

## HIS 374

### LAW AND SOCIETY IN CHINESE HISTORY

SPRING 2024

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Instructor      Xiao Chen (he/him) History Dept. | [chenxiao@grinnell.edu](mailto:chenxiao@grinnell.edu)  
Time & Room              MW 14:00-15:50 JRC 203  
Office Hour              N3148 Tuesday 16:00-17:00 or By Email Appointment

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#### COURSE DESCRIPTION AND OBJECTIVES

This undergraduate seminar is open to students who are interested in Chinese law or law and society from comparative perspectives. During this seminar, we will 1) explore the latest themes on Chinese law and society discussed by recent scholarship in English 2) know how to read Chinese law codes and legal cases from late imperial times 3) produce a substantial “state-of-the field” paper on topics relating to Chinese law and society.

The primary goal of this seminar is to help students develop their bibliographic and historiographic knowledge of law and society in Qing and Republican China. Your main assignment for the course will consist of a 4000-word “state of the field” essay about an important topic relevant to Chinese law. After a semester of reading about various topics, the aim of this assignment is to give you an opportunity to synthesize and critically analyze the writings on a particular topic.

#### ASSIGNMENTS

##### **Participation and Attendance 20 %**

This seminar is about critical reading and discussion. All books and articles should be read carefully before the class meeting each week. You should come to class each week with your ideas, your questions and your major critiques if you have them. This seminar relies on your preparedness and willingness to engage each other and the texts, to probe into both the successes and the shortcomings of the scholarship under review each week. This means that you must think and engage critically, but respectfully, with the texts and each other.

Students will take turns leading discussion sessions in Weeks 2-8 (except for week 4). Each student is required to sign up for leading two meetings. Discussion leaders should upload three discussion questions per person on Blackboard the day before the class meeting.

[https://docs.google.com/document/d/1x0raSDgU7\\_Rp-dlKMRTLp8SfQsMqUR3lGWjNDvDP2is/edit?usp=sharing](https://docs.google.com/document/d/1x0raSDgU7_Rp-dlKMRTLp8SfQsMqUR3lGWjNDvDP2is/edit?usp=sharing)

I will provide a brief reading guide 2 days (e.g. (for example, for our Monday meeting, the guide will be posted by Friday evening) in advance on Blackboard. Please expect to read an average of 100-150 pages per week.

Attendance at this seminar is important. You have TWO “grace” absences without penalty. Any unexcused absence, lacking a legitimate reason and timely communication with the instructor, will result in a deduction of 2% from the final total grade. If you need to miss class for a religious holiday or an athletic event, please let me know in advance.

### **Response papers 30%**

Write SIX short response papers on weekly readings (5% each). Each about 2 pages long (double space, 12-pt font). This simple exercise will help focus your ideas in advance of our conversations. These short papers are informal but critical summary on the weekly readings, please post them at our blackboard site the by end of the day before our class meeting.

### **Primary source analysis 10%**

Write a short analysis essay on the Qing Code. A detailed prompt will be distributed later.

### **Final Project: 40%**

Write a “state of the field” essay (sometimes called “review essay”) to evaluate the past and current status of a historical field pertinent to the history of Chinese law and society, looking at both recent and older works (approx. 4000 words excluding notes and bibliographies).

Frequently situated at the outset of thematic volumes and featured in dedicated essays such as "state of the field" pieces and "roundtables" within academic journals, the purpose of the "state of the field" essay is to offer a comprehensive overview of significant issues, interpretations, and debates within a specific area of study. These essays should span a range of publication dates. Importantly, the most exemplary state-of-the-field essays delve beyond mere reviews of recent scholarship; they also explore historical questions of significance and analyze potential future directions of inquiry. In addition to elucidating the arguments presented by each author, it is essential to examine how scholarly approaches within the field have evolved over time, looking into the reasons behind such changes.

A proposal of 300 words and an annotated bibliography (5 monographs and 5 articles/chapters) are due the end of Week 8.

Below are a few examples; they are intended not as templates but rather to provide you with a sense of what the writing looks like.

Essays written by former grad students on Modern Chinese History seminars at the History Department of UCSD (at once one of the best grad program of Modern Chinese History in US): <https://ucsdmodernchinesehistory.wordpress.com/%E6%96%87%E7%AB%A0-reviews-and-essays/historiographical-essays/>

Short essays (more like long book reviews) published on *Cross-Currents: East Asian History and Culture Review*: <https://escholarship.org/uc/item/7zr3387s>;  
<https://escholarship.org/uc/item/7h9338zj>; <https://escholarship.org/uc/item/4bk486j9>;  
<https://escholarship.org/uc/item/10s112gp>;

Long essays: Marks, R. (1985). Review Essay : The State of the China Field: Or, the China Field and the State. *Modern China*, 11(4), 461-509. <https://doi.org/10.1177/009770048501100403>

Alford, W. P. (1997). 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), 398–419.  
<http://www.jstor.org/stable/189393>

Hershatter, G. (2004). State of the Field: Women in China's Long Twentieth Century. *The Journal of Asian Studies*, 63(4), 991–1065. <http://www.jstor.org/stable/4133198>

Yang, Taoyu. (2019). Redefining Semi-Colonialism: A Historiographical Essay on British Colonial Presence in China. *Journal of Colonialism & Colonial History*, 20(3).  
<https://doi.org/10.1353/cch.2019.0028>

#### REFERENCE BOOKS AND BIBLIOGRAPHY

Wilkinson, Endymion. *Chinese History: A New Manual*. 6th ed. Cambridge, MA: Harvard University Asia Center, 2022.

*The Cambridge History of China vol. 9-13* [https://grinnell.primo.exlibrisgroup.com/permalink/01GCL\\_INST/1g018f9/alma991002341669704641](https://grinnell.primo.exlibrisgroup.com/permalink/01GCL_INST/1g018f9/alma991002341669704641)

*A Companion to Chinese History* [https://grinnell.primo.exlibrisgroup.com/permalink/01GCL\\_INST/1g018f9/alma991011093907104641](https://grinnell.primo.exlibrisgroup.com/permalink/01GCL_INST/1g018f9/alma991011093907104641)

*Heaven Has Eyes: Law and Justice in Chinese History* [https://grinnell.primo.exlibrisgroup.com/permalink/01GCL\\_INST/17ql8au/cdi\\_askewsholts\\_vlebooks\\_9780190060053](https://grinnell.primo.exlibrisgroup.com/permalink/01GCL_INST/17ql8au/cdi_askewsholts_vlebooks_9780190060053)

Patrick S. O'Donnell's bibliography of Chinese law and legal history:  
[https://www.academia.edu/60244052/Chinese\\_Law\\_and\\_Legal\\_History\\_a\\_basic\\_bibliography](https://www.academia.edu/60244052/Chinese_Law_and_Legal_History_a_basic_bibliography)

#### COURSE POLICIES

##### Accessibility Resources

I will make every effort to work with students to implement accommodations that are presented to me through the College process (as outlined in the Student Handbook and the Office

of Accessibility and Disability Services). Students with disabilities will also need to have a conversation about their disability with the Coordinator for Disability Resources. To learn more about this process, and the rights and responsibilities of students in this area, please consult: <https://www.grinnell.edu/about/offices-services/accessibility-disability/students>

### **Academic integrity**

Please familiarize yourself with these policies (<https://www.grinnell.edu/doc/2023-2024-academic-honesty-booklet>) to avoid misunderstandings. Do not hesitate to ask me if you are ever in doubt about what constitutes plagiarism, cheating, or any other breach of academic integrity.

### **Extension**

Everyone is allowed 1 extensions of 24 hours on 1 writing assignments without penalty. You must notify me if you plan to take an extension. 2 or more late submissions (regardless of reasons) will incur grade deduction.

### **Statement on Gender Inclusivity**

I will make my best efforts to refer to you in the pronoun of your choice and I expect classmates to respect each other's pronoun preference.

## COURSE SCHEDULE

This syllabus represents my current plan. I will communicate changes, if any, clearly.

### Week 1 (Jan 22 - Jan 24): Introduction to the Course

- Jan 22 (Mon): Intro & Signup for weekly discussion leader(s)
- Jan 24 (Wed): *Legal Orientalism* by Teemu Ruskola

### Week 2 (Jan 29 - Jan 31): Law and Kinship in Imperial China

- Jan 29 (Mon):  
Readings: [**Skim** Ch'ü, T'ung-tsu. "Family and *Tsu*." *Law and Society in Traditional China*. Paris: Mouton & Co, 1965, 15-78; **Read** Intro and Chapters 1-2 and part of Chapter 3 (section 3.4) of Du Y. *State and Family in China*. Cambridge: Cambridge University Press; 2021.  
Listen to Matthew Sommer's discussion of Ch'ü, T'ung-Tsu's work at <https://www.iheart.com/podcast/269-old-china-books-122019064>]
- Jan 31 (Wed):  
Readings: [Optional: Chapters 4-5 of Du Y. *State and Family in China*]

### Week 3 (Feb 5 - Feb 7): Gender and Status

- Feb 5 (Mon):  
Readings: [Sommer, Matthew Harvey. *Sex, Law, and Society in Late Imperial China* : Matthew H. Sommer. Stanford University Press, 2000, 1-114.]
- Feb 7 (Wed):  
Readings: [Bernhardt, Kathryn. "A Ming-Qing Transition in Chinese Women's History? The Perspective from Law." In *The History and Theory of Legal Practice in China*, 3:27–50. BRILL, 2014.]

### Week 4 (Feb 12 - Feb 14): How to Read the Great Qing Code

- Feb 12 (Mon):  
Readings: [excerpts from Derk Bodde and Clarence Morris, *Law in Imperial China: Exemplified by 190 Ch'ing Dynasty Cases* (Harvard University Press, 1967)]
- Feb 14 (Wed):  
Readings: [Primary source reading]

### Week 5 (Feb 19 - Feb 21): Popular Understanding of Law

- Feb 19 (Mon):  
Readings: [Intro, Chapter 12 and selected chapters from Hegel, Robert E, and Katherine N Carlitz. *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment*. University of Washington Press, 2017 & Excerpts from Macauley, Melissa. *Social Power and Legal Culture: Litigation Masters in Late Imperial China*. Stanford University Press, 1998.]
- Feb 21 (Wed):  
Readings: [excerpts from Lean, Eugenia. *Public Passions the Trial of Shi Jianqiao and the Rise of Popular Sympathy in Republican China*. Berkeley: University of California Press, 2007 & Goodman, Bryna. "'Law Is One Thing, and Virtue Is Another': Vernacular Readings of Law and Legal Process in 1920s Shanghai." In *Chinese Law*, 3:148–175. BRILL, 2015.]

### Week 6 (Feb 26 - Feb 28): Judicial Administration

- Feb 26 (Mon):  
Readings: [Bradly W. Reed, *Talons and Teeth, County Clerks and Runners in the Qing Dynasty* (Stanford U Press, 2000), 1-30, 122-159]; Chen, Li. "Legal Specialists and Judicial Administration in Late Imperial China, 1651–1911." *Late imperial China* 33, no. 1 (2012): 1–54.
- Feb 28 (Wed): Readings: [TBA]

Documentary: Petition (2009)

<https://youtu.be/qnWW0UcRsWM?si=3qO28wDg555qn4Mx>

#### Week 7 (Mar 4 - Mar 6): “Civil” Law

- Mar 4 (Mon):  
Readings: [Huang, Philip C. C. *Code, Custom, and Legal Practice in China: The Qing and the Republic Compared*. 1st ed. Stanford University Press, 2002, 1-136.]  
Optional: Liang, Linxia. *Delivering Justice in Qing China : Civil Trials in the Magistrate’s Court*. Oxford: Oxford University Press, 2007.
- Mar 6 (Wed):  
Readings: [Madeleine Zelin, “Merchant Dispute Mediation in Twentieth Century Zigong, Sichuan,” and “A Critique of Rights of Property in Prewar China”.]

#### Week 8 (Mar 11 - Mar 13): “Legal Pluralism?”

- Mar 11 (Mon):  
Readings: [Oidtmann, Max. “A ‘Dog-Eat-Dog’ World: Qing Jurispractices and the Legal Inscription of Piety in Amdo.” *Extrême-Orient, Extrême-Occident*, no. 40 (2016): 151–182 & Constant, Frédéric. “The Legal Administration of Qing Mongolia.” *Late imperial China* 40, no. 1 (2019): 133–173.]  
Optional: Schluessel, Eric. “The Law and the ‘Law’: Two Kinds of Legal Space in Late-Qing China.” *Extrême-Orient Extrême-Occident*, no. 40 (2016): 39–58.  
Heuschert, Dorothea. “Legal Pluralism in the Qing Empire: Manchu Legislation for the Mongols.” *International history review* 20, no. 2 (1998): 310–324.
- Mar 13 (Wed):  
Readings: [excerpts from Cassel, Pär Kristoffer. *Grounds of Judgment Extraterritoriality and Imperial Power in Nineteenth-Century China and Japan*. New York ; Oxford University Press, 2012 & Wesley B. Chaney’s dissertation]

**\*\*Proposal and Annotated Bibliography due on March 17\*\***

#### **Spring Break (Mar 17 - Mar 31): No Class**

#### Week 9 (Apr 1 - Apr 3)

- Apr 1 (Mon):  
Readings: [Readings TBA of secondary sources selected by presenters]  
Discussions of Proposal and Outline of 2 papers (**\*\*Presenters should circulate a copy of your proposal and outline at least 24 hours before the class\*\***).
- Apr 3 (Wed):  
Readings: [Readings TBA of secondary sources selected by presenters]  
Discussions of Proposal and Outline of 2 papers.

Week 10 (Apr 8 - Apr 10)

- Apr 8 (Mon):  
Readings: [Readings TBA of secondary sources selected by presenters]  
Discussions of Proposal and Outline of 2 papers.
- Apr 10 (Wed): TBA

Week 11 (Apr 15 - Apr 17): Writing Week

- Apr 15 (Mon): Class writing time
- Apr 17 (Wed): Class writing time

Week 12 (Apr 22 - Apr 24): Discussion of first “chunk” of 4-5 pages of a section you have ready.

- Apr 22 (Mon): 3 papers
- Apr 24 (Wed): 3 papers

Week 13 (Apr 29 - May 1): Revising and Writing

- Apr 29 (Mon): Class writing time
- May 1 (Wed): Class writing time

Week 14 (May 6 - May 8): Final Presentation

- May 6: Presentation of draft papers (3 papers)
- May 8: Presentation of draft papers (3 papers)

**\*\*\*May 18 Final Paper Due\*\*\***