

強權之法：1842-1895年在中國通商口岸的國際法對話

金山森 (Jonathan Chappell)

英國倫敦政治經濟學院博士後研究

漢學研究中心2014年度獎助訪問學人

The Law of Power: International Legal Talk in Treaty Port China, 1842-1895

This talk will explore the role of ‘international legal talk’ in treaty port China from 1842-1895. Existing legal histories suggest that Qing China was excluded from the scope of international law because it was regarded as ‘uncivilized’ and therefore not the equal of European nations. However, this does not explain the repeated references in contemporary European, and later Chinese, sources to the role of international law in governing Sino-foreign relations. If China was excluded from the scope of international law, what function did such ‘legal talk’ serve? By exploring the role of ‘unlikely juridical thinkers’ such as diplomats, merchants and missionaries, rather than international lawyers, I argue that international law was deployed by the representatives of foreign governments in China to justify the compromises required by delicate power dynamics in the country.

Foreign governments were not always willing to expend the resources necessary to meet the demands of their citizens resident in Chinese treaty ports, especially if this meant using military force against the Qing or upsetting a rival foreign power. They thus appealed to international law to justify their inaction while at the same time obscuring their relative weakness in the country. Foreign residents in Chinese treaty ports attempted to counter this narrative by arguing that Qing China was ‘uncivilized’ and thus such international law could not apply. For Qing officials, international law appeared to be a new tool with which to manage foreign relations. However, Qing appeals to international law were only heeded at times when Qing officials could refuse European demands

by other means. Thus, international legal talk had no intrinsic power, but rather reflected the underlying power dynamics in which the Qing state was never totally subservient to foreign powers.

主講人介紹：

金山森（Jonathan Chappell），英國籍，金先生主要研究領域為晚清中國與列強關係。曾於 2014 年獲得漢學研究中心「外籍學人來臺研究漢學獎助」，並發表演講「一個關於領土主權的問題：英、法兩國對太平天國之役的軍事干預」。2016 年他以「The Law of Power: International Law in Sino-Foreign Relations, 1842-1895」為題獲得英國布里斯托爾大學（University of Bristol）歷史系博士。在倫敦政經學院進行博士後研究的同時，金先生也規劃著撰寫專書，探討自中國 1850 年代與歐美接觸以來，知識份子和政府官員在政治觀、文化觀、經濟觀上的轉變。