

Powerful Arguments

Standards of Validity in Late Imperial China

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Some Problems with Corpses: Standards of Validity in Qing Homicide Cases

Matthew H. Sommer

This chapter explores homicide cases from the Qing dynasty (1644–1912) to interrogate the perfect balance between autopsy and confession that was necessary for magistrates to pass judgment. What factors might disturb that balance, and what problems then arose? How did the Qing system cope with these problems? Moreover, how *good* was Qing forensic medicine, according to modern standards?

When considering standards of validity in the legal field, it is useful to distinguish between representation and practice: that is, between the ideal principles invoked by normative sources and the practical realities that impinged on the actual work of judicial authorities. This chapter will tack between the two dimensions, illuminating how the Qing judicial system was supposed to work, but also how difficult forensic cases might induce magistrates and cornerers to diverge from that ideal. Running through this material like a red thread is the Qing judiciary's reliance on self-incrimination under duress—raising fundamental questions that are not merely academic, given their painful relevance to criminal justice in China and elsewhere today.

1 The Illusion of Absolute Certitude

Our point of departure is the pretense of absolute certitude one encounters in *xingke tiben* 刑科題本, “routine memorials on criminal matters” that report death penalty cases prepared by local magistrates and sent up the chain of command for review.¹ Hundreds of thousands of *xingke tiben* survive in the First Historical Archive in Beijing, and the great majority concern homicide. In principle, the goal of criminal procedure was to discover the truth—not just a

1 See Matthew H. Sommer, *Sex, Law, and Society in Late Imperial China* (Stanford: Stanford University Press, 2000), 17–29; *Polyandry and Wife-Selling in Qing Dynasty China: Survival Strategies and Judicial Interventions* (Berkeley: University of California Press, 2015), 13–16; and Robert E. Hegel, *True Crimes in Eighteenth-Century China: Twenty Case Histories* (Seattle: University of Washington Press, 2009).

useful approximation, but the actual and complete truth—in order to punish the guilty, succor their victims, and restore cosmological balance.² Therefore, these case reports allow no ambiguity or error: every crime has been solved, and every criminal was correspondingly sentenced according to the Qing code (*Da Qing lüli* 大清律例). The justice system appears to work perfectly, and any errors are detected and corrected in time to put everything right.

These documents constitute a priceless trove of historical evidence that has generated a growing body of scholarship.³ Without questioning the value of this work, I would like to point out a fundamental tension in our use of these sources. On the one hand, I think that we who rely on *xingke tiben* tend to be lulled into complacency by their neat appearance of certitude: we tend to assume that they accurately report the truth and that magistrates caught the true culprits. On the other hand, it is no secret that criminal justice is a messy business susceptible to mistakes, corruption, and failure. On reflection, it seems obvious that certitude was a discursive representation carefully crafted to satisfy the central authorities that a magistrate had done his job properly. It was the product of ideological and bureaucratic imperatives that weighed heavily on the local magistrate.

The cases cited in this chapter come from a much larger sample that I collected for my research on polyandry and wife sales as survival strategies among the rural poor.⁴ These specific cases illustrate problems with the examination

2 Shūzō Shiga, “Criminal Procedure in the Ch’ing Dynasty: With Emphasis on its Administrative Character and Some Allusion to its Historical Antecedents (11),” *Memoirs of the Research Department of the Toyo Bunko*, no. 33 (1975): 123; Alison W. Conner, “Chinese Confessions and the Use of Torture,” in *La torture judiciaire: approches historiques et juridiques*, vol. 1, ed. Bernard Durand and Leah Otis-Cours (Lille: Centre de Histoire Judiciaire, Université de Lille, 2002), 63–91; Jennifer Neighbors, *Criminal Intent and Homicide Law in Qing and Republican China* (PhD diss., University of California, Los Angeles, 2004), 183–184.

3 E.g. Philip C. C. Huang, *The Peasant Economy and Social Change in North China* (Stanford: Stanford University Press, 1985); Sommer, *Sex, Law, and Society; Polyandry and Wife-Selling; “Abortion in Late Imperial China: Routine Birth Control or Crisis Intervention?”* *Late Imperial China* 31, no. 2 (2010): 97–165; Thomas Buoye, *Manslaughter, Markets, and Moral Economy: Violent Disputes Over Property Rights in Eighteenth-Century China* (Cambridge: Cambridge University Press, 2000); Neighbors, *Criminal Intent*; Janet Theiss, *Disgraceful Matters: The Politics of Chastity in Eighteenth-Century China* (Berkeley: University of California Press, 2005); Hu Ying, “Justice on the Steppe: Legal Institutions and Practice in Qing Mongolia” (PhD diss., Stanford University, 2014).

4 See Matthew H. Sommer, “Making Sex Work: Polyandry as a Survival Strategy in Qing Dynasty China,” in *Gender in Motion: Divisions of Labor and Cultural Change in Late Imperial and Modern China*, ed. Bryna Goodman and Wendy Larson (New York: Rowman and Littlefield, 2005), 29–54; “Qingdai xian ya de mai qi anjian shenpan: yi 272 jian Ba Xian, Nanbu yu Baodi Xian anzi wei lizheng” 清代縣衙的賣妻案件審判: 以 272 件巴縣、南部與寶坻縣案子為例證 [The adjudication of wife-selling in Qing county courts: 272 cases from Ba, Nanbu,

of victims' remains that upset the ideal balance between autopsy and confession, threatening to subvert the normative standard of validity governing such judgments.

1.1 *Autopsy and Confession in Qing Criminal Procedure*

In the Qing judicial system, solution of homicide cases required both an autopsy of the victim's remains and a full confession from the culprit, which had to match in every detail.⁵ It was this perfect coherence between autopsy and confession that supposedly revealed the truth and therefore constituted the principal standard of validity in judging homicides.

In practical terms, the requirement for both autopsy and confession reflected the institutionalized paranoia of the imperial state, also seen in the review system. Qing officials knew that laziness, incompetence, or corruption could foster inaccurate autopsy reports; they also understood the risk of perjury and false confession, especially when torture was used. Ideally, then, a thorough examination of the victim's remains would test the confession's veracity by revealing the cause and circumstances of death; equally, a truthful confession would stimulate honesty and effort on the part of the coroner by threatening to expose his errors. Therefore, discrepancies were not tolerated. Moreover, a defendant had opportunities to recant, in which case a new trial and autopsy might be ordered. Therefore, a judgment that could survive review required an autopsy and a confession that confirmed each other in every detail.

Every county yamen had at least one coroner (*wuzuo* 仵作), who was charged with performing autopsies under the magistrate's supervision according to the official forensic manual, *The Washing Away of Wrongs* (*Xiyuan lu*

and Baodi counties], trans. Lin Wenkai 林文凱, in *Ming Qing falü yunzuo zhong de quanli yu wenhua* 明清法律運作中的權利與文化 [Power and culture in Ming-Qing law], ed. Qiu Pengsheng 邱澎生 and Chen Xiyuan 陳熙遠 (Taipei: Lianjing chuban gongsi, 2009), 345–396; and *Polyandry and Wife-Selling*.

5 Chang Che-chia [Zhang Zhejia] 張哲嘉, “Zhongguo chuantong fayixue’ de zhishi xingge yu caozuo mailuo” 「中國傳統法醫學」的知識性格與操作脈絡 [Knowledge and practice in “traditional Chinese forensic medicine”], *Zhongyang yanjiuyuan jindaishi yanjiusuo jikan* 中央研究院近代史研究所集刊 44 (2004): 1–30; Daniel Asen, “Vital Spots, Mortal Wounds, and Forensic Practice: Finding Cause of Death in Nineteenth-Century China,” *East Asian Science, Technology and Society* 3, no. 4 (2009): 453–474; “Dead Bodies and Forensic Science: Cultures of Expertise in China, 1800–1949” (Ph.D. diss., Columbia University, 2012); Pierre-Étienne Will, “Examining Homicide Victims in the Qing: Between Bureaucratic Routine and Professional Passion,” unpublished working paper, 2012, <<http://www.college-de-france.fr/site/pierre-etienne-will/index.htm#|p=/site/pierre-etienne-will/textes-inedits.htm>> (cited with author's permission). Here I address only the traditional provinces of China proper, which were governed by the bureaucratic system and legal code inherited and adapted from the former Ming.

洗冤錄). The original text dates to the Song dynasty, but many annotated and expanded versions survive from later eras. Under the Qing dynasty, the Board of Punishment standardized autopsy procedure to an unprecedented degree, publishing an official edition of *The Washing Away of Wrongs* that carried force of law equal to the Qing code.⁶ In homicide cases, these two texts served parallel functions: death investigation had to be based on *The Washing Away of Wrongs*, just as sentencing had to be based on the Qing code, and any deviation from either had to be justified in detail.⁷

An autopsy could take two forms: examination of the exterior surface of an intact body, and (if the flesh had rotted away) examination of skeletal remains. The former might include the insertion of specially prepared silver needles into the orifices, a method believed to detect poison. (The efficacy of this technique for detecting arsenic sulfide has been proven.⁸) Examination of the

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- 6 LLG—All references to *The Washing Away of Wrongs* refer to the official Qing version unless otherwise specified. It was published in 1742; previously, magistrates seem to have used various editions, in a procedure that was not yet standardized. See Pierre-Étienne Will, “Forensic Science and the Late Imperial Chinese State,” unpublished paper presented at *Workshop on Science and Confucian Statecraft in East Asia*, Kyujanggak Institute for Korean Studies, Seoul National University, 2012, 11–13 (cited with author’s permission). For the publication history of *The Washing Away of Wrongs*, see Brian E. McKnight, trans., *The Washing Away of Wrongs: Forensic Medicine in Thirteenth-Century China* (Ann Arbor: Center for Chinese Studies, University of Michigan, 1981), introduction; Jia Jingtao 賈靜濤, *Zhongguo gudai fayixue shi* 中國古代法醫學史 [Forensic medicine in traditional China] (Beijing: Qunzhong chubanshe, 1984); Pierre-Étienne Will, “Developing Forensic Knowledge through Cases in the Qing Dynasty,” in *Thinking with Cases: Specialist Knowledge in Chinese Cultural History*, ed. Charlotte Furth, Judith T. Zeitlin, and Ping-chen Hsiung (Honolulu: University of Hawai‘i Press, 2007), 62–100; and “Forensic Science.” For a list of related texts, see Pierre-Étienne Will, ed., *Official Handbooks and Anthologies of Imperial China: A Descriptive and Critical Bibliography*, Unpublished manuscript, work in progress, October 15, 2011 (cited with author’s permission). English translations exist of the Song original; see McKnight, trans., *The Washing Away of Wrongs*; and a Qing edition, see Herbert A. Giles, trans., *The “Hsi Yüan Lu” or “Instructions to Coroners”*, 1923 (Reprint, Taipei: Southern Materials Center, 1982).
- 7 Daniel Asen shows that in most cases, conformity to *The Washing Away of Wrongs* mattered far more than forensic expertise *per se*. “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.” Asen, “Dead Bodies,” 73. For an analysis of the reasoning that magistrates used when applying *The Washing Away of Wrongs* to actual cases (based on two late Qing casebooks), see Xie Xin-zhe, “Reading the Corpse in Forensic Casebooks of Nineteenth Century China,” *East Asian Science, Technology and Medicine* 45 (2017): 49–89.
- 8 Because exposure to sulfur changes the color of silver, sulfur can serve as a proxy for arsenic—see Yun Sik Nam et al., “Modern Scientific Evidence Pertaining to Criminal Investigations in the Chosun Dynasty Era (1392–1897 A.C.E.) in Korea,” *Journal of Forensic*

skeleton would occasionally require the scraping and disarticulation of bones and their steaming in vinegar, both to remove any remaining flesh and to reveal evidence of poisoning or soft tissue injury (perceived in discolorations and patches of dried blood on the bones).⁹ When problems were detected in the first kind of autopsy, another of the second kind might be ordered at a later date (but no more than two were permitted). Qing forensics included no autopsy of the sort familiar today, in which the body is cut open to remove internal organs for examination.

As part of the inquest, autopsies took place in public. Those who attended included the magistrate and his staff, plus defendants, relatives of the deceased, witnesses, and a crowd of local residents (often totaling dozens of people). An important purpose of this publicity was to convince onlookers of the validity of the coroner's findings—in particular, the relatives of the deceased, but also the defendants, who might thereby be induced to confess.¹⁰ Inevitably, these events had a theatrical quality, including a certain amount of give and take between coroner, magistrate, and spectators. Most *xingke tiben* record little of this interaction, however. In the preferred storyline, the magistrate arrested the culprit before the inquest, this individual's confession either preceded or immediately followed the autopsy, and the two would match perfectly.

1.2 *The Imperative to Clear Cases*

In the imperial tradition dating back to the Legalists, the power to take life was a jealously guarded prerogative of the emperor, and so homicide represented not just a terrible act of violence, but also a form of usurpation.¹¹ Therefore, solving homicides ranked among a local magistrate's most important responsibilities, and he and his staff came under great pressure to clear such cases both quickly and convincingly.¹²

Upon discovering that a homicide had occurred, a magistrate was required to investigate and solve the case expeditiously, according to a rigid schedule. He had to conduct an inquest in person, as soon as possible, at the site where the victim's body had been found (it was a serious crime to disturb the body, so

Sciences 59, no. 4 (2014): 974–977. The authors of that paper tested this technique on a mouse poisoned by arsenic sulfide.

9 For autopsy procedure, see Asen, "Dead Bodies," chapters 1 and 2; for steaming, see Asen, "Dead Bodies," 90–95.

10 Asen, "Dead Bodies," 40–42.

11 For Legalist influence on Qing law, see Derk Bodde and Clarence Morris, *Law in Imperial China: Exemplified by 190 Ch'ing Dynasty Cases* (Cambridge, MA: Harvard University Press, 1967), chapter 1.

12 The following is based on Ch'ü T'ung-tsu, *Local Government in China Under the Ch'ing* (Cambridge, MA: Harvard University Press, 1962), 119–124, 128–129.

usually it remained where the killer had left it). The magistrate had to confirm the coroner's findings and was responsible for their accuracy—both men would be punished for inaccuracy, even if it resulted from honest error. After the inquest, the magistrate was expected to apprehend the culprit(s) within six months, and to arrive at judgment within a further three months—these were the deadlines for routine cases, but for homicides involving the most heinous violations of Confucian order (e.g. a wife murdering her husband) even tighter deadlines applied. Each missed deadline triggered sanctions of increasing severity, including loss of salary, demotion, and dismissal from office. Moreover, as Alison Conner observes, magistrates “were charged with discovering the truth of the case and were held personally liable if it later appeared they had failed to get it; in effect, they acted as guarantors of the correct result.”¹³ The minimum penalty for a judgment later found to be wrong was dismissal. A magistrate's superiors risked similar penalties for approving a wrong judgment, so they had a strong practical interest in closely scrutinizing the case reports they received. The anticipation of such scrutiny, in turn, powerfully motivated local magistrates to conform closely to protocol when preparing cases for review.

The normal chain of command ran from the local magistrate (of a county, department, or subprefecture) to the prefect, to the provincial judge, to the provincial governor, and thence to Beijing. At each level, the case report was reviewed and, if approved, forwarded to the next higher level; if rejected, it would be returned to the local magistrate or, on occasion, to the magistrate of a different jurisdiction for retrial. In theory, at least, all death penalties had to be approved by the emperor, so everything prior to his approval was provisional.¹⁴ *Xingke tiben* represent the final stage of this process. Each of these documents is either (1) a memorial from the governor to the emperor, who would refer it for deliberation to the “Three Judicial Offices” (*sanfasi* 三法司, a committee of senior officials, mostly from the Board of Punishment); or (2) a memorial from the Three Judicial Offices reporting their recommendations. The bulk of each *xingke tiben* consists of the original case report from the local magistrate to the prefect, which is bracketed by reports from each successive level of review. In other words, when a local magistrate drafted his report on a

¹³ Conner, “Chinese Confessions,” 88.

¹⁴ For the Qing judiciary and its review system, see Bodde and Morris, *Law in Imperial China*, chapter 4; and Shūzō Shiga, “Criminal Procedure in the Ch'ing Dynasty: With Emphasis on its Administrative Character and Some Allusion to its Historical Antecedents (1),” *Memoirs of the Research Department of the Toyo Bunko*, no. 32 (1974): 1–45. In practice, it appears that emperors usually rubber-stamped the recommendations of the Three Judicial Offices. See Sommer, *Sex, Law, and Society*, 18–22.

homicide case, he faced Beijing and wrote for the emperor's eyes. For this reason, *xingke tiben* were prepared according to a highly rigid, standardized format, and written in clear, formal calligraphy; they purport to convey the unalloyed truth, matching each offense to a statute, and allowing for no ambiguity whatsoever. In contrast, the judgment of purely routine minor cases not subject to review allowed a great deal of pragmatic flexibility and informality.¹⁵

The pressure to solve homicides quickly and efficiently existed in sharp tension with the standards of validity ideally governing death investigation. Such pressure created a strong incentive for magistrates to choose the path of least resistance, which was by no means the same thing as discovering the truth and therefore could not be acknowledged. The nightmare scenario was the discovery of an unidentified body in poor condition that was obviously the victim of homicide. Under the circumstances, a magistrate (or his coroner) might be tempted to ignore evidence of foul play altogether. On the other hand, an overly zealous magistrate might be tempted to cut through the confusion by rounding up "the usual suspects" and eliciting false confessions through torture. Such problems were by no means unique to the Qing; they may occur wherever police and prosecutors endure political pressure to clear cases quickly.

2 "Cases without Corpses to Examine"

In some cases, the victim's body could not be recovered at all, posing uniquely difficult challenges. Without a corpse, how could someone be proven dead, let alone murdered? What did a magistrate have to do to satisfy his superiors that he had done everything possible to find the remains? What other evidence would suffice to prove murder, cause of death, and criminal culpability?

In a 1745 case from Yunnan, a woman named Bo Shi 柏氏 and her lover Abian 阿扁 had murdered her husband Ka San 卡三¹⁶ and dumped his corpse into the Red River, hoping thereby to conceal their crime; the river was in flood and the body disappeared downstream. Then Bo Shi claimed that her husband had been "taken away by demons." But villagers knew about her relationship with Abian, and they seized him; upon interrogation, both murderers confessed and then indicated where they had dumped Ka San's body in the river. But the body was nowhere to be found.

15 Sommer, "Qingdai xian ya de mai qi anjian shenpan"; and *Polyandry and Wife-Selling*, chapter 11.

16 As their names suggest, the men in this case were not Han Chinese; today, Xinping county 新平縣, where this case took place, is an autonomous county for the Yi 彝 nationality.

The county magistrate ordered a search of the river all the way to the county line, and when the body did not turn up, he asked the provincial authorities to order the jurisdictions downstream to continue the search. On the governor general's orders, the river was searched all the way to the Vietnamese border, a distance of some 200 kilometers as the crow flies. After eleven months, the magistrate finally reported that Ka San's body must have "floated across the border into foreign territory, so there is no way to recover it" 漂入外域, 無從打撈; he asked permission to adjudicate the case without the victim's remains. Reluctantly, the governor general granted permission, and the culprits were convicted on the basis of their confessions and witness testimony, all of which were mutually consistent. From the beginning of the search to the final report to Beijing, the entire process took two years.¹⁷

This case shows that it was possible to adjudicate a homicide case without the victim's body. But it also underlines the difficulty of doing so, given the enormous importance of autopsy to the adjudication of homicide—witness the extraordinary effort to recover Ka San's body, which required the mobilization of hundreds of yamen runners and village authorities in multiple jurisdictions. Even when the murderers had confessed, the lack of a body could paralyze the judicial process.

It is easy to understand how a body dumped in a swift-flowing river might be lost for good.¹⁸ In other scenarios, however, it could be more difficult for a magistrate to convince his superiors that a body could not be recovered. In a case from Guangxi, Su Honglou 蘇洪婁 was involved in a polyandrous relationship with Long Shengcai 龍勝彩 and Long's wife Su Shi 蘇氏; they had pooled resources and were farming in a remote area with no nearby neighbors. In 1741 the men got into a fight and Su beat Long to death. Afterwards, Su Honglou and Su Shi continued living together until the spring of 1748, when the homicide was finally discovered and prosecuted. Long's son, who had been hired out to another household, had managed to get the truth out of his mother and filed a complaint against her and her lover. Upon their arrest, both she and Su confessed.

Su Honglou testified that he had dug a shallow grave and covered the body loosely with earth. But when he indicated the site, no trace of Long's body could be found. Soon, the magistrate had to report that his investigation was behind schedule, but the Board of Punishment ordered him to find the missing remains. At the end of 1749, a new magistrate arrived to take over. He reported that Long's body still had not been found, even though Su Honglou had been

¹⁷ XT #266-6, Qianlong 10.3.16.

¹⁸ For other examples, see XT #2640-12, Jiaqing 22.4.22 and Will, "Examining Homicide Victims," 18.

taken to the putative burial site on three more occasions to help search. Acknowledging that “without recovering the corpse and examining it, a convincing case cannot be made” 非獲屍檢驗，難成信案，the new magistrate asked for instructions. The Board of Punishment ordered him to redouble his efforts:

You have the culprits in custody and can interrogate them! How is it possible that you cannot find the body? Obviously, this magistrate is perversely making excuses in order to delay the resolution of this major case!

且兇犯現在，活口可訊，何至骸骨無獲？明係地方官將重案任意藉詞延矣！

This reprimand amounted to an order to apply torture, and the magistrate acted accordingly.¹⁹ But the wretched defendants had nothing new to offer. The magistrate personally escorted them to the burial site and made Su indicate once again, for the fifth time, exactly where he had buried Long’s body. Over the past two years, yamen runners had dug up the whole area without success, and nothing was found this time either. Su begged for mercy, pleading that many years had passed and that the body must have rotted away or been devoured by animals. Concluding that nothing more could be done, the magistrate reported his efforts in great detail, and the Board of Punishment finally allowed him to pass judgment without recovering the remains. But both magistrates were demoted for their failure to find the body or to clear the case by the deadline.²⁰

To summarize, the lack of a corpse upset the proper balance between autopsy and confession, making it impossible to meet the ideal standard of validity governing the judgment of homicide—hence, the extraordinary effort to recover the remains in these cases. This imbalance increased the pressure for self-incrimination, and a magistrate’s superiors might demand torture in order to firm up a judgment even after defendants had already confessed their guilt.

19 For the authorized instruments of torture, see Conner, “Chinese Confessions,” 71–73 and Nancy Park, “Imperial Chinese Justice and the Law of Torture,” *Late Imperial China* 29, no. 2 (2008): 40–43.

20 But later, because of an amnesty, their demotions were canceled—XT #424-1, Qianlong 15.10.24.

3 Difficulty Identifying the Dead

In most cases reported in *xingke tiben*, victims' remains were quickly discovered and identified by people who knew them personally. But some cases involved murders that nobody had witnessed, and that had occurred some distance away from the victims' homes, where there was no one who knew them. Under these circumstances, how did the authorities identify the dead?

In a 1736 case from Henan, an unidentified male body was fresh enough to reveal a number of distinguishing marks: his face was tattooed with the characters "*qie dao*" (竊盜, "thief") and his legs bore scars from the ankle press and the heavy bamboo. At some point the deceased had been interrogated under torture, convicted of theft, beaten, and tattooed. Yamen runners fanned out to nearby towns and villages, broadcasting the dead man's description and interrogating anyone who seemed out of place. Eventually they heard about a pair of strangers—a man and a woman—staying in a nearby village. When questioned, the woman identified herself as Guo Shi 郭氏, and hearing the dead man's description, she immediately identified him as Zhang Er 張二, her erstwhile lover, with whom she had run away from her husband and come to Henan some months before. Guo Shi and Zhang Er had run out of money, so he had sold her as wife to a third man, Feng Yi 馮宜, who was her present companion. Then Feng confessed to murdering Zhang Er in order to avoid paying the promised "body price" (*shen jia* 身價) for Guo Shi. His account of the killing matched the wounds on the body, and he also correctly indicated where it had been found.

The two confessions conformed to the autopsy's finding and therefore sufficed to solve the case. The magistrate was lucky, because if the corpse had not been marked in such a distinctive way, it might never have been identified. As it happened, the only loose end was the dramatic evidence of Zhang Er's criminal past: the authorities, to their frustration, never managed to find a record of his previous entanglement with the law.²¹

In a 1743 case from Guanghua county 廣華縣, Hubei, Sun Zongyu 孫宗禹 was the outside partner in a polyandrous relationship with Xiao Shi 蕭氏 and her husband Zhai Fengxiang 翟鳳祥; Sun decided to murder Zhai in order to claim Xiao Shi for himself. One night, he got Zhai drunk, lured him away from their village, and killed him with an axe; then he used a haystack to burn Zhai's body in an attempt to make it unrecognizable. Returning home, Sun told Xiao Shi that Zhai had left to seek work. She did not believe him and demanded to

²¹ XT #8-10, Qianlong 1.5.7.

know where her husband was; then Sun tried to force her to leave the village with him, but their landlord intervened and stopped him.

Meanwhile, the badly burned body had been discovered. By the time of the initial autopsy (a week after the murder), it had begun to rot. Between the burns and the decay, nobody recognized it, and the coroner was unable to determine cause of death. The magistrate had the remains placed in a temporary coffin and ordered his runners to make inquiries. Back in the village, however, Zhai's neighbors had become suspicious at Sun's strange behavior and reported him to the yamen runners, who arrested Sun and Xiao Shi. She confessed her sexual relationship with Sun and then he confessed to murdering Zhai. Then Sun helped the runners recover the murder weapon, and also showed them where he had burned and abandoned Zhai's body.

But the magistrate remained concerned, because confession had to be verified by autopsy, and the corpse's present condition made that impossible. As he reported to the prefect, "the corpse is charred black and the wounds cannot be examined... Only a clear examination of the wounds can make a convincing case" 遍身焦黑，無傷可驗 必須檢明方成信案。Doubt also lingered about the identity of the burned remains: "The clothing, shoes, and hat that Xiao Shi testifies her husband was wearing when he disappeared match those found on the corpse. Nevertheless, the corpse itself is too badly burned for her to identify" 屍妻蕭氏供明伊夫翟鳳祥身着衣帽鞋襪與原驗相符。但身屍未經蕭氏認明。Therefore, he reported, although it appears that we have solved the case, "we cannot be absolutely sure" 原涉疑似。Obviously, a new autopsy was required, but he lacked confidence in his own county's coroners because "none have deep experience in performing autopsies" 不諳檢驗。In response, the prefect ordered the coroner of Xiangyang county 襄陽縣, Zhang Decheng 張德成, to travel to Guanghua county to conduct a new autopsy.²²

By the time Zhang arrived, seven months had passed since the murder, and when the coffin was opened the soft tissues had rotted away, leaving a clean skeleton. The first priority was to establish whether this skeleton really belonged to Zhai Fengxiang. For this purpose, Coroner Zhang selected a femur and "ordered the corpse's father Zhai Tianchang to prick his own skin and drip blood onto the bone" 令屍父翟天昌刺血滴骨。As the defendants, witnesses, and assembled relatives of the deceased looked on, the coroner announced that "the drops of blood have soaked into the bone" (*di xie ru gu* 滴血入骨), which proved consanguinity and therefore the identity of the remains beyond doubt. Then the coroner examined the bones and found traces of wounds

22 For the deputation of experienced coroners from other jurisdictions, see Asen, "Dead Bodies," 73–75, 84–89.

“inflicted by a metal implement” that matched the murder weapon as well as the specific blows that Sun had confessed inflicting on Zhai. On this basis, the magistrate could pass judgment.²³

Here we have an example of the blood drop test prescribed by *The Washing Away of Wrongs*, which was the ultimate standard of validity for autopsy procedure:

If sons or daughters wish to verify the identity of their parents' bones, they should prick their flesh and drip blood onto the bones. If the bones belong to those who gave birth to them, then the blood will soak into the bone; otherwise it will not.

父母骸骨在他處，子女欲相認，令以身上刺出血滴骨上，親生者則血入骨，非則否。

As Zhai Fengxiang's autopsy shows, this test was also believed capable of proving a father's paternity by testing the bones of his son.²⁴

According to Steven Foung, M.D. (a hematologist who is Professor of Pathology at Stanford Medical School), there is no scientific basis for this test of consanguinity.²⁵ In fact, it was rarely used: the case of Zhai Fengxiang is the only example I have found in the archives. Even in this case, one suspects, the visiting coroner and the magistrate must have already been persuaded by all the other evidence that the skeleton belonged to Zhai. The blood drop test was a performance that demonstrated the coroner's virtuosity and provided dramatic public confirmation of what the magistrate already believed. But also, by closely conforming to *The Washing Away of Wrongs*, this performance would preempt any doubts his superiors might feel upon reviewing his case report.

If we scrutinize these examples in which identification posed difficult challenges, we find that *in practice*, the decisive evidence was not the evidence of the body, but rather the murderers' confessions. In most cases, fresh remains could be identified by family or friends. But if remains were compromised (by decay, mutilation, etc.), then identification depended on self-incrimination by the murderers, who named their victims, indicated where the murders had taken place and the bodies were hidden, and described the specific wounds they had inflicted. The subsequent autopsies confirmed what had already been discovered through confession. This sequence of events implies—even if it was never openly acknowledged—that in difficult cases, prior confessions actually served as scripts for subsequent autopsies. This is an example of how practical pressures might subvert the normative ideal that gave equal weight to confession and autopsy.

23 XT #206-2, Qianlong 8.5.16.

24 LLG: 1.37a–b.

25 Personal communication, August 2013.

4 Bungled Autopsies and Hasty Judgments

The next two cases illustrate errors—often linked to the pressure to solve cases quickly—that might occur in autopsies. In both, badly decayed corpses made for difficult (and unpleasant) autopsies, yet magistrates and their coroners pushed forward all the same, making serious mistakes that were later exposed on review. A magistrate did have the option of declaring a body to be too badly decayed for examination and requesting permission to delay the autopsy until the flesh had disappeared from the bones. Also, as we have seen, a magistrate could request that an “experienced and skilled coroner” (*laolian wuzuo* 老練仵作, *anlian wuzuo* 諳練仵作) be sent from a different jurisdiction to assist him; this measure was especially common in skeletal cases, which were understood to be the most challenging.²⁶ Of course, the delay that resulted from requesting an outside coroner would risk missing deadlines, which no magistrate would desire. Nevertheless, rushing to judgment also entailed risk. Even the most conscientious magistrates might struggle with how to resolve this Catch-22.

4.1 *Ignoring Evidence of Foul Play*

In a 1762 case from Xuyi county 盱眙縣, Anhui, a prosperous peasant named Tan Si 談四 murdered his employee Gao Shizhong 高世忠 in an attempt to acquire Gao's wife Wang Shi 王氏 as his concubine. Shortly after hiring the couple, Tan had raped Wang Shi, but Gao did not protest because he could not afford to lose his job; and after Wang Shi realized her husband's attitude, she stopped resisting Tan's advances. But Tan was not satisfied and he finally decided to eliminate Gao. One night he put arsenic in Gao's wine, but when the poison failed to kill him, Tan tied his arms and feet and dumped him in a nearby river to drown. The river happened to mark the boundary between Xuyi and Tianchang 天長 counties.²⁷ A few days later, the body was pulled out of the river on the Tianchang county side, and after a few more days, Magistrate He Rangde 賀讓德 of Tianchang county and his coroner arrived to conduct an inquest. According to the coroner's later testimony: “There was river mud in the nostrils and mouth and under the fingernails and toenails, and the belly was bloated. So I reported that the man had drowned” 口鼻手足指甲內均有沙泥，肚腹又是膨脹。就報了落水身死。

It happened that Gao Shizhong's younger brother Gao Zhengxiang 高正鄉 had heard that an unidentified body had been found in the river. Since his brother was missing, he decided to attend the inquest, and he recognized the

²⁶ Cf. Asen, “Dead Bodies,” 73–75, 84–89.

²⁷ Both counties were then part of Anhui but are now part of Jiangsu.

dead man's clothing as his brother's. After the coroner had completed his autopsy, Gao Zhengxiang stepped forward to identify it. The magistrate was eager to close the case, so he pressed Gao Zhengxiang to submit an affidavit that his brother had died of accidental drowning. But Gao Zhengxiang refused, although he did accept the body for burial. Despite this refusal, Magistrate He ruled that Gao Shizhong "died because he lost his footing and fell into the river" 失足落水身死.

The reason Gao Zhengxiang refused the affidavit was that his brother's body, when pulled out of the river, had had its arms and legs bound. Astonishingly, the coroner had not bothered to record this in his report. The record states that Magistrate He personally examined the corpse and confirmed the coroner's findings (as he was required to do), but he may not have actually done so, given its nauseating condition.²⁸

Gao Zhengxiang took his brother's body home and buried it. In the meantime, Tan Si heard what had happened at the inquest and became nervous, because many people knew about his relationship with Wang Shi. In order (he hoped) to preempt further trouble, Tan offered Zhengxiang 1,000 cash to cover "travel expenses" and asked him to go to the Tianchang county yamen and submit the affidavit that the magistrate had requested; he promised to give him a further 1,400 cash after his return. Astonished, Gao Zhengxiang realized that Tan Si must have murdered his brother.

Meanwhile, rumors about Tan Si and Wang Shi's relationship came to the attention of yamen runners from Xuyi county, on the other bank of the river, where the principals in the case actually lived. Claiming jurisdiction, the Xuyi magistrate arrested Tan Si and Wang Shi, and after Gao Zhengxiang testified about the bribery attempt, Tan confessed to having murdered Gao Shizhong by arsenic and drowning. The Xuyi magistrate reported his findings to the provincial judge, who ordered the coroner of yet a third county to assist the Xuyi coroner with a new autopsy. These two coroners exhumed the body, now reduced to a skeleton, and found discolorations of the bones that, according to *The Washing Away of Wrongs*, constituted proof of poisoning. Witnesses also testified that the corpse's arms and feet had been bound when it was pulled out of the river, a detail missing from the original autopsy report.

Under interrogation, the Tianchang county coroner offered the following explanation for his actions:

²⁸ Magistrates' handbooks routinely warn that coroners cannot be trusted and that their findings should be personally checked by the magistrate; see Asen, "Dead Bodies," 80–81.

When I first examined the body, I did notice that the feet and arms were bound, but when I removed the bindings I saw that the body was already rotten. There was mud inside the nose and mouth and under the fingernails and toenails, and the belly was bloated, so I just reported that the cause of death was accidental drowning. Even though the arms and feet were bound, I was momentarily negligent and did not report this.... Nobody bribed me to conceal this evidence—the truth is, the corpse was so rotten that there was no way I could observe any injuries.

小的從前驗時，原見有白布裹腳網者兩臂，解看之後因見屍身都已發變，口鼻手足指甲內均有沙泥，肚腹又是膨脹，就報了落水身死。那裏腳網手情形，小的一時失誤沒有回明 小的無從受賄，實係因屍發變未能驗出傷痕。

This remarkable testimony suggests that the coroner deliberately ignored evidence of foul play, most likely because he wanted to avoid the hassle of dealing with a homicide. The same motive seems to explain Magistrate He's eagerness to rule the death accidental. They must have feared the consequences of reporting the truth, given the difficulties posed by this particular corpse, and the automatic sanctions for missing deadlines. The truth came out only because the Xuyi county magistrate took it upon himself to launch an independent investigation after his colleague in Tianchang county had already closed the case. How many magistrates would have done this? Without the Xuyi magistrate's extraordinary intervention, it is unlikely that Gao Shihong's murderer would ever have been brought to justice; after all, natural and accidental deaths did not have to be reported up the chain of command. For their negligence, Magistrate He and his coroner were dismissed from office, and the latter was also sentenced to 80 blows of the heavy bamboo for "making an untruthful autopsy report" (*xiang yan bu shi* 相驗不實).²⁹

4.2 *Erroneous Autopsy Facilitates Perjury*

In a 1738 case from Langzhong county 閬中縣, Sichuan, the coroner's errors and his magistrate's rush to judgment almost enabled three murderers to evade justice. In this case, a peasant woman named Liu Shi 劉氏 had a sexual relationship with a single man named He Shengshu 何勝書; her husband Chen Maolin 陳茂林 tolerated this arrangement because He helped to support the couple, and the two men got along well with each other. But Liu Shi's older brother Liu Maorong 劉茂榮 disapproved and repeatedly interfered. His

29 XT #830-9, Qianlong 27.12.20.

meddling turned his sister against him, and finally she persuaded her husband and her lover to murder her brother. In doing so, each of them inflicted a single wound: Liu Shi stabbed him in the stomach, Chen struck him in the head with an axe, and He cut his throat. Then they tied Liu's body to a large stone and sank it in a river, but it was discovered a week later. Liu's brother identified the corpse and the village authorities reported the homicide.

The Langzhong county magistrate was away, so his staff sent an urgent request that the magistrate of neighboring Nanbu county 南部縣 conduct the inquest in his place. The Nanbu magistrate brought along his own coroner and they visited the river where the body had been found. By this time, more than six weeks had passed, and the body was in poor condition, having been left in the water all this time. The coroner was able to identify only the head wound, and the magistrate ruled that Liu Maorong had been killed by a blow to the head.

The murderers had agreed in advance that if the body were found, Liu Shi and her husband would accuse Liu Maorong of raping Liu Shi and say that her husband Chen had killed Liu while trying to defend her. (This plan implies a correct understanding of the law that a rapist or adulterer caught in the act could be killed with impunity by the woman's husband.) They would leave He out of the story. At the inquest, Liu Shi and Chen stuck to this story; and since the coroner (while they looked on) had discovered only the head wound, they did not mention the knife wounds to Liu's abdomen and throat. Their confessions were mutually consistent and confirmed the autopsy report, so the magistrate concluded that Chen had acted alone and with justification.

The prefect, however, reacted skeptically to this tale of a brother trying to rape his sister, and he deputed the magistrate of Ba independent department 巴州 to retry the case. This magistrate interrogated each witness separately, and under this pressure, the murderers' story began to fall apart. Then the couple's neighbors reported their polyandrous relationship with He Shengshu, and with him under arrest, the three soon confessed the murder.

But these new confessions reported *three* separate wounds, thereby contradicting the coroner's report of a single wound to the head. The Langzhong county magistrate (who by this time had returned) summarized the situation to his superiors:

The corpse was too rotten to be examined properly for wounds, so the autopsy was neither thorough nor correct. In judging homicide cases, it is imperative to begin with a correct examination of the wounds on the corpse. If the wounds are not clear, then the sentence will be either too

lenient or too severe. I must beg that an experienced and skilled coroner be deputed to perform a correct autopsy.

屍身腐爛無憑驗報，但勘斷人命，必先驗確屍傷。倘傷有不明，即罪有出入。相應轉請檄調老練仵作將屍傷覆檢明確。

In response, Beijing ordered that the Nanbu county coroner and magistrate both be dismissed from office for incompetence, and that an experienced coroner be sent from Liangshan county 梁山縣 (about 200 kilometers to the southeast) to perform a new autopsy.

All of this took several months, so that by the time the Liangshan county coroner opened Liu Maorong's coffin, only bones remained. The coroner found the axe wound to the skull, and confirmed the defendants' confessions by identifying traces of the knife wounds in discolored bones and patches of dried blood that stuck to them. Then the magistrate interrogated the Nanbu county coroner, who testified:

Liu Maorong's corpse had soaked in the water for over a month and was completely rotten, making it very difficult to perceive any wounds. At the inquest I reported this to the magistrate and warned him the autopsy might not be reliable... The corpse was bloated, so that the rope tied around the waist had sunk into the rotten flesh, and when I untied the rope the whole abdomen gave way and fell off the body, and when I washed the area with water, the rotting bowels simply disintegrated. How could I have possibly seen a knife wound in the skin?... But I did report the mortal wound to the head, and since that was enough to prove homicide without a doubt, I figured it would be enough to decide the case. Therefore I did not request permission to conduct a second autopsy that would have required steaming the bones. I had no intent to withhold evidence.

劉茂榮的屍身在水裡泡了一月有餘，已經腐爛，傷痕難辨，原是當場報明無憑相驗 那屍身發脹，腰裡拴的繩子陷在皮肉，那時把繩解去那肚腹皮肉整塊的脫落下來，用水沖洗 腸子也都爛了。如何還看見皮上的刀戳口子 總之小的見有頭上致命重傷已是殺死確據，因不稟請蒸檢。並不是有心作弊。

The magistrate sentenced the Nanbu county coroner to 80 blows of the heavy bamboo, according to the statute against a coroner who “adds or omits wounds” (*zeng jian shi shang* 增減屍傷) when making an autopsy report.³⁰

If we consider the first, erroneous autopsy, it is clear that the Nanbu county magistrate had been eager to settle for a quick and simple solution. After all, he had an autopsy and a confession that were mutually consistent. The easily-identified head wound sufficed to prove homicide; and Chen’s false confession that he had killed Liu while defending his wife sufficed to confirm the autopsy. Given the condition of the corpse, the magistrate must have felt lucky to obtain such a straightforward solution. Is it any wonder he did not press Chen and Liu Shi too closely about their tale of incestuous rape? Here we have an example of expediency serving the interests of the individual magistrate even while subverting the standards of validity that were supposed to govern death investigation.

Both of these cases illustrate how judicial review was *supposed* to work in correcting errors. In that sense, they must be judged successes. But they also reveal how easily such errors might occur, and how unlikely it was that they would be detected. Specifically, both cases illustrate how the pressure to clear cases could lead to errors by tempting magistrates and coroners to seek the simplest solutions possible. But they also illustrate the disastrous consequences for official careers of having such errors exposed.

5 Reading Bones for Evidence of Soft Tissue Injury

When magistrates requested outside help, it was usually for skeletal autopsies, which posed the most difficult challenges. *The Washing Away of Wrongs* provides detailed guidelines for examining skeletons, including a list of bones to be examined. Once the authorized edition had been issued, it carried the force of law and had to be followed rigorously. Nevertheless, experienced officials almost immediately began expressing doubts: there was no consensus on the number of bones in the skeleton, or whether that number was the same in men as in women; whether women’s bones were a different color than men’s; whether women possessed an extra “secret bone of modesty” (*xiumi gu* 羞秘骨); and so on. The best informed of those who had to follow the guidelines seem to have had the least confidence in them.³¹

³⁰ XT #71-6, Qianlong 3.3.22.

³¹ Catherine Despeux, “The Body Revealed: The Contribution of Forensic Medicine to Knowledge and Representations of the Skeleton in China,” in *Graphics and Text in the*

But one would never know this from *xingke tiben*. The most difficult autopsies required coroners to identify injuries to soft tissues that had rotted away, sometimes when only a handful of bones survived. *The Washing Away of Wrongs* prescribes with absolute confidence how to diagnose such injuries from the appearance of bones, and this confidence is reproduced in the autopsy reports in *xingke tiben*. As Daniel Asen has shown, the legitimacy of an autopsy depended above all on conformity to bureaucratic routine guided by *The Washing Away of Wrongs*.³² And yet, one cannot help wondering how certain those coroners and magistrates really felt about their findings.

5.1 *Injury to the Testicles as Cause of Death*

An example that seems especially problematic is injury to the scrotum (*shen-nang* 腎囊) or testicles (*shenzi* 腎子), which is cited as the cause of death in many cases. Qing forensic manuals all list the scrotum as a “vital spot” (*zhi ming chu* 致命處) vulnerable to mortal injury.³³ Injury to a woman’s genitals (by a kick or blow, for example) was also believed to be a cause of death, and *The Washing Away of Wrongs* explains that the skeletons of men and women who died of genital injuries would exhibit similar symptoms.³⁴

In the relevant cases, we find that murderers targeted the scrotum, because they understood such injury to be lethal. In a 1753 case from Sichuan, a woman and her lover plotted to murder her husband. She suggested that they buy poison, but her lover told her poison would not be necessary because “if you just twist his genitals hard, then of course he will die” 捻著他的下陰，自然會死。When the time came, the woman helped murder her husband by “squeezing” (*nie zhu* 捏住) his scrotum.³⁵ In short, the notion that squeezing or strangling the scrotum would be an effective way to murder a man was not an esoteric feature of forensic expertise, but was common knowledge shared by illiterate peasants with coroners and magistrates. The verbs used in testimony to describe murderers’ actions are graphic and violent; moreover, death is portrayed

Production of Technical Knowledge in China: The Warp and the Weft, ed. Francesca Bray, Vera Dorofeeva-Lichtmann, and Georges Métaillé (Leiden: Brill, 2007), 637–684; Chang Che-chia, “The Verification of Forensic Knowledge in the Qing Dynasty: The Case of Xu Lian’s Researches on Osteology,” unpublished paper presented at the conference on “Global Perspectives on the History of Chinese Legal Medicine” (University of Michigan, 2011, cited with author’s permission); Asen, “Dead Bodies,” 98–103.

32 Asen, “Dead Bodies.”

33 For the concept of vital spots in Qing forensic practice, see Asen, “Vital Spots.”

34 LLG: 2.6a.

35 XT #518-2, Qianlong 18.7.3.

as quick (within minutes), and its mechanism appears similar to strangulation, as if squeezing the scrotum would cut off the flow of some vital essence.

What theory of the body explained why such injuries could be fatal? *The Washing Away of Wrongs* itself provides little in the way explanation. Another source cited by Xu Lian's 許橈 (1787–1862) 1854 edition offers the following explanation:

The scrotum hangs down, weak and soft. If it is severely injured by being kicked or by being pierced with some implement, then it will suddenly retract within the abdomen, and the *qi* and blood will attack the heart, with the inevitable result that the man will become unconscious and incapable of speech and will immediately die. If the skin is not broken, and there is no flow of blood, bruising, or swelling, then it may be that the man had suffered from hernia, and because he became angry his testicles shrank within his abdomen, causing his death—the symptoms are the same.³⁶

腎囊下懸虛軟，或被腳踢或受他物刺擊，腎子傷重，一時升入腹中，氣血攻心，必致昏迷不語登時殞命。既不皮破血流，又無青紅浮腫，似與素患疝氣因怒激令腎子縮入腹中死者無異。

Traditional trauma medicine held that fatal injuries in men could cause the testes to retract within the body. Moreover, it was believed by medical experts that a sudden “reverse flow” of *qi* and blood could cause death, and that such reversal might be provoked by lethal doses of emotion. It appears that the same phenomenon was believed to result from the excruciating pain of testicular injury.³⁷

Such injuries could supposedly be identified from skeletal remains. *The Washing Away of Wrongs* provides the following instructions:

36 Xu Lian 許橈, ed., *Xi yuan lu xiang yi* 洗冤錄詳義 [Explanation of the meaning of *The Washing Away of Wrongs*]. 1854, 1877 edition, in *Xuxiu siku quanshu* 續修四庫全書 [Supplement to the *Complete Library of the Four Treasuries*], vol. 972 (repr., Shanghai: Shanghai guji chubanshe, 1995–1999), 2.11a–b. Xu Lian, from Haining department, Zhejiang, won his *jinsshi* degree in 1833. He served as prefect of Pingdu prefecture, Shandong, where he took a keen interest in forensic investigation, especially with regard to bones. See Xu Lian, *Xi yuan lu xiang yi*, preface; Chang Che-chia, “The Verification of Forensic Knowledge.”

37 I am grateful to Yi-Li Wu for sharing her expert knowledge of traditional Chinese trauma medicine on this point (personal communication, August 2013).

In this part of the body there are no bones to be examined, and even the bones [in closest proximity] will not exhibit evidence of injury; in fact, if only the bones in the lower part of the body are examined, then in most cases the murderer will evade detection. The reason is that whenever a person is injured in the pelvic area, whether male or female, the evidence of injury will always be visible on the *upper* part of the skeletal remains, not the lower part. In men, the signs of injury will appear in the sockets of the upper and lower teeth: if the wound is on the left side, the signs will appear on the right side [of the mouth]; if the wound is on the right, the signs will appear on the left; and if the injury is in the center, the signs will appear in the middle. In women, the symptoms of pelvic injury will appear on the palate, the specific location (i.e. left, right, or center) being the same as in men.³⁸

此等傷所，不但無骨可驗，即實有骨而傷亦不着，若惟執其在下之骨而檢之，則兇人漏網多矣。凡傷下部之人，不分男女，其痕皆現於上面不在下，男子之傷現於上下牙根裡骨，傷左則居右，傷右則居左，傷正則居中，女子之傷則又現於上腭，左右中亦然。

This passage mentions only teeth, but elsewhere we learn that the top of the skull may also be discolored. Why would these injuries leave their mark on the teeth and skull? The commentary on the above passage includes the following anecdote:

When a certain Mr. Song was governor of Jiangsu, he reviewed a case in which an adulteress had murdered her husband by grabbing and rupturing his scrotum. When the skeletal remains were examined, the front part of the top of the skull was blood red, and both upper and lower teeth had fallen out. The governor was puzzled by these symptoms, because the injured testicles were in the lower part of the body: Why would that injury penetrate up to the teeth and skull, which are located at the top of the body? An experienced member of his staff explained that the agony of an injured scrotum is extreme, causing the injured man to clench his teeth so violently that they fall out; the blood then congeals inside the bones and flows upward, so that the top of the skull appears red.³⁹

³⁸ LLG: 2.6a.

³⁹ LLG: 2.6b.

昔有宋某巡撫江蘇，驗姦婦謀死親夫一案，係抓破腎囊，驗時顛門血紅，上下牙齒脫落，因思腎傷在下，何以透及頂心牙骨，老吏云，腎囊受傷疼痛難忍，牙齒狠咬以致上下牙齒俱脫，血凝骨裡奔往頂心，所以現紅。

This explanation appears linked to the theory that injury to the testicles could cause a sudden reverse flow of *qi* and blood. Also, an 1854 edition explains that:

If a man dies from having his testicles injured by squeezing, the evidence of the injury will appear at the top of the skull, which will exhibit cracks that are red or purplish in color; the sockets of the teeth will be reddish purple in color, and the very center of the top of the skull will be red. The reason that the symptoms of injury to the scrotum appear on the skull is most likely that the two places are connected by channels in the bones.⁴⁰

捏傷腎子死者，傷廢於頂骨上，有碎路紅色或紫赤。腎囊受傷身死，牙根裡骨紅紫色，頂心骨正中紅赤色，蓋頂心與腎囊骨竅相通，故腎囊受傷上現頂心。

In other words, there was a connection via channels between the testes and the head that caused the “reverse flow” to leave symptoms in the teeth and skull.

There seems to have been no clear consensus on exactly why these symptoms would appear on the skull. In the relevant homicide cases, however, coroners cited these symptoms with absolute confidence in order to prove cause of death.

For example, in a 1758 case from Sichuan, a woman named Yu Shi 余氏 and her lover Zhang Zilin 張子林 murdered her husband Han Song 韓松 by “grabbing and squeezing his scrotum” (*jiu zhu shennang* 揪住腎囊). Then they buried his corpse on a hillside near a stream, which later flooded and scattered the remains. The culprits were arrested eight months later; they confessed and indicated where they had buried Han Song’s body. After an exhaustive search, the coroner found a total of five teeth and 39 pieces of bone that presumably belonged to Han (the identification of these remains depended entirely on the murderers’ testimony). The coroner reported that in order to determine cause of death, he would have to “steam and examine the bones, as prescribed by law” (*ru fa zheng jian* 如法蒸檢). Steaming was considered a drastic step, because of the violence it did to the victim’s remains. The magistrate reported

⁴⁰ Xu Lian, *Xi yuan lu xiang yi*, 1.90b.

the situation to his superiors, who ordered him to proceed. After completing the steaming, the coroner found that the roots of the surviving teeth were “pink” (*wei hong* 微紅), and he cited this as “a manifestation of injury to the scrotum” (*shennang xian shang* 腎囊現傷), which he declared to be the cause of Han Song’s death. Having confirmed the culprits’ confessions, the magistrate was able to pass judgment.⁴¹

In this case, the autopsy took place after confessions had already been secured, and confirmed them in every detail, despite the compromised condition of the remains. This is also true in other cases I have seen, in which examination of bones proved the cause of death to be injury to soft tissues or poisoning. It seems unlikely that this sequence of events was a coincidence. The magistrates had already secured satisfactory confessions, and it suited everyone’s interests for the coroner to discover stains on the teeth and skull that would confirm what they already “knew.”

Given the dubious quality of the forensic evidence (of which more below), it seems likely that these autopsies were scripted by the prior confessions, and moreover that such scripting was common practice even if never openly acknowledged. Such practice represents a deviation from the ideal that confession and autopsy would confirm each other, thereby revealing the truth. It is one more sign of imbalance that increased the pressure for self-incrimination, without which difficult cases could not be solved.

5.2 *Pelvic Injury in Women, and the “Secret Bone of Modesty”*

The Washing Away of Wrongs cautions that any apparent symptoms of injury in the pelvic area of a woman’s skeleton should be ignored:

With regard to the pelvic area in women, there is a “secret bone of modesty” that cannot be read for evidence of injury even if it is discolored. The reason is that in a woman who is absolutely chaste, i.e. who “follows one husband until the bitter end,” this bone will be white as jade; but if she is a widow who takes a second husband, there will be a dark spot; if she takes more than two husbands, then the bone will have many spots; and if she is a prostitute, then the bone will be almost entirely black. If you mistakenly interpret such discoloration as evidence of injury, then injustice is inevitable.⁴²

⁴¹ XT #690-10, Qianlong 23.6.9.

⁴² LLG: 2.6a–b.

婦人隱處其骨為羞秘骨，不可檢驗，說有青色難執為傷。蓋女子從一而終則骨白如壁，再醮一人則有一點青痕，倘不自閑，閱一人則加青一點，若係娼妓則青黑殆遍。苟誤認為傷，冤無可洗矣。

In other words, a woman's "secret bone of modesty" provided a readable record not of injury, but rather of her chastity or lack thereof. It was not a record of a woman's sexual history *per se*, because no matter how vigorous her sex life, as long as she remained faithful to her first husband the bone would remain "white as jade." But there was no consensus on this point. For example, a 1796 recension of *The Washing Away of Wrongs* cites the case of a young woman named Cuigu 翠姑 who died after working for two years as a prostitute. Even though she had had "much experience of men," her secret bone of modesty exhibited "no discoloration whatsoever." Why not?

According to the testimony of an experienced coroner named Wang Sheng, *The Washing Away of Wrongs* is not entirely accurate on this point. It seems likely that if a woman has not yet given birth, then her bone will be clean and white, whereas if she has given birth many times, then the drain of blood and *qi* will have stained the bone dark. Even though Cuigu was a prostitute for two years, she was still in the spring of life and had not yet given birth. That is why her secret bone of modesty was white.⁴³

據老件作王升供稱，《洗冤錄》所論亦不甚確，大概未生育者其骨潔白，生育多則血氣耗，其色昏暗，翠姑雖當娼二年，但正在青年，尚未生育，故其骨白色。

According to this "experienced coroner," then, it was the physiological effects of childbirth that left their mark, not the moral effects of promiscuity.

The "secret bone of modesty" was supposedly located deep in the vagina; it appeared on the official list of bones to be examined during a skeletal autopsy. Modern medicine recognizes no such bone, however, and despite the esoteric analyses cited above, many Qing experts admitted that they had failed to discover this bone when examining women's remains. Xu Lian wrote,

I have personally examined more than ten female skeletons, but none of them had a so-called 'secret bone of modesty' in the area above the

43 Cited in Ge Yuanxu 葛元煦, *Xi yuan lu zhi yi* 洗冤錄摭遺 [Retrieved materials on *The Washing Away of Wrongs*], 1877, in *Xuxiu siku quanshu*, vol. 972, 1.12b.

vagina. I have questioned my colleagues and experienced coroners, and they all admit that they have never seen this bone either.⁴⁴

余檢婦女骨已至十數，具產門之上並無所謂羞秘骨者，質諸同官及老仵作，俱云從未見。

Fatal genital injury and the secret bone of modesty are two examples of Qing forensic knowledge in which gendered ideologies of the body preceded and informed empirical observation.⁴⁵ To cite a third example, *The Washing Away of Wrongs* claims that women's bones are red or black, whereas men's are white; this claim reflects the theory that a woman's vital energy comes from the menstrual blood of her mother, whereas a man's comes from the seminal fluid of his father. But many coroners complained that they found no such difference when examining actual remains.⁴⁶ From a modern biomedical standpoint, none of these ideas would appear to have any basis in fact, any more than the blood drop test for consanguinity. That is less surprising, perhaps, than the fact that nineteenth-century experts were able to perceive such errors in the official texts and to challenge them in print—at least as far as the “bone of modesty” and the color of women's bones were concerned. I know of no Qing authority who challenged the claim that a man could be killed by squeezing his testicles.

For the purposes of this chapter, the salient point is that these ideas had profound impact on real people. As far as death investigation was concerned, *The Washing Away of Wrongs* carried the force of law and could not be contravened, the objections of Xu Lian and others notwithstanding. Its guidelines lent authority to autopsies that were in fact scripted by prior confessions: on this basis, guilt was proven, and the guilty sentenced to death. Here we have powerful testimony to the relative authority of received texts over observed evidence in Qing-dynasty China.

6 Exposing Perjury and False Confession

The main purpose of judicial review in the Qing was to guard against official incompetence and malfeasance. In death penalty cases, defendants would be escorted first to the prefectural seat (for review by the prefect) and later to the

44 Xu Lian, *Xiyuan luyangyi*, 2.10b; cf. Despeux, “The Body Revealed,” 660; and Asen, “Dead Bodies,” 98–103. For an analysis of how Qing magistrates tried to deal with apparent gaps or contradictions between *The Washing Away of Wrongs* and the evidence observed in actual cases, see Xie, “Reading the Corpse.”

45 For a broader consideration of this phenomenon, see Matthew H. Sommer, “The Gendered Body in the Qing Courtroom,” *Journal of the History of Sexuality* 22, no. 2 (2013): 281–311.

46 Despeux, “The Body Revealed,” 655, 659–660.

provincial capital (for review by the provincial judge and the governor). At each stage, a defendant had an opportunity to recant, in which case a new trial and (in homicide cases) a new autopsy might well be ordered because, with the initial confession in doubt, forensic evidence took on heightened importance. In the following cases, we see the classic function of autopsy in exposing perjury and false confession.

6.1 *A Second Autopsy as Proof against Perjury*

In a 1753 case from Xiangyang county 襄陽縣, Hubei, the peasant Liu Yingpeng 劉應朋 used arsenic to murder his friend Wang Youguo 王有國 in order to avoid repaying a loan. Liu's neighbors suspected Liu and he was quickly arrested. Witnesses reported that Wang had been staying in Liu's house and that immediately before Wang's death, Liu had prepared some medicine for him; while dying, Wang stated emphatically that Liu had poisoned him. Confronted with this evidence, Liu confessed murder and named the druggist who had sold him the rat poison; this man submitted a sample of what he had sold to Wang. All of this took place before Wang's remains were exhumed, and when that was done, the coroner found that many of the bones were stained black, "proving" the cause of death to be arsenic poisoning. The magistrate confirmed the coroner's findings by "carefully examining the bones in the bright sunlight under an oiled umbrella" 用明油傘迎日逐一細驗, as prescribed by *The Washing Away of Wrongs*.

The case appeared airtight, but at the provincial capital, Liu Yingpeng recanted. He was aware that in the intervening months, the coroner had died and the magistrate who prepared the case had been transferred to another county. Hoping to profit by their unavailability, Liu claimed that the coroner had in fact found no evidence of foul play, and that the magistrate had falsified the autopsy report; insisting that Wang had died of illness, Liu demanded a new autopsy and vowed that if any black stains were found on Wang's bones, he would accept punishment without complaint.

In response, the governor ordered a joint investigation by the new magistrate of Xiangyang county and the magistrate of neighboring Yicheng county 宜城縣, including a new autopsy performed by the coroners of both counties. The coroners found that the whole skeleton was stained black, which constituted incontrovertible proof of poisoning, according to *The Washing Away of Wrongs*. Confronted with this evidence, Liu confirmed his original confession and explained that he had gambled that by the time of the second autopsy, the bones might have lost their stained color.⁴⁷

47 XT #533-2, Qianlong 18.10.30.

This case illustrates a number of important points about Qing criminal procedure. The original preparation of the case was just about perfect: witnesses fingered the murderer, who confessed without torture, and his confession was confirmed by both the autopsy and the evidence provided by the druggist. Nevertheless, a defendant who recanted had to be taken seriously, despite the time and expense of retrial, because the autopsy and confession had to correspond exactly. When the second autopsy found clear evidence of poison, it elicited a new confession that conformed to it. This sequence of events exemplifies the classic use of autopsy to check the veracity of confession.

6.2 *A Second Autopsy as Proof against False Confession*

Qing jurists knew that torture could induce false confessions, and one purpose of review was to prevent wrongful conviction.⁴⁸ But if the remains were compromised or the autopsy bungled, how could the judiciary ascertain that a confession had been false?

The famous 1873 case from Zhejiang of Yang Naiwu 楊乃武 and Bi Xiugu 畢秀姑, who were charged with murdering Bi's husband Ge Pinlian 葛品連, provides a rare example of defendants who had confessed, but later recanted and were then exonerated by a new autopsy. The coroner who first examined Ge's corpse found that he had died of arsenic poisoning (from the color of silver needles that he inserted into the corpse's orifices). The magistrate then subjected Ge's beautiful young wife to torture, inducing her to confess adultery and murder and to implicate as her accomplice Yang Naiwu, a local holder of the provincial examination degree. At first Yang denied any knowledge of Ge's death, but he too confessed under torture. The magistrate sentenced the pair to death and his judgment was confirmed up through the provincial level; but then Yang recanted, and with the help of relatives and political allies from his home province (for whom the case became an occasion for struggle with rival provincial factions in the bureaucracy), he appealed his conviction to the imperial capital. After much maneuvering by Yang's backers, the Empress Dowager ordered that the case be retried at the Board of Punishment. This extraordinary measure required that the defendants and witnesses, along with Ge Pinlian's remains, be transported over 1,000 kilometers from Zhejiang to Beijing. The climax came when senior coroners opened Ge's coffin and ruled that the whiteness of his bones (interpreted according to *The Washing Away of*

48 See Conner, "Chinese Confessions" for a remarkably sympathetic overview of the Qing system of judicial torture and confession. She emphasizes the rules that were supposed to prevent misuse of torture, and stresses that magistrates were interested above all in learning the truth and punishing the true culprits.

Wrongs) proved that he had died of natural causes. In their view, the county coroner must not have prepared his needles correctly, leading to a false positive result.

In short, a mistaken finding of poisoning had prompted the magistrate to use torture to secure confessions confirming that finding. This is the opposite of how autopsy and confession were supposed to verify one another.

One might conclude that in this case, at least, the judiciary succeeded in correcting its mistakes and exonerating the falsely accused. But Yang Naiwu was hardly a typical defendant, and the extraordinary second autopsy was clearly the result of lobbying by powerful sympathizers in the Zhejiang faction. The long list of officials who were punished for mismanaging the case bears suspicious resemblance to the purge of a losing faction. It seems likely that the verdict's reversal had been decided in advance—i.e. the new autopsy followed a new script—and reflected the outcome of factional struggle rather than normal judicial review. In short, this exceptional case underscores how unlikely it was that a defendant in a *routine* case would be exonerated by a new autopsy. Nevertheless, it is striking that the underlying political conflict had to be played out as a quest for the truth, with elaborate deference to normative standards of validity.⁴⁹

6.3 *Zealous Magistrates and False Confessions*

In his memoir, the noted official Gao Tingyao 高廷瑤 (1765–1830) recounts two cases of innocent people who were convicted on the basis of false confessions.⁵⁰ In both cases, the critical factor was the absence of decisive forensic evidence,

49 The case remains controversial. William Alford takes for granted the modern principle of presuming innocence until guilt is proven, and on that basis, he lauds the efficacy of the Qing review system: “two seemingly incorrect capital sentences were reversed and officials who acted improperly were punished.” See William Alford, “Of Arsenic and Old Laws: Looking Anew at Criminal Justice in Late Imperial China,” *California Law Review* 72, no. 6 (1984): 1180–1256, at 1243. In contrast, Madeleine Yue Dong argues that this unusual case reveals more about late Qing politics than about law *per se*; see “Communities and Communication: A Study of the Case of Yang Naiwu, 1873–1877,” *Late Imperial China* 16, no. 1 (1995): 79–119. All Chinese accounts of the case that I have read portray the Qing judiciary as corrupt and incompetent, yet they take for granted the correctness of the final verdict that exonerated the defendants. For the autopsies of Ge Pinlian’s remains, see Asen, “Dead Bodies,” chapter 2. For another example of a second autopsy clearing a defendant, found in a late-Qing casebook, see Xie, “Reading the Corpse,” 55–56.

50 Gao, a native of Guizhou who received the *jurem* degree in 1786, later served in Guangxi and Guangdong, eventually being promoted to the post of Prefect of Guangzhou prefecture. For his career and his approach to forensic examination, see Will, “Examining Homicide Victims,” 23–26.

which allowed zealous, imaginative magistrates to fill in the blanks with their own conjectures.

In the first case, a woman and a man she identified as her lover were put to death for murdering her husband. The latter had gone away on a trip, and two months after his departure, a badly decayed body was discovered in a nearby river. Its only distinctive feature was that its left foot bore six toes—and the husband in question was known for his polydactyly. Concluding that the dead man must be the absent husband, the magistrate used torture to persuade his wife and her supposed lover to confess to adultery and murder. Not long after their execution, however, the missing husband returned home, blissfully ignorant of all that had transpired. This miscarriage of justice was reported to the imperial court, the responsible magistrate and two staff members were sentenced to death, and the provincial governor who had approved the judgment was exiled to the frontier.

Gao Tingyao played a personal role in the second case, which took place when he was serving as assistant prefect (*tongpan* 通判) in Anhui. The magistrate of Huoqiu county 霍邱縣 had reported solving a murder case: a woman named Fan Gu Shi 范顧氏 had conspired with her lover and three others to murder her uxori-local husband,⁵¹ Fan Shouzi 范壽子, and had dismembered and burned his corpse in order to cover up their crime. After the culprits confessed, the magistrate had secured material evidence in the form of bloody clothing, a few charred bone fragments, and the murder weapon. Skeptical, the provincial judge sent Gao Tingyao to review the evidence.

By carefully questioning the defendants and the yamen runners detailed to the case, Gao discovered that the magistrate had jumped to conclusions. The case had begun when Fan Shouzi's father filed a plaint that his son was missing; Fan had visited his natal village shortly after the New Year and then disappeared. The magistrate suspected Fan's wife of foul play (perhaps because of the stigma popularly associated with uxori-local marriage) and he subjected her to torture; when she could endure no more, she confessed adultery and murder and named her accomplices, who also confessed under torture. The runners learned that Fan had been visiting relatives on the night of his supposed murder, but by the time they returned to the yamen, the magistrate had already solved the case to his own satisfaction, and the runners were afraid to contradict him. The other "evidence" had been discovered based on the

51 In uxori-local marriage, the husband (typically a younger son in a poor family) would marry into the household of his wife (the daughter of prosperous but sonless parents); the practice was legal, but men who married in this way were ridiculed for abandoning their own parents. See Arthur P. Wolf and Chieh-shan Huang, *Marriage and Adoption in China, 1845–1945* (Stanford: Stanford University Press, 1980).

confessions: the blood on the clothes actually belonged to a pig; the bone fragments were not human and had been found in the garbage (the remains of a meal); and the “murder weapon” was simply a kitchen knife. Finally, Fan Shouzi returned home alive and well. The zealous magistrate was cashiered in ignominy.

Gao concludes by warning his colleagues to exercise extreme caution when “there is no corpse that can be examined” (*wu shi ke yan* 無屍可驗), precisely because it is impossible in such cases to use autopsy findings to test the veracity of any confession.⁵²

7 Torture, Leading Questions, and the Scripting of Confessions

A striking feature of Gao Tingyao’s account is the effect of culturally specific stereotypes in scripting confessions. The unfaithful wife who conspires with her lover to murder her husband is a long-standing trope of Chinese folklore and fiction—the tale of Pan Jinlian and Ximen Qing (from the novels *Shuihu-zhuan* 水滸傳 and *Jinpingmei* 金瓶梅) being the most notorious example—and as we have seen, this scenario can be found in actual legal cases as well. What Gao’s account makes clear is that in the absence of reliable forensic evidence, the magistrates who bungled both cases were all too eager to assume that a missing husband must have been murdered by an unfaithful wife and her putative lover. Something like this may have happened to Yang Naiwu and Bi Xiugu as well—in part, it seems, because of the latter’s physical charms. (Much of the commentary about Bi Xiugu implies that male observers could easily imagine her as an adulteress precisely because they lusted after her themselves).⁵³ Each magistrate managed, however unwittingly, to extract confessions based on a script that already existed in his own mind.

Unfortunately, this sort of confirmation bias is far from rare in legal proceedings. A good example comes from Laura Stokes’s study of witchcraft trials in early modern Switzerland. Through repeated sessions of torture, interrogators would assist defendants in crafting elaborate confessions that conformed to the popular understanding of witchcraft—a process Stokes characterizes as “creativity inspired by torment.”⁵⁴ Judges “were guided by common sense in

52 Gao Tingyao 高廷瑤, *Huanyou jilue* 宦游記略 [Memoir of my official career] (Chengdu: n.p., edition in Stanford’s East Asia Library, 1873), 1.25a–29a; cf. Will, “Examining Homicide Victims,” 18.

53 See Dong, “Communities and Communication.”

54 Laura Stokes, *Demons of Urban Reform: Early European Witch Trials and Criminal Justice, 1430–1530* (New York: Palgrave Macmillan, 2011), 1.

the process of torture and interrogation, and this arrangement powerfully confirmed any prejudices they might hold against the accused." The resulting confessions reveal more about how interrogators imagined witchcraft than about the actions of the defendants.⁵⁵ In his study of the persecution of popular religion in the Qing, Barend ter Haar documents how a similar process created a narrative of pervasive conspiracy that confirmed what interrogators already believed about the "White Lotus Teachings."⁵⁶ The use of torture was more restrained in the Qing than in the Swiss courts described by Stokes (although political crime was an exception).⁵⁷ Nevertheless, torture was an option in major criminal cases, as defendants were surely aware; and as ter Haar warns, a similar dynamic may occur even without actual physical torture:

Modern research on interrogation techniques has made it abundantly clear that psychological pressure, physical exhaustion and apprehension in anticipation of the potential application of torture, are in themselves sufficient to influence confessions to a large extent. Confessions made under duress are, therefore, subject to conscious manipulation and unconscious influences.⁵⁸

For these reasons, a judicial system that relies on self-incrimination is likely to produce a high rate of wrongful conviction.

Today, as in the past, police and prosecutors sometimes extort false confessions from "the usual suspects." In 1999, there occurred an episode eerily similar to the "missing husband" cases narrated above:

55 Stokes, *Demons of Urban Reform*, 156–157; also see Yasuhiko Karasawa's analysis of how derogatory stereotypes of Buddhist clergy (as lechers, drunkards, etc.) prejudiced the way they were treated in Qing courtrooms. See Karasawa, "Between Oral and Written Cultures: Buddhist Monks in Qing Legal Plaints," in *Writing and Law in Late Imperial China: Crime, Conflict, and Judgment*, ed. Robert E. Hegel and Katherine Carlitz (Seattle: University of Washington Press, 2007), 64–80; "From Oral Testimony to Written Records in Qing Legal Cases," in Furth, Zeitlin, and Hsiung, *Thinking with Cases*, 101–124.

56 B. J. ter Haar, *The White Lotus Teachings in Chinese Religious History* (Leiden: Brill, 1992), especially chapter 7.

57 For rules governing torture, see Conner, "Chinese Confessions"; and Park, "Imperial Chinese Justice"; for political crime, see Philip A. Kuhn, *Soulstealers: The Chinese Sorcery Scare of 1768* (Cambridge, MA: Harvard University Press, 1990).

58 ter Haar, *The White Lotus Teachings*, 254. Occasionally, Qing magistrates ordered the torture implements strapped onto defendants' limbs (without being tightened) before giving them a final chance to confess.

After being tortured for 33 days, including being handcuffed to a chair, beaten with sticks and denied eating and sleeping for long periods of time, Zhao Zuohai, a poor farmer from a village in Henan Province, confessed to killing a fellow villager who had gone missing. Although only a beheaded body was found, its identity not 100% certain, Zhao was convicted of murder. But after Zhao served 10 years of his 29-year sentence, the “murder victim” turned up alive, returning to his village to obtain his social security benefits.⁵⁹

Torture is prohibited in China today, but it appears to be common during pre-trial detention and there is no effective check against it. But episodes of this kind are not limited to China. In the United States, the dominant cultural script tends to cast young men of color as “the usual suspects”: witness the notorious 1989 Central Park jogger case, in which five black and Latino teenagers were convicted of raping and beating a white woman. All five had confessed under dubious circumstances (they later recanted), but after they had served their sentences, the actual culprit confessed and proved to be a match for the only available DNA evidence.⁶⁰

8 Concluding Thoughts

Like Gao Tingyao’s zealous magistrates, the New York authorities may have truly believed they had caught the right men, despite the lack of any forensic evidence to support their belief—such is the power of these cultural scripts, especially when combined with political pressure to clear sensational cases. Clearing a case does not necessarily mean discovering the truth, and a lack of forensic evidence may in fact make it easier to clear cases by relying exclusively on confessions that are subject to manipulation. In other words, Qing authorities deserve our respect for insisting on a balance between confession and autopsy so that each could be used to check the other—even if their techniques

59 Elizabeth M. Lynch, “When the Murder Victim Turns Up Alive—Will Justice Be Served?” *China Law and Policy*, 2010, <<http://chinalawandpolicy.com/tag/compensation-for-wrongful-conviction/>>. For a systematic analysis of the problem of wrongful conviction based on false confession in China today, see He Jiahong, *Back from the Dead: Wrongful Convictions and Criminal Justice in China* (Honolulu: University of Hawai’i Press, 2016).

60 The defendants’ convictions were vacated, and in June 2014 New York City agreed to pay \$40 million to settle their lawsuit. See Benjamin Weiser, “5 Exonerated in Central Park Jogger Case Agree to Settle Suit for \$40 Million,” *New York Times*, 19 June 2014, <<http://www.nytimes.com>>.

were far from perfect and, in practice, difficult cases might sometimes subvert that balance. In a world of elusive truth, perjury and false confession are less likely to stand if contradicted by forensic evidence that has been competently collected and conscientiously evaluated.

But how good was Qing forensic investigation? This may seem like a crude, anachronistic question, but I contend that it is still worth asking. After all, autopsy was the main defense against false confession—and many thousands of people were sentenced to death based on the standards and procedures described in this chapter. Moreover, Chinese criminal justice today shares many of the flaws of its Qing ancestor, including reliance on self-incrimination and the occasional resort to torture in order to compel it—although in certain respects, the current system compares poorly to the relatively high standard set in the eighteenth century (e.g. the availability of meaningful appeals and review, as well as restraint in applying the death penalty).

A number of the certainties propounded by *The Washing Away of Wrongs* are simply not credible, according to modern biomedical and scientific standards. I have asked several experts in pathology, forensic anthropology, and urology (listed in the appendix) about the standards of evidence used to prove cause of death and criminal guilt in the cases narrated above. Here is a summary of their answers:

Violent squeezing of the scrotum might cause serious injury, but would be extremely unlikely to be fatal in the manner described in these cases.

A serious injury (such as blunt force trauma) can leave a reddish-purple stain on the bone immediately proximate, through hemorrhage into the periosteum. Such stains do not occur in bones at a distance from the site of injury, however, and a red stain on the skull would likely result from an injury to the head—definitely not from genital injury. These stains can disappear over time due to weathering. Pink teeth are not uncommon in corpses. Research has shown that pink teeth are a natural result of decomposition in specific circumstances (in which blood leeches into the tissue) and have nothing to do with cause of death.⁶¹

Some drugs (e.g. tetracycline) can change the color of bones if absorbed over a long period of time, but sudden poisoning (e.g. with arsenic) does not change the color of bones. Arsenic was used for embalming in the United States during the nineteenth century, but such treatment did not affect the color of bones.

61 Cf. H. Borrmann, et al., “Medico-Legal Aspects of Postmortem Pink Teeth,” *International Journal of Legal Medicine* 106, no. 5 (1994): 225–231.

With skeletal remains, the cause and manner of death are often impossible to determine, unless there is obvious fracturing related to gunshot or other trauma. Today, cause of death in most skeletal cases is listed as “undetermined.” If a body is missing or is too decomposed to determine cause of death, but the preponderance of evidence indicates homicide, medical examiners will rule the cause to be “homicidal violence” or “homicide by unspecified means.”⁶²

If one accepts this modern biomedical expertise, then the autopsy findings in many of the Qing cases narrated above simply cannot be believed. This includes the famous exoneration of Yang Naiwu and Bi Xiugu based on the whiteness of Ge Pinlian’s bones—indeed, given the proven efficacy of the silver needle test for detecting arsenic sulfide, it may be that the original finding of death by poison was correct after all!⁶³ In contrast with Qing certitude, the modern experts express significant humility in the face of unsolvable cases. As we have seen, some well-informed Qing observers also expressed skepticism about some material in *The Washing Away of Wrongs*. But I know of no evidence that they dared act on their skepticism when judging cases, and the official manual remained in force until the dynasty’s last decade.

I am happy to stipulate that Qing coroners and magistrates probably did get most of their homicide cases right. Some of their forensic techniques were very sophisticated; moreover, most homicides took place in densely settled communities where people knew each other’s business, few secrets could be kept for long, and many crimes were witnessed. Under the circumstances, mutually confirming autopsies and confessions could often be quickly secured, and it seems likely that most were accurate.

Nevertheless, many factors could throw a case off balance: missing bodies, unidentified bodies, decay that obscured cause of death, skeletal remains that required esoteric analysis... Confronted by such problems and under pressure to meet deadlines, magistrates and their coroners sought expedient solutions, in the process undermining and subverting the standards of validity that were supposed to govern death investigation. Confession became the key to locating and identifying remains, determining cause of death, and telling the coroner what he needed to discover. The most difficult autopsies required scripts in order to proceed smoothly—and in the missing body cases, it was the

62 Cf. E. Matshes and E. Lew, “Homicide by Unspecified Means,” *American Journal of Forensic Medical Pathology* 31, no. 2 (2010): 174–177.

63 See Nam et al., “Modern Scientific Evidence.”

confessions themselves that might require scripts, which at least some enterprising magistrates were willing to provide.

This perspective highlights the sharp tension between representation and practice in the judgment of Qing homicide cases. In the difficult scenarios considered in this chapter, the already intense pressure on defendants to confess would further intensify, with predictable results. Since an accurate autopsy was the principal safeguard against false confession and wrongful conviction, the lack of such autopsy would increase the rate of both—and if the modern experts are correct, even many autopsies that were performed “correctly” cannot be believed. In sum, the illusion of certitude found in *xingke tiben* obscures the grim reality of a judicial machine that relied on self-incrimination under duress in order to function smoothly.

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Appendix: Physicians and Forensic Experts Consulted, August-October 2013

Forensic Anthropology:

Diane L. France, PHD, D-ABFA

Director, Human Identification Laboratory of Colorado

Alison Galloway, PHD, D-ABFA

Executive Vice-Chancellor, and Professor of Anthropology

Director, Forensic Osteological Investigations Laboratory

University of California, Santa Cruz

Jennifer C. Love, PHD, D-ABFA

Forensic Anthropology Director

Harris County Institute of Forensic Sciences

Stephen P. Nawrocki, PHD, D-ABFA
 Sease Distinguished Professor of Forensic Studies & Professor of Biology
 Co-Director, University of Indianapolis Archeology & Forensics Laboratory
 University of Indianapolis

Lorna Pierce, PHD
 Lecturer, Department of Anthropology
 California State University, San Jose, and University of Santa Clara
 Consultant, Santa Clara County Medical Examiner's Office

Pathology:

Steven Foung, MD
 Professor of Pathology, Stanford Medical School

Jeffrey M. Jentzen, MD, PHD
 Professor of Pathology and Director of Autopsy and Forensic Services,
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Abbreviations Used in Citation

- LLG—Lüliguan 律例館 (Bureau of the Code, Board of Punishment), ed. *Lüliguan jiaozheng Xiyuan lu* 律例館校正洗冤錄 [*The Washing Away of Wrongs*, edited and corrected by the Bureau of the Code]. 1742, Qianlong-era edition. In *Xuxiu siku quanshu* 續修四庫全書 [Supplement to the *Complete Library of the Four Treasuries*], vol. 972, 253–324. Shanghai: Shanghai guji chubanshe, 1995–1999.
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