

The binary framework of technocrats versus Confucian institutionalists leads to labeling rather than explaining, and lumping rather than differentiating. To say that Fan Zhongyan's reformers were Confucian institutionalists does not explain why that view emerged and gained sway. Because Hartman takes Sima Guang, the great defender of imperial prerogatives, whose chief councillorship was engineered by Empress Dowager Gao, and who called for fast-tracking the appointment of specialist officials, to be a leading Confucian institutionalist, Wang Anshi as his rival has to be labelled a technocrat. For the Xiaozong era historians, Sima was right and Wang was wrong, but the issue for them was not technocratic versus Confucian. Rather, they pursued the question that consumed Northern Song political thought: how far should the state intervene in society, economy, and culture? Wang represented the activist and expansionist policy to which Sima objected. Shenzong recognized that the two were the intellectual leaders of their generation and in vain tried to persuade them to serve together on the Council of State.

In the Southern Song, Zhu Xi sought to address local welfare with elite voluntarism and political culture with moral self-cultivation. As Hoyt Tillman has shown, Chen Liang found neither to be adequate.<sup>8</sup> His utilitarianism stemmed from his answer to the major question facing the Southern Song court: when to fight and when to make peace. The key issues in the Northern and Southern Song were different. Chen claimed to be just as much of a Confucian as Zhu Xi, and Wang Anshi claimed to be following the way of the first kings just as much as Sima Guang. There was not one Confucianism in the Song. Evaluating the Song state's place in China's history needs to recognize that the political does not have to be divorced from social transformations and intellectual trends.

## *A Certain Justice: Toward an Ecology of the Chinese Legal Imagination*

By Haiyan Lee. Chicago: University of Chicago Press, 2023. 352 pp.  
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In her new book, *A Certain Justice*, Haiyan Lee presents an ambitious treatise on the concept of justice by exploring law-related themes in Chinese films, TV dramas, theater, poems, novels, and memoirs spanning a period from the 1950s to the 2010s. Subtitled

<sup>8</sup>Hoyt C. Tillman, *Utilitarian Confucianism: Ch'en Liang's Challenge to Chu Hsi* (Cambridge: Council on East Asian Studies, Harvard University, 1982) and *Ch'en Liang on Public Interest and the Law* (Honolulu: University of Hawai'i Press, 1994).

“Toward an Ecology of the Chinese Legal Imagination,” *A Certain Justice* should not be read as yet another study of the genre of crime or legal fiction—it pursues a bigger theoretical goal. In the introduction, Lee states that she is dissatisfied with the complacent and unreflective adoption of an ahistorical understanding of the rule-of-law ideal. Through analyzing law-related themes across multiple genres, Lee suggests the Chinese have a different way of understanding the concept of justice, an understanding that diverges markedly from the Western rule of law. *A Certain Justice* is an effort, as Lee writes, “to make sense of Chinese visions of justice in light of the divergent paths taken by China and the liberal West in pursuit of the universal goal of consolidating the normative order” (9).

The book develops several law-related themes across multiple genres of artistic creation, ranging from novels, movies, and poems to quite different material altogether. The chapters are not categorized by the different genres of work that they discuss. Instead, they are thematically organized by different types of justice. There is an overarching argument to which Lee adheres. The Chinese legal culture reflects its hierarchical social world. As such, the concept of justice is hierarchically organized and understood in China. At its most basic, there is the distinction between high and low justice. High justice is a moral doctrine that relates to the legitimacy and moral supremacy of the ruler. It is expressed in *yi* 義 and *zhengyi* 正義. In contrast, low justice refers to the demand for the fair treatment of people. In Chinese, low justice is expressed as *gong* 公, *gongzheng* 公正, and *gongping* 公平. Unlike the liberal West, where social justice reigns supreme, Lee claims that it is high justice that captures the interest and imagination of the Chinese people. In both Imperial China and the PRC, according to Lee, high justice claims pride of place in narratives of law.

Chapter 1 discusses how the state is projected as a valued and yet vulnerable entity that needs to be protected at all costs. Lee explains that detective fiction was rare in Mao’s China. It was a genre that rose in tandem with the liberal capitalist state of law, which promised an explainable reality. Moreover, detective fiction operates in the low justice register. By comparison, espionage fiction is about high justice. Lee accounts for the rise of the genre of spy thriller in relation to the romance of the state. The genre entered its golden period in the first two decades of the establishment of the PRC and experienced a resurgence in the new millennium. The chapter discusses early counterespionage films such as *The Murder Case of Xu Qiuying*, *The Invisible Front*, and *The Might of the People*. In her words, the genre “enchants the state as a sovereign power replete with arcana imperii and elevates the reason of state as the locus of august, sublime high justice” (33). Lee points out that espionage movies post-1949 never left people with any doubt from the beginning about who the villain would be. By moving away from the setup of a whodunit, these revolutionary spy thrillers trade on the visceral feeling the audience would share about the need to protect the new state of China from the constant threat of infiltrating spies and enemies. Government secrecy is celebrated rather than feared, as the audience is sometimes invited to see like a state, to borrow the phrase from James Scott.

Chapter 2 entails a discussion of the phenomenon of “subaltern hypocrisy.” The key to the concept here is that oppression corrupts the oppressed. Though she does not address it explicitly, she seems to caution her readers about taking the position of the subaltern as one of absolute moral superiority. One should instead also take the oppressed’s call for justice with a grain of salt. After briefly discussing Lu Xun’s famous novella *The True Story of Ah Q*, Lee moves on to analyze *The Rooster Crows at Midnight* (*Banye jijiao*) at length. This a well-known text, in part because it was later included in

elementary school textbooks and adapted into a cartoon film. As Lee shows in the various versions of the story, hypocrisy is at once a strategy for class domination and an artful tactic of resistance. Class struggle is a battle of wits; and to imitate Lee's style of theorizing, one can say that there were many instances of Gricean "flouting" (not meaning what one says) in the battle. No words should be taken at face value. However, if the subaltern is capable of weaponizing hypocrisy, their subterfuge taints the purity of their voice along the way. In the last part of the chapter, Lee moves on to discuss the performative nature of socialist public transcripts, including how *The Rooster Crows at Midnight* was produced and how public rituals including *suku* 訴苦 and *fanshen* 翻身 were formularized.

Chapter 3 discusses transitional justice. Lee expands the term to include the transitional moments of politics of the PRC regime, most noticeably the aftermath of the Cultural Revolution. She addresses famous political trials in the PRC, both fictional and real. This is the longest chapter of the book, covering real-life events, works of fiction and plays, and movies that reconstruct famous political trials. The chapter first discusses the film *The Red Detachment of Women* (*Hongse Niangzijun*), which was later adapted into a ballet and became a *yangban xi* (model theater) of the Cultural Revolution. Lee also discusses the historic trial of the Gang of Four. The event, despite being a show trial, Lee argues, presented a subdued vision of bureaucratic justice and marked the return of order in post-Mao China. Lee observes that while crime was conceived of as a political affair in China, the trial of the Gang of Four promoted a certain vision of socialist rule of law that was more rule-based. Whether it is political or bureaucratic, revolutionary justice tends to treat the perpetrator as part of the collective reactionary class. The tension between designating enemies by their "objective" class positions and criminals by their "subjective" state of mind was never resolved. Such a tension was at the heart of Jin He's short story "*Chongfeng*" (Reencounter), which Lee also discusses. The story concerns the fictional public trial of a man, Ye Hui, that took place after the fall of the Gang of Four. Ye was branded a "disorderly element" because he had killed two people during the Cultural Revolution. Yet he killed to protect a local party cadre, Zhu Chunxin, who is now in charge of the hearing. As the story unfolds, the line separating those who are victimized and those who are implicated becomes more and more blurred.

Chapter 4, entitled "Exceptional Justice," discusses the PRC's treatment of Japanese and Nationalist POWs in the 1950s. The POWs, especially the Japanese, were treated leniently, leading to some commentators characterizing the approach as "an aberration of benevolence." The PRC's approach was typified by its generous leniency. Fundamentally, for the party-state it was not about condemning the crimes of the POWs but rather about reliance on thought reform to solicit confessions. The legal language of rights and redress was largely suspended or subordinated to the moral and ideological language of confession, penance, and reform. The second half of the chapter discusses a documentary, a film, and a television serial drama that reconstructed the process that reformed the minds of the POWs. In the last part of the chapter, Lee veers into a fascinating translingual history of brainwashing.

Chapter 5 explores the style of socialist realism and magical realism. Lee argues that socialist realism, in its celebration of collective action, sells the human experience short. Magical realism entered the Chinese literary scene almost by necessity, as the new magical elements are needed, in her opinion, to make literature a powerful tool once again for making sense of the social world. Chapter 6 discusses a few multispecies Chinese novels that treat animal characters as subjects in their own right. The chapter includes discussions

of several contemporary animal-themed novels. Lee argues that species egalitarianism is fundamentally incompatible with the hierarchical sense of justice that the Chinese culture upholds. She proposes the adoption of a more pragmatic model of justice that comes to terms with the complicated entanglements between humans and animals.

One can enjoy Lee's book even when strongly disagreeing with it. As I was reading it, I marveled at her theoretically informed reading of contemporary Chinese films and novels. Lee demonstrates an amazing ability to weave into her analysis authors as diametrically opposed as Carl Schmitt and Hannah Arendt, and as variant as Albert Camus and Yann Martel. Each of the chapters is a rich theoretical essay in its own right. Her analysis is interspersed with rapid-fire intellectual name-dropping and is at once creative and virtuosic. In one chapter, Judith Shklar, Roberto Unger, Luc Boltanski, and Bruno Latour, among others, all appear within the space of two pages. The book is a valuable contribution to the field of law and humanities. It brings a focus on contemporary Chinese literature and film that is sorely needed.

So what do I disagree with? It is the claim that when put together, the chapters present an ecology of the Chinese legal imagination. In this regard, I am conscious that I am commenting on a book rooted in a different disciplinary background and intellectual tradition. In what follows, I confine myself to questions that I believe are of importance and relevance to literary scholars and historians.

Lee's ecology is unmistakably state-centric. After Lee sets up the high justice versus low justice dichotomy in the introduction, the subsequent chapters (with the exception of the chapter on multispecies justice) focus predominantly on high justice; that is to say, how justice is understood and carried out under the Chinese statist framework. Low justice is set aside, because in Chinese thinking, low justice, according to Lee, is often abandoned in the pursuit of high justice. Lee arrives at this conclusion based on her analysis of the popular stories of the legendary Judge Bao in Imperial China. The book touches on themes such as espionage, mass trials, political trials, trials of POWs, and socialist realism literature that all orbit around high justice at the center. Even Chapter 2, entitled "Low Justice," considers how the subaltern voice is altered by the control of the party state regarding the socialist public transcript. In other words, she does not discuss low justice per se, but rather state-sponsored low justice. This is of course a high-justice view of low justice.

Lee's book presents a monistic, coherent picture of the ecology of justice. Readers are likely to come away with the thought that high justice trumps low justice in the Chinese moral universe. The problem here is that Lee does what social scientists describe as "selecting on the dependent variable," or, to put it more colloquially, stacking the deck. High justice is proven to be valued because Lee furnishes her proof by largely drawing from state-sponsored law-related literature. Many of the works analyzed are political propaganda classics—*The Red Detachment of Women* and *The White-Haired Girl*, for example. There is a sense of irony that, when Lee explains she stayed away from the legal system fiction (*fazhi wenshuo* 法制小說) in post-Mao China, the subject matter of Jeffrey Kinkley's pioneering *Chinese Justice, the Fiction* (2000), because works in this genre were mostly produced by people associated with the state justice organs.

And yet Lee sees the work she analyzes as a clear window into the universe of Chinese justice. Lee's thesis is, to say the least, strongly culturalist. As a sociologist who studies Chinese law and legal institutions, I lack the expertise to comment on the vast terrain of Chinese literature and film that Lee traverses. This said, I cannot help but suspect that it would be quite a different ecology if we were to turn our gaze to popular literature, both classic and modern.

There, in popular literature, low justice looks alive and well. The Chinese classics are redolent of a heterodox view of low justice that is far removed from the state-centric notion of justice that Lee meticulously outlines in the book. Take, for example, the famous example of *The Water Margin*, one of the most popular classical Chinese novels. The novel (or at least some editions of the novel) celebrates righteous rebellion against a corrupt state. Its glorification of banditry is the polar opposite of state-centered justice. There is also the celebration of loyalty and friendship outside of blood-tie kinship in *The Romance of the Three Kingdoms*, the concept of *yiqi* 義氣 that is celebrated by the triad societies (and law enforcement officers alike) in Chinese societies. And while there are not many detective stories, there is the widely popular genre of martial arts and chivalry (*wuxia xiaoshuo* 武俠小說). These stories almost always happen in the fictional world of in which the state often simply fades into the background.

While Lee insists on understanding Chinese justice in its own terms, she makes lavish use of concepts rooted in liberal legality to interpret Chinese justice. Sometimes this works quite well. For example, she extends Shklar's discussion of the difficulty of finding *mens rea* (guilty mind) in political trials by pointing out how, in China, the notion of the "objective enemy" underscores the logic of revolutionary justice. Other times, the results are less satisfying—for example, her insistence that there is a distinction between legal truth and factual truth. Yet, according to Chinese-style socialist rule of law, there is only one truth. To assert that there is a legal truth that stands apart from other types of truth is a gesture of formalism.

Lee also translates some phrases rather eccentrically. One example is the Chinese term *taose shijian* 桃色事件, literally meaning a "peach-color event." The Chinese term is gossipy and suspenseful—the event can be a love affair or a sex scandal or both. Lee displays an eagerness to convict by translating it as a "crime of passion." A bigger translation/interpretation problem is the way Lee understands low justice. Lee equates low justice to *gongzheng* 公正. The Chinese term is admittedly tricky to translate into English. However, its semantic focus is not so much about, as Lee suggests, fairness in the form of equal treatment. *Gongzheng* in the Chinese context does not entail the assertion of a system of absolute equal treatment. It is about a person fighting for fairer or more just treatment after the fact. *Suku* is by definition a post-hoc petition for justice. Due process and procedural justice are habitually overlooked in contemporary China, not just by litigants who appeal to the law, but also by judges and government officials. While authoritarian, the Chinese judicial system is notorious for its open-ended or embedded nature. The court system is putatively a one-appeal system in which finality can be quickly reached, yet the reality is anything but. Retrial applications and repeat petitions mean that finality is often undermined and deferred.

In the conclusion of the book, Lee finally discusses *Qiuju da guansi* (Qiuju goes to court), arguably the most analyzed legal dramas of the reform era. The ambivalence expressed by Qiuju in the last scene exposes, according to Lee, the gap between law and morality. Does law serve justice? It is worth noting that the movie is more than thirty years old. Back in 1992, the party was disseminating law to the countryside, and it wanted to convince the public that it was acceptable to litigate against officials. There was a show trial element in the court scenes, which Lee acknowledges. Subsequent portrayals of the judicial process (for example, Liu Zhenyun's 2012 popular satire *Wo Bu Shi Pan Jinlian* (English title: *I Did Not Kill My Husband*)) took a more unflinching look at the problem of access to justice in China.

Lee's *A Certain Justice* offers an erudite analysis of Chinese justice through the lens of law and humanities. Her ability to make use of different theoretical apparatuses to

underline unobvious connections is impressive. I intend to go back to many of the works that she brilliantly discusses. However, the ecology of the Chinese legal imagination that she presents is lopsided. Her central claim, that the vocabulary of statism is the final vocabulary of the Chinese legal imagination, suggests that Chinese legal culture has no room for universal justice—the most that Chinese justice can promise is a certain justice, but not justice per se, not even aspirationally. It is a bold claim that presumes an astounding degree of cultural continuity. What the book does show, I believe, is the persistence of the statist project that continues to valorize high justice in the PRC.

## *Networks of Faith and Profit: Monks, Merchants, and Exchanges between China and Japan, 839–1403 CE*

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Sino-Japanese relations in the premodern period have become an increasingly popular topic among scholars in China and Japan, as well as in Anglophone scholarship. In Japan, such studies can be traced to the well-known historian Mori Katsumi (1903–1981), who laid the groundwork through his pioneering studies of inter-regional exchanges and trade.<sup>1</sup> Recently, a new generation of Japanese scholars have not just built on his work but also challenged his interpretations in significant ways, so that there is now a plethora of articles and books introducing both new evidence of trade and traders and new perspectives on how the exchanges occurred. Outside Japan, interest in inter-regional exchanges and relationships has a shorter history, but the last couple of decades have nevertheless seen a number of inspirational works engaging topics of a trans-border nature.<sup>2</sup> In part, this reflects a growing awareness of the importance of cross-border relations and especially of the continent's role in Japanese society and its historical developments; that awareness stems in turn from a new generation of scholars who are trilingual. They move comfortably between primary sources and secondary

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<sup>1</sup>The prime work is Mori's *Nissō bōeki no kenkyū* (1975), though he continued to publish on similar topics throughout his career.

<sup>2</sup>For representative studies, most of which Li cites, see Bruce Batten, *Hakata: Gateway to Japan* (Honolulu: University of Hawai'i Press, 2000), Michael Como, *Weaving and Binding: Immigrant Gods and Female Immortals in Ancient Japan* (Honolulu: University of Hawai'i Press, 2009), Charlotte von Verschuer, *Across the Perilous Sea: Japanese Trade with China and Korea from the Seventh to the Sixteenth Centuries* (Ithaca: Cornell East Asia Series, 2006), Richard von Glahn, "The Ningbo-Hakata Merchant Network and the Reorientation of East Asian Maritime Trade 1150–1350" *Harvard Journal of Asiatic Studies* 74.2 (2014): 249–79; and articles by these authors and others.