Review Essay

Power and People in Relational Network: Dutton on Chinese Social Control

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Michael R. Dutton, *Policing and Punishment in China: From Patri-archy to "the People."* New York: Cambridge University Press, 1992. xii+391 pages. $69.95 cloth.

In *Policing and Punishment in China*, Michael R. Dutton hopes to open a mutually referential and critical dialogue between recent Western theoretical work and the Chinese experience. He begins the dialogue by discovering a "Foucaultian connection" with the method of self-policing in classical China (p. 6). The book builds on Foucault's archaeological approach "to trace the 'genealogy' of certain Chinese technologies of government" (p. 348), particularly that of household and work unit registration systems, and uses this approach for reflection on the modern and postmodern theories of law and society and the methodology of Western Sinology as well.

The book deals with mechanisms of surveillance and discipline based on community mutuality, particularly traditional modes of policing households. It discusses the limits of modern individualist penal systems and Chinese incompatibility with the Western notion of an isolated individual subject, concluding that the systems of *hukou* (socialist household registration), *dang' an* (personnel file), *danwei* (work unit), and *laogai* (human transformation through labor) in contemporary China have produced a collective laboring class. Thus, the book suggests the subtle relations between community-based forms of discipline and "the subjected body of the condemned man." These relations have been shaped by a political "technology of power" that transforms the soul into "the prison of the body" (Foucault 1979a:29–30). The book points to the connection between the centrality of family in Confucian notions of state (sex-centered institution) and the

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centrality of the work unit in socialist state (labor-centered institution). And we can also find a kind of "net widening" of social control: from the policing of virtue to the policing of pain, and then to the economy of discipline. Thus, it may be said that the book studies Chinese governmentality from the viewpoint of changeable relationships and networks of power.

Dutton is not the first to consider China's rich legal tradition as a case that "promises to deepen our insight into the complex relationship among modes of social organization, types of consciousness and forms of normative order" (Unger 1976:88).[1] However, his book is unique in explaining the transformation "from patriarchy to 'the people' " in China's regimes of regulation and punishment, and his comparative analysis of the policing discourses of China and Europe get right to the heart of the problem of governance in China. This problem involves the paradox of powerful "Oriental despotism" (K. A. Wittfogel), together with the powerlessness of extensive Chinese traditional regulation (M. Weber).

As Alford (1986) correctly pointed out, there are some limits to "grand theory," including the use of Foucault's work in studying Chinese law, and Dutton is guarded in his argument involving the universality of "certain Western 'grand theories' " (p. 348). Yet Dutton is equally guarded in examining the Sinologists' argument about the "uniqueness of the East" (p. 347). His strategy is to clear away national boundaries in theoretical domains by "conceptual specificity." In other words, the basis for comparative law is laid by a problem-oriented approach, in which quite different technologies of government take on comparable and universalistic significance from conceptually specific analyses. In a sense, the methodology of this book and Cohen's (1984) "China-centered approach" are not mutually exclusive. On the contrary, they can work in coordination. It is because of his methodology of conceptual specificity that Dutton understands the different concept of the individual in China, and he makes the important observation that "there was individuation, but it operated in a very different way [than] the universalistic category of the individual with which we are familiar in the West" (p. 350). Thus, it can be seen that he uses Foucault's ideas as the basis of the work, but he does not fall captive to the "grand theory."

In American Sinology, we find a few earlier writings on regulation or organization and "feudal remnants" in the social control of contemporary China. For example, Walder (1986) pub-

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[1] E.g., Unger (1976) has linked the protracted debate between Confucianism and Legalism with the criticism of modern Western law and social theory, and argues (1984:66) that "[c]lassical Confucianism offers insights into the problem of solidarity that have never been surpassed by any other tradition of comparable influence." And Macneil (1986) has linked Chinese contracting with the relationship contract theory as a sociological model of contract law.

lished a brilliant pioneering book on governmentality in the work unit, in which he analyzed community dependence, flexibility of punishments, clientelist bureaucracy, instrumental-personal ties, etc., in Chinese factories. I deem it regrettable that Dutton overlooked such an important work which has a direct bearing on his own research. McElderry's (1989) paper is also of great value to the studies in social regulation because it brought to light the historical discourse of "personal guarantors (*baoren*)" and "complete responsibility (*bao*)" as the fundamentals governing the Chinese economic order today.[2] But Dutton's work is still the most commendable for its study of the regimes of policing and punishment, which have been neglected in Chinese studies up to now. It provides an excellent "history of the present" (p. 5) at both a theoretical and a descriptive level. As far as I know, there are very few books involving sociological research on Chinese regulation and punishment in English-language academic circles. *Local Government in China under Ch'ing* (Ch'ü 1962, esp. 150ff.), *Legal Institutions in Manchu China: A Sociological Analysis* (Sprenkel 1962, esp. 47ff.), and *Culture, Power, and the State: Rural North China, 1900–1942* (Duara 1988, esp. 15ff.) are among these. Dutton's book is the only one, however, which analyzes the *baojia* system in its full political and cultural context and has attained a new level of understanding of this system.

I. Punitive Coercion and Persuasive Consensus

Dutton's work provides historical evidence for the complicated relation between coercion and consensus in legal systems. The foundation of the *baojia* system of household registration was the intrinsic moral obligation of filial duty. As Dutton argues, "*[b]aojia* legally locked and structurally integrated the family into a system of government" and "acted to consolidate the position of the family as the model of government" (p. 25). Therefore, governmental social control in China displayed a dual character of self-critical autocracy or coerced consent. It was conceptualized as *fumuguan* (father-mother official) and *yi-li-wei-shi* (taking official as teacher), *xian-fu-hou-jiao* (training only after well-being) and *xian-jiao-hou-xing* (trying education before punishment), *yi-li-fu-ren* (convincing people not only by power but also by reason) and *yi-li-sha-ren* (executing an offender by force of argument), and so forth in Chinese historical documents. Here ideological consensus, state power, and knowledge were intertwined, making up a kind of capillarity. And *baojia*, "[the] register occupies but a 'nodal point' in the capillary-like structure which is power" and "has at least one constant as a domain of

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2 Lien-sheng Yang (1976:381) explained the relationship among *baoren*, *bao*, and the *baojia* systems of household registration, and considered them as homologues.

knowledge: a means of negotiating specific power relations" (p. 33).

Dutton found that three fundamental continuities seem to exist in the long and complex history of household registration systems: (1) "as the statistical basis for the construction and organization of a pyramid of unequal community rights and responsibilities," (2) as the institution of mutual guarantee functioning not only punitively but also reciprocally, and (3) as "the empire's lowest-level sub-administrative structures" (p. 24). In the sense of individual guidance, self-examination, and self-mastery, the traditional Chinese mode of policing is very similar to the "pastoral state" in the European pre-modern period, characterized by what Foucault describes as an "ascending" form of individualization, namely, the level of individuation is in direct proportion with the distance from state power. And in China, people can reduce the power distance by using the distance of some personal relations. But at the key point of individuation, the self-discipline of the *baojia* system is diametrically opposed to the European pastoral technologies. The Chinese registration can be seen as "a flexible technology" by which the consciousness of the individual has been contained in the community (pp. 37–38). This state of affairs determined the basic features of Chinese notions about coercion and consensus.

We can illustrate the difference between China and Europe by the example of *xiangyue* (village pacts) or *minyue* (the people's covenants). Unlike the modern social contract, the village pacts or the people's covenants did not extend the recognition of consensus to the recognition of contrasting wills of individuals, and therefore led not to the ideals of natural law as the "categorical imperative" but to the concept *li* as the "situation ethics," not due process but ceremony. Although the pacts or covenants also set limits on power by the interpellation of moral and human feelings into law, they are not grounds for resistance to governmental control but subordinate compacts for strengthening the classical order and the police. At the same time, discipline in China is not so much external controls as the self-cultivating ways of an individual. As King (1991:67) correctly notes, "the Confucian individual is more than a role player mechanically performing the role-related behavior prescribed by the social structure. . . . Indeed, he is the architect in relation construction." Thus law, *li* and pacts in the *baojia* system of household registration have involved a perpetual motion of interdependent structuralization at various levels.

According to Dutton, Chinese regulation shifted following modernization from the family/community-based ethical discourse of semi-autonomy to the state-based rational discourse of welfarist intervention (p. 192). The *hukou* system of socialist household registration, "unlike *baojia,* was not a mechanism to

enact an order which would legitimate and empower both family and state" (p. 193). The emergence of the *hukou* effectively undermined the power and autonomy of the family, but it "cannot simply be read as the state 'finally' achieving the (long overdue) 'total power' of the Wittfogelian schema" (p. 192). Instead, "[t]he society is now driven by another motor: the mode of production" (p. 194). The *hukou* system was initiated in 1953, popularized according to an instruction of the State Council in 1956, and its design finalized by the *Regulations Regarding the Hukou Registration* in 1958. In the *hukou* system of household registration, every family has a permanent residence booklet (*hukou-bu*), and every family must report any change of domicile to the local authorities. The permanent residence booklets result in a strict distinction between two types of population, urban and agricultural, and city dwellers can get the necessities of life from the government at a fixed price and a fixed quantities. The *hukou* register is grounds for allocation of the labor force, distribution of dwelling houses, and some other resources; directly connects persons to their workplace; and plays an important role in social mobilization and social control. Because the *hukou* system has restricted the freedom of migration and employment, those divided by workplace or life areas and identified by differences in status will certainly form many different communities of interest, and they will certainly negotiate with the government for their share of resources. In this way, the leading cadres as agents of state ownership can be transformed into representatives of staff and workers who speak for interests of their own department, and the State Council becomes a conference for bargaining among the major competent authorities. This means that the mobilization of social welfare resources occupies a dominant position, and the state's capacity to win support and consensus becomes even more important. The basic methods of mobilization for the Chinese government are scientism (expressed as seeking truth from facts by practical reason) and mass line (p. 262). In the judicial landscape, the law trial implementation, mediation, and management of "bureaucratic informalism" resembling Japanese practice (Upham 1987:17ff.; Tanase 1990:656ff.)[3] are mobilized to link dispute resolution, reordering society, and economic development.

What mediates coercion and consensus in Chinese policing is the cultural hegemony of institutional moral ideology which was Confucianism in the past and has been Communism so far. A

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[3] Although there are similar phenomena of regulation sloganized as "the People's Police for the people" in China, and "the police as the common people, the common people as the police" in Japan (Obinata 1993:121ff.), a very high level of professionalism has emerged in the force in Japan. As for policing, Miyazawa's (1992) empirical study of how Japan's formal rules of criminal procedure have been designed and implemented to permit the police to influence criminal suspects reveals the formality of the extraordinary powers of Japanese police.

very important feature of Chinese social control is that ideology and political structure have been merged into an organic whole. For maintaining the so-called "governmentality" (Foucault 1979b), what count are self-criticism and mutual criticism, public opinion and persuasion, as well as surveillance and punishment. They do indeed assist in the birth of an ideological prison. At the same time, however, the traditional culture of consent has perhaps opened the ideological prison to the society by annexing the "mode of information" to the "mode of production." This is the watershed between the Chinese systems and the Soviet systems of labor registration and policing. It is regrettable that Dutton does not discuss the field of argument, the channels of communication, the mechanism of criticism and appraisal, and the function of public opinion in Chinese policing.

II. Spinning an Intricate Web Around Oneself

Dutton is right in pointing out the importance of traditional notions of community as means for both plotting and policing the people in China. He notes, "policing in the classical period did not rely solely on the coercive power of the state. In classical China, an intricate web of relations, based ultimately upon the family and policed by a labyrinth of mutually self-checking units augmented by an advanced system of documentation, succeeded in maintaining social harmony for most of the dynastic period. Such systems, while ultimately reliant on the coercive power of the state, were generally able to self-police successfully without recourse to the horrors of official intervention" (p. 3). In other words, community mutuality acts as a matchmaker between structural coercion and the process of consensus, and has made a legal paradox of the coercive order without coercion.

Community mutuality originates from reciprocal treatment. The Chinese believe there is interrelation and causality among behaviors, people, and supernatural factors and consider an action in the setting of its reaction and results. In this sense, being helpful not only benefits other people but is also a kind of social investment benefitting itself. It is reciprocity that made Chinese systems of mutual guarantee possible and that channeled community mutuality into even the official relationship of the monarch and his subjects. Community mutuality is mainly based on paternalism, this-worldly rationalism, and ethical particularism (cf. Yang 1957).

Guan-xi (personal relationships) and *ren-qing* (human obligations) are factors of crucial importance in community mutuality, and help explain how a nation of one billion people coheres. Fox Butterfield, a former foreign correspondent of the *New York Times,* provides an excellent description on *guan-xi* cited by Ambrose Yeo-chi King (1991:64). "These connections operate like a

series of invisible threads, tying Chinese to each other with far greater tensile strength than mere friendship in the West would do. *Guan-xi* have created a social magnetic field in which all Chinese move, keenly aware of those people with whom they have connections and those they don't." In constructing connections or relationships, it is the individual who is capable of defining roles for himself and others, and is always at the center of this web and in it enjoys his own freedom.

Chinese traditional modes of policing are ingenious tactics for social control that make use of the "ego-centered personal network" (Mitchell 1969:13). However, once the instrumental *guan-xi* become too strong, they may even threaten the formal and official means of regulation. The state must try hard to make people get enmeshed in a web of their own spinning that is attached to the tree of power. For this reason, the state must also weave its own *fa-wang* (legal net) or *tian-wang* (net of justice). As the old saw goes, "The net of Justice has large meshes, but it lets nothing through." The spinning of small personal webs is allowed only within the large meshes of the legal net, to strengthen the effect of the legal net, and to restrict the undue expansion of personal webs. The social engineering of "comprehensive management of public order" (*shehui zhi' an zonghe zhili*) in China today is simply a dynamic construction of interrelated networks by the state.

Thus it can be seen that in Chinese systems of household and work unit registration, there are two mutually linked webs and different kinds of spinning actions at the governmental level and personal level. Dutton does indeed deal with a wide range of formal and informal changeable relationships of power and net widening of policing. However, he does not differentiate the construction of relationships by individuals from the construction of networks by government or the relation-fettered individual from the relation-operating individual. In the relation-based Chinese society, the government has realigned the power relations of surveillance and subordination with the personal relations of mutual help and mutual guarantee, and controls subjects through an intricate web. However, an individual may manipulate the social structure as well by building and changing his relational network. Many such games are played between the government and the people. They have also led to constant bargaining among a variety of architects in the construction of power relations.

Thus, the Chinese policing systems do not necessarily create docile bodies in the full sense. Negotiated subordination has often arisen. And it is such changeable power relationships that remind us that we must consider the comparative cost of building power relations and personal relations and the cost of negotiation between state power and the people in a policing economy. Dutton notes the relationship between the numerical scarcity of

magistrates and community-level policing systems (p. 82). We need not ask whether a shorthanded government had to depend on community mutuality or whether a strong relational network necessarily leads to the kind of governance by actions that threaten community. We can say that it is just a game between power distance and relational distance, and whether the tendency to concentrate on relational networking will emerge depends to a large extent on the comparative costs of institutional policing and self-policing. Because the state and the people have very different goals, and it is very difficult for the *baojia* system to meet all these conflicting goals; in fact, as Dutton notes (p. 89), the history of *baojia* is almost a history of failure.[4]

III. Statistical Management versus Schematic Design

Whatever the grounds for Dutton's assertion that China is "the first nation to use statistical records to plot and police its people" (p. 3), Xu Gan's article (which Dutton later quotes; pp. 41–42) is quite important in demonstrating that the relationship between population figures and policing effects was thoroughly analyzed almost 2,000 years ago. It may be inferred that the systems of household registration emerged in about 600 B.C. (Du 1990:22ff.). The Household Register has long been a basis for land distribution, taxation, extraction of corvée, and conscription in China. Although we could describe China as a "registered society," however, the figures can tell only part of the story. It is difficult to do a quantitative calculation of the changeable power relations based on community mutuality, and doing so may produce statistics that are inconsistent with the facts.

In reality, the *baojia* system is not so much a statistical technology as a schematic design which imposed from above an "overall lawful standard" (p. 41) or planned index. Therefore, the figures in Chinese political discourse are mostly not statistics added up from below but quantitative or geometric targets that form the sign environment. And the authenticity of figures as a schematic design is decided by the regulatory authorities. In other words, statistics as a part of rational discourse is a dependent variable of the changeable power relations. From the classical land-well system (*jingtianzhi*) model to the modern *yiken* system scheme (pp. 178–82), from the mourning grades (p. 125) to *shiwu* or *baojia* systems (pp. 58–61), along with the "five duties of universal obligation," "five punishments," "five hearings," "seven requirements for casting off wife," "eight cases for forgiveness," "ten felonies," etc., and the automation stipulations in measurement of penalty, unremitting efforts have been made in China to

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4 E.g., on the eve of modernization, many Chinese officials and scholars have agreed that the *baojia* systems had been almost a formality, and some reject them entirely (cf.Wang 1984:10ff.).

control changeable relations by mechanical numerical and geo-
metric arrangement. This is a kind of designed pseudo-calculabil-
ity in patrimonial bureaucracy.

The policing systems that stress self-restraint and mutual def-
erence entail a spatial order of power relations rather than a sta-
tistical inference of personal transactions. The relational struc-
ture calls for the balance of social exchange, the symmetry of
legal forms, and topological linking. Therefore it is very impor-
tant to argue for a semiotic analysis of the household, the court,
and the prison that appears to be a spatial representation of
power relations (pp. 98ff.). And registers and figures are usually
employed to give expression to the spacio-symbolic relation be-
tween the absolute factualism in law and the mass viewpoint in
regulation. For example, the modern Chinese government has
been pursuing a policy of overall consideration and balance in
dispute resolution and trying to establish a proper ratio between
mediation and litigation, civil cases and criminal cases, lawyers
and suitors, labor hours and education hours in prison, and so
forth. And an index system including incidences of disputes, suc-
cessful criminal investigation detectives, sense of security, and
the like has been set up as the schematic design for "comprehen-
sive management of public order" (cf. Wang 1989:26–34).

The first Chinese work that made a thorough analysis and a
lively description of spacio-symbolic power relations in China is
not an academic book but a feature film: *Raise the Red Lantern*,
the impressive film by Zhang Yimou. It is a story about the
changeable power relations among one old master and his four
wives plus an ambitious servant-girl in the sign environment com-
posed of red lanterns, high walls, pounding feet (in massage),
and illegal punishment. In a sex-centered institution and patriar-
chal order, the master's control is reorganized into mutual polic-
ing. In the film, the master is never shown, but he is ubiquitous
through his embodiments: the favor, the rules and practices, and
the stereotyped manservant. I do not know whether Zhang
Yimou and Ni Zheng, the writer of the film script which was
based on a novel, read Foucaultian works or not, but I think this
film vividly depicts the theme of the archaeology of power and
knowledge. And it is this film that subtly delineates the inner
world of Chinese social control and a turning point of the
change "from patriarchy to 'the people.'" I propose that Dut-
ton's book be read in the light of "the red lantern," because by
seeing the film we can acquire a better comprehension of what
Dutton offers us.

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