

BOOK REVIEWS

Law, State, and Society in Early Imperial China: A Study with Critical Edition and Translation of the Legal Texts from Zhangjiashan Tomb no. 247, vols. 1, 2. By ANTHONY J. BARBIERI-LOW and ROBIN D.S. YATES. Leiden and Boston: Brill, 2015. cxiv + 1416 pp. \$389.00, €299.00 (cloth, ebook).

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doi:10.1017/jch.2017.8

Thirty years after A.F.P. Hulsewé's (1910–93) magisterial translation of the Qin legal manuscripts from Shuihudi, here is another major contribution in English to the study of law in early imperial China. These two volumes by Anthony Barbieri-Low and Robin D.S. Yates make available to the western reader one of the key sources of ancient Chinese legal history, the early Han collections of statutes and case records excavated in late 1983–early 1984 from the tomb of a local official at Zhangjiashan in Hubei province. The work is an impressive reflection of the growing scholarly interest in the early history of China's legal institutions and practices reflected in the excavated manuscripts on bamboo and wood that starting from 1970s utterly revolutionized the source base for the study of legal history of the Warring States (453–221 BCE), Qin (221–207 BCE), and Han (202 BCE–220 CE) eras.¹

The study under review consists of two volumes, the first of which is an introductory study of the Zhangjiashan manuscripts. The volume includes a number of appendices useful for understanding the historical, institutional, and geographical background of the Zhangjiashan documents, such as the lists of official titles, place names, types of punishments and associated crimes, and is concluded with a 120-page-long bibliography of scholarship in Chinese, Japanese, Korean, and western languages. The second volume is an annotated translation of the two manuscripts, the *Statutes and Ordinances of the Second Year* (*Ernian liling* 二年律令), which is the collection of twenty-seven statutes and one group of ordinances, and the *Book of Submitted Doubtful Cases* (*Zouyan shu* 奏讞書), a compilation of twenty-two criminal case records.

¹In western academia, this interest is manifest, among other publications, in a number of recent book-length translations of legal manuscripts. See, for example, Ulrich Lau and Michael Lüdke, *Exemplarische Rechtsfälle vom Beginn der Han-Dynastie: Eine kommentierte Übersetzung des Zouyanshu aus Zhangjiashan/Provinz Hubei* (Tokyo: Research Institute for Languages and Cultures of Asia and Africa [ILCAA], Tokyo University of Foreign Studies, 2012); Maxim Korolkov, *Zouyanshu: "Sbornik sudebnikh zaprosov" nachala epokhi Han* (Moscow: Nauka, 2013); Ulrich Lau and Thies Staack, *Legal Practice in the Formative Stages in the Chinese Empire: An Annotated Translation of the Exemplary Qin Criminal Cases from the Yuelu Academy Collection* (Leiden and Boston: Brill, 2016).

The central part of the first volume is an introductory study composed of eight sections, four of which deal with the Zhangjiashan corpus of manuscripts and address the circumstances of its discovery, conservation, publication, and study (Section 2.1) and the principles of translation and working methodology (Section 2.2), and introduce the two legal manuscripts translated in the second volume (Sections 2.3 and 2.5). It is here that the authors make a number of important observations with regard to the nature of the *Statutes and Ordinances* and the *Book of Submitted Doubtful Cases* that affect not only their translation decisions but also the ways these texts should be used as source material.

Barbieri-Low and Yates correctly observe that the Zhangjiashan collection of statutes is an incomplete abstract of contemporary legislation and as such cannot be identified with the official “code” in nine fascicles (*jiu zhang* 九章) promulgated in the beginning of the Western Han. Along the same lines, they consider the *Book of Submitted Doubtful Cases* not as an official collection of case records but as a product of creative literary embellishment of actual cases accompanied by purely fictional narratives. This observed variety of text genres is reflected in the translation; moreover, it has important ramifications for reconstructing the ways legal knowledge was acquired, disseminated, and applied in constructing social identities in early imperial China. In particular, the authors advocate a novel interpretation of the *Book of Submitted Doubtful Cases* as an earliest extant example of “court-case literature” compiled by local judiciary scribes. Despite the lack of sufficient evidence to support this hypothesis, it nevertheless deserves attention as potentially conducive to a revision of current ideas about circulation of professional knowledge in early China.

Three remaining sections in the first volume are studies of the legal and judicial institutions of the Qin and Han empires. Sections 2.4, 2.6, and 2.7 deal, respectively, with the forms of legislation and their enactment, judicial process in criminal cases, and forms of punishment. While the first and the third of these studies provide a useful update to the classic account by A.F.P. Hulswé², Zhangjiashan materials contributed most importantly to our understanding of the actual work of the administration of justice in the early empires by providing detailed regulations about the instances of jurisdiction and key legal procedures such as accusation, arrest and interrogation, trial, sentencing, and judicial review. Barbieri-Low and Yates contribute to debates on a number of contested issues such as judicial powers of the “metropolitan officials” (*du li* 都吏) and order of sentencing multiple culprits involved in a criminal case.³ Overall, this section is the most systematic and exhaustive account of the judicial process in early imperial China available in English.

²Hulswé, *Remnants of Han Law*. Vol. 1: *Introductory Studies and Annotated Translation of Chapters 22 and 23 of the History of the Former Han Dynasty* (Leiden: Brill, 1955).

³Conflicting interpretations exist for the *ta xian/xuan lun* 它縣(懸)論 clause concluding some of the doubtful cases submitted for revision that are compiled in the Zhangjiashan *Book of Submitted Doubtful Cases*. While some studies, including the one under review (p. 167), argue that this formula refers to the suspension (*xuan* 懸) of sentence for other culprits involved in the case until the sentence of the chief culprit is pronounced by higher officials, other read the phrase as confirming that the sentences of these culprits have been pronounced by prefectural (*xian* 縣) authorities who apply for their superiors’ opinion only with regard to the chief culprit. See, for example, Lau and Staack, *Legal Practice in the Formative Stages in the Chinese Empire*, 48.

Volume Two contains a thousand-page-long, heavily annotated translation divided into two parts that correspond to the two Zhangjiashan legal manuscripts. Part One consists of twenty-eight entries for twenty-seven statutes and one collection of ordinances, and Part Two of twenty-two entries for the case records in the *Book of Submitted Doubtful Cases*. Each entry consists of an introduction that summarizes the content of a statute or case record, a critical edition based on the examination of the available photographs of slips, a translation, and translation notes.

While the composition of case records in the Zhangjiashan corpus is relatively unambiguous, assignment of individual slips to the *Ernian lüling* statutes provoked debates among scholars. Some suggested that the twenty-seven statute titles that show up on the bamboo slips do not exhaust the original content of the collection, and some of its articles should be attributed to other statutes. Barbieri-Low and Yates are sympathetic with this opinion and highlight the fact that grouping of slips in the published editions was often informed by latter historical accounts of the Han law rather than by the observed placement of slips in the archaeological site (see, for example, pp. 607–8). Still, they prudently prefer to follow the generally accepted reconstruction of statutes until new manuscripts finds provide decisive evidence in support of revisionist opinions. The book therefore reflects the current consensus on the composition and organization of the Zhangjiashan legal texts.

The translation of the Zhangjiashan legal texts by Barbieri-Low and Yates will certainly become an indispensable handbook for generations of western scholars of ancient China and an important reference material for any scholar who engages in the study of law and its role in shaping state and society in the early Chinese empires.

Ancient China and the Yue: Perceptions and Identities on the Southern Frontier, c.400 BCE–50 CE. By ERICA FOX BRINDLEY. Cambridge: Cambridge University Press, 2015. 302 pp. \$103.00, £67.00 (cloth), \$82.00, £53.71 (ebook).

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doi:10.1017/jch.2017.9

Tracking Early China's process of sinicization and describing the origins of a separate Yue identity along China's southern frontier are two very complex issues, but Erica Brindley, associate professor of Asian Studies and History at Pennsylvania State University, has adroitly addressed these related trends through historical, rhetorical, and literary representations. Brindley has produced a fascinating study. She starts with the hypothesis that "early empires and the imperial logic of centrality—the latter of which began well before the actual establishment of the Qin Empire in 221 BCE—played an important role in the unification of a Hua-Xia center and self, and, hence, the construction of marginal others in the process" (xii). Her method for proving this hypothesis is an exploration of Yue/Việt/越 identity as described in official chronicles, and the author treats the creation of this regional identity as a process, by which its authors, who associated themselves with Central Plains court culture, strengthen the tenets of their own identity. In