

一百丛书

汉英对照 Chinese-English

中国古代案例一百则

乔车洁玲 选译

100 JUDICIAL CASES FROM ANCIENT CHINA

中国对外翻译出版公司

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“一百丛书”总序

本馆出版英汉（或汉英）对照“一百丛书”的目的，是希望凭借着英、汉两种语言的对译，把中国和世界各类著名作品的精华部分介绍给中外读者。

本丛书的涉及面很广。题材包括了寓言、诗歌、散文、短篇小说、书信、演说、语录、神话故事、圣经故事、成语故事、名著选段等等。

顾名思义，“一百丛书”中的每一种都由一百个单元组成。以一百为单位，主要是让编译者在浩瀚的名著的海洋中作挑选时有一个取舍的最低和最高限额。至于取舍的标准，则是见仁见智，各有心得。

由于各种书中被选用的篇章节段，都是以原文或已被认定的范本作蓝本，而译文又经专家学者们精雕细琢，千锤百炼，故本丛书除可作为各种题材的精选读本外，也是研习英汉两种语言对译的理想参考书，部分更可用作朗诵教材。外国学者如要研习汉语，本丛书亦不失为理想工具。

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译者序

我们跟西方人士谈起中国侦探小说时都会提到狄公的名字，这个勇谋兼备的清官借着高罗佩所写的中国侦探小说而扬名“西域”。这些小说约共二十种，情节取材自中国古代案例的选本，例如《棠阴比事》。高氏也曾把整本《棠阴比事》译成英文，称之为“十三世纪折狱及办案的手册”。可惜这个1956年出版的英译本没有像他写的小说大受读者的欢迎。其实，这个译本可让西方读者一窥中国古代社会面貌及当时法制的运行情况，内容很引人入胜。不过，高罗佩本人也承认，对现代读者来说，《棠阴比事》的英译本有它的缺点：“里面有不少论点没有什么根据，流于吹毛求疵，甚至可说是诡辩。有些案件对现代读者来说实在十分乏味。”〔1〕他就此提出建议：“重新从《棠阴比事》、《疑狱集》、《折狱龟鉴》取材，再编一个选本，必定更能适合读者的兴趣和口味。”〔2〕本书《中国古代案例一百则》的案件取材自各种选本、史书、笔记小说等等，译者期望选出来的一百个案例，真的能够适合现代读者的兴趣及口味，实现高罗佩的心愿。

高罗佩可说是向西方介绍中国案例的先锋，译者拜读他的著作，获益良多。他的译作和小说附有详细序言

〔1〕《棠阴比事》英译本序言，第十页。

〔2〕同上。

和注释，对于中国的法则、中国古代社会以及中西读者对侦探小说的不同要求，有详尽的解释。译者无意在这里东施效颦，只打算花一点笔墨谈谈选译的一百则案例。

在这一百个案例里，有数千年前前汉时发生的案件，也有数百年前清代官员的遭遇。选译的主要原则是故事的趣味性。译者也参考了高罗佩提出的几点意见^{〔1〕}，尽量避免选译一些西方读者难以接受的案例：大部分的案例都很短，叙述的枝节不多，故事的人物有限，读者不用面对一大堆奇怪的名字；选译的案例都没有涉及鬼神，唯一的例外可算是第二十四则〈许襄毅公之一〉（故事里的一场冤狱导致天旱，终于引得清官来替无辜者申冤）；所有的案例都富有真实感——差不多每一个故事都注明发生的朝代、地点、县官或太守的名字等等，叙述的风格朴实无华、平铺直叙，更使读者觉得这些都是真人真事的记录，而不是虚构的故事，虽然某些案例选自民间小说例如《聊斋志异》或笔记小说，但历代的人都认为这些案件有事实的根据；至于犯人行刑的细节，某些案例的确有骇人的描述，但篇幅很短，多半是一句话而已，译者相信只要这些刑罚的内容不会令读者反感，就是保留下来也无伤大雅，甚至可以保存中国案例的一个特色。

译者把一百则案例分成四大类，因为在选译过程中，译者发现某些案例有相似的地方，把它们放在一起让读者比较一下也很有意思，相信选辑《棠阴比事》的编者原意也是这样。不过，分类没有可能是绝对的，有些案

〔1〕《狄公案》英译本序言，第二至四页。

例可以属于超过一个类别，这是难以避免的。

在翻译技巧方面，文句通顺是主要的原则。这些译文的对象是一般的读者，不是研究汉学的人士，因此，译文采用篇末注释而放弃下脚注，以免影响读者阅读时的兴趣。中国制度的“尺”和“寸”的翻译就是一个例子：读者有时不用知道“尺”到底有多长也能够了解故事的发展（例如第三十七则〈金事断狱〉就有这个情形），那么译者就把“尺”音译，保留在故事里，在篇末才加上注释，说明一尺大约是三分之一公尺的长度。有时候，确实长度是故事的关键，译者就在音译之后用括号加上解释（例如第四十则〈验伤明罪〉）。在另外一个案例（第三十八则〈验刃辨冤〉）里，译者采用了换例译法。这个故事的重点在于指出“尺”和“寸”在长度上的对比，译者就把“尺”、“寸”换成英式的“呎”、“吋”，因为一方面这些英制的单位在长度上比公尺较接近“尺”、“寸”，而另一方面，译者可以避免在对话中采用“三分之一公尺”或“三公分”这些累赘的片语。把简单的英制“呎”、“吋”放在故事里，可令文章更为通顺。

某些案件有较浓厚的中国色彩，读者需对中国的风俗习惯先有点认识。译者按不同的情况分别加插注释：在第七十四则〈李若谷〉里，注释放在正文，第五十六则〈巾痕迹贼〉的注释放在篇末。有些情形（例如第六十七则〈杖骨知子孝〉），译者索性不用注释，让读者自己了解中国人的某些观念与西方的风俗有很大的分别。如果读者的疑问与文化差异无关（例如第八则〈粤东狱〉的新郎为什么死去多时，尸体仍没有腐化），译者不会强加

解释，因为这是作者的责任，即使看原文的读者也会有同样的疑问，译者无权越俎代庖。

倘若故事里注明朝代或年号，译者会加上公元的年份，让读者知道案件发生的年代。如果朝代和年号都有提及，译者就只注明其中之一的公元年份，避免正文里用太多括号。案例的中文篇名是选本编者自己加上的，有些编者就采用了审案官员的姓名做篇名。译者按着故事的性质为所有案例加上英文篇名，目的是要增加故事的趣味。

译者在这里要特别向许白芙女士致谢。许女士很耐心地把初稿看过一遍，提出不少宝贵意见，让译者能够参考一位西方读者的观点，对译文的帮助很大。译文错漏的地方，敬请读者不吝指正。

乔车洁玲

一九八八年十二月

Translator's Preface

When one talks about Chinese detective stories to Westerners, the master detective that comes to mind would invariably be Judge Dee, made famous by Robert van Gulik who wrote nearly twenty detective novels featuring the judge, drawing his plots from case-books such as the *Tangyin bishi* (Parallel Cases from under the Pear-tree) which is, in his words, "a 13th century manual of jurisprudence and detection". It is unfortunate that his erudite translation of this volume (first published in 1956) does not enjoy the popularity of his Judge Dee stories for it provides the reader with a fascinating picture of life in old China as well as the way the Chinese Penal Code operated in the society of those days. However, van Gulik himself admitted that it has its shortcomings when translated into English for the modern reader: "... there are given also many arguments that appear pointless caviling or even sheer sophistry, while a few of the cases deal with subjects of slight interest to the modern student."⁽¹⁾ He went on to suggest an alternative: "Doubtless a new selection from all the cases recorded in the *T'ang-yin-pi-shih*, *I-yü-chi* (Collection of Difficult Cases) and *Che-yü-kuei-chien* (Magic Mirror for the Solving of Judicial Cases) would make much more profitable and interesting reading."⁽²⁾ The present volume is a selection of cases from such sources as old case-books, historical records and literary sketches with a view of providing the modern reader with the "profitable and interesting reading" suggested by van Gulik.

In preparing this volume of translations, I am heavily indebted to van Gulik who is undoubtedly the trail blazer in introducing this genre of Chinese legal literature to the West. The prefaces, introductions and notes found in his works give a wealth of information concerning the Chinese legal system, Chinese society in early times and the main differences between Western and Chinese taste in detective fiction. I have no intention of duplicating his admirable efforts so I will confine myself to giving a brief explanation concerning the one hundred cases I have selected for this volume.

These cases cover a period from the Former Han dynasty (B.C. 206-A.D. 25) to the Qing dynasty (1616-1912). The main principle of selection is

(1) *T'ang-yü-pi-shih*, preface, p. X.

(2) *ibid.*

story interest and I have avoided the characteristics of Chinese detective fiction (expounded by van Gulik⁽³⁾) which the Western reader might find hard to accept. Most of the cases are very short and the number of people involved are limited, thus reducing digressions and a host of foreign-sounding names. The supernatural hardly plays a part in these stories, with the possible exception of "Accidental Death" (Case 24) in which the injustice resulted in a drought that drew the attention of the judge. A note of realism runs through all the cases and is reinforced by details such as the dynasty in which the incident happened, who was the presiding Magistrate or Prefect at the time and the exact district, city or prefecture where it took place. The style of these narratives is simple and unadorned, giving stark details rather than indulging in flowery prose. This strengthens the impression that these are authentic accounts rather than some writer's flights of imagination. In fact, though some cases are taken from so-called fiction such as *Liaozhai zhiyi* (Strange Tales Written in the Indolence Study) or literary sketches and jottings (*biji xiaoshuo*), it is widely believed that these accounts are based on true incidents and they were accepted as such by readers throughout the centuries. As for the details of the criminals' punishment, some cases do furnish rather gruesome descriptions, but all of them are confined to one brief sentence or so. I believe that leaving these intact will preserve the distinctive character of such records of Chinese legal cases as long as the accounts are not offensive to the reader.

I have divided the one hundred cases into four large categories. In the course of selecting and translating, I discovered that certain cases have points of similarity and felt that putting them together would provide interesting comparisons. This, no doubt, was the reason for the format of the *Tangyin bishi*. However, it must be borne in mind that the grouping is ultimately arbitrary and one could find a number of cases which could fit into more than one category.

In rendering these accounts into English I have adopted the principle of readability as my prime consideration. My versions are for the common reader rather than the student of Sinology. This is the sole reason why I choose to use end notes rather than footnotes which would distract the reader's attention. The treatment of the Chinese units of length such as *chi* and *cun* is a case in point. When the exact meaning of *chi* is not necessary to the understanding of the story (as in Case 37 "Justice after Three Years"), I leave the romanised term in the story and put in a note at the end of the narrative to let the reader know that one *chi* is approximately one third of

(3) *Dee Goong An*, preface, pp. II-IV.

a metre. Where the exact length of the unit is an important part of the tale, I enclose an explanation in parenthesis immediately after the romanised term (see Case 40 "Matching the Weapon to the Wound"). In still another case I use the method of substitution (see Case 38 "Incompatible Evidence") and chose "foot" and "inch" to replace *chi* and *cun* because these English units are nearer in length to the Chinese linear measures than the metric units and thus would sound less obtrusive than a mouthful like "How could a knife with a blade well over one third of a metre long have made a wound of less than three centimetres?" Since the contrast in length rather than the exact measurement is the point here, I think using substitution serves to enhance the readability of the tale.

Some of the cases are very Chinese in flavour in the sense that they assume some knowledge of Chinese customs and habits on the part of the reader. I have interpolated explanations in the main text (as in Case 74 "A Matter of Respect"), provided a note at the end of the story (as in Case 56 "The Mark on the Forehead") or just left it to the Western reader to assimilate the fact that the Chinese have customs and concepts very different from their own (see Case 67 "A Chinese Solomon"). Where the story gives rise to queries that had nothing to do with cultural differences (such as why there was no decomposition of the corpse in Case 8 "The Suicidal Bridegroom"), I offer no explanation, since the same question would arise in the mind of the Chinese reader and it is not the translator's place to usurp the function of the author.

Whenever reigns and dynasties are mentioned I have supplied dates in order to help the reader place the case in a historical context. However if both reigns and dynasties are included I usually give the dates for one and not the other so that the number of parentheses is kept to a minimum. The Chinese titles of the cases were mostly added by later compilers of casebooks and some merely use the name of the judge in the story as the title. I have invented English titles for all the cases according to the nature of the story. It is my hope that these titles will contribute to the readability of the tales.

Lastly, I should like to express my sincere appreciation to Mrs Beth Hui who patiently read through the manuscript and provided me with a Westerner's perspective of the tales and offered many helpful suggestions. Needless to say, all the mistakes are my own.

K.L. Kiu
December 1988

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