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Confession and the Crime Control Model: an Analysis of Exonerated Death Penalty Cases in China

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Abstract
Confessions clearly have probative value when they are truthful. When not, however, they may lead to disastrous consequences. While the due process model provides procedural safeguards to ensure the voluntariness of a confession, under the crime control model, the reliability of a confession is the main emphasis, given its truth-finding priority. Two forces coexisted in China in the past three decades that warrant a close examination of the nature and goal of confessions: the impact of "strike-hard" campaigns and political pressure to swiftly crack down on serious crimes and the growing international pressure on human rights protections and China's steady progress in improving procedural safeguards for the criminally accused. Citing 103 wrongfully convicted death penalty cases in China from 1983 to 2012, this study examines two inter-related questions regarding coerced confessions: (1) the extent and characteristics of confessions and torture, and (2) the goal of extracting confessions through torture. This analysis sheds light on the myth of the truth-finding goal under the crime control model and discusses policy implications of China's current confession laws and death penalty reforms.

Keywords China · Confession · Crime control model · Death penalty · Exoneration · Police misconduct

Introduction

Studies have frequently found that a confession is the most damning indicator of one's guilt and police-induced confessions ranked high among all official errors in the criminal justice system (Leo & Ofshe, 1997). While the extent to which confessions are induced by police is unknown, approximately 15–20% of exonerated cases through DNA testing resulted from false confessions in the USA (Kassin et al., 2010). The form of police-induced confessions in the USA has transformed from the third-degree physical and psychological torture prior to the 1940s to largely psychological torture in the current time (e.g., the Reid interrogation technique) (Wald et al., 1967). This transformation has been facilitated primarily through

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a series of U.S. Supreme Court's rulings that tightened procedural safeguards (e.g., the Miranda warning, and the exclusionary rule).

The history of coerced confessions underwent three distinctive periods of time in the People's Republic of China (PRC hereinafter) after its initial thirty years of lawlessness and extra-judicial practices of coerced confessions, mass political campaigns, and public executions (1949–1978). The first period was from 1979 to 1995 when crime suppression through dual tracks of law enforcement and "strike-hard" campaigns marked an era of law construction. The second period lasted from 1996 to 2011 when more error correction mechanisms were set in place for crime control purposes to meet the demand of the economic reforms and the need for legal stability through procedural safeguards. In the third period from 2012 to the present, China witnessed the kickoff of an innocence movement, prompted by President Xi Jinping's directive "to make every individual sense justice and fairness in each case" and the public outcry for justice in high-profile wrongful conviction cases such as Nie Shubin and She Xianglin (Belkin, 2010; Wu, 2011).

Studies have long established that the confession rate is extremely high in China and police torture was the leading contributor to wrongful convictions (Chen, 2007; He & He, 2008; Huang, 2014; Lu & Miethe, 2003). Influenced by China's crime control model and its paternalistic, collectivist culture, the Chinese view on police torture and confessions remains ambiguous in the contemporary era. On the one hand, laws undoubtedly prohibit torture by the police; on the other hand, evidence obtained by torture is rarely challenged in court as confessions are highly regarded for their probative and corrective values in criminal investigation and rehabilitation and reintegration. Police torture is tolerated so long as confession-induced evidence is judged reliable. Within this context, protection of individual rights is trumped by priorities about truth-finding, crime suppression, and protection of collective interests and public safety. Given the seemingly indispensable role that confession plays in the Chinese criminal justice system and the frequent use of torture in a police interrogation, it is important to empirically examine the nature and characteristics of confessions and torture.

Drawing upon 103 exonerated death penalty cases, this exploratory study addresses the following: (1) the extent and characteristics of confessions and torture and (2) the goals of extracting confessions through torture within China's inquisitorial crime control model. Collectively, analyses to these questions shed light on police torture, extraction of confessions, and wrongful convictions. Policy implications on truth-finding and the crime control model are discussed in the context of China's ongoing death penalty reforms and the larger context of socio-legal research.

Crime Control Model and Inquisitorial System

Due process and crime control models, coined by Packer (1964), entail fundamentally different assumptions, goals, and the means of criminal case dispositions, particularly regarding police investigative power and confessions. The due process model aims to protect individuals' rights. Its core principle focuses on the concept of legal guilt that a guilty verdict can be reached only through proper legal procedures. Within this model, the administrative power is restricted, and the police and the prosecutors are required to investigate, examine, and interrogate the accused based on the principle of presumption of innocence. This model instigates multiple procedural safeguards to ensure accuracy and error correction, even at the sacrifice of efficiency (Packer, 1964).

In contrast, the crime control model gives priority to crime suppression and public order maintenance. Truth-finding is its primary charge (Goldstein, 1973; Packer, 1964). The fact-finding process, often being labeled as an assembly line, typically involves a series of routinized operations, whose success is gauged primarily by its tendency to move the case to reach a successful conclusion. Efficiency and finality under the principle of factual guilt, rather than error-correction under the realm of legal guilt, represent the hallmark of the crime control model. Often, an inquisitorial system operating under the crime control model affords law enforcement officers broad discretionary power with fairly limited challenges from the defense (Certoma, 1982; Goldstein, 1973; Packer, 1964).

Acknowledged by Packer (1964), both models are depicted as ideal types and they could coexist in any system. Differences, however, loom large from a comparative perspective. Compared with China, for instance, the American adversarial system can be viewed as resembling the ideals of a due process model more than a crime control model. A series of US laws and Supreme Court rulings attempted to level the playing field for the accused who typically have less power and resources than state agencies (Galanter, 1974), such as the Miranda warnings (e.g., *Miranda v Arizona*, 1966; *New York v. Quarles*, 1984), the exclusionary rules (e.g., *Wolf v. Colorado*, 1949; *Mapp v. Ohio,* 1961), and the voluntariness rule for legally admissible confessions (e.g., *Brown v. Mississippi*, 1936; *Blackburn v. Alabama*, 1960; *Colorado v. Connelly*, 1986). Coerced confessions in the U.S. are thus subject to legal challenges as a fundamental violation of individuals' rights (Thomas III & Leo, 2012), which serves as a stark contrast with that in China.

It is worth noting that our approach that examines the criminal justice institutional rules, procedures, and structures may not adequately address the inherent nature of criminal processing, in which the state's dominant and superior power and authority are coercive in nature. The degree and intensity of the state coercion may be reduced by introductions of procedural rights and safeguards, but involuntary confessions due to such coercion are unlikely to be prevented completely with these introductions of rights. For instance, it is evident from the American plea bargain practice that defendants calculate their odds and risks, rather than their innocence or guilt, when deciding if and how to make a plea (Caldwell, 2011).

PRC's Confession Laws and Political and Legal Context

China has a long history of an inquisitorial penal system in which physical torture was viewed as a necessary means to extract a confession (Gong, 2014; Hulsewé, 1955; Park, 2008; Wang, 2006; Yang, 2004). Since its founding in 1949, torture was banned in a series of governmental decrees and regulations in the 1950s,[1] though these rules were disrupted by lawlessness, mass political campaigns, and extra-judicial executions during the Culture Revolution period (1966–1976) when torture was routinely practiced. After ending the tumultuous Cultural Revolution, China embarked on its economic reforms and the open-door policy in the late 1970s. Below, three time periods are summarized to highlight the political and legal context of confession laws over time.

[1] Some of these decrees and regulations included: the 1950 Land Reform Law, the 1950 Regulation regarding People's Court Organization, the 1950 and 1951 joint Directives on dealing with anti-revolutionary crimes by the State Department and the Supreme People's Court, and the 1954 PRC Labor Reform Regulation. Further, in 1958, a ban on confession extraction through torture was mandated as one of eight disciplines for public security personnel, issued by the Ministry of Public Security (He, 2010).

1979–1995: Era of Law Construction and "Strike-Hard" Campaigns

After the Cultural Revolution, China began its law construction through promulgating and passing PRC's first Criminal Law (CL) and Criminal Procedural Law (CPL) in 1979. In particular, the 1979 CL subjected state functionaries to potentially seven years of imprisonment for torture causing bodily injury (Article 136), and three years of imprisonment for illegal detention and searches (Article 143).

The 1979 CPL provided specific procedural safeguards such as prohibiting confession extraction through torture and threat, inducement and deception (Article 32), holding judicial workers liable for intentionally fabricating, hiding, or destroying evidence (Articles 33 and 34), and requiring criminal investigations to rely more on evidence than confession (Article 35) and witness testimonies to be cross-examined (Article 36). In addition, the police need a detention certificate to detain individuals and notify family members about the reasons and location of the detention within 24 h (Article 43); the police shall interrogate the suspect within 24 h of detention and release the suspect immediately when detention is deemed inappropriate (Article 44); the police shall request approval from the procuratorate for an arrest within 3 days of detention with an extension of 1–4 days if needed; the procuratorate shall make a decision within 3 days. If rejected, the police may petition for a review of the procuratorate's decision but must release the suspect (Articles 48–49). Within 24 h after the arrest, the police shall notify family members of the reason of the arrest and the location of the suspect and interrogate the suspect (Articles 50–51). During interrogation, at least two interrogators must be present (Article 62); defendants must answer questions truthfully and are not entitled to a lawyer (Article 64). The police may detain a criminal suspect for up to 2 months before charging the suspect, and in extremely serious or complicated cases, an extension of unlimited time may be granted (Article 92). After charging, the police may collect/submit more evidence in supplementary investigations (Article 99). While defense lawyers had rights to review documents and meet and correspond with their clients in detention (Article 29), no timing of the meeting and correspondence was specified in the law.

While these codified procedures represented a sharp departure from the previous lawless era, the 1979 CL and CPL unequivocally entrusted broad power in law enforcement officials, particularly at the criminal investigation and charging stages. With few checks by the judiciary and defense lawyers, these laws created a vacuum for enforcing the rules on torture. Besides the power-imbalanced and confession-inducive legal structure by design, coerced confessions were precipitated by "strike-hard" campaigns periodically launched to swiftly and severely suppress surging crimes (Liang, 2005). It is within this political and economic context of the 1980s and the 1990s, confession practices and laws evolved in China.

1996–2011: Era of Law Consolidation with Procedure Safeguards

During this era of deepened economic reforms and accelerated globalization, both the CL and the CPL were amended in 1997 and 1996 respectively to combat increasing economic crimes. Pertinent to the current study, the 1996 CPL added a number of procedural rules that enhanced the power of the *gong-jian-fa* (police, procuratorate, and court) and at the same time strengthened lawyers' power to ensure reliability of the investigative and trial process, albeit without specific mechanisms dealing with torture.

For example, the 1996 CPL granted the police an additional 30-day extension in investigating major cases involving transient, habitual, or gang criminal suspects, before requesting the procuratorate for an arrest approval, and the procuratorate now have seven days, instead of three days, to approve an arrest decision (Article 69). Furthermore, short of an arrest or detention, the suspect may be summoned to a designated place for interrogation (no longer than 12 h, Article 92). The CPL also expanded the power of defense lawyers with measures such as early involvement in a case (*after* the first interrogation or on the first day when the suspect is in police custody, Article 96), mandatory legal defense assistance for capital offenders (Article 34), and permission to gather evidence from witnesses upon judicial approval (Article 37).

The 2000s witnessed more lawmaking due to the demands of economic reforms and China's integration into the world system. A series of decrees and directives were adopted, such as rules to exclude (oral) evidence obtained by torture and regulations that promote the use of audio and video recordings in police interrogation. Moreover, regulations were adopted to lay out conditions for investigations of torture complaints, including (1) beating, tying, using a weapon to extract a confession; (2) lengthy exposure under extreme conditions that harm the accused's health such as freezing, starving, and exposed to excessive heat; (3) causing injuries of the accused; (4) causing wrongful convictions; (5) extracting confession with torture at least 3 times; and (6) having tolerated, suggested, directed, or forced others to extort confession using torture.[2] Indeed, with the aid of the Internet, public exposure of several high-profile, wrongfully convicted cases shocked the conscience of the nation.[3] In response, the Supreme People's Procuratorate issued two Notices[4] and organized a symposium to identify problems, learn lessons, and establish mechanisms to curb wrongful convictions.

While "strike-hard" campaigns were launched less frequently during this era, crime suppression remained an important indicator of political legitimacy at all levels of governments. Toward the goal of maintaining public security, police agencies become a crucial, integral part of the governmental apparatuses under the Chinese Communist Party (CCP)'s leadership of the Bureau of Politics and Law. A particular development in the 2000s was the policy mandate that "all murder cases must be solved," initiated by this Bureau (Chen, 2007), which boosted clearance rates exponentially. For example, in Henan province, the clearance rates increased from 60% in 2003 to 97.53% in 2009 (Cai et al., 2015); in 2008, the clearance rate for murder cases was 93.1% in China, and in 2010, the conviction rate reached 99.9% (Xu, 2017). Regardless of whether these numbers were accurate and whether they are feasible and/or sustainable, the political mandate of solving all murder cases was taken seriously from both the top-down and the bottom-up. Holding public

[2] Supreme People's Procuratorate. (2006, July 26). Provisions of the Supreme People's Procuratorate on the Criteria for Opening Cases of Malfeasance and Infringement Crimes [Effective]. Retrieved June 17, 2022, from http://en.pkulaw.cn/display.aspx?cgid=87356770985153eebdfb&lib=law.

[3] For example, in February 2005, it was reported that Li Mingjiu was sentenced by Tangshan Intermediate Court with suspended death sentence, but the real criminal, Cai Mingxin was caught in Wenzhou two years later; in March, Nie Shubin was wrongfully executed for crimes of murder and rape, yet ten years later, the real culprit Wang Shujin confessed to the crimes; in April, it was reported that She Xianglin was sentenced to 15 years of imprisonment for murdering his wife who returned alive after missing for 11 years (Chen, 2007).

[4] The Notice on A Careful Study of the Five Cases such as She Xianglin (2005/7/4); the Notice on A Careful Study of Seven Cases such as Teng Xingshan (2006/9/21); A Symposium on Major Wrongfully Convicted Criminal Cases in which 14 cases were discussed (2005/9) (Chen, 2007).

security as a high priority, law enforcement officers were necessarily pulled away from implementing and complying with new legal procedures that protect defendants' rights, and pushed more towards pursuing the political and institutional goals of high clearance rates. Whether to resort to torture in obtaining confessions thus became a critical issue for everyday law enforcement.

2012–Present: Era of Exoneration and Error Correction

As China gained more and more political and economic prominence, to become a major player on the global stage, the Chinese political leadership understands the importance of conforming to Western principles of human rights (including those of the criminally accused) and the rule of law (at least through procedural fairness). Internally, the CCP relies heavily on popular support for its legitimacy (e.g., launching the strike-hard campaigns to ease the public's concerns about sky-rocketing crimes; promoting equal justice and fairness for all to appease public's indignation over egregious official abuse/misconduct). Granted, most of the exonerations of death penalty cases occurred fortuitously (e.g., with the real criminals emerged or dead victims coming back alive), especially among early cases, making the initiation of the review process imperative. Yet, even with clear evidence of wrongful conviction, it often took many years and multiple actors (e.g., family members, the media, journalists, lawyers, or judicial officials) to initiate the review process and secure an exoneration. In other words, external factors or forces beyond case evidence and the built-in criminal procedure could have played a major role to prompt the criminal justice system to correct its errors.

Two external forces are at play during this time period: the prevalence of social media that allows instant information transmission and the development and evolvement of official goals under President Hu Jintao's call to "build a harmonious society," and President Xi's call for "equal justice for all." With both the grassroots and top-down demands for a more fair and just society, the exoneration process has gained momentum since the 2000s.

Within this context, the CPL was amended again in 2012 with several new measures which potentially impact confessions. For instance, per stipulations of the amended CPL, the police shall inform the suspect about the right to legal defense *at* (not after) the first interrogation or when detaining the suspect (Article 33), defense lawyers' request to meet clients should be granted by the detention center within 48 h (with police approval in some major cases) (Article 37), defense lawyers may request access to evidence previously not turned over by the police or the procuratorate (Article 39), criminal suspects have rights not to self-incriminate (Article 50), and conviction shall be based on the beyond reasonable doubt standard (Article 53). Furthermore, exclusionary rules suggest that illegally obtained evidence *may* be admitted if corrected or justified, the complainant bears the burden of proof when requesting to exclude evidence, and police investigators must testify when summoned (Articles 54–58). Additional safeguards are established as well. For example, witness testimonies must be cross-examined (Article 59); the procuratorate shall interrogate the suspect when there is a claim of police misconduct and listen to the defense lawyer's opinions when approving an arrest request (Article 86); a suspect be transferred to a detention center within 24 h of detention and interrogated there (Articles 83 and 116) and be informed of the policy of leniency in exchange of a confession (Article 118); and audio or video recording of interrogation in major cases (including the death penalty cases) is

mandated in its entirety (Article 121).[5] Nevertheless, under the 2012 CPL, the police still have the power to detain the suspect for up to 37 days—the police have three days upon detaining an individual to submit a request for examination and approval from the procuratorate which may be extended to 4 days; in cases involving major crimes such as a criminal gang, the time limit for submitting a request for examination and approval could be further extended for 30 days (Article 89).

Taken together, the three eras witnessed a shift in law from a crime control model of truth-finding with an emphasis on finality in the 1980s and the 1990s to a mixed model of crime control and due process that simultaneously attends to the needs of truth finding and defendants' rights. Despite the decade long, intensive legal reforms that enhanced many legal and technical aspects of the CPL, China remains an authoritarian country and the CCP still has unchecked power that dominates almost all political, social, and legal spheres in China. An assessment of confession law and practice thus must reflect these fundamental social and political realities. Moreover, to what extent these changes of law in the book are translated into law in action may only be adequately addressed empirically.

Empirical Studies on Confessions

In the absence of national statistics on confessions, there is a general consensus that China's confession rate is high (He & He, 2008; Lu & Miethe, 2003) and confessions resulting from torture are one of the leading causes of wrongful convictions (Chen, 2006, 2007; He & He, 2008; Huang, 2014). For example, He and He (2008) examined 50 wrongfully convicted cases and found that almost all cases involved confessions, and among them, 94% were suspected of being a result of torture. Chen (2007) examined 20 wrongfully convicted cases and found that wrongfully convicted individuals were mostly low-status peasants from inland or northern parts of China; the discovery of their wrongful convictions was mostly fortuitous (either a real offender emerged after a wrongful conviction occurred or a "deceased" victim came back alive); 95% of the defendants were tortured and confessed; confession was the primary evidence used in these convictions; 55% of the police engaged in misconduct such as hiding or forging evidence, bribing or coercing witnesses to testify, and preventing them from testifying. In addition, reopening a case for wrongful conviction claims is rather difficult, and police investigators who used torture were rarely penalized (He, 2016).

Political, cultural, and institutional reasons may account for the heavy reliance on confession in the Chinese criminal justice system. Politically, China is an authoritarian party-state, and the government rests its legitimacy partly on its ability to maintain public order and suppress crime. This explains why the government launched "strike-hard" campaigns from the 1980s to the early 2000s. Police departments across the country were under huge pressure to solve major crimes, such as murders and train robberies, in order to appease public indignation (Chen, 2007). Culturally, the Chinese tended to believe that if the police tried hard enough, the truth would emerge (Chen, 2007). There is a strong public sentiment toward justice and vengeance, building upon a belief that torture is an effective, and even necessary, means to make the suspect cooperate (Chen, 2014; Gong, 2016; Lu et al.,

[5] Criminal Procedure Law of the People's Republic of China (2012). Retrieved June 17, 2022, from https://www.cecc.gov/resources/legal-provisions/criminal-procedure-law-of-the-peoples-republic-of-china.

2019; Zhao & Peng, 2015). Institutionally, the Chinese criminal justice system follows the crime control model, tilting power heavily towards the state with the police power largely unchecked, a judiciary mostly rubber-stamping the police and procuratorate's decisions, and the defense lawyers arguing on deaf ears (Chen, 2007; Lu et al., 2019). Besides these institutional and structural issues, police departments generally lacked resources, skills, and forensic expertise in handling modern-day crimes. For example, Chen's (2007) examination of 20 exonerated cases showed that in seven cases, DNA testing was not done (though it should be). In their survey of approximately 2000 legal professionals, He and He (2008) found that 65% and 42% of the respondents attributed to lack of professional skills and lack of equipment and technology support as causes for wrongful convictions respectively. Given the lack of proper tools for law enforcement officers to do their job and the mounting pressure for them to be "effective," it is perhaps not surprising to witness a high confession rate via police use of torture.

In sum, China's crime control model with an inquisitorial system prioritizes efficiency and case finality for crime suppression and public order maintenance. A potential weakness, nevertheless, is its lack of effective mechanisms in preventing, detecting, and correcting errors, even among death penalty cases.

The Current Study

In light of the theory and research on confessions and the criminal justice system in China, this study seeks to address two interrelated questions: (1) What were the extent and characteristics of confessions and torture? (2) What were the primary goals of obtaining a confession?

Because data on death penalty cases have been regarded as a state secret, no published official data on death sentences and executions are available in China. The Wrongful Conviction website (http://www.zgyjca.com), created by a private law firm in Henan Province, documents the most complete count of wrongfully convicted cases to date, and serves as the primary data source for this study. Specifically, this website publishes, in chronological order, criminal cases that resulted in exonerations. We examined all cases published on the website as of May 2018, and identified 103 wrongfully convicted death penalty cases based on the following criteria: (1) at least one offender was death-sentenced (including suspended death sentences) at any phase of the criminal process; (2) the offender has been exonerated via either a judicial verdict or a formal prosecutorial/police withdrawal of charges, or that case had passed the statutory limitation for further viable criminal investigation; (3) the case involved violent crimes (murder, robbery, rape, aggravated assault), thus excluding corporate and drug offenses. In addition, court documents, news reports, and blogs (both in Chinese and English) were obtained through searches on baidu.com and google.com. Major variables on offender, offense, confession, and use of torture are coded subsequently. It should be cautioned that our list of wrongfully convicted death penalty cases is neither official nor comprehensive. Compared with existing studies (He, 2016; Xiong & Miao, 2018) that covered a similar timeframe from 1983 to 2012, our list is the most comprehensive one.

The overall information is summarized in Table 1: the wrongfully convicted capital offenders were almost exclusively male (98.1%) (while almost half of the victims were female) and relatively young (mean age = 33.4); most exonerees came from a rural (68.9%) and low occupational status (76.4%) background; few had a prior record (merely 7.8%).

Their crimes were committed between 1983 and 2012; the majority of crimes (98%) involved murder or murder in the process of robbery and rape, and used a sharp object (knife, axe, stick) in aiding the crime (69.5%). More than half of the crimes occurred at the victim's residence (52.4%), at night (between 6 pm and 6 am) (72.3%), and between offenders and victims who knew each other as family members, intimate partners, friends, or acquaintance (71.8%). More than half of the cases occurred in rural areas (61.1%) and in inland and poor provinces (59.2%). Nearly all the crimes (95.1%) resulted in at least one human death. The average duration from crime detention to exoneration (final release) is 3389.8 days with a range from 451 to 9215 days. The number of exonerations over time shows a greater effort in correcting the wrongs in recent eras: while there was only one exoneration during the 1983–1995 period, 55 and 47 exonerations were discovered in the eras of 1996–2011 (an average of 3.67 cases per year) and 2012–2018 (an average of 7.83 cases per year), respectively.

One major challenge in coding confession and torture related variables is missing data, mainly due to the following reasons: (1) we had no access to complete court rulings, police files, and criminal defense documents at all levels; (2) in cases where legal rulings are available, courts rarely document claims of torture, investigative findings of a torture claim, or decisions regarding torture. In the majority of the cases, courts neither acknowledge nor rule on claims of torture, making it difficult to corroborate the torture claims; (3) there were also incidents in which a defendant was reluctant to discuss his/her torture experiences with the media even after one's exoneration, likely due to fear of retaliation or jeopardizing the prospect of receiving state compensation, or distrust of the media such as in the Zhang Zhenfeng case.

As a result, the variable *torture* is coded when there is a claim by the defense, *with or without* corroboration from the state. We adopted this rule for two reasons. First, only in a few cases did defendants not corroborate their torture claims with some evidence, which suggests that more likely than not, their allegations of torture had some merit. Second, if a narrower rule were adopted which requires corroboration by the state, very few cases would have qualified. In practice, as the defendant shoulders the burden of proof, little corroborating evidence is presented by the prosecution and judges rarely affirm such claims. For instance, in the infamous Nian Bin case, despite his torture claim and medical records indicating bruises and treatments, the final judicial ruling that exonerated him cited false/conflicting forensic evidence as rationales for his exoneration but not his torture claim.

Torture is further classified into two categories based on specific descriptions of one's torture, to further explore the evolving police interrogative techniques in the past three decades. *Physical torture* involves physical beating, kicking, hitting, electric shock, or waterboarding. *Soft/psychological torture* involves deprivation of sleep, water, or food, forcing one to take a cold shower in freezing weather conditions, intimidation, and/or threat. The US history of torture has witnessed a transition from physical torture of the third degree before the 1940s to soft and psychological torture (Kassin et al., 2010). We are interested in if the form of torture has evolved in China, given its criminal justice reforms (particularly the changing rules and laws regarding torture interrogations, confessions and torture). Our analyses below aim to address the research questions above.

Extent and Characteristics of Confessions and Torture

To examine the extent and characteristics of confessions and torture, we conducted several analyses. First, a cross-tabulation analysis of confessions and torture showed that 93

Table 1 Offender and offense characteristics ($N = 103$)

Variables	Frequency	Percent (%)
Male (victim male) ($n = 103$)	101 (49)	98.1 (47.6)
Age ($n = 80$)	Mean = 33.39	Range: 17–65
Peasant ($n = 90$)	62	68.9
Low-level occupation ($n = 55$)	42	76.4
Prior record ($n = 103$)	8	7.8
Time of crime commission ($n = 103$)		
1983–1995	33	32
1996–2011	69	67
2012–2018	1	1
Crime Types ($n = 103$)		
Murder	54	52.4
Murder and robbery	29	28.2
Murder and rape	13	12.6
Murder, robbery, and rape	5	4.9
Robbery and rape	1	1.0
Aggravated assault	1	1.0
Crime method ($n = 97$)		
Using knife/ axe/ stick	66	69.5
Choking/strangulating/drowning	25	26.3
Poisoning/others	6	4.2
Crime location ($n = 103$)		
Victim residence	54	52.4
Offender residence	3	2.9
Public area	46	44.7
Rural area ($n = 95$)	58	61.1
Inland and poor provinces	61	59.2
Night time ($n = 99$)	72	72.3%
Offender-victim relation ($n = 103$)		
Family members	9	8.7
Intimates	10	9.7
Acquaintance	55	53.4
Stranger	29	28.2
Crime outcome ($n = 103$)		
Aggravated injury	5	4.9
One death	69	67
Two deaths	14	13.6
Three deaths and more	15	14.6
Time from detention to exoneration in days ($n = 99$)	Mean = 3389.8 Median = 2773	Range: 451–9215
Exoneration time ($n = 103$)		
1983–1995	1	1
1996–2011	55	53.4
2012–2018	47	45.6

Table 2 Crosstabs of confession and torture ($N=98$*)

	No Torture	Torture	Total
No Confession	0	5	5
Confession	1	92	93
Total	1	97	98

*Five cases had missing data, including Case 17 (Zhang Congming), Case 40 (Zhuo Fakun), Case 43 (Sun Xueshuang), Case 91 (Deng Liqiang), and Case 94 (Lu Debao)

(90%) defendants confessed to their crimes, 97 (94%) were tortured by the police, five (5%) refused to confess despite being tortured, and one (1%) falsely confessed without being tortured (Table 2). Jiang Ziran (case 11) was one of the five cases in which the defendants were tortured but refused to confess. Jiang, a peasant accused of double murders in 1992, was interrogated for three consecutive days and nights: his left ear was torn and he was deprived of sleep and induced and directed by the police to make a false confession. Nevertheless, he refused to confess and was death-sentenced and incarcerated for 2338 days until his exoneration in 1998. Shen Liujin (case 165) was the only defendant who confessed voluntarily without being tortured. This case involved police misidentification of Shen, a migrant who did not have an ID but voluntarily and falsely confessed to a murder case.

Table 3 breaks down the data by the three time periods, with only one case after 2012 in our sample: with the exception of the Shen Liujin case (discussed above) and five other cases in which information regarding torture was missing, 97%, 93%, and 100% of defendants were tortured in each era, respectively. Approximately 85% and 71% of the defendants in the first two eras received physical torture. Of the remaining 9 defendants who received soft torture, the frequency distributions were 1, 7, and 1 in three eras, respectively. Despite of the incomplete data, the results revealed an overwhelming use of physical torture, with a slight decline in physical torture but an increase in soft/psychological torture after 1996.

To illustrate the nature and characteristics of various tortures in China, we turn to a few specific cases. An example of physical torture can be demonstrated by the Du Peiwu case (case 4). Du, a police officer working at a narcotics detoxification unit, was wrongfully accused of double murders in 1998, and endured physical torture in the forms of beating with a baton and kicking; he was handcuffed on the door and window knobs/frames and then the bench underneath his legs was removed to leave Du hung with handcuffs; he was forced to kneel down and deprived of sleep until he confessed to the crime. Photos of his scars from the beatings were taken at the detention center and sent to the procuratorate but were not followed up.[6] In comparison, Yu Yingsheng (case 10) was a victim of soft and psychological torture. A governmental functionary assisting the District Chief in a city in Anhui Province, Yu was wrongfully convicted and sentenced to death for the death of his wife at their apartment in 1996. Yu claimed he was interrogated for seven consecutive days and nights. He was forced to stand in the snow with cold water poured over him for 2–3 h and forced to write false statements provided by the police about the crime.[7]

Literature on interrogation and confession suggests that confessions vary by location and duration of interrogation, and whether the suspect/defendant's rights were protected (e.g., via interrogation recording) (Gudijonsson, 1992; Moston et al., 1992; Pearse et al.,

[6] Retrieved June 17, 2022, from https://zhuanlan.zhihu.com/p/36506326.

[7] Retrieved June 17, 2022, from http://www.bjnews.com.cn/inside/2014/05/29/318690.html.

1998). Our data (Table 4) indicated that the majority of the interrogations were conducted at public security bureaus (56.5%) and local police stations (30.8%). Only in 9.2% of the cases was interrogation conducted at a detention center. In two other cases (3%), interrogation took place at random locations where both suspects endured lengthy and brutal physical torture. In one case (case 85), Zhang Xinliang, accused of murdering his wife, was taken to an isolated village in Shandong province for interrogation that lasted seven days. Zhang endured beating and food, water, and sleep deprivation, but refused to confess. He was forced to press his thumb on the confession paper prepared by the police and ended up serving 2238 days in prison until his exoneration in 2005.[8] In the other case, Yang Botao (case 139) was taken to a hotel for interrogation that lasted more than 10 days; he was stripped naked, beaten, and forced to eat body waste.[9]

Regarding the length of interrogation, interrogation took 11 days in our cases on average, with a maximum of 68 days. The longest interrogation occurred to Ding Guoqin (case 173) who was beaten, deprived of sleep, starved at a detention center, and finally confessed after 68 days.[10] It is worth noting that while the current CPL enhanced defense lawyers' role in criminal investigation, the pre-trial detention remains lengthy, and the police may detain an individual up to 37 days before filing a request of examination and approval from the procuratorate. This practice represents an outlier when compared with Western developed countries such as the USA, the UK, and Australia where a much shorter duration of detention (e.g., up to 5 days) is allowed by the police without further proper procedures. Even when compared with Japan and South Korea which allow a maximum of 23 and 20 days, respectively, for interrogation and detention, China's 37-day rule seems quite long (Croydon, 2016).

Table 4 showed that audio–video recordings remained a rarity in criminal investigations, even though there were signs of increased usage over time (e.g., from 3% in 1983–1995 to 17.4% in 1996–2011 and to 100% after 2012). Besides the frequency of recordings, what is more telling is the intent, context, and quality of these recordings. In China, a criminal trial was a bench trial presided by a panel of mixed professionals and/or lay judges. It did not seem a common practice, at least as suggested by our cases, that prosecutors present confession recordings at a trial to fulfill their burden of proof. On the contrary, confession recordings, if existed, were utilized primarily to refute a torture claim. For instance, in the cases of Du Peiwu (case 4), Gao Jinfa (case 25),[11] and Liu Cuizhen (case 98),[12] the procuratorate introduced video recordings made by the police to prove no torture during police interrogations.

In fact, confession recordings were manipulated in some cases. For example, the police edited the confession tape in Nian Bin case (case 81), which was exposed in appeals that led to Nian's exoneration.[13] He Shimin and Lu Shoulin (cases 117A and 117B) were provided with confession statements written by the police and asked to go over and recite them; they were also asked to wash their faces, wipe tears, and comb their hair before recording their confessions. Zhou Jikun and Zhou Jiahua (cases 79A and 79B) claimed that they were threatened by police at the detention center before their video recording. In

[8] Retrieved June 17, 2022, from http://news.sina.com.cn/c/2006-02-17/12419129898.shtml.
[9] Retrieved June 17, 2022, from http://news.sohu.com/20140226/n395649597.shtml.
[10] Retrieved June 17, 2022, from https://www.sohu.com/a/162216964_752455.
[11] Retrieved June 17, 2022, from https://china.findlaw.cn/bianhu/fanzuileixing/xfz/14101.html.
[12] Retrieved June 17, 2022, from https://www.lawtime.cn/info/guojia/gjnews/2008013043456.html.
[13] Retrieved June 17, 2022, from https://www.nmql.com/tushu/2021-08-24/367.html.

Table 3 Type of torture by crime commission time period ($N=98$*)

	1983–1995 ($n=33$)	1996–2011 ($n=69$)	2012–2018 ($n=1$)	Total ($n=103$)
Torture (valid $N=98$)				
Yes	32	64	1	97
No	1	0	0	1
Missing	0	5	0	5
Physical torture (valid $N=87$**)				
Yes	28	49	0	77
No	2	7	1	10
Missing	3	8	0	11
Soft/psychological torture only (valid $N=10$***)				
Yes	1	7	1	9
No	0	1	0	1

*Torture was mentioned in 97 cases; **physical torture occurred in 87 cases; no specific type of torture was mentioned in 11 cases; ***In 9 cases, soft/psychological torture (no physical torture) was mentioned

some other cases, confession recordings showed sloppy work by the police. In Chen Qinqin case (case 144), for instance, the sound quality was poor and the video recording date was inconsistent with the confession date.[14] In Lu Rongxin case (case 160), the video showed only the defendant's back, but not the front, and there was no sound; the video recording actually showed another camera in front of Lu, yet no recording from the other camera was produced; a video footage showed that when Lu led the police to the crime scene, he seemed confused and unfamiliar with the crime scenes, and on several occasions, he almost could not continue.[15] In none of these cases was interrogation and confession sessions recorded in their entirety as required by the law. While some of the cases occurred before the new rules went into effect that requires recording in entirety, the brazen violations of the new laws/rules in other cases suggest a lack of institutional culture that respects the law, and a lack of effective mechanisms that hold officers/institutions accountable. In addition, it perhaps reflects the priority of police work, that is, to protect public safety and increase clearance rates at the sacrifice of complying with the laws and protecting individual rights.

Despite all these problems, having a recording is better than having none, especially when a torture claimant is required to provide evidence to substantiate the claim. There was ample evidence to show the importance of preserving evidence using recordings. In Wu Changlong case (case 73B), the defense lawyer attempted to record his meeting with Wu at the detention center, but was ordered to turn off the recording by police officers onsite. In Miao Xinhua case (case 168), Miao used an MP3 borrowed from a jail mate to record his conversation with four officers at the detention center that implicated torture and coerced confession, and submitted the audio recording to the court.[16] In Liu Minghe case (case 119), video recording and case dossier showed that Liu's confession was made under

[14] Retrieved June 17, 2022, from https://www.sohu.com/a/399535634_99904755.
[15] Retrieved June 17, 2022, from https://www.sohu.com/a/341679277_120178631.
[16] Retrieved June 17, 2022, from https://new.qq.com/rain/a/20210312A006EN00.

Table 4 Interrogation process by crime commission time ($N=103$)

	1983–1995 ($n=33$)	1996–2011 ($n=69$)	2012–2018 ($n=1$)	Total ($N=103$)
Interrogation location ($n=65$)				
Detention center	4	2	0	6
Public security bureau	5	31	1	37
Local police station	14	6	0	20
Others	0	2	0	2
Average length to confess (in days) ($n=58$)	6.47 (1–60) $n=19$	12.67 (1–68) $n=39$	N/A	10.64 (1–68) $N=58$
Audio–video recording	3% $n=1$	18% $n=12$	100% $n=1$	13.6% $N=14$
Police misconduct ($n=77$)	72.8% $n=24$	75% $n=52$	100% $n=1$	74.8% $N=77$
Police officers punished for misconduct ($n=16$)	25% ($n=24$)	19% ($n=52$)	0% ($n=1$)	20.8% $N=77$

conditions of sleep deprivation, lengthy interrogation, and police inducement, threat, and coercion.[17] Though no follow-up developments could be found in each of these cases, at least there was a potential claim to be made by the defendants.

Goals of Obtaining a Confession

Due to the influence of Chinese culture, confessions have long been viewed as having probative and correctional values (Lu & Miethe, 2003). Historically there has been an expectation, if not requirement, that a conviction is accompanied by a confession. Compared with the due process model, the crime control model emphasizes two interrelated goals: truth finding (i.e., to find out who is responsible for the crime) and finality (i.e., to punish the criminal and deliver justice). In theory, the two goals complement each other: when the truth is discovered, a case is solved and punishment rendered. However, what if the truth cannot be readily discovered? Will law enforcement officials still seek the goal of finality to punish the "guilty criminal" and suppress the crime?

To address this question, we categorized our cases into two groups: (1) the truth-finding group, in which officers used torture to extract confessions to uncover the "truth," and (2) the finality group, in which officers *altered or fabricated evidence* to close the case. When coding this variable, we made truth-finding a default for all officers *unless* evidence suggests otherwise. For example, in Teng Xingshan case (case 3), after obtaining a confession through torture, the police took Teng back home to search for more evidence. A knife was retrieved but no physical evidence linked Teng with the crime. Yet Teng was convicted and sentenced to death. Teng's lawyer challenged the state's evidence and the officers replied that "the government cannot be wrong." Teng was later exonerated when the "murdered victim" came back alive.[18] Though the police showed brutality in torture and gross negligence in assessing evidence, we did not classify this case into the finality group, due to the absence of police deliberate manipulation, alteration, or fabrication of evidence.

A cross-tabulation analysis shows that in approximately three quarters of the cases, police officers engaged in misconduct/distortion of the truth (e.g., hiding, altering or fabricating evidence), which was consistent across the three time periods (Table 4). In other words, there have been few signs of officers slowing down in the pursuit of finality despite the increased procedural protections set forth in the CPL over the years.

Again, a few cases would be illustrative of police manipulation and fabrication of evidence. In Nie Shubin case (case 1), there were at least six forged signatures in the evidence files, the interrogation record of the first five days was missing (which might implicate police torture), and Nie's workplace attendance record was missing (which could potentially serve as an alibi for Nie's non-presence at the crime scene).[19] In She Xianglin case (case 2), She complained that the police brought a stack of papers to him and asked him to sign and pressed his thumbprint on the documents when he was sleepy.[20] In Chen Shijiang

[17] Retrieved June 17, 2022, from https://www.sohu.com/a/304971153_654603.
[18] Retrieved June 17, 2022, from https://www.163.com/dy/article/H69UPCLI055339FF.html.
[19] Retrieved June 17, 2022, from https://zh.wikipedia.org/wiki/聂树斌案
[20] Retrieved June 17, 2022, from https://www.163.com/dy/article/GE6A8M53055220SJ.html.

case (case 23), at one point of time, Chen realized that the police ignored any exculpatory evidence, pretending that such evidence did not exist, and packaged other evidence to make him the suspect. Chen said, "Their goal was not to seek the truth, but to confirm their theory that I am guilty. They can make me guilty even if there were no bloody clothes, [and] no murder weapon."[21]

Table 4 also presented the number of officers who were punished for their misconduct during the three eras. Of the 77 cases involving police misconduct, at least one officer received either administrative or criminal sanctions in 16 cases, which accounted for 25%, 19%, and 0% of the cases, respectively, in the three time periods. Given that these were high profile, capital cases, the fact that merely 20% of officers involved received any sanction overall suggested insufficient (if not little) accountability and deterrence in curbing torture.

A review of the specific process and sanctions imposed on officers would be informative. For example, in Du Peiwu case, after Du was sentenced to death, a 7-member organized criminal group was arrested in 2000 and confessed to a number of crimes including Du's. As a result, a special investigation began. Officers involved in Du's case were suspended from work, and in 2001 two officers who tortured Du were sentenced to probation terms.[22] In Huugjilt's rape/murder case (case 30), Huugjilt was executed swiftly in two months after the crime was detected in 1996. In 2005, Zhao Zhihong confessed to the crime of which Huugjilt was convicted. An investigation of key officers involved in this case led to 26 officers from the *gong-jian-fa* receiving administrative sanctions. However, as Fan (2016) noted, the punishment was indiscriminate and a slap on the wrist: for instance, the President of the superior court who essentially made the wrongful conviction decision in Huugjilt's case received a less severe administrative warning than the court clerk; only the then deputy-chief of district public security bureau was charged with a crime of dereliction.[23] In Nie Shubin's case, after Nie's execution, the real culprit Wang Shujin confessed to the crime of which Nie was convicted. Nie's exoneration review met so much resistance from the local *gong-jian-fa* that the national Supreme Court had to designate a court from a different jurisdiction to retry this case. The review took ten years to finally exonerate Nie. Officers involved in this case offered apologies to Nie's family, but received no administrative or criminal sanctions.[24]

Discussions and Conclusion

Our analysis of the 103 exonerated capital cases reveals that the confession rate was high, torture was rampant, and the police were primarily motivated by the goal of finality, not truth-finding. One baseline assumption is that the police use necessary means, including the use of torture to extract confessions, to get to the bottom of the truth so that criminals are punished. Despite being cruel, illegal, and possibly yielding false confessions, the use of torture may be justified for the truth-finding purpose. However, when the police know they do not have sufficient evidence (even with one's confession), yet decide to alter and/or fabricate evidence, or to hide exculpatory evidence from the prosecutor and the judge, their

[21] Retrieved June 17, 2022, from http://bbs.tianya.cn/post-no06-159097-1.shtml.
[22] Retrieved June 17, 2022, from https://baike.baidu.com/item/杜培武/59236472?fr=aladdin.
[23] Retrieved June 17, 2022, from https://baike.baidu.com/item/呼格吉勒图案.
[24] Retrieved June 17, 2022, from https://baike.baidu.com/item/聂树斌案.

primary goal is no longer for truth-finding, but achieving finality. In other words, when police tamper with evidence, they no longer care about the truth (e.g., whether the accused was the one who committed the crime), but merely aim to close the case. Our data showed, in approximately three-fourths of these exonerated death penalty cases, police tampered with evidence, and this pattern holds true across different eras. After decades of legal reforms, unfortunately, the Chinese criminal justice system remains crime control oriented, inquisitorial in nature, albeit the defense is slowly gaining some power.

Readers must be cautioned that our samples involved only exonerated capital cases, which may expose police abuse in its worst forms. Our analysis nevertheless sheds light on some of the fundamental issues faced by the Chinese criminal justice system. If these high-profile death penalty cases had difficulties in having their errors detected and corrected, it would have been worse for relatively minor cases which would have more difficulty to have their grievances heard. Major implications for relevant confession laws and practices are summarized below.

First, effective measures should be taken to curb heavy reliance on confession as sole or primary evidence in conviction. The current CPL made it clear that confession evidence alone is insufficient for conviction (Article 55). To reduce police incentives in obtaining confessions at all costs, several improvements should be made, including (1) the law should exclude illegally collected evidence that would otherwise not be discoverable, regardless of whether the evidence is corroborated or not (in contrast, under the current exclusionary rule, illegal obtained physical evidence may still be used so long as they are verified or justified, Article 55); and (2) evidentiary chain must be established and rigorously contested. This requires that police officers have the competence and skills to collect, analyze, and present evidence, police departments have sufficient resources for equipment and testing, and the defense has access to full evidentiary files and independent forensic experts. In She Xianglin case, for example, She requested the police perform DNA tests on the dead body, who was mistakenly identified as his missing wife. The police replied that "DNA testing was too expensive, who would pay for it?" (Li, 2015:1). At the same time, it should be pointed out that scientific tests could contain errors and are subject to human interpretations. In Nian Bin case, for example, but for the defense's ability to hire their own forensic experts to challenge the state's forensic test results, Nian would not have been exonerated (Li, 2015).

Second, the use of torture should be prevented, detected, and punished. Currently, torture resulting in physical injury or death carries criminal liability, and the burden of proof lies with the accused who must undergo a physical examination by the state-designated hospitals, which could raise issues about the credibility of the test results. Instead, the burden should be reversed and fall on the police to prove no torture (Chen, 2006). In addition, a review for potential torture should be activated when during an interrogation; there is a death non-self-inflicted bodily injury, excessive length of detention, or a failure to notify family and lawyers about one's detention and interrogation (He, 2009). Furthermore, our data showed that interrogations were overwhelmingly conducted at a local police station or police bureau, and few were recorded and in lawyers' presence. The current CPL stipulates interrogations be conducted at a detention center after a suspect was sent to the detention center, and the suspect is entitled to hire a lawyer at the first interrogation session or on the first day in police custody, and interrogation of major (including life or death penalty cases) cases be recorded in its entirety (Articles 118, 34, 123). The CPL also stipulated that the legal aid office *may* appoint in-house counsel at local courts and detention centers to provide legal service to criminal suspects (Article 36). We suggest that over time, every detention center should have in-house counsel service, and interrogation sessions must

be recorded with a lawyer present who signs off the recording as part of the case record. Granted, it would involve high costs and logistics that could take years to materialize. Chen (2006) further suggested restructuring detention centers as independent unit housed under the Department of Justice instead of the public security bureaus to ensure the integrity of an interrogation. More importantly, claims of police abuse must be allowed to go through a more formalized procedure and be examined by an independent judiciary.

It is expected to see the extremely high confession rate and torture in our samples because they involve wrongfully convicted death penalty cases. Nevertheless, there is a general consensus among China legal scholars that police torture is widespread and coerced confession rate is rather high even among non-capital, ordinary cases (Bi, 2007; Zuo, 2005). Wu and Vander Beken (2010) attributed the high rates in torture and confession to a number of factors, including political (e.g., crime fighting as a political mandate), cultural (e.g., the influence of Confucianism and communitarianism), legal (e.g., lack of procedural safeguards in preventing police abuse such as the presence of legal counsel during interrogations, and one's right to remain silent), and institutional reasons (e.g., low police budget, high workload and pressure, lack of competence and technology, lack of transparency and checks and balances). Tackling so many factors simultaneously is not an easy task.

Third, an effective error correction system should be established. The existing accountability system seems to suffer a dilemma: on the one hand, it seems to focus heavily on finding individual faults, rather than improving the system's integrity, thus reducing stakeholders' incentives of self-corrections (as evident in the Nie Shubin case). On the other hand, once an error was discovered, the punishment was seemingly allocated haphazardly and indiscriminately (as seen in Huugjilt's case), and it was unclear what specific action was sanctioned and how responsibilities/punishment were assessed and determined. The Nian Bin case is another example here: besides the chief police officer who used torture and was blamed as the main culprit for Nian's wrongful conviction, none of the prosecutors, forensic experts, or lower court judges was assessed of their responsibilities in mishandling the case, and no other related personnel was sanctioned.

In addition, in reviewing these cases, we could not identify clear procedural rules regarding the petition and review process for those who protest wrongful convictions; and the review process took years and often witnessed unexpected twists and turns depending on the players involved. Indeed, our data showed that only 20% of the police officers with misconduct received any punishment, and few upper echelon officials received meaningful sanctions. In terms of identifying systemic flaws and proposing steps to curb similar mistakes in the future, few concrete actions were derived from these tragic errors, albeit progress has been made with amendments in the CPL over the years.

We suggest that error detection and correction mechanisms focus primarily on systemic errors to improve the system and prevent future errors, instead of finding individual faults. When individuals violate the law, they should have due process protections and be given an opportunity to explain and defend their actions. Only with a fair process and proper goals would legal officers have the incentives to identify and correct errors, rather than covering them up. Granted, in instances of intentional, serious violations of laws, officers should be held accountable for their actions, but the details of their actions and laws applied must be clearly stipulated to establish transparency and credibility. Only under these circumstances is it likely that individual law enforcement officers would operate professionally, with dignity and courage to make the best decisions.

Last but not the least, law enforcement works shall be independent of political and populous demand and pressure. A political mandate such as "all murders must be solved"

goes against the science of criminal investigation and raises unfulfillable expectations of the victim's family. Worse yet, by directly linking police rewards and promotion with crime clearance rate, it may make the police chase the wrong goals. After all, the goals of truth-finding and finality operating under a crime control model may not always be in harmony. When they are not, the Chinese legal reformers must contemplate upon which one should be given the priority. Within this context, a larger question perhaps is whether the ultimate truth can be discovered in all cases? If not, how to ensure stakeholders accept the less satisfying or un-satisfying outcome? As seen in some of the exonerated cases in our data, victim's families were not happy with the exonerations.

While we propose these suggestions from the perspective of incremental, institutional reforms guided by science and empirical evidence, we recognize that these changes are necessarily intertwined, and an attempt to address one (e.g., curbing a heavy reliance on confession) without addressing the others (e.g., establishing a more effective error correction system) might not work. Moreover, calling for a complete removal of political and popular influence over the police work may not be realistic; after all, the mandate for the police is to provide public safety and its policy ought to reflect political and popular demand. Nevertheless, in handling criminal investigations, police must be guided by science, not by external influences. To what extent an authoritarian state tolerates a less impressive crime fighting record as it adjusts policies of its criminal justice system resides in its mutual understanding and trust with the people.

The Chinese death penalty reforms have certainly made great strides in the past two decades with the establishment of various procedural safeguards (e.g., Liang & Lu, 2016). Our study suggests that more legal and administrative protections should be afforded to capital offenders due to the irreversibility of wrongful convictions and executions in death penalty cases. Towards that goal, laws shall be explicit in affording criminal suspects the right to remain silent (the current CPL requires the suspect to truthfully answer the police questions, Article 120) to avoid self-incrimination (Article 52). This is crucial, especially given the long-standing cultural tradition that makes it a default choice for defendants to admit (confess) guilt in exchange for lenient dispositions. Despite the overwhelming practice of torture among wrongful conviction cases in this study, case details seemed to suggest that without physical and/or psychological torture/coercion, many of these defendants would *not* have admitted guilt. Based on the experiences of Western countries, however, a seemingly rational decision, free from physical or psychological torture/coercion, may also lead innocent defendants to admit guilt (e.g., in the context of plea bargains). An additional safeguard for death penalty cases is, when resources permit, an automatic review of all capital offenders who confessed to their crimes, and the state shall bear the burden of proof of no use of torture to ensure the voluntariness and reliability of one's confession, regardless of whether a claim of torture is made or not.

Declarations

Conflict of Interest The authors declare no competing interests.

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