In recent years, political theorists have reexamined traditional Confucian thought in the process of developing new models of governance with an emphasis on social relationships and responsibility. The webinar series, “Confucianism’s Past, Present, and Future in East Asia: A Legal Perspective,” was organized to examine how East Asian law has been influenced by Confucian ideologies throughout history, and to discuss the future of Confucianism’s impact on legal reform in East Asia and in other areas around the world. By examining different areas of law that have historically developed with Confucianism as a moral and intellectual foundation, the lectures are meant to facilitate discussions about Confucianism’s continuing relevance in contemporary societies.

On July 15, Dr. Tony Qian (SNUAC Visiting Scholar/Fulbright U.S. Scholar) kicked off the series with his talk titled, “Intimate Partner Homicide in Premodern and Contemporary China,” with Dr. Suk-Ki Kong of SNUAC as moderator. The event was attended by scholars from Korea and from the U.S. Before beginning his talk, Dr. Qian introduced the speakers who will give the subsequent talks: Prof. Qiaomei Tang (Grinnell College), Prof. Jisoo Kim (George Washington University), Prof. Sohyeon Park (Sungkyunkwan University), and Prof. Karen Thornber (Harvard University).

Dr. Qian began by discussing the term “Confucianization of the law,” the historical phenomenon that saw the harsh laws of the legalists tempered by Confucian benevolence and transformed by an emphasis on social hierarchies. Turning the term on its head, Dr. Qian spoke of the “legal implementation of Confucian thought”: how real social problems have historically been tackled by Chinese courts. His presentation pointed to intimate partner homicide (defined as a homicide where the victim and offender have a current or former intimate relationship) as a significant social problem, both in history and in contemporary society, accounting for almost four out of every ten murders of women in the world according to a 2013 study by the WHO.

The presentation first introduced the law of homicide in Massachusetts, including concepts such as causation, intent, and provocation, in order to use these concepts to help us understand what is going on in the Chinese cases. Dr. Qian introduced a ninth-century case of spousal homicide, where the throne did not make a definitive ruling about the exact meaning of “intentional homicide” under the Tang Code, but instead decided to punish the husband more harshly in order to make an example of him. Through an early nineteenth-century case involving the accidental killing of a concubine, Dr. Qian showed how premodern judges were not interested in discussing the abstract elements of an offense, but rather focused on finding the most appropriate punishment among the various applicable provisions in the Qing Code. Finally, by looking at two guiding cases published by the Supreme People’s Court in the past decade, Dr. Qian showed how contemporary judges consider factors such as the offender’s remorse, cooperation with authorities, and willingness to offer compensation in their sentencing. At the end, Dr. Qian suggested that the modern Chinese legal system’s treatment of intimate partner homicide reflects several continuities from the premodern tradition: a tendency to eschew abstract legal categories in favor of concrete scenarios, an insistence on making case-by-case decisions without creating binding precedents, and a concern for the social impact of a case, not just the rights of the parties involved.

The talk ended with a brief Q&A session. In response to a question about law in Chinese fiction, Dr. Qian spoke about adultery in crime fiction from the late imperial period as an example of how judges might not have always followed the penal codes to the letter. In response to a question about how often offenders were executed, Dr. Qian talked about amnesties and delayed executions that markedly decreased the number of executions in the premodern period. One participant made the important observation of how paying compensation to victims with the effect of causing a court to mitigate an offender’s sentence is very problematic. Another participant asked about examples of discontinuities between premodern and modern legal practice, a question that Dr. Qian hoped will be explored in more depth in future talks.