

BUCHBESPRECHUNGEN

JIANG Yonglin, *The Mandate of Heaven and The Great Ming Code*. Seattle: University of Washington Press, 2011. Cloth, xiv + 245 pp. \$65.00. ISBN: 9780295990651

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Challenging the Western scholarship's conventional assumption that law in imperial China was used as an arm of the state to serve the ends of social control and as a secular instrument for exercising despotic power, JIANG Yonglin, an established expert on legal culture in imperial China, seeks to contextualize that culture through a China-centered history offering new insight into the Ming Code. The present volume is the product of the author's extensive research on The Great Ming Code², yet it would not be fair to consider this work a mere "companion volume" to his erudite translation³ of the same. In *The Mandate of Heaven and The Great Ming Code*, JIANG analyzes the underlying spirit of the Ming Code and endeavors to show that the text embodies a unique cosmological and in some way religious world view. He further argues that the Ming Code served as an instrument to manifest the Mandate of Heaven, to educate the people and to transform the society.

The book is divided into six chapters, with chapter 1 serving as an introduction and chapter 6 summarizing the main arguments of the book. After discussing generally the connection between religion and law in imperial China (chapter 1), JIANG refutes the widely held notion that traditional Chinese law was secular in nature and devoid of religious meanings. JIANG proposes that the founding Emperor ZHU Yuanzhang⁴ (1368–1398) of the Ming⁵ dynasty (1368–1644) and his closest advisors "did not see law merely as a tool for behavior control," but rather "as a concrete embodiment of the cosmic order" (p. 4). JIANG attempts to capture this transcendental dimension of Ming law by arguing that the cosmological order underpinning The Great Ming Code was essentially religious. Rejecting a narrow interpretation of religion based on Judeo-

Christian tradition, JIANG describes religion in this context as a "superhuman force" that "is invoked by means of certain ritual patterns to achieve or prevent transformations in humans and their environment" (p. 17).

Employing this definition of religion in identifying what he calls the "legal cosmology" of the early Ming state, the author reveals how ZHU Yuanzhang and his legal compilers related law to their comprehension of cosmic order and based the The Great Ming Code on the "principle of heaven"⁶ and on "human sentiments"⁷. Based on their unique understanding of the nature of law, ZHU and the early Ming ruling elite defined crime as "a violation of principle" and as "a breach of law," emphasizing that the cause of crime "lies in a person's inner world" (p. 50). Therefore, law was envisioned as "medicine" or "cleaner" designed to "change people's evil nature, to purify their spiritual condition, and to help them cooperate with Heaven and Earth in heart, as well as in their behavior" (p. 53). Exploring a number of legal cases in the formative period of the dynasty and analyzing the function of the Ming Code's "Ten Abominations"⁸, JIANG suggests that ZHU and his advisors were not cynical in their use of cosmological arguments, but sincerely believed in their own rhetoric. JIANG concurs in this regard with Derk Bodde and Clarence Morris, who argue that the Chinese regarded crime as a violation of cosmic order that needed to be set right by the imperial state.⁹

Chapters 3 through 5 examine the degree to which "The Great Ming Code replicate[d] the cosmic order" through case studies of "three major cosmic entities" (p. 18). Chapter 3 begins this inquiry into the realm of spiritual beings and deals with articles in the Ming Code that regulated rituals intended to communicate with heaven and spirits. Confucianism and Neo-Confucianism reinforced the principle, originating in antiquity, that properly exercised rituals in effect regulated a social hierarchy that reflected cosmic order. According to JIANG, religious regulations were therefore not intended to suppress religions and related practices, since the "imperial laws mainly targeted Buddhist and Daoist individuals, not their beliefs and ritual systems" (p. 88). Thus by enforcing and regulating various categories of religious rituals, the early Ming ruling elite

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² 大明律.

³ JIANG Yonglin, *The Great Ming Code: Da Ming li*, Seattle, 2005.

⁴ 朱元璋.

⁵ 明.

⁶ 天理.

⁷ 人情.

⁸ 十恶.

⁹ See Derk Bodde/Clarence Morris, *Law in Imperial China: Exemplifying by 190 Ch'ing Dynasty Cases*, Cambridge, 1967, p. 43 and 331.

wanted to “guide unofficial beliefs and practices,” as well as “to purify people’s intellectual world with the official worldview” (p. 99).

In the fourth chapter, JIANG explores the role The Great Ming Code played in creating and maintaining the physical and cultural boundary lines of the Ming. As JIANG notes, the law was designed to externally defend “geographical China,” in relation to neighboring countries and states, and internally expand “cultural China,” in relation to non-Han ethnic groups. Mongol rule under the Yuan (1279–1368) was condemned for the defilement of Chinese social customs and for its failure to uphold the Confucian “cardinal five” relationships on which a civilized society is based (p. 132). Here JIANG presents a case study on the purification of social customs as expressed in legal rules with regard to marital relations. The Ming founder and his officials denounced the Mongols for the decay of Chinese civilization by criticizing marriage customs, which had long been viewed as a bellwether of cultural purity in Chinese history. In fact, three of the four supposed abuses (lavish dowries, same-surname marriage, cross-cousin marriage) long predated the Yuan. The fourth, the levirate, was a steppe practice which was also shared by the Khitan and the Jurchen, and Han-Chinese were indeed prohibited by the Yuan from adopting this practice (p. 134–139).¹⁰ Certain legal strategies were adopted in the Ming Code to deal with these issues, and such marriage legislation illustrates the efforts in the early Ming to guard against the “barbarian pollution” in Chinese civilization and to purify the sphere of “Zhongguo”¹¹, or the “cultural China.”

Chapter 5 discusses how the Ming Code provided a cosmological foundation for the relationship between ruler and officialdom by analyzing statutes that punish misdeeds and crimes committed by officials. ZHU Yuanzhang connected official behavior and the cosmic movements (p. 145) and the emperor himself served as a mediator whose major task was to preserve cosmic harmony between the spiritual and human realms through his government and officials. In legislating the “three recompenses and one sacrifice”¹² – recompense to the ruler, to one’s parents, and to the people, and sacrifice to the deities – regulations of The Great Ming Code “defined the nature of officialdom with reference to cosmic forces” (p. 172).

In his efforts to demonstrate the interconnection of law, society, and worldview in imperial China and in particular during the early Ming, JIANG provides a nuanced study of the The Great Ming Code and convincingly argues that it was not a secular instrument for exercising naked power, but rather a consequence of early Ming legal cosmology – the ruling elite’s understanding of the nature and role of cosmic law (p. 5 and 175). Acknowledging the changing paradigms on Chinese imperial legal scholarship represented by such authors as William Alford, Roberto Unger, and Karen Turner, JIANG goes one step further to propose that The Great Ming Code, in addition to asserting political control, was “very much concerned with educating people” and was “replete with religious meaning” (p. 177). To JIANG, The Great Ming Code is constructed of three essential components: the spiritual world, the realm of human beings, and the ruling elite (in particular the emperor) as intermediaries between the two. As a product of such legal cosmology, therefore, The Great Ming Code was therefore established principally for the purpose of balancing the cosmic forces. The provisions of the code embodied an order that was inherent in the nature of the cosmos. As such, the law was neither secular nor arbitrary. Indeed, Chinese imperial law codes were utilized as educational textbooks and as cosmological instruments for maintaining the Mandate of Heaven and preserving political hierarchies.

JIANG spares no efforts in demonstrating that a unique cosmological view of the early Ming bolstered The Great Ming Code, but skeptical readers may well question if all law codes in imperial China were based on such understandings of the cosmological order. In fact, almost all the issues discussed in the book, perhaps with the exception of those in chapter 4, were dealt with in the Tang Code¹³, the Song Code¹⁴, and the Great Qing Code and Sub-statutes¹⁵. The “Ten Abominations”, for instance, were found in all these codes. Furthermore, although JIANG forcefully argues that imperial law in China was not merely a secular tool of despotic power, it remains unclear to what degree the China-centered historiography he advocates can support his claim that late imperial law effectively protected individuals and restrained the arbitrary exercise of state power.

These minor caveats aside, *The Mandate of Heaven and The Great Ming Code* is a significant contribution to the field of Chinese legal history and its results enrich our understanding both the Chinese legal tradition and the early Ming. It is a positive, upbeat book which does an admirable job of filling an important gap in the literature.

¹⁰ On the custom of levirate practiced by the Khitan, Jurchen, and Mongol, see also Jennifer Holmgren, *Observations on Marriage and Inheritance Practices, with Particular Reference to the Levirate*, in: *Journal of Asian History* 20 (1986), pp. 135–142; Bettine Birge, *Levirate Marriage and the Revival of Widow Chastity in Yuan China*, in: *Asia Major*, new series, 8.2 (1995), pp. 107–146.

¹¹ 中国.

¹² 三报一祀.

¹³ 唐律疏议.

¹⁴ 宋刑统.

¹⁵ 大清律例.