

|                         |   |
|-------------------------|---|
| 1. Record Nr.           | UNINA9910464788703321   |
| Titolo                  | The history and theory of legal practice in China : toward a historical-social jurisprudence // edited by Philip C. C. Huang and Kathryn Bernhardt  |
| Pubbl/distr/stampa      | Leiden, Netherlands : , : Brill, , 2014<br>©2014  |
| ISBN                    | 90-04-27644-0   |
| Descrizione fisica      | 1 online resource (456 p.)  |
| Collana                 | The Social Sciences of Practice ; ; Volume 3  |
| Disciplina              | 349.51  |
| Soggetti                | Law - China - History<br>Jurisprudence - China - History<br>Justice, Administration of - China - History<br>Electronic books.   |
| Lingua di pubblicazione | Inglese   |
| Formato                 | Materiale a stampa  |
| Livello bibliografico   | Monografia  |
| Note generali           | Description based upon print version of record.   |
| Nota di bibliografia    | Includes bibliographical references.  |
| Nota di contenuto       | Preliminary Material -- Editor's Introduction / Philip C. C. Huang -- 1 A Ming-Qing Transition in Chinese Women's History? The Perspective from Law / Kathryn Bernhardt -- 2 Women's Choices under the Law: Marriage, Divorce, and Illicit Sex in the Qing and the Republic / Philip C. C. Huang -- 3 Marriage, Law, and Revolution: Divorce Law Practice in the Shaan-Gan-Ning Border Region / Yang Liu -- 4 : (From De Facto Separation to Legal Separation: Rights and Obligations in Husband-Wife Separations from the Qing to the Republic) / Li Hongying -- 5 Representation and Practice in "Privately Settling Illicit Sex Offenses," with Attention to the "Third Realm" from the Late Imperial Period to the Present / Jing Fenghua -- 6 Between Informal Mediation and Formal Adjudication: The Third Realm of Qing Civil Justice / Philip C. C. Huang -- 7 "" "" ("Customary Law" as the "Source of Law" in Modern China) / Yu Shengfeng -- 8 : (Extralegal Origins of the Dangers of a Corpse: An Analysis of Case Examples of "Protesting with a Corpse" in Contemporary China) / You Chenjun -- 9 The System of "Turning Oneself In" in Qing and Contemporary China: |

Some Reflections on Legal Modernism / Jiang Zhengyang -- 10  
Centralized-Minimalist Government: The Lake Weishan Issue and the  
Chinese Mediator System of Government / Tian Lei -- 11 Sovereignty  
and "Civilization": International Law and East Asia in the Nineteenth  
Century / Lai Junnan -- 12 ———

(Using the "Logic of Practice" to Explicate "Symbolic Capital"— Based on  
the Multiple Faces and Uses of Symbolic Capital) / Wang Haixia -- 13  
Reconstructing Max Weber's "Sociology of Law": The Power of Idealism  
and the Limits of Objectivity / Lai Junnan.

---

Sommario/riassunto

The History and Theory of Legal Practice in China: Toward a Historical-Social Jurisprudence goes beyond the either/or dichotomy of Chinese vs. Western law, tradition vs. modernity, and the substantive-practical vs. the formal. It does so by proceeding not from abstract legal texts but from the realities of legal practice. Whatever the declared intent of a law, it must in actual application adapt to social realities. It is the two dimensions of representation and practice, and law and society, that together make up the entirety of a legal system. The assembled articles by the editors and a new generation of Chinese scholars illustrate a new "historical-social jurisprudence," and explore the possible conceptual underpinnings of a modern Chinese legal system that would both accommodate and integrate the unavoidable paradoxes of contemporary China.

---