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## A Reasonable Balance of Law and Sentiment: Social Order in Democratic Taiwan from the Policeman's Point of View

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Jeffrey Martin

Taiwan's political democratization has engendered a contradiction in its legal regime: consolidation of rule of law at the macro-institutional level is matched by the persistent marginalization of legal authority in ground-level social practices. This article uses an ethnographic study of neighborhood police to explore certain practical and structural elements involved in maintaining this contradictory sociopolitical order. I examine some of the processes through which state authority is invoked and applied to the policing of public space, focusing on the ideals of legitimacy that animate these processes. The argument of the article is that historical and cultural factors embodied in contemporary Taiwan's "idea of police"—exemplified in the trope of a balance between reason, law, and sentiment—are crucial to understanding how solidification of the rule of law within state institutions is kept within the boundaries of a social sensibility that does not take law as the last word.

**R**ecent studies of Taiwan's legal regime point to a contradiction. On the one hand, at the macro-institutional level, the island's transition to democracy (accomplished between 1986 and 1996) has been accompanied by an increasingly "strong judicial and political commitment to a liberal democratic 'thick' version of the rule of law" (Cooney 2004:417). At the same time, however, the ground-level, micro-institutional practices inhabiting this judicial and political infrastructure continue to marginalize the significance of law per se, reproducing a social order organized around an alternative set of cultural values (Potter 1995; Winn 1994a, 1994b). In other words, in democratic Taiwan it appears that the complex set of practical and symbolic relays integrating the spheres of state and society somehow allow the rule of law to flourish in the former even as the "order of custom" is retrenched in the latter (Diamond 1971).

This article examines some of the work involved in maintaining this kind of sociopolitical order. Specifically, it draws materials from

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Please address correspondence to Jeffrey Martin, Graduate Institute of Taiwan Studies, Chang Jung University, 396 Chang Jung Rd. Sec.1, Kway Jen, Tainan, Taiwan, R.O.C.; e-mail: jt.martin@gmail.com.

*Law & Society Review*, Volume 41, Number 3 (2007)

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an ethnographic study of neighborhood policing to explore how local patrolmen are involved in maintaining the established (almost entirely extralegal) organization of public space within their jurisdiction. I examine how forces of public opinion call the police to act in these spaces, how patrolmen deal with the problems they are expected to solve, and how they talk about the legitimacy of what they are doing in relation to their encompassing social and cultural environment. The overall thesis of the article is that we can discern within the substantive contents of contemporary Taiwan's "idea of police" (Junior & Muniz 2006; Klockars 1985) a set of cultural sensibilities that defines the character of legitimate authority in such a way as to create a practical space in which the rule of law cannot effectively serve as the last word in social order.

As a "finding," this in itself will not strike anyone as particularly new. Ethnographic studies of police work, since at least the American Bar Foundation's 1953–1957 *Survey of Criminal Justice*, have been centrally concerned with understanding how and why the order of practice emergent in the discretionary aspect of policing is so profoundly and chronically divergent from the ideals of legality that purport to define the police role in democratic society (Ohlin & Remington 1993). This literature, in turn, has fed into a more general discussion of the ethnographically apparent characteristics of bureaucratic practice, and how we might best understand these in terms of the structural predicaments encountered by individuals working at the "front lines" of public service provision agencies (Lipsky 1980). In light of the size and significance of these literatures, it is surprising that there has not been more work aimed at exploring their core issues across broader comparative cultural and historical contexts. The present article is intended as such a contextualization: taking up the ethnography of policing in Taiwan's newly democratized political regime, and looking at how front-line providers of that nation's democratic law enforcement do their work in a social environment where the historical and cultural foundations of liberal democracy are rather fresh. This, I hope, will help move us toward a more precise purchase on which aspects of the emergent, discretionary order of police work reveal a form of "cop culture" indigenous to democratic law enforcement per se, and which aspects reveal the substantive influence of locally particular understandings concerning the proper relationship between law and force, order and authority.

### **Good Policing and the Production of Obscurity**

The data on which this article is based were collected through field research conducted between 1999 and 2003 in several

neighborhood police “substations” (*paichusuo*, 派出所) located in Taipei County. This project was aimed at understanding the activities of these policemen in relation to the social and cultural organization of the neighborhoods they policed. As an anthropological study, the primary method of research was participant-observation, which in essence consists of trying to live, as far as possible, with and like the people one wishes to understand. I thus spent most of my time during those years at police stations, in police cars, at police banquets, accompanying police on patrol and household visits, going to staff meetings, observing the mediation of civil disputes, carousing with off-duty policemen and their diverse compatriots, networking with local political figures, riding with volunteer civil patrol groups, and otherwise involved in the order-maintenance sector of the thick fabric of “intermediate institutions” (Weller 1999) that makes up the civic life of contemporary Taiwan.

The working environment of policing is a complex social topography in which a variety of often deeply conflicted relationships between legal instrumentality and intimate solidarity must be carefully managed. A key element in this management is control of information, which has the effect of enveloping the entire institution in a taciturn ethos of secrecy (Bittner 1990; Manning 1997).<sup>1</sup> It is analytically useful to approach the pervasive qualities of secrecy in police work as not merely the hiding of truth, but also in its positive function as a constructive aspect of social relations; for human relationships are always based in some part on imaginary qualities, “social fictions” (Simmel 1950). This kind of approach, concerned more with the production of obscurity than the hiding of truth, allows us to see police information management as an organic aspect of the vocational mandate of the police to facilitate the reproduction of an orderly configuration of social relationships that, in modern nation-states, acquires ultimate validity by reference to a political ideal that is most accurately described as an *imagined* community (Anderson 1991).

In accordance with Manning’s famous “dramaturgical” characterization of British and American police work, the style of policing I observed in Taiwan had at its core the production of carefully tailored forms of obscurity and misdirection. A beautiful example of this was provided one day in 2002, when I accompanied Patrolman Guo about his duties. Guo was a gregarious young man who had transferred to a neighborhood beat from a riot squad several years earlier. His particular beat contained one of the

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<sup>1</sup> The question of how ethnographic work can ethically and effectively be performed in this kind of environment is a topic of considerable methodological significance, however beyond the scope of the present article. I would invite anyone interested in a more detailed discussion of these issues to look at my dissertation (Martin 2006).

locality's more *renao* (熱鬧, "hot and noisy") areas, a street entirely lined with restaurant and market stalls set up illegally on the sidewalks. Police beats in urban Taipei County consist of a couple of city blocks, usually contain about 200–400 households, and are assigned to an individual patrolman who is then held personally responsible for maintaining the area's census records and supplying any other necessary surveillance about local affairs.<sup>2</sup> Whenever spatially located criminal operations (e.g., a brothel or a chop shop for stolen vehicles) are discovered, the patrolman in whose beat they are found is penalized for his failure to have previously detected and reported them. This principle applies to all unlicensed businesses, and thus the entire street market in Guo's beat was technically operating under the largesse of his official liability. This was an intractable situation. There is no way Guo could have single-handedly done anything about the existence of this well-established market; he was simply "on the hook," as it were, to make sure its existence did not become an irritation to higher levels of the bureaucracy.

Unfortunately for Guo, the market had become an irritation to a new resident of the street, the anonymous author of a concerted campaign of daily e-mails being sent to the city government complaining that when he arrived home from work in the evening he could not get in the front door of his apartment building because it was invariably blocked by crowded restaurant tables. Thus, that afternoon, during the period of his shift dedicated to maintaining census records, Guo stuffed a button-down flannel shirt into his bag and put me on the back of his 125-cc police scooter, and we drove over to the market. He parked down an alley, put the shirt on over his uniform,<sup>3</sup> and we walked over to one of the restaurant stalls. As we sat down, the proprietor came over and made us comfortable, and Guo ordered two bowls of noodles. The noodles soon arrived, then beer, and soon the table was crowded with unsolicited dishes pressed upon us by the zealously friendly management. We ate and chatted with the husband and wife who ran the operation.

After paying a nominal bill, Guo's informal banter with the management turned substantive. "There have been complaints,"

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<sup>2</sup> He is not, however, assigned to patrol this area. Taiwanese "beats" (*qinqu*, 勤區) are small areas of responsibility assigned to individual officers, whereas patrol (*xunluo*, 巡邏) is organized at the level of an entire substation's jurisdiction, and with complete independence of the layout of individual beats. As I explain shortly, beat policing was introduced in the 1940s by the Chinese nationalists to replace the neighborhood order-maintenance institutions of the *Hoko* system, through which the Japanese colonial police had organized the police-civilian interface.

<sup>3</sup> He stated that it would be "embarrassing" to be seen in uniform eating at the restaurants on this street.

he began apologetically, “about your use of the sidewalk here. Some guy that lives in one of these apartment buildings can’t get in his front door when he comes home from work.” “Who is it?” the proprietor immediately asked. Guo replied that he didn’t know, but “*you* guys must know; this kind of situation doesn’t just happen overnight.” He went on,

Now, you know that I am not the kind of cop that writes tickets. Hell, I don’t write more than 30 tickets a year, and I take a lot of heat for that from the guys with the hats. But these aren’t just the kind of complaints that I can “harmonize” (*xietiao*, 協調). Somebody is doing a whole *chenqing* (陳情)<sup>4</sup> campaign, writing daily e-mails to the city police station. So this time it’s got to be “strict enforcement” (*yifazhifa*, 以法執法, lit. “enforce the law according to the law”). I came over here to try to help you guys out. The way it works is that I am going to have to come over here tomorrow at three in the afternoon and take a picture of your operation for evidence, then I am going to have to take another picture after the situation has been cleaned up. So if you can wait until after three to set up your stall, I can take the after picture before and the before picture after. Plus, and I’m sorry about this, but I am going to have to give you a 300-yuan ticket.<sup>5</sup> And, I am going to have to keep doing this until the complaints stop. So if I was you, I would try to figure out who it is that you are pissing off . . . You need to come to some kind of an agreement with that person.

The proprietors agreed to the plan. We then walked all the way down the street, having essentially the same conversation with the other half dozen restaurant owners on the sidewalk in front of the apartment building. In every case the result was the same, a rather stilted acquiescence on the part of the disciplined to a rather convoluted invocation of the law.

As we drove back to the station, Guo volunteered that I had just witnessed a prime example of good policing. The “sentimental feeling,” the *ganqing* (感情), of the relationship between the substation and the population in its jurisdiction was very good, he said. And it was techniques like the one I had just witnessed that kept it in such good repair. From Guo’s perspective, the objectives of policing—maintaining the peace and tranquility of the community, and discharging his immediate orders without generating “a lot of yelling in the street”—were being successfully achieved. I was rather awed by his casual ad hoc orchestration of a streetwide performance of order for the benefit of the state’s camera. However, Guo was dismissive of the creativity involved in this technique (and, as we shall see, it was actually a conventional procedure). He was

<sup>4</sup> This term is discussed in detail in “Invoking State Authority” below.

<sup>5</sup> About US\$10.

simply killing two birds with one stone, combining the inconvenience of performing order with the issuance of formal sanctions to apply a focused and relatively gentle pressure to targets of civil outrage, motivating them to find the source of the complaint and settle the matter privately. In his narrative to me, he expressed clear personal sympathies with the businessmen who had just fed us: Taiwan is a crowded country, and people selling goods in the streets and sidewalks are working hard to survive, he said. How can you try to keep people from making a living just because they inconvenience you? Nonetheless, he went on, when the order comes down to clear the street, you cannot tell the commanding officers at the county police department, "We've got good *ganqing* here so I didn't do anything. You have to enforce the law. Dealing with conflicts in the street is simple," he said. Then he added, "The problems always come in how to write the official reports [*gongwen*, 公文]."

## The History of Policing in Taiwan

Following Friedman's (1977) approach to "legal culture" as the meaningful matrix through which social forces are (or are not) channeled into specifically legal institutions, this article examines the legal culture evident in the contemporary routines of Taiwan's local police. As mentioned, the fact that street patrolmen tend to invoke specifically legal institutions in a relatively circumscribed fashion is by no means distinctive to Taiwan. Modern constabulary<sup>6</sup> policing is universally characterized by a somewhat jaundiced approach to the practical efficacy of legality per se. Thus to better identify the locally distinctive aspects of Taiwanese legal culture, in contrast to institutionally endemic aspects of modern police culture in general, it is useful to begin with some preliminary remarks relating the ethnographic study of police to the broader history of modern policing in Taiwan.

Theoretical discussions of policing address phenomena existing at three relatively distinct levels of abstraction. At their broadest, they take up the issue of social control in general, asking some version of the question Parsons (1937) named "the problem of order," i.e., how are normative cultural values operationalized in the practical order of social life? At a more historically particular level, studies of modern police aim to understand how conventional normative modalities of political subjectivity and public order have become established within particular social groups,

<sup>6</sup> In this article, the term "constabulary" is used to emphasize the order-keeping-focused practices of local patrol, as contrasted with the many other more specialized functions that modern police bureaucracies also routinely fulfill.

nation-states, and transnational regimes (an approach that can be pursued from various theoretical vantage points, nicely summarized in Garland 1990). Finally, at the empirical level, the point of entry into any theoretical discussion is a description of some actually existing police organization, its operations, and the interactive effects (both overt and unintended) that make this institution part of the society in which it is located.

The present article follows the approach to the ethnography of street patrol founded on the work of Bittner, who located the originary mandate of policing in the general problem of order: i.e., police are those authorized to use coercion in answering the call of normative exigency (Bittner 1974, 1990). Historically, with the rise of nation-states claiming a monopoly on legitimate force within their sovereign territory, a broad spectrum of pre-existing policing institutions was gradually incorporated into, and constrained within, bureaucratically controlled state institutions.<sup>7</sup> Moreover, as champions of modern democratic ideals sought to foster political community based on the liberal mythos of government by consensus, they developed a distinctive organization of police work (first realized in the London Metropolitan Police of 1829) designed to bring the actions of street-level order-maintenance personnel under the influence of prescriptive engineering by administrative agencies and procedural review by judicial institutions, both forms of control motivated toward the goal of reducing policing as much as possible to the pure enforcement of law (Klockars 1985).

Nonetheless, this goal has remained chronically out of reach; for where the liberal valorization of law is founded on a mythology of egalitarian consensus, the constitutive mandate of policing has a patriarchal mode of coercive intervention as its defining core (Dubber 2005). Thus structurally and genealogically, police and law remain distinct modalities of political power, and achieving the ideal of their integration remains one of the unresolved dilemmas of modern governance (Skolnick 1966; compare Agamben 1998). This situation charges the enterprise of policing democratic society with a set of tensions that are never definitively resolved. They are, instead, *managed*: by a political division of labor (ranging from the basic distinction between legislative, judicial, and executive powers, to the specifics of administrative procedure and practice) that does its best to minimize tensions while also ensuring that intractable residues of the contradiction between consent and coercion are, as much as possible, obscured from public view (Manning 1977). Taking this theoretical framework as the basis

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<sup>7</sup> Obviously, the contemporary move to privatization complicates this theoretical approach; however, the extensive literature on this issue is beyond the present article's scope of concern.

for an anthropological investigation into the political culture of democratic Taiwan is a matter of using it to reveal and clarify culturally distinctive aspects of how the intrinsic tensions between legal order and police practice are managed in this particular time and place.

Historically speaking, modern police institutions first arrived in Taiwan as a component of the Japanese colonial regime that replaced the island's Qing Dynasty administration in 1895. By about 1903, the Japanese had established an effective civil police apparatus based on contemporary European standards, its overt goal being the colonial "improvement" of its subject population, and its primary constabulary institution being a dense network of substations (*paichusuo*, 派出所) located in every rural village and urban neighborhood. These substations functioned as the core institutional node for articulating centralized Japanese political authority into local society, mobilizing for this purpose a subordinate "indigenous" social-control institution known as the *Baojia*.<sup>8</sup> Over time, as the Japanese regime (quite self-consciously) consolidated its identity as a smoothly functioning "police state," the substation-*Baojia* nexus grew in significance as the primary site of interface between state and nonstate political institutions, becoming the backbone of Japanese administration (Chen 1975, 1984; Li 1996; Ts'ai 1990).

When the Chinese Nationalist Party (KMT) assumed control of the island after World War II, it treated the established substation bureaucracy as a turnkey operation, simply replacing the departing Japanese officer corps with a cohort of newly trained Chinese nationalist administrators. The only major structural modification the KMT made to the system was to replace the subordinate *Baojia* (which had actually been eliminated by the Japanese in early 1945) with the system of police beats (*qinqu*, 勤區) through which individual police patrolmen were assigned direct jurisdiction over populations of individual families, without additional formal bureaucratic intermediation. This retained the significance of the substations as a key nodal institution in mediating the interface between central political authority and local social order (Y. Huang 1971; Liu 1990).

During the period of authoritarian, anti-Communist "social mobilization" that lasted from the late 1940s until the early 1990s,

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<sup>8</sup> The *Baojia* system (保甲, *Hoko* in Japanese) was "indigenous" in the sense that its Japanese architects were inspired by Chinese descriptions of local administrative practice under the Ming and Qing dynasties. In practice, the Japanese colonial *Baojia* resembled the tithing system of Norman Britain, organizing Taiwanese subjects into a system of decimal layers, specifying a hierarchy of semiformal local leadership roles within these layers, and using these to allocate formal authority and (collective) responsibility for the promulgation of policy directives at the local level and the maintenance of local social order more generally (Ts'ai 1990).



the KMT governed Taiwan under a Leninist paradigm that (in some parallels to Japanese colonialism) understood society as an entity possessed of organic political dynamics, which the state should properly capture and cultivate toward political-economic goals. Space here does not permit discussion of the development of the criminal justice system in its role as adjunct to the KMT's aggressive, military-run, party-engineered national-security mission (see Chang 1995; Martin 2006; Weiyuanhui 1971; Zhu 2001). Nonetheless, throughout this period, substations remained defined by their core role as the operational base for a constabulary force responsible for routine local order-maintenance, which endowed them with considerable institutional inertia.<sup>9</sup> Indeed, a layer of something like autonomy is indicated by the classification of substation personnel as "administrative policemen" (*xingzheng jingcha*, 行政警察): the vast majority of their formal interventions in social activities are authorized under codes granting them discretionary authority to apply "administrative penalties" not requiring any further judicial review. Under the martial law regime, the primary such code was the Police Violation Code (PVC), which authorized local police officers to issue summary detentions of up to two weeks in local holding cells, to shut down businesses, and to apply a variety of other forceful sanctions.

In 1991, the PVC was replaced by the current Social Order Maintenance Law (SOML), greatly restricting the scope of "police offenses" in Taiwan. This event is considered one of the constitutive indexes of the regime's shift to democratic practice, and it is from this point that we can turn our focus to the conduct of police work in the current period. The overall bureaucratic organization of police in the Republic of China is established by its Police Law, which places the entire bureaucracy, roughly 80,000 persons, under command of the National Police Administration (NPA), a bureau of the Ministry of the Interior within the central government's executive branch. About half of the personnel employed by the NPA are involved in local administrative policing, working in a centralized national hierarchy that descends from the NPA to the county-level departments, the regional (generally municipal) precincts, and finally to the local substations.<sup>10</sup> Under the democratic idiom of governance, the front-line officers working in these substations are clearly identified as servants of the public, expected to

<sup>9</sup> Indeed, twice under martial law (in 1961 and 1976) policy initiatives were launched to eliminate the substations and concentrate police resources at higher levels of centralization. Both of these campaigns were frustrated by virtue of intense grassroots political energies that mobilized in defense of their "Temples to the Local God" (Kuo 2001).

<sup>10</sup> There are certain exceptions to this general pattern (for example, the "Special Municipalities" of Taipei and Kaohsiung Cities), but they retain its overall hierarchical logic.

provide the service of assisting in the resolution of any situation that transgresses public sensibilities of order and security in such a way as to compel state intervention. The primary resource they are given to achieve this task is the set of relatively modest formal powers specified by legal codes such as the SOML. Thus, following Bittner, we take the work of neighborhood patrolmen as the craft in which legal authority is deployed as a tool (one of many) in the task of resolving emergent moments of disjuncture between the imagined and practical order of civic life.

### **The Idea of Police in Contemporary Taiwan**

A useful trope for relating observations of this sort of on-the-ground craftwork to larger concerns about the overall substantive content of political culture is provided in a recent paper by Junior and Muniz on the “idea of police” (2006). Briefly summarized, for Junior and Muniz the idea of police is a measure of overall public faith that the state police force will reliably resolve all exigent crises. When the idea of police is strong, people find it unnecessary to “make other arrangements” for the preservation of their personal security. Conversely, the absence of a well-established idea of police is evidenced in the expansion of parochial/informal/sub-public security-maintenance institutions. The major empirical example of the cited article is a differential response to the Brazilian police strike of 1997: in a locality (Minas Gerais) where the striking police remained at the ready in their barracks and ideologically available to the public, there was relatively minimal response to the strike, despite the fact that the police did not in practice do anything. However in another locality (Pernambuco) where the police disbanded publicly and declared their resolve not to respond to any calls, “The idea of police . . . ceased to exist, and the public responded with remarkable speed to the situation. Within 24 hours, those who could afford it had hired armed guards. Curfew and conveying came into being. . . . In ten days, the open organization of private militia had begun” (Junior & Muniz 2006:253).

As we here take up the idea of police in the Taiwanese context, we are less concerned with measuring changes in degree entailed by political liberalization than we are with understanding the substantive contents of current popular ideology about what police are, and cultural sensibilities of the limits of what they can and cannot be reliably expected to do under their current democratic mandate. To be sure, in respect to measurements of degree, Taiwan's idea of police appears to have declined slightly in the course of liberalization. That is, while Taiwan's democratic transformation is widely considered to have been a “velvet revolution” exemplary

in its stability and orderliness (Chao & Meyers 1998; Wu 1995), nonetheless, the moment in 1989 at which the military publicly withdrew from its first domestic order-keeping function (border patrol) was immediately followed by the emergence of public anxieties about the “degradation of social order,” which expanded steadily until they reached the scale of a full-blown social movement in 1997 (Chuang 2004; Lin 1991).

As Junior and Muniz would predict, this erosion of the idea of police has been practically substantiated in an expansive distribution of non-public order-maintenance institutions. It should be noted here that most sociological and anthropological studies of Taiwanese society conducted since World War II have found “parochial,” “particularistic,” or “intermediate” institutions to be structurally central to political-economic organization (e.g., Bosco 1992; Gallin & Gallin 1977; Skoggard 1996; Weller 1999; Winckler 1981; Winn 1994a). The democratic period, however, has made the contrast between parochial and public idioms of sociopolitical virtue increasingly problematic (compare Hunter 1985). The primary example is the emergence of a set of political-economic phenomena referred to locally as “Black Gold,” a sort of fusion between politics, business, and organized crime that seems to have been an unintended consequence of political liberalization (Chin 2003). From the perspective of Junior and Muniz, we can see Black Gold as organically related to decline in the idea of police. An important corollary of this perspective is its implication that we interpret the institutions of Black Gold as involved in reproducing their own “parochial” forms of security and order (on this point, see especially Winn 1994a).

The ubiquity of informal order-keeping institutions in Taiwan (the majority not stigmatized as “black,” i.e., illegitimate) implies that large sectors of the social order are being maintained outside any ostensible monopoly by the state on the use of legitimate force. This leads us to take a closer look at the conceptions of “legitimacy” in active operation, especially in what they show of popular sensibilities about the proper practice of democratic government. Indeed, I believe this is a site in which we will find some of the most satisfying explanations for the paradoxical situation noted at the outset of the article, i.e., the consolidation of “rule of law” at the level of state institutions paired with the persistently marginal prestige of legality *per se* within normal social interaction.

Western theorists have, since at least Aristotle, tended to approach legitimacy in terms of the subjective orientations that transform power into authority (Arendt 1969; Tyler 2006), and modern theorists generally work from Weber’s classification of distinct traditional, charismatic, and rational-procedural bases for the perception that acts of domination are legitimate (with some authors adding “efficacy” as a fourth modality, e.g., Lipset 1994). Police

operations are often taken as a relatively direct empirical indicator of the legitimacy of the particular regime they serve, i.e., it is assumed that there will be an inverse relationship between the level at which state authority per se is sufficient to foster orderly reproduction of the status quo, and the amount of naked coercion necessary in the conduct of police order-maintenance.

The situation described in this article shows a potential problem with assuming that low levels of police coercion can serve as a direct index of state legitimacy, to wit: lack of coercion may be explained as accurately by the *weakness* of state authority as by its strength. Indeed, my overall observations of constabulary policing in Taiwan have been characterized by relatively low levels of overt coercion, but this often appears as reluctance more than restraint (i.e., waiting for a street fight to play itself out before moving in, allowing people to avoid interrogation without pursuit, etc.).<sup>11</sup> When I have asked about such apparent reticence, I have been answered with stories of unfortunate policemen who fell prey to civil lawsuits or to the other kinds of influence that regularly prove themselves superior to the weak bureaucratic proceduralism supplying the official backing to any individual policeman trying to justify naked antagonism solely by formal license. The moral of these stories is summed up in the pithy aphorism “More doing, more trouble; nothing doing, no problem (多做多錯, 不做不錯).”

In sum, Taiwanese street patrolmen carefully modulate their interventions so as to avoid aggravating social forces that exceed their powers of control, and they must do this because their actions are embedded within the reproduction of a social “order” that is constituted in a balance between contradictory foundations of power and authority. Looking at how legitimacy is figured in this situation, I argue next, reveals the practical logic that endows the rule of law in contemporary Taiwan with its paradoxical qualities.

### Invoking State Authority

A dissatisfied resident of Taiwan hoping to enlist state agency in his or her cause has a choice between two broadly distinguishable strategies: either staging a public *chenqing*, “complaint” (陳情, lit. “to

<sup>11</sup> Several readers have asked if the low levels of coercion I report might have been an effect of my presence as an outside observer. This is clearly a possibility. However, in situations where the objects of their attention were clearly beyond the pale of any sort of countervailing social powers—clearing inebriated vagrants from business premises, for example—these neighborhood patrolmen made ready recourse to physical force. In addition, the levels of coercion witnessed in research conducted with Taiwanese SWAT operatives, who operate in contexts where the explicit definition of their targets removes the kinds of political ambiguity at issue here, leads me to believe that the structural dimensions of the situation described in this article were a more significant determinant of the levels of coercion I observed than was my own presence.

display the situation”), or mobilizing a particularistic network through the “back door” of personal connections. These two channels are by no means exclusive; in fact, it is generally understood that successful invocation of higher authority will likely require some degree of involvement in both. Nonetheless, even as both avenues may simultaneously be at work in a given situation, they remain superficially antithetical, and their *prima facie* contradiction exemplifies the tensions that characterize police action in contemporary Taiwan.

To begin with, the back door is very wide; clientage networks are ubiquitous, and most people have at least some friends or family with political connections (Bosco 1992; Winckler 1981). Moreover, as the democratic transition is understood as a shift in the definitive mission of government toward “service” (*fuwu*, 服務), it is *de rigueur* for politicians within the category of “popular representative” (including borough chiefs, city and county councilors, and national legislators) to maintain outreach offices through which their constituency can bring matters to their attention in a quasi-informal capacity. These offices function as campaign headquarters during elections, and the gathering of electoral support is self-consciously understood as the formation of a patronage network, with campaign materials stressing the responsiveness of the aspiring representative to his or her clients.

At the same time, by virtue of the competitive aspects of the democratic process and the complexity of the administrative bureaucracy, back channels are not universally accessible or effective, and so it also frequently becomes strategic in the pursuit of a particular goal to deploy the forces of public attention. Public complaint shows up in a variety of media, from graffiti or the “white cloth/black letter” banners hung in protests through the entire spectrum of advertising and right into the content of the news itself. There is an art to framing effective complaints, and the conventions of this genre impose a structure on the content of public statements of dissatisfaction. As illustration, consider the following complaints taken from the Taipei County ombudsman’s Internet message board. These two complaints, concerned with an incident of illegal construction, provide an example of the general voicing and conventional scripts used for the public expression of dissatisfaction in contemporary Taiwan and are especially revealing of the slippery boundaries between public legitimacy and particularistic efficacy.

Complaint One:

“In Weixing City, at Popular Sovereignty Road No. 232, the emergency exit and the front sidewalk have been used by the first-floor property-owner for illegal construction! He has also built a metal-skinned garage in legally stipulated empty space.

This guy could be called a local bully! He even challenged us to try to report him, with the threat, 'You go make a report! If you have the ability to get this thing taken down, then I will "join your lineage" [*gen ni xing*, 跟你姓!]' Is that flagrant enough? And not only this, he has got the Black Way [i.e., gangsters] making irregular patrols around the area 24-hours a day (this is real, I am not exaggerating)!!! We have already been appealing to the authorities [*chenqing*] for a long time (starting June 1st), most recently we took our appeal to the [national] Presidential Office. And with both the Presidential Office and the County Government, the speed with which the situation was handled was initially quite quick. They immediately dispatched the appropriate units to take up the matter. However, as soon as the case was transferred to the Weixing City government and its related offices, it disappeared like a stone sinking into the sea. Afterwards, I understood: this landowner has some powerful forces behind him. It's because there are some Blue Party legislators and [county or city] council members behind him propping him up, powerfully suppressing this entire case, so the demolition team from the Public Works Department doesn't dare to take action. Originally I had not thought that such a small borough chief could have such a large influence, but it was just the Blue Party all along.

"Oh great official, the lives of your county-subjects have been cut off from heaven by a few pairs of mean hands. They have covered over the safety of our lives and property. Could you grant this some importance? Do not wait until a disaster has occurred, and then send a few grief-faced officials to kneel and light incense. At that time it is too late. Save us!! Get to the bottom of who it is that has eaten our case. Otherwise, truly I cannot believe in the king's law [*wangfa*, 王法]; I can only believe that those with power and those with connections are the king and the law. County government, express your courage!! Thank you."

#### Complaint Two:

"About two weeks ago . . . the demolition team came, and they had checked everything out and were prepared to demolish the construction, when suddenly a person showed up claiming to be from the city government. As soon as he arrived he said, 'Ok, go ahead and demolish a little something, that's fine, but don't cause too much loss to the owner.' He only spoke a few words to the demolition team, and then left. The strange thing was, the demolition team left with him!! What on earth kind of a thing is that?? The city government man came out to the site and openly 'peddled influence.' Is this reasonable? Just because that property owner has power and influence, has legislators and councilors as patrons, so we the people should just go die? Because we have no patrons, are we simply doomed to suffer our own anger and swallow our own voice?

"These kinds of things will never reach the ears of the County Executive's officers, because the Weixing City government, and the

demolition team, and the public works department within your jurisdiction are all deceiving you. Just because of the influence peddling of a few powerful figures, the demolition team doesn't dare to take the thing down! Today, by this letter, we who are under this miserable situation would like to notify the great County Executive. We hope that the great County Executive can uphold justice and fairness on behalf of his small subjects, and thereby show the true law! And if, County Executive, you also do not dare to handle this or only superficially gloss over the affair, then we can only sigh that we were blind to have given our vote to Su Zhengchang!!"

The basic form of these complaints derives from the complainants' attempt to align their position as closely as possible with foundational values in Taiwan's contemporary political mythology, most particularly "the people's" entitlement to effective enforcement of "true/impartial law" (*zhengfa*, 正法). Motivated by irritation with the illegal construction of a garage, they present a plea to legitimate authority in the abstract, calling for disaster-averting intervention on behalf of a humble and hapless subject population threatened by the "mean hands" of a local bully. The undifferentiated category of "the people" is held up as the definitive legitimate political subject, specifically opposed to the unjust manipulation of political power through a factional patronage network. The illegal building is made to signify a "flagrantly" unjust world, animated by individual selfishness and produced through the machinations of a political system that operates effectively only when manipulated by the hidden networks of personal connection lurking within the representative bodies of the local and national government. In this case, the complainant exposes the network behind the garage to be the political machine of the "Blue Party" (i.e., the KMT; it is relevant that the county executive was at the time of this complaint a member of the "Green Party," i.e., the Democratic Progressive Party, while the mayor of Weixing City was a KMT member).

The crux of these particular complaints is the "eating of a case" (*chian*, 吃案), the disappearance of a case midstream in its bureaucratic processing. "Eating cases" is a chronic dimension of government operations in Taiwan, a technique used for diverse purposes including easing overwork, manipulating crime statistics, and integrating the demands of personal networks with the bureaucratic process. It is, accordingly, one of the most common concrete concerns expressed by Taiwanese citizens frustrated with the incapacity of the government to do what they want.

Finally, despite the centrality of the accusation of "influence peddling" to the complaint, it is not, however, an appeal to rule of law in the abstract. The positive aspect of the appeal is framed by reference to the vote as a personal transaction between subject and elected official, and it is directed to the personal virtue of the office

holder, suggesting that the office holder's "courage" in the specific action at issue will be decisive in restoring a just world ordered by the "king's law" in place of the existing situation ruled by power and connections.<sup>12</sup> This is key: even as the machinations of back-door connections are scandalous from the perspective of a public *chenqing* plea, politics remains nonetheless understood in personal terms.

### Applying State Authority to Problems of Public Order

As a successful *chenqing* is accepted as legitimate by its addressee, it is publicly validated by a response,<sup>13</sup> whereupon it disappears into the bureaucratic machinery to be converted into the procedural requirements of the formal division of political labor. Complaints such as those described in the previous section concerned with illegal construction in public space, regardless of the channels through which they were received and acknowledged, generate their first practical response within two offices of the county government: the Department of Public Works (responsible for demolition of illegally built permanent structures) and the Department of Environmental Protection (responsible for dealing with temporary constructions, debris, and pollution). These departments are responsible for evaluating the actual situation on the ground and then making or recommending remedies according to relevant legal codes (potentially including the mobilization of a demolition team to clear the space). The implementation of these responsibilities generally takes place through subordinate bureaus of the county-level departments, housed within city government offices.

Police involvement in street clearing operations is standard on the pretext that forcing people to relinquish their control of space tends to cause conflict, and managing conflict is the police mission. It is quite uncommon to see demolition of "permanent" structures of the kind mentioned in the above complaints, probably because

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<sup>12</sup> The paired contrast between *wang*, "king," and *ba*, "bully," invokes classical philosophical discussions of the role of moral force (*de*) in political affairs: the "king" is one whose government relies on the efficacy of moral example, in contrast to the "hegemon" who relies on brute material coercion. The word *ba*, translatable as "bully" (as in the "local bully" of the complaint) or hegemon, is also a verb for the illegitimate occupation of space (for example, getting cut off in traffic is sometimes noted by muttering "*badao*" under one's breath), as we will see in the next section's discussion of *luba*, the legal category of illegitimate occupation of public space.

<sup>13</sup> Regarding the complaints cited above, the public works department responded, "In regard to your complaint of illegal construction, the investigators have assigned Northern Demolition Case No. XXXXX. The determination of illegal construction is in process, and demolition will be conducted according to the County's illegal construction priority roster."



few people are foolish enough to invest resources in building them without first “smoothing the way” (*baping*, i.e., marshalling the connections required for a given project); when buildings are torn down, this takes place in the context of pitched political battles that are qualitatively distinct from the routine invocation of police authority at issue in this article. However, throughout 2002, the Environmental Protection Department sponsored a large-scale street clearing campaign aimed at nonpermanent structures, and under these auspices the city government kept a forklift and dump truck in continuous circulation throughout the city, cooperating with individual police substations on a weekly basis. Under this initiative, I was able to observe many instances of police action in clearing public space.

These events would begin with an employee of the city’s Environmental Protection office (the forklift driver) arriving at a substation with a stack of books filled with thousands of official reports of “street occupation” (*luba*, 路霸). Covering several months of investigative activity by this office, these books were filled with entries recording the sites of such things as “motorcycle repair operation causing sidewalk blockage,” “discarded vehicle,” “flowerpots.” Under each heading was a list of dates of observation, each followed by the notation “Checked. No improvement.” This documentation was carried into the field as an immediately accessible formal justification for a raid on the day’s targeted street. The actual work of clearing the street was executed by the forklift and a dump truck, augmented by a troupe of a half dozen or so older women who volunteered at the city Environmental Protection Department and were thus called the “Environmental Protection Mamas.” Working together, this team was capable of indiscriminately scraping the sidewalks and streets clear of all nonpermanent structures, loading everything from restaurant operations to piles of garbage to potted trees to boards covering potholes into the truck to be taken off to the dump. While doing this, they were accompanied by two policemen in their official “guardian” function, who observed the goings-on, wrote tickets to selected violators, and documented the results of the cleanup effort. A typical outing I accompanied is described below:

After a half-hour gearing up at the substation we drove over to the day’s target, a narrow and heavily trafficked road leading to the Central Bridge. When the police and I arrived, the city team was already assembled and waiting for us there. The first target was a restaurant on the corner, busy with the breakfast crowd. Like many restaurants in the city, its operations centered on a small ground-floor room open to the sidewalk; at night the room was used for secure storage of equipment, when open for business it spread its tables and chairs out on the sidewalk and used

the room as a kitchen. We approached, Patrolman Wang took a few pictures of the restaurant's illegal breakfast service, and then the forklift driver inaugurated the raid by cutting down a huge banner advertisement hanging from their awning. The crew of city workers then set to work dragging some of the restaurant's more peripheral accoutrements (potted plants, garbage cans) to the dump truck while Sergeant Yang walked over to the owner with his ticket pad open to a fresh page. After a few moments of confusion, the restaurant's crew began dragging their tables and chairs back into their storage space, working in what seemed a strangely slow and detached fashion. One young man stood holding on to an expensive steel sink chained to a tree, while another went to look for the key to the lock. The city workers ignored him and the sink, concentrating their efforts on uncontested objects. Within about 10 minutes, the city workers managed to convey to the dump truck a number of storage bins, all the restaurant's free-standing signage, and one food preparation table, while the rest of the material infrastructure of the operation had been successfully stuffed back into its overnight storage facility. Throughout this process there was no sign of acknowledgement between the two sides, certainly no appearance of hostility or overt conflict. Yang spent the entire time writing up a NT\$1200 (about US\$40) ticket for the owner, a middle aged man who remained a picture of apologetic subservience throughout the process. As we finished up, Wang took the all-important digital pictures of the cleared street corner, to be filed as official evidence of a successful mission. And we went up the street to the adjoining address, cutting the chain attaching a collection of steel drums to a pillar.

In this manner we moved very slowly up the road, ripping out and sweeping up everything that was not removed from our path. In many places the sidewalks were filled with commerce, but the merchants in attendance were lackadaisical about dragging their wares back into their overnight storage facilities before confiscation became imminent. This meant we remained constantly in the situation of two opposed projects being carried on simultaneously with a mutual lack of acknowledgement. Some of the operations for which the sidewalk had been appropriated were unmanned at this early hour (about 9 a.m.), and these were simply trashed. The Environmental Mamas worked hard, moving piles of garbage off the sidewalk in a wheelbarrow, lifting chunks of rubble onto the forklift, and sweeping the newly opened spaces clean. Parked motorcycles and professionally built structures were left alone—though illegally located, the bureaucratic processes involved in enforcing the law on them were beyond the scope of the Environmental Protection department.

It soon became obvious that the practical goal of our team was not to dispose of material, but rather to provoke the owners to move it (temporarily) back into officially private space so that a picture of a clean street could be produced. About halfway down

the block we reached one of the city's official public marketplaces, a covered structure filled with licensed stalls. The market had long ago spilled out of its official confines onto the surrounding sidewalks, and as we drew near the proprietors of illegally located stalls began to drag their equipment into the walkways of the permanent market. One operation, however, a tiny stand with a handwritten sign advertising Buddhist cuisine, was unattended. The policemen involved in this street clearing operation were, of course, intimately familiar with the people on whom the policy was being enforced: as the official intermediaries between the state and the populace of their jurisdiction, substation patrolmen are responsible for maintaining census records and business licenses. This market was one of the major institutions within the substation's jurisdiction, and the policemen knew the little food stand not simply as a piece of random detritus but as the livelihood of an unfortunate old woman. Our progress down the street halted. We rested, exhorting the surrounding shopkeepers to summon the owner to come move her business off the street so that we could take our picture and move on. People were dispatched to find her, but they returned without success. After 10 or 15 minutes, the neighboring shop owners made a show of moving the gear themselves (although in fact it simply ended up in the recently cleared space behind our team). We took our picture and moved on.

After two hours the dump truck was full. We had not come very far (we could in fact still see the corner where we had begun), and the sense of empty formality was profound. Somewhere between the proprietors making a show of getting their stuff off the street, and the city officials making a show of throwing it away, the street was momentarily clear enough for Wang to take the picture that would be passed up the bureaucratic channels as proof that the day's mission had been accomplished. As the dump truck went off to relieve itself, we stood around chatting. "This kind of work is the worst," said Wang, "It does nothing but cause conflict. Half the time, people don't even think that what they are doing is illegal. They think, just because we only come by here once every six months or once every year, it is legal. They don't know it's just that we don't have enough personnel." He gestured down the block to the restaurant where we had started. It was serving the early lunch crowd, set up on the sidewalk exactly as it had been before we arrived. "It's impossible to make any difference," he sighed, "all you do is get into arguments with people. And then they go get their popular representatives, and it's nothing but trouble."

Again, like Patrolman Guo's intervention described earlier, the practical logic of the operation focused on the production of a photograph of a clean street, a situation that lasted at most a few hours and generally only minutes. This exemplifies a practical approach to law enforcement in which the "thinnest" procedural

requirements are used to establish a de facto common goal between the enforcer and the targets of enforcement, which then allows larger contradictions between the official intentions of the street cleaning team and the interests of the street merchants to be bracketed within a space of mutual nonacknowledgement while they practically cooperate in the production of photographic proof that the mission has been “accomplished.” The flexibility with which “thin” procedural requirements can be manipulated to avoid implication in contested dimensions of the contradictory “thicker” interpretations held by various participants in the event provides a crucial resource for police management of public order problems in contemporary Taiwan (Thacher 2001). The messy and potentially volatile street-level conflicts are thus converted into the more abstract and tractable problem of, as Guo put it, “how to write the official reports.”

### Sentiment, Reason, and Law: Police Work From the Patrolman's Point of View

Taking some poetic license with translation, the term Guo used for “official reports” (*gongwen*, 公文) could be rendered as “public text,”<sup>14</sup> and we can take these examples of good police work to be exemplary by virtue of their successful management of the tensions that emerge where “public texts” composed in the language of the law intersect with the fabric of particularistic “sentimental feelings” that define the political textures of local community life. This does indeed appear to be an accurate evocation of the most conventional orientation Taiwanese patrolmen adopt in evaluating the quality of their own work. Throughout my research, I have found patrolmen's discussions of their work to invoke framing in terms of the pursuit of a balance between law (*fa*, 法) and sentiment (*qing*, 情), as mediated by a third term, reason (*li*, 理).

These three terms define a well-established trope in the wider culture; their invocation and discussion of their various interrelations has a venerable pedigree in Chinese philosophy and remains common in casual discussion of sociopolitical phenomena throughout contemporary Taiwan. In current Taiwanese popular discourse, their most prevalent invocation is in the form of a contrast between two hierarchical sequences of precedence: “sentiment-reason-law” (*qing-li-fa*, 情理法) vis-à-vis “law-reason-sentiment” (*fa-li-qing*, 法理情). In the *qing-li-fa* sequence (which is often identified as

<sup>14</sup> That is, breaking the word into its components, *gong* as “public” and *wen* as “text.” In fact, the two-character word in this context actually means “official paperwork,” and, somewhat ironically, the official paperwork internal to police operations is not open to general public evaluation.

traditional, Chinese, or the “rule of man”) sentiment precedes law, i.e., sentiment overdetermines law, and so the thick webs of *guanxi* (關係)—individualistic relations between kin, patrons, friends, or other varieties of nonbureaucratized solidarity or patronage—undermine the systemic integrity of formal organizations such as labor unions, professional associations, or state bureaucracies. The reverse sequence, *fa-li-qing* (which, by contrast to the above is often associated with modernity, the West, or the “rule of law”), indicates a cultural milieu in which proper procedure always takes precedence over personalistic ties, and efficient bureaucratic machines assemble almost spontaneously in the aggregation of social individuals such as those Whyte called “organization man” (1956). Thus, editorials in the popular press frequently contain statements such as, “[i]n order to improve the contemporary degeneration of Taiwan’s political environment and its pervasive political culture of influence-brokering, the Chinese must change this enduring valorization of ‘sentiment-reason-law’ which forms the ideal of the ‘rule of man’ in order to develop the valorization of ‘law-reason-sentiment’ which forms the ideal of the ‘rule of law.’”<sup>15</sup> Within this reasoning, there is a sense of zero-sum opposition, where the imposition of law indicates the rupture of sentiment, e.g., “Where sentiments are thick, the law retreats. When sentiments are broken, the law advances (情濃法退, 情斷法進).” This enables as counterpoint to arguments for the rule of law a romantic valorization of the idealized harmony of sentimental community over the impersonal mechanisms of legal authority. Thus where law sees sentiment as partiality, sentiment sees law as arbitrary. And the debate goes on.

Although it is not widely discussed in the democratic era (indeed, it is to some degree suppressed as an embarrassing relic of the bad old days), there is actually a recent historical layer of ideological doctrine beneath the rhetorical conventions of this contemporary popular discourse. To wit, as a triad the categories of sentiment, reason, and law figure centrally in the Nationalist Party’s official doctrine of the Three Principles of the People (*Sanminzhuyi*, 三民主義), in fact purporting to provide a sort of foundational basis for the three principles themselves.<sup>16</sup> It is thus not

<sup>15</sup> This particular statement was written by a supporter of Chen Shui-bian on an Internet message board during the Taipei mayoral election of 1998.

<sup>16</sup> To quote at some length a remark on this topic from Chiang Kai-shek’s commentary on Sunnist philosophy in his 1943 book, *The Fate of China*:

The reason that we humankind are different from, and elevated above, all other animals, and, moreover, are able to continuously pursue our own progressive development and change, is simply because we possess sentimental relations, discipline, and rationality. Sentimental relations, discipline and rationality, these three things both preserve the existence of humankind and encourage our self-improvement and progress. Often in discussing some

surprising that police patrolmen, whose graduation from the Police Academy was until quite recently predicated on passing exams in Sunnist doctrine, would find in these basic categories a ready scheme for rationalizing their work. In patrolmen's discourse the qualities of sentiment, reason, and law are not described as exhibiting a fixed hierarchy in which any one is clearly dominant over the others (i.e., the binary *qing-li-fa/fa-li-qing* opposition of popular discourse). Rather, like the older Sunnist doctrine, they are presented as independent dimensions of causality, with the successful resolution of conflicted situations demanding an orientation toward balancing the three.<sup>17</sup>

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particular matter, we remark that only when sentiment, reason and law are all present can the matter be considered satisfactory.

Now, according to the discussion of the Principle of Nationalism [*Minzu*, 民族] within the Three Principles of the People, among all sentimental attachments of humankind, the one most deserving of emphasis is the sentiment of nationalism. This is because the nation is created by the power of heaven, and so, in order to unite the nation in solidarity, we rely on heaven-given feelings of sentiment.

And, according to the doctrine's discussion of the Principle of the Popular Sovereignty [*Minquan*, 民權, sometimes translated as "democracy"], the purest principle of law and discipline in the organization of humankind is that of a government of all people, i.e. a 'Power of the People'-ism government. Therefore, in defining the rights and duties of each individual citizen, we must rely on laws and codes to stipulate a standard of fairness.

And, according to discussion of the Principle of the People's Livelihood [*Minsheng*, 民生], The most reasonable style of life for humankind is that in which all people are economically equal, without oppression and extortion. Moreover, the majority of the social resources should be equally allocated in order to truly realize a situation of "none too poor, none too rich, prosperity without partiality." Now, this cannot entirely depend on sentimental feelings, nor can it completely rely on law. Rather, it must depend on rational judgement of interests.

So I say, the root of Nationalism is sentiment, the root of Popular Sovereignty is law, and the root of the People's Livelihood is reason. We must elevate the sentiments of nationalism in order to pursue the independence of our nation. We must establish the rule of law in order to lay the foundation for power of the people. And again, we must lay down a fair principle of reason, regulating the public and private allocation of wealth, and solving the problems of the people's livelihood. Thusly, the trio of sentiment, reason and law can equally flourish and be realized" (Chiang 1943:115-6).

<sup>17</sup> One reviewer of this article proposed the possibility that discussions of the relationship between *fa* and *qing* may generally use the term *qing* not as "sentiment" but in one of its alternate meanings as "situation" (i.e., similar to its use in the word *chenqing*, herein glossed as "to display the situation"). This is an intriguing idea, as it suggests that the term might serve as a sort of symbolic relay within the legal bureaucracy, allowing the kinds of issues that we here see policemen on the front lines explaining by reference to local relations of "sentimental-feeling" (*ganqing*) and "compassion" (*renqingwei*) to be interpreted at higher levels of legal formality as terms of more objective references to the "situational" considerations required by discretionary decisionmaking. My attempts to find support for this interpretation in other scholarship on Chinese legal thinking have not yet borne fruit, however. Shiga Shozo's essay on the trope of law-reason-sentiment directly glosses *qing* as *renqing*, i.e., human sentiments, or compassion (Shiga 1998), and this interpretation seems to be conventional (see for example P. Huang 1996).

As mentioned previously, a primary institutional determinant of modern police culture arises from the nature of the patrolmen's position as state-authorized agents of conflict management; that is, patrolmen spend their time answering summons to situations where something needs to be done and state agency has been invoked to do it (Bittner 1974). Accordingly, Taiwanese patrolmen arrive at the scenes of their professional performance as formal representatives of state authority, and the most common self-identification by the patrolmen of their social role is as a "law executor" (*zhifazhe*, 執法者). This is a difficult role to play; to a Taiwanese neighborhood patrolman, the law is a dangerous thing. As one patrolman put it, the law is a knife and a policeman must be a skillful surgeon if he himself is not to lose control of the blade. To wit:

The edge that points outwards is law enforcement, the edge that points inwards will cut you. So how do you really "grasp" it? That is what I am saying—you are standing on the edge of a knife, so you need to take a certain care, because if you slip you will get cut. Protect others, yes, but also protect yourself. I am saying, sure, go ahead and do everything, but you still need to use some thought. In fact, you need to think a lot. When you are enforcing the law, you cannot disregard the other people's power. You have to attend to your own safety; don't let them harm you. Even if you don't understand anything at all, you still need to protect yourself. Just being filled with the courage to write a bunch of citations is completely useless.

Several significant themes appear in this comment. First, it is a thin invocation of the principle of legality; it frames law as purely instrumental. From the patrolman's perspective, law is simply a thing used to create a link between misdeed and punishment: "If you aren't wearing your motorcycle helmet, you get a ticket, there is nothing else to say," i.e., that's *just* the law (quote taken from the same interview). The mechanics of this connection are understood to be "rigid and harsh . . . violation of the law is just a fact," (quote taken from the same interview). Such arbitrary authority is, on its own, understood by the patrolman to be *unreasonably* absolute; the law carries no connotation of anything inherently legitimate. Indeed, the kinds of logical or sympathetic qualities involved in legitimating legal action are understood to exist as explicitly distinct categories: the harmfulness or helpfulness of a given invocation of law is entirely dependent on "external" criteria, the qualities of reason and sentiment being most significant among them.

A second theme in the cited fragment is the necessity of consciously appreciating the fact that law, as the formal bureaucratic power of the state, is *not* the only game in town. Self-preservation demands that street-level law enforcers be highly sensitive to all forms of power capable of structuring the course of events in their

working environment. Police work is understood to be intrinsically “complicated” (this being a sort of all-purpose euphemism for anything from routine happenstance to deep political-economic intrigue). In particular, as mentioned above, post-authoritarian Taiwan has come under sway of a “Black Gold” regime, a phrasing indicating the pursuit of financial interest (i.e., “gold”) through hidden (or “black”) networks of collusion, and referring to a ubiquitous, even structural, intersection of organized crime with the political infrastructure (Chin 2003). At the face-to-face level of ethnographic reality, this kind of political-economy involves a sort of covert parallel universe of patronage, collusion, and conspiracy submerged within the conventional routines of everyday interaction. As cultural forms, these relationships take the shape of particularistic bonds, more or less euphemistically described and performed in the terms of sentimental attachment, notably kinship terms of address and the motif of brotherhood. It is worth noting here that the use of forms of real and fictive kinship as a basis for economic organization is a human universal, and social anthropologists have long been impressed by the capacity of southern Chinese idioms of kinship to function as the basis of highly elaborate economic formations (e.g., Freedman 1979; Winn 1994b). So it is not surprising that the sentimental dimensions of life in the substation would serve as the arena in which the shady side of the job is taken into account.

In this respect, we should consider that the average patrolman's middle-class salary of about 1,500 US\$ per month is potentially augmented by an undocumented but by all estimates roughly equivalent amount in various informal “regulatory fees” (*guifei*, 規費, “grease water” (*youshui*, 油水), or “A-money” (*A-qian*, A-錢, sometimes “A-Food,” *A-cai*, A-菜), which flow in through the substation and up through circuits of administrative oversight into the wider regulatory bureaucracy. An organizing principle for the practical integration of the formal regulatory apparatus with the informal neighborhood economy is provided by the fixed responsibility assigned to individual policemen for managing the affairs of their beat—in particular, the way their individual accountability for illegal enterprise discovered to be operating there creates an interest in these enterprises (which constitute a significant proportion of the local economy) remaining “undiscovered” (i.e., unremarked upon). The prototypical situation is an unlicensed establishment—paradigmatically the so-called special industries involved in the minor vices of drinking, gambling, and prostitution—passing a “red envelope”<sup>18</sup> containing the equivalent of several hundred US

<sup>18</sup> “Red envelopes,” (*hongbao*, 紅包) mark the use of cash as a gift, conventionally used for weddings and baptisms, and on all major holidays.



dollars to the local beat officer each month, a sum that is split between the patrolman and certain other cooperating figures. As this money flows into the substation, it is accumulated by the working personnel not simply as personal profit, but also (even primarily) as a repository from which to supply the funds that must be passed up the regulatory food chain during periods of administrative review and consideration for promotion.

The operation of this financial system (which, of course, exists as an objective social fact generating the conditions under which individual officers navigate their careers) has the effect of maintaining an alignment between the interests of the local regulatory apparatus and those of the local unlicensed economy, ensuring that discretionary slack in the bureaucratic machine is oriented toward the continued smooth operation of the total system. Not every unlicensed enterprise chooses to participate in this system; only those that understand their own financial interests as served by making a long-term investment in the regulation of their local neighborhood, i.e., the good citizens of the informal economic order. And since the economic health of the neighborhood is, like that of the island as a whole, inseparable from its informal dimension, such contributions are locally understood (by those involved at least) as ultimately no less legitimate than the formal donations made to the police by the local chamber of commerce, Lions Club, or “Policemen’s Friends Club.”

What chiefly distinguishes these informal economic relationships from more formal taxation is the regime of social relations in which they exist, and that their operations maintain as institutionalized relations of solidarity. That is to say, the day-to-day management of informal economic cooperation is conducted within the idiom of *qing*, i.e., as “sentimental” and particularistic relationships defining a space of intimacy explicitly insulated from the formalized distances of public interaction and generally marked by the strategic inversion of selected “public” values (Herzfeld 2005). The ostensible “intimacy” of this regime does not, however, set it outside the scope of the order that police authority is deployed to maintain. Quite the opposite, in fact; when talking about the quality of the substation’s jurisdiction or their personal beat, patrolmen exhibit their strongest primary orientation to *ganqing*, the “sentimental” dimension. Indeed, most of the routines of working life in the substation take place nestled in metaphors of brotherhood and friendship (or, in instances of disharmony, a discourse of more or less vitriolic *personal* conflict), operating on a rationale that takes “mutual assistance” as the highest human social ideal. This accords with a valorization of social relations based on “compassion,” (*renqingwei*, 人情味), which is one of the most widespread affirmations of what is distinctively good about Taiwanese society. The order of

*qing* is, in other words, a rational moral universe defining a normative ideal of the good society, in which the amalgamation of formal and informal money and power makes sense. Grounded in the sentimental values of righteousness and loyalty, patrolmen are just average guys, good family men striving to do right by their intimates as they collectively struggle to survive in a treacherously complicated environment.

No small part of the complication in police life arises from the fact that, when framed by the expectations of bureaucratic rationality, these intimate circuits of exchange of money and favor are, quite simply, illegal. To be sure, the tension between “cooperation” and “corruption” always contains a degree of ambivalence (itself a crucial element in the routine operations of any criminal justice system). But there are occasions when the ambiguity must be resolved into a definite value judgment. And when this time comes, the choice of which epithet or euphemism is applied to a particular case depends, ultimately, on the standpoint of evaluation. Public discussion of police corruption in Taiwan is generally unforgiving. The process of political liberalization has fostered public sensibility that the progressive future lies squarely on the side of rule of law in opposition to the retrograde past of rule by man and, accordingly, public sphere discussion increasingly invokes liberal-democratic discourse about the ultimate value of legality as the defining factor in evaluations of illegitimacy. This is a positive factor in consolidating support for rule of law within state institutions. But at the local level, where the lines between state and nonstate authority are hazier, this shift in the terms of public culture exerts a destabilizing effect on the established balance between sentimental community and local public order. In other words, from the perspective of the average policeman on the street, democratization has *intensified* the political tensions saturating the arena of their discretionary practice, making their practical reliance on intimate networks more crucial than ever.

These tensions are described by patrolmen in terms of an acute confrontation between *fa* and *qing*. To understand this discourse, we must recognize that the moral bonds of sentimental alliance are not always valorized as good. People who perceive their social position as exploited through entrenched and inaccessible networks of other people's solidarity interpret the order of sentiment as a tragic element of Taiwanese culture. The “free and easy” qualities of community in which problems are worked out through the deployment of informal social resources is to them an insidious mythology from which the “true law” (to use the rhetoric from “The Idea of Police in Contemporary Taiwan”) should properly rescue them.

There is a broad contradiction in social values here, and the police, as professional managers of social conflict, cannot

comfortably take a firm stand on either side. Thus for them, a delicate balancing act arises in every direct confrontation of the mobilized authority of the state's *fa* with the institutionalized political-economy of the local "sentimental society" ordered by *qing*. Consider, in this respect, that when a citizen calls the police the emergency 119 system automatically routes the call to the county police station, where it becomes a matter of formal record. It is then relayed to the appropriate substation's front-desk telephone line, from which it is radioed to the policeman on patrol duty at the time. Receiving such a dispatch, the patrolman knows that the county station's record of the complaint combined with the substation duty roster have created a paper trail identifying him *personally* as legally accountable for the management of the problematic situation.

The policeman thus arrives at the scene to which state authority has been called as an individual embodiment of that authority. In this situation, the image of "standing on the edge of a knife" becomes compelling. Whenever called into a situation where informal privilege is being challenged by an outraged citizenry holding formally valid expectations that illegal activities will be disciplined by the state, a policeman finds himself at the cutting edge of an intersection between two distinct regimes of power and authority, to both of which he is beholden. In the course of their confrontation, both forms of power—the formal legal system and the informal political-economic system—threaten to become further mobilized. And escalation in either of these realms will immediately go over the head of the lowly patrolman, circumscribing his discretionary command of the situation while leaving him to account for the actions of his superiors across the awkward disjuncture of two forms of power that mutually recognize one another as illegitimate.

The personal interests and, hence, discretionary resources of the policeman are therefore primarily invested in ensuring that the conflict does not escalate beyond his control so long as he remains implicated in its outcome. In this balancing act, *reason* serves as the decisive fulcrum. This is obvious to an observer of police-mediated negotiation: the policeman's constant refrain is an exhortation to the involved parties to "be reasonable." It is also central to the way policemen reflect on the skills required for their work. By contrast to the harsh cutting edge of law, reason is described as a circular, rounding, and smoothing quality that fits the law to context, the "soft" consensus with which everyone (at least, all reasonable people) will "self-identify." And where sentiment is understood in terms of inherently particularizing allegiances, reason is the basis for a universalism in which all reasonable people can be expected to participate.

In some ways, the patrolman's valorization of *li*—taking a natural human capacity for reason as the foundation on which to

understand the practical possibility of finding harmony in social relations—resonates with the kinds of liberal political philosophy that undergird modern democratic theory. This similarity ends, however, at the patrolman's understanding of inherent contextual limitations to the effective authority of reason. That is, the discretionary form of reason used by Taiwanese policemen to mediate the disjoint orders of law and sentiment is not a properly "public" quality. It is provisional, ad hoc, and radically situated in its immediate context.

That is to say, the appeal to reason made by a patrolman in the course of managing conflict takes the form of a call to reflection on the part of the involved parties concerning their shared interest in resolving the conflict. Such reflection is, on its own, inadequate to challenge or resist the compelling forces attached to state law or sentimental allegiance. To be sure, in the routine situation of a standoff between the powers of *fa* and *qing* (i.e., the kinds of chronic "complications" of local political-economy that we have seen herein), a mediator can effectively orchestrate resolution of conflict from the detached standpoint of a fair broker. But the slightest shift in the underlying dimensions of the conflict will quickly efface the practical standpoint for this kind of intervention. Thus, from the patrolman's vantage point, there is an antipathy between reason and publicity. Publicity—the mediation of conflict into wider spaces of attention—expands the number of distinct interests that must be taken into account in achieving a resolution, attenuating the space of their common conjunction. Compromise is possible behind closed doors, but handling conflict in the public eye utterly transforms the kinds of stakes that are attached to the act of relinquishing one's position; once an event has been pulled into the realm of unbounded public spectacle, there is little likelihood of a reasonable resolution. In other words, keeping contradictions in order *requires* obscurity, a space in which conflicted "principles" can be compromised without causing further repercussion.

This brings us to a final observation. When describing to me the skills of good policing, Taiwanese patrolmen occasionally invoked the ideal of *touming* (透明), "transparency." However, in the context of their engagement with the sentimental fabric of local order, they used this term to indicate a relationship of *intimacy*, a relationship of trusting openness between a patrolman and the individual inhabitants of his beat. Implicitly framed by the normative order of *qing*, this idiom of intimate transparency is entirely contrary to the standard association of (public) transparency with the rule of law. Intimate transparency is not a transitive relationship: if A is intimately transparent to B, and B is intimately transparent to C, this does not then imply that A is transparent to C.

Quite the opposite, in fact. As intermediary, B finds himself in a delicate position where the slightest indiscretion on his part can have potentially dramatic consequences for the relationship between A and C. Indeed, the fact that A and C rely on B to keep a mediated distance between themselves is less often an accident of circumstance than an intentional and integral aspect of their relationship, e.g., B is the patrolman, A is a local businessman, and C is a district prosecutor. The patrolman's crucial function in maintaining a harmoniously integrated balance of powers rests on his skills in strategic translation of the meaningful connections (aka "information") shared within the intimate order of *ganqing* into those demanded by the operations of the legal system, concealing and revealing information in such a way that none of the involved parties feels that their reasonable expectations of orderly give-and-take have been egregiously violated.

## Conclusion

The term *legitimacy* sometimes appears as a theoretical thread suggestively knitting the normative orientations of individual subjects into a "general theory of association" (in de Tocqueville's terms) that animates civil society and provides a substantive ideological foundation for the sovereignty of the state. But things are seldom so simple; the processes of legitimation active at these different scales are categorically distinct, and their interaction is as often as not cross-cutting, contradictory, and chaotic. Ethnographic studies of bureaucratic practice reveal the tremendous amount of work necessary to manifest ostensibly universal normative principles in actual events, showing how tenuous and provisional these manifestations are and how profoundly their formal institutional supports are saturated by, and articulated with, more diffuse but no less determinate cultural structures of sociological order.

The recent emergence of a relatively autonomous sphere of judicial institutions dedicated to the principles of a "liberal democratic 'thick' version of the rule of law" is something new in Taiwan's historical experience. It is a phenomenon of profound significance to the island's future hopes, as well as a core feature of whatever "lessons" Taiwan may be said to offer others' experiments with political liberalization. Nonetheless, from an ethnographic perspective, the actual significance of judicial institutions to the lived order of social life in contemporary Taiwan remains obscure. This article has described some of the social dynamics that motivate and maintain this obscure relationship. In examining how Taiwanese neighborhood patrolmen confront and manage their particular engagement with the tension between law and social

order (intrinsic to modern constabulary practice) we have seen them serving, quite self-consciously, as caretakers of an obviously conflicted intersection between ideals of order embodied in law (and invoked in public complaint) and the pragmatic order of a local society organized through particularistic connections rationalized in terms of sentiment. Practically, they use a strategy of reducing law to its thinnest procedural requirements (exemplified in staging a photograph to serve as “proof” of a clean street) in order to creatively utilize these minimal requirements as resources for the task of immediate conflict management. And they discuss this sort of practice in terms of the “reasonable” management of an intersection between two entirely distinct spheres of social logic, i.e., “law” and “sentiment.” Summarizing these results, we can conclude that police in Taiwan take a trope of the reasonable person to be a legitimate standpoint for engaging in the active manipulation of other, contradictory claims about the character of legitimate authority, a manipulation necessary to successfully “muddling through” the historical circumstances of their job.

To the degree that this kind of narrative is accepted by the wider society (a question for further research), we can say that the idea of police in Taiwan is best described as a general public faith that the police will, when called, deploy their quotient of state authority in the role of facilitating the reasonable management of the problem at hand. This ideal accepts the underlying persistence of structural contradictions (between, for example, hegemonic ideals of public order and the dense fabric of particularistic relationships that constitute the substantive order of local life), making a relatively minimalist demand that these contradictions be kept within reasonable bounds. An immediate corollary of this idea of police is that interested participants in conflict can be expected to routinely invoke “other” authorities to the degree that such invocations can be sustained as reasonable. It is, in other words, a cultural space of legitimacy in which the solidification of the rule of law within state institutions is kept within boundaries of a social sensibility that does not take law as the last word.

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**Jeffrey Martin** received a Ph.D. in anthropology from the University of Chicago in 2006. He is currently Assistant Professor in the Graduate Institute of Taiwan Studies at Chang Jung University and a lecturer in the Department of Border Policing at Taiwan's Central Police University. Martin's current interests include the cultural aspects of law enforcement, the history of modern policing in East Asia, and police cooperation across the Taiwan Straits.

