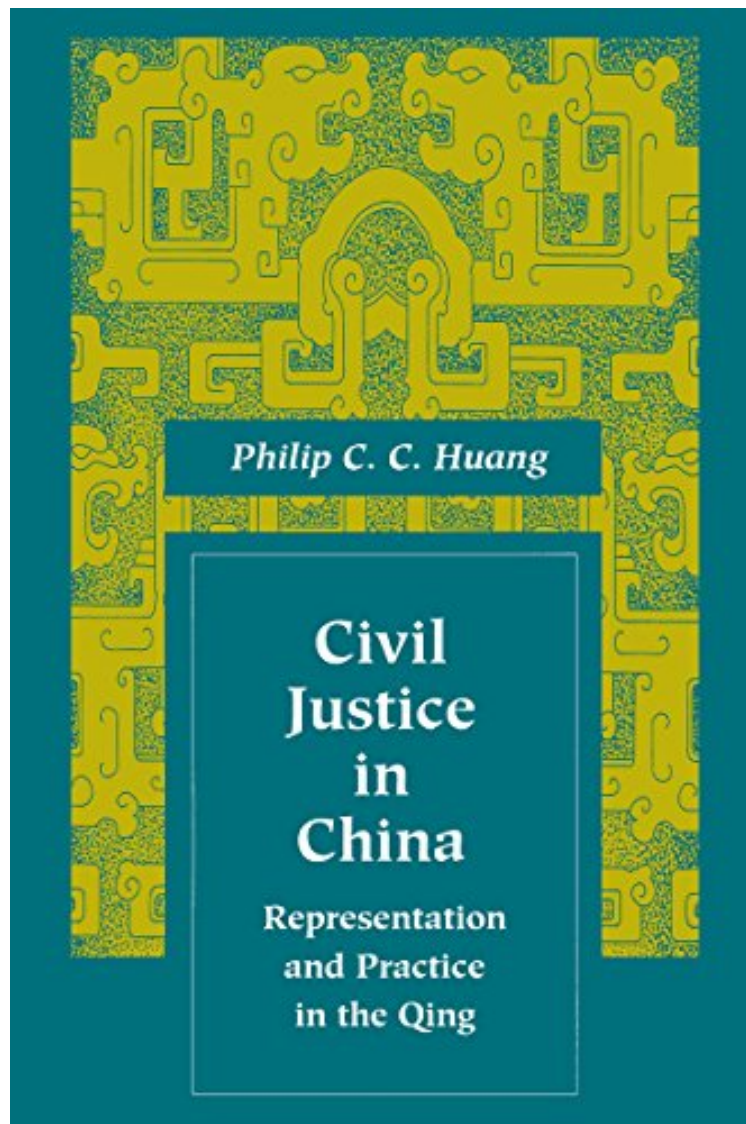


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Civil Justice in China: Representation and Practice in the Qing (Law, Society, and Culture in China)

Philip C. C. Huang

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Philip C. C. Huang : Civil Justice in China: Representation and Practice in the Qing (Law, Society, and Culture in China) before purchasing it in order to gage whether or not it would be worth my time, and all praised Civil Justice in China: Representation and Practice in the Qing (Law, Society, and Culture in China):

0 of 0 people found the following review helpful. informativeBy lewisThe sampling of cases from counties in three

distinct political and cultural subdivisions of China, being in northeastern, southwestern and offshore (Taiwan) is a very excellent choice of samples. The book is great value as a sociological study of legal institutions and modern public policy study's historical reference. Present day legal practitioners will understand what they are doing, namely, alternative dispute resolution and mediation, are none too novel. Alternative dispute resolution was institutionalized in the magistracy system in China centuries ago where the judges conduct that in formal court. We call that Mandatory Settlement Conference conducted by the judge in California. It is also revealing to know that (on p.196) the legal "loophole" was that the magistrate did not adjudicate but merely facilitated the resolution of the case where a litigant has to stay in jail until he/she accepts and pledge a voluntary settlement. That is similar to the present day American court's giving a ruling of civil contempt (temporary jail sentence until obey order) for disobeying pretrial orders.

To what extent do newly available case records bear out our conventional assumptions about the Qing legal system? Is it true, for example, that Qing courts rarely handled civil lawsuits those concerned with disputes over land, debt, marriage, and inheritance as official Qing representations led us to believe? Is it true that decent people did not use the courts? And is it true that magistrates generally relied more on moral predilections than on codified law in dealing with cases? Based in large part on records of 628 civil dispute cases from three counties from the 1760s to the 1900s, this book reexamines those widely accepted Qing representations in the light of actual practice. The Qing state would have had us believe that civil disputes were so minor or trivial that they were left largely to local residents themselves to resolve. However, case records show that such disputes actually made up a major part of the caseloads of local courts. The Qing state held that lawsuits were the result of actions of immoral men, but ethnographic information and case records reveal that when community/kin mediation failed, many common peasants resorted to the courts to assert and protect their legitimate claims. The Qing state would have had us believe that local magistrates, when they did deal with civil disputes, did so as mediators rather than judges. Actual records reveal that magistrates almost never engaged in mediation but generally adjudicated according to stipulations in the Qing code.

"This is a book that we have long been waiting for, because it tackles a previously neglected aspect of Chinese law, the civil law." (American Historical) From the Inside Flap To what extent do newly available case records bear out our conventional assumptions about the Qing legal system? Is it true, for example, that Qing courts rarely handled civil lawsuits those concerned with disputes over land, debt, marriage, and inheritance as official Qing representations led us to believe? Is it true that decent people did not use the courts? And is it true that magistrates generally relied more on moral predilections than on codified law in dealing with cases? Based in large part on records of 628 civil dispute cases from three counties from the 1760s to the 1900s, this book reexamines those widely accepted Qing representations in the light of actual practice. The Qing state would have had us believe that civil disputes were so minor or trivial that they were left largely to local residents themselves to resolve. However, case records show that such disputes actually made up a major part of the caseloads of local courts. The Qing state held that lawsuits were the result of actions of immoral men, but ethnographic information and case records reveal that when community/kin mediation failed, many common peasants resorted to the courts to assert and protect their legitimate claims. The Qing state would have had us believe that local magistrates, when they did deal with civil disputes, did so as mediators rather than judges. Actual records reveal that magistrates almost never engaged in mediation but generally adjudicated according to stipulations in the Qing code.