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Interactions of Law, Politics and Culture in the Late Qing

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Interactions of Law, Politics and Culture in the Late Qing*

Over the past half century, postcolonial theories such as Orientalism have fundamentally reshaped our understanding of power relations and knowledge production between the »West« and the »East«. Yet these theories have themselves matured into relatively standardised narrative templates, often resulting in historical accounts that amount to little more than the application of ready-made theoretical frameworks. Chen Li's recent monograph, *Law, Knowledge and Power in the Age of Empire*, offers a powerful corrective to this growing stagnation. Building on his award-winning earlier work, *Chinese Law in the Eyes of Empire* (2016), this book draws on meticulously excavated archival materials to push the analysis further. By exposing the very colonial mechanisms that originally produced such narratives, Chen successfully dismantles the deeply entrenched stereotype of traditional Chinese law as »barbaric« and »arbitrary«. More importantly, he innovatively incorporates emotional and cultural dimensions into the study of legal Orientalism, offering an original account of how normative knowledge is produced and weaponised as an instrument of imperial power.

The book consists of fourteen chapters divided into three parts. Part I, »Law, International Politics and Culture«, focuses on Sino-Western relations in the early modern and modern periods. Using cases such as the 1784 Lady Hughes incident as points of entry, Chen examines the formation of extraterritoriality, the universalist claims of Western thought, competing notions of sovereignty, and the ways in which colonial archives have reshaped narratives of Sino-Western legal history. Part II, »Law, Domestic Politics and Culture«, shifts the focus inward to Qing China. Through a detailed study of legal experts (*xingming muyou* 刑名幕友), circulation of knowledge, and regulation by the state, Chen reconstructs the operational logic of local judicial practice. Together, these two parts achieve a productive synthesis at both spatial and epistemological levels. Rather than treating international diplomacy and domestic governance as separate domains, Chen places imperial conflicts over sovereignty on the global stage alongside the circulation of legal knowledge within the Qing bureaucratic system. The book thus offers a dual perspective on Chinese legal history from both external and internal vantage points. Part III, »Reflections and Notes on Legal History«, collects the author's methodological reflections on archival practice, interdisciplinary approaches (including the notion of »hidden archives«), pedagogy and his own intellectual trajectory. This section is marked by a strong reflexive and methodological orientation.

Among others, I will point out mainly two major contributions to historical scholarship in the book. First, Chen moves beyond a conventional rationalist framework in political and legal analysis by significantly expanding our understanding of the role of emotion in modern international law and politics. For instance, the universalist aspirations of Western traditions and their claims to universal sovereignty encountered firm resistance in 18th-century China, generating »a profound sense of injury and frustration« among Europeans (106). These emotional responses, in turn, shaped Orientalist representations that denigrated Chinese law and society. Chen further develops the concept of »sentimental liberalism« and analyses the emotional discourses underpinning 19th-century Sino-Western relations. He argues that the rise of sentimental culture in the 18th and 19th centuries provided a crucial moral supplement to an international legal order transitioning from natural law to positivism (ch. 3). Through close readings of British parliamentary debates and public opinion surrounding the Opium Wars, Chen demonstrates how Western powers strategi-

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cally deployed emotion and a »discourse of injury« to legitimise imperial expansion and violent intervention. Thinkers such as Grotius and Vattel framed intervention against »human suffering and horror« as just, while politicians portrayed China as a »semi-civilized« nation lacking sympathy. During the 1857 debates on war with China, British suffering – described in terms of »insults« and »atrocities« – was mobilized to arouse public sympathy and outrage, recasting military aggression as a righteous crusade. What Chen terms »sentimental liberalism« thus played a constitutive role in the hierarchical ordering and reconfiguration of sovereign status and rights within international law. Notably, Chen extends this analysis beyond the 19th century, suggesting that the strategic deployment of the victimhood and injury discourse by powerful states remains equally relevant in the 20th and 21st centuries (ch. 5), thereby linking historical inquiry to contemporary global politics.

Second, the book offers a powerful critique of the unequal power relations underlying knowledge production. For instance, through a re-examination of the 1784 Lady Hughes case in Guangzhou, Chen demonstrates how colonial archives were constructed within asymmetrical structures of power: as international relations became increasingly unequal in the modern era, British perspectives came to dominate historical representations of the case, resulting in the near erasure of Chinese voices and the systematic dismissal of Chinese accounts. In order to obscure their own legal vulnerability and secure extraterritorial privileges, the East India Company distorted the Qing legal process – by which the gunner responsible for the incident was prosecuted – into an instance of arbitrary »a life for a life« justice. This form of knowledge production, driven by colonial power and commercial interests, was subsequently reproduced uncritically by generations of Western sinologists and historians, eventually solidifying into the conventional narrative of Chinese law as arbitrary and violent. As Chen argues in ch. 10, such »cognitive violence«, intertwined with Western cultural hegemony, erased the institutional rationality of the Chinese legal system and relegated it to the status of a backward and obsolete tradition.

Despite its impressive archival depth and theoretical sophistication, the book is not without limitations. One notable feature of Chen's study is its emphasis on traditional Chinese legal culture and its transformation in the modern period. Yet a careful reading reveals that the core of his analysis is overwhelmingly concentrated on the domain of adjudication. The Sino-Western conflicts discussed in Part I revolve largely around issues of jurisdiction, trial procedure and sentencing in specific criminal cases, while Part II focuses primarily on the judicial practices, case documentation and litigation strategies associated with legal experts in local government. From the standpoint of legal theory, however, adjudication and dispute resolution do not exhaust the meaning of »law«; historically speaking, they may not even constitute the primary dimension of what counted as »law« in China. While it is neither possible nor necessary for a single work to cover all aspects of the legal order, readers should remain cautious. At a time when the stereotype of traditional Chinese law as »predominantly penal« 以刑为主 continues to persist, there is a risk that the rich and vivid reconstruction of legal practice offered here may inadvertently reinforce a narrower understanding of law as litigation, punishment and procedural technique. Such a perspective risks obscuring broader normative frameworks and non-litigious forms of regulation that were equally central to the historical landscape of Chinese law.

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