

CINEMA, LAW, AND THE STATE IN ASIA

Edited by
COREY K. CREEKMUR
and MARK SIDEL



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LIST OF CONTRIBUTORS

Corey K. Creekmur is Associate Professor in the Departments of English and Cinema & Comparative Literature at the University of Iowa, where he is also the Director of the Institute for Cinema and Culture, and serves on the executive boards of International Programs and the Program in Sexuality Studies. He is author of *Cattle Queens and Lonesome Cowboys: Gender and Sexuality in the Western* (forthcoming, Duke University Press), and his current research focuses on popular Hindi cinema. Creekmur has published essays on film soundtracks, African American cinema, and the representation of boys in Hindi film.

Mark Sidel is Professor of Law and International Affairs and Faculty Scholar at the University of Iowa. Sidel has published *More Secure, Less Free? Antiterrorism Policy and Civil Liberties after September 11* (University of Michigan Press, 2004), and is coeditor of *Philanthropy and Law in South Asia* (2004). He has written extensively on law in Asia, philanthropy and the nonprofit sector, and law and development. Sidel served as Visiting Professor at Harvard Law School in 2005–2006, has worked with the Ford Foundation in Beijing, Hanoi, Bangkok, and New Delhi, and as a consultant for the United Nations Development Programme, World Bank, and a number of foundations and international institutions.

Jerome A. Cohen is Professor at New York University School of Law and Adjunct Senior Fellow at the Council on Foreign Relations in New York. He is the author of *The Criminal Process in the People's Republic of China, 1949–63: An Introduction*, coauthor of *People's China and International Law*, and has published many other books and articles on Chinese law. For over twenty years he practiced international business law relating to China and continues to serve as consultant on criminal cases in China and as an arbitrator of commercial disputes relating to Asia. Professor Cohen participates in legal research projects in China and Taiwan, has taught part-time for four years at Tsinghua University Law School in Beijing, and has lectured widely throughout China. He holds honorary titles from six Chinese universities, has served as advisor to Sichuan Province, and is a member of the municipal arbitration panels of Beijing, Shanghai, and Guangzhou.

Joan Lebold Cohen is an art historian and photographer and author of *The New Chinese Painting, 1949–1986*; *China Today and Her Ancient Treasures* (coauthor); and *Yunnan School: A Renaissance in Chinese Painting*, among other works. She curated four pioneering exhibitions of new Chinese art and taught Asian art and film at Tufts University/School of the Museum of Fine Art for twenty-two years. Currently she exhibits her photographs at New York's Soho Photo Gallery and is an associate of the Fairbank Center for East Asian Research at Harvard University and the Columbia University Modern China Seminar.

Alison W. Conner is Professor of Law and Director of International Programs at the William S. Richardson School of Law at the University of Hawai'i. From 1983 to 1995 she taught law in Nanjing, Singapore, and Hong Kong, and during spring 2004 she returned to Asia as a Fulbright distinguished professor at Tsinghua University. She writes on modern Chinese law and Chinese legal history but maintains her broader interests in Asian history, art, and culture. Her current research focuses on legal developments in China during the 1920s and 1930s, particularly relating to the legal profession and its training.

Meenakshi Gigi Durham is Associate Professor in the School of Journalism and Mass Communication at the University of Iowa and Head of the Iowa Center for the Study of Communication. She is the coeditor of *Media and Cultural Studies: Key Works* (Blackwell, 2001), and the author of numerous essays on representations of adolescent female sexuality in U.S. and South Asian mass media.

Mary Farquhar is Professor of Asian Studies at Griffith University in Australia and President of the Chinese Studies Association of Australia (2005–2007). She is a qualified lawyer and a scholar of Chinese culture. Her publications include *Children's Literature in China: From Lu Xun to Mao Zedong* (ME Sharpe, 1999), which won the annual International Children's Literature Association Award for the most distinguished book published in the field. Her most recent book is on Chinese cinemas with Chris Berry, *China Onscreen: Cinema and Nation* (Columbia University Press, 2006).

Do-Hyun Han is Associate Professor of Sociology and was Chair of Sociology and Education and Director of the Center for Information on Korean Culture at the Academy of Korean Studies, South Korea. He was Stanley Junior Fellow at the Center for Asian and Pacific Studies at the University of Iowa (1994–1995), visiting scholar at the Fairbank Center (1995–1996), Harvard-Yenching Institute (2001–2002), and Korea Institute (2006) at Harvard University. Han is coauthor of *Toriri: Tradition*

and *Change in a Lineage Village* (1998), *Labor Management in Korean Companies in Vietnam* (2001), *Corporate Citizenship and Civic Community* (2005), and *Religion and Civic Community* (2006), among other works.

Hikari Hori completed her Ph.D. in the Visual Culture and Gender Studies Program at Gakushuin University in Tokyo. She is currently Ford Associate at the Five College Women's Studies Research Center, and teaches Japanese film as Visiting Assistant Professor at Columbia University. She was previously Program Coordinator in the Film Center of the Japan Society, New York City, and is the author of a number of essays on the representation of women in Japanese cinema and women filmmakers in Japan.

Priya Kumar is Associate Professor in the Department of English at the University of Iowa, where she teaches courses on South Asian literature and postcolonial theory. She has published essays on the writers Vikram Seth, Qurratulain Hyder, and Amitav Ghosh. Her book, *At Home with the "Stranger": Secularism and the Ethics of Coexistence in Indian Fiction* (forthcoming, University of Minnesota Press), examines the construction of Muslims as "strangers" in India, especially since the Partition of India, and argues that literary and cinematic fictions urge a shift in our ethical and political imaginations by offering ways of living together that go beyond liberal tolerance and an abstract secular citizenship.

Lawrence Liang is Legal Researcher at the Alternative Law Forum in Bangalore, India, which he cofounded. His research interests include intellectual property law and the public domain. His dissertation at the Warwick (U.K.) Law School was on *Representations of Justice and Resistance to Law in Indian Popular Cinema*. Liang has published essays on topics ranging from copyright law and privacy issues to the death penalty.

Rolando B. Tolentino is Associate Professor in the Department of Film and Audio-Visual Communication at the University of the Philippines. He was recently a Visiting Professor in the Department of Southeast Asian Studies at Osaka University of Foreign Studies in Japan. He is the author or editor of numerous scholarly books and essays, including works of fiction. These include: *National/Transnational: Subject Formation and Media in and on the Philippines* (Ateneo de Manila University Press, 2001), *The Pedagogy and Performance of Popular Culture in the Philippines* (Ateneo, 2001), and *Geopolitics of the Visible: Essays on Philippine Film Cultures* (Ateneo, 2000).

Karen Turner holds the Brooks Chair in the Humanities and is Professor in the History Department at Holy Cross College in Worcester, Massachusetts. She is also Senior Research Fellow in the East Asian Legal Studies Program at Harvard Law School. She has written or edited numerous publications,

including *The Limits of the Rule of Law in China* (University of Washington Press, 2000, and currently being translated into Chinese) and *Even the Women Must Fight: Memories of War from North Vietnam* (Wiley & Sons, 1998). She is also the director and producer of a documentary film *Hidden Warriors: Women on the Ho Chi Minh Trail* (2002).

Yingjin Zhang is Director of the Chinese Studies Program and Professor of Comparative Literature, Cultural Studies, and Film Studies at University of California-San Diego. He is the author of *The City in Modern Chinese Literature and Film* (Stanford, 1996), *Screening China* (Michigan, 2002), and *Chinese National Cinema* (Routledge, 2004); coauthor of *Encyclopedia of Chinese Film* (Routledge, 1998); editor of *China in a Polycentric World* (Stanford, 1998) and *Cinema and Urban Culture in Shanghai, 1922–1943* (Stanford, 1999); and coeditor of *From Underground to Independent: Alternative Film Culture in Contemporary China* (Rowman & Littlefield, 2006).

INTRODUCTION
CINEMA, LAW, AND THE
STATE IN ASIA

Corey K. Creekmur

The law and cinema frequently intersect on-screen in the familiar narratives of crime and punishment found in popular movies, especially in the specific genres of the mystery, detective film, or courtroom drama. The legal arm of the state perhaps intersects with the cinema more often off screen, most obviously through concern with industry and trade regulations and restrictions, censorship, and copyright. However, despite the regular interaction of cinema, law, and the state on and off-screen, scholarly attention to this persistent and obviously important conjunction remains curiously underdeveloped.

Rather straightforward treatments of the way in which lawyers and the legal system are represented in popular culture tend to find, unsurprisingly, that both are often unrealistically misrepresented for the sake of narrative logic or sheer entertainment, though of course in a few cases—most notably the beloved film adaptation of Harper Lee's Pulitzer Prize winning novel *To Kill a Mockingbird* (dir. Robert Mulligan, 1962)—lawyers are elevated to heroic nobility (see Bailey et al 1988; Chase 1986; Greenfield and Osborn 1995; Kamir 2006; Miller 1994; Post 1987). Other studies, often emphasizing the social function of cinema in forming public opinion, have considered the particular representation of courtroom procedures and, more generally, the perceived fairness or corruption of justice itself in popular cinema (see Berets 1996; Bergman and Asimow, 1996; Black 1999; Denvir 1996; Rosenberg 1994). The possibility for richer and more complex treatment of the cinematic form taken by legal narratives was suggested by a groundbreaking essay by the collective editors of the famous French film journal *Cahiers du Cinema* (Editors 1979) analyzing John Ford's 1939 classic *Young Mr. Lincoln*, a biopic that in its second half becomes a courtroom drama affirming Lincoln's promising legal skills. Another suggestive treatment of the popular treatment of the legal system in cinema was

provided by Carol Clover's intriguing analysis of the formal and ideological function of the perspective from the jury often taken by Hollywood cinema (Clover 1998). Other critics have emphasized the courtroom itself as an especially dramatic public space, virtually generating its own subgenre of "courtroom" narratives (see Black 1999; Chase 2002; Greenfield et al 2001; Leitch 2002; Levi 2005; Rafer 2000; Wexman 2005).

Somewhat surprisingly, a much smaller amount of critical work (as opposed to a massive amount of legal work) has considered the range of legal issues that stem from the status of cinema itself as an easily, and of course intentionally, reproducible (and thus pirated) medium and commodity. And this is despite a great deal of theoretical work, following the German critic Walter Benjamin's crucial insights, that stems from the aesthetic and political implications of cinema's essential reproducibility. Jane Gaines's 1991 study *Contested Culture: The Image, the Voice, and the Law* thus remains a largely unique investigation of cinema in relation to issues of copyright, trademark, and intellectual property laws, unlike the considerable investigation of copyright issues in the realm of popular music studies, especially in the wake of the relatively recent technologies of sampling, downloading, and file-sharing, which are artistic and consumer responses to cheap but sophisticated technologies designed specifically to facilitate what is often of course illegal duplication and distribution (Gaines 1991; see also McLeod 2005).

If the relations between cinema and intellectual property law remain underexamined by scholars, the history of the industrial self-regulation and censorship of American cinema has been the subject of much more consistent research. Most American film scholars are aware of the curious 1915 Supreme Court decision that declared motion pictures as a medium "capable of evil," a ruling recently revisited in an intriguing essay by film historian Tom Gunning (Gunning 2004). Lee Grieveson's recent, impressively researched study *Policing Cinema: Movies and Censorship in Early Twentieth-Century America* represents perhaps the most thorough analysis to date of the intersection of American legal debate and film in the medium's first decades; other studies of censorship have focused in considerable detail on the later Hollywood Production Code (often identified as the Hays Code, regulated by the Breen Office) or on the influential role played for decades by the Catholic Legion of Decency (Grieveson 2004; see also Black 1994; Couvares 1996; Leff and Simmons 1990).

In recent decades, academic film studies, which established itself through an aesthetic focus on key films, directors, and genres, has broadly acknowledged the importance of economic and industrial analysis, and so the 1948 "Paramount decision" in which the U.S. Supreme Court broke apart Hollywood's powerful, vertically integrated system of production, distribution, and exhibition is now a

common touchstone in American film history. As film studies has developed from a largely aesthetic “appreciation” of movies (for a long time of course dismissed as mere commercial entertainment) toward more complex social, cultural, and political investigation, the often intricate historical relations between cinema, law, and the state have become an increasingly important arena for rich and innovative scholarship.

Toward Asia

Such work, almost entirely addressed to American cinema, offers suggestive comparisons but also significant contrasts to many other national contexts and film industries, which remain less well known to film scholars working exclusively with English or European language materials. For instance, the jury system that remains a common dramatic focus of American films and television is uncommon or unknown in many other cinemas for the simple reason that the jury is not part of the legal systems such films depict. To take another obvious example, Hollywood’s Production Code was famously established as a form of industrial self-regulation designed in part to forestall municipal, state, and perhaps federal censorship. But censorship from outside—from national or regional offices—rather than internal self-regulation has been far more common in other national contexts. Censorship has perhaps fascinated scholars of American cinema because it in fact remains relatively rare in its most explicit forms, such as the outright banning of films; Hollywood’s crucial decision to censor itself has meant that very few American films have actually been “condemned” in the way films from other countries, frequently produced with necessary state sponsorship, often have been. For scholars interested in many other national cinemas, censorship remains a regular yet therefore less “sensational” topic, as reflected in several essays in this volume.

In order to expand the available scholarship on law and cinema and to place this crosscutting inquiry in a regional context that allows for some useful comparison and contrast, the dozen essays in this collection examine cinema in six Asian nations, which have all seen dramatic changes in the status of their cinemas *as well as* the practice of law in recent decades. For instance, the juries that *were* frequently visible in Hindi films of the 1950s no longer appear since India did away with the jury system some time ago. At the same time, the strong government censorship that marked many Asian cinemas for decades (resulting in some Asian films becoming better known through international film festivals than at home) has begun to be relaxed or removed, and so the increasingly bold films from newly visible sources such as South Korea are enjoying unprecedented global reach (see Park 2002).

Moreover, many Asian cinemas, once marketed only to a national or regional audience, or perhaps to a marginalized diasporic population, have

found new, often non-Asian, audiences, especially through the relatively cheap and mobile technologies of the videotape, VCD and DVD, whether legally produced or pirated. What were once cult audiences for Hong Kong action films and popular Japanese horror and animation (“foreign” films that did not have the cultural caché to play in an earlier era’s art theaters) have expanded toward mainstream consumption: Zhang Yimou’s martial arts epics *Hero* (*Yingxiong*, 2002) and *House of Flying Daggers* (*Shi mian mai fu*, 2004) have been commercial hits in the West, and South Korean cinema became “the next big thing” at international film festivals a few years ago; in this climate, even a low-budget martial arts film from Thailand, *Ong-bak* (dir. Prachya Pinkaew, 2003) could become an international hit, especially through DVD sales. Popular Indian cinema, long acknowledged as the world’s largest commercial film industry, though once largely unknown in Europe and North America outside South Asian communities, has been steadily drawing a worldwide audience even if the regularly anticipated breakthrough of “Bollywood” fully into the North American mainstream remains elusive.

Other Asian cinemas—despite increased global circulation through video—remain less known outside of their nations of origin, in part because entrepreneurs apparently have not assumed a commercial interest that would justify the subtitling of such films, even though that once expensive process is now easily affordable. The popular cinemas of Vietnam and the Philippines, for example, both treated in groundbreaking essays in this volume, remain frustratingly inaccessible to even adventurous film viewers who lack the language skills to enjoy these works without subtitles. Ongoing feminist interest in the still relatively rare work of earlier and recent women directors of international cinema has, for instance, remained sadly unaware of the work of Duc Hoan, the Vietnamese actress, filmmaker, and soldier who is the subject of Karen Turner’s essay in this collection. Whatever the value of her films (which, it turns out, is considerable), the mere existence of Duc Hoan is an extraordinary historical fact, even though her work, along with most Vietnamese cinema, remains elusive to the cinema-literate world.

The cinemas of the Philippines and South Korea, however, provide a curious study in contrasts. Both countries’ modern histories are marked by massive American political, economic, and military involvement. Recently, South Korean cinema has emerged (along with Iranian cinema) as a genuine discovery in world cinema, regularly generating prizes at international film festivals; following the near-collapse of the vibrant Hong Kong film industry, South Korean film has quickly become one of East Asia’s dominant commercial forms, and many key films and directors from South Korea are now widely discussed by film fans and critics in New York, London, and Paris. However, the popular cinema of the Philippines, despite the long history of American

involvement in that country, remains altogether unknown in the West. (As in South India, in recent years the direct elevation of film stars into political office has marked Philippine cinema: again, such adoration of film stars often looks naïve to Americans who have conveniently forgotten the successful elections of celebrities Ronald Reagan, Arnold Schwarzenegger, or Jesse Ventura.) The contributions to this volume on South Korean cinema by Do-Hyun Han and on cinema in the Philippines by Rolando Tolentino thus chart the recent forms of important national cinemas that by circumstance Western critics have become very interested in or have remained willfully ignorant of.

Many of the essays in this collection, most of which were generated as part of the 2004 Summer Research Seminar on “Cinema, Law, and the State in Comparative Perspective” at the Obermann Center for Advanced Studies at the University of Iowa, continually cross the conventional border maintained in many of the previous studies cited earlier between the analysis of on-screen and off-screen intersections of law and cinema. That is, the typical consideration of the representation of the law on-screen, through discussions of how lawyers, police, and prisons are depicted, or how courtroom sequences function as narratives is hardly the exclusive focus of essays in this collection; neither are these essays focused entirely on the legal regulation of cinema through censorship, taxation, or copyright. In addition to the innovative focus on Asian contexts, these essays find it necessary to regularly move between on-screen and off-screen concerns in order to fully explore the specific texts and circumstances they treat. The scholars participating in this collection, themselves based in North America, Australia, and (South and East) Asia, address the distinct contexts of India, China, Vietnam, Japan, South Korea, and the Philippines, extending the work on cinema and the law in the West into heretofore underexamined locales, especially for readers limited to English scholarship. Persistently, these essays demonstrate a range of unexpected movements between society and the screen in which legal decisions and stories centered on the law interact.

As the reader will discover, a number of additional, more specific themes and concerns also link various essays in this collection. A number of essays, for example, emphasize the significance of the biographies of specific filmmakers for understanding their work: social identities based on class, gender, religion, ethnicity, and cultural capital come into play when, for instance, the Muslim writer and director Khalid Mohamed seeks to represent Muslim identity within Hindi cinema, as Priya Kumar explores; or when, a culturally elite Vietnamese woman, Duc Hoan, seeks to represent an event like war, dominated by male perspectives, in Karen Turner’s essay; or when a famous male Japanese director attempts to represent not just female Japanese sexuality, but criminality as well, in Hikari Hori’s reinterpretation of the original Japanese version of *Oshima*

Nagisa's *Ai no korida* (known in the West as *In the Realm of the Senses*). Two very different chapters in fact focus on the work of the same important director: Jerome and Joan Cohen's reinterpretation of Zhang Yimou's *Qiu Ju da guansi* (*The Story of Qiu Ju*), and Mary Farquhar's discussion of Zhang's perhaps least well-known film, *Shanghai Triad*—though they take a quite different tack than Kumar, Turner, and Hori, in each case emphasizing the film rather than the director.

In other essays in this collection, the representation of the city as a dramatic space for crime, justice, and law is considered, as in Lawrence Liang's chapter on cinema, citizenship, and the illegal city, and Alison Conner's analysis of the portrayal of lawyers and law in early Shanghai and Hong Kong movies. The curious popularity of the prison as a location for film narratives is explored in two of the essays included here, those by Rolando Tolentino on the brutality of prison life as an expression of social oppression in the Philippines, and Do-Hyun Han on the centrality of prison in the lives and filming of a new genre of movies about repatriation, reconciliation, and political "conversion" in Korea. The unending relationship between film and piracy re-surfaces as a primary theme in Yingjin Zhang's chapter on Chinese film piracy and its sometimes tongue-in-cheek portrayal in newer Chinese films.

Questions of gender and sexuality, and the injustice that often accompanies these marks of difference, are a persistent concern in this volume, represented most prominently in Meenakshi Gigi Durham's essay on the portrayal of gender and body in Bollywood films. Questions of audience and spectatorship also run through many of these essays. The filmic portrayal of a struggle for justice that turns out to be ambivalent is the theme of several essays as well, including Jerome Alan Cohen and Joan Cohen's reinterpretation of Zhang Yimou's famous *Qiu Ju da guansi* in the context of evolving Chinese law. The filming of the criminal and the interlinked role of criminals in the production of films are strong themes in Mary Farquhar's essay on Zhang Yimou's *Shanghai Triad*, and my chapter on gangsters in and behind Bombay cinema, and never far from the surface in Yingjin Zhang's work on piracy in Chinese films.

Through this focus, many of the essays engage in the ongoing focus in recent film studies with reception and the possible resistance or acceptance it allows; however, the attention to legal issues in these essays reinforces the fact that spectators, in addition to identities based upon class, race, gender, or sexuality are also citizens who may enjoy or lack legal and civil rights, which also inform their self-identification. As subjects of inquiry, both the cinema and the law demand investigations that extend into these other equally formidable areas, a demand that the authors in the collection boldly accept.

The original event that generated this work was genuinely interdisciplinary, restoring some legitimacy to that category, which is now often used to define

almost all scholarship in the humanities. Unlike work that aims to conquer and fully incorporate new disciplines, the collaborative work of the Obermann seminar allowed film scholars to admit to their lack of legal training, whereas legal scholars apologized for a lifetime spent watching movies for, of all things, enjoyment. While most of us were working in Asian cinemas for which we had the competence of native speakers or at least some language training, neither nationality nor ethnicity necessarily confer the knowledge of the area specialist: the essays in this collection thus draw upon expertise while they venture into less familiar territory. The collaborative encounter that generated these essays encouraged exploration rather than assumed mastery, though everyone who participated in the seminar clearly learned more about the disciplinary perspectives and methods of their colleagues from other departments as well as other countries. The richness of those interactions—between themes, countries, and scholars—bodes well for further work on the fascinating intersections between cinema and law in the years ahead. We hope that this volume contributes to that developing scholarship.

References

- Bailey, Frankie Y., Joycelyn M. Pollock, and Sherry Schroder. 1988. The best defense: Images of female attorneys in popular films. In *Popular culture, crime, and justice*. Ed. Frankie Bailey and Donna Hale. Belmont, CA: West/Wadsworth, 1988: 180–195.
- Berets, Ralph. 1996. Changing images of justice in American films. *Legal Studies Forum* 20: 473–80.
- Bergman, Paul and Michael Asimow. 1996. *Reel justice: The courtroom goes to the movies*. Kansas City: Andrews and McNeel.
- Black, David A. 1999. *Law in film: Resonance and representation*. Urbana: University of Illinois Press.
- Black, Gregory D. 1994. *Hollywood censored: Morality codes, Catholics, and the movies*. Cambridge: Cambridge University Press.
- Chase, Anthony. 1986. Lawyers and popular culture: A review of mass media portrayals of American attorneys. *American Bar Foundation Research Journal* 2: 281–300.
- Chase, Anthony. 2002. *Movies on trial: The legal system and the silver screen*. New York: The New Press.
- Clover, Carol J. 1998. “God Bless Juries.” In *Refiguring American film genres*. Ed. Nick Browne. Berkeley: University of California Press, 255–277.
- Couvares, Francis G., ed. 1996. *Movie censorship and American culture*. Washington: Smithsonian Institution Press.
- Denvir, John, ed. 1996. *Legal reelism: Movies as legal texts*. Urbana: University of Illinois Press.
- Editors of *Cahiers du Cinema*. 1979. John Ford’s *Young Mr. Lincoln*. In *Film theory and criticism: Introductory readings*. Ed. Gerald Mast and Marshall Cohen. Second edition. New York: Oxford University Press, 778–831.

- Gaines, Jane M. 1991. *Contested culture: The image, the voice, and the law*. Chapel Hill: University of North Carolina Press.
- Greenfield, Steve and Guy Osborn. 1995. Where cultures collide: The characterization of law and lawyers in film. *International Journal of the Sociology of Law* 23: 107–30.
- Greenfield, Steve, Guy Osborn, and Peter Robson. 2001. *Film and the law*. London: Cavendish Publishing.
- Grieverson, Lee. 2004. *Policing cinema: Movies and censorship in early-twentieth-century America*. Berkeley: University of California Press.
- Gunning, Tom. 2004. Flickers: On cinema's power for evil. In *Bad: Infamy, darkness, evil, and slime on screen*. Ed. Murray Pomerance. Albany: State University of New York Press, 21–37.
- Kamir, Orit. 2006. *Framed: Women in law and film*. Durham: Duke University Press.
- Leff, Leonard J. and Jerold L. Simmons. 1990. *The dame in the kimono: Hollywood, censorship, and the Production Code from the 1920s to the 1960s*. New York: Grove Weidenfeld.
- Leitch, Thomas. 2002. *Crime films*. Cambridge: Cambridge University Press.
- Levi, Ross D. 2005. *The celluloid courtroom: A history of legal cinema*. Westport: Praeger.
- McLeod, Kembrew. 2005. *Freedom of expression: Overzealous copyright bozos and other enemies of creativity*. New York: Doubleday.
- Miller, Carolyn Lisa. 1994. "What a waste. Beautiful, sexy gal. Hell of a lawyer": Film and the female attorney. *Columbia Journal of Gender and Law* 4: 203–32.
- Park, Seung Hyun. 2002. Film censorship and political legitimation in South Korea, 1987–1992. *Cinema Journal* 42(1): 120–38.
- Post, Robert C. 1987. On the popular image of the lawyer: Reflections in a dark glass. *California Law Review* 75: 379–89.
- Rafer, Nicole (with Charles Alexander Hahn). 2000. *Shots in the mirror: Crime films and society*. New York: Oxford University Press.
- Rosenberg, Norman. 1994. Hollywood on trials: Courts and films, 1930–1960. *Law and History Review* 12: 341–67.
- Wexman, Virginia Wright. 2005. "Right and wrong! That's [not] all there is to it!": *Young Mr. Lincoln* and American law. *Cinema Journal* 44(3): 20–34.

PART 1
INDIA

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CHAPTER 1
CINEMA, CITIZENSHIP, AND
THE ILLEGAL CITY

Lawrence Liang

The debate on law and cinema has primarily focused on the depiction of law and the legal process in popular culture. The scholarship in this area has generally focused on a limited question: the impact of popular culture on the legal imagination, tied to a narrow domain of film studies that emphasizes textual and narrative analysis. Admittedly the question of how popular cinema shapes popular legal consciousness is an important one, but this essay argues that it is certainly neither the only question, nor even the most important one in the relationship between law and cinema.

In this essay I examine the implications of the move toward an engagement with cinema as a part of the larger experience of the urban, and what this means for thinking through the law and cinema question. This movement of cinema from the screen to the street is both *spatial* as well as *technological*, where cinema finds itself circulating in the form of cheap, easily reproduced illegal media commodities. This move also opens up ways for new and varied disciplinary enquiries into the nature of film. As long as the field of film studies has been interested largely in the formal properties of film, the ability to create multiple entry points into the experience of cinema remained limited, forcing the debate to be framed largely upon the question of representation. By shifting the focus from *representation*, to the urban *experience* of cinema and to an examination film as *property*, the object of enquiry contends with overlapping, layered, and deeply conflicting histories of the city, in which a highly contested legality emerges as a critical component.

One of the ways of linking up these histories is by looking at them via the intertwined histories of *space*, *carriage*, and *content*. By looking at histories of the spatial regulation of cinema and linking it to a broader history of cinema and the experience of the public sphere in India, I argue

that cinema has always had at best an uncertain relationship with law. I try to locate how an edgy illegality incarnated by the cinema may actually have a lot to say about larger questions of citizenship, democracy, and the complex world of *participative illegality* in India. I explore some of the legal ramifications of such illegality, and then return the question to its cultural representation in the cinema and, thereby, to the circulation of the illegal media commodity.

Spatial Dimensions of Cinema

A lot of work in recent film theory and history has started to break down the barriers between exhibition and spectatorship. If there was an excessive investment in textual analysis in earlier film theory, there is an equal danger of it being eclipsed by a focus on nontextual elements of film practice without paying any attention to the text. One of the areas in which one has no choice but to avoid a neat distinction between text and context is in the regulation of cinema. The construction of the cinema as an object of knowledge and regulation is premised on it being seen both as a space in which certain images proliferate, as well as a space produced by the proliferation of certain images. Signaling this idea of the continuum, Ravi Vasudevan suggests that it may be productive to consider the “cinema as a space, composed of the hall, its internal organization of foyer, auditorium, seating and the projected film, and its public presence, as in its façade, advertisements, marquees, hoardings [billboards]. But also to see this space in relation to a broader space, in the market, near factories, schools, office blocks, in a mall, in residential areas; and how it is located in the depth of this space or on its margins, near main arterial thoroughfares, linking one space to another through transportation” (Vasudevan 2003).

The movement from an examination of cinematic *spaces* to a larger idea of cinematic *practices* may entail a shift into a larger spatial history, one that foregrounds the importance of space in relation to the larger histories of the state and the public sphere. A history of spectatorship, for instance, does not merely provide us with a way of engaging with *what* people see, and *how* people see, but also with stories of crowds, of their interaction with each other, with the space in which the film was screened and how this may have bearing on their interaction with the screen. It also involves a history of “urban regulation and tactical maneuver, the reinvention of technological formats and social selves” (Vasudevan 2003).

My starting point in developing an argument about how spatial practices around cinema influence the relationship between law and cinema is, curiously, a story about censorship, which would traditionally be seen as a content problem. And as with any other legal story, after the initial excavation one finds what one least expects. Any discussion on censorship is generally

seen as a discussion of content, and justifiably so. However, I would like to use the history of the Cinematograph Act in India to demonstrate the hidden spatial history of censorship.

The Cinematograph Act enacted in 1918 provides for the establishment of a Censor Board, and no film can be released in India without the grant of a Censor Certificate by this Board. The all-encompassing power of the Board ranges from public order to sexual morality and to national interest. It is a curious irony that all films in India share the same opening shot: the first collective gaze of the audience at the screen is on the censor certificate, announcing the title of the film, whether it is black and white, its length, but also, crucially, designating who can see the film by the subtle yet powerful invocation of the singular letters "A" or "U."

The initial history of the regulation of cinema spaces in India was informed by the health and safety threats posed by this new technology, since it used highly inflammable film. Cinema arrived in India via the metropolitan centers of cities such as Madras, where it served primarily as entertainment for British officials and soldiers. But when cinema started catering to the "native" population, and moved into the other parts of the city, primarily its working-class areas, the anxiety around cinematic space took a new turn, now causing immense concern to the colonial government. The anxiety was of governance and the ability to control a growing nationalist public. As Stephen P. Hughes has written, "The daily collecting of crowds in the street outside the Crown Theatre at regular intervals before a film show and then, after being emotionally galvanized through the collective experience of film-watching, exiting together on to the streets again, would have made the police authorities particularly concerned" (Hughes 1999, 49–50). And he notes that the colonial authorities carried with them unpleasant memories of Indian "crowds, especially those of religious processions and at dramatic performances, as a potentially uncontrollable threat to the political and social order. The very notion of collective gatherings, even at places of public entertainment, carried assumed connotations of riotous mobs and revolutionary masses which could be mobilized against colonial authority" (50).

This was the period that saw the consolidation of the censorship machinery to regulate the new technological medium and the potentially dangerous space that it enabled. The transition from the language of health and safety to one of moral hazard was completed in a seamless manner by the midwife of censorship in India, a man named E.J.B. Greenwood. Greenwood, the chief electrical engineer of Madras, was appointed inspector of all theaters to see whether they complied with various safety guidelines, especially to avert fire. Being a true colonial officer, Greenwood took his call to duty rather seriously to include within his powers inflammatory materials of all kinds. He began making suggestions about the regulation of cinema in general beyond the

health and safety angle, and advised the government that “films ‘dealing with inflammatory matters [such] as Gandhi doctrines, religious feelings of the Mohamedans, and universally condemned scenes of in chastity or immorality’ were particularly dangerous in the current situation” (47).

Thus the birth of an Indian cinematic public emerged within a highly regulated and suspicious environment, where the entire enterprise of cinema was constantly under the threat of law, and subject at every point to its gaze. If on the one hand cinematic space was already coded as a legal space, then cinematic space also created a new space in which existing social relations and conflict, primarily class-caste, can be both *enacted* and *transgressed* at the same time. Sivathamby notes, for instance, that “The Cinema Hall was the first performance centre in which all Tamils sat under the same roof. The basis of the seating is not on the hierarchic position of the patron but essentially on his purchasing power. If he cannot afford paying the higher rate, he has either to keep away from the performance or be with ‘all and sundry’” (Sivathamby 1981).

Despite the colonial government’s attempts to discipline the space of cinema, cinematic practices displayed a rather stubborn refusal to be subordinated to the panoptic gaze of the state. As the cinematic apparatus traveled from urban centers into smaller towns and villages, the cinema hall merged with older forms of traveling theaters to become tent houses that in turn became mobile cinema halls. The “place” of cinema that was sought to be regulated was dispersed into a plethora of spaces in which cinema unfolded. The history of cinema in India is marked by a history of extreme regulation and extreme tactility, the evolution of a new public arena of participation, which at the same time was also marked by older histories of exclusion, all in all a highly charged space of conflict, anxiety, and ambivalence.

Chiranjeevi Fans and Their Public Sphere

I now focus on fan activity, a distinct set of practices that provides us with an important way of conceptualizing cinema’s relationship to the public sphere.¹ S.V. Srinivas begins his important study of the fan phenomenon by posing a fundamental question: what is the nature of the public sphere constituted by cinema? Given the pervasive publicness of cinema, Srinivas finds it curious that classical accounts of the public sphere are not in a position to address cinema. Srinivas provides us with an account of the emergence of the Chiranjeevi fan clubs in Andhra Pradesh, linking that phenomenon to a wider political history of the emergence of various subaltern groups such as Dalits and landless laborers, forcing an examination of the question of citizenship. And there have been significant interventions in the debate on citizenship and cinema in India (Rajadhyaksha 1999; Vasudevan 2001).

The question of citizenship as negotiated in and by Indian cinema has been influenced to a large extent by a landmark essay written by Partha Chatterjee, which argues that postcolonial society in India may be characterized as consisting of a domain of civil society and a domain of political society. Civil society is generally used as the catch-all phrase to indicate the domain outside of the state. But in the Indian context, it also signifies a very small arena of people whose social location can be easily identified with a fair degree of clarity. These are generally the elites who have access to the formal liberal structure (best exemplified in terms of the Constitution and the legal process). Theoretically the formal liberal structure construes all of society as belonging to the domain of civil society, and every person as a citizen with equal rights. (Chatterjee calls this move one of “enumeration,” where everyone is counted as a citizen.) However, he argues that the domain of civil society as marked by the characteristics of modern associational life “originating in western societies that are based on equality, autonomy, freedom of entry and exit, contract, deliberative procedures of decision-making, recognized rights and duties of members are restricted to a very small section of citizens” (Chatterjee 1997). Most inhabitants of India are tenuously, and even then ambiguously and contextually, rights-bearing citizens in the sense imagined by the Constitution. Most citizens are therefore unable to occupy the space of the normative citizen or collectively, the space of civil society.

To conceptualize the vast majority of society that lies beyond the traditional concept of civil society, Chatterjee proposes the notion of political society. For him, political society is the domain of the population not citizens, and includes parties, movements, nonpolitical formations, with the institutional form of this political society always remaining uncertain. But it is not as though this class is beyond or outside the reach of the state or even excluded from the domain of politics. As a population within the territorial jurisdiction of the state, it is both looked after and controlled by various government agencies.

Drawing from Chatterjee, Srinivas argues that there is a crucial distinction between the all-encompassing category of the audience and that of a public. The audience as a category of analysis is similar to Chatterjee’s idea of the enumerated citizen; the idea of an audience masks the conflictual nature of competing publics. On the one hand there is the elite public of cinema, and for Srinivas this elite public is a public of citizens; on the other, there is the nonelite audience belonging to diverse groups but distinguished by their different reading practices of a film. At this juncture emerges the figure of the excessive fan.

The Publicness of Fan Associations

There are approximately 3,000 fan associations in Andhra Pradesh devoted to film star Chiranjeevi. Fan associations have always existed in South India; they

became an important unit of political mobilization when the biggest star of Telugu cinema, N.T. Rama Rao, became the chief minister of the state within six months of deciding to stand for elections. His primary support came in the form of his fan associations, who did most of the ground work of establishing a mass base for his political party. Politics and cinema in Andhra Pradesh have primarily been dominated by members of the *kamma* caste. Chiranjeevi became the first non-*kamma* star to make it big in cinema, and hence became the basis of mobilization for the non-*kamma* publics. Most of the members of the Chiranjeevi fan associations are unemployed youth, students, and workers from the unorganized sector, including mechanics, shop assistants, hotel workers, and errand boys. These fans are marked by their excessive behavior, hyperbole, obsession with the star, his films, and his life, and a propensity to crime—in short, bearing all the characteristics that mark them as being significantly different from the ideal citizen of civil society.

Srinivas argues that the most significant aspect of the fans lies in the publicness of their activities. On most evenings, fans meet in public places such as teashops, street corner *paan* shops, and often in the vicinity of a cinema hall. Public places become the office of fan associations, which often bear strange addresses, such as All India Chiranjeevi Friends Unit, Urvasi Theater, Gandhinagar, or Akhilandhra Chiranjeevi Yuvata, opposite Sandhya 70 MM, Hyderabad. Srinivas says that what really matters is not so much the spectacle on-screen but what happens off-screen, where the viewer and fan is also a performer. This off-screen spectacle (like a number of other fan activities that need not be spectacular) is addressed to the absent star, as much as it is to the fans themselves and to the others present in the audience. Ashish Rajadhyaksha calls them “a large number of people converged upon a single screen, to collectively gaze upon the projected image. . . . In place of a series of mass produced frames that went out to a number of individual buyers/viewers, many people came to collectively view a single frame, and rendered it mobile” (Rajadhyaksha 1999).

Whereas the mode of address to the star is that of devotion, admiration, and commitment, the language the fans use is a language of rights. Fans may collectively demand that the filmic narrative progress in a certain manner and may even react violently if the star does not adhere to their expectations. Elsewhere Rajadhyaksha has characterized the relationship between expectation and performance as a *narrative contract* (a conceptual category introduced by Sudpita Kaviraj to characterize Indian nationalism) between the star and the spectator (Rajadhyaksha 1999).

We now need to connect these excessive, performative acts of fans to the older history of cinematic space. The history of cinematic space, as noted earlier, is also a history of unequal access. If the legal regulation that arose

with the Cinematograph Act defined the spatial arrangement of cinema in terms of the different seats, entries, and other spaces, this translated into a spatial segregation of the cinema hall to mirror existing hierarchies. The history of early postcolonial cinematic space is also marked by sharp social conflict and anxiety. For Srinivas, fans seek to occupy this public space marked by its histories of exclusions. For him there is no way of reading the conflict around this space without contextualizing the dispute within the larger struggle over public places in India. A significant history of the Dalit movement has been around securing rights of equal access to a number of public spaces. His account of fan activities makes a critical contribution in expanding the liberal account of citizenship, democracy, rights, and the very idea of the political, including within it practices that do not fall within classical accounts of political representation and participation.

The Illegal Citizen

Taking a cue from Srinivas's account of the background of most of the members of the fan associations, we can now return to the debate on citizenship to introduce the idea of the illegal citizen. The creation of the citizen subject category in India demanded a move away from the over-signified body of the individual marked by religion, gender, and caste into an unmarked subject position, "the citizen," a category based on equality and access and guaranteed rights within the Constitutional framework. The move into the space of the citizen demanded a disavowal of traditional identities, affiliations, and allegiances that did not fit within the project of Nehruvian modernity. However, clearly not everyone could participate equally in the logic of disincorporation, and Tejaswini Niranjana argues that the exnominated modern citizen, though allegedly a neutral category, is invariably marked invisibly as middle class, upper caste, Hindu, and male (Niranjana 1993).

Citizenship and modernity are normatively constructed as highly desirable, and the grand project wills everyone into a state of modernity, but there arises from the start a clear lack or inability for the bulk of the population to occupy this space. So what happens when people fall off these official maps and plans? As noted earlier, this category of the illegal citizen includes such a vast number of people that the state has no choice but to negotiate with it, sometimes with brutality and at other times by giving in to their claims. The story of democracy in India is in part precisely the story of these negotiations. The collective experience of the category of the illegal citizen is perhaps best demonstrated in the experience of cities. An average of forty percent and in some cases seventy percent of the population of major cities lives in illegal conditions. Furthermore, 70–95 percent of all new housing is built illegally (Durand-Lasserve and Royston 2002). The primary reason for

this state of illegality arises from the nature of land tenure in cities, where the twin tropes of ownership and title are clearly unable to account for the myriad ways through which people assert a claim on land and more generally to the city. The people who live in this perpetual state of illegality also engage in other networks of illegality, such as stealing electricity and water, and bribing their way through the Kafkaesque bureaucratic structures to access civic amenities that the legal city takes for granted.

Solomon Benjamin, in his detailed engagement with informal economies in India, has consistently argued for a greater understanding of what he calls democracy and politics by stealth (Benjamin 1991). Since access to the institutions of democracy are unequally distributed, most of the urban poor make their way into these stubborn structures through the lower rung of the bureaucracy, often using bribery as a route to access basic services. The middle-class response to this is the simplistic one that bribery is the bane of all evil in India. Walter Benjamin characterized the nature of [Naples] by saying that “Porosity is the inexhaustible law of the life of this city, reappearing everywhere . . . building and action inter-penetrate in the courtyards, arcades and stairways . . . to become a theatre of new, unforeseen constellations. The stamp of the definitive is avoided. . . .”

Another metaphor closely related to the idea of porosity is that of seepage. The Raqs Media Collective, for instance, looking at what they name the five figures of contemporary transgression—the *hacker*, the *migrant*, the *pirate*, the *alien*, and the *squatter*—argue that these are the people who fall off official maps, official plans, and official histories yet travel with the histories of the networks that they are able to deploy at any point, within an insistent, ubiquitous insider knowledge of today’s networked world. They then introduce the powerful metaphor of *seepage* to help us to think through these acts of transgressions (Raqs 2004).

I reinsert Srinivas’s account of fan activities into this ambivalent state of the legal/illegal, particularly since a number of fans are involved in peripheral economic activities. Chatterjee’s definition of the relationship between political society and the state seems a little lopsided, attempting as he does to resolve the tension via the route of welfare and democracy. Though clearly an important component, it fails to provide an account of the richly complex ways in which this “political society” creates its own avenues of participation. The dependence on the language of development and poverty alleviation does not do any justice to the creative instincts of survival.

Instead, it enables the coming into play of a language of piety, which can be used to pay lip service to the plight of the urban poor, while retaining the structures of exclusion. In a landmark case, *Olga Tellis v. Union of India* (AIR 1986 SC 180), the Supreme Court was called upon to decide whether

pavement dwellers had a right to stay on pavements, and whether forcible evictions amounted to a violation of their fundamental right to life and personal liberty. The decision of the Supreme Court begins with a typical account of the urban poor structured to induce a mixed reaction of shock and sympathy.

Those who have made pavements their homes exist in the midst of filth and squalor, which has to be seen to be believed. Rabid dogs in search of stinking meat and cats in search of hungry rats keep them company. They cook and sleep where they can, for no conveniences are available to them. Their daughters, come of age, bathe under the nosy gaze of passers-by, unmindful of the feminine sense of bashfulness. The cooking and washing over, women pick lice from each other's hair. The boys beg. Menfolk, without occupation, snatch chains with the connivance of the defenders of law and order; when caught, if at all, they say: "Who doesn't commit crimes in this city?"

It goes on to add:

Apart from this, some of the pavement dwellers indulge in anti-social acts like chain-snatching, illicit distillation of liquor and prostitution. The lack of proper environment leads to increased criminal tendencies, resulting in more crime in the cities. It is, therefore, in public interest that public places like pavements and paths are not encroached upon.

This decision illustrates the encounter between the law-abiding citizen of civil society and his subterranean other, the illegal citizen: it is an encounter that is marked simultaneously by a repulsive voyeuristic fascination and horror, the narrative barely able to disguise its contempt for the "animal like" existence of the pavement dwellers. It of course speaks in a language where pavement dwellers adversely affect the public interest, clearly defining the pavement dwellers residing somewhere beyond the idea of the "public." In another decision of the Supreme Court, the chief justice of India is said to have stated that "giving land to squatters is like giving money back to pickpockets."

From the Angry Young Man to the *Tapori*

We now return to cinematic practices, but move to a more speculative plane to look at how cinema has negotiated with this history of public space, urban experience, modernity, and the world of porous legality. The tension between the legality, marked by its dystopic sense of the urban poor and illegality, the primary means of surviving the city, has informed the cinematic imagination. Nandy has argued that cinema constitutes a "slum's eye view of politics" (Nandy 1998) and the obsession with the figure of the violent outsider to the law that has marked much of Indian cinema maps the collective fantasies of a large section

of the urban poor. In terms of film theory, this has translated into substantial work that has attempted to understand the transition that took place in the 1970s in India, which saw the emergence of one of India's most important cultural icons, Amitabh Bachchan, and the myth of the "angry young man" (Kazmi 1998).

Most of Bachchan's films in the 1970s to the 1980s saw him play the violent outsider to the law, delivering the directive principles of state policy and guarding fundamental rights in an alternative legal universe. Bachchan emerged as one who could give justice to his class. He protects them from the law (there are a number of scenes in his films where he arrives just in time to stop the slums from being demolished), thereby also performing "the task of dispensing instant justice which the official legal system fails to do."

This reading of Bachchan as the lumpen body that refuses to be disincorporated is largely an accurate one, and the best example of this was *Deewaar* (dir. Yash Chopra, Hindi, 1975), which dramatized the relation between a contractual law-abiding society and its subterranean, criminal obverse. Though the Bachchan phenomenon and its outright rejection of the law spoke to a crisis of the state and legitimacy, it somehow failed to capture or provide a glimpse into the tactile creative world of illegality that most people engage in to work their way around the law.

There is undoubtedly a struggle, often a very difficult one, to occupy the space of the citizen, or at least to access the benefits accruing to the citizen subject, but this is not necessarily a space of despair as most studies of urban poverty or legal decision paint such citizens out to be. This is also a space of creativity and dignity, in which people on the margins find innovative ways of dealing with the state of their exclusion. An important shift in film studies that tries to engage with this space, the common place of law, the street, and the urban experience is Ranjani Mazumdar's work on the figure of the *tapori* in Hindi cinema.

Arguing that cinema constitutes the hidden archive of the Indian modern, Mazumdar attempts to distinguish the cinematic experience of modernity in India from the experience that scholars such as Benjamin and Simmel have provided. If the Benjaminesque experience of the city was marked by a trope of spectral figures such as the *flâneur*, and the cinematic experience of the city was in the form of terror (*film noir*) and anxiety (science fiction), in India, the city and particularly the street becomes a simultaneous site of community and crime, dance and violence, madness and freedom, death and renewal. The street, even the footpath in Bombay cinema, is part village community, part cosmopolitan city street, a symbolic organizer of a set of contradictory impulses that generates an intense performance (Mazumdar 2001).

Various characteristics of the urbanites that we have encountered thus far (the fan, the trickster, the slum dweller) merge in the figure of the *tapori*. The *tapori* for Mazumdar is a particular Mumbai figure, a male persona who is part

time street hood and part time social conscience of the neighborhood. A stylized figure representing the streets of Mumbai, the

tapori has primarily been a cinematic invention. He stands at the intersection of morality and evil, between the legal and the illegal, between the world of work and those without work. His strength lies in his ability to organize the various tensions produced by the urban experience in India. Sometimes dabbling in petty crime, the *tapori's* personality is invested with an integrity from which he emerges as the protector of a certain moral code. (Mazumdar 2001)

Though not directly examining the illegal world of the *tapori*, Mazumdar provides us with an important entry point in thinking about the space of everyday legality, where there is an overdetermination of life by the law and yet a number of stubborn practices constantly enable seepage, which refuses to be plugged by the legal system. This is also a performative space where the ordinary terms of political discourse such as citizenship, public sphere, and rights are rendered inadequate.

If the grand project of the welfare state had been to speak to the urban poor in the language of piety, and the project of law has been to speak to the *tapori* in the language of power, the ability of the *tapori* to reject piety and *speak back to power* disrupts the traditional accounts of the developmentalist state. This ability causes a great deal of anxiety to the law, which cannot comprehend the *chutzpah* of the *tapori*, as evidenced by Justice Chandrachud's statement in the opening paragraph of *Olga Tellis v. Union of India* (AIR 1986 SC 180), where he states with a certain incredulity, "and when caught, if at all, they say, who doesn't commit crime in this city?" This is the response of the admonishing *parens patriae* who has just realized that the errant child does not feel too much guilt or remorse and in fact has the nerve to answer back, rendering vacuous the symbolic fiction that sustains the law of the father.

Cinematic space is perhaps the only space that has understood the world of the *tapori* in terms of labor, dignity, and survival. The street becomes the area of conflict between the *tapori* and authority of law, but unlike the Bachchan figure who has to take on the role of the vigilante to transcend the experience of the street and the memory of homelessness, the *tapori* engages with the law on the street and gets the better of the law through trickery or a logic of cunning. This is an image of homelessness and of the street of an alternative imagination, "one that is marked by a spirited performance of accommodation and resistance" (Mazumdar 2001). This performative space of the *tapori* marked by a certain fragile bravado is what enables this figure to maintain a sense of dignity in what would otherwise be a highly unequal exchange.

Tactile Cities, Pirate Moderns, and Porous Legality

Given the nature of this porosity, how do we maintain a similar porosity when we speak of the relationship between law and cinema, looking at it not merely in terms of ways of watching films, taking seriously the idea of the spatial histories that cinema falls into, the legal histories of these spaces, and their relationship to the larger experience of the city? Finally I would like to tie the content and spatial account into contemporary transitions that are taking place, with cheap forms of reproduction, to pose the question of how carriage, or the technological form through which cinema is delivered, is also a part of this larger story of porosity. This is a question that any project bringing law and cinema into domains of mutual intelligibility will have to take seriously.

We have already considered the older illegal city, and the creative energies that it may contain. The illegal city also serves as testimony to the failure of any absolutist project of planning in a country like India with very sharp inequalities. James Holston says that “modernist planning does not admit or develop productively the paradoxes of its imagined futures. Instead it attempts to be a plan without contradictions or conflict. It assumes a rational domination of the future in which its total and totalizing plan dissolves any conflict between the imagined and existing society in the enforced coherence of its order. This assumption is false and arrogant as it fails to include as its constituent element, the conflict, ambiguity and indeterminacy characteristic of actual social life” (Holston 1999).

Over the past ten years we have seen significant transformations of the image of India, with cities such as Bangalore and Hyderabad claiming their share of global attention as the information technology (IT) hubs of the world, the heart of the “business process outsourcing” industry, and a triumphant global elite claiming that India had finally arrived, via the former government’s “feel good” *India Shining* advertising campaign. On the one hand we see the creation of the global city working in virtual time with the United States in terms of the provision of IT services, and on the other hand we see the barely hidden city of over 700 slums coexisting in a bizarre temporal disjuncture.

As cities such as Mumbai, Hyderabad, Delhi, Bangalore, Kolkata, and Chennai rapidly move into this new network of the global economy, large sections of their middle classes begin to live in a present that is far removed from a majority of the people who live and work in these cities. There is in many ways a disjuncture of temporal experience within the national space. Big cities and metropolises are being reconfigured, dislocated from their national location and inserted into the grid of the global economy.

The relationship of these cities to their national location, which once made them hospitable sites for the poorer sections that came there in search of livelihoods, has now been completely transformed (Nigam 2004). These global fantasies share peculiarly uniform spatial strategies, which revolve

critically around the reworking of both traditional media and cinematic spaces. The emergence of the shopping mall-cum-multiplex as the site that transforms a city requires special attention: the attention to the nowhere-ness of the place, the exclusivity that it commands registers a massive shift from the idea of the cinematic space that has animated much of the work around cinematic publics and fans.

This urbanism in India has become a significant theater of elite engagement with claims of globalization. Consumption, “information” society, and the new economy, spatialized imprints of the media industry such as multiplexes and malls, and lifestyle and suburbia, go hand in hand with the cries of urban decay and pollution, and managing populations that are increasingly restless in the new arrangements (Sundaram 2004).

Coexisting with these spectacular global visions are also networks of local economies, always lacking the infrastructural provisions and state backing that the IT companies enjoy, but equally mobile. This city weaves in its core the “unorganized” and “unplanned” growth of the city, both economically and spatially. The urban poor, comprising a quarter of the city, reside and carry out trade in conditions that make a decent living standard unattainable. Whereas the older illegal city has been in existence for a while, in the past ten years another layer has been integrated into the experience and narration of this illegal city. The proliferation of non-legal media practices ranging from pirated VCDs, DVDs, and MP3s to gray market mobile phones informs the practices and imagination of the illegal city.

Solly Benjamin’s fascinating study of the transformation of Viswasnagar in East Delhi from an unauthorized colony and slum into one of Asia’s largest industrial clusters is both an account of the everyday space of technological innovation as well as the everyday space of democratic negotiations and citizenship claims. The story of Viswasnagar is allegorical of much of the informal history of urbanization and industrialization in postcolonial India. Capitalizing on the nascent electronics industry and computer industry, Viswasnagar became the largest hub for the production of copper wires and cables in India. This was accompanied by complex negotiations and maneuvering for legal status through regularization of land title, establishment of proper water and electricity facilities, and other means.

By the 1990s, places such as Viswasnagar and other industrial clusters had transformed themselves to tap into the changing mediascapes of the city providing the hardware for the booming cable industry and the digital audio and video market. The same is true of media markets such as Nehru Place and Palika Bazaar, which began as planned first-generation malls, and converted into illicit media spaces through the 1980s and 1990s. And at the heart of the anxiety of the globalizing elite is the disorder that emerges for a particular culture of the copy, namely piracy, that threatens the neat broadband flows of information, labor, culture, and capital.

Ravi Sundaram has theorized the phenomenon of piracy and illegal media cultures in the new media city (Sundaram 2001). According to Sundaram, this world of non-legal media in a number of South Asian cities, marked by an ad hoc innovativeness and its various strategies of survival, is the world of recycled modernity. It exists in the spaces of the everyday and cannot be understood within the terms of the earlier publics (the nationalist public and the elite public sphere). Fueled by aspirations of upward mobility, it is an account of the claims to modernity made by a class of people, otherwise unaccounted for by the nationalist project of modernity. This rearticulated entry point into the modern is contemporaneous with the emergence of the global moment, as new forms of labor-like call centers and the software industry in India replace the earlier configuration of national and modern with the global modern.

Thus, at the level of the everyday, the old prohibition and regulation on the social life of commodities have proved ineffective, urban residents are now assaulted with a deluge of cultural products, including cassettes, CDs, MP3s, VCDs, cable television, gray market computers, cheap Chinese audio and video players, thousands of cheap print flyers, and signage everywhere. What is remarkable here is that the preponderance of these products comes from the gray or informal sector, outside the effective regulation of the state or large capital. Sundaram adds:

India today has the world's second largest music market, a large film industry with global dreams, a predominantly grey computer market, hundreds of thousands of tiny phone and word processing shops and cybercafes. And as if from the ruins of urban planning, new media bazaars which supply these networks, have emerged existing in the cusp of legality and non-legality. Every day a guerrilla war is raging, between new intellectual property raiders, the police and the unceasing neighbourhood demand for greyware. At the heart of this extension of the visible has been the production of media commodities outside the legal property regimes of globalisation. Copy culture and non-legal distribution networks have been central to the spread of the media, so that distinctions between the technological and cultural seem to have become blurred in daily life. A significant section of the urban population derives its media from these networks. Using the tactics of the fragmentary city, pirate networks have frustrated every effort of the proprietary enforcement regime to control them. (Sundaram 2004)

If cinema marked the arrival of a new, modern experience with its ability to create a dazzled experience of the contemporary, the world of information and media that accompanies globalization also conjures up a similar experience of wonder and awe. And if in the cinema hall that space of modernity and conflict enabled the play of an alternative imagination in construing the experience of the public sphere for fans, not otherwise invited to the official public spheres, then a similar space has opened up in the past decade, a space that links the

spatial world of the fan with the street of the *tapori* to the world of the illegal DVD film. It is now almost impossible to draw a line between the experience of media and the experience of the city. Media networks are enmeshed critically within the urban experience and therefore it is not surprising that the contemporary changes in the imagination of the city are both a cause of and the consequence of shifts in the way that cities imagine themselves as nodes within the information and media network.

The ongoing research, “Publics and Practices in the History of the Present” (PPHP) at Sarai, New Delhi, has done some significant work in linking these two cities: the older illegal city that emerges against the wishes of the master plan, and this new mediatized city of pirate practices, and the remarkable linkages that bind the older transgressor of modernity with the new transgressor of globalization. In many ways the information era supports a master plan, similar to that of modernist planning. The institutional imagination of the era relies on the World Trade Organization as chief architect and planner, and copyright lawyers as the executive managers of this new plan; the only people who retain their jobs from the old city are the executors of the old plan, the police force and the demolition squad. In 2004, the chief minister of Tamil Nadu extended the Goondas Act to cover the activities of video pirates. This move forces us to conceptually bring together our two cities, the illegal *slum* city with the illegal *media* city, as Bhagwati Prasad shows:

The Madipur Village lies adjacent to the Madipur Colony. Of course, it doesn't look like a village at all. There are tall buildings, tarred, broad roads, and several factories. Perhaps it can be said that the existence of factories is the sole logic for the construction of buildings. The factories produce hosiery, shirts, trousers etc. Factory workers live in this village. Some have taken houses on rent, and others live in the factories. Sundays are off, and so the day for relaxing, roaming around. But Saturday nights have a different importance altogether. That's the time for watching films. (Prasad 2004)

How do we begin to understand these new social constellations and conflict zones? What are the challenges they pose to scholarship on law and culture generally, and law and cinema particularly? How do they relate to the conceptual category of cinematic citizenship that we have used to describe earlier cinematic practices to account for the cine-political? Can categories like Chatterjee's political society account for these non-legal networks in the manner that it can for illegal activities that make claims to amenities and political recognition?

Just as one cannot understand land tenure through the prism of liberal legality alone, any attempt to understand the complex networks of economic and social relations that underlie the phenomenon of piracy will have to engage with the conflict over control of the means of technological and cultural production in the contemporary moment of globalization. The ways in which

the illegal media city emerges and coexists alongside the vibrant, innovative, and productive debris of the older city, the schizoid relationship between legality and illegality in postcolonial cities, suggest that the crisis may not lie in these relations, and we may need to turn the gaze of the law from the usual suspects of legality to legality itself and the relations that underlie its existence. As Derrida has said poignantly, “the admiring fascination” for the criminal and the rebel is not merely a fascination for someone who commits a particular crime, but that “someone who, in defying the law, bares the violence of the legal system, the juridical order itself” (Derrida 1992).

Note

1. I am relying on S.V. Srinivas’s unpublished dissertation on the fan phenomenon in Andhra Pradesh. See also Srinivas 1999; 2000.

References

- Benjamin, Solomon. 1991. *Neighbourhood as factory*. Ph.D. dissertation, Massachusetts Institute of Technology.
- Chatterjee, Partha. 1997. Beyond the nation? Or within? *Economic and Political Weekly*, January 4–11, 1997; 32(1/2): 30–34.
- Chatterjee, Partha. 2001. Democracy and the violence of the state: A political negotiation of death. *Inter-Asia Cultural Studies* 2(1): 7–21.
- Derrida, Jacques. 1992. The mystical foundation of authority. In *Deconstruction and the possibility of justice*. Ed. Druscilla Cornell et al. New York: Routledge.
- Durand-Lasserve, Alain and Royston, Lauren. 2002. *Holding their ground*, London: Earthscan.
- Holston, James. 1999. Spaces of insurgent citizenship. In *Cities and citizenship*. Ed. James Holston and Arjun Appadurai. Durham: Duke University Press, 155–75.
- Hughes, Stephen P. 1999. Policing silent film exhibitions in colonial South India. In *Making meaning in Indian cinema*. Ed. Ravi Vasudevan. New Delhi: Oxford University Press, 39–64.
- Kazmi, Fareedudin. 1998. How angry is the angry young man? Rebellion in conventional Hindi films. In *The secret politics of our desires: Innocence, culpability and Indian cinema*. Ed. Ashish Nandy. New Delhi: Oxford University Press.
- Mazumdar, Ranjani. 2001. Figure of the tapori: Language, gesture and the cinematic city. *Economic and Political Weekly*, December 29, 2001; 36(52): 4872–80.
- Nandy, Ashish. 1998. Indian popular cinema as slum eye view of politics. In *The secret politics of our desires: Innocence, culpability and Indian cinema*. Ed. Ashish Nandy. New Delhi: Oxford University Press.
- Nigam, Aditya. 2004. Imagining the global nation. *Economic and Political Weekly* January 3, 2004; 39(1): 72–79.
- Niranjana, Tejaswini. 1993. Introduction to careers of modernity. *Journal of Arts and Ideas* 25/26 (December): 115–26.
- Prasad, Bhagwati. 2004. A peek in life at Madipur. <http://pphp.sarai.net/content/madipur_life.html>.

- Rajadhyaksha, Ashish. 1999. Viewership and democracy in the cinema. In *Making meaning in Indian cinema*. Ed. Ravi Vasudevan. New Delhi: Oxford University Press, 267–296.
- Raqs Media Collective. 2004. X notes on practice. In *Immaterial labour: Work, research and art*. Ed. Catherine David et al. London: Black Dog.
- Sivathamby, Karthigesu. 1981. *Tamil film as a medium of political communication*. Madras: New Century Book House.
- Srinivas, S.V. 1999. Devotion and defiance in fan activity. In *Making meaning in Indian cinema*. Ed. Ravi Vasudevan. New Delhi: Oxford University Press, 297–317.
- Srinivas, S.V. 2000. Is there a public in the cinema hall? <<http://www.frameworkonline.com/42svs.htm>>.
- Sundaram, Ravi. 2001. Recycling modernity: Pirate electronic cultures in India. *Sarai Reader* 1: 93–99.
- Sundaram, Ravi. 2004. Uncanny networks: Pirate, urban and new globalization. *Economic and Political Weekly*, January 6, 2004; 39(1): 64–71.
- Vasudevan, Ravi. 2001. An imperfect public: Cinema and citizenship in the “third world.” *Sarai Reader* 1: 57–68.
- Vasudevan, Ravi. 2003. Cinema in urban space. *Seminar* 525 (May). <<http://www.india-seminar.com/2003/525.htm>>.

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CHAPTER 2
BOMBAY BHAI: THE GANGSTER IN
AND BEHIND POPULAR
HINDI CINEMA

Corey K. Creekmur

MM: I want to make another film. Sanjay [Dutt] said I should make a film based on your life.

CS: Accha [Good], we'll discuss this at leisure.

MM: 100 per cent. I want a story . . . just give me a story.

CS: Yeah, yeah. I'll definitely give you a couple of sequences . . .

—Bombay film director Mahesh Manjrekar in recorded
phone conversation with underworld boss
Chhota Shakeel, November 14, 2000

Crime and Cinema in India

In *The Tao of Cricket*, his witty analysis of the role the ostensibly British game has played within modern Indian culture and consciousness, Ashis Nandy compares cricket to detective fiction, “another mode of cultural self-expression which became popular in Britain during the late Victorian period and was later introduced into a number of Indian languages by enterprising imitators, but which [unlike cricket] failed to take root.” Although both popular diversions share some functions, for Nandy the “conflicts which exist in cricket at a fundamental level—cricket as a science versus cricket as an art, cricket as a display of individual flourish versus cricket as team work, the cricketer as a specialist versus the cricketer as part of a community—become shallower in the thriller” (Nandy 2000, 32). Because the classic detective story poses and then logically solves a puzzle, it trades only in outer conflicts, rather than the inner conflicts that, according to Nandy, are the genuine agony and ecstasy of cricket for its devoted fans. But even if the classic detective story failed to secure a place in Indian popular

culture, “as we know,” Nandy reminds us, “the popular Indian understanding of transgression and responsibility—of crime and punishment—is reflected not so much in the vernacular detective thriller as in the thrilling popular cinema which has an entirely different set of psychological properties” (31–32).

Indeed, if narratives of crime and the law have been rare in Indian popular literature in the distinct form of the classic detective story (with the notable exception of Bengali filmmaker and author Satyajit Ray’s popular series of tales featuring the detective Feluda), crime stories are *so* pervasive in Indian popular cinema that it seems unnecessary to acknowledge their obvious persistence. Of course, crime, broadly understood, might be viewed as a driving force for narrative in its most basic form, which fundamentally entails disruption and restoration of order, and so, unsurprisingly, many Indian films, like popular narratives everywhere, center on the private or official responses to a pivotal theft, murder, rape, or other criminal act. More specifically, Hindi films have frequently located their protagonists in the courtroom, rendered—as in many more Hollywood films and American television programs—a highly dramatic space in which personal, public, and even national issues collide. Raj Kapoor’s classic *Aawaara* (*The Vagabond*, 1951) is perhaps the best-known Hindi melodrama in which characters, in this case a father, son, and the son’s lover played respectively by Prithviraj Kapoor, Raj Kapoor, and Nargis, work out their tangled personal relationships on the dramatic stage of the Bombay High Court through their simultaneous public roles as judge, criminal, and defense attorney. (As the film’s Indian audiences also recognized, these on-screen characters mirrored the actors’ off-screen relationships as actual father, son, and widely rumored lover; see Chatterjee 2003.) Later courtroom dramas such as director B.R. Chopra’s *Kanoon* (*Law*, 1960) and his later controversial treatment of an actual notorious rape case *Insaaf Ka Tarazu* (*Scales of Justice*, 1980) continued the frequent use of the Indian legal system as a dramatic backdrop for popular narratives (see Gopalan 2002, 42–45; Viridi 2003, 160–165, 170–174).

In addition to courtroom dramas, it now seems possible to recognize and acknowledge, if only in retrospect, that post-Independence Hindi cinema occasionally contributed notable examples to what may be identified as the canon of international *film noir*, although the hard-boiled and notoriously ambivalent alternative to the ratiocinative detective story was long understood to be a distinctly if not exclusively American phenomenon. Well-known Hindi films such as *Baazi* (*The Gamble*, dir. Guru Dutt, 1951), *Taxi Driver* (dir. Chetan Anand, 1954), *CID* (dir. Raj Khosla, 1956), and *Kala Pani* (*Black Water*, dir. Vijay Anand, 1958), all starring the iconic Dev Anand (evoking a Bombay Bogart) now appear fully aware of their active engagement in an international dialogue with the visual style and some of the bitter cynicism of

contemporaneous postwar American crime films. As Nandy suggests, even when such popular Indian films responsibly (and perhaps simplistically) solve the mysteries animating their narratives, they do not unfold through the display of pure reason characteristic of a Sherlock Holmes or Agatha Christie story. Instead, like American *film noir*, they shift many of their principal conflicts into ambiguous gray areas, and emphasize psychological ambivalence and trauma rather than deductive certainty, even in their heroes. Moreover, like American *film noir*, they dare to depict the exciting underworld of urban crime (if not actual criminal acts) as alluring and seductive, against which the scientific attractions of cold reason cannot easily compete. Moreover, as 1970s American and British feminist critics discovered when revisiting 1940s and 1950s American *film noir*, the socially transgressive bad girls of Hindi crime films are generally more interesting than the bland good girls, even if their narratives finally ask us to take conventional moral positions on such characters. In popular Hindi cinema this tension also distinctly occupies the soundtrack, where audiences rightly admire the “pure” feminine voice of playback singer Lata Mangeshkar but perhaps secretly prefer the “sexy” songs performed by her sister and professional rival Asha Bhosle, since in such sonic competitions Lata regularly provided the singing voice of the heroine, and Asha of the vamp (see Majumdar 2001).

Nevertheless, for current audiences hardened by more violent images, the criminal milieu represented in 1950s films now can appear naïve and even rather charming. Although the big bad city of Bombay is the eventual ruin of some, especially those just arrived from the traditional village, the streetwise urban hero and heroine often function as models for modern survival, and only the truly wicked, fools, or country bumpkins are harmed by the city’s dangers. This somewhat accepting attitude of urban crime, or at least its atmosphere, in earlier films is effectively summarized by one of the era’s most popular film songs, *Yeh hai Bombay mere jaan . . .* (“This is Bombay my friend”) performed on-screen in *CID* by the comedian Johnny Walker (and off-screen by the legendary playback singer Mohammad Rafi). Ultimately, the song suggests, the common experience of crime is simply the price one pays to live in India’s most exciting city, where troubling social contradictions can perhaps be assuaged through clever lyrics. In Bombay, the song asserts, the homeless are unfairly called *awaara* (tramps), “*khud kaate gale sabke kehte ise ‘business’*” (“yet slitting people’s throats is called ‘business’”). As Jyotika Virdi emphasizes, in such films “Bombay is reified, and big business reviled . . . the wealthy mafia, masquerading as philanthropists, gain social respectability, which shields them from public scrutiny. The heroes enter that world, unveil them, and hand them over to law enforcement authorities” (Virdi 2003, 103–104).

For contemporary Hindi cinema, this “evergreen” song’s sly suggestion that some nasty crimes are labeled “business”—with the English word also

hinting that this very obfuscation may be a Western import—paves the way for the development of another mode of much more troubling crime films that expose the tangled roots growing out of the concrete jungles of Bombay and extending into the city's prominent film industry. In his theoretical treatment of Hindi cinema, M. Madhava Prasad notes a significant shift in post-Independence Indian cinema from what he calls the “feudal family romance,” in which traditional forms of authority continue to override more modern forms of democratic state regulation, toward a transformation in popular narratives following (among other social traumas) the national Emergency imposed by Prime Minister Indira Gandhi in the mid-1970s and marked most emphatically in Indian cinema by the overwhelming popularity of the “angry young man” embodied in a series of hit films featuring superstar Amitabh Bachchan. According to Prasad,

a new dominant form emerged . . . in which the law was no longer a supplement but the most important stake of narrative conflict and resolution. Whether as agents of the law or as its enemies, the characters around whom these narratives turned were initially defined by their expulsion from the familial utopia of the earlier dominant form. Disinherited, marginalized, and thrown into the world of law and criminality, their stories brought the state to the centre of the narrative, and while not eliminating the feudal family romance, relegated it to a subordinate status, where it sometimes served as an object of nostalgia, a lost object, the desire for whose repossession is the driving force behind the action. (1998, 219)

Whether the “new dominant form” Prasad identified as emerging in the 1970s has remained so central in recent decades is open to debate: though the male-centered revenge-driven film of the sort popularized by Bachchan has by no means disappeared, the last few decades of Hindi cinema have been characterized by the successful “return” of the family (and the tradition of arranged marriage) through such films as the feel-good blockbusters *Hum Aapke Hain Koun (Who Am I to You?)*, dir. Sooraj Barjatya, 1994) and *Dilwale Dulhania Le Jayenge (The Brave Heart Takes the Bride)*, dir. Aditya Chopra, 1995). At the same time, though these and subsequent extended-family dramas have dominated the recent Indian box office, they have been persistently shadowed by the significant transformation of the crime film focused upon the marginalized individual outsider into the full-blown gangster saga. Like the influential American *Godfather* films (dir. Francis Ford Coppola, 1972, 1974, 1990), these offer an alternative, “perverse” model of the “family,” typically an all-male fraternity of *bhais*, or “brothers,” the term of underworld affiliation that pervades the tough *Bambaiyya* (Bombay slang) of recent Hindi cinema. For a cinema that never tires of tales of separated brothers, the pervasive extended families and criminal gangs of recent Hindi films suggest the multiplication of

what a few decades ago would have been effectively condensed into a single pair, the official and outlaw hero, embodied in their definitive form in *Deewaar* (*The Wall*, dir. Yash Chopra, 1975) by Shashi Kapoor as the duty-bound policeman Ravi and Amitabh Bachchan as his outlaw brother Vijay. Indeed, as Suketu Mehta wryly notes in his vivid account of contemporary Bombay and its ongoing underworld rivalries, “Bollywood—the Bombay film industry—Partition, and the gangwar share a common theme, a common formula: the breakup of the family” (Mehta 2004, 141).

The Bombay *Bhai* and the Hindi Film Industry

Despite loose precursors in the romantic tales of Indian *dacoits* (rural bandits) and notorious nineteenth-century “thugs,” recent Bombay gangster films initially appear to be South Asian translations of the long-standing Hollywood gangster genre. Although a distinct British criminal gang tradition stretches from Charles Dickens’s *Oliver Twist* through Graham Greene’s *Brighton Rock* and into the recent underworld novels of Jake Arnott (along with a distinct British tradition of gangster cinema), the Western inflections of contemporary Bombay gangster films seem to largely derive not from the popular culture of India’s former colonizers, but from post-*Godfather* American cinema; Hong Kong triad films have had an impact on Indian cinema as well. For example, Mani Ratnam’s influential Tamil hit *Nayakan* (*Hero*, 1987) was explicitly derived from *The Godfather*, and Vidhu Vinod Chopra’s *Parinda* (*Birds*, 1989), although a commercial disappointment, was widely praised for raising the standards of the Hindi gangster film to that of models such as Sergio Leone’s *Once Upon a Time in America* (1993) (see Gopalan 2002, 106–178). Moreover, the Bombay gangster has also invaded the celebrated world of postcolonial literature, in which South Asian writers have been especially prominent, through works such as *Shantaram* (2003), Gregory David Robert’s sensational fictional account of his own life in the Bombay underworld, and *Sacred Games*, Vikram Chandra’s 2007 epic of a Bombay gangster’s life.

However, the increasingly visible relationship between Hindi gangster films, or Hindi cinema in general, and the *actual* Bombay underworld establishes an especially compelling and troubling realism for such films far more immediate and direct than any American or other cinematic influences. If, according to Prasad, the law and the state have moved to the center of Hindi film narratives since the mid-1970s, the last decade’s regular output of gangster films has not only maintained but notoriously exceeded that central focus, since such films also exploit—and demand to be understood in terms of—the actual illegal activities that not only inform their narratives but more infamously surround their actual production and

reception. To take a single, but especially notable, example, fans of the many serious and comic films in which star Sanjay Dutt plays an underworld don (often identified across unrelated films as “Munnabhai”) are well aware of Dutt’s own troubles with the law, including his apparently friendly relations with some of Bombay’s most notorious criminals. This information, widely circulated through gossip and the press, provides even the actor’s comic roles as a gangster with a level of authenticity that can make watching his movies a literal guilty pleasure.

In fact, if the Bombay *bhai* has become an increasingly central figure within Hindi film narratives, his real-life counterparts may be, simultaneously, increasingly central to commercial film production itself, where they lurk only slightly behind the scenes. The regular representation of crime on-screen has thus been matched, and often dramatically extended, by the activities of off-screen criminals who, as both the police and filmgoing public recognize, often literally facilitate the production of popular films of various genres, including those that feature mirror images of themselves. Curiosity and rumor around this infiltration and its narrative representation then readily inform the reception of Hindi gangster films by critics as well as by millions of fans. In other words, viewers of recent Hindi gangster films in cinemas are often aware of the whiff of illegality when simply watching films. Indeed, the viewing of films, perhaps with a black market ticket, may embed the spectator in mildly illegal activity whether or not the films themselves depict illegal activity. The increased consumption of popular films through pirated copies of course only extends domestic spectatorship into criminality. (On the social implications of media piracy in contemporary Asia see Liang and Zhang, chapters 1 and 12 in this volume.)

As a number of critics (and filmmakers, presumably in self-defense) have argued, the underworld has been an important source of film financing to some extent because of the Indian state’s historical disdain for popular cinema. This state scorn was for decades most evident in the central government’s refusal to treat the film business as an actual “industry,” thus preventing film producers from securing various forms of legitimate funding. Eventually, the central government became active in promoting Indian film production through the National Film Development Corporation (NFDC), organized in 1980 to support “good cinema” (and later television) in direct opposition to supposedly vulgar, mainstream, commercial filmmaking, which remained ineligible for NFDC funds. (For a summary of Indian cinema’s relations with the state, see Pendakur 2003, 15–94.) By 1988, when the commercial cinema was officially deemed an industry, film producers had come to regularly rely on private investors (often with backgrounds in construction and precious jewels) to produce or at least fund the completion of popular films. Building upon an earlier attraction among underworld figures simply for the glamor of the film world, “black money”

eventually became one of the primary sources for the production of films that would not otherwise have been able to secure funding. The popular film industry has thus been largely based on a parallel economy the magnitude of which was partially revealed in 1997–1998 when the finance minister introduced an amnesty program (the Voluntary Disclosure of Income Scheme) in which over 400,000 people revealed previously undisclosed assets of Rs. 300 billion. In an earlier 1996 “raid” on film stars, directors, and producers, income tax authorities recovered around Rs. 160.5 million in undeclared assets; the amnesty program only suggested how much the authorities had missed.

Since gangsters are presumably more interested in securing profits from rather than maintaining artistic control over films, they have also recognized that a star-driven cinema like Bombay’s obviously benefits from the casting of the most popular performers in the films they back. So the criminal financiers have become *de facto* casting directors, pressuring both actors and producers to ensure that films succeed at the box office. Whereas earlier underworld involvement in the film industry was apparently social, and only later financial, in recent years some Bombay gangsters have found extortion a more expedient way to profit from film personalities than waiting on box office returns. Threats to major filmmakers and actors have thus become common, and gain strength when resistant figures in the film world are assaulted or, in a number of prominent cases, murdered by underworld contract killers. Whereas in the 1970s a few underworld figures such as Haji Mastan (the presumed model for some of Amitabh Bachchan’s early roles) were apparently attracted simply to film world glamor (and starlets), the mid-1980s marked the regular financing of films by figures whose “legitimate” professions wouldn’t have suggested such capabilities: for instance, among others, clothing-shop owner Dinesh Patel and former Air India cargo handler Sudhakar Bokade somehow recreated themselves as Bombay film producers. It has been estimated that perhaps forty percent of Bombay’s film output in the 1990s was funded by such figures, injecting new money into a film industry that had been dominated by insular family dynasties.

This now open secret, linking film finance to presumably illegal sources, became far more troubling in the wake of the fifteen deadly bomb blasts that traumatized Bombay on March 12, 1993, killing 228 people and injuring over 1,200. After early claims by Bombay Police Chief Amarjeet Singh Samra that the bombings were probably the work of “foreign extremists,” by the United News Service of India blaming Kashmiri Muslim “conspirators,” and by yet another police spokesman implicating the Sri Lankan liberationist group the Tamil Tigers, evidence mounted to blame Ibrahim “Tiger” Memon and Dawood Ibrahim, the leader of the criminal syndicate D-Company, for the blasts, instantly redefining these known smugglers as political terrorists (Raval and Aiyar 2001). Soon thereafter, star Sanjay Dutt was arrested under

the controversial Terrorist and Disruptive Activities (Prevention) Act of 1985 (TADA), which was amended in 1987 and allowed to lapse in 1995 (see Raval and Aiyar 2001). Within the decade of its existence, TADA was invoked to detain tens of thousands of people, and to justify human rights violations: in over 76,000 arrests under TADA, less than one percent resulted in convictions. Despite TADA's lapse, in October 2001 the similar if not more powerful Prevention of Terrorism Ordinance (POTO) was promulgated. Dutt was accused of holding illegal weapons for Dawood Ibrahim, and with this startling link suspicions about the influence of the underworld on the Bombay film industry seemed fully confirmed.

Such suspicions intensified when, in December 2000, the film producer Nazim Rizvi was arrested for ties with Karachi-based gangsters under the Maharashtra (the state in which Bombay sits) Control of Organized Crime Act (MCOCA). Even more dramatically, the prominent film financier and former diamond merchant Bharat Shah was held under the same charges after he had been recorded in telephone conversation with Chhota Shakeel, the top lieutenant of D-Company, working from Karachi. At the time of his arrest "Bharat bhai" had invested in over forty films since 1977, including a number of prominent titles then due for release or in production. Perhaps the most troubling confirmation of underworld infiltration of the film world was the 1997 murder of "Cassette King" Gulshan Kumar (owner of the successful T Series music label, which specialized in Hindi cinema's massively popular film soundtracks), apparently under orders from Dawood Ibrahim (see Koppikar 1997a, b; Mitra 1997). (In January 2001, police in Calcutta arrested hitman Abdul Rauf Daud Merchant, who confessed to killing Gulshan Kumar under orders from Ibrahim and Chhota Shakeel.)

On the whole, figures from the film world have been punished more often than the elusive gangsters who can be found only on their speed-dials: as a condition of his arrest, Bharat Shah's then forthcoming film *Chori Chori Chupke Chupke* was delayed from opening; upon release (and with an audience generated by the controversy), the Bombay High Court ordered that the successful film's earnings were to go to the government of India. For a film industry that releases hundreds of films a year and is always looking for material, these notorious off-screen events, widely reported in the India media, were bound to soon be replicated in on-screen narratives.

Watching a Movie as Witnessing a Crime

What then does it mean to watch a recent Bombay gangster film—in a legal and social sense—for the Indian film viewer? With room for some nuance, the ostensible message provided by the plot of most Hindi gangster films is fairly consistent and familiar: crime does not pay, and the glamorous rise of

the underworld don is the prelude to his inevitable and ignominious downfall, often through betrayal. Indeed, the recent adaptations by director Vishal Bharadwaj of Shakespeare's *Macbeth* and *Othello* into the contemporary gangster films *Maqbool* (2003) and *Omkaara* (2006) explicitly retrieve the tragic underpinning of many gangster narratives, promising punishment rather than success. However, as American authorities commonly recognized while responding to Hollywood gangster films produced in the early 1930s, for whom a message of failure rather than glory should have been a welcome extension of their own policing efforts, the "glamorous" life of the gangster displayed alluringly on-screen for most of the story threatened, at least until the final minutes, to challenge or undermine that ultimate message. Hindi gangster films do not significantly alter these fundamental genre conventions: through the efforts of the police or, more often, through inter-gang warfare or the internal betrayals of the gang itself, gangsters are usually brought to justice or laid low. At the same time, the gangster's lavish lifestyle—demonstrated by the blatant display of expensive consumer goods and clothing as well as access to guns, glamorous women, and alcohol and drugs—is an undeniably attractive element of the films and their characters. Rather than focus on these significant but familiar components—even when contradictory—I would like to consider the meaning of gangster films in light of the increasingly common knowledge of links between the actual Bombay underworld and the Hindi film industry. Such information is now often provided directly within the narratives for the few audience members who might still be unaware of mainstream press coverage, fan magazine reports, or even of widespread gossip.

At the simplest level of "realism," this knowledge of underworld-film industry links provides the films with a ripped-from-the-headlines quality that compels what we might call the resumption of belief rather than the more typical suspension of disbelief. This imposition of realism commonly occurs whenever audiences might suspect or recognize that characters in films are based on actual figures, or that narrative events are modeled on notorious public events. Audiences are given no strong reason to believe the standard on-screen claim that characters and scenes are not based on actual people or events: this blatant lie is regularly offset by the widespread knowledge of the film's actual origins and inspirations. More emphatically, recent gangster films boldly include sequences that dramatize the underworld's infiltration of the film world, an acknowledgment now so familiar that it has increasingly transformed into parody in comic gangster films.

Drawing upon such examples, I want to move to another level of discussion, motivated in part by an ambitious and challenging essay by Ashish Rajadhyaksha, which explores the intricate relationship between film spectatorship and democracy (or perhaps citizenship) in India

(Rajadhyaksha 2000). One way to shift my earlier focus is, again, to move away from the “meaning” of Hindi gangster films that would reside in the narratives of such films in which “rules” (and the breaking of rules) are an obsessive concern, toward an understanding of what implicit rules as well as fantasies govern the viewing of films in which the illegal source of such films is often acknowledged. Although elements of the following discussion could apply to a range of recent Bombay gangster films, I will concentrate on a loose trilogy of exemplary and influential films directed by the prolific director and producer Ram Gopal Varma, whose vital contribution to the revival of the recent gangster film in India is widely acknowledged.

Ram Gopal Varma’s Cinematic Crimes

Each of the films in Ram Gopal Varma’s series consisting of *Satya* (*Truth*, 1998), *Company* (2002), and *Sarkar* (2005) highlights its currency by persistently emphasizing the ubiquity of the mobile (or cell) phone in the underworld, where postmodern communication technology has become as crucial as the earlier technologies of modernist crime, the gun and the automobile, for facilitating illegal activities. While the use of telephones has long been naturalized in Hindi cinema, earlier films emphasize the telephone as a key signifier of the arrival of Western modernity and perhaps incipient globalization. For instance, an elaborate comic sequence in Raj Kapoor’s classic *Shri 420* (*Mr. 420*, 1955) reveals the incoherent linguistic code-switching, through comically garbled translation, which might undermine the smooth operation of international business that the telephone would otherwise seem to facilitate. More relevant for this discussion, the opening of *CID*, the 1956 Raj Khosla film discussed earlier, traces a chain of power from an underworld don to a hitman via a series of phone calls that command a murder (in a sequence that might be borrowed from a quite similar opening in Fritz Lang’s 1953 underworld film *The Big Heat*).

Although the mobile phone can now seem omnipresent in a cosmopolitan space such as Bombay, it remains an object that signals power and prestige. In Varma’s films young gangsters on the rise snap open their phones with the macho swagger of earlier hoods drawing their shiny weapons, whereas established underworld dons typically use their phones coolly and casually, emphasizing their ease with hi-tech luxuries that are no longer a novelty for them. The prevalence of the mobile phone in *Satya*, used as in *CID* to trace the movement of a crime from its first articulation to its final (literal) execution, is intensified in *Company*, and reaches a stunning climax as a motif in a series of birds-eye-view shots high above Bombay as the soundtrack builds to a cacophony of mobile phone ring tones that sonically summarize the circulation of the news of an apparent split between two powerful underworld

figures. (In *Sarkar*, mobile phones remain ubiquitous but no longer seem to demand dramatic emphasis.) The overheard or recorded phone conversation has in fact become the most damning form of evidence in recent Indian crime-fighting, since the incriminating recordings of conversations between underworld dons and film industry figures are not the result of surreptitiously captured face-to-face meetings, but of long-distance telephone calls across national borders; many of the leaders of the Bombay gangs live in luxurious yet lonely exile in Dubai and Karachi. Regular interviews with the dons in Indian media demonstrate that, whereas the notorious figures continue to elude capture by authorities, they remain a phone call away for intrepid reporters as well as movie stars and producers, with the extended reach of the criminal network virtually a parodic imitation of the fully international telephone system.

At the street level, continuing a familiar structure, both *Satya* and *Company* trace the indoctrination of a younger, fearless criminal into a gang under the tutelage of a seasoned mentor, until internal rivalries and external pressures (in the form of honest, reformist policemen) threaten the loyalties between the central characters and their followers. In their emphasis on mid-level criminals these films echo American examples such as *Goodfellas* (dir. Martin Scorsese, 1990) or *Donnie Brasco* (dir. Mike Newell, 1997) more than the *Godfather* films, which focus on elite crime lords. *Sarkar*, on the other hand, is an acknowledged “tribute” to *The Godfather*. Like its model, *Sarkar* depicts the privileged sons of a *sarkar*, or master, of the Bombay underworld. All three films are simultaneously realistic (especially in their use of locations) and stylized (increasingly through rapid editing and digital effects), and deserve more careful attention than this essay can afford them. Instead, I will concentrate on the relatively brief but compelling moments in all three films where the intersections of the underworld and the film industry are explicitly drawn.

Satya seeks to weave a romance between the rising gangster Satya (who, unusually, arrives in Bombay with no signs of past or family) and his neighbor Vidya into a gangster plot that traces the mentoring of the new recruit by an established gang leader, Bhiku; the latter even comments forthrightly, if comically, on his jealousy of Vidya, in effect describing the tension in *Satya* itself between its heterosexual romance and violent homosocial impulses (a tension also evident in the film’s few songs). This tension is also present in the film’s most audacious historical reference: one of Bhiku’s gang, upon seeing Satya with Vidya for the first time, notes that while most of Bombay is still reeling from the recent blasts, this newcomer to the city is only focused upon a girl, a comment that seems applicable to the film’s own divided attention between crime and love. The innocent Vidya does not know that she is being courted by a gangster, however, though her dream of becoming a playback

singer is only nudged forward when the gang intimidates Runu Sagar, an egotistical music director, into giving her a chance. Although the film declines to fully follow this thread (we briefly view Vidya recording a song but never really find out whether or not she becomes successful), the link between the love story and crime story is specifically made through the medium of popular cinema, and this alliance pervades the film. Playing upon the family resemblance between the English terms (both employed in the film's dialogue and everyday Hindi) "shoot out" and "shooting" (a film), *Satya's* first choreographed crime is the murder of a prominent film industry figure, Chedha, who we see leaving a film set after being approached by a *chamcha* (sycophant) who claims to have worked for (real-life prominent director) Mahesh Bhatt. This murder, and the intimidation of the music director shortly thereafter, clearly suggest, by condensation, the actual killing of Gulshan Kumar, and so the relationships between the actual and fictional film world and the off-screen and on-screen underworld are thoroughly intertwined.

Company stages an even more elaborate scene of an assassination on a film set, again relying on the grisly pun of a "shooting" that takes place during a film "shoot." At the traditional opening ceremony launching a new film production (ironically of what clearly appears to be one of the wholesome extended-family films of recent popularity), a chaotic shooting erupts, leaving a sound engineer, among others, dead while the machines he operates run on without him, perhaps suggesting that the industry continues to crank out films despite the increasingly explicit expendability of its personnel. Finally, Vishnu, one of the two sons of the underworld boss Subhash Nagre in *Sarkar*, works in the film industry, where he is seducing the young heroine whose career he has engineered. When he discovers that she is in love with the hero he has also picked for stardom, he brazenly murders the young actor on the set in front of cast and crew. This impulsive act (by a character based on the hot-headed Sonny Corleone in *The Godfather*) intensifies the family tensions that drive the film, as Vishnu is banished from his father's home and clears the space for his brother (based on Michael Corleone) Shankar's rise to their father's position. (The fact that Subhash Nagre and Shankar are played by an actual father and son, superstar Amitabh Bachchan and rising star Abhishek Bachchan, lends additional weight to the characters for fans.) In each case, the reminder that some films are only completed by leaving bodies in their wake, perhaps even by filmmakers with blood on their hands, significantly complicates the distance between reality and representation that usually prevents the viewing of violent narratives from becoming too uncomfortable.

As if to underline the connection between crime and cinema in *Satya*, after one of the captured hit men confesses under police torture that the murder was ordered by Bhiku Mhatre, we meet Bhiku at his home while he is listening to the hit soundtrack of the blockbuster *Dil to Pagal Hai* (*The Heart's*

Crazy, dir. Yash Chopra, 1997). From this point forward, Hindi cinema becomes a regular point of reference for *Satya*: meeting Satya in prison, Bhiku calls the fearless stranger “Amitabh Bachchan,” and suggests that the young man has seen too many movies before they establish a friendship based on their shared ferocity. At a later celebratory dinner, Bhiku and his wife entertain Satya and Vidya by describing their responses to the popular film they recently saw about “lizards” (*Jurassic Park*, one of the relatively rare Hollywood films to be dubbed into Hindi, and subsequently a hit in India). In the film’s climax, Satya is spotted in a crowded Bombay cinema with Vidya, where they watch J.P. Dutta’s patriotic film *Border* (1997) before police surround the theater and Satya effects their escape by firing a gun inside the theater and starting a riot; still Vidya does not understand his actual profession. In the sort of self-reflexive moment common to popular Hindi films but often only associated with “Brechtian” art cinema, the audience watching the Hindi film *Satya* in a cinema watches Satya in a cinema watching a Hindi film. By firing his gun in the penned-in crowd, Satya starts a riot that allows him to escape, although we later learn that men, women, and children were killed in the stampede he caused. (The scene alludes to an actual riot at a screening of *Border* in New Delhi in which a number of people died, and so exploits a genuine fear of violence in a cinema hall.)

Violent crime, which for the audience might otherwise remain “safely” in the production sector (to which few fans have access), or as a fictional representation on-screen, here threatens to bleed into the common space of exhibition and reception, the very space in which the audience is seated. *Sarkar* quickly updates this more elaborate sequence by briefly depicting the audience fleeing one of India’s recent upscale shopping centers, with a multiplex cinema featuring American movies, at the start of a city-wide gang war, suggesting that even the new sections of the city catering to the growing middle-class consumer are not safe from the eruption of underworld violence.

Unlike the ethical imperative to “bear witness” (a concept more often brought to bear on films that confront audiences with difficult representations of historical violence, such as cinematic recreations of the Holocaust or the Partition of India), the interpenetration of cinema and underworld crime in the narratives of recent Hindi films forces the audience to “witness” the crime in a semi-legal rather than purely ethical sense: they may imagine being asked to testify as witnesses to a crime rather than choosing to bear witness to a moral wrong. The crimes depicted on-screen—such as the murder of a filmmaker or the extortion of a music director—remind the audience that the film they are then viewing may be the product of such crimes, or at least be funded by crime. As such, audiences find themselves not just in the already complex role of spectators, but serving as potential “innocent bystanders” whose presence at the “scene of the crime”—a suggestive term for summarizing a cinema hall

exhibiting an underworld-financed gangster movie—renders them implicated witnesses rather than passive viewers. In some sense, the development of the “spectator” from the “citizen” analyzed so persuasively by Rajadhyaksha is here reversed, or stalled: the spectator is returned to being a citizen, defined less by the positive possession of rights than by the risk of being arrested or called to testify before the police or court. Watching a film, whatever the content of the actual film, thus becomes excitingly dangerous, generating something like what Ravi Vasudevan identifies as the “exhilaration of dread” to be found in both contemporary urban space itself and especially in action films representing that space (Vasudevan 2004, 224). The ample opportunity to have secured one’s seat in the theater by purchasing a “black ticket,” or of consuming the film’s soundtrack (or the film itself) via a pirated recording (or video) further extends the increasingly mundane, everyday criminal behavior of the average Indian filmgoer. Since most spectators recognize that they are unlikely to be prosecuted for purchasing pirated tapes or for contributing to criminal profits by buying an illegal (or even legal) ticket, this kind of indulging in illegal activity allows for low-level, even rather pathetic, identification with the bold criminals on-screen. (The lowly contribution of the “black ticket” to the underworld should not be underestimated, however: the Bombay faction of D-Company was once led by Rajendra Sadshiv Nilkhalje, known as Chotta Rajan and originally a black marketeer of cinema tickets.)

As critics (and censors) have long understood, the gangster in films is both a figure for the audience’s opprobrium as well as, more disturbingly, its identification. Nonetheless, the recognition that a film viewer might identify with an on-screen gangster and dream of achieving the power and material wealth he enjoys is understood to be a (mostly) harmless fantasy of imaginary transgression—a fantasy of power kept in check by the eventual destruction of the gangster as a lesson to those who might consider carrying their fantasies out of the theater. But the Hindi gangster film now implicates the viewer in its actual crimes as well as the fantasies it engenders. Seated through the purchase of an illegal ticket and enjoying a film starring the just-released Sanjay Dutt playing a character based upon a notorious underworld criminal, the consumer of the contemporary Hindi gangster film is not only positioned as a spectator or a viewer, but increasingly as a witness, a citizen fully hailed by the law as well as the fantasies of popular cinema.

References

- Chatterjee, Gayatri. 2003. *Awara*. Second edition. New Delhi: Penguin Books India.
- Gopalan, Lalitha. 2002. *Cinema of interruptions: Action genres in contemporary Indian cinema*. London: British Film Institute.
- Koppikar, Smruti. 1997a. Murder in Mumbai. *India Today* August 25: 18–19, 21–22.

- Koppikar, Smruti. 1997b. Under siege. *India Today* August 25: 23–24.
- Majumdar, Neepa. 2001. The embodied voice: Song sequences and stardom in popular Hindi cinema. In *Soundtrack available: Essays on film and popular music*. Ed. Pamela Robertson Wojcik and Arthur Knight. Durham: Duke University Press, 161–181.
- Mehta, Suketu. 2004. *Maximum city: Bombay lost and found*. New York: Alfred A. Knopf.
- Mitra, Sumit. 1997. Man with the Midas touch. *India Today* August 25: 20–21.
- Nandy, Ashis. 2000. *The Tao of Cricket: On games of destiny and the destiny of games*. New Delhi: Oxford University Press.
- Pendakur, Manjunath. 2003. *Indian popular cinema: Industry, ideology and consciousness*. Cresskill, NJ: Hampton Press, 51–55.
- Prasad, M. Madhava. 1998. *Ideology of the Hindi film: A historical construction*. Delhi: Oxford University Press.
- Rajadhyaksha, Ashish. 2000. Viewership and democracy in the cinema. In *Making meaning in Indian cinema*. Ed. Ravi S. Vasudevan. New Delhi: Oxford University Press, 267–296.
- Raval, Sheela and V. Shankar Aiyar. 2001. Return of the Dons. *India Today* January 1: 20–26.
- Roberts, Gregory David. 2003. *Shantaram*. New York: St. Martin's Press.
- Vasudevan, Ravi S. 2004. The exhilaration of dread: Genre, narrative form and film style in contemporary urban action films, In *City Flicks: Indian Cinema and the Urban Experience*. Ed. Preben Kaarsholm. Calcutta: Seagull Books, 223–236.
- Virdi, Jyotika. 2003. *The cinematic imagiNation: Indian popular films as social history*. New Brunswick: Rutgers University Press, 160–165, 170–175.

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CHAPTER 3
SEX IN THE TRANSNATIONAL CITY:
DISCOURSES OF GENDER, BODY, AND
NATION IN THE “NEW BOLLYWOOD”

Meenakshi Gigi Durham

When contemporary scholars of global media set out to dismantle old notions of dependency theory and cultural imperialism, India is their ace in the hole: a leviathan Third World cultural producer with audiences spanning the globe. India is best known for Bollywood, the Hindi-language film industry that produces around 350 movies a year and attracts a world audience of 3.6 billion (Mehta 2005; Perry 2003); but other Indian cultural products, from music videos to soap operas, are exported far and wide, creating media flows that disrupt traditional West-to-East constructions. Indian supermodels, fashion designers, screenwriters, actors, artists, and themes are now household names in the Middle East, Europe, and, increasingly, the United States: Indian Miss World Aishwarya Rai is the new face of L'Oréal cosmetics, and film director Gurinder Chadha's *Bend It Like Beckham* broke indie box office records in North America and the United Kingdom.

In part, migration and deterritorialization are factors influencing these cultural currents. According to Aftab (2002), forty percent of a Bollywood film's profits are now generated by nonresident Indians (NRIs)—that is, diaspora Indians in countries such as England, the United States, and Dubai (Kaur 2002; Ninian 2003 claims that NRIs account for 65 percent of Bollywood revenues). Jain points out that “the overseas market used to be looked upon as an afterthought; today it accounts for a major portion of Bollywood earnings” (Jain 2001, 355). And as Appadurai has observed, “deterritorialization creates new markets for film companies, art impresarios, and travel agencies, which thrive on the need of the deterritorialized population for contact with its homeland” (Appadurai 1991, 38). But the cultural products consumed by these diaspora populations seep into their larger environments, and thus,

for example, the British department store Selfridge's recently constructed a Bollywood-themed window display in its flagship London store.

These artistic intersections are clearly part of a globalized media apparatus, which, in the views of some theorists, has weakened the nation-state and the idea of national identity and culture. As Martín-Barbero has argued, the concept of the border has lost its referent of actual national boundaries: "the cultures of images and music, of television and video, produce new cultural communities difficult to compare or understand in relation to a given territory" (Martín-Barbero 1993, 27). And in fact the leakages between West and East in cultural production are varied and multidirectional. One significant aspect of these crosscurrents is the representation of gender, sexuality, and the politics of the body in contemporary Indian popular culture; these representations challenge conservative definitions of traditional Indian values and are tied to discourses of nation and cultural authenticity.

In this essay, I seek to construct a theoretical framework for thinking through the sexual politics of the "new Bollywood." I try to situate these forms of popular culture in the context of diaspora and globalization that circumscribe contemporary cultural flows; and I compare them with other discourses of sexuality that are occurring concomitantly. I argue here that the implications of these parallel, sometimes intersecting, discourses of sex and body are significant in terms of contemporary issues of transnational capital and ideologies of gender. The emerging forms of popular culture in India cannot be considered in isolation from the post- and neocolonial landscape of First and Third World relations. As Stuart Hall has observed, "Practices of representation always implicate the positions from which we speak or write" (Hall 1994, 392). This chapter is an exploration of themes that intersect in these discourses.

Sex and Hybridity

One noteworthy aspect of the cultural products currently emerging from India is the way in which they reappropriate and reimagine Western tropes, creatively amalgamating cultural mores in hybridized media forms that play to transnational audiences. A new wave of Indian film and music video directors is experimenting with nontraditional genres such as horror films and rap videos, marked by representations of sexuality "that have shattered Bollywood's tradition of prudish sex scenes" (Perry 2003, para. 9) and present new challenges to the Indian censor board.

In fact, sex is a key marker of globalized Indian popular culture (Raza 2003; Wallia 2003). In recent years, mainstream Bollywood films have become increasingly focused on explicit sexual representation, illustrated in films such as Mahesh Bhatt's *Jism (Body)* and Govind Menon's *Khwaahish (Desire)*, both

released in 2003. These films have enjoyed widespread commercial success in India and abroad, but have also drawn criticism and censure in India because of their purported transgression of traditional values and beliefs. Indian conservatives view these portrayals as Western assaults on Indian culture; and one Indian film critic declared, in a *Washington Post* interview, that these cinematic representations of sexuality were not “indigenous”: “All they’re trying to do is do an American jig . . . I wish they’d get real” (Lancaster 2003, N01). But various Indian film directors have defended their decisions to depict sex and nudity in their work, claiming that these scenes are “feminist,” “living in the twenty-first century,” and “a response to market research” (Almadi 2004; Taparia 2003). Director Mahesh Bhatt also argues that his films reclaim a pre-modern sensuality, “the healthy, sane attitude our ancestors had towards this mother of all pleasures” as indicated by temple carvings at Khajuraho and references to sexual techniques in Indian scriptures (Bhatt 2004); further, Bhatt also points to the ways in which Indian cinema lags behind the West in its censorship of sex (Mynott 2003). Curtin (1999) has argued that the new modes of sexual representation subvert patriarchal Indian codes of sexuality in significant ways, writing that in a society where few women exercise choices about their social roles, portrayals of female desire make a powerful feminist statement.

Both critics and admirers of these new modes of sexual expression are aware of their hybrid or syncretic formulations; the critics see their appropriation of supposedly Western values as a new form of cultural imperialism, a pollution of a formerly pristine Indian cultural landscape, whereas the enthusiasts point out the emancipatory potential of these texts, identifying a modern-day Western style of feminist body politics at work in them. Clearly, Western—principally American and British—media tropes are perceived to be prime influences on Indian cultural forms.

The cultural producers admit as much. Traditional Bollywood formulas don’t “make much sense to a Western audience,” according to director Ram Gopal Varma (Perry 2003). U.S.-trained director Govind Menon “aspires to make films for international audiences” (Lancaster 2003), and does it by incorporating Western cinematic devices—notably, fewer song sequences and more sex—into his movies. Director Deepak Shivdasani demands, “If Hollywood can have [nude] scenes, why can’t we?” (Almadi 2004). Despite the fact that India’s pop cultural texts are part of a larger global project, and that they are distributed widely in Asia, the Middle East, and Latin America, their referents are conspicuously Western. As these quotes illustrate, they look to the West for inspiration and validation, even though the context of their production lies in uneasy relation to the sources of these stimuli. Jain takes note of the new “post-liberalization, post-branding age” of Indian film, describing it as “a strange hybrid cinema” that attempts to

fuse Indian and Western cultural tropes (Jain 2001, 306). This fusion manifests itself in a variety of ways in contemporary Bollywood texts; Jain notes that in these new films

India is looking more like a mini-Europe or United States. People drink Pepsi, eat at McDonald's, wear Tommy Hilfiger, Gap or Armani (even if they are poor). They live in out-of-Manhattan lofts and their children go to schools which appear to have materialized out of Beverly Hills. (Jain 2001, 305)

Along with these visual signifiers of Westernness that pervade contemporary Bollywood films are representations of sex that explode the conventions of mainstream Indian cinema. Whereas pornography has existed as an underground industry in India, sex has been a major taboo in mainstream theatrical releases. Since 1952, the censorship code for Indian films has had written proscriptions against “excessively passionate love scenes,” “indelicate sexual situations,” and “scenes suggestive of immorality” (Prasad 1998, 88). Although there was no specific reference to the act of kissing in these guidelines, it was nevertheless absent from cinematic representation. “Kissing,” writes Prasad, “is described as a sign of westernness and therefore alien to Indian culture” (Prasad 1998, 88). He notes the speciousness of this claim, but explains that rhetorically it preserves the patriarchal authority of the Indian family in conjugal matters. Kazmi (1999) argues that together, the Censorship Act, “buttressed with Section 293 and 294 of the Indian Penal Code, which codifies obscenity as a punishable offence, the Indecent Representation of Women (Prohibition) Act (1986) and the plethora of guidelines issued in 1994 virtually weaves a chastity belt around Indian cinema.”

The censoring guidelines have, over the years, given rise to Bollywood's reputation for hilariously coy sexual references. Prasad points out that the erotic display of women's bodies as spectacle is widespread in Hindi cinema (Prasad 1998, 93); and such devices as the “wet sari scene” or the skimpy outfits of vamps are familiar clichés used to titillate audiences while evading the censors. As he notes, a few awkward kisses made their way onto the screen in the 1980s, but only after the turn of the twenty-first century have kissing, partial nudity, and sex become key elements in Indian films.

This shift can be chalked up to various factors. In part, the economic liberalization of India and its opening to foreign brands and goods in 1991 was a turning point for the media and culture industries (Gillespie and Cheesman 2002). Foreign films, television programs, and print media became widely available throughout the subcontinent, and these have influenced the aesthetics and ideologies of Indian media. Mazzarella (2003) documents the launch of a radical series of condom ads in 1991 that featured eroticized imagery and a rhetorical vision of sexual pleasure that shifted the

boundaries of acceptability in India. Satellite television programs, not subject to the guidelines of the Cinematograph Act of 1952 (Central Act 37 of 1952), which still governs the censorship of films, allowed Indian audiences increasing access to more freethinking fare.

Recent years have seen an increase in the NRI market, economic downturns, and a new wave of directors who grew up with satellite TV and Hollywood films and are weary of the shopworn Bollywood formula. In 2002, an economic slump in which Bollywood suffered losses of approximately \$73 million contributed to the rise of radically new forms of cinema. That year marked an upheaval for the Central Board of Film Certification, the Indian censor board; then-chairman Vijay Anand proposed an overhaul of the guidelines, proposing an end to censorship, a ratings system comparable to the American MPAA scheme, and the legalization of pornographic theaters. The government rejected these proposals and Anand resigned from the board, to be replaced by Hindu fundamentalist politician Arvind Trivedi Lankesh, whose goal was to uphold “the Indian culture in all its purity” (Gokulsing and Dissanayake 2004, 126).

Officially, then, the Cinematograph Act of 1952, with its restrictions on film content that might threaten “public order, decency or morality” still governs Indian cinema. In addition, the Indecent Representation of Women (Prohibition) Act of 1986 is still in effect. Arora points out that the CBFC continues “to impose restrictions on the depiction of adult sexuality in a weak, though desperate, attempt at maintaining an essentialist and nationalist distinction between western and Indian character types” (Arora 1995, 48). But despite this official supervision, Indian films are not what they used to be. According to Ninian (2003), to win back audiences and recoup financial losses, filmmakers have begun to experiment with nontraditional formats and content—including more sex. As producer and director Mahesh Bhatt asserts,

Anything which is not sensuous, which does not appeal to your glands, will not find takers. So we need to realise this and we need to consciously package the films, make them look more like what the guys in the West are doing. Otherwise there is a certainty that the younger lot, which has been brought up on the MTV Channel culture will just not go into the halls and buy a ticket. (Mynott 2003, para. 21)

What “the guys in the West are doing” includes incorporating on-screen sex and tropes of desire as key plot elements in what critics are dubbing the “new Bollywood.” Bhatt and other young directors and producers, including Ram Gopal Varma, Vinod Chhabra, and Govind Menon, have enjoyed wild box office success by producing shorter, slicker, and sexier movies than the three-hour kiss-free songfests of Bollywood tradition. In extratextual discourse, these *auteurs* point to Hollywood in particular as the starting point

for their cinematic visions. Indeed, whereas Bollywood has a history of blatantly remaking Hollywood hits for Indian audiences, the “new Bollywood” films instead pay Tarantino-like homages to Western classics: Bhatt’s *Jism*, though on one level an easily identifiable copy of Lawrence Kasdan’s 1981 thriller *Body Heat* (which in turn was a remake of the 1944 *film noir Double Indemnity*), also contained subtle visual nods to Spike Lee’s *Do The Right Thing* (1989), Terence Young’s *Dr. No* (1962), and Michael Mann’s long-running 1980s TV series *Miami Vice*.

Intratextually, the explorations of forbidden territories of sex and desire in these films focus on the bodies of women.¹ Govind Menon’s *Khwahish* (2003), arguably the first of the “new Bollywood” ventures, was marketed as “the movie with 17 kisses,” and, besides showcasing close-ups of long kisses between the hero and heroine, included frank discussions about pre- and postmarital sex and birth control, catapulting starlet Mallika Sherawat to the status of “youth’s global mouthpiece, India-style” (Mynott 2003). Sherawat’s most famous line in that movie was “I’m so horny!”—tame fare in a Western context, but scandalous in a Bollywood production. Sherawat’s body is on display throughout the film, though she shifts occasionally from very revealing Western attire to more demure Indian garments, perhaps marking the cultural cusp she signifies in the film. More significantly, she—or rather, her character, Lekha—is in charge of the sexual discourse in the film; early in the film, Lekha is the one who brings up the subject of sex, earnestly entreating her lover, Amar (Himanshu Malik), not to expect her to sleep with him outside of marriage, yet admonishing him for not discussing it candidly with her: “That’s the problem with our society. Men and women just don’t want to talk about it. If it’s not talked about, it becomes a taboo. It’s part of our daily life and we can’t talk about it. What is this?”

Later, Lekha buys condoms for their wedding night after Amar proves himself spectacularly inept at procuring them himself. This and her declaration of “horniness” sent shock waves around India, turning a tidy profit of Rs. 3 *crores* (roughly \$700,000) for this critically panned, low-budget production, and making Sherawat into an international icon. Both she and the film’s director Govind Menon have described her role in *Khwahish* as a progressive one; in interviews, both have emphasized the character as feminist on various levels, from a lack of inhibition about exposing her body to the infamous condom scene. As Sherawat has observed, “I am proud that I was the first heroine in India who was shown going to a chemist and asking for condoms. In these days

¹ While films by women directors like Deepa Mehta and Mira Nair have also broken sexual taboos, I am distinguishing their work from the “Bollywood” films I analyze here. Their films were made independently, outside of the Bollywood studio system; did not attract large mainstream audiences in India; and belong more to the genre of “art film” than popular cinema.

of population explosion and AIDS, women should stop being coy about health and family planning" (Straight Talk 2002, para. 4).

Lekha's sexual agency thus speaks to a larger discourse of female sexual subjectivity in an Indian context. Although Sherawat's body is the object of the gaze throughout the film, unabashedly sustaining traditional filmic tropes of voyeurism, fetishism, and scopophilia, the narrative is propelled by Lekha's direction of the couple's sexual activities. This emphasis on female sexual agency runs counter to traditional Bollywood scripts in which women's chastity and resolute resistance to sex are necessary indicators of their cultural capital.

Sherawat's subsequent film, *Murder* (2004), directed by Mahesh Bhatt, contained similarly paradoxical representations of female sexuality and corporeality. The story of a woman whose extramarital liaison culminates in a violent aftermath, it codes its heroine as both sexual spectacle and transgressive subject. Sherawat's character Simran's sexual lapses are justified in the context of a lonely and loveless marriage, although ultimately *Murder* is a moral tale in which her faithlessness has appropriately dire repercussions. Yet Simran is unquestionably the central character in the story; whereas the camera angles and long shots of her semi-clad and nude body reference Western cinema's conventionally soft-pornographic and voyeuristic codes of representation (and are more revealing than those of traditional Bollywood), her discontent with a passionless marital relationship is explored with sympathy and care: Simran's articulations of desire render her a subject as well as an object, thus invoking two types of spectatorial pleasure: identificatory as well as scopophilic. Again, she is positioned against a context of Indian womanhood in a new millennium. In the film, Simran is out of India, in an alienating but affluent and notoriously licentious environment (Bangkok), struggling to find a place at the emotionally violent intersection of old-world traditions and new-world exigencies. Her decision to act on her need for sexual intimacy provides the impetus for the film's diegesis. The trope of her desire for intimacy and lack of sexual fulfillment provide the film's narrative fulcrum.

A third film that marks the debut of the "new Bollywood" is Mahesh Bhatt's *Jism* (2003), subtitled "The dark side of desire." Here, the female lead is Sonia Khanna, played by Bipasha Basu; it would be imprecise to call her the film's "heroine," for, although she is the central female character, she bears all the hallmarks of a classic Bollywood vamp, whose "many immoral traits include smoking, drinking, dressing skimpily and having no interest at all in marriage and children"; worse, she is "a sexually free woman" (Kabir 2001, 95). The character of Sonia occupies an unorthodox position in that she has no redeeming features; by contrast, whereas Hindi movie heroines might flout the dress codes of yore, they inevitably have hearts of gold and

deserve to win the hero's heart. In addition, Kabir observes that heroines in Hindi films must conform to fairly strict codes of femininity and social behavior, and that the basic definitions of a heroine have not changed much in the last seventy years or so of Hindi filmmaking. She writes that in the 1930s, "[h]eroines were always seen as paragons of virtue, and often as weepy, helpless characters whose social identity was entirely dependent on their relation to a man" (56), going on to assert, "It's clear that the established order will never allow a radical change in the way women are depicted. . . . Contemporary Hindi cinema does not offer the strong, impressive roles that it did when Nargis, Meena Kumari and Madhubala achieved their iconic status. Today's actresses are rarely offered strong roles and have great difficulty making any kind of substantial impact" (79). Indeed, in Kabir's book on Bollywood cinema, director Tanuja Chandra is quoted as corroborating this assessment: "In the film industry, they always slip into safe areas. Let us not have a woman who dares too much, let us not have a heroine who tries to step out of the Indian value system. Oh, that's too risky. Let us not have a woman who has sex before marriage because 'Oh, no, no, no, the picture will flop.' Everyone is too jittery to try anything new" (75).

Yet *Jism* offers a radical departure from the formula that in fact reaped box office rewards. Alluring, uninhibited, and adulterous, Sonia seduces ne'er-do-well lawyer Kabir Lal (John Abraham) and lures him into murdering her rich husband, ultimately double-crossing him. *Jism* crashed a number of Bollywood conventions, with minimal song-and-dance sequences, most of which were shot in the style of music videos without any lip-synching by the protagonists, rapid-fire montage editing, and scenes of lovemaking. *Jism* was a box office success that spawned a spate of salacious imitators—film critic Amod Mehra calls this "the *Jism* effect" (Wallia 2003). Sonia's character is counterposed briefly against a more traditional woman named Sheba, whose five minutes on-screen serve to highlight Kabir Lal's folly in pursuing the dangerously sexy Sonia; but Sheba is an inconsequential character, emphatically not the standard heroine whose virtue ultimately triumphs over the vamp's. Rather, Sonia is a remorseless man eater, using sex in her singleminded quest for lucre; she never repents or sees the error of her ways, though she is ultimately punished by violent death.

Actress Basu's voluptuous and barely clad body is unabashedly the focus of the lens throughout the film, and the script works to draw the viewer's attention to it. In an early scene set in an oceanside bar, Sonia, in a décolleté skin-tight white dress, wonders why men are staring at her, and Kabir responds, "It has to do with the way you dress. They are drawn to you." She asks innocently, "My clothes? What's so special about my clothes?" Leers Kabir, "They hold your body. And that's special." Hindi film heroines often wear revealing outfits, but they are never directly alluded to; the female body as spectacle is a deliberately unspoken convention of Bollywood cinema.

In *Jism*, Sonia's body is foregrounded, discursively delineated, and firmly yoked to her sexual agency. In fact, Sonia refers to her body as an entity that in fact controls her behavior; in the film's gory denouement, she declares, "This body knows nothing of love. It knows only hunger—hunger of the body [lust]." Sonia represents a new breed of Indian woman, one who acknowledges and even celebrates her sexual cravings. She gets her comeuppance for this transgressive stance, dying violently at the hands of her lover, but till the end she is unashamed of her predatory sexuality. The film centers on the trajectory of her consuming desires—for sex, for money, for power—thereby tacitly acknowledging these possibilities in women's lives. Once again, the film is ultimately about a woman with sexual agency, though once again this agency cannot go unpunished.

These films' directors celebrate these moves as progressive. In the cinematic texts as well as in extratextual discourse, they use rhetoric of emancipation, modernization, Westernization, and progress to explain their nonconformist female characters. In their bid to make urbane, sophisticated, risqué films, these male directors have positioned women as symbols of national progress for a new generation.

Sexual Spectacle and the Politics of Nation

As Prasad has demonstrated in his exploration of the prohibition against kissing in Bollywood, ideologies of nation are often deeply imbricated in Hindi cinema's representations of sexuality. In his analysis, the proscriptions against kissing (or sex or nudity) work to elevate moral codes to the status of national truths; as he explains,

the threat posed by a transgression of custom is not only to the family or the institution of marriage, but to the nation itself, as if the expansion of the sphere of sexuality threatens to break open the national borders and destroy its identity. (Prasad 1998, 91)

Further, as he observes, women's behavior in particular marks national identity: "It is women who are regarded as the guardians of the national culture" (91).

The sexual scripts of the "new Bollywood" invert this credo; now, instead of safeguarding the nation's mores, women's behavior signifies national progress, a break with outmoded and repressive Indian attitudes toward sexuality. Most often, despite India's history of sexual representation in art and literature, these "progressive" formulations are described as "Western" or "international" and articulated to a project of globalization. The intertextuality of these cultural products draws on and frames dynamic transnational relationships of power whose implications are deep and potent; and that they hinge on sexual

representation brings to the forefront the “libidinal economies” (Lyotard 1974) that link nations.

In these texts, the display of women’s bodies symbolizes Westernization. In this sense, the hyper-eroticized content of the new Bollywood films parallels the discourses of nation that have accompanied India’s foray into the world of international beauty pageants, where women’s bodies have been deployed as markers of both patriotism and progress. As Parameswaran notes, Indian beauty queens’ bodies are “synecdoches for the nation” (Parameswaran 2001, 80); they inspire patriotic pride and fervor; and their successes on the international stage are widely viewed in India as “central to the task of building a modern nation” (81). Yet conservative Indian religious groups have levied the same criticisms at these spectacles as they have the new sexualized imagery in popular media, reviling the pageants as “an offensive ritual of Western culture [with] the potential to corrupt the purity of the traditional Indian woman, a wife and mother, who exposed her body only for the gratification of her husband” (86).

The deployment of the subaltern woman’s body as a marker of nation has a complex history in postcolonial studies. As Roberts points out, colonized women’s bodies “play out the metaphors of conquest, penetration and violation so that racism and sexism reinforce each other as tools of colonization” (Roberts 2001, 69).

Yegenoglu observes that for French colonialists, “[c]onquering the Algerian woman is . . . equal to conquering Algeria, the land, and people themselves” (Yegenoglu 1998, 40). In Asia, with its history of invasion and colonization by Western forces, sex has long been manipulated in the interests of colonial power. British imperialists in Asia created derogatory myths about indigenous women’s sexuality as a way to denote the backwardness and savagery of colonial societies (Levine 2004). The rape of women by white soldiers in different occupations of Asia by Western military powers—from the days of the Dutch East India Company to the Vietnam conflict to the U.S. military presence in Japan, the Philippines, and Guam—has been legitimized through the symbolic substitution of the indigenous woman’s body for the nation. “Sexually taking an enemy’s women amounts to gaining territory and psychological advantage,” writes Nagel (2000, 163). As Tadiar argues,

[T]he economies and political relations of nations are libidinally configured, that is, they are grasped and effected in terms of sexuality. This global and regional fantasy is not, however, only metaphorical but real insofar as it grasps a system of political and economic practices already at work among these nations. (Tadiar 1993, 183)

They are real, too, because real women’s bodies are violated in the service of these political, nationalistic, and economic motives.

In the new Indian pop culture, women's bodies are used as powerful metaphors, deliberately invoked in contrast to older rhetorical and visual tropes in which the Hindu woman's body symbolized purity, chastity, and the strength of Indian tradition in defiance of Western colonization. During the struggle for Indian independence from British rule and its aftermath, Hindu femininity was elevated to iconic status in the nationalist discourse, and the Indian woman's body was rhetorically constructed as a repository for authentic Indian values that stood in clear opposition to Western depravity (Bagchi 1996; Jayawardene 1986). Viridi traces the uses of female characters as metonyms of the Indian nation in Hindi cinema, noting that "women's interests have been sacrificed at the altar of national unity" by being yoked to hidebound roles that worked "to promote egregious gender injustice" (Viridi 1993, 72–73).

By contrast, in seeking to Westernize and internationalize the content and style of new Indian pop culture, the woman's body is deliberately deployed sexually to challenge and repudiate those significations. Moreover, the revelation of the woman's body signifies the shucking of notions of "authentic Indianness" deemed old-fashioned and ridiculous by the new cultural producers. Nude scenes by Indian actresses in TV shows are applauded as progressive steps that will "shatter the stereotype of the Asian female as a frigid, repressed, non-sexual being" (Wijetilleka 2004). As film director Mahesh Bhatt points out, "Our references have changed. . . . The Indian consumer is being shaped by changes going on by the hour around the world . . . He is no longer the juvenile who cannot deal with sex" (Bhatt 2004, para.2). Sexuality in cinema and visual culture—and more specifically, the showcasing of women's bodies as vaunted objects of desire—has become the primary motif of progress, of rejecting outworn traditions and orthodoxy in favor of Western sensibilities. In this sense, the baring of the Indian female body is part of the process of Westernization.

As Yegenoglu has pointed out, the category of the Western subject refers not to an essence or stable formation but rather,

It refers to a process of generation, to a process of coming into being, of invention and of fashioning of a place called "Western." . . . The operation I call "Westernizing" consists in the fashioning of a historically specific fantasy whereby members imagine themselves as Western. . . . One "becomes" and is made Western by being subjected to a process called Westernizing and by imagining oneself in the fantasy frame of belonging to a specific culture called the "West." (Yegenoglu 1998, 3–4)

Whereas Yegenoglu is referring to the constitution of a Western subject located within Western/Occidental culture, her conceptualization applies equally to the constitution of the transnational Western subject, whose Westernization is a postcolonial effect in which Westernization equals

modernization. In the context of Indian media culture, female sexuality is the pivot on which this process of subject formation hinges, calling attention to how powerful a symbol the female body is in discourses of nation. In some ways, the Indian woman's body demarcates the borderland between the two cultural paradigms. At the most basic level, clothed and protected, it (she) is the essence of India; unclothed and exposed, she is the vanguard of progress, emancipated from the embarrassing traditions and dreary scruples of the colonial past.² As such, she is a kind of erotic frontier.

Thus, she can be located with other such frontiers, particularly those boundaries that "mark the edges of ethnosexual control and constitute a sensual space on both sides of the ethnic divide for sexual contact" (Nagel 2000, 159). And it is imperative to note that the popular culture discourses of sex are deeply imbricated with the discourses of sex that play out along other sexual/national boundaries: seemingly unrelated and independent, the sexual imagery and rhetoric of pop culture offer a direct counterpoint to the constructions of sex that frame India's "underground" ethnosexual politics. The dialectics of these discourses call for close examination; their precariously parallel trajectories have significant implications for considering gender, power, and sex in the context of global media.

Sexual Frontiers

Nagel points out that the global system is organized by various political, economic, and legal frontiers and lines of control that operate in relation to such transactions as trade agreements, defense pacts, treaties, and immigration laws. Underlying these formal arrangements is an underground system she refers to as "the global economy of desire," in which sex is a transactional commodity. As she points out, "sexuality is a major site of commercial exploitation, and is a constantly supervised, surveilled and socially controlled feature of formal and informal social life" (Nagel 2000, 160). In South Asia, as in many other Third World regions, the sex industry sustains local economies that are part of a contemporary global geopolitics of racialized and gendered exploitation. "[T]he processes of racing sex and sexing race are widely practiced in the contemporary global system both as legacies of colonialism and as ongoing aspects of postcolonial processes of globalization" (160).

In these transactions, the bodies of women and girls are the sites of cross-national exchanges. Sex tourism is an international phenomenon that

² A few notable exceptions to this binary can be found, for instance, in Raj Kapoor's films *Satyam Shivam Sundaram* (1978) and *Ram Teri Ganga Maili* (1985), where semi-nude women's bodies are deployed as symbols of an "essence" of India. Yet even in these representations, women's bodies symbolize the nation, serving again as iconic referents to cultural identity.

generates billions of dollars annually; these dollars usually flow from First to Third World (Seabrook 2001). Bertone notes,

The international political economy of sex not only includes the supply side—the women of the third world, the poor states, or exotic Asian women—but it cannot maintain itself without the demand from the organizers of the trade—the men from industrialized and developing countries. (Bertone 2000, 7)

Much of this sex trade involves children and young girls from poor nations (Bishop and Robinson 1998; Seabrook 2001). As Kilbourne has observed, “When everything and everyone is sexualized, it is the powerless who are most at risk. Young girls . . . are especially vulnerable” (Kilbourne 1999, 281). Concern about sex tourism and the sex trade in South Asia is increasing; Thailand’s crackdown on sex tourism coupled with civil war in Sri Lanka have diverted the Western sex trade to India in recent years (The Australian 2001; Bedi 1996). Hundreds of thousands of young women and girls are prostituted in India (Willis and Levy 2002). These woman and girls are not only South Asian, and their buyers are not only from the First World; thousands of Nepali women, for example, are prostituted in India (Sanghera 1996); but prostitution in India involves transnational commerce and global trading practices.

These trends have been reported on in Indian and foreign newspapers, and a number of nongovernmental and nonprofit agencies are working to stem the problems of sex tourism and child prostitution; at a policy level, the Indian government has ratified the United Nations Convention on the Rights of the Child, Article 35 of which deals with child prostitution and sex trafficking. Thus, in the official discourse on sex and nation, awareness exists of the transnational power relations that frame the commercial sexual exploitation of girls and women in India. And the impacts of those intersections as they play out in the local realm are not inconsequential. The women and children involved in sex tourism are often physically or psychologically coerced to work in these industries. As Arnold and Bertone point out, “Along with the social, political, and economic circumstances, exploitation—debt bondage, low or no wages, excessive working hours, and unsafe working conditions—can and usually does characterize the work” (Arnold and Bertone 2002, 31). Burkhalter notes, “Forcibly prostituted women and sexually exploited children are not ‘sex workers’ but victims of crimes, including multiple rapes daily” (Burkhalter 2004, 8). Besides involving gross human rights violations of this nature, the health risks to the women and children in these industries are immense. Willis and Levy (2002) document the fact that child prostitutes are at high risk of infectious

diseases, pregnancy, mental illness, substance abuse, violence, and death. Sex workers are susceptible to AIDS/HIV, and other sexually transmitted diseases, which is spreading rampantly in Asia, especially India; and organized crime reaps enormous profits from the sex industry (Burkhalter 2004; World Health Organization 2001). Sex workers are also vulnerable to ongoing police brutality (Sanghera 1996).

Sun, Surf, Sand, and Sex: Seducing the West

Theorists who have studied sex tourism in Asia have generally identified economic factors, especially First/Third World imbalances, as the driving forces behind this phenomenon. Third World women and children participate in the sex industry due to sheer economic necessity, and the financial gains to be made from First World patrons are far greater than any other work could earn them (Bishop and Robinson 1998; World Health Organization 2001); within the Third World, economic disparities between nations drive the sex industry as well. As Pettman has observed, the Third World is “a site in which the body is increasingly used as a form of international currency” (Pettman 1997, 95). Yet other, subtler, factors also provide impetus to the industry. Bishop and Robinson (1998) view sex tourism as an offshoot of tourism in general, arguing that sex workers are on par with exotic wildlife and other tourist attractions in Third World destinations. Nagel points out,

While all tourist destinations are also sites of sex commerce, in major sex tourist destinations such as Thailand, the Philippines, Belize, Jamaica, or Sri Lanka, selling local and imported sexuality is an important component of economic development, and some governments advertise sex tourism. (Nagel 2000, 167)

Even when sex tourism is not explicitly promoted by governmental authorities, the discourses of sex tourism are connected with the discourses of race and place that underpin ethnotourism. Pettman (1997) and Truong (1990) call attention to the fact that tourism is predicated on the same rhetorical positioning of East and West, or North and South, as sex tourism. The visions of sun-drenched, exotic tropical destinations in tourist brochures are permeated by sensuality. This is not a new formulation; Truong alerts us to the history of travel and its links to commercialized sex:

The intersection of prostitution and tourism cannot be understood as a patchwork of discontinuous events resulting from individual behaviour, or simply as a synchronic expression of sexism and racism. Instead, it must be placed in the context of the operations of relations of power and production in the field

of air travel which preceded its development. The emergence of tourism and sex-related entertainment is an articulation of a series of unequal social relations including North—South relations, relations between capital and labour, male and female, production and reproduction. (Truong 1990, 129)

In fact, Western visions of the sensual East long predate air travel. The European travel literature of the sixteenth and seventeenth centuries focused on the esoteric and erotic East in order to spur the economic exploitation of those regions (Bailey-Goldschmidt and Kalfatovic 1993). Because Victorians in England “collectively viewed the Orient as an exotic locale full of promise, release, idyllic pleasure and sensuality, they sought to restore themselves ultimately by penetration of the Orient as sexual phantasm” (Lalvani 1995, 268). These discursive devices opened the gates for the material rape of the East by the West, and the location of the Asian woman as a sexual target.

Sexing the Global Media System: Intersections and Implications

Thus, the hypersexualized representation of the Indian woman in contemporary Bollywood cinematic and other pop cultural texts refers not only to premodern traditions of sexual openness but to colonial constructions that paved the way, and continue to facilitate, the sexual and economic exploitation of the Third World. It is a discursive parallel to the tropes that underlie sex tourism: that women are markers of nation, that women’s exoticized, eroticized bodies are among the delectations to be found in sunny climes. And in fact sex tourism is a growing industry in India; men from the Middle East, the United States, and other wealthy nations travel to Indian cities specifically for sexual adventures, often with minor children (Pipes 2005). The monitoring agency ECPAT notes that whereas legislation in India and the subcontinent at large would allow for the prosecution of such activities, these laws are rarely enforced for a variety of reasons (ECPAT 2003), some of which stem from national wealth disparities: for example, the organization notes that Indian police do not have the technology to follow up on Internet distribution of child pornography; in other cases, prosecutions are halted because of the intervention of embassies and the perception that foreigners should not be subjected to Indian prison conditions. The report also identifies the “sexual promotion of tourism” as a “pull” factor in such tourism.

With the advent of the “new Bollywood,” images of objectified and hypersexed South Asian women are beginning to circulate nationally, offering a mainstream version of the titillating images in the sex tourism

brochures and advertisements; thus they can be seen as part of the same transnational neocolonial discourse that motivates sex tourism. On the other hand, the sexual agency evinced by the female protagonists of these movies, even in terms of their willingness to celebrate their bodies and lay claim to desire, speaks to a progressive politics of emancipation, an affirmation of female sexuality, and a recognition of some of the issues at stake in contemporary feminisms. The tension between these two readings of the presentation of female sexuality in contemporary Indian cinema speaks directly to the controversies around issues of female desire and sexuality in contemporary India.

Understanding women's bodies as markers of nation opens up complex understandings of gender politics in an era of globalized media and deterritorialized viewers. As cross-national migrations and flows increase, and the mediated networks of globalization expand and proliferate, there is an increased need to understand the currents, intensities, and locations of desire. The discourses of sexuality must be recognized as key sites of exchange where legal, economic, medical, and human rights issues play out.

References

- Aftab, Kaleem. 2002. Brown: The new black! Bollywood in Britain. *Critical Quarterly* 44(3): 88–98.
- Almadi, Manisha. 2004. Can Bollywood grin and bare it? *The Times of India* July 29. <timesofindia.indiatimes.com/articleshow/794281.cms> (accessed June 26, 2006).
- Appadurai, Arjun. 1991. *Modernity at large: Cultural dimensions of globalization*. Minneapolis: University of Minnesota Press.
- Arnold, Christina and Andrea M. Bertone. 2002. Addressing the sex trade in Thailand: Some lessons learned from NGOs, Part I. *Gender Issues* 20(1): 26–52.
- Arora, Poonam. 1995. "Imperiling the prestige of the white woman": Colonial anxiety and film censorship in British India. *Visual Anthropology Review* 11(2): 36–50.
- The Australian. 2001. Indian children fall easy prey to pedophiles. *The Australian* April 12: 9.
- Bagchi, Jasodhara. 1996. Ethnicity and women's empowerment: The colonial legacy. In *Embodied violence: Communalising women's sexuality in South Asia*. Ed. Kumari Jayawardena and Malathi de Alwis. New Delhi: Kali for Women.
- Bailey-Goldschmidt, Janice and Martin Kalfatovic. 1993. Sex, lies and European hegemony: Travel literature and ideology. *Journal of Popular Culture* 26(4): 141–152.
- Bedi, Rahul. 1996. India: Bid to protect children as sex tourism spreads. <www.geocities.com/Tokyo/5342/INDCHILD.HTML> (accessed June 26, 2006).
- Bertone, Andrea M. 2000. Sexual trafficking in women: International political economy and the politics of sex. *Gender Issues* 18(1): 4–22.
- Bhatt, Mahesh. 2004. Sex and Bollywood: Crass footage or class act? *The Times of India* August 7. <timesofindia.indiatimes.com/articleshow/806688.cms> (accessed June 26, 2006).

- Bishop, Ryan and Lillian S. Robinson. 1998. *Night market: Sexual cultures and the Thai economic miracle*. New York: Routledge.
- Burkhalter, Holly. 2004. The politics of AIDS. *Foreign Affairs* 83(1): 8–14.
- Curtin, Michael. 1999. Feminine desire in the age of satellite television. *Journal of Communication* 49(2): 55–70.
- ECPAT. 2003. EPCAT consultation on child sex tourism in India, Sri Lanka and Nepal. <www.ecpat.net/eng/Ecpat_inter/projects/sex_tourism/Executive%20Summary.Web1.pdf> (accessed July 25, 2006).
- Gillespie, Marie and Tom Cheesman. 2002. Media cultures in India and the South Asia diaspora. *Contemporary South Asia* 11(2): 127–133.
- Gokulsing, K. Moti and Dissanayake, Wimal. 2004. *Indian popular cinema: A narrative of cultural change*. Stoke-on-Trent: Trentham.
- Hall, Stuart, 1994. Cultural identity and diaspora. In *Colonial discourse and post-colonial theory*. Ed. Patrick Williams and Laura Chrisman. New York: Columbia University Press.
- Jain, Madhu. 2001. Bollywood: Next generation. In *Bollywood*. Ed. Lalit Mohan Joshi. London: Dakini, 299–343.
- Jayawardena, Kumari. 1986. *Feminism and nationalism in the Third World*. London: Zed Books.
- Kabir, Nasreen. 2001. *Bollywood: The Indian cinema story*. London: Channel 4 Books.
- Kaur, Ravinder. 2002. Viewing the West through Bollywood: A celluloid Occident in the making. *Contemporary South Asia* 11(2): 199–209.
- Kazmi, Nikhat. 1999. Does Indian cinema need a chastity belt? *The Times of India* August 8.
- Kilbourne, Jean. 1999. *Deadly persuasion*. New York: Free Press.
- Lalvani, Suren. 1995. Consuming the exotic other. *Critical Studies in Mass Communication* 12(3): 263–286.
- Lancaster, John. 2003. The shocking Bollywood story. *The Washington Post* July 6, Sunday Arts: N01.
- Levine, Philippa. 2004. “A multitude of unchaste women”: Prostitution in the British empire. *Journal of Women's History* 15(4): 159–163.
- Lyotard, Jean. 1974. *Economie libidinale*. Paris: Minuit.
- Martín-Barbero, Jesús. 1993. Latin America: Cultures in the communication media. *Journal of Communication* 43(2): 18–30.
- Mazzarella, William. 2003. *Shoveling smoke: Advertising and globalization in contemporary India*. Durham: Duke University Press.
- Mehta, Sukhetu. 2005. Welcome to Bollywood. *National Geographic* 207(2): 54–69.
- Mynott, Adam. 2003. Bollywood changes. *BBC News* June 13. <<http://news.bbc.co.uk/1/hi/programmes/newsnight/archive/2987328.stm>> (accessed June 26, 2006).
- Nagel, Joanne. 2000. States of arousal/fantasy islands: Race, sex and romance in the global economy of desire. *American Studies* 41(2/3): 159–181.
- Ninian, Alex. 2003. Bollywood. *Contemporary Review* 283(1653): 235–240.
- Parameswaran, Radhika. 2001. Global media events in India: Contests over beauty, gender and nation. Columbia: Association for Education in Journalism and Mass Communication.
- Perry, Alex. 2003. Queen of Bollywood. *Time Asia* October 27. <www.time.com/time/asia/covers/501031027/story.html> (accessed June 26, 2006).

- Pettman, Jan Jindy. 1997. Body politics: International sex tourism. *Third World Quarterly* 18(1): 93–108.
- Pipes, Daniel. 2005. Arabian sex tourism. *FrontPage Magazine* October 7. <www.danielpipes.org/article/3022> (accessed July 25, 2006).
- Prasad, M. Madhava. 1998. *Ideology of the Hindi film: A historical construction*. London: Oxford University Press.
- Raza, Shahla. 2003. Cast in stereotypes? *The Deccan Herald* October 24. <www.deccanherald.com/deccanherald/oct24/she1.asp> (accessed June 26, 2006).
- Roberts, Helen. 2001. Disciplining the female Aboriginal body: Inter-racial sex and the pretence of separation. *Australian Feminist Studies* 16(34): 69–81.
- Sanghera, Jyoti. 1996. The necessity of emotion: Writing women's lives in blood and tears. *Labour, Capital and Society* 29(1/2): 101–124.
- Seabrook, Jeremy. 2001. *Travels in the skin trade: Tourism and the sex industry*. London: Pluto Press.
- Straight talk. 2002. <<http://www.keralaonline.com/straighttalk/display.asp?cap=mallika.htm>> (accessed August 29, 2004).
- Tadiar, Neferti. 1993. Sexual economies of the Asia-Pacific. In *What's in a rim? Critical perspectives on the Pacific region idea*. Ed. Arif Dirlik. Boulder, CO: Westview.
- Taparia, Nidhi. 2003. Sex in films: Strip at ease. *India Today* April 28: 72.
- Truong, Thanh-Dam. 1990. *Sex, money and morality: Prostitution and tourism in Southeast Asia*. London: Zed.
- Virdi, Jyotika. 1993. *The cinematic imagiNation: Indian popular films as social history*. Piscataway, NJ: Rutgers University Press.
- Wallia, Kaajal. 2003. Sex please, we are getting bolder. *The Times of India* May 3. <timesofindia.indiatimes.com/articleshow/45296563.cms> (accessed June 26, 2006).
- Wijetilleka, Sajini. 2004. Nudity on screen is helping Asian women break barriers. *Asians in Media* March 10. <www.asiansinmedia.org/news/article.php/television/320> (accessed June 26, 2006).
- Willis, Brian M. and Barry Levy. 2002. Child prostitution: Global health burden, research needs, and interventions. *Lancet* 359: 1417–1422.
- World Health Organization. 2001. Sex work in Asia. <www.wpro.who.int/document/FINAL-Sex%20Work%20in%20Asia.doc> (accessed March 29, 2004).
- Yegenoglu, Meyda. 1998. *Colonial fantasies: Toward a feminist reading of Orientalism*. Cambridge: Cambridge University Press.

CHAPTER 4
ISLAMIC “TERRORISM” AND VISIONS OF
JUSTICE IN KHALID MOHAMED’S *FIZA*

Priya Kumar

This essay seeks to examine the intersections between cinema, law, and the state in the specific context of escalating religious majoritarianism and violence in the Indian subcontinent. My site of investigation is contemporary Hindi cinema and its address to the perceived failure of the secular state in India, the corruption of politicians who mobilize religious divisions in politics, and the complete ineptness of the legal system in response to this crisis. The specific historical juncture from which my work takes its point of departure has been the rise to political power of the Hindu Right in India over the last two decades. Hindu nationalism’s designs for a majoritarian, authoritarian, militaristic, and exclusionary state order are fairly evident, yet its anti-minoritarian agenda continues to be internalized as common sense in vast segments of Indian society (despite the recent surprise loss of the Hindu nationalist led coalition in the last elections). December 6, 1992, has come to mark a significant moment in this history when self-styled Hindu nationalist politicians and cultural organizations demolished a sixteenth-century mosque as an integral move in their struggle for *Hindutva*, or Hindu rule. The destruction of the mosque, and, more recently, the horrific anti-Muslim pogrom in Gujarat (2002), in which at least 2,000 Muslims were killed, has dramatically brought to the fore the crisis confronting the avowedly secular postcolonial Indian state, underlining its failure to uphold constitutional guarantees of equal citizenship toward the minority Muslim community. It is a crisis that is often bemoaned as the “death of secularism” in Left and liberal circles.

The ongoing crisis of legitimacy of secularism in India—both as political doctrine underpinning the liberal state, and as an ideal of multireligious cohabitation—has sparked several interesting Hindi films that seek to address the anomalous place of religious (and ethnic) minorities in

discourses of Indian nationhood and citizenship.¹ Popular Hindi cinema is a form of entertainment that until recently was too easily dismissed in film and postcolonial studies, but it provides a fascinating site for addressing issues such as nationalism, state violence, and religion and minoritarian identities. My discussion here focuses on an important recent film called *Fiza* (2000) by first-time director and well-known film critic Khalid Mohamed. I examine the film in light of its efforts to unleash extra-legal fantasies of justice through vigilante actions that go beyond the law of the state in order to effect justice in an unjust world.

Fiza is representative of a new hybrid or hyphenated subgenre in mainstream Hindi cinema that I call the vigilante-terrorist film, which includes films such as Gulzar's *Maachis* (1996), Vidhu Vinod Chopra's *Mission Kashmir* (2000), and Mani Ratnam's *Dil Se* (1998). I use the hyphen to suggest the difference of this subgenre from "terrorist" films such as *Sarfarosh* (dir. John Mathew Mathan, 1999), *Pukar* (dir. Boney Kapoor, 2002), and *Roja* (dir. Mani Ratnam, 1992), which figure the militant or separatist group as the "other" of Indian nationalism that must be destroyed. Through a narrative of state violence and persecution, these vigilante-terrorist films represent the point of view of the disaffected group and create a great deal of sympathy for the much-maligned figure of the "terrorist."² Like vigilante films, most famously those of Amitabh Bachchan, these films are also organized around a cause and effect structure of oppression and revenge. However, what sets apart films such as *Fiza*, *Maachis*, and *Dil Se* from previous revenge films that rely on similar patterns is that the persecuted protagonist is figured as a representative of a (minority) group—rather than as a singular individual—who is constituted as a victim of unjust state policies, and hence claims to act on behalf of his/her entire group. Whereas *Fiza* offers a clear indictment of the state and its fundamental culpability in persecuting the minority Muslim community, my reading suggests that the film simultaneously subverts and recasts the codes of the vigilante film by rejecting the violent resolution of justice, closing with an appeal to the secular state to redress the wounds of 1992 and 1993 *within the framework of its laws*. My essay examines the implications of this return to the (secular) state in this vigilante-terrorist film.

Any discussion of secularism, nationalism, and minority identities in South Asia must begin by addressing the particular legacies of the 1947 Partition of India for the minoritarian Muslim community of post-Partition India. What happened to those Muslims who remained in India in spite of the creation of a separate Islamic homeland across the frontier? The figure of the Indian Muslim has come to be constituted as the "intimate enemy" or the "stranger," someone who is not quite a friend or an external enemy, and who is not considered a "natural" part of the Indian nation-state.

Any effort at thinking about multireligious coexistence in the subcontinent must address the anomalous place of Muslims in the modern Indian nation, not just in the more virulent discourses of the Hindu Right, but also in the discourses of secularism, nationalism, and citizenship in India. One of the first steps toward such a task is rethinking the demand for Partition itself. Whereas the accepted nationalist wisdom in India views the creation of Pakistan as the inevitable end-point of the Muslim separatist impulse, I propose that Partition be read as the culmination of the Indian nationalist effort to limit Muslims to the status of "minority."

In a radical reexamination of Muslim separatism, Aamir Mufti argues that since the problematic of Muslim identity "*exceeded* the categories within which nationalism sought to contain it," this *excess* had to be excised. Partition is not an accidental event in the history of Indian nationalism—"the division of the country is the only solution to the Muslim question with which it can live" (Mufti 1998, 117–118). Thus, Partition must be read as a development necessary to the discourse of Indian nationhood, "a turning of two thirds of the Muslims of India [the largest Muslim polity in the world at the time] into non-Indians" (Pakistanis) so that the remaining one-third could be successfully contained in the role of national minority (Mufti 1995, 86–87). One significant consequence of this successful minoritization of Muslims in post-Partition India has been that Indian Muslims have come to carry the difficult burden of blame for India's national vivisection. If Indian nationalism is haunted by its "other," Muslim separatism—and by extension, Pakistan itself—then the figure of the Indian Muslim comes to occupy a strange, liminal place in this drama between self and other. Placed in the uncomfortable position of national scapegoats, India's remaining Muslims continue to be defined as refugees, living on borrowed time, always bound for/to Pakistan—affectively and emotively, if not literally—no matter how valid their citizenship. Muslim minoritarian existence in India is thus defined by specific forms of estrangement and othering vis-à-vis both state and society.

Bombay cinema has long been defined and affirmed as one of the most enduring secularist cultural sites of contemporary India with its diverse personnel coming from various religious and regional backgrounds. Yet the anxieties surrounding the figure of the Indian Muslim are also generated in the Bombay cinema, which, after all, is a primary site for representations of the Indian nation. In its figuration of cultural and religious differences, Hindi cinema tends to rely on a characteristic suppression of minority ethnic and religious communities either through hyper-visibility (the stereotype) or through invisibility (absence). As Ravi Vasudevan points out, "While the working premise of social representation in mainstream cinema is the stereotype, we must understand that Bombay cinema has always

tended to reserve a notion of normalcy for the Hindu hero, the apex figure in the composite nationalism of its fictions. Exaggeration in cultural behaviour is attributed to other social groups, especially Muslims, Christians and Parsis” (Vasudevan 2001, 193–194).

Just as nationalism constructs (upper-caste) Hindu beliefs and practices as universal and “secular,” popular Hindi cinema also positions the North Indian upper-caste Hindu male as the representative secular-nationalist self. By means of its visual culture and characteristic narrative forms, this cinema invites the spectator to assume a majoritarian Hindu and North Indian male identity. This unmarked Hindu male identity is thus positioned as the normative spectator of popular Hindi cinema (Vasudevan 1995). If and when Muslims find figuration in this cinema, their representation has largely been in keeping with popular Hindu perceptions about Muslims as a backward, deeply religious, and conservative community. Popular Hindi cinema reproduces with unflinching regularity what Mukul Kesavan has called, “a repertoire of ghetto stereotypes” of Muslims, which includes such stock characters as the simple, perpetually Koran-reading Muslim, the burqa-clad Muslim *khatoon* (woman), the refined *tawaif* (courtesan), and so on. Clearly defined external markers of speech, dress, appearance, and religious practice are used to identify and segregate Muslims in most Hindi films (Kesavan 1994, 245). Muslims are rarely, if ever, placed at the center of mainstream cinema’s narratives. Although there are some notable films such as *Coolie* (dir. Manmohan Desai, 1983) *Amar Akbar Anthony* (dir. Manmohan Desai, 1977), and *Allah Rakha* (dir. Ketan Desai, 1986), in which Muslims figure as protagonists, the star personae of actors like Amitabh Bachchan and Rishi Kapoor often overwhelm the characters they are playing. Questions of Muslim difference and minority identity are certainly not addressed in an explicit fashion.

To be sure, particular genres, for example, the Muslim social films or the historical films have depicted Muslim sensibilities in mainstream Bombay cinema, but these films have also contributed to the consolidation of the image of the Muslim as the self-consolidating other of the normative secular Hindu self. Sumita Chakravarty points out that the Bombay cinema has “not so much addressed the Hindu–Muslim relationship as sublimated it by displacing it on to the canvas of history” (Chakravarty 1993, 165). Nationalist anxieties around the figure of the Indian Muslim are thus managed in the cinematic imaginary through a series of proscriptions—including that of censorship—and repressions. Until recently, these prohibitions ensured that “‘communal passions’ or Muslim religio-political identities except of an oppressively benevolent variety remained unnamed and unexaminable” (Roy 1998, 165). Muslims in mainstream Hindi cinema therefore tend to be represented as an undifferentiated homogeneous entity—the site of the traditional, the

antiquated, and the premodern. Differences of class and region are often completely elided or dismissed. Once Muslims are constructed as a particular kind of "other," it becomes fairly routine and easy to contain them within the dominant narratives of the Bombay cinema. What is largely occluded in such monolithic constructions is a modern Muslim sensibility.³

It is from within this largely stereotypical rendering of Muslims in Bombay cinema that I direct attention to films such as Mohamed's *Fiza*, Saeed Akhtar Mirza's *Naseem* (1995), Mahesh Bhatt's *Zakhm* (1998), and Shyam Benegal's *Mammo* (1995). These films are important to examine since they stand as significant exceptions to the regular fare of much Hindi cinema in the ways in which they allow a rare spectatorial identification with the figure of a besieged Muslim subjectivity. Identification is effected both by means of narratives that draw attention to the plight of Muslims in contemporary Hindutva-dominated India, and by the visual address of these films. In inviting us to identify with the figure of the beleaguered Muslim, these films, I argue, provide a destabilization of the normative spectator of Hindi cinema who is typically aligned with a majoritarian and male subjectivity. They enable us to consider how Muslims might be represented as Muslims without rendering their different beliefs and practices as exhaustive of all subjectivity and identity. Most importantly, they stake a specific claim on the Indian nation from a specific and embodied minoritarian location, a claim moreover that is not a simple plea, but an assertion: "it's my home too!"

Occupying an intermediate formal space between popular and parallel cinema as part of a relatively new convention of filmmaking in India, Khalid Mohamed's *Fiza* offers a fascinating site of analysis for thinking about issues of communal conflict, minoritarian identities, law and the state in post-Independence India. Like Mani Ratnam's *Bombay*, *Fiza* has features that distinguish it from the commercial cinema: its recalling into public memory "real" political-historical events in the life of the nation, the use of dates and place names to situate and historicize its time frame, the employment of newspaper stills of the riots to establish its claims to truth and authenticity, and so on.⁴ These devices contribute to making the film an explicit intervention in the context of controversial political issues that continue to be hotly debated, especially the issue of attributing accountability to those individuals and groups who perpetrated the violence of 1992–1993 in Bombay. Speaking of the genesis of this film, Khalid Mohamed, the director and screenplay writer, has stated:

The idea for the film, particularly the terrorist angle, was catalyzed by what I had seen around the Mohammed Ali neighborhood and among lower economic class Muslims in general. The riots (1992–93) had made them lose

their sense of worth and proportion—many of them wanted to go militant and did. The basic premise of the film was that many young men have gone missing (official figure is over 800 for Bombay) and their families are still waiting for their return. I'd met several families with lost sons and brothers which became the basis for the film. I wanted to know what happened to these missing boys. Many people were willing to talk. Many of them have gone into terrorist outfits which I researched. They would write letters to Osama in blood saying, "We want to join you." There was a dialogue in the film just before they kill the politician that they'd have to take permission from Osama. Thank god, we didn't retain it because it would really have become charged by now. These boys want 5–15 minutes of fame—one big binge in life and then they kill themselves. (Personal interview)

Significantly, the movie's call to justice follows closely upon the submission of the Justice Srikrishna Report. The report is based on the findings of a Judicial Commission of Inquiry that was appointed on January 25, 1993, under a judge of the Bombay High Court, Justice B.N. Srikrishna, by the government of the state of Maharashtra, at the instance of Prime Minister Narasimha Rao, to investigate the "circumstances, events and immediate causes" of the communal riots that took place in Bombay between December 1992 and January 1993. The Commission was given the express charge of determining the culpability of specific individuals, groups, or organizations that contributed to the violence, including the role of the Bombay police. The Commission was also asked to recommend measures to be taken by the administration to avoid recurrence of such incidents, and to secure communal harmony. The Terms of Reference of the Report were later expanded to include an investigation of the serial bomb-blasts of March 12, which also took place in Bombay later in the same year. The report was submitted to the state government on February 16, 1998.

Though the Report has been widely praised by the liberal and Left intelligentsia for restoring faith in commissions of inquiry, it was held in contempt by the Maharashtra state government, led at the time by the Hindu nationalist BJP–Shiv Sena alliance. In its Action Taken Report, the state government simply dismissed the painstaking work that went into the Report. Significantly, the Report clearly indicts the Shiv Sena and its leader Bal Thackeray for their role in orchestrating the violence. When the Shiv Sena chief was eventually arrested in July 2000 at the behest of a new government in the state, he was discharged on the same day in what was seen by many as a travesty of justice. The magistrate in charge ruled that the case was "time-barred" as per the law, since seven years had passed between registration of the offence and filing of the charge sheet. *Fiza's* call to return to the violence of 1992–1993 and to bring the perpetrators to justice then has to be situated within this highly charged political scenario. Indeed,

Khalid Mohamed maintained that his film was “time-bound,” which is why he had to ensure that the film was released that year.

Yet *Fiza* is also very much a mainstream Hindi film making use of a number of generic conventions and modes of big commercial cinema with its emphasis on music and spectacle including the characteristic song and dance sequences so intrinsic to popular Hindi cinema; big stars like Karisma Kapoor, Hrithik Roshan, and Jaya Bachchan; a guest appearance by Sushmita Sen in a sensually filmed dance sequence; the obligatory comic sequence provided by Johnny Lever; and catchy music by popular music director Anu Malik. In fact, *Fiza* was an eagerly anticipated film for a number of reasons, the most significant being the Hrithik Roshan factor—at the time of the film's release, Roshan was well on his way to becoming the latest superstar in the Hindi cinema circuit. *Fiza* had the fortuitous distinction of being his first film after his debut feature *Kaho Na Pyar Hai* (dir. Rakesh Roshan, 2000), one of the biggest successes of Hindi cinema in recent years. The star text that actors like Roshan and Kapoor bring with them to their roles is crucial to the spectatorial identification invited by the film. A significant portion of the audience is aware that these are Hindu actors playing Muslim roles and that can often enable empathy for the characters. These popular elements form the basis of the film's spectatorial address and become the means to communicate its more serious concerns about an increasingly besieged and overwhelmed Muslim identity in the wake of Ayodhya.

Fiza tells the story of a Muslim family—Fiza (Karisma Kapoor), her brother Amaan (Hrithik Roshan), and their widowed mother Nishatbi (Jaya Bachchan)—whose happiness is shattered by a single traumatic night of violence during the Bombay riots of December 1992 and January 1993. The film begins with a classic melodramatic trope—home as a “space of innocence” (Williams 2001). An extended credit sequence establishes the break-up of the family by virtue of Amaan's persecution and disappearance that fateful night. Clearly announcing its historical moment with the on-screen title “Bombay, 1993,” the film opens with a montage sequence of Hrithik Roshan, as Fiza's off-screen voiceover nostalgically speaks of her brother Amaan and how happy they all used to be. The next sequence takes us to an intimate and happy family scene with Fiza, Amaan, and their mother facing the viewer in the same frame, as they watch Raj Kapoor's classic teen romance *Bobby* and apply oil to one another's hair. However, the tranquil harmony of the small family is rent asunder the same night. The scene is presented from Fiza and Nishatbi's point of view as they helplessly watch a clearly overwhelmed Amaan trying to defend himself and his Muslim friend against their Hindu attackers. A slightly low-angle shot of the traumatized and helpless mother–daughter duo framed at the window is followed by a high-angle shot of Amaan and his persecutors on the street outside, prompting us to

view the scene from their perspective. The frame within a frame and the accompanying dialogue “Run Amaan Run” works to consolidate the sense of Fiza’s and Nishatbi’s gendered and minoritarian vulnerability—the sheer sense of helplessness that constitutes their subjectivity as Muslim women in Bombay at the time. The sequence ends with a close-up of a besieged Amaan looking up at his traumatized mother and sister before running away and finally fading out of the scene, mirroring his disappearance and invisibility to them ever since. The remaining credits appear on the screen interspersed with black and white photographic stills of a riot-torn Bombay. The opening sequence thus demonstrates an interesting blurring of fiction and documentary modes, establishing the film’s location in a specific historical moment, and simultaneously recalling into public memory a horrific violence from a not-too-distant past.

The movie then reopens six years later in the present of the audience, marked by the title “Mumbai, 1999.” The use of “Mumbai” rather than “Bombay” to indicate the Bombay of 1999 is not an insignificant or incidental change. It is of course a politically correct act in keeping with the official name-change of the city from the anglicized Bombay to the nativist, indigenous Mumbai; however, it is also a telling comment on the ways in which a cosmopolitan Bombay has been transformed into the present-day stronghold of the Shiv Sena. This second opening sequence of the film takes us to Nishatbi sitting outside a police station, as she waits to talk to the woman police officer sitting inside. The purpose of Nishatbi’s visit is soon made clear: she is there to find out if the police have any new information about her son, who has been missing all these years. Dighibai is apparently used to these visits since Nishatbi has been coming regularly for the past six years to inquire about Amaan, but the police have no new information for her. She is told that “160 people are still reported missing (presumed dead), Hindus as well as Muslims, you are not alone, there are many who are crying.” The sequence opens and closes with a crucial close-up of the police officer’s hand pressed against a hand-bell, as she calls out “Next” to summon the subsequent person in line. Although Dighibai is constructed as somewhat sympathetic in her dealings with Nishatbi, the repeated shot of the disembodied hand and voice serve to reinforce an image of indifferent bureaucratic state authority.⁵

Amaan is among the many victims of the Bombay riots—missing, presumed dead. His mother, however, refuses to believe that Amaan is dead, and holds fast to her hope that he will return one of these days. “Let my enemies cry,” she tells the police officer in an assertion of resilience, “I am convinced that he is alive and he will certainly come back.” Her daughter Fiza, on the other hand, is tired of her mother’s blind conviction, and charges her with turning their life into a “waiting room.” She decides to take

matters into her own hands to find out once and for all if Amaan is dead or alive. To this end, Fiza sets up a meeting with the police officer who had testified in court about his encounter with Amaan on that fateful night, writes a provocative article for a newspaper about her missing brother, which gets her a lot of media and political attention, and eventually takes a trip to an unnamed border area in response to her Hindu boyfriend Aniruddh's tip that he has come across a picture of a wanted terrorist on the Internet who looks surprisingly like Amaan. Fiza's worst fears are confirmed when she does meet her brother in a village (which is obviously in the Kutch-Rajasthan desert region that borders with Pakistan) in the person of an Islamic terrorist. Amaan fills in the incomplete story of what drove him first to murder, and then to armed militant action. Invoking filial love, Fiza manages with some difficulty to bring him back to the fold of the family and they set off for Bombay.

However, the ill-fated family's happiness is once again doomed to be short-lived, since a frustrated Amaan, imbued by the notion of revolution and change, is unable to adjust to the monotony and purposelessness of everyday life, and rejoins the terrorist group. Significantly, the sequence that portrays the disruption of the (briefly) reconstituted familial unit is shot as a repetition of the happy family scene of 1993. The state appears as the "villain" that intrudes upon this idyllic space in the guise of two policemen. The *mise-en-scène* depicts the three dancing together along with their neighbor, Ulfatbi, as they watch a song sequence from the same film (*Bobby*) as before, when the police come in to arrest Amaan for his role in the 1993 violence at the behest of two local hoodlums who have been beaten up by Amaan in a previous sequence.⁶ When his mother accidentally finds out about his new incarnation as an Islamic terrorist, she is driven to take her own life. Subsequently, Amaan is chosen by his group to assassinate two politicians: one Hindu, the other Muslim, both of whom have formed a new electoral alliance for purposes of political expediency—an obvious comment on the new era of coalition politics in India. Amaan succeeds in his mission but then finds out that his group members had planned to kill him all along after the execution of the plan. The last sequence, once again, finds him helpless, besieged, and terrorized, only this time surrounded by the police on a railway track. His agonized sister, the voice of sanity and tolerance in the film, begs him to throw away his weapons, but he manages to convince her to shoot him and put an end to his weary existence.

My reading of *Fiza* proposes that there is a specific pattern of ambivalence in the narrative construction of the film, in which Fiza's and Amaan's narratives seem to work against each other so that the radical possibilities opened up by Fiza's story are somewhat constrained by Amaan's paradoxical narrative. At the most obvious level, the opposition between

Amaan and Fiza is fairly self-evident: he is the jihad-waging Islamic terrorist, whereas Fiza represents the voice of reason in the film. Ironically, however, Fiza articulates and raises specific concerns about a Muslim minoritarian identity in contemporary India, whereas Amaan is effectively transformed into a secular militant fighting against a corrupt political system, even though he is part of an armed Islamic organization. Thus, even though the vigilante cause and effect structure of the film clearly sets up Amaan as a victim of his minoritarian Muslim location who is forced to take up arms because of the failure of the secular state, the film also does its best to *neutralize* his Muslim identity—paradoxically, especially once he turns into an Islamic terrorist—by constituting him as an ordinary citizen fighting against an inefficient and fraudulent state. Why does the film feel this need to mask Amaan’s militant Islamism once he becomes a terrorist and consequently risk a reading as yet another male vigilante film of the individual against the establishment in the line of Bachchan films of the 1970s? A careful examination of Fiza’s and Amaan’s narratives, one that situates their characters within the larger context of Muslim representation in Hindi cinema, reveals some interesting answers to this question.

I have already suggested some of the ways in which Muslims have been stereotyped in popular Hindi cinema, where normalcy is the sole privilege of the Hindu hero. If Muslims by and large are characterized as a backward, orthodox, and deeply religious group marked by their peculiar dress, appearance, and speech, Muslim women in particular are constituted as intrinsically submissive, retrogressive, and essentially “other,” evidenced most obviously in the figure of the perpetually *burqa*-clad Muslim woman (Kazmi 1996). Even specific mainstream genres such as the Muslim social film, which encompass a predominantly Muslim world, tend to fetishize Muslim women as the exotic “other” of the secular nationalist self. Women in these films often appear in the role of the mysterious courtesan. Most of the mise-en-scenes that center on the women are set inside the house. The emphasis is on spectacle and grandeur. Space is expressed mainly through huge sets and long shots. Within this context, *Fiza* appears as a radical refiguration of the Muslim woman’s subjectivity in mainstream Hindi cinema.

The female protagonist of *Fiza* is the representative of a contemporary Muslim sensibility. From the outset Fiza is constituted as a bold, outspoken, and resistant subject who refuses the mantle of victimization, and is thus set up in explicit opposition to the figuring of Muslim women in Hindi cinema generally. An apex of “normality” is established throughout for Fiza. At the most apparent level, this is effected by the film’s refusal to code Fiza overtly and crudely as Muslim according to the usual popular cinematic device of deploying such explicit external markers of identity as the *burqa* or the

white, filigreed cap. Emerging from a lower-middle-class Muslim family that subsists primarily on the dead father's pension, Fiza is shown as an educated, English-speaking woman who traverses secular public spaces in her search for employment; in short, she is not that different from the "normal" Hindi film heroine after all. For example, in one sequence, her mother speaks of how the financial responsibility for taking care of the family now falls squarely on Fiza's shoulders, thus rupturing many abiding stereotypes about the victimized, submissive, confined Muslim woman, so beloved of Hindu right-wing rhetoric. At the same time, the film meticulously sets up the family's middle-class Muslim milieu, not in the clichéd manner of the mainstream Hindi film, but through the use of Muslim-specific kinship terms, shots of Nishatbi and Fiza saying the *namaaz* as a normal part of their everyday routine, a beautifully constructed mise-en-scene in the Haji Ali shrine in Bombay, and the sensitively shot sequence of Nishatbi's funeral rites interspersed with Ulfatbi's song of mourning for her friend. All of these become effective representational ways of allowing spectatorial identification with Muslim subjects without either effacing their identities, or making them "hyper-visible" as much popular Hindi cinema tends to do.

Fiza is represented as an independent and self-respecting woman who is set up in opposition not just to the caricatured Muslim women of commercial Hindi cinema, but also to the general sexualized representation of women who don't have much to do other than sport designer outfits, dance and sing, and provide the romantic angle in popular film at large. She is portrayed as someone who is self-reliant to the point of obduracy, and capable of determining her own course of action. Thus, when her boyfriend Aniruddh (who is significantly Hindu) offers to accompany her to the "border-area" to look for Amaan since "it is not right for a girl to go there alone," she informs him that this is not a question of being a man or a woman—this is one task that she must complete by herself. In another sequence, as Fiza stands surrounded by press photographers in response to her newspaper article on Amaan and other victims of the Bombay riots, Aniruddh asks her if she needs any help. Her response, delivered in English ("I'll handle it") sums up the image of a self-sufficient gendered Muslim subject that Mohamed seeks to foreground in his film.

The song sequences in the film also serve as an important part of the film's diegesis, working to consolidate the film's representation of its female protagonist as a self-reliant woman who demands respect on her own terms. The title song "Fiza" is shot as a fantasy sequence from Aniruddh's point of view as he imagines singing a song of yearning and invitation to his unattainable beloved to come to his "*ashiaana*" (dwelling, refuge, shelter). The entire sequence is edited by alternating long and medium-long shots of

a lovelorn Aniruddh standing against the backdrop of the ocean with close-ups of Fiza dressed in a glamorous blue outfit (more in keeping with Karisma's usual screen persona) as the camera moves in and out from her face, emphasizing her unattainability for Aniruddh. The word "Fiza" itself translates to weather or atmosphere and the lyrics of the song underscore Fiza's inaccessibility, or more accurately her transience. Even in Aniruddh's fantasy, Fiza can only affirm through the song that she is like the wind that cannot be held down, that she is not of this world (*zameen*), and that she has no dwelling, thus overturning the cozy gendered fantasy of domesticity that is the staple of much Hindi cinema. Through his figuration of Fiza, Mohamed encapsulates the image of the modern, self-sufficient, gendered Muslim subject. In light of this alone, *Fiza* could well be a landmark portrayal in the history of popular Hindi cinema.

It is from this grounded minoritarian location that Fiza stakes an explicit claim to the nation. The film's indictment of the state comes through most clearly in its representation of crooked politicians, a communalized police force, and an inept legal system. The sequences where Fiza encounters the two politicians—V.K. Singh, clearly the representative of the Hindu Right in the movie, and Syed Sahab, his Muslim counterpart—are remarkably similarly constructed in the way in which the "minority" subject chastises the self-serving politicians for their communal agenda: the first for being explicitly anti-Muslim, the second, for his expedient and contingent Muslim identitarian politics. Both Singh and Syed seek out Fiza once she is propelled to the forefront of public attention as a result of her newspaper piece on her missing brother. The episode with Singh is striking for the ways in which Fiza, the minoritarian Muslim subject, re-appropriates the nation from the representative Hindu nationalist self. Singh initially engages Fiza in some small talk about her family, but his skewed motives are clear. He will offer Fiza some help as she searches for Amaan in return for her enrollment in the youth-wing of his party, which will help to establish the "secular" (the word is used in English) credentials of his right-wing political organization. Fiza's sharp retort to Singh—"so that you can place me on the flag and display me to the world in order to obtain some Muslim votes"—clearly exposes the assimilatory tactics of the Hindu Right.

The sequence exemplifies the ways in which secularism has become such a contested terrain in contemporary India that even the Hindu Right has come to selectively appropriate the concept in order to validate their claim to be representative of all communities. At the same time, Singh does not make any attempt to disguise his blatant anti-Muslim sentiments. Accordingly, in an echo of some of the most strident positions of the Hindutva parties today, he tells Fiza: "now see, the Mughals attacked and captured us, we didn't say anything; *you people* made a separate country for

yourselves there, we still didn't have a problem." This significant speech, though delivered in the clamorous voice of a caricatured politician, in fact enunciates many mainstream nationalist (mis)perceptions. The sweeping statement conflates centuries and configures the Hindu community as a beleaguered, silently suffering majority that has been passively enduring Islamic rule and domination for too long, and it also equates all subcontinental Muslims with the Mughal rulers of the past. The specter of Pakistan as the unnamed "other country," not quite here but always there in the shadows, is also typically invoked in Singh's anti-Muslim tirade. But Fiza once again provides an effective rebuttal to Singh: "Don't say you people, Singh Sahab," she declares, "those who wanted to create Pakistan have already gone there and those who didn't go are largely dead. There is no one remaining in this country who wants to make a Pakistan. *We are as much Indian ("Hindustani") as you are.*" Here, we see the minoritarian subject staking an explicit claim to the Indian nation, asserting that the nation belongs as much to Indian Muslims as it does to the Hindus. Significantly, the nation, in this rendition, is figured as a space that can be claimed by the very people who constitute its political geography rather than as an abstract entity to which all citizens by default owe allegiance.

Similarly, Fiza also firmly counters the Muslim communal sensibility, represented in the figure of Syed in the film. The meeting with Syed takes place in a local Muslim gathering. Fiza has gone along with her mother to attend the wedding of Shahnaz, Amaan's former love interest in the movie. Syed, who is also in attendance at the wedding, recognizes Fiza from her pictures on television and summons her for a private meeting. Syed Sahab, unlike his Hindu counterpart, appears as a very sophisticated and old-world representative of Muslim culture; he speaks, for example, in an upper-class accent. However, like Singh, he too has an opportunistic interest in Fiza. He wants Fiza to give up on her search for Amaan—the ostensible reason he gives her is that raking up this "old issue" once again could well prove to be very dangerous for the entire Muslim community. Yet, later we find out that he has no qualms in aligning with the Hindu Right in order to be appointed home minister. Fiza, at this point, disassociates herself from the so-called larger interests of the Muslim community, and asserts her right as a sister to look for her brother. This is also the crucial moment in the film when Fiza brings up the Srikrishna Report on the Bombay riots in a thinly veiled reference to the Justice "Hare Krishna Report" in deference to the censors. She asks Syed, what has been done to bring justice since the judicial commission published its report?⁷ In response to his spurious claim that he only wants to establish peace, she says, "there will be peace only when each person learns to live within his/her limits. The truth is, green and saffron [the representative colors of Muslims and Hindus respectively]

are parts of the Indian flag; they should not attempt to be the whole flag.” This provocative statement, though delivered to Syed, once more seems, as well, to be implicitly directed against the assimilatory tendencies of the Hindu Right. Both encounters close with very similar shots of Fiza walking out, as the camera follows her, while the soundtrack plays the very recognizable popular tune of the patriotic song, “*Sare Jahan se Acha Hindustan Hamara*” (translated roughly as “My India is better than the entire world”). *Fiza* therefore makes some of its most charged political interventions at the level of dialogue. In a radical refiguration of the hegemonic rules of popular Hindi cinema, the film explicitly figures Fiza’s gendered Muslim sensibility as the repository of an alternative nationalist consciousness, one that also makes very specific claims and demands on the nation as part of the privileges of citizenship.

If Fiza is the representative of a “tolerant” or “secularist” Muslim consciousness in the film, Amaan is constituted as the victim-turned-Islamic-terrorist who seeks to wage war against a moribund and decayed political system. Amaan’s militant narrative is largely framed against the events of that fateful night of January 1993. The film offers a piecemeal and fragmented version of his story. His harrowing experience is related to us in three broken segments: the first, as I have discussed, is presented to us right at the beginning of the film from Fiza’s and Nishatbi’s point of view; the second, appearing in a flashback sequence, is narrated by the corrupt police inspector, Prakash Ingle, to Fiza; the third, recounted by Amaan himself, is also depicted through the cinematic device of the flashback. For six years, all Fiza and her mother know about the events of that night is what they had witnessed with their own eyes. The opening segment, set in January 1993, had concluded with a close shot of a visibly distressed Amaan looking up at his mother and sister before he fades out from our view; this is the last they have seen of him. When Fiza decides to do something more constructive than passively waiting for Amaan, she calls on the police inspector who had submitted an affidavit in court about his encounter with Amaan on the same night. At first the inspector attempts to convince Fiza to forget everything, but on being bribed by her, he reveals a rather different story from the one he had testified to in court.

The sequence shows a desperate Amaan running toward the uniformed inspector, pleading for help: “*Sahib* [Sir] help me, they’ll kill me, they killed my friend too.” The inspector’s unabashedly anti-Muslim answer—“you want to save yourself, then go, go to Pakistan”—undoubtedly may seem exaggerated, but it offers an explicit indictment of the conduct of the Bombay police in the 1992–1993 riots, particularly in terms of their entrenched anti-Muslim attitudes. This mind-set was clearly exposed in the Srikrishna Report.⁸ When Fiza finally asks the indifferent inspector Ingle if

Amaan is dead or alive, he is unable to give her a definite answer. The cumulative images of a perpetually fleeing, scared, helpless, victimized Amaan in these first two segments serve to set up a catalog of horrors that constitute Amaan as a victim, both of anti-Muslim violence, as well as of an indifferent state, which fails in its duty to protect him as a citizen—indeed it refuses to acknowledge him as citizen. Thus, the film successfully invokes the sense of a terrorized Muslim identity in the figure of a persecuted Amaan.

From terrorized to terrorist—finally, when Fiza does find Amaan in the desert, he appears in a different persona than when she last saw him: that of a masked terrorist making an attack on a shop. Significantly, this also marks the halfway point of the film, the “interval” so characteristic of popular Hindi cinema, which also announces a shift in the focus of the film from its female protagonist to Amaan (here, Hrithik’s newly begotten star-status is also important). In response to Fiza’s persistent prodding, he finally completes the story of that traumatic night. A flashback sequence takes us once again to a bloodstained, devastated Amaan who witnesses a man being attacked while his terrified wife watches impotently. The moment is presented as a turning point since the besieged Amaan decides to resort to violence in order to help the unknown man. A series of closeups portrays a shocked Amaan looking down at the man he has murdered, followed by a graphic sequence of Amaan brutally killing again, this time armed with a butcher’s knife, though evidently in self-defense, as he wanders wildly through the devastated, carnage-riven city. Eventually, in what is perhaps the weakest link in the plot, because it is totally coincidental, the flashback depicts his accidental encounter with Murad Khan, the leader of an Islamic terrorist group.

Murad Khan incites Amaan with a militant Islamic rhetoric that expresses the many ways in which Muslims are denied dignity in contemporary India. His recruiting speech is a typical instance of incendiary rhetoric articulating the sense of an oppressed and victimized group identity: “If you can tolerate injustice,” he says, “if you can tolerate our people being humiliated, if you can see our mothers and sisters being raped, then, this place is not for you. If you can watch our homes and our dignity being taken away then return, but remember where you are going, let alone a dignified life, even a dignified death is not possible.” Murad Khan is the representative of a separatist Muslim sensibility in the film, taking an explicitly organized and militant form, to which the film is evidently opposed, especially as embodied in the person of Fiza (indeed, Fiza refuses to take on the role of an oppressed group identity, even as she lays claim to the nation from her specific minoritarian location). The film thus clearly establishes the one night as formative in the making of Amaan, the Islamic terrorist. Consequently, Amaan’s constant refrain in the film is that he did not

choose to pick up arms, but was forced to adopt such militant methods. In that sense then the film is not making a statement very different from other contemporary films that examine (though in varying degrees) the rise of separatist movements in different contexts including *Maachis*, *Dil Se*, and *Mission Kashmir*, which claim that terrorists are not born terrorists, they are made or created by the inefficient policies of a culpable state. This sympathetic understanding itself marks a significant moment within popular consciousness.

However, even though Amaan becomes part of a militant *Islamic* outfit, he is, simultaneously, at pains to distance himself from specific religious causes, and often reiterates that he has nothing to do with religion or community. Even Murad Khan, at one point, explicitly employs a nonsectarian rhetoric to incite Amaan: “we have all seen our dignity and self-respect being taken away from us in meaningless riots,” he says. “From now on we won’t let that happen to anyone else, *whether they are Hindu or Muslim.*” Similarly, while Amaan explicitly draws on the vocabulary of Islam to constitute himself as a jihad-waging warrior, he also sees himself as fighting a nonsectarian, *secular* war against “injustice, oppression and hatred” on behalf of *all* “ordinary” citizens who are victims of conniving politicians. This is an extraordinary and paradoxical claim, emanating as it does from an organization whose very rationale for existence is the sense of an injured Muslim community. Such a claim, I would argue, serves to transform Amaan’s narrative from a powerful indictment of state policies of persecution and discrimination against a minority group into a conventional vigilante story about the individual outlaw versus the establishment (where class consciousness is the absence-presence), a much-reiterated theme in the popular Hindi cinema. Amaan is neutralized into just one more “ordinary” victim of state policy and manipulative politicians, rather than a victim of his specific minoritarian location. This ambivalence in the film’s representation of Amaan works to diminish the impact of the successful invocation of a besieged, minoritarian *Muslim* identity in the first half of the film.

Why does the film neutralize Amaan’s Muslim identity, precisely at the very moment when he aligns himself with a militant organization, after it has gone to such lengths in the first half to foreground the sense of a beleaguered Muslim identity in his person? The answer seems fairly obvious: Amaan, as the male protagonist of the film, especially as played by Hrithik Roshan, cannot be so alienated from conventional modes of representation in the Bombay film so as to disallow any possibility of spectatorial identification with him. Islamic/Pakistani terrorists are the newfound villains of Hindi cinema, especially following upon the recent border war fought with Pakistan at Kargil. If Amaan is allowed to mouth separatist rhetoric (even though it would be very much in keeping with his new persona), he will become the absolute “other” of the Hindi film, and

that could certainly take away from his newly begotten star-status and the commercial viability of the film. Indeed, Khalid Mohamed explained to me that both official and unofficial censorship played a role in diluting this powerful strand of the film:

There were all kinds of pressures and political compulsions because of which I had to soften the politics of the film—whether it was from my producers or because Hrithik had become so popular. It would have been too volatile at a time when the hero had become the heartthrob of the nation . . . Hrithik's father was also quite anxious about what it would do to his son's image. So we had to make the terrorist group into a sort of a *lala*-land—a vigilante group which I hoped people wouldn't pay much attention to. I think I said what I wanted to say. Yes, many people were missing; many of the community's boys were being misled into terrorism and other things. They have their own reasons, but were basically humans. The state should take notice instead of felling them down with bullets and forcing them to retaliate. Who knows where these people have gone? What were they doing? One imagines the worst. It was a kind of cautionary story: treat us like dogs and dogs bite back. At that point, it was very extreme. I've seen things which I couldn't have imagined. (Interview with Khalid Mohamed 2006)

Hence the paradox in Amaan's representation: he is an *Islamic* terrorist waging a *secular* war against the state on behalf of a self-defined militant Islamic outfit. As a consequence of Amaan's inconsistent representation, the film tends to lose some of its narrative coherence.

In the concluding sequence where Amaan stands in a forsaken railway compartment, and is eventually shot by his distressed sister, the director attempts, once again, to foreground the sense of a beleaguered Muslim identity in the figure of the overwhelmed Amaan. Although Amaan's vigilante resolution of justice outside the law of the state exposes the state's complicity in estranging Muslims, it is also clearly rejected by the film in the person of Fiza. While Amaan continues to constitute himself as the victim of manipulative and conniving politicians, Fiza keeps reiterating that they (Muslims) belong to this nation.

In an incisive reading of the female vigilante genre in Hindi cinema, Lalitha Gopalan suggests that there is a significant difference in the closures of the male and female revenge dramas. Whereas the state is repeatedly undermined in male vigilante films, the unfettered power of the avenging woman is finally undercut "by reeling in the authority of the state" and revealing the woman's own investment in restoring the social imaginary (Gopalan 2002, 49). *Fiza* can be read as a radical refiguring of both the male and female revenge stories. The film's bleak conclusion in which Fiza is forced to shoot her brother *at his own behest*, refuses to fall into the mode of either type of closure. The ending emphasizes once again that the state

cannot be trusted to uphold its guarantees of “protection” to the minority Muslim community. Amaan tells Fiza “I would rather that you kill me than deliver me to them” since he knows that his options are either death at the hands of the police in an “encounter” or a death sentence by way of the law.

The film offers a clear indictment of the postcolonial state and its culpability in alienating its minority Muslim population. Thus, even though Fiza foregrounds melodrama by beginning in a space of innocence and ending with the evocation of nostalgia for that lost space, the closure of the film also departs from melodrama’s “achievement of a felt good” (Williams 2001, 21). The sequence depicting Amaan’s death ends with an uncomfortably long take of Fiza looking right at the camera and therefore at the viewer before she fades from our view. Several critics, including Ashish Rajadhyaksha and Ravi Vasudevan, have commented on the widespread use of frontality and direct address in mainstream Hindi cinema (Rajadhyaksha 1987; Vasudevan 1995). However, whereas in most films frontal positioning is used to solicit and lure the look of the spectator, in *Fiza*, the direct address of that unnerving shot disallows the viewer the comfort of passivity or a place outside the film’s frame of reference. We are left with the overriding feeling then that justice has *not* been served rather than the compensatory recognition of virtue or the feeling for justice that is so crucial to the melodramatic mode.

Yet, the film doesn’t abandon the state altogether. In fact, it returns full circle to the state in the final close-up of the police officer’s disembodied hand pressing against the bell and calling out, “Next.” Only this time the camera rotates as the bell goes out of focus slowly. The significance of this repeated shot in the film cannot be overemphasized. It works to reiterate the indifference of bureaucratic authority, and it also serves as a call to the secular state to redress the injuries of 1992 and 1993 *within* the laws of the state. To be sure, law is not justice, and justice must by definition exceed the law, but justice also requires the laws of the state (Derrida 2001). The movie’s injunction to the state’s (juridical) regime of justice appears more urgent than ever in light of the atrocities against Muslims in Gujarat and the collusion of the state in perpetuating such violence and injustice.⁹

Notes

1. For an elaboration of the many meanings that have attached themselves to the term “secularism” in the Indian context and the place of the Muslim in this discourse, see my *At Home with the “Stranger”: Secularism and the Ethics of Coexistence in Indian Fiction* (Kumar forthcoming).
2. To be sure, however, the extent to which they contain the figure of the “terrorist” in their narrative resolutions differs substantially in each instance. *Mission Kashmir*, for example, ends with incorporating the figure of the Muslim other into its nationalist imaginary.

3. Despite these typological representations, however, mainstream Hindi cinema also offers some interesting ways of thinking about Hindu–Muslim coexistence. In a complex and wide-ranging essay that extends Christian Metz's work on the cinematic apparatus, Ravi Vasudevan argues that popular Hindi cinema—by way of its narratives and as a medium that serves to dematerialize both the object and the viewer—is able to constitute a “transcendent subject,” one that is not bound by an identity. Although I find the use of the term “transcendence” to subsume the range of possibilities of Hindu–Muslim cohabitation figured in these films as somewhat limited, Vasudevan provides some fascinating examples of multireligious coexistence in popular Hindi cinema. Thus, while participating in, and consolidating popular stereotypes of Muslims as innately backward, deeply religious and conservative, cinema also channels its energies to come up with imaginative scenarios of cohabitation and living with the other. See Vasudevan, “Neither State nor Faith” (forthcoming). I am very grateful to Ravi Vasudevan for not only sharing this essay with me, but also for an insightful discussion of this piece during his trip to the University of Iowa in spring 2005.
4. See Vasudevan's “Bombay and its public” (2001) for an incisive elaboration of such devices in *Bombay*.
5. Indeed, the Missing Persons bureau is now more or less nonexistent. Mohamed has indicated that he had tried to go to the Bureau, but by the time he went there, it had been disbanded: “There was just this one clerk. But for drama, I created a policewoman there” (Interview with Khalid Mohamed 2006).
6. In *Fiza*, then, *Bobby* serves as a signifier of past innocence and happiness, which is eventually destroyed. It also implies an earlier more innocent time for cinema, when social differences hadn't congealed into forms of otherness in the ways that *Fiza* depicts.
7. Mohamed explains the minor change: “The producer insisted that if we wanted the Justice Srikrishna report reference to remain intact, we should change the name and we would get through (the censors). He was right. We made it Hare Krishna” (Interview with Khalid Mohamed 2006).
8. The Justice Srikrishna Report clearly indicts the Mumbai police for what it calls a “built-in bias of the police force against Muslims.” “The response of the police to appeals from desperate victims, particularly Muslims, was cynical and utterly indifferent. On occasions, the response was that they were unable to leave the appointed post; on others, the attitude was: ‘one Muslim killed was one Muslim less.’”
9. To imagine a vision of justice that is not limited to the futility of revenge or the laws of the (Indian and Pakistan) state, we will have to turn to another one of Mohamed's scripts, Shyam Benegal's *Mammo*. For a more complete version of this analysis, see my “It's my home too!: Minoritarian visions of coexistence in Hindi cinema.” (Kumar forthcoming)

References

- Chakravarty, Sumita. 1993. *National identity in Indian popular cinema, 1947–1987*. Austin: University of Texas Press.
- Derrida, Jacques. 2001. Force of law: The mystical foundation of authority. In *Acts of religion*. Ed. Gil Anidjar. New York and London: Routledge.

- Gopalan, Lalitha. 2002. *Cinema of interruptions: Action genres in contemporary Hindi cinema*. London: British Film Institute.
- Kazmi, Fareed. 1994. Muslim socials and the female protagonist : Seeing a dominant discourse at work. In *Forging identities: Gender, communities, and the state*. Ed. Zoya Hasan. New Delhi: Kali for Women.
- Kesavan, Mukul. 1994. Urdu, Awadh and the Tawaif: The Islamicate roots of Hindi cinema. In *Forging identities: Gender, communities and the state*. Ed. Zoya Hasan. New Delhi: Kali for Women.
- Kumar, Priya. Forthcoming. *At home with the "stranger": Secularism and the ethics of coexistence in Indian fiction*. Minneapolis: University of Minnesota Press.
- Mohamed, Khalid. 2006. Interview with Priya Kumar. *Framework* 47(2): 100–119.
- Mufti, Aamir. 1995. Secularism and minority: Elements of a critique. *Social Text* 45: 75–96.
- Mufti, Aamir. 1998. Auerbach in Istanbul: Edward Said, secular criticism, and the question of minority culture. *Critical Inquiry* 25: 95–125.
- Roy, Parama. 1998. Figuring Mother India: The case of Nargis. In *Indian traffic: Identities in question in colonial and postcolonial India*. Berkeley: University of California Press.
- Rajadhyaksha, Ashis. 1987. The Phalke era: Conflict of traditional form and modern technology. *Journal of Arts and Ideas* 14–15: 47–78.
- Vasudevan, Ravi. 1995. Addressing the spectator of a "Third World" national cinema. *Screen* 36(4): 305–324.
- Vasudevan, Ravi. 2001. Bombay and its public. In *Pleasure and the nation: The history, politics and consumption of public culture in India*. Ed. Rachel Dwyer and Christopher Pinney. Delhi: Oxford University Press.
- Vasudevan, Ravi. 2006. Neither state nor faith: The transcendental significance of the cinema. In *The crisis of secularism in India*. Ed. Anuradha Needham and Rajeswari Sunder Rajan. Durham: Duke University Press.
- Williams, Linda. 2001. *Playing the race card: Melodramas of black and white from Uncle Tom to O.J. Simpson*. Princeton: Princeton University Press.

PART 2
SOUTHEAST ASIA

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CHAPTER 5
THE POVERTY OF JUSTICE:
POSTCOLONIAL CONDITION AND
REPRESENTATIONS OF JUSTICE IN
CONTEMPORARY PHILIPPINE CINEMA

Rolando B. Tolentino

Philippine cinema primarily represents the judicial and legal system as inaccessible from the outside to those who seek redress from them. And in the rare cases when it becomes accessible, the system is perceived to implement either an inhumane or an ineffective system—inhumane because it seeks to implement a rectification process that does not consider the melodrama of the human condition, and ineffective because the system is unable to resolve what it is supposed to do due to larger impositions of transnational military treaties or local corruption. This essay seeks to investigate these representations of justice in contemporary Philippine cinema—first, the conventions of the legal scene in film; second, how these images typify a politicized imagination of the judicial system; and last, the stakes in cultural politics involved in such representations.

There is a relationship between ineffective justice and the massive conditions of poverty in the Philippines—a relationship between lack of justice and an excess of poverty. The prevalence of poverty provides the void that enables injustice to succeed and justice to fail. The Philippines' poverty rate, now forty percent, is the highest in Southeast Asia, and some 15.3 million Filipinos (half of the total poor population) live in abject poverty (Textmania.com 2001). In turn, this national poverty enables rampant abuse of power, disenfranchising the historically marginalized. In the Philippines, poverty means abuse of power, lack of access to courts, overcriminalization and imprisonment, and the exile and displacement of the marginalized. This dialectic of poverty, disenfranchisement, power, and the judiciary helps to propel the cultural politics of how law and justice are represented in Philippine cinema.

Legal films—centered on courtroom scenes and providing an impression of the dysfunctional nature of the judiciary in the country—are very rare in Philippine cinema. But court scenes remain plentiful in three genres. In action films, one often finds the false conviction of the hero or his loved one, or the guilty powerful figure found innocent. In sex movies, we see the female lead accused of a crime performed for a moral right. In melodrama, however, the courtroom scene becomes a dramatic convention, where suffering seems endless or the heroine is exonerated of a false accusation.

In the domestic melodrama *Adultery: Aida Macaraeg* (dir. Lino Brocka, 1984), the pregnant heroine Aida is torn between her forced marriage to a convicted drug pusher and her new life as the other woman of a rich married man. The courtroom scene provides the context for emotional upheaval as her drug dealer husband is suddenly paroled and her present partner, a “respectable” man, decides to take custody of their son until the case is settled. The court scenes are calculated to show her certain defeat. She kneels in front of her husband, begging him to release her from her duties as his wife. Aida believes that the only person she can claim as her own is her son. Just when the decision is to be handed down, the husband disrupts the proceedings by withdrawing his case against Aida. The denouement shows Aida in the breakwater of a park when the son suddenly comes running to her, accompanied by her husband who confesses that he and her partner have already resolved the case—the partner will release Aida’s son and the husband will relocate to another place, leaving them in peace.

The film weaves two instances of domestic disarray by intercutting a radio melodrama with Aida’s family predicament. Aida works as a receptionist in a Chinese restaurant, her meager salary supporting her father’s medicines, her sister’s education, her brother’s young family, and her mother. She represents the iconic *mater dolorosa* (suffering mother), symbolized by the pained Virgin Mary, in Catholic-dominant Philippine society. The last straw in her family saga was the unexpected revelation that her unemployed brother’s wife was expecting a second child. Aida decides to move in with her boyfriend but chooses not to marry. Her religiously devoted mother disowns her, like her younger sister who chose to become a mistress of a rich man. Her mother’s declaration of her immorality posits her as a trespassing deviant, marking her moral downfall and aggravating her ethical turbulence.

Courtroom scenes in Philippine films are deemed “un-cinematic” because of the plainness, even ugliness, of the actual location. Halls of justice are not known for their architectural innovation, much less for sensitive interior design. These are sites known to be fire-traps and security-risk areas—sections or buildings have burned in separate incidents due to faulty wiring, low ceilings, and congested and enclosed interiors; there have also

been continuous reports of evidence stolen in various depositories of the courts and of convicts attempting to escape, and succeeding in doing so, through the court building. The court scene usually takes place in a big, often times dilapidated room that acts as a trial court. The judge sits on a raised wooden podium for older court scenes, or simply at a study table in recent scenes, and the main prop on top is the gavel. An oversized Philippine flag is draped as the backdrop of the judge. On the walls are big pictures of the incumbent president and notices of silence. Because of the general lack of space in the courts, the courtroom also serves as storage with gray filing cabinets lining the walls. Legal scenes are depicted in film only through this site or the offices of lawyers.

There are three horizontal axes of action, only one of which connects the judge to the others. The judge is the center of the action even though he or she usually remains silent in the scenes. The actor sits in front of the most important signifier of the nation—the flag, representing the judge’s national mandate to dispense justice to those who seek it. This role is usually portrayed by an honorable and senior looking actor. The actor does not wear a robe in this case, but with the institution of the robe requirement for judges, it has become the character’s mandated costume. The second axis is the witness stand, which takes up much of the scene. Here witnesses and suspects are interrogated forcefully by opposing lawyers. The third axis is the family or friends of the accused or the complainant seated in the audience. This is the familiar site of reaction shots—usually via a close-up shot of worried looks—as the character on the witness stand tries to grapple with the questions. The vertical axis emanates directly from the judge, dispensing with a ruling, stating a recess, or ordering the witness.

Aida asks her husband a final question at the film’s end: “Ano ang nangyari sa atin?” (What happened to us?) The moment of domestic bliss has become a nostalgic experience—it never existed but nonetheless is now idealized. The husband answers, with a possible reference to the inaccessibility of the nation’s judicial system: “Huwag mo nang itanong, baka mas masakit kung malaman natin ang sagot” (Don’t ask, it might be more painful to know the answer). The husband’s position, however, is exemplary of the triumph of the prison system and its power to reform and rehabilitate criminals. Even when not functioning to its fullest potential, the judicial system is idealized as conscious repression, and this essay attempts to uncover those repressed answers.

Political Disenfranchisement and the Postcolonial Condition

The judicial system is perceived to be ineffective in the Philippines, only validating those in power. Social melodramas such as *Minsa’y Isang Gamu-gamu* (*Once There Was a Moth*, dir. Lupita Aquino-Kashiwahara, 1976) and

Sa Kuko ng Aguila (*In the Eagle's Claws*, dir. Augusto Buenaventura, 1988), tackled the issue of U.S. bases in the Philippines and showed the judiciary as being ineffective in dispensing justice to the disenfranchised characters. The star system driving the films—Nora Aunor, the brown Cinderella in *Minsa'y* and Joseph Estrada, the defender of the masses in *Sa Kuko*, who would later become president of the Philippines—evokes the ordinary citizen's quest for justice through the courts and his or her recourse to extra-judicial means when the system becomes unavailable. The audience is meant to identify with icons typifying ordinary people's quests for social justice. This identification makes justice a doubly imagined fantasy, circulated via film viewing and in the casting of icons deprived of justice. But the lack of justice in film produces another form of identification in reality, as icons strive to expand on their star status through politics. Estrada is the most celebrated case of this attempt, having reached the presidency in 1998; his downfall in 2001 also casts him as the most infamous. The ironies build on themselves: Estrada is now entangled in his own quest for justice as he seeks to evade prosecution for corruption charges; however, his film fans remain steadfast in their support.

The legal system in the Philippines is largely based on colonial systems—Spain (in the arena of family and property law, and absence of the jury trial) and the United States (in trade and commerce, labor relations, taxation, banking and currency). Recent history emphasizes the failure of the Filipino legal system, from the Marcos period (1965–1986) to the present. Marcos compromised the legal system by reconstituting the Supreme Court with appointees beholden to his presidency. But the structural problems are even deeper: There are only some 30,000 lawyers practicing in the Philippines, one-third of whom are based in Manila. And the courts are hopelessly backlogged: One study found that “even if the judges were to work 50 percent faster, it would take them 476 years to catch up [with the volume of cases filed]” (Philippines Judicial Department 1991).

Each film explains and illustrates these intractable problems of injustice. *Minsa'y Isang Gamu-gamu* tells the intertwined narratives of two lovers from lower-middle-class families in Pampanga, site of Clark Air Force Base, the biggest American air base outside the U.S. mainland. Corazon has just been accepted as a trainee nurse in Michigan and goes through the process of finalizing her papers at the U.S. Embassy in Manila. Bonifacio dreams of entering the U.S. Navy. Their American dreams begin to disintegrate when Bonifacio's mother, Yolanda, a worker in the U.S. base's commissary, is interrogated and humiliated by a Filipina merchandise officer. She is strip-searched for illegal goods and when told to leave, her panties are confiscated by the officer. The officer playfully toys with the panties with the tip of her pen, waving them to the crowd and twitching her nose in disdain.

Bonifacio and Yolanda decide to file a complaint alleging slander against the merchandise officer, and their lawyer files a letter of protest with the American base commander. Bonifacio's mother asks him, "Tama kaya ang ginagawa natin? Paano tayo lalaban sa Amerikano?" (Are we doing the right thing? How can we fight the Americans?). The periodic enunciation of rhetorical questions in the movie emphasizes the characters' anxious psychic state. The oscillation of will and realism—to fight for justice or to negotiate with the bigger power—becomes the focus for the lead characters to decide their fate by the film's end.

In retaliation for the complaint, the merchandise officer, backed by two American service personnel, raids Yolanda's PX (American goods) store, confiscating all her items. Yolanda is caught off guard and when offered an "amicable settlement" decides to take it against Bonifacio's protestations. Her goods are returned but a disillusioned Bonifacio gives up his plans to join the navy, disappointing Corazon. During Corazon's farewell party before her own departure for the United States, her younger brother is neglected and goes scavenging with other boys in the restricted dump areas of the U.S. base. There he is shot dead by a bored American serviceman. When the body is brought home, Corazon is shocked and tries to resuscitate her bloodied brother. She takes control of the cleaning of the body, and sits beside the coffin. When an American negotiating team comes to console the family and deliver their generous donation for the kin of the dead boy—explaining that her brother was mistaken for a wild boar—Corazon is outraged. She blurts out the key line of the film: "Ang kapatid ko ay hindi baboy" (My brother is not a pig!). This scene is the climax of the film's melodrama, connoting both realization of disenfranchisement and a decision to fight for justice.

Corazon's family files a criminal case against the American base despite the hesitations of their lawyer, the same one chosen by Yolanda and Bonifacio, who says that their case is hopeless. Yolanda is stunned. "Pero ito ang Pilipinas, Attorney. Kung nasa ibang bansa kami baka nga wala kaming laban. Pero tayo ang Pilipino. Ito ang Pilipinas. Sila ang mga dayuhan" (But this is the Philippines, Attorney. If we were in another country, we might not have a chance. But we are Filipinos. This is the Philippines. They are the foreigners). During the only hearing in the case, the lawyer representing the U.S. base notifies the court that it has no jurisdiction, presenting a certificate stating that "Corporal John S. Smith has returned to the United States as his tour of duty has been terminated." The lawyer for the Americans then declares that "the case cannot proceed until the accused is returned to the Philippines." The judge quickly concurs and dismisses the case.

There is no judicial recourse for Corazon. In frustration, she shouts in court, "Sino ang mananagot sa aking kapatid?" (Who will take responsibility for the crime committed against my brother?). Walking down the stairs,

Corazon is stopped by the base lawyer who attempts to give her an envelope containing dollars for her family. The lawyer repeats the apology and the case of mistaken identity. Corazon pulls out a photo of her brother from her wallet and says, “Masdan mong maigi ang kapatid ko. Sabihin mo sa kanila, hindi siya mukhang baboy ramo” (Look closely at my brother. Tell them that he does not in any way look like a wild boar).

Outside the court, a commotion is caused by a motorcycle driver’s accident. The driver’s helmet is taken off the body. Corazon’s lawyer tells the crowd to let her through because she is a nurse. She pushes through the crowd and looks down, and the film ends with a shot of Corazon staring down at a dead Caucasian motorcyclist.

Minsa’y Isang Gamu-gamo was called “the first important film to tackle the subject of . . . American presence [in the Philippines] and its consequences. It showed another face of the so-called special relations between the Philippines and the United States” (Tumbocon 1994, 175–176). This relationship, enforced through a military treaty between the two nations that was signed when the Philippines was a colony of the United States enables and sustains the black hole that makes civil and criminal cases against U.S. military personnel and bases unaccountable to the local and national courts. Here we have a clear source of the lack of justice in the Philippines—the military treaty, a tool that negates the possibility of justice and an operational legal system. What results are extra-judicial settlements that reemphasize the lack of judicial power and the excess of American influence.

Yolanda expresses this realization in accepting the Americans’ settlement. She says to her cousin, “Wala pang asunto laban sa mga Amerikano ang hindi nauwi sa amicable settlement” (There has yet to be a complaint against the Americans that will not be resolved through “amicable settlement”). Her cousin has her own view: “Mababait naman ang mga Amerikano. Kung hindi sila bumalik noong panahon ng Hapon, nasira na ako” (The Americans are ok anyway. If they had not returned during the Japanese occupation, I would have been dead).

The legal issues are centered on territoriality—where can the aggrieved claim justice? The shooting of the young brother takes place inside the scavenging section of the military base, where three other boys had been shot earlier. What becomes of Filipinos who are trespassing subjects in their homeland? These issues are echoed further in the father’s remark on the televised landing of Apollo 11 on the moon: “Sa kanila na rin ba ang buwan?” (Has the moon become American territory too?).

Historically, the bloody conquest of the Philippines provided the United States with its first colony-building experience outside the mainland, a status that was maintained under American tutelage for decades. Even Corazon’s training in an American hospital is a postcolonial issue, because

some 50,000 Filipina nurses have migrated to work in the United States. With the liberalization of U.S. immigration law and the continuing shortage of nurses in Western countries, the Philippines is the largest exporter of registered nurses to foreign countries—some 250,000 nurses work abroad even though the Philippines' nursing schools only produce about 9,000 students per year, of whom but 5,000 to 7,000 will become licensed nurses in a country of twenty million people (Sison 2003).

Bonifacio's dream to join the U.S. Navy is also a historically determined option. A 1952 agreement between the Philippines and the U.S. governments allowed up to 1,000 (and later 2,000) male Filipinos to enlist in the U.S. Navy (Beyond the Mask 2006). By 1989, there were 19,251 enlisted Filipino personnel and 588 Filipino officers in the Navy; another 400,000 serve as seaman on international vessels (Soriano 2001). This gendered emplacement of Filipinos in defense and seafaring and Filipinas in the health care sector is the product of history and neocolonial ties, and the basis for E. San Juan, Jr., imploring Filipino Americans "to confront [their] own singular destiny as a 'transported' (in more ways than one), displaced, and dis-integrated people" (San Juan 1997).

These relations of military power overshadow and determine issues of territoriality, national autonomy, and sovereign judicial institutions. The problem of the U.S. military bases is, of course, fundamentally a territorial issue. The bases were established in support of the Spanish-American war and to develop U.S. markets overseas. When the United States granted independence to the Philippines in 1946, it retained access to some twenty military and naval bases, with Clark Air Field and Subic Naval Base the biggest and most important (Friends of the Filipino People 1978). The United States paid \$200 million annually to maintain these bases and the U.S. government became the second largest employer, after the national government, in the Philippines. The Philippine military "also received unprecedented financial support" from the U.S. military presence (Zwick 1985). Between 1972 and 1983, the Philippine military more than tripled, growing from 54,000 to 213,000 regular soldiers; reserves increased from 17,000 to 118,000 as military expenditures rose from \$327 million in 1972 to \$972 million in 1982 (Zwick 1985). The military became the bulwark of the Marcos dictatorship, supported by the U.S. military bases. The special and largely unaccountable status of the military and defense sector also exacerbated the dismal state of human rights in the country. The Philippine state remained a kind of U.S. neocolonial territory.

Sa Kuko ng Aguila (In the Eagle's Claws) also deals with the presence of the U.S. bases and the abuse associated with them. The story propels an ordinary man—a driver of a jeepney, the most popular mode of transport in the Philippines—into leadership in the popular movement against the abuses and presence of the U.S. military installation in Olongapo, site of the Subic Naval

Base. As a wealthy politician is exonerated of rape in a courtroom scene, a crowd of protesters outside lofts signs and banners to greet the jeepney driver and victim. As the politician also comes out, he is intimidated by the protests and evades the crowd, escaping in his car. The jeepney driver is catapulted into the leadership of the protest movement, and they take their cause into the streets. The final shot, in slow motion, dramatizes the hero, his girlfriend, the victims, and close associates marching in front of thousands of protesters holding signs and reaffirming the righteousness of their struggle.

Cinematically, the star system is important to notions of protest and justice in this film. Stars are the vehicles for the excessive spectacularization of their bodies, drawing from the primal economic and psychic needs of fans and movie-goers. In *Minsa'y Isang Gamu-gamo*, Nora Aunor, the superstar of Philippine cinema, represents the lower-middle-class legal conflict with the U.S. bases. Aunor came to fame during the Marcos dictatorship, which sought to elevate a modern nationalism that included the typification of Aunor's brown body and features in contrast to the dominant Caucasian or *mestiza* beauties of the time. She also mythologized a formula of hard work and luck, perpetuating a fantasy of social mobility in Philippine society. Aunor sold drinking water in a train station in the most depressed region of Luzon, persevered as she won singing contests, became a singing sensation, moved to acting, won box office fame as a teeny-bopper star and finally an actress of superb caliber. Her life represented the myth of mobility, and the Marcos dictatorship utilized this in the nation-building project, enlisting her to campaign for the presidential couple and their programs.

In *Sa Kuko ng Aguila*, the ordinary but just jeepney driver is portrayed by Joseph Estrada, whose iconography represented the leadership in the struggle of the masses. Such beginnings paved the road for his ascent to politics—first as a mayor of a Metro Manila suburban municipality and close ally of the Marcoses, then as a senator whose worth was proven when he campaigned for the abrogation of the military bases treaty, first as vice president, and later as president beginning in 1998. Because of massive corruption and other offenses, Estrada was deposed in 2001, the second president to be forced out of office. Estrada is crucial in the military discourse because of his vacillating position—from an anti-bases activist in 1992, the year the bases treaty was abrogated, to masterminding the approval of the Visiting Forces Agreement (VFA) in 1999, which brought the return of American troops to the country (Schirmer 1999; Simbulan 1999). With the abrogation of the 1992 bases treaty, the two most important bases have been transformed into economic zones, housing factories, and offices of multinational companies. Continuing U.S. military exercises denote a secured and stable economic regime.

The issue of social justice emerges from these legal entanglements in film and from the star system. Though star and political alliances have shifted, the

vacuum in social justice remains. Although military bases have been transformed into economic zones, these sites remain magnets for sex work, the continuing disenfranchisement of children, and environmental issues. By the mid-1990s, some 60,000 to 100,000 children were involved in child sex work in the Philippines, and the number of women and children involved in sex work is estimated at 300,000 to 500,000 (Juvida 1997). The number of sex workers is said to be about the size of the nation's manufacturing workforce (Ofreño 1998). Military exercises under the Visiting Forces Agreement bring thousands of U.S. servicemen to twenty-two ports around the country, further encouraging prostitution of women and children (The Philippine Journal 1998). The excess of poverty and the lack of resources facilitate this sex and entertainment work inside and outside the Philippines. By the late 1990s, some 150,000 Filipinas had been trafficked into sex work in Japan (Bangladesh National Women Lawyers Association 1998), and many of the 50,000 Amerasian children in the country have become "underprivileged and targets of the flesh trade because of their looks" (Today 1997).

Abandoned due to the eruption of Mount Pinatubo in 1992, portions of the Clark Air Base remain highly toxic, poisoning the water supply and resulting in significant cancer among its residents, especially children (Carroll 1997). The consequences of the military treaties remain, in continuing problems of poverty and social justice. And, as San Juan points out, "the reality of US colonial subjugation and its profound enduring effects . . . distinguish the Filipino nationality from the Chinese, Japanese, Koreans, and other cohorts from the Asian mainland" (San Juan 1997).

Philippine cinema's representation of justice and the legal system upholds the inaccessibility of these ideals of liberal democracy through a perpetuation of this knowledge of the judicial system. We see either misidentification—the victim seeking redress in a system that is already predicated on upholding the transnational treaty—or an illusory self-recognition of autonomy: defeated in the film, the victim nonetheless achieves moral redemption and victory as the audience identifies with the correctness of his or her stance. In *Sa Kuko ng Aguila*, this stance is taking on the struggle for social justice to the people; in *Minsan'y Isang Gamu-gamu*, it is a form of white hate, the looking down (in one censored version) or the retributive turning away of Corazon from the scene of the accident involving the injured Caucasian driver.

Reproduction and Subjectivation

Althusser points out that the role of the repressive state apparatus consists of "securing by force (physical or otherwise) the political conditions of the reproduction of relations of production which are in the last resort relations of exploitation" (Althusser 1995, 114). What ensues is an ideology that is a

“representation of the imaginary relationship of individuals to their real conditions of existence” (123) and in turn disenfranchises and empowers the subjugated person. In *Adultery: Aida Macaraeg*, the husband who goes through the prison system that emphasizes disenfranchising manual labor as redemptive of the human subject is eventually empowered to comprehend and forgive the heroine.

The central theme is the experience of prison in articulating the success, albeit partial, of the judicial system. The prison helps the characters' lives avoid becoming wholly unproductive. The shooting of these scenes in actual prison sites—like the effect of shots taken in actual squatters' communities—provides the grit and squalor that make visible the abjection of such human experience. What results is a construction of ordinary people's access to citizenship via a vision of the prison system and the tolerance of an ineffective judicial system.

Bulaklak ng City Jail (Flowers of the City Jail, dir. Mario O'Hara, 1984) tells the story of Angela, a singer in a low-end beer pub who is jailed for attempted murder. Angela defended herself against the wife of the man she was having an affair with, and in the process, she accidentally plunged a knife into the wife's body. She cannot afford bail of 5,000 Philippine pesos and must endure the daily grind of the women's section of the city jail.

Angela's defense lawyer has advised her to admit her crime and endure her term in jail, because this might result in a shorter imprisonment than awaiting trial. The evidence is clearly against her—the knife was found and the other woman is the aggrieved party in the case. But much to the frustration of her lawyer, she maintains that she had defended herself, breaking a dramatic silence in court to reiterate her plea of innocence.

The beginning scene, in which she is brought to jail, captures the fear of a first-time offender. She is immediately initiated by the other inmates—assaulted, undressed, and verbally abused. The next morning she lies naked, on sheets of newspapers on the floor, beginning her orientation to inmate life. She discovers the hierarchy of power inside the city jail. That hierarchy includes Breaker, the *bastonera* (enforcer of rules, peace, and order), the *mayora* (an inmate supervisor), Paquito (the male guard who has his pick of women in exchange for small favors of leniency), the female warden, and the city jail warden. As a first-time inmate, Angela is at the bottom of a penal food chain that reeks with prostitution, drugs, and abuse.

Angela's life is regimented by the discipline of the jail system. There are no utensils or non-breakable dishes allowed. Feeding is done by roll-call of individuals and by cell. She eats her first meal from a small water container with her hands. She has to obey the orders of those above her—including Breaker's instruction to give in to Paquito's desire to have her for the night. When she refuses, Breaker brutally punishes her. She is tolerated only when

inmates find out about her pregnancy. As the pregnancy develops, she fears being separated from her child as has happened to other inmates.

Angela is inspired by the successful escape of a fellow inmate, Juliet, who lured a guard to have sex with her while in court awaiting trial, handcuffs him, steals his gun, and runs off. The news of the escape causes euphoria inside the women's jail. Inmates clap their utensils and jeer from their cells. Angela also decides to attempt to escape. In her first try, she is caught by the guard, punished by Breaker, and placed in isolation. For her second attempt, she fakes her child's delivery. Sent to the hospital, she escapes from a toilet, and her fellow inmates are again euphoric when they learn of her escape. She attempts to evade the police by going to the city zoo. The search extends until nightfall. Filmed like a safari hunt with tightly held guns ready for instant action, the police meticulously search the zoo. Angela is found in a vacant cage, covered in blood as her child is born.

Eventually, with the help of a private defense lawyer, Angela is found innocent. As in the staging of the final scene in *Adultery: Aida Macaraeg*, blissful closure is consummated in a park where Angela strolls with her child amidst a happy crowd.

Bulaklak ng City Jail recreates the trauma of prison experience as an imperative for justice to prevail. For the heroine, the weight of her subjection inside the jail itself makes a claim for innocence, or at least sympathy. For the audience, however, the cinematic elaboration of the infrastructure of the jail system—a hell on earth—becomes a screen to filter out the possibility of wrongdoing. Movie-going in the Philippines has become a middle-class activity, and the audience's acculturation to the prison underworld via film provides an experience of their own possible abjection—the abjection of the prison and of poverty that underlies the story, where disempowered female inmates belong to the lower end of society. Perhaps unwittingly, the film reinforces the middle class's anti-poor stance, for it reinforces the audience's own class origin through the abject experience of others' crime and imprisonment.

Death Row (dir. Joel Lamangan, 2000) also highlights the prison experience. Sony Corpuz is a sixteen-year old boy from the slums who gets entangled in an *akyat-bahay* (house robbery) with his friends. They hogtie the house owner and during the chaos a friend shoots the owner. The police arrive and catch the surprised Sony. He is convicted of homicide during robbery, and sentenced to death.

The first jail scene, as in *Bulaklak ng City Jail*, shows Sony's procession to his death row cell at the national penitentiary. As he sees the jail's interior, the audience is drawn in and out of the experience of incarceration—into an abject space and experience, and out of the comforts of their own class

origins and middle-class movie watching experience. Sony is introduced to the *mayor*, Donald, and the *bastonero*, Biyo. Like Angela, on the first day he is given first time initiation and beatings.

The courtroom scene is typical—stark images of cold-hearted lawyers and a judge in a conference. Sony's real age is revealed. After he is formally declared guilty—heralded by the pounding of the gavel—Sony has an emotional breakdown, pleading his innocence. The gavel marks him as a convicted criminal as much as the courtroom space and his location in it. His criminalized body then extends into the space of the prison system. He is assigned menial work—polishing floors, cleaning toilets. He is as powerless in jail as he was outside. But others are different: a convicted municipal mayor maintains his status inside jail, for example. His assistant deodorizes the toilet before he uses it, and he oversees the drug sub-economy in the prison, even maintaining a guard to work in the drug network.

The patronage of higher male figures safeguards Sony in jail. He acts as a drug courier for a gang leader, impressing him by not “squealing” when he is caught by the guards. Through small favors from another gang leader, he is given preferential treatment in jail. And when this gang leader seeks to extract his payment by attempting to sodomize Sony, the boy is protected by and bonds with the most revered older death row inmate. With this patriarchal figure, Lolo Sinag (Grandpa Sinag), Sony escapes prison. They are caught and beaten by the gang leaders as punishment for their failed escape. Sony is sodomized by the gang leader and kills him in his attempt to fight off the assault. Lolo Sinag takes the blame for the death and fast-tracks his own death sentence.

Sony witnesses Lolo Sinag's procession to the gas chamber. The details of the execution are meticulously detailed, and the scene was shot in the actual death chamber in the national penitentiary. Lolo Sinag asks the lawyer who fought his appeal case to save the boy from death row. She succeeds and Sony is freed as the friend who shot the homeowner is captured and sent to jail. Sony enjoys his walk in an open green space, shot from a helicopter position to chronicle his final journey amidst the flurry of grass leaves. He is freed from the gang wars, sexual and physical violations, menial work, and abject existence in the jail system.

These films successfully reproduce prison, threats of rape and beatings, and paranoia. They also succeed in portraying the hierarchy and byplay of power figures and activities inside the prison system. In their bed bunks, cells, or wards, the prisoners' bodies are cast as animalized and criminalized subjects. And through their filmgoing experience, the movie audience is heralded as middle-class, free subjects, entirely different from those they watch. The brutality, violence, claustrophobia, and paranoia represented in the film are entirely separate from and anathema to their lives. Seated in comfortable yet dark constricted space, with the image projected from

behind onto a giant screen, the audience can deeply feel that other world, that imaginary of paranoia. It is a paranoia posed in the very nature of film viewing—an experience of that which is there but not fully there, absent but not completely, present but not fully.

These films about the prison system acknowledge the disciplining nature of the space, in part because of the ambiguities of law and order in the space of incarceration. Police-sanctioned prison lawlessness inflicts discipline on the historically disenfranchised. Discipline is instilled through violence, up to and including the ultimate death sentence. As Walter Benjamin puts it, “For the exercise of violence over life and death, more than in any other legal act, the law reaffirms itself” (Benjamin 1996, 242). The corrupt legal system and the more corrupt prison system are legitimized in every police-sanctioned practice of violence.

The government’s Commission on Human Rights has described the Philippine National Police as “the worst abuser of human rights” (Commission on Human Rights 2002). The context of poverty as the primordial lack of justice—capped by the maintenance of a pampered military—keeps the excessive abuse of human rights in place. Poverty has worsened in this decade, reaching forty percent in 2002 and 54 percent in the rural areas, further encouraging the state to sustain an abusive military in order to assist with social control. A report in 2002 formalized the common knowledge that “some elements of the security services were responsible for arbitrary and unlawful and in some cases extra-judicial killings, disappearances, torture and arbitrary arrest and detention” and “other physical abuse of suspects and detainees as well as police, prosecutorial, and judicial corruption remained [as] problems” (U.S. State Department 2002). There have been no convictions, for example, for the killings of 79 journalists in the Philippines since 1986 (International Federation of Journalists 2006) or the assassination of 709 political activists since 2001 (Karapatan 2006).

The slow dispensation of court decisions exacerbates these problems, as illustrated in the films. Cases are supposed to be resolved within three months at the local level and one year for appeals. But they rarely are, and one reason for the long delays is the lack of qualified judges.

The delayed dispensation of justice and excessive abuse of state and military power provide the context for the experience of films on prison life—creating the middle-class subject viewing the subjection of criminals. They view the exercise with what Benjamin alludes to as the paradox in the labyrinth of the judicial system, “[The] legal system tries to erect, in all areas where individual ends could be usefully pursued by violence, legal ends that can be realized only by legal power” (Benjamin 1996, 242). In its filmed representations, as well as in the reality of prison life and police-sanctioned prison violence, the prison

system becomes a site of legal power: a space that exemplifies the lack and neglect of justice.

Happiness and Redemption

Walter Benjamin also writes that, “Our image of happiness is indissolubly bound up with the image of redemption” (Benjamin 1969, 254). In some cases the gritty delivery and nondelivery of justice in legal scenes and prison films suggests—in a truly perverted instance—an idea of happiness and redemption. Hollywood brings these notions to the screen. Contrary to Philippine cinematic and real experience with the legal system, American popular films, from *Philadelphia* to *Erin Brokovich* and *Legally Blonde*, attest to the successes of the American justice system. Even superhero films—*Superman*, *Batman*, *X-Men*, the *Spiderman* series, and *Hulk*—epitomize the efficacy of institutionalized justice under siege from legal and illegal attacks. Such films highlight the abilities of the judicial and prison systems, in the end, to contain external threats.

Perhaps Filipino migration to the United States is based in part on this sense of successful justice. These films reinforce an American sense and ideology of justice against the lack of justice in the Philippines, perpetuating the dream of moving to the United States, as some 1.5 million Filipinos have already done or as a fantasy of many who remain: “Filipino Americans . . . have the second highest median family income at \$46,698 in the United States (the median family income for the United States is only \$35,225). Filipinos have the highest labor participation, at 75.4 percent, among all Asian groups. As a result, the poverty level of Filipinos is the lowest in the nation at only 6.4 percent.” 40,000 new immigrants arrive each year in the United States, and the Filipino American population may reach four million by 2030 (Yuchengco and Ciria-Cruz 1998). The gentrification of a small but economically powerful sector of Filipinos overseas—in the belly of its colonial and neocolonial master—displaces and projects a dream of social mobility and social justice.

The images of justice and injustice that we encounter in Philippine film are, at least in part, the continuing result of what might be termed a national lack—the persistence of poverty—and a national excess—the extraordinary abuses of police, state, and military power. From the representation of the judicial and prison system in film, to the reasons for that persistent poverty, injustice, and abuse, the Philippines is a useful site for understanding these complex social processes and how film reflects them. Hollywood and the experience of the Filipinos abroad provides a different sense of prosperity, justice, and relationships, unreachable by most in the Philippines but once again heralding the absence of justice and excess of poverty that characterizes the Philippines today.

References

- Althusser, Louis. 1995. Ideology and the ideological state apparatuses (notes towards an investigation). In *Mapping ideology*. Ed. Slavoj Zizek. London: Verso.
- Bangladesh National Women Lawyers Association. Quoted in *Daily Star* and cited in *Factbook on global sexual exploitation: The Philippines* July 2, 1998. <www.uri.edu/artsci/wms/hughes/philippi.htm> (accessed July 26, 2006).
- Benjamin, Walter. 1969. Theses on the philosophy of history. In *Illuminations*. New York: Schocken Books.
- Benjamin, Walter. 1996. Critique of violence. In *Selected writings*. Vol. 1, 1913–1926. Cambridge: Belknap Press of Harvard University Press.
- Carroll, Admiral Eugene. 1997. U.S. military bases and the environment: A time for responsibility. <www.boondocksnet.com/centennial/sctexts/carroll971123.html> (accessed July 26, 2006).
- Commission on Human Rights. 2002. Cited in U.S. State Department. 2002. Philippines: Country reports on human rights practices. <www.state.gov/g/drl/rls/hrrpt/2002/18261.htm> (accessed July 26, 2006).
- Juvida, Sol F. 1997. Cited in *Factbook on global sexual exploitation: The Philippines*. <www.uri.edu/artsci/wms/hughes/philippi.htm> (accessed July 26, 2006).
- Beyond the mask: Untold stories of the U.S. Navy-Filipinos. <philusnavy.tripod.com, accessed July 26, 2006>.
- Friends of the Filipino People. 1978. U.S. bases in the Philippines: A position paper by the friends of the Filipino people. <www.boondocksnet.com/centennial/sctexts/ffp_bases7802.html> (accessed July 26, 2006).
- International Federation of Journalists. 2006. 42nd journalist killed under Philippines President Macapagal-Arroyo, May 23, 2006. <www.ifj-asia.org/page/philippines060523.html> (accessed July 26, 2006).
- Karapatan. 2006. Amnesty tells Arroyo: Do more to stop political killings. Cited by Philippine Center for Investigative Journalism. <www.pcij.org/blog> (accessed July 26, 2006).
- Ofreneo, Rene. 1998. Cited in *Factbook on global sexual exploitation: The Philippines*. <www.uri.edu/artsci/wms/hughes/philippi.htm> (accessed July 26, 2006).
- Philippine Journal. 1998. Cited in *Factbook on global sexual exploitation: The Philippines*. <www.uri.edu/artsci/wms/hughes/philippi.htm> (accessed July 26, 2006).
- Philippines Judicial Department. 1991. <www.country-data.com/cgi-bin/query/r-10480.html> (accessed July 26, 2006).
- San Juan, Jr., Epifanio. 1997. Filipino bodies: From the Philippines to the United States and around the world. <www.boondocksnet.com/centennial/sctexts/esj_97a.html> (accessed July 26, 2006).
- Schirmer, Daniel B. 1999. VFA: The shape of things to come? <www.boondocksnet.com/centennial/sctexts/schirmer99b.html> (accessed July 26, 2006).
- Simbulan, Roland G. 1999. Why the Senate should reject the VFA. <www.boondocksnet.com/centennial/sctexts/simbulan99a.html> (accessed July 26, 2006).
- Sison, Maritess. 2003. Philippines: Health system suffers brain drain. Inter Press News Service (www.ipsnews.net/migration/stories/braindrain.html, accessed July 26, 2006).

- Soriano, Yna. 2001. Slavery on the high seas. <www.marinongpinoy.com/article7.html> (accessed July 26, 2006).
- Textmania.com. 2001. Understanding poverty. <www.txtmania.com/articles/poverty.php> (accessed July 26, 2006).
- Today. 1997. Cited in *Factbook on global sexual exploitation: The Philippines*. <www.uri.edu/artsci/wms/hughes/philippi.htm> (accessed July 26, 2006).
- Tumbocon, Mao. 1994. Minsa'y Isang Gamu-gamo. In *CCP encyclopedia of Philippine art: Vol. 8 (Philippine film)*. Manila: Cultural Center of the Philippines.
- U.S. State Department. 2002. Philippines: Country reports on human rights practices, 2002. <www.state.gov/g/drl/rls/hrrpt/2002/18261.htm> (accessed July 26, 2006).
- Yuchengco, Mona Lisa and Rene P. Ciria-Cruz. 1998. The Filipino American community: New roles and challenges. In *The Philippines: New directions in domestic policy and foreign relations*. Ed. David G. Timberman. New York: Asia Society. <www.ciaonet.org/book/ass01/ass01_f.html> (accessed July 26, 2006).
- Zwick, Jim. 1985. Militarization in the Philippines: From consolidation to crisis. <http://www.boondocksnet.com/centennial/sctexts/zwick85a_b.html> (accessed July 26, 2006).

CHAPTER 6
SHADOWBOXING WITH THE
CENSORS: A VIETNAMESE WOMAN
DIRECTS THE WAR STORY

Karen Turner

“War is terrible for everyone, on all sides. In Vietnam, the sacrifices of ordinary people have been ignored. I want to tell their stories. That is why I make my films.” War veteran, actress, producer, and director Duc Hoan, affectionately known in Hanoi intellectual circles as the “elder stateswoman” of Vietnamese film, viewed herself as a critic who drew on her own experiences to shape the themes of war and loss that dominated her work. When she died at age 66 in 2003, however, official obituaries erased her military service in two wars and her twenty-year directing career. In the end, Hanoi officialdom remembered her as an ingénue, largely forgetting her mature director’s gaze in favor of celebrating the “beautiful young face and sparkling eyes” she brought to the role of My, the abused wife of a minority tribesman in her first film, *The Story of A Phu (Vô công A Phu)*, released in 1960.¹ This oversight is regrettable but not surprising, for even in Vietnam, where women warriors dominate stories of Vietnam’s history of struggle against foreign invaders and women’s issues take center stage in discussions of national problems, only a few women have gained a foothold as directors and producers in the film business.

Duc Hoan’s life history would be interesting if only because she was one of the few women anywhere in the world to gain the credibility and muster the resources to translate her own experiences as a woman warrior onto film. Her attention to the human costs of war echo themes adopted by women filmmakers and films about women in other places and times. Yet in the end, the Vietnamese experience shapes her stories and characters. And a Vietnamese tradition of “shadowboxing” with the censors, as David Marr so aptly terms the interplay of power and resistance between Vietnamese media

intellectuals and bureaucrats since the French colonial era, explains how she managed to contest the state's power to impose a unified vision on media productions (Marr 2003, 270).

Indeed, Duc Hoan's history exemplifies the liminal position of the intellectual in Vietnam, for she derived benefits from state-funded media enterprises and called herself a patriot, but at the same time chafed at what she viewed as unrealistic and rigid interpretations of social problems. Duc Hoan's formative years in film were spent under the tutelage of Soviet filmmakers and she fully accepted the socialist realist dictate that film must serve didactic purposes. Her characters often represented types caught up in historical movements and her films focused on how humans conducted their personal lives in times of national crisis; she rejected simple solutions to complex problems and understood that single events could be interpreted in different ways. Moreover, even while working within a state controlled and funded industry under the watch of censors, she found subtle ways to transmit messages aimed to reach particular spectators. Indeed, one of the most important insights we can gain from her own reflections about her work is her sense that there was always room for negotiation, even in the face of censorship. Her professional history demonstrates the truth of David Marr's conclusion that though the Vietnamese state closely monitors the media, state controls have never been absolute (Marr 2003, 257–295).

Duc Hoan's work raises interesting questions. How did first-hand experience with war affect her representation of gender issues and how does her gender explain her interpretations of war? Who were her intended spectators? How did she use the cinematic apparatus to negotiate between state censors and her own sense of justice? As I try to address some of these questions I have found very helpful those critics who apply Mikhail Bakhtin's writings on dialogism to film (Stam 1989). Bakhtin's understanding of the interplay between language, power, and interpretation that characterizes the works of intellectuals who create within an oppressive state apparatus helps to explain Duc Hoan's multiple voices. Akin to intellectuals in other socialist states, she viewed herself as both a privileged subject and vulnerable object in ideological power struggles (Bakhtin 1981). A product of the socialist revolution that promised emancipation for women, an employee of the state her entire professional life, and a self-described patriot to the core, she nonetheless believed her duty rested in speaking back to state agendas when they ignored human dilemmas. Ben Kerkvliet's observation that the state's firm grasp on the media does not prevent debate within its own artistic community rings true in Duc Hoan's case (Kerkvliet 2003, 38; see also Lan 1998).

Dramatic events in Vietnam's history touched Duc Hoan personally, and like many elites of her generation, she related her life story not as a personal

narrative but as part of a nationwide struggle for survival against all the odds.² In the “French” time, she told me in an interview, the soul of Vietnam was wounded by a century of colonial domination that began in the mid-nineteenth century and ended during her lifetime, at the historic battle of Dienbienphu in 1954. She cherished the ideal of family life, but understood that leaving her traditional Confucian family liberated her, just as Ho Chi Minh’s revolution promised women emancipation from Confucian patriarchy:

I left my home to join the anti-French resistance when I was ten. Bigger than other girls of my age, I was able to convince the authorities for a time that I was old enough. Why did I, a sheltered, bourgeois girl, take such a chance with my life? Because I hated the way my French Catholic school teachers looked down on the Vietnamese students. Because when the French took over Hanoi in 1946, my family had to leave the city to hide in the countryside. Because after my mother died, home had no meaning for me anymore. You see, I was the youngest of six daughters and my father followed the traditional Confucian ways. In 1948, at age 60, he remarried a young woman and had a son, and after that, my sisters and I were pretty much on our own. After all, as the old saying goes, “A hundred girls aren’t worth a single testicle.” I knew my sisters would marry and I did not want to burden them. So for all of these reasons, it was easy for me to follow Ho Chi Minh.

Duc Hoan’s personal liberation mirrors the experience of other young female intellectuals (Sidel 1998). It became pragmatically possible because the establishment of liberated zones controlled by the Viet Minh forces offered her an alternative community, and revolutionaries there trained her as a teacher, a Chinese linguist, and an artillery woman—all in the service of the anticolonial wars.

Duc Hoan laughingly told me how the French had unwittingly radicalized their Vietnamese students by teaching them about liberty and equality, but that in the end, she didn’t need the French to alert her to the fact that women could participate in national liberation. “Stories about Vietnam’s founding mothers, the Trung Sisters who fought the Chinese in the first century, and Lady Trieu, the peasant girl with huge breasts who rode into battle on an elephant to expel the Chinese, were sung by our mothers as lullabies. We took the fact that women always fought when the country was in danger for granted. Our heroines were never successful at gaining power in the long run, but neither were they crazy women like Joan of Arc. Why would a woman want to dress up like a man when her feminine beauty is her greatest asset?” Even as a young student, she critiqued colonialism and masculinist military ideals.

Travel outside her urban environment when she spread revolutionary propaganda through literacy campaigns in the countryside in the Third

Interzone in the North allowed her to observe the hardships suffered by rural women. But she also noted their relative freedom. Village moral codes were strict and transgressions against the interests of the patriarchal family punished severely, but household survival hinged on sending women out to the fields and markets to produce and sell their goods. Always sad about the family she lost, she also appreciated the camaraderie she shared with teachers and comrades in the field and the generosity of the farmers who shared their food in hard times. “They were the most beautiful human relationships I have ever had. We were like a big family and still get together whenever we can.” When the military needed her, she joined the Viet Minh army in 1953 to become an interpreter for Vietnamese units sent to south China for training. She told me ruefully (in Chinese, our common language) that Viet Minh commanders could send her so far from home, in the company of men, because she had no family to worry about her reputation. Her time in China brought home to her Vietnam’s position in the larger world, and like other Vietnamese of the war generations, Duc Hoan likened her homeland to a woman—small, vulnerable, but resilient.

Military service offered Duc Hoan the key to legitimacy as a critic of the regime later in life. For in Vietnam, veterans, whether male or female, possess a greater right than other citizens to assess war and its legacies (Marr 2003, 286). Her service in the historic battles at Dienbienphu earned Duc Hoan a place in history, but she refused to claim any glory for her actions. “I joined the E367 Artillery Unit, but I was no different from other men and women. I learned to shoot a gun and how to jump out of the line of fire.” When the Vietnamese made one of their first feature films, a reenactment of the famous battle, Duc Hoan was involved. Some of the French captives were used as extras and she recalled how she pitied these defeated, gaunt men who once seemed so powerful and fearsome. War as the great equalizer that diminishes all of its participants would become one of the enduring themes of her films.

Art and Nationalism

After independence in 1954 and before the escalation of the U.S. war in 1965, Vietnam enjoyed a period of peace that allowed young people “to learn about literature and love and life,” an old army veteran told me in Hanoi as he explained the disruptions the U.S. war brought to the lives of youth (Turner and Hao 1998, 120). In Duc Hoan’s trajectory, those years allowed her to find a place in the new local film industry. A report from Hanoi noted that it was the unique beauty of this former artillery woman that attracted the attention of a famous visiting Russian theater expert,

Vaxilliev, who trained her for her first acting role (*Cinematographic Magazine* 1988). Duc Hoan recalled that *The Story of A Phu* (*Vô Công A Phu*) was filmed in a Potemkin village decorated with fake flowers and populated with citified actors. The government bore the cost, she told me, because the state deemed important the film's message that minority women suffered abuse that would be mitigated by socialist policies. *A Phu* became a success, in part because a Vietnamese film was a novelty at this time, and in part because it traveled to the places its intended spectators could easily reach, village marketplaces and fields (see Mayne 1995 for useful analysis of technique, venue, and spectators). Duc Hoan had enjoyed life in the countryside during her stint as a teacher for the Viet Minh, but by her own account, life in the mountains proved more traumatic even than the fighting at Dienbienphu or the bombs dropped during the American war. The burial customs practiced by the minority people offended her, she said, and she shivered when she recalled funerals in which rice was placed in the mouth of the corpse and consumed by relatives when it fell out. "I spent all my time worrying that someone would die while I was there." In this case, she echoed a persistent hegemonic message that the minority peoples were indeed backward and in need of reform and that the Viet majority naturally deserved to take a leading role in this effort.

As an actress she was soon feted by Eastern bloc film festivals. The *Newsletter of the Afro-Asian Film Festival*, which documented events at the festival held in Indonesia in 1964, captioned her photograph as "one of the most charming and attractive stars that has graced our Festival." The theme of this publication is clearly stated: "Who knows Afro-Asians better than Afro-Asians themselves?" Clearly its authors were reacting to honors assigned at other conferences to a spate of technologically superior films by non-Asians and Africans: "Only Afro-Asian artists can truthfully and with revolutionary objectivity depict what is Afro-Asian. . . . Our considered contention is that rather have a piece of art that might not be technically 99% perfect, but which is politically impregnated with the revolutionary zeal and depiction of Afro-Asian life" (*Newsletter of the Afro-Asian Film Festival* 1964). This meeting brought Duc Hoan in touch with other socialist filmmakers and reinforced her commitment to use film to serve her people and country.

She was in step with the times. By 1960, all media and print productions had been firmly placed under control of the state in Vietnam. For the fledgling film industry, this meant that Party committees within film units informed directors of current political agendas and the Ministry of Culture dealt out permissions, equipment, and regulations. Those artists willing to work within the system traded their loyalty to Party policies for housing and health care benefits and the chance to receive overseas training (Marr 2003, 272–273). Intellectuals such as Duc Hoan became cultural workers in this system; she expressed gratitude for the policies that allowed her to gain

professional expertise abroad, but she disliked the puritanical views of the uneducated cadre who promoted proletarian values rather than artistic merit.

The impact of the American war would dominate Duc Hoan's life as a film producer and director, but she missed direct participation in the very fiercest years of the war. In 1965, just as the U.S. escalated the air war against the North, she was assigned to work in a government coal mine as an administrative secretary, and in 1967 left for the Soviet Union. She returned in 1972 to witness the Christmas bombings of Hanoi and Haiphong, the first time that B-52s were used against the cities. A proud Hanoiian to the core, she told me that the psychic scars from those days mirrored the physical destruction of segments of her beloved city. The Northern government relied on the power of certain kinds of art to enhance morale and sent artists down the Ho Chi Minh Trail to paint scenes of life in the mountains and jungles and to sketch portraits of young soldiers to send home. Theater troops and accomplished musicians were drafted to travel with the soldiers. Duc Hoan traveled down the Trail with a set designer for her film studio and spent the final years of the war in four heavily bombed villages in Quang Binh Province, near the hotly contested sites along the border between North and South Vietnam. As director of a theater troupe charged with bolstering the morale of soldiers and local militia under constant fire, she was well-funded for the only time in her artistic career. She recalls that the troupe enjoyed German cosmetics and well-made costumes. She repeated a theme that would come up again and again in her work: "In the most sad, violent times, people need relief from their sadness." War is not simply about grim determination: "When the U.S. aircraft came to bomb us, we had a sense of helplessness. There was nothing most of us could do when the bombs fell and they seemed to fall randomly. Our leaders felt it worthwhile to invest in art to encourage the spirit of the people fighting the war. Life goes on after people come out of their bomb shelters."

Women on the Margins

Duc Hoan learned to work with sound recording and by the end of the war began to direct her own films for the Hanoi-based Vietnam Feature Film Studio, founded in 1959. "Now I had some influence over how the stories were told." Her first film, produced just after the end of the war, focused on women who crossed the boundaries between the civilized lowlands and the wild jungles when they went out to defend the Ho Chi Minh Trail. *From a Jungle (Tu mot canh rung)* depicts the lives, loves, and struggles of youth volunteers working far from families and communities. Produced in 1977 and released in 1978, only three years after the war's end, Duc Hoan

faced most squarely in this production the Party line that war is a heroic struggle in which the pure warrior has no time for human emotions. She was determined to bring to the screen the realities of life for young people charged with important duties but released from the strictures of family and community. "I wanted to show the young women as full of life, able to laugh, love and have fun—and act with competence equal to the men."

The techniques that Duc Hoan used to critique the orthodox combat genre, which focused on hardship, sacrifice, and unsentimental male heroics, can best be appreciated in a Vietnamese context. Simply placing women on the battlefield was not as radical a departure in Vietnam as in other countries, for women fighters were identified with the very essence of the Vietnamese nation (see Higonnet 1993 for an analysis of women depicted in war in the Western nations). As Jeanine Basinger has observed of U.S. films about women in combat, women rarely serve as heroes, but when they do, certain rules must be followed—defiance of conventional roles and a view of life as disposable for the larger good, competence in a man's world, and the ability to maintain healthy relationships with fellow soldiers (Basinger 1986, 227). On all counts, Duc Hoan's women measure up. She based her female characters on real women she had encountered on the Trail, where she developed a particular admiration for the female liaison agents who guided soldiers on the march to the South through the dense jungles: "These women worked in isolation and they held the fates of the soldiers they led in their hands, because only they knew their assigned 50 kilometers of the Trail and if they led a group into ambush, everyone would be killed. These were the quiet ones, the ones who did not act with violence."

Duc Hoan's multiple interpretive positions complicated what seems on the surface to be a simple film about love and war. She was not averse to shaping her story to inspire young people to work hard and cooperate, qualities the government wanted to encourage in the postwar reconstruction period. In the film a young country bumpkin, unruly and cynical at first, learns about discipline and camaraderie from his more experienced peers. She shows how the war reversed traditional gender roles. Men and women work as equals in the service of the soldiers and trucks that supplied the southern front. Men cry over lost friends and frightened women and men hold hands as they form human borders to guide trucks through the night in jungles without roads. In this early film, she conforms to the Northern view of the South as a corrupt place, juxtaposing sets showing clean-living young Northern soldiers working for a noble cause with glimpses of a decadent Saigonese officer who keeps a young woman as his concubine. But she does not portray the Northern soldiers as mere tools of the state. The film pokes

fun at the prudish and suspicious male political commissars charged with preaching Party doctrine to keep young people in line. Not only was their task impossible but it was also unnecessary because, as the film demonstrated, these youth held to their own moral values. Duc Hoan, proud to be known as a sophisticated Hanoian herself, identified the urban men and women as far more interesting characters than the unsophisticated Party men of humble, often rural, origins. In an interview in the Vietnamese publication, *Cinematographic Magazine* in Hanoi in 1988, she was celebrated as a “native Hanoian” who used Hanoi as a stage for her stories (*Cinematographic Magazine* 1988).

At a time when the entire nation was recovering from thirty years of war and every family mourning their dead, Duc Hoan spoke for youth: “Old people only want to think of sadness in war. But young people want to live. They were so young, and they had their love lives.” Her ideal audience was not the young but the elders, the nervous Party and Army commissars and parents who sent their young women so far from supervision. It is important to remember that at this time, only selected documentary war footage was available for narrative film and so these re-creations exerted a particular power over spectators. Duc Hoan understood that when the nation sent its young women to war it placed the nation’s future at risk, for who would reproduce a new generation of soldiers and citizens and how would society reintegrate women who had broken taboos against dealing with blood, sex, and death? Ho Chi Minh himself was so worried about women in the field that he sent mental health workers to check up on them (Barak 2003), and ordered field commanders to give them the best of the meager supplies for personal hygiene (Turner and Hao 1998, 111). Thus, Duc Hoan seemed to be teasing her conservative spectators when she allowed them to look in on youngsters in the jungles. On the one hand, as she told me, she wanted to reassure them that boundaries between sexual love and friendship were not violated, that the pure young virgins who went to war would come home in the same state. But the film moves back and forth between scenes of youthful play and dogged duty, and in one almost carnivalesque sequence men and women engage in a water fight that seems to verge out of control. She did attempt to portray life in the jungle as less distant from normal communities by showing how Hanoi culture traveled with the volunteers—who even named roads after streets in the capital. And finally, she celebrates competent women who work with men as equals, without losing their feminine appeal.

According to Basinger’s scheme, despite its active female characters, *From a Jungle* would fall into the category of a woman’s film because it explores human relationships rather than the mechanics of war itself. Indeed, one reason that some critics dismiss women’s productions and productions about women is that they tend to display excessive melodrama (Lan 2005).

But as Gina Marchetti argues in a study of melodrama in Vietnamese cinema, the genre is not limited to women's cinema or women's problems, and indeed offers a very apt form for analyzing the heavy price paid by the people whose lives are forever altered by violence and dislocation:

Vietnamese filmmakers seem to have chosen the female-centered melodrama as their vehicle for the exploration of the war and its consequences for a reason. In the melodrama, women represent the "excessive" moment when the public intrudes on the private, when the personal becomes the political, when romance and even the future of the nation may depend on a woman's fidelity to a husband or lover. She is the place where history becomes accessible on the very basic terrain of domestic relations, where change can most dramatically be gauged in the quotidian conduct of seemingly inconsequential matters, where emotions can be openly expressed and thoughts examined. (Marchetti 1991, 52; see also Marchetti 1998)

If we accept Marchetti's argument, most Vietnamese war films, even by men, aim to test the ways that war alters normal human relationships and thus fall into the category of melodrama. And I would further suggest that the most effective war films anywhere are those that explore human relations in violent times rather than military technique and battlefield formations.

War and the Family

"Wars have their endings inside families," the feminist writer Cynthia Enloe so wisely remarked in an article about representations of women in postwar Vietnam (Enloe 1996, 306). Duc Hoan realistically addressed a very sensitive problem in her next major film, *Love and Distance* (*Tinh yeu va khoang cach*), released in the early 1980s. A beautiful young wife looks forward to the homecoming of her soldier husband. But when he appears, mutilated and sick, she is repulsed. Duc Hoan sympathized with all sides. "People did not want to face it. But it was a situation many families had to handle. Sick, angry husbands, wounded in mind and body, came home—sometimes after thirty years in the field if they had fought the French. Their war wounds hurt their families. We cannot blame the wives for their feelings." The camera allows the spectator to see the point of view of the female character when it focuses on the male veteran's mutilated face. But the rejected man's pain is portrayed as well—poetry and song are his outlets. The theme song in *Love and Distance* sets the scene for a sad ending. "A young soldier who has just left the battlefield, his heart full of love, returns to his sweetheart only to be rejected. In the end he is constant. My love is the same he says. Though you have left me you are still in my heart."

This film is important in a Vietnamese context not only for raising a touchy domestic issue, but for inverting the gender of the victim. Many male veterans who addressed the issue of rejection focused not on mutilated men but on malaria-ridden, prematurely aged women veterans with ruined bodies that repulse men or produce defective children. In the short story “A Blanket of Scraps,” written by a male veteran in 1992, a woman who became ill while serving in the Volunteer Youth Brigades becomes a beggar, a childless woman, with no roots after the war (Boi 1992). When a widower she meets tries to make love to her, her disease-ridden, dried up body renders him impotent. Duc Hoan told me she sympathized with women veterans but felt that more social problems resulted from the far more numerous wounded men returning home. And there were no medical or psychiatric facilities to help them or their families. Her film pleads for compassion for women who admire their wounded husbands but experience a very human distaste for the scars of war inscribed on their bodies.

Duc Hoan’s most famous film, *Obsession (Am anh)*, set and produced in the immediate aftermath of the end of the war but only released in 1988, focuses on how actions taken during war affect the postwar family. The most fully developed character is a North Vietnamese Army regular who defected to the South. Duc Hoan explained why she made the film: “After the war, Vietnamese people on both sides needed to put the hatred out of their hearts and forgive each other for mistakes. War should never happen, but when it does, some people are forced to use guns. At the end of the day, even the victorious ones are victims, because they lose so much, sometimes their families, their sweethearts, their health.” Duc Hoan’s own family had split because of political and pragmatic decisions and she still mourned a sister she had not seen for over thirty years. In her family, only Duc Hoan followed the socialist revolution, but with an open mind and compassion for others who made different decisions. “We are a typical Vietnamese family, tied by emotions and memories, split apart by politics and war.”

The film focuses on two male leads, the deserter who won the woman, Quang, and Thuan, the stalwart soldier who lost her. With flashbacks that allow the viewer to witness both Thuan and Quang as young lovers smitten by the same woman, Hai, the film creates an emotional link between the despised deserter and the stalwart veteran. The film counters messages that the North drove home to its soldiers and citizens during the war and in the early years of reconstruction when survival literally hinged on morale—that personal life must take second place to the political goals set forth by the Party, and that men could leave home for war without anxiety because a good socialist woman would never change allegiances once committed to a soldier. Duc Hoan faced a tough task by examining the motivations of a deserter: “Everyone feared and hated deserters and so it was hard to paint Quang as a sympathetic character. The deserters were the most hard to forgive. We feared

them more than the Americans because they knew so much and could betray so many people. But we have to put ourselves in their position and remember the strong human will to survive. At the end of the war we had to find ways to bring everyone into the community.”

The terrible crime of military desertion is not the only breach of faith committed in the film. Through a series of flashbacks, viewers learn that the loyal Thuan and the confused Hai had become engaged before the war. But after Hai is alone without word from her fiancée for years, she meets Quang in an isolated jungle station. Quang plays on her pity by telling her he is a musician, an unwilling recruit with no interest in war—in itself a subversive message. The seduction scene shows Hai protesting her love and loyalty to Thuan, while Quang physically and emotionally overpowers her—in fact, his actions border on rape. Only if Hai were innocent of aggressive sexuality could she become a sympathetic character. In fact, Hai, the female lead, is denied any memory in flashbacks that would explain her actions—she seems subject to the forces of the men who love her.

My friend Phan Thanh Hao explained the enduring interest in *Obsession* among Hanoi intellectuals when I interviewed her in 1997: “*Obsession* is unique because it was made only a short time after the war and it was the first time a woman director did anything on war. Only a woman could have understood the pain of the defector’s wife back home—better for the family if he had been a war martyr or invalid.” Duc Hoan might have understood a woman’s pain but she also knew where the power rested in the postwar world and so she aimed her call for forgiveness and reconciliation at a male audience. She did not employ masculine symbols of war to captivate her male spectators: no flags, portraits of Ho Chi Minh, medals, or heroic music mark her sets. Personnel in the camp hospital who treat the mentally disturbed Quang after he breaks down display kindness toward him—in fact, Duc Hoan herself plays a sweet-natured nurse. The most important message in the film seems to be spoken by Quang when he explains his actions: “I was just afraid. I don’t hate anyone.”

Women unable to marry because of war wounds generated a great deal of social science research and media attention in the mid-1990s in Hanoi, and Duc Hoan took up this problem in her last film, a television production called *Love Song by a River* (*Chuyen tinh ben song*), shown in 1991. Two sisters, orphaned by war, share disappointment in love. One sister, married to a simple, rural man, loves a shallow Party bureaucrat who pretends to be an artist. This sister takes up with a fast crowd of young people infatuated with Western ideas and clothes. When her husband finds her dancing to a disco tune, he beats her in anger. Meanwhile, the other sister, a spinster crippled by a bomb, watches the married couple and their child with envy, despite their problems. One night the single sister begs a traveling medicine man to make love to her, for she wants a child, even if she can never hope for

marriage. In a fairly graphic bedroom scene, the camera focuses on their mutual victimization rather than their sexuality. He is maimed by war, a drunk who cannot forget the sound of bombs. She calls herself a “lame duck” as she pleads with him to ignore her mangled body. When she does not become pregnant she is deeply disappointed. The camera follows the lame sister as she looks longingly on her lucky married sister and the spurned husband who watches his wife’s defection. Even when he eventually beats his wife in anger, he is shown as a sympathetic character, driven to excess by his helplessness.

Duc Hoan adapted the film from a short story by a village writer. She told me that she felt she could change it because the original story about a mutilated woman veteran married to a medicine seller had no social value. “I rewrote the story into a real situation. After the war so many women could only imagine love because they could never experience it.” Indeed, women who “ask for a child” outside of marriage became so numerous that with the urging of the Vietnam Women’s Union, the government responded in 1985 by passing a law that allows their children the rights of full citizenship (Tam 1996, 87–92). Legal acceptance has not erased unease about women who choose to reject the patriarchal family system in order to clam their right to motherhood. Duc Hoan’s attempt to show how a woman could become so desperate that she would turn to a stranger for sex and a child speaks to this social problem but ignores another problem that worries Vietnamese women—the rising rates of domestic violence that trouble Vietnamese post-war society (Quy 1996, 263–274). When I asked Duc Hoan about the film’s suggestion that an abusive man is better than no man at all, she said, “She needed to understand that her husband became angry with her because he loved her. She was lucky to have this man. Keeping her family together is her duty.” Duc Hoan made no apology for portraying married life with all its difficulties as far preferable to the single life for women. However, she never talked about the irony of her own situation: she divorced her first husband, a neglectful army veteran, and married a man fifteen years younger in her own quest for individual happiness. In *Love Song by a River*, she aimed her critical eye not at those who search for personal fulfillment but at the weak Party functionary who seduces a young woman away from her simple, illiterate, but good-hearted husband. “Be satisfied with what you have, don’t destroy it. Don’t take after things that are modern or Western and think they are superior to your own culture”—this was her message, she said.

Negotiating the War Story

Love Song by a River, though critical of Party members who succumb to foreign influences, was not in fact out of line with other journalistic and media presentations in the 1990s. Duc Hoan’s worry about the dangers of the market

converged with widespread anxieties about “social evils,” such as divorce, delinquency, and drug use as the nation opened its borders to the world. By the mid-1990s evaluations of the negative aspects of the global marketplace that did not directly name high-ranking Party members or policies could be tolerated and even encouraged by conservative officials wary of the turn toward capitalism (Pettus 2003, 116–117). Duc Hoan’s view of the values of the countryside shifted over time: *From a Jungle* ridicules country bumpkins whereas *Love Song by a River* presents the countryside as a site of traditional values and stability. Duc Hoan recognized that her views had changed over time. “When I made *From a Jungle* I was myself more influenced by the heroic mode at that time than I thought. I knew perfectly well that women suffered more than men. They risked their health when they worked in water for long periods of time. They were so malnourished that they didn’t have their periods. Some women didn’t have enough clothes and had to hide in caves when chemicals and fires destroyed their only garments and many lost their hair from malaria.”

What altered her memory? A series of documentaries with previously unseen wartime footage about the war produced for television in 1995, the thirtieth anniversary of the war’s end, jarred many Hanoi viewers. “When I saw the thin girls, their lips and eyes darkened by malaria, their shoulders slumping with fatigue, I regretted casting young, healthy women in the film in 1978. Yes, I used real liaison agents. But they were healthy and we dressed them up.”³ Her goal at the time she made the film was to show that young people could enjoy love during the chaos of war, a theme that subverted the theme of heroic, unsentimental sacrifice that ruled the day in Hanoi. Later, when the full costs of war could not be ignored, she would regret her decision to focus on youthful innocence.

As she constructed her films, it was not a legal code that guided Duc Hoan, but rather a form of self-censorship. As an intellectual who worked within the socialist system, she knew quite well how to work around policy shifts. When Hoan made *From a Jungle* she understood that sanctioned themes of heroic sacrifice were intended to mute postwar poverty and dislocation.

The men in charge of images of war wanted to show films about bombs and violence, to show off Vietnamese men standing up heroically against the enemy. The Deputy Minister of Culture criticized the film for being too much like a poem. He ordered me to give up scenes about daily life in the secluded jungle stations, such as one in which I wanted to show two young people kissing. I had to compromise by showing the romantic scene reflected in a pool of water. But they didn’t even like this because we let the camera linger too long on the reflection. I told them they should either trust me or get rid of me.

She had high enough status and support as a veteran of two wars to keep her important scenes in the final cut. Years later in an interview, her

cameraman for *From a Jungle* told a newspaper in Vietnam about her clever handling of the now famous “kissing scene.” “It takes a woman to really know how to deal with love,” he said. More accurately, it took a member of the revolutionary generation with impeccable credentials to push the limits with the Party watchdogs especially during the period of tight censorship when the film was made and shown.

When examining the role of censorship in postcolonial Vietnam, we should take account of the fact that state control did not begin with the revolutionary socialist governments. In Vietnam, cinema was first used by the French colonial government as a technique to rationalize their enterprise, forcing ambitious Vietnamese filmmakers to adhere to colonial ideology if they wanted to practice their trade. One of the few surveys of the film industry in Vietnam, by John Charlot (1991), traces the dance between artists and Party bureaucrats after 1954 in the North. Much of his information squares with Duc Hoan’s accounts. Charlot found that censorship is not simply a matter of draconian measures enacted by state functionaries. True, scripts must first satisfy officials in the Ministry of Culture, but everything depends on who is keeping watch at the time, and how much power immediate bosses have to halt interference from higher ups. Duc Hoan revered her supervisor, Tran Dac, the vice director of the Vietnam Feature Film School, himself an artist, for understanding her goals and serving as a buffer with the censors.

Thus, in her case as in others, censorship must be seen as a fluid site of negotiation rather than a stark confrontation with the state. As Marr points out, neither Party functionaries nor ordinary spectators operate in a single interpretive mode, and much depends on personal power rather than rules (Marr 2003, 272). Censorship in Vietnam can be imposed in many ways, from withholding funds, delaying production, or outright bans, but cinema in any society is subject to pressures to conform to certain themes, and that domination and resistance always remain in flux. As Jan Plamper notes in an article about censorship in the first two decades of Soviet power in Russia, a period generally believed to be one of total control:

Censorship can be seen as one of the many “practices of cultural regulation,” a broadly defined rubric that is meant to accommodate market forces in the capitalist West, too. Once the nature of the interaction between censors and cultural producers is no longer determined *a priori*, once various practices of cultural regulation in different times and places open up for comparison, the historian’s task becomes one of figuring out the commonalities and differences and ultimately the logic at work in each case. (Plamper 2001, 527)

The censors in a socialist system are always the “first” spectators that a filmmaker must satisfy, but government functionaries do not always hold monolithic positions, especially about the war, because so many commissars

in the art world are themselves former veterans who know first hand how violence tests human emotions and actions. Duc Hoan's negotiation about the kissing scene in *From a Jungle* was unique for its time but directors continued to bargain with the censors to keep the scenes most essential to their message. For example, the director Luu Trong Ninh had to agree to cut scenes in his 1992 film *Please Forgive Me (Hay tha thu cho em)*, which centers on tensions between the older war generation who romanticize communal values and younger people who reject the postwar nation's poverty. The film was shown briefly then banned when the censors deemed four scenes offensive—one of them a clip in which a character notes that Northern as well as Southern soldiers committed atrocities during the war. Luu Trong Ninh told *Far Eastern Economic Review* journalist Murray Hiebert (1993) that he funded the film himself, but would have to pay back his loans and would probably cave in to pressure. And he had obviously agreed to support the Party line in general, perhaps as an additional token to "purchase" artistic license. "We haven't made enough preparation to enjoy real democracy, so I sympathize with what our leaders are doing. Otherwise the situation would veer out of control."

A recent discussion within the film community about the Ministry of Culture's new draft law on cinema yields interesting insights about the variety of voices within that world and the state's cautious approach to policy and legislation on films. Despite ten years of drafting, the law had not been passed as of the 2004 discussion. When the Ministry sent the draft Law to directors, producers, and actors for comments, several major concerns emerged. First, filmmakers requested more specific information about procedures for working with foreign investors. Second, they pointed to vague censorship policies as a serious barrier to good films: "The law must provide more detail on taboos or limited requirements that make cinema professionals crazy." These comments suggest that it is not censorship itself at issue but problems arising from shifting policies and lack of clarity. In fact, one filmmaker called for more stringent, or at least clearer, censorship: "Sometimes I do not let my children watch television films as they contain many bad messages for them" (Vietnam.net Bridge 2005).

As Vietnamese leaders prepared to reform the socialist economy into a more market-based system that exposed the nation to the outside world, a period of what Charlot calls "glasnost" did pry open the film industry to some degree. Films such as Dang Nhat Minh's *The Young Woman on the River (Co gai tren song, 1987)* features a former South Vietnamese soldier as the hero who marries a prostitute whereas a weak northern Party official betrays his lover. When censors objected to the sex scenes and the negative portrait of the Communist official, the filmmaker agreed to cut the sex scenes because he considered the example of the heartless functionary a more

important message. His decision was supported by his own supervisors when some officials in the Ministry of Culture protested (Kaneyoshi 2002; Viet Nam News 2004). Studies of other segments of Vietnamese society such as Ben Kerkvliet's work on resistance in the countryside confirm the widespread occurrence of what he terms "creeping" pluralism (Kerkvliet 1995, 86). But tolerance of multiple interpretations has not in fact stimulated a boom in the film world. Some filmmakers decry the market pressures that drive filmmakers now forced to satisfy urban consumers as well as government functionaries. Some film critics also find that films made by Vietnamese filmmakers in the diaspora, such as Tony Bui's *Three Seasons*, diminish the agency of their female characters (Lan 2005).

Moreover, a new turn toward masculine ideals has affected portraits of women. As historian Hue-Tam Ho Tai has suggested, during the war not only did women enter the military in large numbers, but the nation itself was feminized by foreign invaders who literally penetrated and violated the homeland (Tai 2001, 184). And so it follows that a remasculinized vision of the nation would well serve a small nation entering a competitive international arena. In this milieu, film and fictional representations of women have shifted as well. The woman warrior who fought with men to save the nation now takes second place to the moral mother who replenishes and nurtures future citizens. But doubts about women's moral character surface in troubling ways in some productions.

Indeed, some fiction from the 1990s is pointedly unkind to female characters. One of the most popular recent short stories, Nguyen Huy Thiep's *The General Retires*, published in 1992, features a good, old-fashioned veteran army man whose daughter-in-law feeds aborted fetuses to the dogs she raises as a sideline (Thiep 1992). The dominant theme in all of these productions is a warning that women are morally weak and susceptible to the ill effects of foreign influence. Men, embedded in kinship and community, have the means to resist these pressures and therefore must take the lead in the new world. For women who hope to compete as equals with men in a market economy, this revival of the more oppressive elements of traditional culture is bad news indeed (Luong 2003, 211–220).

At the end of her career, Duc Hoan herself accommodated to this patriarchal vision when she portrayed a young wife as too susceptible to foreign ways in *Love Story by a River*, but she never could bring herself to reify the Party bureaucrats who promoted it. And she recognized that within this imperfect system, a woman like the crippled sister could use pity as one means to gain understanding, since in Vietnam the language of sacrifice was far more effective than the language of rights. By the 1990s she also acknowledged that her gender marginalized her in the film industry—only one other woman veteran gained the right to direct films after the war. Yet compared

with less-educated soldiers and ordinary citizens, she enjoyed a position that enabled her to participate in the business of constructing memory. Her life and productions demonstrate how the artist in a socialist regime works with multiple identities and subjectivities that display fluidity over time in response to shifting social pressures, statist values, and personal experiences (Stam 1989). Indeed, Duc Hoan exemplifies the Vietnamese intellectual whose liminal position allows for a fluid relationship between service and duty (Kervliet 2003). During the war, she placed her talents in the service of state priorities. After the war, when the nation was no longer threatened by outside forces, she directed the camera toward internal social problems, supported by her own belief that human feelings always transcend politics. But she could never escape politics and had to carefully craft her films to remain true to her vision but not so offensive to current government campaigns that they would never reach her audiences.

Reflections

Duc Hoan died of cancer in Hanoi in March 2003. When evaluating her life and work, I suggest that her resistance to official policies cannot be labeled as “feminist” in the conventional Western sense because she valorized motherhood as a woman’s natural duty and rarely proposed alternatives to patriarchal ideals. But Western readers must remember the environment that shaped her, a homeland that had been at war with outside invaders for over thirty years, a nation so decimated that family became the only bulwark against disaster after the war. Indeed, Duc Hoan’s life and work offer a valuable perspective to challenge essentialist arguments about women’s natural roles. Although she believed in biological destiny, in her own life she made choices that do not square with a scheme that sees women as natural peacemakers (Ruddick 1989).

Like many other women, Duc Hoan proved as capable of aiding the war effort as working for reconciliation, as willing to present the male perspective as the female view to translate her messages effectively. But she never admired masculinized women. Literally “vetted” by dint of her military service to take an active role in representing stories of war, Duc Hoan never succumbed to pressure to adopt a male vision of the heroic side of war in order to prove her ability to function in a man’s world. She considered the problems of women in all of her films, but did not consistently privilege her female characters’ point of view. Realistic about power dynamics, she aimed the camera at the male spectator when it suited her goals, for she knew full well that lasting peace hinged on helping men reconcile with former enemies and forgiveness for vulnerable women who could not live up to officially promoted ideals. Finally and ironically, however, Duc Hoan herself was

remembered not for her talent as an interpreter of war and its residue but as a beautiful young actress in the service of the state.

Her gender was but one factor that shaped her work. Duc Hoan's French education, early commitment to the nationalistic cause, and dedication to populist causes placed her in a special position to speak out on behalf of social justice (see Sidel 1998). Women of her generation advanced women's causes in a variety of venues, and their passing marks the end of an era.

Notes

1. I base this observation on four obituaries from Hanoi publications. All of them title their articles using not Duc Hoan's name but the name of her character in *The Story of A Phu*. See, for example, Van hoc-Nghe thuat (2003). The newspaper *Lao Dong (Labor)* titled its obituary *Co My, ngay ay da ra di (Ms. My, those days are gone)*, praising her 1960s role and her beauty in another film when she was thirty-eight. But it did also note her acting ability: "Duc Hoan was able to show the internal conflict of My, a girl with a strong character who overcome obstacles to reach happiness" (*Lao Dong* 2003).
2. Unless otherwise stated, I obtained most of my information about Duc Hoan from many direct conversations with her in Hanoi in 1996 and 2000 as we watched her films together and she explained her goals and techniques. I have also had help from her family and friends in Hanoi and the United States. Special thanks to Phan Thanh Hao for discussions and sources. To the best of my knowledge no systematic treatment of her work yet exists and the exact dates of some of her films are not clear, but I have done my best to provide a chronology that speaks to contemporary influences on her films.
3. See Monticelli (2000) for a useful analysis of how newly recovered footage can alter the orthodox war narrative.

References

- Bakhtin, Mikhail. 1981. *The dialogical imagination*. Trans. Caryl Emerson and Michael Holquist. Austin: University of Texas Press.
- Barak, Narquis. 2003. Personal conversations about her ongoing work on the treatment of trauma, shock, and stress in Vietnam in progress for the Harvard University doctoral program.
- Basinger, Jeanine. 1986. *The World War II combat film: Anatomy of a genre*. New York: Columbia University Press.
- Boi, Ngo Ngoc. 1992. The blanket of scraps. Trans. Rosemary Nguyen. In *Literature News: Nine Stories from the Viet Nam Writers Union Newspaper*, Bao Van Nghe. Lac Viet 16: 96–123 (1997).
- Charlot, John. 1991. Vietnamese cinema: First views. *Journal of Southeast Asian Studies* 22: 33–62.
- Cinematographic Magazine*. 1988. Hanoi Connections.
- Enloe, Cynthia. 1996. Women after wars: Puzzles and warnings. In *Vietnam's women in transition*. Ed. Kathleen Barry. New York: St. Martin's Press.

- Hiebert, Murray. 1993. Luu Trong Ninh and Vietnam film censorship. *Far Eastern Economic Review* July 22.
- Higonnet, Margaret R. 1993. Women in the forbidden zone: War, women, and death. In *Death and representation*. Ed. Sarah Godwin. Baltimore: Johns Hopkins University Press.
- Kaneyoshi, Takeshi. 2002. Filmmaker gives voice to common folk: Dang Nhat Minh known for artistry, keen social observation. Nikkei Net Interactive. <www.nni.nikkei.co.jp/FR/NIKKEI/inasia/prizes/1999/99dang.html> (accessed August 21, 2006).
- Kerkvliet, Benedict J. Tria. 1995. Rural society and state relations. In *Vietnam's rural transformation*. Ed. Benedict J. Tria Kerkvliet and Doug J. Porter. Boulder: Westview Press.
- Kerkvliet, Benedict J. Tria. 2003. Authorities and the people: An analysis of state-society relations in Vietnam. In *Postwar Vietnam: Dynamics of a transforming society*. Ed. Hy V. Luong. New York: Rowman & Littlefield.
- Lan Duong. 2005. Manufacturing authenticity: The feminine ideal in Tony Bui's *Three Seasons*. *Amerasia Journal* 31(2): 1-19.
- Lao Dong*. 2003. Co My, ngay ay da ra di (Ms. My, those days are gone) April 4.
- Luong, Hy V. 2003. Gender relations: Ideologies, kinship practices and political economy. In *Postwar Vietnam: Dynamics of a transforming society*. Ed. Hy V. Luong. New York: Rowman & Littlefield.
- Marchetti, Gina. 1991. Excess and understatement: War, romance and melodrama in contemporary Vietnamese cinema. *Genders* 10: 47-74.
- Marchetti, Gina. 1998. Subcultural studies and the film audience: Rethinking the film viewing context. In *Current research in film, audiences, economics and law*. Vol. 2. Ed. Bruce Austin. Westport: Ablex Publishing.
- Marr, David. 2003. A passion for modernity: Intellectuals and the media. In *Postwar Vietnam: Dynamics of a transforming society*. Ed. Hy V. Luong. Lanham, MD: Rowman & Littlefield.
- Mayne, Judith. 1995. Paradoxes of spectatorship. In *Ways of seeing film*. Ed. Linda Williams. New Brunswick: Rutgers University Press.
- Monticelli, Simona. 2000. National identity and the representation of Italy at war: The case of *Combat Film*. *Modern Italy* 5(2): 133-146.
- Newsletter of the Afro-Asian Film Festival. 1964. April 25. Gelaro Bung Karno: Jakarta, Indonesia.
- Ngo Phuong Lan. 1998. The changing face of Vietnamese cinema. In *The mass media in Vietnam*. Ed. David G. Marr. Canberra: Australian National University, 91-96.
- Pettus, Ashley. 2003. *Between sacrifice and desire: National identity and the governing of femininity in Vietnam*. New York: Routledge.
- Plamper, Jan. 2001. Abolishing ambiguity: Soviet censorship practices in the 1930s. *Russian Review* 60(4): 526-544.
- Quy, Le Thi. 1996. Domestic violence in Vietnam and efforts to curb it. In *Vietnam's women in transition*. Ed. Kathleen Barry. New York: St. Martin's Press.
- Ruddick, Sarah. 1989. *Maternal thinking: Toward a politics of peace*. Boston: Beacon Press.
- Tam, Nguyen Thanh. 1996. Remarks on women who live without husbands. In *Vietnam's women in transition*. Ed. Kathleen Barry. New York: St. Martin's Press.

- Sidel, Mark. 1998. Introduction and translation of Le Thi, *Changing my life: How I came to the Vietnamese revolution*. *Signs: Journal of Women in Culture and Society* 23: 1017–1030.
- Stam, Robert. 1989. *Subversive pleasures*. Baltimore: Johns Hopkins University Press.
- Tai, Hue-Tam Ho. 2001. Faces of remembrance and forgetting. In *The country of memory: Remaking the past in late socialist Vietnam*. Ed. Hue-Tam Ho Tai. Berkeley: University of California Press.
- Thiep, Nguyen Huy. 1992. *The General retires and other stories*. Trans. Greg Lockhart. Singapore: Oxford University Press.
- Turner, Karen with Phan Thanh Hao. 1998. *Even the women must fight: Memories of war from North Vietnam*. New York: John Wiley.
- Van hoc-Nghe thuat*. 2003. Vinh biet co My (Goodbye Ms. My), April 4.
- Vietnam.net Bridge. 2005. Draft-Law on cinema creates controversy. Vietnam.net Bridge, October 14. <english.vietnamnet.vn/lifestyle/2005/10/499956/> (accessed August 21, 2006).
- Viet Nam News (On-line Edition). 2004. Vietnamese Citizen Hits the Road. November 29.

PART 3
NORTHEAST ASIA

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CHAPTER 7
OSHIMA NAGISA'S *AI NO KORIDA*
RECONSIDERED: LAW, GENDER,
AND SEXUALLY EXPLICIT FILM
IN JAPANESE CINEMA

Hikari Hori

For most viewers outside Japan, *In the Realm of the Senses* refers to a hardcore pornographic art film made in 1976 by Japanese film director Oshima Nagisa (b. 1932). But what most Japanese know as Oshima's controversial film has been, instead, *Ai no korida*, an edited version of the film with a related book that was indicted for obscenity in Japan. The director cut, trimmed, and blurred one-third of the original film's sexually explicit depictions in order to produce the edited Japanese version (Oshima 1992, 266). The hardcore version we know in the West has been inaccessible to most Japanese, even today, because of Japan's obscenity laws. That is why, when Oshima's Japanese version of the film is discussed in this chapter, the film must be understood as a very different one from that which previous English language scholarship has discussed under the title *In the Realm of the Senses* or *L'empire des sens* (Burch 1979; Desser 1988; Dissanayake 1996; Heath 1981; Lehman 1980; 1987; 1988; Mellen 2004; Polan 1983; Turim 1987; 1998).

The edited Japanese version of *Ai no korida* has yet to be fully examined: What does it look like? How was it treated and situated in Japanese society? How has the film, and the process by which it was produced, intersected with Japanese discourses of free expression, sexually explicit film, and gender politics? Because my arguments about these discourses and the film's reception in Japan directly concern specific social and historical conditions—and a different version of the film than that which has been previously analyzed in the West—it is important to call attention to the existence of these two different versions.

This chapter discusses the production of *Ai no korida* (literally, *Bullfight of Love*), the edited version shown in Japan, and the related trials in which a

book based on the film was prosecuted for violating Japan's obscenity law. I examine the connections among sexually explicit films, the influence of obscenity laws on filmmaking, and filmmakers' attempts to circumvent the legal system, seeking to illuminate the relations between gender and rights of sexual expression in Japanese film history. Contrary to previous accounts in film journalism and academic studies that portray Oshima's trial as his, or the film's, confrontation with the state (Gerow 2000; Matsuda 1978–1980; Oshima 1976; Uchida 1980–1981), I reexamine the film and its related obscenity trials to question the confrontation framework of the filmmaker versus the state, and to clarify, at least in this case, the relationship between free speech and gender in Japan.

I begin by sketching postwar sexually explicit films and related legal conditions in Japan, then introduce Oshima's *Ai no korida* and analyze the intersection of legal systems, film production, and representations of gender and sexuality. Finally, I examine the 1977–1982 obscenity trial of the book *Ai no korida*, which consisted of essays by the director, still photographs, and the scenario of the film. Although officially the book rather than the film was prosecuted, the trial was generally perceived to be about the film. Contemporary critics and film industry professionals believed that the book had been indicted in place of the film, which the state had originally wanted to punish. As this litigation provided a space to discuss heretofore unspoken agreements or disagreements about sexual expression, along with locating the film in Japanese film history, the film and the related book trial together are a compelling arena for exploring the discursive formulations around “pornographic” film, as well as problems of the representation of the sexualized woman in the context of freedom of speech.¹

Postwar Japanese Sexually Explicit Films and Their Regulation

Japanese films—in general, and not just sexually explicit films—are subject to state regulation through at least two laws concerned with the content of cinematic expression: The Japanese Constitution, which protects freedom of speech in Article 21, and the Criminal Code, which regulates obscene materials and stipulates in Chapter 175 that those who “distribute, or sell, or display publicly the documents, images, and other forms of obscenity” will be punished.²

Sexual expression in film is also governed by rules established by the Committee for Codes of Ethics in Film (*eiga rinri kanri iinkai*; the “Committee”). The Committee was founded in 1949 as a voluntary censorial body to complement the U.S. occupation army's censorship of Japanese cinema. Committee members are often retired personnel from major film studios. The Committee reviews both the scenario and the film

before its distribution, regardless of whether the film was made in Japan or imported, and rates and regulates the contents of films to be screened in Japan. It seeks to restrict excessive portrayal of sexual acts, nudity, violence, and discriminatory expressions. The Committee's rules are not generally accessible to filmmakers or the public. They have changed as Japanese society has changed, and the Committee's work often takes the form of informal verbal consent between Committee reviewers and film directors and producers, especially because formal rules are not distributed (Interview with director Hamano Saichi, January 2004).

In practice, the Committee negotiates with directors, producers, or distributors to remove or edit offending scenes. The public is aware of the Committee's existence, which is confirmed by the appearance of its logo at the beginning or end of each film. Because the Committee is not a law enforcement body but the film industry's own voluntary, self-regulation organization, some producers or distributors resist the Committee's advice and try to make only minimal changes. Although some criticize the Committee for being authoritarian and oppressive, its work also functions to serve the film industry as a shield against direct judicial or governmental intervention.

The feature-length pornographic film industry emerged in Japan only in the mid-1960s.³ The Committee began to rate and regulate these new pornographic films. In 1965, the Committee reviewed 503 films and rated 233 as adult movies; 216 of those 233 adult-rated movies were produced by 88 small film companies that specialized in pornographic films (Endo 1973, 268–269). These were called “pink films” (*pinku eiga*), a subgenre of pornographic films shot in a few days, with a small number of crew members and at the low cost of about 2–3 million Japanese *yen* (then about US\$5,600—8,300). The pink films focused on sexual explicitness, though at first they showed no frontal or rear nudity, no genitals, and no penetration, in accordance with 1960s rules set by the Committee. These rules were gradually loosened, however, and more body parts came to be shown: The pubic hair of actresses was finally allowed in 1993, though scenes of actual penetration as well as genitals remain officially prohibited to this day. When such images are filmed they are blurred to prevent the viewer from seeing them directly.

Another subgenre of pornographic films, the *Nikkatsu Roman Poruno*, or “Romantic Porn,” joined pink films in the 1970s when Nikkatsu, one of the major film studios, decided to combat declining revenues by launching a softcore pornography series in 1971. Nikkatsu produced three or four such films monthly; each ran about 100 minutes, with a budget of about 7.5 million *yen* (about \$21,000). Non-pornographic movies from Nikkatsu cost at least 30 million *yen* in those days (about \$84,000) (Matsushima 2000, 33–34; Saito 1975, 124–125).

The Nikkatsu “romantic porn” series had much larger budgets than the pink films, though there were also flows of people and films between the two subgenres. The studio occasionally bought pink films to show as double features with its own pornographic films to economize on costs, and film crews and actresses sometimes worked in both areas.

Nikkatsu stopped producing the “romantic porn” series in 1988, and so pink films remain the only genre of pornography still produced on 35mm film in Japan. The pink film industry still exists today, although production has decreased each year since the advent of adult video rentals. Today, the budget of a pink film is about 4 million *yen* (about \$36,000).

Making a Porn Film: Oshima, Pornography, and the Representation of Sexuality

Both Oshima Nagisa’s film *Ai no korida* and the obscenity trial of his book of the same title illustrate the intersection of filmmaking, the legal system, notions of free speech, and representations of gender and sexuality in postwar Japan. Because the Committee’s rules restricting sexual expression were never accessible to filmmakers or the public, obscenity was a notion only vaguely understood by the film industry as something to avoid or face indictment. Filmmakers’ presentation of increasingly explicit material can be seen as a way to find out what the state’s limits were (as interpreted by the Committee), and how far those boundaries could be tested. At the same time, filmmakers generally understood that the bottom line of prohibition was exposed genitalia and explicit copulation. Oshima turned directly to these taboos when he shot *Ai no korida* in 1975.

Oshima was a former leftist student activist and a graduate of the Law Department of Kyoto University. He joined the Shochiku Film Studio in 1954 and later became a prominent art film director; his early works were considered Japanese counterparts of the French “Nouvelle Vague” for their rebellious, political, and defiantly anti-authoritarian gestures. This characterization was reinforced not only by contemporary film critics but also by Oshima’s own writings, in which he often directly criticized the state. In addition to films, Oshima produced numerous television documentaries that also criticized the state. Since the 1970s, he has served as a judge at numerous international film festivals, and retrospective screenings of his work have been organized in many countries.

In the earlier years of his career, Oshima was forced by both the studio and the Committee to revise films and scenarios because of their portrayal of class, political, and sexual issues. They included his first film, *A Town of Love and Hope* (*Ai to kibo no machi*, 1959), his third film, *The Sun’s Burial* (*Taiyo no hakaba*, 1960), his fourth film, *Night and Fog in Japan*

(*Nihon no yoru to kiri*, 1960), and the 1965 *Pleasures of the Flesh* (*Etsuraku*). The theatrical distribution of *Night and Fog* was cancelled after three days, causing Oshima to leave the Shochiku studio (Oshima 1965; 1975; 294; Uchida 1980–1981, 226–227).

In the mid-1960s, Oshima moved to a different form of battle in film. He supported the directors who had been charged in two obscene film trials, testifying in favor of the defendants, witnessing the proceedings, and learning about such trials. Later Oshima would portray his own trial as a mission to carry out in the footsteps of earlier indictments and trials to challenge the state and existing notions of obscenity. In a published dialogue with journalists and one of the earlier director-defendants, Oshima said he took up an “obligation” when he was indicted. “I will keep on running,” he said. “With regard to fighting, I have no choice but to keep going” (Saito 1978, 246, 266–268). His remarks bear some resemblance to Japanese gangster film clichés, through which men build strong bonds with each other. In this case a fight for freedom of sexual expression and testing the state’s limits reinforced male directors’ bonds of brotherhood—or at least Oshima’s. But one of the other director-defendants did not respond enthusiastically to Oshima’s views, suggesting that Oshima’s fight and his own were different because Oshima was already a privileged art director (268), and his free speech rights might receive more protection.

Oshima’s *Ai no korida* is based on an incident that took place in Tokyo in 1936. Abe Sada (1905–?), a thirty-one-year-old Tokyo waitress at an inn, strangled her lover to death after sex, cut off his penis, and took it with her when she fled. She had recently run away to a hotel with this lover, Kichi, a forty-two-year-old husband and father who was married to the woman who owned the inn where Sada worked. Sada and her lover had stayed at the hotel for about a month, absorbed in having sex. As one of their sexual practices, Sada tied a string tightly around Kichi’s neck because the spasms this caused him enhanced her pleasure. Eventually, Sada strangled Kichi to death while he was sleeping. She then cut off his penis because, she later said, she did not want anyone else to touch it. She also wrote “Sada and Kichi Together” with his blood on his thigh and the bed sheets, and carved her name into his arm.

This shocking case of murder and castration was widely reported in the Japanese media of the time. Sada was arrested and interrogated. The prosecutor’s record of that interrogation, including her confessions about her life, detailed and explicit sexual practices, and the crime and its motives, was leaked to the press, illegally published, and widely enjoyed throughout Japan. A historian later called the entire Abe Sada phenomenon “the last prewar publicized pornography,” because the government cracked down on the media from 1937 onward (Kano 1992, 167). Some of the contemporary

media accounts described Sada as a nymphomaniac, or an “evil woman,” but others saw the crime as induced by a surfeit of love, employing a phrase from her lawyer that identified Sada as an “all-conquering lover” (*ai no shorisha*).

Sada’s story was a staple of popular magazines once again in the postwar, late 1940s years of “sexual liberation”—a period following Japan’s defeat in the Pacific War when government censorship of media was taken over by the U.S. military and loosened with respect to sexual expression. The prosecutor’s record has been reprinted repeatedly, in the postwar period as well, when the Abe Sada saga gained renewed attention from the mass media. Sada herself was released from prison in 1941 and completely disappeared from view in the 1960s. But her name is still remembered and continues to be associated with sexual deviancy and male genital cutting, though not with images of monstrosity or evil. Since the end of the war, her story has served as the foundation for at least fifteen theatrical dramas and novels. At least five movies based on the incident have been produced (Hori 2004, 2005).

On June 17, 1975, Oshima wrote in his notebook that “I will make a ‘pornographic film’—not an average ‘film,’ a ‘pornographic film’ all the way” (Oshima 1992, 260). This was after he had learned that France had fully legalized pornography, and that the Cannes Film Festival was overflowing with hardcore scenes. But what did he mean by a pornographic film? “[T]o me, a pornographic film was a film of sexual organs and sexual intercourse. A film that broke taboos was, to me, a pornographic film” (260). Because hardcore pornography was taboo in the Japanese film industry, his making a hardcore film would challenge the Japanese state, the Committee’s rules, and obscenity law; it would be a gesture of breaking taboos in the history of Japanese cinema. For Oshima, pornography was a way to express anti-state sentiments, opposition to society’s normative standards, and opposition to taboos more generally. But he did not simply make a hardcore film. Instead, he produced his movie as a French film—the print stock was imported from France, the film was shot in Japan but developed, edited, and premiered in France, then later imported back to Japan—and he sought to confront the Japanese state by participating in a global flow of cultural products.

There are three important aspects in Oshima’s practice of “making a pornographic film.” First, the film was meant to work directly on the sexual politics of Japanese cinema. Stephen Heath correctly points out that the film generally attempts “to pose the relations of the sexual and the political in cinema, the sexual politics of film” (Heath 1981, 159). But it is important to stress that the film specifically addressed the problem of contemporary Japanese conventions of sexual expression and intervened directly in existing Japanese filmmaking practices. Oshima carefully selected his crew members to situate the project in the history of sexually explicit film in Japan, and he

wrote the scenario himself. As producer he chose Wakamatsu Koji (b. 1936), a well-known and controversial pink film director, and he also hired pink film actresses for some women's parts. Though Oshima called the film pornographic, the budget was around 100 million *yen* (then about \$330,000), low for a feature film but still far higher than the production budgets for most Japanese pornographic films (Oshima 1992, 259).

The second interesting aspect of this "pornographic" film was its interplay with notions of nationality. Anatole Dauman, the French producer of Argos Film Production, had suggested that Oshima make a "porn" film, and Oshima agreed with him that Abe Sada should be its theme (Oshima 1976, 139). Dauman thought the woman's name was reminiscent of "sado," which linked to the sado-masochistic sexual practices involved in the Sada case. He also suggested the French title *L'Empire des sens* to appeal to a European audience by recalling Roland Barthes's collection of essays on Japan, *L'Empire des signes* (Barthes 1970), rather than a French translation of "Bullfight of Love," the meaning of the original Japanese title (Turim 1987, 33). According to Oshima, the Japanese title of the film meant that a man and woman loved each other so much that they killed each other, as in the bullfighting arena, or *corrida* in Spanish, rendered as *korida* in Japanese (Uchida 1980–1981, 265). In the film, Oshima promoted very "Japanese" cultural imagery, including settings of Japanese traditional inns and their rooms, geishas, clothing (kimono), and traditional music, with very few signs of the modernized urban lifestyles of the 1930s. Cultural products with a strongly emphasized national identity remain a common characteristic of the global economy, and in this case the combination of sexualized Oriental images was mobilized by the director to appeal to the European and American markets. In Japan, however, it was advance publicity of the film's sexual explicitness that drew wide attention from Japanese media, critics, and audiences (Kotoda 1976, 116–119; Ogawa 1976, 78–126), not the emphasis on imagery reflecting traditional Japanese culture and national identity.

The third important aspect of *Ai no korida* lies in its problematic representation of gender. There are two issues in the film: the problem of representing women's sexual desire, and the degree of exposure of the male sexual body. Here the differences between the sexually explicit scenes in the original film and the edited Japanese version are crucial.

Oshima portrays Sada as sexually active throughout the film—one of the most important components of the film's hardcore identity. But the woman's search for sexual pleasure in the film does not necessarily serve to question phallogocentricity (that is, male-centeredness in social practices, philosophy, representation, and so on), contrary to Heath and Lehman's claims for the U.S.–European version of the film (Heath 1981; Lehman 1987; 1988).

First, the film implies that female pleasure is associated with the “loose” conduct of fallen women, rather than just celebrating women’s sexual pursuits. That Sada was a prostitute is repeatedly confirmed by male characters. Second, Sada’s sexual pleasure is always constructed around Kichi’s penis. Indeed, in the very first scene she harshly rejects a flirtatious overture from a female coworker who had just taken her to see their employer having sex with her husband Kichi, which had fascinated Sada. In the film, female homosexuality is portrayed as mimicry of heterosexuality and then met with nothing but outright rejection. When a woman’s pleasure is solely constructed around the penis and penile sex, how can we possibly conceive of her pleasure outside the phallus or hetero-normativity? Third, the notion of romantic love is mobilized to explain Sada’s sexual and criminal conduct. It is not sex but love that centers Sada’s obsession, though she values sexual pleasure as well, and saw Kichi’s caring lovemaking as one of his charms (reprinted in Uchimura and Shufu 1973, 51). Such a notion of transcendental, libidinal love is visually emphasized through oppositions between the public/militaristic/imperialist and private/individual/libertine spaces.⁴ This is shown to distinct effect in a famous scene in which Kichi walks past a column of soldiers who are marching on the street in front of the inn where he and Sada are staying. Romantic love is presented as a site of liberation from and contestation of social constraints, though only a man represents such resistance in this scene. Sex is highly politicized in this context, as the film celebrates the “revolutionary” drive of love—love and sex are two sides of the same coin. Thus Sada’s sexual desire is presented in the framework of a story of passion.

Thus a limited vision of female sexuality was already embedded in the original film, but intensified in Oshima’s edited Japanese edition, where the viewer was denied a chance to directly survey masculinity at its most vulnerable. A comparison of the original hardcore version (*In the Realm of the Senses*) with the edited Japanese version (*Ai no korida*) reveals that scenes of pubic hair, genitalia, copulation, and fellatio were blurred and trimmed in the latter, Japanese version.

Several examples indicate this clearly. A scene of Sada astride Kichi while strumming a stringed musical instrument (*shamisen*) in the original version was trimmed for the Japanese version to show only Sada playing the musical instrument, with the bottom of the frame clipped and Sada shown in close-up to eliminate the view of intercourse. Another scene of intercourse with Sada astride Kichi in the original, hardcore version is clipped in the middle of the frame in the Japanese version. The middle of the frame that shows pubic hair and copulation is excised, and the result is a clipped picture of Sada’s head directly above Kichi’s head and body that points clearly to intercourse without showing hardcore elements. A scene showing copulation

in close-up on legs and genitalia in the hardcore version is blurred in the Japanese version to the point that it is impossible to see the copulation in the frame. And in another scene, the hardcore version shows a close-up of Sada performing fellatio on Kichi, while the edited Japanese version is blurred to show only the faintest outline of Sada's face and hand. Solely in the context of that blurred image, it is impossible to know what is occurring.

Male genitalia are fully shown in the hardcore version but the same scenes are completely blurred in the Japanese version. In a sense, the heteronormative phallogocentricity of the Japanese version is intensified and reinforced by the absence of the male sexual body. Instead of presenting the male genitals as the hardcore version does and thereby scrutinizing notions of masculinity, the edited Japanese version mystifies male sexuality and predominantly presents Sada's sexualized body and acts—women's physicality. The hardcore version more effectively communicates issues of masculinity through its fuller visualization of the male body, and in turn directs the audience's gaze toward male sexuality, and possibly its vulnerability.

Indeed Peter Lehman, who saw the hardcore U.S.–European version of the film, points out that a number of elements depart from the stylistic conventions of hardcore films by decentralizing typical depictions of male domination and female subordination. He argues, for example, that the erect penis is deemphasized, as a number of shots show Kichi's flaccid penis (Lehman 1987, 21–22; 1988, 94). The hardcore version may thus provide an opportunity to question male dominance, virility, and hegemonic masculinity, which could bring into the genre of sexually explicit film a potential if not necessarily total subversion of phallogocentricity. This is a point that viewers of the blurred and clipped Japanese version were likely to miss, as they were denied access to the visibility of the penis, especially in its flaccid condition, which could offer a starting point for scrutiny of the symbolic phallus.

Making this pornographic film enabled Oshima to confirm his identity as a leading avant-garde director in the history of Japanese cinema—both in Japan and abroad. Differences in editing produced different emphases in each version, and the Japanese version is more limited in its examination of male physicality and thus potential subversion of heteronormative masculinity. However, clearly both versions rely on phallogocentricity in their visualization of woman's desire. That two different versions would eventually be distributed must have been quite foreseeable at the film's inception given the controlling role of Japanese obscenity law. In that sense, the Japanese version was a coproduction of Oshima and the state of Japan. Having examined the two versions of the film, I now turn to the obscenity trial connected to the reedited Japanese version, where this collaboration between director and state continued as a dialogue around the film and the Abe Sada story became intertwined with the discourse of free speech.

The Oshima Trial: Sexual Expression, Freedom of Speech, and Gender

Oshima Nagisa and Takemura Hajime, author and publisher of the book version of *Ai no korida*, were indicted by the Tokyo district attorney in August 1977, charged with violating Chapter 175 of the Japanese Criminal Code. The Tokyo District court found them not guilty in October 1980. The prosecutor appealed, but the Tokyo High Court again found Oshima and Takemura not guilty in June 1982. The case ended there because the prosecutor did not appeal further. The trial proceedings were reported in film and popular magazines, analyzed in law journals, and published later by Oshima's lawyer. Many of the publications presented the trial as a conflict between the state and anti-authoritarianism, or censorship versus free speech.

But such dichotomies obscure another important point revealed by the trial: the notion of free speech is not free from gender stratification. In reaching that discussion, I briefly summarize the two film trials that provided opportunities for Oshima to serve as a defense witness and learn about obscenity trials, demonstrating to him that these supposed conflicts—state and anti-authoritarianism, censorship and free speech—did not necessarily contradict each other in such proceedings. As the Oshima trial demonstrated, freedom of speech and the legal system that ensures it intertwined with notions of artistic creativity too often favor the male gender despite the appearance of impartiality.

In both of the earlier trials, the accused directors were ultimately found not guilty. The first trial was against *Black Snow* (*Kuroi yuki*, 1965), directed by Takechi Tetsuji (1912–1988), and it lasted from 1965 to 1969. The second trial, from 1972 to 1980, prosecuted three Nikkatsu “romantic porn” films and a pink film outsourced by the Nikkatsu studio. *Black Snow* centered on a young man's frustration and alienation, which led to damage to his aunt's business after her affair with a high-ranking U.S. officer, the rapes of his aunt and girlfriend, and the murders of his aunt and an African American serviceman. When the film was indicted, the director argued that it was not obscene but artistic in expressing sentiments against American imperialism and war. He explained, for example, that a long take of a running naked woman who had been raped “symbolized the tragedy of the state of Japan under the Occupation army” (Takechi 1967, 33). At the *Black Snow* trial, Oshima argued in Takechi's defense that sexual expression symbolized greater political problems (189). Violence to women's bodies was a sign of national tragedy. The court's decision eventually stated that the scenes in question were not necessarily obscene, and that though there were numerous sexual scenes, the film portrayed the tragedy of the protagonists (257). The verdict as well as Takechi and Oshima's testimony revealed acceptance of the notion that a representation of the female body can be read as a sign of

something else. Rape is thus not only sexual violence to an individual but is translated into a generalized symbol of national tragedy. This consonance of testimony and verdict makes it clear that a dichotomy of filmmaker versus state does not exist; rather, their relationship is complicit with each other.

In the trial of the Nikkatsu studio, four films were at stake as Nikkatsu executives, directors and some members of the Committee were indicted in 1972.⁵ The defense did not present an “art versus obscenity” framework, claiming instead that the studio’s sexual expressions on film were reasonably close to other sexual expressions in society. The defendants were found not guilty in Tokyo District Court in 1978 and again in the High Court in 1980, causing the media and legal scholars to wonder whether the decision marked a complete “lifting of regulations on sexual expression” (*Asahi Shimbun* and *Yomiuri Shimbun*, June 23, 1978). Since the Nikkatsu decision, in fact, there appear to have been no further obscenity trials of films. But the state does not allow absolute freedom of sexual expression, for adult videos and obscene books have been both indicted and convicted since Nikkatsu.

Oshima also served as a defense witness in the Nikkatsu trial. Oshima said that the scenes that the prosecutor found obscene should be interpreted as stories of self-formation. He introduced the new element of Japan versus the West, suggesting that Japan needed to catch up to “international” standards; because sexual expression in Japanese cinema was “not competitive in the international context,” “Nikkatsu films had advanced Japanese cinema” (Saito 1978, 74–82). To Oshima, liberated sexual expression measured the level of a nation’s cultural refinement, and these films were presented as an intrinsically national product.

Given this experience, it is reasonable to assume that Oshima was prepared and familiar with the language of obscenity litigation when he was indicted in 1977. He had the experience of his own earlier works being censored, and he had observed the legal terms and processes of obscenity trials—Oshima’s *Ai no korida* seemed as if it had been written and produced to intentionally provoke state intervention.

In the two previous trials, Oshima affirmed that politically serious intentions could be visualized through women’s sexualized bodies, and that Japanese cinema had to be updated to “international” standards of sexually explicit expression. He more or less repeated these views in his own trial, but what was new was a discourse of women’s liberation. Oshima introduced “feminist” discourse into his own trial to defend the sexual expression of his work. Before further analyzing this new approach based on women’s liberation, I begin with an overview of Oshima’s arguments and the problems of freedom of expression at his trial.

Considering the intellectual richness and influence that Oshima and his witnesses brought to the trial—for of course Oshima was by then an expert

on obscene film trials through appearing in two of them as a defense witness—I suggest that Oshima attempted to make the trial occur in something akin to Habermas’s notion of “the public sphere” (Habermas 1989), an arena conceptually distinct from the state where citizens deliberate public affairs.⁶ Although this was a criminal trial, Oshima succeeded in turning it into a kind of public arena for debate on sexual expression. He brought in a wide range of witnesses to attract public attention, often spoke with the media about the trial, and arranged for the proceedings to be published by a contemporary film magazine as well as in book form. Though he sought to establish a public sphere of dialogue, it remains important to question the image of a confrontation between an anti-state Oshima and the state.

The key issue was the extent of freedom of speech in the context of laws and trials against arguably obscene films. In arguing against the obscenity law, Oshima’s lawyers contended that advocacy of freedom of speech was guaranteed by Article 21 of the Japanese Constitution. Oshima tried to make the point, though not insistently, that any kind of expression should be permitted, regardless of notions of the common good (Uchida 1980–1981, 359). But this notion of absolute freedom of speech seems problematic and likely to reinforce existing social inequities. Freedom of expression, even when delimited by a notion of the common good, is not free of social stratification. For example, voices of minority groups often go unheard because of their limited access to media, political, and financial resources. Absolute freedom of speech has the potential to reinforce existing social order and value systems by denying the notion of a common good.

For instance, there were at least two similar concerns raised by actresses in Oshima’s film, not during the trial itself but in a film critic’s account (Ogawa 1976, 55). Several actresses were concerned about becoming pregnant while performing in hardcore scenes, and a young actress who played a geisha suffered vaginal injuries during a scene in which a wooden sculpture was pressed into her by another woman attempting to arouse her. These were not Oshima’s concerns in advocating for his version of freedom of sexual expression. The speech of actual women—the actresses—weighed less than voices of fictional women protagonists, and was not given a place in the public sphere. Oshima did argue against state censorship and demanded free speech rights. But what he advocated in his trial was *his* freedom of sexual expression as a male director, which did not necessarily guarantee his female colleagues’ speech and labor rights at work. If freedom of speech is a right circumscribed by gender, class, and other issues, Oshima’s trial is perhaps particularly important with respect to gender inequities in access to freedom of speech.

Despite these actual women’s complaints from the shooting of the film, Oshima did make sympathetic arguments about the plight of women to advocate for his own sexual expression. Claiming to represent women’s plight

and to speak on their behalf was a new strategy that differentiated Oshima's trial from the earlier proceedings. Two women were particularly at stake: Abe Sada, the female protagonist, and an activist for women's liberation and against the Vietnam War named Ozawa Ryoko.

Oshima's opening remarks at the trial shifted the emphasis from taboo-breaking dissidence to humanistic and "feminist" intentions of his sexual expression. He claimed that as a director "for the liberation of all humanity, I conceived of the film from the viewpoint of a woman in a predicament" (Uchida 1980–1981, 265). He viewed "Abe Sada as a victim of class-stratified society"; "I am standing in court, holding Sada on my right arm, Seki⁷ on my left, out of my love for those suffering women" (Uchida 1980–1981, 72–73). Despite these ostensibly women-friendly remarks, was Abe Sada really a victim? What was the purpose or benefit of presenting a victimized woman's story? In retrospect, Abe Sada seems a locus for reformulating a narrative of acceptable femininity in postwar Japanese culture. And Oshima's courtroom portrayal of Abe Sada as victim was an example of masculinist appropriation of women's stories. Though Oshima recognized gender difference, he failed to register its full implications.

Even more intriguing was Oshima's incorporation of the women's liberation and antiwar activist Ozawa Ryoko into the trial. Ozawa, a forty-one-year-old city council member and critic, was introduced by the defense "to discuss 'obscenity' and *Ai no korida* from the woman's point of view." She testified on male ownership of women's sexual bodies, and the emphasis in the women's liberation movement on the "discovery" of women's sexual pleasure since the late 1960s. She advocated sexual expression because women should not be alienated from knowledge of sex. "[S]o far, sexual expression has been expression about female bodies. . . . Both women and men are sexual. That's why I feel that we women are not included in the notion of the public when people say that women's striptease is welcome and appreciated by the public [as sexual expression]. . . . I believe it is wrong if men discuss women's nudity when almost no women participate in the discussion" (Uchida 1980–1981, 284–285).

Ozawa eloquently expressed a feminist perspective on sexually explicit materials. But her insights were still framed by Oshima's question to her: "Why do you think that Abe Sada maintained sexual autonomy [*seiteki shutai*]?" "Because she thought of nothing but love," Ozawa told the court, adding that she was moved to tears by Sada's passion in *Ai no korida*. Ironically, Ozawa's endorsement of romantic love as a form of salvation from women's plight and a justification for sexual explicitness reduced the impact of her previous arguments on gender hierarchy in Japanese contemporary sexual expression. Her statements supported the taming narrative framework of a "crime of passion" offered by Oshima. When feminist concerns about women's access to

sexual expression and speech rights intersected with the liberal ideal of freedom of speech, the participatory parity of the women's rights activist was achieved on the condition that her voice contribute to an Oshima-directed master narrative in which Sada was an excessively romantic victim.

Ozawa was neither the first nor the last woman to defend allegedly obscene cultural products at trial in postwar Japan. "Women's views" were much in demand at obscenity trials. Kamichika Ichiko (1888–1981), a journalist and political activist, defended a translation of *Lady Chatterley's Lover* in the 1950s; a journalist testified for the defense at the Nikkatsu trial, saying that she was defending free speech rather than pornography (Saito 1978, 86); women novelists appeared at the obscene book trial in the 1970s, and most recently, a feminist critic testified in a 2002–2004 obscene comic book trial. Advocates for sexual expression—most of which involves portrayal of sexualized women—often attempt to prove that their expression is not harmful especially to women. To establish this point, defendant directors, writers, and publishers—so far all male—have mobilized women witnesses. Is the affirmation of such women especially compelling because the defendants are actually concerned that women would identify themselves with the female protagonists and feel uncomfortable?

In turn, the women witnesses for the defense announce that they enjoy sexual expression and are not offended by the types of sexual images on trial. The feminists' intention may simply be to achieve participatory parity through women's access to sexual expression and freedom of speech as well as women's public presence. And in fact such testimony may be the only speech of women that is recognized and given space with regard to sexual expression. However, these female speakers are positioned to address sexuality, much as the female protagonists of the "obscene" texts are sexualized; both benefit masculinist narratives of sexual pleasure and expression.

Oshima's justification of the film's expression lay in his "mission" to represent and speak for women. And his defense strategy and his "sympathy" toward women then led him to appropriate women's expressions, lives, and stories, in the name of advocacy for freedom of expression.

Conclusion

The film *Ai no korida* was the intersection of discourses about regulation of filmmaking, representations of sexuality, and free speech issues in Japanese cinema. The director challenged existing law by breaking the taboo against hardcore film production. Although the original hardcore film was shown outside Japan, only the heavily edited version of the film was shown domestically. The film raised questions about state censorship and the role of obscenity law in society, but close examination of Oshima's film and the related obscenity trial reveals

that the frameworks of opposition used in previous studies to explain the *Ai no korida* phenomenon—director versus the state, for example—failed to fully grasp the gender stratification embedded in expression, in the legal system, or in free speech as an aspect of citizenship.

Despite serving as a purported public sphere where citizens oppose the state, Oshima's trial reveals that obscenity trials are often complicit with the accused in maintaining the existing gender balance of representation and that advocacy for an absolute free speech right can reinforce existing gender hierarchies of speech—in short, that speech is gendered and free speech rights are gendered as well. Oshima appropriated a woman's story, then deployed women-friendly gestures in the service of his own avant-garde desire to be on the cutting edge. The result is a form of complicit association between the filmmaker, the legal system, and the state that operates to continue and strengthen their existing masculinist privileges.

Notes

1. Rather than offering a formal definition of pornography, I identify pornographic films as 35mm prints rated as adult films in Japan, claimed as pornography by the director, and/or distributed as adult films in Japan. In this context a “hard-core” pornographic film generally refers to the showing of genitals, penetration, pubic hair, and/or fellatio.
2. In a 1950–1957 case on a translation of *Lady Chatterley's Lover*, the Japanese Supreme Court defined obscenity as “objects that unnecessarily provoke sexual stimulation.” That definition has been repeated in later obscenity trials. Article 21 of the Customs Law (*kanzei teritsu ho*) regulates the importation of obscene films to Japan. Local governments are responsible for regulations on minors' access to sexually explicit materials (*seishonen jorei*), a topic beyond the scope of this chapter.
3. Sato Tadao explains how the advent of television advanced gender segregation of moviegoers in the 1960s, encouraging themes of sex and violence in Japanese cinema, noting that women, children, and elderly people stayed home to watch television and men formed the majority of moviegoers (Sato 1995, 17–20).
4. Oshima was not the first to portray Sada as a loving woman; that image was created and promoted by her lawyer when he defended her acts as motivated by her obsessive love. A 1947 interview Sada gave to the prominent novelist Sakaguchi Ango (1906–1955) intensified this image. Sakaguchi described Sada as a lovely and feminine woman who loved Kichi excessively (reprinted in Nanakita 1998, 134–139). Still later, a Nikkatsu “romantic porn” movie, *A Woman Called Sada Abe* (*Jitsuroku Abe Sada*) (dir. Tanaka Noboru, 1975) also treated Sada as obsessively in love with Kichi. Oshima followed this tradition by portraying Sada as a naïve woman who is carried away by her love.
5. The films are *Porn Diary of an Office Woman* (*OL poruno nikki*), *A Hunter of Love* (*Rabu hanta*), *Warmth of Love* (*Ai no nukumori*), and *High School Geisha* (*Jokosei geisha*). Synopses of the first two are available in Burakku ando buru (2001, 75–76). *Porn Diary* portrays a woman's promiscuous relations with men

- and revenge against her married boss and lover by setting him up to have sex with his own daughter. *A Hunter of Love* is about “a bourgeois single woman who challenges all kinds of sexual taboos and practices sexual liberation. It included incest, drugs, gay and lesbian relations, and orgies” (75–76).
6. Oshima’s many witnesses included prominent historian Ienaga Saburo, well known for his textbook lawsuit against the Japanese government, well-known film critic and historian Sato Tadao, and such film directors as Suzuki Seijun and Shinoda Masahiro.
 7. The female protagonist in another Oshima film, *In the Realm of Passion* (*Ai no borei*, 1978).

References

In English

- Burch, Noel. 1979. *To the distant observer*. Berkeley: University of California Press.
- Desser, David. 1988. *Eros plus massacre: An introduction to the Japanese new wave cinema*. Bloomington: Indiana University Press.
- Dissanayake, Wimal. 1996. Cinema and the public sphere: The films of Oshima Nagisa. In *Pursuit of contemporary East Asian culture*. Ed. Xiaobing Tang and Stephen Snyder. Boulder: Westview Press, 139–156.
- Habermas, Jurgen. 1989. *The structural transformation of the public sphere: An inquiry into a category of bourgeois society*. Trans. Thomas Burger with Frederick Lawrence. Cambridge: MIT Press.
- Heath, Steven. 1981. *Questions of cinema*. Bloomington: Indiana University Press.
- Hori, Hikari. 2005. Representing a woman’s story: Sexually explicit film and the efficacy of censorship in Japan. *SARAI Reader* 5: 457–465.
- Lehman, Peter. 1980. The act of making films: An interview with Oshima Nagisa. *Wide Angle* 4(2): 56–61.
- Lehman, Peter. 1987. Oshima: The avant-garde artist without an avant-garde style. *Wide Angle* 9(2): 18–31.
- Lehman, Peter. 1988. *In the Realm of the Senses: Desire, power, and the representation of the male body*. *Genders* (2): 91–110.
- Mellen, Joan. 2004. *In the Realm of the Senses*. London: British Film Institute.
- Oshima, Nagisa. 1992. *Cinema, censorship, and the state: The writings of Nagisa Oshima, 1956–78*. Trans. Dawn Lawson. Cambridge: MIT Press.
- Polan, Dana. 1983. Politics as process in three films by Nagisa Oshima. *Film Criticism* 8 (1): 33–41.
- Turim, Maureen. 1987. Signs of sexuality in Oshima’s tales of passion. *Wide Angle* 9(2): 32–46.
- Turim, Maureen. 1998. *The films of Oshima Nagisa: Images of a Japanese iconoclast*. Berkeley: University of California Press.

In Japanese

- Burakku ando buru, ed. 2001. *Pink & poruno: Ginmaku no erotishizumu (Pink & porn: Eroticism on the silver screen)*. Tokyo: Neko publishing.

- Endo, Tatsuo. 1973. *Eirin: Rekishi to jiken* (*The committee: History and particular cases*). Tokyo: Periken Sha.
- Gerow, Aaron. 2000. Oshima to iu sakka, kankyaku to iu waisetsu (Oshima as director, spectator as obscenity). *Yurika* (January): 188–197.
- Hori, Hikari. 2004. “Ai no aru sekkusu” to iu shinario: Waisetsu saiban, danseï eiga kantoku, feminizumu gensetsu no kosaku chiten (Scenario of “love”: Obscenity trials, male directorship, and discourse of feminism). *Joseigaku* 11: 107–122.
- Kano, Mikiyo. 1992. Senso to porunogurafi: genron to seika no Abe Sada jiken (War and pornography: The Abe Sada case under media control. In *Nyu feminizumu rebu 3 Porunogurafi* (New Feminism Review 3: Pornography). Ed. Kayako Shirafuji. Tokyo: Gakuyo shobo, 160–170.
- Kotoda, Chieko. 1976. Kannu eigasai “Ai no korida” tsua shimatsu (Report on our tour to “L’Empire des sens” at Cannes Film Festival). *Kinema junpo* July 15–31: 116–119.
- Matsuda, Masao. 1978–1980. Roporutaju Nikkatsu saiban kara korida saiban e (Reports: From the Nikkatsu trial to the “Bullfight of love” trial). *Shinario* (19 reports: April 1978–January 1980).
- Matsushima, Toshiyuki. 2000. *Nikkatsu roman poruno zenshi* (*Complete history of the Nikkatsu Roman porn series*). Tokyo: Kodansha.
- Nanakita, Kazuto, ed. 1998. *Abe Sada densetsu* (*Abe Sada legends*). Tokyo: Chikuma shobo.
- Ogawa, Toru. 1976. *Ushinawareta Ai no korida* (*Lost “Bullfight of love”*). Tokyo: Shuppansha.
- Oshima, Nagisa. 1965. Etsuraku’ ni okeru eisin shinsa ro jittai to bihan (Pleasure of the flesh: Actual response of the Committee for Codes of Ethics in Film to the film and my criticism). *Eiga geijutu* (*Film art*) November: 74–77.
- Oshima, Nagisa. 1975. *Taikenteki senjo eizoron* (*Personal views on postwar Japanese cinema*). Tokyo: Asahi shimbunsha.
- Oshima, Nagisa. 1976. *Ai no korida* (*The bullfight of love*). Tokyo: San’ichi shobo.
- Saito, Masaharu. 1975. *Nikkatsu poruno saiban* (*Nikkatsu pornographic films obscenity trial*). Tokyo: Fubaisha.
- Saito, Masaharu. 1978. *Kenryoku wa waisetsu o shittosuru: Nikkatsu poruno saiban o sabaku* (*Power is jealous of obscenity: Trying the Nikkatsu pornographic films obscenity trial*). Tokyo: Fubaisha.
- Sato, Tadao. 1995. *Nihon eiga shi* (*History of Japanese Film*) Vol. 3. Tokyo: Iwanami.
- Takechi, Tetsuji. 1967. *Sabakareru erosu* (*Eros on trial*). Tokyo: Tokuma shoten.
- Uchida, Takehiro. 1980–1981. *Ai no korida saiban zen kiroku*. (*The complete trial proceeding of Ai no korida*) Vols. 1–2. Tokyo: Shakaihyoronsha.
- Uchimura, Yushi and Yoshimasu Shufu, eds. 1973. *Nihon no seishin kantei* (*Assessment of mental conditions in Japan*). Tokyo: Misuzu shobo.

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CHAPTER 8
FREEDOM OF THOUGHT AND
NATIONAL SECURITY LAW IN
RECENT SOUTH KOREAN CINEMA:
THE ROAD TAKEN (SEONTAEK)
AND ITS GENRE

Do-Hyun Han

When you have thus formed the chain of ideas in the heads of your citizens, you will then be able to pride yourselves on guiding them and being their masters. A stupid despot may constrain his slaves with iron chains; but a true politician binds them even more strongly by the chain of their own ideas.

—Servan 1767, 35, quoted in Foucault 1979, 102–103

The clang of the lock in the steel doors when they were opened or closed always made me tense up in fear. Elderly prisoners with weak hearts said that hearing the steel-on-steel grating of the keys was like being stabbed in the heart with a dagger.

—Suh Sung 2001, 74

These are two visions of the modern prison. For Foucault, the modern penal system is a disciplinary institution like the school, and he traces the transformation from physical torture into the “improvement” of the prisoner in modern confinement (Foucault 1979). This discourse is an image of prison which does not rely on naked force or brutality, though Foucault himself hardly approved of “modern” prisons. For Suh Sung and other former South Korean political prisoners in recent decades, there is little transformation in the tools and methods of the South Korean prison, an experience of violence and inhumanity particularly for political prisoners. This dark image of prisons and law does not surprise the Korean public, for whom prisons and penal codes reflect a traditional authoritarian state in its modern form. In modern South Korea, one particular law—the National Security Law, itself the successor to security laws going back to

colonial times—has been particularly powerful in shaping this image of prison and law among the public. *The Road Taken* (*Seontaek*), released in 2003, was the first film to directly tackle the National Security Law and national security apparatus in South Korea. It is the central film in a new genre, released in the late 1990s, that deals with Korean reunification, repatriation, and the experience of “unconverted” political prisoners in South Korea. These films—*Shiri* (dir. Gang Je-Gyu, 1999), *JSA* (*Gongdong Gyeongbi Guyeok, Joint Security Area*, dir. Park Chan-wook, 2000), *The Road Taken* (*Seontaek*, dir. Hong Ki-Seon, 2003), *Repatriation* (*Songhwan*, dir. Kim Dong-Won, 2004), and *Welcome to Dongmakgol* (*Wel-keom Tu Dong-mak-gol*, dir. Park Kwang-Hyeon, 2005)—reflect and helped to propel a changing understanding of reunification, repatriation, and national security in South Korea.

Filming Reconciliation and Repatriation

The Road Taken is based on a true story. It depicts a political prisoner’s life in an anti-Communist land. The hero, Kim Seon-Myeong, was sentenced to forty-five years in prison in 1951 for violating South Korea’s National Security Law. After his release, Kim spent another five years under a form of police-supervised house arrest. Kim could have been released much earlier—but he would have had to agree to “convert” to South Korea’s system of liberal democracy. Under the South Korean National Security Law—which remains in effect though its draconian application has now somewhat eased—only such converts could be released even after the end of their full sentences. Unwilling to convert, Kim remained under guard. Eventually, and only after the successful summit meeting between South and North Korea in June 2000, Kim was finally sent back to his ideological home, North Korea, after fifty-one years in southern prisons.

The Road Taken appeared three years after Kim was repatriated to North Korea, but that release was only possible in the midst of South Korea’s expanding democratization and after the 2000 South–North Korea summit meeting. Even five years earlier, production and distribution of such a film would have been impossible. So *The Road Taken* and other films of the repatriation and national security cycle are a useful reflection of changing politics in South Korea and the evolution of South–North Korean relations. But they are also a superb window into understanding the image of law in South Korea, and the changing relations between law and the state in South Korea from 1951 to 2000.

The Road Taken and related films take a different approach to North Korea than films in the past, and an approach that has itself changed considerably since the first such film, *Shiri*, appeared in 1999. Traditionally,

South Korean films demonized North Korea, and were allowed to take only that stance. But the films of this new genre seek to overcome that perspective, taking a more humanistic approach and sometimes directly adopting a perspective based on human rights.

This new approach is closely related to the recent relaxation of tensions and the growing set of familial, commercial, tourist, and other relationships between South and North Korea. This relaxation was initially proposed three decades ago, in 1972, when South and North Korea agreed on a joint communiqué to work together for reunification based on principles of putting the nation first and resolving disputes peacefully. But little progress occurred for several decades; hatred and fierce criticism between North and South continued amidst the international environment of the Cold War. Not until the late 1980s did the climate begin to change under the Southern governments of Rho Tae-Woo and Kim Young-Sam, which actively worked to relax tensions with the North. A summit between the two Koreas was even arranged in 1994, only to be cancelled when the North Korean leader Kim Il-Sung died. But the next South Korean government, led by Kim Dae-Jung in the late 1990s, actively sought to relax tensions between the South and North under a “sunshine policy” that made possible the first, epochal summit meeting in Pyongyang in June 2000.

In September 2000, political prisoners held in South Korea who had refused to “convert” and swear allegiance to the South Korean political system were repatriated to North Korea. And separated family members of South and North Korea were able to reunite, an event that has now become typical. Today the uncommon has become commonplace (or relatively commonplace) in other ways as well: South Korean tourists visit the northern Mt. Kumgang by bus, Southern nongovernmental organizations provide humanitarian aid in North Korea, Southern businessmen invest in northern factories, and defense officials meet for occasional talks.

It is not surprising that South Korean filmmakers would seek to reflect these recent and important developments in Korean relations in modern South Korean films. But for an industry under tight government control for decades, the new wave of South Korean films has clearly refused to reflect traditional, government-sponsored themes. But they have gone further, treating controversial and sensitive issues of national security, political conversion, prison violence and brutality, and repatriation that go well beyond celebrating the thaw in intra-Korean relations and stepping away from government-financed anti-Communist themes. What follows is a brief summary of each of these five films; further detail and extensive commentary is available in a number of sources (the South Korean cinema magazine *Cine 21*; Diffrient 2000; Kim Ho Yong 2001; Kim Kyung Hyun 2004; Seo Bo-Myung 2006; and other sources cited in the references).

Shiri

Shiri (1999) is an action film depicting a battle between a rogue North Korean special mission team and a South Korean anti-Communist task force. The North Korean team, headed by Pak Mu-Yeong, robs South Korea of a special high-technology bomb in order to explode a stadium in Seoul during a soccer game attended by the leaders of South and North Korea. Soccer is a national sport in both South and North Korea, and the game is intended to symbolize reconciliation between North and South. But the rogue North Korean group opposes the peaceful reunification of the country, and believes that its leaders have betrayed revolutionary ideals for unification. A North Korean female spy, Kim Yun-jin, who is the lover of the North Korean team leader Pak Mu-Yeong, successfully steals the identity of a South Korean girl and infiltrates Seoul. She falls in love and moves in with a South Korean anti-Communist agent, a fairly transparent device used to indicate the possibilities and difficulties associated with political reconciliation between the two Koreas. The North Korean team headed by Pak Mu-Yeong takes control of a main electrical office, but is finally defeated by the South Korean agent's team headed by Kim's South Korean lover. The battle moves to the stadium, where North Korean agents in the crowd try to assassinate leaders of both countries, and the North Korean female spy Kim dies in the final climactic battle.

Shiri repeats and reflects long-held concerns about the stability of politics in North Korea, but does not depict North Korea itself as a threatening or evil force. Instead, North Korea is portrayed as having diverse if extremist political forces, reflecting a sense in the South that only some extremist groups in North Korea are problematic or threatening. *Shiri* is the first of the new genre of reconciliation and repatriation movies, focusing on the relationship with the North rather than the treatment of political prisoners, conversion, and repatriation in the South (Diffrient 2000; Kim 2004). Daring for its time, other films would shortly overtake it in their direct criticism of South Korean treatment of political prisoners and the profound complexities of processes of political conversion and repatriation to the North.

JSA

JSA (*Gongdong Gyeongbi Guyeok, Joint Security Area*, 2000), portrays an illegal friendship between South and North Korean soldiers in a border region both sides patrol. The soldiers' relationship begins when a North Korean soldier saves South Korean sergeant Lee Soo-Hyeok from a land mine in the demilitarized zone that divides the North and South, the first South Korean movie scene ever to show a North Korean in a rescuing role rather than as an attacker. Their friendship develops after this

accidental encounter. Sergeant Lee illegally crosses into the North for a visit, followed by further visits. But these illegal friendly encounters cannot last—Lee and another South Korean soldier are discovered by a senior North Korean officer at a North Korean guard post and a firefight ensues in which the North Korean officer is killed. The incident leads to further exchanges of fire and a serious violation of the Armistice Agreement between the South and the North.

Sophie, a female judge, arrives in the Joint Security Area to investigate these events. Born in Korea and then adopted into a Swiss family, Sophie represents neutrality and impartiality in a highly charged and politically divided environment. But the legal and moral authority of the “neutral” Sophie is less effective than individual relationships across battle lines. Sophie promises to write her report to protect Sergeant Lee’s North Korean friend, and succeeds in learning the true story of the soldiers’ friendship and the initial firefight. Her actions show that anti-Communist regulations are ineffective: they drive informal and illegal contacts underground but do not halt them.

The film seeks to illustrate a conflict between individuals and their political and social systems, portraying the separated nation and its ideological division as inhumane. Soldiers must conceal their friendship from authorities on each side; this implicit equal allocation of blame for having to hide personal feelings in subservience to political demands is also new to South Korean cinema. Like *Shiri*, *JSA* does not focus on a threatening North Korea, but the tenuous and formally illegal friendship between South and North Korean soldiers symbolizes both striving for and continued difficulties in achieving peaceful unification.

The Road Taken

The Road Taken (*Seontaek*, 2003) is a key film in the new genre of reconciliation and repatriation movies because it is based on Kim Seon-Myeong’s true story of imprisonment for fifty-one years beginning in 1951, his refusal to convert to South Korean political tenets, brutal treatment in prison at the hands of guards and officials, and eventual release.

Kim joined the North Korean Army and was captured during the Korean War. He was sentenced to death, which was later reduced to life imprisonment, in the South. Most of the film takes place in Daejeon Prison, where the South Korean government harshly pursued its “conversion” policy against both North Koreans and Southern political prisoners. In *The Road Taken*, the chief guard, Oh Tae-Sik, who has lost his father to fighting with the North Koreans, leads the prison’s conversion efforts through brutal force, with Kim as the central figure in the prisoners’ resistance. When democratization takes hold in South Korea, Kim and others are freed without

converting. In *The Road Taken*, the unconverted political prisoner is depicted as a man of belief and conscience. The film neither criticizes nor praises Communism and the North Korean political system. Rather it seeks to show the conflict between a prisoner's exercise of freedom of conscience and the demands of the National Security Law. Without South Korea's democratization and the June 2000 summit between the South and North, *The Road Taken* could never have been made or publicly shown in South Korea. The humanitarian approach of the film reflects Kim Dae-Jung's "sunshine policy" and the South Korean initiative for peaceful reunification.

Repatriation

Repatriation (Songhwan, 2004) is a documentary about unconverted political prisoners who return to North Korea after their release. It enjoyed success as an independent film in the South, showing at art film cinemas, universities, and to civil society organizations. If *The Road Taken* depicts the lives of unconverted prisoners while in harsh detention in South Korea, *Repatriation* portrays their lives after they are released from prison and, in most cases, returned to North Korea. Director Kim Dong-Won spent twelve years making South Korea's first documentary about the repatriation process, and the film won the Freedom of Expression Award at the 2004 Sundance Film Festival.

Most unconverted political prisoners released from South Korean jails are immediately or eventually repatriated to the North, but other films have stopped at the repatriation. *Songhwan* goes further, initially by showing the welcome ceremony in Pyongyang for these aged Communists who have endured life in Southern prisons for most of their lives. Here we see Kim, the actual hero of *The Road Taken*, going to North Korea. He and the other "unconverted" are honored with luxurious apartments (by North Korean standards) and cars and praised as revolutionary heroes, enabling the North Korean media to claim an ideological victory over the South. The film also shows the anger of South Koreans who believe that their family members were kidnapped by North Korea. An implicit political message of *Repatriation* is that South Korea has bravely taken the initiative for reunification without waiting for North Korea's reciprocal efforts.

Welcome to Dongmakgol

The most recent in the new cycle of repatriation and reconciliation films, *Welcome to Dongmakgol* (*Wel-keom Tu Dong-mak-gol*, 2005), is set in a small hamlet, Dongmakgol, during the Korean War. The hamlet's residents enjoy a peaceful life, without having yet learned of the outbreak of hostilities. *Gol*, as in Dongmakgol, indicates a village or hamlet where people know each other

well and affectionate relations prevail. Although there were occasional family or clan feuds in the *gol*, those conflicts were almost always resolved through deliberation, understanding, and compromise. Thus the *gol* represents a place where political and ideological trauma and conflict can be healed.

In the peaceful Southern town of Dongmakgol, an American military airplane crashes during the war. Its pilot, Smith, survives and is well received by the villagers. Eventually several South and North Korean soldiers come upon each other in the hamlet. After an accident in the village's grain storage house, they put down arms and pick up farming tools, overcoming their hostility in a metaphor for national reconciliation. The peaceful life of the villagers and the South and North Korean soldiers is interrupted when the South Korean and U.S. armies seek to save Smith from the North. Although the soldiers in the village band together to protect the villagers, the military superiority of the American and South Korean armies destroys the South and North Korean soldiers in the village. Park envisions a future for the nation by depicting highly idealized village life in which conflict is resolved through mutual understanding. His vision of Southern and Northern cooperation against American military action brought harsh criticisms of the film.

From *Shiri* to *Welcome to Dongmakgol*

The seven years from *Shiri* (1999) to *Welcome to Dongmakgol* (2005) represent a significant shift in South Korean filmmaking. *Shiri* does not yet focus on broader issues of humanism and politics. It portrays ideological divisions in North Korea, desires for reconciliation, and a love story between Southern and Northern spies, with a healthy dose of Hollywood-style action scenes involving the North Korean team and its plan to blow up a stadium. Here we do not yet have filmmakers tackling the complex political problem of political prisoners in the South, the conversion policy, and the National Security Law. A year later, *JSA* (2000) raises the bar, beginning to explore the tension between individual thought and an uncompromising authoritarian system through the story of illicit friendship between Southern and Northern soldiers, and providing a more serious reflection on issues of national division and the possibilities for reconciliation. The choice of location is important: the "joint security area" (or demilitarized zone) is both the locus of battle and, here, the site of possible reconciliation—if only the state would allow it.

The Road Taken (2003) moves in much more ambitious directions. We reach directly into the center of South Korean authoritarianism, the prison, the persecution and conversion of political prisoners, and the central conflict between freedom of conscience and the Southern state's demands through the National Security Law. The use of newsreels and real events contributes to the sense of immediacy in the film. Kim is portrayed as a person of conscience who

refuses to give up his beliefs, “convert,” and go free. He is not described as a strong loyalist to Communist ideology. In that sense the film takes a strong humanist approach.

Repatriation, the fourth film in this cycle and the first documentary on the repatriation of prisoners to North Korea, is also the first of these efforts to take us directly into North Korea. Since the movie depicts the lives of actual unconverted political prisoners after their release from South Korean prisons, it seems like a sequel to *The Road Taken*. But *Repatriation* is most striking because the director allows the prisoners themselves to talk. The director is also brave enough, in the South Korean political environment that now allows this, to include scenes of North Korea, where the repatriated political prisoners enjoy new lives, honored as revolutionary heroes. By the time *Welcome to Dongmakgol* was made (2005), the difficulties of reconciliation were becoming more apparent in the midst of North Korean missile tests, vacillation, and fierce words directed toward the United States and Japan. The village-based idealism of *Dongmakgol* attempts to hold fast to a South Korean vision of reconciliation that is “bottom up,” unaffected by and surpassing the efforts of national leaders, and reflecting the filmmakers’ sense of popular desire for reconciliation on both sides of the armed border.

Beyond ideology, beyond anti-Communism, these movies mobilize humanist values and nationalism to encourage Korean reconciliation. In that process, the South Korean National Security Law is a key political target, but also a significant influence in the content, making, and distribution of these films. I turn now to the National Security Law.

The National Security Law and South Korean Films

In *The Road Taken* and *Repatriation*, the National Security Law is central and both films directly challenge it. Particularly in *The Road Taken*, most dialogue and action centers on the Law, making the film a kind of public primer for this most important of South Korean policies. The National Security Law dates back to Japanese colonial rule, when the colonial government introduced security laws primarily to control Korean independence movements. After the division of the country in August 1945 and several years of severe ideological and political conflict, a Communist government was established in North Korea and an anti-Communist government in the South. Shortly thereafter, the Korean War broke out, a national disaster for Korean families on both sides of the border. These events substantially hardened already extreme politics in both South and North. An ideological war became a lived experience, and indoctrination was irresistible. The South Korean National Security Law became one of the pillars of Southern authoritarianism.

The Law gave first priority to an authoritarian vision of national security over any other issue, and fit comfortably into the politics and

psychology of its era. To those who lived during the war and condemned North Korea as the invader, leftists and their ideology seemed the foremost of domestic (Southern) enemies. The National Security Law was frequently used to suppress freedom of expression and freedom of thought in Korean society, including punishing anything that did not lead to protests or other action.

Under the name of protecting liberal democracy, the Law refused to recognize the value of conscience and freedom of thought. But the definition of liberal democracy in South Korea was (and remains) different from concepts in the West. Liberal democracy in South Korea and in the National Security Law has been closely related to fighting Communism, especially in North Korea. So the Law criminalized anyone who praised North Korea or Communism, even through factual or sympathetic descriptions. These prohibitions extended to films, where freedom of expression was severely curtailed and similarly oppressed.

Under the National Security Law, the government often labeled dissident activists or artists pro-North Korean or pro-Communist and sent them to prison. But the Law went further, punishing political prisoners twice: after such prisoners completed their terms, the South Korean state judged their ideology yet again. If a prisoner continued to hold onto some form of leftist ideology or did not praise South Korean ideological precepts, he or she could not—by law—be released even though the sentence had been completed. Without conversion, no release was possible. This ideological conversion meant that the prisoner rejected his or her original political beliefs and adopted the political beliefs of the South Korean government, a direct attack on freedom of conscience. *The Road Taken* takes this approach, emphasizing freedom of conscience to criticize the National Security Law.

The Road Taken depicts an unconverted political prisoner's life under the National Security Law. But before this film, there were many anti-Communist movies in South Korea, a fixture of the absence of freedom of expression under which film directors and screenwriters labored in the era of the National Security Law. *The Road Taken* indeed takes a very different road from the anti-Communist films of the past, both in style and content. Kim Seon-Myeong's life history is told in a sympathetic way, without any anti-Communist message. Instead, the inhumane characteristics are of the National Security Law, and of the state that produced it, as illustrated by the conditions of the prison and the sympathy toward unconverted long-term prisoners. *The Road Taken* and its makers could in fact be prosecuted for violating the National Security Law, especially Article 7, which prohibits activities "praising" or "encouraging" enemies. Only Korea's democratization in the 1990s and the South-North summit of June 2000 prevented such treatment and allowed the new cycle of films. Thus the

appearance of *The Road Taken* is a testament to Korea's democratization and the development of reconciliation.

But in the era of Kim's imprisonment, application of the National Security Law remained draconian. Because the film employs restricted narration focused on the hero, the audience only knows what the hero listens to and watches. We do not hear any direct, active confrontation between the Law and the hero. Thus in the film it is not easy to learn precisely what the National Security Law is. But a rapid narration of his punitive sentences provides historical background and problematizes the National Security Law. Kim is arrested in 1951 for violating the National Security Law and sentenced to fifteen years by a military court in August 1952. While in prison, he is sentenced to death, again by a military court, in July 1953, and again for violating the National Security Law. That sentence is reduced to life imprisonment in 1954.

The rendering is reasonably faithful. The National Security Law was first imposed in 1948 to suppress Communist activities in South Korea (Pak Won-Sun 1997). After the Korean War, in 1958, then-dictator Rhee Syngman expanded the Law to further suppress political opposition. After a military coup in 1962, Park Chung-Hee again expanded the law to control democratic movements.

The Law has played among the most important role of all statutes in Korean politics. Chief warden Oh proclaims in *The Road Taken*, "We're in a special situation! In a divided South and North! The South can never accept Communism." The Law denied such constitutional rights as freedom of expression, freedom of creative activity, and freedom of conscience. And its vagueness provided the authorities with arbitrary power to prosecute citizens (Han In-Seob 1992; Pak Won-Sun 1997).

Originally applied to North Korean sympathizers and agents in the 1950s, the Law was used to deprive students and dissidents of their rights in the 1960s and beyond. Most recently, the Law has been used against participants in democratization movements. As part of this transition, the conditions of the unconverted long-term political prisoners became known to the outside world. In *The Road Taken*, a Coalition of Families for Democratization Movements (*Mingahyop*) supports the unconverted political prisoners, including Kim. The broadening of the Law brought Communist prisoners and dissident students together against it. In 1988, when the prisoners began a hunger strike, they stated:

The National Security Law exists not for the state or the people. It is a device for preserving the regime through countless fabricated stories, and as such it in fact oppresses the people and hinders national unification. The Public Security Act is a reincarnation of the essence of the evil laws of Imperial Japan and the Nazis; it is a political crime, a violation of the Constitution and a

perfidious law, unprecedented in this day and age, which imprisons innocent people indefinitely, without a trial, at the whim of those in power. . . . These evil laws must be done away with. (Suh 2001, 178)

The National Security Law still exists in South Korea, but it would be safe to say that though the law remains on the books and is largely the same, its application and execution have become less harsh after years of struggle for democratization in the South. Despite that softening, a poll taken by the major Korean newspaper *Chosun Ilbo* after the 2004 general election showed that the abolition of the National Security Law remains a significant political issue in South Korea.

Popular Images of Law in South Korea

In *The Road Taken*, another unconverted political prisoner, An (Choi Il-Hwa), argues with his prosecutor:

What developed nation has a National Security Law? Do they make their youth rot in prison for decades? Or do they even add years to sentences for security's sake? You've imprisoned us almost forty years through that brutal law, with an absurd law like that. Is it right imprisoning people for forty years after a war?

This dialogue occurs just before three other unconverted political prisoners, including Kim Seon-Myeong, are released. For the political prisoner, the National Security Law was simply a mechanism “that makes it possible to repress, to prevent, to exclude, to eliminate” (Foucault 1979, 24). Although the prosecutor represents the National Security Law through which the unconverted political prisoners are imprisoned, he can say nothing to respond in the new political environment of the late 1990s. He just listens passively and defensively, and then releases them.

Another political prisoner who was imprisoned for nineteen years noted in his autobiography that the National Security Law and related legislation “have operated to suppress the national conscience and dampen the fervent hopes of the people, hardening the state of division among our people” (Suh 2001, 41). It is natural that political prisoners would criticize the laws used in imprisoning them. But Suh also argues that the Korean legal system adopted repressive elements from the colonial legal system of Japanese imperialism: “The colonial laws and instruments of repression were preserved intact in a climate of left/right ideological confrontation” (98).

These negative images of law pervade the film and the political prisoners' lived stories. Some may argue that these images result solely from security laws or penal codes and that we may find other, more positive images of Korean law.

But in South Korea the National Security Law assumed considerably more influence in people's everyday lives than virtually any other statute. Until the 1990s, parents sending their children to college asked—even begged—they not to violate the National Security Law or engage in dissident or protest activities. Little was more important or could more easily bring down the wrath of a powerful and authoritarian state.

Survey data supports this negative view of law and the importance of the National Security Law. According to Yang Seung-Do, respondents often tended to say “Laws are established to protect the interest of the power elite. . . .” (Yang Seung-Do 2001). Sociologist Lim Hui-Seob's study comes to a similar conclusion: that people consider law punitive or repressive rather than embodying the notion of a social contract or promoting social reform (Lim Hui-Seob 1974). Cha Yong-Seog and his colleagues (1989) also reveal deep mistrust and hostility toward Korea's modern laws. Because of that hostility, Koreans tend to resist law and its application. These studies were done in the 1960s, 1970s, and 1980s, when military dictatorships controlled South Korea, and reflect public perceptions of law in that particularly authoritarian era.

But a more recent survey shows little significant change in public perception of the role of law. Since 1993, Korea has rapidly democratized, but the 2004 study showed little change in views toward law. And citizens who have experienced the court system or whose family or friends have been to court have an even more negative attitude toward the law (Chun Taek-Soo et al. 2005).

The Road Taken reiterates this pessimistic vision of law. Under torture and his family's pressure, a political prisoner named Choi decides to convert. Prison authorities promise his release on condition of conversion. Choi renounces his Communist faith and pledges loyalty to South Korea and its law. But his release is still denied—he cannot enjoy his legal rights as a convert—and his dignity is ignored. Choi is used as a spy to collect information from other political prisoners. Another character, the nonpolitical convert Yim Il-Chan, is in prison for violent crimes. He works for the prison authorities and seeks early release based on his cooperation. But despite their promises, he is not released.

You sons of bitches! You promised me parole but you used me! Then you blame me for it all! . . . I have done all that you asked me! But why am I treated like a dog now? You rotten bastards!

Abuses of Justice and Ideological Conversion: The Control of the Soul

The Road Taken does not help us believe that South Korean prisons are legitimate correctional institutions. The film portrays brutal torture and

violence as rampant, and the use of violent convicts to force the political prisons to convert, often through torture. The pressure to convert is enormous. Nam, an unconverted political prisoner, says to his cellmates:

I'm going to convert. . . . I dislike you all now. . . . And the screams drive me crazy. Every morning I wake up worried I'll get beaten. I feel like my head will explode. . . . Aren't you scared of hearing their footsteps? And scared of being beaten or starved to death?

The audience can certainly understand Nam's hardships and his decision. It is impossible to criticize that decision to convert as a betrayal of conscience. Instead, we see the injustice of the prison, where political prisoners cannot enjoy normal rights, even for prisoners. The prison is no longer a correctional or penitentiary institution, but merely a site of violence and injustice, where brutal acts by public officials and prison employees violate the South Korean Constitution and Criminal Code (Suh 2001, 84). That irony—prisons failing to respect justice and rules—pervades the film.

But perhaps the most important injustice perpetrated in *The Road Taken* is the policy of ideological conversion through submission to the authority of the state, integral to the National Security Law, and required for release from prison (Pak Won-Sun 1997; Suh 2001, 97). That conversion process is the key subject of *The Road Taken*, and the focus of the film's violence.

In *The Road Taken*, Park Jae-Yong recants in front of all the unconverted political prisoners using the required words: "While I, Park Jae-Yong, have served time for breaching the National Security Law, I have realized South Korea's progress, and was touched. Now, I regret my crime and swear that I will never commit any Communist acts again. I will also be loyal to the law and order of South Korea." The violence and torture of the prison are part of the conversion policy as well. Ideological conversion reminds us of Foucault's sense of the disciplined soul. But ideological conversion in South Korea has the strong connotation of pressure and violence, and most cases of ideological conversion—as *The Road Taken* indicates—entail compulsion through physical or psychological violence (Suh 2001, 98).

The warden and guards try to intimate that ideological conversion is not so serious, portraying the refusal to convert as irrationally sticking to Communist ideology. Prison broadcasts use this psychological strategy to encourage conversion. In a sweet and melodious voice, a girl appeals to the inmates through the radio.

Father, I want to run to you and see you always. But the high wall you made blocks us from coming in. Father, please let us in. Don't you know how much your beliefs turn us away?

The unconverted prisoners continue to resist, refusing to betray their conscience. Oh (An Seog-Hwan), a warden in charge of conversion, gives Kim only one choice: “You will leave here either by death or by converting.” Kim answers:

I will walk out of here without converting. . . . You are imprisoned in a lost fight. They say no matter how big the army is, you can win if you capture their leader. But however weak a man is, you can't take his integrity.

The prisoners resist ideological conversion and seek to maintain their freedom of conscience in diverse ways, including suicide and hunger strikes. *The Road Taken* portrays both. Their struggle could not attract attention from the outside because the unconverted prisoners were completely segregated. But in the 1980s, students and other dissidents were imprisoned as well, and they too face the question of conversion and the brutality and inhumanity used to force it. The democratization movements shook the conversion system, especially in the 1990s, when democratization contributed to the improvement of the status of political prisoners. Kim and two colleagues were eventually released without converting. The documentary photograph of his release is inserted in the film, relieving the audience of his suffering. With the inauguration of Kim Dae-Jung's government in 1998, human rights improved considerably. The ideological conversion policy was abolished in 1998, transformed into a required oath to abide by the law; unconverted political prisoners were released, even without taking that new and more limited oath. Most prisoners and human rights organizations view the new oath as fundamentally no different than ideological conversion, because it is still a precondition for release (Suh 2001, xv). And thus many legal scholars and human rights groups continue to oppose the new oath requirement and seek its abolition.

Democratization and After

The impregnable fortress of the National Security Law seemed timeless for the prisoners, warden, and guards. In the 1980s, South Korean human rights organizations began paying belated attention to the conditions of the unconverted prisoners, and prisoners' rights joined the agenda for democratization in South Korea. This new alliance was represented in the gifts to the unconverted prisoners from the Coalition of Families for Democratization (*Mingahyop*), Cardinal Kim Sou-hwan, and then-opposition leader Kim Dae-Jung. In his autobiography, former prisoner Suh Sung (2001) calls November 1988 the dividing point for the improvement of prisoners' treatment and living conditions. In June 1987, the democratization

movement against military rule exploded in South Korea. In the general election of 1988, three opposition parties overwhelmed the ruling party. Some of the newly elected members of the National Assembly had their own proud experiences of imprisonment. The confluence of these events helped to improve substantially the treatment of the unconverted political prisoners. As Suh Sung recalls, "Things that had been considered iron-clad laws in prison changed overnight" (Suh 2001, 175).

In *The Road Taken*, these events are portrayed as we watch Kim reading books in a leisurely way. Instead of fear, he enjoys his reading and is surrounded by piles of books. Instead of being frightened, he is shown enjoying his reading. Before democratization, Kim was allowed to read only one rather conservative magazine, *Saemteo (Fountain)*. But he now reads the progressive magazine *Mal (Talk)*, permitting the filmmakers to show the pace and substance of change.

Warden Oh, in charge of conversion, talks about the shifts democratization has brought:

I am not sure myself since it's always changing. You and me, we're all in the same boat. I've worked very hard. But I can't tell my son who's in college, about my job. I thought I was a patriot but I don't know anymore. Sometimes I recall what you said. That I was also imprisoned in a lost fight.

In the end, the jailer sends Kim off to the outside world and he stays inside the prison. At the front gate of the prison many people are waiting for Kim, and they call him teacher (*sonsaengnim*). *Sonsaengnim* is a term of respect, not one employed to address a criminal. In *The Road Taken*, a certain conversion has indeed taken place.

Kim's story does not end here. The prosecutor still has rules: whenever Kim leaves his home, he must report to the authorities, as required by the Public Security Act. Kim is released from the National Security Act, but his life remains controlled. Human rights organizations seek the abolition of both statutes. But eventually none of these laws apply to Kim. After the successful summit between South and North Korea in June 2000, Kim is repatriated to North Korea. His struggle against the National Security Law ends, though his repatriation is intended to show a certain limited range of tolerance within South Korea's democracy.

Conclusion

Koreans' image of law derives mostly from the image of security laws and penal codes and Confucian traditions that preference propriety and the rule of virtue over formal law. Partly as a result, in East Asia, people have seldom

enjoyed legal protection of their rights. In most cases, and certainly in South Korea, people think laws are a tool for controlling or oppressing people. In recent decades, Koreans' experience with law has not improved significantly over the colonial era. Despite the rhetorical aspirations of the Constitution, the National Security Law and similar statutes stood above the Constitution. *The Road Taken* faithfully reflects this reality through a focus on the National Security Law and ideological conversion, on brutal and negative images of law—a distinction from Foucault's image of the prison as discipline.

In broader terms, the new cycle of Korean films about reconciliation, repatriation, and conversion represents and portrays the transition from authoritarian rule, both as that transition has evolved in the legal arena and as Korean reconciliation has begun to occur. The process of repatriation itself shows a certain balance between the law and freedom of thought in South Korea. The National Security Law cannot punish political prisoners as harshly as it once did. It could not, for example, stop the making and showing of a film of the unconverted political prisoner. But, at the same time, it is still alive. That conundrum, that imperfect progress, leads many scholars, human rights organizations and activists, and political figures to call for the abolition of the National Security Law and the full embrace of freedom of thought.

References

In English

- Cummings, Bruce. 2005. *Korea's place in the sun: A modern history*. Revised Edition. New York: W.W. Norton.
- Diffrient, David Scott. 2000. Seoul as cinematic cityscape: *Shiri* and the politico-aesthetics of invisibility. *Asian Cinema* 11(3): 76–91.
- Foucault, Michel. 1979. *Discipline and punish: The birth of the prison*. New York: Vintage.
- Kim, Kyung Hyun. 2004. *The remasculinization of Korean cinema*. Durham: Duke University Press.
- Seo Bo-Myung. Forthcoming. Reunifying identities: A reflection on contemporary cinema in South Korea. *Korean and Korean American Studies Bulletin* 12.
- Shin Gi-Wook, James Freda, and Gihong Yi. 1999. The politics of ethnic nationalism in divided Korea. *Nations and Nationalism* 5(4): 465–484.
- Suh Sung. 2001. *Unbroken spirits: Nineteen years in South Korea's gulag*. Trans. Jean Inglis. Lanham, MD: Rowman & Littlefield.

In Korean

- Choe Jeong-Gi. 2002. *Bijeonhyang janggisu (Unconverted long-term prisoners: Korea locked inside the prison cell)*. Seoul: Chaeksesang.

- Chun Taek-Soo, Han Do-Hyun, et al. 2005. *Seonjin gyeonje jinibgwa beopchi wollu hwaknib: isangkwa hyeonsil (Driving towards the advanced economy and establishing the rule of law: Ideal and reality)*. Seoul: Baeksan Seodang.
- Han In-Seob. 1992. Gukga boanbeop-ui pyeji-ui danguseong-kwa jeolbakseong (The necessity and urgency of the abolition of the national security law). *Changjak-gwa bipyeong* (Creative Writing and Criticism) Winter: 255–264.
- Lim Hui-Seob. 1974. Hangukinui beopuisik-e gwanhan sahoehakjeok yeongu (A sociological study on Koreans' legal consciousness). *Beophak* (Legal Studies) 15(1): 33–55.
- Pak Won-Sun. 1997. *Gukga boanbeob yeongu (Studies on the Korean national security law: The history of Korean national security law)*. Revised Edition. Seoul: Yeoksabypyeongsa.
- Yang Seung-Doo. 2001. Hangukui beopmunhwa siron III: Hangukui yeoksajeok danjeolkwa beopmunhwa (An essay on Korean legal culture III: Historical discontinuities and legal culture in Korea). *Yeonse dae beophak yeongu* (Legal studies in Yonsei University) 11(1): 1–24.

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PART 4
CHINA

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CHAPTER 9
DID QIU JU GET GOOD
LEGAL ADVICE?

Jerome A. Cohen and Joan Lebold Cohen

Yearning for justice is universal. Although citizens of a Western-style democracy may believe that this passionate desire is more fully realized under their type of government than under others, every political system confronts the challenge. *The Story of Qiu Ju* (*Qiu Ju da guansi*, dir. Zhang Yimou, 1992) offers a remarkable view of one Chinese woman's effort to obtain justice against the headman of her village, who is part bully and part hero. Her quest—from village, to township, to county seat, to city—leads to unexpected consequences, far from the result that she wished for.

How is justice defined in China, and how is it achieved? What roles do social institutions play, as compared with official, legal institutions? And what is the relationship between law and justice in China's political-legal culture? These are fundamental, eternal questions, and the answers to them are especially complex in traditional settings that are in the midst of rapid modernization.

The People's Republic of China (PRC) is currently the world's foremost example of this complexity. Despite, or perhaps because of, its enormous economic progress, much of the country is seething with a sense of injustice, especially in the rural areas inhabited by over two-third of its 1.3 billion people. Both domestic and foreign observers have increasingly noted that China's economic success has failed to narrow the millennial chasm that has separated its farmers from their urban compatriots, and is actually widening the gap to a dangerous extent. Insufficient income and a surplus of labor, unfair exaction of taxes and fees, inadequate and expensive health care and education, nonexistent unemployment and retirement benefits, hideous and widespread environmental pollution, arbitrary deprivation of the land-use rights of farmers and their village collectives, often coercive abortion and sterilization measures, invidious discrimination

against women and the handicapped, protean corruption among local officials, and failure to keep the promise of village democracy and transparency in government have stimulated some 200 million rural Chinese to move to the country's burgeoning cities. Although the living conditions of these migrants are often appalling and they confront social as well as legal discrimination, the remittances they send home frequently make the difference between survival and starvation for the families left behind.

Not surprisingly, the plight of rural people has spawned a huge number of disputes—between local Communist Party or government officials and the villagers they rule, between the villagers themselves and even between village, township, county and city officials, on the one hand, and their nominally superior provincial and central government counterparts, on the other. Disputes and social protests have never been strangers to the Chinese countryside. Yet in recent decades “rights consciousness” has been spreading not only among urban dwellers but also among rural people. Since 1979 the central authorities have made prodigious efforts to legitimate their rule by establishing “a socialist rule of law” to replace the chaos of the Cultural Revolution and by educating the masses to appreciate the country's Constitution, legislation, and legal institutions. In response to both domestic and foreign pressures, the regime has even recognized the concept of “human rights,” recently enshrined in a Constitutional amendment. And the media—television, radio, film, print journalism, the Internet, and other electronic advances—have brought these new notions, values, norms, and institutions down to all but the most remote villages, encouraging the belief that, if letters to and visits with relevant officials and other informal, administrative, or political techniques of handling social and economic grievances fail to provide satisfaction, the formal legal system might well do the job.

Unfortunately, thus far at least, the law enforcement agencies and the legal system in the countryside have themselves largely failed to meet popular and central government expectations. Indeed, they have often become instruments of oppression manipulated by the same officials whose negligence, abuses, and corruption have stirred their constituents to seek relief through the formal legal system. This in turn has only further fueled the righteous indignation that has increasingly produced public demonstrations, mass protests, and sometimes large-scale and extremely violent incidents (Chen and Wu 2006; Cohen 2006). Citizens' increasing “rights consciousness” is teetering on the brink of “rights disillusionment” as the government's much-touted legal reforms often fail to translate into increased protections in practice.

In these circumstances, is it any wonder that China's highest Party and government leaders have recently released by far the most forceful of their recurrent calls for the construction of “a new socialist countryside,” one that will shape “a harmonious socialist society, achieving social fairness and

justice. . . .”? (*Beijing Review* 2006, 23). As the Director of the Poverty Alleviation Office of the PRC State Council has emphasized, this will require measures to “safeguard farmers’ democratic rights and raise their legal awareness” (Liu 2006, 26–27). Plainly, issues of social justice and legal rights will feature prominently in the resurrection of the countryside, which the central government has termed “the foremost task facing China in the 2006–10 period” (*Beijing Review* 2006, 23).

Why Qiu Ju?

Against this background, we can extol the prescience and the genius of China’s famous filmmaker Zhang Yimou who, fourteen years ago—a decade before matters of rural justice and law captured the attention of political and social critics inside and outside China, brilliantly brought to the screen *The Story of Qiu Ju*.

Zhang Yimou explained his motivation as follows:

This is a very ordinary story that happens all the time in China. One never knows who to talk to, what to do, where to go. Most problems are not so bad to start with; they only become so because of the workings of the bureaucratic system and the ordeals you have to go through. In China, you have to try twenty times, spend years in order to solve the most minor problems. Officials don’t make any mistakes really, but in the end, there’s never any answer. To request that something be done is the beginning of democracy. With this film, I wanted to say that every Chinese—and not only the peasants—should do the same thing: to fight for their right and discover themselves in the process. (Silbergeld 1999, 129; see also Yang 1993)

Qiu Ju is an unusually determined rural woman who seeks an apology from the village boss because he beat up and injured her husband. Frustrated by the headman’s authoritarian attitude and obstinate rebuff, this semi-literate farmer pursues the promise that legal processes will deliver justice.

Although Zhang Yimou made *Qiu Ju* in order to encourage ordinary Chinese to use the legal system to fight for their rights, some important Chinese scholars, concerned that the PRC has gone too far and too fast in its efforts to import Western legal institutions, norms, and procedures, have made this film their poster-child. They claim it illuminates their country’s need for a legal system that reflects China’s circumstances and distinctive political-legal experience, one that draws more upon native rather than alien resources (Zhu 2000 provides a classic formulation of this position and contains an extended commentary on *Qiu Ju*, with a brilliant analysis by Upham 2005). Yet, for many of China’s human rights activists and social reformers, *The Story of Qiu Ju* has become an inspiration, an exhortation to

use the new legal system as a weapon to protect the rights and interests of the country's underclasses and of all those who suffer injustice. For them "*Qiu Ju*" has become a verb, meaning to go to court in an effort to right a wrong.

How should the rest of us understand this poignant film, most of whose "actors" are really authentic local people? They give the film a semi-documentary feeling, but is their portrayal of rural people accurate? Is the film, which was shown to Chinese audiences, unlike some of Zhang's other films considered too controversial for domestic consumption, merely a part of the PRC's effort to convince audiences that the nation's evolving legal system is actually warm, cuddly, and effective? In presenting the nexus between village life and the formal legal system, is Zhang Yimou fair to both? Is Qiu Ju a representative figure or an obsessive compulsive? Would she have obtained the justice she sought from the legal system if she had been better advised—by the police, her lawyer, or the courts? Is the film really a giant "double entendre," on the surface a candied version of reality but, to a sophisticated Chinese audience, a rollicking spoof of the system?

The Plot

Qiu Ju's quest for justice is relatively straightforward, though increasingly legalistic. She and her husband, farmers in a small village, are expecting their first child. The story opens just after an argument between her husband and the village headman over the husband's refusal to follow the headman's instruction not to build a shed to dry their chili pepper crop on land designated for planting. When the husband questioned the headman's legal authority for frustrating his plan, the headman replied: "I am the law in this village." That led the angry husband to mock the headman's failure to produce male heirs. The headman then punched the husband in the chest and brutally kicked him in the "vitals."

We first see Qiu Ju, together with her sister-in-law, dragging her injured husband by cart to a doctor in the township. On their way home, she tells her husband that she is worried that his groin injury might prevent him from fathering another child if the government policy limiting each family to only one child should be relaxed. After returning to the village, Qiu Ju goes to the home of the headman and boldly asks him what he is going to do to make amends. Despite his wife's evident support of Qiu Ju, the headman, preoccupied with "saving face," refuses to admit he has done anything wrong and arrogantly snaps: "There is nothing to be done." On hearing this, Qiu Ju mutters aloud: "What kind of justice is this?"

After consulting her family, she decides to go to the township in search of justice. There, at the police station, she finds Officer Li, who is responsible for supervising public order in her village. She shows him the medical report

and describes the entire incident. Officer Li says that both sides should engage in self-criticism and agrees to visit the village to mediate the dispute. A few days later, after urging the headman to settle the matter by compensating the victim with 200 *yuan* (about \$36 in 1992) for medical expenses and lost wages, his efforts appear to be successful. Although Qiu Ju wants an admission of wrongdoing and an apology, Officer Li persuades her to interpret the payment as the headman's implicit recognition of his error. Unfortunately, when Qiu Ju goes to collect the payment, the headman haughtily throws the twenty ten-*yuan* notes to the ground in front of him "so you will have to bow before me twenty times in order to pick it up. Then we will be even." This, of course, suggests the traditional Chinese "*ketou*" (kowitz) before authority. Angry and puzzled, Qiu Ju, who remains calm on the outside but whose insides are fueled by her chili pepper crop, leaves the money on the ground and, as she walks away, says: "I'll decide when we are even."

Determined to obtain more effective help, she tries to consult Officer Li again, but, fatefully, he is not available. Then, without waiting for his advice, she decides to file a formal complaint against the headman at the township police's superior agency, the Public Security Bureau (PSB), in the distant county seat. This escalates the dispute to a level that both Officer Li and the headman consider worrisome. It also leaves Qiu Ju uncertain how to present her complaint. While waiting at the county PSB, she notes that other petitioners have written documents but feels unable to prepare her own. When told that a market scribe outside the post office can help her, she pays him to draft a complaint that they agree should be moderate rather than "merciless" in its content. But the county PSB, under the then prevailing security administration punishment regulations, merely issues a decision requiring the headman to compensate his victim on the same terms as the failed mediation proposal. Because the decision does not also call for an apology, Qiu Ju is dissatisfied.

Since the county police had already told her that their decision could be reconsidered by the city PSB, she does not hesitate to request reconsideration, even though the city is a strange, far-off place, her husband and family are criticizing her persistence and the increasingly worried Officer Li continues to press both sides for a mediated solution. This energetic and resourceful local policeman, fully aware that Qiu Ju too is preoccupied with "face," almost succeeds by taking Qiu Ju's family some snacks that he pretends the headman bought for them as a token of apology. When Qiu Ju discovers the ruse, however, she rejects the settlement, leading the exasperated Officer Li to exclaim: "She's as pigheaded as the village chief!"

In the city she finds a cheap hotel near the PSB. Its experienced and sympathetic manager, who relishes giving gratuitous legal advice, counsels her to take the extraordinary step of calling on the director of the PSB at his

home rather than attempt to see him at his office, which is swamped with more important cases. Although Director Yan declines the presents she tries to give him, he is not offended by her aggressive efforts and indeed shows a personal interest in the plight of this poor, pregnant farmwoman. Perhaps for that reason, although the city PSB affirms the decision of the county bureau requiring no apology, it nevertheless increases the compensation award by a modest fifty *juan*.

On learning of the city PSB's decision, the headman makes a genuine attempt to "put the matter behind us" by discussing it with Qiu Ju's husband. "You can sue me if you want," he says, but then gives him the 250 *juan* that the decision required as compensation. Although they agree to settle the matter on this basis, Qiu Ju returns the money after the headman still refuses to admit any wrongdoing. "Take your case to the Gods in Heaven," he shouts amid a hail of obscenities. And, as she once again leaves for the city to pursue her vision of justice, her furious husband tells her: "Go and don't come back!"

In the city, Director Yan, seeing that Qiu Ju remains dissatisfied, informs her that the decision of his PSB can be challenged in the local court and suggests that she consult a lawyer whom he knows. Despite the fact that Officer Li has warned her that this is a case for informal mediation and "not a case for court," Qiu Ju, after a brief meeting with the busy lawyer, retains him to bring suit under the then recently enacted Administrative Litigation Law (ChinaCourt 2003), in the hope of convincing the Basic Court to revise the city PSB's decision. Both the lawyer and the sympathetic hotel manager, who fashions himself an amateur legal advisor, lead her to believe that the court will "do the right thing."

On the day of the trial, however, Qiu Ju is shocked to discover that she has sued her new friend Director Yan, chief of the city PSB, challenging his decision, and not the village headman. After an explanation by her lawyer and assurance from Director Yan that his status as defendant is merely a technical legal matter and has nothing to do with personal blame, she proceeds with the hearing, only to have the Basic Court uphold the PSB decision.

Qiu Ju is stunned and baffled by this unexpected defeat. However, her lawyer and Director Yan advise her of the possibility of still further legal review, this time by the city Intermediate Court. When, once again, she asks whether "the right thing will be done," they assure her. Qiu Ju is on the verge of giving birth. She is also running out of money and energy and has strained the tolerance of her family and neighbors, not to mention that of the headman. But she stubbornly opts for appeal.

Yet, before the Intermediate Court can review the case, on a bitterly cold Chinese New Year's eve, she goes into labor with only the help of a village midwife. She soon develops life-threatening complications that require her to be rushed by stretcher-bearers to the distant hospital. Her distraught husband,

unable to summon the necessary village manpower himself, feels compelled to wake up his nemesis, the headman, to beg him to organize transport. This he does, grudgingly at first but effectively, and leads the group over snow-covered terrain to the hospital. The headman's dramatic rescue saves the lives of mother and baby and erases the resentments nursed by Qiu Ju and her husband. That the baby is a boy and healthy adds to the jubilation.

Ironically, a month later, as the grateful parents hold a party for the village to celebrate the happy event and as they await the arrival of their guest-of-honor, the now heroic headman, they learn that the police have just taken him away in disgrace to serve fifteen days in a public security detention cell by order of the Intermediate Court. In the course of its review of the case, the court had requested the husband to obtain X-rays of his injuries, which showed that the headman had broken one of the husband's ribs. This transformed the case into a more serious offense, one that called for incarceration rather than mere compensation. On hearing this startling news, Qiu Ju leaves the party to run fruitlessly after the police van in the vain hope of explaining that this was not the outcome she sought. As the film ends, Qiu Ju's face makes clear that this could not be justice.

What Should We Make of the Story?

Is Qiu Ju a rollicking spoof? In 1992, when director Zhang Yimou introduced it at the New York Film Festival, he said that this was the first film that he had made where the audience laughed nonstop from beginning to end (Cohen 1992). Zhang was obviously referring to a Chinese audience, because most foreigners would inevitably miss much of the humor. A Chinese audience knows how rare it would be for a countrywoman to demand an apology from her village headman and then file a complaint against him and doggedly pursue it from township police mediation through city PSB adjudication and finally into the courts.

Much of the humor comes from vignettes featuring memorable characters: the elderly and frank complaint-writer, still useful to semiliterate farmers seeking official remedies, who cautions Qiu Ju that exaggerated allegations to the police can yield surprisingly harsh results for the accused; the equally venerable innkeeper who has seen hordes of petitioners come and go but nevertheless encourages Qiu Ju's naïve optimism; the colorless, reticent, and overburdened lawyer, who evidently does not think there is enough of a fee for him to justify spending much time with his new client; and the loyal but simple sister-in-law, who plays Sancho Panza to Qiu Ju's Don Quixote on their many journeys to the bureaucracy.

The biggest joke of all is Qiu Ju herself, waddling through town and city, hugely pregnant in an unflattering peasant outfit, brilliantly played by China's most glamorous actress, Gong Li.

Yet to dismiss the film as a farce would be a mistake, for it reeks of authenticity. The cinematography by Qi Xiaoming, Yu Xiaoqin, and Lu Hongyi captures the monotone of rural China. Only rarely do flashes of color punctuate the narrative, as when Qiu Ju gathers up the firecracker-red strings of chili peppers that finance her trips to town and city or when she dons a celebratory red outfit for the party that marks her son's first month. Relations between her family and other villagers, including the headman's family, move slowly and easily and seem natural and unrehearsed. The film vividly illustrates the inextricable commingling and reciprocities of village life.

Qiu Ju's city visits also fit an authentic pattern. Like many country folk who visit the city, she is disdained, tricked, and victimized for her naïveté, her lack of education, and her appearance. Her first pedicab driver shamelessly overcharges her. Her effort to dress like an urbanite proves hilarious as she cluelessly wears her new jacket on top of her old one. And the sympathetic innkeeper tells her how some hotel guests can extract a kickback from their room bill.

Speaking of the film's authenticity in an interview, Zhang Yimou noted that he used only four professional actors. All the others were ordinary people, often shot with hidden cameras and microphones similar to the equipment used by the police! The distinguished scholar Jerome Silbergeld has called this technique "pseudo-documentary" (Silbergeld 1999, 130). Zhang himself has said "that as a filmmaker he wanted to go out to the country to shoot poor places . . . [to] find something interesting, some meaning to life, in those places . . . on the fringes of society. They're places where the patterns of life are most clearly seen" (Stemsel 1987, 135–136).

Unfortunately, the one aspect of the film that is not realistic goes to its core—the relation of rural people to those who administer justice. Qiu Ju's consistently easy access to the police, who graciously welcome and advise her at every level, culminating in PSB Director Yan's implausible, cheery patience, strikes a false note. Though these sugary scenes add to the amusement of Chinese audiences, who know the real world, they detract from the film's seriousness. Of course, there are kindly police at every level of Chinese government, including the countryside. Yet kindness is surely not the hallmark of the police. Like their counterparts in many countries, Chinese police are often nasty and brutish, and in rural areas frequently retain thugs to take on some of their most vicious and lawless assignments. There are also some genial and beloved village headmen, but far too many are long-entrenched bullies who, with the aid of law enforcement and other officials, dominate their neighbors and frustrate the village democracy proclaimed by the central government. The big, burning question for law and justice in rural China is whether the political-legal system will eventually become capable of curbing such violations and abuses.

What light does *The Story of Qiu Ju* shed on this issue? The plain message of the film is that the legal system is alive, accessible, and well. Not only is it presented as staffed by friendly and sincere police but also by competent, conscientious judges who are not afraid either to modify police decisions or to punish village leaders. By illustrating the operation of the then new Administrative Litigation Law, the film accords with the spirit of 1992, when Deng Xiaoping's "Southern Tour" sought to revive the nation's pride, energy, and belief in the government's legitimacy after the bleak period initiated by the Tiananmen tragedy of June 4, 1989. With blissful disregard of the actual situation, where courts are generally controlled by the police and other local authorities, the audience is given to understand that a "socialist rule of law" has arrived in the Chinese countryside.

In fact, some Chinese scholars have questioned whether Zhang's portrayal of the operation of the Administrative Litigation Law is accurate and claim that it gives too much power to the courts (Gu Yongzhong 2005). They argue that at the time the film was made, the limited scope of judicial review of PSB administrative adjudications did not permit the reviewing court to substitute its decision for that of the PSB in a case of this kind and itself sentence the headman to detention. In their view the most that the court could generally have done was to reverse the PSB decision and send the case back for a new PSB decision that would take account of the court's judgment. Some experts even question Qiu Ju's right to obtain judicial review of the PSB decision, on the ground that the decision did not directly affect her, but only the headman and her husband. Given the limited information that the film provides about the case, apart from speculating about the consequences of different possible fact situations, one can do no more than note that Chinese courts possessed and practiced considerable flexibility in matters of this sort and that imaginative legal argumentation might well justify Zhang Yimou's portrayal, even though subsequent changes in the law make the film a less accurate reflection of the current situation.

Our own suspicion is that, if Qiu Ju's world operates like the rest of China, her new friend Director Yan may have tried to do her a favor. As PSB chief, he is probably leader of the Party political-legal committee (*zhengfa weiyuanhui*) that "coordinates" the activities of the city's police, prosecutors, judges, and other legal officials. As such, it would have been easy for him to ask the Party committee to instruct the Intermediate Court to give the case a fuller hearing than usual and even to take the unusual step of sending court personnel directly to urge Qiu Ju's husband, not Qiu Ju or her lawyer, to submit X-rays of his injuries as new evidence. That could explain why the court personnel told him that the court was considering the case very seriously.

Whatever the legal merits of the Intermediate Court's judgment, what about its justice? From the viewpoint of the needs of Chinese society, punishment of a village headman for lawlessly beating and injuring one of his constituents provides a desirable deterrent against future similar misconduct. Indeed, had the headman not been provoked by the husband's refusal to follow planting instructions and the subsequent insult to his procreative capacity, the headman might have been prosecuted for a crime and sent to prison instead of merely being given short-term administrative detention for a minor offense against public order.

But, from Qiu Ju's point of view, the legal system certainly did not mete out justice. She hadn't meant to sue the police chief, and she surely hadn't meant to humiliate the headman and put him behind bars, even before he came to her rescue as she gave birth. She simply wanted to obtain a dignified apology and then resume good relations with the headman, whose family continued to call her "Aunty" throughout the long struggle. In legal parlance, Qiu Ju sought "restorative justice." She wanted the legal system "to do the right thing," to repair the harm—both material and intangible—that resulted from the headman's assault. She demanded an apology, not some sort of eye-for-an-eye "retributive justice." For her the judgment of the Intermediate Court misfired.

Although the film does not show us the reaction of the headman to his unexpected punishment, we can fairly infer from his previous responses to Qiu Ju's efforts that he viewed himself as the victim of injustice more than the perpetrator. He undoubtedly believed that, having given him the task of enhancing village agricultural production, the official system should have remained aloof and allowed him to get the job done through millennial methods of control instead of intervention. The scenes of Qiu Ju and her husband visiting the headman's house, which is overrun with fresh-faced daughters and no male heirs, make it clear that the sharp-tongued husband's insult must have stung.

What lesson should China's villagers take away from this tale? Does its subtle subtext reinforce the inherited Chinese view that it is better to avoid going to law, even if one is the aggrieved party, and to accept the outcome of informal mediation by an authoritative figure, even if the proposed remedy is not entirely satisfactory? And is this still especially true for women, who were traditionally supposed to stay home and remain silently compliant? Is the moral of the story that for ignorant farmers to do otherwise is to play with fire by risking unforeseen and unpleasant consequences?

After all, if Qiu Ju had been more flexible in implementing Officer Li's suggested compromise, she would have spared herself endless hardship and gone on with her life as before. But, in this film, as in Zhang Yimou's previous films—*Red Sorghum*, *Ju Dou*, and *Raise the Red Lantern*—the

protagonist is a strong woman, also played by Gong Li, who is not afraid to challenge the conventions of society in order to advance her cause. As for the headman, of course, his life would have been much better had he admitted his mistake or at least carried out Officer Li's proposed settlement in good faith instead of arrogantly flaunting his power by throwing the settlement money to the ground.

Did Zhang Yimou Underestimate the Legal System?

Finally, has Zhang Yimou done justice to the legal system? Although he presents it as a functioning, credible option for dispute resolution in the Chinese countryside, has he actually underestimated its resources? If he and Qiu Ju had known more about the legal system, might it have served her better? This is another way of asking whether Qiu Ju received poor legal advice. Not from Officer Li, who repeatedly advocated the sensible solution of a quick, informal, inexpensive compromise that would have reconciled the parties in the familiar setting of their village, but from the county and city police, her lawyer, and the courts themselves.

Since Officer Li had been handling the matter, when his mediation failed, it was natural for Qiu Ju to take the case to his superiors in the county seat. After all, the public security bureaus of China decide some 7.5 million minor offense cases each year, including many assault and battery cases such as this, and have a wide range of punishments at their disposition, not only warnings, modest fines, and short-term detentions but also compensation to victims and even apologies. Moreover, unlike going to court, asking the PSB to decide the dispute did not require Qiu Ju to spend any money on fees. The police would have accepted her complaint even if she hadn't retained the complaint-writer to assist her, although the document he prepared may have led the police to take her more seriously than otherwise.

One can also understand why, when the county PSB's decision failed to require the headman to apologize, she took advantage of the opportunity to seek administrative reconsideration of that decision by the city PSB. Again, there were no fees to pay, although she thought it politic to buy a couple of presents for Director Yan before calling at his home. Of course, Qiu Ju faced rising costs as her quest took her further from home—as symbolized by the increasingly large sales of chili peppers used to fund each successive stage of her complex travel route involving bicycle, tractor, minibus, and large bus.

No one apparently emphasized to her that a police decision could lead to the headman's detention. But it was only after review by the city PSB disappointed Qiu Ju that the legal experts really let her down. Both Director

Yan and the lawyer suggested that she could challenge that decision in court by bringing a suit against the PSB under the then new Administrative Litigation Law. Yet neither told her that there was an obvious alternative. Her husband could surely have brought a civil suit against the headman for damages and an apology, and Qiu Ju herself might have joined in the case, not only as his representative but also in her own right because of the loss of consortium she had suffered as a result of his injury. This would have avoided the need to make Director Yan her adversary in court and would have eliminated the risk that the court might order the PSB to punish the headman with detention. Instead, the headman himself would have been summoned to court, but in a civil case, in which the worst that could have happened to him would have been a judgment demanding that he pay damages and apologize, precisely the justice that Qiu Ju wanted.

In view of the fact that the damages sought by the plaintiffs would have been modest, the court cost for filing their civil suit would probably not have been more than that of the administrative suit that she brought, and the lawyer's fee need not have been greater. Moreover, as a practical matter, it would have been easier to convince the court to support their claim in a civil suit against an individual, even a village leader, than in an administrative suit to modify the decision of the PSB in a minor offense case. In those days administrative litigation was still a legal novelty in China, especially against the PSB. Even in 2005 there were fewer than 100,000 such cases nationwide, relatively few against the PSB, compared to over 4.3 million civil and economic cases. In these circumstances it would not have been surprising, when the lawyer went to court to file the administrative suit, for the staff of the court's registration division (*li'anting*)—if it had understood what Qiu Ju wanted—to have raised the possibility of filing a civil action instead.

Why no one suggested this alternative is a question neither acknowledged in the film nor even in the original story, whose author, Chen Yuanbin, has studied law and has been a “legal worker” and member of the Anhui Province Legal Society (Chen Yuanbin 1992). Surely a simple civil suit was familiar to all of Qiu Ju's official, legal, and informal advisers at the township, county, and city levels, if not to ordinary farmers. Certainly the headman knew about this possibility, since at least twice, with his customary bravado, he told the husband that they could sue him if they wished. Perhaps her advisors believed, given the great pressures on Chinese civil litigants to settle their disputes through the mediation of third parties, whether inside or outside court, that in any event the outcome would have been an informal settlement similar to that proposed by the police.

Perhaps they were all too busy, and Qiu Ju was too inarticulate to clarify what she wanted in a dispute that everyone but Qiu Ju and her husband regarded as relatively unimportant. Yet, once the matter went to court, civil

litigation should have seemed a more promising alternative. Pursuing that course, however, would have robbed the film of its dramatic denouement, the shocking detention of the headman, an ending that is only one of the many departures from the original story. It gives the movie an exquisite twist and an ambivalence that makes *Qiu Ju* a film to remember. So much for law, but what about justice?

References

- Beijing Review*. 2006. Putting rural policy on the front burner. April 6: 23.
- Chen Guidi and Wu Chuntao. 2006. *Will the boat sink the water?* Trans. Zhu Hong, from *Zhongguo nongmin diaocha*. New York: Public Affairs.
- Chen Yuanbin. 1992. *Wan jia su song*. Beijing: Youth Publishing House.
- ChinaCourt. 2003. Administrative Procedure Law of the People's Republic of China. <ChinaCourt.org, <http://en.chinacourt.org/public/detail.php?id=2695>>.
- Cohen, Jerome Alan. 2006. Legal reform at the crossroads. *Far Eastern Economic Review* March: 23–27.
- Cohen, Joan Lebold, 1992. Notes from Zhang Yimou's Introduction, New York Film Festival. Unpublished.
- Gu Yongzhong. 2005. Interview, CCTV Legal Channel. <<http://www.cctv.com/program/fljt/20051231/101178.shtm>>(accessed August 16, 2006).
- Liu Jian. 2006. New socialist countryside—What does it mean? *Beijing Review* April 6: 26–27.
- Silbergeld, Jerome. 1999. *China into film*. London: Reaktion Books.
- Stemsel, George Stephen, ed. 1987. *Chinese film*. New York: Praeger.
- Upham, Frank K. 2005. Who will find the defendant if he stays with his sheep? Justice in rural China. *Yale Law Journal* 114: 1675–1718.
- Yang, Mayfair Mei-hui. 1993. Of gender, state censorship and overseas capital: Interview with Chinese director Zhang Yimou. *Public Culture* 2: 306–307.
- Zhu Suli. 2000. *Sending law to the countryside: Research on China's basic level judicial system (Song fa xiexiang: Zhongguo jiceng sifa zhidu yanjiu)*. Beijing: China University of Political Science and Law Press.

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CHAPTER 10
BLOOD IN THE BATHROOM:
SHANGHAI TRIAD AS GANGSTER NOIR

Mary Farquhar

Shanghai Triad (*Yao a yao, yaodao waipo qiao*, 1995) is Zhang Yimou's only gangster film. The gangster genre is a vital Hollywood staple, which foregrounds violence. In its *noir* form—gangster *noir*—the violence holds a “dark mirror” to modern society (Cook 1990, 471). In *Shanghai Triad*, Zhang manipulates the conventions of the Western gangster film and *film noir* to tell a story of Chinese triads, where gang law governs society from generation to generation. He juxtaposes the city as a dark, criminal space against images of the countryside as a place of past innocence, now invaded by gang wars. The film therefore talks about modernity but turns on a premodern sense of Chinese law, which pits punitive rules against a remembered but vanishing space of virtue.

A pivotal bathroom scene in *Shanghai Triad* displays Zhang's version of violent gang warfare in 1930s Shanghai. In the scene, a young country boy called Shuisheng is disturbed at night in a mansion belonging to the city's Godfather. He tracks strange sounds, shadowy figures, and blood-red footprints through the house. He arrives at the bathroom door. The door swings open. He sees his uncle lying amongst bloody corpses killed during a rival gang raid. The Godfather is, however, only wounded. He leans over and says to Shuisheng: “Fat Yu's gang did it. Your uncle died protecting me. Take a good look. His open eyes cry out for vengeance.” Vengeance does indeed follow in line with the plot, the generic conventions of the gangster film, and the moral anarchy associated with the *film noir* style. The revenge is brutal and, in the final scenes of the film, literally turns the innocent boy's world upside down.

This crucial bloody bathroom scene sets up the themes of social order, revenge, film, and genre to be explored in this chapter through the law and film paradigm. The first section maps the twentieth-century background to

law and film or, more accurately, lawlessness and film in Zhang Yimou's work. As the foremost filmmaker in contemporary China, many of Zhang's films continue a lineage of mainland Chinese cinema, in which law as an ethical system governing society is either inadequate or absent. This is the background to *Shanghai Triad*. In the second section, I suggest that the only law in *Shanghai Triad* is revenge, which Richard Posner argues has its own logic as a legal prototype in Western literature (Posner 1998, 49–92). Revenge is central to the gangster genre, which often functions as an inverted morality tale, with gangsters pitted against so-called legitimate society. The third section turns from narrative to imagery, the primary language of film. A central concept in film theory is the gaze or the look. The film's counter to the bleak story of Shanghai's underworld is found in the moral gaze of its central character, Shuisheng, on the Godfather's world. With the absence of justice and law as institutions—state or otherwise—Zhang instead sees a nightmare world through the eyes of a naïve boy. The boy's journey maps his and, by implication, China's transition from rural innocence to urban corruption. In this sense, *Shanghai Triad* continues to explore the problems of Chinese patriarchy that Zhang raises in his earlier films. The final section turns to this film as part of the gangster genre imbued with the mood of *film noir*: a bleak and stylized vision of seductive greed and moral breakdown, where all rules including gangster rules are unstable, invasive, and cannibalistic. The Godfather in *Shanghai Triad* maintains total power through a vengeful killing spree on a rural island, polluting the countryside just as he has polluted the country boy. There is no happy ending.

Background: Law and Zhang Yimou's Films

Shanghai Triad is a gangster film. However, as Quentin Tarantino has remarked, the gangster film is now a transnational genre, with different cultures telling the same story of the mob, the mafia, the yakuza, or the triads.

But we're all telling them differently, because we're from different cultures, different nationalities, and that's what's really interesting me, how different cultures attack the same stories. (Yaquinto 1998, 230–231)

The Godfather in *Shanghai Triad* is both evil and omnipotent. In creating a Chinese Godfather, Zhang deliberately set out to make his gangster film different from those of Hollywood and Hong Kong: it must represent Chinese psychology, personalities, and fates (Wang Bin 1998, 237). It also represents a Chinese socio-legal order. We therefore need a careful translation of Western law and film approaches into a mainland Chinese cultural context.

Shanghai Triad belongs to a film lineage that tells about law and society in twentieth-century China through images of social disorder and injustice. Of course, China has its own history of law and literature (from which law and film emerged), as Jeffrey Kinkley's magisterial work on Chinese law in fiction demonstrates (Kinkley 2000). Indeed, the first very popular, feature-length Chinese film *Yan Ruisheng* (dir. Ren Pengnian, 1921) was about an actual murder case in 1920s Shanghai, in which a scholar and his two friends rob and kill a famous Shanghai prostitute known as "The Queen of Flowers." All three are caught and executed—the law worked! However, a dominant trait in Chinese cinema is the absence of adequate law and state justice, where absence acts as a reformist or revolutionary stimulus for changing the social order. *Shanghai Triad* is a *fin-de-siècle* representative of this corpus of work.

Law is reasonably settled in the West. This was not the case in twentieth-century Chinese societies, where law and indeed the state have been unstable entities through decades of colonization, war, and revolution. An unjust social order, especially for women and the young, is the theme of many of Zhang's movies, set in the 1920s to the present.

Shanghai Triad is set in Shanghai, China's economic and cultural hub in the Republican interwar period (1918–1937) (on cinema in this period, see Zhang 1999). With the end of the Qing dynasty in 1911, the new Republic of China introduced modern criminal laws modelled on Japanese and German codes. Not only were these codes alien and nationally unenforceable during periods of war and division in China, the models were clearly lacking. For example, Japan invaded Manchuria in 1931 and central China, including Shanghai, in 1937. The Japanese army instigated the Nanjing massacre at the end of 1937, during which atrocities (killing, raping, looting, and arson) against powerless men, women, and children continued for six weeks. The massacre is still remembered and still a political and diplomatic issue between China and Japan. All 1930s leftwing films, such as *Street Angel* (*Malu tianshi*, dir. Yuan Muzhi, 1937) set in Shanghai, describe a nation bereft of any social justice and divided by imperialism, class, civil war, and Japanese invasion. Many films return to the anti-Japanese war period. Half a century later, the first Fifth Generation films in which Zhang was the cinematographer are set against this war background: *One and Eight* (*Yige he bage*, dir. Zhang Junzhao, 1984) and *Yellow Earth* (*Huang tudi*, Chen Kaige, 1984). So, too, is Zhang's *Red Sorghum* (*Hong gaoliang*, 1987), which depicts the Japanese army skinning alive a Chinese fighter in front of a village. The Japanese do not intrude into *Shanghai Triad*, but Zhang's "blood in the bathroom" scene captures—and indeed understates—the violence of the period.

Zhang Yimou was born in 1951, just after the establishment of the People's Republic. From 1949 to 1978, film in China was a state-run

industry for mass education. New state laws were based on the Soviet model and aligned to socialist transformation as the primary political agenda. Class conflict dominated the screen, with revolutionary heroes and heroines meting out revolutionary justice, especially beginning in the later 1950s and early 1960s. Toward the end of Mao's period of rule, he launched the Great Proletarian Cultural Revolution (1966–1976) when film production virtually ceased. During this period (now called “ten years of chaos”), Chairman Mao's “sayings” had the force of law and were violently implemented by the Red Guards and later, as the central authorities began to regain control, by the People's Liberation Army. From 1976 onward, film after film (called “scar” or “wound” film) documents the injustices of this period. Fifth Generation film in the mid-1980s became more daring with the opening of China and filmmakers criticized the Communist Party through allegory and ambiguity to evade censorship. The most outstanding example of the Party's failure, seen through its discriminatory “rules” as China's new patriarchy, is *Yellow Earth*.

In Zhang Yimou's first films as director, he continues the cinematic exploration of China's patriarchal rules through three early-twentieth-century families: a peasant family in *Red Sorghum*; an artisan family in *Ju Dou* (1990); and a literati family in *Raise the Red Lantern* (*Dahong denglong gaogao gua*, 1991). This trilogy refers again and again to the rules (*guiju*), not the law, that govern society as a perversion of the moral order. The trilogy was commonly read as an allegory of contemporary China, where law as justice is absent. Zhang's *To Live* (*Huozhe*, 1994) tells this twentieth-century history as an epic of survival from the 1920s, again through a fictional family, struggling through war, death, revolution, and Cultural Revolution. *The Road Home* (*Wode fuqin muqin*, 1999) focuses on a rural family, suffering against the backdrop of various political campaigns during the Maoist period. *Shanghai Triad* extends Zhang's family focus to a crime clan.

In the post-Mao period, Deng Xiaoping introduced a system of institutionalized socialist law to govern Chinese society. Zhang's *The Story of Qiu Ju* (*Qiuju da guansi*, 1992) is the only film that he has made directly on the clash between customary law and the modern legal system. In the film, customary law solves a village dispute whereas the new codes criminalize a civil matter, reopen the dispute, and isolate the plaintiff—a pregnant peasant woman (Berry and Farquhar 2006, 158–162; Cohen and Cohen in this volume). In Zhang's work within this lineage, law in China clearly has an image problem. It is not at all surprising that positive law, as an ethical system of rules in the Western sense, is largely missing as a counterfoil to Zhang's images of injustice onscreen. Instead, many Chinese filmmakers project figures of virtue—whether they work for revolutionary justice,

wartime victory, nostalgia for the past, martial arts codes, family love, or just to survive—as the antidote to social injustice and national chaos. *Shanghai Triad*, however, lacks a hero or even an antihero.

Given China's socio-legal landscape, it is not surprising that films, including gangster films, reflect a different social order to that of the West, as Zhang himself noted (Wang Bin 1998, 237). Most scholarly work on the gangster film refers to American films because it is one of Hollywood's most enduring genres. In their early years, American gangster films often glorified the urban gangster as a lower-class hero waging war against the capitalist system: he earns wealth by stealing it. The gangster holds a dark mirror to society because he (the gangster is usually male) inverts the American dream of wealth and power (Papke 1996). Violence is his hallmark, which led to censorship (the Hays Code in 1934) and a transient watering down of violence in the genre (Shadoian 2003). Susan Hayward summarizes the effect of censorship, whilst also noting that all generic classifications are slippery:

That is, without dropping much of the violence, they [the sub-genres of private-eye films and detective thrillers] now foregrounded the side of law and order resolving disorder. Told to put a stop to the heroization of gangsters and violence [the film industry] shifted the role of hero from gangster to cop or private eye. Thanks to the Hays code intervention, the seeds of film *noir* were sown. The sadism of the gangster became transformed into the guilt and angst of masculinity in crisis . . . the ambiguity of the city reflects the ambiguity and complexity of a society where corruption reigns and law cannot easily bring the guilty to justice. (Hayward 1996, 146–148)

Film noir continued the role of challenging the power of money as part of the American dream. As a visual style rather than genre, *noir* exhibits a bleak and stylized view of urban life. Andrew Spicer describes the *noir* universe as “dark, malign and unstable where individuals are trapped through fear and paranoia, or overwhelmed by the power of sexual desire” (Spicer 2002, 4). Zhang Yimou borrows aspects of the *noir* aesthetic in *Shanghai Triad* as a dark mirror to Chinese society: night-time city scenes contrasting with gaudy nightclubs; a dangerous *femme fatale*, the Shanghai sing-song girl played by Gong Li; high contrast lighting that produces threatening shadows or highlights faces and events from odd angles; decentered compositions, which fracture any sense of safety and stability; voyeuristic or reflection shots through doors and mirrors, to suggest a secretive and obsessive society; and a subjective narration through an alienated but powerless main character, a child. In Chinese, triads are called “black societies” (*heishehui*) so Zhang's film is, stylistically and literally, gangster *noir*.

However, Zhang Yimou also turns the gangster genre into an art-film, replete with his signature themes of the innocent and oppressed caught

within a web of obscene patriarchal rules. In doing so, he plays with generic conventions. In Chinese, the gangster film is variously called: “cops and robbers film” (*jingfeipian*) but there are no cops in Zhang’s story of Shanghai’s triads; “action film” or “fighting film” (*dongzuo pian* or *dadou pian*) but, unlike Hong Kong gangster movies, there is little fighting or action in Zhang’s film; and finally “robbers and bandit films” (*zeifeipian*) (Xu et al. 1999, 110), which is not the case in *Shanghai Triad* where the Godfather is portrayed as both robber and lawgiver. There is no escape: women and children are trapped, which is a feature of *film noir* and of much of Zhang’s earlier work.

In describing the triad world of Shanghai, Zhang resorts to allegory and ambiguity (Kraicer 1997). As with his first films, the historical background is before 1949, when the Nationalists ruled China, so any criticism of Chinese society at that time is in line with Communist Party policy on China’s degenerate pre-Communist past. However, Fifth Generation directors used visual and symbolic film language to shift the meaning to the present. Rey Chow talks of the force of Zhang’s images, which conceals an ethnography of China, “supposedly past but whose ideological power still lingers” (Chow 1995, 144–145). This lingering ideological power, embodied in evil old rulers, resides in *Shanghai Triad*’s Godfather. However, film censors became alert to such readings into the present and scrutinized the script for its politics. In a secretive ruling late in the planning process, Zhang was ordered to find local funding and forgo the French funding already negotiated for this film. Foreign finance and joint film ventures were a common method to bypass the censors and release new films directly on the international circuit. Zhang was further banned from finding overseas funding for the next two years (Wang Bin 1998, 258). The result is that Zhang acknowledges that *Shanghai Triad* is not one of his best films. It feels (and was) hurried and he says it lacks “emotion” (Zhang 2001, 112). As a result, it is one of the least discussed Zhang Yimou films.

It is clear from this background that the Western law and film approach needs reworking in a Chinese context. The approach is interdisciplinary, not intercultural. Most scholarly work refers to Western law in film (Machura and Robson 2001, 1). There is some debate in the West as to what constitutes a suitable “law film” but the discussion seems very Anglo-American: is it film narrowly about law, such as the courtroom drama; film about justice; or film genres that foreground issues of law and lawlessness, such as the detective or crime film? (Osborn 2001, 172–175). In the Chinese context, it needs to be about social disorder as much as about law and order. David Black construes the paradigm more broadly, lamenting that much work in the field relies on plot summaries rather than on law and film’s common language: symbolic representation and narrative (Black

1999, 9, 133). Any reliance on only plot or even narrative is a particular problem in any discussion of law in a Zhang Yimou film because his work is so highly visual. However, this is where I begin in the next section—revenge stories.

Law as Revenge: Blood in the Bathroom

The bathroom scene has a central role in *Shanghai Triad's* revenge narrative in terms of plot, place, and timeline. It is the only graphically violent scene in the entire movie. The rival gang's attack leads to the Godfather's temporary retreat from Shanghai to an almost deserted island. The scene happens on the third night in a story that takes place over seven days and nights (written in yellow characters on the screen), plus a coda. The plot structure is summarized below.

Shots that accompany the opening credits (Shanghai)

A fourteen year old country boy, Tang Shuisheng, arrives on Shanghai's docks, where he is picked up by his Uncle Liu, who works for the Tang family Godfather's opium smuggling gang.

Day One (Shanghai)

On the way to the Godfather's dance club, Shuisheng sees a hit on Fat Yu's rival gang in a warehouse, secretly organized by the Godfather's so-called blood-brother, Song. At the club, he meets the Godfather's mistress, the gorgeous sing-song girl Jinbao, whom he will serve. After the club, he accompanies Jinbao first to the Godfather's mansion and then to her mansion where she locks him in his small bedroom to let in her secret lover, Song.

Day Two (Shanghai)

Shuisheng goes to the club to see Jinbao sing and then accompanies her home, where he spies on her after she fights with Song in her bedroom.

Day Three (Shanghai)

Shuisheng goes again to the club with Jinbao and then accompanies her to the Godfather's mansion where he stands guard at Jinbao's door. Hearing noises, he discovers corpses in the bathroom, the result of a raid by Fat Yu's gang. At night, Shuisheng accompanies Jinbao in a get-away car.

Day Four (To the island)

The Godfather and a few trusted "family" members escape by boat to an island, inhabited only by a widow, Cuihua, and her beautiful nine-year-old daughter, Ajiao.

Day Five (Island)

Shuisheng watches as Jinbao visits the widow Cuihua and daughter, and then as she spies on the widow, sleeping with her lover.

Day Six (Island)

Jinbao, Ajiao, and Shuisheng sing a childhood song together, which gives the film its Chinese title. Jinbao suddenly sees the corpse of the widow's lover in the water. The Godfather's group has killed him.

Day Seven (Island)

Song arrives at the island, secretly bringing eighteen men to kill the Godfather's group. Squatting in the grasses at night, Shuisheng hears the men plotting to kill Jinbao and runs to the Godfather's hut to alert him. He already knows. The eighteen men are already dead. For his betrayal with Fat Yu, Song is buried alive and Jinbao is killed, even though Shuisheng tries to save her. The widow has already been killed. The plot is now revealed: the Godfather is not wounded. He moved to the island to exact revenge on Song and Jinbao. He plans to return to Shanghai and destroy Fat Yu's rival gang.

Coda (On a boat between the island and Shanghai)

As punishment for trying to save Jinbao, Shuisheng is strung upside down on the boat carrying the Godfather along with Ajiao, who will become the Godfather's next mistress, back to Shanghai. The End.

Shanghai Triad is clearly a film about revenge, which the bathroom scene makes explicit. Richard Posner argues that revenge is both a legal prototype and literary genre. *Shanghai Triad* displays the same characteristics of law as revenge that Posner outlines in terms of Western literature. He posits that law as revenge is governed by established norms; that revenge societies are kinship societies; that they are potentially unstable; and that law as revenge predates (but may coexist with) modern, formal systems of law (Posner 1998, 49–60).

First of all, the necessity for revenge is stated by the Godfather when he says to Shuisheng in the bathroom that his Uncle's open, dead eyes call out for vengeance. This scene moves the story from conspiracy to open gang warfare, along with the promise of further retaliation. However, this vengeance has its own logic; it must appear proportionate according to the norms of gangster law, which are spelt out by the Godfather toward the end of the film. He has carefully manipulated his retaliation against Song, Jinbao, and Fat Yu's gang. By moving from Shanghai to an almost deserted island to eliminate the traitors, the Godfather will claim that Fat Yu's men killed both Song and Jinbao. In this way, he will not lose face or appear

vulnerable. Traitors within the Tang Godfather's own crime "family" (Song and Jinbao) are killed but their betrayal will remain a secret. Possible witnesses such as the widow and her lover are killed. Disobedience by Shuisheng is punished. By falsely claiming that Fat Yu eliminated these family members, the Godfather's coming counterattack against Fat Yu in Shanghai will seem necessary, proportionate, and justified as he maintains power in the local underworld. He will seem "pure." These norms are gang law, the title of the novel (*Mengui* or *Gang Law*) by Li Xiao on which the film is based. As Posner explains, "out of the interplay of honor, shame, and revenge grow notions of exchange, balance, reciprocity, 'keeping score'—notions later taken up by the law" (Posner 1998, 51). However, the gangster cheats on his score-card, escalating the violence in a cycle of revenge.

Second, *Shanghai Triad* is about the criminal Tang family or clan. The Godfather only recruits members of his own Tang clan, to which Shuisheng belongs. The gang leaders apart from the Godfather are his cousin and two sworn blood-brothers whose lives he saved in a dockland gang war: Song and Zheng. Kinship and secret rituals, Uncle Liu explains, are the ways that "the boss controls his empire." A revenge ethic demands intense emotion, including loyalty to an extended family group. Betrayal invites anger, brutal retaliation, and the potential for ongoing feuds, with no consideration for collateral damage (such as the widow Cuihua and Ajiao) outside the family syndicate.

Third, the emotion endemic to law as revenge means that the system is potentially unstable. It hinders loyalty to the larger community or nation (Posner 1998, 52–53). In *Shanghai Triad*, the Tang crime family is a world unto itself where the Godfather's word is law and betrayal is omnipresent. After all, the bathroom killings are themselves a supposed retaliation for Song's warehouse hit against Fat Yu's men but, as we learn later in the film, this first hit is a conspiracy between Fat Yu and Song, who attempts a gang takeover. In its underworld persona, revenge is a system that feeds on itself, co-opting a new generation in Shuisheng and Ajiao. When Jinbao suggests to Shuisheng on the island that he should go home, he answers that he cannot; he still has to avenge his Uncle. The film gives absolutely no sense of the larger national issues facing 1930s China, let alone Shanghai: invasion, class warfare, mass poverty, and public corruption.

Finally, Posner (1998, 58) claims that law as revenge predates modern legal systems in the West: "law channels rather than eliminates revenge—replaces it as a system but not as feeling" (58). Rules of revenge may exist as a parallel system and he points to the norms of revenge in American gangster society as one example. However, as I explained in the previous section, there is no legitimate legal system operating as a counter to the gangster world of *Shanghai Triad*. Indeed the gangster film in its celebration and exaggeration of violence for violence's sake presents the worst features of a

rapacious society. The Shanghai Godfather, for example, can simply buy off any problem arising from the hit in the warehouse at the beginning of the film.

Richard Posner's examples of law as revenge come from great works in Western literature, including *The Iliad* and Shakespeare's *Hamlet*. He claims revenge literature is "a rich and durable genre" (Posner 1998, 69). Film, too, has its revenge genres with martial arts film being the most popular in Chinese communities. Patrick Fuery talks about the "eidos" of revenge in film, which always comes at a cost, whether the object of revenge is represented as good or bad. Fuery sees three parts to revenge narratives in film: "the causal sequences, the acting out, [and] the revelation" (Fuery 2000, 140–141). In *Shanghai Triad*, the warehouse and bathroom scenes encapsulate the causes and acting out of just one revenge cycle, manipulated by Song's betrayal with Fat Yu. The Godfather's retaliation on the island is the revelatory violent performance of the gangster code of the vendetta. Fuery points to Francis Ford Coppola's *Godfather* films (1972, 1974, and 1990) as examples of the "darkness of revenge as a corrupting process, and as such all revenge becomes the bad object, no matter what the motive."¹ Zhang was very familiar with these films and he similarly points to the corruption and violence inherent in law as revenge in his dark portrayal of Shanghai's underworld.

For Zhang Yimou (in Ng 1998), this bleak world of the 1930s has a contemporary relevance.

There are lots of similarities with present-day China. Shanghai today, like sixty years ago, is very materialistic. People are money-obsessed, are losing their morality. So the film, as well as a period piece, is a warning or critique for present society.

Shanghai Triad is therefore a morality tale, a common feature of the gangster film more generally. Zhang sees Chinese society at a different level of modernization to the West. In both, however, the *noir* city is both dark and alien. Shanghai is a metaphor for capitalist modernity, simultaneously magnetic and repulsive. The film is therefore a commentary on the greed and amorality of modern Shanghai, the seductive locus of China's own dream of wealth and power (Wang Bin 1998, 223; 235–236).

¹ In China's best-known revenge genre, the martial arts film, revenge is "right and just" (*zhengyi*) when it is triggered by filiality or loyalty as part of the rule of virtue (see the final section of this chapter). The trigger in the classic martial arts plot is commonly death of the father or substitute, such as the martial arts master. However, martial arts films were banned in mainland China from 1931 to 1978. In the mainland's first post-Mao martial arts blockbuster, *Shaolin Temple* (*Shaolinsi*, 1982) featuring Jet Li, the villains kill the hero's father, his Shaolin Temple master, and attempt to kill the righteous emperor-to-be of the Tang dynasty. In such situations, revenge (*baochou*) is virtuous.

How, then, does Zhang shape this film into a “warning . . . for present society?” In Tarantino’s words, how does he tell yet another gangster story of revenge within Chinese frameworks of social morality, justice, and redemption? Whilst violent acts are usually off-screen, violent revenge in this film is presented as totally destructive. The Shanghai Godfather is not glorified; he personifies the greed, cruelty, and lawlessness that govern this modern city. He is betrayed but wins and, indeed, murders his rivals without the slightest *noir* hint of angst or regret. The innocent are irrelevant. Zhang told me that Hollywood had done gangster movies so well and for so long that he could not better them. So he added a personal touch—seeing Shanghai’s underworld through the eyes of an innocent boy (Farquhar 1995). I call this *Shanghai Triad*’s moral gaze.

The Moral Gaze: The Upside-Down World

Along with the credits, *Shanghai Triad* opens with an extended shot of Shuisheng’s dirty face, his eyes moving back and forth looking for someone or something. The muted sounds of horns, music, and water gradually take on the shrill cacophony of the waterfront. Blurred images of hustling and bustling people block Shuisheng in the frame until the camera once again finds his eyes. With the end of the credits, the close-up gives way to an establishment shot of Shanghai’s harbour. The high-rise city, Shanghai’s center of wealth and power, towers in the background. A bewildering array of people jostle in the foreground, visually projecting the theme of the movie: Shanghai as a magnet for the poor who come to make their fortune. The camera returns to Shuisheng lost in the crowd and then shows a long shot of Uncle Liu arriving late in a truck to pick him up. He tells Shuisheng to board the truck and the following frames again focus on his eyes, as he peers out of the back of the truck.

Red and yellow filters wash the boy’s face with ominous color as he continues looking back and forth throughout the entire scene. The truck pulls into the cavernous space of a warehouse, lit with yellow light in the shadows as the hit on Fat Yu’s gang takes place. All Shuisheng hears are two gunshots and men running away. There is virtually no dialogue up to this point so the audience is largely restricted to Shuisheng’s viewpoint as a passive voyeur of the action. Driving and then arriving home, Uncle Liu ignores the warehouse hit and makes the theme about Shanghai explicit as he explains the rules to his nephew:

In Shanghai, you have to learn what to do . . . just do what I say, got it . . . don’t let me down . . . all the kids in our family want to come here and

get rich . . . it's good to be rich. Do you know what rich means? If the boss wants something he gets it, anywhere in Shanghai.

In comparison to this vision of vast and unfettered wealth and power, Shuisheng pits his own small dream, saying "I'd like [to go home] and open a small shop." His uncle laughs and answers, "Country bumpkin."

In film theory, Shuisheng's looking is differentiated from the "gaze" or "look," which implicates both the filmic spectator and the film's characters. It is one of the most debated concepts in cinema studies. The gaze of the spectator has been likened to voyeurism (in Freudian terminology, scopophilia or the pleasure of looking), in which we, the viewer, look at images and partially identify with them according to our own desires, conflicts, and cultural frameworks. For many feminist scholars, film also aligns the look with men's gazing pleasure (both as on-screen characters and as spectator) so that the gaze encodes men as the subject of the gaze and women as its object. In short, the gaze involves unequal power and gender relationships (Mulvey 2000, 487–492).

Whatever the Western debate, Chinese cinemas do not necessarily encode the gaze in the same ways (Berry and Farquhar 2006, 109–134). Shuisheng's gaze, as the narrative stance and moral touchstone of the movie, distances the viewer from identification with both adult male and female characters, and so breaks the nexus between looking and desire. True, he is male but too young, too ignorant, and too poor to be the desiring bearer of the look. True, he sees other men's desiring look at women and their secrets. But he is disempowered: bewildered, vulnerable, and often lost so that the audience identifies with *his* dilemmas as he is insulted, ordered about, hit, locked in his room, carted off to the island, and punished. As events unfold, Shuisheng becomes more and more embroiled in the revenge cycle, which costs him his uncle, his mistress, and his freedom. He is as pure as Hans Christian Andersen's little matchgirl, looking at the gross orgy of adults *through* a window, whilst increasingly participating at the banquet *inside* the window as well, even if he is only fed scraps from the table. Thus the lure and horror of Shanghai is refracted by proxy through Shuisheng's split gaze, the consistent moral perspective on the film's world.

The bathroom scene is a central moment in setting up the complexity of Shuisheng's moral gaze. Shuisheng stops being only a voyeur and starts being a participant in the revenge cycle. Shuisheng is shown in a long shot, standing asleep on night-time duty outside Jinbao's door. The camera zooms into a close-up of his face as he is awakened by the sound of two gunshots. He looks down and walks downstairs. From then on, the audience moves with him in a series of tracking shots, seeing and hearing what he sees and hears. His growing fear is emphasized by aligning these tracking shots tightly to his point-of-view: the camera and his eyes merge as one as he

hears muffled sounds, picks up a bloody knife, follows footprints of blood, and opens door after door. Shot-reverse-shots of Shuisheng's face and then what he sees makes the subjective point-of-view clear to the audience. At one point, Shuisheng sees shadowy male figures through a glass door as they leave the scene of their gangland massacre. These gunshots and opaque figures recuperate his earlier vision of distant figures in the warehouse hit. But this time we see the effects of the hit when the doors swing open. The room, where Shuisheng bathed with his uncle when he first came to Shanghai, is now filmed with a red filter that merges steam and blood into a nightmare vision of the secretive underworld in which the boy lives. The camera cuts between Shuisheng's horrified face and the scene of carnage. In this moment, he has lost his only genuine protector in Shanghai, Uncle Liu. He calls out to his uncle and drops the knife, until an unknown hand smothers his screams. The Godfather walks in with his promise of revenge and red-washed images give way to blue-filtered scenes of night, soft strains of a lullaby, and the Godfather's get-away. In seeking revenge, Shuisheng now physically and emotionally belongs to the Tang crime clan, in which he is a mere pawn. He is taken to the island to serve Jinbao. He is trapped in the *noir* universe.

The extent of Shuisheng's entrapment is shown in the epilogue, again seen through his eyes. Jinbao tries to kill the Godfather when he orders her execution on the island the night before, a scene again shot with ominous blue filters. Shuisheng runs to help her. The camera then cuts to a panoramic, sunlit, water scene and then an upside-down shot of Ajiao looking up, which is disconcertingly abrupt and jarring—another feature of *noir's* unstable world. The camera pans to show what she is looking at. Shuisheng's upside-down face is at the top of the frame and then a longer shot shows him tied upside-down to the mast, where he sways in the breeze and watches the dénouement. This cinematographic ploy serves as a visual key to Zhang's themes of a perverse social order, which is perpetuated through the generations. The dialogue makes this clear.

Ajiao says to the Godfather, "Grandpa, you have to let Shuisheng down." He refuses, saying, "Ajiao, did you ever have a dog? . . . A good dog must be well trained (*qiaojiao*)."

. . . Ajiao says, "Am I going to Shanghai? . . . Will I have pretty dresses? . . . I want to be like the Mistress [Jinbao]."

. . . The Godfather answers, "Alright, you'll be just like the Mistress."

The Godfather has already told Jinbao (and therefore the viewer) that his abduction of Ajiao and murder of her mother is to replace Jinbao with Ajiao, the next-generation Queen of Shanghai. The girl is also trapped by her own desires. Hearing her and the Godfather, Shuisheng wriggles and drops the three gold

coins given to him by Jinbao, which represent his means to escape to the countryside and open his shop. The film moves from his face swaying upside-down in the frame to a panoramic shot of the water glowing gold in the sunlight. The soundtrack gives the film its Chinese name and its sense of irony. It is the pure sound of Ajiao singing an old lullaby about childhood innocence in an impure world: “Rockabye, rockabye, rock all the way to grandma’s bridge.” The film ends. This final scene indicts the social order as one that persists over the generations by training children like animals. Disobedience is punished.

But why do children and hence Chinese society still obey this law? Zhang Yimou suggests it is the seduction of power, wealth, and glamour, all integral to the *noir* version of the gangster film. But he also suggests that entrapment is systemic, through generations of Chinese training in rules that command unthinking obedience.

The *Noir* Trap: “I Want to Be Just Like You”

On his first night in Shanghai, Shuisheng goes to the Godfather’s club to hear Jinbao sing. The club is filmed in rich red and gold. Uncle Liu says, “Look, that’s Xiao Jinbao!” To a percussion dance-beat, she appears in red amongst swaying girls, kicking their bared legs high in a chorus line. Shuisheng stares. Jinbao sings about looking and desire: “Don’t pretend . . . Look! You can’t wait to look at me. Don’t be shy. Your eyes have already swept all over me, secretly looking at me . . . you want to love me . . .”

Shuisheng continues to watch her onstage. Uncle Liu comments, “What a tramp . . . the boss left his wife for her . . . she thinks she’s Queen of Shanghai.” The song ends with Jinbao singing of eyes roving up and down her body. Looking and desire therefore merge in this song and throughout the film.

This is gangster *noir*. In her first appearance, Jinbao is set up as the glamorous symbol of the Godfather’s power. He can make her queen of Shanghai; but if he drops her, according to Uncle Liu, she will be in the gutter. She is a jewel in his crime empire. Even her name Jinbao means “golden treasure,” thereby literally linking women with money as desirable consumer items. Patrick Fuery claims that the seduction in the gangster film is territory; in *noir* it is “the body of a woman,” which is precisely what Jinbao sings about (Fuery 2000, 164–166).

Film *noir* operates with a continuous undercurrent of seduction. Its entire narrative propulsion, character development, ideological perspective, and created world circle around the one fundamental quality that people are seductive and are seduced.

In *Shanghai Triad*, masculine desire plays out in the seduction of both territory (ruling Shanghai’s underworld) and women (Jinbao and Ajiao).

The Godfather and Song compete to control Shanghai and both sleep with Jinbao. She is the potentially dangerous *femme fatale*, who plays a central role in *film noir* but usually pays for her threatening sexuality in the end by dying (Jinbao) or submitting to the patriarchal system (Ajiao) (Hayward 1996, 119). However, a powerful, dominant, and independent sexuality is one side of the seductive coin. By implication, like Shuisheng, she too has been trained as the Godfather's bitch. It is Ajiao's innocence that seduces the Godfather even though she too is seduced in turn by Jinbao's beauty. Indeed, on first meeting Jinbao, Ajiao says that "I want to be just like you" when she grows up.

Shuisheng is not seduced by Jinbao in Shanghai. A long scene of their first meeting is filmed through a gilt mirror, which in *noir femme fatales* visually fracture the woman into a narcissistic, duplicitous, and controlling image (Place 1998, 57–58). Shuisheng sees her spoilt tyrannies behind closed doors: the whimsical punishment of a maid, the implied cutting-out of another maid's tongue to enforce a code of silence, her secret lover, and her ongoing humiliation of him as a country bumpkin. These vicious female rules mimic the brutal underworld. His attitude changes on the island, where the film moves from the sinister city to a pristine landscape. The first view of the island at sunset is pastoral: wild grasses surrounded by glowing water. The locations—the island and Shanghai—frame a duality of light and dark, country and city, childhood innocence and adult decadence, and good and evil. Through Ajiao and her mother, Jinbao is redeemed by her memories of childhood, captured in the film's signature tune that she sings with Ajiao:

Rockabye, rockabye, rock to Grandma's bridge,
 Grandma says I am good, so good,
 I know how to laugh and I know how to cry,
 Two yellow dogs carry the litter.

In this scene, a sing-song girl and a child sing together by the waterside as Shuisheng looks on, smiling. At the end of the film, Jinbao tries to save Shuisheng, Ajiao, and Ajiao's mother. She then tries to kill the Godfather. The island in its innocence is the film's critical space that sheds light on the murky urban underworld, even as it invades its territory. This is the space of memory, not the law, so *Shanghai Triad* moves beyond Hollywood's "law noir," where law at least exists as a "shadowy force" for justice (Rosenberg 1996, 281). However, even Jinbao's redemptive acts are too little too late for us to identify with her. Instead, we feel for her young replacement, Ajiao, who will be brought up by the Godfather to "be just like her."

Zhang Yimou's critique of the Chinese social order from the point of view of children trapped within its system recuperates a powerful work of

early-twentieth-century Chinese literature. In *A Madman's Diary* (1918), Lu Xun described Chinese society as a mad (rather than upside-down) world in which ancestral rules encouraged “eating people” (*chiren*) over four millennia. Children, unknowingly, were fed their brothers and sisters and so implicated in the system’s longevity. The madman who is the first-person narrator ends his diary entries with “Perhaps there are children who have still not eaten men? Save the children . . .” (Lu Xun 1973, 290–91).

Saving the children meant saving China. As with many Fifth Generation films, the revolutionary commitment to saving China and its children is shown to have failed. In Zhang’s films, the next generation still inherits the “man-eating” moral make-up of the previous generation through upbringing: they become just like them. In *Shanghai Triad*, tradition (patriarchal rules) and modernity (greed and money) merge in a new indictment of a brutal old *and* new Chinese society. It is implied at the end of the film that this society will continue through its children.

The notion of virtue links directly into old and new Chinese law. In Lu Xun’s *A Madman's Diary*, Chinese society pretends virtue (*de*) whilst promoting a cannibalistic society. Rule by virtue rather than rule by law describes China’s Confucian legal system, which punished anyone who broke its laws with severe penalties. The Chinese Criminal Law is still called the “law of punishments” (*Xingfa*). Virtue was enshrined in *li*, the Confucian word for customary law, righteous behavior, rites, or decorum as the positive end of the spectrum. Chinese policymakers have more recently reintroduced a combination of rule by virtue and rule by law (*lifa*) as a “Chinese” way to govern the family and society in the twenty-first century (Keith and Lin 2005, 71–89). Shuisheng’s vision of the bathroom scene in this framework exemplifies a social order that has rules of revenge and obedience (*fa*), but no virtue (*li* and *de*). The island lullaby scene is virtue remembered as nostalgia.

Li (as rules and rituals substantiated by virtue) and *fa* (as positive rules) bring us to a fundamental difference between premodern Chinese and Western conceptions of the law. Traditionally, as Joseph Needham explains, the Chinese notion of a proper and just order (*li* and *yi* respectively) “excludes the notion of the Law” (Needham 1956, 572). This notion is directly translated into *Shanghai Triad*. Needham writes:

In the West, the law has always been revered as something more or less sacrosanct, the queen of gods and men, imposing itself on everything like a categorical imperative . . . But as one passes to the East, this picture fades away. At the other end of Asia, China has felt able to give to the law and jurisprudence an inferior place in that powerful body of moral and spiritual values which she created . . . Though not without juridical institutions, she has been willing to recognize only the natural order, and to exalt only the

rules of morality. Essentially, purely penal (and very severe) sanctions have been the primarily means of intimidation. (Needham 1956, 521)

These punitive sanctions rule as revenge in *Shanghai Triad*. Moral values are embedded in childhood innocence, a state as yet unpolluted by social rules. I am not suggesting that Chinese socialist law is not a functioning system. Lawmakers nowadays, however, find it sufficiently inadequate to suggest a merger of Confucian *li* and socialist *fa*. Similarly, policymakers more generally in the People's Republic have recently promoted Confucian values domestically as “a return to roots” in order to combat problems of crime and corruption in the sociopolitical order (Han 2004). In *Shanghai Triad*, the “return to [virtuous] roots” is not to Confucian *li* but to a past, rural idyll.

Purity and pollution therefore interweave throughout this film, with links to Zhang's earlier red trilogy. The Godfather refers to “purity” in exactly the same words as the ancestral elders in *Ju Dou* when he orders Song and Jinbao's secret execution: he will not lose face; he will seem pure (*qingqingbaibai*) at any cost. In *Ju Dou*, this ancestral law led to the empowerment of a son, who killed both his biological and family fathers. Even though patricide was the most abominable of premodern Chinese crimes, killing the father as a metaphor for killing off the ancestral rules is a precondition for a new society in much of Zhang's work (Farquhar 1993, 60–86; Berry and Farquhar 2006, 158–168). Wang Yichuan, for example, points out that Zhang's films present allegories of China, in which the cultural and spiritual core represents patricidal feelings along with a search for cultural roots (Wang Yichuan 1998). In *Ju Dou*, however, killing the father does not create a new society because it does not involve changing the social order. In *Shanghai Triad*, killing the Godfather—as Song the deputy tries to do—would also perpetuate the incumbent social order, in this case the underworld. Moreover, Song's unsuccessful attempt at symbolic patricide is not viewed as perverse within the film's crime world. It is a norm of gang law. In Zhang's allegorical mode, gang law *is* Chinese law. This is “law *noir*,” stretched to breaking point.

Epilogue: “I Want to Be Just Like You” Continued . . .

In contemporary China, gang law is *not* Chinese law. *Shanghai Triad* describes a ruthless but fictional triad gang in control of city and country, albeit in the past. Shelly Kraicer, as well as Zhang himself, finds the film lacks the “emotional punch” and substantial storyline of his earlier work that would successfully carry its “extra-textual” references into a clear contemporary critique (Kraicer 1997). Perhaps, too, censorship limits the film's capacity to

view the present through the past, given that film censors zealously promote a positive image of China on-screen. Nevertheless, similar gangs have resurfaced in China today, as Zhang commented to his colleagues when planning *Shanghai Triad*.

In the last few days I've enjoyed flicking through magazines. They report that some people murder and traffic in women and children for just a few thousand or a few hundred *yuan*. You wouldn't believe it. But it's real. Why do they do it? It's for money. (Wang Bin 1998, 235)

Murder, the abduction of children, and the corrosive power of money are explicit themes in his film.

Chinese lawmakers are fighting back against real-life gangs. Susan Trevaskes describes how “mafia-style gangs” (*heishehui xingzhi fanzui huotan*), along with their corrupt “protective umbrellas” (*baohusan*) in Party and government, were the targets of an anti-crime campaign in 2001 (Trevaskes 2003, 278–279). As Zhang noted, these gangs are sometimes very well organized and involved in a range of violent activities. It is ironic therefore that such gangs seem to have adopted both Coppola's *Godfather* and Zhang's *Shanghai Triad*: they want to be just like them. The *People's Daily* reported that an entire Sichuan city, Yibin, was controlled by two triad gangs:

For the funeral of one of the gang members, a motorcade procession—American *Godfather* style—stretched over 100 metres, along with 500 other members walking behind the motorcade, with music playing the soundtrack of *Shanghai Triad*. (Trevaskes 2003, 279)

Law and film scholars may well ponder the ways in which film reflects social life, including the lives of those on both sides of the law. Now and then, however, life mimics film.

References

- Berry, Chris and Mary Farquhar. 2006. *China on screen: Cinema and nation*. New York: Columbia University Press.
- Black, David A. 1999. *Law in film: Resonance and representation*. Urbana: University of Illinois Press.
- Chow, Rey. 1995. *Primitive passions: Visuality, sexuality, ethnography, and contemporary Chinese cinema*. New York: Columbia University Press.
- Cook, D.A. 1990. *A history of narrative film*. London: W.W. Norton.
- Farquhar, Mary. 1993. Oedipality in *Red Sorghum* and *Judou*. *Cinéma* 3(2–3): 60–86.
- Farquhar, Mary. 1995. Interview with Zhang Yimou. Hawaii Film Festival. Unpublished.

- Fuery, Patrick. 2000. *New developments in film theory*. New York: St. Martins Press.
- Han Meng. 2004. Leaders ponder a return to society's roots to stop the rot. *South China Morning Post* December 6. <mclcl@lists.acs.ohio-state.edu> (accessed December 9, 2004).
- Hayward, Susan. 1996. *Key concepts in cinema studies*. London and New York: Routledge.
- Keith, Ronald C. and Zhiqiu Lin. 2005. *New crime in China: Public order and human rights*. New York: Routledge.
- Kinkley, Jeffrey K. 2000. *Chinese justice, the fiction: Law and literature in modern China*. Stanford: Stanford University Press.
- Kraicer, Shelly. 1997. Allegory and ambiguity in Zhang Yimou's *Shanghai Triad*. *Cineaction* 42: 15–17.
- Lu Xun, 1973. Kuangren riji (A Madman's Diary). *Lu Xun quanji, Vol 1*. Beijing: Renmin wenzue chubanshe. Translated in Yang Hsien-I and Gladys Yang. *Lu Hsun: Selected works Vol. 1*. Peking: Foreign Languages Press.
- Machura, Stefan and Peter Robson. 2001. Law and film: An introduction. *Journal of Law and Society* 28(1): 1–8.
- Mulvey, Laura. 2000. Visual pleasures and narrative cinema. In *Film and theory: An anthology*. Ed. Robert Stam and Toby Miller. Malden and Oxford: Blackwell, 483–494.
- Needham, Joseph. 1956. *Science and civilisation in China, Vol. 2*. Taipei: Xinyue tushu gufen youxian gongsi.
- Ng, Yvonne. 1998. Zhang Yimou's *Shanghai Triad*: Beyond the gangster genre. *Kinema: A Journal for Film and Audiovisual Media* Fall. <www.kinema.uwaterloo.ca/yvo982.htm> (accessed July 7, 2006).
- Osborn, Guy. 2001. Borders and boundaries: Locating the law in film. *Journal of Law and Society* 28(1): 164–175.
- Papke, David Ray. 1996. Myth and meaning: Francis Ford Coppola and popular response to the Godfather trilogy. In *Legal reelism: Movies as legal texts*. Ed. John Denvir. Urbana: University of Illinois Press, 1–22.
- Place, Janey. 1998. Women in film noir. In *Women in film noir*. Ed. E. Ann Kaplan. London: BFI Publishing.
- Posner, Richard A. 1998. *Law and literature*. Cambridge: Harvard University Press.
- Rosenberg, Norman. 1996. Law noir. In *Legal reelism: Movies as legal texts*. Ed. John Denvir. Urbana: University of Illinois Press, 280–302.
- Shadoian, Jack. 2003. *Dreams and dead ends: The American gangster film*. New York: Oxford University Press.
- Spicer, Andrew. 2002. *Film noir*. Harlow and New York: Longman.
- Trevaskes, Susan. 2003. "Strike Hard" 2001: Form and strategy in a Chinese anti-crime campaign. *Australian and New Zealand Journal of Criminology* 3(3): 272–292. (Including translation of an excerpt from Yiwan renminde qidai [Carrying the hopes of one billion people]. 2001. *Renmin Ribao (People's Daily)* May 11: 4.)
- Wang Bin. 1998. *Zhang Yimou, zheige ren* (publisher's English title: *A biography of Zhang Yimou*). Beijing: Tuanjie chubanshe.
- Wang Yichuan, 1998. *Zhang Yimou shenhua de zhongjie: Shenmei yu wenhua shiye de Zhang Yimou dianying (The end of the Zhang Yimou myth: Zhang Yimou's films in the fields of aesthetics and culture)*. Zhengzhou: Henan renmin chubanshe.

- Xu Ligong, Jing Yingrui, Huang Jianye, Wang Jian, et al., eds. 1999. *Dianying cidian (Film dictionary)*. Taipei: Dianyingziliaoguan chuban.
- Yaquinto, Marilyn. 1998. *Pump 'em full of lead: A look at gangsters on film*. New York: Twayne Publishers.
- Zhang, Jiuying. 2001. *Fanpai Zhang Yimou (Looking back at Zhang Yimou)*. Beijing: Zhongguo mangwen chubanshe.
- Zhang Yingjin, ed. 1999. *Cinema and urban culture in Shanghai, 1922–1943*. Stanford: Stanford University Press.

CHAPTER 11
CHINESE LAWYERS ON
THE SILVER SCREEN

Alison W. Conner

China's fifth generation of filmmakers has brought contemporary Chinese film to international attention, and their social themes often illustrate broad legal concerns. In Zhang Yimou's 1992 film, *The Story of Qiu Ju*, for example, Qiu Ju brings a lawsuit and receives plenty of legal advice along the way. Such film portrayals are of interest as we contemplate the changes in China's current legal system and the place of lawyers and other legal advisers within it. But the Chinese legal profession, like Chinese movies, long predates the current period; the first legislation recognizing lawyers was adopted in 1912, the first year of the Chinese Republic. Despite the relative newness of the legal profession, it is striking that Chinese movies of a much earlier era already depicted lawyers and the legal system in illuminating ways.¹

Fortunately, many films that offer us a glimpse of the pre-1949 legal system are available for viewing today. These early films are of particular interest because, unlike later mainland Chinese movies, they were produced by commercial and not government-controlled studios. Although filmmakers faced increasing censorship and regulation after the Nationalist government came to power in 1927, they were probably subject to fewer restrictions than studios are today and often managed to circumvent official regulation. In an era of movies as social criticism, their treatment of the legal system and the place of lawyers within it stands out.

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During the Republican period, Chinese movies were produced in either Shanghai or Hong Kong. China's pre-1949 film industry was concentrated in Shanghai, the "capital of Chinese modernity and the culture industry before the war" (Fu 2003, 69). Shanghai, with its Westernized lifestyle and radical intellectual culture easily became the Chinese center for film production, exhibition, and distribution (Fu 2003, 69; Zhang 2005, 87). Most commentators view the period from the early 1930s until the outbreak of full-scale war in 1937 as the first golden age of Shanghai movies (e.g., Zhang 2004, 55). The postwar 1940s marked a second golden age, perhaps achieving even greater heights in film making than in prewar Shanghai (Lee 1999, 86). Hong Kong was China's second movie capital, and its ties with Shanghai cinema remained strong throughout the Republican period (Zhang 2005, 86). With the introduction of Cantonese talkies in 1933, however, Hong Kong began acquiring its own film identity, and by 1935, Hong Kong was established as one of the major filmmaking centers of Asia. Its Cantonese films flourished from the mid-1930s until the 1941 Japanese invasion shut down Hong Kong's movie industry (Fonoroff 1998, 33–34; Fu 2003, 55–56).

Film portrayals of Chinese lawyers must also be viewed in the context of popular themes as they were favored in Shanghai or in Hong Kong. During the 1920s, Chinese movies drew primarily from Peking opera, fairy tales, myths, and folklore for their stories. They tended to feature martial arts, costume dramas, and traditional stories, all typically Chinese; family melodramas, often drawn from novels or the new drama, were also popular. But in 1931 the Nationalist government banned martial arts and "magic spirit" films as part of an anti-superstition campaign. At the same time, after the 1931 Japanese invasion of Manchuria and the bombing of Shanghai early the following year, many directors recognized the changing mood among Shanghai audiences, and more progressive and patriotic themes came to dominate the cinema (Hu 2003; Lee 1999; Leyda 1972; Zhang 2004).

Some critics, especially those in mainland China, have seen that new movie focus as part of an organized or semi-organized left-wing cinema (*zuoyi dianying*). Such "left-wing" films were marked by distinctive themes, including the exposure of class exploitation and the depiction of the miserable lives of the poor and working class. More recent interpretations suggest that this film movement was really a loose association, and that many of those involved in the industry were progressive or socially concerned but without ties or strong ties to the Communist Party. Their approach might better be viewed as "social" or "critical realism," motivated by humanistic concern for the plight of the Chinese people (Lee 1991, 7–8, 11) or as "committed socialist realistic cinema" showing a popularized version

of such basic May 4 ideas as anticapitalism and antiimperialism (Pickowicz 1993; see generally Hu 2003; Pang 2002; Zhang 2004).

Like most Shanghai movies of the 1920s and early 1930s, the vast majority of Hong Kong films were escapist in nature, their political irrelevance perhaps a partial result of colonialism (Fonoroff 1998, 35; Fu 2003, 64). Most films produced during this period fell into various popular genres and included folk tales, costume dramas, legends, and myths, and many were from Cantonese operas and popular novels. Hong Kong movies often emphasized family or moralistic themes and offered frequent plot twists. They included musicals, romances, and comedies, and the theme of long-lost relatives reunited by fate was a particularly popular story line. After 1937, Hong Kong movies became more patriotic and expressed popular anti-Japanese sentiment, because there was less censorship than in Shanghai and movie producers were still safe in the British colony (Fonoroff 1997; Fu 2003).

This is the backdrop for my discussion of the depiction of lawyers in Republican-era movies. How are Chinese lawyers portrayed in films of the 1930s and 1940s, and what do these depictions tell us about popular ideas of the profession and its role in society? This essay analyzes four famous Shanghai movies whose characters include a lawyer: *Goddess* (*Shennü*, dir. Wu Yonggang, 1934), *Street Angel* (*Malu tianshi*, dir. Yuan Muzhi, 1937), *Long Live the Missus* (*Taitai Wansui*, dir. Sang Hu, 1947), and *Bright Day* (*Yanyang tian*, dir. Cao Yu, also 1947). A consideration of Hong Kong movies provides a useful counterpoint to this discussion. Given Hong Kong's different political and legal system are there any major differences between lawyers in Hong Kong and Shanghai cinema? And what, if any, insights of contemporary relevance might we find when we consider the role of lawyers on the silver screen?

Hong Kong Lawyers

The characters in Hong Kong's popular movies of the 1930s and early 1940s often resort to the courts for justice.² Lawyers make frequent appearances in both serious and comic movies and in large and small roles; they may simply be ordinary characters or represent one choice of profession. In *The Polygamist, Part Two* (*Qi duo fu jian xuiji*, 1937), a father has nine sons, all with different characters and engaged in different professions; the fifth son is a lawyer and henpecked husband, though little is made of his profession. In the 1939

² Although these films were not available for viewing and, like many Shanghai films, may be lost forever, they continue to exist in contemporary reviews and descriptions. Information on them is contained in the Hong Kong Film Archive, and with the exception of *The Unwritten Law*, I have relied on their synopses for this discussion.

Women's World (*Nüren shijie*), thirty-six female stars play a variety of characters, including a doctor, a dance-hall girl, a smart journalist, and an upright lawyer. The 1941 film *The Heart of Men* (*Nanren xin*) explores the choices men make when confronted with opportunities in the realm of money, status, and sex. The film's wealthy characters act beneath their station, and they include a lawyer who becomes a thief as well as a rich man who works as a night garbage man. In films like this, the legal profession is simply one occupation among many.

In other Hong Kong films, however, lawyers play active roles and their profession is often key to the story, whether the ending is happy or sad. *Children's Debts* (*Ernü zhai*, 1936), for example, tells the story of a judge, his son, a lawyer, and his daughter, a dance-hall girl. The judge's daughter is charged with murder, and the son takes her case as a defense attorney and must argue before their father, the presiding judge. Although the judge knows the accused is his own daughter, he acts impartially and imposes the death sentence on her. Other lawyers are more successful. In *Murder at the Wedding* (*Liumang xiaojie*, 1938), a rich young woman is framed by her husband and becomes a murder suspect on her wedding day. She is saved by a lawyer who proves her innocence—and she marries him instead. In *Tears of the Reed Catkins* (*Luhua lei*, 1936) one brother becomes a lawyer and his half-brother becomes a gambler. When the gambler is killed and his stepmother is accused of the murder, the lawyer defends her and saves her from execution. In *Mother and Son* (*Muci zixiao*, 1941), a woman is abandoned by her husband and separated from her son. She becomes a prostitute and is later falsely accused of murder; the lawyer who defends her turns out to be her son. At first they are reluctant to acknowledge each other, but justice is done and they are reunited.

In these movies, the lawyer is a hero who defends his client but also does his duty to a relative, or to someone who turns out to be one. To some extent these films are family melodramas, in which one member of the family happens to be a lawyer, or they are morality plays in which good must triumph. Similar dramas enjoyed a vogue many years later, as evidenced by the popularity of *The Unwritten Law* (*Fawai qing*, 1985) and the two sequels that followed it. In the original film, probably set in the 1960s, a young barrister takes on as his first case the hopeless defense of a prostitute accused of murder without realizing that she is actually his mother. But he perseveres, believing she is innocent and that everyone deserves a vigorous defense. In the end, justice is done and she is acquitted; the barrister has met high professional standards and (unknowingly) paid a debt to his mother. The balance between these duties shifts in the film's two sequels and the lawyer's filial duty trumps his professional obligations. Their plots, with emotional reunion scenes and an emphasis on strange twists in family relationships, also become increasingly implausible, but they are

reminiscent of similar popular themes in 1930s and 1940s Hong Kong cinema.

Goddess: Counsel for the Defense?

When we turn to Shanghai movies, we find a very different picture of lawyers and the legal system. The 1934 film *Goddess* (*Shennü*), for example, is one of many progressive or social conscience films of the 1930s that directly or indirectly depict the criminal justice system under the Nationalist government. These films share a common theme: ordinary people are wrongly arrested, leading to harsh consequences for them and their loved ones, or, as in *Goddess*, they may be driven to acts of desperation to survive, only to be heavily punished by the legal system. *Goddess* was produced by the Lianhua Film Studio and starred the tragic Ruan Lingyu, one of the most famous actresses of the 1930s, in what is probably her most famous role. This poignant silent film has been widely recognized as a masterpiece, largely because of Ruan's luminous performance and the lyrical mood created by its writer and director, Wu Yonggang (Lee 1999, 95).

In *Goddess*, Ruan plays a virtuous prostitute (*shennü* being an ironic term for a prostitute) who is also a devoted mother trying to raise her young son. Unfortunately, she falls into the clutches of a vicious thug, a gambler who controls her and takes all her money. She manages to hide some of her earnings from him and uses the money to enroll her son in school, where to her great pride he does well. When the other parents discover her occupation, they demand that the boy be expelled, despite the objections of the school's principal. The prostitute decides that she must leave the city and start over with her son, but she finds that the thug has stolen all her hidden savings and gambled them away. Desperate, she confronts him and after a brief struggle kills him with a wine bottle. When the upright principal sees the report of her trial in the newspaper ("Female murderer sentenced to twelve years"), he visits her in prison. Although the court has ruled that her son should be sent to an orphanage, the principal promises that he will adopt the boy and provide for his education. As the film ends, the camera shows us her response: hope for her son and gratitude for the principal's kindness are mixed with the pain she feels at the loss of her child.

Although *Goddess* has sometimes been considered a "leftist classic" (Zhang 2004, 68), the film does not necessarily advocate radical social change, but instead places the hope of transforming the lives of people like Ruan on people like the principal (Hu 2003, 105). *Goddess* is thus far more than a simple story of class oppression, something to keep in mind as we interpret its depiction of the legal system. The film is of special interest because we are actually shown the prostitute's trial—and possibly even her lawyer. After she

strikes the gambler, he crashes to the floor and she too seems to sway. The next shot shows her in court, apparently still in shock and uncomprehending of her plight. It is a modern, Western-style courtroom, its layout reflecting the European semi-inquisitorial system that the Chinese Republic adopted. The accused stands in the dock, with two policemen standing guard at her side. On a high dais above her sit three judicial officers clad in black gowns; they sit impassive, displaying no hint of sympathy, or indeed any other emotion, as they listen to the argument and consider her case. Another robed figure is shown arguing and gesturing toward the defendant, but this is a silent film and we do not know what he is saying. Shortly thereafter, the central official, who is undoubtedly a judge, reads the decision and sentence is pronounced.

Does the prostitute have a lawyer? It may be that she does—though the film provides contradictory clues. After the adoption of the first lawyers' regulations in 1912, lawyers were allowed to represent the accused at all trials. By the mid-1930s, when *Goddess* was filmed, the Shanghai Bar Association had established a legal aid division, and in any event the court was required to appoint a lawyer for defendants accused of the most serious crimes. Oral argument was also a part of many trials (Ch'ien 1950, 255; Conner 1994). Our possible advocate wears the lawyer's plain black robe, and he does not, as one might expect a prosecutor to do, stand and read the charges, but instead is seen arguing in an animated fashion.

But then where is the prosecutor? The modern Chinese system created a separate prosecutorial office and prosecutors were the full equal of judges; at times they even sat on the bench. In addition, 1913 regulations prescribed the style of robes for judicial officials and lawyers appearing in court; all wore black robes, but with different borders: black for lawyers, gold for judges and purple for prosecutors. Of the three men on the bench, one is clearly the clerk transcribing the trial and one is clearly a judge (he reads the sentence and the other two defer to him). The third man, whose robe also has a colored border, might be the prosecutor or he might be a junior judge, but the film is in black and white and we cannot distinguish the colors. In addition, serious trials of the day were nearly always held before more than one judge, though ordinarily an odd number (not two).

To be sure, an accusing prosecutor seems more in keeping with the emotional tone of the film: the prostitute stands alone and defenseless in court, just as she does in life. Everything about the courtroom underscores her lowly position and the inevitability of her conviction, as did the magistrate's court in the traditional Chinese system. Perhaps a lawyer could have convinced the judges that she acted in the heat of the moment and with justifiable provocation, to reduce her sentence to less than seven years (Criminal Code, Article 272). Instead she has been convicted of ordinary homicide, for which the punishment ranged from ten years to life

imprisonment or even death (Criminal Code, Article 271). With or without a lawyer, she did not receive the severest sentence possible. But in any event, she has lost her child forever, and it is the overall social and political system, not simply the legal system, that has failed her.

Consultation with a Lawyer in *Street Angel*

Criminal justice is an obvious forum for lawyers, but what about the civil law realm? In *Street Angel* (*Malu tianshi*), which was written and directed by Yuan Muzhi and produced by Mingxing Film, two would-be clients consult a lawyer about a civil case, though without satisfaction. This tragicomic 1937 film starred a very young Zhou Xuan, the well-known singer-actress, and Zhao Dan, one of China's most popular actors during the 1930s and 1940s. *Street Angel* combines humor with a sentimental story to provide a vivid portrayal of the urban underclass of the 1930s. Depending on one's viewpoint, the film may be seen as a "classic leftist film" (Zhang 2004, 78), a melodrama (Berry and Farquhar 2006, 83), or a "social-ethical drama" (Lee 1999, 91). In any event, it is widely recognized as one of the best films of the era, perhaps one of the best Chinese films of the twentieth century.

The film takes place in 1935 and according to the opening titles is set in the "world of Shanghai's underclass." It tells the story of four young people living on the margins in a poor section of Shanghai: Xiao Chen, an itinerant trumpet player, his friend Lao Wang, a newspaper vendor, and the two sisters they love. The elder sister Xiao Yun has been forced into prostitution, and Xiao Hong, the younger sister, is a singsong girl in a local teahouse. Chen lives across the courtyard from them and has been courting Hong from his window. When the teahouse owners decide to sell Hong to a wealthy patron, she overhears their conversation and seeks help from Chen and Wang, who try to think of a way to save her.

Initially, they are stumped, but Wang, who has been reading the newspapers pasted to his wall as Chen and Hong flirt and talk, suddenly spots a headline on the front page: "'Daughter' Sues Madam, with Client as Backer." "We could sue too!" he exclaims. But none of them knows how to do so. Then Wang reads the front page of another newspaper, which contains advertisements for lawyers, describing lawsuits they have handled, and the two friends resolve to go and see him right away. But what about their old (and in Wang's case, tattered) clothing? Chen decides to wear his street musician's uniform and pretend to work at the customs office, and he suggests that Wang pose as his driver. The next long scene, depicting their visit to Lawyer Fang's office, combines humor with sharp social criticism. Fang's office is on a very high floor of a modern skyscraper: as the scene opens, they arrive at his suite of rooms and look out the window at the Shanghai houses far below them.

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

Wang: "This is really heaven."

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

Some comic byplay follows as they explore the lawyer's splendid office: a good-sized room with potted plants on stands, drinking water with a glass cup dispenser on the wall, a large desk for the lawyer, and a servant who announces Lawyer Fang's arrival. He sweeps in, a trim figure in a tailored suit, with his hair slicked back, a small mustache and wire-rimmed glasses, a cigarette in his hand. Chen is still playing with a drinking cup and Wang is gluing together holes in his jacket with the lawyer's glue bottle. "Please sit down. What do you have to say? Have you come to bring a lawsuit (*qisu*)?"

"No," says Chen. "We've come to file a complaint (*da guansi*)." Wang whispers behind his hand that bringing a lawsuit is actually the same thing. "Yes, yes, we've come to bring a lawsuit." The two then struggle to recount their story, but just as they may be getting to the point, Mr. Fang cuts in. "I'm sorry, but according to our established practice, we charge five ounces of silver for an hour of consultation, fifteen for a legal document, one hundred to arrange for a hearing in court, and five hundred for an appearance in court to represent a case. I think perhaps you should reconsider." When he rises from his desk and sweeps out of the office, Chen and Wang are left to marvel at such charges.

Chen: "Five hundred ounces of silver!"

Wang: "How much money is five hundred ounces of silver?"

Chen: "It costs money to bring a lawsuit! Damn!"

Wang: "I never expected it."

The next scene finds them back in Wang's room, where Chen is still expressing his surprise at the lawyer's high fees. The four friends decide to flee to another part of Shanghai, but a gangster hired by the teahouse owner tracks them down, and Yun, the older sister, is fatally stabbed. Her death occurs in a tableau in a dark room and is seen through a "barred window that symbolizes entrapment" (Berry and Farquhar 2006, 87). Although Hong has been saved from the immediate fate of being sold and forced into prostitution, it is hard to find a happy ending for anyone here. Despite its humor, this film, like Yuan's other films is darker, and perhaps less nuanced, than *Goddess*: at least the prostitute knew that her son would receive the education she sacrificed for, but in such a system what hope is there for them?

Street Angel provides a detailed portrait of a Shanghai lawyer and, more generally, a picture of the legal system from Chen's and Wang's perspective. Fang is mercenary and impatient to dismiss people who plainly cannot pay his fees; their charade has not fooled him for an instant. His modern office

is in a gleaming high-rise, doubtless in the International Settlement, complete with heat, drinking water, and servant, all in stark contrast to their old-fashioned Shanghai-style houses. The camera emphasizes the height of his office, high above ordinary Shanghai, where they reside. In person, he is also slick and foreignized: he wears a Western three-piece suit and gold watch chain, not the robe of the 1930s intellectual, and he even uses a fountain pen. All in all, he is an unattractive character: rich, Westernized, and inaccessible. *Street Angel's* depiction of a lawyer is far sharper and harsher than the one in *Beauty Remains* (*Meiren yijiu*), which is set in 1948 Qingdao but was actually filmed in 2005. That lawyer too may be a tool of the (rich) older sister as he tries to convince the (poor) younger sister to sign away her rights to their father's property. In appearance he strikingly resembles Lawyer Fang, but this portrait lacks bite: you cannot easily recapture the feelings of an earlier era.

Fang could have materialized from any 1930s edition of *Who's Who in Shanghai*, which included Chinese figures well known to the foreign concessions. He is a modern lawyer with all the trappings of the profession and not the litigation trickster of old imperial China, but all his success and professionalism definitely do not make him good. The message of *Street Angel* is clear but is repeated several times for the viewer's benefit: you need money to get a lawyer and therefore have access to justice. Without it you have no recourse to the legal system. Perhaps law can be found in heaven, but that is far beyond the reach of Shanghai's underclass: "any justice except revolutionary justice is denied to China's poor" (Berry and Farquhar 2006, 88).

Long Live the Missus: The Lawyer as Friend

The Shanghai lawyer is viewed very differently in another famous movie, *Long Live the Missus* (*Taitai wansui*), directed by Sang Hu and produced by Wenhua Film in 1947. It starred Jiang Tianliu as the "missus" and Shi Hui, one of the best-known Chinese actors of the late 1940s and early 1950s, as her husband. This highly entertaining comedy-drama has a modern setting in Shanghai, but is generally apolitical in theme and tone: the film's characters are all middle class and comfortable, not sharply divided into rich and poor. The screenplay was written by Eileen Chang (Zhang Ailing), the author of *The Golden Cangue* (*Jinsuo ji*) and other novellas, and one of the most popular writers of the day; her stories about Shanghai and Hong Kong in the late 1930s and 1940s are especially well known. *Long Live the Missus*, which influenced Hong Kong movies of the next generation, also has much in common with movies filmed in Hong Kong during the 1930s and 1940s.

The film centers on Chen Sizhen, a pretty and very charming wife who is also somewhat manipulative in her management of her husband's and her own family, though mostly for their own good. Her stratagems can backfire,

especially when they are discovered, but on the whole she seems successful. She pays the maid extra without her mother-in-law's knowledge to smooth their relationship, supports a romance between her younger brother and her sister-in-law (though her husband may disapprove), and induces her father to invest in a new company her husband, Tang Zhiyuan, is starting. Tang serves as general manager of the company, which does well at the outset. In the first flush of success, he succumbs to temptation and has an affair with a greedy mistress, who wrangles gifts out of him that he intended for his family.

Then disaster strikes: the company's assistant manager absconds with its funds and the husband's business is threatened with lawsuits. Chen also discovers Tang's affair just as he is beginning to regret his behavior. Although she is hurt by his betrayal, she agrees to help her husband rid himself of his increasingly troublesome mistress if he will promise to give her whatever she asks when she succeeds. Tang agrees, and Chen manages—through her usual clever methods—to extricate him from the relationship. When she returns home, her husband is dismayed to find that her only request is for a divorce. She packs her bags and insists they leave immediately for the lawyer's office to sign the divorce papers.

Perhaps surprisingly in this comedy-drama of the middle class, legal issues are highlighted and a lawyer plays a small but key role in several aspects of the story. He first appears as a friend of the family, who arrives with his wife to play mahjong with the Tangs. Later on, when Tang stops by his office, the lawyer introduces him to the businessman who gives him the idea of starting a company—and of taking a mistress. But Yang is not the villain of the piece: the husband is weak and the lawyer did not cause the ensuing problems. His actions are generally portrayed as positive, especially when he also acts as mediator and counselor. When he has prepared the divorce document for Chen and Tan, for example, Yang asks if they both really want this divorce. Tang demurs, but then reluctantly agrees to it after Chen reminds him of his promise. The lawyer then warns her that divorce is hard on women and suggests that they should both reconsider. Chen insists on going forward, but twice she cannot bring herself to sign the document, so the lawyer tears it up and tells them he is not willing to be their witness. He asks them to reconsider carefully, then invites them both to lunch, because as a lawyer, he rarely sees such a good result and wants to celebrate. Tang declares that he should be the host because he is really the one at fault, and when his wife quickly agrees they all repair to the fancy restaurant the lawyer proposed (where the mistress too is dining, with her latest conquest).

But perhaps our lawyer's appearance is unsurprising after all. The 1930s Civil Code gave individuals, including women, a great deal of liberty to arrange their affairs. They were free to marry in any service they chose, so long as they declared themselves married in the presence of two witnesses (Civil Code, Article 983). To meet this requirement, the parties often signed

a document at the lawyer's office, which also served as evidence of the marriage. Indeed, in this movie Yang serves as a witness to the wedding of Chen's brother and sister-in-law, and he is just congratulating them on the happy occasion when Chen and Tang arrive, seeking a divorce. The code also permitted divorce by mutual consent if it was effected in writing and carried the signatures of at least two witnesses (Civil Code, Articles 1049–1050). For the first time, women were granted the right to divorce and, like Chen, many urban women exercised it (Bernhardt 1994). Though a lawyer's services were not required in either case, legal assistance allowed them to arrange their own affairs and document their agreements.

Like his friends and clients, Lawyer Yang is solidly middle class. And like their homes, his suite of offices is comfortable and pleasant, furnished with chintz sofas and chairs for the clients as well as his own large desk. They are nice modern offices, on a rather high floor (if not in heaven), on a level with other modern buildings viewed through large open windows. Though spacious, the office is not fancy, and there is no dramatic disparity in living standards, so strikingly illustrated in *Street Angel*. Yang is educated and Westernized, but so are his clients: all the men wear suits (though everyone signs with Chinese brushes). They are at ease with lawyers and familiar with their roles: Chen's younger brother asks for a business card when he sees Yang at his sister's home, and both Tang and Chen seem to consult him frequently on civil matters.

The setting for this movie is a world away from that of *Street Angel* and its lack of access to justice for those who cannot ascend to heaven. Here the lawyer meets the central characters on an equal footing; he is more than accessible, he is their friend. What explains such different portrayals of essentially the same creature? Only ten years separate the two movies, so the difference is less of time than perspective. Yuan Muzhi, who wrote the screenplay for *Street Angel*, was not simply progressive, but joined the Chinese Communist Party in 1940, a few years after that film appeared. By contrast, Eileen Chang came from a prominent and well-off Shanghai family, and she wrote about a very different world. *Long Live the Missus* has been described as an apolitical movie, and it is true that issues of rich versus poor do not surface in its story. But Chang's work could also have a darker edge, containing tales of seduction and betrayal (she divorced her first husband in 1947 for infidelity), and the film is not without its "political" points relating to women. Nevertheless, the ending in *Long Live the Missus* can be seen as a happy one, even if Chen is stuck in a patriarchal system in which husbands may stray and must be controlled indirectly.

Bright Day: The Lawyer as Revolutionary

Yuan Muzhi might well have approved of another modern Chinese lawyer, the righteous hero of the film *Bright Day* (*Yanyang tian*), starring the actor

Shi Hui, who also played the husband in *Long Live the Missus*. The film was written and directed by Cao Yu, China's foremost modern playwright and the author of the dramas *Thunderstorm* (*Leiyu*, 1933) and *Sunrise* (*Richu*, 1936). *Bright Day* was released in 1947, the same year as *Long Live the Missus*, and Cao's screenplay, on which this discussion is based, was published in the following year (Cao 1948). The film is of special interest because, in contrast to the other movies discussed in this essay, the lawyer is the central figure, not just a bit player, in the story.

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

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

Yin's most important battle occurs when he learns from his friend Wei that rich merchant Jin Huanwu and his follower Yang Da are traitors: they collaborated with the enemy during the Sino-Japanese War and profited by hoarding goods. Yin immediately drops his fee-paying work and devotes himself to drafting a legal complaint against them. Criminal procedure rules of the day did permit persons with information about a crime as well as those injured by it to initiate and pursue a criminal suit through a complaint, though here the law may be interpreted broadly (Ch'ien 1950, 256). Yin names his friend Wei as the chief witness and files the complaint with the court as the plaintiff (*yuangao*); as a result of his investigation, the

gang is arrested. Wei is threatened and Yin's house is surrounded by thugs, but Yin is determined that both will appear in court to pursue the action against Jin and Yang.

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

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

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

In contrast to *Long Live the Missus*, *Bright Day* is obviously a political movie, and its message is clear. Its characters are either good or evil, and the rich and powerful are generally evil. Yin is portrayed as an admirable character in every respect, though he might also be seen as self-righteous. He is a man of the people who cares passionately about justice: he champions the powerless and is unafraid to denounce evildoers, however powerful they

may be. Apparently one can be both a revolutionary and a lawyer, and with such lawyers victory is assured. According to a contemporary critic, Cao “firmly believed that justice is bound to triumph. Because of this belief, the just characters struggle with the evil and try to open the way to a new future. When we hold the truth, we cannot be subdued by force.” The film demonstrates that justice can be done in court and also suggests that “China needed to establish a stable and just legal system before it could become a just and modern society.” Upon seeing the film, the president of the Shanghai Drama Institute is said to have stated, “Let’s pray that outside the screen, too, a bright day will come to the Chinese people” (Hu 2003, 174).

Conclusion

A Chinese colleague once told me that these are “only movies,” not historical documents, though they may have light to shed on the legal profession of their day. These film depictions of lawyers were not totally divorced from reality, and many of the details are clearly right. Lawyers did indeed advertise in newspapers below the fold, those same papers also published court reports, and judges and lawyers did wear robes. (And with some notable exceptions, most Chinese lawyers were men.) But the real value of considering these films lies in the *image* of lawyers they present for us: they are the earliest surviving popular film depictions of lawyers in China. The films provide a window on popular views of the profession as well as clearly delineated and vivid portraits of lawyers in some of the most famous movies of the 1930s and 1940s.

Lawyers appear more often in early Hong Kong than in Shanghai cinema, and they play a broader range of usually positive roles. Hong Kong movies were no less realistic than other films of their era, even if most seem more escapist to us now. Of course they too did not pretend to record a lawyer’s life or work accurately: their primary purpose was entertainment and possibly education—hence their focus on the relationship between family and professional obligations. Why such different treatment of lawyers in the cinemas of Hong Kong and Shanghai? Perhaps the answers lie in their different legal systems and somewhat different cultures, as well as in a preference for different story lines. Lawyers certainly seem to occupy a natural position in the Hong Kong universe; there the legal profession is well established and the services of lawyers can almost be taken for granted. Movie lawyers do not seem to be struggling with the idea of what a lawyer *should be*. (Of course Hong Kong’s courts were well established, and the bar had practiced in Hong Kong from the colony’s early days.)

In sharp contrast, modern lawyers were a relatively new phenomenon in mainland China. In Shanghai, to be sure, the legal profession was less of a

novelty than elsewhere: Shanghai was a center for lawyers as well as for movies. As China's commercial and industrial center, Shanghai offered its lawyers potential clients along with functioning courts. Shanghai's bar association also represented one of the largest concentrations of lawyers in the country, with more than 1,000 members in 1935, nearly 10 percent of the nation's total (Conner 1994, 229). But their professional role was much less defined than for their Hong Kong cousins, who had centuries of English development behind them. So many fundamental issues had yet to be resolved: what is a lawyer's duty to the profession and to clients? What role should lawyers play in the justice system?

Portrayals of lawyers also reflected political points of view as well as the realities of their day. Lawyer Fang of *Street Angel* has clients who are wealthy and some who are probably foreign as well; he is prosperous and foreignized himself. He brusquely turns away the poor and underrepresented in society, and thus contributes to social and political injustice himself. Fang supports an unjust legal regime, even if he does a good job in representing the clients he accepts. He is an integral part of a repressive system that punishes the poor harshly and generally denies them justice. Indeed, lawyers are a vital cog in this repressive system, which also includes courts and police (the police are never depicted as benevolent figures).

That portrait contained plenty of truth: Shanghai lawyers did maintain fee schedules and their fees were beyond the reach of many, a fact acknowledged by lawyers themselves. The legal academic Qian Duansheng, for example, believed that the bar was held in low esteem for a number of reasons, especially its desire to make money. "The more successful and prosperous lawyers of the big cities, with some exceptions, are engrossed in money-making. . . . They seldom feel a desire to work for the interest of wronged parties who happen to be poor." He thought the bar should be enlarged and popularized so its services could be made available to the public and judges could be made "more conscientious in trials" (Ch'ien 1950, 261).

Popular fiction could provide similar, perhaps even harsher, portraits of these early Chinese lawyers. Jeffrey Kinkley concluded that lawyers were "painted in unrelievedly dark and cynical overtones" by the authors of the Republican-era detective fiction he analyzed. In those stories, the lawyers are rich and powerful, and in turn they offer their services only to the rich and powerful. They are known for their sophistry and may even be extortionists and blackmailers. (Kinkley 2000, 205, 226–227). But Kinkley argues that China's political weakness also affected these stories: China's press and legal profession may have been convenient surrogate targets, but the real issues of the day were imperialism and social conflict. Perhaps the writers were criticizing phantoms, that is, "kingpin lawyers," instead of Chinese militarists and foreign powers (239–240).

Bright Day, on the other hand, suggests that lawyers can be righteous after all—if they represent only those who need *and* deserve justice. Lawyer Yin Zhaoshi is the opposite of Lawyer Fang in every way. He cares nothing for money or appearances, and he is tough rather than effete and foreign. More important, this lawyer acts for causes, and perhaps only for causes; he serves only the poor and not the rich. But these different portrayals of lawyers actually reflect the same vision of justice. Lawyer Fang of *Street Angel* and Yin Zhaoshi of *Bright Day* represent two sides of the same coin, one good and one bad; they reflect the same ideal of what a lawyer should and should not be. Both films imply that to serve justice it is not enough to serve one's clients: one must fight injustice and directly involve oneself in helping the poor and the weak. *Bright Day* may also reject the idea that even the rich are entitled to representation. The screenplay does not suggest, for example, that the evil defendants have counsel or that indeed they ought to.

Lawyer Yang in *Long Live the Missus* inhabits a parallel but entirely different world, one in which such issues are never really raised. The characters in that film are complex: just as the lawyer's clients are neither rich nor poor but middle class, they are also neither entirely good nor entirely bad. (Nor is the ending in this film unambiguously happy.) Yang is trained in the Chinese civil law, not the English common law, tradition, but he would otherwise be equally at home in Hong Kong, as was his creator Eileen Chang. Yang, too, is a model lawyer, though of a very different type, and the film does not pass judgment on him because he does not appear to serve the poor. Actually, he is an excellent lawyer: he understands the true wishes of his clients, even if they remain unexpressed, and helps them to achieve their goals. More broadly, his services are important and necessary to his clients, and he meets his professional obligations by representing them. Without Yang's advice, they could not take full advantage of the freedom the law grants them to order their lives. When he advises them, he plays a morally worthy social role, both as friend and counselor. Yang thus represents another version of the ideal movie lawyer: the equal of, and helpful friend to, his clients (Fried 1976).

Can we reconcile the lawyer hero of *Bright Day* with the lawyer villain in *Street Angel*? They are different in every way, one a capitalist who cares about money and one a revolutionary who cares about social justice. But both films recognize that lawyers may be good or bad, serve justice or not, and that in any event without concerned lawyers there can be no access to justice for anyone. One film shows what lawyers are and the other what lawyers could and should be, but both make clear that justice is important and that lawyers are essential if people are to have access to the legal system. Even the less obviously political *Long Live the Missus* makes the same point, though in an understated way: there too the lawyer provides an indispensable service to his clients.

References

- Bernhardt, Kathryn. 1994. Women and the law: Divorce in the Republican period. In *Civil law in Qing and Republican China*. Ed. Kathryn Bernhardt and Philip C.C. Huang. Stanford: Stanford University Press.
- Berry, Chris and Mary Farquhar. 2006. *China on screen: Cinema and nation*. Hong Kong: Hong Kong University Press.
- Cao Yu. 1948. Yanyang tian [Bright day]. In *Cao Yu quanji [Complete works of Cao Yu]*. 1978. Beijing: Renmin wenxue chubanshe.
- Ch'ien Tuan-sheng [Qian Duansheng]. 1950. *The government and politics of China*. Cambridge: Harvard University Press.
- Ching-lin Hsia, James L.E. Chow, and Yukon Chang, trans. 1976. *The civil code of the Republic of China. 1929–31*. Shanghai: Kelly & Walsh.
- Conner, Alison. 1994. Lawyers and the legal profession during the Republican period. In *Civil law in Qing and Republican China*. Ed. Kathryn Bernhardt and Philip C.C. Huang. Stanford: Stanford University Press.
- Fonoroff, Paul. 1997. *Silver light: A pictorial history of Hong Kong cinema 1920–1970*. Hong Kong: Joint Publishing (H.K.) Co.
- Fonoroff, Paul. 1998. Hong Kong cinema. In *Encyclopedia of Chinese film*. Ed. Yingjin Zhang and Zhiwei Xiao. London and New York: Routledge.
- Fried, Charles. 1976. The lawyer as friend: The moral foundations of the lawyer–client relationship. *Yale Law Journal* 85: 1060–1089.
- Fu, Poshek. 2003. *Between Shanghai and Hong Kong: The politics of Chinese cinemas*. Stanford: Stanford University Press.
- Hu Jubin. 2003. *Projecting a nation: Chinese national cinema before 1949*. Hong Kong: Hong Kong University Press.
- Kinkley, Jeffrey. 2000. *Chinese justice, the fiction: Law and literature in modern China*. Stanford: Stanford University Press.
- Lee, Leo Ou-fan. 1991. The tradition of modern Chinese cinemas: Some preliminary explorations and hypotheses. In *Chinese cinema*. Ed. Chris Berry. London: British Film Institute.
- Lee, Leo Ou-fan. 1999. The urban milieu of Shanghai cinema, 1930–1940: Some explorations of film audience, film culture and narrative conventions. In *Cinema and urban culture in Shanghai, 1922–1943*. Ed. Yingjin Zhang. Stanford: Stanford University Press.
- Leйда, Jay. 1972. *Dianying: An account of films and the film audience in China*. Cambridge: MIT Press.
- Pang Laikwan. 2002. *Building a new China in cinema: The Chinese left-wing cinema movement, 1932–1937*. Lanham, MD: Rowman & Littlefield.
- Pickowicz, Paul G. 1993. Melodramatic representation and the “May Fourth” tradition of Chinese cinema. In *From May fourth to June fourth: Fiction and film in twentieth-century China*. Ed. Ellen Widmer and David Der-wei Wang. Cambridge: Harvard University Press.
- Zhang Yingjin. 2004. *Chinese cinema*. New York and London: Routledge.
- Zhang Zhen. 2005. *An amorous history of the silver screen: Shanghai cinema, 1896–1937*. Chicago: University of Chicago Press.

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CHAPTER 12
PLAYING WITH INTERTEXTUALITY AND
CONTEXTUALITY: FILM PIRACY ON
AND OFF THE CHINESE SCREEN

Yingjin Zhang

This chapter examines piracy as a challenging issue that cuts across the interconnected, overlapping domains of film, law, market, morality, creativity, and democracy. Rather than endorsing the global media industry's outright condemnation of film piracy as an illegal practice in need of stringent control and eventual eradication, I am interested in both the intertextuality and the contextuality of film piracy in China.

Central to both intertextuality and contextuality is a concept of textuality as "an open, infinite *process* that is both meaning-generating and meaning-subverting," "the manifestation of an open-ended, heterogeneous, disruptive force of signification and erasure that transgresses all closure" (Johnson 1990, 40). Thus conceived, textuality differs from the classic idea of a work as a closed, finished representational object with fixed meaning.

My concept of intertextuality builds on this emphasis on the process of signification and subversion that benefits from deliberate references to other texts and generates new tensions and new meanings between texts. Furthermore, I prefer to speak of contextuality in this chapter to discourage the understanding of context as a closed, bounded, overdetermined concept. Rather, contextuality aims to highlight the fluid, heterogeneous nature of contexts of film piracy in China, and these multiple contexts are brought to bear on one another by Chinese filmmakers to form a certain kind of inter-contextuality whereby new tactics of subversion become possible and new meanings are generated and proliferated.

The intertextuality discussed in this chapter derives from multiple uses of piracy on and off the Chinese screen, and my focus is the alternative production of meanings through the use of "pirated" (i.e., unauthorized)

images from foreign films in recent Chinese underground and independent filmmaking. By reading a few recent fiction and documentary films related to piracy, I also want to explore the contextuality of film piracy in China and the inter-contextuality constructed through the artists' deliberate juxtaposition of disparate contexts, from global to local, legal to artistic, repressive to liberatory, depressing to uplifting, and realist to parodic. Organized in three sections—from piracy to conspiracy, from authenticity to creativity, and from piracy to democracy—this chapter offers a preliminary assessment of the complex, contradictory roles piracy plays in Chinese film culture as well as critical positions vis-à-vis evolving realities of film piracy in contemporary China.

From Piracy to Conspiracy: The Contextuality of Framing

In 2001, a special report of the International Intellectual Property Alliance asserted that the international community has continued “to refer to China ignominiously—based on piracy levels of 90 percent and above—as the ‘piracy capital of the world’” (Wang 2003, 73). To be sure, piracy is not an isolated problem geographically restricted to a single nation-state such as mainland China, and recent studies demonstrate that piracy has been a widespread transnational phenomenon in East Asia for many years. However, with its vast audience base, China is subjected to increasing scrutiny through the lens of conspiracy theory, and the “conspiracy” in question seems to take place in three possible scenarios. First, Chinese consumers are seen as conspiring with the Chinese state in defiance of global capitalism; this is a prevailing view from the West, which has stepped up its pressure on the Chinese state to crack down on piracy, especially since China's entrance into the World Trade Organization (WTO) in December 2001. Second, Chinese consumers are seen as conspiring, intentionally or not, with underground gangster tycoons in defiance of both the Chinese state and global capitalism. That view comes from those cultural critics who deplore consumers' unsavory taste in entertainment products and detect the state's worsening incompetence in implementing censorship. Third, Chinese consumers are seen as conspiring with each other, albeit mainly on an individual basis, against hegemonic powers at the global, national, and municipal levels. This is a view I want to examine in my reading of a few Chinese independent films that specifically address piracy issues.

The first theory, which frequently surfaces in media coverage and industry reports in the West and which itself often smacks of conspiracy, is not my concern in this chapter. Instead, I turn to the second conspiracy

theory, recently articulated in Laikwan Pang's critique of film piracy as an aggressive operation that deprives global capitalism of its intellectual property rights and yet nonetheless benefits an underground, unlawful form of transregional capitalism based in Asia. Pang's study seeks to examine two large issues: the internal contradictions of globalization manifested in contemporary Chinese culture and the impact of film piracy on a collective identity or Chineseness as constructed by Chinese cinema and mass media. Her characterization of "Chinese cinema's metamorphosis from a collective public event to a piracy-privacy activity, from a highly controlled mode of production and distribution to a *completely* underground operation" (Pang 2004, 103; emphasis added) surely needs qualification, but I will only concentrate on two problematic points in Pang's critique.

The first is an implied elitism in her distrust, if not dismissal, of Chinese consumers' taste:

Obviously, it is naïve to assume that piracy is an egalitarian effort of the people to oppose some authoritative policy, because what the people desire is entertainment in the form of commercial Hong Kong and Hollywood films, which are hegemonic in their own discursive structures. The popular commercial films being pirated are often invested with various forms of prejudices, ranging from racism, chauvinism, and homophobia, to capitalist greed. The so-called tactics involved in piracy are neither humanistic nor democratic in nature but are carried out in their own system of exploitation, through which some gangster tycoons earn astronomical profits. (Pang 2004, 115)

The elitism implicit in Pang's criticism of the Chinese audience's unsavory taste in pirated products comes to the fore when her critique is compared with Shujen Wang's investigation of piracy in the Chinese-language markets in mainland China, Hong Kong, and Taiwan. Like Pang, Wang is attentive to the political and economic aspects of piracy, but Wang refuses to pass simplistic judgments and is willing to hear what actual consumers say about their perceptions and uses of piracy. Wang's selected profiles of consumers indicate that most people consume pirated products for economic reasons, though personal choice is also of importance. A sojourner Taiwanese businessman in Shanghai turns out to have "an impressive collection of American and European art films" at home: "To him, the price difference between pirated VCDs and the cinema tickets is not an issue. It is rather a matter of choice and the availability of nonmainstream films" (Wang 2003, 91). The consumer's agency and subjectivity, in other words, constitute a key issue in piracy study. It should be noted here that in China today, first-run cinema tickets are priced between 30 *yuan* (domestic features, about \$3.75) and 80 *yuan* (Hollywood feature films, about \$10),

depending on location (inland versus coastal, rural versus urban, and sites within a city). Pirated videos are sold for 5 *juan* (from street vendors, about \$.60) to 15 *juan* (video stores, about \$1.80).

The second problem in Pang's critique is evident in her claim that "Movie piracy can be seen as the largest crime collectively committed by the Chinese people against the authority of both the State and the global culture industry" (Pang 2004, 116). Inasmuch as film piracy is concerned, Chinese consumers—excluding those who also work as filmmakers—are rarely in direct opposition to the state, although they are delighted to seize opportunities proffered by the confrontation between the state and the global media to tactically turn the state's ineffective control to their personal gains in consumption. The state's apparent ineffectiveness in this case, therefore, does not indicate its fading power over matters of collectivity in China (as Pang interprets it), but rather exemplifies its strategic positioning in negotiation with global capitalism.

Piracy control, in other words, proves to be an effective bargaining chip the Chinese state holds in its game with the global powers, and it can choose to crack down on piracy periodically, even symbolically, in exchange for compromises and concessions in its favor. As such, piracy no longer belongs theoretically to a "zero-sum game" in which one side's loss automatically translates into another side's gain, but rather, it belongs to a "positive-sum game" in which both or all sides may gain at the same time. To quote Shujun Wang's summary of Anthony Giddens's sociological theory (Cassell 1993), "Power would have to be viewed within the dynamics of those involved. In this sense power is not absolute; instead, it has to be viewed *in* relations and, indeed, *as* relations" (Wang 2003, 93).

In relational terms, therefore, film piracy may be conceptualized as a *conspiracy of the weak*. Since piracy consumers occupy a place of marginality vis-à-vis both global capitalism and the Chinese state, they are in effect holders of weak power. Marginality, as Stuart Hall argues, "is a space of weak power, but it is a space of power, nonetheless" (Hall 1997, 34). Following Hall, we may regard the consumption—not the production—end of film piracy as a space of weak power. This weak power, furthermore, operates as tactic, defined by Michel de Certeau as "an art of the weak." De Certeau elaborates the tactic this way:

It takes advantage of "opportunities" and depends on them, being without any base where it could stockpile its winnings, build up its own position, and plan raids. What it wins it cannot keep. . . . [It] must accept the chance offerings of the moment. . . . It must vigilantly make use of the cracks that particular conjunctions open in the surveillance of the proprietary powers. It poaches in them. It creates surprises in them. It can be where it is least expected. It is a guileful ruse. (de Certeau 1984, 37)

Contrary to Pang's insistence otherwise, I believe that de Certeau's concept of tactic versus strategy works adequately in the context of piracy if we approach the issue from the perspective of consumers as "weak power," rather than from the perspective of those reputedly powerful "gangsters" who reap most profits from piracy. Shujen Wang's interviews with piracy consumers in various walks of life (university professors and students, private businessmen, and ordinary workers) remind us that, even if considered as a conspiracy, piracy does not amount to organized "crime"; instead, it operates in an array of tactics of access, appropriation, proliferation, subversion, and (self-)empowerment—tactics that emerge in better view from a bottom-up, case-by-case study than from a top-down, overgeneralized critique.

Before reading filmic cases of piracy as tactic, a few words on the metaphorical implications of Shujen Wang's book title, *Framing Piracy*. Her intention may be to provide a "framing" or methodological framework for the study of piracy more than to "frame," implicate, or indict piracy as a "crime" to be controlled and eradicated. Her attempt at "framing piracy" is therefore one of "unframing" piracy as a purely legal or moral issue and "reframing" it as a sociocultural problem. To switch the contextuality of framing, I suggest that we move from cultural consumption to cultural production and consider the ways piracy is reframed not as an issue of legal abuses but as an issue of creative use or reuse. In most cases involving piracy, Chinese filmmakers' creativity matters more than the authenticity of the original work, and their reuse of pirated materials is a key to producing new dimensions of intertextuality and inter-contextuality. Thus working on behalf of the consumer, these filmmakers reframe piracy as a space of weak power that may generate "humanistic" or even "democratic" aspirations, two possibilities denied in Pang's critique but substantiated in my analysis in the next two sections.

From Authenticity to Creativity: The Intertextuality of Reframing

Concepts of intellectual property rights involve definitions of authenticity and originality as well as specifications of the parameters for fair and legal use (Bettig 1996). In Chinese filmic representation, however, notions such as authenticity, originality, fairness, and legality are repeatedly subjected to scrutiny in the artist's attempts at reframing piracy, which may take the form of mere referencing, creative reconstruction, playful parody, or outright dismissal. By weaving new layers of intertextuality through reframing, Chinese filmmakers no longer treat the authenticity of the original as something to be revered or reified, but rather something to be recreated and recontextualized every time it is referenced or, simply put, pirated. Creative

reframing of piracy, therefore, takes place at two levels: first, as artists use piracy off-screen, in their daily life; and second, as artists reuse select pirated materials on-screen, in their creative works. These two interconnected levels are combined to make sure that piracy, as tactic, succeeds on- and off-screen in turning cultural consumers into cultural producers, a point to be further elaborated in my final section.

As suggested by its brazen English title, *Pirated Copy* (Manyan, 2004), directed by He Jianjun (a.k.a. He Yi, b. 1960), builds its fictional narrative around the intertextuality of reframing film piracy. Its Chinese title plays down piracy's legal implications and foregrounds its *regenerative* power by evoking a metaphor of wild grass "spreading" (*manyan*), seemingly on and of itself, across a vast land. (*Spreading* is in fact the informal English title used in some video copies of this movie.) The opening scenes of *Pirated Copy* capture precisely the "wild" (untamed but natural) power of piracy spreading among urban consumers. Avoiding conventional establishing shots, fleeting images of street vendors and buyers bargaining over prices (7–15 *yuan*, or \$0.85–1.80 each) of pirated video compact disks (VCDs and DVDs, hereafter referred to as "pirated videos") in standard or dialect-accented Chinese heighten an overpowering sense of anarchy. The handheld camera zooms in on the commotion of illegal transactions at crowded bus stops, street corners, and pedestrian subways under streets, where a sudden, albeit expected appearance of the police causes street chases. The title and initial credit sequence appear right after these chases, and the *marginality* of film piracy as a space of the weak is ruthlessly set under the surveillance of state power.

Given this tension between the weak and the powerful, *Pirated Copy* reframes piracy issues in three significant ways. First, it adopts an oppositional stance toward hegemonic powers and subtly challenges the legitimacy of the state's crackdown on film piracy. Second, it celebrates the liberating effects of consuming piracy and questions conventional wisdom regarding individual identity and sexual freedom. Third, it focuses on the miserable social condition in which underprivileged people subsist and thereby contributes to a reconfiguration of the global–local dynamic in contemporary China.

Intertextuality I: Subtle Challenges to the State

The oppositional stance in *Pirated Copy* is a distinguishing feature of its director's independent film career. He Jianjun studied in a special directing class at the famous Beijing Film Academy in 1985 and worked as an assistant director on two avant-garde films, *Yellow Earth* (*Huang tudi*, 1984) and *King of the Children* (*Haizi wang*, 1987), both directed by Chen Kaige

(b. 1952), a leading figure of the internationally renowned fifth generation (Zhang 2004a, 235–40). Unlike his fifth generation predecessors, He Jianjun did not stay in the state-owned studio system but instead opted to work independently, raising private money for his feature productions and circulating them through unofficial (hence, illegal) channels, mostly abroad and intermittently at home (Nakajima 2006). Together with Zhang Yuan (b. 1963) and Wang Xiaoshuai (b. 1966), He Jianjun spearheaded a momentous trend of underground filmmaking in the early 1990s by filmmakers soon recognized as the “outlawed” or “rebellious” members of the sixth generation whose films consistently challenge the Chinese cultural and political establishment in aesthetic, ideological, and institutional terms. Aesthetically, they abandon the traditions of both Chinese melodrama and Hollywood commercialism and aspire to the status of innovative European art films ridden with existentialist crises. Ideologically, they forsake grand narratives and utopian ideas (national allegory, enlightenment, and revolution) and prefer marginalized people (rock musicians, alienated artists, mental patients, migrant workers, prostitutes, gays, and lesbians) and their unconventional, uneventful, and un(der)represented lifestyles (Zhang 2006).

Like his earlier works, such as *Red Beads* (*Xuanlian*, 1993) and *Postman* (*Youcai*, 1995),¹ He Jianjun's *Pirated Copy* is an illegal film simply because it was never submitted for official approval for production, distribution, and exhibition. The notion of illegality, nonetheless, is itself a concept this film seeks to challenge. An example of such challenge is seen in the arrest of piracy vendor Wang, along with a woman who peddled a bicycle with her child on the back seat while selling pornography (*maopian* or “raw movies”) on pirated video. “On what ground are you arresting me? I didn't break any law!” Wang protests in vain, as he is dragged away. In the police station, an officer looks at the cover of *In the Realm of the Senses* (1976), directed by Oshima Nagisa (Japan), and warns Wang that selling pornography is punishable with a jail term. Wang says that Oshima's is an “artistic film” (*yishu pian*) celebrating “humanity” (*renxing*, which can also mean “human nature” or, literally, “human sex”), but his voice subsides as the officer plays a graphic scene from the pirated video, in which a woman, in an act of sympathy, displays her private parts to a masturbating elderly man.

Although Wang is by no means an effective challenger to the state on the dividing line between artistic and pornographic films, He Jianjun's staging of this interrogation scene still urges the viewer to question, no matter how subtly, the state's authority in legal definitions of visual material and the legitimacy of its often-violent crackdown on film piracy. Piracy cannot be eradicated on moral grounds, He Jianjun seems to argue, because even pornographic films may benefit their viewers in “humanistic” terms.

Evoked as self-defense by vendor Wang in the film, humanity may actually function as an excuse for certain vendors of pornographic or erotic (*qingse*, soft porn) videos, including the anonymous woman with a child in *Pirated Copy*, in the sense that film piracy provides the unemployed or the unemployable with a means of generating needed incomes. In reality, small-time female vendors of various ages are common sights in contemporary urban China, especially in residential neighborhoods away from major commercial areas.²

This gender aspect of film piracy is dramatized in *Cry Woman* (*Kuqi de nüren*, 2002), an independent feature directed by Liu Bingjian (b. 1963), which early on displays street scenes near Tian'anmen Square, an absolute symbol of central power in China. The female protagonist, an unemployed migrant worker, borrows a child of her neighbor's and sells pirated videos for seven to eight *yuan* apiece on the street. She claims to have everything a consumer wants, and a man stops his bicycle and looks right inside the thin jacket the woman unzips for him. While she looks nervously around, with the child by her side, the shot of the man fumbling for pornographic titles hidden inside her jacket appears like an act of sexual harassment. This scene is ironic because the act is displayed in broad daylight, and the location seems to be close to Tian'anmen Square. As the film continues, the protagonist runs away from the police, only to be caught when she stops for a drink on a side street. Two police officers happen to pass by and recognize her, but they let her go as this is only her second time caught in action. Having lost her investment in pirated videos, the protagonist leaves Beijing and returns home, eventually becoming a professional "cry woman" for hire at local funerals. What is even more ironic in this arrest scene is that, after the woman is gone, the officers exchange information about confiscated pirated videos and pocket "good" titles for their own consumption. Again, He Jianjun seems to argue in favor of piracy because it provides entertainment indispensable to consumers at large and irresistible even to agents of law enforcement.

The brief scene of chase and capture in *Cry Woman* brings us back to *Pirated Copy*, which stages another challenge to the state's legitimacy in cracking down on piracy near its end. If its beginning scene of arrests serves as an unmistakable reminder of everyday realities in contemporary China (as further evidenced in *Cry Woman*), then the ending scene of escape represents He Jianjun's hope for preserving a space for tactical *survival* amidst the strategic surveillance of the hegemonic powers. Unlike the beginning, a police chase does not end with the arrest of Senlin, the protagonist vendor; instead, he escapes through the pedestrian subway and continues to run on the streets. As the camera follows his run for four minutes, first from behind and then from the front, with the soundtrack punctuated by his heavy panting, the symbolism of running comes to the fore. Perhaps referencing *Run Lola Run*

(*Lola rennt*, 1999), directed by Tom Tykwer (Germany), running in *Pirated Copy* takes on special significance. A few minutes into the scene, the viewer discovers that Senlin is no longer running away from legal authorities (for they are already out of sight), but he is recreating meaning for his life by running—by transforming running from a reactive to a *creative* tactic, using running to create a space out of no space.

Pirated Copy ends with a space for hope created through an extended sequence of running. In comparison with *Run Lola Run*, He Jianjun's characters may not run as graciously as his German counterparts do, but they seem to be facing the same existential questions as relayed to the viewer at the beginning of *Run Lola Run*:

Who are we? Where do we come from? Where are we going? How do we know what we believe we know? Why do we believe anything at all?

Nonetheless, if *Run Lola Run* turns to imaginary violence to resolve a pressing existential crisis, *Pirated Copy* repeatedly and intertextually resorts to sexuality to achieve its intended liberating effects.

Intertextuality II: The Liberating Effects of Piracy

The intertextuality created through referencing *Run Lola Run* promises liberating effects through consuming piracy in *Pirated Copy*. Like the three versions of Lola's running, each of which is better than its preceding one, the two versions of the vendors' running in *Pirated Copy* end with the second one (escape) definitely better than the first (arrest). However, inasmuch as uses of piracy are concerned, the liberating effects of piracy in *Pirated Copy* are generally felt more in the sexual arena than the legal realm.

As illustrated in the officer's classification of pornography based on graphic images, the state's legal power rests on regulating the content of pirated visual material rather than the effects of its consumption. Chinese independent filmmakers, on the other hand, insist on creative uses of piracy in order to generate liberating effects for their characters on-screen, if not specifically for consumers off-screen. In *Pirated Copy*, He Jianjun stages at least three scenes in which pirated erotic videos contribute to a sense of liberation in different contexts. In the first, a female college lecturer visits the vendor Senlin, who has taken over Wang's piracy business after the latter's arrest. She is visibly offended by piles of pornographic videos in Senlin's apartment, but he explains that his customers—mostly middle-aged couples—order such titles and he watches them before delivery to make sure of the videos' quality.

Interestingly, we can trace Senlin's explanation intertextually to Jia Ping'ao's observation of what had spread through China since the late 1980s.

According to Jane Zha, the famous novelist Jia Ping'ao has admitted that those notorious erotic descriptions in his controversial novel *The Abandoned Capital* (*Feidu*, 1993)—so “notorious” that he, as if through self-censorship, uses empty squares to indicate deleted Chinese characters in many descriptions—are derived from his personal experience of watching pirated porn videos: a great number of porn videos were in circulation in China, and “they saved a lot of families” (Zha 1995, 190) because they rendered an urgent service when sex education was nonexistent in a nation known for repressed sexuality and conservative morality. In this context, cinematic depictions of socially imposed sexual repression might even function as tactical acts challenging the state, and this is exactly what Wang Xiaoshuai does with his recent “aboveground” feature, *Shanghai Dream* (*Qinghong*, 2004). Set in a remote town in southwestern China during the 1970s, *Shanghai Dream* traces the forbidden love between two people toward its tragic end: after a date rape, the woman goes insane and her lover, a factory worker, is sentenced to death and executed in public.

As if to prove the immediate liberating effect of watching pornography, in a subsequent scene *Pirated Copy* shows the female lecturer is engaged in masturbation while watching a porn video at home. Nevertheless, He Jianjun's use of pirated images sees to it that his purpose is not to “save families” or marriages, as Jia Ping'ao claimed in relation to his erotic novel, but rather to primarily seek sensual pleasures. In another scene set in the same apartment, doubling as a piracy warehouse, vendor Senlin makes love to a pretty prostitute whom he just met in a bar when he was selling pirated videos. This off-screen love scene is crosscut with an on-screen exhibition of a love-making episode from *In the Mood for Love* (*Huayang nianhua*, 2000), directed by Wong Kar-wai (Hong Kong), with Wong's signature melancholy music filling the soundtrack. After sex, the charming prostitute demands fifty pirated videos as compensation and proudly admits that she has a collection of hundreds of videos at home, yet she tactfully refuses to tell Senlin her name and her address: “Do you see what age we are living in now? . . . Is a name that important?” By pretending to be nameless and therefore caring little about authenticity or identity, the prostitute appears as the very embodiment of piracy itself: both are capable of evading the power of strategic surveillance, flowing freely among the urban crowd, and all the while enjoying their full *anonymity*.

The third scene of liberating effects takes place on the college campus where the lecturer teaches a summer class. She lectures to students about *Tie Me Up! Tie Me Down!* (*Atame*, 1990), directed by Pedro Almodóvar (Spain), an erotic film whose distributor took the MPAA to court and secured an NC-17 rating after an initial X certification in the United States. During the class screening, Senlin arrives with his pirated video delivery, and the lecturer brings him to an empty classroom where the two make love

passionately. Even her husband never made her that aroused, she confesses, and she further explains that her husband is gay and covers up his sexual orientation by taking a mistress. Senlin, in turn, recalls his first sexual experience with a female student while attending college, which proved disastrous because he was caught and expelled. The message *Pirated Copy* seems to convey through an intertextual reference to *Tie Me Up! Tie Me Down!* is that passion-filled heterosexual love is very much an unknown pleasure in the still repressive Chinese society. Film piracy, in this context, works to inspire people and promises liberating effects readily available for immediate and repeated experience.

Intertextuality III: The Reconfiguration of the Global–Local Dynamic

Nonetheless, *Pirated Copy* suggests that access to and the intensity of unknown pleasures are tied to economic factors (e.g., white collar versus blue collar) and that unknown pleasures may turn out to be non-pleasure after all. The circulation of pirated foreign videos such as *In the Realm of Senses*, *Run Lola Run*, and *Tie Me Up! Tie Me Down!* foregrounds the presence of the global media in everyday Chinese life. But rather than the fantasy of luxurious lifestyles projected in contemporary Chinese TV soap operas and commercial films, *Pirated Copy* resorts to the tactic of marginality and highlights the local condition of poverty and unemployment, thereby reconfiguring the global–local dynamic in favor of emphatic local grounding.

The pleasure of watching pirated foreign videos is captured in a scene in which a couple, with face masks on, plays with a gun in imitation of a violent killing in *Pulp Fiction* (1994), directed by Quentin Tarantino (USA). They utter Jules's line "And you will know my name is the Lord when I lay my vengeance upon you" (Tarantino 1994, 32), originally from the Bible in Chinese as Jules and Vincent empty their guns at the same time on the sitting Brett. The couple's pleasure is short-lived, however, because they are short of money and the husband, at the age of thirty-nine, is soon laid off by a factory. Again referencing *Pulp Fiction*, they contemplate robbing a bank, the husband reasoning that he would at least be fed in prison if he were caught. One night, the couple goes out to find a target in an entertainment quarter and warn themselves not to touch any foreigner because of the particular legal complications that would cause. Instead, they set their eyes on a Chinese prostitute, but when they pursue her to a warehouse she is under attack by three men and stripped almost naked. As one of the men leaves his police uniform behind and is about to rape her, the husband intervenes and rescues the victim. When the men question the authenticity of his heroic role due to his suspicious armed robber's outfits,

the husband shoots and kills them one by one, crosscut with the clips of Jules and Vincent gunning Brett down, with part of Jules's Biblical line uttered in Chinese: "Blessed is he who, in the name of charity and good will, shepherds the weak through the valley of darkness . . ." (Tarantino 1994, 32).

The intertextuality formed between *Pulp Fiction* and *Pirated Copy* is ironic: violence is predicated on money in *Pulp Fiction*, but in *Pirated Copy* it is articulated with a lingering trace of heroism. After killing three perpetrators, one of whom probably donned a police uniform to disguise his evil intentions, the couple roams about the city and enters a small restaurant. Since they cannot even pay for the simple meal they ordered, the husband decides to rob the owner. In an astonishing moment of revelation, the owner slams two artificial legs he wears on the counter: "if I were not crippled, I would have robbed people myself!" Completely devastated, the husband murmurs, "No one has any money," and commits suicide with his gun. The wife follows suit, saying that they will continue their crimes in heaven. For these two antiheroes, suicide appears to be the only heroic option left.

Juxtaposed intertextually, the restaurant robbery reveals the disparate conditions of antiheroism in *Pulp Fiction* and *Pirated Copy*. In the former, even after Jules defeats Pumpkin and Honey Bunny's mock-heroic robbery, they still walk away with a large sum of money, including Jules's \$1,500 offered as a price for not killing Pumpkin. On the contrary, without getting anything in their robbery plans, the couple in *Pirated Copy* loses everything, including their lives. The pleasure they associated earlier with a bank robbery proves to be no pleasure at all, and the local condition of poverty seems all the more distant from the global imagery of affluence, Hollywood-style.

The ironic reconfiguration of the global-local dynamic in *Pirated Copy* is also encountered in *Unknown Pleasures* (*Ren xiaoyao*, 2003), directed by Jia Zhangke (b. 1970), which stages two visible intertextual references to *Pulp Fiction*. First, an unemployed hinterland youth named Xiaoji fantasizes about getting rich, American-style, in a restaurant converted from a passenger train's dining car: "If only I had been born in the United States, where money is found everywhere . . ." (Lin et al. 2003, 42-43). Dining with Qiaoqiao, a local dancer/mistress/prostitute who wears a black wig resembling Mia's retro hairstyle, Xiaoji conveys his excitement about watching an early scene of *Pulp Fiction* in pirated video in which Pumpkin and Honey Bunny hit upon the idea of robbing a restaurant after their heated discussion of how best to rob a bank. "This is a robbery!" Xiaoji suddenly shouts, and he raises his right arm as if he carried a gun himself. In another reference to *Pulp Fiction*, Xiaoji and his friend Binbin plan a bank robbery with fake explosives, since they have no gun. When Binbin presents himself for Xiaoji's examination with fake explosives wrapped around his waist behind a shabby Western-style suit, Xiaoji comments, "The bomb looks fake, and you look phony, too."

Nonetheless, they proceed on Xiaoji's motorcycle to a bank office. When Binbin storms up to the teller's window and shouts, "This is a robbery!" the police guard sitting behind the entrance door cannot but be amused: "At least you should have brought a lighter!" *Unknown Pleasures* ends with Binbin in police custody, singing a popular song, "Unknown Pleasures" (*Ren xiaoyao*), about a hero from a humble family background.

Unknown Pleasures and *Pirated Copy* share more than common intertextual references to *Pulp Fiction*, for both specifically address the issue of film piracy. As an unemployed youth stranded in a hinterland city without any prospects, Binbin takes a high-interest loan from a local businessman named Xiao Wu and starts selling pirated videos on the street before his failed bank robbery. One day, Xiao Wu checks out Binbin's piracy stock and asks specifically for "artistic films" such as *Xiao Wu* (1997) and *Platform* (*Zhantai*, 2000), two internationally acclaimed independent features Jia Zhangke directed before *Unknown Pleasures*. Jia's insertion of this self-referential scene is ironic, indeed, not only because it verges on self-promotion but because it also alludes to a local landscape of degraded morality. In the film *Xiao Wu*, Xiao Wu is a tradition-minded pickpocket who refuses to accept corrupt modern business practices and who ends up handcuffed by a police officer to a roadside electric pole in public humiliation. In *Unknown Pleasures*, however, Xiao Wu (played again by Wang Hongwei) becomes an experienced businessman dealing in illegal transactions and taking advantage of innocent newcomers like Binbin. Thus, the handcuffed Binbin in police custody reminds us of the early image of Xiao Wu as an antihero, for both belong to a disappearing local species in the age of globalization.

The symbolism of the handcuff in *Unknown Pleasures* and *Xiao Wu* works beyond a mere indication of the continued surveillance of the legal authorities in China; it foregrounds the landscape of the global as the space of unknown pleasure. The fulfillment of that pleasure at a local level necessarily entails a transgression of the boundaries between global and local, legal and illegal, authentic and simulated. In *Unknown Pleasures* as in *Pirated Copy*, film piracy is reframed as a means of such transgression as well as a space of rich intertextuality. Through weaving layers of intertextuality acts of transgression, in spite of their repeated setbacks on screen, may eventually cohere into a vision of democracy off-screen.

From Piracy to Democracy: The Inter-Contextuality of Playing

In his interpretation of the immense popularity of *Pulp Fiction* as an exemplary postmodern phenomenon, Dana Polan contends that what appeals to Tarantino's fans is not so much the film's meaning as its offering of

“a fun-house experience of vibrant sights and sounds,” which “renders cinematic experience as pure play” (Polan 2000, 7). The metaphor of “play,” I suggest, is equally present in *Pirated Copy* and *Unknown Pleasures*: they play with the intertextuality and the contextuality of pirated video images and scenarios and reframe film piracy in China as a space of tactics where subtle challenges to strategic powers are staged, liberating effects of cinematic imagination delivered, and global–local dynamics reconfigured for the local’s benefit. The cinematic play in the Chinese context, however, does not aspire to be as “pure” or as “postmodern” as that in *Pulp Fiction*, but it manages to succeed, on- and off-screen, in constructing a new kind of inter-contextuality where “play” takes on a special significance.

This is how Jia Zhangke, a self-appointed spokesperson for independent filmmaking in China since the late 1990s, envisions the liberating effects of film piracy in China. After enumerating a list of internationally acclaimed masters such as Luis Buñuel, R.W. Fassbinder, Jean-Luc Godard, and Roman Polanski, who engineered new-wave filmmaking based on their reputedly “amateur spirit” twenty years before, Jia poses this intriguing question:

What about today? You can’t say for sure that a Chinese Quentin Tarantino would not emerge from crowds who hang out in VCD stores; nor can you deny that a contemporary Ogawa Shinsuke [an influential documentary artist in Japan who sided with the underprivileged and insisted on independent production] may appear from those youths who have access to digital video cameras. Film should no longer be the exclusive privilege of a minority, for it belonged to the masses originally . . . I am always against the unjustifiable sense of professional superiority. The amateur spirit contains equality and justice, as well as a concern for human fate and empathy for ordinary people. (Zhang and Zhang 2003, 308)

What Jia conjures up here is undoubtedly a vision of equality and justice, not just in cultural consumption but also in cultural production. Behind this vision, I argue, is an implied sequence “from piracy to democracy,” a sequence in which “ordinary people” first resort to piracy to reclaim their rights of watching (as consumers) international film classics and then utilize the newly available digital video technology to embark on documentary and experimental filmmaking (as producers).³ Piracy, according to Jia’s view of the consumer as a potential producer, serves a liberating function in contemporary China where the previously exclusive privilege of film professionals has been stripped away and now handed over to consumers at large, from whom future film masters may eventually emerge.

If *Pirated Copy* and *Unknown Pleasures* only recreate film piracy in fictional contexts, two recent independent documentaries, *Hi, Guys* (Tiaoyou, 2003) by Zhang Hui and *Pai Gu* (Paigu, 2005) by Liu Gaoming, capture the lively

scenes of piracy in southern China (on contemporary Chinese documentaries, see Voci 2004; Zhang 2004b). *Hi, Guys* follows a young piracy vendor named Gao, who operates a variety store in a shopping mall where he specializes in pirated videos. Rather than Hollywood blockbusters, the documentary focuses especially on Euro-American artistic titles, such as *Chocolat* (2000) by Lasse Hallström (Sweden), *The Decalogue* (*Dekalog*, ten TV episodes, 1989) by Krzysztof Kieslowski (Poland), *The Hairdresser's Husband* (*Le mari de la coiffeuse*, 1990) by Patrice Leconte (France), and *Identification of a Woman* (*Identificazione di una donna*, 1982) by Michelangelo Antonioni (Italy).

Since many art films are hard to find on the market, Gao burns copies on his computer and sells them in brown envelopes. Of course, Gao also deals in Chinese titles, such as *Platform*, 1990s productions from Zhang Yimou (b. 1950), and the banned film *Devils on the Doorstep* (*Guizi laile*, 2000) by Jiang Wen (b. 1963). In one ironic scene, Gao and his friends are playing games in his apartment, while the television airs official news stories, including one about the government's destruction of 16 million copies of pirated videos in the southern city of Zhuhai. The film ends with Gao playing with a bench as if it were a horse in his store, and the final credit announces, "When the news of China's entrance into the WTO spreads, the entire nation rejoices. . . ."⁴

The fact that piracy vendors and consumers are not likely among those rejoicing in the news of China's membership in the WTO was already captured in *Hi, Guys*, where official crackdowns on piracy resulted in the closing of many local stores. In *Pai Gu*, a piracy vendor from Jiangxi province, who uses the nickname "Pai Gu" (literally, "ribs"), is likewise reduced to street operations in the city of Shenzhen as a result of the government's intensified campaign against piracy. The ending scene of Pai Gu standing alone on a pedestrian bridge over a bustling street strikes a sharp contrast to the previous scenes of his brisk business inside an apartment building. His customers know his reputation as a reliable source of films through word of mouth. Pai Gu justifies his business by asserting that piracy satisfies a particular consumer need not met by regular releases of Hollywood and Hong Kong commercial fare, and that he feels delighted whenever he tracks down the titles his customers have been looking for but have failed to locate. Indeed, as Gao mentions in *Hi, Guys*, a customer would be willing to spend seventy *yuan* on taxi fare just to buy a rare title for ten *yuan*. Like Jia Zhangke, piracy vendors such as Gao and Pai Gu defend piracy not so much in terms of monetary gains as in terms of consumer need. The result they all hope for seems to be a particular kind of *visual democracy*—the access to international artistic films otherwise unavailable as legitimate commercial releases.

Both *Hi, Guys* and *Pai Gu* illustrate that, as a tactic, film piracy is rapidly losing its makeshift space of operation due to the tightening grip of

hegemonic powers. Nonetheless, visual democracy fostered by film piracy has discovered the Internet as another space to proliferate or spread (*manyan*), a space not represented in the films analyzed above. For many years, Chinese viewers have learned to search and download pirated movies from the Internet, and the hit-and-run operations of numerous self-acknowledged “illegal” websites work like moving targets and can therefore successfully escape attempts at official crackdown or legal prosecution. Significantly, these movie websites are nonprofit operations, and consumers actually participate in the proliferation of Internet piracy in the sense that each downloading computer acts as a relay to other computers around the globe. The virtual nature of their operation reconfigures the global-local dynamic, this time no longer pitting the local against the global, but rather making the global a relay network benefiting the local. In the new global networks of play, weak power rejoices in more ways than one: at once poaching and proliferating, consuming and recreating/re-creating, unabashedly securing “unknown pleasures” in the sense of both finding something new and experiencing pleasures without being known or identified.

A well-known recent example of this move from piracy to democracy is a widely circulated on-line short video, *A Bloody Case Resulting from a Steamed Bun* (*Yige mantou yinfa de xue'an*, 2005), created by Hu Ge (b. 1975), an unknown freelancer in digital audio-visual work. The video is a twenty-minute parody of Chen Kaige's estimated US\$37.5 million blockbuster, *The Promise* (*Wuji*, 2005), and Hu Ge playfully sent it to a few friends on December 31, 2005, three weeks after the film's theatrical release in China. As is typical of piracy, the parody proliferated, but in this case at an unexpectedly exponential rate. According to Baidu, the most popular search engine in China, 1,660 webpages relating to the pirate video were found on January 6, 2006, but by January 16 the number had already proliferated to 978,000. Chinese “netizens” shared their excitement about this blatant parody, which creatively reuses sequences from *The Promise* but reframes the narrative as a current Chinese television show on legal matters. Through ironic juxtaposition and outrageous dialogue, the “authenticity” of Chen's epic film is exposed to be nothing more than a pure cinematic fantasy based on irrational emotions and illogical reasoning. Love, heroism, and revenge turn out to be empty concepts, and the characters' superhuman abilities (flying high in the sky, running at a supersonic speed) are reused as two fun-filled television commercials within the parody.

Many Chinese viewers admitted watching the parody before the film (either in the theater or in video format), and perhaps many more decided not to watch the film after seeing the parody. The proliferation of this pirated video once again demonstrates that the authenticity of the original no longer seems to be an issue, but creativity is still what attracts viewers.

Arguably, the creative reuse—or actually abuse—of the ridiculous original attracted people to this parody video. Of course, Chen Kaige's threat to take legal action against Hu Ge might have also contributed to the popularity of the parody, but countless online supporters' anger at the powerful director and sympathy for a nobody freelancer forced Chen to rescind his threat. A form of Internet democracy triumphed in this spectacular case of visual democracy—a form of democracy made possible primarily by film piracy and secondarily by digital video and Internet technologies. Once available on the Internet, a video may generate tens of thousands of hits overnight, and piracy makes sure that images are free for all to play with.

The Internet thus provides a new context for piracy in contemporary China, although this context is no longer spatially bound but rather consists of countless virtual intertexts (hypertexts) instantly transmittable through networks that link multiple locals to the global. The popularity of this Internet parody video reminds us that collectivity in China is not exactly in despair, as Laikwan Pang sees it; rather, it may take on different forms now, some trivial, some vibrant, some effective, some challenging or even potentially subversive. Visual democracy as Jia Zhangke envisions it may still be a largely unrealized vision at this point, but one worth entertaining and fostering, as testified by the films examined in this chapter. Film piracy as a rampant practice may eventually disappear in China, but its many uses have so far produced positive effects and have fundamentally reconfigured contemporary Chinese screen culture.

Notes

1. *Red Beads* is set in a mental hospital and questions the slippery boundary between rationality and irrationality; *Postman* follows a young postman who secretly opens letters in his possession and selectively intervenes in his addressees' lives. For an analysis of *Postman*, see Larson (2005).
2. My own experience has convinced me that some vendors may not even care about the content of pirated videos they sell. When I visited Shanghai in May 2004, I saw an old woman selling erotic videos in front of a crowded supermarket's entrance but paying no attention to the cover displays of naked female bodies in titillating postures. To accuse an underprivileged woman like her of supporting film piracy may redirect the troubling question of (il)legality and (im)morality back to the hegemonic power itself.
3. Jia's preference for Euro-American experimental and alternative filmmakers contradicts Laikwan Pang's claim that Chinese consumers indulge in commercial fares. On behalf of "ordinary people," Jia demands, "We want to watch Marlon Brando, but we also want Marilyn Monroe. We want to watch *Battleship Potemkin*, but we also want *The Godfather*. Everyone has the right to enjoy the spiritual wealth shared by humankind" (Zhang and Zhang 2003, 309).
4. I am grateful to Jim Cheng for drawing my attention to these two documentaries.

References

- Bettig, Ronald V. 1996. *Copyrighting culture: The political economy of intellectual property*. Boulder: Westview Press.
- Cassell, Philip, ed. 1993. *The Giddens reader*. Stanford: Stanford University Press.
- de Certeau, Michel. 1984. *The practice of everyday life*. Trans. Steven Rendall. Berkeley: University of California Press.
- Hall, Stuart. 1997. The local and the global: Globalization and ethnicity. In *Culture, globalization and the world-system: Contemporary conditions for the representation of identity*. Revised edition. Ed. Anthony D. King. Minneapolis: University of Minnesota Press.
- Johnson, Barbara. 1990. Writing. In *Critical terms for literary study*. Ed. Frank Lentricchia and Thomas McLaughlin. Chicago: University of Chicago Press.
- Larson, Wendy. 2005. He Yi's *The Postman*: The work space of a new age Maoist. In *Gender in motion: Divisions of labor and cultural change in late imperial and modern China*. Ed. Bryna Goodman and Wendy Larson. Lanham, MD: Rowman & Littlefield.
- Lin Xudong, Zhang Yaxuan, and Gu Zheng, eds. 2003. *Jia Zhangke dianying: Guxiang sanbuqu zhi "Ren xiaoyao" (Jia Zhangke hometown film trilogy: Unknown pleasures)*. Beijing: Mangwen chubanshe.
- Nakajima, Seio. 2006. Film clubs in Beijing: The cultural consumption of Chinese independent films. In *From underground to independent: Alternative film culture in contemporary China*. Ed. Paul G. Pickowicz and Yingjin Zhang. Lanham: Rowman & Littlefield.
- Pang, Laikwan. 2004. Piracy/privacy: The despair of cinema and collectivity in China. *Boundary* 2.31(3): 101–124.
- Polan, Dana B. 2000. *Pulp fiction*. London: British Film Institute.
- Tarantino, Quentin. 1994. *Pulp fiction: A Quentin Tarantino screenplay*. New York: Hyperion.
- Voci, Paola. 2004. From the center to the periphery: Chinese documentary's visual conjectures. *Modern Chinese Literature and Culture* 16(1): 65–113.
- Wang Shujen. 2003. *Framing piracy: Globalization and film distribution in greater China*. Lanham, MD: Rowman & Littlefield.
- Zha Jianying. 1995. *China pop: How soap operas, tabloids, and bestsellers are transforming a culture*. New York: New Press.
- Zhang Xianmin and Yaxuan Zhang, eds. 2003. *Yige ren de yingxiang: DV wanquan shouce (All about DV: Works, making, creation, comments)*. Beijing: Zhongguo qingnian chubanshe.
- Zhang Yingjin. 2004a. *Chinese national cinema*. London: Routledge.
- Zhang Yingjin. 2004b. Styles, subjects, and special points of view: A study of contemporary Chinese independent documentary. *New Cinemas* 2(2): 119–135.
- Zhang Yingjin. 2006. Rebel without a cause? China's new urban generation and postsocialist filmmaking since the early 1990s. In *The urban generation: Chinese cinema and society at the turn of the twenty-first century*. Ed. Zhen Zhang. Durham: Duke University Press.

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