

# ***The Inevitable Fate and Implications of the Integrated Judicial-Administrative System—With a Historical Review of the Research on the Operation of China's Feudal Judicial-Administrative System***

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**Keywords:** Legal History; Rule of Law; Judicial-Administrative System

**Abstract:** The rise and fall of dynasties within China's ancient feudal system consistently occurred within a political framework characterized by the integration of judicial and administrative functions. The culmination of Professor Liu Changjiang's National Social Science Fund Project for the Western Region—Research on the Operation of China's Feudal Judicial-Administrative System—represents a significant attempt to examine this historical phenomenon. This work is characterized by three salient features: a 'grand narrative with a clear structure,' 'distinct themes and appropriate methodology,' and 'transcending historical boundaries while reflecting contemporary realities.' However, the study has certain limitations. It omits coverage of the Wei-Jin, Southern and Northern Dynasties, as well as the Yuan Dynasty, consequently creating a sense of 'period discontinuity.' Furthermore, its chronological organization hinders in-depth thematic discussion. "Despite these limitations, the work remains a substantial contribution to the analysis of China's feudal judicial-administrative system, offering readers profound insights. These include the realization that "the nature of the political system determines the status and character of the law," that "power must be constrained and supervised to serve the greater good," and that "only by establishing a socialist democratic rule of law can we escape the 'historical cycle' of fate.

## **1. Introduction**

China's two-millennia-long feudal social system was characterized primarily by the integration of judicial and administrative functions. This distinctive feature has garnered considerable attention from legal historians. For instance, Professor Fan Zhongxin observes in *Introduction to the Study of Traditional Chinese Administrative Legal Culture*:

Unlike Western legal traditions, which are characterized by a logical system of distinct legal branches, the Chinese legal tradition possesses its own internal logic—an organic structure defined by a unique spirit and a specific, self-sufficient framework of internal complementarity<sup>[1]</sup>.

While these existing achievements have laid a solid foundation for understanding feudal China's political operations, current research generally exhibits certain limitations. Scholars have largely conducted relatively isolated studies on judicial, administrative, and supervisory systems; analyzed

the 'patriarchal nature' of China's administrative legal system through the lens of the 'integration of ritual and law'; or explored the subordination of law to administrative power. Consequently, there has been a lack of macro-level, systematic research that integrates the judiciary and administration into a cohesive organic whole.

A notable exception is Mr. Long Xianzhao, who, in his project 'The Operation of the Political System in Feudal China,' first proposed the term 'legal-political system,' incisively identifying the essence of China's feudal political institutions. However, he did not undertake a comprehensive and in-depth investigation of this systemic characteristic.

## **2. Characteristics of the Research on the Operation of China's Feudal Judicial-Administrative**

Professor Liu Changjiang's National Social Science Fund Project for the Western Region, Research on the Operation of China's Feudal Judicial-Administrative System, represents a significant deepening and advancement of Mr. Long's work. Professor Liu's monograph exemplifies several key characteristics:

### **2.1. The Work Employs a Grand Narrative That Clearly Delineates Its Main Arguments**

Organizing his analysis chronologically according to the succession of dynasties, Professor Liu utilizes extensive historical documentation to divide the evolution of the feudal judicial-administrative system into distinct phases: the 'Formative Period' (Warring States and Qin-Han), the 'Developmental Period' (Tang), the 'Refinement Period' (Song), and the 'Maturity Period' (Ming-Qing).

This periodization profoundly reveals the fundamental architecture of China's feudal autocracy and its transformative processes, while reflecting the socio-historical patterns underlying the rise and fall of dynasties. Across different eras, despite revisions, compilations, and refinements to legal codes, the ultimate objective remained constant: the preservation of the ruling class's interests, centered on the emperor.

The evolution of central judicial institutions—from the Court of Justice, Supreme Court, Ministry of Justice, and Censorate to the 'Three Judicial Departments'—consistently reflects the imperial objective of consolidating centralized political authority. Overall, the book analyzes the judicial-administrative systems of successive dynasties through overviews, operational mechanisms, case studies, and critical evaluations, thereby illustrating the characteristic integration of administration and justice under China's feudal polity.

### **2.2. The Book Maintains a Distinct Thematic Focus and Employs Rigorous Methodologies**

The analysis centers on the unifying theme of 'the integrated judicial-administrative system and its dynamic operation.

Within the feudal political framework, both central and local governments managed complex affairs encompassing administration, military, and finance. Crucially, administrative officials simultaneously served as judicial officers. Although specialized judicial institutions nominally existed at various levels, they remained subordinate to administrative authority. As the text asserts, 'In the feudal era, the judiciary was subordinate to the administration; the exercise of judicial power was subject to the control of the sovereign and prime minister, and the oversight of supervisory authorities<sup>[1]</sup>.

Methodologically, the study adopts a 'combination of historical research and theoretical analysis.' The author consulted extensive historical documents, primarily relying on canonical texts such as the Records of the Grand Historian, Tang Code with Commentary, Tang Six Codes, and

Compilation of Song Court Proceedings. This foundation is supplemented by works like Bai Juyi's Changqing Collection, Commentary on the Daily Records, and Qing Dynasty Prefectural and County Practices, along with nearly a hundred Chinese and foreign academic papers. Adhering to the principle of 'theory derived from history,' the author ensures that 'historical materials speak for themselves,' thereby avoiding 'self-serving arguments.'

Furthermore, the author employs a 'detailed dissection approach.' Rather than merely observing superficial phenomena, the analysis penetrates from the surface to the core, thoroughly examining the inner workings of the feudal political system. Starting from the historical context of each dynasty's judicial-administrative formation, the author investigates the state's procedures for selecting, appointing, and managing judicial personnel, thereby elucidating the specific operational mechanisms of litigation and trial systems.

To illustrate the dynamic workings of this system, the author selectively analyzes the most representative cases from each dynasty, presenting them in a narrative style that is both vivid and engaging. For instance, in examining the 'Li Si's Treason Case' of the Qin Dynasty, the author argues that while the verdict was unjust, it exemplified the Qin judicial principle of 'exercising caution in both punishment and interrogation.' By extensively citing judicial precedents, the author transforms abstract legal statutes into concrete historical cases. This approach provides readers with a more intuitive understanding of ancient Chinese jurisprudence and deepens their comprehension of the operational processes of the judicial-administrative system.

### **2.3. The Work Transcends Historical Boundaries to Illuminate Contemporary Realities**

This For instance, an examination of trial systems reveals that the Qin Dynasty distinguished between 'private prosecution' and 'public prosecution,' while the Han Dynasty's practice of 'impeachment' by superiors against subordinates parallels the modern criminal procedural distinction between public and private prosecution systems.

Furthermore, the continuous refinement of the judicial system following the Qin and Han dynasties ultimately established a procedural framework of 'complaint—case filing—trial—review—enforcement.' This historical evolution closely mirrors the litigation procedures stipulated in modern China's Criminal Procedure Law.

Moreover, in its discussion of the Tang Dynasty, the book highlights that nearly every statute in the Tang Code with Commentary (The Tang Law Explanation) contains provisions regarding 'official governance.' During this period, officials were held accountable not only for their own conduct but also bore joint liability for the actions of their subordinates. Consequently, against the backdrop of the current strategy of comprehensive and rigorous governance, the book's analysis of 'official governance' offers valuable insights for fostering a sound political ecosystem.

Regrettably, the study excludes the judicial-administrative systems of the Wei, Jin, Southern and Northern Dynasties, and the Yuan Dynasty. Although this exclusion is explained in the introduction, it inevitably creates a sense of 'period fragmentation.' While the chronological arrangement provides a clear historical perspective, it may also result in a lack of thematic focus and fragmentation in the discussion of specific issues. Furthermore, the intrinsic logical relationship between political systems and legal operations warrants deeper exploration, and the overall operational patterns of the feudal judicial-administrative system require further investigation.

Despite these minor shortcomings, the book stands as a significant contribution to the analysis of China's feudal judicial-administrative system, offering the following insights:

#### **2.3.1. The Nature of a Political System Determines the Status and Character of Its Laws**

Historically and contemporaneously, different political systems give rise to laws of differing

natures. As the adage goes, 'Just as the quality of a city-state's political system determines whether its laws are good or bad, just or unjust... laws are necessarily formulated according to the political system (constitution).' Consequently, laws enacted under a legitimate polity are inherently just, whereas those born of a perverted or corrupt polity are unjust<sup>[2]</sup>.

In theory, only a democratic republic—where 'all power belongs to the people'—can enable broad public participation in enacting laws that reflect the fundamental interests of the masses. Only such laws can be deemed 'good laws.' Conversely, the status of law varies significantly across different governmental forms. A Western legal maxim aptly states: 'In a democratic state governed by law, the law is king; in an autocratic state, the king is the law.'

Throughout China's feudal society, autocracy prevailed, and laws originated from the monarch. A key manifestation of this was the emperor's 'imperial edict,' which could be altered overnight. Consequently, law naturally degenerated into a tool for safeguarding the interests of the feudal ruling class, with power holding sway over law. This was institutionalized in the Tang Code with Commentary, which stipulated the 'Eight Considerations' system, allowing official rank to offset punishment. Under such a system, the principle of 'equality before the law' became an empty slogan. In a political environment where administrative power was supreme—where the judiciary was subordinate to the executive and administration interfered in judicial affairs, as seen during the mid-to-late Tang Dynasty when eunuchs monopolized power and usurped judicial authority—the judiciary found it impossible to operate independently.

Professor Liu Changjiang also discusses how certain dynasties attempted to implement the rule of law to restrain royal authority. For instance, the Han Dynasty's 'Spring and Autumn Judgment' emphasized 'combining ritual and law' and 'determining guilt based on conscience,' significantly mitigating the harsh penalties prevalent since the Qin Dynasty and playing a positive role in easing social tensions and stabilizing feudal rule.

Similarly, the Tang Dynasty established three major central judicial institutions: the Supreme Court (Dali Temple), the Ministry of Justice (Xingbu), and the Censorate (Yushitai), responsible for adjudication, review, and oversight, respectively. For major or complex cases, the 'Three Departments Adjudication' system ensured fairness. Specifically, in the early Tang Dynasty, when encountering major complex cases, the emperor would order non-judicial organs to participate in the trial based on the circumstances. Often, non-judicial officials presided over such cases, with the heads of the three departments participating<sup>[3]</sup>.

In contrast, under China's current system, judicial independence—particularly independence from administrative power—must be fully guaranteed through judicial reform to genuinely uphold fairness and justice throughout society. The Third Plenary Session of the 18th CPC Central Committee explicitly called for 'promoting unified management of personnel, finances, and assets for local courts and procuratorates below the provincial level, and exploring the establishment of a judicial jurisdiction system appropriately separated from administrative divisions.' This reform approach charts the course for ensuring judicial independence.

### **2.3.2. Power Must Be Subject to Checks and Oversight**

As the bourgeois Enlightenment thinker Montesquieu observed: 'All power tends to abuse itself; this is an immutable law of nature and reason. Power is only restrained by the limits imposed upon it<sup>[4]</sup>. Power is inherently prone to imbalance, rooted in the unidirectional dynamic of domination and obedience, the disconnect between the ownership and exercise of power, the divergence between position and responsibility, and the conflict between public interest and private gain. Once this equilibrium is lost, power becomes distorted, manifesting most acutely as corruption<sup>[5]</sup>.'

Unchecked power inevitably breeds corruption; absolute power leads to absolute corruption, and may even devolve into 'tyranny.' The most effective safeguard against the abuse of power is the

'separation of powers,' or 'power restraining power.' Aristotle of ancient Greece analyzed the state's three functions—deliberation, administration, and adjudication—in his *Politics*, laying the nascent groundwork for the separation of powers. Modern Enlightenment thinkers such as Locke and Montesquieu enriched and refined this concept. In *The Spirit of the Laws*, Montesquieu argued that if legislative and executive powers are united, liberty ceases to exist; similarly, if judicial power is not separate from the other two, liberty vanishes. He elaborated: 'If the judicial power is united with the legislative, then arbitrary power over the lives and liberties of citizens is established, for the judge is the legislator. If the judicial power is united with the executive, the judge possesses the power of the oppressor<sup>[4]</sup>.' Madison similarly observed that whenever the legislative, executive, and judicial powers are united in one person, it constitutes a tyranny<sup>[6]</sup>.

Regardless of its nature, when power is exclusive and unrestrained, the people live in terror. Engels noted that 'pure monarchy engenders terror,' recalling Eastern and Roman despotism, while 'pure aristocracy engenders no less terror,' citing the Roman nobility and medieval feudalism. He further argued that democracy, exemplified by figures like Marius, Sulla, Cromwell, and Robespierre, also proved dreadful and unsustainable<sup>[7]</sup>. Indeed, any authority unlimited by earthly constraints is evil and dangerous. No terrestrial authority deserves respect for its own sake, nor should it act without oversight or issue commands unchallenged by virtue of its power. Whenever an authority is granted the power to decide everything—regardless of whether it is called the people or the king, exercised in a monarchy or a republic—it sows the seeds of tyranny<sup>[8]</sup>. As noted, 'Once "governmental power" cloaks itself in the moral mantle of "public will" and declares itself indivisible and unconstrained in the voice of "sovereignty," it becomes highly susceptible to evolving into the self-styled modern "tyranny," a point illustrated by the Jacobin dictatorship<sup>[9]</sup>.'

Even in feudal times, the necessity of constraining and supervising power was recognized. For instance, the Song Dynasty implemented judicial systems that separated interrogation from sentencing, conducted distinct investigations for recorded interrogations and discrepancies, and involved imperial and prime ministerial oversight, thereby embodying a form of separation of powers and checks and balances. In the Ming Dynasty, the central judicial organs, formally known as the 'Three Departments of Justice,' operated under multiple joint trial systems that similarly reflected an attempt at power restraint. Qiu Yongming noted in *A History of Ancient Chinese Supervisory Systems* that to ensure supervisory activities had clear direction, enhance efficiency, and prevent agencies from exceeding their authority—which could disrupt state machinery or lead to illegal enforcement—feudal rulers placed great emphasis on regulating supervisory bodies through legal frameworks, resulting in various supervisory regulations across successive dynasties<sup>[10]</sup>.

However, within a political system where imperial authority took precedence over the rule of law, the balance of power manifested primarily as conflicts between factions within the ruling class. This equilibrium was not the result of top-down institutional design; at best, a chancellor was appointed to assist the emperor. Therefore, only by designing political institutions that clearly divide and mutually constrain decision-making, executive, and oversight powers can the potential for abuse be minimized.

Against the backdrop of comprehensively advancing governance according to law, we must strengthen the constraints and oversight of administrative power. As emphasized by the Fourth Plenary Session of the 18th CPC Central Committee, efforts must be directed toward strengthening the institutional development of oversight by the People's Congresses democratic oversight, administrative oversight, judicial oversight, audit oversight, social oversight, and public opinion oversight.' The goal is to form a scientific and effective system for constraining and supervising the exercise of power, enhancing synergy and effectiveness. This entails implementing oversight before, during, and after the exercise of power, thereby establishing a long-term mechanism to prevent the

abuse of authority.

### **2.3.3. Breaking Free from the 'Historical Cycle' of Rise and Fall Requires the Establishment of Socialist Democracy and the Rule of Law**

Throughout more than two millennia of feudal history, the deeply ingrained notion of imperial supremacy, coupled with an integrated judicial-administrative system, inevitably gave rise to phenomena where 'power existed outside the law' and 'power stood above the law.' The operation of this feudal system consistently demonstrated the primacy of the emperor's will over legal statutes.

When power is not confined within institutional 'cages,' it inevitably succumbs to the historical cycle of 'rapid rise and sudden collapse.' How can this historical curse be broken? The answer lies in establishing socialist democracy and the rule of law, thereby achieving the democratization of the legal system and the legalization of democracy. This necessitates building a socialist rule of law system with Chinese characteristics—a comprehensive framework comprising a robust normative system, an efficient implementation system, a rigorous supervision system, and a solid safeguard system.

We must adhere to the coordinated advancement of governing the country, exercising state power, and administering government affairs according to law. This involves upholding the integrated development of a law-based nation, government, and society; ensuring scientific legislation, strict law enforcement, impartial adjudication, and universal observance of the law; and promoting the modernization of the national governance system and governance capacity. As the adage goes, 'A city-state must have appropriate laws so that no one, by virtue of his wealth or connections, may gain special power and become a hidden worry for the state'<sup>[2]</sup>.

To this end, three critical paths must be pursued:

First, the functions of power must be defined by law. The nature, authority, functions, and staffing levels of any power institution must be stipulated directly by law and cannot be arbitrarily determined by the institution itself. As the historical record warns, 'However legitimate a ruler's qualifications may be, if he acts according to his will rather than the law, and if his commands aim to satisfy his own ambition, private grudges, greed, or improper desires rather than protect the property of his people, that is tyranny'<sup>[1]</sup>.

In the current era of comprehensive reform, it is imperative to properly delineate responsibilities between the central and local governments. This involves strengthening the central government's macro-management while enhancing the initiative, proactivity, and creativity of local governments in directly governing society. Such an approach creates an organic integration of top-level design and micro-level operations, fully leveraging the decisive role of the market in resource allocation. We must truly achieve the principle that 'what belongs to the government remains with the government, and what belongs to the market remains with the market.' The government must fulfill its statutory duties without compromise, while the market must determine what is prohibited, and the government must not arbitrarily intervene.

Second, the exercise of power must be transparent. The Fourth Plenary Session of the 18th CPC Central Committee explicitly established the principle of 'openness as the norm, non-disclosure as the exception,' calling for active advancement in 'transparency in decision-making, implementation, management, services, and outcomes.' Governments at all levels must comprehensively disclose their functions, authorities, implementing entities, regulatory processes, and methods to the public based on their power lists. This ensures administrative power operates in the sunlight, guarantees law-based administration, and fosters a transparent government.

Third, power and responsibility must be clarified. The rule of law relies heavily on accountability; without responsibility, there can be no rule of law. Within a legal framework, all public power carries corresponding responsibilities—greater power entails greater responsibility,



and power and responsibility must correspond. Anyone who abuses public power or acts arbitrarily will face legal sanctions. The Fourth Plenary Session mandated the 'establishment of a system of lifelong accountability for major decisions and a mechanism for tracing responsibility.' It stipulates that strict legal responsibility must be pursued for administrative heads, other responsible leaders, and relevant personnel who cause serious errors, significant losses, or adverse impacts due to decision-making delays or errors.

### 3. Conclusions

In short, to ensure the nation's enduring stability and prosperity, we must resolutely uphold the authority of the Constitution and the law. All political parties, social organizations, and individuals must operate strictly within constitutional and legal bounds, thereby safeguarding the supremacy of law and guaranteeing that 'all are equal before the law.'

No organization or individual may enjoy privileges beyond the Constitution and the law; any violation thereof must be thoroughly investigated and held accountable. Only by effectively upholding fairness and justice throughout society can we unite all forces that can be united, implement the strategic layout of the 'Four Comprehensives,' and ultimately realize the Chinese Dream of the great rejuvenation of the Chinese nation.

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