

Book Reviews

Circulating the Code: Print Media and Legal Knowledge in Qing China. By Ting Zhang. Seattle, WA: University of Washington Press, 2020. Pp. xi + 252. \$32.00 paperback.

This is the first study of the profound impact of commercial publishing on Chinese legal culture in Qing China, an important subject that is still understudied and not well understood. Ting Zhang's study offers to explore "the production, circulation, and reception of legal knowledge in Qing China. It focuses on the flow of legal information through both textual and oral channels and the role of legal information in the formation of early modern Chinese legal culture" (p. 5). The author argues that in contrast to conventional views, both the Chinese government and the people took the law seriously and accurate legal information was widely accessible thanks to the production and circulation of commercial editions of various legal texts. The author argues that "the market, rather than the Qing state, led the production and dissemination of accurate legal information" (p. 9).

The main body of the book consists of five chapters. Chapter One offers an account of the various types of legal texts the Qing state produced and circulated. Even though the imperial state was serious in promulgating up-to-date laws for the bureaucracy and society, the quantity and quality of legal texts it produced and circulated did not meet the needs of the bureaucracy. The Qing state published and circulated its laws through three major channels: the Wuyingdian 武英殿, the Board of Punishment, and the *Beijing Gazette* (also known as the *Peking Gazette*). At least eight editions of the Qing Code and more than twenty editions of the *Expanded Substatutes of the Great Qing Code* (*Da Qing li xuzuan tiaoli* 大清律續纂條例) were published during the Qing. Although the state did not provide its officials with formal legal training, they were required to make judicial decisions based on the updated law. Since the most important source of the law was published legal texts, including the Qing Code, collections of case precedents, and legal treatises, access to and knowledge of these texts were critical. However, imperial editions of the Code and the *Expanded Substatutes of the Great Qing Code* published by Wuyingdian were printed in small numbers and commercial publishers were encouraged to reprint the official editions. Even though the imperial editions of legal texts were not expensive, commercial editions of the imperially authorized legal texts were, in fact, preferred by officials because the latter were updated more frequently and more practical in the organization of information. The Qing state published new and revised laws in the *Expanded Substatutes*, they were not accompanied by the Code, creating confusion for the officials who found the

Code difficult to read. Judicial officials turned to commercially imprints of the Code as they were updated much more frequently and better organized.

In Chapter Two, the author examines commercial editions of the Qing Code. She argues that commercial publishing overtook the government in disseminating up-to-date legal knowledge. The author found 120 different extant commercial editions of the Qing Code. Based on some characteristics of these imprints, she divides the publication history of the Qing dynasty into four periods: 1644–1722, 1723–1788, 1789–1805, and 1805–1911. In due course, the formats and contents of the commercial legal imprints came to shape the judicial and litigation practices:

The impact of commercial editions on the judicial system, however, went beyond providing officials with updated editions. Commercial editions, with their three-register format and additional legal information, significantly influenced legal reasoning and judicial sentence in Qing courts. (p. 83)

The Qing witnessed the gradual rise of a new legal professional community, which came to dominate the editing, compiling, and publishing of the Qing Code and other legal texts. The early Qing editions of the Qing Code display features of the late Ming editions of the Ming Code, which included: domination of the editing and compilation by officials working in the central government, while the publishers of these texts being local governments. “[O]fficial publishers still played a major role in printing and publishing the commentaries and texts of the Code. Therefore, judicial officials by and large monopolized the production of commentaries and texts of the Ming Code” (p. 42). Commercial editions published in the Kangxi 康熙 reign (1661–1722) began to show new trends as they were more diverse in terms of format. Six of the eleven editions diverged from the format of the imperial edition. These editions began to include individual or collective commentaries and annotations. Another trend concerns the change in the producers. The majority of the editors that can be identified were private secretaries (*muyou* 幕友). All came from the Jiangnan region, and many were Suzhou natives. “Legal advisors played an important role in transmitting updated legal information from the government to commercial publishers and then to the public” (p. 49).

Commercial editions of the mid-Qing period became increasingly standardized in the format of two registers, following the format of the *Expanded Substatutes*, which during this period were updated every five years. Commercial editions were usually timely in incorporating new substatutes into the Code before the imperial editions did. The period 1789–1805 saw the rise of Hangzhou editions and collective compilations. The state policy on the commercial publication of legal texts had eased, and so official publishing houses began to decline and commercial publishing of the Code resumed with vibrancy. Despite the competition, these mid-Qing commercial editions resembled one another in format and contents. The editions then had three registers and cross indexing in the upper register had become standard since 1789.

“The structure and content of commercial edition of the Code not only reflected the legal culture but also played a crucial part in shaping the legal culture and judicial practice in the Qing” (p. 63). These commercial editions, in addition to offering legal information, came to impact the manners in which judicial officials made their rulings, as they facilitated the rise of the authority of non-official legal experts who produced commentaries. With the mixing of official and editorial commentaries, commercial editions of the Code made it difficult for the reader to differentiate them. Commercial editions greatly enhanced the authority of unofficial commentaries in judicial practice as “Qing officials frequently referred to and sometimes even cited private commentaries when sentencing legal cases” (p. 62). Another way commercial editions of the Code impacted judicial practice concerns the citation of case precedents in judicial reasoning. The reference to case precedents in cases decided at the Board of Punishments and other central judicial agencies was essential to legal reasoning in the Qing judicial system. Case precedents were included in the commercial editions to illustrate the application of the statutes and substatutes. As a result, “officials often relied on unauthorized commercial editions to get access to case precedents” (p. 63).

As commercial editions of the Code grew in popularity among officials, the editors and publishers of the commercial editions came to assert more authority and confidence in dealing with the Code. Not only were they confident in revealing their full identities, they came to make changes to the Code itself by rearranging and even removing texts from the Code. Commercial editions of the Code also saw the addition of extra information, such as administration regulations, case precedents, and cross-indexes, which dwarfed the texts of the Code and the substatutes.

Zhang then examines the conditions of circulation of commercial editions of legal texts, pointing out that there were multiple centres of publishing in Suzhou, Beijing, Hangzhou, and later Shanghai. Through extensive bookselling networks, commercial legal imprints reached even frontier regions. With no government and industry regulations, such as copyright laws and guild restrictions, imperial and commercial editions of the Code and other legal texts were pirated in great number, contributing to the increase in the number of the Qing Code in circulation. These factors helped the circulation of the law of the Qing state throughout the empire.

Zhang argues that the burgeoning of commercial legal imprints was accompanied by the emergence of a new legal profession. In the Qing, the private legal advisors who came to play “the dominant role in editing and publishing commercial editions of the Code and many other law books epitomized the rise of a new legal professional community that was beyond the control of the Qing government” (p. 82).

In Chapter Three, Zhang discusses how commercial editions of the Code were designed for different readers and how the format and contents impacted their reading experiences. For the officials and the literati, legal knowledge was a form of statecraft necessary for discharging judicial duties and even for self-cultivation. The widely

accessible legal knowledge resulted in an informed population, making it necessary for officials to read law books as the litigants became more adept in manipulating the law. Based on the study of handbooks published for officials, Zhang argues that “Qing officials, especially magistrates and prefects in the late Qing period, included many legal books in their reading list and personal library” (p. 98).

Zhang argues that the commercial editions of the Code played key roles in the Qing legal culture, especially from the perspective of the reader. Through the three-register-per-page format, the authors and editors of these commercial editions provided updated case precedents which came to redefine and reinterpret the Code, allowing judicial officials to make adjustments, either to geographical or social conditions, without updating the Code. Authors of private commentaries included in the middle registers helped define and redefine the conditions for the application of the law, enabling judicial officials to better understand the law and making informed decisions. The print format also enabled easy and fast location of relevant cases and information, turning these imprints into legal dictionaries and reference books. Zhang argues:

... commercial editions of the Code published after the late Qianlong period established a standardized database of commentaries and case precedents that leading legal experts deemed authoritative and applicable in judicial practice. Private commentaries and case precedents played an increasingly important role in judicial practice as a “source of law” in the Qing period. (p. 107)

Commercial editions made it much easier for readers with different levels of literary skills to read, understand, and apply the laws. They were particularly important for officials in the Qing. As Zhang points out:

In an age of abundant and high-quality commercial printing, law and legal knowledge, which had been the secret and privileged information of officials and the government, became more widely disseminated in print and more affordable as well. Reading the Code and studying legal knowledge, therefore, were necessary for officials to survive in this legally sophisticated bureaucracy and society. (p. 92)

In Chapter Four, Zhang examines how litigation master handbooks were a major channel for literate commoners to gain knowledge of the law and litigation skills. Zhang calls this type of handbooks “popular legal handbooks” (p. 113). Such handbooks targeted a much broader readership than the Code. They were much shorter in length, simpler in language, and much more affordable. The second part of the chapter is devoted to the analysis of one such handbook, *The Thunder That Startles Heaven*. (*Jingtianlei* 驚天雷) Fifteen of the extant distinct editions of the *Thunder* were from the Qing. None of these editions included information on the authors or editors. This popular legal handbook is a comprehensive collection of materials related to various aspects of legal, litigation, administrative, and forensic knowledge.

Zhang considers masters' "secret handbooks" as one of the most important genres of popular legal literature in early modern China. The authors and editors of these handbooks were litigation masters and clerks working in local governments. Against contemporary scholars' claim, Zhang argues:

Qing legal handbooks usually contained much more accurate legal information than those from the late Ming . . . Popular legal imprints fundamentally transformed the common people's access to and understanding of the law, and to some extent (and as the government feared!) encouraged them to go to court to solve their problems. (p. 113)

These handbooks "circulated openly in the book market and were for the most part easily available to ordinary readers from the late Ming to the Republican period" (p. 113). Most readers of these imprints were lower literati and commoners. These handbooks shared four sets of information: 1. general instructions on the litigation process, 2. how to compose litigation documents, 3. sample litigation documents, and 4. simplified or summarized law and legal information.

The second part of the chapter is devoted to the analysis of one such handbook, *The Thunder That Startles Heaven*. Editors of *Thunder* used two common textual strategies to convey their information: songs and questions and answers. Songs written in simple language to convey legal knowledge such as the types of crimes and their corresponding punishments. "The question and answer set provided the readers a valuable opportunity to obtain in-depth legal knowledge that the Code often did not directly mention" (p. 129). The *Thunder* included a large number of statutes and substatutes copied from the Code that were all relevant to the ordinary people, and omitted statutes related to administration, imperial ritual, military, and public projects. The statutes and substatutes selected in *Thunder* "comprised the main portion of civil laws that Qing litigants would refer to in civil lawsuits" with particular emphasis on "property, marriage, sex, and violence" (pp. 131–32). Zhang argues that popular legal handbooks like *Thunder* "[c]ombining law and litigation skills empowered readers, which enabled and encouraged them to use and abuse the laws and the legal system" (pp. 134–35).

Access to legal knowledge enabled the people to file false and exaggerated accusations in order to get acceptance by the officials, turning civil disputes into criminal ones. Ting concludes that "popular legal handbooks substantially influenced local litigation patterns in Qing China" (p. 141). Her study also confirms the findings of other scholars of Qing legal history with regard to the "connections between popular handbooks and litigation writings in Qing local archives" (p. 141). As the legal case backlog worsened, getting a pliant accepted at the local courts became more difficult. "Legal and litigation knowledge would greatly enhance litigants' accessibility to local courts" (p. 143).

In Chapter Five, Zhang turns to the question of how the illiterate came to acquire legal knowledge. She points out that for the illiterate population, the Qing state promoted legal knowledge through several channels. In addition to the major channel—Community Lecture, there were other channels such as the community wine-drinking ceremony, on execution grounds, publicly posted proclamations to explain statutes and substatutes, and popular legal lectures beyond the community lecture system. This chapter focuses on the community lecture system, wherein “[l]aws were carefully selected and imparted to men and women, young and old, literate and illiterate, Han and non-Han, around the Qing empire. These lectures enabled people with little education to understand basic laws and legal principles” (p. 144).

Even though the practice could be traced back to the Ming dynasty, in the Qing “the essential feature of the organization was gradually transformed from voluntaristic, gentry-led, local community self-regulated compacts to compulsory, official-led, state-sponsored lectures” (p. 148). Beginning in 1679, the Kangxi emperor issued an imperially authorized manual for community lectures to prefectures, counties, and villages. Since the Yongzheng 雍正 reign (1723–1735), the Community Lecture formally became “state-dominated moral and legal lectures aimed at inculcating ethical orthodoxy in local people as well as strengthening central political control over local society” (p. 150). Qianlong 乾隆 (r. 1735–1796), Jiaqing 嘉慶 (r. 1796–1820), and even Tongzhi 同治 (r. 1862–1874) and Guangxu 光緒 (r. 1875–1908) continued to stress that the community lectures were critical to the people’s moral education. In Zhang’s view, “[f]ew other programs reached its influence and popularity in disseminating orthodox ideas, moral principles, and legal knowledge in society” (p. 155).

In the Conclusion, Zhang challenges the stereotypes in Chinese legal history and reinforces recent findings of legal history scholars. “As a result of the publishing revolution, the Qing legal system was less centralized, less arbitrary, more flexible, and more commercialized than previous scholarship has led us to expect” (p. 188). Zhang agrees with Philip Huang that “formal law played a major role in the lives of the majority of the population” (p. 124). When suggesting that “[o]fficials who owned the Code were more likely to sentence cases based on the laws than those did not have a copy” (p. 182), Zhang is virtually taking the opposite side of Shūzō Shiga (1921–2008) in whose debate with Philip Huang over whether Qing officials adjudicated according to the Qing Code.

The larger argument Zhang’s study ultimately leads to is that Qing legal culture had been transformed profoundly by a “commercial printing revolution” (pp. 5, 7, 180, 188) that began in the late Ming into one with “early modern” features. This legal culture as depicted in the study stands in great contrast to the stereotypes of a failed legal system that functioned only as a control tool of the imperial state over a population uninformed and fearful of the legal system. The legal culture in the

Qing can be distinguished by four “early modern” features: First, the wide circulation of accurate and updated legal knowledge through both textual and oral channels; second, the rise of a legal professional community of non-government advisors who, through commercial publishing, established their identities and authority, which came to “challenge the state’s authority in statutory interpretation and judicial practice” (p. 187). Third, government control over legal knowledge and judicial practice diminished as legal advisors and commercial publishers came to influence how the laws were interpreted and applied, challenging the state’s authority in defining and administering legal justice. Commercial editions of the Code enabled greater flexibility and applicability of the laws in response to new social and economic changes. Fourth, case precedents were gaining in gravity in judicial practice, attesting to the evolution of the Qing legal system into “a hybrid system that combined statutory laws and case precedents” (p. 188) as commercial publishing increased the circulation and accessibility of precedents.

In addition to offering a close analysis of evidence from a wide array of genres of legal texts, Zhang’s study also engages critical debates in the fields of legal history and history of printing. While acknowledging the absence of a “legal public sphere” in Qing China, Zhang argues convincingly that “the book market did provide legal advisors with a platform through which to transmit their opinions on the law, which in turn challenged the state’s authority over the interpretation and application of the laws” (p. 184). An “early modern” form of legal culture driven by commercial publishing developed in Qing China. In fact, Zhang argues that when compared with the legal culture in early modern England, “Qing China had a broader, more competitive, and more dynamic market for law books in a less regulated environment” (p. 180).

In China, printing changed the presentation and organization of the laws even more dramatically than it had in England. Due to the absence of state regulations, Chinese publishers had much more freedom than English publishers to alter, revise, and reorganize legal materials. Commercial publishers brought new content and new formats to the Code when they published it. (p. 182)

Zhang has offered an excellent study of the profound impact of commercial publishing on the legal culture in Qing China, covering the roles of the imperial state and private legal advisors in the production, circulation, reading, and applying of legal knowledge. This study makes great contributions to both the fields of legal history and the history of printing. With analytical sophistication and meticulous documentation, Zhang convincingly demonstrates how commercial publishing transformed the manners in which the imperial state, its officials, legal advisors, and the Chinese subjects accessed, learned, understood, and applied the law, and in so doing developed an “early modern legal culture” (p.5).

There are only two points that warrant some critical assessment. First, Zhang refers to a “commercial printing revolution” (pp. 7, 184) without offering a theoretical discussion of the term. Second, in her discussion of the community lecture system, Zhang suggests:

In terms of community lectures, however, the role of ritual ceremony gradually declined, and moral and legal lectures simultaneously increased from the late Ming to the late Qing. . . . While some Qing thinkers might have advocated the ritualist approach, many officials and gentry adopted a much more didactic approach in the practice of popular moral cultivation. (p. 153)

Comparing the 1679 and 1868 manuals, she suggests that “popular legal education played an increasingly important role in the moral education program, while the role of ritual performance was declining” (p. 160). But while arguing “ritual performance was declining” in the 1868 edition, she ironically observes that the author “incorporated several statutes and substatutes regarding mourning, burial, clothing and housing rules, public road, and sorcery from the rest chapters” (p. 163). Can these “rituals,” such as mourning, burial, clothing, and housing rules, be considered as evidence of the impact, rather than the decline of ritualism? The pitfalls of Zhang’s argument are twofold: an undifferentiated understanding of the concept of *li* 禮 and a mechanical translation of it as “ritual.” I would argue that the increase in legal education should not be regarded as a competing mode of moral education but rather an advancement of the Confucian ritualist approach to moral and social order. The Confucian concept of *li*, as it was understood in the Qing, pertains to moral norms and their institutional or formal rules of behaviour. Confucian ritualism in the Qing underscored the external or socio-legal rules of behaviour, which not only manifested in ritual modes but also in legal forms. In short, the growth in importance of legal education in the Qing cannot be conceived as a competing and alternative mode of moral education but rather a reinforcement, an extension of Confucian ritualism, as evidenced by the revival of Xunian Confucianism, which placed a strong emphasis on external constraints in the form of normative rules of behaviour and legal support of those rules. Community Lecture was itself considered a *li*, an institution, rather than a law. The extension of the community lecture system was a manifestation of the impact of Confucian ritualism. That legal knowledge was comparted to the common people did not turn the lecture into a forum for debating moral and legal issues between the subjects and the officials. As Zhang describes the lecture as the “reading and expounding the *Sacred Edict*” ceremony:

The magistrate and his fellow officials wore formal official robes and performed the ceremony of kowtowing to the tablet bearing the *Sacred Edict* in the lecture

hall. The local people gathered outside the lecture hall, lining up according to their ages and kneeling when official performed the ceremony to the imperial tablet. (p. 153)

Calling the Community Lecture a “reading ceremony” is closer to the situation. Moral cultivation was done not through a didactic mode of teaching but a ritualist reading of the imperial edict. Unlike didacticism, which resorted to stories and fables to teach moral lessons, during the community lectures in the Qing, the moral norms were meant to be explicitly conveyed and taught to the commoners as instructions.

Despite this minor discord, Zhang’s study is a powerful rebuttal of the common view that, in contrast with Gutenberg’s movable type printing, the invention of printing in China produced little or insignificant effects in society and culture. This is a monograph that must be included in the reading list of all graduates in Chinese studies.

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