

Dead Bodies and Forensic Science: Cultures of Expertise in China, 1800-1949

Daniel Asen

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## ABSTRACT

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Daniel Asen

In late imperial China the forensic examination of dead bodies in homicide cases was a sophisticated field of technical practice which developed through the collaboration of coroners, legal specialists, and literati-officials. After the fall of the Qing empire (1644-1911), successive governments of the Republican period (1912-1949) adopted the late imperial state's technologies of forensic examination in their attempts to institute a modern court system. This dissertation investigates the process through which modern police, coroners, legal officials, laboratory scientists, and urban publics debated, reimagined, and ultimately accepted this long-standing field of technical practice as a foundation for the modern Chinese state and its legal order.

The first half of this dissertation examines the forensic practices of the Qing empire and the ways in which they were integrated into Republican statecraft after 1912. Chapters One and Two argue that the late imperial bureaucracy successfully implemented a centralized system of forensic examination that shaped the ways in which coroners and local officials throughout the empire inspected dead bodies, analyzed causes of death, and documented their findings. Relying on the wide distribution of minimal amounts of forensic knowledge and skill, this arrangement made possible high degrees of consistency in examination practices while facilitating central authorities' bureaucratic supervision over local forensic cases. While the "expertise" of individual coroners could become important under certain circumstances, it was not necessary for the legitimation of forensic evidence or knowledge in routine homicide cases. Rather, the bureaucracy expected that officials and coroners would simply follow official procedure, a way

of legitimating inquest findings that could be used effectively across local jurisdictions despite uneven levels of forensic knowledge and skill among local officials and coroners.

Chapters Three and Four turn to the important role that these forensic practices played in Republican Beijing for the dual projects of administering the city and constructing a modern court system. Through a case study of the forensic work of police, coroners, and judicial officials in the city and around north China, these chapters argue that by adopting the bureaucratized examination practices of the late imperial state, the Republican court system facilitated modern procurators' professional jurisdiction over a crucial area of the administration of justice while facilitating the integration of forensic evidence and judicial investigation. It is in this sense that coroners and their forensic practices came to play a crucial role in the emergence of a modern legal order.

The second half of the dissertation explores the ways in which new conceptions and practices of scientific expertise were reconciled with the older, yet still authoritative, practices of late imperial forensics. Chapter Five explores the ways in which a new discourse of professional knowledge and expertise based on conceptual distinctions between "experience" and "theory" led to a complex reconceptualization of the epistemological status of late imperial forensic knowledge. While this new discourse served to legitimate new forms of forensic expertise based on scientific medicine, it also provided coroners and others invested in late imperial forensic practices with possibilities for reimagining older conceptions of knowledge in new, epistemologically authoritative ways.

Chapters Six and Seven turn to the ways in which anatomic-pathological dissection and laboratory science were integrated into the forensic investigation of deaths in Republican judicial practice. Chapter Six argues that the implementation of forensic autopsies in Republican

Shanghai and, to a lesser extent, Beijing did not in fact challenge judicial officials' and coroners' professional authority over the forensic inspection of dead bodies.

Chapter Seven examines the ways in which a new community of medico-legal scientists in 1930s Shanghai and Beijing attempted to extend their forensic expertise from the laboratory into local courtrooms. By tracing the itineraries of the physical evidence examined in the first medico-legal laboratories, this chapter shows that the local officials and coroners who collected the evidence for testing played a crucial, albeit contested, role in the establishment of legal medicine in China. Chapter Eight turns to the ways in which coroners themselves made use of modern science to legitimate their own, older forensic practices. By exploring the ways in which legal officials, coroners, and medico-legal scientists made use of popularized science in their attempts to update late imperial forensic practices, this chapter demonstrates that “science” had diverse meanings, could legitimate disparate forms of knowledge and expertise, and could support different professional causes – not simply that of professional legal medicine.

Far from passive objects of forensic examination, the dead bodies that populate this dissertation are active agents: they challenged examiners with mysterious wounds, ambiguous anatomy, or the tendency to decay away along with the evidence. As sensational objects of media coverage or simply reminders of the unjustly dead, the cultural and social meanings of corpses influenced the actions of those who examined them, demonstrating in the process the dialogue that science always maintains with culture and society. By foregrounding the ways in which “experts” of all kinds engaged with the material challenges and legal and cultural meanings of the dead body, this study demonstrates the dynamic interrelatedness, or co-production, of experts and objects of expertise, of social power and natural knowledge, and of statecraft and science.

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## Introduction

On the afternoon of February 3rd, 1936 station attendants and police officers made a ghastly discovery at the East Station in Beiping.<sup>1</sup> Upon opening two suspicious iron boxes that had been abandoned by a passenger the day before, they found dismembered human remains.<sup>2</sup> The municipal mechanisms that identified and investigated the suddenly and suspiciously dead of Beiping sprang into action. The city's Public Security Bureau (PSB) took over the case, summoning members of the local procuracy to the station to perform an examination of the body. Within several hours, the procurator Ming Yan 明炎 and a coroner who had served at the procuracy for over ten years named Yu Depei 俞德霈 along with other officials launched the investigation. Their examination of the body yielded that the male victim had been wounded with a wooden stick, hacked to death with a blade, and then dismembered post-mortem, an act that had probably taken place within the past week. As in the case of other anonymous dead of the city, the body was buried by municipal authorities with the exception of the

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<sup>1</sup> Beijing, the seat of the national government under successive political regimes of the early Republican period, was renamed “Beiping” (Northern Peace) in late June 1928 following the GMD decision to establish the new capital in Nanjing. For more on the history of Beiping during the Nanjing decade (1927-1937), see Dong 1999.

<sup>2</sup> For the original report, see Beijing Municipal Archives (BMA) J184-2-10790. “Orders of the city Public Security Bureau pertaining to tracking down and arresting [those involved] in cases of being pierced to death, run into by cars, hacked to death, assassinated, the box-corpse at the station, and abandoning corpses, seizing, and absconding” (市公安局关于侦缉被扎身死、车撞身死、砍伤身死、暗杀之死、车站箱尸、弃尸侵占潜逃案的训令), 1936, p. 23-24; also see *Shibao* Feb. 4th, 1936, p. 4. Note: The titles of BMA documents appear in simplified characters because, as working titles created by archival staff, this is how they appear on archival search aids.

head which, diligent readers of *Truth Post* (Shibao 實報) might have noticed, remained inexplicably unburied as of three months later.<sup>3</sup>

As in the case of most sudden and suspicious deaths in the city, it was precinct police, detectives, judicial officials, coroners, and the print media that made the mortal incidents of everyday life intelligible to the living in all of their gory spectacle. As “death brokers,” those who, in Stefan Timmermans’ words, “establish the varying meanings of violent or suspicious death,” these actors played a productive role in shaping the cultural meanings and social implications of death in the city.<sup>4</sup> The police investigation began with interrogation of witnesses at the station, but soon focused on what would turn out to be a mistaken identification of the body.<sup>5</sup> Less than two weeks later the case had stalled, and all clues had been exhausted.<sup>6</sup> The head of the PSB Chen Jiyan 陳繼淹 ordered Ma Yulin 馬玉林, likened to the “Sherlock Holmes of the East” in *Truth Post*, to crack the case with an army of detectives.<sup>7</sup> This happened on March 22nd, and all details were revealed on the next day in the *Post*.<sup>8</sup> The investigation had turned up the case of a person from Henan named Zhang Shulin whose disappearance had suspiciously not been reported to authorities by the head of the household, Wang Huayi. Both Zhang and Wang had had sexual relations with a wet nurse living in the household named Mrs. Liu née

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<sup>3</sup> *Shibao* May 9th, 1936, p. 4.

<sup>4</sup> Timmermans 2006, 251.

<sup>5</sup> *Shibao* Feb. 6th, 1936, p. 4; Feb. 7th, 1936, p. 4.

<sup>6</sup> BMA J184-2-10790, p. 30-32; *Shibao* Feb. 23rd, 1936, p. 4.

<sup>7</sup> For more on criminal investigation during the Nanjing decade, see Wakeman 1992. See Kinkley 2000, 399n45 (and elsewhere) for more on the translation of Sherlock Holmes in early twentieth-century China and other appearances of the appellation “the Oriental Holmes.”

<sup>8</sup> *Shibao* Mar. 23rd, 1936, p. 4.

Wang. It was the resentment harbored by Wang at Zhang's continued contact with her that led to the murder. Wang entrusted a man named Li Liangjing with killing Zhang, and the conspiracy implicated a driver as well as several other members of the household. On March 24th, all of those involved (with the exception of Wang Huayi, who fled) were transferred to the Beiping Local Court.<sup>9</sup>

Despite the brutality of the crime, the case was quite routine in how it was investigated by the urban state as well as the sensationalism of coverage in newspapers. What was not routine, however, was that it was investigated through the assistance of a new kind of forensic examiner in early twentieth-century China – a medico-legal expert named Lin Ji 林幾 (1897-1951). At the time of the case, Lin Ji was directing professor of the Institute of Legal Medicine, an academic institution at National Beiping University Medical School which in spring 1935 had begun to handle forensic examinations for authorities in Beiping and at least four provinces in north China. The PSB had given the then unnamed victim's head to the Medical School on February 10th, and it was preserved and examined at the institute on at least two occasions between February and late April, when the procuracy of the Beiping Local Court requested additional forensic examinations.<sup>10</sup> It was in the autopsy room of the Institute that Lin Ji performed an intensive examination of tissues in the neck of the victim, looking for the presence of “vital reaction” that would confirm for procurators whether the wounds were inflicted while alive or after death. As one of the founders of Chinese legal medicine, Lin Ji was part of a community of experts who had training and experience in pathology and other

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<sup>9</sup> *Shibao* Mar. 24, 1936, p. 4.

<sup>10</sup> *Beiping Medical Journal* (Beiping yikan 北平醫刊) 4, no. 7 (1936), 59.

areas of scientific medicine, usually had degrees from foreign universities, and, most importantly, intended to decisively change the ways in which Chinese courts investigated suspicious deaths.

Legal medicine, as understood and practiced at the Institute, was part of a global enterprise. As the ninth series of the Rockefeller Foundation's *Methods and Problems of Medical Education* demonstrated in 1928, medico-legal institutes were being built, if not planned, in many countries in the interwar years.<sup>11</sup> Reformers like Lin Ji worked under assumptions of global universality – that laboratory science contributed decisively and inevitably to the integrity of legal decisions in China just as anywhere else. Moreover, in a world shaped by global capitalism and its new centers and peripheries of power, knowledge, and expertise, legal medicine was understood to signify modernity, a powerful claim during a period of Chinese history in which all manner of social, political, and technical projects were being carried out to ensure the survival of a fragmented country in an increasingly hostile global system. Lin Ji and his colleagues had no doubt that they were, in fact, “modern,” and that the lines between science and those forms of knowledge that did not accord with its principles could be clearly demarcated.

Yet, in practice, medico-legal modernity was more complex and ambiguous. For example, Lin Ji's involvement in cases was in some ways quite limited. In the case of the dismembered corpse at the train station, judicial authorities conducted their own examination of the body parts before even contacting the Institute. The body that was examined at this earlier point was not one of tissues and vital reactions – that is, the body that materialized in the Institute's autopsy room – but one informed by a conception of

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<sup>11</sup> Rockefeller Foundation, Division of Medical Education 1928.



the body that had formed the core of the forensic practices of the Qing empire (1644-1911) and continued to inform official forensic procedure under successive Republican governments. Indeed, in almost every case that Lin Ji examined in Beijing, local officials and their forensic inspectors had already used these kinds of techniques to find cause of death and interpret the evidence, in the process investing it with forensic meanings that could present challenges to the medico-legal discipline-building project. Thus, the business of forensics continued to be shaped by the institutional legacies of the late imperial state and its own claims over forensics, a particular configuration of statecraft, expertise, and technical knowledge that had grounded the legal system of a powerful empire for several centuries.

Rather than viewing these older practices as an impediment to modernity – a basic assumption of medico-legal experts at the time – this dissertation argues for their indispensability to legal medicine and, more broadly, to modern science and statecraft in China. Lin Ji's access to bodies, to evidence, and to the law was mediated by legal authorities and, crucially, the forensic practices and norms that they brought to criminal investigation. If the facilities of a well-equipped medico-legal laboratory provided the technical and epistemological resources on which Lin Ji's expertise was based, this also translated into a professional distance from the actors who actually ran the investigation – a focus on largely decontextualized physical evidence that could only go so far. By contrast, despite the political fragmentation and challenges of state-building faced during the Republican period, late imperial forensic practices continued to be used over a wide geographic scope, in a range of environments ranging from urban Beijing to local

counties without modern courts, and in the investigation of many kinds of deaths, including those produced under the material conditions of industrial modernity.

As a number of scholars working at the intersection of history of science and postcolonial studies have demonstrated, the story of modern science cannot afford to ignore or submerge the forms of “local” knowledge and expertise on which projects of modernity – colonial or otherwise – have often depended.<sup>12</sup> The establishment of the early medico-legal profession during this period took place in dialogue with an “alternative” forensic practice that was highly formalized, conceptually sophisticated, and widely institutionalized. In fact, focusing on the rise of legal medicine as the most important aspect of forensic modernity in early twentieth-century China obfuscates the equally interesting story of a pre-modern “science” that survived the fall of the Qing empire to become a crucial element in the construction of a modern legal order characterized by epistemological plurality.

In exploring the deeply interrelated histories of late imperial forensic practices and the emergence of modern legal medicine, this dissertation focuses on several questions: How did the institutional legacy of the Qing empire shape the practice of forensics in Republican China? How did legal medicine and, more broadly, scientific medicine position itself vis-à-vis these practices? How did actors living during this period negotiate the meanings of “science” and “modernity” against the backdrop of competing visions of forensic knowledge, expertise, and authority?

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<sup>12</sup> For studies that demonstrate the fundamental role that negotiation and exchange with “local” actors, institutions, texts, and ways of knowing played in the development of modern science, see, for example, Fa-ti Fan’s (2004) study of natural history in late nineteenth- and early twentieth-century China and Kapil Raj’s (2007) study of early modern and modern fields of natural and technical knowledge in colonial South Asia. The work of Helen Tilley (2011) explores the important status afforded “indigenous” knowledge in agriculture, healing, and other fields under both the indirect administration of British colonial Africa and the fields of Western science that developed within this political and economic context.

*Beyond the history of “legal medicine in China”: Conceptualizing forensic practice as a field of technical knowledge in late imperial China*

Legal medicine was organized as one of the disciplines that constituted early twentieth-century scientific medicine. It was embodied in graduates and employees of medical universities and government laboratories. For much of the twentieth century, the historiography of forensic science in late imperial China has accepted modern conceptions of medico-legal science as the only legitimate way of organizing forensic knowledge and expertise while judging past instances of forensic practice accordingly. Writing the history of “legal medicine” was and remains an important aspect of establishing legal medicine as a modern professional discipline in China. It is not a coincidence that the first modern histories were written during the early Republican period by figures who played important roles in building the medico-legal profession. The brief histories produced by founding figures of legal medicine like Lin Ji and Sun Kuifang 孫達方 (1898 - ?) articulated a narrative of transition from a pre-modern forensics not based on the certain foundations of scientific medicine to the rise of modern legal medicine in the West and its introduction to China.<sup>13</sup>

Much of the historiography on forensic science in late imperial China produced after this period has followed these conceptual lines, commending China’s early adoption of sophisticated forensic practices while criticizing those practices for not meeting the

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<sup>13</sup> Lin 1936; Sun and Zhang 1936. For discussion of the similarly modernist assumptions underlying early works in the Republican historiography of Chinese medicine, see Hinrichs 1998, 289 and Luesink 2009.

epistemological standards of modern science.<sup>14</sup> For example, in his magisterial *History of Legal Medicine in Ancient China*, the preeminent historian of legal medicine Jia Jingtao explored several factors that explained the failure of China's sophisticated forensic tradition to "accomplish the leap to modern legal medicine."<sup>15</sup> Much of Jia's analysis, including his acknowledgment that in late imperial China the forensic examination was primarily an activity conducted by officials, his discussion of the importance of bureaucratic procedure to legitimating forensic knowledge and the role of late imperial literati-official authors in challenging it, and his identification of the ambivalent role played by physicians in forensic examinations have been borne out in the subsequent literature. Yet, the implicit narrative that informed the work of Jia and others of the precocious advance of Chinese science and technology followed by decline in the late imperial period is one which has been rightly criticized on many grounds.<sup>16</sup>

A number of recent works of historians of law and medicine have transformed our understanding of forensic knowledge in late imperial China by exploring the social, intellectual, and legal contexts in which officials, coroners, and legal advisors carried out

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<sup>14</sup> For an early history written by a medico-legal expert who was involved in forensics during the Republican period, see Chen 1952. For an overview of this historiographical literature since the early twentieth century, see Jia 1996.

<sup>15</sup> Jia 1984, 171-80.

<sup>16</sup> For another articulation of the narrative of China's early accomplishment in forensics and later stagnation, see Huang Ruiting (1997, 1-2), even though Huang qualifies this narrative with recognition of the important advances made in late Qing critical commentaries on the *Washing Away of Wrongs* (23-6). This narrative is also the gist of Joseph Needham's treatment of forensic medicine (Sivin ed. 2000, 175-200). While Needham was unequivocal about the early contributions of Chinese forensic medicine, he also implied its later decline vis-à-vis the rise of "modern forensic medicine" in the West, noting, for example, "After the mid 19<sup>th</sup> century, books continued to be written on the subjects discussed in the *Hsi yüan chi lu* [Xiyuan jilu], but they were of little importance. European anatomy and forensic medicine gradually entered China, leading to the synthesis of the present day." (2000, 188) For critiques of this approach, see, for example, Nathan Sivin's (ed., 2000, 15-16) discussion of the untestability of "predominance" as well as Francesca Bray (1997, 7-15 especially), who argues that a focus on "local meanings" of technology is a more interesting line of inquiry than focusing on the construction of "comparative hierarchies."

this crucial area of governance. The medical historian Chang Che-chia, for example, has argued cogently that forensics was understood primarily as an area of legal activity and knowledge, not medical.<sup>17</sup> Forensic legitimacy derived from following the official handbook of forensic practice, the *Records on the Washing Away of Wrongs* (Xiyuan lu 洗冤錄), an accessible source of technical knowledge that precluded fixed boundaries between “experts” and non-experts at an inquest. Pierre-Étienne Will and Catherine Despeux have explored the ways in which the body of official forensic knowledge became a focus of critical assessment and expansion in case collections and critical commentaries authored by a number of late eighteenth- and nineteenth-century officials and legal advisors.<sup>18</sup> Recent works have also offered a more nuanced understanding of the relationship between physicians, medical knowledge, and the law that acknowledges mutual influence between medicine and forensic inquiry without assuming that medical expertise has been, historically, the most important source of forensic knowledge and legitimacy.<sup>19</sup>

These works have done much to dismantle the notion that forensic practice in late imperial China was a kind of incipient “traditional legal medicine” (*chuantong fayixue* 傳

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<sup>17</sup> Chang 2004. The embeddedness of the forensic examination in judicial process was recognized in Alison W. Conner’s (1979, 31-46) work on the sophisticated concepts and practices of evidence in Qing law. Conner described the sophisticated body of regulations surrounding forensic practice as a reflection more broadly of the emphasis placed on judicial procedure and evidence in late imperial China.

<sup>18</sup> Will 2007; Despeux 2007. Also see Chang’s (unpublished) study of the important forensic treatise of Xu Lian 許橧, *Detailed Explanations of the Meaning of the Washing Away of Wrongs* (Xiyuan lu xiangyi 洗冤錄詳義, 1854 preface). For an analysis of the considerable forensic knowledge contained in general handbooks of local administration, not specialized forensic treatises, see Xie (unpublished).

<sup>19</sup> For example, Fabien Simonis (2010) has shown that local physicians were involved in the confirmation of legal insanity, but did so largely within a diagnostic framework defined by judicial practice. The work of Despeux (2007) as well as Yi-Li Wu (unpublished) have also documented important areas of mutual influence across works on forensics and medicine, especially in the field of skeletal knowledge. Also see Xinzhe Xie’s (unpublished, 2-4 especially) nuanced discussion of the roles that medical knowledge and expertise did and did not play in late imperial forensic practice.

統法醫學) that was waiting to develop into “modern legal medicine” (*xiandai fayixue* 現代法醫學) under the influence of Western forensic science. Yet, in exploring the contexts that gave late imperial forensic practices meaning “on their own terms,” these works have contributed to a fragmented picture of what exactly “late imperial forensics” meant as an organized field of technical knowledge. How do we reconcile the image of the forensic inspection of a dead body as a routine part of local administration with which officials had to begrudgingly engage with the compelling idea that it was also the focus of intense interest, even “passion,” among individuals who were invested in developing forensics as a field of specialist knowledge?<sup>20</sup> How do we reconcile Chang’s compelling argument that officials simply had to follow the *Washing Away of Wrongs* in their forensic examinations with Will’s tantalizing (and compelling) suggestion that forensics might have been the “occupation par excellence where [late imperial] scholars could cultivate a spirit of scientific research based on observation and experimentation”?<sup>21</sup>

This dissertation argues that in late imperial China the forensic inspection of dead bodies was an area of governance subordinate to the local administration of justice that *incidentally* raised technical problems requiring specialist knowledge. It was neither conceptualized nor organized as a specialized task falling under the exclusive professional jurisdiction of a particular discipline or other form of institutionalized occupational expertise. The late imperial bureaucracy’s primary concern regarding forensic practice was that the proper procedures had been followed – an outcome that

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<sup>20</sup> Pierre-Étienne Will’s recent work on the various ways in which the practice of inquests diverged from bureaucratic standards and official representation has brought this question to the fore. See Will (unpublished).

<sup>21</sup> Will 2007, 86.

would be apparent in the case file that passed through the complex system of mandatory judicial review. By implication, local officials and coroners participated in a regime of discipline that bestowed forensic legitimacy through conformity with official procedure. This notion of forensic authority is inimical to the modern conception of forensics as a specialist practice carried out by “experts” rather than, in modern parlance, “technicians.” Yet, the notion of a “technician” is, in fact, closer to what coroners and officials were supposed to be under the forensic regime implemented by the late imperial state.<sup>22</sup>

While late imperial officials were often dissatisfied with the integrity of local inquests, the knowledge and expertise of coroners and officials, and the quality of knowledge contained in the official *Washing Away of Wrongs*, the forensic practices of the Qing state were, in a very basic way, quite successful. By the fall of the Qing, the late imperial state had put into place a regime of forensic examination that was coterminous with its institutions of territorial administration. That is, much as in judicial practice more generally, the bureaucracy expected that the forensic evidence in cases handled throughout the empire would use a particular anatomical terminology, follow particular practices of examination, and make use of particular styles of forensic reasoning. This level of conformity was enforced through the mandatory review of capital cases within the province and then at Beijing, a process which held officials accountable for the forensic practices used in local cases. That the files of capital cases handled in different parts of the empire and across time demonstrate consistency in forensic terminology suggests that the ambitious goal of systematization was, to some extent, successful.

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<sup>22</sup> For a critical assessment of the idea of the “technician” in seventeenth-century science in the West, see Shapin 1994, 355-407. Shapin’s discussion of the tension between the low status and indispensable role of the “technician” is one which informs this study’s treatment of coroners in late imperial and Republican China.

Moreover, the fact that these practices were, with some modification, used routinely into the Republican period suggests that this was a widespread institution of governance.

The “success” of these practices during late imperial times as well as their persistence after the fall of the Qing was a reflection of the fact that this forensic order was not predicated on local officials’ access to “experts” with particular credentials, qualifications, or other forms of specialist knowledge. Inquest findings were legitimated by following prescriptive instructions and practical examination routines that were distributed through handbooks of forensic procedure and, more broadly, the considerable body of administrative knowledge required to navigate local administration. The knowledge that was necessary to make authoritative forensic claims was not restricted to the skills and knowledge of a particular occupational group of examiners.<sup>23</sup> In this vein, Chapter One explores the homicide case file as a site at which the forensic findings of local officials were routinely legitimated without the involvement of recognized forensic “experts.” Through a study of the ways in which local authorities in early nineteenth-century Yongping County, Yunnan, made use of the bureaucracy’s official practices to legitimate their interpretation and handling of a routine homicide case, this chapter shows that the most common forms of forensic knowledge-production in late imperial China were inseparable from measures for disciplining the examination practice, investigatory activities, and judicial reasoning of local officials and coroners. By providing local authorities with technical knowledge through the official practices that they had to follow,

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<sup>23</sup> For more on the ways in which skill is transmitted across and within particular bodies and social formations and the effects that this has on the “openness” of this knowledge, see Jacob Eyferth’s (2009) study of papermakers in twentieth-century China. Also see Elisabeth Hsu’s (1999) study of the different modes of transmitting medical knowledge in contemporary China.



the Qing state's bureaucratic regime of forensics established a way of producing forensic authority amid unknown or dubious access to local expertise.

It is important to contextualize the development of forensics as a specialist field of scholarly knowledge, as examined by Pierre-Étienne Will and Catherine Despeux, within this more general picture of forensic knowledge as a disciplined practice that members of the lower bureaucracy were compelled to follow. Literati-officials and legal advisors who produced these works were in the minority of those members of the late imperial state who participated in forensic examinations.<sup>24</sup> Foundational works like the legal advisor Wang Youhuai's 王又槐 *Washing Away of Wrongs with Collected Evidence* (Xiyuan lu jizheng 洗冤錄集證, 1796) or Xu Lian's 許樾 *Detailed Explanations of the Meaning of the Washing Away of Wrongs* (Xiyuan lu xiangyi 洗冤錄詳義, 1854) were produced by those who became interested in forensics through more general involvement in local governance, not through membership in a forensic "profession." Thus, the incipient "specialization" that appears in these works must be understood as an emergent, unintended development vis-à-vis the bureaucracy's regime of forensic practice, not an organizing principle.<sup>25</sup> This is an important distinction because it is possible that the late imperial state's forensic practices were so useful precisely because they did not require the involvement of members of a specialized profession to legitimate forensic knowledge in legal cases. Rather, local officials and

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<sup>24</sup> For a comprehensive overview of these authors and their works, see Will (forthcoming).

<sup>25</sup> My use of the word "emergent" is meant to emphasize the contingency of this development and, by implication, the fact that the prioritization of "specialist expertise," the fundamental source of modern medico-legal authority, cannot be taken for granted when analyzing the practice of forensics in late imperial China. See the work of Volker Scheid (2002) and Mei Zhan (2009) for analogous uses of this word to analyze the contingencies inherent in the development of Chinese medicine as a coherent field of technical knowledge.

coroners with varying degrees of forensic knowledge and skill had access to forensic technologies that could be applied in diverse local conditions and validated by higher authorities.

Thus, the most common kinds of forensic practice in late imperial and Republican China were not intended to facilitate the application of “expertise” to statecraft.<sup>26</sup> There is no question that some coroners, officials, and legal advisors developed “expertise” in forensics. “Expertise” in this context refers more to the kinds of practical knowledge gained from past engagement with forensic examinations than to the kinds of formalized knowledge that reinforces sociologically-fixed boundaries between modern “professionals” and those (understood to be non-experts) who consume their services.<sup>27</sup> In the context of late imperial forensic practice, “expertise” would also have implied the possession of knowledge and skill beyond official procedure, especially that which would allow one to reconcile discrepancies between observed situations and the official *Washing Away of Wrongs*, which was acknowledged to contain flaws. While an individual’s “expertise” in forensics was not a substitute for following official procedure – the more authoritative source of forensic legitimacy – it was not unimportant. For example, in skeletal examinations that were required in appellate or other cases for which earlier findings had been called into question, officials sought out “skilled” (*anlian* 諳練) coroners from other counties and even provinces (Chapter Two). Yet, in most routine

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<sup>26</sup> As scholars like Eric Ash (2004) and others have demonstrated, “expertise” is a difficult and complex historical and analytical concept. Not only has the concept “expert” had changing meanings in European intellectual discourse, but the modern notion of professional expertise – that is, formalized knowledge supported by institutionalized systems for credentialing and service-provision – is an idealized image that does not accurately reflect the practice of occupational expertise in the present.

<sup>27</sup> In this sense, there might be broad parallels with the experience-based “expertise” that Ash (2004) identifies prior to the rise of new notions of expertise based on formal learning in early modern England.

forensic cases, the “expertise” of the coroner would not have been as important to the legitimation of forensic claims as demonstrating conformity with official terminology, concepts, and practices (Chapter One). It was only in those cases for which more was at stake and for which a more decisive examination was necessary that recognized “experts” were mobilized.

By the last years of the Qing, forensic practice was a complex field of technical knowledge undergoing emergent developments and transformations. Much as in Bray’s discussion of late imperial agronomy treatises, forensics was an area of technical inquiry constituted through a dialogue of local practice, state power, and the textual production of literati-officials.<sup>28</sup> While forensics had become subject to ever more regulation over the course of the Qing, the bureaucracy’s standardization of forensic doctrine in the form of the official *Washing Away of Wrongs* (as well as official forms for examining skeletal remains) had spurred an outpouring of critical interest that was redefining the nature and uses of forensic knowledge. Ultimately, the tensions that existed between the imperatives of bureaucratic control, the emergence of new epistemological “anxieties” articulated in scholarly forensic works, and the continuing negotiation between the varied interests of coroners, local officials who supervised inquests, and officials and legal advisors who were interested in forensics as a “specialist” pursuit would deeply shape forensic practice in China well beyond the fall of the Qing.<sup>29</sup>

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<sup>28</sup> Bray 2008.

<sup>29</sup> The notion of “epistemic anxiety,” drawn from Daston and Galison (2007, 49) is useful for conceptualizing the particular concerns that officials like Xu Lian had with the foundations of knowledge in the official *Washing Away of Wrongs*. As Daston and Galison write, “But in all cases, it is fear that drives epistemology, including the definition of what counts as an epistemic vice or virtue. Conversely, science pursued without acute anxiety over the bare existence of its chosen objects and effects will be correspondingly free of epistemological preoccupations... Anxiety about virtue, epistemic or otherwise, is neither omnipresent nor perpetual.” While much of late imperial forensic practice was not, in fact,

*Late imperial forensics in Republican China*

During the last decades of the nineteenth-century and first decades of the twentieth, the legal order of which these practices were a part was transformed amid the political exigencies and crises of Western and Japanese imperialism, the creation of a semi-colonial order within China, the fall of the Qing in 1911-2, and the establishment and troubled early history of the Republic of China. The decades after the toppling of the Qing brought the tentative consolidation of a completely new legal system, social and economic changes that gave rise to new occupational groups with claims over forensic practice, and new conceptions of scientific knowledge and professional authority that profoundly changed the meanings of “expertise.” Moreover, during a period in which political power fractured amid the devolution of the late imperial state’s territorial administration into warring regional armies, administering any area of governance involved very real constraints on resources, personnel, and state capacity.<sup>30</sup>

Within these changed historical conditions, the judicial institutions of successive Republican regimes continued to use the forensic practices of the late imperial state until as late as the 1940s and, despite the fragmented and ineffectual nature of national governing institutions, on a geographic scale that is remarkably broad.<sup>31</sup> The forensic

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characterized by a formal concern with epistemology – conformity with official procedure was more important to the validation of forensic claims than demonstration of epistemologically-authoritative knowledge – the epistemological pedigree of knowledge-claims did become a central concern in the works of Xu Lian and others, as discussed below.

<sup>30</sup> For the challenges faced by late Qing and Republican legal reform, see Xu 2008. For a more general discussion of the problems of extending state capacity during this period, see Strauss 2000.

<sup>31</sup> A number of recent works have examined the complex role that late imperial institutions, practices, and conceptions of legality and justice played in the negotiation and formation of modern regimes of international law as well as domestic legal institutions. The work of Li Chen (2009) has argued that late

examination of a dead body, an official procedure known as *xiangyan* 相驗 or *jianyan* 檢驗, was maintained as part of the institutional practice of the Republican judiciary, albeit reorganized under the professional purview of professional judicial officers.<sup>32</sup> Coroners, renamed “inspection clerks” (*jianyan li* 檢驗吏) in the last years of the Qing, remained subordinate to local court and county government institutions. The *Washing Away of Wrongs* remained important for coroners’ training and practice, and official examination forms of the kind used under the Qing were revised and issued in 1918. Interestingly, the last years of the Qing and Republican period also saw a series of developments that both engaged and resolved some of the indigenous tensions that had developed within late imperial forensic practice, including an attempt to raise the status of coroners by giving them official status (a proposal that had been rejected in the late 1870s) as well as various steps to integrate the critical knowledge included in late imperial scholarly works into the routine practices of official procedure.

Unlike Chinese medicine, another field of specialist knowledge with a complex late imperial genealogy, the Republican judiciary’s forensic practices were not

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eighteenth- and nineteenth-century legal encounters between the Qing and British empires must be understood symmetrically as reflecting legal concepts and practices legitimated by distinct imperial formations which were only subsequently reconceptualized through discourses of Chinese “barbarity” and, by implication, Western “modernity.” Pär Cassel (2012) argues that the pluralistic nature of the Qing legal order, which reflected the political exigencies of administering a multiethnic empire, deeply influenced the ways in which consular jurisdiction was conceptualized and institutionalized during the empire’s engagement with the West and Japan during the late nineteenth-century. Despite the increasing hegemony of a concept of “judicial modernity” based on Japanese and Western models (Xu 2008) during the early twentieth-century, the continuing negotiation of older norms and practices continued to play out amidst the imperfect extension of professional judicial institutions (Xu 2008), the continuing relevance of older styles of legal reasoning and sentencing (Neighbors 2009), and debates over the sources and moral basis of the law (Lean 2007). Also see Ransmeier (2008) for the complex social and legal concerns that informed the modern prohibition on human trafficking and the disjunctures that existed between the formulation of laws and their enforcement in practice.

<sup>32</sup> For a discussion of late imperial debates on the meaning of these terms and distinctions between them, see Xie (unpublished) as well as discussion below.

reorganized through modern professional associations, research institutions, or other forms of modern occupational expertise.<sup>33</sup> While the coroners who conducted forensic examinations organized themselves and transmitted knowledge through various kinds of informal social formations (for example, kinship relations), they did not “professionalize” through the kinds of institutional practices and forms that many other occupational groups adopted during this period.<sup>34</sup> Much as under the late imperial state, the judiciary’s forensic practices were conceived as an activity subordinate to judicial officials’ more general investigation and adjudication, not a specialized task that required the involvement of a corps of expert coroners organized through an autonomous professional association. Coroners did not have to contend for the kinds of official patronage and legal regulations that conferred professional authority on lawyers and physicians. They were already part of the state.

This dissertation argues that the Republican state found something useful in a forensic regime that legitimated forensic knowledge not through the involvement of “experts” with a particular level of knowledge or skill, but rather through the use of technologies that could be applied under a variety of local conditions, even amid uncertain access to forensic expertise. Yet, the fact that, as I have argued, late imperial forensic practices militated against the formation of the kinds of exclusive boundaries that facilitate the consolidation of exclusive professional authority and identity also

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<sup>33</sup> For studies of this process in the case of medicine, see Andrews 1996; Lei 1999; Xu 2001, 190-214; Scheid 2007.

<sup>34</sup> For an overview of the institutional, social, and political aspects of “professionalization” that focuses on the establishment of associations and their various relations with state and society during this period, see the classic study of Xiaoqun Xu (2001). There have been a number of other studies of the process through which occupational groups navigated new norms of occupational expertise during this period. For a study of the “professionalization” of midwifery, for example, see Johnson 2011, 73-123.

explains why proponents of legal medicine, not to mention those who wrote the first modern histories of forensics in China, could so easily subsume this area of technical practice under the category of “legal medicine.” Late imperial forensics never achieved a public profile or disciplinary status akin to “national medicine” (*guoyi* 國醫), a category used to describe the indigenous medical knowledge and practices that a number of physicians (and other cultural and intellectual elites) identified in opposition to scientific or Western medicine.<sup>35</sup>

By using the late imperial state’s technologies of forensic examination, modern procuratorial officials (*jiancha guan* 檢察官) were able to exert their professional authority over the examination of corpses, a crucial element of their mandate to investigate crime, collect evidence, and administer prosecution. While these practices did not meet the standards of legal medicine as established, for example, in Japan, they did facilitate the formalization and specialization of the judicial (*sifa* 司法) functions of government, a trend that Xu Xiaoqun identifies as “judicial modernity.”<sup>36</sup> Judicial authorities of local courts and county authorities that handled judicial affairs in areas without courts used these technologies to conduct forensic examinations in consistent ways amid uneven (if any) access to physicians of scientific medicine or other kinds of forensic “experts.” These practices extended the Republican state’s institutional capacity more than did the first medico-legal laboratories established in Beijing and Shanghai.

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<sup>35</sup> For the role of this term in the professional conflict over medicine, see Xu 2001, 203.

<sup>36</sup> Xu 2008.

In this sense, the “modernity” of late imperial forensic practices in Republican China must be sought in their “timeliness,” to use Carol Gluck’s critical discussion of the conditions of modernity in Meiji Japan:

These preexisting conditions are thoroughly historical in nature, not a matter of culture or “tradition” or any such timeless chimera. It is precisely their timeliness – their specific character at the conjunctural moment of the 1850s and 1860s – that affected the direction of events, which in turn influenced the events that came after them.<sup>37</sup>

Much as scholars like Sean Lei, Volker Scheid, and Mei Zhan have demonstrated in the case of early twentieth-century Chinese medicine (and its later incarnation as “Traditional Chinese Medicine”), late imperial forensic practices were reorganized and reconceptualized within constantly expanding and shifting networks of practice that yielded connections with modern concepts (for example, “legal medicine” 法醫學, “experience” 經驗, “tissues” 組織), institutions (modern police, modern courts, pathology institutes, medico-legal laboratories), and technologies (laboratory testing, forensic autopsy, anatomical dissection).<sup>38</sup> Proponents of medicalized forensics were quick to portray the *Washing Away of Wrongs* and coroners as, at best, of the past and, at worst, embodiments of the highly erroneous “pseudo-sciences” developed before the modern period. Yet, these characterizations were articulated during a period characterized by pluralistic forensic institutions, practices, and forms of knowledge, a situation in which coroners routinely worked within the context of modern institutions and used modern concepts to legitimate their knowledge. Thus, the boundaries between “modern”

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<sup>37</sup> Gluck 2011, 680.

<sup>38</sup> Zhan 2009; Lei 2002.



and “pre-modern” were unstable, subject to continuing negotiation, and inseparable from the professional and cultural politics of forensic reform.<sup>39</sup>

The case of forensics demonstrates that forms of technical knowledge and expertise not included in the modern disciplinary structure of professions and sciences as established in the West and Japan cannot be written out of the histories of the modern state, the professions, and modernity. Yang Nianqun’s study of the ritual specialists who certified deaths in Beijing, Tina Phillips Johnson’s work on the “retraining” of old-style midwives, and the considerable literature on physicians of Chinese medicine suggest the diverse nature of the professional marketplace in early twentieth century China.<sup>40</sup> While all of these groups faced criticisms for not being “modern” enough or “scientific” enough, they nonetheless played crucial roles in extending the reach of the modern state, augmenting the work of new professions, and shaping the meanings of life and death in early twentieth-century China. In the case of forensics, this “alternative” form of knowledge and expertise was in fact an official element of Republican statecraft, a geographically widespread, institutionally integrated, and conceptually complex technical practice. As a crucial body of working knowledge and expertise upon which the Republican state relied well into the twentieth century, these practices were a constitutive element of modern governance and of “modernity” itself.

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<sup>39</sup> Rebecca Nedostup’s (2009) detailed study of GMD attempts to distinguish the realm of legitimate “religion” from that of “superstition” in policy and practice during the Nanjing decade has been useful for thinking about the ways in which other categories that signify modernity (for example, “science”) have been negotiated in practice, a story which, as Nedostup’s work suggests, is intrinsic to the liminal spaces that persist under the extension of new forms of governmental and, in the case of this dissertation, professional rationality.

<sup>40</sup> Yang 2004; Johnson 2011, 93-102.

*Modern science and the rise of legal medicine*

The institutions, practices, and concepts conjured by the late nineteenth-century Japanese neologism “legal medicine” (Japanese: *hōigaku*, Chinese: *fayixue* 法醫學) were not, in any sense, an “indigenous” development of the late imperial state’s forensic practices, even if much of the modern historiography on this topic has viewed the transition from “traditional legal medicine” to “modern legal medicine” as inevitable.<sup>41</sup> Legal medicine was introduced, negotiated, and adopted in China within the context of decisively changed power relations between China, Western countries, and Japan. Thus, the “encounter” between late imperial forensic practices and legal medicine was mediated by new forms of statecraft and state institutions, new conceptions of sovereignty and power, and new ideas about the scientific attainment of China vis-à-vis that of “the West.” It was under these new historical conditions that legal medicine and, more broadly, modern science, gained authority. For example, as Ruth Rogaski, Larissa Heinrich, and others have demonstrated, the ascendant authority of scientific medicine was inseparable from questions of national sovereignty, global competition, and notions of ethno-racial deficiency.<sup>42</sup>

Legal medicine was a social and intellectual formation that was very different from the institutions and practices that had defined the late imperial state’s forensic

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<sup>41</sup> For examples of these categories, see, for instance, Jia (1986, 205), He (1990, 129), and Huang (1997, 37) who identify the legalization of dissection as a crucial turning point in the shift from “ancient legal medicine” to “modern legal medicine.” Also, see Wang and Chen 1993, 56. For a systematic comparison between the features of “traditional legal medicine” in China and those of “modern legal medicine,” which originated in the West, see Huang 1997, 17-20.

<sup>42</sup> Rogaski 2004; Heinrich 2008. These themes are also explored in the chapters of Leung and Furth, eds. 2010.

capabilities.<sup>43</sup> As a specialized medical discipline which addressed the intersection between medicine and law, legal medicine as it developed in continental Europe and, to a lesser extent, England and the United States, was a field of learning that was organized through institutions of academic medicine.<sup>44</sup> The conception of “legal medicine” that was introduced to China during the first decades of the twentieth century was, more than this, a particular form of inquiry into the material world that relied on the pillars of anatomic-pathological investigation and laboratory testing, epistemological foundations of the “scientific medicine” that had coalesced over the course of the mid-late nineteenth century. In an important sense, then, the professional authority of legal medicine was predicated on its claims to privileged knowledge of “things,” as gained through practices of physical inspection and chemical analysis.

The authority-claims of legal medicine and, more broadly, scientific medicine were not simply epistemological but also social. Proponents of medico-legal reform assumed that unprecedented areas of political, legal, and social life should be defined and managed by members of professional (scientific) medicine, an occupational group that emerged amid the social and economic changes that gave rise to urban middle class professionals more generally.<sup>45</sup> This also reflected an unprecedented

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<sup>43</sup> For broad overviews of modern legal medicine in China during this period, see Jia 1986; He 1990; Wang and Chen 1993. The most comprehensive work is that of Huang Ruiting, who has published both a biography of Lin Ji (1995), as well as a more general overview of forensic practices during the late imperial and Republican periods (1997). These works largely focus on describing the establishment of a procedural-legal basis for medico-legal expertise, the translation of medico-legal works from Japan and the West, the establishment of education and training programs for developing medico-legal personnel, and the activities of the Research Institute of Legal Medicine, an institution that served as a crucial foundation for medico-legal professionalization.

<sup>44</sup> Some important works on the diverse ways in which the medico-legal has been conceived, institutionalized, and practiced in the early modern and modern West include Forbes 1985; Mohr 1993; Clark and Crawford 1994; Burney 2000; Jentzen 2009; Watson 2011.

<sup>45</sup> For an overview of these broad changes, see Xu 2001, 50-77.

“internationalization” of forensics, in William C. Kirby’s characterization of what is perhaps the fundamental characteristic of China’s (and any country’s) modern history.<sup>46</sup> That is, the medico-legal discipline, much like other scientific disciplines, was a social formation that was simultaneously “national” and “global,” an intersection of global forms of capital and knowledge and the explicitly national concerns of China’s first generations of scientists and physicians who both collaborated with, and competed with, the international community of modern science.<sup>47</sup> In an important sense, then, the “modernity” represented by legal medicine was socially bourgeois, intellectually academic, and a reflection and constituent element of the “legal medicine” that existed in Japan, continental Europe, and other global sites.<sup>48</sup>

Understanding how a form of expertise that developed in the medico-legal institutes of continental Europe and Japan gained authority in China requires examining a complex field of institutions, professional interests, and knowledge. As Catherine Crawford and other scholars of legal medicine in continental and Anglo-American courts have argued, particular configurations of legal institutions, rules of evidence, and procedures for incorporating expertise into the law shape the professional successes of medico-legal experts and the very nature of their technical practice.<sup>49</sup> As a scientific discipline that relied on its connections with legal institutions to be able to participate in

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<sup>46</sup> Kirby 2000.

<sup>47</sup> For more on the global/national dynamic in Republican sciences, see Shen (2007) for the case of geology and Fu (2009) for nutrition. Luesink (forthcoming) also engages with this issue in his work on medical professionalization and its connections to global notions and practices of biopolitics.

<sup>48</sup> For studies that compellingly argue for the importance of global “peripheries” to the history of science in general, see, for example, Stepan 1991 and Raj 2007.

<sup>49</sup> Crawford 1994.

cases, train practitioners, and obtain “material” for academic research, the nascent medico-legal profession was deeply reliant on the judiciary when negotiating the scope of its professional authority. Following the sociologist Andrew Abbott, we might say that professional experts (including medico-legal scientists) work within occupational niches that are the result of negotiations with other groups around particular work tasks.<sup>50</sup> These “settlements” are not organized in advance, but rather are negotiated in practice as different groups reconcile their competing claims over particular areas of occupational work.

In understanding the institutional and professional conditions in which medico-legal science gained authority in Republican China, then, it is crucial to examine the ways in which the emerging discipline crafted a place for itself amid the institutions and practices that already defined the forensic examination of dead bodies. In framing themselves as the true “experts” in forensic cases, medico-legal professionals operated under the assumption that legal officials should delegate the tasks of forensic examination to them on the basis of their specialized knowledge in pathology, chemistry, and other fields of scientific knowledge. In practice, though, given the paucity of medico-legal experts as well as judicial officials’ existing professional interest in, and capacity to handle, forensic inspections of dead bodies, the actual “settlement” that developed was more ambivalent than the ambitious plans of Lin Ji and others to bring medico-legal expertise to the heart of Chinese forensics.

While there were instances in which pathologists or medico-legal experts established arrangements with judicial officials to autopsy bodies (Chapter Six) or run

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<sup>50</sup> Abbott 1988.

chemical tests (Chapter Seven), the scope of medico-legal experts' involvement was often shaped by legal officials' own professional interests in a case. That is, judicial authorities decided when to utilize the medico-legal laboratory, which kinds of questions to ask, and which evidence to send for testing. Because, in many instances, judicial officials and their coroners had already conducted their own examination of the evidence, the medico-legal discipline's involvement was peripheral to the more established, geographically dispersed, and institutionally entrenched form of forensic practice administered by the judiciary. In practice medico-legal experts did not fundamentally challenge the forensic authority of the *Washing Away of Wrongs* or the various practices associated with it. Moreover, dissection and laboratory testing – the core of the discipline's claimed epistemological privilege – only gained legal authority under specific conditions, when it suited the prerogatives of judicial officials and their own forensic norms.<sup>51</sup> Thus, as members of the medico-legal discipline negotiated a place for their expertise, they joined an administration of justice defined by heterogeneous institutions, practices, and epistemologies.

There is no question that modern practices of statecraft carried out during this period widely utilized modern professional experts for purposes ranging from economic development to the production of social scientific knowledge.<sup>52</sup> In the case of forensics, though, it was a form of technical knowledge not organized around the application of modern professional expertise that was, ultimately, more useful to the Republican state.

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<sup>51</sup> My approach to this question has been influenced by Stefan Timmermans' (2006) study of the conditions under which medical examiners' autopsies gain authority as they are deployed vis-à-vis the various institutions and professional groups that shape the investigation of deaths in the present-day United States.

<sup>52</sup> For examples of the latter, see Mullaney 2011 and Lam 2011.

A relevant parallel might be found in the attempts to create a rural health service carried out under the Nationalists. As Ka-che Yip has noted, these efforts were challenged by the concentration of physicians of scientific medicine in urban and coastal centers, a general unwillingness to recruit the more populous physicians of Chinese medicine in order to organize healthcare for a greater percentage of the rural population, and, almost certainly, the general paucity of Western physicians relative to the population during this period.<sup>53</sup> The project of medico-legal reform faced parallel challenges. Medico-legal laboratories based in Beijing and Shanghai achieved less geographic coverage than did a form of forensic practice that was easily integrated into local institutions and capable of producing legitimate and even authoritative forensic evidence without laboratory facilities or specialists in pathology and chemistry.

If the picture that emerges in this dissertation is one of ambivalent medico-legal “professionalization,” it is important to not equate this with ambivalence towards modern science more generally. During this period, scientific knowledge proliferated widely, for purposes ranging from production to consumption and leisure, and in service of many different professional and intellectual interests.<sup>54</sup> Medico-legal experts never obtained a monopoly on the ways in which “science” was conceived or deployed. Much like physicians of Chinese medicine during this period, some coroners were trained in rudimentary medico-legal science as a way of legitimating their expertise in new ways (Chapter Eight). The scientific knowledge that they learned served professional interests different from those served by the “common knowledge in legal medicine” (*fayi changshi*

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<sup>53</sup> Yip 1995, 96-7, 13-4. As Yip notes (97), the attempt to retrain some old-style midwives was a way of combating shortages of medical personnel. This can be followed in Johnson (2011, 93-102).

<sup>54</sup> Kwok 1965; Wang 2004; Schmalzer 2008; Lam 2011; Lean (unpublished).

法醫常識) disseminated by medico-legal experts, a form of scientific knowledge meant to bring officials and coroners' forensic norms into line with the medico-legal discipline. Thus, "science" served different purposes, was wielded by different groups, and mediated through different epistemological norms and practices.

*A history of forensic practice*

An important question throughout this dissertation is how different kinds of forensic practitioners – whether coroners, literati authors of forensic treatises, pathologists or medico-legal scientists – represented and engaged their objects of inquiry to make claims of knowledge as well as social authority.<sup>55</sup> This is an important question in part because it relates to the ways in which forensic examiners elevate themselves and their knowledge within a technical activity that has often been characterized by ambiguous boundaries between "experts" and non-experts. In exploring this question, this dissertation focuses on practical conditions as crucial for the construction of knowledge and expertise. By "practical conditions," I mean the ways in which the specificity of forensic practice – that is, as an activity embodied in specific actors encountering specific bodies and things in specific times and places – shaped the process of making knowledge with epistemological claims that often transcended the particular.<sup>56</sup>

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<sup>55</sup> The idea of "co-production," as articulated and explored in Jasanoff, ed. 2004, is useful for conceptualizing the engagement with objects in scientific practice as simultaneously constitutive of natural, social, and political orders.

<sup>56</sup> A focus on the practical construction of scientific knowledge has informed much work in Science and Technology Studies and history of science in recent decades. Some works that have been instrumental in formulating the significance of "practice" in this study include Latour 1987, Pickering 1995, Lenoir 1997, Scheid 2002, Pickstone 2007.



Before a corpse became an object of forensic examination, it was always a traveler, an urban dweller, an indigent person, or a victim of homicide. People died in places that were far from the county seat, the imperial capital, or the medico-legal laboratory. Forensic regimes centered on these locations needed ways of transmitting reliable knowledge at a distance and establishing control over local activities. Moreover, the time that passed between the death and the initiation of a police investigation or forensic examination could lead to changes in the body. Corpses undergoing decomposition could change color, shift form, and disperse into smaller pieces that could decay away and disappear.<sup>57</sup> Decomposition could cause forensic signs to become ambiguous and make the examination extremely unpleasant. In a very practical sense, producing forensic knowledge required that one engage these challenges and, to some extent, overcome them. In abstract terms, this was a process that had to accomplish the “detachment of objects from their natural environment and their installation in a new phenomenal field defined by social agents,” to quote Karin Knorr Cetina’s characterization of one effect of modern laboratory sciences.<sup>58</sup>

The legal system of the Qing empire relied on the ability to make the dead body an object of reliable and lasting knowledge in the context of a judicial process that was widely extended in space and time. The routine procedures for documenting the wounds on a corpse played an important role in creating a representation of the dead body that could be utilized throughout the handling of a case, despite the decomposition of the evidence itself (Chapter One). The requirements of review or appeal, which might require

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<sup>57</sup> In this sense, the corpse was a “challenging thing” – in the words of Ursula Klein and E.C. Spary (2009, 9) – which “continually asserted [its] physical presence.”

<sup>58</sup> Knorr Cetina 1999, 27.

an examination of remains at a point far removed from the death, presented the Qing state with the challenges of decomposed or skeletonized remains. In such cases, coroners were expected to conduct an examination of the bones that could reveal signs that had long disappeared from decomposed flesh (Chapter Two). Both of these technologies for mitigating the effects of post-mortem transformation – the bureaucratic case file and practices of skeletal examination – were adopted by the Republican judiciary and integrated into the forensic practice of procurators and coroners (Chapter Three).

Medico-legal experts' physical control over the dead body far surpassed that afforded by the technologies available to coroners and procurators because of their access to laboratories – dedicated, physical spaces in which dead bodies and other objects could be stored, analyzed, manipulated, and experimented upon. The Research Institute of Legal Medicine, for example, had facilities for chemical testing, anatomic-pathological investigation, microscopy, photography, X-ray, and animal testing. These procedures could be carried out according to the time-frame established by pathologists and medico-legal scientists. Procurators and coroners, by contrast, do not seem to have had lasting access to dead bodies, which would be buried as soon as possible, beyond the initial inquest or subsequent examinations. The spatial and temporal advantages of the laboratory also provided medico-legal experts with the possibility of “testing” coroners' forensic methods under controlled conditions. Lin Ji used this strategy to conduct experiments on the silver needle test for poisoning, a procedure included in the *Washing Away of Wrongs*, as a way of delegitimizing this technique and arguing for the necessity of medico-legal expertise in poisoning cases (Chapter Seven).

Yet, the fact that the few medico-legal laboratories that did exist were concentrated in urban areas, far removed from the geographically dispersed “local” contexts in which most homicide cases occurred, meant that examining evidence in a laboratory required a broader network of actors that could literally bring a piece of physical evidence out of the local circumstances in which it was discovered and into the laboratory for testing.<sup>59</sup> Thus, a crucial question in this dissertation is how particular deaths shifted from being “cases” handled by local officials (police, procurators, county magistrates, or coroners) to those handled by medico-legal scientists. Much as Stefan Timmermans notes in his study of medical examiners in the contemporary United States, forensic scientists in early twentieth-century China relied on an earlier process of “triaging,” carried out by the police, legal officials, and coroners (who were subsequently characterized by the medico-legal discipline as “non-experts” in forensics) who decided which evidence would be sent to the laboratory.<sup>60</sup> The important question, then, is how this evidence acquired new meanings as “things” exclusively knowable by science that could bolster the medico-legal profession’s claims that it was indispensable to Chinese law. From such a perspective, the complex professional ecology in which forensic practice took place is more than simply “context.” Rather, it involved a crucial set of decisions and actions that made medico-legal science practicable in the first place.

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<sup>59</sup> This is an important aspect of the complex relationship between what occurs inside of a laboratory and how these activities are communicated to, legitimated by, or otherwise engage society beyond its walls. This general question has been an important focus in the critical work on the history of laboratories and laboratory science. See, for example, Cunningham and Williams 1992 as well as Gooday 2008.

<sup>60</sup> Timmermans 2006.

*Expert cultures of the dead*

It should be clear by now that there has long been intensive interest in dead bodies in China. This is not an intuitive point. Over a century of discourse has asserted that Chinese were incapable of the kinds of utilitarian engagements with the dead body that characterized those of the West. Whether it was moving a graveyard to build a road or dissecting corpses to investigate illness, the practical acumen of the Chinese was found lacking when corpses were involved.<sup>61</sup> Early twentieth-century proponents of dissection likewise argued that their difficulties in procuring cadavers were caused by ingrained conceptions of the souls or notions of filiality that prevented desecration of the body.<sup>62</sup> The importance of skeletal examinations in forensics (which disarticulated the bones) as well as the use of legal punishments that destroyed bodies in proportion to the severity of a crime would suggest that the idea of a blanket Chinese abhorrence of corporeal desecration was a gross simplification and that a more situational understanding of when and for what purposes bodies were “destroyed” is a more interesting and important question.<sup>63</sup>

Indeed, the implicit notion that “culture” or “religion” obstructed the advance of science (or that a procedure like dissection would challenge “cultural” meanings of the

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<sup>61</sup> For example, see Pott 1928, 98. For more on this trope, see Chapter Six.

<sup>62</sup> E.g. Li 1930. Croizier (1968, 26) mentions the notion that “Confucian abhorrence of dissection as a gross violation of filial piety” led to a Chinese “neglect of surgery,” even though he is clearly lukewarm, if not critical, about the explanatory force of this idea.

<sup>63</sup> For discussion of punishments and “somatic integrity,” see Brook, Bourgon, and Blue 2008 and Zhang 2008. The fact that there were late imperial physicians with an interest in contemplating, not to mention observing, anatomical structure, as shown in Yi-Li Wu’s recent work (unpublished), should also qualify the notion that the dead body was never understood as a potential source of useful medical knowledge.

body) enforces a notion of modern science as value-free, rational, and acultural.<sup>64</sup> As Bruno Latour and others have argued, the idea that “nature” can be distinguished from “culture,” an assumption implicit in many areas of modern knowledge, is crucial for the legitimation of scientific knowledge and expertise.<sup>65</sup> In fact, areas of social and cultural life that are often studied separately under the categories of “religion”/ “culture” and “science”/ “biomedicine” could be deeply interconnected in practice. The bodies that were dissected in China’s first medical universities passed through the hands of relatives, police, and, at times, coroners, before they reached the dissection room. Afterwards, relatives could claim a body for burial. It was also common practice at National Beijing Medical Special College for medical students and faculty to conduct rituals meant to commemorate those whose bodies were dissected.<sup>66</sup>

An important focus of this dissertation, then, is exploring the sequential phases and meanings that constituted the social life of the dead as they passed through the various institutions, knowledge systems, and practices that defined the engagements of the state and forensic examiners. This is to acknowledge, on the one hand, that prior “cultural”

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<sup>64</sup> These assumptions about science have been broadly critiqued and reassessed within Science and Technology Studies, history of science, and the historiography of science in China. For example, for more on “sentiment” and affect as important conditions for the production of scientific knowledge, see Tong Lam’s (2011, 6-8 and 107-116 especially) treatment of social surveys and rural fieldwork in Republican China as well as Erik Mueggler’s (2005) discussion of the important yet ambivalent role of “affect” in Francis Kingdon-Ward’s (1885-1958) production of botanical knowledge in Southwest China and Tibet.

<sup>65</sup> Latour 1987; for more on these categories and their role in constituting modernity, see Latour 1993. For works on scientific practice that challenge these distinctions, see the work of Michael Lynch and Stefan Hirschauer, who have argued that in scientific practices such as neuroscience research and clinical surgery, practitioners’ access to scientific objects is contingent on their acknowledgement of the “life-world esteem” of their objects of study. Lynch 1988; Hirschauer 1991.

<sup>66</sup> For more on these ceremonies, see “Guoli Beiping daxue yixueyuan zhi jiepouji 國立北平大學醫學院之解剖祭 (Ritual Offerings to the Dissected Conducted by National Beiping University Medical College).” *Beiping yikan* 北平醫刊 1, no. 6 (1933). Similar ceremonies to commemorate the dead and acknowledge their service to medicine were conducted in Taiwan as early as 1902 and continued in subsequent decades, including after 1949. For a brief overview, see Kao and Ha 1999, 177.

meanings surrounding the dead person can have an impact on the kinds of knowledge and expertise deployed by forensic experts. Zoë Crossland has argued, for example, that in forensic anthropology and related human sciences, the authority of evidentiary claims made on the basis of the body rely in part on the continuing invocation of the body-as-deceased person, a semiotic possibility that is always latent.<sup>67</sup> Indeed, forensic practice is meaningful precisely because it makes claims about individual persons and these claims form part of a longer narrative about the social actors and forces that led to a legally-relevant death.<sup>68</sup> Thus, forensic practices like the inquest or autopsy do not “negate” the identity of the deceased, but in various ways produce notions of personhood and identity that are just as important as those created in death ritual.

Indeed, one might say that coroners and judicial officials struggled to impose their own meanings on the corpse vis-à-vis those of police, relatives of the victim, the accused, or others in local society. All of these actors were present at inquests precisely because of the need to ascertain the facts of the case. In Republican Beijing, the inquest was the site at which procurators issued burial permits to relatives of the deceased, a crucial linkage with the worlds of funeral practice and death ritual. The close “proximity” of these social ties surrounding the dead to the site of forensic practice could result in the corpse becoming a highly contested object. Relatives or other interested parties could use the dead body in legal disputes as “an effective, if ghoulish, practice of social empowerment

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<sup>67</sup> Crossland 2009.

<sup>68</sup> For example, the point of the late imperial inquest was to construct a narrative of the death that could serve as evidence in adjudication. As in Qing judicial narratives more generally, a conception of a social person emerged from this process, defined within the webs of hierarchical socio-ritual relations that informed the Qing Code’s vision of society as well as conceptualization of crimes and punishments.

via the court system,” as Melissa Macauley has noted.<sup>69</sup> Cases involving contested forensics were subject to a re-examination at a later point, when a new coroner would have to convince disputants to accept a new set of forensic claims.

Many of these “voices” were silenced or muted in the walls of the laboratory, an important precondition for the controlled and intensive engagement with “things” – now devoid of the cacophony of social ties and meanings surrounding them – at the heart of medico-legal professional authority. This was not because the laboratory was a purely “rational” space in which objective knowledge was produced beyond social or political exigencies and meanings. Rather, it was in large part because the institutions and actors which mediated the laboratory’s access to evidence – police, judicial officials, and coroners – also insulated it from those contestations that had occurred at earlier points in the case and were often the impetus for medico-legal laboratory testing in the first place. Thus, while medico-legal expertise was mobilized in response to the needs and prerogatives of judicial authorities (acting in engagement with local actors who could contest their inquests), the “things” that were examined in the laboratory traveled alone, without these actors, competing “voices,” and alternative meanings. Ultimately, it was the intensive engagement with “things” made possible within this environment that constituted a crucial yet practical source of the power of scientific epistemology in early twentieth-century China.

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<sup>69</sup> Macauley 1998, 214.

## Chapter One

### Vital Spots and Mortal Wounds:

#### Technologies of Forensic Statecraft in Late Imperial China

In 1829 a man from Sichuan named Shi Darong was traveling to Tengyue Subprefecture in western Yunnan to sell jade paraphernalia. Stopping for rest in Yongping County, Shi and a porter whom he had employed to transport his items encountered four individuals, three of whom were Hui (Sino-Muslim), transporting goods through the area.<sup>70</sup> They too had stopped to rest, and were preparing a meal. Hungry from his travels, Shi wanted to buy some rice. When his asking price appeared too low, however, a quarrel ensued between him and one of the men, named Long Aqi. The two soon came to blows. The others of Long's group joined the brawl after Shi picked up a knife and used it to wound Long. In the violent encounter that ensued Shi was struck several times with pieces of firewood, hands and feet. After being taken from the scene by the porter, Shi claimed over the next several days that his rear ribs were aching, and he died soon after.<sup>71</sup>

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<sup>70</sup> For an overview of the terminological and conceptual problems of *hui* 回 as a category, see Lipman 2006, 86-88.

<sup>71</sup> The case was included in Yilibu's 伊里布 (Zi: Xinnong 莘農, 1772-1843) *Elementary Models for Studying Cases* (Xuean chumo 學案初摸, 1838 preface), a work that was to provide local officials with models of routine judicial procedure through presentation of cases handled correctly and approved by higher authorities. Yilibu had served as Governor-General of Yunnan and Guizhou at one point in his illustrious career (1827-1835), and drew the cases that appeared in the collection from this jurisdiction (Hummel 1943-1944, 387). The twenty case files included in the text as well as its 1839 sequel were republished in 1881 in Gansu. For each case Yilibu provided the documentation accompanying a magistrate's initial investigation of a crime and communication with bureaucratic superiors within the province. Unlike other collections of rejected or particularly difficult legal and forensic cases, *Elementary Models* was meant to demonstrate the correct following of procedure and provide models of complete case files. For more on the genres of legal and forensic case collections see Will 2007. For the case itself, see Yi 1881 (1838), *gong'ou ren zhisi*, 1a-19a.



Viewed within the context of the Qing empire's southwestern frontier, the case might be read as indicative of the brewing ethnic tensions between Sino-Muslims and the Han settlers who migrated to Yunnan en masse during the late eighteenth and early nineteenth centuries.<sup>72</sup> This was an area that demonstrated the limits of Qing imperial expansion. With pockets of malarial land and the ethno-political instability they represented, southwestern Yunnan was administered by a tense balance of Qing bureaucracy and local tribal chieftainships.<sup>73</sup> Nevertheless, once reported to the Yongping County yamen, the magistrate (and, undoubtedly, legal advisors) investigated the death and proposed sentence through formal procedures that were mandated by central authorities in Beijing.<sup>74</sup> This involved, initially, an examination of the body supervised by the magistrate.<sup>75</sup> The product of this examination was a routine report that would pass

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<sup>72</sup> Lee 1982; Atwill 2003.

<sup>73</sup> Bello 2005.

<sup>74</sup> Li Chen (2012) has compellingly argued that by this period private legal advisors were playing a fundamental role in the local administration of justice as well as the development of legal and forensic knowledge across the Qing empire.

<sup>75</sup> Forensic examinations were referred to as *xiangyan* 相驗 or *jianyan* 檢驗, both of which mean “inspection.” *Yanshi* 驗屍 (“examine the corpse”) is also used in some sources. *Yan* 驗 (examine) was used during the Qing and Republican periods to refer to both examination of the body for forensic purposes as well as investigatory practices which preceded this examination, such as the investigations of police or Bureau of Hygiene investigators. I translate *jianyan* as “forensic inspection,” “forensic examination,” or “inquest” throughout this dissertation with the understanding that this was a technical term referring to a specific kind of examination, rather than the more generalized sense of “inspection.” While *xiangyan* does not seem to have been used to refer to re-examinations of skeletal remains, *jianyan* was used to refer to both the initial forensic examination of a body and subsequent examination of skeletal remains throughout the late Qing and Republican period. “Inquest” or “to perform an inquest” is a suitable translation for both given that in Qing (and Republican) administrative discourse and practice, both terms could denote not simply the examination of a body, but broader fact-finding activities including interrogation of those involved and examination of the scene of the death. Beyond their use in practice, the meanings of the terms *xiangyan* and *jianyan* (as well as *yan* 驗 and *jian* 檢) as descriptions of forensic examination procedures were analyzed and debated in a number of late imperial works on local administration. For a detailed discussion, see Xie (unpublished), 15-24.

through the proper channels of review within the province and central government in Beijing, resulting in a proposed sentence of capital punishment for one of Shi's assailants.

Forensic examinations constituted a crucial aspect of local judicial process under the Qing. As described in judicial precepts circulated in late nineteenth-century Jiangsu under the title *Essentials of trying lawsuits* (聽訟挈要), “The forensic inspection is the foundation of homicide cases, thus one must proceed with care. If the forensic inspection is in error then the entire case will be in error” (相驗為命案根本，最宜詳慎。相驗錯則全案錯矣).<sup>76</sup> These examinations were understood to be a crucial site of governance at which the most serious questions of justice and law and order were at stake. Much as in the handling of capital cases more generally, the late imperial state put into place mechanisms to ensure the integrity of this most important yet vulnerable area of governance. Even at the periphery of the empire in Yunnan, local officials had to follow the center's rules and procedures and submit to evaluation by higher authorities, a reflection of the routinization of judicial procedure more generally,<sup>77</sup> the formalization of case narratives and associated language,<sup>78</sup> and the bureaucratization of judicial decision-making.<sup>79</sup> The mechanisms for assessing inquest findings reinforced relationships of power and control within the bureaucracy. Indeed, those who proposed regulations

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<sup>76</sup> *Jiangsu shengli* 1863-1891, nie, guangxu 17, 5a.

<sup>77</sup> Alford 1984.

<sup>78</sup> Hegel and Carlitz 2007; Karasawa 2007. For a study of the judicial practice surrounding human trafficking in late imperial and Republican China that is attentive to the complex interplay between formal legal categories, case narratives, and the agency of individuals who encountered the law, see Ransmeier (2008).

<sup>79</sup> Buoye 1995.

related to inquests were officials with responsibility for supervising the judicial activities of local government.<sup>80</sup>

Local inquests were affairs in which many actors – officials, coroners, relatives of the deceased, the accused, and the local community – participated. This chapter focuses on the ways in which bureaucratic control over this area of governance shaped the strategies that officials and coroners used to legitimate inquest findings. Officials of the prefecture, province, and central government tasked with reviewing cases played a crucial role in defining and validating forensic knowledge in late imperial China. From their perspective, local officials' following of bureaucratic procedure was what guaranteed the trustworthiness of findings in local examinations and the legitimacy of the techniques that had been used. As such, the case file which underwent this review process was crucial for the constitution of late imperial forensic practice as an empire-wide, highly-integrated field of technical knowledge. Understanding the requirements surrounding the production of a case file is crucial for illuminating the ways in which centralized forensic norms were integrated into local jurisdictions and through which local actors – including officials and coroners – were disciplined.

*From dead body to textual representation*

Once the magistrate of Yongping County received report of Shi's death from the local constable, he brought a coroner named Duan Chengfa 段成發 to examine the

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<sup>80</sup> The regulations pertaining to forensic examinations which accumulated over the course of the Qing came primarily from the proposals of Surveillance Commissioners, Governors, and Censors. These were the officials who would have had the best view of local administration of justice.

body.<sup>81</sup> Such examinations were carried out at two main points in Qing judicial process: during the initial investigation of a death by local authorities and during the process of appeal or review when facts ascertained earlier were called into question. Not every death was investigated with an official inquest and decisions about which deaths were “suspicious” enough to warrant one were made on the basis of official regulations, accusations (and false accusations) within local society, and the earlier investigations of sub-bureaucratic functionaries and, in mid-late nineteenth (and early twentieth) century Jiangnan, the work of benevolent associations that collected and buried unclaimed bodies.

The forensic inquest was a formal procedure that was supposed to take place in the presence of ranked members of the bureaucracy. An inquest carried out by capital authorities in Beijing was described by the English missionary John Dudgeon (1837-1901) in 1869:

The following is the manner usually pursued on the 3rd day after death – the inquest for injury alone is slightly modified: the body is laid out by the police preparatory to inspection, chairs and tables are arranged at a respectable distance to *windward* to insure immunity to olfactory nerves and yet to command a view of the ablutions. A fire is generally lighted between the tables where the officials are seated and the dead body. One of the officers takes down the depositions of the examiner, the police carry pails of water and others stand with burning incense in their hands and keep continually replenishing the incense fire. The body is first filled with water, and then lustily washed by the police, which generally carries off all the epidermis. As the body lies on its back the examiner commences his manipulations with chopsticks, probing the head and

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<sup>81</sup> During the late imperial period, the official title of forensic examiners was *wuzuo* 仵作. This term has been translated in the English-language literature on the history of forensics in China as “coroner” or “ostensor,” a term which accurately reflects the role that the *wuzuo* played in pointing out the wounds and other forensic signs for officials tasked with supervising the examination. For discussion of the latter term, see “Forensic Medicine” in Sivin ed., 2000, 191. During the early twentieth century, those who filled this position were referred to as *jianyan li* 檢驗吏 (inspection clerk) or *jianyan yuan* 檢驗員 (inspection personnel, examiner). I have elected to use the more familiar translation, “coroner,” in this dissertation and, to remain consistent, use this word to translate *wuzuo*, *jianyan li*, and *jianyan yuan* throughout.

face, then right and left sides, ribs and lower extremities, in the most careful manner. After satisfying himself on the anterior aspect, the body is turned, and the same processes take place as in front.

The examiner afterwards proceeds to the table, where his depositions are taken down and then the mandarins, with the relatives of the deceased, along with the examiner, go over the whole case again, dwelling particularly on the supposed causes of the death or seat of the injury. Before attempting this, the officials, who have been partaking freely of snuff, introduce rolls of paper into their nostrils, and with wet towels in their hands, which they hold to their mouths, they proceed to the side of the body.

The body is afterwards confined and is generally taken home by the relatives, or to the police station, or it may be allowed to remain at the spot of injury or death till the injurer or murderer confesses his fault or crime and sentence has been passed upon him. Sometimes two or more examinations take place with the view of verifying the statements of the prisoner or persons implicated.<sup>82</sup>

As highly public events, inquests could be quite dramatic. Indeed, the morbidly spectacular quality of the process described by Dudgeon was surely one impetus for the representation of forensic examinations in publications ranging from *Dianshizhai Pictorial* to *Shenbao* and other newspapers of the late Qing and Republican period. In fact, the very openness of the inquest was, as Chang Che-chia has argued, an important source of the legitimacy of its findings.<sup>83</sup> Openness of proceedings demonstrated to local people that no malfeasance had occurred and that recognized procedures had been followed. Officials and coroners were also supposed to be able to convince those present at the scene – relatives and the accused especially – to accept the verdicts produced during the examination of the body. In instances where relatives or others did not accept

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<sup>82</sup> See “Notes and Queries on China and Japan” (N.B. Dennys, ed. Published by Charles A. Saint in Hong Kong), 3, no. 8 (1869), 127-8.

<sup>83</sup> Chang 2004, 14-5.

the findings, additional examinations would be performed with the goal of obtaining their assent.

Yet, as an official activity requiring bureaucratic oversight, the inquest was also the first step in an institutional process conducted largely through the production, circulation, and review of paperwork. Inquests were performed at the level of the county, which was court of first instance in the Qing legal system. Even though the county magistrate's power to adjudicate in homicide cases was limited, the investigations of local authorities provided the evidentiary basis on which higher courts adjudicated. Much as in the case of local officials' sentencing recommendations more generally, forensic findings and practices would be evaluated during this process.<sup>84</sup>

The official files produced in cases such as the death of Shi Darong were composed of two parts. The first was the initial report of the circumstances of the case.<sup>85</sup> This report was produced after initial investigation of the case and included the report of the inquest, statements of those involved, and the confession of the one identified as principally responsible for the death. The second part of the file included documentation accompanying the formal release of the case from the jurisdiction of the county magistrate to the next levels of review at the prefecture, province, and central government.<sup>86</sup> This document contained the contents of the initial report (including inquest report and statements), additional depositions, and the "statement of

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<sup>84</sup> As Buoye (1995, 67) has found in his study of homicide reporting, "Higher officials scrutinized the file to ensure that the elements of the file were consistent but, as long as the file was internally consistent and filed on time, higher officials were unlikely to raise questions about the details of the case." For an example of this dynamic at work, see the infamous Yang Naiwu case, for which higher authorities simply confirmed the local magistrate's initial findings. Alford 1984, 1206-8, 1230-1; Dong 1995, 88.

<sup>85</sup> Yi 1881 (1838), *gong'ou ren zhisi*, 1a-7b; Na 2006, 81.

<sup>86</sup> Yi 1881 (1838), *gong'ou ren zhisi*, 7b-19a; Na 2006, 128.

consideration” (*kanyu* 看語) with the magistrate’s sentencing recommendation.<sup>87</sup> During the final stages of review, the county magistrate’s report and those produced during higher levels of review were summarized and excerpted in memorials sent for the emperor’s consideration. These memorials have served as invaluable sources in recent studies of Qing law.<sup>88</sup>

While discussion of the forensics of a case could take place at different points in the file, the main record of the examination of the body was a listing of the signs observed by the coroner and recorded in specific ways. The crucial requirement was that local authorities document findings through an official form called the “checklist of the corpse” (*shige* 屍格), a model of which was included in the official Qing forensic handbook *Records on the Washing Away of Wrongs* (*Xiyuan lu* 洗冤錄) with accompanying images (*tu* 圖) of the body (see figures 1 and 2).<sup>89</sup> More than simply a form for recording wounds, though, this document was part of an analytical rubric that would become important when authorities went to decide which wound caused death. The form listed seventy-nine parts of the body, divided into front (*yangmian* 仰面) and back (*hemian* 合面) aspects and, within these categories, “vital” (*zhiming* 致命) spots and

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<sup>87</sup> Yi 1881 (1838), *gong'ou ren zhisi*, 15b-19a.

<sup>88</sup> i.e. Buoye 2000, 230; Hegel and Carlitz 2007.

<sup>89</sup> Chongkan buzhu xiyuan lu jizheng 1879, 1.12a-16a; Hegel 2004, 76. Several terms were used to describe the forms used in examinations. The statute in the Code that delineated the punishments for all manner of malfeasance in inquests used the term *shizhuang* 屍狀, “account of the corpse.” Shen Zhiqi 沈之奇 explained in his important early eighteenth-century commentary to the Code that *shizhuang* was the same as *shige* 屍格 – “checklist of the corpse.” See Shen 2000 (1715), 1033. The regulations that officials were supposed to follow in inquests used several expressions to describe the inquest report. For example, “fill out and prepare the affidavits and checklist and report them” (填具結格通報), “fill out the checklist and obtain the affidavits” (填格取結) and “fill out the wound list” (填注傷單).

“non-vital” (*bu zhiming* 不致命) spots.<sup>90</sup> Sixteen spots on the front of the body and six on the back were listed as vital in total.

Described generically by Lu and Needham as “spots of special sensitivity and danger in case of violent assault, where trauma, contusion, or shock will be exceptionally perilous, leading to internal injury or death, sometimes with no external sign of wounding at all,” a notion of the “vital spots” had been important to conceptions of the vulnerabilities of the body in imperial forensic practice as early as Song Ci’s 宋慈 (1186-1249) magisterial *Collected Records on the Washing Away of Wrongs* (*Xiyuan jilu* 洗冤集錄; 1247 preface).<sup>91</sup> Building on notions of “vital spots” that appeared in earlier forensic works (many of which were inspired by Song Ci’s text), the Qing empire put into place a highly formalized regime of forensic examination that made the distinction between vital spots and non-vital spots a fundamental, and mandatory, aspect of forensic examination and judicial reasoning.<sup>92</sup>

This form might be understood as a “technology” in a number of senses.<sup>93</sup> By recording signs according to the terminology and categories of this form, coroners and

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<sup>90</sup> There were several discrepancies between the checklist and its *tu* which were noted in critical editions of the *Washing Away of Wrongs*. For example, the images distinguished between left and right frontal eminences (*ejiao* 額角) while the checklist did not. In addition, the images contained both navel (*qi* 臍) and lower abdomen (*xiaofu* 小腹), while the checklist listed only navel (*qidu* 臍肚) (Chongkan buzhu xiyuan lu jizheng 1879, 1.16a). Different compounds were also used for cheek (*saijia* 腮頰).

<sup>91</sup> Lu and Needham 1980, 302. For earlier uses, see, for example, McKnight 1981, 65, 78, 80.

<sup>92</sup> For a critical discussion of the important role of “vital spots” reasoning in Qing forensics, see Qu Zhongrong’s 瞿中溶 1827 *Identification and Correction of Errors in the Records on the Washing Away of Wrongs* (*Xiyuan lu bianzheng* 洗冤錄辨正). Qu criticized the way that the checklist of wounds distinguished between vital and non-vital parts of the body, arguing that the use of this distinction should not supersede more complex determinations of cause of death. Chongkan buzhu xiyuan lu jizheng 1879, 6 *shang*.9a.

<sup>93</sup> I define “technology” as the institutional, material, and conceptual practices used to produce forensically-relevant objects of knowledge and action, a process which is inseparable from the social production of



officials produced a textual representation of the dead body that translated the material corpse into a formalized “body” of conceptual knowledge that was legible to the late imperial state.<sup>94</sup> Moreover, in identifying each wound as on a “vital spot” or not, officials applied categories that would become important later on during the process of establishing the narrative of the crime and resolving questions of legal responsibility.<sup>95</sup> Thus, these practices of examination and documentation facilitated the production of the dead body as a manipulable, analyzable, and actionable object of forensic knowledge that could be circulated, reviewed, and assessed throughout the bureaucracy’s handling of a case. These practices allowed officials to engage with the corpse – now transformed into a textual representation – on their own terms, at a time and place of their choosing, and in ways that neutralized the very real effects that putrefaction would bring about in the actual body.

This form was also a technology which facilitated the imperial bureaucracy’s control over forensic examinations performed at the local level. Forensic examination techniques were defined by procedures to which officials were held accountable, much as

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relations of authority and expertise (i.e. Bray 1997). Following Bray (2008), I also envision “technology” as a site at which formalized knowledge was both drawn from and applied to the kinds of embodied “knowledgeable practice” that might be characterized as skill. For more on this conceptualization of “skill,” see Eyferth 2008.

<sup>94</sup> My use of “legible” is inspired by that of James Scott (1998), even though this is not to imply that the Qing was a modern state. Cf. Tong Lam’s (2011, 73) discussion of the applicability of Scott’s notion of “legibility” to the late imperial state and his compelling argument that “... the transition from the so-called ‘premodern’ to the ‘modern’ should not be portrayed as the emergence of a legible and governable world. Rather, it should be understood as the shift from one form of legibility and governmental rationality to another as a result of a change in the political order.”

<sup>95</sup> In this sense, these technologies defined how the body itself figured in the “scripts” (in Simonis’ words) that structured Qing officials’ engagements with instances of suspicious death: “What was unique to fields like Qing law or medicine was less the statements they made about mad acts, mad words, and mad people than the scripts in which they made these statements meaningful and consequential. A ‘script’ is a scenario according to which a process – e.g., the course of an illness or a crime – was understood or expected to unfold. These scripts were templates for describing reality, but also interpretive frameworks that guided people’s interventions in fluid processes.” (Simonis 2010, 11).

in other aspects of judicial investigation and reporting. The most basic requirement of forensic procedure was that officials rely upon the *Records on the Washing Away of Wrongs*, edited by the Codification Office (Lüliguan jiaozheng Xiyuan lu 律例館校正洗冤錄), an official text in four *juan* produced on the basis of various medical and forensic works.<sup>96</sup> For officials, following the *Washing Away of Wrongs* was a prerequisite for their forensic claims to be accepted during the process of review even as dissatisfaction with the official text fueled the production of critical editions and case collections meant to correct its errors and check it against forensic practice.<sup>97</sup> By relying on the anatomical

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<sup>96</sup> As Chen Chong-fang (2010) has noted, it is important to acknowledge that this was a completely different work from Song Ci's *Collected Writings on the Washing Away of Wrongs*, even if the *Collected Writings* constituted an important source as well as namesake and stated lineage for this text. For discussion of the sources of the official Qing text, see Qu Zhongrong's 瞿中溶 *Identification and Correction of Errors in the Records on the Washing Away of Wrongs* (洗冤錄辨正) (1827), included in Chongkan buzhu xiyuan lu jizheng 1879, 6.12a. As Chen has described, many modern scholarly works have adopted 1694 as the date of completion of this text with little documentation, seemingly basing this claim on Song 1957 as well as thin documentation from late imperial forensic texts – for example, Yao Deyu's 姚德豫 claim that the four-*juan* Codification Office-produced work was completed “during the reign of Kangxi.” There are also sources that date it to the early Qianlong period and claim that it was issued along with the 1740 Qing Code. Chen makes a compelling case that the official *Washing Away of Wrongs* was not completed before late 1741. In this dissertation, the Lüliguan jiaozheng Xiyuan lu 律例館校正洗冤錄 is referred to as the “official *Washing Away of Wrongs*.” Citations of this text in the dissertation are made from the version commented upon in (and included in) one of the numerous expansions of Wang Youhuai's 王又槐 *Washing Away of Wrongs with Collected Evidence* (Xiyuan lu jizheng 洗冤錄集證, 1796) that circulated during the nineteenth century, titled *Chongkan buzhu Xiyuan lu jizheng* 重刊補註洗冤錄集證 (*Records on the Washing Away of Wrongs with Collected Evidence, with Supplements and Annotation, Reprinted*) with prefaces by Mei Qizhao 梅啟照 (1879) and the numerous other legal advisors and officials whose critical treatments of forensic knowledge and the *Washing Away of Wrongs* were packaged in this text. For an overview of the intellectual development of these texts and an appraisal of their significance, see Will 2007. The overview provided in Will (unpublished) demonstrates that numerous editions of the *Washing Away of Wrongs* “with Supplements and Annotation,” in fact a compendium of a number of forensic commentaries and cases, were printed over the course of the nineteenth century by various government and commercial sources.

<sup>97</sup> This was not stipulated explicitly in the regulations governing inquests, yet legal specialists and others stated in their administrative handbooks that this was a requirement. For example, in his *Important Points for Handling Cases* (辦案要略) Wang Youhuai 王又槐 listed “the wounds filled in [on the checklist for recording wounds] are not consistent with that recorded in the *Washing Away of Wrongs*” (填傷與洗冤錄載不符者) as one of numerous missteps in the handling and reporting of cases that could lead to refutation during review (Zhang 1968 [1892], 518). While there were cases in which passages from the *Washing Away of Wrongs* were cited explicitly in the case documents, it appears that it was unnecessary to provide a specific passage or reference to the text in the file. See, for example, *Boan huibian* (2009 [1883], 283) for a

terminology and vital/non-vital distinction of the “checklist” when examining and recording wounds on a corpse, local authorities were following an examination practice that not only incorporated the conceptual categories of the *Washing Away of Wrongs*, but disciplined their forensic practice in line with official procedure.

*Examining the body and documenting the wounds*

The legal requirements governing the reporting of inquests decisively influenced the observational practices carried out by coroners during the inquest itself. In his *Records on the Washing Away of Wrongs with Collected Evidence* (*Xiyuan lu jizheng* 洗冤錄集證), the legal advisor Wang Youhuai 王又槐 addressed the problem of making the wounds on the corpse lying in front of an examiner “fit” with the fixed points defined in the checklist.<sup>98</sup> He urged officials to ensure that the relative sizes of a wound and (standard) location on the body (*buwei* 部位) matched in the inquest report:

When examining the wounds of corpses, first look at the location that was wounded to see how wide it is. Then examine the dimensions of the wound. If it conforms to the width of the location then there will be no error when filling in [the checklist]. If the wound is broad and the place of the wound small, the wound can be said to connect (*jielian* 接連) with other places. For instance, the location of the base of the earlobe is only several *fen*. If one receives a wound that is one and more *cun* it will necessarily connect to the cheek and other places. One

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case in which the *Washing Away of Wrongs* is quoted in a discussion of wounds, alongside the findings of a physician’s (醫生) examination.

<sup>98</sup> Pugliese’s characterization of the techniques used in modern forensic pathology to inspect wounds is in this context applicable to Qing forensics: “A repertoire of spatialising terms construct the body into a cartographic corpus: distal and proximal, lateral and medial... Upon this corporeal map a series of topographico-anatomical landmarks are identified in order to systematise the location of injuries in relational and thus measurable terms” (Pugliese 2002, 372).

should record the phrase ‘base of earlobe connecting with cheek, however many [*cun* and *fen*] long’<sup>99</sup>

The locations mentioned in the passage were not arbitrary. “Base of the earlobe” and “cheek” were standard points in the checklist, categorized respectively as a vital spot on the back of the body and non-vital spot on the front. Another way of making wounds “fit” with the standard points was discussed in the commentary appearing in Ruan Qixin’s 1832 edition of Wang Youhuai’s recension of the *Washing Away of Wrongs*. Ruan noted that during his time as an officer in Beijing, when wounds did not fall directly on one of the locations (“如不在部位之正中者”), phrases like “to the left of such-and-such a place” (*mouchu pianzuo* 某處偏左), “to the right of such-and-such a place” (*mouchu pianyou* 某處偏右), “just above such-and-such a place” (*mouchu jinshang* 某處近上) and “just below such-and-such a place” (*mouchu jinxia* 某處近下) could be used in the description of wounds in the report.<sup>100</sup>

The written report that documented the coroner Duan Chengfa’s examination of Shi Darong’s body was produced using these procedures (see figure 3).<sup>101</sup> Every wound on Shi’s body was identified in relation to the “front” and “back” aspects of the checklist and the standard set of points contained within each. Duan recorded seven wounds on the front of Shi’s body and two on the back. One of Shi’s wounds was described as

<sup>99</sup> Chongkan buzhu xiyuan lu jizheng 1879, 1.6b. 1 *cun* (“inch”) = 10 *fen*. During the Qing, a *cun* was equivalent to 3.2 cm. See Wilkinson 2000, 237-238.

<sup>100</sup> Chongkan buzhu xiyuan lu jizheng 1879, 1.7a.

<sup>101</sup> Yi 1881 (1838), *gong’ou ren zhisi*, 1b-2a, 8a-8b.

connecting (*jielian* 接連) the back of his left hand and finger.<sup>102</sup> The order in which each wound was described matched the order of the checklist, beginning with the category of vital spots on the front of the body and ending with that of non-vital spots on the back of the body. Other information recorded in the document included color of the wounds, their dimensions, and instrument or manner of wounding.<sup>103</sup> This was a representation of Shi's body that would withstand putrefaction, thus allowing officials reviewing the case to deliberate on the Yongping magistrate's performance.

The Yongping authorities' use of this regime of forensic examination not only assigned Shi's wounds to the fixed points with which they would be associated for the rest of the case, but also designated *every* wound as either on a "vital spot" or a "non-vital spot." Three of the frontal wounds were recorded as occurring on vital spots and four as non-vital spots, while no wounds on Shi's back were inflicted on vital spots. Officials were required by procedure to apply these designations to wounds. In his *Important Points for Handling Cases* (辦案要略, n.d.), Wang Youhuai instructed officials to follow the format of the checklist when reporting wounds:

When describing the wounds one must announce, according to the checklist, that such-and-such a vital spot [was wounded] and that there is such-and-such a mortal wound or that such-and-such a non-vital spot [was wounded] and that there was such-and-such a non-mortal wound. One must also announce the dimensions

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<sup>102</sup> For a case which used *lian* 連 (connecting) to describe wounds, see Chongkan buzhu xiyuan lu jizheng 1879, 2.60b.

<sup>103</sup> The first substitute on "Examining the Wounds on a Corpse and not [Reporting] Correctly" in the Code required officials to determine all of these pieces of information in their examination of the body (Xue 1970 [1905], 1268; statute 412/ substitute 01). These were in fact highly formalized descriptions of wounds. The recorded color of wounds – in formulaic uses of blue (*qing* 青), red (*hong* 紅), deep red (*chi* 赤), purple (*zi* 紫) and black (*hei* 黑) – was a key factor used in determining the severity of a wound in relation to other wounds, with darker colors indicating greater severity. See Chongkan buzhu xiyuan lu jizheng 1879, 1.2a for this basic formulation of the colors of wounds, without deep red (*chi* 赤). For more on deep red, see 5.4a.

and color of the wounds. One cannot only say that such-and-such a part was wounded or that there is such-and-such a wound without writing “mortal” or “non-mortal” according to the checklist. Places with no wounds do not have to be announced<sup>104</sup>

These practices translated the wounds on a corpse into a textual representation that made use of such key categories of the Code as “vital spots” and “mortal wounds,” categories that would become important for sentencing later on. Thus, when authorities in Yongping County went on to analyze Shi’s wounds for the purposes of finding which one caused his death and the implications that this would have on sentencing his attackers, this process was facilitated by the earlier classification of each wound into the categories composing the analytical rubric that defined the Code’s conceptualization of legal responsibility in homicide cases.

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<sup>104</sup> Zhang 1968 (1892), 34a/497.

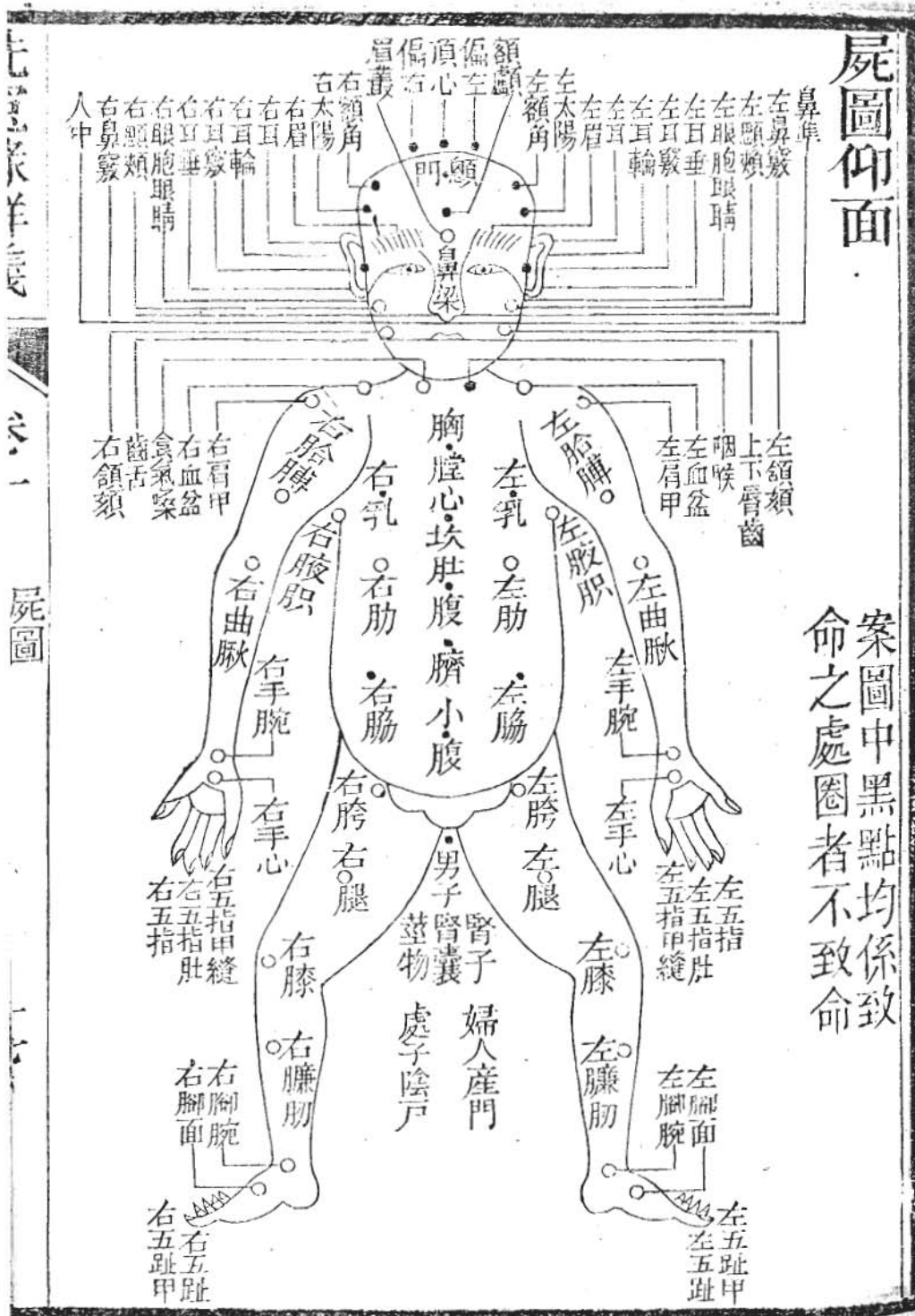


Figure 1: Official image of the corpse, frontal view

From: Xu Lian, *Detailed Explanations of the Meaning of the Washing Away of Wrongs* (1854)

洗冤錄詳義  
屍圖合面

卷一

十七

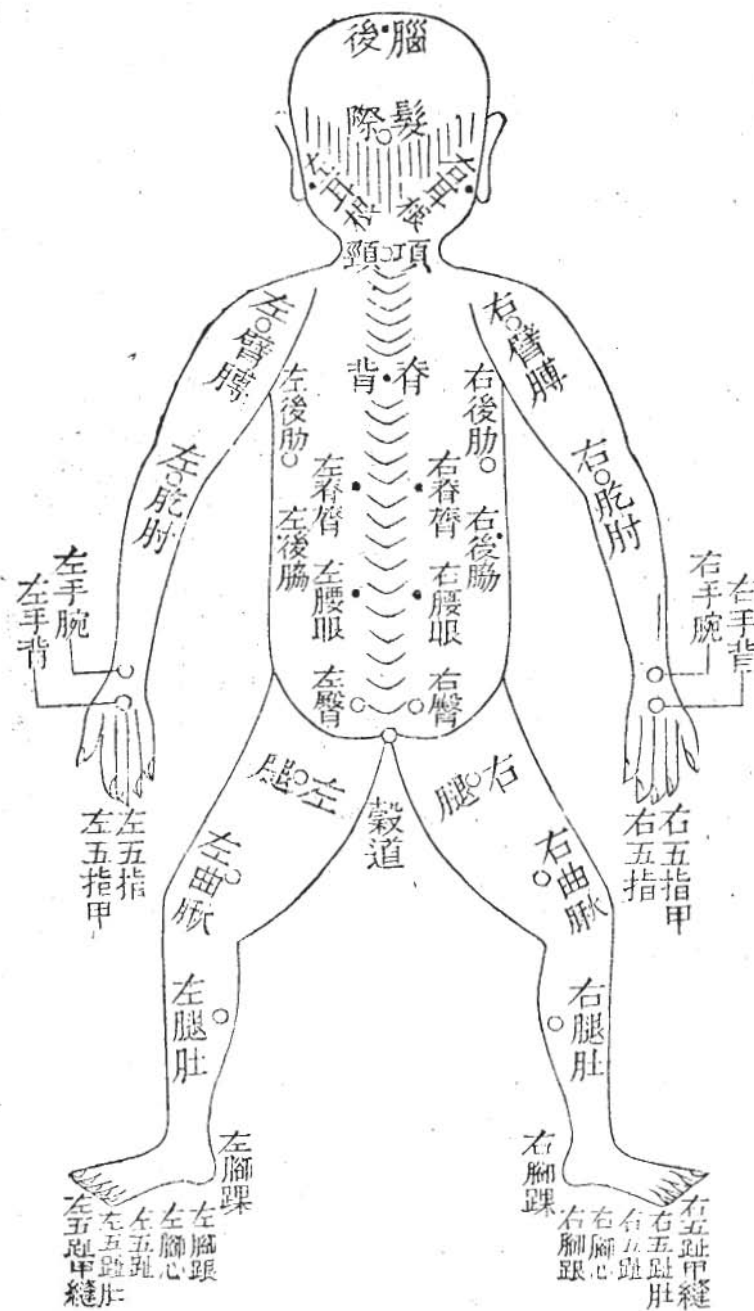


Figure 2: Official image of the corpse, back view

From: Xu Lian, *Detailed Explanations of the Meaning of the Washing Away of Wrongs* (1854)



Figure 3: Report of the coroner Duan Chengfa

**Front**

Vital spots

One wound on forehead, one *cun* and nine *fen* in circumference, uneven, skin is broken and blood clotted, wound caused by falling.

One wound on left temple, diagonal, one *cun* and four *fen* long, one *cun* and one *fen* wide, purple-deep red.

One wound on right temple, diagonal, one *cun* and two *fen* long, seven *fen* wide, purple-red.

Both wounds caused by a wooden implement.

Non-vital spots

One wound on right cheek, round, one *cun* and three *fen*, purple-red, wound caused by the palm of a hand.

One wound on mouth, round, three *cun* and two *fen*, blue-purple and swollen, four upper teeth fell out, there is a bruise, wounds caused by being stamped upon with a foot.

One wound on left inner elbow, diagonal, one *cun* and two *fen* long, seven *fen* wide, purple-red in color.

One wound to left ribs, diagonal, one *cun* and five *fen* long, seven *fen* wide, purple-deep red, bone injured.

**Back**

Non-vital spots

One wound connecting back of left hand to middle finger, straight, one *cun* and eight *fen* long, seven *fen* wide, purple-red, wound caused by a wooden implement.

One wound on right rear ribs, conical, three *cun* and four *fen*, blue-black, bone broken. Wound caused by being kicked with a foot.

The conclusion of the coroner was that Shi had died from his wounds (*shoushang shensi* 受傷身死).

*The problem of intent*

The goal in such an examination was to support deliberations about the legal questions of intent and responsibility. The main problem that the magistrate of Yongping County faced in his investigation of Shi's death was defining the homicide according to the six main "intent-defined categories" included in the Qing Code: premeditated homicide, intentional homicide, killing in an affray, mistaken homicide, killing at play and accidental-negligent homicide.<sup>105</sup> The distinctions between these categories of homicide for those who killed Shi Darong would mean different levels of corporeal punishment, ranging from beheading – a serious punishment which threatened the "somatic integrity" of the deceased – to strangulation or non-capital punishments such as flogging.<sup>106</sup> In the context of this case, resolving the problem of intent involved answering several questions about the circumstances of Shi's death: Did Long and the others plan to kill Shi before the attack occurred? Did the intent to kill him arise during the brawl? Did they plan to harm him, but not kill him? Were they roughhousing? Was Shi's death an accident?<sup>107</sup> These were not questions that could be resolved on the basis of examination of Shi's body alone. They required that the magistrate match the statements gained from interrogation of those involved with the wounds observed during the coroner's examination of the body.

We know from the magistrate's initial report that the case was already being framed as a case of an "affray" (*douou* 鬥毆) leading to death, a finding that would be

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<sup>105</sup> Neighbors 2004, 6-7; Jones 1994, 268-284.

<sup>106</sup> Brook, Bourgon & Blue 2008, 50.

<sup>107</sup> See Neighbors (2004, 7) for more on the conceptualization of intent in Qing law.

made formally in the subsequent sentencing recommendation.<sup>108</sup> This interpretation of the crime is apparent in the ways in which the events leading to Shi's death were narrated in the initial report of the case. Recent scholarship on Qing homicide cases has shown the myriad ways officials used narrative elements in their descriptions of criminal acts and testimony to argue for particular interpretations of the crime and grounds for leniency.<sup>109</sup> Full of the formulaic "markers" which Buoye has shown indicate "killing in an affray" rather than "intentional homicide" or "premeditated homicide," the edited statements of the porter Tang Tianhua, Long Aqi and the other three participants in the affray (Yuxiaoyuliu, Ma Sande, Ma Dingxing) frame the homicide as an unintentional affray that was the result of a spontaneous altercation between complete strangers.<sup>110</sup> Given the lack of a plot to kill, the distinctions between "intentional homicide" and "killing in an affray" often hinged on the presence of enmity between the parties prior to the altercation leading to death, with a conflict between strangers indicating the lower degrees of intent involved in an "affray" killing.<sup>111</sup> This was the scenario established by the statements in the initial report.

All of the depositions indicated the exact same sequence of events, used the same language to describe the circumstances of the homicide, and demonstrated that there had been no intent to kill before the altercation. For example, the cause of the altercation was described in the deposition of the porter who witnessed the homicide.<sup>112</sup> Upon his arrival

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<sup>108</sup> Yi 1881 (1838), *gong'ou ren zhisi*, 7a-7b.

<sup>109</sup> Buoye 1995, Hegel and Carlitz 2007.

<sup>110</sup> Yi 1881 (1838), *gong'ou ren zhisi*, 2b-7a; Buoye 1995, 66, 72.

<sup>111</sup> Buoye 1995, 66; Neighbors 2004, 93.

<sup>112</sup> Yi 1881 (1838), *gong'ou ren zhisi*, 2a-4a.

with Shi at Yongping County, they encountered Long and the others washing rice in preparation to cook it. Seeing that they had an abundance, Shi asked to buy some. Long asked for 17 copper coins. When Shi only offered 12, Long did not accept the price. Shi accused Long of taking advantage of the situation to raise the price. After Long replied by cursing him the two quarreled. Shi kicked over the basket with the rice and Long grabbed him and demanded compensation. Shi responded by striking Long with his fists, initiating the exchange that ultimately cost him his life. This was clearly a case of “killing in an affray,” and not “premeditated homicide” or “intentional homicide”: the porter’s narration of the background to the killing established immediately that Shi and Long Aqi were strangers and had no enmity prior to that day. Long’s own confession made this point as well, stating that they were strangers and had no long-standing grudge.<sup>113</sup> Long’s confession concluded with this point, calling the exchange “truly a case of group affray arising from a momentary quarrel” and noting as well that he “did not intentionally kick him to death,” nor did they plan in advance to stir up an affray.<sup>114</sup> The magistrate emphasized all of these points in his own sentencing recommendation in the final report.<sup>115</sup>

The statements framed the violence that led to Shi’s death in a way that mitigated the fatal assault by Shi’s attackers, showing their attacks on Shi to be the result of his own instigation. After describing the background of the altercation, the porter described

<sup>113</sup> Yi 1881 (1838), *gong’ou ren zhisi*, 5b.

<sup>114</sup> Yi 1881 (1838), *gong’ou ren zhisi*, 7a.

<sup>115</sup> Yi 1881 (1838), *gong’ou ren zhisi*, 17b. These characterizations of the homicide as the result of a spontaneous altercation also indicated to the magistrate that it was not a case of Sino-Muslims who “band together and fight” (*jiehuo zheng’ou* 結夥爭毆) and should not be sentenced as such (Yi 1881 [1838], *gong’ou ren zhisi*, 18a). Portrayed as violent and combative, from the Qianlong period onwards this category of subjects had become the object of discriminatory laws in the Qing Code. See Lipman 2006.

the initial exchanges in the brawl: “Shi Darong beat [Long] with his fist and Long Aqi slapped him in the right cheek. Shi Darong broke away from him and lifting a knife he stabbed Long Aqi’s left shoulder.” Ma Sande and Ma Dingxing picked up pieces of firewood and hit Shi Darong’s left inner elbow and back of his left hand and fingers. At this point Shi “raised the knife and chaotically stabbed [at them].” Long Aqi picked up firewood and wounded Shi’s left temple while Yuxiaoyuliu used firewood to hit his right temple. Shi Darong struck at Yuxiaoyuliu who was able to fend him off, in the process wounding Shi’s left ribs and knocking him to the ground. After being stamped on by Long Aqi, Shi Darong crawled up and tried to use the knife to stab at him. Long seized the knife, cutting his own fingers, and kicked it away. As Shi bent to pick it up he was kicked by Long in the right rear ribs, falling to the ground for the final time.<sup>116</sup>

The porter’s description of the physical violence that led to Shi’s death emphasized that Shi continuously tried to use the knife to injure Long and the others. Each blow landed on Shi was depicted as a response to Shi’s continuing attack with the knife. The narration of the physical altercation also lacked the key physical indications of intent to kill: deliberate attacks on vital spots, extraordinarily severe wounds, the use of a firearm, and continued attacks after incapacitation of the victim.<sup>117</sup> Of the three wounds classified as occurring on vital spots, those on the left and right temples were explained in the statements as responses to Shi’s “chaotic stabbing” while the wound on his forehead was caused by falling down. Likewise, the wound that Long inflicted on Shi’s right rear ribs was in response to Shi’s attempt to regain control of the knife. The statements of

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<sup>116</sup> Yi 1881 (1838), *gong’ou ren zhisi*, 3a-4a.

<sup>117</sup> Buoye 1995, 71-75; Neighbors 2004, 93-95.

Yuxiaoyuliu, Ma Sande, Ma Dingxing, and Long Aqi all confirmed the same sequence of violence narrated by the porter Tang.<sup>118</sup> Yilibu viewed the consistency of the edited statements as a strength of the case file, noting in his commentary: “The confession of the murderer [Long Aqi] and the depositions of the others and the porter are all uniform and have no discrepancies.”<sup>119</sup> This level of consistency was made possible by the systematized vocabulary for describing bodies and wounds used throughout the case file.

*Group affrays, mortal wounds, and legal responsibility: Conceptualizing the “mortal wound” in Qing law*

This understanding of the crime was established more explicitly in the final report, which accompanied the formal release of the case to the next levels of review. This document contained the contents of the initial report as well as a sentencing recommendation.<sup>120</sup> It was in this part of the file that the magistrate formally claimed that the crime was a case of “killing in an affray,” citing a substatute and statute of the Qing Code and recommending a sentence of strangulation with delay for Long Aqi and 100 strokes of the heavy bamboo for the others.<sup>121</sup> Understanding how this decision was justified requires examining how the categories of the “checklist of the corpse” were reconciled with concepts of legal responsibility in the Code.

As in many articles of the Code dealing with sentencing in cases of physical violence leading to death, the laws on fatal group affrays required that *one* participant in

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<sup>118</sup> Yi 1881 (1838), *gong'ou ren zhisi*, 4a-5b.

<sup>119</sup> Yi 1881 (1838), *gong'ou ren zhisi*, 5b.

<sup>120</sup> Yi 1881 (1838), *gong'ou ren zhisi*, 7b-19a.

<sup>121</sup> Yi 1881 (1838), *gong'ou ren zhisi*, 15b.

the attack be identified as the one to suffer capital punishment. This requirement reflected the principle of “one life [taken], one life repaid” (一命一抵), a formulation that appeared in the commentary of Shen Zhiqi 沈之奇 and in other writings on Qing law.<sup>122</sup> Scholars have interpreted this concept in different ways, at times taking it to reflect a cosmological view of “basic harmony existing between man and nature” and the need for such harmony to be restored after a death.<sup>123</sup> Hsu Dau-lin convincingly argues that the inflexibility implied by such a rigid explanation was incompatible with the complexity of legal reasoning in late imperial China.<sup>124</sup> Hsu also makes the important point that such an approach to punishing homicide was hardly unique to Qing law. In addition, Geoffrey MacCormack and Jennifer Michelle Neighbors show the various ways that requital was not applied rigidly in the Code and during sentencing, diminishing the strength of the argument that it was a “general principle” of Qing law.<sup>125</sup>

Nevertheless, the Qing Code required that in fatal group affrays – such as in this case – the attacker identified as having caused the mortal wound would receive a capital sentence. The “Engaging in an Affray [and Killing] or Intentionally Killing Another” statute stated: “If several persons have formed a plot in common to strike someone, and if death thereby results, the fatal injury is considered to have been the most serious. The one who with his hand inflicted it (the wound on a vital spot or severe wound) will be

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<sup>122</sup> Shen 2000 (1715), 687; Neighbors 2004, 20-22.

<sup>123</sup> i.e. Bodde and Morris 1973, 331-332.

<sup>124</sup> Hsu 1970, 124-125.

<sup>125</sup> MacCormack 1996, 122-123; Neighbors 2004, 22-25.

punished with strangulation (with delay).”<sup>126</sup> In order to determine which of Shi’s attackers would be given a capital sentence, the magistrate had to determine which wound was the “mortal wound” (*zhiming shang* 致命傷). The “Engaging in an Affray [and Killing] or Intentionally Killing Another” statute defined mortal wounds as being wounds on vital spots or severe wounds – the very categories used to characterize wounds during the inquest. The legal categories used in the Code governed the conceptualization of wounds during the inquest. The earlier identification of certain wounds as on “vital spots,” for example, established a foundation on which judicial reasoning could take place later on.

In cases involving multiple attackers in an affray, determining just how “mortal” different wounds were in relation to each other became a crucial forensic question. In 1725 a substatute was promulgated which provided officials with a routine way of resolving this problem. It mandated that in cases where two people killed someone in an affray, an injury on a vital spot was to be considered the mortal wound, indicating the attacker who would be sentenced to strangulation. The abbreviated text of the substatute was included in the checklist of the points on the body used during the coroner’s examination, showing as well the conceptual (and procedural) linkages between the “forensic” process of inspecting a body and the “judicial” process of adjudication. The substatute stated:

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<sup>126</sup> Xue 1970 (1905), 829; 290/00; Jones 1994, 276. The text of the Code is as follows: “若同謀共毆人因而致死者, 以致命傷為重, 下手(致命傷重)者, 絞(監候).” William C. Jones has translated the second clause as “The one who with his hand inflicted (*the fatal injury*) will be punished with strangulation (*with delay*)” (1993, 276). I have modified his translation in order to reflect the full meaning of *zhiming shangzhong* 致命傷重.



When you evaluate homicide cases, if one person alone beats another to death, regardless of whether the wound is on a vital spot or not, in all cases the killer must atone with his life. If two people beat a person to death in an affray, decide requital according to [injuries on the following] vital spots (為致命論抵): crown of the head, fontanel, temples, ear aperture, throat, chest, breasts, bosom, abdomen, navel, ribs, scrotum, back of the head, base of earlobe, the back, spinal column, rear flanks, small of the back, the right and left of the crown of the head, forehead, and frontal eminence<sup>127</sup>

In cases for which one person acting alone beat another to death, there was no need to determine the relative potential of different wounds to cause death because it was certain that the lone assailant would suffer capital punishment. The statute established that in affrays with multiple participants, wounds inflicted on vital spots would have special legal significance: the attacker who wounded such a spot would be sentenced to death. But what if all wounds were inflicted on vital spots? This problem was addressed in 1740 with promulgation of a statute stating that in cases in which several persons have plotted to strike someone, all wounds were on vital spots and the victim died immediately, the last one to cause a severe wound was the one who would suffer capital punishment.<sup>128</sup> When the victim died after the affray, officials were to determine which wound had caused death, punishing according to severity.

One problem with using location and severity as categories of analysis when determining culpability was that the two were not quantifiable when combined in various permutations. In other words, was a light wound on a vital spot more likely to have caused death than a severe wound on a non-vital spot? This problem was addressed in several precedents, drawn from actual cases, for sentencing based on different

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<sup>127</sup> Xue 1970 (1905), 831; 290/03. Cf. Wu 1992 (1886), 795.

<sup>128</sup> Xue 1970 (1905), 832; 290/04. Cf. Wu 1992 (1886), 795.

configurations of location and severity.<sup>129</sup> These included: (1) In cases for which there is a wound on a non-vital spot which is “truly more severe” (*shi zhongyu* 實重於) than a wound on a vital spot, the assailant who caused the more severe wound should suffer capital punishment; (2) In cases for which there are wounds on vital spots and non-vital spots that are of equal severity, the assailant who caused the wound on the vital spot should be punished with death; and (3) If all wounds are not on vital spots, then regardless of the order in which the wounds were inflicted, the assailant who inflicted the more severe wound should suffer capital punishment. These precedents established a framework through which officials faced with different permutations of severe/light and vital/non-vital wounds could find a suitable proposed sentence.

### *Finding the mortal wound*

In the case of Shi Darong, the Yongping county magistrate used this rubric to determine which assailant would receive a capital sentence for Shi’s death on the basis of the wounds inflicted on his body. The magistrate’s rhetorical strategy in the sentencing recommendation was to cite the laws first (even though prior analysis of the wounds necessarily informed the choice of laws), choosing ones that established the legal requirement that the attacker who caused the “severe wound” would be punished with strangulation. Then he provided an analysis of the wounds themselves in order to show that a wound inflicted by Long Aqi was the most severe wound.

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<sup>129</sup> Zhu 2004, 1084-1086.

The first law that the magistrate cited was the clause of the 1740 substatute that stipulated “in group affrays where the victim does not die at the time but only afterwards, one must determine which wound led to death, and punish the one who inflicted the severe wound.”<sup>130</sup> The magistrate did not cite the earlier, inapplicable clause that addressed cases where all wounds were on vital spots and the victim died immediately, exercising his prerogative to cite just one section of laws that addressed multiple matters.<sup>131</sup> The magistrate then cited the “Engaging in an Affray [and Killing] or Intentionally Killing Another” statute itself: “In group affrays which result in death, the one who with his hand inflicted the severe wound (下手傷重者) will be punished with strangulation with delay. The other persons will each be punished with 100 strokes of the heavy bamboo.”<sup>132</sup> In citing the statute in this way, though, the magistrate only copied the half of the Code’s explanation that defined the mortal wound as a severe wound (下手 [致命傷重] 者), and omitted the other half that defined it as a wound on a vital spot (下手 [致命傷重] 者). Yilibu approved of the magistrate’s selective use of the Code’s explanation, writing in his commentary on the case file: “The text of the statute originally included ‘the one who with his hand inflicted the wound on a vital spot or severe wound will be punished with strangulation.’ In this case, the right rear ribs that Long Aqi kicked were not vital, therefore the two characters ‘vital spot’ in the statute have been removed.”

By citing these two laws, the magistrate established that in this case the attacker who inflicted the “severe wound” would be the one to suffer capital punishment. The

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<sup>130</sup> Yi 1881 (1838), *gong’ou ren zhisi*, 17b; Xue 1970 (1905), 832; 290/04.

<sup>131</sup> Na 2006, 121.

<sup>132</sup> Yi 1881 (1838), *gong’ou ren zhisi*, 17b.

magistrate then presented his own analysis of the wounds. This discussion was more detailed than the claim of the coroner that Shi had simply “died from his wounds.” In analyzing the wounds, the magistrate focused on the problem of severity:

We find that the wound which Shi Darong sustained on his inner elbow from the initial beating by Ma Sande and Ma Dingxing, and the wound connecting the back of his hand to his fingers, as well as the wound to his right temple inflicted by Yuxiaoyuliu were all not severe (*shang jun buzhong* 傷均不重). As for the wound that Yuxiaoyuliu inflicted on his left ribs, even though it reached the point of injuring the bone (*gusun* 骨損), Shi Darong was still able to get up and struggle. It was not fatal. It was only afterwards when kicked in the right rear ribs by Long Aqi that Shi fell to the ground. The color [of the wound] became blue-black, and it was so severe that the bone was broken (*zhong zhi guzhe* 重至骨折). While still alive Shi Darong stated that his rear ribs ached. There is no question that he was killed by this wound<sup>133</sup>

In this passage the magistrate made several claims about the relative severity of the wounds. First, he stated that the wounds on the inner elbow, back of the hand and finger, and right temple were “not severe” (*buzhong* 不重). From the statements of those involved we know that these wounds had been inflicted by Ma Sande, Ma Dingxing, and Yuxiaoyuliu, respectively. The magistrate’s claim that they were less severe than the wounds on Shi’s front or rear ribs was made on the basis of the color of the wounds: all three were described as “purple-red” (*zihong* 紫紅), a lighter color than that of the wounds inflicted on Shi’s right rear ribs.<sup>134</sup> They were also of comparable sizes, ranging from one *cun* and two *fen* long and seven *fen* wide (wounds on inner elbow and right temple) to one *cun* and eight *fen* long and seven *fen* wide (wound on left hand and finger).

<sup>133</sup> Yi 1881 (1838), *gong’ou ren zhisi*, 18a.

<sup>134</sup> See *Conspectus of Penal Cases* for a case in which the wounds caused by multiple assailants were all red (*hong* 紅), thus severity was not distinguishable across the wounds (“各毆之傷均係紅色，並無輕重可分”). Zhu 2004, 1085.

The magistrate then compared the relative severity of the wounds caused by Yuxiaoyuliu on Shi's left ribs and Long Aqi on his right rear ribs. The extent of damage of the two wounds was different: the bone was only injured on the front ribs but broken on the rear ribs. In size, the round wound on the rear ribs was three *cun* and four *fen*, while the wound on the front ribs was one *cun* and five *fen* long by seven *fen* wide. The wound on the left ribs was purple-deep red, darker than the purple-red wounds, but also lighter than the blue-black (*qinghei* 青黑) wound on Shi's right rear ribs. This indicated that the wound on the left ribs was less severe than the one on his right rear ribs. Added to the magistrate's use of color as a sign of severity, he also found it significant that being wounded on the rear ribs not only incapacitated Shi (unlike the wound to the left ribs), but that this wound continued to ache during the period between the attack and Shi's death. With the exception of the wound on Shi's forehead that was caused by falling down, the three remaining wounds were not mentioned in the magistrate's discussion, presumably because they were all caused by Long Aqi and being purple-red or purple-deep red would have been less severe than the wound on Shi's right rear ribs.

Ultimately, having found the wound on Shi's right rear ribs to be the mortal one, the magistrate recommended a sentence of strangulation with delay for Long on the basis of this wound. Yuxiaoyuliu, Ma Sande, and Ma Dingxing were fit to be punished for taking part in the affray but not causing mortal wounds. Nevertheless, the magistrate identified mitigating circumstances: Ma Sande and Ma Dingxing were not yet 15 *sui*, so would be able to avoid the punishment through monetary redemption.<sup>135</sup> Long's fate would be decided after further deliberation during the Autumn Assizes in Beijing, a

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<sup>135</sup> Yi 1881 (1838), *gong'ou ren zhisi*, 4a, 18b.

process that would potentially lessen the punishments prescribed by the Code.<sup>136</sup> From the perspective of the administration of justice, however, without later indications of malfeasance raised during appeal or review, the Yongping county magistrate had fulfilled his responsibilities in the case.

*Not legal medicine: The bureaucratic semiology of Qing mortal wound analysis*

In these deliberations on the cause of Shi's death, the magistrate did not cite the testimony of a physician as a kind of "expert witness" who could provide an explanation of Shi's wounds and their relationship to his death. Physicians did provide depositions in forensic cases, though less is known about the scale of their involvement. Simonis has found that physicians (*yisheng* 醫生) assigned to county yamen to perform various tasks, including treatment of prisoners, routinely were called upon to confirm whether or not those involved in legal cases had suffered from madness.<sup>137</sup> Moreover, in a statute maintained from Ming law, the Qing Code specified that in cases in which a quack (*yongyi* 庸醫) was suspected of killing someone through treatment, officials could charge a physician with examining the drugs used and acupuncture points of the deceased.<sup>138</sup> The experienced official Xu Lian suggested that officials question physicians in a broader category of cases: "If a person did not die immediately and had received medical treatment, one must summon a physician (*yisheng* 醫生) and through questioning

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<sup>136</sup> Bodde and Morris 1973, 134-143.

<sup>137</sup> Simonis 2010, 493.

<sup>138</sup> Xue 1970 (1905), 869; 297/00. Cf. Wu 1992 (1886), 808.

determine what illness it was and what prescription and drugs were used.”<sup>139</sup> Cases that appear in expanded editions of the *Washing Away of Wrongs* and other collections suggest that there were death cases in which officials made use of physicians’ testimony, even though it is difficult to get a sense of how frequently this took place.<sup>140</sup>

In the case of Shi Darong, the main “medico-legal” question faced by the magistrate was determining cause of death and, specifically, which wound had been fatal. In order to resolve this question, the magistrate analyzed a number of signs: the color of wounds, their locations, the effects of trauma on Shi Darong’s physical capacity for movement, and, implicitly, the time that passed between wounding, incapacitation, and death. What is striking about the case of Shi Darong and, indeed, many other routine forensic cases in late imperial (and Republican) China is that officials and coroners were able to resolve all manner of technical questions without the assistance of physicians. Or, to be more precise, they legitimated their claims about forensic situations not on the basis of their utilization of medical expertise, but rather through their use of official forensic procedures that had been defined by the bureaucracy.

What was the scope of forensic problems that could be resolved authoritatively by appealing to official forensic doctrine? In the analysis of mortal wounds, the scope of problems that could be resolved was defined in a rubric that appeared in an important

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<sup>139</sup> Xu 1890 (1854), 1.3a.

<sup>140</sup> For example, in an early Qianlong case that appeared in Boan huibian 駁案彙編 (*Collection of Rejected Cases*), higher authorities relied on the deposition of a physician (*yisheng* 醫生), alongside other evidence, to argue that a wound caused by a bitten off finger was in fact a severe wound that caused the victim’s death, not a light wound (2009 [1883], 497). In an early Jiaqing case included in *Collected Evidence for Inquests* (檢驗集證) and appended to expanded editions of the *Washing Away of Wrongs*, a physician (*yisheng* 醫生) was questioned regarding the odd condition of the wounds, which included a white scab not described in the *Washing Away of Wrongs* (Chongkan buzhu xiyuan lu jizheng 1879, 2.9a; Will 2007, 83, 88).

passage in the official *Washing Away of Wrongs*.<sup>141</sup> The passage distinguished between “vital spots” (*zhiming zhi chu* 致命之處) and “mortal wounds” (*zhiming zhi shang* 致命之傷), identifying the latter as “where the flesh is blue or black, the skin broken, a deep gash, bones broken, brains coming out, blood flowing.”<sup>142</sup> Within the “vital spots,” the passage then distinguished between “spots of rapid death” (*susi zhi chu* 速死之處) and “spots of inevitable death” (*bisi zhi chu* 必死之處), stating:

Where a mortal wound is given on a vital spot of the kind first mentioned [spots of rapid death], death will result in three days; on an ordinarily vital spot [spots of inevitable death], in ten days. If a light wound has been given on a vital spot, or a severe wound on a non-vital spot, though death ensue within the limit, yet other circumstances should be taken into consideration and allowed to influence your verdict. One cannot without exception be put to death. How much more so when [death occurs] outside of the limit!

This rubric – which added to the consideration of location and severity the factor of time between wounding and death – provided officials with the means to determine cause of death in many kinds of cases.<sup>143</sup> The forensically significant signs mentioned in the passage, as well as related analytical procedures for interpreting them, were akin to those faced by the Yongping county magistrate.

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<sup>141</sup> Chongkan buzhu xiyuan lu jizheng 1879, 1.9b. The passage (with slight modification) appears to have been drawn from a work by Lü Kun (1536-1618) titled “On the Duties of Provincial Surveillance Commissioners” (*Fengxian yue* 風憲約). The work appeared both independently and as *juan* six of *Master Lü’s Writings on Practical Governance* (*Lü Gong shizheng lu* 呂公實政錄).

<sup>142</sup> Modified from Giles’ (1924, 6) translation.

<sup>143</sup> This was a particular conception of the relationship between bodily signs, their location in corporeal space, the passage of time, and the cessation of life. See Foucault 1973 for an interpretive discussion of how the emergence of the anatomic-pathological gaze refigured this relationship in France, establishing death as a visible and analyzable object and bringing it to the center of pathological investigation. Also see Stein 2006.



We can see how officials used this analytical rubric in an early Qianlong case from Zhejiang that was appended to the expanded *Washing Away of Wrongs*.<sup>144</sup> In this case a man named Xie Wenrui pushed the victim Cai Cunxiao who was wounded during the fall and died. While there was a wound on Cai's right ribs, the investigating official was wary of designating it as the mortal wound. The official used the rubric described in this passage to come to this conclusion. It was peculiar that Cai died within a period of ten days, given that the wound was not a severe wound but in fact light – a decision made after consulting the checklist produced during the examination of Cai's body. Upper ribs were a spot of “inevitable death,” as defined in the passage. Thus, death would take place within ten days if the wound was mortal. Because the wound was not mortal, death within ten days was unexpected, and indeed, peculiar. The official reasoned:

How was death caused by the wound? I again checked what is recorded in the *Washing Away of Wrongs*. When young one falls down or ordinarily quarrels and fights, even if the wounds long heal, the scars do not diminish. Although this bone has the scar from a wound, new and old wounds should be distinguished, and one should not trump up false charges [against the accused].

Thus, drawing on the passage in the *Washing Away of Wrongs* – not the testimony of a physician or medical text – the official identified the wound in question as an unreliable basis on which to sentence the accused.

Uncertainty arose at the interstices of these analytical categories. For example, the jurist Xue Yunsheng 薛允升 (1820-1901) noted in his commentary *Lingering Questions When Reading the Substatutes* (*Duli cunyi* 讀例存疑): “If a wound on a vital spot is light, or if there is a wound not on a vital spot that is severe, one must investigate and clarify

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<sup>144</sup> Chongkan buzhu xiyuan lu jizheng 1879, 1.10b.

which wound caused death. One cannot simply consider whether the wound is on a vital spot or not.”<sup>145</sup> In the case of Shi Darong, the magistrate was able to work through just such a situation in which severe wounds fell on non-vital spots, and crafted a compelling argument about which wound caused death. He did not simplistically equate wounds on “vital spots” with mortal wounds. Yet, as other cases show, there were numerous complicating factors that could make this analytical rubric insufficient for identifying which wound had caused death when severity and location were not as easily reconciled. In some cases, when analysis of vital spots and mortal wounds was complicated by inflammation (*kuilan* 潰爛) of the wounds or wind heteropathy entering open wounds (*poshang feng* 破傷風) – either of which could lead to death regardless of the location of the part injured or severity of the injuries – a physician could be made to provide a bonded deposition.<sup>146</sup> One suspects that it was because these cases existed beyond the outer limits of the analytic rubric based on location and severity that physicians became involved. They were not involved because of a more general epistemological norm that valorized medical expertise in forensic cases.

In the early twentieth century, the forensic regime of the “checklist of the corpse” and the vital spots would come under criticism by medico-legal reformers who argued that the inspection of internal organs during an autopsy was the most certain way of finding cause of death. During this process, late imperial forensics would be criticized for not having successfully integrated medical expertise into its methods of wound analysis.

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<sup>145</sup> Xue 1970 (1905), 831.

<sup>146</sup> For a case involving death from inflammation on an injured finger, see Chongkan buzhu xiyuan lu jizheng 1879, 2.10a. For more on exposure to wind, see commentary for the section on fatal beatings (*ousi* 毆死), 2.2a.

For example, in the words of Jia Jingtao, reliance on “external examination” (*waibiao jianyan* 外表檢驗) over dissection of internal organs – a bias reinforced by standardized practices for examining and recording wounds that relied on the vital spots – was one factor that prevented China’s forensic tradition from “accomplishing a leap towards modern legal medicine.”<sup>147</sup> Of course, the vital/non-vital distinction performed other work: it was part of a conceptual framework that showed officials how to resolve the problem of culpability when multiple attackers were involved in an affray. It was part of a process that extended from initial inquest to adjudication in which readable signs were identified, documented, and made accessible to investigating authorities. Finally, it was part of a social and institutional logic that organized forensic examination as a practice that could be overseen by non-specialist officials across the empire. The implications of this arrangement for the conceptualization of forensic “expertise” are the subject of the next chapter.

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<sup>147</sup> Jia 1984, 177.

## Chapter Two

### **Skilled Coroners and Skeletal Remains:**

#### **The Problem of “Expertise” in Late Imperial Forensics**

In late November 1873, a tofu shop attendant named Ge Pinlian died suddenly after several days of unexplained illness in Yuhang County, Zhejiang.<sup>148</sup> Thus began a notorious case of mistaken prosecution that would span the entire Qing judicial system and receive intense coverage in the late nineteenth-century Chinese print media. Much as in other deaths identified as homicides, Ge’s death was initially investigated by the local magistrate followed by subsequent review and re-investigation by authorities at the prefectural, provincial, and capital levels, a process that yielded sentences of capital punishment for Ge’s wife Bi Xiugu and Yang Naiwu, a *juren* (provincial examination) degree holder accused of having an affair with Bi and providing the arsenic allegedly used in the murder. Ultimately, efforts by Yang’s family to mobilize an empire-wide elite network to pressure the Tongzhi Emperor (and then the Empress Dowager Cixi) to reevaluate the case along with the pressure of unremitting coverage in the newspaper *Shenbao* 申報 catalyzed a re-examination of the evidence under the auspices of the Board of Punishments which exonerated Bi and Yang.

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<sup>148</sup> My discussion of this case is based on the studies of William P. Alford (1984) and Madeleine Yue Dong (1995). Alford has argued that this case demonstrated both the extent to which Qing judicial process followed formalized bureaucratic procedures and the systemic challenges that hindered the pursuit of justice. Dong focuses on the plurality of constituencies and media involved in the case, arguing that the interplay between popular and elite (as well as private and official) forms of communication were as important as judicial procedure for the case’s outcome.

Taking this case as a starting point, this chapter explores the ways in which the bureaucratic context of Qing law influenced the conceptualization and practice of “expertise” in late imperial forensics. My argument is that the deployment of coroners with recognized expertise was neither the most prevalent nor even most important way of legitimating forensic inquests. Rather, recognized experts were only sought out for certain cases, and only at certain points in the handling of a case. Most of the time, it was not the involvement of an “expert” coroner that legitimated an inquest, but rather the following of officially-sanctioned routines for examining and documenting inquest findings contained in the *Washing Away of Wrongs* and forms for examining wounds. It was only in cases for which more was at stake and in which earlier forensic examinations were questioned during review or appeal that officials sought out examiners with recognized expertise in forensics. In this sense, then, the extension of the Qing empire’s forensic order relied less on experts’ participation in cases and more on creating possibilities for those with unknown or dubious expertise – the local magistrates and coroners already distributed around the empire – to make forensic decisions that could be validated through bureaucratic review.<sup>149</sup>

This pattern is apparent in the case of Ge Pinlian’s death. Much as in other suspected homicide cases, the early investigation involved an inquest conducted by the county magistrate, a coroner, and a watchman from the local yamen. In this examination,

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<sup>149</sup> The administrative order of the Qing empire relied on the deployment of specialist knowledge and expertise in numerous fields of technical activity. For example, see essays in Moll-Murata, Song, and Vogel eds. 2005 for initial perspectives on the Qing state’s control, regulation, and supervision of work and skill in different areas of manufacturing and technical practice. See Dodgen 2001 and Li 2010 for studies of the integration of expertise and specialists into Ming and Qing administration of hydraulics. Of course, the definition, control, and management of technical skill and specialist knowledge were crucial for many other arenas of late imperial social life, including medicine and healing (Wu 1998; Furth 1999; Scheid 2007), manufacturing and enterprise (Zelin 2005), and elite academic learning (Elman 1984). Other studies can be found in Furth, Zeitlin, & Hsiung eds. 2007 and Bray, Dorofeeva-Lichtmann & Métaillé eds. 2007.

the watchman argued with the coroner, maintaining that the death was due to poisoning.<sup>150</sup> This led to an inconclusive report which was, nonetheless, accepted during bureaucratic review within the province. Once a case received greater scrutiny – either as a result of appeal or problems raised during review – Qing officials made efforts to locate coroners with recognized expertise to reexamine the body. In the case of Ge Pinlian’s death, a re-examination of the body was conducted in Beijing after the Board of Punishments took control of the case in October 1876. At this point in the handling of the case, a greater level of forensic expertise was mobilized: numerous officials and coroners, including one who was reportedly 80 *sui*, conducted the examination.<sup>151</sup> While this examination was exceptional in a number of ways (including the route through which it was convened), it was, in fact, routine practice for officials to mobilize special coroners for cases that had come under greater official scrutiny. Often this practice involved tapping “skilled” coroners from other counties and provinces, thus bringing to bear the Qing state’s limited expert resources in forensics on a death that had occurred in a locality which lacked a particularly skilled coroner in the first place. In an important sense, then, the conceptualization of forensic expertise under the Qing reflected compromises between the imperatives of administering justice and the limited economies of institutions and personnel that defined its territorial administration.

When these “skilled” (*anlian* 諳練) coroners were mobilized, they were usually tapped for examinations of skeletal remains, an area of forensic practice that was understood to be as challenging as it was crucial. The close connection between

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<sup>150</sup> Alford 1984, 1202-4.

<sup>151</sup> Alford 1984, 1218-1220.

“expertise” and examination of bones – or, to put it another way, the fact that skeletal examination as an area of forensic practice often conducted by recognized “experts” – was not coincidental. In the context of a legal system that could require re-examinations of evidence at a point in time far removed from the victim’s death,<sup>152</sup> the appellate cases for which the most was at stake were incidentally also ones in which the body had most decomposed, if not skeletonized. The official *Washing Away of Wrongs* described a sophisticated set of technologies for analyzing remains in advanced states of decomposition by removing the flesh from the bones in order to more clearly identify forensically-significant signs.

The bureaucratic context of Qing forensics is a crucial perspective from which to understand officials’ and legal advisors’ authorship of specialized forensic treatises and the nature of the “expert”-claims that these works seem to have been making.<sup>153</sup> Indeed, if we are to understand the authors of these works as “experts” in forensics, much more work has to be done to understand what “expertise” might have meant in this context. Specifically, it is important to contextualize these works within the ostensibly more routine modalities of forensic legitimacy and authority. Indeed, even as these works criticized the errors and inadequacies of the official *Washing Away of Wrongs*, they both grew out of and supported the more widespread conceptualization of forensics as a disciplined practice overseen by bureaucratic officials with uncertain levels of forensic knowledge and skill. Much as in the case of the official *Washing Away of Wrongs* more

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<sup>152</sup> In the case of Yang Naiwu, the re-examination of Ge’s body took place three years after his death.

<sup>153</sup> The recent work of Pierre-Étienne Will (2007), Catherine Despeux (2007), and Chang Che-chia (unpublished) has demonstrated that the authors of these treatises and case collections developed forensics as a sophisticated field of scholarly knowledge, often in dialogue with classical medicine.

generally, the intended readership of these specialized forensic works was officialdom, not coroners.<sup>154</sup> They were meant to provide officials tasked with supervising inquests the requisite knowledge to oversee coroners' work, reflecting a division of forensic labor that prioritized bureaucratic control over a technically-complex task carried out by yamen functionaries who were often perceived as unreliable and untrustworthy. Indeed, as authors like Xu Lian acknowledged, the critical knowledge about the body and forensic procedure that appeared in their works had an ambivalent status vis-à-vis official doctrine: in practice, officials still had to accept the authority of the bureaucratic routines, even if they were understood to be wrong.<sup>155</sup>

Interestingly, works such as Xu Lian's *Detailed Explanations of the Meaning of the Washing Away of Wrongs* made use of what was perhaps one of the richest sources of forensic "expertise" in late imperial China: the insights of experienced coroners. Xu's corrections of the knowledge of the skeleton contained in the official *Washing Away of Wrongs*, for example, relied in part on the collected observations of "old coroners" (*lao wuzuo* 老仵作). For officials and legal advisors with an interest in establishing forensics as an area of text-based scholarly inquiry, there can be no question that coroners provided a crucial source of knowledge, even if they were often framed in the usual deprecatory discourse of yamen underlings. Thus, these texts confirm the possibility – explored in this and later chapters – that coroners played regionally and perhaps nationally recognized

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<sup>154</sup> Chang Che-chia has argued that this was the case for the *Washing Away of Wrongs* more generally, as discussed below.

<sup>155</sup> Indeed, Will (2007) has noted that officials were keenly aware of the disjunctures that could exist between the knowledge included in critical works on the *Washing Away of Wrongs* and the bureaucratic procedures that actually had to be followed in cases. The theme of officials and coroners working to reconcile discrepancies between the official text and the situations and bodies that they actually observed remained salient during the Republican period, as discussed in later chapters.



roles as “experts” in forensics and, more than this, crucial wielders and even producers of authoritative forensic knowledge. Yet, as this chapter also suggests, the demand for their expertise was driven above all by the institutional practices of the judicial system to which they were subordinate.

*The ambivalence of individual expertise as a source of authority in late imperial forensics*

In late imperial China the forensic examination of dead bodies was foremost an institutionalized procedure of local governance, not a professionally-organized field of specialist knowledge and expertise. In most cases, the “expertise” of the coroner, local official, or legal advisors was not the main authority on which forensic claims were made or legitimated. The end product of a coroners’ examination was an accounting of the body that was compatible with the requirements of Qing law – concepts and categories that had been established by official administrators, not coroners. In the case of Shi Darong, for example, the Yongping authorities’ forensic claims gained authority because they relied upon official concepts and techniques, not the “expert” identity or qualifications of the coroner Duan Chengfa. The coroner’s examination of the body, a process which utilized his own, embodied perceptual faculties and culminated in his “shouting out” of the wounds, literally “encoded” wounds and other signs into the technical discourse of forensics necessitated by bureaucratic review of cases.<sup>156</sup> There is an important sense in which coroners were simply “operators” of forensic technologies

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<sup>156</sup> For a case that includes description of the coroners’ role, see Chongkan buzhu xiyuan lu jizheng 1879, 2.25b. I have found Bray (2008, 328) useful for thinking through the role of coroners as an interface between material practice and text-based knowledge.

that they did not, individually or collectively create, control, or police. There are useful parallels, perhaps, with Steven Shapin's "invisible technicians," indispensable participants in seventeenth-century experimental science who lacked the social status and resources that would have authorized them to act as legitimate producers of knowledge.<sup>157</sup>

Chang Che-chia has argued compellingly that forensic knowledge in late imperial China "was not monopolized by members of a specific kind of group" and that the "threshold" of knowledge used in inquests was not high.<sup>158</sup> Implicit in this argument is that the most important standard of forensic practice was the *Washing Away of Wrongs*, not the legitimacy or authority conferred by an examiner with a particular occupational affiliation or level of experience in forensics. Forensic authority was not defined by or organized through an academic discipline (as would be "legal medicine") or, in the context of late imperial China, an established medical sub-specialization (*ke* 科).<sup>159</sup> At the level of the completed case file, authority did not derive from the lineage identity of examiners, possession of "secret" knowledge of the kind that characterized claims of authority in the competitive medical marketplace or other kinds of exclusionary affiliation.<sup>160</sup> The most important requirement was that local forensic examiners carry out inquests in accordance with the formalized requirements of the bureaucratic legal system.

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<sup>157</sup> Shapin 1994, 355-407.

<sup>158</sup> Chang 2004, 14.

<sup>159</sup> For more on medical specializations in late imperial China, see Wu 2010, 15-53.

<sup>160</sup> For useful comparisons with notions of medical expertise, see Wu 2010 and Scheid 2007 (108-9 especially).

Coroners also inhabited an ambivalent status as “experts” because of the perception that they were untrustworthy and willing to subvert the integrity of an inquest.<sup>161</sup> Forensics, as in local administration more generally, was characterized by simultaneous reliance on and mistrust of the unranked yamen personnel who possessed the specialist knowledge needed for bureaucratic administration.<sup>162</sup> Much as in the case of other yamen functionaries who performed tasks that were perceived as debased, coroners had “mean” status which made them unable to sit for the civil service examinations or pursue an official career.<sup>163</sup> There are indications that the use of coroners grew out of traditions of *corvée* labor in which imperial authorities tasked local undertakers with examining the corpse for forensic purposes, a practice which, as several scholars observe, must have been common by the time that Song Ci authored the *Collected Records* during the thirteenth century.<sup>164</sup> Yet, existing studies of this position

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<sup>161</sup> For example, the section on distinguishing real from counterfeit wounds in the *Washing Away of Wrongs* claimed that coroners could drop madder (茜草) into the vinegar used for an examination in order to make wounds covered in the altered substance unobservable (Chongkan buzhu xiyuan lu jizheng 1879, 1.30a). The section of the text on examining bones stated that officials should be wary of coroners adding potions which would “darken the color of the bones and make the traces of blood indistinct, so that one cannot make distinctions upon examination” (Chongkan buzhu xiyuan lu jizheng 1879, 1.43b). A passage on the examination of encoffined decomposed remains urged officials to be wary of relatives or coroners throwing in bullets during the examination, thus falsely indicating wounds from a firearm (Chongkan buzhu xiyuan lu jizheng 1879, 2.7b). Passages such as these also included countermeasures that officials could use to detect or counteract coroner malfeasance. For example, officials could insert a piece of white cloth or paper into the wine and vinegar used to examine the body to determine if a coloring agent had been added (Chongkan buzhu xiyuan lu jizheng 1879, 1.30a).

<sup>162</sup> Reed 2000.

<sup>163</sup> For brief mention of coroners’ “mean” status, see Hansson 1996, 49. There were administrators in late imperial China who believed that the low status of these indispensable agents made it more difficult to find coroners of talent and moral quality, and there were proposals to revoke their “mean” status and give them official rank. Yet, it would not be until the New Policies reform period of the first decade of the twentieth century that such a proposal would actually be adopted as official policy.

<sup>164</sup> See brief discussion of the etymology of the term and history of this position in Chang (2004, 11-12) as well as Guo (2003, 143-4), one of the works on which Chang draws. For other sources on the periodization and etymology of the term, see Chang 2004, 12n52.

are largely confined to research on the term's etymology rather than the kind of in-depth social history that has been conducted for runners, clerks, and legal advisors in the late imperial period.<sup>165</sup>

Officials were admonished to closely supervise coroners as they performed their work. For example, Wang Huizu 汪輝祖 (1731-1807) wrote in his 1793 *Personal Views on Learning Government* (Xuezhi yishuo 學治臆說) that even after the report of the coroner in cases involving wounds on the living, “the seal-bearing official must still personally inspect [the body] to establish its veracity. If assistant officials only rely on the oral report of the coroner, how can it be believed?”<sup>166</sup> Officials faced the very real possibility that the coroner was misleading them in cases for which they would be held responsible (and possibly censured) later on. For example, in a 1777 case from Zhejiang, a man named Song Shangpei beat a neighbor named Xu Zhongshi to death out of an enmity that grew out of a property dispute.<sup>167</sup> The families settled privately, did not report the death and, upon investigation by the local headman, claimed that Xu had committed suicide. Song eventually bribed the coroner who was to perform the examination. As described in the Zhejiang governor's description of the inquest,

The coroner Huang Wenguang saw that Xu had died because of the wounds. Because an awning was put up in the shed [under which the examination took

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<sup>165</sup> See, for example, Cole 1986; Reed 2000; Gabbiani 2003; Chen 2012.

<sup>166</sup> Zhang 1968 (1892), 33b-34a/310-1. This was also a legal requirement specified in the “Examining the Wounds on a Corpse and not [Reporting] Correctly” (檢驗屍傷不以實) statute in the Code, which mandated that officials personally conduct the inquest and be attentive in their supervision (Xue 1905 [1970], 1267-8; 412/00). The stipulation that officials would be punished for not “being attentive in inquests” (不為用心檢驗) was explained by Shen Zhiqi 沈之奇 in his early eighteenth-century commentary on the Code as “even though officials are personally supervising, they do not attentively examine the wounds, thus bringing about [malfeasances] involving shifting [the location of wounds], changing their severity, or increasing or decreasing [their number]” (Shen 2000 [1715], 1032).

<sup>167</sup> Boan *huibian* 2009 (1883), 32-35.

place] and it was screened off, making it dim, and the body had bloated and wounds small, they were not very visible. He further took advantage of [the county magistrate] Huang Yuanwei's nearsighted vision, and concealing the wounds, reported that he had died from swallowing bitter. Huang Yuanwei saw saliva froth flowing from the mouth of the deceased, and believing that it was true that he had died from bitter, did not examine the body carefully, and hastily filled out the registry of the wounds and reported it.

Provincial authorities ultimately investigated the case and discovered the true circumstances of Xu's death and cover-up.

Implicit in calls for local officials to supervise coroners was the assumption that as non-specialists they could possess the observational skills necessary to oversee a technically-complicated task. As Chang Che-chia has pointed out, the intended readers of the *Washing Away of Wrongs* were local magistrates who were mandated by law to supervise inquest proceedings, not coroners.<sup>168</sup> If coroners were to develop forensic skill through training within the yamen or other kinds of social ties (including kinship networks, as was the case in Republican Beijing), texts were to provide an important modality through which officials could gain access to this knowledge.<sup>169</sup> Given that forensic examination was a function of bureaucratic governance, texts provided important vehicles for “comprehensive, mobile knowledge that could successfully be transferred through the medium of print, across the vast spaces of the empire, and translated into local action.”<sup>170</sup>

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<sup>168</sup> Chang 2004, 13; Will 2007, 74. For more on the substantial body of forensic knowledge that local administrators would have gleaned from general administrative handbooks, see Xie (unpublished).

<sup>169</sup> Texts do not, by any means, provide the only modes of producing and circulating technical knowledge. For discussion of this point, see Eyferth 2010.

<sup>170</sup> Bray 2008, 334.

Unlike works dealing with various fields of craftsmanship in imperial China, the *Washing Away of Wrongs* and other forensic works *did* serve as “descriptive how-to books,” describing such key skills as locating wounds in relation to fixed points on the body, differentiating the colors of wounds, and distinguishing wounds from other kinds of signs.<sup>171</sup> The text and its images of the body and skeleton could serve as potential guides for officials’ observation of actual bodies even if the task itself was delegated to coroners. For example, Wang Mingde 王明德 noted in his late seventeenth-century *Supplements to the Washing Away of Wrongs* that reading the text’s detailed description of bones and circulation tracts of the body could allow an official to...

easily know, when examining the checklist [of parts of the body], the wounded part or bone being reported by the coroner as well as if a particular part or segment of bone is vital or not. Upon hearing [the coroner’s report] one would know, and would not have to personally inspect every place or look into every piece [of bone], thereby causing the entire corpse to undergo a steaming examination<sup>172</sup>

Thus, the central body of coroners’ professional knowledge, the *Washing Away of Wrongs*, was in a very real sense intended to be a tool with which officials could

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<sup>171</sup> cf. Bray 1997, 44-5: “The number of technical works on crafts (including building, carpentry, papermaking, ship building, metal casting and so on) is rather fewer. Most of them were originally put together not by literati but by artisans or other trained experts. Since the dexterity or skill (*qiao* 巧) required for each craft was at least in part esoteric, the information supplied is often cryptic or incomplete—the written texts served the purpose not of descriptive how-to books but rather of scriptures or even incantations. A complementary genre (this time the work of scholars, not craftsmen) is the information provided for consumers of crafts, in books of connoisseurship and popular encyclopedias. Again, such texts do not tell us ‘how to’ make a lacquer box. The basic techniques are taken for granted; what is important is the different consistencies, textures and colors of lacquer, the methods of layering, carving or inlaying, that define a regional style or quality. We are dealing with techniques of taste rather than of production.”

<sup>172</sup> Wang 2001 (1674), 312. As another example, after describing the basics of examining wounds on living bodies, corpses and bones, Yao Deyu 姚德豫 advised readers to “repeatedly read and deeply consider the above passages in the *Washing Away of Wrongs*, clearly understanding them. Then one can avoid the folly of being at a loss at the scene [of an inquest]” (司刑名者，必須平日於洗冤錄以上十數條，熟讀深思，瞭然於心。自無臨場茫然之患矣) (Chongkan buzhu xiyuan lu jizheng 1879, 6 xia.4a).

supervise their work. Whether officials actually read the books is another question.<sup>173</sup> Yet, there were clearly cases in which supervising officials did have a grasp of the observational (and analytical) skills involved.

For example, in a case from late 1759 in Guangdong, a man named Chen Yu used the unexpected death of his father from illness to falsely accuse his uncle of buying off runners who, allegedly, caused the death.<sup>174</sup> An initial investigation found that the death was caused by wind stroke (中風), yet a second examination was called to determine if the father had indeed died violently at the runners' hands. During this examination, the coroner, having been bribed by the accuser, "secretly spread indigo lotus seeds on the left frontal eminence of the skeleton to produce a counterfeit wound." The county magistrate who was supervising the inquest noticed that the wounds on the bones had no "residual halo" (余暈) caused by hemorrhaging, one of the most important indications of genuine wounds in the *Washing Away of Wrongs*.<sup>175</sup> From here the magistrate discovered that the coroner had been bribed and uncovered the web of corruption. This kind of case suggests

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<sup>173</sup> A 1758 circular from Jiangxi (translated and quoted in Will 2007, 74) claimed that officials had not read the text: "In ordinary times magistrates do not even cast an eye on the text of *The Washing Away of Wrongs*, so that when suddenly one day they have to go for a post-mortem examination, they are at a loss and do not know what to do; as for determining which wounds have been caused by hands or feet, and which ones by other objects or by cutting blades, they are still less capable of making the distinction. They just listen to the announcements made by the coroner and note them one by one. And half of the coroners do not know their job, in addition to which they often accept bribes: is it then possible to say whether [the characterization of] the wounds is correct or wrong? And after they have returned to their offices they omit to check with *The Washing Away of Wrongs*; they just fill out the corpse diagram haphazardly, leave it to the clerks to put the seal on the statement, forward it, and consider that the process of examining and reporting is over."

<sup>174</sup> Boan huibian 駁案彙編 (*Collection of Rejected Cases*) 2009 (1883), 497.

<sup>175</sup> Residual blood patterning left when wounds were inflicted on a living body was described in the forensic literature as *yin* 癍 (trace) or *xueyin* 血癍 (blood trace) as well as *yun* 暈 (halo), *yunhen* 暈痕 (halo-mark) or *hongyun* 紅暈 (red halo). See, for example, Chongkan buzhu xiyuan lu jizheng 1879, 1.30b; 1.45b; Xu 1890 (1854), 1.39b. These terms were used to describe the same patterning. See Chongkan buzhu xiyuan lu jizheng 1879, 1.30a.

the extent to which, as Chang has argued, there were few formal barriers to forensic knowledge or the acquisition of forensic skill. Officials had access to standardized forensic technologies that, once distributed through handbooks and legal procedure, made it possible for them to resolve technical forensic problems.

*Legal appeals and bodily putrefaction: The search for skilled coroners*

In important ways, then, the role of official procedure in legitimating forensic knowledge contributed to tendencies that militated against the hardening of boundaries of forensic authority among officials, coroners, and legal advisors. Yet, it is also apparent that there were routinely situations in which officials sought out examiners with “expertise” in forensics beyond the knowledge provided by official procedure. In cases for which a relation of the deceased did not agree with the inquest findings, local officials would seek out “skilled” examiners from other counties and even provinces to conduct the necessary re-examinations.<sup>176</sup> In these cases, it was the experiential skill of examiners that was required for a legitimate forensic proceedings, not simply conformity with openly-accessible knowledge of the *Washing Away of Wrongs*. Yet, the need for expertise in these cases arose within, and was shaped by, the highly specific context of the Qing legal system, reflecting the close relationship between forensic practice and the bureaucratized administration of justice more generally.

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<sup>176</sup> Zhang 1968 (1892), 35b/500. These coroners were identified as “skilled”—that is, *an* 諳 (knowing well) inquest practices, or being *anlian* 諳練 (“skilled” or even “proficient”) in forensic techniques. These were skill terms that appeared more broadly in administrative discourse on personnel, including discussion of yamen personnel. See Dodgen 2001, 63; Zhang 1968 (1892), *Zuozhi yaoyan* 23a/165, *Xuezhi yishuo* 3b/250. These kinds of coroners were supposed to be used in other kinds of cases as well. For example, a 1751 statute in the Code stipulated that in inquest cases handled by subordinate officials due to an unavailable magistrate and lack of suitable replacements such *anlian wuzuo* were to be used for the examination (Xue 1970 [1905], 1271; 412/10; cf. Wu 1992 [1886], 1102).



Secondary examinations of remains were required under several kinds of circumstances. Wang Huizu 汪輝祖 wrote in his 1793 *Personal Views on Learning Government* (學治臆說) that “once the corpse has been put in the coffin, if there are any alterations or retracted testimony, one must open [the coffin] and examine it.”<sup>177</sup> Appeals or mandatory review of cases could also lead to additional examinations. For example, in an 1823 case from Kaizhou County in Zhili, the inquest of Li Guang found that he had apparently cut his own throat after “suffering from madness disorder” (患瘋迷病症).<sup>178</sup> Li Guang’s father claimed that a person named Huang Baoshu “killed him after failing to sodomize him.” The father went to the capital to appeal the original finding, which led to re-examination by provincial authorities who opened the coffin in order to examine the body. Yet, by this point “the skin had melted away, leaving the skeleton visible.” Because the flesh on the hands had “decayed,” the little finger of the victim had fallen off. The father claimed that this was a knife wound sustained by the deceased while defending himself from Huang Baoshu. Upon further inspection, however, it was determined that the bones in Li Guang’s hands had no knife wounds, and that the finger had fallen off because of putrefaction. The examining coroner was ordered to “perform a steaming examination according to established method” (如法蒸檢), which found that there were no wounds on the bones. Ultimately, authorities recommended that the father be punished for lodging a false accusation.

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<sup>177</sup> Zhang 1968 (1892), 34b-35a/312-3.

<sup>178</sup> Chongkan buzhu xiyuan lu jizheng 1879, 2.31a-b. For more on the legal construction of madness, see Simonis 2010.

In these kinds of cases officials specifically sought out coroners identified as being “skilled” (*anlian* 諳練), at times from other counties and even provinces. For example, such “skilled” coroners were sought out in the case from Guangdong discussed above in which a person falsely accused his uncle of causing the death of his father, leading to an inquest performed by a bribed coroner.<sup>179</sup> In its digest of official documents, the late nineteenth-century *Peking Gazette* (Jingbao 京報) included reports of several cases in which examiners appear to have been brought from other provinces. For example, the November 23rd 1876 issue reported on an appellate case in which a woman claimed that her husband, whose death in Guangning County (in Shengjing) had been attributed to suicide while a prisoner, had actually been homicide. The case was reinvestigated by an Imperial Commissioner:

This was in 1873, and as the woman persisted in maintaining that there had been foul play, the body was exhumed, *and the expert brought from Peking proceeded to ascertain the cause of death*<sup>180</sup>

A case which appeared on June 7th, 1877 indicated the travel of an examiner from Shengjing to Heilongjiang:

Feng Shen, Military Governor of Heh-lung Kiang, memorializes with reference to the proposed despatch of an examiner of corpses, to be borrowed from the province of Sheng-king, to institute a renewed inquest upon the remains of Wang King-shun, whose brother, Wang King-tien, has appealed at Peking declaring the deceased to have been done to death in prison, in despite of the evidence adduced at the former inquest to prove that he had committed suicide by hanging<sup>181</sup>

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<sup>179</sup> The magistrate of Xingning County sought a coroner from nearby Longchuan County for the second examination of the father’s body because “[local] coroners were not versed in inquests” (仵作未諳檢驗). *Boan huibian* 2009 (1883), 496-8.

<sup>180</sup> *Translation of the Peking Gazette for 1876 1877*, 134-5; my italics.

<sup>181</sup> *Translation of the Peking Gazette for 1877 1878*, 76.

Another case was described in a published imperial edict reported on March 9th, 1884:

A Decree. Pien Pao-ti [Governor-General of Huguang] reports with reference to the suspicious death of a graduate called Yü [Ch'iuang-fang] in the Yün-hsi [Yunxi] District of Hupei, that the conclusion come to by a Coroner he had sent for from Kiangsi was at variance with the opinion expressed by the Coroner who originally viewed the body. He accordingly prays that special authority may be issued for the engagement of a third expert. *Let the Board of Punishments select a competent coroner and send him with all despatch to Hupei, where he will make a careful and minute inspection of the body under the superintendence of the Governor-General*<sup>182</sup>

An additional report on the case in the form of a memorial sent by the Governor-General of Huguang published on March 24th, 1884 provided more details about the use of this coroner:

The body connected with this case had already been brought to Wu-ch'ang Fu, but as there is no experienced *wu tso*, or examiner of corpses, in Hupeh, the Memorialist applied to the Governor of Kiangsi to lend him the services of Li Chiung-hsiang, who had acted in certain previous cases in the province<sup>183</sup>

Lin Zexu (1785-1850) addressed the practice of tapping coroners from other localities in an 1824 order that he issued during his time as Surveillance Commissioner in Jiangsu,

There are many cases involving loss of life in Jiangsu and oftentimes there are cases involving examination of skeletal remains, but coroners who are particularly adept are very few in number. Several times now, in cases involving the opening of a coffin and examination of remains, officials compete to summon the coroner Jing Qikun of Dantu. It is truly astounding that in a province this big forensic inspections rely exclusively on one person. Given that Jing Qikun is more than 80 *sui*, how can he possibly be employed for long?<sup>184</sup>

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<sup>182</sup> *Translation of the Peking Gazette for 1884* 1885, 31; my italics.

<sup>183</sup> *Translation of the Peking Gazette 1884* 1885, 38. See apparent conclusion to this case discussed in edict of July 23rd, 1884.

<sup>184</sup> Lin 1963, gongdu er, 11-2.

The same theme was addressed in the 1891 *Essentials of trying lawsuits* produced by local officials in Jiangsu and circulated by the current Surveillance Commissioner. The precepts indicated that one of Lin's proposed remedies – that local coroners be made to observe skeletal examinations as a way of gaining firsthand knowledge – was being followed:

Steaming examinations do not happen often. Even though coroners know all of the methods in the *Washing Away of Wrongs*, they have not necessarily done it for themselves. It is like a physician having read medical books yet without having actually diagnosed and treated illness. When difficulty is encountered, there is no grasp of the situation at all. In recent years, whenever there is a big case, when a county lacks skilled coroners, it transfers them from other counties, and when a province lacks skilled coroners it transfers them from other provinces. That implications of uninvolved persons in the case arise from this goes without saying. If a county has a case involving a steaming examination, then the coroners from every nearby county are made to go and watch, seemingly as a way of having them gain experience (似亦使其閱歷之法也)<sup>185</sup>

Later chapters will explore the career of Yu Yuan, a senior coroner in early twentieth-century Beijing who was tapped to handle skeletal examination cases in north China on a number of occasions. Yu's career as just such a "skilled" coroner reveals similar dynamics, including disputed forensics that invalidate the initial examination, the necessity of examining skeletal remains as the only source of useful evidence, and local authorities' difficulties in finding suitable "experts." The mobilization of coroners in skeletal examination cases was a reflection of the ways in which the late imperial state organized its forensic capabilities. While technologies like the checklist of the corpse provided bureaucratic routines that could be used to legitimate forensic claims without the presence of an "expert" coroner, in cases for which more was at stake officials tried to

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<sup>185</sup> *Jiangsu shengli* 1863-1891, nie, guangxu 17, 5a.

locate a suitable examiner from the empire's pool of "skilled" coroners. Yet, it is important to acknowledge that this was the exception, not the norm. In most instances, forensic examination was organized as an activity that could be legitimated by simply following the *Washing Away of Wrongs* and its examination procedures, not through participation of coroners with particular skills or credentials.

### *Examining skeletal remains*

Bones became an object of forensic knowledge because of the understanding that they would yield more reliable information than could flesh that had changed if not decomposed. Given the time that passed between re-examinations conducted in appellate cases and the death of the victim, the body could be found in advanced degrees of decomposition or skeletonization. The main procedure carried out in these cases was to boil or steam the bones with the goal of removing remaining flesh and making signs visible on the bones. As Wang Mingde wrote, "when a long time has passed and all that remains of the corpse are the bones, and one cannot examine the [whole] corpse as a basis [i.e. for evidence], then one must examine the traces of wounds on the bones. Only then can one establish the truth or falsity of homicide."<sup>186</sup> Or, as a commentary to the official *Washing Away of Wrongs* succinctly put it: "Even when the corpse has changed, the wounds do not. There are bones that can be examined."<sup>187</sup>

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<sup>186</sup> Wang 2001 (1674), 315.

<sup>187</sup> Chongkan buzhu xiyuan lu jizheng 1879, 1.56a.

In order to describe what such a process would have involved, I will draw on an account of a “steaming examination” carried out by authorities in Shanghai in 1930 that describes the sequence of the examination and not simply prescriptive instructions.<sup>188</sup> In this case, the examination began in the morning with the coroner thoroughly scrubbing the remains. When this was completed, the bones were placed in a steamer (*zhenglong* 蒸籠), which was installed above a large cauldron (*fuhuo* 釜鑊) filled with fresh water, licorice root (*gancao* 甘草) and tea leaves (*chaye* 茶葉). A piece of white cloth was laid out in the steamer, seemingly on top of the remains as a measure for detecting if pollutants had been added to the water to produce counterfeit signs. A large amount of wine dregs (*jiuzao* 酒糟) were then piled on top of the cloth.<sup>189</sup> After this was steamed for an hour, “burnt wine” (*shaojiu* 燒酒), a kind of distilled spirit, was poured on.<sup>190</sup> The remains were then steamed for about another hour, scrubbed clean again, and laid out on a mat (*xi* 蓆) in anatomical form.

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<sup>188</sup> This discussion is derived from the account provided in Chu and Song 1930, which includes a reportedly verbatim description of inquest proceedings taken from unnamed Shanghai newspapers.

<sup>189</sup> When coroners in Beijing during the Republican period were sent to other areas to examine remains, a list of necessary materials was sent to local authorities. For a copy of this list, see BMA J174-2-279, “Orders of Hebei High Procuracy regarding finding out whether there are inquest personnel with experience and learning” (河北高檢處關於查明有無經驗學識檢驗人員訓令), 1929, 90-98. The expectation seems to have been that the authorities who requested the examination would purchase the goods in advance. See Quanguo zhengxie wenshi ziliao weiyuanhui 2002, 397. The quantity of dregs, wine and vinegar that were required could be cut by two thirds if authorities decided to only examine one part of the body rather than the entire set of remains (see BMA J174-1-184, 73). According to Song Qixing, a coroner trained in Beijing during the early Republican period, it was customary for the coroner who performed the examination to pocket unused cloth, wine and cotton. See Quanguo zhengxie wenshi ziliao weiyuanhui 2002, 397.

<sup>190</sup> For more on “burnt wine,” see Needham ed. 2000, 229.

The sequence described in this account is quite similar to a description of the process that appears in Xu Lian's *Detailed Explanations of the Meaning of the Washing Away of Wrongs* (1854):

As for the steaming examinations used in recent times, one first takes two large iron pots (*da tieguo* 大鐵鍋) and fills them with water, bringing it to a boil. One then takes the skeletal remains and places them on bamboo matting (*zhudian* 竹簾), covering it with white cloth. Then one packs with wine dregs to four or five *cun* deep and places it on top of the pot. After steaming for two to four hours, this is taken off and the remains are washed. Then one puts them into a heated pit (*dijiao* 地窖) and lets them steam. Often, having undergone this procedure, the halo (*henyun* 痕暈)<sup>191</sup> of severe wounds will become light colored, and [that of] light wounds will become hard to identify. This is definitely not the steaming examination method of the ancients.<sup>192</sup>

Much as in the case from Shanghai, Xu proposed placing remains under a white cloth and wine dregs, and then putting this in a steamer above a cauldron with boiling water. In Xu's description, after this point the remains would be placed into a heated pit for additional steaming. Yet, this step (as described by Xu) did not involve application of additional wine dregs or other materials. In the case from Shanghai, this final step was not included.

The "steaming" process described by Xu Lian and used in the Shanghai case was different from that described in the official *Washing Away of Wrongs* (in Xu Lian's text, the official passage appeared directly underneath his description of the method from "recent times"). In the official passage, which originated in Song Ci's mid-thirteenth century *Collected Records on the Washing Away of Wrongs*, the procedures for examining bones were described as follows:

<sup>191</sup> The distinctive patterning of a visible wound (referred to as *yun* 暈) was described in the *Washing Away of Wrongs* as one sign of a genuine wound inflicted while alive. Identifying this patterning was one way that examining officials could detect counterfeit wounds.

<sup>192</sup> Xu 1890 (1854), 1.84a.

When examining bones, it is necessary that the day be clear and bright. First, use water to wash the bones. Using hemp twine, string them together to form a skeleton. Next, lay them out on a mat (*dianzi* 簾子). Then, dig a pit (*dijiao* 地窖) in the ground measuring five feet long, three feet wide, and two feet deep. Burn wood and charcoal in it until the ground is red hot. Clear out the coals, and pour in two pints of good wine and five pints of strong vinegar. While it is steaming, lay the bones in the pit and cover them with straw mats. Let them remain there for two to four hours. When the ground has cooled, remove the mats and take the skeleton to a level, well-lighted place where it can be examined under a red oiled umbrella.

If the clouds or rain show no signs of dispersing, then use the boiling method. An earthenware jar is used as though something were being cooked in an open pan (以甕一口, 如鍋煮物). In it boil vinegar over a charcoal fire. Throw in a good deal of salt and white prunes, together with the bones, and simmer. Personally keep an eye on this. After waiting for thousands of bubbles to rise, take out the bones, wash them in water, and hold them up facing in the direction of the sun. The marks should then be visible. Blood will have seeped into the area where the bones suffered injury, and they will there appear red, livid, or black. Look carefully to see if there is a visible break.<sup>193</sup>

This passage did not just describe a single steaming method, but rather a steaming *and* boiling method. In the boiling method, the remains were immersed in boiling vinegar (with salt and white prunes). This kind of examination seems to have been represented in a *Dianshizhai Pictorial* plate from 1884 in which it was tersely noted that the skeletal remains were “arranged into the form of a person, and then boiled in a pot according to prescribed method” (排成人形, 如法下鍋煎煮) (Figure 4).<sup>194</sup>

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<sup>193</sup> Chongkan buzhu xiyuan lu jizheng 1879, 1.43a-b. McKnight’s (1981, 102) translation. This passage was taken, with minor modification, from the thirteenth-century *Collected Writings on the Washing Away of Wrongs*. The use of wine dregs and umbrellas to examine wounds predated the thirteenth-century *Collected Writings*, appearing in sources going back at least to the Tang dynasty (Sivin ed. 2000, 193-4).

<sup>194</sup> For an annotated and punctuated version of the text, see Jia 1984, 125-7. The piece was drawn by Zhang Zhiying 張志瀛, one of the *Dianshizhai Pictorial* artists.





In the steaming method described in the passage, the steaming action would have been achieved by laying the bones inside of a hot pit into which wine and vinegar were poured. By contrast, in Xu's description, the remains would be installed in a steamer over a cauldron of boiling water, and wine dregs would be applied on top of white cloth that covered the remains. Using a cauldron of boiling water to produce steam, rather than a heated pit, might have given the examiners more control over the supply of steam. As long as wood or other fuel was added underneath, the steam produced by the boiling water in the cauldron would continue at full force. By contrast, the heated pit would naturally cool, as noted in the passage. Including dregs in the steamer with the remains was an alternative to immersing the bones in a pit filled with hot wine and vinegar. Moreover, it is possible that one advantage of the steamer method described by Xu Lian was that remains were better isolated from the liquids used during the process.<sup>195</sup>

The point of this process was to make blood traces and other significant signs visible on the bones. The *Washing Away of Wrongs* and its expanded editions did not explain the causal mechanism through which boiling or steaming bones in this way would make wounds visible.<sup>196</sup> Another section of the *Washing Away of Wrongs* described a similar use of heated wine dregs and vinegar to examine corpses that had not yet decomposed. In this kind of examination, called “washing and covering” (*xiyān* 洗罨), officials were to wash the body and then “according to the approved method spread on

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<sup>195</sup> This is speculation. Yet, it was mentioned numerous times in late imperial forensic works that it became difficult to locate and interpret signs after bones had repeatedly undergone these kinds of procedures.

<sup>196</sup> From the perspective of modern chemical understandings of bone, one possibility is that applying acetic acid to the bones might have begun to demineralize them. This might have, in some way, enhanced the visibility of the surface of the bones or made them more pliable and easier to handle and examine. In this connection, it might not be insignificant that dregs were also used as a substrate for distilling alcoholic beverages or producing vinegar. See Needham ed. 2000, 214, 286.

lees and vinegar and wrap the body in mats. In addition, use the dead person's clothing and saturate it with hot vinegar. Use matting to wrap up the body for several hours." This was supposed to make the body become "soft" (*touruan* 透軟) and thus able to be examined for wounds.<sup>197</sup> It was clearly the action of the dregs and vinegar, applied in sufficient quantity, that made the wounds visible: the passage warned that the coroner could "merely sprinkle on wine and vinegar, and the marks of wounds will not become visible."

The process of scrubbing and steaming was meant to make forensically-significant signs on the bones visible for analysis. In the Shanghai case, the coroner who examined the remains identified several significant signs: (1) the area of bone at the base of the ear (*ergen gu* 耳根骨)<sup>198</sup> on the left side had traces of blood (*xuese* 血色); (2) the left fingers were of a red color; (3) the right fingers were red as well, but slightly lighter; (4) the toes had no discoloration; (5) there was no red color on the bones at the back of the neck (*xianggu* 項骨) or the upper part of the forehead (*xinmengu* 囟門骨).<sup>199</sup> While (1) through (3) were positive findings, (4) and (5) were negative findings that were significant in cases involving deaths allegedly from suicide by hanging, the issue at stake

<sup>197</sup> Chongkan buzhu xiyuan lu jizheng 1879, 1.22a. McKnight's (1981, 88) translation.

<sup>198</sup> Xu Lian contended that the term *ergengu* was a misnomer: there was no bone at the *ergen* (which Xu glossed as *erchui* 耳垂/earlobe). The underlying bone was the *qujia* 曲頰 (part of the temporal bone?), which abuts the hook-like end of the *jiachegu* 頰車骨 (ramus of the mandible; the "hook"-like end = mandibular condyle). See Xu 1890 (1854), 1.52b. Xu's explanation seems odd given that the official Qing forms clearly distinguished between *erchui* 耳垂 (earlobes) and *ergen* 耳根, a different point located behind the ear on the back of the head. Interestingly, the *ergengu* 耳根骨 was one of the points that would be removed from the Republican judiciary's official skeletal examination forms (which adopted Xu Lian's corrections). Given that these constituted official procedures ostensibly governing the techniques used in this case, it appears as though the coroner used the terminology that appeared in the *Washing Away of Wrongs*, but not in the updated forms.

<sup>199</sup> Seemingly a point located on the squama frontalis.

in this case. The coroner proceeded to make the case that the death was caused by suicide and not strangulation meant to look like suicide by hanging.<sup>200</sup>

First, the coroner addressed the blood traces observed at the left base of the ear that indicated direct physical trauma to this part of the body. The coroner explained that, in cases of suicide by hanging, the noose would come into contact with this point, leaving a mark that would be visible upon examination. This is consistent with claims made in late imperial commentaries of the *Washing Away of Wrongs* that discoloration observed at this point was one sign among several that could indicate suicide by hanging on skeletal remains.<sup>201</sup> The coroner also claimed that if there had been a struggle, there would be additional signs on the bones and flesh of the neck.<sup>202</sup> These signs were absent in this case.

In making the case for suicide by hanging, the coroner made other claims that were not about the direct traces of trauma on the bones, but rather indirect manifestations of the movement of blood and *qi* in the body at or around the time of death. Addressing

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<sup>200</sup> The reasoning process through which he came to this conclusion is similar to discussions included in the official *Washing Away of Wrongs* and its expanded commentaries and case collections. For a case from the eighteenth century in which a coroner goes through a similar process of reasoning to weigh evidence for suicide by hanging versus strangulation, see Chongkan buzhu xiyuan lu jizheng 1879, 2.54b.

<sup>201</sup> See Chongkan buzhu xiyuan lu jizheng 1879, 1.46b. In fact, in the opinion of “some” (或云), as long as there was a wound on this point, the presence or lack of wounds elsewhere on the neck and head were unimportant. It was claimed in another *Washing Away of Wrongs* commentary that there were small pin bones (*xiao chaigu* 小釵骨) behind the skull that, if damaged or discolored, could also be used to confirm hanging. Because these bones were not included in the official skeleton examination forms, Lang Jinqi, who authored an important critical treatise on the *Washing Away of Wrongs*, noted that one could simply record in the form that the *ergen gu* 耳根骨 was discolored, a conceit that was necessary given the inadequacy of the officially-endorsed forms. If this method had currency among forensic examiners, it is possible that case files that note damage or discoloration to the *ergen gu* 耳根骨 were in fact surreptitiously recording this alternate sign of suicide by hanging. See Chongkan buzhu xiyuan lu jizheng 1879, 6 zhong.11b. Will (2007, 90) mentions this passage as part of his discussion of Lang’s work.

<sup>202</sup> This claim is consistent with the commentary appended to the section on examining bones in the *Washing Away of Wrongs*, which claimed that in cases of strangulation, the neck bones (*xiangjinggu* 項頸骨) would sustain wounds. See Chongkan buzhu xiyuan lu jizheng 1879, 1.46b.

the red coloration of the fingers, he noted that in suicide cases, “because one is melancholy and, furthermore, wants to die, the blood flows downwards” (因胸中鬱悶，自己欲死，其血往下流). Thus, the stagnant blood would congeal in the fingertips (因是瘀血凝於手指尖), leading to the red coloration on the outside of the body. While his explanation for this phenomenon might have been novel, there were passages in the official *Washing Away of Wrongs* and its commentaries that claimed that the fingertips (and tips of the toes) would appear red in cases involving suicide by hanging.<sup>203</sup> The combination of discolored *ergengu* 耳根骨 and reddened fingertip bones was the crux of the coroner’s positive argument for suicide by hanging in this case. These two signs appeared in tandem in at least one other case of suicide that was included in the late Qing expanded editions of the *Washing Away of Wrongs*.<sup>204</sup>

Later in the report, the coroner also claimed that the absence of red coloration on the upper part of the forehead (*xinmengu* 凶門骨) indicated that it was not a case of strangulation. He noted that in cases involving strangulation, “because one does not want to die, *qi* rushes upwards, manifesting in discoloration of the *xinmengu* 凶門骨. This is based on a known principle. The neck bones (*xiangjinggu* 項頸骨) will also have discoloration.” (而自己不願死，則其一股氣，必向上沖，凶門骨必有色象顯露，此為一定之理，而項頸骨亦必定有色). The idea that the *xinmengu* 凶門骨 could indirectly indicate strangulation was found in the *Washing Away of Wrongs*, albeit for a different reason. Several cases included in expanded editions of the *Washing Away of*

<sup>203</sup> See commentary of the section on suicide by hanging. Chongkan buzhu xiyuan lu jizheng 1879, 2.41a.

<sup>204</sup> Chongkan buzhu xiyuan lu jizheng 1879, 2.41b.

*Wrongs* contain the following statement in the official account of the body: “The *xinmengu* 凶門骨, a vital spot on the front of the body, has emerged a little bit beyond the seam of the skull and is a light red color. This was caused by blood and *qi* rushing upwards when the victim’s breathing was cut off” (仰面致命凶門骨, 浮出腦殼骨縫少許, 淡紅色, 係斃絕呼吸, 血氣上湧所致).<sup>205</sup> The coroner who examined the skeletal remains in this case seems to have relied on a similar logic to argue that it was not a case of strangulation, but rather of suicide by hanging.

*Expert coroners and the politics of scholarly forensic knowledge*

The late eighteenth and nineteenth centuries saw a proliferation of commentaries, case collections, critical editions and other kinds of additions to the body of forensic knowledge included in the official *Washing Away of Wrongs*.<sup>206</sup> As Will and Despeux have demonstrated, authors like Xu Lian had the goals of supplementing and correcting the official *Washing Away of Wrongs*, a body of knowledge that was perceived to be limited and, at times, flawed.<sup>207</sup> Within the late imperial project of scholarly forensic knowledge, the examination of skeletal remains was a crucial object of concern. A major goal was to critically assess the official representation of the skeleton that appeared in the *Washing Away of Wrongs*, especially the Board-issued plates of the skeleton and forms for documenting physical signs that had been proposed by the Anhui Surveillance

<sup>205</sup> See Chongkan buzhu xiyuan lu jizheng 1879, 2.50b, 2.51b, 2.54b.

<sup>206</sup> A notable critical work which predated the official text (and was a source for its compilers) was Wang Mingde’s 王明德 *Washing Away of Wrongs with Supplements* (洗冤錄補).

<sup>207</sup> Will 2007; Despeux 2007.

Commissioner and approved through imperial edict in 1770.<sup>208</sup> These materials were subsequently integrated into the official *Washing Away of Wrongs* where they became an object of intense critical discussion.<sup>209</sup>

To give a sense of what these inquiries involved, we might briefly examine Xu Lian's discussion of the number of ribs.<sup>210</sup> Xu refuted the claim made in the *Washing Away of Wrongs* that males have 12 ribs on each side while women have 14. Citing several cases which he had personally investigated, Xu noted that for each case the victim had eleven ribs. Thus, he could claim that there were eleven ribs because he had "seen them with my own eyes" (此皆得之目睹者也). Xu also relied on the descriptions of bodies included in legal cases that had been handled by other officials to prove his point, citing four for which the victim had 11 ribs, and noting that "cases like this are too numerous to mention individually" (he also cited several cases for which the victim had several more or less). Yet, he also cited involvement with a local burial bureau (掩埋局) as a point at which he had personally examined skeletal remains. During this time, he had access to 230 sets of remains which he "put in order" (逐一為之整理). Of these there were only ten or so which had 12, 13, or 14 ribs. The rest – male and female alike – had 11.

The depth and quality of Xu's anatomical investigations were highly influential for the forensic works produced during the last decades of the Qing and even early Republican period. Xu's corrections to the official *Washing Away of Wrongs* seem to

<sup>208</sup> Chongkan buzhu xiyuan lu jizheng 1879, 5.15a – 28b.

<sup>209</sup> Despeux 2007, 641-4; Will 2007, 90-1.

<sup>210</sup> Chongkan buzhu xiyuan lu jizheng 1879, 1.40b; Xu 1890 (1854), 1.56a-b. For more on Xu Lian and his *Detailed Explanations of the Meaning of the Washing Away of Wrongs*, see Chang (unpublished).

have had an even broader appeal, serving as the basis for the Republican judiciary's revision of the official examination forms in 1918 and as a source of knowledge with which at least some officials and coroners in Republican China were familiar. At the core of Xu's engagement with forensic knowledge was empirical observation. That is, a major goal was to check the claims made in the official text against situations observed during actual inquests, an epistemological strategy that relied on the collection of personal observations, insights of coroners and others, and cases that verified (or challenged) textual claims.<sup>211</sup> Yet, scholars have appreciated neither the extent to which Xu's scholarly forensic works (and those of literati-officials who authored forensic works more broadly) relied on coroners' knowledge nor the ways in which coroners themselves might have been grappling with similar questions.

A 1791 case from Hunan that was critically discussed in the specialist forensic literature can be used to illustrate some of the challenges that coroners faced as the "experts" in skeletal examinations. In this case, an "old coroner" (老仵作) named Tang Ming 唐明 explained numerous inconsistencies in the examination of the skeletal remains of a woman named Zhang Fulian.<sup>212</sup> One issue was the color of the skeleton, which was almost entirely "pure black" with some uneven, lighter, coloration on the head, chest, and limbs, a condition which did not match the claim made in the *Washing Away of Wrongs*

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<sup>211</sup> See Chang (unpublished) for a thorough discussion of the different practices through which Xu Lian developed and verified forensic knowledge in his *Detailed Explanations of the Meaning of the Washing Away of Wrongs*.

<sup>212</sup> Chongkan buzhu xiyuan lu jizheng 1879, 1.42a-b. The summary of the case noted that it originated in Mayang County, in Yuanzhou Prefecture in western Hunan yet was re-investigated by the prefect of Jingzhou, a prefecture to the south of Yuanzhou, along with the prefect of Yuanzhou. Tang Ming, the examiner in the case, was a coroner from Chenxi County, in Chenzhou Prefecture, directly northeast of Yuanzhou. The brief information on this case included in the description suggests that Tang Ming was tapped for the case from within the province.



that “bones of men are white and those of women black.”<sup>213</sup> Tang stated that “before women [begin to] menstruate, the bones are entirely white. Afterwards, they unevenly and gradually blacken, increasing with age” to the point of 50 *sui*, after which they become black.<sup>214</sup> Tang Ming also explained the fact that Zhang Fulian only had 24 ribs (in total), rather than the 28 suggested by the official skeleton plates in the *Washing Away of Wrongs*.<sup>215</sup> This he explained by noting that the missing four pieces were short and fragile, “in time decaying with nothing left.” Zhang Fulian also had no “secret modesty bone” (*xiumigu* 羞秘骨), a fact which Tang Ming explained by noting that the bone was weak, thus easily broken, and the fact that it too could decay over time.

In this case, Tang Ming accounted for a number of differences between the official skeletal knowledge and the remains of Zhang Fulian. He did so on the basis of knowledge that derived from beyond the official text – for example, his claims about changes in the color of women’s skeletons or the tendency of small bones to decay away. For literati-officials with an interest in forensics like Xu Lian, these were valuable insights. While Xu was critical of Tang Ming’s explanation in the case of Zhang Fulian, he relied on similar kinds of insights to explain divergences between observed situations and the official knowledge in a number of places in his text. For example, in supporting his argument that women’s bodies did in fact contain the *bigu* 髀骨 (ulna), a bone which

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<sup>213</sup> Chongkan buzhu xiyuan lu jizheng 1879, 1.40a.

<sup>214</sup> Lang Jinqi 郎錦騏 noted that this explanation was the same as that found in a brief set of forensic precepts by Jiang Shixiang 蔣石香 (and included in the expanded *Washing Away of Wrongs*), which claimed that the black color of women’s bones was due to the onset of menstruation, after which the dispersal of blood blackened the bones (女子未行經骨白。行經以後，則血流散，骨黑). See Chongkan buzhu xiyuan lu jizheng 1879, 6 *zhong*.17b; 5.50b.

<sup>215</sup> These stated that women had four more ribs than men, who had 24. Chongkan buzhu xiyuan lu jizheng 1879, 5.25b. Also see Despeux 2007, 656-7.

the official skeleton checklist claimed was absent, Xu noted that he had personally found them in all of the female skeletons that he had examined, but also that he had asked “old coroners” (老仵作) who confirmed the point.<sup>216</sup> As another example, to substantiate the point that livid, dark coloration was a characteristic sign of those dead from opium poisoning, Xu mentioned an “old coroner” of the Capital surnamed Cao who said that at Baoding he “had examined this kind of skeletal remains three times.” In the coroner’s experience, the bones were all a dark blue or blue-black.<sup>217</sup> There were at least two other points in the text at which Xu Lian used the confirmations of “old coroners” to support his arguments.<sup>218</sup>

When packaged in scholarly works like Xu’s *Detailed Explanations*, the insights of coroners constituted a crucial albeit “alternative” source of forensic knowledge. This was not necessarily officially-endorsed knowledge – indeed, it was so useful precisely because it went beyond and corrected official doctrine. As Xu Lian noted in reference to his own corrected images of the skeleton, officials needed to be careful when using unauthorized knowledge:

Because the images and checklist [in the official *Washing Away of Wrongs*] are Board-issued, in cases one must still comply with them as the law. When one finds a point which is inconsistent [in which the circumstances do not match the forms], it must be stated in a detailed and clear way to avoid superiors’ refutation and questioning.<sup>219</sup>

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<sup>216</sup> Chongkan buzhu xiyuan lu jizheng 1879, 5.23b; Xu 1890 (1854), 1.57a-58a; Despeux 2007, 657.

<sup>217</sup> Xu 1890 (1854), 1.93a.

<sup>218</sup> Xu 1890 (1854), 1.59b; 1.82a-b.

<sup>219</sup> Xu 1890 (1854), 1.49a.

While works such as that of Xu Lian provided a space in which to critically assess official procedure, this was surely something that coroners across the empire were already doing. The case of Tang Ming suggests that coroners needed to be able to explain discrepancies, a process which clearly involved alternate theorizations of skeletal structure and, more generally, bodily knowledge. One suspects that those who authored forensic works sought to engage coroners, a point suggested by Xu's use of "old coroners'" insights as well as other works in this genre. Yet, the incorporation of the insights of coroners into Xu's text must also be understood as a political move: it made their exclusive experience available to officials, a group that was tasked with overseeing their work.<sup>220</sup> In a context for which the bureaucracy's forensic knowledge was, to some extent intentionally, left openly accessible, these experiential insights might have been the closest thing that coroners had to exclusive knowledge.<sup>221</sup> Indeed, in a context for which the official knowledge of the skeleton was understood to be problematic, the capacity to explain inconsistencies compellingly would have constituted an important source of forensic authority.

Ultimately, in attempting to reinforce relations of control and authority between ranked officials and their examiners, Xu and others relied on and appropriated the insights and experience of coroners like Tang Ming, even as they criticized some of their

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<sup>220</sup> For example, in discussing his presentation of knowledge about the skeleton, which appeared in part in specially produced images of individual bones, Xu Lian noted that "my intention was to be exhaustive and leave no doubt, so that it will be easy for those who look at them at the scene [of an inquest] to look for a part of the body, and then coroners will not dare to deceive you." Xu 1890 (1854), 1.50a.

<sup>221</sup> These insights might have fallen under the modern category of "work experience" (*gongzuo jingyan* 工作經驗). To quote the oral history of Song Qixing, "Because the members of our clan had the status of a 'mean occupation,' the level of cultural attainment was not high, and we relied on the classic work of our occupation, the *Washing Away of Wrongs* as the theoretical grounds [of our work] while depending on the work experience that has been privately passed on by our forebears to maintain this work as the purview of our clan." See Quanguo zhengxie wenshi ziliao weiyuanhui 2002, 395.

claims. In the process, they implicitly acknowledged the possibility of coroners' "expertise," a contrast with the more common discursive construction of coroners as corrupt and dim-witted. Thus, these texts provide a glimpse into the roles that yamen forensic examiners clearly did play as regionally – perhaps nationally – recognized "experts" in forensics and active producers of useful and valid knowledge.

### Chapter Three

#### **Old Forensics in Practice:**

#### **Procurators and Coroners in Republican Beijing**

In May 1923 high judicial officials sent a request to the Beijing local procuracy asking that one of its coroners be sent to Fengtian province to perform an examination of skeletal remains. An accusation had been made with authorities in Shenyang that a man named Zhao Fukui had kicked a woman named Liu Guangju to death.<sup>222</sup> The aunt of the deceased did not accept the findings of the earlier inquest, conducted by authorities within the province, and was requesting another examination of the body. Authorities in Fengtian wanted a coroner from Beijing to come and persuade the aunt by conducting an examination of Liu's skeletal remains. Ultimately, an experienced Beijing coroner named Yu Yuan 俞源 was sent to settle the case. Yu was a highly literate coroner who organized the training of forensic personnel, coordinated between procuratorial officials and coroners, and performed a number of skeletal examinations for north China authorities during this period.

This kind of request was not uncommon. The Beijing procuracy received a number of similar requests from local authorities in north China faced with the disputed forensics of entrenched cases. The judiciary of the Republican period continued to value coroners' skills in techniques of "steaming examination" (*zhengjian* 蒸檢) and the

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<sup>222</sup> BMA J174-1-184, "Orders of General Procuracy pertaining to selecting and dispatching coroners to go to Fengtian to inspect skeletal remains and that when matters pertaining to inquests are encountered one must swiftly order officials to supervise coroners and proceed carefully" (总检厅等关于遴派检验吏赴奉天检验尸骨及遇有检验之事应迅饬检官督同检验吏祥慎从事的训令), 1923, 36-97.

experience on which these skills were based. Successive Republican regimes throughout the Beiyang period and Nanjing decade (1927-1937) adopted the institutions and norms of the late imperial state's forensic practices. The official forensic handbook *Washing Away of Wrongs*, the Qing state's official examination forms, and "steaming" examinations were integrated into the administrative and judicial machineries of the modern state, both in law and practice.<sup>223</sup> Most surprisingly, perhaps, is that during a period in which the national government acted for much of the time as a "head without a body," in Julia C. Strauss' words, local officials throughout China demonstrated a high degree of consistency in their use of these techniques.<sup>224</sup> This would become apparent during the 1930s, when medico-legal experts in Shanghai and Beijing handling cases sent from across China discovered that local officials' norms of forensic practice could be very different from those of legal medicine.

The small historiography on legal medicine during the Republican period has viewed judicial officials' continuing use of these techniques as a reflection of the paucity of medico-legal experts, the lack of interest of judicial and other authorities in developing legal medicine, and the more general "political corruption" of governing institutions during this period.<sup>225</sup> This historiographical judgment is itself a reflection of the assumption that judicial authorities should have delegated forensic examinations to the "real" experts – that is, medico-legal specialists or at least physicians. For members of the early medico-legal profession like Lin Ji, a figure who was instrumental in building the

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<sup>223</sup> For an overview of the legal framework that governed forensic examinations during this period, including the position of coroners, see Huang 1997, 35-40.

<sup>224</sup> Strauss 2000, 82.

<sup>225</sup> These points are made, for example, in Jia 1986, 205.

discipline during the Nanjing decade, forensic examinations were ideally conducted by those with expertise in scientific medicine. If the plans for medico-legal reform formulated by Lin Ji and others had been put into practice, the forensic examination of dead bodies would have been brought under the professional jurisdiction of the medical university and medico-legal laboratory. As it turned out, inquests remained in the hands of judicial officials and coroners, neither of whom belonged to the professional world of scientific medicine.

While judicial officials' continuing use of late imperial techniques was an ambivalent development from the perspective of legal medicine, the integration of these practices into the modernizing Republican judiciary was deeply connected to the process of judicial specialization and, indirectly, to what Xiaoqun Xu has called "judicial modernity."<sup>226</sup> The process through which the judicial (*sifa* 司法) organs of government were institutionally separated from the administrative (*xingzheng* 行政) was a crucial element of judicial independence as well as the professionalization of administration of justice, both of which were deeply connected to the vision of modernity that guided judicial reform during this period. Many viewed the integration of medico-legal expertise into the law as a part of this vision and as a crucial element of the "modernity" of the legal systems of Japan and Western countries. Yet, in a context for which there were few specialized medico-legal institutions and uneven access to physicians of scientific medicine, adopting the late imperial state's centralized forensic practices supported the project of judicial modernity in unexpected ways.

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<sup>226</sup> For the formulation of this concept, see especially Xu 2008, 1-24.

Procuratorial officials in the Republican judiciary were tasked with investigating and prosecuting crimes. In carrying out this work, the forensic examination of dead bodies was a crucial source of forensic evidence. The forensic technologies of the late imperial state had facilitated bureaucratic officials' oversight over the technical practice of forensic inspection as well as the functionaries who actually examined the body. Within the Republican judiciary, these technologies were put to new uses as a forensic capability that could be wielded by professional judicial officials without medical expertise. The effect was to consolidate the judiciary's authority over the forensic inspection of dead bodies, an area of governance that proponents of medico-legal reform argued should exist under the purview of physicians. Moreover, in a legal system for which county magistrates continued to handle judicial affairs in areas without modern courts, these practices created possibilities for an institutionally heterogeneous judiciary to retain a consistent and, ideally, centralized forensic examination system. Thus, in practice judicial authorities' continuing use of the late imperial state's official examination forms and other forensic techniques furthered the goals of "formalization, standardization, and bureaucratization" – key aspects of "judicial modernity" – albeit in ways that diverged from the forms of forensic modernity encountered in Japan and Western countries.<sup>227</sup>

During a period in which modern state institutions increasingly made use of professional expertise and scientific knowledge, it is striking that the Republican judiciary conducted a crucial area of governance on the basis of technical skills and knowledge-practices derived from the late imperial state. In doing so, it made use of a

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<sup>227</sup> Xu 2008, 5.



sophisticated technical practice that did not fit the institutional, disciplinary, or epistemological model of a modern science or even “professional” discipline of the kinds that were rapidly transforming the social and economic landscape of urban China during this period. This had implications for the professional and social status of coroners. The fact that coroners seemed increasingly out of place in the occupational marketplace of Republican China even as their skills remained crucial for the administration of justice was neither a product of the “unscientific” nature of their knowledge nor of its “pre-modernity.” Rather, coroners’ ambivalent status under modernity was a result of the modern state’s adoption of forensic technologies predicated on the professional subordination of those who actually examined the body to judicial officials and, more broadly, the court system that supervised them. In this context, the ambivalent status of coroners was a natural result of a particular way of organizing and controlling technical knowledge and expertise, one which contributed to the modern state-building project.

*Forensic science and the New Policies reform period*

During the second half of the intensive period of modern state-building and institutional reform known as the New Policies reform period (1901-11), Qing officials began to reorganize legal institutions along the lines of those of continental Europe and Japan. They drafted new criminal and civil codes and carried out institutional reforms that reorganized central judicial organs, established a Supreme Court, and set the foundations for what was initially a four-level court system.<sup>228</sup> Over 300 courts of various

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<sup>228</sup> Huang 2001; Xu 2008, 25-53.

levels had been established by the fall of the Qing.<sup>229</sup> Alongside interest in legal institutions of Japan came interest in its forensic capabilities. The focus of their interest was legal medicine (*hōigaku*, *fayixue* 法醫學), a branch of scientific medicine that used medical knowledge to address problems encountered in the law.<sup>230</sup> Several Chinese-language works on legal medicine were produced during this period on the basis of translations from Japanese as well as instruction by personnel of the Tokyo Metropolitan Police.<sup>231</sup> Works such as *Legal Medicine* (1907), *Great Compendium of Practical Legal Medicine* (1908), and *Modern Legal Medicine* (1911) introduced readers to new understandings of the body, new conceptions of pathology and cause of death, and new bodies of psychological and sexological knowledge.<sup>232</sup> Within these works appeared a radically new vision of forensic expertise that featured institutions, practices, and concepts that were unprecedented in late imperial forensics.

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<sup>229</sup> After the fall of the Qing, the number of courts would actually decrease along with the formalization of the judicial functions of local administrative yamen in areas without courts. This would become a major if unfulfilled target of reform throughout the Republican period. See Xu 2008, 43, 64-65.

<sup>230</sup> For a useful overview of legal medicine in Japan during this period, see Jia 2000, 296-303.

<sup>231</sup> For more on the crucial role of reference works translated from Japanese in the circulation of new bodies of knowledge during this period, see Reynolds 1993, 111-126 especially.

<sup>232</sup> (1) Li Jinyuan 李錦沅 and Wang Dingguo 王定國. *Fayixue* 法醫學 (Legal Medicine). Tokyo: Namiki kappanjo 並木活版所, 1907. Li and Wang primarily drew on the instruction of personnel at the Tokyo Metropolitan Police, supplemented with Ishikawa Kiyotada's 石川清忠 *Practical Legal Medicine* (Jitsuyō hōigaku 實用法醫學) as well as other Japanese books on forensic medicine and chemistry. (2) For a translation of Ishikawa's *Practical Legal Medicine*, see Wang You 王佑 and Yang Hongtong 楊鴻通, *Great Compendium of Practical Legal Medicine* (實用法醫學大全). Tokyo: Kanda insatsujo 神田印刷所, (1909 [1908]); (3) Ding Fubao 丁福保 and Xu Yunxuan 徐蘊宣. *Modern Legal Medicine* (近世法醫學). Shanghai: Wenming shuju, 1911. This work was a translation of the medico-legal work *Kinsei hōigaku* 近世法醫學 of Tanaka Yūkichi 田中祐吉, a prolific author on pathology, hygiene, and sexology.

While there had been persistent fields of interaction between medical knowledge and forensics in late imperial China prior to the appearance of “legal medicine,”<sup>233</sup> the vision of forensic expertise in these works involved a completely new relationship between medicine and forensic expertise. Legal medicine was understood as one specialized sub-discipline of scientific medicine among numerous others, a reflection of the disciplinary structure of professional science as it had developed in the West and Japan. As articulated by the eminent medico-legal institution builder Lin Ji almost two decades later, legal medicine took as its “foundation” (基礎) the natural and medical sciences.<sup>234</sup> Thus, the authority underlying medico-legal expertise derived from its use of the analytical concepts and techniques of scientific medicine, a field of knowledge that was institutionally and professionally distinct from the law. While a corps of professional medico-legal experts of the kind that existed in Japan was slow to develop in China, the expectation that forensic examinations should utilize knowledge drawn from scientific medicine was accepted rather quickly.

Yet, when this expectation was first implemented in policy, the result was an imperfect augmentation of coroners’ expertise that would never completely satisfy the promise of legal medicine. In 1908 the Governor-General of the recently created Three Eastern Provinces Xu Shichang 徐世昌 (1858-1939) along with Governor of Anhui (formerly Governor of Jilin) Zhu Jiabao 朱家寶 (1864-1928) passed on to the court a

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<sup>233</sup> For example, see Despeux’s (2007) discussion of the development of skeletal knowledge in late imperial forensics as a site of interaction between medical and forensic literatures.

<sup>234</sup> Lin 1928, 205.

proposal of the Surveillance Commissioner of Jilin Wu Dao 吳燾.<sup>235</sup> Citing the difficulty of finding competent forensic examiners, the memorial proposed establishing in Jilin's High Court a Forensic Inspection Training School (檢驗學習所) that would enroll literate coroners (識字仵作) as well as “intelligent” youth over the age of 20 *sui* to complete a year-long training program. In addition to formally studying the *Washing Away of Wrongs*, the curriculum would include material from the new disciplines of physiology and anatomy, undoubtedly from Japanese translation. It is important to note, though, that the proposal did not suggest changing the official procedures of Qing law that defined how forensic cases were to be handled or reported, a set of legal requirements that governed forensic practice throughout the empire.

Most radically, the proposed reforms would elevate the office of the coroner from a “mean” occupation to a specialized position with corresponding social status and official rank. Coroners would become “inspection clerks” (*jianyan li* 檢驗吏) and, accordingly, become eligible for the procedures that were already in place for clerks to obtain low-level ranked positions through competitive testing.<sup>236</sup> According to the arrangement proposed in a joint response by the Boards of Law and Personnel, after undergoing the training program as well as a five-year period of service (later changed to three years), coroners could attain either a rank 9b (從九品) or unranked sub-official status (未入流). This was an unprecedented change in the occupational and social status

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<sup>235</sup> Daqing fagui daquan, falü bu, 8.1b-2b.

<sup>236</sup> For an overview of institutional changes in the bureaucratic ranking system during this period as well as a detailed study of the process through which central administrative clerks were integrated into this new system, see Gabbiani 2003. Despite this change in terminology, the term *wuzuo* continued to be used during the Republican period, albeit informally. To remain consistent, I translate all of these terms as “coroner.”

of coroners: like other functionaries who performed services within the yamen perceived as menial or debased, coroners had been legally of “mean” status and unable to pursue an official career.<sup>237</sup>

The Board of Law was ordered to deliberate on the proposal and its subsequent joint memorial with the Board of Personnel became the basis for an imperial decree that was issued to the provinces.<sup>238</sup> A number of training institutions were established under this program in the last years of the dynasty. For example, in Beijing the Board of Law established a Capital Forensic Inspection Training School (京師檢驗傳習所) in its General Procuracy (總檢察廳).<sup>239</sup> The students who enrolled in this institution did not include the expected “intelligent youth and literate coroners,” but rather officials of the eighth and ninth ranks as well as low-level degree holders, prompting a proposal to increase the rewards for becoming a coroner.<sup>240</sup> Training institutions were reportedly established in other provinces as well. In Yunnan, 57 students completed training at a Forensic Inspection School (檢驗學堂) and a second class’s instruction was underway.<sup>241</sup>

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<sup>237</sup> For more on the “mean” status of yamen runners, see Jing 2009, 95-105.

<sup>238</sup> In its reply, the Board of Law suggested that with minor modification the proposal be put into effect on a national scale. It suggested extending the length of the course to a year and a half, putting into place measures for evaluating those who completed the course, and also that in provinces without High Courts to which such an institution could be attached, training should be held in Schools of Law and Administration (法政學堂).

<sup>239</sup> Daqing fagui daquan xubian 大清法規大全續編 (included in Daqing fagui daquan), falü bu, 6.1a.

<sup>240</sup> This necessitated, in the Board’s opinion, greater rewards for those who chose this occupation, including a shorter period of probationary work following graduation as well as the use of the title *jianyan yuan* 檢驗員 (forensic inspector) over *jianjan li* 檢驗吏 (inspection clerk) in order to accommodate candidates who already held official rank.

<sup>241</sup> First Historical Archives (FHA), Supplementary memorials (*fupian* 附片), 04-01-38-0200-001, 10月/XT1 (1909), “Memorial to put on record the establishment of a Forensic Inspection School in Yunnan’s provincial capital” (奏為於云南省城設立檢驗學堂請咨立案事).

Twelve students had been trained at a smaller program attached to procuratorial institutions in Fengtian and plans were underway for a training institution that could accommodate 100 students.<sup>242</sup> While an institution was established in Jilin in late spring 1909, set up with eight instructors for a capacity of 60 students from localities all across the province, it appears as though this program was folded into a more general judicial training institution to cut costs.<sup>243</sup> Authorities in Jiangxi were also planning a training program for 100 students from across the province.<sup>244</sup>

A key concern of the reform was that the forensic capabilities of the Qing empire did not measure up to those of Japan and “foreign countries” (外國), thus obstructing the important work of rescinding extraterritoriality. As the Board of Law wrote in the joint memorial,

Regarding the methods of inspecting wounds, foreign countries make it the task of medico-legal examiners. China entrusts it to coroners. Legal medicine involves specialized learning (法醫係專門學問). One must first graduate from a school and is only given a diploma having attained experience in all of the techniques of physiology and anatomy. Therefore those who undertake this task do not look upon themselves lightly, and others would not dare to look down on them. Yet coroners, by contrast, illicitly pass on knowledge in their cliques and are all dim-witted and uneducated.

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<sup>242</sup> FHA, Palace memorials with vermilion rescript (*zhupi zouzhe* 硃批奏折), 04-01-35-1091-028, 8/15/XT1 (1909), “Memorial to request authorization for expenditure of funds for Fengtian Forensic Inspection Training School” (奏為籌設奉天檢驗學習所經費請作正開銷事).

<sup>243</sup> FHA, Palace memorials with vermilion rescript (*zhupi zouzhe* 硃批奏折), 04-01-38-0200-048, 12/17/XT1 (1910), “Memorial regarding the proposed regulations for the Forensic Inspection Training Institute established in Jilin as well as its start-date” (奏為吉林創辦檢驗學習所擬定章程並恭摺開校日期事).

<sup>244</sup> FHA, Supplementary memorials (*fupian* 附片), 04-01-01-1117-046, 5/12/XT2 (1910), “Memorial regarding Jiangxi Province having received the imperial decree [regarding coroner reforms] and thereby establishing a Medico-Legal Inspection Training School” (奏為江西省奉旨開設法醫檢驗學習所事).

In comparison to medico-legal experts with their specialized training, coroners suddenly appeared to be woefully uneducated. While this statement reflected a long tradition of official deprecations of coroners, it was also informed by new expectations for science-based forensic expertise. Coroners were not simply unreliable yamen functionaries (an old assumption), but had become the target of unfavorable comparisons between the forensic capacities of the Qing empire and those of other countries. After the fall of the Qing, these unfavorable assessments would expand beyond the coroners to include the official forensic handbook *Washing Away of Wrongs* even as the Republican judiciary maintained it as a crucial element of forensic practice.

While the global comparisons were new, anxiety about coroners was not. By the late nineteenth century, high officials were acutely concerned about the difficulties of finding competent examiners, the low quality of most coroners, and the unenforced regulations on coroner quotas and training. These concerns were mentioned in Xu's original proposal as well as in the reports of provincial officials who implemented the program. The idea that raising the status of coroners would solve these problems was also not new. In 1877 the Governor-General of Liangjiang Shen Baozhen 沈葆楨 (1820-1879) had suggested that revoking coroners' "mean" status and granting them an occupational status equivalent to clerks of punishments (刑科書吏) would improve their quality and encourage more people to become coroners.<sup>245</sup> While Shen did not discuss the administrative details of this arrangement, granting coroners the status of clerks would

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<sup>245</sup> These were the clerks (referred to as *xingshu* 刑書) tasked with explaining the *Washing Away of Wrongs* to local contingents of coroners. For a copy of Shen's proposal, see FHA, short memorial reference copies (*lufu zoupian* 錄副奏片), 03-5663-136, 10/28/GX3, "Memorial to request that the Board be ordered to consider giving *wuzuo* and mounted couriers official status commensurate with clerks of punishments and privates" (奏為請飭部核議將件作馬快准照刑吏營兵出身事). The memorial was also published in Wu 1880, 7.41a-42b

have brought them out of the debased ranks of the runners and into a social group that was, by law, composed of “good commoners” (*liangmin* 良民).<sup>246</sup> Xu Shichang’s memorial mentioned Shen Baozhen’s failed proposal, noting that it had not been adopted because “at the time customs had not yet opened up, and past practices were still used to govern the present.”

For Shen and others, raising the status of coroners was the solution to a problem of late imperial bureaucratic governance, not simply the global field of scientific modernity. It was precisely because the status of coroners was so low that men of talent and moral virtue did not want to pursue this position. Their low status was viewed as causing the interconnected problems of the incompetence of existing coroners, the difficulties of finding persons to fill the local quotas in the first place, and the morally debased nature that made coroners (much like other yamen runners) seem prone to corruption.<sup>247</sup> Treating coroners more fairly and attracting men of better status would contribute to the development of a moral compass in the individuals on whom bureaucratic governance depended. This set of issues was not only germane to coroners, but reflected in a larger sense a fundamental problem of late imperial governance: the reliance of the imperial bureaucracy on local sub-bureaucratic functionaries who, in the eyes of officialdom, were untrustworthy. Raising the status of yamen functionaries was a

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<sup>246</sup> Ch’ü 1988 (1962), 43-4.

<sup>247</sup> The connection between low status, low “quality” and difficulty of finding willing candidates was made in discussions of yamen runners more generally. i.e. Reed 2000, 149.



way of improving the “quality” of candidates who filled the ranks and encouraging the development of their technical skill and moral virtue.<sup>248</sup>

In an important sense, then, the New Policies coroner reform did not fundamentally alter the social relations of expertise in forensics. It was not an attempt to completely revamp the forensic institutions of the Qing empire by making physicians or other members of extra-bureaucratic groups or institutions the main actors in forensics. At a time when there were few physicians of modern scientific medicine and no specialized medico-legal institutions, it is hard to imagine alternatives. Yet, from the perspective of Qing officials, it is unclear whether a more drastic solution would even have been desirable. Integrating physicians into forensics would have added a new set of professional interests and politics that would have changed the distribution of technical knowledge and judicial authority.<sup>249</sup> The coroner system was part of a particular balance of power that gave legal officials authority over inquests and the functionaries who performed them. Giving coroners the status of clerks would have raised their occupational status but still kept them subordinate to the county magistrates and now judicial officials who were tasked with administering justice.

### *Coroners and procurators in Republican Beijing*

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<sup>248</sup> Cf. Rowe’s (2001, 339-44) discussion of Chen Hongmou’s (1696-1771) mid eighteenth-century proposal to offer clerks opportunities to improve their status through examination, a proposal which rested on these basic assumptions, refracted through Chen’s own unique views of individuality and moral capacity.

<sup>249</sup> This happened during the 1930s with the establishment of medico-legal laboratories in Shanghai and Beijing. Medico-legal experts argued that legal officials were incapable of handling certain areas of forensic practice such as testing of poisons and blood stains, a move meant to bring these services under their own professional jurisdiction.

The New Policies reforms of the coroner system established that coroners would work under procuratorial officials within China's modernizing court system. Yet, they also confirmed that forensic inquests would be conducted within the professional scope of procuratorial authorities' work. As stated in the memorial of the Boards of Law and Personnel submitted in response to the proposal of Xu Shichang and Zhu Jiabao, "the authority to conduct inquests should be possessed exclusively by procurators."<sup>250</sup> This was a professional task that judicial authorities would maintain throughout the rest of the Republican period, even as the nascent medico-legal community of the 1930s attempted to extend its authority into local courts. In early Republican Beijing, the Local Procuracy and its First and Second Branch Offices were the institutions that carried out forensic inquests in the city. In May 1922, for example, there were ten staff members (coroners and coroners-in-training) conducting inquests at the local procuracy, two at the First Branch, and three at the Second.<sup>251</sup>

Coroners examined dead bodies and the wounds of the living within the context of procuratorial officials' professional activities, which included investigation of crimes, collection of evidence, and prosecution. They split this task with female examiners, referred to as "midwives" (*wenpo* 穩婆), who also assisted procuratorial officials in the examination of female bodies.<sup>252</sup> A coroner's examination of the body had to be

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<sup>250</sup> Daqing fagui daquan, falü bu, 2a.

<sup>251</sup> BMA J181-18-13978. "Register of court coroners and coroners-in-training" (法庭檢驗吏及檢驗見習生名冊), 1922.

<sup>252</sup> "Midwives" work involved examining the genitals of female victims in cases in which coroners were also involved, but also examining the wounded and investigating the anonymous dead of Beijing more generally. Song Qixing, a coroner during this period, wrote of them in his oral history: "At that time the Beijing courts had over 10 coroners. Among them were two 50-60 *sui* female coroners named Ms. Xue (薛氏) and Ms. Wang (王氏). Court officials called them 'midwives' (*wenpo* 穩婆). They had been transferred from guard work at the prison, and did not have much knowledge of forensic examination." See Quanguo

performed according to legal requirements that were similar to those which defined forensic practice under the Qing. In 1918, the Board of Justice revised and reissued the late imperial forms for examining dead bodies under the title *yanduan shu* 驗斷書 (“Booklet for recording examination findings”).<sup>253</sup> The form contained a checklist of the parts of the body, divided into front (*yangmian* 仰面) and back (*hemian* 合面) aspects. These parts were further divided into “vital” (*zhiming* 致命) and “non-vital” (*bu zhiming* 不致命) spots, categories which had constituted the official rubric for analyzing wounds under Qing law. The forms also included images of the front and back aspects of the body with “vital spots” and “non-vital spots” indicated with full or empty circles. In reissuing these forms, the judiciary had drawn on Xu Lian’s corrections of the old forms as well as material taken from anatomical images found in *Practical Legal Medicine* (實用法醫學), one of the early translations of Japanese medico-legal knowledge.

This form governed the official procedure that coroners had to follow when examining dead bodies. A completed examination form from October 1933 documenting the condition of the body of a female prisoner found dead at Hebei No. 1 Branch Prison gives a sense of the kinds of information that Republican officials recorded in the

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zhengxie wenshi ziliao weiyuanhui 2002, 396. Also, for example, see BMA J181-20-655. “Report of the Criminal Affairs Center regarding December 1927 travel costs for coroners” (刑事所关于民国十六年十二月份检验吏车费的呈), 1927. This list of the travel costs incurred by police and judicial personnel indicates that two “midwives,” Ms. Sun and Ms. Chen actively investigated wounding cases as well as anonymous corpses for police authorities. Song Qixing’s description aside, the work of “midwives” was just as important and visible as that of the coroners. Yet, these examiners were not included in coroner training efforts, were rarely discussed in other documents pertaining to coroners, and seem to have been institutionally distinct. It appears to have been during the early 1940s that the first female coroners (not “midwives”) were trained at the Beijing local procuracy.

<sup>253</sup> Sifa ligui bubian 1919, 239. In fact, the Board issued three documents: (1) *yanduan shu*, the form for examining the surface of the corpse; (2) *jianduan shu* 檢斷書, an updated version of the Qing forms for recording the findings of skeletal examinations, and (3) *shangdan* 傷單, for recording wounds on the living.

form.<sup>254</sup> In this case, the investigating official and accompanying coroner Song Chunzhi 宋純智 described the body of the deceased as yellow in color with eyes closed, fingers “slightly bent,” the belly “slightly sunken,” and with a minor wound on the left knee. For the parts of the body that did not have hand-written comments such as these in the form, a stamp was applied indicating that there were no significant findings. That no significant signs were found on any of the other parts almost certainly constituted supporting evidence that the death had not been caused by violence. Illness was recorded as the cause of death with no further explanation of how this finding was ascertained. In this form officials had a standardized way of examining a body, documenting its condition, and making claims about cause of death. Given Beijing procurators’ heavy case load such a routinized examination practice might have had particular utility in clearing cases in efficient yet authoritative ways.

The examination of the body occurred within the broader context of judicial officials’ investigation of a death. This division of labor is described, for example, in the *Morning Post* (*Chenbao* 晨報) account of the inquest after a double homicide that occurred in May 1926.<sup>255</sup> The murders occurred in a crowded compound that was inhabited by numerous households and was reportedly the property of a Catholic church. The procuracy was called to investigate after a neighbor saw a blood-soaked man, who would be identified as a rickshaw puller named Jing Tai, fleeing the residence of Wang Yu, another rickshaw puller, and his wife, Mrs. Cao. Jing had been known to frequent

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<sup>254</sup> BMA J191-2-15648, “Requests of Beiping Union Hospital for corpses for dissection, letters of gratitude, and *yanduan shu*” (北平协和医院领取尸体的请求、致谢函及验断书), 1933, p. 9-30.

<sup>255</sup> “Double homicide at Youfang Hutong” (油房胡同兩條命案), *Chenbao* (CB) May 10, 1926, p. 6/326.

Wang's residence, often quarrelling with Mrs. Cao. After the neighbor alerted district police, Jing was almost immediately apprehended. The police soon notified procuratorial authorities and requested that they perform an inquest. Mrs. Cao had been brought to a local hospital, but after an attending staff proclaimed treatment hopeless for her wounds, she was brought back to the scene of the crime, reportedly dying en route.

The procurator Luo Zhenqiu 羅鎮球 was sent to perform the inquest, arriving with a secretary, the coroner Zhao Fuhai 趙福海 and midwife Ms. Sun 孫氏, as well as judicial policemen and other police officers. As described in *Morning Post*, Luo first interrogated Jing Tai, asking about his relationship with the victims and his reasons for committing the crime. This established that Wang had owed money to Jing Tai and that the two had fought several days before the killing. According to Jing's confession, he went to collect the money from Wang, bringing a dagger that he had purchased after receiving additional threats from Wang. When Wang attempted to hack Jing with a knife, he returned the attack, leading to the violence that left Wang and Mrs. Cao dead. After this round of questioning concluded, the examination of Wang's body proceeded in the presence of Jing, family and neighbors. After enumerating the knife wounds on Wang's body, Zhao proclaimed to the procurator that they had in fact caused Wang's death. The body of Mrs. Cao was then examined first by Zhao, who enumerated the wounds on the upper part of the body, and then the midwife Ms. Sun, who examined the lower body in another room, out of sight of those attending the inquest. With the inquest concluded, Jing, along with everyone else involved in the case, were released to the procuracy.

In this division of labor forensic examination and judicial investigation were tightly integrated. Interrogation and examination were carried out in sequence, making

wounds intelligible not simply as evidence of cause of death but as evidence of particular agents' actions. The "facts" of the case were legitimized in several ways. In this case, the presence of the procurator, who directed the proceedings and led the interrogation, surely constituted a looming authority. After the examination had concluded, the accused and relatives of the deceased were made to complete written acknowledgments of the findings, accepting the narrative of the crime and the forensic claims made about the body, while giving the forensic findings a legitimacy derived from their assent.

As studies of forensic practice in the present-day United States and England make clear, even the most "scientific" forms of forensic expertise always rely on facts about a case that cannot be discovered in the autopsy room or laboratory.<sup>256</sup> This was apparent in late imperial homicide case files, where claims about the body were densely integrated with claims about the social relations and actions that led to the death, findings that could not have been made through examination of the body alone. There were various aspects of forensic practice derived from the late imperial bureaucracy that facilitated this level of integration between examination of the body and other investigative activities. For example, officials' supervision of forensic examination practices that were, in theory, accessible to them would have fostered the expectation that claims about bodies could be connected seamlessly to claims about social situations and actions. This linkage would be challenged with the emergence of the medico-legal laboratory and its reductive focus on decontextualized "things."

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<sup>256</sup> For example, Timmermans (2006) has shown that forensic pathologists rely on the work of police and other kinds of investigators who are the first to identify the deaths that become objects of pathologists' scientific knowledge and expert-claims. That experts in court must rely on the "facts" developed by other actors, even those operating under the rubric of different professional orientations and practices, has been compellingly argued as well in Scheffer 2010.

*Resolving disputed forensics: the expertise of Yu Yuan*

Aside from the routine and by all accounts grinding work of investigating suspicious deaths in the city, the Beijing local procuracy also supplied examiners to regional authorities faced with disputed forensic cases. The coroners of the Beijing local procuracy were recognized by regional authorities as well as central judicial institutions as experts in this kind of examination. There were a number of instances during the Republican period when Beijing coroners examined skeletal remains for authorities in other parts of north China.<sup>257</sup> These were cases in which much depended on the forensic evidence. One gets the impression that the cases hinged on obtaining an interpretation of the evidence that could break the stalemate. Given that much investigatory work had already been performed by the time that such a case reached the level of an appeal, one also gets the sense that things had come to a kind of standstill for which another forensic examination might have served as the best, most practical, solution. In this sense, if late imperial practices of skeletal examination remained relevant to the judiciary of the 1920s

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<sup>257</sup> For regional cases see, for example, BMA J174-1-184, “Orders of General Procuracy pertaining to selecting and dispatching coroners to go to Fengtian to inspect skeletal remains and that when matters pertaining to inquests are encountered one must swiftly order officials to supervise coroners and proceed carefully” (总检厅等关于遴派检验吏赴奉天检验尸骨及遇有检验之事应迅饬检官督同检验吏祥慎从事的训令), 1923, 33. Also, BMA J174-2-279, “Orders of Hebei High Procuracy regarding finding out whether there are inquest personnel with experience and learning” (河北高检处关于查明有无有经验学识检验人员训令), 1929, 6, 129. Also see queries sent in 1918 by officials of the Criminal Affairs Department (刑事司) of the central Board of Justice to “veteran inspection clerks” (老練之檢驗吏) of the procuracy regarding the forensics of a case that had been handled by an unspecified High Court. BMA J174-1-156, “Letters of Capital Local Procuracy pertaining to the Criminal Office of the Board of Justice asking about the methods of bone steaming inquests, etc.” (京师地检厅报送内乱犯许贤时的呈、要求检察官高熙等严秘侦讯钟世铭的令、及司法部刑事司询问蒸骨检验办法的函), 1918-1924, 37-51.

and 1930s (and beyond), one reason might have been that they facilitated the resolution of contested forensics in established and socially legitimate ways.

The case of Liu Guangju, mentioned in this chapter's introduction, is a typical example of how disputed forensics were negotiated. The issues at the heart of the case were described by the Fengtian High Procuracy in its communication with officials in Beijing.<sup>258</sup> There were slight discolorations on four of the victim's right ribs that Liu had identified as "suspicious" (指為可疑), seemingly evidence of Zhao's violence. The personnel involved had assured her that these were not wounds. Liu had also claimed that, at the time of the examination, she had seen purple, red, and blue discolorations on the bones, another sign of wounds. This too was refuted by the examiners, who all affirmed that the bones were pale yellow. On the basis of these claims, Liu accused the examiners of having been bribed to conceal wounds. She also refused to claim the remains for burial, a powerful statement of opposition. Because the officials "knew that she would not listen to reason," they packed up the remains and stored them at their offices for a future examination. In order to resolve the case, they requested that a coroner from Beijing come to Fengtian for another examination "to demonstrate carefulness and aid in persuading her." It is worth noting that despite their certainty in the earlier findings, the officials did not disregard Liu's concerns.

One interesting feature of these kinds of cases is the lack of enforceable boundaries of expert authority. That is, Liu's claims were taken "seriously" in the sense that an alternate source of forensic authority, whether of the local coroner or someone

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<sup>258</sup> BMA J174-1-184, "Orders of General Procuracy pertaining to selecting and dispatching coroners to go to Fengtian to inspect skeletal remains and that when matters pertaining to inquests are encountered one must swiftly order officials to supervise coroners and proceed carefully" (总检厅等关于遴派检验吏赴奉天检验尸骨及遇有检验之事应迅饬检官督同检验吏祥慎从事的训令), 1923, 36-97.



else, was not invoked. What is even more striking is that in these cases, relatives and even the accused were given the opportunity to examine the forensic evidence for themselves. Thus, it was not that official procedure – embodied in the *Washing Away of Wrongs* or official examination forms – had lost legitimacy or authority. It was precisely on the basis of this authority that disputants attempted to shift the forensic debate in their favor. For example, in a case that will be discussed in Chapter Seven involving the silver needle test for poisoning, a relative who contested the findings of the initial inquest (arguing that the victim had died from beating, not poisoning) was given a chance to scrub off the characteristic black marks signifying poisoning. The continuing dispute prompted local authorities to seek an outside examiner to resolve the case. In these cases, relatives and the accused were participants in deliberations over forensic evidence as well as the achievement of closure.

For examiners like Yu Yuan, resolving these kinds of cases was a matter of both demonstrating authoritative interpretations of evidence while managing the social dynamics of the inquest to achieve resolution. In practice, these two elements were inseparable. For example, in the case of Liu Guangju, the negotiations that occurred between authorities in Fengtian and Beijing indicated that assuaging the specific concerns of Liu's aunt would be the primary focus of the subsequent examination. The Fengtian High Procuracy suggested that rather than conducting another examination of the entire skeleton, a simpler procedure involving a selective examination (*tigu fujian* 提骨覆檢) be performed in which only the issues in dispute would be tested.<sup>259</sup> In Yu Yuan's written reply to the authorities in Fengtian, he described what such an examination (which he

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<sup>259</sup> BMA J174-1-184, 62.

referred to as *tize jianggu zhi fa* 提擇檢骨之法, “selective examination method”) would involve.

In this kind of examination, only the disputed part of the body would be subjected to the procedures for inspecting bones. Yu cited five cases that he had personally handled in which a single part of the body, for example the skull or a rib, had been the focus. In these cases, the dispute had come down to a single part of the skeleton, and focusing on that part in the examination was a way of resolving the case, implicitly by limiting the issues that were in dispute. Yu noted, however, that it was essential to put into place a structure through which the disputants would be forced to accept the outcome of the final examination: “For all of the cases, the relatives of the deceased made written guarantees that they were willing to examine the vital points, which they themselves indicated, through steaming.” Thus, written guarantees completed by the relatives indicated their acceptance of the legitimacy of the examination. Yu then asked Fengtian authorities to confirm the nature of Liu’s aunt’s views in this case,

As for the four right ribs of Liu Guangju that have been indicated, has the relative of the deceased assented [to their examination]? The relative of the deceased has also maintained that aside from believing that there are wounds on the right ribs, there are remaining bones with purple, red, and blue discolorations, whereas the original inspection found that they are all pale yellow. Whether or not an examination of the complete remains or of a part can be performed all depends on obtaining the assent of the relatives of the deceased for its validity.<sup>260</sup>

Yu Yuan emphasized that it was crucial to obtain the “assent” of relatives in order for the findings to attain a state of *youxiao* 有效 – “validity,” but perhaps also “efficacy.” Being a skilled examiner was not simply about possessing the right knowledge or technique, but

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<sup>260</sup> BMA J174-1-184, 72-3.

also negotiating the field of social interests by engaging with the disputants themselves in order to resolve the case.

By implication, a successful re-examination required that a coroner be able to make relatives or others accept a new set of forensic claims, in the process eschewing the interests and reasons for rejecting the original inquest findings. One way to do this, as suggested in Yu Yuan's cases, would have been to narrow the scope of the issues at stake in the examination, thus foreclosing the possibility that additional disputes would arise. There were other ways to increase the level of social pressure on disputants to submit to particular forensic interpretations. This was described vividly in the oral history of one of the coroners trained in Beijing during this period:

In 1953 there was a murder case in Shanxi's Hejin County in which a woman named Li Yueying was strangled and then made to look like she hung herself. The murderer was her divorced ex-husband. The details of the case were evident, but the accused firmly persisted in not acknowledging his guilt and it stalled for two years with no way to settle the case. Finally, all that was left was to open the coffin and re-examine the body. The area had no suitable inquest personnel, so I was sent to handle the case. After the news went out, the masses that came to the scene numbered in the several thousands. In line with past experience (我根据过去的经验), before the inquest I wrote on a blackboard in the form of a big-character poster (大字报) the differing signs that are left on the body from being strangled and hanging oneself. I let the masses read it for reference (让群众参看). Then I opened the coffin and examined the bones, discovering signs of being strangled. With approval of the judge, I let all of the masses line up and take turns viewing the body, explaining it to one after another, and thereby receiving their enthusiastic support. Then the killer was brought to the scene and the proceedings and outcome of the inquest were explained to him. He had no alternative but to sigh "I didn't think it would be discovered! I am the killer!" After he signed the confession then and there, the judge sentenced him to death and it was carried out immediately, thus closing a long pending murder case to the great satisfaction of the people.<sup>261</sup>

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<sup>261</sup> Quanguo zhengxie wenshi ziliao weiyuanhui 2002, 397-8.

In this case, Song Qixing described the process through which he deftly manipulated the social environment of the inquest to create the level of social pressure necessary to make the accused acknowledge his guilt. As he describes, this process involved actions that went beyond simply distinguishing the signs of suicide versus strangulation. It was engaging the crowd that was present at the inquest, showing them what to look for, and then convincing them (“one after another”) that the remains in front of them indicated strangulation that made the inquest successful. In inquests, which had long been highly public spectacles in which competing social interests perceived much to be at stake, such a performance was necessary to create a social “lever” powerful enough to make the accused submit to the inquest findings and admit guilt. While this account was surely produced in part to demonstrate Song’s proximity to the “masses,” a reflection of the political and social climate in which it was produced, it also resonates with what we know of forensic practices more generally, especially the importance of the openness of proceedings and the epistemological accessibility of evidence to onlookers as sources of forensic legitimacy.

Unlike these cases, though, many of those that Republican coroners handled were not technically difficult and involved relatively straightforward circumstances. The case of the deceased prisoner at Hebei No. 1 prison seems to have been fairly representative of the routine work performed by coroners in Beijing. These kinds of cases could be relatively easily resolved. By contrast, in cases involving disputed forensics and legal appeals, more was at stake and decisive demonstration of forensic claims was important. In appellate cases for which relatives or the accused had disputed aspects of the forensics, a coroner would have to demonstrate that a disputant’s interpretation of particular signs

was wrong, a process that required more work, foresight, and skill. Interestingly, it was in cases involving skeletal remains, for which more technical resolution was necessary, that distinctions in coroners' expertise were formally made, even culminating in the decision to send a particular examiner to another locality or even province. Because the focus was on disputed forensics rather than facts that could be gathered from the broader investigation, which was conducted by judicial officials and police, these kinds of cases fell squarely within the professional jurisdiction of coroners, an area of incipient "expertise" defined in relation to the needs of the legal system and the ways in which judicial authorities organized forensic personnel in response.

### *A liminal profession*

There was clearly an institutional need within the Republican judiciary for coroners. Yet, while this was an important position relative to the law, it appeared increasingly idiosyncratic in relation to the modern professions that were being established through professional associations and university disciplines, including the new discipline of legal medicine. Indeed, the New Policies reforms had not succeeded in raising the professional status of the position of coroner. The low status of this position is apparent, for example, in Fengtian authorities' discussion of the problems that they faced in efforts at training and recruitment during the mid-1910s.<sup>262</sup> For one thing, it was hard for those who underwent the training to surmount the feeling of "not wanting to be in

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<sup>262</sup> See *Judicial Bulletin* (司法公報), issue 114, 1919, p. 70-1. By the fall of the Qing, authorities in Fengtian had been through two iterations of inquest training institutions. After 1912 they had continued their efforts, ultimately resigning themselves to a small-scale (i.e. seven student) training effort within the Shenyang Local Procuracy.

proximity to the foulness of the corpse” (屍體污穢不欲接近). This implicitly polluting work still signified a lowly occupation, an observation that resonates with a contemporary medico-legal author who, explaining the lack of interest in legal medicine, claimed that people in China “viewed legal medicine as an unimportant field of learning and inspection of corpses as something that those in the upper echelons of society (上流社會) should not do.”<sup>263</sup> Moreover, the low salaries necessitated by the lack of judicial funding as well as the fact that since the start of the Republic “the measure for giving coroners official status had been nullified without anyone taking notice” led to a situation in which “high-level talent” were unwilling to pursue this occupation.

Thus, the coroner reforms reflected conflicting imperatives and ever rising expectations (in this case, for science-based expertise) that were difficult to satisfy in practice, a dynamic which Xu has argued defined judicial reform during this period more generally.<sup>264</sup> After the fall of the Qing, Republican regimes inherited this ambiguous legacy. While there was an institutional need for coroners’ knowledge and skills, these seemed increasingly problematic in a world for which scientific knowledge had become an epistemological standard in numerous fields of technical activity. While coroners were undoubtedly part of a modern occupation in the sense that they worked within the institutions of a modern judiciary and played a decisive role in the administration of Beijing, it was a profession that was out of place among modern patterns of occupational expertise and status.

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<sup>263</sup> Wan 1924 (1914), 5.

<sup>264</sup> Xu 2008.

Who became a coroner in Republican Beijing? New coroners in the city were formally recruited on several occasions and the procuracy maintained a staff of full-time forensic examiners. Some biographical information can be gleaned from documentation surrounding their recruitment and training. Enrollees were young (1919: avg. age 22 *sui*; 1942: 19 *sui*) and, until the early 1940s, all appear to have been male. Incoming coroners brought literacy and learned other skills on the job or as part of training. For a formal training program carried out in 1919, the literacy requirements for the students were that they be “fairly literate and able to write reports.”<sup>265</sup> In response to the question “which books have you read?” most students claimed to have read or were reading the Four Books and Book of Songs – seemingly signifying an elementary education.<sup>266</sup>

Information regarding the occupational background of trainees suggests that the majority had been engaged in some kind of commercial enterprise, a background that might have provided another, perhaps more practical, source of literacy.<sup>267</sup> None were of the “professional” workers examined by Xu Xiaoqun, for whom higher education was usually a prerequisite.<sup>268</sup> As for their reasons for becoming coroners, several noted that they could “make a living performing inquests” or be able to “provide for my family and

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<sup>265</sup> BMA J174-1-27, “Petition of Capital Local Procuracy regarding coroners” (京師地方檢察廳關於檢驗吏的呈), 1919-20, 1-11.

<sup>266</sup> No student mentioned having read the “Five Classics,” only the Shijing 詩經. For more on the content of elementary education in late imperial China, see Rawski 1979, 47-52. Almost a quarter of the students had also studied Chinese language (*guowen* 國文) and one mentioned “geography” (*dili* 地理) as a subject that he had studied.

<sup>267</sup> Cf. Rawski’s (1979) discussion of the different kinds of and motives for literacy in late imperial China.

<sup>268</sup> Xu 2001, 65-6.

make a living” (in the words of two other recruits).<sup>269</sup> One of them wrote “not only would I be able to have a livelihood, but would also have the authority to perform inquests.” (Another wrote that the benefit of becoming a coroner would be to “be able to help the citizenry avoid disaster”). About a quarter of the recruits in 1919 reported having no job at the moment of their enrollment in training. Within the context of the deteriorating economic conditions of Beijing and keen competition for employment, becoming a coroner would have provided a salary even if it was not the best way of earning a living. Yet, there are indications that coroners were still quite poor, a situation exacerbated by failures of the procuracy to reimburse travel expenses and even pay their salaries.<sup>270</sup>

Many of those who became coroners in Beijing during this period belonged to a small number of clans that, it would seem, had maintained a hold over the work for some time prior to the Republican period. The importance of the clan is a central theme in the oral history of Song Qixing, one of the coroners trained during this period,

The ancestral home of our clan, the Song, is Qihe County, Jinan Prefecture, in Shandong. We have pursued the occupation of coroner since the Ming Dynasty. At the beginning of the Qing, we moved from Shandong to Beijing, and still did the old business, serving in the Board of Punishments, and passing it down from generation to generation. By the period of the Beiyang government and GMD rule, we served in the Board of Justice and later Beiping High Court. After Liberation, one of my nephews and I served in People’s Courts in Beijing, Hebei, and Shanxi.

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<sup>269</sup> These answers were given in response to the question “Does the student truly aspire to study forensic examination? Will the student show perseverance? What benefits will there be after completion of studies?” See BMA J174-1-67, “Testing papers of the Capital Local Procuracy Inquest School” (京师地方检察厅检验学习所试卷), 1928.

<sup>270</sup> For example, see BMA J181-18-16827. “Report of coroner Song Qiming regarding advancing the travel costs which are in arrears in order to get by” (检验吏宋启明关于垫发积欠车费以度生活的呈), 1924; BMA J181-18-16822. “Coroner Song Qiming regarding requesting that travel costs be distributed” (检验吏宋启明关于请发给车费的函), 1924.



Because the members of our clan had the status of a “mean occupation,” the level of cultural attainment was not high, and we relied on the classic work of our occupation, the *Washing Away of Wrongs* as the theoretical grounds [of our work] while depending on the work experience that has been privately passed on by our forebears to maintain this work as the purview of our clan. Consequently there are no written records of the family history. Now in discussing the old occupation of “coroner,” I can only rely upon that which was orally transmitted by my elders, and which I myself can recall of what I have experienced since the age of 14 *sui*.<sup>271</sup>

Records from the Beijing Municipal Archives show that throughout the Republican period, there were relatively more members of the Song 宋 and Yu 俞 as well as Fu 傅, who according to Song Qixing’s account, were relative latecomers to the occupation. In the late 1910s, there seem to have been six coroners working for judicial authorities in Beijing.<sup>272</sup> Aside from Yu Yuan was Yu Tao 俞濤, a relation of Yu Yuan who had also served as a coroner for a number of years, and Yu Tao’s son Yu Depei 俞德霈.<sup>273</sup> Two members of the Song clan, Song Ze 宋澤 and Song Duo 宋鐸 were also coroners at this time. The last coroner was Fu Shun 傅順, who had reportedly been the disciple of another member of the Song clan.

There appear to have been two points at which judicial authorities in Beijing attempted to supplement the ranks of coroners by instituting formal programs of

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<sup>271</sup> Quanguo zhengxie wenshi ziliao weiyuanhui 2002, 395. The only information provided about the production of the account was that it was “put in order” (*zhengli* 整理) by Zhang Gongliang 张功良 in January 1965. While I have been unable to corroborate many of the details in Song’s account, the broad claims are substantiated by court and police files.

<sup>272</sup> This number is derived from a list of names that appears on a March 1918 written response to the Board of Justice regarding forensic questions. BMA J174-1-156, “Letters of Capital Local Procuracy pertaining to the Criminal Office of the Board of Justice asking about the methods of bone steaming inquests, etc.” (京师地检厅报送内乱犯许贤时的呈、要求检察官高熙等严秘侦讯钟世铭的令、及司法部刑事司询问蒸骨检验办法的函), 1918-1924, 37-51.

<sup>273</sup> In May 1926, it was reported that Yu Tao had served in the post for 36 years. J181-17-2996, p. 113.

recruitment and training. At the time of the first, in 1919, instruction was led by the four senior coroners, Yu Yuan, Song Ze, Fu Shun 傅順 and another member of the Song clan named Song Yuanhui 宋元會. In his oral history, Song Qixing described this instance of training as a measure meant to train “coroners of other surnames,” one which the “three clans” of coroners “were unable to refuse.”<sup>274</sup> Yet, the effect of the training was to bring in more members of these clans alongside others who were unrelated. Of the fifteen trainees who underwent the training, one was a Yu (Yu Yuan’s nephew Yu Dejiang 俞德江), three were Songs (Song Yuanhui’s 宋元會 son Song Qiyan 宋岐岩; Song Ze’s 宋澤 son Song Zhiren 宋志仁 and Song Qixing 宋啟興), and one was a Fu (Fu Shun’s 傅順 son Fu Changling 傅長齡). The ten other students were unrelated to the three families.

As of May 1922, there were fifteen coroners and coroners-in-training working at the various branches of the Beijing Local Procuracy.<sup>275</sup> Yu Yuan, Yu Tao, his son Yu Depei, Song Ze, and Fu Shun all remained affiliated with the Local Procuracy itself. Joining them were five trainees, four of whom had been admitted after the 1919 training program, and one of whom (a Song) who apparently joined by other means. The coroner serving at the First Branch of the Local Procuracy was a younger Yu (Yu Delin 俞德霖), who also apparently joined without having gone through the formal training. This branch was also staffed by one unrelated trainee, Zhao Fuhai 趙福海, who had enrolled in the 1919 training program. The Second Branch of the Local Procuracy was staffed by two coroners – Song Yuanhui 宋元會 and Song Qiming 宋啟明, a ~32 *sui* coroner who

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<sup>274</sup> Quanguo zhengxie wenshi ziliao weiyuanhui 2002, 395.

<sup>275</sup> BMA J181-18-13978.

would die of illness four years later, with over 20 years of experience.<sup>276</sup> This branch was also staffed by another unrelated trainee who had tested in 1919.

The second point at which new coroners were formally recruited and trained occurred in mid-August 1942. Yu Yuan and another coroner (a Fu 傅) appealed to the procuracy to hold training for four young people who were interested in coming to the procuracy to study.<sup>277</sup> Three were related to existing coroners: Yu Yuan's great-grandson Yu Zhiwen 俞治文, Song Zhaoyi 宋昭沂 (a Song, and nephew of the coroner Song Chunyi 宋純義), and the younger brother of another Beijing coroner named Qian Songtao 錢松濤 (who was also a close relative of coroner Yu Yonglong 俞湧隆). The fourth trainee was unrelated to other coroners, but was the son of one of the procuracy's custodial staff. By November 1942 the group had acquired three more students, including a female student. One of these students was the close relative of a coroner with surname Luo 羅. After this, an additional unrelated female student joined the class.<sup>278</sup>

The training carried out in 1919 appears to have been a kind of discipleship where each of the four senior coroners were to accept two students for formal instruction in techniques for examining wounds and skeletal remains, many of which were drawn from the *Washing Away of Wrongs*, as well as practical training that involved accompanying them on forensic examinations. Song suggested in his oral history that this form of training was an established practice within the clan,

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<sup>276</sup> BMA J181-17-2996, p. 116.

<sup>277</sup> BMA J174-2-52. "Report of Yu Yuan of Beijing Local Procuracy regarding the training of qualified inquest personnel" (北京地检处俞源关于培养检验人才呈), 1942-1943, 1-4

<sup>278</sup> BMA J174-2-52, 62.

Our clan has for generations let boys, starting from the age of 13 or 14 *sui*, follow the older generation out to the site of the examination of the corpse to come into contact with frightening corpses that had undergone all kinds of different deaths. In my own experience, it was from having frequent contact with the dead from a young age that later on I came to be without any misgivings when performing my work.<sup>279</sup>

This kind of training would also have been a time for the transmission of tacit knowledge, the kind that could not be gained from simply studying the *Washing Away of Wrongs*.<sup>280</sup> In this connection, it is not insignificant that another trainee in 1919, Fu Changling, who was Fu Shun's 24 *sui* son and a coroner at the Capital High Procuracy at the time, also joined the class for the reason that "because homicide cases there [at the Capital High Procuracy] were few, it was not as good for practical learning."<sup>281</sup>

If the clan to some extent defined the social relations in which forensic knowledge and skill were developed and transmitted, to what extent did coroners' affiliation with it affect their forensic authority? In late imperial China, the bureaucratic review of cases seems to have deemphasized the identity of individual examiners, focusing instead on whether procedure had been followed in investigation and reporting. The documentation that was produced during an inquest – the crucial enumeration of the points of the body that would serve as evidence in the rest of the handling of the case – neither in theory nor, it would seem, in practice emphasized the personal identity of the examiner as a guarantee of veracity or legitimacy. Despite the importance of clan relations as a social formation in which forensic knowledge and skill were transmitted, it appears as though

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<sup>279</sup> Quanguo zhengxie wenshi ziliao weiyuanhui 2002, 395.

<sup>280</sup> For more on this dimension of skill, see especially Eyferth 2009.

<sup>281</sup> BMA J174-1-27, 128.

official procedure made few allowances for lineage identity or even “secret” knowledge to play a substantial role in the legitimation of forensic claims. Coroners were supposed to be “operators” of forensic technologies that had been devised by others and which defined forensic problems and solutions in accordance with bureaucratic interests of the late imperial state and, during the twentieth century, Republican judiciary. The central body of coroners’ professional knowledge was theirs neither to define nor control.

### *Conclusion*

I would like to conclude this chapter by comparing two visual representations of forensic practice. The first, a photograph taken within the walls of the National Beijing University Medical School Institute of Legal Medicine, depicts Lin Ji examining skeletal remains in a space that is identified as an autopsy room (*pouyanshi* 剖驗室) (figure 5). Lin Ji, clad in a protective laboratory garment, pensively studies a piece of bone. A skull seems to be sitting on the examination table in front of him, while other apparatus is visible behind him. Stands in the background of the image seem to be benches for observers – possibly medical students. The photograph is one of several published in three special issues of the medical journal *New Medicine* (*Xin yiyao* 新醫藥) in summer 1936.<sup>282</sup> Aside from the photographs, these issues contained a series of cases that Lin Ji had handled for authorities in north China. This publication comprised part of an argument for the necessity of laboratory-based forensic expertise, a campaign that included direct pleas to local officials and central judicial organs, as well as publication

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<sup>282</sup> *New Medicine* 4: 5-7 (May-July 1936).

of cases and other material in medical journals. According to Lin Ji and, by the mid-1930s, a growing community of like-minded physicians, Chinese law could not do without medico-legal laboratory facilities.

The second photograph is an almost incidental representation of a forensic examination included in *Weekly Pictorial Supplement of Capital News* (Jingbao tuhua zhoukan 京報圖畫週刊) in February 1933 (figure 6).<sup>283</sup> Inset into a page with myriad other news stories, the image is of an unidentified man bending over the body of Wang Weisan, a journalist who has been assassinated in Nanjing. The caption reveals that the photograph was taken at the time of the forensic inspection (*jianyan* 檢驗). While no information is provided about the person who appears to be looking intently at a particular part of the middle or lower body, the large sheet of paper in his hand, possibly the official *yanduan shu* examination form, suggests that he was a coroner. The scene of this examination is very different from those that took place in Lin Ji's Institute. The environment was less controlled than in the medico-legal institute. Occurring in an ostensibly public place, a crowd watched in the background. Unlike the pensive Lin Ji, ensconced in the autopsy room (an enclosed space), the examiner in this image conducted the inspection of the body outside.

These images suggest different ways of examining bodies, investigating crimes, and producing knowledge. The figures in these two images were both involved in the production of forensic knowledge, but in different ways. This chapter has suggested what some of those differences might have been. The relationship between the coroner and his object of knowledge – the dead body or wounded body of the living – was not carried out

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<sup>283</sup> *Jingbao tuhua zhoukan* 京報圖畫週刊, issue 184 (February 12, 1933), p. 3.

in the medico-legal laboratory, a space which reduced – even if it did not eliminate – the competing social forces of judicial officials, police, relatives, and the accused. Coroners’ knowledge-practice was deeply mediated by the institutional and social relations that defined their engagement with the dead. This chapter has suggested that this immediacy translated into a greater amount of coordination between judicial authorities and coroners. From the perspective of examiners like Lin Ji, it was because coroners lacked the special epistemological authority of the laboratory that they were found wanting as forensic “experts.” This chapter has suggested that epistemology – understood in this context as a formal concern with the constitution of conceptual knowledge – was simply not the priority for the police, procurators, and others who became entangled in forensic cases.

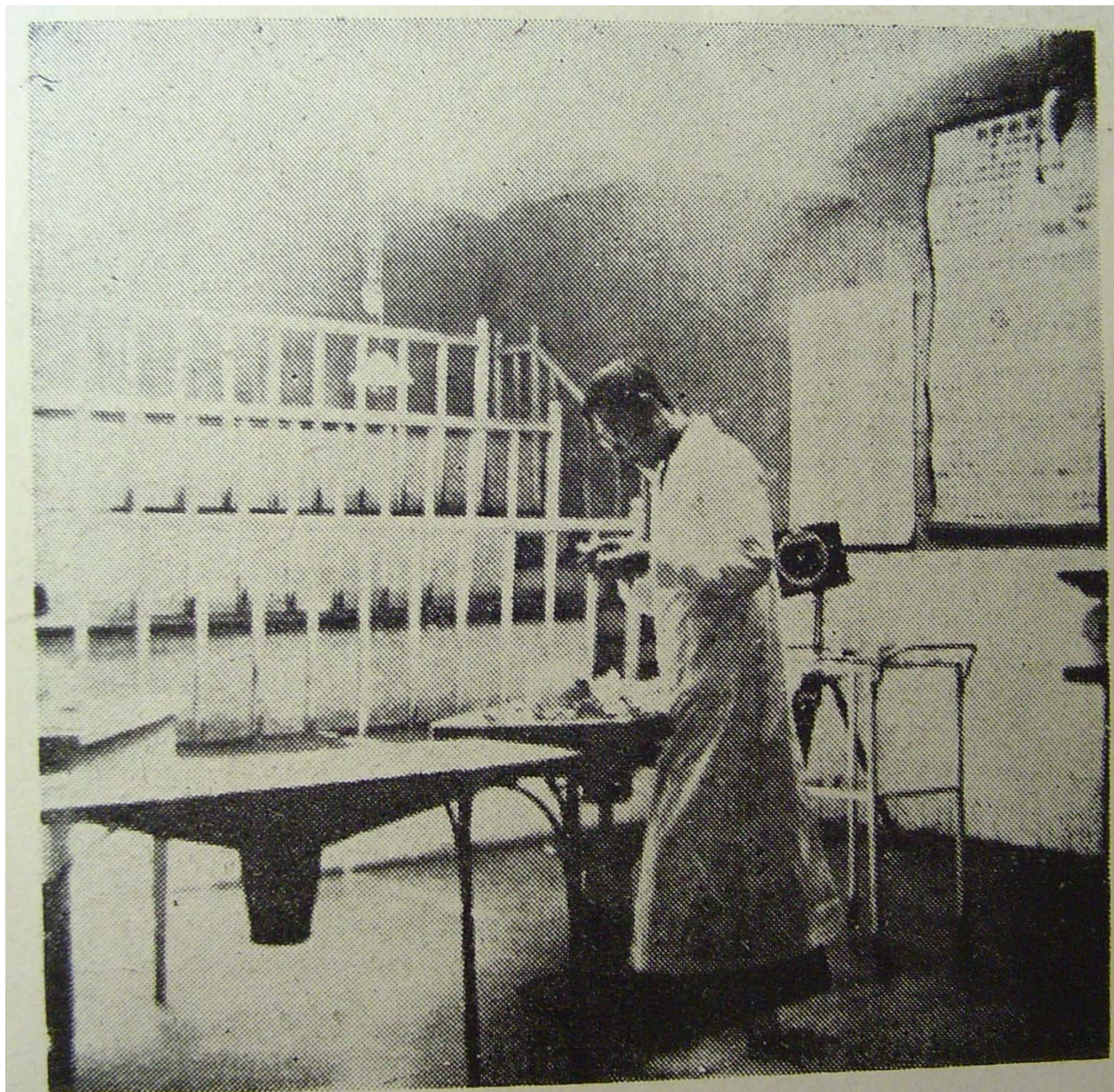
Finally, it is important to acknowledge that if coroners might be said to be “technicians,” in Shapin’s sense, they were not “invisible.” They materialized in the considerable output of Chinese print capitalism, on the pages of *Morning Post* and, decades earlier, *Dianshizhai Pictorial*. For those who did not read about the tragically dead, coroners were visible on the streets, where inquests constituted a public spectacle. Yet, despite their visibility, coroners’ capacity for self-presentation, perhaps representation, was limited. The photograph of the medico-legal institute was included in a specialized medical publication that was meant to promote the cause of medico-legal reform. It was part of an argument – made to judicial officials and others – that China needed more examiners like Lin Ji. The photograph of Wang Weisan’s inquest was different, reproduced as one sensationalistic photograph among numerous others and meant to sell newspapers. It was a scene made possible by the highly public work of the institutions that policed the dead in early twentieth-century urban China. If “expertise” is

in part a question of “enactment” – that is, of active performance – distinctions in the ability to represent oneself and one’s own expertise are important.<sup>284</sup> Despite the fact that coroners were posted throughout China, there seem to have been no national associations that existed to assert their interests or prerogatives as a distinct professional group. Coroners clearly had opportunities to appear as “experts,” to have a voice beyond the official examination routine, as the case of Yu Yuan demonstrates. Yet, these openings existed within structural conditions created by the institutions in which they worked.

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<sup>284</sup> For example, see Carr 2010.





剖 驗 室  
( 骨 體 檢 查 )

Figure 5: Institute of Legal Medicine, Autopsy room

上月三十  
一日在南  
京被刺身  
死之上海  
時事新報  
駐京記者  
王慰三君  
(上為生  
前近照，  
下為檢驗  
時攝影。



Figure 6: Photograph of a forensic examination,  
*Weekly Pictorial Supplement of Capital News*

## Chapter Four

### **When (Not) to Call the Coroner:**

#### **Managing Death in a City without a Morgue**

On the night of July 18th, 1934 a person named Zhao Lianzhong reported to police in the Outer First District of Beiping that a relative, Zhao Xidong, had “died of illness, and has no close relatives.”<sup>285</sup> The police questioned Zhao and the manager of the shop in which he worked, who also came to report the death, ascertaining from them that Zhao had suffered from tuberculosis (*laobing* 癆病), and was passing through Beiping on his way from Liaoning to return to his native place, Zaoqiang County, in Hebei. The police requested an inquest, which was performed on the next day. Determining that it was a case of “no wounds and death from illness,” judicial authorities issued a burial permit and had Zhao’s body buried at a charitable cemetery located near Guangqu gate at the eastern portion of the Outer City, an area with numerous cemeteries.<sup>286</sup>

Another case: In July 1947, a resident of the Inner Seventh District reported to police the death of her younger sister, who “neglected her health several days ago having given birth and has now died,” and requested a burial permit.<sup>287</sup> Police authorities

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<sup>285</sup> BMA J181-20-15724 “Report of the Outer First District Police Office of the Beiping Municipal PSB regarding Zhao Xidong dying from illness and the circumstances of the interrogation and examination” (北平公安局外一区警察署关于赵锡栋因病身死讯验情形等二案的呈), 1934, p. 2-3.

<sup>286</sup> According to the police report, Zhao Lianzhong was ordered by the police to notify the deceased’s relatives for them to come to Beiping to claim the body.

<sup>287</sup> BMA J181-24-4414. “Report of the Inner Seventh District Branch Department of the Beiping City Police Department regarding cause of death in the case of Lü Yongzhen being unclear and requesting the court to perform an inquest, and investigating and apprehending Lü Ruiwu, who abandoned the infant” (北平市内七区警察分局关于吕永珍死因不明请法检验并查缉弃婴犯吕瑞伍的呈), 1947.

investigated, determining through questioning that the younger brother of the deceased's former husband (and current lover) had taken the infant in order to abandon it (gender unspecified), and that the deceased had become "too shy to meet with anyone, she was depressed day after day with the result that she stopped drinking and eating. Suddenly, today she died." Having decided that the "cause of death is complex, and the infant was abandoned, [thus] it is not without suspicion" (死因複雜, 又將嬰兒拋棄, 不無可疑), police summoned the local court to perform an inquest that found that she simply became fatally ill after giving birth. The burial permit was issued, and police continued to investigate the infant's disappearance.

In both of these cases, procurators and coroners carried out forensic inquests. While their role was ostensibly to investigate the possibility of wrongdoing – indeed, procurators were members of the judicial (*sifa* 司法) institutions of government – their involvement in death cases served other purposes as well, foremost among them issuance of the burial permit that would allow an urban dweller to navigate the police-run system for reporting deaths in the city. In the heavily policed urban environment of early twentieth-century Beijing, such a permit was a necessity for bringing a body out of the city gates and, one suspects, transporting a coffin within the city more generally. It was through this system that the municipal government enforced a multi-faceted regime of supervision over the dead of Beijing that had concerns ranging from maintenance of social order to public health to judicial interest in criminality. The interest of urban institutions in the dead reflected the multiple and complex imperatives of a new conception of governance accountable to global standards of public health and judicial

administration, connected in crucial ways to questions of Chinese sovereignty and modernity.<sup>288</sup>

This chapter explores the process through which the forensic practices of the late imperial bureaucracy were integrated into a new form of modern urban governance. Urban procurators and coroners played a special role in Beijing as crucial actors in a police-run urban “management” of death, a state-organized apparatus that was strikingly different from the largely decentralized and privately-organized institutional framework that supervised and buried the dead in Shanghai.<sup>289</sup> Indeed, the heavy involvement of the urban state in Republican Beijing has earlier precedents reflecting the important status of the capital in late imperial times and the intensive nature of policing that Qing authorities had brought to bear on its streets.<sup>290</sup> The forensic technologies explored in earlier chapters were deployed in Republican Beijing to serve “local” purposes in the city that diverged from the original context in which they had been formulated – the implementation of a centralized, empire-wide administration of justice under the Qing.

Republican procurators and coroners relied on these technologies as crucial tools for maintaining order in a complex urban environment that presented a never-ending caseload of sudden and suspicious death cases. The fact that coroners in the city made use of the late imperial state’s standardized examination procedures almost certainly streamlined the work of investigating deaths, making it possible for police, procurators, and coroners to manage their considerable caseload of “unnatural deaths” (*biansi* 變死).

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<sup>288</sup> For the close connection between public health, sovereignty, and modernity see Rogaski 2004 165-92.

<sup>289</sup> For more on the very different institutional and administrative contexts that shaped the ways in which unclaimed dead bodies were handled in late Qing and Republican Shanghai, see Henriot 2009.

<sup>290</sup> The classic work on policing in late imperial Beijing is that of Dray-Novey (1993; 2007).

Interestingly, the advent of modern policing and its expanded interest in the dead created a substantial demand for coroners' skills at precisely the same moment as proponents of medico-legal reform increasingly argued that their "unscientific" practices had no place in a modern society. Ultimately, coroners came to play an essential and highly public role in determining the fate of those who suffered "bad deaths" in the city, an administratively crucial and, perhaps, ritually-charged population of the urban dead.<sup>291</sup>

*Forensic inquests at the intersection of state and society*

All of the cases examined thus far have been ones in which agents of the late imperial and early Republican state had, at some point, decided that a death warranted the expenditures of time and resources required for an investigation by ranked officials. In late imperial China, much as tax collection and maintenance of local order more generally the discovery and initial investigation of homicide prior to the inquest was an area of "brokered" governance carried out by sub-bureaucratic agents.<sup>292</sup> Local figures referred to as *dibao* 地保 as well as constables (*xiangyue* 鄉約) were tasked with

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<sup>291</sup> For historical constructions of the "bad death" in China, see Cohen 1990, 190-1 and Zhang 2008. As Huntington (2005) has shown, late imperial *zhiguai* and other genres of writing included many stories about those who had died badly or through suicide and continued to act amidst the world of the living in pursuit of substitution. That the deceased could maintain a presence, if not pursue justice, as a ghost appears in literary representations of judicial process more generally. For several examples, see Waley-Cohen 1993, 346. Katz (2009, 94-6) has argued that legal process was conceptualized in literary and other representations as involving not only exchange between the living and the dead, but the possibility that the deceased who had been wronged could file an indictment against the living from beyond the grave. Moreover, we should not assume that wronged ghosts or other "bad influences of death" vanished under modernity, whether in China or elsewhere. See, for example, Tong's (2004, 126-141) discussion of the supernatural dangers and ritual management of "unnatural deaths" among Chinese in contemporary Singapore as well as Katz's (2009, 142-178) discussion of judicial rituals, some of which involve appeal to deities, in contemporary Taiwan. Also see Hallam, Hockey, and Howarth (1999, 160-182) for discussion of the supernatural in modern England.

<sup>292</sup> cf. Duara 1988, 42-57. For a comprehensive overview of sub-bureaucratic institutions and their functions, see Hsiao 1967 (1960).

reporting crime that occurred in local villages.<sup>293</sup> In cases involving loss of life requiring further official investigation, these figures verified the circumstances and reported them to the local yamen.<sup>294</sup> Thus, investigatory work took place prior to the time that the magistrate and runners became involved.<sup>295</sup> In the Shi Darong homicide case, for example, it was the village constable who, prior to any involvement by the Yongping magistrate, received the initial report of the death, apprehended the assailants, and reported it to the county yamen.<sup>296</sup>

Much as in poor relief and other public services, benevolent associations (*shanhui* 善會) also played a role in augmenting the state's governance in the identification of deaths that required official investigation. For example, in mid-late nineteenth-century

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<sup>293</sup> The term *dibao* has been the subject of much confusion. Hsiao (1967 [1960], 63-6) shows compellingly that at different times and places it has referred to both *baojia* 保甲 headmen and a kind of sub-bureaucratic agent responsible for performing various duties on behalf of the local yamen, including reporting homicide and other crimes. See Ch'ü (1988 [1962], 3-4) for a brief description of the latter position. In nineteenth-century Hankou, the head of the *bao* 保 unit (1,000 households) was referred to as *dibao*. See Rowe 1989, 297. By the early nineteenth century, the position of *xiangyue* 鄉約 (literally "village compact"; translated here as "constable") had come to involve policing functions and not moral edification, becoming functionally analogous to village headmen. See Hsiao 1960; Isett 2007, 69-71.

<sup>294</sup> For cases in which figures referred to as *dibao* played a role in the discovery, investigation, and reporting of deaths, see, for example, Boan huibian 駁案彙編 (*Collection of Rejected Cases*; 2009 [1883]), 33, 273, 305. See Rowe (1989, 111, 302) for the comparable role that local headmen played in the discovery, identification, and reporting of deaths in early nineteenth c. Hankow. Handbooks for private secretaries also acknowledged the role of *dibao* in the preliminary discovery and investigation of deaths. See Zhang 1968 (1892), *Xuezhi yishuo* 34a/311; *Xingmu yaolie* 29a/595. There were almost certainly instances in which such local agents assisted parties in resolving through mediation homicide cases that should have been investigated officially. Theiss (2004, 199-201) demonstrates that local mediators, including headmen, did intervene in rape cases, at times facilitating arrangements between the parties for avoiding official investigation and adjudication. Also see Huang (1996, 68-70) for examples of early twentieth century cases in which community mediators intentionally facilitated the concealment of deaths that warranted investigation.

<sup>295</sup> Huang Liuhong 黃六鴻 (b. 1633) (1984 [1694], 323) suggested that magistrates issue a public notice "stating that the village headman or the elder is required to report immediately any homicide case in his locality." Such a report was to include "name of the deceased, name of the suspect or suspects, date of the incident, cause of death... or mode of suicide after having a quarrel with another person..., and the whereabouts of the corpse." For a similar statement, see Wang Youhuai's *Important Points for Handling Cases* (辦案要略, n.d.) (Zhang 1968 [1892], *Ban'an yaolie* 31a/491).

<sup>296</sup> Yi 1881 (1838), *gong'ou ren zhisi*, 1a.

Jiangnan, local authorities delegated the work of identifying those deaths that were possible homicides to members of organizations which played an important role in collecting and burying the unclaimed dead.<sup>297</sup> The history of benevolent associations and the elites associated with them providing coffins as well as burying the poor goes back to the late Ming, while also reflecting earlier precedents of burying unclaimed bodies.<sup>298</sup> These organizations managed and funded the burial of those who “fell down dead” (*daobi* 倒斃), were found dead on the road (*lubi* 路斃) or found floating in rivers (*fushi* 浮屍), the numbers of which fluctuated and expanded with the crises of the mid-nineteenth century.<sup>299</sup> For example, beginning in 1859 the Tongren fuyuantang 同仁輔元堂 entered into partnership with Shanghai County to encoffin “those dead on the road and floating corpses without wounds” while reporting for official inquest “those dead on the road with wounds” and paying associated “shed fees” at the scene of the corpse (*shichang changfei* 屍場廠費).<sup>300</sup> This organization would continue to collect abandoned corpses in the French Concession well into the twentieth century.<sup>301</sup>

<sup>297</sup> Liang 1997, 217-238; Fuma 1997, 651-656, 709-739. There were individuals and organizations in north China that organized the collection of unclaimed corpses and provision of coffins (i.e. see Rogaski 2004, 69). For example, see Imahori (1947, 85) for discussion of the Pushan guild 普善公所, a late nineteenth-century “water-bureau” (*shuiju* 水局) that provided coffins for the indigent in part of the Outer City. Yet, Imahori does not identify any other organizations that provided such a service (p. 156). For an overview of charitable work and institutions in mid-late nineteenth century Beijing, see Naquin 2000, 651-671.

<sup>298</sup> Liang 1997, 217; Smith 2009, 82-83, 221.

<sup>299</sup> Liang 1997, 226.

<sup>300</sup> Yu 1885, 8.22a-27b; Fuma 1997, 656.

<sup>301</sup> Henriot (2009, 413) provides the following annual figures of abandoned corpses and coffins, the vast majority of which were those of children, collected by Tongren fuyuantang in the French Concession:

<u>Year:</u>	<u>Bodies/coffins collected</u>	<u>Year:</u>	<u>Bodies/coffins collected</u>
1929	3995	1934	4935



Regulations from the Tongzhi period included in the well-known Jiangnan philanthropist Yu Zhi's 余治 (1809-74) *Record of Attaining the Way* (Deyi lu 得一錄), a work meant to encourage the pursuit of philanthropic activities, describe a similar arrangement through which the local *dibao* would report those who died on the road (*lubi* 路斃) or floating corpses (*fushi* 浮屍) to the benevolent hall, which would dispatch staff to examine the body.<sup>302</sup> In cases involving “corpses on land and water which have alms bowls for begging for food as well as a basket and stick,” the beggar chief (*gaitou* 丐頭) could examine the body, sign a bond, and receive a coffin from the hall, leaving the body unreported to officials. If a body was identified by relatives, the regulations specified that “as for whether or not it should be reported for an inquest, follow what they decide for themselves. Directors of the hall have no involvement.” By following these criteria in deciding whether or not to report a body, staff associated with the hall would determine whether a death would be investigated as a possible homicide, or simply buried without further attention. Thus, these categories structured decisions about how to expend resources on a given death and not others, while determining the amount of attention it would receive at subsequent stages of investigation.

The regulations also contained concrete guidelines for determining how “suspicious” a death was from examination of physical signs on the body:

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1930	5281	1935	3556
1931	5443	1936	4004
1932	8999	1937	13085
1933	5816	1938	18584

<sup>302</sup> Yu 1885, 8.15a-18b.

Examine the head and face of corpses [found] on land and in water. If there are marks from being stabbed with a knife or being bound, or if hands and feet have been bound, or there are impact wounds or wounds from being beaten; or if there are spots where the color has changed (顏色發變之處), and being blue or red they seem to be wounds, and they are hard when pressed; Also, for corpses of those who hang themselves, commit suicide, take bittern, take poison, or if blood flows from their orifices [i.e. ears, nose], and are found at an inhabitant's doorway, a riverbank, open ground, or next to a grave, if there are no relatives to identify the body, then according to regulations the hall should fill in a certificate (*liandan* 聯單) and report it to county [authorities]...

Examine the head and face of the corpse. If there are no wounds from being stabbed with a knife or bound; and if there are places on the skin which have undergone post-mortem changes (*fabian zhi chu* 發變之處), and one presses it with one's hand it is soft and not hard; and if the abdomen is sunken, the complexion is fixed and yellowed; if it is a case of there being no wounds and death from illness, if there are no relatives to identify the body, then follow [your superior's] orders to donate a coffin, encoffin the body and bury it. One need not report it to the county for an inquest (*xiangyan* 相驗).

Additional attention was unnecessary for a body with no wounds and for which it was “unnecessary to have the county [magistrate] ascertain the circumstances through an examination.” In such cases, the hall would provide a coffin, bury the body in a charitable cemetery, and keep a register of deaths that it would report to the county on a monthly basis in order to facilitate relatives' identification of the deceased.

In these instances, the involvement of sub-bureaucratic agents such as *dibao* and charitable associations augmented state institutions' governing capabilities. As Angela K. Leung has argued for the activities of benevolent halls more generally, this was not a “zero sum” relationship, but one of cooperation which would have facilitated the Qing state's investigation of homicide by delegating initial examination of a body to representatives of benevolent associations.<sup>303</sup> Yet, the same limitations in the reach of the

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<sup>303</sup> Liang 1997, 250.

state that forced the bureaucracy to rely on sub-bureaucratic agents to identify “suspicious” deaths also created spaces in which inquests could be convened on the basis of false accusations or other malfeasance at the local level. For one thing, the yamen functionaries who made local governance possible within local communities relied on criminal case fees and other extractive practices to make a living.<sup>304</sup> Moreover, members of local society could use the formal legal system to pursue their own social agendas, opportunistically relying on dead bodies to which they had access to support false accusations of homicide.<sup>305</sup>

Thus, an inquest could be performed for the *wrong* reasons, when the openings afforded by limited bureaucratic governance facilitated abuses and active manipulation of the legal system by actors not affiliated with the state. It was precisely for this reason that there were laws on the books that provided relatives with legal recourse for requesting that an inquest be avoided.<sup>306</sup> There were also laws that limited the number of yamen personnel who could accompany inquest entourages for the explicit purpose of limiting their extractive practices. A 1725 statute in the Code specified that when officials went to perform inquests they could bring along only one coroner, one clerk in charge of

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<sup>304</sup> Reed 2000; Ch’ü 1988 (1962), 67-70.

<sup>305</sup> Macauley 1998.

<sup>306</sup> The first statute in the Code on “Examining the Wounds on a Corpse and not [Reporting] Correctly” (檢驗屍傷不以實), which was a law maintained from the Ming, stated: “For cases in which one has brought a lawsuit involving the taking of human life, and it is a case of suicide by hanging, suicide or dying of illness in which one has stated recklessly that the [cause of] death is not clear (*shensi buming* 身死不明) with the intention of falsely implicating and extorting those involved, one must investigate the circumstances clearly and not, without exception, set out and perform an inquest, thereby facilitating abuses (不得一概發檢, 以啟弊竇)” (Xue 1970 (1905), 1268; 412/01). The second statute, another holdover from Ming law, further specified that in cases involving suicide by hanging or death by drowning, in which there were “no other (criminal) circumstances” (*biewu tagu* 別無他故), if relatives would rather bury the dead, they would be permitted to request an avoidance of inquest (Xue 1970 [1905], 1268; 412/02).

legal matters (*xingshu* 刑書), and two runners, that all expenses had to be provided for, and that the yamen functionaries had to be prohibited from “demanding a single penny” (不許需索分文).<sup>307</sup> Yet, the proliferation of contemporary claims that inquests had become a source of exorbitant extractions – for example, that rapacious entourages of 20 or 30 people would accompany inquests in Jiangsu – suggest a much broader administrative problem.<sup>308</sup> As Liu Kunyi 劉坤一 (1830-1902) and Zhang Zhidong 張之洞 (1837-1909) would write at the start of the New Polices reform period when proposing empire-wide establishment of fee-sharing institutions<sup>309</sup> to mitigate the local impact of runners’ extractions,

For all homicide cases that ought to have inquests, the fees for the tented shed in which the corpse is examined and for officials and laborers and travel are great. All are taken from the household of the accused. If not enough, then it is apportioned to their clans’ neighbors. If a single household of a small village, then it is apportioned to distant neighbors who live a half-*li* away.<sup>310</sup>

Members of local society put collective measures into place to insulate local communities from the potential dangers of inquests. For example, benevolent associations established

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<sup>307</sup> Xue 1970 (1905), 1269; 412/04. Cf. Wu 1992 (1886), 1100-1.

<sup>308</sup> *Supplementary Gazetteer of Wujiang County* 吳江縣續志 1879, 2.8a-b.

<sup>309</sup> Their proposal was, specifically, to establish fee-sharing schemes along the lines of the Three Fees Bureau (*Sanfei ju* 三費局) developed in Sichuan. See discussion of this institution below.

<sup>310</sup> Daqing fagui daquan, falü bu, jianyan, 8.1a . Huang Liuhong vividly described runners taking advantage of homicide cases for their own aggrandizement: “Once a complaint of homicide is accepted and warrants for arrest are issued, the yamen runners in charge of the case will regard it as a rare opportunity to get rich and proceed to arrest people indiscriminately. Serious disturbances in the village are created; extortions are demanded openly; male and female relatives of the suspects escape; neighbors and friends hide themselves in distant places; family property of the suspects is looted; their rice and grain stores are raided by strangers; doors remain unlocked; even chickens and dogs disappear. Within a few hours the homes of suspects suffer wanton destruction, as if destroyed by fire or ruined by warfare. Here I am relating what generally happens when a case of homicide is brought before a magistrate” (Huang 1984 [1694], 320-1).

fee and responsibility sharing schemes that would insulate residents and neighbors from the risks and fees associated with inquests.<sup>311</sup> Rowe cites the case of a merchant-funded and officially-sponsored lifeboat agency set up in Hankou in 1823 which included in its regulations protections for its agents when corpses were recovered in the water.<sup>312</sup> In this scheme, the risks associated with discovering a corpse would be mitigated by the local headman, who would take responsibility for determining the identity of the corpse and, if necessary, requesting an inquest. One of the best known arrangements was the Three Fees Bureau (*Sanfei ju* 三費局), an institutional model established by local elites in Sichuan during the 1860s.<sup>313</sup> This institution possessed a fund that would be used to provide fee payments to runners, thus insulating members of the local community from having to pay fees associated with criminal cases, including the “tent” fees levied for inquests.<sup>314</sup>

Thus, the various factors that shaped whether or not an inquest would be performed for any given death reflected the variable nature of local governance and, especially, its reliance on sub-bureaucratic agents who were as likely to subvert the integrity of governance as to augment the state’s “reach” into local society. If the image of forensic investigation that has been presented in earlier chapters has been one of standardized official practice, looking to the pre-inquest phases of an investigation reveals local variations which played a role in deciding which deaths became subject to

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<sup>311</sup> Liang 1997, 229-230.

<sup>312</sup> Rowe 1989, 110-111.

<sup>313</sup> Reed 2000, 231-235.

<sup>314</sup> The Three Fees Bureau also established standards for the fees levied, which, as Reed notes, not only “[standardized] the economic cost of dealing with the magistrate’s court,” but also to some extent legitimated the collection of the fees through codification (Reed 2000, 234).

the official regime of forensics. It also reveals that there were “practical rules,” in Prior’s words, that shaped the process through which certain deaths became official “cases” while others did not.<sup>315</sup> Turning now to the ways in which deaths were investigated in late imperial Beijing, we will see that in the city these “practical rules” reflected a much more intimate engagement between state authorities and the dead, an important precedent for understanding police supervision of the dead in Republican Beijing.

*Investigating deaths in late imperial Beijing*

In the unique governing context of late imperial Beijing, the heavily policed capital, state authorities had earlier and greater involvement in the investigation of death cases. That is, state institutions, not sub-bureaucratic functionaries, decided which deaths would have official inquests and which would not. This reflected the particular nature of governance in the capital, which was administered by numerous overlapping civil and military institutions and jurisdictions.<sup>316</sup> Those institutions most directly involved in forensic inquests were (1) the Five Wards, under authority of the Censorate, (2) the Office of the Captain-General of Gendarmerie (Bujun tongling yamen 步軍統領衙門), a

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<sup>315</sup> In his study of death investigation in contemporary Belfast, Prior argues that there are “practical rules,” not necessarily codified in any body of law, that determine which deaths, for example, are classified as “unnatural deaths.” Thus, those who die at home or in the street are more likely to become “unnatural” deaths than those who die in hospitals (51, 58-9, 61). In the contemporary United States, the quality of a decedent’s social and community ties (i.e. not dying alone and unclaimed), having sought regular medical treatment while alive, and dying at an advanced age all tend to mitigate the level of suspicion of police and other investigators when they encounter a death (i.e. Timmermans 2006). These “practical rules” – formed out of historically-specific institutions, practices, and expectations – shape the decisions about whether a dead body will be autopsied by a medical examiner or simply released for final disposition by relatives or others.

<sup>316</sup> Dray-Novey 1993; Han and Su 2000, 120. Beijing fell within additional policing and administrative jurisdictions, including that of Shuntian Prefecture and Daxing and Wanping Counties (two of Shuntian Prefecture’s 19 counties).

military policing force composed of Banners, and (3) the Board of Punishments, which exercised direct and indirect oversight in forensic examinations.<sup>317</sup> Administration of justice in each of the Five Wards (*wu cheng* 五城) was overseen by two Ward-Inspecting Censors (*xuncheng yushi* 巡城御史) who supervised the commanders of the Wardens' Offices of the Five Wards (五城兵馬司指揮; rank 6a) that policed each sector while handling investigation and adjudication of civil and some criminal cases.<sup>318</sup> The other policing institution involved in forensic examinations, the Gendarmerie Division of the Army of the Eight Banners, was managed by the Office of the Captain-General of Gendarmerie, and was stationed at various points in the Inner and Outer City and at the city gates. Also under authority of the Office of the Captain-General of Gendarmerie were the Five Battalions, composed of Green Standard forces, which guarded and policed vast areas in the Outer City and surrounding suburbs. Ward-Inspecting Censors and the Captain-General of the Gendarmerie had the judicial authority to try cases involving punishments of flogging with light or heavy sticks, but for crimes involving sentences of penal servitude or higher – including capital punishment – they would pass the case on to the Board of Punishments or Three Judicial Offices (*Sanfasi* 三法司), of which the Board was included, for trial.

Within the procedures for reporting and investigating cases involving loss of life

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<sup>317</sup> See Na 2004, 150-193 for an overview of the procedures, including pre-trial investigation and adjudication, that were carried out in criminal cases occurring in the capital. See Karasawa 2007 for a discussion of the process of producing written testimony in Qing homicide cases that relies on the Board's "directly examined" (*Xingbu xianshen* 刑部現審) cases from the capital as source material.

<sup>318</sup> Na 2004, 156-60.

(*ming'an* 命案) in the capital, inquests were carried out primarily by Ward authorities under supervision of Ward-Inspecting Censors as well as the Board of Punishments. Ward commanders had been tasked with conducting inquests since at least the late seventeenth century, and maintained this role until the last years of the Qing.<sup>319</sup> Regular Bannermen who encountered a case requiring investigation as a possible homicide were to report it to their Company Commander (*zuoling* 佐領) who, in turn, would report it to the Board of Punishments to conduct the inquest.<sup>320</sup> For cases occurring in the streets of the Inner City, whether banner or commoners were involved, the *bujunxiao* 步軍校 (infantry lieutenant?)<sup>321</sup> was to report it to the Captain-General of the Gendarmerie, which would notify the Board of Punishments. Commanders of the Wardens' Offices of the Five Wards would then be mobilized to conduct the inquest, which would again be reported to the Board. For cases involving bannermen or commoners in the Outer City, the precinct head (*zongjia* 總甲) was to report the case to the relevant Wardens' Office commander, who would perform the inquest and report to the Ward-Inspecting Censor, who would in turn report the case to the Board of Punishments and Censorate.

Officials in the capital were likely to be involved in the initial discovery of death cases as well as earliest decisions about whether a death warranted further investigation as homicide – the very decisions that were made by *dibao* and benevolent associations elsewhere in the empire. According to late eighteenth-century regulations, Ward

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<sup>319</sup> Na 2004, 168.

<sup>320</sup> Xue 1970 (1905), 1270; 412/09.

<sup>321</sup> Ma Jianshi and Yang Yutang (Wu 1992 [1886], 1105n27) gloss this term as a kind of capital infantry officer in the Banners, rank 5a.



authorities could resolve on their own authority cases involving those who “fell down dead in the road” (*daotu daobi* 道途倒斃) or “died from illness in inns” (*kedian bingwang* 客店病亡) if through investigation they could verify that there were no criminal circumstances.<sup>322</sup> A poem in Yang Jingting’s 楊靜亭 *Miscellaneous Verses on the Capital* (Dumen zayong 都門雜詠; originally included in Dumen jilüe 都門紀略, 1845) mentioned ward authorities’ examination of corpses of those who died of starvation and exposure:

Troublesome are the inquest [duties] of precinct officials. Nowadays there are many dead from starvation and exposure lying on the commercial thoroughfares. How could this happen to poor people content with their lots? Among them are none who are not old broke rascals who go whoring and gambling (司坊相驗費張羅, 街市如今倒臥多, 守分窮民何致此? 無非嫖賭老窯魔)<sup>323</sup>

A case from 1885 in which Beijing authorities investigated the body of a woman discovered near the Office of the Gendarmerie suggests the extent to which officialdom was involved in the initial investigation of deaths in the capital. In this case, members of the Gendarmerie had illicitly moved the body of a woman from Anhui who had attempted to lodge an illegitimate petition at the Office of Gendarmerie and had died of “natural

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<sup>322</sup> Xue 1970 (1905), 1273; 412/16. These kinds of cases could be resolved by Ward authorities themselves (*zixing wanjie* 自行完結) without the additional oversight of Ward-Inspecting Censors or the Board that would be implemented in cases involving homicide or other criminal circumstances.

<sup>323</sup> Cited in Li 1937, 425. *Sifang* 司坊 referred to the Ward officials who administered precincts (*fang* 坊), that is, Warden’s Office commanders, assistant-commanders, and their staff. While literally “fell down flat,” *daowo* 倒臥 connoted a death from exposure or starvation. According to Chang Renchun (describing Beijing of the early twentieth century), “... when the deceased has no one to claim the body, the government handles the arrangements. This is generally for beggars and those who wander about destitute on the streets, and freeze or starve to death. Beijingers commonly call it ‘fell down flat’ (*daowo* 倒臥)” (1996, 278).

causes.”<sup>324</sup> The body was subsequently found in a canal near the Office of the Gendarmerie, which was located to the north of the Di’an Gate in the Inner City.<sup>325</sup> According to the Office of Gendarmerie’s initial report,<sup>326</sup> the body had been discovered by a figure identified as “canal police,” who notified the Lieutenant of Police, who in turn notified the police magistrate of the Northern division of the city (that is, the Warden’s Office):

On reference to the archives of the office, however, a report from Ch’un Ling and Wên Hui, the Major and Lieutenant of Police of the Manchu Blue Banner, was found, to the effect that there was the body of a woman, name unknown, lying on the bank of the ditch near the Ti-an bridge in their division, which is in the North of the city. As is the rule in such cases, orders were thereupon given for an inquest to be held, and the Board of Punishments, with whom any further action lay, was duly communicated with.

The report, as excerpted in *Peking Gazette* (Jingbao 京報), then cited the deposition of Wên Hui, the Lieutenant of Police:

Witness No. 4 [Wên Hui], to whom was reported the fact that the body of a woman was lying on the edge of the ditch or canal, made the usual report to the police magistrate of the Northern division of the city, who inspected the body and took away a written petition which he found in the breast of the jacket of the deceased. Two days later or five days after the discovery of the body it was examined by the same magistrate in concert with the Assistant Magistrates of the central and western divisions of the city. They found the body to be that of a woman of some forty years of age. There were some scratches upon the face, but no marks upon the body, so they decided that death had arisen from natural causes and ordered the body to be buried in the public burial ground outside the north of the city, but not to be put deep into the ground; a mark was also placed over the grave to facilitate identification.

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<sup>324</sup> *Translation of the Peking Gazette for 1884 1885*, February 4th and 5th, p. 15-6; also January 15th, p. 9-10.

<sup>325</sup> Dray-Novey 2007, 366.

<sup>326</sup> The case was still pending investigation by the Board of Punishments.

A similar process involving the joint investigation of a death by Ward authorities was depicted in a plate from *Dianshizhai Pictorial* entitled “A suspicious case about to be investigated” (*Yian daicha* 疑案待查) which represents the moments before examination of a mysterious corpse discovered outside of a shop for hemp-fiber paste at Pearl Market Entrance (Zhushikou 珠市口) in the Outer City when it opened its doors in the morning (figure 7).<sup>327</sup> The caption of the plate noted that the examination was conducted jointly by officials of the Center, South, and East Wards, two of whom appear to be represented arriving on the scene. Here again, overlapping authorities within the capital played a significant role in the early stages of the investigation.

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<sup>327</sup> *Dianshizhai huabao*, 已四, 三十一, v. 6.

查待案疑



Figure 7: "A suspicious case about to be investigated," *Dianshizhai Pictorial*

Official supervision also appears to have been indirect. By the mid nineteenth century there appears to have been a system of burial permits in the city in which officials relied on ritual specialists to ensure that deaths occurring under “suspicious” circumstances would be discovered. Responding to a reader’s query about inquests in “Notes and Queries on China and Japan” (1869), the English missionary John Dudgeon noted in passing:

All deaths from accident, drowning, strangulation or suspicious circumstances must be submitted to the coroner for inquest. Interment may be effected by employing the services of geomancers or necromancers who grant certificates of death, in natural cases, which suffice to pass the city gate keepers as in Peking. These diviners are a body distinct in themselves, and not under mandarin control except in cases where certificates are granted under false pretences [sic], and then they run the chance of the neighbours not giving information. If the good but superstitious offices of the death registrar be impossible, in such cases the only course left is to have it noted through the proper Yamen, which always causes a delay of at least three days.<sup>328</sup>

Yang Nianqun’s study of the early impact of public health institutions on the daily experience of life and death during the Republican period has shown that yinyang masters (*yinyang sheng* 陰陽生) were delegated similar authority by the Metropolitan Police Board to certify that deaths had not involved criminal circumstances.<sup>329</sup> During the early twentieth century, urban dwellers used the document produced by the yinyang masters as a basis for obtaining a burial permit from police authorities. This permit was required when bringing a coffin out of the city gates for burial, suggesting parallels if not necessarily continuities with the practice described by Dudgeon. Thus, it is possible that

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<sup>328</sup> “Notes and Queries on China and Japan” (N.B. Dennys, ed.; Published by Charles A. Saint in Hong Kong), 3.8 (August 1869), 127.

<sup>329</sup> Yang 2006.

the city gates functioned as a kind of control point at which the state and, almost certainly, gendarmerie forces, exercised indirect supervision over urban residents' deaths by inspecting the certifying documents issued by ritual specialists.<sup>330</sup> Moreover, as would be the case during the Republican period, in the case of at least some deaths that were investigated through inquests (thus, not certified by “geomancers”), the Board issued burial permits called “tickets” (*piao* 票), so that, it would seem, a body could be taken through the city gates when relatives did not possess a “geomancer’s” certificate.<sup>331</sup>

Yet, it is possible that the nineteenth-century burial permits system also facilitated greater official abuses. A memorial submitted by a Jiangxi Circuit Investigating Censor named Liang Bi 良弼 in 1886 suggested that capital officials tasked with inquests routinely extorted fees from relatives of the deceased by delaying the process of obtaining a ticket (*piao* 票) authorizing burial.<sup>332</sup> According to Liang, these malfeasances occurred both in homicide investigations in which the Board of Punishments became involved but also cases that could be closed by ward authorities themselves, cases

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<sup>330</sup> The Gendarmerie guarded the gates of the Inner and Outer City and controlled passage through them, a task to which they had been assigned since the late seventeenth century (Han and Su 2000, 116; Na 2004, 160). As Dray-Novey (2007, 360) describes, in 1909-1910 gendarmerie “carefully recorded the passage of the deceased through the gates and out of the city,” producing “at least 165 periodical statistical reports on coffins exiting through 15 of the 16 gates.” These reports included information on the cause of death of the deceased. Moreover, “Police investigated when the person was unknown, when the cause of death was wounds, and when the cause was unclear. After the investigation, police buried those who had died unidentified.” According to Dray-Novey, “These reports, which have no counterparts in an extensive gendarmerie archive published in the mid-nineteenth century . . . , suggest the influence of modern public health ideas, which took hold quickly in the capital in the early twentieth century.”

<sup>331</sup> A “burial ticket” (*taimai piao* 抬埋票) was also mentioned in judicial police regulations from 1910 as the authorization issued to relatives of the deceased after an inquest (Yu 1922, 1307). The terminology for burial permits would change during the Republican period (see below).

<sup>332</sup> See FHA, Grand Council palace memorial reference copies (*lufu zouzhe* 錄副奏折), 03-5688-39, 6/5/GX12, “Memorial requesting that for inquests occurring in the streets inside and outside of the capital, official personnel holding up burial on pretext be rectified immediately” (奏為京內外各街相驗殮埋事宜吏役藉端延誤請亟加整頓事).

involving those who “fell down dead in the road” (*daotu daobi* 道途倒斃) or “died from illness in inns” (客店病亡) with no criminal suspicion. Consequently, according to Liang, bodies that were left to “fester inside of the [family] courtyard” without burial, “caused hardship for both the living and the dead.”<sup>333</sup> To remedy this malfeasance, Liang proposed that existing laws that mandated officials’ expedient burial of bodies in the outer provinces be applied to the capital. He also urged officials to follow the laws that allowed relatives to request that an inquest *not* be performed. Thus, proper administration of forensics required *limiting* the potential for parasitic claims over the dead to arise.

Thus, the late imperial state’s forensic engagement with the dead was shaped, foremost, by the most local institutions and agents that participated in governance. The investigatory work of these local agents made some deaths more likely to be investigated than others. Yet, deaths could also become subject to an inquest – and relatives or others implicated in specious accusations – because of the vulnerabilities of late imperial governance. In this context, the late imperial state intentionally limited its own forensic claims over the dead through laws that, in theory, permitted relatives to request that an official inquest be avoided. Once a “suspicious” death was identified – via whichever mechanism – it became subject to standardized practices, thereby transforming into a discrete “case” that required bureaucratic supervision and review. In the very different

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<sup>333</sup> Delaying the burial of encoffined remains for prescribed periods of time was a part of death ritual in north China and elsewhere, albeit ethically ambivalent in the eyes of Cheng-Zhu orthodoxy. As De Groot (1892, 1.1.102) observed in coastal south China, the possibility of implementing such a practice would have been limited by the quality of the coffin: “The lowest classes at Amoy generally bury their dead on the same day of the decease, or on the day following, especially in summer, as these poor people are unable to procure coffins substantial enough to prevent the smell from escaping when decay sets in. The great majority of the common people and even of the middle class usually defer their burials until what they call the third day, that is, the second day after that on which the decease has taken place, the intermediate day then being, as a rule, devoted to the dressing and coffining.” For more on delayed burial, see Sutton 2007, 138-9.

context of early twentieth-century Beijing, these practices were integrated into a new urban order that incorporated modern policing, population statistics, and public health.

*A new government of the dead: the Metropolitan Police Board*

The police force that investigated the death cases with which this chapter began reflected a model of governance that was quite different from that which defined policing in the late imperial capital. The establishment of modern policing institutions in cities like Chengdu and Beijing developed out of numerous political and social transformations, including the rise of merchant and gentry managerial activism and authority, the political and administrative crises that characterized the post-Boxer aftermath, as well as the wide-ranging institutional reforms of the first decade of the twentieth century.<sup>334</sup> In Beijing, it was out of the administrative vacuum that existed after the Boxer uprising, when non-Qing forces as well as ad hoc organizations arranged by local elites policed the city, that Japanese policing as implemented by Kawashima Naniwa 川島浪速 (1865-1949) emerged as a compelling vision for reformers.<sup>335</sup> These reforms yielded policing institutions in Beijing that would be consolidated by Yuan Shikai in 1913 to form the Metropolitan Police Board (京師警察廳), an institution that exercised unified authority over the Inner and Outer Cities in tandem with the Gendarmerie until its disbandment by Feng Yuxiang in 1924.<sup>336</sup> During the Republican period and, especially, Nanjing decade,

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<sup>334</sup> Han and Su 2000; Strand 1989, 67; Wakeman 1995, 18-21; Stapleton 2000.

<sup>335</sup> Strand 1989, 67-8; Han and Su 2000, 82-86.

<sup>336</sup> Han and Su 2000, 335, 358; Dray-Novey 2007. For a summary of these institutional changes, see especially Han and Su 2000.



the police would be integral not only to the management of deviance, but to activist attempts to remold public life and political identity and implement the diverse and diffused set of practices that constituted “hygienic modernity” (*weisheng* 衛生).<sup>337</sup>

In governing the city, the Metropolitan Police Board oversaw expanded fields of interaction between state authorities and the dead. Broadly, this expanded interest in the dead was shaped by the imperatives of investigating, managing, and fostering the health and “life” of the governed – a form of governance that emerged in China (as elsewhere) under the political, social, economic, and cultural exigencies of imperialism and capitalism.<sup>338</sup> This new concern with the “population” as an object of scientific knowledge and intervention translated into practical initiatives to maximize productivity, foster health, and instill self-regulating habits and rationalities. In the investigation and “management” of urban deaths, the police instituted various mechanisms of supervision. One concern was the need to track occurrences in the lives of members of the urban population as part of ongoing “household and population investigation” (*hukou diaocha* 戶口調查) activities.<sup>339</sup> While policing mechanisms in Beijing during the Qing had collected information on households – primarily in the Inner City – the activities of the police in Republican Beijing in investigating the urban population far surpassed these efforts in ambition and scope.<sup>340</sup> The procedures followed in Beijing during the early

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<sup>337</sup> Strand 1989, 83-89; Shapiro 1995, 82-113; Xu 2002, 431-434; Rogaski 2004.

<sup>338</sup> For more on the emergence of the Chinese “population” (in this modern sense), see the work of Malcolm Thompson (i.e. Thompson 2012) as well as Lam 2011.

<sup>339</sup> This area of governance had been included in early regulations of the Inner and Outer City Metropolitan Police Office (內外城巡警總廳) under authority of the Police Affairs Office, *jingwu chu* 警務處. See Han and Su 2000, 101. Registration of households as well as collection of vital statistics were included in regulations governing the police in Chengdu as early as 1903. Stapleton 2000, 134.

<sup>340</sup> Gamble 1921; Dray-Novey 1993, 899-902; Hou 2000.

Republican period were described in “Regulations on Police Board Investigation of Household and Population” (警察廳戶口調查規則) and a set of related regulations promulgated in 1915.<sup>341</sup>

These regulations were part of a broader framework for producing census data and governed the population statistics produced throughout the early-mid 1920s, even informing some of the data collected during the Nanjing government’s 1928 census.<sup>342</sup> The census-taking procedures described by Gamble in *Peking: A Social Survey* (1921) match those of the 1915 regulations, suggesting strongly that population statistics from Beijing provided in his work were produced under this regime.<sup>343</sup> These regulations mandated that “from the day of completion of the [census] investigation, the head of the household is charged with reporting matters pertaining to changed residence, births, deaths, marriage, and inheritances to the head of the local police district within five days.”<sup>344</sup> The procedures also accommodated the reporting of deaths occurring within the social milieu of native-places lodges and other institutions that in Beijing played an important role in the ritual as well as logistical management of deaths and dead bodies of members.<sup>345</sup>

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<sup>341</sup> Cai 1999, 13.222-257.

<sup>342</sup> Hou 2000, 7. Similar provisions were included in 1915 regulations on census-taking in areas administered by county magistrates. See Cai 1999, 13. 227.

<sup>343</sup> See Gamble 1921, 91-93. Gamble does not mention the 1915 regulations explicitly, but does write: “Soon after the establishment of the Republic, plans were drawn up for gathering information on the population of the large cities, and the Department of the Interior promulgated special rules for the taking of the census in Peking, the provincial capitals, the commercial cities and others in which police departments had been organized” (1921, 91). This almost certainly refers to “Regulations on Police Board Investigation of Households” (警察廳戶口調查規則).

<sup>344</sup> Cai 1999, 13.232, 256.

<sup>345</sup> Cai 1999, 13.241; Beijing shi dang’an guan 1997, 2. The 1915 “Regulations on the Management of Native-Place Lodges” (管理會館規則) stated: “The lodge director should charge a lodge servant with

The police also supervised the deaths of urban dwellers in order to produce mortality statistics that could be used for purposes of public health. As Yang Nianqun has noted, police organs in early twentieth century China not only began with jurisdiction over hygiene and public health, but even when independent hygiene organs were established, it was not uncommon for a lack of funding to circumscribe their activities and bring hygiene back under police authority.<sup>346</sup> Statements made by Gamble and others suggest that the police-managed burial permits system contributed to the accuracy of mortality statistics in the city, demonstrating at the same time the assumption that *all* deaths were to be accounted for:

Birth rates and death rates are the fundamental figures for all health work and the police have endeavored to secure the statistics on which these rates are based. So far they have not been able to secure accurate figures, although the reports are becoming more and more complete. The people simply will not report all births and deaths ... The death rate is much more accurate [than the birth rate]. The law requires that all bodies be buried outside the city and, as no funeral can go through the gates unless a police permit has been secured, all deaths are reported except perhaps for some infants.<sup>347</sup>

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reporting lodge residents' changes in residence, illegal activities, and deaths to the relevant police district office as necessary in accordance with the regulations on investigating household and population registration." This requirement was maintained in 1918 regulations (Beijing shi dang'an guan 1997, 5), as well as 1930 regulations (p. 9).

<sup>346</sup> Yang 2006, 100-1; Rogaski 2004, 189-190; Stapleton 2000, 136.

<sup>347</sup> Gamble 1921, 115. A similar description appears in the *Work report of the Beiping Municipal Government Hygiene Office* (Beiping shi zhengfu weisheng chu yewu baogao 1934, 74): "The collection of mortality statistics in this city uses the same measures as birth statistics, but if residents encounter a death, if they have not after reporting it obtained a funeral permit, then they cannot bury. Therefore, the mortality statistics are more detailed and accurate than the birth statistics. As for poor families, often they do not use a coffin for deceased infants, and secretly bury the body, thus investigating is difficult. Therefore omissions in reporting cannot be entirely avoided." Comparable procedures were described in Gamble's 1933 *How Chinese Families Live in Peiping*: "The police require a funeral permit before a body can be taken through the city gates. The charge for this apparently varies, either with the age of the deceased or the financial ability of the family. For the bodies of young children, the cost was only 40 coppers, 10 cents. For adults, it was 50 cents or \$1" (Gamble 1933, 215).

Supervision of deaths in the city was included in the organizational regulations of the Hygiene Office (Weisheng chu 衛生處) of the Inner and Outer City Metropolitan Police Office (內外城巡警總廳), which was formally established in 1906.<sup>348</sup> Moreover, as early as 1908 the Hygiene Department (Weisheng si 衛生司) of the Ministry of Civil Affairs (Minzheng bu 民政部) had for purposes of epidemic prevention produced statistics that included information on sex, age, date of infection and cause of death for those who died in the Inner and Outer Cities of Beijing.<sup>349</sup> Statistics cited in Gamble indicate that the Metropolitan Police Board continued to produce mortality data classified by cause of death for purposes of public health work and, specifically, supervision of epidemic diseases.<sup>350</sup>

The earliest dedicated hygiene institutions that handled vital registration in the city were established as part of the Experimental Public Health Station of the Metropolitan Police Board (京師警察廳試辦公共衛生事務所), a cooperative program of Peking Union Medical College and the municipal government established in the Second Inner Left district in 1925 (renamed First Demonstration Health Station 第一衛生事務所 in 1928).<sup>351</sup> The Second Health District Station (第二衛生區事務所), established in the Inner Second district, began handling investigation of deaths on January 16th, 1934. Over this period, the production of vital statistics would be

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<sup>348</sup> Han and Su 2000, 101.

<sup>349</sup> You 1994.

<sup>350</sup> Gamble 1921, 116, 419. See Campbell 1995 for an historical epidemiology of mortality and morbidity in Beijing during the Republican period.

<sup>351</sup> Campbell 1995, 136-139; Yang 2006, 111. This area was brought under jurisdiction of the Inner First district after the 1928 reorganization of police districts. See Gong 2004, 109.

increasingly (albeit slowly and unevenly) brought out of the hands of the police and into the jurisdiction of personnel affiliated with specialized hygiene institutions.

*Burial permits and administratively “normal” deaths*

The various goals of supervision were enforced through a system of permits that governed the passage of the dead out of the city as well as final disposition by burial or other means. The burial and funeral permits system was a mechanism for ensuring that urban dwellers reported deaths to municipal authorities, thereby obtaining a permit that allowed them to proceed with burial.<sup>352</sup> Burial permits (*taimai zhizhao* 抬埋執照) were issued by police, as well as by procurators after inquests, while funeral permits (*chubin zhizhao* 出殯執照) were issued by hygiene authorities during the 1930s and 1940s.<sup>353</sup>

While the need for a permit does not appear to have been new – there seem to have been precedents during the late imperial period – during the New Policies reform period and Republican period, such a system was administered in Beijing and elsewhere for the explicit and new purposes of public hygiene.<sup>354</sup>

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<sup>352</sup> Some information regarding the cost of these permits can be gleaned from Gamble’s (1933, 211-20, 231-41) survey of expenditures associated with 14 funerals. In two of the cases, families spent 10 cents and 11 cents on the “funeral permit.” A “burial permit” was purchased for \$1 in 3 of the cases. Finally, a “death certificate” was purchased for \$1 in the case in which a Buddhist monk officiated, and a “writer of the death certificate” was given 50 cents in a case for which “priests” officiated. No permit of any kind was mentioned in the expenditures for 7 of the cases.

<sup>353</sup> For example, the *Work report of the Beiping Municipal Government Hygiene Office* (Beiping shi zhengfu weisheng chu yewu baogao 1934, 75) stated: “Funeral permits are printed by our office, and their issuance has been entrusted to the district offices of the Public Security Bureau. Since our office was set up, in the Inner First and Inner Second Districts, the Health District Station has filled them out and issued them in order to simplify procedure.”

<sup>354</sup> A burial permits system had been established in Tianjin under the authority of the Tianjin Provisional Government, a body of foreign representatives which administered the city after the Boxer uprising

In Beijing, possessing either permit allowed one to carry a body through the city gates for burial. The gates thus served as a point at which authorities policed the dead. Gamble described the ways that the city gates shaped the movement of people and goods within and around the city:

Modern Peking is greatly in need of more gates in its walls. The present number confines the traffic to a few highways, and not only makes detours necessary but also produces great congestion. To go from a point just inside the wall to one just outside the wall, an actual distance of perhaps 100 yards, may mean a trip of 2 ½ miles. Going from the North to the South City often involves a wait at the gate because of the congestion of traffic.<sup>355</sup>

There were factors that might have compromised the effectiveness of using the gates as a point for supervising the passage of the dead. Observers at the time noted that the corpses of infants, which were allegedly not encoffined but instead “privately discarded [without permission]” (*sixing qizhi* 私行棄置) or “privately buried” (*simai* 私埋), were routinely absent from mortality statistics.<sup>356</sup> Moreover, beginning in the eighteenth century, cemeteries, especially charitable cemeteries and those of native-place lodges, were established in the Outer City.<sup>357</sup> By the early twentieth century, there were numerous burial grounds which might have – it would seem – made burial possible without a permit if the death occurred in that part of the city. There were other reasons for a dead body to remain inside the city gates. Delaying burial of the coffin (*tingjiu* 停柩) in temples or

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(Rogaski 2004, 174). A system involving police-issued certificates authorizing burial (*taimai zheng* 抬埋證) was also used in Nanjing during the mid-1930s, if not earlier, and facilitated production of vital statistics (Wang 1953, 17).

<sup>355</sup> Gamble 1921, 63.

<sup>356</sup> This point was often made in the literature produced by the Department of Hygiene. See, for example, *Beiping shi weishengju di er weishengqu shiwusuo* 1935, 14-15 and Wang 1936, 14.

<sup>357</sup> Naquin 2000, 48; Belsky 2005, 95.

other facilities was not unheard of (and probably not uncommon) in Republican Beijing, and was practiced into the 1940s.<sup>358</sup> Another reason for keeping a body inside the city was for dissection at medical schools, a practice that carried the potential to subvert the police-run supervision of death when bodies were procured outside of the proper procedures.

The burial permits system enforced the urban state's supervision of deaths for purposes of household registration and public hygiene. Yet, the requirement that urban dwellers report deaths also made it possible for police to determine, on a case by case basis, whether individual deaths were criminally suspicious and in need of a procurator's inquest. The "practical rules" that determined whether a given death would have an inquest or not were complex, often unstated, and relied on direct and indirect mechanisms of municipal supervision. At its most basic, such a decision could be made on an ad hoc basis at the time that an urban dweller – usually a relative or affiliate of the deceased – reported a death to police and requested a burial permit. This happened, for example, in the cases discussed at the beginning of this chapter. Yet, there were also institutional structures that shaped decisions about which deaths would receive greater scrutiny and which would not. Certain figures in urban society were delegated the authority to guarantee to police authorities that a death was not in need of additional investigation, thus sparing urban dwellers from further police investigation or even an inquest.

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<sup>358</sup> For a death case investigated by the Bureau of Hygiene from 1946 in which an encoffined body was stored in the Outer Fifth District, see BMA J5-1-1278. "Report of the Bureau of Hygiene regarding ceasing collection of fees for birth and death certificates as well as funeral permits and instructions of the municipal government as well as correspondence regarding requests to issue birth and death certificates" (卫生局关于停收出生死亡证书及出殡执照费的呈文及市政府的指令以及请发出生,死亡证明书等的来往公函、信件), 1946 (SIC), p. 69. For a case from the late 1930s and 1940s from Outer Fourth District, see BMA J5-1-1278, p. 184. For a 1948 case from the Inner Third District, see BMA J5-1-1278, p. 192.

The *Work report of the Beiping Municipal Government Hygiene Office* described this practice as of the early 1930s, prior to the expansion of Bureau of Hygiene authority into the supervision of deaths in the city:

When urban residents go to sub-stations of the PSB to report a death, according to usual practice they must possess a death certification document. As for this kind of document, there are three kinds. Of those used commonly, many are the certificates (*liandan* 聯單) of yinyang masters. As for adherents of Islam and Christianity, staff from the respective church produces a certificate. As for those who die in the hospital, then the hospital produces a death diagnosis certificate (死亡診斷書). This kind of measure, which has been passed down to the present, is used to check whether there are deaths for which the circumstances are unclear.<sup>359</sup>

The delegation of certifying authority to these kinds of actors reflected several different governing logics. As a measure for “[checking] whether there are deaths for which the circumstances are unclear,” such mechanisms made use of the time and resources of non-state actors who, serving as “ears and eyes of the government” (官方的耳目), in the words of Chang Renchun, augmented the urban state’s own investigatory activities.<sup>360</sup>

The use of non-state actors to guarantee that a death was not in need of additional investigation was not fundamentally new: geomancers had apparently performed this task in nineteenth-century Beijing while benevolent associations assisted in investigating deaths in Shanghai. That physicians and public health authorities were given the authority to certify deaths reflects the imperatives of administering the “life” of the population (conceptualized in medical terms), while constituting a mechanism through which the expertise of such groups and individuals could be integrated into urban governance.

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<sup>359</sup> Beiping shi zhengfu weisheng chu yewu baogao 1934, 74-75.

<sup>360</sup> Chang 1996, 235-6.



Ultimately, the establishment of an infrastructure for ensuring the medical certification of deaths was slow to develop. During the early Republican period, police relied on ritual specialists referred to as yinyang masters (*yinyang sheng* 陰陽生 or *yinyang xiansheng* 陰陽先生), who managed all manner of ritual activities surrounding a death for the family of the deceased, to ensure that a death did not involve criminal circumstances.<sup>361</sup> When carrying out their ritual services for the family of the deceased, yinyang masters concurrently made a determination about cause of death based on their observation of the social relations surrounding the deceased, drug prescriptions, as well as signs observed on the body itself which indicated fatal illness or other cause of death.<sup>362</sup> If they discovered during this process “an unnatural death or if cause of death was unclear,” then they were not permitted to provide the certification that formed the basis for police issuance of the burial permit.<sup>363</sup> While the Metropolitan Police Board’s reliance on yinyang masters could, in theory, have expanded the number of homicides reported, there were cases in which a yinyang master’s erroneous determination of cause of death alongside a family’s attempt to conceal the circumstances of the death subverted police discovery of homicide or suicide.<sup>364</sup>

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<sup>361</sup> Li 1937 131, 146, and especially 185; Naquin 1990, 55-8; Yang 2006, 127-173.

<sup>362</sup> Chang 1996, 235-6; Yang 2006, 161,163.

<sup>363</sup> This was specified in “Regulations of Metropolitan Police Board regarding suppression of yinyang masters” (京師警察廳取締陰陽生規則), cited in Yang 2006,160.

<sup>364</sup> Yang 2006, 160-162.

During the early 1930s (up until the complete suppression of yinyang masters in 1936),<sup>365</sup> as dedicated hygiene institutions expanded their reach over the investigation of deaths in Beijing, the relationship between yinyang masters and municipal authorities changed drastically as they came to be perceived as the “relic of a superstitious age” (迷信時代之遺物) which obstructed the work of producing vital statistics.<sup>366</sup> From this point until at least 1949, statistics investigators (統計調查員) of the Bureau of Hygiene personally investigated deaths, provided burial authorization for those that did not involve criminal circumstances, and produced vital statistics according to a 27 cause-of-death classification system that was recognized as conforming to international standards.<sup>367</sup> As described in the annual reports of the Second Health District Station, whenever a resident died, family members were to report the death to sector police (*jingduan* 警段), who would issue a death notification slip (死亡通知單). The family would then bring this document to Bureau of Hygiene authorities, who would investigate the death. Once this examination had been performed, the Station would issue the funeral permit.<sup>368</sup> This step was later streamlined: eventually, the census register police (*huji jing* 戶籍警) of the sector could simply notify Bureau authorities of the death via telephone, and have them directly send an investigator.

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<sup>365</sup> On May 9th, 1936 it was reported in *Truth Post* that yinyang masters were to cease their business by order of the municipal Bureau of Hygiene. See “From tomorrow yinyang masters will suspend their business” (陰陽生自明日起停止業務) *Shibao* May 9 1936, p. 4.

<sup>366</sup> Beiping shi zhengfu weisheng chu yewu baogao 1934, 74-75.

<sup>367</sup> Beginning in January 1935, the first class of 10 statistics investigators trained by the Bureau of Hygiene were distributed to all Inner City districts to handle death investigations. See Yang 2006, 143.

<sup>368</sup> Beiping shi weishengju di er weishengqu shiwusuo 1935, 14-5; 1936, 17-8.

*Deaths that were not certified*

Deaths that were reported and certified through these mechanisms constituted administratively “normal” deaths. For those that were not or could not be handled with these procedures, procurators and coroners were called in to perform an inquest. While the mandate of procurators was ostensibly to investigate crime and collect the evidence that could be used at trial, it is clear that the work that they performed in Beijing was broader than this. Several statements made by observers of (and participants in) this system are suggestive of the broad swath of deaths that were identified as “suspicious” enough (whether in administrative routine or actuality) for a procurator’s inquest. For example, in February 1926, a member of the “legal profession” commenting in *Morning Post* on the implications of a strike by judicial personnel noted that “for all cases occurring in the capital or in its outskirts involving murder, those dead in the streets, and dead prisoners, the local procuracy must examine the body. Only then can it be encoffined and buried.”<sup>369</sup> As another example, as the Bureau of Hygiene extended its reach into the urban investigation of deaths during the early 1930s, an early annual report of the Second Health District Station stated: “In former years, those of the people of this district who have received legal punishment or suffered unnatural deaths all had the permit issued by the court.”<sup>370</sup>

The term *biansi* 變死 (unnatural death) was a category that referred to deaths that occurred suddenly, unexpectedly, and potentially under suspicious circumstances. Jia

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<sup>369</sup> “The first day of the six courts’ strike,” CB February 4, 1926, p. 6/254.

<sup>370</sup> Beiping shi weishengju di er weishengqu shiwusuo 1936, 17.

Jingtao explains *biansi* as “a Japanese legal term. An ‘unusual’ death suspected to involve criminal circumstances.”<sup>371</sup> This usage appears to have originated in Tokugawa Japan and then circulated into late Qing and Republican China. The Japanese word *henshi* (*biansi*) was defined in J.C. Hepburn’s *A Japanese and English Dictionary; with an English and Japanese Index* as “n. A strange, unusual or unnatural death.”<sup>372</sup> The term appeared in several translations of Japanese legal medicine produced during the New Policies reform period. For example, in their *Great Compendium of Practical Legal Medicine*, Wang You and Yang Hongtong described death investigation procedures in Japan. When such “unnatural deaths” were discovered by police, a physician would be called to the scene to examine the corpse, determining whether or not there was suspicion of criminal circumstances.<sup>373</sup> In this medico-legal text as well as others from this period, *biansi* were a class of deaths that were in need of further investigation to determine cause and circumstances of death.

There were laws on the books that defined which categories of death cases were “suspicious” enough to be investigated by procurators. For example, 1908 regulations that stipulated how gendarmerie forces would cooperate with newly established courts entitled “Regulations on handling affairs in areas administered by the Five Battalions”<sup>374</sup> stated: “For cases involving nameless dead and suicides as well as those involving apprehension of those involved in cases of violence, gendarmerie units should report it to

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<sup>371</sup> Jia 2000, 285.

<sup>372</sup> Hepburn 1867, 100.

<sup>373</sup> Wang and Yang 1909, p. 31.

<sup>374</sup> I follow Zhang (2007, 151n8) in reading *yingyi* as referring to areas policed by Green Standard forces of the Five Battalions (Wuying).

the Office of the Captain-General of the Gendarmerie to notify the procuracy to perform an inquest.”<sup>375</sup> Another example can be found in the 1910 “Regulations on the procuracy dispatching judicial police.”<sup>376</sup> These regulations stated: “For all cases involving those who die on the road, whether or not there are criminal circumstances, the policeman who discovered it should guard all evidence while reporting it to the relevant chief official [i.e. district chief] to report by cable to the procuracy to dispatch personnel without delay to go and perform the inquest.”<sup>377</sup> Moreover, it stipulated that “For those who die from unforeseen circumstances within one’s residence, the inquest should be handled according to the above provision.”

One of the most basic “practical rules” of death investigation in the city seems to have been that deaths encountered during police supervision of public space – those not reported through proper channels – were very likely to have inquests requested and performed. Beijing was a heavily policed city during the Republican period. The Metropolitan Police Board was an interventionist police force that was likely to come into contact with dead bodies or urban dwellers undergoing fatal incidents. Supervision of urban space was organized according to district and the police sub-stations stationed within the district’s sectors, as well as mobile patrol patterns.<sup>378</sup> Organized in this manner, the police in Beijing encountered incidents involving urban dwellers – intentional and

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<sup>375</sup> Yu 1922, 1310. The regulations reflected not only the need for gendarmerie to articulate to the courts system, but also, more broadly, the devolution of the gendarmerie’s previous judicial powers to the new court system (Han and Su 2000, 119).

<sup>376</sup> Yu 1922, 1302.

<sup>377</sup> Yu 1922, 1307.

<sup>378</sup> Han and Su 2000, 347-352; Gong 2004.

accidental – that could become fatal.<sup>379</sup> When police encountered a person who had suffered an accident, attempted suicide, or otherwise was in physical distress, it was not uncommon for them to send him or her to a hospital for treatment.<sup>380</sup> In this capacity, the Metropolitan Police Board literally policed the boundaries between life and death, providing interventions meant to prevent death while, in many cases it would seem, also determining that life had actually ceased.

The coverage that these deaths received in the print media suggests the breadth of the kinds of deaths that procurators were asked to investigate. For example, Beijing's *Morning Post* initiated daily coverage of the city's suddenly dead during the early 1920s.<sup>381</sup> Featured in the pages of the newspaper were homicides and suicides,<sup>382</sup> accidental deaths caused by the risks of everyday life within a rapidly changing material environment that included automobiles, streetcars, electricity, and trains,<sup>383</sup> and those who froze to death during the winter, died of exposure during summer, or died from starvation.<sup>384</sup> Poverty was an enormous problem in Republican Beijing, exacerbated by the post-1928 depression following the transfer of the capital to Nanjing. Inquests were

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<sup>379</sup> For example, according to statistics cited in Gamble (1921, 83): “The police report that in 1917, they helped 5,267 persons. This number includes 1,561 who had been fighting, 466 lost children, 574 victims of accident or sudden sickness, 212 who were drunk, 150 who were poisoned and 84 who had attempted suicide.”

<sup>380</sup> For example, see “Many are those who commit suicide,” CB May 11, 1926, p. 6/334;

“Many are those who commit suicide,” CB June 7, 1926, p. 6/554.

<sup>381</sup> For more on criminality and suicide as public spectacle in the Republican print media and cultural production more generally, see Carroll 2006 and Lean 2007.

<sup>382</sup> “Double homicide in youfang hutong,” CB May 10, 1926, p. 6/326. *Chenbao* cases cited in this section are a tiny sample of the newspaper's daily coverage of sudden death cases during the 1920s.

<sup>383</sup> I.e. “Yesterday a person was run over and killed by a streetcar in Tianqiao,” CB April 30, 1926, p. 6/242; “A female passenger falls from a train and perishes,” January 5 1928, p. 7/11.

<sup>384</sup> “Three beggars starve to death at Yonghegong,” CB June 24, 1926, p. 6/682.

frequently performed on those who died on the streets – whether from living outside or dying outside.<sup>385</sup> It was not uncommon for several deaths to be reported in one day, alongside other local news. These incidents appeared daily as part of a constant but managed everyday death – a “continuous quotidian,” in Marilyn Ivy’s words – reflected in headlines such as “People run over by automobiles in three places on the same day” or “A pair of corpses examined in Tianqiao on the same day.”<sup>386</sup>

*The plight of procurators and coroners*

It is rather extraordinary that procurators in Beijing were tasked with this work, which was by all accounts considerable and time consuming. A lecture given by instructor Ye Naichong 葉乃崇 at the short-lived Judicial Personnel Training School (司法儲才館) in early 1927 touched on the burdens of inquests for procurators.<sup>387</sup> The topic of the lecture, which was published in the Institute’s quarterly, was “The question of keeping or discarding the procuratorial system” (檢察制度存廢問題):

With regard to the current situation of procuracies in China, Beijing, Tianjin, Shanghai, and Hankou are the most booming and populous places in China. When compared with those of the rest of the provinces, the [quantity of] cases there are many times greater. For Beijing procurators, every person on every

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<sup>385</sup> For more on poverty and urban life during this period, see Chen 2012; For a study of the urban handling of deaths of the indigent in Shanghai, see Henriot 2009, especially p. 410.

<sup>386</sup> i.e. CB April 24, 1924, p. 6/194; CB April 17, 1926, p. 7/139. Ivy 1996, 12.

<sup>387</sup> *Quarterly of the Judicial Personnel Training School* (司法儲才館季刊), issue 1 (1927), p. 99. This institution for the specialized training of judicial personnel began instruction in 1927 and was decommissioned soon after the beginning of the Nanjing decade. For an overview of the history of this institution, see Yu 2004.

day accepts on average 10 or more cases at the least. A person's energy has limits. One's daily business hours do not exceed seven or eight hours. Inquests are done by him. Questioning witnesses is done by him. Conducting searches and administering penalties is done by him. One still has to appear at court until one is dizzy. How can one avoid being careless?

One stop-gap appears to have been the involvement of judicial police from the Judicial Department (Sifa chu 司法處) in examinations of living witnesses and dead bodies, at least during the 1920s. Judicial policemen were tasked with assisting procurators in their investigations, under their judicial authority. From the time of the 1910 "Regulations on the procuracy dispatching judicial police" (檢察廳調度司法警察章程), "inspecting the wounds of corpses" (檢驗屍傷) had been listed as one of their duties.<sup>388</sup> In fact, judicial police seem to have handled inquest cases on their own in Republican Beijing. For example, in the case of a man who fell down dead in the street from an existing illness in June 1926, *Morning Post* noted that the coroner Zhao Fuhai 趙福海 and judicial policeman Cui Deshan 崔德山 were sent to perform the inquest. The coverage did not mention a procurator, a significant omission given that procurators were usually mentioned in such reports.<sup>389</sup> The forensic examinations carried out under the auspices of the judicial department seem to have focused on "inspecting the wounds of witnesses involved in lawsuits and the corpses of those who fall down dead," but not confirmed homicides, which would have been attended by a larger entourage of procurators, judicial

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<sup>388</sup> Yu 1922, 1307.

<sup>389</sup> "Examining a corpse at Shunchenggen in the rain" (順城根雨中驗屍), CB June 11, 1926, p. 6/586. Similarly, *Morning Post* reported that coroner and judicial policeman Cui Rongmao 崔榮茂 were the personnel sent from the procuracy to investigate the death of another person who fell down dead in April 1926. See "Two corpses examined in one day at Tianqiao" (天橋一日驗雙屍), CB April 17, 1926, p. 7/139.



police, and other judicial and police authorities.<sup>390</sup> These examinations also seem to have focused on those who died in Beijing's largely police-run welfare and detention institutions.<sup>391</sup>

The involvement of the judicial department seems to have relieved procurators of attending these inquests, but not coroners. Indeed, this appears to have been intensive, thankless work for the coroners involved. In the month of December 1927, for example, Yu Yuan, the coroner who was examining corpses for the Criminal Affairs Department (Xingshi suo 刑事所) at the time, handled 51 cases.<sup>392</sup> One coroner, Song Qiming, had been employed concurrently by the judicial department and the Local Procuracy during the early 1920s, at a time when the department only examined corpses in the Inner and Outer Cities.<sup>393</sup> In July 1924 Song requested assistance from the department for travel costs, writing:

For the duration of four months now the travel costs that should be received in coroners' inquests of those who fall dead in all districts have been in arrears, and at present the inquests in all districts are especially many. Moreover, because the weather is burning hot, the inquests that are encountered, either far or near, must be conducted speedily. All of the travel costs that must be spent every day truly

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<sup>390</sup> BMA J181-17-2996. "Petitions of the Criminal Affairs Center and Detention Center regarding personnel matters" (刑事所, 拘留所关于人事的呈报), 1926, p. 133.

<sup>391</sup> For example, in the month of December 1927, the coroner who handled this work examined corpses on 17 occasions at the sanatorium (*yangbing shi* 養病室) in the Outer Left Fifth District (examining three unidentified dead bodies in one day on two occasions), and examined corpses on three occasions at the reformatory (*jiaoyang ju* 教養局) in the Outer Left Fourth District. See BMA J181-20-655. "Report of the Criminal Affairs Center regarding December 1927 travel costs for coroners" (刑事所关于民国十六年十二月份检验吏车费的呈), 1927. This also might have been the case for the Foundlings' Home (founded in 1917) as well, of which Gamble noted, "in case of death the police must be notified so that they may examine the body before burial" (Gamble 1921, 286).

<sup>392</sup> BMA J181-20-655. "Petition of the Criminal Affairs Center regarding December 1927 travel costs for coroners" (刑事所关于民国十六年十二月份检验吏车费的呈), 1927.

<sup>393</sup> BMA J181-17-2996. "Petitions of the Criminal Affairs Center and Detention Center regarding personnel matters" (刑事所, 拘留所关于人事的呈报), 1926, p. 133.

cannot be reduced. I have already advanced a certain amount. Because my poor family has several members, the hardship is unspeakable.

Therefore Song requested that the head of the department have the costs advanced temporarily.<sup>394</sup> In December 1924 Song again requested assistance from the department for the costs incurred during his work, writing:

As for cases involving going out to perform inquests handled by this office, there are not less than 30 or 40 every month. The required travel costs have been received at the end of the month, but advanced temporarily by me. Now sectors administered previously by the Green Standards have also come under the jurisdiction of this office.<sup>395</sup> The inquest cases (相驗案件) there are not few in number, compared with those inside the city. How much more given that the area is vast, and for all I, alone, go to perform the inquest. The travel costs are truly incalculable. While my salary, which has now not been paid for two months, was sufficient for my livelihood, it truly cannot be used to advance travel costs. I have previously requested that the department advance the travel costs, and now because I live in privation am truly incapable of continuing to pay.

Song requested that the department follow the earlier method, advancing the costs at the end of each month, which the judicial department decided to grant.<sup>396</sup>

Soon after the jurisdiction of this work expanded beyond the Inner and Outer Cities to the surrounding suburbs in 1924 (a development that followed Feng Yuxiang's disbanding of the Gendarmerie in October 1924, which placed police administration of the suburbs under control of the Metropolitan Police Board),<sup>397</sup> Song requested that the department employ Yu Yuan, who was examining corpses for the local procuracy at the

<sup>394</sup> BMA J181-18-16827. "Report of coroner Song Qiming regarding advancing the travel costs which are in arrears in order to get by" (检验吏宋启明关于垫发积欠车费以度生活的呈), 1924.

<sup>395</sup> The *yingxun diyu* 警汛地域 to which Song referred would seem to be those sectors (*xun* 汛) that had been policed by the Five Battalions (巡捕五營) of Green Standard gendarmerie forces. These were the forces that guarded the Yuanmingyuan, Outer City, and suburbs. See Han and Su 2000, 116.

<sup>396</sup> BMA J181-18-16822. "Coroner Song Qiming regarding requesting that travel costs be distributed" (检验吏宋启明关于请发给车费的函), 1924.

<sup>397</sup> Han and Su 2000, 358.

time, to assist in the frequent and potentially long-distance examinations handled by the department.<sup>398</sup> Yu examined corpses for the judicial department until at least spring 1926, when Song Qiming died of illness.<sup>399</sup> At that time, Yu Yuan made a request to Pu Zhizhong 蒲志中, the head of the judicial department, that the late Song Qiming be replaced by Yu Tao 俞濤, a 56 *sui* coroner from Daxing County who had held his post for 36 years.<sup>400</sup> In his request, Yu Yuan noted that “because roads of the surrounding suburbs are far and cases are numerous, it is truly difficult for me alone to cover all of them.”<sup>401</sup> Yu Yuan and Yu Tao performed inquests for the judicial department until at least mid-August 1928.<sup>402</sup>

Even by the mid-1930s, the plight of procurators and coroners does not seem to have improved. Burdened with the task of performing inquests, in February 1936 the procuracy of the Beiping Local Court requested that the Public Security Bureau change the ways that inquests were carried out in Beijing.<sup>403</sup> The procuracy claimed that “every month there are over 200 cases handled by this office that involve going out to perform

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<sup>398</sup> BMA J181-18-18096, p. 2-5.

<sup>399</sup> BMA J181-17-2996, p. 121-123.

<sup>400</sup> BMA J181-17-2996, 1926, p. 113-114. The request was composed on paper with procuracy letterhead (“京師地方檢察廳”), suggesting Yu Yuan’s institutional affiliation with the Capital Local Procuracy at the time.

<sup>401</sup> BMA J181-17-2996, p. 113.

<sup>402</sup> BMA J181-17-2996, p. 133. The work performed by coroners like Yu Yuan who were attached to the police department was recorded in monthly logs of activities and travel expenses, at times compiled alongside the expenses of police officers and midwives, whose forensic duties were also considerable. See, for example, “Report of Criminal Affairs Center of the Metropolitan Police Board regarding amounts of travel costs for transporting criminals and coroners performing inquests for those who fall dead” (京師警察廳刑事所關於提送案犯檢驗吏檢驗倒斃等項車費數目的呈), 1927.

<sup>403</sup> BMA J181-20-28381, “Orders of Beiping PSB regarding from now on having district police inspect the corpse in cases involving death from illness or unnatural death with no suspicion” (北平市公安局關於檢驗嗣后九病死或變死並無嫌疑人尸請該管區署檢驗的訓令[一] [SIC]), 1936, p. 5-9.

inquests on corpses and the wounded. As for distance traveled, some reach several hundred *li*, and as for time, some take six or seven days,” a situation compounded by cutbacks in personnel and funding. The procuracy intended to implement a procedural mechanism observed in Japan through which police authorities faced with a sudden death could simply contact procurators over the telephone and explain whether or not the death constituted “circumstances involving criminal suspicion.” If it was suspicious, procurators would carry out an examination of the body and if it was not they would task judicial police with handling the case. The procuracy had already obtained authorization to implement this measure from the Board of Judicial Administration and requested that the PSB order all police districts that in cases of those “dead from illness or unnatural death with no criminal suspicion” they should issue a burial permit after simply notifying the court. Yet, if during their inspection police discovered suspicious circumstances, they were to, as before, request that the court send personnel to perform an examination. Such a measure would relieve procurators and coroners of “futile round trips.”

Following this request, the Public Security Bureau ordered all police districts that in such cases, a burial permit could be issued by district police after simply notifying the court. Yet, for “corpses with even a little bit of doubt,” police should as before request that the court perform an inquest. While the PSB did put procedures into place to remove some of procurators’ investigatory burden for non-suspicious cases, later in the same month it notified the procuracy that it was not willing to exempt procurators from investigating those deaths that occurred within detention facilities given that “we fear that it will be easy to arouse the complaints of urban residents, and it is really not being

cautious.”<sup>404</sup> Moreover, despite its earlier order to the districts, the PSB also requested that the procuracy continue to investigate “cases involving discovery of unnatural deaths within the city.”

The head of the Inner Fifth District Wu Kaicheng 吳闈澄 addressed the head of the PSB with concerns about this procedure.<sup>405</sup> He noted that while statistics investigators of the Bureau of Hygiene would issue funeral permits after their investigations of “dead bodies of those who die from illness within regular households,” and the court would continue issuing burial permits after investigating “corpses of those who die of illness or unnatural death,” police personnel who were now tasked with authorizing burial in non-suspicious deaths would need a fixed “model”(shiyang 式樣) for these authorizations.<sup>406</sup> This suggests that prior to this time, police had no way of issuing burial permits for deaths that were not reported through “normal” channels. Another problem was that because many district police personnel “lacked knowledge in legal medicine,” Wu was concerned that errors would be made in their initial assessment of a death under the procedures suggested by the procuracy. He requested that the PSB make arrangements with the Bureau of Hygiene so that “for corpses considered to be deaths from illness or unnatural deaths without suspicion” statistics investigators could assist the district personnel in examining the body and issuing burial authorization. The PSB did this by early March, and the Bureau of Hygiene soon drafted standard procedures for

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<sup>404</sup> BMA J181-20-28381, p. 17-20.

<sup>405</sup> BMA J181-20-28381, p. 13-16.

<sup>406</sup> BMA J181-20-28382. ““Orders of Beiping PSB regarding from now on having district police inspect the corpse in cases involving death from illness or unnatural death with no suspicion” (北平公安局关于检验嗣后九病死或变死并无嫌疑人尸请该管区署检验的训令[二] [SIC]), 1936 (SIC), p. 6-11.

cooperation between district police and statistics investigators, producing as well a standard certificate that could be issued when deaths were investigated jointly.

In June 1940, under Japanese occupation of the city, the head procurator of the Beijing procuracy assessed the results of these procedural changes.<sup>407</sup> He noted that while “cases handled over the last one or two years by district police according to these measures are indeed in the majority,” there were still cases involving “those who fall dead on the side of the road” and “those who die from illness in inns” for which inquests were being requested unnecessarily. The frequency of cases and necessity of traveling to the site of the death led to delays, at times even pushing an inquest to the following day. Much as Song Qiming had written in 1924, he noted that “summer at its hottest has arrived, making it really unsuitable for corpses to be long-exposed without being encoffined.” As such, the procurator requested that the PSB again order police to follow the procedures set in February 1936 and close cases with “no criminal suspicion” without requesting an inquest. He also raised the possibility that cases involving deaths in institutions that housed and provided medical treatment to criminals, the indigent or refugees could finally be handled by police and not by procurators. The request was accepted by police authorities. Ultimately, investigators from the Bureau of Hygiene did take over some of this work. A list of “poor people who killed themselves” and “poor people who fell down dead” reported by the Inner Fifth District to the Bureau of Social Affairs in late March 1943 indicates that Bureau of Hygiene investigators *and* court

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<sup>407</sup> BMA J181-20-28382, p. 16-21.

officials shared the work of investigating the deaths which police authorities at the time attributed to declining economic conditions in the city.<sup>408</sup>

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<sup>408</sup> BMA J2-7-1391. "Report of Beijing Special City's Inner Fourth and Fifth District Offices regarding the situation of those in the districts dead from starvation and suicide" (北京特别市内四, 五区公所关于界内饿毙自杀情况的呈文), 1923 (SIC), p. 3, 19-25.

## Chapter Five

### **The Only Options?:**

#### **“Experience” and “Theory” in Debates over Forensic**

#### **Knowledge and Expertise in Early Twentieth-Century China**

At a May 1928 meeting of standing councilors of the Beijing Bar Association the agenda included several motions meant to promote the reform of forensic inquests in China.<sup>409</sup> In late July 1928, the Bar Association sent a letter to the procuracy of the Beiping Local Court which reiterated the importance of the inquest for determining the facts of a case, criticized coroners' continuing use of the *Washing Away of Wrongs* and accused coroners of lacking “medico-legal knowledge” and having “extremely base morality and character.”<sup>410</sup> The association claimed, more specifically, that coroners lacked scientific knowledge, a powerful rhetorical criticism during a time when science had become crucial for many fields of technical expertise, not to mention the conceptualization of politics, society, and modernity:

The *Washing Away of Wrongs* was completed during the Song [in the thirteenth century] and was passed down without changing through the Yuan, Ming, and Qing dynasties. It is purely the experience of individuals and has no scientific knowledge (純係個人經驗並無科學知識). At a time when science is thriving and human affairs are in flux, anatomy, physiology, legal medicine, and legal chemistry develop every day. Instruments of killing become stranger and stranger while methods of killing change accordingly. Only relying on those doctrines

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<sup>409</sup> BMA J174-2-152. “Letter to Beiping local court from Beiping Bar Association suggesting the reform of inquests” (北平律师公会建议改良检验事务致北平地院函), 1928, 1-14. For more on this association, see Ng 2011; Qiu 2008.

<sup>410</sup> BMA J174-2-152, 78-89.



included in the *Washing Away of Wrongs* as the grounds for inquests will in many instances be neither fitting nor complete.

The coroner Yu Yuan responded to the Bar Association's criticisms in an official document that he submitted to officials of the procuracy in early August 1928.<sup>411</sup> As one of the particularly experienced coroners who were often tapped to handle difficult or important forensic cases, Yu was acknowledged to be an authority and an "expert" in forensics. In his response, Yu addressed the points of the Bar Association, refuting their characterizations of inquest techniques and the low skill and morality of coroners. After praising the concern for human life and justice manifested in the Association's proposals, Yu shifted to an abstract discussion of the epistemological quality of knowledge in the *Washing Away of Wrongs* vis-à-vis that of legal medicine:

Your letter reveals your unfamiliarity with the methods of forensic inspection. Setting aside the question of the inspection procedure for a moment, the gist of it is really nothing more than theory and experience (其大要不外學理與經驗兩種). The *Washing Away of Wrongs* excels at experience while ignoring theory. Legal medicine excels at theory while ignoring experience. This is because forensic inquests in China attach importance to the discovery of corpses.<sup>412</sup> It is no doubt

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<sup>411</sup> BMA J174-2-152, 102-8. The document is addressed to procuratorial officials, not the Bar Association. It is unclear from the document and file whether it was actually sent to the Association.

<sup>412</sup> The word *faxian* 發現 was used in newspaper reports and official documents to describe the act of discovering a corpse. An alternate reading could be the "signs that are discovered on corpses," for which *faxian* would refer to the act of discovering forensically-significant signs on the dead body. This sense of *faxian* appears in the testing papers of one of the coroner trainees that Yu Yuan instructed in Beijing in response to the question "When examining a corpse, why does one first examine the facial complexion?" (驗屍因何先驗其面色). The trainee wrote: "Because findings made on the facial complexion can assist with finding cause of death. For example, if the complexion is pallid and withered and the limbs are emaciated, it must have been death after prolonged illness" (因面色之發現足以協辦其死因也。例如面色萎黃四肢乾枯必為久病而死者是也). BMA J174-2-52, 130. This meaning of *faxian* 發現, as a sign found on the dead body, appears as well in Wan Qingxuan's 萬青選 1914 *Treatise on New Methods of Forensic Examination* (Xinfa jianyan shu 新法檢驗書). In a discussion of the distinctions between external examination (外觀檢查) and internal examination (內景檢查), Wan noted that external examinations involve "examining all that is found on the surface of the corpse" (檢查發現於屍體表面上之一切狀況). See Wan 1924 (1914), 13-5.

best to make use of theory and experience together. Yet, while one can rely exclusively on experience, abandoning experience and solely relying on theory cannot be done. Hence a Western proverb has said “experience is better than learning.”<sup>413</sup>

One aspect of the social and intellectual dynamics of modern “professionalization” in modern China that has been less studied than the rise of associations and licensing schemes was the shift in discourse that made it possible to articulate just what it was about professionals’ knowledge that made them such a special class of expert worker. This process brought, above all, a new understanding that knowledge from academic and scientific disciplines should both guide professionals’ work and serve as an *epistemological* guarantee of their expertise.<sup>414</sup> This new assumption reflected the institutional and intellectual dynamics that had made the academy a crucial locus of the professions’ authority in the modern West.<sup>415</sup> Thus, in forensics, as in many other fields of professional work, questions of epistemology, defined in very specific ways, emerged as central to the authority on which new claims of occupational expertise were based.<sup>416</sup>

This was a departure from the ways in which forensic authority had been conceptualized in China up until this time. The forensic practices of local officials and

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<sup>413</sup> “第於檢驗方法終屬隔膜。按檢驗手續如何姑不具論。其大要不外學理與經驗兩種。如洗冤錄即長於經驗而略於學理，法醫學即長於學理而略於經驗，因中國檢驗注重屍體發現故也。學理與經驗併行固屬至上。若單行獨以經驗則尚可，而徒恃學理捨去經驗則不能。故西諺有云經驗長於學問也。” The proverb to which Yu was referring might have been “Personal experience is better than book learning.” See Christy 1887, 318.

<sup>414</sup> For an exploration of this crucial aspect of modern professionalization (as well as the tensions inherent in scientific knowledge as a publicly accessible yet exclusive source of occupational authority) see Broman 1995; also, Broman 1996, 198-202.

<sup>415</sup> For analyses of the significant role that academic institutions play in legitimating modern professions, see Freidson 1986 and Abbott 1988, 53-4 especially.

<sup>416</sup> For example, for the ways in which jurisprudence was reconceptualized during this period as a field of professional knowledge within the disciplinary framework of the sciences, see Asen 2008.

coroners were legitimated primarily through the use of officially sanctioned procedures for examining bodies and making forensic determinations. Epistemology had been important at times, for example in Xu Lian's use of empirical observation to develop knowledge of skeletal structure. Yet, for officials involved in the routine work of forensics, following procedure was the primary mechanism through which one legitimated forensic findings, not the appeal to a superior quality of knowledge. During the first decade of the twentieth century, this notion of forensic authority mutated in complex ways amid the rise of a new conception of forensic expertise based on access to the epistemological authority of science. This new culture of expertise simultaneously challenged coroners while providing opportunities to reconceptualize their knowledge and authority in new ways.

Through a close reading of the ways in which Yu Yuan and contemporary supporters and critics of the *Washing Away of Wrongs* mobilized the categories of "experience" (*jingyan* 經驗) and "theory" (*xueli* 學理) in their writings, this chapter explores the ways in which the new discourse of forensic expertise became a crucial site at which these actors explored the possibilities for coroners to have professional authority under modernity. These new discourses presented both possibilities and challenges for actors like Yu Yuan. On the one hand, they allowed coroners to frame their expertise in new ways, claiming legitimacy in a new intellectual and social order. On the other, the new discourses of expertise with which they were compelled to engage raised persistent questions about the epistemological status of the *Washing Away of Wrongs* and whether it possessed the most authoritative forms of knowledge.

There are parallels with Sean Lei's study of the deployment of the concept "experience" (*jingyan* 經驗) in the professional conflict between physicians of Chinese medicine and scientific medicine.<sup>417</sup> Proponents of scientific medicine argued that Chinese medicine solely relied on "experience," often understood as "merely" empirical observations in contrast to the theoretically- and experimentally-informed scientific knowledge of Western medicine. This was part of their attempt to both delegitimize Chinese-style physicians – their professional competitors – while appropriating Chinese drugs by integrating their empirical therapeutic techniques into a new system of scientific knowledge and pharmaceutical production.

Physicians of Chinese medicine contested these attempts to delegitimize and even abolish their profession, but they adopted the discursive premises of the debate. That is, they accepted "experience" as a category that could define their knowledge and expertise. In the process, they accepted a discourse that legitimated the position of the physicians of scientific medicine while associating themselves with an epistemologically weaker form of knowledge. Much as in this case, Yu Yuan and the Bar Association were sharing a "conceptual space," in Arnold Davidson's words, largely structured by conceptual oppositions between "experience" and "theory," or their cognates.<sup>418</sup> These claimed epistemological distinctions further mapped onto hierarchies of knowledge, expertise, authority, and modernity.

That commentators on forensics variably exploited these epistemological categories to make claims about the authority of the *Washing Away of Wrongs* vis-à-vis legal medicine raises questions not simply about the modern fate of "alternative" systems

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<sup>417</sup> Lei 2002.

<sup>418</sup> Davidson 2001, 141.

of knowledge, but about the heterogeneity and hybridity of the discourse of science.<sup>419</sup> Indeed, the question of whether “experience” or “theory” was more authoritative – an explicit problem in Yu Yuan’s discussion of forensics and an implicit one in most others – spoke to ambiguities and tensions that were inherent in notions of experimental science itself. Specifically, did the authority of science derive from its empirical foundations (“experience”) or subsequent processes of generalization (“theory”)? These questions were at stake as the categories of “experience” and “theory” were variably applied to make sense of the world of forensic knowledge that confronted coroners and proponents of medico-legal reform.

Ultimately, these shifts in discourse reflected nothing less than the coalescence of a new conceptual framework for understanding forensic knowledge and expertise. As the sociologist Andrew Abbott suggests in his important study of professional expertise in the modern West, a professional group’s jurisdiction over an area of occupational work is often characterized not by direct institutional control, but rather by degrees of influence, especially over the conceptual definition of diagnoses and solutions.<sup>420</sup> Thus, even if other groups maintain a monopoly over the direct provision of the occupational service, they might do so within a conceptual framework that is emplaced by a different group, reflecting that groups’ professional interests and prerogatives. Beginning in the last decade of Qing rule, forensics was reconceptualized, understood through a new conceptual framework that brought questions of scientific epistemology and professional

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<sup>419</sup> For approaches that focus on multiplicity in ways of knowing and working (as well as epistemological priorities) as central to the history of science, see, for example, Pickstone 2000 and Daston and Galison 2007.

<sup>420</sup> As Abbott (1988, i.e. 40) notes, this is an important aspect of asserting professional authority.

expertise – defined in very specific ways – to the fore. While this discursive shift established new expectations for scientific expertise that undoubtedly redounded to the authority of legal medicine, it also revealed the ambiguities of a period characterized by competing notions of forensic knowledge and authority.

*“Theory,” “experience,” and the new discourse on forensic science*

Yu Yuan argued for the authority of the *Washing Away of Wrongs* through a set of epistemological categories that had not been part of the discourse of forensic knowledge prior to the first decade of the twentieth century. These categories appeared in the new works on Japanese legal medicine produced during the New Policies reform period. As understood in these texts, medico-legal experts’ authority derived from their understandings of the material composition and workings of bodies and things as developed through forms of scientific analysis, experimentation, and theorization. For example, Wang Dingguo and Li Jinyuan described the epistemological status of legal medicine on the first page of their introductory remarks in *Legal Medicine*:

In Japan the subject of legal medicine is included in the medical university. The matter is regarded as weighty and its research is likewise extremely fine. None of its examination methods are not based on theory (*xueli* 學理) and obtained from experience (*jingyan* 經驗) while also referencing all kinds of medico-legal books. This is certainly different from books like China’s *Washing Away of Wrongs*.<sup>421</sup>

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<sup>421</sup> Li and Wang 1907, *liyan*, 1.

As crucial concepts in the European intellectual tradition, “theory” and “experience” had undergone various semantic shifts during the early modern and modern periods, especially in their roles as epistemological foundations of medical knowledge.<sup>422</sup> In abstract discussions of scientific epistemology that appeared in intellectual publications in China during this period, “theory” (*xueli* 學理) was explained as the kinds of explanatory and predictive principles derived from systematic observation of facts, analysis of their regularities, and testing of hypotheses.<sup>423</sup> “Theories” such as Boyle’s Law – the inverse relation between the pressure exerted upon a gas and its volume at constant temperature – were developed through repeated and informed observation and testing.<sup>424</sup> These solid epistemological foundations guaranteed that “theory” conformed

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<sup>422</sup> Cf. John Harley Warner’s (1992) discussion of the valorization of the empirical (versus unreliable “theory”) in mid-late nineteenth-century American medicine. By the early twentieth century, the concepts “experience” and “theory” as they figured in discussions of scientific medicine had undergone permutations in both meaning and value, to the point that practical (laboratory-based) “experience” had become a precondition for access to the basic sciences on which medical knowledge and “theory” depended. This shift can be traced through Warner’s account as well as that in Tuchman 1993. Thus, “theory” (*xueli*) in early twentieth-century China was understood to be both empirically-based and more epistemologically-authoritative than “experience.”

<sup>423</sup> See, for example, Ye 1915, Du 1923, and Sun Tongkang 1925. The word *xueli* 學理 might be translated as “academic principles” or “scientific principles” to fully acknowledge the contemporary meanings of *xue* 學 (science, area of knowledge) and *li* 理 (principle), both of which were philosophically charged concepts. In translations of works on Western science and technology as well as social science during this period, the word could be used as a translation for the English word “theory.” For example, in a translation of Norman V. Kipping and Alan D. Blumlein’s serial introduction to electricity (originally appearing in the journal *Wireless World* in 1925) that was published in the journal *The Telegraphists’ Companion* (Dianyou 電友 2, no. 6 [1926]: 5-6), the English title “Introduction to Wireless Theory” was rendered “*wuxiandian xueli rumen* 無線電學理入門.” In another example, the word *xueli* was used in the title of a Chinese translation of Leonard Trelawny Hobhouse’s 1911 *Social Evolution and Political Theory* (Chinese title: *Shehui jinhua yu zhengzhi xueli* 社會進化與政治學理) that appeared serially in *Chenbao fujian* 晨報副鐫 (formerly *Chenbao fukan*) in spring 1922 (i.e. see 3/18/22, p. 2). In this dissertation I translate *xueli* as “theory” in order to emphasize the often-present dichotomy between *jingyan* 經驗 (experience) and *xueli* 學理, a distinction which is better rendered as the opposition between “experience” and “theory” than between “experience” and “scientific principles.”

<sup>424</sup> The example was given in Ye 1915, p. 1. Ye referred to this law as *Se'er gongli* 色耳公例, a possible misspelling or typographical error for the Chinese transliteration of “Boyle.” Ye noted that *gongli* 公例 (general rule) as well as *lilun* 理論 (theory) fit under the category of *xueli* 學理 (theory).

with the facts (*shishi* 事實) from which they had been generalized. “Experience” (*jingyan* 經驗) could, in abstract discussion of scientific generalization, refer to knowledge gained through sensory observation, a crucial empirical foundation on which “theories” were built.<sup>425</sup>

These categories proliferated in the early twentieth-century discourse on forensics that appeared in these early texts as well as the specialist literatures that developed around the professional disciplines of medicine, law and, by the mid-1930s, legal medicine. An early assessment of the *Washing Away of Wrongs* that made use of these new categories can be found in a preface written by the eminent legal scholar and reformer Shen Jiaben 沈家本 (1840-1913) during the New Policies reform period for a modern edition of the Yuan-dynasty forensic treatise *Avoidance of Wrongs* (Wuyuan lu 無冤錄).<sup>426</sup> The work had been edited and annotated by Wang You, one of the translators of the important early work on legal medicine *Great Compendium of Practical Legal Medicine*, who encountered the text in Japan. Wang had corrected this edition of the *Avoidance of Wrongs* and appended discussions of the medico-legal knowledge and practices of “each country” (*geguo* 各國) while relating the knowledge contained in the

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<sup>425</sup> The word *jingyan* 經驗 had appeared in forensic texts prior to the twentieth century. For example, Wang Mingde 王明德 used the word in his *Washing Away of Wrongs with Supplements* (Xiyuan lu bu 洗冤錄補, 1674), to show that he had personally verified the healing techniques that he was now suggesting to readers (noting in one instance, for example, that he recorded a technique after having “undergone it myself” [此係身所經驗，故特詳而筆之]). Yet, as Sean Lei notes in his study of *jingyan* in medicine, the word took on a range of new meanings and connotations that earlier usages simply had not had. See Wang 2001 (1674), 332, 326, and 342. While forensic texts from the late eighteenth and nineteenth centuries also valorized one’s own “experience” as a way of verifying textual claims, the compound *jingyan* was rarely used.

<sup>426</sup> Shen Jiaben 沈家本, “Preface for Wang Mubo’s *Avoidance of Wrongs with New Annotations*” (王穆伯佑新注無冤錄序) in *Jiyi wencun* 寄篋文存 (Collected Writings of Shen Jiaben). This collection of documents is included in Shen 1985, 2215-8.



text to that reflecting “the principles of the science of recent times” (近時科學所言之理) and disciplines such as “physiology” (*shenglixue* 生理學) and “obstetrics” (*taichanxue* 胎產學).

While Shen acknowledged that these new bodies of knowledge had much to contribute to Chinese forensic texts, he argued forcefully that forensic knowledge based on modern science had no monopoly on epistemological authority:

Generally speaking Chinese doctrines largely stem from experience (*jingyan* 經驗), while Western learning is largely based on theory (*xueli* 學理). If theory is not understood, then even with experience one cannot gain complete mastery. If one does not gain experience, then even with theory one has no way to verify the truth. Experience and theory are mutually interdependent.

Shen used these categories to establish a favorable comparison between the forensic knowledge that Wang had studied in Japan and that contained in China’s forensic texts. By claiming that “experience” was just as important as “theory,” Shen posited that both Chinese knowledge and “Western learning” contained valuable epistemological approaches. In one sense, Shen’s association of Chinese forensic texts, including the *Washing Away of Wrongs*, with “experience” was a conventional, or generic, move intrinsic to the new discourse of science-based expertise. That is, “experience” and “theory” were relational terms within the new discourse of scientific knowledge and expertise, a point which becomes clear through their pairing in later texts. Yet, this does not mean that Shen did not have specific, and good, reasons to associate the text with this category when he claimed that it was completed on the basis of “several hundreds of years’ experience” (由數百年經驗而成). Later on we will explore reasons why those

who were most invested in late imperial forensics and the *Washing Away of Wrongs* found “experience” to be a particularly appropriate description of the kind of knowledge contained in its pages.

Other examples of discourse on forensics drawn from the Republican period were not as favorable as Shen’s, largely assuming that the “theory” possessed by legal medicine was better than the “experience” of the *Washing Away of Wrongs*. In these texts, “experience” takes on pejorative dimensions as lacking the epistemological authority of “theory.”<sup>427</sup> For example, in a serial installment that appeared in *Republican Journal of Medicine* under the title “The past, present and future of medicine in China,” the author Liu Tiecheng criticized at length legal officials’ use of the *Washing Away of Wrongs*.<sup>428</sup> Liu argued that the text was not completely wrong and actually had some “reasonable” (*heli* 合理) points, but that they did not necessarily accord with modern science:

But that which might be said to be reasonable do no more than accord with the axioms of human sentiment, and whether they can be said to accord with the truths of physics, chemistry, and science is hardly certain. The axioms of human sentiment are [based on] the principles of experience and imagination. The truths of science are [based on] those of experiment and proof (人情之至理為經驗想像之理。科學之真理為實驗證明之理). Thus those things that do not accord with scientific truth are not reasonable. Thinking that their judgments were reasonable they recorded them in the *Washing Away of Wrongs*. Given that it was a time when science was not understood, their misjudgments should not be surprising. It is acceptable for a book completed during a time when science was unknown to be used in such a period. Yet, is it not strange to use it, let alone establish it as a legal standard, during a period in which science is flourishing?<sup>429</sup>

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<sup>427</sup> For example, in the preface to a published case in *Monthly Bulletin of Legal Medicine* meant to illustrate the importance of properly testing suspected blood stains, a medico-legal expert named Zu Zhaoji wrote: “Inquests in our country have always followed old ways. Those who handle these matters only rely on experience (*jingyan* 經驗), and have no understanding of theory (*xueli* 學理). It is the flaw of knowing the phenomena but not the causes. It cannot be said to have been perfected. Yet if one completely entrusts a case to an ordinary physician, disregarding whether or not such a person has medico-legal knowledge, then both are lacking, and it is even harder to find the truth.” See Zu 1935.

<sup>428</sup> Liu 1925.

<sup>429</sup> Liu 1925, 45-6.

The underlying assumption in this piece, which also claimed that medico-legal experts made use of “theories” (*xueli* 學理), was that medico-legal science was more epistemologically authoritative than the *Washing Away of Wrongs* because it was associated with the epistemological approaches of “experiment and proof,” not “experience and imagination.” In this piece, as in others, the *Washing Away of Wrongs* was associated with the less authoritative epistemological approach while legal medicine was, categorically, associated with the more authoritative one. In the process of making such distinctions, though, the category “experience” underwent a subtle semantic shift. Much as Sean Lei has shown in debates over Chinese medical knowledge, the concept referenced less specialized forms of knowledge that had more in common with “imagination” than with experimentation.<sup>430</sup>

Reading Yu Yuan’s argument within the context of these texts underscores both the generic nature of his claims and the uniqueness of his conclusions. His discussion was generic in the sense that comparing the “experience” of the *Washing Away of Wrongs* and “theory” of legal medicine had clearly become an, perhaps *the*, accepted way of comparing competing forms of expertise amid expectations for science-based expertise. Yet, Yu Yuan was drawing on these categories to launch a counter-discourse that contested the usual valorization of “theory” over “experience.” In this instance, “experience” did not signify the kinds of “merely” empirical knowledge possessed by non-specialists who did not theorize cause and effect relations. Yu claimed rather that “experience” was the more fundamental category: “It is no doubt best to make use of

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<sup>430</sup> For an analysis of this discourse in the polemics over medical knowledge during the late 1920s and 1930s, see Lei 2002, 337-341 and 348-349.

theory and experience together. Yet, while one can rely exclusively on experience, abandoning experience and solely relying on theory cannot be done.” While Yu did not elaborate on the relationship between these concepts, his point that “experience” was *more* indispensable than “theory” resonated with the claim made in abstract writings on epistemology that “theory” was built on the basis of “experience.”<sup>431</sup> Indeed, the reason that scientific “theories” were so certain was that they had been developed and verified through empirical observation and experimentation.

*The status of the “empirical” in late imperial and Republican forensics*

If the new discourse of scientific knowledge was one context in which to understand Yu Yuan’s defense of the *Washing Away of Wrongs*, another was the increasingly intensive and critical reassessment of official forensic doctrine that, since the late eighteenth- and nineteenth centuries, had brought the “empirical,” understood in specific ways, to the center of Chinese forensic epistemology.<sup>432</sup> In response to the errors

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<sup>431</sup> See, for example, Ye 1915, p. 4.

<sup>432</sup> In his study of the crucial political and social significance of empirical “facts” in early twentieth-century China, Tong Lam (2011, 21-2) makes the important point that there had been forms of “empirical” inquiry in late imperial China, albeit different from those of modern social science which became so compelling during the first decades of the twentieth century. Much as in Lam’s study, this dissertation is concerned with understanding the alternative epistemologies of older practices of empirical knowledge as well as their fate under new conceptions of scientific knowledge and epistemology. For recent studies that have explored the conceptualization and production of “empirical” knowledge in late imperial China, see Carla Nappi’s (2009, 33-49 especially) discussion of experiential knowledge and concepts of observation in Li Shizhen’s (1518-93) *Bencao gangmu* (*Systematic Materia Medica*, 1596) as well as Dagmar Schäfer’s analysis of the crucial role of observation and experiment in Song Yingxing’s (1587-1666?) *Tiangong kaiwu* (*The Works of Heaven and the Inception of Things*, 1637).

and inconsistencies that they discovered in the official *Washing Away of Wrongs* issued by the Qing state, a number of officials and legal specialists authored critical editions of the text and collections of forensic cases. Scholars like Xu Lian were deeply concerned with checking the claims made in the official text against cases encountered by officials and coroners as well as personal observations of dead bodies and skeletal remains. If “experience” means, among other things, knowledge gained from sensory observation, then there is no question that this was a recognizable epistemological priority in forensics prior to the appearance of modern laboratory science in China.<sup>433</sup>

These approaches to empirical knowledge remained important within the early Republican judiciary. In 1918 the Board of Justice made a number of corrections to the official forms that coroners used when examining the body and documenting its wounds. These revisions made use of Xu Lian’s corrections of the old forms as well as material taken from anatomical images found in *Practical Legal Medicine* (*Shiyong fayixue* 實用法醫學), one of the early translations of Japanese medico-legal knowledge. When explaining its corrections to the erroneous claims that had been made on the old forms regarding the number of the ribs, for example, the Board included a passage almost verbatim from Xu Lian’s work:

[regarding the error of claiming that there were more than 11 ribs on each side]  
This maintains the errors contained in the “dimensions of the bones” (*gudu* 骨度) chapter of the *Inner Canon* [*of the Yellow Emperor*]. From all previous examinations in the past as well as from having checked leading cases (*chengan*

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<sup>433</sup> For a discussion of this concept and its range of meanings see Williams 1985, 115-7.

成案), in nine out of ten cases both men and women have eleven ribs on each side. Not more than one or two out of ten have 10, 11, 12, 13, 14, or 15.<sup>434</sup>

This passage demonstrated the kinds of corporeal inquiry that one finds more generally in Xu Lian's *Detailed Explanations*, including his own observation of bodies and collection of the insights of other officials and coroners.<sup>435</sup> Xu Lian also used the incidental descriptions of dead bodies recorded in legal cases as a “database” of anatomical information that could be used to construct general claims about the structure of the body. It was in part on this basis that Xu was able to quantify the likelihood that a body would have more than 11 ribs. During a period in which the description and representation of Western anatomical knowledge constituted a strong claim to the real,<sup>436</sup> it is rather striking that coroners routinely made use of an alternative tradition of corporeal inquiry just as rooted in pressing concerns about the epistemological foundations of knowledge about the body.

This “alternative” form of anatomical investigation also informed the training of coroners in Republican Beijing, a project with which we know that Yu Yuan was involved. Trainees' testing papers indicate that Yu and the other instructors, all of whom were senior coroners, had accepted the imperatives of grounding forensic knowledge in

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<sup>434</sup> Sifa ligui bubian 1919, 239. Compare with the original in Xu 1890 (1854), 1.56a-b. As it appeared in the new form, the passage included several slight modifications from Xu's original. It removed the “I” (yu 余) from the beginning of the sentence, depersonalizing the act of examining bodies and checking cases. It also removed the specification that the leading cases were from “all provinces” (*gesheng* 各省). It also added “11 ribs” alongside “10, 12, 13, 14, 15” within the series of abnormal numbers, which Xu Lian did not include. Finally, rather than simply being “one out of 10,” it made the figure “two out of 10.”

<sup>435</sup> For another example of Xu's approach, see his critique of the existence of the “secret modesty bone,” a discussion that includes several critical approaches to knowledge about the body. Xu 1890 (1854), 1.79a-80a. Also see Despeux 2007, 659-660.

<sup>436</sup> See Heinrich 2008.

empirical observation, even if this involved challenging claims made in the *Washing Away of Wrongs*. For example, in his written response to a test question about the differences between male and female skeletons, one of the coroners who received training in 1919 named Fu Changling began by enumerating the differences as stated in the official text:

According to the *Washing Away of Wrongs*, the skeletons of men and women have four differences. The skulls of men are made up of eight pieces and those of women six. The back of men's skulls have a vertical suture whereas those of women do not. Thus it is also said that the occipital bone of women does not have left and right sides. Men also have the ulna, the bone next to the radius, and the fibula, the bone next to the tibia, while women do not. Men have 12 ribs on each side, while women have 14 on each side.<sup>437</sup>

As Catherine Despeux has shown, the differences between male and female skeletons constituted a central question in the scholarly literature on forensics in late imperial China.<sup>438</sup> Authors like Xu Lian had refuted, if not qualified, many of the claimed differences that had appeared in the official *Washing Away of Wrongs*. In Republican Beijing, coroner trainees were expected not only to be able to recite these differences on their testing papers, but to indicate the points that had been critically challenged. Fu continued,

However, according to practical experience, bones of men and women do not have great differences. If one calculates the measurements of the bones, those of women are generally shorter and more delicate. As for that which can be used to distinguish them, the abutted place in between the pubic bones of the pelvis [seemingly, the pubic symphysis] is long and narrow in men but wide and short in

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<sup>437</sup> BMA J174-1-67, "Testing papers of the Capital Local Procuracy Inquest School" (京师地方检察厅检验学习所试卷), 1928, 107-8.

<sup>438</sup> For discussion of the various skeletal markers of sex differences in these texts, see Despeux 2007, 654-60.

women. In women, this place is usually closed but opens during childbirth. As such, it is vital for parturition.<sup>439</sup>

While Fu did not mention the sources on which he based his claims about the differences between male and female pubic bones, there is some evidence that he consulted either Xu Lian's *Detailed Explanations* or a later work which incorporated Xu's corrections, such as Gang Yi's 剛毅 *Evidence on the Meaning of the Washing Away of Wrongs* (Xiyuan lu yizheng 洗冤錄詳義, 1891). Xu Lian had described the "abutted place" (*xianglong chu* 鑲攏處) between the pubic bones, mentioned by Fu, and its role in childbirth. Xu's claim that this part of the pelvic structure "opens during birth while remaining closed ordinarily" (生產則開, 平時則合) appeared almost verbatim in Fu's response.<sup>440</sup> Yet, Fu's claim that the space was "long and narrow in men but wide and short in women" did not appear in Xu Lian's text. This notion of sex difference resonates with the new claim made by Gang Yi that male and female pelvic bones differed both in size and in the width of the pelvic cavity,<sup>441</sup> even though Gang Yi did not claim (as did Fu) that it was the length and width of *this space in particular* that reflected this difference. In the last portion of his answer, Fu was even clearer about his use of critical editions of the *Washing Away of Wrongs*,

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<sup>439</sup> “然據實驗男女原無甚大別，不過以骨度計算，女子比男子骨度概較短小且纖弱。至所可別者，即有胯骨一處其鑲攏處男子長狹女子廣短。因女子該處平時則合生產則開，有分娩之至關也。” Fu's use of the word *shiyān* 實驗 is intriguing. While Fu did not provide a definition of this term in this statement, I translate it as a notion of practical verification that is broader than “scientific experimentation,” another meaning of the word.

<sup>440</sup> See Gang 1892 (1891), 1.96a-1.97b; for images of the pubic bones, see Xu 1890 (1854), 1.62a and 1.79a for discussion, which Gang quoted verbatim.

<sup>441</sup> Gang 1892 (1891), 1.97b. As Catherine Despeux has noted, the description and representation of sex difference in Gang's text, based in part on the width of the pelvic cavity, was an innovation in late imperial forensic knowledge. Despeux 2007, 658-9.



As for the idea that the secret modesty bone and the [number of] apertures in the coccyx also distinguish men and women, if one consults the various editions of the *Washing Away of Wrongs*, one will see that it is untrue. This is shown by practical experience as well.<sup>442</sup>

While Fu did not specify the editions of the *Washing Away of Wrongs* that he consulted, his answer indicates engagement with the late imperial scholarly forensic project. The secret modesty bone, a bone which the official *Washing Away of Wrongs* claimed existed in female skeletons, had long been refuted by Xu Lian and others. And these refutations had occurred on the basis of observation of remains during the investigation of actual cases. Indeed, one of Fu's classmates indicated the crucial status of empirical knowledge in his own answer to the same question, noting that "each of our instructors [ostensibly including Yu Yuan, who directed the training] has repeatedly examined bones, and there has never been a secret modesty bone."<sup>443</sup>

To what extent could the category "experience" account for the kinds of knowledge developed in Xu's *Detailed Explanations* or emphasized in Republican coroners' training? Yu Yuan's discussion shows that the epistemological authority of the *Washing Away of Wrongs* could be framed in new ways and in relation to consequential concepts like "experience." Yet, it is another question whether the forms of empirical inquiry that were reshaping late imperial forensics could be "legible," to use Helen Tilley's words, in the new discourse on forensic expertise.<sup>444</sup> "Experience" was in many ways a fraught category. In writings such as Liu Tiecheng's article, or other instances in

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<sup>442</sup> "至言羞秘骨及尾閭骨有竅分別男女之說，參考各錄已見其不確，實驗亦然也"

<sup>443</sup> BMA J174-1-67, 136-7.

<sup>444</sup> Tilley 2010, 119.

which the “experience” of the *Washing Away of Wrongs* was contrasted with the “theory” or “knowledge” of legal medicine, the concept *jingyan* was not epistemologically authoritative. That is, it was not the kind of concept that could unambiguously convey the kinds of authority that Xu Lian and others who were involved in forensics invested in empirical knowledge. Turning now to a text in which *jingyan* was, in fact, used to gloss these approaches to knowledge, we will explore the possibilities that did exist for them to be reconceptualized in epistemologically authoritative ways.

*Jingyan in Wang Chichang’s References for the Washing Away of Wrongs*

The connection with *jingyan* appears in an intriguing text titled *References for the Washing Away of Wrongs* (Xiyuan lu cankao 洗冤錄參考) with prefaces completed in 1918-9. The work was produced by a judicial official named Wang Chichang 王熾昌 (Zi: Yuxun 豫恂) who had served in both the high and local procuracies in Beijing as well as procuratorial organs in Zhejiang. It was there that Wang made the professional acquaintance of the circuit administrator Huang Qinglan 黃慶瀾, who seems to have encouraged Wang to disseminate the work given that it could assist legal officials who still had to rely on the *Washing Away of Wrongs* in forensic examinations. Huang’s preface suggests that it had become increasingly difficult to find forensic examiners or officials with suitable experience or knowledge of forensic examination techniques.<sup>445</sup> In

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<sup>445</sup> The author Wang Chichang’s preface was dated December 1918 and that of Huang Qinglan was dated March 1919. Copies of this text are held at the Library of Ancient Books of the National Library of China (国家图书馆古籍馆) and Chinese Academy of Social Sciences National Institute of Law (中国科学院法学研究所). The copy held at National Library of China has no publication information and no prefatory matter. The copy at CASS contains prefaces by Huang Qinglan and Wang Chichang. The conservative

describing Wang's contribution to the forensic literature, Huang noted that in his discussions of how to investigate difficult cases, Wang had "addressed [all that was not complete in the *Washing Away of Wrongs*] thoroughly using that which has been obtained from experience" (凡洗冤錄所未備者, 每以經驗所得詳細說明).<sup>446</sup>

Wang's *References* was a product of the late imperial textual tradition of scholarly forensic knowledge and engaged Xu Lian's *Detailed explanations* and other texts to explain points of forensic examination. The work was informed by many of the same questions that preoccupied the late imperial officials and legal specialists who authored forensic commentaries and case collections. These included the challenges of working with a body of official knowledge understood to be flawed and limited, an interest in expanding the available forensic knowledge through textual research and personal experience, a willingness to incorporate the insights of experienced coroners, and an interest in testing the *Washing Away of Wrongs* against actual cases. For example, in a section of Wang's *References* that discussed the forensic signs and examination techniques for each part of the body listed on the official examination forms, Wang appended the following case,

In April 1910 I took part in the examination of Zhang Renju, who had been poisoned with red arsenic. The body had been buried for a month. The pads of the fingers (*zhidu* 指肚) appeared scorched and withered. According to the coroner Song Yuanhe, this could only be a sign of arsenic poisoning. Checking the

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intellectual Ye Dehui 葉德輝, who like Wang Chichang was from Xiangtan 湘潭 County in Hunan, also wrote a preface for Wang's *References*, yet it does not appear in the CASS copy of the text and provides no information about where or how *References* was published. Ye's preface was included in *Collected Writings from the Northern Travels of Mr. Xiyuan* (卹園北遊文存). See Ye 2010, 120-1. I am grateful to Li Chen for bringing this work to my attention.

<sup>446</sup> Wang 1919, xu.

chapter on the various poisons in the *Washing Away of Wrongs*, it was only said of white arsenic that the ten fingernails would be livid. There was no explanation regarding the ten finger pads being withered. Now that this has been verified, it can supplement that which is incomplete in the text (事已經驗, 可補錄文所未備).<sup>447</sup>

In this case, the coroner Song knew of an alternate set of signs that could be used to detect arsenic poisoning. While Wang noted that they did not include this explanation in the official documentation because it was not mentioned in official doctrine, this did not mean that such a method should not inform subsequent forensic practice. Thus, Wang noted, “in my humble opinion, when there are leading cases [pertaining to a forensic technique] and it has been found to be correct time and again, even if the *Washing Away of Wrongs* does not contain a passage on it, it should be added and cases should be appended for reference.”<sup>448</sup> The concept of the “leading case” (*cheng'an* 成案) was an important one in late imperial law and forensics.<sup>449</sup> Leading cases provided precedents that officials could use when adjudicating situations that did not match those described in the legal code or, in forensics, the official *Washing Away of Wrongs*. It was through the accumulation of cases that insights and observations could be incorporated into the collective record, providing acceptable ways of handling analogous situations in the future.

In the case of Zhang Renju and elsewhere, Wang used *jingyan* 經驗 to refer to the observation of actual situations as a mode of verification. For example, in discussing Xu Lian’s claims about the lack of substantial differences between male and female

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<sup>447</sup> Wang 1919 1.31a.

<sup>448</sup> Wang 1919, 1.51b.

<sup>449</sup> See Will 2007, 64-8.

skeletons, Wang noted that “while there was experience [of it], this did not come from research” (雖有經驗尚非從研究得來), after which he presented skeletal dimensions drawn from the medico-legal translation *Legal Medicine* (Falü yixue 法律醫學).<sup>450</sup> Or, in describing Xu’s claim that most male and female skulls that he had examined had a vertical suture – a refutation of the claim made in the *Washing Away of Wrongs* that female skulls lacked this feature – Wang noted that “this explanation comes from experience” (其說由經驗得來).<sup>451</sup> As a final example, in summarizing a number of Xu’s claims about the skeleton later on, Wang noted that “while Xu’s *Detailed explanations* do not agree with what the *Washing Away of Wrongs* said [on these points], there is truly experience underlying it” (許氏詳義雖與錄文不符，實有經驗可為依據).<sup>452</sup>

While Wang, like Xu and other late imperial forensic scholars, acknowledged that the *Washing Away of Wrongs* could benefit from being expanded with new cases and observations, he also noted that there were instances in which claims made in its pages themselves accorded with experience, an important guarantee of the text’s epistemological authority. For example, in describing a case involving the skeletal examination of a victim of strangulation, Wang noted that the signs observed on the body matched those which the *Washing Away of Wrongs* indicated would be there in this kind of case: “The coroner filled in [the observed signs] one by one in a clear manner, identifying each wound according to the *Washing Away of Wrongs*. Thus it is evident that the *Washing Away of Wrongs* is a book [completed on the basis] of experience and is

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<sup>450</sup> Wang 1919, 2.23b.

<sup>451</sup> Wang 1919, 2.26b.

<sup>452</sup> Wang 1919, 2.28b.

dependable and proven (檢驗吏一一填註明晰皆據錄文而定為何傷。可見宋錄係經驗之書，信而有徵)。<sup>453</sup> For Wang, then, the association with *jingyan* was what guaranteed the authority of the text as well as its expandability through cases and observations.

It was precisely through these kinds of additions that the scope of the *Washing Away of Wrongs* could be expanded to include not only those deaths that were not originally recorded in its pages, but the kinds of deaths that occurred under modern conditions – the very ones that the Bar Association claimed had made the text obsolete. For example, Wang inserted another case that demonstrated exactly how those deaths not included in the original *Washing Away of Wrongs* could be integrated into the text:

In the summer of 1909 when serving at the High Procuracy I examined the body of Mrs. Xu née Ren, who was poisoned by consuming matches. The ten fingernails were a purplish-livid color. The coroner, in accordance with the chapter on taking poison in the *Washing Away of Wrongs*, stated that the fingernails were livid. Because the *Washing Away of Wrongs* does not contain leading cases on match poisoning, we feared incurring higher authorities' refutation and scrutiny.<sup>454</sup>

In this instance, there were no leading cases that could be used as precedents. Because of the ever-present concern that higher authorities would refute the case, Wang and the coroner submitted documentation that matched the expectations of reviewing authorities that fingernails would be livid in poisoning cases, a claim made in the *Washing Away of Wrongs*. Yet it was precisely through the addition of this case in his *References* that

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<sup>453</sup> Wang 1919 1.7b-8a. Elsewhere in the text, Wang cites several cases that he personally handled in Beijing which illustrated the point made in the *Washing Away of Wrongs* and its commentaries that severe wounds on non-vital spots could kill, while light wounds on vital spots might not lead to death. Wang 1919 1.8b.

<sup>454</sup> Wang 1919 1.45b.

Wang could expand the body of usable forensic knowledge, a point which he discussed in greater detail later on:

For all that the *Washing Away of Wrongs* and old cases do not have, I have supplemented on the basis of the *Golden Mirror of Medical Orthodoxy*. For the cases involving taking acid, match poisoning, and touching electrical wires which are neither included in the *Washing Away of Wrongs* nor the *Golden Mirror* and old cases, the relevant markings and colors [i.e. that need to be examined] as found in new cases from recent times can be appended as supplements.<sup>455</sup>

Thus, the *Washing Away of Wrongs* provided a structure through which new situations and methods of killing, including those that arose under the material conditions of modernity, could be incorporated into the collective body of forensic knowledge as cases. This is the context in which we should understand Yu Yuan's claim that the *Washing Away of Wrongs* was a suitable guide for forensic practice in the modern moment of the late 1920s. Because the Association emphasized "theory" over "experience," it was incapable of understanding how the text could be used to resolve forensic situations that were not included in its pages. According to the Association, these were the deaths for which the *Washing Away of Wrongs* was, categorically, unsuitable. "Experience" was, in their view, not an epistemologically privileged category when compared with "scientific knowledge." By contrast, for Wang Chichang and, it would seem, Yu Yuan, it was precisely accordance with "experience" that provided powerful epistemological capabilities for a text that had been used, and adapted, over centuries.

### *Conclusion*

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<sup>455</sup> Wang 1919 1.52b.

This chapter has examined one aspect of the process through which coroners like Yu Yuan attempted to craft a place for themselves in the occupational marketplace of early twentieth-century urban China. Significant changes in the discourse of professional expertise subtly changed the possibilities for their knowledge to be articulated as the most authoritative kind of knowledge, especially in relation to that of pathologists, medico-legal experts, and other actors with specialized academic training. Questions of epistemology – understood in very particular ways – remained unavoidable for coroners as well as other early twentieth-century occupational groups with a stake in portraying themselves as “experts.” And much as Sean Lei has shown in his study of the concept *jingyan* in the professional conflict over medicine, translating the knowledge contained in the pages of the *Washing Away of Wrongs* into modern categories carried serious risks. Critics could easily and, one suspects persuasively, claim that the *Washing Away of Wrongs* included collected bits of knowledge (“experience”) that were not as certain, sophisticated, or useful as scientific theories and principles. Yu’s letter demonstrates that there were openings in which one could reconcile older approaches of late imperial forensics with newer conceptions of expert knowledge that arose under modernity.

The notion that the *Washing Away of Wrongs* embodied “experience” was a complex one, and was not simply made on the basis of a logical analysis of its epistemological procedures and contents. Rather, the association between the *Washing Away of Wrongs* and “experience” (or, rather, its non-association with “theory” or “science”) was also implicated in notions of cultural and national difference that established clear boundaries between the institutions and learning of “China” and “the West” as well as a sense of the implicit modernity of science-based forensics vis-à-vis



forms of expertise that were of the past.<sup>456</sup> In other words, claims about the epistemological status of the *Washing Away of Wrongs* were inseparable from professional and cultural politics. Yet, during a time in which coroners remained legitimate experts and the *Washing Away of Wrongs* an important source of forensic knowledge, there were possibilities for reimagining its authority in new ways.<sup>457</sup> And in a context in which members of the nascent medical and medico-legal professions had not, in fact, established themselves as the most authoritative kinds of forensic experts, strategies of boundary-drawing – that is, identifying legal medicine with science and modernity and coroners with the past and “superstition” – would become crucial for their programs of forensic professionalization.

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<sup>456</sup> For discussion of the ways in which scientific discourse was inseparable from questions of cultural authenticity and modern temporality that arose within the specific cultural and geopolitics of early twentieth-century China, see Chiang 2010.

<sup>457</sup> Interestingly, present-day scholars have found much in late imperial forensic works to suggest associations with modern science, experimentation, and research, connections that I have suggested would have been harder to make in the early twentieth century. For example, see Will 2007, 86.

## Chapter Six

### A New Jurisdiction over the Dead:

#### Medical Dissection and Municipal Oversight in Republican China

In 1923 the head of the Shanghai local procuracy, Che Qingyun 車慶雲 consulted Dr. F. Oppenheim, a German pathologist who was director of Tongji University Medical School's pathology institute, regarding several difficult cases that he had encountered.<sup>458</sup> Pleased with the results, in late July 1924 Che entered a one-year contract with Tongji and the affiliated Paulum Hospital for assistance in forensic examinations. The procuracy's motivation, as it was recounted by Tongji affiliates later on, was to bring China's forensic practice up to the standards of other countries by implementing autopsies (*pouyan* 剖驗) rather than simply relying on coroners and the *Washing Away of Wrongs*.<sup>459</sup> Moreover, Che had been concerned with reforming judicial practices as preparation for abolition of extraterritoriality, an issue that was especially pressing within Shanghai, a city in which foreign courts maintained legal authority and jurisdiction.<sup>460</sup> During the initial period of the agreement, 300-400 corpses were reported

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<sup>458</sup> See account in Yang 1936. He Songyue and Jia Jingtao briefly mention the case of the contract in their articles on Republican-era forensic medicine. See He 1990, 132 and Jia 1986, 206. For more on Oppenheim, see "Pathology Research Institute of Paulum Hospital" (寶隆醫院之病理研究院), *Shenbao* 6/3/26. Issues of *Tongji Zazhi* 同濟雜誌 from 1921 and 1922 also contain a number of references to Dr. Oppenheim and his work.

<sup>459</sup> "Tongji University presents the facts regarding its contract with the Shanghai procuracy to inspect corpses" (同濟大學發表与上海檢察廳訂立檢驗屍體合同之經過事實). *Shenbao*. Four parts: 8/9/25, 8/10/25, 8/11/25, 8/12/25, 8/13/25.

<sup>460</sup> See, for example, Xu Xiaqun's (2001, 215-41) discussion of the impact of Shanghai's complex jurisdictions (and the question of extraterritoriality) on members of the legal profession in the city.

for examination. Of these, only about 50 were autopsied. Such an autopsy was only performed if “external inspection could not judge cause of death.”<sup>461</sup>

In mid-July 1925, a lawyer named Chen Kuitang presented the procuracy with a request that the agreement not be renewed at the end of the month, the point at which it was set to expire.<sup>462</sup> The full text appeared in the newspaper *Shenbao*, where it incited several responses, including a full explanation of the agreement by affiliates of Tongji University. Chen argued that centuries of use had proven the *Washing Away of Wrongs* and that the “depth of the people’s trust in it was apparent.” Thus, procurator Che’s interest in replacing these methods under the assumption that they were inferior to the autopsy was unwarranted. Yet, Chen’s arguments also revolved around the question of the physical integrity of the corpse. The image of mutilated corpses that had undergone autopsy was not only unpalatable to local people, but led them to question the desirability of the “justice” provided by a forensic technique that desecrated the bodies of the dead.

In early August, Tongji University Medical School published a response in *Shenbao*, including the full text of the agreement as well as Oppenheim’s critique of various passages in the *Washing Away of Wrongs*. Moreover, the procuracy revealed that it would not renew the contract with Tongji, but would establish a similar arrangement

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<sup>461</sup> Under their arrangement, the medical school would make available a dedicated physician to assist judicial authorities in the forensic investigation of deaths. The procuracy would pay limited expenses pertaining to forensic examinations (excluding testing and other fees associated with the medical personnel), and provide the medical school with a monthly payment. According to Yang Yuanji, who apparently took over some of the medico-legal duties, Oppenheim supervised Tongji’s involvement, the pathology assistant Du Keming 杜克明 initially assisted him (later succeeded by Hou Jianmin 侯健民), and Dan Deguang 單德廣 served as the dedicated medico-legal examiner (*fayi* 法醫), appointed by the school, who would be at the disposal of judicial authorities. Dan Deguang would later be involved with Tongde Medical School’s short-lived attempt to train medico-legal examiners. See Yang 1936, 12.

<sup>462</sup> “Petition of lawyer Chen Kuitang requesting that autopsies not be carried out” (律師陳奎棠請弗剖驗之呈文), *Shenbao* 7/16/25.

with another hospital – thus keeping access to medical expertise.<sup>463</sup> Tongji Medical School, in its own contribution to *Shenbao*, claimed that this was due to funding problems on the part of the procuracy. Yang Yuanji, who was involved on Tongji's side of the original agreement, claimed rather that the arrangement was broken because of the uproar following Chen's public petition.<sup>464</sup>

It is perhaps too easy to read Chen's petition in the context of the longstanding idea of Chinese abhorrence of human dissection. As Larissa Heinrich has noted, it was a common trope in mid-late nineteenth and early twentieth-century writings of Western missionaries and others that ingrained Chinese customs surrounding the dead body had hindered the progress of anatomical knowledge and dissection. From these works emerged a conception of “the lack of willingness or ‘ability’ to perform autopsy because of what they saw as the cultural superstition that prevented it.”<sup>465</sup> Early twentieth-century proponents of dissection who were understandably frustrated by what they perceived to be the meager supply of corpses available to them likewise argued that difficulties in procuring cadavers reflected indigenous “customs” (*fengsu* 風俗) that precluded a willingness to voluntarily accept dissection.<sup>466</sup>

More significant than Chen's opposition to autopsy because of its effect on the body, though, was his notion that the *Washing Away of Wrongs* and medical autopsy

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<sup>463</sup> “The Shanghai Local Procuracy's new measures for forensic inspections” (地檢廳新定檢驗辦法), *Shenbao* 8/5/25.

<sup>464</sup> Yang 1936, 12.

<sup>465</sup> Heinrich 2008, 118-9, 65-7.

<sup>466</sup> See, for example, Lin 1922, 125.

could *both* be used to redress judicial wrongs. That is, Chen argued that their forensic efficacy was equivalent:

In sum, the inquest and dissection are both used to bring to light the injustices of the dead. If one uses dissection and the injustice is brought to light, and one uses the inquest and it is also brought to light, then it is the same result. Yet, if for one the corpse is ruined, and for the other it is maintained whole, how can those who govern the people only consider the redressing of wrongs and not also consider the corpse?

The symmetry implicit in Chen's arguments was almost immediately denied by Oppenheim, who published a critique of passages in the *Washing Away of Wrongs* that used scientific standards to assess the veracity of statements in the text. Oppenheim's valorization of science-based expertise was the manifestation of complex changes in the discourse of forensic expertise that had brought concerns about epistemology to the center of questions of forensic authority. The notion that the *Washing Away of Wrongs* embodied "experience" (*jingyan* 經驗), not the "theories" (*xueli* 學理) on which legal medicine was based, was another manifestation of the new formal concern with epistemology. Yet, compared with Yu Yuan's defense of the *Washing Away of Wrongs* on the epistemological grounds of its association with "experience," Chen's petition was significant precisely because it did not engage in a politics of epistemological comparison that assumed an opposition between legal medicine and the *Washing Away of Wrongs* on the basis of their supposedly different approaches to knowledge. That epistemology was not Chen's main concern reminds us of the fact that epistemological justification was neither the most common nor most compelling source of forensic authority in late imperial and Republican China.

This chapter takes Chen's assumption of symmetry as a starting point to rethink the relationship between autopsy and the *Washing Away of Wrongs*, practices that

have, since this period, been understood in highly asymmetrical terms. Dissection has been understood in the small historiography on this topic (as well as by those engaged in medico-legal reform at the time) as a fundamental guarantee of medico-legal authority. For example, Jia Jingtao has called the legalization of dissection in 1913 a crucial turning point in the transformation from “ancient legal medicine” to “modern legal medicine” as well as a crucial “foundation stone” (*jishi* 基石) of modern legal medicine.<sup>467</sup> Indeed, the idea that pre-modern forensics only relied on “external examination” (*waibiao jianyan* 外表檢驗) because autopsy was not permitted has appeared often in the literature as a critique of its unscientific practices as well as an explanation of why forensic practice in imperial China did not eventually develop into a modern form.<sup>468</sup>

I would like to suggest that Chen’s statement described a critical feature of contemporary forensic practice – that the *Washing Away of Wrongs* still maintained authority vis-à-vis autopsy-based forensic practices and that the sources of this authority were not simply about epistemology. The *Washing Away of Wrongs* was an institutionalized foundation of Republican judicial practice and, in Beijing, central to urban authorities’ institutional “management” of the dead body. Procuratorial officials and their coroners who continued to rely on the *Washing Away of Wrongs* maintained a professional jurisdiction over the forensic inspection of corpses during this period. Dissection involved a new set of professional claims over the dead body that had to be

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<sup>467</sup> Jia 1986, 205.

<sup>468</sup> See Jia 1986, 205; He 1990, 129. For a more sustained discussion of this alleged aspect of imperial forensic practices as well as its role in preventing pre-modern Chinese forensics from accomplishing “a leap to modern legal medicine,” see Jia 1984, 170-1.

negotiated with those that already defined the supervision, circulation, and disposition of the dead.

This chapter traces these negotiations across two areas of anatomical practice: autopsies carried out for forensic purposes and dissections carried out for clinical and anatomical purposes (primarily for training medical students). In both cases, those who would dissect cadavers did so in dialogue with the prerogatives of coroners and procurators. Pathologists and medico-legal experts who would carry out autopsies for forensic purposes did so under the authority of procuratorial officials, leveraging their expertise under the rubric of judicial investigation. Those who would claim and dissect cadavers for clinical or anatomical purposes likewise had to engage with the policing and judicial institutions that already supervised life and death in Beijing. Thus, the history of dissection was in important ways about negotiating a place for medical claims over the corpse within the state's existing, already-authoritative claims over the dead.

By implication, dissection only gained authority under certain conditions; it was never as epistemologically authoritative in practice as it appeared, for example, in Oppenheim's textual critique of the *Washing Away of Wrongs*. Dissection was subject to oversight by regimes of forensic practice that were epistemologically deficient from the perspective of experts in scientific medicine. Moreover, when used for forensic purposes dissection could be leveraged within a judicial process just as likely to incorporate the official examination procedures used by coroners or the *Washing Away of Wrongs*. Autopsies did gain authority in the law, but only under specific conditions, in times and places that were largely decided by judicial authorities who had their own professional interests. And in Beijing – a city in which procuratorial officials never relinquished their

direct involvement in the forensic inspection of corpses, autopsies were rarely used as a forensic procedure. Rather, as an object of urban authorities' supervision that could, at times, subvert the city's elaborate protections over the dead, medical dissection fell under the oversight of legal officials and their, supposedly, epistemologically deficient forensic procedures.

*Medical dissection and forensic authority*

Pathologists like Oppenheim and, during the 1930s, medico-legal experts like Lin Ji argued that it was their privileged knowledge of the human body that justified their involvement in the administration of justice as forensic experts. Dissection of cadavers was a crucial foundation of their expert practice. The medico-legal primers that appeared during the first decades of the twentieth century introduced the new idea that one could only find cause of death by tracing pathological changes in organs and tissues inside the body.<sup>469</sup> That is, it was *only* by opening the body and inspecting the organs that one could tell how someone died. Simply inspecting the outside of the body without inquiring into the underlying internal causes was not enough. To illustrate this point, for example, the director of the Research Institute of Legal Medicine, Sun Kuifang would publish several cases in which autopsies discovered fatal internal injuries in bodies with negligible external wounds.<sup>470</sup> Beyond forensics, the idea that opening the body provided authoritative knowledge was a powerful one. As Larissa Heinrich has argued, for

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<sup>469</sup> See, for example, Wan Qingxuan's (1924 [1914], 20-7) discussion of the importance of identifying the internal "results" (*jieguo* 結果) of wounds, not simply the (external) wounds themselves.

<sup>470</sup> Sun 1935.



example, a range of late nineteenth- and early twentieth-century medical and literary works used anatomical representations of the body to make new kinds of claims to the real.<sup>471</sup>

In forensics, the knowledge gained from anatomical dissection was used as grounds from which to criticize the *Washing Away of Wrongs* and argue on the basis of its unscientific nature that it could not serve as a reliable guide for investigating cause of death. For example, in a lengthy critique of the text that was published in *Shenbao* alongside the details of Tongji's autopsy arrangement, Oppenheim and an assistant in pathology named Du Keming 杜克明 assessed various passages in the text according to medical standards of causality. For example, they called the distinction between vital and non-vital spots “the part of the *Washing Away of Wrongs* that can most easily lead people astray” (全書中最易使人迷誤者), explaining that internal examination was the only way to accurately determine cause of death:

If a wound becomes infected or too much blood is lost, then even if it is on a non-vital spot it can still cause death. If a wound is only skin deep, then even if it is on a vital spot, it will not cause death. One must decide if a wound is fatal or not on the basis of internal injuries, whether or not an organ is vital, and the severity of the wound. Moreover, some severe wounds that cause death are internal leaving no mark on the outside of the body. The *Washing Away of Wrongs* makes little mention of examining the inside of the body. This is the greatest flaw of the book.<sup>472</sup>

This was part of a broader argument made by proponents of medicalized forensics that only those equipped with the requisite training, equipment, and laboratory facilities could

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<sup>471</sup> Heinrich 2008, especially p. 116.

<sup>472</sup> “Opinions of Dr. Oppenheim, professor at Tongji Medical School, regarding the *Washing Away of Wrongs*” (同濟醫科教授歐本海博士對於洗冤錄之意見).” See “Tongji University presents the facts regarding its contract with the Shanghai procuracy to inspect corpses” (同濟大學發表 与上海檢察廳 訂立檢驗屍體 合同之經過事實). *Shenbao* 申報. 8/11/25.

accurately examine physical evidence and interpret its signs, a kind of “elitist epistemology,” to borrow John Harley Warner’s words, that was at the heart of arguments for replacing the *Washing Away of Wrongs* with the kinds of forensic practices grounded in the autopsy room and medico-legal laboratory.<sup>473</sup>

The idea that scientific knowledge was an important foundation of forensic expertise had been accepted during the New Policies reform period. Yet, the process through which physicians of scientific medicine and medico-legal experts actually came to participate in judicial process was much more complex. They had to craft a place for themselves in an area of state governance already managed by police, procuratorial officials, and coroners. Moreover, the dead body – the focus of anatomic-pathological expertise – was already the object of highly institutionalized forms of supervision and knowledge. When pathologists like Oppenheim participated in forensics, they utilized their expertise in anatomic-pathological dissection and laboratory testing within the context of legal procedures that already accepted judicial authorities’ participation in and authority over the forensic investigation of unnatural deaths.

This was the case not simply because of judicial authorities’ professional control over inquests but also because of the formal mechanisms that defined outside experts’ relationship with legal officials under Republican law. Pathologists and other kinds of experts could participate in judicial process through a procedure called the “appraisal” (*jianding* 鑑定), a modern institutional practice that had been discussed as early as the New Policies reform period. For example, Ding and Xu described the important role of

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<sup>473</sup> The phrase comes from Warner’s (1992, 112, 140) study of the changing sources of epistemological authority that accompanied the late nineteenth-century shift from the valorization of popular empiricism to a new notion of exclusive laboratory-based knowledge in American medicine.

individuals with “specialized knowledge” (有專門學識之人) in legal process in their work *Modern Legal Medicine*:

While judges of the state have a wealth of knowledge relating to the law, they lack knowledge from other specialized subjects. When making criminal and civil judgments, one will be unable to fully understand [the situation] if only relying on knowledge of the law. Thus, one must recruit those with special knowledge and skill (有特別之智識技能者) and deliberate with them to make the judgment. For example, in judgments pertaining to industry, technology, or banks, one would invite an industrialist, a technologist (技術家), or a bank clerk to appraise the matter. In judgments relating to medicine, one would invite a physician (醫士) to take on the appraisal.<sup>474</sup>

Because legal officials’ knowledge had limits there needed to be a mechanism for those with the required expertise to assist in legal decision-making. In Japanese law this mechanism was called a *kantei* 鑑定 (“appraisal”), which Ding and Xu glossed as *gutachten*, the report of an expert examiner in German legal process.<sup>475</sup> When conducting an appraisal, an expert was supposed to respond in writing to judicial authorities’ questions about specific matters. The report was to describe the kinds of examinations that were conducted, explain the findings, and provide evidence that could be used by non-specialists in court.

This mechanism established an opening for pathologists and medico-legal experts to take part in judicial process, much as they did in Japan and other countries. Indeed, the premise of the appraisal – that legal officials were not experts in all areas of relevant knowledge – facilitated the claims of forensic practitioners like Oppenheim that the judiciary needed their specialist knowledge. Yet, in practice, forensic experts who relied

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<sup>474</sup> Ding and Xu 1911, 2-3, 6.

<sup>475</sup> Ding and Xu 1911, 10.

on the appraisal to participate in law did not fundamentally challenge judicial officials' authority over the forensic examination of dead bodies. For one thing, while an appraisal assumed that the examiner's opinion had a degree of authority in the matter at hand (justified by special knowledge or skills), the legal force of the appraisal depended entirely on legal officials' decision to accept and utilize it.<sup>476</sup> Given that judicial officials were the ones who decided when to request an appraisal – not to mention what kinds of questions to ask – their own professional claims over forensics played an important role in shaping the nature of physicians' involvement in legal cases. By implication, forensic autopsies did not have categorical authority – as suggested by proponents of medical forensics like Oppenheim – but rather were utilized variably depending on legal and procedural conditions that were not controlled by physicians.

### *Forensic autopsy in practice*

Judicial authorities could utilize forensic autopsies in several different ways. One pattern, represented by the Tongji autopsy contract, was the deployment of physicians as “outside experts” who examined dead bodies for judicial officials who maintained final authority over the task of forensic examination. It is telling, for example, that the text of the Tongji agreement stated that personnel from the school would “take on all medico-legal matters pertaining to the procuracy's inspection of corpses” (關於檢廳檢驗屍體,

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<sup>476</sup> As such, an appraisal was formally “no more than simply for the reference of legal officials.” Ding and Xu 1911, 11. These early medico-legal translations did raise the possibility that appraising experts could differ in their opinions. Yet, the largely sanguine vision of the legal role of scientific expertise that appeared in these texts reflected the consultative and inquisitorial traditions of continental law and not the contention and ambivalence that had since the late eighteenth-century characterized Anglo-American reliance on witnessing as the main vehicle for expertise. For more on this history, see, for example, Crawford 1994 and Golan 2004.

所有法醫上之任務, 應由醫校擔任之). The idea that it was the “procuracy’s inspection of corpses” in the first place represented the basic assumption, codified in law and implemented in practice, that forensic inquests were already the purview of judicial officials and their coroners and, more broadly, of a judicial system that even in the 1920s and 1930s strove to systematize forensic practice through bureaucratic technologies of examination. Thus, even if Oppenheim or others served as appraisers (*jianding ren* 鑑定人), the autopsies that they performed only had legal authority by virtue of judicial officials’ use of them, not because physicians themselves had a legally-mandated and *necessary* role in forensic examinations.

A similar pattern seems to have defined the forensic work of the Research Institute of Legal Medicine, an institution established in Shanghai that played a central role in the development of legal medicine as a professional discipline during the Nanjing decade. Beginning in March 1933, the Research Institute began to handle “all of the regular cases” (*yiqie putong anjian* 一切普通案件) of the Shanghai Local Court, which amounted to about 140 or 150 cases per month.<sup>477</sup> To give a sense of what a “regular case” involved, we might examine the Research Institute’s handling of a case involving an “anonymous male corpse” (無名男屍) discovered in an area of Shanghai administered

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<sup>477</sup> This was in contrast to the relatively smaller number of about 20 “difficult cases” (*yinan anjian* 疑難案件) sent from courts in various provinces. By July 1933, the Research Institute had handled, in total, 2,200 “regular” cases and 95 “difficult” cases. A chart of “regular cases” handled between March and July 1933 indicates that the Research Institute investigated almost 1,100 cases involving inspection of wounds (on the living), about 800 cases involving investigation (perhaps testing) of drug offenders (*yanfan* 煙犯), about 300 inspections of corpses, and a small number of other cases including investigations of rape cases, illness cases, appraisals of virginity (處女鑑定) and several other assorted categories. A pie-chart of the “difficult cases” handled indicates that a bit more than one quarter of the work involved inspection of corpses (*yanshi* 驗屍), “chemical testing” (*huayan* 化驗) and inspection of suspected blood stains, respectively. The remaining quarter of the case-work included a combination of assessment of witnesses, inspection of documents, examinations of skeletal remains, and one case involving examination of a crime scene. See Lin 1934b, 6.

by Chinese authorities.<sup>478</sup> Much as in the case of other anonymous and unclaimed corpses in the city, the body was initially investigated by the *dibao* 地保 of the area. According to the statement provided by the *dibao* (and subsequently reproduced in the Research Institute's official report), he inspected the clothing and other items found on the body and examined the body itself (noting, for example, that “there is no blood in the mouth”) and the scene of the body. The *dibao* then notified the procuracy of the death because “the cause of death was unclear” (因不明死因). From there, the procuracy requested that the Research Institute conduct an examination of the body.

After taking possession of the corpse, personnel of the Research Institute, almost certainly including Lin Ji himself,<sup>479</sup> conducted a thorough examination that was reported in minute detail in the written appraisal report (*jianding shu* 鑑定書) that was returned to the procuracy. In this case, the examination began with an inspection of the surface of the body, followed by an autopsy involving the weighing and examination of each internal organ, and concluded with histological examination of specimens taken from the organs. From the examination, Lin Ji concluded on the basis of widespread hemorrhaging and engorgement of blood throughout the body that the death was caused by heat stroke (*reshebing* 熱射病), even though he also diagnosed nephritis (*shenyan* 腎炎) and fatty heart (*zhifangxin* 脂肪心), factors that possibly contributed to the death. Lin Ji also made

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<sup>478</sup> Cf. Henriot's (2009) study of the role that private organizations like the Shanghai Public Benevolent Cemetery and Tongren fuyuantang played in collecting and burying the anonymous and unclaimed dead discovered in the International Settlement and French Concession. The case was included in a collection of the Research Institute's cases published in *Monthly Bulletin of Legal Medicine*, issue 9 (September 30th, 1934), 145-149.

<sup>479</sup> The examination report was signed “director” (*suozhang* 所長), that is, Lin Ji. Yet, given the considerable caseload of the Research Institute, it is not unlikely that the facility's complement of technicians and other personnel also played a role in preparing and examining evidence.

a number of observations in the report that served to rule out homicide, including the lack of both external wounds and internal signs of poisoning.

Much as in the Tongji autopsy contract, the Research Institute's involvement in cases such as this one did not vitiate judicial officials' institutional control over forensics. From the beginning the investigation occurred under the professional authority of the procuracy, not the Research Institute. Likewise, the Research Institute only became involved after the procuracy requested its services. Yet, in this case, as in those handled under the Tongji autopsy arrangement, judicial authorities in Shanghai delegated the examination of the body to physicians, in the process choosing not to make use of their own coroners to conduct an examination of the body themselves. In Beijing, by contrast, procurators seem to have been much less willing or able to delegate this forensic inspection work to physicians or medico-legal specialists. This is not to say that legal authorities in Beijing did not make use of expert appraisers (*jianding ren* 鑑定人). The National Beijing Medical Special College had been a source of forensic expertise since the first decades of the Republic and would continue to do so after Lin Ji returned to direct the school's Institute of Legal Medicine in 1935.<sup>480</sup> Yet, Beijing procurators and coroners never seem to have relinquished their claim over examining the body, a crucial difference with the forensic work of judicial officials in Shanghai.

In Beijing, where procurators personally oversaw the work of examining bodies, anatomic-pathological expertise could be used, but was leveraged in a way that was quite different from the autopsy arrangements established in Shanghai. For example, in the

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<sup>480</sup> For example, Xu Songming and Lin Zhen'gang had taken part in crime scene forensics in Beijing, serving as expert examiners in the sensationalistic 1924 homicide case at Guanyin Temple Street. i.e. *Beijing Morning Post*, March 29, 1927, p. 6/644.

case of the dismembered remains found at the East Station in Beijing (discussed in dissertation introduction), judicial authorities in the city did not delegate the initial inspection of the body to the Institute or to other physicians for autopsy. Instead, much as in other death cases in the city, it was a coroner who conducted the earliest examination of the remains under the supervision of procuratorial officials. The techniques used, much as in other cases, were informed by the judiciary's own regime of forensic examination. The Institute of Legal Medicine became involved in the case after the police investigation began and was not a central actor in the investigation of the case. Thus, while judicial authorities in the city could make use of anatomic-pathological expertise, the procedure was used as an adjunct to judicial authorities' direction of the investigation and even their examination of the body itself. In practice, then, the forensic autopsy did not fundamentally challenge the forensic authority of the procuracy and its coroners.

### *Deconstructing dissection*

Judicial authorities' professional jurisdiction over dead bodies shaped their interactions with the medical and medico-legal professions around the question of forensic autopsy. Yet, there was another area in which the nascent medical profession's interest in dissecting bodies required engagement with judicial authorities' prerogatives over the dead. As medical schools like National Beijing Medical Special College attempted to procure cadavers for the purposes of medical training and research, they had to navigate the regulations and procedures that already defined administrative and judicial officials' supervision over the dead. Despite the assumption that autopsies



contributed unequivocally to judicial administration, when used for non-forensic purposes (for example, training medical students), medical schools' interest in dissecting dead bodies could challenge if not subvert existing administrative and legal protections over the dead body. In Beijing at least, medical schools remained accountable to urban institutions, including procuratorial officials and coroners, when claiming bodies for dissection.

Discussions of medical dissection in early twentieth-century China commonly distinguished between three broad categories.<sup>481</sup> First, dissecting a body to reveal or study anatomical structure was referred to as “systematic dissection” (系統解剖) or “common dissection” (普通解剖). This operation could be performed as part of academic research in the field of anatomy (*jiépouxue* 解剖學) or in the training of medical school students. The purpose was not to discover cause of death in a particular body, but rather to use the body as a way of studying anatomical structure more generally. Second, dissecting a body for the purpose of investigating pathological conditions or changes that led to disease or death was referred to as “pathological dissection” (*bingli jiepou* 病理解剖) or “autopsy” (*pouyan* 剖驗). This procedure could confirm the diagnosis of a physician, assess the consequences of a chosen course of clinical action or, taken in aggregate, inform broader analyses within pathology, public health or other fields of medical knowledge. Autopsies conducted under the auspices of a hospital or pathology institute were usually not taken as evidence in legal proceedings or judicial investigation,

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<sup>481</sup> For an overview of the uses of dissection in Republican China, see, for example, Oppenheim 1922, 1-2. Cf. Åhrén's (2009, 17-33) discussion of the different purposes of dissection in nineteenth and early twentieth-century Sweden as well as the relationships that each entailed between physicians, the state, and other actors.

constituting rather a crucial linkage between clinical intervention and medical knowledge within the profession itself. Finally, “medico-legal dissection” (*fayi jiepou* 法醫解剖) or “autopsy” (*pouyan* 剖驗) were used to refer to the opening of a body for purposes of administering the law. When a pathologist like Oppenheim or Lin Ji conducted an autopsy under auspices of judicial authorities, this procedure would have fallen under this category because the goal was either to identify whether or not a crime had been committed or investigate crimes that had been confirmed.

For physicians involved in China’s early (Western) medical profession, dissecting bodies to facilitate the administration of justice was less of a priority than obtaining the cadavers necessary to establish the fundamentals of medical training and research. In his important November 1912 request to the Ministry of Education to legalize human dissection, for example, Tang Erhe 湯爾和 (1877-1940) did not mention forensic autopsy, focusing instead on the legal mechanisms for procuring cadavers.<sup>482</sup> We can get a sense of the important role of cadavers and parts of cadavers in medical training from the early curriculum established at National Beijing Medical Special College, the institution which was established by Tang in 1912 and accepted its first class of 72 undergraduate (本科生) medical students in January 1913. While the College did expand its facilities through the 1910s and 1920s, eventually establishing a midwives’ training facility and ultimately

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<sup>482</sup> As David Luesink has demonstrated, Tang was a figure whose career straddled medical professionalization and state-building, and his work in implementing dissection had important implications for the coalescence of science, state power, and professional expertise. For more on Tang’s proposal as well as the implementation of dissection during the early Republican period, see Luesink (forthcoming). For a copy of Tang’s original proposal, see BMA J29-1-16, “Notices regarding the Ministry of the Interior publicly announcing revised regulations on dissection” (内政部公布修正解剖发布的广告), 1912-1915, pp. 1-16.

merging with Peking University, it was an institution that faced considerable challenges in the form of inadequate facilities and resources.

Anatomy and pathology facilities were among the first developed at the College, including a histology practice room (December 1913), an anatomy practice room (February 1914), and histopathology and pathological dissection practice rooms (September 1915).<sup>483</sup> The curriculum for second-year students at the National Beijing Medical Special College in late 1914 and early 1915, for example, included practical training (*shixi* 實習) in anatomy and histology as well as pathological anatomy and histopathology.<sup>484</sup> Tang Erhe noted in late 1914 that the short supply of cadavers was negatively impacting second-year students' practical training.<sup>485</sup> Of the seven cadavers collected by August 1914, only two went to students to dissect. Thus, each student had to "take turns" examining a single part, a poor form of anatomical study that, according to Tang, did not contribute much to students' training. Moreover, because there was a dearth of "fresh cadavers" (新鮮屍體), students had to examine specimens taken from animals, not humans.<sup>486</sup> In its correspondence with urban authorities throughout the Republican period, the Medical College often raised the issue of students' practical training as the main goal of obtaining cadavers.<sup>487</sup>

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<sup>483</sup> A brief institutional history is provided in Guoli Beijing yixue zhuanmen xuexiao 1922. For a discussion of instruction and facilities in the first years of the institution, see BMA J29-1-23. "Beijing Medical Special College 1914 Administrative Plan and Expansion Plan" (北京医学专门学校三年度校务计划书及扩张计划书), 1914-1919.

<sup>484</sup> BMA J29-1-23, 9-13.

<sup>485</sup> BMA J29-1-3, 22.

<sup>486</sup> BMA J29-1-3, 23.

<sup>487</sup> See, for example, J29-3-589, p. 10.

The bodies that were most useful and most “accessible” to medical training and research were, in fact, not those that underwent medico-legal autopsies. From Tang Erhe’s early proposal to legalize dissection in 1912, the priority was clearly on establishing mechanisms for obtaining those categories of bodies with the fewest social and institutional ties to the living.<sup>488</sup> Claiming the bodies of the criminally, socially, and economically marginalized for dissection had been a longstanding practice in the laws that governed dissection in many European countries.<sup>489</sup> For proponents of scientific medicine in early twentieth-century China, these kinds of arrangements constituted an important aspect of the broader infrastructure supporting medical training and research. Medical schools like National Beijing Medical Special College aggressively pursued relationships with urban institutions in Beijing that could ensure a supply of bodies falling within these categories.<sup>490</sup>

Medico-legal or pathological autopsies would have provided medical school faculty and students with a more limited engagement with the body given that there might be relatives or legal authorities with an interest in the disposition of the body after the procedure was completed. For example, as Tongji’s explanation of their agreement made clear, during and after an autopsy they remained accountable to the concerns of relatives. In debunking Chen’s claims about the horrors of dissected bodies, the agreement noted

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<sup>488</sup> See discussion in Luesink (forthcoming).

<sup>489</sup> See, for example, Richardson’s (2000 [1987]) classic study of the 1832 Anatomy Act in Britain, which established a framework through which the bodies of those who died in workhouses could be claimed for dissection. For the case of Sweden, see Åhrén 2009, 21-4.

<sup>490</sup> Another possibility, which was mentioned by Tang Erhe early on, and then saw a resurgence again in the 1930s, was that individuals could donate their own bodies to scientific purposes. See Cao’s (1994, 155-6) discussion of early 1930s efforts among physicians to promote the voluntary donation of one’s body for dissection.

“moreover, after the autopsy the body is sewn up and cleaned, just as if one had undergone surgery in a hospital. It is so that when the relatives see the body, they do not feel as if it had been physically deformed or damaged.”<sup>491</sup> With the bodies of deceased hospital patients, too, there might be relatives who wanted to claim and properly dispose of the body after the procedure had concluded. By contrast, the “unclaimed” bodies of deceased prisoners, those who had been executed, members of the underclass, or those who died sudden deaths in public would not have engendered the same level of scrutiny.<sup>492</sup> Given the thorny legal questions surrounding whether or not one had authorized dissection and relatives’ involvement in this decision, dissecting bodies that were not entangled in such claims was the most practical solution.

In pursuing these classes of bodies, medical schools entered into relationships with state authorities that could be quite different from those which defined medico-legal dissection. The obligations and procedures that defined these relationships were established in the legal framework that regulated dissection in Republican China. For example, the initial “Regulations on Dissection of Corpses” (解剖屍體規則) issued in November 1913 by the Ministry of Internal Affairs established, in broad strokes, the

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<sup>491</sup> “Tongji University presents the facts regarding its contract with the Shanghai procuracy to inspect corpses” (同濟大學發表与上海檢察廳訂立檢驗屍體合同之經過事實). *Shenbao*, 8/9/25.

<sup>492</sup> The initial 1913 “Regulations on Dissection of Corpses” stated that dissected bodies were to be sewn back together and either returned to claimants or, if unclaimed, buried by the medical school. These provisions were maintained in later regulations. Subsequently issued “Detailed Regulations” specified that, with the exception of parts of the body removed for specimens, “those that are able to be sewn up” (能縫合者) should be sewn up according to the original “Regulations.” Yet, for unclaimed bodies that were used for “medical experiments” (醫學實驗), “if after dissection there are obstacles that make it difficult to sew up the body, other than any parts that are taken for specimens, the remains should be gathered in one place for burial.” Moreover, while the original “Regulations” specified that bodies had to be buried by medical schools or returned to relatives, the “Detailed Regulations” allowed the possibility that medical schools could cremate the bodies instead. Specifically, for the unclaimed dead, “in locations for which there are crematoria, the medical school can, for the sake of practical convenience, consider adopting cremation. After cremation, remaining ash must still be buried.”

kinds of oversight that authorities were expected to maintain over the medical profession in dissection.<sup>493</sup> The regulations distinguished between three goals of dissection, each of which required a particular relationship between physicians and the state. In the first, a physician could “cut open the afflicted part” (剖視其患部) in order to study the cause of illness. In such an instance, one had to gain permission from the relatives of the deceased and notify local authorities. In the second, police or procurators investigating the “dead body of one who died unnaturally” (變死體) for which “one could not confirm cause of death without dissection” (非解剖不能確知其致命之由) could assign a physician to dissect the body. In the third, dissection for purposes of “medical experiments” (醫學實驗), a body could be obtained from those who were executed, from prisoners without relatives to claim the body, or from those who desired that his or her body be dissected for “academic research.” In the latter case, physicians could dissect after relatives presented a formal request and local authorities authorized it.

Thus, physicians’ implementation of dissection became an *object* of state supervision, not a direct adjunct to governance. This is an important distinction in part because state oversight of dissection, at least in Republican Beijing, took place through the same mechanisms that supervised death in the city more broadly, an institutional framework in which procurators and coroners played a crucial role. Police and procurators were already invested in examining the bodies of those who died in prisons and other municipal institutions as well as those who died “unnatural deaths.” And in asserting their claims over the dead, medical schools like National Beijing Medical

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<sup>493</sup> Zhang and Xian 1990, 1.

Special College had to negotiate institutional practices that continued to invest the *Washing Away of Wrongs* and coroners' examination practices with legitimacy if not authority.

*Medical dissection and municipal oversight: the case of National Beijing Medical Special College*

In Republican Beijing, dead bodies came under the supervision of urban institutions including the police, investigators of the Bureau of Hygiene and, in cases of deaths deemed “suspicious,” coroners and procurators. When an urban dweller died, a complex legal and procedural framework determined how much supervision the urban state would expend, how the body had to be inspected, and how soon final disposition of the remains could take place. In implementing dissection, schools like National Beijing Medical Special College and Peking Union Medical College entered into relationships with these organs. In their attempts to claim the bodies delineated in the regulations on dissection, these schools sent official letters to police and other state institutions, proposed formal arrangements for collecting and distributing bodies, and even offered the urban state access to medical expertise in exchange for bodies. Yet, the case of National Beijing Medical Special College suggests that forensic dissection was not pursued aggressively, if at all. In pursuing, rather, those bodies that were most useful for medical training and research, schools like the Medical College entered into regimes of municipal oversight that established dissection as an area of official supervision and, thus, potential illegality.

The efforts of the Medical College focused initially on obtaining bodies of prisoners during the 1910s and early 1920s.<sup>494</sup> During the late 1920s and 1930s, the Medical College seems to have shifted its focus to collecting bodies from other urban institutions, including those who had died “unnatural deaths,” the category of deaths that were investigated through forensic inquests. For example, in November 1928, the College contacted the city’s Public Security Bureau with the request that it assist in procuring unclaimed cadavers for purposes of students’ practical training (*shixi* 實習).<sup>495</sup> In November 1931 the Medical College proposed to the Beiping Bureau of Social Affairs an arrangement that would exchange the College’s expertise in health and hygiene for the bodies of those who died in municipal institutions.<sup>496</sup> Under this arrangement, the medical school would be able to obtain the unclaimed bodies of those who died unnatural deaths or of illness at the Bureau’s various municipal institutions. By the mid-1930s, Beiping University Medical College and Peking Union Medical College had entered into

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<sup>494</sup> For more on the early history of this institution and its implementation of dissection, see Luesink (forthcoming). In the period from January to August 1914, the Medical College had only received seven corpses, all of which were the bodies of prisoners (BMA J29-1-23, 22). We can get a sense of the situation of cadaver procurement at the school in the early 1920s from a collection of research articles issued on the tenth anniversary of the founding of the school. An article that the pathologist Lin Zhen’gang published in this volume included cause of death data for the (meager) number of bodies that had been autopsied in the pathology institute. In the piece Lin noted that in the period from March 1916 to June 1922 members of the pathology institute had autopsied 34 cadavers. These had come from two sources: 26 had come from the Capital No. 1 Prison and 8 had come from those who had voluntarily donated their bodies for dissection (志願解剖). See Lin 1922.

<sup>495</sup> BMA J181-20-1185. “Orders regarding National Beiping Medical University needing the corpses of those dead from illness for anatomy courses” (国立北平医科大学因开设解剖课需用病死尸体的通知), 1928, 8-12.

<sup>496</sup> BMA J29-3-589. “Correspondence between Beiping University Medical College and Beiping Municipal Bureau of Social Affairs, Public Security Bureau, and Bureau of Hygiene regarding measures for cooperation in dissecting corpses and hygiene and treatment, revised regulations on dissection and questions pertaining to procedures for implementing dissection” (北大医学院关于解剖尸体及卫生诊疗合作办法, 修正解剖尸体规则 及有关办理解剖手续等问题 与北平市社会局, 公安局, 卫生局来往函), 1931-6, pp. 2-8.



a cooperative agreement to alternate in claiming bodies made available by municipal institutions.<sup>497</sup> The scheme was a way for the two schools to evenly distribute the bodies claimed from urban authorities, including bodies of those who were executed, died unnatural deaths, or prisoners who died of illness.<sup>498</sup>

Lists of bodies that were claimed and dissected during the 1930s suggests several sources.<sup>499</sup> A list of 22 bodies (all male) claimed for dissection between August 13th and September 26th, 1933, indicates two institutional sources: Fourteen bodies were collected from those who died at the Vagrants' Rehabilitation Center (流民養病所) in the Outer Fifth District while eight were collected directly from the Outer Fifth District police authorities.<sup>500</sup> The cause of death of all of those obtained from the Center was listed as "illness" (*yinbing* 因病). Those provided by police authorities, however, included one who committed suicide, five who had undergone capital punishment, and two anonymous deceased who had "fallen down dead" (*daobi* 倒斃) in public spaces. Lists showing the bodies claimed from 1934 and 1935 indicate that the College's anatomy institute

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<sup>497</sup> See official letter sent by the schools (drafted primarily by Beiping University Medical College) to the municipal government in late 1934/1935. BMA J29-3-589, 89-94.

<sup>498</sup> This system was reflected, for example, in the list of the cadavers claimed by National Beiping University Medical College in the first half of 1936. As the member in the partnership responsible for initially receiving the bodies from authorities, the College reported all of the cadavers that it received, even if the half of the unclaimed bodies that were destined for PUMC were not dissected by the College. These dissections would, as the College, noted, have to be reported by PUMC itself. See BMA J29-3-595, 83-7.

<sup>499</sup> During the 1930s, dissections were regulated by a legal framework delineated in the "Revised regulations on the dissection of corpses" (修正解剖屍體規則), issued in June 1933. According to the regulations, medical schools had to report to local authorities prior to dissecting a body. Moreover, they were responsible for providing a list of all dissections carried out in January and July of every year. For the "Revised regulations," see Zhang and Xian 1990, 162-4.

<sup>500</sup> BMA J29-3-595. "Lists and correspondence between Peking University Medical College and Beiping Municipal Government Bureau of Hygiene regarding corpses claimed for dissection" (北大医学院与北平市政府卫生局关于函领解剖尸体清册来往函), 1934-7, pp. 6-8.

continued to rely on these two sources of bodies, while the pathology institute had access to bodies of deceased hospital patients.<sup>501</sup> Lists from 1936 indicate that corpses dissected in the anatomy institute were collected from the Drug Rehabilitation Center (戒毒所) located in the Outer Third District of the city, in addition to the Vagrants' Rehabilitation Center. The pathology institute obtained the corpses of hospital patients as well as those from the city's Hospital of Contagious Diseases (傳染病醫院).<sup>502</sup>

Physicians' anatomical claims over the dead were only possible through their negotiation of the complex institutional framework concerned with identifying, registering, investigating, and burying dead bodies in Beijing. The case of an autopsy conducted at the Peking Union Medical College Hospital gives a sense of what this could involve. On September 6th, 1919, Inner Left District police authorities received an official communication from the Hospital that a patient named Ding Yulin had died after unsuccessful treatment for liver disease.<sup>503</sup> The report indicated that a relative was willing for an autopsy to be performed. District police authorities questioned Shen Peirong, the in-law of Ding who requested the procedure, about the circumstances surrounding Ding's illness, treatment, and death. Police confirmed that Shen was assuming responsibility for

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<sup>501</sup> BMA J29-3-595, 33-4, 43-4, 47-48. A list from the second half of 1935 also indicates that bodies were being dissected by physiology (*shengli* 生理) faculty.

<sup>502</sup> BMA J29-3-595, 73-4, 94-9. The College continued to pursue these kinds of arrangements under Japanese occupation. For example, in May 1938, the Beijing Special Municipal Government (北京特別市公署) ordered the Bureau of Police to comply with the College's recent request to continue cadaver procurement arrangements as before. See BMA J181-22-3945. "Orders of Beijing Special Municipal Government regarding Beijing University Medical College's request regarding unclaimed corpses to serve as material in students' anatomical instruction" (北京特別市公署关于准北京大学医学院函请无人认领的失倒尸体一具以充学生解剖教材的训令.) 1938, 3.

<sup>503</sup> BMA J181-18-10303, "Report of Inner Left First District of the Metropolitan Police Board Regarding Union Hospital Autopsying the Corpse of Ding Yulin" (京师警察厅内左一区警察署关于协和医院剖验丁玉林尸体的呈报), 1919, 3-7.

authorizing the dissection and had him complete a written statement, implicitly to guard against later disputes. The dissection was performed under the supervision of a district patrolman who noted in his report that after the procedure the body was sewn up and buried.

The dissection of the body of Ding Yulin was performed for clinical purposes. For unclaimed bodies that were dissected for purposes of medical training or research, medical colleges had to engage the institutional framework, managed by police and procurators, for identifying deaths caused by criminal or suspicious circumstances. In at least one case, the Medical College's involvement in procuring bodies subverted municipal oversight, leading to a body being claimed for dissection without the proper investigatory process being carried out first. The case, which arose in summer 1936, began with two detainees at the Rehabilitation Center for Hard Drugs (烈性毒品戒除所), Liang Zhenwen and Li Maolin, who fell ill and required medical treatment. On January 17th, Liang was sent to the Municipal Hospital, located in the Outer Fifth District. On May 26th, Li was sent to the Bureau of Hygiene's Hospital for Contagious Diseases in the Inner Third District. Both died within days of each other in late May at the respective hospitals. Both hospitals notified the Rehabilitation Center. The Center reported Li's death to the local court, which performed a forensic inspection of the body. After this procedure was concluded, National Beijing Medical Special College (now named National Beiping University Medical College) legally claimed the body for dissection.

Inexplicably, however, the Center did not report Liang's death to the authorities, simply allowing the Medical College to claim the body. It was only when the Medical College itself contacted the Inner Third District police to seek permission to dissect

Liang's body that police authorities inquired into the case and discovered that Liang's death had not been properly reported and investigated with an inquest.<sup>504</sup> In the wake of the case, the PSB contacted both the Hospital of Contagious Diseases and the Beiping Municipal Hospital, notifying them that the correct procedures had not been followed and requesting that they properly contact police authorities in subsequent cases involving medical claims over bodies.

In replying to the PSB's letter, the Municipal Hospital noted that in the case of Liang's death, it had followed its usual policy when a patient died:

Our hospital's usual practice is as follows: When a patient sent from an institution dies at the hospital, we cable that institution to have them request that the court perform the forensic inspection. If it was just an urban resident who came to the hospital, then we cable the court to request the examination ourselves.<sup>505</sup>

In following this procedure, the hospital had contacted the Rehabilitation Center when Liang died given that he had been sent from this institution. In its own reply to the PSB, the Hospital of Contagious Diseases included a copy of its own internal regulations governing the handling of a patient's death.<sup>506</sup> When a patient died, the Hospital's procedure was to contact both the Board of Hygiene and district police to have them issue a burial permit. Yet, in this case, the Hospital too seems to have contacted the Rehabilitation Center in order to have *it* request the inquest.

After the affair, the PSB ordered that all of those involved ensure that proper procedures would be followed in the future. The PSB requested that the Beiping Hospital

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<sup>504</sup> The Medical College seems to have done this because it wanted to dissect the body, which was contagious, before the end of the legally-mandated waiting period.

<sup>505</sup> J181-20-26698, 17-20.

<sup>506</sup> J181-20-26698, 25.

for Contagious Diseases and Beiping Municipal Hospital contact district authorities in the future to ensure the proper oversight when medical schools went to claim bodies.<sup>507</sup> The head of the PSB Chen Jiyan also ordered Outer Fifth District police authorities to ensure that inquests were properly carried out in cases involving medical school claims over the dead.<sup>508</sup> After recounting the matter of Liang and Li's bodies, the order stated:

When the medical college obtains corpses for dissection, it should customarily only request to claim them after the court's forensic inspection. That it has long been handled like this is on record. In this instance, the Outer Fifth District did not inquire into whether or not Liang Zhengwen's body had been inspected, simply authorizing the medical college to receive it. The procedure was truly lacking in completeness. From now on, if there is an instance of a medical college claiming a body for dissection, you must be sure to proceed according to regulations so as to follow the set procedure. Not being perfunctory is of utmost importance!

In Beijing at least, the requirement that dissected cadavers undergo an inquest procedure reflected the heavy institutional presence of the Metropolitan Police Board (and, later, PSB) in urban affairs and the crucial role of procurators in assisting them. Earlier chapters have explored the complex institutional framework that managed the disposition of the dead in the city, a set of practices meant to ensure that "suspicious" deaths would be identified and investigated and that unclaimed bodies would be collected from city streets and buried. When medical school faculty attempted to claim cadavers for dissection, they were negotiating the fate of bodies that already fell within the

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<sup>507</sup> BMA J181-20-26698, 9-11.

<sup>508</sup> BMA J181-20-26698, "Orders of Beiping PSB regarding the necessity of conducting inquests according to regulations when the medical college claims corpses for dissection" (北平公安局 关于医院领尸 解剖 须照章 检验的训令), 1936, 2-4.

professional jurisdiction of police and judicial officials who had their own very real interests and concerns.

And when judicial authorities were involved, these claims often involved a coroner's examination of the body. In this sense, the implementation of dissection did not inevitably, or even substantively, challenge the legitimacy of late imperial forensic practices, including the *Washing Away of Wrongs*. Legal authorities did not hesitate to rely on their own forensic practices prior to seeking medico-legal expertise, a pattern that will become even more apparent in the forensic work of the Institute of Legal Medicine in Beijing. This "alternative" form of corporeal knowledge remained deeply attached to state power, even supporting an institutional framework responsible for supervising the implementation of dissection and, by extension, the activities of the medical profession in Republican China. One implication is that the legal basis of procurators' and coroners' forensic authority was just as strong if not stronger than the claims of epistemological privilege articulated by Oppenheim and other proponents of medicalized forensics. Another is that for those who had a stake in forensics during this period, seemingly including Chen Kuitang, scientific epistemology figured ambivalently in considerations of forensic authority and expertise.

## Chapter Seven

### **Forensic Modernity and its Sticking Points:**

#### **Silver Needles, Chemical Tests, and**

#### **the Beiping University Institute of Legal Medicine**

In May 1934, the Research Institute of Legal Medicine in Shanghai received a case that had originated in Jingchuan County in Gansu.<sup>509</sup> A villager from Xijin accused the village head and another local official of having beaten his younger brother to death. An inquest found that the skin and fingernails of the deceased had a blue-black color, a sign of poisoning as well as other fatal conditions in the *Washing Away of Wrongs*.<sup>510</sup> The accused argued, in part on the basis of this physical sign, that the deceased had taken poison, a refutation of the original accusation of murder. Nevertheless, after quarreling with this relative, who did not want local authorities to perform the silver-needle test that could confirm that the brother had indeed died from taking poison and not from having been beaten to death, the investigating officials returned without confirming poisoning. Another official was sent to perform the test, but the relative again stopped him, asserting that “the corpse has already been inspected. You cannot come back to examine it again. In homicide cases the most important thing is the ‘checklist of the corpse’ (*shige* 屍格). If the checklist is not clear, then there is no way to settle a case.”

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<sup>509</sup> *Monthly Bulletin of Legal Medicine* 11 (November 30, 1934), 130-132.

<sup>510</sup> i.e. Chongkan buzhu xiyuan lu jizheng 1879, 3.37a – 3.40a.

The “checklist” to which the disputant was referring was the standardized form (*yanduan shu* 驗斷書) that guided the inspection of a dead body under Republican law. By upholding the documentation from the original inquest, which had not found that the death was due to poisoning, the villager was denying the legitimacy of subsequent examinations that could confirm that his brother had been poisoned and not beaten to death. Ultimately, however, the local magistrate came to the village and oversaw the test for poisoning. The established method in this kind of case was to insert a silver needle or probe into the dead body and interpret the colors that appeared on it after removal. A needle was inserted into the now 10-day old corpse and upon removal the black marks that even the relative could not remove after repeated scrubbing indicated poisoning. Nevertheless, after this examination was carried out, the relative again “provoked doubts among the majority of people,” prompting county authorities to send the needle to the Gansu High Court for chemical testing in order to conclusively determine if it was poisoning. After unsuccessfully soliciting an appraisal from the Gansu Zhongshan Hospital, the court sent it to the Research Institute of Legal Medicine in Shanghai.

An important activity of this institution was to handle cases sent from local courts around the country, a way of providing scientific testing services to local officials while also extending the professional authority of a new discipline that was struggling to establish a position for itself within the Republican judiciary. In this case, chemical testing yielded that the marks on the needle were silver sulfide stains – that is, that the needle had tarnished. For early members of the medico-legal profession like Lin Ji, this finding provided further evidence that the silver needle test and, by implication, coroners’ and local officials’ capacity to test for poisons, was unreliable and unscientific and that



this area of forensic practice should be delegated to medico-legal specialists. Yet, this case also reveals the contradictions at the heart of the medico-legal discipline-building project: the forensic norms of local courts, not to mention members of local communities like the Xijin villager, could be quite different from those of medico-legal science. And in a court system that took these opinions seriously when administering justice, the medico-legal discipline had to engage with them if it was to take part in cases.

This chapter examines what happened when Lin Ji attempted to negotiate a place for medico-legal expertise in Beiping and north China during the Nanjing decade. With Chiang Kai-shek's tentative unification of China in 1928 and the renewed impetus for state-building which followed, plans for building legal medicine took on a national scope that they had not had in the decades following the fall of the Qing. These efforts were centered on two physical locations: the Institute of Legal Medicine at National Beiping University Medical School (which became separate from the pathology faculty in 1931) and the Research Institute of Legal Medicine that opened in Shanghai in 1932.<sup>511</sup> An important aspect of this project was the extension of medico-legal authority into local judicial process, an outcome that would be the result of the successful “distribution” (*fenpei* 分配) of personnel to local courts, local courts' willingness to send their evidence

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<sup>511</sup> There were other institutions for medico-legal training and appraisals, even though those based in Shanghai (and to a lesser extent Beiping) were at the center of medico-legal professionalization during this period. For example, a School for Training in Legal Medicine (Fayi jiangxisuo 法醫講習所) was established through the cooperation of Jiangsu's High Court and the Tongde Medical Special College (同德醫學專門學校) in Shanghai. Those enrolled were to have an educational background in scientific medicine. The program was to use Tongde's facilities, with support from the Jiangsu High Court for purchase of chemical reagents, pigments, and animals for testing. Medico-legal training at Tongde appears to have ended after one class completed the course of study. See BMA J29-3-587. “Hebei High Court receives official letters pertaining to Beijing University Medical College, Regulations of Jiangsu High Court's School for Training in Legal Medicine, and recruitment of researchers at the Research Institute of Legal Medicine of the Board of Judicial Administration” (河北高等法院准北大医学院江苏高等法院法医讲习所章程和司法行政部法医研究所招收研究员的函), 1930-1933, p. 7-8; Yang 1936, 12.

to regional laboratories for testing, and, more broadly, changes in legal officials' ideas about forensic evidence that would make them accept the indispensability of laboratory science to the administration of justice.

Yet, cases like the one from Jingchuan County illustrate the challenges that the medico-legal profession faced in extending this new forensic order. It is clear from the case that local officials in the area continued to use the "old" forensic methods of the late imperial state, including the official examination form and silver needle test, a procedure described in the *Washing Away of Wrongs*. It is also clear that members of the local community like the villager were both familiar with these techniques and capable of using inquest findings and practices to further their own agendas in legal cases. This reflected the extent to which these forensic norms had already been established locally, the product of both the Republican judiciary's legitimation of these practices and, more broadly, the extent to which the Qing state had successfully integrated them into local administration across the empire.

Taking this case as a starting point, this chapter explores the ways in which the professional ambitions of the medico-legal discipline-building project encountered an earlier regime of forensics, one that had already been "distributed," to use the parlance of medico-legal reform. On the one hand, the fact that medico-legal facilities could handle cases from local courts in other provinces and around the country did extend the reach of their professional authority. On the other, the long-distance examination of physical evidence at a facility in Beijing or Shanghai was an attenuated modality for the extension of professional authority. Without any way of establishing direct professional control over the forensic examinations conducted in local cases, medico-legal experts like Lin Ji

relied on the written appraisal reports (*jianding shu* 鑑定書) describing laboratory testing and its findings (which were sent back to local authorities) to convince local officials of their authority and to bring their forensic norms in line with those of legal medicine.

Examining the circulations of these pieces of evidence from the local courts in which they originated to the Institute of Legal Medicine and back again as scientific evidence reveals not only the successes of medico-legal reform in reaching judicial authorities, but the ways in which medico-legal authority was predicated on a new kind of access to “things.” Yet, the material, indeed spatial, possibilities and constraints of a process conducted largely through the long-distance circulation of evidence greatly shaped what medico-legal science looked like in north China. Under these conditions, the laboratory testing of suspected blood stains and poisons emerged as a more important site of medico-legal professional activity than the examination of dead bodies, which largely remained within the purview of local officials and the judiciary and continued to rely on late imperial technologies of forensic examination. As cases involving the silver needle test demonstrate, the laboratory’s coordination with local officials was based on a fraught alliance that had to reconcile different conceptions of evidence and different ways of legitimating forensic knowledge. Ultimately, Lin Ji used silver needle cases as the focal point for a campaign meant to change the supposedly unscientific practices of local officials, a professionalizing move intended to sharpen the distinction between coroners and judicial officials as “collectors” of physical evidence and the medico-legal laboratory as the only site at which it could be examined. This limited boundary-work was a reflection of the medico-legal discipline’s precarious position within a judiciary that relied on very different norms of forensic knowledge and expertise.

*Planning medico-legal modernity*

While legal medicine had been part of the discourse of judicial reform in China since the New Policies reform period, it did not emerge as an institutionalized profession of the kind that existed in Japan and continental Europe until almost two decades later. When Lin Ji and others attempted to develop legal medicine during this period, they privileged the building of medico-legal institutes as the main site of forensic expertise and its professional development.<sup>512</sup> This focus reflected the way that legal medicine had developed as a medical specialization in late nineteenth and early twentieth century continental Europe and Japan.<sup>513</sup> During this period, legal medicine, just like other medical disciplines, came to be housed in “institutes” containing the facilities for physico-chemical laboratory investigation that had become a crucial foundation of

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<sup>512</sup> The idea of the medico-legal institute had appeared in discussions of forensics in China before the start of the Nanjing decade. For example, instructors at the Institute of Judicial Training (Sifa jiangxisuo 司法講習所), a course of study for judicial officials which included instruction in legal medicine, had touched on the utilities of such an institution. Zhuang Jingke 莊璟珂 and Wang Zuze 汪祖澤 described the utilities of a “legal medicine research institute” (*fayi yanjiusuo* 法醫研究所) in their teaching materials on judicial policing for trainees at the Institute: “The research of experts in legal medicine is most indispensable for seeking out homicide, wounding, abortion, and other crimes involving [taking of] human life. Relying on this research, one can know the cause of death, investigate the form of wounds, and then can appraise the objects used as weapons or in commission of a crime. When one uses chemistry or deadly poisons, there are no external wounds. Moreover, no marks are left on the body. It is fitting then to dissect the corpse, gather the substances used in the crime, and know the methods of the crime. Moreover, if one inspects the internal organs, one can use the degree of digestion of food in the stomach to appraise what time the criminal act occurred. By inspecting the body and [severed] head, one can confirm whether or not the victim was one and the same person. The benefits to criminal investigation are truly not few.” Zhuang and Wang 1915, 1:2, p. 95.

<sup>513</sup> The first Institute of Forensic Medicine in Japan was established in 1888 by Katayama Kuniyoshi 片山國嘉 (1855-1931), a graduate of Tokyo University Medical Department who was sent by the Meiji government to study legal medicine in Germany and Austria. Over the following decades, Institutes of Legal Medicine (*Hōigaku kyōshitsu* 法醫學教室) were established in a number of Japanese universities, including Kyoto (1899), Kyushu (1903), Nagoya (1908), and by the time of the Pacific War at least 20 had been established. These institutions along with several scholarly associations for state medicine and legal medicine which with few exceptions were run by Katayama and Sanda Sadanori 三田定則 (1876-1950) served as the basis for a prodigious body of research and robust programs of study in serology and other fields (Jia 2000, 296-303).

medical science during the second half of the nineteenth century.<sup>514</sup> It was in these facilities, variable in scale, capital investment and government support that a range of medico-legal activities were carried out: certification and training for experts, medical students, police and judicial authorities; medico-legal investigation for local and regional authorities, including the “morgue” functions of autopsy and identification of corpses; and research on a wide range of medico-legal problems.<sup>515</sup>

Lin Ji is a figure who has been called the “founder of Chinese modern forensic medicine” by his biographer Huang Ruiting, and praised by medico-legal experts in the PRC who trace their own professional lineage back to the Republican period.<sup>516</sup> Lin Ji was born in late December 1897 in Minhou county, Fujian.<sup>517</sup> His father, Lin Zhijun 林志鈞 had received a *jinsshi* degree and studied abroad in Japan, serving upon his return in various judicial posts. In 1907 during the New Policies reform period Lin Ji moved to Beijing with his father, living there with his younger sister Lin Dongzhi 林東枝 (1904-?) and two younger brothers Lin Geng 林庚 (1910- ) and Lin Jin 林津 (1912-1970). In 1915 Lin Ji went to Japan for two years where he studied law and politics.<sup>518</sup> Upon his return to China in 1918, Lin began his studies at National Beijing Medical Special College. He

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<sup>514</sup> i.e. Kremer 1992, 73.

<sup>515</sup> i.e. Rockefeller Foundation, Division of Medical Education 1928. The institute-centered model of forensic expertise was not universally adopted, however. Ambage and Clark (1994) have shown, for example, that the medico-legal institute was less suited to early twentieth century British administration of justice and policing than were police science laboratories which cost less and appeared to be less rooted in a narrowly medical forensics.

<sup>516</sup> Huang 1995, 182. For contemporary medico-legal experts’ discussion of Lin Ji and his legacy see the collection of essays published in *Journal of Legal Medicine* (Fayixue zazhi 法醫學雜誌) on the 100th anniversary of Lin Ji’s birth (14, no. 1 [1998]).

<sup>517</sup> Huang 1995; Jia 2000, 281.

<sup>518</sup> Huang 1995, 13.

graduated in 1922 and remained at the school as an assistant in pathology. In 1924 the school sent him to Würzburg University to pursue studies at the Institute of Legal and Social Medicine, developing an interest in forensic applications of entomology among other medico-legal subjects.<sup>519</sup> Lin received the degree of doctor of medicine, writing his doctoral thesis on morphine and opium poisoning.

Lin Ji formulated a proposal to establish a national medico-legal infrastructure in China soon after returning from Germany in 1928. Employed by the Nationalist government in formulating laws on hygiene, Lin Ji was soon tapped by Yan Fuqing (F.C. Yen) 顏福慶 (1882-1970), then dean of Medical School of the National Central University to formulate a plan for developing China's medico-legal capabilities.<sup>520</sup> The request for this plan seems to have originated with a proposal by the Jiangsu provincial government at the Central Political Conference (Zhongyang zhengzhi huiyi 中央政治會議) in summer 1928 to “rapidly develop medico-legal talent” which was given subsequently to the University Council (Daxueyuan 大學院). This organ soon passed it on to the GMD-sponsored Central University (originally National Southeastern University) and then its medical school, where Yan had Lin Ji handle the task.<sup>521</sup>

Lin Ji formulated a proposal that was published in *National Medical Journal of China* in late 1928 under the title “An opinion regarding a proposal to establish a legal medicine institute at Central University” (擬議創立中央大學醫學院法醫學科教室意見書). In the proposal, Lin described legal medicine as a specialized profession with

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<sup>519</sup> Lin 1932.

<sup>520</sup> Lin 1928.

<sup>521</sup> Lin 1928, 216.

jurisdiction over the various areas in which scientific medicine serves the modern state.

Legal medicine in China would have a broad social, political, and legal mandate:

Law is the basis of founding a state. Legal medicine is the safeguard for the trustworthiness of the law... In fact, the scope of this subject's research and use covers a wide range. It is one of the medical sciences used by the state. Legislation, administration of justice, and administration all have need for medico-legal experts. It takes as of utmost importance investigating the [disease] symptoms of society and the populace and researching their pathogeny in order to plot policies for relief, and to provide reference for legislation and administration<sup>522</sup>

Lin Ji described the scope of legal medicine as including social medicine, social pathology, insurance medicine, disaster medicine, forensic medicine, forensic chemistry and forensic psychology. In an earlier piece from 1926 Lin Ji had referred to the discipline as a “pathology for society” (*shehui zhi binglixue* 社會之病理學), a formulation of the scope of legal medicine which resonated with Japanese conceptions of the broadly statist utilities of this field of expert knowledge.<sup>523</sup> This vision of medico-legal modernity reflected the terminological distinction between “legal medicine” (*hōigaku* 法醫學) and the narrower “forensic medicine” (*saiban igaku* 裁判醫學), which had been promoted by the eminent Japanese medico-legal reformer Katayama Kuniyoshi 片山國嘉 during the late 1880s.<sup>524</sup> Lin Ji described the narrower (forensic) application of

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<sup>522</sup> Lin 1928, 205.

<sup>523</sup> Lin 1926, 220. Lin Ji did not claim hygiene (*weisheng* 衛生) within the broad mandate of legal medicine even though the activities of China's first medico-legal laboratory (as in the case of some institutes of legal medicine in Europe) included some services that could be considered as such. Despite the early institutional and disciplinary ties between forensic medicine and hygiene that had existed in Europe as well as Japan, by the early twentieth century the two were distinct fields of knowledge and activity, a separation that was reflected in the earliest works on legal medicine in China. See, for example, White 1994, 158-159.

<sup>524</sup> Tōkyō teikoku daigaku igakubu hōigaku kyōshitsu 1943, 36; Jia 2000, 296. Katayama had served as an assistant at the physiology institute of the Tokyo University Medical Faculty where he encountered Ernst Tiegel (1849-1889), who held courses in state medicine (國政醫學), including forensic medicine and

legal medicine as “providing appraisals for all manner of criminal and civil cases in the administration of justice, and in the inspection of fake illness or concealed illness.”<sup>525</sup>

The core of Lin Ji’s proposal was establishment of an institute of legal medicine (*fayixue ke jiaoshi* 法醫學科教室) within the medical school of Central University.<sup>526</sup>

This institution would contain within it a legal medicine research department, a training course for legal medical inspection assistants, and a legal medicine inspection room, organs that would serve the needs of medico-legal investigation, research, and practice (*shixi* 實習) at this institution.<sup>527</sup> The institution would occupy several rooms within the medical school: a lecture room, chemical testing room, inspection room, director’s room which would also serve as the library, and general affairs room which would serve as judge’s room and staff meeting room. Especially important were laboratory facilities for chemical testing and physical examination, including microscopes, an ultraviolet lamp (a technology for which Lin Ji seems to have gained an interest while studying in Germany), and reagents and other apparatuses used for a range of chemical analyses.<sup>528</sup> As Lin Ji

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hygiene (Jia 2000, 295; Rogaski 2004, 150). Even before Katayama’s advocacy of “legal medicine” as the name of the field, he had taught “forensic medicine” as part of “state medicine.” In January 1889 Katayama began instruction for medical students in forensic medicine, opening the course by defining the status of “forensic medicine” (*saiban igaku* 裁判醫學) as one of the three areas to which medicine was applied, alongside treatment and its various subfields (i.e. internal medicine, surgery, ophthalmology), and hygiene (*eisei* 衛生). Grouped together, curative medicine and individual hygiene composed “individual medicine” (*kakujin igaku* 各人醫學) while public hygiene and forensic medicine – including laws relating to hygiene and medicine – were the contents of state medicine (*kokka igaku* 國家醫學). This was related by Furuhashi Tanemoto 古畑種基, who served as the first director of the Institute of Legal Medicine in Kanazawa (1924-1936) before going on to direct Katayama’s original Institute of Legal Medicine in Tokyo (1936-1952).

<sup>525</sup> Lin 1928, 205.

<sup>526</sup> Lin 1928, 207.

<sup>527</sup> Lin 1928, 209-213.

<sup>528</sup> Lin 1932, 304. See Baird 2004, 89-98 for more on the status of instruments in early twentieth century analytical chemistry. The facility would also contain a modest collection of books from China, England,



noted, association with a medical school “with good equipment” would cut costs and provide for the needs of a field of learning which drew from a broad base of scientific expertise.

More ambitiously, though, Lin Ji envisioned this institution as the foundation for a nation-wide transformation of forensic practice. China’s first generations of specialized medico-legal officers would be trained there, including medical inspectors (*jianyan yiguan* 檢驗醫官) and medico-legal inspection assistants (*fayi jianyan zhuliyuan* 法醫檢驗助理員). These personnel, who would be distributed to local governing jurisdictions, would conduct initial examinations in local forensic cases and send evidence to the institute when more specialized examinations were necessary.<sup>529</sup> Once additional medico-legal facilities had been established at Shanghai, Beiping, Hankou, Guangzhou, Chongqing, and Fengtian, access to specialist medico-legal services would be available to local authorities throughout China.<sup>530</sup> Lin Ji’s assumption that the national “distribution” (*fenpei* 分配) of medico-legal expertise would develop out of sites such as Shanghai and Beiping reflected the urban and, especially, coastal basis of legal medicine. It was a discipline that relied on professional ties to academic medicine, institutions of higher education which could provide the necessary expert and material resources, and the capital investments needed for laboratory facilities.

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Germany, and Japan (300 *yuan* were allocated) supplemented with periodicals and other works purchased through monthly allocations. It would have an initial expenditure of 300 *yuan* for slides as well as a set of specimens including the skull of a newborn infant, a skull from a two *sui* child, a skull of a monkey, an entire adult human skeleton, and a male pelvis and female pelvis.

<sup>529</sup> Lin 1928, 212.

<sup>530</sup> For more on the problems of distributing medical and public health capabilities during this period, see Yang 2006, 175, 259.

This plan would involve fundamentally transforming forensic norms in China. Local authorities would be expected to make use of the regional laboratories when need arose. The plan would bring the business of forensic examination under the new professional jurisdiction of experts trained in scientific medicine and, implicitly, affiliated with the new institutional infrastructure of the medico-legal discipline. As would become apparent during the early 1930s, Lin Ji's vision of professional institution-building involved the subordination of judicial authorities' forensic prerogatives to those of medico-legal experts. The expert practitioners of legal medicine would naturally replace coroners, whom Lin Ji did not include in his vision of legal medicine other than to comment on the iniquities of China's long-standing use of such "*wuzuo* without any general knowledge nor learning and skill."<sup>531</sup>

*Building legal medicine: Beiping and Shanghai*

Soon after making this proposal, Lin Ji returned to National Beiping University Medical School and became directing professor of the Institute of Legal Medicine, now independent from the pathology faculty.<sup>532</sup> This institution (under the earlier name of National Beijing Medical Special College) had been involved in medico-legal education and investigation throughout the early Republican period. Tang Erhe, the founder of National Beijing Medical Special College, had contemplated establishment of a medico-

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<sup>531</sup> Lin 1928, 205.

<sup>532</sup> Lin Ji was not listed as part of the faculty in a list from March 1930. He participated in meetings of the School Affairs Assembly as early as August 1931. See BMA J29-3-172. "Register of Teaching and Administrative Staff at Beiping University Medical School" (北大医学院教职员名册), 1930-1938.

legal university institute (*fayi jiaoshi* 法醫教室) as early as 1914.<sup>533</sup> He wrote that the institution could be attached initially to the pathology faculty, and described the costs of the requisite medico-legal equipment as part of those of the pathology facilities at the school. Xu Songming 徐誦明 (1890-1991) served as professor of pathology and “forensic medicine” (*caipan yi* 裁判醫) from 1919 to 1922, when this designation was changed to professor of “pathology and legal medicine.”<sup>534</sup> This was the year when Lin Ji as well as Lin Zhen’gang 林振綱 (1900-1976), who also published on legal medicine and served a stint as director of legal medicine at the school, served as assistants in the pathology institute.<sup>535</sup> Legal medicine (and forensic medicine) remained part of medical instruction at the school at the start of the Nanjing decade.<sup>536</sup>

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<sup>533</sup> BMA J29-1-23. “Plans of 1914 regarding administrative affairs of Beijing Medical Special College and plans for expansion” (北京医学专门学校三年度校务计划书及扩张计划书), 1914-1919, p. 73.

<sup>534</sup> BMA J29-1-9. “Register of teaching and administrative staff of Beijing Medical Special College” (北京医学专门学校教职员名册), 1918-1922, p. 11, 79. BMA J29-1-11. “List of names of teaching and administrative staff of Beijing Medical Special College” (北京医学专门学校教职员名单), 1919-1921, p. 150, 175. At meetings of the administrative School Affairs Assembly Xu was tasked with various responsibilities pertaining to forensic medical instruction. For example, in late December 1928, he was given the task of drawing up the budget for forensic medicine (*caipan yi* 裁判醫). See BMA J29-3-1. “Minutes of Beiping University Medical School School Affairs Assembly” (北平大学医学院院务会议记录), 1918-1936, p. 38. According to the National Beiping University Medical School Organizational Outline (國立北平大學醫學院組織大綱), meetings of the School Affairs Assembly were composed of the dean of the school, secretary, directors of all subjects, and faculty representatives. “Minutes of Beiping University Medical School No. 1 – 53 meetings of the School Affairs Assembly” (北平大学医学院第一至五十三次院务会议记录), 1928-1930, p. 116. At a meeting of the same body occurring in November 1930, Xu was tapped to seek suitable instructors in forensic medicine as soon as possible. See BMA J29-3-3, p. 189-190.

<sup>535</sup> Lin 1926.

<sup>536</sup> For example, see “Organizational Outline of National Beiping University School of Medicine” (國立北平大學醫學院組織大綱). Undergraduate subjects of study included legal medicine, listed after hygiene and before the final entry, physiotherapy (*liliao xueke* 理療學科). See BMA J29-3-3. “Minutes of Meetings 1-53 of Beiping University Medical School School Affairs Assembly” (北平大学医学院第一至五十三次院务会议记录), 1928-1930, p. 113-118.

Lin Ji soon formulated a plan along the lines of the one made in 1928 for Central University which would use the Beiping Institute as a springboard from which to develop legal medicine as a professional force in north China. In August 1931 he proposed to the Board of Judicial Administration that the Institute be expanded into a Beiping Department of Research in Legal Medicine, North China or Beiping Legal Medicine Inspection Institute, and a Beiping Legal Medicine Personnel Training School.<sup>537</sup> Noting that the Beiping Institute was the “first legal medicine research and experimentation organ in north China,” he requested funding from the Board for the purposes of training qualified personnel and handling forensic examinations in the “ten plus provinces of the North” (*beifang shiyu sheng* 北方十餘省). Situated centrally in north China and with “relatively convenient academic facilities,” Beiping was an ideal location for these institutions, just as Shanghai or Guangzhou would be for southern China.<sup>538</sup>

Studying at the Department of Research would be a class of researchers with qualifications and curriculum equivalent to those described in the 1928 proposal.<sup>539</sup> After completing their studies, they would be sent by the Board to posts in local courts where after a half year of probationary service they could be designated by the Board as “medico-legal experts” (*fayishi* 法醫師). Thus, again, there was an intrinsic connection between training medico-legal personnel and accomplishing the geographic “distribution”

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<sup>537</sup> BMA J29-3-71. “Official letter from Beiping University Medical School regarding plans to establish a Legal Medicine Research Institute and Legal Medicine Personnel Training School” (北大医学院关于筹设法医研究所及法医人员养成所等的呈文), 1931-1932, p. 4-11. The proposal as well as the Board’s reply were published jointly in *Bulletin of Judicial Administration* (*Sifa xingzheng bao* 司法行政報), issue 3 (Feb. 29th 1932), 21-26.

<sup>538</sup> BMA J29-3-71, 11.

<sup>539</sup> BMA J29-3-71, 7.

of medico-legal authority. Lin Ji wrote that in order to accommodate the research and training of these personnel, the Beiping Institute would need a level of funding that exceeded the available support of Beiping University Medical School, requiring support from central and local judicial authorities. The Board was not amenable to the proposal and cast Lin Ji's plans as largely redundant given that the Institute was already in operation, courts in North China had been ordered to send cases needing medico-legal examination to it, and training programs more economical than the one proposed had already been held by the High Court in Jiangsu in cooperation with Tongde Medical School.<sup>540</sup> It did not mention that local authorities already had access to forensic technologies that facilitated their handling of this crucial area of judicial process.

When Lin Ji drafted the proposal for the north China medico-legal institutions he was aware that the Board of Judicial Administration had already begun planning a dedicated medico-legal organ to be built in Shanghai under its own auspices. In 1929 the Board had charged a graduate of Beijing University named Sun Kuifang with planning this institution. Sun had studied in France for over 10 years, receiving a doctorate in medicine from Paris University as well as a diploma in legal medicine from its medico-legal institute.<sup>541</sup> By July 1930 Sun had purchased land at Zhenru in Shanghai for a "Legal Medicine Inspection Institute" (*Fayi jianyan suo* 法醫檢驗所), spending 170,000

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<sup>540</sup> The Board replied in late February 1932. The documents can be found in BMA J29-3-587, "Letters pertaining to Hebei High Court receiving Beiping University Medical School's [letter], Rules for the Jiangsu High Court Legal Medical Training School, and the Legal Medicine Research Institute of the Board of Judicial Administration recruiting researchers" (河北高等法院准北大医学院江苏高等法院法医讲习所章程和司法部法医研究所招收研究员的函), 1930-1933, p. 44-48.

<sup>541</sup> Chen and Zhong 1993; *Monthly Bulletin of Legal Medicine* 16 (June 30, 1935), 75.

*yuan* on books and instruments from Europe.<sup>542</sup> Construction halted when Japanese soldiers occupied northern districts of Shanghai (including Zhenru) after an attack on the city in 1932 (known as the “Song-Hu War”). It was only in May of that year, after Zhenru was returned to Chinese control, that the land was reclaimed.<sup>543</sup> One month before this occurred, Lin Ji was ordered by the Board to take over planning from Sun. Lin Ji spent an additional 26,000 *yuan* on equipment and facilities before the institution formally opened on August 1st 1932 as the Research Institute of Legal Medicine of the Board of Judicial Administration (司法行政部法醫學研究所).

The scale of the Research Institute’s facilities far surpassed those of Lin Ji’s proposed medico-legal institute at Central University as well as that of Beiping University Medical School (figures 8 and 9, from *Fayi yanjiusuo* 1932). The walled compound included several buildings with administrative offices, a chemical testing room, poisons inspection room, an evidence storage room, a department for histopathological examination, an autopsy room, a photography room, a darkroom, rooms for examination of witnesses, facilities for psychological assessment, morgue facilities including a room for identifying corpses and cold storage room for preserving them, a library, specimen room, and printing room.<sup>544</sup> Printed materials describing the establishment and work of the Research Institute (edited by Lin Ji) contained a floor plan of the facilities, a powerful visual representation of the organized and intensive access to

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<sup>542</sup>Fayi yanjiusuo 1932, 1; Lin 1934b.

<sup>543</sup> Lu 1999, 122; Wakeman 1995, 395.

<sup>544</sup> Lin 1934b, 2.

the physical objects at the heart of medico-legal investigation and research.<sup>545</sup> The complex personnel organization of the Research Institute included a director (Lin Ji, and then Sun Kuifang after 1935), section chiefs, technicians, and administrative staff.

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<sup>545</sup> Similar conventions were used to represent the medico-legal institutes of Europe. See Rockefeller Foundation, Division of Medical Education 1928.

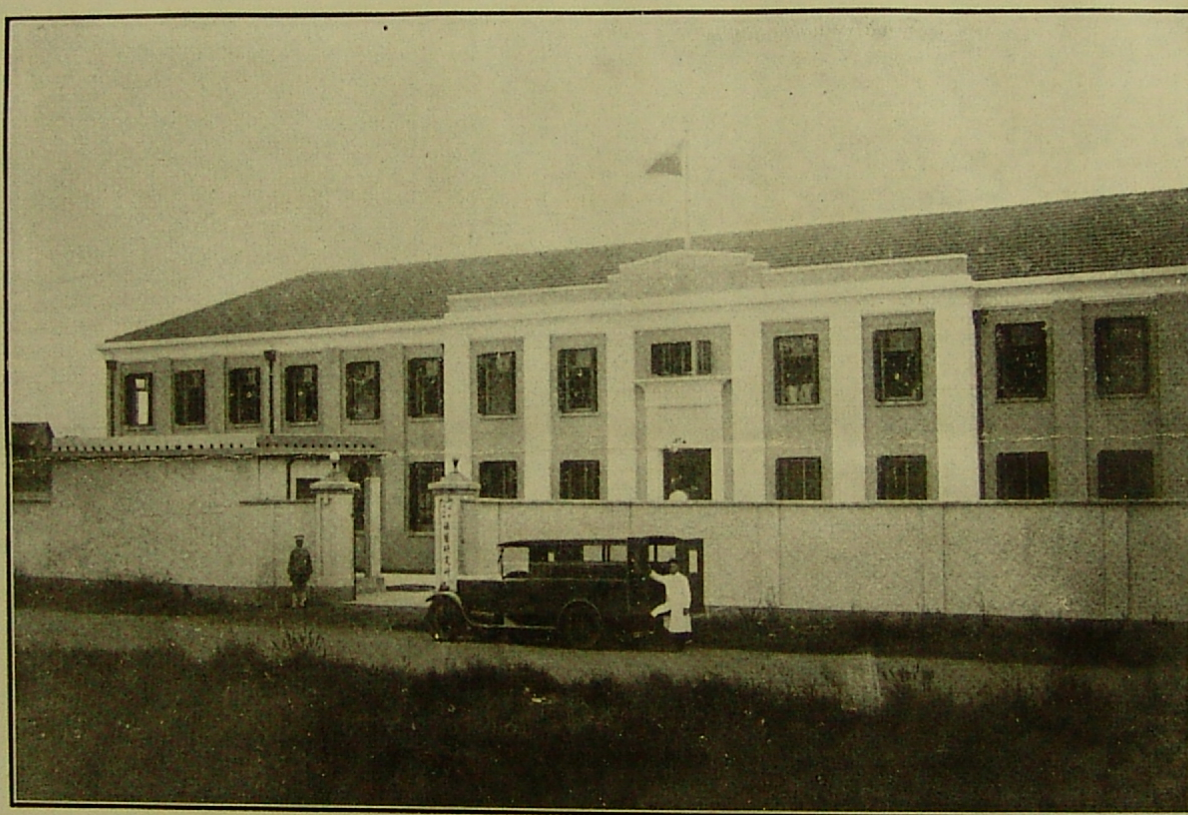


Figure 8: Research Institute of Legal Medicine, Shanghai



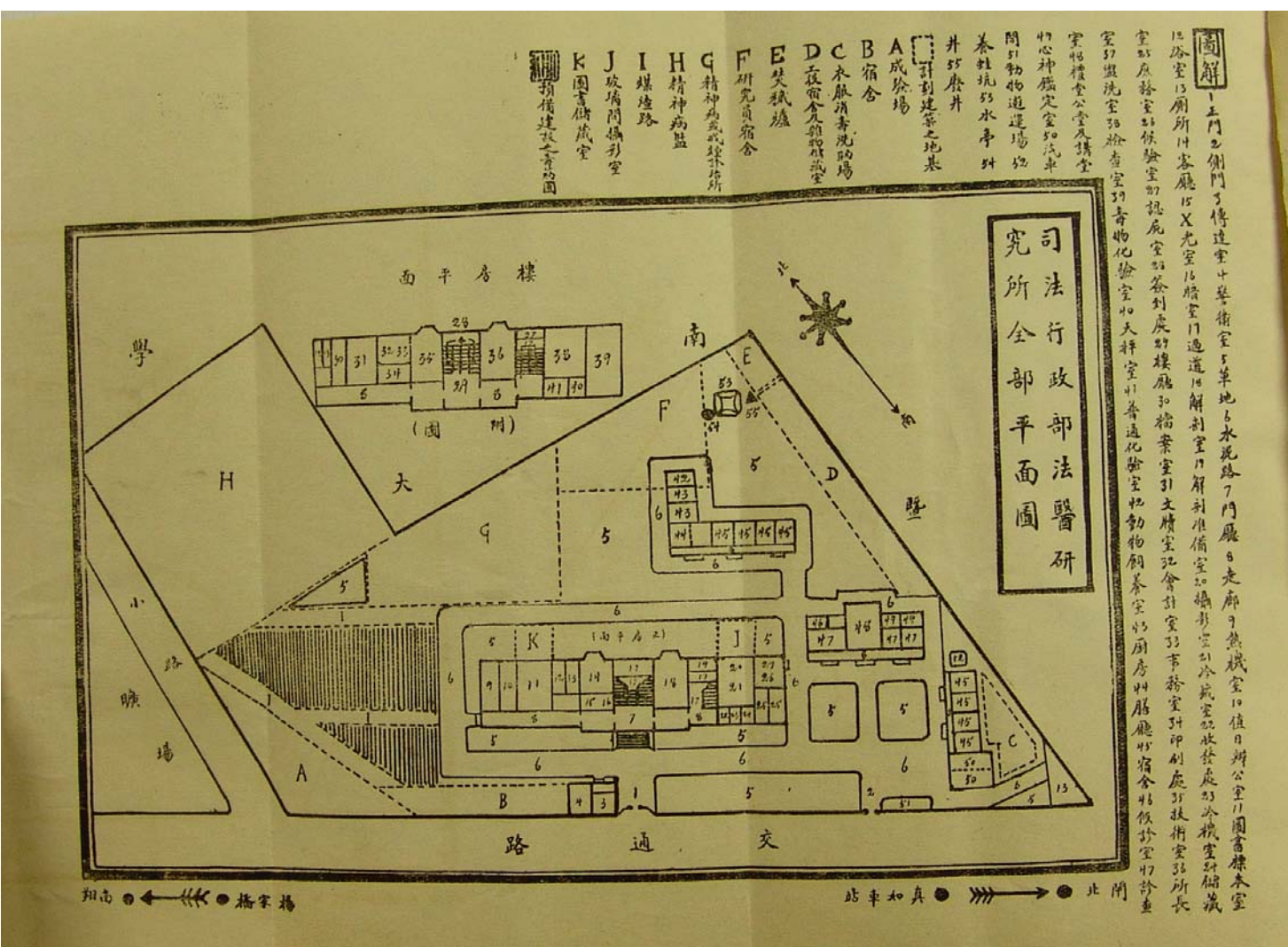


Figure 9: Floor plan of Research Institute of Legal Medicine, Shanghai

Up until its decommission during the Japanese bombing of Shanghai in 1937, the Research Institute was the main site for the development of the medico-legal profession in China.<sup>546</sup> It served as the training ground and certification authority for classes of medico-legal experts (*fayishi* 法醫師) of the kind proposed by Lin Ji in substance in 1928 and name in 1931.<sup>547</sup> The first class of seventeen medico-legal experts – trained in the foundational and specialized fields of knowledge comprising legal medicine – received certificates signed by the head of the Board as well as Lin Ji in December 1934. With the exception of three, all were sent to posts at provincial high courts.<sup>548</sup> While Lin Ji acknowledged that the number of those graduating “is still not enough for distribution to the courts of the entire country,” the Research Institute had created an opening for the medico-legal discipline to extend its professional authority into local courts.<sup>549</sup> At least two more classes of medico-legal experts would be trained at the Research Institute during the Nanjing decade.<sup>550</sup>

Aside from training medico-legal personnel, one of the most important activities conducted at the facility was the examination of evidence in cases sent from courts around the country. In the period between the Research Institute’s opening in August

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<sup>546</sup> The Research Institute seems to have been destroyed during Japanese bombardment of the northern part of the city, resulting as well in the destruction of light industry in the northern districts (i.e. Henriot and Yeh 2004, 21). Chen Kangyi, who remained involved with the Research Institute after graduating in its first class of researchers (*yanjiuyuan* 研究員), claimed that it was completely ravaged, leaving nothing more than “scorched earth” (*jiaotu* 焦土). Chen 1952, 6.

<sup>547</sup> Lin Ji had described the training role that the Research Institute would play soon after it was established (Fayi yanjiu suo 1932, 13).

<sup>548</sup> *Monthly Bulletin of Legal Medicine* 12/13 (February 28, 1935), 9-10.

<sup>549</sup> *Monthly Bulletin of Legal Medicine*, 12/13 (February 28, 1935), “preface.”

<sup>550</sup> After Lin Ji’s departure from the Research Institute, Sun Kuifang sought second and third classes of legal medicine researchers. Chen and Zhong 1993, 50.

1932 to July 1933, for example, the facility handled cases sent from Jiangsu province (70), Shandong (5), Hubei (4), Zhejiang (4), Hebei (3), Guangxi (3), Anhui (3), and Sichuan, Jiangxi, and Hunan (1 case each).<sup>551</sup> These cases constituted a crucial point of contact between local authorities and the medico-legal discipline. Indeed, in conditions for which medico-legal experts had not, in fact, penetrated the most local level of judicial process, the appraisal constituted simultaneously a crucial mechanism through which medico-legal examiners like Lin Ji became involved in local forensic cases as well as a lasting sign of their institutional weakness vis-à-vis judicial authorities who already handled these areas of professional work at the local level.

After Lin Ji returned to the Beiping Institute of Legal Medicine in 1935, handling the forensic cases of local authorities would likewise become an important strategy for that institution.<sup>552</sup> Soon after returning to Beiping, Lin Ji initiated contact with the Board of Judicial Administration and requested that the Beiping Institute of Legal Medicine be authorized to share with the Research Institute the work of examining cases from all across the country.<sup>553</sup> He had followed a similar strategy in 1931, leading to a short-lived call for courts in North China to make use of the Institute's services.<sup>554</sup> In mid-August

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<sup>551</sup> Lin 1934b, 6-7.

<sup>552</sup> Lin Ji's involvement with the Research Institute ended in spring 1935 for reasons publicly given as duodenal ulcer which required him to return to Beiping to convalesce. *Monthly Bulletin of Legal Medicine* 14 (March 31, 1935), 76.

<sup>553</sup> BMA J29-3-602. "Beiping University transmits official letters of Board of Judicial Administration pertaining to the opinion regarding measures for medico-legal inspections and entrusting Beiping University Medical School with examinations" (北大转发司法行政部关于法医检验办法意见和委托北大医学院鉴验的公函), 1935-1936, p. 4-5.

<sup>554</sup> In late October 1931, Beiping University Medical School sent an official letter to the Judicial Council notifying it that "our school's Institute of Legal Medicine is now established." The letter requested that whenever High or Local Courts in north China – including those of Hebei, Henan, Shanxi, Shandong, Shaanxi, Gansu, Xinjiang, Jilin, Heilongjiang, Chaha'er – encountered criminal or civil cases with need for legal medical, legal chemical, or legal-medical psychiatric examinations, all could be send to the medical

1935 the Board replied, granting only part of Lin Ji's request. It ordered the high courts of Hebei, Henan, Shandong, Shanxi, Suiyuan, Chaha'er, Shaanxi, Gansu, and Xinjiang to consider using the Institute's appraisal services. However, it mandated that cases occurring under the jurisdiction of the Supreme Court and all courts of the southern provinces would continue to be handled by the Research Institute in Shanghai.<sup>555</sup> It was through this "official letter no. 395" from the Board and several related orders that north China courts were notified of the expert services of the Institute and authorized to make use of them, a point made public in *Beiping Medical Journal* and *New Medicine* in 1936.<sup>556</sup>

*The medico-legal professional settlement: north China, 1935-1937*

Lin Ji's plan to use these institutions as the catalyst for a total transformation of Chinese forensics had been challenged from the outset by a lack of personnel who could

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school for appraisal. On the same day, the medical school sent an official letter to Hebei High Court, offering the same range of medico-legal services to the courts of Hebei. By the beginning of November, the Hebei High Court replied that it had notified courts under its jurisdiction of the Institute's services. Seemingly having not yet heard response from the Judicial Council, on November 19th, the medical school sent correspondence directly to the high courts of Shandong, Shanxi, Henan, Shaanxi, Nanjing, Jehol, Suiyuan, Anhui, Jiangxi, Zhejiang, Fujian, Hubei, Hunan and the special courts of Shanghai and Chaha'er. On November 25th, the secretariat of the Judicial Council finally replied, notifying the medical school that after consultation with the Board of Judicial Administration, all of the high courts had been ordered to comply. BMA J29-3-587. "Hebei High Court receives official letters pertaining to Beijing University Medical College, Regulations of Jiangsu High Court's School for Training in Legal Medicine, and recruitment of researchers at the Research Institute of Legal Medicine of the Board of Judicial Administration" (河北高等法院准北大医学院江苏高等法院法医讲习所章程和司法行政部法医研究所招收研究员的函), 1930-1933, p. 15, 21, 29, 32-35, 38.

<sup>555</sup> This was a point with which Lin Ji disagreed, arguing that if the Shanghai Institute encountered cases with the need for re-examination on the basis of legally mandated avoidance, incomplete original appraisal, or an appeal, the Beiping Institute could still handle the re-examination. The Board did not concede this point, asserting its own authority to appoint a re-examining appraiser for these cases. See BMA J29-3-602, p. 12, 19, 24.

<sup>556</sup> *Beiping Medical Journal* (北平醫刊), 4:1 (January 10th 1936), p. 36; *New Medicine*, 4:5 (May 1936), p. 1.

penetrate local courts. There were simply too few medico-legal specialists to handle all or even most of the forensic work in local courts. Legal medicine had become part of a division of labor in which local judicial authorities handled the initial investigation of homicides and other suspicious deaths, calling upon the medico-legal lab to resolve technical points of forensic evidence later on through the form of the appraisal (*jianding* 鑑定). These officials operated under authority of the GMD judicial bureaucracy and its “unified procuracy” (*jiancha yiti* 檢察一體) system, not the nascent medico-legal (*fayi* 法醫) infrastructure centered on Shanghai and Beiping.<sup>557</sup> This arrangement defined the professional “settlement” that the medico-legal discipline negotiated with judicial officials and coroners who maintained a professional jurisdiction over the work of forensic investigation. This division of forensic labor had not been decided in advance. Rather, it was a product of contingent negotiations shaped by the limitations of medico-legal reform vis-à-vis the judiciary’s entrenched prerogatives over the forensic examination of dead bodies.

While the Research Institute in Shanghai had made arrangements with the local procuracy to share the task of routine examinations of dead bodies in that city, the Beiping Institute did not play a comparable role in Beiping. In fact, the bulk of the Institute’s forensic work seems to have involved examination of suspected poisons and

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<sup>557</sup> These local officials were the procuratorial authorities who staffed the counties and other local jurisdictions which had courts, as well as county magistrates who handled judicial matters in counties without them. For more on the personnel involved in administering justice during this period, see Zhao 2006, 214-216. Although the Research Institute was itself under the authority of the Board, it does not appear to have wielded formal authority in the local administration of justice. Indeed, the extent of the medico-legal experts’ formal authority over Nanjing-decade administration of justice appears to have been limited to proposals that were re-issued by the Board as orders to the courts, or the small number of medico-legal experts (*fayishi* 法醫師) who by the end of the period had taken posts at a number of High Courts and other institutions.

blood stains on or in various objects (and body parts) in addition to a number of miscellaneous “difficult” cases. According to Lin Ji’s own figures, between April 1st, 1935 and March 21st, 1936, the Institute handled 35 cases involving suspected blood stains (in 19 of these cases, the stains turned out to be human blood, but in the rest they were not blood stains).<sup>558</sup> During that same period, the Institute handled 43 cases involving suspected poisoned food (51% contained poisons, all of which were arsenic).<sup>559</sup> In an important sense, then, the nature of the medico-legal settlement with judicial authorities shaped the *content* of Lin Ji’s professional work. The examination of dead bodies did not become the main focus of medico-legal professional expertise. Indeed, the Institute very likely did not have the resources to provide substantial autopsy services to authorities in Beijing or north China.

Judicial authorities in Hebei, Henan, Shanxi, and Shandong provinces were able to use the services of the Institute because physical evidence could be sent through the post as well as other means.<sup>560</sup> For cases in which authorities sent skeletal remains for examination of wounds, they were to identify the parts needing examination, clean them with water, pack them in a sealed container, and mail them to the Institute. Lin Ji also provided instructions for sending viscera for toxicological testing. If the body had not yet

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<sup>558</sup> *New Medicine* (4:5, May 1936), table of cases.

<sup>559</sup> A survey of two folders of appraised homicides and other wounds handled by the Institute between 1935-1936 (the archive containing some of the cases published in *New Medicine*) suggests a comparable proportion of types of cases, even though it is difficult to know how representative the archived cases were. Within these folders, examinations of suspected poisons and blood stains make up the majority (BMA J29-3-600: 9 blood examination cases + 5 examinations of suspected poisonous substances versus 2 non-chemical testing cases; BMA J29-3-608: 16 blood examination cases + 8 examinations of suspected poisonous substances versus 6 other cases).

<sup>560</sup> BMA J29-3-607, p. 3-4. My survey of cases in BMA J29-3-600 and BMA J29-3-608 indicates that these were the only provinces from which cases originated. For evidence that objects (including skeletal remains) were actually mailed (*youji* 郵寄) to the Institute by local authorities, see BMA J29-3-608, p. 439.

decomposed, a local physician was to pack all of the internal organs into an iron tube, add alcohol or other kind of anti-putrefactant, seal it tightly and send it for examination. If the body had decomposed, then the “decomposed mud-like pieces of organs” should be removed from the chest and belly, packed in a container, sealed, and sent to the Institute for testing. In the cases that Lin Ji handled from 1935-1937, authorities sent for examination the fingernail of a suspected poisoning victim, a bullet, blood-stained clothing and other objects, hair samples, a bowl of cooked rice and other foods suspected of containing poison, bottled internal organs, packaged skeletal remains, and the silver needles and other implements used by coroners to test for poisons, making their way in a ghastly stream of packages to Housun park in Beiping, the location of the medical school.<sup>561</sup>

In handling these cases, Lin Ji was not making a claim over the professional work of detectives or procurators who investigated death cases on the streets of Beiping or in the counties from which cases were sent. Lin also did not make a strong claim over the forensic inspection of dead bodies, a task that largely fell to officials already within local jurisdictions. Rather, his expertise was physically located within the walls of the Institute and hinged on forms of forensic inquiry at times as “reductive” as the qualitative identification of blood stains. By implication, when Lin Ji reached the limits of the forensic value and “explanatory horizon” of the physical object under examination, his professional role in the investigation came to an end.<sup>562</sup> For example, in the case of the

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<sup>561</sup> For example, see BMA J29-3-608. “Appraisals of the Institute of Legal Medicine of Beiping University Medical School pertaining to questions regarding murder and deaths” (北大医学院法医学教室关于杀人致死问题的鉴定书), 1936, p. 9, 239, 267, 310, 357, 386; BMA J29-3-607, 3.

<sup>562</sup> i.e. Prior 1989, 45; Timmermans 2006, 43-47.

dismembered corpse at the Beiping station in which Lin Ji was only provided the victim's head, he noted in the appraisal that "because the corpse was not sent for examination in its entirety, we are incapable of performing a more complete inference [of age of the deceased]," "because the other parts of the body have not been sent for examination, whether or not there are perforating bullet wounds or penetrating but terminal (*mangduanxing* 盲端性) bullet wounds or other kinds of fatal wounds cannot be known by this appraiser," and "when only examining one part of a corpse it is rather difficult to fully determine cause of death."<sup>563</sup>

Lin Ji could also request that local authorities send additional evidence or implore them to conduct further investigation of the circumstances of the case on their own. Thus, in a March 1936 case in which Funing County (Hebei) only sent the documentation from the initial inquest to the Institute for review, Lin Ji suggested that authorities also send the lungs of the deceased to determine if it was a case of drowning to death, the skeleton to look for wounds, or the viscera if poisoning was suspected.<sup>564</sup> After examining skeletal remains sent by authorities in Zheng County (Henan), Lin Ji urged local authorities to further examine the scene of the crime and determine whether or not the deceased intended to kill himself.<sup>565</sup> These questions were beyond the scope of Lin Ji's forensic expertise – not simply because of the kinds of questions asked, but because they could only be resolved outside of the Institute. It was here that the business of investigation of death fell back on police and judicial officials.

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<sup>563</sup> *Beiping Medical Journal* 4:7 (July 1936), p. 60-61.

<sup>564</sup> BMA J29-3-608, 165.

<sup>565</sup> BMA J29-3-608, 447.



*Science through the post: Written appraisals and professional authority*

The Beiping Institute provided north China judicial authorities with unprecedented access to chemical testing of suspected blood stains and poisons. The written appraisal reports (*jianding shu* 鑑定書) that Lin Ji and other examiners produced in these cases were powerful arguments for the scientific status of their expertise and their authoritative command over “things.” Lin Ji directed his appraisals at two main audiences: judicial officials who requested his forensic services and readers of medical journals in which the cases were published. Judicial authorities used appraisals in their investigations and as evidence at trial. Yet, Lin Ji also published appraisals in medical journals in order to demonstrate that legal medicine was itself a medical specialization with the active research concerns of an academic field of knowledge.<sup>566</sup> Appraisal cases appeared in *Beiping Medical Journal* beginning in May 1936 in a series titled “Medico-legal appraisal examples” (法醫鑒定實例) as well as three special issues of *New Medicine* (Xin yiyao 新醫藥) in summer 1936 which included photographs of the Institute and its staff at work (figure 5).<sup>567</sup>

Lin Ji’s appraisals followed a set format which closely followed that formulated during the late nineteenth-century Japanese reformulation of continental legal medicine

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<sup>566</sup> Yang 2004, 70. For example, the editor of *Beiping Medical Journal* (4:5, May 10th, 1936, p. 62) noted that of the appraisal cases that Lin Ji handled, “among them there is no lack of cases with value, and the professor of legal medicine of the [Beiping University] medical school will select important ones from among them to be published in this periodical issue by issue in order to provide for the research of those interested in this field of study.”

<sup>567</sup> *New Medicine* 4: 5-7 (May-July 1936).

and judicial procedure.<sup>568</sup> Every appraisal had a printed, institutional cover page with the name of the Beiping Institute, date of receipt of the case, name of entrusting (*weituō* 委託) organ, matter to be investigated, and location of the examination. The first page of the appraisal included a restatement of the query of the authorities entrusting the case. This line of questioning was supposed to set the parameters for the appraiser's examination.<sup>569</sup> The next part of the document included a "record of inspection" (*jiancha jilu* 檢查記錄) which described, in Lin Ji's words, "what is seen objectively, and cannot contain the slightest subjective opinion. In a word, it must have absolutely concrete reporting and nothing else."<sup>570</sup> This was the part of the document in which the "things" at the heart of the case were described prior to testing. In fact, this step subtly "translated" the evidence into a material register that would support later analyses conducted within the conceptual parameters of chemistry, physics, and biology.<sup>571</sup>

The next section of the document, the "explanation" (*shuoming* 說明), included a discussion of the findings in which the appraiser "synthesiz[es] the results of the examination as well as the principles determined by modern learning and individual experience, adding explanation of cause and effect relations for each appraised matter." This section of the appraisal always concluded with the stock phrase "the above

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<sup>568</sup> For samples of late Meiji appraisals, see *Journal of Association of State Medicine* (Kokka igakukai zasshi 國家醫學會雜誌), number 155 (March 1900), p. 43-47; number 157 (May 1900), p. 20-24; number 158 (June 1900), p. 25-29.

<sup>569</sup> For more on this point, see discussion of Xu Songming's 1934 address at the Research Institute below.

<sup>570</sup> Lin 1934a, 1.

<sup>571</sup> i.e. Latour 1988, 76; Pickering 1995, 81.

explanation is according to [scientific] theory,”<sup>572</sup> an assertion of the epistemological privilege at the heart of medico-legal expertise. This part of the appraisal report served a didactic function as well. It was here that an examiner could explain the “theories” that had informed an appraisal to judicial authorities who were not specialists in legal medicine

In order to explore the ways in which the authoritative representation of “things” in these documents supported the assertion of medico-legal authority, we can examine the report produced in Lin Ji’s handling of an appellate case submitted to the Beiping Institute by the Hebei High Court in March 1936.<sup>573</sup> The case involved examination of “stains” (*wudian* 污點) on a kitchen knife and iron pickaxe. The court had previously ordered coroners to examine the objects using a method described in the *Washing Away of Wrongs* that involving “heating with charcoal and pouring vinegar.” This method had been described in the official text succinctly and without commentary: “Where from lapse of time the knife used shows no stains, heat it red hot in a charcoal fire and pour on it some first-rate vinegar, the marks of blood will then appear (殺人兇刀日久難辨, 用炭燒紅, 以高醋澆之, 血跡自見).”<sup>574</sup> The court had two queries. First, it asked whether or not the stains were blood stains and, if so, whether they were human or animal in origin. The court also asked if the previous examination of the stains that had been guided by the *Washing Away of Wrongs* could have diminished the evidence, requesting that the Institute provide an “explanation according to [scientific] theory” (以學理加以說明).

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<sup>572</sup> That is, the generalized principles that inform scientific disciplines’ understandings of material causality.

<sup>573</sup> BMA J29-3-608, p. 169-176. This case was published in *New Medicine* 4:5, p. 3.

<sup>574</sup> Chongkan buzhu xiyuan lu jizheng 1879, 2.19b; Translation from Giles 1924, 19.

Lin Ji followed a protocol for examination of suspected blood stains that was documented in the appraisal. The process began with physical inspection of the stains followed by a battery of chemical tests which could definitively determine if the stains were blood. The first step in the examination, which the report noted took place in the physical evidence inspection room, was “inspection by naked eye” (*rouyan jiancha* 肉眼檢查). Lin Ji observed purple-brown and yellow-brown spots on the blade of the kitchen knife. There were also reddish-brown rust stains on the handle. On the pickaxe Lin Ji observed black, brown, and yellow spots, as well as soil. There were also brown marks on the handle. During the inspection Lin Ji divided the objects into “front” (*zhengmian* 正面) and “back” (*fanmian* 反面) aspects, choosing from among the stained spots three locations on the front and back sides of the blade for testing and one location on the handle which he numbered 1-7. He designated 6 points for testing on the pickaxe, as well as the mark on the handle, which he also numbered 1-7. This enumeration was the basis for a table which Lin Ji used to display results from chemical testing.

Testing began with presumptive tests which could rule out the possibility of blood if negative but not conclusively confirm its presence if positive.<sup>575</sup> Lin Ji subjected material from all of the points designated during the examination to three kinds of tests: (1) Schönbein’s test, in which Lin Ji dripped hydrogen peroxide (過氧化氫液)<sup>576</sup> onto the samples which would froth when coming into contact with “protein components” (*danbai chengfen* 蛋白成分) in blood; (2) Adler’s (benzidine) test, in which hydrogen

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<sup>575</sup> Lin 1930, 3a.

<sup>576</sup> I am still looking for a contemporary reference to this term *guoyanghua qiye* 過氧化氫液 (*guoyanghua* = peroxide). Lin Ji is referring to a test which stimulates bubbles when hydrogen peroxide reacts with enzymes in the blood.

peroxide is added to a mixture of benzidine and glacial acetic acid, and then dripped onto scrapings of the material, producing a blue-yellow coloration (*qinghuangse* 青黃色) if blood (or perspiration, saliva, and other substances); and (3) testing for rust by dripping glacial acetic acid (*bingcusuan* 冰醋酸) and potassium ferrocyanide (黃色血鹵鹽液) onto the sample, placed on white filter paper, which would indicate rust if a turquoise coloration appeared.<sup>577</sup> All tested points on the objects had negative results for the first two tests, but positive results for the rust test. Lin Ji displayed the results in a table featuring lines of “+” (positive) and “-” (negative) findings which represented his determination that the blade and pickaxe had no blood stains on them. Given that the presumptive tests were all negative, Lin Ji did not pursue further testing which could definitively determine the presence of blood, nor additional chemical, biological, or physical tests used to analyze blood stains.

As the tests demonstrated, relying on visual inspection to identify blood stains could be misleading. Lin Ji thus wrote in the appraisal: “the color of the dark brown scab-like piece especially resembles a thick blood stain, but through presumptive examinations for blood stains all were negative. This is proof that the exhibit has no blood on it.” Lin Ji made the same point in the published teaching materials that he prepared for the Training Institute for Legal Officials (法官訓練所) of the Board of Judicial Administration, noting the range of substances that could look like blood upon visual inspection: “Red fruit juice, jam, sap, speckles from tobacco, insect dung, coloring, rust, varnish, and red bacterioflora

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<sup>577</sup> Lin Ji used standardized chemistry terminology included in “Principles of Chemical Nomenclature,” which was approved at a Ministry of Education-sponsored meeting of chemists in August 1932, and promulgated in November of the same year. See Reardon-Anderson 1991, 191. See Lin 1930, 3b for further discussion of these tests. According to Zheng Zhenwen’s *Dictionary of Natural Sciences*, potassium ferrocyanide (亞鐵氰化鉀) was also commonly referred to as *huangxueyan* 黃血鹽. See Zheng 1934, 306.

(*junzu* 菌簇) all resemble blood stains when seen by the naked eye. It is easy to be in error.”<sup>578</sup>

Lin Ji also responded to the questions of the court regarding the methods recorded in the *Washing Away of Wrongs*, citing experiments (*shiyan* 實驗) demonstrating that “for all blood stains that are burned in high heat, the hemoglobin (*xuesesu* 血色素) proteins (*danbaizhi* 蛋白質) [and other substances] will carbonize and vanish away. Even if one carries out all kinds of blood stain examinations, all will be hard to prove. As for blood stains that have seeped into the wood of a handle or that are on a blade but have not charred entirely, then one can certainly find it out.”<sup>579</sup> That chemical testing was the only reliable method for examining blood stains was a point made in an order from the Board of Judicial Administration in October 1936 that all high courts and procuracies order their lower courts to handle inspection of blood stains “in light of new methods” of chemistry-based serological examination. The order, which came at the urging of Sun Kuifang in his capacity as director of the Research Institute, was part of a strategy meant to “educate” legal officials in the epistemological norms of legal medicine. Yet, this also implied a reduction of the scope of coroners’ legitimate forensic practice by framing serological and toxicological examination as beyond their non-specialist capabilities.<sup>580</sup>

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<sup>578</sup> Lin 1930, 1b-2a.

<sup>579</sup> BMA J29-3-608, p. 175.

<sup>580</sup> BMA J65-3-300. “Regulations pertaining to legal medicine” (有關法醫的規程等), 1937, p. 16-19. Sun wrote that the courts still “look up to [the method] as a model,” noting that he had personally handled cases at the Shanghai Research Institute in which blood evidence had undergone the charcoal and vinegar examination before being sent for appraisal. After receiving Sun’s original petition, the Board had requested that he provide an overview of the “new methods,” which was appended to the Board’s order as it appeared in a collection of laws published in 1940. The serological tests that he described included the Schönbein and Adler tests, use of UV lamps as well as the Teichmann haemin crystal test, Takayama crystallization test, and use of spectroscopy.

*The politics of chemical testing*

We might understand judicial officials' requests for chemical testing to reflect their recognition of the need for medico-legal expertise as well as the limitations of their own forensic capabilities. Thus, a local court in Henan province wrote in a request for serological testing that because it "involves specialist techniques, our court is not in a position to make arbitrary judgments" (事關專門技術，本院未便臆斷).<sup>581</sup> Another wrote in its appraisal request for serological testing that "if chemical testing is not carried out, it will not be enough to draw conclusions" (非加以化驗不足以資認定).<sup>582</sup> Likewise, in a case sent to the Research Institute in Shanghai by procuratorial authorities in Wuxi County (Jiangsu Province), a chemical test was requested: "Whether or not the yellow color in the gruel was caused by the insertion of poisonous material has great implications for whether or not there will be discrepancies in the case. Chemical testing is urgently necessary in order to know the truth."<sup>583</sup> Indeed, even before the Nanjing decade, officials in north China and elsewhere had perceived the need for these services, despite difficulties in obtaining them from medical institutions such as hospitals and medical schools which, when faced with such requests, could claim a lack of medico-legal expertise, equipment, or available personnel.<sup>584</sup>

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<sup>581</sup> BMA J29-3-600, p. 200.

<sup>582</sup> BMA J29-3-600, p. 28.

<sup>583</sup> *Monthly Bulletin of Legal Medicine* 11 (November 30, 1934), p. 102.

<sup>584</sup> See, for example, BMA J174-2-279. "Orders of Hebei High Procuracy regarding finding out whether or not there are inquest personnel with experience and learning" (河北高检处关于查明有无有经验学识检验人员训令), 1929, p. 33-56.

There seems to be little question that officials who requested these examinations had accepted the need for medico-legal expertise. Indeed, legal medicine had been part of the discourse of reform, not to mention proposals for retraining coroners, since the earliest projects of judicial reform. Yet, requests for chemical testing also reflected judicial officials' own engagements with forensic evidence, an area of their professional activity that was shaped by the local context of the inquest as well as the judiciary's own expectations about what constituted legitimate forensic practices. In many cases, officials would have sent evidence that lent itself readily to medico-legal examination. The decapitated head in the Beiping train station case, for example, seems like a natural object of pathology. Yet, at a time when "alternative" forensic practices continued to shape local authorities' engagement with evidence, there were instances in which their conceptions of the evidence did not match those of Lin Ji and for which the evidence that they sent had been invested with meanings and expectations that were not compatible with the regime of medico-legal science.

These disjunctures were no better illustrated than in the silver needles that authorities sent to Lin Ji on a number of occasions throughout the 1930s.<sup>585</sup> When judicial authorities encountered a case of suspected poisoning, they could use instructions provided in the *Records on the Washing Away of Wrongs* for using a silver hairpin (*yinchai* 銀釵 or *yinzan* 銀簪) or silver needle (*yinzhen* 銀針) to test for the presence of poisons in the body of the deceased. The section on "death from taking poison" (*fudusi*

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<sup>585</sup> I.e. *Monthly Bulletin of Legal Medicine* 11 (November 30, 1934), 130-134. Also see other cases discussed below.



服毒死) listed this method as one of several used to determine poisoning.<sup>586</sup> The text

stated:

To detect death from taking poison, take a silver hairpin, scrub it in water [mixed] with pods of the soap-bean tree (*zaojiao* 皂角) and insert it into the mouth of the deceased, sealing up the mouth tightly with paper. After a good while take it out, and it will have a blue-black color, which will not come off if washed again in soap-pods and water. If it is not a case of poison the hairpin will remain fresh and white<sup>587</sup>

Another passage stated:

Where some time has elapsed since the poison was swallowed, and because it is held inside the body one cannot test for it (*shiyān bu chū* 試驗不出), first take a silver needle and insert it into the deceased's throat; then, beginning from the feet upwards, cover the body with hot dregs and vinegar, allowing passage for the air inside the body. If poisonous vapor swelters and steams, a black color will appear (其毒氣薰蒸, 黑色始見). If the dregs and vinegar are applied from the head downwards, then the heat will drive the poisonous vapor downwards, and it will not appear [at the throat]. If one applies the silver needle to the rectum to test (*shitan* 試探), then using dregs and vinegar will, on the contrary, make it appear. If in cases of taking poison or being poisoned one puts down other food while alive and it enters the bowels so that testing [at the mouth and throat] yields no results, if one tests from the rectum, color will appear.

The most important requirement of the test was that the discoloration on the needle not dissipate during scrubbing with the soap pods concoction, a point emphasized in inquest cases from the late imperial and Republican periods.<sup>588</sup> *Zaojiao* 皂角, also known as *zaojia* 皂莢, referred to pods of the tree *gleditsia sinensis*, a natural substance used more

<sup>586</sup> i.e. Chongkan buzhu xiyuan lu jizheng 1879, 3.35b-37a, 3.39a, 3.43b; Giles 1924, 36-37. Also see McKnight 1981, 136-137 for the passages that appeared in the original *Collected Records on the Washing Away of Wrongs*.

<sup>587</sup> Translations modified from those of Giles.

<sup>588</sup> i.e. Chongkan buzhu xiyuan lu jizheng 1879, 3.44a-45b.

generally as a cleaning agent.<sup>589</sup> As explained in the text, the foulness (*hui* 穢) existing in a dead body could also turn a needle black, but would disappear when scrubbed.<sup>590</sup> The text also indicated that the exact coloration of the stained needle or hairpin reflected the kind of poisonous substance introduced into the body. Thus, in the case of golden worm *gu* poisoning (金蠶蠱毒), the “yellow, wavy color” (*huanglangse* 黃浪色) of the stain reflected the color of the golden worm itself.<sup>591</sup> To test for mercury poisoning, one could use gold (probe type unspecified) which would turn white, as would a silver needle.<sup>592</sup> The text suggested that officials not simply obtain these objects from the populace at the time of an examination, but have a craftsman (*gongjiang* 工匠) make the object out of silver of standard purity (*zuseyin* 足色銀) and have it maintained specifically for forensic testing in order to prevent abuses caused by tampering, including use of substances which would cause false results.<sup>593</sup>

There were several reasons why judicial authorities might request medico-legal appraisals of the silver needles or other probes used in these tests. The request for an appraisal could originate directly or indirectly from contestations of evidence made during the inquest by relatives or other interested parties, a social dynamic that could just as easily lead to the request for a coroner like Yu Yuan to re-examine the forensic evidence in a case. For example, in a case sent to Beijing by Zheng County Local Court

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<sup>589</sup> Sivin ed. 2000, 86-8.

<sup>590</sup> Chongkan buzhu xiyuan lu jizheng 1879, 3.35b.

<sup>591</sup> Chongkan buzhu xiyuan lu jizheng 1879, 3.39b; McKnight 1981, 136.

<sup>592</sup> Chongkan buzhu xiyuan lu jizheng 1879, 3.41a, 3.43b.

<sup>593</sup> Chongkan buzhu xiyuan lu jizheng 1879, 3.35b, 3.43b.

in Henan, coroners examined the body of a male corpse found hanging on a tree, producing the requisite documentation of the wounds.<sup>594</sup> After the inquest, an accusation was made by Su Honggui that her son (the deceased) had been killed by his wife Mrs. Su née Du, prompting a second inquest. Cai Jiahui 蔡嘉惠, who had received training at the Research Institute in Shanghai and now served as the medico-legal expert stationed at the Henan High Court, was sent to perform an autopsy, but was unable to come to any conclusions given the state of the corpse's decomposition. Citing this and the lack of "equipment" in his office, he sent the skeletal remains to the Beiping Institute for examination along with the documentation from the original inquest and subsequent re-examination. In cases like this one, officials requested an appraisal not simply because they perceived the need for medico-legal scientific examination of evidence, but because the social dynamics surrounding the earlier coroner's examination had made the initial findings problematic.

Moreover, judicial authorities could send the needles for appraisal when the colors observed were ambiguous and were not described in the *Washing Away of Wrongs*. In another case sent to the Research Institute in late June 1934, the procuracy of the Nanzheng Local Court in Shaanxi had performed an inquest on a victim of suspected poisoning, using a silver needle (*yinzhen* 銀針) that had been inserted into the victim's throat. Upon removal the needle exhibited a "blue-red" coloration (*lanhong se* 藍紅色) which did not disappear after thorough scrubbing with the concoction of soap pods and water, yet the local procuracy still decided not to indict the suspect.<sup>595</sup> The complainant in

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<sup>594</sup> BMA J29-3-608, p. 430.

<sup>595</sup> *Monthly Bulletin of Legal Medicine* 11 (November 30, 1934), 132.

the case did not submit to this verdict, and appealed to the No. 1 Branch Court of the Shaanxi High Court for an indictment. The No. 1 Branch Court ordered a re-examination of the forensics in the case because the county authorities had not adequately determined what kind of poison could leave such a coloration. To resolve the question of the meaning of the colors on the needle, the local procuracy unsuccessfully requested appraisals from two hospitals. Ultimately, it contacted the Research Institute in Shanghai because it is an “expert [institution] in legal medicine” (*fayizhuanjia* 法醫專家) and asked “are the colored marks on the needle poison? If they are, then what kind of poison?”

The needles in these cases had been invested with evidentiary meaning during the inquest that was not transferrable to Lin Ji’s regime of forensic knowledge. He responded to these kinds of requests in part by describing the other kinds of evidence (i.e. description of the victim before death, stomach contents) that could actually be used in legal medicine to confirm poisoning, an attempt to reduce the possible targets of “chemical testing” (*huaxue shiyan* 化學試驗) to those recognized by medico-legal science.<sup>596</sup> Lin Ji’s ability to practice his own form of medico-legal expertise *relied* on local authorities’ assessment of the need for an appraisal, protection (or destruction) of evidence, and formulation of appraisal queries. Thus, for example, when Nanyang Local Court sent a livid fingernail to the Beiping Institute for examination in early April 1936 and asked whether or not the victim had been poisoned, Lin Ji’s professional expertise

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<sup>596</sup> In this context, the request for “testing” (*shiyan* 試驗) might have had a particular kind of “excess signification” (Liu 1999, 152). The term had appeared in discussions of the silver needle test in the *Washing Away of Wrongs* with the meaning of “test” or “examine” before it became associated with scientific experimentation in nineteenth-century missionary and Japanese texts (i.e. Inoue 1884, 43; Chongkan buzhu xiyuan lu jizheng 1879, 3.36b-37a; Liu 1995, 270, 288). See *Hanyu da cidian* volume 11, page 142 for other classical references.

did not “fit” the question asked of the physical evidence.<sup>597</sup> While the presence of livid fingernails was highly significant in the context of the inquest and, it would seem, public discourse on forensics, it was useless for Lin Ji and his regime of forensic knowledge.<sup>598</sup> This presented a problem not simply on epistemological grounds but also for the professional work and authority of a discipline that relied on local officials’ collection of evidence.

*Silver needles and professional boundary drawing*

Silver needles became integral to the boundary-work of distinguishing Lin Ji’s scientific investigation of suspected poisons from those used by legal officials and coroners, which, he argued, were grounded not in science but in the errors of a pre-modern system of forensics. Lin Ji did not argue that coroners should not perform routine forensic inspections of dead bodies, an area of forensic practice that the Institute of Legal Medicine had not engaged in. Rather, he attempted to narrow the scope of officials’ and coroners’ handling of cases involving poisons and blood stains, the very area of forensic work that the medico-legal settlement in north China had brought to the center of the Institute’s activities. By arguing that these kinds of cases should only be carried out by an examiner with access to the expertise and facilities necessary for chemical testing, Lin Ji was attempting to consolidate medico-legal authority over an area of forensic practice for

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<sup>597</sup> i.e. Timmermans 2006, 198. BMA J29-3-608, p. 239-250.

<sup>598</sup> In at least one case appearing in *Truth Post*, such “black fingers” (*shouzhǐ heise* 手指黑色) appeared as implicit evidence of poisoning. See *Shibao*, May 18th, 1936, p. 4.

which such a jurisdiction could be constructed. For example, in the May 1936 preface of the first special issue of *New Medicine*, he wrote:

An ordinary physician and coroner can manage to succeed in an inspection of illness or wounds on a corpse or witness. As for questions such as identifying what kind of mark it is, whether or not it is human blood, from what part of the body the blood spilled, whether the splashed blood was from a person who died, whether a poison and what kind of [poisonous] material, in many cases there is no way for them to appraise it. Therefore in these kinds of case, the courts send them to a specialized research organ to examine it. Given that the types are so complex, if one does not have a place with ample [quantity of] fine instruments for chemical testing and staff with experience to manage it, one fears that one cannot reach a satisfactory result.<sup>599</sup>

Lin Ji made this appeal to two different audiences: judicial authorities who received appraisals with critical explanations of the silver needle method, which included (by late 1936) a stock “Refutation of the method of using a silver hairpin to test for poison” (銀釵驗毒方法之駁議), as well as those of the professional world of scientific medicine who read his critical appraisals in *Beiping Medical Journal*, *New Medicine* and other medical journals.<sup>600</sup> Lin Ji’s criticism of the silver needle test received prominent coverage in the May 1936 issue of *New Medicine*, which included two silver needle cases at the beginning of the section on examination of poisons (likewise, the charcoal-vinegar blood stain case discussed above was included as the first case in the section on blood stains).

In these cases Lin Ji used his laboratory practice to construct a series of claims about the deficiency of coroners’ examinations in suspected poisoning cases, the pre-modern temporality of knowledge included in the *Washing Away of Wrongs* and, by implication, the necessary role of medico-legal appraisers in toxicological testing. We

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<sup>599</sup> *New Medicine* 4:5, May 1936, 2.

<sup>600</sup> In addition to silver needle cases appearing in *Monthly Bulletin of Legal Medicine* and *New Medicine*, see *Beiping Medical Journal* 5:1 (Jan. 1937), 53-58; 5:2 (Feb. 1937), 51-62.

can see how this worked in the first case published in the special issues of the journal *New Medicine*. The case had been sent to the Beiping Institute from the Hebei High Court No. 1 Branch Court (Beiping) in February 1936.<sup>601</sup> Court officials were handling a case in which a person named Li Nairu accused Song Ruiqi of murder. They had used a silver probe (*tanzi* 探子) to test for the presence of poison in the victim, and now questioned whether the findings from that examination indicated poisoning: “We have the necessity of appraising whether or not the green and red colors on the silver probe are poisonous matter, and what kind of poisonous matter it is.” The Branch Court sent the probe along with the request and relevant court documents. Two days later Lin Ji began his examination at the Institute. The process began with inspection of the physical characteristics of the object:

The exhibit (*zhengwu* 證物) is a silver rod in the shape of a chopstick. The point at the upper end has a handle. The end tip is blunt. It has been bent into a shape resembling the letter ‘U’. In total it is 50 centimeters long. The object is stained with a black-brown to brown-red or purple color, and has slight green marks... The stain does not disappear when wiped, nor when washed with soap and water. When using a small knife to scrape it slightly, underneath [the pieces] shows a silver color. This can prove that the stains on this silver chopstick are an alloy of silver, made from the combination of some kind of chemical and silver. But the part that underwent chemical reaction only reached the surface layer of the silver chopstick, and not throughout. It is definitely not the case of a pollutant simply spread on the surface of the exhibit.

Lin Ji then performed four chemical tests on ten spots selected on the stained portion to determine the nature of the alloy, a process which he had performed on silver testing probes in other cases. First, he dripped potassium cyanide onto each spot and the marks immediately dissolved. Next he dripped hydrogen peroxide onto them and the marks gradually faded. He dripped an ammonia solution (*yashui* 銚水) on the same spots, and

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<sup>601</sup> BMA J29-3-608, p. 9-20.

the marks did not fade. Finally, he dripped nitric acid onto the spots and they neither dissolved nor faded. From the tests Lin Ji concluded that the marks were silver sulphide stains – the black-brown ones thicker and the red-brown ones thinner. Thus, the unknown chemical that had combined with the silver to form the alloy was sulphur (*liuzhi* 硫質) and sulphur, as Lin Ji explained in the appraisal, was present in the chemical transformations that occurred in the decomposition of human corpses:

When undergoing fermentation (*fajiao* 發酵) or when an alkali (*jianzhi* 鹼質) is added and it heats up, proteins (*danbaizhi* 蛋白質) containing sulphur can produce hydrogen sulfide (*liuhuaqing* 硫化氫) or a small amount of ammonium sulfide. When this small amount of hydrogen sulfide or ammonium sulfide comes into contact with the silver, it can cause the surface of the silver to turn black or even brown-red color. The power of the hydrogen in the hydrogen sulfide or the ammonium in the ammonium sulfide to combine with the sulfur is weaker than [that of] silver. Therefore, when sulfur comes into contact with the silver, it separates from the hydrogen or ammonium with which it was already combined, and combines separately with the silver, becoming black-brown or red-brown colored, even to the point of light yellow-brown colored, silver sulfide<sup>602</sup>

Lin Ji's argument was not simply that the silver rod used in this case had tarnished, but that in all of the inquests being performed in China, a grave error was continuously being made: chemical reactions occurring during decomposition were contaminating the probes used, and the material traces of this phenomenon were being systematically interpreted as signs of poisoning by coroners and local officials. Thus, Lin Ji explained in the appraisal, if such a probe was inserted into the throat of a “fresh corpse” (*xinxian shiti* 新鮮屍體), it would not tarnish because hydrogen sulfide and ammonium sulfide would not have been produced during this early stage of decomposition. Yet, if the method was used to test for poisons in decomposing corpses and a probe came into contact with the chemicals

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<sup>602</sup> BMA J29-3-608, p. 12-13.



produced by the breakdown of proteins in the internal organs, then a stain could appear on the probe.

Because the appearance of such stains on a probe was dependent on the level of sulfides present in the decomposing body, stains would likely appear if the corpse was tested at the point at which the stench of decomposition was the greatest or in corpses that decomposed rapidly during the summer months. Moreover, if a victim had ingested sulphuric acid or other poisons containing sulphur, the probe could present a stain. Lin Ji used an understanding of the chemistry of the dead body and decomposition to show that the stains observed on the needles were due to chemical changes that occurred when a dead body encountered the silver probe, and not a reliable indication of poison in the body.

Lin Ji cited experiments (*shiyān* 實驗) conducted at the Research Institute in Shanghai and at the Institute in Beijing that confirmed these points. He had published the results of some of these experiments in *National Beiping University Medical Annual* in 1932 as one of “four small experiments in legal medicine” (法醫學四種小實驗), an early use of medical publication to criticize the toxicological testing methods of the *Washing Away of Wrongs*.<sup>603</sup> In these experiments he used the technological resources available in the laboratory to promote changes in the social relations of forensic expertise, making a strong claim for medico-legal jurisdiction over the investigation of suspected poisons.<sup>604</sup>

Lin Ji began by testing the kinds of poisons which the *Washing Away of Wrongs* indicated would turn such a silver probe black. In the first experiment he inserted a silver

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<sup>603</sup> Lin 1932, p. 307-312.

<sup>604</sup> See Lei 1999 for the contemporaneous case of medical researchers' use of experimentation to claim the antimalarial drug Changshan from Chinese physicians' “socio-technical networks.”

needle into a sample sent for appraisal by Hebei High Court's Branch Court that had been confirmed as arsenious acid (*yapissuan* 亞砷酸), and boiled it for two hours with no black marks appearing. After this test he switched to using a silver coin (*yinbi* 銀幣) placed into an evaporating dish (*zhengfamin* 蒸發皿) with arsenious acid crystals and tissue samples from decomposing intestines. After cooking it for two hours, the coin did not turn black, and Lin Ji found the same result after leaving it to soak for another day and night. A similar experiment performed with arsenic sulfide (*liuhuapi* 硫化砷) found that the coin gained black-yellow coloration immediately, and after 15 minutes the entire coin had turned a dark color. Lin Ji performed the same experiment again, but substituted realgar (*xionghuang* 雄黃) for the arsenic sulfide. That the coin only changed to a slight yellow proved that the “silver turning black is because of the sulfur and not because of the arsenic.”

Similar experiments proved that the other substances mentioned in the text had no effect on the silver. The findings accorded with the “principles of chemistry” (*huaxue yuanli* 化學原理): it was only with sulfur that silver produced a dark-colored alloy, not with any of the other substances. Finally, Lin Ji performed a series of experiments involving silver needles inserted into human excrement, preserved duck's eggs (*pidan* 皮蛋), and excrement containing arsenious acid and iron<sup>605</sup> to further show that it was the sulfur – not the poison or any other substance – that would cause a silver probe to change colors. These were not the only experiments that Lin Ji performed to assess the silver needle test. In the appraisal of the case appearing in *New Medicine* he cited others:

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<sup>605</sup> Lin Ji provided the test sample, consuming “Asiatic pills” (*Yaxiyawan* 亞細亞丸) with the requisite chemical contents in preparation for the experiment.

inserting silver needles into living humans and animals could make the silver change colors, however inserting a silver needle into a human or animal corpse dead from poisoning did not necessarily cause the silver to become black.<sup>606</sup>

Animal testing (*dongwu shiyan* 動物試驗) was another laboratory resource that Lin Ji used to make claims about the causal mechanisms underlying the erroneous interpretation of silver needle examinations.<sup>607</sup> Lin Ji used animal testing in the other silver probe case published in *New Medicine* to confirm the effects of a suspected poison on living mice.<sup>608</sup> In this case, the victim had died after taking medicine prescribed by a doctor. The silver needle used to test for poison had turned purple-blue (another coloration not described in the *Washing Away of Wrongs*) and the county government requested the Institute's appraisal of the needle along with a bowl of medicinal herbs (*caoyao* 草藥). After using chemical tests to confirm the presence of silver sulfide stains on the needle, Lin Ji examined the composition of the medicinal concoction with a microscope, and then a full battery of qualitative chemical tests. When these tests indicated that no known poison was present, Lin Ji prepared both an alcohol solution (*jiujing rongye* 酒精溶液) and infusion (*shuijinye* 水浸液) with the suspected poison, and injected two cubic centimeters of each directly into the abdominal cavities of two white

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<sup>606</sup> BMA J29-3-608, p. 15.

<sup>607</sup> Animal testing had been listed as part of the curriculum in Lin Ji's proposed 1928 medico-legal institute at Central University, and facilities for raising animals for experimental purposes were included in the facilities of the Research Institute in Shanghai (as they were in Japanese and continental European medico-legal institutes).

<sup>608</sup> *New Medicine*, 4:5 (May 1936), p. 52. Lin Ji used animal testing to analyze the effects of an unknown drug in another case published in *New Medicine*. See *New Medicine*, 4:5 (May 1936), p. 118. A (slightly) comparable method for testing poisons appeared in the *Washing Away of Wrongs*: "Another method is to thrust a lump of boiled rice into deceased's throat and allow it to remain there a little while, the mouth being meanwhile covered up with a sheet of paper. Then take it out and give it to a fowl to eat. If the fowl dies, poison is present" (Giles 1924, 36).

mice. Upon autopsy the mice exhibited no signs of poisoning, proving that the sample did not contain poisons beyond those already tested for.<sup>609</sup> This investigative strategy, which involved reproduction of the original poisoning conditions in the controlled environment of the laboratory, provided further evidence that the stains on silver needle probes had no relationship to whether or not a poison had been used.

Lin Ji's demonstrations that the silver needle test had no forensic value were not simply part of an attempt to delegitimize a part of the coroners' forensic repertoire. They also played a productive role in defining the modernity of legal medicine in distinction with a form of forensic inquiry which still used the silver needle test. In the appraisal published in *New Medicine* Lin Ji cast the inaccuracies of the silver needle test as deriving from its pre-modern origins, writing that "... the method of using a silver needle to test for poisons listed in the *Washing Away of Wrongs* truly stems from the misunderstandings of ancient people."<sup>610</sup> Lin Ji made this point more strongly in the paragraph-long coda included in the 1932 research article containing the findings of Lin Ji's experiments on silver needles: "The *Washing Away of Wrongs* was the great achievement of the [Song Dynasty] official Song Ci who collected and recorded the methods of inspecting wounds and testing for poisons of successive generations. It has now been passed down for over 700 years." This was a period when "the science of the West was still in the dark ages, and our China had already made use of complex methods in criminal inspections," but despite the early advances (which "truly can be considered an honor for our country"), the forensics of China ultimately came to lag behind that of

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<sup>609</sup> Ibid, p. 55.

<sup>610</sup> BMA J29-3-608, p. 15. It was not a reliable test for poisons, even though it could ostensibly be used to test the "degree of decomposition" (*fubai chengdu* 腐敗程度) and sulfides in a decaying corpse.

the West, developing highly erroneous and unscientific methods for testing poisons. Thus, Lin Ji carried out experiments “in order to rid the people of their delusions.”<sup>611</sup>

Yet the pre-modernity represented by silver needles was in part a product of Lin Ji’s forensic practice and his need to assert professional authority in the present, as were corresponding claims that the “interior” of China (*neidi* 內地) was a bastion of unscientific forensics.<sup>612</sup> Yet, this was only one possible reading of an extremely complex situation. Legal officials and their coroners remained active in Beijing and elsewhere throughout the entire Republican period. Nor did examiners like Lin Ji fundamentally challenge their professional authority. In fact, in extending a new centralized forensic infrastructure based in Shanghai and Beijing, legal medicine had already made professional and epistemological compromises with local authorities. The fact that there already existed a legal system with centralized forensic practices and integrated local jurisdictions made it possible for local courts’ evidence to be examined in a distant laboratory in Beijing or Shanghai in the first place. The problem was that at times the forensic norms of local officials did not match those of the laboratory. Despite new boundaries between “modern” and “pre-modern” and “science” and “non-science,” Republican forensics was characterized by a plurality of epistemologies, ways of legitimating forensic knowledge, and conceptions of expertise.

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<sup>611</sup> Lin 1932, 312.

<sup>612</sup> In the annotated table of cases Lin Ji wrote that “in the interior the old methods are still used to test for poisons. It is unknown how many people’s lives have been spent throughout the ages.” This point would have resonated with contemporary claims about the backwardness of medical capabilities in the interior more generally. *New Medicine*, 4:5, May 1936, table of cases, p. 2-3; also see Tao 1933, 714; Yan 1938, 951.

## Chapter Eight

### **Legal Medicine Beyond the Laboratory:**

#### **The Hybrid Lives of Scientific Disciplines in Republican China**

In mid-August 1942, Yu Yuan and another coroner submitted a request to the local procuracy in Beijing to train a new group of forensic examiners.<sup>613</sup> The head procurator made a request to higher authorities that four students be able to study for a year and undergo practical training at the court, a measure meant to address the possibility that there would be a shortage of forensic personnel in the future. In proposing this training, Yu Yuan and the other coroner noted,

Coroners were originally a kind of specialized personnel. Without the appropriate knowledge and attainment in study, one cannot perform the job. The inquest supplements the facts of the case and also serves as their basis. The responsibility is heavy, and its impact is especially great. If one does not possess specialized learning, training, as well as experience, the impact on the law and the well-being of the people truly will not be insignificant.

In this instance of training, the “specialized learning” (專門學問) to which Yu Yuan alluded involved knowledge of the structure and function of the body drawn from scientific medicine, including skeletal anatomy and physiological understandings of lividity and rigor mortis. This instance of training might be viewed as an attempt to make the expertise of coroners “more” scientific – in the parlance of the time, to “scientize”

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<sup>613</sup> BMA J174-2-52. “Petition of Yu Yuan of Beijing Local Procuracy regarding the training of inquest personnel” (北京地检处俞源关于培养检验人才呈), 1942-1943, 1-4.

(*kexuehua* 科學化).<sup>614</sup> Given that the rise of medico-legal laboratories during the previous decade is often viewed as the “birth” of professional legal medicine in China and that coroner trainees were instructed in a subject called “main points of legal medicine” (法醫學綱要), this training might also be understood as a reflection of the newfound authority of this professional community, especially given that one of its nominal members, a medico-legal expert (*fayishi* 法醫師) named Zhang Huazhong 張化中, served as an instructor in Beijing.

Yet, this narrative is inadequate for several reasons. One is that in addition to instruction in medical science, coroner trainees also learned examination techniques drawn from the *Washing Away of Wrongs*. Coroners still had to use the judiciary’s official examination procedures, manifested in official forms that had to be filled out during inquests. While legal medicine had emerged as an institutional reality by the 1940s, it had received a severe blow by the bombing of Shanghai in 1937 and Japanese occupation of coastal China. While this period was understood by some in the medico-legal community as a “transition period” (過渡時期), the teleology implied by this characterization was optimistic. Legal medicine, as a Chinese discipline, was institutionally weak. Legal officials and their coroners maintained a professional jurisdiction over the forensic inspection of dead bodies.

This chapter examines the epistemological and professional politics of the science that was available to and mobilized by late Qing and Republican coroners. On the one hand, instructing coroners in science could serve as a modality through which the

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<sup>614</sup> For example, see Wang 1929.

medico-legal profession could discipline their understandings of evidence and examination practices, an important adjunct to discipline-building strategies that included distributing medico-legal experts to local courts and handling local cases. This idea was encapsulated by the concept of “medico-legal common knowledge” (法醫常識), the knowledge that professional scientists disseminated to legal officials in order to bring their forensic practices into line with legal medicine. For members of China’s medico-legal community, promoting the instruction of coroners in science was, above all, a way of making their local practice compatible with the epistemological norms of legal medicine as a professional discipline, a transformation that was meant to accrue to the authority of laboratory scientists like Lin Ji.

Yet, the fact that coroners had first learned science during the New Policies reform period, decades before there was a professional medico-legal community, reveals the tensions that emerge when scientific disciplines, conceived as abstract bodies of knowledge, are distinguished from scientific disciplines as institutionalized in specific times and places, with particular professional interests and concerns. This is an important distinction because it suggests that the “science” that coroners learned could serve divergent institutional and professional purposes, not simply those of the medico-legal institutions established in Shanghai and Beijing during the 1920s and 1930s. For the judiciary, scientific knowledge could augment coroners’ forensic authority while leaving bureaucratic forensic practices intact. As a result, “science” could be easily integrated into their training and examination practices in ways that did not challenge the *Washing Away of Wrongs* or even use of the “vital spots” method of wound examination – a target of Oppenheim’s (and others’) criticism.



Science is often understood to inhabit a special realm of knowledge, of professional activity, and of cultural and intellectual value. Many of those who discussed forensic science in Republican China assumed that “science” was clearly distinguishable from older practices and forms of knowledge and that scientists were easily distinguishable from coroners. Yet, this view does not take into account the extent to which the public discourse on science during this period was a cultural and intellectual realm in which many individuals – scientists and non-scientists alike – were involved.<sup>615</sup> Exploring the divergent ways in which coroners wielded “science” reveals that the boundaries between what counted as “science” and what did not were not only contingent, but shaped by professional negotiations and politics. Medical conceptions of the body could be integrated with those of the *Washing Away of Wrongs* when the goal of training was to supplement coroners’ knowledge, thus maintaining judicial control over forensics.

However, the same passages in the text could be criticized by medico-legal proponents with a professional stake in laying claim over coroners’ work or changing the forensic norms of legal officials. In fact, underlying medico-legal arguments regarding coroners’ lack of scientific knowledge were questions of compatibility: coroners’ practices needed to be reformed not simply because they were unscientific but also because they did not facilitate the professional advance of legal medicine, a goal that was not just about abstract questions of epistemology but also about the organization and control of occupational work.

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<sup>615</sup> For example, see Wang Hui’s (2004, 1107-1279) analysis of the ways in which the community of professional scientists and the circulation of written material under print capitalism led to the widespread dissemination of scientific concepts into early Republican political and social discourse. Also see Sigrid Schmalzer’s (2008, 27-33) discussion of the popularization of scientific knowledge in Republican China and, subsequently, the PRC.

Thus, rather than viewing coroners' instruction in and use of science as a form of "modernization," that is, a teleological progression towards science, I would like to explore the ways in which coroners' engagement with science reflected the institutional and professional politics that defined their work, their time and, most importantly, their modernity. Coroners used science as a way of navigating the continuing imperatives of the judiciary's control over forensics while engaging with the new conception of science-based expertise that had become compelling within the social, intellectual, and economic transformations of the early twentieth century. Coroners' use of science reflected the professional "settlement" in which they found themselves, a situation in which a form of forensic practice based on bureaucratic authority maintained legitimacy even while medico-legal science – and the new conceptions of science-based expertise on which it was based – had rapidly become an overarching norm in understandings of forensic knowledge and expertise.

### *Instructing coroners in science*

The instruction of coroners in science preceded the establishment of medico-legal institutions by decades. The earliest proposals were implemented during the New Policies reform period, when some coroners were instructed in anatomy, physiology and other bodies of scientific knowledge as part of the attempt to raise their occupational and social status. The 1908 memorial of Xu Shichang and Zhu Jiabao that initiated the bureaucracy's reform of the coroner system had proposed the following curriculum for coroner training in Jilin:

Aside from having them study the *Washing Away of Wrongs*, also include courses

in physiology and anatomy, selecting that which is easy to understand and is relevant to inquests, and have staff instruct them in it every day while displaying skeletal remains, models and specimens so they can see for themselves.<sup>616</sup>

Once this proposal had been accepted as the basis for the empire-wide reform, provincial authorities that sent reports to Beijing framed their own instruction (or proposed instruction) in the same terms as this curriculum. For example, a Forensic Inspection School (檢驗學堂) was reportedly established by authorities in Yunnan with a curriculum of eight subjects: physiology (*shengli* 生理), thanatology (*sili* 死理), inspection methods (*jianyan fa* 檢驗法), inspection techniques (*jianyan shu* 檢驗術), written language, recitation, cultivation, and physical training.<sup>617</sup> The instruction took the *Washing Away of Wrongs* as the “main subject” (以洗冤錄為主課), supplementing this with experiments (*shiyān* 實驗), leading cases (*cheng'an* 成案), Chinese and Western medical books (中西醫書), works on modern anatomy (人體解剖學), and Chen Hongmou’s *Sourcebook on Bureaucratic Discipline* (在官法戒錄).<sup>618</sup> The use of cases in

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<sup>616</sup> Daqing fagui daquan, falü bu, 8.1b.

<sup>617</sup> From the context, it seems that *sili* 死理 might have referred to the portions of medico-legal science that dealt with causes of death or post-mortem changes. These were fundamental topics within the Japanese medico-legal translations that were produced during this period. I have not seen this word used to refer to a field of scientific study elsewhere. FHA, Supplementary memorials (*fupian* 附片), 04-01-38-0200-001, 10月/XT1 (1909), “Memorial to put on record the establishment of an Inquest School in Yunnan’s provincial capital” (奏為於云南省城設立檢驗學堂請咨立案事).

<sup>618</sup> The curriculum for the second class of trainees at this institution was further supplemented with methods for investigating suspicious deaths in Japan (日本變死檢察法) and illustrations of skeletal remains (骨殖圖畫). Compare with the list provided for the Jilin Inquest School (吉林檢驗學習所), an institution set up for 60 students with eight instructors, which involved formal instruction focusing on the *Washing Away of Wrongs* and supplemented with physiology (*shengli* 生理), anatomy (*jiepou* 解剖), physics and chemistry (*lihua* 理化), law (*falü* 法律), Chinese language (*guowen* 國文), cultivation, and physical training. Instruction also reportedly made use of models (*moxing* 模型), specimens (*biaoben* 標本) and instruments (*qixie* 器械) that had been purchased in Shanghai. FHA, Palace memorials with vermilion rescript (*zhupi zouzhe* 硃批奏折), 04-01-38-0200-048, 12/17/XT1 (1910), “Memorial regarding the proposed regulations

coroner instruction is particularly interesting as this pedagogical strategy was not drawn from Japanese legal medicine or medical instruction but rather from late imperial legal culture. Published cases provided a means through which new forensic and legal precedents and knowledge could accumulate.<sup>619</sup> For coroners like Yu Yuan, citing past cases could also legitimate particular forensic interventions while demonstrating one's own experience.

The idea that scientific knowledge was indispensable to expertise emerged within the context of the military superiority of Japan and the West and the political, social, and cultural crises that accompanied China's integration into the modern world economy. This new conception of forensic expertise was not the product of a professional medico-legal community's success in extending its professional authority within China. The social and economic transformations that would foster the rise of middle-class professionals during the Republican period had not yet created the conditions necessary for Chinese medico-legal scientists to emerge. Rather, the new conception of expertise that began to suffuse forensics during this period was the manifestation of the changed historical conditions that framed the entire New Policies effort at legal reform. In this context, instructing coroners in science was a way for the late imperial bureaucracy – and its nascent modern court system – to maintain control over forensic practice while legitimating this practice in new ways. Coroners learned science within the context of these bureaucratic imperatives.

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for the Inquest Training Institute established in Jilin as well as its start-date” (奏為吉林創辦檢驗學習所擬定章程並恭摺開校日期事); *Xuantong zhengji*, *xuantong 3/3 shang*, 905.

<sup>619</sup> Will 2007.

Officials who contemplated forensic practices and reform after the fall of the Qing, yet prior to the rise of a national medico-legal community during the 1930s, were faced with a similar situation. Bureaucratic prerogatives to control forensics through the court system remained in place, whether by intention or simply lack of alternatives. Yet, this occurred within a world in which scientific knowledge and professional expertise were becoming equated with capital and power in many fields of economic and technical activity. Training programs established during the early Republican period navigated these imperatives in different ways.

For example, soon after the fall of the Qing, authorities in Fengtian proposed a more radical training program for local examiners that was to rely more heavily on medical knowledge, even suggesting that trainees should carry out dissections of deceased prisoners and executed criminals.<sup>620</sup> However, this institution, called the High Medico-Legal School (高等法醫學校) was soon disbanded, reportedly because of lack of funding. In 1919, Fengtian authorities received authorization to establish another training institution that would focus on legal medicine and only “take the *Washing Away of Wrongs* for reference.” While students would be instructed in various fields of scientific knowledge, the proposal noted that “that which is lofty with no benefit to practical use should be omitted,” seemingly in recognition of the difficulties of instructing the students in specialized medical science, almost certainly through translations of Japanese legal medicine. Fengtian judicial officials were clearly trying to shift the formal expertise of

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<sup>620</sup> This aspect of the proposed training was briefly mentioned in the Board of Justice’s authorization order, which noted the proposal to use these bodies for dissection practice (*shixi* 實習) but seems to have left the question open for further deliberation. *Classified Compilation of the Government Bulletin* (政府公報分類彙編) issue 15, 1915, *sifa* 司法, p. 110-111. For later training proposals, see *Judicial Bulletin* (司法公報), issue 114, 1919, p. 70-1.

local examiners away from the *Washing Away of Wrongs* and towards medical learning, despite considerable challenges.

Coroners (and officials who formulated forensic policy) followed the strategy that many other occupational groups have used in China and elsewhere to legitimate skills and knowledge under modernity: they used the rhetoric and content of scientific knowledge to augment their expert authority while maintaining the “local” knowledge and practices specific to their professional work, in this case the *Washing Away of Wrongs*.<sup>621</sup> Indeed, many groups have argued that their professional knowledge was grounded in the learning of scientific disciplines, made use of it in some way, or at least had indirect ties with it. This ranged from Chinese physicians’ efforts at “scientization,” which occurred in part as a response to the professional challenge of physicians of scientific medicine, to more mundane claims that, for example, the discipline of jurisprudence could count as a “science” located within the disciplinary framework of social scientific disciplines.<sup>622</sup> An important implication of Abbott’s work on the sociology of professional expertise is that all professional knowledge is to some extent “local” or “parochial,” only gaining broader cultural legitimacy through new associations with prevailing values, institutions, or ideas, including science.

The training program carried out in 1942, mentioned in the introduction to this chapter, incorporated medico-legal science to a much greater extent. For one thing, instruction was shared by a procurator Ming Yan, who taught the *Washing Away of*

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<sup>621</sup> Cf. Abbott (1988), who argues that the defining feature of modern professions is that they assert their occupational interests on the basis of the kinds of knowledge produced in institutions of higher education, even if this knowledge has little bearing on the content of their professional work.

<sup>622</sup> For Chinese physicians’ efforts at and polemics over “scientization” during the 1930s, see Lei 1999, 173-208. For conceptions of jurisprudence as a social science, see Asen 2008.

*Wrongs*, a medico-legal expert (*fayishi* 法醫師) named Zhang Huazhong, who taught “main points of legal medicine” (法醫學綱要), and coroners Yu Yuan and Fu Changlin, who instructed the students during the remaining time.<sup>623</sup> This training focused substantially on medico-legal knowledge alongside the *Washing Away of Wrongs*, a priority reflected in the examination questions trainees were expected to answer. Those who underwent this training were expected to memorize new forms of skeletal anatomy and rely on physiological understandings of the body to analyze post-mortem phenomena such as rigor mortis and lividity. Trainees were not tested in methods of testing blood stains and poisons from the *Washing Away of Wrongs*, a clear departure from the 1919 training curriculum.<sup>624</sup>

Yet, coroners who underwent this training did not gain credentials or other institutionalized measures of authority from their association with legal medicine. They remained firmly ensconced within the institutional context of the procuracy and the professional authority of procuratorial officials. Training coroners in science was not supposed to make them into experts who were professionally “autonomous” from the judiciary. The core of coroners’ professional knowledge remained the *Washing Away of Wrongs* and official examination forms, longstanding tools of bureaucratic control that were produced, issued, and supervised by the judicial bureaucracy, itself the fundamental authority underlying their use. Coroners’ learning of science was meant to augment their knowledge of the body, but maintain their subordination to bureaucratic authority. Thus,

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<sup>623</sup> BMA J174-2-52, 12-4.

<sup>624</sup> BMA J174-1-67, 10; 83. These omissions suggest that, at least in Beijing, Lin Ji and Sun Kuifang had been successful in convincing the judiciary that these techniques were not reliable and that testing poisons and blood stains should be left to laboratory scientists.

the professional politics of this knowledge were quite different from the “common knowledge” in legal medicine that Lin Ji and other medico-legal proponents attempted to inculcate in judicial officials and their coroners.

### *Medico-legal common knowledge*

If, for coroners, popularized scientific knowledge was used as a way of legitimating older techniques in new ways, for members of China’s nascent medico-legal profession it was rather a crucial modality of professional authority and control. One way that Lin Ji and other medico-legal experts attempted to set the agenda for physical evidence in Chinese courts was by “educating” judicial authorities in the basics of legal medicine, a form of knowledge often referred to as “common knowledge in legal medicine” (*fayixue changshi* 法醫學常識).<sup>625</sup> For example, in 1934 Lin Ji wrote that given that “universal distribution of physicians has still not been accomplished,” legal and police authorities must understand “common knowledge in legal medicine” (*putong fayixue changshi* 普通法醫學常識) to be able to use medico-legal appraisals in their cases.<sup>626</sup> Such training was not simply an exigency of China’s currently deficient medico-legal capacities, however. Understanding the medico-legal aspects of a case was a more general requirement for legal officials who had to “utilize” (*yunyong* 運用) legal

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<sup>625</sup> For more on the role of “education” in the constitution of forensic expertise, see Mnookin 2001. The disciplining of legal officials with “general knowledge” was part of a broader effort of “popularization” (*puji* 普及). For example, the first issue of *Monthly Bulletin of Legal Medicine* included a short-lived question and answer feature meant to “popularize learning in legal medicine” (*puji fayi xueshu* 普及法醫學術) (issue 1, 1934, 76).

<sup>626</sup> *Monthly Bulletin of Legal Medicine* 4 (April 30, 1934), 2.



medicine as part of their professional duties.<sup>627</sup> In a given case, legal officials needed to know “whether or not one must carry out an appraisal,” “where the main points are in the desired appraisal,” and “whether or not one should immediately carry out an autopsy or only carry out an appraisal of [other] material.”<sup>628</sup>

The point of providing judicial authorities with knowledge in legal medicine was *not* to provide them and their coroners with tools necessary to conduct forensic examinations themselves. Rather, it was to facilitate their professional coordination with the medico-legal discipline. Xu Songming discussed this point in an address given before the first class of medico-legal experts at the Shanghai Research Institute in 1934.<sup>629</sup> While serving on the faculty of National Beiping University Medical School, Xu had encountered a forensic case sent from Shanxi High Court involving a shirt covered in small brown marks. In its formal request for an appraisal, the court asked whether or not the marks were blood stains but “did not take into consideration whether or not it was human blood or another kind of animal’s blood.” This oversight made it harder for Xu to perform an accurate appraisal given that according to the law (and the strict definition of the appraisal), “it is unsuitable for an appraiser to perform appraisals beyond that which

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<sup>627</sup> *Monthly Bulletin of Legal Medicine* 5 (May 31, 1934), 9.

<sup>628</sup> See Schneider 1931, 31-32 for discussion of this problem in context of the utilization of forensic microscopy: “The reasons why the compound microscope is not more generally employed in crime investigation are as follows... 1. investigating officer does not know how expert’s help could be of value, or where to find expert... The investigating officer who submitted the material cannot assist the microanalyst in formulating the correct interpretations of the findings because he knows nothing about the significance of the microscopical findings... The difficulties and defects above indicated may be overcome and corrected as follows: Give all investigating officers sufficient training in police microanalysis to make it possible for them to decide quickly when the services of an expert are required... This does not imply that these men must be expert microanalysts themselves.”

<sup>629</sup> *Monthly Bulletin of Legal Medicine* (issue 6, June 30, 1934), p. 1.

legal officials ask about.”<sup>630</sup> Thus, Xu did not address any other questions in the report that he returned to the High Court, even though he had the capacity to determine if the stains were human or animal blood. Several years later Xu encountered a judge who had been involved with the case and learned that local authorities’ broader investigation had absolved the suspect of any wrongdoing. Yet if judicial authorities had relied on the appraisal as the sole basis of their judgment, it could have led to a judicial injustice.

For Xu, the lesson of the case was two-fold. Legal authorities’ lack of “common knowledge in legal medicine” (*fayixue changshi* 法醫常識) kept them from knowing the proper questions to ask. At the same time, the fault lay with the appraiser, whose position required that he or she take responsibility requisite with the possession of expert knowledge:

But when one serves as a medico-legal expert, on the one hand of course one must perform [the appraisal] according to the targets about which legal officials ask, but when the inspection is completed, one must even more have the ability to be clear and decisive in a bold way. That is to say, when a ‘careful’ inspection yields unequivocal results, one should ‘boldly’ take the results and produce a straightforward appraisal. One cannot produce a specious appraisal. Because legal officials make judgments according to your appraisal, when you write imprecisely or unclearly, legal officials will misunderstand or mistakenly judge a convict. The responsibility that arises from this is not [that of] legal officials, but of the appraiser not being reliable.

Xu’s assumption was that medico-legal appraisers should have a status (*diwei* 地位) in the administration of justice commensurate with their expert knowledge. He lamented the fact that legal officials in China still did not realize that the status of the medico-legal expert in the law should be...

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<sup>630</sup> Of course, an appraiser could indicate in the “explanation” that additional testing was necessary, a strategy which Lin Ji adopted in his own written appraisals.

a little higher than lawyers, given that in many civil and criminal cases, resolution can only come after a medico-legal expert serves as appraiser. Legal officials ought to take the appraisals and statements of appraisers as absolute grounds. Medico-legal experts have this kind of weighty responsibility. Such being the case, the status of medico-legal experts in the law can come to be known.

The professional role of medico-legal experts in the law was shaped by the nature of judicial authorities' utilization of them and, implicitly, the extent to which judicial officials (as non-experts) could evaluate their usefulness. Yet making sure that officials asked the right questions of their evidence was also political. That is, spreading "common knowledge" to local courts was part of the process through which the nascent medico-legal discipline attempted to change forensic norms more generally. It was part of an ambition, apparent in Lin Ji's earliest proposals, to control forensic practice in local jurisdictions. A crucial precondition of doing so was that legal authorities' understandings of evidence matched those of the medico-legal discipline. Legal officials and other relevant authorities could gather this knowledge from the detailed discussions of appraisal questions contained in Lin Ji's own didactic writings, courses in legal medicine as part of police and judicial training, and the "explanations" contained in appraisals.<sup>631</sup>

Thus, disseminating medico-legal "common knowledge" was also a way of displacing judicial authorities' existing forensic practices. This goal is apparent in the interest that Lin Ji and Sun Kuifang had in retraining coroners and other local examiners for the purposes of extending medico-legal authority into local courts. For example, Lin Ji had included a place for coroners in his 1931 proposal for a medico-legal training

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<sup>631</sup> For examples of writings targeted to judicial officials, see Lin 1934a and Lin 1930.

school in north China.<sup>632</sup> The program was to admit those who had completed medical school training programs or “old inspection clerks” (舊檢驗吏). After one year of training they would be dispatched to local authorities to serve as medico-legal inspection technicians and assistants who could assist physicians in collecting evidence to send to a medico-legal laboratory. In this arrangement, it would be the medico-legal facility in Beiping, not the judicial bureaucracy, that would most influence the forensic norms of local examiners.

The Research Institute of Legal Medicine in Shanghai eventually put into place a training program for local examiners, holding a training class for 23 new-style coroners (*jianyan yuan* 檢驗員) alongside the second class of five medico-legal researchers.<sup>633</sup>

The small class of researchers was drawn from those who had, at minimum, graduated from domestic medical professional schools (國內醫科專門). Those who entered the program as new coroners were upper middle school graduates, and were only enrolled after testing in mathematics, physics, and chemistry – basic sciences, yet not specialized medical knowledge. Much like Lin Ji’s proposal, such an arrangement was meant to integrate local examiners into a status- and skill-hierarchy defined foremost by institutionalized legal medicine, not the judiciary. This too was part of an attempt to extend the medico-legal discipline’s control to the local level at which evidence was actually collected. Ultimately, though, while there were successes in distributing medico-

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<sup>632</sup> BMA J29-3-71. “Official letter from Beiping University Medical School regarding plans to establish a Legal Medicine Research Institute and Legal Medicine Personnel Training School” (北大医学院关于筹设法医研究所及法医人员养成所等的呈文), 1931-1932, 4-11.

<sup>633</sup> “The current state of efforts of the Research Institute of Legal Medicine to recruit researchers and new-style coroners” (法醫研究所招收研究員及檢驗員概況), *Monthly Bulletin of Legal Medicine* 19 (1935), 73-5.

legal personnel to regional courts, the ambitions of discipline-builders like Lin Ji were not realized during this period.

*The professional politics of hybrid science*

In polemics over forensic reform, proponents of medico-legal expertise often used understandings of the body drawn from anatomy and physiology to criticize the inaccuracy of coroners' knowledge while arguing that *only* expertise grounded on these epistemological foundations could be considered to be legitimate. Moreover, critics asserted that the only reliable way to find cause of death was by investigating changes in the body's internal biological processes, grounded in anatomy and physiology, not simply examining signs on the surface of the body. Yet, focusing on the role of scientific knowledge in creating exclusive boundaries simplifies an extraordinarily complex arena of social practice in which science could serve many social and professional purposes. As medico-legal experts, legal officials, and coroners negotiated the boundaries of their respective fields of professional knowledge, even the lines between "science" and "non-science" were subject to negotiation. Despite the prevalent medico-legal strategy of professional boundary-drawing – that is, delineating the "science" of legal medicine from the unscientific (and, implicitly, pre-modern) knowledge of coroners – the exigencies of the professional settlement in which the early medico-legal discipline found itself led its members to compromise on these fundamental epistemological distinctions in practice.

The willingness to compromise in order to extend some measure of medico-legal control was apparent, for example, in Sun Kuifang's discussion of the role that the

Research Institute could play in retraining existing coroners.<sup>634</sup> Sun expressed the hope that measures to train coroners could establish conditions for an eventual sea-change in forensic norms:

In order to make allowances for the livelihood of coroners, we propose selecting those of each province's coroners who are skilled in writing, and successively transferring them to the Research Institute for training; also, we propose thoroughly analyzing which methods within the *Washing Away of Wrongs* accord with science, thus being suitable for use, and which are not suitable for use. They will also be instructed in simple scientific knowledge, so that they can possess medico-legal common knowledge and serve as a foundation for the gradual improvement of China's forensic administration. After several years of transferring personnel in this way, all will recognize the new methods to be the standard for forensic inspections, and the prospects for China's forensics will be fortunate enough to have the chance to develop in the future.

Sun's proposal to maintain the *Washing Away of Wrongs* (albeit with "unscientific" portions removed) was a compromise made to accommodate a less than ideal situation in which local courts' coroners continued to handle forensic cases. The notion that one could "[analyze] which methods within the *Washing Away of Wrongs* accord with science, thus being suitable for use, and which are not suitable for use" was very clearly a reflection of the central role that epistemology played in medico-legal claims of professional authority as well as attempts to distinguish laboratory-based expertise from that of coroners. When Lin Ji attempted to establish a professional claim over the work of examining blood stains and poisons from the laboratories in Shanghai and Beijing, he relied in large part on a strategy of identifying the techniques of the *Washing Away of Wrongs* as unscientific.

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<sup>634</sup> Sun 1935.

Another example of medico-legal compromise appears in a proposal made in October 1936 by Hu Qifei 胡齊飛, a member of the second class of researchers at the Research Institute, to revise the judiciary's official wound examination forms.<sup>635</sup> In an article that had appeared in *Monthly Bulletin of Legal Medicine* one year earlier, Sun Kuifang had proposed changing the official examination forms because of their lack of scientific grounding and, more specifically, the fallacy that one could use the location of a wound to tell whether or not it had caused death.<sup>636</sup> Hu drew on these preparations, proposing changes to the judiciary's official forms that included a completely different anatomical terminology, new images of the surfaces of the body and skeleton, and removal of the old forms' distinction between vital and non-vital points, simply providing a list of parts that an examiner would check in sequence.

We might compare these forms with an earlier, more successful, attempt to update coroners' examination forms with medico-legal science – the official examination forms issued by the Board of Justice in 1918. These forms included a number of corrections to the anatomical placement of points featured in the form, the terms used, and the general format of the list that had to be filled out. These revisions relied on Xu Lian's corrections of the old forms as well as material taken from anatomical images found in *Practical Legal Medicine* (實用法醫學). For example, following Xu Lian's criticism of the fact that the original Qing forms did not distinguish between left and right eyebrows (*meicong* 眉叢), simply placing the point in the center of the two on the images, the Board added

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<sup>635</sup> Hu 1936.

<sup>636</sup> Sun 1935, 72. Hu in fact acknowledged that the *Washing Away of Wrongs* itself contained passages that urged examiners to take other factors, besides location, into account.

the new points “left eyebrow” and “right eyebrow” to the new forms. Yet, it also drew on anatomical illustrations in *Practical Legal Medicine* for the new point *meijian* 眉間 (glabella) to identify the space in between the eyebrows, which now became a new frontal, non-vital spot.<sup>637</sup> Thus, new points, drawn from the modern discipline of anatomy, were added to the form and integrated into its analytical categories.

Both of these forms represented compromises between the bureaucratic norms of late imperial forensics, which had relied on standardized examination forms, and the epistemological norms of medico-legal science. The main difference was that the Board’s forms maintained coroners and procuratorial officials as the main actors in forensics while those proposed by Hu Qifei attempted rather to establish the medico-legal discipline’s jurisdiction over this area of local activity. The form would have forced coroners to use an anatomical terminology that was accepted by the medico-legal community. Moreover, in addition to spaces for the names of the investigating official and coroner, the form also provided a field for the name of the medico-legal expert (*fayishi* 法醫師), forensic examiners trained at the Research Institute.<sup>638</sup> This last change, while seemingly minor, reflected the aspiration of Sun and others that their affiliates could become participants in local forensic cases.

Yet, in proposing these forms, Hu had in fact backtracked from the tenet that only inspection of internal changes, not examination of the location of a wound, could definitively find cause of death – a fundamental ideal of legal medicine and medical

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<sup>637</sup> Sifa ligui bubian 1919, 250. The *yanduan shu* included no English (or Japanese) glosses for anatomical terms. For a roughly contemporary use of *meijian* 眉間 as “glabella” see Cousland 1908, 153.

<sup>638</sup> Hu 1936, 72.



science.<sup>639</sup> The problem was that the new forms provided no way for examiners to do this. While they removed the “vital”/“non-vital” distinction from the parts of the body (categories that were maintained in the Board’s updated forms), no alternative analytical process was provided for finding which wound caused death. In practice, then, it was not as simple as identifying the parts of coroners’ knowledge that accorded with science and those that did not. There existed instead a complex professional settlement in which the achievement of medico-legal control came through compromise with existing norms, an imperfect professional jurisdiction that required epistemological compromise.

One point, perhaps, is that it was easier to integrate science into coroners’ knowledge than it was for the medico-legal discipline to exert direct control over their activities. Despite the frequent claims of detractors of the *Washing Away of Wrongs* that it was not compatible with science, in practice coroners were readily able to reconcile its techniques with new bodies of medico-legal knowledge. Coroners’ study of lividity (*shiban* 屍斑), discoloration caused by blood settling into the lowest points of the body after death, can serve as an example of the ease with which these integrations could occur.<sup>640</sup> Coroner trainees in Beijing were asked to explain this phenomenon in medical terms and explain how one would distinguish it from discolorations caused by wounds inflicted before death.<sup>641</sup> In describing the difference between lividity and the antemortem

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<sup>639</sup> This point did not go unnoticed by Jia (1986, 207).

<sup>640</sup> BMA J174-2-52, 126-9.

<sup>641</sup> For a medico-legal discussion of this phenomenon, see Zhang 1935. Zhang’s discussion on p. 28-9 is strikingly similar in wording and order to coroners’ responses to these questions. This suggests that they learned about post-mortem phenomena through another source that was common to mid-1930s medico-legal science.

extravasation of blood following trauma, for example, a trainee named Wu Jingbo 武靜波 wrote,

Lividity is caused by the blood sinking within the body after death. If one presses the spot with a finger, the color will dissipate. When the finger is released, the original color will return. Subcutaneous hematoma is caused when one is wounded and blood seeps into tissues, becoming a wound-halo (*yinyun* 癍暈) which can harden after death. Therefore, if one presses it with a finger, it does not dissipate.<sup>642</sup>

In the responses, students explained this phenomenon in terms of a conception of the body that was derived from scientific medicine, not the *Washing Away of Wrongs*. Yet, the technique of pressing suspected marks to test whether they were caused by post-mortem changes or wounds inflicted before death had a much longer history and had been included in late imperial forensic texts and their expanded commentaries.<sup>643</sup> In these techniques, an examiner could test a spot by either pressing it or dripping water on it. If the spot was hard (*jianying* 堅硬) when pressed, or if the droplet remained in place and

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<sup>642</sup> BMA J174-2-52, 128. This was the correct answer. See p. 139 for a similar explanation given by another trainee. The sentence (“When the finger is released the original color will return”) was crossed out on the testing paper, probably by the grading instructor.

<sup>643</sup> The key passage stated: “When examining wounds one must press blue and red spots with one’s fingers. If it is a wound it will be hard. When the finger is taken away it will still be blue or red. Drip water on it. If the drops do not scatter off then it is a real wound. If it is a spot that has changed from blood dispersal, it will be white when releasing one’s finger. If one drips water on it, the drops will not stay in place” (驗傷須用手指, 按其青紅處. 是傷堅硬. 指一起仍然青紅. 將水滴上, 水珠不散開, 便是真傷. 如系發變處, 將指一點, 起指即是白色. 將水滴上, 水不停住). The same passage explained, “if the wound was inflicted while the victim was alive, *qi* ceases and the blood congeals to become a wound. Blood follows *qi* in its circulation. If *qi* arrests, so does blood. Thus it is hard.” (傷係生前受打, 氣絕血聚成傷. 蓋人之血, 附氣而行. 氣既壅而血亦壅, 故堅硬) (Chongkan buzhu xiyuan lu jizheng 1879, 1.19b). The reasoning was that for a real wound, which would be hard (堅硬), the water would not flow off (不流), but for a fake wound, which would be soft (柔軟), it would not remain (不留). See Xiyuan lu gejie 1879, 3b. As an “old clerk” put it in a case involving odd patterning on a body (which turned out to be manifestations of blood blockage caused by contact with clothing on the body of the deceased), “when I pressed it, it did not have the quality of congealed [blood], so it must not have been a wound” (余按之無凝聚之質, 必非傷也) (Chongkan buzhu xiyuan lu jizheng 1879, 2.41b).

did not roll off, this indicated solidified blood caused by a wound rather than natural post-mortem discoloration.

When tested on this older technique (not the modern concept of “lividity”) as part of the 1919 training, one of the trainees, Zhao Fuhai 趙福海, wrote,

When examining a corpse, drip a drop of water on top of the body. If a wound, it will be hard, and the water will remain in place. If not a wound, then it will be soft and the water will roll off. When a wound is inflicted while one is alive, blood congeals and *qi* stagnates, thus it is hard. “Blood dispersal” occurs when the blood in the belly disperses on the outside, thus it hovers about.<sup>644</sup>

The conceptions of blood flow and stagnation on which these older techniques relied reflected a body that was not composed of elements such as “blood” (*xueye* 血液) and “tissues” (*zuzhi* 組織), but of circulations of blood and *qi* as well as the post-mortem dispersal of blood outwards from the stomach, a phenomenon known as *fabian* 發變.

This postmortem change was described in the section of the *Washing Away of Wrongs* on “Inspecting corpses” (驗屍): “*Fabian* is when the blood inside of the belly disperses on the outside. It cannot amass, so floats about” (發變是人腹內之血, 死後發散於外, 不能聚結, 故浮汎).<sup>645</sup> In the early 1940s, this older testing method of pressing suspected marks to test the fixity of blood was “attached” to a causal explanation based on a conception of the body that was drawn from scientific medicine.<sup>646</sup> And much as in other

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<sup>644</sup> BMA J174-1-67, p. 8.

<sup>645</sup> Chongkan buzhu xiyuan lu jizheng 1879, 1.19b.

<sup>646</sup> BMA J174-2-52, p. 139. Another 1942 trainee, Liu Peilin 劉沛霖, even used the same word, “hard,” to describe the quality of extravasated blood: “If one tests it by pressing with a finger, the color will not dissipate, and it will be hard to the touch” (試以指壓, 其色不消褪, 捺之堅硬).

instances of coroner training and practice, the epistemological challenges of reconciling legal medicine with the *Washing Away of Wrongs* were negligible.

### *Conclusion*

What is striking about the discourse on forensic knowledge that was carried out among officials, reform proponents, medico-legal examiners, and at least some coroners was the lack of conceptual apparatus for acknowledging the “hybridity” that existed within forensic institutions, practices, and knowledge. In this context, concepts like “scientization” (*kexuehua* 科學化) and “common knowledge” (*changshi* 常識), which already assumed a degree of top-down dissemination and control, signified – perhaps exhausted – the possibilities for thinking “science” beyond professional scientists. Yet, this study has suggested that “hybridity” was the norm – so much so that such a term, which assumes the admixture of pre-existing, fixed identities, almost loses meaning.

Despite the blanket criticisms of medico-legal critics of the *Washing Away of Wrongs*, which were meant to draw unambiguous lines between the “science” of legal medicine and the non-science of coroners, medico-legal examiners in 1930s China routinely made compromises with the epistemological approaches of coroners, in the process legitimating coroners’ roles as local forensic experts. In the division of forensic labor that existed in 1930s north China, coroners and courts handled local forensics while the laboratory in Beiping tested their evidence. Because of the limitations of Lin Ji’s medico-legal practice, it was difficult to enforce his own professional norms on the local level. Thus, if laboratory-based examiners were going to participate in local forensics at

all, they had to accept the use of examination practices that were, from their perspective, based on uncertain knowledge.

There clearly were spaces in which judicial officials and coroners could negotiate forms of medico-legal science that could support, not displace, the *Washing Away of Wrongs*, official examination forms, and other sources of forensic knowledge on which they relied. If we take these seriously as instances of science in practice – rather than an aberrant “hybrid” science in contrast to the “pure” science of professional legal medicine – the boundaries between what counts as “science” and what does not appear as contingent, to some extent arbitrary, and negotiated in practice. It is tempting to view the rise of legal medicine in Shanghai and Beiping as part of a teleology of the rise of science-based forensics, with the assumption of a singular notion of medico-legal “science.” This is very much the notion of a broad shift from “traditional legal medicine” to “modern legal medicine” that has often, implicitly or explicitly, informed the discourse on the history of Chinese forensics. Yet, such a view precludes an understanding of the routine hybridities of professional knowledge that occurred when coroners and medico-legal experts negotiated their authority-claims in practice.

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