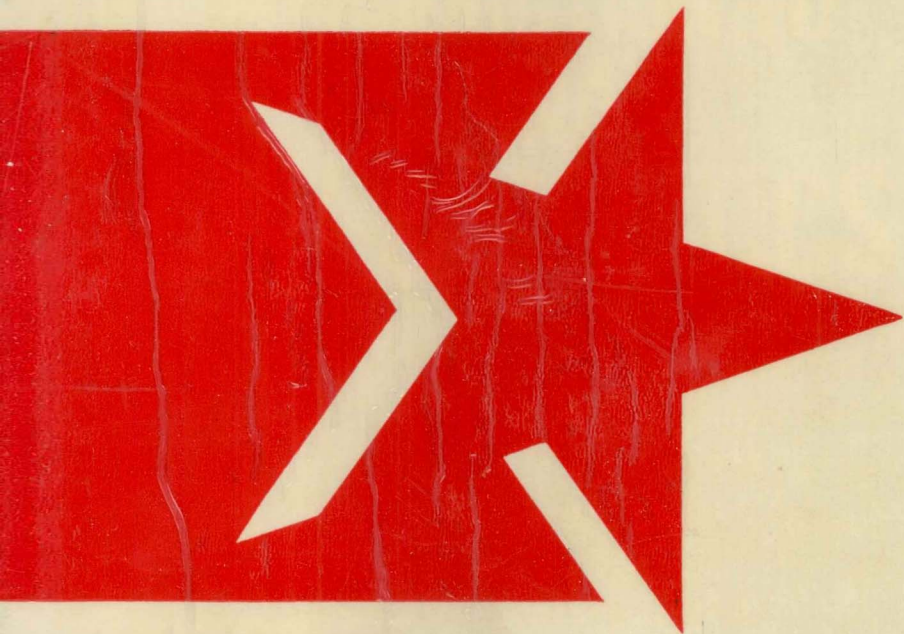


HUANG HUIKANG

INTRODUCTION TO



CHINA'S LAW & POLITICS

WUHAN UNIVERSITY PRESS

**INTRODUCTION TO
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HUANG HUIKANG

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This book is dedicated to

The hundredth anniversary of the University of New Mexico in where the manuscript of this book was first developed and used.

The honorable Brown & Bain, a great law firm located in Phoenix, Arizona, which provided me with various help.

My teachers in the Wuhan University and Heilungkiang University from whom I have learned more than they have ever realized.

PRAFACE

The great expansion of relations between China and the other countries as well as the large-scale and quite frequent contacts of these countries' people have objectively brought about a requirement to understand each other's political, economic and legal systems. It seems to me, only when countries with different social systems and cultural traditions seek to understand rather than to attack or criticize each other, can they promote and develop friendly relationship.

For China, when she has begun to carry out the policy of opening to the outside world and entered the international community after closing herself almost 30 years, it is necessary and urgent for China to study and comprehend the outside world, to learn good experiences from other countries. On the other hand, the other countries should understand the present China well.

It is on the above-mentioned basis and with an interest of encouraging the relationship developing between China and the United States that Wuhan University Law School in China, the University of New Mexico School of Law and Political Science Department, and Brown & Bain, P. A., initiated by Dolph Barnhouse, have entered into an arrangement whereby individuals from the United States who either work at the University of New Mexico or Brown & Bain may instruct and study law at Wuhan University, and faculty members of Wuhan University Law School may teach and study law at the University of New Mexico and work as visiting scholars at Brown & Bain.

According to such a program, from January 1988 to January 1989, I got an opportunity to teach Chinese law and politics at the University of New Mexico and work with Brown & Bain while Mr. Barnhouse taught American law at Wuhan University Law School.

In my visiting and instructing, I was really aware that the American people have very friendly feeling towards the Chinese people and have a strong interest in the present China which induced my enthusiasm to provide them with some up-date and useful information on China's law and politics.

It is expected that the following introduction, which was on the basis of my teaching materials at the University and finally completed at Brown & Bain, may promote understanding of China's basic social, political, economic and legal systems as well as the policies and principles concerning certain major current issues such as the population, nationalities, reforms, opening to the outside world, and "one country, two systems".

I wish to express my gratitude to Wuhan University, the University of New Mexico School of Law and Political Science Department, and Brown & Bain, P. A. for their support. Thanks are also due to Mr. Dolph Barnhouse for his great initiation and further work, to Professor Han Depei, Professor MaKechang, Professor Liang Xi, Professor Li Shuangyun, Mr. Chen Mingyi and Mr. Lu Zhongyuan in China, to Dean Theodore Parnall, Mrs. Terry Yu and her husband, Dr. Jiyun Shang Yu, Mr. Samuel X. Zhang, Professor Albert E. Utton, Professor Mario E. Occhialino, Professor William T. Macpherson, Professor Frederick M. Hart, Professor Richard A. Gonzales, Professor Christian G. Fritz, and Salvador, Peggy, Susan, Barbara, Amy and all other professors and staff at the University of New Mexico School of Law, and to Mr. Brent M. Gunderson, Mr. George C. Wallach, Mr. Charles C. Van Cott, Mr. C. Timothy Delaney, Mr. Daniel

James Quigley, Ms. Carol A. Colombo, Ms. Nancy Tarro and other members of Brown & Bain, for their various help. A heavy burden of secretary work was borne and excellently fulfilled by Ms. Katharine Fuqua. Ms. Nancy Suhey did her best job in printing a very nice text. Improvements both on content and English language have partially resulted from the advice of Mr. Ron Ellett, Mr. Charles Sendell, Ms. Stephanie Aduaktas, Ms. Jeanne Kirk, Ms. Mimi Levy, Ms. Mary Cabanski and some other summer associates of Brown & Bain. At the same time, of course, the author alone is responsible for this book.

My thanks must go especially to Mrs. Patricia D. Barnhouse and my wife, Shumei. They valiantly born the separation from their husbands and gave wholehearted support for Dolph's and my missions respectively in China and in the United States.

Huang Huikang
March 1990

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Chapter One

A GENERAL SURVEY OF CHINA

I. A BRIEF ACCOUNT OF CHINA'S HISTORY

The Chinese civilization is one of the world's earliest. The country has found valuable remains of ancient cultures and has almost 4,000 years of written history. ①

TABLE I
Chronological Table of Chinese History

Xia	Around 21th-16th century B. C.
Shang	Around 16th-11th century B. C.
Western Zhou	Around 11th century-770 B. C.
Spring & Autumn Period	770-476 B. C.
Warring States Period	475-221 B. C.
Qin	221-207 B. C.
Western Han	206 B. C. -A. D. 24
Eastern Han	25-220
Three Kingdoms	220-280
Western Jin	265-316
Eastern Jin	317-420
Southern & Northern Dynasties	420-589

① For details, read the China Handbook Editorial Committee, *China Handbook Series: History*, the Foreign Languages Press, Beijing, China, 1985.

Sui	581-618
Tang	618-907
Five Dynasties	907-960
Song	960-1279
Liao	916-1125
Western Xia	1038-1227
Kin	1115-1234
Yuan	1271-1368
Ming	1368-1644
Qing	1644-1911
The Republic of China	1911-1949
The People's Republic of China	1949-

Generally speaking, China has successively passed through four historical stages in its developing process: the primitive society, the slave society, the feudal society, and the semi-feudal and semi-colonial society. In 1949, when the People's Republic of China was founded, China entered a new period.

According to the existing data, primitive men lived on the land now called China about 1.7 million years ago. Fossils of the ape-man were discovered in Yuanmon, Yunnan Province. About 400,000 to 500,000 years ago, Peking men already possessed the basic features of man. They could walk erect, make and use simple tools and use fire.

The slave society in China began with the Xia Dynasty, which developed and persisted during two slave dynasties, Shang and Western Zhou. It slowly declined and then collapsed during the Spring and Autumn Period. It lasted about 1,600 years.

The Spring and Autumn Period and the Warring States Period was a transitional phase from the slave to the feudal society. The rising landlord class gradually replaced the slave-owning class in this phase.

There were radical social changes during this period. His-

torical records show that there were over 140 princely states during the Spring and Autumn Period, but by the time of the Warring States only Qi, Chu, Yan, Zhao, Han, Wei and Qin, seven major states, survived, and among them there were intense struggles.

The feudal society of China began during the Warring States Period. It ended in the middle decades of the 19th century when the British launched an aggression against China. It had a history of more than 2,000 years, and may be divided into various stages of development, beginning with establishment, consolidation, further development and, then, slow decline.

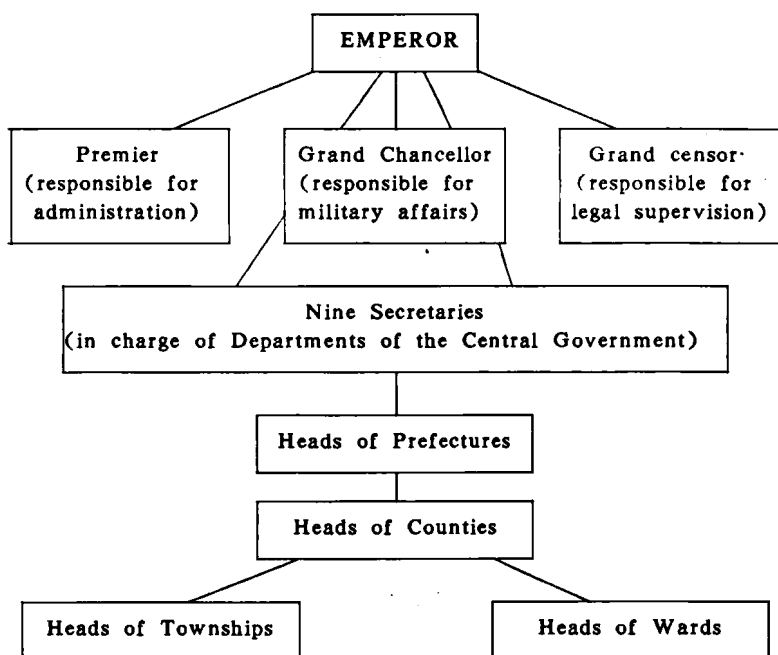
With regard to the history of China, Qin Dynasty, as the first feudal dynasty, was of great significant influence. Thus, a brief account is needed.

In 221 B. C. , Qin Shi Huang (the First Emperor of the Qin Dynasty) ended the separation of the Warring States Period and established the first centralized, unified multi-national feudal state in Chinese history —the Qin Dynasty. He promoted the feudal land ownership, developed communications and unified the written language, currency, weights and measures.

In the political field, in order to maintain his control over the people of various nationalities, he concentrated all power in his own hands, and proceeded with the establishment of a huge bureaucracy headed by himself. Under him were two premiers (left and right) responsible for administration, one grand chancellor responsible for military affairs, and one grand censor responsible for supervision of court officials as well as the management of the Dynasty records. These three highest officials were jointly referred to as "Three Dukes". Under "Three Dukes", there were "Nine Secretaries" in charge of the various departments of the central government. All major officials in the central government were appointed

and dismissed by the emperor and they were responsible to the emperor. In the local levels, the country was divided into prefectures first, then into counties. The heads of prefectures and counties were also appointed by the emperor and were responsible to the emperor. Consequently, a centralized system representing the emperor's paramount power was formed.

TABLE II
Illustration on the Centralized Feudal State
Established by the Qin Dynasty



The system had the greatest impact on the feudal society of China for more than 2,000 years. The various feudal dynasties after Qin generally followed the Qin's model. Even until now it is still easy to find its remains. ①This centralized system maintained the feudal society of China for a very long period that was extremely stable; on the other hand, in its latter period, the system increasingly proved to be a restraint on new productive forces.

There are some other important historical facts which should be kept in mind. One of them is that the Chinese people created great ancient technological feats such as colored pottery 6,000 years ago; the technology of bronze in the Shang Dynasty; the huge vault containing life-size terra cotta figurines and horses buried in the tomb of the First Emperor; the Great Wall, one of the architectural wonders in the world; the technology of silk since Han Dynasty, as well as the great four inventions, namely, the compass, gun-powder, paper-making and printing techniques.

It should be noted that the following facts are also important in understanding China's history. Friendly intercourse between the Chinese people and the people of other countries began as early as 2,000 years ago when the Han court sent Zhang Qian to the Western Regions, thus opening a road to Central Asia and Persia. This route over which Han silk fabrics and other products were transported to Southwest Asia and Europe became known in history as the "Silk Road". It promoted economic and cultural exchanges between the East and West. During the Tang Dynasty, with the development of

① The Communist Party of China has pointed out that one of major defects in China's political system is a serious degree of bureaucratism and feudal influences that are far from being eliminated. See *the Political Report of the 13th National Congress of the Communist Party of China*, V, Reforming the Political Structure, *Beijing Review*, Vol. 30, No. 45, pp. 37-43.