

how to promote commercial-scale agriculture will find much that is familiar in Trappel's review of contemporary policy initiatives. Nor will the proposition that local authorities ride roughshod over the rights of rural collective land owners and the interests of smallholding producers surprise those familiar with governments' reliance on land expropriations to supplement revenue. Second, where the impetus for, and consequences of, land expropriations are discussed, this discussion tends to distract from the main narrative about state-engineered structural changes in agriculture. Third, insufficient attention is given to rural households' rationale in defending, sub-leasing and relinquishing contracted land-use rights. In particular, I would have appreciated more discussion of links between the state's macro-goal of promoting the market in land-use rights, and its current programme of documenting and registering households' land-use rights. In addition, more could have been done to unpack the land-using household. Precisely who in the household decides and contracts to rent land, and who benefits? In this, as in so many other agrarian reforms, are women being overlooked?

Well written, strongly argued and based on impressive empirical evidence, this undoubtedly is an excellent addition to the growing body of studies on China's land regime. It deserves to be read by all scholars and students of rural development and agrarian change in contemporary China.

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The Death Penalty in China: Policy, Practice, and Reform

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We have recently seen a number of books on the death penalty in China, and this anthology is a valuable addition to this literature by a good mix of Chinese and international scholars. Many of the authors emphasize the strict political legacy of the death penalty in China. The chapters span from discussions on abolition in the late Qing and Republican periods to the mass killings of Maoist campaigns against “counterrevolutionaries” in the 1950s, when millions were executed. The “hard strike” campaigns (mainly from 1983 to 2003) saw tens of thousands executed, while present reforms have led to a substantial reduction of executions. China is, however, still executing more than the rest of the world combined, the exact numbers remaining a “state secret.”

Ning Zhang's chapter on the Maoist era introduces the principle of “people's outrage” (*minfen*), quoting execution verdicts for alleged counterrevolutionaries “having to die to calm the outrage of the people” (p. 75). Traditional legal concepts were eliminated, quotas for executions were used, vague notions applied, and the principle of analogy was introduced to sentence those counterrevolutionaries when no immediate recognizable crime was found to have been committed. Zhang concludes that “a judicial regime deeply marked by Mao's personality still influences legal practices in today's China” (p. 91).

Yunhai Wang sees China as a “state-power-based society” where “the essence or nature of the death penalty is nothing but political” (p. 101). During Deng

Xiaoping's reign, the number of death offences reached its peak of 68 (now reduced to 55). Maoist "campaign style" executions remained, but the focus of capital offences changed from "counterrevolution" to "crimes disturbing national economic order." In particular these were crimes that could destroy the legitimacy of the Chinese Communist Party's (CCP) one-Party rule. Wang concludes that the death penalty should be withdrawn from the hands of Party power and public opinion. Instead the death penalty should be regarded as a "pure legal or criminal problem" (p. 119), dealt with by an independent rule of law.

Sue Trevaskes discusses recent reforms where Mao's "kill fewer, kill cautiously" slogan from the 1950s has somewhat paradoxically been used to reduce the number of present-day executions. She explains that "abolition has not been part of the political conversation," and that "harshness" versus "leniency" has instead dominated the debate (p. 123). The 2007 Supreme People's Court's review of the death penalty has seen many cases change from "death penalty with immediate execution" to "death penalty with a two year reprieve," regularly leading to life in prison (see also Chen Xingliang's chapter on this and related issues). "Social harm" has been given disproportionate emphasis as the main sentencing factor. The absence of abolition is correct as an observation of the official legal debate, but the abolition debate has clearly been present in the bigger picture of intellectual legal debates in China.

Zhigang Yu takes us to this debate, following it as far back as the late Qing (chapter six). Writing the new penal code before the fall of the empire, Shen Jiaben was influenced by the Western abolitionist movement. The abolition debate continued during the Republican period and into the present budding abolitionist movement in China. While some have claimed that it would take a century for China to abolish the death penalty, the legal scholar Qiu Xinglong famously said: "Give me an enlightened politician, and I will abolish the death penalty in China in one day." Qiu emphasizes the lack of political will for abolition, and his remark again points to the politicized use of the death penalty. Both Yu and Moulin Xiong's chapters establish that abolition is now widely accepted by the Chinese academic community. Several leading legal scholars have claimed to be abolitionists at heart. Faced with political realities, however, most of them have become reductionists in practice, working to reduce the number of executions. In a review of Chinese opinion surveys on the death penalty, Shanhe Jiang confirms popular support, particularly among the elite, but points out that the only large representative survey also shows the least support, at 57.8 per cent (pp. 250–51).

Hualing Fu takes us back to the theme of "people's outrage," but his argument is diametrically opposite that of Ning Zhang. Fu instead uses the familiar criminological term of "penal populism," arguing that "[c]ourts in China, more than in many democracies, are at the receiving end of public wrath" (p. 284). Fu includes current public outrage both for and against the use of the death penalty in his definition of penal populism, claiming that this is somehow different from Western forms of populism (which it clearly is not). He concludes that "[a]n authoritarian state like China is as deeply concerned with opinions of its citizens as democracies are. In the end, death penalty decisions require the broad support of society and cannot be left merely to judges to decide" (p. 293). In practice, Fu lends himself to a redeployed Maoist, neo-authoritarian argument of "people's outrage," understood as "people's democracy," distancing himself from Yunhai Wang's insistence that the death penalty must be a "pure legal and criminal problem."

David Johnson and Michelle Miao add to the debate on democracy, observing that, "[f]or the most part, executions are common when authoritarian governments wish to have a lot of them" (p. 314). More democratic governments are simply

more reluctant to kill, and capital punishment remains strongest where formal democracy is weakest. I would add that we see alleged “people’s outrage” practiced mainly in China and in conservative Muslim societies like Saudi Arabia and Iran (where Sharia law allows the victim’s family to decide on death penalty verdicts). In such societies execution numbers are high. Johnson and Miao emphasize the importance of the *political*. The political is based on the central distinction of “friends and enemies,” regularly leading to excess and revenge cycles. They conclude that the key causes of change of the death penalty regime today are political and international, not cultural.

Bin Liang and Hong Lu maintain that the CCP has never seriously considered abolition. They conclude that checks and balances are fundamentally lacking in the Chinese political and legal system (p. 343). The police, procuratorate and the courts (the so-called *gongjianfa*) operate like an assembly line where lack of due process leads to an extremely high conviction rate and still far too many executions despite the recent improvements. The editors expect death penalty reforms to continue on a positive path in the years to come, closing the gap between China’s practice and international standards without complete abolition (p. 346). I think Xi Jinping’s “ruling the country with law” approach is still unclear. Xi’s distaste for an independent judiciary and his neo-authoritarianism does not bode well for the future. Xi may stay on the path of “kill fewer, kill cautiously” (although execution numbers may have recently increased), but continue to do so in a semi-legal setting that will certainly be controlled by the political rather than the legal.

I agree with Roger Hood, who writes in his foreword: “*The Death Penalty in China* needs to be read by everyone concerned with the project of eliminating capital punishment throughout the world” (p. x) and by everyone concerned with developments in China more generally.

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China’s Changing Legal System: Lawyers and Judges on Civil and Criminal Law

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Change has swept across nearly every aspect of Chinese governance and society in the past several decades, and its legal system has not been spared. This arena has undergone steady and significant reform, making contemporary expositions on it especially welcome and interesting.

Through *China’s Changing Legal System*, the authors endeavour to contribute to the body of scholarship on this topic. One of the ways they wish to do so is by offering an “introductory primer” on China’s legal system, which they also hope will give foreign readers “fresh perspective” when it comes to their own countries’ legal regimes (p. xvii). In this effort, the authors are largely successful.

The book proceeds through three parts, addressing what the authors consider to be the core stitches in the tapestry of Chinese law. The first examines lawyers and judges: “the main players in China’s legal system” (p. 19). The second presents private law in China: those areas where “it is private citizens who initiate the legal action,” which include civil procedure, family, tort, property, contract and corporate law (p. 77).