FROM HIDDEN TO PROMINENT: THE PROFESSIONAL ETHICS OF PRIVATE LEGAL ADVISORS (*MUYOUS*) IN QING CHINA

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Abstract:
This article explores the existence of specialized legal professions and legal ethics in Qing China through an analysis of muyous and their representative Wang Huizu. Muyous established professional autonomy within the centralized bureaucratic system through distinct identity markers and ethical codes. The exemplary muyou Wang Huizu regarded expertise as the foundation of muyou practice. Through his mastery of statutory law, Confucian classics, and local customs, he achieved an balance between moral principles and legal formalism in legal reasoning and application for individual cases. Guided by the concept of karmic retribution, he took procedural ethics as the core of muyou practice, advocating judicial prudence, evidence verification, and public hearings, while avoiding torture and collective punishment. Muyous promoted the professionalization process through the production and dissemination of legal knowledge, further expanding their influence and forming a consensus among legal actors. Their career path constituted a deviation from the upward mobility trajectory of "literati entering officialdom". The study of muyous highlights the mediating role of non-official legal actors between state power and grassroots governance, as well as their long-undervalued role in shaping the judicial order of the Qing Dynasty and influencing the behavioral norms of officials. This provides an important reference for comparative studies on the trajectories of legal professionalization in different social and historical contexts.

Keywords: Muyou; Wang Huizu; Legal Professional Ethics

I. INTRODUCTION

Drawing on definitions of "profession", the core characteristics of a legal profession are knowledge independency, homogeneity, organization, standardization and monopoly.[1] Traditional Chinese society presents a paradoxical case in this regard, showing "the emergence of one developmental trajectory alongside the absence of another". While the significant bureaucratic class relied extensively on legal application, officials tasked with enforcing laws were viewed as lacking specialization, thus not constituting a true legal profession.

Scholars attribute this phenomenon to the broader sociopolitical conditions of traditional China.[2] Western scholars like Roberto Unger described imperial China as lacking some fundamental distinction between "administrative commands and rules of law", failing to develop an identifiable legal profession that was separate from "the rulers' staffs", and devoid of distinct legal discourse differentiated from moral or policy argumentation. Unger mentioned, "here we seem to have a society that experienced a sudden growth of its reliance on public and positive rules as device of political control…yet the turn to bureaucratic law was not followed by the emergence of specialized courts, lawyers, and legal doctrines analogous to those post-feudal European."[3] This institutional configuration resulted in what Shuzo Shiga (しが しゅうぞう), building upon Weberian (Max Weber's) analysis and Unger's frameworks, identifies as a system of "substantive justice" dominated by Confucian moral reasoning rather than formal legal rationality.[4] Chinese scholars corroborate such views through examination of local "parental officials" (*fumuguan*, 父母官), who not only led to the moralization and sentimentalization of adjudication but

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1 *See* Andrew Abbott, *Status and Status Strain in the Professions*, 4 AM. J. SOCIO. 819 (1981); ANDREW ABBOTT, THE SYSTEM OF PROFESSIONS: AN ESSAY ON THE DIVISION OF EXPERT LABOR (1988).

2 These "restrictive conditions" include: (1) conflation of law and punishment: law (*fa*, 法) and punishment (*xing*, 刑) were mutually defining, forming a circular logic; (2) absence of judicial-administrative separation: administrative officials doubled as legal adjudicators, epitomizing the principle of "administration absorbing judicial functions" (*xingzheng jianli sifa*, 行政兼理司法); (3) no-litigation culture: litigation masters (*songshi*, 讼师) were stigmatized and outlawed; (4) the method of mediation was widely used. *See* DERK BODDE & CLARENCE MORRIS, LAW IN IMPERIAL CHINA: EXEMPLIFIED BY 190 CH'ING DYNASTY CASES (1967).

3 *See* ROBERTO M. UNGER, LAW IN MODERN SOCIETY: TOWARD A CRITICISM OF SOCIAL THEORY 87 (1976).

4 *See* SHIGA SHUZO ET AL., MING QING SHIQI DE MINSHI SHENPAN YU MINJIAN QIYUE (明清时期的民事审判与民间契约) [Civil Justice and Civil Contract in the Ming-Qing Period] 1–18, 19–96, 112–38 (Wang Yaxin et al. ed. & trans., 1998) .

also fostered legal indeterminacy and erratic knowledge production. Consequently, traditional China never developed a formally rational legal system or profession akin to modern Western models.[5]

Nevertheless, some scholars have paid more attention to another two groups: litigation masters (*songshi*, 讼师) and private legal advisors (*muyou*, 幕友)[6] to identify whether there was a legal profession in traditional China,[7] and in recent years, to trace the historical development of legal professional ethics in China.[8] From the studies of *songshi*s who operated as state-proscribed actors, however, it is challenging to substantiate the existence of a formalized legal profession in premodern China. By contrast, an examination of *muyou*s reveals a markedly different landscape.

This article employs a sociolegal historical approach to analyze the professional ethics of Qing Dynasty *muyou* through the paradigmatic case of Wang Huizu(1731-1807)(hereinafter referred to as "Wang"), a preeminent *muyou* (*liangmu*, 良幕) and exemplary upright official (*xunli*, 循吏) memorialized in the Draft History of Qing (*Qingshi Gao*, 清史稿). Methodologically combining institutional history and textual analysis of Wang's self-edited chronicle Trace of Tears in the Dream of a Sickbed (*Bingta Menghen Lu*, 病榻梦痕录), administrative handbooks such as Medicinal Words for Governance Assistance (*Zuozhi Yaoyan*, 佐治药言), Afterword to Medicinal Words for Governance Assistance (*Xu Zuozhi Yaoyan*, 续佐治药言), Theories on Learning Governance (*Xuezhi Yishuo*, 学治臆说), and Afterword to Theories on Learning Governance (*Xuezhi Xushuo*, 学治续说).

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5 *See* Xu Zhongming (徐忠明), *Qingdaizhongguo Sifacaipan de Xingshihua yu Shizhihua* (清代中国司法裁判的形式化与实质化——以《病榻梦痕录》所载案件为中心的考察) [*The Formal and Substantive Aspects of Judicial Judgements in the Qing Dynasty—An Investigation to the Case in the Book Recorded Dreams in My Sickbed*], 2 ZHENGFA LUNTAN (政法论坛) [TRIBUNE OF POLITICAL SCIENCE AND LAW] 39, 41 (2007).

6 The term "*muyou*" (literally "friends or guests serving in a tent") has multiple translations in Western scholarship, such as "private (legal) secretary" "private legal specialist" "legal experts", and "legal advisor". *See* T'UNG-TSU CHU, LOCAL GOVERNMENT IN CHINA UNDER THE CH'ING, Ch. 4 (1962); Li Chen, *Regulating Private Legal Specialists and the Limits of Imperial Power in Qing China*, *in* CHINESE LAW: KNOWLEDGE, PRACTICE, AND TRANSFORMATION, 1530S TO 1950S 254 (Li Chen & Madeleine Zelin eds., 2015). These translations reflect certain characteristics of the profession. This article will directly employ the pinyin transcription "*muyou*" alongside its Chinese characters.

7 *See* Qiu Pengsheng (邱澎生), *Yifa Weiming: Songshi yu Muyou Dui Mingdai Falü de Chongji* (以法为名：讼师与幕友对明清法律秩序的冲击) [*In the Name of Law: The Impact of Litigation Masters and Legal Advisors on the Legal Order*], 6 ZHONGXI FALÜ CHUANTONG (中西法律传统) [SINO-WESTERN LEGAL TRADITIONS] 222 (2008).

8 *See* Chen Xinyu (陈新宇), *Zhongguo falü Zhiye Lunli de Lishi Yuanliu yu Fazhan* (中国法律职业伦理的历史源流与发展) [*The Historical Origins and Development of Legal Professional Ethics in China*], FALÜ ZHIYE LUNLI (法律职业伦理) [LEGAL PROFESSIONAL ETHICS] 40 (Ma Changshan (马长山) eds., 2020).

Through the study of Wang, this article decodes a legal professional model with Chinese characteristics—one defined by its synthesis of technical mastery, ethical self-regulation, and symbiotic engagement with imperial governance.

II. GOVERNING BEHIND THE SCENES: THE CHARACTERISTICS AND NETWORKS OF THE *MUYOU* PROFESSION

A. The Characteristics of the Muyou Profession

*Muyou*s, with their profound expertise in administrative operations, served as indispensable figures in Ming-Qing local governance. A Qing bureaucratic adage—"without *muyou*s, there is no *yamen*" (*wu mu bucheng ya*, 无幕不成衙)—encapsulated their institutional centrality. According to preliminary archival research by Li Chen, approximately 3,000 legally trained *muyou*s were concurrently employed in Qing local governments annually from 1711 to 1911, cumulatively sustaining the dynasty's judicial apparatus with around 30,000 legal professionals over two centuries.[9]

As an institutional continuation and development of ancient Chinese advisory systems, during the Ming and Qing Dynasties, *muyou*s were personnel employed by local officials to assist in administrative affairs. They were not government-appointed officials or say members of the regular bureaucracy but rather privately hired and remunerated by local officers. *Muyou*s were categorized into different specializations including expert of law (*xingming*, 刑名), taxation (*qiangu*, 钱谷), the enforcement of tax collection (*zhengbi*, 征比), book-keeper (*zhangfang*, 账房), registration (*guahao*, 挂号) and correspondence (*shuqi*, 书启). [10]From a legal studies perspective, this article focuses specifically on the expert of law (*xingming muyou*, 刑名幕友), who held the closest ties to judicial affairs and usually had a higher status than his peers. They were commonly responsible for dealing with criminal cases like homicide, theft, assault and fraud, as well as other civil disputes in marriage inheritance and other aspects. Furthermore, they were involved the full-cycle management from case acceptance to pretrial preparations and drafting judgments. In significant cases required judicial review by higher authorities, the *xingming muyou*s were responsible for preparing case dossiers and formally rebutting inquiries from superior governments.

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9 *See* Li Chen, *Legal Specialists and Judicial Administration in Late Imperial China*, 33(1) LATE IMPERIAL CHINA 1 (2012).

10 *See* CHU, *supra* note 6, at 97.

B. Relational Networks of the Muyou Profession

1. *Muyou* and the magistrate

The *muyou* profession was in a complex network of relationships. The relationship between *muyou*s and their employing magistrates was rooted in a principal-agent framework. As private, non-official advisors, *muyou*s operated invisibly within local judiciaries, guiding magistrates from behind the scenes while magistrates publicly executed decisions—a dynamic that positioned them as indispensable yet formally subordinate actors. However, magistrates often treated *muyou*s as trusted friends and honored guests (*bin*, 宾),[11] transcending traditional bureaucratic subordination and fostering a collegial partnership. In his treatise *Zuozhi Yaoyan*, Wang articulated ethical guidelines for this relationship: *muyou*s were expected to serve with unwavering dedication, alleviating magistrates' administrative burdens while humbly considering their input,[12] yet they were also obligated to maintain intellectual independence as guest-mentors (*binshi*, 宾师).[13] This role demanded they acted exhaustively and said everything that was helpful for juridical business (*jinyan*, 尽言), challenging magistrates' misjudgments through reasoned debate and rectifying flawed decisions, even at the risk of confrontation. Wang further advised that if magistrates persisted in obstinacy despite counsel, *muyou*s should "depart when principles diverge" (*buhe ze qu*, 不合则去), prioritizing ethical integrity over blind compliance. Cautioning against excessive personal bonds, he warned that accepting undue favors could entangle *muyou*s in compromising obligations, urging them to navigate this relationship with measured professionalism, "accepting ill-deserved favor means to be compelled to perform deeds without your duties."[14]

2. *Muyou* and their colleagues.

The relationship between *muyou*s and their colleagues was one of collaborative synergy. As noted earlier, a single *yamen* might employ *muyou*s specializing in distinct roles such as *xingming*, *qiangu* and others—though some individuals handled multiple responsibilities. Wang emphasized that despite their functional diversity, *muyou*s

11 *See* GAO HUANYU (高浣月), QINGDAI XINGMING MUYOU YANJIU (清代刑名幕友研究) [STUDY OF QING LEGAL ADVISORS] 29 (1999).

12 *See* WANG HUIZU (汪辉祖), ZUOZHI YAOYAN (佐治药言) [MEDICINAL WORDS FOR GOVERNANCE ASSISTANCE] 12–13 (1937).

13 *See id.* at 11.

14 *See id.* at 26.

should treat each other's business as their own and not draw strict boundaries when discharging duties within the professional group (*banshi wufen zhenyu*, 办事勿分畛域), and should "speak unreservedly and exhaustively to ensure effective governance."[15] Specifically, Wang warned against passive indifference and solipsism, which means refusing to assist colleagues in matters beyond one's immediate purview, disregarding reasonable advice within one's own domain. He argued that both behaviors undermined collective efficacy. In addition, Wang stressed the importance of tactful communication when offering critiques to peers. When expressing views to each other, they should adopt appropriate ways according to the temperament of their colleagues rather than blunt confrontation. This ethos of mutual accountability and adaptive collegiality not only optimized administrative workflows but also reinforced *muyou*s' shared identity as custodians of judicial and fiscal integrity.

3. *Muyou* and lower staffs in the government

*Muyou*s restrained and supervised gate porters (*mending*, 门丁), clerks (*shuli*, 书吏) and runners (*yayi*, 衙役).[16] In county-level *yamen*s, *shuli*s were organized into six parts—personnel, revenue, rites, military, punishment and public works—each managing specific administrative tasks and documentation as grassroots functionaries. Similarly, as mentioned above, the responsibilities of *muyou*s were also professionally divided, which enabled them, more effectively than the officials, to supervise *shuli*s and *yayi*s.[17] Though the latter groups occupied the lowest rungs of the bureaucratic ladder, they were indispensable executors of governmental operations. Yet their marginalized status often incentivized exploitative practices, such as extorting unofficial fees or fabricating charges. As figures of higher social and intellectual standing, *muyou*s bore critical responsibility for curbing such abuse. Wang stipulated that *muyou*s must rigorously scrutinize documents submitted by *shuli*s to prevent fraudulent alterations or self-serving manipulations. Similarly, when *yayi*s alleged civilian resistance to arrest—common in disputes over marriage, property, or debts—*muyou*s were to exercise skepticism. Wang observed that ordinary citizens, awed by the *yamen*'s authority, rarely dared openly defy runners; claims of resistance typically masked extortion attempts. He thus urged magistrates to investigate such

15 *See id.* at 23.

16 *See* CHU, *supra* note 6, at 106.

17 For a special study of clerks and runners, *see* BRADLY W. REED, TALONS AND TEETH: COUNTY CLERKS AND RUNNERS IN THE QING DYNASTY (2000).

reports thoroughly before acting, ensuring justice was neither compromised by clerical deceit nor run by avarice.[18]

4. *Muyou* and *songshi*

In their interactions with *songshi*s, *muyou*s occupied a paradoxical position of adversarial symbiosis. Typically, *muyou*s assisted magistrates in adjudicating disputes, while *songshi*s aided commoners in initiating lawsuits—a dynamic that cast them as institutional antagonists, with one enforcing the law and the other resisting it. Wang emphasized the need for adjudicators to meticulously analyze cases and identify core issues, thereby minimizing a *songshi*'s interference, which often introduced unnecessary complications, fabricated testimonies, and vexatious litigation.[19] Yet, crucially, both groups displayed shared professional sophistication in both substantive and procedural law, fostering an unspoken intellectual kinship. This nuanced convergence—rooted in their expertise of legal craft despite opposing roles—will be examined in depth in subsequent analyses.

5. *Muyou* and the *shi*

*Muyou*s emerged from the group of literati (*shi*, 士). A historian Cho-yun Hsu once pointed out that in traditional China, the group that applied law originated from the *shi*.[20] However, in Unger's view, since the "*shi* had drawn into the nascent state bureaucracy were unable to sow the seeds of an independent legal profession","a crucial feature was the lack of a 'third estate' in traditional China, which contrasts sharply with the experience of pre- and post-Renaissance Europe", they had neither the incentive nor the chance to assert their own interests and to develop their own law.[21] Nevertheless, as this section has already indicated, many persons of *shi* in the Qing Dynasty chose to become *muyou*s, who neither held official positions nor had official status. Their connection with the government was hard-won and could be easily lost; yet their ties with local judicial and administrative affairs were very close, and the internal unity within their profession was also very tight. The identity feature of being private advisors and agents, combined with this profession' substantive effect in local judicial affairs, to a certain extent, constituted an autonomous space within the centralized

18 *See* WANG, *supra* note 12, at 14.

19 *See* ZHANG WEIREN (张伟仁), MOJING: FAXUE JIAOYU LUNWENJI (磨镜：法学教育论文集) [POLISHING THE MIRROR: ESSAYS ON LEGAL EDUCATION] 108 (2012).

20 *See* CHO-YUN HSU (许倬云), ANCIENT CHINA IN TRANSITION: AN ANALYSIS OF SOCIAL MOBILITY, 722–222 B.C. 34–37 (1965).

21 *See* UNGER, *supra* note 3, at 99.

empire.

By operating "behind the scenes", *muyou*s avoided direct confrontation with imperial centralization while preserving a space for legal professionalism. The ethics underscored *muyou*s' semi-autonomous status—mediating legal rigor and administrative pragmatism while resisting full assimilation into the imperial bureaucracy. Despite the Qing state's attempts to integrate them into its hierarchical order,[22] *muyou*s maintained a unique identity as legal technicians. This allowed them to prevent the complete subordination of law to political decree and to preserve a space for ethical adjudication within the constraints of imperial governance.

III. FROM HIDDEN TO PROMINENT: THE IMPACT OF THE *MUYOU* PROFESSIONAL ETHICS THROUGH JUDICIAL PRACTICES AND KNOWLEDGE PRODUCTION

From the spring of the 17th year of the Qianlong reign (1752) to the autumn of the 50th year (1785), Wang served as a *muyou* in the south of the Yangtze river (*Jiang Nan*, 江南). He initially undertook the *shuqi* duties, later transitioning to the specialized role of a *xingming muyou* for 26 years. The following text analyze Wang's documentation and reflections on specific cases to demonstrate how *muyou*s' practical application of law and their legal education activities influenced the legal order of that era.

A. The Judicial Practices Following the Muyou Professional Ethics

1. Harmonizing Rite (li, 礼) and Statutes

Wang maintained that while statutory law (*lüwen*, 律文) was unequivocal and indispensable, indiscriminate recourse to ritual classics or precedents (*li'an*, 例案) was to be avoided. When multiple statutes coexisted, careful discernment was required to select the most appropriate charge. A case in point is the Lin Case. In the 30th year of the Qianlong reign (1765), Wang, then advising the magistrate of

22 Edicts of the Qianlong period shows that the emperor's intensified hostility to *muyou*s because he believed that so many provincial officials had conspired to cover up wrongful judgements and deceive the Imperial court through cases, with *muyou*s behind them;"this kind of bad muyou(*liemu*, 劣幕) dared to form secret networks with one another and local officials and thereby control local governance." Later the rules of avoidance and mandatory reporting were applied to keep *muyou*s as useful but docile experts subservient to the command of the throne and its designated officials. *See* QIANLONGCHAO SHANGYUDANG (乾隆朝上谕档) [IMPERIAL EDICTS OF THE QIANLONG REIGN] (Zhongguo Diyi Lishi Dang'an Gan (中国第一历史档案馆) [The First Historical Archives of China] ed., 2008); Li Chen, *supra* note 6, at 261–79.

Pinghu County in Zhejiang Province, handled a case where Lin was falsely accused of foreign piracy (*yangdao*, 洋盗) after a plunder. Under Qing codes, theft with force (*qiangdao*, 强盗) and plundering by force (*qiangduo*, 抢夺) were distinct offenses, with the former carrying harsher penalties.[23] During the Yongzheng and Qianlong periods, new sub-statutes (*li*, 例) had been established to impose harsh penalties on rampant foreign piracy. In this instance, the Fujian-Zhejiang Governor-General reported Lin's arrest as a "captured foreign bandit", while the provincial governors (*dufu*, 督抚) of Jiangsu and Zhejiang advocated severe penalties, evidently catering to imperial preferences.

Through interrogation, Wang discovered that while the incident originated offshore, only Lin had committed plundering by force; others involved had merely stolen fish or nets, neither conspiring with Lin nor sharing the hallmarks of organized maritime piracy. Wang thus argued against applying the new sub-statutes for severe punishment, defying the governors' biases. Instead, he insisted on applying existing statutes: Lin was sentenced to death by hanging for snatching, while the sixteen thieves received differentiated punishments of exile, penal servitude, heavy bamboo, or light bamboo based on stolen amounts. Those without evidence of harboring stolen goods or secondary roles were exonerated despite prior false confessions. As this contradicted the governors' intentions, drafting the legal documentation (*yuanshu*, 爰书) proved exceptionally challenging, requiring "four days and nights of drafting and dozens of revisions" before completion. Ultimately approved by imperial decree through ministry deliberation, the exact meaning of the original legal provisions was preserved, sparing dozens

23 According to the Qing Code, in the case of a theft with force when it has been committed but no property has been taken, each offender will receive 100 strokes of the heavy bamboo and exile to 3000 li (里). But if property is obtained (from an owner), do not distinguish between the principal and the accessory. All will be beheaded. Even if there is one who does not share in the illegally obtained property, he is also sentenced to the penalty of being beheaded. If the author of the plot does not participate in its execution and also does not share in the property, he will be sentenced to 100 strokes of the heavy bamboo and exile to 3000 li. Among the other thieves, those who do not participate in the execution of the theft and who do not share in the illegally obtained property will receive 100 strokes of the heavy bamboo. However, in every case of wrongfully taking away the goods of another in daytime (do not calculate the quantity of illegally obtained property), the penalty is 100 strokes of the heavy bamboo and penal servitude of three years. If, when the amount of the illegally attained property is calculated,(a sentence is prepared on the basis of the aggregate of the illegally obtained property according to the law of non-manifest theft), and the resulting penalty for theft is more serious than this penalty, then add two degrees to the penalty for non-manifest theft. The penalty is limited to100 strokes of the heavy bamboo and exile to 3000 li. If there is injury to another, (the principal) is beheaded (with delay). The penalty of accessories is reduced (from that of the principal) by one degree. *See* DAQING LÜLI (大清律例) [THE GREAT QING CODE] arts 266, 268 (William C. Jones trans., 1994).

of lives.[24]

Wang emphasized that mastering statutes lay at the core of the responsibility of xingming muyou. Each legal provision contained essential nuances, requiring discernment and integration across multiple statutes. Precise citation of laws was crucial, as even minor misinterpretations could lead to vastly different outcomes. He warned that misapplying legal texts posed greater harm than misinterpreting classical Confucian texts, "Whether as a *muyou*, clerk, or official, misreading statutes brings grave consequences."[25] Throughout his career as a *muyou*, Wang demonstrated exceptional precision in legal interpretation and applying the law.

Nevertheless, where statutory law is insufficient (*lü suo wei bei*, 律所未备), recourse may be made to *li*.[26] This principle operates in two dimensions, one is ambiguity in statutes: when statutory language is unclear, *li* serves as an interpretive framework; one is absence of explicit provisions: when no specific legal clause applies, or when existing statutes inadequately address a case, *li* is invoked as a supplementary source.[27] This approach was mainly applied to civil disputes related to marriage and inheritance. Here, *li* functioned less as abstract moral precepts from Confucian classics and more as implicit socio-cultural norms—unwritten yet deeply embedded behavioral codes shaped by communal practices.

Through decades of judicial practice, Wang emphasized methodological flexibility alongside rigorous statutory analysis. His goal was to align judgments with heavenly principles and human compassion (*tianli renqing*, 天理人情), ensuring both ethical coherence and litigant acceptance. Wang's invocation of li was also viewed as a means to "thick customs" (*hou fengsu*, 厚风俗), exemplified in cases such as the following Tao and Feng case.

In the 27th year of the Qianlong reign (1762), a complex inheritance dispute arose in a Zhejiang county involving the Tao family. Tao, the sole heir of the Tao family's main branch, had been adopted by his childless uncle and inherited substantial wealth. After fathering five sons, Tao's eldest son died, necessitating the designation of an heir. According to custom, the eldest son's heir should be the son of Tao's second son. However, Tao's third son forged a will claiming that the second son's child should revert to the lineage of Tao's biological father (i.e., the uncle's brother), thereby disqualifying him as the heir.

24 *See* WANG HUIZU (汪辉祖), BINGTA MENGHENG LU (病榻梦痕录) [TRACE OF TEARS IN THE DREAM OF A SICKBED] 22–23 (2012).

25 *See* WANG, *supra* note 12, at 18.

26 *See* WANG, *supra* note 24, at 17.

27 *See* ZHANG, *supra* note 19, at 116–17.

Subsequently, the son of Tao's second son could not be qualified as the stepson of Tao's eldest son. The third son argued that his own son should inherit under the pretext that Tao's biological father's line would otherwise lack descendants (a father with sons now left without heirs). On the other side, the second son insisted that his son be the stepson of his eldest brother.

Local people fiercely debated the case. Supporters of the second son invoked li, stating, "A grandson claiming ancestral rites for his grandfather violates the norms of succession. It is inappropriate for the third son's child to enjoy the ancestral worship of the grandfather (the biological father of Tao). Advocates for the third son countered with emotion and traditional sense of reason, appealing, "it is unreasonable for a biological father to have sons yet end without posterity."As the biological father of Tao originally had a son but now has no descendants, As the biological father of Tao originally had a son but now has no descendants, they argued that it made sense to bring the second son's child back into the original family.which was unreasonable and it made sense to bring the second son's child back into the original family.

When the prefectural magistrate ordered the county *yamen* to adjudicate, deadlock ensued until Wang intervened. He cited "The Book of Rites": Minor Records of Mourning Attire (*Liji · Sangfu Xiaoji*, 礼记·丧服小记) and invoked the principle "those who die prematurely or without heirs shall posthumously share sacrifices with their ancestors" (*shang yu wuhou zhe, fushi yu zu*, 殇与无后者，附食于祖). Wang reasoned, Tao, having been formally adopted by his uncle, could not revert to his biological father's lineage; while Tao's biological father's line faced symbolic extinction, ritual sacrifices could resolve the absence of direct heirs. Wang concluded that the third son's claim—to have his son inherit as the biological grandfather's heir—was invalid. The second son's child rightfully succeeded as the eldest son's heir, while the biological grandfather's lineage would be honored through shared ancestral rites. This interpretation, grounded in classical authority and ethical pragmatism, won the prefectural magistrate's approval, resolving the contentious dispute.[28]

Another contentious inheritance dispute arose in a Zhejiang county in the 44th year of the Qianlong reign (1779), involving Feng, who died without sons or eligible agnatic relatives (*tongzong*, 同宗) to inherit his estate. Feng had reluctantly adopted his maternal aunt's grandson (a non-agnatic (*yixing*, 异姓) heir) as his successor. After Feng's death, a man with Feng's surname but from a different lineage (*tongxing bu zong*, 同姓不宗) petitioned to inherit the property and

28 *See* WANG, *supra* note 24, at 20–21.

initially received approval from the prefectural magistrate. Wang, however, vehemently opposed this ruling.

Under Qing statutes, the hierarchy of succession for childless individuals was: (1)agnatic nephews (*tongzong zhaomu xiangdang zhi zhi*, 同宗昭穆相当之侄) from the closest paternal kin (e.g., same father, then paternal uncles); (2)distant agnatic relatives (such as *dagong*, 大功; *xiaogong*, 小功; *sima*, 缌麻); (3)non-agnatic individuals of the same surname as a last resort.[29] The statute aimed to prioritize blood proximity and prevent distant relatives from leapfrogging inheritance rights. Yet it remained ambiguous whether non-agnatic same surname individuals were permissible when no agnatic heirs existed. The magistrate, interpreting the statute's silence on non-agnatic heirs as a prohibition, ruled in favor of the *tongxing bu zong* claimant.

Wang challenged this interpretation, arguing the phrase "方许" (*fangxu*, lit. "only then permitted")[30] in the statute indicated permissibility, not obligation, to select same-surname heirs. The statute's intent—to preserve blood ties between the deceased and heir—rendered *tongxing bu zong* claimants functionally equivalent to non-agnatic heirs, as neither shared verifiable agnatic lineage. Furthermore, allowing *tongxing bu zong* succession would invite endless disputes due to the nebulous criteria for selecting among countless same-surname candidates. To bolster his argument, Wang cited Song dynasty Confucian scholar Chen Chun's Neo-Confucian Terms Explained (*Beixi Ziyi*, 北溪字义), which asserted: "succession prioritizes agnatic lineage and shared surname; those sharing only a surname without agnatic ties differ little from non-agnatic outsiders." Leveraging this classical authority, Wang reinterpreted the statute to "permit" non-agnatic heirs in the absence of agnatic candidates, equating them with *tongxing bu zong*. His reasoning persuaded the magistrate to overturn the initial ruling, resolving the dispute to both parties' satisfaction.[31]

The analysis of above cases reveals that Wang should not be simplistically labeled a "Confucian legalist" (*ruzhe zhi xingming*, 儒者之刑名). Rather, his adjudicatory approach demonstrates a comprehensive mastery of both state and social norms—spanning statutes and sub-statutes (*lüli*, 律例), scholarly jurisprudence (such as commentaries on Confucian classics), and customary practices. He

29 The original text is: 无子者，许令同宗昭穆相当之侄承继，先尽同父周亲，次及大功、小功、缌麻；如俱无，方许择立远房及同姓为嗣. *See* 113 DAQING HUIDIAN (大清会典) [COLLECTED REGULATIONS OF THE QING DYNASTY] 1503 (2016).

30 *Id.*

31 *See* WANG HUIZU (汪辉祖), XUEZHI YISHUO (学治臆说) [THEORIES ON LEARNING GOVERNANCE] 12 (1939).

adeptly identified the most precise legal principles for each case, employing sophisticated hermeneutic techniques to ensure that legal reasoning and application remained grounded in the Chinese sense of reason (*qingli*, 情理) without descending into mechanical formalism. By integrating morally oriented *li* with pragmatically focused statutes—realized through legal practice—Wang bridged the normative function (governing conduct) and the social function (resolving disputes) of law.

It is critical to dispel the misconception that invoking *li* equates to abandoning positive law. Wang's recourse to *li* constituted substantive legal interpretation, not mere "intuitionism".[32] To elaborate, "*qing*" (情)—a complex and pivotal concept in traditional Chinese law—as invoked in the maxim "law's value lies in aligning with *qing*" (*fa gui zhun qing*, 法贵准情)[33], transcends simplistic reductions to human sentiments. Most accurately, "*qing*" here denotes the relatively objective facts of a certain case or dispute (*anqing*, 案情), though these facts inevitably intertwine with human and contextual elements. In essence, Wang's invocation of *li* functioned as a judicial technique, while his alignment with "*qing*" rested on case-specific substantive adjudication—methodically anchored in legal logic and hermeneutics. This combination highlights how traditional Chinese jurisprudence balanced abstract principles with concrete realities.

2. The Influence of Karmic Retribution

The notion of "religion" in China is not a unified concept, yet the idea of karmic retribution (*yebao*, 业报) undoubtedly served as a guiding philosophy for the *muyou* profession. This concept gained significant traction particularly among *xingming muyous*, whose works often determined matters of life and death and were thus regarded as a vocation prone to karmic consequences, giving rise to proverbs such as "serving as a *muyou* consumes the fortune of one's descendants"

32 *See* Gregory E. Kaebnick, *Reasons of the Heart: Emotion, rationality, and the 'wisdom of repugnance'*, 38(4) HASTINGS CTR. REP. 36, 43 (2008); Alice Woolley, *Intuition and Theory in Legal Ethics Teaching*, 9(2) U. ST THOMAS L. J. 285, 287 (2011).

33 Wang Huizu stated: "Cases that statutory law absolutely forbids to condone should never be distorted to indulge wickedness; yet in situations where leniency is permissible, one may appropriately prioritize human circumstances over rigid legalism." He further emphasized: "The art of *muyou* scholarship lies fundamentally in mastering legal codes, but its supreme application resides in skillfully harmonizing with human sentiments. As local customs vary significantly across regions, it is imperative to conscientiously investigate and adapt flexibly to prevailing local norms. Only after such contextual accommodation should legal statutes be applied, thereby achieving harmonious alignment between governance and the governed." See WANG HUIZU (汪辉祖), XUEZHI XUSHUO (学治续说) [AFTERWORD TO THEORIES ON LEARNING GOVERNANCE] 5 (1939); WANG, *supra* note 12, at 15.

(*zuo mu chi ersun fan*, 作幕吃子孙饭).[34] The belief in *yebao* profoundly shaped the career of Wang. He frequently studied and annotated the Treatise of the Most Exalted on Action and Retribution (*Taishang Ganying Pian*, 太上感应篇)[35], a Daoist text on karmic causality, and emphasized prudence (*shen*, 慎) as a core professional ethic. This ethos even led to extreme principles like "prioritizing the salvation of the living over the dead" (*jiusheng bu jiusi*, 救生不救死).[36]

Some scholars argue that Wang's fear of karmic retribution for moral transgressions—his dread of "accumulating sins" (*zaonie*, 造孽)—cultivated his belief that "the *muyou* profession is inadvisable" (*mu buke wei*, 幕不可为).[37] However, this article contends, that rather than constituting an anti-professional ideology, such rhetoric functioned as a cautionary discourse highlighting the entry barriers and moral costs of the vocation. It underscored the exceptional character and specialized competencies required for the role. Wang explicitly asserted that "the principles to be followed and responsibilities borne by a *muyou* are of immense gravity; only those with integrity, intellectual acuity, and meticulous foresight are fit for the role. Conversely, those who act without independent judgment or merely echo others' views will harm both others and themselves. The adage 'serving as a *muyou* consumes the fortune of one's descendants' does not condemn the profession itself as inherently immoral; rather, it warns that those unqualified to serve as a *muyou* yet recklessly enter the field will inevitably suffer moral corruption."[38]

Guided by the belief in *yebao*, Wang prioritized meticulousness in legal proceedings. Unlike the Qing judiciary, which often relied on *yayis* to obtain preliminary confessions,—Wang centered his practice on personally conducting interrogations, minimizing the use of torture.

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34 *See* You Chenjun (尤陈俊), *'Songshi Ebao' Huayu Moshi de Liliang Jiqi Fuhe Gongneng* ("讼师恶报"话语模式的力量及其复合功能) [*The Powers and Compound Functions of the Discourse Mode about Pettifoggers' Retribution for Evildoing*], 3 XUESHU YUEKAN (学术月刊) [ACADEMIC MONTHLY] 95, 104 (2019).

35 *See* WANG, *supra* note 24, at 9.

36 Wang Huizu was extremely cautious when formulating the death penalty charges during the sentencing process. For criminals who were initially proposed to be charged with capital offenses, he would also, whenever legally possible, try best to leave them a chance to preserve their lives. Wang only recommended that the chief officials convict a total of 6 people to death during 26 years as a *xingming muyou*. There were also some other cases where the charges were initially proposed as capital offenses, but they were not classified as "circumstances deserving of capital punishment" (*qingshi*, 情实). However, Wang was also very prudent when making the initial reports for those criminals whose death penalty charges were not classified as deserving the capital punishment. After the autumn assize, all these criminals were granted mercy and had their sentences commuted or reduced. *See* WANG, *supra* note 12, at 6.

37 *See* Bao Yongjun (鲍永军), Wang Huizu Yanjiu (汪辉祖研究) [The Study of Wang Huizu] 13–14 (2004) (Ph.D dissertation, Zhejiang University).

38 *See* WANG, *supra* note 12, at 24.

Instead, he employed alternative strategies to uncover the truth, such as: observation of demeanor (*seting*, 色听, lit., assessing suspects' facial expressions and body language);[39] persuasion through reason and empathy; patiently guiding suspects to confess by appealing to logic and human sentiment; identifying contradictions in testimonies; separate interrogations to prevent collusion; and extensive evidence gathering, like conducting field investigations and corroborating facts.[40]

For Wang, prudence in adjudication was inseparable from the principle of justice(*gong*, 公), which structurally manifested in public hearings. Though the Qing Code did not mandate open trials, Wang insisted on holding proceedings in the main hall of the *yamen* (*daya*, 大衙) rather than private inner chambers (*neiya*, 内衙). He believed public scrutiny not only compelled adjudicators to act justly but also allowed engagement with local communities. In civil cases, public hearings facilitated inquiries into local customs (*fengsu*, 风俗), ensuring rulings aligned with societal norms. Additionally, transparency served an educative purpose, educating spectators through the judicial process.[41]

Wang placed great importance on legal procedures. Contrary to scholarly critiques of traditional Chinese legislation as "failing to distinguish between criminal and civil matters", local judicial practices in fact adhered to a principle of "differentiation between criminal and civil cases" (*xing min you fen*, 刑民有分). While both types of cases followed the procedural steps of initial reporting and detailed investigation, [42] the challenges in handling civil disputes (e.g., contractual or property conflicts) primarily lay in evidence collection. Criminal cases, particularly homicide and robbery were far more complex, requiring meticulous investigation and thorough evidence verification until all doubts were resolved. Criminal evidence had to meet a stringent high standard of proof.

An illustrative example is the Case of Lu In 1781 (the 46th year of

39 *See* WANG, *supra* note 31, at 25

40 *See* ZHANG, *supra* note 19, at 104–105.

41 *See* WANG, *supra* note 31, at 23.

42 Wang argued that during the preliminary review of petitions in both private and public prosecutions, "rigorous verification and meticulous scrutiny" could eliminate redundant checks in litigation procedures, thereby avoiding protracted interrogations that imposed undue burdens on litigants and public resources, as well as preventing subsequent fraudulent practices by clerks who might tamper with evidence through alterations or fabrications. For cases requiring formal adjudication, Wang insisted on repeatedly deliberating the factual matrix and scrutinizing criminal circumstances—even to the extent of hypothetically confronting deceased convicts in a prison setting. By maintaining a posture of "exhaustive scrutiny" (*xiangshen*, 详审), he believed magistrates could achieve such precision that their judgments would withstand confrontation even with spectral entities, as if holding court in the realm of spirits. *See* WANG, *supra* note 12, at 17; WANG, *supra* note 31, at 26.

the Qianlong reign), in a county of Zhejiang province, two commoners Lu and Yu engaged in a physical altercation. During the fight, Lu was kicked in the lower abdomen, rendering him temporarily speechless. The assistant official responsible for arrests and prisons (*dianshi*, 典史) examined Lu's injuries and summoned a surgeon for treatment. Lu recovered and returned home later. However, Lu fell ill after drinking alcohol after some days and consulted a physician specializing in internal medicine. He died several days later.

The legal crux lay in whether Yu's act of kicking Lu in the abdomen 27 days prior had a causal relationship with Lu's death. Yu argued that if his assault had been fatal, symptoms should have manifested within three days of the altercation. Moreover, the 27-day interval exceeded the statutory period of guaranteeing the injury (*baogu*, 保辜), a traditional legal timeframe for determining liability in injury cases. During the initial trial, the county magistrate concluded Yu's guilt based on the consistency between Lu's abdominal injury (as recorded by the *dianshi* after the fight) and the surgeon's examination, without conducting an internal autopsy of the corpse.

Wang, however, challenged this verdict. He contended that:(1)The two medical examinations occurred over 20 days apart, rendering the latter unreliable for establishing causation; (2)The timeframe surpassed the *baogu* period, nullifying Yu's legal liability under traditional statutes; (3)Lu's consultation with an internal medicine physician after drinking suggested potential internal injuries, yet the physician was never summoned during the trial. Wang thus argued that the evidence chain—key witness testimonies, thorough forensic examination of the corpse, and adherence to the guarantee period—was insufficient to prove Yu's culpability for Lu's death. He insisted on a retrial and mandated a forensic evaluation to verify causality. Upon re-examination by a higher authority, Lu's death was determined to be unrelated to Yu's initial injury.[43]

Furthermore, Wang's scrupulous caution manifested in his insistence on timely releasing unrelated witnesses to avoid collective punishment (*zhulian*, 株连), [44]as well as his exclusion of illegally

43 *See* WANG, *supra* note 24, at 36–37.

44 Wang mentioned, in civil litigation, commoners often exhaust significant energy and financial resources. Therefore, *muyou*s should adhere to the principle of "minimizing procedural burdens" on the populace by reducing litigation's disruptive impact. For non-urgent matters, resolve cases through written instructions(*pishi*, 批示) and mediation(*kaidao*, 开导) rather than summoning parties (*chuanxun*, 传讯) or dispatching bailiffs(*chaiti*, 差提). For non-essential individuals, ensure expeditious release (*shengshi*, 省释) and avoid indiscriminate implicating (*xianshou qianlian*, 信手牵连)…Upon determining an individual's irrelevance to the case, they should promptly release the person to prevent the implicating of innocents…Sparing one summons spares one household from hardship. As the proverb warns: 'A single vermillion mark

obtained evidence, such as distrusting confessions procured through coercion and rejecting testimonies derived from torture.[45] Even in severe cases like homicide or robbery, where suspects might act deceitfully, he opposed resolving them through "coercive interrogation" (*xingqiu*, 刑求). In homicide cases, where injuries could be physically verified, and robbery cases, where traces of criminal activity might be traced, Wang advocated for patient, meticulous investigation and interrogation. He argued that since those accused of grave crimes already bore reasons for their culpability, they ought to be allowed to present their defenses calmly and comprehensively.

Resorting to torture to expedite confessions, he warned, risked fabricating false accusations. Even if such confessions proved truthful, the inhumane methods of extraction would leave judicial officials morally unsettled.[46] This demonstrates that many core tenets of *muyou* professionalism—rooted in prudence toward legal procedures—constituted what might be termed a procedural ethics. Its specialized logic, however, remained fundamentally anchored in the ideology of *yebao*. For Wang, following strict and humane procedures was not just a bureaucratic obligation but a moral imperative. This was to avoid accumulating sins (*nie*, 孽) through procedural injustice, thereby safeguarding both judicial integrity and personal spiritual welfare.

Guided by his unwavering belief in *yebao*, Wang advocated for penal leniency in judicial practice, articulating principles such as "benevolent punishment" (*xiangxing*, 祥刑), "punishment in the ghostdom" (*yinqian*, 阴谴) and "the ledgers of merit and demerit" (*gongguo ge*,功过格). His reverence for spirits and deities led him to view ethical conduct—measured by its alignment with cosmic forces (*tiandi guishen*, 天地鬼神)—as a core criterion for *muyou* professionalism. However, can this concept of *yebao* be equated with the systematized religious doctrines found in Hindu legal texts like the *Dharmaśāstra*? The answer is negative. Wang lacked transcendent religious convictions; instead, he emphasized "ethical bonds" (*lun*, 伦) as the ultimate constraint on human behavior, "there are no disloyal or unfilial immortals in the world; even those who attain Buddhahood or become patriarchs do not exist beyond ethical relationships. Their truths share the same hall as Confucian principles." [47]As a Confucian

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on the magistrate's desk (*tangshang yidian zhu*, 堂上一点朱) costs a thousand drops of the people's blood (*minjian qian dian xue*, 民间千点血)'. Diligence in drafting legal documents granted respite to those entangled in litigation. *See* WANG, *supra* note 12, at 15. *See also* WANG, *supra* note 12, at 37.

45 *See* WANG, *supra* note 12, at 39.

46 *See* WANG, *supra* note 31, at 25.

47 *See* WANG *supra* note 24, at 99.

scholar and secular pragmatist, Wang believed that deities themselves were bound by lun, subject to ethical limitations—a perspective reflecting the *muyou* profession's pragmatic orientation.

A supplementary line of argument lies in Wang's discourse on confession. While he repeatedly invoked the specter of *yinqian*, he primarily deployed it as a tactical tool to uncover factual truths. For instance, in the Case of Liu killing his younger brother, Wang conducted hearings at a town god's temple (*chenghuang miao*, 城隍庙), exploiting the accused's superstitious fears. During the trial, Liu's son, under psychological duress, claimed to have been guided by ghostly runners (*guizu*, 鬼卒) to confess the murder, thereby resolving the case.[48] Here, the rhetoric of *yinqian* functioned not as theological dogma but as judicial pragmatism—a technical instrument leveraging popular beliefs in karmic causality to achieve procedural efficacy. This synthesis of karmic ideology and practical legal strategy underscores Wang's unique blend of Confucian ethics, folk religiosity, and forensic ingenuity, positioning *yebao* less as a metaphysical system than as a procedural technology within Qing judicial administration.

From antiquity, the central challenge for deontological jurisprudence has been to explain the origins of ethical principles. In traditional China, the concepts of *li* and *yebao* formed the bedrock of *muyou* professional ethics, merging secular logic with supernatural cosmology. Yet how did these legal experts differ from the bureaucratic class, which also invoked law and morality? The distinction likely lay in their primary orientation: whereas officials idealized "being a person of virtue" (*wei junzi*, 为君子), *muyou*s prioritized assisting such persons (*zuo junzi*, 佐君子). When traditional bureaucrats were criticized for their "personal moral integrity being insufficient to remedy institutional and technical deficiencies", figures like Wang epitomized a *muyou* ethos that consciously separated everyday moral evaluations from legal professional ethics, acknowledging the inherent tension between the two. Though Wang, as a Confucian scholar, revered "self-cultivation as a person of virtue" (*junzi xiuxing*, 君子修行), he primarily framed the Muyou profession as a role-specific duty of "assisting governance" (*zuozhi*, 佐治). Recognizing the moral risks endemic to judicial practice—what he termed "the fragility of virtue"—he emphasized leveraging technical expertise to "redress injustices" (*xiyuan*, 洗冤), thereby legitimizing the profession's dignity and societal value.

In essence, the *muyou* profession did not demand universal moral perfection. Instead, its exemplary practitioners voluntarily imposed

48 *See id.* at 71–72.

self-regulating ethical policies, defending their professionalism as both a safeguard for the vocation and a means to secure its historical legacy. This pragmatic negotiation between moral idealism and technical pragmatism allowed *muyou*s like Wang to carve out a distinct, respected niche within the complex landscape of Qing legal administration.

B. Muyou Professional Ethics As a Vital Part of Legal Knowledge Production and Flow

Every profession and role possesses its own "vital principle" (*shengli*, 生理)—a survival logic rooted in practical necessity. By the Ming-Qing period, this principle had become widely enshrined in family teachings across *Jiang Nan*,[49] reflecting not only the region's ethos of relentless industriousness but also broader societal shifts toward occupational specialization and professionalization amid economic development. In legal studies, scholarship on the history of legal knowledge has systematically examined the dynamics and impacts of legal professionalization and knowledge production during this era.[50] The following discussion focuses on the *muyou*s' contributions to the production and circulation of legal knowledge in non-state spheres.

Compared to the developmental trajectory of Western legal professional ethics, an important step in the development of traditional Chinese *muyou*s' ethics lay precisely in their role as custodians and disseminators of specialized legal knowledge. As sociolegal practices evolved, Confucian classics (*jingxue*, 经学)—which emphasized statecraft and cultivated generalist scholars—failed to adapt to the growing demand for applied expertise, gradually diminishing in relevance to dispute resolution. The *muyou* profession swiftly filled this gap between state and society, gaining prominence through their strategic mastery of legal interpretation.

Unlike the "closely guarded secrets" of legal interpretation monopolized by the Ministry of Justice, or the "pillow secrets" of elite bureaucratic circles,[51] *muyou*s exerted significant influence over legal

49 *See* PHILIP A. KUHN, SOULSTEALERS: THE CHINESE SORCERY SCARE OF 1768 113 (1990).

50 *See* XU ZHONGMING (徐忠明) & DU JIN (杜金), CHUANBO YU YUEDU: MING QING FALÜ ZHISHISHI (传播与阅读：明清法律知识史) [DISSEMINATION AND READING: HISTORY OF LEGAL KNOWLEDGE IN THE MING AND QING DYNASTIES] (2012).

51 Through the research of the Autumn-assizes Documentary, scholars have concluded that the legal resources of the Qing Dynasty were concentrated in the Central Board of Punishment and remained in a private state for a long time. Although there is a certain element of "being cautious and compassionate in criminal cases" as a reason, it is more obvious that the main purpose is to maintain the dominant legal status of the Board of Punishment. This reflects a judicial pattern of "emphasizing the central authority over local authority" or can be regarded as an institutionalized

publications in Qing.[52] Many editors of commercial legal texts were *muyou* themselves. After publishing their works, they further amplified their reach through "gift-giving"—a culturally refined practice within scholarly networks. For instance, Wang printed and distributed his treatises, such as *Zuozhi Yaoyan* and *Xuezhi Yishuo*. Recipients of these works often engaged in "secondary dissemination"—reprinting and regifting them to colleagues, friends or apprentices—thereby cementing their status as "exemplary codes" (*kelü*, 科律) and "ethical models" (*kaimo*, 楷模) for legal practice.[53]

Wang believed that the accessibility of *Zuozhi Yaoyan* and the rigorous contemplation it reflects enabled him to "make up for demerits". Whether the systematization of *muyou* professional ethics originated from a karmic retribution ideology warrants further consideration. Nevertheless, Ming-Qing *muyou*s gradually "assumed the role of principal patrons, serving as both benefactors and organizers of intellectual talent". A defining feature of *muyou* scholarship (*muxue*, 幕学) was its development of legal hermeneutics within non-state spheres—a sociohistorical shift of profound significance. This transformation not only secured for traditional Chinese legal groups a relatively autonomous space for legal reasoning and interpretation but also positioned local society as a critical arena for jurisprudential education. Unlike the centralized authority of the Board of Punishment, this model flourished through dynamic interactions between rationally motivated individuals (i.e.,*muyou*s) and state collectives (i.e.,bureaucrats), grounded in pragmatic governance.

The expanding influence of *muyou*s solidified discursive stances, such that figures like Wang could reasonably be termed "jurists" in a qualified sense. Regardless of debates over "jurisprudence" in traditional China, the *muyou* profession undoubtedly endowed legal knowledge with public accessibility through the systematization of *muxue*. A dense network of public communication emerged from

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outcome. *See* Sun Jiahong (孙家红), *Buzhongmi yu Zhenzhongmi: Zailun Qiushen Wenlei* ("部中密"与"枕中秘"：再论秋审文类) [*Secrets of Ministry of Penalty and Secrets in The Pillow, Re-discussion of the "Autumn-Assizes Documentary" in Qing Dynasty*], 28 FAZHISHI YANJIU (法制史研究) [LEGAL HISTORY STUDY] 259, 260 (2015).

52 *See* Li Chen (陈利), *Zhishi de Liliang: Qingdai Muyou Miben he Gongkai Chuban de Lüxue Zhuzuo Dui Qingdai Sifa Changyu de Yingxiang* (知识的力量：清代幕友秘本和公开出版的律学著作对清代司法场域的影响) [*Power of Knowledge: The Role of Secret and Published Treatises of Private Legal Specialists in the Qing Juridical Field*], 1 ZHEJIANG DAXUE XUEBAO (RENWEN SHEHUI KEXUE BAN) (浙江大学学报（人文社会科学版）) [JOURNAL OF ZHEJIANG UNIVERSITY (HUMANITIES AND SOCIAL SCIENCES)] 13, 15 (2015).

53 According to Chinese Classics, *kaimo* originally described Confucius and Mencius, as well as the virtuous Confucian scholars. *See* RUAN YUAN (阮元), SHISANJING ZHUSHU QING JIAQING KANBEN (十三经注疏清嘉庆刊本) [THE COMMENTARIES ON THIRTEEN CLASSICS OF THE JIAQING REIGN] 3625 (2009).

within the private sphere, where the dissemination of legal expertise transcended professional boundaries to reflect broader literati engagement with governance. This process accumulated social capital for muyous while fostering consensus among legal actors—officials, muyous, and songshis.

Scholars have argued that "interpreting statutes through classical exegetical methods" (yi dujing zhi fa dulü, 以读经之法读律) hindered the formation of a de facto legal community in Ming-Qing China, particularly given the illicit status of *songshi*s. Yet a qualified case can be made for the existence of a distinctive legal community: officials (especially local ones), *muyou*s, and *songshi*s shared overlapping textual resources, comparable knowledge frameworks, and methodologically aligned approaches to legal study. While disparities existed—such as the contrasting emphases of administrative handbooks and *songshi* manuals—these differences did not undermine this community's foundational cohesion. Instead, they highlighted its pluralistic vitality within a unified epistemic tradition.[54]

By the Late Qing Period, the special situation had always existed wherein officials from provincial governors to magistrates all retained *muyou*s through personal appointments rather than official positions.[55] The *muyou* profession also challenged the singular career trajectory of entry into officialdom (*rushi*, 入仕) as the sole path for upward mobility. Studies of the imperial examination system (*keju*, 科举) reveal that its refinement was driven by imperial authority's expansion, with the unintended consequence of enabling intergenerational social mobility.[56] Until the mid-19th century, the exams remained central to social integration. However, the rise of the *muyou* profession introduced a corrective to the knowledge-to-power paradigm. While many became *muyou*s out of necessity—such as failed exam candidates or those dissatisfied with bureaucratic roles,—the role of skilled legal advisors evolved into a socially respected identity.[57] Both officials and commoners relied on their legal expertise to pursue judicial equity,

54 *See* Xu & Du, *supra* note 50 at 9. Also, several scholars noted, the writings left by *muyou*s…constituted a crucial component of the "autonomous and self-generating" (*zisheng zifa*, 自生自发) judicial field in traditional China. *See* QIU PENGSHENG (邱澎生), MING QING ZHONGGUO DE SIFA CHANGYU YU FALÜ DUOYUAN (明清中国的司法场域与法律多元) [JUDICIAL FIELD AND LEGAL PLURALISM IN MING-QING CHINA] 37 (forthcoming 2026); ZHANG TING, CIRCULATING THE CODE: PRINT MEDIA AND LEGAL KNOWLEDGE IN QING CHINA (2020).

55 *See* SUN YIRANG (孙诒让), ZHOULI ZHENGYAO (周礼政要) [NOTES ON THE POLITICAL GOVERNANCE OF ZHOU RITES], 378 (2010).

56 *See* Jiang Qin & James Kai-Sing Kung, *Social Mobility in Pre-Industrial China: Reconsidering the 'Ladder of Success' Hypothesis*, 5 MODERN CHINA 628, 628–61 (2021).

57 Notably, though occasionally targeted by government crackdowns, renowned muyous possessing sophisticated legal knowledge and judicial skills were consistently recruited by officials through lucrative offers, remaining active in local judiciaries.

embodying as a "dual service-feedback dynamic" between state and society. By reviving the intrinsic value of legal knowledge as a direct source of status—rather than status derived indirectly through knowledge's conversion into bureaucratic power—*muyou*s disrupted the centralized model wherein literati entered officialdom to sustain power through knowledge.[58]

C. Pragmatic Concessions? How Does the Muyou Professional Ethics Reflect Legal Culture

In modern Western countries, legal procedures and legal professionals have played a decisive role in shaping the trajectory of the rule of law. Some argue that both West and China historically emphasizes the "human" factor in governance, but with critical distinctions.. In traditional Chinese Confucian thought, "human" generally refers to the governors and officials, emphasizing their moral training and cultivation. By contrast, Western tradition emphasized legal professionals and their technical expertise. The development of legal rationalization, as noted, is deeply influenced by the internal dynamics of legal professions, whose members" exert influence on the formation of the law in a professional capacity."[59]

Through an analysis of *muyou* practices, this article advances two key arguments regarding the above views: First, in traditional China, particularly in the Ming-Qing period, there was no lack of the existence of "legal professionals", and this became a trend among the *shi* origin rather than a product of modern Western legal transplantation. Second, the *muyou* profession demonstrates that law has made "pragmatic concessions" when dealing with moral issues, evolving toward specific professional and role-based ethics. Unlike the dramatic, emotion-driven advocates of the Roman legal tradition, *muyou*s— who operate primarily behind the scenes—sought professional fulfillment through technical expertise and ethical discipline.

It is precisely because they were at the intersection of various complex relationships and interest conflicts that the pragmatic ideas generated by the *muyou* profession have the same essence as legal ethics in modern risk society, which "should only focus on the morality of what lawyers or clients do"[60].

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58 From an economic cost perspective, the diversion of *shi*s into the *muyou* profession had reduced the financial burdens associated with their persistent pursuit of *keju*.

59 *See* Sun Xiaoxia (孙笑侠), *Falü Jia de Jineng yu Lunli* (法律家的技能与伦理) [*Lawyers' Skills and Ethics*], 4 FAXUE YANJIU (法学研究) [CHINESE JOURNAL OF LAW] 3 (2001).

60 *See* Alice Woolley, *Philosophical Legal Professional Ethics: Ethics, morals and jurisprudence—Introduction: the Legitimate Concern of legal professional ethics*, 13(2) LEGAL PROFESSIONAL ETHICS 165, 168 (2010).

Certainly, the enduring ethical foundation underpinning this preference emerges from the deepest wellsprings of morality: the concepts of personality, identity, and liberty. As Charles Fried observes, "justice is not all of morality; there remains a circle of intensity which through its emphasis on the particular and the concrete continues to reflect what I have identified as the source of all sense of value-our sense of self."[61] The ethos of the *muyou* profession shares common ground with the classic assertion of "lawyer as a friend" in Western legal professional ethics research. It is also akin to the "ethics of care", which places a premium on the mutual dependence and reciprocity within relationships.[62] This approach eschews universal principles, instead taking into account the responses that are optimally suited to the specific relationships among legal professionals and between legal professionals and their clients.

Focusing on Wang's records of *muyou* practices, which were intended to serve as a model for others to observe and emulate, rather than the distillation of "abstract theories", also exemplifies a form of "pragmatic moralism"[63] or "pragmatic legalism"[64]. In fact, certain positive attributes that had emerged, alongside principles and methodologies marked by pluralistic coexistence, embodied an alternative form of modernity. The inherent tension between the "thick statute" of judicial professionalism and the "thick custom" of democracy can thus be mitigated.

Furthermore, as a product of the shortage economy in the traditional period, the *muyou* profession acknowledged and supported the social governance tasks of the judiciary. It fully revealed the principle of matching governance capabilities with governance objectives. Therefore, it was not dominated by the national order to sustain the rule of law. Instead, it was a group of legal professionals that emerged from obscurity, as an important analytical unit, occupied a dominant position in the local judiciary. This pragmatic concept of the legal profession also had an impact on later generations. It helps understand the expansive development of modern legal professions

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61 *See* Charles Fried, *The Lawyer as Friend: The Moral Ffoundations of the lawyer-client relation*, 85 YALE L.J., 1068–70 (1976).

62 *See* JONATHAN HERRING, LEGAL PROFESSIONAL ETHICS 23–24 (2014); V. HELD, THE ETHICS OF CARE (2006).

63 *See* PHILIP C. C. HUANG, 3 QINGDAI YILAI MINSHI FALÜ DE BIAODA YU SHIJIAN: LISHI, LILUN YU XIANSHI (清代以来民事法律的表达与实践：历史、理论与现实) [THE EXPRESSION AND PRACTICE OF CIVIL LAW IN CHINA SINCE THE QING DYNASTY: HISTORY, THEORY, AND REALITY] 153–76 (2014).

64 *See* Xiong Zheng (熊征), *"Shiyong Fazhi Zhuyi": Yige Gainian yu Lujing de Chubu Fenxi* ("实用法治主义"：一个概念与路径的初步分析) [*On Connotation and Mechanism of the "Practical Legalism" in China*], 1 MINJIAN FA (民间法) [FOLK LAW] 83, 91 (2023).

and legal professional ethics in China, even though some systems might not be "trusted". The seemingly contradictory practices are in fact a kind of subconscious attempt to explore the modernity of the rule of law in China. It is a logic of applying the law according to different situations based on reality.

IV. CONCLUSION

The main limitation of previous research on legal professions in China lies in its exclusive reliance on the analytical logic of "bureaucratic law" or "state-dominated legal spheres". The positioning of traditional legal actors—whether administrative officials exercising legal authority or marginalized *songshi*s—reveals a system where professional autonomy was either absorbed by centralized state power or restricted through exclusion.

This article challenges the conventional narrative of legal professionalism's absence in traditional China through an analysis of the *muyou* profession, exemplified by Wang Huizu. Contrary to assumptions, legal ethics did not originate from the "bureaucratic law" order but emerged from the muyou community's self-defined professional standards.

In judicial practice, *muyou*s reconciled legal formalism with social pragmatism, institutionalized procedural justice, with their conduct embodying the core principle of occupational autonomy: expertise. Simultaneously, as unofficial governmental proxies, they maintained symbiotic relationships with bureaucrats, exemplifying legal ethics through roles such as "governance assistance" and "acting on behalf of governance".

In legal education, *muyou*s cultivated and sustained a distinctive legal learning and case reasoning paradigm through print culture and master-apprentice transmission. This paradigm demonstrated a dual character of being "relatively independent" from central judicial authorities while simultaneously "absorbing observational insights" from them. Regardless of imperial attitudes, *muyou*s had effectively integrated into the official legal system as institutional entities, exerting lasting influence on Ming-Qing judicial order nationwide.

In conclusion, this article shows that the *muyou* profession—shaped by exemplars like Wang Huizu—significantly advanced legal specialization in traditional China. Functioning as "hidden to prominent" legal actors in socio-legal evolution, *muyou*s occupied an intermediate "group sphere" in the state-community-individual structure. Their existence challenged the conventional trajectory of "literati inevitably entering officialdom", embodying a dual professional

ethos: one rooted in Confucian *li* and Daoist *yebao* for holistic order, and another in specialized legal logic that translated ideals into judicial techniques, procedural norms, role-specific responsibility, offers insights into indigenous legal ethics. *Muyou* ethics not only governed their community but also permeated bureaucratic networks, influencing official conduct—paralleling Western bar associations in emerging from civil society, blending expertise with custom, and projecting professional norms across societal tiers.