



**Interview with**

**Fei-Hsien Wang**

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**Author, *Pirates and Publishers: A Social History of Copyright in Modern China***

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KENNEALLY: Forget what you learned about the origin of printing. Movable type using Chinese porcelain pegs was invented by Bi Sheng in 1040, four centuries before Gutenberg and his press. And where there is printing, there is copyright, too. Yes, you could forget that other myth, the one that says China and copyright are incompatible.

Welcome to Copyright Clearance Center's podcast series. I'm Christopher Kenneally for Velocity of Content.

*Pirates and Publishers: A Social History of Copyright in Modern China* maps the everyday life of copyright and piracy in China from the 1890s through the 1950s. The book's author and recipient of the Peter Gonville Stein Book Award from the American Society for Legal History is Fei-Hsien Wang, associate professor of history at Indiana University, Bloomington. Professor Wang joins me now. Congratulations on the award, Professor Wang, and welcome to the program.

WANG: Thank you, Chris. It's very nice to be part of this podcast.

KENNEALLY: We look forward to talking to you about this book. The Stein Book Award is given for the best book in non-US legal history written in English. The citation praised *Pirates and Publishers* as an exceedingly rigorous, subtle, and well-researched book that has major implications for understanding the interplay among law, society, culture, and politics, not only in modern China, but also in many places with similarly complicated experiences with modernity.

Professor Wang, I'd like to start about this point that this book is described as a social history. Why did you choose copyright as the lens for understanding China, and particularly Chinese book culture?

WANG: The reason why I decided to describe this work as a social history of copyright instead of a legal history of copyright has two main reasons. First of all is that coming from a book historian's perspective, I think there is much more about copyright and piracy than legal court cases or the making of copyright law or WTO treaties, Berne Convention, etc.



It captures the heart of knowledge production and the book industry in a very intriguing way.

Because this is not just about the nature of books – what constitutes a book? Who can be the legitimate owner of a book or of a work? It also involves the production process, like how are you going to pirate a book, and how do you get access of the content? How did the readers or the customers know this is an authentic copy or this is a knockoff? It's also about the negotiation between or the interaction between the content producer – the authors, the translators, etc. – who provide the content and the publishers and printers who make the manuscript into actual copies of books. So I figured this would be a good entry point for me to get a better sense of how this knowledge economy and book industry functions in a more multidimensional way.

KENNEALLY: This important point, Professor Wang, about the contrast between Chinese publishing traditions and the Western-style approach to those is one that runs throughout the book. But I think we should make sure that listeners understand something about the myths that you seek to dispel around China and copyright. There are several of these. Tell us what they are.

WANG: There are a few major myths in China and beyond. For our audiences outside of China, what they may be more familiar with is the rhetoric and the myth about China being now the notorious haven for IP piracy. This is an indication that the Chinese pirate because they are yet to learn how to fully appreciate this important and seemingly universal modern legal doctrine.

Many believe that the reason why Chinese pirate is because they don't understand, or they don't appreciate copyright, and this is because the Chinese culture is one that values tradition and imitation more than innovation and creativity. It's one that values collective good more than individual rights.

Part of this myth would be China, historically speaking and now, is a country that is yet to establish a firm law and order, especially about copyright. So in order to solve this piracy problem, external pressure has to come in to persuade or force or urge China to adopt this modern copyright doctrine, so one day, after Chinese learn to respect copyright, then piracy would disappear, problem solved. The main rhetoric is a very similar rhetoric we see all the way from the mid-19<sup>th</sup> century until today when it comes to the issue of Chinese pirating other countries' intellectual property.

As you mentioned in your opening remarks, another popular myth mostly for the Chinese would be China actually was the first country that invented copyright, because copyright is so intertwined with the invention of printing. And since China is the first place where



movable type was invented, so naturally China would be the first one that developed some sense of a copyright doctrine. These are the two main myths I would like to, in a way, challenge and debunk in my book.

KENNEALLY: Indeed, you make the point that there are two notions of copyright, two words for copyright in Chinese, and that these are really indicators of the deep tradition of copyright in the country. So tell us what those are.

WANG: The English word copyright – or broadly speaking, this modern doctrine of copyright emerged from western European printing tradition – was introduced to China at the turn of the 20<sup>th</sup> century – late 19<sup>th</sup>, early 20<sup>th</sup> century. It had two translations. They were both originally from Japanese. The first one is in Chinese, *bǎnquán*, which literally means right to printing block. This is a phrase that is still popularly used in Chinese nowadays. As you can sense, it emphasizes the ownership of printing block, which is deeply rooted in east Asian wood block printing tradition.

The other translation for copyright is *zhùzuòquán*, which can be translated directly as author's right. This is derived from the Berne Convention and the more European continental notion of an author being the creator of his work, and that's the exclusive owner of that work. This was the term that's used mostly with the copyright laws that were promulgated in China throughout the 20<sup>th</sup> century, but it's less popularly used among publishers and authors until more recently.

KENNEALLY: The really important point around the history of copyright in China is to tie it to the history of China. The period that you cover in the book runs from really the end of the imperial period into the early days of the People's Republic of China, with of course the Republic of China, the Kuomintang period, in the middle. This is at the very same moment that China really enters into a complex relationship with the West. So what one sees is the rise of a Western style of learning and a decline or a sort of fading of a Chinese approach to learning and education. Why is all of that important?

WANG: For people who study modern Chinese intellectual history, this is sort of like a watershed moment. For thousands and thousands of years, the Chinese believed themselves in the pivot of Civilization, with a capital C. But the imperialist aggression that came to China in the second half of the 19<sup>th</sup> century made Chinese rethought the value of their traditional knowledge world, and the value and the truth in the knowledge they firmly believed to be the best in the world was completely shaken.

So they rushed, the Chinese educators, Chinese officials, Chinese government – recognized the need to learn from the West, whom they used to believe to be inferior barbarians. There was this urge and anxiety that drove them to rapidly consume whatever



came from the West. That's a totally new body of knowledge. No one knows how to evaluate it. No one knows how to evaluate them and who actually published them, etc.

It was also during this period the letterpress and the mechanical printing technology was introduced to China. So all of a sudden, you not only have a paradigm shift in the intellectual world, you also have a technological revolution – a printing revolution, if you'd like to say that – in China that made that production of books become more diverse and that's less orderly. It was during this period of time unauthorized reprinting of books became a major issue for authors and translators who produced this new knowledge, as well as publishers and printers who now all of a sudden lost their inventory, because the traditional works were no longer fashionable, and they were all trying to publish the latest popular stuff in order to survive. Also, the readers now suddenly encountered this influx of new information and new books, and what they learned in the past about how to tell a book is good is bad was no longer valid.

So it was during this period of time people got very frustrated about unauthorized printing or piracy or pirate editions, as you may say, and they started to think copyright, as a fashionable Western doctrine, may be the solution to all these problems that they were facing.

KENNEALLY: What's interesting to me is this sounds familiar. This interaction between social change and technological change leading to a concern around copyright – that sounds like today, practically. But the situation that you tell us about in the book, Professor Wang, is really very different and very particular to China during that period, the beginning of the 20<sup>th</sup> century.

Your research concentrated within the archive of the Shanghai Booksellers' Guild. Tell us about the guild and about this unusual collection of artifacts that you explored.

WANG: The group of main actors in my book is the members of Shanghai Booksellers' Guild. Shanghai in the second half of the 19<sup>th</sup> century, especially after the 1880s, emerges the new cultural and publishing center of China, mainly because this is where most of the new ideas or Western ideas got introduced to China, and partly because it was a treaty port, so it enjoyed more legal freedom. So the booksellers and publishers in Shanghai were the ones that worried about piracy the most, but they were also the most active and notorious pirates themselves.

During this period of time – late 19<sup>th</sup> and early 20<sup>th</sup> century – this is also a time in China where you see constant revolution, civil wars, so it's constant political uproars. So you have copyright laws, but the central government was fighting for their own survival, so



they did not have the capacity or they did not have the keen interest to protect people's copyright.

So the Shanghai booksellers decided to take this business into their own hands. They utilized this preexisting traditional mutual aid or civil organization, the booksellers' guild, and transformed it into one with sort of like a self-regulation, customary legal mechanism to register their members' new books, to mediate the copyright disputes among members. The guild worked also on behalf of its members to file lawsuits or to punish pirates and persuade or force the pirates to come to a settlement with the authentic publishers, etc.

This was all done outside of the state legal system, so previously, legal scholars and legal historians who were interested in the history of copyright law in China didn't really pay attention to this particular group and what they had been doing. But since I'm more interested in how the publishers, the authors who may be affected by piracy the most, who may care about copyright more than the rest of society, I thought such an organization would be very crucial for me to understand how they enforced and practiced and understood copyright in a day-to-day, ground level, sort of in their everyday lives. That's basically the most important body of archives I used in my book.

**KENNEALLY:** Well, you uncovered something fascinating, which is that the Shanghai Booksellers' Guild had begun a so-called detective branch, and you uncovered the archives of this detective branch in Shanghai. I just want you to tell us about how these book detectives and how they operated.

**WANG:** Yeah, so it's very similar to what we see nowadays in some of the major, say, pharmaceutical companies or seed companies or IT companies. They would have their security department, and they would hire also private detectives to uncover piracy schemes, because you cannot rely on the state police to do that for you. It was the same in China in the 1930s, especially after the Shanghai publishers dominated the national market of books in China. They realized that they cannot rely on the police to help them discover who is selling pirate editions of their books.

So they hired a whole bunch of former policemen, former soldiers, or people with certain experience in legal professions to hunt down the pirates' full names. They would inspect major book markets for the guild. They would also receive tips from informants, and once they received certain information that people were pirating certain books, they would either report it to the police and with the police company, raid the pirates' operation, confiscated what they believe to be the pirate copies, and file lawsuits on behalf of the guild members. Or sometimes, they would set up traps, like pretend to be potential buyers so that they can have a deeper understanding of the whole pirate operation. Then they would again – once they have the raid, then they would file lawsuits for the guild.



But sending pirates to jail was not the detective branch's main goal. Their goal was to force the pirates to settle outside of court and let the pirates pay the compensation to the original publishers. In this process, the detectives and the guild would be able to ask for a certain percentage of the compensation as their reward. Of course, they operate in the gray zone of the law, and some of their actions were then deemed by the policemen as illegal. So they would often get into troubles themselves.

KENNEALLY: Operating in the gray zone of the law really does make me think this would make a wonderful television series – *The Book Detectives*. But I want to end our interview, Professor Wang, by asking you a personal question after discussing your professional work, which is that you are the daughter of a husband-and-wife publisher team in China. How did your parents and their work influence you to become a book historian and to take up this topic of copyright?

WANG: Thank you for this question. Before I got my PhD, I always thought that I would go back home and take over the family business and become a publisher. But then I realized that what I'm more interested in is – it's always the same. My personal experience growing up with my parents and seeing them operating as authors, editors, and publishers made me realize that the backstories of book publishing is more interesting than publishing the book.

So for me, I always see books not just as content of knowledge and information, but they were also commodities, and there were complicated economic decisions involved in it. So when I read, say, the archive, the authors' and publishers' diaries and correspondence, I see my parents. That also helped me to understand what those publishers and authors wrote and that they are also normal human beings who need to pay the rent and feed the children, etc. That helped me a lot.

I also heard a lot from them and also family friends who are also in the cultural industry about how they struggled with various pirates in far, far away small towns, etc. So their experience was the one that inspired me to look beyond the state's formal legal record, because I know that for a lot of publishers and authors, they would handle such issues outside of the court. If we're only focused on copyright law and treaty negotiations, then we would overlook a lot of what's really going on underground.

KENNEALLY: Fei-Hsien Wang, associate professor of history at Indiana University, Bloomington, and author of *Pirates and Publishers*, the winner of the 2020 Gonville Stein Book Award, thank you so much for joining me today on Velocity of Content.

WANG: Thank you very much, Chris. It's my pleasure to be here today.



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