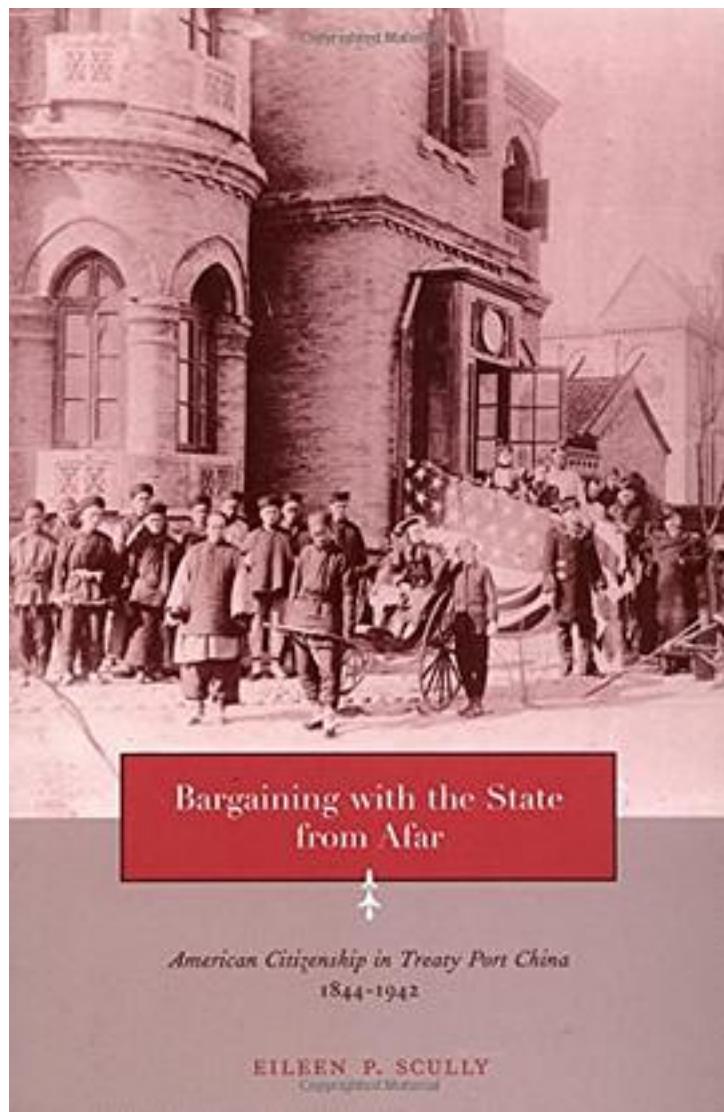


Bargaining with the State from Afar



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著者:Eileen P. Scully

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In the early 1990s, when organizations representing the 2.6 million U.S. nationals living abroad appealed to Congress for their own non-voting representative, the response of one Senator was to dismiss these "moans of the mink-swathed Americans abroad." However, the image of a life of luxury abroad is usually a harsher reality complicated by income taxes, military duty, and legal jurisdiction. What exactly is the obligation of a state toward citizens who live outside its borders? *Bargaining with the State from Afar* traces the relationship between the United States federal government and sojourning Americans living in the colonial enclaves of pre-World War II China. This group of Americans was not subject to Chinese law, but rather to an amalgam of laws borrowed from the District of Columbia and other territorial codes, as well as to local ordinances enacted by foreigners themselves. Scully explores U.S. government efforts to police this anomalous zone in the American policy and places the struggle between federal officials and sojourning U.S. nationals in the larger context of changing international law and modern citizenship regimes.

She argues that the American experience with extraterritorial justice in China offers an important new vantage point from which to examine a singular area in the history of modern states. This case study of U.S. consular jurisdiction reveals the legal, political, and cultural process through which modern states have struggled to govern citizens outside their borders. Scully's examination of the U. S. Court for China is one of the first serious analysis of this anomalous institution.

作者介绍:

Eileen Scully is assistant professor of history at Princeton University.

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标签

法律史

国际关系

治外法权

美国

法律史与法律文化

参考

中国近代史

近代史

评论

治外法权在给予外国人在相关地区“特权”的同时，也为这些人在通商口岸的言行增添了一道枷锁——很难和一些人讲清楚法条是在保护中国人的权益。按照“强权即真理”的逻辑，美国不需要和任何国家签订任何形式与内容的条约，不服即干

作者将治外法权理解为一套国民身份管理制度，确实非常有新意。之前大概极少有人以治外法权为中心，讨论列强如何约束它们的在华侨民。

以美国驻华法院（1906-42）为中心的研究，相当有趣。过去谈到治外法权，总是预想着一个一体化的殖民者形象，但实际上代表着母国意志的驻华法院与海外侨民之间的关系远较此复杂——前者既要保护其侨民免受“野蛮的”中国法管辖，又要为了示范“文明”形象+争取本地合作规训侨民。到了最后，结果便如题目所说，两者的关系其实是bargain with the state from afar。

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书评

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