



## **The Representation of Lawyers and Lawyering in Hong Kong Television Dramas**

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# **The representation of lawyers and lawyering in Hong Kong television dramas**

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the degree of Doctor of Philosophy

2016



For Zu Ye Ye,  
my grandparents and  
my parents.

## **Declaration of originality**

This work has not previously been submitted for a degree or diploma in any university. To the best of my knowledge and belief, the thesis contains no material previously published or written by another person except where due reference is made in the thesis itself. This thesis has been formatted in *Griffith Law Review* style.

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Jing-Yueh Hsu

8 December 2016

## **Abstract**

This thesis is about representations of lawyers and lawyering in Hong Kong television dramas. It argues that the Hong Kong television industry produces dramas that frame the screening of lawyers and lawyering. This involves the negotiation by the lawyer of Western legality and traditional Chinese values. Further, the framing of Western law through the negotiation of traditional Chinese values has been remarkably consistent. It is evident regardless of date of the production, screen era of the drama or the gender and type of practice of the lawyer protagonist. In short, Hong Kong television has produced a ‘stage’ where East meets West, where legal professionals meet popular culture and where modernity meets tradition.

Studies on law and popular culture have predominately been undertaken by Western-based scholars examining Western texts. This is partly because popular legal culture is just the beginning to emerge to the East. This thesis endeavours to further the studies of law and popular culture in the Asian world.

The main findings are that Hong Kong television dramas connect and project the ways in which Chinese traditional values relate to lawyers, lawyering and the law. The study demonstrates that popular culture can help us to identify the ways in which traditional Chinese values have deeply impacted the legal profession in Hong Kong’s fictional world. An extensive examination of lawyers and lawyering in historical and contemporary dramas makes it apparent that, regardless of stage era, there is a clear integration of traditional Chinese values with law and lawyering. Hong Kong modern legal dramas confirm that Chinese traditions can often play the role of a ‘supporting character’, as the hidden jewel driving the behaviour of fictional Hong Kong lawyers who appear to be otherwise modernised and fundamentally Western.

Regardless of trial procedure and process, the consistent theme of the underlying importance of traditional Chinese values is evident in the three ‘courts’ examined in this thesis: the ‘Karma Court’, the ‘Home Court’ and the ‘Outlaw’s Court’. At each of these sites of justice, the impact of traditional Chinese values is shown, demonstrating how a ‘trial process’ diverted from the traditional form is set and carried out with fundamental values that are still traditionally Chinese. Furthermore, it is apparent that the bedrock premise is not that traditional Chinese values are setting some sort of strictures on one’s way of life; rather, it proposes behaviours that could cultivate a style of living and at the same time emphasises the importance of continuity. In a way, Hong Kong legal drama is not all about convincing the audience what the ‘right way’ is; instead, it conveys a message about the wisdom from traditional Chinese values that is portrayed through the fictional characters.

Through an in-depth examination of a series of roles as lawyer and judge in different dramas portrayed by Jessica Hester Hsuan, the study found that her characters consistently reassert and display the fundamental theme. Hsuan’s depiction has set a televisual image of what it is to be ‘just’ as a fictional judge and lawyer. Her characters illustrate how Westernised education and lawyering in Hong Kong in fact contain a great deal of traditional Chinese substance, projecting to the audience a well-established and carefully packaged feminine ‘face of justice’, and an interesting phenomenon unique to Hong Kong. Hong Kong legal dramas make it obvious that even though they are based in Western law courts, Hong Kong legal professionals are influenced by traditional Chinese values, reproducing a new style of an assimilated tradition that is just as ‘Eastern’ as it is ‘Western’.

# Contents

<b>Declaration of originality .....</b>	<b>iv</b>
<b>Abstract.. .....</b>	<b>v</b>
<b>Acknowledgements .....</b>	<b>ix</b>
<b>Chapter 1 Introduction.....</b>	<b>1</b>
Research questions.....	8
Literature review .....	13
Methodology and analytical framework .....	21
Conclusion .....	29
<b>Chapter 2 The historical versus modern lawyer .....</b>	<b>30</b>
Introduction.....	30
Impact of cultural legal studies .....	31
Confucian, Taoist and Buddhist teachings .....	33
Cultural values .....	34
Historical lawyers .....	36
Confucianism .....	36
Taoism.....	45
Buddhism.....	48
Cultural influence .....	51
Conclusion: Historical lawyers.....	57
Modern lawyers.....	58
Confucianism .....	58
Taoism.....	68
Buddhism.....	73
Cultural influence .....	75
Societal influence .....	91
Conclusion: Modern lawyers.....	102
Conclusion .....	103
<b>Chapter 3 The ‘other courts’ .....</b>	<b>105</b>
Introduction.....	105
<i>The Brink of Law: The ‘Karma Court’</i> .....	108
<i>Heart of Greed: The ‘Home Court’</i> .....	121

<i>Gun Metal Grey: The ‘Outlaw’s Court’</i> .....	129
Conclusion .....	139
<b>Chapter 4 Face of justice</b> .....	<b>142</b>
Introduction.....	142
Western modernity .....	145
Eastern tradition.....	155
The Confucian impact.....	156
Taoist influence .....	167
Buddhist elements.....	171
Conflict or hybrid: Site of justice .....	172
Conclusion .....	179
<b>Chapter 5 Conclusion</b> .....	<b>181</b>
Historical versus modern lawyers .....	186
The ‘other courts’ .....	191
Face of justice.....	197
Implications for future studies .....	200
Concluding remarks.....	204
<b>Bibliography</b> .....	<b>208</b>
Secondary sources.....	208
Legislation.....	231
Television and Film .....	231
Websites .....	233

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## Chapter 1

### Introduction

One of the most interesting developments in the globalisation of cultural legal studies is the emergence of a popular legal culture that is Chinese and specifically Hong Kong based. This thesis will examine the emergence and development of this phenomenon because it is important both aesthetically and jurisprudentially, registering shifts and changes in the ways Hong Kong people (and Chinese people more generally) think of the law as well as of themselves. This project is comparative as well as interdisciplinary. The thesis does not only examine law on television, but also how these popular representations compare with other countries, their media and their legal fictions – largely in the West. It builds upon the research and scholarship of the law and culture movements in the United States, Australia and the United Kingdom, which are an offshoot of the long-standing law and literature movement.

Here, though, the focus is on the image – law’s moving image – rather than the literary legal word. This begs the question, why turn to the image in the first place? Quite simply, because this image is always/already there, having invaded the courtroom in the form of video evidence and testimony.<sup>1</sup> More than that, images often account for why lawyers become lawyers in the first place. They shape and inform our initial understandings of law, with the representation here influencing the reality. Images have an impact, both physically and psychologically, upon the practice and theory of law. Hence the turn to law’s moving image on a ‘stage’<sup>2</sup> occupied by Hong Kong drama.

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<sup>1</sup> Sherwin (2000a); Silbey (2005).

<sup>2</sup> The concept of ‘stage’ has different meaning for scholars in cultural legal studies. For example, Marett Leiboff argues that the stage in theatre is a place where the audience can join in and be made a part of the production – an unscripted interaction or interference created by theatre where

This thesis is divided into five chapters. This introduction includes the literature review and methodology. Chapter 2 explores lawyers and judges as the actors of justice, examining and comparing modern and historical fictional lawyers. In Chapter 3, we explore representations of trials and judgments outside the official forums of law in the ‘other courts’ – the ‘Karma Court’, the ‘Home Court’ and the ‘Outlaw’s Court’. Chapter 4 focuses on Hong Kong actress Jessica Hester Hsuan as the face of justice, an embodiment of justice. Finally, the threads of the thesis are drawn together in the concluding Chapter 5. The ongoing theme of justice will be explored in all chapters, delving into the ways in which justice is served under the various themes in each chapter. More importantly, the thesis will explore how, traditional Chinese values underpin notions of justice as represented in these dramas.

The study of law and popular culture is well established, going back now for more than 30 years.<sup>3</sup> During this period, an extensive literature has sprung up in law

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the audience becomes the performer. This form of improvisation suggests ‘life as theatre and theatre as life’, since people’s actions in reality are unscripted. This form of stage is therefore opposite to ‘law’s insinuations’ of performing by set procedure and expectations. See Leiboff (2010), pp 384–8. Paul Raffield provides another example. The dramatisation of the English legal system began towards the end of the sixteenth century and Shakespeare’s works created a stage exemplifying judicial developments in England. See Raffield and Watt (2008); Raffield (2014), pp 53–4. For this thesis, law’s moving ‘stage’ denotes a televisualised representation of lawyers and lawyering.

<sup>3</sup> Various findings have been put forward by previous research in cultural legal studies – mainly that, ‘Popular culture mirrors life, life mirror popular culture’: see Robinson (1998). Much of the literature in field highlights the fact that law and popular culture are inseparable in this age of technology. Some have even suggested that the line between law and popular culture has basically vanished: see, for example, Lisa Scottoline (2000) who finds the line between lawyers on television and reality blurred. Further, Richard Sherwin also mentions the fact that the line between fictional lawyer and reality lawyer has evaporated. See Sherwin (2003). More importantly, popular culture also serves as an educative tool, as a vast majority of the public’s general and common knowledge is now obtained from television. Richard Sherwin puts forward very few people are not affected by popular culture: see Sherwin (2003). Orit Kamir makes a

reviews and cultural studies journals.<sup>4</sup> Several themes have emerged in this literature. First, commentators have drawn our attention to the distorting effects of media representations of law, arguing that this line has become blurred,<sup>5</sup> rendering the distinction between fact and fiction ambiguous.<sup>6</sup> Second, these commentators also argue that popular culture reflects as much as it distorts legal culture, drawing many of its plots, characters and settings for law.<sup>7</sup> Third, according to these commentators, fictions formed in popular culture also represent the social and community values held by the lay public of that particular community.<sup>8</sup> Fourth, one commentator suggests that popular culture may have more to say about jurisprudence than traditional academic sources and the mainstream legal academy.<sup>9</sup> Fifth and finally, although there are scholars who focus on the more traditional side of law and culture,<sup>10</sup> cultural legal studies have become extremely diverse and dynamic, especially in Australia.<sup>11</sup>

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similar point by arguing the power and great influence film has on reality and the audience.

See Kamir (2004).

<sup>4</sup> See, for example, Michael Asimow, focusing on the negative portrayal of lawyers in popular culture; Anthony Chase (1986a, 1986b), reviewing the depictions of American attorneys; James Elkins, explaining the relationship between a storyteller and a lawyer; Lawrence Friedman, outlining the relationship between law, lawyers and popular culture; Steve Greenfield and Guy Osborn, working together in exploring presentation of lawyers in popular culture; Orit Kamir, exploring the feminist aspects of law and film; William MacNeil, examining the jurisprudence of popular culture; Austin Sarat, focusing on the cultural analysis of law; and Richard Sherwin, focusing on how law and popular culture work together.

<sup>5</sup> See Elkins (2001).

<sup>6</sup> Booth and Soifer (1991).

<sup>7</sup> Friedman (1989), p 1592.

<sup>8</sup> Manchura and Robson (2001), p 2.

<sup>9</sup> MacNeil (2007), p 1.

<sup>10</sup> See MacNeil (2012).

<sup>11</sup> Australian universities renowned for studies in this area are Griffith University, the University of Melbourne and Wollongong University. Australian scholars extending their studies and exploring topics include Alison Young (2005, 2012, 2013), who writes about 'law and graffiti'; and Desmond Manderson (2000, 2010), looking at law and music. Several scholars work on law and video games:

A major gap can be discerned in the research on law and popular culture. First, most of the literature concentrates on film and television productions made in the West (mainly American). This omission creates a gap in the field, which this research sets out to fill. Specifically, this thesis aims to contribute to this field by analysing legal television dramas made in Asia, primarily addressing Hong Kong legal dramas. The thesis will examine these dramas and their representations of law, focusing not just on content (courts, judges, lawyers) but concepts (rights, justice, law's morality), examining how these concepts are conveyed through the form of television and its episodic programming structure.

Many Australian scholars have done diverse and dynamic research on law and cultural studies, but this thesis explores the more traditional side. Although this thesis comes under the umbrella of law in literature, it is extending the current studies beyond written text and onto the television screen. The major contribution of this thesis is its examination of the representation of lawyers and lawyering in the Chinese world, thereby broadening the ambit of law and culture studies. Further, this thesis examines not only television representation of lawyers and lawyering in Hong Kong, but also how Chinese values impact upon that legal representation, and indeed the law itself. This is not just another study of Atticus Finch<sup>12</sup> and Cleaver Greene<sup>13</sup> – or their Asian equivalents; it wants to see whether Hong Kong television is producing new images that are unique to Hong Kong. This makes a contribution because, as noted

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see Barnett and Sharp (2015) and Pearson and Tranter (2015). Marett Leiboff and Cassandra Sharp study law and theatrical performances: see Sharp (2015) and Sharp and Leiboff (2016). Australian scholar Tim Peters (2012) and English scholar Thomas Giddens (2012, 2015) research law and comics. Tim Peters (2007, 2015) also looks at 'law and the outlaw'. Scholars Kyle Doyle and Kieran Tranter examine 'law and motor vehicles stickers': see Doyle and Tranter (2014, 2016).

<sup>12</sup> Lee (1960). For analysis of Atticus Finch, see Freedman (1993); Vestal (2016).

<sup>13</sup> Broadcasting period from 4 November 2010 until September 2016 on ABC Television. For analysis of Cleaver Greene, see Beasley (2010); Crofts (2012).

previously, much of the existing literature has been oriented towards Western culture, meaning that there is a lack of diversity in this field.

This research will also be one of the first English language studies of Hong Kong cultural legal studies. Although reaching into Asia, Marco Wan's<sup>14</sup> study mainly focuses on cinematic works in Hong Kong. Hence this thesis will further extend the study of cultural legal studies by analysing Hong Kong television. While there has been research on the law and popular culture in Asian countries,<sup>15</sup> little has been conducted in English. Furthermore, these studies concentrate exclusively on films, and Hong Kong television drama is largely absent from these representations. Therefore, this study will take up and expand further understanding of the law and popular culture from the Eastern world, rendering Hong Kong popular legal culture accessible to the English-language audience.

Why does popular culture turn so frequently to law? Two reasons can be identified: first, legal conflict fits nicely with the structural requirements of drama and its demands of *agon* (protagonist versus antagonist; hero versus anti-hero); and second, society in general has a deeply schizophrenic attitude towards and fascination with lawyers, attracted by but also threatened by their power and its potential to manipulate rules.<sup>16</sup> Popular culture gives expression to that simultaneous attraction and repulsion, and it is this dangerously seductive doubleness – embodied in the dramatic figure of the lawyer, who the audience loves to hate – that may explain why law predominates so much in its programming.

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<sup>14</sup> See literature review section for a more detailed summary of Marco Wan's works.

<sup>15</sup> See, for example, Xu (2006); Xiong (2010); Liu, H (2014); Cheng (2015).

<sup>16</sup> Schizophrenic because, 'on one hand, lawyers are supposedly detested and be the regular butt of popular jokes. On the other hand, lawyers are often depicted as heroic saviours of the poor, the halt and the lame.' See Rosenberg (1989), p 1625.

Furthermore, popular culture mirrors the law as much as it does other contemporary issues in society (race, sexuality, politics and so on).<sup>17</sup> As many commentators have argued, popular culture reflects real issues that are happening in a particular society.<sup>18</sup> Moreover, there is nothing more real than law – with its stories of guilt and shame, crime and punishment. Thus the works of popular culture reproduce the attitudes and myths – including those about law – that already exist and are deeply embedded in the common psyche of the public.<sup>19</sup> Not only does popular culture mirror the public opinion of a particular point in time; it also serves as a barometer of public opinion.<sup>20</sup> What does a society think of its legal system? How does it view its lawyers? How does it understand its law? And what does it mean by law? These values can be gauged by turning to popular culture’s legal representations.<sup>21</sup> A good way to discover the current norms and values of particular culture is to study the content of what appears on the media in that particular culture.<sup>22</sup>

But what is meant by popular culture, let alone popular legal culture? There is no single definition of the term ‘popular culture’. A prominent scholar of law and popular culture, Lawrence Friedman, defines it as:

the norms and values held by ordinary people, or at any rate, by non-intellectuals, as opposed to high culture, the culture of intellectuals and the intelligentsia, or what Robert Gordon has called ‘mandarin culture’.<sup>23</sup>

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<sup>17</sup> Robinson (1998). In addition, Keith Hayward (2009), p 12 argues that television reflects reality.

<sup>18</sup> See Friedman (1989); Ward (1993); Menkel-Meadow (2001), p 1322; Thornton (2002).

<sup>19</sup> Asimow (2000), p 549.

<sup>20</sup> Asimow (2000), p 550.

<sup>21</sup> Spitz (2000), p 729.

<sup>22</sup> Dominick (1973), p 241.

<sup>23</sup> Cited in Friedman (1989), p 1579.

This definition has been used widely by numerous scholars over the past few decades. Where, though, is the law here? There is a difference between ‘popular culture’ and ‘popular legal culture’. So Friedman gives two definitions of popular legal culture:

One can speak of ideas and attitudes about law which ordinary people or more generally lay people hold.

One can also use the terms in a second sense, that is, to refer to books, songs, movies, plays and TV shows which are about law or lawyers, and which are aimed at general audience.<sup>24</sup>

Both definitions are relevant to this research, because the latter will enable the former to be addressed. This thesis will proceed using this approach, and examine media representations of lawyers and lawyering to gauge community attitudes towards and values about law.

This thesis will adopt the following three criteria in order for a television show to be classified as a legal drama or a legal show. First, much of the show should take place in a legal setting. Second, many of the characters featured in the show should work in a legal setting, be they a lawyer, judge, law student, law professor or police officer. Finally, the main plot of the show should revolve around legal and jurisprudential matters and issues, usually involving numerous court scenes.<sup>25</sup> However, this thesis will also be looking at some ‘non-legal dramas’. For the purpose of this thesis, non-legal drama is defined as dramas where only one of the central characters is a lawyer and only a sub-storyline is related to a trial or legal matter, with the law-as-process being largely incidental to the narrative. Nonetheless, this ‘non-

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<sup>24</sup> Friedman (1989), p 1580.

<sup>25</sup> Joseph (2002), pp 464–5.

legal' drama will often raise issues of jurisprudential impact that go to the heart of what Herbert Hart might have termed 'the concept of law'.<sup>26</sup>

Another central theme of this thesis is that of 'traditional Chinese values' and their relationship to law's popular representation. This thesis defines 'traditional Chinese values' as the ancestral teachings Chinese people have learnt over the years, largely revolving around Confucianism in a highly etiolated and popularised form. These have been divided into three main categories: teachings from Confucianism, Taoism and Buddhism, traditional cultural values and Chinese folk idioms, as expressed in sayings, proverbs and stories. A further detailed discussion of these three categories of traditional Chinese values will be provided throughout the thesis. One theme that emerges from traditional Chinese values is a hostility to law. Courts and legal codes are viewed with suspicion in China, neither traditionally producing justice. This leads to a final, but binding, theme of this thesis: what is justice, according to traditional Chinese values? And is it featured in modern popular legal drama?

### **Research questions**

The main objective of this thesis is to examine, analyse and interpret the representation of lawyers and lawyering in Hong Kong television drama, paying particular attention to the interplay between what is often the anti-law of traditional Chinese values and the pro-law of Western professionalism. This tension between anti-law and law in popular culture occurs against a broader backdrop of social, political and legal change in Hong Kong. The year 1997 marked a very significant turning point in terms of changes in law, culture and societal values in Hong Kong. Although new ways of lawyering were introduced, the impact of Chinese traditions in

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<sup>26</sup> Hart (1961).

Hong Kong seems to have been resilient. This thesis explores the various renditions and versions of lawyering and law in Hong Kong television drama, and examines how it develops, but also departs from, the largely Western research into this field.

Several research questions have been developed to assist the exploration of this thesis:

1. In what ways have traditional Chinese values influenced representation of lawyers and lawyering in Hong Kong television dramas?
2. How have traditional Chinese values been entwined with the turn to the theme of justice in Hong Kong television drama?
3. In what ways have the lawyers been portrayed as searching for justice in Hong Kong television drama?
4. To what extent does justice take place outside the traditional boundaries of the courts in Hong Kong legal dramas?

The reason for focusing on Hong Kong is very simple. Hong Kong – along with much of Asia has been sidelined, if not overlooked, by the predominate Western – and especially US, Australian and British – research in this field. This thesis seeks to extend the ambit of this research compass, using Hong Kong as a test case, to see what sources like film and television can show us about the way the law, and the society of which it is an emblem, have changed or ‘modernised’. Hong Kong is a place where the East meets the West, where there is a strong sense of overlapping and intersecting cultures.<sup>27</sup> After the Opium War, Hong Kong was under British control from 1842 to 1997.<sup>28</sup> In 1997 after the handover of sovereignty to China, Hong Kong

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<sup>27</sup> Luk (1991), p 653.

<sup>28</sup> Shin (2017), p 139-140; Ngo (1999), pp 1-2 and pp 16-17.

became a Special Administrative Region.<sup>29</sup> China promised little change to Hong Kong's legal system and for this reason, Hong Kong continues to use the Common Law system adopted during the colonial era.<sup>30</sup> Nowhere is there a better space or venue to examine this kind of East–West intersection in popular culture, especially television.

First, Hong Kong legal dramas are strongly influenced in their representation of court processes by Western law because the Hong Kong legal system is a legacy of British colonialism.<sup>31</sup> In Hong Kong dramas, barristers, solicitors, magistrates and detective inspectors abound – figures that one could find in *Dalziel and Pascoe*,<sup>32</sup> *The Bill*,<sup>33</sup> *Kavanagh QC*<sup>34</sup> and any number of UK legal dramas. Nonetheless, if the content is Western, then the form of these dramas is often Eastern and drawn from Chinese narrative. Chinese narrative has always been considered didactic<sup>35</sup> – that is, it teaches something: a moral, a point of view and so forth. This ‘tradition’ of didacticism survives in the television series, including legal dramas.

These dramas often reflect traditional lessons. For example, in Chinese culture, justice comes through virtue rather than punishment. Traditionally, the Chinese culture has promoted and encouraged *Li* (禮)<sup>36</sup> over *Fa* (法), or the law. Since the maintenance of social harmony was the ultimate good and virtue in Chinese

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<sup>29</sup> Shin (2017), p 130; Hui and Lo (2015), pp 1104-1105.

<sup>30</sup> Shin (2017), p 130; Hui and Lo (2015), pp 1104-1105.

<sup>31</sup> Chan (1999), p 1020; Sadowski (2016), p 8.

<sup>32</sup> BBC series originally broadcast from 16 March 1996 until 22 June 2007.

<sup>33</sup> ITV series originally broadcast from 16 October 1984 until 31 August 2010.

<sup>34</sup> ITV series originally broadcast from 3 January 1995 until 25 April 2001.

<sup>35</sup> Kao (1989), p 120.

<sup>36</sup> *Li* can have a wide range of meanings. According to Confucius, *Li* is what upholds one's moral habits, serving to maintain social harmony. Furthermore, *Li* is a set of rules that govern proper conduct, which assists in the maintenance of social harmony. Cited in Chen (1999), p 8.

human relations, the traditional dispute-resolution approach was a peace-making one.<sup>37</sup> China has also had a long history of litigation avoidance. This attitude is reflected in an old Chinese proverb: ‘Those who live don’t want to go to the court, those who are dead do not want to go to hell.’<sup>38</sup> Chinese people have seen law as largely in terms of crime, and have viewed anyone involved with it as a criminal.<sup>39</sup> Hence the attitude of avoidance: an attribute that discouraged Chinese people not only from going to court but even fighting for their rights.

These traditional concepts have made inroads into Hong Kong television drama, especially in the emerging theme of law as a means to an end – that is, promoting a stable (Confucian) society.<sup>40</sup> But more than that, Hong Kong legal dramas often go beyond these traditional values or, for that matter, colonial ones. Rights<sup>41</sup> have become a dominant theme in popular culture because of the growing politicisation of the society as a whole. Television drama also reflects this significance of rights, and with an enhanced sense of politicisation, people now demand, and even know how to fight for, their own rights. Due to the frequent domestic and foreign pressure over the past years, the laws in Hong Kong have travelled some distance from those of its colonial roots. The legal drama is one demonstration the people of Hong Kong fighting for their rights. This is an interesting phenomenon, worthy of analysis, because here there is an emergence of a Chinese society that actually likes the law, litigation and possibly even lawyers.

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<sup>37</sup> Wong (2000), p 304; Shapiro (2013), p 191.

<sup>38</sup> Wong (2000), p 306.

<sup>39</sup> Samuels (1999), p 707.

<sup>40</sup> Kong (2000), p 867.

<sup>41</sup> Concept of rights came to China as a ‘Western import’ in the nineteenth century. See Glenn (2014), p 353.

The main goal of this research is to examine the representation of lawyers and lawyering in Hong Kong television dramas, and the influences and impact of traditional Chinese values upon those representations. This thesis examines both Western and Eastern influence on the fictional lawyers in this ‘international city’. The significance of law and lawyers on television is addressed from three main angles: first, the public’s perceptions of law; second, the public’s perceptions of the legal process; and finally, the significance and impact of the public’s perceptions of law and whether this has any influence on the practice of law itself.<sup>42</sup>

In a ‘society of spectacle’,<sup>43</sup> the image dominates, even above the word of law. Indeed, law is a key resource of that image, having supplied in its curial processes with a wealth of stories for television and film to tap into, from *To Kill a Mockingbird*<sup>44</sup> to *Perry Mason*,<sup>45</sup> *Witness for the Prosecution*<sup>46</sup> and *Rumpole*.<sup>47</sup> These materials have been well studied by previous scholars. This thesis wants to advance three reasons for studying the image. First, even when the image can often get legal details wrong, it is just as likely to be conceptually accurate in representing the ways of justice, law’s morality and rights. Second, the law and legal profession, as presented by popular culture, suggest that there is a range of legal practices and understandings.<sup>48</sup> Finally, popular legal culture has become an important way to tap into legal culture.<sup>49</sup>

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<sup>42</sup> Manchura and Robson (2001), p 1.

<sup>43</sup> Debord (1967).

<sup>44</sup> Lee (1960).

<sup>45</sup> *Witness for the Prosecution* (1957), Edward Small Production.

<sup>46</sup> *Perry Mason* broadcast on US TV from 21 September 1957 until 22 May 1966.

<sup>47</sup> *Rumpole of the Bailey* broadcast on BBC in the United Kingdom from 17 December 1975 until 3 December 1992.

<sup>48</sup> Yngvesson (1989), p 1689.

<sup>49</sup> Friedman (1989), p 1587.

This thesis will examine how, in Hong Kong television productions, the good are rewarded, the bad are punished and justice is always much hoped for – even if it is ‘to come’. Hong Kong television legal dramas function as a kind of morality play, which suggests that traditional Chinese teachings continuously play a very important and significant role.

Finally, the thesis will also explore the various ways, and extent to which Confucianism, Taoism<sup>50</sup> and Buddhism form the foundation of justice in Hong Kong legal dramas. It will discuss the various doctrines, values and idioms that these faiths hold out for popular culture, and the ways in which they construct the televisual path of virtue leading to justice.

### **Literature review**

This section provides an overview of previous literature about cultural legal studies. The focus is on several leading scholars from America, the United Kingdom, Australia, Israel and Hong Kong, and outlines their views of what and how popular culture can teach about law.

Before discussing works of various scholars in the field in more detail it is worth mentioning that, fictional lawyers are represented in many ways in mainstream Western popular culture productions. For instance, there are films focusing on the image of the bad or evil lawyer;<sup>51</sup> gender specific issues of lawyering;<sup>52</sup> locally

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<sup>50</sup> Also known as Daoism: see Kohn (2000).

<sup>51</sup> See the works of Michael Asimow, such as: Asimow (2000) and works of Richard Sherwin, such as Sherwin (2000).

<sup>52</sup> Gender base study see works of Orit Kamir for example: Kamir (2000); Kamir (2005a) and Kamir (2007).

influenced style of lawyering<sup>53</sup> and behaviour or style of lawyering that form a guidance for law school students.<sup>54</sup>

In the past cultural legal studies largely address only Western world productions.<sup>55</sup> However, research has started to expand to the East in more recent years.<sup>56</sup> Having said that, research about law and literature, although extending to the East, most works tend to focus on law and film discussing cinema representation law, lawyers, justice and crime.<sup>57</sup> The approach of Eastern research in the field has analysed the representation of lawyers in popular culture somewhat differently, for example: comparison study of lawyering in two different legal jurisdictions within the one country;<sup>58</sup> comparison of lawyering from different literature productions in

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<sup>53</sup> Previously, production has been confined within each country. However, production has now extended the outlook into a wider view covering local, national and international works of law and literature of the Western world: see Asimow, Brown and Papke (2014), p 1. Additionally, other than looking at the mainstream productions from America, there are more local approaches in other parts of the Western world, for example British cinematic productions. Work in the field not only have theoretical but also empirical impact: see Greenfield, Osborn, and Robson (2014).

<sup>54</sup> Works of popular culture can also serve as a teaching tool or model for law students to learn from. Furthermore, not only is this cost effective but more importantly students are able to enjoy the learning process. This method can stimulate interest, making the learning process more enjoyable: see Travis (2016), pp 147-148.

<sup>55</sup> Creekmur and Sidel (2007), p 3.

<sup>56</sup> Creekmur and Sidel (2007), p 3.

<sup>57</sup> Creekmur and Sidel (2007), pp 4-6. Further to that point, not much research has been done on lawyering in Chinese drama: see Zhang and Lovrich (2016), p 373.

<sup>58</sup> Comparative study of lawyers in mainland China and Hong Kong with two different legal systems and different approaches of lawyering in film even with similar themes: see Conner (2010), pp 198-199. An interesting point made by Conner is that, although not historical documentary but the portrayal of lawyers in the films are not entirely untrue or fictional: see Conner (2010), p 208. Additionally, films provide a view of the legal profession concentrating more on the political backdrop, how the approach of films is influenced by that contrast of political views and positions that are time and place specific: see Conner (2010), pp 37-38.

different eras;<sup>59</sup> a comparative study of Eastern and Western style lawyering<sup>60</sup> and lawyering conveying an unstable political period.<sup>61</sup> Even though research done on representation of lawyers covers a vast variety, Hong Kong drama remains underexamined with a rise in studies on law in film in Asia.

One of the founders of cultural legal studies,<sup>62</sup> Lawrence Friedman claims that popular legal culture is an important tool for socio-legal analysis.<sup>63</sup> Indeed, according to Friedman, popular culture may be the only means by which the general public understands law, due to its complexity and perceived remoteness from the everyday affairs of citizens.<sup>64</sup> After all, one cannot conform to a standard that one does not understand. Television, by way of contrast, gives all people access to and (some) understanding of law in its wealth of legal dramas.<sup>65</sup> According to Friedman, no legal institution can claim the kind of influence on public conceptions of law and lawyers that television has,<sup>66</sup> shaping attitudes and response to law on the part of the lay

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<sup>59</sup> Analysing more than the conflict between modern legal system and cultural heritage in films, but also discussing how justice is achieved in stage plays, films and Chinese drama. Looking at stage plays in Chinese history dating back to more than 2000 years ago and comparing the stage plays to current productions. It is said that the images of the past even help shape the image of the law in present times: see Zhang and Lovrich (2016), p 385.

<sup>60</sup> A comparison between Chinese and Western trial films: see McIntyre (2012), pp 2-3.

<sup>61</sup> Although not necessarily set in the time of post-colonial Hong Kong but produced during this unstable period and portraying lawyering in Hong Kong with anxieties of the decolonisation period: see Wan (2016), pp162-163.

<sup>62</sup> Sharp (2006), p 17.

<sup>63</sup> Friedman (1989), p 1580.

<sup>64</sup> It has also been suggested that the public learn about the law from personal experience however, most people learn about the law, legal profession and the legal system through popular culture: see MacAulay (1989), pp 1548-1551. Additionally, popular culture also forms viewers expectation of the legal system: see Asimow, Brown and Papke (2014), p 1.

<sup>65</sup> Friedman (1989), p 1592.

<sup>66</sup> Friedman (2001), p 1413.

audience.<sup>67</sup> According to Friedman, there is no such thing as ‘pure TV entertainment’. In fact, the reverse is the case. Every television show sends a message that informs us about the law and lawyer, regardless of whether it is positive or negative.<sup>68</sup> It is no wonder that, for him, it is important to learn and be familiar with what television is conveying to the lay public<sup>69</sup> about the law and the legal profession. For television casts a spell on popular opinion about the law: its legal fictional stories can haunt people long after legal facts have changed.<sup>70</sup>

Much scholarship in the field of law and literature concerns its didactic function – that is, entertainment as a form of education. Guy Osborn suggests that the prime virtue of law and literature is that it has the ability to serve as a didactic instrument.<sup>71</sup> Osborn claims that this new form of legal study can teach law students to be more than just lawyers,<sup>72</sup> opening their minds to a wider range of careers in public life.<sup>73</sup> Osborn and Steve Greenfield describe legal films as ‘faction’, as they are a hybrid of real life and pictorial events.<sup>74</sup> The integration of law and popular culture makes the teaching and studying of law both didactic and entertaining for the professor, the law student and even the public.

Osborn maintains that the intersection of law and popular culture is ‘user friendly’; it is therefore easier for lay people to comprehend the law on the one hand and can entertain the idea of legal profession on the other.<sup>75</sup> This enables audiences to

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<sup>67</sup> Friedman (1989), p 1584.

<sup>68</sup> Friedman (2001), p 554.

<sup>69</sup> Friedman (1989), p 1593.

<sup>70</sup> Friedman and Rosen-Zvi (2001), p 1428.

<sup>71</sup> Osborn (2001), p 171.

<sup>72</sup> Osborn (2001), p 171.

<sup>73</sup> Osborn (2001), p 175.

<sup>74</sup> Greenfield and Osborn (1995a), p 1181.

<sup>75</sup> Osborn (2001), p 171.

better understand the legal profession and the legal process. According to Osborn and Greenfield, the fact that popular culture is the first point of contact and reference for many people who are interested in the law makes the study of law and popular culture not only significant but imperative.<sup>76</sup> Students should investigate, analyse and understand what attracted them to law in the first place. Osborn and Greenfield argue that one of the crucial features of the representation of the lawyer in films is that the lawyer will ensure the delivery of justice, equity and fairness to those who deserve it.<sup>77</sup> This representation aids the positive image of fictional lawyers.

Richard Sherwin makes the same point as Friedman: not only does popular culture play a dominant role in people's lives, but television is also one of the primary sources of legal knowledge.<sup>78</sup> Given the significance of this resource, there is a need for lawyers to learn the style of storytelling and persuasion in contemporary film and television productions, because they tap into and inform the public's understanding of the law generally. But there is also a danger of misinformation. According to Sherwin, television producers are willing to ignore some very significant aspects of the law if they will impact negatively on their ratings.<sup>79</sup> This means that the fundamental principle of television applies here: that ratings prevail over all other considerations<sup>80</sup> – like accuracy and/or misinformation. Therefore, Sherwin also argues against law's moving images, urging us to be alert to its discrepancies and departures from legal reality.

Sherwin also argues that images are conquering courts,<sup>81</sup> invading the law in two ways. First, the image has taken hold of the minds of the decision-makers –

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<sup>76</sup> Greenfield and Osborn (1995b), p 107.

<sup>77</sup> Greenfield and Osborn (1995b), p 115.

<sup>78</sup> Richard Sherwin (2003), p. 52 puts forward very few people are not affected by popular culture.

<sup>79</sup> Sherwin (2003), p 525.

<sup>80</sup> Sherwin (2003), p 526.

<sup>81</sup> Sherwin (1996), p 893.

mainly members of the jury – in the form of film and television narratives about the law that they have informalised and replicated in court. Here, legal fiction is determining legal fact, with juries often deciding cases along the lines of courtroom drama story arcs.<sup>82</sup> Sherwin points out that law on television can be equivalent to a real trial in the eyes of a jury, which means that a win or a loss can depend on a lawyer's ability to meet the jurors' 'TV standards'.<sup>83</sup> Hence real lawyers may need to be familiar with televisual narratives in order to successfully prosecute a case.<sup>84</sup> In so doing, according to Sherwin, a lawyer will take back some of the control over legal reality now produced by television.<sup>85</sup>

Second, according to Jessica Silbey, the image has invaded courts in the form of video testimony, and many problems arise here.<sup>86</sup> Silbey stresses film's ability to deceive its audience, driving them to believe whatever the filmmaker wishes them to believe.<sup>87</sup> Films construct an alternative reality, creating illusions; hence, if judges and juries base their decision on such evidence, it poses a danger that a well-made video, using all the resources of film, will triumph over truth, thus compromising justice.<sup>88</sup> Consequently, Silbey cautions against over-reliance on video testimony.

Misinformation is not the only problem. According to Michael Asimow, televisual critiques of the law carry their own problems. He argues that other than personal experience, popular culture is the most powerful and persuasive teacher that

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<sup>82</sup> Sherwin (1996), p 896. Sherwin (2011) also argues that images can be deceptive and therefore hard to distinguish, and legal professionals and the public must be cautious when interpreting images.

<sup>83</sup> Sherwin (1996), p 897.

<sup>84</sup> Sherwin (1996), p 897.

<sup>85</sup> Sherwin (1996), p 893.

<sup>86</sup> Silbey (2007).

<sup>87</sup> Silbey (2007).

<sup>88</sup> Silbey (2005), p 804.

has ever existed,<sup>89</sup> which means that negative portrayals of lawyers in films and television series lead to harmful consequences in the real world.<sup>90</sup> During recent years, negative portrayals of the legal profession have led to a loss of respect for lawyers among the lay public.<sup>91</sup> Ironically, the lay public still holds reasonable confidence in the judicial system, just not in the people who enable the system to function: lawyers. Popular culture has not only tarnished the lay public's images of the legal profession; it has also created, unjustified expectations among law audiences, which leads to disappointment when they realise that 'real-world' lawyers are not able to solve cases as justly or rapidly as their fictional television or film counterparts.<sup>92</sup>

Scholars with new approaches go beyond the debates over whether popular legal culture is legitimate, worthwhile or educative; instead, they put forward sophisticated readings focused on how film and television pose and repose questions of legal aesthetics, identity and hermeneutics.

William MacNeil suggests that popular representations of legal concepts and jurisprudential ideas do not require *mise-en-scènes* like courtrooms or characters like lawyers. According to MacNeil, the value of popular culture lies in the way it addresses the law generally without the need for an expressly legal environment.<sup>93</sup> For

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<sup>89</sup> Asimow (2000), p 550. Television, film and the media are blamed for a lowering of moral standards and decline of values in the Western world. This is especially true in the United States and Germany, with poll results indicating that 70 per cent of American people are concerned about this problem. See Joeckel and Dogruel (2016), p 145. However, this thesis aims to focus on the more positive impact of television.

<sup>90</sup> Asimow (2000), p 535.

<sup>91</sup> Richard Sherwin (2003), p 526 suggests that very few people are not affected by popular culture.

<sup>92</sup> Gross (1999), p 1424.

<sup>93</sup> MacNeil (2007), p 10.

example, in the series *Buffy the Vampire Slayer*,<sup>94</sup> there are no lawyers or courts, yet *Buffy* embodies and carries out a ‘higher’ law – namely, ‘slay all vampires’ – becoming in the process, as MacNeil argues, a post-modern version of Antigone.<sup>95</sup> So this seemingly ‘lightweight’ teen spoof/horror show becomes, for MacNeil, a televisual essay in legal philosophy.

Israeli feminist scholar, Orit Kamir argues for a heeding of law’s cinematic representations in term of power – specifically gender power. Kamir’s question is: How is woman ‘framed’ by the popular jurisprudence of film? She argues that the American cinema focuses on patriarchal oppression. By way of contrast, European cinema provides more chances to explore the possibilities of feminine concepts of justice.<sup>96</sup> Such concepts would turn on care and compassion, the maternal replacing the paternal – with its focus on neutrality and impartiality. Kamir’s point is not to essentialise justice as feminine, the province of women alone. Rather, she urges men to find the ‘feminine within’ by exploring representations of woman, law and justice on film.<sup>97</sup> Furthermore, Kamir argues that even though the feminine concepts are presented in film, the contemporary image of feminine care and justice is often contrasted with masculinity, where issues of concern are measured against a male judge’s rule.<sup>98</sup> This seems to suggest that even though there has been a rise in feminine interest in legal films, the masculine figure still holds a higher power.

Marco Wan has begun to bring law and culture to the East. The main focus of Wan’s ‘law and film’ works is on Hong Kong cinematic critique of English law and

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<sup>94</sup> Joss Whedon (Creator), *Buffy the Vampire Slayer*, Mutant Enemy Productions, 20<sup>th</sup> Century Fox, broadcast 10 March 1997 until 20 May 2003.

<sup>95</sup> MacNeil (2007), p 30.

<sup>96</sup> Kamir (2000), p 902.

<sup>97</sup> Kamir (2000), p 930.

<sup>98</sup> Kamir (2000), p 904.

legal system.<sup>99</sup> Wan's analysis of films attempts to explain the legal position of the city in post-colonial Hong Kong, focusing on the use of film to demonstrate societal transformation of post-colonial Hong Kong's legal consciousness, delving into the confusion and anxiety caused by to the shift of sovereignty.<sup>100</sup> According to Wan, Chinese text is used as a critique of English laws and ways about the law on one hand, while on the other, a clever deployment of the Chinese-English collaboration can be seen as helping and assisting both parties, bringing out the best potential in each other and balancing each other out.<sup>101</sup> For example, Wan uses Chinese ways to suggest that the rule of law – a widely recognised British concept – is not necessary British, thus redefining the way in which can be interpreted.<sup>102</sup> Furthermore, Wan suggests that the clever use of dialogue and storyline can bring the issues closer to the audience;<sup>103</sup> therefore, implying the importance of the methods used to attract audience attention to particular issues and the possibility of a well-balanced hybrid of East–West elements can result in a completely different verdict.

### **Methodology and analytical framework**

The principal aim of this thesis is to investigate the ways in which lawyers and lawyering have been represented on Hong Kong television drama. It is concerned first and foremost with the image and its analysis. It proposes to 'read' these images of law as a kind of visual text, using the methods of literary, cultural and cinematic analysis to understand how the image of law comes to take on meaning.

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<sup>99</sup> See Wan (2010); Wan (2014, 2015, 2016).

<sup>100</sup> Wan (2010); see also Wan (2014).

<sup>101</sup> Wan (2014), p 97.

<sup>102</sup> Wan (2014).

<sup>103</sup> Wan (2014), p 90.

Many renowned scholars in this field have used what might be called interpretive content analysis as their methodology, focusing on the representations of law and the way in which it is depicted. This methodology has been displayed in three different ways. The first is to develop a reading of one particular piece of work,<sup>104</sup> where a film or drama is analysed in terms of a certain legal topic – like the practitioner as portrayed in *Ally McBeal*.<sup>105</sup> The second is to examine various legal dramas with a similar context, developing a particular legal topic – like the bad lawyer in movies.<sup>106</sup> This method is usually used to examine the development of a particular trend. The third way is to use non-traditional text to draw out the legal and jurisprudential messages by interpreting and analysing the characters, the dialogue, the plot and the content of the work in terms of its legal sub-text – for example, slaying as a higher law in *Buffy the Vampire Slayer*.<sup>107</sup> This method is used to establish a connection between non-legal film and television and jurisprudential ideologies. Another method, used by fewer scholars, attends to *formal* analysis of the filmic or televisual image. The key here is the notion of the *mise-en-scène* techniques in assisting an interpretation of the text.<sup>108</sup> The *mise-en-scène* is used to further clarify the ways in which the director intends to portray a particular character or demonstrate a particular scene. Furthermore, some scholars have also used a quantitative method whereby a survey or interviews are conducted to seek audience response to particular

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<sup>104</sup> See, for example, the works of Brett Kitei (1999) and Paul Joseph (2002).

<sup>105</sup> Broadcast on 20th Century Fox Television from 8 September 1997 until 20 May 2002. For examples of analysis of *Ally McBeal*, see Marek (1999); Joseph (2002); Asimow (2014).

<sup>106</sup> See the works of Michael Asimow, such as: Asimow (2000) – focusing on the negativity of the recent lawyer image in popular culture. Also the works of Richard Sherwin, such as Sherwin (2000).

<sup>107</sup> See the works of William MacNeil – for example, MacNeil (2007, 2012).

<sup>108</sup> See the works of Orit Kamir – for example, Kamir (2005b), focusing on the feminist aspects of law and film.

questions for a particular topic.<sup>109</sup> Some surveys are conducted in person and some are done via the internet. Some scholars also use the internet to create poles and seek anonymous responses to certain sensitive questions – such as ethical issues for a legal practitioner. The quantitative method is used to clarify uncertainties of specific questions that arise in this field of studies – for example, the extent of influence of legal drama on first-year law students.<sup>110</sup>

This thesis uses the second method of interpretive content analysis mentioned above: the study of various legal dramas with a similar context, developing topics such as Eastern and Western laws merging, and the persistence of (for want of a better word) the ‘Chinese-ness’ and themes of race and gender in Hong Kong television shows. This thesis will also briefly examine formal techniques of analysis, including character, composition, dialogue and plot, to examine the texts and answer the research questions. Generally, while the plot, content and characters are foci of law and film work, cinematic features are usually ignored.<sup>111</sup> That is why this thesis will briefly explore features of the *mise-en-scène* – such as the storyline, content, characters, plot, atmosphere of the scenes, camera angles, dialogue, casting choices, symbols and props – in the legal dramas throughout the thesis and connect each of these features to law and to how ideas of justice are delivered. As well, the thesis will examine how some dramas – not classified as ‘legal dramas’<sup>112</sup> – have many legal aspects. It will address issues such as why one particular artist continually portrays

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<sup>109</sup> Salzmann and Dunwoody (2005), p 411. Several surveys were conducted among law students, legal practitioners and the lay public to see what people actually thought about law and the legal profession.

<sup>110</sup> Analysing focus group talks of first-year law students. See Sharp (2006).

<sup>111</sup> Kamir (2005b), p 261.

<sup>112</sup> They are not classified as ‘legal dramas’, as the main storyline does not revolve around a group of lawyers or the legal profession. But they may have some court cases or one of the main cast being a lawyer or someone else from the legal profession.

legal practitioners in various legal and non-legal dramas. It will also use some historical dramas to demonstrate the maintenance of traditional Chinese values, and their impact on lawyers.

This thesis will focus primarily on socio-legal character analysis and how the lawyers and legal process are played out in each television drama. It will use a three-step process to carry out its investigations.<sup>113</sup>

The first step is to examine and identify in Hong Kong legal dramas the interaction between Chinese traditions of anti-law and Western pro-legal values. In order to address the concerns mentioned in the research objective, the thesis will examine how the courts are portrayed and how lawyers are rendered in Hong Kong television drama. It will analyse legal dramas produced and broadcast by Television Broadcasts Limited Hong Kong (hereinafter TVB).<sup>114</sup> This is because 82 per cent of the audience share in the Hong Kong television market is dominated by TVB,<sup>115</sup> and it is also the largest Chinese commercial television program producer.<sup>116</sup> Furthermore, the programs produced by TVB are available worldwide and have even been dubbed into various languages.<sup>117</sup> While, in reality, lawyers working in Hong Kong are from different ethnic origins, such as American, Australian and English, the fictional lawyers in Hong Kong television are all represented as ethnic Chinese.

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<sup>113</sup> See MacNeil (2012).

<sup>114</sup> Television Hong Kong commenced broadcasting on 19 November 1967 and is Hong Kong's first wireless commercial television station: cited on TVB's official website, [http://www.tvb.com/affairs/faq/tvbgroup/tvb\\_e.html](http://www.tvb.com/affairs/faq/tvbgroup/tvb_e.html).

<sup>115</sup> Fung and Lee (1994), p 128. Furthermore, during prime-time television hours, the Chinese 'Jade Channel' can achieve up to 82 per cent of audience share in Hong Kong: TVB official website, <http://corporate.tvb.com/article/b02a6188fd853fa7114a14bab076a349.html>.

<sup>116</sup> Chan and Fung (2013), pp 108–9.

<sup>117</sup> TVB official website, <http://corporate.tvb.com/article/675a45c6ece081529ee9151de5c7394b.html>.

The second step is to assess the content of the legal dramas and point out specific theories and themes that arise, looking not only at the content but also the formal issues of the legal dramas and providing a comprehensive sample of what is occurring. In examining the theory and themes of each chapter, this thesis will draw out the specific theories and themes that arise, including the level of engagement between Western and Chinese values; whether Chinese traditions are pro-law or anti-law and how this is demonstrated; whether there are any critiques of lawyering and whether these are recognisable as Chinese; and what the 'silent' form intends to protest against or convey.

In the final step, the thesis will discuss whether there is a connection and/or consistency between the textual and contextual research and the content of the legal dramas, and whether it matters if such consistency and connection exist. This thesis intends to examine the significance of the consistency or connections between the textual and contextual research by discussing a series of issues such as what critiques arise in the content of the legal dramas; whether the critiques lead in a new direction or to a new law that is neither Western nor Chinese, but a 'hybrid' just like Hong Kong itself; and whether this 'fusion' behaviour works for fictional lawyers in Hong Kong. The thesis is divided into five chapters using this threefold approach.

This chapter has provided an overview of the organisation of this thesis, articulating and outlining its research questions, providing a review of the literature in the field, pointing to and underscoring its gaps, and suggesting how these gaps will be filled. It has also outlined the methodology used in the thesis, examining its strengths, weakness, advantages and disadvantages.

Chapter 2 discusses the traditional Chinese values that impact upon the historical and modern fictional lawyers in their fight for justice. It examines the extent

to which these traditional Chinese values inform Hong Kong's legal dramas and their portrayal of the legal profession. The chapter explores both modern and historical dramas and compares the extent of influence of the traditional Chinese values on the fictional lawyers in the different periods, examining whether this influence has carried over from the past to the present. The dramas examined in this chapter are as follows: historical legal dramas – *Justice Bao*,<sup>118</sup> *Justice Sung*<sup>119</sup> and *The Gentle Crackdown*; and<sup>120</sup> modern legal dramas<sup>121</sup> – *The File of Justice*, *The File of Justice II* and *The File of Justice III*;<sup>122</sup> *Survivor's Law*,<sup>123</sup> and *Just Love*.<sup>124</sup>

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<sup>118</sup> Chong Wai-kin (Producer) 包青天 *Justice Bao*, TVB, 27 November 1995.

<sup>119</sup> Tsui, Stephen Ching Hong (Producer) 狀王宋世杰 *Justice Sung*, TVB, 29 September 1997.

<sup>120</sup> Lau Ka-ho (Producer) 秀才遇著兵 *The Gentle Crackdown*, TVB, 25 May 2005.

<sup>121</sup> Legal themes find a common place on Hong Kong television, the dramas chosen for examination in this thesis are very similar in story and style to many of the more recently produced dramas, hence do not change the paradigm. In addition, the producers and leading roles from the chosen dramas and more recent dramas are all from very similar, if not the same generation. For example, Leung, Tommy (Producer) 律政新人王 *Survivor's Law*, TVB, 14 July 2003. This is a legal drama featuring a variety of cases from civil cases and minor criminal cases to murder cases which is rather similar to more recently produced dramas Tong Terry Kei Ming (Producer) 怒火街頭 *Ghetto Justice*, TVB, 30 May 2011 and Law, Marco (Producer) 律政強人 *Law dis-Order*, TVB, 19 September 2016. Furthermore, the leading roles in the dramas have a similar style of lawyering and have unconventional image and attitude. Additionally, the main theme of *Law dis-Order* is dealing with the internal conflict (or as the title suggests dis-order) within the law firm; as such the role of the 'legal professional' is somewhat sidelined. Another example would be dramas dealing with the balance of gender power, the dramas chosen to be analysed in various chapters of this thesis are Tang, Gary (Producer) 壹號皇庭 *The File of Justice*, TVB, 19 April 1992; Tang, Gary (Producer) 壹號皇庭 II *The File of Justice II*, TVB, 18 April 1993 and Tang, Gary (Producer) 壹號皇庭 III *The File of Justice III*, TVB, 10 October 1994; Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, TVB, 11 September 1996; Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, TVB, 10 March 1997 and Chong Wai-Kin (Producer) 老婆大人 *Just Love*, TVB, 9 May 2005. The sitcom Tsui, Steven (Producer) 男親女愛 *War of the Genders*, TVB, 21 February 2000 deals with similar gender associated topics. The *File of Justice* series also covers a similar theme to a more recently produced drama; Wong, Amy (Producer) 忠奸人 *Black Heart White Soul*, TVB, 14 July 2014, where there is a lawyer-detective

The proposed meaning of ‘traditional Chinese values’ for this thesis is customary practices and teachings informed largely by folk faiths as well as the more organised Confucianism, Taoism and Buddhism. The thesis also looks at the impact of traditional Chinese values on the fictional lawyers studied, and examines the integration of these traditional Chinese values with lawyers and lawyering, and the way that integration is carried out in various television dramas. This chapter looks at both modern and historical legal dramas from Hong Kong, drawing comparisons about the role of traditional Chinese values and law, past and present.

Chapter 3 investigates the representation of court-like processes on television drama in the form of ‘reality TV’, mediation and alternative dispute resolution. In addition to traditional courts of law, popular culture also provides three alternatives: the ‘Karma Court’, ‘Home Court’ and the ‘Outlaw’s Court’. ‘Trials’ can occur before and after – and perhaps even during – the court of law bringing down a decision; they can also occur when the courts of law fail to provide justice. This chapter examines various dramas that use these alternative ‘courts’ to provide justice. To explore the use of the ‘Karma Court’, this chapter uses three dramas – *Brink of Law*,<sup>125</sup> *Heart of Greed*<sup>126</sup> and *Gun Metal Grey*<sup>127</sup> – to examine how justice can still be imposed when the power of the legal court has been removed. It is said that the divine law supplies a

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relationship and the villainous lawyer in both dramas are scheming, vengeful and shows no remorse.

<sup>122</sup> Tang, Gary (Producer) *壹號皇庭 The File of Justice*, TVB, 19 April 1992; Tang, Gary (Producer) *壹號皇庭 II The File of Justice II*, TVB, 18 April 1993 and Tang, Gary (Producer) *壹號皇庭 III The File of Justice III*, TVB, 10 October 1994.

<sup>123</sup> Leung, Tommy (Producer) *律政新人王 Survivor’s Law*, TVB, 14 July 2003.

<sup>124</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, TVB, 9 May 2005.

<sup>125</sup> Mui Siu-Ching (Producer) *突圍行動 The Brink of Law*, TVB, 8 January 2007.

<sup>126</sup> Lau Ka-ho (Producer) *澹心風暴 Heart of Greed*, TVB, 9 April 2007.

<sup>127</sup> Tong, Terry Kei Ming (Producer) *刑警 Gun Metal Grey*, TVB, 1 November 2010.

supplement and can provide a final correction of injustice of human law;<sup>128</sup> this means that it can bring ‘true closure’ to a case. These three dramas are examined in order to demonstrate this. With regard to the ‘Home Court’, the chapter again utilises *Brink of Law* and *Heart of Greed* to discuss the way one family member can determine the verdict of another, and how one’s good conscience can be significant when it comes to achieving justice. Finally, to examine the ‘Outlaw’s Court’, the chapter uses *Gun Metal Grey* to analyse whether the beliefs and behaviour of an outlaw are heroic or simply an obstruction to the true administration of justice.

Chapter 4 focuses on the televisual career of one of Hong Kong’s celebrated actresses, Jessica Hester Hsuan. Typecast as a ‘lawyer’ in several legal dramas (and even non-legal dramas), it is fair to say that Jessica Hester Hsuan is the ‘face of justice’ of Hong Kong. This chapter examines the three legal (and non-legal) dramas in which Hsuan has starred over the years, analysing her performances of legal professionals on television. It also investigates the reversal of the traditional gender roles in each of the characters portrayed by Hsuan.

The three television dramas examined are *File of Justice IV*<sup>129</sup> and *File of Justice V*,<sup>130</sup> set in the 1990s, when there was a shift in the legal system in Hong Kong; the non-legal drama *Golden Faith*,<sup>131</sup> set in the period of uncertainty when Hong Kong had just returned to China; and *Just Love*,<sup>132</sup> set in a time of Hong Kong’s increasing politicisation with the growing demands from many people for rights and adherence to the rule of law.

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<sup>128</sup> Thompson (1962), p 6.

<sup>129</sup> Tang, Gary (Producer) 壹號皇庭 IV The File of Justice IV, TVB, 11 September 1996.

<sup>130</sup> Tang, Gary (Producer) 壹號皇庭 V The File of Justice V, TVB, 10 March 1997.

<sup>131</sup> Leung, Tommy (Producer) 流金歲月 *Golden Faith*, TVB, 16 November 2002.

<sup>132</sup> Chong Wai-Kin (Producer) 老婆大人 *Just Love*, TVB, 9 May 2005.

Chapter 5 presents the conclusions of this thesis, summarising its findings with respect to the state of play in this field and the ways in which the field of law and televisual scholarship enhances, deepens and extends the understanding not only of filmic images, but also legal concepts and processes. The chapter also summarises the findings of this thesis on how justice is shaped and achieved by these Chinese representations.

### **Conclusion**

This opening chapter has set out the purpose of this thesis: to explore representations of lawyers and lawyering in Hong Kong television dramas. A background of cultural legal studies has been provided through a literature review of the works of the prominent scholars from the field. Furthermore, the contribution made by this thesis has been outlined. As indicated, the research questions posed will be answered in the following chapters through a layered analysis that examines three levels of texts.

## Chapter 2

### The historical versus modern lawyer

#### Introduction

This chapter examines the traditional Chinese values that impact historical and modern fictional lawyers in their fight for justice. It argues that the beliefs and behaviours of fictional Hong Kong lawyers in both historical and modern productions have been greatly influenced by traditional Chinese cultural and societal values. In order to gauge the extent to which this influence has continued or changed, the chapter examines the beliefs and behaviours of Hong Kong lawyers with reference to the following historical<sup>1</sup> and modern Hong Kong television drama series: *Justice Bao*; *Justice Sung*; *The Gentle Crackdown*; *The File of Justice* (Series 1–5); *Just Love*; and *Survivor's Law*.<sup>2</sup> The main focus is on an analysis of the beliefs and behaviours of the

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<sup>1</sup> Please note that although all the dramas are Hong Kong productions, all the historical dramas are set in China, not Hong Kong.

<sup>2</sup> These series have been selected as they were all very well received by the audience and had high ratings when they were aired. All the series were among the top 5 in the ratings chart when they were aired in Hong Kong. Chong Wai-kin (Producer) *包青天 Justice Bao*, TVB, 27 November 1995, Tsui, Stephen Ching Hong (Producer) *状王宋世杰 Justice Sung*, TVB, 29 September 1997. (The sequel to this series was aired in 1999; however, for the purposes of this thesis only the first season will be examined.) Lau Ka-ho (Producer) *秀才遇著兵 The Gentle Crackdown*, TVB, 25 May 2005. (The spiritual sequel to this series was aired in 2008; however, as there was an entirely new cast, storyline and Chinese title, the sequel will not be used for analysis in this thesis.) Tang, Gary (Producer) *壹號皇庭 The File of Justice*, TVB, 19 April 1992; Tang, Gary (Producer) *壹號皇庭 II The File of Justice II*, TVB, 18 April 1993; Tang, Gary (Producer) *壹號皇庭 III The File of Justice III*, TVB, 10 October 1994; Tang, Gary (Producer) *壹號皇庭 IV The File of Justice IV*, TVB, 11 September 1995; Tang, Gary (Producer) *壹號皇庭 V The File of Justice V*, TVB, 10 March 1997; Chong Wai-Kin (Producer) *老婆大人 Just Love*, TVB, 9 May 2005, Leung, Tommy (Producer) *律政新人, Survivor's Law*, TVB, 14 July 2003 (The sequel to this series was aired in 2007; however, as only one character from the previous season remained

fictional lawyers in these television series to show a continuity of traditional Chinese cultural and societal values in representations of lawyers.

The traditional Chinese values influences discussed are the teachings from Confucianism, Taoism and Buddhism. This chapter shows how these values are strongly manifested in the historical shows and are also reiterated in contemporary dramas where ‘Westernised’ lawyers in Hong Kong can still be identified with strong traditional Chinese values. Furthermore, the use of some traditional Chinese sayings as well as some modern cultural notions is discussed to demonstrate the continuing influence of both traditional and modern Chinese cultural principles on fictional Hong Kong lawyers. There will also be an examination of some societal concepts that are ‘Westernised’, especially those that have affected the beliefs and behaviours of lawyers in Hong Kong. Finally, the chapter argues that the strong traditional Chinese values and societal influence on Hong Kong lawyers, judges and police will always yield a kind of harmony – the justice they are seeking.

Before looking at the themes in detail, a brief outline is provided of how cultural legal studies, Confucian, Taoist and Buddhist teachings and cultural values have impacted the people of Hong Kong.

### **Impact of cultural legal studies**

Daniel R. Fung states that legal principles, as laid down by the Hong Kong courts, are far less dramatic in their impact than the storyline of any well-received television series.<sup>3</sup> Statistics prove that, since the mid-1980s, there have been any number of

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the same, the sequel will not be used for analysis in this thesis.) See TVB’s official website, <http://www.tvb.com.hk> and <http://jade.tvb.com/k100/ratings>.

<sup>3</sup> Fung (1996).

successful law-related television series,<sup>4</sup> all of which portray the lives and loves of lawyers. If, however, the ‘bewigged and begowned’ were portrayed simply as legal practitioners who cross-examined in court and took instructions from their clients, this kind of narrative ‘would not sell’.<sup>5</sup> Consequently, far from demystifying the law (as television is often said to do), here television glamorises the law – especially, according to Fung, by foregrounding justice as the result and effect of crucial procedures.<sup>6</sup> It is no wonder, with this sort of ideological manipulation, that fictional stories of the law are well received and widely supported by the people of Hong Kong.

Furthermore, Marco Wan argues that the matter and issues in the storyline can be conveyed by the smart use of humour, meaning that clever use of storyline and content can connect the audience and get the message across to them.<sup>7</sup> Adding to that point, Karl S.Y. Kao believes that such narratives have a pedagogic function<sup>8</sup> – that is, *learning* the kind of traditional values that drive past and current society from these representations of law and lawyering. Hong Kong’s society is driven by widely divergent values. Owing to Britain’s governance of Hong Kong for a period of 150 years, many of the societal values held by the people of Hong Kong are a combination of this Western ethos and that of the Chinese.<sup>9</sup> This chapter discusses these hybridised societal values by examining how this hybridity<sup>10</sup> has influenced and helped to form

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<sup>4</sup> Fung (1996).

<sup>5</sup> Fung (1996).

<sup>6</sup> Fung (1996).

<sup>7</sup> Wan (2014), p 90. Furthermore, Wan (2010), p. 1314 argues that film can further the audience’s understanding of legal history.

<sup>8</sup> Kao (1989), p 120.

<sup>9</sup> Gil-Curiel (2016), p 85; Johnson (2016), p 135.

<sup>10</sup> As Marco Wan suggests, a hybrid of East and West could be beneficial; he claims that English law combined with Chinese methods could be a hybrid that will bring out the merits of both sides as ‘English rule by law and Chinese rule by man’: See Wan (2014), p 97.

the beliefs and behaviours of fictional Hong Kong lawyers. Although these hybridised values continue to impact, they certainly do not take priority: even as they alter or change, some of the more fundamental values persist – namely, a core ‘Chineseness’. This thesis maintains that this core element ultimately determines, in the final instance, the beliefs and behaviours of fictional lawyers in historical and contemporary Hong Kong.

### **Confucian, Taoist and Buddhist teachings**

This chapter concentrates on some of the teachings that have been passed down from the three major schools of teachings in China, particularly how these teachings have been portrayed fictionally in televisual dramas that foreground lawyers and lawyering. It demonstrates how the shows screen the values as the fundamental beliefs and behaviour of fictional lawyers in Hong Kong. When combined, the three pillars of Chinese culture – Confucianism, Taoism and Buddhism – are known as *San Jiao* (三教),<sup>11</sup> the totality of which is to stress harmony with nature, families and neighbours.<sup>12</sup> Confucianism is fundamental to both the beliefs and the domestic and organisational behaviour of the Chinese people, having been the orthodox ‘state ideology’ since the Han dynasty (206 BCE to 220 CE).<sup>13</sup> The five fundamental principles of Confucius are *Ren* (仁), translated as benevolence; *Yi* (義), translated as loyalty; *Li* (禮), translated as the correct formal way to behave; *Zhi* (智), translated as wisdom; and *Xin* (信), translated as trust.<sup>14</sup> Taoist teachings have also played an important role in the beliefs and practices of Chinese people. Taoist principles are set out in the *Dao De*

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<sup>11</sup> Jonsson (2000), p ix.

<sup>12</sup> Matthews (1999), p 207.

<sup>13</sup> Kwong (2000), p 1.

<sup>14</sup> Matthews (1999), pp 220–2.

*Jing* (道德經) written by *Lao Zi* (老子),<sup>15</sup> where the focus is the virtuous life. Lastly, Buddhist teachings have played a major role in China, particularly in their emphasis on the ‘right way’ of doing things, as well as karma, or cause and effect.<sup>16</sup> The teachings of Confucianism, Taoism and Buddhism have greatly influenced the Chinese people for thousands of years, and this influence has continued to impact Hong Kong today. As this chapter argues, this is also true for the fictional Hong Kong lawyers portrayed in the dramas under examination. However, before exploring this, this thesis wants to explore the extent to which Hong Kong – the space of modernity as hybridity, as commercial and, above all, as secular – has been shaped, and continues to be influenced, by the *San Jiao*.

### **Cultural values**

Hong Kong is known as the place where ‘East meets West’, and both Siumi Maria Tam and Sidney C.H. Cheung argue that the traditions are constantly undergoing change and being remade.<sup>17</sup> The notion of change can be overstated, however. Former Chairman of the Hong Kong Culture and Heritage Commission, Chang Hsin-kang, claims that the roots of Hong Kong’s culture lie in the traditions of Chinese culture.<sup>18</sup> Kwong Chun Wah states that although the British colonial government ruled Hong Kong for 150 years, it remained a Chinese community in terms of its culture.<sup>19</sup> Paradoxically, colonialism has actually helped Hong Kong to preserve traditional Chinese culture – a culture that was itself reconstructed from invasion, revolution and

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<sup>15</sup> *Dao De Jing* can be translated as ‘the way and its power’: cited in Matthews (1999), p 211.

<sup>16</sup> Matthews (1999), pp 136–40.

<sup>17</sup> Tam and Cheung (1999), p i.

<sup>18</sup> Chang (2003), p 1.

<sup>19</sup> Kwong (2000), p 1.

a hybrid ideology. To that effect, the various cultural teachings and notions that have been passed down have impacted the beliefs and behaviours of Hong Kong's people.

Many of these traditional cultural notions and teachings have been rendered into 'sayings', which are an integral part of the culture of the people of Hong Kong. Traditional Chinese sayings, 成語 (*Chengyu*), are phrases usually composed of four Chinese characters, each of which alludes to a specific historical or allegorical story that has some philosophical insight in or on life experience by historical personages.<sup>20</sup> Christopher H.K. Cheng argues that the people of contemporary Hong Kong hold the following values: 'integration, Confucian work dynamism, human-heartedness and moral discipline'.<sup>21</sup> Even though times have changed, Cheng argues that there is still a strong connection in culture and belief between historical Chinese and contemporary Hong Kong, due to the fact that the 'old habits' continue.<sup>22</sup>

Hong Kong's oral tradition – words and sayings that have been passed down through families – should not be underestimated, and this is what helps to maintain Chinese traditional concepts.<sup>23</sup> Nonetheless, Hong Kong has also experienced modernity in the form of (post-)colonialism and Westernisation. Although Hong Kong is a place where East meets the West, Chinese traditions still influence the people.<sup>24</sup> This is why it is suggested that, while there is more than a taste of Western ideology in the 'modern culture' in Hong Kong, the traditional cultural teachings and

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<sup>20</sup> Wu (1995), p 61. Additionally, Li Qi points out that four-word sayings are deemed the essence of the Chinese language and culture since they are brief but have deep meaning. See Li (2016), p 927.

<sup>21</sup> Cheng (1996), p 239.

<sup>22</sup> Cheng (1996), p 239.

<sup>23</sup> Cheng (1996), p 239.

<sup>24</sup> Evans and Tam (1997), p 4.

notions still play a very significant role, and remain a great and persistent influence not only on historical but also on modern fictional Hong Kong lawyers.

### **Historical lawyers**

Three historical dramas will be examined in this section. *Justice Bao* was produced and aired in 1995, with a total of 80 episodes; *Justice Sung* was produced and aired in 1997, with a total of 30 episodes; and *The Gentle Crackdown* was produced in 2004 and aired in 2005, with a total of 20 episodes.

### **Confucianism**

The focus of this section will be the influence of Confucian teachings such as: stressing the virtue of an official; one's morality and the scholar-gentlemen.

There is an attempt to promote and preserve the value of traditional Chinese teachings by magnifying traditional the Chinese values of particular characters in the dramas. The examination of historical lawyers will begin with one of the most renowned judges in Chinese history,<sup>25</sup> Bao Zheng (包拯), fictionally known as Bao Qing Tian (包青天), and better known as Judge Bao in English. Judge Bao<sup>26</sup> is a Song Dynasty<sup>27</sup> official carrying out his duties in the capital prefecture – Kaifeng – and is seen as the ‘preeminent embodiment of justice’ in Chinese culture generally.<sup>28</sup> The cases he tried have been written into plays, television series and books over the years. The plays of Judge Bao in different dynasties have shown different styles of judging.<sup>29</sup> For example, contemporary and local elements can be seen as colouring the

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<sup>25</sup> Hayden (1974), p 205.

<sup>26</sup> Also known as Judge Pao.

<sup>27</sup> The Song dynasty lasted from 960 to 1279: cited in Bodde and Morris (1967), p 57.

<sup>28</sup> Idema (2010), p ix.

<sup>29</sup> Leung (1979), p 130; Idema (2015), p 1.

representations of Judge Bao and the telling of the traditional stories, depending on the era and place of production.<sup>30</sup>

There are various faces to Judge Bao (judge, psychologist, teacher, forensics expert), which is perhaps why he is seen as the detective-judge not trialling the case but solving the crime.<sup>31</sup> This legend and icon of justice has been seen as a role model of for future judges, as judges are honoured with the title ‘青天大人’ (*Qing tian da ren*), literally translated as ‘clear sky’ and following in Bao’s footsteps.<sup>32</sup> This section examines how history is captured and represented fictionally with this detective judge’s justness, fairness and impartiality, as portrayed in the Hong Kong drama *Justice Bao* (包青天).<sup>33</sup> It focuses particularly on the fact that, in each and every case, justice comes when the truth is revealed in the end. The cases discussed may be fictional, but they demonstrate how, on the one hand, Judge Bao is impartial to the dispute, meaning he is never biased, while on the other, unlike Western judges, Judge Bao is not impartial about the law itself, as his judging is saturated with *values* – tradition.

Furthermore, Judge Bao is clearly portrayed as embodying Confucian teachings in the drama. ‘Confucianisation of law’ is defined as the ‘integration of the spirit and the actual practice of Confucian teaching in a legal structure’.<sup>34</sup> When this theory of ‘Confucianisation of law’ was introduced, there was still a gap between the *Li* 禮 (morality) and the *Fa* 法 (law).<sup>35</sup> Confucian teachings advocate consensus – for

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<sup>30</sup> Leung (1979), p 129.

<sup>31</sup> Leung (1979), p 129.

<sup>32</sup> Hanan (1980), p 301; Idema (2014).

<sup>33</sup> Chong Wai-kin (Producer) *包青天 Justice Bao*, TVB, 27 November 1995.

<sup>34</sup> Chen (1999), p 13.

<sup>35</sup> This theory was introduced by Ch’ü T’ung-tsu in 1965, although the ‘theory’ of the Confucianisation of law was introduced in 1965. The concepts of *Li* and *Fa* were established

example, arguing that a government can only win the hearts of the people by virtue, rather than force. For the government that rules by force can only gain outward obedience – not the hearts and minds of its subjects, as was intended.<sup>36</sup> Judge Bao supports this notion, and this belief is displayed in every case portrayed in the drama.

Let's begin with a discussion of the way in which Judge Bao tried a case involving his long-time friend and colleague, Hap Chong Ming, and his son, Hap Hau Yin. Traditional Chinese values are represented in this case. Literally translated, the Chinese saying 鐵面無私 (*Tie mian wu shi*) is 'iron-faced', meaning impartial and incorruptible.<sup>37</sup> This, of course, matches Judge Bao's image perfectly and is fully demonstrated in this case, 'The Fake Amber' 假琥珀 (*Jia Hu Po*).<sup>38</sup> The members of the Hap family have been loyal to the imperial family for generations, and have many credits to their name; hence Chong Ming is a Duke of the Song Dynasty. Despite this, Chong Ming has a flaw. Confucius quoted a passage from the *Book of Songs*<sup>39</sup> to teach his students: if there is error in jade, it can be carved, but an error of a lie – made by a person – can never be carved away.<sup>40</sup> Similar to most good characters

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further back in Chinese history; hence the gap between *Li* and *Fa* was filled in the Tang dynasty by the Tang code. See Chen (1999), p 14; Ch'ü (1965). When formal structural law was absent, *Li* functioned in place of *Fa*. See Glenn (2014), pp 326–8. It is also believed that harmony in society is reinforced via norm of *Li* rather than the formality of *fa*. See Glenn (2014), pp 328–9.

<sup>36</sup> Bodde and Morris (1967), p 20; Watson (2007), p 8.

<sup>37</sup> 鐵面無私 (*Tie mian wu shi*) is often used to describe Judge Bao: see Zhang (2001); Zhou (2016) Author translated.

<sup>38</sup> Chong, Wai-kin (Producer), 'The Fake Amber', 包青天 *Justice Bao*, Episodes 6–10, TVB, 27 November 1995. Please note episode title is author translated.

<sup>39</sup> The *Book of Songs* 詩經 *Shi Jing*, translated variously as the Classic of Poetry, the Book of Odes, and often known simply as its original name of The Odes, is the earliest existing collection of Chinese poems and songs. It comprises 305 poems and songs, some possibly from as early as 1000 BCE. It forms part of the Five Classics. See Waley (1996).

<sup>40</sup> Song (1998), p 139. Author translated.

turned bad, Chong Ming is very proper at the beginning of the story. But after time passes, his behaviour begins to change, especially when Chong Ming starts to protect Hau Yin, who has committed many crimes, the most serious of which was selling the imperial gift – the thousand-year-old amber – awarded to his ancestors for their services to the state.

In order to protect his only son, not only does he start to fabricate the truth, but Chong Ming also starts to kill innocent people. Chong Ming's excuse is none other than the classic Chinese saying 法理不外乎人情 (*Fa li bu wai hu ren qing*), meaning that the law should also take the connections of human relations into consideration.<sup>41</sup> Chong Ming feels that the merits his family has accrued should be enough to offset his mistakes, and that his relationship with Judge Bao should also allow him some kind of mercy. However, the crime Chong Ming has committed goes beyond the point where special consideration could be given; for this reason, Judge Bao does not stop to investigate the case when he finds that Chong Ming is involved. Hence Chong Ming blames Judge Bao for being 'too just' and even declares war with him – meaning that he will do everything possible to cover for his son and escape punishment. When Chong Ming is almost caught, he begs the emperor for mercy, on the basis of his family's history of loyalty. However, Judge Bao advises the emperor not to grant mercy as it would set a bad precedent for the future, which others would follow. In the end, Chong Ming knows he has committed a serious wrong and that

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<sup>41</sup> It is not unusual for Chong Ming to think that his relation with Judge Bao would bring him merits as it is obvious from Chinese history that reaching a balance between divine law, human-made law and consideration of human relation (or *Ren qing*) has always been a goal of Chinese people. Author translated. See Zhang and Ding (2000). *Ren qing* is also translated as human sentiment. Furthermore, a balance is important because it has been argued that if a verdict of a criminal case is unreasonable (not sentimental) then people will lose faith in the legal system. See Asen (2009), p 231; Liu, R (2014). Author translated.

punishment is inevitable. He also feels shame towards his family, the public and the emperor, so he commits suicide.

Judge Bao then proceeds to try Hau Yin after the death of Chong Ming. When passing the sentence on Hau Yin, Judge Bao is able to do so justly in a very interesting manner. During the trial, Hau Yin cries out his innocence, claiming that his father is the one who has committed all the crimes. Judge Bao tells Hau Yin that, after investigations, the evidence is clear, scolding him for being so unfilial, as his father has died for him. As Judge Bao pronounces the death sentence on Hau Yin, Hau Yin's mother comes begging for mercy, saying she is willing to die for him. While understanding her upset, Judge Bao lectures her, saying that she had not taught her son the proper way; and that he hopes to use this case as an example – that is, to show parents the importance of teaching their children in the future.

Judge Bao explains that parents should not spoil their children, but rather educate them, so they will not end up the same as Hau Yin. Hau Yin then starts haranguing his mother for not only failing to teach him, but also for spoiling him, causing him to be in such trouble. Not only does he blame his mother; he also tells her to commit suicide in front of Judge Bao, so maybe the judge will sympathise with him and let him go. Hau Yin then turns to Judge Bao and tells him that it is all her fault, so she should be punished, not him. Judge Bao is furious upon hearing such claims; he tells Hau Yin that he has turned into a beast. Since Hau Yin has shown such disrespect to his mother and no remorse for his actions, Judge Bao feels that he is not 'qualified' for the tiger guillotine<sup>42</sup> and informs a harsher sentence by using the dog

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<sup>42</sup> The fictional Judge Bao uses three guillotines to punish criminals sentenced to death. These are the 'Dragon guillotine' used to punish members of the imperial family, the 'Tiger guillotine' used to punish imperial officials and the 'Dog guillotine' used to punish the general public: see Blader (1998), pp 40, 147, 211, 379; Zhang and Lovrich (2016), p 382.

guillotine to carry out Hau Yin's death sentence instead, thereby lowering his status, and in doing so punishing Hau Yin further. Here, Judge Bao's decision on sentencing depends on the accused's 'state of mind' – that is, whether or not one shows remorse. If one does, Judge Bao will grant grace, even if he has to beg the emperor; if there is no remorse, however, then one would be punished appropriately.

Continuing with historical lawyers, it is now proposed to trace the influence and elements of traditional values on historical lawyers. For example, Sung Sai Kit is the top lawyer in the city of Guangzhou, China, the main character of *Justice Sung* (狀王宋世傑)<sup>43</sup> set in the Qing dynasty. At the start of the show, Sung does not subscribe to the Confucian concept of 禮 *Li* (morality).<sup>44</sup> Indeed, Sung is of the view that there is no link between morality and law<sup>45</sup> because his driving force as a lawyer is to make money and win all cases to prove his intelligence.<sup>46</sup> To do so, Sung represents only the rich people, for whom he concocts any and all excuses to ensure victory. Despite this, some Chinese traditional ideas also impact Sung's behaviour.

For instance, a Chinese belief, prominent during the Qing dynasty, is that one does not bring disputes to court on the mere question of right or wrong;<sup>47</sup> rather, what really matters is whether one has the money to bring the dispute to court. Sung is always willing to ensure a winning case for his clients; he is unconcerned about the innocence or guilt of the client. Rather, he is more interested in the gifts and money he will receive if he accepts the case. Thus, Sung's actions show that he is not concerned

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<sup>43</sup> Tsui, Stephen Ching Hong (Producer) 狀王宋世傑 *Justice Sung*, TVB, 29 September 1997.

<sup>44</sup> Chen (1999), p 7.

<sup>45</sup> 'The Separability Thesis' provides that there is no necessary distinction between law and morality: in Campbell (1999), p 328.

<sup>46</sup> Tsui, Stephen Ching Hong (Producer) 狀王宋世傑 *Justice Sung*, Episode 1, TVB, 29 September 1997.

<sup>47</sup> Wu (1986), p 3.

with morality or ethical principles because, for him, winning – regardless of moral implications – and being paid for representing his clients are the two driving forces in his self-defined role as a lawyer. Hence Sung’s character appears to be the complete opposite to what one would call a Confucian lawyer – until, of course, his belief and behaviour take a 180 degree turn, with a twist in the plot that will be discussed at some length later in the chapter.

Before discussing Sung in detail, we need to examine Justice Yim in *Justice Sung*. At first glance, he is ‘the’ representation of the Confucian gentleman 君子 (*Jun zi*).<sup>48</sup> However, this image soon breaks down. Yim is an interesting character, claiming his full devotion to doing justice to all cases; however, he does not even have the courage to face his errors and admit to wrongs, as a true Confucian gentleman would. When the audience is first introduced to this character, it is very clear that the public sees Justice Yim as the best and the most just of all judges, and it certainly seems so in the beginning. He is the embodiment of the belief – common among the Chinese – that once one is in a position to rule, one should make decisions for the common good, putting one’s own interests aside.<sup>49</sup> Justice Yim has been strongly influenced by this Chinese belief; he has even put members of the imperial family, as well as people of high social and political status – including his own son – on trial. By putting his son on trial, Justice Yim tried to enforce centuries-old Chinese teachings about the conformity of personal morality to and with society.<sup>50</sup> Justice Yim shows how important moral values are to Chinese society.

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<sup>48</sup> Sometimes ‘superior person, ‘noble man’ or ‘exemplary person’: cited in Ames and Rosemont (1999). The four qualities of a gentleman are prudent, respectful, caring and follows what is right. See Watson (2007), p 38.

<sup>49</sup> Wu (1967), p 215.

<sup>50</sup> Ren (1997), p 91.

However, there is an immoral side to Yim's behaviour, which is evidenced when he takes *unethical* steps to prevent the overturning of a guilty verdict, all the while knowing that the defendant is innocent.<sup>51</sup> By holding to the same guilty verdict, Yim ensured that his initial trial was perceived as correct and just, maintaining the *appearance*, at least, of which is very much at loggerheads with traditional Chinese values that hold, contra the West, that not only must justice appear to be done, it must be done in fact.<sup>52</sup> Confucius held that in order to lead people to goodness, a ruler should first cultivate his own moral character by the personal example of his moral influence and education.<sup>53</sup> Therefore, instead of behaving like a true Confucian, Justice Yim is the exact opposite, his actions being the need to maintain, at all costs, his renown as the best judge. Nevertheless, Justice Yim ends up losing his position and was jailed. However, even then Yim still maintained he was correct. It suggests that the influence of such Chinese concepts – as honour or 'face' – are still deeply held by a person, regardless of the price they pay and the negative interpretation they may affix to traditional teachings.

Like Justice Yim, Justice Tong in *Justice Sung* is also portrayed as the Confucian scholar-gentleman. At first, Justice Tong assists Justice Yim – not just because the former is the latter's superior, but also because he was his teacher. Hence Justice Tong enacts the belief held by many Chinese people, 尊師重道 (*Zhun shi zong*

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<sup>51</sup> Tsui, Stephen Ching Hong (Producer), 'Case without Corpse', 状王宋世杰 *Justice Sung*, Episodes 2–10, TVB, 29 September 1997. Please note episode title is author translated.

<sup>52</sup> Administrative law – justice appearing to be done.

<sup>53</sup> Liu (1998), p 326. A Confucian concept also further emphasises the point that a person in a position of authority should have higher moral standing. See Watson (2007), p 8.

*dao*), meaning that one should always respect one's teacher.<sup>54</sup> However, while helping Justice Yim, Tong becomes upset with his teacher's conduct and starts to hate himself for what he is doing. Justice Tong questions himself regarding the conduct of Yim, comparing these base actions to his previous high principles, traditionally associated with the Confucian teaching around the *ethos* of the scholar-gentleman – that is, one should give up life rather than contravene what is right,<sup>55</sup> and above all one should uphold justice. Realising that the purpose of him becoming a judge was for justice rather than status, Tong decides to secretly assist Sung in his case defending the innocent.<sup>56</sup>

Justice Tong also maintains another Confucian value: that the law was made for man, not by man for the law.<sup>57</sup> For example, by choosing to help Sung, Tong exemplifies his belief in the concept that all humans have a duty to abide by the law – even those who think they can overrule it. As well, Justice Tong senses that continuing to carry out such immoral activities might create other negative impacts on himself, since the Chinese also maintain that supernatural punishments or rewards are very closely linked to the forms of law and justice.<sup>58</sup> In classical Chinese thought, an official must be very careful to prevent the anger of heaven,<sup>59</sup> and its swift, merciless (if mythical) sanctions.

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<sup>54</sup> It is not simply due to the hierarchical relationship and balance of power, but because of instruction, wisdom and teachings received, that the student is expected to respect and honour the teacher. See Lam and Chan (2009), p 32.

<sup>55</sup> Wang (1968), p 17.

<sup>56</sup> Tsui, Stephen Ching Hong (Producer), 'Case without Corpse', 状王宋世杰 *Justice Sung*, Episodes 2–10, TVB, 29 September 1997. Please note episode title is author translated.

<sup>57</sup> Wu (1967), p 350.

<sup>58</sup> Wang and Zhang (1997), p 213.

<sup>59</sup> Wang and Zhang (1997), p 213.

## *Taoism*

The Taoist ideologies that will be examined in this section are: preservation of natural harmony through moral order; rewarding good virtue and facing confrontation.

While Confucianism is strongly influential in *Justice Bao* and *Justice Sung*, this is not at the expense of the great impact of Taoism in China. Here, the impact of the relationship between Judge Bao and the emperor in *Justice Bao* will be examined. The Chinese people traditionally believed in the ancient political myth that the emperor was the 天子 (*Tianzi*), or ‘Son of Heaven’.<sup>60</sup> They believed that, whatever was done by the ‘Son of Heaven’ was to preserve what is given from heaven.<sup>61</sup> Furthermore, they believed that the emperor could remain ruler as long as he had heaven’s mandate. This would be lost if the emperor was unable to maintain the natural harmony between humans and the natural world.<sup>62</sup> That natural harmony was maintained through ‘moral order and physical orderliness’.<sup>63</sup> The emperor, of course, was at the top of the hierarchy in historical Chinese law.<sup>64</sup> Furthermore, the emperor was known as the proper Chinese lawgiver,<sup>65</sup> and his laws were broadcast by the officials on his behalf.<sup>66</sup> Because of this concept – that the emperor was over and above the law – he held the power to revoke punishment of offenders in certain situations. For example, those who received the death sentence would be brought to

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<sup>60</sup> McKnight (1992), p 15.

<sup>61</sup> Graham (1989), p 108.

<sup>62</sup> Bodde and Morris (1967), p 497.

<sup>63</sup> Bodde and Morris (1967), p 497

<sup>64</sup> Findlay and Chiu and Dobinson (1991), p 1.

<sup>65</sup> Bodde and Morris (1967), p 495.

<sup>66</sup> Jones (1994), p 11.

the emperor's attention before the execution was carried out,<sup>67</sup> as amnesties could be granted.

In *Justice Bao*, Judge Bao subscribes to, and even enacts, this concept of the 'Son of Heaven' completely, and this role is upheld throughout the entire series, whether by carrying out the emperor's instructions carefully in every case, or advising or pleading with the emperor. Two examples will serve to illustrate the way in which Judge Bao handles offenders who should be sentenced to death. The first is the case where Judge Bao tries a couple involved in the Hap Chong Ming case (the 'Fake Amber' case):<sup>68</sup> Chiu Fei and Fan Man. Chiu Fei was an imperial policeman and quit his job after he met a thief who later became his wife, Fan Man. Although he is no longer an imperial policeman, Chiu remains as such in his personality – that is, he is still a very proper person and a man of his word. Judge Bao and his associate, Zhan Zhao, also an imperial guard and old colleague of Chiu, comment that even though Chiu is committing crimes, he is still full of righteousness.

The reason Chiu became involved in the Hap Chong Ming case related to his wife, Fan. In order to fulfil Chiu's wish – since he was an imperial policeman – Fan killed the ten most wanted criminals, and was poisoned during the process. Chiu kidnapped several doctors to help Fan, but even then there was no way for her to recover. Following the advice given by one of the doctors, Chiu set about stealing a thousand-year-old amber from the Hap family, as it was the only way to heal Fan. It turned out that the amber was a replica, as Hau Yin had already sold the real amber; however, this was kept a secret by the Hap family and was not revealed until later in the story. Although the amber was a mock-up, Chiu had still committed a crime –

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<sup>67</sup> Johnson (1979), p 38.

<sup>68</sup> Chong Wai-kin (Producer), 'The Fake Amber', *包青天 Justice Bao*, Episodes 6–10, TVB, 27 November 1995.

kidnapping and stealing – and was arrested. Fan was also wanted for her past criminal actions – stealing and killing. The couple do not try to escape punishment, and Fan is even willing to sacrifice herself to save the real amber from being destroyed by Chong Ming. Hence, Judge Bao pleads to the emperor, as well as the old empress, to grant mercy to these accused.

This is a fictional historical case in line with the Taoist belief that one's willingness to return to good virtue should be rewarded,<sup>69</sup> the emperor and the old empress agree to grant mercy to the couple. Both can see that the couple has done many good deeds – killing the ten most wanted criminals and saving the amber – to make up for their wrongs; thus their death penalties are commuted. The couple is exiled to the border instead, but in fact this 'punishment' gives them the chance to rebuild their reputations and help the Song dynasty.

Turning to the Taoist influences portrayed in *Justice Sung*, the character Justice Tseng clearly exemplifies the influence of Taoist concepts. Taoists argue that, in order to survive under confrontation, one must be prepared to use extraordinary means to achieve success.<sup>70</sup> This ideology is clearly on display in the series when Sung challenges Justice Tseng<sup>71</sup> for failing to protect him, even though he is a Han, against the judge's associates, who are of course working on behalf of the foreign Qing (Manchu) dynasty. Tseng fails to do so because if he acted in Sung's defence, he would lose all the junior officials, which in turn would have a very adverse impact upon the power of the Han Chinese, thereby strengthening the foreign dynasty at their

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<sup>69</sup> MacCormack (1990), p 30. Correct moral and virtuous teachings must not be forgotten, of course, when adopting these 'extraordinary means' to achieve success.

<sup>70</sup> Liu (1987), p 40.

<sup>71</sup> Tsui, Stephen Ching Hong (Producer), 'Thirty Floggings', 状王宋世杰 *Justice Sung*, Episodes 24–28, TVB, 29 September 1997. Please note episode title is author translated.

expense. Hence Justice Tseng makes an effort to delete all the court records and ‘erase’ the memory of all the witnesses to the case, to ensure that Sung will find no evidence whatsoever to prove his case. The actions of Justice Tseng certainly demonstrate the prominent influence of traditional Chinese values, namely that in order to survive one must be prepared to strategically sacrifice justice (i.e. Sung’s case) with the overall result of serving a higher justice (the continuation of the Han as a politically powerful force).

### ***Buddhism***

The Buddhist teachings that will be discussed in this section are: correct behaviour and building good karma.

While drawing deeply from Confucian and Taoist teachings, Buddhism is not overlooked. Again looking at *Justice Bao*, the second example of Judge Bao handling offenders who should be sentenced to death causes a dilemma for Judge Bao. This case, 叛血忠魂 (*Pan Xue Zhong Hun*), loosely translated as ‘Rebel Blood Loyal Soul’,<sup>72</sup> involves a heinous bandit, Chun Ba Tin. A Buddhist saying best describes Chun’s character, 放下屠刀立地成佛 (*Fang xia tu dao li di cheng fo*), literally meaning ‘when one puts down their butcher knife, they can become a Buddha’.<sup>73</sup> In the beginning, Chun’s character was totally immoral: to possess a woman he thought was beautiful, he would go to the extent of killing her entire family and burning down their house. Then one day Chun lost his memory, and with that his personality changed completely: he became a man of good deeds. Even when Chun recovered

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<sup>72</sup> Chong Wai-kin (Producer), ‘Rebel Blood Loyal Soul’, *包青天 Justice Bao*, Episode 31–35, TVB, 27 November 1995. Please note that the episode title is author translated.

<sup>73</sup> This saying is widely used; not only does it enrich Chinese culture, but it also has a great impact on people’s lives. See Xiang (2016). This is also showing how Buddhist teachings stresses the importance of resisting aggressive behaviour. See Zhao (2013), p 395.

from his memory loss, he continued to do good deeds, thereby making up for his previous sins and crimes. Judge Bao is very careful when dealing with this case, because he says it is easy to help a good person, but hard to help a bad one. Once Chun had too many enemies, and Judge Bao is under considerable pressure to put him on trial and give him the death sentence as soon as possible. However, even under such pressure, Judge Bao is very careful, wanting to see justice done, as he believes that since Chun has lost his memory, he has become a ‘new person’ and deserves the chance of a fair trial. In the end, Chun sacrifices himself to save the country by killing the traitor who is also an imperial guard. With this, Judge Bao pleads for mercy and the emperor grants him grace so that Chun is able to be buried properly with a suitable funeral. Since Chun has performed such virtues, he is given a chance to reclaim his good name. In this way, Chun is excused from his punishment.

Revisiting the protagonist of *Justice Sung*, Sung Sai Kit, at the beginning of the series, even though Sung’s actions seem immoral, at the mid-point his thinking takes a drastic turn, because he comes to believe that in order for the law to work, justice must be involved. Not only must there be justice in the law, but also justice *in one who practises the law* – such as himself and the judges. With this ‘new belief’, Sung helps to find and fight for justice for one of his domestic workers, Hong Sing, whose father had been sentenced to death for a murder committed some 25 years earlier.<sup>74</sup> Yet the body of the victim has never been found, and it is clear that the accused is innocent. At first, Sung does not really care about the case; however, his attitude towards this matter changes through a traditional Chinese concept: that one

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<sup>74</sup> Tsui, Stephen Ching Hong (Producer) ‘Case without Corpse’, 状王宋世杰 *Justice Sung*, Episodes 2–10, TVB, 29 September 1997. Please note that the episode title is author translated.

needs to build good karma<sup>75</sup> for oneself and future generations, the flipside of which is that one's stupidity will lead to the loss of the virtues accumulated by one's ancestors.<sup>76</sup> Such a revelation only occurs to Sung when his father takes him to see the graves of his eleven elder brothers, who died before the age of one. His father here explains to him that it was a warning given by 天 '*Tian*' ('sky' or 'heaven', which the Chinese often use to refer their deity) that his morally wrong actions were diminishing the virtues of the family, and that the only reason Sung survived among all the other children was because he was obligated to do good deeds as a form of what might be called cosmic payback.

Confronted with this, Sung proceeds to appeal the case for Hong Sing. While so doing, his wife becomes pregnant, and each time Sung slacks off from the case or forgets the importance of accumulating good virtue, his wife falls sick, thereby 'reminding' him to keep doing good, to work harder, to win the case. When that happens – and only when that happens, his son is born safely. Later on, Sung's wife and father force Sung to retire, seeking an alternative career path, as it is obvious that he has acquired too much bad karma as a lawyer. This is a Buddhist way of rearticulating the old adage that lawyers are often treated with suspicion, even hated wherever they practise,<sup>77</sup> mainly because they are frequently able to render the guilty innocent, as much as the innocent guilty, depending on their competency and casuistry.<sup>78</sup> As mentioned previously, Sung was portrayed to be such a lawyer at the beginning of the series; hence his father and wife are worried that more bad karma will be generated if he continues to be a lawyer, urging him towards a career change.

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<sup>75</sup> Gunde (2002), p 108.

<sup>76</sup> Wang (1968), p 54.

<sup>77</sup> Macauley (1998), p 144.

<sup>78</sup> Macauley (1998), pp 143–4.

For further assurance of a guaranteed change in career, Sung's father even uses *feng shui*<sup>79</sup> to stop Sung from carrying on in his legal career. This interesting treatment of the karmic impact reminds the audience of what certain behaviour and actions may lead to – a kind of Buddhist version of consequentialism.

Teachings from Confucianism stress organised behaviour; Taoism imparts holding high virtue; and Buddhism teaches about 'cause and effect'. These concepts form the foundation of the judgments of the lawyers and judges in *Justice Bao*, allowing Judge Bao to be 'just, fair and impartial' in his decisions; and in *Justice Sung* by allowing Sung to recover his moral standards and ethics as a lawyer and punish the wrong. Yet, despite Confucian, Taoist and Buddhist teachings forming a strong foundation of the beliefs and behaviour of lawyers and judges, cultural influence is not undermined.

### ***Cultural influence***

This section will examine the following traditional Chinese values: face; knowing pride and disgrace; officials shielding one another; repaying small kindness with great favour and choosing to be righteous.

Moving on to examine cultural influences, starting with the concept of 'face', Chinese culture has definitely influenced the actions of Sung, and the first and most important concept is maintaining one's 'face' (面子 – *Mianzi*).<sup>80</sup> The opening of

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<sup>79</sup> In the show, Sung's father uses the methods of *feng shui* by inviting the *feng shui* master to find the correct academic position of the year and placing the four treasures of calligraphy (ink, paper, writing brush and ink stone), which will guarantee Sung's success in his legal future, when the position is found, Sung's father asks the master not to place anything there. *Feng shui* is a belief in fortune telling, Chinese geomancy and other magical practices: cited in Jarvie (1969), pp 23 and 61.

<sup>80</sup> *Lian* (Face) 'a social and an internalized sanction connect with having a good moral character'; *Mian Zi* (Face) an 'older concept, much more social, one involving reputation and having done

*Justice Sung* sets a scene where Sung goes to another city to argue with the owner of a restaurant, Tso Ba Hoi. Tso had a pet bird named after Sung, and when Sung hears about it, he immediately challenges Tso's bird to a fight with a bird of his own. At this point, Sung's bird does not have a name, so he asks Tso whether he might name his bird after him. Without thinking about it too much, Tso agrees to Sung's request. Before the competition starts, Sung makes Tso sign a contract saying that if 'Sung' wins, then party 'A' will receive \$6000, but if 'Tso' wins, then party 'B' will receive the restaurant. Not knowing precisely who Sung was, Tso signed the contract; of course, the situation was a two-way win for Sung. After winning the contest, Sung goes home with Tso's pet bird and says to Tso, 'Don't think that just because you live so far away from me you can use my name like this. You never asked for my permission and I'll find you wherever you are!'<sup>81</sup> This scene shows Sung's strong belief in the Chinese culture of face, when he says that he does not like other people using his name for an animal. Sung feels that here he is losing face, and for Chinese people, 'face' cannot be lost, as that represents a great shame and embarrassment.

We now turn to examine how the traditional Chinese teachings have impacted lawyering in another historical drama set in the Ming dynasty, *The Gentle Crackdown* (秀才遇著兵).<sup>82</sup> The heart of this drama shows the protagonist's struggle to fight against various high and great powers – be it his subordinates or his superiors – gaining triumph and bringing about justice every time, due to his intelligence and strong belief in traditional teachings. Minutes into the first episode, the audience is

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well in life'. See Jarvie (1969), pp 138–9 and Lam (1993), pp 6–12. The Chinese concept of 'face' is similar to the Western concepts of honour and dignity. See Zhuang (2011), p 8.

<sup>81</sup> Tsui, Stephen Ching Hong (Producer) 状王宋世杰 *Justice Sung*, Episode 1, TVB, 29 September 1997. Author translation.

<sup>82</sup> Lau Ka-ho (Producer) 秀才遇著兵 *The Gentle Crackdown*, TVB 25 May 2005.

fully aware of the extreme corruption of the constables at Leung Choi County. Shui Tung Lau is the protagonist of the series, and is a newly appointed magistrate of Leung Choi County. Serving as the new official of the province, Shui is introduced to many of the ‘usual practices’, all of which are borderline unlawful.

When he first appears, Shui is ‘undercover’, seeking to investigate the ins and outs of the county before he officially starts his newly appointed position. However, Shui soon encounters the local bully and seeks to sue him in court.<sup>83</sup> This move proves harder to pursue than he expected, and Shui shows the audience how and why it is so difficult, step by step, bribing his way from the very beginning – from door guard to administration staff – to start the suit. Yet Shui discovers more surprising ‘traditions’ when he commences his appointed position. For example, he finds himself convinced by his clerk, Si Kei Wong, to host a feast to bribe the local elites in order to establish his ‘authority’ among them. Even though it seems that Shui is going along with the ‘traditions’ set by the corrupt county officials, there is another purpose: to correct corrupt behaviour. Shui believes that ‘衣食足而知榮辱’ (*Yi shi zu er zhi rong yu*), meaning ‘one will only know one’s pride and disgrace when one is well fed’.<sup>84</sup> Although he is in ‘power’, at the same time he is also the ‘minority’. Therefore, in

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<sup>83</sup> Lau Ka-ho (Producer) 秀才遇著兵 *The Gentle Crackdown*, Episode 1, TVB, 25 May 2005.

<sup>84</sup> This is a direct quote from the character Shui Tung Lau. He believed 衣食足而知榮辱 (*Yi shi zu er zhi rong yu*) meaning ‘one will only know one’s pride and disgrace when one is well fed’, and thus wanted to solve the problem of corruption and bring change to the way his staff behaved. Shui believes that if his staff are satisfied with their pay, they will know that their corrupt behaviour is morally wrong. Lau Ka-ho (Producer) 秀才遇著兵 *The Gentle Crackdown*, Episode 5, TVB 25 May 2005. Author translation. This concept is also known as 衣食足而後知廉耻 (*Yi shi zu er hou zhi lian chi*) meaning ‘one will only know one’s disgrace when one is well fed’, He Hui discusses how people are willing to give up their pride to survive in a foreign environment; however, without this pride people are unable to adhere to morality and abide by the law. See He (2015), pp 33–5. Author translated.

order to correct such corrupted behaviour and practices, Shui must set some new ground rules. These rules are, of course, to throw away the ‘tradition’ of collecting bribe money, instead giving the officers a pay rise. Shui asks all the *yamen* (衙門) – also known as the Mandarin’s office staff – to sign a contract agreeing to this new change. Shui’s actions are a clear illustration of his deep belief in correction of the corrupted behaviour and allowing justice to be seen again.

After setting new rules with his subordinates, in the instance of an individual fighting against the system Shui comes across new challenges with his superiors. This takes place when the province official and fellow county officials go to visit Leong Choi County. After encountering his colleagues, not only does Shui come to understand the importance of networking; he also clearly sees the problem of 官官相衛 (*Guan guan xiang wei*),<sup>85</sup> meaning ‘officials or bureaucrats shielding one another’.<sup>86</sup> The shielding between officials is demonstrated in a case where the son of a superior official, Ma Lap Kwong, rapes a poor local girl, Wan.<sup>87</sup> The province official, Ho Bak Fok, tries to help him with this case because Shui has established a good relationship with him during his visit; however, Ho also warns him that the person he is up against is of a higher power and that Shui has already created a mess by arresting Ma, so he should release Ma and close the case, as networking is more important than justice. A further indication of shielding – especially of those with or related to higher power – is provided when Shui’s clerk, Si, goes to see Ma while he is in prison. Here the décor looks classy, there is a table full of food and Ma even tells

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<sup>85</sup> IPC Editorial Board (2015), p 106.

<sup>86</sup> It is not unusual for people to believe authoritative figures covering up for each other, and as a result those who commit wrongs escape punishment; hence it is useless to make complaints – see Chan et al. (2015), pp 96-97.

<sup>87</sup> Lau Ka-ho (Producer) 秀才遇著兵 *The Gentle Crackdown*, Episode 6, TVB 25 May 2005.

Si that he can have whatever he wants and see whomever he wants because he is the son of an influential official.

Ignoring the fact that he will be going up against higher power, Shui feels that it is more important to be just and praised by people, thereby using his networks to investigate and try the case; he eventually brings justice to the victim. It is interesting to see that *guan guan xiang wei* will almost definitely be part of the plot in a historical drama and will be very obvious to the audience, as it is very clearly laid out in the storyline, even to the extent where the character themselves will tell the audience that this is what they are doing. This is not to say that it does not appear in modern legal dramas; however, when it does it does not seem to be as noticeable as it is in historical dramas.

An interesting aspect of *The Gentle Crackdown* is the achievement of justice through the assistance of the outlaw. The outlaw as the partner of justice at first seems heavily ironic; but consider the numerous superhero fictions circulating today – such as *Batman*,<sup>88</sup> for example – that turn the outlaw into a hero. Not to mention *Robin Hood* himself, who has received a new lease of life in film<sup>89</sup> and television.<sup>90</sup> Here, Shui is just one person up against higher power – although, in this instance, the higher power is the law. The question posed by the series is what makes someone like Shui, who strongly believes in doing what is right, go against the law. The answer is simple: ‘受人點滴之恩必當湧泉以報’ (*Shou ren dian di zi en bi dang yong quan yi bao*),

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<sup>88</sup> Comic book, television series, movie superhero since 1939: see Packer (2009), p 59.

<sup>89</sup> Scott, Ridley (Director) (2010) *Robin Hood*, Universal Pictures.

<sup>90</sup> BBC One series originally broadcast from 7 October 2006 until 27 June 2009.

meaning ‘one should repay the small kindness or favour given by other people greatly’.<sup>91</sup>

The outlaw, 飛鷹 (Fei Ying), literally translated as the ‘flying eagle’, would take from the corrupt officials and distribute the proceeds to the poor. Fei Ying had saved Shui when he was a child and evil officials were tracking him and his family down. Not only did Fei Ying save Shui’s life, she also changed his life, as he decided to become a good official so he could ‘警惡懲奸’ (*Jing e cheng jian*), ‘to warn the bad and punish the evil’. Having such belief, when Shui finds out the true identity of Fei Ying, not only does he not arrest her or report on her, he helps protect her identity and protects her from the law. Fei Ying also continues to use her ability to assist Shui in investigating cases and bringing justice to many cases, in return for obtaining mercy from the emperor as he suspends her punishment (a death sentence). As a judge, it seems to be wrong; however, it is suggested that it is somewhat correct in this instance for him to be returning 恩 ‘*En*’ (a kindness or a favour).

Shui’s last mission as an individual challenging a higher hierarchical power takes place when he challenges his mentor, Man Chan Fong, who is of very high political status and has great authority, hence being his greatest rival in the drama. What drives Shui to go against his own mentor is 大義滅親 (*Da yi mie qin*), ‘to place righteousness above loyalty to one’s family’.<sup>92</sup> Although Shui and Man are not related

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<sup>91</sup> This concept is also seen as a way to maintain social relationships between people: see Kim (2012), p 11. Author translated.

<sup>92</sup> IPC Editorial Board (2015), p 61. In order to conform to a higher justice, one can sacrifice or ‘kill’ a family member. See Chan, S (2009), pp 48–9. In addition, high moral character is shown if one can place righteousness above loyalty to one’s family. See Zhou (2012). Author translated. Moreover, although this concept is not exclusively Chinese, but in Chinese society such acts of righteousness is more difficult as it is understood that one should not do anything to hurt or break up their family.

by blood, they are just as closely connected: they are teacher and student. When their relationship is first revealed, Man is very pleased that Shui has solved all the cases previously without his help and also gives him words of encouragement. Man is also, at first instance, seen as the ‘good’ official, exercising his power benevolently. This is the reason why Shui finds it bitterly ironic when he finds out that his mentor is the greatest villain of all – killing many innocent people to maintain his status and power – as this behaviour comes from someone who is supposedly in charge of the people within the parameters of law. To combat Man, Shui seeks help from another influential official, Shiu, the head of the Criminal Department, who Shui tells that he is not afraid of going up against his mentor because he believes that, above all, the innocent should be defended. Such a strong conviction affirms that Shui is doing the right thing by prosecuting his belief in righteousness.

***Conclusion: Historical lawyers***

In this section, it was shown that traditional Chinese values have strongly influenced the beliefs and behaviours of fictional historical lawyers and judges across three different Chinese dynasties: the Song, Ming and Qing dynasties. More important, however, is the demonstration of how justice is achieved by the fictional historical lawyers and judges embracing traditional Chinese values. The Confucian regulated behaviour, the Taoist virtuous conduct and Buddhist karma form a strong guide for the judges in and lawyers in *Justice Bao* and *Justice Sung*, leading them to justice. Cultural influences allow the protagonist judge in *The Gentle Crackdown*, Shui, to carry out justice and to recreate moral standards for both his mentor and his subordinates.

## Modern lawyers

This section examines modern lawyers in the following Hong Kong legal dramas: *The File of Justice*, Series 1–5, produced and aired between 1992 and 1997, with a total of 119 episodes;<sup>93</sup> *Survivor's Law*, produced from the end of 2002 until the beginning of 2003 and aired in 2003 with a total of 25 episodes; and *Just Love*, produced in 2004 and aired in 2005 with a total of 20 episodes.

## Confucianism

The Confucian ideologies to be examined in this section are: filial piety; etiquette; finding the balance between moral principle and compassion and country's law and reason; benevolence; loyalty; trust and harmony.

This chapter will now turn to examine the extent to which traditional Chinese values have impacted fictional lawyers in televisual series set in contemporary Hong Kong. First, highlighting the Confucian influence, 孝 (*Xiao*), or filial piety, is one of the most important concepts advocated by Confucius. He stressed the importance of

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<sup>93</sup> There will be inconsistency in the referencing for the *File of Justice* series; the main reason is that the source material for screening comprises VCDs and the disc length per episode and aired episode is different. The original broadcasted episodes run for approximately 45 minutes per episode (excluding advertisements), the VCD episodes run for approximately 70 minutes per disc, the total episodes of the original broadcast for Season 1 is 13 episodes, the total discs for the VCD version is eight discs. The total episodes of the original broadcast for Season 2 is 15 episodes, the total discs for the VCD version is 10 discs. The total episodes of the original broadcast for Season 3 is 20 episodes, the total discs for the VCD version is 13 discs. The total episodes of the original broadcast for Season 4 is 26 episodes, the total discs for the VCD version is 16 discs. The total episodes of the original broadcast for Season 5 is 45 episodes, the total discs for the VCD version is 28 discs. From Season 1 to Season 3, the series goes by one case per episode; however, unlike the previous three seasons' case-by-case episodes, which could be matched with the original broadcast, the cases in Seasons 4 and 5 run simultaneously and overlap so are not featured as one case per episode. For this reason, when referencing the first three seasons, the episode will be as originally broadcast – per episode – and Seasons 4 and 5 will be referenced as the VCD disc – per disc – with the initial date of broadcast.

hierarchical distinctions within the family – that is, all elders should show loyalty to the junior members of the family, as junior members should show obedience to elders.<sup>94</sup> Similar to the protagonist of *Justice Sung*, Sung Sai Kit, being more concerned about money than morality before his character took a drastic turn, in *The File of Justice* (壹號皇庭),<sup>95</sup> even though the character of Michael Kong Shing-Yue, a legal assistant, is all about money, he still helps his mother, Lora Kong Lee Chung Wan, a Queen’s Counsel, in pro bono cases. Every time Lora takes on a case where it is obvious that the client is unable to pay, Michael helps her, acknowledging that ‘the clients might not be able to afford your bill’.<sup>96</sup>

For example, in one case in the first series of *The File of Justice* Lora is representing an innocent person charged with manslaughter.<sup>97</sup> The second defendant in this case is the son of a rich man, and evidence has been found that he is guilty. When the father of the second defendant finds out, he decides to bribe Michael. Michael knows of his intention and purposely leads him on, asking what the briber wants from him as a legal clerk. The briber says that he will give Michael half a million Hong Kong dollars in return. Michael then takes this evidence to his mother,

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<sup>94</sup> Johnson (1979), p 12. Confucius also stressed that there needs to be reverence when being filial, as simply taking care is not enough. See Watson (2007), p 17; Waley (2005), p 89. In contrast, it has been argued that some perform filial piety not as affection, care and respect but as duty and a way to establish and maintain ‘face’: see Zhang (2016). However, this somewhat negative aspect of the concept of filial piety does not seem to relate to the dramas analysed in this thesis.

<sup>95</sup> Tang, Gary (Producer) 壹號皇庭 *The File of Justice*, TVB, 19 April 1992; Tang, Gary (Producer) 壹號皇庭 II *The File of Justice II*, TVB, 18 April 1993; Tang, Gary (Producer) 壹號皇庭 III *The File of Justice III*, TVB, 10 October 1994; Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, TVB, 11 September 1995 and Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, TVB, 10 March 1997.

<sup>96</sup> Tang, Gary (Producer) 壹號皇庭 *The File of Justice*, Episode 3, TVB, 19 April 1992. Author Translate.

<sup>97</sup> Tang, Gary (Producer) 壹號皇庭 *The File of Justice*, Episode 3, TVB, 19 April 1992.

helping her to win the case. In another incident, Michael insists on going overseas in search of his girlfriend; he even has an argument with his mother, who does not want him to go. Later on, Michael realises that his mother has cancer, so he stays behind to support and look after her.<sup>98</sup> Michael's behaviour demonstrates that no matter what the circumstance are, the concept of filial piety still overrides all other concerns.

Another character in *The File of Justice* series who performs their filial obligation is Catherine Au Tsz-Keung, a defence barrister. The character of Catherine first appeared in *The File of Justice V*. Catherine's father was involved in a case where he was charged for kidnap and murder of his ex-wife.<sup>99</sup> By way of alibi, Catherine's father tells her that on the night of the crime, he slept with a juvenile. Therefore he could not have committed the act. As no such girl exists, Catherine supports this false alibi. In the end, her father is found not guilty.<sup>100</sup> This shows the continual significance of the concept of filial piety, even for characters representing modern lawyers.

One's filial obligation to parents can cover a wide range of obligations, but the most basic duty to one's parents is to love, support and respect them, and to take care of them – as well as not be rebellious.<sup>101</sup> Furthermore, the Chinese people say that filial piety is extended into life after death; hence one should not only respect and love one's parents, but also one's ancestors.<sup>102</sup> According to the teachings of Confucius, there are five fundamental relationships between human beings: between 'father and son, ruler and subject, husband and wife, elder and younger brother, friend and

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<sup>98</sup> Tang, Gary (Producer) *壹號皇庭 III The File of Justice III*, Episode 11, TVB, 10 October 1994.

<sup>99</sup> Tang, Gary (Producer) *壹號皇庭 V The File of Justice V*, Disc 22, TVB, 10 March 1997.

<sup>100</sup> Tang, Gary (Producer) *壹號皇庭 V The File of Justice V*, Disc 22, TVB, 10 March 1997.

<sup>101</sup> Johnson (1979), p 12.

<sup>102</sup> Johnson (1979), p 12.

friend'.<sup>103</sup> Confucius held not only that these relations are natural to humans, but it is also important to maintain the right formalities within each relationship in order to preserve stability and social order.<sup>104</sup> Moreover, it is 禮 (*Li*) or etiquette that reinforces these relationships and prescribes modes of behaviour according to the status.<sup>105</sup> Hence it is essential that the filial obligations be carried out to maintain the social order.

In *Just Love*, the character of Principal Magistrate Dai Ji-Hung clearly illustrates the importance of this Confucian concept. It was the ultimate goal of Dai to become Chief Magistrate, as it was the wish of his late father. His father was a Supreme Court judge and wanted him to carry on this family tradition of being a judge.<sup>106</sup> In order to achieve his goal, Dai Ji-Hung had to follow the Confucian teaching, which maintains that it is an individual's inner ability to control their behaviour that is regarded as the greatest human virtue.<sup>107</sup> His character is known as very just and proper throughout the entire series. However, there was a misunderstanding in his relationship and the paparazzi made out that he was dating two girls at the same time, hence jeopardising his chance of becoming Chief Magistrate. Dai felt very disheartened that he could no longer fulfil his father's wish; so on the day he found out, he drank the whole bottle of red wine his father had left him for the celebration of his promotion. Dai's strong belief and actions demonstrate the importance of filial piety to members of the legal profession.

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<sup>103</sup> Bodde and Morris (1967), p 21.

<sup>104</sup> Bodde and Morris (1967), p 21.

<sup>105</sup> Bodde and Morris (1967), p 21.

<sup>106</sup> Chong Wai-Kin (Producer) 老婆大人 *Just Love*, Episode 12, TVB, 9 May 2005.

<sup>107</sup> Ren (1997), p 29.

As seen in the historical dramas *Judge Bao* and *Justice Sung*, notwithstanding modern and Western impact, Confucianism has as strong an influence on modern judges as it does on historical figures; this is evident after the examination of how Confucian teachings have influenced another televisual character, the ‘Westernised’ judge. This character is grounded in the fact that Hong Kong’s legal system is based on English Common Law, introduced into Hong Kong in 1843.<sup>108</sup> With the introduction of the Common Law, problems arose between the cultural values of the ‘West and East’ – specifically, the issue of what would happen to the considerable and extant surviving Chinese customary law.<sup>109</sup> As a response, Chinese laws and customs were incorporated into the Common Law.<sup>110</sup> So even that most ‘Western’ feature of Hong Kong – its Common Law – carries within it a kernel of the Chinese judicial tradition.

In popular culture, this kind of hybridity – bijural intermingling – is instantiated in Justice Victor Ching Lok-Tin of *The File of Justice*, who first appears in *The File of Justice IV*. Although his cultural background does not at first appear to have much influence on him in his performance in court – his style being classically ‘Western’, as bespeaks the bourgeois elite of Hong Kong: confident, cocky and progressive – Justice Ching is still affected by the Confucian way of teaching, which emphasises independent thinking, open discussion and free questioning.<sup>111</sup> These values are also promoted by Western education; however, when looking at the law, a controlling – even totalitarian – style takes over, one that is more concerned with courtroom decorum than truth. But when Victor is shown in private circumstances –

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<sup>108</sup> Hsu (1992), p 3.

<sup>109</sup> Hsu (1992), p 3.

<sup>110</sup> Hsu (1992), p 15.

<sup>111</sup> Hu (1967), p 108.

communicating with the younger generation, like his daughters and their friends – he is much more the wise Confucian patriarch. So Western at work, Chinese at home: this is a television dichotomy that is typical of most Hong Kong people’s status.

Additionally, Confucius was of the view that what ought to be the right way was the combination of 天理 (*Tianli*) – which is the moral principle of the universe – with 人情 (*Renqing*) – which is compassion – and 國法 (*Guofa*) – which holds that a country’s laws will form the 道理 (*Daoli*) on the basis of common sense and reason.<sup>112</sup> This is similar to the Chinese cultural belief that influences Justice Ching in *The File of Justice* series. Ching believes that one has a duty to be moral, thereby leading a virtuous life.<sup>113</sup> This is evident when Justice Ching keeps emphasising the fact that every human is subject to their own set of duties, the principal of these being responsibility for wrong actions they have performed.<sup>114</sup> Therefore, although contemporary Hong Kong’s legal profession has been influenced by Western culture, they have still been able to preserve traditional cultural values.

The Confucian concept of 仁 (*Ren*) concerns the virtue of benevolence.<sup>115</sup> One way in which the virtue of benevolence impacts legally is through lawyers doing pro bono work. For example, Lora Kong in *The File of Justice* routinely represents clients pro bono when they are unable to pay her bill.<sup>116</sup> Unlike her son, Michael Kong, she is not concerned by the fact that she might not be paid at the end of the day because she feels that there is a need to help those who are less fortunate. Furthermore, it is

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<sup>112</sup> Bernhardt and Huang (1994), p 171.

<sup>113</sup> Nivison (1996), p 312.

<sup>114</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Disc 16, TVB, 11 September 1995.

<sup>115</sup> Ren (1997), p 21. *Ren* also translated as ‘humaneness’ and ‘caution’. See Watson (2007), p 77. Being *Ren* is not simply about being benevolent one must also have courage and be firm. See Lippiello, Chen and Barengi (2016), pp 9–10.

<sup>116</sup> Tang, Gary (Producer) 壹號皇庭 *The File of Justice*, Episode 3, TVB, 19 April 1992.

suggested that by doing pro bono work, the lawyer reinforces and is in line with the notion of rights as emphasised in the Hong Kong Bill of Rights.

義(*Yi*), or loyalty, is another one of the five fundamental principles advocated by Confucius. In Hong Kong, this principle has been converted into the contemporary concept of ‘brotherhood’. In *The File of Justice*, the characters of Ben Yu Joi-Chun, a defence lawyer, and Michael Kong embody this concept. A good example from *The File of Justice V* is when Michael goes to threaten Kelvin Fong Wai-Ho (the villain of the series) and Ben Yu fully supports his actions, to the extent that both of them end up at the police station, with Michael charged with blackmailing Kelvin.<sup>117</sup> Michael apologises to Ben Yu and Ben Yu replies by saying, ‘We’ve been brothers for more than 10 years; there is no need to say things like that.’<sup>118</sup>

This kind of loyalty is critiqued by the behaviour of the same two characters, Ben Yu and Michael, when they go to set up a deal to demonstrate their loyalty to their other friend, Eric Chau Siu-Chung, another defence lawyer in the series. This loyalty is shown in *The File of Justice V* when Eric is murdered in Mainland China, because even though their relationship has deteriorated by that stage, both characters fly up and start to help the police to investigate the case as soon as they hear of his death.<sup>119</sup> During the investigation, they also realise that a witness to the case is an offender in another case that had been hidden from the police. Ben Yu and Michael go to the wife of this witness, and both are willing to give her not only money, but to agree not to report her spouse to the police – all in exchange for information about

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<sup>117</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, Disc 10, TVB, 10 March 1997.

<sup>118</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, Disc 10, TVB, 10 March 1997. Author translated.

<sup>119</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, Disc 5, TVB, 10 March 1997.

Eric's murderer.<sup>120</sup> Both examples demonstrate the pros and cons of the concept of brotherhood, and the ways in which it has influenced portrayals of fictional lawyers in Hong Kong.

The concept of 'brotherhood' has been developed further in a more recent series, *Survivor's Law*, particularly in terms of trust and fealty. Confucius considered such traits – specifically promise-keeping and loyalty – to be the two essential elements of social virtues.<sup>121</sup> In *Survivor's Law*, the protagonist, Ben Lok Bun – originally a solicitor, later a barrister – enacts this concept of 道義 (*Daoyi*) or loyalty between friends in two cases. The first is when he represents his childhood friend, Ma Ching-Kin,<sup>122</sup> who has been charged with possession of drugs and wants to plead guilty in court; however, Ben Lok will not let him do so, and tells him that, as a friend, he cannot watch him ruin his own future. In the end, Ben Lok convinces Ma to plead not guilty and to tell the court the truth about how he is making a false confession for money. As it turns out, it was the son of one of the big clients of Ben Lok's firm who told Ma to make the false confession; and as a consequence of this, Ben Lok loses his job.

The second incident is between Ben Lok and Vincent Cheuk Wai-Ming, another barrister in the series. Desperate to leave Hong Kong and in dire need of money to do so, Vincent defends rich, morally ambiguous clients; however, he gets into trouble with one of his clients, who is also portrayed as a villainous character, and whom Vincent accidentally kills. As the only person who believes Vincent is innocent, Ben Lok helps Vincent, even saying that that he will never give up on a

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<sup>120</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, Discs 5–6, TVB, 10 March 1997.

<sup>121</sup> Waley (1938), p 67.

<sup>122</sup> Leung, Tommy (Producer) 律政新人王 *Survivor's Law*, Episode 1, TVB, 14 July 2003.

friend. Arguing provocation and self-defence, Ben Lok gets Vincent off.<sup>123</sup> Both these scenarios are clear examples of the importance of loyalty among friends, and how this has shaped the ways in which fictional lawyer behave in contemporary Hong Kong.

Not all the Confucian concepts have been positively portrayed in the modern legal dramas. In contrast to the fictional judge Justice Yim portrayed in the historical drama *Justice Sung*, where the trust others have in a judge is betrayed, here the trust lawyers have in their clients has been betrayed. For example, 信 (*Xin*) or trust – one of the five cardinal virtues advocated by Confucius – must be performed in order to preserve and maintain harmony between heaven and earth.<sup>124</sup> This concept is critiqued through the character of Helen Kong Shing-Chau, a defence barrister in the series *The File of Justice*. Helen believes that a friend's trust lasts a lifetime. Even after her friends cheat on her, she continues to believe this.

For example, in *The File of Justice II*, Helen takes on a case where her friend is charged with sexual harassment.<sup>125</sup> Her friend is an old classmate, and she fully trusts him. Her brother, Michael Kong, warns her about how a client in the past had cheated on her,<sup>126</sup> and how at that time she was as sure as she is now that her client would not lie to her. This reminder annoys Helen, who says it will not happen again and that her friend would not break the trust of a friendship. However, in the end she is proven wrong: having committed the crime, her friend demonstrates that there is a fine line between trust and naiveté. Having said that, later on in the series Helen still

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<sup>123</sup> Leung, Tommy (Producer) 律政新人王 *Survivor's Law*, Episode 25, TVB, 14 July 2003.

<sup>124</sup> Graham (1989), p 381.

<sup>125</sup> Tang, Gary (Producer) 壹號皇庭 II *The File of Justice II*, Episode 6, TVB, 18 April 1993.

<sup>126</sup> Here referring to Helen taking on the case as defence barrister for her friend's boyfriend charged with rape in season one. See Tang, Gary (Producer) 壹號皇庭 *The File of Justice*, Episode 7, TVB, 19 April 1992.

carries on this trust between friends and believes that it is essential to maintain trust between people.

This negative portrayal of trust is also illustrated in *Survivor's Law*. Similar to Helen, Ben Lok takes on a legal aid case where the accused, Lee Man Sam, is charged with arson.<sup>127</sup> As Lee and his sister, May May, live in poverty and put on a good act of being pure and innocent, Ben Lok sympathises with them and fully believes Lee is innocent. He only realises they are putting on an act after he gets Lee off the charge; he becomes disillusioned, and begins to lose faith in himself and his work. It is not until his colleague, Jessica Chiang Si-Ka, reminds Ben Lok of his belief that no matter whether a client is guilty or innocent, they have the right to have a lawyer represent them that he is able to regain confidence in his role as a legal professional.<sup>128</sup>

The five fundamental principles laid down by Confucius that have underpinned Chinese civilisation for thousands of years are 'reverence for elders, stable patriarchal relationships, recognition of the individual, honour and modesty and patience'.<sup>129</sup> Similar to what has already been discussed in the section about historical lawyers, it is suggested that all these principles are still recognisable in Hong Kong today despite its modernisation. The reason for this dissemination is the belief that a community that applies these principles will live in harmony.<sup>130</sup>

In *Survivor's Law*, the character of Solicitor Ling Chung Ching-Ling demonstrates how her belief in modesty can lead to harmony. This belief is tested in a

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<sup>127</sup> Leung, Tommy (Producer) *律政新人王 Survivor's Law*, Episodes 11–13, TVB, 14 July 2003.

<sup>128</sup> Leung, Tommy (Producer) *律政新人王 Survivor's Law*, Episode 14, TVB, 14 July 2003. Author translated.

<sup>129</sup> De Vos (1998), pp 123, 306, 331; Leung (2010), p 222; Ding (2010), p xiii.

<sup>130</sup> De Vos (1998), p 359; Ding (2010), p xx.

case where a wife sues her husband for raping her on the night of their marriage.<sup>131</sup> The police rejected the case when the woman reported the incident, so she seeks to bring it to court via civil litigation. Ling takes the case because, as a modern, rights-sensitive, gender equality lawyer, she believes that women as individuals also have the right to choose what they want to do. Later on, however, the husband and wife make up, with the result of that the wife no longer wants to pursue the case. Ling's mentor wants to continue to pursue the case, in order to garner more publicity from the media and to prove his ability as a lawyer. Ling, on the other hand, feels that such publicity is completely unnecessary, as she does not want to be egotistic about her abilities as a lawyer. For Ling, the preservation of harmony is more important, so she settles the matter out of court.

Filial piety, benevolence, loyalty and hope for harmony: these Confucian concepts form the basic qualities of the modern lawyers discussed here. However, not all Confucian concepts have been portrayed in such a positive light – for example, trust of friends and clients. Despite this critiquing portrayal, Confucian concepts have mainly assisted the fictional legal professionals in a very positive manner, forming a guide for belief in justice and just behaviour. This Confucian impact also complements the Taoist high virtues standards in the beliefs and behaviours of the modern lawyers.

### ***Taoism***

The Taoist teachings to be discussed in this section are: benevolence from one's heart; practice of virtue; natural law and heaven; cosmic cycle and the good nature of a person.

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<sup>131</sup> Leung, Tommy (Producer) *律政新人王 Survivor's Law*, Episodes 1–2, TVB, 14 July 2003.

This section shows that, despite a change of era and Westernisation, Taoist influences have as much impact upon the modern lawyers as they do on historical lawyers. Taoists say that conforming to the law of morality is essential to the flourishing of human life.<sup>132</sup> Their theory of human nature provides that, because human beings are replicas of heaven, and heaven has 陰 (*Yin*) and 陽 (*Yang*), the human mind too contains two elements: 心 (*Xin*), which means heart or nature and from which comes the virtue of human heartedness; and 情 (*Qing*), which consists of emotions or feelings, and from which comes the vice of covetousness.<sup>133</sup> Morality is the concern one should have for each and every person; the way to show this is to care for others as you would care for yourself.<sup>134</sup> Taoists believe that benevolence is not simply something to be shown on the surface; rather, it should be set inside one's heart.<sup>135</sup> The Taoist teaching also maintains that 'accumulation of righteousness' by one doing what ought to be done is the practice of virtue.<sup>136</sup> Moreover, an old proverb has it that one should respond to ingratitude with kindness – 以德報怨 (*Yi de bao yuan*).<sup>137</sup>

The character of Raymond Chau Chi-Fai, a solicitor in *The File of Justice* series, performs this virtuous concept, especially in the case where his girlfriend is raped.<sup>138</sup> The accused is found not guilty because his wife perjures herself in court,

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<sup>132</sup> Ren (1997), p 28.

<sup>133</sup> Bodde and Fung (1976), p 195.

<sup>134</sup> Graham (1989), p 41.

<sup>135</sup> Graham (1989), p 113.

<sup>136</sup> Bodde and Fung (1976), pp 78–9.

<sup>137</sup> IPC Editorial Board (2015), p 347. It has been pointed out that Confucius stresses 以直報怨 (*Yi zhi bao yuan*), or returning ingratitude with justice or fairness and humanity. See Lau (2011), p 12. Author translated.

<sup>138</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice* V, Discs 12–14, TVB, 10 March 1997.

saying that the accused was with her at the time the crime was committed.<sup>139</sup> As a result of losing the case, Raymond's girlfriend leaves him. Moreover, she was pregnant at the time of the rape and lost their child. Later on, the wife of the accused is charged with murdering her husband, with Samantha Ching Yuek-Fai taking on the case as her barrister and Raymond voluntarily becoming the instructing solicitor.<sup>140</sup> In this case, not only does Raymond help this woman during the trial – she is found not guilty as her husband's death was due to self-defence – but he also assists her after the case is over, thereby instantiating the traditional concept of meeting ingratitude with kindness.

Many Chinese people believe that evil will be punished; on the other hand, the gods will reward the good and innocent.<sup>141</sup> According to the Taoist teaching, no one will ever benefit from opposing the natural law.<sup>142</sup> In ancient China, everyone believed that while one's evil doings – or crimes – might escape one's fellow human, nothing ever escapes the eyes of the gods in heaven – or, in Chinese, 天網恢恢疏而不漏 (*Tian wang hui hui shui er bu lou*).<sup>143</sup> Furthermore, there is another Chinese saying that holds true to a similar concept: 水落石出 (*Shu luo shi chu*), 'the truth will eventually be known'.<sup>144</sup> A believer conforming to nature in this way is Ben Yu's cousin in *The File of Justice* series, the police sergeant Man Bun Chau. Man Bun believes that for law to be true and correct, it must be in accord with right reason and

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<sup>139</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice* V, Disc 14, TVB, 10 March 1997.

<sup>140</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice* V, Discs 19–20, TVB, 10 March 1997.

<sup>141</sup> Chu (1965), p 207.

<sup>142</sup> Cranmer-Byng (1959), p 97.

<sup>143</sup> Chu (1965), p 211.

<sup>144</sup> IPC Editorial Board (2015), p 262.

in agreement with nature.<sup>145</sup> Throughout the series, Man Bun argues with Ben Yu over the separation of morality and law because the former believes that, when the evidence obviously indicts the offender as guilty, lawyers should not even represent them because, in court, they would only be trying to falsely prove their innocence.<sup>146</sup> Man Bun feels that this kind of law is not the true law, but just a way for unethical lawyers to make money; even if they do win, they will receive bad things in return.<sup>147</sup>

Moreover, Man Bun has a strong belief that the truth will be found no matter how vague the evidence seems to be at the moment, and continuously tells his ‘lawyer friends’ this every time they represent a bad client and try to twist the story or the truth. Furthermore, Man Bun believes that no matter whether one is caught by law or remains a wrongdoer, one will always be punished by heaven.<sup>148</sup> Man Bun tells Ben Yu, Michael Kong and Raymond Chau that when Kelvin Fong died, it validated this belief.<sup>149</sup> This shows that traditional Chinese values will not only impact lawyers themselves but even the law enforcers who work with them.

Lionel M. Jensen suggests that while there have been many Western ideas that have been implemented in Hong Kong, the changes involved are still limited, as Chinese cultural traditions persist, seemingly never to be wiped out.<sup>150</sup> In *The File of Justice* series, the character of Ben Yu in particular exhibits elements of traditionalism, especially around issues of morality. That morality is clearly at issue

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<sup>145</sup> Wang (1968), p 17.

<sup>146</sup> For an example of their argument in Season 2, see Tang, Gary (Producer) *壹號皇庭 II The File of Justice II*, Episode 1, TVB, 18 April 1993.

<sup>147</sup> For an example of a conversation between Man Bun and Michael Kong, see Tang, Gary (Producer) *壹號皇庭 III The File of Justice III*, Episode 13, TVB, 10 October 1994.

<sup>148</sup> Ren (1997), p 29.

<sup>149</sup> Tang, Gary (Producer) *壹號皇庭 V The File of Justice V*, Disc 28, TVB, 10 March 1997.

<sup>150</sup> Jensen (1997), p 261.

during a case for murder where, as defence barrister, Ben Yu finds out that his client is actually guilty. Because he feels that it is wrong to get such a ‘bad’ guy off – but, nonetheless, feels constrained by his duty as a lawyer to his client – Ben Yu has himself admitted to hospital, thereby adjourning the matter and allowing his cousin Man Bun Chow, the police officer, to search for evidence.<sup>151</sup> In the end, Ben Yu’s plan is successful and his client is found guilty of the charge. Although he has to risk his profession, Ben Yu feels that morality is more important and should always prevail.

Taoists hold a belief that heaven contains a register recording people’s misdeeds and errors, and if one violates the cosmic order, then the time will come when they will be judged according to the cosmic cycle.<sup>152</sup> If one behaves in an improper way, or if one’s actions contradict the concept of righteousness, or if one commits heinous crimes, heaven will take away one’s life.<sup>153</sup> Further, if one carries out any immoral actions, then they too will be punished by heaven.<sup>154</sup> Therefore, a notion of ‘just deserts’ is very much a part of the Taoist conception of heaven, itself a place that can command punishment (and reward). In the *Survivor’s Law* storyline, the character of Vincent Cheuk illustrates the concept of punishment held by the Taoists. Due to the fact that his father was imprisoned, Vincent completely loses his sense of justice and starts to work for ‘villainous’ clients. While working for these bad clients, he loses the support of all his friends and has to constantly work alone. In the

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<sup>151</sup> Tang, Gary (Producer) 壹號皇庭 *The File of Justice*, Episode 12, TVB, 19 April 1992.

<sup>152</sup> Ren (1997), p 28.

<sup>153</sup> Ren (1997), p 28.

<sup>154</sup> Ren (1997), p 28.

end, he also loses his practising certificate, due to a murder case defending a bad client.<sup>155</sup>

Mencius<sup>156</sup> states that humans are by nature good, while Hsun Tsu maintains that humans are at least rational and capable of learning goodness.<sup>157</sup> Here, though Vincent loses the support of his friends – including his father at one stage – he learns from this experience, showing remorse for his actions and after a while regaining the ability to work at the HK Firm as a legal assistant after he loses his practising certificate. Even though punishment does not take an extreme form in this series, the way in which Vincent is punished does demonstrate the influence of this Taoist concept to some extent.

Taoist concepts of righteousness and conforming to nature have repeatedly influenced modern legal professionals. For example, the law enforcer in *The File of Justice* continuously reminds his lawyer cousin and friends of the importance of being morally correct and virtuous. The punishment of the offenders and the lawyers also stresses the importance of conforming to nature. Moreover, the Taoist belief in the power of the cosmic cycle is closely connected to the Buddhist teaching of the power of ‘cause and effect’.

### ***Buddhism***

The Buddhist concept of karma will be reintroduced in this section.

An examination of modern lawyers shows that the Buddhist influence on modern televisual lawyers in Hong Kong is just as strong as it has been on historical lawyers. According to the Buddhist teachings, doing good deeds – like caring for the

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<sup>155</sup> Leung, Tommy (Producer) *律政新人王 Survivor's Law*, Episode 25, TVB, 14 July 2003.

<sup>156</sup> Mencius is another teacher of Tao who has reached enlightenment and is claimed to have lived from 371? to 289? BC. Cited in Bodde and Morris (1967), p 20.

<sup>157</sup> Hsun Tsu ca. 289 CE to 238 CE. Cited in Bodde and Morris (1967), p 20.

welfare of others – is a way to reduce the burden of ‘bad karma’ accumulated from the past lives as well as expiating any recent acts.<sup>158</sup> Buddha maintained that, even if one did not believe in an afterlife, one should still keep acquiring ‘good karma’ – just in case there is one; then at least some provision will have been made for the future.<sup>159</sup> In the absence of ‘good karma’, and when one has committed many crimes, one will suffer punishment after passing away.<sup>160</sup>

Retribution for bad karma occurs when the bad things one has committed are punished.<sup>161</sup> As in *Justice Sung*, the idea of karma is pervasive in *The File of Justice* series. For it is under this concept that most of the ‘bad lawyer’ or ‘criminal’ storylines occur. Consider this example in *The File of Justice V*: even though the villain of the series Kelvin Fong was imprisoned for years, this sentence – so the show suggests – was deemed insufficiently punitive for the ‘evil’ actions he had committed. Although Kelvin was able to evade the laws, in the end he had to die,<sup>162</sup> thereby satisfying karma’s retributive justice. Likewise, *Survivor’s Law* features a case where the rich criminal keeps getting away with all the crimes he has committed, such as rape and murder. However, in the end he too has to die, and the lawyers in the show believe that it is his bad karma that takes his life away.<sup>163</sup> These televisual examples demonstrate the significance of the Buddhist notion in Hong Kong, as exemplified in portrayals of its fictional lawyers.

The representation of the belief in karma arises in another way in *The File of Justice* series. The character Michelle Tang Yau works at the Department of Justice as

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<sup>158</sup> Wright (1980), p 75.

<sup>159</sup> Alabaster (1980), p 42.

<sup>160</sup> Thompson (1973), p 187.

<sup>161</sup> Wright(1980), p 50.

<sup>162</sup> Tang, Gary (Producer) *壹號皇庭 V The File of Justice V*, Disc 28, TVB, 10 March 1997.

<sup>163</sup> Leung, Tommy (Producer) *律政新人王 Survivor’s Law*, Episode 25, TVB, 14 July 2003.

the principal prosecutor in the series. Despite the fact that Buddhist teachings have little influence on Michelle, she still knows that many others are affected by them. For example, in *The File of Justice IV* she is charged with aiding and abetting the murder of an accused in her previous case.<sup>164</sup> When she testifies in court, Michelle maintains that she was not giving her advice or suggesting that the accused should murder the victim; instead she tells her a story in order to make the widow of the victim feel better. The story arose from a preceding case where the defendant was acquitted on a charge of murder, of which he was guilty, but which in turn prompted the victim's daughter to kill him. By telling this story, Michelle believes/hopes that the widow of the victim will see the working of karma and feel that the murderer will pay for what he has done. Although she does not believe in this concept, its importance is still demonstrated by how she uses it in her capacity as a lawyer to persuade or reason with clients, themselves often believers in karma – like so many Chinese.

The Buddhist concept of karma, or 'cause and effect', is performed as punishment of the wrongdoer, the offender and the lawyer. However, this concept also allows lawyers to persuade and reason with clients in order to bring relief when the court delivers a less satisfying verdict. Chinese cultural influences also assist lawyers to persuade, encourage and reason with clients, victim's family and witnesses.

### ***Cultural influence***

The cultural influences analysed in this section are: bearing the consequences of one's actions; righteous acts; to not abet wrong behaviour; respect for one's teacher; importance of keeping people married; face and *feng shui*.

The continuation of cultural influence among the modern lawyers is made apparent through the examination of the influence of traditional Chinese sayings on

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<sup>164</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Disc 15, TVB, 11 September 1995.

the fictional lawyers in the selected television series under discussion here. One significant Chinese idiom is 一人做事一人當 (*Yi ren zuo shi yi ren dang*), ‘one must bear the consequences of one’s actions’.<sup>165</sup> In some series, this is clearly illustrated, as the lawyers tell their client or their client’s family how important it is to bear the responsibility of what they have done and not to let others make a false confession. For example, *The File of Justice* series features a case where a stepmother pleads guilty to the murder of her husband.<sup>166</sup> In fact, the stepdaughter is the one who committed the crime and murdered her father. The stepmother’s statement does not seem to flow or make sense during cross-examination; furthermore, evidence tendered by the prosecution makes it obvious that the stepmother is committing perjury. Seeing this, Lora Kong (the stepmother’s defence barrister) and Michael Kong approach the stepdaughter and advise her to confess.

Lora and Michael use an interesting way to prompt her into taking responsibility for the consequences of the crime she has committed. First, Lora tells her that if she was in her stepmother’s position and knew that her stepdaughter would live a happy life, she would be happy for her even if she were sentenced to death. Michael then follows by saying that he would rather have himself sentenced to death than see his mother sentenced to prison.<sup>167</sup> This is an interesting way of prompting the real offender to confess, because they do not try to tell her that, if she does not confess, the police will find out and she will be charged with obstructing the course of justice. Such strategy does not prevail here; instead, traditional Chinese teachings are

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<sup>165</sup> Cantodict, ‘Chinese Idioms: Cantodict’, <http://www.cantonese.sheik.co.uk/dictionary/words/44277>. This concept also demonstrates taking responsibility as heroic behaviour. See Thia (2005).

<sup>166</sup> Tang, Gary (Producer) 壹號皇庭 *The File of Justice*, Episode 6, TVB, 19 April 1992.

<sup>167</sup> Tang, Gary (Producer) 壹號皇庭 *The File of Justice*, Episode 6, TVB, 19 April 1992. Author translated.

used to tell the true offender that she has done wrong, and in the end she does go to the police station to confess.

Even though the Chinese people have a strong sense of family relationships, with an overriding duty to protect family members, there is one exception: when a member of their family has done something wrong, an act that is extreme, then the duty of protection is suspended. If the action committed is so bad that it will create an adverse effect on the community as a whole, then one's responsibility of righteousness should override this. Hence the Chinese saying 大義滅親 (*Da yi mie qin*), 'placing righteousness above loyalty to one's family',<sup>168</sup> comes up once again, this time with a modern legal drama example. The character Catherine Au in *The File of Justice V* reveals the message behind this Chinese proverb. In this series, her father's character is someone who is constantly in trouble with the law. In the beginning, he has been falsely charged for a few minor crimes – which Catherine helps him get away with. However, when Catherine finds out that he is not actually innocent of one of his murder charges – where he murdered someone in Mainland China – she reports him to the police.<sup>169</sup> She does so knowing that he will be given the death sentence, but she does not feel that she has done the wrong thing, even after the death of her father.

Catherine believes '姑息養奸' *Gu xi yang jian*, 'to tolerate evil is to abet it'.<sup>170</sup> She tells her friends that she knows it is important to protect family, but when

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<sup>168</sup> IPC Editorial Board (2015), p 61.

<sup>169</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, Discs 23–24, TVB, 10 March 1997.

<sup>170</sup> IPC Editorial Board (2015), p 102. A scholar-official from the Song dynasty, Sima Guang, argued that tolerating evil of one's child was to abet it, and this could lead to big problems in the future: see Sun (2015). Author translated. The opposite situation occurs here: with her father's record of bad behaviour and troubles with the law, Catherine as the daughter no longer wants to tolerate her father's criminal action. A more serious situation where an emperor of the Tang

they have done too many wrong things, it is unforgivable and totally against the concept of righteousness, then the preservation of righteousness will prevail.<sup>171</sup> This reiterates the point made in *The Gentle Crackdown* in the historical lawyers section, hence establishing a continuation of the influence of traditional Chinese values on fictional lawyers in Hong Kong. Moreover, it indicates that, despite the fact that Hong Kong is so culturally diverse, there are still many aspects of Chinese tradition that impact upon, and can be seen as influencing the representation of, the fictional lawyers and the ways in which they choose to behave.

As repeatedly outlined above, filial piety is one important aspect of Chinese traditions. However, Confucius also maintained that blind loyalty to one's parents was not the correct way to be filial.<sup>172</sup> This is because concepts such as 仁 (*Ren*), benevolence, and 義 (*Yi*), righteousness, are above the rule of filial piety.<sup>173</sup> The storyline of the character Vincent Cheuk in *Survivor's Law* clearly demonstrates the value of such concepts for the mindset of modern Hong Kong lawyers. Consider the case where Vincent's father, Fan Cheuk – a policeman – is charged with obstructing the administration of justice,<sup>174</sup> having put a packet of heroin back in the house of the mafia when he went back to search the house for the second time. In fact, that packet of heroin *did* belong to the mafia – except they had already given it to someone to take it to another place to repack for distribution; however, Vincent's father saw that person, stopped him, picked up the packet and took it back into the house.

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dynasty adopted the attitude of 'tolerating evil is to abet it' led to serious consequences – political disorder: see Hou (2006).

<sup>171</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, Disc 24, TVB, 10 March 1997.

<sup>172</sup> Johnson (1979), p 12.

<sup>173</sup> Johnson (1979), p 12.

<sup>174</sup> Leung, Tommy (Producer) 律政新人王 *Survivor's Law*, Episode 18-19, TVB, 14 July 2003.

When Vincent finds out about this case, he does not want his father to go to prison; being the filial child, he is prepared to risk his future as a lawyer. He even tries to ‘talk’ a witness into not testifying in court. In the end, his father tells him not to do that, as it is wrong and not in line with the teachings of righteousness. His father says he has done wrong and deserves the punishment, as that is the right thing to do, and that way his 良心 (*Liangxin*) or good conscience will feel better. Then he can finally get a good night’s sleep, even if it is in prison. Although in this case the teaching did not have a direct impact on the lawyer, it still demonstrates that, at least when members of his family remind them, he still needs to attend to these traditional Chinese concepts, weighing and balancing benevolence/righteousness against filial piety.

There are many Chinese sayings that stress the importance of respect one should feel for elders, especially when one has learnt something from them. Three more popular ones are as follows: 飲水思源 (*Yin sui shi yuan*), ‘one should not forget their origin’;<sup>175</sup> 尊師重道 (*Zhun shi zong dao*), ‘one should respect their teacher in the right way’; and 一日為師 終身為父 (*Yi ri wei shi zong shen wei fu*) loosely translated as ‘once someone is your master or teacher for one day, you should treat them like your father for the rest of your life’.<sup>176</sup> Apart from being demonstrated in historical dramas *Justice Sung* and *The Gentle Crackdown*, this concept is also clearly demonstrated in *The File of Justice* series, in which the storyline features a mentor–pupil relationship.

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<sup>175</sup> IPC Editorial Board (2015), p 354. Lin Kuei-Fen argues that being grateful is the foundation of great virtue, and showing gratitude and being thankful is a way to express such gratefulness. See Lin (2015).

<sup>176</sup> It is also believed that 一日為師，終生為師 (*Yi ri wei shi, Zhong sheng wei shi*), ‘the respect the student has for the teacher is expected to last forever’. See Lam and Chan (2009), p 32.

As mentioned previously in this chapter, *The File of Justice V* features a case where Michael Kong is charged with blackmailing Kelvin Fong – a setup planned by Kelvin. Samantha Ching is defending the case for Michael, but she cannot find any evidence to support his case and there is seemingly no way that he could evade conviction. As Michael’s girlfriend, Samantha is very worried about this case and seeks help from her sister. However, her elder sister Rachel Ching Yuek-Hei, Kelvin’s ex-girlfriend, is unable to help to change his mind to assist them. Samantha then goes to her father, Victor Ching – Kelvin’s lecturer and mentor. Even though their relationship has broken down – due to Victor’s disappointment in Kelvin’s behaviour<sup>177</sup> – Kelvin still maintains his respect for Victor and calls him ‘master’.<sup>178</sup> Victor changes Kelvin’s mind about Michael, foiling his plan for revenge.<sup>179</sup> Instead, Kelvin is willing to help Victor because of his respect for his ‘master’; in the end, Michael is found not guilty.<sup>180</sup> It is suggested that, as the villain of the series, it is typical for Kelvin to have negative qualities; however, here a positive traditional behaviour and belief have been displayed, indicating how much traditional Chinese teachings influence the fictional lawyers in contemporary Hong Kong legal dramas.

Another traditional Chinese belief is that once a man and a woman are married, they should stay together for the rest of their lives. There is an old Cantonese saying, 寧教人打仔莫教人分妻 (*Ning jiao ren da zai mo jiao ren fen qi*), ‘one would rather teach a couple to discipline their son, than convince them to get a

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<sup>177</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Disc 16, TVB, 11 September 1995.

<sup>178</sup> Calling someone ‘Master’ is equivalent to calling them teacher but with a higher sense of respect.

<sup>179</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, Disc 10, TVB, 10 March 1997.

<sup>180</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, Disc 10, TVB, 10 March 1997.

divorce’.<sup>181</sup> This is a concept that has not been outlined in much detail in *The File of Justice* series, but the series features one incident where Michelle Tang wants to get a divorce from Ben Yu, and therefore instructs Raymond Chau to do the paperwork for her as Ben Yu keeps refusing to sign the papers.<sup>182</sup> After many attempts, Raymond finally gets the chance to lure Ben Yu into his office, where he sits him down and asks him to sign. Ben Yu says that he is a bad friend,<sup>183</sup> as he did not follow the teaching of the old saying; Raymond then tells him that after he signs the papers, Michelle will still be his wife for the next year, during which time he can think of ways of making up with her. While Ben Yu does end up signing the papers – consenting to divorce – the traditional notion behind the saying – of matrimony beyond divorce – is still brought up before he signs the documents, and confirmed by his friends.

This concept is portrayed even more obviously in *Survivor’s Law*. In this series, there are two incidents that demonstrate its importance. The first is where Ben Lok is instructed by his boss’s wife to prepare divorce documents.<sup>184</sup> Ben Lok prepares the documents, but hides them from Homer Hong Ting-Wai, who wants to divorce his wife because he is bankrupt and does not want her to suffer with him. In the end, Ben Lok’s plan works and Homer does not end up divorcing his wife.

The second scenario is where Ben Lok has a client who is charged with battery; eventually he finds out that it was her husband who actually committed the offence, as the husband was angry at his wife for having an affair with another

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<sup>181</sup> Cantodict, ‘Chinese Idioms: Cantodict’,  
<http://www.cantonese.sheik.co.uk/dictionary/words/43410>.

<sup>182</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Disc 14, TVB, 11 September 1995.

<sup>183</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Disc 14, TVB, 11 September 1995.  
Author translated.

<sup>184</sup> Leung, Tommy (Producer) 律政新人王 *Survivor’s Law*, Episodes 15–25, TVB, 14 July 2003.

woman.<sup>185</sup> When Ben Lok realises the truth, he tells the husband to confess, as it is the right thing to do; and says that if he still loves his wife, he can still win her back. Ben Lok even lies about the wife being pregnant, arguing that it is important to maintain the relationship because if the wife goes to prison, their relationship could fall apart easily. The husband then confesses, while the wife says she will wait for him. Hence it is suggested that the fictional lawyers of contemporary Hong Kong still work under the guidance of traditional Chinese concepts – such as one partner for life – using these concepts to bring positive results for their clients.

The concept of ‘face’ established in *Justice Sung* continues with strong influence on lawyers in modern dramas. To the Chinese, ‘face’ means ‘above all respect for others’.<sup>186</sup> The term ‘face’ refers to two concepts: 面子 (*Mianzi*), society’s perception of one’s status; and 臉 (*Lian*), society’s confidence in the moral character of a person.<sup>187</sup> Although these seem to be two separate concepts, they are closely related.<sup>188</sup> Just like the character of Sung in the historical drama *Justice Sung*, there are two characters in *The File of Justice* series who are particularly concerned with the issue of ‘face’: Ben Yu and Chris Yau Ying-Hong. In the series, the main issue of maintaining or saving their face has to do with their girlfriends.

First, in *The File of Justice*, Ben thinks he loses ‘face’ when he dates Michelle Tang while working as her subordinate in the Department of Justice. In order to save ‘face’, he resigns, opening his own chambers to prove his masculinity to his friends and family.<sup>189</sup> Second, when their relationship becomes closer in *The File of Justice*

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<sup>185</sup> Leung, Tommy (Producer) 律政新人王 *Survivor's Law*, Episodes 7–8, TVB, 14 July 2003.

<sup>186</sup> Ladany, Näth and Domes (1992), p 23.

<sup>187</sup> Chan (2006).

<sup>188</sup> Chan (2006).

<sup>189</sup> Tang, Gary (Producer) 壹號皇庭 *The File of Justice*, Episodes 11–12, TVB, 19 April 1992.

II, Ben Yu is called ‘Mr Tang’ by one of their neighbours. With this, he feels he has ‘lost face’, prompting him to confront this woman and explain to her that his name is ‘Mr Yu’.<sup>190</sup> Finally, when Ben Yu and Michelle get married in *The File of Justice IV* and one of their neighbours greets them by saying ‘good morning Mr Yu and ‘Miss Tang’, Ben Yu once again feels she has no respect for him and confronts her, reminding her that they are now married – indeed, she had attended their wedding – and that from now on she can either call Michelle ‘Mrs Yu’ or ‘Madame Yu’.<sup>191</sup>

The second character, Chris, has the same issue as Ben at the Department of Justice. His girlfriend, Rachel Ching, is his boss and due to their relationship she screens all the files carefully and does not let him take on most of the cases, which she feels he cannot handle.<sup>192</sup> Hence, in *The File of Justice V*, Chris feels that he is fully controlled by this woman and has no ‘face’; so he leaves and joins Ben Yu.<sup>193</sup> The somewhat extreme beliefs and behaviours of both of these characters clearly illustrate the importance of ‘face’ to the Chinese people.

It is essential for one to have ‘face’, as having ‘face’ will enable one to convert power into influence on other people – even society at large.<sup>194</sup> The Chinese people say that when one loses 臉 (*Lian*), a type of face, one will lose the trust of others within one’s social network. Further, when one loses 面子 (*Mianzi*), it is said one

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<sup>190</sup> Tang, Gary (Producer) 壹號皇庭 II *The File of Justice II*, Episode 4, TVB, 18 April 1993. Author translated.

<sup>191</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Disc 1, TVB, 11 September 1995.

<sup>192</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, Discs 1–2, TVB, 10 March 1997.

<sup>193</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, Disc 7, TVB, 10 March 1997.

<sup>194</sup> Earley (1997), p 46; Chan (2006).

loses their authority.<sup>195</sup> A Cantonese saying has it that one should salvage one's pride, 跌落地拿番乍沙 (*Die luo di na fan za sha*).<sup>196</sup>

The character Vincent Cheuk definitely shows the importance of this concept in the *Survivor's Law* series. Vincent demonstrates his concern about face in three ways. The first is when he leaves his old firm, as he does not want to follow the instructions of his mentor, and joins the HK Firm, where he can freely do as he wishes and is independent.<sup>197</sup> The second is when his boss, Homer Hong, takes the four new solicitors to the lower end of town to search for clients. Vincent refuses to 'hang around' and search for these clients, as he believes that dealing with people of such lower class would ruin his reputation, and that he would thus have no 'face' among his learned friends.<sup>198</sup> The third is his fundamental belief that he takes on cases for clients not to help them achieve justice, but to win and gain status in society.

One case in the series illustrates this principle very effectively. Vincent's learned colleague, Jessica Chiang, subscribes to an internet service provider (ISP) and the ISP, without prior notice, increases its charges to use the special features<sup>199</sup> by HK\$10.<sup>200</sup> Initially, she does not want to pay, but when the ISP sends her a letter warning that she has to pay the extra HK\$10 or it will cut her service, she decides it is better to pay the money and save hassles. However, Vincent tells her not to pay, and says it is unfair, as the ISP has breached its contract; he tells her he will take on the case for her. The ISP takes Jessica to the Small Claims Tribunal, where Vincent represents her. In the end, Vincent wins the case, gaining widespread publicity in the

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<sup>195</sup> Earley (1997), p 137, 196; Chan (2006).

<sup>196</sup> Cantodict, 'Chinese Idioms: Cantodict', <http://www.cantonese.sheik.co.uk/dictionary/words/3295>.

<sup>197</sup> Leung, Tommy (Producer) 律政新人王 *Survivor's Law*, Episode 1, TVB, 14 July 2003.

<sup>198</sup> Leung, Tommy (Producer) 律政新人王 *Survivor's Law*, Episode 2, TVB, 14 July 2003.

<sup>199</sup> Leung, Tommy (Producer) 律政新人王 *Survivor's Law*, Episodes 9–11, TVB, 14 July 2003.

<sup>200</sup> Which converts to less than AS\$2 (approximately).

media, and thus has top-tier firms knocking at his door, wanting him to work for them. This strengthens Vincent belief in ‘face’, and is a clear example of how traditional Chinese teachings – particularly around status – play a big role in the lives of a fictional lawyer in contemporary Hong Kong.

It is necessary now to examine the gender related issues that arise in modern legal dramas. In Hong Kong, the use of ‘gender mainstreaming’ – valuing the diversity of both men and woman in all areas – has gradually been introduced,<sup>201</sup> and is supported a balanced portrayal of genders in the television series. The former – and first – chief executive of Hong Kong pointed out that in Hong Kong, the rights of and equal opportunities for women have started to impact all aspects of life,<sup>202</sup> creating an environment that enables women to realise their potential.<sup>203</sup> No longer do women find it difficult to achieve the same status as men.<sup>204</sup> For example, the character of Lora Kong in *The File of Justice* series holds the highest position among all the legal practitioners as Queen’s Counsel/Senior Counsel, having never lost a case in the last five years. Not only does she hold such a high position and so much power; she secures a lot of respect from all the other characters.

Furthermore, throughout the entire series of *The File of Justice*, all the female characters held higher positions than the male characters. To provide further examples, both Michelle Tang and Rachel Ching occupy higher positions at the Department of Justice than their boyfriends, Ben Yu and Chris Yau. Samantha Ching is a barrister, while her boyfriend Michael Kong is a legal assistant; and Michael’s mother and sister are both barristers. Even in the police force, Man Bun Chau is a

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<sup>201</sup> Cheung (2009), pp 1–5.

<sup>202</sup> Tung (2001).

<sup>203</sup> Tung (2001).

<sup>204</sup> Hong Kong Government (2001).

sergeant working under his girlfriend, and later wife, Doris, who is the chief inspector. All of this seems to suggest that the traditional concepts of male superiority and female inferiority have been displaced on Hong Kong television by the gender equality of Western culture.

They may have been displaced, but they have not entirely been replaced, because there is another way in which traditional views of female roles have been maintained in *The File of Justice*. Although all the women in *The File of Justice* series hold higher positions than the men, they still exhibit signs of this traditional concept of man over women, especially in the home context. This is shown clearly in *The File of Justice V*,<sup>205</sup> where all the lawyers are having dinner at the ‘men’s home’, and the men – Ben Yu, Michael Kong, Raymond Chau and Man Bun – are simply sitting around playing cards, waiting for dinner to be prepared and served by the women, their girlfriends Stephanie Kwai, Samantha Ching and Jenny Lai, who are in the kitchen working away.<sup>206</sup> In contrast, the men are almost never shown to cook in any part of the series. This suggests that no matter how much the new concept of Western feminism has impacted on the fictional Hong Kong lawyers, they still maintain traditional values – aligning Hong Kong women with the best and worst of both worlds. In fact, woman ‘have it all’ in Hong Kong television: Western professional success and Eastern domestic ‘bliss’.

Even though new feminist concepts have been introduced in Hong Kong, traditional concepts have not been forgotten. Not only do women contribute to the development of Hong Kong’s economy; they also carry out their duty to look after

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<sup>205</sup> The women in the kitchen and men in the living room scene was illustrated in an earlier season: see Tang, Gary (Producer) *壹號皇庭 III The File of Justice III*, Episode 1, TVB, 10 October 1994.

<sup>206</sup> Tang, Gary (Producer) *壹號皇庭 V The File of Justice V*, Disc 9, TVB, 10 March 1997.

their families.<sup>207</sup> This sociology of care is reflected in Lora Kong in *The File of Justice*. While holding a very important position in society, she is nevertheless able to discharge more ‘traditional’ duties, of which there are three. First, she always has look after her two children Michael and Helen Kong. Second, she sits at home and watches television while knitting. Finally, she goes grocery shopping and cooks dinner for her two children, even though she has a maid to help her.<sup>208</sup> So Lora clearly demonstrates how Chinese traditions of women’s work as primarily domestic still hold a very important stranglehold over very busy female professionals in Hong Kong.

A further traditional concept, shown in *Survivor’s Law*, is that women ‘serve’ men.<sup>209</sup> For example, the character of Jessica Chiang is very much influenced by the cultural concept of ‘women following or serving men’. Originally, she has a great job, which promises a bright future in one of the top-tier firms in Hong Kong; however, the moment Jessica finds out that Vincent, her love interest, is going to start work at a HK Firm, she immediately resigns from her old job and goes for an interview at the new firm. Jessica knows this firm is in a lot of trouble, yet she believes that she should follow the man she loves and assist him as much as possible. The fact that Jessica is willing to give up a job with brighter prospects to follow and serve the man she loves suggests that traditional Chinese concepts – particularly of female subservience – maintain their influence on modern female lawyers in Hong Kong.

Besides traditional concepts, traditional customary practices play a particularly significant role in Chinese society. It is a Chinese tradition – and the general practice in Hong Kong – to consult a *feng shui* professional before opening up an office.<sup>210</sup>

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<sup>207</sup> Cheung (1997), pp 158, 184.

<sup>208</sup> Tang, Gary (Producer) 壹號皇庭 *The File of Justice*, Episodes 3 and 8, TVB, 19 April 1992.

<sup>209</sup> Cheung (1997), p 132.

<sup>210</sup> Hobson (1994), p 22.

This custom is almost never ignored as, without *feng shui* approval, there is a risk that the business will be in trouble with the spirits.<sup>211</sup> If *feng shui*<sup>212</sup> is used correctly – so folk wisdom runs – a lawyer will be able to further their knowledge and increase their chances of winning in court. Chinese people also believe that lighting incense will send their prayers to heaven.<sup>213</sup> This customary belief is clearly demonstrated by the characters Ben Yu and Chris Yau in *The File of Justice V*. Chris leaves the Department of Justice to join Ben Yu in his office. The day Chris moves into his office, Ben Yu asks whether he has remembered to pray to the gods and feels reassured upon hearing that Chris has already done his praying.<sup>214</sup>

The significance of *feng shui* is further emphasised in *Survivor's Law*. The day Ben Lok and Vincent Cheuk move into their new chambers after deciding to become barristers, their new 'boss', Angela Kwok Yim-Na, allocates them specific offices as she has already asked someone to check the *feng shui* of the office and stresses that it is the best arrangement. Vincent then asks whether he can change. Angela says that 'the only choice he has is to rent or not rent the office'.<sup>215</sup>

The Hong Kong people also have another interesting two-step process of washing away 'bad luck'. The first step is the use of paper prayer tokens. It is customary practice of the Hong Kong people to light up paper prayer tokens in a bowl as one means to 'wash' away the bad luck. The Hong Kong people also believe that by lighting the paper prayer tokens, then having the person walk over the flames, they

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<sup>211</sup> Hobson (1994), p 22.

<sup>212</sup> Gunde (2002), p 144.

<sup>213</sup> Tse et al. (2011), p 1641. It is said that using incense to pray started in the Han dynasty. It has become common practice in the Eastern world since then, and is widely recognised as a way to worship and communicate with gods and deities. See Chang (2014).

<sup>214</sup> Tang, Gary (Producer) *壹號皇庭 V The File of Justice V*, Disc 7, TVB, 10 March 1997.

<sup>215</sup> Leung, Tommy (Producer) *律政新人王 Survivor's Law*, Episode 17, TVB, 14 July 2003. Author translation.

will also wash away their bad luck, as paper prayer tokens are also used for sending prayers to heaven.<sup>216</sup> The second step in washing away the bad luck is to use grapefruit leaves for a shower – putting the leaves under running the water in the shower or bath. If one follows these two steps, they will wash away their bad luck immediately – or so it is claimed.

This belief is referred to numerous times throughout the series, and is demonstrated in several incidents in *The File of Justice*: first, when Ben Yu is acquitted of murdering his ex-girlfriend,<sup>217</sup> all his friends prepare a ‘fire bowl’ with grapefruit leaves that will wash away his bad luck; second, when Michael Kong is found not guilty of murder, Ben Yu suggests he go through the same rituals;<sup>218</sup> and finally, a similar procedure takes place when Man Bun Chow returns home after being discharged from hospital.<sup>219</sup> The fact that such customary beliefs and practices are portrayed repeatedly in the series drives home the point that even though Hong Kong lawyers have been Westernised, in part by education, they look back to a Chinese heritage and still maintain and carry out traditional cultural practices.

A notable feature of Hong Kong culture has been superstitions.<sup>220</sup> This is clearly demonstrated in *Survivor’s Law*. In this series, the character of Ben Lok uses his client’s wife’s belief in superstitions to help his client.<sup>221</sup> The problem with this case is that the client has been charged with stealing the jewellery of his wife’s grandmother, and the police find security tapes proving he was there at the time the

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<sup>216</sup> This practice is clearly illustrated in the scene when Man Bun Chau is discharged from hospital: see Tang, Gary (Producer) *壹號皇庭 IV The File of Justice IV*, Disc 1, TVB, 11 September 1995.

<sup>217</sup> Tang, Gary (Producer), Episode 13, *壹號皇庭 The File of Justice*, TVB, 19 April 1992.

<sup>218</sup> Tang, Gary (Producer) *壹號皇庭 II The File of Justice II*, Episodes 14–15, TVB, 18 April 1993.

<sup>219</sup> Tang, Gary (Producer) *壹號皇庭 IV The File of Justice IV*, Disc 1, TVB, 11 September 1995.

<sup>220</sup> Tse (2015), see also Stone, Chow and Ho (2008), pp 42–3.

<sup>221</sup> Leung, Tommy (Producer) *律政新人王 Survivor’s Law*, Episodes 13–14, TVB, 14 July 2003.

jewellery went missing. The truth is that while he did go there, the client did not steal the jewellery; instead, he went there with a prostitute. The only way to prove his innocence is to call the prostitute to testify in court, but to do so will alert his wife to the incident.

The client tells Ben Lok that he does not want his wife to know about this, as not only will she leave him, but it will also affect his unborn child. He says that he would rather plead guilty than have his wife find out. Since the client insists, Ben Lok says he will take care of the problem. En route to the trial, Ben Lok stops the client's wife before she enters the court and warns her about going in, telling her that the presence of a pregnant woman could jinx the case. He tells her that last time he had a client whose wife was pregnant, this was the result: when the wife sat in, the client ended up in prison, even though up until then the case had been going very well for him. After hearing that story, the client's wife agrees to wait downstairs in the canteen.<sup>222</sup> This suggests that cultural traditions still impact the ways in which the fictional lawyers behave towards clients in this new millennium.

Cultural influences demonstrate the Eastern and traditional side of impact upon lawyers and lawyering in Hong Kong, and have led lawyers to prioritise justice over closely related wrongdoers. The legal professionals appear modern and Westernised, but cultural influences such as 'face' and *feng shui* illustrate the continuation of traditional practices and beliefs. These cultural influences not only guide for the legal professionals, but also allow them to communicate with and convince clients. Societal influences show the influence of both modern and Western

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<sup>222</sup> Leung, Tommy (Producer) 律政新人王 *Survivor's Law*, Episodes 13–14, TVB, 14 July 2003.  
Author translation.

elements, and reveal the continuation of traditional Chinese values from historical to modern lawyers.

### *Societal influence*

The societal influences to be examined in the following section are: class; importance of money; the negative image of the lawyer; relationship dependency and rights.

Even though societal influence was not discussed in the historical lawyers section, this examination of societal influence on modern lawyers demonstrates the continuation of traditional influence on lawyers and lawyering in contemporary Hong Kong. ‘Class’ is very significant in Hong Kong – as much as language. Joanna Waley-Cohen argues that the Hong Kong community is divided not only by the different dialects, but also by class.<sup>223</sup> The distinction of the legal professionals as members of the middle to upper classes is not defined by the beliefs and behaviours of the individual lawyers in *The File of Justice* series, but rather by the behaviour of the lawyers as a group. Flora Pui Yan Lau claims that members of the middle class are quite conscious of their class identities; hence they tend to constantly associate with people of their own class in different social relationships.<sup>224</sup> This concept is clear in the series, as all of the lawyers in this series only associate with other lawyers.

Throughout the entire series of *The File of Justice*, the relationships between the lawyers are with other lawyers – that is, they date and marry lawyers. Besides the one police sergeant – who is a close relative – their entire group of close friends consists entirely of lawyers. The only exception comes in *The File of Justice IV* and *The File of Justice V*, where two doctors also became part of the network of close friends. Further, lawyers are grouped in legal families: the Kong family with the

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<sup>223</sup> Waley-Cohen (1997).

<sup>224</sup> Lau (2001), pp 153–4.

mother Lora, son Michael and daughter Helen; and the Ching family, with the father Victor and two daughters, Rachel and Samantha. The other ways in which class is defined in the series is by having all the lawyers drive expensive cars, eat at fancy restaurants and wear branded clothing.

There is one interesting scenario in the series that clearly exemplifies the way the lawyers think about class distinction. In *The File of Justice V*, Ben Yu strongly opposes the idea of his good friend Eric Chau – a barrister – dating a prostitute, Daisy.<sup>225</sup> Ben Yu keeps telling Eric that he should not be having a relationship with someone who is in the lower class because it cannot be true love. One scene illustrates this class snobbery. The whole group of friends from the legal profession go out for dinner and Eric invites Daisy along. Ben Yu deliberately gives her a hard time so both of them will leave.<sup>226</sup> After they have left, Ben Yu makes a comment that Eric has ‘downgraded’ them in public and that his rudeness to Eric and Daisy was justified.<sup>227</sup> All these behaviours and beliefs of the lawyers in the series clearly illustrate the fact that class distinctions have deeply influenced and still divide the televisual lawyers in Hong Kong.

Another significant societal impact is the importance of ‘money’. Although much importance was placed on money in the historical drama *Justice Sung*, in the modern dramas the importance is portrayed somewhat differently. As Hong Kong is celebrated (or decried?) for its competitive business culture, making money is often perceived as its main societal goal.<sup>228</sup> There is a Chinese saying, 錢不是萬能的但沒有錢就萬萬不能, *Qian bu shi wan neng de dan mei you qian jiu wan wan bu neng*,

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<sup>225</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, Discs 3–4, TVB, 10 March 1997.

<sup>226</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, Disc 4, TVB, 10 March 1997.

<sup>227</sup> Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, Disc 4, TVB, 10 March 1997.

<sup>228</sup> Chan (2013), p 51.

which can be translated as ‘money is not omnipotent, but without money it is almost impossible to live’.<sup>229</sup> There is also another popular Cantonese saying that the Hong Kong people like to use to describe themselves: 講金唔講心, *Jiang jin wu jiang xin*, which means they like to talk about the gold and not about the heart.<sup>230</sup>

In *The File of Justice* series, the character of Michael Kong clearly demonstrates the importance of money as a traditional Hong Kong value. This is suggested by the fact that he is concerned primarily with getting paid, regardless of the result of the case. In most of *The File of Justice* series, Michael is only working for the money, constantly saying to his barrister or solicitor that it does not matter whether they lose the case because they will still get paid for it.<sup>231</sup> For instance, in the first *The File of Justice* series, Michael is charged with bribing the police as he suggests that he could, through a friend, get a brand new car for the chief inspector – right in the middle of a plea bargain.<sup>232</sup> In this case, Michael is trying to help a street kid who has falsely been charged with stealing, as the chief inspector does not like the ‘look’ of the street kid.<sup>233</sup> In the end, while Michael gets him off the charge, he feels there has been no benefit to being the ‘good guy’ as he got himself into so much trouble. Next time, he maintains, he will not try to be the ‘nice guy’, as it is safer to be the ‘bad guy’ and just work for the money. The beliefs and behaviours of Michael

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<sup>229</sup> It has been emphasised that 君子愛才取之有道 (*Jun zi ai cai qu zhi you dao*), ‘if a gentleman wants money he will make it the proper way’; this means that money must be made with morally correct and ethical behaviour. See Zhang (2008). Although the characters in the dramas are money oriented, they do make their money with correct moral and ethical standards.

<sup>230</sup> The ‘gold’ refers to money and the ‘heart’ refers to the sincerity in a relationship.

<sup>231</sup> Two clear examples of Michael saying this in the final season: first to Ben Yu see Tang, Gary (Producer) 壹號皇庭 *V The File of Justice V*, Disc 2, TVB, 10 March 1997; second to Chris Yau – see Tang, Gary (Producer) 壹號皇庭 *V The File of Justice V*, Disc 10, TVB, 10 March 1997.

<sup>232</sup> Tang, Gary (Producer) 壹號皇庭 *The File of Justice*, Episode 11, TVB, 19 April 1992.

<sup>233</sup> Tang, Gary (Producer) 壹號皇庭 *The File of Justice*, Episode 11, TVB, 19 April 1992.

Kong in *The File of Justice* and characters in other series like it clearly demonstrate the significance of money to the fictional lawyers in contemporary Hong Kong.

The importance of money has also carried through to post-1997 Hong Kong, and is further established by the character of Homer Hong in the *Survivor's Law* series. Homer Hong is the principal solicitor of the HK Firm in the series; however, due to his dissatisfaction with the ruling, he throws his shoe at the presiding judge and, as a consequence of such discourteous action, is suspended for one year. Although this series also demonstrates the importance of money, the concept of money is portrayed in a different way. Here, it is emphasised repeatedly that 'time is money'.

This is suggested at the very beginning of the series. When Ben Lok starts to work at the HK Firm, he is responsible for interviewing all the clients of the firm, going through their cases in detail and trying to explain to them all the legal aspects and consequences as a lawyer would; however, Homer interrupts him. Impatient at this laboured process, Homer takes over Ben Lok's role as the interviewing lawyer and goes through the cases at a very fast rate, as he only asks the 'important' questions. For example, when giving advice to a couple wanting to get a divorce, Homer only asks them three questions: Have they been separated for more than one year? Do they have any children? And is there any conflict in relation to the property settlement? The clients answer yes to the first and no to the last two questions, so he asks them to sign the paper and leave, and informs them that he will follow up with a letter.<sup>234</sup> Due to Homer's speed of interviewing clients, 12 clients are interviewed in one morning.

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<sup>234</sup> Leung, Tommy (Producer) *律政新人王 Survivor's Law*, Episode 1, TVB, 14 July 2003. Author Translation.

There is another interesting aspect to the character of Homer Hong. Hong Kong's former secretary for justice, Elsie Leung, stated during her speech at the Hong Kong Economic and Trade Office dinner that, when in financial turmoil, those in the Hong Kong legal profession believe that 'diversification and Specialisation' are the two fundamental elements that will help their firms survive.<sup>235</sup> Homer Hong exemplifies how Hong Kong people are business-minded, creative and determined. His character and craving for money certainly support all of these 'qualities'. At the start of the series, Homer's firm is on the verge of bankruptcy, so it is essential for him to come up with new ways and ideas to survive. When all the new lawyers join the firm, Homer takes them for a walk down the 'lower end of town'. His aim is to go out and 'search' for clients, so that instead of them coming to him, they will flock to him. Hence he takes the lawyers to the lower end of town to talk and socialise with prostitutes and gangsters to see whether they are in trouble, so his firm can represent them and make more money. All of Homer's beliefs and modes of behaviour here illustrate the extent to which a stereotypical fictional lawyer has been impacted by societal values – such as monetary values, which have been exaggerated by his character – in contemporary Hong Kong.

While villainous characters appear in *Judge Bao*, *Justice Sung* and *The Gentle Crackdown*, there are two ways in which lawyers and the legal profession are demonised in the in modern dramas: first, by looking at the legal 'villainous characters' represented in legal dramas; and second, by looking at the representation of the relationship of dependency of lay people on lawyers. Both are influenced by traditional values. For example, Chinese people believe that lawyers are bad people who have created bad karma, often associating them with hatred and suspicion

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<sup>235</sup> Leung, Elsie (2002).

wherever they practise.<sup>236</sup> The main reason for this hostility is because lawyers have the ability to get their clients out of trouble on the grounds of technicalities.<sup>237</sup> Further, lawyers sometimes argue about the extent to which the complainant could be seen as the one who is at fault – hence withdrawing their allegations.<sup>238</sup> There is a Cantonese saying referring to lawyers 死都拗返生 (*Si dou ao fan sheng*), meaning ‘a lawyer has the ability to bring a dead case alive’.<sup>239</sup> This revival is often seen as a negative thing because this saying is usually used when referring to televisual lawyers getting villainous characters out of trouble. Hence lawyers are seen as the ‘bad guy’, especially by victims.

In *The File of Justice* series, there are two characters who fall into the category of ‘bad guy lawyers’. The first is Ben Yu, who after leaving the Department of Justice to become a defendant barrister in *The File of Justice II* is represented as the ‘bad guy’ lawyer. Ben Yu receives constant complaints from his cousin Man Bun, the police sergeant. Every time Ben Yu goes to the police station to bail out a client arrested for possession of drugs or similar, Man Bun frowns at him. In one case, where Ben Yu is representing a client charged with murder who is clearly guilty, Man Bun – who knows the victim – confronts Ben Yu and tells him that he should not help the client, as he is guilty of the charge. Ben Yu disagrees, saying that his client is innocent until proven guilty and that is how the ‘game is played’,<sup>240</sup> so he must obey the rules and continue to represent him; if he did not, some other lawyer would, which

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<sup>236</sup> Macauley (1998), p 144.

<sup>237</sup> Macauley (1998), p 144.

<sup>238</sup> Macauley (1998), pp 143–4.

<sup>239</sup> This saying implies that lawyers can often twist stories around for the benefit of their clients.

<sup>240</sup> Tang, Gary (Producer) 壹號皇庭 II *The File of Justice II*, Episode 1, TVB, 18 April 1993.

means he might as well do the job. This demonstrates the stereotypical dilemma faced by many lawyers when they are portrayed as the ‘bad guy’, defending the villain.

The second character is Kelvin Fong, portrayed as the extreme version of the ‘bad’ or ‘evil’ lawyer; he is without doubt the ‘bad guy lawyer’ in *The File of Justice IV* and *V*, since he appears as the arch-villain of the series. Kelvin has the opportunity to become the principal prosecutor in *The File of Justice IV*, and due to his position he is able to manipulate the other lawyers working under him to dismiss charges on a certain accused. In one case, the accused is clearly guilty, but has a rich father who Kelvin wants to cultivate.<sup>241</sup> As a consequence, Kelvin successfully persuades his boss and colleagues that there is not enough evidence to charge the accused, as they are only relying on one witness and that witness is clearly unreliable. It would therefore simply be a waste of effort, money and time. As the villain of the series, Kelvin’s ultimate aim is to gain money and status, and he does not care about the truth or about justice.

Another example of Kelvin’s villainous nature is when, as a defendant barrister, he takes on a case through legal aid for a client who has been charged with rape and is reluctant to talk.<sup>242</sup> Kelvin tells him that he could not care less what his client is going to do once he is released back into society; all he needs is his cooperation.<sup>243</sup> By doing such unlawful and ‘evil acts’, Kelvin faces imprisonment, and is arrested – but only because his ex-wife calls the police. Even after he is released from prison, he continues to work as legal consultant for villains, such as a member of the mafia; hence he is still ‘the bad guy’. No rehabilitation awaits Kelvin.

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<sup>241</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Disc 4, TVB, 11 September 1995.

<sup>242</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Disc 2, TVB, 11 September 1995.

<sup>243</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Disc 2, TVB, 11 September 1995.

Author translated.

At the end of the series, he is ‘punished’ when the woman he loves, trusts and relies upon the most not only alerts strangers passing by to call the police as she is suffering from an asthma attack, but also suggests that he surrender; he is consequently shot and dies.<sup>244</sup> These perceptions and, more importantly, *punishments* of the ‘bad guy’ lawyers portrayed by the Hong Kong television series clearly reflect how society views bad lawyers and wants them to be to punished for their actions.

Continuing with the examination of society’s view of lawyers, we will now examine the extent of the public’s dependency on lawyers in legal dramas. It was not until the very last few years of British rule that the use of the Chinese language was introduced into legislation and court proceedings in Hong Kong.<sup>245</sup> For example, in the earlier days of British rule, in order to serve as jurors, residents were required to speak English; hence most of the residents were excluded.<sup>246</sup> It is suggested that this exclusion created a relationship of dependency with lay people relying heavily on their lawyers for help when they needed to deal with the law. This state of affairs still exists: even though the Chinese language can now be used in Hong Kong’s courts, clients still depend on their lawyers a great deal.

This relationship of dependency is well represented throughout *The File of Justice* series. For instance, the series reflects this social concept by having the ‘poor old people’ rely heavily on their lawyers. A more specific incident is where a witness to a murder case is very nervous about going to court and seeks some advice and assistance from Michael Kong, a legal assistant. The witness spends an entire afternoon in Michael’s office trying to work out what he should be doing in court,

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<sup>244</sup> Tang, Gary (Producer) 壹號皇庭 II *The File of Justice II*, Episode 28, TVB, 18 April 1993.

<sup>245</sup> Ngo (1999), p 9.

<sup>246</sup> Ngo (1999), p 9.

afraid that he will say the ‘wrong’ thing.<sup>247</sup> Michael has to keep telling him that ‘being a witness, you won’t say the “wrong” thing; just say what you saw and tell the truth’.<sup>248</sup> Scenes like this illustrate the fact that, lay clients all seem very vulnerable, even as witnesses.

This concept of relying on lawyers has carried through to another series, *Survivor’s Law*. Characters Ben Lok and Vincent Cheuk take on a case representing a doctor, charged with grievous bodily harm.<sup>249</sup> Although the doctor is a professional, he still relies completely on Ben Lok and Vincent to work on his case and defend him in court. Unlike some other clients – professional or not – who like to think that they are in charge, the doctor follows the lawyers’ advice very carefully and cooperates with them as much as possible. This demonstrates not only that lay people rely heavily on lawyers, but that this also applies to people of other professions. Hence dependency here bespeaks a kind of negativity of the law – that is, if one doesn’t have a lawyer, then one is in trouble. The law is already daunting enough for English language speakers in Hong Kong; furthermore, the English court system is a colonial relic, and even though Chinese is now used in the courts, people still experience a lot of anxiety in court.

In contrast to the historical lawyers, where there was no discussion on Western influence, a more contemporary legal influence on Hong Kong most definitely emanates from the West. Due to more than 100 years of British rule in Hong Kong, its people were exposed to many diverse concepts and beliefs of non-Chinese/Asian origin, many of which can be traced to the West. Central here is the notion of human

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<sup>247</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Disc 1, TVB, 11 September 1995.

<sup>248</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Disc 1, TVB, 11 September 1995.  
Author translated.

<sup>249</sup> Leung, Tommy (Producer) 律政新人王 *Survivor’s Law*, Episodes 5–7, TVB, 14 July 2003.

rights<sup>250</sup> – for example, the character of Ben Yu in *The File of Justice* series exhibits a strong commitment to the rights of the accused: innocent until proven guilty.<sup>251</sup> These rights initially are couched in terms of duty – that is, the duty to represent a client once one takes on a case, whether the client is guilty or innocent. But this duty is itself predicated upon an overarching right. Therefore, Ben Yu, who strictly adheres to the duty to represent all clients in court once he has accepted their cases, also believes that all his clients have the right to have them represent him.

The year 1991 saw the passage of Hong Kong Bill of Rights, partly due to the Western influence in Hong Kong.<sup>252</sup> Since the introduction of that Bill, there has been more awareness of rights than in the past. In *The File of Justice IV* and *V*, the character of Samantha Ching clearly demonstrates the belief that everyone has the right to do things as they wish, as long as it is legal. Furthermore, not only should they not be discriminated against by other people, but every person also deserves to be respected by others.

For example, in the first case Samantha takes on when she first appears in *The File of Justice IV*, she is acting for the plaintiff – a friend – in a sexual harassment case.<sup>253</sup> On the other side of the case is Raymond Chau who, after discovering that the plaintiff does not look too appealing (and is therefore un-harassable?), thinks he has a strong case, so asks for settlement. Samantha refuses on behalf of her client, and is angry about Raymond and Michael Kong's comments regarding her client's looks as

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<sup>250</sup> The concept of rights known as a 'Western import' introduced to China in the nineteenth century. See Glenn (2014), p 353.

<sup>251</sup> Wu (1967), p 219. An example of this is illustrated in the series where Ben Yu is having an argument with his cousin, police officer Man Bun Chau, see Tang, Gary (Producer) *壹號皇庭 II The File of Justice II*, Episode 1, TVB, 18 April 1993.

<sup>252</sup> Lee (2001), p 141.

<sup>253</sup> Tang, Gary (Producer) *壹號皇庭 IV The File of Justice IV*, Discs 1–2, TVB, 11 September 1995.

limiting her chances of courtroom success. Samantha strongly believes that, even if someone is not considered ‘beautiful’, they still have the right to fight for justice in a sexual discrimination case. This belief, she maintains, is also in line with the Western legal norms, as Samantha agrees with the fact that all individuals have their legal rights, which is the prime feature of the Western judicial system.<sup>254</sup> In the end, she wins the case, as the defendant is guilty of sexual harassment, demonstrating that the impact of the concept of rights is quite substantial and informing as it does not only influence this televisual lawyer’s belief, but the ways in which lawyers behave in Hong Kong.

The notion of rights has been thematised in the more recent *Survivor Law* series. Holding similar beliefs to Ben Yu – though portrayed in a more positive sense – the character of Ben Lok believes that the primary role of a lawyer is to ensure that every defendant has a right to instruct a lawyer to defend them, regardless of whether they are guilty or innocent (always a question for the jury). It is suggested that this belief not only demonstrates Ben Lok’s view of rights, but also accords with the principles of the Common Law, whereby such legal rights inhere in every person.<sup>255</sup> In the series, Ben Lok continuously advocates this belief, and by so doing also affects Jessica Chiang, his learned colleague, to the extent that it becomes her fundamental principle as a lawyer.<sup>256</sup> Ben Lok instantiates this belief in a case where his best friend, Dai Yau Fai, was charged with murder seven years earlier and was found

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<sup>254</sup> Other fundamental features of the Common Law include: ‘Individual and legal rights, the rule of law, judicial independence, the adversarial system and an independent legal profession, the jury system and the right of silence’. Hsu (1992), p 96.

<sup>255</sup> Hsu (1992), pp 3, 96.

<sup>256</sup> Leung, Tommy (Producer) *律政新人王 Survivor’s Law*, Episode 14, TVB, 14 July 2003. Author translation.

guilty and imprisoned.<sup>257</sup> Ben Lok advises his friend that the main reason he has become a lawyer is because of this case, as he believes his friend has the right to appeal and regain his freedom, because he is innocent.

Ben Lok later finds evidence to prove that the prosecution has deliberately withheld a report stating that the blood of a third party was found at the crime scene. Due to this mistake on the part of the prosecution, he finds reason to appeal the case. Jessica acts as the instructing solicitor in this case and fully supports Ben Lok, even though she knows that their learned colleague and good friend Ling Chung disapproves, as the victim is her best friend and she is also the witness to the case and strongly believes that the Dai *is* guilty. However, since Jessica holds the same beliefs as Ben Lok – of the overriding importance of rights<sup>258</sup> – they work together and help Dai win the appeal. Contributing further to the notion of rights is their strong belief in the right of appeal, which finally leads them to the long-awaited just verdict. This only serves to confirm their belief in and commitment to the notion of rights as a vital and robust force in Hong Kong, both in terms of representation and reality.

A link between historical and modern lawyers is that history is the backdrop for modern lawyers, and the influence of contemporary Hong Kong society can also be seen as traditional. Hong Kong not only manifests this, but also experiences a hybrid East-meets-West nature that is discussed further in Chapter 4.

### ***Conclusion: Modern lawyers***

Confucianism, Taoism and Buddhism established a standard of high virtue and proper ethical behaviour of modern lawyers. Cultural influences on lawyers demonstrate how

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<sup>257</sup> Leung, Tommy (Producer) *律政新人王 Survivor's Law*, Episodes 21–23, TVB, 14 July 2003.

Author translation.

<sup>258</sup> Dworkin (2013), p 335.

righteousness overrides relationships with family members. Societal impacts such as the emphasis on money, and more modern or Western notions such as rights also contribute to the hybridised beliefs and behaviours of modern lawyers. Modern lawyers and judges inheriting traditional Chinese values creates a strong connection and continuation between modern and historical lawyers. Furthermore, the continuation has been consistent and stable, notwithstanding modern and Western influences.

## **Conclusion**

There has been a strong and persistent thematic core throughout this chapter. What is most remarkable is that these themes have been consistent, and the influence is not only evident with historical lawyers set in different historical times but continues through to the modern lawyers. This establishes that the belief and behaviour of televisual lawyers in historical and contemporary Hong Kong are very much impacted upon by traditional Chinese values, and the continuation of this complex network of Chinese beliefs has clearly been instantiated in various televisual legal dramas. For example, recurring concepts such as, *Da yi mie qin* (placing righteousness above loyalty to one's family) and *Zhun shi zong dao* (one should respect their teacher in the right way) were introduced in the historical lawyers section and then restated by modern lawyers. Recurring themes that are consistent translate into a strong message, which is to say that the themes – as with Confucianism, Taoism and Buddhism – are parallel, notwithstanding the modern setting of Hong Kong lawyers. Although there have been some changes since the last century, this influence of tradition has carried on from the past into this new era.

As can be seen from the discussions throughout this chapter, not only do many of the traditional Chinese cultural and societal values and concepts intertwine with

each other, but they all have a considerable impact on the beliefs and behaviours of historical as well as modern fictional lawyers in Hong Kong. More importantly, it appears that no matter how much influence any or all Western concepts have on Hong Kong lawyers, they are still able to preserve traditional values – whether by *critiquing* or *preserving* them. After examining both historical and modern televisual lawyers, it is also obvious that the impact of the traditional Chinese values, cultural and societal concepts, even under the influence of Westernisation, has not limited or reduced the impact of traditional Chinese values, cultural and societal concepts either on historical or modern televisual lawyers; instead, these modern and traditional concepts have worked together to form a new hybrid of both East and West, rights and traditional Chinese values which, in combination, achieves justice and harmony for the legal profession, both represented and real.

## Chapter 3

### The ‘other courts’

#### **Introduction**

The theme of the impact of traditional Chinese cultural and societal values established in Chapter 2 continues in this chapter. Even though this chapter appears not to be discussing lawyers and lawyering, but in fact, the focus has not shifted from lawyers and lawyering to the site of justice. This chapter endeavours to examine the roles of the people who are not legal professionals and their private conception of justice. Moreover, discussing how ‘law’ works in the absence of lawyers and how law enforcers or people acting as the part of a legal profession operate rules or ‘do law jobs’.

Trial and judgment are not limited to courts of law and justice, and can come in different forms. In the cultural legal studies context, the word ‘trial’ tends to be associated with a trial in a court of law, and the associated pageantry of justice. In order to ensure justice, the design and layout of the court of law – where the trial takes place – are highly significant.<sup>1</sup> This is not the case for the ‘other court’, however, as there is no ‘courtroom’ where the trial and judgment take place, so no need for a stage with a set décor, specific layout and design for justice to be performed.

In the context of fictional legal TV dramas, this chapter examines the ‘trials’ that occur in places other than the traditional law courts. These are places outside the jurisdiction of the legal system – the ‘other courts’. Three ‘other courts’ – the ‘Karma Court’, the ‘Home Court’ and the ‘Outlaw’s Court’ – are discussed in this chapter.

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<sup>1</sup> Du (2016), pp 596–7. Unlike the jury or decision maker in the ‘other courts’, the overall image created inside the court of law can impact the jury’s decision and the outcome of a trial: see Brion (2014), pp 329–30.

The ‘Karma Court’ is defined as trial and judgment enforced by the cosmic law, in line with the Buddhist concept of ‘cause and effect’. The ‘Home Court’ is defined as trial and judgment by the members of the family, with the head of the house as the final decision-maker. The ‘Outlaw’s Court’ is defined as trial and judgment by a ‘judge’ who has an ambiguous relationship with the law, and who at times crosses the line of legality.

Derk Bodde and Clarence Morris argue that in Imperial China the introduction of posted, codified law was regarded as a major decline in morality.<sup>2</sup> This chapter demonstrates the ‘before and after’ (and during) of the law court. ‘Before’ means prior to trial in a law court and ‘after’ means the ‘trial’ or judgment that occurs after the court has brought down its verdict. It is suggested the ‘before’ is the ‘Home Court’, where family members ‘try’ each other, and the ‘after’ court is the judgment given by what the Chinese may refer to as 天 (*Tian*), or heaven or karma – hence ‘Karma Court’ – while the judgment of the ‘Outlaw’s Court’ can occur before or after that of the court of law.

This chapter explores three dramas – *The Brink of Law*,<sup>3</sup> *Heart of Greed*<sup>4</sup> and *Gun Metal Grey*<sup>5</sup> – against the overall theme of ‘searching for justice’. Each of these dramas also has its (sub-)themes. In *The Brink of Law*, the main theme is karma: the ‘Karma Court’ and ‘Home Court’ will be discussed, looking at what happens when the law cannot attain or provide justice – how, then, is justice achieved? Here is one possible answer to the question: Samuel M. Thompson believes that divine law serves

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<sup>2</sup> Bodde and Morris (1973), pp 13 and 49.

<sup>3</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, TVB, 8 January 2007.

<sup>4</sup> Lau Ka-ho (Producer) 潛心風暴 *Heart of Greed*, TVB, 9 April 2007. The spiritual sequel to this series was aired in 2008; however, as there was a completely new storyline, new English title and extended Chinese title, the sequel will not be used for analysis in this thesis.

<sup>5</sup> Tong, Terry Kei Ming (Producer) 刑警 *Gun Metal Grey*, TVB, 1 November 2010.

as a supplement to human law, as it is able to offer final correction to any injustice human law may have caused,<sup>6</sup> bringing true closure to a case. The other possible answer is removing the power of the court by imposing other means of justice – for example, the laws of karma. It is suggested that this may be ‘the other voice’, be it the ‘good one’ in our unconscious, the ‘right’ outcome of karma or the ‘justice’ provided by divine law in this drama.

The second drama is *Heart of Greed*, through which the ‘Home Court’ and ‘Karma Court’ will be examined. The old Chinese saying reveals the theme to be covered in this section, 清官難斷家務事 (*Qing guan nan duan jia wu shi*), ‘even a just judge cannot trial or interfere with family matters’.<sup>7</sup> We pose the question: What good is the legal process of trials or disputes when that legal system does not or cannot intervene with it, and it is carried out by the home judge or the head of the household and jury, made up of the other members of the family?

The final drama examined in this chapter is *Gun Metal Grey*. the ‘Outlaw’s Court’ and ‘Karma Court’ will be investigated, but the theme here is ‘justice of the outlaw’. The themes in this drama fall between the ‘before and after’ courts, as the outlaw’s judgment happen before, during and after the court trial. Hence, the question faced here is as follows: Is the outlaw’s justice for a peace of mind or true justice?

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<sup>6</sup> Thompson (1962), p 6.

<sup>7</sup> This is a traditional Chinese concept; people would rather not bring conflict to court or have the law intervene even if the legal process can solve the family issue. See Liu, Z (2014) and Zhang (2014).

### ***The Brink of Law: The ‘Karma Court’***

Other than reintroducing the Buddhist concept of karma, this section will also discuss the following traditional Chinese values: loyalty of brotherhood; righteous behaviour and great respect for senior.

This section argues that the ‘Karma Court’ conducts trials and brings down judgments based on the karmic law of ‘cause and effect’; furthermore, the ‘Karma Court’ has no jurisdictional boundaries and will mete out both rewards and punishments. These will be exposed through a focus not on the lawyers as in the previous chapter, but the villains and protagonists, and their fates, in the drama *The Brink of Law*. The non-legal (modern action) drama *The Brink of Law* was produced in 2006 and aired in 2007 with a total of 25 episodes; it concerns a dysfunctional *Sopranos*-like<sup>8</sup> organised crime family.

This chapter begins by using the drama *The Brink of Law* 突圍行動 (*Tu Wei Xing Dong*) to illustrate the implication of the ‘Karma Court’. ‘Karma’ usually refers to Buddha’s teachings of the truth of ‘cause and effect’. According to Buddha’s teachings about karma, one’s past actions contribute to one’s life now, and how one chooses to behave now will subsequently impact on one’s future.<sup>9</sup> Hence the term ‘Karma Court’ expresses the consequences that arise from one’s actions that seem to be outside the boundaries and control of the law. The great theme of this series is karma; this is obvious to the audience, as all the characters in the drama are unable to escape the punishment of karmic law, whether they are punished by the law or not.

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<sup>8</sup> Broadcast on HBO from 10 January 1999 to 10 June 2007. Although not exactly the same, there are some similar aspects, such as organised crime, head of the family and an ambiguous relationship with the law. See Gabbard (2008); van Ommen et al. (2016).

<sup>9</sup> Buddha Sakyamuni (1996), pp 8–10.

When punishment is given by heaven or karma, it is usually retributive.<sup>10</sup> Karl Kao points out that in Chinese fiction retribution law will always prevail, even if it takes place at an unexpected time. As the Chinese saying goes, 不是不報是時候未到 (*Bu shi bu bao shi hou wei dao*), ‘it is not that Karma has not taken its course, it is that the time is yet to come’.<sup>11</sup> This could be the best way to describe how the ‘Karma Court’ gave its verdict to the lead villain of the series, Nicolas Tung Chin-Lung.

Nicolas is the head of the Tung family, running a fashion business, but he is also the big boss behind many illegal dealings, such as off-track betting activities, drug trafficking and an illegal weapons trade. When the audience is first introduced to this character, Nicolas is seen as a proper person of the Tung household; he corrects improper behaviour of his son and other family members when they do wrong and commit offences, and happily cooperates with police when they investigate. Furthermore, at the beginning of the drama, those family members who are clearly involved in unlawful dealings deliberately stop discussion of the topic when Nicolas comes into the room, thereby trying to comply with his decent head of household image.<sup>12</sup> Hence he stays clear of any legal punishment throughout most of the drama.

Nicolas even says things such as, ‘If you do wrong you should pay the price for what you have done and take full responsibility.’<sup>13</sup> His proper behaviour is clearly illustrated when his son, Edmond Tong Yat-Chiu, gets involved with a hit-and-run case while his licence is suspended.<sup>14</sup> While Nicolas’ wife, Eliza Sung Gam-Chi, wants to protect their son and hide this news from Nicolas, when Nicolas finds out, he

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<sup>10</sup> Kao (1989), p 125.

<sup>11</sup> Kao (1989), p 127.

<sup>12</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 2, TVB, 8 January 2007.

<sup>13</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 2, TVB, 8 January 2007. Author translated.

<sup>14</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 1, TVB, 8 January 2007.

tells Edmond to turn himself in. However, this positive image takes a turn after Nicolas finds out that he has actually fathered his nephew, the son of his brother Tung Chin-Pang, by raping his sister-in-law.<sup>15</sup> Nicolas is jealous of their close relationship and decides to watch his brother die from a heart attack and not give him medicine, as Pang wants to move to New York with his son, Leo Tung Yat-Tsun.<sup>16</sup> Nicolas subsequently stabs Leo to death in the final episode when Leo tells him he only has one father, Tung Chin-Pang. From his illegal businesses to watching his brother die and killing his own son, perhaps it would *not* be enough for the audience to see Nicolas being arrested by the police, which could be why he ends up dying in the final episode of the drama from police gunfire in his own house, the place where he committed both murders. It is suggested that the crimes Nicolas commits are too extreme – indeed, so extreme that he does not even get the chance to be tried by the court of law and goes straight to the ‘Karma Court’ for his verdict. One may find this a fitting ending, given that karma has taken its course.

The second villain of the drama is Eliza Sung Gam-Chi; unlike her husband Nicolas, the fact that she is a villain comes to light for the audience quite early in the drama. Eliza’s connections with the mafia lead her to her involvement in their illegal businesses. Not only is Eliza seen as the head of the illegal business at first, she also has rather extreme methods of revenge. For instance, when she finds out which police officer put her brother, Raymond Sung Gam-Yuen, in prison for managing the illegal gambling business, Eliza sends an assassin to kill the officer, thereby successfully avenging her brother (who later dies of illness in prison).<sup>17</sup>

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<sup>15</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 13, TVB, 8 January 2007.

<sup>16</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 17, TVB, 8 January 2007.

<sup>17</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 8, TVB, 8 January 2007.

However, she is not punished by the law until the end, and her punishment comes in a rather interesting form, as both direct and indirect. Confucian teachings have always advocated the concept of service to society,<sup>18</sup> nonetheless, there is also a need to maintain a service to self. According to the Chinese, ‘self’ means the interrelationships an individual has with others.<sup>19</sup> The most important category of relationship is the ties of kinship, either by blood or marriage.<sup>20</sup> Service is important, as it brings honour to one’s ancestors and protection to one’s descendants.<sup>21</sup> Hence, if one has acted wrongfully, one’s descendants will also be adversely affected. This is somewhat similar to Buddha’s teachings on karma, according to which one will receive an ‘effect’ for whatever ‘cause’ one has committed. It is also important to remember that, even if no one else sees or knows of the ‘causes’ that has been committed, the ‘effect’ will still be given, either to the person who has committed the act or their offspring.<sup>22</sup>

This concept leads to the following point: the way in which Eliza is punished. Eliza has a strong sense of maternal instinct: her two sons are very important to her. She loves both her sons dearly, though it is obvious that the eldest son, Vincent Tung Yat-Long, is her favourite. Not only is Vincent her favourite son; he is also the person she values the most in the world. This is clearly conveyed in the drama, when Eliza says that Vincent is her life and she will not let anything happen to him.<sup>23</sup>

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<sup>18</sup> McKnight (1992), p 52.

<sup>19</sup> McKnight (1992), p 53.

<sup>20</sup> The complexity of the definition of ‘mourning degrees’ is beyond the scope of this chapter. Please refer to Wright (1980) and Matthews (1999), pp 35–7.

<sup>21</sup> McKnight (1992), p 53.

<sup>22</sup> Buddha Sakyamuni (1996), p 18.

<sup>23</sup> Mui Siu-Ching (Producer) *突圍行動* *The Brink of Law*, Episode 15, TVB, 8 January 2007. Author translated.

Vincent is the smart and reliable one; however, he was severely injured during an overseas business trip and is now paralysed; he also lost the ability to talk at one stage.<sup>24</sup> But that is not the end of his misfortune: when Vincent finds out about his parents' involvement in crime and witnesses his father kill his half-brother, his will to live becomes weaker.<sup>25</sup> Vincent tries to persuade Eliza to turn herself in, but she says she will not trust anyone else to look after him, so she has to take care of him herself. After hearing this, Vincent decides to commit suicide in the final episode, leaving Eliza a letter containing his last message. Following this, Eliza goes insane, and the audience sees her hospitalised by the law due to her psychological condition – here the direct punishment; however, Eliza claims that all her unlawful actions have been committed to protect those she loves. This could be the reason for the rather indirect punishment she receives in the 'Karma Court' at the end of the series.

The next villains to face the 'Karma Court' are the only 'non-Tung' members of the Tung household: a father/daughter pair who are blood relatives of Eliza. The father, Raymond Sung Gam-Yuen, is Eliza's younger brother – whom her deceased father had told to look after; the daughter is Kelly Sung Ka-Yee, Eliza's niece. As with Eliza, it is obvious that Raymond's character is a villain from the very beginning of the drama. Raymond is in charge of the unlawful gambling business from the first few episodes. Kelly is also categorised as a villain, but she does not actually commit crimes as such (or at least major crimes). Her main villainous acts include scheming, manipulation, and being spiteful and two-faced. Both father and daughter hold to the same attitude throughout the entire series and at no point do they show any remorse for their actions.

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<sup>24</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 12, TVB, 8 January 2007.

<sup>25</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 25, TVB, 8 January 2007.

Arguably, in the series, death (or punishment) is connected to and is a demonstration of karma. A common traditional Chinese belief is that one needs to keep the full body in order to obtain rebirth in the next life, so strangulation is considered less severe than decapitation.<sup>26</sup> In other words, the more serious the action or crime one commits, the more severe the punishment one will receive. Punishment in Raymond's case could be considered serious, for the crimes he committed were very serious. Raymond gets a four-year prison sentence<sup>27</sup> for managing an unlawful gambling business, but ends up dying due to illness before his jail time is up.<sup>28</sup> The punishment of death may be the sentence of the 'Karma Court'. This is suggested because of an incident that arose during his management of the unlawful gambling business. A team member of the business, Cheng Yau-Shing, took off with some cash and, when he was found, Raymond and his minions beat him to death. However, the police were unable to find any evidence to prove that Raymond committed the murder; hence, the force of the 'Karma Court' coming into action to rectify this wrong.

Kelly's punishment could also be considered serious. All in all, Kelly is a selfish character, as she is devious and manipulative, always advancing her own fortune and future. Despite this, she never creates severe suffering for people – except for one person: her disabled cousin, Vincent. After learning she has no chance with the person whom she actually loves – Leo – Kelly turns for comfort to Vincent, as she knows Eliza will leave her fortune to him. Wanting the inheritance, Kelly marries Vincent. However, in the end, Kelly shows her true colours by telling Vincent that marrying him was all a lie; she only did it as revenge for her father's death, claiming

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<sup>26</sup> Chen (1979), p 43.

<sup>27</sup> Mui Siu-Ching (Producer) *突圍行動 The Brink of Law*, Episode 6, TVB, 8 January 2007.

<sup>28</sup> Mui Siu-Ching (Producer) *突圍行動 The Brink of Law*, Episode 21, TVB, 8 January 2007.

that it was the Tungs who precipitated it.<sup>29</sup> Although she makes a lot of trouble for people throughout the series, it is not trouble that can be tried by the court of law – thus the judgment by the ‘Karma Court’. Kelly’s punishment is being put in a similar, but more serious condition than the person she hurt the most. When the police go to the Tungs’ residence wanting to arrest Nicolas, Kelly is accidentally shot when she hides behind the lounge during police gunfire.<sup>30</sup> She was paralysed, becoming quadriplegic<sup>31</sup> – an even more serious disability than that faced by Vincent, and one from which she has no chance of recovering.

In *The Brink of Law*, the ‘Karma Court’ acts as a critique of the court of law. As the ruling of the ‘Karma Court’ seems to be for both father and daughter to pay for their actions in precisely the same way behaved towards others – they are thus punished in a way that the court of law is unable to deliver. As such, the ‘Karma Court’ goes beyond the court of law, highlighting but also supplementing its limits to provide a more perfect ‘just desert’.

However, the ‘Karma Court’ can reward as well as punish. This is seen in the fate of the hero in *The Brink of Law*, Ken Tong Chi-Ko. It is a common Chinese belief that when someone does bad deeds, the gods will punish them; conversely, when someone does good deeds, the gods will reward them.<sup>32</sup> This belief has been represented in this drama by the protagonist. Ken started off as the public prosecutor at the Kowloon City Law Courts, then moved on to a position as government counsel at the Department of Public Prosecutions in Hong Kong, thereby fulfilling his dream and his father’s wishes. However, this job did not last long, as he was framed by his

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<sup>29</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 25, TVB, 8 January 2007.

<sup>30</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode, 25 TVB, 8 January 2007.

<sup>31</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 25, TVB, 8 January 2007.

<sup>32</sup> Chu (1965), p 207.

stepsister and her boyfriend, and Edmond Tung, and convicted of possession of drugs.<sup>33</sup>

Ken is a very proper person; as a lawyer, he strongly believes in the legal system. At his interview at the Department of Public Prosecutions, Ken even announces that in order to achieve justice and equality, the law needs to run by procedure.<sup>34</sup> He adds further that his responsibility as a prosecutor is not to sympathise with the accused or the victim, but to base prosecution on the evidence provided by the law enforcers and act according to procedure, and that this is how the law can be demonstrated.<sup>35</sup> Yet Ken's views take a slight turn when two very important people in his life pass away. The first is his father, Tong Dai-Hoi, who had an addiction to gambling and committed suicide due to his accumulated debt from the loan sharks.<sup>36</sup> The second is his best friend and police inspector, Yan Heung-Ming, who is killed by the assassin sent by Eliza to avenge her brother, Raymond.<sup>37</sup>

Ken has a strong sense of the Confucian 義(*Yi*), or brotherhood. In Chinese society, there are three avenues of male bonding: siblings, brotherhood and friendship.<sup>38</sup> Ken and Ming also often use the popular Cantonese saying 一世人兩兄弟 (*Yi shi ren liang xiong di*), 'brothers will only be brothers in this lifetime'.<sup>39</sup> It is this belief in brotherhood and his suspicion that Eliza is responsible for the death of

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<sup>33</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 10, TVB, 8 January 2007.

<sup>34</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 1, TVB, 8 January 2007. Author translated.

<sup>35</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 1, TVB, 8 January 2007.

<sup>36</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 5, TVB, 8 January 2007.

<sup>37</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 8, TVB, 8 January 2007.

<sup>38</sup> Mann (2000), p 1603.

<sup>39</sup> This saying implies that one should be loyal to their friends, as this friendship may not continue to the next life.

Ming, combined with the fact that his father's suicide was due to the off-track betting run by the Tungs, that prompts Ken to cooperate with the police and work as an undercover agent to investigate the Tung family.<sup>40</sup> Ken is able to remain committed to his undercover work because of loyalty to his best friend and his devotion to justice.

While working as the legal advisor for the Tungs' fashion business, Ken is able to gather information on the family's unlawful business dealings. As the police successfully crush the Tungs and their group for unlawful international trading, Ken returns to his position at the Department of Public Prosecution. In the closing line of the drama, Ken reaffirms his belief in justice by saying, 維護法紀 (*Wei hu fa ji*), 'protecting the law'<sup>41</sup> is not only the job of lawyers and law enforcers, but of everyone.<sup>42</sup> Here Ken calls on everyone to stand up for justice, arguing that the responsibility ought to extend to the general public. Therefore, it is seen that the reward given to Ken by the 'Karma Court' is in return for his willingness to sacrifice for a good cause, as well as his belief in and assistance of justice.

Let us now turn to the second lead character of the series, and Ken's best friend, Leo Tung Yat-Tsun. According to Buddhist teachings, good and bad karma cannot directly neutralise each other.<sup>43</sup> In other words, the ruling of the 'Karma Court' cannot easily be understood, and this character's experience may be a good example of that. Leo is the 'Mr Nice Guy' of the series, and always behaves properly and correctly. The audience is introduced to Leo's proper behaviour from the beginning of the drama; consider the scene where he accidentally smashed the lights on Ken's car

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<sup>40</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 16, TVB, 8 January 2007.

<sup>41</sup> Laws exist to protect people, therefore to maintain public order it is important that people abide by the law. See Li (2010).

<sup>42</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 25, TVB, 8 January 2007.  
Author translated.

<sup>43</sup> Liu (2005), p 87.

and leaves a note with his details.<sup>44</sup> Ming even comments that people as good as this are almost extinct nowadays, so should be treasured.<sup>45</sup> Although at one stage Leo is almost convinced by Eliza to perjure himself for his family, it is Ken who corrects his thoughts. Leo maintains his principles, according to the Chinese saying that has been discussed several times in previous chapters, 大義滅親 (*Da yi mie qin*), ‘to sacrifice the loyalty one has (towards one’s) family for righteousness’.<sup>46</sup> Halfway through the drama, Leo finds out that he is not his presumed father Tung Chin-Pang’s son, but rather the son of his uncle and head villain Nicolas.<sup>47</sup>

However, Leo’s faith and persistence in pursuing righteousness lead him to join the undercover investigation team against Nicolas. Even before he accepts the mission, Ken asks Leo whether he is sure he wants to help investigate his own father; Leo answers that if Nicolas really has done something wrong, he will put righteousness above family without any hesitation at all.<sup>48</sup> As Nicolas trusts Leo and he is a part of the family, it is quite easy for him to access and search for evidence; thus, it does not take long for Leo to find where the unlawful trade records are stored. The sad part is that, moments after he finds the data, both Nicolas and Eliza enter and are overheard by Leo, who is hiding. Leo discovers that Nicolas watched Pang suffer from a heart attack and refused him his medication on purpose so that he would die.

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<sup>44</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 1, TVB, 8 January 2007.

<sup>45</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 1, TVB, 8 January 2007. Author translated.

<sup>46</sup> IPC Editorial Board (2015), p 61.

<sup>47</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 13, TVB, 8 January 2007.

<sup>48</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 23, TVB, 8 January 2007. Author translated.

Upon hearing this, Leo questions Nicolas, calling him inhuman, for he killed his own brother who was more of a father to Leo than Nicolas would ever be.<sup>49</sup>

When Leo leaves the study, Nicolas lunges and stabbed him in the heart; Leo collapses and dies.<sup>50</sup> This is an astonishing about-face because such an ending to a heroic character is not the kind of outcome one expects to see from the ‘Karma Court’, as this ruling jumps abruptly from reward to punishment. However, Leo is also rewarded in a sense: his fiancé is pregnant with his child, meaning that his line will carry on. Leo is both punished for his father’s wrong and rewarded for his own virtuous acts.

The second form of ‘other court’ manifest in *The Brink of Law* is the ‘Home Court’. Unlike the ‘Karma Court’, where trial and judgment are based on the karmic law of ‘cause and effect’, the trial and judgment of the ‘Home Court’ ‘is directed by the members of the family with the head of the house as the ‘judge’.

There are two main incidents that occur in *The Brink of Law* where the ‘Home Court’ comes into play. In the Tung household, the study is where the members of the family are tried. When something happens in the Tung household – legally related or not – the entire Tung family sits together in the study to discuss or ‘try’ the matter, and decide what to do before the case is further investigated by any legal authorities. This is somewhat like a character discussed in the previous chapter: Catherine Au in *The File of Justice V*. Catherine – being the only other member of the family – makes the decision to protect her father when he breaks the law and she thinks he is innocent, but then decides to report him to the police when he commits the serious crime of murder.

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<sup>49</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 25, TVB, 8 January 2007.  
Author translated.

<sup>50</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 25, TVB, 8 January 2007.

What *The Brink of Law* screens is a manifestation of the ‘patriarchalism’ that has been identified in Chinese culture.<sup>51</sup> Furthermore, the Confucian teachings strongly advocate a sense of respect for seniors in general and the seniority within the family specifically.<sup>52</sup> These Chinese traditions dominate in the Tung house: as the master of the house, Nicolas has absolute authority over all decision-making and no one can oppose his final decision. The rest of the family serves as the jury, but their views do not seem to matter at all; what matters is the decision of the head of the house – a decision that cannot be appealed.

The first person tried in the Tungs’ ‘Home Court’ is Edmond Tung. In the ‘trial’ scene, Edmond is standing as the ‘accused’ and being tried by the rest of the members of his family as to what he should do about the mistake he has made.<sup>53</sup> Edmond is the offender in a hit-and-run accident, which occurred after he took his cousin Leo’s car for a drive while his licence was suspended. At first (before this ‘trial’ took place), Eliza wanted to ask Leo to take on the responsibility for Edmond, as she did not want her son to go to prison.<sup>54</sup> However, during the ‘Home Court’ trial, Nicolas made the decision – which was also supported by a majority of the family members – that Edmond had done something wrong, so he should bear the responsibility for it, and not wait for someone to save him.<sup>55</sup> As such, Nicolas tells Edmond to turn himself in to the police in the morning, and as much as Eliza and Edmond do not want to agree with Nicolas’s decision, they have to go along with it.

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<sup>51</sup> Ren (1997), p 27.

<sup>52</sup> Chan, N (2009), p 62.

<sup>53</sup> Mui Siu-Ching (Producer) *突圍行動 The Brink of Law*, Episode 2, TVB, 8 January 2007.

<sup>54</sup> Mui Siu-Ching (Producer) *突圍行動 The Brink of Law*, Episode 1, TVB, 8 January 2007.

<sup>55</sup> Mui Siu-Ching (Producer) *突圍行動 The Brink of Law*, Episode 2, TVB, 8 January 2007.

The second person tried in the Tungs' 'Home Court' is Raymond Sung. This example is a little different from that of Edmond, as he was arrested at the crime scene for his managing of the unlawful gambling business, so he is not actually present during the 'Home Court' trial. The trial begins moments after the police leave the Tungs' house, when the family gathers in the study to discuss Raymond's matter.<sup>56</sup> The interesting fact about this scene is that, since Raymond is not present, the only person standing during this 'Home Court' trial session is his daughter Kelly, who is defending him.<sup>57</sup> While Kelly is defending her father, there are other members of the family who suspect that something is wrong; nevertheless, Nicolas's decision on this matter is to wait until Raymond comes home to clarify and provide an explanation so they can figure out what the situation is. No matter how much Eliza and Kelly insist that there has been a misunderstanding, Nicolas stands firm on his decision and even says that he 'believes the police will be fair and just'.<sup>58</sup> From these examples, the power of the decision-maker in the 'Home Court' is clear, as is the way the overt, public legal system is at times irrelevant to these covert, private 'trials'.

In summary, *The Brink of Law* manifests two sites of law beyond the posted law of the state. The first is the cosmic 'Karma Court', which sees no jurisdictional boundary and gives not only punishments but also rewards. This suggests that even if the court of law is unable to try a case and give judgment, justice can be reached through the trial and judgment mechanisms of the 'Karma Court'. Second, the 'Home Court' comes into play when the court of law is deemed 'unnecessary' and delivers its verdict through trial and judgment made by the head of the household.

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<sup>56</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 5, TVB, 8 January 2007.

<sup>57</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 5, TVB, 8 January 2007.

<sup>58</sup> Mui Siu-Ching (Producer) 突圍行動 *The Brink of Law*, Episode 5, TVB, 8 January 2007. Author translated.

### ***Heart of Greed: The ‘Home Court’***

The traditional Chinese values to be examined in this section are: family bond; karma; avoiding the court of law; brotherhood and atone after wrongdoing.

The trial and judgment of the ‘Home Court’ continues with the drama *Heart of Greed*.<sup>59</sup> In this drama, there is a rather interesting rendition of the ‘Home Court’. In contrast to Nicholas, who was the ‘judge’ of the ‘Home Court’ in the *Brink of Law*, the head of household in *Heart of Greed* is a woman. The ‘cause and effect’ and ‘punishment and reward’ of the ‘Karma Court’ will also be examined in this section. This non-legal (family saga) drama was produced in 2006 and aired in 2007 with a total of 40 episodes.

Moving on to the second drama, *Heart of Greed* (滄心風暴 *Tang Xin Feng Bao*), the examination of the ‘Home Court’ continues. Family quarrels can be as complicated (or more so) as a matter can be after the intervention of legal procedures. The story of this drama revolves around successful ‘Tong’ family that had accumulated HK\$0.6 billion worth of assets from dried sea-products and abalone stores, and this wealth becomes the main issue of the conflicts that arise in the drama. The ‘Home Court’ for this family is the living room – albeit a very grand and noble one, having a décor befitting a court of law. Traditionally, the context for this show is the Chinese people’s strength of feeling for the family, as they are very ‘family-minded’.<sup>60</sup> David Buxbaum points out that it is common for Chinese people to have all the members of the family live together, believing that this is the safest and the best way to accumulate common wealth in the family.<sup>61</sup> However, under such

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<sup>59</sup> *Heart of Greed* was the only drama of those discussed screened with English subtitles; hence no author translation was necessary.

<sup>60</sup> Ren (1997), p 27.

<sup>61</sup> Buxbaum (1978), p 113.

traditional arrangements, the father is the owner of all property. A son would never co-own the property with his father, and the women would never obtain ownership at all.<sup>62</sup> When living together, family expenses would come from one common account and the budget would be divided among the family members by the head of the household.<sup>63</sup>

The Tong family shares some of these Chinese traditions. For instance, in the ‘trial’ scene, the audience can see that the entire family cohabitates – including the mistress, the illegitimate son and the wife’s younger sister and brother; and the family expenses also come from one common account. However, while tradition dictates that the male member of the family is to stand in the highest position, in this drama this hierarchy has been reversed. In fact, it is the complete opposite of traditional practice. The man brings home the money, but he does not have the last word in the house. Instead, it is his wife who holds the highest position in the family. From the beginning of the series, the audience knows that Ling Hau, rather than her husband Tong Yan-Kai, is the head of the house. Although she is the wife, and therefore subservient according to tradition, she is shown to be the master of the house and makes every decision, so that everyone follows *her* instructions and acts in accordance with *her* teachings, suggestions or orders. Hau’s power is illustrated in a scene in the first episode of the series, when the family is gathered around the dinner table gossiping. Hau orders the maid to give them bitter tea as their punishment. From this moment on, the audience is left in little doubt about who is the head of the house.

One interesting aspect of Hau’s character is that she represents ‘justice’, which is how the family – well *most* of the family – members see her decisions: as just

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<sup>62</sup> Buxbaum (1978), p 82.

<sup>63</sup> Buxbaum (1978), p 82.

judgments that are fair and correct. Not only that, but the moment Hau leaves the house, conflict and problems start to occur – which turn out to be insoluble without her help. For instance, one of the major incidents of the ‘Home Court’ in the Tong family is the trial of Tong Yan-Kai’s mistress, Frances Wong Sau-Kam, and Hau’s younger brother, Ling Bo, who have started a side-business together trading abalone to make more money.<sup>64</sup> In doing so, they used the family business for their own benefit, thereby causing and accruing loss for the family as a whole.

That is not all, though: when Hau leaves for England to undergo treatment for her cancer, she leaves Frances in charge of the family.<sup>65</sup> With this power, Frances stirs up conflict among the family members, trying to push those members who she does not like out of the house. In doing so, she runs against the family motto of maintaining harmony and peace among all familial members. When Hau returns and discovers this state of affairs, she initiates ‘proceedings’ against Frances, who in turn denies all the accusations and claims that Hau has no evidence to prove them. Hau then states the classic line of the show: ‘This isn’t a court of law. Everything I say is true – I don’t need evidence.’<sup>66</sup> Hau reaches the decision that Frances must leave the Tongs’ house immediately, and from that day on they are no longer family, but just friends.

The other members of the family often serve as the jury, similar to the previous drama, *The Brink of Law*. But in *The Brink of Law* the rights of the jury do not quite match those of the court of law, as in this ‘Home Court’ the only judgment that matters is that of the master of the house. To her credit and in contrast to Nicolas, Hau is marginally more democratic as she allows the other members of the family to vote on the decision she makes – and majority vote for her decision. Thus Frances has

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<sup>64</sup> Lau Ka-ho (Producer) 溱心風暴 *Heart of Greed*, Episode 13, TVB, 9 April 2007.

<sup>65</sup> Lau Ka-ho (Producer) 溱心風暴 *Heart of Greed*, Episode 20, TVB, 9 April 2007.

<sup>66</sup> Lau Ka-ho (Producer) 溱心風暴 *Heart of Greed*, Episode 21, TVB, 9 April 2007.

to move out immediately. This means that when a trial takes place in the ‘Home Court’, the one thing that is of the utmost importance in the court of law – evidence – is not necessarily needed at all.

Evidence is also not needed in the ‘Karma Court’, where fate as judgment is evidence of the morality of the party. In *Heart of Greed*, the ‘Karma Court’ is manifested in the fates of members of the Tong family. The first instance of this, of course, is the head of the house herself, particularly in regard to the recurrence of her cancer following her reneging on her promise to make a donation to the Buddhist faith community. This is karma because the Chinese believe they should worship the gods for protection and make sacrifices to thank them for granting their wishes. Chinese scholar Chu T’ung-tsu argues that calamities and destructive events are the reactions of the spirits to ‘improper and displeasing behaviour’.<sup>67</sup> This is strongly believed by the Tong family, and it can be seen in the ‘Karma Court’s’ decision on Hau.

When Hau first fell ill some 25 years ago, the Tong family made promises to Buddha to donate half of the Tongs’ assets if Hau recovered from her cancer. Buddha granted their wish, but when Hau recovered they failed to carry out their promise immediately; more importantly, when they went carry out their promise, they tried to get away with not fulfilling it in full – that is, the amount they ended up donating was equal to half the Tongs’ assets when they made the promise to Buddha – HK\$400,000 – instead of half of their current assets – worth HK\$0.6 billion.<sup>68</sup> Hence Hau’s cancer comes back and she dies.<sup>69</sup> Thus a lesson is taught by the ‘Karma Court’, whereby one should always keep a promise made to Buddha, for the consequences of breaking such a promise can be beyond what one can bear.

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<sup>67</sup> Chu (1965), p 211.

<sup>68</sup> Lau Ka-ho (Producer) *滄心風暴 Heart of Greed*, Episode 1, TVB, 9 April 2007.

<sup>69</sup> Lau Ka-ho (Producer) *滄心風暴 Heart of Greed*, Episode 28, TVB, 9 April 2007.

The next decision-maker of the ‘Home Court’ is the protagonist of *Heart of Greed*, Tong Chi-On. Unlike Ling Hau, Chi-On plays a few roles in the ‘Home Court’, as he starts off as a member of the ‘jury’ and a ‘witness’, then became the not so authoritative judge. Not only is Chi-On is the eldest son of the Tong family, but he is also the illegitimate son – although the audience only finds out about his true identity halfway through the series. Chi-On is involved in the ‘Home Court’ in two ways. The first is connected to the Chinese saying 生不入官門死不入地獄 (*Sheng bu ru guan men si bu ru di yu*) ‘one will not go to court while one is alive and one will not go to hell when one dies’, which shows the extent to which the Chinese people want to avoid the legal system.

In addition to Chi-On’s closely held brotherhood principle – that you should always look after your brother – this anti-legalist position is clearly instantiated when Chi-On covers up for his stepbrother, Gilbert Tong Chi-Yat, who has embezzled the family business.<sup>70</sup> Despite being forced by the other members of the family to tell the truth – or bullied by the members of the family who dislike him – Chi-On keeps his promise to Gilbert that the matter will remain a secret between the two of them, and insists that he will pay the amount back in full – HK\$700,000 – when ‘his friend’ pays him back.<sup>71</sup> Finally, Gilbert admits that he took the money and says he will pay it back when the matter is settled. Although members of the family have committed a crime here, they do not take matter to court. Indeed, the Tongs never seem to take any matter to court in the series – those who want harmony, anyway – no matter who committed the crime. They never intend to take legal action and let the person be tried by the court of law.

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<sup>70</sup> Lau Ka-ho (Producer) 溱心風暴 *Heart of Greed*, Episodes 9–10, TVB, 9 April 2007.

<sup>71</sup> Lau Ka-ho (Producer) 溱心風暴 *Heart of Greed*, Episodes 9–10, TVB, 9 April 2007.

The second type of involvement in the ‘Home Court’ is where Chi-On becomes the decision-maker. The second time Hau leaves the house, for hospital in Hong Kong, she gives the power of the head of the household to Chi-On.<sup>72</sup> Although given the role of being in charge – and therefore the decision-maker of the ‘Home Court’ – unlike his stepmother Chi-On does not have ‘absolute authority and power’. With that transfer, conflict begins once again. Yet Hau strongly believes that Chi-On has the required qualities to maintain peace, harmony and happiness for the Tongs.<sup>73</sup> This is why Hau passes her power to Chi-On and entrusts the role of the master of the house of the Tong family to him while she is hospitalised. Further, she entrusts him to take charge after she dies. Consequently, in the end the role and power of the master of the house return to the Chinese tradition as Chi-On – the eldest son – is left in charge of the Tong family.

Different from the first two judges, Ling Hau and Tong Chi-On, the third judge of the ‘Home Court’ is the villainous character of *Heart of Greed*, Frances Wong Sau-Kam. Unlike Hau and Chi-On, Frances is selfish and does not make any fair decisions for the family. She joined the Tong family when Hau first found out she had cancer; Hau wanted someone to look after her husband and family if she died. Frances becomes a key member of the family, yet her participation in the ‘Home Court’ is different from that of the two characters discussed above, Ling Hau and Tong Chi-On. Frances is greedy, ungrateful and likes to sow conflict among family members for her own benefit and entertainment. With such characteristics, no wonder she lands in the ‘Home Court’, and is put on trial.

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<sup>72</sup> Lau Ka-ho (Producer) *滄心風暴 Heart of Greed*, Episode 24, TVB, 9 April 2007.

<sup>73</sup> Lau Ka-ho (Producer) *滄心風暴 Heart of Greed*, Episode 24, TVB, 9 April 2007.

At first, Tong family members think Hau's younger brother Ling Bo is the only one involved in the side business; however, they soon discover that Frances is also a part of it, and Hau brings her before the 'Home Court' trial.<sup>74</sup> Here Frances denies that she has anything to do with Ling Bo's business, maintaining that Hau has no evidence regarding to her involvement. Hau then states for the first time that they are not in a law court and the evidence is in her eyes: that she can tell who is the bad guy.<sup>75</sup> The decision made by Hau is to ostracise Frances. Following the trial, Frances is ignored by the whole family – besides Ling Bo, who also receives the ostracism punishment. When Frances continues with her misconduct, she is thrown out of the house as a result of the verdict given by the 'Home Court' – Hau and a majority of the family members.

Frances is also tried by the 'Karma Court'. Buddhist teaching permeates in this kind of court. For example, it is a Buddhist concept that one who commits an offence will, if they are rehabilitated, realise their mistake and avoid it in the future.<sup>76</sup> Buddhists also believe that once the offender has realised their mistake, they can once again make a meaningful contribution to society,<sup>77</sup> and therefore assist in working towards harmony. These teachings are reflected in Frances's 'Karma Court' trial. Once Hau passes away, Frances returns to the Tong household,<sup>78</sup> but she does not seem to want peace. In fact, her return brings the family shame, as she and her new beau, Henry Sheung Joi Dak, and their lawyer, Dai Kin He, conspire to control the family fortune. In order ensure that she maximises her fortune, Frances successfully

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<sup>74</sup> Lau Ka-ho (Producer) *溱心風暴 Heart of Greed*, Episode 13, TVB, 9 April 2007.

<sup>75</sup> Lau Ka-ho (Producer) *溱心風暴 Heart of Greed*, Episode 13, TVB, 9 April 2007.

<sup>76</sup> Horigan (1996), p 282.

<sup>77</sup> Horigan (1996), p 282.

<sup>78</sup> Lau Ka-ho (Producer) *溱心風暴 Heart of Greed*, Episode 29, TVB, 9 April 2007.

persuades Tong Yan-Kai to give her an official title and marry her,<sup>79</sup> ensuring that she can get at least half of his assets when they divorce.

The divorce news makes all the tabloids and magazine covers, thereby causing much embarrassment for the Tong family.<sup>80</sup> However, Yan-Kai ends up dying after having several strokes, before the couple is officially divorced.<sup>81</sup> Since Yan-Kai leaves all his assets to his four children and his grandchild, Frances takes the matter to court.<sup>82</sup> At the start, Frances stands firm, but after the breakdown of the relationship with her son she learns that Henry was in fact married and also had several girlfriends, and she realises that she was in the wrong.<sup>83</sup> Finally, her character shows remorse; during her lawyer's closing – most likely bringing a winning verdict for Frances, she stands up in court, apologises for her conduct and advises that the case is finished. Confessing that she is sorry to have taken up so much of everyone's time, Frances walks out of the courtroom.<sup>84</sup> Although a continuation of trial in the court of law would most probably have brought success for Frances, instead, realising her mistake, she chooses to end the court case by confessing her wrongs, which leads to her acceptance back into the family.

As seen in this section, the 'Home Court' has no strict procedures to follow and judgment – be it just or not – can be made either before proceeding to the court of law or when the court of law is not deemed 'necessary'. The 'Karma Court' successfully exemplifies again how it can assist and supplement judgments made by

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<sup>79</sup> Lau Ka-ho (Producer) *溱心風暴 Heart of Greed*, Episode 33, TVB, 9 April 2007.

<sup>80</sup> Lau Ka-ho (Producer) *溱心風暴 Heart of Greed*, Episodes 35–36, TVB, 9 April 2007.

<sup>81</sup> Lau Ka-ho (Producer) *溱心風暴 Heart of Greed*, Episode 38, TVB, 9 April 2007.

<sup>82</sup> Lau Ka-ho (Producer) *溱心風暴 Heart of Greed*, Episodes 38–40, TVB, 9 April 2007.

<sup>83</sup> Lau Ka-ho (Producer) *溱心風暴 Heart of Greed*, Episode 40, TVB, 9 April 2007.

<sup>84</sup> Lau Ka-ho (Producer) *溱心風暴 Heart of Greed*, Episode 40, TVB, 9 April 2007.

the court of law by bringing closure to ‘cases’. Although the court of law is introduced to solve family issues, in the end the verdict is not delivered by this court.

### ***Gun Metal Grey: The ‘Outlaw’s Court’***

The traditional Chinese values raised for discussion in this section are the following: heaven and divine law; the Confucian concept primary rites and ceremony; harmony; social balance; acting justly; reasonably justifiable actions; relationship and favour; moral order; being impartial and having integrity; having a good conscience and karma.

This section investigates how the ‘Outlaw’s Court’ and the ‘Karma Court’ are portrayed in the non-legal (police procedural) drama *Gun Metal Grey*, produced in 2009 and aired in 2010 with a total of 30 episodes. The ‘Outlaw’s Court’ demonstrates the trial and judgment of a judge who acts on the edge of legality. The role of the ‘Karma Court’ in the drama is similar to that in *The Brink of Law* and *Heart of Greed*, where trial and judgment are based on ‘cause and effect’ and not only punishment but also rewards are dealt by karma.

Proceeding to examine the final drama of this chapter, *Gun Metal Grey*, we begin with an exploration of the villainous character, Stone Shek Tung-Sing. Fei Ying’s outlaw’s justice, discussed in *The Gentle Crackdown* from Chapter 2, is in complete contrast to the character representing the judge of the ‘Outlaw’s Court’ in this chapter, as her actions are not only led by compassion, but she knows her limits and acts to assist legality, rather than creating her own legality. Stone speaks with a strong critical voice, dissatisfied with the current legal system, and he uses this dissatisfaction as his reason to breach the law and create his own legality. In addition, the outlaw here sees himself as an agent of heaven rather than the fates themselves.

From the opening of the drama, it is clear to the audience that Stone was a CID sergeant in the Hong Kong Police Force, and that he had been sentenced for life for a murder he did not commit. Fifteen years later, Stone was able to find new evidence from a magazine report written by the female protagonist, Kim Hui Man Him, which enabled him to successfully appeal his case and obtain his release.<sup>85</sup> Stone subsequently rejoined the police force, partnering with the protagonist – who is also his old mate, Mai On-Ting.<sup>86</sup> When Stone returned to the police force, he was dealing with cases and working as usual. However, two things happened that triggered his sense of ‘serving justice’ on behalf of ‘heaven’ – or the divine law.<sup>87</sup> The first was his relationship with his wife, Kwan. Stone found out that Kwan was seeing another man, and as she could not choose between them, Stone chose to separate from her even though he still loved her.<sup>88</sup> The second was when he finally found the true offender in the murder case for which he was wrongly imprisoned, Shao Dai-Fu. Dai-Fu provoked Stone to the point where Stone killed him, and from that point Stone no longer seemed to be his old self.<sup>89</sup> The death of Dai-Fu caused Stone to become an outlaw judge, with a strong belief that evil, even if unprosecuted, must be punished.

Stone believes the decisions he makes and actions he carries out constitute the performance of true justice. Here is a connection between ‘the truth’ and ‘justice’, because often it is not simply about justice, but about the truth that lies behind each

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<sup>85</sup> Tong, Terry Kei Ming (Producer) *刑警 Gun Metal Grey*, Episode 1, TVB, 1 November 2010.

<sup>86</sup> Tong, Terry Kei Ming (Producer) *刑警 Gun Metal Grey*, Episode 1, TVB, 1 November 2010.

<sup>87</sup> This is not to say that the judge of the ‘Outlaw’s Court’ can in any way become the judge of the ‘Karma Court’ when he starts to believe that he is ‘serving justice’ on behalf of ‘heaven’. This is simply because of the cosmic nature of the ‘Karma Court’, where trial and judgment are conducted beyond human control, meaning that one can only take initiative of the ‘cause’ and be passive about the ‘effect’.

<sup>88</sup> Tong, Terry Kei Ming (Producer) *刑警 Gun Metal Grey*, Episode 8, TVB, 1 November 2010.

<sup>89</sup> Tong, Terry Kei Ming (Producer) *刑警 Gun Metal Grey*, Episode 11, TVB, 1 November 2010.

scenario about which people are concerned. This was what Stone had strong feelings for after he was released and rejoined the police force; he did not stop investigating and looking for the true offender in his case; even though the court gave him the verdict he sought, absolving him of guilt, he still insisted that he would not have true absolution until the offender had been punished by law.

Traditional Chinese values teachings are manifest in Stone's behaviour and beliefs. Confucian 禮 *Li* is one of these teachings, and refers to 'primarily rites and ceremonies' that provide beauty and poetry to life – even law. For the laws based on 禮 *Li* will be harmonious and enable social balance.<sup>90</sup> The *Yi Jing*, or *The Book of Change*, is an ancient book that helps people to make decisions in accordance with natural forces of the universe.<sup>91</sup> The meaning of 'justice' in the *Yi Jing* is said to be the use of regulations of goods by the adaptation of judgments to restrain human beings from misconduct.<sup>92</sup> For that reason, the law-maker must assess the seriousness of offences instituted in the statutes in accordance with justice,<sup>93</sup> as that seems to be the only way to achieve harmony between people and nature. Unlike the character mentioned in the previous chapter, Dai Ji-Hung in *Just Love*, the magistrate who acts in accordance with Confucian teachings and formal legal procedures and believes in the current legal system, Stone does not believe the legal system is able to run in tandem with such Confucian teachings; he even starts to sense a loophole in the current legal system that simply does not provide justice by focusing instead on procedural problems. This may also be the reason why he takes on the role of what his friend and superior Mai On-Ting ends up terming 'the underground judge'.

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<sup>90</sup> Bodde and Morris (1967), p 21.

<sup>91</sup> Matthews (1999), p 209.

<sup>92</sup> Johnson (1979), p 51.

<sup>93</sup> Johnson (1979), p 51.

From Stone's point of view, the law and the current legal system are not just – which is why he wants to deal with cases in his own way, because he thinks only he can provide justice for each person. Stone holds such opinions because, although he has been released from prison, he still wasted 15 years there, and the law was unable to give him his justice for those years he lost, while falsely accused. Stone feels helpless about such a legal system – indeed, as a police officer, he can only follow the offender, trying to arrest them *after* they have committed a crime, at the point where someone is already hurt. This is also why Stone feels he has to enforce the outlaw's judgment: it is a form of crime prevention. He claims that his main goal is to stop crime before it happens. The question arises, though, of whether the so-called justice here is for peace of mind or self-satisfaction, or whether it is true justice. After Stone kills Shao Dai-Fu, the first case he 'tries' is a rape and murder case.<sup>94</sup> In this case, the police know exactly who the offender – Franky Cheung – is, but can't find any evidence to arrest him. However, Stone decides to frame the offender by planting some evidence, on the basis of which the police successfully arrest Franky and press charges. Stone's actions eventually escalate from framing offenders to killing offenders and even witnesses.

Not only does Stone find it necessary to punish criminals; he also helps those for whom he feels sympathy, even if they are offenders. After hearing their stories, Stone often sees offenders as victims, feeling that their actions are 在情理上情有可原 (*Zai qing li shang qing you ke yuan*), or reasonably justifiable.<sup>95</sup> Furthermore, he often helps them to escape the punishment of the law – for example, Stone destroys

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<sup>94</sup> Tong, Terry Kei Ming (Producer) 刑警 *Gun Metal Grey*, Episodes 12–14, TVB, 1 November 2010.

<sup>95</sup> It is a common concept in Chinese culture for people to use 'reasonableness' as a form of evaluation. See Zhang and Ma (2013), p 84.

the evidence needed to arrest an offender, Lau Yin-Ling.<sup>96</sup> Yin-Ling ‘punishes’ dangerous drivers or drunk driving offenders, leading to serious injuries or death. She particularly targets those not punished by the law, due to a lack of evidence or where punishment is too lenient. Yin-Ling’s son has been killed by a careless driver, so she is unable to forgive those drivers. Stone helps Yin-Ling because he agrees with what she is doing and says she is carrying out punishment for ‘heaven’, since the court of law is unable to do so and those that she has killed deserve it. As a result of judgments like these, the outlaw Stone is again jailed, although this time he is no longer innocent.<sup>97</sup>

Other than being caught and tried by the law, Stone is also tried by the ‘Karma Court’. The Confucian notion of ‘moral self-internalisation’ states that to conform to moral order one needs to be ‘self-motivated’ and ‘self-initiated’, meaning that if one commits a crime and voluntarily surrenders, not only are they admitting to their guilt but more importantly they are showing remorse.<sup>98</sup> Not only can this conformity allow for harmony; it will also demonstrate that a person has the ability to control their behaviour, and hence to be virtuous.<sup>99</sup> From the Taoist moral viewpoint, making a confession about an offence represents one’s willingness to admit to both factual guilt of the crime and recognition of their moral faults, which indicates that the person is voluntarily returning to the path of virtue.<sup>100</sup>

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<sup>96</sup> Tong, Terry Kei Ming (Producer) *刑警 Gun Metal Grey*, Episodes 17–19, TVB, 1 November 2010.

<sup>97</sup> Tong, Terry Kei Ming (Producer) *刑警 Gun Metal Grey*, Episode 30, TVB, 1 November 2010.

<sup>98</sup> Ren (1997), p 42.

<sup>99</sup> MacCormack (1990), p 29.

<sup>100</sup> MacCormack (1990), p 30.

When On-Ting attempts to arrest Stone, he faints after firing several shots around Stone's ear.<sup>101</sup> With this, Stone is alerted to the fact that On-Ting wants him to be punished legally for what he has done, so Stone handcuffs himself to On-Ting, thereby suggesting he is admitting to his guilt, and by so doing releasing himself from the grey area of morality. In the last scene of the drama, Stone is in prison, where the audience finds out that he is one of the top four most intimidating prisoners, providing for and safely warding a kind of harmony for the 'community' in which he finds himself. The audience sees Stone sitting in a wheelchair, with a hearing aid and one leg amputated. In Stone's lap is a Bible – and the bookmark Stone uses for his Bible is a quote from On-Ting, stated earlier on in the series, that 'sometimes the devil's path is paved by compassion'.<sup>102</sup> When Stone looks at this bookmark, this series suggests that he has finally realised that what was written on the bookmark is true, as he seems to be at peace with himself, and is able to accept the punishment meted out by the legal system for his actions.

In complete contrast to Stone's ambiguous relationship with law is the protagonist of *Gun Metal Grey*, Mai On-Ting – better known as 'Mad Sir' in the series. On-Ting is not a part of the 'Outlaw's Court'; instead, he tries to halt this form of judgment. On-Ting is Team A's Senior Inspector and Stone's oldest and best friend; he was given the name 'Mad Sir' for his irregular and puzzling approaches to investigations. Even though On-Ting is a little 'mad', he strongly believes in the legal system, and insists that those who have committed crimes should only be punished by the system. At first, On-Ting is on Stone's side. Two factors have some impact on the brotherhood relationship between Stone and On-Ting. The first is the concept of 關係

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<sup>101</sup> Tong, Terry Kei Ming (Producer) 刑警 *Gun Metal Grey*, Episode 30, TVB, 1 November 2010.

<sup>102</sup> Tong, Terry Kei Ming (Producer) 刑警 *Gun Metal Grey*, Episode 30, TVB, 1 November 2010.  
Author translated.

(*Guanxi*), ‘relationship’, for the Chinese, *Guanxi* has strategic aspects involving different degrees of loyalty, duty and trust in a relationship, depending on the extent of the relationship.<sup>103</sup> The second factor is 人情 (*Renqing*), loosely translated as ‘favour’: this term indicates the emotional connection between friends in Chinese relationships, and also implies that there is an obligation not to be indebted to those to whom you owe favours – especially if they will lose face.<sup>104</sup> For these two reasons, On-Ting is motivated to help his best friend, Stone, and to punish the true murderer in his first outlaw judgment: Shao Dai-Fu.<sup>105</sup> This is not to say that he assists Stone in murdering Dai-Fu; rather, when they are interrogated by their colleague, On-Ting simply does not object to Stone’s lie, in which he claims a third party has shot Dai-Fu and fled the crime scene on a motorbike. It is also due to the doubt On-Ting had about his hearing and also because of the guilt he feels towards Stone.

Since Stone first went to jail, On-Ting has always felt indebted to him, seeing that he was partly responsible for sending Stone to jail, as a witness in his case. When Stone embarks upon his path to outlaw justice – or what On-Ting calls being an ‘underground judge’ – On-Ting chooses to believe his old friend over himself, and protects Stone from being wrongly accused again. For example, when Stone starts to step into the ‘grey area’ of police procedure – such as searching places before obtaining a search warrant – On-Ting allows it.<sup>106</sup> Nevertheless, after several cases and many discussions, they reach the point where On-Ting sees Stone becoming increasingly ruthless, to the extent where if Stone carried on in that way, he would

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<sup>103</sup> Joy (2001), p 250.

<sup>104</sup> Joy (2001), p 250.

<sup>105</sup> Tong, Terry Kei Ming (Producer) 刑警 *Gun Metal Grey*, Episode 11, TVB, 1 November 2010.

<sup>106</sup> Tong, Terry Kei Ming (Producer) 刑警 *Gun Metal Grey*, Episodes 12–14, TVB, 1 November 2010.

only end up hurting more people – including himself. On numerous occasions, On-Ting warns Stone – for example, On-Ting points out that in the case where Stone frames the rapist Franky, he is actually found guilty and imprisoned for proper legal reasons, as the police are able to find evidence against him.<sup>107</sup> Thus outlaw ways should not be credited.

On-Ting also indicates to Stone that private judgment and punishment are simply not allowed; he knows that Stone is dissatisfied with the current legal system and thinks that penalties for some offences are far too lenient.<sup>108</sup> On-Ting advises Stone that he should go through the correct procedure while lobbying for the government to make amendments to the legislation.<sup>109</sup> After many arguments – where one strongly believes that the legal system will eventually bring justice, and the other stands firm on his outlaw justice – On-Ting and Stone’s relationship falls apart. For this reason, On-Ting requires assistance to stop and arrest Stone.

Unlike formal allegiance to the posted law and criminal process of On-Ting, Carson Ko Kei-Yeung operates in an ambiguous space between the formal law, the ‘Outlaw’s Court’ and the ‘Karma Court’. The interesting aspect of this character is that he is not only a part of the ‘Outlaw’s Court’; he is also connected to the ‘Karma Court’. He therefore is connected to the concept of harmony and oneness – both very prominent in Taoist teaching.<sup>110</sup> Geoffrey MacCormack argues that, in order to maintain the social and cosmic harmony of the universe, people must commit

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<sup>107</sup> Tong, Terry Kei Ming (Producer) 刑警 *Gun Metal Grey*, Episode 14, TVB, 1 November 2010.

<sup>108</sup> Tong, Terry Kei Ming (Producer) 刑警 *Gun Metal Grey*, Episodes 19, 25, TVB, 1 November 2010.

<sup>109</sup> Tong, Terry Kei Ming (Producer) 刑警 *Gun Metal Grey*, Episode 19, TVB, 1 November 2010.

<sup>110</sup> Bodde and Morris (1967), p 43.

themselves to complying with the moral order.<sup>111</sup> For this reason, Carson joins forces with On-Ting to stop Stone from carrying out his outlaw judgment. Carson is Team A's Probationary Inspector; he is also the son of the man behind sending Stone to prison.

When Carson first appears in the series, the audience is told that he was an investment banker, and only joined the police force to fulfil the wishes of his father, Ko Lap-Yan.<sup>112</sup> Carson's character strongly believes in proper behaviour, follows procedures and does not take shortcuts. This is clearly evidenced when he stresses to the team that a search warrant is required before they can enter and search any premises.<sup>113</sup> During a conversation with On-Ting and Stone, Carson says that his father – now a retired superintendent who was also the head of On-Ting and Stone's team – has taught him much, as he was very just when he was a police officer. Carson says his father always told him a police officer has to be 正直不阿不偏不倚 (*Zheng zhi bu e bu pian bu yi*), meaning 'one should be impartial and have integrity' and 對得起天地良心 (*Dui de qi tian di liang xin*),<sup>114</sup> meaning 'one needs to be worthy of one's good conscience and not do wrong'.<sup>115</sup> Although Lap-Yan was unable to behave in the way he taught his son, Carson was able to conduct himself in the way his father wanted. Lap-Yan ends up dead, killed by Dai-Fu; the latter wants to arrest him and then turn himself in to the police in order to pay for what he has done.<sup>116</sup>

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<sup>111</sup> MacCormack (1990), p 28.

<sup>112</sup> Tong, Terry Kei Ming (Producer) 刑警 *Gun Metal Grey*, Episode 4, TVB, 1 November 2010.

<sup>113</sup> Tong, Terry Kei Ming (Producer) 刑警 *Gun Metal Grey*, Episode 6, TVB, 1 November 2010.

<sup>114</sup> Both of these teachings are Chinese sayings that are quoted regularly.

<sup>115</sup> Tong, Terry Kei Ming (Producer) 刑警 *Gun Metal Grey*, Episode 7, TVB, 1 November 2010.

<sup>116</sup> Tong, Terry Kei Ming (Producer) 刑警 *Gun Metal Grey*, Episode 11, TVB, 1 November 2010.

Before Lap-Yan dies, he leaves a letter to Carson with a message not to take the same path he did, as that will lead to death and disgrace, guilt and remorse. He could never forget the people he harmed, and as a result he could not sleep for 15 years. So Lap-Yan hopes Carson will live on, with a good conscience, insisting on right and justice.<sup>117</sup> After Lap-Yan's death, Carson is encouraged by On-Ting to carry on in a positive way, joining On-Ting as his undercover colleague to carry out the 'secret arrest Stone mission'.<sup>118</sup> This is when he is accidentally killed by Stone, as the gun misfires.<sup>119</sup> On-Ting finds Carson moments before he dies, and Carson tells him that he is sorry he cannot complete his mission, but he can now say he is a proper police officer again – as he no longer has to pretend to side with the outlaw.<sup>120</sup> It would seem that the ending to Carson's story is the outcome of the 'Karma Court', and is actually quite interesting. It is also interesting that Lap-Yan 'accidentally' sends Stone to prison – as he had no intention of doing so, and it was not planned. In a sense, Carson's death is the consequence of his father's actions, and paying for the karma his father created, as he is 'accidentally' killed by Stone.

Extreme forms of 'trial and judgment' can bring trouble with the law. This section exemplifies how the 'Outlaw's Court' treads a fine line between what is lawful and what is not, with judgment that is stepping on – even crossing over – the verge of legality. When the outlaw creates his own legality, the 'Karma Court' intervenes and provides a verdict to bring justice in the end.

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<sup>117</sup> Tong, Terry Kei Ming (Producer) *刑警 Gun Metal Grey*, Episode 11, TVB, 1 November 2010. Author translated.

<sup>118</sup> Tong, Terry Kei Ming (Producer) *刑警 Gun Metal Grey*, Episode 26, TVB, 1 November 2010.

<sup>119</sup> Tong, Terry Kei Ming (Producer) *刑警 Gun Metal Grey*, Episode 28, TVB, 1 November 2010.

<sup>120</sup> Tong, Terry Kei Ming (Producer) *刑警 Gun Metal Grey*, Episode 28, TVB, 1 November 2010.

## Conclusion

In this chapter, it is made clear that ‘trials’ and ‘judgments’ do not necessarily have to take place in a court of law. Nevertheless, the ‘trials’ and ‘judgments’ that arise in the ‘other courts’ have the same aim as the court of law: to create fairness, justice, peace and harmony. These ‘trials’ and ‘judgments’ occur outside the court of law for many reasons, either because in the ‘Karma Court’ justice cannot be achieved when the court of law does not have authority or jurisdiction to try someone and give its verdict or the ruling is given after the court of law has given its judgment; or because people are unwilling to take the matter to court – the case of the ‘Home Court’; or, in the case of the ‘Outlaw’s Court’, an outlaw wants to create their own legality to match their own justice. No matter what the reason is, the ‘trials’ and ‘judgments’ that come from the ‘other courts’ *assist* or *critique*, hoping that the court of law will offer justice in each matter. These concepts were also demonstrated by the historical and modern lawyers in the previous chapter, who included the believers in karmic law, those who had to make decisions on how to deal with a family member who breached the law and the outlaw on the verge of legality but also acting as an assistance to law. All these historical and modern lawyers are acting with the same aim: to seek justice.

While the analysis in this chapter is organised by ‘courts’, in fact it continues to focus on lawyers. However, the role of lawyers and lawyering in analysis has not been limited to British admitted lawyers in Hong Kong but also this chapter focuses on people who are not legal professionals doing law work where they deal with questions of law, question of rules, question of justice and question of decision making. For example, although not necessarily seen as lawyers, the head of family appears to be the centre of authority.

The appropriateness of the judgment in each of these ‘other courts’ is perhaps difficult to determine, but from the examination of the dramas, the answer to the search for justice is apparent: the ‘Karma Court’ provided its ruling across all three dramas examined in this chapter. It is identified that in the ‘Karma Court’, the ruling can either come before or after the court of law has given its official verdict; more importantly, though, the jurisdiction of the ‘Karma Court’ has no restrictions – and unlike the court of law, it can give rewards as well as punishments. The ‘Home Court’ was also represented in two of the three dramas examined in this chapter. In the ‘Home Court’, the decision usually comes before the matter is even taken to the court of law, either in the form of considering whether the legal system should or should not get involved, or simply wanting to deal with and settle the matter privately. It could also be that these are classified as ‘family matters’, so people are reluctant to see the court of law getting involved and would rather decide for themselves. The decision-maker in the ‘Home Court’ is usually the master of the house. Although the process is very different, a verdict given by the head of the household is obeyed by the ‘offender’, just as it would be in a court of law. With the ‘Outlaw’s Court’, the judgment can also come before or after the law court has given its verdict. Despite this, regardless of how ‘right’ the outlaw can be, or how much good intention is behind the outlaw’s actions, more often than not the judgment is an obstruction to the administration of justice. Whether justice is truly served through the decision given by the ‘other courts’ is important; the personal embodiment of justice is also a significant matter, and this is the focus of the next chapter. It is suggested that the televisual ‘justice’ is only serving a type of justice for those who are victimised in the fictional world; nevertheless, at the same time it also serves as a warning – a timely and

cautionary reminder – to those who intend to commit crime in the real world that these are the possible ends, which they may not foresee.

## Chapter 4

### Face of justice

#### Introduction

The strong influence of traditional Chinese values on the fictional representation of lawyers in Hong Kong dramas provides a thematic consistency throughout this thesis, and this thematic consistency will continue in this chapter. The focus of the chapter is the examination of the televisual career of Hong Kong's veteran actress Jessica Hester Hsuan, outlining the reasons why she can be labelled the 'face of justice'.<sup>1</sup> Since Hsuan entered the entertainment industry in 1993, she has portrayed many legal professionals, acting in dramatic roles as a magistrate in *Just Love* and a barrister in *The File of Justice* and *Golden Faith*.

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<sup>1</sup> Hsuan's legal professional roles have been significant on Hong Kong drama, it can be said that she has set a kind of paradigm for strong, intelligent and independent female lawyers in Hong Kong television drama. In addition to that, Hsuan has also portrayed a strong, intelligent and independent lawyer in a Singaporean English sitcom, Yu, Pauline, Tan Wei-Lyn and Teo, Joanne (Executive Producers) *奉子成婚 Parental Guidance*, Mediacorp TV Singapore, 8 February 2007. Hsuan's style has seem to form somewhat of a model for newer generations actresses, as some actresses have done characters based on a similar template portrayed by Hsuan. For example, although not as typecast as Hsuan has become, but actresses Myolie Wu and Taiva Yeung have both played strong intelligent and independent female lawyers in the following legal dramas: Leung, Tommy (Producer) *律政新人王 Survivor's Law*, TVB, 14 July 2003; Tong Terry Kei Ming (Producer) *怒火街頭 Ghetto Justice*, TVB, 30 May 2011 and Wong, Amy (Producer) *真相 The Other Truth*, TVB, 27 June 2011. Furthermore, Grace Wong, an even younger generation actress, has also reinforced the 'strong, intelligent and independent female lawyer' character when she portrayed a similar style lawyer in the legal drama Chan, Joe (Producer) *四個女仔三個BAR Raising the Bar*, TVB, 26 January 2015 based on this model. Another interesting point is that even Hsuan herself mentioned in a recent interview on a talk show, Liang Jian Heng (Producer) *今日VIP The Green Room*, TVB, 1 May 2017, that she has played a lawyer too many times, to the point that when people see her they only remember her 'lawyer roles'. Author translated.

This gendering of law in its feminisation of legal office – at least on television – suggests the emergence of a certain kind of ‘modernity’ in Hong Kong, one in which men and women are not only equal under the law and have access to it, but who participate in – in fact even direct – legal process as judge and advocate. This suggests that Hong Kong is not only a modern legal culture, but also a Western one. Yet one Hong Kong scholar, Wong Siu-lun, suggests that Hong Kong has only been ‘Westernised’ in a superficial sense, and in fact still remains traditionally Chinese.<sup>2</sup> This insight is the starting point for this chapter, which proposes to investigate the conundrum Wong points out: how traditional values persist in society generally and the media specifically, but are also confronted, contested and possibly renewed by and through the supposedly ‘modern’ regendering of the televisual ‘face of justice’, itself misrecognised as Western.

Historical and modern lawyers as actors of justice were explored in Chapter 2 and Chapter 3 discussed the ‘other courts’ as alternative forums for justice. This chapter will examine the personification of justice by examining Hsuan’s roles in two senses: first, the Western elements, dealing directly with modernisation in the context of the obvious changes roles of woman; and second, the Eastern influence, as even with obvious modernity, strong traditional Chinese values remain. However, that is not the entire story: it will be shown that there is a third factor in Hsuan’s portrayals – a conflict or East/West hybrid, projecting a conflicted site of justice. This chapter proposes to ‘out’ these ‘three faces of Hsuan’ and to show how this triad of traditional belief systems informs the legal professional characters the actress portrays.

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<sup>2</sup> Wong (1986), p 307. There is no doubt that Chinese tradition has had a dominant cultural influence in Hong Kong: even with the Western impact and internationalisation, Hong Kong culture remains distinctly Chinese. See Johnson (2016), pp 131–2.

This chapter analyses Hsuan's performance as a legal professional in both legal and non-legal dramas, and examines how Hsuan's characters in each television series can be viewed as the 'face of justice'. It looks at three different Hong Kong television dramas. The first is *The File of Justice IV*<sup>3</sup> and *The File of Justice V*,<sup>4</sup> a drama set in the late 1990s, but completed before the handover of Hong Kong's legal system to China in 1997. The second drama examined is *Golden Faith*,<sup>5</sup> a non-legal drama set in 2002, not long after Hong Kong's return to China – very much a time of uncertainty. The third and final drama explored is *Just Love*,<sup>6</sup> set in the year 2005; this series contrasts modernity and tradition, with the demand for rights becoming more obvious and a growing need for the rule of law. This tripartite structure is itself a story arc spanning a threefold 'plot' development: first, of modernity in *The File of Justice*, where Hsuan's character is introduced as exemplary of 'the modern'; second, a return to and of tradition in *Golden Faith*, where Hsuan's character partly embodies traditional 'values'; then, third and finally, as the emergence of a kind of hybrid in *Just Love*, where Hsuan is the contemporary split of Asia, modern in private, but traditional in public.

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<sup>3</sup> Tang, Gary (1995) *壹號皇庭 IV The File of Justice IV*, TVB, 11 September 1995. Note that there are five seasons to this series. I am only examining these two seasons in this chapter because Hsuan's character only appears in these two seasons.

<sup>4</sup> Tang, Gary (1997) *壹號皇庭 V The File of Justice V*, TVB, 10 March 1997.

<sup>5</sup> Leung, Tommy (2002) *流金歲月 Golden Faith*, TVB, 16 September 2002.

<sup>6</sup> Chong Wai-Kin (2005) *老婆大人 Just Love*, TVB, 9 May 2005. The sequel to this series was broadcast in 2009; however, it is another interpretation and is rejected as a misrepresentation. Even though the sequel has some very interesting changes in the roles, Hsuan's character has been somewhat overlooked due to a focus on other storylines.

## Western modernity

The Western influences examined in this section are: gender status; contrast of gender roles; reversal of traditional gender concepts and family hierarchy power and responsibility.

All the characters portrayed by Hsuan appear with a strong Western image, be it the magistrate who is Westernised in her professional and private life in the drama *Just Love* or the barrister who is conscious of rights and liberty in the drama *The File of Justice*.

This chapter begins with an examination of Western or ‘modern’ influence in these dramas. As a paradigmatic example of modernity, we can take Hsuan’s character Samantha Ching Yeuk Fai in *The File of Justice IV* and *The File of Justice V*,<sup>7</sup> introduced in the fourth season of the series. This was also Hsuan’s first lawyer role in her acting career. There are only three members in Samantha’s family, and they are all lawyers: her father, Victor Ching Lok Tin, is a Supreme Court judge; and her sister, Rachel Ching Yuek Hei, is also a barrister. Samantha appears to be strong and firm in what she believes, but she is also very cheerful and positive, with the ability to make the people around her happy. In short, she is a modern, well-adjusted woman of contemporary Hong Kong, Chinese enough to be close to her family, but Westernised enough to believe in equal rights. It is a classic characterological Hong Kong compromise that reflects reality to a certain extent in that it is now much easier for Hong Kong women to achieve the same status as men.<sup>8</sup>

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<sup>7</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, TVB, 11 September 1995; Tang, Gary (Producer) 壹號皇庭 V *The File of Justice V*, TVB, 10 March 1997.

<sup>8</sup> Hong Kong Government (2001). It has also been put forward that women no longer have to strive as hard to gain positions: see Vogel (2016); Olgiati (2016), pp 114–15.

This egalitarian access is evident in this series, where the status of women is either equal to, or higher than, that of men.

An interesting example would be the comparison between the status of Samantha and that of her boyfriend, Michael Kong, discussed previously in Chapter 2. As mentioned, Samantha comes from a family of lawyers. Michael also comes from a family of lawyers; however, his situation is quite different from that of Samantha, as Michael's mother is a Queen's Counsel, his younger sister is a barrister and he is merely a legal assistant. A hierarchy in reverse obtains here, proving how the feminine holds a higher position than the masculine, as it is quite clear that all the women who surround Michael enjoy a higher social status than him.

Greater contrast is seen in Hsuan's role as a Western-influenced judge than in her Western-influenced barrister role. The rise of feminism means that the traditional Chinese concept of female subordination, where women have very little to no status or power in society, has now changed, due largely to Western influence, so that women have more rights and play important roles in society today.<sup>9</sup> In Hong Kong, the traditionally 'male jobs' have also increasingly been occupied by women.<sup>10</sup> In the series *Just Love*,<sup>11</sup> there is an obvious reversal of traditional gender roles, be it the traditional concept of woman as subservient to man, or the notion that the man is the breadwinner with the female staying home in charge of all the household duties. For example, minutes into the first episode of the series, it is made clear that although

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<sup>9</sup> Hong Kong Government (2001). In the Western world, there have been more opportunities for woman: see Donald and Perry (2015), pp 3–4.

<sup>10</sup> Hong Kong Government (2001). Carole Shapiro points out legal businesses are still run by men despite marginal changes. See Shapiro (1994), p 957. In addition, more women taking on roles in the legal profession do not mean an instant standard of equality: see von Muenster (2015).

<sup>11</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, TVB, 9 May 2005.

both Hsuan's character, Ko Hei-Man, and her husband, Kot Kwok-Kwong, both have jobs, Ko is the one going out to work and her husband works from home.

The character of Ko is in bold contrast to traditional thought – as is evident in several ways. First, at the start of the series, she draws up a pre-marital contract for her husband to follow, amending it a few times to guarantee her status and maintain her power in their relationship.<sup>12</sup> Second, the fact that Ko is a magistrate is enough to indicate that women are gaining higher positions in society. Not only does Ko hold such a high position, but she is also very professional, as she carries out her duties as a magistrate very well and is known by the legal profession and the public to be the magistrate who always renders just judgments. Moreover, in this series Ko's role and that of her husband are totally reversed from the traditional concept. Not only does Kot fully act upon her instructions; he is also responsible for all the domestic chores: cooking, cleaning, looking after their six-month-old son, driving Ko to work every morning and working from home. Ko is only responsible for 'playing' with the baby whenever she has time. Finally, the first term in their pre-marital contract states that Ko does not have to live with her parents-in-law after marriage – in total opposition to the traditional Chinese concept of how members of a family must live together.

Remnants of Chinese tradition and patriarchy, however, are the reason for gender inequality in Hong Kong. A classic Chinese tradition that is often criticised is '男主外，女主内' (*Nan zhu wai, nu zhu nei*), 'men taking charge of the outer/public sphere and women taking charge of the inner/private sphere'.<sup>13</sup> However, Ko clearly

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<sup>12</sup> For the pre-marital contract, see TVB, *Just Love* official website, [http://tvcity.tvb.com/drama/just\\_love/contract/index.html](http://tvcity.tvb.com/drama/just_love/contract/index.html).

<sup>13</sup> Wong (2004), p 274. The role of husband and wife has been distinctly divided in traditional China; although expectations have changed, the traditional and modern roles of husband and wife coexist in contemporary marriages. See Li (2014).

does not have this problem, as the situation here is completely reversed. This reversal is also in complete contrast to the female modern lawyers mentioned in Chapter 2. Clause 1.5 of the pre-marital contract states the exact opposite to this traditional ideology. While the reversal of traditional gender roles is evident to the audience within the first few minutes of the series, there is one ambiguous point discovered here: the opening scene of the series shows Ko and her family – her husband Kot and her son Kot Yim Joe – in a car. Kot is in the driver's seat driving Ko to work, with Ko and Yim Joe seated in the back of the car. Moreover, the closing scene of the series shows the same situation: the Kot family all riding in the car, with Kot as the driver, and Ko and Yim Joe sitting in the back of the car. In this scene, it seems that Kot is the one in control, as he is 'driving' the protagonist on the show to her destination, both at the beginning and at the end.

The interesting thing about the reversal of tradition in this series is that there is something of a twist towards the end of the series. This turnaround occurs in the final episodes of the show, where some indication of the importance of the male character to the female protagonist arises. The final case of the show is a set-up by Yoyo Leung Sin-Sin – the prosecutor working under Ko's supervision – as she tries to take Kot away from Ko after her relationship with A.K. So Ah-Gei falls apart. As a result of the set-up, Ko is charged with the infliction of bodily harm. At first, Ko pleads guilty and apologises to Yoyo in court. Ko argues that she only pushed Yoyo as she was in a disturbed state of mind after finding out about various harms Yoyo had inflicted against her son and her husband, and did not intentionally hurt her. After hearing that Ko still had feelings towards him, Kot stood up in court and demanded that he wanted to be Ko's witness and tell the truth. By having Kot 'save the day' for Ko, the series,

once again demonstrates the traditional importance of men to women – as protectors, guardians and rescuers.

Contracts are drawn up to protect the parties involved; if one breaches a legally binding contract, legal consequences are involved. However, when one breaches a non-legally binding contract, the consequences may be even more complex, although they may not directly involve the law. In *Just Love*, a non-legally binding contract exists to ensure the protection of a rather unconventional marriage between Ko and Kot. At the beginning of the series, it is Ko who wants the contract, as she has no trust in marriage due to her dysfunctional childhood. Even though she is already pregnant with Kot's child, she will only agree to marry Kot if he is willing to sign the pre-marital contract she has drawn up. All the terms of the contract are, of course, in favour of Ko;<sup>14</sup> indeed, more clauses are added to the contract during the course of the show. Even though Ko is not unreasonable and is always just towards him, Kot breaches the terms of their contract. For example, clause 1.2 of the contract states that Kot's family is not permitted to stay overnight without Ko's permission, but due to a fight Kot's father decides to move to their house to stay, even though Kot does not get permission in advance. Ko does not reject this request.

Amendments to the contract are made on several occasions in order to protect the relationship between Ko and Kot. All is going well in this rather unorthodox union between Kot and Ko, with all Kot's actions carried out in accordance with the pre-marital contract, until Kot's childhood friend, the mischief-making lawyer, A.K. So, comes into the picture. After being out of touch for a long time, and within 24 hours of seeing this old friend, Kot makes his first mistake of breaching clause 1.4 of the

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<sup>14</sup> For pre-marital contract see TVB, *Just Love* official website, [http://tvcity.tvb.com/drama/just\\_love/contract/index.html](http://tvcity.tvb.com/drama/just_love/contract/index.html).

contract: he lies to Ko. This happens when Kot invites A.K. over to his house and accidentally spills a drink on the lounge, which is impossible to clean. Kot does not know what to do, so A.K. tells Kot to go out and buy a new, similar looking lounge and blame the mess on his son, Yim Joe.<sup>15</sup> Later, Ko learns the truth about the situation and feels that there is a need to add a clause to the contract not allowing Kot to meet A.K. in the future so as to avoid this adverse influence. When she asks Kot to sign the amended contract, she also asked him whether he needs independent legal advice before signing; but he says there is no need and signs the amended contract immediately.<sup>16</sup> Amending the contract certainly suggests Ko's 'modernism' because here she demonstrates that most modern of desires: wanting to secure her rights and power in her spousal life.

As the story develops, the pair eventually gets rid of the contract; after getting back together, and surviving a separation that threatens to turn into divorce, Ko feels she can trust Kot, so there is no need for the 'extra contract' between them anymore. However, as the contract is not legally binding, neither parties feel protected by it. So when they rescind this contract, Kot feels it is necessary for them to draw up a new contract, retaining its original terms, because only this sort of arrangement gives him peace of mind. This acuity is demonstrated in the closing scene, where Kot mentions that everything feels 'right' now that the contract is back in place. This scene also suggests that a contract provides a sense of protection for the male protagonist. As unreasonable as it may seem for the other characters – even the audience – the pre-marital contract gives Kot a sense of security.

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<sup>15</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 2, TVB, 9 May 2005.

<sup>16</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 2, TVB, 9 May 2005.

Traditional Chinese culture maintains that, in order to be a ‘good women’, one needs to personify the ‘Three Obediences’ and ‘Four Virtues’. ‘The Three Obediences’ are to obey one’s father at home; to obey one’s husband when married; and to obey one’s son after a husband’s death. The four virtues are ‘moral goodness, manners of speech and dress, and domestic work’;<sup>17</sup> furthermore, after marriage, it is a woman’s job to become a dutiful wife and mother.<sup>18</sup> As discussed above, the role of Ko as the professional superwomen in *Just Love* has been totally realised. On the flip side, however, she is depicted as a complete failure when it comes to fulfilling her role as a wife, mother and daughter-in-law.

An instance of this occurs when her father-in-law, having realised that she is not doing what she is ‘supposed’ to do as a wife, mother and daughter-in-law, plans to ‘train’ her, as he believed she is not a ‘real woman’ if she does not know how to do a ‘woman’s job’. At first Ko has no idea how to cook or look after her baby. This is demonstrated in a scene where she has to give her baby a bath, and she reads instructions from a book; in the end, the baby falls asleep, so she can’t give him his bath.<sup>19</sup> She also does not know how to feed the baby, but eventually she learns how to do all those ‘womanly duties’, thereby satisfying her father-in-law. There is even a stage in the series where Ko is willing to give up her job as a magistrate to stay home and become a wife because she feels it is more important to look after her family than to realise her dream of being a magistrate.<sup>20</sup> Thus the series reinforces the fact that, in the eyes of Chinese people, no matter how good a women is as a professional, she

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<sup>17</sup> Lee (1995), p 347-348.

<sup>18</sup> Lee (1995), p 347-348.

<sup>19</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 4, TVB, 9 May 2005.

<sup>20</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 11, TVB, 9 May 2005.

must fulfil her role as a dutiful wife and mother, and even daughter-in-law, to be a 'real women'.

Chinese tradition stresses that the oldest son should stay with his parents;<sup>21</sup> however, this is not practiced in this series. As mentioned above, there is a clear reversal of this situation in *Just Love*. Ko's husband, Kot, is the only and eldest son in his family. Kot's father even goes to the extent of building a house nearby so Kot and Ko can move in; but Ko still refuses, as the pre-marital contract clearly states that the couple will not stay with his parents after their marriage. As the first clause in the contract, according to Ko, this condition has priority as the most important contractual term. As mentioned before, although Ko is very strict in implementing this clause, she does allow all the members of Kot's immediate family to stay with them when they are having problems at home. This seems to suggest that Ko carries Western ideology with a hint of traditional Chinese familism.

A further example of Ko's 'Westernisation' – that is, having a more Euro-American than Chinese private life – occurs when she is fighting for her rights over the custody of her son. Due to a misunderstanding, as well as the intervention of a third party, the relationship between Ko and Kot is headed for divorce. They are both prepared to fight for custody of their son in court. Ko is warned that she will have less of a chance, as she has never really taken care of her son, but she strongly believes that nothing can stand between her and her rights to her own child, as she is his mother. In court, she says that although she may not have spent as much time taking

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<sup>21</sup> Ting (2002), p 619.

care of Yim Joe after he was born, nothing can replace the bond between her and her son, a bond formed during her pregnancy.<sup>22</sup>

As all this is happening in her personal life, Ko comes across something that is just as challenging professionally as a ‘hero-lawyer’, as described by Orit Kamir; it is a situation that demands she put the interests of her potential client or litigant first, subordinating her own – much like male attorneys often have to do.<sup>23</sup> For example, when Ko was due in court to defend her rights to her son, she was called upon to help save the life of a mentally disabled mother who wanted to commit suicide, as the court did not award her the custody of her child. The only person she could turn to and trust was Ko, so even though Ko would be late for her own matter, she rushed to help the woman and successfully saved her life with her moving appeal, petitioning for every mother’s right to care for her own child. Here Ko puts the interests of another person before her own: the rights of the client trump her own, and professional duty supplants private desire.

Scholars like Shi Yangping and Xu Ruzhuang suggest that modernisation can be traced back to ‘Western substance’.<sup>24</sup> That Western substance of modernity can be seen in role reversal of gender and age, where women may take preference over men, and the young over the old. For example, the character of Ko Hei-Man shows this role reversal in her strong sense of protection for herself and her mother, especially against men. This is made clear to the audience in the first episode of *Just Love*, when Ko’s mother, Diana, brings her date, Brian, home. He is clearly many years younger than Diana – maybe even Ko herself – which is why the moment he sits down, Ko starts to

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<sup>22</sup> Chong Wai-Kin (Producer) 老婆大人 *Just Love*, Episode 19, TVB, 9 May 2005. Author translated.

<sup>23</sup> Kamir (2005a), p 37.

<sup>24</sup> Shi and Xu (1993), p 113.

question him, as if she is examining him in court. First she asks whether he is trying to woo her mother, and when he answers, 'We get along pretty well', she asks him 'What do you mean by "get along pretty well"? Did you hear my question properly? I asked a yes or no question.' When he says, 'Maybe', she continues to question him about the number of women he has dated, how old he is and whether he could guarantee that his love would never change. Further, when he replies, 'How can I guarantee? I don't need to sign a contract, do I?' she then tells him, 'There is a lawyer I know'.<sup>25</sup> This scares him off temporarily; however, he calls Diana back immediately after he leaves Ko's sight.

When Kot comments that Ko should not interfere in her mother's relationship, Ko replies that she is only trying to protect her mother who, even though she is an adult, still does not know how to look after herself and is easily deceived by romance.<sup>26</sup> Later on, Ko tells Brian that she can accept him but only if he can promise to love her mother forever, backing that up in writing, as she does not accept oral contracts.<sup>27</sup> Even though Ko acknowledges that her mother is an adult, and she has no right to intervene, she further maintains that each family has its own rules. Therefore, instead of the mother being 'in charge' here, it is the daughter who calls the shots – a reversal of tradition, once again showing how Ko's private life is modernised and Westernised.

Ko's modernisation/Westernisation is very much reflected in her private life. For example, consider Ko's relationship with her father, from whom she is estranged, owing to his many adulteries and his betrayal of her mother. The relationship is so problematic that, after her parents split up, she refused to receive monetary support

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<sup>25</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 1, TVB, 9 May 2005. Author translated.

<sup>26</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 1, TVB, 9 May 2005. Author translated.

<sup>27</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 1, TVB, 9 May 2005. Author translated.

from his wealth. Nonetheless, no matter how much she hates him, her attitude towards her father changes when he is wrongly convicted of abuse. At the trial, she gives evidence to prove his innocence.<sup>28</sup> Ko's father is very happy with this and thinks they can patch up their relationship, but she tells him that she will not forgive him for what he has done to her mother and is only telling the court the truth about what she knows. This scene demonstrates, once again, that while she will do her utmost to ensure justice and equality in the legal system, she is far from acting under obligation to, or owing fealty towards, the traditional Chinese imperatives of filial piety.

Hsuan's characters illustrate a clear, modern embodiment of a Westernised woman, practising in the Western-orientated courts professionally, but also demonstrating Western traits in her private life with a total reversal of what is understood as the traditional role of Chinese women. Nevertheless, despite the Westernisation of the characters played by Hsuan, the traditional impact is still strong, obvious and consistent.

### **Eastern tradition**

The traditional Chinese values that will be discussed in this section are: hierarchy; balance of strictness and mercy; the essence of the Confucian judge; virtue of benevolence; filial piety and being family minded; the Taoist concept of judging in the right nature; accumulating righteousness and Buddhist precept of karma and goodness.

According to Shi Yangping and Xu Ruzhuang, antiquated beliefs are unsuited to modern society;<sup>29</sup> however, Hsuan's characters seem to suggest the opposite. There will be a threefold examination of traditional Chinese values; first, Confucianism and

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<sup>28</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 7, TVB, 9 May 2005.

<sup>29</sup> Shi and Xu (1993), p 118.

how its teaching supports and sustains official social structures; second, Taoism and how its teachings influence individual behaviour and beliefs; and finally, a brief discussion of how Buddhism assists and impacts on the beliefs and values one holds.

### *The Confucian impact*

An examination of the *degree zero*<sup>30</sup> of traditional Chinese values begins with Confucianism, situating that rich and complex system within the narratology of Hsuan's *oeuvre*. The character Dai Ji-Hung in *Just Love* – the superior of the character played by Hsuan – is a Western-educated judge holding traditional Chinese values previously introduced in Chapter 2; he is known to be just and proper. This illustrates what Marco Wan argues is a good hybrid, as the combination of Eastern and Western culture could enhance the potential of each.<sup>31</sup> Jessica Hsuan's character in *Just Love* is a further enactment of a fine East–West hybrid. Hsuan's character Ko Hei-Man is very much the modern protagonist: a magistrate in the still Western-oriented courts of Hong Kong, post-1997. With her busy career in law and stay-at-home, child-carer husband, Ko seems to be a thoroughly Western *Working Girl*,<sup>32</sup> juggling personal and professional commitments, post-patriarchy. Indeed, nothing could seem further from the patriarchal, hierarchical culture of Chinese Confucianism, and the legal regime it constructs.

For such a regime stresses, in codes like that of the Tang dynasty,<sup>33</sup> a hierarchy derived from Confucius's 'doctrine of natural superiority', which provides that among people, the stratification is as follows: 'the high over the low, the old over

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<sup>30</sup> Barthes (1972).

<sup>31</sup> Marco Wan (2014), p 97.

<sup>32</sup> Nichols, Mike (Director) (1998) *Working Girl*, 20<sup>th</sup> Century Fox.

<sup>33</sup> Chen J (1999), p 14.

the young and man over woman'.<sup>34</sup> Compare this traditional view of not only hierarchy, but *gendered* hierarchy, to the Hsuan series at hand. As the Chinese title of this drama series, 老婆大人 (*Lao Po Da Ren*), suggests, it is the wife who is in charge; hence, the reversal of not only traditional gender roles, but even gender power. When translated literally, the Chinese characters 老婆大人 mean 'my wife, your honour', a form of address that goes not only to her job as a magistrate in the courts, but also points to her position at home, each being one of honour. Driving this point 'home' is the fact that Justice Ko's English name is 'Honour' – although the audience does not find out about this until the sequel, and the only person who calls her by that name is her mentor. This seems to suggest that Ko herself is the very embodiment of 'honour': as an honourable wife, worker and person, superior in every sense – personal and public.

In *Just Love*, honour is a trait that woman can exhibit strongly, just as they can be – as Ko is described on the official website of this drama – 'strong and independent, fair and just, values law and discipline, impartial and just in court'.<sup>35</sup> These typically 'masculine' traits inform Ko's judging, as she is known for her justness and strictness in this series. Nicknamed by the other characters as '女釘官 (*Nu ding guan*)' – 'Nu' a Cantonese phrase meaning female; 'Ding guan' meaning she is inflexible – Ko is the type of strict judge that most barristers and solicitors do not want to appear before in court.<sup>36</sup> Furthermore, Ko is also referred to as the female

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<sup>34</sup> Bodde and Morris (1967), p 50.

<sup>35</sup> Television Broadcasts 'Just Love official website', [http://tvcity.tvb.com/drama/just\\_love/cast/index.html](http://tvcity.tvb.com/drama/just_love/cast/index.html). Author translated.

<sup>36</sup> 香港討論區 (loosely translated as Hong Kong Discussion Forum) '法律界的術語' (loosely translated as legal jargon), <http://www15.discuss.com.hk/archiver/?tid-2248692.html>.

version of Judge Bao by her husband's good friend and solicitor A.K. So<sup>37</sup> – not quite the 'hanging judge' of yore,<sup>38</sup> but one who suffers no fools gladly, who is fair, brisk and all about business. Taken together, this suggests that, at least as far as the law is concerned, woman can become man – that is, female judges can be just as no-nonsense and just as demanding as their male counterparts. In short, Ko as judge most definitely has, as the Lacanians would say, a metaphorical phallus.<sup>39</sup>

Though seen as masculinised, Ko cites 'the feminine' as her inspiration in the form of a female Greek deity, Themis<sup>40</sup> – the goddess of justice. Themis is even envisaged over and over again. This Western personified symbol of justice is idolised here, creating a hybridised Eastern site of justice; this is discussed in further detail later in this chapter. Consider this episode in the series about Ko's 'misspent youth' when, long before becoming a judge, young Ko was charged with infliction of bodily harm and tried by another female magistrate, Justice Wong Yuk-Lan.<sup>41</sup> Later Ko thanks Wong, bringing her a gift. Wong rebuffs her, telling Ko that there is no need to do so, as she was just doing her job – that is, Wong was being just. Significantly, this exchange takes place below the statue of Themis, with Wong telling Ko that she sees Themis as a role model. Ko then tells Wong that when she grows up she wants to become a 'just judge' just like her. This scene is not the only mention of Themis: when Ko is upset or unsure of things, she tells Yoyo Leung – the prosecutor who works under her supervision – that she likes to go and gaze upon the statue of Themis

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<sup>37</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 2, TVB, 9 May 2005.

<sup>38</sup> Isaac Charles Parker (15 October 1838–17 November 1896) served as a US District Judge presiding over the US District Court for the Western District of Arkansas for 21 years.

<sup>39</sup> Grosz (2002).

<sup>40</sup> Themis as the personified symbol of justice, see Donleavy and Shearer (2008).

<sup>41</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 3, TVB, 9 May 2005.

because it gives her confidence and power.<sup>42</sup> While Ko is confiding this personal story to Yoyo, both are captured on camera standing beneath the statue of Themis, looking up at it. This shot conveys and reinforces how much Ko, metaphorically as well as physically, looks up to this very visible face and form of justice – one in whose footsteps she wants to follow.

The focus on Themis – a Greek goddess – when coupled with Ko’s ‘modern’ lifestyle as a professional woman suggests that *Just Love* is reformulating its law in explicitly *Western* terms, both ancient (classical, Themis) and modern (Ko as *Working Girl*). However, traditional Asian values lie not too far beneath this Occidental surface. Take the example of sentencing: as seen in the representations of ancient justice in Chapter 2, in traditional China sentencing was set out in a series of law codes, with behaviour offensive to Confucian morality punished accordingly.<sup>43</sup> Penalties were often severe, but contrition and remorse were relevant to mitigation. The whole point of punishment was reformatory, even rehabilitative, indicating a morality of social harmony in which offenders were to be reintegrated into the social whole.

Although serving in a Western court, Ko enacts such ideologies when sentencing offenders. From the first case that she handles, Ko the magistrate is very strict and clear in her decisions. For example, when an offender is charged with committing a nuisance by spitting in a sewer, he initially is given a HK\$1200 fine; however, when he says that has been doing this for years and has never been in trouble before, Ko increases the fine to HK\$2000 on the grounds that he had shown no remorse and that a bigger fine will prevent him from making the same mistake

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<sup>42</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 3, TVB, 9 May 2005.

<sup>43</sup> Ren (1997), p.32.

again.<sup>44</sup> In another case, a female offender is quick to admit her guilt, wanting to know immediately how much she will be fined. Ko explains to her that the court is not only about imposing fines; it also wants her to know what she has done wrong.<sup>45</sup> So the audience comes to know, as does the offender, that the whole point of sentencing – and indeed punishment – is self-knowledge: the knowledge of one did wrong, and the way in which one can prevent wrongs in the future.

Thus, from the point of view of sentencing, Ko – like Judge Bao in *Justice Bao*, discussed in Chapter 2 – also looks like a Confucian judge. That is borne out by many of the official judicial traits and the other attributes she possesses, many of which turn out to be equally Confucian. Confucius's *Analects* gives guidance as to what constitutes a good judge and official. Broadly, Confucius propounded the importance of personal virtue in all those in authoritative positions,<sup>46</sup> judicial as well as bureaucratic. In order to show virtue, one should show benevolence, rightness and morality, and be an example for others to follow.<sup>47</sup> According to Confucius, there are five basic principles to becoming a 'gentleman official' or someone with authority: 'to bring people benefits instead of drudgery; to work for people without complaint; to pursue the right cause and not succumb to advancing self-interest; to promote prosperity without becoming arrogant; and maintain dignity and without being harsh'.<sup>48</sup> As such, officials are more concerned with 禮 *Li* not 法 *Fa*<sup>49</sup> – that is, the moral rules of behaviour, rather than the strict rules of law. Even when applying *Fa* –

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<sup>44</sup> Chong Wai-Kin (Producer) 老婆大人 *Just Love*, Episode 1, TVB, 9 May 2005.

<sup>45</sup> Chong Wai-Kin (Producer) 老婆大人 *Just Love*, Episode 1, TVB, 9 May 2005.

<sup>46</sup> Ding (2010), p xix.

<sup>47</sup> Chen (1999), p 5.

<sup>48</sup> When Confucius says 'Gentleman', it means a person who is able to act properly in accordance with his fundamental teachings: Tsang (1997), p 63.

<sup>49</sup> Chu (1965), p 230.

or law, narrowly conceived – to solve a conflict, the focus of the judge is on the restoration of order and a harmonious result,<sup>50</sup> rather than a formally correct decision.

In *Just Love*, Dai Ji-Hung – Ko’s superior – enacts this Confucian judicial ideology as much as, if not more than, Ko. Like the good Confucian he is, Dai is always very proper in his actions. For example, Dai constantly reminds Ko that, as judges, they have to act appropriately, setting a good example for others to follow and maintaining social harmony. Ko takes this dictum to heart. An example of Ko becoming a ‘gentleman official’ by ‘bringing people benefits instead of drudgery’ is the way in which her justice is not only confined to the courts but extends to just actions in everyday life.

One example will suffice: while on a shopping visit at the local market in her village, Ko became involved in a consumer case where, in a shop she patronises, a false advertising sign has been put up by the owner.<sup>51</sup> While going about her business, Ko is witness to a dispute between the shop owner and an older housewife who has bought preserved eggs that do not match the advertising sign. When this customer confronts the owner demanding her money back, he says that the small print in the advert is clear, and he is therefore under no obligation to her and the matter is closed. When Ko sees what is happening, she goes to the aid of the customer, reciting the consumer laws clause on misleading advertising with the result that the owner capitulates and the older housewife is recompensed. Not only is the older housewife thankful, but other housewives are as well, praising Ko for her courage and ability. This scene shows how the character of a strong woman is admirable, not only to a ‘modern’ audience but also to the older generation. Here Ko’s passion for justice is

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<sup>50</sup> Matthews (1999), p 27.

<sup>51</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 11, TVB, 9 May 2005.

very much in evidence, as she stands up for what she knows and believes to be right, helping those who are less capable to achieve equity in everyday matters. Further, Ko's interventions here honour the elderly, giving face to the aged and respecting Confucian hierarchies of seniority.

As a good Confucian judge, Ko is able to strike a balance between fairness and strictness. A good example of this in *Just Love* concerns a case of nuisance. The offender in that case is an old lady who has neither a job nor social security, and who makes money by collecting empty cans for recycling by going through public park rubbish bins.<sup>52</sup> While the offender sees nothing wrong with her actions, they clearly contravene the law. That breach, however, is overlooked – oddly – by Yoyo, who solicits sympathy for the offender by asking leading questions, including one pertaining to her husband as a paralytic. Ko buys into none of this soft sell, and ends up reminding Yoyo that she is not the defence counsel. Instead, Ko finds the offender guilty as charged, with Ko admonishing Yoyo that it is her mistake for not stopping the offender when spotted going through the rubbish bin that morning before court. Ko seems to be a strict literalist here: her view is that you commit the crime, you do your time. However, equally, she goes beyond this literalism, balancing it with mercy. For Ko does take into account the fact that the offender has financial difficulties and needs help with paying the penalty amount; Ko therefore uses the money from a fund provided by the Department of Justice to assist the offender.

For a Confucian official, especially a judge, magisterial dignity is all. This is why Ko is always very careful to ensure that, in her sphere of action, she does everything correctly. She is extremely attentive to proper procedure, as is evident in the first episode when her husband, Kot Kwok-Kwong, enters the courtroom bringing,

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<sup>52</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 3, TVB, 9 May 2005.

not only a file left behind by Yoyo but their baby, Yim Joe. When the two – father and son – are stopped by the bailiff and advised that babies are not permitted to enter the courtroom, Ko immediately reinforces this ban and says, ‘What kind of place do you take the court to be?’<sup>53</sup> She then orders the bailiff to take them outside, because Yim Joe has begun to cry. This demonstrates that although family is important to a Confucian, decorum and a sense of occasion trump even that.

A further example of the importance of protocol in the series involves Ko herself. Consider when she is erroneously charged with shoplifting, misrecognised by the shop as theft when she tries to hide behind a hand-picked book in order to evade her superior and sometime lover, Dai Ji-Hung.<sup>54</sup> This ‘offence’ happens during a time when her relationship with Kot is hanging by a thread due to many misunderstandings between the couple over third (Dai) and fourth (Yoyo) parties with whom each is supposedly conducting an affair. However, here no mercy or mitigation is given: when Dai goes to see his superior – Wong – about this case, he is told that it has to be dealt with carefully, as it is important for ‘justice to be seen’<sup>55</sup> by the public. As a result of this case, Ko is forced to take a break from her official duties in order for the ‘scandal’ to die down; hence the importance of proper actions.

Hierarchy is important in the Confucian value system, and it is on display and well evidenced in *Just Love*. In this series, the character of Ko is rarely ever seen to be ‘nice’ to Yoyo Leung, the prosecutor who works under her supervision. Indeed, Ko is stern with Yoyo, even sharp and strict – especially if she has done something wrong

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<sup>53</sup> Chong, Wai-Kin (Producer) *老婆大人 Just Love*, Episode 1, TVB, 9 May 2005. Author translated.

<sup>54</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episodes 16–20, TVB, 9 May 2005.

<sup>55</sup> ‘Justice to be seen’ seems to be the theme of the drama, as Dai Ji-Hung constantly repeats and implies the importance of ‘justice to be seen’; furthermore, this phrase also appears at the beginning of the theme song.

or made even a minor administrative mistake.<sup>56</sup> If an error was made in court, Ko would tell Yoyo immediately afterwards what she had done wrong and would remind her to remember her position as a court official, especially the limits of good behaviour. For example, at the beginning of the series, Yoyo leaves a file in the boot of Ko's car, an act of forgetfulness that gets her into big trouble.<sup>57</sup> Further, during court, Yoyo asks leading questions of self-represented litigants, even answering their irrelevant ones; in those situations, Ko takes over the questioning, and asks Yoyo to sit down.<sup>58</sup> Despite this, Ko is 'nice' to Yoyo when it comes to non-work-related matters; however, Yoyo's character looks up to Ko as more than a mentor, even viewing her as an idol – which the audience can also see during the opening of the first court scene where Yoyo is looking at Ko with admiration. Nevertheless, despite this adulation, Ko is never arrogant towards Yoyo – or any other subordinate in the series – which suggests that Ko is only trying to *instruct* Yoyo in a way that she deems best and most suitable. Therefore, a kind of master–servant relationship exists here – which is essentially Confucian in the way in which hierarchy is not only depicted as necessary but also as desirable, being embraced and even celebrated.

Despite being Western educated, Ko's character as a judge demonstrates her allegiance to Confucian concepts. As a barrister, she shows the same level of loyalty. Moving onto another Confucian ideology – benevolence – it is argued that this trait is illustrated by another character portrayed by Hsuan, this time in *File of Justice IV* and *V*: Samantha Ching, the character first introduced in Chapter 2. Samantha Ching bears the virtue of 仁 (*Ren*), benevolence, as she believes that no matter how wrong

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<sup>56</sup> Chong Wai-Kin (2005) *老婆大人 Just Love*, Episodes 1–3, TVB, 9 May 2005.

<sup>57</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 1, TVB, 9 May 2005.

<sup>58</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 3, TVB, 9 May 2005.

one's action may have been, nothing merits as extreme a punishment as the death sentence. Here, Samantha's attitude also reflects Hong Kong's previously Anglo-centric legal system.<sup>59</sup> Hong Kong has been governed by Britain, with its benign approach to allowing central democratic rights, allowing at least negative freedom – the right to be left alone – to flourish.<sup>60</sup> Such a system falls in line with, and indeed supports and sustains, *Ren* because it builds the 'quality of mercy' into the system.<sup>61</sup> For example, although Confucianists did not object to punishing wrongdoers,<sup>62</sup> they also believed that punishments should be relaxed: small faults should be forgiven and criminals, in such cases, pardoned.<sup>63</sup> Samantha demonstrates the influence of this concept when, upon discovering that Phillip has been given the death sentence in Singapore, she helps him by arranging for a defence, claiming that there should not be such extreme punishment.<sup>64</sup> This aid and assistance gives the impression that, deep down, Samantha is greatly impacted by traditional Chinese values in her abiding belief in justice, which has a significant degree of influence on the way she behaves as a legal advocate.

When acting as a magistrate, Ko Hei-Man is a loyal believer in Confucianism and a more positive portrayal is shown in her role as a barrister: not only is she a believer; she also seems to be critiquing the way Confucian notions should be carried out. According to Confucian teachings, while one should be filial, it is also important not to be blindly loyal to one's parents, as this is not the correct way to be filial.<sup>65</sup> This

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<sup>59</sup> Capital punishment was abolished in Hong Kong in 1993: see Zimring et al. (2010), p 1.

<sup>60</sup> Lee (2001), p 43.

<sup>61</sup> Chen (1999), p 7.

<sup>62</sup> McKnight (1981), p 5.

<sup>63</sup> Gunde (2002), p 9.

<sup>64</sup> Tang, Gary (Producer) *壹號皇庭 IV The File of Justice IV*, Discs 5–6, TVB, 11 September 1995.

<sup>65</sup> Johnson (1979), p 12.

point was previously made in Chapter 2; it is a good example of how the beliefs and behaviours of a modern lawyer are influenced by this Confucian concept. Under the Confucian influence of *Xiao*, or filial piety, the maintenance of family values is deemed a paramount virtue.<sup>66</sup> Traditionally, the Chinese people have a strong feeling for kin, being very ‘family-minded’.<sup>67</sup>

This orientation towards the familial group is very evident in the non-legal drama, *Golden Faith*.<sup>68</sup> Hsuan’s character in this series, Rachel Ching, is a barrister who has returned to Hong Kong from Australia after breaking up with her previous boyfriend, now ‘outed’ as gay. Joining Hong Kong’s Department of Justice as a prosecution lawyer, Rachel meets protagonist Ivan Ting. This is the second time they have met, for they first encountered each other in Australia while he was on a business trip; during that first meeting, they began to develop feelings for each other. Recalled suddenly to Hong Kong to help sort out family issues, Ivan finds himself charged with handling stolen property, and to his surprise is arraigned before a court that includes recently the returned Rachel as the prosecutor.

Despite his legal difficulties, Ivan’s character in *Golden Faith* is a clear demonstration of Confucian filial piety and the family-orientated man. Although it is almost never his fault, every time his family is in trouble with the law, Ivan always seems to take the blame for someone else, especially a family member: his father, his brother and so forth. In one episode, he is charged with handling stolen goods.<sup>69</sup> This charge arose out of his father, Ting Wing Bong’s, previous involvement in a ‘black market’ business, collecting illegal gold. Ivan had nothing to do with the business; he

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<sup>66</sup> Bodde and Morris (1967), p 39.

<sup>67</sup> Ren (1997), p 27.

<sup>68</sup> Leung, Tommy (Producer) *流金歲月 Golden Faith*, TVB 16 September 2002.

<sup>69</sup> Leung, Tommy (Producer) *流金歲月 Golden Faith*, Episode 1-3, TVB 16 September 2002.

wanted to help his father, who was sick – another clear instance of Ivan’s filial piety. Ivan is found not guilty of the charge because, in court, Rachel – despite her feelings for him – performs her role justly, even cross-examining Ting Wing Bong to the point where he admits to his previous breaches of the law.<sup>70</sup> After the court is adjourned, Ivan and Rachel meet in the car park, where she congratulates him on winning, while he says he was telling the truth.<sup>71</sup> Later Rachel will come to accept that Ivan was only involved in this business for his father’s sake – a fact that she still finds difficult to sanction. This is because she draws a line here: although a good Confucian, she clearly believes that filial piety does not make the obstruction of the administration of justice right.

### ***Taoist influence***

Taoism has a similar extent of impact to Confucian teachings. While Hong Kong has been very much under the shadow of China, it has equally been within the sphere of another influence: English law. Hence the influences of both traditional Chinese culture and of English Common Law have been felt within the territory, and among its inhabitants.<sup>72</sup> These influences are reflected in Samantha Ching in *The File of Justice*, when she considers how Western notions of rights, as encoded in Hong Kong’s Bill of Rights,<sup>73</sup> introduced in 1991,<sup>74</sup> established and heightened rights-sensitive awareness in Hong Kong. Samantha reflects this new rights-consciousness, holding that every person has a right and freedom to do whatever they choose, and that this autonomic liberty should be respected by others. Although Samantha has

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<sup>70</sup> Leung, Tommy (Producer) *流金歲月 Golden Faith*, Episodes 2–3, TVB 16 September 2002.

<sup>71</sup> Leung, Tommy (Producer) *流金歲月 Golden Faith*, Episode 3, TVB 16 September 2002.

<sup>72</sup> Wang (1997), p 277.

<sup>73</sup> Lee (2001), p 141.

<sup>74</sup> Chapter 383 Hong Kong Bill of Rights 1991.

been influenced by ‘Western’ notions of autonomy, she also holds traditional Chinese beliefs.

For instance, Taoism believes that, regardless whether the matter is straight or curved, one should look at all things in the light of their right nature. Further, this power of judgment is within oneself.<sup>75</sup> Samantha demonstrates the influence of this Taoist ideal in three cases she defends and wins. The first is her defence of her boyfriend, Michael Kong, in court:<sup>76</sup> although she knows he is guilty of threatening Kelvin, she also knows that Kelvin was involved in the death of a mutual friend. So Samantha elects to defend Michael, thereby judging his case in its right light, and exercising her inner sense of ethics.

In a second case, Samantha chooses to represent an accused even though she knows she is guilty of manslaughter; she does so not only because the accused is raising the daughter of the victim, but because the actions of the victim led to his own death.<sup>77</sup> Therefore, what at first seems to be a simple open and shut case of guilt becomes a far more complex case of guilt and forgiveness, transgression and expiation when seen from another vantage point and through independent judgment. Finally, when representing a battered woman who killed her husband, Samantha sympathises with the wife, feeling the husband deserved his fate, as he not only beat his wife but he also tried to rape his daughter.<sup>78</sup> All these instances of judgmental revision – of revisiting as complicated what at first seems simple – suggest that

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<sup>75</sup> Creel (1970), p 4.

<sup>76</sup> Tang, Gary (Producer) *壹號皇庭 V The File of Justice V*, Disc 10, TVB, 10 March 1997.

<sup>77</sup> Tang, Gary (Producer) *壹號皇庭 IV The File of Justice IV*, Discs 10–11, TVB, 11 September 1995.

<sup>78</sup> Tang, Gary (Producer) *壹號皇庭 V The File of Justice V*, Discs 19–20, TVB, 10 March 1997.

Samantha finds justice for her clients to the best of her ability, as guided by the Taoist concept, seeing matters from their inherently right and natural perspective.

Samantha's belief in, and respect for, her right to judge is demonstrated in a case portrayed in *The File of Justice V*. This right and natural perspective promoted by Taoism – has consequences for, and impacts upon, rights – here not as much Western civil and political liberties, as the more Sinic – indeed Taoist – conception of the right to judge correctly by either taking up a just cause or dropping a tainted one – in short, judging it and finding it wanting. Here Samantha rejects a guaranteed easy win, as she is not impressed by the client's attitude.

This case was originally handled by Samantha's good friend, Catherine Au, but the client rejects her on discriminatory grounds, owing to rumours of Catherine being a lesbian; with the result that Catherine passes the case to Samantha.<sup>79</sup> This client – a male, divorcing his wife and wanting the custody of his children – is very disrespectful to Samantha, being not only homophobic (as he was to Catherine) but misogynistic (as he is to Samantha), for he has no respect for women in general. Upon discovering the way this man thinks and how rudely he comments on gender issues, Samantha immediately drops the case, refusing to take him on as a client, a fact that she communicates with high humour to him while swimming in the pool at home, where he is denuded of his wig – kept by Samantha as a trophy, which she later gifts to Catherine. Not the first time in the series, male vanity is pricked by Samantha, who insists upon prosecuting a sexual harassment against a man whose principal defence is the vain claim that the female complainant was too 'ugly' to attract his attention.<sup>80</sup>

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<sup>79</sup> Tang, Gary (Producer) *壹號皇庭 V The File of Justice V*, Disc 2, TVB, 10 March 1997.

<sup>80</sup> Tang, Gary (Producer) *壹號皇庭 IV The File of Justice IV*, Discs 1–2, TVB, 11 September 1995.

Samantha makes short shift of this specious claim in court, exposing him as the perverse voyeur he really is.

Taoists say that benevolence is not simply something to be shown on the surface; rather it should be set inside one's heart.<sup>81</sup> The Taoist teaching also maintains that 'accumulation of righteousness' by doing what ought to be done is the practice of virtue.<sup>82</sup> Samantha performs this virtuous concept in a case where she helps out a friend of an acquaintance, and later boyfriend, Michael Kong. This case occurred in Singapore where a friend of Michael, Phillip Law, is charged with murder.<sup>83</sup> Samantha coincidentally bumps into Michael while both are staying at the same hotel in Singapore. Michael is in Singapore trying to patch things up with his girlfriend, Susan Tong, while Samantha is there for a friend's wedding. Once Samantha and Michael get talking about Susan, they become friends and join forces when Susan goes missing and Phillip is charged with her murder. Samantha visits Phillip, trying to get him to tell them everything, as he is holding back a lot of information and seems unwilling to tell the whole truth. Samantha does all she can to help; she even extends her stay to try to help. Although in the end Phillip is found guilty and hanged, the extent to which she went to his aid in this case clearly shows that Samantha holds this virtuous concept, as set out by Taoism, because her benevolence is well and truly embedded in her heart, going above and beyond all duty, aiding and abetting not only a friend, but a friend's friend (Michael), and even a friend's friend's friend (Phillip).

Rights are not simply a Western-influenced concept; Taoists also promote similar notions. Samantha in *The File of Justice* displays the Eastern influence of this

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<sup>81</sup> Graham (1989), p 113.

<sup>82</sup> Bodde and Fung (1976), pp 78–9.

<sup>83</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Discs 5–6, TVB, 11 September 1995.

concept by upholding good virtue. Although not discussed in as much detail as Confucianism and Taoism, the Buddhist impact cannot be under-estimated either.

### ***Buddhist elements***

Some Buddhist elements are present in the various series – especially the notion of karma, which was discussed in Chapters 2 and 3. Karma, or ‘cause and effect’ and the ‘right way’ of doing things, is one of the central Buddhist teachings.<sup>84</sup> Samantha also displays belief in such teachings. When Samantha’s family learns the truth about the villain lawyer Kelvin Fong and how he has been sent to prison, her father, Victor Ching, becomes upset.<sup>85</sup> There is a scene where the family discusses the outcome of Kelvin’s actions. The scene begins with Samantha serving tea to both Victor and Rachel in order to cheer them up. Samantha tells them not to be so upset, as she believes that Kelvin really does respect Victor. Victor says that he cannot believe he judged this person wrongly; he says that one can be a good person and have a bright future but choose the wrong path. Samantha then goes on to say, ‘It is hard to say; many people have different views of the value of life. Since he chose that path, he should know what the ending is.’<sup>86</sup> It is evident from this discussion that Samantha believes in the teaching of karmic ‘cause and effect’ and, even more significantly, that one should bear the consequences of what they have chosen to do. In short, the karmic cycle must play itself out, with Kelvin accruing the right punishment for the many wrongs he has committed in his life: that is death – and a particularly grisly death in a dramatic police shoot out at that, with his bullet-ridden corpse collapsing on screen.

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<sup>84</sup> Matthews (1999), pp 136–40.

<sup>85</sup> Tang, Gary (Producer) *壹號皇庭 IV The File of Justice IV*, Disc 16, TVB, 11 September 1995.

<sup>86</sup> Tang, Gary (Producer) *壹號皇庭 IV The File of Justice IV*, Disc 16, TVB, 11 September 1995.  
Author translated.

Although in an obvious sense Hsuan's characters model many modern attributes – busy careers, up-to-the-minute fashion, some attitudes of independence and so forth – tradition seems to have a firm hold on them in silent yet noticeable ways: as Confucianist, as Taoist, as Buddhist.

### **Conflict or hybrid: Site of justice**

The hybridised but at times conflicted East and West concepts examined in this section are: clashing with traditional authority; the Confucian moral injunction for women; *feng shui*; to not tolerate evil and act of righteousness.

Embodiment of justice in the Eastern world is similar to the Western personification of justice in the form of Themis. A strong emphasis on Themis forms a standard for the hybrid of the Eastern embodiment of justice. Having established the fact that Hsuan's various characters come to embrace the Confucian, the Taoist and the Buddhist, this chapter now turns to the theme of the modernity–tradition dialectic. The Westernised characters portrayed by Hsuan appear to conflict with tradition; however, it is suggested that East and West are collaborating as much as they are conflicting, hence forming a hybrid that brings out another site of justice.

Various series also represent many animistic beliefs and folk beliefs – if only to critique them. They do so by depicting Ko as a kind of Chinese Antigone,<sup>87</sup> standing up to traditional Chinese values as embodied in village elders and their temple followers. For example, in a scene from *Just Love*, Ko clashes with patriarchal and traditional village authority. The villagers are celebrating the lighting of the candle for Ko's son, a ceremony that takes place when a newborn child in the village

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<sup>87</sup> Ko's actions are beyond what is expected of her by the members of the village. This is like Antigone, determined to do what is not expected of her as a sister, as a woman in her time and standing up against the majority, the ruler. See Eastman (2016), pp 211–13.

turns six months old. Ko, however, puts a member of the village clan on trial,<sup>88</sup> and later the villager turns the table on Ko, charging her with the very charge she brought against him in court, accusing her of wrongdoing.

Here there is a clear demonstration of traditional values in conflict with modernity: although women are forbidden to enter the ancestral temple, Ko does so. Further, she does not find anything wrong with that ‘transgressive’ entry, as there are no posited ‘laws’ against her actions. All she has done is breach the village conventions; however, such customary laws are valid in Hong Kong’s New Territories even today.<sup>89</sup> Ko is ‘put on trial’ by the village elders, and questioned under and on the traditional value of 三從四德 (*San chong si de*),<sup>90</sup> a Confucian moral injunction for women that translates as ‘obey the three men: father, husband, son’. In addition, there are the four virtues: morality 德 (*De*), physical charm 容 (*Rong*), propriety (appropriateness) in speech 言 (*Yan*) and efficiency in needlework 功 (*Gong*).

By putting Ko – the embodiment of Western legalism – on trial due to the breach of traditional ideology, this scene illustrates the clash between Western legalism and traditional Chinese values. Here Ko represents Western jurisprudence and its newly discovered feminism, with women objecting to and challenging traditional patriarchy. Further, this traditional patriarch has a corrupt element, as he set Ko up, provoking her to act by pinching the baby. Therefore, she is a victim as well as a perpetrator. Thus the offence of Ko is actually induced and repeated here, with the judge being, ironically, judged in what might be called the ‘trial scene’. For

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<sup>88</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 1, TVB, 9 May 2005.

<sup>89</sup> Porsdam (2002), p 503; Evans and Tam (1997), pp 161–7.

<sup>90</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episode 1, TVB, 9 May 2005.

example, the way she is seated in this scene is like in a trial in court, but she is being put on trial by the community. The *mise-en-scène* of this trial – of old and new décor; – also heightens the sense of value collision; for example, the audience can see the ancestral worship cabinet in the background, which may be an indication of the ancestors looking at how their descendants are carrying on (or not) this valuable tradition.

Traditionally in China, the rights and roles of women were severely circumscribed by cultural values that promoted patriarchy and the subordination of women. This explains the recent collision of women's rights, as they have developed in the modern world, with the traditional cultural values.<sup>91</sup> Ko's search for justice or equality is based on the contemporary Western education and the Western-inspired Common Law of Hong Kong, not the traditional cultural rules or values held by the members of the village. In this situation, there is a clear dramatisation of the conflict between the rights of women and the code of conduct laid down by the traditional cultural rules.

Although often seen as *the* post-modern city of East meets West hybridity, Hong Kong still remains *essentially* Chinese.<sup>92</sup> This also applies to the character of Samantha Ching in *File of Justice IV*. Take the example of *Feng shui*: unlike the way it impacted some of the modern lawyers discussed in Chapter 2, Samantha has an interesting two-sided belief in spirits. In the first instance, she evidences disbelief, which is all too obvious when, in one case, she acts for applicants who sue for breach of contract against a respondent who has left without paying rent, arguing that the

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<sup>91</sup> Samuels (1999), p 707.

<sup>92</sup> Wong (1986), p 306 and Johnson (2016), pp 131–2.

rental property had ‘*feng shui* problems’ and was full of ‘dirty spirits’.<sup>93</sup> During cross-examination, Samantha asks the respondent to explain in detail what he means by ‘dirty spirits’. Here, there is a clear change in voice, attitude and mode of speech of the respondent, with him starting to sing old Cantonese songs, indicating that a spirit has taken over his body. In the end, due to a lack of evidence, the respondent loses the case. While walking out of court, Samantha tells Raymond Chau – the respondent’s solicitor – that if his friend needs a psychologist, she could introduce him to one. Although there is a clear suggestion that spirits exist, Samantha dismisses any such claim, not giving the matter a second thought. She is the perfect modern rationalist.

On the other hand, while with Michael Kong and Ben Yu in Singapore in search of Susan Tong, Samantha shows another, more fideistic, side. This belief is boldly dramatised when Samantha’s private detective friend takes them back to the place where Susan was killed, a sequence that is cross-cut with flashbacks so that – the audience – and they, as well, find out how Phillip asked Susan to traffic drugs to the United States for him. While re-enacting what happened to Susan, Samantha and Ben Yu are told by the police that they suspect Susan found these drugs and refused to assist Phillip in their trafficking.<sup>94</sup> At this point, none of the parties concerned know where she was killed, but suddenly Samantha looks at the place where Susan was killed, and says ‘here’. She walks towards the location, feels the death, sees a pigeon about to fly away, then while walking away herself says, ‘That’s where Susan is killed’.<sup>95</sup> These two scenes contrast Western and Eastern influences, the former evinced in Samantha’s rejection of Chinese spiritual values – such as *feng shui* – and

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<sup>93</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Discs 7–8, TVB, 11 September 1995.

<sup>94</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Disc 16, TVB, 11 September 1995.

<sup>95</sup> Tang, Gary (Producer) 壹號皇庭 IV *The File of Justice IV*, Disc 16, TVB, 11 September 1995.

Author translated.

the latter demonstrated in her enactment of a kind of spiritual channelling, a ‘medium’-style forensics.

The influence of Chinese folk wisdom is touched upon throughout the dramas – for example, there are many sayings that guide Hsuan’s character in the selected television series. One such saying is ‘姑息養奸’ *Gu xi yang jian*, ‘to tolerate evil is to abet it’.<sup>96</sup> Similar to the character Catherine Au from *The File of Justice*, discussed in Chapter 2, the influence of this saying is displayed, in at least one instance, by Rachel Ching in *Golden Faith*. Rachel, is a strongly independent and self-righteous woman, serious about her work and absolutely committed to justice. Even when criticising someone, she uses objective evidence rather than subjective bias to support her criticism. Rachel also believes that people should bear responsibility for their own actions; this belief is evident when she tells a colleague that ‘just because the father committed a crime it doesn’t mean the son has committed crime’.<sup>97</sup>

Rachel demonstrates the concept by advising Ivan Ting in no uncertain terms that the person who committed the crime should bear the consequences. This moment of wisdom occurs when Ivan again breaches the law for filial piety. Ivan is called to the police station after witnessing the assault of an officer. Ivan points out the suspect, only to discover later that he is an illegitimate son of one of his father’s old friends.<sup>98</sup> In order to save his father from any possible disgrace, Ivan withdraws his testimony on the day of the trial, claiming that he cannot remember who is the actual offender. Abby Yik, the prosecutor, threatens him with perjury and obstruction of justice.<sup>99</sup>

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<sup>96</sup> IPC Editorial Board (2015), p 102.

<sup>97</sup> Leung, Tommy (Producer) *流金歲月 Golden Faith*, Episode 2, TVB 16 September 2002. Author translated.

<sup>98</sup> Leung, Tommy (Producer) *流金歲月 Golden Faith*, Episodes 4–8, TVB 16 September 2002.

<sup>99</sup> Leung, Tommy (Producer) *流金歲月 Golden Faith*, Episode 8, TVB 16 September 2002.

When questioned by Rachel, Ivan says he is doing what he has to do, abruptly walking out of the courthouse. Rachel chases after him and questions his actions, finding it hard to believe that he knew who the accused was at the police station, but does not know him in court. Rachel suspects that Ivan is being pressured or trying to protect someone's interest – that someone being Ivan's father. She tells Ivan that if his reason for perjury is his father, then he doesn't owe him anything because it is his father's responsibility to nurture *him*, not the son's responsibility to protect the father. She urges him to tell the truth and let those who have done wrong bear the consequences of what they have done. She points out to Ivan that not only is it unfair for him to do so, but wrong, as people should know that they need to be responsible for the wrongs they have committed. Then Ivan asks for forgiveness. Rachel says, 'You've been educated so much I don't believe you don't know the meaning of "tolerating evil is to abet it". You said you can choose so why spoil it – it's not filial, its stupidity.'<sup>100</sup> She stresses that if he chooses to abide by those misguided actions, then she must stick to her principles and will have to leave.

Like the two barrister characters portrayed by Hsuan – Samantha Ching and Rachel Ching – Chinese sayings also guide her portrayal of a judge. Drawing on the point previously made by the historical judge Shui Tung-Lau in *The Gentle Crackdown* and the modern lawyer Catherine Au in *The File of Justice* from Chapter 2, the Chinese saying: 大義滅親 (*Da yi mie qin*), 'placing righteousness above loyalty to one's family, or sacrificing ties of blood to righteousness', also impacts on the beliefs and behaviour of Ko in *Just Love*.<sup>101</sup> The 'justness' of Ko is further

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<sup>100</sup> Leung, Tommy (Producer) *流金歲月 Golden Faith*, Episode 8, TVB 16 September 2002. Author translated.

<sup>101</sup> IPC Editorial Board (2015), p 61.

illustrated by her embrace of this concept of righteousness, even to the point of it prevailing over family connections.

Ko maintains this concept during the case where she is the magistrate and her father-in-law is a witness.<sup>102</sup> His friends are charged with illegal gambling, with her father-in-law coming out to say that they were not gambling but only playing *Mahjong*<sup>103</sup> – a form of ‘exercise’ prescribed by the doctors to prevent ageing and memory loss. He continues that if these friends are guilty, then he is also guilty, as he picked up a tile for his friend and won that game for him. Having heard this, Ko warns her father-in-law to be careful with his words; however, he ignores this warning. Despite the fact that it was not a serious offence, Ko charges her father-in-law since he has ‘confessed’ during his testimony, and then fines the rest of his compatriots. When her father-in-law hears this ruling, he is very angry and argues that she does not have the right to charge him due to their relationship. However, Ko maintains that, in her court, righteousness prevails over familial relations. Although it is her role and responsibility as a magistrate to always be objective – a keystone of the Western rule of law, this Chinese idiom still influences the way in which she judges – again, a blend of the West (the rule of law’s objectivity) with the East (righteousness triumphing family relations).

Traditional aspects may appear to be the point of conflict at first, but they are in fact the underpinning method of resolution of problems that arise. Traditional Chinese values are asserted at point of crisis, further emphasising the fact that this embodiment of justice comes as a hybrid of East and West.

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<sup>102</sup> Chong Wai-Kin (Producer) *老婆大人 Just Love*, Episodes 1–2, TVB, 9 May 2005.

<sup>103</sup> A Chinese game played by four people using three different types of numbers and other symbols on tiles.

## Conclusion

In this chapter, a hybridised face of justice that is feminine has been presented, particularly a femininity that, in the characters Hsuan portrays, confront Chinese values and spirituality under the sign of law. One obvious problem, however, is that Hong Kong's legal system is Western; hence the judge and barrister abide by, and give obeisance to, the Western system. This, of course, is the same problem faced by the modern lawyers in Chapter 2, but this does not interrupt the consistency of the strong influence of traditional Chinese values. Likewise, with Hsuan, all her characters eventually and in many ways – some limited (Samantha), some extensive (Ko), some in between (Rachel) – demonstrate Eastern values and ideologies.

Although the magistrate character Ko Hei-Man is a modern woman, who is in charge of everything in her unconventional marriage, as the magistrate in court, she is also like the female version of Judge Bao because of the impact of Confucian values on her. Samantha Ching in *The File of Justice* and Rachel Ching in *Golden Faith* are barristers in both series. Each is an individualist, fighting for what is right against the system, and in their respective ways, both seem to be very modern and very Westernised. To that end, they both are strong on rights – not only against the legal system where they take up sexual harassment cases, but also the right to love where they choose, be it a gay boyfriend or be a man who continuously challenges the law and their principles. Nonetheless, both these characters have a bedrock that is fundamentally Taoist, as what they choose to do turns on what is right as individuals, even if the law is not on their side at first.

Hsuan's characters – Rachel, Samantha and Ko – and the characters around them show the collision of traditional Chinese ideology with modern education on their behaviour and belief in justice and equality. Throughout this chapter, it has been

argued that Hsuan's various roles as lawyer or judge can carry out, enact, even personify justice. No matter when the dramas were produced or where they were made, there is a strong belief in all of them in the just and fair actions of Hsuan's characters. The continuity of theme is also a very interesting in light of changes in production from the time extending from colonialism (pre-1997) to the transfer of sovereignty (1997) to the post-1997 era of the Special Administrative Region of Hong Kong. Changes like these are registered in the series – but subtly, even trivially, like the matter of names. For example, the first two characters Hsuan portrays both have English names and are referred to in the shows by their English names: Samantha Ching in *The File of Justice* and Rachel Ching in *Golden Faith*. But in the more recent *Just Love*, the audience only finds out about Ko's English name – Honour – in the sequel, and even then only one person calls her by her English name.

This simple question of nomination is an illustration in microcosm of the waning of Western influence during the post-1997 period, and the continuation – at least to a certain extent – of Chinese influence since then. That said, Hsuan persists and in fact triumphs, and the repeated casting of this actress as a modern woman lawyer, upholding Western legality with the skills and beliefs gained from her modern education, tempered by traditional wisdom of Confucianism, Taoism and Buddhism, demonstrates that she is truly the hybrid face of justice in Hong Kong television drama.

## **Chapter 5**

### **Conclusion**

Hong Kong legal and non-legal drama has set a stage for law's moving image, depicting the continuation and uninterrupted consistency of traditional Chinese values. Through this platform, the audience is able to understand the extent of the impact of traditional Chinese values in each character's professional and private life. The stories may be fictitious, but the traditional Chinese values and the messages conveyed by these Hong Kong legal dramas are certainly not, as they have demonstrated how past traditions walk people through the new era. It may seem that China reclaiming sovereignty has also brought a resurgence of traditional Chinese values to Hong Kong, but (fictional) reality demonstrates that these traditional Chinese values have always followed the people of Hong Kong, even under British control. Hong Kong fiction showcases past traditions in a new era, in the hope that it will lead to a renaissance, bringing back a neat balance between old-school practices and new-age beliefs, and also bringing us the refreshed tradition. While the law tells us what behaviour is legally correct or legally wrong, traditional teachings and traditional values can set a different and even more basic set of rules to determine right and wrong from a much earlier stage in life (not having the limit of being juvenile).

Hong Kong television demonstrates law and lawyering's projection of traditional Chinese values. A close and detailed examination of legal and non-legal Hong Kong dramas reveals the same underpinning theme of justice across the chapters: first, historical and modern lawyers as actors of justice in Chapter 2; second, the 'other courts' serving as alternative forums for justice in Chapter 3; third and finally, Hong Kong actress Jessica Hester Hsuan as a personification of justice in Chapter 4. However, not only is there the same theme of justice; more importantly,

there is a consistent impact of traditional Chinese values. Change of production time, era, setting of drama, gender and the type of practice of the central lawyer protagonist have not interfered with the inheritance and preservation of traditional Chinese values; this endurance is illustrated throughout the chapters in this thesis.

Fighting for justice is it simply not enough, hence it is worth noting that the process and outcome of justice have been transparent in Hong Kong legal fiction, with the audience able to capture the full story from beginning to end. Discovering justice in Hong Kong legal dramas is not difficult; justice surfaces or is reinforced each and every time with the help of traditional Chinese values. Furthermore, there is no doubt that this form of justice will continue in Hong Kong legal dramas.

References to popular culture are not unusual. For some, it is habitual – many have been inspired by something ‘seen on television’ – at least once.<sup>1</sup> As mentioned by Daniel R. Fung in Chapter 2, entertainment may seem to have a greater impact on our learning than our usual educational schedule.<sup>2</sup> Popular legal culture forms a visual and rather elaborate guide to rules and outcomes, be it reward or punishment, obvious or subtle. Hong Kong legal drama serves as a kind of classroom for learning, although this form of studying is more entertainment than education. However, there are positive outcomes, as it is known that fictional characters can have an influential impact on the audience.

The messages behind the themes examined through the Hong Kong legal and non-legal dramas are positive. Watching Hong Kong legal dramas (and non-legal dramas) can enable one to reconnect with tradition, as the promotion of traditional

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<sup>1</sup> Referencing popular culture enhances understanding and makes the learning process easier for students. See Olsen and Dupin-Bryant (2016). In addition, films also refer other films. See Storey (2015), pp 67 and 204.

<sup>2</sup> Fung (1996).

Chinese values almost prompts a reconsideration of one's own behaviour (and even thoughts). It is suggested that these fictional stories help us to remember and reconnect with the 'goodness' within ourselves that we may have lost without realising it. As pointed out previously, these fictional legal dramas have many errors and inaccuracies, but they try to convey a message by visualising rich Chinese culture and traditions in hypothetical situations and carrying clear and somewhat believable outcomes in each depiction. The final question is: Will we learn from the drama or is it simply entertainment? We may want to view entertainment with a more serious attitude from now on, as it provides as much educational value as it does entertainment. Hence televisual performance is a form of public education, and so entertainment also becomes a journey of learning.

What are frequently deemed Western characters are in fact full of Eastern content; this uninterrupted continuation is clearly exemplified when lawyers are actors of justice, when representation of trial and judgement are conducted outside the official forums of law and when embodiment of justice becomes manifest in legal professional characters portrayed by Hong Kong actress Jessica Hester Hsuan. The essence of traditional Chinese values is captured and further detailed in the earlier chapters of this thesis.

As a consequence, this thesis has answered the four research questions raised in Chapter 1 in the following ways.

1. In what ways have traditional Chinese values influenced representation of lawyers and lawyering in Hong Kong television dramas?

In answering the first research question, it is important to raise the point that, the well-established sources of value have been screened on Hong Kong television drama. Legal professionals and their style of lawyering in each chapter have given

clear demonstrations of the different ways traditional Chinese values have influenced their behaviour and belief. Some have been direct and some have been indirect, for example, at times the influence is amongst their learned collages, at times the influences are present when they persuade or advise clients, at times intervening the relation with their teachers or the behaviour of their family members. In Chapter 2, traditional Chinese values help set a guide and reinforce moral standards for the historical lawyers and judges. Furthermore, although there is more awareness of concepts under Western influence, but the model set by the historical legal professionals continue to influence modern lawyers and judges, this continued influence then forms hybridised belief and behaviour of traditional Chinese values and modernised Western ideology. In Chapter 3, the final outcome or ‘judgments’ delivered in each of the ‘other courts’ – the ‘Karma Court’, the ‘Home Court’ and the ‘Outlaw’s Court’ – are based on the teaching from traditional Chinese values. In Chapter 4, a hybridised form of traditional Chinese value and Western education appears once again, this time more gender focused.

2. How have traditional Chinese values been entwined with the turn to the theme of justice in Hong Kong television drama?

To answer the second research question, this thesis demonstrated that justice has been the underlying theme in each chapter and Hong Kong television drama has delivered in each instance the outcome of justice. In Chapter 2, traditional Chinese values forms the foundation of belief and behaviour of the lawyers and judges in the historical dramas as they aim and strive to achieve justice for each case. Recurring themes such as righteousness and respect from historical to modern lawyers creates a continuation of traditional Chinese values. This continued impact on modern lawyers and judges in the modern dramas not only forms a guidance for their roles as a legal

professional, but more importantly it enables them to achieve justice as legal professional. Moreover, punishment of villainous lawyer and judges in accordance with traditional Chinese values in both historical and modern dramas when the actions of the villainous lawyers are beyond control of the court of law also demonstrates another form of justice being materialised. In Chapter 3, this other form of justice is visualised once again as the discussion of justice continues with the ‘other courts’ trying people beyond the jurisdiction of the court of law. Chapter 4 examined the personification of justice, even though the characters of the ‘face of justice’ are all Western educated, it is still clear that traditional Chinese values form the foundation of her professional life when performing justice.

3. In what ways have the lawyers been portrayed as searching for justice in Hong Kong television drama?

The answer to the third research question is linked to the answer to the second research question. It is evident that the lawyers described in each chapter ensure they perform their professional roles with justice in mind. In Chapter 2 both historical and modern lawyers and judges aim for justice in every way, for example when they go against higher authority or when they try to correct the behaviour of clients or when they remind their learned colleagues the importance of performing justly or when they choose to help those who wronged them. Furthermore, punishment is inflicted upon the demonised lawyers. In Chapter 3, the ‘other courts’ has extended the delivery of justice outside the traditional court of law. Not only does trial take place outside the traditional boundary, but the people operating the ‘other courts’ are non-legal professionals. In Chapter 4, justice performed by the ‘face of justice’ both professionally and privately, professionally with a balance between fairness and strictness and privately assisting those with less legal knowledge.

4. To what extent does justice take place outside the traditional boundaries of the courts in Hong Kong legal dramas?

The answer to the fourth research question is especially obvious and basically answered in Chapter 3, the ‘other courts’ chapter. This question forms the focus of the ‘other courts’ chapter where there was an in-depth discussion on how justice was achieved by non-legal professionals performing law jobs and when trial was beyond the jurisdiction of the court of law. Unlike the traditional court of law, this form of trial does not have a limited jurisdiction, thus being able to deliver a supporting judgment when the verdict given by the court of law does not achieve fairness or justice. Moreover, the judgment from the ‘other courts’ can come in form on punishment or reward.

### **Historical versus modern lawyers**

Moving on to review each chapter, we begin with Chapter 2, exploring historical versus modern lawyers. Examining fictional legal professionals in Hong Kong legal drama reveals an interesting phenomenon, a continuation of Chinese tradition and reconnecting the future with the past where tradition is contrasted neatly with contemporary life. A study of traditional Chinese values is, of course, especially obvious in historical Hong Kong dramas. Moreover, traditional values and teachings can play a role in the background, ‘quietly’ assisting the law and legal professionals in these Hong Kong legal dramas to achieve the ultimate goal of justice. Many of the beliefs and behaviours of fictional legal professionals in the historical legal dramas discussed have been influenced heavily by tradition. Furthermore, the audience can make a clear distinction between the hero and the villain in the Hong Kong legal dramas, since there are promising outcomes when traditional Chinese values hold a positive sway.

With regard to historical legal dramas, whether a fictional judge or fictional adaptations of an infamous historical judge or a well-known lawyer, these historical lawyers and judges have constructed a style for contemporary legal professionals in fictional Hong Kong. The best example is, of course, Judge Bao, who has successfully established a reputable way to justice and set permanent guidelines regarding how one should behave and act as a judge. Furthermore, Judge Bao has become a point of reference for all future legal professionals, as ‘the just judge’. Of course, the depiction of the honourable judge in Hong Kong dramas outlines all the good qualities known about Judge Bao. It is undeniable that he is one of the most praised and legendary figures in Chinese history. It is also clear from Hong Kong fiction that his character has been deeply impacted and guided by traditional Chinese values. Furthermore, as a heroic figure, Judge Bao has created his own form of traditional Chinese values for future judges to follow. Therefore, there is no doubt that Judge Bao exudes great legal professionalism with traditional Chinese values; therein lies the secret to great legal professionalism.

Unlike the protagonists in the other two historical Hong Kong dramas examined, at the beginning of the series the protagonist in *Justice Sung* is cast in a rather unfavourable light, since he is a lawyer who is materialistic, arrogant and more concerned about victory than justice. These negative qualities soon end when his family makes him realise the level of impact of traditional Chinese values on his life, and the importance of following traditional Chinese values. With traditional Chinese values becoming the driving force behind him, the protagonist Sung is able to fight for justice.

Similar to the fictional Judge Bao, the protagonist in *Gentle Crackdown*, a fictional judge, holds qualities that are influenced by traditional Chinese values. Be it

correction of corrupted and improper behaviour and of subordinates, or confrontation of higher power, the protagonist in this drama illustrates the fact that traditional Chinese values are a path that will guide him as a person, but more importantly as a judge, to justice. The protagonist is so strong in his beliefs that he even challenges his unethical mentor, who turns against justice and protects the heroic outlaw, who not only fights for justice but also once saved his life; this behaviour demonstrates the importance of traditional Chinese values.

Continuing onto modern Hong Kong legal dramas, it is evident that traditional Chinese values have a profound impact on fictional Hong Kong lawyers, since there is an obvious intention to convey the existence and importance of traditional Chinese values in contemporary Hong Kong. There is a clear backtracking into traditional Chinese values, and a real attempt to work out how justice can be achieved. Attention is drawn to the power of traditional Chinese values in a bold way. The concept of history blended with contemporary values is nicely presented through the fictional legal professionals in Hong Kong legal dramas. It is evident that traditional Chinese values have reclaimed their position in modern times through fictional lawyers and legal professionals in Hong Kong legal dramas. Moreover, modern fictional lawyers in Hong Kong legal dramas are seen to be following old rules with a new style in many cases, meaning that what initially appears to be contemporary is in fact traditional below the surface. Tracing contemporary values back to the past results in a realisation that they are a continuation of tradition, and as one marches into contemporary Hong Kong, it is possible to clearly see the existence and impact of traditional Chinese values.

Many characters appear to be under Western influence in modern Hong Kong legal dramas; however, this is not challenging traditional Chinese values – in fact, the

opposite is true: it is bringing us back to the original point and forming a concept that may appear new, but is full of historical substance. For example, in *The File of Justice* series, the legal professional characters exhibit a reversal of gender status in some relationships; however, various behaviours demonstrate the power of traditional Chinese values. This is most obvious when the fictional lawyers are dealing with the legal process, again placing emphasis on how fictional lawyers are shaped by traditional Chinese values. Even in cases where modern fictional lawyers do not believe in certain aspects of traditional Chinese values, these still come into force when they face clients or victims who do. Yet even with this sort of clientele in Hong Kong legal dramas, traditional Chinese values still play an important role in influencing modern fictional Hong Kong lawyers.

Additionally, even the villainous characters in legal dramas such as *The File of Justice* and *Survivor's Law* retain favourable qualities that are clearly driven by traditional Chinese values. On the other hand, what is interesting in the dramas is that not only are the heroic characters influenced directly by traditional Chinese values, but the villains are also indirectly 'punished' in the end with reference to traditional Chinese values. This alone is enough to demonstrate how traditional Chinese values are still present in contemporary Hong Kong, because the oft-repeated example in all the legal dramas – historical or modern – is that the heroic characters are rewarded and the villainous or unethical characters are punished unless they show remorse for what they have done. This, of course, complies with traditional Chinese values.

Veracity in their way of approaching clients allows the heroic fictional legal professionals to gain their trust, and this sincerity comes from – of course – traditional Chinese values. The protagonists in *Survivor's Law* clearly demonstrate this, especially when interacting with the law and guiding their clients through the legal

process. Throughout the series, it is clear that modern lawyers also adapt to traditional Chinese ways. This tradition appears to direct the protagonist practising on the basis of reason and good ethics. Conventional or not, the modern lawyers in this Hong Kong legal dramas demonstrate a continuation of traditional Chinese values from historical to modern times, and this connection seems almost predictable.

Traditional Chinese values appear to be reversing or creating the current trend. It is suggested that fictional legal professionals in Hong Kong legal drama are painting traditional Chinese values with contemporary colours. Contemporary fictional judges are uniting with traditional Chinese values in Hong Kong legal drama. For example, it is clear in the legal drama *Just Love* that a fictional judge of a new era is heavily influenced by Confucian teachings; in taking on a role as the superior of the protagonist, his Confucian inspired behaviour not only promotes his positive image but also allows him stay just from the start to the finish. This conveys the idea that modern Hong Kong legal dramas have continued to incorporate traditional Chinese values.

It is not difficult to understand the actions of the protagonist, as there are many common factors: they are all dressed in good habits that traditional Chinese values have helped to nurture. Fictional lawyers as heroes hold particular qualities; however, being sharp, confident and quick-thinking are not the best qualities of a protagonist; instead, they must possess qualities developed from traditional Chinese values – benevolence, trust, righteousness and the like. These qualities not only apply to the protagonists in historical Hong Kong drama, but also those in the modern dramas. As Chapter 2 makes clear, there is no contradiction between historical and modern lawyers in Hong Kong legal drama – in fact, efforts are made to deliver a message to the audience: that no matter how much influence modernisation has had, traditional

values and teachings still remain solid. Moreover, overlapping similarities between historical and modern Hong Kong legal dramas can easily be found, and this is enough to demonstrate beyond any doubt that traditional Chinese values, are present in Hong Kong legal dramas. Therefore, it is clear that Hong Kong legal dramas have successfully combined contemporary factors with traditional Chinese values. In other words, Hong Kong legal fiction carries a strong message: history is the source of modernity, and traditional values carry on into contemporary times. Therefore, there is a modern demonstration of tradition, and this visualisation does not merely display traditional Chinese values, but rather demonstrates the thematic consistency of tradition and ideology through a contemporary lens.

### **The ‘other courts’**

With regard to the discussion in Chapter 3, Hong Kong legal drama provides visual explanations of not-so-legal proceedings, a style of judgment or trial to which one may (or may not) be accustomed. The ‘other courts’ discussed are the ‘Karma Court’, the ‘Home Court’ and the ‘Outlaw’s Court’. Here, one sees a type of *legality* that is determined by those who are not ‘legally trained’. What is justice in its best form? There may be more than one answer, or perhaps there is no real answer – or could this be the possible answer? After comparing and contrasting the ‘other courts’, we not only see that investigation and trials take place an intricate level, but we also come to realise different ways of understanding justice and understand that the most desirable judgment may not always come from the court of law. It is suggested that the ‘other courts’ have in fact united in their criticism of the court of law, as it appears that Hong Kong dramas show signs of conveying the superiority of the ‘other courts’ over the court of law, since the jurisdictions of these courts have no restrictions and there are no time limitations on any case.

Furthermore, the court of law does not and cannot follow a person around as loosely and closely as the other courts – for example, the ‘Karma Court’ and ‘Home Court’ are always supervising one’s actions. Furthermore, there are times when one may not be legally wrong, but in reality one’s actions may lead one to think of responsibilities other than those set out under the law; these responsibilities are not easily solved by the court of law. If someone commits a crime so minor that they cannot or will not be punished by the law, then they can confess and find a way to make amends for their wrong. Furthermore, this chapter shows that instead of waiting until punishment descends upon us, we can – through traditional values – set a good foundation for self-management and thus not only comply with the law, but be one step ahead of it.

Like as the Hong Kong legal dramas discussed in Chapter 2, there is a rather consistent trend in Hong Kong drama, which illustrates that wrong actions come at a cost, and the penalty and sentence will be carried out in any form so no one will walk free. It is suggested that this is the verdict of the ‘Karma Court’. Although the ‘Home Court’ appears in two parts of the chapter, much emphasis is placed on the ‘Karma Court’, as it has been made clear that it plays a heavy role in all three Hong Kong legal dramas discussed in this chapter. This role can sometimes be plain and easy to comprehend; at other times, a deeper reading is necessary as judgments delivered leave the audience hanging and require further analysis. This is often seen from the verdict of the ‘Karma Court’. When karma finds you, then justice is done, and the form of logic that comes from the ‘other courts’ may or may not be totally comprehensible, meaning that a verdict may seem unrelated but is in fact closely connected to justice. Some outcomes of the ‘Karma Court’ are direct displays of how the law of ‘cause and effect’ works; others are less than obvious, so need a closer

examination. There is no doubt that justice is answered by the ‘Karma Court’ in Hong Kong legal dramas when it is impossible for an offence or wrong to be legally punished, and this epitome of justice given by the ‘Other Court’ in Hong Kong dramas is sometimes the only way to placate a victim’s family.

Justice can take place in rather stupendous forms through the ‘other courts’. This is especially true with regard to the verdicts of the ‘Karma Court’, which come with profound meaning. *The Brink of Law* demonstrates this. When the villain dies in his own house, it is not exactly a novel verdict, but it does direct the judgment to where it really hits home. The other villain loses her most loved son to suicide and ends up in a psychiatric hospital. When an offender fails to show remorse after they are punished by the court of law, the ‘Karma Court’ will step in and employ appropriate measures to take the punishment further – for example when Raymond Sung Gam-Yuen is jailed he shows no repentance, so he ends up dying in prison before his release. The ‘Karma Court’ can certainly be presumptuous; however, judgment can also come in a rather subtle (and maybe even befuddled form) – for example, when Kelly Sung ends up paralysed after she tries to use her paralysed cousin to get to his mother’s fortune. What is achieved by the court of law can be simple and clear; on the other hand, the power of the ‘other courts’ is unmeasurable, and can come in the form of reward – for example, the protagonist in the series ends up with his dream job after becoming an undercover officer and assisting the police. Appended to the verdict delivered by the court of law, such judgment is often sealed by the ‘Karma Court’. Therefore, next time when justice takes place in an innovative form, what is to say that it is not the ‘Karma Court’ at work?

The ‘Home Court’ also appears on several occasions in *The Brink of Law*. In the ‘Home Court’, a unanimous decision is made by members of the family before a

matter reaches the court of law. Here the head of the house (along with members of the family) passes judgment on family members who have done wrong or who have breached the law, then move on to make a final decision about how this family member should or should not be punished. Perhaps it is not about comparing what is more sufficient and just, but rather an effective cooperation between the court of law and the 'other courts'. Take the 'Home Court', for instance: no credit is taken for working subtly in the background in a supportive role. *Heart of Greed* also shows the 'Home Court' playing a major role in judging, rewarding, deciding and punishing members of the family. Of course, in both Hong Kong dramas, the 'judge' in the 'Home Court' – following Chinese tradition – is the head of the house, who has ultimate power and the right to make the final decision about where to take the case.

Hong Kong legal dramas showing the fictional court of law present a one-sided truth, whereas the 'other courts' convey a fuller picture, covering the entire account. The 'other courts' lead us to understand that winning or losing in court can sometimes be a minor factor: 'side-effects' that arise from a matter can create a larger impact than the verdict; hence the winner sometimes does not actually have to get a winning verdict from the court of law. The character of Frances in *Heart of Greed*, illustrates this. She wants to take control of the family fortune and takes the matter to court, but in the end realises that even if she wins the case, she has lost the love and support of her entire family. Another interesting fact about *Heart of Greed* is that the verdict given by the 'other court' can seem less predictable than that of the court of law. Ling Hau, who is the head of the house, is known to deal with all matters correctly and justly; however, she dies in the series after the relapse of her cancer.

The verdict of the 'other courts' does not always supplement or support that of the court of law. When seeking justice, the aim may be the same, but the methods can

be far more extreme. The actions and aims of the outlaw are easy to understand: prevent crime and punish those who commit crime. Passionate about justice, the rules and judgment of an outlaw, or ‘underground judge’, can sometimes be in line with the court of law; however, it seems that it is really just ‘sometimes’ that the verdict is within the boundaries of the law. More often than not, the actions of the underground judge cross the line, not only challenging and conflicting with the law but setting the legal system aside altogether. Having the outlaw as a lead may be the most obvious way of critiquing the current legal system in Hong Kong. In *Gun Metal Grey*, the character of Stone Shek Tung-Sing as the underground judge is certainly voicing the dissatisfaction of the current legal system in a rather sharp way, rather than supplementing and supporting it, he comes into conflict with the court of law. It is wrong to say that Stone is not ardent about justice, but his outlaw style of performing justice is problematic. Competing with the law in his own style, Stone reaches what he considers to be the same end – justice – in a new style. Perhaps Stone’s belief and actions are critiquing the current legal system in such a way that poetic justice seems the only way to go.

The decision of the ‘other courts’ may not always be positive – for example, the verdict coming from the ‘Outlaw’s Court’ can sometimes seriously conflict with that of the court of law. In this situation, not only is it not helping; it is also an infringement of the law, hence the judgment itself will end up needing to go through the court of law. Such reproachful ways of acting for justice are not, and cannot be, supported by the ‘good cop’ protagonist, despite his abnormal demeanour as a police officer. Mai On-Ting is able to stress to Stone that judgment has to be within reason and within the boundaries of the law. Bringing back traditional Chinese values, On-Ting repeatedly stresses that if one follows the ‘outlaw’s’ way, one will be no

different from them; a better path is go by the law and let the world know the truth, what and who is right, and the only way to do that is the legal way.

Destined retribution is a concept that is obviously closely linked to the ‘Karma Court’. When a judgment delivered by the ‘other courts’ comes in this form, such antics are not taken in the audience’s stride. In *Gun Metal Grey*, Carson Ko Kei-Yeung plays a good cop who is killed accidentally by Stone; and this coincidence is nicely created by the ‘Karma Court’, as he is the son of the man who was responsible for putting an innocent man – Stone himself – behind bars.

When determined by the ‘other courts’, justice can sometimes come in unconventional guises, and perhaps it is exactly because of the unconventional factor that justice can be seen, understood and accepted in a unique fashion. More explanation seems to be needed to understand the decisions and outcomes of the ‘Karma Court’. Making sense of the way justice is delivered through the ‘Karma Court’ can be a challenge at times. As discussed in Chapter 3, not only is the verdict of the ‘Karma Court’ not always conventional; it also comes in the form of rewards. However, the restrictions and limitations that apply to the court of law do not apply to the ‘Karma Court’. This extends to a wide range of aspects – for example, evidence tendered in court, time limitations, and arguments and defence, to name a few.

Chapter 3 showed that judgment and enforcement of judgment do not come in just one single form, and that the various ‘other courts’ will support, supplement and contrast with the court of law. As outlined in this chapter, other than the court of law, judgment and punishment of wrong – whether crime or immorality – comes in three other forms: via the ‘Karma Court’, the ‘Home Court’ and the ‘Outlaw’s Court’. These three ‘other courts’ perform the same role as the court of law. Not only do the ‘other courts’ carry out the same duties as the court of law; these three courts operate

before, during and after judgment has been brought down by the court of law. Moreover, from the three dramas discussed in this chapter it is made clear that the ‘other courts’ operate both in the foreground and background, and function as a supplement to the court of law. The ‘other courts’ may take a different route from the court of law, but they don’t stand in the way of the court of law; instead, they have the same destination: justice. It is clear that in all three dramas not only does the ‘Karma Court’ punish wrongdoers; it also grants rewards to those who deserve the merit. *Heart of Greed* and *Brink of Law* both demonstrate that the ‘Home Court’ establishes a guide in the background before the court of law intervenes in the case. Third and finally, the ‘Outlaw’s Court’ outlined in *Gun Metal Grey* delivers trial and judgment that operate in the grey area of legality.

### **Face of justice**

Chapter 4 focused mainly on the legal professional characters portrayed over a decade by Jessica Hester Hsuan, spanning late colonial and post-colonial Hong Kong. As the focus is on the influence of traditional Chinese values, it is worth noting that justice, as seen through Hsuan’s performances, is carefully examined without looking at Hsuan’s characters in too much detail through a strongly feminist lens. Having said that, over the years Hsuan has definitely built an image of being a stoic, capable and professional woman, both on and off the screen. When it comes to reason, legality and justice, Hsuan’s characters never shy away, and can stand firm and defend themselves against anyone. The most prominent type of role played by Hsuan is not exactly the traditional – in fact, her characters are often diametrically opposite to what one would expect of a traditional Chinese woman. From the three legal and non-legal dramas discussed in Chapter 4, it is clear that all characters portrayed by Hsuan cast her in a particularly positive light – that is, as a professional woman.

The reversal of traditional Chinese culture is seen in all three characters portrayed by Hsuan, yet this is not to say that her characters lack traditional Chinese influences. In fact, this thesis suggests the reverse. Chapter 4 shows that even though it is apparent that Hsuan's characters have Western preferences in their personal and private lives, they also demonstrate Oriental professionalism. There are certainly characteristics inspired by traditional Chinese values. Embracing tradition in her professionalism, Hsuan's legal professional characters have successfully built a positive image in Hong Kong legal fiction with the help of traditional Chinese values.

Magistrate Ko in *Just Love* is a good example of how her private life reverses Chinese tradition and her professional life is strongly influenced by traditional Chinese values – mainly Chinese Confucianism. Interestingly, given the storyline in *Just Love*, the Chinese title 老婆大人 (*Lao Po Da Ren*), 'the wife is in charge', certainly suggests the reversal of traditional Chinese gender power. In addition, at Ko's request, a pre-marital contract is put in place, setting terms and conditions to ensure that the woman of the household has absolute power. Although Ko is 'masculine' in court – again, rather unlike what is perceived as a traditional Chinese woman – her professional ethics and attitude are definitely heavily influenced and guided by teachings from traditional Chinese values. Pivotal scenes provide a clear visualisation of and connection with the firm and just characters Hsuan plays in each of the legal and non-legal dramas discussed in the chapter. Specifically, there are many scenes illustrating how Hsuan's character in *Just Love* is never afraid to confront and assert her views in the predominately patriarchal family into which she married. This is her reverse tradition side; discussion of her professional side reveals that within the boundaries of her legal professionalism, there are no gender issues, as 'justice' is her only concern.

In the Hong Kong non-legal drama *Golden Faith*, Hsuan once again takes on a role as a lawyer, Rachel. Here, a continuation of the characteristics is evident in much the same way: Westernisation has influence over private matters and Eastern values impact her professional life the most. Rachel is able to use concepts that are influenced by teachings from traditional Chinese values to persuade and ‘educate’ other characters to carry out just acts. With the help of traditional Chinese values, Hsuan’s character is able to stop the protagonist obstructing justice, when he intends to undergo punishment for a crime he has not committed. When others use traditional influence, such as filial piety, in an ‘incorrect way’ – that is, by standing in the way of justice – Rachel tries to correct of such behaviour. Even if she does not succeed, she firmly acts in accordance with traditional teachings to bring justice to the cases she handles.

Now, a review of Hsuan’s character Samantha, a barrister, in the legal drama set in late colonial Hong Kong, *The File of Justice*. While Hong Kong was still under the shadow of British control in this late colonial Hong Kong legal drama, so was Samantha. She takes on characteristics that are a little different from the previous two characters, as both her private and professional lives are Westernised; nevertheless, her professional life is also full of Oriental influence. Interestingly, similar to the legal drama *Just Love*, there is also a reversal of gender status in this Hong Kong legal drama, whereby her character plays a barrister and her boyfriend is a legal assistant. Samantha comes from a Hong Kong family that is full of legal professionals and is relatively Western orientated; however, the influence of traditional Chinese values – especially Taoist teachings – is clearly reflected in her character throughout the drama. These are particularly obvious when Hsuan’s character handles cases where the person involved is someone to whom she is closely related.

Even when Westernisation is evident in the private (and sometimes professional) lives of all Hsuan's characters, traditional Chinese values are found in all parts of her characters' professional lives. It is the teachings from traditional Chinese values that guide and lead Hsuan's characters to successfully obtain justice in every matter, hence earning her an image as the 'face of justice'.

### **Implications for future studies**

This thesis agrees with Guy Osborn's argument about television's didactic function. Osborn claims that the prime virtue of entertainment is that it serves as an educational tool.<sup>3</sup> This didactic function describes complex legal issues in an easy to comprehend manner, and is therefore educational for legal professionals but also for the general public.<sup>4</sup> Furthermore, Richard Sherwin and Lawrence Friedman both stress that television not only has a dominant role in people's lives, but is often the primary source of the public's legal knowledge.<sup>5</sup> Jessica Sibley makes a similar point to that of Richard Sherwin about the invasion of image inside the courtroom.<sup>6</sup> The audience can be deceived and misinformed by television, and this has a negative effect as comparisons of real life and television can be made by decision-makers – especially a jury.<sup>7</sup> Michael Asimow adds to this point about negative effect, arguing that television has great power, and legal professionals are often portrayed negatively.<sup>8</sup> In contrast to this point, this thesis examines the positive portrayal of the courtroom and legal

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<sup>3</sup> Osborn (2001), p 171.

<sup>4</sup> Osborn (2001), p 171. Further to that point, Richard Posner argues that even for law students and legal professionals, studying law and literature is an 'attractive alternative' way to understand legal theory. See Posner (2009).

<sup>5</sup> Sherwin (2003), p 522.

<sup>6</sup> Sherwin (1996), p 893; Silbey (2007).

<sup>7</sup> Sherwin (1996), p 896.

<sup>8</sup> Asimow (2000), p 535.

profession in television dramas; rather than focusing on misinformation and errors of fact in the dramas, attention is turned to rights, justice and law's morality.

William MacNeil reads and analyses film and literature jurisprudentially, and believes that without a legal environment, law and legal issues can still be addressed. This thesis follows MacNeil's concept by analysing jurisprudentially<sup>9</sup> and extending this concept to encompass Eastern characteristics. Parts of this thesis have focused on non-legal dramas such as *Heart of Greed* and *Golden Faith*, and characters who are not legal professionals – for example, Ling Hau, Tong Chi-On and Frances Wong Sau Kam from *Heart of Greed*, and Nicolas Tung Chin-Long, Eliza Sung Gam-Chi, Raymond Sung Gam-Yuen, Kelly Sung Ka-Yee, Leo Tung Yat-Tsun from *The Brink of Law*, together with law enforcers such as Stone Shek Tung-Sing, Mai On-Ting and Carson Ko Kei-Yeung in *Gun Metal Grey*. The thesis has examined the jurisprudential side of the characters and storylines. Orit Kamir frames justice with feminine qualities, reminding us to not simply focus on masculine ways of being neutral and impartial but rather turn too to feminine qualities of being caring and compassionate.<sup>10</sup> This thesis has exemplified a hybrid of masculine and feminine qualities in Chapter 4, where the characters portrayed by Hong Kong actress Jessica Hester Hsuan can be neutral, impartial, caring and compassionate. Marco Wan's research into cultural legal studies in the Eastern world has focused on the big screen – Hong Kong film – and not so much on Hong Kong culture. Emphasis has been placed on post-colonial anxiety;<sup>11</sup> however this thesis has turned to the small screen, arguing that the handover did not in fact rupture Chinese culture because traditional

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<sup>9</sup> MacNeil (2007, 2012).

<sup>10</sup> Kamir (2000), pp 904 and 930.

<sup>11</sup> See Wan (2010, 2014, 2015, 2016).

Chinese values have continued to serve as the underlining essence of Hong Kong television drama.

Although popular legal cultural studies has been around for more than 30 years, it has focused predominately on the Western world. This thesis has taken a step in a new direction: into the Oriental world of popular legal culture. Although the Eastern world has been absent from popular legal culture, this is certainly not because the Chinese dismiss law and legal fiction. In fact, law is seen everywhere, offering easy-to-watch Hong Kong dramas, and setting the stage for law to perform legal tradition jurisprudentially. Scrutinising scripted and staged justice, this thesis has taken Hong Kong television very seriously, examining law and legal matters, and the ways in which Hong Kong fiction has shaped the law, the legal process and lawyering. It may be that the law is depicted in a certain style that may become reality. Moreover, not only has Hong Kong legal drama created something to remember years down the track; it has also constructed a visual record of the changes brought about by Hong Kong's colonialism. This thesis will help to broaden the picture of popular legal culture by extending what scholars like Marco Wan have already introduced to the Eastern world, turning a new page in popular legal culture by introducing Hong Kong legal drama into the field.

Law continues beyond the law courts, chambers and police investigations in legal fiction, and in Hong Kong legal dramas, the law comes with a touch of Chinese ideology. Such concepts do not emerge from nothing; it is teachings from traditional Chinese values that are doing the foundational work here. Is Hong Kong legal drama trying to reinvent tradition? The answer is no: rather than reinvention, it is reinforcing some traditional Chinese values and absorbing them into contemporary culture. Hong Kong drama is borrowing from both East and West, and forming a perennial trend,

and this East–West hybrid brings a new face to old customs.<sup>12</sup> This means that the beauty of Hong Kong legal fiction is that it creates a platform allowing East and West to join forces and form a unique hybrid,<sup>13</sup> and establishing a barometer to determine what is reasonable and logical.<sup>14</sup> An account that is farther from truth can pinpoint issues that are exclusive to fiction, presenting a way to explain a process that may only be realised in fiction.

Due to the East–West hybrid in Hong Kong legal dramas, there is no break in traditional Chinese values; instead, there is a continuation, viewing Chinese tradition through a modern lens. The picture here sets out to convey the success of Western plus Eastern ideology. Furthermore, the genuine hybrid that emerges is not only between Eastern and Western culture, but also between law that is foundationally English and traditional Chinese values.<sup>15</sup> The hybrid of Western and Eastern values can seem complicated, but in fact this collaboration is quite simple.<sup>16</sup> The East–West hybrid can be seen as a form of revelation. Such an amalgamation allows us see integration that is not only serious about law, but about the connections and relations

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<sup>12</sup> Hong Kong is historically known to have a mixture of cultural connections: see Johnson (2016), p 135. Given this history, it is easy to understand and accept the formation of an East–West hybrid. Additionally, Hong Kong is not a Western city, but instead draws extensively from Western culture. See Sadowski (2016), pp 2–3. This extensive Western impact builds on Chinese traditions to create an East–West hybrid.

<sup>13</sup> The concept of the hybrid has been used in studies such as criminology. For example, ‘cultural criminology’ is an integrated study of sociology, cultural practices and procedures, media practices and criminal behaviour. See Ferrell (1995, 1999); Ferrell and Hayward (2011); Thurston (2016), p 10. Another example is ‘Visual Criminology’, hybridising the power and impact of visual images and media power, and crime. See Hayward (2009).

<sup>14</sup> Hong Kong’s maintenance of Western laws allows it to remain a unique ‘Chinese City’. See Wan (2014), p 95.

<sup>15</sup> Colonialism has largely contributed to the fact that Hong Kong displays East–West cultural hybridity. See Gil-Curiel (2016), p 85.

<sup>16</sup> Not only is collaboration simple but, as Marco Wan suggests, when entwined correctly, Eastern and Western notions can complement each other. See Wan (2014), pp 85–6 and 95.

between law and the three traditional beliefs (*San Jiao*) and the way to enlightenment, reason and justice. Digging deeper into this thought, adding modernity to tradition is not losing the original concept but rather adding new flavour and enhancing the fictional legal profession in a positive style. Hong Kong legal drama also stages a series of matters – for example, it demonstrates that political development over the years cannot be seen as in collision with traditional Chinese aspects, and instead supports the fact that law and Chinese ideology have been working together for centuries. In addition, there is a connection of law with traditional Chinese values – for example, where teachings from traditional Chinese values make good judges, and where Chinese tradition blends well with feminism.

This thesis is therefore bringing an Asian lens to cultural legal studies. This thesis extends the work in cultural legal studies that has already been undertaken by Australian, American and English scholars, and ultimately provides a voice and further understanding of Hong Kong's culture as the representation of Common Law culture,<sup>17</sup> thus not only preaching to a community that speaks and understands the same language, but also reaching out on a global level. This is why the hybrid form of cultural legal studies can further our understanding not only of the legal profession but also of Eastern and Western knowledge, for then it is not 'simply entertainment' or a waste of time, but rather time well spent.

### **Concluding remarks**

Hong Kong legal fiction is a messenger of traditional Chinese values. The journey of justice in Hong Kong legal drama is filled with, and possibly even led by, teachings from traditional Chinese values, as it is obvious that Chinese ideology is commanding

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<sup>17</sup> Ling Wang and Sin King Kui argued that the 'Common Law' was a 'culture-specific' element imported to Hong Kong by the British. See Wang and Sin (2013), p 884.

a great deal of influence in Hong Kong legal fiction. Perhaps one would prefer to be televisual-educated rather than educated by dry old academia, because Hong Kong legal drama is a maestro in its concoction, leading the audience into a style of justice that it can follow from beginning until end. It is incredibly telling to see traditional Chinese values reinforced in Hong Kong legal fiction. In the realm of fiction, one finds that justice is influenced by teaching of traditional Chinese values, illustrated by legal fiction and legal precedent.

Taking a look at the bigger picture, fantasy has produced a touch of traditional Chinese elegance, raising the subject of traditional Chinese values in every Hong Kong legal and non-legal drama discussed here. Perhaps it is exactly because of this fantasy that the audience can discern one common factor: the consistency of traditional Chinese values. Inventiveness, ingenuity and encapsulation of Eastern and Western ideology in Hong Kong legal fiction work towards the same ambition: searching for the best way to achieve justice.

It is suggested that all traditional Chinese values influences revolve around this one common aim: justice. Seeking justice in Hong Kong legal dramas, the audience can get a panoramic view of the story from beginning to end, with the wide vision available; viewers can appreciate the way justice materialises in very different forms. The audience obviously cannot and will not relate to everything that is shown in Hong Kong legal drama; however, minor issues can be overlooked when the focus is on other surrounding problems, and fiction can be of help here by presenting the bigger picture. The audience can literally ‘watch and learn’, to come to an understanding of how justice can be achieved and to discover the extent of the influence of the teachings from traditional Chinese values, on the beliefs and behaviours, and even the judgments, of fictional legal professionals. It is suggested

that the messages in Hong Kong legal drama not only want us to realise the extent of the impact of traditional Chinese values today; they also want to convey the fact that, more often than not, these impacts result in a positive outcome.

It is easy to understand that Chinese ideology plays more than a supporting role in Hong Kong legal drama. It seems that traditional Chinese values animate Hong Kong legal drama as a way to convey what the audience may not otherwise realise is actually 'normal' in everyday life. The televisual scenarios performed in Hong Kong legal drama demonstrates the clear existence of traditional Chinese values in action, and these fictional stories can be translated into positive movements. Through a televisual journey, these fictional lawyers and legal professionals in Hong Kong are able to bring insight into how justice is achieved, with considerable influence from traditional Chinese values. The characters that hold traditional Chinese values and are influenced by Confucian, Taoist or Buddhist teachings more often than not appear to be synonymous with virtue. This is the winning reason behind the protagonist verses antagonist battle: the dispute in Hong Kong legal drama is not simply about the law. For this reason, it is the protagonist – the one who holds true to the teachings from traditional Chinese values – that emerges victorious every time. Obviously, in Hong Kong legal and non-legal drama this is all staged, but it is clear that fictional justice comes in a package wrapped in traditional Chinese values.

Hong Kong legal drama sets a common ground for justice that is supported by a continued and uninterrupted influence of traditional Chinese culture values. At first the storyline may seem only remotely connected to traditional Chinese values; nevertheless, after a close look at the protagonists and other characters of the Hong Kong legal dramas, it becomes apparent that traditional Chinese values are deeply implanted in the dramas – be they modern or historical, legal or non-legal. The weight

of the impact of traditional Chinese values on fictional lawyers in Hong Kong legal and non-legal dramas is evident; audiences can witness their impact on the beliefs, behaviours and judgments of the protagonists: rewarding the good, teaching the villain and the bad a lesson, and re-educating those who fall in between. What better hybrid could there be than the televisual tool itself, bringing three aspects together, and defining Hong Kong legal dramas as ‘entertainment, example and education’.

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