



Non-fiction

Group 4

The Legacy of Bao Zheng

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Justice Pao remains to be one of the most significant and memorable pieces of literature and performing arts in traditional Chinese crime fiction, transcending generations and the passage of time. The main character Judge Pao, a prominent icon of justice, has graced mainstream television for decades on end and captivated the hearts of all those that came to watch him. However, most people seem to see Judge Pao as only a fictional character and not as who he really is—Bao Zheng, a person that at one point truly existed.

Bao Zheng was born during the reign of Emperor Renzong in China's Song Dynasty, in Hefei, Anhui, China and lived as a politician, fulfilling 25 years of civil service. In his numerous years of service, he rose to fame and was given the honorable title 'Justice Bao' owing to his aptitude for defending commoners against situations of injustice and corruption.

Bao was raised among the low to middle working class by parents who were commoners and though his family was affluent enough to be able to send him to school, he never took this opportunity to learn for granted and well understood people's hardships, detested corruption and had a strong desire for justice due to his humble upbringing. Bao excelled in school and was particularly inspired by Confucian ideas of benevolent governance and stories of virtuous officials in history. At only 29 years young, he passed the highest-level imperial examination which took place only once every three years, and became qualified as a Jinshi, equivalent to a Doctor of Literature degree in modern terms. But as his parents had struggles maintaining their livelihood and were becoming frail with age at the time, he set his personal ambitions aside and put his career on halt to tend to them. He cared for his parents in that way for a decade until they passed, by the time he resumed his official career once more, he was already in his late thirties. Fortunately, the pause in his career did not cause any issues for his future as a traditional moral value well respected by people in China is filial piety. So, Bao was accepted into the government and appointed as magistrate of Tianchang County not far from his hometown. It was from this point on that Bao began to establish his reputation as a just judge, impeaching corrupt officials and reprimanding powerful imperial families severely without fear.

In 1040, Bao Zheng received a promotion and became the prefect of Duanzhou which is modern Zhaoqing in the Southern part of China. Duanzhou was a prefecture well-known for its high-quality inkstones of which the imperial court was presented a few every year. During Bao's time as prefect, he found out that previous governors had collected several dozens of times more inkstones from manufacturers than the required tribute. Many of these officials made a fortune by receiving more inkstones from the craftsmen and giving only a portion to the court as tribute, keeping the remains for personal gains. As the governor, Bao requested manufacturers to fill only the required quota to be given as tribute and abolished the common practice of previous prefects in its entirety. By the time his incumbency ended in 1043, Bao left without having a single inkstone in his possession and even left behind a poem as a direct reminder to future governors to do the same.

Bao returned to the capital not long after and was named an investigating censor the year later. During his two years with this position, Bao submitted a minimum of 13 memoranda to Emperor Renzong on taxation, military, incompetence, governmental dishonesty, and the examination system. In the following years, he held many other high-level government posts, from Vice Minister of Finance, Vice Minister of Defence to Governor of the capital city of Kaifeng. Once Bao became Prefect of Kaifeng, he played a major role in initiating reforms in which the grievances of ordinary people were able to be listened to by government officials. Since these reforms were put in place, the people gave Bao the title of Bao Qingtian, which signifies a person who brings justice to the populace. Concubine Zhang, who was even set to become empress if it was not for the opposition of the Emperor's mother, had always been Emperor Renzong's favorite consort. The concubine's family soared in social status and went from minor local posts to high office, being promoted to major posts including the state finance commissioner. Bao protested against these unfair actions of blatant bias and presented a memorandum with other censors and accused the concubine's family of mediocrity and shamelessness. The voice of Bao's strong objection was heard and Emperor Renzong had no choice but to relieve the consort's kin of the high positions. During his years working in the government, Bao impeached 30 high officials for bribery, corruption or negligence of duty. Bao steadily grew in popularity as word of his actions to bring about a just society free from corruption began to spread nationwide.

In particular, Bao became a household figure of justice due to his courage in exposing anyone who did immoral things, and this rule was applied to all people without exception regardless of their social status, including Emperor Renzong. At one point in time, the land was frequented by floods, and when the waters subsided eventually, the

emperor felt indebted to the Gods and felt that it was only appropriate to express his gratitude by putting forth a blanket amnesty to all criminals and giving promotions to all civil and military officials. Bao spoke his mind and raised his disapproval of the plan. He informed Emperor Renzong of the importance of justice and meritocracy and that they were too vital to be pushed aside in this retrospect. Crimes committed must be met with punishment while the only way to move upwards in terms of government status should be rewarded to those who show actions of excellence. In the end, the Emperor concluded that Bao was right and withdrew his original plans. Even though it was uncommon then for one's thoughts and opinions to be expressed in such a blatant way, Bao was still able to succeed in spite of his contradictory behavior to cultural standards.

Throughout his time as a judge, Bao adjudicated court cases with integrity, sternness in law enforcement and impartiality. Even those with little education were permitted to voice out their complaints without filling in paperwork. By doing so, all citizens were given the opportunity to prevent injustices brought upon them by officials who would offer to represent them at an unreasonably high cost. In the latter years of Bao's life and also after his passing, his legend was fortified by countless folk tales and detective stories, which was further dramatized by novels, movies and TV dramas as he was perceived to be a person of demigod status. Till this day, Judge Bao is admired and remembered as a person for steadfastly upholding the virtues he subscribed to.

Judge Pao: Why is There No Modern–Day Equivalent, and What Does It Mean to Us?

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Judge Pao, alternatively romanized as Justice Bao, is a legendary figure in Chinese history. Known for his detective work in cracking difficult cases, such as the Case of Two Nails, his intellect is revered in Chinese history as one of the most renowned detective minds in history. He is further set apart from his fictional counterparts, such as Sherlock Holmes, by his fearlessness in the face of power. While we often know him as a detective, it is his righteousness and fearlessness, cracking down on corruption and injustice by the nobles, that makes him all the more notable. During his 25–year tenure as a public servant, he was in a situation where making the emperor unhappy could result in a loss of their job or even execution, and some of the nobles he sentenced were indeed very close to the emperor. Many of his contemporaries indeed lost their jobs by virtue of making minor offending statements. Fast forward to current times, and Judge Pao's actions are still unparalleled and far beyond what anyone has done.

One might wonder, among the generations of legal practitioners, there would surely be someone who has been able to accomplish the achievements of Judge Pao, saving the public from injustice by the stronger powers. However, the world has still not seen such a person, and indeed such a powerful figure is unlikely to come in the near future. What does this mean, then, for our society famed for an independent and reliable judicial system?

A naive explanation might be that there are few people who are as righteous as Judge Pao was, seeing justice as lying above the concerns of death. However, there have been figures righteous enough to sacrifice themselves in different fields, including in the royal court, as such the explanation is difficult to justify. A more involved analysis would involve considering two different kinds of societies: the developed democracies and the less–developed world.

In developed countries, the major reason is that there is simply no person powerful and influential enough to be able to both judge and sentence. To put into perspective Judge Pao's power, consider an “evil” version of Judge Pao who, instead of upholding justice, only works for his own benefit. Such a person would be able to “investigate” his opponents based on fabricated evidence, and judge and sentence said opponent, installing a political ally in his place. Evidently, this would be detrimental to the functioning of the government. As such, in order to prevent such an incident, there is no position as powerful as this. Most developed countries adopt the *trias politica* model, where the executive, legislative and judicial powers are separated and have the power to check each other. The power to prosecute lies within the executive branch carrying out laws, while the power to judge lies in the judiciary. There can be righteous judges and intelligent detectives, but in a modern system, they are not the same person.

This separation also implies that modern judges do not face the same level of scrutiny from any form of “emperor”. In an imperial system, all three powers originate from the emperor, and the judges such as Judge Pao report to the head of state as well. However, in a modern–day system, the judiciary does not report to anyone. While typically the executive branch, acting as the head of state, appoints judges, once appointed, a judge cannot be easily removed from office at the will of the head of state. A modern–day judge can sentence high–level officials without any fear of repercussions. Consider the case of Park Geun–hye, who was the center of a political scandal that saw her investigated, impeached, convicted, and jailed. Imagine this happening in imperial China: the moment a prosecutor files a motion for investigation of the emperor, he would be undoubtedly and promptly punished. This difference between modern and medieval times is a core reason why modern–day judges differ from Judge Pao.

On the other hand, modern judges face issues that Judge Pao would never have had to face. The most prominent is the rise of the “fourth power” – the public, and the voice of the media, are surely foreign to medieval China. In medieval China, the public is strictly vassals of the state and thus have little say over their government or even their landlords. While judges are no longer under the scrutiny of the executive, they are instead concerned with the public's voice and potential outcries. At different times, there are different “louder parties” whose rights, if violated, would lead to a major response in the media or among its people. For example, in America in the past, it would be about race, as judges are pressured by their race to rule against African–Americans. Judges are humans as well, and they might succumb to pressure from the ever–more–vocal public.

Another noteworthy reason is that the nature of corruption has changed drastically over time. With the change in government structure, the appeal of gaining power has diminished compared to the appeal of riches. For ancient officials, gaining power meant that they could further extort from more subordinates, often accumulating riches

exponentially. Furthermore, being closer to the emperor meant that they would also have more influence over policy-making as well as remove enemies from office, solidifying their power and riches. This encourages corrupt officials to bribe their way up the social ladder. On the other hand, in modern times power does not necessarily correlate with riches, and removing political enemies is less of a priority; furthermore, going up a rung in the political hierarchy does not come with a great increase in power, as the power of the executive is still checked by the legislative and judicial branches. As such, the most common types of collusion nowadays involve officials receiving monetary benefits from corporations, which in turn are granted a more dominant position compared to competitors, for example being granted the rights to a certain major project or even a monopoly. Consider the Rafael Hui corruption case, where the former Chief Secretary for Administration accepted bribes from Sun Hung Kai Properties. Another kind of collusion is between two companies, where one offers money in exchange for dominating the market. Thus, what is at stake here is money and not personal power. The target for investigation would be companies and not officials, and as such, a modern-day Judge Pao would not face the fear of being removed from office; in other words, there is less to fear, and Judge Pao's fearlessness would not be highlighted in the modern world.

To reiterate, Judge Pao's defining qualities are his righteousness, fearlessness, and intelligence in the face of power in investigating, as well as judging, cases that often involve the nobility and social elites. He had to be intelligent to be able to solve difficult cases, righteous in impeaching the corrupt elites, and fearless in dealing with the power of the royalty. In the modern, developed world, there is no emperor wielding power over all his subordinates, and what corrupt officials want is not pure power but money. The political landscape is so different compared to medieval China, and the current landscape does not favor the appearance of a new Judge Pao. Indeed, if there were a new position with powers as extensive as what Judge Pao had, being able to investigate, adjudicate and carry out punishments, then it would be prone to abuse and a net negative for society.

Speaking of the current political landscape, while the current, developed world is the radical opposite of the dictatorship system in ancient China, the "third world" – the underdeveloped parts of the world, where dictators rule vast swathes of land, is a closer match compared to the landscape of medieval China. There, collusion and corruption are rampant, and elections can be rigged to generate a voter "turnout" of 1660%. Yet, with these, there has been no Judge Pao who has stepped up to the occasion. Why is this so?

Time is a possible factor, as many of the independent countries in these parts of the world are very new. However, a more direct reason would be that neither does the political landscape of these countries allow such a Judge Pao to exist.

The key difference between medieval China and these less-developed countries (LDCs) is that medieval China is far richer materially, on a relative scale, than these countries. In medieval China, trade is minimal and there is no "outside world" to speak of. The concept that "the grass is greener on the other side" does not exist, and the emperor can gain everything that they knew of. Whenever delicacies are discovered anywhere, it is the duty of the local officials to send them to the emperor and the capital. Simply speaking, the dictator does not need, or want, more money – On the other hand, the amount of wealth that LDC dictators can amass is still insufficient to satisfy their wants, ranging from rare delicacies to luxury vehicles to hotels. When the dictator is not satisfied, the only natural choice is to join the corruption. As such, the difference can be summarized this way: in medieval China, the emperor turned a blind eye to, or even supported, the corruption among lower officials; in LDCs, the dictators are themselves part of this corruption. This fundamental difference is what makes the job of any judge far more difficult, as will be explained in the following.

The key to Judge Pao's success is the support from the Emperor. As mentioned, Judge Pao escaped punishment that many of his contemporaries suffered from by virtue of making minor statements. Considering how righteous Judge Pao was, it would be expected that he would have received complaints from the nobility, and the emperor would act in favor of his family and remove Judge Pao from office, the fate that many righteous officials in ancient China faced. While Judge Pao's sentences were against the interests of the emperor, they didn't directly contravene the emperor, since the emperor was often not himself the target of investigation. However, in LDCs, the dictators, who are themselves corrupt, would try their best to maintain the situation of corruption in place so that they can rake in profit and luxuries. As such, any such investigation is bound to be met with halt orders from the government, and any such Judge Pao would be hindered from completing their investigation. Justice can only be served if they are granted the right to do so – in the case of LDC dictatorships, this right can be revoked at any time at wish by the dictator, and there is a higher power – the dictator – obstructing the arteries of society – justice – leading to corruption throughout the government.

The militaristic nature of the governments further intensifies this issue. In many LDCs, the reigning dictator is a former general, or the son of one, and the power stems from the military control that the leader has over his subordinates. The same can be said of many of its subordinates. In this system, it is exceedingly difficult for a judge, which has non-military origins, to join the ranks of such a government. In these countries, the military is often the basis for power. Take Mali, a northern African country that has experienced 2 coup d'états in the past 3 years, as an example. According to Transparency International, Mali is ranked in the lower quartile in the Corruption Perceptions Index, and it is described as having corruption in "all levels of institution" partly due to an ineffective judicial system. Considering its coup history, if even the governing leader of the country cannot protect himself from a military strong enough to overpower himself, then no judge is safe from the power of the military. The nature of corruption is that it involves officials in power, and these officials often possess military means to overpower any verdict that the judge might be able to deliver. If a senior official engages in corruption, no prosecutor will be able to file any complaint, partly because such a complaint will be nipped in the bud before it is made public, and partly because the police force is controlled by the government as well. As such, it is impossible for anyone to be able to check corruption in a country like Mali.

The militia system also renders it easier for dictators to suppress any dissenting voice, removing the influence of the "fourth power". The dictator is given absolute power, which allows them to exercise varying degrees of control over the people; how much freedom is afforded to the people, and how tight is the grip of the dictator on the people, are determining factors of how effectively a prosecutor, or judge, can check the government. The emperor that Judge Pao served under, Emperor Renzong, was acclaimed as a "good emperor" who had empathy for his people, which is reflected in the word "Ren" of "Renzong". Under this empathetic emperor, Judge Pao was able to clear up the corruption without being silenced, even pointing out the wrongdoings of the emperor himself at one point. Other officials serving under different emperors who dared to point out the wrongs of their emperor were less lucky, facing punishment ranging from dismissal to exile to execution depending on the emperor. LDC dictators tend to fall into the latter category, as they came to power through military means and as such had to reign with an iron fist in order to keep their citizens in line. As such, rather than being protected like Judge Pao was, any potential prosecutor would likely face dire consequences. The stars have not aligned for these countries to have a figure like Judge Pao.

In order for a figure like Judge Pao to exist, several factors have to favor this at the same time: a political system where a position of such power exists, a government that allows for opposing voices to be heard, and a group of nobles that are open to, or at least under public scrutiny, to fulfill behavioral norms. In modern society, it is difficult and unlikely for all these factors to come together. However, this by itself is not a bad thing. It is simply a reflection that with the rise of the "fourth power" – the public and the media, the structure of society has been altered enough so that we do not need a Judge Pao, for that Judge Pao is embodied in the spirit of the fourth power. Around a millennium ago, Judge Pao monitored the government and checked if there was corruption, impeached corrupt and incapable officials and investigated suspicious cases. As a member of the public, by monitoring the government's work, submitting our opinions and making ourselves heard in the ballot box, and raising concerns over suspicious behavior in the media, we are serving as the modern-day Judge Pao.