

# The Return of the Show Trial: China’s Televised “Confessions”<sup>1</sup>

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## Abstract

This article investigates the recent wave of staged confessions in China in historical perspective. Currently, the authorities “disappear,” detain, and parade people, both Chinese and foreigners, on state television, forcing them to incriminate themselves by making abject confessions prior to legal proceedings. This is a clear break with years of efforts to build the rule of law in China. It also reverses multiple solemn declarations to prohibit police torture and forced confessions, both longstanding practices in China. The new extrajudicial show trials, which are staged spectacles outside courts of law, suggest a return to Mao-era praxis, and have been criticized by many, including leading Chinese judges and lawyers. Despite the painstaking choreography, the TV confessions are widely regarded both in China and internationally as fake — not least because of several new witness accounts provided by former detainees which emerged during 2016. Elements for a historically grounded interpretation emerge from examination of Soviet Communist, Christian, and various East Asian parallels. Kafka's allegory in *The Trial* exposes how the powerful frame the innocent by forcing them to “confess,” in order to perpetuate their power.

**Keywords:** forced confessions, show trials, paraded prisoners, disappearances, China

## Introduction

The spectacle of forced confessions frequently

seen on Chinese TV in the last few years is part of a wider trend in China: The Party-State is silencing alternative and dissident voices, with a new wave of censorship, intimidation, disappearances, arrests, and imprisonments.

This current trend is not unique to China. Instead, sadly, it is part of a worldwide authoritarian turn. In many countries around the world, as in similar conjunctures of times past, authoritarians are taking power either by force, or, where elections exist, with a constituency of voters longing for a strongman.

Today's authoritarians share many things, especially their contempt for the truth, for freedom of expression, and for equality before the law, without which there can be no democracy. They congratulate each other on their purported efficiency in “telling it like it is,” and in “getting things done.” They seek to censor and to “guide” public opinion. Authoritarian China currently seems ahead of all others in monitoring, censoring, and managing public opinion, especially in the successful harnessing of a new digital universe of technologies to suppress dissent.

China’s forced TV confessions are closely related to one key element in this authoritarian turn — to go beyond the mere silencing of alternative voices and opinions, and “shape reality.” In China this post-truth manufacturing seems to be not just about silencing dissent, but also — after the loss of faith in Communist ideology — about shaping a certain new kind of predictably obedient society sometimes framed as the harmonious society. Scripting, forcing, and disseminating these TV confessions, then,

is one element of this project.

### The Disappeared Hong Kong Booksellers

Gui Minhai, a Swedish citizen, a Hong Kong publisher and owner of a popular bookstore for political books banned in mainland China, was disappeared from his vacation home in Thailand on October 17, 2015. Cameras in the building and testimony from locals show that he was taken away by several Chinese-speaking men, likely agents from one of the Chinese state or Communist Party security services, although neither their actions nor their identity has been acknowledged by the Chinese authorities — or indeed by Thailand. A number of Chinese citizens have been similarly repatriated from Thailand against their will, including Uighur asylum seekers and two Han Chinese political dissidents who had been recognized as political refugees by the United Nations High Commission for Refugees (UNHCR), which called their sudden, preemptive repatriation to China “a serious disappointment.”<sup>2</sup>

But Gui Minhai had no such designation. He evidently believed he had sufficient protection against arbitrary disappearance as a Swedish and EU citizen, a Hong Kong resident, publisher and bookstore owner, and as a visitor to Thailand, where he owned the vacation apartment from which he was abducted.<sup>3</sup>

When, subsequently, four more of his bookstore associates and co-owners were disappeared, either while visiting Shenzhen, or in Hong Kong itself, the case caught the attention of world media, especially the Hong Kong public.<sup>4</sup> The trigger for the wider publicity was when the fifth bookseller, Mr. Lee Bo, disappeared from one of the Causeway Bay Bookstore's facilities in Hong Kong, on December 30, 2015. If indeed he was abducted, as it seems, this would directly violate China's 1997 promise to let Hong Kong have judicial autonomy until the year 2047.

When Gui Minhai, also known as a poet and writer under his pen name Ahai, suddenly appeared on Chinese state TV on January 17, 2016,<sup>5</sup> “confessing” that he had voluntarily returned to face charges supposedly outstanding from a decade-old traffic accident,<sup>6</sup> it became clear that this was another installment in the series of staged confessions presented with increasing frequency since 2013.

These confessions are coerced — the detainees have no opportunity to challenge their detention or argue their case, and, being under obvious duress, can only comply. The format is an extralegal means for intimidating and silencing anyone whose speech, writings, or activities are deemed undesirable by unidentified powers. They are of course also directed at the general public, as targeted audiences, at home and abroad.

The increasing use of this format may be partly due to a certain Jiang Jianguo, deputy director of the Communist Party's propaganda office, who is said to have argued for a revival of the approach at an internal government meeting, saying “[This way,] the educational effect will be the greatest.”<sup>7</sup> According to this unconfirmed account, the campaign is orchestrated in collaboration between the police, which apprehends and works over the victims, and the Party propaganda office, which takes overall charge and directs the choreography of the staged confessions.

Later, in February 2016, Gui Minhai was presented once again, this time alongside three fellow booksellers all made to confess they smuggled prohibited books into China.<sup>8</sup> Meanwhile, their bookstore changed hands in obscure circumstances, and the bulk of the printed books in storage was destroyed. At the same time, in Hong Kong, some of these books, which purport to reveal secret details about Chinese Communist leaders, have been sold publicly as a form of protest by

Hongkongers eager to defend the right to free expression, which at least formally still is current there, under the “One Country, Two Systems” promise. But the chilling effect on the publishing industry is already evident, with other bookstores closing or self-censoring their stock,<sup>9</sup> as may have been the goal of the targeted attack.

Tragically, over a year after his kidnapping from Thailand, Gui Minhui alone among the four booksellers continues to be held without trial and without any justification of his apprehension — in disregard of international law, and in obvious contempt of my own country, Sweden, and the European Union, where he is a fellow citizen.



**The five disappeared booksellers (clockwise from upper left): Lee Bo, Gui Minhui, Lam Wing-kee, Cheung Chi-ping, and Lui Por. Four of their “confessions” were apparently conducted in the same room. (Phoenix TV screenshots).**

Hong Kong may be the only place in China where one can poke fun at the authorities in matters such as these, and not be censored, or have one’s comment instantly deleted. In one example, one Hongkonger hand-wrote a mock “faxed” letter from the Hong Kong Governor to

his wife, assuring her that while he had been unexpectedly abducted, his captors were treating him very well. This was a reference to a widely publicized and mysterious fax from Lee Bo, one of the abducted booksellers, assuring his wife that he was fine, but had to “help” with urgent matters on the mainland.<sup>10</sup>

It has been frightening to see how some Western news media, loath to judge without verifiable facts, have often wavered on how to report on such statements, and on the Chinese TV confessions overall. The senior legal scholar Jeremy Cohen makes a very good point in this regard, when he says that to write, as foreign journalists are sometimes wont to do in these circumstances, that the seemingly voluntary confessions are “probably the product of coercion,” is wrong: For starters, the victims have been held in “an immensely coercive environment,” for a prolonged period. In fact, to write “probably” almost hands a victory to the torturers, whose purpose is, precisely, to produce a *believable* confession!<sup>11</sup>

But then the spell of this make-believe was unexpectedly broken. In June of 2016, there came a major setback for the choreographers’ initiative, in taking their method to Hong Kong and to the world. This was when Lam Wing-kee, one of Gui Minhui’s bookstore colleagues who was also disappeared and forced to confess, managed to break free and reveal the true circumstances to the world.

This happened after Lam’s captors confidently sent him back to Hong Kong to retrieve a customer database. Instead, he sought out independent political figures and called a dramatic press conference. Speaking freely, he confirmed everyone’s suspicion: that his “confession” was fake and forced. He described in detail what had happened to him: His capture, while on a visit just inside China’s border; his blindfolded train transport to another part of China (probably the city of Ningbo, which is where Gui Minhui has

reportedly been taken); his months of isolation and interrogation; his scripted rehearsals; his taped TV “confession,” and much more.<sup>12</sup>



Lam Wing-kee's brave action and continuing revelations,<sup>13</sup> alongside other testimonies,<sup>14</sup> has revealed a great deal about how the confessions are produced. We can reconstruct the steps involved, in the general pattern discerned in the current wave of cases:

- First, the authorities **disappear** the victims, who are apprehended by either plainclothes or uniformed police, and taken to unofficial secret prisons. What is new, notably in Gui Minhai's abduction from Thailand, is that people are now also taken both from outside China's borders and inside Hong Kong, regardless of the illegality of such actions.<sup>15</sup>
- Next, **public silence** — the enforced absence of news and information — is used to intimidate family, friends, and the general public. The rule that a person can be held for investigation by police for

six months before being charged, is either ignored or taken to mean that the authorities are not obligated to inform either family or colleagues during the investigation period. Victims are in effect disappeared, leaving next of kin gripped with uncertainty and fear, left guessing and speculating what happened, where the victims may be held, and indeed whether they are alive or dead.<sup>16</sup>

- Meanwhile, victims are **interrogated** to supply the authorities with material for the staged confession. To this end, the authorities (likely special police units acting on political orders), assemble a case against them based on the principle of “*mo, xu you* 莫须有” which loosely translates as: “Even if there is no case, one must be found”). In many cases, this will involve trumped-up moral failings (greed, promiscuity, or moral depravity). The authorities **assemble a case**, and decide how the victim is to be paraded, and/or formally charged.
- Depending on whether the victims are recalcitrant, they are subjected to **torture and other coercive measures**: Isolation, to induce spatial and temporal disorientation and a sense of powerlessness; sleep deprivation;<sup>17</sup> cold or heat; light and darkness; planted delusions about the situation (such as claims that no-one cares about them); audible noise from nearby victims of physical torture; threats against family and friends; interrogations at odd hours and in straining circumstances (with bad chairs, body chains, etc.); constant monitoring; etc. All this is called *clean torture* — torture which does not leave visible scars (more on this below). With multiple victims, this will also include tactics to “divide and rule” (playing victims against each other).
- The victim is also forced to **renounce colleagues** and the like, as well as the possibility of aid from anyone — they



must throw themselves at the mercy of the authorities. What is new since 2016, is that those with a foreign citizenship, or dual citizenship, may be forced to pretend to renounce their non-Chinese identity and any recourse to help from their adopted country.<sup>18</sup>

- Next, ***the confession is scripted and choreographed***. This grows out of the interrogation, which morphs into the parroting of the desired narrative. Both the story and the performance is practiced in detention until satisfactory. The visual aspects of the setting of the confession are carefully choreographed: The room and lighting; the victim's clothes, etc.: in many forced confessions filmed in Beijing, victims are made to wear different color prisoner's vests; in case of the booksellers, who may have been filmed in Ningbo, they appeared in private clothes, as if to suggest they were at ease and had been treated leniently (see Fig. 1).<sup>19</sup>
- ***The confession is then filmed, and edited***. There is evidence that filming is done in several takes over multiple days, with the footage edited to look as if it is from one single occasion.<sup>20</sup> This involves professionals from China's state television working under the direction of propaganda officials.
- Then, ***the confession is broadcast on TV***. There follows a *wider dissemination* in state-controlled mass media.<sup>21</sup> In this centralized design, coordination and orchestration of news and reports, the reception in foreign media is also calculated so that the carefully crafted narrative (of the prisoner's crimes, moral depravity, etc.) might be uncritically recycled and accepted around the world.
- All this is ***repeated at will*** (by disappearing more associates, etc.). Additionally, in recent cases, victims and their associates have also been forced to publicly deny that they were ever

tortured,<sup>22</sup> and news reports of torture have been officially denounced, in a style inspired by Donald Trump, as "fake news"<sup>23</sup>).

- Finally, the authorities may instruct judicial courts to hold ***follow-up procedures***. When this is done, it suggests a desire to keep up the appearance of the rule of law, even though it has been thoroughly discredited by the faked, pre-trial self-incrimination.
- Whether or not a victim is officially "set free," ***monitoring and supervision continues***.<sup>24</sup>

### The New Wave of Show Trials, and High-Level Protests Against Them

The above general pattern is reflected in all the show trials that, since 2013, have been widely deployed well beyond the particular action taken against Hong Kong and its freedoms, discussed above. Inside China, they have been used against journalists and media executives, bloggers and freethinkers, academics and students, lawyers and entertainers, officials and businessmen, and others; including a number of other foreigners.<sup>25</sup>

There is some variation in the pattern: Not everyone is tortured in the same way, not everyone disappeared is paraded making a confession, and not everyone is put on formal trial. One of the most egregious cases is that of the lawyer Xie Yang, who attempted to challenge his 2015 torturers through the legal system, only to be thwarted by more intimidation — resulting in a (forced) confession he had explicitly said he would never make, unless tortured.<sup>26</sup>

There have also been cases in which victims have escaped without being broken, as in the 2015 case of Liu Hu, a journalist involved in exposing corruption. He was detained, and videotaped in detention, but the footage was

not broadcast, and he was let go — perhaps because of internal jockeying between different factions in the anti-corruption campaigns.<sup>27</sup> Another journalist, Wang Xiaolu, was not so lucky.



**Financial journalist Wang Xiaolu made to “confess” having caused stock market turmoil through his reporting (in 2015; see *The Guardian*, Aug. 31, 2015).<sup>28</sup>**

We note that TV confessions are predominantly staged not with ordinary people suspected of regular crimes, like theft or murder — but with intellectuals and others who have a platform from which they might speak their own mind, either defying Party-State orthodoxy, or offending some individual official.

One striking example of a government official forced to incriminate himself is the case of the elected village chief Lin Zuluan in Wukan, Guangdong. He had gained widespread local support for leading popular protests against land grabs, and was then disappeared, his grandson detained as well. He then suddenly appeared on TV confessing to bribery — to the consternation and disbelief of fellow villagers.<sup>29</sup> The villager’s dissent was meticulously excluded from the state media, and the protests were terminated through the combined methods of the surprise staged

confession coupled with a media blackout and even more aggressive policing than before.



**Village chief Lin Zuluan recording his “confession.” Screenshot from Chinese TV (Bandurski 2016c).**

While ordinary criminal suspects are vastly more numerous, they do not have the same propaganda value. Insofar as they are *not* going to be put on show, they are often tortured more brutally, in ways that may leave physical scars.<sup>30</sup> About a million criminal cases are handled in China each year; 95% reportedly involve confessions, many of which are extracted by force, by the police; and the conviction rate is 99%.<sup>31</sup>



**A Chinese truck driver's experience of police torture. (From the *New York Times*, Aug. 10, 2015).**

In the last decade, Chinese judicial authorities themselves acknowledged on multiple occasions that police torture and false confession is widespread. China's Supreme Court has specifically condemned torture and forced confessions, and stated an official commitment to abolish such practices.<sup>32</sup>

These laudable efforts originated within the larger project initiated after Mao's death: to create a judicial system of courts and other organs with a semblance of the rule of law<sup>33</sup> — a project which still continues. Some observers argue this new system is mainly being built up as an auxiliary tool of social control — to prevent unrest by channelling discontent into the legal system. Indeed it does do this, and it has undeniably also brought certain benefits — including for ordinary people, who can now increasingly take civil and criminal issues to court.

But another outcome of the decades of efforts to construct a legal system is that China now has many more people who have become aware that this system could be better, and how. This notably includes a large number of legal professionals who can see, and have been willing to say, that torture is wrong and that

many confessions based on torture are simply false. These insights have been the basis for the reiteration of the legal prohibitions against torture and false confessions, voiced by legal institutions in recent years. Indeed, one Zhejiang judge concluded in 2015 that practically *all* wrongful cases that are detected are found to have involved false confessions extracted by force!<sup>34</sup>

To many Chinese judges and lawyers it is obvious that the recent wave of extra-legal TV confessions are miscarriages of justice, since they take place outside proper legal procedures that would not presume the guilt of the accused before evidence is considered and guilt is proven in court. Indeed, the TV confessions both pre-empt and violate the law.<sup>35</sup>

Thus in 2016, Zhang Liyong (Chief Judge, High People's Court, Henan Province), stated: "Outside of a court, no one has the right to decide whether someone is guilty of a crime ... The police aren't qualified to say someone is guilty. Prosecutors aren't qualified to declare someone guilty. News media are even less qualified to determine guilt." Here, while avoiding direct criticism, the judge is clearly pointing a finger at state TV, which has been parading the victims.<sup>36</sup>

Zhu Zhengfu, vice-chair of the All-China Lawyers Association, also directly criticized the TV confessions in a Beijing newspaper in early March 2016: "Forcing people to confess on TV means saddling them with a presumption of guilt. ... All evidence needs to be presented in court, all arguments need to be made in court, and the final judgment should be based on the court's investigation and deliberation ..."<sup>37</sup>



The article with Zhu Zhengfu's comments, in *Xin jing bao*, March 2, 2016.

Many months later, this clear-cut statement is still available on the internet, even though monitoring, censorship, and deletion is typically lightning fast for any online dissent. This points to divergent views on this issue, within the elite. Indeed, we can be sure that behind the scenes deep disagreements are playing out over the current relapse into staged confessions. While some Communist Party officials may want to resuscitate Mao-era politicized justice, many others, and not just legal professionals, may disagree and argue that this is a betrayal of the promise of the justice system so painstakingly built up since 1980.<sup>38</sup>

The lingering ethos of Communist-style self-criticism within the ruling Communist Party probably figures in this debate. Members of the Party (who number about 90 million) themselves already expect, if accused of wrongdoing, to be treated *outside* the ordinary laws, in the Party's own *shuanggui* system,<sup>39</sup> which is similar to how the Catholic church investigates its own priests in secret, outside the secular justice system. The Communist system is one in which the "interests of the Party" as determined by the powers that be, reign supreme. The glorification of submissiveness is part of this

ethos, in direct contradiction with the idea of insisting on the right to a fair trial, so as to prevent the abuse of power.

Today, the lingering intra-Party system clashes with how Chinese people, even Party members, increasingly demand due legal process. Inside the *shuanggui* system Party interrogators may still tell accused fellow Party members to "Forget the law, it does not apply here,"<sup>40</sup> and such internal inquisitors may also believe that even outside the Party, due process is simply for show, and is optional, especially in "political" cases.<sup>41</sup> Yet this attitude now clashes directly with the expectation, long in the making, that Chinese people too may enjoy the rule of law.

During 2016, a special TV series was broadcast featuring a long parade of Communist officials, confessing various corrupt wrongdoings.<sup>42</sup> This is part of the ongoing official crackdown on corruption,<sup>43</sup> and may also be intended to win support among ordinary people who are tired of self-righteous, corrupt officials. But even many ordinary citizens can see that it extols a spirit of on-demand self-debasement which exists in stark dissonance with the idea of an impartial law that no one is above. The glorification of self-debasement regardless of facts cannot co-exist with the pretense to a legal system.

**The Genealogy of the Show-Trials and the "Clean Torture" Behind Them**

What is the source of the confessional charade that the Chinese authorities are now pushing? I will argue that it is *not* a holdover from imperial-era China, but has much more recent roots: in the Soviet-Russian show trials and purges, as adopted and adapted in China under Mao. Surprisingly, only just a little bit farther back, the roots can be traced to European and American modern police forces; and to the modern Western emphasis on confession which itself derives in part from earlier forms of



thought control deployed in the Christian tradition.

It is easy to note multiple recent elements of foreign inspiration, in the choreography in the current practices: The orange jump suits of the students targeted in the case of the Beijing-based ethnic Uighur economist-academic Ilham Tohti<sup>44</sup> may evoke the infamous US extra-legal camp at Guantánamo, and the practice of displaying the victims behind bars in cage-like structures is likely borrowed from today’s Russia, where this has become *de rigeur* in recent years in politically motivated cases. Also, recent years’ U.S. torture practices, “black prisons,” and extra-legal prison camp at Guantánamo have of course been very closely watched by the Chinese government, and it seems clear that these U.S. policies have helped legitimate Chinese practices.<sup>45</sup>



**One of Ilham Tohti’s students “confessing” on TV, in orange vest, and in a Russian-styled cage. Screenshot from Chinese TV (RFA 2018). (RFA, Uyghur Service. April 11, 2018. Xitayning Têléwizorlashturulghan Mejburiy Iqrar Qildurush Körünüşliri Eyibleshke Uchridi. <https://www.rfa.org/uyghur/xewerler/mulahize/xitayda-jinayetchi-04102018153743.html?encoding=latin>)**

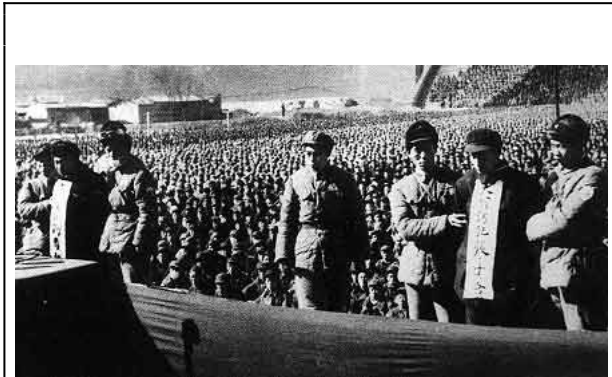


**Taiwanese men accused of illicit phone scams deported from Kenya, arriving in China in Guantánamo-style black hoods. Screenshot from Chinese TV (from CNN 2016).**

The recognizable American and Russian references in the current repertoire of Chinese inquisitors are obvious, and have their own logic. But what is the deeper genealogy of these practices?

First, the wave of staged confessions choreographed for TV clearly is also a revival of earlier Chinese Communist practices of forced self-incrimination. The already-mentioned “self-criticism” (finding, announcing, and denouncing one’s own faults) was used internally by the Communists long before their victory in 1949,<sup>46</sup> and Chinese Communist politicized justice seems to have been based on this, establishing a pattern in which the accused was forced to confess and write self-criticisms, then paraded for public denunciation sessions — which the victims were often forced to attend in a humiliating pose, while carrying signs spelling out their designation as class enemy, criminal or traitor; often with their name crossed out with a big X. This feature was also used until recently in truck parades of prisoners en route to the execution grounds — but not in the recent TV confessions, which also no longer include

elements like the mass denunciation meetings or executions arranged in sports stadiums or the like, but they are instead arranged as individual confessions before TV cameras, and then disseminated.



**A display pattern is created: The 1952 public denunciation of Liu Qingshan and Zhang Zishan. (From *An Illustrated History of the Communist Party of China* [n.d.]).**

In the new People’s Republic of China, the first mass show trial for “enemies of the Party” was arranged in 1952, featuring officials accused of corruption. Later, in the extreme versions deployed during the Cultural Revolution, many victims were tormented to death in “struggle sessions” (interrogations), at the hands of activists or mobs.<sup>47</sup>



**Struggle session during the “Cultural Revolution.” (From Hayoun 2012/ifeng.com).**

The distinctive characteristic shared across these periods is that political dictates determine the outcome of the “proceedings,” not the examination of evidence, within a legal procedure. This is one key aspect shared with today’s staged confessions.

Another key aspect shared across several periods of recent history is the use of forms of torture to coerce confessions without visible scars, which would hurt the credibility of the show. Where does this aspect come from?

In his masterful overview of the genealogies of modern torture around the world, Darius Rejali identifies the genesis of what he calls “clean torture.” These are torture techniques that break victims but renders them publicly presentable. Rejali traces this “clean torture” to modern bureaucratic origins, a “banality of evil” of its own: It arose from within the police forces of modern Western European countries (Britain, France, etc.) and the US, in the late 19th and early 20th century.

The police wanted those they arrested to be the culprits, and consequently coerced their confessions to show a high rate of efficiency.<sup>48</sup> Since the work of the police would

be suspect if the arrested appeared in public court with visible scars of torture, or if they reneged on their confession, police interrogators developed a set of techniques to coerce and sustain confessions.

This involves the regime we have encountered in today’s China, namely the alternation of isolation and interrogation, physical ordeals such as being forced to stand for extended periods or the use of electric shocks, as well as various rewards (such as food, sleep) and punishments (withholding food, sleep). Together with psychologically persuasive interrogation techniques (including threatening more or less jail time or execution, or by threatening harm to loved ones, friends or colleagues if the victim resists), this eventually breaks the accused and makes them confess. In order to prevent the victim from reneging on the confession in court, where an honest, credible confession is regarded as very important, clean torture may be taken even further, to persuade victims to embrace, in their own minds, an elaborate and believable story to back up their confession (not just out of fear of more unbearable torture).

This regime still has parallels in Western police practices today, including the US — although the freedom of expression and freedom of the press makes it much more likely that such abuse against a suspect will be exposed, and punished, and that it will be unlikely to be deployed against political opponents (or “dissidents,” since dissent is no crime).<sup>49</sup>

However, it does occur. The most famous U.S. case of torture confessions is no doubt the “Central Park Five,” who were persuaded, through such tactics, to confess to a rape, of which they were innocent. A recent documentary reveals the tremendous psychological agony of several of the accused who were made to internalize the belief that they were guilty.<sup>50</sup>



**One of the “Central Park Five” suspects on display for the cameras, in 1990. In the US, unlike many rule-of-law countries, a suspect’s image and identity are routinely displayed to the public even before conviction (TV screenshot from the documentary film, *The Central Park Five*; see References).**

There is a substantial, and horrifying, body of research on the psychology of how victims of “clean torture” can be made to embrace and reproduce surprisingly detailed narratives of heinous crimes they did not commit, crimes planted by police for the purpose of “solving” the crime with the person they happen to have arrested (as in the Central Five Park case, see Fig. 11).<sup>51</sup>

The main difference is, of course, that in China, as in the Soviet Union earlier, “clean torture” victim’s forced confessions put on public display are orchestrated for political reasons, to suppress and deter dissent. They are not merely extracted from the criminally accused in the hands of police interrogators determined to bolster their aura of infallibility.

This is where, in my view, “clean torture” entered a different dimension: First in the Soviet Union, where it was first adopted by a Communist regime, and then exported from there to Soviet client regimes in Eastern

Europe,<sup>52</sup> to China, North Korea, and elsewhere.

Contrary to common perceptions, Rejali demonstrates that “clean torture” was *not* invented by Soviet or Chinese Communist regimes but merely adapted by them, likely by direct inspiration from Western police forces by way of early 20th century Russian revolutionaries jailed and abused in Western Europe (though little is known about the exact genealogy of this adoption and adaptation).<sup>53</sup>

As is well known, some U.S. soldiers captured by China in the Korean War were made to publicly confess, and denounce their home country. This was widely rejected by outsiders as Communist “brainwashing,” and prompted American investigations into what methods had been used.<sup>54</sup> The U.S. military seems at first to have expected something exotic would come to light, but concluded (publicly, at least) that there was really nothing new — and they were right.

In fact little was added in China to the already existing array of clean torture measures: Even the ideological indoctrination and the associated mobilization of cellmates as a co-correctional force, urging self-incrimination and confession in fellow victims, had all already been developed as part of the Soviet repertoire.<sup>55</sup> The methods were not fundamentally different from Soviet methods, and neither was the purpose, formulated according to Communist teleology — disregarding victim’s rights for the sake of the Party’s (or, in effect, the Party leader’s) cause, and targeted against political opponents.

Much later, in about 2002, the U.S. re-introduced a similar set of interrogation procedures at its Guantánamo detainee camp, and then, too, some critics suggested it had been copied from Communist China.<sup>56</sup> But the historical truth is rather that “clean torture” was first invented by modern Western

European and U.S. police forces, and later adapted in Russia and China for purposes of political repression. What goes around...

Here it is intriguing to note, with Rejali (who, however, provides no explanation for the fact that the Nazis, who were masters of torture, had no use for spectacular political “show trials”) that even though the Nazis had long been familiar with Soviet propaganda techniques,<sup>57</sup> virtually no such show trials seem to have been held in Nazi Germany.<sup>58</sup> The Nazis used torture mostly to try to extract information, not to obtain confessions for a public spectacle.

In this, I would argue that the Nazis’ judicial regime more closely resembled imperial-era Chinese justice, where torture also seems to have been deployed mainly in the belief that it could extract the truth. Neither in the Nazi or in the imperial Chinese system was there any arrangement for in-court false confessions extracted and rehearsed by means of torture. If imperial Chinese officials were discovered to have overstepped the regulations on torture, and overused it to get false confessions, they might even be demoted or exiled.<sup>59</sup> (The imperial-era Chinese display of public torture and execution of *convicted* prisoners *as punishment* was a different story: Not confession for propaganda purposes, but public punishment as a deterrent).

It is thus primarily to the modern Soviet model, and not mainly to Chinese tradition, that we can trace the Chinese Communist confessional style, now revived as today’s televised confessions.

Why this heavy investment in show trials, with their manifestly false confessions? I believe the answer is found in the just-stated difference between the Communist states and Nazi Germany. The Nazi concept of a master race, destined to rule over inferior others, in effect rendered unattractive or even meaningless any educative and corrective propaganda directed



either at the excluded others, or at the “dregs” of one’s own society.<sup>60</sup> Such people were beyond salvation.

In contrast, the Soviet and Chinese Communist teleology of progress is explicitly “internationalist” and redemptive and theoretically has no place for racism.<sup>61</sup> The mission of the Party, as the vanguard of humanity as a whole, is to “educate” the population in service of a socialist future, one which simultaneously seeks to guarantee the expansion of its own power. Thus there is preaching and proselytizing, and show-trial victims are recruited as educative props for this, regardless of individual guilt of those targeted. The ends justify the means.

It was this ideology that engendered the Soviet show trials. This is clear even from Lenin’s instructions for the very first show trial, in 1922, after it was proposed to him by Dzerzhinsky — the founder of the Soviet secret police. The target was the Socialist Revolutionaries, a rival leftist group. Lenin approved, and urged that the trials be “noisy, educative model trials.” The judges would not decide the outcome independently, nor would verdicts be based on any law codes. Rather, they followed Party directives. Lenin wanted the staged trials accompanied by dramatic press coverage, to achieve an “enormous educational significance.” Street demonstrations were organized to denounce the accused and support the verdicts.<sup>62</sup>



**The judges sit for a photo at Lenin’s first show trial, in 1922 (from Jansen 1982).**

Stalin later perfected this format, not least by embracing the new medium of film (Fig. 13). Its crescendo was the 1936-38 public trials of Stalin’s potential rivals. They began with clean torture and ended with the execution of the accused — though only after stunning the world with their self-denouncing and shocking confessions from the revolutionaries, to have been enemies of the revolution all along. The “clean torture” program deployed for these show trials closely resembles the scheme discussed above.<sup>63</sup>



**Filming the 1930 “Industrial Party” show trial of Soviet economists and engineers.**

**(From Cassidy 2000, 171).**

The precise story of how the clean torture program and the show trial were transmitted to China remains unclear, but can be traced to the Chinese who made the Soviet Union their model in the 1920s and 1930s, and who witnessed Lenin's and Stalin's show trials. Klaus-Georg Riegel identifies Sun Yat-sen University in Moscow during 1925-1930, where both Chinese Nationalists and Chinese Communist revolutionaries studied, as a key site of the transmission of the Soviet-style approaches to extinguishing heresy by means of criticism-and-self-criticism campaigns.<sup>64</sup>

But as for the clean torture program itself, it is likely that the transmission took place after Stalin's break with the Nationalists, and then via direct links between Soviet and Chinese Communist police and secret police, probably in the 1940s and 1950s.<sup>65</sup>

### **East Asian and European Confessional Traditions**

The use of forced confessions in Russia, as in the West, in turn cannot be separated from earlier Christian traditions of demanding confessions from "sinners" so as to purge heresy, and Satan. Recent Chinese developments, though based on the Soviet model, also cannot be separated from China's own older intellectual traditions, such as the emphasis on self-cultivation and self-transformation, which connects with self-criticism. But I believe the most important such aspect is the performative aspects of "imperial" Confucianism.

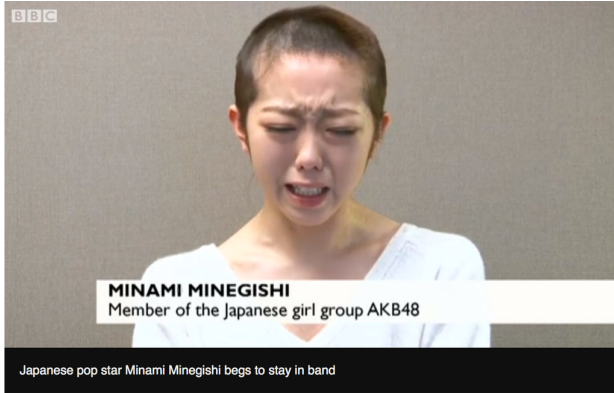
This is the ideology of the emperors, in which power is organized as the self-declared exemplification of virtue, which demands loyalty and obedience from patriarchs and kinsmen to the imperial authorities — which, in turn, are infallible, because in harmony with

the cosmos. This ideology also emphasizes extending power by example, which ideally attracts people to submit without a fight (although people are also often subjugated by violent conquest). The emperor, who mediates with Heaven, is the most important such example, but his officials also count, and this is why their self-cultivation is important.<sup>66</sup> As mentioned, negative examples may also be set, as in the public punishment and execution of "degenerate" elements (such as rebels, above all). The key link between this age-old past and today's confessional regime is found in this convergence of old and new ideologies of missionizing and educating by example.

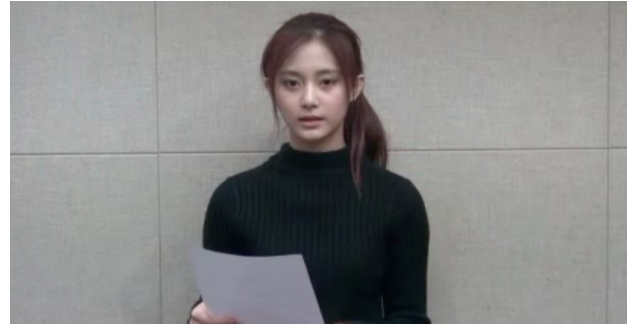
As mentioned, contemporary China's staged confessions did *not*, as one might think, directly emerge from its imperial past,<sup>67</sup> but was an adaptation of the Soviet style — still, it was imported into a context of earlier Confucian traditions that remain equally important in neighboring countries.<sup>68</sup>

In today's South Korea and Japan, with democratic politics (free elections, press, speech), there are obviously no show trials of political prisoners, as in China. However, not only is there widespread police torture of criminal suspects, to force confessions for the purposes of modern-bureaucratic efficiency as in the West and elsewhere,<sup>69</sup> — but there's also a related ritualized public apology format which subordinates the offender to the collective, to parents, to company and country.

Here are three brief examples of this type of self-staged confessional apology:



**The Japanese singer Minami Minegishi in 2013, with a shaven head signaling contrition, apologizing for having visited a boyfriend, an act prohibited by contract obligations set by her band and its producers. (Broadcast on the pop group’s website; screenshot from the BBC)**



**Chou Tzu-yu, a 16-year old Taiwanese member of the South Korean girl band “Twice” who was made (likely by her sponsoring company) to apologize Chinese-style, for waving a Taiwan flag in a music video. The apology sparked a backlash in Taiwan, where netizens compared the scene to ISIS victims being made to dig their own grave on camera, helping to make a final “hostage video” before being executed. (Screenshot from Youtube)**



**The Japanese politician Nonomura Ryutaro, elected member of a Prefectural Assembly, over-doing the format by crying too much at a press conference (2014), apologizing for corruption. (Screenshot from Youtube)**

The last one, from Taiwan, has a Chinese connection and more closely mimics the somber atmosphere of terror and victimization that pervades the mainland Chinese examples, even though this victim was not disappeared and held incommunicado until broken down. Rather, it represents an entertainment company enforcing something similar merely by persuasion, and possibly threats to disrupt the singer’s career.

The examples from Japan and Taiwan/Korea are of course only barely comparable to the drastically more serious Chinese cases. However, they do suggest a similar confessional format of public subordination to the collective as defined by a governing authority. They are similar in ways that are both modern and evocative of a distinctive East Asian confessional tradition. Clearly, this deserves further research.<sup>70</sup>

As for the Soviets, Klaus-Georg Riegel and other scholars point to the direct continuities between the new “political religion” formed in the Soviet Union, and the Christian faith it displaced.<sup>71</sup> Other scholars have identified key differences between Western European Christianity, where confessions became private, and Russian Orthodox practices where they were public<sup>72</sup> — or *made* public, by the tsars, who wanted to hear the confessions of real and imagined conspirators.<sup>73</sup> At the same time, for the Russian Communists, at least equally important was the 1864 tsarist legal reform that created the only tribunal for free speech available in society: The secular public trial, where the defendant for the first time, was allowed to speak. This lent itself to self-expression, and on inheriting this modern arrangement, Lenin and Dzerzhinsky saw its potential for broadcasting forced confessions which they themselves could control and harness for their “educative” purposes.<sup>74</sup>

This seems like an abortive genesis of something like the individualistic Western self, which Michel Foucault argued was shaped by the Christian confession in the submission to inquisition, and to the compulsory confession of one’s sins. Foucault argued this passed through a “verbalization,” that he suggested would (from the 18th century onwards) open towards the possibility of new forms of self-definition which would allow us “to constitute, positively, a new self. To use these techniques without renouncing oneself.”<sup>75</sup>

Not quite so in Russia, as explained by Kharkhordin (1999), and not quite in China either, where the establishment of such a space for self-definition has been thwarted, and remains heavily constrained today,<sup>76</sup> — even as, *at the same time*, China and Russia now share in the global-capitalist world’s “selfie” obsessions and spectacles of online self-“live-streaming” put on by millions of ordinary netizens on a scale that soon may eclipse even TV, as well as provided-content internet

entertainment. While it gives the appearance of an almost hedonistic liberty, it also remains strictly supervised and policed, to ensure it remains apolitical — a new form of obedient individualism.<sup>77</sup>

We should note that Foucault’s original observations on the genesis of the Western individual as emerging from a history of forms of compulsory confession is helpful for understanding these new Chinese forms of self-centered expression and self-exhibition on the internet.<sup>78</sup> And yet, the bulk of Foucault’s work, tracing the “techniques of the self” across the centuries in their Greek and Catholic manifestations, can’t easily account for the Chinese and Russian political show trials.<sup>79</sup> This instead demands a history that acknowledges *both* the interconnected modernity across “West” and “Orient” *as well as* their historically distinctive settings; it also needs a different theory of power that explicitly identifies the specific impositions of the powerful people involved, as well as their concrete, purposeful acts of subjugating victims and making the public believe the performances and fear the authority that staged them. Only with such a theory might we understand today’s coerced TV confessions — in which the Party-State’s choreographers may even, in an attempt to align its spectacles with our new era, be trying to emulate the intimate, “authentic”-seeming and individualistic format of self-confessional live-streaming.

### **In Conclusion: Inspiration from Kafka**

It is “K,” the main protagonist in Kafka’s most famous novel, *The Trial*, who enables both the trial proceedings against him, and his eventual punishment and execution — neither of which can take place without the appearance of guilt. And K provides this element himself, through his self-incrimination, engendered by self-doubt itself provoked by the shock of the original accusations, however vague and implausible they seem.



Self-blame is the first crime, suggests Agamben (2008), drawing on Davide Stimilli's identification of Kafka's character K as a slanderer slandering himself. Yet this first move can be provoked. It is this logic of *mo, xu you* (if there isn't [a crime], then [we] must have one) that today's Chinese authorities are deliberately fabricating, when they selectively detain and coerce people, like K, to perform self-slander in public — a performance presented both as the justification for the detention and the punishment of the victim, and as a spectacle meant to deter other freethinkers.

Franz Kafka's posthumously published *Trial*<sup>80</sup> is indeed very relevant here. Written in about 1914, it is the story of a bank employee, named only by the initial K, who is abruptly made to realize he is presumed guilty of some crime. Hoping at first there is a mistake, he submits to the presumption, and to the opaque court procedures in the course of about a year, while futilely demanding to find out what the charges are. He is never told — not even at his execution, to which he also submits almost voluntarily, though ambivalently, as if still hoping for some last reprieve.



**Youtube screenshot from Orson Welles' film version of Kafka's *The Trial* (1963).**

Many commentaries have depicted Kafka's work mainly as a lament for the anguish of the lonesome, atomized individual of modern society. Yet when Kafka himself insisted, albeit in a different context, that "I am Chinese," I believe he offered a hint of his deeper concern with general forms of authority that cannot easily be reconciled with a reading that his theme is restricted to Western modernity.<sup>81</sup>

One key aspect of *The Trial* is its exposition of the false ideological naturalization of unequal authority as something necessary and unavoidable, and of how that ideology colonizes the minds of everyone in society, to the point that this state of affairs becomes invisible to them, and they go along, in agony but unaware of any alternatives.

Kafka's story *The Building of the Chinese Wall* (written in 1917 and published posthumously)<sup>82</sup> shows a China characterized precisely by such a system of inequality of power in which the lowly wall-builders are never given any explication of why the wall is being built the way it is, and cannot question the motives: They are simply expected to accept the arbitrary power and commands of the empire. They have no say. As in the society of the *Trial*, everyone in this fictional China accepts this state of affairs as a given, a natural state of affairs which cannot even be addressed.

But we must note that in writing it, Kafka is exposing it. Hannah Arendt, in her 1944 reinterpretation of Kafka's *Trial* in its setting of the pre-World War I Austro-Hungarian bureaucratic empire,<sup>83</sup> invites us to consider K's response to the prison chaplain's admonition not to demand to know the truth, but to accept what is happening as "necessary." K replies, "A melancholy conclusion: It turns lying into a universal principle." This easily could have been spoken by one of the show-trial victims awaiting execution in Stalin's prisons, or by those

making contemporary forced confessions in China.

Arendt writes (pp. 71-72) that “... no man can expect justice from judicial procedures where interpretation of the law is coupled with the administering of lawlessness,” that is, lawlessness as in the arbitrary framing and intimidation of a man for the purpose of serving as a suspect for other purposes, using the victim merely as the means of other ends. The various officers conducting K’s trial are the faithful functionaries of such an imagined “necessity,” which, she argues, was an ideological formulation prevalent in Kafka’s time — and a premonition of what was to follow in the rest of the 20th century, not long after his death in 1925 — that we are all subjected to a grand process to which we must submit; a “universal principle” which is, says Arendt, dressed up as “divine law.”

Kafka’s tales serve to expose this ruse, and his genius lies in his simplistic-seeming depiction, frighteningly accurate, how we all, left alone like K in the face of this system, would succumb to the dictates of the torturers *even before the torture starts* (as with K in *The Trial*).

Kafka was very keen on considering torture and its threatening presence as the means of enforcing conformity, and enticing confession.<sup>84</sup> Faced with the threat of such intimidation, anyone could easily become confused, and like K, in the face of massive conformity all around us, would “choose” to conform as well, by accepting the assigned guilt, like all those victims of no-touch torture and staged confessions I have discussed above. Those victims could be us — indeed, we could be next.

We must take Kafka’s prophecies very seriously, and we should take inspiration from him in rejecting these horrific staged spectacles, by exposing them for what they are and insist on the right to contest them and refute them. What is at stake is not merely the

legalistic aspects of the rule of law, it is also about nothing less than the condition of our space of self-definition, our existence as persons — whether we are to be reduced to stage props in some self-appointed authority’s scheme of false “necessity,” as in today’s Chinese show trials, or we may be able to constitute ourselves “positively” with dignity, “without renouncing ourselves.”

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[zhengxie weiyuan Zhu Zhengfu huyu, jianshao shenzhi quxiao rang fanzui xianyi ren shang dianshi renzui de zuofa. Zhu Zhengfu: xianfan dianshili renzui bu dengyu youzui \[Zhu Zhengfu, member of the Chinese People's Consultative Conference, calls for a reduction or even the abolition of the practice of criminal suspects being put on TV to confess their crimes. Zhu Zhengfu: Suspects confessing on TV does not mean they are guilty\]."](#)

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## Notes

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<sup>2</sup> *Bangkok Post*, Nov. 20, 2015. The Thai military government claimed ignorance; its leader, General Prayuth, angrily compared the Uighur asylum seekers to dogs (Coconuts BKK, July 10, 2015).

<sup>3</sup> For views of his empty apartment, with his medicines left arrayed on the table, see Oliver Holmes and Tom Phillips' chilling report on the Oct. 17 abduction, in *The Guardian*, Dec. 7, 2015. The apartment was revisited in the recent Swedish TV documentary, "Håll käft - eller

dö” [Shut Up or Die] (Sveriges Television, December 2016).

<sup>4</sup> The best summary of the circumstances is found in the recent report from Pen America (*Writing on the Wall: Disappeared Booksellers And Free Expression In Hong Kong*, November 2016). It includes references to other sources and news organizations that have consistently followed the events, such as notably *The Guardian*, and others such as the *Hong Kong Free Press*. I myself keep a running list of reports, now at 100 pages, which I share freely. Also see [here](#). I have myself known Ahai since the 1980s.

<sup>5</sup> See note 4.

<sup>6</sup> An incident that apparently did occur, but which apparently was already fully resolved at the time, but which was now dug up again, in accordance with the old Chinese adage that 莫须有 *mo, xu you* (“if there isn’t, then there must be”). See Bandurski 2016a; *Hong Kong Free Press* 2016a.

<sup>7</sup> Chinese Human Rights Defenders, March 3, 2016; Bandurski 2015a; *New York Times*, Jan. 21, 2016; *The Guardian* Aug. 11, 2014. On Jiang Jianguo, see [Bowenpress.com](#) 2016 (which cites a leak from unnamed sources).

<sup>8</sup> A detailed timeline is found in the report *Writing on the Wall* from PEN America.

<sup>9</sup> See the *Writing on the Wall* report; also *Quartz* Oct. 14, 2016; *The Guardian* Dec. 28, 2016.

<sup>10</sup> Boxun.com, 2016b. In comparison, in China, the draconian censorship machine rolls into action even just to prevent the mere mention of Party leader’s accidental and minor speech gaffes (*China Digital Times* 2016b); also, there are rumors that the booksellers were disappeared because they planned a book that would mention the Party leader’s former girlfriends. None of this seems to fit with China’s new status as a confident great power.

<sup>11</sup> Cohen 2016.

<sup>12</sup> *Hong Kong Free Press* 2016c is a complete account. The Chinese authorities immediately started smearing him, but this does not appear to have hurt his credibility and integrity. It may seem incredible that the Chinese authorities dispatched him back to Hong Kong in this manner, but one must remember that because of the coercion they were submitted to, the vast majority of other disappeared victims have indeed observed the silence demanded of them after their “release” — including the three other booksellers, who have also been released back to Hong Kong but are apparently often made to report back on the mainland. Lam remains free in Hong Kong, but has worried about his future and suggested he might move to Taiwan, because of its democratic system.

<sup>13</sup> Lam Wing-kee continues to travel and to speak out (*Sinodaily*, Feb. 14, 2017; *Richmond News*, May 26, 2017).

<sup>14</sup> Such as those by the Swedish legal aid activist Peter Dahlin and other foreigners (see *China Digital Times* 2017, and note 10).

<sup>15</sup> Initially, both Gui Minhai and Lee Bo were reported “missing,” but after the home countries of the disappeared (Sweden, Britain, the European Union) voiced concern about these disappearances, and because of widespread concern in Hong Kong that China was now scrapping the One Country/Two Systems promise, when paraded on TV the victims were made to say they had traveled voluntarily. These statements are of course not credible. The Chinese authorities have refused to reveal details of the abductions, which remain unavailable.

<sup>16</sup> Compare the story of the agony of the parents of a young female legal assistant

apprehended along with her legal aid colleagues (*The Guardian*, Jan. 24, 2016).

<sup>17</sup> This is one of the most common, and also most effective, forms of “clean” torture. For a recent detailed testimony of how it is used, see Xie Yang et al, 2017.

<sup>18</sup> Sweden, in Gui Minhai’s case his sole citizenship; and, Britain, in Lee Bo’s case a dual nationality. For the disturbing implications of these gross violations of international law, see *The Economist*, Nov. 19, 2016.

<sup>19</sup> After Lam Wing-kee broke free, the authorities tried to counter his revelations with an alternative video of him getting a haircut, at ease and smiling, while in detention. Note that confessional victims are not tortured in ways that leave bodily scars, as with ordinary criminal suspects (see note 27, and below on clean torture). In the case of Party and government officials, note that the black hair-color that Communist Party officials use to cover up any gray hairs, are denied the victims, to make them appears weak and spent; even Zhou Yongkang, the first Communist Party politburo member to fall out with the top leader since Mao’s times, appeared at his trial with a full head of white hair instead of the pitch black hair typical of Party leaders (*Washington Post*, 2015; BBC, 2016b).

<sup>20</sup> For example, in the case of Gui Minhai, it was widely noted that his T-shirt changed midway through his performance (*South China Morning Post*, Jan. 19, 2016). It could also be that this was intentional sloppy editing, to display the hubris of the filmmakers.

<sup>21</sup> This is typically closely orchestrated as well, with supporting commentary from newspapers released only after the TV spectacle has been put on. The ultra-nationalist *Global Times* seems to have jumped the gun in denouncing prisoners, earning reprimands from central propaganda authorities (Boxun.com, 2016a; *China Digital Times* 2016a).

<sup>22</sup> See [Hong Kong Free Press](#), 4 March 2017; *New York Times*, May 8, 2017.

<sup>23</sup> *New York Times*, March 3, 2017.

<sup>24</sup> This is the current fate of the other three Hong Kong bookseller colleagues of Gui Minhai, who also confessed on TV. The most egregious Chinese case may be the disappeared legal assistant who was said to have been “set free,” after recanting, but then could not be found by either friends or family (Bandurski 2016b). See also RFA, May 10, 2017, for an interview with the exiled wife of the “freed” lawyer Xie Yang.

<sup>25</sup> Several useful lists of TV confessions have been compiled, f.ex. Yoon 2014; *The Guardian*, Aug. 11, 2014; *New York Times*, Jan. 21, 2016; *Quartz*, June 22, 2016; Chinese Human Rights Defenders 2016; see also Bandurski 2015a; Teng Biao 2016 (in Chinese), and on British journalists intimidated into similarly “confessing,” see *South China Morning Post*, March 3, 2017. We can also compare the sustained Chinese intimidation exerted on Norway (the country!), which successfully made its government “confess” using expressions *similar to that used in the TV confessions* (ChinaFile, Dec. 21, 2016).

<sup>26</sup> Xie Yang 2017. On Xie Yang, also see references in note 22, 23, and 24.

<sup>27</sup> *Japan Times*, Oct. 4, 2015; Bandurski 2015b.

<sup>28</sup> A clip of Wang Xiaolu’s confession can be found at [Hong Kong Free Press 2016b](#). [The HKFP Youtube channel](#), offers a series of similar clips with other forced confessions, under the heading “State TV confession.” They make for a grisly spectacle.

<sup>29</sup> BBC 2016a; Bandurski 2016c.

<sup>30</sup> See, among many accounts, Wu and Beken 2010; *Washington Post*, April 20, 2013; Amnesty International 2015; *New York Times*, Aug. 10, 2015; Botsford 2016.

<sup>31</sup> *Washington Post*, April 20, 2013. In 2015, the conviction rate was 99.92% (*Japan Times*, March 13, 2016). On how ordinary criminal public trials and sentencing rallies serve as “sites of expressive punishment and public education,” see Trevaskes 2004.

<sup>32</sup> Xinhua 2005; *Taipei Times* 2005; 2012; RFA 2013.

<sup>33</sup> There is a large literature on these efforts. Note that to bolster confidence in the system, the courts have recently even started a program of live-streaming their proceedings! (Cohen et al 2016).

<sup>34</sup> Caijing, August 13, 2015; cited in Network of Chinese Human Rights Defenders et al, 2015, p. 9. The most famous case is the 1996 wrongful execution of the 18-year-old Huguiltu, in Inner Mongolia, the discovery of which led to the punishment of no less than 27 officials involved (*Japan Times*, Feb. 1, 2016).

<sup>35</sup> The presumption of innocence is only implicit in Chinese law, but given the widespread use of torture and false confessions, top lawyers have argued it should be made explicit as the letter of the law (South China Morning Post, March 6, 2015; also see Peng Ling 2009).

<sup>36</sup> *Wall Street Journal* 2016. (The organization Reporters Without Borders has urged a boycott of China’s state TV and media as complicit in propaganda exercises).

<sup>37</sup> *Xin jing bao*, March 2, 2016; see also Supreme People’s Court Monitor 2015; Network of Chinese Human Rights Defenders et al, 2015; Botsford 2016.

<sup>38</sup> On Jan. 14, 2017, the Supreme Court’s Chief Justice said the courts must be subordinate to the Party (*New York Times*, Jan. 18, 2017), in stark contradiction with multiple earlier statements from top officials, just a few years back, in favor of an independent judiciary (see *South China Morning Post*, Aug. 29, 2013; and October 29, 2013).

<sup>39</sup> Sapio 2008; 2017. (Sapio argues that that the *shuanggui* system simultaneously figures inside and outside ordinary law).

<sup>40</sup> *Hong Kong Free Press* 2016d. Note that interrogators under such systems easily get caught in a self-defeating process (as when thousands of Stalin’s interrogators and torturers were themselves tortured and killed; cf. Rejali 2007).

<sup>41</sup> As exemplified in the recent case of the lawyer Xie Yang in which interrogators sought to trump his complaints by presenting themselves as acting “on behalf of the Party center” (Xie Yang 2017).

<sup>42</sup> BBC 2016b, on the series “Yongyuan zai lushang” (Always on the Road).

<sup>43</sup> In the absence of transparency and independent news media, such anti-corruption campaign also will enable accusations made for political purposes, or personal revenge, and vendettas.

<sup>44</sup> *New York Times*, Sept. 26, 2014. Ilham Tohti was a scholar and a moderate voice in the increasingly fraught Uighur-Han Chinese relations, who was cruelly sentenced to life in prison, in 2014. His students, in turn, were disappeared, manipulated, and then put on show behind bars in orange jump suits to denounce their teacher (who was not himself forced to make a pretrial confession — perhaps in his case, his jailors felt the outrageous punishment was sufficiently intimidating).

<sup>45</sup> Post-9/11, US authorities struggled to semi-secretly justify the reintroduction of torture, but these efforts were largely rejected by the courts. In 2016, however, there was a renewed, public embrace of torture by multiple US presidential candidates — one of whom was elected President! (see *The Economist*, Feb. 13, 2016; also Sullivan 2007). The president has



provisionally abstained from trying to reintroduce torture.

<sup>46</sup> See f.ex. Whyte 1974; Riegel 1985, and note 61.

<sup>47</sup> See f.ex. MacFarquhar and Schoenhals, 2006 (Ch. 15, etc.); Wang Youqin 2004.

<sup>48</sup> Rejali 2007, 67; 69-78.

<sup>49</sup> F.ex. the infamous police torture cabal in Chicago which ran between 1972 and 1991, which was partly inspired by Vietnam War prisoner abuse techniques, and apparently covered up knowingly by elected politicians. It was exposed in local media and the ringleader policeman was eventually tried and convicted. Ralph (2016) interviewed 100 of the torture survivors, for a forthcoming publication.

<sup>50</sup> See the documentary film *The Central Park Five* (2013). The five were exonerated in 2014. Donald Trump demanded the innocent men be executed, even before their trial in 1989-90; in 2016, he again insisted the five legally exonerated men are guilty, displaying his contempt for the judicial process (*The Guardian*, Feb. 17, 2016).

<sup>51</sup> The legal literature on such issues in the West, and in China, largely focuses on how the practices could be eradicated by means of independent supervision of interrogations, etc. See f. ex. Garrett 2010; Kassin 2015; on China, see f. ex. Peng Ling 2009; Wang Junxiang et al 2009; He Jiahong et al 2013; He Jiahong 2015; Li Xunhu 2016.

<sup>52</sup> Hodos 1987 details the coming of Soviet-style purges to its new empire in Europe.

<sup>53</sup> Rejali, personal communication.

<sup>54</sup> Biderman 1957; Rejali 2007, 69 ff.

<sup>55</sup> Carmichael 1976 (Contra Rejali 2007. But see Rejali 2007, 83-89; he also compiles a list of the techniques (pp. 553-556), which would be combined into different *regimens* in different countries.

<sup>56</sup> *New York Times*, July 2, 2008; again see Rejali 2007.

<sup>57</sup> Rejali 2007, 90; 91-107. Note that Soviet propaganda was built up before both Italian fascism and the Nazi movement in Germany; both fascists and Nazis were intensely aware of Soviet techniques. The first Soviet show trials were organized by Lenin in 1922 (Jansen 1982), and were followed by others in the 1920s and 1930s, not least when Stalin used them in 1936-38 to put to death much of the old guard of his and Lenin's Party.

<sup>58</sup> Not even in the summary *Volksgesichtshof* (the extra-ordinary "People's Court" established by Hitler), which would have been a suitable venue. The accused were not made to speak lies, rather, they were prevented from speaking before being taken out to be shot. The court proceedings thus seemed to have had the purpose only of preserving a very thin veneer of "civilization," much as the Nazis gave torture the name "verschärfte Vernehmung" — a euphemism identical to that used by the U.S. under Bush: "enhanced interrogation methods" (Sullivan 2007; cf. Rejali 2007, 77). It is a twist that continues today when many U.S. officials and media refuse to call waterboarding "torture".

<sup>59</sup> See Conner 2000; Park 2008; Brook et al 2008, 41-50. (Note that here I differ from Rejali (2007, 84), who seems to repeat a misconception about imperial-era Chinese cruelties, missing the distinction).

<sup>60</sup> The US also has no persistent tradition of staging confessional spectacles (there is, for example, no display of US-"brainwashed" Al Qaeda sympathizers confessing their errors). Historically speaking this may also, at least partly, be due to the influence of master-race ideas (which, for sure, co-existed with colonialist and religious missionizing, as in the tutoring

of the Philippines). Hitler admired America as a master-race pioneer, and had many admirers there (cf. Kakel 2011; strangely, a similar mutual sentiment echoes once again today, for Putin’s “white,” ultra-nationalist Russia).

<sup>61</sup> It is true that in the Communist concept of class enemy (see Schoenhals 2007), there is something akin to the concept of immutable races.

<sup>62</sup> Jansen 1982, 27-28; 141 ff.; also Cassiday 2000. Note also the literature on how Soviet theatre, arts, and media were coopted for the same purpose (f.ex. Cassiday 2000; Wood 2005; Clark 2011). I am not aware of a similar literature on China.

<sup>63</sup> Carmichael 1976, 151-54; also Rejali 2007, 80-81. In Soviet parlance, the “clean” torture program was called “cultural.” Aspects such as sleep deprivation with continuous “relay” interrogation, as in China, were key elements. Physical beatings were also used, but *visible* harm to show-trial candidates was avoided.

<sup>64</sup> Riegel 1985, 155-177; Riegel 1999; see too Yu Miin-Ling 1995, 222 ff.; 291. Yu says the Party experience was an “unintentional curriculum” which these Chinese students brought home to China and which set them apart from their brothers and sisters who had studied in Europe, or in the US.

<sup>65</sup> Rejali 2007, 83-84. More research is necessary on this point.

<sup>66</sup> Riegel 1985 notes the importance of Confucian-inspired self-cultivation in the Chinese adaptation of Soviet lessons for Chinese revolutionaries.

<sup>67</sup> See note 59, above.

<sup>68</sup> Authoritarian-Communist North Korea and Vietnam, both of which I leave out here, are more like China. Note too that in the Cold War era, in 1976-77, anti-Communist Singapore and Malaysia also staged their own similarly organized TV confessions from foreign journalists made to admit Communist ties (see Lent 1978, who concludes by asking, “What is one to make of a government that in the name of fending off a communist threat uses methods that are precisely those common to most communist governments?”). Note too that TV was a relatively new medium. Its use must have been watched with interest by mainland Chinese authorities.

<sup>69</sup> Police torture of criminal suspects has long been widespread in both contemporary Japan and South Korea, and the conviction and confession rates actually approach those in China under Communist rule. On Japan, see f.ex. McCormack 1984; Futaba 1984; Carney and Johnson 2015; also Al Jazeera, Oct. 6, 2016.

<sup>70</sup> Inevitably, this must also involve the equally deeply influential Buddhist traditions. Marran 2013 is a study of how the Buddhist confessional format in Japan was transformed into personal self-definition, in modern literature, and so on (similar to the role of Christian confession in the West, as suggested by Foucault; on which see below).

<sup>71</sup> See, in particular, Unfried 2006; Riegel 1985; Kharkhordin 1999.

<sup>72</sup> Kharkhordin 1999; see too Foucault 2014.

<sup>73</sup> Kizenko 2007, 7-8.

<sup>74</sup> Cassiday 2000, 28 ff.

<sup>75</sup> Foucault 1988, 49, previewing his never-published book, “The Confessions of the Flesh,” on which also see Foucault 1980, 214-217; Foucault 2014; Tell 2010.

<sup>76</sup> Cf. Barmé 1990.

<sup>77</sup> Slate.com 2016.

<sup>78</sup> Note that Guy Debord’s theory of the “society of the spectacle” may be equally important here, in revealing the delusional freedom of the individual consumer, as a “permanent opium war” of commodification waged with the hypnotic powers of advertising media (Debord 2014 [1967]). The Italian philosopher Giorgio Agamben — inspired by Debord as well as by Foucault, yet diverging from the latter on many issues (including sovereignty and power) — develops Debord to investigate how people themselves become the mimicking pawns and co-enactors of the spectacle, thereby being reduced to the means of its ends (Agamben 2007, ch. 9).

<sup>79</sup> Having lived in 1950s Poland, Foucault understood the horror of Stalinism and showed this in his political activism, but he was unable to integrate it within his writings and chose to focus only on Western Europe and its purported Greek antecedents. (He studied Greek and Latin in school). See Plamper 2002 on Foucault’s unsuccessful grappling with Soviet issues; also, Kharkhordin 1999.

<sup>80</sup> Kafka (1999).

<sup>81</sup> On Kafka’s enigmatic and much debated comment (made to his fiancée Felice Bauer, on a 1916 postcard; cf. Kafka [1978], 594), often taken as inspired by his status as a member of a marginalized minority in the Austro-Hungarian Empire, see Wood 1996; also Canetti 1974; Lemon 2011.

<sup>82</sup> Kafka (1933).

<sup>83</sup> Arendt 1994; also see Danoff 2000.

<sup>84</sup> Agamben 2008, 17-20, argues that confession extracted by torture was introduced in Rome in the Empire, after the end of the Republic, and that the imperial Roman “inquiry into truth” linked torture and power in the format that continued in the Christian Inquisition — and into our times. Agamben also discusses how Kafka interrupted drafting *The Trial* to write his short story “In the Penal Colony,” about the botched use of a supposedly well-designed torture-and-execution machine, which leads to the death of the victim as a side-effect of the intended torture. Agamben concludes that this is how to understand the ending of *The Trial*.