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ZHAI JIANXIONG

Mr. Zhai presents a bibliographic guide listing the major sources of criminal law literature of the People’s Republic of China published during 1949-2000. The fifty year span is divided into three phases, each containing a selective bibliography on criminal law representative of academic scholarship of the corresponding period.

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INTRODUCTION

The establishment of the People’s Republic of China (PRC) on October 1, 1949, not only turns over a new chapter in Chinese history, but also changes legal developments of the PRC. Criminal law is a science that takes crime, punishment for criminal acts, criminal responsibility and criminal legislation as subjects for academic research. It has an intimate relationship with the overall science of law. Thus, it is appropriate to divide the development of the PRC’s criminal law in the same manner that divides the science of law.

The work, Forty Years of PRC’s Legal Science: 1949-1989 (Chang Yu-yü, Shang Hai People’s Press, 1989), is an authoritative study of the legal history of New China. It divides the legal development of the PRC into four phases: 1949-1956, a stage during which the PRC’s science of law begins to emerge and develop. The next stage, 1957-1966, witnessed tortuous development in Chinese law. Chinese legal sciences languished during the Cultural Revolution, which lasted from 1966 to 1976. Finally, from 1977 to the present, Chinese law recovered its vitality and began to develop vigorously.1

Corresponding to the development of legal science, the science of criminal law has also gone through three stages as described in Fifty Years of New China’s Science of Criminal Law (Kao Ming-hsüan & Chao Ping-chih, China Fang Cheng Press, 2000). Each stage includes several phases.2 The first stage covers October 1949 to the first half of 1957, which corresponds to the initial phase of development of criminal law in the PRC. This stage can again be divided into two phases,

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2. Kao Ming-hsüan, Chao Ping-chih, Xin zhong guo xing fa xue wu shi nian = Hsin chung kuo hsing fa hsüeh wu shih nien (Fifty Years of New China’s Science of Criminal Law), China Fang Cheng Press, 2000 Ed., at 3-42.
namely, the phase of foundation covering 1949 to 1953. The second phase covers the period from 1954 to 1957; the second stage is the period starting from the second half year of 1957 to Oct. 1976. This is the period of depression and stagnation for criminal law science research. This stage can also be fallen into two phases, namely, the depression phase from 1957 to 1965, and the stagnation stage from 1966 to 1976, which was enveloped by the “Great Cultural Revolution”. The third stage is the period of recovery and prosperity of criminal law science beginning from 1977, which also includes two phases, the recovery phase from 1977 to 1978 and prosperity phase beginning from 1979. In each stage the emphasis of research and legislation on criminal law is varied from one to another based on the variation of social political and economic conditions. Parallel to these changes the research literatures on criminal law science published in each stage also present more or less in quantity.

**ESTABLISHMENT AND INITIAL DEVELOPMENT PERIOD (1949-1957)**

China is the first country in the world to produce a written criminal code, and studies on aspects of criminal law and its social functions have long been valued by the rulers of dynasties in China’s different historical periods. As a tool safeguarding the existing social relations, criminal law has also attracted much attention from the Communist Party of China (CPC).

In February of 1949 – on the eve of the founding of the New China – the CPC issued an inner-party directive titled *Guan yu fei chu guo min dang liu fa quan shu yu que ding jie fang qu de si fa yuan ze de zhi shi = kuan yu fei chu guo min dang liu fa quan shu yu que ding jie fang qu de zhi shi* (Instruction on the Abrogation of Kuomintang’s Six Code and Establishment of Judicial Principle of Liberation Are). This edict stresses that the people’s judicial work shall not continue to operate on the basis of Kuomintang’s Six Code, but that it would be based on a new people’s law.

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In September of 1949, the Chinese People’s Political Consultative Conference announced the Zhong guo ren min zheng zhi xie shang hui yi gong tong gang ling = Chung kuo jen min cheng chih hsieh shang hui i kung t’ung kang ling (The Common Program of the Chinese People's Political Consultative Conference)\(^4\), which was considered to be the provisional constitution of the new PRC. It declares explicitly that all the laws, decrees and judicial systems that oppressed the people under the Kuomintang’s government were abolished. It enacted laws protecting the people and setting up a people’s judicial system. These legal documents opened vast new frontiers for research of criminal law in the PRC. From then on, criminal law scholars and criminal justice professionals have worked long and hard to build up, develop and perfect the PRC’s criminal judicial system.

**Summary of Criminal Legislation**

This is a very important historical period for criminal law in the PRC. Beginning with criticism of older notions of criminal law, absorbing and making reference to theories of criminal law in the former Soviet Union, Chinese criminal law scholars began to probe into distinctly Chinese contexts of criminal law. They created a solid foundation for the subsequent study of criminal law. This period can be divided into two phases:

- From 1949 to 1953 – notable for the establishment of the PRC’s science of criminal law. This period was characterized by a negation of “Old China’s” criminal law and imitated the criminal law of the former Soviet Union.\(^5\)

- From 1954 to 1956 – known as the “Golden Age”\(^6\) in the history of the PRC’s criminal law science. In this phase,

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\(^5\) On July 25, 1950, the Zhong hua ren min gong he guo xing fa da gang cao an = Chung hua jen min kung ko kuo hsing fa ta kang ts’ao an [Program of Criminal Law of the People’s Republic of China (draft)]\(^5\) was completed by a group of experts in criminal law organized by the Commission of Legal Affairs of the Central People’s Government, which marks the beginning of new China’s study work on criminal law.

China promulgated its first socialist constitution\(^7\) on September 20, 1954. On September 30 of the same year, the Commission of Legal Affairs of the Central People’s Government enacted the Zhong hua ren min gong he guo xing fa zhi dao yuan ze (cao an) = Chung hua jen min kung ho kuo hsing fa chih tao yuan tse (ts’ao an) [Principle of Guidance to the Criminal Law of the People’s Republic of China (draft)].\(^8\) This signaled that the drafting work of the criminal code was formally embarking on its way from academic research to national legislation.

(a) Drafting Work on the Criminal Code

Soon after the establishment of the PRC, the enactment of a criminal code was placed on the legislative agenda of the central government. In July 1950, the first draft of the Program of Criminal Law was completed, and in September 1954 the Commission of Legal Affairs of the Central People’s Government completed the Draft on the Guiding Principles of Criminal Law of the People’s Republic of China.\(^9\) This includes a preface and three chapters totaling 76 clauses and provides respectively seven types of crime, such as the offences of:

1. counter-revolution,  
2. defacing public property,  
3. acting against public order,  
4. acting against personal right,  
5. economic crimes,  
6. acting against a citizen’s property, and  
7. job-related crimes.

The completion of this legislative document was a symbol that the drafting work on criminal code had formally begun. From then until June 1957, the Law Section of the Standing Committee of the NPC finished twenty-two drafts on criminal code – in less than three years.\(^10\)

\(^7\) Sun Wan-chung, Zhong hua ren min gong he guo zhu xi ling = Chung hua jen min kung ho kuo chu hsi ling (Order of the President of the Peoples Republic of China), volume 1. China Democracy and Legal System Press, 2001 Ed., at 1-11.  
\(^8\) Supra note 5, at 166-188.  
\(^9\) Supra note 5, at 166-188.  
\(^10\) For the Criminal Code Drafts of the thirteenth, twenty-first and twenty-second, see supra note 5, at 189-281.
(b) Separate Criminal Regulations

During the early 1950s China carried out several political movements that were national in scope. These included repressing counter-revolution and combating the Three Evils and the Five Evils. A number of separate criminal regulations were also enacted, including:

- Regulations of the People’s Republic of China on Punishing Counter-Revolutionaries (approved on February 20, 1951 at the 11th Session of the Central Government Council and Promulgated on February 21, 1951 by the Central Government);\(^{12}\)
- Interim Regulations on Punishment for Impairment of State Currency (Promulgated by the Government Administrative Council of the Central People's Government on April 19, 1951);\(^{13}\)
- Stipulations on Confiscating Property of Counter-revolutionary Criminal (adopted on June 22, 1951 at the 90th Administrative Meeting of the Government Administration Council and Promulgated the Same day);\(^{14}\)
- Regulations for Suppression of Corruption of the People’s Republic of China (Ratified on April 18, 1952 at the 14th Session of the Central Government Committee and Promulgated on April 27, 1951 by the Central Government).\(^{15}\)

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\(^{11}\) The movement against the "three evils" was the struggle against corruption, waste and bureaucracy launched at the end of 1951 among the personnel of government departments and state enterprises. The movement against the "five evils" was the struggle against bribery, tax evasion, theft of state property, cheating on government contracts and stealing of economic information started at the beginning of 1952 among owners of private industrial and commercial enterprises. See Mao Tse-tung’s On the Struggle Against the “Three Evils” and the “Five Evils”. Selected Works of Mao Tse-tung, Vol. V, People Press, 1977 Ed., at 53-55. The unofficial translation in English may also be read from the website, Reference Archive: Mao Zedong, at http://www.marxists.org/reference/archive/mao/selected-works/volume-5/mswv5_17.htm (accessed on November 20, 2007).


\(^{13}\) Ibid, at 200-201.

\(^{14}\) Ibid, at 39-40.

\(^{15}\) Ibid, volume 1952, at 29-32.
• Interim Measures on the Public Surveillance of Counter-revolutionist (Ratified on June 27, 1952 by the Government Administration Council and Promulgated on July 17, 1952 by the Ministry of Public Security).  

• Decision of the Standing Committee of the National People's Congress on the Handling of the War Criminals of the Japanese War of Aggression Against China (Adopted on April 25, 1956 at the 34th Session of the Standing Committee of the National People’s Congress).  

• Decision of the Standing Committee of the National People's Congress for the People's Courts to Decide on Public Surveillance Over All Counter-Revolutionaries (adopted on November 16, 1956 at the 51st Session of the Standing Committee of the National People’s Congress).  

• Decision of the Standing Committee of the National People's Congress on Leniently Handling and Settling the Remnant Counter-Revolutionaries in the Cities (adopted on November 16, 1956 at the 51st Session of the Standing Committee of the National People’s Congress).  

• Resolution of the Fourth Session of the First National People's Congress of the People's Republic of China for the Supreme People's Court to Decide on or Approve Decisions on Cases Involving the Death Penalty (adopted on July 15, 1957).  

B. Research Works

A number of academic works and theses were published during this period. Research in criminal law concentrated mainly on the introduction and study of pre-Soviet Union’s criminal law theory. China’s criminal theory was still in its inception, and research tasks on criminal law included a number of key aspects discussed below.

19. Supra note 5, at 121-123.  
20. Supra note 5, at 124-125.
(a) Issues on Retroactivity of Criminal Law

Retroactivity of criminal law refers to such an issue that whether a new enacted law can apply to a case that has not been judged or a judicial decision over it has not been decided yet before the new law going into effect. It is of practical significance to the retroactivity of criminal law in the transitional period from old criminal law to the new ones. In April 1949, the People’s Government of North China issued a decree entitled *Fei chu guo min dang liu fa quan shu ji yi qie fan dong fa lü de xun ling = Fei ch’u kuo min tang te liu fa ch’üan shu chi i ch’ieh fan tung fa lü te hsìn ling* (Order on the Abrogation of Kuomintang’s Six Code and All Its Reactionary Laws), which announced the old criminal law was abolished formally. In this specific period, the old criminal law was annulled but new one has not been enacted. Though some separate criminal regulations provide the clauses on retroactivity, but in majority of laws such clauses were not referred. These issues have attracted academic world’s much attention and deep discussion, some articles on the the subject appeared, such as:

- Chang Hung-wen. *Guan yu xing shi fa lü de shi jian xiao li wen ti = Kuan yü hsing shih fa lü te shih chien hsiao li wen t’i* (Issues on the Time Validation of Criminal Law); 22
- Chu Yü-huang. *Wo guo xing fa de su ji li wen ti = Wo kuo hsing fa te su chi li wen t’i* (Issues on the Retroactivity of Criminal Law of Our Country); 23
- Ch’en Li-hao. *Dui wo guo xing fa de su ji li wen ti yi wen de shang que = Tui wo kuo hsing fa te su chi li wen t’i i wen te shang ch’üeh* (A Discussion on the Article Titled “Issues on the Retroactivity of Criminal Law of Our Country”), 24 etc.

(b) Issues on the Concept of Crime

The concept of crime is the cornerstone in criminal law theory, and from 1950s study works on legal concept of crime were carried out in criminal law circle and debates concerned focused mainly on the significance of social harmfulness in the concept of crime. There are

21. Supra note 3, at 88-89.
two academic articles representative in this subject:

- Chang Hsien-ken. *Guan yu fan zui gai nian zhong she hui wei hai xing wen ti de shang que = Kuan yü fan tsui kai nien chung she hui wei hai hsing wen t’i de shang ch’üeh* (Some Discussions on the Issues of Social Harmfulness in the Concept of Crime);  

- Chiang Jen-pao, Tseng Shao T’ang. *Guan yu fan zui gai nian zhong de she hui wei hai xing wen ti de tao lun = Kuan yü fan tsui kai nien chung te she hui wei hai hsing wen t’i de t’ao lun* (A Discussion on the Issues of Social Harmfulness in the Concept of Crime).

(c) Issues on Causality in Criminal Law

In 1950s the Causality of crime had once been an issue that raising much attention of Chinese scholars in criminology for some misjudged cases occurred in judicial practices. There had been many reasons for these erroneously decided cases, among which an important factor is the judicial personnel had not taken causality of crime seriously in their trial works. Some theses important on this topic published at that time are listed below:

- Mei Tse-chün. *Zhe xue shang de yin guo guan xi ji qi zai xing fa zhong de yun yong = Che hsüeh shang te yin kuo kuan hsi chi ch’i tsai hsing fa chung te yün yung* (Causality in Philosophy and Its Application in Criminal Law);

- Chiang Huan-ch’en. *Shen me shi xing fa ke xue zhong de yin guo guan xi = Shen mo shih hsing fa k’o hsüeh chung te yin kuo kuan hsi* (What is Causality in the Science of Criminal Law);

- Yüan Ting. *Du zhe dui xing fa ke xue de yin guo guan xi de yi jian zhai yao = Tu che tui hsing fa k’o hsüeh te yin kuo kuan hsi te i chien chai yao* (Digest of Readers’ Opinions on the Issues of Causality in Criminal Law Science);

- Ma K’o. *Ru he jie jue xing fa ke xue zhong de yin guo guan xi = Ju ho chieh chüeh hsing fa k’o hsüeh chung te yin kuo*


27. Supra note 25, 1 (1956).


29. Supra note 25, 3 (1956).
(d) Issues on the Aims of Punishment

During this period, the concept of the aims of punishment provoked much interest among the scholars. There were debates involving the doctrines of punishment, reform, prevention and elimination of crime. Some of these debates were quite vehement among legal academicians. Even so, most of these debates were fairly superficial. Even so, they helped create a precedent for the study of the aims of punishment in the PRC, and they were of great significance for the subsequent development of criminal law theory. The main theses on this subject published during the period are:

- Wang Ch’u. Tan tan xing fa zhong de ji ge wen ti = t’an t’an hsing fa chung te chi ko wen t’i (Discussions on the Issues of Punishment);34
- Ch’en Te-chung. She hui zhi yi lei xing guo jia zhong xing fa de mu di = She hui chu i lei hsing kuo chia chung hsing fa te mu ti (Aims of Punishment Among the Socialist Countries);35

30. Fa xue = Fa hsüeh (Law Science), 4 (1957)
31. Ibid.
32. Ibid.
33. Supra note 22, 23 (1957).
34. Supra note 23, 5 (1956).
35. Supra note 22, 21 (1956).
 Issues on Retaining or Abolishing the Death Penalty with Reprieve

The death penalty with reprieve gained prominence in the Movement of Repressing Counter-Revolution carried out in 1951. For a time, debates about whether it should be retained were heated within the academic field of criminal law. Many theses on this subject were published, for example:

- Lu Wei-ch’ien. *Si xing de huan xing wen ti = Ssu hsing te huan hsing wen ti*. (Issue on the Reprieve of the Death Penalty);\(^{36}\)
- Ding Shu-ch’i. *Wo guo xing shi li fa zhong shi fou hai yao cai yong “si huan” zhi du = Wo kuo hsing shih li fa chung shih fou hai yao ts’ai yung “ssu huan” chih tu?* (Should Our Criminal Legislation Still adopt the Death Penalty System with Reprieve?)\(^{42}\)

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\(^{36}\) Ibid.
\(^{37}\) Ibid.
\(^{38}\) Supra note 22, 22 (1957).
\(^{39}\) Ibid.
\(^{40}\) Supra note 22, 23 (1957).
\(^{41}\) Supra note 23, 6 (1956).
\(^{42}\) Supra note 23, 1 (1957).
• Kao Fang. *Wo guo xing fa zhong de “si huan” he wu qi tu xing shi fu he ren dao zu yi yuan ze de = Wo kuo hsing fa chung te “ssu huan” ho wu ch’i t’u hsing shih fu ho jen tao chu i yuan tse te. (The Death Penalty with Reprieve and Life Sentences are in Conformity with the Humanitarianism Principle)*;\(^{43}\)

• Ku Li-t’ao. *Dui si xing de chu bu tan tao = Tui ssu hsing te ch’u pu t’an t’ao. (A Preliminary Discussion on Death Penalty)*;\(^{44}\)

• Wang Cheng-li. *Shi fou hai yao cai yong “si huan” zhi du = Shih fou hai yao ts’ai yung “ssu huan” chih tu. (Should We Still Adopt the Death Penalty System with Reprieve?)*\(^{45}\)

• Kuang Chien. *Tan si xing = T’an ssu hsing. (On Death Penalty)*.\(^{46}\)

(f) Issue on Counter-revolutionary Offence

The offence of counter-revolutionary activity was once a topic that acquired more research than any other issue in criminal law. The heart of the debate was located on whether there is or could be an attempted crime of counter-revolutionary activity. But research published during this period is sparse, though there were a number of textbooks and other teaching materials published. The main thesis on the crime is Li Meng’s *Ru he ren ding fan ge ming zui = ju ho jen ting fan ko ming tsui* (How to Determine the Counter-Revolutionary Crime).\(^{47}\) Textbooks published in this period include:


• Criminal Law Teaching and Research Section of the People’s University of the North East China. *Zhong hua ren min gong he

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\(^{43}\) Supra note 30, 6 (1957).

\(^{44}\) Supra note 22, 2 (1957).

\(^{45}\) Supra note 23, 2 (1957).

\(^{46}\) Supra note 22, 26 (1957).

\(^{47}\) Supra note 23, 3 (1957).
guo xing fa can kao zi liao hui bian = Chung hua jen min kung ho kuo hsing fa ts’ an k’ao tz u liao hui pien (Compilation of Reference Materials on the Criminal Law of the People’s Republic of China), three volumes. The People’s University of the North East China, 1954 Ed.


- Criminal Law Teaching & Research Section of the People’s University of China. Zhong hua ren min gong he guo xing fa zi liao hui bian = Chung hua jen min kung ho kuo hsing fa tz u liao hui pien (A Collection on the Criminal Law Materials of the People’s Republic of China), five volumes. Published by the People’s University of China during the period 1953-1957.


**THE DEPRESSION & STAGNATION PERIOD (1957-1976)**

During the twenty years from 1957 to 1976, China’s criminal law underwent a period in which research fell into a long-term stagnation. This period corresponds with several important and uninterrupted political movements, especially, the Great Cultural Revolution.
A. Summary of Research

During 1957 to 1976, criminal law research focused on six main areas:

(a) Issues related to Crime and Two Kinds of Contradictions

In 1957, Chinese leader Mao Tse-tung published his famous work *On the Correct Handling of Contradiction Among the People,* in which he advances the doctrine of two different kinds of contradictions. Some scholars then introduced this doctrine into their study of criminal law, and advanced the idea that these two different kinds of contradictions also exist in criminal phenomena. Soon afterwards, debates on the topic commenced among academicians. A number of theses on this subject were published in succession, among which the following are representative:

- Chu Chi-liang, *Guan yu fan zui de mao dun xing zhi wen ti* xue xí mao zhu xi “liang lei mao dun” xue shuo de yi dian ti hui = *Kuan yü fan tsui te mao tun hsing chih: hsüeh hsi mao chu hsi “liang lei mao tun” hsüeh shuo te i tien t’i hui* (Study on Contradiction Nature of Crime: Understandings of Study on Chairman Mao’s Theory of Two Different Kinds of Contradictions); 49
- Yeh Chün, *Cong xing shi fan zui zhong kan ren min nei bu mao dun de zhuan hua wen ti* = *Ts’ung hsing shih fan tsui chung k’an jen min nei pu mao tun te chuan hua wen t’i* (From the Angle of Criminal Offence to Observe the Transformative Issue of Contradictions Among the People); 50
- Lo Su-chüan, *Guan yu fan zui de mao dun xing zhi de shang tao* = *Kuan y fan tsui te mao tun hsing chih te shang t’ao* (Discussions on the Contradiction Nature of Crime); 51

50. Supra note 30, 8 (1958).
51. Supra note 30, 7 (1958).
- Wang Wen-sheng. *Cong liang lei she hui mao dun fan zui de mao cun xing zhi = Ts’ung liang lei she hui mao tun k’an fan tsui te mao tun hsing chih* (From the Angle of Two Different Social Contradictions to Examine the Contradiction Nature of Crime).  

- Chan Lien-fang. *Ru he qu fen fan zui xian xiang zhong liang lei mao dun = Ju ho ch’ü fen fan tsui hsien hsiang chung liang lei mao tun* (How to Distinguish the Two Different Kinds of Contradictions in Criminal Phenomena?)


**Issue on Causality of Crime**

During this period, the issue of causality of crime was still taken seriously by scholars and some papers on this subject were published, such as:

- Chüan Hsin-kuang. *Shi tan xing fa zhong de yin guo guan xi = Shih t’an hxing fa chung te yin kuo kuan hsi* (Discussions on Causality of Criminal Law).

- Ma Ch’i’& Kuang Chien. *Ma lie zhu yi yin guo xing de li lun zai fa xue zhong de ying yong = Ma lieh chu i yin kuo hsing te li lun tsai fa hsüeh chung te ying yung* (Causality in Marxist Theory and Its Application in the Legal Science).


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52. Supra note 30, 5 (1958).  
54. Ibid.  
55. Supra note 23, 3 (1963).  
56. *Dong bei ren min da xue ren wen ke xue xue bao = Tung pei jen min ta hsüeh jen wen k’o hsüeh hsüeh pao* (Journal of Humanities Sciences of North East People’s University), 2 (1958).  
57. Supra note 23, 1 (1964).
(c) Issues on Retaining or Abolishing Life Imprisonment

In 1957 there were some academic discussions about the relative merits of life imprisonment, and three representative articles were released in journals:

- Hsü Fei. *Dui wù qi tu xíng cùn fèi wèn tī de yì jiàn = Tui wu ch’i t’u hsing ts’un fèi wèn t’i te i chien* (Some Opinions toward the Existence and Abolishment of life imprisonment);\(^{58}\)
- Li I-ch’eng. *Lüeh lun wò guó xíng fā shàng de wù qi tu xíng wèn tī = Lüeh lun wò kuo hsing fa shang te wu ch’i t’u hsing wen t’i* (A Brief Discussion on the Issue of life imprisonment in the Criminal Law of Our Country);\(^{59}\)
- Wang tsu-ch’en. *Dui wù qi tu xíng cùn fèi wèn tī de shāng què = Tui wu ch’i t’u hsing ts’un fèi wèn t’i te shang ch’üeh* (Discussions on the Issue of Existence and Abolishment of life imprisonment).\(^{60}\)

**B. Featured Research Results on Criminal Law**

During this period the academic works in criminal law that were published openly were mainly translated versions of the former Soviet Union’s criminal works and some other countries’ criminal codes. Little research was published on criminal law due to the stagnancy of research works during the Cultural Revolution. The one monograph written by a Chinese scholar that is most representative of the works published during that time is Li Kuang-ts’an’s *On Accomplice*\(^{61}\) (Law Press, 1957 Ed., reprinted in 1981). A handful of other reference books were also published, such as:

- Criminal Law Teaching & Research Section of the People’s University of China. *Zhong hua ren min gong he guo xíng fā can kào zi liào = Chung hua jen min kung ho kuo hsing fa ts’an k’ao tsu liao* (Compilation of Reference Materials on the Criminal Law of the People’s Republic of China, six volumes. People’s University of China, 1958 Ed.)

\(^{58}\) Supra note 22, 23 (1957).
\(^{59}\) Supra note 23, 3 (1957).
\(^{60}\) Ibid.
\(^{61}\) This work is considered by scholars as the earliest monograph on criminal law of new China and is of great value to understanding the academic viewpoints and background on criminal law science.—author note.
C. Criminal Legislation

(a) Drafting Work of the Criminal Code

During the Cultural Revolution, the drafting work on a new criminal code was still under way. The General Office of the Standing Committee of the NPC printed and distributed three editions of the draft criminal code. Each of them is listed here:

- Draft of Criminal Code of the People's Republic of China (the twenty-seventh amendment), completed in December 1962;\(^\text{62}\)
- Draft of Criminal Code of the People's Republic of China (the thirtieth amendment), finished on February 27, 1963;\(^\text{63}\)
- Draft of Criminal Code of the People's Republic of China (the thirty-third Amendment), completed on October 9, 1963.\(^\text{64}\)

(b) Separate Criminal Decrees

In addition to drafting the criminal code, the Standing Committee of the NPC also passed several separate criminal decrees, listed below:

- Decision of the Standing Committee of the National People's Congress Granting Special Amnesty to Criminals Who Have Truly Mended Their Ways (adopted on September 17, 1959 at the 9th Session of the Standing Committee of the National People's Congress);\(^\text{65}\)
- Decision of the Standing Committee of the National People's Congress Granting Special Amnesty to the War Criminals of the Chiang Kai-shek Clique and the Puppet Manchukuo Regime Who Have Truly Mended Their Ways (adopted on November

\(^{62}\) Supra note 5, at 281-308.
\(^{63}\) Supra note 5, at 309-337.
\(^{64}\) Supra note 5, at 337-365.
\(^{65}\) Supra note 7, at 316.
19, 1960 at the 32nd Session of the Standing Committee of the National People’s Congress);\textsuperscript{66}

- Decision of the Standing Committee of the National People's Congress Granting Special Amnesty to War Criminals of the Chiang Kai-shek Clique, the Puppet Manchukuo Regime and the Puppet Mengjiang Autonomous Government Who Have Truly Mended Their Ways (adopted on March 30, 1963 at the 91st Session of the Standing Committee of the National People’s Congress);\textsuperscript{67}

- Decision of the Standing Committee of the National People's Congress on Releasing by Special Amnesty All War Criminals in Custody (adopted on March 17, 1975 at 2nd Session of the Standing Committee of the National People’s Congress).\textsuperscript{68}

\textbf{RECOVERY AND PROSPERITY PERIOD (1976-2000)}

In October 1976 the Great Cultural Revolution ended. It had lasted for about 10 years. Research in the science of criminal law was renewed. From then on, the PRC’s science of criminal law enjoyed an initial recovery period lasting about three years. This initial recovery period ushered in a more accelerated and fuller development era for this area of legal scholarship.

On July 1, 1979, at the 2nd session of the Fifth National People’s Congress, the first criminal code of the PRC was passed. It became effective on January 1, 1980. On March 14, 1997, the amended criminal code was passed. The promulgation of a criminal code and its revision have doubtless given much impetus to the study of criminal law and greatly promoted the growth and development of the science of criminal law.

Between 1976 and 2000, researchers in criminal law centered their studies on critical problems relating to the criminal legal system and a number of academic works were published. In this period, the research can be divided into three stages principal stages:

\textsuperscript{66} Supra note 7, at 378.
\textsuperscript{67} Supra note 7, at 391.
\textsuperscript{68} Supra note 5, at 135.
A. The First Stage (1976-1988)

In this stage, scholarship was focused mainly on the drafting, propagandizing and explaining the criminal code. Academic studies were carried out on some important issues involving the criminal code. Typical academic works published during this period are:

Textbooks


Monographs


From 1988 to 1997 when the revised criminal code was promulgated, research work on criminal law developed basically along the three paths: the first focuses on a special criminal legislation and amendments to the existing criminal code. The second path was a thorough and careful study of the revisions of the criminal code enacted in 1979. The third path was scholarship on the basic theory of criminal law. During this stage, the number of academic works concerning topics mentioned above numbers in the hundreds. Examples of the several types include:


**Works on China’s Criminal Law History**


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- Zhai Jianxiong
Textbooks


Monographs

Monographs on the science of criminal law may, according to the subjects they dealt with, be classified into several sorts as listed below:

(1) Works Involving Special Criminal Legislation

- Criminal Law Section under the Commission of Legislative Affairs of the Standing Committee of the NPC. Guan yu jin du de jue ding he guan yu cheng zhi zou si, zhi zuo, fan mai, chuan bo yin hui wu pin de fan zui fen zi de jue ding shi yi = Kuan yü chin tu te chiüeh ting ho kuan yi ch’eng chiü tsou ssu, chiü tso, fan mai, ch’uan po yin hui wu p’in te fan tsui fen tzu te chiüeh ting shih i (Explanation on the Decision of Prohibition Against Narcotic Drugs & the Decision on the Punishment of Criminals Who Smuggle, Produce, Sell or Disseminate Pornographic Articles). Pei Ching: Law Press, 1991. 140p.
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(2) Works Dealing With Certain Crimes or Separate Crime – Comprehensive Studies


Economics and Crime


Individual Crimes


On Criminal Law Philosophy & Criminal Policies

On Fundamental Theory of Criminal Law


Special Research on Criminal Legislation


On Special Research of Crimes


On Criminal Responsibility

On Theory of Criminal Penalty


On Criminal Law Reform


On Foreign Criminal Law Science and Comparative Criminal Science


**International Criminal Law**


Reference Books


C. The Third Stage (1997-)

On March 14, 1997 the NPC promulgated the revised Criminal Code and from then on the academic field of criminal law began to engage in the work of propagandizing and explaining the amended Criminal Code, and research in some criminal subjects was also commenced in succession. Results from some of this research in this third stage are listed below:

Works on Explaining the Amended Criminal Code

- Huang T’ai-yün. *Zhong hua ren min gong he guo xing fa shi yi yu shi yong zhi nan* = *Chung hua jen min kung ho kuo hsing fa shih i yü shih yung chih nan* (A Guide to the Explanation and


### Teaching Materials on Criminal Law

During this third stage, a number of teaching materials that corresponded to the new criminal code began to appear, such as:


Comprehensive Study Works on Criminal Theory

- Hsien T'ieh-k’o. *Xin xing fa zhong de wei xian fan = Hsin hsing fa chung te wei hsien fan* (Gefahrdungsdelikte in the New
Scholarship on Other Crimes

- Ma K’o-ch’ang. *Jing ji fan zui xin lun: po huai she hui zhu yi jing ji zhi xu zu zui yan jiu = Ching chi fan tsui hsin lun: p’o huai she hui chu i ching chi chih hsü tsui yen chiu* (A New Theory on Economic Crime: A Study on Crimes of Disrupting the Order of


It should be mentioned here is that there are two academic series on the science of criminal law published between the end of the last century and the beginning of the 21th century. One is Ch’en Hsing-liang’s *Xing shi fa xue yan jiu cong shu = Hsing shih fa hsüeh yen chiu ts’ung shu* (A Study Series on Criminal Law Science), published by China University of Political Science and Law Press during 1998-2000. It includes thirteen special study works involving many theories of criminal law and of crimes. They include:


• T'ien Hung-chieh. Wei fa xing shi yan jiu = Wei fa hsing ren shih yen chiu (A Study on the Knowledge of Illegality, 1998).
• Li Chieh. Fan zui dui xiang yan jiu = Fan tsui tui hsiang yen chiu (A Study on the Target of Crime, 1998).
• Chou Kuang-ch'üan. Zhu yi yi wu yan jiu = Chu i i wu yen chiu (A Study on Obligatio ad Diligentium, 1998).
• Li Wen-chien. Xing shi su song xiao lü lun = Hsing shih su sung hsiao lü lun (A Theory on the Efficiency of Criminal Proceedings, 1999).
• Liu Shu-te. Xing wei fan yan jiu = Hsing wei fan yen chiu (Study of Tätigkeit delikte, 2000).
• Feng Ying-chü. Zang wu fan zui yan jiu = Tsang wu fan tsui yen chiu (Study on Ill-gotten Goods Offences, 2000).

The other major treatise is a trans-century publication titled Zhong guo xing shi fa xue yan jiu cong shu = Chung kuo hsing shih fa hsüeh yen chiu ts'ung shu (A Study Series on the Science of Criminal Law in China). It was compiled by the China Criminology Institute and published by the Masses Press in 2000. The series comprises eleven volumes that include topics relating to both procedural and substantial matters in criminal law. The title of the eleven volumes are:

• Wu Han. Xing shi zhen cha xue = Hsing shih chen ch'a hsüeh (Science of Criminal Investigation, 2000).
• Wang Chien-ch'eng. Xing shi zheng ju xue = Hsing shih cheng chü hsüeh (Science of Criminal Evidence, 2000)
• Wang Tso-fu. Xing shi shi ti fa xue = Hsing shih shih t'i fa hsüeh (Substantive Criminal Law Science, 2000).
• K'ang Shu-hua [et al.]. *Xing shi fan zui xue* = *Hsing shih fan tsui hsüeh* (Criminal Justice and Criminology, 2000).
• Ch’en Hsing-liang. *Xing shi fa zong lun* = *Hsing shih fa tsung lun* (General Theories of Criminal Law, 2000).
• T’ien Wen-ch’ang. *Xing shi bian hu xue* = *Hsing shih pien hu hsüeh* (Criminal Defence Science, 2001).
• Cheng Lu [et al.]. *Xing shi cheng xu fa xue* = *Hsing shih ch'eng hsü fa hsüeh* (Law Science of Criminal Procedure, 2001).
• Ho Ping-sung. *Xing shi zheng ce xue* = *Hsing shih cheng ts'e hsüeh* (Science of Criminal Policy, 2002).
• Liu Chia-ch'en. *Xing shi shen pan xue* = *Hsing shih shen p'an hsüeh* (Science of Criminal Justice, 2002).