

Propaganda work in Chinese courts

Public trials and sentencing rallies as sites
of expressive punishment and public
education in the People's Republic of China

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Abstract

This article explores the nature and function of trials and sentencing rallies as mediums of propaganda in Chinese criminal court work. It looks at trials and rallies as two means through which courts project images and messages outwards to a community of onlookers, spectators and participants. The theatrics of adjudication and sentencing carry images and messages about the State, order, legitimacy and the consequences of punishment. The educative and deterrence tasks of the court in trials and sentencing rallies are therefore perceived as part of a wider program of social control and socialization in the People's Republic of China (PRC). The main period under examination is a pivotal stage of legal history in the PRC, the first years of the post-Mao reform period in the late 1970s and early 1980s. This examination of trials and sentencing rallies will show that despite the two-decade long push to effect a new modernist legal culture based on professionalism, regularity and bureaucratic rationality, criminal justice practices in China have continued to rely on the crude theatrics of expressive punishment that have been employed since the days of revolution.

Key Words

courts • China trials • punishment • sentencing

To mark the start of China's latest national *Yanda* (Strike Hard) anti-crime campaign on 11 April 2001, courts across the country simultaneously convened 'mass sentencing rallies' (*gongpan dahui*) to frighten would-be criminals and to educate the general public. One newspaper article from Guangzhou, southern China, for example, reported that 'the curtain of Yanda was drawn open' with a public sentencing rally organized by the local courts, with an audience of more than 30,000 of 'the masses' who had turned up to the sports stadium to witness a special 'Strike Hard public arrest and sentencing rally'.

The Guangzhou Intermediate Court announced a number of death sentences of criminals who were led off to their deaths immediately following the degradation ceremony. One newspaper report of the event noted that after each death sentence was announced, the audience clapped enthusiastically, 'the noise of their applause resounding throughout the skies, so loud that it set off the police dogs present at the rally into a fit of howling.'¹ In the two-day period, at least 89 criminals had been sentenced to death and executed in China.² The message that crime does not pay, communicated via the act of a shaming ritual, is one important means via which political-legal (*zhengfa*) authorities in China practice propaganda work (*xuanchuan gongzuo*). This article explores two key sites of propaganda work in PRC courts: the public trial and the public sentencing rally.

The Guangzhou rally format, repeated in dozens of cities and towns throughout the country on 11 and 12 April, is an illustration of the kind of expressive punishment that is the ideological and political outcome of a mass-line legal culture developed over 50 years of socialist rule in China. Its ideological and political premise lies in the socialist legal doctrine and in the mass movements of the 1950s. It is sustained by the dictates of legal regulation such as the court organization law that prescribes a legal responsibility of the people's courts in China to deter crime and educate the masses through their key political-legal activities.³ In socialist law theory, the capacity of the law and legal institutions to impart socialist attitudes and understandings towards crime, punishment and justice, has implied both an educative and creative potential of law to achieve a socialist perfectibility of humanity and to create a new 'socialist man'. This role of law and legal practices has persisted in post-Mao China despite the regime's public commitment to modernist, reformist judicial practice.

The main period under examination in this article is a pivotal stage of legal history in the PRC, the first years of the post-Mao reform period in the 1980s. Like most other aspects of social and political life in China today, the first years of the open door reforms in the post-1978 period provided the foundational framework of rhetoric and practice for court work over the last two decades. The first section below explores the ideological and organizational basis of the concept and implementation of law propaganda work. It provides a basis for discussion of trials and rallies as sites of education and expressive punishment in the following sections, including an outline of rallies in China's latest anti-crime campaign in 2001. This examination of trials and sentencing rallies will show that despite the push to effect a new modernist legal culture based on professionalism, regularity and bureaucratic rationality, criminal justice practices have continued to rely on the theatrics of expressive punishment. These in turn are set by the political-ideological boundaries of the programmatic agendas of state development and socialist modernization.

LEGAL REFORM AND LAW PROPAGANDA IN POST-MAO CHINA

It is now common knowledge that in the wake of the call for a transformation of economic and social relations in the post-1978 reformist period, courts in China underwent a significant shift in their approach and expectations towards justice administration. A new era of socialist legality that was officially announced at the Third Plenum of the 11th Party Central Committee in 1978 was intended to usher in a clear departure from the repressive and arbitrary political-legal practices of the Cultural Revolution. These

changes paralleled monumental reform in the economic and ideological goals of state development. The Maoist ‘mass-line’ political culture of the 1950s and the Cultural Revolution was replaced with an ideology and economic structure that encouraged privatization and a market economy. The proclamation of a new style of socialist legality was based on the premise that economic reform and the open door policy necessitated a specialized and professionalized form of justice administration. Accompanying this call for a new era of legality was a chorus of progressive and reformist legal discourses – ‘equality before the law’, ‘independent administration of justice’, and ‘handling cases according to the law’ – which were promoted in tandem with judicial training programs and the implementation of the PRCs first comprehensive criminal code. Law propaganda (*fazhi xuanchuan*) was developed as part of the post-Mao legal construction process, an endeavor to effect the social transformation of the individual and society in a post-Mao socialist market economy. Following the call of the 1982 Constitution (Article 24) to promote education in ‘high ideals, ethics, general knowledge, discipline and legality, and by promoting the formulation and observance of rules of conduct’ law propaganda work became an important element of a wider plan for the development of ‘socialist spiritual civilization’ (*shehuizhuyi jingshen wenming*) in Chinese society. Law propaganda and education classes organized by the Ministry of Justice under the ideological guidance of the Communist Party and in allegiance with the judicial organs, were conducted in work places, schools and universities, followed the promulgation of all major laws in the PRC in the early 1980s, including the Constitution and the criminal codes.

The new socialist citizen in the post-1978 period, guided by the ethos of socialist spiritual civilization, was required to possess both a conscious knowledge of the law and an unconscious ability to enact the values that fit in a civilized and economically developed society (Wu, 1992: 234). Like the 1950s political education drives, the 1980s law propaganda and education drive required a conscious effort on the part of the individual in society to rise above the present material limitations of their social and economic environment, to fulfil a more grandiose vision of a civilized socialist society. This assumption that the creation of a new socialist citizen could be at all attainable through the propagation of laws and legal practices is an historical product of a socialist governmental reasoning about social development (*shehui fazhan*) that assumes that human behavior and attitudes must and can be manipulated by conscious acts of persuasion and ideological education (Wu, 1992: 235). Using presentational formats such as classroom activities, posters, notice boards, advertisements and so on, that project both positive and negative models as a guide to change, law propaganda work was an attempt to address a 2000-year legacy of legal ignorance, disrespect, and fear of law by the citizenry.⁴ Citizens were to experience a changed sense of consciousness and understanding of the mechanisms through which social and economic disputes and social relations were to be regulated in the post-Mao era. A changed sense of consciousness was thus considered a necessary ingredient of reform. As Minister of Justice, Zou Yu, explained in 1985:

The situation in China is . . . that the law does not fully serve the economy. It is precisely for this purpose – to give full play to the law’s role in safeguarding the socialist economic base and ensure smoother economic development in a politically stable society – that we have decided to popularize legal knowledge among our people.⁵

It is within this logic of socialist socialization programming that courts in China in the post-1978 period developed a program of propaganda work that attempted to change a Maoist citizenry into a modernized, Dengist citizenry.

PUBLIC TRIALS AND THE DEVELOPMENT OF JUDICIAL AUTHORITY IN COURTS

The push to institutionalize democracy and to develop a new respect for law amongst the citizenry in the post-Mao era had two main implications for the promotion of a new culture of court work based on the anticipation of the development of a modernist, socialist rule of law. First, the courts were required to encourage a conscious sense of the necessity of a rule of law – a new moral and legal consciousness – amongst the citizenry. Courts were required to imbue a sense of the social morality of a rule of law into public consciousness through a lively and speedy means, in the form of propaganda work. Second, the push to institutionalize democracy necessitated that courts themselves develop an authoritative persona which would reflect the newfound ethos of procedural propriety and regularity, the two rhetorical mainframes of a post-Mao ‘rule-governed’ political order.

The court’s own propaganda work, while located within the rubric of general law propaganda work, is itself distinctive in a number of ways. According to vice-president of the Supreme Court, Zhu Minshan, the propaganda and education work of the court is a discrete type of propaganda work (Zhu, 1992: 795). He explains that there are two key aspects of education work in courts: one relates to the court’s own propaganda work which is undertaken independent of other state organs, and the other relates to propaganda work addressed in coordination with the mass media (Zhu, 1992: 796). In a speech presented at a National Conference for Court Work on the Development of Comprehensive Public Order, Lin Zhun, another vice-president of the Supreme People’s Court, outlined a variety of measures open to courts in their role as propagators of law and justice. Courts were to use newspapers, radio, television, and local court bulletins to get the message across, as well as assisting in the presentation of law education classes held by the Ministry and Bureau of Justice, and visiting work units, companies and farms to give information sessions (Lin, 1994: 547).

While intermediaries such as newspapers, television and radio provide a significant avenue for communication and play an integral role in dissemination of messages, it is the legal ritual of the public trial and sentencing pronouncement that were, and are today, the most important mechanisms for disseminating knowledge and understandings about law, crime, justice and judicial authority. The idea that these rituals organize, classify and construct images and messages about law, justice and authority is well-established in the contemporary literature on punishment and law in the west (see, for example, Garland, 1991). But the symbolic potential of judicial practices to ‘regulate’ (*tiaozheng*) social relations is also a concept that is very much a part of modern socialist legal theory (Lin, 1993: 16–39).

Open trials were first employed in the years following the first Constitution in 1954 but were soon abolished following the Anti-rightist Campaign and the Great Leap Forward in the late 1950s, when courts practicing open trials were denounced for bourgeois western liberalism. A reworking of the early and mid-1950s themes of socialist

legality to accentuate the values of ‘equality before the law’ and ‘independent administration’ in the post-1978 period saw a return to the legitimization of open trials as a means of representing the regularization and systematization of justice administration after nearly two decades of closed trials and kangaroo courts (Song, 1990: 339). The post-1978 courtroom provides both the content and the symbolic arrangements necessary for the dissemination of messages about openness and procedural propriety. As Supreme People’s Court vice-president Zhu Minshan explains:

The content of all propaganda must be directly related to trial work. . . . First and foremost, we must employ concrete trials to the full, and bring into full play, the use of the courtroom as a stage for propaganda. It is well documented that if trials are conducted properly, their educational effects will be great. On the other hand, if trials are not conducted well, it may result in a loss of confidence in court work and in the legal system in general, on the part of those who attend trials. (Zhu, 1992: 796)

The reopening of the trial to the general public in the post-1978 period became a symbol of Deng Xiaoping’s vision of a renewed socialist rule of law. Internal government publications and judicial training manuals outlining the benefits of trials note that first and foremost, trials are the most appropriate medium through which to promote and express the embodiment of the democratic and just spirit of court work. This is accomplished by providing an opportunity for the masses to ‘supervise’ judges in trials, to ensure that cases are tried justly and objectively. Moreover, open trials entail the process of determining guilt and exposing crime and those who attend open trials learn to distinguish what types of behavior constitutes a crime, what rights are protected under the law and the extent of harm that criminals inflict on society.⁶ The process of the trial therefore demonstrates that justice is attained through procedural propriety ‘in accordance with the law’. The format of the trial supplies to onlookers a language and classification of social concepts such as what is deviant, what is illegal and what is just.

Supreme People’s Court vice-president Lin Zhun captures the sense of the importance placed on trial work as an integral part of law education in an address to court officials. He maintains that because all court activities can be said to revolve around the central tasks of trial work, it is necessary for the propaganda work of the courts to promote the legal system by employing appropriate model trials as exemplars of justice (Lin, 1994: 546):

The basic medium in which propaganda and education work is conducted by the people’s courts takes the form of open trials. . . . Conducting trials openly in accordance with the law is *only half the task*. A second aspect of trial work is to carry out legal education *through* open trials. It is to conduct legal education with the motive being to present a warning [to potential criminals], to assist in reducing disputes and to bring into full play, the social effects of trials. (Lin, 1994: 546)

In calling for the courtroom to be ‘a classroom for law propaganda’, Lin places the tasks of the trial at the center of the educative tasks of court work: in demonstrating the law through concrete examples of justice, trials provide ‘a *direct* means of educating the masses to obey the law’ (Lin, 1994: 546). In this sense, therefore, the operative elements that go to make up the fabric of instrumental practices of courts are the very symbolic activities which courts employ as a mechanism for organizing and communicating key

messages about crime, law, deviance, justice and authority (Garland, 1991: 198–9). It is the assumed capacity of judicial authorities to organize and regulate public understandings of these notions through trials that makes them signifying practices.

The significance of the open trial as a representation of post-Mao openness and accountability cannot be overstated: between 1958 and 1979, most cases were tried in a closed court, arranged simply as interrogation meetings in court offices with no members of the public or press present. One of the earliest post-1978 examples of a trial as a ‘classroom for propaganda’ is found in the first and most authoritative legal history of a local people’s court in China, titled *The annals of the Baotou people’s courts*.⁷ Baotou Intermediate Court, a local court in Inner Mongolia, convened its first open trial in 22 years in September 1979. It was a ‘model trial’, organized as a public event to provide an exemplar of the court’s new-found sense of procedural propriety. Criminal justice personnel attended, along with more than 600 of the masses, the theft trial involving four defendants. The vice-president of the Baotou Intermediate Court, Li Wenkao, one of the only two judicial staff members who had actual hands-on experience as a trial judge, orchestrated the first public trial cum-training session for judicial staff, convened at a rented auditorium on the morning of 28 September 1979 (Baotou, 1990: 38).

The actual format, procedure and actors in the Baotou trial were integral components in the signifying message of openness, accountability and procedural propriety. Therefore, in providing a framework within which the new regulative rules of criminal procedure operate, the Baotou trial, for the first time in 20 years, attempted to establish purposeful associations between the social participants and the legal rules applied to a particular behavior. In this sense, the processes and actions of judicial actors in the Baotou trial proceedings did not simply express a certain point about the crime of theft, but created the reality of the particular event as a legal ritual, by enacting the symbolic meanings about law and judicial authority attached to the event through gesture, language of the law, and through constant reminders that correct procedure leads to justice.

Furniture, fittings and other spatial arrangements carry both legal and a presentational significance that also aid in creating the reality of the legal ritual. Spatial arrangements, modes of address, procedure, props and actors in the trial process also act as ‘carriers of meaning’ (Mathiesen, 1994: 222). In particular, they carry meanings about authority relations in the trial process. For example, in the Baotou trial, the portrait of Chairman Mao was taken from the wall of the auditorium and in its place was hung a national emblem, symbolizing the transfer of power from a ‘rule of man’ to a ‘rule of law’. The spatial arrangements of the hired courtroom in the Baotou trial above were described as follows:

The auditorium was brightly lit, the national emblem was hung up on the wall above the judicial bench and two judicial police stood at either side of the bench. At the center of the courtroom were the key judicial officers and the court clerk. The dock was positioned in front of the bench. To the right of the bench was the prosecution’s table and to the left was the defendant’s table. (Baotou, 1990: 38)

The rules of spacing in the Chinese courtroom also come supplied with particular meanings about the authority roles and relationships of participants. By the early 1980s, new constructions of courthouses and courtrooms began in major urban and rural

centers. An excerpt from a circular issued by the Supreme People's Court in 1982, explaining the architectural requirements of new buildings, demonstrates the importance placed on the overall presentational design of courtrooms, as a physical setting designed to accentuate the legitimacy and authority of the court:

Courtrooms are the sites in which people's courts exercise their judicial authority in trying cases. . . . Courtroom design must be practical and must look stately, dignified and tasteful. The courtroom design must embody the unique characteristics attributed to trial work and its design must therefore be distinctly different from common auditoriums, theatres and other buildings. Architectural standards of courtrooms must exceed those of normal buildings.⁸

Nowhere is this symbolic importance of courtroom design to the development of the courts' authoritative persona more evident than in recommendations for courtroom design and architecture. One internal political-legal circular, for example, notes that ideally, the external design of court buildings should embody a sense of stability and practicality. The ideal courthouse should be built with at least a dozen stairs leading up to the main entrance. The interior design of the courtroom should reflect the delineation of activities: the main arena of trial activity should take up at least two thirds of the room, the area in which the trial process itself takes place should be kept separate from the public gallery by a rail or banister and judges should have separate accesses to entrance and exit from the general public and other participants. With regard to walls and furnishing, darker colors such as tan or dark red should be chosen to reflect the sombre atmosphere of the courtroom and there should be no ornamental adornments on walls. If at all possible, natural lighting should be used. Recessed lighting is preferable and there should be no pendulous lights or lighting attached to walls. Courtrooms should be designed with an incline so that the audience in the public gallery is able to view proceedings clearly. However, no seating position in the courtroom should exceed the judge's bench in height. An impression should be created that the collegiate bench is the exclusive area of the judiciary. Hence, there should be no direct access from the public gallery to the bench.⁹

The spatial arrangements of the courtroom allow the judge to be positioned, as Michael Dutton observes, 'at the epicenter of power' (Dutton, 1992: 263). The defendant, on the other hand, is seated at the center of the judges' line of vision, and the defense and prosecution, seated at the judge's side, 'are offered only a partial view of the accused, for they will offer only partial statements of his crime' (Dutton, 1992: 263). Judicial authority is represented not only in spatial arrangements but in the procedural transactions between the judge, prosecution and defense. From the moment the collegiate panel enters the courtroom, it is the presiding judge who is the center of legal and presentational significance. The presiding judge has control over the timing of each stage of the trial. All activity, from the handling of documents to the questioning of witnesses, goes via the presiding judge and each stage of the trial proceeds only with the prior consent of the judge. The judge, in fact, questions the defendant and witnesses prior to any questioning by prosecution and defense. The judge, in this way, is the center of language exchange as well as the center of ceremonious presentation. In contrast to the presentation of the judge as the core of all ritual communication and exchanges of information, the defendant is presented to the court in a constrained manner from the time he/she enters the courtroom. Despite the fact that in China, the

defendant's shackles are nowadays removed before entering the courtroom, there are still constant presentational reminders of his/her captive state. Defendants are, in many cases, led to an enclosed rail positioned in front of the judges' podium and at least one judicial police officer is seated immediately behind the defendant. Once the trial commences, as Dutton notes, the identity of the accused is transformed by careful diagnosis of the crime. 'With impartiality as its leitmotif and "truth" as its object, the court operates as a site for the diagnosis of crime. In the process of diagnosing the crime, the accused is treated as a patient, and isolation follows' (Dutton, 1992: 263).

TRIALS AND PROPAGANDA IN 2001

One of the most significant changes to the presentation and mode of propagating law over the last few years since the late 1990s, has been the introduction of live and videotaped television coverage of important trials. Trial footage is used in three main television formats: standard news footage, documentaries and live broadcasts of important trials. One recent example of a documentary series televised in 2000 and 2001 titled *Fawang: da'an jishi* (The legal net: A chronicle of major cases) provides far greater detail into police investigations and court procedures than similar 'reality TV' western television documentaries. The series, covering over 50 cases, includes police file footage of interrogation, public trials, sentencing and public parading of soon-to-be executed criminals. Although more a form of entertainment than a propaganda program, the series nevertheless affords a far greater coverage of police and judicial activities than would have been possible even a decade ago. Like the documentary series, live coverage of important trials, which began in 2001, is also an indication that courts, procuratorate and public security bureau are increasingly confident of demonstrating their legal prowess to wide audiences. Due to a nationwide public outrage and indignation towards a serial bank robber and murderer, Zhang Jun, political-legal authorities allowed, for the first time in 2001, a live TV and Internet coverage of the trial of the infamous Zhang and his gang who murdered 28 people in over a dozen separate incidents.

Other efforts by the judiciary to develop public credibility and legitimacy include the recent decision for judges to change their official attire from military-style uniforms to western-style judicial robes. The adoption of western judicial robes, some judges argued, endows the judiciary with a sense of legitimacy that would not have otherwise been possible. One article, for instance, written by an intermediate court judge, appeared on the PRC judges' website in April 2000, praising the adoption of western-style judicial gowns as the official attire for judges in China. The judge explained:

In recent times, we have witnessed important changes in the dress code of judges. As from April 2000, the [military style] suit, epaulet and the judge's service cap have been abolished and in their place, judges now wear judges' gowns for the courtroom and western style suits for everyday business. The black robe symbolizes the solemnness of the position, and the red stole and gold toggle represent the national colors of the PRC.¹⁰

The writer referred to the introduction of new robes as a way of bestowing judges with a more 'civilized' (*wenming*) look, as an expression of an air of 'authority' (*quanwei*). This perception that a judge's authority and credibility relies on a cultured and civilized image, however, is heavily tested in the exercise of judicial authority during anti-crime

campaigns. Over the last two decades at the same time that professionalism has been promoted in the judicial ranks, the exercise of draconian degradation ceremonies by the judiciary have challenged the image of a sage-like judge. In the following, we see this 'civilized' representation of the judiciary contested as we follow this socialist logic of propaganda and education into the realm of expressive punishment; the court sentencing rally.

SENTENCING RALLIES AS SYMBOLIC EVENTS

Within the context of national economic and legal construction in the post-1978 period, there developed a definite expectation that legal reform would provide an institutional and technical solution both to the immediate social problems of crime and the long-term regulation of social and economic order. But the rapid economic and social changes initiated by open door reform were accompanied by an equally expeditious growth in crime rates. The social upheaval induced by economic reform – the increase in unemployment rates, increased mobility and burgeoning inflation – helped to change the political rhetoric of criminality in China from the political to the social arena. Despite the new public commitment to legal construction, the response of the judicial organs to the threat of social instability in the early 1980s was to utilize a more authoritarian means of crime control in which law and order anti-crime campaigns were employed. Therefore, while the call to a socialist rule of law heralded a new public representation of law as existing in a stable, professional and increasingly autonomous court environment, this representation coexisted with its ideological antithesis; a representation of law as a coercive 'command' style of social control. As such, there developed concomitantly in official discourse, two distinct public representations of law in court work, one characterizing law as a professionalized apparatus based on the legitimizing effect of new procedural codes and the 'scientific' calculation of the new substantive and procedural laws, and the other characterizing law as an authoritarian style of justice administration based on the coercive strategies of the 1950s mass campaigns. It is within this conceptual tension between the politicization of law and its professionalization, that the sentencing rally re-emerged in the post-1978 period as a symbol of state judicial power.¹¹

Despite the fact that the sentencing rally in China has been employed as a key tool of deterrence and education for the last 25 years, very little on this topic has been published either in China or in the west.¹² The sentencing rally in China is a legal ritual, a ceremony conducted in a public venue such as a stadium, the site of the crime or the criminal's workplace. A public rally is organized after a criminal trial to publicly announce the criminals' sentences to an audience usually organized to attend by local work units and local party committees. A typical rally begins with a group of convicted criminals brought out on stage, handcuffed and under the guard of a line of court police. The criminals may have placards around their necks and tied to their backs, which detail the criminal's name, the nature of the offence and the sentence given and they usually stand at the front of the stage under guard, in front of a group of legal and political officials including senior heads of the police, procuratorate and courts, local government and party dignitaries. Following a time of speech making by politicians and judges, a judge will announce sentencing and the criminals will then be placed in court vehicles,

sometimes in open trucks, and led either to their deaths at the local execution grounds or to prison.¹³

As a shaming ritual, the rally is presented in a format that emphasizes the emotive acts of public humiliation and moral indignation. Primarily a deterrence and educative mechanism used during anti-crime campaigns, the main messages of the rally are first, that the state is able to effectively control crime and second, that crime does not pay. Messages of general deterrence and public condemnation of crime, intended to reach criminals and would-be criminals in the audience, are designed to frighten and to present a warning to those who commit crimes that they will be captured, prosecuted, publicly humiliated, and (in many cases) executed. To the law-abiding citizen present in the audience, the act of sentencing and public shaming is intended to fulfil the retribution function of the law as well as carrying a message of reassurance that social order is safe in the hands of the judicial organs (Trevaskes, 2003).

Although mass trials and mass rallies conducted by Party officials were employed as far back as the revolutionary era of the 1930s, and into the early 1950s, the sentencing rally, first appearing in the early 1950s, was always, officially at least, the property of the courts (Wu, 1992: 61). By the time of the Cultural Revolution, public sentencing became less a priority in the schema of political struggle. Courts were effectively shut down and other forms of public degradation such as 'accusation rallies' became the standard spectre of punishment. It was not until the new drive to promote a socialist rule of law in the post-1978 open reform period that the task of convening and chairing the sentencing rally returned to the courts.

Despite new reformist portrayal of courts as bastions of the socialist rule of law, the sentencing rally gained unprecedented popularity in criminal justice circles as a tool of education and deterrence during the anti-crime campaigns of late 1979 and the early 1980s. In this sense, rallies came to reflect a tension between the contemporary expectations and rhetoric of legal reform, and the mass-line justice and mentality of 1950s China. The promises of legal reform and institutional authority meant that the spatial, presentational and linguistic dominance of politicians and Party dignitaries who once chaired rallies was replaced by judges who now stood at the center of activity chairing the rallies and announcing sentencing.

Unlike the mass trials of the revolutionary era and the early 1950s, public humiliation of the criminal in the post-1978 rallies is not acted out as the expression of an unmediated relationship between the masses and the criminal, but is represented as part of the authority relations between the state and the people.¹⁴ Judicial, party and political actors are therefore portrayed as the agents of the will of the masses in the form of state authority and as exercised in law. Post-1978 rallies are therefore not represented simply as an expression of popular indignation, but are a medium through which authorities organize and order public sentiment into a format that complies with the objectives and agendas of existing crime control strategies.

As part of the duties of courts was to inculcate in the public a new-found sense of legality and to abide with the new-found rule of law, sentencing rallies in the post-1978 period became a second classroom of post-Mao socialist justice propaganda and education. Speeches given by political-legal authorities on the importance of law and order and the judge's pronouncement and explanation of the sentencing rationale for the crime announced at rallies, served as a lesson in the law on how to distinguish the

types of behavior that constitute a crime to an audience who, until 1979, had no experience or knowledge of black letter law. In this sense, the role of the rally in educating this public was to imbue a conscious respect for the law amongst the citizenry.

While the general message is that crime does not pay, rallies also supply the public with an accessible means of ascertaining specific information about the severity of punishment given for certain crimes in certain periods of change such as the enactment of new laws, and in particular, at the start of anti-crime campaigns when the severity of sanctions often increase dramatically. Since the first national declaration of war against crime in the early 1980s, rallies have been used as a rallying point for anti-crime campaigns. The largest and most vicious anti-crime campaign, the Strike Hard campaign from 1983 to 1986 targeted and severely punished hooligans (*liumang*) and other serious criminal offenders including murderers, rapists and armed robbers. The severity of sanctions given to these crimes increased dramatically during the campaign and rallies were used as launching pads for announcements of new strategies and stages in the three year campaign, including announcements of new targets and new successes. In one city alone, in Baotou, for example, there were 249 public sentencing rallies conducted by the two tiers of the local court throughout the three years of the campaign. The Baotou court records report that more than 2,290,000 members of the general public had attended the rallies in Baotou and in excess of 580,000 public notices and leaflets had been distributed (Baotou, 1990: 30).

One of the first and most detailed accounts of a rally during an anti-crime campaign comes, in fact, from the Baotou court history. The description exemplifies the significance attached to the rally as a shaming ritual which symbolically reflects the relationships between the state, the criminal and the masses. The document records that on 7 September 1983 at the height of the first Strike Hard campaign, mammoth public sentencing rallies were held in two separate sites in Baotou city to pronounce sentencing on 80 serious offenders, 42 of whom were sentenced to death (Baotou, 1990: 30).

To ensure the success of the sentencing rallies, court cadres and police from the intermediate court worked without let-up around the clock. In the early hours of the morning at 4 am, court and military police gathered together, braving an immense downpour of rain. They arrived at the site of the rallies at precisely 5 am. (Baotou, 1990: 30–1)

In attendance at the rallies were the municipal party secretary, the mayor and other party and government dignitaries along with the intermediate court president and the vice president who attended the separate rallies. More than 100,000 people were in attendance at the rallies and the court distributed 9000 copies of the judgement notices and 20,000 leaflets publicizing the event. It was recorded that members of the masses attended the momentous rallies in droves despite the heavy rains and that 'the venues were so packed that some people had no alternative but to stand outside' (Baotou, 1990: 30–1). The court's recording of the event goes on to relate that:

... [d]espite these circumstances, the rallies ran smoothly from start to finish. More than 100,000 people lined the streets in the pouring rain to voice their indignation against the criminals on their route to the execution grounds. Families brought along their young and their old, and they all paved the streets to 'send off the gods of plague'. The task of frightening would-be criminals was accomplished and the masses breathed a sigh of relief. People were

elated, clapping and cheering, and afterwards, numerous letters of praise were sent to the political-legal organs. (Baotou, 1990: 30)

As will be seen below, this draconian format of expressive punishment has not lost its political appeal in the last 20 years despite all efforts on the part of central authorities to promote the image of a civilized open and modern court system.

PROPAGANDA AND RALLIES IN 2001

China's latest and bloodiest Strike Hard anti-crime campaign of 2001 has required a mammoth publicity effort to bring home the message that despite the significant increase in violent crimes over the last two decades, the political authorities remain in control of the social order. As with the 1983 Strike Hard anti-crime campaign rhetoric, the usual suspects in the latest Strike Hard campaign – heinous criminals and vicious criminal gangs – have experienced the swift and relentless punishment of the state, backed by the 'will of the masses'. Rallies, while not as popular in major centers such as Beijing and Shanghai these days, nevertheless remain a widely used instrument of propaganda and punishment in regional areas and cities such as Guangzhou, Shenzhen, Wuhan, Zhengzhou, Chengdu, Chongqing, Shenyang, Urumqi and other provinces and regional areas, all hot spots of criminal gang activity and government corruption.

In this latest campaign beginning in April 2001 (and ending in June 2003), rallies have been organized to occur en masse throughout various provinces and cities to mark the start and end of key phases in the campaign. The first batch of rallies, described in the opening section of this article, ran from 11 to 12 April. Eleven days later, on 22 April, a second round of rallies occurred. The second major sentencing rally of the campaign in Beijing was convened by the Beijing No. 1 Intermediate Court on 22 April, pronouncing the death sentence given to six criminals. Before execution, all six condemned criminals were said to have accepted the judgement of the court and expressed remorse for their crimes.¹⁵ On the same day, 12 criminals in Chengdu, Luoyang, Huizhou and other cities who were reported to have owed 'a mountain of blood debts to society' were executed, with vice-president of the Supreme People's Court, Jiang Xingcheng commenting that, 'we will endeavor to severely and swiftly strike "surely, accurately and relentlessly" at serious violent criminals.'¹⁶ At 9 am that morning in Wuhan city, central China, a mass sentencing rally was convened in which 30 death sentences were publicly announced. As in other areas, the condemned criminals were executed immediately after sentencing. In various cities across Henan province on 22 April, 1168 serious criminal offenders were publicly sentenced.¹⁷ Three days later at the Municipal Sports Stadium in Kunming, another Yanda sentencing rally was held to pronounce the death sentence given to 18 individuals in 12 separate cases.¹⁸

Sentencing rallies in the 2001 campaign have pushed the limits of what is acceptable as a degradation ceremony in modernist China; the focus has been on practices such as parading convicted criminals around stadiums and parading criminals en route to execution grounds, a practice outlawed in the mid 1980s. At the above-mentioned rally in Henan on 22 April, for example, the event was organized like a mini Olympics opening ceremony. Prior to being marched up on stage to be publicly sentenced, the 1168

criminals were paraded around the stadium, Olympics opening ceremony-style, with placards detailing their names and crimes.

Rallies in the 2001 Strike Hard campaign have a number of distinctive qualities developed and adapted from the principles of law propaganda explored earlier. The conventional rally has been reworked into three distinctive adaptations: the simultaneously-convened rally (*jizhong gongpan dahui*); the rally organized for a specific audience or purpose, called the 'specialized sentencing rally' (*zhuanxiang gongpan dahui*); and the 'joint public arrest and sentencing rally' (*gongkai deipu gongkai xuanpan dahui*). Simultaneously-convened rallies are usually organized at the municipal or provincial level, and involve anything from a few to a few dozen courts. For example, in Hubei province, in a series of sentencing rallies simultaneously conducted in a number of cities across the province on 21 April, more than 50 criminals were sentenced to death and summarily executed. On 21 April, dozens of courts all over Guangdong province simultaneously convened rallies.¹⁹

'Specialized sentencing rallies' – rallies organized with a specific audience in mind or to bring attention to a specific category of crime – occurred in the early part of the 2001 campaign both in provincial cities and major centers such as Beijing and Shanghai. Over a period of two days in May, the Shanghai Intermediate Railway Court and lower level railway courts including Bengfu, Hangzhou and Fuzhou convened rallies at train stations to sentence criminals convicted of theft committed on trains or at stations.²⁰

The third initiative of the 2001 campaign, the joint arrest and sentencing rally, involves parading suspects and convicted criminals together on stage. It begins with a line-up of a group of suspects who are publicly arrested by the public security bureau or procuratorate and is followed by a line up of convicted criminals publicly sentenced by the court. This format of rally is a strong confirmation to the public that the three organs of criminal justice are working together in close coordination. One particular hot-spot of large-scale rallies, Sichuan province, organized 123 joint public arrest and public sentencing rallies 'to frighten criminals and educate the masses', over a 10 day period, with 3527 suspects arrested and more than 900 convicted criminals sentenced including 186 sentenced to death. In all over 3.5 million people in the province were reported to have attended rallies from 19 to 28 April.²¹

In yet another hybrid format of the rally, some courts have convened joint arrest and sentencing rallies at crime sites. At a local undercover food market in Wuhan on 12 June, for example, 35 people were put on show, 20 of whom were publicly arrested. The convicted criminals and suspects were all accused of public order offences that occurred at the markets. The 3000 or more people who attended the rally at the food market were most probably onlookers doing their shopping.²² By the end of the first phase of the campaign in May, thousands of rallies had been convened nation-wide. In Sichuan province alone, over 1270 rallies had been organized with audiences totaling over 990,000.

CONCLUSION

The court's explicit propaganda functions says a lot about its perceived role and capacity to shape the values and legal consciousness of the citizenry in China. This emphasis presupposes a particular mentality of government in the PRC – that citizens' values and

understandings of law and justice (and their resultant behavior) are open to the calculation of explicit education and deterrence programs. Within this context, the symbolic arrangements of the trial and the sentencing rally, which operate within the mundane routines of adjudication, guilt determination and sentencing, can be understood as messages about the state and its response to economic and social change.

Trials and public sentencing pronouncements, while performing an immediate instrumental goal, are also symbolic reassurances of the capacity of the court both to protect its citizens and to reflect the prevailing moral order (Garland, 1991: 206–7). As symbolic messages, adjudication and sentencing practices help to establish judicial legitimacy by acting out authority roles and by presenting court strategies and attitudes toward crime as the legitimate social or moral norm. The court's potential to affect its social environment therefore extends beyond its most immediate function of determining guilt and sentencing individual offenders. Adjudicative and sentencing practices are, therefore, not merely considered a legal means to a particular social end (crime control), but are practices which are performed in the public gaze, claiming to embody the morality of the community (Garland, 1991: 192).

This article has explored the propaganda functions of trials and rallies within the specific context of the national economic, political, social and legal reforms of the post-Mao period. The courts' response to the burgeoning crime problem in this period was to continue to use mass-line rhetoric and practices of expressive punishment in order to accommodate a tension between two main imperatives of reform: political stability and economic growth. Criminal court work was caught between the promises of economic prosperity and the threat that any major social instability would endanger economic modernization. The problems and incongruities of the 1980s have such resonance in court work that an observer of court work in the 1980s reforms could, today, be completely comfortable with the rhetoric and issues present in newspaper editorials and websites on criminal justice issues in the years 2001 and 2002. As we have seen through this article with the examination of rallies in Yanda 2001, criminal court work today continues to be dominated by this incongruity between the intentions and aspirations of change and reform and the political, social and institutional impediments to reform. Today, as in the 1980s, the assumption that political stability is a perceived precondition to economic prosperity has required the courts to be 'all things to all people': an increasingly autonomous and thus an increasingly legitimate bastion of 'rule of law' values; a simultaneous expression of institutional procedural propriety and a raw expression of state power; a simultaneous embodiment of the virtues of 'socialist spiritual civilization' and a protector of 'socialist material civilization'.

Notes

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- 1 'Guangzhou juxing gongpu gongpan dahui' [Joint public arrest and sentencing rally held in Guangzhou], *Renmin ribao* [The People's Daily], 12 April 2001, p. 1.
- 2 State newspapers reported the figure of 89 on 12 April. See 'At least 89 executed in one day in PRC's "strike hard" campaign', Foreign Broadcasting Information Service (hereafter FBIS), 12 April 2001 at FBIS-CHI-2001-0412.

- 3 See for example, Article 3, *The organic law of the People's Court of the People's Republic of China* (1979).
- 4 This is an argument made by top political-legal officials. See, for example, 'Making law a household word in China' (1985) *Beijing Review* 28(31): 26.
- 5 'Making law a household word in China' (1985) *Beijing Review* 28(31): 26.
- 6 Xingshi susongfa jiaocheng bianxiezhu (eds) (1989: 60–61).
- 7 Baotou fayuanzhi bianxuan weiyuanhui (ed.) (1990) *Baotou fayuanzhi* [The annals of the Baotou people's courts. (Hereafter cited as Baotou). The case study was the first and most authoritative government case study in the PRC, covering a period of 36 years from 1950 to 1986. The document was written over a period of five years by judges in the Baotou Intermediate Court and was commissioned by Communist Party (CCP) history researchers in Beijing. The Baotou history was intended as a representative history of all local courts in the PRC. It was chosen as a typical court in a typical mid-sized industrial city and its history covers a period of 36 years from 1950 to 1986. The case study is the subject of the author's unpublished PhD dissertation (Trevaskes, 2001).
- 8 'Guanyu geji renmin fayuan shenpan ting jianshe wenti yu yijian' [On some questions and opinions regarding the construction of courtrooms for courts at all levels] (1989: 449).
- 9 'Shenpan tiaojian de guanli' (1992: 203–206) and 'Zuigao renmin fayuan, zuigao renmin jianchayuan guanyu renmin fayuan shenpan fating shenpantai, gongsutai, bianhutai weizhi de guiding' (1998: 1230–31).
- 10 See <http://www.Chinajudge.com> (April 2000), [accessed on 29 April 2001].
- 11 For a more detailed exegesis of the tension between politicization and professionalization, see Stanley Lubman (1996) and Harold Tanner (1999).
- 12 Apart from Michael Dutton's (1992) short outline of sentencing rallies, there are no other detailed published studies on PRC sentencing rallies outside China, apart from the author's recent study (Trevaskes, 2003).
- 13 Interviews conducted with public security bureau and court staff in Beijing by the author in 1996.
- 14 Michael Dutton (1992) makes this point in his comparison of the spacio-symbolic arrangements of the sentencing rally and the public trial.
- 15 'Beijingshi zhaokai shouci yanda gongpan dahui' [Beijing convenes its first sentencing rally of the Yanda campaign] in, *Renminwang* [People's Daily On-line] at <<http://www.people.com.cn/GB/shehui/43/index.html>>, See 22 April 2001. (Hereafter cited as *RMW43*).
- 16 'Yi pi xuezhaililei de zuifan fufa' [A Batch of Criminals with a 'mountain of blood debts' are executed] in *Renmin Ribao* [People's Daily], 21 April 2001, p. 2 (hereafter cited as *RMRB*).
- 17 'Henan gongkai xuanpan 1,168 yanzhong xingshi fanzui fenzi' [1,168 serious criminal offenders publicly sentenced in Henan], *RMW43*, 23 April 2001.
- 18 'Kunmingshi zaici juxing yanda xuanpan dahui' [Another sentencing rally convened in Kunming], *RMW43*, 25 April 2001.
- 19 'Hubei wushiyu min zuifan zuobei chujie' [More than 50 criminals executed in Hubei yesterday], *RMW43*, 22 April 2001.
- 20 On-line search of *Renmin fayuanbao* [People's Courts Daily], 22 May 2001.

- 21 'Sichuan Yanda chude zhongda de zhanguo' [Great successes for Yanda campaign in Sichuan] in *Renmin wang* (People's Daily on line), Anjian chuanzhen site [Portraiture of legal cases] at <http://www.people.com.cn/GB/shehui/44/index.html>, 28 April 2001.
- 22 'Wuhan zaici jinxing gongpu gongpan' [Another public arrest and sentencing rally held in Wuhan] *Renmin Ribao* [People's Daily], 13 June 2001.

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