).

Pearce, Scott. "Status, Labor, and Law: Special Service Households under the Northern Dynasties." *HJAS* 51.1 (1991): 89-138.

## *Tang (T'ang) Dynasty, 618-907*

¶ [Briefly discuss law in the Tang dynasty.]

Chao, Wang. "The Six Codes of the Tang Dynasty: China's Earliest Administrative Code." *Social Sciences in China* 2 (1986): 113-50.

Gulik, Robert H. van, trans. *Celebrated Cases of Judge Dee (Dee Goong An): An Authentic Eighteenth-Century Detective Novel*. Mineola, NY: Dover, 1976. Reprint of version first published privately in Tokyo, Japan, in 1949 under the title *Dee Goong An: Three Murder Cases Solved by Judge Dee*.

Judge Dee lived in the 7<sup>th</sup> century and is one of China's most famous historical judges or magistrates. This book chronicles three of his best-known cases—a double murder among traveling merchants, the fatal poisoning of a bride on her wedding night, and an unsolved murder in a small town under Dee's jurisdiction—interwoven by an anonymous 18<sup>th</sup>-century author to form a novel. "This novel clearly shows the comprehensive duties of the magistrate in his quality as presiding judge of the district tribunal. Crimes are reported directly to him, it is he who is expected to collect and sift all evidence, find the criminal, arrest him, make him confess, sentence him, and finally administer to him the punishment for his crime" (preface, p. x). Mr. van Gulik includes a thorough introduction and appendix with much information on Chinese detective novels, the system of justice, and especially relevant legal aspects in these three cases.

Johnson, Wallace. "Limitations on Legal Privilege in *The Tang Code*." *JALH* 7 (2007): 23-40. Available without charge at <http://jalh.ku.edu/article/johnson2007.pdf> (last accessed Sep. 2007).

———, trans. *The T'ang Code: Vol. 2, Specific Articles*. Princeton: PUP, 1997.

Volume 2 describes acts that are punishable by law and lists their punishments. Studying these 445 specific articles sheds considerable light on Chinese culture. They have surprising resonances in contemporary Chinese society—its emphasis on the preservation of the family and the interrelatedness of authority and responsibility, to name just a few. This book is the final volume of an annotated translation of a seminal legal text.

\* Reviewed in *EMC* 3 (1997): 117-21, available without charge at <http://www.aall.ufl.edu/EMC/vol3/vol3bookreview.pdf> (last accessed Sep. 2007).

———. *The T'ang Code: Vol. 1, General Principles*. Princeton: PUP, 1979.

The Tang code, first proclaimed in 653, is the single most important collection of laws in East Asian history. It is the earliest Chinese code we possess in its entirety, albeit in its revised form of 737. The first part expounds general principles of criminal law, and the second (and final) part sets forth specific offenses and punishments. The code has influenced not only all later Chinese criminal

legislation, but also that of Japan, Korea, and Vietnam. Johnson's is the first complete translation into any Western language.

\* Reviewed in *AJLH* 25.4 (Oct. 1981): 364-66.

——— and Denis Twitchett. "Criminal Procedures in T'ang China." *AM* [3.s.] 6.2 (1993): 113-46. Available without charge at <http://www.ihp.sinica.edu.tw/~asiamajor/> (last accessed Sep. 2007).

McKnight, Brian E. "T'ang Law and Later Law: The Roots of Continuity." *JAOS* 115.3 (July-Sep. 1995): **410-20**.

McMullen, David. "The Real Judge Dee: Ti Jen-chieh and the T'ang Restoration of 705." *AM* [3.s.] 6.1 (1993): 1-81. Available without charge at <http://www.ihp.sinica.edu.tw/~asiamajor/> (last accessed Sep. 2007).

Shûzô, Shiga. "A Basic History of T'ang Legislative Forms." *AM* [3.s.] 5.2 (1992): **97-110**. Available without charge at <http://www.ihp.sinica.edu.tw/~asiamajor/> (last accessed Sep. 2007).

Twitchett, Denis. "The Implementation of Law in Early T'ang China." *Civiltà Veneziana: Studi* 34 (1978): 57-84.

\*\* Obituary in the *New York Times*, late edition – final (March 30, 2006): B7.

———. *Financial Administration under the T'ang Dynasty*. 2<sup>nd</sup> ed. Cambridge, England: CmUP, 1970.

This book is more about economic history than legal history, but it includes interesting material that touches on law. Separate chapters discuss land tenure, direct taxation, state monopolies and taxes on trade, currency and credit, and transportation systems. In addition, appendices include fragments of land, tax, and granary statutes as well as fragments of ordinances and regulations issued by the Board of Finance.

———. "The Fragment of the T'ang Ordinances of the Department of Waterways Discovered at Tun-Huang." *AM* [n.s.] 6.1 (1957): 23-79. Available without charge at <http://www.ihp.sinica.edu.tw/~asiamajor/> (last accessed Sep. 2007).

Wallacker, Benjamin E. "The Poet as Jurist: Po Chü-i and a Case of Conjugal Homicide." *HJAS* 41.2 (Dec. 1981): **507-26**.

## *Song (Sung) Dynasty, 960-1279*

¶ [Briefly discuss law in the Song dynasty.]

Bernhardt, Kathryn. "The Inheritance Rights of Daughters: The Song Anomaly?" *MC* 21 (1995): 269-309.

Birge, Bettine. *Women, Property, and Confucian Reaction in Sung and Yüan China, 960-1368*. Cambridge, England: CmUP, 2002.

\* Reviewed in *TP* 92. 1-3 (2006): 234-41; *Journal of Oriental Studies* 38.1-2 (2005): 232-34; *JSYS* 35 (2005): 193-99.

Borowitz, Albert I. "Strict Construction in Sung China: The Case of A Yün." *American Bar Association Journal* 63.4 (April 1977): **522-28**.

De Pee, Christian. "Cases of the New Terrace: Canon and Law in Three Southern Song Verdicts." *JSYS* 27 (1997): 27-62?

De Weerd, Hilde. "What Did Su Che See in the North? Publishing Regulations, State Security, and Political Culture in Song China." *TP* 92.4-5 (2006): 466-94.

Ebrey, Patricia Buckley. *The Inner Quarters: Marriage and the Lives of Chinese Women in the Sung Period*. Berkeley: UC&P, 1993.

Franke, Herbert. "Chinese Law in a Multinational Society: The Case of the Liao (907-1125)." *AM* [3.s.] 5.2 (1992): **111-27**. Available without charge at <http://www.ihp.sinica.edu.tw/~asiamajor/> (last accessed Sep. 2007).

———. "The Legal System of the Chin Dynasty." In *Collected Studies on Sung History Dedicated to Professor James T.C. Liu in Celebration of His Seventieth Birthday*. Tsuyoshi Kinugawa, ed. Tokyo, Japan: Dôhōsha, 1989: 387-409.

———. "Jurchen Customary Law and the Chinese Law of the Chin Dynasty." In *State and Law in East Asia: Festschrift for Karl Büniger*. Dieter Eikemeier and Herbert Franke, eds. Wiesbaden, West Germany: Harrassowitz, 1981: **215-33**.

———. "The 'Treatise on Punishments' in Liao History." *Central Asiatic Journal* 27 (1983): 9-38.

Giles, Herbert. "The 'Hsi Yuan Lu' or 'Instructions to Coroners'." *Proceedings of the Royal Society of Medicine* 27 (1924): 59-107.

Gulik, R.H. van, trans. *T'ang-yin pi-shih, Parallel Cases from Under the Peartree: A 13<sup>th</sup> Century Manual of Jurisprudence and Detection*. Leiden, Netherlands: EJB, 1956.

\* Reviewed in *JAS* 17.2 (Feb. 1958): 267-70.

Haeger, John W. "Li Kang and the Loss of K'ai-feng: The Concept and Practice of Political Dissent in Mid-Sung." *JAH* 12 (1978): 30-57.

Hawes, Colin. "Reinterpreting Law in the Song: Zheng Ke's Commentary to the 'Magic Mirror for Deciding Cases'." *JALH* 1 (2001): 23-68. Available without charge at <http://jalh.ku.edu/article/hawes.pdf> (last accessed Sep. 2007).

Hayden, George A. *Crime and Punishment in Medieval Chinese Drama: Three Judge Pao Plays*. Cambridge: HUP, 1978.

Langlois, Jr., John D. "'Living Law' in Sung and Yüan Jurisprudence." *HJAS* 41.1 (June 1981): **507-26**.

McDermott, Joseph P. "Charting Blank Spaces and Disputed Regions: The Problem of Sung Land Tenure." *JAS* 44.1 (Nov. 1984): 13-41.

McKnight, Brian E. "A Note on Legal Expertise in Song China." *JSYS* 34 (2004): **95-98**.

——— and James T.C. Lin, trans. *The Enlightened Judgments, Ch'ing-ming Chi: The Sung Dynasty Collection*. Albany: SUNYP, 1999.

This book introduces everyday life in 13<sup>th</sup> century China. It is a partial translation based on a recently rediscovered complete text. The author of this collection compiled a variety of documents taken from local judicial decisions and official papers to give insights into contemporary life and its problems. Officials, taxes and services, academic affairs, households and marriage, human relationships, categories of persons, and chastising evil make up the core topics of the judicial decisions. McKnight and Lin translated approximately 210 cases. They also provide introductions setting these cases in context and head notes clarifying the cases' content. And three appendices on Sung local administrative units and their major functionaries, conversion of penalties during the Southern Sung, and Sung measurements are included.

McKnight, Brian E. *Law and Order in Sung China*. Cambridge, England: CmUP, 1992.

This book focuses on the roles of law enforcement and the treatment of criminals in the functioning of traditional Chinese society. Specifically, it examines the enlistment methods of law enforcement, differences between rural and urban law enforcement, changes in law enforcement over time, and the changing balance between the military and civil authorities in law enforcement. McKnight describes the group of criminals who were the core of the habitual criminal group in Sung China: young, unskilled, and unattached males, just as they are today. Also, he looks at the fate of the criminal after capture and conviction, including the various punishments used by the Sung government. Despite flaws and imperfections, the Sung system of law enforcement balanced the difficulties and pressures of that time. He concludes that "[t]he ability of the Sung leaders to use old institutions in new ways is



one explanation of their success in staying within Chinese tradition while adapting to a novel world” (p. 523).

\* Reviewed in *Modern Law Review* 57.4 (July 1994): 664-67.

———. “Mandarins as Legal Experts: Professional Learning in Sung China. In *Neo-Confucian Education: The Formative Stage*. W. Theodore de Bary et al., eds. Berkeley: UCaP, 1989: 493-516.

———. “From Statute to Precedent: An Introduction to Song Law and Its Transformation.” In *Law and the State in Traditional East Asia: Six Studies on the Sources of East Asian Law*. Brian E. McKnight, ed. Honolulu: UHP, 1987: 111-31.

\* Reviewed in *JAS* 47.2 (May 1988): 328-29.

———, trans. *The Washing Away of Wrongs: Forensic Medicine in Thirteenth-Century China*. Ann Arbor: Center for Chinese Studies, University of Michigan, 1981.

This book is a translation of what has been recognized for a long time as the oldest extant book on forensic or legal medicine in any civilization. It was written around 1247 during the Southern Sung dynasty and predates similar European books by almost 400 years. The author, Sung Tz'u, was a judge-physician from Canton (modern-day Guangzhou). He wrote his book for those officials who were assigned the task of holding inquests on homicides and certain other deaths (or near deaths). Previous Chinese dynasties dating back to at least the Qin had performed forensic assessments. But during the Sung forensic science and the procedures for applying it reached new levels of complexity. His book profoundly influenced the administration of Chinese justice for 700 years and paints the clearest picture of traditional Chinese detective processes. McKnight introduces the book, which includes five chapters and 53 selections on topics ranging from “a list of laws,” “holding inquests on bodies too decomposed to serve as evidence,” “when the head and trunk are in different places,” “deaths from sexual excess,” to “methods for restoring life.” Sung’s book guided investigators in their examinations and “was always carried to the scene of an inquest by the high territorial official on whom the duties of coroner devolved” (introduction, pp. 17-18).

Miyazaki, Ichisada. “The Administration of Justice during the Sung Dynasty.” In *Essays on China’s Legal Tradition*. Jerome A. Cohen et al., eds. Princeton: PUP, 1980: **56-75**.

This essay describes Sung laws, judicial process, and legal training. It shows how the Sung used supplementary legislation and adjudication to modify the received Tang code to respond to contemporary political, economic, and social developments. And it is the first such account written in English. Cohen writes that “[o]ne of the most fascinating points in Professor Miyazaki’s essay is his discussion of the attempt by some high officials to gain acceptance for the idea of the independence of judicial decision makers from political interference” (introduction, p. 12). But the Sung failed to institute a final judgment rule. Regardless, Miyazaki concludes that the Sung’s own reforms may have contributed to a new spirit of litigiousness by making the courts less forbidding than before.

\* Reviewed in *AJCL* 30.3 (Summer 1982): 555-63.

Sun, Haichen, trans. *Exchanging a Leopard Cat for a Prince: Famous Trials Conducted by Lord Bao*. Beijing, China: FLP, 1997.

This book contains eight short stories with accompanying illustrations based largely on the life of Bao Zhen (990-1062)—a native of Hefei who held numerous government posts during the Song dynasty, including magistrate. “Lord Bao” has been a household name in China for over 900 years due to his honesty, fairness, ability to solve difficult cases, and determination to uphold the law on behalf of ordinary people. Although these stories are based on actual cases, they have been embellished somewhat with supernatural elements.

Wallacker, Benjamin E. “Chang Fei’s Preface to the Chin Code of Law.” *TP* 72.4-5 (1986): 229-68.

Wood, Alan T. *Limits to Autocracy: From Sung Neo-Confucianism to a Doctrine of Political Rights*. Honolulu: UHP, 1995.

## *Yüan (Mongol) Dynasty, 1279-1368*

¶ [Briefly discuss law in the Yüan dynasty.]

Birge, Bettine. "Levirate Marriage and the Revival of Widow Chastity in Yüan China." *AM* [3.s.] 8.2 (1995): 107-46. Available without charge at <http://www.ihp.sinica.edu.tw/~asiamajor/> (last accessed Sep. 2007).

Ch'en, Paul Heng-chao, trans. *Chinese Legal Tradition under the Mongols: The Code of 1291 as Reconstructed*. Princeton: PUP, 1979.

Starting with a discussion of the development of Chinese codes, the penal system, and the administration of justice during the Yüan dynasty, Ch'en focuses on those aspects of the Yüan legal order that distinguish it from those of other dynasties. He then reconstructs, translates, and annotates the Yüan code proclaimed in 1291 and later lost for centuries.

\* Reviewed in *JAS* 39.3 (May 1980): 547-48.

Hayden, George A. "The Courtroom Plays of the Yüan and Early Ming Periods." *HJAS* 34 (1974): 192-220.

Ratchnevsky, Paul. "Jurisdiction, Penal Code, and Cultural Confrontation under the Mongol-Yuan Law." *AM* [3<sup>rd</sup> s.] 6.1 (1993): **161-79**. Available without charge at <http://www.ihp.sinica.edu.tw/~asiamajor/> (last accessed Sep. 2007).

Wolff, Ernst. "Law Court Scenes in the Yüan Drama." *MSJOS* 29 (1970-71): ?

## *Ming Dynasty, 1368-1644*

¶ [Briefly discuss law in the Ming dynasty.]

Bernhardt, Kathryn. “A Ming-Qing Transition in Chinese Women’s History? The Perspective from Law.” In *Remapping China: Fissures in Historical Terrain*. Gail Hershatter et al., eds. Stanford: SUP, 1996: **42-58**.

Boxer, C.R., ed. *South China in the Sixteenth Century*. London, England: Hakluyt Society, 1953: **17-25** and **175-85** (describing Chinese prisons and judicial procedure).

Campbell, Duncan. “The Epistolary World of a Reluctant 17<sup>th</sup> Century Chinese Magistrate: Yuan Hongdao in Suzhou.” *New Zealand Journal of Asian Studies* 4.1 (June 2002): 159-93.

Chan, Hok-lam. “Ming Taizu’s Problem with His Sons: Prince Qin’s Criminality and Early-Ming Politics.” *AM* [3.s.] 20.1 (2007): ?

Delporte, Dominiek. “Precedents and the Dissolution of Marriage Agreements in Ming China (1368-1644). Insights from the ‘Classified Regulations of the Great Ming,’ Book 13.” *LHR* 21.2 (Summer 2003): 271-96.

Farmer, Edward L. *Zhu Yuanzhang and Early Ming Legislation: The Reordering of Chinese Society Following the Era of Mongol Rule*. Leiden, Netherlands: EJB, 1995.

Goodrich, L. Carrington. “Prisons in Peking, circa 1500.” *THJCS* [n.s.] 10 (June 1973): **45-53**.

Jiang, Yonglin, trans. *The Great Ming Code/Da Ming lü*. Seattle: UWP, 2005.

This book is the first English translation of the Ming Code—one of the most important law codes in Chinese history—as it was finalized in 1397. (The 382 regulations attached to the Code during the Wanli reign, however, are not translated.) The Code was an essential part of the social reform efforts of the early Ming and served the empire as a definitive statement of values and norms. It was inherited by the Qing dynasty and also copied to a large degree by Korea, Japan, and Vietnam. “The Code, therefore, is a significant source for understanding not only Chinese history and law but also East Asian cultural interactions” (introduction, p. xxxiii). Jiang’s book was a decade in the making. He starts by discussing the Code’s historical context, codification process, structure and basic principles in terms of criminal law, and status as the fundamental law of the Ming dynasty. The rest is the translation, with chapters on punishments and general principles, personnel, revenue, rituals, military affairs, penal affairs, and public works as well as “The Imperial Preface.”

———. “Defending the Dynastic Order in a Local Society: Central-Local Relations as Seen in a Late-Ming Magistrate’s Enforcement of the Law.” *MS* 43 (Spring 2000): ?

Langlois, Jr., John D. "The Code and *ad hoc* Legislation in Ming Law." *AM* [3.s.] 6.2 (1993): 85-112. Available without charge at <http://www.ihp.sinica.edu.tw/~asiamajor/> (last accessed Sep. 2007).

———. "Ming Law." In *The Cambridge History of China. Volume 8. The Ming Dynasty, 1368-1644. Part 2*. D. Twitchett and J.K. Fairbank, eds. Cambridge, England: CmUP, 1992: 213-?

Liu, Jianye. *The Case of the Red Pills – Six Sensational Ming and Qing Dynasty Court Cases*. Liu Jianwei, trans. Beijing, China: FLP, 2001.

This book contains six short stories with accompanying illustrations based on actual, controversial court cases. "These cases, some involving the common people and some involving the ruling houses, were very complicated and fraught with twists and turns, some of them remaining unclear even to this day" (prologue, p. 1). Liu describes the facts of these cases and reveals some of the previously unknown events that occurred in and out of Beijing's Forbidden City.

McDermott, Joseph P. "Bondservants in the T'ai-hu Basin during the Late Ming: A Case of Mistaken Identities." *JAS* 40.4 (Aug. 1981): 675-701.

Nimick, Thomas G. "The Placement of Local Magistrates in Ming China." *LIC* 20.2 (Dec. 1999): 35-60.

Santangelo, Paolo. "Human Conscience and Responsibility in Ming-Qing China." Mark Elvin, trans. *East Asian History* 4 (1992): 31-80.

Schneewind, Sarah. "Research Note: The Village-Level Community Libations Ceremony in Early Ming Law." *MS* 51-52 (Spring/Fall 2005): ?

Waltner, Ann B. "Breaking the Law: Family Violence, Gender and Hierarchy in the Code of the Ming Dynasty." *MS* 36 (1996): 34-?

———. *Getting an Heir: Adoption and the Construction of Kinship in Late Imperial China*. Honolulu: UHP, 1990.

Weisfogel, Jaret. "Invoking Zhu Yuanzhang: Guan Zhidao's Adaptations of the Ming Founder's Ritual Statutes to Late-Ming Jiangnan Society." *MS* 50 (Fall 2004): 17-38.

This article addresses the use of the Ming founder Zhu Yuanzhang's (r. 1368-98) legislative legacy during the late Ming period, specifically in the late 16<sup>th</sup> and early 17<sup>th</sup> centuries. Weisfogel examines one important part of a lengthy set of proposals for reviving Ming Taizu's ritual statutes, which was published in 1601 by the late Ming scholar Guan Zhidao (1536-1608). The portion of the proposals examined here emphasizes the way a certain edict distinguished retired officials within their local communities. Weisfogel shows that Guan's invocation in this instance was highly selective and the wording construed to fit his own priorities. He also argues, more than demonstrating anything about the early Ming, Guan's selective invocation and interpretation of the Ming founder's edict reflect his own complex goals and position within both the official class and the local society of his native place.

## *Qing (Ch'ing, Manchu) Dynasty, 1644-1911*

¶ [Briefly discuss law in the Qing dynasty.]

Alabaster, Ernest. *Notes and Commentaries on Chinese Criminal Law, and Cognate Topics. With Special Relation to Ruling Cases. Together with a Brief Excursus on the Law of Property, Chiefly Founded on the Writings of the Late Sir Chaloner Alabaster.* Taipei, Taiwan: CwPC, 1968. Reprint of 1899 edition published by Luzac & Co. in London, England.

Alford, William P. "Of Arsenic and Old Laws: Looking Anew at Criminal Justice in Late Imperial China." *CaLR* 72 (1984): 1180-1249.

Allee, Mark A. *Law and Local Society in Late Imperial China: Northern Taiwan in the Nineteenth Century.* Stanford: SUP, 1994.

Ansley, Clive. "Chinese Criminal Law under Manchus and Marxists." *University of British Columbia Law Review* 20 (1986): 165-91.

Balazs, Etienne. "A Handbook of Local Administrative Practice of 1793." In *Political Theory and Administrative Reality in Traditional China.* London, England: SOAS, 1965: 50-75.

Bernhardt, Kathryn and Philip C.C. Huang, eds. *Civil Law in Qing and Republican China.* Stanford: SUP, 1994.

The opening of local archives in China to Western scholars in the 1980s provided the basis for this book's reexamination of past assumptions about Chinese civil law from the mid-17<sup>th</sup> to early 20<sup>th</sup> centuries. The nine articles making up this volume stemmed from a conference on "Civil Law in Chinese History" held at UCLA in 1991. They address history and theory, legislation, disputes, verdicts, magisterial adjudication, divorce, the legal profession, and mediation. Unlike previous scholarship that focused on criminal law, they focus on civil law and argue for a fundamental re-conception of the Qing and Republican legal systems. In addition to the editors, contributors include Mark A. Allee, Alison W. Conner, Jing Junjian, Melissa Macauley, Hugh T. Scogin, Jr., and Madeleine Zelin.

\* Reviewed in *AJLH* 40.3 (July 1996): 370-71.

Bodde, Derk. "Prison Life in Eighteenth Century Peking." In *Essays on Chinese Civilization.* Charles Le Blanc and Dorothy Borei, eds. Princeton: PUP, 1981: 195-217.

——— and Clarence Morris, trans. *Law in Imperial China: Exemplified by 190 Ch'ing Dynasty Cases.* Cambridge: HUP, 1967.

This is the first book to give a comprehensive picture of the basic concepts and workings of imperial law, as shown by 190 cases from the more than 7,600 in the largest of the Chinese casebooks—the *Hsing-an hui-lan*, or *Conspectus of Penal Cases*—covering the years 1736 to 1885. Part one opens with a discussion of the growth of Chinese law from its start, stressing ideological aspects. Part two consists of annotated translations of the 190 cases, chosen to provide a broad sampling. And part three analyzes these cases and frequently compares them to Western law.

\* Reviewed in *AJCL* 19.2 (Spring 1971): 396-98; *HJAS* 29 (1969): 274-84; *Michigan Law Review* 67.1 (Nov. 1968): 179-212; *American Historical Review* 73.5 (June 1968): 1595-96.

\*\* Tribute by W. Allyn Rickett, "Clarence Morris and His Contribution to the Study of Chinese Law," *UPeLR* 121.3 (Jan. 1973): 427-29.

Bourgon, Jérôme. "Uncivil Dialogue: Law and Custom Did Not Merge into Civil Law under the Qing." *LIC* 23.1 (June 2002): 50-90.

Buoye, Thomas M. *Manslaughter, Markets, and Moral Economy: Violent Disputes over Property Rights in Eighteenth-Century China*. Cambridge, England: CmUP, 2000.

Buxbaum, David C. "Some Aspects of Civil Procedure and Practice at the Trial Level in Tanshui and Hsinchu from 1789 to 1895." *JAS* 30.2 (Feb. 1971): 255-79.

Cassel, Par K. *Rule of Law or Rule of Laws: Legal Pluralism and Extraterritoriality in Nineteenth Century East Asia*. Ph.D. dissertation: Harvard University, 2006.

Chang, Wejen. "Legal Education in Ch'ing China." In *Education and Society in Late Imperial China, 1600-1900*. Benjamin A. Elman and Alexander Woodside, eds. Berkeley: UCaP, 1994: 292-339.

This chapter seeks to answer several questions. How did people learn law during the Ch'ing dynasty? Where did they learn it? Who were their teachers? What were their curricula and teaching materials and methods? Are these questions relevant to legal education in Ch'ing China? Are there materials that can provide answers? Because materials that directly answer these questions are not abundant, Chang's research was very broad. He examines the civil examination system and the background of various types of persons involved in the legal system. His hope is to find out roughly how some people learned the law. And he tries to evaluate Ch'ing legal education as we know it against some generally accepted standards and what today's Chinese law schools offer.

Ch'en Ch'iu-k'un. "From Aborigines to Landed Proprietors: Taiwan Aboriginal Land Rights, 1690-1850." Bian Li-nan, trans. In *Remapping China: Fissures in Historical Terrain*. Gail Hershatter et al., eds. Stanford: SUP, 1996: 130-42.

Chen, Fu-mei Chang. "The Influence of Shen Chih-Chi's *Chi-Chu Commentary* Upon Ch'ing Judicial Decisions." In *Essays on China's Legal Tradition*. Jerome A. Cohen et al., eds. Princeton: PUP, 1980: 170-221.

This essay focuses on the most influential and frequently cited of the Ch'ing commentaries, Shen Chih-ch'i's *Chi-chu* and published in 1715. Chen analyzes the use that reported court decisions

made of this commentary as originally published and later revisions. Although only 21 of the more than 9,000 cases she examined actually contain quotations from Shen's work, this statistic hardly reflects the work's importance. The Board of Punishment policy of forbidding provincial judicial officials from relying explicitly on private commentaries was not consistently enforced, and local magistrates could not be prevented from consulting the commentaries so long as their opinions did not reflect so. Cohen writes that Chen throws "considerable light upon the Board's internal operations. It reveals the frequent use made of the Statutes Commission to provide the directorate with another expert opinion in difficult cases" (introduction, pp. 17-18).

\* Reviewed in *AJCL* 30.3 (Summer 1982): 555-63.

———. "Local Control of Convicted Thieves in Eighteenth-century China." In *Conflict and Control in Late Imperial China*. Frederic Wakeman, Jr., and Carolyn Grant, eds. Berkeley and Los Angeles: UCaP, 1975: 111-42.

———. "On Analogy in Ch'ing Law." *HJAS* 30 (1970): **212-24**.

Chu, Tung Tsai. "Chinese Nationality Law, 1909." *AJIL* 4.2 (April 1910): **404-11**.

Cohen, Myron L. "Writs of Passage in Late Imperial China: Contracts and the Documentation of Practical Understandings in Minong, Taiwan." In *Kinship, Contract, Community, and State: Anthropological Perspectives on China*. Stanford: SUP, 2005: 252-303.

———. "Commodity Creation in Late Imperial China: Corporations, Shares, and Contracts in One Rural Community." In *Locating Capitalism in Time and Space: Global Restructuring, Politics, and Identity*. David L. Nugent, ed. Stanford: SUP, 2002: ?

———. "Minong's Corporations: Religion, Economy and Local Culture in 18<sup>th</sup> and 19<sup>th</sup> Century Taiwan." In *Anthropological Studies in Taiwan: Empirical Research*. Hsu Cheng-kuang and Lin Mei-rong, eds. Taipei, Taiwan: Academia Sinica, Institute of Ethnology, 1999: 223-91.

———. "Shared Beliefs: Corporations, Community and Religion among the South Taiwan Hakka during Ch'ing." *LIC* 14.1 (June 1993): 1-33.

Conner, Alison W. "True Confessions?: Chinese Confessions Then and Now." In *The Limits of the Rule of Law in China*. Karen Turner et al., eds. Seattle: UWP, 2000: 132-62.

This article analyzes the role and significance of confessions in Qing criminal procedure. It considers the law relating to confessions and torture, the methods used to obtain confessions, their reliability, and the reasons confessions were so important. Conner writes that, "Despite past criticism of the Qing judicial system, more recent research has discerned some notions of 'due process' or a 'fair trial.' How can the reliance on confessions and torture be reconciled with such views?" (p. 133).

\* Reviewed in *JAS* 60.3 (Aug. 2001): 849-52.

de Bary, W. Theodore, trans. *Waiting for the Dawn: A Plan for the Prince*. Huang Tsung-hsi's Ming-i tai-fang lu. New York: CoUP, 1993.



Deiwiks, Shu-jyuan. "The Secret Manchu Documents on the Trial of Jesuit Missionary Johann Adam Schall (1592-1666) before the Supreme Court of Peking." *MSJOS* 51 (2003): 641-48.

Edwards, R. Randle. "The Role of Case Precedent in the Qing Judicial Process as Reflected in Appellate Rulings." In *Understanding China's Legal System: Essays in Honor of Jerome A. Cohen*. C. Stephen Hsu, ed. New York: NYUP, 2003: 180-209.

———. "Ch'ing Legal Jurisdiction over Foreigners." In *Essays on China's Legal Tradition*. Jerome A. Cohen et al., eds. Princeton: PUP, 1980: 223-69.

This essay discusses how over the years the Ch'ing government—working within the framework of the spirit and institutions of the traditional tribute system—developed special jurisdictional policies and trial procedures for handling alien offenses to cope with the unique threat to stability and harmony created by the presence of Europeans living and trading at Canton (Guangzhou) and Macao. Despite a 1744 imperial policy of asserting criminal jurisdiction over aliens only in cases involving the homicide of a Chinese subject, the English refused to submit to Chinese criminal jurisdiction after 1784. This left a legacy of misunderstanding, suspicion, and resentment. Edwards uses Chinese sources to show how a clear and reasoned policy emerged for dealing with alien cases before the "unequal treaty" system in the mid-19<sup>th</sup> century.

\* Reviewed in *AJCL* 30.3 (Summer 1982): 555-63.

Gadsden, Amy E. *Building the Rule of Law in Early Twentieth-Century China (1905-1926)*. Ph.D. dissertation, University of Pennsylvania, 2005.

Gray, John H. *China: A History of the Laws, Manners and Customs of the People*. Mineola: Dover, 2002. Unabridged reprint of 2-volume edition published by Macmillan and Company in London, England, in 1878.

Guy, R. Kent. "Rule of Man and the Rule of Law in China: Punishing Provincial Governors during the Qing." In *The Limits of the Rule of Law in China*. Karen Turner et al., eds. Seattle: UWP, 2000: 88-111.

This article examines the question of how senior-level officials used law to express their personal and political differences and accuse each other of wrongdoing. Guy argues "that officials at different levels used the law in different ways and that the principle of differential use had political advantages for the Qing state" (p. 89). He looks at the formal procedures for the impeachment of provincial governors and the absolute power of the emperor, which is one of the most problematic features of the Qing legal order from a Western perspective.

\* Reviewed in *JAS* 60.3 (Aug. 2001): 849-52.

Harrison, Judy F. "Wrongful Treatment of Prisoners: A Case Study of Ch'ing Legal Practice." *JAS* 23 (1964): 227-44.

Hegel, Robert E. and Katherine Carlitz, eds. *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment*. Seattle: UWP, 2007.

Henderson, Dan F. "Chinese Legal Studies in Early 18<sup>th</sup> Century Japan: Scholars and Sources." *JAS* 30.1 (Nov. 1970): 21-56.

Huang, Liu-hong. *A Complete Book Concerning Happiness and Benevolence: A Manual for Local Magistrates in Seventeenth-Century China*. Djang Chu, trans. and ed. Tucson: University of Arizona Press, 1984.

Huang, Philip C.C. *Code, Custom, and Legal Practice in China: The Qing and the Republic Compared*. Stanford: SUP, 2001.

This book does not try to provide a comprehensive account of all of the differences in Qing and Republican laws. It focuses only on those areas that had the greatest impact on social life (i.e., rights over things, obligations, family, and succession). The guiding question is: how did Chinese civil justice change and not change in the 20<sup>th</sup> century before the start of Communist rule in 1949? Civil justice here is interpreted to mean not only codified law but also actual legal practice. Huang addresses how legal practice mediated between code and custom. He relies on archival records of 875 local court cases, field investigations, codes, interpretations, and explanations from various courts.

———. *Civil Justice in China: Representation and Practice in Qing*. Stanford: SUP, 1996.

This book starts out with the question: to what extent, if at all, do newly available case records bear out the Qing state's own representations of its legal system? Huang reexamines these representations in the light of actual practices. His goal is to define the nature of that system as it actually was. He focuses on the four most popular kinds of disputes and lawsuits—land, debt, marriage, and inheritance—and relies in large part on the records of 628 civil cases from counties in northeastern and southwestern China and Taiwan from the 1810s to 1900s. Qing constructions, he concludes, can be just as misleading as our own. We must differentiate between official Chinese constructions and actual Qing practice.

\* Reviewed in *JAS* 56.4 (Nov. 1997): 1060-61.

Isett, Christopher M. "Village Regulation of Property and the Social Basis for the Transformation of Qing Manchuria." *LIC* 25.1 (June 2004): 124-86.

Jones, William C., trans. *The Great Qing Code*. Oxford, England: Clarendon Press, 1994.

The Qing code consists of seven parts. The first part contains general concepts, principles, and rules that are applicable throughout the rest of the code. The remaining six parts contain rules that are perceived to relate to one of six central government boards, which dealt with personnel, revenue, rites, war, punishments, and works. In his introduction Jones discusses the difference in approach between Western law and the code and analyzes the code's substantive law.

\* Reviewed in *AJLH* 39.4 (Oct. 1995): 514-15.

\*\* "In Memoriam: William Catron Jones (March 30, 1926 – September 16, 2005)," *Chinese Law Prof Blog*, Sep. 28, 2005, available without charge at [http://lawprofessors.typepad.com/china\\_law\\_prof\\_blog/2005/week39/index.html](http://lawprofessors.typepad.com/china_law_prof_blog/2005/week39/index.html) (last accessed Sep. 2007); Tribute by William P. Alford and Chien-Chang Wu, "Qing China and the Legal

Treatment of Mental Infirmity: A Preliminary Sketch in Tribute to Professor William C. Jones,” *WUGSLR* 2.1 (Winter 2003): 187-92; Tributes by William P. Alford, Donald C. Clarke, Janet E. Ainsworth, and Jiang Yonglin, *WULQ* 74.3 (Fall 1996): 539-71 (issue dedicated to Jones upon his retirement).

Kuhn, Philip A. *Soulstealers: The Chinese Sorcery Scare of 1768*. Cambridge: HUP, 1990.

Lee, Tahirih V. “The United States Court for China: A Triumph of Local Law.” *Buffalo Law Review* 52.4 (Fall 2004): 923-1075. Also available without charge at <http://ssrn.com/abstract=958954> (last accessed Sep. 2007).

Macauley, Melissa A. *Social Power and Legal Culture: Litigation Masters in Late Imperial China*. Stanford: SUP, 1998.

This book situates the litigation master—Chinese legal facilitators who rose with the dawn of the commercial revolution in the 12<sup>th</sup> century—as a socially identifiable entity in the context of late imperial bureaucratic retrenchment, the cultural interplays of the urban-rural nexus, and the growing debasement of lower literati status. It marks the first attempt in the study of Chinese history to understand and explain how legal practice and popular culture coalesced into late imperial Chinese legal culture. Macauley relies on a wide variety of official and non-official sources. The bulk of the book rests on cases that were reported to Beijing from 1736 to 1850. “Even as the modern lawyerly profession developed in the early twentieth century, contemporaries had a difficult time distinguishing the role and identity of the modern lawyer from those of the ubiquitous litigation master. Both were deemed threats to the harmonious order of things for encouraging litigation; engaging in tricky, lawyerly ways; protecting the guilty; and profiting from human disputation” (introduction, p. 1).

\* Reviewed in *JAS* 59.1 (Feb. 2000): 158-59.

Manning, William R. “China and the Powers since the Boxer Movement.” *AJIL* 4.4 (Oct. 1910): 348-402.

Meadows, Thomas T. *The Chinese and Their Rebellions: Viewed in Connection with Their National Philosophy, Ethics, Legislation, and Administration*. London, England: Elder & Co., 1856.

Meijer, Marinus J. *Murder and Adultery in Late Imperial China: A Study of Law and Morality*. Leiden, Netherlands: EJB, 1991.

This short (137 pp.) book contrasts two sections of the 26<sup>th</sup> chapter of the Qing code, promulgated in 1647 and in force until 1912. These two sections deal with premeditated homicides: ordinary murder and “heat of passion” murder of an adulterer. Meijer’s purpose is to show how the law in Qing times had deteriorated into an entanglement of ineffective rules purporting to purify the people’s moral sense. He maintains that the conflict over public and private justice was never solved. In an appendix, he includes a translation of section one of chapter 26 of the Qing code.

Metzger, Thomas A. *The Internal Organization of Ch’ing Bureaucracy: Legal, Normative, and Communication Aspects*. Cambridge: HUP, 1973.

Mitrano, Thomas. "The Chinese Bankruptcy Law of 1906-1907: A Legislative Case History." *MSJOS* 30 (1972-73): ?

Ng, Vivien W. "Ideology and Sexuality: Rape Laws in Qing China." *JAS* 46 (1987): 57-70.

———. "Ch'ing Law Concerning the Insane: An Historical Survey." *Ch'ing Shi Wen-t'i (Problems in Ch'ing History)* 4.4. (Dec. 1980): ?

Ocko, Jonathan K. "I'll Take It All the Way to Beijing: Capital Appeals in the Qing." *JAS* 47.2 (May 1988): 291-315.

Park, Nancy and Robert Antony. "Archival Research in Qing Legal History." *LIC* 14.1 (June 1993): 1-33.

Qin, Zheng. "Pursuing Perfection: Formation of the Qing Code." Guanyuan Zhou, trans. *MC* 21.3 (July 1995): 310-44.

Reed, Bradley W. *Talons and Teeth: Clerks and Runners in the Qing Dynasty*. Stanford: SUP, 2000.

This book adds to a growing body of scholarship by revealing the centrality of the magistrate's court to many of the yamen's basic administrative functions. It examines the organization and daily practices of yamen clerks and runners in a single locale: 19<sup>th</sup> century Ba county in Sichuan province. They performed basic but critical tasks as the drafting, copying, and filing of documents and records, the recording of cadstral surveys, the registration of deeds and land sales, the acceptance and transmittal of petitions to the magistrate, the posting of official notices and proclamations, the issuance of licenses and permits, and the delivery of communications to and from superior yamens. They also served as one of the primary mechanisms for the enforcement of state authority in areas such as arrest and detention, public security, and the collection of taxes. Reed spent 18 months researching recently reopened records from the Guangxu reign collection (1875-1908) at the Sichuan archives, which contains the largest and most comprehensive Qing local government archive known to exist in China.

Ruskola, Teemu. "Law, Sexual Morality, and Gender Equity in Qing and Communist China." *YLJ* 103.8 (June 1994): 2531-65.

Shi, Chenxia. "Commercial Development and Regulation in Late Imperial China: An Historical Overview." *HKLJ* 35.2 (2005): 481-501.

This article starts by reviewing dynastic commercial growth and the social and regulatory settings for such growth in the late Qing period before identifying the role of merchants. Then it examines the growth of business enterprises in that period and judges the effects of the first Chinese company law issued in 1904. Shi sheds light on whether Chinese commercial, regulatory, and legal cultures are supportive of a convergence with international practices in the age of globalization or whether path dependency will prevent convergence. Regardless, many of today's problems in Chinese businesses and companies have deep historical roots.

Shiga, Shūzō. "Criminal Procedure in the Ch'ing Dynasty—with Emphasis on Its Administrative Character and Some Allusion to Its Historical Antecedent." *Museum of the Research Department of the Toyo Bunko* 33 (1975): 115-38.

Silk, Mitchell A. "Imperial China and International Law: A Case Study of the 1895 Treaty of Shimonoseki." *CYILA* 2 (1982): 121-51.

Smith, Norman. "Qing Systems of Justice: An Evaluation of English Language Materials." *BCAR* 11 (1997-98): 1-36. Available without charge at <http://www2.arts.ubc.ca/bcar/> (last accessed Sep. 2007).

Sommer, Matthew H. *Sex, Law, and Society in Late Imperial China*. Stanford: SUP, 2000.

This book explains the regulation of sexuality via legislation and central court practice. The main source used is legal case records, which became available in large numbers only in the 1980s and 1990s with the opening of archives in the PRC and the publication of documents in Taiwan. These records span the very bottom—county level—to the very top—palace level—of the judicial hierarchy.

\* Reviewed in *MSJOS* 50 (2002): 680-82.

Spence, Jonathan D. *The Death of Woman Wang*. New York: Penguin, 1979.

Sprenkel, Sybille van der. *Legal Institutions in Manchu China: A Sociological Analysis*. London, England: Athlone, 1962.

This book attempts a preliminary survey of the entire complex of legal and quasi-legal institutions of China's last royal dynasty. Sprenkel addresses the following six questions: what did the Qing legal system consist of; who operated it, and with what objects; how were the different parts related to one another; was it in fact one system or a plurality; what part did it or they play in the working of Chinese society; and how were legal (or quasi-legal) institutions related to other social institutions? She relies on contemporary first-hand accounts of China by Westerners, translations of the Qing code, studies of law and procedure, monographs on particular institutions, an *ad hoc* report by commissioners appointed to inquire into Chinese law and custom, and 20<sup>th</sup>-century investigations by sociologists or social anthropologists. [She added supplementary material to the text and bibliography in a 1977 reprint edition.]

Staunton, Sir George T., trans. *Ta Tsing Leu Lee; Being the Fundamental Laws, and a Selection from the Supplementary Statutes, of the Penal Code of China*. Taipei, Taiwan: CwPC, 1966. Reprint of 1810 edition published by T. Cadell & W. Davis in London, England.

Sun, E-tu Zen, trans. and ed. *Ch'ing Administrative Terms: A Translation of the Terminology of the Six Boards with Explanatory Notes*. Cambridge: HUP, 1961.

The first work of its kind to appear in English, this book is an annotated translation of a phrase dictionary widely used by Chinese government clerks from the 18th century to 1911. It explains more than 2,500 special terms and technical phrases used in the administration of the Qing empire, as seen from the central bureaucracy in Beijing.

Surrency, Erwin C. "Records of the United States Court for China." *AJLH* 1 (1957): **234-35**.

Wakefield, David. *Fenjia: Household Division and Inheritance in Qing and Republican China*. Honolulu: UHP, 1998.

This book is about inheritance, usually called fēnjiā in Chinese and best translated as "household division." The basic issues explored are the nature of household division and its importance to Chinese history and social structure. Wakefield's study weaves together four different yet complementary traditions into a new vision of how inheritance, family, lineage, and state interacted in China.

Waley-Cohen, Joanna. "Collective Responsibility in Qing Criminal Law." In *The Limits of the Rule of Law in China*. Karen Turner et al., eds. Seattle: UWP, 2000: **112-31**.

This article examines the nature and application of group responsibility. It takes into account both theory and practice. Waley-Cohen argues that this ancient doctrine was an indispensable tool for social and political control and has remained influential in our time despite its formal abolition early last century. "One result of this bequest," she writes, "was that the cultural habit of thinking more in terms of family and community responsibility than in terms of individuals gave the Marxist idea of classes a certain familiarity to Chinese of all social strata" (p. 127).

———. "Politics and the Supernatural in Mid-Qing Legal Culture." *MC* 19.3 (July 1993): 330-53.

———. *Exile in Mid-Qing China: Banishment to Xinjiang, 1758-1820*. New Haven: YUP, 1991.

\* Reviewed in *JAS* 50.4 (Nov. 1991): 925-26.

Wang, Tai-sheng. *Legal Reform in Taiwan under Japanese Colonial Rule, 1895-1945: The Reception of Western Law*. Seattle: UWP, 2000.

Wang, Zhiqiang. "Case Precedent in Qing China: Rethinking Traditional Case Law." *CJAL* 19 (2005-06): 323-44.

Watt, John R. *The District Magistrate in Late Imperial China*. New York: CoUP, 1972.

Wilfley, L.R. "Re Probate of the Will of John Pratt Roberts." *AJIL* 2.1 (Jan. 1908): **233-41**.

Williams, E.T. "The Abolition of Slavery in the Chinese Empire." *AJIL* 4.4 (Oct. 1910): **794-805**.

Zelin, Madeleine. "The Rights of Tenants in Mid-Qing Sichuan: A Study of Land Related Lawsuits in the Baxian Archive." *JAS* 45 (1986): 499-526.

Zhou, Guangyuan. "Illusion and Reality in the Law of the Late Qing: A Sichuan Case Study." *MC* 19 (1993): 427-56.

## *II*

*The Modern Age, 1911-present*

*Searching for the Rule of Law*

## *Republic of China, 1911-49*

¶ [Briefly discuss law in the Republic of China.]

Alford, William P. and Shen Yuanyuan. “‘Law is My Idol’: John C. H. Wu and the Role of Legality and Spirituality in the Effort to ‘Modernize’ China.” In *Essays in Honour of Wang Tieya*. Ronald Macdonald, ed. Dordrecht, Netherlands: MN, 1994: ?

Cassel, Pär. “Excavating Extraterritoriality: The ‘Judicial Sub-Prefect’ as a Prototype for the Mixed Court in Shanghai.” *LIC* 24.2 (Dec. 2003): 156-82.

*China Law Review*. 10 Vols. (Vol. 1 [nos.1-9, 1922-24]; vol. 2 [nos. 1-8, 1924-26]; vol. 3 [nos. 1-6, 1926-27]; vol. 4 [nos. 2-7, 1929-31]; vol. 5 [nos. 1-4, 1932]; vol. 6 [nos. 1-4, 1933]; vol. 7 [nos. 1-4, Jan. 1934-Feb. 1935]; vol. 8 [nos. 1-4, May 1935-Feb. 1936]; vol. 9 [nos. 1-4, June 1936-March 1937]; and vol. 10 [nos. 1-2, June 1937-June 1940]). Dobbs Ferry: Oceana, 1975. Reprint of journal published by the defunct Comparative Law School of China at Soochow University in Shanghai.

China National Center for Tibetan Studies, China No.2 History Archives, comp. *Regulations of the Republic of China Concerning Rule Over Tibet (1912-1949)*. Xu Xingsheng, ed. Beijing, China: CIP, 1999.

Chinese Ministry of Information, comp. “Government Structure.” In *China Handbook, 1937-1945: A Comprehensive Survey of Major Developments in China in Eight Years of War*. Revised and enlarged with 1946 supplement. New York: Macmillan, 1947: 95-126.

This chapter includes information on the then-ruling Kuomintang (KMT) Party, national and local governments, representative bodies, and the constitutional movement. An appendix contains the text of the Revised Organic Law of the National Government promulgated in Nanking on December 30, 1931, and an organizational outline of various graded units in the Hsien (unit of local self-government). Statistical tables on the number of persons who passed public examinations, work of the Control Yuan (the highest supervisory organ of the National Government), enforcement of the new Hsien system, Hsien administration in war areas, and Hsien representative councils are also included.

———. “Judicial System.” In *China Handbook, 1937-1945: A Comprehensive Survey of Major Developments in China in Eight Years of War*. Revised and enlarged with 1946 supplement. New York: Macmillan, 1947: 251-84.

This chapter includes information on the Judicial Yuan (the highest judicial organ of the National Government and directly responsible to the National Government’s President), courts, punishment of public functionaries, cases involving foreigners, judicial reform, prisons and prisoners, model prisons, judicial officials, and judicial expenditures. Lists of existing civil and



criminal laws (with promulgating organ, date of promulgation, date of enforcement, and remarks), high, branch, and district courts, and modern prisons in various provinces (with class, location, and remarks) as well as the text of the Revised Advocates Act promulgated by the National Government on April 5, 1945, and effective the same day are also included.

Chiu, Hungdah. "China's Struggle Against the 'Unequal Treaties,' 1927-1946." *CYILA* 5 (1985): 1-28.

Conner, Alison W. "How I Got the Story (and Why It Took So Long): Legal History Research in China." *WUGSLR* 2.1 (Winter 2003): 193-220.

———. "The Comparative Law School of China." In *Understanding China's Legal System: Essays in Honor of Jerome A. Cohen*. C. Stephen Hsu, ed. New York: NYUP, 2003: 210-73.

de Montmorency, J.E.G. "Private Law in China." *Journal of Comparative Legislation and International Law* [3<sup>rd</sup> series] 2.3 (1920): **283-89**.

Dikötter, Frank. *Crime, Punishment and the Prison in Modern China*. New York: CoUP Press, 2002.

This book explores the changing cultural meanings and social practices of the prison in China from 1895 to 1949. It examines the enormous changes in Chinese society in the first half of last century through the lens of the prison system, using newly discovered archival sources to throw light on the contradictory nature of modernity. Part I is about the emergence of the modern penal system. Part II discusses science, crime, and punishment under the Guomindang (GMD). And Part III discusses prison reform under the GMD. Dikötter concludes that "[i]mprisonment in republican China was a new legal tool, but one that was used to pursue a somewhat traditional vision of an ordered and cohesive social body governed by virtue" (p. 371).

\* Reviewed in *CJ* 50 (July 2003): 225-26.

Escarra, Jean. *Chinese Law: Conception and Evolution, Legislative and Judicial Institutions, Science and Teaching*. Gertrude R. Browne, trans. Cambridge: Harvard Law School, 1961. Originally published in Peking, China, in 1936.

\* Reviewed in *Journal of Comparative Legislation and International Law* [3<sup>rd</sup> series] 19.4 (1937): 313-16.

\*\* Obituary in *TP* 44 (1956): 304.

Foster-Simons, Frances. *The Sinification of Socialist Legal "Models:" The Origin of Chinese Socialist Law, 1919-49*. J.S.D. dissertation: Stanford Law School, 1987.

Gilpatrick, Meredith P. "The Status of Law and Lawmaking Procedure under the Kuomintang 1925-46." *Far Eastern Quarterly* 10.1 (Nov. 1950): **38-55**.

Griffin, Patricia E. *The Chinese Communist Treatment of Counterrevolutionaries: 1924-1949*. Princeton: PUP, 1976.

Hsu, Francis L.K. "A Brief Report on the Police Co-operation in Connection with Mental Cases in Peiping." In *Social and Psychological Studies in Neuro-Psychiatry*. R. Lyman et al., eds. Beijing, China: Henri Vetch, 1939: 202-30.

Keeton, G.W. *The Development of Extraterritoriality in China*. 2 vols. New York: Howard Fertig, 1969.

Kirby, William C. "China Unincorporated: Company Law and Business Enterprise in Twentieth Century China." *JAS* 54.1 (Feb. 1995): 43-63.

Koo, Ping Yuen, ed. *China's Labor Laws, 1929-1935, Promulgated by the Nationalist Government of the Republic of China*. Chinese text with English translation. Shanghai, China: Commercial Press, 1935.

Lean, Eugenia. *Public Passions: The Trial of Shi Jianqiao and the Rise of Popular Sympathy in Republican China*. Berkeley: UCaP, 2007.

Lee, Tahirih V. "Risky Business: Courts, Culture, and the Marketplace." *University of Miami Law Review* 47.5 (May 1993): 1335-1414.

Li, Huaiyin. "Village Regulations at Work: Local Taxation in Huailu County, 1900-1936." *MC* 26 (2000): 79-109.

Lobingier, C.S. "The Corpus Juris of New China." *TLR* 19 (1945): 512-52.

Martin, Brian G. *The Shanghai Green Gang: Politics and Organized Crime, 1919-1937*. Berkeley: UCaP, 1996.

Meijer, Marinus J. *The Introduction of Modern Criminal Law in China*. Arlington: University Publications of America, 1976. Reprint of version originally published in Batavia, Indonesia, in 1950.

This book surveys the most important steps taken in the revision of China's criminal code early last century. Meijer only chose proposals and decisions that reflected a difference of attitude towards the principles of the old law and that might be considered preparatory to the introduction of the new legal system. Regarding the new code, he gives the reader an impression of the main differences between the old and new laws and of the subjects that encountered the strongest opposition from the conservative party. He relies on several collections of official documents of the Qing dynasty, such as edicts, rescripts or decrees, and memorials. And some of this material is included in the 11 appendices.

Nathan, Andrew J. *Peking Politics, 1918-1923: Factionalism and the Failure of Constitutionalism*. Berkeley: UCaP, 1976.

Peake, Cyrus H. "Recent Studies on Chinese Law." *Political Science Quarterly* 52.1 (March 1937): 117-38.

Piccigallo, Philip R. *The Japanese on Trial: Allied War Crimes Operations in the East, 1945-1951*. Austin: University of Texas Press, 1979.

Pound, Roscoe. "The Chinese Civil Code in Action." *TLR* 29 (1954-55): **277-91**.

———. "Progress of the Law in China." *WLR* 23 (1948): **345-362**.

———. "Comparative Law and History as Bases for Chinese Law." *HLR* 61.5 (May 1948): **749-62**.

———. "The Chinese Constitution." *New York University Law Quarterly Review* 22 (1947): 194-232.

Quigley, Harold S. "Extraterritoriality in China." *AJIL* 20.1 (Jan. 1926): 46-68.

Rosinger, Lawrence K. *China's Wartime Politics, 1937-1944*. Princeton: PUP, 1944.

The chapter entitled "Chungking and Political Change" (pp. 45-61) discusses wartime personnel and organization, Chiang Kai-shek, the People's Political Council, central government and the provinces, and the constitutional movement. Interestingly, the author claims that although Chiang's power approximates that of a dictator, China's economic, political and social conditions impose checks on centralization attempts and local power remains too great. "Nor do the Chinese people show any signs of being inclined toward one-man rule" (p. 48). Anyway, this book also includes the text of the proposed draft constitution of 1936-37 drawn up by the Legislative Yuan (pp. 70-85) and "A Liberal View of the Draft Constitution" by the Kwangsi Constitutional Government Advancement Association in 1940 (pp. 104-110).

Singleton, Peter. "The Legal Basis of British Piracy Suppression in Chinese Waters, 1927-1937." *CYILA* 7 (1987-88): **103-19**.

Stephens, Thomas B. *Order and Discipline in China: The Shanghai Mixed Court 1911-27*. Seattle: UWP, 1992.

This book is a short (121 pp.) history of the Mixed Court of International Settlement in Shanghai, which then as now was China's biggest and most important commercial and banking center. The Mixed Court was a unique body composed of Chinese and foreigners on the same bench. Its jurisdiction included cases by foreigners against Chinese and cases between Chinese. Unlike previous scholars, Stephens interprets and evaluates the Mixed Court "not as a court of law but as a disciplinary tribunal enforcing a system of dispute resolution and the maintenance of social order upon the principles of disciplinary theory rather than of jurisprudence or legal theory" (preface, xii). And he relies heavily on an original source not referenced to in earlier studies: the correspondence files of the British assessors (judges) on the Mixed Court from 1906-27.

\* Reviewed in *Pacific Affairs* 67.3 (Autumn 1994): 445-47; *AJCA* 31 (Jan. 1994): 191-93.

Tran, Lisa. *Concubines under Modern Chinese Law*. Ph.D. dissertation: University of California at Los Angeles, 2005.

*Treaties Between the Republic of China and Foreign States (1927-1957)*. New York: AMS Press, 1974. Reprint of book originally published by the Ministry of Foreign Affairs in Taipei, Taiwan, in 1958.

Wakeman, Jr., Frederic. *Shanghai Badlands: Wartime Terrorism and Urban Crime, 1937-1941*. Cambridge, England: CmUP, 1996.

———. *Policing Shanghai, 1927-1937*. Berkeley: UCaP, 1995.

———. "Licensing Leisure: The Chinese Nationalists' Attempt to Regulate Shanghai, 1927-49." *JAS* 54.1 (Feb. 1995): 19-42.

Wong, Simon Hing Yan. *Reconstructing the Origins of Contemporary Chinese Law: The History of the Legal System of the Chinese Communists during the Revolutionary Period, 1921-1949*. Ph.D. dissertation: University of Hong Kong, 2000.

Woods, Andrew H. "A Memorandum to Chinese Medical Students on the Medico-Legal Aspects of Insanity." *Journal of the National Medical Association of China* 9 (Sep. 1923): **203-12**.

Yang, Chao-lung. "Powers of Chinese Courts." *Vanderbilt Law Review* 1 (1947): 16-46.

Yu, Kwei. "Some Judicial Problems Facing China." *WLR* 23 (1948): **363-74**.

Zelin, Madeleine et al., eds. *Contract and Property in Early Modern China*. Stanford: SUP, 2004.

The 11 essays in this book emphasize that written agreements were an integral part of the transactional lives of ordinary people, whether they were engaged in deals over property, salt, marriage, or family divisions. They focus on the mechanisms of how people created, maintained, and terminated exchange relationships. The editors hope that these detailed, empirical studies deepen the understanding not only of contract and property rights in early modern China but also of early modern Chinese legal culture more broadly.

*Republic of China (on Taiwan Island/Province),  
1949-present*

¶ [Briefly discuss law in the Republic of China (on Taiwan island/province).]

Chao, K.T. “East China Sea: Boundary Problems Relating to the Tiao-yu-t’ ai Islands.” *CYILA* 2 (1982): 45-97.

Chen, Chiyeu. “The Foster Daughter-In-Law System in Formosa.” *AJCL* 6.2-3 (Spring/Summer 1957): **302-14**.

China Handbook Editorial Board, comp. “The Judiciary.” In *China Handbook, 1956-57*. Taipei, Taiwan: China Publishing Co., 1956: 134-65.

This chapter includes information on the Judicial Yuan (the highest state organ empowered by the constitution to exercise judicial functions independently and free of interference), council of grand justices, supreme and administrative courts, committee on the discipline of public functionaries, law research committee, compilations of interpretations of law and judicial precedents, ministry of justice, procurators, district and high courts, judicial and procuratorial qualifications, attorneys at law, detention and punishment, and court records. In addition, it contains a chart showing the Judicial Yuan’s general setup.

———. “The Legislative Yuan.” In *China Handbook, 1956-57*. Taipei, Taiwan: China Publishing Co., 1956: **115-33**.

This chapter includes information on the history, organization, powers and functions, legislative procedure, and working of the Legislative Yuan. It ends with a table showing the number of statutory bills and bills concerning martial law, treaties, and diplomatic relations passed by the Legislative Yuan during its various sessions since 1948.

Chiu, Hungdah, ed. with Jyh-pin Fa. “Law and Justice.” In *Contemporary Republic of China: The Taiwan Experience, 1950-1980*. James C. Hsiung et al., eds. New York: American Association for Chinese Studies, 1981: 283-337.

This survey of the ROC’s legal development in Taiwan begins with its pre-1949 experience on the mainland. Then it describes Taiwan’s justice system up to 1966. The last section presents a more thorough study of certain specific important legal issues—some of which are briefly described in the first part—with particular emphasis on post-1966 developments. Space limitations confine the discussion primarily to the criminal justice system and its related problems. Civil, commercial, administrative, and trade and investment laws are not covered.

\* Reviewed in *CYILA* 2 (1982): 325-29.

Cosway, Richard et al., eds. *Trade and Investment in Taiwan: The Legal and Economic Environment in the Republic of China*. Taipei, Taiwan: China Council on Sino-American Cooperation in the Humanities and Social Sciences, Academia Sinica, 1973.

Fa, Jyh-pin. "The 1982 Amendments to the Code of Criminal Procedure of the Republic of China." *CYILA* 2 (1982): **177-91**.

———. "The Development of Human Rights in the Republic of China: 1971-1981." *CYILA* 1 (1981): **125-33**.

———. "A Comparative Study of Judicial Review under Nationalist Chinese and American Constitutional Law." *Occasional Papers/Reprints Series in Contemporary Asian Studies*. No. 4 (33). Baltimore: UMSL, 1980.

Law Revision Planning Group, trans. and comp. *Laws of the Republic of China*. 1<sup>st</sup> and 2<sup>nd</sup> series. Taipei, Taiwan: Republic of China, 1961 and 1962.

Liu, Chin-sui. "The Chinese Council of Grand Justices." *AJCL* 7.3 (Summer 1958): **402-08**.

Ma, Ying-jeou. "The East Asian Seabed Controversy Revisited: Relevance (or Irrelevance) of the Tiao-yu-t'ai (Senkaku) Islands Territorial Dispute." *CYILA* 2 (1982): 1-44.

Moser, Michael J. *Law and Social Change in a Chinese Community: A Case Study from Rural Taiwan*. London, England: Oceana, 1982.

\* Reviewed in *CYILA* 4 (1984): 296-98.

Tao, Lung-sheng. "Reform of the Criminal Process in Nationalist China." *AJCL* 19.4 (Fall 1971): **747-65**.

*People's Republic of China (Mainland),  
1949-present*

¶ [Briefly discuss law in the People's Republic of China.]

*A Great Trial in Chinese History: The Trial of Lin Biao and Jiang Qing Counter-Revolutionary Cliques, Nov. 1980 – Jan. 1981.* Oxford, England: Pergamon, 1981.

This book documents the [show?] trial of the infamous Gang of Four, which consisted of Jiang Qing (Mao's widow), Wang Hongwen, Yao Wenyuan, and Zhang Chunqiao. Contents include reflections of a judge, highlights of the court investigation, court debate and judgment, comments by noted jurists, documents (including the indictment that charged the accused with the deaths of 34,800 innocent persons and the unwarranted persecution of 729,511 persons!), and a black-and-white pictorial section. The Gang's televised trial marked the formal end of the Cultural Revolution. For the first time in Chinese history, masses of ordinary people saw for themselves exactly what was meant by the rule of law and how criminal trials are conducted.

Alexandrowicz-Alexander, Charles H. "The Legal Position of Tibet." *AJIL* 48.2 (Apr. 1954): **265-74.**

Bao, Ruo-Wang (Jean Pasqualini) and Rudolph Chelminski. *Prisoner of Mao: An Eyewitness Account of China's Forced Labour Camp System By One of Its Few Survivors.* London, England: Deutsch, 1975.

Bilancia, Philip R. *Dictionary of Chinese Law and Government: Chinese-English.* Stanford: SUP, 1981.

This 822-page tome was 18 years in the making. The first manuscript in 1968 was circulated to numerous scholars of Chinese law, government, language, and economic affairs in the US, Europe, and East Asia. Many of them responded with corrections and helpful comments. The 1981 edition is a revised and enlarged version of the first manuscript. It covers the period from 1939 to 1977. Main entries are arranged alphabetically according to the Wade-Giles romanization system and contain one or more of the following: English equivalents, definitions or explanations, cross-references to related terms, and subentries. It contains over 25,000 Chinese terms, at least 15,000 examples of usage, and more than 30,000 cross-references. Also, it includes a Chinese transliteration conversion table and radical index. As Bilancia claims, ". . . far from being a mere handbook of current legal and government practice, this dictionary is in effect a comprehensive compilation covering almost every aspect of every activity dealt with by government in China" (introduction, p. viii).

Blaustein, Albert P. *Fundamental Legal Documents of Communist China.* South Hackensack: Fred B. Rothman & Co., 1962.

This book is a collection of the three types of fundamental laws enacted in the PRC from 1949 to the late 1950s. Type one: broad, policy-oriented constitutions (state and party) and programs. Type two: organic laws, which create and define the powers of the legislature, courts, and other government agencies. And type three: basic, formal laws deemed essential for the development of the PRC, such as statutes on property, labor, and marriage. In addition, some of the most important administrative “laws” that had been promulgated are included as well as laws covering crime, nationality, and elections. Blaustein describes these fundamental laws and puts them into context. When systematic studies of PRC law in the West were just starting in the early 1960s and it was increasingly difficult to obtain official source materials, he wrote that “. . . all legal research must necessarily begin with a study of Communist China’s *fundamental* laws—and it is for this purpose that this collection has been compiled” (introduction, p. xxiv).

\* Reviewed in *YLJ* 72 (1963): 838-43.

Bonavia, David. *Verdict in Peking: The Trial of the Gang of Four*. New York: Putnam, 1984.

This book aims to give an intimate view of how the modern Chinese political system works, especially in times of tension and conflict. And the trial of the Gang of Four—a central event in modern Chinese history—marked the formal end to one of those times: the Cultural Revolution. The trial “served as a kind of apology to the people of China, and an explanation to the rest of the world, for the country’s extraordinary behavior from 1966 until 1976” (p. 199). Bonavia relies on the trial transcripts of the Gang as well as six other conspirators. These ten persons tried to fashion the course of Chinese history to their own ambitions and ideals but failed. The transcripts are taken from television broadcasts of trial excerpts while it was happening from Nov. 1980 to Jan. 1981. To save readers from a confusing plethora of names, he put all questions into the mouth of a multipurpose judge. The last chapter deals with whether the trial was fair. Bonavia concludes that it was “. . . a classic showpiece of what totalitarian regimes regard as justice for their political enemies. Its chief merit was that it was loosely scripted, and much of the testimony gave the strong impression of being rooted in fact—albeit tendentiously presented—and not merely in the imaginations of the interrogators and prosecutors. That, perhaps, is something to be welcomed” (p. 202).

Bonnichon, André. *Law in Communist China*. The Hague, Netherlands: International Commission of Jurists, 1956.

Brodsgaard, Kjeld Erik. “The Democracy Movement in China, 1978-1979: Opposition Movements, Wall Poster Campaigns, and Underground Journals.” *Asian Survey* 21.7 (July 1981): 747-74.

Chan, Anita et al., eds. *On Socialist Democracy and the Legal System: The Li Yizhe Debates*. Armonk: M.E. Sharpe, 1985.

Chang, Luke T. *China’s Boundary Treaties and Frontier Disputes*. London, England: Oceana, 1982.

China Fushun War Criminals Management Center, comp. *Place of New Life of Japanese War Criminals: China Fushun War Criminals Management Center*. Beijing, China: CIP, 2005.

Built during the Japanese invasion of China in the 1930s to detain Chinese resisters, the Fushun War Criminals Management Center in northeastern China attracted worldwide attention after World War



It when it imprisoned 982 Japanese war criminals. They were transferred from Soviet to Chinese custody in 1950. A special military tribunal of the Supreme People's Court (the PRC's highest court) convened in Shenyang from 1954-56. It consulted over 8,000 case records, obtained 26,700 copies of witness testimony, and bound up 431,400 pages of verified materials on interrogation, investigation, and evidence into 2,918 volumes of files. The verdicts: 45 defendants were found "very seriously guilty" and sentenced to 8-20 years' imprisonment while the others were either given special amnesty or exempted from prosecution and released to go back home. The last inmates were released in 1975 and the prison formally opened to Chinese and foreign visitors in 1986. This oversized, 224-page bilingual book recounts the prison's role in rehabilitating the defendants. It also contains lots of black-and-white photos, including one of Pu Yi ("The Last Emperor" of China) appearing in court as a witness (p. 148).

Chiu, Hungdah. "Chinese Attitudes Toward International Law in the Post-Mao Era, 1978-1987." *Occasional Papers/Reprints Series in Contemporary Asian Studies*. No. 1 (84). Baltimore: UMSL, 1988.

———. "Chinese Law and Justice: Trends Over Three Decades." *Occasional Papers/Reprints Series in Contemporary Asian Studies*. No. 7 (52). Baltimore: UMSL, 1982.

———. "Socialist Legalism: Reform and Continuity in Post-Mao People's Republic of China." *Occasional Papers/Reprints Series in Contemporary Asian Studies*. No. 1 (46). Baltimore: UMSL, 1982.

———. "China and the Law of the Sea Conference." *Occasional Papers/Reprints Series in Contemporary Asian Studies*. No. 4 (41). Baltimore: UMSL, 1981.

———. "Structural Changes in the Organization and Operation of China's Criminal Justice System." *Occasional Papers/Reprints Series in Contemporary Asian Studies*. No. 1 (38). Baltimore: UMSL, 1981.

———. *Agreements of the People's Republic of China: A Calendar of Events, 1966-1980*. New York: Praeger, 1981.

———. "China's New Criminal and Criminal Procedure Codes." *Occasional Papers/Reprints Series in Contemporary Asian Studies*. No. 6 (35). Baltimore: UMSL, 1980.

———. "Certain Problems in Recent Law Reform in the People's Republic of China." *Occasional Papers/Reprints Series in Contemporary Asian Studies*. No. 5 (34). Baltimore: UMSL, 1980.

———. "Social Disorder in Peking after the 1976 Earthquake Revealed by a Chinese Legal Document." *Occasional Papers/Reprints Series in Contemporary Asian Studies*. No. 2 (23). Baltimore: UMSL, 1979.

———. "Criminal Punishment in Mainland China: A Study of Some Yunnan Province Documents." *Occasional Papers/Reprints Series in Contemporary Asian Studies*. No. 6 (18). Baltimore: UMSL, 1978.

———. *The People's Republic of China and the Law of Treaties*. Cambridge: HUP, 1972.

Cho, Sung Yoon, comp. *Japanese Writings on Communist Chinese Law, 1946-1974: A Selected Annotated Bibliography*. Washington: Library of Congress, 1977.

\* Reviewed in *JAS* 38.3 (May 1979): 570-71.

Cohen, Jerome A. "China's Changing Constitution." *CQ* 76 (Dec. 1978): 794-841.

———. "Reflections on the Criminal Process in China." *JCLC* 68.3 (Sep. 1977): 323-55.

———. "China and Intervention: Theory and Practice." *UPeLR* 121.3 (Jan. 1973): 471-505.

———, ed. *China's Practice of International Law: Some Case Studies*. Cambridge: HUP, 1972.

———, ed. *Contemporary Chinese Law: Research Problems and Perspectives*. Cambridge: HUP, 1970.

Regarding Chinese law, the questions most frequently asked by interested Western laypersons, students, lawyers, and scholars in the 1960s were: (1) how does one learn about law in Communist China?; (2) what research materials are available?; (3) is the language a great obstacle?; (4) is the Chinese system very different from ours?; and (5) how does it compare with the Soviet system? This book answers the first three questions and indicates some of the problems involved in answering the others. Subject covered include legal publications, interviewing refugees, translation problems, Japanese influences, criminal law, marriage law, methodological problems, international law attitudes, and Soviet perspectives and legal sources. In addition to Cohen, other contributors to this volume include Harold J. Berman, Hungdah Chiu, David Finkelstein, George Ginsburgs, Dan F. Henderson, Tao-tai Hsia, Victor H. Li, Stanley Lubman, Marinus J. Meier, Richard M. Pfeffer, and Yasuhei Taniguchi.

\* Reviewed in *AJCL* 19.2 (Spring 1971): 391-95.

———. "The Chinese Communist Party and 'Judicial Independence': 1949-1959." *HLR* 82.5 (March 1969): 967-1006.

———. *The Criminal Process in the People's Republic of China, 1949-1963: An Introduction*. Cambridge: HUP, 1968.

This 706-page book's emphasis is criminal procedure, but a lot of attention is given to substantive criminal law and its application. Part one is an introductory essay that provides an overview of the evolution and working of the criminal process from 1949-1963. Part two, which is the bulk of the book, systematically presents primary source materials that allow more detailed consideration of problems raised in part one. And part three is a modest bibliography of sources drawn upon in the previous parts and an English-Chinese glossary of the major legal and institutional terms translated in part two. Also, Cohen includes a reprint of a "brilliant but little known" 1957 essay by Benjamin I.

Schwartz called “On Attitudes towards Law in China” (pp. 62-70).

\* Reviewed in *Michigan Law Review* 67.1 (Nov. 1968): 179-212.

———. “Chinese Mediation on the Eve of Modernization.” *CaLR* 54 (1966): 1201-26.

———. “The Party and the Courts: 1949-1959.” *CQ* 38 (1964): 120-57.

——— and Hungdah Chiu, comps. *People’s China and International Law: A Documentary Study*. 2 vols. Princeton: PUP, 1974.

\* Reviewed in *AJCL* 22.3 (Summer 1974): 575-78.

Cook, Alexander. “‘Settling Accounts’: Law as History in the Trial of the Gang of Four.” In *Law and History: Current Legal Issues 2003, Vol. 6*. Andrew Lewis and Michael Lobban, eds. Oxford, England: OUP, 2004: **413-31**.

Although the [show?] trial of the Gang of Four in 1980-81 was meant to bolster a new regime of the rule of law after the lawlessness of the Cultural Revolution, and used experienced judges seeking objective proof that the defendants had committed the crimes for which they were accused, at least one of the defendants—Mao’s widow Jiang Qing—contested the new regime’s narrative and unsettled the process. Cook shows that closure is undermined when counter-narratives are voiced challenging those favored by the powers-that-be.

Diamant, Neil J. “Making Love ‘Legible’ in China: Politics and Society during the Enforcement of Civil Marriage Registration, 1950-66.” *Politics and Society* 29.3 (Sep. 2001): 447-80.

———. *Revolutionizing the Family: Politics, Love, and Divorce in Urban and Rural China, 1949-1968*. Berkeley: UC&P, 2000.

*Documents of the First Session of the Fifth National People’s Congress of the People’s Republic of China*. Peking, China: FLP, 1978.

This book contains, among other things, the text of the PRC Constitution adopted on March 5 of that year (pp. 125-172) and the Report of the Revision of the Constitution delivered on March 1 (pp. 173-220). The latter discusses China’s general task for the post-Mao period, revision of the Constitution’s articles, and the Constitution’s enforcement. It also features quotations from the recently deceased Chairman Mao in bold type, reminiscent of red-letter Holy Bibles. One of them says, “Within the ranks of the people, it is criminal to suppress freedom, to suppress the people’s criticism of the shortcomings and mistakes of the Party and the government or to suppress free discussion in academic circles” (p. 210). Amen!

Dorsey, Gary. “Chinese Recognition: Law and Policy in Perspective.” *University of Pittsburgh Law Review* 23 (1961-62): 17-103.

Edles, Gary J. “Mobilization of the Masses: A Survey of Communist Chinese Labor Law.” *WULQ* 1969.4 (Fall 1969): 395-422.

Edwards, R. Randle. "The Gang of Four Trial: Chinese Criminal Justice in Practice." *ChLR* 1 (1980-81): 173-211.

———. "Reflections on Crime and Punishment in China, with Appended Sentencing Documents." Documents translated by R. Randle Edwards and Hungdah Chiu. *Occasional Papers/Reprints Series in Contemporary Asian Studies*. No. 8. Baltimore: UMSL, 1977.

Gelatt, Timothy A. and Frederick E. Snyder. "Legal Education in China: Training for a New Era." *ChLR* 1.2 (Fall 1980): **41-60**.

Goodman, David S.G. *Beijing Street Voices: The Poetry and Politics of China's Democracy Movement*. London, England: M. Boyars, 1981.

This book is an anthology of poetry from Beijing's Democracy [Wall] Movement during the winter of 1978-79 and a sketch of its development. Poetry was an integral part of the Movement because its genesis dates back to the Tiananmen Incident of 1976 following the death of Zhou Enlai, China's popular and admired premier from 1949 until his death. At that time ordinary people used poetry to publicly mourn Zhou and criticize the despised Gang of Four. The poems here were all taken from the unofficial publications of the Movement from Nov. 1978 to April 1979. Explanatory notes to each poem have been added when necessary, and both the poems and the Movement are set in their social and political context. Also included are a selection of documents not readily available elsewhere, namely the initial publication statements and editorial comments of some of the unofficial journals and an analysis of the Movement by one its activists. Finally, this book includes a glossary of Chinese names, terms, and places as well as a checklist of all the unofficial publications known to have been produced in Beijing from Nov. 1978 to May 4, 1979.

\* Reviewed in *NYRB* (Aug. 13, 1981): ?

Hsia, Tao-tai. "The Constitution of Red China." *AJCL* 4.3 (Summer 1955): **425-35**.

Hsiung, James C., ed. "Symposium: The Trial of the 'Gang of Four' and Its Implication in China." Documents prepared by Hungdah Chiu. *Occasional Papers/Reprints Series in Contemporary Asian Studies*. No. 3 (40). Baltimore: UMSL, 1981.

Human Rights Watch and Geneva Initiative on Psychiatry. *Dangerous Minds: Political Psychiatry in China Today and Its Origins in the Mao Era*. New York: Human Rights Watch, 2002.

\* Reviewed in *NYRB* (Feb. 27, 2003): ?

Johnston, Douglas M. and Hungdah Chiu. *Agreements of the People's Republic of China, 1949-1967: A Calendar*. Cambridge: HUP, 1968.

\* Reviewed in *AJCL* 18.3 (1970): 653.

Jones, William C. "Due Process in China: The Trial of Wei Jingsheng." *RSL* 9 (1983): **55-59**.

———. “A Possible Model for the Criminal Trial in the PRC.” *AJCL* 24.2 (Spring 1976): **229-45**.

Josephs, Hilary K. et al. “Independence for Tibet: An International Law Analysis.” *ChLR* 8.1-2 (1994): 21-72.

Kim, Chin and Timothy G. Kearley. “The 1978 Constitution of the People’s Republic of China.” *HICLR* 2 (1979): 251-79.

Kim, Chin. “The 1975 Constitution of the People’s Republic of China.” *HICLR* 1 (1977-78): 1-35.

Ladany, Laszlo. “The Mao Era: Lawlessness.” In *Law and Legality in China: The Testament of a China-Watcher*. London, England: Hurst, 1992: 52-78.

This chapter discusses law during the first 30 years of Communist rule, which is divided into five periods: 1949-53 (Nationalist laws annulled, Common Programme promulgated, courts set up), 1954-57 (first state constitution), 1958-1966 (no laws passed), 1966-76 (reign of the Gang of Four, a time of anarchy, no law or legality), and 1976-80 (efforts to restore a sense of legality in life). Ladany writes “that throughout that time there was only one short period of three years where an endeavor was made to introduce legality . . . This came to an end in August 1957 . . . The vast land of China lived for thirty years in a legal vacuum” (55).

Leng, Shao-chuan. “The Role of Law in the People’s Republic of China as Reflecting Mao-Tse-tung’s Influence.” *JCLC* 68.3 (Sep. 1977): **356-73**.

———. *Law in Chinese Foreign Policy*. Dobbs Ferry: Oceana, 1972.

———. *Justice in Communist China*. Dobbs Ferry: Oceana, 1967.

Li, T’ien-min. “The Trial of the Lin Piao and Chiang Ch’ing Cliques.” *Issues and Studies* 17.6 (1981): **19-26**.

Li, Victor H. *Law Without Lawyers*. Stanford: SUP, 1978.

———, ed. *Law and Politics in China’s Foreign Trade*. Seattle: UWP, 1977.

Stemming from an international symposium, this book is organized around a number of “country studies” that discuss the history and special characteristics of trade between China and a particular country. Japan, the former Soviet Union and West Germany, Denmark, Italy, the former British colony Hong Kong, and America are among these countries. Also, 20 appendices cover agreements, regulations, and insurance. It focuses both on the practical how-to-do-it aspects of trade as well as on more general issues like the relationship of politics to economics. Much material is presented for scholars and businesspeople alike. In addition to Li, other contributors include Jerome Alan Cohen, A. R. Dicks, Randle Edwards, George Ginsburgs, Dan F. Henderson, Donald W. Klein, Stanley Lubman, Tasuku Matsuo, Poul Mohr, Frank Münzel, Gabriele Crespi Reghizzi, Arthur A. Stahnke, and Alan H. Smith.

———. “The Role of Law in Communist China.” *CQ* 44 (1970): 66-111.

Lin, Fu-shin, comp. and ed. *Chinese Law Past and Present: A Bibliography of Enactments and Commentaries In English Text*. New York: East Asian Institute, Columbia University, 1966.

This 419-page book is the most comprehensive bibliography of its kind prepared up to that time (and maybe since). It covers the period from the last quarter of the 19<sup>th</sup> century to the end of May 1965, just before the start of the Cultural Revolution. Lin focuses on the judicial system, public law, the Communist Party, private law, land and agricultural law, economic, industrial, and commercial law, finance and taxation, labor law, criminal law and procedure, and conflict of laws and legal status of aliens as well as non-Communist Chinese law and civil procedure. The main emphasis, however, is on the Communist period since 1949. Whenever necessary or appropriate, a brief explanatory annotation is supplied. Besides books and articles, it covers statutes and a wide variety of normative enactments, official documents, court decisions, and texts of relevant official speeches and newspaper accounts.

———. “Communist China’s Emerging Fundamentals of Criminal Law.” *AJCL* 13.1 (Winter 1964): **80-93**.

Liu, Shao-chi. *Report on the Draft Constitution of the People’s Republic of China – Constitution of the People’s Republic of China*. Peking, China: FLP, 1954.

This slim, 101-page book contains a report delivered by Liu (Mao’s first would-be successor who was kidnapped and killed by the Red Guard in the late 1960s) at the first session of the First National People’s Congress on September 15, 1954. It also contains the text of the PRC’s first Constitution adopted five days later at the same meeting.

Lo, Carlos Wing-hung. “The Legal System and Criminal Responsibility of Intellectuals in the People’s Republic of China 1949-1982.” *Occasional Papers/Reprints Series in Contemporary Asian Studies*. No. 2 (67). Baltimore: UMSL, 1985.

*Main Documents of the Second Session of the Fifth National People’s Congress of the People’s Republic of China*. Beijing, China: FLP, 1979.

This book contains, among other things, Peng Zhen’s explanation given on June 26, 1979, of the seven draft laws (pp. 190-220). The elderly Peng was the first member of the CCP’s Politburo to be toppled during the Cultural Revolution. But he survived and returned to public life in 1979 to champion legal reform and serve as chairman of the NPC’s Standing Committee throughout the 1980s. The seven draft laws he explains are the organic law of the local people’s congresses (LPC) and governments, electoral law for the NPC and LPC, criminal law, criminal procedure law, organic laws of the people’s courts and procuratorates, and joint venture law.

Marasinghe, M.L. “An Empiricist’s View of the Chinese Legal System.” *Valparaiso University Law Review* 15 (1980-81): 283-317.

This article is devoted to the study of social organizations that emerged from 1949-1976 and their interrelationships. It is based on extensive field work conducted by Marasinghe in the PRC during two visits in 1975 and 1977. The field work consisted of watching the workings of communes, factories, and schools and interviewing directly and indirectly persons in CCP branch organizations.

Interviews with some longstanding foreign residents of Beijing, Shanghai, and Guangzhou also produced useful data. To compensate for the unavailability of published documents, he accessed the private archives and notes of persons living in China at the time.

Marshall, Steven et al. *Tibet since 1950: Silence, Prison or Exile*. New York: Aperture Foundation and Human Rights Watch, 2000.

McAleavy, Henry. "The People's Courts in Communist China." *AJCL* 11.1 (Winter 1962): **52-65**.

Moore, John N. *Law and the Indo-China War*. Princeton: PUP, 1972.

\* Reviewed in *AJCL* 21.2 (Spring 1973): 337-38.

Ocko, Jonathan K. "Women, Property, and Law in the People's Republic of China." In *Marriage and Inequality in Chinese Society*. Rubie S. Watson and Patricia Buckley Ebrey, eds. Berkeley: UCaP, 1991: 313-46.

Pfeffer, Richard M. *Understanding Business Contracts in China, 1946-1963*. Cambridge: East Asian Research Center, Harvard University, 1973.

Powers, John. *History as Propaganda: Tibetan Exiles versus the People's Republic of China*. Oxford, England: OUP, 2004.

Rosen, S., ed. "The Rehabilitation and Dissolution of 'Li Yizhe'." *Chinese Law and Government* 14 (1981): 3-121.

Seymour, James D. *The Fifth Modernization: China's Human Rights Movement, 1978-1979*. Stanfordville: Human Rights Publishing Group, 1980.

Sprenkel, Otto B. van der, et al. *New China: Three Views*. Otto B. van der Sprenkel, ed. London, England: Turnstile Press, 1950.

"This book contains the first-hand accounts of three non-Communist European observers [Sprenkel, Robert Guillain, and Michael Lindsay] of revolutionary China, all of them specialists, with particularly good facilities and equipment for investigation" (Introduction, p. vii). It has four parts. The first three are solo pieces. The fourth features six documents, including the Common Programme of the Chinese People's Political Consultative Conference (pp. 199-216) and the Organic Law of Central People's Government of the PRC (pp. 217-226)—both adopted on September 29, 1949, in Peking. The former document was the predecessor to the first PRC Constitution adopted in 1954. And the text of these two laws is the official English version issued by the Foreign Languages Press in Peking.

Stahnkur, Arthur. "The Background and Evolution of Party Policy on the Drafting of Legal Codes in Communist China." *AJCL* 15.3 (1967): **506-25**.

Tao, Lung-sheng. "Politics and Law Enforcement in China: 1949-1970." *AJCL* 22.4 (Autumn 1974): 713-56.

Tzou, Byron N. *China and International Law: The Boundary Disputes*. New York: Praeger, 1990.

Valk, M.H. Van der. "Previous Chinese Legal Language and Communist Legal Language." *MSJOS* 29 (1970-71): ?

White, III, Lynn T. "Chaos and Courts: Reformed Law in China and in Shanghai." In *The Study of Modern China*. Eberhard Sandschneider, ed. London, England: Hurst & Co., 1999: 226-54.

Whyte, M.K. "Corrective Labor Camps in China." *Asian Survey* 13 (1973): 253-69.

Wei, Jingsheng. *The Courage to Stand Alone: Letters from Prison and Other Writings*. Kristina M. Torgeson, ed. and trans. New York: Viking, 1997.

China's most famous prisoner of conscience from 1979 to 1997, Wei was even nominated for the Nobel Peace Prize. He became so for posting severe criticism of the CCP on Beijing's Democracy Wall in 1978-79. This book contains a collection of his prison letters from 1981 to 1993. (He was not allowed to write during the first two years of his imprisonment.) The letters are addressed to his brother and two sisters, prison authorities and judicial organs, and policy-making officials in the CCP. The book also includes Wei's legendary Dec. 1978 essay "The Fifth Modernization: Democracy," the defense statement made by him at his one-day show trial in Oct. 1979, and an autobiographical essay from early 1979 that was later smuggled out of China and published overseas. After his 1997 release from prison for "medical reasons," Wei emigrated to America and continues to speak out in favor of a politically free China.

Woodsworth, K.C. "The Legal System of the [People's] Republic of China." *Canadian Bar Journal* 4 (1961): 299-?

Wu, Harry and Carolyn Wakeman. *Bitter Winds: A Memoir of My Years in China's Gulag*. New York: J. Wiley, 1994.

\* Reviewed in *NYRB* (Aug. 10, 1995): ?



*Works Covering More than Two Regimes  
or of a General Nature*

¶ [Briefly conclude by discussing law in Chinese history generally.]

Alford, William P. “Law, Law, What Law?: Why Western Scholars of Chinese History and Society Have Not Had More to Say about Its Law.” *MC* 23.4 (Oct. 1997): 398-419.

This article first explores why so many of last century’s most celebrated Western scholars of Chinese history neglected or mischaracterized the impact of law on Chinese life. Then it considers reasons why this problem has begun to recede of late. Alford admits that “. . . this article is highly speculative—designed to be illustrative, rather than comprehensive, and provocative instead of definitive” (p. 398). Also, he hopes it somewhat answers a question posed to him by a late professor two decades before about the value of studying Chinese law.

———. *To Steal a Book Is an Elegant Offense: Intellectual Property Law in Chinese Civilization*. Stanford: SUP, 1995.

Anyone who has recently visited China’s mega-cities Beijing and Shanghai or Canal Street in New York City’s Chinatown can attest to the sea of pirated products (e.g., CDs, DVDs, software, and clothing) sold on sidewalks by Chinese merchants. This book considers why intellectual property law—and especially copyright—has never taken hold in China. For purposes of this study, intellectual property is defined primarily to encompass copyright, patent, and trademark. Other less significant forms, however, are also addressed.

——— and Wejen Chang. *Major Issues in Chinese Legal History*. 3 vols. Cambridge: EALSP, HLS, 1992.

Angle, Stephen C. and Marina Svensson, eds. *The Chinese Human Rights Reader: Documents and Commentary, 1900-2000*. Armonk: M.E. Sharpe, 2001.

This book features translations of 63 writings spanning 20<sup>th</sup>-century China. The selections are arranged chronologically and presented in full whenever possible. Surprisingly, they show that Chinese human rights discourse has long been motivated by indigenous concerns, rather than imposed from without, and it has been interpretative and critical, rather than passive and imitative. A brief introduction dealing with the author and the immediate context precede each selection. The editors—who also translated most of the selections—provide a substantive introduction and glossary in which translations of key terms are linked to their Chinese equivalents. In addition, they maintain a companion Web site (<http://www.chinesehumanrightsreader.org>), which serves as a supplement to the materials in the book. It features additional texts, some by authors already represented in the book, as well as other resources for learning and teaching about human rights in China.

\* Reviewed in *CJ* 48 (July 2002): 194-96.

Bastug, S. "Kinship, Marriage and Descent in Early China." *JAH* 29 (1995): 149-87.

Bell, Daniel A. "Confucian Constraints on Property Rights." In *Confucianism for the Modern World*. Daniel A. Bell and Hahm Chaibong, eds. Cambridge, England: CmUP, 2003: **218-35**.

Bernhardt, Kathryn. *Women and Property in China, 960-1949*. Stanford: SUP, 1999.

This book is a study of women's rights to property specifically and a study of property rights in general. It goes beyond examining the text of codes. Instead, it studies the law in action through individual court case records, published collections of original court decisions, and narrative accounts of lawsuits described in the diaries and autobiographies of local officials.

Bünger, Karl. "The Punishment of Lunatics and Negligents According to Classical Chinese Law." *Studia Serica*, pt. 2, IX (1950): **1-16**.

Buxbaum, David C. ed. *Chinese Family Law and Social Change in Historical and Comparative Perspective*. Seattle: UWP, 1978.

Chan, Joseph M. "Moral Autonomy, Civil Liberties, and Confucianism." *PEW* 52.3 (2002): 281-310.

Chan, Sin Yee. "The Confucian Conception of Gender in the Twenty-First Century." In *Confucianism for the Modern World*. Daniel A. Bell and Hahm Chaibong, eds. Cambridge, England: CmUP, 2003: 312-33.

Chang, Wejen. *Traditional Chinese Legal Thought*. 2 vols. Cambridge: EALSP, HLS, 1992.

Chen, Albert H.Y. "Mediation, Litigation, and Justice: Confucian Reflections in a Modern Liberal Society." In *Confucianism for the Modern World*. Daniel A. Bell and Hahm Chaibong, eds. Cambridge, England: CmUP, 2003: 257-87.

Cheng, Chi-yu. "Chinese Theory of Criminal Law." *JCLC* 39 (1948-49): 461-?

Chiu, Vermier Y. *Marriage Laws and Customs of China*. Hong Kong: IACSR, NAC, CUHK, 1966.

Ch'ü, T'ung-tsu. *Law and Society in Traditional China*. Paris, France: Mouton, 1961.

\* Reviewed in *AJCL* 11.2 (Spring 1962): 266-68.

Clark, Kelly J. and Robin R. Wang. "A Confucian Defense of Gender Equity." *Journal of the American Academy of Religion* 72.2 (2004): 395-422.

Cohen, Jerome A. "On Teaching Chinese Law." *AJCL* 19.4 (Fall 1971): **655-64**.

Dalby, Michael. "Revenge and the Law in Traditional China." *AJLH* 25.4 (Oct. 1981): 267-307.

de Bary, W. Theodore and Tu Weiming, eds. *Confucianism and Human Rights*. New York: CoUP, 1998.

\* Reviewed in *MSJOS* 48 (2000): 514-15.

des Forges, Roger V. and Qiang Fang. "Were Chinese Rulers above the Law? Toward a Theory of the Rule of Law in China from Early Times to 1949 CE" (2006). Buffalo Legal Studies Research Paper Series, paper no. 2006-006. Available without charge at <http://ssrn.com/abstract=896910> (last accessed Sep. 2007).

Dien, Dora Shu-fang. *The Chinese Worldview Regarding Justice and the Supernatural: The Cultural and Historical Roots of Rule by Law*. Hauppauge: Nova Science Publishers, 2006.

Dobson, W.A.C.H. "Some Legal Instruments of Ancient China: The *Ming* and the *Meng*." In *Wen-lin: Studies in the Chinese Humanities*. Chow Tse-tsung, ed. Milwaukee: University of Wisconsin, 1968: **269-82**.

Edwards, R. Randle. "Imperial China's Border Control Law." *JCL* 1.1 (Spring 1987): 33-62.

Fang, Qiang. *A Hot Potato: The Chinese Complaint Systems from Early Times to the Present*. Ph.D. dissertation: State University of New York at Buffalo, 2006.

French, Rebecca R. *The Golden Yoke: The Legal Cosmology of Buddhist Tibet*. Ithaca: Cornell University Press, 1995.

\* Reviewed in *AJCL* 47 (Winter 1999): 219-?; *Stanford Journal of International Law* 33 (Winter 1997): 156-?; *YLJ* 106.6 (Apr. 1997): 1885-1950.

Furth, Charlotte et al., eds. *Thinking with Cases: Specialist Knowledge in Chinese Cultural History*. Honolulu: UHP, 2007.

Goodrich, Chauncey S. "The Ancient Chinese Prisoners' Van." *TP* 61.4-5 (1975): **215-31**.

Gu, Sharron. *The Boundaries of Meaning and the Formation of Law: Legal Concepts and Reasoning in the English, Arabic, and Chinese Traditions*. Montreal, Canada: McGill-Queens University Press, 2006.

Hansen, Valerie. *Negotiating Daily Life in Traditional China: How Ordinary People Used Contracts, 600-1400*. New Haven: YUP, 1995.

He, Baogang. "Confucianism versus Liberalism over Minority Rights: A Critical Response to Will Kymlicka." *JCP* 31.1 (2004): 103-24.

Head, John W. and Yanping Wang. *Law Codes in Dynastic China: A Synopsis of Chinese Legal History in the Thirty Centuries from Zhou to Qing*. Durham: Carolina Academic Press, 2005.

Selecting codification as its main theme, this book overcomes the seeming impossibility of summarizing the whole of Chinese legal history in a one-volume work. It uses a straightforward approach. The story begins with the ancient Zhou dynasty and ends with the collapse of the Qing dynasty early last century. The central contours of China's legal system still survive today in the PRC, so it would be unwise to dismiss this study of dynastic Chinese legal history as anachronistic or irrelevant.

\* Reviewed in *LPBR* 16.2 (Feb. 2006): 149-52. Available without charge at <http://www.bsos.umd.edu/gvpt/lpbr/subpages/reviews/head-wang0206.htm> (last accessed Sep. 2007).

Holmgren, Jennifer. *Marriage, Kinship, and Power in Northern China*. Aldershot, England: Variorum, 1995.

\* Reviewed in *JAH* 31.1 (1997): 71-72.

———. "Economic Foundations of Virtue: Widow Remarriage in Early and Modern China." *AJCA* 13 (1985): 1-27.

Ho, Lusina. "Traditional Confucian Values and Western Legal Frameworks: The Law of Succession." In *Confucianism for the Modern World*. Daniel A. Bell and Hahm Chaibong, eds. Cambridge, England: CmUP, 2003: 288-311.

Hsu, Dau-lin. "Crime and Cosmic Order." *HJAS* 30 (1970): **111-25**.

Hu, Shih. "The Logic of Law." In *The Development of the Logical Method in Ancient China*. 2<sup>nd</sup> ed. New York: Paragon Book Reprint Corp., 1968: 170-84. First edition published by Oriental Book Company in Shanghai, China, in 1922.

———. "The Natural Law in the Chinese Tradition." *Natural Law Institute Proceedings* 5 (1951): 153-99 or 199-253.

Hua, Sheng. "Big Character Posters in China: A Historical Survey." *JCL* 4.2 (Fall 1990): 233-56.

Hulsewé, A.F.P. "Assault and Battery at the Palace Gates." In *Indo-sino-tibetica: Studi in onore di Luciano Petech. Studi Orientali IX*. P. Daffina, ed. ? : ?, 1990: ?-?

Kim, Chin and Theodore R. LeBlang. "The Death Penalty in Traditional China." *Georgia Journal of International and Comparative Law* 5 (1975): 77-105.

Kinkley, Jeffrey C. *Chinese Justice, the Fiction: Law and Literature in Modern China*. Stanford: SUP, 2000.

\* Reviewed in *CJ* 48 (July 2002): 196; *LPBR* 10.7 (July 2000): 446-49, available without charge at <http://www.bsos.umd.edu/gvpt/lpbr/subpages/reviews/kinkley.html> (last accessed Sep. 2007).

Kirby, William C., ed. *Realms of Freedom in Modern China*. Stanford: SUP, 2004.

This book uses freedom in the traditional and restricted sense of civil and political liberty. The 11 chapters have somewhat different concerns (e.g., economics, marriage, labor, dissent, religion), but all are concerned with the question of “freedom” in China. Contributors include the editor, Irene Bloom, William C. Jones, Madeleine Zelin, Jérôme Bourgon, Elizabeth J. Perry, Wen-hsin Yeh, Arlen Meliksetov, Alexander Pantsov, William P. Alford, Yuanyuan Shen, Jean C. Oi, and Robert P. Weller. “This much is clear: as China enters its second Republican century, its pursuit of freedom remains a work in progress, of recovery and discovery, a process of becoming as much as of being” (introduction, p. 17).

Lai, Chi-tim. “The Demon Statutes of Nüqing and the Problem of the Bureaucratization of the Netherworld in Early Heavenly Master Daoism.” *TP* 88.4 (2002): 251-81.

Lee, Hsueh-teng. “The Earlier Concepts of Human Rights and Their Implementations.” *CC* 23.1 (1982): **47-59**.

Lee, Luke and Whalen W. Lai. “The Chinese Conception of Law: Confucian, Legalist, and Buddhist.” *Hastings Law Journal* 29 (1977-78): 1307-29.

Li, Peter. “In Search of Justice: Law and Morality in Three Chinese Dramas.” In *Moral Behavior in Chinese Society*. Richard W. Wilson et al., eds. New York: Praeger, 1981: 104-25.

Liang, Zhiping. “Explicating ‘Law’: A Comparative Perspective of Chinese and Western Legal Culture.” *JCL* 3 (1989): 55-91.

Lobingier, Charles S. “A Bibliographical Introduction to the Study of Chinese Law.” *Journal of the Society of Comparative Legislation* [new series] 15.2 (1915): **116-27**.

Lubman, Stanley B. “Western Scholarship on Chinese Law: Past Accomplishments and Present Challenges.” *Columbia Journal of Transnational Law* 22 (1983-84): **83-100**.

Ma, Herbert H.P. “Law and Morality: Some Reflections on the Chinese Experience Past and Present.” *PEW* 21 (1971): **443-60**.

MacCormack, Geoffrey. “From *Zei* 贼 to *Gu Sha* 顾杀: A Changing Concept of Liability in Traditional Chinese Law.” *JALH* 7 (2007): 1-23. Available without charge at <http://jalh.ku.edu/article/maccormack2007.pdf> (last accessed Sep. 2007).

———. “On the Pre-Tang Development of the Law of ‘Treason’: *moufan*, *dani*, and *pan*.” *JALH* 5 (2005): **1-18**. Available without charge at <http://jalh.ku.edu/article/maccormack2005.pdf> (last accessed Sep. 2007).

———. “Mythology and the Origin of Law in Early Chinese Thought.” *JALH* 1 (2001): 1-23. Available without charge at <http://jalh.ku.edu/article/maccormack.pdf> (last accessed Sep. 2007).

———. *The Spirit of Traditional Chinese Law*. Athens: University of Georgia Press, 1996.

\* Reviewed in *LHR* 18 (Spring 2000): 252-53; *AJLH* 41 (Jan. 1997): 158-59.

———. “The Traditional Chinese Law of Homicide, Po-Chü-i and the *Eiusdem Generis* Principle.” *CC* 35.3 (1994): 7-14?

———. *Traditional Chinese Penal Law*. Edinburgh, Scotland: Edinburgh University Press, 1990.

This book is about the penal codes of imperial China, especially those enacted by the Tang, Song, Ming, and Qing dynasties. It does not address administrative law and only in passing addresses customary law or contract and property matters. It also does not cover caselaw. The primary sources are the texts of the penal codes themselves. MacCormack relies on legal treatises contained in the official standard history of these dynasties. Although there are occasional references to pre-Tang law and information about the social and intellectual milieu from which the codes emerged, the book's emphasis is on Tang law and the extent to which it came to be modified in the Ming and Qing dynasties.

\* Reviewed in *JAS* 54.2 (May 1995): 534-36.

———. “The Lü hsing: Problems of Legal Interpretation.” *MSJOS* 37 (1986-87): ?

McKnight, Brian E. *The Quality of Mercy: Amnesties and Traditional Chinese Justice*. Honolulu: UPH, 1981.

This book touches on both social and legal history. The bulk of it describes a historical phenomenon: the systems of amnesties in premodern China. McKnight uses materials to reveal the scope and nature of these amnesties and show that they were actually enforced in practice. He concludes by offering hypotheses about the amnesty system and general traits of Chinese historical development. “Since this is the first attempt to deal carefully with the materials, tentative hypotheses are inevitable. Certainly more questions are raised here than can be answered” (preface, pp. vii-viii). He claims that an understanding of this system of acts of grace compels a re-evaluation of traditional Chinese criminal justice.

Meijer, Marinus J. “An Aspect of Retribution in Traditional Chinese Law.” *TP* 66.4-5 (1980): 199-215.

Michael, Franz. “The Role of Law in Traditional, Nationalist, and Communist China.” *CQ* 9 (1962): 124-48.

Needham, Joseph. “Human Law and the Laws of Nature in China and the West.” In *Science and Civilization in China*. Vol. 2. Cambridge, England: CmUP, 1956: 518-84.

Orts, Eric W. “The Rule of Law in China.” *Vanderbilt Journal of Transnational Law* 33.1 (Jan. 2001): 43-115.

Peerenboom, Randall P. “The Victim in Chinese Criminal Theory and Practice: A Historical Survey.” *JCL* 7.1 (Spring 1993): 63-110.

Ren, Xin. *Tradition of the Law and Law of the Tradition: Law, State, and Social Control in China*. Westport: Greenwood, 1997.

This book is intended to fill some of the gaps in understanding the tradition of Chinese imperial law and Communist law from a historical and ideological perspective. Ren establishes the historical and ideological connection between the imperial notions of law and the Communist revolutionary agenda in ordering Chinese society.

Rickett, W. Allyn. "Voluntary Surrender and Confession in Chinese Law: The Problem of Continuity." *JAS* 30 (Aug. 1971): **797-814**.

Schram, Stuart R., ed. *Foundations and Limits of State Power in China*. Hong Kong, British Crown Colony, and London, England: ChUP and SOAS, 1987.

Shuzo, Shiga. "Some Remarks on the Judicial System in China: Historical Development and Characteristics." In *Traditional and Modern Legal Institutions in Asia and Africa*. David C. Buxbaum, ed. Leiden, Netherlands: EJB, 1967: **44-53**.

Smith, Kidder. "Sima Tan and the Invention of Daoism, 'Legalism,' et cetera." *JAS* 62.1 (2003): 129-56.

Svensson, Marina. *Debating Human Rights in China: A Conceptual and Political History*. Lanham: Rowman & Littlefield, 2002.

This book remedies the prevalent historical amnesia and highlights the rich and diverse debates over human rights that took place in China last century. "It can therefore be regarded as an attempt to recover history, compared with the CCP's recent attempt to rewrite and invent a history in which the party is portrayed as having been a staunch defender of human rights all along" (p. 2). Svensson shows that human rights were a part of Chinese political discourse long before 1989. Indeed, most of that discourse originated indigenously out of domestic concerns—proving that the concept of human rights was not imposed on China by outsiders, but actively and creatively taken up by the Chinese themselves in answer to their political needs. She uses human rights in a very loose and broad sense to cover all ideas of justice and human dignity. And she hopes that this book not only promotes a better understanding of human rights in China and its future prospects, but that it deepens our understanding of the concept of human rights itself.

Teng, S.Y. "The Role of the Family in the Chinese Legal System." *JAH* 11 (1977): 121-55.

Tung, William L. *The Political Institutions of Modern China*. The Hague, Netherlands: MN, 1964.

This book focuses on the constitutional development and government structure of 20<sup>th</sup>-century China. The first four chapters examine constitutional development and government systems from the latter part of the Qing dynasty to the reunification of China by the Nationalists in 1928. The remaining eight chapters deal with the policies, programs, and institutions of the Nationalist and Communist governments up to 1962. Eight appendices (pp. 318-79) include texts of various constitutions and

related documents from 1908-54. A bibliography (pp. 380-93) lists official documents, books and pamphlets, and other sources used by Tung.

Turner, Karen. "Rule of Law Ideals in Early China?" *JCL* 6.1 (Spring 1992): 1-44.

———. "Sage Kings and Laws in the Chinese and Greek Traditions." In *The Evolution of Government in China*. Paul S. Ropp, ed. Berkeley: UCaP, 1990: 86-111.

Twitchett, Denis. "Niida Noboru and Chinese Legal History." *AM* [n.s.] 13.1-2 (1967): **218-28**. Available without charge at <http://www.ihp.sinica.edu.tw/~asiamajor/> (last accessed Sep. 2007).

Valk, M.H. van der. "Custom in Modern Chinese Private Law." *MSJOS* 30 (1972-73): ?

———. "Voluntary Surrender in Chinese Law." *Law in Eastern Europe* 14 (1967): 359-94.

Wallacker, Ben E. "Dethronement and Due Process in China." *JAH* 21.1 (1987): **48-67**.

Wilkinson, Endymion. "Law." In *Chinese History: A Manual*. Rev. and enlarged ed. Cambridge: Harvard University Asia Center, 2000: **539-53**.

This hefty (1,181 pp.) book is an indispensable guide to researching virtually all aspects of Chinese history. It introduces new research problems and discusses some 4,300 primary, secondary, and reference works in various languages from antiquity through the mainland Republican era. Chapter 27 is on law. Wilkinson discusses the different forms of law before examining pre-Qin law, Qin law, Han law, criminal law in the Tang and after, administrative law in the Tang and after, guides and handbooks for local magistrates and clerks, and law in the Republic.

Wong, Bobby K.Y. "Traditional Chinese Philosophy and Dispute Resolution." *HKLJ* 30.2 (2000): **304-19**.

Woo, L.X. "Repairing the Dome of Heaven: A Re-Examination of the Classical Roots of Women's Legal Status in China." *HKLJ* 24.2 (1994): 231-75.

Wu, John C.H. "Chinese Legal and Political Philosophy." In *The Chinese Mind: Essentials of Chinese Philosophy and Culture*. Charles A. Moore, ed. Honolulu: EWCP, 1967: 213-37.

———. "The Status of the Individual in the Political and Legal Traditions of Old and New China." In *The Chinese Mind: Essentials of Chinese Philosophy and Culture*. Charles A. Moore, ed. Honolulu: EWCP, 1967: 340-64.

———. *The Art of Law and Other Essays Juridical and Literary*. Shanghai, China: Commercial Press, 1936.

Young, Stephen B. "The Concept of Justice in Pre-Imperial China." In *Moral Behavior in Chinese Society*. Richard W. Wilson et al., eds. New York: Praeger, 1981: 38-72.



Zhao, Bing. *Marriage Laws and Customs of China*. Hong Kong, British Crown Colony: IACSR, NAC, CUHK, 1966.

## *Index of Authors*

I will start work on this after finishing parts I and II.

## *Index of Book, Article, and Other Titles*

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## *About the Author*

Roy L. Sturgeon is the Foreign and International Law Librarian at Touro College Jacob D. Fuchsberg Law Center in New York. Born and raised in Des Moines, Iowa, he earned a B.A. (1992) from Grand View College in Iowa, a J.D. (2001) from Valparaiso University in Indiana, an M.L.S. (2005) from St. John's University in New York, and an LL.M. (2006) in Chinese law from Tsinghua University in Beijing. He also spent a year (1997-98) as a history graduate student at the University of Memphis in Tennessee. At Tsinghua, he received a Chinese Government Scholarship and was a member of the first-ever class of foreign students (nine total) to earn an advanced degree in Chinese law taught in English by Chinese law professors at a mainland university. In addition, he presented his LL.M. thesis at the 2006 annual conference of the Singapore-based Asian Law Institute. Before becoming a law librarian, Roy worked as a secondary school teacher in Des Moines and Shanghai, China, a bookseller and field interviewer in central Iowa, and a law clerk in Columbia, South Carolina. He has published articles about American constitutional law, Chinese libraries and librarianship, library ethics codes, and is writing articles on free speech in China and the 1989 Beijing uprising. He lives in New York City and enjoys long-distance running in his spare time.