

## Unruly People: Crime, Community, and State in Late Imperial South China

By Robert J. Antony

Hong Kong University Press, Hong Kong, 2016.  
308 pages, \$65.00.

Reviewed by Christopher C. Faille

In Chinese history, the Manchu's capture of Beijing in 1644 ended the Ming dynasty and ushered in that of the Qing. The Qing dynasty was to last for close to three centuries, until the abdication in 1912 of the child-emperor Puyi (1906-1967). (Also known as Henry Pu Yi, he was installed as the emperor of Manchukuo, a puppet state of Japan, from 1932 to 1945.)

Even during the Ming period, the province of Guangdong (sometimes Romanized as "Canton") had attained great importance because of its significance for world trade. After all, Europeans who traveled to the Far East had to pass through the Straits of Malacca and head north. The coast of Canton was the first bit of China they encountered. European merchants were firmly settled in Macau and Hong Kong well ahead of the 1644 dynastic change, and their trading, as

well as the activity it stimulated, redefined the region along the coast.

### Population and Scarcity

It is the premise of *Unruly People* that cracks in the social equilibrium of south coastal China emerged during the mid-Qing period, about halfway through the 18th century, and did so largely for demographic and ecological reasons. Organized violent theft ("banditry" or "piracy") became an increasingly serious problem in the region, escalating throughout the period from the 1760s through the 1840s. The causes of this long crime wave and officialdom's responses to it constitute the heart of Robert J. Antony's book.

Early on, Antony favorably cites Hong Liangji (1746-1809), a Confucian scholar who wrote a tract on "governance and the well-being of the Empire," that set out ideas that the West would soon come to call Malthusian. Indeed, something was in the air in the 1790s on both ends of the great Eurasian landmass. Hong made his tract public in 1793. Thomas Malthus wrote the first edition of his *Essay on the Principle of Population* five years later.

Hong wrote that, as the population expands, "housing and crop fields tend to be in scarcity," and that, given social inequality (or the fact that "some households become monopolists," as Hong put it), many others suffer cold and hunger. Hong cautioned the emperor to expect that heaven would send its own remedies for this situation: "flood, drought and pestilence." Note that heaven's solutions don't cut back on the inequality; they cut back on the population. The Opium Wars were eventually going to do that too.

### On the Margins

Antony agrees with much of Hong's reading of the mid-Qing era. Antony's argument is that demographic pressures drove the laboring classes of southeastern China to the edge of starvation in the period under consideration; that the same pressures undermined the ecology of the region, worsening the situation of those struggling to live off the land; and that desperate people then turned

to violent and organized theft to survive.

Antony is also the editor of *Elusive Pirates, Pervasive Smugglers*, a 2010 anthology of scholarship about centuries of piracy in the seas around east and southeast Asia, with articles focusing on Japan, the Philippines, and Singapore, as well as on early modern China itself. In *Unruly People*, although pirates appear again, most of Antony's focus is land-bound, on bandits rather than pirates. When pirates do appear, they are generally operating on the rivers of the region, not on the high seas.

His thesis, he writes, is that the "bandit gangs and sworn brotherhoods discussed in this study by and large were voluntary associations formed by peoples of the margin. Denied access to legitimate, respected organizations ... the poor and dispossessed members of society formed their own organizations for comradery and survival..." The Qing state "hunted down and prosecuted [such people] with a vengeance."

Most people convicted of banditry in the period under study were single men, in their 20s or 30s, who worked in menial, low-paying jobs and supplemented their income through the gang's activities. A fair number of married men engaged in banditry as well. Becoming a bandit was sometimes described as "falling among the weeds," a fate that lay in wait for a man who, by age 30, did not find a legitimate way to make a living.

Women were rarely bandits. Antony says that this constitutes a contrast between banditry and piracy in southern China, where female pirates were common.

### Officialdom

The Qing legal system distinguished between "statutes" and "substatutes." This corresponds roughly to the contemporary distinction between statutes, on the one hand, and rules or regulations enacted pursuant to those statutes, on the other. In criminal matters, a substatute would be drafted by the Board of Punishments and confirmed by the emperor. Apparently, through the Ming period and into early Qing, old substatutes were repealed as quickly as new ones were added, but, by the mid-Qing era, the substatutes themselves had

acquired a degree of sanctity, so that the old ones stayed on the books. Between 1740 and 1845, the number of statutes under the broad statutory heading “Violence and Theft” more than doubled.

A statute of 1780 specifically targeted at Guangdong vastly expanded the range of criminals who were subject to capital punishment (by decapitation). Even a mere lookout for a gang, who had not engaged in any acts of violence, was not shown leniency. This statute overrode earlier ones (and made an exception out of Guangdong vis-à-vis the practice in other provinces), which had made a clear distinction between principals and accessories and had imposed more lenient penalties on the latter.

A statute of 1811 ratcheted matters up further, speeding up the process by which captured bandits could be beheaded. The executions were taking too long, taxing the patience of Governor General Songyun. Prisoners were dying of the diseases to which crowded jails made them heir, and thus they were cheating the government out of the chance to execute them.

As Antony writes, Songyun’s concern wasn’t with the inhumane conditions in the jails, but with the idea that prisoners who died in that way could not participate in the show that an execution offered and thus “could not serve as examples and warnings to others.”

### Strangulation and Slavery

Another statute of 1811 provided for the death by strangulation of members of secret societies, even if those members had been forced to join, so long as they had themselves been “dishonest” as society members. Strangulation was apparently regarded as somewhat more lenient than decapitation. In a further extension of clemency, secret society members who “were ordinarily not bandits, but had joined for a short time,” were to be allowed to live as slaves “putting new land under cultivation.”

This statute belonged to a section of the Qing code dealing with sedition and rebellion, but, as the above quoted language indicates, it was aimed at banditry as well as insurrection.

In his concluding chapter, Antony writes that these “ever harsher laws,” as well as the military campaigns that the government launched in this era at “stubborn mountain bandits,” were unavailing. Banditry continued, based as it was on the human drive to

survive in the harsh conditions in which the marginalized lived.

*Unruly People* is a thoughtful study, and I recommend it both for those with an interest in the history of Chinese penology and for those who might be intrigued by the rise of neo-Malthusian trends in the social sciences of our own day. ☺

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## The Breakthrough: Human Rights in the 1970s

Edited by Jan Eckel and Samuel Moyn

University of Pennsylvania Press, Philadelphia, PA, 2014.  
352 pages, \$79.95 (cloth), \$26.50 (paper).

Reviewed by R. Mark Frey

Things seem startlingly askew in the world today.

Over the course of his presidential campaign, Donald Trump asserted that “torture works” and on other occasions declared his support for waterboarding and other practices much worse than that. His comments drew a quick response, with critics offering evidence of those methods’ ineffectiveness as interrogation techniques. In fact, the 2014

report of the Senate Select Committee on Intelligence, *Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program*, concluded that “The CIA’s use of its enhanced interrogation techniques was not an effective means of acquiring intelligence or gaining cooperation from detainees.”

In October 2015, a lawsuit was filed in U.S. District Court for the Eastern District of Washington by two men who had been detained in the CIA’s secret prisons and by a representative of a third person who died while in custody. The suit was filed against psychologists James E. Mitchell and Bruce Jessen, contractors hired by the CIA to develop and administer its program. (Dr. Mitchell co-authored a book with Bill Harlow about the matter: *Enhanced Interrogation: Inside the Minds and Motives of the Islamic Terrorists Trying to Destroy America*.) The lawsuit remains pending, despite efforts to have it dismissed.

In November 2016, UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein noted his distress over the condition of global human rights and increased instability around the world, especially in light of the widespread mistrust of international organizations and rise of xenophobic and racist attacks.

What’s going on? And, why at this point in our history?

Banning torture is just one of a number of actions encompassed within the rubric of human rights. In the 1970s, President Jimmy Carter made human rights a linchpin of U.S. foreign policy when he declared in his inauguration speech that “our commitment to human rights must be absolute.”

The 1970s was marked by much turmoil and anxiety over dramatically escalating oil prices as well as by stagflation and high unemployment. International political affairs were tense as relations between the United States and Soviet Union began to unravel, China and Arab countries became players on the world stage, and interest grew in transnational issues such as environmental protection and population control. Those factors and others, according to co-editor Jan Eckel in *The Breakthrough: Human Rights in the 1970s*, generated much interest in human rights and laid the groundwork for many aspects of the world today.

Why such interest in human rights at that moment in history? And, how did we get from there to the point today where our

President makes cavalier remarks about torture during a presidential campaign?

*The Breakthrough* is largely successful in answering those questions. It contains 13 essays by each of the editors and 11 other scholars discussing country-specific events in the Soviet Union, Argentina, South Africa, Indonesia, Nigeria, and the United States during the 1970s. These essays provide historical context for the forces that both contributed to a rising concern over human rights and shaped its articulation during that decade and subsequent ones.

To be sure, human rights were important before the 1970s, but not on the scale that they became in that decade, as frustration with old methods of dealing with political problems grew and interest in exploring new approaches exploded around the globe. A growing number of actors expressed concern over the problems associated with dictatorships in Latin America and Communist Europe, the restrictive logic of the Cold War, and “politics as usual.” The signing of the Helsinki Final Act in 1975 was striking in its acknowledgment of human rights as one of the “principles guiding relations between participating states.”

Various forces contributed to this growing interest in human rights as a basis for political action. These included decolonization and the end of the empires of Great Britain, France, and the Netherlands in the late 1960s, détente and the easing of the Cold War in the 1970s, the rapid expansion of mass communications and the worldwide dissemination of information (via television in particular), the mass mobilization of populations to build public pressure for certain issues (using experience gained from various social and political movements during the 1960s), the migration of political activists to human rights issues,

and the transformation of churches and their perceived role in world affairs (especially following the advent of the Second Vatican Council between 1962 and 1965).

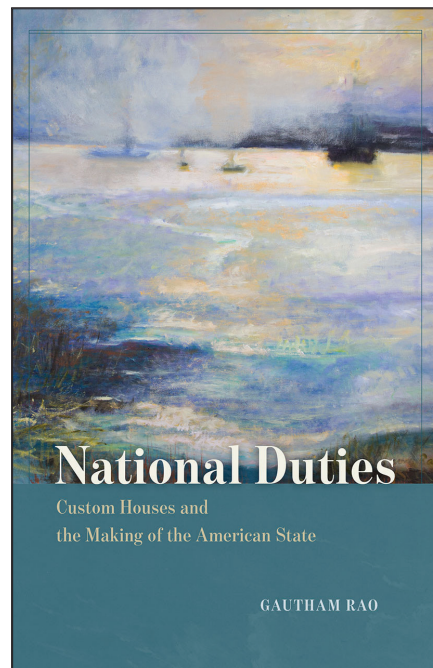
Human rights issues were no longer matters of concern only for a small select group, but also for a wide mix of participants: governments, the United Nations, nongovernmental organizations (NGOs) composed of a much wider membership and organized on specific issues (for example, Amnesty International and its campaign against torture), religious organizations, and various political actors. Human rights in the 1970s became an issue of global concern; as Jan Eckel writes, “as much as replacing what was no longer viable, human rights was about constructing new political causes, meanings, and futures.”

How does this all relate to the world today? Alas, the book does not systematically relate the explosion of human rights activity in the 1970s to what is taking place today, other than by noting that it laid the groundwork for human rights activity in subsequent decades. But, to be fair, that is not its purpose. Rather, *The Breakthrough* aims to help the reader understand the development of human rights in the 1970s and the historical, cultural, and political forces that brought them to the fore. The book leaves it to the reader to connect the dots by mulling over those very same forces at work today. The jury is still out on the effect of President Trump’s remarks about torture. It is out on the long term prospects for human rights as well. ☺

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## National Duties: Custom Houses and the Making of the American State

By Gautham Rao

University of Chicago Press, Chicago, IL, 2016.

273 pages, \$45.00.

Reviewed by Christopher C. Faille

Gautham Rao, an assistant professor of history at American University in Washington, D.C., contends in this stimulating book

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that the role of custom officials, that is, of Treasury Department employees with the seemingly mundane task of collecting trade duties in the nation's ports, offers a surprising and previously neglected look at the early history of the United States.

The George Washington administration, and at least much of the first Congress, understood perfectly well that the new government needed the goodwill of the merchants clustered about seaports in order to secure its own shaky legitimacy. If the merchants as a class decided that the levels of taxation were excessive or the accompanying regulations too onerous, they could become smugglers, and the new republic was in a poor position to crack down on smuggling along the same coastline that not many years before had been quite hospitable to smuggling in violation of trade edicts from London.

The first Congress, when it deliberated on the first trade laws, included Rep. Roger Sherman from Connecticut, who in a hopeful spirit declared that “the mercantile part of the people will submit themselves . . . and use their influence to aid the collections.” That was what the new government counted on. But the merchants weren't going to be as passive as the word “submit” suggests.

One single month made this clear. Sherman and his colleagues passed a new law, which on its face made duties payable as of Aug. 1, 1789. But due to sloppy draftsmanship, the law also provided that “the organization of the Custom Houses” would become official on Sept. 1. Thus, there was no enforcer of these tariffs for the first month after their implementation.

### Pushing and Getting Pushback

This meant, as Treasury Secretary Alexander Hamilton said in written instructions, that the newly empowered customs officials were supposed to get busy in September collecting that first month of revenue retroactively. If the collection was disputed, they were to pursue the matter “to a legal determination.”

But the merchant communities believed they had gotten that first month for free, and they pushed back. The officials at the ports implicitly sided with the merchants on this, not with their own bosses. In Connecticut, the merchants were unimpressed by the idea that the collector of customs, Jeremiah Wadsworth, would litigate the matter against them. These constituents of Roger Sherman's were perfectly ready to take their chances in court. Wadsworth wrote to

Hamilton in December that he thought “the evil would be greater than the good” in the pursuit of these August imposts.

In general, Hamilton's instructions went unfollowed and the theoretical August revenue, which Rao says involved a “not inconsiderable” sum of money, went uncollected.

In other cases, as in this one, the “mercantile part of the people” was implicitly exacting a price for its “submission.” Hamilton, though inclined to sympathize with merchants (in *The Federalist Papers* he wrote that merchants are the “natural representatives” not only of their own interests but also of the interests of other important segments of the population, in part because of their “superior acquirements”), was unhappy about the pushback and unhappy that his customs collectors were proving flexible in the face of them.

In April 1790, Hamilton asked Congress to create a new post, the customs supervisors, which would constitute a rung above the customs house officials. Why? Because the customs officials were too friendly with the merchants they were regulating. They were often literally next-door neighbors, they socialized, and the customs officials often saw themselves as facilitators of their friends' business interests. Or, as Hamilton put it in an optics metaphor, they had received “a tint from the personal interest of individuals, and the local interest of districts.” But Congress never created the customs supervisors, and Hamilton himself soon lost interest in it.

### Symbiosis Works Until It Doesn't

Why did Hamilton lose interest? The symbiosis between officials and merchants along the waterfront turned out to work reasonably well. Merchants, satisfied that they were being treated fairly for the most part, and that, when they weren't treated fairly, the customs house would be flexible in response to their complaints, were complying with the law and the money was coming into the federal coffers. Rao gives the numbers. Between that Aug. 1, 1789, start-up date and the end of 1791, customs officials collected about \$6.5 million. In 1792 alone the figure was \$3.9 million. This was, Rao says, an “impressive bundle of revenue,” and the new nation-state was getting its sea legs with the help of that money.

It wasn't until after the War of 1812 that the balance of power on the waterfront changed. By that time, as Rao puts it, such

local pressure as was still placed on customs officials was “a far cry from the structural, overwhelming force that had so profoundly influenced constitutional governance in decades past.” The nation-state was no longer an infant, and its government was confident in its ability to win showdowns with local merchants as well as to suppress smuggling.

On a related matter, Rao also makes the point that trading with the enemy ceased to be a feasible alternative for discontented merchants after the final defeat of Napoleon.

In 1816, Congress directed the customs comptroller to “dispose of” all “unsettled balances”—that is, to get tough on merchants in the government's debt. As a microcosm of the new get-tough attitude, Rao tells us about the Haskins brothers in Boston, Thomas and Ralph. Customs officials prosecuted them not only over their own defaulted duty bonds, but also because they had become assignees of the obligations of other merchants in default, an imprudent decision they made in a more lackadaisical enforcement climate. The Haskins were imprisoned, and they had to sell their homes to pay their debts.

One either feels for the Haskins or believes that they got what they deserved. Either way, though, one will appreciate *National Duties* and the way it looks at legal and fiscal history not from the point of view of Washington, Hamilton, and other well-known men, but from that of the denizens of the waterfront: the Wadsworths and Haskins of the new republic. ☺

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