Asian Journal of Law and Society, 6 (2019), pp. 441–459
doi:10.1017/als.2019.13

Book Discussion

Winner 2018 Distinguished Book Award, Asian Law and Society Association (ASLA)

Kwai NG and Xin HE, *Embedded Courts: Judicial Decision-Making in China* (Cambridge: Cambridge University Press, 2017) pp 1018. Hardcover: £88.99.

Book Discussion Contribution by **Lynette J. Chua** (National University of Singapore), **Susan Trevaskes** (Griffith University), **Sarah Biddulph** (University of Melbourne) and **Ethan Michelson** (Indiana University)

COMMENTARY BY LYNETTE J. CHUA, NATIONAL UNIVERSITY OF SINGAPORE

The book title, *Embedded Courts: Judicial Decision-Making in China*, suggests that Ng and He's work is a study about how judges make decisions in China, but it is actually about more than that. *Embedded Courts* is a book about what judges do beyond meting out court verdicts. It describes a whole array of activities carried out by judges from grassroots courts, the most basic or lowest level of courts in China, and explains why they engage in such activities. In doing so, Ng and He illuminate how these judges make decisions about the disputes that do end up in court before them, and how Chinese courts are a "weak and highly malleable institution that is supposedly bestowed with the authority to carry out some of the most intrusive laws of an authoritarian party-state."[1]

Based on qualitative fieldwork and descriptive statistics, Ng and He argue that Chinese courts are far from being a highly co-ordinated, homogenous organ that works at the command of the party-state. Even though the central government, through the Supreme People's Court, is supposed to control all subordinate courts, Chinese courts in reality are a highly varied institution. They compose a huge and complicated bureaucracy in which basic courts differ from one another, as do the regions where they are located. This heterogenous phenomenon results from the dynamics between the local government and the central, the adaptation of the local in response to the central, and the impact of these dynamics on the grassroots court and its responses at each locality.

Ng and He sort the variations among grassroots courts into two ideal types in the Weberian sense—work unit and firm—that more or less correspond to a rural–urban divide. The variations among courts reflect what they call the institutional environment of judging —the degree to which courts are administratively, politically, socially, and economically embedded. Administrative embeddedness depends on the manner in which senior judges embody the local network of governance and handle administrative agenda and priorities. Political embeddedness concerns the dual function of courts as legal institutions that apply the law and as political institutions that uphold social stability. Social embeddedness refers

1. Ng & He (2017), p. vii.

to official interests and their rivalling personal interests—commitments that originate from judges' other social roles and compete with that of being a judge. Economic embeddedness arises from the *de facto* nature of the court as state bureaucracies fiscally sanctioned by local governments and as a self-supported legal institution.

The extent of each embeddedness shapes the degree to which work-unit and firm courts apply laws passed by the government, or "law on the books." Compared to firm courts, work-unit courts tend to mediate more, prioritize outcome, and enjoy less fiscal autonomy from local government; their senior judges exercise tighter vertical control over efficiency and have stronger patron–client relationships with junior judges. By contrast, firm courts tend to adjudicate more, prioritize output in the quantitative sense of closing cases, and enjoy greater fiscal autonomy from local government; their front-line judges consult less with their superiors and the patron–client relationships between them are weaker.

However, despite these differences, the two types of courts share similarities. Both are interested in achieving social stability—a prevailing concern of the central government—and both appreciate the significance of "political considerations." They differ only in approach. Work-unit courts often sideline law to promote social stability and emphasize the use of people skills over professional knowledge to resolve problem cases that involve so-called political consideration, whereas firm courts follow the law as the politically safest option and prefer to deploy law and legal expertise.

For scholars interested in China or Chinese law, the importance of *Embedded Courts* is obvious. My fellow commentators, who are experts on Chinese law, elaborate on its contributions in this regard.[2] For scholars who lack a strong interest in China, there are nevertheless good reasons to read this book. Here, I highlight two broad and popular areas of socio-legal research with which *Embedded Courts* resonates.

One is the area of research known as law and courts, which is interested in how judges make decisions and the factors that shape judicial decision-making. Embodied in this line of inquiry is the socio-legal perspective that it is not only state law, but also other normative orders, encompassing their own rules and principles, that shape judges' worldviews, perceptions of events they encounter, including disputes that arrive before them in court, and their decisions about what to do with these events.[3] According to *Embedded Courts*, oftentimes grassroots judges ignore the law, set it aside as irrelevant, and do not apply it at all, because they take into account other rules and principles outside of law. The point that law on the books often does not matter or is not the sole consideration should be no surprise to socio-legal scholars. What Ng and He do well is to show with rich empirical details the manner and extent by which this phenomenon materializes at the level of grassroots courts—the direct interface between Chinese people and their state when they have disgruntlement with each other or disaffection toward the state.

Embedded Courts, therefore, makes an important contribution to socio-legal studies' literature on law and courts. To understand what judges do and why they do what they

2. I would note that Ng and He's book can be read in relation to the works of Su Li 蘇力. An important forebear of Chinese socio-legal studies, Su wrote influential books such as 送法下鄉 [*Sending Law to the Countryside*] and 法治及其本土資源 [*Rule of Law and Its Native Resources*]. For a review of the development of socio-legal studies in Chinese academia, see Liu & Wang (2015).

3. See Chua & Engel (2019) on how worldviews, perceptions, and decisions play out in the social processes of legal consciousness.

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

do, Ng and He demonstrate convincingly that we cannot merely examine court decisions or written verdicts. Assuming one can obtain a good data set of court judgments—not a given in authoritarian states that tightly control access to information—the documents still might not offer the complete rationale for judges' decisions. Moreover, in one-party-dominated states, it is probably meaningless to use the political affiliations of judges and thus their political attitudes as a proxy for understanding their judicial decisions—a common approach by political scientists who study American courts. Judges such as those in *Embedded Courts* operate in a party-state, appointed one generation after the next by the same party. Anyway, political attitudes alone are insufficient. This factor would not account for the administrative bureaucracy, social relationships, and economic arrangements that grassroots Chinese judges may have to take into consideration as well. Hence, Ng and He show us how judicial independence, or the lack thereof, plays out at the grassroots level in China. According to them, the mammoth state apparatus of the central government does not directly control local judges. Instead, the indirect constraints that emanate from the four types of embeddedness work through their mutual co-dependence to influence judicial independence.

The other broad area of socio-legal research to which *Embedded Courts* speaks is legal pluralism. I do not mean the lawyers' type of legal pluralism, which refers to the establishment of different formal regimes to regulate diverse ethnic or religious groups, especially in the area of marriage and inheritance. I mean legal pluralism in the socio-legal sense, whereby state law, or official law, co-exists with other normative orders that possess their own rules and principles.[4] In this co-existence, state law is not always the most powerful source of restraint or governance over people's thoughts, feelings, or actions. Its power may give way to another more powerful normative order, such as religion. Other times, its power is reinforced, even bolstered, by such other orders. In line with this conception of legal pluralism, socio-legal scholars characterize law as a social phenomenon far from being autonomous. Moore, for example, describes law as a semi-autonomous social field and critiques the proposition that social change can be brought about by means of legislation,[5]— an instrumental view of law that reflects the Chinese government's in Ng and He's book.

To cast *Embedded Courts* as a work of legal pluralism is perhaps less expected. This type of research usually focuses on laypeople, not judges. Nonetheless, the following quote from Moore's article about law as a semi-autonomous social field explains why Ng and He's book can be regarded as a contribution to this area of research:

> The semi-autonomous social field has rule-making capacities, and the means to induce or coerce compliance; but it is simultaneously set in a larger social matrix which can, and does, affect and invade it, sometimes at the invitation of persons inside it, sometimes at its own instance. The analytic problem of fields of autonomy exists in tribal society, but it is an even more central analytic issue in the social anthropology of complex societies. All the nation-states of the world, new and old, are complex societies in that sense.[6]

In *Embedded Courts*, the four types of embeddedness, or institutional environment of judging, form the larger social matrix within which every judge at every grassroots court in the "complex society" of China is situated. Judges may shrink away from cases where law could

4. Merry (1988).
5. Moore (1973).
6. *Ibid*., p. 720.

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

be applied to resolve the matter, or they may apply the law, depending on their assessment of the strength of vertical control by senior judges, the importance of social stability, the relevance of social relationships, and the fiscal status of their court. These considerations come from multiple orders outside law, including the family (social ties), the bench (another set of social ties), the bureaucracy (senior judges), and the political and economic (local and central governments), all of which embody their own rules and principles.

Ng and He conclude with cautious views about the future of rule of law in China. They point out that firm-type courts may be increasing, boosted by the rise of judges from the post-1980 crop, who prioritize legal professionalism, which refers to legal knowledge, expertise, and the view that judges should apply law when adjudicating disputes. Such a prospect, however, does not necessarily indicate strong judicial commitment to fundamental values of rule of law not found in written law. The idea of professionalism among judges is an apolitical, narrow pursuit of professional expertise—one that aligns with the central government's push for greater legitimacy of law as an instrument of control. But even so, as Ng and He recognize and appreciate, to apply law on the books in China is hard enough and requires courage as it is.

REFERENCES

Chua, Lynette J., & David M. Engel (2019) "Legal Consciousness Reconsidered." 15 *Annual Review of Law and Social Science* (forthcoming).

Liu, Sida, & Zhizhou Wang (2015) "The Fall and Rise of Law and Social Science in China." 11 *Annual Review of Law and Social Science* 373–94.

Merry, Sally Engle (1988) "Legal Pluralism." 22 *Law & Society Review* 869–96.

Moore, Sally F. (1973) "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study." 7 *Law & Society Review* 719–46.

Ng, Kwai Hang, & Xin He (2017) *Embedded Courts: Judicial Decision-Making in China*, New York: Cambridge University Press.

COMMENTARY BY SUSAN TREVASKES, GRIFFITH UNIVERSITY

In years past, when legal scholars thought generally about courts in post-Mao China, the tendency was to measure their development in close relation to the Chinese Communist Party's aspiration to develop a rule of law. We can trace this tendency back to the late 1970s when Deng Xiaoping declared that China was moving towards a socialist rule of law. Legal scholars outside China who sought to explain the relationship between the external open door reforms and the internal operation of courts tended to place the spotlight on the rule of law, or, more precisely, the lack of thereof, as their explanatory lens for assessing any development in courts. Positing a dualism between a "societal" model of law (favoured by Mao) and a "jural" model of law (favoured in the constitutional period in the mid-1950s), scholars generally concluded that, although some sort of procedural regulatory had marked an impressive return to a jural model of law, there remained a number of structural and political impediments to the realization a rule of law.[1]

1. Leng & Chiu (1985).

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

Underlying this perspective was the assumption that any development or regression in the court system towards or away from due process or independence should to be measured along some sort of legal development continuum—with a 1950s-style bureaucratic model representing one end and a Maoist model at the other. The consequence of this assumption was that scholars ended up attempting to evaluate one end of a conceptual continuum—the political and ideological nature of Chinese law—from the viewpoint of the opposite end of the continuum: rule of law and due process. For decades, the rule of law, regardless of whether its ideal form was conceived as socialist, Western-liberal, or otherwise, was the benchmark from where the various vicissitudes of court operations were scrutinized.

Since the turn of the new decade in the 2010s, scholars have moved away from the question of where to place the issue of rule of law in their analysis of legal development and court operations. Scholars no longer base analysis of these issues on the question: "Can (or does) China function under some form of a rule of law?" There is nowadays a greater appreciation for the ideological role that rule of law plays. The party has now made it abundantly clear that rule of law is a conduit for the exercise of its leadership (Fourth Plenum Decision, 2014). It is not the embodiment of a particular development path that encourages greater independence from the party or due process for its own sake; it is a tool for strengthening party leadership.

Regardless of the disinclination nowadays to use the rule of law in framing analysis of legal development, the question of authoritarianism continues to define the parameters of how we interpret judicial decision-making in China. Authoritarianism looms large as a framing theme in Xi Jinping-era analysis of law and courts. This could partly be attributed to the fact that most of the headline-grabbing aspects of Chinese courts today continue to concern human rights-related criminal justice issues rather than the workaday machinations of other types of decision-making that come across a Chinese judge's desk. But a detailed understanding the workaday machinations of courts is precisely what we lack in the field. In Ng and He's masterful account of judicial decision-making cultures in Chinese courts, a judge's desk comprises a much more diverse array of social and political interrelations between and among court workers, local government, and ordinary citizens than the one-size-fits-all authoritarian tag suggests.

Variance is indeed the main leitmotif of this book. In December 2018, Sarah Biddulph and I participated in an Asian Law and Society Association (ALSA) Best Book Prize panel review and discussion of *Judicial Embeddedness: Judicial Decision-Making in China*. This review below, based on our discussions at the ALSA conference, focuses on the broad parameters of the book that sets up this variance theme.

Variations in court decision-making behaviours, the authors argue, are the outcome of a changing environment shaped by four types of forces. These are administrative, political, social, and economic. It is the interplay between external and internal environments that creates the wide discrepancies in behaviour and outcomes that this book so eloquently documents. These four types of embeddedness which Sarah Biddulph explains in greater detail in her review below populate the main body of the book. But, in order to understand how they impact in different ways on different courts, the authors first introduce us to overarching analytical lens they employ, in the form of two ideal types of courts in China.

The authors' highly original conceptual contribution to our understanding of courts in China begins in Chapter 1 with an explanation of why courts react to their external

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

environment in different ways. While courts across the land share a number of characteristics (e.g. a judge's desk is not situated in a private chamber, but in an open-office setting, and work is generally group-based), the daily routine of a judge in any given court tends to be shaped by the way in which his or her particular court responses to institutional ideals such as adversarialism, or professionalization, or social harmony (p. 37). Ng and He unpack this point, making a simple but important observation—that courts differ in how much of the law they use. That is to say, courts display differing propensities to use the law (p. 7). Some prefer to adjudicate cases while others give preference to cases that they can mediate. Some courts have more discretion to avoid adjudicating certain types of cases while they welcome others. Some courts are much more vulnerable to the changes in their external environment than others and have less leeway in terms of which cases they accept for trial and which cases they can handle through diversionary means.

Armed with these assumptions about the importance of understanding a court's culture in terms of the degree of its vulnerability to outside forces, the authors develop an analytical framework based (in the Weberian tradition) on the idea of two ideal-type courts: "firms" and "work units" (*danwei*). These are the two "hemispheres" (p. 6) of court culture—two ends of a continuum upon which they can to account for variations in court decision-making across China. Work-unit courts tend to operate within the mindset of the old socialist *danwei*, where tight vertical control takes priority over efficiency. Firm-type courts are more likely to be found in big cities, while work units occur in more rural areas. Firm-type courts, by dint of the greater variety of cases they handle, need to be more nimble and responsive to complex litigation, making it less practical for individual judges to be micro-managed by higher authorities either within the court or external to it. Their external environment dictates their priorities and shapes their culture. Firm-type courts prioritize output while work units place the spotlight on outcome.

To help the reader better understand the diversity of court responses to their external environment, the authors observe that three types of court decisions occur on a daily basis in Chinese courts. First, there are decisions too trivial to cover with legal rules; second, decisions are covered by legal rules; and, third, decisions are too important to make without being reviewed by the vertical hierarchy of China's national court system. Compared to firms, work-unit courts make more decisions in relation to the first category. These include family and neighbourhood disputes that are either too personal or too trivial to be dealt with by law, where judges work to placate the parties involved to settle conflicts. Work-unit courts tend to require greater use of hands-on people skills than is the case in firm-type courts.

The authors then help as to gain a stronger sense of why work-unit courts place the spotlight on outcomes rather than output. Work-unit courts are largely located in developing rural environments that tend to be relatively more volatile socioeconomic settings, ripe for family-, land-, and labour-related contestation and dispute. Social instability is therefore an ever-present threat. To secure outcomes that preserve social stability in the community, courts in these areas need to place greater importance on harmonizing relationships between disaffected parties in legal disputes. The type of environment in which work-unit courts operate therefore tends towards much greater uncertainty than those in more developed urban areas. Given the stark possibility that the legal decisions in work-unit courts make might attract petitioning or other forms of complaint creating further social instability,

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

decision-making processes in these courts are more closely monitored by authorities. They tend to be regulated vertically and monitored in a closer manner than the firm-type court. Work-unit-type courts therefore tend to adopt a broader definition of what kinds of decisions need to be reviewed and assessed higher authorities within the court or courts or other authorities up the procedural or bureaucratic ladder.

In contrast, the firm-type court operates in a more predictable environment. Being less vulnerable to the vicissitudes of its external environment, the firm-type court does not require the strong emphasis on vertical hierarchy that is found with work-unit-type courts. Since it has a relatively more flexible hierarchy, these types of courts are more dextrous and are better able to allocate personnel to handle a variety of case types. Operating in a more steady and certain environment, firm-type courts have the luxury of being able to allocate personnel to cases that generate greater court revenue. By dint of the nature of the cases that come across their desk—that is, cases that require less in the way of people-centred placation skills and more in the way of law—it is less likely that court authorities in firm-type courts feel the need to micro-manage individual cases. More importantly, whether a court operates in a more predictable socioeconomic environment has important implications for the relationship it has with local government. Firm-type courts can be choosy about accepting for trial cases that are sure to bring them income in the form of litigation fees. The more choice of cases a court has to accept—certain cases for trial bring in greater income in the form of litigation fees—the less reliant the court is on local government subsidies. Its relative financial independence therefore makes its relationship with local government less fraught.

In documenting how the socioeconomic environment of a court affects the development of its culture, Ng and He have made an outstanding contribution to the field. They have widened our vision of what is political about courts in China, expanding that vision past the standard assumption that "politics" equates to interference from the Communist Party. There is certainly party politics in court work but, just as importantly, judges make decisions based on what is "politic"—that is, what is judicious in the socioeconomic circumstances that they operate in. This is why this book is likely to remain the classic study of contemporary Chinese courts for many years to come.

REFERENCES

Fourth Plenum Decision (2014) *Central Committee Decision on Some Major Questions in Comprehensively Moving Forward Governing the Country According to Law*, Xinhuanet, October 28, http://news.xinhuanet.com/legal/2014–10/28/c_1113015330.htm (English translation at: http://chinalawtranslate.com/fourth-plenum-decision/?lang=en/) (accessed 1 July 2019).

Leng, Shaochuan, & Hungdah Chiu (1985) *Criminal Justice in Post-Mao China: Analysis and Documents*, Albany: State University of New York Press.

COMMENTARY BY SARAH BIDDULPH, UNIVERSITY OF MELBOURNE

These comments form the second part of the review of *Judicial Embeddedness: Judicial Decision-Making in China* by Susan Trevaskes and me. We have decided to follow the division of labour we adopted in our oral comments at the Best Book Prize panel at the annual

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

Asian Law and Society Conference in December 2018. My focus is on discussion of the four dimensions of embeddedness of Chinese courts; administrative, political, social, and economic.

We all know that the process of economic development and its attendant institutional reform have differed across the country, in terms of both quantity and quality. These four types of embeddedness provide us with useful tools to explain and understand the impact of these divergences on courts and judges. The idea of embeddedness makes explicit the implication in the description of law and courts as a semi-autonomous sphere, that independence is always qualified, and that we must be attentive to both the nature and extent of those qualifications.

Administrative Embeddedness

Are courts and judges just another branch of government? Amongst scholars of Chinese reforms, this has been a hotly debated and vexed question. Certainly, over the reform period, the distinctive judicial nature of courts and their adjudication work has developed. But how do we evaluate these reforms? Ng and He provide us with different lenses through which to explore this important question. The rich and fascinating discussion in this book not only provides a nuanced account of Chinese courts, but also provokes some comparative reflections back onto our own assumptions and understandings of what judges do and how courts work. Some of those comparative reflections are woven into the discussion of the book's account of administrative embeddedness.

One level of analysis is through looking at judges and the cases they decide. Many of the younger judges, who now comprise the vast majority of front-line judges hearing and deciding cases, have extensive legal training, some with overseas legal education, and expect to use rules and legal reasoning to decide cases. International judicial training programmes are premised on a view that, with training, judges will adjudicate and will facilitate transformation of courts into organs that are qualitatively distinct from other government agencies. But when they start work, in some courts and in relation to certain types of matters, they find pressure to mediate, often in ways that do not pay a great deal of attention to the legal rules.

The fact that law is used to different extents in court-based dispute resolution, and sometimes not at all, might suggest that the differences between judicial and other forms of decision-making are not so great. From the perspective of rule of law, this is consequential as it raises one of the fundamental questions in liberal jurisprudence: What are judges doing when they adjudicate? Are there distinctive legal reasons for deciding legal disputes or do judges also resort to non-legal reasoning to resolve legal disputes? What this debate does is focus on the role of the judge, on their inner world and the process of reasoning in adjudication, either as Herbert or Hercules. Ng and He tell us what judges do, and also what many want to do, is decide cases by applying law—sometimes. But the higher up the decision is made, the less law plays a role in decision-making. They argue that the most "emblematic trait of Chinese style judicial decision-making" (pp. 17–18) is the tendency for legal questions to be enmeshed in increasingly broad social and political considerations the higher up the decision-making goes.

An important contribution of this book is to move the reader to another level—that of the institutional context in which judicial work is conducted—to consider the question of the role of law in judicial decision-making. In Western jurisprudence, realists such as

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

Llewellyn and Cover would have us consider the institutional setting of adjudication. In the Chinese situation, we see that this institutional setting is of overwhelming importance in shaping the office of judge and in the reasoning, legal and otherwise, applied in deciding cases. An exploration of this institutional setting challenges the idea of the judge as autonomous; judges work together in the same physical space, consult colleagues in the discharge of their judicial role, as well as being enmeshed in an internal hierarchical structure where superiors, themselves part of the party-state structure, and the adjudication committee may substitute their decision for that of the judge presiding over an individual case. This is Ng and He's first sense of administrative embeddedness—how each level of the court hierarchy interacts. Their second sense of administrative embeddedness is the relation between the court and local government.

Internally, the strictly hierarchical organization structure of courts places judicial decision-making by application of legal principles at the bottom. At the top of the court hierarchy, both the Chief Judge and the Adjudication Committee exercise administrative oversight and control of all court processes, including adjudication. In these processes, legal rules and reasoning recede as factors in decision-making. But, even then, the authors conclude that the adjudication committee does not function as an ideal type of Weberian bureaucracy, largely because of the highly personalized way in which it operates (p. 107).

The discussion in this book of the willingness of judges voluntarily to refer certain types of case to the adjudication committee within the court for decision to avoid risk also shocks a type of sensibility that imagines the independent judge as unwilling to relinquish decision-making control over a case, particularly where the eventual decision will be issued in that judge's name. The willingness of one level of court to consult higher-level courts on difficult cases conforms to the same logic of risk minimization. Within the hierarchical institutional arrangement of the Chinese court, avoidance of risk in this way is institutionally entrenched and so both natural and inevitable.

Political Embeddedness

The second type of embeddedness points out that the law and courts serve the overarching goal of maintaining social and political stability. The courts are part of the state's coercive apparatus, the political-legal organs of state, alongside the police, procuratorate, the justice department (which manages detention centres and prisons), and state security. Court leaders participate in the Chinese Communist Party's (Party) Political-legal Committee and the Comprehensive Management of Public Order Committee at each hierarchical level of governance and are responsible for implementing their decisions within the court.

From an external perspective, this statement might strike us as a departure from common-sense notions of the role of courts as defenders of law and justice. It highlights that law and justice are not ends in themselves, but are a means to achieve the higher political ends of social and political stability.

Political embeddedness does not just refer to this institutional arrangement, but also has practical implications across several dimensions. The first is that the obligation to maintain social stability complicates the relationship between the courts, police, and procuratorate. The second is that, during law-and-order campaigns, or other types of enforcement campaigns, the courts are required to work closely with other agencies to achieve the objectives

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

of the campaign—be it to punish targeted offenders swiftly and harshly or, for example, to give priority to resolving labour disputes and decide them in favour of the worker where possible. Court responsiveness to political instructions to participate in campaigns and to deal with cases designated sensitive as instructed not only identifies them as a political actor, but also both illustrates and reflects the core ideological and institutional principle of democratic centralism at work.

The third is that stability reflects directly on the court and individual judge's performance where conflicts arise in and around the court in handling particular cases, or where there are protests against unfavourable judgments. The ways cases are handled are affected by judgments about whether parties to a dispute are "overly emotional," or likely to petition or protest against a decision, or where the court may be unable to resolve the underlying grievance through the application of law. The impact may be on the procedure used to resolve the case, to favour mediation, on the judgment itself (both impacts are seen in contested divorce cases, pp. 129–32), or even whether the courts refuse to accept the cases at all (married-out women and housing-demolition cases are examples, pp. 133–6). Ben Liebman has aptly described the problem as one of dispute resolution in the shadow of protest.[1]

Social Embeddedness

Ng and He point out that, unlike administrative and political forms of embeddedness, social ties act as a type of informal ordering—an internal constraint on judicial conduct—where the influence of social connections is not limited to friends and relatives, or friends and relatives of friends and relatives of the individual judge. In fact, the impact of *guanxi* operates at several levels of remove to extend to the friends and relatives of the judge's superiors and so acts as an institutional constraint (pp. 143–6). This form of embeddedness reflects a duality between official and personal interests (p. 191). The pervasive influence of social ties or *guanxi* can act as an alternative source of empowerment in circumstances where Chinese courts and judges lack a high level of popular trust and legitimacy. But it also acts as a constraint on their capacity to conduct themselves and their task of adjudication in a judicial manner. Ng and He give a strong account of social embeddedness that distinguishes *guanxi* from corruption—where they argue that only those with weak ties would think of seeking to pay money for favourable treatment.

Economic Embeddedness

The final dimension of embeddedness is that court finance "is refractive, if not reflective, of local economy" (p. 24). Even though, in theory, court funding has been decoupled from the funds raised by the court for consolidated revenue through fines, fees, and the like, the authors document the many ways in which court finances remain tied to the local economy. In western China and poorer areas, courts face a chronic shortage of funding and so become increasingly beholden to the local government. In other areas, courts generate sufficient revenue to support themselves because they handle a high proportion of cases that generate high levels of revenue, such as economic cases. Ng and He point to a bifurcation in courts into

1. Liebman (2013).

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

firm and work-unit style that corresponds to the divergence in economic wealth across China, with a direct impact on courts in terms of staffing, courtroom resources and infrastructure, style of dispute resolution, and autonomy in court administration and adjudication, as elaborated on in Chapter 7.

As ideal types, the firm and work unit describe end points in which the four types of embeddedness are present in different balances and extents. As the authors make clear, their interactions vary—sometimes they complement and are mutually reinforcing, as in the case of social and political embeddedness, and sometimes they act in mutually constraining ways, as in the case of administrative and economic embeddedness (pp. 192–4).

This book is a joy to read. With a focus on the environment in which courts operate, it combines a clear theoretical framework for analysis with detailed empirical work. It provides the reader with tools to analyze and better understand the sameness and the differences of courts within China and the sameness and difference of Chinese courts with courts from other jurisdictions. If one could select only one book to read on the Chinese judiciary and contemporary Chinese courts, then I would suggest you read this one.

REFERENCES

Liebman, Benjamin (2013) "Malpractice Mobs: Medical Dispute Resolution in China." 113 *Columbia Law Review* 181–264.

COMMENTARY BY ETHAN MICHAELSON, INDIANA UNIVERSITY BLOOMINGTON

Thanks to the remarkable amount of time that Ng and He spent observing courtroom trials and interviewing judges both inside and outside courts, their book is a valuable and refreshing addition to the small but rapidly growing empirical literature on Chinese courts. As the authors point out, much of the existing literature on Chinese courts is doctrinal, focusing on the formal structure of courts and the rules and procedures governing their behaviour. Owing to difficulty in gaining access to courts, empirical research on what courts actually do—not just what they are supposed to do—is relatively rare. Meanwhile, the limited empirical research on courts that has been done tends to focus on criminal justice and draws largely on materials such as case dossiers and written decisions that obviate the need to set foot in a courtroom or interview the actors who inhabit them. Ng and He paint vivid pictures of the forces—both judicial and extra-judicial—that shape the day-to-day work routines of judges. Their rich ethnographic descriptions put the reader in the scene; we can practically smell the courtrooms and hear the proceedings. This alone is a remarkable contribution for which Ng and He should be applauded. More than most law and society scholars with an interest in Chinese courts, Ng and He got their boots dirty over a period of many years doing *in situ* research on court behaviour in a variety of locations.

Although the title of the book contains "judicial decision-making," the authors do not actually analyze judicial decisions per se. By "decision-making," they refer to general court-level orientations and tendencies, including the relative importance of the following: adjudication versus mediation; legal versus extra-legal bases of decisions; judges' people

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

skills versus legal expertise; courts' police patrol (proactively and pre-emptively dealing with disputes) versus fire-alarm (dealing with full-blown disputes) approaches and functions; consultation with and requests for guidance from political authorities; deference to directives from above; judges' social connections to plaintiffs and defendants; and fiscal autonomy (the degree of dependence on local governments for their budgets). In *Embedded Courts*, these dimensions are constitutive of a general style or character of decision-making more than of concrete decisions in specific cases. Ng and He do not analyze who wins and who loses, whether or not and how lawyer participation matters, the effects of judge gender, and other characteristics that influence outcomes at the level of the case.

Ng and He introduce a typology of courts—(1) firms and (2) work units (*danwei*)—and characterize this fundamental cleavage as the "two hemispheres." They seem to reduce these ideal types of courts to the broad contextual distinctions of urban/rural, coastal/inland, and wealthier/poorer. I am not entirely persuaded that we gain anything from this typology above and beyond the contextual descriptors to which they refer. Indeed, the authors themselves often use these relevant contextual descriptors when referring to different types of courts (e.g. more developed, urban, or coastal instead of "firm" and less-developed, rural, or inland instead of "work-unit"). Furthermore, referring to contemporary rural courts as "work units" is somewhat incongruous with the widely accepted meaning of the term, namely the urban workplace, particularly in the era of high socialism. Finally, we are offered no guidance on how to identify a court as one type or the other. In other words, we are given no clues on how to operationalize this typology using concrete measures.

One of the authors' key tasks is to explain regional variation in judicial behaviour, which they justify with a claim that the existing literature treats Chinese courts as either identical to their counterparts in Western democracies or as regionally homogeneous within China. This claim struck me as somewhat of a straw man, and the authors provide no citations to support it. Ng and He are certainly far from the first to point out that courts are not immune to the broader organizational effects of bureaucratic decentralization and fragmentation in China.

Ng and He devote most of their book to explaining behavioural variation between the two types of courts in their typology. They argue that the key to understanding differences between these types of courts lies in their embeddedness in extra-judicial institutions. Their analytical focus is on the complex interrelationships between courts, the party-state, and society (including the economy). Court embeddedness shaping judicial decision-making comes in four varieties: administrative, political, social, and economic. In the first chapter, they set up their typology of courts and their analytical strategy of using four types of embeddedness to explain differences between the two groups in this typology. The next two chapters (Chapters 2 and 3) set the stage by acquainting the readers with the context and the dramatis personae. The following four chapters (Chapters 4–7) deal with each type of embeddedness respectively and its influence on the character of courts' decision-making styles. Chapter 8 is their conclusion, in which they also speculate about the future trajectory of legal reform in China.

Administrative embeddedness refers to the administrative relationship of a court to the rest of the government apparatus—its location in the government bureaucracy. *Political embeddedness* refers to the extent to which a court is beholden to the vicissitudes of state policies and priorities—to the changing currents and shifting tides of governmental and party goals and directives. *Social embeddedness* refers to the influence of direct and indirect personal

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

relationships between judges and parties to litigation. Here, they contribute to the literature on *guanxi* in China. Finally, *economic embeddedness* refers to the sources of a court's budget.

Ng and He support their claims about the importance of each type of embeddedness with evidence principally from interviews with judges and ethnographic observations in courts in Guangdong and Shaanxi; from interviews in Hong Kong with judges who took training courses at the City University of Hong Kong; and from documents, both internal and public, they collected over the years about courts across China. They do not, however, organize their presentation of empirical findings to allow or facilitate a systematic comparison between work units and firms. Although they usually identify anecdotes from poorer interior courts (work units) and those from more prosperous coastal courts (firms) as such when supporting their arguments, they give the reader no sense of the size and characteristics of their overall sample of anecdotes or how they select supporting anecdotes. Rather, they marshal their anecdotes seemingly haphazardly according to salience rather than by a more rigorous analytical logic. There is a certain "trust us, we know what we're talking about" vibe to this book.

On the whole, *Embedded Courts* is not well embedded in the existing literature. The authors overlook prior research covering many issues in this book, including the challenge of stemming judge attrition; the role of politico-legal committees; the revival of judicial mediation in the mid-2000s; variation in judicial corruption, local protectionism, and other dimensions of court performance; the nature and significance of social relationships; and the influence of fiscal pressures on the composition of courts' dockets, to name only a few. In short, if this were the first thing you ever read about Chinese courts, you would likely get the impression that we knew virtually nothing about the subject prior to the authors' research. Admittedly, I take this weakness personally. Despite my eager anticipation of their application of the concept of "political embeddedness," perhaps because I developed it over a decade ago in the context of the Chinese legal system, I was somewhat dismayed by a total lack of attribution. I imagine others, too, including Sida Liu, Terence Halliday, and John Givens, who also took up the concept of political embeddedness, would have appreciated some minimal acknowledgement of their work, although perhaps they are less thin-skinned than I am. To be sure, my concept of political embeddedness differs from He and Ng's. Insofar as it encompasses both formal administrative relations and informal personal relations to state agencies and their actors, my earlier use of the concept of political embeddedness collapses Ng and He's concepts of administrative embeddedness and social embeddedness. However, it seems to me that departing from an established concept of the same name is precisely a reason to cite and engage the relevant literature.

These limitations notwithstanding, Ng and He have done path-breaking research that vastly improves our understanding of the behaviour of Chinese courts and that will inspire much future research. Ng and He help set research agendas and methodological guidance for scholars who will follow their lead—and who I expect will engage prior research (including theirs) to an extent not delivered in this book.

RESPONSE TO COMMENTARIES BY KWAI HANG NG AND XIN HE

It is a great honour for both of us to have received the book award from the ALSA. We thank Hiroshi Fukurai, President of the ALSA, for organizing the panel. We thank Setsuo

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

Miyazawa, Chair of the Distinguished Book Award Committee, for presenting the award to us in person. We also thank the commentators for their time dedicated to reading and commenting on our work, and for participating in the book panel organized by the ALSA in Gold Coast. While not present at the panel, Ethan Michelson read his commentary at the East Asian Law and Society Book Introduction Session of the Law and Society Association Annual Meeting in Toronto. We were grateful. In the interest of space, we choose not to respond individually to the four commentaries. Nor do we find it necessary to recap the arguments made in the book: the four experts summarize and expand on our arguments cogently and adroitly. Instead, we would like to take this opportunity to further elaborate on some of the themes highlighted by the commentators and respond to a few questions raised about the nature of the project.

Institutional Context of Judging

In many ways, *Embedded Courts* was the culmination of our research over the past decade. We published a few papers on judicial mediation, divorce litigations, domestic violence, and the pragmatic discourse of judges in China. Those papers addressed aspects of the work of front-line judges. We tried to offer portraits of the work of judges. Everything happened in the grassroots courts of China. But the papers were written up in a style that they resemble photos taken in portrait mode—sharpened objects in foreground standing out in a slightly blurred background. The courts in the papers were the background in which judges took action. We analyzed the actions but we did not talk much about the context within which those actions took place.

The narrative conceit of *Embedded Courts* is to turn the background into the foreground—to turn our gaze to the institutional context in which judicial work is conducted. This point is brought up in the commentary of Sarah Biddulph. Whether as judge, bureaucrat, or public security official, their work takes place within a specific institutional context that is quite unique. *Embedded Courts* sets out to explore the contours of this context.

The main contentions of the book are captured by the title, namely that the Chinese courts are embedded and that any attempt to understand how judicial decision-making is done must consider the characters of the four types of embeddedness of the Chinese courts—administrative, political, social, and economic. Sociologically speaking, modern law is a highly influential and widespread form of institutionalized power that distinguishes itself by being separated from other forms of power, be it cultural, political, or social. The concept of embeddedness as used in the book is meant to underline a reverse tendency, in both organizational practices and decisional norms, that allows immediate interventions by outside forces. They are specific agglomerations of embeddedness pertain to the context of China. While we limit our discussion to the Chinese courts, the four types do provide quite an interesting framework for comparing courts in the world. Some elements we believe are more visible in some jurisdictions, while others assume a more subordinate role.

Most scholars of the Chinese legal system would agree that studying the ever-growing volume of statutes of China offers at best a partial understanding of how the system works. There are many laws in books that are not carried out, or at least not carried out in full force, in China. There are also state actions that appear to transgress the law. But the Chinese case is not unique in this respect. It is a testimony to the impact of the law and society scholarship

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

that it is now a truism to say that law in action is different from law on the books. This is true in the case of China and it is true in many other cases. What deserves further probing in the Chinese case is the mechanism for the divergence between the two. In other words, the question is about how different social forces find their way into the law. In the US, "the gap," following Galanter,[1] is created by the knowledge and resource discrepancies between the haves and the have-nots. The judicial process, in spite of, or perhaps because of, its rules-based character, fails to mitigate, let alone rectify, social inequality. Just like water makes its way through the cracks, resourceful litigants always find a way to gain an edge. The system can be gamed.

In the case of China, the gap is less created by the resource discrepancy among players in the game of law. The gap is a result of the fact that that law is not uniformly applied: more law in some types of cases or locations but less law in others.[2] As picked up by two commentators (Biddulph, Chua), one of the major claims in the book was to treat the quantity of law to be used by Chinese judges as a *variable*. In the beginning of *Embedded Courts*, we talk about how the field of law is still inchoate and unevenly developed in China. In some cases, judges follow the law. In other cases, they set aside the law. And, when they apply the law, they apply it with varying degrees of fervour. These phenomena are of course well known among scholars of the Chinese legal system. It is identified as the lack of judicial independence. As Trevaskes points out in her commentary, many legal scholars liken changes in the post-Mao judiciary to the Communist Party's aspiration to develop a rule of law. The rule of law is used as the benchmark from which the vicissitudes of court operations are scrutinized. Our book tries to go beyond the existing literature by identifying the processes that lead to the divergence. Administrative, political, social, and economic embeddedness contributes to the fluidity of the institutional environment of judging in China. Put bluntly, they together limit/enable the extent to which judges are able to follow the law.

The Rule of Law in China?

One thing we further distinguish in the book is the rule of law and a rule-following mentality. The two are of course related. In A. V. Dicey's famous definition of the rule of law, the first characteristic of the concept is a system of government that excludes the arbitrary exercise of power by persons in authority.[3] But they are also different. The former is, above all, a value—the latter, a work style. Most "thick" definitions of the rule of law go beyond a rule-following mentality and include commitments in the upholding of values such as liberty and fundamental rights and to impose meaningful limits on even the highest government officials or organs.[4]

As the law continues to play a crucial role in facilitating market transactions, particularly in the areas of knowledge economy and technological innovations, it is likely that Chinese courts will become more rules-based. Yet, it is different from saying that the Chinese court system will converge towards the liberal democratic model. There is that extra value

1. Galanter (1974).
2. Black (1976).
3. Dicey (1959).
4. Peerenboom (2004); Tamanaha (2004).

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

component that separates the narrow professionalism of an archetypical firm-type court from the value of the rule of law. In the Chinese context, *more* law—that is, judges decide by more or less following the law—is an outcome of the pattern and extent of embeddedness. In other words, extraneous influences, or the lack thereof, remain crucial in shaping the outcomes of the judicial process.

The law is the embodiment of the policies of the central government. But lower-level courts are physically and perhaps financially and politically more closely tied to local governments. As we describe in the book, grassroots courts are part of the local governance coalition. They are more routine daily ties to local party organizations and county governments than to the Supreme People's Court (SPC) and the central government. They depend on local funding (at least up until the implementation of the latest judicial reform). Carrying out the law is a balancing act between honouring the policy intent of the central government and the interests of local governments.

Since the publication of the book, the outcomes of the latest judicial reform indicate a tighter control exercised by the SPC of its lower courts. Such motivation to command greater obedience of the lower courts may sometimes be mistaken as an aspiration to promote the rule of law. The term itself, as used in the Chinese context, is confusing enough.[5] For example, promoting the law has somewhat bolstered the legitimacy of the judiciary. That was particularly the case in the aftermath of the Cultural Revolution. But Chinese leaders, including most recently Xi Jinping, have been quite clear to distinguish, their legal discourse from the model rule-of-law discourse. Terms such as "rule in according with law" or "socialist legal system with Chinese characteristics" have been used in legislation and official policy documents to articulate a different model. The party-state has repeatedly asserted the supremacy of its leadership. In the official Decision of the Fourth Plenum (2014), judges are asked to be loyal to four things: the party, the state, the people, and the law—in that order. Most important for our purpose is that the laws should first and foremost be understood as policy statements of the central government. Carrying out the law does not entail constitutional consideration. From the perspective of the SPC, the courts are asked to use the law to advance the policy intent of the party-state, to see to the policies producing their desired effects.

Legal Pluralism?

But there are other dimensions of tension beyond the central and the local. The notion of embeddedness is meant to capture, as Chua puts it, the larger social matrix within which judges in grassroots courts are situated. The concept runs through all the chapters; the source of embeddedness may vary, but each points towards the "leaky" process of judicial decision-making in China. We find it interesting that Chua describes our embeddedness thesis as a pluralism of sorts, not legal pluralism in the conventional sense, but that state law co-exists with other normative orders and nexuses of power. One obvious example of pluralism is social embeddedness. Almost all judges we interviewed acknowledged that *renqing'an*—that is, cases involving personal connections or *guanxi*—will not go away. We did not use the term "legal pluralism" in the book, in part because the term is so steeped in the intellectual tradition of legal anthropology. Instead, we discussed social embeddedness in terms

5. Sapio et al. (2017).

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

of connections and *guanxi*. But what our findings speak to the pluralism thesis is that many judges believed it would be wrong for them to turn a blind eye to their friends and relatives who asked them for help.

This is perhaps a good place to respond to Michelson's criticism that our use of the concept of "political embeddedness," and in fact the notion of embeddedness in general, is not well embedded in the existing literature. First, like many concepts in the social sciences, the term "political embeddedness" is strikingly nebulous. In his study of Chinese lawyers, Michelson uses the term to refer to lawyers' mobilization of formal and informal ties to state actors in the legal system.[6] It is an actor-centred concept. Our study is about judges, who are one group of state actors. Political embeddedness in our case refers to a prevailing *institutional* tendency that incorporates political calculation into judicial decision-making. The embrace of law is conditional on the benefits of following the law outweighing the risk of escalating instability. In a way, our use of political embeddedness harkens back to some of the earlier literature that used the term—that is, as a form of structural constraints that delimits the boundary of a given area of activities.[7]

All the same, it would be hubris for us to claim that we were the first to use the concept. We may assure our readers that we claim no monopoly on the concept of "embeddedness," nor the application of the concept for studying the Chinese legal system. We are also aware of the fact that the appropriate meaning of the concept is context-dependent. In the US, political embeddedness often manifests in the form of personal political beliefs of judges.[8] It is even institutionalized in the form of judicial election.[9]

In writing the book, we have attempted not only to interest scholars who are already familiar with the Chinese judiciary, but also to provide an in-depth look of the courts for those who approach the subject for the first time. These goals are not always easy to square. Our omission was the result of a trade-off we made between the book's readability and its scholarly engagement. In truth, there are many scholars whose careful research and thoughtful analyses on embeddedness our book does not cover. Just from the feedback we have received from practitioners and policy-makers, this seems to be a worthwhile trade-off. We did not set out to write *the* book on embeddedness. That would be another book—which probably should be done by someone else. We just tried to come up with ideas that could be of use.

Variations

Another attempt of the book is to avoid analyzing the Chinese lower-level courts as identical parts, or to borrow the vivid analogy of Emile Durkheim,[10] treating courts as the rings of Annelida worms, each similar to the other. Variance is indeed the leitmotif of the book. Even some of the harshest critics of the Chinese system give it too much credit for a consistency that it does not have. The Chinese judicial system is sprawling and is formally uniform. But this surface uniformity conceals the degree of variations displayed at the grassroots level. In

6. Michelson (2007), p. 356.
7. See e.g. Polanyi (1957).
8. Posner (2008).
9. Friedman (2008).
10. Durkheim (1964).

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

the book, we identify two types of courts—"work units" and "firms"—to capture the internal variations we came across. The two are meant to be ideal types. They represent two idealized (and exaggerated) types of courts. They are characterized by the distinct clusters of institutional characteristics concerning organization, control, logistics, and communication. No actually existing courts are either shorn of or in the fullness of "firm-ness"/"work-unit-ness." As such, they are different from the distinctions of urban/rural or coastal/rural that Michelson identifies. The latter are descriptive labels. Certainly, urban courts are likely to exhibit more "firm-ness" while rural courts will likely show more "work-unit-ness." But "firm" and "work unit" highlight contrasting institutional arrangements in the grassroots courts we observed. They formulate for us an understanding about the variations of the work styles of the Chinese grassroots courts, including aspects of work routines that are related to how judges approach "problem" cases, their overall level of tolerance of risks, when superiors will be consulted or get involved, their general attitude towards adjudication and mediation, among others.

Treating the distinction as a heuristic device, we did not attempt to operationalize the two concepts in the book. But that does not mean the distinction is analytically vacuous. Quite the contrary; the distinction is pregnant with empirical implications—firms and work units vary in the extent of everyday control exerted by the vertical hierarchy (administrative embeddedness), the intensity of risk aversion (political embeddedness), the influence of superior ties (social embeddedness), and the degree of fiscal self-sufficiency courts are able to achieve (economic embeddedness). Obviously, we do not have all the necessary data to test many of the theses. But this is exactly what a heuristic device is meant to do—to anchor our observations so that we are able to identify new questions to be addressed.

Concluding Remarks

We have benefitted tremendously from the wisdom of our eminent commentators. We thank them again for their generosity with their time to provide the comments at the conferences. Their comments also pushed us to tidy up some loose ends and clarify our position to relation to the extant literature. Their feedback reaffirms the value of fieldwork in studying the courts of China. There are now more official data made available by the Chinese courts. Online judgments, for example, provide an important source of empirical data for studying the behaviours of the courts. However, there remain questions that a study of official documents will not admit of answers. As Michelson points out, one of our goals is to articulate the forces, both judicial and extra-judicial, that shape the work routines of judges. Reading Chua's comment on China being a one-party-dominated state reminds us that political embeddedness is much less a result of political ideology than a manifestation of a relentless will to rule. Both Biddulph and Trevaskes point out that the existing literature starts with a question that is too narrowly framed. Is there judicial independence in China? But that should not be the end of any serious inquiry about the subject matter, for there is more to the Chinese model than the absence or limited presence of judicial independence. How do Chinese judges think? What is law to them? What do they try to achieve? We hope *Embedded Courts* provides our readers with some elements of an answer.

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press

REFERENCES

Black, Donald J. (1976) *The Behavior of Law*, New York: Academic Press.
Dicey, A. V. (1959) *Introduction to the Study of the Law of the Constitution*, London: Macmillian.
Durkheim, Émile (1964) *The Division of Labor in Society*, New York: Free Press of Glencoe.
Friedman, Lawrence M. (2008) "Benchmarks: Judges on Trial, Judicial Selection and Election." 58 *De Paul Law Review* 451–72.
Galanter, Marc (1974) "Why the 'Haves' Come Out Ahead : Speculations on the Limits of Legal Change." 9 *Law and Society Review* 95–160.
Michelson, Ethan (2007) "Lawyers, Political Embeddedness, and Institutional Continuity in China's Transition from Socialism." 113 *American Journal of Sociology* 352–414.
Peerenboom, Randall P. (2004) *Asian Discourses of Rule of Law: Theories and Implementation of Rule of Law in Twelve Asian Countries, France, and the U.S.*, New York: Routledge.
Polanyi, Karl (1957) *The Great Transformation*, Boston: Beacon Press.
Posner, Richard A. (2008) *How Judges Think*, Cambridge, MA: Harvard University Press.
Sapio, Flora, Susan Trevaskes, Sarah Biddulph, & Elisa Nesossi (2017) *Justice: The China Experience*, Cambridge: Cambridge University Press.
Tamanaha, Brian Z. (2004) *On the Rule of Law: History, Politics, Theory*, New York: Cambridge University Press.

https://doi.org/10.1017/als.2019.13 Published online by Cambridge University Press