

EAST 494/HIST 478
Pre-modern Chinese Society and Law
WINTER 2021
DRAFT

Instructor: Robin D.S. Yates
Place: Online via Zoom
Time: Friday 2:35-5:25
Office: Online
Office Hours: TBD
Email: robin.yates@mcgill.ca

Course Description:

This course examines the history of Chinese law and society from early pre-imperial to late imperial times. Course themes include the philosophical basis of Chinese legal institutions; the development of different forms of legislation; the practice of pre-modern Chinese law; social and political change and the law; and legal cases translated from primary sources. Some consideration may be given to military law and the transmission of Chinese law to Japan, Vietnam and Korea depending on student interest.

Law was a primary means by which the pre-modern Chinese state and the elite maintained social control of the most populous country in the world and one of the principal means by which Confucian morality was disseminated to lower levels of the social hierarchy. At the same time, it was influenced by Buddhist beliefs and practices and by the customs of the many non-Chinese peoples who conquered China. In addition, many new legal documents and statutes have recently been excavated by archaeologists while others have been rediscovered by historians working in China's voluminous and newly-opened archives. These newly discovered documents throw much light on the origins of Chinese law and its practice in later times. This course will therefore give students important insights into a long legal tradition and will reveal many dimensions of daily life and administrative practice not covered in other courses offered at McGill University. Needless to say, these legal materials are also very instructive for understanding the role of law in China today.

ALL CLASSES WILL BE RECORDED VIA ZOOM AND POSTED ON MYCOURSES

Course Requirements:

Students will be expected to participate actively in the class. The first three weeks of classes will be led by the instructor. After that, students will select one session for which they will be responsible for presenting the issues arising from the main readings each session, and leading the class discussion. They may choose from the readings suggested in the syllabus, or from other material, depending on their interest and focus.

Topics for the final research paper must be discussed with the instructor at least three weeks before the end of term. Research papers can address issues and/or periods of time not covered in class.

Knowledge of the Chinese language is not required

Course Readings

Course readings for each week will be decided in consultation with the instructor the week before they are to be covered. Readings will accord with the interests of the students and, for the class as a whole, be limited to no more than 50-100 pages per week. However, students responsible for leading the class discussion should expect to read more widely than just the materials they will be presenting in class. Articles listed in the readings will be posted as pdfs on myCourses. Books listed as selected readings in the syllabus may be put on reserve in the Humanities and Social Sciences Library.

Book Strongly Recommended for Purchase:

Robert E. Hegel, *True Crimes in Eighteenth-Century China: Twenty Case Histories* (Seattle: University of Washington Press, 2009).

Grades:

Grades will be based on:

20% class presentations of weekly readings; each student will be required to lead one discussion session during the course of the term; the student will discuss with the instructor what reading(s) to assign (whether required or recommended), and will be expected to prepare an outline and a PowerPoint for the presentation as well as questions for discussion. The PowerPoint will be posted on myCourses for the benefit of the students, whether they are able to attend the class in person or whether they watch the recorded class;

10% class participation in the form of joining in the discussions; if a student is not able to attend the class discussions, the instructor will post one or more questions on the readings in myCourses and the student will be asked to respond in writing to it/them and send the response(s) to him;

20% annotated bibliography for the final research paper; the annotated bibliography should consist of a minimum one-page outline of the topic of the research paper, its methodology and theoretical focus, followed by at least 10 items, with half a page on each item, explaining the main thesis of the book, chapter, article, or primary source, a critique, and how the item will contribute to the main argument in the final research paper;

15% presentation of research proposal; preferably, this will be done in the synchronous Zoom class. If that is not possible, then a student unable to attend will be asked to prepare a short PowerPoint of her/his/their presentation; this will be posted on myCourses. If the student so wishes, s/he/they may also prepare a short statement of the research and/or prepare a video of the presentation with the link to posted on myCourses;

35% final research paper; the research paper will preferably, but not necessarily, be based on the presentation of the reading material in the session chosen by the student, developed in the Annotated Bibliography, and presented in the Research Presentation. It should consist of at least 12-15 pages—precise instructions with technical requirements (type of font, spacing, etc.) for the preparation of this paper will be posted on myCourses.

Policies on Academic Integrity:

In accord with McGill University's Charter of Students' Rights, students in this course have the right to submit in English or in French any written work that is to be graded. This does not apply to courses in which acquiring proficiency in a language is one of the objectives." (Approved by Senate on 21 January 2009 - see also the section in this document on Assignments and Evaluation.)

« Conformément à la Charte des droits de l'étudiant de l'Université McGill, chaque étudiant a le droit de soumettre en français ou en anglais tout travail écrit devant être noté (sauf dans le cas des cours dont l'un des objets est la maîtrise d'une langue). »

"McGill University values academic integrity. Therefore, all students must understand the meaning and consequences of cheating, plagiarism and other academic offences under the Code of Student Conduct and Disciplinary Procedures" (see www.mcgill.ca/students/srr/honest/ for more information). (Approved by Senate on 29 January 2003)

« L'université McGill attache une haute importance à l'honnêteté académique. Il incombe par conséquent à tous les étudiants de comprendre ce que l'on entend par tricherie, plagiat et autres infractions académiques, ainsi que les conséquences que peuvent avoir de telles actions, selon le Code de conduite de l'étudiant et des procédures disciplinaires (pour de plus amples renseignements, veuillez consulter le site www.mcgill.ca/students/srr/honest/).»

Syllabus

Week 1

**Jan. 8 Introduction to the Course and to Chinese History
Introduction to Chinese Legal History and How It has been Represented**

Recommended Reading:

William P. Alford, "Law, Law, What Law? Why Western Scholars of Chinese History and Society have not had more to Say about Its Law," *Modern China* 23.4 (1997): 398-419.
ONLINE

Li Chen and Madeleine Zelin. "Rethinking Chinese Law and History: An Introduction," in *Chinese Law: Knowledge, Practice and Transformation, 1530s-1950s* (2015), ed. Li Chen and Madeleine Zelin, pp. 1-14. E-book

Week 2

Jan. 15 Theoretical Considerations and Early Views

Reading:

Karen Turner, "Sage Kings and Laws in the Chinese and Greek Traditions," in Paul S. Ropp ed., *Heritage of China* (1990) pp. 86-111.

Geoffrey MacCormack, "Mythology and the Origin of Law in Early Chinese Thought." *The Journal of Asian Legal History* 1 (2001): 1-23.

Recommended:

Derk Bodde and Clarence Morris, *Law in Imperial China Exemplified by 190 Ch'ing Cases* (1967), "Basic Concepts of Chinese Law," pp. 1-51.

H.L.A. Hart, *The Concept of Law* (1979).

Ch'ü T'ung-tzu (Qu Tongzu), *Law and Society in Traditional China* (1965).

Reading:

Xin Ren, *Tradition of the Law and the Law of the Tradition: Law, State and Social Control in China* (1997), Ch.1, "The Chinese Legal Tradition: Law and Morality," pp. 19-35.

Recommended:

Hugh T. Scogin, Jr., "Civil 'Law' in Traditional China: History and Theory," in Kathryn Bernhardt, Philip C.C. Huang and Mark Allee eds., *Civil Law in Qing and Republican China* (Stanford: Stanford University Press, 1994), pp. 13-41.

Geoffrey MacCormack, "On the Relationship between Law and Religion in Early China: Some Issues," *Xingda lishi xuebao* 18 (2007): 1-20.

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

Week 3 Philosophy of Law in the Warring States Period

Jan. 22

Readings:

Yongping Liu, *Origins of Chinese Law: Penal and Administrative Law in Its Early Development* (1998), Ch. 6, pp. 173-200.

Karen Turner, "The Theory of Law in the *Ching-fa*," *Early China* 14 (1989): 55-76.

Recommended:

Yuri Pines, trans., *The Book of Lord Shang: Apologetics of State Power in Early China* (2017).

J. J. L. Duyvendak, *The Book of Lord Shang: A Classic of the Chinese School of Law* (1963).

W. K. Liao, *Han Fei Tzu: Works from the Chinese* (1959).

Léon Vandermeersch, *La formation du légisme: recherche sur la constitution d'une philosophie politique caractéristique de la Chine ancienne* (1965).

Xin Ren, *Tradition of the Law and the Law of the Tradition: Law, State and Social Control in China* (1997), Ch. 2, "The Rules of Punishment in Traditional Law," pp. 37-44.

Paul R. Goldin, "Introduction: Han Fei and the *Han Feizi*." In *Dao Companion to the Philosophy of Han Fei*, ed. Paul R. Goldin, pp. 1-21 (Berlin: Springer, 2013).

Pre-imperial Chinese Law

Reading:

Yongping Liu, *Origins of Chinese Law: Penal and Administrative Law in Its Early Development* (1998), Chs. 4-5, pp. 111-72.

Recommended:

Laura A. Skosey, *The Legal System and Legal Tradition of the Western Zhou (ca. 1045-771 B.C.E.)* (1996).

Susan Weld, "Grave Matters," in C. Stephen Hsu ed., *Understanding China's Legal System: Essays in Honor of Jerome A. Cohen* (2003), pp. 122-79.

Week 4

Jan. 29 Law in the Qin State and Empire Part 1: General Background

Readings Selected from:

Ernest Caldwell, *Writing Chinese Laws: The Form and Function of Legal Statutes Found in the Qin Shuihudi Corpus* (2018).

Robin D.S. Yates, "Chinese Law, History of Eastern Zhou, Warring States (464–221 b.c.e.), and Qin State and Empire (c. 350–206 b.c.e.)," in *The Oxford International Encyclopedia of Legal History*, ed. Stanley N. Katz (Oxford: Oxford University Press, 2009), vol. 1, pp. 406-12.

A. F. P. Hulsewé, "The Legalists and the Laws of Ch'in," in *Leyden Studies in Sinology*, ed. W.L. Idema (1981), pp. 1-22.

Law in the Qin State and Empire Part 2: The Statutes and Ordinances

Readings Selected from:

Anthony Barbieri-Low, "Copyists, Compilers, and Commentators: Constructing the Statutes and Ordinances of the Second Year and the Book of Submitted Doubtful Cases," *Asia Major* 32.2 (2019): 33-56.

Yongping Liu, *Origins of Chinese Law: Penal and Administrative Law in Its Early Development*, Ch. 7, "Law of the Qin Dynasty (the Qin Lü)" pp. 201-317.

Anthony J. Barbieri-Low and Robin D.S. Yates, *Law, State and Society*, part 2.3.

Robin D.S. Yates, "Social Status in the Ch'in: Evidence from the Yün-meng Legal Documents. Part One: Commoners," *Harvard Journal of Asiatic Studies* 47.1 (1987): 197-236. ONLINE

Robin D.S. Yates, "Law and the Military in Early China," in Nicola Di Cosmo ed., *Military Culture in Imperial China* (Cambridge: Harvard University Press, 2009), pp. 23-44; 341-43.

Recommended:

A. F. P. Hulsewé, *Remnants of Ch'in Law* (1985).

Robin D.S. Yates, "Notes on Ch'in Law," *Early China* 11-12 (1985-1987): 243-275.

Week 5

Feb. 05 Law in the Qin State and Empire and Han Law: Part 3: Cases

Readings Selected from:

Barbieri-Low and Yates, *Law, State and Society*, parts 2.5 and 2.6.

Mark Csikszentmihalyi, "'A Case of Evidence Obtained through Torture' the Legal Precedents," in *Readings in Han Chinese Thought*, 23-35 (Indianapolis/Cambridge: Hackett Publishing, 2006).

Maxim Korolkov, "Arguing about Law: Interrogation Procedure under the Qin and Former Han Dynasties," *Études chinoises* 30 (2011): 37-71.

Ulrich Lau, "Qin Criminal Case Records of the Collection *Wei yu deng zhuang*," *Oriens Extremus* 53 (2014): 139-92.

Ulrich Lau and Thies Staack, *Legal Practice in the Formative Stages of the Chinese Empire: An Annotated Translation of the Exemplary Qin Criminal Cases from the Yuelu Academy Collection* (2016).

Robin D.S. Yates and Katrina C.D. McLeod, "Forms of Ch'in Law: An Annotated Translation of the *Feng-chen shih*," *Harvard Journal of Asiatic Studies* 41.1 (1981): 111-163. ONLINE

Robin D.S. Yates, "Slavery in Early China: A Socio-cultural Perspective," *Journal of East Asian Archaeology*, 3.1-2 (2002): 283-331. ONLINE

Han Law: The Statutes and Ordinances

Readings Selected from:

- Xueqin Li and Wen Xing, "New Light on the Early-Han Code: A Reappraisal of the Zhangjiashan Bamboo-slip Legal Texts," *Asia Major* 14.1 (2001), 125-46.
- Yongping Liu, *Origins of Chinese Law: Penal and Administrative Law in Its Early Development*, Ch. 8 "A Preliminary Study of Han Law," pp. 252-317.
- Ōba Osamu, "The Ordinances on Fords and Passes Excavated from Han Tomb #247, Zhangjiashan," translated by David Spafford, Robin D.S. Yates, and Enno Giele with Michael Nylan, *Asia Major* 3rd series 14.2 (2001, published 2004): 119-41.
- Robin D.S. Yates "Chinese Law, History of Han Empire (206 b.c.e.–220 c.e.)," in *The Oxford International Encyclopedia of Legal History*, ed. Stanley N. Katz (Oxford: Oxford University Press, 2009), vol. 1, pp. 412-18.

Recommended:

- A.F.P. Hulswé, *Remnants of Han Law* (1955).
- A.F.P. Hulswé, "Weights and Measures in Ch'in Law," in Eikemeier and Franke eds., *State and Law in East Asia: Festschrift Karl Büniger* (1981), pp. 25-39.
- A.F.P. Hulswé, "The Wide Scope of *tao* Theft in Ch'in-Han Law," *Early China* 13 (1988): 166-200.

Week 6

Feb. 12 Women in the Law of Early and Middle Empires

Readings Selected from:

- Robin D.S. Yates, "Female Commoners and the Law in Early Imperial China: Evidence from Recently Recovered Documents with Some Comparisons with Classical Rome," in *Rulers and Ruled in Ancient Greece, Rome, and China*, ed. Griet Vankeerberghen and Hans Beck (Cambridge University Press, 2021), pp. 156-92.
- Robin D.S. Yates, "The Changing Status of Slaves in the Qin-Han Transition," in *The Birth of Empire: The State of Qin Revisited*, pp. 206-23, ed. Yuri Pines, Gideon Shelach, Lothar von Falkenhausen, and Robin D.S. Yates, University of California Press, Berkeley, 2013.
- Jack L. Dull, "Marriage and Divorce in Han China: A Glimpse at 'Pre-Confucian' Society," in David C. Buxbaum ed., *Chinese Family Law and Social Change in Historical and Comparative Perspective*, pp. 23-74.
- Bret Hinsch, "Women, Kinship and Property as Seen in a Han Dynasty Will," *T'oung Pao* 84.1-3 (1998): 1-20. ONLINE
- Bret Hinsch, "Law," Ch. 4, in *Women in Early Imperial China* (Lanham: Rowman and Littlefield (2002), 79-91.
- Ulrich Lau, "The Scope of Private Jurisdiction in Early Imperial China: The Evidence of Newly Excavated Legal Documents," *Asiatische Studien/Études Asiatiques* 59.1 (2005): 333-52.

Private Law and Contracts in the Early and Middle Empires

- Anthony Barbieri-Low, "Model Legal and Administrative Forms from the Qin, Han, and Tang and Their Role in the Facilitation of Bureaucracy and Literacy," *Oriens Extremus* 50 (2011): 125-56.
- Hugh T. Scogin, Jr., "Between Heaven and Man: Contract and the State in Han Dynasty China," *Southern California Law Review* 63.5 (1990): 1325-1404. ONLINE

Christian de Pee, "Legal Codes, Verdicts, and Contracts: Universal Order and Local Practice," Ch. 4 in the *Writing of Weddings in Middle-Period China: Text and Ritual Practice in the Eighth through Fourteenth Centuries* (Albany: SUNY, 2007), 179-220.

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

Geoffrey MacCormack, "The Law of Contracts in China under the T'ang and Sung Dynasties." *Revue Internationale des Droits de l'Antiquité* 32 (1985): 17-68.

Week 7

Feb. 19 Tang Law

Readings Selected from:

Norman P. Ho, "Understanding Traditional Chinese Law in Practice: The Implementation of Criminal Law in the Tang Dynasty (618-907 AD)," *UCLA Pacific Basin Law Journal* 32.2 (2015): 145-180.

Norman P. Ho, "A Look into Traditional Chinese Administrative Law and Bureaucracy: Feeding the Emperor in Tang Dynasty China," *University of Pennsylvania Asian Law Review* 15.1 (2019): 125-71.

Wallace Johnson, *The T'ang Code 2 vols: General Principles and Specific Articles* (1979 & 1997).

Wallace Johnson and Denis Twitchett, "Criminal Procedure in T'ang China," *Asia Major* 3rd ser., 6.2 (1993): 113-46.

Wallace Johnson, "The Concept of Doubt in T'ang Criminal Law," in *Chinese Ideas about Nature and Society: Studies in Honour of Derk Bodde*, ed. Charles Le Blanc and Susan Blader (Hong Kong: Hong Kong UP, 1987), 271-79.

Wallace Johnson, "Group Criminal Liability in the T'ang Code." In *State and Law in East Asia: Festschrift Karl Bunge*, ed. Eikemeier and Franke (1981), pp. 145-58.

Brian E. McKnight, "T'ang Law and Later Law: The Roots of Continuity," *Journal of the American Oriental Society* 115.3 (1995): 410-20. ONLINE

Tomiya, Itaru, "The Transition from the Ultimate Mutilation to the Death Penalty: A Study on Capital Punishment from the Han to the Tang," in *Capital Punishment in East Asia*, ed. Itaru Tomiya (Kyoto: Kyoto University Press, 2012), pp. 1-54.

Denis Twitchett, "The Fragment of the T'ang Ordinances of the Department of Waterways Discovered at Tun-huang," *Asia Major* n.s. 6.1 (1957): 23-79.

Shiga Shuzo, "A Basic History of T'ang Legislative Forms," *Asia Major*, 3rd. ser., 5.2 (1992): 97-110.

Song Law Part 1: Administration of Justice and Forensic Medicine

Readings Selected from:

Miyazaki Ichisada, "The Administration of Justice during the Sung Dynasty," in Cohen, Edwards, and Chang Chen eds., *Essays on China's Legal Tradition* (Princeton: Princeton University Press, 1980), pp. 56-75.

Brian E. McKnight, "From Statute to Precedent: An Introduction to Sung Law and Its Transformation," in Brian E. McKnight ed., *Law and the State in Traditional East Asia: Six Studies on the Sources of East Asian Law* (1987), 111-32.

Brian E. McKnight, *Law and Order in Sung China* (1992).

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

Forensic Medicine

Derk Bodde, "Forensic Medicine in Pre-Imperial China," *Journal of the American Oriental Society* 102.1 (1982): 1-15.

Brian E. McKnight, *The Washing Away of Wrongs: Forensic Medicine in Thirteenth-century China, The Hsi Yuan chi lu of Sung Tz'u* (1981).

Daniel Asen, "Song Ci (1186-1249), 'Father of World Legal Medicine': History, Science, and Forensic Culture in Contemporary China," *East Asian Science Technology and Society* 11.2 (2017): 185-207.

Daniel Asen, "Vital Spots, Mortal Wounds, and Forensic Practice: Finding Cause of Death in Nineteenth-Century China," *East Asian Science, Technology and Society: An International Journal* 3.4 (2009): 453-474.

Pierre-Étienne Will, "Developing Forensic Knowledge through Cases in the Qing Dynasty," in *Thinking with Cases: Specialist Knowledge in Chinese Cultural History*, ed. Charlotte Furth, Judith T. Zeitlin, and Ping-chen Hsiung (2007), 62-100.

Wu, Yi-Li, "Between the Living and the Dead: Trauma Medicine and Forensic Medicine in the Mid-Qing." *Frontiers of History in China* 10.1 (2015): 38-73.

Week 8

Feb. 26 Song Law Part 2: Court Cases

Readings Selected from:

Aoki Atsushi, "Sung Legal Culture: An Analysis of the Application of Laws by Judges in the Ch'ing-Ming Chi," *Acta Asiatica* 84 (2003): 61-79.

Christian de Pee, "Cases of the New Terrace: Canon and Law in Three Southern Song Verdicts," *Journal of Song-Yuan Studies* 27 (1997): 27-61.

James St. Andre, "Reading Court Cases from the Song and the Ming: Fact and Fiction, Law and Literature," in Robert E. Hegel and Katherine Carlitz, eds. *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment* (Seattle: University of Washington Press, 2007), 189-214.

XING Tie, "Widows' Lives and Rights over Family Property in the Tang and Song Dynasties," *Frontiers of History in China* 4.1 (2009): 39-73.

Recommended:

Brian E. McKnight and James T.C. Liu, *The Enlightened Judgments Ch'ing-ming Chi: The Sung Collection* (1999).

Mongol and Inner Asian Law

Readings Selected from:

Bettine Birge, *Marriage and the Law in the Age of Khubilai Khan: Cases from the Yuan dianzhang* (2017).

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

Herbert Franke, "Chinese Law in a Multinational Society: The Case of the Liao (907-1125)," *Asia Major*, 3rd ser., 5.2 (1992): 111-27.

Herbert Franke, "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* (1989), pp. 387-409.

Herbert Franke, "Jurchen Customary Law and the Chinese Law of the Chin Dynasty," in *State and Law in East Asia: Festschrift Karl Büniger*, ed. Dieter Eikemeier and Herbert Franke (Wiesbaden: Otto Harrassowitz, 1981), 212-33.

Herbert Franke, "The 'Treatise on Punishments' in the *Liao History: An Annotated Translation*," *Central Asiatic Journal* 27.1-2 (1983), 9-38.

Paul Ratchnevsky, "Jurisdiction, Penal Code, and Cultural Confrontation under Mongol-Yüan Law," *Asia Major*, 3rd ser., 6.1 (1993): 161-79.

March 05 Spring Study Break

Week 9

Mar. 12 Law in Late Imperial China: Part 1: Ming Law

Readings Selected from:

Alison C.D. Bailey, "Reading between the Lines: The Representation and Containment of Disorder in Late Ming and Early Qing Legal Texts," *Ming Studies* 59 (2009), 56-86.

Jiang Yonglin, *The Great Ming Code: Da Ming li* (2005).

Jiang Yonglin and Wu Yanhong, "Satisfying Both Sentiment and Law: Fairness-Centered Judicial Reasoning as Seen in Late Ming Casebooks," in *Thinking with Cases: Specialist Knowledge in Chinese Cultural History*, ed. Charlotte Furth, Judith T. Zeitlin, and Ping-chen Hsiung (Honolulu: University of Hawaii Press, 2007), 31-61.

Jiang Yonglin, "Defending the Dynastic Order in a Local Society: Central Local Relations as Seen in a Late-Ming Magistrate's Enforcement of the Law," *Ming Studies* 43 (2000), 16-39. ONLINE

Jiang Yonglin, "For Education's Sake: The Making of the Religious Body in Early Ming Law," *Ming Studies* 57 (2008), 24-61. ONLINE

Jiang Yonglin, "Haggling over Property: Land Sales Lawsuits during Late Ming China," *Études chinoises* 28 (2009), 21-50.

Jiang Yonglin, *The Mandate of Heaven and The Great Ming Code* (Seattle: University of Washington Press, 2011).

Jiang Yonglin. 2014. "Legislating Hierarchical yet Harmonious Gender Relations in the Great Ming Code." *Ming Studies* 69: 27-45.

John D. Langlois, Jr., "Ming Law," in *Cambridge History of China* Vol. 8, pp. 172-220.

Ann Waltner, "Breaking the Law: Family Violence, Gender and Hierarchy in the Legal Code of the Ming Dynasty," *Ming Studies* 36 (1996): 29-43.

Zhang Ning. 2008. "Corps et peine capitale dans la Chine impériale Les dimensions judiciaires et rituelles sous les Ming." *T'oung Pao* 94.4-5: 246-305.

Zhang Xiangming, "A Preliminary Study of the Punishment of Political Speech in the Ming Period," *Ming Studies* 62 (2010), 56-91. ONLINE

Law in Late Imperial China: Part 2: The Qing Codes

Readings Selected from:

William P. Alford, *To Steal a Book is an Honourable Offence: Intellectual Property Law in Chinese Civilization* (1995).

- Philip C.C. Huang, "Codified Law and Magisterial Adjudication in the Qing," in *Civil Law in Qing and Republican China*, ed. Kathryn Bernhardt and Philip C.C. Huang (Stanford, Calif.: Stanford University Press, 1994), 142-86.
- William C. Jones et al., *The Great Qing Code* (1994).
- William C. Jones, "Theft in the Qing Code," *American Journal of Comparative Law* 30.3 (1982): 499-521. ONLINE
- Paul R. Katz, "Indictment Rituals and the Judicial Continuum in Late Imperial China," in *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment*, ed. Robert E. Hegel and Katherine Carlitz (Seattle: University of Washington Press, 2007), 161-85.
- Zhang, Ting. 2015. "Marketing Legal Information: Commercial Publications of the Great Qing Code, 1644-1911." In *Chinese Law: Knowledge, Practice and Transformation, 1530s to 1950s*, ed. Chen Li and Madeleine Zelin, pp. 231-253. Leiden: Brill.
- Zhang, Ting. 2020. *Circulating the Code: Print Media and Legal Knowledge in Qing China*. University of Washington Press.
- Zheng Qin, trans. Guangyuan Zhou, "Pursuing Perfection: Formation of the Qing Code," *Modern China* 21.3 (1995), 310-44.

Week 10

Mar. 19 Law in Late Imperial China: Part 3 Gender and the Law

Readings Selected from:

- Kathryn Bernhardt, "A Ming-Qing Transition in Chinese Women's History? The Perspective from Law," in Gail Hershatter, Emily Honig, Jonathan N. Lipman, and Randall Stross eds., *Remapping China: Fissures in Historical Terrain* (1996), pp. 42-59.
- M.J. Meijer, *Murder and Adultery in Late Imperial China: A Study of Law and Morality* (1991).
- Vivien W. Ng, "Ideology and Sexuality: Rape Laws in Qing China." *Journal of Asian Studies* 46.1 (1987): 57-70. ONLINE
- Vivien W. Ng, "Sexual Abuse of Daughters-in-law in Qing China: Cases from *Xing'an Huilan*," *Feminist Studies* 20.2 (1994), 373-91.
- Johanna S. Ransmeier, *Sold People: Traffickers and Family Life in North China* (2017).
- Matthew H. Sommer, *Sex, Law, and Society in Late Imperial China* (2000).
- Matthew H. Sommer, *Polyandry and Wife-selling in Qing Dynasty China: Survival Strategies and Judicial Interventions* (2016).
- Janet M. Theiss, "Femininity in Flux: Gendered Virtue and Social Conflict in the Mid-Qing Courtroom," in Brownell and Wasserstrom eds., *Chinese Femininities/Chinese Masculinities: A Reader* (2002), pp. 47-66. ONLINE
- Janet M. Theiss, *Disgraceful Matters: The Politics of Chastity in Eighteenth-Century China* (2005).
- Janet M. Theiss, "Love in a Confucian Climate: The Perils of Intimacy in Eighteenth-century China," *Nan Nü: Men, Women and Gender in Early and Imperial China* 11.2 (2009), 197-233.

Law in Late Imperial China: Part 4 Gender and the Law: Problems of Masculinity

Readings Selected from:

- Matthew H. Sommer, "Dangerous Males, Vulnerable Males, and Polluted Males: The Regulation of Masculinity in Qing Dynasty Law," in *Chinese Femininities/Chinese Masculinities: A Reader*, ed. Susan Brownell and Jeffrey Wasserstrom (2002), pp. 67-88. ONLINE

- Matthew H. Sommer, "The Penetrated Male in Late Imperial China: Judicial Constructions and Social Stigma," *Modern China* 23.2 (1997), 140-80. ONLINE
- Song Geng, *The Fragile Scholar: Power and Masculinity in Chinese Culture* (Hong Kong: Hong Kong University Press, 2004).
- Janet M. Theiss, "Explaining the Shrew: Narratives of Spousal Violence and the Critique of Masculinity in Eighteenth-Century Criminal Cases," in *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment*, ed. Robert E. Hegel and Katherine Carlitz (Seattle: University of Washington Press, 2007), pp. 44-63.

Week 11

Mar 26 Law in Late Imperial China: Part 5 Legal Cases

Readings Selected from:

- R. Randle Edwards, "The Role of Case Precedent in the Qing Judicial Process and Reflected in Appellate Rulings," in *Understanding China's Legal System: Essays in Honor of Jerome A. Cohen*, ed. C. Stephen Hsu (2003), pp.180-209.
- Robert E. Hegel, *True Crimes in Eighteenth-Century China: Twenty Case Histories* (Seattle: University of Washington Press, 2009).
- Robert E. Hegel and Katherine Carlitz, eds. *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment* (Seattle: University of Washington Press, 2007).
- Yasuhiko Karasawa, "From Oral Testimony to Written Records in Qing Legal Cases," in *Thinking with Cases: Specialist Knowledge in Chinese Cultural History*, ed. Charlotte Furth, Judith T. Zeitlin, and Ping-chen Hsiung (2007), 101-22.
- Philip Kuhn, *Soulstealers: The Chinese Sorcery Scare of 1768* (2006).

Law in Late Imperial China: Part 6 Criminal Justice and Social Practice

Readings Selected from:

- William P. Alford, "Of Arsenic and Old Laws: Looking Anew at Criminal Justice in Imperial China," *California Law Review* 72 (1984): 1180-1256. ONLINE
- Robert J. Antony, "Scourges on the People: Perceptions of Robbery, Snatching, and Theft in the Mid-Qing Period," *Late Imperial China* 16.2 (1995), 98-132. ONLINE
- Timothy Brook, Jérôme Bourgon, and Gregory Blue, *Death by a Thousand Cuts* (Cambridge: Harvard University Press, 2008).
- Thomas Buoye, "Filial Felons: Leniency and Legal Reasoning in Qing China," in *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment*, ed. Robert E. Hegel and Katherine Carlitz (Seattle; London: University of Washington Press, 2007), 109-24.
- Thomas Buoye, "Suddenly Murderous Intent Arose: Bureaucratization and Benevolence in Eighteenth-Century Homicide Reports," *Late Imperial China* 16.2 (1995), 62-97. ONLINE
- M. J. Meijer. "Criminal Responsibility for the Suicide of Parents in Ch'ing Law," in *Leyden Studies in Sinology*, ed. W.L. Idema (1981), pp. 109-37.
- Zhou, Guanyuan, "Illusion and Reality in the Law of the Late Qing: A Sichuan Case Study," *Modern China* 19.4 (1993), 427-56.

Apr. 2 Good Friday Holiday No Class

Week 12

Apr. 9 Law in Late Imperial China: The Administration of Justice

Readings Selected from:

- Li CHEN, "Law, Empire, and Historiography of Modern Sino-Western Relations: A Case Study of the 1784 *Lady Hughes* Controversy," *Law & History Review* 27.1 (2009), 1-53.
- Li Chen, "Legal Specialists and Judicial Administration in Late Imperial China, 1651–1911," *Late Imperial China* 33.1 (2012): 1-54. ONLINE
- Chang Wejen, "Legal Education in Ch'ing China," in *Education and Society in Late Imperial China, 1600-1900*, ed. Benjamin A. Elman and Alexander Woodside, (Berkeley: University of California Press, 1994), 292-339.
- Melissa Macauley, "Small Time Crooks: Opium, Migrants, and the War on Drugs in China, 1819-1860," *Late Imperial China* 30.1 (2009), 1-47. ONLINE
- Melissa Macauley, "The Disputation of the Body Snatchers: Scandal in Chinese Legal Culture," in *Empire, Nation, and beyond: Chinese History in Late Imperial and Modern Times--a Festschrift in Honor of Frederic Wakeman*, ed. Joseph W. Esherick, Wen-hsin Yeh, and Madeleine Zelin (Berkeley: Institute of East Asian Studies, University of California, 2006) (China research monograph, 61), 58-77.
- Melissa A. Macauley, *Social Power and Legal Culture: Litigation Masters in Late Imperial China* (1998).
- Bradly Reed, *Talons and Teeth: County Clerks and Runners in the Qing Dynasty* (2000).
- Wu, Yanhong, "The Community of Legal Experts in Sixteenth- and Seventeenth-Century China," in *Chinese Law: Knowledge, Practice, and Transformation, 1530s to 1950s*, ed. Chen Li and Madeline Zelin, pp. 205-230 (Leiden: Brill, 2015).

Civil Justice and Later Developments

Readings Selected from:

- Jérôme Bourgon, "Uncivil Dialogue: Law and Custom Did Not Merge into Civil Law under the Qing," *Late Imperial China* 23.1 (2002), 50-90. ONLINE
- Thomas Buoye, *Manslaughter, Markets, and Moral Economy: Violent Disputes over Property Rights in 18th-Century China* (New York: Cambridge University Press, 2000).
- Philip C.C. Huang, *Civil Justice in China: Representation and Practice in the Qing* (1996).
- Philip C.C. Huang, *Code, Custom, and Legal Practice in China: The Qing and the Republic Compared* (2001).
- Melissa A. Macauley, "Civil and Uncivil Disputes in Southeast Coastal China, 1723-1820," in *Civil Law in Qing and Republican China*, ed. Kathryn Bernhardt and Philip C.C. Huang (Stanford, Calif.: Stanford University Press, 1994), 85-121.
- Madeleine Zelin, Jonathan Ocko, and Robert Gardella, eds., *Contract and Property in Early Modern China* (Stanford: Stanford University Press, 2004).

Week 13

Apr. 12 (Monday) Presentation of Student Research

Note: This class may be held in person on campus if circumstances permit; those not in Montreal will present virtually or in another form (see Grading above)

Apr. 16 Presentation of Student Research

Apr. 23 Final Research Papers Due