CHAPTER 3

Social Practice and Judicial Politics in “Grave Destruction” Cases in Qing Taiwan, 1683–1895

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In recent years, a growing number of scholars have remarked on the importance of religious belief and practice in Chinese legal culture. We now have important studies of the dynamic interrelation and “distorting mimesis” between human legal practice and divine justice in various dimensions.¹ Scholars of Chinese religion have also explored how popular beliefs and practices were manipulated, regulated, standardized,² or “superscribed”³ by the state and its agents. However, this scholarship has tended to focus on the relationship

* I want to thank Professor Madeleine Zelin for her generous support and insightful suggestions to my article. I also appreciate Jonathan Ocko, Pengsheng Chiu, Yanhong Wu, and Taisu Zhang for their valuable advice.


between the divine and mundane worlds, orthodoxy and heterodoxy, and formal and informal institutions. We have yet to explore the way in which popular beliefs were negotiated in adjudication, and the ways in which the violation of popular beliefs could be both overlooked and sanctioned in social and judicial practice. The goal of this chapter is to rethink the way we approach the interaction between religion and law by examining certain aspects of the process of negotiation in cases involving the religiously and culturally charged issue of grave desecration.4

Records preserved in the Danxin Archive (Danxin dang’an) and various other local sources from Qing-ruled Taiwan provide rich documentation for a study of “grave-destruction” (huifen) or “uncovering graves” (fazhong) cases. The tomb is one of the most consecrated and vulnerable sites. In China its sanctity was derived primarily from the cult of the ancestor, which influenced the way in which the deceased were imagined, and from ideas of fengshui or geomancy, which accorded transformative significance to the siting tomb itself. Because of its association with both geomancy and the corpse, disruption of the tomb could entangle kin and offenders in intense social conflicts. Maurice Freedman and subsequent anthropologists commented on the importance of geomantic disputes and the competition over geomantic sites, often referred to in Chinese as “stealing other’s geomantic sites” (qiang fengshui).5 Melissa Macauley drew attention to the practice of “body-snatching” of corpses as a unique feature of Chinese legal practice that frequently resulted in legal

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4 Actually, disputes involved grave destruction were not uncommon in late imperial China. Many local gazetteers and legal handbooks provide vivid account of grave disputes particularly since late Ming period. Some grave disputes even triggered power struggles among local actors, officials, and the state. Timothy Brook discussed a Nanchang grave case that disturbed the imperial court and a wide range of higher officials. See Timothy Brook, The Chinese State in Ming Society (London: Routledge Curzon, 2005), 1–13.