
Introduction

Since the second half of the eighteenth century, China had been in direct contact with Western powers, triggering an increasing number of disputes. Meanwhile, one of the Westerners’ major interests had been the Chinese judicature, which was mentioned and critically addressed in various documents. For instance, the debates arisen from the Lady Hughes incident and the Terranova incident, the memoirs of the members from Macartney and Amherst embassy, the English version of Ta Tsing Leu Lee by George Thomas Staunton as well as its reviews, The Punishments of China by George H. Mason with graphic illustrations, the travels and writings of merchants, missionaries and diplomatic envoys in China, as well as their periodicals in foreign languages which predominantly focused on Chinese affairs, and so forth. Among English-language journals during the nineteenth century, the longest-lasting and most influential ones were The...
Chinese Repository (1832-1851) and The China Review: Or, Notes and Queries on The Far East (1872-1901).¹

The Chinese Repository (Zhong Guo Cong Bao) was established in May, 1832 in Canton, by Elijah C. Bridgman (1801-1861), who was the first American Protestant missionary in China. Ordained and appointed for service in China by the American Board of Commissioners for Foreign Missions, Bridgman arrived in Canton in 1830. He had two responsibilities: the primary one was to carry out missionary work, whilst the second was to report on the present situation of Chinese society. In order to fulfil his latter duty, Bridgman initially wrote diaries and letters to his family, friends and members of his church about what he saw in China, and then – upon obtaining local institutions’ permission – actively started the publication of a journal, which was common practice of missionaries in China at that time. The Chinese Repository, with 20 volumes and 232 issues in total, had steady publishing frequency and fixed sections, as well as a fixed editorial standard for writing, citation and indexing, observed in each volume. It suffices to say that The Chinese Repository was the first mature English language journal established in China by foreigners. Although it was created by Bridgman, a missionary, and covered a wide range of topics, its main focus were the state and current issues in China, rather than religious matters.

The China Review (Zhong Guo Ping Lun) was founded in June, 1872 in Hong Kong, by Nicholas B. Dennys (1840-1900), who was British. It ceased publication in June, 1901, with 25 volumes and 150 issues in total. In general, it was an English language journal. The first editor, Dennys, used to be the editor for The China Mail in Hong Kong, as well as the founder of Notes and Queries on China and Japan (1867-1870), the City Hall Museum and Art Gallery, and the City Hall Public Library in Hong Kong. The following editors were Ernest J. Eitel (1838-1908), Alexander Falconer (1847-1888) and James D. Ball (1847-1919). Moreover, these editors were Sinologists, and among them Eitel had the richest set of works, covering an extensive variety of fields.² The China Review featured over four hundred writers, who were mainly Western missionaries, diplomats, government officials, merchants and journalists. British writers took up the biggest proportion, while there was only one Chinese contributor, Ho Kai (1858-1914).³ Along with long articles in The China Review, there were other columns such as Short Notices of New Publication and Literary Intelligence (Notices of New

¹ Hereafter referred to as The China Review.


³ See Wang Guo-Qiang, "Appendix II: Index of Contributors for The China Review", The China Review (1872-1901) and Western Sinology (Shanghai: Shanghai People’s Press, 2010), 405-464.
Books and Literary Intelligence), and Notices and Queries. They had an extremely wide coverage of topics, such as arts and science, ethnography, folklore, geography, history, literature, mythology, manners and customs, natural history and religions – all subjects mentioned in the Introductory.\(^4\) Despite its subtitle, *The China Review* and the occasional presence of articles and newsletters about Japan, Myanmar and other countries in the Far East, the journal was mostly about China, containing abundant information on contemporary Chinese society.

It was written in the Introductory of *The China Review* that “it will also, when room permits, contain reprints of the more valuable articles of *The Chinese Repository*”, while, as a matter of fact, only occasional references rather than reprints will appear in subsequent issues. Over twenty years after its first publication, the editor claimed the journal to be “a not unworthy successor” of *The China Repository*.\(^5\) On that basis, its effort to inherit the methods and style of *The Chinese Repository* shall not be denied.

*The Chinese Repository* and *The China Review* were both leading media in the history Sino-Western exchanges during the nineteenth century; according to scholarly interpretations, the former “shapes what China is for the Westerners of the nineteenth century and provides Western Sinologists with the basic literature of that period”,\(^6\) while the latter has even been defined as “the first journal of Sinology in the West”.\(^7\) These two journals, separately established and published during the first and second half of the nineteenth century, featured plenty of comments on the Chinese judicature. On this basis, the present essay analyses Western perspectives on the Chinese judicature, which were presented in both journals, aiming at illustrating the Western point of view and towards the Chinese judicature and its changes over time, through a comparison between the editorial organisation and the thematic approaches of these two crucial publications.

I. The Chinese Judicature in *The Chinese Repository*

*The Chinese Repository* offered an extensive coverage with articles and stories on the laws in China, while significant comments on the Chinese judicature were clearly pre-


\(^7\) Wang, *The China Review (1872-1901) and Western Sinology*, 117.
sent in an article titled “Execution of the Laws in China”. The latter was in fact a letter from Robert Morrison (1782-1834), questioning the actual legal validity of laws and regulations in China. He explained that in China, some legal provisions appeared to be literally perfect, yet were hardly applicable in practices. In addition, he argued that in China, the so-called common law or lex non scripta was not acknowledged. However, local magistrates operated in accordance with their habits, which were inconsistent with the statute law. In other words, laws in China were indefinite, while local magistrates were given excessive discretion. As a result, they fooled around with the laws to serve their own interests.

In accordance with other articles and stories, we shall summarise the key contents and viewpoints of the Chinese judicature around six main arguments, as follows.

1) Procedural laws in China were repeatedly violated in judicial practices, whilst there was no distinction between civil and criminal procedure.

Theoretically, as in most Asiatic empires from the earliest times, the gate of justice in China was supposed to be open to all who claimed a hearing; and a drum was said to be placed, as well at the supreme court in Beijing, as at the inferior tribunals, to render the demand more audible. The presiding magistrate sat at any hour, and heard causes either in public or private; he was attended by a clerk and interpreter in court. In addition, for the purpose of regulating proceedings, the criminal law of Ta Tsing Leu Lee had made detailed stipulations on the imprisonment, judgement and execution procedures.

However, legal provision was one thing, while the practices were quite another. In more detailed stories, The Chinese Repository elaborated on cases where the provisions of Ta Tsing Leu Lee had been violated at will, and pointed that the inconsistency of laws and practices in China was explicitly revealed in proceedings. Meanwhile, the confusion of the civil and criminal procedure served as an indication of not only the procedural system, but also the state of civilization of the Chinese.

2) Anonymous accusations were allowed and even encouraged.

History had witnessed the development of anonymous accusations. However, as early as in the Tang dynasty, anonymous accusations had been strictly prohibited by procedural provisions. During the Qing dynasty, the anonymous information article of Ta Tsing Leu Lee stipulated that

Any person who addresses and presents information and complaint to an officer of government, containing direct criminal charges against a particular individual, without having inserted therein his (the informant’s) proper name and family

---


name, shall, although the charges should prove true, be punished with death, by being strangled at the usual period. Whenever any such anonymous information or complaint is discovered, it shall be immediately burned or otherwise destroyed; and if the person who accidentally finds such a document, instead of so doing presents it to a magistrate of some other officer of government, he shall be punished with 80 blows.\textsuperscript{10}

This article had expressed its legislation intent in detail to prohibit anonymous accusation and severely punish the anonymous accuser. However, in 1833, \textit{The Chinese Repository} published a story that in Beijing, someone had sent an anonymous letter accusing one officer in the Ministry of Justice. In accordance with \textit{Ta Tsing Leu Lee}, the anonymous informant and people who sought to take advantage of him shall be punished. Nevertheless, upon being informed of this incident, the emperor wished to investigate the accused officer on these grounds, giving rise to the concern and panic of the Censorate officers.\textsuperscript{11}

Anonymous accusations were not prohibited; on the contrary, there had even been instances, in which such practices were encouraged by government officers.\textsuperscript{12}

3) Inquisition by torture seemed impossible to eradicate.

Inquisition by torture has been quite common in a number of times and countries. In China, it was regarded as an approach to get the truth and obtain evidence, rather than viewed as punishing criminals. However, since the Qin dynasty, there had been judicial criticism that inquisition by torture was not an institution which shall be advocated; on the contrary, officers who abused it shall be investigated and punished. Since then, there had been provisions prescribing very specific, restrictive conditions for inquisition by torture.

As for the Qing dynasty, the article concerning imprisonment and procedure against unaccused and unimplicated persons from \textit{Ta Tsing Leu Lee} had explicit stipulations on that matter. In judicial practices, however, there were continuous abuses of inquisition by torture by officers, especially local magistrates.

\textit{The Chinese Repository} had reprinted the tragic stories on the abuses of inquisition by torture from \textit{The Peking Gazette}, \textit{The Indo-Chinese Gleaner}, \textit{The Canton Register} and so

\begin{itemize}
  \item \textsuperscript{10} George T. Staunton, ed. and trans., \textit{Ta Tsing Leu Lee: Being Fundamental Laws, and a Selection from the Supplementary Statutes, of the Penal Code of China} (London: T. Cadwell and W. Davies, 1810), 360.
  \item \textsuperscript{11} Anonymous accusations, \textit{The Chinese Repository}, 1, no. 11 (1833): 472.
  \item \textsuperscript{12} An invitation to prosecute, \textit{The Chinese Repository}, 1, no. 7 (1832): 94.
  \item \textsuperscript{13} \textit{The Indo-Chinese Gleaner} (1817-1822) was established by Robert Morrison (1782-1834) and William Milne (1785-1822) in Malacca. Morrison was from the United Kingdom, and was the first foreign Protestant missionary in China. Milne was sent to help him with missionary campaigns, but later went to Malacca to establish new missionary areas; both of them were ordained and appointed by the London
forth. In October 1821, *The Indo-Chinese Gleaner* published a rather shocking story: the real murderer of a pending homicide case was found five years later or so, during which time more than fifty suspects had been interrogated and tortured.\(^{14}\)

The enumeration of such tragic stories aimed to prove the author’s opinion that the abuse of inquisition by torture was common among various countries, while there was no case worse than the Chinese.

4) Incompetent trial systems at local levels; even the highest authority failed to settle grievances.

The confusion of jurisdiction and lack of magistrates contributed to the incompetence of local trials. More importantly, local magistrates intentionally bent the laws to suit private interests. There were various stories on this in *The Chinese Repository*, as well as numerous appealed cases in the Supreme Court on account of this issue.\(^{15}\) As a matter of fact, there were endless overstepping and appeal cases, while almost every significant case was taken to surveillance commissioners, prefectural magistrates and even emperors.

The victims failed to redress injustices locally, so with their last shred of hope, they went to Peking for the final possible justice; this was the exact intention of the appeal system. *Ta Tsing Leu Lee* was no exception, as there was an article on neglecting or declining to receive information, which even allowed that “in order to present information, detain an officer of justice in his progress and summon any officer of justice to his tribunal by beat of drum”.\(^{16}\) Undoubtedly, some of the appeals versus local magistrates were the result of indiscretion and maliciousness, while the Supreme Court might not necessarily promote the justice that the victims sought. In some cases, the dialect they spoke was hardly comprehensible. In most of the cases, when the poor who were wrongfully convicted filed their complaints, they were not taken in consideration; even if their cases went on trials, there could hardly be any outcome other than being sent back to their domicile, which was in the jurisdiction of the local magistrate with whom they had grievance.

5) The cruelty of penalties was shocking, in particular the variety of death penalties as well as the brutality of their execution.

---

\(^{14}\) “A Singular Case of Suicide”, *The Indo-Chinese Gleaner*, 3, no. 18 (1821): 230


\(^{16}\) Staunton, *Ta Tsing Leu Lee*, 359.
When discussing penalties in China, “the five chief forms of punishment (Wu Xing)” shall come into mind. The Chinese Repository elaborated on and analysed the contents and practices of the articles on the five chief forms of punishment, which was in the General Rules of Ta Tsing Leu Lee: blows with the lesser bamboo, blows with the larger bamboo, temporary banishment, perpetual banishment and death by strangulation or by decollation. It was mainly illustrated in one article of the series “Notices of Modern China”, titled “Various Means and Modes of Punishment: Torture, Imprisonment, Flogging, Branding, Pillory, Banishment, and Death”; much ink was spilled on the descriptions of the death penalties.

Apart from that, words on penalties were usually seen in the “Journal of Occurrences”. Throughout the volumes, terms such as decapitation, public executions and death by the slow and painful process of being cut into pieces were quite common, coming from countless penalty stories.

The Chinese Repository reported on capital cases with hardly any comment, which appeared to be merely covering average news in China. However, these stories implied disgust due to the sheer number of capital cases, the frequency of execution and the brutality of public execution; they publicly criticised that penalties in China was solely emphasizing on retribution rather than reform. They also criticised the brutality of ruling as well as people’s indifference towards the frequent and cruel execution of death penalties.

6) Prisons were generally in a troubled state.

In many provinces, prisons had not received maintenance for years, were in severe conditions and already overcrowded. Corrupt prison guards took bribes and withheld the belongings of prisoners, while prison bullies swaggered before others, tormenting new prisoners.

In conclusion, in the articles of The Chinese Repository, the cruel, barbarian and unenlightened nature was the exact description for the Chinese judicature.

II. The Chinese Judicature in The China Review

The China Review had specified in its “To Contributors” the thirty-three subjects of contributions which were welcome, jurisprudence being one of them. There were rich contents which fit the coeval definition of jurisprudence; apart from special articles, there were also brief explanations and news coverage. Information about Chinese judicature can be discovered in the comments of published translation sections of Chinese
Li Xiuqing

legal classics as well as other articles concerning crimes and penalties. “The Administration of Chinese Law” by Lex was a commentary specifically on the Chinese judicature.\textsuperscript{18} There were also two articles about Canton prisons and some scattered information. We shall outline the journal positions organizing them around four main issues, as follows.

1) The execution of laws in China was different to that in the West.
   China did not have a jury system. The Chinese government was founded upon families, while all powers, including the execution of the laws, came from the emperors. However, the imperial examination system secured the officers for executing the laws; therefore, they were entitled with the majority of judicial power. Under such mechanism, the emperors were inevitably subject to laws and conventions, while being a tyrant was no longer an option. In addition to the imperial examination system, the patriarchal clan system was influential to the execution of laws; gentry also played a vital role in it.

2) Local magistrates, who were entitled with the majority of judicial power, were omnipotent.
   In China, not only did the local magistrates exercise the judicial power in most cases, but also they were in charge of social security, taxation and the imperial examination within the region. To their subordinates they were the backbones; to their superiors they could provide various sorts of services. Nevertheless, as cases of fraud during the imperial examination happened from time to time, malpractices of local magistrates during trials were bound to happen, and gentry colluding with each other to carry out extortion.

3) It focuses on the stages of criminal procedure, such as prosecution, arrest, detention or bail, trial, appeal, sentencing and so forth, as well as the comments on some of the provisions and customs. Complaints were drafted by pettifoggers. Written complaints and other documents would be handed over to the local constables in the first place, who were the lowest rank in court. Local magistrates would be held responsible if the offender of a criminal case should flee. The interrogation would be conducted on the principles of presumption of guilt, while legitimate inquisition by torture was acknowledged. To appeal to a higher court was permitted, while the fundamental purposes of reversal by superior officers were the pursuit of money, power and status, rather than to discover the truth and achieve justice. The penalties in China had already left an extremely harsh impression on the Westerners; however, along with other countries, there had been some reforms.

4) Prisons, as the fundamental part of the judiciary system, had drawn much of The China Review attention.

There were two articles targeting the Canton prisons, with almost identical titles. One was “The Prisons of Canton” by John G. Kerr,\textsuperscript{19} introducing the Great Prison (\textit{tai-kā}), the Inferior Prison (\textit{ki-sho}) and the Police Prison (\textit{Chai-kun}) in Pwan-yū and Nan-hai of Canton. It revealed the critical issues of these prisons, and also reminded readers from the West that before they moralized further at the expense of the “heathen Chinese”, and thus showed their own superior civilization, refinement and purity of morals, they shall reflect that their own prisons were, less than a century ago, in worse conditions, and their prisoners more inhumanly treated, than were the prisons and prisoners of China at that time. The author also proposed that the reform of prisons in China required external pressure and influences of Christian nations. The other anonymous article, “The Canton Prisons”,\textsuperscript{20} while it appeared to be the survey after the field investigation on Canton prisons, intended to expose the records of prison guards and policemen deceiving and mistreating prisoners. In the end, the author appealed to the Canton officers to look into the brutal incidents within prisons, to expose and rectify corruption, and to ultimately undertake a reform of the prison system.

\textbf{III. The Shift: Western Perspectives on Chinese Judicature during the Nineteenth Century}

According to widespread scholarly reconstructions, by the end of the eighteenth century, under the influences of Jesuit Missionaries from the European continent, who spoke favourably of the monarchy and political structure in China, Chinese culture had been highly regarded and admired by its Asiatic neighbours as well as in Europe. Westerners believed that China had a superior civilization, and were pleased to draw inspiration from it.

Since then, however, all sorts of disputes were brought about by the development of Sino-Western exchanges; the Western perspective of the laws in China had shifted, with increasing criticism on the Chinese culture and judicature; negative views became mainstream. George Thomas Staunton, who was regarded to favour the Chinese, translated \textit{Ta Tsing Leu Lee} into English in 1810. In his “Translator’s Preface” we can still observe that, though Staunton despised the traditional Chinese culture, he did express some positive views on the laws in China. On the contrary, in \textit{The Indo-Chinese Gleaner}, later established by Morrison and Milne, the editors expressed radically different perspectives and comments, which resulted in a coverage characterized, on the whole,


\textsuperscript{20} “The Canton Prisons”, \textit{The China Review}, 11, no. 6 (1883): 343-347.
by forms of strong criticism: the excessive number of death penalties, the brutality of executions, the abuse of inquisition by torture, judicial corruption, high rates of occurrence of adulteries and murders. Since then until the First and Second Opium War, the perspective harboured by Westerners became increasingly negative. Positions expressed by the editors and writers of *The Chinese Repository*, maintaining the Chinese judicature cruel, barbarian and unenlightened, corroborated such deterioration.

However, the Western perspective of the Chinese judicature in *The Chinese Repository* was not inherited by *The China Review*; new changes had taken place.

A first relevant difference was the lesser attention devoted to the criminal justice in China. Although law was not among the thirty subjects of *The Chinese Repository* there were still numerous articles and stories on the laws in China, which may be roughly categorized into legislation, execution of law, criminal law, proceedings, prisons, the land tenure system in China and so forth. Papers about proceedings were the most complicated, including criminal procedures, evidence, trials, judges and prison management; the easiest pieces were on civil laws such as the land tenure system. *The China Review*, on the contrary, had listed jurisprudence to be one subject for contributions. The variety of contents concerning the laws in China almost covered every legal branch in the modern tradition. There was no extensive coverage of criminal procedure, and very few contributions on crimes and penalties; the articles were comparatively focused on the bureaucratic institution, civil law and commercial law. The abridged translation of *Tu Tsing Leu Lee* was about fiscal laws, and the abridged translation of *A General View of Criminal Cases (Xing An Hui Lan)* was on cases of adoption, succession, marriage and so on.

A second divergence between the two journals was in the space given to extensive and public executions of death penalties and the death by the slow and painful process of being cut into pieces, which was typical in *The Chinese Repository*, while in fact quite rare in *The China Review*; in the latter there was hardly any special reports focused on decapitation or public executions. Also the number of stories on the illegal inquisition had declined drastically. Constant illegal inquisition, the abuse of torture and even torture to death were the inevitable impressions of the readers of *The Chinese Repository* on the Chinese judicature. In *The China Review*, however, there was barely any coverage of illegal inquisition. There were only three notes which include “torture” in their titles during the early stages of the journal, while one of them, “Torture in British and Chi-

---

21 In the “List of the Articles” by Samuel W. Williams of the last volumes of *The Chinese Repository*, all 1,257 articles had been arranged according to their subjects; *The Chinese Repository*, 20 (1851): 19-54.


nese Prisons”,24 was a comment on Kerr’s “The Prisons of Canton” mentioned above, proposing that the fiendish tortures of being hung up by one of the limbs was not exclusively Chinese. Despite the Inquisition of the Middle Ages, in so civilized a country as England, and during so enlightened an era as the reign of ‘Good Queen Bess’, hanging up by the wrists was not unknown. As for the other two articles, one emphasized the legitimacy of the inquisitions: “nothing can ever be done unless torture according to law is used at the inquest”.25 The other reported that the emperor directed viceroys and governors to impeach officers who used unauthorized or unusual modes of torture in a recent decree.26

Furthermore, there were fewer stories on the incompetence of local magistrates during trials, as well as their negligence or dereliction of duties.

In conclusion, distancing itself from *The Chinese Repository* – which used to address criminal justice in China with reproval and condemnation of judicial corruption, the abuses of inquisition by torture, and the brutality of death penalties – *The China Review* reserved some positive comments to the judicial progress, which could be summarized with a quotation from the aforementioned “The Administration of Chinese Law” by Lex: “It is evident as the result of this investigation in regard to the administration of Chinese Law that the facts do not call for extreme praise or blame. Two pictures might be drawn – the one all bright and the other all dark, and in a certain sense both would be true as having facts for the substance of the light and shade; but both would be entirely false if viewed alone”.27

Multiple factors contributed to this shift. By then, China had started to consider introducing Western concepts and institutions for innovation and reform, something that had raised attention from the West. Besides, two important background issues shall not be ignored.

First, the context of the Sino-Western relations during the nineteenth century. Since the end of the eighteenth century China had been increasingly in direct contact with the West, giving rise to commercial, diplomatic and judicial disputes. By the middle of the nineteenth century, these disputes had escalated to wars, ending with a series of treaties signed by and between the Qing government and the Western powers. In accordance with these unequal treaties the Qing government had to cede territory, pay indemnities, open ports for foreign trade, and recognize extraterritoriality for Westerners in China. After facing Western powers, the Celestial Empire was left with no confidence in its

institutions and civilization, let alone its pride and honour. Since the 1860s, the Qing government had begun to take into consideration the great disparity in strength and institutional distinction between Western systems and itself, and realized that the introduction of Western inventions and institutions was imperative. When *The China Review* was being established, the Qing government initiated a huge shift in its attitude towards the West, and had gone to great lengths to achieve a thaw in Sino-Western relations. In this context, there was no such necessity, as in *The Chinese Repository*, to deny and attack the Chinese judicature in a straightforward manner.

Secondly, the particular geographical and cultural backgrounds of Hong Kong, where *The China Review* was established, shall be taken into consideration. *The Chinese Repository* was established and mostly printed in Canton during the years of its publication, where its editors, e.g. Bridgman and Samuel W. Williams (1812-1884), as well as the majority of writers were residing in. During the early nineteenth century, Canton was the most significant foothold for Westerners to settle down and learn about China firsthand, promoting early cultural exchanges between China and the West. It also provided vast spectacles for curiosity and materials to attack, for missionaries who wished to bring salvation to this barbarian and pagan country, diplomats who endeavoured to maximize their countries’ benefits in China, and foreign merchants who were in pursuit of trading interests yet restrained by endless limitations. It can be inferred that Bridgman, Williams and the majority of writers contributing to *The Chinese Repository* who resided in Canton could not have missed the place for public execution near the South Gate of Canton. This had been the principal place devoted to public executions in China recorded in English documents, and had also been repeatedly mentioned in *The Peking Gazette*, a semi-official mouthpiece of the Qing government. To some extent, this would influence the perspectives and mindsets of editors and writers, motivating them to expose and attack the Chinese judicature.

During the second half of the nineteenth century, the centre for Sino-Western exchanges in China had shift from Canton to Shanghai and Hong Kong. Hong Kong became a British colony after the First Opium War and had gradually become a major centre of business and maritime trade in the Orient. Nevertheless, it had become an irreplaceable city for travelling between mainland China and other countries, due to its unique geographical advantages. Schools were instituted, giving rise to modern education; plenty of periodicals were established and books in multiple languages were published. All of them were vital media for spreading Chinese culture and promoting Sino-Western exchanges.

---

28 According to archival sources, there had been thirteen languages of books published which were registered in Hong Kong during the late Qing period. See Huo Qichang, *Hong Kong and Modern China*
Prior to *The China Review*, there had been a number of English periodicals published in Hong Kong, such as *The Hong Kong Gazette* (founded in 1841), *Friend of China and Hong Kong Gazette* (founded in 1842), *Hong Kong Register* (founded in 1843), *The China Mail* (founded in 1845), *Hong Kong Government Gazette* (founded in 1853) and *Daily Press* (founded in 1857). Furthermore, the first and most influential Chinese periodical in Hong Kong was *Chinese Serial* established by missionary Walter H. Medhurst (1796-1857) in 1853, which is still under the spotlight in contemporary research. *The China Review*, established in 1872, had a better start than *The Chinese Repository*. Back then, Hong Kong already had the tradition and atmosphere of regarding periodicals as the crucial media for cultural transmission and exchanges. In addition, *Notes and Queries on China and Japan*, which was earlier established by Dennys, had been quite popular among its readers before it ceased publication. In light of this circumstance, as well as the booming number of Westerners who were desperate for knowledge about Oriental countries such as China, Dennys started all over again, and *The China Review* was established. From that perspective, *The China Review* was better than previous periodicals, both in its organization and its contents: its editors and writers strived to keep stories neutral and objective, and to prevent comments from being extreme and superficial. As a result, *The China Review* had undoubtedly made crucial efforts to enquire into the Chinese ideology and culture, rather than blindly attacking and denying the Chinese judicature and dwelling on extrinsic issues of the Chinese society.

Lastly and perhaps most importantly, the vast number of editors and writers as well as the diversity of contributions of *The China Review* should be taken in consideration. Throughout the nineteenth century, Western Sinology had gone much beyond the phase of “Sinology on journals”; time had witnessed its shift from missionary to specialized Sinology. This shift included an expansion in the scope of scholarly research and changes and advance in theory and methodology. Nevertheless, the prerequisite of such shift was the change occurred in the composition of Sinologists scientific community, namely, from a majority of missionaries to the massive involvement of people with other expertise. As for other English language journals on Sinology which were influential during the nineteenth century, the shifting trend in the composition of editorial staff and writers between *The Chinese Repository* and *The China Review* precisely reflects this point.

Bridgman, the founder of *The Chinese Repository*, was a missionary. After he moved to Shanghai, his successor Williams, was also a missionary. Later on, diplomats, merchants and travellers contributed to the diversity of its writers, which was hardly any

---

Li Xiuqing

match to that of *The China Review*. In terms of the editors of *The China Review*, Den-

nys, founder of the journal, was a consul and journalist. His successor Eitel, who was

originally a missionary, left the church for the Hong Kong government while working

as editor of the journal. As for as the other two chief editors, Falconer was the master of

the Government Central School, while Ball had been serving in the Supreme Court of

Hong Kong for a long time; all of these Sinologists were wearing more than one hat. In

terms of the writers, there were over four hundred of them who carried their own by-

lines: diplomats, merchants, journalists, customs officers, other officials from the Hong

Kong government, and so forth, all of whom had received a fine education. Missionaries

still took up a considerable proportion, but they constituted no longer the majority.

The vast number of contributors and the diversification of their professional, political,

and cultural identities revealed the openness of the journal, while at the same time, it

guaranteed academic articles accounting for diverse points of view, so that the resulting

journal was more specialized and less religious. This approach of *The China Review* was

reflected by articles and stories not only about the Chinese judicature, but with regard
to other fields as well.

**IV. Epilogue**

In the late eighteenth and early nineteenth centuries, while disputes and conflicts

between China and Western powers were escalating, the Chinese judicature had drawn

much attention from the West. After the Renaissance, the Reformation and the Enlight-

enment, which took place in Europe several centuries before, as well as the Industrial

Revolutions which originated in the United Kingdom and then spread to Germany and

the United States, there had been a shift in Europe concerning social and power rela-
tions, social organizations and legal concepts. In terms of penalties, the object had ceased
to be the human body, to become the human mind, the technique had changed, from

execution to imprisonment; the purpose had shifted, from the retribution for criminal

acts to the reform of criminals. During this same period, a colonial expansion of Western

nations had taken place. While trying to pursue their economical interests, and therefore

conflicting with China, which was forced into their world order, the fierce competition

between Western powers did not prevent them from reaching a consensus on concep-
tualizing China as ‘the Other’: an autocratic monarchy and an inferior race, a country

that could be exploited and despised. The utopian mythology of China embraced by

European innovators during the Enlightenment had vanished before the eyes – and writ-
ings – of missionaries, travellers, diplomats and philosophers. *The Chinese Repository*
established in 1832 by Bridgman, the first American missionary in China, and ceased
publication in 1851. This journal contended that procedural laws in China were repeatedly violated in judicial practices, whilst there was no distinction between civil and criminal procedure; anonymous accusations were allowed and even encouraged; inquisition by torture seemed impossible to eradicate; local trials were often too inadequate to deliver justice to the victims; the cruelty of penalties was shocking, in particular the variety of death penalties as well as the brutality of its execution; prisons were generally in a worrying state. All these perspectives of this journal contributors on the Chinese judicature functioned as the reports and commentaries for Westerners regarding China as ‘The Other’, characterized by a barbarian and uncivilized nature.

In *The China Review*, which was established twenty years after the closure of *The Chinese Repository*, the execution of law, attribution of jurisdiction, stages of criminal procedure, status of prisons in China and so on were still under the spotlight. Comparing to *The Chinese Repository*, however, its perspective and point of view had varied: less attention was drawn to criminal justice; there were rarely any information on the extensive and public executions of death penalties, including the death by the slow and painful process of being cut into pieces (*lingchi*); the numbers of reports on inquisition by torture had dropped significantly; stories on the misjudgement of local magistrates as well as their negligence or dereliction of duty were hardly to be found. In other words, *The China Review* ceased to merely denying and attacking the Chinese judicature as *The Chinese Repository* did; along with criticism, it started to feature positive comments on the progresses occurring within institutions and practices.

Several factors led to this shift: first, during the second half of the nineteenth century, China had set out its reform by introducing Western institutional forms, and reached a temporary thaw in relations with the Western powers; second, Hong Kong, where this journal was published, had its unique geographical and cultural background. Moreover, the variety of editors and writers and their cultural backgrounds, the decreasing proportion of missionaries, the thematic and methodological diversification in published contributions, as well as the overall openness of the journal, had also laid ground for this new intellectual climate.

Comparing the articles in *The Chinese Repository* and *The China Review*, a conclusion can be drawn on the shift in the views of the Chinese judicature held by the Westerners during the first and second half of the nineteenth century. In *The China Review*, where editors and writers had sought to be objective to carry out serious and academic discussions on laws in China, judicature included, an underlying attitude of contempt can still be detected. When the Boxer Rebellion was in full swing, and chaos had reached Beijing during the summer of 1900, *The China Review* had reprinted a commentary from *The China Mail*, demonstrating the British resolution in continuing missionary campaigns, and explicitly stating that,
If the missionaries continue to receive unjust treatment, or be frequently murdered, the nation would have to interfere. The national self-respect of a proud nation like the British or American people, would never permit that its own subjects should be killed and no one lift up a voice against it, or take steps to bring the murderer to justice.\(^{30}\)

It can be speculated that, had the Boxer Rebellion lasted longer, and *The China Review* had not ceased publication so quickly, the comments would have been very different, by returning to systematically vilifying and attacking the Chinese judicature, as *The Chinese Repository* had done. After all, Western-centrism, ethnocentrism and assumption of superiority of Christian civilizations, had still a long way – of cultural conflicts, exchanges and reflections – to go before being radically relativized.

---