

Preface

This book grew out of a study on the issue of judicial independence in Republican China, which in turn arose from a study on the Chinese legal profession in that era. In the course of researching those issues, I noticed that there were virtually no studies on the Chinese judicial system in the Republican era. Most published scholarly works on Chinese laws and judicial practices focused either on the imperial era (221 BCE–1911 CE) or on the People's Republic of China (PRC) (1949–present), leaving the Republican period (1912–1949) largely unexplored. That “state of the art” in China studies prompted me to take up the research that has resulted in this book.

Between then and now, a few studies have appeared that shed some light on the subject. Books by Kathryn Bernhardt and Philip Huang on civil justice in China compared laws and judicial practices in the imperial era and the Republican era. Huang's book briefly sketched the development of judicial institutions from the late Qing to the early Republican period, as did my article on judicial independence in Republican China. Frank Dikötter studied the development of Chinese prisons during 1895–1949. Generally speaking, however, the evolution of the Chinese judiciary and judicial practices or the unfolding of the Chinese judicial reform in the early twentieth century has yet to be fully documented and analyzed, which in my view belongs to what may be called “basic research” in China studies. This book aims to fill that gap in China scholarship with an overview of the judicial reform during 1901–1937 and a closer examination of its results in Jiangsu province

to understand how and why various reform initiatives issued from the central government were, or failed to be, carried out at the provincial and county levels.

This study is also worth pursuing because of its contemporary relevance. The project of striving for judicial modernity in Republican China and its ramifications offer clues to, and help an understanding of, the achievements and limitations in the similar project in post-Mao China, since many parallels between the two can be found. I hope this book will interest scholars of contemporary China and comparative law as well as historians of modern China and Chinese law.

The use of the word “modernity” in this book does not signify that I am oblivious to the criticisms of the discourse on modernity and of the dichotomy assumed between tradition and modernity. In fact, this study is a critical examination of the impact on China of the discourse on modernity (and the international power relations behind it). As will become clear to readers, I intend to show how Chinese reformers in the early twentieth century were caught up by the discourse on modernity (in various forms and vocabularies) and were compelled to act accordingly, and how the efforts to comply with the requirements for being modern led to paradoxical consequences and unsolvable issues in the judicial system and local society, and therefore to many trials and tribulations in the course of the reform, which is what the title “trial of modernity” refers to. Similarly, the term “judicial modernity” is shorthand for “a Western-style judiciary and judicial practices.”

Regrettably, because of the space limit set by the press, I have to use many acronyms for institutions and titles mentioned in the text and to omit Chinese characters for some key words or phrases.

I cherish this opportunity to express my gratitude to the institutions and individuals that supported and helped me during the course of researching and writing this book. The initial archival research for the project was conducted during the 1998–1999 academic year, with the support of a National Endowment for the Humanities Fellowship for College Teachers. Without that crucial support, this project would not have been attempted at the time. I thank the NEH (and its readers of the applications) for offering the award to a project at its beginning phase, which strengthened my confidence in the worthiness of the project and my determination to complete it. The Professional Development Committee at Francis Marion University offered grants to support my follow-up research trips to China in the summers of 2000 and 2002. A

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Bryna Goodman kindly agreed to read an earlier version of the manuscript. She offered helpful comments and suggestions for improving the manuscript, as did three anonymous readers for the press. Needless to say, I am alone responsible for any defects that may exist in the book.

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I am indebted to my son and wife, who tolerated my absences, due to this project, from many events and occasions normally important to a child and to a family. Finally, I dedicate this book to my parents, who encouraged me to major in history when I took a college entrance exam in China many years ago.

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