

Legal scholars interested in subsequent compilations of the *Da Qing Huidian* should see the recent work of Nancy Park, whose work picks up the narrative where Keliher stops.¹ As Park's research illustrates, the *Da Qing Huidians* set forth the fundamental principles, institutions, and values of the state as well as administrative regulations.

Qing history has enjoyed decades of scholarly efflorescence since the opening of historical and legal archival sources and the development of international scholarly collaborations in the 1980s. Over the past four decades, scholars have reconceived the economic and social, and most recently, the legal history of late imperial China. Similarly, there has also been greater attention to the geographic origins and ethnic diversity of the Qing dynasty. While scholars may disagree over how best to characterize the history of the Qing, it is increasingly evident that the institutional creativity of Qing rulers was critical to dynasty's survival. Keliher's work identifies a key stage in the political evolution of the dynasty. If we measure success narrowly in terms of the preservation of dynastic power, specifically the power of the Aisin Gioro clan, the Qing was a remarkably successful dynasty. *The Board of Rites and the Making of Qing China* illustrates the power of *li* as well as the exceptional skill of the Qing founders as they charted a political course that respected millennia-old dynastic precedents, addressed challenges of seventeenth-century historical contingencies, and incorporated peculiar features of Manchu political culture to create one of the most powerful multi-ethnic empires in world history.

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Stefan Kirmse, *The Lawful Empire: Legal Change and Cultural Diversity in late Tsarist Russia*. Cambridge: Cambridge University Press, 2019. Pp. 310. \$99.99 hardcover (ISBN 9781108499439).
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The Lawful Empire is an important study of judicial policy and court practice in Russia in the aftermath of the landmark legal reform of 1864, as it related to the non-Russian parts of the empire. Critically, the reform increased judicial

1. Park, N., "Officials and Chinese Justice: Public and Private Wrongdoing in Qing Law," *T'oung Pao* 106(5–6) (2020): 661–713. doi: <https://doi.org/10.1163/15685322-10656P05>.

autonomy and established public oral court procedures with criminal juries and an organized legal profession. The book focuses on the engagement with the courts by Muslim Tatars in the Kazan region and in the Crimea, thus also contributing to the ongoing “imperial turn” in Russian and Eurasian history. Kazan was conquered by Ivan IV in the sixteenth century and Crimea was annexed in 1783. Kirmse regards both regions as “intermediate terrains” defined as “former frontier zones with histories of independent social, economic, and political organization that, by the mid-nineteenth century, were largely treated as part of the imperial core” (4). Kirmse’s major accomplishment is to weave together a selection of unpublished cases from trial-level courts with administrative records and printed materials. Taken together, they provide a rich account of late-imperial political culture, institutional reform, treatment of ethnic minorities, and representations of legal and political authority. Kirmse’s objective is to show how the law helped to advance the reformers’ drive for administrative and social modernization, as well as how the courts at once served to subjugate the Tatars while also providing an avenue of integration into the empire-wide legal space.

Kirmse’s book is most successful as a single-question yes-or-no study of grassroots legal practice, asking whether non-Russians had any use for—or any stake in—the tsar’s courts. The answer is, clearly and convincingly, that they did. Tatars rich and poor, in Kazan and in Simferopol, rural and urban, routinely turned to Russian law to report crime and to adjudicate civil-law disputes in the post-reform period, despite the ethnic and religious conflict, mutual suspicion and apostasy that accompanied the Eastern Crisis of the 1870s. Acknowledging these tensions, Kirmse nonetheless argues that routine court cases do not reveal any active hostility between Russian and Tatar peasants and middle classes and endorses the “recent acknowledgement that there was no systematic policy of oppressing minorities in late imperial Russia” (293). Kirmse thus accomplishes with respect to the Tatar-Russian legal encounter what other pioneering historians of Russian law have done for women and property law (Michelle Lamarche Marrese in *A Woman’s Kingdom*) and for the township peasant courts (Jane Burbank in *Russian Peasants Go to Court*). Together with this other research, *The Lawful Empire* thus helps to destroy the persistent stereotype that law in Russia has historically been a rhetorical device of little or no practical utility to ordinary individuals, especially those from categories that have long been assumed to function outside the legal framework. Kirmse concludes that social relations in post-reform Russia were essentially stable, and thus that the 1917 revolution happened despite and not because of these developments.

Kirmse’s use of surviving trial-level court archives is commendable, because such records are very poorly preserved in Moscow and are virtually completely destroyed in St. Petersburg. At the same time, the inclusion of extremely detailed context—such as a very detailed description of bureaucratic correspondence related to the 1864 reform—does not leave much room to

analyze the content of these cases beyond the abovementioned yes or no question. Those few cases on which detail is provided—such as a fascinating case of bride abduction, the Sharife land dispute involving a Tatar woman landowner, or the prosecution of abusive Kazan governor Skariatin—leave the reader hungry for more analysis. And while Kirmse's use of regional archives is praiseworthy, I wonder how relevant were the unaddressed records held at the Russian State Historical Archive in St. Petersburg, especially the collection of the Ministry of Justice that contains a gold mine of information pertaining to Kirmse's study. This source is in fact indispensable for any scholarly study of imperial Russian law, especially when one's local sources (as in Kazan and Simferopol) were decimated by Soviet-era "reorganizations." There are also secondary sources that *The Lawful Empire* could have productively engaged with: most notably the large number of Russian-language studies on imperial law. Kirmse misreads one imperial-era source (Firsov's *Polozhenie inorodtsev severo-vostochnoi Rossii*) on the treatment of Muslims in Muscovite courts (70) and misrepresents a major recent monograph on imperial Russian law by Elise Becker (*Medicine, Law and the State in Imperial Russia*) as arguing the opposite of her actual thesis (197). It is noteworthy that Becker's actual argument—that forensic medicine was ironically in a stronger position in pre-reform courts—contradicts Kirmse's thesis. Elsewhere Kirmse claims that women's property came to be seen as their own "after 1861," apparently unaware of Marrese's aforementioned landmark study of women's property rights before 1861 (207).

The Lawful Empire also addresses the broader question of imperial Russian legal development after 1864. Kirmse seeks to abandon the "normative" approach to Russian law ingrained in older literature, which evaluated every aspect of its subject as a clear success or failure as measured against a "Western" ideal that has never existed in reality. Instead he is "more interested in what the new courts meant and represented, how much of an impression they made on the population, and how they accompanied diversity" (152). Kirmse does help to correct an influential misunderstanding by showing that the 1864 reform was not a "temporary eruption of liberal ideas followed by renewed repression" in the 1880s, but rather was an effective tool of governance designed to increase the state's power by making the courts more accessible and efficient and aiming "at the greater mobilization and inclusion of ordinary people" (113). In implementing the reform, streamlined procedures were combined to that effect with court architecture and decor, and even legal officials' attire, which are all discussed effectively in Chapter 4.

While the book's search for a more balanced and empirically grounded account of Russia's legal development is extremely welcome, *The Lawful Empire* unfortunately also tends to retain and even perpetuate some of the same mythology it purports to discard, even though this does not seem to be necessary or helpful to its empirical contribution. First, the conventional

normative approach comparing messy Russian reality to an imaginary Western ideal is still underpinning Kirmse's arguments. Thus, Kirmse convincingly argues that the principle of legal equality promoted in post-reform courts—a “key theme” (249) of the book—served to increase governability rather than to undermine the state. However, Kirmse overstates his case when he asserts that in the new courts “ethnic or religious distinctions hardly mattered in most criminal and many civil cases” (200). Given that prosecutors and lawyers in their speeches routinely emphasized defendants' social status and ethnic or religious identities, such claims are highly misleading to non-specialists. Conversely, the claim that in the new courts, peasants “formally stood the same legal chance to win a case against [nobles]” (43) is likewise confusing, since peasants could and did use pre-reform courts. Only in the conclusion does he make it clear that to him the concept of “one law for all” is “mainly a rhetorical one” and that “[l]egal homogenization has never materialized on a global scale, nor have any politics ever put “equal justice for all” into practice” (285), all of which provokes the question of why then make this elusive and nebulous idea of legal equality feature so prominently in the book.

The second dubious conceptual foundation of *The Lawful Empire* is the myth of a dark traditional Russia that is posited from the outset and repeated throughout the book, most typically as comparisons of post-1864 courts with pre-reform ones. Kirmse makes the curious claims that all pre-reform courts were separated by estate (rather than only first-tier ones), that there was no presumption of innocence, and that insane people were still convicted. Before the reforms of the 1860s, the notions of “humaneness, equality, accountability, disinterested legal formalism, and justice” at best played “a small role in the Russian Empire” (59), and, in the imperial Russian context, “the report of a crime, the launch of a civil lawsuit, or the conviction of an abusive police officer” are “noteworthy and striking” (276). Kirmse argues that late imperial courts despite their achievements were “inconsistently reformed” and that new practices and procedures did not fully replace earlier and implicitly inferior “competing understandings of law and order” (279). Late imperial law was therefore “dual” (232) or “hybrid” (249), rather than an imaginary oasis of legal liberalism surrounded and challenged by the legal nihilism of Russian peasants and government officials. But elsewhere in the book, Kirmse points out that legal pluralism is the norm “even in today's liberal democracies” (66).

In arguing for Russian law's duality, Kirmse adopts Ernst Fraenkel's distinction—originally used to describe Nazi Germany—between “normative” and “prerogative” legal regimes, which Kirmse uses to pitch the “normative” regime of post-1864 courts against the arbitrary world of tsarist administration that survived the Great Reforms. Even if we agree that “before the reform era, laws, institutions, and procedures played a role, but they were far less transparent, accountable, and professionalized” (284), this does not make nineteenth-century Russian government with its rather delicate balancing of institutional

powers and interests anything like the Nazi prerogative state that subverted and abrogated regular state institutions. Nor can I agree that the need to accurately present the book's historical context is "scholastic," as Kirmse himself claims (15), especially since the pre-reform/post-reform comparison underpins so much of his argument. If many of the changes that he is describing are actually rooted in the early nineteenth century, the "duality" in the Russian legal "hybrid" falls apart. Most governors were not at all like the abusive Skariatina, their administration was not anywhere as authoritarian as its critics alleged (as has been shown by Suzanne Schattenberg in *Die korrupte Provinz?*), and many post-reform jurists were themselves rather conservative and arbitrary.

Kirmse's overall conclusion is that nineteenth-century Russia was a "lawful empire" with "transparent procedures, independently-minded legal professionals, and a sober dispensation of justice based on evidence, at least as long as state security was not at stake. This does not make late imperial Russia a *Rechtstaat* in any meaningful sense of the term" (283), begging the question of why a *Rechtstaat*—assuming we refer to a real and therefore imperfect legal system rather than an arbitrary imagined yardstick—should be a valid comparison, let alone the goal of imperial Russia's legal development.

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This well-researched book tells the story of how British extraterritoriality operated on two different frontiers that intersected with the British Empire: the British consular district in Tengyue Prefecture on the Chinese–Burmese border region in Yunnan, and the Kashgar consular district in Xinjiang, near the border to Russian Central Asia. The core of the book is based on meticulous research in five archives, most importantly the India Office Records and the National Archives in London. Full of details and rich in empirical insights, the book is an excellent testimony of the fact that extraterritorial privileges were just as much the outcome of the commercial treaties between China and the imperial