Portrait of justice: The spirit of Chinese law as depicted in historical and contemporary drama

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Abstract
Some scholars doubt whether China has much of a legal tradition, and others have opined that China lacks legal subjectivity from a Western legal perspective. However, various dramas have delineated a legal culture and form of legal subjectivity in China present since ancient times. Unfortunately, relatively less research has been conducted on legal themes in Chinese drama, and even less scholarship has explored Chinese legal tradition through an art perspective. This article takes a modest step toward filling this gap. Selecting multiple cases from the creative industries in China, including ancient stage drama, films, and contemporary television drama across the span of hundreds of years, this article looks into the representations of legal tradition in Chinese performing arts and explores the spirit of law in Chinese society.

Keywords
China, drama, justice, law, legal culture, movie

Introduction
Although justice is an inherently abstract concept which finds expression within virtually all human societies, its essence has to be presented to members of a specific society using various forms of phenomenological embodiment. In the established formal legal system, justice is delineated through the application of general law and derivative rules to particular situations; judges are seen as the embodiment of justice, and their role is to make rulings, which are entitled to override
any private conceptions of justice in particular cases involving disputes or violations of established law. People outside of the court setting and judicial ranks are often eager to contribute to the image or the visibility of justice, and through art forms they endeavor to enhance the legitimacy of the acts of good judgment that have been performed by duly authorized judges and magistrates. Over the course of more than 2000 years, consequently, images of justice have become part of both Chinese legal culture and Chinese general culture. The Chinese people have drawn meaning from these cultural sources, and some Chinese scholars have written about them with noteworthy insight (Curtis & Resnik, 1987).

First, these cultural images generally serve to enhance the legitimacy of the Chinese legal system. They are most typically representations of “justice being done” in particular illustrative cases, and they exemplify the various functions of the legal system to the lay public. Second, these illustrative case-based cultural images reflect the public’s understanding of justice and collectively serve as an especially revered heritage, which acts as a powerful generator of meaning for the concept of justice in the societal culture (Almog & Aharonson, 2004). Those art-based images of justice can serve as a proxy for use in the study of Chinese legal culture. These images actively shape popular legal culture in China even today, and they do so by cultivating particular broadly shared popular perceptions and beliefs about law and the legal profession in China (Salzmann & Dunwoody, 2005).

**Legal tradition and justice images**

Any attempt to discuss the spirit of law in China must begin with a discussion of Confucianism. Confucianism places a clear focus on harmony and depicts social utopia as constituting “a society without lawsuits” (Capowski, 2012; Feng, 2010, p. 3). Harmony has been held as the highest ideal in dispute resolution, and since ancient times officials have focused on avoiding lawsuits and settling arguments through mediation. The ideal Confucian society consists of a wise emperor, virtuous officials, and obedient people. The Chinese traditional legal system has been based, predominantly, on citizen duties and obligations to the group, and not on the exercise or protection of individual rights, or for the advocacy of individual interests. As a member of society, each Chinese citizen clearly understood their individual responsibility to give concessions to each other in disputes, thereby achieving the Confucian goal of social harmony (Feng, 2010).

In addition to Confucianism, two other ideologies, Daoism and Legalism, also play a role in formulating Chinese legal culture. In Daoism, the most essential concept is that of the dao (道). The highest level of the dao is to keep a natural balance and harmony; and if this is done, the level of conflict experienced will be reduced to a minimum. For Legalism, law is used to force people to make good moral decisions, and punishment is used to keep people from making the wrong moral decisions. Chinese society is currently inching its way toward a new form of institutionalized justice reflective of the rule of law, but the persistence of the Confucian, Daoist, and Legalist conceptions of justice remain strong influences in present-day Chinese culture.

Systematic legal reform, started in the 1990s, has aimed to institutionalize a professional, efficient, and fair legal system (Wang, 2011). A large number of legislative enactments have taken place, and China’s court caseloads have grown continuously—although the number of judges has not increased accordingly. Despite these developments in the judiciary, it is broadly argued among scholars of the contemporary Chinese legal system that a serious decoupling persists between Chinese legal institutions and legal practice in China (Liu, 2014). It is widely believed that the reason for this decoupling is a failure to understand the spirit of law in Chinese culture and the
attempt to transplant legal institutions from other countries without sufficient care toward melding with the spirit of Chinese law. Though a largely symbolic transplantation of Western legal practices may gain a certain degree of global legitimacy for China’s legal system, such borrowing of alien legal practices will ultimately fail in its competition with the existing Chinese legal culture it will face, which is so deeply rooted in thousands of years of Chinese history.

Justice images found in the arts, nearly always correlated with the principal aspects of formal legal justice, tend to reflect the prevailing lifestyles of Chinese society and Chinese cultural values, generally reinforcing existing legal norms, legal reasoning, and legal structures (Kamir, 2004). These arts-based images of law and jurisprudence reach vast audiences, and serve to inculcate specific notions of justice; and in the process of doing so, they play a key role in the socialization of individuals and social groups found in Chinese society. Images of justice in the arts, and in the formal legal system in reality, reside in the same social domain—that is, culture. In turn, culture is replete with paradigmatic accounts of experiences that infuse social interactions with cultural context, and these images both influence and are influenced by legal and judicial practice (Lee, 2008). These images, along with some other noteworthy cultural narratives, help form social conventions and shape individual and group identity in China, both historically and in the present.

To Hegel (1956), “subjectivity” in China is concentrated in the supreme Head of the State, and ordinary people do not exist as individual subjects empowered to exercise individual rights protected by a rule of law. However, this situation does not mean that there is a complete absence of Chinese legal subjectivity. Chinese society does lack a clear distinction between family and state, and the distinction between law and morality is muted, with morality being expressed in the form of laws (Ruskola, 2002a, 2002b). As a result of these major differences between Chinese and Western societies, the Chinese version of legal subjectivity has a different expression from that which is found in Western societies. China has a 5000-year long tradition of portraying its form of morality-driven justice through different forms of the dramatic performing arts (Reichman, 2007). These art forms serve as mirrors to reflect the legal culture at the time they were performed. We focus not only on the historical perspective of law and the spirit of law but also on the role of arts as a communicator of idealism and virtue—the need to understand the content of drama so that it will likely be consumed by the Chinese people—this may be different than what we find in the United States. This article identifies and investigates these justice images, and in so doing explores the development of law, legal reasoning, and legal culture in Chinese society. How have justice images found in these dramas changed across different historical eras? We divide the long history of China into three principal periods: the ancient period (prior to 1900), the pre-modern era (prior to 1949), and the modern era (after 1949). We choose typical cases across the long history of Chinese society to examine expressions of legal culture in various forms of dramatic art, and in the process, we document the Chinese spirit of law.

**Gong-an drama and justice in ancient China**

Much popular literature in ancient China featured crime or courtroom themes, and this category of literature gained the name of “gong-an” by the end of the 16th century; this term roughly means “court case.” The court case (gong’an, 公案) drama genre became very popular during the Yuan Dynasty (1271–1368). Interestingly, many magistrates in these gong’an dramas were modeled on the historical figure Bao Zheng, who was a clever and fair justice as well as a clean official who lived in the Song Dynasty; 10% of Yuan plays feature Judge Bao as a major figure. Judge Bao is referred to as “Qing Tian (青天),” literally meaning “blue and clean sky.” This phrase signifies a
Chinese hope that a fair and compassionate official can distribute justice for ordinary people (Zhang, 2016; Zhang, 2016). The legal system during the Yuan Dynasty was in virtually absolute chaos, few if any consistent legal rules were being followed, and there was no fair legal system that could protect people in the lower classes from abuse by exploitative elites. The privileged class was inclined to abuse their power, and corruption was prevalent. Corruption was depicted in stage plays, and honest officials such as Judge Bao intervened to see to it that corrupt officials were justly punished. These dramas represented the “dream of justice” among ordinary people, a dream that could not be realized in the Yuan Dynasty’s chaotic legal system.

One example of a drama in this genre is Judge Bao’s Triple Investigation on the Butterfly Dream. Ge Biao, a villain from an influential family, callously kills the patriarch whose son in turn kills Ge in an act of retribution; the sons are tried for murder. Their stepmother implores Judge Bao not to execute her two stepsons, offering her biological son in their stead. For traditional Confucianism, the sons are filial and the mother is virtuous. Judge Bao is taken aback by the mother’s “virtue and obedience” that deserve to be rewarded with “title and praise (Guan, 2010, p. 44).” He laments that he must rule based on the code of law, which is indifferent to such virtue. Judge Bao then devises a plan to spare the innocent son, putting a horse thief to death in his stead (Guan, 2010). Judge Bao, the embodiment of justice, decides to uphold a traditional Confucian standard rather than be guided by the contemporary legal one. His decision shows the latitude afforded to—and the lax supervision of—local officials in carrying out their decision-making. This drama praises Confucian values such as filial piety and demonstrated how formalized legal codes unjustly superseded Confucian legal structures. This drama is regarded as a critique of the impunity afforded the Mongols under the Yuan Dynasty law and social order.

Unlike the dramas featuring Judge Bao, the courts in many dramas in this genre were portrayed as a place of corruption and dispensation of torture. In the drama Pay a Debt of Gratitude, the benefactor of three knights was falsely convicted and sentenced to death, and the three knights broke into the execution to save their benefactor. One knight in the drama says, “The court is open to the riches, do not come in if you do not have money.” These courts were not associated with distributing justice but rather were haunted by ghosts; the court too often served as the final phase of a social drama that delivers both pain and fear to the public (Muhlhan, 2009).

Another similar drama is depicted in Injustice to Dou E or Snow in Midsummer, written by Guan Hangin (1241–1320), a notable Chinese playwright and poet. The original story is derived from an old folktale about a filial daughter-in-law residing in the Eastern coast area. Dou E’s mother died when she was very young. The father, Dou Tianzhang, sent her as a child bride to the Cai family involved in the usury business because he could not repay loans taken for a trip to the capital to take a civil service exam. Shortly after the marriage, Dou E’s husband dies, but she continues to live with her mother-in-law. Then a villain of Zhang Lüer appears coaxing both women for a marriage, but Dou E firmly declines. Zhang plots to poison the mother-in-law to get Dou E, but he ends up killing his own father by mistake. Dou E is falsely charged with murder in the death of the man. A corrupt magistrate holds a very unfair trial against her, and she is decapitated.

At the public execution, the indignant Dou E pleads to the heavens and those on earth to witness the injustice she has suffered. She cries out, “The court is open to the riches, so many wrong convictions for ages old!” She makes three pledges: (1) that not a single drop of blood will be spilled on the ground, but rather all blood will be splashed on a white silk flag; (2) snow will fall in June, after the execution; and (3) a drought will continue for 3 years in the village. Her father, Dou Tianzhang, who has become a high-ranking imperial emissary, re-enters the play. As a ghost, Dou E appears in his dream, asking him to clear her name. The father discovers that the three vows
made by his daughter at execution all materialized over the course of the next 3 years. *Dou E* describes her plight to her father, and pleads for justice and retribution. Justice would finally prevail in the end with the dismissal of the corrupt magistrate and the execution of *Zhang Lüer*.

Whether it be *Judge Bao’s Triple Investigation on the Butterfly Dream*, or *Injustice to Dou E*, there are three essential ingredients in *gong an* dramas: (1) a crime; (2) the solution and punishment of the crime in a courtroom situation; and (3) a magistrate/judge who solves the crime and punishes the guilty party (McIntyre, 2013). Justice in sentencing and punishment are fundamental themes in these *gong an* dramas. The major task of the court in the drama is to gratify the audience with the criminal being punished. No one doubted the facts or evidence because the crime’s facts and the criminal’s identity are known from the start in the drama. Also, no one doubts that torture instruments were used during the trial. Judge *Bao* may even resort to scare tactics or the use of very extreme forms of interrogation to extract a confession in the courtroom or in prison. Ordinary people have to rely on a fair judge, the superior “blue and clean sky,” for justice to prevail. It reflects the humble social status of ordinary people, who can only kneel down to beg for justice from the authority. These dramas mirror the character of the imperial legal system at that time. Imperial China had no independent judicial system, and the administration of justice was carried out by the Imperial magistrates being seen primarily as administrative officials rather than jurists; the authoritarian magistrate handled the tasks of investigation, holding trial, and the ultimate dispensation of punishment (Gray, 1972).

Supernatural phenomena are frequently used in these dramas. The restoration of justice is often associated with revenge actions of the ghosts of persons who have been wrongly executed. After the revenge, the supernatural phenomena will be removed and cosmic harmony is restored. It is argued by some scholars that the basic Chinese theory of crime and punishment entails preserving *cosmic harmony* (He, 2013). This concept of harmony is deeply rooted in Daoist and Confucian philosophy, and it involves the cosmic order consisting of heaven (*tian*, 天), earth (*di*, 地), people (*ren*, 人) and everything else (*wan wu*, 万物; Wong, 2009). Crime disturbs the cosmic order, and a restoration is required after a disturbance (Van Ver Valk, 1938, p. 70).

A commonplace belief in China concerning crime and punishment shared by virtually all sections of Chinese society is that no crime or sin can escape detection by the watchful spirits over one’s head or inside one’s body, and for every crime committed in life one would be tortured in the underworld (Dau-lin, 1970). From the dramas reviewed above, we can see that justice in Chinese arts focus on revenge, the punishment of criminals, and the restoration of harmony and morality, showing traces of Confucianism, Daoism, and Chinese Legalism. It is argued by many scholars that there is a deeply punitive sense of justice in the Chinese legal system, which is a trait that is quite different from the Western legal system (McIntyre, 2013; Trevaskes, 2012). The traditional Chinese legal system features no presumption of innocence, no guarantees of due process, no right to adversarial litigation, and no right to jury verdicts.

**Qing Dynasty—pre-modern era**

Although the plot of the Yuan drama *Injustice to Dou E* is set in an imperial dynasty many centuries ago, criminal trials conducted by magistrates remain largely unchanged until the end of the 19th century (He, 2013). A very famous wrongful conviction, *Yang Nai Wu and Xiao Bai Cai*, which took place during the *Qing* Dynasty, became a legendary narrative in Chinese drama and fiction. A summary of this movie is provided below (The Chinese Mirror, 2012). *Bi Xiugu* (1855–1930), a native of *Yuhang* County in *Zhejiang* Province, was an attractive girl who often wore a green dress
with a white apron, which gained her the nickname “Xiao Baicai” (Little Cabbage). In 1872, she married a man from her county named Ge Pilian, a humble worker employed in a bean curd factory, who worked long hours and was often in ill health. The neglected young wife’s charms gained her numerous handsome and much wealthier admirers. Among them was a young man named Yang Naiwu (1841–1914), a scholar of writing legal documents. Another admirer was the son of Liu Xitong, the county magistrate, with the powers of policing and trial management. Yang Naiwu completed his degree in 1873 and sought Bi Xiugu as his concubine; the woman’s other suitors were outraged by this action. At this time, her overworked and sickly husband Ge Pilian had fallen ill once more. Bi asked Yang to examine her husband, and after doing so, he gave the woman some fruits stuffed with raw opium, informing her that by eating these poisoned fruits the sick man would soon recover his health. Ge Pilian began to secrete black fluid from his nose and mouth, and died within minutes of consuming the tainted fruits.

The county magistrate Liu Xitong examined Ge Pilian’s corpse himself, and also had his son conduct a second private investigation. After consulting the county physician, Liu imprisoned Bi and Yang and charged them both with murder. He also ordered the coroner to alter the death report to indicate that the deceased had “bleeding from all seven apertures in the head” and, moreover, pressured the local medicine shop to give the false testimony that Yang Naiwu had bought arsenic there. Yang and Bi were then convicted on the basis of this combination of tampered evidence and the testimony offered by false witnesses. Both defendants were sentenced to death by beheading. Although the case was sent to the next level of government—the prefecture—and then to the provincial governor, neither appellate body found any problem with the original decision. Yang’s wife Yang Mei appealed on the basis of the accused having confessed under torture. Yang conducted two petitions directly to the Throne. Meanwhile, the sordid details of the case were leaking out and were reported in the newspaper, leading to widespread public indignation.

Eventually, the Empress Dowager Ci Xi personally intervened and ordered two officials in the Ministry of Justice in the imperial capital to assume charge of the case. A new trial was to be held jointly by the Ministry and two other judicial bodies. An autopsy concluded that the death was not caused by arsenic but rather by an illness, most likely cholera. The tampered evidence and false witnesses produced by the county magistrate were also disclosed. In January 1878, the verdict was reversed and Yang Naiwu and Bi Xiugu were acquitted. Approximately 300 officials who were involved at various levels of government were placed under investigation, which resulted in either the dismissal or banishment into exile of over 30 officials, and over 150 officials received reprimands that meant their careers would see no further promotions in rank.

The movie shows how the three-level legal review system in the late Qing Dynasty—from Prefecture to Provincial to Censorate—failed to find that the convictions had been wrongly decided. The standard procedure for legal review at that time was to refer the case back to the lower level. Although the petition contained very important evidence, the Censorate chose to refer the case back to the Provincial governor who also referred the case back to the Prefecture. Corruption was described in the movie, as was the case in the old dramas derived from the Imperial Era. In the end, the achievement of justice relies on the ruler’s mercy rather than an effective legal system.

**Movie justice in the pre-1949 era**

At the beginning of the 20th century, filmmaking was introduced to China and many early movies drew inspiration for their stories primarily from Beijing opera, old fairy tales, myths, and folklore.
Around that same time, revolutionary legal reforms began and accelerated during the Republican period (1912–1949). During those years, the Chinese criminal justice system underwent a substantial transformation. Police, prosecution, and judges were added to the judicial process, unlike during the Imperial Era wherein only the magistrate handled criminal cases; the role of defense lawyers was recognized for the first time, and modern prisons started to emerge as well. Reformers attempted to promote judicial independence by separating the judiciary from the administrative bureaucracy. Despite these additions to the process, it proved difficult to change the long-established court system and alter the prevailing legal culture; legal system reformers confronted barriers imposed by the highly bureaucratic system. Early Chinese movies not only depicted many suboptimal aspects of the new criminal justice system but also portrayed the anger frequently directed toward the bureaucratic system by people involved in it.

Both negative and positive police figures appeared often in early Chinese movies. Police officers were sometimes depicted as protectors of innocent citizens and guardians of the public order. For example, in the movie *Cosmetics Market* (1933), criminals fired shots, and the police ran to the aid of the victims, while also calling for emergency medical help. After demonstrating proper regard for the crime victims, the police made prompt arrests of suspected criminals. However, most other movies of the period showed the police only as enforcers of a harsh criminal order, where the results of their actions were most often tragic (Conner, 2010). Police were often pictured pursuing their hapless victims, then dragging them off to prison with little regard for their welfare. These movies aimed at disclosing a repressive political and social order, where the police were depicted as the heartless enforcers of repression (Conner, 2010). These movies claimed that the arbitrary and unchecked power of the police was an artifact of the corrupt system of the ancien régime. Frequently the images of police officers presented by these movies were truly frightening. For example, in *Crows and Sparrows* (1949), police officers wore riding boots and quasi-military garb; one scene in particular pictured officers holding big clubs and standing menacingly over a woman who had prostrated herself, kowtowing before them (Conner, 2009; Conner, 2010).

Some movies depicted courtroom operations. There were modern and western-style locales, with courtroom layouts reminiscent of European semi-inquisitorial systems being adopted by the Chinese Republic government. Prosecutors sat on the bench along with the judge, and whose powers were fully equal to that of judges with respect to the court proceedings (Xu, 2008). According to 1913 regulations, there was a separate prosecutorial office from the judicial officials. The style of robes for judicial officials and lawyers appearing in court was different; all the courtroom actors indeed wore black robes but with different borders: black borders for lawyers, gold borders for judges, and purple borders for prosecutors (Conner, 2010). In *Goddess* (1934), the accused person stood in the dock with two police officers standing at either side; judicial officers in black gowns sat on a high platform far above the accused and listened to the arguments presented in court; the defense lawyer wore a plain black robe and made oral argument for his clients (Conner, 2010). Judicial officers were usually depicted as being remote and impassive, displaying no hint of sympathy or emotion. The room setting also tried to sharpen the contrast between the judge’s superior position and the lowly position of the accused, making the judges seem imposing, and the accused appearing as meek, tiny figures (Conner, 2009; Conner, 2010).

In *The Two-Mao Note* (1934), a poor man transporting goods for a gangster for two mao (about US$1) is stopped by the police, and when his cargo proved to be contraband, he was arrested. Eventually, this man was convicted and sentenced to 8 years in prison for this two mao offense. He is standing in the dock without a defense lawyer, facing a stern judge, the clerk, and the
prosecutor, all of whom were sitting behind a high bench. His wife begs the judge to show her husband mercy, but the judge says in response, “This is a court of law, not a place to talk about human feelings!” (Conner, 2010, p. 19).

The lawyers in these early movies were depicted rather favorably, as was the concept of a “right to legal defense” recognized within the republic legal system. This is a big change compared to the Imperial Era in which lawyers were strictly forbidden. The first lawyers’ regulation was announced in 1912, a provision by which lawyers were explicitly allowed to represent the criminally accused at all trials (Conner, 2009). In the mid-1930s, for example, the court in Shanghai was required to appoint a lawyer for defendants accused of any of the most serious crimes (Conner, 2009; Conner, 2010). However, the appearance of lawyers did not bring much hope for those hapless victims of the unjust system. For example, in *Crows and Sparrows*, the lawyer admitted that he did not dare to take on the defense because of the pressure that would be exerted from higher-level officials (Conner, 2009; Conner, 2010).

In some of these movies, people needed help from a lawyer, but they did not have the money to hire one (*Flourishing Like This*, 1937). For example, in *Street Angel* (1937), the lawyer was slick and westernized, sitting in his splendid office, informing his clients of his high hourly rate of consultation. It clearly showed that you need money to get a lawyer in order to gain access to justice, so justice was not possible for poor people. With no hope from the system, the character in this movie exclaimed “any justice except revolutionary justice is denied to China’s poor” (Conner, 2010, p. 28). Lawyers in some movies became activists, working to promote access to representation, and promoting greater awareness of the need for concern for justice. For example, in *Bright Day* (1948), lawyer Yin was outraged by injustice and always defended the poor and weak in his work. He was consistently threatened and attacked due to his efforts to promote social justice; despite the harassment and threats, he never wavered in his determination (Conner, 2010).

Prison conditions were also depicted in some movies, with terrifying scenes being commonplace. Inmates were trapped by a barred gate; dogs barked and shrill police whistles sounded; and in the end, inmates were marched off to their execution with their lethal shots chillingly heard (Conner, 2010). In *The Kind Mother’s Song* (1937), the convicted defendant was locked in a rough cell and slept on straw even in the winter, with snow on the ground; he took the blame to spare his father, who, in fact, was the real criminal. Although many people (including his father) tried in vain to persuade him to tell the truth and set himself free, he rejected their pleas and held to his commitment to take care of one’s parents and give proper respect to the old (Conner, 2010). This movie emphasized the plight of the imprisoned poor and dramatized the trait of filial morality, a core value of Confucian ethics.

These old movies allow us to gain a perspective on the criminal justice system as it operated in the Republican Era prior to 1949. First, we see that legal reform brought certain noteworthy changes; a legal system was created with different professional agents—police, courts, prosecutorial offices, defense lawyers. The Imperial Era, in contrast, featured one magistrate who handled both the investigation and the trial. Second, the legal system was still a tool of ruling, and the poor had little access to the justice system. Third, traditional morality and Confucian values were still the key elements of justice. Fourth, filmmakers showed their disappointment in legal system reform, and some thought that social revolution was the only way to achieve justice for the common man (Conner, 2010). And fifth, modern lawyers formally entered the stage, both in the movies and in the legal field in China. Although only some were depicted as model lawyers, their inclusion and presentation within these films highlighted the desired direction for legal professionals—namely to be righteous, to represent those who need representation, and to fight for those who deserve justice.
Justice in dramas after 1949

The system change, which was desperately sought by those critical filmmakers producing dramas during the Republic Era, was realized after 1949, and a socialist country was established under the leadership of the Communist Party of China (CPC). As part of the new legal culture, justice themes in art formats after 1949 inherited some prominent ideas from the immediate past. It can be argued that after 1949, the punitive conception of justice witnessed in the gong’an dramas from the Imperial Era persisted in stage drama for a longtime (McIntyre, 2013). Images of justice depicted in dramas gradually evolved alongside economic and legal reform since the 1970s. We can break down the years post-1949 into three periods: the Maoist period, the Reform period, and the Post-reform period.

Maoist period (1949–1976)

After 1949, art was used primarily as a tool of propaganda applied to changeable political needs and, accordingly, a heavily politicized discourse can be found in performances during this period—all in accordance with the correct party line (Liao, 2012; Wagner, 1990). For example, in The White-haired Girl (Bai mao nü, 白毛女) produced in 1950, the rich landlord Huang Shiren abuses and rapes a peasant girl Xi Er, who flees to the hills and takes shelter in a cave, where her hair turned white due to lack of sunshine and the absence of salt in her food. After Xi Er was rescued by the government, Huang was arrested and brought to a public trial according to established legal procedures. In that trial, Xi Er testified against him and Huang was executed. When this opera was adapted into a film in 1950, the trial portion was reduced in prominence. Huang was forced to kneel on the ground, while Xi Er cried out her grievances against him; then, a local official signs the document and the crowd drags Huang off-screen to be executed (McIntyre, 2013).

Another example is the reform of Peking opera, where esthetic principles and performance traditions were substantially challenged and revolutionized (Liao, 2012). A series of new plays and model works (Yangbanxi, 样板戏) were created as a form of propaganda to address the class struggle and various political initiatives. An opera, Driven Up to the Mountain Liang (1945) depicted how a low-level official Lin Chong joined the Mountain Liang rebels in the Northern Song Dynasty (Liao, 2012). Grand Marshal Gao Qiu’s foster son tried to molest Lin’s wife but was stopped by Lin. In order to help his son get Lin’s wife, Gao Qiu had set up a trap for Lin and got him convicted of attempted assassination. Lin thus was sent to a distant place (Cang Zhou) for penal servitude. In the original story, Lin protested against mistreatment due to individual anger toward Gao. After reform, his personal hatred for Gao was transformed into a great hostility toward the ruling class (Liao, 2012). In the new ending scene, Lin united local peasants and they became sworn brothers. They decided to become outlaws in the mountain Liang area and started their revolutionary fight against the feudal political and legal system. The type of justice dispensed in revolutionary operas and reformed Peking operas is still very similar to that of the old gong’an dramas; that is, the focus is more on morality than proper legal processes. The only difference between these new dramas and those of the ancient past is that revolutionary operas’ morality is class morality; the correct morality is proletarian morality.

Reform period (1977–1999)

Since 1978, China has gone through tremendous economic and legal reforms, and the changes in the modern era legal system reflect themes found in the popular media to some extent, including
operas, television programs, and feature films. The Chinese government has worked on building a legal system that meets the needs of reform, and dramas have become the means of promoting law and legal consciousness among its audience (Bai, 2008). When a traditional society adopts new institutions and practices in both economy and law, conflicts, confusions, and challenges bring about societal shocks that can push those individuals with great access to education to engage in deep reflection. These reflections appear in some TV dramas as well as in some commercial movies. Those deeply interested in the Chinese legal system would be wise to view a movie entitled The Story of Qiuju produced in 1992, and directed by Zhang Yimou.

Qiu Ju is a woman in the final trimester of her first pregnancy. She lives in a small village with her husband Qinglai, who has been severely hurt by Wang Shantang, the village chief. Qiu Ju wants an explanation of Wang Shantang’s behavior, but he refuses to provide one. Qiu Ju goes to the local police office and lodges a complaint. The policeman suggests that the village chief pay the sum of 200 yuan in damages to Qinglai. Qiu Ju informs Wang Shantang of this decision and he throws the 200 yuan notes onto the ground disdainfully and does not apologize after doing so. Dissatisfied, Qiu Ju then takes her complaint to the provincial capital, to the head of the district police. The district police commander requires Wang Shantang to pay 250 yuan. This decision has no effect on him, and when he still refuses to comply, Qiu Ju returns to the capital where she hires a lawyer to file a new complaint. The court upholds the decision of the district official. This decision disappoints Qiu Ju and she pursues yet another appeal. As a result, officials visit the village and Qinglai is examined by local doctors.

Time passes, winter arrives, and Qiu Ju goes into labor. Complications ensue and Qinglai is so desperate he awakens Wang Shantang in the middle of the night and pleads for help. Reluctantly, he gathers a group of local men and they together take Qiu Ju to the hospital where she gives birth to a healthy baby boy. After 4 weeks, Qiu Ju and Qinglai hold a “one month party” for their son and invite Wang Shantang to attend the celebration. Ironically, he is not able to come as he is being sent to jail to serve a 15-day sentence as the result of Qinglai’s medical exam having finally been revealed, showing that he suffered a broken rib. Realizing this result is not what she wants, Qiu Ju tries to stop the police from taking Wang Shantang away, but this is all in vain. In the last scene, Qiu Ju is standing there with her shocked facial expression.

The advent of reform in China calls for a “rule of law” system, while traditional rural society still embraces the virtues of self-regulation and harmony as the core elements of Chinese justice. Like Qiu Ju says in the move, she only wants a shuofa (说法), which means a just solution for her husband. Qiu Ju, like most of the ordinary people in that small village, is used to the traditional concept of harmony framed in Confucian thought for thousands of years. She is not prepared for the re-established formal social relations institutionalized by the modern legal system. Even though she relies on this legal system for a solution, she really only wants an apology instead of legal responsibility for the village chief. The film Qiu Ju reflects the conflicts between the modern legal reform and the persisting legal culture deeply rooted in Confucian thought.

Once China entered the socialist market economy era, rampant political corruption became a critical issue, posing major challenges to the Party-State. Since the 1990s, millions of the CPC members and cadres were punished by the Party’s discipline inspection system (Bai, 2008). A series of anti-corruption dramas started to emerge, including Heaven Above (Cangtian zaishang, 1995), Pure as Snow (Daxue wuhen, 2001), The Procurator (Guojia gongsu, 2003), The Year of the Dragon (Longnian dang’an, 2003), Behind the Vanity (Fuhua beihou, 2006), Black and White Life (Heibai rensheng, 2008), National Heroes (Guomen yingxiong, 2011), and No One is Witness
Tonight (Jinye wuren zuozheng, 2014). In anti-corruption dramas, there are typically some “clean officials” within the Party who are incorruptible, and they fight resolutely to expose corrupt schemes; eventually, these officials succeed with crucial aid from higher-up Party authorities, most likely from the Central Discipline Inspection Commission (CDIC), the Party’s highest anti-corruption body (Bai, 2008). High volumes of anti-corruption dramas answer the call of building a harmonious society in the early 2000s (Zhu, 2008).

These “clean officials” show their loyalty to country and Party, which can be traced back to Confucianism. The historical icon of “clean officials” is Judge Bao from the Song dynasty (Bai, 2008). In the 1990s, Judge Bao’s gong’an dramas have been adapted into different versions in TV programs and movies: for example, Justice Bao (1993, CTS); Justice Bao (1995, TVB); Justice Bao (1995, ATV). In each of these dramas, Judge Bao solves crimes and punishes villains on the basis of his own intelligence and sterling character. If Judge Bao needs to deal with a special corruption case, the emperor will give him an imperial sword. Using the imperial sword, Judge Bao can execute the corrupt officials without first obtaining approval from the emperor.

In order to try corrupt officials, some of whom are royal members, Judge Bao is provided with three guillotines by the emperor Renzong to be used to execute criminals. One of these guillotines is decorated with a dog’s head (狗头铡) and is used on commoners; one is decorated with a tiger’s head (虎头铡) and is used on government officials; the third one is decorated with a dragon’s head (龙头铡) and is used on royal personages. Although Judge Bao is a fair judge, he uses these three types of guillotines to execute people of different social statuses. The imperial sword and guillotines from the emperor, instead of an effective legal system, are used to control crime and punish corrupt officials. The rule of man, rather than the rule of law, is very deeply rooted in the Chinese legal culture.

Post-reform period (2000–present)

Along with the progress of the market economy and legal reform in recent decades, a series of television operas related to court trials have been produced and televised, where diverse legal agents, including judges, prosecutors, and defense lawyers, are presented demonstrating positive functions within the modern legal system. In these dramas, we see a decline in dogma and ideological abstraction (Chu, 2007). Here, we choose four movies that dramatically illustrate the functionality of these legal agents. The first movie is Judge Zhang’s Story (2004). In this movie, the old widow Mrs. San has a pecan tree that was accidentally cut down by her neighbor Zhu. Zhu tries to compensate her for her loss, but Mrs. San refuses to take the compensation offered. She demands that Zhu fix the broken tree. The case goes to Judge Zhang in the county court. Zhang tries to mediate at first, but Mrs. San insists that the tree be fixed. The case has to go to trial and Zhu is willing to compensate more money to Mrs. San. However, when Zhang announces his decision on compensation, Mrs. San pretends to faint and falls to the ground. Judge Zhang has to stop the proceedings and send Mrs. San to the local hospital. Judge Zhang patiently takes care of Mrs. San. Eventually, he obtains the old lady’s trust, and as a result is able to persuade her to accept just compensation from Zhu. At the same time, Zhang talks with Mrs. San’s daughter-in-law, and teaches her to be filial to her mother-in-law. Finally, Mrs. San is happily back home.

Judge Zhang’s work in this case is probably difficult for Western audiences to understand, but this drama mirrors the real function of judges in local courts throughout China. The judge is more like a mediator in rural local areas, and he/she has to work for the harmony of people’s lives. One
scene in the trial features the confused face of Mrs. San when she is not satisfied by the court’s decision. Her confusion represents the disjunction between thousands years of Chinese legal culture and the modern legal system. This disjunction is what good is law if we are not satisfied. Judge Zhang states, “If people are not satisfied, it means my job has not been done well.” So, for judges in Chinese local courts, their job is not only to decide what is right and wrong for their cases but also to get everyone satisfied with judicial outcomes; only in this way can everyone can live in harmony. This is what people want from the law, and this is the essence of legal culture in China.

The second movie is entitled Silent Witness (2013). A university student by the name of Lin Mengmeng is charged with murdering the starlet girlfriend of her father Lin Tai, a tycoon with a checkered criminal record consisting of multiple charges of fraud over the years. State prosecutor Tong Tao cruises to a seemingly easy conviction until the defense counsel, Zhou Li, throws the case wide open. She manages to provoke Tong’s star witness, Lin Tai’s longtime subordinate Sun Wei, into admitting he murdered the woman as an act of revenge against what he describes as Lin’s long-running affair with his wife. Tong obtains further evidence from Zhou that shows that Lin Tai is the real murderer, a charge that Lin Tai admits within the trial. However, Tong conducts a thorough investigation and finds that Lin Tai actually frames himself with this charge because he wants to save his daughter, Lin Mengmeng. Lin Tai’s words explain his behavior: “something (love for his daughter) is more important than life.”

This movie raises deep issues for the concept of justice in the Chinese cultural context. What is justice? Lin Tai is willing to replace his daughter to accept conviction, stating “Everyone is satisfied with the outcome.” For the Prosecutor Tong, who for 15 years has tried to convict Lin for financial fraud but failed, he can now be satisfied. For the defense lawyer Zhou, she proves that her client Lin Mengmeng is innocent, wins the case, and gets paid. For Lin himself, he is able to save his dear daughter from imprisonment. For the public, they are satisfied because a rich tycoon, instead of a nice university student, turns out to be the murderer. And the audience is also satisfied because of the great love of a father for his daughter. In Silent Witness, we once again witness the same social dynamics found in the gong’an drama popular during the Yuan Dynasty. The key to justice is restoration, not to a legal and rational form of justice, but to a harmonious family, community, and society. In contrast, the “rule of law” reveals that formal legal justice, though loyal to the truth, is an adversarial (and non-harmonious) process—no matter how great the love of the father is for his daughter, evidence cannot be fabricated, and the truth cannot be hidden.

Silent Witness does attempt to pay tribute to formal legal justice. In the end, both defense lawyer Zhou and prosecutor Tong find the truth; Lin Mengmeng decides to tell the truth; and Tong applies for a retrial for Lin Tai. In the last scenes, a video which was previously recorded by Lin Tai is presented in flashback, showing Lin Tai saying to his daughter, “Let bygones be bygones, I hope you can become a kind, principled person after this”; and Lin Mengmeng is seen standing in the pouring rain, repenting. Again, it is the father’s love that causes Lin Mengmeng to gain full redemption. Silent Witness shows that in the Chinese legal culture, the values of harmony and redemption are more important than the attainment of pure and formal legal justice.

However, one weakness of Silent Witness is that certain details fail to be included due to a lack of legal knowledge; a shortcoming that exists in several other dramas related to legal themes. For example, the court trial in China makes use of the inquisitorial system, wherein the court is actively involved in investigating the facts of the case. But judges in Silent Witness are the opposite. The hot debate and cross-examination sequences in this movie are more like those that happen in common law country courts. Also, there are certain procedural mistakes made; for example, at the end of the movie, the prosecutor Tong should protest instead of applying for a retrial.
The third movie is entitled *The Dead End*. Almost 7 years prior to the time within the film, three men were involved in a horrific rape-murder case in *Xilong* city, a case that left a family of five dead and remained unsolved. Since then, the three men have lain low in the provincial capital, *Xiamen*—*Xin Xiaofeng* served as an auxiliary police detective, *Yang Zidao* was employed as a taxi driver, and the simpleton *Chen Bijue* worked as a fisherman-rafter. The three men secretly cared for *Weiba*, the daughter of the raped victim, as an act of personal redemption. When *Xiaofeng* gets a watchful new boss—*Yi Guchun*, also from *Xilong*—he starts to suspect that their days could be numbered. Both he and *Zidao* are unaware that the landlord of the remote house in which they’re living is secretly recording their conversations. *Xiaofeng* and *Zidao* become increasingly uneasy when *Weiba* falls ill and requires surgery to live. A chance meeting at the hospital between the two men and *Yi Guchun* (and his younger sister *Guxia*) fuels *Yi Guchun*’s suspicions that *Xiaofeng* is not all he seems, though he’s impressed by *Xiaofeng*’s personal bravery, especially when the latter rescues a Taiwanese man, who threatens to jump from a high-rise flat.

*Yi Guchun* contacts his former boss, who originally investigated the *Xilong* murder case, and tells him he has a hunch he’s working on. On Chinese New Year, *Guxia* calls *Zidao* for a ride and tells him she likes him. Following a police bust of a gambling den, *Xiaofeng* admits that he stole RMB 4500 (US$725) from the pot, but *Yi Guchun* turns a blind eye. However, when *Yi Guchun* notices that *Xiaofeng* has been spending a good deal of time with the Taiwanese man he earlier saved, he becomes rather suspicious and follows them. *Xiaofeng* and *Zidao* start fleeing, but they have to stop because *Weiba* needs surgery. When *Xiaofeng* and *Zidao* finally confess to the crime they committed 7 years earlier, they request that *Weiba* never learns the truth about her birth.

This movie tells a crime story, but the clear focus is on the three men’s self-redemption. As the narrator at the beginning of this movie says, “what goes around comes around.” The three men’s care of *Weiba*, the victim’s daughter, is one type of self-redemption. While they may have expected that time would make the sense of guilt fade, the guilty feeling inside them instead accumulated along with the growth and maturation of *Weiba*. While these three men cautiously stay hidden and lay low from society, not even daring to go to the hospital when they are hurt, day-by-day they see *Weiba* grow up and fear that one day she will learn the truth and hate them. It is clear that they already are receiving just punishment, not from law but from the guilt in their own hearts. They suffer from guilt and feel relieved when they confess to the police and receive the death penalty. In the Chinese legal culture, justice is reached through punishment, also through genuine redemption and the restoration of harmony. These morality-based goals are presented in *The Dead End*: criminals are punished, and more importantly, they repent before their punishment is delivered.

The fourth movie is entitled *Twelve Citizens* (2014). The plot is based on, and heavily references, the US movie *12 Angry Men*. The Internet Movie Database (IMDb, 2013) website gives a short summary of this movie and sets forth the following key elements. A young man coming from a rich adoptive family murdered his birth father, and the controversy around the case hit a nerve with the public at large. An experiment was held through the form of a “virtual court” inside a college to discuss this hot topic. During the process of the virtual court, 12 Chinese people from different walks of life got together and discussed the case as a jury would. The evidence prepared by the students of the course seemed airtight, and as a consequence it seemed as if the jury would render a guilty verdict. However, one juror, the main character, does not follow the consensus and believes there is reasonable doubt about the guilt of the boy. Through intricate and thought-provoking questions from the main character, people start to think more critically about the case. As a result, the evidence is slowly cross-referenced and re-examined. During this process, one sees the revelation of personal biases and emotional preconceptions about the suspect, about each other,
and also about the broader society. A rich dialogue takes place between different social classes, and that discussion sheds light on the common mistakes we make when prejudices and uninformed judgments are involved. Eventually, one by one the jurors are convinced that there is reasonable doubt and judge the boy to be not guilty. After several tense, fierce rounds of debate, they walked out with a unanimous decision about the case and greater understanding about themselves and the definition of justice. The main character that wanted to see the case through is revealed to be a prosecutor. He then uses evidence revealed from the mock trial to prove the innocence of the boy in the court trial.

Almost all the activities in this movie happen in a big classroom, and no complicated scenes exist. However, the well-designed dialogue among these 12 people depicts a miniature version of current Chinese society. In the beginning, a juror raises a question, “Who should work for justice?” He says, “Law is the judge’s task, not our job.” Most jurors disagree. In the movie, the main character provokes all jurors to think about the young man as someone deserving of justice. Together they start thinking deeply, examine the evidence in the documents provided, and find the flaw in the prosecutor’s case. The flaw is rather obvious, but they would not have found it if they had stuck to their inherent biases.

Different from previous courtroom films, Twelve Citizens switches the focus toward the public and examines the concept of justice in the public mindset. Some people in Chinese society are rather cold and detached toward the concept of justice. However, more and more people realize that justice is actually related to everyone. Everyone has a natural desire for justice no matter what kind of social class they belong to, and that everyone has an acute and objective sense of fact if he or she does not cover their own eyes with bias. Twelve Citizens is a glimpse of the legal culture in current China. After four decades of legal reform, the public now has a more active and positive attitude toward law. They believe justice to be an important social value, and increasingly tend to rely on law and courts for justice. Twelve Citizens also provides an interesting peek into the juror system. Within academia, some scholars have already started a discussion regarding the possibility of a juror component in Chinese court trials (Jiang, 2000; Landsman & Zhang, 2007; Leib, 2006).

Conclusion

Legal reforms in history have made positive impacts on many national legal systems, and the comprehensive legal system established in China four decades after 1978 may yet prove to be different in time. However, conflict between long-established legal traditions and cultural heritage, and the institutionalization of modern legal system practices, appears to be deep and ongoing, and will likely last for decades to come. It would appear from the evidence drawn from the dramatic arts submitted herein that the new legal culture being promoted in China will take a longtime to take root. Legal reform advocates need to take into sufficient consideration the unique characteristics of Chinese culture, and build up an appropriate transitional system, in order to achieve the desired goals of the “rule of law” and an independent judiciary. To explore the nature of justice within a cultural context is one excellent place to start. To that end, the images of justice portrayed within the creative dramatic arts provide a vivid mirror for those images, both historical and contemporary.

In this article, we start from the gong’an courtroom drama and explore the legal imagery exhibited in different types of creative dramatic arts, and across different historical eras. These legal images represent “justice being done” and translate functions of the legal system to the public, thereby increasing the legitimacy of the legal system. These images reflect the public understanding of justice and serve as an especially powerful generator of meaning of justice. Gong’an
courtroom dramas describe two types of magistrates in ancient society, “blue sky justice” and corrupt officials, and serve as a reflection of bureaucracy in feudalist society. There was no separate judicial branch, and one magistrate handled both the executive and judicial powers in local government. Corruption was a natural result of the combination of absolute power and no effective review system over judicial decisions. Sadly, all too often gong’an courtroom drama traditions continue through to modern times.

If modern dramas are mirrors that reflect current Chinese society to a considerable extent, then we can see clear evidence of the spirit of Chinese law, a resilient gene inherited from China’s long history and Confucian morality. We can see the “rule of man” and its role in corruption; and we can see the challenge and conflict that exists between old traditions and the norms associated with new legal institutionalization processes. What is the concept of justice in this mirror world? It still emphasizes punishment, and the need for criminals to own up to their responsibilities and demonstrate repentance. A persisting image of justice that requires redemption of repentant criminals, the restoration of disturbed relationships, and the restoration of harmony within communities, remain as key elements of the spirit of Chinese law. Justice in Chinese culture is still broadly seen as requiring harmony among heaven, society, and human beings, an image that can finds its roots in Confucianism, Daoism, and Chinese Legalism.

But this is not reflective of change toward procedural justice, for the true form of Chinese justice is to move beyond punishment. After four decades of legal reform, the concept of justice has gradually penetrated into the mind of the public, which is deeply rooted in Confucian harmony; now people have a more active and positive attitude toward law as a consequence—they are increasingly likely to rely on law and courts for justice. Chinese people are beginning to demonstrate some acceptance of legal reform and slowly, yet steadily, the legal culture within China is becoming more open to change toward the rule of law.

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Note

1. The Censorate (御史台) was a high-level supervisory agency in ancient China, first established during the Qin dynasty (221–207 BCE; Hucker, 1958).

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**Film, opera, and television series list**

**Pre-1949**

*Bright Day (Yanyang Tian)* Wenhua Film 1948  
Dir. Cao Yu; starring Shi Hui

*Cosmetics Market (Zhifen Shichang)* Mingxing Film 1933  
Dir. Zhang Shichuan, starring Hu Die

*Crows and Sparrows (Wuya Yu Manque)* Kunlun Film 1949  
Dir. Zheng Junli, starring Zhao Dan and Shangguan Yunzhu

*Flourishing Like This (Rici Fanhua)* 1937  
Dir. Ouyang Yuqian, starring Li Lili

*The Kind Mother’s Song (Cimu Qu)* Lianhua Film 1937  
Dir. Zhu Shilin and Luo Mingyou, starring Lin Chuchu

*Street Angel (Malu Tianshi)* Mingxing Film 1937  
Dir. Yuan Muzhi, starring Zhao Dan and Zhou Xuan

*The Two-Mao Note (Liangmao Qian)*, Lianhua Film 1934  
Dir. Sun Yu

*Yang Nai Wu and Xiao Bai Cai*, Shaw Brothers studio 1930  
Dir. Qiu, Qixiang

**After 1949**

*The White-haired Girl (Bai Mao Nü)*, Changchun Film Studio, 1950  
Dir. Wang Bin & Shui Hua

*Driven Up to the Mountain Liang*, Beijing Peking Opera Troupe, 1977  
Dir. Li, Yuanchun, Zhao, Bingxiao, Li, Huifang & Ma, Yanxiang

*The story of Qiuju (Qiu Ju Da Guan Si)* Sil-Metropole Organization Ltd, 1992  
Dir. Zhang, Yimou

*Justice Bao (Bao Qing Tian)* Chinese Television Syste, 1993  
Dir. Liang, Kaicheng & Sun, Shupei

*Justice Bao (Bao Qing Tian)* Asian Television Limited, 1995  
Dir. Chen, Yuchao & Liang, Tian
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