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**Jeffrey C. Kinkley. Chinese justice, the fiction : law and literature in modern China**

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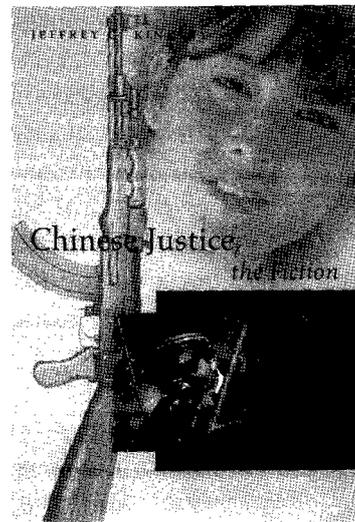
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*Chinese Justice, the Fiction: Law and Literature in Modern China.* By Jeffrey C. Kinkley. Stanford, California: Stanford University Press, 2000. 497 pp. ISBN 0804734437 (Cloth); ISBN 0804739765 (Paperback).

A study of modern Chinese crime and court case fiction as a literary genre, Jeffrey C. Kinkley's book is erudite, witty, carefully researched, and superbly written. That it is the first book-length study in English which addresses the relationship between law and literature in modern China further enhances its significance.

Kinkley focuses his study on two types of fiction: (1) transplanted Western detective fiction, i.e., "whodunit with Chinese characteristics"; (2) Chinese court case melodrama, which focuses on moral and political ambiguities in crime cases instead of suspense generated from detection and deduction. In his first chapter, "Origins," Kinkley begins his discussion of these two subgenres within the post-Mao period from 1978 to 1989. After retelling many of the crime stories popular in the aftermath of the Cultural Revolution, stories that are often regarded as part of "scar" or "introspection" literature, Kinkley draws out generic features of Chinese detective fiction: a seasoned police detective rehabilitated after being tortured during the Cultural Revolution, a secondary young cop who is prone to mistakes, careful lab work leading to the unearthing of evidence, marvelous step-by-step deduction, a double re-cap, and so on. All these, Kinkley points out, resemble the genre conventions of Western detective fiction as represented by Arthur Conan Doyle's Sherlock Holmes stories. One might be surprised, therefore, by the quick revival of interest in an essentially foreign genre fiction in post-Mao China when law and order were barely restored. The popularity of legal melodrama, on the other hand, is easier to understand. Judge Bao, China's ultimate symbol of justice, is uniformed and personified in figures of contemporary policeman, lawyer, procurator, or judge. The irony is that, the more powerful the Judge Bao figures are, the more



problematic and porous China's legal system appears. For, in these stories, justice can be achieved only when an individual takes on the entire system of corrupted bureaucracy.

Kinkley does an excellent job introducing China's legal system and its historical changes. Public Security, Procuracy, and Judiciary represent three services theoretically independent of each other in the system; all three are under the control of CCP's central and local committees of "political-legal affairs." Far from being clear about each other's separate duties, these legal arms find themselves competing against each other over legal procedures, and, oddly but not incomprehensibly, over the publication of crime fiction. Under the rubric of "legal system literature," each of the legal arms publishes legal-case magazines and crime fiction through its own publishing houses. Such institutional control contributes to the dominance of legal and political paternalism in post-Mao crime fiction. The competition, however, could also create rifts that are conducive to the development of adversarialism in both law and legal system literature.

Kinkley puts so much emphasis on the struggles between the paternalistic and the adversarial in Chinese law and literature that they become the guiding principle of his book. As he claims in the introduction, "[w]e usually think of law as a state discourse and literature as belonging to individuals, but law may be built on the adversary principle, as America is all too aware, and in China, literature often expresses collective ideals. Law and literature can be metaphors for each other, and their paradigms can interpenetrate" (16). Although questions may be raised concerning the generalization implied in this statement, Kinkley's binary principle helps draw a clear picture from the vast material bridging law and literature in not only modern China, but also China in the late imperial period. For Kinkley, legal paternalism was not an invention by the CCP, but was deeply rooted in traditional Chinese thought and social structures. In his second chapter, "Tradition," Kinkley traces China's "weakness of law perceived since ancient times" (106) to three "traditions": (1) law was inherently class-bound, for it was for the lower class only; (2) law was inherently negative, for it could only be applied when it was broken; (3) law was deemed undesirable, for the state tried to limit lawsuits for the purpose of social control. All

these weaknesses are manifest in contemporary legal literature, as Kinkley tries to demonstrate in his readings.

Kinkley's search for the weakness of law in legal literature is well grounded in the historical contexts of traditional and contemporary Chinese society. Nevertheless, this search is also where his study is most problematic, not because his findings are not accurate but because of the implied stance from which he takes issues with the ambiguities of law in China. In criticizing Chinese law, Kinkley takes up a standard based on an idealized version of Western law that is adversarial, equal, and not bound by class. The idealism is actually disguised, for problems inherent in Western law are beyond the scope of this book about "Chinese law and literature." Kinkley's criticism, therefore, leaves the impression that adversarialism, equality, positivism, and desirability—the opposite of what is found in Chinese law—are in fact practiced in the Western legal system, which should become the model of imitation and "evolution" for China. While the call for the "lawless" China to become "lawful" in a Westernized way remains implicit in the book, the dichotomy is explicit: China vs. West, primitive vs. modern, paternalism vs. adversarialism, moral justice vs. law, and so on. The first components of these binary opposites are analyzed in the shadows of the second.

It is not a coincidence, therefore, that "Shadows" is the title of the third chapter of this book. In this chapter, Kinkley discusses detective fiction written by two early Republican "Mandarin Ducks and Butterflies" writers, Cheng Xiaoqing (1893-1976) and Sun Liaohong (1897-1958), who created Chinese versions of Sherlock Holmes and Maurice Leblanc's (1864-1941) Arsène Lupin. Cheng named his hero Huo Sang, who often identifies himself by the first initials of his name in romanization. H. S. apparently is an inversion of S. H., Sherlock Holmes. As analyzed by Kinkley, Huo Sang's ways of detection are direct imitations of Sherlock Holmes', although indigenous Chinese motifs such as moral didacticism are clearly visible in the Huo Sang stories. The interesting thing is that, Huo Sang is challenged by Sun Liaohong's chivalric thief Lu Ping as much as Sherlock Holmes is outmatched by Arsene Lupin. Kinkley aptly points out that the rivalry between Arsene Lupin and Sherlock Holmes is an extension of the rivalry between France and England, and that the Chinese version of the rivalry exposes a

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nationalistic anxiety seen also in Leblanc's vow of revenge against England the old super power.

Kinkley falls short, however, of illuminating the transnational significance of the detective fiction by these four writers. For one thing, the two Chinese writers were contemporary with Conan Doyle and Leblanc. Questions thus arise: Could this indicate that detective fiction is a distinctively *modern* genre with motifs and anxieties unbound by national borders? Although these motifs and anxieties might have been exported through colonial expansion, could they also reflect similar mechanisms reacting to the disappearance of traditional ideas about justice and law? Of course, Kinkley does not have to address these questions, for his goal is to find elements of law—such as the role of the police—and their changes over time in Cheng Xiaoqing's and Sun Liaohong's stories. But in reevaluating Cheng Xiaoqing and Sun Liaohong, he wrongly chooses to raise them to the ranks of May Fourth writers. Instead of understanding early Chinese detective fiction in its own right by analyzing why it was translated or written by such prominent May Fourth writers as Zhou Zuoren (181-82), Kinkley does the opposite by looking for elements of serious May Fourth literature—use of the vernacular, antifeudalism, patriotism, and the like—in detective fiction. The dichotomy between “middlebrow” literature vs. serious literature thus can be added on to the series of binary contrasts.

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Such a problematic dichotomy does not detract from Kinkley's strength in historical research, which is brilliantly displayed in the last two chapters. In Chapter Four, “Politics,” Kinkley gives a detailed account of the ways in which current politics in China “manipulated and annihilated topics, genres, and strata of fiction” (241) from the Republican period. Using one of Cheng Xiaoqing's novellas written under communism as an example, Kinkley analyzes how, in fiction from 1949 to 1976, class enemies take the place of criminals and how criminal story conventions become part of revolutionary literature despite the disappearance of crime fiction as a genre. He further points out that China's serious fiction from 1977 to 1983 became simultaneously more serious and more popular, and that the years after 1983 saw a sudden explosion of crime fiction. Through interviewing many of the crime fiction authors, Kinkley

obtained a substantial amount of first-hand material, which undoubtedly aids his analysis of how politics influenced post-Mao crime fiction. The relationship between political control and generic features is neatly depicted in a “floral” table with fourteen petals, representing fourteen kinds of yin-yang binaries such as “socialism” vs. “practical legal knowledge/corruption.”

The last chapter, “Fruition,” provides readings of three famous contemporary fictional works, Wang Xiaoying’s *Ni wei shui bianhu* [Whom do you defend, 1987], Wei Dongsheng’s “Xingjing duizhang yu sharenfan de neixin dubai” [Interior monologues of a policeman captain and a murderer, 1984], and Chen Yuanbin’s “Wan jia susong” [The Wan family sues, 1991], which was later adapted by Zhang Yimou into the film *Qiuju da guansi* [The story of Qiuju]. Once again, Kinkley provides an excellent introduction to the historical background of these works. His analysis is consistent with his primary approach, which find signs of the rise of an “adversarial legal consciousness” in the new consumerism and “a new sense of confidence in the individual’s ability to withstand government retaliation” (358).

A literary and cultural critic might disagree with Kinkley’s historical and sociological approach to literature, particularly his uncritical attitude toward consumerism and his promotion of an idealized version of Western law. One cannot deny, however, that this book makes an important contribution to Chinese studies by calling attention to the interface between law and literature, and to a group of obscured fictional works that deserve critical attention. Kinkley’s book may have raised more questions than it could answer, but it does open a door for future critical inquiry along similar lines.

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