

Review Article

GERMANS ON CHINESE LAW

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At one time, German writings on Chinese legal affairs enjoyed a wide readership, publications by, for example, Betz, Büniger, Franke, Herrfahrdt, Kohler, Kroker, Mohr, Ruete, and Vogel¹. However, the tide turned, Jerome Alan Cohen put it nicely when he wrote that "Karl Büniger's departure to diplomacy in the early 1950's deprived postwar Germany of its foremost specialist in Chinese law, although scattered works by others kept alive the flame"². The "flame-tenders" were and still are, among others, Corinth, Heuser, Mäding, Münzel, Tomson, and Weggel. If Austria is included we should add Kaminski. Be that as it may, apart from Japanese scholars and some Europeans, most work is now done in the United States. Jerome A. Cohen and his many associates rightly dominate the scene. Those who want to study Chinese law are well advised to consult the works by i. a. Bodde, Buxbaum, Hungdah Chiu, Cohen, Edwards, Ginsburg, Hsia Tao-tai, Hucker, Leng Shao-chuan, Victor Li, Lubman, and Stahnke. Nor should publications by British based scholars like Paul Ch'en be overlooked.

The striking comeback of China's legal system in the late 1970's provided a better ground for the "scattered works" by German-speaking scholars, and perhaps there is now a more receptive audience. Gerd Kaminski continuously reports on China's attitude towards international law, and Oskar Weggel keeps a close watch on judicial affairs and codification. So did and still do for example Robert Heuser³ and Frank Münzel⁴. However, in this review article I would like to confine myself to the short presentation of four recent publications.

In April 1978, Hao Guangde, a leading cadre, was exposed at a struggle-meeting in Hohhot's Inner Mongolia Stadium. He had stolen, concealed, and transferred top secrets and confidential documents; thus, "tremendous damage was done to the dictatorship of the proletariat and very great harm was done to the Party

and the State"⁵. At the close of the meeting it was announced that Hao had been expelled from the Party, dismissed from all posts and arrested to be punished in accordance with the law. Which law the report did not specify.

In July 1980 two Intermediate People's Courts in Heilongjiang Province tried spies in public. Nicolai Petrovich Zhang was sentenced to seven years' imprisonment under Article 3 and item three of Article 97 of the Criminal Law of the People's Republic of China⁶. Under item three of Article 97 and Article 103⁷ Wang Jiasheng was sentenced to death and deprived of political rights for life⁸.

Against these two the new Criminal Law was used. Spies have been tried before, but the Criminal Law was enforced as late as January 1980. It is therefore highly informative to read what kind of legal basis was previously applied to protect state secrets. Harro von Senger⁹ has written a book to furnish the relevant information. He translated and interpreted three regulations on the subject. The author describes the functions of these regulations for the protection of state secrets as an almost omnipresent force, and not only in the legal field. These regulations are seen as screens and filters that control and hinder the flow of information inside China, as well as the little evidence available to foreign observers.

Harro von Senger shows the genesis of these regulations and puts them into the framework of efforts undertaken by the new regime after 1949 to establish a new order after years of war and civil-war. He describes also the educational aspect. It would not do, the new leadership proclaimed, just to establish a new institutional framework. The whole nation had to be persuaded and convinced of the need to keep its state's secrets and to change its personal attitudes as well.

The detailed presentation of these regulations is accompanied by remarks on collective pledges to keep secrets and to render good service, e.g. within the transportation system, in department stores, etc. This is the more technical part of the book (apart from the translations of the documents). Besides a presentation of the contents of the regulations the author also writes about various forms of sanctions against those who did not keep secrets.

In another section the consequences are described, and here the author mentions what he calls departmentalism and hierarchical structures. However, Harro von Senger, does not concern himself with interpretation and explanation. He asks the question of why the population is not allowed to read the internal translation bulletins available to cadres and the answer is a quote from a Chinese official. No comment from von Senger himself. This happens in other parts of the book too. The author asks about openness of the society, and the two-page answer comes from one of his Chinese teachers. Again, no comment and no interpretation.

The book contains an interesting bibliography which will be well received by those interested in the subject. The main text is well furnished with footnotes which present Chinese words not only in the now official pinyin transcription but also show the Chinese characters. The whole volume is almost pedantically accurate and sober. The important and so far rather unknown subject has received painstaking treatment from a legal scholar and linguist aiming at precision; it is not the work of a social scientist. There is almost no analysis. We learn a lot about what happened, but not why it happened. The subject is somewhat isolated from the political environment. It appears to be in the best sense a "normative approach" which treats apolitically a sensitive and highly political segment of Chinese life. Those who want to understand socio-political consequences and to have an insight into daily life in China should read B. Michael Frolic's marvellous book on "Mao's People"¹⁰. The volume authored by Harro von Senger, nevertheless, will prove indispensable to those interested in China's legal system and will provide them with highly valuable material until now virtually unavailable.

For a long time scholars in the field hunted for tiny bits of information on China's judiciary. In the late 1970s this changed dramatically. Today it is difficult to keep abreast of the flood of relevant publications from the People's Republic. Therefore a helping and sorting hand is very welcome, such as the one extended by four specialists: Huang Jy, Wolfgang Kessler, Liu Jenkai and Frank Münzel¹¹. They selected and translated 27 articles covering the period from November 1978 to April 1979. The book reveals the variety and scope of the debate in China. The articles are arranged in four sections: general aspects, criminal law, economic law, and individual cases and special regulations, which together record the contents, atmosphere, and tone of discussions in China during 1978/79. In healthy contrast to the former boring dogmatic debates we now enjoy quite a lot of plain speaking by Chinese authors in national newspapers. The book has four pages of introduction and only a few footnotes by the translators. It is important raw material for those interested not only in China's legal system but in Chinese politics in general.

The debate in 1978/79 was one of the most fascinating aspects in the revival of China's judicial system in the late 1970s. Writers stressed that everybody is equal under the law. They demanded that corporal punishment should be abolished, that "revolutionary blood theory" be discarded, and that the political background of one's family should no longer be of prime importance¹². The role of lawyers was discussed and the fact that they should be given some legal guarantee when performing their duties¹³. Others demanded that the accused have the right to defend himself. "Dimitrov was asked to speak in his own defence even in the courts of fascist Germany" one author pointed out and asked "why shouldn't our people have the right to defend themselves,"¹⁴ Tian Cai eloquently discussed "a question worth studying"¹⁵ and concluded his

article: "Now our country is preparing new laws. In my opinion the principle of the "assumption of innocence" should be included in some form, so that this procedure may be applied to fighting crime and, at the same time, effectively protecting people's democratic rights".

Thanks to Huang Jy, Wolfgang Keßler, Liu Jenkai and Frank Münzel some of these important articles are now available in German translation. They not only reflect important aspects of political-legal debates in China but, equally important, make us familiar with the flavour of these discussions.

Jerome Cohen wrote that to work out a translation of Chinese legal materials that is accurate and yet not unduly clumsy is not a simple job¹⁶. The compilers and translators of this book have done a remarkable job. But one might ask why they had to write about "Selbstbehaltland" (keep-it-yourself-land)? It may be the correct translation, but what's the difference to the current term "private plot" ?!

In order to better meet the requirements of the study of Chinese law a division of labour on an interdisciplinary basis is helpful, if not necessary. At the university of Bochum sinologists and legal scholars got together and have done some impressive work. What first started as a collection of seminar papers is now a handy book that testifies to the diligence, knowledge, and dedication of a group of people studying China's legal affairs¹⁷. The volume combines documents, translations, and interpreted interviews with articles and other comments. The main focus is on criminal law, criminal procedure, execution of sentences, organization of legal institutions, and the question of legal terminology.

First we read two announcements from Southern China on law and order. (Urs Widmer, who translated them, could have added a third one from the same province about the execution of a "counter-revolutionary" teacher for political reasons in February 1978.¹⁸) The two documents are followed by revised and edited interviews with Chinese legal cadres. Urs Widmer then writes about trends of development in China's judicial affairs and comments on an interview on legal matters that took place in Peking during summer 1975. Next are two reports from Japan. First comes a symposium of Japanese legal professionals on China's criminal and civil law, which is a bit outdated. This is followed by a lively account of a criminal trial witnessed by a Japanese lawyer¹⁹. The second part of the book contains a work-report of a public security bureau of a county in Guangdong province, an article from a Chinese scholarly journal (*Political and Legal Studies*, 1/1962) which is a lengthy refutation of the principle "nullum crimen (et nulla poena) sine lege", and the translation of an article discussing the question of the social damage and the social danger of crime. This translation is accompanied by two interpretations in which legal scholars point out differences and similarities to other concepts in the West, the Soviet Union, etc.

The book concludes with an annotated index of 67 Chinese legal terms by Harro von Senger who used a Chinese encyclopaedia and references to translations of the same terms in other works. The whole publication edited by Schwind, Wegmann, and Legarth has the rather assuming title "Studies on Chinese Law, Volume I: Material and Commentary". The book is well annotated and has a good bibliography. Chinese names and terms are not only transcribed (mostly in pinyin, some in Wade-Giles) but appear also in their original writing.

The bulk of the material dates from the time prior to Mao's death and the disgrace of the four leading politicians now called the "Gang of Four". Urs Widmer shows trends that lead to the astonishing revival of the judicial system, thus enabling the reader to see the historical context as well as different attitudes of the Chinese leadership towards a more solid legal system. He presents important stages of the development and describes how the discussions were formed and directed. In fairness he also points out that retouching of documents was practiced, as in the differences between a reprinted and the original version of a speech by Dong Biwu²⁰.

In China Mao is still invoked to support new policies. He is said to have been a strong advocate of legal codes. Urs Widmer seems to subscribe to this assertion. He does so because in some articles of "People's Daily" words by the late chairman were printed to that effect²¹. This is not necessarily convincing. Professor Han Youtong made an early statement supporting the codification after the new chairman, Hua Guofeng had endorsed such a view at the first session of the Fifth National People's Congress in February 1978. She quoted Mao, and others followed in the same way. The repetition of words allegedly said by Mao is not evidence enough for their accuracy and authenticity. It may indicate well orchestrated journalistic support for a new political line for which the initiators believe it necessary to have a quotation from Mao (authentic or forged) as legitimizing force. There are serious scholars in the field who doubt that Mao really was in favour of a comprehensive professional legal code²².

Throughout the book one gets the impression that its authors tried to emphasize what Chinese legal cadres mean and say. Great care is given to efforts to shed light on linguistic and terminological differences, e.g. between "social damage" and "social danger". Is this a question of utmost importance to the Chinese legal system today? Should one not write more about what is done (or not done) and compare this with what is said? A problem seems to be how to combine linguistic and jurisprudential precision with the methods and analysis used in social science. The judicial system in China has a totally political character, is a supporting agency of the Party. To the interested general reader as well as to the specialist the political framework, described and analysed in an adequate way, is equally important to the presentation of details of Chinese legal documents and their correct translation into German legal terminology.

However, Schwind, Wegmann and Legarth's book is an important contribution to the study of Chinese law in Germany as it combines documents, interviews, explanations of legal terms, and interpreted Chinese articles with well annotated articles. It is hoped that Volume Two will appear soon.

And indeed, when this article was written, printing was about to begin. I was privileged to browse through the manuscript. The book will be structured in the same way as its predecessor. Analytical articles are followed by the translations of relevant Chinese publications. There are three parts: - the State and law in Marxis-Leninist theory and the Chinese blend of socialism, - Criminal procedure in the People's Republic, - Criminology in China.

One of the three translations dates from the mid-sixties (from "Political-Legal Research") and two from 1980 ("Legal Studies" and "Guangming Daily").

All in all, it is an interesting substantial work. Sometimes the wording chosen by the authors could have been plainer, which would have made the whole oeuvre more readable.

The two articles on Marxist-Leninist-Stalinist theory and Mao's contributions dwell upon theoretical aspects. There is much reference to "classical" writings. Abstract condensations are presented to the reader with interesting and often thought - provoking notions. But there is little effort to contrast all this with political-legal practice. Theoretical outlines and claims dominate the work. However, the rather comparative approach might help readers assess the Chinese claim of being closer to practice, or as present terminology puts it, of seeking truth from facts, with practice as the sole criterion for truth. This identification of theory with political life in China might have lead one to expect more comprehensive comment on the three translations. But how much can one put into a single book?

The literature used to write the articles merits a few remarks. There is much more written on discussions in the Soviet Union, and it is available in German translation. The debate on the originality (legend of Maoism) could at least have been mentioned if not considered. In the part on Mao Zedong's political theory the author could have profited from Leng Shao-chuan's "The role of law in the People's Republic of China as reflecting Mao Tse-tung's influence".

Often publications recommended for further study are not that pertinent (e.g. on Sun Yat-sen), and more profound ones overlooked. However, reference is also made to works in German which should be easily available to the keen reader, a service which should and surely will be appreciated.

The general impression after a hasty perusal is of another fine product from the Bochum based team, providing us with interesting information but also raising questions and leaving room for further thought on the subject. Highly specialized people of international calibre may occasionally raise a professional

eyebrow; however, this is fine and handy reading material for the interested individual as well as for class-room instruction. Volume two, when published, will surely deserve thorough and careful reading.

Klaus Mäding, who feels at home in more than one academic discipline, once thought it necessary to state that Jerome Cohen in his "The Criminal Process" "shunned systematically analysing the material as a function of the encompassing political process, a task yet to be tackled and one which I regard as pressing"²³. Klaus Mäding should know better. This book was intended to furnish students with basic material. It is a typical textbook for American law schools; i. e., material to be used for instruction and discussion in class room. Besides, "Jerome A. Cohen puts a lawyer's finger to the pulse of China after thirty years of Marxist rule. Believing passionately in the importance of law to human welfare, he inquires into the relationship of the individual to the state in China"²⁴.

Did Klaus Mäding solve the pressing task? Yes, to a remarkable degree! His book on criminal law and education/transformation of the masses in the People's Republic of China concentrates on crucial aspects of political life²⁵. Legal developments are shown in their political, historical, and socio-economical context, accompanied often by statistics and other data (p.142). It is a differentiated presentation. The author describes, evaluates, analyses, and draws historical parallels. The volume is a healthy, critical, and at the same time a very balanced account. Both positive and negative aspects are dealt with. Mäding does not follow fashionable trends. He calls Wang Hongwen, Zhang Chunqiao, Jiang Qing and Yao Wenyuan the "Four" and not the "Gang of Four". The Chinese term of "si-ren-bang" does not really justify the word "gang" as it is used in official and semi-official translations made in China and elsewhere.

This is a timely book. After some introductory remarks on material and methods the author assesses a major re-writing of China's recent history: the two completely different views on the Tiennanmen incident of April 5, 1976. This leads on to a discussion on how much the population really participates in China. With a set of questions and assumptions Mäding then covers the whole period from 1949 to 1979. He includes a lengthy and informative chapter on criminal law under the Chinese Empire.

For the most part it is a very readable book with short sentences and well selected, well placed illustrative quotations. Reference is made to most recent documents, e.g. the new criminal law and law of criminal procedure. Because of its inclusion of relevant developments in imperial China and comparisons to other political systems the book should have an index. There is no bibliography. This is regrettable but perhaps dispensable, for the interested reader is provided with enough footnotes for further consultation.

The author has executed his work in a pithy style. However, the compactness, coming to the point, without much ado, might cause some frowns. Some ex-

amples. During the Taiping Rebellion the "Gentry" caused a breakdown of the state apparatus, and in 1911 the state apparatus was swept away by the "Gentry" (p. 145). Doesn't this need elaboration? In 1928 the Guomindang secured its rule over China (p. 155). Really? The law codes of Republican China did not have the general consent of the population (p. 155). Is this the case in other countries? Who knows the text of law codes, one might ask? However, it should be noted that in China the new laws of 1979/80 were all published in the "People's Daily" and an impressive campaign was launched to publicize them: lectures were broadcasted, pamphlets produced, and lots of explanations and commentaries were made available. Back to frowning, just one more point. Throughout his book Mäding gives Mao a prominent place. The late chairman is quoted very often, provides guidelines and legitimization. How effective was he really as a moving force in legal and educational practice?

The book gives vivid accounts on the atmosphere at struggle meetings. The role of confessions is discussed and of procedures that come close to plea bargaining. While confronting written documents (laws, regulations, constitutions) with political reality, Mäding mentions encroachments and arbitrary action. Principles and guidelines are brought to the attention of the reader and the author shows that in periods of intense struggles against either assumed or real internal and foreign enemies such principles go by the board. But should not a principle be followed under precisely such circumstances? If principle stands for fundamental law, doctrine, motivating force, and rule of conduct, and is regarded as an essential element in the pursuit of politics, then it should be obeyed especially under conditions of strain. Otherwise, if applied in a selective way it loses its universality and its meaning, and will be easily downgraded to a tactical instrument.

Mäding states that the death penalty is not in accord with a real socialist judicial system (p. 131). He takes note that China is the only permanent member of the UNO Security Council that has not yet signed the document on civil and political rights. Others have, but what is the difference? One difference perhaps is that China has claimed to be a model, therefore provoking careful and critical observation of her political performance. Klaus Mäding talks about socialist China, about socialist legal systems, about socialist attitudes. He calls the combination of administration/maintenance of justice (Rechtspflege) with education/transformation a great contribution of the Chinese Communists (p. 229). This is followed by the statement that fundamental and rightful desires of the Chinese people have not yet been met, and Mäding spells them out. He concludes his book with the sentence that socialism should no longer hide its human face.

Which socialism? The general idea or the one practised in China? Here, should one not pause and ponder the question of whether encroachments in China were products of the Chinese brand of socialism?

The rule of the "Four" was no accident. It almost had to happen as a culmination of the political system and its political culture exercised since 1949. Rules and principles were propagated but not obeyed. Democratic centralism was not really practiced, party and state constitution were not binding on the leadership. The Party for all practical purposes is above the law. The idea of an institutionalized opposition is alien to the doctrine and political thinking of the leadership, although there always has been and still is opposition (or called "struggle between two lines"). Since an established and tested interplay between opposing factions is not tolerated it is necessary to discredit opposition totally, call it anti-party and counterrevolutionary. The adversary is denounced completely. Attempts are made to broaden the accusation, to attack his whole life and family background, in order to make him a non-person and to show that the Party (or at least its mainstream) has always been right. Defence of the accused is often regarded as proof of his counter-revolutionary stand. This pattern is in ironic contrast to the fact that important people (meaning those who had a prominent place in political life) are personally attacked and stripped of all their positions, but sooner or later parts of their political concepts are adopted and implemented.

In political struggle and legal documents vague terms like "counterrevolutionary" and "other bad elements" are used which makes it easy to accuse and difficult to defend. The established regime seems to need to continue a policy of self-fulfilling prophecy: dictatorship of the proletariat and suppression of enemies is necessary because there are counterrevolutionaries. And even after years of "socialist transformation" there still has to be suppression because of the emergence of new-born bourgeois elements.

Strangely enough, movements that came to power with popular support later extended the period of tutelage and control because they did not want to give full play to the people's desires. But their regime is legitimized by the desires of the population.

Is there, or will there be a new situation in China? Developments described in the books under review here give grounds for cautious optimism.

As far as the future of the judicial system is concerned, we may observe a widening gap between domestic and foreign fields. At home the legal system will continue to be "a sharp weapon of the dictatorship of the proletariat". This will apply to the sector the books reviewed here deal with: criminal law. Chinese judges will not decide alone in political cases. But they might extend their range of action within the given framework layed down in the constitution and the codes. Such a performance over years will give stability and self-consciousness to legal institutions. This may change political procedures, but not necessarily their outcome. Grass-root participation is likely to increase in the future. In Harbin workers of a furniture factory were invited to buy

shares to help their enterprise to overcome liquidity problems. The company went ahead with this plan after it had been assured by higher authorities that such action would not be denounced as a capitalist tendency²⁶. Elections are being held now in China which are more than the former acclamations²⁷. Since summer 1979 there has been discussion that class struggle in China has reached a new stage with a general trend of gradual relaxation²⁸. All this is promising; however, a dogmatic backlash is also conceivable.

Especially in the field of foreign trade and joint ventures the judicial institutions will have greater scope to apply specialist knowledge. Here legal work can be expected to be to the advantage of the Party's program of modernization. The work is technical, requires experts, and does not really interfere with the Party's position.

The maturation of the judicial system will eventually make the political system as a whole more organized. The development so far has shown that the leadership needs time to get used to their own ideas. All this is a process of compromise, is a slow process, and judicial institutions first have to stress expertise and efficiency - independence comes later.

The main goal in the People's Republic of China is now vaguely described as the "Four Modernizations". Modernization is also politicization. Freedom is a condition for the production and acquisition of knowledge, which is urgently needed for modernization. If the present course in China continues, this will produce wants which in the long run may very well develop into demands. Some indicators are visible already. The leadership and the whole political system will be confronted with these demands, and at the same time they must try to increase the system's learning capacity while preserving its identity.

Developments in the legal system are of great importance to the direction the whole political system takes. Robert Heuser's cautious guess will perhaps prove to be right, viz. that the acceptance "of the 'rôle of law' might, however, also lead in the long term to the incorporation of elements of the 'rule of law'"²⁹. Whatever happens, all five books reviewed here will help us - each in a different way - to understand the function and performance of China's judicial system.

Notes:

- 1) See the compilation by Frank L. Gniffke, *German Writings on Chinese Law, Osteuropa Recht*, 3/1969, pp. 191-233
- 2) Jerome A. Cohen (ed.), *Contemporary Chinese Law: Research Problems*

- and Perspectives, Cambridge, MA: Harvard University Press, 1970, p. 3 f.
- 3) Robert Heuser, Die chinesische Verfassungsrevision vom 5. März 1978 als Hinwendung zu einem sozialistischen Rechtssystem in China, Zeitschrift für Ausländisches Öffentliches Recht und Völkerrecht, Band 39, 2/1979, pp. 301-340
 - 4) Frank Münzel, Das neue chinesische Wahlgesetz, Monatshefte für ost-europäisches Recht, 1-2/1979, pp. 41-60. See also by the same author, Landwirtschaftliche Genossenschaften in China, Rechtsprobleme und Reformen, Rabels Zeitschrift für ausländisches und internationales Privatrecht, 44. Jg., 1/1980, pp. 41-65
 - 5) Inner Mongolia Regional Service, 4 April 1978, as translated in Summary of World Broadcasts, Part 3, The Far East, 10 April 1978, p. BII/2
 - 6) The Articles can be found in Renmin Ribao ("People's Daily"), 7 July 1969, p. 1, 3. Chinese text and German transl. of this law in China aktuell, July 1979, pp. 799-829. Engl. transl., Summary of World Broadcasts, 20 July 1979.
 - 7) Renmin Ribao, 7 July 1979, pp. 3, 4.
 - 8) Report on the two cases in Xinhua News Agency, 21 July 1980, p. 3
 - 9) Harro von Senger, Der Staatsgeheimnisschutz in der Volksrepublik China (Schweizer Asiatische Studien, Vol. 3), Bern, Frankfurt am Main, Las Vegas: Peter Lang, 1979, 92 pages
 - 10) B. Michael Frolic, Mao's People. Sixteen Portraits of Life in Revolutionary China, Cambridge, MA: Harvard University Press, 1980
 - 11) Huang Jy, Wolfgang Keßler, Liu Jenkai, Frank Münzel, Recht in China, Aufsätze aus der Volksrepublik China zu Grundsatzfragen des Rechts (Mitteilungen des Instituts für Asienkunde, No. 104), Hamburg: Institut für Asienkunde, 1979, 162 pages
 - 12) Commentator, Political Screening of College Entrance Examination Applicants must be carried out strictly in Accordance with the Party's Policy, People's Daily, 26 April 1978 (English translation in Foreign Broadcast Information Service, 27 April 1978, p. E 13). Commentator, An Important Question in Implementing Cadre Policy, People's Daily, 18 February 1978 (English translation in Foreign Broadcast Information Service, 21 February 1978, pp. E 15-20). See also document no. 13 in Huang Jy et al., op. cit.
 - 13) Jin Mosheng, Several Proposals for Strengthening the Legal System, People's Daily 6 December 1978, p. 3. (English translation in Foreign Broadcast Information Service, 14 December 1978, p. E 23 f.)
 - 14) Xinhua News Agency, 5 January 1979. See also Wu Lei, The Accused has

- the Right to Defense, Guangming Ribao, 4 August 1979 (English translation in Summary of World Broadcasts, 31 August 1979, p. BII/13). Also document no. 15 in Huang Jy et al., op. cit.
- 15) This is the title of Tian Cai's article in People's Daily, 17 February 1979, p. 3, translated in Huang Jy et al. op. cit. pp. 92-91.
 - 16) Jerome A. Cohen, *The Criminal Process in the People's Republic of China, 1949-1963: An Introduction*. Cambridge, MA: Harvard University Press, 1968, p. viii
 - 17) Hans-Dieter Schwind, Konrad Wegmann, Helmut Legarth (eds.), *Studien zum Chinesischen Recht, Band I: Materialien und Kommentare*. Bochum: Studienverlag Dr. N. Brockmeyer, 1979, 293 pages.
 - 18) The case of He Chunshu is quite well documented. Bibliothèque Asiatique in Hong Kong published and translated the text of the announcement by Guangdong's Provincial People's Court. Information can also be found in China aktuell, May 1978, p. 240.
 - 19) The translation and interpretation here is done by Wolfram Müller-Yokota. There is an earlier translation by Frank Münzel in *Verfassung und Recht in Übersee*, 9/1976, pp. 357-371
 - 20) Urs Widmer, *Entwicklungstendenzen in der chinesischen Justiz*, in Schwind/Wegmann/Legarth, op. cit., p. 68 f., note 54
 - 21) *ibid.* p. 69, note 56
 - 22) See Hsia Tao-tai, *Legal Developments Since the Purge of the Gang of Four*, *Issues and Studies*, November 1978, pp. 1-26. Here especially p. 6 ff. Of interest is also Leng Shao-chuan, *The Role of Law in the People's Republic of China as Reflecting Mao Tse-tung's Influence*, *Journal of Criminal Law and Criminology*, November 1977, pp. 356-373
 - 23) Klaus Mäding, *Die Umformung des Menschen und ihre Grenzen. Strafrecht und Erziehung in der Volksrepublik China*, *Sozialwissenschaftliche Informationen für Unterricht und Studium*, July 1978, p. 117
 - 24) Ross Terrill introducing Cohen's contribution "Due Process" (pp. 239-259) in the book he edited, *The China Difference*. New York: Harper and Row, 1979, p. 238
 - 25) Klaus Mäding, *Strafrecht und Massenerziehung in der Volksrepublik China*. Frankfurt am Main: edition suhrkamp, 1979, 245 pages. A recent valuable article on criminal law in China is by Helmut Legarth, *Einführende Bemerkungen zum Strafrecht der Volksrepublik China*. *Bochumer Jahrbuch zur Ostasienforschung*, Bochum: Studienverlag Brockmeyer, 1979, pp. 229-259

- 26) Financial Times, 14 July 1980, p. 1
- 27) There is a strong encouragement to participate in voting and decision making, and that individuals should not think their single vote has no impact. Shen Baoxiang, As far as elections are concerned, everybody should cherish his own vote, "People's Daily", 13. June 1980, p. 5. (I am indebted to Frank Münzel for bringing this article to my attention.)
- 28) Wei Zhongduan and Cui Zhenqqi, Why do we say that class struggle at the present stage in our country is a special form of class struggle? Wenhui Bao, 17 July 1979. (English translation in Summary of World Broadcasts, 3 August 1979, p. BII/10 f.). Ji Xueshi, The characteristics of class struggle in present-day China, Hong qi (Red Flag), No. 9, 2 September 1979, pp. 11-15. (English translation in Joint Publications Research Service, No. 74503, 1 November 1979, pp. 16-24).
- 29) Robert Heuser, op. cit. , p. 340