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A Reader's Guide to Legal Orientalism

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In 2016, Teemu Ruskola's book *Legal Orientalism: China, the United States, and Modern Law* was published in translation in China. This essay analyzes the Chinese reception of this book. Originally addressed to a North Atlantic readership, *Legal Orientalism* examines critically the asymmetric relationship in which Euro-American law and Chinese law stand to one another, the former regarding itself as an embodiment of universal values while viewing the latter's as culturally particular ones. The essay explores what happens when a "Western" work of self-criticism is transmitted to an "Eastern" audience. In this context, it analyzes the politics of self-Orientalism, Oriental legalism, and the comparative method.

I. LAW, THE POSTCOLONIAL, AND CHINA

It is one of the key tenets of postcolonial theory that modernity is built on a paradox. On the one hand, it is premised a claim to universality. With modernity, humans broke free from the shackles of medieval superstition. In the place of a blind obeisance to authority and tradition, we have come to believe that every person and every political community has the right to be in charge of their own destiny (which in turn gives rise to a contradiction between individual and collective rights). While these rights are indeed viewed as universal – epitomized today by the discourse of human rights – it is also the case that their historical origins are highly particular, emerging from a specifically European, or North Atlantic, tradition. They have become globalized, largely through processes of European colonialism. It is because of this imperial history that modern institutions are both particular and universal. That is also why they put the so-called non-Western world (for lack of a better word) in an impossible bind: either they can choose to adopt North Atlantic institutions, or else they will be left outside of modernity – and indeed history itself, in the most extreme Hegelian narrative.

Law is evidently one of the most central institutions of the modern world. To be modern is to be born to be free and equal – American revolutionaries thought these notions "self-evident" – and for moderns, both freedom and equality are essentially *legal* attributes to be guaranteed by the state. Law is thus an exceptionally fruitful field for analyzing the postcolonial condition. Until recently, however, postcolonial analyses of non-Western law tended focus on legal systems that had been colonized outright by Western imperial powers. This focus left Chinese law, perhaps most notably, outside the field of postcolonial theory. Historically, China retained

its nominal independence, despite its having been subjected to numerous forms of legal, economic, and political intervention after the end of the First Opium War in 1842.

With China's economic and political rise in the twenty-first century, it is increasingly important for us to consider Chinese law in an expressly comparative postcolonial frame. I wrote a monograph entitled *Legal Orientalism: China, the United States, and Modern Law* (Harvard University Press, 2013) in order to understand the role China has played in Western legal and political thinking and the effect these discourses have in turn had on both Chinese and Western law. The book was addressed to a specifically Euro-American academic audience. I am heartened that it continues to generate debate among that readership, as evidenced by two articles tackling my analysis in back-to-back issues of the *American Journal of Comparative Law* just last year.¹ However, I will not elaborate here on my views on these recent articles. Rather, I will examine at some length responses to the book's Chinese translation by Professor Wei Leijie, published in 2016 by the China University of Political Science and Law Press. While many readers in China took note of the original English version of *Legal Orientalism*, the Chinese translation has – understandably – received much greater attention, with Thomas Coendet characterizing the notice it has attracted as "a second wave" of the book's reception in the PRC.²

Before turning to *Legal Orientalism's* reception in China, I preface my analysis with the poststructuralist axiom that the author, like God, is dead and that once a piece of writing enters the world it takes on a life of its own and readers are free to interpret it as they wish. Hence, my focus below isn't so much whether any particular Chinese reviewer has gotten my argument "right" or "wrong" (although I have some concerns about that too). Instead, I am more interested in considering how the reception of *Legal Orientalism* in China illuminates, or challenges, the very claims I make in the book. Originally directed to a North Atlantic readership, *Legal Orientalism* examines critically the asymmetric relationship in which American law and Chinese law stand to one another, the former regarding itself as an embodiment of universal values while viewing the latter as an expression of culturally particular ones. What happens, then, when a "Western" work of self-critique such as mine is transmitted to an "Eastern" audience?

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 1 Thomas Coendet, Critical Legal Orientalism: Rethinking the Comparative Discourse on Chinese Law, *American Journal of Comparative Law* 67:4 (2019), 775–824; Donald Clarke, Anti Anti-Orientalism, or Is Chinese Law Different?, *American Journal of Comparative Law* 68:1 (2020), 55–94.
 2 Coendet (fn. 1), 778.

II.
READING *LEGAL ORIENTALISM*
IN CHINA

In order to appreciate how *Legal Orientalism* has been read in China, in this essay I seek to treat the book as an ethnographic object, as it were – not as a creation of mine but as a thing to be observed in a new environment, with a focus on Chinese reviewers' and scholars' reactions to it. My hope is that observing the book's reception in a "foreign" setting may help illuminate further the ways in which East and West are as much cultural as geographic coordinates – even as those coordinates have shifted even since the book was first published, let alone since I first began thinking about the concept of legal Orientalism at the dawn of the millennium. The book opens by asking why it is that, after the fall of the Soviet Union, China has to come to be seen as the world's leading human rights violator with the United States occupying the position of the world's chief law-enforcer. There is no question that China's human rights record continues to blight its global reputation – and seems to be getting only worse by the day – yet there is also no question that today China is defined at least as much by its enormous economic clout as by its political shortcomings. Investigating *Legal Orientalism's* reception in China at this specific juncture may help illuminate changes in the continually evolving East-West relationship.

When Professor Wei asked for permission to translate *Legal Orientalism* – and I would be remiss not to note here that the quality of the translation he produced has garnered much praise – I was of course pleased at the prospect of a wider Chinese readership. At the same time, I was apprehensive about how my argument would translate, politically, into the context of a "rising China." My chief concern was that my critique of Euro-American legal and judicial adventures in China would be transformed into an alibi for an increasingly muscular Chinese nationalism. At the same time, I hoped that my critique of legal Orientalism might contribute to the re-evaluation of the Chinese legal tradition, given that the official socialist position has regarded it historically as a feudal relic. Finally, I also hoped to contribute to a greater understanding of the limits of rights discourse in China's development, especially the ways in which the elaboration of rights can serve to depoliticize significant, even revolutionary reforms, including the redistribution of massive social and economic resources.

To some extent, my fears and hopes were not unfounded, but ultimately *Legal Orientalism's* life in China has been far richer than I anticipated. For

one thing, I should acknowledge that many Chinese readers themselves are highly sensitive to the fact that the arguments of *Legal Orientalism* take on different valences in different geopolitical settings. Both Ma Jianyin and Lu Nan, for example, applaud the book's critique of Orientalism as a welcome intervention for a Euro-American audience, but they find its critiques misplaced in China.³ Indeed, Ma is concerned about how they might be abused politically in the name of nationalism, while Lu worries about the dangers of criticizing rights discourse at this stage in China's "legal construction." In Lu's view, for a Westerner enjoying the protection of rights to caution Chinese citizens about their limits is like "an overweight person asking a thin person to lose weight."⁴ I am not unsympathetic to Lu's observation – I state in the book myself that without any doubt "there is much more political mileage left in [rights discourse] in contemporary China than in the United States"⁵ – yet I believe the benefits as well as costs of rights must be assessed together.

Below, I will focus on a few aspects of *Legal Orientalism* that have garnered the most attention in China. Overall, reactions have been quite polarized, with readers agreeing or disagreeing strongly with several aspects of the book. While I did not necessarily foresee such a divergence of responses, I am certainly not unhappy about it, as that is precisely why the book has occasioned more academic and popular debate than I would have expected. Some of the most debated issues involve (1) the intertwined questions of "legal Orientalism"/"self-Orientalism," (2) the possibility of an "Oriental legalism," and (3) the nature of comparison and comparative method more generally. I will consider each below.

First, though, let me note one issue that has *not* aroused much controversy. It is a core thesis of the book that over the course of the nineteenth century what had been a largely historical and theoretical discourse of Oriental despotism began to take on increasingly material forms. A diffuse set of prejudices about Chinese law was translated into international legal institutions, exemplified perhaps most notably by the practice of extraterritoriality in

3 Ma Jianyin (马剑银), Xiangxiang Tazhe Yu Xugou Ziwo De Xueli Biaoda Youguan Falü Dongfang Zhuyi Ji Qi Zhongguo Fanxiang ("想象" 他者与 "虚构" 自我的学理表达 – 有关《法律东方主义》及其中国反响) [An Academic Articulation of the "Imaginary" the Other and the "Constructed" Self: On Legal Orientalism and its Chinese Responses], Jiaoda Faxue (交大法学) [Shanghai Jiao Tong University Law Review] no.3 (2017), 12–23, 23; Lu Nan (鲁楠), Gongneng Bijiao Fa De Wuyong Yu Dongfang Zhuyi De Bianyi Cong Luo Demu De Falü Dongfang Zhuyi Zhongguo Meiguo Yu Xiandai Fa Tan Qi (功能比较法的误用与东方主义的变异 – 从络德睦的《法律东方主义 – 中国、美国与现代法》谈起) [The Misuse of Functionalist Comparative Law and Variants of Orientalism: On Teemu Ruskola's Legal Orientalism: China, the United States and Modern Law], Bijiao Fa Yanjiu (比较法研究) [Journal of Comparative Law] no.6 (2017), 187–198, 187.

4 Lu (fn. 3), 197–198.

5 Teemu Ruskola, *Legal Orientalism: China, the United States and Modern Law* (2013), 210.

“Oriental” states. In general, Chinese readers find this the least problematic part of the book. For one thing, the basic contours of this history are familiar to the Chinese audience, even though many Euro-American audiences remain ignorant of it. To be sure, this history also holds potentially great appeal to Chinese nationalism, which *is* controversial. This appeal is perhaps especially evident in the field of international law, and international law scholar Cai Congyan has indeed linked the critique of legal Orientalism to a robust “Chinese exceptionalism.”⁶ At the same time, scholars such as Cheng Jinhua have expressly cautioned against leaping from a critique of American legal Orientalism to a Sinocentric legal nationalism.⁷ Nonetheless most reviewers find the book’s analysis of extraterritoriality valuable simply from a historical perspective.⁸

III.

THE POLITICS OF SELF-ORIENTALISM

As the title suggests, the main focus of *Legal Orientalism* is legal Orientalism, or Western discourses of Chinese law, broadly defined. Yet what has resulted in the liveliest debate among Chinese readers is not my analysis of legal Orientalism as such but what I characterize in the book as “self-Orientalism” – *viz.*, Chinese discourses that accept (Western) legal institutions as self-evidently superior to their indigenous counterparts. Although I discuss this phenomenon only briefly in the final chapter of the book, in retrospect it is not surprising that it should be of particular interest to Chinese legal scholars, raising the question not only how Western observers view Chinese law but also the more immediate one of how Chinese legal scholars themselves regard the object of their study.

Even as I was writing the book, I was concerned that at least some readers would dismiss my observations about self-Orientalism as pejorative and condescending. In fact, the reactions to my analysis of Chinese self-Orientalism run the gamut from those

who deny its existence⁹ to those who believe its existence is limited (whether historically, consigned to an earlier period,¹⁰ or professionally, afflicting legal scholars rather than legislators¹¹), and those who believe it is an important feature of Chinese legal modernity.¹² As one might expect, readers who are committed to the values of Euro-American rule-of-law are the most skeptical of the notion of self-Orientalism, as it puts in question the ostensibly universal and self-evident nature of rights. Correspondingly, the notion is highly attractive to those on the Chinese left who believe that a liberal rights discourse threatens the socialist legacy of the PRC and provides an ideological justification for transforming it into an increasingly capitalist society. Similarly, a critique of legal reformers as self-Orientalists appeals to readers who might be called cultural conservatives or nativists, wishing to preserve China’s indigenous values and traditions or to construct an alternative Chinese legal modernity.

To be sure, some readers who find self-Orientalism to be of limited applicability are simply not using it in the sense in which I define it. Jiang Haisong, for example, insists that China’s joining the WTO and the global free trade regime isn’t an instance of self-Orientalism because doing so has in fact benefitted China economically.¹³ However, insofar as self-Orientalism is an *epistemological* condition – adopting the values of an Other – it is not defined by its material effects. In fact, self-Orientalism may well be the *most* materially rewarding choice available, yet not any less of an Orientalism because of that. Even if one were to insist on approaching the issue through the lens of a cost-benefit analysis, presumably one would have to weigh material gains against cultural costs, for example. The economic, the political, and the social cannot be separated neatly.

6 See e.g. *Congyan Cai*, *The Rise of China and International Law: Taking Chinese Exceptionalism Seriously* (2019), 59–61.

7 *Cheng Jinhua* (程金华), *Lixing Duidai Zhongguo De Wufa Youfa Fanfa Yu Chao Fa Falü Dongfang Zhuyi De Qishi* (理性对待中国的无法、有法、反法与超法 – “法律东方主义”的启示) [Rational Approaches to Discourses on Chinese Lawlessness, Lawfulness, Anti-legality, and Extra-legality: Inspirations from Legal Orientalism], *Jiaoda Faxue* (交大法学) [Shanghai Jiao Tong University Law Review] no.3 (2017), 7–11, 10.

8 See e.g. *Xie Jing* (谢晶), *Hexu Qianbi Shenhong Se You Falü Dongfang Zhuyi Zhan Kai* (何须浅碧深红色? – 由《法律东方主义》展开) [No Need for Light Green or Crimson? Starting from Legal Orientalism], *Xiamen Daxue Falü Pinglun* (厦门大学法律评论) [Xiamen University Law Review] no.29 (2017), 86–100.

9 *Lu Nan* (鲁楠), *Maixiang Dongfang Falü Zhuyi Ping Luo Demu Falü Dongfang Zhuyi* (迈向东方法律主义? – 评络德睦《法律东方主义》) [Toward Oriental Legalism? – On Teemu Ruskola’s Legal Orientalism], *Jiaoda Faxue* (交大法学) [Shanghai Jiao Tong University Law Review] no.3 (2017), 24–31, 28.

10 *Zhang Yongle* (章永乐), *Cong Sayide Dao Zhongguo Falü Dongfang Zhuyi De Yizhong Dufa* (从萨义德到中国 – 法律东方主义的一种读法) [From Said to China: A Reading of Legal Orientalism], *Zhongguo Falü Pinglun* (中国法律评论) [China Law Review] no.4 (2016), 173–177, 176.

11 *Tian Feilong* (田飞龙), *Dongfang Falü Zhuyi Yu Zhongguo Fa De Chongsu* (东方法律主义与中国法的重塑) [Oriental Legalism and the Reconstruction of Chinese Law], *Shanghai Zhengfa Xueyuan Xuebao* (上海政法学院学报) [Journal of Shanghai University of Political Science and Law] no.2 (2018), 21–23, 23.

12 *Zheng Ge* (郑文), *Falü Diguo Zhuyi Falü Dongfang Zhuyi Yu Zhongguo De Fazhi Daolu* (法律帝国主义、法律东方主义与中国的法治道路) [Legal Imperialism: Legal Orientalism and China’s Path to Rule of Law], *Jiaoda Faxue* (交大法学) [Shanghai Jiao Tong University Law Review] no.3 (2017), 32–41, 36.

13 *Jiang Haisong* (蒋海松), *Falü Dongfang Zhuyi De Xing Yu Mi Ping Luo Demu Xin Zhu Falü Dongfang Zhuyi* (法律东方主义的醒与迷 – 评络德睦新著《法律东方主义: 中国、美国与现代法》) [The Clarity and Confusion of Legal Orientalism: On Teemu Ruskola’s Legal Orientalism: China, the United States, and Modern Law], *Xiamen Daxue Falü Pinglun* (厦门大学法律评论) [Xiamen University Law Review] no.29 (2017), 101–110, 109.

IV. THE POLITICS OF ORIENTAL LEGALISM

Oriental legalism is another concept that has garnered a lion's share of the attention paid to *Legal Orientalism* in China. Again, this is rather paradoxical, given that the book is, emphatically, about legal Orientalism. This focus has built-in limitations that I fully acknowledge in my analysis: rather than an ethnographic account of the East, legal Orientalism is a theory about the West's ideas about the East, and more fundamentally about how the East-West binary is built into the very foundation of modernity and its institutions. Oriental legalism, in contrast, is a term that occurs only once in the body of *Legal Orientalism*, and even then only on the antepenultimate page of the last chapter.¹⁴ There, I specifically *decline* to speculate about the future of Chinese law, noting merely, "Perhaps China will in fact one day submit to rule-of-law in its modern Euro-American form, thereby confirming its universality. Or maybe it will recast law's rule in the form of an evolving Chinese universalism – an Oriental legalism, as it were."¹⁵

That is all: I do not offer a theory of Oriental legalism, nor do I predict when or whether such a thing will ever materialize. It is only a suggestion, a gesture – an invitation for readers in China to take up the question of law's future at the eastern end of the Eurasian landmass in the beginning of the third millennium of the Common Era. And many readers of *Legal Orientalism* have evidently taken up this invitation, even as others find it premature, ill-considered, and/or dangerous. This is how it should be. Not that people in the West should not concern themselves with what is happening in China today as well as in the future – with local and global implications for humans as well as flora and non-human fauna – yet the *primary* political responsibility for the region evidently belongs to those who live there.

Given my purposely open-ended and undefined usage of the term, what readers have made of Oriental legalism varies considerably. Some reviewers have highly specific notions of what Oriental legalism needs to accomplish – for example, calling for an explicit theorization of the role of the Party in the Chinese legal system or of China's pluralist legalist heritage.¹⁶ Wei Leijie envisions Oriental legalism,

not as an Eastern universalism with a potential to replace legal Orientalism as a global hegemonic discourse, but as an authentically Chinese legal subjectivity that would enjoy a position of equality with its Western counterpart, overcoming the built-in asymmetry that haunts any dialogue conducted under the conditions of legal Orientalism.¹⁷ Rather than pure nativism, Wei's Oriental legalism is one that would continue to seek to learn from others, although not only from Europe or the United States but also from China's neighbors – and rather than focusing on Western theories of law, it would seek to understand how Western legal institutions actually function. Tian Feilong's version of Oriental legalism has potentially more imperial implications for the future of China, invoking an ancient dynastic vision of All-Under-Heaven (天下) as a conceptual umbrella of China's controversial One Belt One Road initiative.¹⁸ To be sure, Tian too insists that the goal should be only to reach a position of equality with the West, but one worries that this might still translate to a bipolar world rather than a genuinely plural one – a world made up of Euro-American and Sinocentric supremacies, in a twenty-first century update of the global divisions of the Cold War.

At the skeptical end of the spectrum, Sun Guodong worries that the rise of Oriental legalism would thwart China's modernization, by promoting a sense of cultural self-satisfaction and a rejection of Western legal values.¹⁹ If China is free to define rule of law for its own purposes, he suggests, then "no further action is needed for China to realize the rule of law – it has already achieved it in the Chinese way."²⁰ Sun's concerns about ethnocentric arrogance aren't unjustified, but his conclusion seems too hasty. Whether China has already realized the ideals of Oriental legalism depends entirely on what those ideals are. What those ideals are can hardly be inferred from the existing institutions in their current form. On the contrary, they may best be found in Chinese citizens' *critiques* of their legal system. However one defines rule of law – unquestionably, there are numerous ways to do so – it is *always* an ideal and unlikely to be fully realized in any set of institutions anywhere, East or West.

14 To be sure, the term occurs also on page 232, not in the text itself but in the final subheading of the chapter, "Legal Orientalism or Oriental Legalism."

15 Ruskola (fn. 5), 233.

16 Ma Yongping (马永平), Jiekai Xifang Fazhi Huayu Tixi De Ling Yiceng Miansha Ping Wei Leijie Yi Falü Dongfang Zhuyi (揭开西方法治话语体系的另一层面纱-评魏磊杰译《法律东方主义》) [Unpacking the Western Discourse of Rule of Law: A Review of Legal Orientalism Translated by Wei Leijie], Renmin Fayuan Bao (人民法院报) [People's Court Newspaper] (21 October 2016), 6.

17 Wei Leijie (魏磊杰), Tuoshi Lijie Falü Dongfang Zhuyi He Yi Keneng (妥适理解法律东方主义何以可能) [Understanding Legal Orientalism's Emergence], Jiaoda Faxue (交大法学) [Shanghai Jiao Tong University Law Review] no.3 (2017), 89–94, 92.

18 Tian (fn. 11), 23.

19 Sun Guodong (孙国东), Xiyang Jing Yu Fazhi De Zhongguo Jie Ping Luo Demu Falü Dongfang Zhuyi ("西洋镜"与法治的"中国结" – 评络德睦《法律东方主义》) ["The Western Mirror" and "the Chinese Complex" on Rule of Law: On Teemu Ruskola's Legal Orientalism], Shida Faxue (师大学) [East China Normal University Law Review] no.1 (2017), 292–307, 307.

20 Ibid., 306.

V. THE POLITICS OF COMPARISON

Beyond its substantive focus on law, *Legal Orientalism* is also concerned with the possibility of comparison across cultures in a world that is indeed structured and understood in terms of an East-West binary. I offer a critique of functionalism, recognizing it as one way of overcoming that binary – albeit often at the cost universalizing Western categories and by flattening differences that do matter. However, I also provide a case study utilizing what I characterize as a kind of “perverse” functionalism, looking for analogies between two disparate, even oppositional objects: Euro-American corporation law and Confucian family law. The hypothesis that contemporary Euro-American corporate law and imperial Chinese family law could be functionally equivalent will surely raise the (comparative) lawyer’s eye-brows in either tradition. Yet the point of such comparison is precisely to understand how these objects come to be constituted as oppositional in the first place. As an antifoundationalist approach, it takes neither the family nor the corporation as a given but examines how each becomes naturalized in relation to the other. How and why is the economic sphere of the market opposed to the intimate sphere of the family, and what is at stake on maintaining this opposition?

Several observers have criticized my use of the family law/corporation law analogy. Lu Nan objects to the comparison perhaps most strongly, arguing that it ignores the very different values that inform corporations and kinship structures.²¹ Jiang Haisong similarly claims that the comparison “exaggerates” any similarities they may have.²² I do of course take note of the distinct ideologies that justify modern corporations and Confucian clan organizations – it would be impossible to miss their differences – but that is precisely the point of this intentionally perverse comparison: vastly different value systems can produce and justify similar material hierarchies. I also take it as a given that no analogy is perfect. By definition, an analogy implies the presence of both similarities and differences, or else the relationship at stake is not one of analogy but identity, rendering comparison redundant. I suspect one reason for the vehemence of objections to this particular comparison lies in its subject matter, namely, linking the world of intimate relations with the economic relations of the marketplace. In her analysis of comparative family law – including but not limited to the Chinese context – Janet Halley has coined the term “family law exceptionalism” to express the idea that kinship relations must be

delineated clearly from those in the market, and it may be this exceptionalist perspective that animates at least some of the discomfort with this comparison.²³

Yet the reactions to the corporations-and-kinship comparison have been as divergent as the reactions to the notion of self-Orientalism. Zheng Ge finds the comparison particularly compelling, observing the continuing importance of families and households as economic subjects in China today.²⁴ Other enthusiasts of the analogy cite its reversibility. Rather than taking either object of the comparison as a pre-existing standard against which to judge the other, it allows us to consider how the two objects are defined *in relation* to one another, without according analytic priority to either: just as we can describe China’s institutions in the Euro-American language of law, we can also describe U.S. legal institutions in terms of Chinese ones. Du Jin draws attention to this reversibility expressly, and so does Zheng, characterizing it as a method that can lead to a “fusion of horizons” in the Gadamerian sense.²⁵

VI. CONCLUSION

Let me conclude by returning to the point with which I opened this survey of Chinese reviews of my book: it is futile for any author to insist on the “correct” interpretation of his or her views. At the end of the day, the main concern of my book is to understand how legal discourses characterize certain legal subjects and institutions as more or less universal and more or less particular, and what social, political, and materials effects these classifications have. The varied, even polarized, responses to *Legal Orientalism* among Chinese readers provides robust evidence that where Chinese law fits on the spectrum of universality versus particularity remains an open and contested question. Many of the reviewers of the book do not hesitate to take sides in the East-West dialectic. Such responses can be viewed as instances of legal Orientalism in action – the ceaseless elaboration and contestation of who and what is universal or particular.

23 Janet Halley/Kerry Rittich, Critical Directions in Comparative Family Law: A Report from the Up Against Family Law Exceptionalism Conference, *American Journal of Comparative Law* 58 (2010), 753–776.

24 Zheng (fn. 12), 41.

25 Du Jin (杜金), Feiyue Miwu Dongfang Zhuyi Falü Huayu De Fansi Luo Demu Falü Dongfang Zhuyi Duhougan (飞越迷雾: 东方主义法律话语的反思-络德睦《法律东方主义: 中国、美国与现代法》读后感)[Cutting Through the Maze: Reflections on Discourses of Legal Orientalism: Thoughts After Reading Legal Orientalism], *Renda Falü Pinglun* (人大法律评论) [Renmin University Law Review] no.1 (2017), 64–84, 73–74; Zheng (fn. 12), 40.

21 Lu (fn. 3), 190–191.

22 Jiang (fn. 13), 107.

Notably, though, a number of readers balk at choosing sides. Cheng Jinhua, for one, cautions against leaning toward either Oriental legalism or legal Orientalism.²⁶ Liang Zhiping insists on the plurality of the Chinese legal universe itself, noting that “self-Orientalists” come in many varieties and exercise power in complicated ways that cannot be ultimately understood within an East-West framework.²⁷ Zheng Ge objects perhaps most strongly to the universal-particular dichotomy itself, calling for law-reformers not to be distracted by legal ideologies but to be “open-minded” and “pragmatic” instead.²⁸ More generally, he instructs Chinese readers not to leverage American self-criticisms against the United States – satisfying as that might be – but urges them instead to approach comparative law as an avenue for self-reflection.²⁹ To be sure, transcending East-West dichotomies is easier said than done. I offer an “ethic of Orientalism” as one solution, while fully recognizing that there is no single, adequate response to legal Orientalism. Xie Jing indeed finds my offering inadequate, turning to Heidegger for further theoretical tools – a proposal I welcome warmly.³⁰ I even agree with the reviewer who observes that my analysis does not offer a “cure” for self-Orientalism, or instruct the reader how to “prevent” it in the first place.³¹ In my view, though, that is asking for too much. Ultimately legal Orientalism is built into the epistemological foundations of modernity. We need to manage it, but we cannot simply delete it from historical memory. To quote Dipesh Chakrabarty, European legal categories are “both indispensable and inadequate.”³² We have no choice but to continue living with them, at least for now, but we must live with them as consciously and wisely as we can.

26 *Cheng*, Rational, 10–11.

27 *Liang Zhiping* (梁治平), *You Fa Yu Wu Fa* (有法与无法) [Law and Lawlessness], *Dongfang Zao Bao Shanghai Shuping* (东方早报 上海书评) [Dongfang Daily-Shanghai Book Review], 2016 Oct. 9.

28 *Zheng Ge* (郑戈), *Cong Zhongguo Fazhijue Dao FaZhi Zhongguohua Falü Dongfang Zhuyi Gei Women De Qi Shi* (从中国法治化到法治中国化 – 《法律东方主义》给我们的启示) [From Bringing Rule of Law to China to Sinifying Rule of Law: Inspirations from Legal Orientalism], *Shanghai Zhengfa Xueyuan Xuebao* (上海政法学院学报) [Journal of Shanghai University of Political Science and Law] no.2 (2018), 17–19, 19.

29 *Zheng* (fn. 12), 41.

30 *Jin Zining* (金自宁), *Dongxifang Xiangyu Zhi Huayu Yu Xianshi: Falü Dongfang Zhuyi Zhaji* (东西方相遇之话语与现实: 《法律东方主义: 中国、美国与现代法》札记) [Discourse and Reality of the East-West Encounter: A Comment on Legal Orientalism], *Renda Falü Pinglun* (人大法律评论) [Renmin University Law Review] no.1 (2017), 35–44, 40.

31 *Ma Yongping* (fn. 16), 6.

32 *Dipesh Chakrabarty*, *Provincializing Europe: Postcolonial Thought and Historical Difference* (2000), 6.