

Criminal justice in Shanghai during the Nanjing era: The case of one homicide

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This article shows how China implemented modern criminal and criminal procedure codes within the context of the revisions of these codes during the Nanjing era, using the archives of the Jiangsu Shanghai District Court to examine a homicide case in which a policeman was murdered in 1929.

The homicide in question was investigated by the Shanghai Special Municipality Public Security Bureau according to the criminal procedure code. The police took their suspect to the Songhu Garrison Command based on Provisional Regulations Regarding Punishment of Robbers and Bandits. However, the Garrison, in order to avoid a miscarriage of justice, sent the suspect to the Shanghai District Court in accordance with the existing criminal and criminal procedure codes. Although the prosecutor was legally knowledgeable and administrative competent, the criminal investigation system itself was not functioning satisfactorily, because 1) there was a huge back load of cases waiting to be tried and 2) Chinese society was yet able to understand and adapt to the new system. The judge examined the parties concerned in the case and ordered the judicial police to investigate the case. The parties concerned hired lawyers to help them and filed formal and informal petitions on their behalf, which turned out to contain very important information in helping the judge make his decision.

After analyzing the judicial process leading to the decision of the Shanghai District Court, the author comes to the following conclusions. In Shanghai during the Nanjing era, by aiming at the establishment of a modern penal justice system based on criminal and criminal procedure codes, while at the same time adopting traditional or informal practices when necessary, the government was successful in slowly habituating the citizenry to criminal trials based on statutory law and thus gradually bridging the gap between legal

institutions and social reality. That being said, in the context of preventing and suppressing the kind of criminal activity that had become a serious problem in Shanghai during that time, the criminal investigation system was by no means ready to take on the tasks required. Therefore, from the end of the 1920s, legal provisions and institutions were being sought that were better suited to the purpose of solving and adjudicating criminal cases actually occurring throughout China, a search which the author argues led to attempts at revising the criminal and criminal procedure codes during the early 1930s.