

Movie Justice: The Legal System in Pre-1949 Chinese Film

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INTRODUCTION

China's fifth generation of filmmakers has brought contemporary Chinese films to international attention, and their social themes often illustrate broad legal concerns.¹ In Zhang Yimou's 1992 film, *The Story of Qiu Ju*, for example, Qiu Ju consults lawyers and brings a lawsuit, and more recent movies highlight legal issues too.² Such film portrayals are of

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¹ The "fifth generation" refers to the outstanding group of filmmakers who graduated from the Beijing Film Academy in 1982 and were the first to be trained after the end of the Cultural Revolution; its members include Chen Kaige and Zhang Yimou, who directed *The Story of Qiu Ju* (*Qiu Ju Da Guansi*). The movies discussed in this article were made by the first and second generation of filmmakers, who produced their films in the 1920s, 1930s and 1940s, most of them working in Shanghai at the major private studios. On the different generations of Chinese filmmakers, see Harry H. Kuoshu, *Overview: The Filmmaking Generations*, in *CELLULOID CHINA: CINEMATIC ENCOUNTERS WITH CULTURE AND SOCIETY* 2-15 (Harry H. Kuoshu ed., 2002).

² For a discussion of *The Story of Qiu Ju*, see Jerome A. Cohen & Joan Lebold Cohen, *Did Qiu Ju Get Good Legal Advice?*, in *CINEMA, LAW AND THE STATE IN ASIA* 161 (Corey Creekmur & Mark Sidel eds., 2007). Legal issues in contemporary Chinese movies are also receiving more attention in China. See, e.g., *YINGXIANG ZHONGDE SIFA*

interest as we contemplate the rapid changes in China's current legal system and the place of courts and lawyers within it. But Chinese legal reform, like Chinese movies, long predates the contemporary era. Revolutionary legal reforms began in earnest in the early years of the twentieth century and accelerated during the Republican period (1912-1949 on the Chinese mainland). Modern courts were established, the legal profession was recognized for the first time,³ and a broad range of modern laws was adopted, even before the introduction of the major codes under the Nationalist (i.e., the Kuomintang or Guomindang) government during the late 1920s and 1930s. During those years, China's criminal justice system also underwent a substantial transformation.⁴ Despite the relative newness of these institutions, however, early Chinese movies soon depicted many aspects of the legal system in illuminating ways.

I first encountered early Chinese films at special showings in Hong Kong during the mid-1980s. Their depictions of prisons, courts, and (especially) lawyers were intriguing and I longed to see more pre-1949 movies, but opportunities to do so then were few and far between.⁵

[Justice in the Movies] (Xu Xin ed., 2008).

³ The Provisional Regulations on Lawyers (Lüshi Zhanxing Zhangchang) were adopted in 1912. In 1927 the Nationalist government promulgated the Regulations on Lawyers (Lüshi Zhangcheng) and in 1941 the Lawyers Law (Lüshi Fa). ZHONGGUO FAZHISHI [Legal History of China] 419-20 (Zhao Xiaogeng ed., 2007). 9 ZHONGGUO FAZHI TONGSHI [Legal History of China] 419 (Zhu Yong ed., 1999).

⁴ Efforts to reform the criminal justice system had begun even before the founding of the Republic. *See generally* M.J. MEIJER, *THE INTRODUCTION OF MODERN CRIMINAL LAW IN CHINA* (1950); Chuzo Ichiko, *Political and Institutional Reform, 1901-11*, in 11 *THE CAMBRIDGE HISTORY OF CHINA* 375, 408 (John K. Fairbank & Kwang-Ching Liu eds., 1980). Modern prisons and police were also introduced during the early years of the twentieth century. FRANK DIKOTTER, *CRIME, PUNISHMENT AND THE PRISON IN MODERN CHINA* (2002). FREDERIC WAKEMAN, JR., *POLICING SHANGHAI 1927-37*, at 18-22 (1995). After 1912, the Republican government established new courts in cities, and the Nationalists codified the new criminal laws and procedures, modeled on the civil law systems of Germany and Japan, during the 1920s and 1930s. The Nanjing decade (1928-37) saw the enactment of the major codes, as well as revised versions of much earlier commercial legislation. JEAN ESCARRA, *DROIT CHINOIS* (1936).

⁵ In those days, ordinarily only "left-wing" or progressive films from a very limited repertoire were available for viewing by a general audience. They included *Plunder of Peach and Plum*, *Goddess*, *Street Angel*, and *Crows and Sparrows*, all discussed in this essay, as well as films such as *The Lights of Ten Thousand Homes* (*Wanjia Denghuo* 1948) that raised general social-justice issues without directly depicting the legal system. I first saw these movies at Hong Kong film festivals during the 1980s. *Street Angel* and *Goddess* were also occasionally shown on Hong Kong television, and a few other movies could sometimes be found on videotape—but that was about it. Serious Chinese criticism of these early films was also very limited, and even then the movies described were usually classified, rightly or wrongly, as leftist. *See, e.g.*, ZHONGGUO SISHI NIANDAI DIANYING GUSHI [Stories from Chinese Movies of the 1940s] (Shao Zhou ed., 1992).

Fortunately, many classic films that offer us a glimpse of the pre-1949 legal system are now available for viewing. These movies, which could once be seen only at film festivals or—with special permission—in archives, have now appeared on DVD or VCD.⁶ Such films include not only “leftist” favorites of the Maoist era, but also comedies and dramas of middle-class life that provide a broader, and substantially different, take on the Republican legal system and its participants. These early films are of special interest because, unlike almost all post-1949 mainland Chinese movies, they were produced by commercial, not government-controlled, studios.⁷ Despite increased censorship and regulation after 1931, China’s first and second generation of screenwriters and movie producers remained remarkably free to comment upon the legal system of their day.⁸

⁶ Perhaps because of the 2005 centennial of Chinese films, several series of classic pre-1949 movies have now appeared on DVD, VCD or both. Unfortunately, none of them offers more than minimal notes about the films, or their directors and stars, and many fail to identify the film studio or even the date of the film. The information they do provide, including plot summaries, often proves to be incorrect. (All this is in great contrast to the CDs of Chinese popular music from the same era, which were produced by EMI in the 1990s and provide excellent notes to the songs and the artists.) But fortunately the film centennial was marked by the opening of the China National Film Museum in Beijing in 2007, with an exhibit on “A Century of Chinese Film,” a large section of which was devoted to pre-1949 cinema when I visited it. (My thanks to Rob Sherman for helping me find this museum.) The centennial period also saw the publication of many more books and articles on Chinese movies, including those made during the Republican era. They include, for example, BAINIAN ZHONGGUO DIANYING JINGXUAN [The Best of Centennial Chinese Cinema] 1905-2005 (Chen Jingliang & Zou Jianwen eds., 2005); ZHONGGUO DIANYING BAINIAN [One Hundred Years of Chinese Movies] (2005); and ZHONGGUO DIANPIAN DADIAN [Encyclopedia of Chinese Film] (1996). These multi-volume works discuss a wide range of movies from the 1930s and 1940s of various genres and reflecting different political views.

⁷ Even the celebrated Fifth Generation of filmmakers has mainly worked within the state studio system. Members of the Sixth Generation, sometimes called the “urban generation” of Chinese filmmakers, however, began producing independent films during the 1990s, despite continuing censorship and other restrictions. Zhang Zhen, *Bearing Witness: Chinese Urban Cinema in the Era of “Transformation” (Zhuanxing)*, in *THE URBAN GENERATION: CHINESE CINEMA AND SOCIETY AT THE TURN OF THE TWENTY-FIRST CENTURY 9-13* (Zhang Zhen ed., 2007). See also HARRY H. KUOSHU, *supra* note 1, 19.

⁸ Government censorship before the 1930s was minimal. In 1931, the Nationalist government enacted the first film censorship statute and also established the first national film censorship committee, and control became much tighter. But committee members often defied Nationalist party directives and almost all movies were produced by commercial studios, which sought to avoid restrictions if they could. *ENCYCLOPEDIA OF CHINESE FILM 108-09* (Yingjin Zhang & Zhiwei Xiao eds., 1998). Factional struggles within the government also helped reduce the effectiveness of their control. Leo Ou-fan Lee acknowledges government censorship but also argues that the Nationalist control has been exaggerated, and it is certainly true that many films that were extremely critical of the political and social order were produced and distributed in China during those years. Leo Ou-fan Lee, *The Tradition of Modern Chinese Cinemas: Some Preliminary Explorations and Hypotheses*, in *CHINESE CINEMA 8*, 18 (Chris Berry ed.,

During the Republican period, China's film industry was concentrated in Shanghai, the "capital of Chinese modernity and the culture industry before the war."⁹ Shanghai, with its westernized lifestyle and radical intellectual culture, quickly became the Chinese center for film exhibition and distribution.¹⁰ Most commentators view the period from the early 1930s until the outbreak of full-scale war in 1937 as the first golden age of Shanghai movies;¹¹ the late 1940s marked a second golden age, perhaps achieving even greater heights in film-making than did pre-war Shanghai.¹² By today's standards, these movies suffer from low production values: their pace seems slow to contemporary viewers, many are silent (well into the 1930s in China), and all were filmed in black and white on shoestring budgets. The earliest were heavily influenced by stage conventions, their aesthetic quality varies wildly, and surviving prints are often poor. But, for the discerning modern viewer, these films offer charismatic stars, touching stories, and appealing humor, as well as high drama and rousing themes. Indeed, the best of them remain deeply affecting; they still rank among China's greatest films and deserve the wider audience they are now beginning to find.

Film portrayals of the Chinese legal system must, of course, be viewed in the context of popular themes and other cultural influences of that era. During the 1920s, Chinese movies drew primarily from Beijing opera, fairy tales, myths and folklore for their stories. They tended to feature martial arts, costume dramas and traditional stories, all typically Chinese. Family melodramas, often drawn from novels or the new drama, were very popular, and Hollywood movies had an influence too. But in 1931 the Nationalist government banned martial arts and "magic spirit" films as part of an anti-superstition campaign.¹³ At the same time, after the 1931 Japanese invasion of Manchuria and the bombing of Shanghai early the following year, many directors recognized the changing mood of Shanghai audiences, and more progressive and patriotic themes came to dominate the cinema; national salvation became a central theme of movies as well as of literature.¹⁴

1991).

⁹ POSHEK FU, *BETWEEN SHANGHAI AND HONG KONG: THE POLITICS OF CHINESE CINEMAS* 69 (2003).

¹⁰ *Id.*; ZHEN ZHANG, *AN AMOROUS HISTORY OF THE SILVER SCREEN: SHANGHAI CINEMA, 1896–1937*, at 87 (2005).

¹¹ YINGJIN ZHANG, *CHINESE NATIONAL CINEMA* 58–60 (2004).

¹² *Id.* at 55. Leo Ou-fan Lee, *The Urban Milieu of Shanghai Cinema, 1930–1940: Some Explorations of Film Audience, Film Culture, and Narrative Conventions*, in *CINEMA AND URBAN CULTURE IN SHANGHAI, 1922–1943*, at 86 (Yingjin Zhang ed., 1999).

¹³ ZHANG, *supra* note 10, at 235.

¹⁴ See JUBIN HU, *PROJECTING A NATION: CHINESE NATIONAL CINEMA BEFORE*

Some critics, especially those in mainland China, have viewed that new focus as part of an organized or semi-organized left-wing cinema (*zuoyi dianying*). Such “leftist” films were marked by distinctive themes, including the exposure of class exploitation and the depiction of the miserable lives of the poor and working class.¹⁵ More recent interpretations suggest that this film movement was really a loose association, and that many of those involved in the industry were progressive or socially concerned but had no ties to the Communist Party. Thus, the approach of many films might better be viewed as “social” or “critical realism,” motivated by humanistic concern for the plight of the Chinese people¹⁶ or as “committed socialist realistic cinema” showing a popularized version of such basic May 4th ideas as anti-capitalism and anti-imperialism.¹⁷ In any event, although some filmmakers did indeed use movies to advance Communist goals in general (and to attack the Nationalist government in particular), left-wing and progressive movies of the 1930s and 1940s period reflected a range of political views.

This brief summary provides the backdrop for my discussion of the legal system in Republican-era Chinese films. Given Hollywood’s inaccurate treatment of many legal issues, perhaps we should not expect too much from Chinese movies, whatever their vintage. Yet I believe that the Chinese films discussed in this essay do more than reflect the popular attitudes of their time, though of course they do that too. They may also have something to tell us about the legal and social changes occurring during the Republican period, and their broader legal themes—access to justice and the use of law by ordinary citizens—remain of great importance in China today. In the Republican era, the legal system was new, and many fundamental issues had yet to be resolved: What part can and do lawyers play in the justice system, and what is the proper role for judges? Can the law serve to protect people’s rights and interests, or is it only an instrument of control (and repression)?

This essay analyzes depictions of that legal system in some twenty-five Chinese movies made between 1926 and 1949, and it focuses

1949 (2003); JAY LEYDA, *DIANYING: AN ACCOUNT OF FILMS AND THE FILM AUDIENCE IN CHINA* 71–73, 77 (1972) (noting an increase in the popularity of patriotic Chinese films following the Japanese invasion of Manchuria in 1931 and attack on Shanghai in 1932); Lee, *supra* note 12, at 74–76.

¹⁵ HU, *supra* note 14, ch. 4. VIVIEN SHEN, *THE ORIGINS OF LEFT-WING CINEMA IN CHINA, 1932-37* (2005). *ENCYCLOPEDIA OF CHINESE FILM*, *supra* note 8, at 13-15. LAIKWAN PANG, *BUILDING A NEW CHINA IN CINEMA: THE CHINESE LEFT-WING CINEMA MOVEMENT, 1932-1937* (2002).

¹⁶ Lee, *supra* note 8, at 7-8, 11.

¹⁷ Paul G. Pickowitz, *Melodramatic Representation and the “May Fourth” Tradition of Chinese Cinema*, in *FROM MAY FOURTH TO JUNE FOURTH: FICTION AND FILM IN TWENTIETH-CENTURY CHINA* 295 (Ellen Widmer & David Der-Wei-Wang eds., 1993).

on the varied images they present of the police, prisons, courts and judges, and lawyers.¹⁸ The earliest movie I discuss was made just before the establishment of the Nationalist government, and the latest was filmed in the last days of the civil war that ended Nationalist rule on the mainland. Although these films were made over a period of twenty-five years, the largest number of them (seventeen) were made during the 1930s. Their writers and directors are among some of China's most distinguished filmmakers of that era, including Sun Yu, Wu Yonggang and Cai Chusheng, and they feature some of the biggest stars of the 1930s and 1940s.¹⁹ Of course this essay cannot provide an exhaustive survey of the subject—China's film companies produced many hundreds of films, most of which survive only in encyclopedia descriptions or film reviews. But now that many more titles and a greater variety of movies are available for viewing than at any time in the recent past, we may draw at least tentative conclusions about the portrayal of law in pre-1949 Chinese films.

I. CRIMINAL JUSTICE IN THE MOVIES

Encounters with the criminal justice system produce some of the most striking (and terrifying) scenes in Chinese films of the 1930s and 1940s. Many progressive or social conscience films of that era shared common themes; ordinary people are wrongly arrested, leading to harsh consequences for them and their loved ones; or they may be driven to acts of desperation to survive, only to be heavily punished by a harsh and unforgiving legal system. Left-wing writers and directors were especially critical of the political system of their day and their films are even darker. *Twin Sisters* (*Zimei Hua* 1933),²⁰ directed by Zheng Zhengqiu, whose films often depicted the plight of the poor and powerless, is a good example. Its story of twin girls separated as babies illustrated the vastly

¹⁸ As part of the research for this project, I have watched some seventy Chinese movies, both famous and obscure, filmed during the Republican period. A surprising number of them contain at least fleeting references to law or legal issues, but this essay focuses on those with greater legal content—even if, strictly speaking, few are directly “about” the legal system in the way that many American movies are. In an earlier article, I analyzed some of the judges and lawyers appearing in these movies: *Bench and Bar: Lawyers and Judges in Early Chinese Movies*, 39 H.K.L.J. 575 (2009). I have also discussed divorce in Chinese movies more broadly in *Don't Change Your Husband: Divorce in Early Chinese Movies*, 40 CONN. L. REV. 1245 (2008). Unless otherwise noted, the translations, plot summaries, and interpretations of these movies are mine.

¹⁹ Biographies for many of these film stars (and directors) are contained in the ENCYCLOPEDIA OF CHINESE FILM, *supra* note 8, which is an excellent English-language resource. Information for some of the most famous is also available at <http://chinesecinema.ucsd.edu/film>.

²⁰ A frequently analyzed film in both English and Chinese film literature. *See*, for example, the discussion in ENCYCLOPEDIA OF CHINESE FILM, *supra* note 8, at 344-45. *See also* 1 BAINIAN ZHONGGUO DIANYING JINGXUAN, *supra* note 6, at 306-09.

different lives the rich and poor are destined to lead. The popular actress Hu Die starred as the twin sisters, Da Bao and Er Bao, and much of the film's success resulted from the convincing way she played the two roles.²¹ The twins' father, Zhao, is an arms smuggler who, after a stint in prison, leaves their country village for the city. Fearing that she will be unable to support both daughters by herself, his wife begs Zhao to take one of the twins with him. He takes Er Bao to the city and leaves Da Bao to grow up in the countryside.

We next see the sisters as adults: Da Bao has married a village carpenter and lives with her mother, while Zhao has arranged for Er Bao to become the concubine of a wealthy warlord. But Da Bao and her family must move to the city to look for work. When Da Bao interviews for a position as wet nurse to Er Bao's son, the twin sisters, who thus far have led utterly different lives, do not recognize each other. Then Da Bao's husband is injured and she begs Er Bao for a loan to pay his medical bills, but Er Bao refuses and even slaps her. A desperate Da Bao steals a gold ornament from Er Bao's baby, but unfortunately, Er Bao's sister-in-law sees her. When Da Bao panics and tries to escape, she stumbles against a chest and a vase falls and hits the sister-in-law in the head, killing her.

In a dramatic scene, Da Bao is arrested for murder and dragged away to jail by the warlord's troops. When the twins' mother goes to see Da Bao in prison, she runs into Zhao, her former husband, who is now the garrison commander in charge of Da Bao's case. She threatens to reveal Zhao's past if he will not release Da Bao, but the warlord has ordered him to punish Da Bao severely, and Zhao is afraid to help her. Then the mother recognizes her second daughter and manages to bring the sisters together. As the movie closes, Er Bao agrees to take Da Bao and their mother to see her warlord husband and seek lenient treatment for her sister. Despite the highly melodramatic plot and its heavy reliance on a series of unlikely coincidences, *Twin Sisters* is often affecting, especially in its portrayal of the hardships suffered by the Da Bao and her family. As in *Daybreak*, discussed below, this film attacks what is ostensibly warlord, not Nationalist, justice, but a Chinese audience of the day would surely have divined the true target of its criticism.

A. *In the Hands of the Police: Arrest and Detention*

Although modern policing in China was a relatively recent institution, the police appear often in these early movies. Not all depictions are negative, and indeed policemen are sometimes shown as

²¹ Hu Die (Butterfly Wu), one of the most popular actresses of the day, also starred in *Cosmetics Market* (*Zhifen Shichang* 1933), *Red Peony* (*Genü Hongmudan* 1930) and other movies of the 1930s. 1 BAINIAN ZHONGGUO DIANYING JINGXUAN, *supra* note 6, at pt. 1, 309. ENCYCLOPEDIA OF CHINESE FILM, *supra* note 8, at 191-92.

protectors of innocent citizens and guardians of the public order. In the opening scenes of *Cosmetics Market* (*Zhifeng Shichang* 1933), for instance, we hear shots fired, and then we see the police running to the aid of the victim and calling for medical help. Even when they make arrests, the police may just be doing their jobs, sometimes competently and sometimes not. In the 1929 silent film *My Son Was a Hero* (*Erzi Yingxiong*), Lao Hu's shrewish wife and her lover steal jewelry from a neighbor, stabbing him in the course of the burglary. To divert suspicion from themselves, they plant evidence of the crime on Lao Hu. The police duly arrest him for attempted murder and take him away to jail, where we see him locked up. But the real villains of this piece are the scheming wife and her lover, not the police (though they fail to solve the case, and it is Lao Hu's young son who proves his father's innocence).

In many other films, however, the police are the enforcers of a harsh criminal or even civil order, and their presence must be seen as sinister: they pursue their hapless victims, they drag them off to prison or they dispossess them from the only homes they have.²² Thus in *New and Old Shanghai* (*Xinjiu Shanghai* 1936), the police enforce an eviction, in which two women, victims of the economic depression, are removed from their housing (they were earlier seen trying to sell their furniture to make a little money). In *Plunder of Peach and Plum*, the police relentlessly pursue a young man who was only trying to save his family; in *Goddess*, they harass a prostitute as she waits on the street for clients, driving her into the arms of an evil gangster; and in *Street Angel* they lurk outside a barred window as the woman they have been pursuing lies dying inside.²³ In short, the police are often portrayed as agents of a repressive political and social order, and their presence contributes strongly to the feeling of oppression these films create.²⁴

²² Or, in less striking but still negative, images, they simply enforce order against those without money or power. In *Youth on the March* (*Qingnian Jinxing Qu* 1937), police rush in to arrest peasants who have broken into a grain store when they cannot afford the prices; in *A Courageous Family* (*Zhuang Zhi Lingyun* 1936) a policeman breaks up a meeting of peasants who are shouting slogans to show their determination to start over in a new village.

²³ *Plunder of Peach and Plum*, *Goddess* and *Street Angel* are all discussed in detail below.

²⁴ Perhaps only *This Life of Mine* (*Wo Zhe Yi Beizi*), which was directed by and stars Shi Hui, presents a truly sympathetic picture of a policeman. This film was made in 1950, soon after the Communist victory, but it was produced by the still-private Wenhua Film Company. It tells the story of a low-level policeman and the suffering he and his family endure under every political regime of the first half of the twentieth century; he dies just as the Communist armies achieve victory. This policeman is an honest and sympathetic character, a man of the people. But true policing is clearly impossible in a corrupt regime, and he is little more than the pawn of whoever is in power. See Yaohua Shi, *Maintaining Law and Order in the City: New Tales of the People's Police*, in *THE URBAN GENERATION: CHINESE CINEMA AND SOCIETY AT THE TURN OF THE TWENTY-*

Although the police may appear only briefly in some of these movies, the effect of their actions is often tragic, as in *The Boatman's Daughter* (*Chuanjia Nü* 1935). That film, which was directed by Shen Xiling, tells the story of a young woman, Ah Ling, whose father is a boatman on the West Lake. She loves Ti'er, a factory worker who takes their boat every day and sometimes helps her father row; Ti'er returns her love, and it seems that they will find happiness together. But then Ti'er is imprisoned for three months after a strike: the police burst into the workers' meeting he attends, and he is roughly dragged away to jail. While Ti'er is gone, a dissolute young man from Shanghai appears on the scene and presses Ah Ling to model for his painting. At first she refuses, but when her father becomes ill and is unable to work, she is forced to accept the offer and ultimately is sold into prostitution to pay her father's debts.

When Ti'er is released from jail and learns what has happened to Ah Ling, he searches for her in the city, then fights to free her from the brothel in which she is trapped. But the police arrive once again to arrest him and drag him away; Ti'er will no doubt be returned to jail, and Ah Ling will be left utterly without protection. As Chinese discussions of the movie acknowledge, the film can be viewed as a simple story of two young lovers who are tragically parted, but a political reading is surely truer to its intent. Urban capitalism and the dissolute tastes of the rich have destroyed the lives of Ah Ling and Ti'er—and the police are the heartless enforcers of this political order.²⁵

Another 1930s film presents a vivid and much longer portrait of the police, or at least of one particular policeman. *Waves Washing the Sand* also known as *Desert Island* (*Lang Tao Sha* 1936) was directed by Wu Yonggang, who is best known for his 1934 film *Goddess*. This film starred matinee idol JinYan²⁶ as Ah Long, a seaman who returns home from a voyage to find his wife with another man; Ah Long kills him in a

FIRST CENTURY (Zhang Zhen ed., 2007). Shi Hui's role is also discussed in Paul G. Pickowitz, *Acting Like Revolutionaries: Shi Hui, the Wenhua Studio, and Private-Sector Filmmaking, 1949-52*, in *DILEMMAS OF VICTORY: THE EARLY YEARS OF THE PEOPLE'S REPUBLIC OF CHINA* (Jeremy Brown & Paul G. Pickowitz eds., 2007).

²⁵ Teng Zhongnan, *ZHONGGUO DIANYING BAINIAN [100 Years of Chinese Movies]* 26-28 (2005).

²⁶ Jin Yan was one of the most popular stars of the 1930s. 1 *BAINIAN ZHONGGUO DIANYING JINGXUAN*, *supra* note 6, at pt. 1, 198. RICHARD J. MEYER, *JIN YAN: THE RUDOLPH VALENTINO OF SHANGHAI* (2009). Jin appeared in *The Big Road* (*Da Lu* 1934), *A Spray of Plum Blossoms* (*Yijian Mei* 1931) and *Three Modern Women* (*Sange Modeng Nuxing* 1932), as well as in *Wild Rose* and *The Light of Maternal Instinct*, both of which are discussed below. Jin often played sexy roles, and in *Waves Washing the Sand*, as in some of his other movies, he appears without his shirt—while the burly detective pursuing him continues to wear a tie and most of his suit even on the desert island.

jealous rage and flees as the neighbors crowd around. Wu then introduces us to the movie's second major character, the chief of detectives, played by Zhang Zhishi (he was "the Boss" in *Goddess*). The camera slowly reveals a police dog at the detective's side, his western suit, the large handcuffs at his belt, and finally his heavy-featured and pockmarked face. The detective wears his fedora pulled down and chomps a cigar; he looks tough, determined and hard-bitten. When he studies a photo of Ah Long, he laughs with pleasure: this detective loves the chase and he will definitely get his man.

The police set off in pursuit of Ah Long, who has sneaked home to try and catch a glimpse of his little daughter. The chief is accompanied by three other detectives, several uniformed police, and the dog, who quickly picks up Ah Long's scent and leads them down the neighborhood's back lanes. When the dog tracks his quarry to the docks, Ah Long jumps into the water, and the dog leaps after him while the detective fires shots from his pistol. An eerie, haunting scene shows us the detective and his dog on the dark wharf as they search for any trace of Ah Long—who unseen by either of them is clinging to the pilings just below their feet. Ah Long's fear is palpable, and with such overwhelming force arrayed against him, the film seems on track to show us cruel police in relentless pursuit of a hapless member of the proletariat.

But in the second half of the movie, the plot takes a strange and entirely different turn. Both Ah Long and the detective have gone to sea, the former to escape and the latter because he believes (correctly) that Ah Long will be found on a ship. But just as the detective discovers the fugitive and is about to apprehend him, the ship suddenly runs aground. Ah Long washes up on a barren desert island, along with a single cask of water, and from then on the action is confined to this small island and the waves breaking on its shore. When Ah Long spots another survivor of the wreck and pulls him from the surf, it proves to be his nemesis, the police detective. At first the two men spar, but eventually they reach an understanding and even a kind of friendship, which is broken only when a junk appears on the horizon. For a brief moment they think rescue may be at hand. The detective imagines a triumphant return to civilization, with Ah Long as his captive and the case resolved, and he quickly handcuffs Ah Long's wrist to his own. But the junk vanishes and the two men are left together in the breaking waves. "Now we wait to die," Ah Long says, "there's nothing in the world fairer than death," and he bursts into laughter. The detective joins in, and they stand at the water's edge, handcuffed together and laughing hard. The camera slowly pans over the breaking waves and the beach, until it reaches the barrel, now fallen apart, and two skeletons in the sand, still handcuffed together.

Like *Goddess*, this film creates a powerful mood, but unlike *Goddess* it can hardly be read as a criticism of the legal and political order. Its portrait of a police detective determined to catch a suspect at any cost is

memorable, but it does not illustrate police cruelty in the service of a harsh system. The dog may be frightening, but it does not maul Ah Long, who is not punished unjustly and left to languish in jail. The story also makes clear that Ah Long knows he is a murderer and that he deeply regrets what he has done. This movie, moreover, does not highlight the differences in status or the importance of class—indeed, it conveys a contrary message. The police detective and the murderer are both trapped on the island and both of them will die: they are joined by their humanity, not just the handcuffs, and they must share a common fate. *Waves Washing on Sand* was savagely criticized by the Communists, and this message, not the overwhelmingly visual aspect of the movie's second half, is undoubtedly why.²⁷

One of the longest, and most interesting, depictions of the role of the police in the legal system appears in *The Watch (Biao)*, which was directed by Zuolin (Huang Zuolin) in 1949.²⁸ In this film, the police have more than walk-on parts and one long sequence depicts their handling of a case involving disruption of public order and an accusation of theft. *The Watch* is set in a Shanghai devastated by the Sino-Japanese War, and it tells the story of Xiao Niu, who is homeless and living on the streets of Shanghai with two other boys, Da Mao and Xiao Hao. He has long since sold all his possessions and then failed as a thief in a group run by a Fagin-like crook. As the movie opens, we follow the three boys in their search for something to eat, whether stolen, begged or cadged, and everywhere—in shops, in restaurants, in markets and stalls—we see the sharp contrast between those who have plenty to eat and those who, like Xiao Niu, have nothing. Desperate, Xiao Niu succumbs to temptation and steals an expensive watch from Wan Laotou, a kindly old watchmaker who is repairing it for the rich family who lives near his stall. When Xiao Niu's two friends catch a glimpse of what he has stolen, they begin squabbling over the watch, but the police quickly arrive to break up the fight and arrest all three of the boys.

The next scene, a key sequence in the movie, finds the three boys at the police station, a large bare room with jail cells to one side and a slumped figure chained to the wall. In the center of the room behind a large high desk sit three policemen, and the boys stand before (and below) them to be questioned. The officer in the center sits higher than the others as he conducts their interrogation. It is in response to this police

²⁷ Lee, *supra* note 12, at 95-96. Paola Voci, *Waves Washing the Sand*, AsiaMedia, venus.unive.it/asiamed/cina/schede/waves.

²⁸ Huang Zuolin was a well-known playwright before he became a director. He directed the popular comedy *Phony Phoenixes (Jiafeng Xuhuang 1947)* and *Night Inn*, which is discussed below, before he directed *The Watch*. 1 BAINIAN ZHONGGUO DIANYING JINGXUAN, *supra* note 6, at pt. 2, 273-275. ENCYCLOPEDIA OF CHINESE FILM, *supra* note 8, at 196. Filming of *The Watch* began in early 1949 but was finished after the Communists came to power later that year. LEYDA, *supra* note 14, at 174.

questioning that we learn Xiao Niu's story, as he recounts in flashbacks his flight from the fighting in the countryside, the loss of his family, and his life on the streets of Shanghai. The officer presses Xiu Niu for details but displays no sympathy for his misfortunes and then declares that all three boys are guilty of misdemeanors. The officer sentences Da Mao and Xiao Hao to three days in jail, but because Xiao Niu has caused the fight, he will be sent to a children's detention center instead.

This scene is important because it shows what is effectively Xiao Niu's trial by the police instead of a court. The Chinese police were certainly charged with maintaining public order (e.g., dealing with the initial accusation of theft, breaking up fights on the street), but the scene at the station illustrates another function entirely. Under the Police Offenses Act (*Weijingfa Fa*), the police had the power to determine and punish minor infractions of the law, though not to handle more serious offenses, without judicial oversight.²⁹ Indeed, the whole scene at the station bears a striking resemblance to courtroom scenes in the movies discussed below. The boys stand before the three police figures while the most senior officer asks them questions, and the policemen preside from behind a high bench. The chief police officer interrogates Xiao Niu like a judge, and he begins with the same questions that would be asked at a trial (What is your name? What is your native place? Where do you live?).

As Xiao Niu is being led away to detention, Mr. Wan the watchmaker and Mrs. He, the rich woman, arrive at the police station. Mr. Wan is protesting his innocence and Mrs. He accuses him of theft, then claims that because the watch was in his care he must be held responsible in any event. The police officer agrees and announces that Wan must be sent to the judiciary for imprisonment; it will be up to them to conduct the investigation. "Take him away!" he orders, and "quit your yammering—take him away," he repeats more harshly when the old man protests his treatment. But the police officer's manner towards the rich Mrs. He is obsequious; he smiles and sees her to the door, bowing as she leaves, all in stark contrast to his treatment of Xiao Niu and his friends or even of Wan.

This movie's view of the police is certainly not positive, yet it is not entirely negative either: these policemen are not the terrifying, shadowy figures who appear in some leftist films, and we get to see them up close. The senior police officer, who must be inured to such stories of hardship, expresses no sympathy for Xiao Niu's tough life and undoubtedly finds him a nuisance. But the older policeman assigned to accompany Xiao Niu to the detention center seems sympathetic (he

²⁹ Tsung-fu Chen, *The Rule of Law in Taiwan*, in *THE RULE OF LAW: PERSPECTIVES FROM THE PACIFIC RIM* (Mansfield Dialogues in Asia 2000), Mansfield Foundation paper, available at www.mansfieldfdn.org. In Taiwan, the law was held unconstitutional in 1990. The police have similar powers in China now under the Security Administration Punishment Act (Zhonghua Renmin Gongheguo Zhi'an Guanli Chufa Fa (2005)).

believes, wrongly, that the boy is behaving), and he is visibly relieved that the center looks like a much better place than the streets. The police do investigate the charges of theft against the watchmaker; they even arrive at the education center to search Xiao Niu, though he has hidden the watch much too well for anyone to find. Nor is judgment by the police rather than the courts the focus of this film's criticism; it is, after all, a court-like setting, and Xiao Niu would not have fared better had he actually been in one. The police are simply the representatives of a system that cares nothing for the poor, and it is that unjust system, along with the terrible disparities it permits between classes, that the film really indicts.

The Watch, which was adapted from a Soviet short story and filmed on the eve of the Communist victory, is generally leftist in tone. Mr. Lei, the somewhat rough but honest and idealistic young leader at the juvenile center, believes in self-sacrifice and the possibility of individual redemption through honest labor, even when the task appears hopeless, as in the case of Xiao Niu's case. The center's corrupt trustee, who is stealing their building materials, obviously hates and fears Lei and at one point seems about to denounce him as a Communist on account of his views. Harshly critical as the film may be, its ending is happy, and the audience senses that a new order is dawning. Xiao Niu is a tough case, hardened by his experience on the streets, and he does not want to give up that watch. But Mr. Lei wins him over to a new life of honest work. Xiao Niu confesses the theft and returns the watch; the innocent Mr. Wan is freed and forgives him. In the end, as Xiao Niu wipes the sweat from his brow, we see the shining factory that he visualizes the boys at the center will build. There they will earn their own living, and their days on the streets will be ended.

Crows and Sparrows (*Wuya Yu Manque*, Kunlun Film), which was directed by Zheng Junli in 1949, presents a truly frightening picture of the police and their unchecked exercise of power. This movie's ideological content is exceptional: it offers one of the sharpest and most open attacks on the system to be found in any Chinese movie of this era.³⁰ Filmed in the chaotic last days of the Nationalist government, against a backdrop of corruption and staggering inflation, it was not actually released until after the Communist victory and might therefore be considered "transitional" rather than a truly pre-1949 movie.³¹ But because production began during the Republican period and its actors and directors were well known

³⁰ That did not, however, save the director later on in his career: Zheng was persecuted during the Cultural Revolution and died in prison in 1969. The star Zhao Dan was also arrested and imprisoned for five years during the Cultural Revolution, though he survived the political persecution. ENCYCLOPEDIA OF CHINESE FILM, *supra* note 8, at 392-393.

³¹ LEYDA, *supra* note 14., at 175. PAUL CLARK, CHINESE CINEMA: CULTURE AND POLITICS SINCE 1949 18 (1987).

figures of that era, I have included it in this discussion. The film also raises many of the legal issues we have seen in earlier movies.

Crows and Sparrows depicts the struggle between the residents of a Shanghai lane house and their landlord Hou Yibo, a powerful and corrupt official who has confiscated the house from its true owner and is trying to sell it before he flees the approaching Communist forces. It featured Zhao Dan, one of the best known and most popular actors of the day, and it is usually listed among China's best films. The movie offers excellent ensemble acting, with humor as well as drama, and it moves at a much faster pace than most earlier movies. As the residents try to deal with the housing problems they face—will they be evicted, can they somehow keep their rooms?—as well as with the political chaos around them, their characters are revealed, along with the corruption and moral bankruptcy of the dying Nationalist government.

Thus one of the residents, Hua Haozhi, is portrayed as a weak and somewhat cowardly intellectual. Two colleagues at the secondary school where he teaches have been arrested for political reasons, but he is afraid to sign a petition protesting their illegal detention, and indeed does so only when more active teachers back him into a corner. Although he tries to curry favor with the new principal and present himself as apolitical, school officials misread his actions and suspect him of being the ringleader of faculty protests. When the school authorities summon the police, they arrive on campus in a large black van (ominously, it lacks windows), with sirens blaring, and they rush out wearing riot gear to round up suspected troublemakers. Hua is roughly arrested, and with glasses and gown askew, he is dragged down the school corridors and shoved into the police van along with the other teachers.

When Mrs. Hua, played by the stellar Shangguan Yunzhu,³² learns of her husband's arrest, she first seeks help from lawyer Feng Ping. "Please help him," she pleads, as they sit together in his large office. "I'm sorry, but actually we don't dare handle cases like this," he tells her, and she begins to cry. After a fruitless visit to the education department, Mrs. Hua goes to police headquarters, where helmeted guards with bayonets initially block her way. Once admitted to the station, she begs the officer in charge for information about her husband, while he ignores her pleas and continues speaking on the phone. When Mrs. Hua prostrates herself and kowtows before the officer, he denies any knowledge of her husband's whereabouts ("I told you, no one has been arrested") and steps over her to leave the room. This officer wears jodhpurs and riding boots and holds a billy club; we are left with the picture of brutal, fascist police, an image

³² Shangguan Yunzhu, a versatile actress, appeared in many notable films of the 1940s, including *The Lights of Ten Thousand Homes* and *Hope in Society* (*Xiwang Zai Renjian* 1949), as well as in *Long Live the Missus* and *Spring River Flows East*, both of which are discussed below.

the Nationalists themselves helped create.³³ These scenes are brief but terrifying, and the arbitrary and unchecked power that the police wield over ordinary people like the Huas is an important aspect of the corrupt system the film attacks.

Crows and Sparrows has a happy ending, but only because the arrival of the Communist troops in Shanghai saves this group of neighbors—and indeed all Chinese. The corrupt landlord Hou flees the city, and with the house now returned to its rightful owner, the “sparrows” can remain in their homes. Although Teacher Hua has been badly beaten and two of his colleagues have been executed, he is released and returns to his family. The tenants celebrate a joyous New Year together, and Hua speaks for all of them when he declares that, “This time the New Year brings a new society.”³⁴

The appearance of Lawyer Feng in *Crows and Sparrows* is of special interest, despite—or perhaps because of—his inability to act. A lawyer is Mrs. Hua’s first resort when she learns of her husband’s arrest, and she turns to him before she approaches the education authorities and, in desperation, the police. The scene in Feng’s office is brief but telling: his large desk is visible behind them, but they are seated together at a small table and tea has been served. In this informal setting, Mrs. Hua is anxiously clutching her handbag and she may be leaning towards him. For his part, Lawyer Feng is earnest and scholarly in appearance, he seems genuinely sympathetic and he speaks with regret. But he does not take the case and the scene’s message is clear: the law provides no protection and no lawyer can save you.

Other films show people turning to lawyers for help in criminal matters, perhaps with more success. In *Flourishing Like This (Rici Fanhua, 1937)*, for example, we learn that two political activists have sought help from a lawyer after an arrest. This film was directed by Ouyang Yuqin and starred the popular Li Lili as Tao Chunli, the wife of a rich man named Li. When the Lis rent a house belonging to Li’s friend Zhang, the younger brother of their landlord proves to be Tao’s former classmate, and the two friends are reunited. The younger Zhang and another classmate are active in the “revolutionary party” (*gemindang*), and they take Tao on one of their trips to collect money for people in the countryside. Then the classmate is arrested, and Zhang tells Tao that they went to see a lawyer but had no money to pay him. “Can you think of a way (*xiangxiang fazi*)?” he asks her. In fact she can: she steals cash from his brother’s safe, and in the end she joins Zhang when he runs off to

³³ JOANNA WALEY-COHEN, *THE SEXTANTS OF BEIJING* (2000).

³⁴ Ironically, many aspects of this film reminded me of Shanghai in the early 1980s, with its tight political atmosphere and its severe housing shortage, which forced many people to focus their energies on resolving housing issues, just as the characters in this movie try to do.

devote himself to the revolution. (Here the problem was money, not politics, and we must assume that their friend got his lawyer.)

In *Spring River Flows East* (*Yijiang Chunshui Xiang Dong Liu* 1947), an epic melodrama in two parts, an arrested man also seeks a lawyer—but in this movie he is one of the villains. *Spring River*, which was directed by Cai Chusheng and Zheng Junli, was one of the most popular movies of the pre-1949 era. It tells the story of a family torn apart by the Sino-Japanese War, and the terrible suffering they endure over the long years of struggle against the Japanese invasion. In the second part of the movie, the Nationalists return to Shanghai after the Japanese surrender and arrest businessmen who collaborated with the Japanese, including Manager Wen. He lands in jail, and for once this is a highly satisfying scene—he deserves it. When his wife (Shangguan Yunzhu), appears at the jail to visit him, she is outraged to find him talking with his mistress through the bars. “Who was that? Tell me, tell me!” she demands, and they begin a loud quarrel. “Don’t be like this,” he pleads. “I’m in prison, I’m a prisoner!” “Then why did you break the law?” she asks him accusingly.

But then Wen asks, as he steps forward and clings to the bars, “Have you arranged for my lawyer?” At this his wife becomes even angrier: “Now you want me to engage a lawyer for you? Why don’t you ask that woman to get you a lawyer?” The two begin yelling at each other once again, Wen curses his wife and she taunts him, “Just wait for your execution! Then I’ll never see you again!” At this point, a guard intervenes to break up their heated exchange and leads Mrs. Wen away, leaving Wen to collapse against the bars (“I’m so angry!”). While the movie ends tragically for its heroic characters, it appears that Manager Wen may have been freed, though undoubtedly through his connections.

B. *Courtroom Scenes: The Defendant on Trial*

Chinese filmmakers used courtroom scenes to great dramatic effect, even though modern courts were a recent development and the continuous trial is not a central event in civil law systems. One such courtroom scene occurs in *Goddess* (*Shennü* 1934), which was produced by the Lianhua Film Company and starred Ruan Lingyu, one of the most famous actresses of the 1930s, in what is probably her most famous role.³⁵

³⁵ Much has been written about this movie, in part because of Ruan Lingyu’s stardom and her tragic early death by suicide. Ruan was certainly one of the greatest stars of the era, and this is her most famous movie. She starred in many other films during her brief career, including *New Women* (*Xin Nüsheng* 1934), *Little Toys* (*Xiao Wanyi* 1933), *Three Modern Women* (*Sange Modeng Nixing* 1933), *A Spray of Plum Blossoms*, and *National Customs* (*Guo Feng* 1935). RICHARD J. MEYER, RUAN LING-YU: THE GODDESS OF SHANGHAI (2005). BAINIAN ZHONGGUO DIANYING JINGXUAN, *supra* note 6, at 329-33. Ruan’s life is also the subject of the Hong Kong director Stanley Kwan’s 1992 film *Centre Stage*.

This poignant silent film has been widely recognized as a masterpiece, largely because of Ruan's luminous performance and the lyrical mood created by its writer and director, Wu Yonggang.³⁶ In *Goddess*, Ruan plays a virtuous prostitute (*shennü* being an ironic term for a prostitute) who is also a devoted mother trying to raise her young son. Unfortunately, she falls into the clutches of a vicious gangster, a gambler who controls her and takes all her money. She manages to hide some of her earnings from him and uses the money to enroll her son in school, where to her great pride he does well. But when the other parents discover her occupation, they demand that the boy be expelled, despite the objections of the school's principal.

The prostitute (we never learn her name) decides to leave the city and start over with her son, but she finds that the gangster has stolen all her hidden savings and gambled them away. Desperate, she confronts him and after a brief struggle she kills him. When the upright principal sees the report of her trial in the newspaper ("Female murderer sentenced to twelve years"), he visits her in prison. The court has ruled that her son should be sent to an orphanage, but the principal promises that he will adopt the boy and provide for his education. As the film ends, the camera shows us her response: hope for her son and gratitude for the principal's kindness mixed with the pain she feels at the loss of her child.

Although *Goddess* has sometimes been considered a "leftist classic," the film does not necessarily advocate radical social change, but instead places hope for transforming the lives of people like Ruan on people like the principal.³⁷ *Goddess* is thus far more than a simple story of class oppression, something to keep in mind as we interpret its depiction of the legal system. The film is of special interest because we are shown the prostitute's trial, and possibly even her lawyer. After the prostitute strikes the gambler, he crashes to the floor and she too seems to sway. The next shot shows her in court, apparently still in shock and uncomprehending of her plight. It is a modern, western-style courtroom, its layout reflecting the European semi-inquisitorial system that the Chinese Republic adopted. The accused stands in the dock, with two policemen standing guard at her side. On a high dais above her sit three judicial officers clad in black gowns; they are remote and impassive, displaying no hint of sympathy, or indeed any other emotion, as they listen to the argument and consider her case.³⁸ Another robed figure is shown arguing and gesturing towards the defendant, but this is a silent film and

³⁶ Lee, *supra* note 12, at 95.

³⁷ ZHANG, *supra* note 11, at 68. HU, *supra* note 14, at 105.

³⁸ At least one reviewer of the time remarked on the distance the film created between the accused and the court she faced. Kristine Harris, *The Goddess: Fallen Woman of Shanghai*, in *CHINESE FILMS IN FOCUS II*, at 134 (Chris Berry ed., Palgrave Macmillan, 2d ed. 2008).

we do not know what he is saying. Shortly thereafter, the central official, who is undoubtedly a judge, reads the decision and sentence is pronounced.

Does the prostitute have a lawyer? It seems that she does, though the film provides contradictory clues. After the adoption of the first lawyers regulations in 1912, lawyers were allowed to represent the accused at all trials. Indeed, by the mid-1930s, when *Goddess* was filmed, the Shanghai Bar Association had established a legal aid division, and in any event the court was required to appoint a lawyer for defendants accused of the most serious crimes.³⁹ Oral argument was also a part of many trials.⁴⁰ Our possible advocate wears the lawyer's plain black robe, and he does not, as one might expect a prosecutor to do, stand and read the charges, but instead is seen arguing in an animated fashion.

But then where is the prosecutor? The modern Chinese legal system created a separate prosecutorial office⁴¹ and prosecutors were the full equal of judges; they also sat on the bench. In addition, 1913 regulations prescribed the style of robes for judicial officials and lawyers appearing in court; all wore black robes, but with different borders: black for lawyers, gold for judges and purple for prosecutors. Of the three men on the bench, one is clearly the clerk transcribing the trial and one is clearly a judge (he reads the sentence). The third man, whose robe also has a colored border, is probably the prosecutor, although the film is in black and white and we cannot distinguish the colors.

To be sure, an accusing prosecutor would be more in keeping with the emotional tone of the film: then the prostitute would stand alone and defenseless in court, just as she does in life. Everything about the courtroom setting underscores her lowly position and the inevitability of her conviction, as did the magistrate's court in the traditional Chinese system. Perhaps her lawyer should have convinced the judges that she acted in the heat of the moment and with justifiable provocation, to reduce her sentence to less than seven years (Criminal Code, Article 272). Instead, she has been convicted of ordinary homicide, for which the punishment ranged from ten years' to life imprisonment or even death (Criminal Code, Article 271). She did not receive the severest sentence possible—but she has lost her child forever, and it is the overall social and political system, not simply the legal system, that has failed her.

³⁹ From the 1920s on there were at least informal arrangements between the Shanghai bar association and the courts to provide some representation for defendants. During the 1930s, the Jiangsu high court continued to call on attorneys to represent defendants in court, and in 1934 appointed four permanent "designated defenders." XIAOQUN XU, TRIAL OF MODERNITY 103 (2008).

⁴⁰ CH' IEN TUAN-SHENG [QIAN DUANSHENG], THE GOVERNMENT AND POLITICS OF CHINA 255 (1950).

⁴¹ XU, *supra* note 39.

A harsher story is presented in *The Two-Mao Note* (*Liangmao Qian*), one of eight movie shorts in *Lianhua Symphony* (*Lianhua Jiaoxiang Qu* 1934), which was produced to showcase the Lianhua studio's directors and stars. This story was directed by Sun Yu, one of the most prominent Chinese directors of the 1930s and 1940s. His segment tells the story of a two-*mao* (i.e., a very low value) note as it passes through the hands of people in very different walks of life. The note's travels are launched when a rich man, playing with a woman on his knee, uses it to light his cigarette and then carelessly discards it in the dustbin. The note eventually finds its way to a poor man when a gangster pays him to transport goods in his wheelbarrow to the wharf at night. When the man is stopped by the police, his cargo proves to be contraband, and his wife, child and elderly father waiting at home learn that "the police got him!"

When next we see him, he is standing in the dock, facing a stern judge and two others, presumably the clerk and the prosecutor, all of whom sit behind a high bench. No lawyer represents this defendant. The judge interrogates him: "Do you know this is a criminal matter? Why did you want to do something illegal?" "The goods weren't mine," the defendant replies. "It was just to get two *mao*. I'm poor and there are so many people in my family." His wife also rushes forward to beg the judge to show them mercy, but he remains unmoved by her tearful pleas: "This is a court of law, not a place to talk about human feelings!" he declares. "Take her away," he adds, and the police roughly grab her by the arms. "Have pity, he really isn't guilty," she pleads and she is dragged away still begging for mercy. A newspaper report tells us that the man has been convicted and sentenced to eight years in prison.

In the movie's final scene, the wretched man is in prison, clinging to the bars while he talks with his wife and child outside them. "Eight years!" he exclaims, "I don't know how you can live for eight years!" "With you here," his wife says, "we can't get as much money, if I can't get work we'll have to beg, I'm afraid we'll starve." Over and over the prisoner keeps repeating, "Two *mao*, two *mao*, eight years, eight years!" while his wife sobs in despair. The two-*mao* note the rich man valued so little that he used it to light a cigarette has ended up in the hands of a man so poor that he had to take any work he could get to earn it. Now he must serve a long prison term while his wife and child are left to fend for themselves in a cruel society. The message of the film could hardly be clearer: this is justice for the poor.

A brief but dramatic courtroom scene also features in *Song of the Fisherman*, (*Yuguang Qu*), an award-winning film directed by Cai Chusheng in 1934.⁴² That film tells the tragic story of Xiao Mao and Xiao

⁴² Discussed in 1 BAINIAN ZHONGGUO DIANYING JINGXUAN, *supra* note 6, at pt. 1, 345-49.

Hou, a twin brother and sister born into a poor fishing family. They become fishermen like their father, but they cannot compete with larger fishing businesses and are forced to move to Shanghai to look for work. When they try to earn a living as street performers, they are arrested by the police and taken before the court. With just a few brief scenes, the film creates a striking image of the distance separating officials from ordinary people. In a courtroom setting very like those of the other two films, the judge is seated far above Xiao Mao and Xiao Hou, as the police push them forward to face the bench. The contrast between the judge's position and that of the accused is the sharpest of any of these films, and we see it from their point of view (the judge looks enormous and towers over them) and from his (they are tiny figures before his authority). This judge looks no less severe than the judge in *The Two-Mao Note* (actually, it seems to be the same actor), and the scene reinforces our understanding of the twins' lowly social status.

For a moment the judge glares down at the brother and sister far below him but, remarkably in such a depressing movie, when he stands to read his decision, he declares that there is no evidence against the pair and he orders them both released. Unfortunately, this successful court appearance marks no turning point in the lives of Xiao Mao and Xiao Hou. It is simply one more of the hardships they must endure as poor people trying to make their way, and the film can have no happy ending. Once released, the siblings are reunited with their childhood friend, the son of a shipowner, and he tries to restore their livelihood as fishermen, though now as employees of his company. But Xiao Hou is injured on the boat, and he dies in his sister's arms. As the film ends, a weeping and devastated Xiao Mao is left to face life alone.

C. *Behind Bars: Prisons and Executions*

Prison scenes appear in many of these Republican-era films, where they add dramatic content to the story, as in *A String of Pearls* (*Yichuan Zhenzhu* 1926), one of the earliest Chinese films now available. The movie's plot is loosely based on a Guy de Maupassant story and it provides a fascinating glimpse of well-to-do Shanghai life in the 1920s. In this silent movie directed by Li Zeyuan, a young man, Wang Yusheng, borrows an expensive pearl necklace for his wife Xiuzhen to wear to a fancy party given by her friend Fu Meixian—but the necklace is stolen before they can return it to the jeweler. Yusheng tries to borrow the money to replace the necklace, but when that proves impossible he steals from the company where he works. Then the theft is discovered, and Yusheng is arrested and sent to prison. There we see him wearing prison garb and confined to his cell, as he reflects on his actions and obviously regrets what he has done.

In the next scene, Xiuzhen, now living simply and working as a seamstress, visits him in prison, and the two burst into tears as they converse from a distance (their baby cries too). In contrast to many later Chinese films, the pair talk not through prison bars, but through windows on either side of a corridor, with a guard standing between them. “On account of my vanity, I have made you a prisoner. Now it is too late for me to be repentant,” Xiuzhen says through her tears. After Yusheng has served his sentence and been released, the couple discover that Meixian’s husband had arranged for the theft of the necklace because she admired it so much at the party. When he confesses the theft to Meixian, she too takes the blame for her husband’s actions (“All your mistakes are due to my vanity”), and she refuses to take the necklace back (“no more vanity”). To atone for the harm done the Wangs, they are returned to their house and, with the help of Meixian’s husband, Yusheng lands a new job.

String of Pearls is obviously not about class oppression or the tribulations of the poor at the hands of the justice system; indeed, the characters’ comfortable circumstances are lovingly shown, and even the prison compares well to later movie versions. The film is really a morality play illustrating the dangers of vanity, or at least vanity in women: one cannot miss its message that it was the sins of the wives that caused the crimes of their husbands. Fortunately for the characters the film also stresses the importance of repentance and the possibility of redemption, a value that seems Confucian despite the story’s foreign origin. By movie’s end all are restored to the positions (and happiness) they formerly enjoyed.

A longer prison sequence appears in *The Kind Mother’s Song* (*Cimu Qu* 1937), which was directed by Zhu Shilin and Luo Mingyou. In this film, the kind mother of the title has raised a large family; but once the children have grown up, only Lao San, the least ambitious, is willing to stay at home and care for his parents. When the father steals grain from the village and his crime is about to be exposed, Lao San takes the blame to spare his father the shame of arrest and is sent to prison in his father’s stead. After Lao San’s release from jail, he is branded a thief and has to leave his widowed mother behind while he looks for work elsewhere. None of the other children want to take in their mother, and in Lao San’s absence she ends up working in an old people’s home. When Lao San returns, he berates his siblings for turning their backs on the mother who lovingly raised them, and he marches off to rescue her from the home. In the movie’s closing scenes, the chastened siblings and all their neighbors join Lao San, as he joyfully rescues his mother and lifts her into a sedan chair for the trip home. Virtue triumphs and the kind old mother is restored to the respect and attention Confucian morality requires.

In *The Kind Mother’s Song*, Lao San’s jailers are not necessarily harsh (“friend, your time is up”), but he is locked in a rough cell and we see him sleeping in straw even in winter, with snow on the ground. Here, as in *A String of Pearls*, the story focuses on individual morality rather

than the flaws of the justice system, and the stark prison scenes serve to illustrate the depth of Lao San's sacrifice to protect his parents. The real problem is Lao San's unfeeling siblings, who have shirked their filial duty to care for their elderly mother. When his father visits Lao San in jail, he is ashamed and wants to confess the theft, but Lao San refuses to let him, because "Ma has six children but only one husband." Lao San's friend also pleads with him to tell the truth and set himself free, but he begs her not to reveal his secret; if he is in prison, Lao San tells her, it affects only him, but if his father were jailed, all six children would be affected. The film's strong message, the kind of moral message its director advanced in other films, is to take care of one's parents and give proper respect to the old.⁴³

Not surprisingly, harsh prison scenes appear most often in progressive and leftist movies, which made effective use of even very brief shots. In *Children of Troubled Times* (*Fengyun Ernü* 1935), for example, a young woman looks at a caged bird and imagines the young hero behind bars in prison; he is indeed in prison, for political reasons, and we get a fleeting view of him pacing in his cell. In *The Two-Mao Note*, the convicted man clings to the bars of his cell, as his family cries in despair. And *Night Inn* (*Ye Dian* 1947), which was directed by Zuolin two years before he made *The Watch*, contains a very touching prison meeting. This bleak film, a Chinese adaptation of Maxim Gorky's play *The Lower Depths*,⁴⁴ depicts the lives of various lower-class or marginal characters who live in a small tavern. When Yang, a pickpocket, falls in love with Xiao Mei, another resident, he looks for a decent job. Although he finally manages to find a position, Yang is arrested for a murder he did not commit and sentenced to ten years in prison. Xiao Mei goes to see him and, in a classic scene, they talk through the bars of his cell, with Yang gripping them hard and leaning towards her. "Ten years!" she exclaims when she learns his sentence. In the end, the real killers are arrested and confess to the crime, but by then it is too late for Xiao Mei. Without Yang's protection, she is raped and sold to a brothel, and she commits suicide. The audience understands (we do too) that all of these people are trapped in a harsh and oppressive political system, and not just in prison.

⁴³ Or perhaps Lao San is imprisoned by rigid notions of filial piety, although that is definitely not the movie's intended message. Luo Mingyou, the head of Lianhua Film Company, also directed *Song of China* (*Tianlun* 1935), which stressed traditional Confucian ideals of the family, and *National Customs*, which supported the New Life movement launched by Chiang Kai-shek to promote traditional Chinese values. The idea that a child should take the parent's punishment is both a very old and a new one. *In re Hsu Chung-wei* (translation by Harvard East Asian Legal Studies Group of 1790 case). Cliff Buddle and Magdalen Chow, *Killer's Sons Beg to Swap Places*, SOUTH CHINA MORNING POST [SCMP], December 8, 1999.

⁴⁴ ENCYCLOPEDIA OF CHINESE FILM, *supra* note 8, at 253.

The silent film *Wild Rose (Ye Meigui 1932)*⁴⁵ also includes a prison scene as well as a brush with the police. This movie was directed by Sun Yu and, like many of his films, it sharply contrasts the innocence of the countryside with the corruption of city.⁴⁶ It starred Jin Yan (Ah Long in *Waves Washing the Sand*) and the actress Wang Renmei, who also appeared in *Song of the Fisherman*. The wild rose of the title is Xiao Feng, a country girl whom Jiang Bo, a wealthy young man from the city, falls in love with and takes back to Shanghai. There they live a bohemian life with two other friends while Jiang Bo pursues his dream of becoming an artist, though his father has disowned him for doing so. In the dark of a cold winter, Xiao Feng leaves their garret to go out in the snow; they owe rent and the landlady is pressing them for the money. As she passes a drunken man on the street, he drops his wallet and she grabs it and runs home.

When Xiao Feng shows Jiang Bo and one of their friends the money, her lover insists that she return it. They all troop down the stairs to the street, only to find the man, who is still confused but is now accompanied by the police he has summoned. To shield Xiao Feng, Jiang Bo and the friend each loudly insists that he took the wallet. Unable to determine the truth of their stories, the police take them both away to jail. Xiao Feng goes to Jiang Bo's father to seek his help, and she promises to stop seeing the son if the father will agree to intervene on his behalf. Afterwards, she visits the two young men in jail, where she finds them horsing around on the straw mattresses, their chalk drawings on the wall behind them. The three of them talk until the guard tells Xiao Feng she must leave, and Jiang Bo declares his love for her. Several months later (according to the titles), we see him free and back at his father's mansion. But Xiao Feng has kept her part of the bargain and returned to the country; his rose is gone.

The tone of *Wild Rose* differs from other films with prison scenes, and indeed in some respects the brush with the law it portrays has done no one harm: the wallet is returned and Jiang Bo is freed. There is no long sentence for an innocent prisoner to face, no desperate prison farewell to loved ones left behind and, as the lovers talk through the bars, Jiang Bo cannot know that Xiao Feng is leaving. But these events nevertheless mark a significant break in their lives; it is Jiang's detention in jail, after all, that triggers their separation. The touching scene in which she hands him a rose and they hold hands through the bars is the last time they will have together. That scene is all the sadder for the low key in which it is

⁴⁵ Featured in BAINIAN ZHONGGUO DIANYING JINGXUAN, *supra* note 6, at 230-33.

⁴⁶ Sun Yu directed *Little Toys (Xiao Wanyi 1933)*, *Queen of Sports (Tiyu Huanghou 1934)*, *Big Road (Da Lu 1935)*, and *Daybreak*, which is discussed below. His movie themes are analyzed in ZHANG, *supra* note 10, at 290-97.

played and the young men's evident good spirits in prison. Jiang Bo is joking, he takes it all as a lark (the confidence of the rich?), but Xiao Feng, who truly loves him, is saying goodbye. Jiang Bo will soon be freed, but both he and Xiao Feng are imprisoned by their social roles, from which there is no release.⁴⁷

Plunder of Peach and Plum (*Taoli Jie* 1934), an early sound film written by Ying Yunwei with Yuan Muzhi, presents a much harsher picture of the justice system. Though in its story as well as its performances this is far less nuanced than films like *Goddess*, it has been praised for its technical achievements and is usually seen as a classic example of Chinese realism.⁴⁸ This movie also offers more than a glimpse of the criminal justice system, and it contains the longest and most dramatic prison scene of any of these movies. *Peach and Plum* tells the tragic story of Tao Jianping (played by Yuan Muzhi) and his wife Li Lilin (their names are homophones for peach and plum). Tao and Li are intellectuals, not members of the underclass, but in this bleak story they have no more future than do the poor.

The film opens with a school principal reading a newspaper account of Tao's trial for murder and his sentence to death. Recognizing the name of his former student and star graduate, the principal goes to see Tao in prison on the eve of his execution. At first, Tao can hardly bear to face his former teacher, but he breaks down and his story is told in flashbacks. Because of his upright refusal to overlook violations of safety laws, Tao loses several positions and he ends up in a very low-paying job; Li too loses her job and they must move to cheaper and cheaper rooms. After their baby is born, Li falls down the stairs and is seriously injured. Desperate to get money for a doctor, Tao steals from his employers when they refuse him a salary advance, but Li dies anyway. Tao has no money to buy food for the baby and abandons it to an orphanage. When the police arrive to arrest him for the theft, he tries to escape, and in a terrifying scene that prefigures his imprisonment, he is trapped by a barred gate; we hear dogs barking and shrill police whistles sound as he clings to its bars. In the end, Tao is held responsible for the death of a policeman injured in the chase as well as for the theft, and he is sentenced to death.

⁴⁷ Barred windows, suggesting prison, are also used to represent entrapment in a figurative sense, as in Sang Hu's *Unending Love* (*Buliao Qing* 1947), which shows the lovers behind a barred window, or in *Street Angel*, in which the older sister dies behind a barred window.

⁴⁸ ERSHI SHIJI ZHONGGUO WENYI TUWENZHI: DIANYING JUAN [Pictures and Essays on the Arts in Twentieth-Century China: Movies] 42-43 (Chen Shaodan ed., 2002). Although contemporary Chinese films may include legal issues, it is hard to imagine that any movie as critical of the political-legal system as *Plunder of Peach and Plum* or even *Daybreak* could be distributed now. Recent films, such as Liu Jie's tense *Judge* (*Touxu* 2009), may raise tough issues, but they do not launch direct and emotional attacks on the system.

Just as Tao finishes recounting this terrible story, the prison guards arrive at his cell and he is marched off to his execution. The principal hears the shot and recoils in horror: his student has been executed. The slow pace of this scene increases the dread the characters (and we too) must feel, and what might otherwise seem like exaggerated acting also heightens the effect. The execution is the culmination of all of Tao's suffering, it seems the inevitable end to his relentless slide from middle-class, intellectual status to that of convicted criminal on death row. The system has taken everything else away from him: his wife, his child, his work and his position in society—and now it has taken his life. We never see Tao's trial and we do not know what criminal code provision the court applied to him. Shouldn't he have gotten a lesser sentence? Wasn't there a defense to be made? But in a movie like this, all such questions are beside the point.

Daybreak (*Tianming* 1933), a silent film directed by Sun Yu, contains another execution scene, though this one is played in a very different way. Like *Twin Sisters*, which was made the same year, this film depicts warlord justice, though the message for any legal system would be the same. In *Daybreak*, a young woman named Ling Ling and her sweetheart Gao leave the countryside to seek work in Shanghai. Ling Ling (played by the silent film star Li Lili)⁴⁹ is raped and then forced into prostitution, while Gao goes off to serve in the revolution. Although they are briefly reunited, Gao is wanted by the military authorities and she helps him escape—though only at the cost of her own capture and arrest by the warlord's troops. We do see her in jail (of course she has no trial), but this prison scene is brief. Ling Ling's expression betrays no sorrow or regret; she applies make-up and looks cheerful, though her lover is gone and she must face death alone.

But the execution scene, which in contrast to *Peach and Plum* is actually shown, is long and drawn out, as Ling Ling is slowly marched from her cell, accompanied by the military guards who will shoot her. She remains composed throughout, and bravely faces the firing squad: "Fire only when I show my best smile," she instructs them. The soldiers take aim and shoot, and the courageous young heroine's life is brutally cut short. When a young officer is so overcome by her bravery that he steps forward to protest, he too is executed. After such a devastating ending, it seems we must—like the original Chinese audience—conclude that revolution is the only hope.

⁴⁹ Li Lili was a popular and appealing star who also appeared in *Queen of Sports* (*Tiyu Huanghou* 1934), *The Big Road*, and *Orphan Island Paradise* (*Gudao Tiantang* 1939), as well as *Flourishing Like This*, which is discussed above. See *ENCYCLOPEDIA OF CHINESE FILM*, *supra* note 8, at 219-20.

II. LAWYERS GOOD AND BAD

Despite the relative newness of the legal profession, lawyers make revealing (if brief) appearances in these early films. But in each of two famous movies, made ten years apart, the lawyer plays a larger role: one film illustrates what a lawyer ideally should be and the other what a lawyer should *not* be.

A. *A Mercenary Lawyer in Street Angel*

In *Street Angel* (*Malu Tianshi*, 1937),⁵⁰ written and directed by Yuan Muzhi, two would-be clients consult a lawyer about a civil case, though without any success. This tragicomic 1937 film starring Zhou Xuan and Zhao Dan combines humor with a sentimental story to provide a vivid portrayal of the urban underclass of the 1930s. Depending on one's viewpoint, the film may be seen as a "classic leftist film," a "melodrama," a "social-ethical drama,"⁵¹ or a realistic movie that highlights the "cruel and dark side of old China."⁵² In any event, *Street Angel* is widely recognized as one of the best films of the era, perhaps one of the best Chinese films ever made. Zhou Xuan was one of the most popular Shanghai singers of the 1930s as well as an actress (she sings in the movie), and Zhao Dan was a well-known actor (he also starred in *Crows and Sparrows*).

The story takes place in 1935 and according to the opening titles it is set in the "world of Shanghai's underclass." It tells the story of four young people living on the city's margins: Xiao Chen, an itinerant trumpet player; his friend Lao Wang, a newspaper vendor; and the two sisters they love. The elder sister, Xiao Yun, has been forced into prostitution, and Xiao Hong, the younger sister, is a singsong girl in a local teahouse. When the teahouse owners decide to sell Hong to a wealthy patron, she overhears their conversation and seeks help from Chen and Wang, who try to think of a way to save her. Initially, they are both stumped, but Wang, who has been reading the newspapers pasted to his wall, suddenly spots a headline on the front page: "Daughter Sues Madam, with Client as Backer." "We could sue too!" he exclaims. But none of them knows how to do so, until Wang spots advertisements for lawyers in another newspaper. Then he and Chen resolve to go and see one right away.

⁵⁰ The film is discussed in 1 BAINIAN ZHONGGUO DIANYING JINGXUAN, *supra* note 6, at pt. 2, 8-12. Zhou Xuan was one of the most famous singers of 1930s Shanghai. *Id.* She is a featured singer on *Ye Shanghai* (Shanghai at Night), a collection of popular pre-1949 music that EMI reintroduced on CD in the 1990s.

⁵¹ Zhang, *supra* note 11, at 78; CHRIS BERRY & MARY FARQUHAR, CHINA ON SCREEN: CINEMA AND NATION 83 (2006). Lee, *supra* note 12, at 91.

⁵² SHIJI ZHONGGUO WENYI TUWENZHI, *supra* note 48, at 57-59.

The next long scene, depicting their visit to Lawyer Fang's office, combines humor with sharp social criticism. Fang's office is on a very high floor of a modern skyscraper: as the scene opens, Wang and Chen arrive at his suite of rooms and look out the window at the Shanghai houses far below them.

Chen: "Look, we're already standing above the clouds!"

Wang: "This is really heaven."

Chen: "That's for sure. Heaven seems hotter than our home," and he opens his jacket to fan himself, revealing his boldly striped undershirt beneath it.

More comic byplay follows as they explore the lawyer's splendid office: a good-sized room with potted plants on stands, drinking water with a glass cup dispenser on the wall, a large desk for the lawyer, and a servant who announces his arrival.

Lawyer Fang sweeps in, a trim figure in a tailored suit, with his hair slicked back, a small mustache and wire-rimmed glasses, and a cigarette in his hand (perhaps he looks Japanese?). Chen is still playing with a drinking cup and Wang is gluing holes in his jacket together with the lawyer's glue bottle. "Please sit down. What do you have to say? Have you come to bring a lawsuit?" "No," says Chen. "We've come to file a complaint." Wang whispers behind his hand that bringing a lawsuit is actually the same thing. "Yes, yes, we've come to bring a lawsuit." The two friends then struggle to recount their story, but just as they may be getting to the point, Mr. Fang interrupts them. "I'm sorry, but according to our established practice, we charge five ounces of silver for an hour of consultation, fifteen for a legal document, one hundred to arrange for a hearing in court, and five hundred for an appearance in court to represent a case. I think perhaps you should reconsider." When he rises from his desk and sweeps out of the office, Chen and Wang are left to marvel at such charges: "It costs money to bring a lawsuit! Damn!" "I never expected it."

The next scene finds them back in Wang's room, where Chen is still expressing his surprise at the lawyer's high fees. The four friends decide to flee to another part of Shanghai, but a gangster hired by the teahouse owner tracks them down, and Yun, the older sister, is fatally stabbed. Her death occurs in a tableau in a dark room and is seen through a "barred window that symbolizes entrapment."⁵³ Although Hong has been saved from the immediate fate of being sold and forced into prostitution, it is hard to find a happy ending for anyone in this movie. Despite its humor, this film, like Yuan's other films, is darker and less nuanced than *Goddess*: at least the prostitute knew that her son would

⁵³ BERRY & FARQUHAR, *supra* note 51, at 87.

receive the education she sacrificed for, but in such a system what hope is there for any of them?

Street Angel provides a detailed portrait of a Shanghai lawyer and, more generally, a picture of the legal system from Chen's and Wang's perspective. Fang is mercenary and impatient to dismiss people who plainly cannot pay his fees; their charade has not fooled him for an instant. His modern office is in a gleaming high-rise, doubtless in the International Settlement, complete with heat, drinking water and servants—all in stark contrast to old-fashioned Shanghai-style houses. The camera emphasizes the height of his office, far above ordinary Shanghai, where the two friends reside. In person, the lawyer is also slick and foreignized: he wears a western three-piece suit and gold watch chain, not the robe of the 1930s intellectual, and he even uses a fountain pen. All in all, he is an unattractive character: rich, westernized and inaccessible. Fang could have materialized from any 1930s edition of *Who's Who in Shanghai*, which included Chinese figures well known in the foreign concessions. He is a modern lawyer with all the trappings of the profession and not the litigation trickster of imperial China, but his success and professionalism definitely do not make him good. The message of *Street Angel* is clear, but it is repeated several times for the viewer's benefit: you need money to get a lawyer and therefore have access to justice. Without it you have no recourse to the legal system. Perhaps law can be found in heaven, but that is far beyond the reach of Shanghai's underclass: "any justice except revolutionary justice is denied to China's poor."⁵⁴

B. *The Lawyer as Activist: Bright Day*

Lawyer Fang gets a turn on center stage, but in another famous movie the lawyer is the central, most important character, and his dramatic appearance in court marks the high point of the film. *Bright Day* (*Yanyang Tian* 1947), which was filmed ten years after *Street Angel*, stars the actor Shi Hui as its righteous hero.⁵⁵ The film was written and directed by Cao Yu, China's foremost modern playwright and the author of the dramas *Thunderstorm* (*Leiyu*, 1933) and *Sunrise* (*Richu*, 1936).⁵⁶

⁵⁴ *Id.* at 88. The cost of lawyers and the need to pay them is an issue in other films, including *Flourishing Like This*, discussed above. In Cai Chusheng's *Dawn Over the Metropolis* (*Duhui De Zaochen* 1933) a poor cart puller must work extra hours to pay the legal fees when his adopted son is wrongly thrown in jail. As a result, he dies of exhaustion. A plot summary is given in *ENCYCLOPEDIA OF CHINESE FILM*, *supra* note 8, at 138.

⁵⁵ 1 BAINIAN ZHONGGUO DIANYING JINGXUAN, *supra* note 6, at pt. 2, 268-271. That source gives the release date as 1948.

⁵⁶ *Bright Day* was released in 1947, and Cao's screenplay was published in the following year. Cao Yu, *Yanyang Tian* [Bright Day], in *CAO YU QUANJI* [Complete Works of Cao Yu] (1978). A long plot summary of the movie can be found in

Bright Day was released in 1947 and Cao's screenplay, on which this discussion is based, was published in the following year.⁵⁷ The film was praised for its acting and production, as well as for Cao's creation of a flesh-and-blood character in its hero; on its release the film "resonated strongly with China's cultural and artistic world."⁵⁸

Bright Day tells the story of Yin Zhaoshi, a man who is outraged by injustice and who is always ready to defend the poor and weak. For that reason, many people are grateful to him, but others detest or fear him. Yin negotiates with landlords on behalf of old ladies and he stands up for rickshaw pullers; because he does most of his work pro bono, he earns little money from his practice. He lives plainly, in a modest house with a small courtyard, next to an orphanage headed by his friend Wei Zhuoping, and he works from his study at home. Yin is good-natured and optimistic, but also cynical and a bit unconventional. Not for him the impeccable tailoring of Shanghai Lawyer Fang: he pays no attention to his appearance and is casual about trivial matters. At age forty, he may appear thin and weak, but he is actually very sturdy. When he throws a hooligan out of his house, he declares, "I beat a dog!"

Yin is a hero who cannot be intimidated; though he is threatened, he never wavers in his determination. When thugs force their way into his house and he is attacked, his niece, a newspaper reporter who also fights injustice, asks him what kind of world could let such things happen. "We've been good people, we've always tried to help others and we've endured many hardships. But now good people simply have no power. It's shameful, shameful!" Yin's reply is typical of his views: "It's shameful that good people are oppressed, it's shameful that good people are oppressed again and again but don't feel their oppression. No, that's not right, it's good people like us who don't rise up to fight evil, to struggle to the death with those bastards. That's the disgrace!"

Yin's most important battle occurs when he learns from his friend Wei that two rich merchants are actually traitors: they collaborated with the enemy during the Sino-Japanese War and profited by hoarding goods. Yin immediately drops his fee-paying work and devotes himself to drafting a legal complaint against them. Criminal procedure rules of the day permitted persons with information about a crime as well as those injured by it to initiate and pursue a criminal suit through a complaint.⁵⁹ Yin names his friend Wei as the chief witness and files his complaint with

ZHONGGUO SISHI NIANDAI DIANYING GUSHI, *supra* note 5. I haven't been able to see the movie, so this discussion is based on the screenplay, not the film itself. But I included the film in my discussion because it is the only one I have found in which the lawyer is the central figure in the story.

⁵⁷ Cao, *supra* note 56.

⁵⁸ ERSHI SHIJI ZHONGGUO WENYI TUWENZHI, *supra* note 48, at 82-83.

⁵⁹ CH' IEN, *supra* note 40, at 256.

the court as the plaintiff (*yuangao*); as a result of his investigation, the gang is arrested. Wei is threatened and Yin's house is surrounded by thugs, but Yin is determined that he and Wei will both appear in court to pursue the action.

By 8:00 a.m. the next day, the courtroom is already full of eager spectators. Soon afterwards the five judicial officers—the chief judge, two associate judges, the prosecutor and the clerk—enter the court, all clad in black robes. When the defendant Jin enters the courtroom through a small door, all eyes turn to him, and the chief judge calls on the prosecutor to read out the charges. He then calls for the complainant (*gaofaren*) Yin Zhaoshi and the witness Wei Zhuoping, but their places are empty. The defendant smiles as the judges consult the time; it is now 8:59 a.m. To the disappointment of the courtroom crowd, the chief judge announces that they will have to postpone the hearing because the complainant and witness are absent.

Meanwhile, earlier that morning we see Yin, his niece, and Wei as they prepare to leave for court. They hurry down side streets and manage to reach the main road, where they are accosted by threatening hoodlums. Suddenly voices are heard on the street and rickshaw pullers arrive to escort them safely to the court. They arrive, fearing it is too late, but Yin calls out in a loud voice “Chief judge! It's Yin reporting,” and he and Wei take their places in the courtroom just in the nick of time. Yin addresses the judge: “I have many facts to prove all kinds of evil deeds committed by Mr. Jin and his henchmen. I want to accuse them! No, not I, but the many people who have been harmed now justly accuse them!” In the final court scene, Yin stands at the plaintiff's railing, with the two defendants in the dock, to hear the judgment: Jin is sentenced to life imprisonment and Yang to twelve years, and the property of both men will be confiscated. When reporters ask Yin for a statement, he replies, “I'm just happy!”

Bright Day also ends on a high note. Although Yin is attacked again after the court's decision, in the final scenes he has recovered from his injuries and his spirit remains undaunted. He will continue his work, and indeed his niece, the crusading reporter, has already brought him another injustice to right. As the film ends, Yin and his niece walk down a broad road together. She slows her steps and then stops to ask him, “Are we almost there?” Yin looks ahead, shielding his face against the sun. The sky is a brilliant blue, the road stretches far ahead of them and there is sunlight everywhere. “Yes, it's not far,” he replies, and the two of them stride off into the future.

In *Bright Day*, Lawyer Yin is portrayed as an admirable character in every respect. He is a man of the people who cares passionately about justice; he champions the powerless and is unafraid to denounce evildoers, however powerful they may be. In photo stills from the movie, Yin, is surrounded by admiring friends, while he looks resolute and gazes off into

the distance. Contemporary critics recognized that Yin is a lawyer who fights for the oppressed and against injustice.⁶⁰ Does this make him a revolutionary? In fact, it does not: Yin is an activist who believes in the law and seeks justice in court,⁶¹ and his faith in the legal process is vindicated by the court's judgment. According to a contemporary critic, Cao "firmly believed that justice is bound to triumph. Because of this belief, the just characters struggle with the evil and try to open the way to a new future. When we hold the truth, we cannot be subdued by force."⁶² Upon seeing the film, the president of the Shanghai Drama Institute stated, "Let's pray that outside the screen, too, a bright day will come to the Chinese people."⁶³

III. DIVORCE IN THE MOVIES

An entirely different picture of the legal system, and possibly of lawyers, emerges from viewing Chinese comedy-dramas of the 1930s and 1940s. In these movies, many of them not available until recently, the law is used not to control and oppress people, but rather to create rights and to grant people freedom to arrange their lives. We also meet lawyers who, though not always ideal advisers, seem readily accessible to those who seek their help. If these movies are anything to go by, middle-class Chinese (both men and women) in pre-1949 Shanghai not only knew they were free to divorce, but also learned how to do it: consult a lawyer.

A. Consultations with a Lawyer

In many of these movies, it is the wife who initially seeks the divorce or suggests consulting a lawyer, as in *Modern Girl (Modeng Nüxing)*,⁶⁴ a 1945 film directed by Tu Guangqi and starring Ouyang Shafei

⁶⁰ ERSHI SHIJI ZHONGGUO WENYI TUWENZHI, *supra* note 48, at 83.

⁶¹ *Bright Day* does appear in ZHONGGUO SISHI NIANDAI DIANYING GUSHI, *supra* note 5, along with other "leftist" movies. Although some Chinese commentators analyze this movie as part of the postwar realist film wave, it was made by Wenhua Film Company, which produced "humanistic" movies, including *Night Inn* and *Spring in a Small Town (Xiaocheng Zhi Chun 1948)*, in contrast to the "socialist" movies made by Kunlun Film Company. The "humanistic" movies portrayed human lives and human relationships rather than focusing on the "reality of the times." ERSHI SHIJI ZHONGGUO WENYI TUWENZHI, *supra* note 48, at 82.

⁶² HU, *supra* note 14. Cao himself believed that law was important; he considered law to be fair, even though he acknowledged that Nationalist laws might not be just. 1 BAINIAN ZHONGGUO DIANYING JINGXUAN, *supra* note 6, at pt 2, 270.

⁶³ HU, *supra* note 14, at 174.

⁶⁴ *Xin nüsheng* ("new woman") or *modeng nüxing* ("modern woman") as used in the 1920s and 1930s could have a negative as well as positive connotation. For a

and Yang Liu. *Modern Girl* tells the story of two young women, Yunzhen and Leiying, and their romances with (then marriages to) fellow university students Zhihua and Hanmin. While Leiying and Hanmin enjoy a happy relationship, Zhihua grows discontented with his married life and his wife's frequent absences from home. One night his dissatisfaction boils over and he finally confronts her. In the ensuing argument, the two become increasingly angry, and Yunzhen tells him they should get a divorce so he can marry some country miss who will be happy to keep house for him. "Fine," he replies, "let's see the lawyer tomorrow!", "Why wait until tomorrow?" she asks. "Let's see the lawyer tonight!" Although we never meet the lawyer, when next we see the couple, they have clearly availed themselves of his services—they are divorced. By movie's end, however, Zhihua and Yunzhen are reunited and the ending is a happy one.

Film husbands also show familiarity with the modern divorce process, as in *Classic for Girls* (*Nüer Jing* 1934), directed by Zhang Shichuan and Shen Xiling. In that film, a group of young women are reunited ten years after they were in school together, and they recount in flashbacks the most important events of their lives in the decade since graduation. After the oldest classmate relates the story of her oppressive marriage, Yan Su, the youngest (and perhaps prettiest), describes the methods she employed to bring her husband under control. The husband once led a dissipated life and spent all his money doing it. In one scene, he is on the phone with his mistress, bragging that he is not afraid of his wife ("I will divorce her soon"). As soon as he hangs up, he also invites his secretary out for the following evening. When she too asks about his wife, he tells her firmly, "I've already decided to engage a lawyer so I can divorce her." But that evening he returns home to find his wife has invited two guests to dine with them: his mistress and his secretary. "I hear you've already engaged a lawyer so you can divorce me," Yan Su says to her husband, smiling sweetly. The husband is taken by surprise and feels forced to deny it ("that's nonsense!"), and the two women guests make their excuses to depart. Since then, Yan Su informs her classmates, her husband no longer plays around and he hands over his salary to her every month.

In *Don't Change Your Husband* (*Qinghai Chong Wen*), a 1929 silent movie directed by Xie Yunqing,⁶⁵ divorce is central to the story, and the divorce lawyer actually makes an appearance in the film.⁶⁶ Xie Lijun,

discussion of its use in literature, see JIN FENG, *THE NEW WOMAN IN EARLY TWENTIETH-CENTURY CHINESE FICTION* (2004).

⁶⁵ This silent film, also known as *Kisses Once*, has English as well as Chinese subtitles. The English version of the title makes it clear that the movie is based on the earlier Cecil B. DeMille film of the same name, which starred Gloria Swanson and has a similar plot. *Don't Change Your Husband* (Image Entertainment 1919).

⁶⁶ The lawyers who appear in these movies are all men, even though it is often the wife who initiates the divorce. The actress Hu Die starred in *Woman Lawyer* (*Nü*

a young married woman, is bored with her husband Wang Qiping and finds herself attracted to Chen Mengtian, a superficially more appealing and apparently richer man. Mengtian tells Lijun not to worry if her husband discovers their involvement: he will simply have a lawyer friend start divorce proceedings for her. Lijun asks for the divorce and her husband reluctantly agrees (both of their mothers seem very much in favor). Accordingly, the parties meet at the offices of Lawyer Tsai—Wang Qiping with his mother in tow, and Lijun accompanied by both her mother and Chen Mengtian.

Lawyer Tsai has prepared the divorce agreement and summons the husband to his desk to sign it. Qiping picks up the brush, but he cannot bring himself to sign and returns to his seat. His mother immediately rushes up to sign in his stead. Lijun also finds herself unable to sign the agreement, despite pressure from the lawyer, and bursting into tears, she too rushes back to her seat. But Mengtian is only too happy to sign in her place and the divorce is accomplished. That evening, a dejected Qiping sits alone, smoking and reflecting on the end of his marriage. He tearfully recalls his courtship of Xie Lijun and relives the scene in Lawyer Tsai's office. "This is a lawyer's office and not a recreation club!" he imagines Tsai declaring. Meanwhile, Lijun finds that she cannot enjoy her new freedom and she too regrets the divorce. Happily, like the couple in *Modern Girl* these two are reunited at the end of the movie.

Don't Change Your Husband depicts the divorce process and features a close-up of a lawyer in action, but the portrait it paints is far from admiring. Lawyer Tsai presides over a formal, semi-westernized suite of offices, and he himself wears a western suit. His hair is slicked back and he sports a thin little mustache, which he all but twirls in the manner of old-movie villains. He apparently cares little for the feelings of the divorcing parties, though they (and not his friend Chen) are actually his clients. Thus Tsai urges both to sign, despite their obvious reluctance. When they refuse, he allows someone else to sign in their stead, advancing Chen's interests over those of his clients. The motive for the lawyer's actions is all too clear: once the agreement is signed, Chen hands him a thick wad of bills, which Tsai is counting with relish in our last view of him.

Another (and no more admirable) divorce lawyer appears in *The Light of Maternal Instinct* (*Muxing zhi Guang* 1933), a silent film by the

Lüshi), which was filmed in 1927, the year that Chinese women could qualify as lawyers I had high hopes for this movie when I saw it in a list of Hu Die's films—until a précis of the plot revealed that the film was actually a version of Shakespeare's *Merchant of Venice*; Hu played Portia. ZHONGGUO DIANPIAN DADIAN (1931-1949), *supra* note 6, at 130. But a review of plot summaries in movie encyclopedias does produce a few women lawyers, including some who handle divorce. In *Between Couples* (*Fufu Zhi Dao* 1941), for example, a woman turns to her older sister for help; the sister is a lawyer and is already handling a divorce. *Id.*, at 303.

well-known director Bu Wancang. In this movie, Lin Xiao Mei, a talented young singer, marries Huang Shulin, a wealthy young man whose father owns tin mines in Malaya. Xiao Mei accompanies her new husband back to Southeast Asia after the wedding. Her initial happiness turns to despair when her husband proves to be a dissolute playboy and her father-in-law a cruel capitalist who mistreats the workers in his mine. When Xiao Mei becomes seriously ill after the birth of her daughter, her mother Huiying travels from China to help her and soon learns the whole story. Mother and daughter visit Lawyer Wu so that Xiao Mei can get a divorce, and we see him seated behind his desk, while the two women, one of them holding the baby, stand like supplicants before him. “How much support do you expect?” he asks Xiao Mei, while he plays with his pen. When she shakes her head to indicate she wants nothing, the lawyer looks puzzled. “I only want this child,” she tells him.

“I’ll have to discuss it,” he replies, and steps out to the waiting room, where Huang Shulin and his father sit side by side on a sofa, their arms folded. “Her only demand is the Huang family’s flesh and blood!” he reports to them, suggesting where his sympathies lie. At first the husband sulks and refuses, but his father, who is undoubtedly footing the bill, nods his consent (“What difference does it make if we give her a girl-child?”), and the divorce is settled. The parties may still be in Malaya, but these are clearly Chinese rules of divorce, and in the next scene we read an announcement in the Shanghai newspapers that Xiao Mei and her husband have indeed divorced.⁶⁷

B. *Long Live the Missus: The Lawyer as Friend*

The lawyer is portrayed very differently in *Long Live the Missus* (*Taitai Wansui* 1947), directed by Sang Hu and produced by Wenhua Film in 1947.⁶⁸ This famous movie starred Jiang Tianlu as the “missus” and Zhang Fa, a well-known actor of the 1940s, as her husband.⁶⁹ This highly entertaining comedy-drama, is set in Shanghai of the late 1940s, and is generally apolitical in theme and tone: the film’s characters are all middle-class and comfortable, not sharply divided into rich and poor. The screenplay was written by Eileen Chang (Zhang Ailing), the author of *The*

⁶⁷ Soon afterwards, we learn that Xiao Mei’s mother has also got a divorce; she has divorced her second husband and returned to her first husband (and true love), who is also Xiao Mei’s father.

⁶⁸ This movie was scheduled for the 1994 Hong Kong International Film Festival, but (to my great disappointment) was withdrawn at the last minute. The movie is discussed in 1 BAINIAN ZHONGGUO DIANYING JINGXUAN, *supra* note 6, pt 2, at 180-183.

⁶⁹ Zhang Fa, who appeared in many 1940s movies, also starred in *Mother and Son* (*Mu Yu Zi* 1947), and *Night Inn*, discussed above.

Golden Cangue (*Jinsuo Ji*) and other novellas and one of the most popular writers of the day; her stories about Shanghai and Hong Kong in the late thirties and forties are especially admired.⁷⁰ Although the film undoubtedly owes something to European and American film comedies (and has therefore been considered a more “international” film than most of the movies discussed in this essay), in many respects its story is very Chinese.⁷¹

The film centers on Chen Sizhen, a pretty and very charming wife who is also somewhat manipulative in her management of her family, though mostly for their own good. Sizhen’s stratagems can backfire, however, especially when they are discovered, but on the whole she seems successful. Her husband, Tang Zhiyuan, has become the general manager of a new company, and in the first flush of success he succumbs to temptation and has an affair with a greedy mistress. Then disaster strikes. The company’s assistant manager absconds with the company’s funds and the Zhiyuan’s business is threatened with lawsuits. Sizhen discovers Zhiyuan’s affair just as he is beginning to regret his behavior. Although hurt by his betrayal, she agrees to help her husband rid himself of his increasingly troublesome mistress if he will promise to give her whatever she asks in return. Zhiyuan agrees, and Sizhen manages, through her usual clever methods, to extricate him from the relationship. When she returns home from her meeting with the mistress, her husband is dismayed to find that her only request is for a divorce. She begins packing her bags and insists that they leave immediately for the lawyer’s office to sign the divorce papers.

Like the movies discussed above, *Long Live the Missus* features a visit to the lawyer’s office to arrange a divorce,⁷² but the contrast with similar scenes (and with lawyers) in the earlier films could hardly be greater. Lawyer Yang is a friend of the family, and we first meet him when he and Mrs. Yang arrive at the Tang home to play mahjong. Yang’s comfortable suite of offices bears a striking resemblance to their home, and he is completely approachable behind his large modern desk. Later on, when Zhiyuan stops by his office, the lawyer introduces him to the

⁷⁰ Eileen Chang is one of China’s best known modern writers, the author of many essays, short stories and novels. She and Sang Hu collaborated on at least two movies in the late 1940s. Xu Wei, *Sang Hu*, SHANGHAI DAILY, Feb. 27, 2007 (writing favorably about these “middle class” dramas). She wrote screenplays in Hong Kong after fleeing Shanghai in 1952, and some of her novels have also been adapted for the screen, including *Qingcheng Zhi Lian* [Love in a Fallen City], directed by Ann Hui in 1984.

⁷¹ ZHONGGUO DIANYING BAINIAN, *supra* note 6, at 75-78 (2005) (discusses the movie and notes the resemblance to American comedies, although it also refers to its depiction of the “capitalist class.”).

⁷² The scene in which husband and wife consult with a lawyer seems to be so common in these movies that Stanley Kwan’s *Centre Stage* includes a similar scene: the actress Ruan Lingyu meeting with her husband at the lawyer’s office to get a divorce.

businessman who gives Tang the idea of starting a company—and of taking a mistress. But Lawyer Yang is not the villain of the piece; the husband is weak, and his lawyer did not cause the ensuing problems. Indeed, Yang's actions are generally portrayed as positive in this film, especially when he acts as counselor to his clients.

When, for example, Yang has prepared the divorce agreement for Sizhen and Zhiyuan to sign, he asks them if they really want this divorce. Tang demurs, but then reluctantly agrees to it after Sizhen reminds him of his promise. The lawyer warns her that divorce is hard on women and suggests that she should reconsider. Sizhen insists on going forward, but twice she cannot bring herself to sign the document, so Yang rips it up and tells the couple that he is no longer willing to act for them in this matter. He asks them to reconsider very carefully and then invites them both to lunch. As a lawyer, he says, he rarely sees such a happy result and wishes to celebrate. Zhiyuan declares that he should be the host because he is really the one at fault, and when his wife quickly agrees with him the three of them repair to the fancy restaurant the lawyer has proposed. In the movie's final scene, the camera shows us (but not the three friends) that the mistress is dining there too, with her latest conquest.

The setting for this and the other divorce movies is thus a world away from that of *Street Angel* and its lack of access to justice for those who cannot ascend to heaven. Here the lawyer meets the central characters on an equal footing; he is more than accessible, he is their friend. Like his friends and clients, Lawyer Yang is solidly middle class. And like their homes, his suite of offices is comfortable and pleasant, furnished with chintz sofas and chairs for the clients as well as his own large desk. Yang is educated and westernized, but so are his clients; all the men wear suits (though everyone signs with Chinese brushes). They are at ease with lawyers and familiar with the lawyer's roles: Sizhen's younger brother asks for a business card when he sees Yang at his sister's home, and both Sizhen and Zhiyuan seem to consult him frequently on civil matters.

What explains such different portrayals of essentially the same figure? Only ten years separate the two movies, so the difference is less a matter of time than perspective. Yuan Muzhi, who wrote the screenplay for *Street Angel*, was not simply progressive, but joined the Chinese Communist Party in 1940, a few years after that film appeared. By contrast, Eileen Chang came from a prominent and well-off Shanghai family, and she wrote about a very different world. *Long Live the Missus* has been described as an apolitical movie, and it is true that issues of rich versus poor do not surface in its story. But Chang's work could have a darker edge, containing tales of seduction and betrayal (she divorced her first husband in 1947 for infidelity), and the film is not without its "political" points relating to women. Nevertheless, the ending in *Long Live the Missus* can be seen as a happy one, even if Chen is stuck in a

patriarchal system in which husbands may stray and must be controlled indirectly.

Perhaps we should not be surprised that lawyers appear in so many of these movies. The 1930s Chinese Civil Code gave individuals, including women, a great deal of liberty to arrange their own affairs. They were free to marry in any ceremony they chose, so long as they declared themselves married in the presence of two witnesses (Civil Code, Article 983).⁷³ To meet this requirement, the parties often signed a document at the lawyer's office, which also served as evidence of the marriage. In this movie, Yang serves as a witness to the wedding of Sizhen's brother and sister-in-law, and he is just congratulating them on the happy occasion when Sizhen and her husband arrive, seeking a divorce. The code also permitted divorce by mutual consent if it was effected in writing and carried the signatures of at least two witnesses (Civil Code, Article 1049-1050). For the first time, women were granted the right to divorce and, like Chen, many urban women exercised it.⁷⁴ Though a lawyer's services were not required for either marriage or divorce, legal assistance allowed the parties to arrange their own affairs and to document their agreements. These movies thus illustrate the characters' ready access to lawyers—and the positive role that law could play in their lives.

IV. CONCLUSION

Taken together, these old movies provide us with a fascinating glimpse of the legal world—or worlds—of pre-1949 China. That the legal system appeared at all in such early films is worthy of note. Not only lawyers and courts, but even prisons and the police were the products of legal reforms introduced only a few decades before. These films are very much the products of their time and place, as well as of the very different political and artistic views of their writers and directors, yet the issues they raise remain surprisingly relevant today.

⁷³ The Civil Code of the Republic of China (Zhonghua Minguo Minfa), adopted 1929–1931 [The Civil Code]. ZHONGGUO FAZHISHI [Legal History of China], 415 (Zhang Guo'an, Bao Xiaodong and Lin Weiming, eds., 2007). For this essay I have cited to the 1931 translation by Ching-Lin Hsia et al. Foo Ping Sheung, *Introduction to THE CIVIL CODE OF THE REPUBLIC OF CHINA*, at v–x (Ching-Lin Hsia et al. trans., 1931). According to the Supreme Court in a 1933 decision, divorce must result from the parties' mutual consent and not from pressure by relatives. MARC VAN DER VALK, AN OUTLINE OF MODERN CHINESE FAMILY LAW 111–12 (1939). If the matter could be “amicably” settled by consent, then either party could break the tie with or without a just cause. WILLIAM S. H. HUNG, *OUTLINES OF MODERN CHINESE LAW* 185 (1934).

⁷⁴ KATHRYN BERNHARDT, *WOMEN AND THE LAW: DIVORCE IN THE REPUBLICAN PERIOD*, in *CIVIL LAW IN QING AND REPUBLICAN CHINA* 195 (Kathryn Bernhardt & Philip C.C. Huang eds., 1994), showing that in 1942, seventy-seven percent of divorce suits in Beijing were initiated by women, and in 1940 to 1941 seventy-four percent of divorce suits in Shanghai were initiated by women.

Police and prisons feature in a great many of these movies. They make for good drama (or melodrama) when they illustrate, for example, the sacrifice of a filial son or the dangers of vanity in women. In contrast, leftist movies attacked the political system—of which law was an integral part—with compelling images of people dragged away by the police or desperately gripping the bars of their cells. Although pro-Communist directors and writers may have painted the harshest picture (they had political reasons to do so), other progressive filmmakers could not avoid social-justice issues or the mood of their time. Thus, when desperation drives the poor to steal or to commit other crimes, for example, we see them cruelly punished by a system that shows little sympathy for their plight. From today's perspective, and at this remove in time, films like *Goddess* that offer more nuanced, less heavy-handed story-telling may create the deepest impression, but overall these films present a powerful indictment of injustice.

Modern courts and professional judges in robes also appear in early Chinese movies, though their cinematic image is mixed. *The Two-Mao Note* contains a sharp attack on judges who are blind to the suffering of the people and deaf to their pleas for mercy. But other movies provide a different, perhaps even a positive view. Although *Song of the Fisherman* shows us the great distance between judge and judged (the judge looms far above Xiao Mao and Xiao Hou), the judge finds no evidence against them and they are set free. The judge in *Goddess*, at least on first viewing, may seem remote and impassive, but perhaps he is simply a professional; he hears the prostitute's case impartially, according to law. She has a trial, after all, she may have a lawyer, and her sentence could have been longer.

Lawyers feature, at least indirectly, in nearly half of these films; they play important roles in the stories, though we hardly see them in court. In Shanghai, the legal profession was less of a novelty than elsewhere; Shanghai was a center for lawyers as well as for movies. But modern lawyers had no counterparts in traditional China, and their early appearance in these movies is striking. Of course, such film portrayals of lawyers reflect political points of view as well as the realities of their day. Thus, in two clearly leftist movies, the lawyers' actions only serve to highlight the shortcomings of the legal system. The prosperous Lawyer Fang in *Street Angel* brusquely turns away two penniless would-be clients who seek his help, and we know that those without money lack access to lawyers and therefore to justice. In *Crows and Sparrows*, Lawyer Feng may be sympathetic to Mrs. Hua, but he is powerless to act and the message is equally clear: neither law nor lawyers can protect those who oppose an unjust political order.

Yet other films, most of them unavailable for general viewing until the last few years, introduce us to a very different Chinese legal world. In these movies, we find references to contracts and lawsuits, as if these were possible even ordinary events. Here the law is not depicted as a tool of

oppression. On the contrary, it grants freedoms previously unknown, such as freedom of marriage for everyone and the right to divorce for women as well as for men. In this movie world, the legal system empowers people, it allows them to organize their lives and protects their rights; lawyers are their friends. At least on film, members of the Shanghai middle class were no strangers to the legal profession; they had ready access to lawyers (even if some of them cared too much for money), and therefore to justice.

Several versions of the model lawyer inhabit this parallel legal world. *Bright Day* shows us that lawyers can be righteous, at least if they represent those who need *and* deserve justice. In that movie, Lawyer Yin works hard for his clients and is willing to challenge the rich and powerful in court. When he is threatened and then set upon by thugs, he remains steadfast and undaunted, and he bravely continues his crusade for justice. In *Long Live the Missus*, Lawyer Yang too is a model lawyer, though of a very different type from Yin. His services are important and necessary to his clients, and he meets his professional obligations by representing their interests. Without Yang's advice, they could not take full advantage of the freedom the law grants them to order their lives. When he advises them, he plays a morally worthy social role, both as friend and counselor. Yang thus represents another version of the ideal movie lawyer: someone who is the equal of, and helpful friend to, his clients.⁷⁵

The relevance of these movies to Chinese life today is striking, at least to an outsider's eye. Now that China's economic reforms have once again produced an urban middle class, people can enjoy the comedies and dramas just as their pre-1949 predecessors did. And now that entertainment—along with much of Chinese life—has become less politicized, the audience can identify with these cinematic middle-class characters, not scorn their hopes or dismiss their concerns as bourgeois. Divorce has lost much of its stigma, a job in business is the goal of many, and even the presence of servants can hardly shock the conscience of urban China, where the “ayi” is a common figure in middle-class households.⁷⁶

Yet China's economic reforms have also created tremendous disparities between rich and poor, and between city and country; and

⁷⁵ See Charles Fried, *The Lawyer as Friend: The Moral Foundations of the Lawyer-Client Relation*, 85 YALE L.J. 1060, 1067 (1976), which argues that the special care one gives the interests of clients is comparable to the special concern one has for friends and family. Although this vision of the lawyer might seem outdated given the realities of legal practice (i.e., lawyers are now seen as business people instead of friends), this model of lawyers and their duties seems to find favor with Chinese law students and lawyers today. See Eli Wald, *Notes from Tsinghua: Law and Legal Ethics in Contemporary China*, 23 CONN. J. INT'L L. 369 (2008), at 378.

⁷⁶ Concubines (now usually known as *ernai*) have also made a comeback on the current Chinese scene. *Hello My Concubine*, SOUTH CHINA MORNING POST, February 15, 2009.

official corruption is once again rife. Even leftist movies, which might otherwise have seemed dated or preachy, can speak to us with a fresh voice, now that social-justice issues are once again a central concern. Is justice meted out equally to all Chinese, regardless of wealth or connections? Is access to justice easier than it was? Despite recent legal reforms, the police retain the power to handle administrative offenses with little practical recourse to the courts,⁷⁷ and images of the police as controlling, even frightening, figures might still resonate with viewers today. Just as films depicting warlord justice could be read as attacks on the failings of the Nationalist government, so these films may be viewed as critiques of any legal system that represses its citizens in similar ways.

The cinematic depictions of lawyers and judges, in particular, bring to mind the difficulties China's legal professions now face, when their professionalism as well their independence is under significant attack.⁷⁸ Like Lawyer Feng of *Crows and Sparrows*, Chinese lawyers are pressured by the authorities to turn down "political" cases, both civil and criminal, and they face punishment if they do not.⁷⁹ At the same time, Lawyer Yin might remind us of today's upright *weiquan* (rights defender) lawyers, who risk everything to defend people and advance causes they believe in, and who all too often suffer the consequences.⁸⁰ Read more broadly, *Bright Day* also suggests that China still needs to establish "a stable and just legal system before it [can] become a just and modern society."⁸¹ Isn't this still the most fundamental issue now? These early films thus reflect many contemporary concerns, even though they were directed at perceived failures of Republican-era justice—which in theory ended on the Chinese mainland some sixty years ago.

⁷⁷ For example, under the Security Administration Punishment Act, *supra* note 29, or through "reeducation through labor" (*laodong jiaoyang*).

⁷⁸ As part of a campaign for "democratization" of the judiciary—with attacks on "professionalism" really directed at ideas of judicial independence and procedural justice. The judges in the films I discuss all wear robes, but will judges now be forced to abandon them? See Jerome A. Cohen, *People's Justice*, SOUTH CHINA MORNING POST, June 25, 2009.

⁷⁹ *Citing Need for Unity, Beijing Urges Lawyers to Avoid Rioting Cases*, SOUTH CHINA MORNING POST, July 14, 2009. Many other examples could be given.

⁸⁰ Jerome A. Cohen, *Rough Justice*, SOUTH CHINA MORNING POST, July 9, 2009. See also Human Rights Watch reports of harassment, deprivation of licenses to practice, even beating by thugs (May 30, 2008). Eva Pils, *Asking the Tiger for His Skin: Rights Activism in China*, 30 FORDHAM INT'L L.J. 1209 (2007).

⁸¹ JUBIN HU, *supra* note 14, at 174.

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