

ABSTRACTS

GUIDO ABBATTISTA

Chinese Law and Justice: George Thomas Staunton (1781-1859) and the European Discourses on China in the Eighteenth and Nineteenth Centuries

George Thomas Staunton's 1810 translation of the so-called 'Qing penal code', the *Ta Tsing Leu Lee* (in the coeval transliteration), represented a major chapter in the history of Sino-European relations, particularly the evolution of British presence and activities in China. It was, at the same time, an important development in Sinological learning and Western knowledge of China in terms of understanding how to manage commercial relations that had been strained for over a century and were undergoing crucial changes at the beginning of the nineteenth century. It also represented a decisive step forward in a longstanding European discussion about the Chinese empire and its institutions, society, culture and civilization that attributed particular importance to the subject of law and justice and their place within the Chinese state. The first and second parts of this essay retrace the most significant moments of this debate in the European culture and experience, with a special focus on the eighteenth century and the Enlightenment period, when admiration for and even an idealization of China reached their peak, only to decline quite quickly and irreversibly at the turn of the century. While demonstrating that contradictory opinions about China always coexisted in European opinion, this essay proceeds to present Staunton's interpretation of the Chinese legal and judicial system and to clarify its particular meaning with regard to previous and current debates and the political-economic context of Sino-British relations. The last two parts deal with the discussions prompted in Europe by the English publication of the Qing code and the first two translations in French and Italian. In so doing, the essay shows that Staunton's intention to promote a favourable view of Chinese institutions and a respectful attitude towards them did not correspond to the development of main-

stream European, and especially British, opinion. Indeed, in the decades following its publication, under the pressure of free trade and Protestant missionary opinion, British public opinion became increasingly negative, including the adoption of severely critical mental attitudes and intrusive policies towards China, thus preparing itself for the military aggression known as the First Opium War.

Keywords: George Thomas Staunton, Sino-European relations, Sino-British relations, Qing code, Qing code translation, Chinese legal system, Western knowledge of China

LI XIUQING

Nineteenth-Century Western Perspectives on Chinese Justice: An Analysis of The Chinese Repository (1832-1851) and The China Review (1872-1901)

The Chinese Repository (1832-1851) and *The China Review: Or, Notes and Queries on the Far East* (1872-1901) were two of the most significant and influential English language journals published by foreigners in China during the nineteenth century. Typical views published in *The Chinese Repository* expressed severe criticism on many issues related to Chinese justice, such as: procedural laws in China were repeatedly violated in judicial practices, whilst there was no distinction between civil and criminal procedure; anonymous accusations were allowed and even encouraged; inquisition by torture seemed impossible to eradicate, and so forth. As for the articles in *The China Review*, the points of view had changed. They were no longer characterized by recurrent expressions of disapproval for the Chinese judicature, they rather started to affirm its progress. Several factors led to this shift: first, during the second half of the nineteenth century, China had set out its legal reform, and reached a temporary thaw in relations with the Western powers; second, Hong Kong, where the latter journal was published, had unique geographical and cultural advantages. Moreover, an increased richness and diversity in the contributions' topics and positions also played an important part in shaping *The China Review* overall approach to the Chinese legal system.

Keywords: *The Chinese Repository*, *The China Review*, European perspectives on China, nineteenth-century Chinese law, Chinese legal reform

ZHANG LIHONG and DONG NENG

The Great Qing Code in Comparative and Historical Perspective

The Great Qing Code (大清律例, *Da Qing lü li* or *Ta Tsing Leu Lee*) was drafted in 1646, but abolished along with the end of Qing dynasty in 1912. This gigantic legislative work spanned over two centuries and ruled millions of people. As a fundamental comprehensive criminal code of Qing dynasty (1644-1912) and the last traditional legal code in Chinese history, literally, the Qing code offers us a very broad view on the traditional Chinese law. It is an extraordinary monument for legal historians to penetrate and comprehend Chinese traditional ways of understanding law, justice and punishment. Its 436 statutes (律, *lü*) and over 1,000 sub-statutes (例, *li*) form an intricate body of rules, analogies, exceptions, annotations and cases. Furthermore, a very strong continuity can be found between the Qing code and the Tang code (唐律, *Tang lü*) promulgated in the seventh century since about 40 per cent articles of the Qing code was derived from the Tang code.

This essay focuses on the formation, the distinctive character, the basic structure, the diffusion and the reform of the Qing code from historical and comparative perspectives.

Keywords: Qing code, Qing code formation, Qing code structure, Tang code, traditional Chinese law

MARINA TIMOTEO

Of Old and New Codes: Chinese Law in the Mirror of Western Laws

Notwithstanding the fact that the word *code* is associated with a broad spectrum of meanings, when Chinese and European law met in the middle of nineteenth century, this word was marked by absolute historical typicality: it designated the Civil code, which represented an epoch-making watershed in western legal history and was identified as a symbol for legal modernity. This code became soon an illustrious reference model for the Chinese legal modernization process. In front of it the Qing code represented an old law, expression of a feeble legal tradition, that was inexorably destined to disappear. However, substituting the old with the new in the field of law is not simply a political choice and a technical endeavour. This paper explores some paths of this process from a comparative law perspective.

Keywords: Chinese legal modernization process, comparative law, Civil code, Qing code, legal transplants, legal translation

GIULIA IANNUZZI

The Cruel Imagination: Oriental Tortures from a Future Past in Albert Robida's Illustrations for La Guerre infernale (1908)

It was for a planned future section of his war museum entitled “Storia dell'avvenirismo – Precursori della Futurologia” (“The History of Futurism – The Forerunners of Futurology”) that in 1957 Diego de Henriquez, ex-soldier and passionate collector, bought fifteen of Albert Robida's original sketches for Pierre Giffard's *La Guerre infernale* (1908) from a bookstand in Rome. Of these original illustrations (today at the Civico Museo di guerra per la pace “Diego de Henriquez” of the City of Trieste), eight are reproduced in *Law, Justice and Codification in Qing China*. Accompanying and drawing on their publication, this essay critically assesses Giffard and Robida's work, outlining precedents and coeval trends as regards the representation of Chinese tortures and the Yellow Peril in early science fiction and Western public discourse.

La Guerre infernale is an early work of science fiction which offers, today, a graphic example of the collective imagery of coeval times related to future wars and technologies, Chinese punishments and atrocities, and fears of the Yellow Peril. By 1908, the theme of Chinese torture, and the *topos* of Oriental cruelty was not unprecedented in Robida's work, nor was it an isolated case in popular French and Western publications. Be that as it may (and perhaps precisely because it taps into broader cultural currents), the clash, in *La Guerre infernale*, between ethnic stereotypes, which informed the representation of Oriental brutality and sadism, and visions of a future driven by technological progress, offers a unique vantage point from which to observe and critically assess Sino-Western cultural relationships at the dawn of the Twentieth century (or at the end of a “long” Nineteenth century).

Keywords: Albert Robida, Pierre Giffard, *La Guerre infernale*, ethnic stereotypes, Oriental cruelty, Yellow Peril, Sino-European relations, Western knowledge of China, early science fiction