

TO TEACH AND TO ENTERTAIN: THE PRODUCTION
OF LEGAL CULTURE IN
16TH AND 17TH CENTURY CHINA

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CHAPTER I

INTRODUCTION

This research examines the production of legal culture as presented in 348 case stories published in 16th and 17th century China. Drawing on the sociology of culture, this study approaches these case stories as a singular cultural object. The central question this research asks is what is the meaning of this cultural object and how was it produced by book merchants and grass-roots intellectuals, social strata excluded from official political and legal discourse in late imperial China.

This study challenges the existing literature in the following aspects. First, it questions the accepted understandings of legal culture and its production in late imperial China. The conventional knowledge characterizes legal culture in late imperial China as a monolithic whole and assumes that only legal officials were responsible for producing and disseminating this legal culture. This study problematizes this simplistic view by revealing the existence of multiple dimensions of legal culture in late imperial Chinese society. More importantly, it points out that in the 16th and 17th centuries, economic growth and flourishing commercialization created new venues and fueled social members who were outsiders of the political and legal domains, such as book merchants and grass-roots scholars, to actively participate in producing and disseminating legal knowledge and legal culture.

Next, this work challenges the existing theoretical frameworks within the sociology of culture, wherein culture production is dichotomized as either being determined by the dynamics of political power or being controlled by institutional structure. Neither of these frameworks pays enough attention to the role of human agency or provides helpful links between the general arguments and actual production processes. In examining the culture production that occurred in 16th and 17th century China, this research aims to expand and strengthen existing theories and concepts in the field.

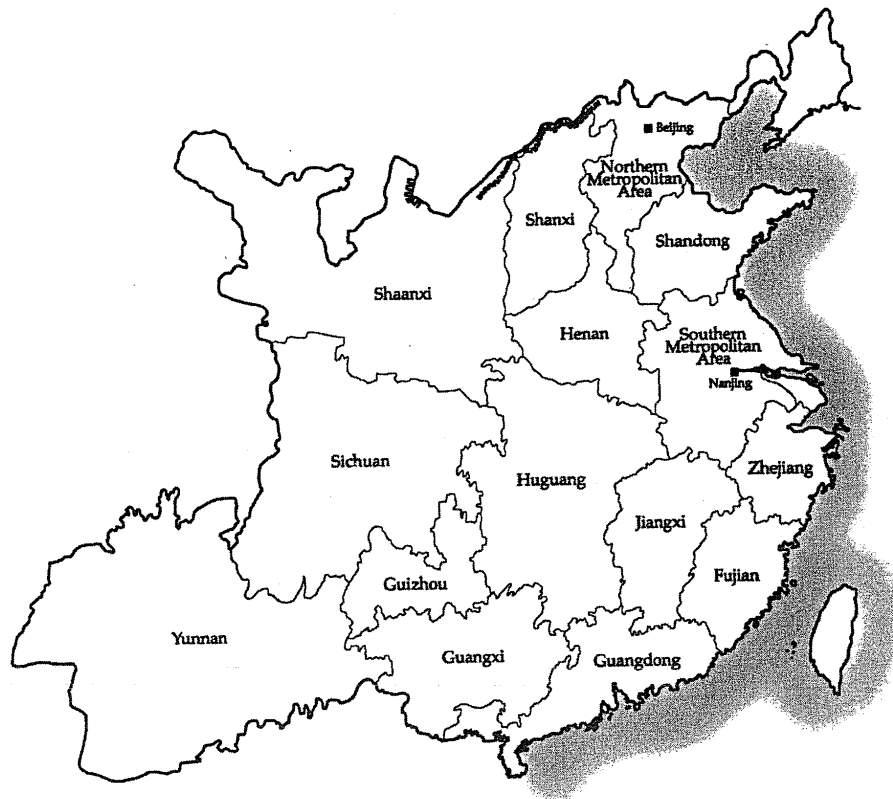
Finally, this research points out the implicit Western bias in previous discussions about these case stories and case story books that neglects their pre-industrial, pre-modern, and non-western social characteristics. This study argues that only by taking into account the specific historical context can we begin to explore broader questions regarding culture, power, market, and the nature of the late imperial Chinese society.

1. The social and historical setting

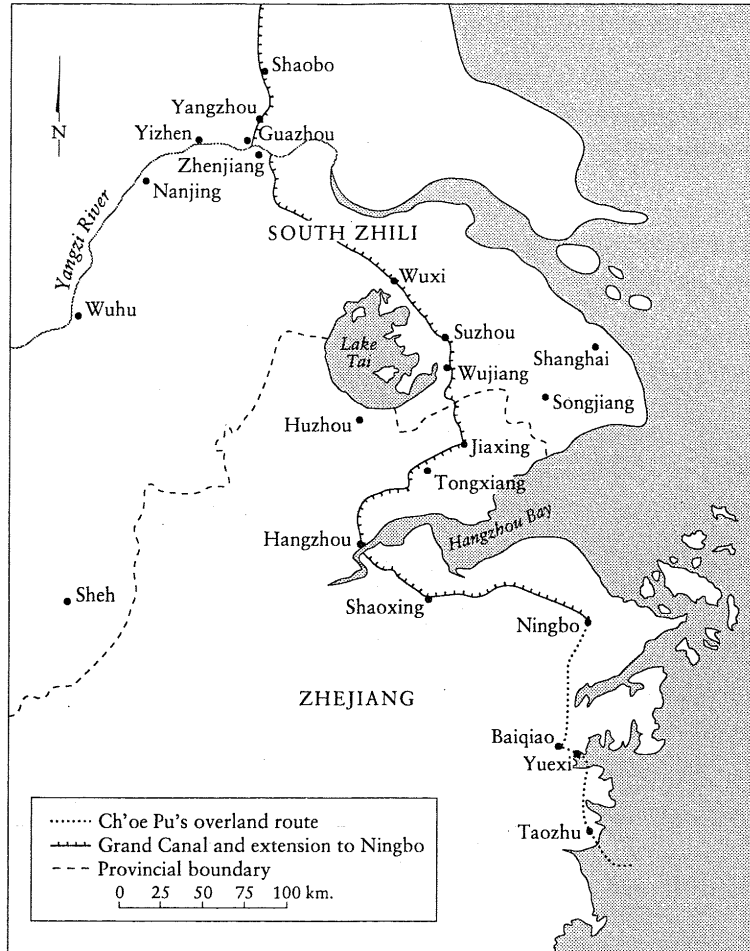
The culture production studied in this research occurred in 16th and 17th century China, which was under the governance of the Ming Empire (1368-1644). Because of the significant social changes witnessed in this period, the 16th and 17th centuries have been recognized as the unique epoch in Chinese history. Indeed, the late 16th and early 17th century Chinese society was vigorous and exciting but also confusing, uncertain, and insecure. The economic growth and the flourishing commercialization brought changes to all aspects of social lives. For the first time, commercialization, commodities, markets, trades, transportation, and merchants became major themes in people's everyday lives. When more social members were interested in commercial activities and join in the commercial world, the traditional social orders and structures, norms and values were

severely challenged. The traditional fourfold social hierarchy, gentry, peasants, artisans, and merchants was among the first to collapse. Commercialization prompted the ascendance of the social status of merchants, the one used to take the lowest social position. At the same time, it also provided new venues of success for members dwelling in the gentry category, especially grass-roots scholars. Economic prosperity also fueled the desire of pleasure seeking. In the 16th and 17th centuries, leisure lives were emphasized more than ever. At the societal level, more theaters, tearooms, parties, gambling gatherings, and brothels came to view and were more frequently visited by people from all walks. A deep concern was widely expressed by the contemporary scholars of the period: the traditional morality was subverted.

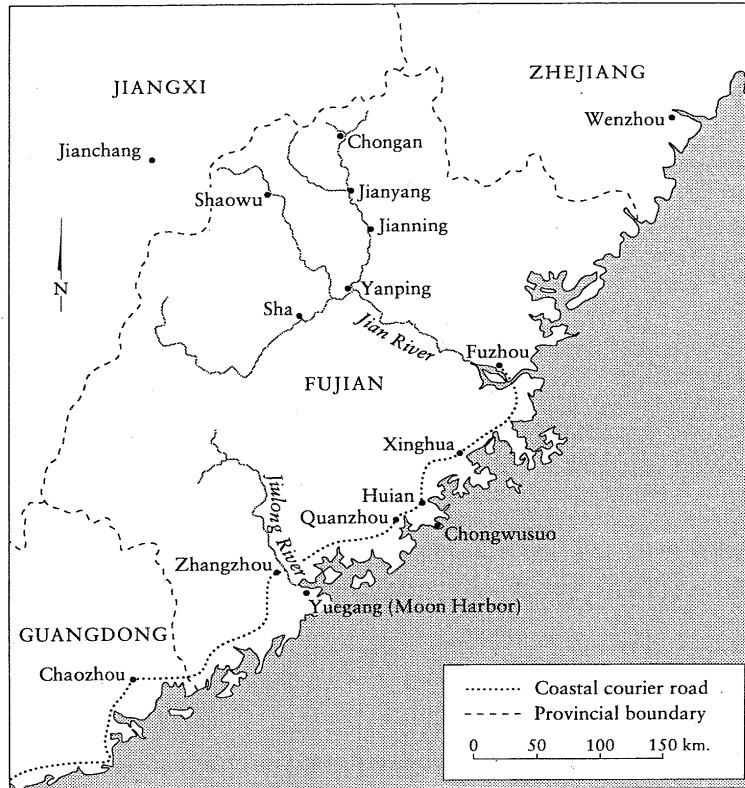
The main locations where the culture production occurred were Jianyang and Nanjing, two major commercial publishing centers in 16th and 17th century China. Jianyang was a county, subject to Jianning prefecture, which was located in the north of Fujian province. Jianyang had established its prominent status within the commercial publishing business before the 16th century. But it was in the 16th and 17th centuries that it experienced its most prosperous period and became one of the most important commercial publishing centers. Nanjing was the southern capital of the Ming government. Located in the most affluent and civilized area, Jiangnan, Nanjing was no doubt the leader in both cultural production and cultural consumption in 16th and 17th century China. It is worth pointing out that Jianyang and Nanjing kept close connections in the field of culture production, including sharing personnels, markets, and other significant resources.



Map 1. The Ming Empire (Source: David Robinson, *Bandits, Eunuchs, and the Son of Heaven: Rebellion and the Economy of Violence in Mid-Ming China*, Honolulu: University of Hawaii Press, 2001, p. 12.)



Map 2. Jiangnan and the northeast coast of Zhejiang Province (Source: Timothy Brook, *The Confusions of Pleasure: Commerce and Culture in Ming China*, Berkeley: University of California Press, 1998, p. 41.)



Map 3. Fujian Province (Source: Timothy Brook, *The Confusions of Pleasure: Commerce and Culture in Ming China*, Berkeley: University of California Press, 1998, p. 83.)

2. The data: case stories

The data for this research is drawn from 348 case stories included in seven case story books. These stories are significant not only for the growth of a literate population, but also for the following reasons. First, these case stories were originally collected in case story books. Case stories, stories which relate to crimes and case-hearings, were not rare before this period, but story collections or case story books were rare. It was only in the 16th and 17th centuries that entire collections of case stories were available. Second, these case story books were published in a short fifty-year time span, a spurt in publication beginning in the late 16th century and ending in the early 17th century. Third, as indicated by the authorship, these case stories were written, compiled, and edited by book

merchants and grass-roots intellectuals and were published by commercial publishing enterprises. Finally and most importantly, across these case stories, similar styles and consistent themes can be observed: all of them include illustrations along with the texts and almost all of them include formal legal documents, such as complaints and verdicts. Similar narratives and discourses express consistent understanding, ideas, and beliefs regarding crimes, legal institutions, and justice.

These case story books were largely neglected until the early 20th century, when they were first discovered. The existing literature primarily treats these case stories as a genre of fiction while occasionally referring to them as legal documents. As such, some scholars exclusively focus on characters, plots, illustrations, and rhetoric of the case stories while others include them in edited bibliographies as formal legal works with authorship attributed to local magistrates.

While acknowledging the contributions from both literary and legal scholars, this study approaches these case stories in terms of their properties as a cultural object, embodying a special dimension in the discourse of legal culture. It argues that as a cultural object, these texts were intentionally produced by book merchants and grass-roots intellectuals, a social group excluded from the official political and legal domains. By examining the case stories and case story books as cultural products of a specific time and place, this study is concerned with (1) the distinctive features of the case story books and case stories in terms of their design; and, (2) the types of legal knowledge and culture presented. These case stories contain implicit information about how crimes, criminals, and victims are understood; how courtrooms, judges, and their embodied legal order are perceived; and what are the patterned narratives about justice and justice achieving?

To better understand the features of the case stories, this research investigates the production of this cultural object within a specific social and historical context. Focusing on the producers, compilers, editors, and publishers of the case story and case story books, this research asks the following questions:

(1) Who are the producers and how have their social positions, local environments, and their social and cultural experiences affected their production process? This question examines the resources these producers might have possessed and might be able to access with regard to the culture production. It explains how social, cultural, and legal domains are potential spheres of influence.

(2) How does human agency link the producers to the production process? This question examines what resources have been utilized, and how, in the production process? And more importantly, how this resource utilization is significantly affected by the intentions of the producers and the designed production principles?

3. Toward a sociological understanding of non-western processes of culture production in the 16th and 17th centuries

This study reorganizes and invigorates constructive elements in existing theoretical frameworks to provide more practical links between general theoretical thinking and concrete production processes. The modified theoretical framework used in this research brings human agency into focus. Drawing on the symbolic interaction perspective in sociology, this research fully considers the active role human agents play and the creativity that human actions enjoy. To understand the culture production occurred in 16th and 17th century China, this theoretical approach assumes that the producers actively

plan, direct, organize, and carry out the production process based on their constant evaluations of situations.

This modified framework also re-conceptualizes “resource” to better capture the social equipment of the producers and the resources utilized by them in the culture production process. Using “resource” as a more broad and neutral concept avoids dichotomizing political power and institutional effect; in this way heterogeneous social phenomena found in late 16th and early 17th century Chinese social phenomena can be more fully expressed.

The theoretical approach and the methodological framework utilized in this study also contribute to a better sociological understanding of historical contingency. The dominant approach in current historical sociology research emphasizes locating and testing causal relationships. This research adopts an exploratory direction in terms of emphasizing contingency over causality in historical explanations. The sociological theories and frameworks used here are to provide possibilities instead of imposing conclusions. Through focusing on human agency and the variety of directions history could unfold, historical research gains an immediacy that is lost when it is reduced to just variables.

Focusing on the producers of the case stories, this research reveals how human agents play an active role in the culture production process. It demonstrates how the unique features of the cultural products are jointly shaped by book merchants and grass-roots scholars, who share common goals as well as holding different intentions. By focusing on resources, this research demonstrates how different social factors, including political-economic power, market, the commercial publishing business, social

connections, and so on, work together in producing the legal culture presented in the case stories. Using the production of legal culture as embodied in case story books as a particular case, this study argues that legal culture production and dissemination in the late 16th and early 17th century Chinese society was multi-centered. Different agents participated in the production process, including government officials, professional legal workers, and people who were beyond the political and legal arenas, such as book merchants and grass- roots intellectuals.

This dissertation is organized in the following chapters. Chapter Two provides a review of the literature to develop the theoretical approach. Chapter Three introduces the methodological framework and the data. Chapter Four and Chapter Five examine the special features of the cultural product, the case stories and the case story books. Chapter Four emphasizes the format, mainly the structure and components of these case stories and case story books, such as the prefaces and comments, the illustrations, the legal documents, and how case stories are categorized. Chapter Five focuses on the content of the cultural product, the legal knowledge as embodied by these case stories. It surveys the themes and patterned narratives as included in the major categories of case stories to see how crimes are depicted. This chapter also discusses the images and portraits of courtrooms, judges, and justice to see how legal order and legal institutions are perceived and presented. Chapter Six and Chapter Seven discuss the culture production process. Chapter Six examines the producers and the broad social and historical context of their lives. It looks into their social positions, their local social environment, and their various social and cultural experiences in order to understand what social resources the producers might have possessed and how these resources are related to culture production. Chapter

Seven examines the production process, including the claimed case story selection process, the process of organizing the case stories, and the presenting and promoting process. It reveals the intentions of the producers, how these intentions are translated into principles and criteria of producing the case stories, and how these principles and criteria guide the process of maneuvering and utilizing various resources. Chapter Eight is the conclusion, which provides a summary of this research. It also briefly discusses the directions for future research.

CHAPTER II

RESEARCH BACKGROUND AND THEORETICAL APPROACHES

This chapter first provides the research background of this study. The detailed literature review on culture production, legal culture, and the legal culture production in 16th and 17th century China illustrates how this research is based on and has benefited from the existent research findings. The chapter next introduces the theoretical approach of the present research. Addressing the problems and research gaps identified in the first part, it demonstrates how this research would contribute to the field theoretically.

Culture production: the two key mechanisms

In the existing literature, culture production has been approached from different angles as a topic; and as a term, it has been used for the process of origination, formation, manufacturing, and making of all kinds of cultural objects including ideas, music and literature, arts and artifacts, and so on (Lears 1985; Wuthnow and Witten 1988; Lamont and Wuthnow 1990; Crane 1994; Griswold et al. 1999; DiMaggio 2000; Demerath 2002; Kaufman 2004). However, regarding the mechanisms of the production process, i.e., what factors determine the production process and shape the features of the cultural products, and how they do so, two perspectives stand out more than the others, with one emphasizing the role of power and the other emphasizing the role of institution.

1. Culture production: power and resistance

The basic argument of the power perspective is that power as a social factor plays the determining role in the cultural production process and it is this factor mainly that shapes the nature and characteristics of cultural products. But the concept of “power” is often defined loosely and diversely within this school. As Lamont and Wuthnow (1990) conclude, “implicitly or explicitly, they define power as the capacity to impose a specific definition of reality which is disadvantageous to others” (295). However, in this perspective originally rooted in the Marxist tradition, political-economic power remains the core of the concept. Efforts to bring more dimensions and more dynamics into the concept do not change the essence of the perspective.¹

With regard to the role of political-economic power in the process of culture production, the power perspective focuses on the impact of “hegemonic culture,” the culture produced by the social group that controls the political-economic power. The main body of research that explicitly or implicitly employs this perspective concentrates on the production of subordinate culture, the culture produced by social groups that occupy the lower end of the continuum of the political-economic power, and its articulation with the hegemonic culture (Willis 1981; Brow 1985; Scott 1985, 1990; Fantasia 1988; Ogasawara 1998; Chen 1999; Gagne and McGaughey 2002; Cater 2006; Kergoat 2006).

Following Antonio Gramsci, Williams (1977) believes hegemony and hegemonic culture constitute a sense of reality for most people in the society and a sense of the

¹ For example, Michel Foucault (1980) tries to include more dimensions into the concept of power when he claims that he sees power as a complex, power is more than just a judicial mechanism, and “power means relations, a more-or-less organized, hierarchical co-ordinated cluster of relations”(198), but the core of the concept is still political-economic power.

absolute (110). His recognition that “alternative and oppositional initiatives and contributions which are made within or against a specific hegemony” do exist (114) does not change the all encompassing nature of hegemonic culture implied in his framework because these “alternative and oppositional initiatives and contributions” are only subordinate cultures, cultures which are subordinate to the hegemonic culture and subjected to the impact of the hegemonic culture in the production process.

First of all, the production of subordinate cultures never enjoys autonomy and therefore cannot have an independent agenda. The production process is always shaped by the efforts of articulating with the hegemonic culture, such as resisting the hegemonic culture. As a result, the features of the subordinate cultures constantly bear the marks of the hegemonic culture as Scott (1985) argues, “the forms of peasants’ resistance” and the levels are essentially affected by the institution of repression” (299). Second, the production of subordinate cultures has little effect on the production of the hegemonic culture as people from the subordinate class live outside the world of the dominant class and are simply “less accessible to hegemonic practice”(Scott 1985, 321). In fact, subordinate cultures would help strengthen the hegemonic culture, as Willis (1981) and Ogasawara (1998) most vividly describe in their discussion of the “counter-school culture” created by “failed” working class youth in an English comprehensive high school, and the culture developed by office ladies working in big male-dominated Japanese corporations. To conclude, the subordinate does not have the possibility and capacity to affect, challenge, and alter the hegemonic culture; only the hegemonic culture itself has the power to create the counterhegemony (Scott 1985, 346).

2. Culture production: institution and market

Different from the “power” approach, the “institution” perspective emphasizes the role of social institutions in culture production. As DiMaggio (2000) put it, the perspective is “to explain variation in the content of symbol systems as a function of variation in the social organization of their production, distribution, and use” (109).

To specify “social organization,” Peterson, the leading figure of this perspective, identified five constraints including law, technology, market, organizational structure, and occupational careers in culture production in 1982 (Peterson 1982). And in 1985, he listed six variables including law, technology, industry structure, organizational structure, occupational careers, and market in examining the production of literary works (Peterson 1985). While other factors might be included (Becker 1976, 1982; DiMaggio 1990; Crewe 2003), the original six-facet model with the order as technology, law and regulation, industry structure, organization structure, occupational career, and market has been taking the shape since 1985 and has been adopted frequently in culture production research (DiMaggio 2000; Peterson and Anand 2004).

Within this perspective, *technology*, especially communication technology, is emphasized as it evidently provides the hardware or the tool for culture production. *Law and regulations* provide various rules regarding how the culture production process should and could proceed. In examining the production of literary works, Peterson (1985) discusses specific rules related to copyright and censorship as well as how “statue law and administrative codes shape the financial and aesthetic conditions within which literature can develop” in general (Peterson 1985, 49). *Industry structure* not only “has to do with the number and relative sizes of firms in the market producing aesthetic products” (Peterson 1985, 50), but also the interactions among them and the arrangement

of them. *Organizational structure* examines how the structures of organizations, such as the size of the organizations, relationships among workers, and working goals, affect the culture production process. *Occupational career* focuses on the structure of the occupation, while *market* refers to “the reader, audience, listener, viewer, or fan” in this perspective, which believes that “the ways in which potential readers are identified and measured as markets directly influence what will be produced”(Peterson 1985, 55). While each variable might have its independent effect, the perspective tries to point out that “more often they work in concert” to shape culture production processes (Peterson 1985, 57). Also, these elements are closely connected. Every change in each of them would “start a cycle of destabilization and reorganization in the entire production nexus” (Peterson and Anand 2004, 318).

Different from the power perspective, which assumes that the intention of culture production is expression, the institution perspective is evidently oriented toward market and consumption. Defining production as “the processes of creation, manufacture, marketing, distribution, exhibiting, inculcation, evaluation, and consumption” (Peterson 1976, 10), this model, often called the “culture industry” model, assumes the culture production process and the features of the produced cultural objects revolve around the overall structure of commercial industries and the operating market principles. It employs the same approach to culture production and cultural products as to industrial production in general, and to any other industrially manufactured goods. The six elements are recognized and included because they have the capacity to affect the quality and quantity of the cultural products in the first place, and the popularity of the products in market as well.

3. The problems

The two perspectives introduced above have their different research targets. The power perspective mainly focuses on ideas, lifestyles, beliefs, languages, and certain ritualized behaviors, especially the ones produced by the disadvantaged social groups, while the institution perspective mainly deals with mass-produced cultural objects, such as music, literary works, films, arts, and so on. The two valuable mechanisms identified by these two perspectives—“resistance” and “market,” respectively—originate from their interests in these special aspects of cultural products. The culture production and cultural products in which the institution perspective is interested seem to also be confined within certain social and historical contexts. Peterson(1972) points out that “in the capitalist countries, particularly the United States, the media were not systematically used by the state to disseminate new ideas” and “self-appointed industry, political and religious groups outside government arose to censor material considered offensive to their parochial interests in the name of morality, patriotism, and free enterprise” (233). The institution perspective and the market mechanism it has identified are deeply rooted in contemporary industrial societies, such as America.

These specific contexts of the perspectives set limits on their scope of generalization and application. Neither of them could answer the question posed by the other side: Does the power perspective need to include other sources of power other than the political-economic ones? And how can the institution perspective take care of the class issue, as embodied by the political-economic difference even observed in contemporary industrial societies, such as America? As a result, these two major perspectives developed in the culture production field are not well prepared to answer the question of how they are

going to deal with cultural productions that happened in more complex social and historical contexts and cultural products with multiple facets, such as culture productions controlled by disadvantaged social groups but directed by market principles, cultural products produced both for expression and sale. To say it differently, the common challenge to both of the perspectives is how their one-core-one-dimension frameworks can open up to be pluralistic to handle complex social phenomena observed in the field of culture production.

Another significant problem common to these two perspectives is their treatment of producers. It is not that they do not talk about producers, but it is the passive image of producers portrayed in both perspectives that causes the concern. The power perspective regards producers as groups that have different positions in the continuum of political-economic power. Their capacity and actions with regard to culture production are structured by their positions in the political-economic power continuum. The group that controls the political-economic power would surely produce the hegemonic culture and the subordinate group would produce the subordinate culture accordingly. The creativity of the producers and how it might alter the production process and leave its marks on the features of the cultural products are not elaborated. It is the same case for the institution perspective, although it views producers as groups located in different industrial and market structures, and therefore bestowed with and restrained by different legal rules, technology, organizational and occupational practices, and industrial and market orientations. In the culture production process, producers are the carriers of these social factors, instead of the organizers and negotiators. Structured by various social

institutions, producers seem to have little room to exercise their creativities in this perspective.

Culture production in 16th and 17th century China

Compared to the studies on culture production that happened in western industrial social settings, the examination of culture production that happened in pre-modern non-western societies, such as 16th and 17th century China, is still limited.

1. Commercial publishing and the culture production landscape

It has been widely recognized that 16th and 17th century Chinese society witnessed significant social changes (Wu 1998; Zhang and Lin 2003; Wan 2005). Among others, the “both extraordinary and unprecedented” flourishing of commercial publishing has received broad attention (Meyer-Fong 2007, 793). In the field of culture production in 16th and 17th century Chinese society, great efforts have been made to find out how this commercial publishing affected the culture production landscape, including the production process and the produced cultural products (Zhang 1979; Li 1984; Rawski 1985; Brokaw 1996; Brook 1998a, 1998b; Chia 2002, 2005; Chow 2004; Meyer-Fong 2007).

Scholars agreed that the active participation of commercial publishing in culture production significantly changed both the composition and the features of the produced cultural objects, books. First of all, when the main source of books during this period became “commercial publishers” (Brook 1998b, 662), an unprecedentedly large quantity of books were produced in the 16th and 17th centuries. Second, because of the participation of commercial publishing, more books were produced for the market instead

of for the conventional purpose, i.e., official use and formal education. As Chia (2002) put it, more books were printed for profit. When that happened, part of these cultural products changed their nature. Third, compared to the previous periods, more social groups, especially those positioned at the lower levels of society, were included among the targeted consumers of the cultural products. Thus, a segmented market of cultural products formed in the 16th and 17th centuries (Hegel 2005, 238). With all this happening, the significant transformation in the features of produced books observed in this period is understandable. In terms of the content of the books, more topics, especially those that were rarely included in official publication lists, were covered for publishing in the 16th and 17th centuries. While Zhang (1979) mentions only novels, dramas, literature anthologies, and encyclopedic books for practical use (78-9), Brook (1998b) lists route books, almanacs, primers, moral tracts, novels, plays, erotica, joke books, collections of letters edifying and otherwise, and accounts of foreign customs (663). Meyer-Fong (2007) also points out that “there were books to fulfill every conceivable need,” including “letter-writing manuals, religious pamphlets, household encyclopedias, route books, illustrated fiction, dramas, painting primers, ink stick catalogs, and erotic novels” (795). In terms of the format, more unique features were incorporated in correspondence to new topics, such as the inclusion of illustrations, phonetic symbols, commentaries, and variously styled paratexts (Chia 2002, 2005; Chow 2004). Meyer-Fong (2007) calls this phenomenon a “colorful textual bazaar”(795).

More significant change, however, happened in the culture production process. Basically, the active participation of commercial publishing enterprises in culture production broke up the domination of official publishing. It introduced a new sector of

culture production, which had its distinctive orientation, organization, locations, producers, and mechanisms. Numbers of studies have focused on the new culture production centers, the commercial publishing centers (Zhang 1979, 1980; Brokaw 1996; Chia 2002, 2005), which raise issues including “the relationship between cultural and commercial integration, the local institutions and organizational practices involved in printing enterprises, the production of local and lineage identities, and the distribution of technologies and resources across Chinese space” (Meyer-Fong 2007, 798). Within these commercial publishing enterprises, distinctive organizational structures were employed. After looking into the economic and social organization of the commercial publishing enterprises, the competition and cooperation among them, Brokaw (1996) argues these family based “hereditary industries”(60), equipped with family values, actually “supported and even promoted” business success. Along the same line, more producers were brought into the culture production process, including book merchants (Xiao 1986, 1991) and women (Ko 1994).

2. Culture production, market and power

Among all the existent research on culture production occurring in 16th and 17th century China, Chow’s work (2004) deserves the most attention. Not only does it actually focus on culture production during this period; it also provides an intricate picture of how commercial publishing affected culture production in this special social and historic context. Focusing on the culture production that happened in one section, books of examination aid, during this period, both “market” and “power” have been touched upon although they might be termed differently in the text.

Commercial publishing is introduced into the book from the material, technology, and business aspects at the beginning, which sufficiently illustrates how commercial publishing is governed by the market principle in terms of the production process. But the main focus of the book is on how this market principle brought in by commercial publishing affected the social aspect of culture production. To be more specific, the author wants to concentrate on how the market principle conflicts with and challenges the power principle that used to dominate in culture production and how the consequential dynamics shape the features of culture production and cultural products. The main argument is that flourishing commercial publishing fostered a challenge to the political authority in general and in the area of culture production in particular.

First of all, commercialization and commercial publishing prepared a new group of agents for the culture production field. As Chow puts it, “the boom of commercial publishing created new positions in the economic field for many talented literati”(94). A great number of unsuccessful examinees of the civil service examination ²were taken in by the commercial printing business. Thereby, a new group, *shishang*, scholars and merchants, began to form. It was “a class of literary professionals”(2), members of which were *shi* as well as *shang*, “engaged in both the quest for an official career while taking up positions in the economic field as literary workers and businessmen”(98). Second, commercial publishing provided the stage for these literary professionals to demonstrate their talents and excellence in writing. Moreover, it created a market and audience for these literary professionals to recognize and celebrate these talents and excellence. Thus, a “literary public space” was created, “membership [in which] was

² The civil service examination served as a main mechanism for recruiting civil officials in the Ming dynasty (Hucker 1998, 30-41).

defined by literacy, access to printed materials, and mostly, but not exclusively, the male gender” (16). This was a space for expression; it is also a space that kept its distance from and thus was independent of the political arena. Within this space, new agendas were set, new orientations were agreed upon, and “a new literary authority” was developed (2). As Chow points out, the new authority was “derived not from possession of positions in the political field, but from the literary public sphere that was increasingly structured by the market mechanism of commercial publishing” (243). And finally, when professional writers and critics won the literary authority from officials, they were empowered to rival and challenge the authority of the officials and the government, who set standards of literary excellence through the civil service examination. Based in their space, mainly through writing, editing, and commenting, this new group of producers negotiated and challenged the political authority, enabling them to “negotiate, resist, and appropriate the imperial ideology” (151). As a consequence, the author argues, the authority of the imperial state in the field of cultural production was eroded (242).

When providing these big pictures regarding how the market principle, as dominant in commercial publishing, brought significant changes to culture production, which used to be dominated by the power principle, the author focuses mainly on the civil service examination field and the production of examination aid books, such as commentaries on the Confucian canons, the Four Books and Five Classics. Chow identifies the civil service examination, as practiced hundreds of years by then, as the key institution in structuring practices in culture production (91). And through the examination of seventy-two commentaries on the Four Books published by commercial publishing agencies in the 16th and 17th centuries, Chow illustrates how the official commentaries, and thus the

imperial ideology and authority, had been challenged both in format and in content. The commentaries published by commercial publishing enterprises not only incorporated new ideas and information, they also provided the reader “a wide range of possible expositions on the text” (175) to compare and contrast. The Confucian texts might be explained in Daoist and Buddhist terms (179). Moreover, commentaries constantly touched upon contemporary political issues, including various social problems. As a result, “radical ideas and criticism of misrule and abuses of imperial power by the emperor were freely circulated in the commentaries” (187).

Chow’s research on culture production in late imperial China has touched upon market, power, institution, and agents. It well illustrates how, in a pre-modern non-western society, different social elements worked together in the culture production process. Specifically, it demonstrates how the production of commentaries on canonical texts for examination aid was governed by the market principle on the one hand, as these books were commercially published for sale, and by the power principle on the other, as conscious resistance was clearly expressed by the producers through writing and publishing.

3. The problems

It is clear that more empirical studies are needed to understand the culture production that occurred in 16th and 17th century China, especially studies of other types of commercially published books, such as fiction, manuals, plays, and so on. Chow’s work is a great contribution, but it is evident that only one sector of the culture production and one type of cultural products have been examined in his research. As commentaries on canonic texts and works published for helping scholars pass the civil service examination,

this particular cultural product and its production directly point to political authority and the hegemonic culture. In that sense, it is a special case. It would be helpful if other types of cultural products, such as the ones that are more distant from the political discourse, were examined to see what mechanisms and principles were involved in the production process.

In addition, Chow's work is based on the big assumption that the civil service examination was the institution that had structured culture production in late imperial China. For that reason, his examination on how commercial publishing affected the culture production field in this period actually revolves around the civil service examination. Besides the fact that only books for examination aid were selected as the cultural object for consideration, the author also believes the unsuccessful examinees were the members of the new group of producers, who were working in the commercial publishing field but still kept their eyes on officialdom. Pure book merchants who gave up any dreams of entering officialdom were neglected as part of the new producer group. To emphasize the effect of civil service examination, Chow even argues that "the commercial publishing market was still structured around the civil service examination because the examinees constituted the largest reading public" (92), which seems to contradict to the major arguments expressed in his book. It would be helpful if other culture production research, which does not have a pre-set core as Chow does, were available to see whether and how the big picture of culture production, the mechanisms and their operating, would be different from what Chow has described. So far, literature in this regard is still missing.

Finally, as mentioned above, some research does look into the organizational structure of commercial publishing to understand its effect on culture production. Chow's research also illustrates that the commercial printing business was very much institutionalized in 16th and 17th century China. But the picture regarding how organizational structure and institutional practice shaped the features of produced cultural objects is still very obscure. But this issue might have to do with the limited historical data.

Legal culture

1. The produced legal culture

Scholars believe legal culture in any society is not monolithic; instead, it includes different dimensions (MacAulay 1989, 1547). Friedman (1975) distinguishes between “an external and an internal legal culture”(223). Potter (1994) differentiates regime legal culture from popular legal culture. Yngvesson (1989) discusses the interaction between the local legal culture and the central and top legal culture. This pluralistic view of legal culture might have nurtured the research on a special dimension of legal culture, the legal culture that is deliberately produced and presented or embodied mainly by mass media and literary works.

It is recognized that this produced legal culture has its distinctive features. The major issue that has been widely discussed is its distortion of legal affairs in reality (Friedman 1989, 2001; Machura and Ulbrich 2001; Rafter 2001). Crime television shows, for example, are easy to “overrepresent violent crimes”(Friedman 1989, 1588). Television shows about lawyers, such as *L.A. Law*, often distort the everyday life of

lawyers, the ethical issues lawyers face, work tasks lawyers have, and so on (Friedman 1989, 1600). Machura and Ulbrich (2001) point out very few of courtroom dramas “accurately reflect legal reality” (117). For literary works, Friedman (2001) illustrates how contemporary detective fictions exaggerate the threat and distort reality.

Scholars have noticed that this distortion is not random, but patterned. Detective stories play on similar themes, “themes of false identity and hidden motives” (Friedman 2001, 1416). After reviewing American criminal trial films developed in the last seventy years of the 20th century, Rafter (2001) mentions “nearly all criminal trial films sound the same theme, the difficulty of achieving justice” (11). Machura and Ulbrich (2001) also identify “the striking uniformity of the legal procedures that are portrayed in movies” that are produced in different countries with different legal systems, such as the United States and Germany (123).

The disagreement arises when it comes to the issue regarding how to understand and explain this patterned distortion prevailing in the produced legal culture. Some scholars insist they are still rooted in legal reality. Features identified in law films, courtroom television shows, and crime stories convey messages about how the general public views legal affairs, and they actually are anchored to legal reality. For example, television shows such as *L.A. Law* are related to contemporary legal practice and how the layperson thinks of justice in substantive terms (Friedman 1989). By the same token, changes in the law can track the changes in crime stories (Friedman 2001). Ruggiero (2003) is able to identify “issues of crime and crime control through the reading of some classic literary works” (1). Worthington (2005) believes that it is self-evident that “the framework of crime fiction relies heavily for its material on factual developments in crime, policing and

on the law.” Therefore, her work is to locate factual accounts of crime and detection to understand the developments and features of detective stories in early 19th-century England (ix).

By contrast, some other scholars believe the so-called distortion is rooted in the separation between the produced legal culture and the legal reality. The basic argument is that the produced legal culture has its agenda and therefore its unique way to tell stories, which are distinct from the ones used in legal reality. Rosenberg (1989), for example, understands *L.A. Law* as a drama. According to him, “the show is less a conscious attempt by the writers to influence how people feel about the law or lawyers than it is an effort to create interesting drama, with law as its stage”(1625). Machura and Ulbrich (2001) also point out that the uniform narratives of judges, lawyers, and jury in courtroom dramas produced both in and outside of Hollywood follow the rule of entertainment value (124). This really touches the issues of the production of legal culture.

2. The production of legal culture

With regard to the production of legal culture in general, several elements have been identified and discussed in terms of their capacity to affect the formation of legal culture. Friedman (1975) believes professionalism is a significant element in shaping legal culture, especially the internal legal culture (223). When Sarat and Felstiner (1988) talk about how laypeople’s understanding of law would be affected by their working with lawyers as clients in the process of dealing with cases, they also emphasize the relationship between professionalism and the formation of legal culture.

While also admitting the role of professionalism, Yngvesson (1989) brings a new element into the discussion: power. In examining the relationship between official understandings of legal practices and local legal practices, the author argues the former represent the ideology of “a powerful and dominant professional elite”(1693) and the latter “[reproduce] official understandings while challenging these with claims and actions that reflect different assumptions about morality, about community, and about justice” (1693). It is the interaction and articulation between the two that generates “a plural legal culture in contemporary America” (1693). Even the law itself is constructed by the “contingency of state power and the agency of ‘powerless’ citizens” in constructing the law, according to the author (Yngvesson 1990, 468).

The production question is more real and valid to the produced legal culture as this dimension of legal culture is intentionally made by human agents. Friedman (1989) has the following observations regarding the production of this dimension of legal culture: first, the produced legal culture is usually produced by people who are outside of the legal field, mainly “people do not have a clue as to what these are all about”(1588); second, the production takes dramatic effect and audience demands into accounts; and third, regarding the source of the produced legal culture, these works “come out of common, lay conceptions”(1592).

But some research tries to look deep into the production process and examine the working mechanisms more closely. Among others, power as a significant element is first identified and frequently discussed. Drexler (2001) illustrates how the state and political power played the key role in the production of German courtroom films during the Nazi period and how these courtroom films and legal comedy were used as a mass propaganda

weapon. In examining the production of reality-based courtroom TV, Kohm (2006) also demonstrates how the produced legal culture embodied by the courtroom TV, has been tailored to the targeted viewers, “the segment of population that has traditionally been denied a powerful role in civic and legal affairs”(696), to reinforce the power structure in the legal terms. In the process, besides the role of power, Kohm (2006) also elaborates the role industry and market have played in the production process. The author points out that the features of the courtroom TV programs “[parallel] a shift in the television industry toward depicting a type of reality that might be better referred to as a form of unscripted drama” (695), and they work well with the targeted audience as part of the market strategy of the television industry (696). Along with Kohm (2006), Machura and Ulbrich (2001) use “the system of art” to describe the domain where industry and market take their actions. The rules of the industry and the market orientation are so powerful and consistent that Rosenberg (2001) names them the Production Code, the legal system of the industry. The author believes the production of films relating to law follow this Code instead of the legal code in reality (1455).

Generally speaking, the literature on the produced legal culture and its production process is still very limited. More work needs to be done to better understand the unique features of this dimension of legal culture, its relationships with legal reality, and its interaction with other dimensions of legal culture. More needs to be learned regarding the producers of this dimension of legal culture. And more empirical studies are needed to thoroughly understand issues such as what main mechanisms have involved, what are the interactions among them, and what is the consequent impact on the production process.

3. Understanding legal culture in 16th and 17th century China

The conventional view of legal culture in late imperial China is fairly simplistic. Cultural totalitarianism is taken for granted and legal culture is often treated as a monolith (Waley-Cohen 1993; Wu 1994). Very little research has been done regarding the production and dissemination of legal culture, as it is assumed that only central governments ever produced legal culture, and the dissemination of legal culture and legal knowledge was always from top to bottom (Zhang 1994). Popular novels and stories circulated during this period have not been treated as a dimension of legal culture; instead, as they are often “vague, exaggerated, or distorted” (Zhang 1994, 298), their significance is ignored.

Fortunately, this situation is changing in important ways. Since the late 1990s, scholars from China and abroad have explored a range of new topics in the field, and their research findings significantly alter the conventional understanding of legal culture and its production in 16th and 17th century China.

The major accomplishment of these new efforts is the recognition of the multi-dimensional legal culture that existed in late imperial China. Waltner (1990) argues casebooks represent “a genre of administrative writing”(284) and thus “a “bureaucratic culture” (288) while crime fictions represent the popular culture. Focusing on litigation masters, Macauley (1998) introduces the “hegemonic vs. resistant” legal cultures. When Hegel (2004) compares professional legal writing to creative writing on legal issues, he implies the difference between the “internal vs. external” legal cultures. Xu (2007) uses “all voices” to describe different dimensions of legal culture as embodied in folklore, jokes, local gazetteers, casebooks, and so on.

This recognition naturally brings about efforts to understand these dimensions of legal culture, the comparison between them, the examination of their interactions and articulations, and exploration of how their unique features were formed. After comparison, Hegel (2004) notices that the difference between the internal legal culture as embodied by the crime reports, and the external legal culture as embodied by crime fiction, is that the latter focuses on entertaining and “lack of specificity in presenting the details of the violence,” while the former emphasize details, follow standards, and intend to convince (67). After comparing a casebook and a case story collection, Andre (2007) believes differences exist in all aspects, including the structures, the themes, images of litigants, images of officials, views of crime and criminality, and perception of the efficacy of the legal system. Waltner (1990) also demonstrates those differences, but also similarities between the bureaucratic and popular legal culture in terms of the targeted audience, the function, and more important, the moral and social worlds where they were nurtured.

Macauley (1998) describes a more intricate picture regarding the relationships between dimensions of legal culture with the example of discourses on litigation masters. According to the author, litigation masters were always depicted as evil people who encouraged litigation, played tricks, profited from disputing, and thus became a threat to the harmonious order in the official hegemonic discourse. But the unofficial local discourse presented in “a large number of tales, operas, and novels from the sixteenth century to the 1920s” depicted litigation masters in a “remarkably favorable light as troublemaking tricksters who served the interests of common people and elites in desperate legal entanglements”(279). The difference is not the end of the story, however.

These two dimensions of legal culture work with each other on a deeper level. While the unofficial local discourse surely represents the resistance to the hegemonic discourse, the author points out that “the almost mythic intelligence and cunning of the masters of the lower literati discourse oddly complemented the image of the malicious and greedy pettifogger of the official discourse”(280). Thus, as Macauley continues, “the non-official discourse, in spite of its embrace of the agents of disorder, substantiated the hegemonic cultural embrace of harmony ideology” (280).

4. The problems

But with regard to the understanding of legal culture and its production in 16th and 17th century China, research like Macauley’s is still in short supply. Significant research gaps clearly exist in the field.

First of all, more descriptive than analytical work seems to have been done. For understanding various dimension of legal culture, analytical frameworks need to be introduced to distinguish, classify, name, and analyze them. For understanding the features of the dimensions of legal culture and their formation, analytical frameworks need to be introduced to explore the possible causal social factors. Research in this regard is still very limited. Questions such as how the features of dimensions of legal culture should be related to the rapidly changing social context witnessed in 16th and 17th century China; how the formation of dimensions of legal culture could be connected to the unique culture production phenomenon observed in this period; and what social groups ever worked on these dimension of legal culture are not well answered.

Second, in terms of understanding the multi-dimensioned legal culture, more work seems to have been done on introducing each of its dimensions than on analyzing the

interactions among them. In Xu's work (2007), while all voices are presented, there seems to be little conversation among them. After discussing the difference between crime reports and crime fictions and their represented legal dimensions, Hegel (2004) asks the following question: "When fiction and legal cases are so antithetical in their purposes, which model could the writer follow when the two forms of writing intersect, in the creation of crime case fiction, *gong'an xiaoshuo*" (82)? This is an interesting question but unfortunately Hegel does not provide an answer to it.

Third, in terms of the substantive issues, although crime fiction and case stories have been fairly well discussed, "the produced legal culture" has not been well recognized as a unique dimension in the family of legal culture. Likewise, although broad discussions regarding how crime fictions and case stories were composed can be found in the literature, "production of legal culture" as an expression has not been mentioned.

Finally, some methodological problems found in the existent research need to be addressed. For example, in Hegel's research (2004), the crime reports were mainly from the Qing dynasty (1644-1911) while the crime fiction used for comparison was mainly written in the Ming (1368-1644). Andre (2007) seems to have the same problem. The casebook and the case story collection the author used for comparison were published in 1261 and in the late 16th century respectively. Therefore, the observed difference between them might reflect the distinctive features of their represented dimensions of legal culture as the authors have argued, but the difference could also be caused by the change of writing styles over the decades or centuries.

The theoretical approach: agents and resources

The existent literature in culture production, production of legal culture, and culture production and legal culture production in 16th and 17th century China demonstrates the great accomplishments scholars have achieved in these fields. Future research, therefore, is prepared with a solid research foundation. But the problems and research gaps identified in the existent research also impose the following challenges to scholars working in these fields in the future. First, culture production, including production of legal culture, can be exposed to various social effects. Any one-dimensional perspective would be insufficient to interpret the complex social phenomenon. To comprehend the dynamic production processes, future scholars should employ an integrated analytical framework that is open and flexible. Second, producers are active human agents. Their creative role in production processes has not been fully explored. Future research in these fields should give more attention to producers. Third, more empirical studies on culture production and legal culture production, especially in non-western and non-industrial societies, are needed to enrich the theoretical, methodological, and substantive knowledge in these fields.

To address these challenges, this research studies the legal culture production that occurred in 16th and 17th century China. The focus is on the dimension of legal culture embodied in case stories, a type of popular literary work related to crimes and lawsuits. Heavily drawing on the constructive elements included in the existent research, this empirical study employs the theoretical framework which puts agents at the center of the picture. By adopting the concept of “resource,” this framework is expected to be open, flexible, and plural.

1. The central role of agents

In the field of culture production, even within the institution perspective, the active role of agents has been noticed (Becker 1976, 1982; DiMaggio 1990; Crewe 2003). Focusing on the production of literary works, Griswold is among the scholars who give urgent and earnest calls to attend the important roles agents play in culture production processes. Regarding romance novels as produced cultural objects, Griswold (1989) points out that these books are “written by human beings having axes to grind, careers to pursue, markets to capture, critics to impress, and ideas to express.” Therefore, “a consideration of such authors as active and intentional cultural agents, not just mediators between social structures and symbolic objects, will give us more refined conceptual tools to use in trying to understand the literary objects created through cultural transfer and reconstruction” (117). Producers have been included as one of the key elements in her examination on city comedies and revenge tragedies performed in London theatres from 1600 to 1979 (1986) and contemporary Nigerian novels (2000). In her “cultural diamond” mode, the framework for examining culture production processes and understanding features of cultural products, creators and artists take one of the four points along with culture object, audience, and social context (Griswold 1986, 7). In her methodological framework developed for research in the sociology of culture, the focus on human agents is clear as well. Agents, including their intentions and their expected audience, their social positions, their local environment, and their proximate and remote social and cultural experiences, are presented as the main elements to explain the produced cultural objects (Griswold 1987, 26). From the “cultural diamond” mode to the methodological framework, the development is clear. While producers are equally as

important as audience, social context, and cultural objects in the “cultural diamond” mode, they take the central position in the methodological framework.

However, the active role of agents and their creativity in culture production processes still fails to be fully recognized and effectively incorporated in Griswold’s framework. The image of producers is still passive. They are aggregates of intentions, vertical and horizontal social locations, and a set of experiences. They look static and positioned instead of active and in action. At the same time, between producers and the produced cultural objects, between producers and the culture production processes, no course and story are provided. The straight road from intentions to results, from social situations to social actions is assumed.

The theoretical approach used in this research puts human agents, i.e., producers, at the central position to understand culture production and the produced cultural objects. It has heavily drawn on scholars such as Griswold. But at the same time, it goes back to the symbolic interaction tradition to fully consider the creativity of human actions. The recognition of the creativity of human agents in social actions has been one of the fundamental issues in the symbolic interactionist tradition (Mead 1934; Blumer 1969; Maines 2001). While admitting that social order, power difference, institutions, and social structures are real and impose constraints on human agents, symbolic interactionists do believe human agents are creative and able to develop their space and freedom to act upon these social constraints. They negotiate, modify, change, and create social structures and social institutions (Berger and Luckmann 1966; Fine 1984). In terms of social actions, symbolic interactionists believe human agents are active and actions should be viewed in process. Human agents constantly interpret meanings, assess

their social situations, adjust their goals, and organize their activities (Thomas and Znaniecki 1927; Mills 1940; Hochschild 1979; Joas 1996). That is how Joas (1996) argues motives are not the cause of action and plans are not the preconceived structure of the course to be taken. To say it differently, intentions cannot fully explain actions and the consequence of actions. To understand human actions, the dynamic process that agents engage in should be the focus.

Based in this symbolic interactionist tradition, to understand the production of one special dimension of legal culture in 16th and 17th century China, the theoretical approach employed in this research emphasizes two assumptions regarding producers. First, it is the producers who run the production process. Being producers, they are planners, directors, organizers, and carriers of the production process. Their intentions are adjusted, translated, and realized in the production process. The produced cultural products would disclose some information of these intentions. Second, social positions, local environment, social and cultural experiences do affect and set limits on producers but they would be also be subjected to the selecting, maneuvering, organizing, allocating, and utilizing of producers in production processes. Only social conditions which are actually utilized in the processes leave their marks on the produced cultural objects and therefore have the capacity of explaining the features of these cultural objects.

2. The concept of resource

To better understand the culture production process that occurred in 16th and 17th century China, the theoretical framework employed in this research also includes “resource” as a key concept. It draws mainly on Wuthnow’s works for constructing its main properties.

Wuthnow (1989) clearly states that “culture depends on social resources, and the availability and distribution of these resources is likely to play a major role in influencing the direction of cultural change”(539). With regard to culture production, along with the institution perspective, Wuthnow emphasizes the role of organizations in possessing and providing resources. He argues culture is “produced by actors who have special competencies and is perpetuated by organizations that in a sense process resources for the purpose of ritualizing, codifying, and transmitting cultural product” (1987, 15). But he also seems to have noticed that resources might not be possessed by institutions and organizations only. Therefore, he suggests organizational power works with state power and other sources of power, and may be challenged by movements “with access to other pools of social resources” (1987, 15). Accordingly, he admits that there are “economic, political, and intellectual resources” (Wuthnow and Witten 1988, 55). To understand this intricate picture of resources and how these resources work in culture production processes, Wuthnow(1989) argues that the focus should be put on the “actual circumstances”. For example, in examining the production of ideology, the emphasis should be put on the “actual circumstances in which ideological products were produced and disseminated rather than merely identifying general affinities between ideological patterns and broad features of the social environment” (Wuthnow 1989, 541). In other words, although certain indicators can help outline the resource picture pertaining to a culture production process, understanding what resources are involved and how they work in the process should be case-based.

Wuthnow’s understanding of resource is broad and dynamic. Equipped with these features, the concept would be able to include all variables involved in any cultural

production processes. On the other hand, it also provides opportunities to see these variables in actual working processes, i.e., how these variables work in culture production processes. However, Wuthnow's understanding of resource is also disconnected and unorganized. There are so many types of resources which might get involved in certain culture production processes but few clear clues are provided by Wuthnow on how to locate them, let alone how to observe how they are operating in actual production processes. In that sense, while the understanding of the concept is valid, resource would be a variable hard to be operationalized and thus hard to be applied in Wuthnow's case.

When resource as a key concept is taken into the theoretical framework of this research, its definition is broad as well. It includes any valuable material and non-material social properties. But unlike in Wuthnow's, in this framework the qualities and quantities of the resources can be traced and examined. They are possessed by producers and brought into culture production processes by producers. Therefore, producers serve as guides to explore the properties of resources. With regard to the legal culture production occurring in 16th and 17th century China, what resources producers possessed needs to be first examined. Being composed mainly of book merchants and grass-roots scholars, this social group was shut out of the political arena and excluded from participation in governmental and legal affairs. However, because of commercialization and the flourishing commercial publishing business, book merchants and scholars were well equipped with economic powers and market expertise. All these resources constrained and bestowed by social positions and social experiences will be examined.

Moreover, this research agrees with Wuthnow that resources should be understood in process. Therefore, how these resources possessed by producers are selected,

maneuvered, organized, and utilized in actual production processes is the focal point of the concept. For the legal culture production examined in this research, this dimension of the concept of resource would answer questions such as how the producers had dealt with and maneuvered their supposedly low political resources, how they had taken advantage of their high economic resources, and how they had presented and articulated these utilizations.

Introducing the concept of resource into the current theoretical framework is significant in terms of incorporating the existing two perspectives dominant in the field of culture production. The cultural object examined in this research, a dimension of legal culture as embodied by popular case stories collected in best-selling case story books, evidently involves “power” as it touches one of the key political issues in late imperial China. It also connects to “market” as it was a product of mass production and it was produced for sale. When “resource” is able to incorporate all the involved variables, both power and market are able to be considered. And the examination of the process of resource selecting, maneuvering, organizing, and allocating would significantly reveal the operation of these two mechanisms, power and market. In other words, the introduction of “resource” into the current theoretical framework not only helps the framework become flexible and dynamic, it also makes it plural instead of being one-dimensional.

Conclusion

While great achievements are clearly demonstrated in the field of culture production, the above literature review also shows existing problems and research gaps. Among others, three theoretical issues seem to be most important and challenging. First, culture

production is a complex social phenomenon, especially considering the different social and historical contexts in which it occurs. To better understand this social phenomenon, more empirical studies, especially studies of culture productions occurring in non-western and non-industrial societies, are needed. More importantly, it requires an integrated analytical framework which is open and flexible. Being open and flexible, this framework is not only able to include numbers of social elements that affect the culture production in question, it also promises the recognition of plural mechanisms at work in the production process and provides the means for examining them. Second, culture production is a dynamic process. From the preparation stage to the stage where cultural objects are produced, different situations are evaluated, resources are maneuvered and allocated, and intensions, plans, and goals are operationalized, adjusted, and realized to different extents. Little research has fully considered these issues. Third, the creative role of human agents in production processes has not been fully recognized and explored. Both of the dominant perspectives in culture production emphasize the role of social structure in culture production and belittle the creativity of human agents in these processes. Even when the role of human agents in culture production is admitted by some scholars, their active capacity has not been fully understood and examined.

This research tries to respond to these issues. Through examining the culture production occurred in 16th and 17th century Chinese society, it is hoped this research can enrich the existing knowledge of culture production in general. More importantly, rooted in the symbolic interactionist tradition while drawing on the constructive elements from the existing literature, this research endeavors to make contributions to the field of culture production theoretically. The theoretical framework employed in this research focuses on

“agents” and “resources.” It puts human agents in the center of culture production and believes it is producers who direct and organize culture production processes and thus leave their subjective marks on cultural products. Fully considering the active role of human agents and their creativity in social actions, it assumes human agents work with, negotiate, and modify their social equipment in the production process. They also constantly evaluate situations, adjust their goals, and organize and reorganize their activities. Their active role constitutes the core of the dynamic nature of the culture production process. The concept of “resource” introduced into the current theoretical framework is broadly defined while allowing the framework to be open and flexible. It can include various social elements. More importantly, it provides the space to integrate two dominant perspectives in the culture production field. In a word, the neutral and open concept bestows upon the framework the capacity to fully explore culture productions occurring in different historical and social contexts. In addition, two dimensions of resources are implied in this concept. Resource possession is differentiated from resource utilization with former representing the social constraints put on human agents by society and the latter representing the creative interpretation and exercising of this social equipment. It illustrates the active role of human agents while it re-emphasizes that culture production is a dynamic process. In this theoretical framework, “agents” and “resources” are connected as resources are possessed and utilized by agents. This understanding of agents and resources makes resources concrete and examinable. It stresses the central role of human agents once again.

CHAPTER III

METHODOLOGY AND DATA

This chapter introduces the research methods, including the methodological framework this study adopts and various research techniques this study employs. It also discusses the major data this study utilizes.

Historical sociology

Understanding that the social phenomenon in question was located in the 16th and 17th century Chinese social setting, this research adopts historical sociology as the overall methodological approach.

Scholars might agree with Clemens (2007) that the ultimate goal of historical sociology is to link the particularities of time and space with an analysis of causal relationships or mechanisms to explain how social orders form, change, proliferate, and decline—mainly to take historical contingency into account and achieve sociological generalization at the same time (2). But with regard to how to achieve this goal, disagreements and debates arise constantly (Abbott 1991; Somers 1992; Franzosi and Mohr 1997; Mahoney 1999; Bearman et al. 1999; Mahoney and Rueschemeyer 2003; Adams et al. 2005; Clemens 2007). The challenge is evident. When too much historical

particularity is taken into account, the generalization goal might get hurt. As Kiser and Hechter (1998) argue, the more particular approaches to historical explanation make it “difficult to specify both the causal relations and causal mechanisms that account for social outcomes” (785). On the other hand, when generalization becomes the main concern, historical contingency is likely to be neglected. As Lustick (1996) points out, social scientists, including sociologists, might manipulate the historical data and use theory as a guide for case and data selection and make the historical phenomena at hand too passive. Due to this “selection bias,” the author believes, “how to choose sources of data without permitting correspondence between the categories and implicit theoretical postulates used in the chosen sources to ensure positive answers to the questions being asked about the data” would be a more daunting question than how to find necessary information (608).

One more concern with this approach, which is less frequently mentioned, lies in the application of theories. Modern sociology is deeply rooted in modern, industrial, and western societies. Existing analysis of causal relationships or mechanisms in sociology, theories and models, is more likely to be embedded with the features of modernity, industrialization, and western civilization. When this analysis of causal relationships or mechanisms is linked to the particularities observed in historical social settings other than modern, industrial, and western, what ensures that the theory application is valid? How should concepts and variables incorporated in these theories be operationalized to be relevant to social phenomena that occurred in different contexts?

The historical sociology approach is adopted in this research to examine and understand the “particularities” regarding the production of one dimension of legal

culture as embodied by case stories and case story books in the 16th and 17th century Chinese social context on the one hand and, on the other, to make “generalizations” regarding how culture productions proceed and how cultural products should be interpreted in the sociology of culture. To achieve this goal, as well as to respond to the concerns mentioned above, when the historical sociology approach is employed in this research, it emphasizes openness and flexibility.

First, it tries to keep some distance between theories and history. The existing theories are used mainly for helping to question historical phenomena. The approaches, assumptions, and possible explanations they provide are set as background more than as existing models to be applied immediately. Therefore, although the existing theoretical frameworks in the field of culture production provide various possible explanations to the phenomenon observed in 16th and 17th century China, they suggest rather than impose explanations. This flexible and open style of theory application allows more space for the consideration of historical contingency. But even in this mode of theory application, concepts and variables of the existing theories are carefully examined and explained to see whether the connotations of them work for the historical context in point.

Second, in this historical sociology approach, analysis of causal relationships or mechanisms is expected to originate from the phenomenon itself. In other words, theory exploring, instead of theory testing, is more emphasized in this approach. Thus, based on the examination of the culture production that occurred in 16th and 17th century China, concepts and variables contained in the existing theoretical frameworks are examined and evaluated, and certain concepts such as “agents” and “resources” are adopted, adjusted, and redefined. The existing theoretical perspectives are also examined and evaluated

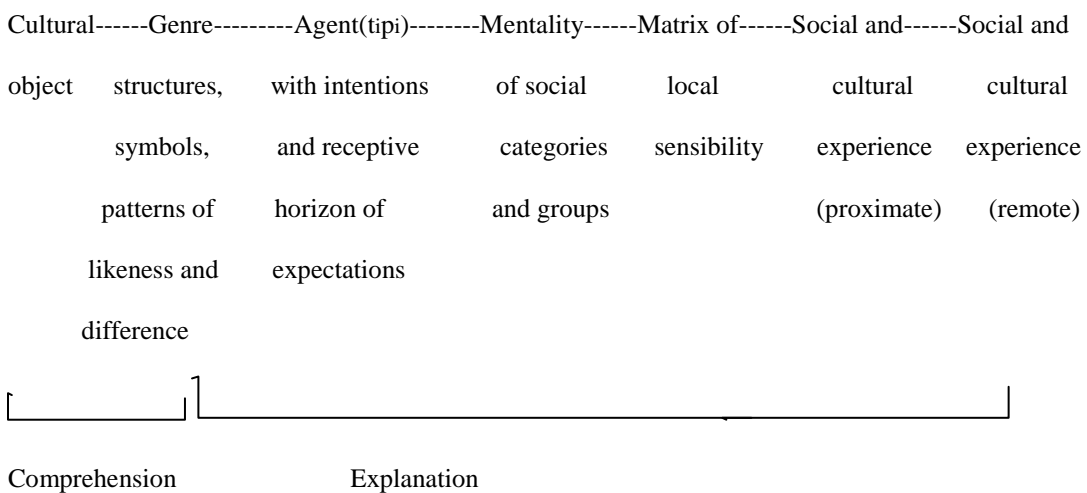
based on the historical “particularities” observed. As a result, they are integrated, expanded, and strengthened.

In a word, this historical sociology approach recognizes the independent role of history on the one hand and respects the need for theory building and strengthening on the other. The openness and flexibility help to make sure that theory building and strengthening are based on a more objective attitude toward data selection and that these processes are sensitive to social and historical contexts.

The methodological framework

In 1987, Wendy Griswold first introduced a methodological framework for the sociology of culture. Figure 1 demonstrates the composition and structure of this framework.

Figure 1(Griswold 1987, 26):



As illustrated by Figure 1, sociological research on cultural objects is treated as a process composed of two parts: comprehension and explanation. According to the author, “comprehension” “is the analyst’s consideration of the internal structures, patterns, and symbolic carrying capacities of the cultural objects”(5). While “explanation” “is the analyst’s connection of cultural objects, through social agents, to the external world beyond the creative community”(20).

Seven elements comprise the key components of the framework. 1. The *cultural object* is the target of the research. Griswold defines cultural objects as the “shared significance embodied in form, i.e., . . . an expression of social meanings that is tangible or can be put into words” (4). Therefore, cultural objects can cover a great variety, including artifacts, ideas, and behaviors that have significance beyond themselves. 2. *Genre* is the key to comprehending the cultural object as the author believes it provides the tool for capturing the internal structures, symbols, and patterns of likeness or difference of the cultural object (24). 3. *Agents* include producers, receivers, and mediators of cultural objects. Interacting with cultural objects, agents serve as “the pivot of the framework” (24). 4. *Mentality of social categories and groups* involves the social position of agents. 5. *Matrix of local sensibility* refers to “the ways of thinking and behaving characteristic of the most immediate spatial and temporal context of the groups and agents” (25). 6. *The proximate social and cultural experience*. 7. *The remote social and cultural experience*. Griswold does not provide enough discussion on the last two elements. The example she presents to illustrate how these two elements work together and work on agents is Geertz’s interpretation of the remote influence of the Qur’an through the more proximate patterns of Islamic education (25). An extra element, which

does not appear in the framework but is emphasized by the author, is *institution*.

According to the author, “every element on the explanatory side of the heuristic is linked to or separated from its neighbors via social institutions”(25).

The focus of this methodological framework seems to be on understanding produced cultural objects instead of interpreting culture production processes. It is evidently a significant contribution of this framework to put human agents in the center and to identify a set of variables to understand the social features of agents. But, first of all, the framework still portrays human agents as passive. Producers, receivers, and mediators of cultural objects are individuals structured by social positions and social institutions. More importantly, when human agents and their social equipment are used directly to explain features of cultural products, the explanation seems to be simple and abrupt.

To examine the culture production that occurred in 16th and 17th century China and to understand the features of the produced cultural objects, this research modifies Griswold’s framework. The new methodological framework operationalizes the theoretical thoughts discussed in the previous chapter. It also incorporates the overall historical sociology approach mentioned above. This new framework is illustrated in Figure 2.

Figure 2:

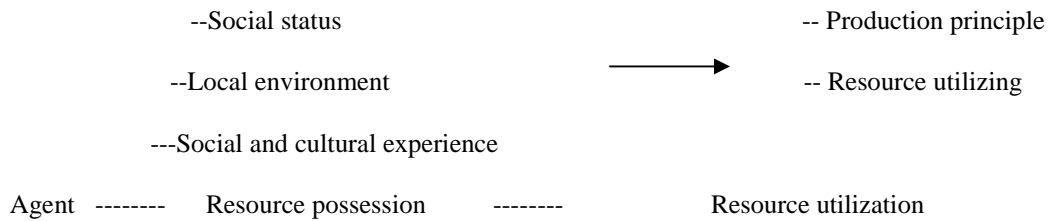
Comprehension: Cultural object

Format; content



Explanation: -- Agent(s)

--Intention



While the “comprehension and explanation” structure as seen in Griswold’s framework is still observable, the basic arrangement of the framework has changed to the interaction among three basic parts, the cultural object, the agent, and the resource utilization.

Cultural object is the product of culture production processes. Specifically, in the current research, the culture object is one dimension of legal culture as embodied by case stories collected in case story books. *Format* and *content* are included as key elements for comprehending the basic features of the cultural object. In this research, *format* refers to the structure, the components, the styles, and the design of case stories and case story books while *content* refers to the themes, the discourses, and the narratives. To say it differently, *format* mainly focuses on the physical features while content emphasizes the meanings of the cultural object.

But fully understanding cultural objects is based on the examination on the other two basic parts included in the framework, i.e., *agent* and *resource utilization*.

Agent takes the central role in the framework. Unlike Griswold’s, this new framework considers *agent* as referring to the producers only, which include publishers, writers, editors, compilers, and commentators. Adopted from Griswold’s framework but modified into a simpler version, four variables are used for describing the social

equipment of the agent: *agent(s)*, *social status*, *local environment*, and *social and cultural experience*. The purpose of the variable *agent(s)* is answering questions of who are the producers and what is the composition of the group. *Social status* examines the vertical social positions producers of case stories and case stories books took in their times while *local environment* examines the horizontal social positions of this group of social actors. It looks into the immediate living milieu of producers, in both natural and cultural terms. Finally, *social and cultural experience* focuses on the lives, occupational expertise, and social connections of agents to see what social and cultural influence they have received. These four variables constitute the core of the concept *resource*, which means valuable material and non-material social properties and comprise the main indicators for *resource possession*. As shown in the framework, resources are possessed by agents. Understanding the quality and quantity of resources that producers possess helps in understanding the cultural objects they have produced.

But from human agents, or producers, and their possessed resources to the produced cultural objects, a key step needs to be examined, which constitutes one of the essential parts of the framework, the *resource utilization*. If *agent* and *resource possession* are the preparation for cultural production, *cultural object* is the result of it, *resource utilization* is the culture production itself.

Resource utilization examines the intention, the production principle, and the resource utilizing. The *intention* refers to the pre-set goals of producers. As a group, producers should have shared goals for their culture production activities. At the same time, different sections of the group might have distinct intentions for the production. In this research, the intentions of the producers of the case stories and case story books as

well as the intentions of the two major sections of the group, book merchants and scholars, are examined. The *production principle* refers to the guidelines, criteria, and standards explicitly or implicitly expressed and applied in culture production processes. It is affected but not necessarily determined by the intentions of the producers. When agents, or producers, enter the culture production process, they bring in the resources they possess with them. In the production process, based on their intentions and the corresponding production principles, these resources are selected, maneuvered, organized, allocated, and utilized. The *resource utilizing* refers to this entire process and how producers talk about it and present it. It examines what resources are heavily drawn on while some others are inactivated, what resource utilizing is overtly expressed and what remains implicit, and how some key resources are utilized in the process. Among the three variables included in this part, the intention takes the leading role as intentions of producers affect the production principles and resource utilizing processes, but the realization of the intentions of the producers is constrained by the quality and quantity of resources brought into the production process and their allocation and utilization. As a result, it is not the intentions of the producers, but the resource utilization as a whole, that shapes the features of the produced cultural objects.

For the culture production that occurred in 16th and 17th century China, two intentions clearly stood out, which can be labeled as “to sell” and “to express”. Affected by the “to sell” goal, “to entertain” is found to be a production principle but it is more implicitly presented. “To express,” however, is translated into a teaching principle and is overtly presented by the producers. Most significantly, behind these intentions and principles is the operation of power and market. To say it differently, the resource

utilization part actually demonstrates how power and market work in the culture production process.

With three arrows pointing from the agent to the cultural object, from the agent to the resource utilization, and from the resource utilization to the cultural object, the three basic parts of this methodological framework are well connected to understanding culture objects and their production processes. The framework lays out that the features of cultural objects are shaped by the quality and quantity of resources producers possess, but more so by how these resources are utilized in the production processes. The framework is also structured to show agents, or producers, taking the central role in the culture production process. They are equipped with and are significantly affected by different social resources but they are active and creative in using these resources. Resource is differentiated into resource possession and resource utilization in the framework to enable consideration of the dynamic nature of the concept and to recognize that culture production is a process. Furthermore, all the variables included in this framework are neutral with respect to time and to space. They can be used for examining culture productions that occurred in different social and historical contexts. And finally, although the whole framework is created under the guidance of the theoretical thinking, and the two dominant perspectives in culture production have been incorporated, it allows enough room to include historical contingency and complexity. When historical particularity is fully considered, when the actual circumstance where the social phenomena happened is respected, and when the analysis of causality and mechanism flows from the phenomena in question, existing theories in the field of culture production are more likely to be strengthened and developed.

Research techniques

To examine the culture production that occurred in 16th and 17th century China, the archival research method is employed as the main technique for collecting data. All the case story books and their collected case stories in question survived to this date and have photolithography copies. These photolithography copies are collected, mainly photocopied, for this study. More primary sources are collected from rare book sections and archive sections in different libraries located in the United States, China, and other parts of the world in order to understand the producers, the production process, and the social and historical contexts of 16th and 17th century China.

This research relies mainly on discourse analysis and content analysis to process and analyze the collected data.

The discourse analysis used in this research follows in the tradition of Michel Foucault.³ It has been pointed out that Foucault employs “discourse” as a “group of statements which provide a language for talking about—a way of representing the knowledge about—a particular topic at a particular historical moment—discourse is about the production of knowledge through language” (Hall 1997, 44). But the meaning of discourse and discourse analysis seems to go beyond language and knowledge as discourse not only “governs the way that a topic can be meaningfully talked about and reasoned about,” but also “influences how ideas are put into practice and used to regulate the conduct of others” (Hall 1997, 44). Thus, discourse analysis should focus on texts and rhetoric, as well as on practices and actions, and more importantly, on the power

³ According to Potter and Wetherell (1994), there are at least four types of work that can be labeled as “discourse analysis” (47).

relations behind the discourse and its implementation. Discourse analysis is evidently pertinent to this research.

In this research, discourse analysis is employed to study the case stories. The patterned descriptions of the basic elements contained by the case stories, criminals, victims, judges, crimes, legal institutions, and justice, are examined and analyzed in order to understand the basic information of this produced legal culture. Furthermore, statements and themes regarding various relationships, such as the relationship of criminals and victims, of parties and judges, of justice and unfairness, and more broadly, of the bad and the good, women and men, the powerful and the vulnerable, are examined in order to understand how different social elements are connected and how power structure is contained by the produced legal knowledge and legal culture. Also, the repeated expressions of crimes and the similar presentation of the process of case solving are analyzed in order to see the focus and purpose of the production of the case stories and the embodied legal culture. Second, discourse analysis is used to process the information as contained by the paratexts included in case story books, including prefaces, commentaries, and so on. Recurrent statements regarding the meanings of the case stories are examined to explore “the rules which prescribe certain ways of talking about these topics and exclude other ways”(Hall 1997,45). Repeated themes regarding the arrangements of the case stories are analyzed to determine the principles at work in the production process. Descriptions, statements, and themes are expressed by texts and images as well as forms and arrangements.

Compared to discourse analysis, content analysis is a much more broadly used research technique with multiple orientations (Krippendorff 1980; Neuman 2003). First

of all, the term “content” in content analysis can refer to “words, meanings, pictures, symbols, ideas, themes, or any message that can be communicated” (Neuman 2003, 310). Second, for analyzing the content, different analysis units and ways of measuring and coding can be constructed. And finally, a content analysis can be quantitative or qualitative.

The content analysis used in this research is qualitative or interpretive-natured. For the texts and illustrations included in cases stories and case story books, both word and phrase leveled coding and theme and narrative leveled coding are created to understand the produced legal culture as well as the production process.

In the data analysis process, the discourse analysis overlaps with the content analysis to a certain extent. But by comparison, the discourse analysis has more specific tasks and focuses more on expressions, statements, and themes regarding relationships, structures, and interactions while the content analysis covers much broader issues.

Case stories and case story books

The major data set utilized in this research is the case stories as collected in case story books published in late 16th century and early 17th century China.

The publication of these case stories was a unique social phenomenon. First of all, these case stories were collected in case story books. Case stories, stories that relate to crimes and case-hearings, were not rare before this period. They used to be scattered in various story collections as individual stories. But the case story book was rare. It was only in the 16th and 17th centuries that entire collections of case stories were available in society. Second, these case story books were published in a short fifty-year time span. It

was a sudden concentrated publication which began in the late 16th century and completely ended in the early 17th century. Twelve case story books published in this period survive today and they are in various editions.⁴ This fact might indicate that case story books were very popular during this period and voluminous quantities of them were published by different publishing houses. Third, as indicated by the authorship, these case stories were written, compiled, and edited by book merchants and grass-roots intellectuals and all of them were published by commercial publishing enterprises that were geographically centered in Jianyang, Fujian province, and Nanjing, the southern capital city of the dynasty. Finally and most importantly, across these case stories, similar styles and consistent themes can be observed: most of them include illustrations along with the texts and commentaries at the end of each case story, features of fictions popular in this period. And almost all of them include formal legal documents, such as complaints and verdicts, in the texts, which make them look like legal works. In terms of the content, similar narratives and discourses are used, and consistent understandings, ideas, and beliefs regarding crimes, legal institutions, and justice are presented.

1. Understanding case stories

The scholarly research on case stories started in the early 20th century in China. But since the 1970s case stories of late imperial China have been receiving increasing attention in academia both in China and abroad. Various issues, including the history, the definition, the patterns, the texts and language, and the social conditions and social meanings of case stories, have been explored (Miao 2000, 2005).

⁴ New discoveries of survived case story books show there should be more case story book ever published during this period. See Guan 2007.

Different understandings of case stories published in 16th and 17th century China have been presented. Defining case stories as all stories that are related to cases and case trials and that include characters, plots, and fairly complete structure, some scholars argue case stories published in the 16th and 17th centuries are simply a branch of the big case story family that developed in the history of Chinese literature (Zhang 1989; Huang 1991; Meng 1996; Miao 2005). But some others believe the features of the case stories published in the 16th and 17th centuries are unique and that only these case stories can be defined as “case stories.” It is argued that the same theme, which is the appreciation of the competence and smartness of judges in solving cases, as well as the practical purpose of including the legal documents, and the typical narrative style shared by the case stories that appeared in the late Ming period, definitely set them apart from the similar genres in the history of Chinese literature (Shi 2006, 114-5). Standing apart from this debate, scholars such as Ma would rather leave the definition of case stories as an open topic for discussion as they admit that “Kung-an fiction includes a great variety of stories and novels of marked structural and contextual differences” (Ma 1979, 200). As for the case stories published in the 16th and 17th centuries, they “demonstrate similarities as well as differences” compared with other types of case stories developed before or in this same period (Ma 1979, 218). As different as these opinions are, people seem to agree that case stories published in the 16th and 17th centuries are the core of case stories of late imperial China. When the term case story is used, it refers to these case stories, exclusively or not exclusively.

2. Works of fiction or legal works?

In the early 20th century when these case story books were first discovered, scholars such as Sun pointed out that case stories included in these books were neither pure works of fiction nor pure legal works (Sun 1958, 141). Quite ironically, in the existing literature, case stories have been treated mainly as a type of fiction while occasionally as a type of legal work.

The fiction-work approach understands case stories as fiction. But the focus on the literature's features has been incorporated into the following major issues. First, numbers of scholars try to depict the history of this type of fiction. They examine its origin and its developmental trajectory. From its early development in the Song (960-1279) and Yuan (1279-1638), to its heyday in the Ming (1638-1644), and its waning out in the Qing (1644-1911), they describe the distinctive literary features case stories demonstrated in different stages (Ma 1979; Huang 1991; Meng 1996; Miao 2005). Second, to better understand the unique features of this type of fiction, some scholars engage in generic comparisons. Case stories are compared and contrasted to either other types of novels popular at the time or to similar works of fiction in other historical periods (Huang 1991; Meng 1996; Chen 2000; Miao 2005). Ma (1973) contrasts case stories published in 16th and 17th century China to western detective works. The author argues didactic teaching, interventions of the supernatural, and solutions reached by coincidence are “of paramount importance” in case stories while they constitute the “most forbidden taboos in Western detective literature”. At the same time, crimes, criminals, and logical detection of crimes, the “indispensable components of Western detective literature,” “are not absolutely essential in this Chinese genre” (179). Third, focusing on one case story book published in this period, *Longtu gongan (Case Stories of Bao Zheng)*, Ma (1975) argues there are

two salient features among all the case story collections regarding the text: the endless recurrence of themes and plots and repeated mutual copying in verbatim transcripts (191). For this reason, important research has been done to explain the source of these case stories and the relationships among case stories collected in different case story books (Ma 1975; Hidetaka 1982; Abe and Chen 1989; Lu 1996). Themes, characterizations, plots, rhetoric, and descriptions of case stories have been discussed, but mainly in general terms (Ma 1973, Miao 2005).

The legal features contained by the case stories published in the 16th and 17th centuries, such as the inclusion of legal documents, have been noticed by scholars from the very beginning. The examination of the relationships between the case stories and formal legal documents is closely related to the study of the sources and the borrowing of case stories among case story books (Abe and Chen 1989; Meng 1996; Zhu 1996; Chen 2000; Miao 2005; Shi 2006; Dai 2007). Through painstaking comparison, scholars found out that various legal documents included in the case stories were directly taken from the legal manuals and casebooks circulated in the 16th and 17th century society (Abe and Chen 1989; Lu 1996). The earlier the case story book was published, the more exact legal documents were included. Furthermore, some scholars argue many case stories included in the case story books might be developed from the example cases included in legal handbooks and casebooks (Abe and Chen 1989, 22). Broadly speaking, the basic structure of case stories and the categorizing of case stories are also believed to be influenced by the structure and the classification of legal handbooks (Miao 2001). The relationship between case stories and legal works, especially legal handbooks and casebooks, is so evident that Shi (2006) even argues that the legal manuals were the

origins of the case stories and case story books published in the 16th and 17th centuries (115). Also because of the strong legal features case stories have demonstrated, Miao (2005) has to echo what Sun said about a century before that case story books are the “half-breed of law and literature” (74). But rooted in the fiction-work approach, Miao (2005) still argues that case stories are fiction and that their legal features result from the borrowing and incorporating of other genres of writing in the process of their development (74). And this argument is agreed with by scholars along this research line.

The strong legal features demonstrated by the case stories and case story books finally caught the attention of legal scholars. In early 1970s, when Zhang Weiren compiled the bibliography for legal history studies in late imperial China, he listed one of the case story books published in the 16th and 17th centuries, *Xinmin gong-an*, in the category of casebooks, legal works usually authored by local magistrates (Zhang 1976, 806). This fact might result from the misinterpretation of the case story book as Zhang listed Guo Zizhang as the author.⁵ But it illustrates how case story books can be similar to legal works and how case story books came to the attention of legal scholars.

Xu’s attention to case stories is a more interesting case. Xu’s (2002) work focuses on Bao Zheng, a real historical figure who lived in the early 11th century and a legendary judicial official featured in Chinese folklore. Xu first compares and contrasts the image of Bao, as reflected by official historical accounts and by his surviving collected works, to the image of Bao as presented in all kinds of literary works, including case stories related to him, to give a full examination of this complex figure. At the same time, the author tries to focus on all literary stories related to Bao, including case stories, to better

⁵ As discussed in Chapter Two and Chapter Four, Guo Zizhang is described as the central figure, the judge, of the case story book *Xinmin gong-an*. Guo was a real historical figure. But in reality, being an official of the government, Guo was never a member of the producer group that wrote, compiled, edited, and printed this case story book.

understand the legal practice and legal culture in late imperial China. It is the latter part of the work that becomes problematic. While admitting case stories are different from legal works such as judicial archives, the author argues there are no boundaries between these two that cannot be crossed (51). Therefore, the “legal reading of the literary stories of Bao” is simple and blunt. Crimes and punishments described in these literary stories are used as direct evidence to prove the punitive nature of the legal system as applied in late imperial China (439). The legal practice depicted in these stories is employed to confirm the conventional understanding of legal practice in late imperial China as corrupted, punishment-centered, and so on. In general, the author argues, case stories of Bao well reflected the basic features of the legal culture in imperial China: it was imperial-power-focused and punishment-oriented. The essence of the legal culture was “intimidation” (438). By focusing on texts other than formal legal works, the author explores the “legal voice” from the local level and the commoners. But when he compares the narratives and discourses presented in all literary stories, including case stories, directly to materials from formal legal works, when he cites literary works along with dynastic codes, casebooks, and legal handbooks without necessary explanations, cases stories and case story books are treated simply and directly as one type of legal works; as Xu says, “by nature, there is no significant difference between them” (52).

3. The problems

While existing scholarship has made valuable contributions to the understanding of case stories and case story books published in the 16th and 17th centuries, the research gap is evident. For the literature scholars, the fiction-work perspective significantly limits their examination on the legal features of the case stories. As illustrated above, what they

have achieved in this regard is mainly text comparison. Little analysis has been provided to the texts. For the legal scholars, the treatment of the case stories is simplistic and problematic. Case stories are not regular legal works. Their special features should be examined first before they are used as legal evidence. But the constructed nature of this legal knowledge is ignored and consequently receives little research. Furthermore, returning to Xu's research, Xu mixes case stories with other types of literary stories on the one hand and historical evidence on the other. Case stories regarding Bao that were composed and recomposed throughout the late imperial dynasties from Song to Qing were just lumped together and used without the introduction of their production background. This indifference to the historical and social contexts of case stories is dangerous.

To better understand the case stories and case story books published in the 16th and 17th centuries, further discussions and explorations are needed on several issues. First of all, a new perspective is needed to understand case stories, case story books, and their embodied legal culture. Instead of starting with the generic definitions, the new perspective should look at case stories, case story books, and their embodied legal culture as a whole and a unique entity. The format should be examined to see the basic elements of case stories and case story books and how they are designed and structured. The content of case stories should be examined to see how crimes, parties, judges, legal institutions, and justice are depicted. Only then can this constructed legal culture be identified.

Second, scholars have asked about the purpose of the publication of these case stories and case story books, but most of the research in this regard is brief and general.

Lu (2003) points out that these case stories were intended for legal education. But he does not specify which social group was educating and which groups were being educated (170). Ma (1973) argues the pictures portrayed in the case stories “faithfully [reflect] the petit bourgeois viewpoint of the society” (200). Elsewhere, he states again that the uniqueness of these case stories in contextual terms are “their intrusive didacticism, emphasis on law and order, middle-class consciousness, and marked influence of folk religious belief” (1979, 217). The idea is echoed by Zhu (1996), who believes that “case stories vividly recorded the awakening of common people’s legal consciousness” (43). Unfortunately, neither of these authors has explained and elaborated on their statements.

Third, the purpose question is closely related to the production question. So far, numbers of scholars have discussed the social context of the production of these case stories and case story books. But just like the answers to the purpose question, research findings on the production of case stories are rough and sketchy and the mechanism via which these case stories were produced remains little known. For examples, both Chen (2001) and Miao (2005) have mentioned commercialization and the demand of legal knowledge by commoners had contributed to the production of these case stories but no detailed information is provided. Meng (1996) lists government rulers’ emphasis on popularizing legal affairs, urgent demands for familiarization with legal documents from grass-roots intellectuals, commoners’ interest in gossip, and the prevailing social problems as the affecting social elements (68-9), while Shi (2006) identifies the newly developed Confucian school and the flourishing popular culture as the key social factors (117), but no elaboration and analysis ensue. Indeed, the production of these case stories

is not the focus for every author mentioned above. Their arguments are intended more as background descriptions for the case stories than as explorations of the production process of these case stories and case story books.

The data

This study focuses on seven case story books published in 16th and 17th century China. A total of 348 case stories are collected. These seven case story books and their contained 348 case stories constitute the major data of this research.

These seven case stories are first selected for convenience. All seven books have photolithograph copies and are easily accessible. But they are also selected for the following fact. The traditional style of dividing long texts or connecting short parts of text in books in late imperial China was chapters, including *juan*, *zhang*, and *hui*. All available case story books use chapters (*juan*) to organize their included case stories. But within chapters, only these seven case story books employ crime categories to sort their case stories further, while other available case story books keep on using *hui* to fulfill the task. Organizing case stories according to crime categories significantly set case story books apart from other types of literary works and became one of their iconic signs. To focus on the distinctive features of case story books and to fully explore how crime categories are used in case story books, only these seven case story books are included and the other three available case story books which do not employ crime categories are eliminated from the study.

The seven case story books included in this research are as follows:

1. *Huangming zhushi lianming qipan gong-an* (*The Uprightly and Magically Judged Case Stories from All [Government] Departments of the Ming Dynasty*), hereinafter *Lianming gong-an*;
2. *Huangming zhushi gong-an* (*The Case Stories from All [Government] Departments of the Ming Dynasty*), hereinafter *Zhushi gong-an*;
3. *Mingjing gong-an* (*The Clear-Mirror-Like Case Stories*);
4. *Xinmin gong-an* (*The Refreshing Case Stories*);
5. *Shenduan Xiangxing gong-an* (*The Magically Judged Benevolent Case Stories*), hereinafter *Xiangxing gong-an*;
6. *Gujin Lütiao gong-an* (*The Past and Present Case Stories Related to Code Items*), hereinafter *Lütiao gong-an*;
7. *Xiangqing gong-an* (*The Benevolent and Sentimental Case Stories*).

It is difficult to determine the chronological order of these books as most of them include little direct information regarding when they were published. But based on some relevant messages from prefaces, comments, and even case stories included in these case story books, *Lianming gong-an* and *Xiangxing gong-an* seem to be the earliest case story books to be published among the seven. The preface to *Lianming gong-an* in one of its editions is dated to 1598, the 26th year of the Wanli reign (Chen 2000, 740). *Xiangxing gong-an* includes a case story that contains an official petition for honoring a woman for filial piety. This document is dated in the 22nd year of the Wanli reign, which is the year 1594. It seems the book cannot have been published earlier than this year. The early publication of these two case story books can be verified by the high level of originality

of their case stories and the fact that their case stories are those most frequently copied by other five case story books.

Among the seven books, *Lütiao gong-an* and *Xiangqing gong-an* seem to be the last to have been published. Most of their included case stories are copied from the other five case story books and the sources can be easily identified. For the total of 42 case stories included in *Lütiao gong-an*, 30 of them are copied from *Xiangxing gong-an*, 4 from *Zhusi gong-an*, and 2 from *Lianming gong-an*. For the total of 39 case stories included in *Xiangqing gong-an*, 23 of them are copied from *Xiangxing gong-an*, 10 from *Zhusi gong-an*, and 6 from *Mingjing gong-an*. The case story that contains a document dated in the 22nd year of the Wanli reign in *Xiangxing gong-an* is adopted by both *Lütiao gong-an* and *Xiangqing gong-an*. Little change is made when it is copied by *Lütiao gong-an* while when it is copied by *Xiangqing gong-an*, the length of the document is shortened and the time of the document is changed to the 33rd year of the Wanli reign (*Xiangqing*, 341), which is the year 1605. *Xiangqing gong-an* should be published later than this year.

Xinmin gong-an includes a preface dated 1605, the 33rd year of the Wanli reign. As both *Xinmin gong-an* and *Mingjing gong-an* have copied case stories from *Zhusi gong-an*, *Zhusi gong-an* might have been published earlier than these two. It is difficult to tell whether *Mingjing gong-an* was published earlier than *Xinmin gong-an*. But this case story book was not necessarily published as late as in the Tianqi reign (1621-7) as some scholars have argued.⁶

⁶ One case story included in *Mingjing gong-an* has the historic figure Zou Yuanbiao as the protagonist. As in history, Zou Yuanbiao died in the fourth year of the Tianqi reign (1624), scholars conclude that *Mingjing gong-an* might have been published in the Tianqi reign (1621-7) (Such as Chen 2000, 788). This argument is problematic. First of all, case story books that use historical figures as their protagonists could have been published either when the historical figures were still alive or after they had passed away (see Wu and Jiang 2006). More importantly, Zou Yuanbiao passed the civil service examination in the fifth year of the Wanli

Different levels of connections seem to exist among the seven case story books. Based on the presented authorship and the case story borrowing, adopting, and copying among them, *Lianming gong-an*, *Zhusi gong-an*, *Mingjing gong-an*, and *Xinmin gong-an* seem to have close relationships among them while *Xiangxing gong-an*, *Lütiao gong-an*, and *Xiangqing gong-an* seem to have enjoyed some special connections.

The close relationship between *Zhusi gong-an* and *Lianming gong-an* is direct and clear. These two case story books share the same author. *Zhusi gong-an*, therefore, is often regarded as the sequel to *Lianming gong-an* (Chen 2000, 740). *Xinmin gong-an* is also connected to *Lianming gong-an* and *Zhusi gong-an* in terms of the authorship. It is known the publisher of *Xinmin gong-an* was the nephew of the author of *Lianming gong-an* and *Zhusi gong-an* (Xiao 1986, 197). *Mingjing gong-an* enjoys some unique features. At the end of each chapter, it contains some “ending sign”. For example, at the end of the first chapter, the sign says, this is “the end of first chapter of *xinke zhu minggong qipan gong-an* (*the Newly Carved Case Stories Magically Judged by All the Renowned*). Following the same pattern, at the end of the second chapter, it says, this is “the end of the second chapter of *xinke xu huangming gong-an zhuan* (*the Newly Carved Continuation of Case Stories of the Ming Dynasty*).” At the end of the third chapter, it says, it is “the end of the third chapter of *jing xinke huangming zhusi lianming gong-an* (*the Finely Carved New Edition of Uprightly Judged Case Stories from All [Government] Departments of the Ming Dynasty*).” And at the end of the fourth chapter, the sign is the

reign (1577) and had been quite active in the Ming officialdom since then. The case story talks about how Zou, as a high government official, with his own virtue persuaded the rebels in the Guizhou area to turn themselves in and become good subjects of the government. According to the historical record, Zou never became an official in Guizhou. But in 1577, after he failed in the impeachment against Zhang Juzheng, a powerful figure in the government court, he was exiled to Guizhou and stayed there for six years. In conclusion, *Mingjing gong-an* was published late but not necessary in the Tianqi reign.

title *xinke zhu minggong lianming gong-an zhuan* (*the Newly Carved Case Stories Uprightly Judged by All the Renowned*).” The existence of different titles of case story books in *Mingjing gong-an* seems to tell the following information. First of all, it proves that many more case story books than what have survived to today were published during the 16th and the 17th centuries. Second, the case story borrowing, adopting, and copying between case story books was a conventional practice, as Ma has mentioned (Ma 1975, 191). Finally, with regard to *Mingjing gong-an*’s relationship with *Lianming gong-an* and *Zhusi gong-an*, the inclusion of titles similar to *Lianming gong-an* and *Zhusi gong-an* in *Mingjing gong-an* seem to suggest some close relationships among these three case story books. Based on these titles, Hidetaka (1982) even argues *Mingjing gong-an* is the continuation of *Lianming gong-an* and *Zhusi gong-an* (71).

The fact that *Mingjing gong-an* has copied five case stories from *Lianming gong-an* and one from *Zhusi gong-an* out of all seven copied stories it includes and *Xinmin gong-an* copies seven case stories from *Lianming gong-an* and three stories from *Zhusi gong-an* out of the total ten stories it includes provides some additional evidence of the close relationship among these four case story books.

With regard to the relationship between *Xiangxing gong-an*, *Lütiao gong-an*, and *Xiangqing gong-an*, it seems *Xiangxing gong-an* served as the major source for *Lütiao gong-an* and *Xiangqing gong-an*. As mentioned above and as also illustrated by the following table, about 83 percent of the case stories included in *Lütiao gong-an* and almost 60 percent of the case stories included in *Xiangqing gong-an* are exactly copied from *Xiangxing gong-an*.

Table 3.1 presents the basic information of the seven case story books and the included 348 case stories.

Table 3.1:

| Title of the case story books | Total number of case stories included | Total identified copied case stories (and their original sources) | Total number of chapters | Total number of crime categories |
|--------------------------------------|--|--|---------------------------------|---|
| <i>Lianming gong-an</i> | 102 | 0 | 2 | 15 |
| <i>Zhusi gong-an</i> | 59 | 0 | 6 | 6 |
| <i>Mingjing gong-an</i> | 25 | 7 (<i>lianming</i> 5, <i>Xiangxing</i> 1, <i>Zhusi</i> 1) | 7 | 10 |
| <i>Xinmin gong-an</i> | 41 | 10 (<i>Zhusi</i> 7, <i>Lianming</i> 3) | 4 | 8 |
| <i>Xiangxing gong-an</i> | 40 | 2 (<i>Lianming</i> 2) | 8 | 16 |
| <i>Lütiao gong-an</i> | 42 | 36 (<i>Xiangxing</i> 30, <i>Zhusi</i> 4, <i>Lianming</i> 2) | 7 | 13 |
| <i>Xiangqing gong-an</i> | 39 | 39 (<i>Xiangxing</i> 23, <i>Zhusi</i> 10, | 6 | 15 |

| | | | | |
|--------------|-----|--------------------|--|--|
| | | <i>Mingjing 6)</i> | | |
| Total | 348 | 94 | | |

Conclusion

This chapter has discussed the research methods and data this study utilizes.

Historical sociology is adopted as an overall approach to understanding the particularities of the culture production that occurred in 16th and 17th century China and to examine the possible common causal relationships and mechanisms it shares with culture production occurring in different social and historical settings.

To realize this approach, and more importantly, to operationalize the theoretical thinking elaborated in the previous chapter, this study utilizes a methodological framework which draws on the existent methodological framework in the sociology of culture but with significant modification. In this new framework, the three basic parts, the cultural object, the agent, and the resource utilization, are closely connected. Cultural objects are shaped by the quality and quantity of resources producers possess, but more so by how these resources are utilized in the production processes. The agent is the central part of the framework. Agents are equipped with social resources. They are also managers, organizers, and utilizers of these resources in cultural production processes. Agents leave their marks on the produced cultural objects. The resource utilization part considers the dynamic feature of culture production processes. It provides the crucial link between agents and their influence on cultural objects. All the variables included in this framework are temporally and spatially neutral. While the framework does

substantiate the abstract theoretical thinking employed in this study, it is flexible enough to allow history to express its contingency and complexity.

This research mainly uses the archival method to collect data and employs discourse analysis and content analysis to process the material. The major data this research utilizes are 348 case stories as included in seven case story books published in late 16th and early 17th century China.

CHAPTER IV

THE COMPREHENSION OF THE CULTURAL PRODUCT: THE FORMAT

This chapter and the next one focus on comprehending the cultural product, case stories and case story books published in 16th and 17th century China. This chapter concentrates on the format. It examines the key components of the cultural product, including the paratexts, the illustrations, and the legal documents. It also looks into the issue of how the case stories are arranged.⁷

Presentation of the authorship, prefaces and biographies

Drawing on Genette (1997) and Chow (2004), the concept “paratext” here refers to any texts included in the case story books but not part of the case stories. It includes presentations of the authorship, prefaces, and biographies prefixed to the case stories and comments attached to the case stories at the end. Different from what Chow (2004) has concluded that many of the paratexts are produced by individuals other than authors (13), the paratexts included in the case stories and case story books seemed to be composed by people from the same group as the producers of the case stories.

1. The presentation of the authorship

Across the seven case story books examined in this research, different styles have been

⁷ The case story books used in this research usually have more than one edition. In different editions, different formats might be adopted. This research focuses only on the editions this author has collected.

employed to present the authorship. But common features still can be identified.

Lianming gong-an (hereinafter *Lianming*) is generally believed to be the first-published among the seven case story books examined in this research. The current edition of *Lianming* presents only the name of the publishing house at the beginning of the text as “published by Cuiyingtang, owned by the Zheng family, located at Jianyang” (*Lianming*, 1). No further information is revealed regarding the authorship of the collection.

Compared to *Lianming*, *Zhusi gong-an* (hereinafter *Zhusi*) includes more information regarding the authorship. In the front of the book, *Zhusi* lists both the compiler, who is the famous publisher and book merchant Yu Xiangdou, and the publisher, the Yu family publishing house.

On the cover page of *Mingjing gong-an* (hereinafter *Mingjing*), the four characters “*mingjing gong-an*” are presented in the middle and in large and bold font. On its left side is the phrase “carefully selected from hundreds of (cases judged by) various renowned lords”. On its lower right side, it says “published by Sanhuaitang” (*Mingjing*, preface, 2). At the beginning of the text, “Ge Tianmin” and “Wu Peiquan” are listed as the compilers and “Sanhuaitang owned by Wang Kunyuan” is listed again as the publisher (*Mingjing* 1).

Xinmin gong-an (hereinafter *Xinmin*) presents the name “Yang Baipeng” as the distributor and “*shulin Xianyuan Jin Chengzhang*” as the publisher. “Shulin” should be the general term for publishing houses and “Xianyuan” is the title of the publishing house, which belongs to the Yu family.⁸ It is almost agreed that the name Jin Chengzhang

⁸ Xiao (1991) believes “shulin” is a synonym for Jianyang (105).

should be Yu Chengzhang (1560-1631), an important figure of the Yu family, who named the title of the publishing house after his own style name—“Xianyuan” (Xiao 1991, Shi 2004). “Wu Qian,” with the style name “Huanchu,” signs the preface to this case story book. Numbers of scholars believe Wu Qian is the author of *Xinmin* for this reason (Chen 2000; Shi 2004; Miao2005). But the name of Wu Qian is not listed along with the names of the distributor and the publisher at the beginning of the text.

The fact that the first couple of pages are missing in the current edition of *Xiangxing gong-an* (hereinafter *Xiangxing*) adds difficulties in determining how the authorship is presented in this case story book. But *Xiangxing* does include a tablet at the end of the book stating that it is published by Liu Taihua from Jianyang (*Xiangxing*, 366).

Gujin lütiao gong-an (hereinafter *Lütiao*) includes the name of “Tang Hairuo” in its entire title as the compiler. With “Hairuo” as his style name, Mr. Tang was the great writer of the time. Somewhat in contradiction to what has been presented, at the beginning of the text, “Chen Xiuyu” from Nanjing is listed as the compiler and “Shijiantang” is listed as the publishing house. Shijiantang was a famous publishing house owned by the Xiao family. At the end of the book, a tablet is included which highlights the name “Xiao Shaoqu” as the publisher.

Among all the case story books examined in this research, *Xiangqing gong-an* (hereinafter *Xiangqing*) includes the most information regarding the authorship. On the cover page of the current edition of this book, the four characters “*Xiangqing gong-an*” are presented in the middle and in large and bold font. On the right side of the page, it states these cases stories are “selected by Mr. Chen Meigong,” the renowned scholar who was among the most popular compilers and writers for commercial publishing enterprises

in the 16th and 17th centuries. On the left lower side, it says the book is “published by Chen Huaixuan who owns the publishing house named as Cunrentang” (*Mingjing*, preface 2). At the beginning of the text, the name of the publisher appears again. Along with this information, the name of “Qiu Zhaolin” from “Jiangxi province” is listed as the editor. More names are presented related to the authorship in *Xiangqing*. In the book titles appearing at the end of Chapter Two and the beginning of Chapter Six, the name “Li Zhuowu” is included to indicate Li has participated in the creation of the case story book. Like Tang and Chen, Li was another famous figure who contributed significantly to commercial printing and popular culture in 16th and 17th century China.

It is evident that for all the authorship information presented in the seven case story books, the main focus is the publishers or the commercial publishing enterprises. The names of the publishers and the publishing houses are included in every case story book and are always presented effectively. They are either on the cover page or at the beginning of the text, or at the end of the book. The next major component of the authorship as presented in the case story books is the names of compilers and editors. It is interesting to notice that in the presented authorship, there are compilers and editors, but no writers. Compilers and editors are presented in a less salient way compared to the publishers and their business enterprises, unless these compilers and editors are as famous as Chen Meigong, Tang Hairuo, Li Zhuowu, and Qiu Zhaolin, all of them were prominent scholars who were devoted to literary writing and had established their authority in the field.

Some inconsistency in the information regarding authorship as presented in the case story books is evident, especially in the ones that came out late, such as *Xiangqing* and

Lütiao. This feature might have to do with the fact that *Xiangqing* and *Lütiao* copied almost all of their case stories from other case story books. But again, the inconsistency exists only in the presentation of compilers, selectors, or editors. The information about the publishers and the publishing houses is clearly stated and consistently presented.

2. Prefaces, biographies, and others

Besides the presentation of authorship, some case story books include more texts before the case stories. *Xinmin gong-an* contains a preface and a biography of the central figure of the collection, Judge Guo, which makes it unique among the seven case story books as it is the only case story book that includes these materials. The preface to the collection is dated 1605. In the preface, the author cites the Confucian classics and discusses Lord Guo's extraordinary achievements. It points out that what has been collected in the book is only a small part of the merits Lord Guo achieved in the six provinces where he served. The preface also makes it clear that the collection does not intend to flatter; instead, it aims to make Lord Guo's way of adjudication, which greatly relieved people, the standard for officials (*Xinmin*, 1-3). Next to the preface is the detailed biography of Lord Guo, including his family background, his unique childhood, his path to officialdom, his achievement as a government official, and his descendants. In the end, it mentions Lord Guo "is now taking his position in the ministries" in the central government. It also points out that Lord Guo's merits of relieving people are more than can be mentioned. Therefore, in the following, only hundreds of stories of how Lord Guo judge cases would be selected and presented. From these, people can figure out how Lord Guo has alleviated his subjects (*Xinmin*, 8-9).

Lütiao gong-an is another unique case. Before the case stories, it contains an entire chapter to cover the formal legal documents including “the general principles of six parts of the (*Great Ming*) Code,” “the five punishments,” “questions and answers regarding case sentencing,” and “poems dealing with cases in sincerity.” Together with these legal guidelines, this section of *Lütiao* also contains four legal documents under the category “certificates” and three legal documents under the category “documents for exonerating.”

Commentaries

Commentaries, including comments on the case stories, information regarding the aftermath, and poems summarizing the case stories and highlighting their meanings of them, are attached to most of the case stories collected in six of case story books, *Xinmin gong-an* being the exception. Out of the total 307 case stories collected in the six case story books, 212 of them include commentaries.

A total of 28 case stories provide aftermath accounts after judges issue the verdicts. The length of those accounts varies but the themes remain constant. Two key subjects run through almost all the aftermath stories. First, judges who have successfully solved the crime cases are rewarded, they are remembered by people and promoted by the government, and even their descendants benefit from what they have done. Second, the evil and violent are punished and the good and the vulnerable are finally helped and compensated.

Mingjing gong-an contains 11 case stories that include poems at the end to summarize the stories, to highlight the meanings, to demonstrate local people’s appreciation of the judge in one case (*Mingjing*, 68), and to encourage the offenders to

change their behavior in another (*Mingjing*, 118). Poems are composed mainly of four sentences in rhyme. They are concise and elegant but obviously set more limits on expression. Only 18 poems in total are attached to the end of 17 case stories in the five case story books and no poems are included in *Xiangxing* and *Lütiao*.

More case stories include comment. The length of the comments varies from a couple of words to a couple of long paragraphs. The format of them also varies across all case story books. In *Lianming gong-an*, *Zhusi gong-an*, and *Mingjing gong-an*, the comment usually starts with the term *an*, literally meaning “comment.” Comments appearing in *Xiangxing gong-an* often start with the term *yu*, literally meaning “I,” with the variation of *yu an* (I comment), *yu guan* (I observe), or *yu wen* (I hear). This format is adopted with little variation by *Lütiao gong-an*. In *Xiangqing gong-an*, most of the comments are introduced by *Wuhuaizi yue*, literally meaning “Wuhuaizi says.”

For case stories, the producers clearly made efforts to show that they are compiled and edited but not written by them. But for the comments, the producers seem to willing to admit that commentaries are originally written, and they are written by the producers of the case stories.

Indeed, the sense of individual creativity is strongly expressed in the comments. *Wuhuaizi* is an individual’s penname. Comments included in *Xiangxing* and *Lütiao* are provided by “I”. In *Zhusi gong-an*, in the commentary on a case story which is related to a widow and her sexual misconduct, the commentator discusses at length the social attitude toward widows. He says, “I” saw this happening a lot and here “I” just laid out a brief picture of the issue at hand and could not exhaust everything (116). Commentaries might be copied when the case stories they comment on are copied from one case story

book to another. *Lütiao gong-an* is a case in point. But in some case story books, *Xiangqing gong-an* for example, different comments are provided for the copied case stories. This phenomenon seems to also tell the individual touch and the originality of the comments. *Xiangqing gong-an* borrows and copies case stories from at least the following three case story books: *Zhusi*, *Mingjing*, and *Xiangxing*. But for all the copied case stories, *Xiangqing gong-an* adds new comments, alters the original comments, or provides a new prefix, *Wuhuaizi yue*, to the original comments.⁹ It is true that case stories in this case story book are not original but comments in *Xiangqing gong-an* appear to be creative and they are consistent in format and content.

While little is known about Wuhuaizi and “I,” the recurrent theme of the comments, identifying the meanings of case stories and explaining why these case stories are included in the case story books, does disclose the close connection between the authors of these commentaries and the producers of the case stories and the case story books. It is evident that identifying and elaborating the legal and social meanings of the case stories is the focus of the commentaries. In *Lianming gong-an*, at the end of a case story that involves fornication and homicide but leaves few clues, the commentary points out: those who deal with severe cases should be open-minded and investigate (cases) fully. They should not ignore small things and thus overlook the keys (to the cases). Those in (political) positions should think cases over carefully (118). In *Xiangxing gong-an*, at the end of a case story that involves a friend of the husband raping and killing the wife, the

⁹ For example, the two stories included in the category “forcible robbery” in *Xiangqing gong-an* are copied from the ones included in the same category in *Xiangxing gong-an*. But for the first case story, “magistrate Liu judging carrying torches to rob with force,” no commentary is provided in *Xiangxing* and new commentary is added to it after it is copied to *Xiangqing* (117). The second case story, “magistrate Ruan judging the looting by robbers,” has brief commentary in *Xiangxing* that emphasizes the retribution (*Xiangxing*, 301). When it is copied by *Xiangqing*, the original commentary is retained and new comment, which discusses how the lesson reflected in the case story can be applied in daily life, is added (*Xiangqing*, 129).

commentary says: people should be careful about making friends and this case story can serve as a lesson for those who indulge themselves in sensual pleasures (141). Some commentaries straightforwardly tell the reasons that the case stories they are commenting on are included. In *Zhusi gong-an*, on a homicide case where the real offender was not found out by the judge, the commentary explains why this case where the truth is not found out is included: first, this case shows that to avoid tragedies, ordinary men should not keep beauties as their wives; second, this case shows that licentious women who behave unrightfully invite insult and destruction to themselves; finally, this case also illustrates that those who are righteous, honest, and upstanding will not be severely blamed although they might make some mistakes. Those are all moral lessons for the good and the bad (35-6). Comments of this nature seem to be more likely from the producers of the case stories than from the audience or the outside commentators.

Illustrations

Except *Xinmin gong-an*, all the case story books include illustrations along with the text. The arrangement of texts and illustrations are consistent across the six books. On each page, the text and the illustration co-exist, with the illustration on the top and taking about one-third of the space and the text on the bottom and taking about two-thirds.¹⁰ The sides of each illustration are bounded by couplets. The same number of characters appear in the couplets on each side of the illustration to highlight the meaning of the scene, which would be a part, not necessarily the key part, of the story presented under the illustration (such as *Zhusi*, 308). Small variations, including the ways of presenting the couplets, the styles of the characters included in the couplets, and the shapes of the

¹⁰ See Illustration No.1.

illustrations, can be identified in different case story books. For example, illustrations in *Xiangxing gong-an* are not framed by the conventional rectangle as seen in other case story books but by a shape with various curves (*Xiangxing*, 1). In *Lianming*, *Zhusi*, and *Xiangqing*, on the top and the bottom of the couplets, there are two short vertical white lines against the dark shade, while in other case story books, the couplets take the whole space of the sides of the illustrations.¹¹

Case story books that copy their main body of texts from other case story books, such as *Xiangqing* and *Lütiao*, make adjustments to the illustrations originally matched with the stories. In other words, for the same case stories, different scenes might be picked to be illustrated, different characters might appear in the couplets, and different shapes might be provided to the illustrations in the new case story book. Therefore, although *Xiangqing* and *Lütiao* copy case stories from more than one source, the illustrations along with the texts are consistent in each book.

With regard to the elements included in the illustrations, the stylization in the portrayal of settings, figures, and movements is worth discussing. Three settings are most frequently portrayed in the illustrations: the indoor setting, the courtyard setting, and the outdoor setting. The indoor setting appears in the illustrations of courtrooms, prisons, studies, bedrooms, living rooms, the interior part of temples, and so on. Across all these indoor setting illustrations, the major components remain the same. The interior wooden board (wall) looks similar in all indoor settings, the screen used for courtroom decoration also appears in living rooms of residential houses, the same desks, tables, and chairs appear in a study as in a temple, and all beds presented in the illustrations look

¹¹ See *Lianming*, 2, and *Lütiao*, 3, for comparison.

similar.¹² Therefore, only the different configuration of these elements, together with human figures appearing in these settings on some occasions, can help to tell the different indoor settings apart. The courtyard setting portrayal enjoys the same feature. For the courtyard of courtrooms, temples, or residential houses, the major components and the portrayal remain the same, with same-styled walls and same-styled garden objects, such as small garden windows and bamboo leaves. The outdoor setting in the illustrations includes more objects, such as trees, mountains, rivers, boats, animals, and so on. Again, across all outdoor settings presented in the illustrations, not much variation has been given to the portrayal of these objects.

Along with this patterned, standardized, and also simplified portrayal of settings in the illustrations, the depiction of human figures follows the same principle. Generally speaking, few distinctive features can be found in these figures. Figures in the illustrations are not individuals, but members of categories, such as women and men, officials and common people, monks, children, criminals, and so on, as all women in the illustrations look the same, just as all judges look the same regardless of their ranks. Hairstyles, clothing, and objects carried by figures help differentiate the categories. For example, different hairstyles can differentiate women from men and monks from laymen (*Xiangqing*, 3, 290, for example). Hats and clothes in different styles help to tell the socio-economic difference among the figures portrayed in the illustrations (*Xiangqing*, 5, and *Mingjing*, 91, for example). Figures having written complaints in their hands are either plaintiffs or defendants while court clerks usually have penal instruments, such as sticks and chains, in their hands as portrayed in the illustrations.

¹² See Zhusi, 266, 268, 277, and 307 for comparison.

Comparing to the portrayal of settings and figures, the depiction of the human movements in the illustrations seems to have included more nuances. More movements and body postures, such as talking, walking, and fighting, have been included. While movements happening in courtrooms, such as kneeling and applying penal instruments, are the major composition of the illustrations, more styles of kneeling and more ways of interrogation seem to be presented. It is interesting to note that figures in the illustrations seem to move in their own worlds. They are interacting with each other instead of with the audience. The gaze of the figures in the illustrations is rarely set on the audience but always on something, someone, or some direction in the illustrations (*Mingjing*, 66, for example). Hegel (1998) mentions that the movement of figures within traditional Chinese paintings follows the convention that figures generally move toward the left, which would be consonant with the movement of the reader's eyes when proceeding through a text, as text in traditional literary works would be read from the right to the left (315). For illustrations included in fiction, the author argues, "even when there is no movement as such, the direction of the attention of the dominant figure is generally to the left and somewhat downward" (Hegel 1998, 315). And the movements that are portrayed in violation of this rule would be the indicator of improper or even criminal actions (Hegel 1998, 315). For the portrayal of movements in the illustrations included in the case story books, the direction principle seems to be less salient than this suggests (*Lianming*, 267 and 269, for example). The connection between the movement direction and negative or even criminal behaviors is not strong either.

Legal Documents

The basic structure of case stories differs little across all case story books. A typical case story starts with the location, main characters, and the introduction of the dispute or crime. When the dispute arises or the crime is committed, one party or the victim would go to court with his or her complaint. In variation, community leaders might report the finding of an unidentified corpse, or crimes that happened within the area, to local governments. If the lawsuit is against a specific person, the local magistrate would send runners¹³ to bring the person to the court. To defend himself or herself, the person under subpoena would go to court with his or her complaint ready. The focus of the case story is always on how the judge utilizes his morality, intelligence, and various techniques to solve the case: to find out the truth, help the victim, and punish the offender. A case story usually ends with the verdict issued by the judge.

The case story “Wu Wang increasing interest and beating others to death” collected in *Xinmin gong-an*, for example, starts with the introduction of the main character Wu Wang. Living in Xianglong Street, Wu Wang is rich and powerful and makes his living by lending money and earning heavy interest. Luo Ziren borrows nine *liang* and one *qian* silver from Wu Wang for starting a small rice business. The set deal is this nine *liang* and one *qian* would be counted as ten *liang* and the interest would be another extra five *liang*. With some luck, business is good and within half a year, Luo Ziren had made one hundred *liang* silver out of the business. He asks the guarantor to accompany him to Wu Wang’s house and returns the fifteen *liang* silver in total to him. Wu Wang has got the information that Luo has made quite some profit and asks for twenty-five *liang* silver instead, to which Luo Ziren does not agree. Wu Wang then orders his servants to beat

¹³ Runners were courtroom assistants. They delivered warrants and other official documents, engaged in interrogation and torture, served as prison lictors and guards, and so on. See more information in Macauley (1998).

Luo Ziren and Luo Ziren dies. The guarantor rushes to the Luo family to impart the sad news. Luo Ziyi, the younger brother of Luo Ziren, immediately brings the case to the magistrate with a written complaint. When the local magistrate receives this complaint, he sends the government runners to arrest Wu Wang right away. Wu Wang then brings his complaint to the court to defend himself. The magistrate hears the case. But Wu Wang bribes the neighbors, including Xinglang and others, to give false testimony. The brother then goes to Judge Guo, the superior of the magistrate for the case. With the application of different techniques, Judge Guo finds out the real situation and reaches the verdict. The story ends with the verdict.

A key component in the structure of case stories is the inclusion of seemingly formal legal documents. Most of the case stories examined in this research include three types of legal documents in the texts: complaints from plaintiffs, complaints from defendants, and verdicts from judges. The inclusion of legal documents significantly sets case stories apart from vernacular fiction or case fiction in general terms.¹⁴ In the above case story, Luo Ziyi's complaint is first included when Luo Ziyi goes to the magistrate's court. The complaint reads:

The person who brings this complaint forward is Luo Ziyi, residing in the ninth *Du* and registered as civilian. The complaint is for a local tyrant lending money at high interest and devouring my brother. Wu Wang, the despot of the county, possesses millions of family property and more than one hundred servants. He is fierce and cruel and everyone casts sidelong glances (with fear). Through the guarantor Ye Gui, (my) brother (Luo) Ziren borrowed nine *liang* and one *qian*

¹⁴ Literature scholars usually define case stories or case fiction as stories talking about legal issues, crimes, and court hearings. See discussions on the concept in Miao 2005, 47-48.

silver, counted as ten *liang*, from Wang. He bought rice (with this money) and ran a business. Within half a year, he returned fifteen *liang* silver. Wang complained about the low interest and extorted twenty-five *liang* silver. (My) brother argued with Wang and offended him and the despot ordered his servants to beat (my brother) to death immediately. (My brother) stopped breathing and died. The original guarantor Ye Gui witnessed this. (Wang violates the legal rule against taking interest in violation of prohibitions. The dead suffers injustice. The private loan devours my brother and the entire family cries in blood. Human life is of heavenly importance and the facts of injustice are of earthly tragedy; (I therefore) plead to Heaven and bring this complaint forward (*Xinmin*, 103).

When Wu Wang is brought to court, his complaint in defense is recorded as follows:

The person who brings this complaint in defense is Wu Wang, with my age and registration in record. The defending complaint is for illuminating the false accusation. The hardened thief Luo Ziren stole and did harm to people and was not tolerated by the entire community. In the night of the third day of this month, (he) sneaked into (my) house and stole (my) property. Servants saw (him), caught him, and beat him to death immediately. Unexpectedly, his brother Luo Ziyi falsely accused (me) of taking interest in violation of prohibitions. The circumstance and cause he provided are deceitful and wrong. It is ultimately serious to frame a homicide case against (me). The harm of stealing is difficult to stop. Servants only killed a thief in the night. They did not beat him in the

daytime. (I) call out to Heaven to carefully illuminate (the wrong) and my ant-like life can lightly touch the great grace (*Xinmin*, 104-5).

At the end of the case story when the verdict is reached by the judge, its content is introduced as follows:

The verdict rules: the hearing has found out that Wu Wang, the local tyrant with ten thousand (*liang*) gold, wantonly does evil and is always avaricious. Almost every one in the community has been nibbled by him repeatedly. This time he took interest in violation of prohibitions, beat Luo Ziren to death, and falsely accused Ziren of breaking into the house in the middle of the night to steal property to try to get away. The base money is nine *liang*. Within half a year, (Wang tries to) extort for twenty-five *liang*. This is the Yama's debt and it takes the life. Is it just a case of the heartless rich? Falsely making up the stealing story, Xinglang and others accepted ten *liang* (of silver) against their conscience and testified untruthfully about "killing thieves without authorization". This is exactly the case where human conduct would follow the direction of harming others. Overtly, they were helping the Luos while covertly they went along with Wang. Substituting the night for the daytime, obscuring the loan but claiming stealing, Xinglang and others are the wicked who helped the wicked. Fierce evils like these should be punished according to the *Code* (*Xinmin*, 114-5).

While most of the case stories contain the above three typical legal documents, some case stories might contain more. In the above story, when Luo Ziyi brings the lawsuit to Judge Guo, he prepares another written complaint other than the one he uses for the magistrate's court and correspondingly, Wu Wang prepares another written complaint in

his defense. Both of them have been included in the case story. Some case stories, also contain related legal documents, such as arrest warrants (*Xinmin*, 93-4) and government announcements (*Lianming*, 205-6). On the other hand, for case stories that involve robberies and other crimes where offenders can not be identified by the victims, complaints from defendants would be missing.

With regard to the inclusion of these seemingly formal legal documents in the case stories, *Lianming gong-an* and *Mingjing gong-an* are special as they include some “legal-document only” case stories. Out of total 102 case stories included in *Lianming*, 61 of them are composed purely of legal documents; some of them contain all three pieces while others contain two. There is no additional story or text. In *Mingjing*, two case stories of this are included. It is worth noticing that the legal documents included in these two case stories in *Mingjing* have exact counterparts in the corresponding case stories in *Lianming*.

Legal documents contained in case stories are presented in a distinctive way that not only lets them be easily identified, but also bestows on them the aura of formality and significance. Each legal document is presented in a separate paragraph and is presented in its entirety. To highlight the verdicts, in some case story books, such as *Lianming* and *Zhusi*, the beginning phrase, which usually reads “the verdict from Judge X rules” is presented in a rectangular box with bold lines (*Lianming*, 4, *Zhusi*, 14, for example).

This formality is also revealed by the uniform components contained in each type of the included legal documents. A complaint, whether from the plaintiff or the defendant, usually first identifies the complainant himself or herself, including information such as age, gender, residence, officially registered occupation, etc., at the beginning. A

summary, which usually takes one sentence with the structure “(the complaint is) for the purpose of x,” is used to introduce the dispute or crime in question, the core of the document. The layout of the dispute or crime is often featured by the emphasis on the suffering inflicted on the complainant at the moment, which seems to legitimize his or her bringing the lawsuit to the court. Some complaints include the legal demands at this point. The final part of the complaint usually is the earnest request, either to Heaven or to the judge, to take care of the case. For verdicts, the documents usually start with “*pan yue*”, meaning “the verdict rules”, or “*X pan yue*”, meaning “the verdict issued by X (judge) rules.” The main body of the documents outlines the case and identifies the offenses. This part is always introduced by the phrase “*shen de*”, meaning “the hearing has found out”. Emotional condemnation of the offenses is a necessary part. The final section of the verdict announces the court decision, which includes the punishments for the offenders, compensation for the victims, and so on.

Moreover, in the included legal documents, for describing similar types of crimes or the same social groups involved in crimes, similar vocabularies and discourses seem to be employed. Table 4.1 presents the patterned terms used to describe moneylenders and borrowers in the complaints contained by all nine money-lending case stories. To attack moneylenders, in the complaints of the borrowers, phrases and discourses such as *lei zhai* (“increasing interest”), *weijin quli* (“taking interest in violation of prohibitions”), *wei fu bu ren* (“heartless rich”), and *tu hao* (“local tyrant”) are frequently used. To attack borrowers and to defend themselves, in the complaints of the moneylenders, the key terms used across the cases are *tun pian* (“swallowing and cheating”) and *diao e* (“the cunning evil”).

Table 4.1:

| Case story books | Titles of the case stories | Complaints against the money lenders | Complaints against the money loaners |
|-------------------------|--|---|---|
| <i>Lianming gong-an</i> | Magistrate Xia judging beating brother to death | “increasing interest”; “local tyrant” | “hardened thief” |
| | Magistrate Ban judging increasing interest | “increasing interest”; “taking interest in violation of prohibitions” | “swallowing and cheating”; “the cunning evil” |
| | Magistrate Meng judging lending money and swallowing up property | “increasing interest”; “taking interest in violation of prohibitions” | “cunning cheating”; “the fierce evil” |
| | Magistrate Zuo judging debtor taking house | “increasing interest”; “local tyrant”; “heartless rich” | “cheating” |

| | | | |
|-----------------------|--|---|--|
| | | | |
| | Magistrate Song judging taking back the principal | “cheating”; “local tyrant” | “swallowing” |
| | Magistrate Ye judging taking the military asset | “powerful local tyrant” | “fierce evil”; “swallowing and cheating” |
| <i>Zhusi gong-an</i> | Magistrate Zhao (judging) losing property for land | “local tyrant” | “despot of the community”; “the cunning evil” |
| <i>Xinmin gong-an</i> | The rich man cheats on private loan | | “swallowing and cheating”; “local tiger” |
| <i>Lütiao gong-an</i> | Magistrate Su judging beating people to death | “increasing interest”; “the power and rich” | “hardened thief” “harm of the community” |

Arrangement of the case stories

The case story books contain tables of contents to tell how case stories are arranged. But inconsistency between the table of contents and the text happens quite often. Some

tables of contents might list more or fewer chapters and titles than the text actually includes.¹⁵

Using both conventional chapters and crime categories, especially the latter, to organize the case stories, is a unique feature of the case story books. In most of the case story books, chapters and crime categories are often not in tune. While *Zhusi gong-an* does have one chapter to cover one crime category, *Lianming gong-an* uses one chapter to cover several crime categories and in *Xinmin gong-an* and *Xiangqing gong-an*, one crime category can extend over two chapters. Crime categories identify types of crimes dealt with in case stories, such as homicide, fornication, and so on. A total of 80 crime categories are applied in the seven case story collections to sort out stories. The number of categories included in each case story book varies from 6 to 16. The popularity of categories also varies significantly as under some crime categories as many as 18 case stories would be included while some categories might contain only one or two case stories.

Table 4.2 presents the crime categories included in the seven case story books.

Table 4.2:

| Title of the case story collection (total stories) | Total number of crime | Names of crime categories ¹⁶ (numbers of stories included in the category) |
|---|-----------------------|---|
|---|-----------------------|---|

¹⁵ For example, the table of contents of *Mingjing gong-an* lists seven chapters while the text contains only the first four chapters. In *Zhusi gong-an*, the case story “Judge Peng determining the bisexual” is included in the text but the title does not appear in the table of contents.

¹⁶ In some of case story books, categories listed in the table of contents are inconsistent with the categories appearing in the text. Lists included here are based on the actual categories that appear in the text of each case story book.

| included) | categori es | |
|----------------------------------|----------------|---|
| <i>Lianming gong-an</i> (102) | 16 | Homicide (18), fornication (8), robbery (9), seizing property (15), deceiving (10), coercion (4), kidnapping (3), graveyards (2), marriages (4), debts (5), households and corvée service (5) , affrays and batteries (3), inheritance (4), exonerating (3), certificates (5), official honors (3) |
| <i>Zhusi gong-an</i> (59) | 6 | Homicide (9), fornication (9), robbery (11), deceiving and counterfeiting (11), seizing property (10), redress (9) |
| <i>Mingjing gong-an</i> (25) | 6 | Homicide (5), extorting and deceiving (2), fornication (4), robbery (9), redress (1), marriages (4) |
| <i>Xinmin gong-an</i> (41) | 8 | Deceiving and dishonest (6), homicide (6), murder (4), forcibly taking and robbery (5), rascal and cheating (5), redress (4), fornication (5), seizure by force (6) |
| <i>Xiangxing gong-an</i> (40) | 16 | Murder (4), fornication (9), marriages (5), fornication and kidnapping (2), coercion (1), eliminating demons (2), eliminating the evil (1), theft (2), forcibly taking (4), forcible robbery (2), killing due to jealousy (1), plotting to seize (3), fidelity (1), chastity (1), double filial (1), filial piety (1) |
| <i>Lütiao gong-an</i> (42) | 13 | Murder (7), fornication (3), robbery (5), theft (2), licentious monks (4), eliminating demons (2), eliminating the evil (1), |

| | | |
|----------------------------------|----|--|
| | | marriages (4), killing due to jealousy (1), plotting to seize property (5), seizing in chaos (2), kidnapping (2), chastity and filial piety (4) |
| <i>Xiangqing gong-an</i> (39) | 15 | Redress (5), fornication (4), forcible robbery (2), forcibly taking (4), theft (2), fornication and kidnapping (2), coercion (1), homicide (10), extorting and deceiving (1), killing due to jealousy (1), plotting to seize (3), fidelity (1), chastity (1), double filial (1), filial piety(1) |
| Total | 80 | 348 stories |

Two features seem to stand out regarding the categories presented in the above table. First of all, categories included in some case story books share more similarities than the ones included in others. By comparison, the names of the crime categories contained by *Xiangxing gong-an*, *Lütiao gong-an*, and *Xiangqing gong-an* share more similarities. Some unique categories such as “killing due to jealousy,” “eliminating the demons,” “eliminating the evil,” and categories related to chastity and filial piety appear only in these three case story books. *Lianming gong-an* contains more categories than other case story books and most of its categories are shared by *Zhusi gong-an*, *Mingjing gong-an*, and *Xinmin gong-an*. This phenomenon implies the different levels of connections among the case story books.

Second and more importantly, some categories are emphasized more than others. Table 4.3 presents the top three popular categories among the seven case story books in

terms of the frequency with which they appear in different case story books and the total number of case stories the category contains.

Table 4.3:

| The categories | Number of appearances in case story books (7 in total) | The categories | Number of case stories included in the categories (348 in total) |
|-----------------------|---|-----------------------|---|
| Fornication | 7 | Homicide | 48 14% |
| Homicide | 5 | Fornication | 42 12% |
| Robbery | 4 | Robbery | 29 8% |
| | | Total | 119 34% |

Table 4.3 shows that the crime categories that most frequently appear across all case story books are also the categories that include more stories than the others. “Fornication,” “homicide,” and “robbery” are the most popular categories used in case story books and they also rank as the top three in terms of the case stories they contain. Together, these three crime categories include a total of 119 case stories, which is more than one-third of all the case stories examined in this research. This emphasis is further enhanced by the existence of “crime category clusters.” For all the crime categories included in the case story books, some of them are more closely connected in terms of both the nature of the criminal behavior and the consequence. For example, the crime

categories such as “homicide,” “murder,” and “killing due to jealousy” all deal with illegal life-taking. “Fornication,” “licentious monks,” and “fornication and kidnapping” all focus on illicit sexual behavior and its serious consequences. Crime categories such as “robbery,” “forcible robbery,” “forcibly taking,” and “theft” differ only in the level of seriousness, not the nature of the crimes. Along the same line, categories such as “seizing property,” “plotting to seize,” “plotting to seize property,” and “seizure by force” all have to do with property seizure. “Extorting and deceiving,” “deceiving and dishonesty,” “vagrancy and cheating,” and “deceiving and counterfeiting” all deal with some types of deceiving. The fact that some “homicide” stories are categorized as “murder” stories when they are copied by different case story books illustrates the recognition of the close relationship between “homicide” and “murder” by the producers.¹⁷

The result of putting similarly-natured crime categories together to spell out the implicit “crime category clusters” is presented in Table 4.4.

Table 4.4:

| Crime category clusters | Included original crime categories | Number of case story books it appears | Number of total case stories included (percent of total 348) |
|--------------------------------|---|--|---|
| | | | |

¹⁷ For example, the story “the monkey revenging for its master” is contained in the crime category “homicide” in *Lianming gong-an*. When it is copied and elaborated in *Xinmin gong-an*, it is covered by the crime category “murder”.

| | | | |
|-------------------------|---|---|--------|
| Homicide | “homicide,” “murder,” “killing due to jealousy” | 7 | 66 19% |
| Robbery | “robbery,” “forcible robbery,” “forcibly taking,” “theft” | 7 | 57 16% |
| Fornication | “fornication,” “licentious monks,” “fornication and kidnapping” | 7 | 50 14% |
| Property seizure | “seizing property,” “plotting to seize,” “plotting to seize property,” “seizure by force,” “seizing in chaos” | 6 | 45 13% |
| Deceiving | “deceiving,” “extorting and deceiving,” “deceiving and dishonesty,” “vagrancy and cheating,” “deceiving and counterfeiting” | 5 | 35 10% |
| Redress | “redress” | 4 | 19 5% |
| Marriages | “marriages” | 4 | 18 5% |
| Official honor | “official honor,” “chastity,” “fidelity,” “filial piety,” “double filial” | 4 | 15 4% |
| Others | “eliminating demons,” “eliminating the evils,” “coercion,” “kidnapping,” “graveyards,” | 4 | 41 12% |

| | | | |
|--------------|--|---|----------|
| | “debts,” “households and corvee,” “affrays and batteries,” “inheritance,” “exonerating,” “certificates” | | |
| Total | | 7 | 348 100% |

Consistent with the result presented in Table 4.3, the most emphasized and popular crime category clusters are homicide, formation, and robbery. Case stories contained in these three clusters constitute almost half of the total case stories included in the seven case story books. If category clusters such as property seizure and deceiving are added, the number of case stories covered by these five major crime category clusters would make 73 percent of all case stories.

Conclusion: the popular, the formal, and the standard

The examination of the format and structure of the case stories and case story books reveals the complex composition of the cultural objects.

Rolston (1997) sees two different stages of fiction commentary production in the period when case story books were published, the first one in the last decades of the 16th century and the second one in the first quarter of the 17th century (2-3). According to him, the first stage features the dominance of commercial motives, publishers themselves being the authors of the commentaries, and the commentaries being rudimentary and uninspired (Rolston 1997, 2). Not necessarily uninspired, but commentaries included in the case story books in general seem to share the features Rolston has laid out for the first

stage of fiction commentary production. Indeed, the observation that commentaries were significant selling points in the 16th and 17th century book market has been made by various scholars and it would have been understood well by publishers in the period (Chia 2002, 49). To say it differently, commentaries had been proved by the market to be popular among audiences before they were included in the case stories as important components.

It seems to be the same for illustrations. Including illustrations in books, especially commercial publications, had been a conventional practice before the case story books were produced. According to Hsiao (2007), the special arrangement of texts and illustrations, illustrations on the top and texts on the bottom, was very popular even before the late part of the 16th century (11). Geographically, Hegel (1998) points out that this layout of illustrations and texts had already become the standard Jianyang practice before the late Ming (233). Like commentaries, it seems illustrations were included in the case stories after they had been proved to be popular in the market.

If the inclusion of commentaries and illustrations is legitimized by the market, the inclusion of the legal documents and the crime categories seems to be justified by the legal authority these elements carry. Indeed, the formality revealed by the terminology and format of the legal documents and crime categories indicates their close connections to the formal legal profession. The function of these legal documents and crime categories is the same as the preface to the case story book *Ximin gong-an* and the entire chapter of legal documents included at the beginning of the case story book *Lütiao gong-an*. All of these elements bring realness, seriousness, and a touch of professionalism into the case stories and case story books.

All this having been said, the inclusion and integration of the components discussed above might be attributable to the conventional practice of the genre. In the field of fiction studies of 16th and 17th century China, standardization has been identified as the main feature in book publishing. The effect of standardization can be observed in all aspects of the physical appearance of books, such as the uniformity of the book size, book binding, typeface, and so on (Hegel 1998, 123) as well as the components of the books, such as commentaries and illustrations as discussed above. This standardization seems to be evident in case stories and case stories books as well. Across all case stories and case story books, the format and structure are consistent: the emphasis on publishers in the authorship presentation; the similar styles observed in commentaries, the uniform illustrations, the standard legal documents, and the same arrangement of case stories. To say it differently, although case stories and case story books adopt elements from various sources, including the literary and legal works, they seem to manage to develop a consistent and logical format and structure to integrate them to constitute a special genre.

CHAPTER V

THE COMPREHENSION OF THE CULTURAL PRODUCT: THE CONTENT

This chapter focuses on the content of case stories to comprehend this unique cultural product. It will examine the themes and narratives of case stories to understand how crimes are depicted. It will also look into the portrayal of courtrooms to learn how the legal order is perceived. Finally, it will explore the images and discourses of judges and justice as presented in the case stories, which could be the expression of some beliefs regarding the legal system.

Case stories in the main crime categories: the depiction of crimes

As discussed in the previous chapter, case stories included in the following five major crime category clusters make up 73 percent of all the case stories included in the seven books examined in this research: homicide, which includes crime categories such as “homicide,” “murder,” and “killing due to jealousy”; robbery, which includes “robbery,” “forcible robbery,” “forcibly taking,” and “theft”; fornication, which includes “fornication,” “licentious monks,” and “fornication and kidnapping”; property seizure, which includes “seizing property,” “plotting to seize,” “plotting to seize property,” “seizure by force,” and “seizing in chaos”; and deceiving, which includes “deceiving,”

“extorting and deceiving,” “deceiving and dishonesty,” “vagrancy and cheating,” and “deceiving and counterfeiting”. In other words, these five major crime category clusters contain the majority of the case stories included in the case story books. Therefore, themes and discourses presented in these crime category clusters would provide a good overview of the depiction of crimes in case stories.

1. The homicide case stories

The homicide crime category cluster includes a total of 66 case stories, which constitutes the largest proportion of all case stories included in the seven books. The distribution and the general content information of these case stories are illustrated by Table 5.1.

As Table 5.1 shows, among these 66 case stories, one case story is irrelevant as it does not involve any killing and life-taking, 24 case stories are either partially included in *Xinmin gong-an*, or completely included in *Lütiao gong-an* and *Xiangqing gong-an*, and are therefore copied stories. This leaves 41 original homicide case stories for analysis.

Table 5.1: The homicide case stories

| Case collections | Stories and their categories | Stories partially and completely copied | Stories irrelevant to homicide |
|-------------------------|------------------------------|---|--------------------------------|
| <i>Lianming gong-an</i> | “homicide” 18 | | |

| | | | |
|--------------------------|--|--|-----------------|
| <i>Zhusi gong-an</i> | “homicide” 9 | | |
| <i>Xinmin gong-an</i> | “homicide” 6 “murder” 4 | “homicide” 4 (from <i>Lianming gong-an</i>) “murder” 1 (from <i>Lianming gong-an</i>) | “homicide” 1 |
| <i>Mingjing gong’an</i> | “homicide” 5 | “homicide” 1 (from <i>Zhusi gong-an</i>) | |
| <i>Xiangxing gong’an</i> | “murder” 4 “killing due to jealousy” 1 | | |
| <i>Lütiao gong’an</i> | “murder” 7 “killing due to jealousy” 1 | “murder” 6 (4 from <i>Xiangxing gong-an</i> , 1 from <i>Lianming gong-an</i> , 1 from <i>Zhusi gong-an</i>) “killing due to jealousy” 1 (from <i>Xiangxing gong-an</i>) | |
| <i>Xiangqing gong’an</i> | “homicide” 10 “killing due to jealousy” 1 | “homicide” 10 (5 from <i>Zhusi gong-an</i> , 5 from <i>Mingjing gong-an</i>) “killing due to jealousy” 1 (from <i>Xiangxing gong-an</i>) | |
| Total | 66 | 24 | 1 |

As Table 5.2 indicates, these 41 case stories in the homicide category demonstrate clear focal themes. For the original case stories included in this category, killings for obtaining wealth and sex are the most popular themes. Altogether, they make 75 percent

of all the original homicide case stories. For the “killing for wealth” case stories, “killing to steal cash” is the most common topic. Almost one-third of the original homicide case stories focus on this subject. It is worth noticing that this feature is true for the copied case stories included in this category as well.

Table 5.2 : The homicide case stories

| Case stories in homicide | Themes | | Number of story included | |
|----------------------------------|--------------------------------|--|--------------------------|----|
| Original case Stories (total 41) | Killing for wealth | Killing to steal cash | 13 | 16 |
| | | Killing for family property | 2 | |
| | | Killing due to debt | 1 | |
| | Killing due to sex | Killing due to refusal of sex | 8 | 15 |
| | | Killing due to illicit sex | 7 | |
| | Killing due to disputes | Killing due to family disputes | 2 | 6 |
| | | Killing due to disputes among neighbors and others | 4 | |
| | False accusation | | 3 | 3 |
| | Animal killing | | 1 | 1 |
| | Copied case stories (total 24) | Killing for wealth | Killing to steal cash | 6 |
| Killing for family property | | | 2 | |
| Killing due to debt | | | 2 | |
| Killing due to sex | | | 4 | 4 |

| | | | | |
|--|-------------------------|-------------------------------------|---|---|
| | | | | |
| | Killing due to disputes | Family disputes | 4 | 8 |
| | | Disputes among neighbors and others | 4 | |
| | Animal killing | | 1 | 1 |
| | False accusation | | 1 | 1 |

Victims in “killing to steal cash” case stories are usually travelers, such as merchants on business trips, landlords on their way back from collecting the rent, shoppers going to market, and vendors. In most cases, they travel on their own and are described as “lonely travelers” in the case stories. To get to their destinations, they have to pass mountain areas and forests where no other travelers are around. In some cases, they have to ask directions, take a rest on the road, or buy food and stay overnight at houses nearby. Because of the purposes of their trips, they usually carry a significant amount of money with them. This fact is found out by others mainly because of the careless exposure of the money by the victims. But in quite a few case stories, this exposure is for a good cause. In the case story “Magistrate Huang hearing the unjust man brought by the righteous crow,” the merchant Zhang En is generous and kind. On his business trip to Beijing, he exposes his money when he buys the caught crow to set the bird free (*Lianming*, 71). The criminals in these case stories are usually professional or non-professional traveling assistants such as luggage carriers, innkeepers, boatmen, sedan-chair bearers, or passersby and fellow travelers. Some of them “specially plotted against merchants and made their family fortune”(*Xiangxing*, 39); some of them only

“made up their minds upon seeing the money”(Xinmin, 175). In the case stories, these criminals are described as “always being fierce and malicious,”(Xinmin, 179) “being greedy, cruel, ruthless, and making his living as a butcher”(Zhusi, 1), and “with crosswise brows, snake-like eyes ,and red moustache,” which implies an evil nature(Xinmin, 174).

“Killing due to sex” constitutes another major group of homicide case stories. In these case stories, the killings happen mostly in houses, with only a few happening in temples. Except for two cases where the victims are men, victims in these case stories are women. Nine of the women victims are typical good women, including beautiful girls-next-door who are dating their boyfriends (such as *Lianming*, 7), chaste widows (such as *Lianming*, 38), and faithful wives (such as *Lianming*, 47). These victim women are killed mainly for refusing to have sex with the offenders, who are monks “having licentious thoughts” when they see beautiful women (*Mingjing*, 27), fierce butchers, and suspicious husbands. Four of the victim women are, however, sexually immoral, including three wives who commit adultery and one woman who is a prostitute. Their lives are taken by their husbands (*Lianming*, 63), their lovers (*Zhusi* 30, 38), or the client (*Lianming*, 77). The two male victims are both killed by their wives. In these two cases, both women have committed adultery with other men but cannot get out of their current marriages. Woman Huo, “beautiful and licentious, her heart fierce and cunning,” kills her husband after being refused after “asking to remarry days and nights,”(*Zhusi*, 60) while woman Wang has been physically abused by her husband when he finds out about her affair (*Zhusi*, 65).

2. The robbery case stories

Robbery case stories include crime categories such as “robbery,” “forcible robbery,” “forcibly taking,” and “theft”. Among the total of 57 stories, 18 of them are

copied case stories, which are included in *Mingjing gong-an*, *Lütiao gong-an*, and *Xiangqing gong-an*, which leaves 39 original robbery case stories to analyze. The themes and enumeration of these 39 original robbery case stories, as well as the 18 copied case stories, are presented in Table 5.3. The salient themes as reflected in original robbery case stories match the ones as reflected in the copied robbery case stories: the main topic for robbery case stories is robberies that happen on the road. Case stories with this theme make up 41 percent of the original case stories and 56 percent of the copied case stories.

It is worth noting that the description of victims and offenders in these “robbery on the road” case stories is very close to the one used for victims and offenders in “killing to steal cash” homicide case stories: victims are mainly travelers who are on the road on their own and carry money with them, such as merchants (*Lianming* 138; *Xinmin* 194, 226, 249; *Xiangxing* 252, 277, 260; *Mingjing* 138), vendors (*Xiangxing* 261), local officials on their way to the capital (*Zhusi* 182), fathers going shopping for a daughter’s wedding (*Xinmin*, 237), and so on. The offenders are mainly local residents, “living around the inns, without regular jobs, occasionally being the luggage carriers for the travelers, or finding helpers for travelers” (*Zhusi* 160). Some of them are hardened robbers and burglars (*Xinmin* 226, 237; *Xiangxing* 252, 261), while some others commit crimes only when they see the money and the opportunity (*Lianming* 126; *Xiangxing* 277). The close relationship between the “robbery on the road” case stories and the “killing to steal cash” case stories can also be shown by the following two facts: first, among the 16 original “robbery on the road” case stories, in ten of them, victims are not only robbed, but also killed; second, in the case story book *Xinmin gong-an*, the case stories “two dead bodies found in the well” and “finding out Chenqi’s murder from the

water” are listed under the crime category “murder” in the table of contents, while in the text, the former case story is entirely contained in the crime category “forcibly taking and robbery” and the latter case story is divided between the categories of “forcibly taking and robbery” and “murder.”

Table 5.3: The robbery case stories

| Robbery case stories | Themes | Number of stories | | |
|--|--|-----------------------------------|---|----|
| Original robbery case stories (total 39) | Robbery happened on road | 16 | | |
| | Robbery via breaking in | Rich families as the victim | 7 | 10 |
| | | Government treasury as the victim | 3 | |
| | Stealing | 7 | | |
| | False accusation | 2 | | |
| | Others | 4 | | |
| Copied robbery stories (total 18) | Robbery happened on road | 10 | | |
| | Rich families/government as the victims of breaking in robbery | 3/1 (4) | | |
| | Stealing | 3 | | |
| | Other | 1 | | |

3. The fornication stories

The total 50 fornication stories are contained by crime categories such as “fornication,” “licentious monks,” and “fornication and kidnapping.” Among these 50 case stories, 12 of them are copied and repeated and three of them are irrelevant. The themes of the original 35 case stories and the 12 copied ones are presented in Table 5.4.

Table 5.4: The fornication case stories

| Fornication case stories | Themes | | Number of stories | |
|--|--|---|-------------------|----|
| | | | | |
| Original fornication case stories (total 35) | Illicit sex | Related to monks | 13 | 16 |
| | | Not related to monks | 3 | |
| | Crimes due to illicit sex | Adultery leading to life-taking | 13 | 17 |
| | | Adultery leading to theft | 1 | |
| | | Illicit sex leading to suicide | 1 | |
| | | Refusal of illicit sex leading to killing | 1 | |
| | | Refusal of illicit sex leading to battery | 1 | |
| | False accusation | | | 2 |
| Copied fornication case stories (total 12) | Illicit sex related to monks | | 6 | |
| | Life-taking due to illicit sex or refusal of illicit sex | | 6 | |

Table 5.4 shows that the features as illustrated by the original fornication case stories match the ones presented by the copied stories. Two major themes stand out in both of them: illicit sex related to monks, which is the theme for 13 case stories out of the total of 35 original fornication case stories and half of the copied stories, and illicit sex that leads to life-taking, which is the theme for 15 case stories out of total 35 original stories and another half of the copied stories.

Focusing on illicit sex itself, monks are described as the major offenders. These monks usually commit crimes in groups, either within temples or when roaming around. In these case stories, temples are described as dangerous places. Monks fool women who come to temples praying for pregnancy into illicit sexual behavior. Monks who are “licentious, cruel, and engaging in all kind of evil . . . kill the husbands and rape their wives when couples travel a long way to pay visits to temples and the wives are young and beautiful”(Xinmin, 380). Furthermore, temples are usually located in remote mountain areas and thus crimes are easier to commit and more difficult to find out. Monks, when they are roaming around, have more opportunities to commit sexual crimes. On the one hand, laymen are supposed to host monks when they need help. Thus, ordinary families are vulnerable to the potentially immoral monks. In the case story “Judge Zhang getting rid of the roaming monks who kidnapped women,” two women are raped and kidnapped by a group of monks when the family provides them a one-night stay (Xiangxing, 210). On the other hand, for performing religious ceremonies or curing sickness, monks have easy access to the inner quarters of ordinary families, and thus to female members of the house. In the case story “Prefect Qi judging the fornication committed by a monk,” the illicit sex happens when a widow invites a monk to recite a

sutra for her late husband (*Zhusi*, 77). Furthermore, monks are believed to have magic potions to confuse and seduce people. The “licentious monk” uses the magic potion on a widow and seduces her to have sex with him in the case story “monk using trick to rape the chaste woman”(Xinmin, 401-402). Woman victims who are caught in the basement cell of a temple also report that they are the captives of the monks’ magic powers (*Xiangxing*, 217). Therefore, in the commentaries to these case stories, the idea that “(people) should not talk about Buddhism, not offend monks, and not allow women to enter temples” is expressed frequently (*Lianming*, 89).

The fact that the theme “illicit sex leading to life-taking” is presented in most fornication case stories is interesting as the focus of these case stories is not just on illicit sex but also on life-taking, mainly murder. It is not surprising that some case stories contained in this category are very similar to the “killing due to sex” ones included in the homicide case stories. But the difference between these two is evident. While the majority of woman victims in “killing due to sex” case stories are killed because of their refusal to have sex with the offenders, the women victims in “illicit sex leading to life-taking” case stories are killed or commit suicide after having illicit sex. Also, offenders in the “killing due to sex” stories are mostly monks and neighbors, while in the “illicit sex leading to life-taking” case stories, the sex offenders are mainly close friends, family members and servants, and lovers. In many cases, women are depicted as being trapped into having the illicit sex by close male acquaintances. As one commentary puts it, “women do not know rules and laws, so their committing fornication is more likely because of being seduced” (*Zhusi*, 104). Therefore, men, who understand that fornication is prohibited by law, should control their own desires.

4. The property seizure case stories

The property seizure case stories are contained in crime categories such as “seizing property,” “plotting to seize,” “plotting to seize property,” “seizure by force,” and “seizing in chaos”. Among a total of 45 case stories, 13 of them are copied and repeated. Table 5.5 presents the themes of the 32 original and 13 copied property seizure case stories.

Table 5.5: The property seizure case stories

| Property seizure case stories | Themes | Number of stories |
|---|--|-------------------|
| Original property seizure case stories (total 32) | Property seizure among community members | 17 |
| | Property seizure among family members | 14 |
| | Official seizing land from commoners | 1 |
| Copied property seizure case stories (total 13) | Property seizure among family members | 7 |
| | Property seizure among community members | 6 |

Table 5.5 shows that the thematic picture of the original property seizure case stories matches that of the copied case stories: property seizure mainly happens at the local level, either within households or within communities. Property seizure is always related to power. For property seizure among family members, the source of power can be age, gender, status of mother, love from parents, and so on. In the 14 case stories that involve property seizure among family members, younger brothers who were born to

concubines bring lawsuits against their elder brothers and sisters who were born to wives; widows bring lawsuits against their brothers-in-law or the husband's entire clan; a nephew brings a lawsuit against his uncle; and so on. All of them include their "vulnerable positions" in the families in the discourse of the lawsuits and argue their deserved property has been seized by the accused powerful parties. More emphasis is put on property disputes between siblings, either between brothers or between brothers and sisters. Ten out of 14 family property seizure case stories concentrate on this theme. The stories' sympathy with the younger and less powerful brothers is obvious. The accused elder brothers and sisters are usually depicted as "being greedy and unkind," "being greedy and cunning," and "being insatiably avaricious of gain" (*Lianming* 151, 168; *Zhusi* 363). In most of these cases, these younger brothers get the property they deserve.

Property seizure among family members usually involves significant amounts of wealth, as most of the property disputes occur in big rich families. For property seizure happening among community members, the quality and quantity of the involved property varies from daily necessities, such as an umbrella, a firewood knife, or a pig-feeding bowl, to domestic animals, such as a goose, a calf, and a colt. Five case stories deal with the seizure of land and silver, while in three other case stories, women and children become the targeted property of seizure.

Property seizure among community members also involves power, as this type of crime happens more frequently between the innocent and the greedy, the innocent and the stingy, the innocent and the cunning, and the innocent and the powerful bully. Moreover, the innocent is more likely to be a woman or widow, to be poor, and to be of lower social status, while the stingy can be powerful, the cunning can be greedy, and the bully can be

rich. In many case stories, the power difference between the victim and the offender is so sharp that property seizure can be expected from the very beginning.¹⁸

5. The deceiving case stories

The total 35 deceiving case stories are contained in crime categories including “deceiving,” “extorting and deceiving,” “deceiving and dishonesty,” “vagrancy and cheating,” and “deceiving and counterfeiting,” which are distributed among five case story books. With only one case story copied and repeated, most of the deceiving case stories are original. Table 5.6 presents the main themes of the 34 original deceiving case stories.

Table 5.6: The deceiving case stories

| Themes | Number of stories |
|----------------------------------|-------------------|
| Abusing one’s power to deceive | 9 |
| False accusation as deceiving | 11 |
| Using other tricks for deceiving | 13 |
| Irrelevant to deceiving | 1 |

Table 5.6 shows the different mechanisms of deceiving that are presented in these case stories. Those who are able to abuse their power to deceive people are the ones who hold certain social and political positions. They are the government clerks, runners, city

¹⁸ In one case story, a “stingy” government student tries to take possession of the firewood knife from the firewood man. When dispute arises, the government student is able to send a message to the magistrate and visit the magistrate for his favor (*Lianming*, 155). In the case story “Magistrate Jiang discerning the old contract paper,” a government runner, who “is evil, cunning, and seeking gain and cheating local people” (*Zhusi*, 342) tries to seize the land from the widow living next door by forging a contract. In the case story “Censor Zeng judging wife seizure,” the victim husband whose wife is seized is “a local person who is from a humble family” (*Zhusi*, 384) while the offender is rich and powerful in the local community, “full of tricks” and “bullying local people” (*Zhusi*, 386).

guards, government students, and commerce agents. Taking advantage of their positions, they deceive, swindle, and trap the innocent for their own benefit, mainly gaining money. The case story “Prefect Wu judging a monk hiding salt” describes how the city guard works with a monk to deceive the innocent: before rural people enter the city carrying goods, the monk slips the prohibited salt into the goods without the rural people’s knowledge. When the rural people enter the city, the city guard finds the salt and forces them to turn over all their goods to them (*Zhusi*, 237).

For those who do not hold such positions, to gain what they want or to get themselves out of trouble, false accusation is frequently used as an effective way of deceiving. The most serious false accusation used in these case stories, not surprisingly, is made by a legal pettifogger. He falsely accuses the rich man, who refuses to loan him money, of plotting a rebellion (*Zhusi*, 231-232). Bringing false accusations to the court requires certain levels of craftiness and aggressiveness. Therefore, besides legal pettifoggers, offenders include a step-son who is “fierce, unkind, and engaged in all kinds of evil because of his wealth” (*Zhusi*, 260), a “cunning person from Zhejiang” (*Xinmin*, 74), the “ruthless, greedy, and cruel” person (*Xinmin*, 280), and the “extremely cunning and evil” melon grower (*Zhusi*, 284).

In the deceiving case stories, more offenders use less extreme tricks to deceive. For example, in the case story “Magistrate Pei detecting the theft of the hunting dog,” woman Ji has an affair but cannot get out of her current marriage. She asks her husband to kill the hunting dog of the neighbor and then she leaks the information to the neighbor. Her trick is to let the neighbor bring a lawsuit against her husband in order to possibly get rid of him (*Zhusi*, 272).

The main purpose of deceiving is seizing property. Therefore, it is understandable that some deceiving case stories are similar to the property seizure cases. The deceiving case stories in which parties use tricks to seize the goose, the eggplants, and the child have their counterparts in the property seizure case stories. More importantly, like the property seizure case stories, parties in the deceiving case stories are also presented in a moral binary pattern. While the victims are generally ordinary innocent farmers, women, or rural people, the offenders are people who work for the government, the cunning ones, the ruthless ones, and the greedy ones.

6. Features of crimes depicted in the case stories

What has been discussed above outlines the major features of crimes as depicted in the case stories. The fact that across each crime category, the themes of the copied case stories match the ones of the original case stories, confirms the consistency and popularity of these themes and patterns.

With regard to criminal behaviors, the main focus of the case stories is on the most severe crimes: homicide, robbery, and fornication. These three types of crimes are closely connected, as homicide is usually motivated by wealth and sex, robbery frequently involves murder, and fornication often leads to life-taking. While this emphasis does give the impression that severe cases happen frequently, these severe crimes are also depicted as being distant from common people and their everyday lives. Some severe crimes might be committed within communities and by neighbors, but most of these crimes are committed in remote and secluded locations, such as less-traveled roads, isolated houses, and out-of-the-way temples. Along the same lines, these crimes are more likely to be committed by marginalized social members, such as monks, people with no regular jobs,

or individuals living outside the communities. In the case stories, everyday and local crimes are included, but with less emphasis. These crimes happen within communities and families and are more likely committed by family or community members against other family and community members. The main motivation of these crimes is property, which may vary significantly in type and quantity. Usually few life-taking scenarios are involved.

Offenders, as generally depicted by the case stories, are more likely to be men than women, the rich and powerful more than the poor and powerless, the senior more than the junior; and offenders are often the ruthless and the cunning. But a more specific concern is clearly expressed by the case stories: rootless individuals, who do not have families and regular jobs. They include monks, vagrants, and “bare-sticks.”¹⁹ Without strong roots, these people roam around frequently and thus have more opportunities to commit crimes and also more chances to avoid being caught. Also, these different groups have special needs, which tend to drive them to commit corresponding crimes. Monks need to satisfy their sexual desires and thus are apt to commit sex-related crimes. Vagrants do not have regular ways of making their livings and thus are more likely to commit property-related crimes, especially against travelers. “Bare-sticks” are usually extremely cunning and unruly ones. They have enough tricks and craftiness to deceive whoever they can and seize whatever they can.

Finally, concerning the victims, the case stories seem to convey the message that the innocent, the virtuous, the junior, women, the poor, and the powerless are more likely to be victims, especially in the local and everyday crimes. The gender difference in the

¹⁹ “Bare-sticks” are men who have no families. Being without families and usually without regular jobs, these people rely mainly on cheating and bullying the innocent to make their livings. In the case stories, their tricks and fine words even fool the magistrates.

description of victims in the case stories is interesting. Except in a few case stories where the licentious and evil women murder their husbands, most of the women, virtuous or not, having or not having illicit sex, are depicted as victims. They are bullied, caught, forced to have illicit sex, and murdered, or they commit suicide themselves. The case stories specifically blame men for forcing or seducing women into wrongdoing. More generally, they blame husbands, household heads, and mothers for failing to enforce the moral rules and to rectify the household, by allowing women to visit temples or to date their lovers secretly, and by bringing evil men, such as friends and monks, to their houses. It is also mentioned that old, poor, mean, suspicious, and jealous husbands should not keep beautiful young wives, and the husband's clan should not force the widow to remain chaste. If crimes happen, these husbands and clan members should be held responsible as well. As far as men are concerned, the case stories often sympathetically portray travelers carrying money, especially merchants, as victims. The message is quite clear: The roads are dangerous and business trips are risky. These travelers should take good care of their money and avoid careless exposure. They should be cautious of remote and secluded sites, such as forests and mountain areas, and more importantly, their travel assistants and helpers.

Courtroom: the perceived legal order

Courtrooms, the physical settings for managing legal affairs, stand for the legal order. The illustrations and descriptions of the courtrooms in the case stories not only depict the physical features of the courtrooms, but also reveal the embodied legal order as perceived by the producers of the case stories in the late 16th and early 17th centuries.

1. The physical setting

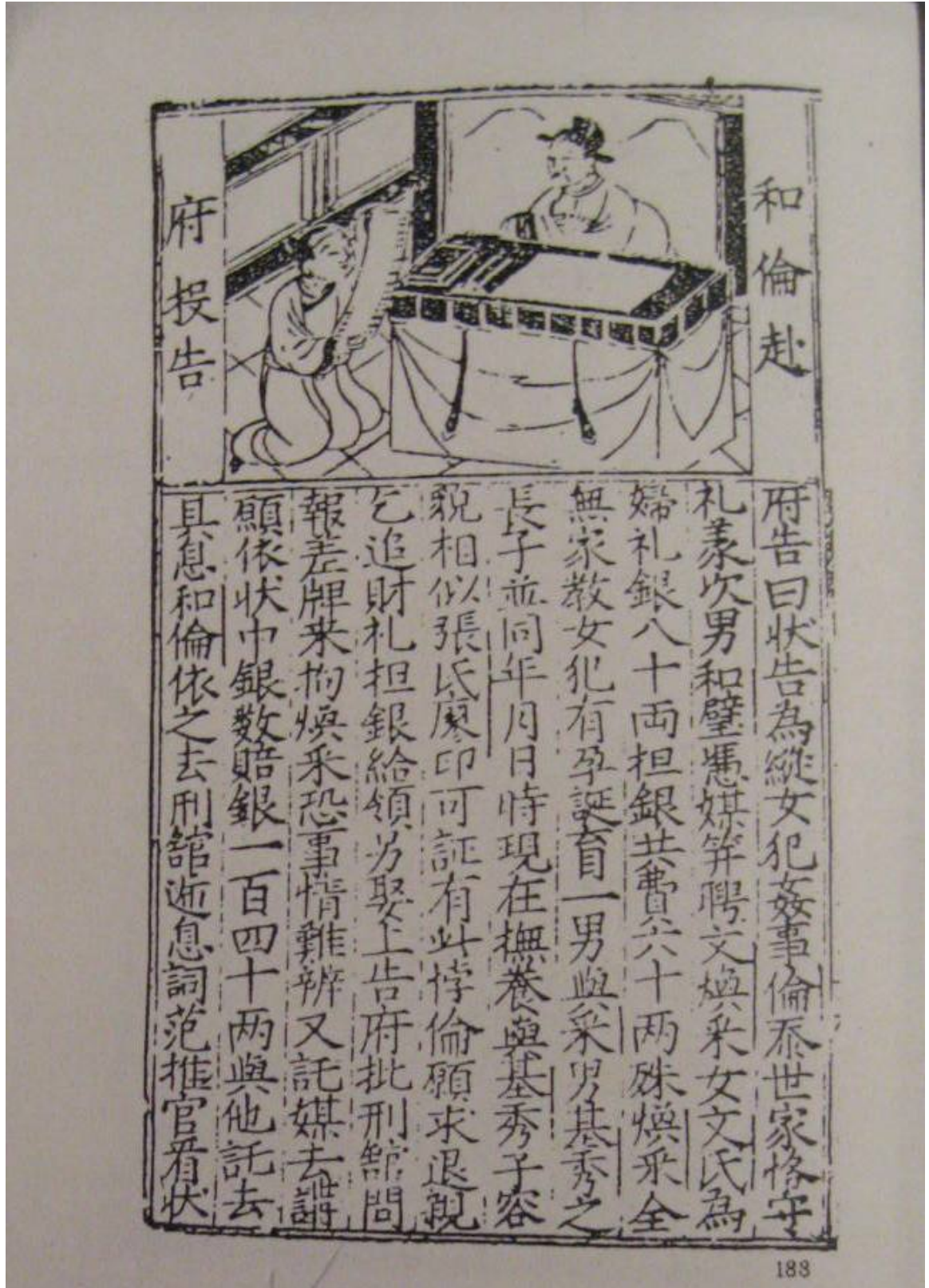


Figure 3 (Mingjing, 188)

Illustrations included in the case stories usually portray only parts of the physical setting of courtrooms, either parts of the inner setting or parts of the outer setting. Figure 3 is a typical illustration of the inner setting of the courtrooms included in the case stories. As Figure 3 shows, with part of the wooden wall and the tiled floor at the left corner of the illustration identifying the basic feature of the interior of a building, the illustration includes the following three main items to demonstrate the unique traits of the interior of a courtroom: the screen behind the judge, a chair for the judge to sit in, and a table in front of the judge. The single panel screen in the illustration looks as big and solid as a wooden wall. It constitutes almost the entire background of the setting. Some lines are drawn on the screen, giving very brief images of mountains. As the judge is sitting in the chair, the depiction of the chair in the illustration is partial. It is a round-back chair and part of the crestrail can be observed. The table set before the judge is portrayed with more details. The surface of the furniture is rectangular and it seems to be covered with two layers of cloth. One layer of light-colored cloth covers the table completely, from the top all the way down to the floor. With some folds, the hung cloth conceals the frame of the table and lower body of the sitting judge. On the top of this cloth, another layer of darker-colored cloth covers the surface and the edge of the table. The part on the surface seems to be plain while, on the edge, the covering cloth is decorated with lined-up squares, with two long tassels in the front. Certain items are displayed on the table: an unfolded scroll of white paper taking most of the space; two writing brushes and one ink slab sitting on the left corner of the table.

Some variations can be found among the illustrations depicting the inner setting of courtrooms in the case stories. For example, the images on the screen are more visible in

some case stories (such as *Xiangxing*, 62) than in others. In some illustrations, the long tassels in the front of the table are missing (such as *Lianming*, 268). More items might be displayed on the table in some illustrations, such as the official seal (*Xiangqing*, 259), or the silver in the dispute (*Zhusi*, 107). Although rarely presented on the table in the illustrations, some case stories do mention judges who “keep on tapping the ‘chessman’” (*Xiangxing*, 186) to call attention to their authority. Therefore, “chessman” or some kind of wooden blocks for calling attention might be displayed on the table as well. Despite these variations, depictions of courtrooms are so patterned that these variations are almost insignificant.

Indeed, the patterned description of the inner setting of the courtrooms is so typical that even expected variations are ignored completely. For example, the case stories include sites located in all thirteen provinces and two capital areas of the Ming Empire, but little regional variation of the courtrooms can be identified in the illustrations. Moreover, although in most case stories, cases are heard by magistrates or prefectural judges and the hearings would be final, a significant amount of cases do go to superior judicial officials, such as the censors, the regional inspectors, the education intendants, and officials in the Ministry of Justice and the Court of Judicial Review. However, when the inner setting of the courtrooms at these different levels is presented in the illustrations, no significant variations are found.²⁰ Even courtrooms beyond this world follow the same pattern. In the illustration (*Lütiao*, 198) that depicts the inner setting of the courtroom of the Jade Emperor, the most superior god in the Chinese belief system,

²⁰ Comparing the illustrations on *Lianming* page 4, which depicts the inner setting of the Court of Judicial Review, and *Lianming* page 95, which depicts the inner setting of courtroom of the Regional inspector, and *Lianming* page 146, which depicts the inner setting of the prefecture’s courtroom, would help to demonstrate the point.

the basic arrangement is composed of the screen with the sketchy drawing, the chair the Jade Emperor is sitting in, and the table with two layers of covering. Even the items displayed on the table before the Jade Emperor remain the same.

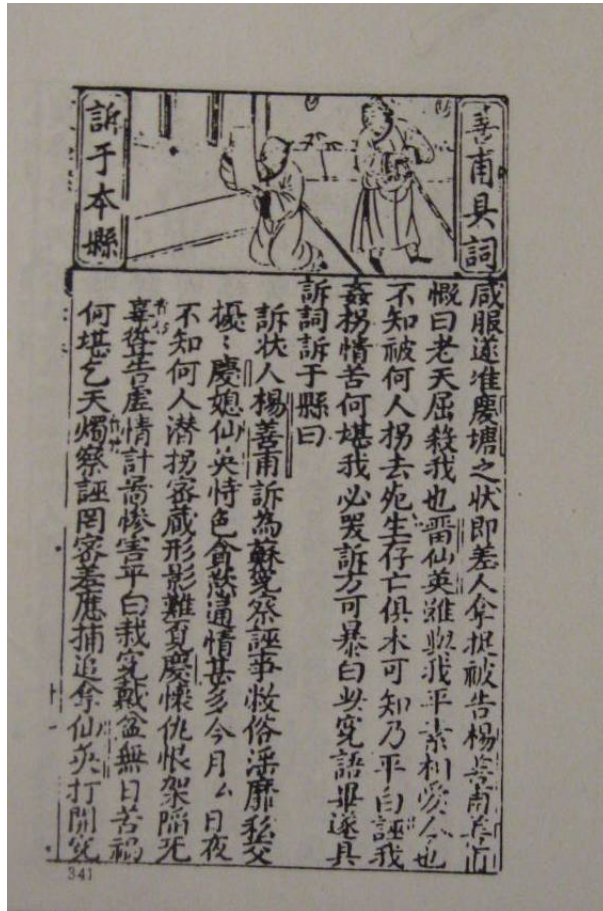


Figure 4 (*Litiao*, 341)

Some illustrations included in the case stories depict only the outer setting of courtrooms as Figure 4 demonstrates: it includes the entrance to the courtroom, the platform extending before the entrance, and the courtyard (or part of the courtyard). Some small decorative windows are in the courtyard wall, and at the foot of the wall some bamboo leaves can be identified. As in the inner-setting depictions, no significant variations can be found across the illustrations of the courtroom exteriors.

Generally speaking, in terms of the physical setting, the image of the courtrooms as presented by the case stories through illustrations and texts is plain, quotidian, and even familial. The physical arrangement of the interiors of the courtrooms shares similar features with ordinary residential houses. The same three major items presented in the inner setting of the courtrooms, the screen, the chair, and the table, appear frequently in illustrations that depict living rooms and studies of ordinary residential houses. The only difference is the items displayed on the table. Instead of paper, brushes, and inkslab, the living room settings might present chopsticks, dishes, and saucers (*Xiangqing*, 23; *Lütiao*, 348). Nor can any significant difference be identified between the outer setting of a courtroom and a courtyard of a regular residential house. Therefore, illustrations depicting the outer setting of courtrooms would include either items such as handcuffs or other penal instruments on the floor, or yamen runners or parties in the scenes, to indicate the nature of the setting. When these items or human figures are not present, illustrations have characters couplets along both sides to identify that fact that this scene is the exterior of a courtroom (such as *Zhusi*, 102).

2. Access

Consistent with this plain, quotidian, and familial image, courtrooms in the case stories are easily accessible. Courtrooms are depicted as always being open to the public. Besides the daytime, courts also have evening sessions to hear cases. Access is simple. In the case stories, any individual who needs to bring a lawsuit to the court can do so. No specific procedures, no gatekeepers, and not even fees are mentioned. Although most victims and plaintiffs in the case stories do bring written complaints with them when they first go to court, some of the methods of access are very blunt. People sometimes fight

their way into the court.²¹ An even more bizarre method of access is described in the case story “Regional Inspector Chen approving the adulterer-killing”. The husband Yang kills his wife and her adulterer in bed, cuts off their heads, and carries the heads directly to the courtroom of the magistrate for confession (*Zhusi*, 99-100). People access courtrooms in reckless ways for serious cases as well as for disputes over small properties. What is interesting is that local judges are depicted as expecting these types of access. They do not mind the reckless behavior and do not punish parties for this reason. Instead, judges usually start the hearing process directly upon seeing the situation. The husband Yang who carries the heads to the court is punished with beating with the stick, not for his reckless access, but because carrying heads to the court is an “inauspicious thing” (*Zhusi*, 100).

This easy access might reflect some leveled reliance of common people on courtrooms. Courtrooms are described as the place for getting help. When travelers are robbed or when their goods are stolen, they go to court. When community members fight for their property, they resort to court. Courtrooms represent the place where a variety of problems can be solved. In the case story “Prefect Zhong judging the wild tiger for harming people,” an old lady goes to the court for help when her only grandson is devoured by a fierce tiger (*Xiangxing*, 239-240).

On the other hand, this easy access might also demonstrate the casual attitude common people hold toward courtrooms. As presented in the case stories, when unusual and exciting events happen in local courtrooms, commoners do not hesitate to enter

²¹ In the case story “Magistrate Xiang judging two servants fighting for a goose,” the two servants “fight their ways to the courtroom of the county” (*Xiangxing*, 326). In the case story “Magistrate Su judging ‘bare-stick’ seizing wife,” the offender and the victims fight their ways to the prefectural court (*Xiangxing*, 329). In the case story “Prefect Wang catching the sleeve-cut pickpockets,” two people grab each other to Prefect Wang’s court for the silver in dispute (*Mingjing*, 105)..

courtrooms and become spectators. In a homicide case story, a monkey brings a lawsuit to the judge for his murdered master. To locate the offender, the judge sends out words that a chair in the courtroom can speak in a human voice and that it has information regarding the offender. The judge says he will interrogate the chair to find out the criminal. When local people get the news, they “come to the prefecture courtroom in groups to see how the chair would speak”(Lianming, 17). They chat, laugh, and greet each other and “the noise can be heard in the inner quarters of the building”(Lianming, 17). When the judge begins the hearing session and interrogates the chair, the prefecture courtroom is already “full of people”(Lianming, 17). The judge and government runners, the prefect and other official guests the judge has invited to witness the hearing, and this large number of commoners stay together in the courtroom. These commoners get as involved as the officials: they “roars with laughter” when the chair is beaten by the runners, they “look at each other and get astonished” when the monkey identifies the criminal in the crowd, and they “unanimously praise” the judge for his shrewdness when they understand the plan of the judge in the end (Lianming, 17, 19). The case story says that the number of people who watch the hearing is “more than ten thousand” (Lianming, 19).

In the case story “Magistrate Feng using a wooden board to trace (the stolen) cloth,” a similar scene happens. To locate the stolen goods for merchant Zhang, Judge Feng orders the wooden board from the front of the hotel where Zhang has spent the night to be picked up and put in the courtroom. Word is spread around that the judge will ask the wooden board for information in tracing the lost cloth. As in the previous case, local people are surprised and come to the courtroom from all directions for this spectacular

hearing. When the judge sees a big enough audience has assembled, he lets the runners close the main entrance of the building and accuses the crowd: “I am hearing cases and irrelevant individuals are not allowed in the courtroom. You do not follow the rules and enter the courtroom without authorization. Your misconduct cannot be excused” (*Xiangxing*, 250). All the onlookers are fined, with the fine to be paid out of the goods of their businesses. The stolen cloth is located among the paid fines, and finally the offender is found out. After that, all the goods are returned to their owners. Thus, the blame and punishment of the onlookers are just parts of the tactic. This scenario tells that, on the one hand, people seem to admit that presumptuously entering courtrooms for curiosity and fun is somewhat inappropriate. Therefore, they accept the punishment without complaining. But on the other hand, both the judge and the commoners seem to understand and accept this behavior as a conventional practice. It implies that courtrooms look plain and mundane to common people instead of being a place of awe or horror. There might be rules regarding access to courtrooms, but when those rules are not seriously enforced, commoners do enter courtrooms to be spectators to have a good time.

3. Dramas

The scenarios described above are very dramatic. Judges create these dramatic scenes to catch offenders. Judges also create dramatic scenarios to get evidence or confessions from suspects. In the case story “Magistrate Tang detecting the stolen dinnerware,” to break the alliance of the suspect and his wife, Magistrate Tang lets the wife kneel closely to his table while putting the suspect “at the foot of stairs (to the courtroom)” (*Zhusi*, 211). With any possible communication cut, the wife misunderstands the conversation between the magistrate and her husband and confesses about the stolen

goods. In the case story “Regional Inspector Meng judging killing due to sex,” to obtain a confession from the suspect, Judge Meng first chooses the night session for the case hearing. He orders the government runners and other court assistants to stand in the distance and leaves the suspect in the middle of the courtroom by himself. The courtroom thus looks big, quiet, scary, and intimidating to the suspect. “After a little while, with the lights and shades swaying, a female ghost carries a head and hits Duan Ran (the suspect) directly.” Duan Ran becomes so scared that he “crawls to the judge’s table and confesses”(Zhusi, 152-153).

Indeed, case stories seem to depict courtrooms as the place of dramas. Besides the dramatic scenarios created by judges, other dramatic scenes occur mysteriously. In the case story “Judge Dong solving the murder of a *juren*,” a master and a servant are killed by the boatmen on their trip. Judge Dong gets the case but has no clues. Several days pass with little progress. Then, one day, a mysterious scene occurs in the courtroom: a leaf of a kudzu vine floats with the wind, pulls down the red ribbon decorating the gate, and finally both the leaf and the red ribbon slowly fall on one of the suspects, who are kneeling in the courtroom (*Xiangxing*, 25). As there is no kudzu vine planted in the courtyard, the magistrate finds it very perplexing. Several days later, when the magistrate himself hires some boatmen for traveling, he finds out the name of one boatman is Ge Cai. With *ge* meaning “kudzu vine” and *cai* meaning “colorful ribbon,” the magistrate immediately interprets the mysterious scene that happened in the courtroom: Ge Cai is the offender. Many similar dramatic scenes are presented in the case stories: the red writing brush sitting on the judge’s table becomes wet due to a roof leak on a rainy day and begins to drop red dots, which gives the judge the clue to the name of the offender

(*Zhusi*, 414); a leaf, which is from a tree growing in an old temple in the countryside, dances and flies in front of the judge's table to lead the magistrate's attention to the temple where the crime was committed (*Mingjing*, 9). In the case story "Magistrate Cai's official cap blowing away", Magistrate Cai is sitting in the courtroom for the night session when "suddenly, a breeze comes around gradually and blows out the candle on the table. When the attendant lights the candle again, the official cap on Magistrate Cai's head is gone" (*Lianming*, 20). When the cap is located the next day under a pear tree two *li* away from the town, the crime scene is found.

Dramatic scenes featuring animals, mainly birds, are very emotional and touching. In the case story "Prefect Chen judging the evil servant for murdering his master," a merchant is on his way home with his servant and a horseman. On the road, the merchant rescues a pheasant from a group of hunters. By doing that, he exposes his money to the horseman. The horseman persuades the servant to follow his plan. They kill the merchant and seize the money. No one else knows of this crime. But within the year, the story says, strange things happen in the courtroom of the prefecture: a pheasant flies toward the platform of the courtroom from the sky, cries three times, flies off, continuing to cry. When the prefect talks to the bird, it stops crying and flying. When the prefect asks whether it has suffered some injustice, the pheasant flies all the way to the judge's table and nods. It keeps on nodding when the prefect says he will send two runners to follow the bird to the place where the injustice occurred. The bird thus leads the runners to the secluded mountain area where the merchant was murdered and buried.

If serious crimes are more likely to happen to lonely travelers in remote and secluded areas, as suggested by the case stories, these dramatic courtroom phenomena are

necessary to help judges either find out the crimes or obtain clues to solve cases.

However, the inclusion of these vivid dramas evidently decreases the rationality and seriousness of courtrooms. These exciting, mysterious, touching dramatic scenes make courtrooms look like theater stages.

4. Power

However, the recognition of the power and the legal order as embodied by courtrooms is also well demonstrated in the case stories.

In the illustrations of courtrooms, the positions of human figures are carefully arranged. The judge, usually only one,²² is always positioned in the upper center of the scene, facing the entire courtroom, which shows his authority and his dominant status in the courtroom. In most cases, he is depicted as sitting in the chair behind his table and backed up by the solid screen. Around the judge, assistants, clerks, and government runners are positioned. In a number of illustrations, judges are accompanied by their personal attendants or advisors, who usually stand either behind or beside the judges. Government runners appear frequently in the illustrations of courtrooms. They are portrayed as men holding penal instruments, such as long sticks. They are either standing by the judge or executing his orders (*Lianming*, 31; *Xiangqing*, 201). Thus, with judges in the center, the “power ring” in the courtrooms is depicted as being big in terms of the number of figures included, being imposing in terms of their body movements, and being authoritative in terms of the positions they occupy and the objects they carry.

By contrast, when people outside this power ring appear in courtrooms, everyone, including victims and offenders, plaintiffs and defendants, and witnesses, takes the

²² Due to the existence of joint case hearings, some illustrations do include more than one judge in the setting, such as the illustration appears on page 225 of *Lütiao gong-an*.

kneeling position unless they themselves are officials. As they kneel before the judges, they are usually positioned in the lower parts of the scenes and only the sides or backs of their bodies can be observed in the illustrations. This arrangement makes them look smaller, more passive, and less significant.

The kneeling position for this group is constant. From the moment when parties bring the lawsuit to the court, to the point when witnesses are called to be present, and to the stage where the verdict is issued by the judge or the criminal signs the written confession, they kneel to speak, kneel to write, and basically kneel to stay. This arrangement applies to everyone beyond the power ring, including animals. In a couple of case stories, some wild animals, such as tigers and pythons, are brought to court for the crimes they have committed, mainly devouring the innocent. In the courtrooms, these wild animals “(lie) on their stomachs just like (human) criminals for the hearing” (*Mingjing*, 32). In the illustrations, the animals are depicted as kneeling and lowering their bodies in front of the judge (*Xiangxing*, 242; *Xiangqing*, 275). Out of all the illustrations of courtrooms, in only one is a witness depicted as standing in front of the judge instead of kneeling before him (*Xiangqing*, 152). This is a boy witness who is engaging in a conversation with the judge. As a little boy, when he is standing, his figure size is half the size of the adult judge and is almost equal to the size of an adult who takes the kneeling position. Besides, the text says the conversation between the boy and the judge actually happens in the “back quarters” of the building instead of the courtroom (*Xiangqing*, 152).

The power and legal order of the courtroom are further demonstrated by the frequent torture scenes included in the illustrations and the texts of the case stories. In the illustrations, suspects, criminals, and occasionally witnesses are depicted as suffering

under torture (such as *Xiangxing*, 117, *Zhusi*, 167). The most common torture is beating with the stick (such as *Mingjing*, 180; *Xiangqing* 103; *Lütiao* 303). As the illustrations show, all the sufferers are lying on their stomachs. With their pants pulled down almost to the legs or ankles, their buttocks and thighs are exposed to the beating. The text of the case stories includes descriptions of more instruments of torture. In the case story “returning the wife to her husband,” to obtain the confession of the “bare-stick” who tries to seize the wife of an innocent husband, the judge binds his body with heated steel chain, presses his head with a iron hoop, squeezes his feet with binders, and beats him with the heavy stick. The suspect cannot bear the torture and finally gives in and confesses his crime (*Xinmin*, 78-79).

As the masters of the courtroom, judges are also able to utilize their power to manipulate courtroom settings and hearing processes. In the case story “Magistrate Cai’s official cap blowing away”, to intimidate the suspect, the magistrate chooses the night session to hear the case. The case story says, “Magistrate Cai has been waiting in the courtroom for a long time. With the lights shining, with the penal instruments displayed, with no human voice heard, (the courtroom) is just like the Palace of the King of Hell” (*Lianming*, 22).

However, the message is also clear that power can be negotiated and has its limits. In the case story “Magistrate Xia judging the rooster-stealing woman,” to find out the real thief, Magistrate Xia puts about thirty women who live close to the victim in the courtroom. He works on other cases first and lets this group observe the court procedures. Upon seeing the penal instruments and the torture, these women feel terrified. But the case story says that those who did not steal the rooster are calm, although they do fear the

law. They think to themselves: I did not steal the rooster; how can the judge inflict punishment on me? The woman who did steal the rooster worries the most and is detected by the magistrate (*Zhusi*, 215-216). The notion here is clear: the power and authority of the courtroom stop before the innocent. As long as the individual follows the rules, he or she can avoid the perils of the courtroom.

More interestingly, even with regard to criminals, the power of judges and courtrooms is not depicted as being absolute. First of all, although criminals, victims, and witnesses all have to kneel before judges, when judges and these “small people” appear in the same illustrations, the physical distance between them is usually trivial. In most cases, these small people are depicted just at the left or right corner of the judge’s table (such as *Zhusi*, 14; *Xiangqing*, 39; *Mingjing*, 61). The visual effect of this depiction is that judges look less intimidating and closer to the masses and reality. Secondly, in the illustrations, except for those who are suffering under torture, most of the victims, witnesses, and even criminals are depicted as talking instead of keeping silence (such as *Mingjing*, 112). Talking to judges in courtrooms is obviously an active body movement which imputes a certain power to the parties, witnesses, and even offenders. Together with this presentation, another subtle body movement of the group of small people is worth mentioning. They kneel before judges and some of them are tortured on the floor, but none of them lowers his or her head to the level of covering his or her face. That is, most of the people who are kneeling and talking hold their heads up, while their backs might curve slightly (such as *Xiangqing*, 163). For those who are beaten with the sticks by runners, their bodies are on the floor while their heads are not. In many cases, their heads are up and usually higher than their bodies (such as *Zhusi*, 305). Even those

criminals who are in the process of being executed kneel with their backs and heads straight up (such as *Xiangxing*, 267). These subtle body movements seem to provide some dignity to the group of small people appearing in courtrooms.

Some body movements of parties may even be effective enough to help them negotiate the legal system and to affect decisions. In the case story “Magistrate Liang judging the Daoist claiming the woman,” woman Xin is wrongly judged to be the wife of Ji, the Daoist who brought a false accusation against Xin and her family for revenge. When Xin and her family hear the court decision, Xin “runs in despair, kowtows, and cries ‘injustice.’” Xin’s father and husband also scream that “there is no sky and sun in the courtroom and we will never accept this result even if we have to suffer ten thousand deaths” (*Zhusi*, 294). Upon seeing this scene, the judge hesitates, takes back the decision, and restarts the hearing session. Finally, justice is served. In the case story “Prefect Fan judging the girl who had a son out of wedlock,” an unmarried girl gives birth to a baby and is accused by her fiancé’s family of having committed adultery. In the courtroom, the girl claims her innocence, and to prove this, she bumps into the pillar in the courtroom with her head and “blood is all over the floor” (*Mingjing*, 189). This movement wins her the chance of telling the truth and this truth is accepted by the court.

Image of judges: how justice should be achieved

More than two hundred judges²³ appear in the seven case story books. Most of them are county magistrates and prefectural judges, but occasionally judicial officials at

²³ In 16th and 17th century China, the legal domain was part of the political domain and all judges were government officials. The term “judge” could refer to all sorts of government officials who deal with legal affairs, including magistrates, prefecture judges, provincial surveillance commissions, censors, regional inspectors, education intendants, and officials positioned in the Ministry of Justice and the Court of Judicial Review. In the case stories, most of the judges were local magistrates and prefecture judges.

higher levels, such as censors, regional inspectors, education intendants, and officials in the Ministry of Justice and the Court of Judicial Review would hear or review cases as well. In six of the seven case story books, multiple judges have been included in one book, with one particular judge, or two or three if the case has to be reviewed or reheard, being responsible for one particular case. Only in *Xinmin gong-an*, one leading judge, Judge Guo, hears all the cases included in the book.

The depiction of judges in the case stories focuses on strategies, tactics, tricks, and attitudes judges employ in dealing with cases. Only when relevant to solving cases are their morality and ethics emphasized and their personalities and emotions described. Judges are always depicted as being in courtrooms, at crime scenes, on the way to or from the suspicious locations, or in places where they encounter disputes and ponder on cases. In a word, judges in the case stories are depicted more as operators of case-solving mechanisms than as unique individuals.

1. Finding out truth as the ultimate goal

In the case stories, the belief that finding out truth is the key to providing justice is strongly held. Therefore, it is the consensus shared by all judges and parties that the ultimate goal of judges is to find out the truth. In the case stories, the ability to achieve this goal becomes the major criterion for evaluating judges.

In the case story “Vice-prefect Teng judging property for the son of a concubine” included in *Lianming gong-an*, the senior household head Ni has two sons: one is Ji, born to his wife and now grown up; the other is Shu, born to his concubine and very young. When Ni gets sick and expects to die, he divides the family property, bestowing almost all of it upon Ji and leaving only the old house and some land to Shu and his mother. Ni

also gives a scroll painting to Shu's mother and tells her when Shu grows up, she could resort to some shrewd official to get their deserved family property back. Ni then dies. Years later, Shu grows up and tries to get some property back from his brother but is refused. Shu's mother gets the information that Vice-prefect Teng "is not known for being honest and incorruptible, but is very smart" (*Lianming*, 150). She brings the lawsuit to the court with the painting. After carefully checking the painting, Vice-prefect Teng discovers a note in the scroll. The note discloses the location of a buried treasure: ten thousand *liang* of silver and one thousand *liang* of gold. It says that all the silver and gold should be given to Shu and that the judge who figures out the secret should be rewarded with one hundred *liang* of silver. Armed with this information, Teng visits the family. He pretends to see the spirit of Ni and engages a conversation with the spirit. He tells the family that the spirit of Ni has informed him about the silver and the spirit also insists that one thousand *liang* of gold should be given to him in appreciation for his efforts. The entire family is in great surprise. When the silver and gold are dug out, everybody is astonished and completely believes what Teng has said. The dispute over the family property is settled after Shu gets the ten thousand *liang* of silver. Vice-prefect Teng makes a fortune for himself as he gets the one thousand *liang* of gold. The commentary to this case story says: the judge's greed surely led to his designing to cheat and get the gold, but the judge's trick can keep people in the dark and therefore is an ingenious way to solve the case (*Lianming*, 154). In other words, despite his greed and cheating, Vice-prefect Teng is still positively portrayed for his competence in finding out the truth and solving the case. The implication seems to be that if judges can achieve their ultimate goals, some moral imperfection can be tolerated.

On the other hand, if judges are not able to solve cases, for whatever reasons, misfortunes will follow. Also included in *Lianming gong-an*, the case story “Magistrate Sun judging the bowl of the land god” depicts an incompetent judge who is not able to figure out who is the real owner of a disputed bowl. This judge, Sun, does not have tricks and cannot think creatively. In his courtroom, when the miracles brought about by the land god are presented to him as the evidence from the owner of the bowl, he is “startled, with his hair standing up, he becomes a maniac suddenly, he is not able to deal with government affairs anymore, and he has to give up the position and leaves” (*Lianming*, 161). The commentary on the case story says: unfortunately, Magistrate Sun could not solve the case and brought upon himself this convulsive illness, “and he deserves this (misfortune)” (*Lianming*, 162). The notion is clear: the judge cannot reach his ultimate goal; therefore he deserves to be sick and to leave his position. These somewhat extreme cases illustrate how crucial the matter of finding out truth is.

For achieving this ultimate goal, the case stories allow judges to utilize brutal interrogations and immoral tricks against offenders and occasionally even victims and witnesses. As discussed in the previous parts of this study, brutal interrogations are frequently portrayed in illustrations and repeatedly described in texts in the case stories. That “(the offender) cannot suffer more torture and tells the truth finally” is a common expression (*Zhusi*, 12). In the case story “Judge Zou hiding the clerk to overhear the conversation,” as part of the tactic, the victim is beaten 30 strokes in the courtroom (*Zhusi*, 403). In the case story “Magistrate Su judging breaking the marriage agreement,” the Huang family and the Ye family arranged a marriage between the son Huang Shulu and the daughter Ye Yuexian before they were born. Later on, the Huang family goes

downhill and Yuexian is betrothed to government student Tang by her family. Shulu brings the lawsuit to Magistrate Su. To get the truth and to help the powerless party, Magistrate Su has Yuexian appear in the court, puts her in the same cell with Shulu, and lets them have sexual relations there. The next day, when all parties meet in the courtroom, Yuexian states clearly that she would like to marry Shulu (*Xiangxing*, 164-167). If evaluated by the cultural norm regarding gender relationships in the 16th and 17th centuries, Magistrate Su's trick is fairly immoral but the commentary on this case story highly praises this tactic.

Evidently, brutal interrogations and immoral tricks are justified and positively portrayed only when they serve as effective instruments for getting the truth and achieving justice. Otherwise, they are condemned. In the case story "Regional Inspector Chen judging raping and killing," lady Yu is killed by Zhang Ba for refusing to have sex with him. Right after Zhang Ba leaves the crime scene, Xueli, a student who has been feeling affection for Yu for a long time, comes to visit. He flees upon seeing the crime scene in the house and this is observed by Zhang Ba. When Yu's husband returns home, he is told by Zhang Ba that Xueli visited the house. The husband then brings a lawsuit to the magistrate's court against Xueli. According to the case story, magistrate Shen is "impatient, cruel, and very authoritarian" (*Mingjing* 58); he becomes furious after he gets the case. He arrests Xueli immediately, beats him unconscious with 40 strokes, wakes him up with water, and applies the ankle squeezer. Xueli cannot take more, confesses to the false charge, and is sentenced to death. In July, Regional Inspector Chen comes to the area. The case story describes him as a "young *jinshi* degree holder, lucid as mirrors and clear as water." He is so careful and diligent in dealing with cases that he would not leave

small details uninvestigated. Chen figures out that Zhang Ba is the offender but Zhang Ba will not confess. Chen beats Zhang Ba for 40 strokes, strikes him again for 100 with a hammer, and severely squeezes him with the ankle squeezer. Finally Zhang Ba cannot take any more and confesses his offense (*Mingjing*, 60-66). Both judges in this case have resorted to brutal interrogations, but for the incapable judge, brutal interrogation is condemned for hurting the innocent, while for the competent judge, brutal interrogation is praised for serving justice. Indeed, the case stories clearly send the message that if incapable judges resort to brutal interrogation carelessly and if that leads to very negative consequences, they themselves suffer retribution. In the case story “Prefect Zhao dreaming of a monkey and redressing the wrong,” Provincial Judge Zhang brutally tortures an innocent girl to death in his courtroom. Soon after, in Judge Zhang’s dream, the girl appears with a monkey and bites Zhang. When Prefect Zhao, who is taking care of the case at the time, shares the same dream with Zhang, Zhang is startled and becomes mentally deranged. He has blood all over his head and dies (*Zhusi*, 437).

This intensive emphasis on finding out truth, and setting this criterion for evaluating judges, demonstrates the strong utilitarian interpretation of the judge’s position by the creators of the case stories.

2. Limitations of judges and help from the supernatural

In the case stories, it is recognized that even very capable judges have their limitations in truth-finding. These limitations do not come from lack of effort, but are rooted in their limitations as human beings. Therefore, judges need help and this help can be provided only by supernatural powers.

The supernatural plays different roles in case story books: in *Xiangxing gong-an*, in 16 out of total 40 case stories, the supernatural helps judges solve the cases, while in *Zhusi gong-an*, only in three out of total 59 case stories is the supernatural introduced. But to whatever extent, all the seven case story books examined in this research contain case stories where judges receive help from supernatural agencies.

In the case stories, the supernatural is presented mainly in two forms: gods and ghosts of the murdered. Gods can include Buddhist gods, Daoist gods, deities of sages, city and village gods, and so on. The most popular god is the city god, or town god, as they are believed to protect local people and local communities. They are easily accessible. As portrayed in case stories, in most counties, there are temples of city gods, which in some cases are very close to courtrooms physically. Gods need rituals, respect, and sincerity from judges to offer their powerful support. In the case story “Vice-magistrate Chen judging and punishing the python,” to get help from the city god to deal with the fierce python that has devoured an innocent boy, the vice-magistrate “takes a bath, fasts, formally dresses, burns incense, bows twice, and presents the written petition to the god” (*Mingjing*, 30). In this case story, the city god is personified, as the case story tells: when the city god reads the petition, he is startled and immediately gives orders to the local village gods and ghosts to arrest the python and send it to the courtroom of Chen (*Mingjing*, 32). In most occasions, help from gods is indirect and mysterious. In the case story “Magistrate Peng judging the adulterer’s killing due to indignation,” after the magistrate visits the city god, during the night he “vaguely feels someone is talking to him in his dream, saying that ‘the person who killed the wife of Xiong is (what) blooms at the same time with peach and apricot’” (*Xiangxing*, 83). With this riddle-formed clue

provided by the city god, the judge finally gets the offender. Most clues are offered at night and often in the dreams of judges. The forms can vary from riddles to poems and strange images.

Ghosts of the murdered usually voluntarily come to help to solve their own cases. Many ghosts visit judges in dreams at night. In the dreams, they might appear in front of judges directly to tell their tragic stories. In a case story where a concubine and her two sons are poisoned to death by the wife when the husband is on a business trip, the ghosts of the concubine and her two sons appear in a dream of Judge Han. In the dream, Judge Han sees a woman and two boys kneeling at the stairs of his courtroom and crying. Upon being asked, the woman tells the whole story of how they were murdered by the wife. “When finished, (they) cry sadly and leave as a wind.” The judge wakes up in the dawning morning, immediately opens the court session, and gives orders to arrest the wife (*Xiangxing*, 321-322). In more cases, however, ghosts only create magic scenes to provide clues to judges. Smart judges get the message instantly. In one case story, a tree leaf dances in front of the judge’s table in the courtroom. When the judge finds out this type of tree leaf can only be from a tree planted in a temple in the countryside, he immediately figures out what might have happened: monks in the temple might have killed somebody and buried the victim under this tree; the ghost of this wrongly killed person cannot get justice and therefore comes to tell the story with this drifting leaf (*Xiangxing*, 10). And it is the case, as told in the case story.

Gods and ghosts are portrayed as being connected in the case stories. In the case story “Prefect Zhao dreaming of a monkey and redressing injustice,” to find out the real offender, Prefect Zhao “fasts three days, prays to Heaven, and sleeps alone in his study.”

At night, in his dream, the wrongly accused girl who has been tortured to death by the previous judge comes to give the information (*Zhusi*, 437).

Theoretically, all judges would be helped by supernatural powers in solving cases. It is more complicated in practice, as the case stories imply. First of all, the information provided by supernatural powers is, in many cases, implicit. To get help, judges should be intelligent and wise enough to figure out what is told by the riddles, poems, strange objects, and magic scenes. In other words, not very smart judges are less likely to get effective help from the supernatural. In the case story “Prefect Cui judging merchants losing money,” a merchant loses his money on his way back home from his business trip. He brings a lawsuit against his fellow merchants to Prefect Cui. Every night, Prefect Cui dreams of four characters appearing on the horizontal inscribed board hung over the guest building in his administrative compound. The four characters imply that the lost money was picked up by a poor scholar and that this scholar would visit the judge soon, as a guest, with the money, but Prefect Cui cannot interpret it. The case then has to remain unsolved until the scholar does visit the prefect later (*Zhusi*, 473). Secondly, as has been illustrated in the case stories, only judges who are responsible and empathetic make the efforts of asking for help from gods. Likewise, ghosts seem to disclose information only to judges they can trust. In the case story “Regional Inspector Chen judging raping and killing,” the first judge who deals with this homicide case is impatient, cruel, authoritarian, and stubborn. When he hears the case, nothing happens in the courtroom. When the shrewd and capable Regional Inspector Chen takes over the case, magic things happen in the courtroom to verify the judge’s presumptions (*Mingjing*, 63,66). The

implication seems to be that virtuous judges are more likely to get effective help from supernatural powers than the others.

3. How judges achieve legal justice

The case stories clearly remind judges that when they strive for justice, they should be aware that justice achieved via the legal system, just like justice achieved by other means, is only a partial reflection of the principle of Heaven²⁴. Therefore, although achieving justice in courtrooms might involve some specific approaches and tactics, it should follow the same basic rules as realizing justice in other areas. In other words, the process of achieving legal justice is controlled to some extent by more general laws than just legal codes and legal techniques.

Retribution seems to be the general law that is emphasized most in the case stories. Governed by this retribution law, two types of innocent victims are more likely to receive legal justice than others. They are either the ones with certain virtues, such as the rich victim who is benevolent or a woman who is faithful and unyielding, or the ones who are vulnerable, such as women, especially widows, concubines, and those who live alone. When these individuals are victimized, either they are more likely to encounter capable and compassionate judges to solve their cases, or their judges are more likely to receive help from supernatural powers. Among the total 348 case stories examined in this research, only one victim does not receive legal justice. In this case story, victim Lian is a hired worker of the Yu family. As Lady Bao, the wife of Yu, tries to use Lian to send grain to support her natal family without telling her stingy husband, Lian coerces her into

²⁴ “Principles of Heaven”, *Tianli*, is a concept central to Confucian philosophy that “denoted both the natural inclination in things and the origin or foundation of all things”(Tillman 1992, 11). The connotation is much less fixed in this case. As a significant part of the Chinese popular belief, it refers to the general rules that govern the entire universe popular belief.

having adultery with him. Finding out about the affair, the husband Yu murders Lian one night. The brother and cousin of Lian bring a homicide lawsuit to Magistrate Huang's court against Yu. But Magistrate Huang cannot interpret the wound correctly and believes this is a false accusation. The brother and cousin of the victim Lian are punished while the offender Yu is set free without any legal consequence. In the commentary, it is recognized that this kind of wound is difficult to interpret. But the commentary also mentions because that Lian traps Lady Bao into having adultery with him, "he deserves death; there is no injustice." For this reason, the wound is doomed to be incorrectly interpreted, and "this is the principle of Heaven" (*Zhusi*, 140-141).

Judges should realize that their duties are to realize these general laws as well as more specific legal rules. If judges can help the vulnerable, innocent, and virtuous victims to receive justice, they are "practicing the principles of Heaven" (*Xianxing*, 276). They will be rewarded. The reward can be gratitude from their subjects. With their fame widespread, their capability being recognized by the government, the reward can be promotions. And the reward can be even more powerful and mysterious. In the case story "Prefect Le buying a big watermelon," after the difficult homicide case is solved and the offender is punished, Prefect Le's long-sick child "recovers without using any medicines" (*Lianming*, 28). On the other hand, if judges fail to protect the vulnerable and virtuous or torture the innocent and help the evil get what they want, they will be punished. The punishment may come from the government in the form of fine and demotion. It may come from a power beyond the legal and political system. An innocent girl dies from torture in Zhang's courtroom. Judge Zhang is finally scared to death by the dream where the girl appears (*Zhusi*, 437).

Therefore, justice achieved in the courtroom should not be limited to the legal domain. In the case stories, judges' final decisions that reflect more general rules as well as legal rules are more appreciated than those which reflect only legal rules. In the case story "Prefect Xia judging the woman who steals the rooster," Prefect Xia not only manages to find out the woman who has stolen the rooster, but in the process, he also learns the thief stole the rooster to provide food for her mother-in-law, as the family is too poor to give good food to her. Neither the thief nor the husband tastes even a little of the cooked rooster. The final decision from the judge is that the thief is set free. Her husband is reprimanded and beaten ten strokes with the heavy stick. No return of the stolen goods is required. The commentary highlights the meaning of this decision: Judge Xia uses tactics to find out the facts of the offense, which shows his wisdom. He does not reprimand the thief, in order to foster her integrity. He reproaches the husband to inform him of his obligation as a son and a husband but also appreciates his filial piety. Judge Xia does not require the return of the stolen goods, as he has sympathy with the poor, but also because what has been stolen is little, and after the husband is punished, it would not be against the legal rules to not require the return of the stolen goods. The husband is beaten ten strokes with the heavy stick, as the law prohibits stealing and the illegal behavior itself cannot be excused completely (*Zhusi*, 220). It is clearly indicated that when judges are dealing with cases and striving for justice, they should certainly consider the legal rules, but at the same time, they have to take into account more social factors beyond the legal domain: life situations of parties, moral features of parties, social status and roles, educational purposes of dealing with cases, and so on. Only in this way can judges achieve real justice, the justice that reflects the principle of Heaven.

4. Judge Guo, the model judge

Among the seven case story books examined in this research, only *Xinmin gong-an* portrays a central figure, Judge Guo. In all 41 case stories included in this case story book, Judge Guo hears or rehears cases in different places including provinces such as Fujian, Zhejiang, Guangdong, Shaanxi, Sichuan, and Yunnan, and in different positions including prefectural judge, prefect, surveillance commissioner, regional inspector, and education intendant circuit. Judge Guo has colleagues, who appear in at least ten case stories in *Xinmin gong-an*. They might be the superiors who watch how Judge Guo deals with complicated cases, but most of them are peer judges or lower-level judges who cannot solve their cases and have to voluntarily or involuntarily hand the cases to Judge Guo.

The image of Judge Guo as portrayed in *Xinmin gong-an* highlights what a model judge should look like and is consistent with what has been discussed above. First, Judge Guo is a capable, intelligent, and gifted judge who can utilize knowledge, tactics, and manpower to find out truth and thus provide justice to his people. His knowledge is beyond what an ordinary judge has. He knows, for example, why a woman can be pregnant without having intercourse with a man (*Xinmin*, 328; 335-336), and he demonstrates his expertise in using dog blood to deal with the magic of an evil monk (*Xinmin*, 360-361). In the courtroom, he always carefully weighs the remarks, expressions, and acts of the parties (such as *Xinmin*, 349). To find out the facts, Judge Guo frequently sends out his assistants, disguising themselves on many occasions, to collect information. Judge Guo uses them as his eyes and ears, and these assistants are always loyal to and work hard for him. Judge Guo is also good at using tactics to collect

evidence. In the case story “returning the wife to her husband,” an evil person tries to seize his co-passenger's wife. When both parties confront each other before Judge Guo and show their respective evidence, Judge Guo, after “pondering for a long time,” put them and the wife into different cells. In the meantime, he summons the wife's parents, her brother, and the matchmaker to the court without telling them the reason. When the real couple rushes to their family members but the wrongdoer fails to do so, Judge Guo makes his correct judgment (*Xinmin*, 76-79).

More importantly, this exceptional capability as a judge is connected to his integrity as a man and his compassion toward his people as an official. He has a strong sense of morality and righteousness. All of them seem to be rooted in the fact that Judge Guo understands and, therefore, is able to practice the principle of Heaven well. Judge Guo hates the evil and vicious offenders. He is portrayed as being merciless and contemptuous toward them. In his courtroom, he shouts at them, sneers at them, laughs at them, and tortures them. The torture can be very brutal: striking 100 blows with the heavy stick, binding the body with heated steel chain, or putting an iron hoop around the head. In severe cases, the offenders are executed immediately after the hearing. In the case story “the son from the previous marriage avenging his father,” for instance, a young woman kills her husband with the help of her lover. After the death sentence is delivered, both the wife and her lover are put into a coffin and burned alive (*Xinmin*, 351-352). In the case story “capturing the robber monks at the riverside,” the nine monks who kill an official's family members and rape his daughter are beheaded publicly immediately after the hearing (*Xinmin*, 371-372).

By contrast, Judge Guo cares about the good and the weak as if they were his children. He never minds hearing minor cases, never tortures the good, and is extremely kind to the victims. In the case story “returning the wife to her husband” mentioned above, after punishing the offender who tries to seize his co-passenger’s wife, Judge Guo prepares the official travel permit for the victim couple and kindly reminds them not to travel with vicious people any more (*Xinmin*, 79). In the case story where the two families Zhang and Yang fight over a little boy, after Judge Guo decides that the boy belongs to Zhang, he not only makes Zhang pay a certain amount of money to Yang, but also arranges a marriage engagement between Zhang's boy and Yang's daughter (*Xinmin*, 305). In the case story “rescuing the *Xiucui* at Jing Temple,” when Judge Guo rescues Xu, who is trapped in a temple and almost killed by monks, he says to the person with deep feeling: “If I had come late today, my dear son, you would have died (*Xinmin*, 392).” Deep fatherly affection is shown in the judge's words and deeds.

With this cultivated morality and virtue, Judge Guo is always able to correct his mistakes through introspection. In the case story “taking the father’s life in fighting for water,” Yang brings a lawsuit against a local tyrant who has had Yang's father beaten to death. After a while, when the case is still not decided, Yang submits another statement requesting a faster trial. On reading Yang's statement, Judge Guo sighs: “I have been busy, and the clerks have not sent me the file either. If this case is not to be heard right away and later on I am promoted to another place, how can Yang win the case? The offender would surely escape the death penalty. The dead man is innocent, and the victims are suffering. I should have not delayed the case and bungled the issue”(*Xinmin*,

121-122). He tries the case immediately and sentences the local tyrant to the death penalty.

Along the same line, when Judge Guo meets his limitations in dealing with cases, he is always able to get help from some supernatural power. Indeed, whenever cases cannot be solved by Judge Guo's human capacity, he resorts to Heaven, Buddhist and Daoist gods, or sages. He engages in various ritual activities in either a quiet place, such as the back yard of his office building, or a temple. During the ceremonies, he informs the deities about his concerns and invokes help. His prayers are always answered by those superhuman powers in the form of dreams, whispers, or mysterious signs.

Judge Guo's superior quality is bolstered when he is contrasted with his peer judges. All the peer judges or lower-level judges included in the case stories in *Xinmin gong-an* are portrayed as far from being Judge Guo's equals: they are incapable, irresponsible, uncompassionate, and unkind.

In short, *Xinmin gong-an* presents a model judge, who is capable and intelligent, moral and compassionate, self-reflective, and able to touch the power of the supernatural. He is the person who understands the principle of Heaven and is able to provide people with justice by observing both the legal rules and the general laws that reflect the principle of Heaven. Different from the judges depicted in other case story books, *Xinmin gong-an* adds some personal touches to the image of Judge Guo. Powerful as he is, Judge Guo is close to common people. He makes mistakes, he has limitations, and he shows strong emotions toward the bad and the good. He is thus both beyond the common people and of them.

Conclusion

The content of the case stories presents a particular set of legal knowledge regarding crimes, victims, offenders; courtrooms, judges, justice; and power, morality, and the supernatural. This is a vernacularized legal knowledge, which combines observation and imagination.

Among all the components of this legal knowledge, the focal ones are crimes and the process of solving these crime cases, including tactics and the intervention of supernatural agencies. Courtrooms are just the sites where these processes unfold and judges are the subjects who carry out these processes. This fact might explain why in the case stories, courtrooms look like theatrical stages without much variation and judges are like case-hearing machines more than unique individuals.

Crimes, especially severe crimes, and case-solving take the focus, but this fact does not depict a society that is terrifying to the audience. Severe cases are more likely to happen beyond the local communities and they are less likely to happen among community members. Moreover, when virtuous and vulnerable individuals are victimized, judges and supernatural beings help to solve cases and punish the evil and the violent.

This confidence in courts and judges has less to do with confidence in the legal system than with the folk belief of fairness as represented by the principle of Heaven. In the case stories, this is expressed as the highest form of justice.

CHAPTER VI

THE PRODUCERS: MEN WITH SOCIAL RESOURCES

Features of the case stories illustrated by the previous two chapters indicate these cultural objects were deliberately produced. To understand these cultural products, as well as the production process, this chapter focuses on the producers, the social group that created these case stories. After introducing the individual members of this group, this chapter examines their social positions, their immediate living environment, and their social and cultural experiences. The focus is to understand the quality and quantity of the social resources the group of producers possessed.

The producers: who were they?

Information about the producers is still very limited. Based mainly on what has been presented in the case story books, Table 6.1 summarizes what is known about this group of individuals.

Table 6.1: The producers

| Titles of case story books | Information about the creators as presented in the present edition of the case story books | | Information about the creators in other editions of the case story books ²⁵ |
|----------------------------|--|---|---|
| | Publishers and distributors | Writers (including preface), compilers, editors, commentators | |
| <i>Lianming gong-an</i> | Zheng family's publishing house Cuiyingtang | | Yu Xiangdou and his Shuangfengtang as the publisher; Jianquantang owned by the Yu family also published one edition of this book |
| <i>Zhusi gong-an</i> | Yu family's publishing house Wentai | Yu Xiangdou | |

²⁵ Part of the information comes from Huang (1991), Chen (2000), and Miao (2005).

| | | | |
|--------------------------|---|--|---|
| <i>Mingjing gong-an</i> | Wang Kunyuan's publishing house Sanhuaitang | Ge Tianming and Wu Peiquan | |
| <i>Xinmin gong-an</i> | Yang Baipeng (the distributor); Yu Chengzhang's publishing house Xianyuan | Wu Qian | |
| <i>Xiangxing gong-an</i> | Liu Taihua | | Compiled by <i>Jingnan guizheng Ningjingzi</i> (“a tranquil person from southern part of the capital who corrects”); edited by <i>Wuzhong Kuangzhi danbozi</i> (“a simple person from the Wu area who rectifies”) |
| <i>Lütiao gong-an</i> | Xiao Shaoqu's publishing house Shijiantang | Tang Hairuo, Chen Yuxiu from Nanjing | |
| <i>Xiangqing</i> | Chen Huaixuan's | Chen Meigong, | |

| | | | |
|----------------|------------------|-----------------|--|
| <i>gong-an</i> | publishing house | Qiu Zhaolin, Li | |
| | Cunrentang | Zhuowu | |

The group of producers, which includes publishers, distributors, writers, editors, compilers, commentators, and so on, seems to be composed mainly of two social categories: book merchants and scholars. Merchants were more likely to be the publishers and distributors while scholars were more likely to take the roles of writers, editors, compilers, and commentators. This division was not clear-cut, as some book merchants might act in scholars' roles. For examples, Yu Xiangdou, the renowned book merchant and commercial publisher, was the compiler of both *Zhusi gong-an* and *Lianming gong-an*.

1. The book merchants

Among all the names listed in Table 6.1, Yu Xiangdou would have been the most well-known figure both to his contemporaries and to later scholars.

Yu Xiangdou was born in around 1560 into a family that had been successfully running a commercial publishing business for centuries. Like his contemporaries, Yu had been concentrating on getting an education and passing the civil service examinations before he went into the family business. It was after he failed a couple of times in the conventional road to success that he finally entered the family business and devoted about fifty years to this profession (Xiao 1986, 199). Yu Xiangdou obviously played a significant role in the prosperity of the family business as well as the commercial publishing industry in 16th and 17th century China. In his lifetime, he ran multiple publishing houses, published voluminous books, and introduced various innovations into

the commercial business. Xiao witnessed more than forty extant books published by Yu Xiangdou (Xiao 1986, 200). Chia (2002) listed more than seventy books under Yu Xiangdou's name and this is the largest number of books ever published by any single publisher of the time as included in Chia's long list (300).

The publisher of *Xinmin gong-an* is Yu Chengzhang, the nephew of Yu Xiangdou (Xiao 1986, 197). Evidently, Yu Chengzhang was another important figure in Yu's family business. Yu Chengzhang published at least seven books and he was the co-publisher of at least another ten books. He owned a publishing house named Xianyuan. But in his lifetime, he worked quite often with another publishing house owned by the Yu family, Keqin zhai (Chia 2002, 301, 302). It is difficult to tell when exactly Yu Chengzhang began his career in commercial publishing. But he seemed to be very active in the 16th and 17th centuries as all the books published by him were dated in the Wanli reign (1573-1619).

Xiao Shaoqu, the publisher of *Lütiao gong-an*, is another big name in the field. In the 16th and 17th centuries, Xiao published at least twenty books (Chia 2002, 294). Shijiantang, the publishing house with a long family tradition, experienced one of its prosperous periods under Xiao Shaoqu's management. The publishing house owned by the Xiao family had business establishments in both Jianyang and Nanjing (Chia 2005, 119). Its products, especially books of dramas, enjoyed special fame in the field: they had unique features and the amount of their production must have been large. The National Library of China itself has collected at least six drama books published by Shijiantang (Li 1984,147).

Little personal information is known about Chen Huanxuan, the publisher of *Xiangqing gong-an*; Liu Taihua, the publisher of *Xiangxing gong-an*; and Wang Kunyuan, the publisher of *Mingjing gong-an*. But from the publishing houses they owned and the books they published, it is clear that, like Yu Xiangdou, Yu Chengzhang, and Xiao Shaoqu, all of them were from families that had been in the commercial publishing business for a long time. And they were active and successful in running these family businesses in the 16th and 17th centuries. Curenantang, for example, the publishing house owned by the Chen family, published at least seven books in the late Ming and five of them were published by Chen Huaixuan (Chia 2002, 287). Curenantang had business establishments both in Jianyang and Nanjing (Chia 2005, 113). The Liu family owned Mingde shutang. In the Wanli reign, Liu Taihua published at least three books through this publishing house (Chia 2002, 291). Although only one book can be identified as having been published by Wang Kunyuan, the publishing house Sanhuaitang, owned by the Wang family, seemed to be as productive as other big publishing houses. At least ten books were published by this enterprise during the late Ming period (Chia 2002, 293). Cuiyingtang, which published *Lianming gong-an*, was owned by the Zheng family and it was a big business establishment as well. Cuiyingtang is among the forty-seven publishing houses in the Fujian area that have left clear historical records to this date (Zhang 1979, 77). And the Zheng family evidently played active roles in the commercial publishing business in 16th and 17th century China (Chia 2002, 305). There was a Yang family that was active and important in the commercial publishing business during this period. It owned various publishing houses in the

Jiayang area (Zhang 1979). But it is difficult to tell whether Yang Baipeng, the distributor of *Xinmin gong-an*, had any relationship with this big Yang family.

2. The scholar producers

Scholars in the producer group acted mainly as compilers, editors, proofreaders, and commentators. Many scholars who produced the case story books remained completely anonymous. Almost no information is available about Ge Tianming and Wu Peiquan, the compilers of *Mingjing gong-an*. Little is known about Chen Yuxiu, the selector and editor of *Lütiao gong-an*, except the fact that he was from Nanjing. For the possible compiler and editor of *Xiangxing gong-an*, Ningjingzi and Danbozi, we know only their pen names instead of real names, let alone their personal information.

By comparison, Wu Qian, the scholar who wrote the preface to *Xinmin gong-an*, left more information than his colleagues regarding his life and work. Styled as Wu Huaichu, and with his pen name as *nanzhou sanren*, literally “a carefree man from the southern states,” Wu Qian is believed to have been a native of Jiangxi province, the neighboring province of Fujian (Chen 2007a). Wu Qian spent most of his time living and working in the Jiayang area and finally died here. Besides the preface he wrote to the case story book *Xinmin gong-an*, he also signed as the compiler of a three-volume novel entitled *Tianfei jishi chushen zhuan* (*Biography of Lady Heaven and Her Salvation of the World*). During the Wanli reign (1573-1620), this novel was published by Xiong Longfeng's publishing house, Zhongzhengtang, one of the most famous publishing houses in the late Ming (Shi 2004, 93-94). Signed together with Wu was the editor Yu Defu, pseudonym *Changjiang yishi*, “a recluse from Changjiang.”

Wu Qian seemed to have a circle of friends and colleagues, who tended to be fellow Jiangxi natives. The editor Yu Defu, who worked on the same novel with Wu Qian, was also from Jiangxi province. Deng Zhimo, a close friend of Wu Qian and also a native of Jiangxi province, visited and wrote to Wu Qian frequently. At some point, both of them worked for the same Yu family (Chen 2007a).

Wu Qian was described by his friends as being very talented. According to Deng, under Wu's pen, words would flow like water from fountains. Wu Qian's knowledge and brilliance are also evident in the two books related to him. In these two books, Wu Qian demonstrated expertise in two totally different fields. With his outstanding literary skills, Wu Qian must have played an active role in the commercial publishing business. He worked for the Yu family, which published the case story book *Xinmin gong-an*, and the Xiong family, which published the novel *Tianfei jishi chushen zhuan*. And both the Yu and Xiong families were among the most prominent in the publishing business in the 16th and 17th centuries.

Unlike the group of scholars discussed above, Tang Hairuo (Tang Xianzu), Chen Meigong (Chen Jiru), Qiu Zhaolin, and Li Zhuowu represented a different case regarding how scholars could participate in the publishing business in the 16th and 17th centuries in general and in the production of case story books in particular.

Tang, Chen, Qiu, and Li were among the most renowned scholars in the literature field in this period. At the same time, Tang, Qiu, and Li all passed the civil service examination and were government officials. Tang Xianzu (1550-1617) established his fame as a poet and a prose writer when he was very young. However, it was the drama entitled *Mudan ting (the Peony Pavilion)*, which he composed in his thirties, that made

him the most recognized writer in the field. Since then, he had been zealously pursued by commercial publishing houses. In less than fifty years, at least ten different versions of *Mudan ting* were published by various commercial publishing houses, not to mention numerous revised editions, sequel editions, replica editions, and comments. And any writings related to Tang were regarded as profitable and thus precious by commercial publishers (Zheng 1995; Zou 2001; Song and Wang 2007).

Chen Jiru (1558-1639) was an idol in the literary world even in his own time (Chow 2004, Greenbaum 2007). At the age of twenty-nine, Chen decided to stop taking the civil service examination. To show his determination, he burned his Confucian student outfit. This gesture, together with his talent in literature, won him enormous fame. Throughout his life, Chen lived as a pure scholar and depended on his writings for his living. Chen was a productive scholar. According to Chow's conservative estimate, from the late 16th century to the early 17th century, more than fifty titles listed Chen either as author, editor, compiler, commentator, or reader (Chow 2004, 118). Produced in the 18th century, the famous *Siku quanshu zongmu tiyao* (*Annotated General Catalogue of the Complete Library of the Four Treasuries, Authorized by the Emperor*) records more than thirty works authored by Chen. Chen's writings cover various topics and were very popular among both the elite and common audience. His works, or any writings which could be related to him one way or another, almost always ensured a good fortune for their publishers. For this reason, stealing his name and plagiarizing his writings happened frequently. Even Chen himself realized numerous fake books were published in his name (Wu and Li 2003, 2).

Li Zhouwu (1527-1602) was phenomenal in 16th and 17th Ming society (Chen 1993; Xu 2004). Although his philosophical thinking was regarded as heresy and his behaviors regarded as deviant by mainstream society, and he was finally prosecuted and died in prison, his brilliance, his sincerity, and his independence in mind and action were widely appreciated by various social groups. Both the elite and the literate common people were eager to read Li's works to see what radical and shocking ideas were discussed there. Li produced works in politics, philosophy, and literature. He commented on the most famous popular novels and dramas in the period and those commented editions became hits on the book market. Then more and more books, mainly popular literary works, were published with the label "commented by Master Li Zhouwu": sixteen extant dramas in Ming editions were signed as being commented by Li Zhouwu (Zhu 2000, 83). In many of them, the real authors and commentators just borrowed Li's name for popularity (Wang 2000, 86-7).

Qiu Zhaolin (1572-1629) was also an authority in the literary world. Like the names of Tang, Chen, and Li, the name of Qiu Zhaolin stood for excellence and capacity in literary skills and was therefore avidly sought after by commercial publishers (Chow 2004, 118).

Many modern scholars are suspicious about the actual participation of these renowned figures in the production of case story books (Chen 2000; Miao 2005). Those names might just have been borrowed by the publishers for making a profit. But as most of the publishers of the case story books were big and powerful during the time and all of these figures were active and productive in the field, cooperation between them was not completely impossible. Indeed, it is known that Chen had a very close relationship with

the Xiao family. Quite a few works published by the Xiao family publishing house were signed by Chen as the commentator (Li 1984, 147; Chia 2005, 125). But on the other hand, even if the cooperation was real, most of them being officials and all of them being prominent in the field, these famous figures could not have constituted the main body of the scholar producers of the case stories and case story books. In other words, although more information is available about these outstanding figures, and although they might have participated in the production process, the major components of the producer group of case stories and case story books were successful and experienced book merchants and grass-roots scholars who were little known.

The social positions of the producers

Sixteenth and 17th century Chinese society was hierarchically ordered. Social groups differed in their social positions, and correspondingly, differed in the valuable social resources they could enjoy. The social positions the producers of the case stories and case story books held significantly affected the quality and quantity of resources the producers could bring to the production process.

1. The social status of the book merchants

The 16th and the 17th centuries witnessed significant social change in China. Commercialization, commodities, markets, trades, transportation, and merchants suddenly became major themes in people's everyday lives as well as in various social discourses (Wang 1996; Chen 1997; Fan 1998; Brook 1998a, 1998b; Xu 2005). The scope of the commercial activities of merchants was more extensive than ever before and their booming economic power caught the attention of all social members. On the

horizon of late Ming society there arose more big business enterprises. In the commercial publishing business, for example, the Zou and Ma families examined by Brokaw all created their business names in late Ming (1996, 54). Families that had been in the publishing business before the Ming witnessed their most prosperous times in the 16th and 17th centuries. The Yu family may have entered the commercial publishing business in the Northern Song period (960-1126) and had stayed in the business since then. According to Xiao (1991), the most prosperous time for the family business came in the 16th and 17th centuries (100). Among a total of forty-seven publishing houses located in the Jianyang area in the Ming dynasty that have been identified by Zhang, twelve of them were owned by the Yu family (Zhang 1979, 76). Xiao (1991) managed to record 213 extant books that were published by the Yu family from Song (960-1279) to Qing (1644-1911) and 160 of them were published in the Ming dynasty (Xiao 1991, 123).

This flourishing commercialization significantly changed the social status of merchants. First of all, it directly brought economic power to merchants. The description of their wealth and their lavish lives gained as much attention as did their commercial activities (Chen 2004). As a successful and wealthy businessman, Yu Xiangdou's grandfather bought a huge acreage of mountain land and built a temple in it. He set the temple as the studying area for his children and grandchildren on the one hand and the place for storing printing blocks on the other. He bought more than 150 *mu* of land for supporting the education of his children and grandchildren, together with providing the funds for entertaining guests and transportation (from Xiao 1986, 197-8). This example provides some information regarding the financial power of some business families.

Second, when wealth was closely associated with merchants, the possibility of accumulating huge wealth fast became the myth of commercial activities. And this myth drew people from all walks into this field, including students, scholars, gentry, and so on (Fan 1998, Xu 2005). The social consequence of the fact that people from different social categories, especially the “gentry” group, joined the merchant group was that the traditional hierarchical social arrangement, which vertically divided people into “gentry,” “peasants,” “artisans,” and “merchants,” became difficult to maintain. As Gui Youguang (1507-71), a contemporary scholar in the Ming, observed, the boundaries between gentry, peasants, and merchants were “blurred” (Gui, *Siku, juan* 13, 13b). Modern scholars such as Brook (1998b) also argue that by the latter decades of the 16th century, this traditional fourfold hierarchy, gentry, peasants, artisans, and merchants, had collapsed (700). Indeed, when more scholars and gentry engaged in trades and commodities, when the economic power of merchants was recognized, more appreciation of commercial activities was expressed in society and more positive attitudes toward being merchants could be observed (Wang 1996; Fan 1998). Merchants, who had held the lowest social status and thus had been discriminated against in society all the time, seemed to find their way out.

Third, with their improved social prestige, merchants were able to enter “polite society to an extent not possible earlier” (Brook 1998b, 700). Merchants began to be found in the living rooms of officials and parties of famous scholars. Just as often, their huge houses were full of guests who previously would have felt ashamed of being associated with merchants. In the mid-16th century, when Yan Song was the most powerful and influential figure in the imperial court, a merchant made a great fortune by

getting close to Yan's son. With this special social connection, together with the power of money, he managed to make friends with all the big and important figures in the government (Chen 2004, 178). With the unique features of their products, merchants in the commercial publishing business could be even closer to "polite society." Around books, government officials and famous scholars maintained close relationships with book merchants (Chia, 2002, Fang 2002). In the year 1606, Yu Xiangdou and his cousin Yu Zhangde published a book for scholar Fang with the endorsement of the magistrate Zhou. Magistrate Zhou, as well as official scholars such as Li Weizhen and Yuan Changza, all provided prefaces and postscripts (Fang, Ming edition). Working on these publishing projects together, officials, merchants, and their hired scholars spent much time together discussing and consulting (Fang 2002, 100).

But it is important to point out that as rich as merchants became and as improved as their social reputations were, they were still shut out of the political arena. In other words, politically, they were as powerless as before. Recognizing this fact and realizing the importance of political power to them, many big merchant families did invest large amounts of money into education and sent their young family members into the political arena. The case of Yu Xiangdou's grandfather mentioned above was an example in point. Book merchant Liu Dayi entered the commercial publishing business in the late Ming and soon became prosperous. His son did pass the civil service examination and became a government official (Li 1984, 153).

In conclusion, benefiting from the 16th and 17th century social environment, book merchants, as a social group, enjoyed much higher social status than their previous counterparts. Economically, they were wealthy, prosperous, and powerful. Socially,

they were more positively recognized and appreciated. They were able to get into the social circles composed of the most influential and prestigious. But being merchants, they had no direct access to political power and had little voice in the political arena. To gain this precious political power, they knew they had to follow the conventional rules. That was why many big merchant families invested hugely in preparing and supporting their younger family members to pass the civil service examination.

2. The social status of the scholar producers

For centuries, Confucian scholars had been crawling on the single narrow road to success, passing the civil service examinations and entering officialdom. The failed examinees had to suffer both poverty and social disgrace. In other words, although in the traditional fourfold hierarchical social order these failed examinees still belonged to the “gentry” categories, they had no political power as they had not entered officialdom yet; they had no economic security, and socially, they had not much respect either.

The flourishing commercialization that occurred in the 16th and 17th centuries brought significant social changes to this group as well as to the merchant group. To put it in a simple way, commercialization opened new venues for this desperate group to succeed. With the encouragement of positive attitudes expressed toward commercial activities, and with the big attraction of economic success, a great number of scholars and government students threw themselves into commercial activities. In the first half of the 16th century, the Jiangnan area had already seen hundreds to even thousand of shops and stores operated by scholars and gentry (Xu 2005, 99).

Among all commercial activities, the commercial publishing business was an even bigger attraction to scholars as this was a familiar world. They could rely on just what

they had, their literary skills and their intelligence, to make a profit. Indeed, in the 16th and 17th centuries, in every commercial publishing center, for every big commercial publishing enterprise, there gathered groups of scholars, most of them failed examinees.

It might be true that while working for the commercial publishing business, some of these students and scholars still kept an eye on the civil service examination; that is, they might be “pursuing two careers at the same time” (Chow 2004, 98). Many of them still regarded writing for profit and selling their literary skills as a career with no other alternatives. In the viewpoint of Deng, his friend and colleague Wu Qian was a person who should have greater ambition in his life than to be a commercial writer. He regarded Wu Qian as a scholar who did not have his talent fully recognized and who therefore had to lead a desolate life (Chen 2007a). But it was also the fact that with the flourishing commercial publishing business, in the 16th and 17th centuries, more students and scholars decided to completely turn away from the conventional career. To show their determination of resigning from the civil service examination, in the late Ming, more government students declared they were giving up their student status. Chen Jiru’s abandoning of his government student status and devoting himself to commercial writing was a perfect example. And Chen (2000) argues this was a “social gesture” and became an observable social trend during this period (36).

Indeed, the commercial publishing business provided enough opportunities to urge scholars to stay in the field. It is evident that being hired by big commercial publishing enterprises, the unsuccessful examinees were now economically secure. If they were productive and had their fame built up in the field, they could enjoy an affluent life. Chen Jiru was a perfect example. Living entirely on commercial writing, Chen managed

a free, comfortable, and even sumptuous life (Wu and Li 2003). More significantly, the commercial publishing business provided a stage for unsuccessful examinees to demonstrate their talents, knowledge, and even moral integrity to the world. These skills, knowledge, and good thoughts were not appreciated by the government and the examiners, but were recognized, welcomed, and valued in the commercial publishing business. In other words, the commercial publishing world employed different sets of rules and standards from what had been established by the government and examiners to evaluate scholars. It provided an extra definition of success. Here, the unsuccessful examinees could reach success through an avenue other than the one along which they had been trying hard. Big names such as Chen, Tang, Li, and Qiu, as mentioned above, were not created through passing the civil service examinations and being important government officials, but through their literary skills reaching an audience via commercial publication. And finally, writing and publishing also provided the scholars the chance to express, to educate, and to take social responsibility in general. Confucian scholars were taught to be social activists and were encouraged to take social responsibility to make a better society both inside and outside the political domain (Wilkinson 1963). In fact, as morality and virtue were emphasized as the key qualities in Confucianism for dealing with political affairs, being outsiders with respect to the political arena might have given non-official scholars more moral credentials to participate in politics. When non-official scholars stayed away from the power center, they were assumed to be more conscious of their cultivation of morality (Goldman 1995). Indeed, scholars could see the chance of self-fulfillment and effective social participation in the commercial publishing business.

The social status of these grass-roots scholars was improved when they joined the commercial publishing enterprise. When their literary skills, knowledge, intelligence, and social critique won them popularity among their audience, their reputations were built up in and beyond the field. Just as Chow (2004) has pointed out, the literary excellence as demonstrated in the commercial field by these scholars even challenged the counterparts as used in the civil service examination (242), their status achieved in the commercial publishing field also had great impact on their social status in the bigger social environment. Being popular in the field also meant being popular in the society. Their names were known to people from all walks of life and they were closely followed by their fans and audience. Some of them became idols, stars, and celebrities, and enjoyed very high social prestige. They were accepted by various high social circles and maintained social connections with important figures in different fields. For example, Chen Jiru was known to be very close to secretaries in the Grand Secretariat such as Xu Jie, Qian Xilong, Wang Xijue, Shen Shixing, and other high officials such as Dong Qichang and Wang Shizhen, among others. He had frequent visits with local officials as well (Wu and Li 2003; Xia 2004; Zhang 2006).

But like merchants, these grass-roots scholars were outsiders with respect to the political arena. They could criticize the government and government officials and attack social problems, but they did not have the chance of exercising any political power.

3. Preparation for commercial production

The social status of book merchants and grass-roots scholars was closely related to the preparation for commercial production in general and the production of case stories and case story books in particular. It is evident that the financial power the book

merchants held ensured solid financial foundations for their business enterprises, which constituted the economic condition for the cultural production. Their improved social prestige connected book merchants to various social domains, including the ones they failed to be members of, such as the political and legal domains, and these connections could serve as positive social conditions for the production.

Attracting scholars and students into the commercial publishing business was even crucial, as they brought unique social resources to the field. As Chow (2004) mentions, the formation and the distinctive features of the producing group, merchants and scholars, significantly shaped the culture production mode in this period (98). First, these scholar-producers possessed remarkable literary skills. Because of their lifelong training in reading and writing, they could easily master a wide variety of topics in terms of compiling, editing, and writing. Chen Jiru's writings covered current social issues, history, people, anecdotes, religion, scholarly works, art, gardening, plants, tea, antiques, and so on, and he was good at all kind of writing styles (Xia 2004, 133). At the same time, being part of the contemporary readership, they knew the taste of the audience and were able to cope with that without trouble.

Second, these scholars brought significant social networks to the printing business. Chen (2005) estimated the total number of government students in late Ming was between 500,000 to 600,000, with every county boasting 213 to 300 of them (215-6). Besides this large group of local fellow students, these grass-roots scholars were also connected to scholars in other regions and to various government officials through traveling and their examination experiences. This big network served as the reservoir of new members for the commercial publishing business. Like the social connections of

merchants, this big social network also connected the scholar-producers to a broader social world from which they might draw further significant resources for the production.

And finally, giving up their traditional career voluntarily or involuntarily, these Confucian scholars still held big dreams and believed in taking on social responsibilities. As Hegel (1981) points out, through writing, these scholars expressed their understanding of the society, mainly by taking the role of moralists, attacking social problems (65). Their moral stands and their critical-thinking capacity became significant resources in terms of the production of case stories and case story books. They would add another layer of meaning to the commercial production and therefore not only would bring different sets of practices into the production process from the ones based on the intention of writing and publishing for profit, but also leave unique features on the final cultural products.

Living in Jianyang and Nanjing

It is worth noticing that all producers of the case stories were based mainly in Jianyang, Fujian and Nanjing, the two major commercial publishing centers in 16th and 17th century China (see Map1-3). Lying on the coastline while featured by various landforms, Fujian province was known for its abundant natural resources and well-developed maritime and land trade. In the 16th and 17th centuries, it played a significant role in the flourishing commercialization of Ming society (Zhu 1986, Vermeer 1990).

Jianyang was a county, subject to Jianning prefecture, which was located in the north of Fujian province. This mountainous area was overspread by bamboos and trees. For centuries, these materials served as the basic supplies for the printing industry (Wang

2007). At the same time, Jianyang also enjoyed convenient transportation as it was connected to the main commerce routes coming in and out of northern Fujian.²⁶ Equipped with all these geographic advantages, Jianyang had established its prominent status within the commercial publishing business before the 16th century. The local gazetteer of Jianyang compiled in the Jingtai reign (1450-56) had already boasted that “all books in the world can be found in the Jianyang commercial book houses” (from Zhang 1979, 76).

But it was in the 16th and 17th centuries that Jianyang experienced its most prosperous period and became one of the most important commercial publishing centers. The local gazetteer compiled in the Jiajing reign (1522-65) recorded 451 books published by Jianyang commercial publishing houses. Zhang (1979) believed this was the number of books published only in the year 1545 and he estimates that from this year on to the end of the Ming (1644), the annual publication in Jianyang should have been bigger and the number might have reached a thousand. With this figure, the author believes Jianyang should have taken the primary role in the overall book production in the late Ming (76). This primary role is also suggested by the scale of local book markets in Jianyang. The local gazetteer compiled in the Wanli reign (1573-1619) describes, in Jianyang, especially in towns such as Chonghua and Masha, numerous publishing houses and book trade houses lined up next to each other. Book traders from all over the country gathered here for books (265). Being widely recognized as the “book center,” Jianyang was also a destination for literati and scholars, who frequently traveled a long way for book shopping (442).

²⁶ Westward, along the Chongxi River, passing Chong’an, it was easy to reach Fenshui Pass from Jianyang. Northward, along Nanpu xi river, it was easy to reach city Pucheng. And both Fenshui Pass and Fucheng were significant sites on the commerce courses connecting northern Fujian to its neighboring provinces and beyond (Zhu 1986, 251).

Commercial publishing was the major theme for this small county. More than two hundred commercial publishing businesses based in this area left their records in history. Among them were ones that had long and glorious histories in the business and the others that were newly established (Li 1984, Xiao 1991, Wang 2007). These business enterprises drew scholars from the local area, the neighboring provinces, and areas across the country. A local gazetteer of Jianyang specifically recorded two scholars from the county for their extraordinary help to the commercial publishing business. It is said both of them, Liu Shan and Liu Wenjin, were very knowledgeable and well-informed in various fields. They read widely and accomplished greatly in composition. Unlike their contemporary scholars and students, they did not pursue the civil service examination and government positions. Instead, they lived in publishing houses and devoted themselves to creating books (from Zhang 1979; Li 1984). The brief description might fit most of the scholars who worked in Jianyang. With regard to scholars coming from neighboring provinces, Jiangxi seemed to be very special. Because of the geographic convenience, many Jiangxi natives worked in Jianyang in the 16th and 17th centuries (Chen 2007b). With its focus on commercial publishing, Jianyang, a small county, became the congregation area for books, book merchants, and writers.

Besides drawing in talents to Jianyang, Jianyang also reached out as it kept close connections to Nanjing, another significant commercial publishing center and the hub of books and culture.

Nanjing was the southern capital of the Ming government. Located in the most affluent and civilized area, Jiangnan, Nanjing was no doubt the leader in both cultural production and cultural consumption in 16th and 17th century China. A large number of

commercial publishing businesses operated in this area.²⁷ Among them were the big family businesses such as those of the Tang family, which owned about 15 publishing houses, and the Zhou family, which owned 14 business enterprises in the area (Qian and Chen 1996, 153). Most of the commercial publishing houses and their book shops gathered around Sanshan Street, which was the busiest commercial area in the city and was next to the Nanjing civil service examination institute and the Imperial College area. As Chia (2005) puts it, “for booksellers and publishers looking to locate their businesses in an area attracting the most customers, Sanshan Street was the obvious choice” (111). Thus, just as in Jianyang, book merchants competed with each other in inviting consumers, boxes of books piled on one another in the market, and book purchasers jostled each other in the crowd.

Although the number of commercial publishing enterprises operating in Nanjing was a little bit smaller than in Jianyang, Hu Yinglin, a scholar who lived through this period, did point out that merchants from all over the country invested seven-tenths of their money in Suzhou and Nanjing and three-tenths in Fujian for the printing business, and nothing for other areas (Hu, *Siku, Juan* 4, 5a). In other words, the commercial publishing business in Nanjing boasted more economic resources than their counterparts in Jianyang. Besides the financial power, Nanjing also benefited from being able to attract more famous carvers and writers from nearby cultural centers such as Huizhou, Suzhou, Hangzhou, and so on. Carvers from Huizhou were well known for their high skills in engraved painting (Li 1984). With the help of a group of gifted Huizhou artists, Nanjing was able to include more elegant, delicate, and usually full-page illustrations in their

²⁷ Qian and Chen listed 93 of them (1996, 149), but Chia identified more than 180 publishers in the Nanjing area (2005, 113-123).

books. Furthermore, being in the cultural center, businessmen in Nanjing could have more access to new manuscripts and could be more sensitive to the needs of their audience. Thus, Hu, the book expert and great scholar of the 16th and 17th centuries, commented that among all the commercially published books, the most delicate ones were the ones published in Nanjing, and the price of the Nanjing books was also the highest. While Jianyang boasted the highest production, the price of the Jianyang editions was the lowest (Hu, *Siku*, *juan* 4, 6b).

Connections between Jianyang and Nanjing were evident (Xiao1986; Chia 2005). Families who were based in Jianyang might open branches in Nanjing. For example, the Xiao family was believed to be native to Jianyang, but Shijiantang, the publishing house owned by the Xiao family, was listed as a famous publishing house in Nanjing. The Ye family might serve as another typical example as well (Chia 2005). Manuscripts and original versions of books might be shared by Nanjing and Jianyang publishing houses. Great scholars and gifted carvers traveled between Fujian and Nanjing to work for more clients (Li 2003, 236). The book markets were open to each other as well. On the Jianyang market, consumers might come across the so-called “Capital editions” or *jingben*, editions originating in Nanjing, while “Jianyang” editions were popular in Nanjing markets as well.

All the producers of the case stories and case story books were based in Jianyang and Nanjing. Living in the most important centers for commercial publication was crucial to them in terms of their possible resource preparation. First of all, being the important commercial publication centers, both Jianyang and Nanjing worked as magnets to draw considerable basic supplies for production into the areas. Among them were raw

materials, investment money, and technology, as well as the working population and consuming groups.

Secondly, living in Jianyang and Nanjing also set these producers in the vanguard of the field. Being in the centers, the producers were the first to get the information regarding what was popular in markets and what the needs of the audience were. By the same token, they could see the whole picture of the commercial publishing business of the period. Therefore, they were the quickest to respond to the markets. And, led by their big visions of the business, they could employ innovation and creativity to craft new fashions and form new directions for the business. Jianyang and Nanjing and their commercial publishers were the places and people businessmen elsewhere would turn to for further actions.

Thirdly, as so many commercial publishing businesses gathered in both areas, one would expect collaboration among them to be the convention. Information and labor might be shared. Books might be co-published. In an imprint published by the Xiao family, Chia found Yu Xiangdou's cousin was credited as the proofreader (Chia 2005, 125). As Brokaw (1996) argues, collaboration served as an important resource for every joined party and helped the growth of the business in general.

And finally, as the most important centers for the business, Jianyang and Nanjing also created the atmosphere of excitement and pride for book producers. It was in these centers that book producers could most easily tell how much their works were valued and how well they were recognized. They could taste their achievement from the prosperous book markets daily. The generated pride could be found in Yu Xiangdou's inclusion of

his self-portrait in his produced books.²⁸ Chia (2005) also noticed that some commercial publishers would list their names, without any official titles, alongside famous authors and editors, such as the big historical figures Sima Guang and Zhu Xi, and contemporary high officials such as Ye Xianggao (124-5). This sense of excitement and pride surely was significant for book producers in continuing to expand their commercial publication enterprises.

The social cultural experience

Conditioned by their social positions and living environment, the producers of case stories and case story books enjoyed unique social and cultural experiences. Their experiences, both in and beyond the field, also prepared them for the production activities.

1. Experiences in the field

As discussed above, almost all the book merchants who participated in the production of the case stories and case story books of the current study were from big families that were successful in the commercial publishing business. These families provided the natural locus for apprenticeship to their junior members. Growing up in these families helped the book merchants receive good training in practicing the publishing business in the first place. In addition, before they worked on the case story books, most of them had spent a long time operating the business themselves. The accumulated experience in the field should have served as valuable resources for them regarding the production of case stories and case story books. Among all the book merchants in the study, Yu Xiangdou was the only one who has left some personal

²⁸ One of the portraits is included in Brook (1988a, 214).

information to possibly allow examination of this topic. In the following, Yu Xiangdou's case will be used as an example to illustrate what experiences book merchants could possibly have had regarding the field and how significant they might be.

Yu Xiangdou formally came to be in charge of the family business in the year 1591 when he was in his early thirties.²⁹ In that year, he “widely invited officials and put all commentaries and collections which are helpful for the civil service examination into print” (from Xiao 1986, 198). Within this year, he published dozens of books, including reference books for the civil service examination, and books which “are not relevant to the civil service examination” (from Xiao 1986, 199). Evidently, at this beginning point, he had already benefited from his family background. Without good education, without experience in civil service examination and familiarity with the business, Yu would not have had the confidence of determining which books would be helpful for the examinations and which books were profitable for the business. Without the economic strength of the business enterprise, he could not have invited or hired enough people to work out dozens of books within a year.

Yu Xiangdou published his first case story book, *Lianming gong-an*, in 1598. Within these seven years devoted to this business, he had grown into a mature commercial publisher.

Yu had demonstrated his full capacity as a businessman. He utilized various strategies on the paintings, postscripts, prefaces, guidance of using a book, and cover pages to solicit customers. When the traditional *Romance of the Three Kingdoms* was first published by Yu Xiangdou's publishing house Shuangfengtang, he specifically

²⁹ According to Xiao (1986), Yu Xiangdou had already published certain books before he formally declared to enter the family business in the year 1591 (199).

included a long paragraph in the preface. It says, although more than ten commercial publishers had worked on this novel, only four of them were able to include full illustrations. Among these four, the first one had ugly figures (in the illustration) and many typos; the second one had coarse illustrations as well as coarse characters; the third one was new, but was deficient in included names and poems; the final one was good and was loved by readers but the woodblock was blurred thus the book was not easy to read. For this reason, the one now produced by Yu's Shuangfengtang should be the best choice for customers as it had been commented and proofread by famous scholars and both characters and illustrations were of high quality (from Qi 2006, 105). This paragraph clearly demonstrated Yu Xiangdou's good knowledge of the book market and his business competitors on the one hand, and his great reading of the audience's mind on the other. Yu Xiangdou himself would willfully copy the editions published by his fellow book merchants, but for his imprints, he publicly condemned plagiarizing. In the preface of one book he published, he accused those who had copied the books his publishing house had invested huge money to produce of being "shameless"(Xiao 1986, 209).

At the same time, Yu Xiangdou had also proved his great expertise in publishing vernacular novels. Indeed, although Yu Xiangdou published books in a variety of areas, including reference books for the civil service examination, historical works, books for daily practical use, and so on, his specialty seemed to be novels. Among the forty-five extant books he published, twenty of them were vernacular novels (Xiao1991, 128; Xiao 1986, 200). To attract an audience, in every vernacular novel he published, he included illustrations. In some occasions, he would even include his self-portrait. More importantly, with years working on the topic, he was able to add his creativity into the

publication as well. He was the first book merchant who invented and included the special style of commentary in his published novels identified as *pinglin ti* by later scholars (Rolston 1997; Yuan 2007). Through *pinglin ti*, Yu Xiangdou differentiated annotations from commentaries and clarified their distinctive functions. It also helped Yu Xiangdou arrange illustrations, commentaries, and texts in a unique format. Usually, on every page of a book, the commentary would be arranged as a separate piece at the top, the illustration would be in the middle, and the text would be at the bottom. As all the three parts on the same page would be consistent with each other in terms of the topic, it would be very easy for readers to pick up the theme (Tan 1999; Yuan 2007). After *pinglin ti* was first invented by Yu Xiangdou, it was widely followed by his fellow publishers, finally becoming the conventional practice and a *ti*, i.e., a set format in the field.

Yu Xiangdou understood the commercial publishing business well. Table 6.2 and 6.3 present the composition of the commercial publications in Nanjing and Jianyang in general and the composition of the commercial publications of the Yu family in particular.

Table 6.2: the composition of the commercial publications in Nanjing and Jianyang
(based on Chia 2005, 129-130)³⁰

| Category names | Percentage of total Nanjing imprints | Percentage of total Jianyang imprints |
|----------------|---|--|
|----------------|---|--|

³⁰ Percentages higher than 5 are included both in Jianyang's and Nanjing's case. For comparison, if the percentage of one category for Jianyang was higher than 5, the corresponding percentage in Nanjing's case is included even when the figure might be lower than 5. The category of legal works does not follow this rule.

| | | |
|-------------------------------------|------|------|
| Medicine | 10% | 15% |
| Encyclopedias | 6% | 14% |
| General collections | 10% | 7% |
| Separate collections | 9% | 7% |
| <i>Ci</i> poetry and dramatic songs | 22% | 3% |
| Novels | 4% | 7% |
| Annalistic histories | 1% | 6% |
| Legal works | 0.7% | 0.3% |

Table 6.3: the composition of extant commercial publications books of the Yu family in late Ming (based on Xiao 1991, 127):

| Category names | Numbers of books published | Percentage of total imprints of Yu |
|---------------------|----------------------------|------------------------------------|
| Novels | 28 | 18% |
| General collections | 27 | 17% |
| Encyclopedias | 26 | 17% |
| Legal works | 3 | 0.02% |

Table 6.2 shows both Nanjing and Jianyang focused on two main categories in commercial publication in the 16th and 17th centuries. Those were books for entertaining, such as literary collections and *ci* poetry and dramatic songs in Nanjing's case, and literary collections and novels in Jianyang's case; and books for practical use, such as medical manuals and encyclopedias.

And Table 6.3 next shows how the Yu family was consistent with this trend. In the late Ming, Yu Xiangdou worked as the main figure in the Yu family business. More than half of the imprints of the Yu family focused on entertainment and practical use.

It is important to point out that although the publication of legal works was not the focus for commercial publishers in general or the Yu family and Yu Xiangdou in particular, legal works were published by commercial publishing houses in the 16th and 17th centuries and the quantity was actually quite significant (Zhang 1976, Langlois 1998). The Yu family and Yu Xiangdou also had experience in publishing formal legal works. In the year 1606, Yu Xiangdou published *Wuyuan lu* (*The Collection of Eliminating Injustice*), the classic forensic work first published in the Song dynasty (960-1279). Four years later, he published *Santai Minglü zhaopan zhengzong* (*The “Great Ming Code” and the Orthodox Legal Reports and Verdicts Published by Santai*), mainly an annotation of the *Great Ming Code*. There, as he boasted in the commercial advertisement, he followed the new rules and included the example verdicts at the top, the phonetic notations in the middle, and the annotations of the *Code* at the bottom (Huo 2007, 17). Two years earlier, in 1608, another Yu family member, Yu Changzha, the grandnephew of Yu Xiangdou, compiled and published *Renyu leibian* (*The Categorized Benevolent Cases*), which was a collection of cases.

Because of the limited information, it can only be assumed that other book merchants might have shared similar experiences with Yu Xiangdou. The experience with the business, the knowledge of the market and consumers, the expertise in certain genres and their styles, and the familiarity with business tactics, served as the most immediate resources for book merchants in the production of case story books.

For scholar-producers, working for the commercial publishing business was a different experience from passing the civil service examination. Therefore, they also needed to stay in the business to sharpen their professional writing, compiling, and editing skills. To say it differently, experience in the field should also serve as a crucial resource for them, as it did for book merchants, in terms of the production of case story books. Little specific information is available in this respect. But it is known that by the time case story books were published, Chen Jiru, Tang Xianzu, Li Zhuowu, and Qiu Zhaolin were already the well-recognized names in the field. Scholars such as Wu Qian, Ge Peiquan, Chen Yuxiu, and so on might also have been active in the field for some time. By the time they worked on the case book stories, they were veteran writers, compilers, and editors. They knew how to appeal to their audience and clients as well as how to express their opinions and ideals through their writings.

2. Experiences beyond the field

Sixteenth and 17th century Chinese society was vigorous and exciting but also confusing, uncertain, and insecure. It witnessed big social transformations, and in the process, social orders, structures, and rules were broken and traditional morality was subverted. People migrated more than before. And more of them were interested in money and pleasure-seeking. To feed this taste, more theaters, tearooms, parties, gambling gatherings, and brothels came to view and were more frequently visited by people from all walks (Niu 1997; Chen 2004).

This social change can be observed in every corner of the society, including the commercial publishing centers such as Jianyang. The Jianyang gazetteer published in the 29th year of the Wanli reign (1601) describes this change vividly: commoners used to be

plain and honest. Neighbors and clan members used to help each other when in need. That was all gone. Now, money and wealth were emphasized and dominated in various issues such as arranging marriages. Furthermore, “those who have the power exploit their people constantly and those who have the craftiness constantly buy their relatives and clan members’ support with tactics” (286).

It is difficult to know whether the crime rate actually increased or not in this period, but it is certain that more disputes and lawsuits arose than before. Indeed, in the 16th and 17th centuries, “vigorous litigants” became an identifiable trend nationwide (Fuma 1993, 437). Locally, the Jianyang gazetteer published in the Wanli period also observed the phenomenon that the more prohibitions on lawsuits from the government, the more accusations were brought to court by people (286). The producers of case stories and case story books were involved in disputes and legal affairs as well. In the Wanli reign, Yu Chengzhang, the publisher of the case story book *Xinmin gong-an*, seems to have been dragged into some legal dispute. In the local gazetteer it was said Yu Chengzhang violated some government rules regarding proper burial grounds. For that reason, his 24-barrel-land was confiscated by the government and was then turned over to Zhai and Zhang as part of the fund for repairing local bridges (*Wanli Jianyang xianzhi*, 280).

Legal affairs became hot topics. More people began to rely on them for a living and more related information and services became available in society. A considerable number of government students, equipped with their literate skills and eloquence, became pettifoggers and could provide all kinds of legal services including getting inside information, writing legal complaints, providing legal advice, and so on (Chen 2005). More legal knowledge was in demand, and as a result, various legal works and legal

documents, including cases, the *Great Ming Code*, the *Regulations* enacted by the government after the *Code*, annotations of the *Code*, legal handbooks, and administrative manuals, were circulating at local markets and book shops and were accessible to people from all walks of life.³¹ These legal works were published for new judicial officials as well as for those who were just interested in legal affairs and their unique features could meet different needs.

While considering Jianyang and legal affairs, Song Ci, a local celebrity, is worth mentioning. Born in 1185 and dying in 1249, Song Ci lived mainly in the Southern Song period (1127-1279). In the year 1217, after passing the civil service examination, Song Ci entered officialdom. He was appointed to different positions but most of his fame was received for his capacity in judging cases. Based on his thirty-year experience of judging cases, in the year 1247 Song Ci published his book *Xi yuan lu*, literally, *A Book of Washing Unjustness*. Focusing mainly on autopsy, *Xi yuan lu* is regarded as the first book in China in forensic medicine. Song Ci was buried in Jianyang with imperial honors. More than three hundred years later, Song Ci was recorded in the local gazetteer as an “able and virtuous” man (*Wanli jianyang xianzhi*, 423) and his *Xi yuan lu* had already become a classic legal manual.³² Although it is difficult to tell how Song Ci was remembered by people of his locality more than three hundred years later, his fame as a great judge as well as his classic legal work might have made Jianyang book producers, in particular, mindful that legal affairs were important in people’s everyday lives. And

³¹ Zhang (1976) included 38 books on the *Great Ming Commandment*, the *Great Ming Code*, the *Ming Regulations*, and the annotations of them. 32 of them were published in the 16th and 17th centuries and at least 7 of them were published by commercial publishing houses. See pages 13-29, volume 1.

³² The popularity of this book can be shown by the many relevant books published after. See Zhang (1976), pages 314-8.

we do know, in 1606, when Yu Xiangdou published the legal work *Wu Yuan lu*, he also claimed that it was authored by Song Ci (Xiao 1991, 115).

Little information is known about the daily activities of the producers. They were based in their localities but must have traveled frequently. They maintained circles among themselves. Book merchants cooperated and competed with each other. Scholar-producers might have had close connections among them as well. But this producer group was also linked to the bigger social world. On the one hand, they were living among the commoners and set them as one of their targeted consumer groups. They thus knew the lives of common people and would care about their concerns and tastes. On the other hand, they were connected to the “polite world.” They worked with government officials and famous scholars constantly. Not only scholars but also officials would frequently have their own works printed or would sponsor certain works to be printed by these commercial publishers (Chia 2002; Fang 2002). To maintain constructive relationships with officials, book merchants would also voluntarily print the manuscripts or old versions of books of officials as special gifts to them. From 1571 to 1575, Guo Zizhang served as the prefectural judge in Jianning prefecture. Between 1593 and 1598, he served as the administration commissioner in Fujian (Wu and Jiang 2006, 26). In 1596, Yongqingtang, one of the Yu family’s publishing enterprises, published one book authored by Guo (Xiao 1991,120). In 1616, the present prefect of Jianning visited Guo at home and sent him the masterpiece of the newly published edition of his book, *Shengmen renwuzhi* (*Biographies of Confucian Figures*), published by a Jianyang commercial publishing house (Guo, *Nianpu*, 34b). These contacts did matter with regard to the production of case stories and case stories books. The official Guo Zizhang was made to

be Judge Guo, the leading figure of *Xinmin gong-an*, and this case story book seemed to be produced by the same publisher who worked on official Guo's book in 1596.³³

Conclusion: resources for producing the case stories

Benefiting from the social milieu of the 16th and 17th centuries, their immediate living environment of Jianyang and Nanjing, and their unique social and cultural experience, it is evident that the producers of case story books, mainly book merchants and scholars, were well-equipped with social resources for the production of the case stories and case story books.

For the book merchants, the most significant resources they could bring into the production process were their business acumen, their financial power, and their social connections. With their business acumen, book merchants understood the book market and customers well. Thus, at the very beginning, they could rely on this resource to evaluate the potentiality of publishing case story books to see whether they could make a profit. In the process, they could count on this resource to operate the system and make sure they could produce more products with the least investment. Later, after the books were printed, they would resort to this resource for strategies to sell these books to their audience. The enormous economic power was crucial to book merchants in terms of their book production activities. Only when equipped with this financial capacity could they carry out the project, including purchasing printing materials, obtaining possible manuscripts or relevant information, and either hiring or inviting qualified personnel to work for them. Social connections might help in different ways. Connections within the

³³ According to what Xiao (1991) has listed in the table, when Yongqingtang published Guo's book in 1596, it was under the operation of Yu Chengzhang, the publisher of *Xinmin gong-an* (120).

field would help book merchants get business information and collaboration.

Connections beyond the field, especially with government and officials, would either help them understand their working topic better or create a more friendly business environment for them.

For scholars, their most significant resources would be their literary expertise and their critical-thinking capacity. With their literary expertise, they knew how to write, to edit, and to compile in the best way to catch the readers. Their narratives and comments could feed different tastes of their consumers. They could coordinate illustration, texts, and paratexts to convey all sorts of aesthetic messages to provide the audience with sensuous pleasure. At the same time, their critical thinking brought meanings and social significance to the commercial production and the produced cultural objects. The critical-thinking capacity of the scholar-producers made books informative, educational, inspiring, and questioning. It is important to notice that this critical thinking was not an individual mission or based on individual visions. Instead, it was rooted in orthodox Confucianism and was equipped with a broad moral stand. In that sense, this critical thinking was well-positioned and enjoyed great social power.

To conclude, the producers of the case stories and case story books were mainly book merchants and grass-roots scholars. They were outsiders with respect to the legal and political domains. They knew little about the legal profession and never had the chance to enter the political ring, let alone to exercise the political power. But their unique social background and their special social positions, their living environment, and their diverse social and cultural experiences had provided them the economic power, social power, and literary skills to produce the case stories and case story books.

CHAPTER VII

THE PRODUCTION PROCESS: RESOURCE UTILIZATION

This chapter examines the production process of the case stories and case story books. Following what producers have either stated or implied, the selection, organization, and presentation and promotion as the three key steps of the production process are examined first. Based on what has been revealed in these processes, this chapter discusses the principles, the intentions of the producers, the resource utilizing, and how all these elements are intertwined.

The selection process

The producers of the case stories insisted that they were selectors, compilers, and editors, but not writers. They claimed these case stories were not created by them; instead, these case stories were selected from the existing collections of cases heard by real judges. As Yu Xiangdou, the significant member of the producer group, said, all the case stories included in his *Lianming gong-an* were selected from “the celebrated contemporary collections” (from Abe and Chen 1989, 21). In the preface to *Xinming gong-an*, Wu Qian also clearly stated that the case stories included in this case story book were selected from all the cases the official Guo had heard in the six provinces in which he had held positions. Indeed, according to the producers, the production process of case

stories and case story books started with selecting, not writing.

1. The selection criteria: the explicit

The selection of case stories was based on certain criteria. Some of the criteria were explicitly expressed by the producers while others were treated implicitly.

Being helpful was a criterion explicitly expressed by the producers for case story selection. To say it differently, to be selected, case stories should be helpful to judges in solving cases. In a case story where the judge utilizes a special technique to tell whether a boy is a real son of his father who was in his eighties when he had him, the comment makes the point very clear: “It is a rare case that people in their eighties still can have sons and Judge Bing’s adjudication is also unique. This case story is recorded, therefore, for help in solving cases”(Zhusi, 368).

Indeed, a great number of case stories were included for the incredible “tricks,” miraculous “strategies,” or remarkable detective skills judges show in solving these cases. In the above case, Judge Bing lets the boy in question wear the same clothes with other boys his age to see whether he is more likely to feel cold than the other ones. He also orders the boy to stand in the sun to see whether he produces some shadow. When the judge finds out the boy is more vulnerable to cold than boys in his age and he does not have a shadow when standing in the sun, the judge determines the boy was begotten by the father in his eighties. This kind of technique is believed by the producers to be useful for judges, especially new ones, in solving similar cases. Along the same line, case stories were selected when they were regarded as being able to set examples for how to apply legal rules based on certain circumstances (Zhusi, 22-3), or add to the existing knowledge of medical examination, such as to tell the difference between burning to

death and burning after death (*Zhusi*, 64), or because the verdicts in these case stories are so precise and concise that they should be followed by later comers (*Xiangqing*, 117).

These specific legal helps are shown to be very effective. Because of having had the knowledge that women can get pregnant without having intercourse with men, Judge Fan solves the case without torturing the innocent (*Mingjing*, 193). In the case story “Magistrate Tang detecting the stolen dinner appliance,” when the vice magistrate praises the magistrate for his enormous capacity to solve the case, the magistrate says, that is because he has read the case “Deputy Wu judging the firewood knife” before and has learned the technique from it. “Deputy Wu judging the firewood knife” is a case story included in the case story book *Lianming gong-an*. Indeed, as the comment goes, “referring to the old case stories surely would help to find clues (to solve cases)” (*Zhusi*, 214).

Besides specific techniques, various case stories were selected for their capacity of illuminating the general rules regarding how to hear cases. For example, Judge Yang demonstrates how judges should not only probe the crucial relationships thoroughly, but also consider details that are easily ignored, in the case story “Case Reviewer Yang solving the case based on one single word” (*Lianming*, 7). In the case story “Magistrate Pei detecting the stolen hunting dog,” Magistrate Pei has shown the rule that judges should not take things for granted but should ask more questions (*Zhusi*, 274). It has been proved by Magistrate Gu in the case story that using logic to solve cases might be a better choice than summoning witnesses and applying torture (*Zhusi*, 175). And in certain circumstances, the application of law should be flexible, as Censor Wang’s case

has illustrated (*Mingjing*, 165-6). All these general rules were believed to be helpful for future judges.

Being helpful also means showing and teaching new officials how to be good judges and good officials in general terms. For this purpose, the case story “Magistrate Li examining the injury” is selected for judge Li’s simple, clear, and convenient working style (*Zhusi*, 304). The case story that tells how Judge Wang treats an old woman with mental problems very patiently and helps her receive justice was included because this case story was believed to be able to “serve as the model of respecting the old and being compassionate” (*Zhusi*, 446-7). And more case stories were selected because judges show sympathy with the hardships of people (*Lianming*, 134) or work hard for their subjects (*Lianming*, 237).

Besides “being helpful,” the producers also clearly stated that, to be selected, case stories should be able to provide moral lessons to people. In the case story “the Censorial Official Hu pardoning the righteous fortune-teller,” the real criminal, the fortune-teller, was not found out by the judge. The comment makes it clear that the reason why such a case story in which the judge fails to find out the truth is included is that this case contains various moral lessons for people, including that second-rate men should not keep beautiful wives, and righteous men will be pardoned if they are honest and are able to correct their mistakes (*Zhusi*, 35-36). Also, it is said the case story “Prefect Qi judging the monk committing fornication” was “quite easy” but it was included because it provided moral lessons regarding how to deal with female family members, especially the widowed ones (*Zhusi*, 79).

If “being helpful” is directed more toward judges and officials, “being moral” is aimed more toward ordinary people. These moral lessons are diverse in content. Some case stories were included because they illustrated the moral lessons that men should not be oversuspicious (*Lianming*, 52), men should not dote on their concubines too much (*Xiangqing*, 307-308), or men should be careful about making friends (*Xiangxing*, 141). Some case stories provide warning moral lessons for those “who are greedy and licentious, and do not have benevolence and righteousness” (*Lianming*, 98), for cold-blooded elder brothers (*Zhusi*, 48-49), and for women who expose themselves to the outside world too much (*Xiangqing*, 272).

Some moral lessons serve as advice for everyday life. Case stories reminded people that when families have big events, they should be on guard against thefts and fire (*Zhusi*, 252), and should watch their female family members’ doors closely (*Zhusi*, 79-80). A number of case stories provide lessons in how to secure a good marriage. As one case story teaches: people should follow rules and laws, should not get the marriage done in a hurry, and should be cautious at the beginning and thoughtful about the end (*Xiangxing*, 198). A repeated theme in the case stories was that monks and temples are dangerous and people, especially women, should learn the lessons from the case stories and stay away from them (*Lianming* 162, *Xiangqing*192).

Being helpful and being moral obviously overlap. That readers are able to learn moral lessons from case stories means case stories are helpful to ordinary people. On the other hand, when case stories provide helpful rules regarding how to be good judges and officials, they are providing moral lessons to new judges and up-and-coming officials. More constructive moral lessons were conveyed to judges and officials as the majority of

judges in the case stories were described positively. But certain case stories were selected for providing moral lessons in an opposite way. In those case stories, judges who are not capable, who do not care about their people, and who apply torture to the innocent all have to suffer the dreadful consequence, be it death, insanity, or demotion(*Lianming* 162, *Zhusi* 437).

“Being helpful” and “being moral” are connected. As the comment at the end of the case story “judging monks raping women” argues, “if those who are in the ruling positions can follow what Judge Cai has done (burning down the temple and executing all the monks involved), women’s behavior would be rectified and good morality would prevail in society” (*Xiangqing*, 105). And if both judges and ordinary people learn from what have been conveyed by the selected case stories, a good society might be secured, or as Yu Xiangdou expressed in the preface to his *Lianming gong-an*, “the ways of the world might be upheld in one ten-thousandth (bit of them)” (from Abe and Chen 1989, 21).

The common theme of these two explicitly expressed criteria for selecting case stories is to teach. On the one hand, case stories are selected when they are believed to have the capacity to teach judges and official how to solve cases and how to perform their duties properly. On the other hand, they teach ordinary people how to live morally and how to avoid troubles and stay away from crimes.

2. The selection criteria: the implicit

Some criteria seemed to be less clearly asserted, although they evidently worked in the selection process. At the end of the case story “Magistrate Hu judging and setting the rapist free,” the comment says, “this case is not so extraordinary. The argument that it is

difficult for a single person to rape and the servant girl might resist verbally but accept it in her heart is based on the special circumstance. It can also serve as the example of reducing severe penalties to the lighter one” (*Zhusi*, 76). The next case story, “Prefect Qi judging the monk committing fornication,” was said to be “quite easy” as well, but it was included because it provides moral lessons (*Zhusi*, 79). It is clear if these two cases stories could not serve as examples of how to hear cases or provide moral lessons, they would not have been included because they are too easy and not so extraordinary. The producers did not specifically talk about how sensationalism mattered in their selection process, but the included case stories and their comments gave away the information: case stories would be selected if they are extraordinary, unexpected, stunning, and challenging.

Indeed, a great number of case stories were selected because of their stunning features. For example, “Judge Peng detecting the bisexual” was included as “bisexual persons were unusual”(Zhusi, 145). The case story “Perfect Zhong judging the fierce tiger hurting people” was selected because it “is even more extraordinary” than what had been heard before (*Xiangxing*, 244). The case story “Magistrate Lü judging the falsely accused rapist” was included for the “extraordinary retribution” although the case itself was not “so extraordinary”(Xiangxing, 99). Also, the case story in which a woman who was persuaded by the judge to stay in the marriage met the judge later in a temple when she already had a son with her husband tells an “extraordinary thing” (*Mingjing*, 173). The case story in which the stolen cloth is found with a trick played on a wooden board is “extraordinary” and “coincidental”(Xiangqing, 174).

Being extraordinary and stunning can overlap with being helpful and being moral. “Unexpected,” “astonishing,” “stunning,” and “unusual” case stories serve as valuable precedents to future judges. “Incredible” techniques used in these case stories also provide practical help. And some “extraordinary” case stories do have the capacity to provide ordinary people with valuable moral lessons. For these seemingly ideal case stories, the helpful and moral dimensions would be more emphasized than the sensational aspects.

Not overtly stated either, some case stories seemed to be selected purposefully for providing social critique. *Zhusi gong-an*, for example, includes quite a few case stories that reflect various social problems. At the end of a case story in which a widow was found to have had sex with a monkey, a long comment ensued to discuss the serious social problem of keeping widows from getting remarried (*Zhusi*, 111-7). At the end of the case story “Prefect Wu detecting monks hiding the salt,” the comment elaborates on how the harsh regulations regarding salt transactions have caused various social problems, as the case story has demonstrated. The comment also sighs that while “officers who were ten thousand times worse than Jiang Keji (the offender in the case story) were everywhere,” there were not enough Judge Wus to bring all of them to justice (*Zhusi*, 242-3). At the end of a case story in which the offender is caught and punished by the judge when he tries to seize land from his neighbor by forging a contract, the comment points out fake contracts are quite common. Therefore, this case story was included as one example to notify people who are in charge of legal issues to carefully check those documents (*Zhusi*, 349).

The case story book *Xiangqing gong-an* seems to have a different focus in terms of social critique. Quite a few case stories seemed to be included because the producer believed the punishments were somewhat improper. For example, the punishment assigned to the offenders in the case story “judging robbery by carrying torches” is commented as being “too loose” as it was not inflicted on the followers (*Xiangqing*, 117). On the case story “redressing two unjust cases,” the comment points out one man in the case story should have been sentenced to military exile as his actions lead to the woman’s death (*Xiangqing*, 218). At the end of the case story “detecting not dying from fire,” the producer also expressed different opinions on the offender and his criminal acts (*Xiangqing*, 240).

Organizing the case stories

After the selection, the producers needed to organize the case stories. As discussed in Chapter Three, the producers used crime categories to carry out the task. Although a total of 80 crime categories were used in the seven case story books, the top three most popular crime categories are fornication, homicide, and robbery. If related categories are put together, the top five most popular crime category clusters are homicide, robbery, fornication, property seizure, and deceiving. In Chapter Four, the themes of these five crime category clusters were examined. The following section examines the source of the crime categories and how they are utilized in the production process.

1. Crime categories used in formal legal documents

Using crime categories to organize legal items, cases, and legal documents were conventional practices in the legal profession in the 16th and 17th centuries. Tables 7.1 to

7.3 present the crime categories employed in the dynastic code, the casebook, and the legal handbooks respectively.

Table 7.1: crime categories as seen in the *Great Ming Code*

| The first-level category | The second-level category | Number of items included in the category | Total categories (total items) of the first-level categories |
|--------------------------|-------------------------------|--|--|
| Laws on Personnel | Administrative institutions | 15 | 2 (33) |
| | Official documents | 18 | |
| Laws on Revenue | Households and corvée service | 15 | 7 (95) |
| | Fields and houses | 11 | |
| | Marriages | 18 | |
| | Granaries and treasuries | 24 | |
| | Taxes | 19 | |
| | Monetary obligations | 3 | |
| | Markets | 5 | |
| Laws on Rituals | Sacrifices | 6 | 2 (26) |
| | Ceremonial regulations | 20 | |
| Laws on Military | Guarding palaces | 19 | 5 (75) |
| | Military administration | 20 | |

| | | | |
|--------------------------|-------------------------------|-----|----------|
| Affairs | Guard posts and fords | 7 | |
| | Stables and herds | 11 | |
| | Postal relay stations | 18 | |
| Laws on Penal Affairs | Violence and robbery | 28 | 11 (171) |
| | Homicide | 20 | |
| | Affrays and batteries | 22 | |
| | Cursing | 8 | |
| | Accusation and suits | 12 | |
| | Accepting illicit goods | 11 | |
| | Deceiving and counterfeiting | 12 | |
| | Committing fornication | 10 | |
| | Miscellaneous offenses | 11 | |
| | Arrests and escapes | 8 | |
| | Judgment and imprisonment | 29 | |
| Laws on Public Works | Construction and manufactures | 9 | 2 (13) |
| | Dikes | 4 | |
| Total | 29 | 413 | |

Table 7.2: Categories of crimes as seen in the casebook *Zheyu xinyu*

| Categories | Number of cases included | |
|-------------|--------------------------|-----|
| Marriages | 26 | 12% |
| Inheritance | 16 | 8% |

| | | |
|------------------------------|-----|------|
| Property | 24 | 11% |
| Deceiving and counterfeiting | 57 | 27% |
| Fornication | 33 | 16% |
| Robbery | 14 | 7% |
| Money and grain (taxes) | 7 | 3% |
| Mistakes | 4 | 3% |
| Severe cases | 10 | 5% |
| Cases of injustice | 19 | 9% |
| 10 categories in total | 210 | 100% |

Table 7.3: Crime categories included in two legal handbooks: *Xiaocao yibi* and *Zheyu qibian*.

| Title of the handbook | Categories included | Numbers of documents or cases included in the category³⁴ |
|------------------------------|-------------------------------|--|
| <i>Xiaocao yibi</i> | Homicide | 10 (documents) |
| | Robbery | 10 |
| | Households and corvée service | 7 |

³⁴ Usually one case would include three pieces of documentation: the complaint from the plaintiff, the complaint from the defendant, and the verdict from the judge. In some handbooks such as *Zheyu qibian*, exemplary legal documents are presented in this style, while in others, such as in *Xiaocao yibi*, they are not.

| | | |
|---------------------|-------------------------------|-----------|
| | Family property | 16 |
| | Fields and houses | 28 |
| | Graveyards | 4 |
| | Marriages | 20 |
| | Gornication | 4 |
| | Deceiving | 26 |
| | Monetary obligations | 13 |
| total | 10 | 134 |
| <i>Zheyu qibian</i> | Homicide | 6 (cases) |
| | Robbery | 6 |
| | Graveyards | 2 |
| | Seizing property | 9 |
| | Deceiving | 17 |
| | Marriages | 12 |
| | Debts | 10 |
| | Households and corvée service | 9 |
| | Affrays and batteries | 3 |
| | Inheritance | 10 |
| | Fornication | 5 |
| | Exoneration | 8 |
| total | 12 | 97 |

As a dynastic code, the *Great Ming Code* includes crime categories covering all aspects of government affairs and social lives. As illustrated by Table 7.1, although “laws on revenue” and “laws on penal affairs” include more categories and therefore many more items than the others, the emphasis on certain crime categories is not dramatic in the *Great Ming Code*.

Casebooks usually contain verdicts composed by local magistrates. In 16th and 17th century China, compiling and publishing cases heard during their tenures was a popular practice for local magistrates. To organize cases and verdicts, authors of casebooks utilized various styles, including crime categories. Table 7.2 demonstrates the crime categories and their included cases identified in the casebook *Zheyu xinyu* (*The New Verdicts of Judging Cases*), which is authored by Li Qing, who served as the judge of Ningbo prefecture, Zhejiang province, starting in the year 1631.

As Table 7.2 shows, *Zheyu xinyu* uses only ten categories. Compared to the ones utilized in the *Great Ming Code*, categories used here are obviously oriented toward local affairs, such as marriages, inheritance, property, taxes and so on. While most of the crime categories can be traced back to the *Code*, *Zheyu xinyu* does invent some new categories such as “money and grain” and “inheritance.” Some new categories, such as “severe cases” and “cases of injustice,” seem to have been created for utilitarian purposes instead of legal purposes.

Legal handbooks published in the 16th and 17th centuries were to inform both new legal practitioners and those who were interested in legal affairs how the legal profession worked, such as how to prepare various legal documents. Both *Xiaocao yibi* (*the Surviving Records of Xiao and Cao*) and *Zheyu qibian* (*An Extraordinary Collection of*

Case Solving) examined in table 7.3 were legal handbooks published in this period and are believed to be representative works of this genre.³⁵

2. Borrowing and following

It is quite clear that to organize the case stories, the producers borrowed legal knowledge from formal legal documents. With regard to the crime categories, both the names and the features of the crime categories used in some formal legal works, especially legal handbooks, can be identified in the case story books.

Indeed, case story books seem to have directly borrowed quite a few crime categories from legal handbooks. Twelve out of 16 categories included in the case story book *Lianming gong-an* are exactly the same as the categories included in the legal handbook *Zheyu qibian*.³⁶ Legal handbooks usually collect various legal documents which might or might not relate to crimes directly, such as “certificates,” documents issued by local governments to approve the rights of certificate owners to pursue what they want, such as prostitutes and widows to get married, vulnerable juniors to protect their deserved property, and so on. These certificates would serve as the key evidence when disputes arose around the related issues. For this reason, some handbooks do include “certificates” as a category along with other crime categories.³⁷ This arrangement of legal handbooks might explain the inclusion of “certificates” as a crime category used in some of the case story books, such as *Lianming gong-an*.

The producers did not just borrow the names, but also borrowed certain features of crimes categories as used in legal handbooks and casebooks. As discussed above, crime

³⁵ See preface of *Xiaocao yibi*, the Ming edition.

³⁶ See Table 6.3 and Table 3.2 included in Chapter Three.

³⁷ For example, the legal handbook *pili shoubi* (the Ming edition) puts the category “certificate” together with the crime categories “deceiving”, “graveyards,” and “households and corvée service” in the second chapter.

categories used in legal handbooks and casebooks display different features from the ones included in the *Code*. Crime categories used in the *Code* are more “national” and “central,” thus much broader, while crime categories used in casebooks and legal handbooks are more “local,” thus much narrower in coverage. At the same time, crime categories used in the *Code* are more formal and precise, while crime categories used in casebooks and legal handbooks are less rigid, more descriptive, and oriented more toward practical use. All the features of the crimes categories as demonstrated in legal handbooks and casebooks seem to have been learned by the producers of the case stories. Crime categories included in case story books are also locally oriented. Some categories included in the *Code*, such as rules for regulating the behavior of officials, and crime categories related to the military, are rarely contained in casebooks and legal handbooks, or in the case story books. Crime categories included in the case story books are also descriptive and loose instead of being legally precise.

3. Modifying and changing

However, the process of borrowing crime categories from the formal legal works to organize the case stories might be more complicated than it looks on the surface. Borrowing seemed to happen along with modifying, changing, and developing.

First of all, as soon as the producers borrowed the names of crime categories from the legal handbooks, they changed the emphasis on them. Table 7.2 shows, among the ten categories used in *Zheyu xinyu*, four of them are more popular than the others. “Deceiving and counterfeiting,” “fornication,” “marriages,” and “property” cover 67 percent of all the cases contained by the casebook. Consistent with the structure of categories included in the casebook, the most popular crime categories in the legal

handbooks are “deceiving,” “marriage,” and property-related crimes, be it “fields and houses” in *Xiaocao yibi* or “debts” and “inheritance” in *Zheyu qibian*. But in the case story books, the emphasis is put on the ones related to serious crimes, including “homicide,” “fornication,” and “robbery,” which are hardly the emphasis in legal handbooks, casebooks, let alone in the *Code*.

For works that include identical crime categories, this different emphasis creates different pictures. For example, the case story book *Lianming gong-an* adopts all 12 categories from the legal handbook *Zheyu qibian*. But in the handbook, the four categories that include the most cases are “deceiving,” “marriages,” “debts,” and “inheritance.” Cases covered by these four categories amount to 62 percent of all cases included. In *Lianming gong-an*, though, the most emphasized categories are “homicide,” “seizing property,” “deceiving,” and “robbery,” which amount to 51 percent of all stories contained. The different emphases provide different images of crime-category utilization in different works.

More importantly, when the names of crime categories are borrowed, the connotations of these names and thus the themes of these categories are significantly transformed. As illustrated in Chapter Four, the main theme of the homicide category is killing for wealth and sex, especially killing travelers carrying money; the robbery category focuses on robbery happening on the road; case stories included in the fornication category focus on illicit sex related to monks and illicit sex that leads to life-taking. These themes and focal interests can hardly be found in the corresponding crime categories included in legal handbooks and casebooks. In the fornication category, for

example, quite consistently among the *Code*, legal handbooks, and casebooks, the main concerned group is not monks, but family members, relatives, and neighbors.

And, finally, borrowing also led to creating. Along with the practical features of the crime categories observed in legal handbooks and casebooks, the producers also invented their crime categories for conveniently sorting out case stories, such as “killing due to jealousy” and “licentious monks.” Some categories have little to do with legal cases, such as “filial piety” and “chastity.” Some other categories deviate significantly from the formal expression of crimes, such as “killing due to jealousy” and “licentious monks.” Some other categories are even distant from legal formality, such as “eliminating the demons” and “eliminating the evils.”

Presenting and promoting

Presenting and promoting is the final and crucial step of the production process. To fulfill the major task of this step, i.e., advertising the product, paratexts seem to have played a significant role. As discussed in Chapter Three, paratexts could include the presentation of authorship, prefaces, biographies, commentaries, and so on, in case story books. The following section uses the different titles included in the case story books and some prefixed texts as examples to see how these paratexts worked toward the goal and how the presenting and promoting process might have happened.

1. Titles to attract

Titles of case story books may appear on cover pages, title pages, and pages where new chapters of texts begin. For the same case story book, the essential part of all the titles included would remain the same but the additional information might be different.

Table 7.4 presents the complete titles of the case story books appeared in the most noticeable areas of the books, either on cover pages or title pages.

Table 7.4: Complete titles of the case story books

| Titles | Complete titles appeared on cover pages or title pages |
|-----------------------------|--|
| <i>Lianming gong-an</i> | <i>The newly carved uprightly and magically judged case stories from all [government] departments; the uprightly and magically judged case stories from all [government] departments of the Ming dynasty</i> |
| <i>Zhusi gong-an</i> | <i>The whole pictured and categorized case stories from all [government] departments of the Ming dynasty; the newly carved case stories from all [government] departments of the Ming dynasty</i> |
| <i>Mingjing gong-an</i> | <i>The clear-mirror-like case stories heard by the renowned and finely selected from hundreds of collections ; the newly carved clear-mirror-like case stories magically judged and compiled by the renowned; the newly carved clear-mirror-like case stories magically judged by the renowned</i> |
| <i>Xinmin gong-an</i> | <i>The newly carved refreshing case stories as the case hearing records of Guo Qingluo in six provinces</i> |
| <i>Xiangxing gong-an</i> | <i>The newly carved benevolent case stories magically judged by the renowned of the dynasty</i> |
| <i>Gujin lütiao gong-an</i> | <i>The newly carved present and past cases stories which are</i> |

| | |
|--------------------------|--|
| | <i>related to code items and compiled by Mr. Tang Hairuo</i> |
| <i>Xiangqing gong-an</i> | <i>The benevolent and sentimental case stories selected by Mr. Chen Meigong; the newly carved benevolent and sentimental case stories magically judged by the renowned of the dynasty and selected by Chen Meigong</i> |

What has been highlighted in the titles is quite consistent across all case story books. All seven titles put the first emphasis on the feature that these case books are “newly carved.” “Newly carved” not only implies revisions to the errors found in the old editions and possible inclusion of more new information, but also informs of the good physical quality of the imprints. For woodblock printing, when the carved woodblocks became old, lines of the characters and illustrations would blur. The imprints produced from these blocks would be less legible and more obscure. The newly carved woodblocks surely would have clear and neat lines for characters and illustrations, and the produced imprints would have more legible texts and more attractive illustrations. But carving new woodblocks obviously means a big investment. To save costs, overusing woodblocks or using worn woodblocks to print books might have been common in the 16th and 17th centuries. Yu Xiangdou once complained that the imprint of his fellow publisher was difficult to read because the used woodblocks were worn out (from Qi 2006, 105). Therefore, being “newly carved” not only offers a great attraction to the audience; to present their products as “newly carved” also demonstrates the economic power and business integrity of the publishers.

The main part of the titles focuses on presenting the case stories. In all the case story books, the case stories were presented as being “from all departments of the Ming dynasty,” from the “case-hearing records,” “judged by the renowned of the dynasty,” or “related to code items”. The efforts of connecting the case stories to the government and official judges were coherent with the information contained in the selection criteria and the borrowing of the crime categories from the formal legal works. The purpose was to tell the audience that case stories included in the case story books were real, therefore, were convincing, valuable, and helpful. To emphasize this feature further, many titles have included “from all government departments,” “from all periods,” and “of the dynasty” to describe their included case stories. But this seemingly “authoritative” image was not all the producers wanted. In the titles, these case stories are labeled as “uprightly and magically judged,” “clear-mirror-like,” “refreshing,” “magically judged,” “benevolent,” and “benevolent and sentimental.” At this time, the focus seemed to be put on the process of how these cases were solved and how these case stories could be relevant to commoners.

Besides these common features, two case story books, *Lütiao gong-an* and *Xiangqing gong-an*, do mention in their titles that the included case stories were compiled and selected by Tang Hairuo and Chen Meigong. As mentioned before, in the 16th and 17th centuries, Tang Hairuo and Chen Meigong were big names and they were well recognized in the field. Their participation in commercial publication was extremely valuable. Thus, just like the feature of “newly carved,” the inclusion of the names of Tang Hairuo and Chen Meigong in the titles not only served to attract the consumers but also to advertise the full capacity of the publishers.

One case story book, *Zhusi gong-an*, mentioned in its title that “whole pictures” were included. If as scholars (1998) suggest, the inclusion of illustrations in fiction had already become a convention (Hegel 1998, Hsiao 2007), the little emphasis on this feature seems reasonable.

2. Prefixed texts to accentuate

Regarding the paratexts that are put in front of the case stories in the case story books, three items stand out: the legal documents prefixed to case stories included in the case story book *Lütiao gong-an*, the preface, and the biography attached to the case story *Xinmin gong-an*.

In the case story book *Lütiao gong-an*, a special chapter is arranged before the chapters of case stories. It includes general guidelines of case-hearing, such as the summary of the articles of the *Great Ming Code*, the formulas of sentencing and redemption, questions and answers regarding case-hearing under special circumstances, and some general rules concerning legal affairs. By comparison, the section of the questions and answers regarding case-hearing takes more space than others. For the convenience of memorizing, some of the texts are rhymed. At the end of the chapter, four legal documents under the category “certificates” and three legal documents under the category “documents for exonerating” are included.

If comparing this prefix of *Lütiao gong-an* to legal works published in 16th and 17th century China, be they annotations of the *Great Ming Code*, legal handbooks, or official manuals, it is evident that such prefixed texts could be found in all the mentioned legal works. Thus, the inclusion of these rhymed guidelines and formulas, together with the questions and answers regarding how to hear cases in certain circumstances, in legal

works was conventional. Especially for annotations of the *Code*, this information would often be prefixed to the main text, which focuses on the *Code* and its explications.

It might be safe to say both the content and the format of this prefix text included in *Lütiao gong-an* were borrowed from formal legal works. Indeed, it is already known that the seven legal documents contained in this part are the same as the ones included in the main text of *Lianming gong-an*.³⁸ Thus, *Lütiao gong-an* might have borrowed these documents from *Lianming gong-an*, or both of them from some formal legal works. For *Lütiao gong-an*, the borrowing might have been especially convenient. The producer of *Lütiao gong-an*, Xiao Shaoqu and his publishing enterprise Shijiantang, also published some formal legal works in the 16th and 17th centuries. One of them entitled *Dingjue qinban bianyi lüli zhaodai wangzhang*³⁹ (*The Code and Regulations, Explication of Questions, and the Government Rules*) survived to today (Yang 1987, 47). Being an annotation to the *Great Ming Code*, this formal legal work includes a large amount of relevant legal documents, exemplary legal formats, frequently used legal expressions, and rhymed general rules regarding case-hearing (*Zhaodai wangzhang*, 39-43, 94-8).

Compared to formal legal works, especially the one published by the producer, the legal documents included in the prefixed text of *Lütiao gong-an* seem to be brief and basic. More interestingly, while illustrations are rarely included in formal legal works except the ones for medical examinations, *Lütiao gong-an* contains illustrations at the top of each page where legal information is contained, just like the arrangement for the case stories. Thus, while the prefix included in the case story book *Lütiao gong-an* represents

³⁸ *Lianming gong-an* includes three documents under the category “exonerating” and five documents under the category “certificates.” Except for one document included in the “certificates” category, seven of them are similar to the documents included in *Lütiao gong-an*. But *Lianming* usually includes names and addresses of the persons who petitioned for certificates and exonerations while this information is missing in *Lütiao*.

³⁹ Hereinafter *Zhaodai wangzhang*.

some formal legal knowledge, and makes the case story look like some formal legal work, especially annotations of the *Code*, with the accompanying illustrations, it looks entertaining and this entertaining tone might hurt the formality it tries to maintain.

Xinmin gong-an contains a preface and a biography of the central figure of the collection, Judge Guo, which makes it unique among the seven case story books.

In the preface, the author discusses legal philosophy as reflected in the Confucian classics and how the sages had worked in this field. The basic principle is to alleviate and refresh people by not inflicting severe and excessive laws and penalties on them. According to the author, Guo's extraordinary achievements demonstrate this principle and the case stories included illustrate how Judge Guo applies this principle in the legal field (*Xinmin*, preface, 1-3).

Next to the preface is the detailed biography of Judge Guo, including his family background, his unique childhood, his path to officialdom, but mainly his achievements in various positions as a government official. It also tells the current situation of the Judge and his descendants: the Judge is taking a ministry position in the central government and his three sons are all virtuous persons and are expected to enter officialdom and become great statesmen soon (*Xinmin*, 8-9).

The fact that the real official Guo is not included in the *Biography* of the official history of the Ming dynasty shows that Guo was not among the most prominent officials in reality. It is true he served in two positions in Fujian province right before *Xinmin gong-an* was produced, one as the prefectural judge at Jianning and the other as the administrative commissioner in Fujian (Wu and Jiang 2006, 26). But according to the local gazetteer, from the second year of the Wanli reign (1574) to the end of the

Chongzhen reign (1644), 21 officials served as the magistrate of Jianyang county (*Minguo jianyang xianzhi*, 134), the even more relevant position to the producers, but none of them has been given the same special status of official Guo in the case story books.

It seems it was the personal relevance, instead of the official relevance, of official Guo to the producers that contributed to official Guo's being chosen as the iconic figure in the case story book. As a productive scholar, official Guo maintained a fairly close relationship with the Yu family, the big commercial publishing enterprise, during this period. But more importantly, as suggested by Chen (2007), Wu Qian, the person who wrote the preface, and possibly the author of the biography, and possibly the creator of the case stories included in *Xinmin gong-an*, had a close relationship to official Guo. Wu Qian was from Jiangxi province, the same province of official Guo. In the preface, Wu Qian does use "my" to describe the hometown of official Guo (*Xinmin*, preface, 1).

Therefore, the inclusion of the preface and biography of Judge Guo was to accentuate the message that the case stories included in the case story book were real, official, and legal. But at the same time, it also conveyed some personal relevance and connection. Just as case stories, to be selected, should be relevant to people, the iconic judge, to be chosen, should also have certain personal connections.

Principles and intentions

The examination of the three key steps of production reveals the working principles, the intentions of the producers behind them, and how resources were utilized.

1. The principles

Different, sometimes even paradoxical, criteria, standards, and practices can be observed in the production processes. In the selection process, for example, the explicitly stated criteria are that case stories should be helpful to judges and officials to be selected. Or they should be able to provide moral lessons to people, especially ordinary people, to be included in the case story books. But not so clearly expressed is the idea that some case stories were selected because they were extraordinary, stunning, dazzling, and exciting. While being helpful, being morally meaningful, and being extraordinary might overlap, the first two criteria obviously demonstrate different principles and orientations from the last one. A similar case happened in the organizing process. On the one hand, names of the crime categories are borrowed from the formal legal works directly. Certain features of these crime categories, especially those used in legal handbooks and casebooks, also had been learned and used in case story books. The purpose seems to add some formality to the case stories. But on the other hand, the producers rearranged the crime categories by laying different emphases on them. They also changed the connotations and themes of the borrowed crime categories. The new picture of crime categories included in the case story books seems to be sensational and dramatic. In the presenting and promoting part, this phenomenon is evident as well. The titles of all seven case story books include two sets of vocabularies: government, dynasty, the renowned, code items, case-hearing records on the one hand, and “uprightly, ingeniously, and magically judged,” “clear-mirror-like,” “refreshing,” “magically judged,” “benevolent,” and “benevolent and sentimental” on the other. They are not necessary exclusive of each other, but they are obviously included for different purposes and convey different messages. For the prefixed texts, the legal document chapter attached to *Lütiao gong-an*,

and the preface and biography included in *Xinmin gong-an*, the paradoxical information is as strong. Legal documents are accompanied with illustrations on the top of each page. Judge Guo is powerful and authoritative but he is personally connected to people.

Looking closely, the following messages seem to be consistently expressed in all three steps in the production process: on the one hand, case stories are presented as being connected to the government, government officials, and the legal profession. Therefore, they are real legal cases, they are formal, they are valuable, and helpful. On the other hand, case stories are demonstrated to be extraordinary, dramatic, sensational, and personal. Therefore, they are entertaining and they are relevant to people's everyday lives. Running through the three key steps of the production process, these messages seem to have served as two major principles at work in the production process.

It is worth pointing out that, between these two, the formal, real, and helpful part is explicitly and fully expressed in the case story books while the entertaining part is treated more implicitly.

2. Principles and intentions

These principles served as the links between the producers and the production process. The fact that these principles, although contradicting each other at some points, were consistently applied in all three key steps and that they were well organized and specifically executed proves they were deliberately designed and established by the producers. To a certain extent, these principles were the translations of the intentions of the producers. They reflected, incorporated, and realized the goals of the producers set for the production process.

For the producers of the case stories and case story books, making a profit was the obvious intention. The book merchants were running commercial publishing businesses. It is known that case stories and case story books were produced to sell (Chia 2002). But besides this shared goal, certain sectors of this group, such as the scholars, might have held different intentions. As discussed in the previous chapter, in this commercial publishing business, these grass-roots scholars were not only seeking economic ends, they were also working to fulfill their dreams. Every scholar who had worked hard to pass the civil service examination and enter officialdom had dreams of taking big social responsibilities as, if he did succeed on the path, he would be a government official and would have great influence on society and people via judging cases, educating subjects, and so on. Failing the civil service examination and being attracted to the commercial publishing field did not necessarily make them drop their dreams. Instead, perceiving themselves as participating in a cultural cause might make them recognize there were different venues in which to fulfill these dreams. Through editing, compiling, commenting, and writing, they could criticize society, educate people, express their voices, and so on (Chow 1996, 2004). It is worth pointing out that, being hired by book merchants and having the need to live on commercial writing, scholars of the producer group would also have had the intention to make a profit. On the other hand, as various books merchants did go through the same life course as the scholars, they might hold those big dreams as well.

It is clear that both of the intentions were well incorporated into the production principles.

Especially in the selection process, the intention of taking social responsibility and creating a better government and better society seems to have been fully and overtly expressed. When being helpful and being moral are clearly stated as the criteria for case story selection, the message is that the producers are selecting case stories for judges and officials to help them solve cases but more to help them become good officials. The producers are also helping the ordinary people to learn moral lessons. Being moral, they can commit fewer crimes and avoid troubles for themselves and their family members. To say it differently, through selecting and providing helpful case stories, producers are teaching and educating people, commoners, as well as officials. Selecting case stories thus becomes a big social cause and some part of the big dreams of the producers has been fulfilled by establishing “being helpful” as a working principle for the production process.

But “being helpful” is also the principle that recognizes the producers’ intention of making a profit. As discussed in the previous chapter, in the 16th and 17th centuries, the most popular publications in the commercial publishing business were those for entertaining, including literary collections, novels, and dramas, and those for practical use, including encyclopedias, historical works, and so on. As to case stories, providing moral lessons is of practical use, but providing legal knowledge is an even bigger selling point. Thus, to make case stories more helpful, they need to be formal and be connected to the legal profession. They also need to be real. Case stories could not be simply selected from the existent official case collections. For example, the case stories included in *Xinmin gong-an* were claimed to be selected from the cases heard by the real official Guo. But the real official Guo was known to have little interest in legal affairs. In all the

positions he served across six provinces, only one, the one he served in Jianning prefecture, was purely responsible for hearing cases. Based on the extant information of official Guo's works, it is very unlikely that all the cases heard by him would have been compiled in his lifetime (Wu and Jiang, 2006; also Guo, *Nianpu*). In a word, case stories included in *Xinmin gong-an* could not have been selected from the cases heard by official Guo. But claiming all the case stories were selected instead of being written by the producers has great significance. If these case stories were selected from real cases heard by officials and collected by different departments of the government or renowned officials, they would surely be more valuable in terms of practical use.

Claiming that the case stories had been selected might also serve as a more practical market strategy, which is to convince the government that these were acceptable products. Although only loosely in control, the government still kept an eye on commercial publication. In the year 1532, the provincial surveillance commissioner in Fujian commanded Jianning prefecture to regulate the commercial publishing houses in Jianyang. The main focus was the violation of official style and the poor quality of the reference books for the civil service examination. This provincial administration asked its subordinate official to provide official versions of these books to commercial publishing houses and order them to publish books accordingly (From Zhang 1979, 79). If these case story books included only cases selected from official collections, they should have been acceptable in terms of both style and contents.

And being real can also mean being entertaining. For the commercial publishing businesses operating in 16th and 17th century China, it should be common knowledge that being entertaining was the key selling point. Extraordinary and stunning case stories are

entertaining. If these extraordinary and stunning case stories are real, this entertaining effect might be stronger. It is worth pointing out that being entertaining was treated as an implicit principle in the selection process, but in the presenting and promoting process, before the products were sent to the market, this principle was given a stronger voice and was presented in a more salient style. The inclusion of the pictures is emphasized. The relevance of the case stories and the central figures in the case stories to people was accentuated. More importantly, in the titles of the case story books, big names in the literary field are clearly mentioned, which guaranteed the capacity of the case stories to entertain.

To conclude, while two main intentions of the producers were well incorporated in the working production principles, the presentation and actual emphasis on them were not equal. The intention of taking social responsibility and making a better society through teaching and educating officials as well as ordinary people was overtly expressed in the case story books while the intention of making profit is rarely mentioned in the production process. But the discussion above shows, it was the intention of making profit that was taken better care of by the producers. And it was this intention that was fully and sophisticatedly translated into the production principles.

Resource utilizing

Carrying the intentions of the producers, the production principles seemed to have provided guidance for resource organizing, allocating, and utilizing in the production process.

1. Utilizing the hegemonic legal culture

To realize the intentions of the producers, to make case stories real and helpful, the major resource the producers need to turn to was the official professional legal culture, the hegemonic legal culture in the Ming dynasty. All three steps of the production process have revealed how this special resource was utilized by the social group that was shut out of the political and legal arena and thus had little control over it.

The organizing process clearly demonstrates how the hegemonic legal culture has been borrowed and modified.⁴⁰ It seems that what the producers were interested in in the hegemonic legal culture was mainly the forms, be it the names of the crime categories, some legal terminology, and/or some styles of legal documents. These forms brought the taste of the legal, the formal, the official, and the hegemonic into the case stories and the producers seemed to be satisfied with just that. To make these seemingly alienated forms work in the case stories, the producers inserted what they experienced, what they connected, and what they wanted to express into these forms. In other words, these forms borrowed from the hegemonic legal culture were transformed in terms of their connotations and themes. The result was that terms and styles might be the same while the stories told with these terms and in those styles were totally different.

It is significant to notice that for borrowing what they wanted, the producers mainly turned to legal handbooks, instead of to the *Code* and casebooks. Generally speaking, if all of the formal legal works represent the hegemonic legal culture, legal handbooks

⁴⁰ Borrowing crime categories was only a small aspect of the entire process of utilizing the hegemonic legal culture. Learning legal terminology and legal expressions was evident as well. More significantly, the producers of the case stories borrowed and incorporated formal legal documents included in legal handbooks into their products and made it a unique feature for case story books. But again, it was more than just borrowing. Abe (and Chen 1989) suggests the case stories included in *Xiangxing gong-an* and *Lütiao gong-an* were actually developed from some of the legal documents included in the legal handbooks (22). Because of the lack of related data, it is difficult to verify this argument. But theoretically, it was possible. And if this was the case, the utilization of the hegemonic legal culture would be even more important in the production process.

represent the most vernacularized, grass-roots, and elementary form of the hegemonic legal culture. As discussed above, legal handbooks were published for helping people get into the legal field. The targeted audience would have been both grass-roots scholars and fresh judges. Therefore, on the one hand, legal handbooks had to convey the formal legal knowledge designed and controlled by the government and the official legal culture prevailing in the legal profession. On the other hand, these formal legal knowledge and official legal culture had to be annotated, illustrated, and related to everyday local lives. In a word, all the legal documents included in the legal handbooks had to be arranged to help the new legal practitioners get familiar with the hegemonic legal culture in the most practical, convenient, and relevant manner. Not only do legal handbooks include more legal documents than casebooks and the *Code*, they were also much easier for people, both officials and commoners, to access in the 16th and 17th centuries.⁴¹ Therefore, compared to the *Code* and casebooks, legal handbooks were more accessible, much easier to use, and much more familiar to the producers, and this might explain why it was this type of hegemonic legal culture that the producers worked with.

The presenting and promoting process also illustrates how the hegemonic legal culture was appropriated. The information included in the titles and the prefixed texts shows that the power of being official, governmental, and legal has been recognized and borrowed. But it was a selective recognition and borrowing. The titles tell that not all official legal cases were selected, but only cases which were related to people. Not all officials with authority and merits would be selected for portrayal in the case stories, but only those good officials who are related to people. The implication is if it were not

⁴¹ After *Xiaocao yibi*, the legal handbook among the first published, became popular in the market, many similar ones were published. See preface of *Xiaocao yibi*, the Ming edition. This phenomenon might have to be attributed to the commercial publishing business that flourished during this period.

relevant to people—producers as well as the targeted audience—the authority and power of the government, the officials, and legal affairs would have no effect. Only when they are related to “us” would they be meaningful and be borrowed and utilized.

The selection process reveals an even more interesting aspect of the utilization of the hegemonic legal culture. When case stories were claimed to be selected from real cases heard and collected by officials and the government based on the criteria designed by the producers, the hegemonic legal culture was liable to be commented on, evaluated, and judged by the producers. To say it differently, the producers, although being shut out of the political and legal domains of society, actually managed to empower themselves to not only utilize the hegemonic legal culture, but also to be above the hegemonic legal culture to comment on it and judge it. More importantly, as claimed by the producers, this commenting, judging, and selecting was to help officials to solve cases and to teach them what good officials should look like and how to become good officials. Consistent with this claim, case stories which revealed various social problems would also be selected to remind officials what needed to be done. It is clear that the producers were not just dealing with the hegemonic legal culture. When they were commenting on, evaluating, judging, selecting case stories, they were commenting on, evaluating, and judging those in political and legal positions as well as the political and legal systems in general.

The utilitarian approach toward the hegemonic legal culture was evident. It was not because of the authority, power, and supremacy of the hegemonic legal culture and the respect, admiration, and awe people held toward this hegemony that they would be utilized by the producers in the production process. Instead, they were appropriated and

utilized because they were useful. Elements borrowed from this hegemonic legal culture could convince the audience that case stories could be helpful and of great practical use. To put it in a simple way, the hegemonic legal culture was allocated and utilized according to the market strategy.

It should be also noticed that the producers' dreams of taking social responsibility and making a better society had been brought into this picture as well. Utilizing the hegemonic legal culture, especially in the selection part, provided the producers the chance to express themselves regarding how judges, legal institutions, political systems, and the society in general should work. They selected case stories that revealed social problems to criticize. They also selected case stories to comment on and evaluate the hegemonic legal culture, as well as the much broader political and legal systems. Through selecting case stories especially, the producers were also teaching and helping officials as well as ordinary people. In general, the utilization of the hegemonic legal culture clearly reflects another layer of the producers' intentions.

2. Morality and others

This unique utilization of the hegemonic legal culture was closely related to the appropriation of resources that were less clearly stated in the production process, such as morality. Never clearly defined by the producers, morality seems to be treated as the universal and utmost moral principles and folk beliefs in justice in the case stories. It represents the principles of Heaven. It prevails in all sectors of social life and applies to everybody living in the world, officials as well as commoners. It is universal in terms of its application and utmost in terms of its power. For this reason, in the case stories, the producers clearly convey the message that judges, officials, and legal practices should

follow moral principles, and that justice achieved via legal institutions, just like justice achieved via other venues, should reflect the principles of Heaven. More importantly, in the political and legal domains, legal techniques, legal rules, and political systems govern, but above them are the moral principles. To say it differently, the political and legal domains are just parts of the universe, which is governed by the universal moral principles. Compared to the legal and political rules applied in these domains, moral principles, or the principles of Heaven, work as more basic and more powerful laws.

The utilization of morality as a given resource is evident in the production process. In the selection process, being morally meaningful was set as a key criterion. When case stories were selected for their capacity of providing general rules to officials, these general rules involved moral principles and helped officials become virtuous ones. Case stories were also selected for being able to teach commoners how to be moral in their everyday lives, as the producers clearly stated. In the presenting and promoting process, vocabulary that has been included in the titles of the case story books, such as “uprightly”, “refreshing”, “benevolent,” and “sentimental” all have moral connotations. By the same token, one of the purposes of the preface and the biography included in *Xinmin gong-an* is to show the great moral capacity of judge Guo.

It is clear morality is utilized for ensuring the practical use of the case stories. Moral lessons are important for commoner as well as for officials as morality always involves retributions. Indeed, in the case story books, retribution as a principle of Heaven is emphasized frequently. For common people, the virtuous ones are more likely to receive justice when they are victimized. The immoral ones always bring pain and affliction to themselves and their family members. For judges, if they can practice the principles of

Heaven to help the vulnerable, innocent, and virtuous victims receive justice, they surely would be rewarded. And if they fail to do so, they would be punished by the government as well as Heaven. The awe of morality seems to be recognized. The utilization of morality seems to involve the power and authority of these principles and people's respectful, fearful, mystic feeling toward it. It is in this sense that case stories are helpful and closely related to their audience.

But the utilization of morality seems to serve other purposes as well. If the producers would like to comment on, evaluate, and criticize the hegemonic legal culture and the political and legal practices in general as social members shut out of the political and legal domains, the first question would be how they would legitimize and empower themselves. The answer seems to lie in the power of morality. Putting the political and legal domains in the context of the entire universe, these domains look less significant and less powerful. As other social domains, they are subject to the rule of morality and principles of Heaven. More significantly, the introduction of morality changes the power standing of the producers. In the universe ruled by morality and principles of Heaven, these politically and legally powerless social members could be as powerful as legal officials, as morality is a given resource. They could be even more powerful than the legal officials because they are standing out of the political and legal domains and thus far away from the related immoral practices such as corruption, greed, and so on. They are more conscious of morality and more likely to follow the principle of Heaven. Thus, it was the utilization of the universal moral rules and utmost justice system that provided the producers the legitimacy and foundations to realize their intentions to teach, to take social responsibilities, and to make a better government and society.

To produce the case stories and case stories books, valuable resources such as the literary skills, business acumen, and financial power of the producers should all have played significant roles. However, the utilization of these resources remains quite implicit in the production process. It was in the presenting and promoting process that the producers seemed to openly and proudly present the power of their institutions for the first time to emphasize the quality of the products.

Conclusion

Because of the lack of data, it is difficult to examine many other aspects of the production of the case stories and case story books and resource utilization. For example, according to Zhang (1979), in the 16th and 17th centuries, thousands of workers, for carving, printing, binding, worked in the Jianyang commercial publishing business (80). But it is hardly known how this big team worked. Little information is available regarding how investment decisions were made by book merchants, how merchant clients and scholar employees cooperated, how labor was organized, and how the conventional practices of the business might have impacted the production of case stories.

But this chapter does illustrate that the active role of the producers in the production process and resource utilization was dynamic. Led by their intentions and corresponding principles, the active human agents selected, maneuvered, and activated various resources in the production process. Some possessed resources might not be activated in the production process if they were not relevant while at some point agents might have managed to utilize the resource beyond their possession capacity. Furthermore, the

utilization of some resources was either evident or clearly stated by the agents while the utilization of some resources was implicit.

The most illuminating scenario was the utilization of the hegemonic legal culture. Both book merchants and grass-roots scholars were shut out of the political arena and the legal profession. They had little political power and little legal knowledge. They, therefore, had little to do with the hegemonic legal culture, let alone possess this valuable resource. However, in the production process, not only was this valuable resource utilized, this utilization was also extensively emphasized in the selection, organizing, and presenting and promoting processes. Moreover, this was a very active, conscious, and independent utilization as the hegemonic culture was selected, modified, changed, and even evaluated and judged in the production process. And this utilization was guided by the production principles and thus closely connected to the intentions of the producers.

CHAPTER VIII

CONCLUSION

This chapter summarizes the research findings of this study. It discusses the contributions this research made to the field of the sociology of culture as well as to a better understanding of 16th and 17th century Chinese society. It also points out the directions for future research.

1. The cultural object and the meanings

Approaching the case stories published in 16th and 17th century China as a cultural object, this research reveals its unique features and meanings. The research finding shows that all case stories included in the seven case story books demonstrate the standard format. Almost all of the case stories include formal legal documents, including complaints from plaintiffs, complaints from defendants, and verdicts from judges, in the texts. The formality of these legal documents could be verified by the uniformity of their form and content. In terms of the arrangement of the case stories, almost all of the case stories are classified into crime categories, such as homicide, fornication, robbery, and so on. And finally, most of the case stories include comments at the end, and most of the case stories are accompanied with illustrations, usually one illustration at the top of each page with the text at the bottom.

This research also reveals the coherent meanings conveyed by the case stories about people and society in general and legal affairs in particular. Focusing mainly on the most severe crimes, the case stories not only demonstrate how severe crimes such as homicide, robbery and fornication are closely connected, they also vividly reveal that sex and money are the common basic motivations for all serious crimes. Severe crimes are depicted as more likely to occur in remote and secluded locations and more likely to be committed by marginalized social members, such as monks, people with no regular jobs, and individuals living outside the communities. Indeed, the case stories express deep concern with these rootless individuals who do not have families and regular jobs. Case stories also remind their audience that travelers carrying large amounts of money, such as merchants, are more likely to be victimized when they carelessly expose their money to their greedy and evil travel assistants and helpers on dangerous roads. As for women, the immoral ones and those who have close contacts with immoral men, including husbands, husbands' friends, male guests, and monks, are more likely to be forced, seduced, and trapped into severe crimes and being victimized.

Courtrooms represent the legal order. This legal order is well recognized in the case stories. Judge and runners are depicted as being in the center and being in charge of the courtrooms. They demonstrate great power in controlling the courtroom setting and its visitors. However, this power is not absolute and encompassing; instead, it is negotiable, within its limits, and in some cases, challengeable. The clearly expressed notion is that power stops before the innocent. Relevant to this observation, little aura of awe and terror is attached to courtrooms in case stories. Instead, courtrooms are depicted as

domestic and familial, and therefore, plain and mundane. For average innocent people, courtrooms are not only accessed for justice, but also be accessed for amusement.

Judges' authority is depicted as being conditioned by their capacity for finding out truth and solving cases. Indeed, in the case stories, all judges are evaluated by this criterion. Only judges who are able to find out truth and provide justice are described in positive tones, even if they have to bend moral rules, utilize torture, and employ unconventional tricks to achieve the goal. To evaluate the judges, the case stories introduce a universal justice system and set the human legal justice system as just part of it. In this universal justice system, supernatural powers, be they gods or ghosts, participate in providing justice. Being part of the universal justice system, judges should work with the supernatural to overcome their human limitations to solve cases. More importantly, they have to follow the universal rules, as well as the legal rules, to solve cases and provide justice.

It is evident that these case stories present a unique understanding of crimes, legal institutions, and justice, which constitutes a unique dimension of legal culture. In this legal culture, the focus is not on legal institutions and political power. Instead, it is on the crimes, whether severe or minor, and the process of solving these crime cases. Thus, this legal culture addresses the most immediate concerns and sufferings of ordinary people in their everyday lives. Accordingly, it takes an instrumental approach to courtrooms and the represented legal order and judges and the governmental authorities they represent. Being able to solve crimes cases and alleviate people's concerns and suffering become the criteria by which to evaluate the legal institutions and judges. Moreover, within this legal culture, legal institutions and judges are not the only agency for solving crime cases

and providing justice. The limitations of legal rules and legal agents are well recognized. More confidence and hope are placed in the universal rules of justice, the principles of Heaven, and morality. Obviously, this dimension of legal culture significantly differs from the one the central government tried to disseminate to its subjects, which centers on government authorities, and the one prevailing in the legal profession during this period, which emphasizes the power of legal institutions.

2. To teach and to entertain: the production of the legal culture

These case stories and their embodied legal culture were intentionally produced by a specific social group that was composed mainly of book merchants and grass-roots scholars.

In 16th and 17th century China, both book merchants and grass-roots scholars were shut out of the political and legal domains. They had little political power and little knowledge about the legal profession. However, commercialization flourished during this period and brought about new venues for book merchants and grass-roots scholars to advance their social status; more significantly, it created a unique world for both of them. Within the world of commercial publishing, book merchants and grass-roots scholars played the central roles. They were resourceful human agents living in the center of this world both physically and metaphorically. The book merchants had their business acumen, which helped them understand the book market and customers. They had gained great experience in publishing books. And they knew well how to get their products to their audience. The enormous financial power the book merchants had ensured them materials, personnel, technology, and information for book production. The most significant resources scholars had were their literary expertise and their

capacity for critical thinking. They knew how to write stories and, more significantly, meaningful stories.

More importantly, this commercial publishing world was not isolated but connected. First of all, because of the significant role books played in the lives of the power elite and process of recruiting government officials, the commercial publishing world was well connected to the political world. At the public level, government officials still kept a constant eye on the commercial publishing business, although the control was loose. In addition, it might have been a constant practice that commercial publishing enterprises would be ordered to print a certain amount of books for official use. At the private level, numerous officials serving in positions both close to and far from the publishing centers endorsed the publication of books or had their own books published by the commercial publishing enterprises. Secondly, this commercial publishing world was connected to the legal world. It is worth noting that in the 16th and 17th centuries, the formal legal world seemed to be more open than before. More legal works, including annotations to the *Great Ming Code*, casebooks, and legal handbooks, were published, and circulated in local areas, and thus were accessible to everyone who was in need of them and who was literate. Although the main focus of the commercial publishers was not on legal works, commercial publishers did have experience in publishing legal works, and a significant portion of published legal works was produced by commercial publishing businesses. And finally, the producers lived in the real social world. Sixteenth and 17th century Chinese society witnessed greed, sumptuousness, sexual indulgence, and the erosion of morality. Crimes might have happened more frequently. The producers were as concerned with crimes as other people. Traveling frequently, book merchants might have

felt the threats of the dangerous roads. At the same time, being outsiders with respect to the power realm, the producers also experienced ordinary people's expectations and disappointments toward the legal institutions. The principles of Heaven, the universal and utmost justice system, provided the same basic and final confidence to them as to their next-door neighbors for dealing with injustice in their daily lives. These connections constituted a deep layer of resources the producers could utilize for their production.

The production was a dynamic process. The producers, as active human agents, selected, maneuvered, allocated, and utilized all sorts of resources they brought into the production process. Based on their strong intentions, the producers set up principles and criteria, some clearly stated and some remaining implicit, for the production, and these principles and criteria became the guidelines of resource utilization.

Within the group of producers, there was a shared goal: to attract an audience, make the products popular in the market, and make a profit. At the same time, especially for the scholar-producers, taking social responsibility, attacking social problems, and making a better society served as another intention of the production. To put it simply, if book merchants focused more on profit-making and attracting an audience, and therefore set "to entertain" as the key principle for the production process, the scholars added another key principle, i.e., "to teach," into the production. The production process was thus a joint effort.

To entertain, case stories should be "extraordinary," "exciting," "unbelievable," and "stunning". At the same time, to entertain is to arouse empathy. Case stories should be relevant to the audience to create some level of familiarity and connection. In term of the

structure and format, the case stories and case story books had to include features that had been proved to be welcomed by the audience, such as illustrations and comments, to entertain. The substance for teaching might be multi-layered, including legal knowledge, moral lessons, and how to recognize social problems and evaluate government officials and their accomplishments. Thus, to teach was to help, to educate, and to express. Working around this principle, case stories should be connected to the legal, the official, and the governmental. They should look like and sound like real legal cases. Case stories should also contain meanings, either legal or social or both. These meanings should be identified, discussed, and expounded. In a sense, to teach, case stories should look like authoritative textbooks as well as reflective fables. They should emphasize the practical use of the case stories on the one hand, and the morality and the social critique on the other. Between the principle “to entertain” and the principle “to teach,” the latter was more explicitly expressed in the imprints while the former was much better implemented in the production process.

Guided by these two basic principles, resources were selected, allocated, and utilized. The process can be best illustrated by the utilization of the official legal culture, or the hegemonic legal culture. On the one hand, for the “teaching” purpose, the hegemonic legal culture should be accessed as a crucial resource. Being outside the political and legal domains, the producers did not possess any political power or legal knowledge. However, mainly via local venues, such as formal legal works available at the local level, they managed to connect themselves to the political and legal worlds and thus manage to access the targeted resource. The formats and terms from the hegemonic legal culture were borrowed and the power and authority of the hegemonic legal culture were

recognized. But governed by the “entertaining” principle, this hegemonic legal culture was selected, modified, and developed. The hegemonic legal culture and governmental power should be relevant to common people to be included in the case stories. While the formats and terms were borrowed, the contents and themes were changed. The result was that the focus on legal and political institutions in the hegemonic legal culture was shifted to local people and crimes in case stories. The authoritative nature of the hegemonic legal culture was changed to be instrumental.

3. Understanding 16th and 17th century Chinese society

This research enhances the understanding of legal culture and its production in late imperial China in particular and 16th and 17th century Chinese society in general. By outlining the unique features enjoyed by the dimension of legal culture as presented in the case stories and case story books, this research refutes the idea that the hegemonic legal culture was the singular and all encompassing legal culture in 16th and 17th century Chinese society. It proves the existence of multiple dimensions of legal culture during this period. The discussion of the production process in this research explains how this legal culture was formed and how social categories that were outside of the political and legal domains, such as book merchants and grass-roots scholars, had participated in the legal culture production. It reveals how, benefitted from the social and historical background, especially the economic growth and flourishing commercialization, this social group was able to translate their intentions into production principles, actively utilize the available social resources, and shape the features and assign the meanings to the cultural object they produced. This research also demonstrates the interactions among different dimensions of the legal culture existing in the 16th and 17th social domain,

especially between the dimension of legal culture as presented in case stories and case story books and the hegemonic legal culture as presented in the formal legal works such as the *Great Ming Code*, the casebooks, and legal handbooks. The producers' borrowing, appropriating, transforming, and utilizing the hegemonic legal culture in their producing the legal culture as presented in the case stories and case story books demonstrates the effectiveness and limitations of the dissemination of the hegemonic legal culture, especially how it was received at the local and commercial worlds.

This research serves as an empirical study for a better understanding of 16th and 17th century Chinese society. How to evaluate the social impact of market, merchants, and commercialization has been one of the most debated topics among scholars who are interested in 16th and 17th century Chinese society. The production of case stories, case story books, and their embodied legal culture in the commercial world shows that commercialization, market, and merchants had won their social space, which was somewhat independent from the orthodox and hegemonic domains. This commercial world had its own orientations, was governed by different principles, and picked different big names to celebrate. However, while the impact of this commercial world did spill over to mainstream society, it is also clear that the power of the commercial world could not be transferred to or translated into the power of the political world. Merchants were still shut out of the political arena and the chance of bringing about political change by commercialization and the market was very slim. To say it differently, in 16th and 17th century China, commercialization and the market became powerful social forces, but their impact on changing the nature of society and the course of history should not be overstated.

Moreover, although it has been recognized that in 16th and 17th century Chinese society there existed social groups equipped with different powers, and that constant social conflicts happened among them, the complexity of the issue is far from being well-explored. This research demonstrates the fluidity and complexity of the composition of various social groups and the possible conflicts and interactions between them. Merchants, who aimed at achieving economic power, and grass-roots scholars, who aimed at achieving political power, could come together to produce a popular legal culture that offered resistance against the hegemonic legal culture. In terms of the legal issues, this research not only reveals how different sectors of social members held different views and beliefs toward crimes, legal institutions, and justice, but also demonstrates how they interacted with each other, especially how the local and vernacular dimension of the legal culture articulated with the hegemonic legal culture, and how this process was closely related to social resources and the creativity of human agents.

4. Agents and resources: strengthening theories and methodologies

The research also made both theoretical and methodological contributions to the sociology of culture. By focusing on the producers, this research emphasizes the active role played by human agents in culture production. It agrees with the symbolic interactionist tradition that the producers not only brought the social conditions into the culture production process, they also appropriated, used, and transformed them. But this belief in agentic choices has been balanced by the introduction of the concept “resource”, which connects to structure and social order. Moreover, “resource” is an open concept which is neutral with respect to time and space. It allows plural social elements being

examined in the culture production process and provides the mechanism for the existing theoretical frameworks in the sociology of culture to open up to analyze social phenomena observed in pre-modern, pre-industrial, and non-western societies.

Focusing on agents and resources, situated in 16th and 17th century Chinese society, the production of the legal culture as presented in the case stories and case story books illustrates how “power” and “market” do not have to be dichotomized as suggested by the existing literature in the sociology of culture. Both being elements of social resources, they worked together in the process, overlapped, and were intertwined. On the one hand, “market” left significant marks on the features of the case stories. The case stories and case story books were commodities and it was the book merchants and their commercial publishing enterprises that directed and controlled the production process. Therefore, to attract audience and to sell were always the main focuses. On the other hand, “power” clearly played its significant role in the production process. Standing outside of the political and legal arenas with bitterness over being rejected and a lingering yearning for going inside, the producers, mainly scholars, evidently brought a sense of “resistance” into the production process. To resist, two mechanisms related to power seemed to have been employed. First, in the case stories, the idea that although governmental power, legal orders, and judges were authoritative and intimidating, they could be irrelevant if people happened to be innocent and moral was constantly implied. This idea put the power and authority of government and the hegemonic legal culture at a distance and thus away from the immediate living environment of common people. At the same time, it also implied that government power and hegemonic legal culture were not absolute and all encompassing; instead, they had their limits and they were conditional. Second,

resistance was also achieved through some levels of transcendence. When the producers claimed that all the case stories were selected by them from governmental or official case collections based on the criteria they set up, they were evaluating and judging the hegemonic legal culture. They drew on the universal and utmost moral principles and folk beliefs in justice to empower themselves and to stay above the political and legal domains. Indeed, backed up the universal moral rules and utmost justice system, the human world itself was less significant, let alone officialdom and the legal system.

5. Future research directions

As much has been discussed, much remains to be answered in the future. First of all, because of the lack of data, it is still difficult to know how these case stories were circulated and how the legal culture embodied by these case stories was disseminated among the audience: who read them, what kind of feedback they had, and most importantly, how this local and vernacularized legal culture affected readers' social, cultural, and mainly legal experiences in the future. Second, this research treats case stories included in seven case story books published by seven different commercial publishing enterprises as a single case. Despite the standard format and consistent themes, it is true that each case story book exhibits unique characteristics and possibly carries the unique features of its production institution. The examination of more detailed production contexts of the case stories and case story books would have helped in understanding the structure of these commercial publishing enterprises and their impact on the production process and features of their products. But, again, because of the limited data, it is difficult to go farther than what has been presented here. Third, it is still an unanswered question that why the publishing of case stories and case story

collections suddenly stopped in early 17th century. Was it because the market had been saturated as assumed by scholars or some other social forces had stepped in to stop the trend? Little is known.

For future research, some comparative works seem to be promising. Case stories and their embodied legal culture produced in 16th and 17th century China might be compared to popular detective stories, courtroom dramas, TV shows related to legal affairs in western societies to see how the production of legal culture at the local and popular level differ and are similar to each other. This comparative work would show how producers living in different social contexts engage in the production of this dimension of legal culture and how it would shape the features and meanings of the product. On the other hand, when more attention is given to crime fiction, legal films, and TV programs related to law in contemporary China (Kinkley 2000), a comparative study between case stories and their embodied legal culture produced in 16th and 17th century China and its counterpart in contemporary Chinese society would shed new light not only on the unresolved issues mentioned above but also on the understanding of the Chinese legal culture, history, and society in general. It is a significant question that over the long historical period, what has changed and what has remained the same regarding how people outside of the official and legal domains perceive legal institutions, justice, and governmental powers, and why? The comparison of case stories published and circulated among local people about four hundred years ago to the stories circulating among the contemporary local communities could yield interesting findings.

BIBLIOGRAPHY

The case story books

Huangming zhushi lianming qipan gong-an (The uprightly and magically judged case stories from all [government] departments of the Ming dynasty). 1990 [Ming edition]. Shanghai: Shanghai guji chubanshe.

Huangming zhushi gong-an (The case stories from all [government] departments of the Ming dynasty). 1990 [Ming edition]. Shanghai: Shanghai guji chubanshe.

Mingjing gong-an (The clear-mirror-like case stories). 1990 [Ming edition]. Shanghai: Shanghai guji chubanshe.

Xinmin gong-an (The refreshing case stories). 1990 [Ming edition]. Shanghai: Shanghai guji chubanshe.

Shenduan Xiangxing gong-an (The magically judged benevolent case stories). 1990 [Ming edition]. Beijing: Zhonghua shuju.

Gujin Lütiao gong-an (The past and present case stories related to *Code* items). 1990 [Ming edition]. Shanghai: Shanghai guji chubanshe.

Xiangqing gong-an (The benevolent and sentimental case stories). 1990 [Ming edition]. Shanghai: Shanghai guji chubanshe.

Work cited

- Abbott, Andrew. 1991. "History and Sociology: the Lost Synthesis." *Social Science History* 15(2): 201-238.
- Abe, Yasuki, trans. Chen Tiebin. 1989. "Mingdai gong-an xiaoshuo de bianzuan"(Compiling the case stories in the Ming, part 1). *Suihua shizhuan xuebao* (Journal of the Suihua college) 4:20-34.
- , trans. Chen Tiebin. 1991. "Mingdai gong-an xiaoshuo de bianzuan, xu"(Compiling the case stories in the Ming, part 2). *Suihua shizhuan xuebao* (Journal of the Suihua college) 1:39-51+34.
- Adams, Julia, Elisabeth S. Clemens, and Ann Shola Orloff. 2005. *Remaking Modernity: Politics, History, and Sociology*. Durham: Duke University Press.
- Andre, James ST. 2007. "Reading Court Cases from the Song and the Ming: Fact and Fiction, Law and Literature." In Robert Hegel and Katherine Carlitz, eds., *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment*. Seattle: University of Washington Press. Pp.189-214.
- Bai, Hua. 2003. *Mingqing zhouxianguan qunti* (Local magistrates in the Ming and Qing periods). Tianjin: Tianjin renmin chubanshe.
- Baird, Vanessa A. and Amy Gangl. 2006. "Shattering the Myth of Legality: the Impact of the Media's Framing of Supreme Court Procedures on Perceptions of Fairness." *Political Psychology* 27(4): 579-614.
- Baxandall, Michael. 1985. "Art, Society, and the Bouguer Principle." *Representations* 12: 32-43.

- Bearman, Peter, Robert Faris, and James Moody. 1999. "Blocking the Future: New Solutions for Old Problems in Historical Social Science." *Social Science History* 23(4): 501-533.
- Becker, Howard S. 1976. "Art Worlds and Social Types." In Richard A. Peterson ed., *The Production of Culture*. Beverly Hills: Sage Publications. Pp.41-56.
- , 1982. *Art Worlds*. Berkeley: University of California Press.
- Bennett, W. Lance and Martha S. Feldman. 1981. *Reconstructing Reality in the Courtroom: Justice and Judgment in American Culture*. New Brunswick: Rutgers University Press.
- Berger, Peter L. and Thomas Luckmann. 1966. *The Social Construction of Reality: A Treatise in the Sociology of Knowledge*. New York: Doubleday & Company.
- Berliner, Nancy. 1996. *Beyond the Screen: Chinese Furniture of the 16th and 17th Centuries*. Boston, MA: Museum of Fine Arts.
- Blumer, Herbert. 1969. *Symbolic Interactionism: Perspective and Method*. Englewood Cliffs, N.J.: Prentice-Hall.
- Bogoch, Bryna. 1999. "Courtroom Discourse and the Gendered Construction of Professional Identity." *Law and Social Inquiry-Journal of the American Bar Foundation* 24(2): 329-375.
- Bonnell, Victoria E. and Lynn Hunt. 1999. *Beyond the Cultural Turn: New Directions in the Study of Society and Culture*. Berkeley: University of California Press.
- Bourdieu, Pierre. 1984. *Distinction: A Social Critique of the Judgment of Taste*. Mass: Harvard University Press.
- , 1991. *Language and Symbolic Power*. Cambridge: Polity Press.

- , 1993. *The Field of Cultural Production: Essays on Art and Literature*.
New York: Columbia University Press.
- Briggs, Charles L. 2005. "Communicability, Racial Discourse, and Disease." *Annual Review of Anthropology* 34: 269-291.
- Brokaw, Cynthia J. 1996. "Commercial Publishing in Late Imperial China: The Zou and Ma Family Businesses of Sibao, Fujian". *Late Imperial China* 17(1): 49-92.
- Brokaw, Cynthia J. and Kai-wing Chow. 2005. *Printing and Book Culture in Late Imperial China*. Berkeley: University of California Press.
- Brook, Timothy. 1998a. *The Confusions of Pleasure: Commerce and Culture in Ming China*. Berkeley: University of California Press.
- , 1998b. "Communications and Commerce." In Denis Twitchett and Frederick W. Mote eds., *The Cambridge History of China (vol. 8): the Ming Dynasty, 1368-1644, Part 2*. New York: Cambridge University Press. Pp:582-707.
- Brow, James. 1988. "In Pursuit of Hegemony: Representations of Authority and Justice in a Sri Lankan Village." *American Ethnologist* 15(2): 311-327.
- Cater, Prudence L. 2006. "Straddling Boundaries: Identity, Culture, and School." *Sociology of Education* 79(4): 304-328.
- Cerulo, Karen A. 2000. "The Rest of the Story: Sociocultural Patterns of Story Elaboration." *Poetics* 28: 21-45.
- Chen, Anthony S. 1999. "Lives at the Center of the Periphery, Lives at the Periphery of the Center—Chinese American Masculinities and Bargaining with Hegemony." *Gender and Society* 13(5): 584-607.

- Chen, Baoliang. 2000. "Wanming shengyuan de qijing zhifeng jiqi shanrenhua"(the trend of government students' giving up their status and their hermit-becoming in late Ming), *Shixue jikan* (Collected papers of history studies):34-39.
- . 2004. *Mingdai shehui shenghuoshi*(The history of social life of the Ming dynasty). Beijing: Zhongguo shehui kexue chubanshe.
- . 2005. *Mingdai ruxue shengyuan yu defang shehui* (Government students and local society in the Ming). Beijing: Zhongguo shehui kexue chubanshe.
- Chen, Dakang. 2000. *Mingdai xiaoshuo shi* (The literature history of the Ming dynasty). Shanghai: Shanghai wenyi chubanshe.
- Chen, Guofu. 2007a. "Mingdai xiaoshuo zuojia Wu Haichu shengping yu jiguan xinkao" (Studies on the life and home township of the writer Wu Haichu in the Ming), *Wenxue yichan* (Literature legacy) 4: 15-21.
- . 2007b. "Mingdai fangkan xiaoshuo gaoyuan yanjiu"(The source of manuscripts for commercial publishing houses in the Ming). *Wenxue Pinglun* 3:1-14.
- Chen, Qinghui. 1993. *Li Zhuowu shengping jiqi sixiang yanjiu*(Li Zhuowu, his life and his thoughts). Taibei: Wenjin chubanshe.
- Chen, Xuewen. 1997. *Mingqing shiqi shangyeshu ji shangrenshu zhi yanjiu*(Studies on the commerce books and merchant books of the Ming-Qing period). Taibei: Hongye shiye wenhua.
- Chia, Lucille. 2002. *Printing for Profit: the Commercial Publishers of Jianyang, Fujian (11-17th centuries)*. Cambridge, MA: Harvard University Asia Center for the Harvard-Yenching Institute.

- , 2005. "Of Three Mountains Street: the Commercial Publishers of Ming Nanjing." In Cynthia J Brokaw and Kai-wing Chow eds., *Printing and Book Culture in Late Imperial China*. Berkeley: University of California Press. Pp:107-151.
- Chow, Kai-wing. 1996. "Writing for Success: Printing, Examinations, and Intellectual Change in Late Ming China." *Late Imperial China* 17(1): 120-157.
- , 2004. *Publishing, Culture, and Power in Early Modern China*. Stanford: Stanford University Press.
- Clemens, Elisabeth S. 2007. "Toward a Historicized Sociology: Theorizing Events, Processes, and Emergence." *Annual Review of Sociology* 33: 24.1-24.23.
- Crane, Diana. 1976. "Reward Systems in Art, Science, and Religion." In Richard A. Peterson ed., *The Production of Culture*. Beverly Hills: Sage Publications. Pp.57-72.
- , 1994. *The Sociology of Culture: Emerging Theoretical Perspectives*. Cambridge: Blackwell.
- Crehan, Kate. 2002. *Gramsci, Culture and Anthropology*. Berkeley: University of California Press.
- Crewe, Ben. *Representing Men: Cultural Production and Producers in the Men's Magazine Market*. New York: Berg.
- Cross, Ariela J. 2000. *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom*. Princeton: Princeton University Press.

- Dai, Jian. 2007. "Lun Mingdai gong-an xiaoshuo yu lvzhi zhi guanxi"(Case stories of the Ming and the legal practice). *Jianghai xuekan*(Jianghai academic journal)6: 178-183+239.
- Demerath, Loren. 2002. "Epistemological Culture Theory: A Micro Theory of the Origin and Maintenance of Culture." *Sociological Theory* 20(2): 208-226.
- Demian, Melissa. 2003. "Custom in the Courtroom, Law in the Village: Legal Transformations in the Papua New Guinea." *Journal of the Royal Anthropological Institute* 9(1): 97-115.
- Denisoff, R. Serge and Richard A. Peterson. 1972. *The Sounds of Social Change: Studies in Popular Culture*. Chicago: Rand McNally & Company.
- DiMaggio, Paul. 1990. "Class Authority and Cultural Entrepreneurship: the Problem of Chicago." PONPO Working paper No. 155 and ISPS working paper No.2155.
- . 1992. "Cultural Boundaries and Structural Change: the Extension of the High Culture Model to Theater, Opera, and the Dance, 1900-1940." In Michèle Lamont and Marcel Fournier eds., *Cultivating Differences: Symbolic Boundaries and the Making of Inequality*. Chicago: University of Chicago Press. Pp. 21-57.
- . 2000. "The Production of Scientific Change: Richard Peterson and the Institutional Turn in Cultural Sociology." *Poetics* 28: 107-136.
- Drexler, Peter. 2001. "The German Courtroom Film during the Nazi Period: Ideology, Aesthetics, Historical Context." *Journal of Law and Society* 28(1): 64-78.
- Ewick, Patricia and Susan S. Silbey. 1995. "Subversive Stories and Hegemonic Tales: Toward A Sociology of Narrative." *Law and Society Review* 29(2): 197-226.

- 1998. *The Common Place of Law: Stories from Everyday Life*. Chicago: The University of Chicago Press.
- Fan, Jinmin. 1998. *Mingqing Jiangnan shangye de fazhan* (The commercialization in the Jiangnan area during the Ming and Qing periods). Nanjing: Nanjing daxue chubanshe.
- Fang, Risheng. Ming edition. *Gujin Yunhui juyao xiaobu*(A supplement to the all time illustrations of rhymes and verses). Jianyang.
- Fang, Yanshou. 2001. “Mingdai Jianyang keben guanggao zouyi”(About the commercial advertisements of books published in Jianyang in the Ming). *Wen Xian* (Documents) 1: 177-184.
- 2002. “Jianyang shufang jieshou guansifang weiguo kanyin zhishu”(Jianyang commercial publishing houses publishing books entrusted by the Ming government and individuals). *Wen Xian* (Documents) 3:97-106.
- Fantasia, Rich. 1988. *Cultures of Solidarity: Consciousness, Action, and Contemporary American Workers*. Berkeley: University of California Press.
- Fine, Gary Alan. 1984. “Negotiated Order and Organizational Culture.” *Annual Review of Sociology* 10: 239-262.
- Foucault, Michel. 1980. *Power/Knowledge*. New York: Pantheon Books.
- 1995. *Discipline and Punish: the Birth of the Prison*. New York: Vintage Books.
- Franzosi, Roberto and John Mohr. 1997. “New Directions in Formalization and Historical Analysis.” *Theory and Society* 26(2/3): 133-160.

- Friedman, Lawrence M. 1969. "Legal Culture and Social Development." *Law and Society Review* 4(1): 29-44.
- , 1975. *The Legal System: A Social Science Perspective*. New York: Russell Sage Foundation.
- , 1989. "Law, Lawyers, and Popular Culture." *The Yale Law Journal* 98(8): 1579-1606.
- , 2001. "Illegal Fictions: Mystery Novels and the Popular Image of Crime." *UCLA Law Review* 48: 1411-1430.
- Fuma, Susumu. 1993. "Min shin Jidai no shōshi to soshō seido"(The litigation masters and litigation system of the Ming and Qing). In Umehara Kaoru ed., *Chūgoku kinsei no hōsei to shakai*(China's modern legal system and society). Pp.437-483.
- Gagné, Patricia and Deanna McGaughey. 2002. "Designing Women: Cultural Hegemony and the Exercise of Power among Women Who Have Undergone Elective Mammoplasty." *Gender and Society* 16(6): 814-838.
- Geertz, Clifford. 1973. *The Interpretation of Cultures*. New York: Basic Books.
- , 1983. *Local Knowledge*. New York: Basic Books.
- Genette, Gerard. 1997. *Paratexts: Thresholds of Interpretation*. Cambridge: Cambridge University Press.
- Ghail, Máirtín Macan. 1992. "Teacher's Work: Curriculum Restructuring, Culture, Power and Comprehensive Schooling." *British Journal of Sociology of Education* 13(2): 177-199.

- Gillers, Stephen. 1989. "Taking L.A. Law More Seriously." *The Yale Law Journal* 98(8): 1607-1623.
- Goldman, René. 1995. "Moral Leadership in Society: Some Parallels between the Confucian "Noble Man" and the Jewish Zaddik." *Philosophy East and West* 45(3): 329-365.
- Greenbaum, Jamie. 2007. *Chen Jiru(1558-1639): the Background to Development and Subsequent Uses of Literary Personae*. Boston: Brill.
- Griswold, Wendy. 1986. *Renaissance Revivals: City Comedy and Revenge Tragedy in the London Theatre: 1576-1980*. Chicago: University of Chicago Press.
- , 1987. "A Methodological Framework for the Sociology of Culture." *Sociological Methodology* 17: 1-35.
- , 1989. "Formulaic Fiction: the Author as Agent of Elective Affinity." *Comparative Social Research* 11: 75-130.
- , 1994. *Cultures and Societies in A Changing World*. Thousand Oaks, CA: Pine Forge Press.
- , 2000. *Bearing Witness: Readers, Writers, and the Novel in Nigeria*. Princeton: Princeton University Press.
- Griswold, Wendy, Susanne Janssen, and Kees van Rees. 1999. "Conditions of Cultural Production and Reception: Introduction." *Poetics* 26: 285-288.
- Guan, Guiquan. 2007. "Xinfaxian Ming gong-an xiaoshuo *Qikuaiji*"(*Qikuaiji*, the newly discovered case story book of Ming). *Mingqing xiaoshuo yanjiu*(Journal of Ming-Qing fiction studies)3: 242-254.

- Gui, Youguang. *Sikuquanshu*(*Complete Books of the Four Treasuries*) edition.
Zhenchuan xiansheng ji (Collected essays of Gui Youguang).
- Guo, Jian. 1999. *Diguo suoying: zhongguo lishi shang de yamen* (The miniature of the empire: Yamen in the Chinese history). Shanghai: Xuelin chubanshe.
- Guo, Kongyan. Ming edition. “Zide dafu bingbu shangshu guogong qingluo nianpu”(The chronological life of Lord Guo). In Guo Zizhang, *Ming Dasima Guogong yishu* (Collected writings of Lord Guo). Pp.1a-43b.
- Guo, Zizhang. Ming edition. *Ming Dasima Guogong yishu* (Collected writings of Lord Guo).
- Hall, Stuart. 1997. “The work of Representation.” In Stuart Hall ed., *Representation: Cultural Representations and Signifying Practice*. Thousand Oaks, CA: Sage Publications. Pp:13-64.
- Hegel, Robert E. 1981. *The Novel in Seventeenth-Century China*. New York: Columbia University Press.
- , 1998. *Reading Illustrated Fiction in Late Imperial China*. Stanford: Stanford University Press.
- , 2004. “Imagined Violence: Representing Homicide in Late Imperial Crime Reports and Fiction.” *Zhongguo wenzhe yanjiu jikan* (Bulletin of the Institute of Chinese Literature and Philosophy, Academia Sinica) 25: 61-89.
- , 2005. “Niche Marketing for Late Imperial Fiction.” In Cynthia J Brokaw and Kai-wing Chow eds., *Printing and Book Culture in Late Imperial China*. Berkeley: University of California Press. Pp:235-266.

- , 2007. "The Art of Persuasion in Literature and Law." In Robert Hegel and Katherine Carlitz eds., *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment*. Seattle: University of Washington Press. Pp.81-106.
- and Katherine Carlitz. 2007. *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment*. Seattle: University of Washington Press.
- Hesmondhalgh, David. 2006. "Bourdieu, the Media and Cultural Production." *Media, Culture & Society* 28(2): 211-231.
- Hochschild, Arlie Russell. 1979. "Emotion Work, Feeling Rules, and Social Structure." *The American Journal of Sociology* 85(3): 551-575.
- Hoerber, Francis W. 2001. "Drama in the Courtroom, theater in the Streets: Philadelphia's Irish Riot of 1831." *Pennsylvania Magazine of History and Biography* 125(3): 191-232.
- Holsti, Ole R. 1969. *Content Analysis for the Social Sciences and Humanities*. Reading, MA: Addison-Wesley Publishing Company.
- Hsiao, Li-ling. 2007. *The Eternal Present of the Past: Illustration, Theater, and Reading in the Wanli period, 1573-1619*. Boston: Brill.
- Hu, Yinglin. *Sikuquanshu (Complete Books of the Four Treasuries)* edition. *Shaoshi shanfang bicong*(Notes from the Shaoshi shanfang).
- Huang, Yanbo. 1991. *Zhongguo gong-an xiaoshuo shi (The literature history of crime fiction in China)*. Shenyang: Liaoning renmin chubanshe.

- Hucker, Charles O. 1998. "Ming Government." In Denis Twitchett and Frederick W. Mote eds., *The Cambridge History of China (vol. 8): the Ming Dynasty, 1368-1644, Part 2*. New York: Cambridge University Press. Pp:9-105.
- Huo, Yanfang. 2007. "Xu Xiangdou keshu kaolue"(On Xu Xiangdou's book printing). *Tushuguan xuekan* (Journal of library) 6: 15-23.
- Jiang, Yonglin. 2005. *The Great Ming Code*. Seattle: University of Washington Press.
- Joas, Hans. 1996. *The Creativity of Action*. Chicago: the University of Chicago Press.
- Johnson, David, Andrew J. Nathan and Evelyn S. Rawski. 1985. *Popular Culture in Late Imperial China*. Berkeley: University of California Press.
- Kalberg, Stephen. 1994. *Max Weber's Comparative Historical Sociology*. Chicago: University of Chicago Press.
- Kaufman, Jason. 2004. "Endogenous Explanation in the Sociology of Culture." *Annual Review of Sociology* 30: 335-357.
- Kergoat, Prisca. 2006. "On Indocility at the Workplace: Apprentices and the Working-class Culture." *Sociologie Du Travail* 48(4): 545-560.
- Kinkley, Jeffrey C. 2000. *Chinese Justice, the Fiction: Law and Literature in Modern China*. Stanford: Stanford University Press.
- Kiser, Edgar and Michael Hechter. 1998. "The Debate on Historical Sociology: Rational Choice Theory and Its Critics." *The American Journal of Sociology* 104(3): 785-816.
- Ko, Dorothy. 1994. *Teachers of the Inner Chambers: Women and Culture in Seventeenth-Century China*. Stanford: Stanford University Press.

- Kohm, Steven A. 2006. "The People's Law versus Judge Judy Justice: Two Models of Law in American Reality-Based Courtroom TV." *Law and Society Review* 40(3): 693-727.
- Krippendorff, Klaus. 1980. *Content Analysis: An Introduction to Its Methodology*. Beverly Hills: Sage Publications.
- Kryk-Kastovsky, Barbara. 2006. "Historical Courtroom Discourse: Introduction." *Journal of Historical Pragmatics* 7(2): 163-179.
- Kuklick, Henrika. 1983. "The Sociology of Knowledge: Retrospect and Prospect." *Annual Review of Sociology* 9: 287-310.
- Kuzina, Matthias. 2001. "The Social Issue Courtroom Drama as an Expression of American Popular Culture." *Journal of Law and Society* 28(1): 79-96.
- Lamont, Michèle and Marcel Fournier. 1992. *Cultivating Differences: Symbolic Boundaries and the Making of Inequality*. Chicago: University of Chicago Press.
- Lamont, Michèle and Robert Wuthnow. 1990. "Betwixt and Between: Recent Cultural Sociology in Europe and the United States." In George Ritzer ed., *Frontiers of Social Theory: the New Syntheses*. New York: Columbia University Press. Pp. 287-315.
- Langlois, John D. 1998. "Ming Law". In Denis Twitchett and Frederick W. Mote eds., *The Cambridge History of China: the Ming Dynasty, 1368-1644, Part 2*. New York: the Cambridge University Press. Pp. 172-220.
- Lears, T. J. Jackson. 1985. "The Concept of Cultural Hegemony: Problems and Possibilities." *The American Historical Review* 90(3): 567-593.

- Li, Zhizhong. 1984. "Mingdai keshu shulue" (Studies on the printing in the Ming dynasty). *Wenshi* (Literature and history) 23: 127-158.
- Li, Zhongming. 2003. "Wanming tongshu xiaoshuo kangong kaolue"(A close study on the carvers of vernacular fictions in late Ming). *Mingqing xiaoshuo yanjiu* (Journal of Ming-Qing fiction studies) 4: 234-240.
- Lu, Decai. 2003. *Gudai baihua xiaoshuo fazhan shilun* (Studies on the evolution of the vernacular novels in imperial China). Tianjin: Nankai daxue chubanshe.
- Lustick, Ian S. 1996. "History, Historiography, and Political Science: Multiple Historical Records and the Problem of Selection Bias." *The American Political Science Review* 90(3): 605-618.
- Ma, Y.W. 1973. "Themes and Characterization in the Lung-t'u Kung-an". *T'oung Pao* 59:179-202.
- , 1975. "The Textual Tradition of Ming Kung-an Fiction: A Study of The Lung-t'u Kung-an." *Harvard Journal of Asiatic Studies* 35: 190-220.
- , 1979. "Kung-an Fiction: A Historical and Critical Introduction". *T'oung Pao* 65:200-259.
- MacAulay, Stewart. 1989. "Popular Legal Culture: An Introduction." *The Yale Law Journal* 98(8): 1545-1558.
- Macauley, Melissa. 1998. *Social Power and Legal Culture: Litigation Masters in Late Imperial China*. Stanford: Stanford University Press.
- Machura, Stefan and Peter Robson. 2001. "Law and Film: Introduction." *Journal of Law and Society* 28(1):1-8.

- Machura, Stefan and Stefan Ulbrich. 2001. "Law in Film: Globalizing the Hollywood Courtroom Drama." *Journal of Law and Society* 28(1): 117-132.
- Mahoney, James. 1999. "Nominal, Ordinal, and Narrative Appraisal in Macrocausal Analysis." *The American Journal of Sociology* 104(4): 1154-1196.
- Mahoney, James and Dietrich Rueschemeyer. 2003. *Comparative Historical Analysis in the Social Sciences*. New York: Cambridge University Press.
- Maines, David R. 2001. *The Faultline of Consciousness: A View of Interactionism in Sociology*. New York: Aldine De Gruyter.
- McDermott, Joseph P. 2006. *A Social History of the Chinese Book: Books and Literati Culture in Late Imperial China*. Hong Kong: Hong Kong University Press.
- Mead, George Herbert. 1934. *Mind, Self and Society*. Chicago: University of Chicago Press.
- Meng, Liye. 1996. *Zhongguo gongan xiaoshuo yishu fazhan shi* (A history of case stories). Beijing: Jingguan jiaoyu chubanshe.
- Mertz, Elizabeth. 1994. "Legal Language: Pragmatics, Poetics, and Social Power." *Annual Review of Anthropology* 23: 435-455.
- Meyer-Fong, Tobie. 2007. "The Printed World: Books, Publishing Culture, and Society in Late Imperial China." *The Journal of Asian Studies* 66(3): 781-817.
- Miao, Huaiming. 2000. "Ershi shiji Zhongguo gongan xiaoshuo de huigu yu zhanwang" (Crime fiction research in 20th century China: retrospect and prospect). *Shehui kexue zhanxian* (Social science frontier) 4:120-127.

- , 2001. "Mingdai duanpian gong-an xiaoshuoji de shangye texing yu wenxue ping'e"(The commercial features and literature nature of case story collections of Ming). *Shehui kexue* (Social science) 3:71-75.
- , 2005. *Zhongguo gudai gongan xiaoshuo shilun* (Studies on the history of case stories in ancient China). Nanjing: Najing daxue chubanshe.
- Mills, C. Wright. 1940. " Situated Actions and Vocabularies of Motive." *American Sociological Review* 5(6): 904-913.
- Neuman, W. Lawrence. 2003. *Social Research Methods: Qualitative and Quantitative Approaches*. Boston: Allyn and Bacon.
- Niu, Jianqiang. 1997. *Mingdai zhonghuoqi shehui bianqian yanjiu* (Studies on the social changes witnessed in the mid-and late Ming dynasty). Taibei: wenjin chubanshe.
- Ogasawara, Yuko. 1998. *Office Ladies and Salaried Men: Power, Gender, and Work in Japanese Companies*. Berkeley: University of California Press.
- Ortner, Sherry. 1984. "Theory in Anthropology since the Sixties." *Comparative Studies in Society and History* 26(1): 126-166.
- Otsuka, Hidetaka. 1982. "Koan wahan kara koan shosetsu shu e—'Otsubu Shosetsu no matsu ryu' no wahan kenkyu ni shimeru ichi"(From *huaben* to crime fiction). *Shūkan Tōyōgaku* (Collected papers on East Asian studies) 46: 63-76.
- Peterson, Richard A. 1976. *The Production of Culture*. Beverly Hills: Sage Publications.
- , 1979. "Revitalizing the Culture Concept." *Annual Review of Sociology* 5: 137-166.

- . 1982. "Five Constraints on the Production of Culture: Law, Technology, Market, Organizational Structure and Occupational Careers." *Journal of Popular Culture* 16:143-153.
- . 1985. "Six Constraints on the Production of Literary Works." *Poetics* 14: 45-67.
- . 1997. *Creating Country Music: Fabricating Authenticity*. Chicago: the University of Chicago Press.
- Peterson, Richard A. and N. Anand. 2004. "The Production of Cultural Perspective." *Annual Review of Sociology* 30: 311-334.
- Pierce, Jennifer L. 1995. *Gendered Trials: Emotional Lives in Contemporary Law Firms*. Berkeley: University of California Press.
- Philips, Susan U. 1998. *Ideology in the Language of Judge: How Judges Practice Law, Politics, and Courtroom Control*. New York: Oxford University Press.
- Pomcranz, Kenneth. 2002. "Beyond the East-West Binary: Resituating Development Paths in the Eighteenth-century World." *The Journal of Asian Studies* 61(2): 539-590.
- Posner, Richard A. 1997. "Narrative and Narratology in Classroom and Courtroom." *Philosophy and Literature* 21(2): 292-305.
- Potter, Jonathan and Margaret Wetherell. 1994. "Analyzing Discourse." In Alan Bryman and Robert G. Burgess eds., *Analyzing Qualitative Data*. New York: Routledge. Pp. 47-66.
- Potter, Pitman B. 1994. "Riding the Tiger: Legitimacy and Legal Culture in Post-Mao China." *The China Quarterly* 138: 325-358.

- Qi, Yukun. 2006. "Mingdai Jianyang fangke tongsu xiaoshuo pingxi"(An analysis on the fictions produced by commercial publishing houses in Jianyang in the Ming dynasty). *Fujian Shifandaxue xuebao*(Journal of Fujian Normal University) 1: 104-109.
- Qian, Hang and Chen Zai. 1996. *Shiqi shiji Jiangnan Shehui Shenghuo*(The social life of Jiannan area in the 17th century). Hangzhou: Zhejiang renmin chubanshe.
- Rafter, Nicole. 2001. "American Criminal Trial Films: An Overview of Their Development, 1930-2000." *Journal of Law and Society* 28(1):9-24.
- Rawski, Evelyn. 1985. "Economic and Social Foundations of Late Imperial Culture." In David Johnson, Andrew J. Nathan, and Evelyn S. Rawski eds., *Popular Culture in Late Imperial China*. Berkeley: University of California Press. Pp.3-33.
- Rolston, David L. 1990. *How to Read the Chinese Novel*. Princeton: Princeton University Press.
- , 1997. *Traditional Chinese Fiction and Fiction Commentary: Reading and Writing Between the Lines*. Stanford: Stanford University Press.
- Rosenberg, Charles B. 1989. "An L.A. Lawyer Replies." *The Yale Law Journal* 98(8):1625-1629.
- Rosenberg, Norman. 2001. "Looking for Law in All the Old Traces: The Movies of Classical Hollywood, the Law, and the Cases of Film Noir." *UCLA Law Review* 48: 1443-1470
- Ruggiero, Vincenzo. 2003. *Crime in Literature: Sociology of Deviance and Fiction*. New York: Verso.

- Russell, Thomas D. 1996. "The Antebellum Courthouse as Creditors' Domain: Trial-court activity in South Carolina and the Concomitance of lending and Litigation." *American Journal of Legal History* 40(3): 331-364.
- Sarat, Austin and William L.F. Felstiner. 1988. "Law and Social Relations: Vocabularies of Motive in Lawyer/Client Interaction." *Law & Society Review* 22(4): 737-770.
- Schofield, Philipp R. 1998. "Peasants and the Manor Court: Gossip and Litigation in a Suffolk Village at the Close of Thirteenth Century." *Past and Present* 159: 3-42.
- Scott, James. 1985. *Weapons of the Weak: Everyday Forms of Peasant Resistance*. New Haven: Yale University Press.
- , 1990. *Domination and the Arts of Resistance: Hidden Transcripts*. New Haven: Yale University Press.
- Shepard, E. Lee. 1979. "The Ease and Convenience of the People: Courthouse Locations in Spotsylvania County, 1720-1840." *Virginia Magazine of History and Biography* 87(3): 279-299.
- Shi, Changyu. 2004. *Zhongguo gudai xiaoshuo zongmu, baihuajuan* (Bibliography of Chinese ancient novels, the vernacular volume). Taiyuan: shanxi jiaoyu chubanshe.
- , 2006. "Mingdai gong-an xiaoshuo: leixing yu yuanliu"(Case stories in the Ming: genres and the evolution). *Wenxue yichan*(Literature legacy)3:110-117, 160.

- Somers, Margaret R. 1992. "Narrativity, Narrative Identity, and Social Action: Rethinking English Working-Class Formation." *Social Science History* 16(4):591-630.
- Song, Xiuzhen and Wang Jumei. 2007. "Tang Xianzu yu Mingdai chuban zhi yuan"(Tang Xianzu and the publishing enterprise in the Ming dynasty). *Nanchang daxue xuebao* (Journal of Nanchang university) 36(2):65-69.
- Spillman, Lyn. 2002. *Cultural Sociology*. Malden, MA: Blackwell Publishers Inc.
- Steinmetz, George. 2004. "Odious Comparisons: Incommensurability, the Case Study, and 'Samll N's' in Sociology." *Sociological Theory* 22(3): 371-400.
- Sun, Kaidi. 1958. *Riben Dongjing suojian xiaoshuo shumu* (Bibliography of novels as seen in Tokyo, Japan). Beijing: Renmin wenzue chubanshe.
- Swidler, Ann and Jorge Ardití. 1994. "The New Sociology of Knowledge." *Annual Review of Sociology* 20: 305-329.
- Tan, Fan. 1999. "Lun Zhongguo gudai xiaoshuo pingdian zhi leixing"(On the genres of fiction commentaries in late imperial China). *Wenzue yichan* (Literature Legacy) 4: 79-91.
- Thomas, W.I. and Florian Znaniecki. 1927. *The Polish Peasant in Europe and America*. New York: A. A. Knopf.
- Tillman, Hoyt Cleveland. 1992. *Confucian Discourse and Chu Hsi's Ascendancy*. Honolulu: University of Hawaii Press.
- Twitchett, Denis and Frederick W. Mote. 1998. *The Cambridge History of China (vol. 8): the Ming Dynasty, 1368-1644, Part 2*. New York: Cambridge University Press.

- Vermeer, E.B. 1990. *Development and Decline of FuKien Province in the 17th and 18th Centuries*. New York: E.J. Brill.
- Waley-Cohen, Joanna. 1993. "Politics and the Supernatural in Mid-Qing Legal Culture." *Modern China* 19(3): 330-353.
- Waltner, Ann. 1990. "From Casebook to Fiction: Kung-an in Late Imperial China." *Journal of the American Oriental Society* 110(2):281-289.
- Wang, Huibin. 2000. "Mingdai tuoming xiaoshuo piping xulun"(About the novel commenting in other people's name in the Ming). *Nanchang daxue xuebao* (Journal of Nanchang University) 31(1):85-90.
- Wang, Yangang. 2007. "Lun Mingdai Jianyang tongsu xiaoshuo de chuban" (On the publication of the vernacular fictions in Jianyang during the Ming period). *Neimenggu Shehui Kexue* (Inner Mongolia Social Science) 28(5):114-118.
- Wang, Zhenzhong. 1996. *Mingqing huishang yu huaiyang shehui bianqian* (The Hui merchant group and the social change in the huaiyang area during the Ming-Qing period). Beijing: Sanlian chubanshe.
- Wei, Shiyong. 1991[Ming edition]. (*Wanli*) *Jianyang xian zhi* (Gazetteer of Jianyang county published in the Wanli reign). Beijing: Shumu wenxian chubanshe.
- Wetherell, Margaret, Stephanie Taylor, and Simeon J. Yates. 2001. *Discourse Theory and Practice: A Reader*. Thousand Oaks, CA: SAGE Publications Ltd.
- Wilkinson, Rupert H. 1963. "The Gentleman Ideal and the Maintenance of a Political Elite: Two Case Studies: Confucian Education in the Tang, Sung, Ming, and Ching Dynasties; and the Late Victorian Public Schools (1870-1914)." *Sociology of Education* 37(1): 9-26.

- Williams, Raymond. 1977. *Marxism and Literature*. New York: Oxford University Press.
- Willis, Paul. 1981. *Learning to Labor: How Working Class Kids Get Working Class Jobs*. New York: Columbia University Press.
- Worthington, Heather. 2005. *The Rise of the Detective in Early Nineteenth-Century Popular Fiction*. New York: Palgrave Macmillan.
- Wu, Shuchen. 1994. *Zhongguo chuantong falü wenhua* (The traditional Chinese legal culture). Beijing: Beijing daxue chubanshe.
- Wuthnow, Robert. 1987. *Meaning and Moral Order: Explorations in Cultural Analysis*. Berkeley: University of California Press.
- , 1989. *Communities of Discourse: Ideology and Social Structure in the Reformation, the Enlightenment, and European Socialism*. Mass: Harvard University Press.
- , 1994. *Sharing the Journey: Support Groups and America's New Quest for Community*. New York: the Free Press.
- Wuthnow, Robert and Marsha Witten. 1988. "New Directions in the Study of Culture." *Annual Review of Sociology* 14: 49-67.
- Wu, Chengxue and Li Bin. 2003. "Mingqing ren yanzhong de Chenmeigong" (Chenmeigong in the understanding of people from Ming and Qing dynasties). *Zhongshan daxue xuebao* (Journal of Sun Yatsen University) 1(43): 1-7.
- Wu, Yanhong and Yonglin Jiang. 2006. "Reputation Construction: Judge Guo in Early 17th Century China". *American Review of China Studies* 7(2): 21-35.
- Xia, Xianchun. 2004. "Lun Wanming yinshi Chen Jiru"(On the hermit Chen Jiru in late Ming). *Tianfu Xinlun* (New forum of Tianfu) 3: 131-135.

- Xiaocao yibi* (The writings left by Xiao and Cao). Ming edition.
- Xiao, Dongfa. 1986. “Mingdai xiaoshuojia, keshujia Yuxiangdou”(Yu, Xiangdou, the novelist and publisher in the Ming dynasty). *MingQing xiaoshuo luncong* (Studies on Ming and Qing novels) 4: 195-212.
- . 1991. “Jianyang Yushi keshu kaolue”(Studies on the publishing business of Yu family in Jianyang). In *Lidai keshu gaikuang*(Survey of the publishing history). Beijing: Yinshua gongye chubanshe. Pp.90-146.
- Xiong, Mingqi. 1981[Ming edition]. *Zhaodai wangzhang*(The Code and regulations, explication of questions, and the government rules). Taipei: Xuanlantang congshuben.
- Xu, Jianping. 2004. *Li Zhuowu zhuan* (The biography of Li Zhuowu). Beijing: Dongfang chubanshe.
- Xu, Min. 2005. “Shangye yu shehui bianqian”(Commerce and the social change). In Wan Ming ed., *Wanming shenhui bianqian: wenti yu yanjiu* (The social change in late Ming: problems and studies). Beijing: Shangwu yinshuguan.
- Xu, Zhongming. 2002. *Baogong gushi: Yi ge kaocha Zhongguo falv wenhua de jiaodu* (Stories of Lord Bao: new perspective to examine the legal culture of China). Beijing: Zhongguo zhengfa daxue chubanshe.
- . 2007. *Zhongsheng xuanhua: Mingqing falv wenhua de fudiao xushi* (All voices blared: the polyphonic narratives in the legal culture of Ming and Qing). Beijing: Tsinghua daxue chubanshe.

- Yang, Shengwu. 1987. *Zhongguo banke zonglu* (Bibliography of the woodblock imprints in China). Xi'an: Shaanxi renmin chubanshe.
- Yao, Youze and Wan Wenheng. 1929. *Jiayang xian zhi* (Gazetteer of Jiayang county). Shanghai: Shanghai shudian.
- Yngvesson, Barbara. 1989. "Inventing Law in Local Settings: Rethinking Popular Legal Culture." *The Yale Law Journal* 98(8): 1689-1709.
- . 1990. "Contextualizing the Court: Comments on the Cultural Study of Litigation." *Law & Society Review* 24(2): 467-476.
- Yu, Xiangdou. Ming edition. *Santai Minglü Zhaopan Zhengzong* (The Great Ming Code and the orthodox legal reports and verdicts published by Santai).
- Yuan, Fang. 2007. "Yu Xiangdou 'Pinglinti' chutan"(A preliminary study on Yu Xiangdou's 'Pinglinti'). *Mingqing xiaoshuo yanjiu* (Journal of Ming-Qing fiction studies) 3:219-227.
- Zhang, Dejian. 2006. "Moshi de Mingshi Fengdu"(The style of an intellectual in the last years of the Ming dynasty). *Zhongzhou xuekan* (Academic journal of zhongzhou)1: 224-227.
- Zheng, Peikai. 1995. *Tang Xianzu yu wanming wenhua* (Tang Xianzu and the late Ming culture). Taipei: Yunchen wenhua.
- Zhang, Weiren. 1976. *Zhongguo fazhishi shumu* (Bibliography of Chinese legal history). Taipei: Taiwan shangwu yinshuguan.
- . 1994. "Legal Education in Ch'ing China". In Benjamin A. Elman and Alexander Woodside eds., *Education and Society in Late Imperial China, 1600-1900*. Berkeley: University of California Press. Pp.292-339.

- Zhang, Xiumin. 1979. "Mingdai yinshu zuiduo de Jianning shufang"(Publishing houses in Jianning which produced most books in the Ming). *Wenwu* (Historic relics) 6: 76-80.
- . 1980. "Mingdai Nanjing de yinshu"(Publishing business in Nanjing during the Ming period). *Wenwu* (Historic relics) 11: 78-83.
- . 1989. *Zhongguo yinshua shi*(The printing history of China). Shanghai: Shanghai renmin chubanshe.
- Zheyu Qibian* (The rare collection of case solving). Ming edition.
- Zhu, Hongbo. 1996. "Gong-an xiaoshuo yu fazhi yishi—dui gong-an xiaoshuo de wenhua sikao"(Case stories and the legal consciousness—thoughts on the case story culture). *Mingqing wenxue yanjiu* (Journal of Ming and Qing literature) 3: 41-51.
- Zhu, Wanshu. 2000. "Mingdai xiqu pingdian de xingcheng he fazhan"(The formation and development of the drama commentary in the Ming dynasty). *Dongnan daxue xuebao*(Journal of Southeast University) 2(4): 82-88.
- Zhu, Weigan. 1986. *Fujian Shigao* (The history of Fujian). Fuzhou: Fujian Jiaoyu chubanshe.
- Zou, Zizhen. 2001. *Tang Xianzu zonglun* (Tang Xianzu, a general discussion). Chengdu: Bashu shushe.

VITA

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Scope and Method of Study:

Drawing primarily on literature in the sociology of culture, this research examines the meanings and the production of a special dimension of legal culture in 16th and 17th century China.

Findings and Conclusions:

This research examines the legal culture as presented in 348 case stories published in 16th and 17th century China. It demonstrates how it is significantly different from the hegemonic legal culture prevailed in this period as it focuses on crimes and the judicial process, takes an instrumental approach to courtrooms that represented legal order and judges who represented the governmental authorities, and places more confidence and hope in the universal rules of justice than in legal rules and legal agents. Focusing on human agents, the producers (mainly book merchants and grass-roots scholars), and utilizing the key concept “social resource”, this research reveals how this legal culture was produced. It argues that the producers actively translated their intentions into the production principles, i.e., “to teach” and “to entertain”. Guided by these principles, producers creatively appropriated and utilized the social resources they brought into the culture production process and shaped the features of the legal culture they produced. This research demonstrates how social members who had little legal and political power actively participated in the production and dissemination of legal culture in 16th and 17th century China fueled by economic prosperity and commercialization process. This research strengthens and extends concepts and theories in the sociology of culture.

ADVISER'S APPROVAL: Dr. Jean Van Delinder
