

Techniques to Exploit Vulnerabilities: Persuasion and Education in Chinese Police Interrogations

Introduction

Over the last decade, there has been a paradigm shift in policing with a growing attention to vulnerability. Rather than perceiving crime prevention and offending from the perspective of guilt and blame, the emphasis is placed on delivering a service to vulnerable people – whether they are victims, witnesses or offenders (College of Policing 2018; Cleveland Police 2021; Her Majesty's Inspectorate of Constabulary 2015; Fassin 2012; Cuneen 2001; Key and Kirby 2017; Aliverti 2020). Identifying and safeguarding vulnerable people permeates police policy and becomes a focus for action¹ (Asquith & Bartkowiak-Théron 2017: 1; Bartkowiak-Théron & Asquith 2012; 2015; 2021:4). This newly emerged theme prompts us to reconsider police authority, traditionally known as a coercive power, through the lens of vulnerability. What is the link between coercion and vulnerability in policing? How do we understand police coercion from the perspective of vulnerability?

Coercion and vulnerability, as pivotal themes of policing, have so far been treated separately in research. The police-suspect relationship is known as a form of 'social discipline' (Choongh 1997). The coercive nature of police powers, such as the use of dubious tactics to extract incriminating statements, is well documented in policing literature (e.g. Softley et al. 1980; Irving and McKenzie 1989; Williamson 2006; McConville et al. 1990; Pearse and Gudjonsson 1997; Sanders and Young 2007; Cape and Young 2008). Bittner (1970:46) observed that the police's monopoly over legitimate use of force gives rise to compliance of police orders. Located in the 'penal chain' set up by the criminal justice system, suspects' interaction with the police can be perceived as a process that 'contains and produces pain' (Skinns and Wooff 2021; Skinns 2011, 2019; Leo 1994; Britton 2000). The over-representation of vulnerable people in custody, on the other hand, has fuelled a debate about some sections of suspect population as 'police property' (Reiner 1998). Vulnerability, in this sense, was recognised on the basis of suspects' mental and physical characteristics, in line with that defined in the Police and Criminal Evidence Act 1984 (PACE).² This notion of vulnerability is challenged by academics. Instead of positing as risks to harms associated with biological or situational capacities, vulnerability is now acknowledged as a ubiquitous trait inherent to the human condition (Fineman 2008, 2010, 2013; Dehaghani 2019, 2021). At the core, all suspects are vulnerable – their lack of control in the criminal process depletes their resilience (Dehaghani 2021).

While much is known about policing from the parallel perspectives of coercion and vulnerability, how these two facets correlate with each other remains largely unexplored.

¹ For example, identifying and protecting vulnerable people has become a performance measure of police work in England (Asquith et al 2017; Dehaghani 2019).

² The concept of vulnerability was introduced by PACE and its codes of practice to regulate how the police should collect evidence to secure its admissibility and to protect those deemed vulnerable, including those of a young age, or having mental vulnerability and mental disorder. This suggestion arose out of the wrongful conviction case, known as the 'Confait Affair', in which the death of Maxwell Confait was erroneously attributed to three youths, two of whom were juveniles and a third who was mentally disabled. The upshot was the recognition of the welfare needs of vulnerable suspects susceptible to coercion and suggestion in police questioning (The Fisher Report 1977; The Royal Commission on Criminal Procedure 1981).

Situated in a different socio-legal context, this paper analyses the relationship between coercion and vulnerability during police interrogation in China, where due process plays a minimal part. Here legal advisors are not allowed to participate in the police questioning, according to the Chinese Criminal Procedure Law 2018 (CPL 2018).³ Importantly, suspects have no right to silence; instead, they must answer police questioning truthfully (Article 120 of CPL 2010).⁴ Although video-recordings have been introduced to record interrogation processes for major and serious cases since 2012, empirical research suggests that recordings are constantly tampered with, edited or reproduced (Ma 2015; Zhu and Siegel 2015). Shielding from external scrutiny, the Chinese police interrogation constitutes a locus where the coercive power is amplified and vulnerability highlighted. To date, existing literature on Chinese interrogations is overwhelmingly centred on torture as acts of physical violence (e.g Sapiro 2010; Wu and Beken 2010). Torture, as an extreme form of coercion, certainly deserves extensive analysis in its own right. This paper, however, is less interested in revealing and condemning this dehumanised interrogation, which does not represent the gamut of police-suspect interactions. Rather, it examines the ways in which vulnerability as a universal human condition is exploited by state coercion, and how this coercion produces and perpetuates the moral vulnerability of police.

To analyse police-suspect dynamics, this study set a scope of a set of psychological interrogation tactics known as persuasion and education (*shuofu jiaoyu*). Persuasion and education (thereafter PE) incorporates legal and evidential elements in the psychological stratagem that function together as an overarching principle to be applied thoroughly to ‘every and each suspect and all interrogation processes throughout’ (Bi 2017). It is described as a non-antagonistic, sophisticated solution to overcome challenges posed by uncooperative suspects during investigations (Chen 2014). Despite the seemingly exhortative veneer, this paper will show that PE strategies are coercive in nature, and their mechanism lies in the exploitation and construction of suspects’ vulnerabilities. Drawing upon in-depth interviews with frontline police officers, this article is the first study to systematically explore the psychological interrogation techniques employed by police in China.

The remainder of the paper proceeds as follows. Section Two examines PE as a range of interrogation strategies and its kinship with the thought reform programmes launched at the early stage of the Chinese Communist regime. This is followed by a brief account of data collection. From Section Four to Section Six, the article focuses on the mechanisms of PE strategies, which consist of exploiting suspects’ personal relationships, their hope for the uncertain future and memories of past experiences. These mechanisms correspond to the three forms of universal human vulnerability, namely the individuals’ susceptibility to human dependency, the predicament of irreversibility and uncertainty about the future. This article concludes with a discussion of the moral vulnerability of the police.

Persuasion and Education: The Concept, the Antecedents and Vulnerability

Wang Huaixu (1989) defined PE as ‘a set of interrogative strategies that utilises law, policy, circumstances and moral education to reform the thoughts of the suspect and to induce him to

³ In China, only juvenile suspects are entitled to an appropriate adult if their parents are not available. Empirical research, however, shows that the role of appropriate adults is symbolic in nature and they rarely exercise their rights (Mou 2021).

⁴ CPL 2018 does declare that ‘no one shall be forced to provide evidence proving his guilt’. However, this is regarded as an ‘aspirational’ provision as no mechanism is in place to safeguard the declared right (see Mou 2020: 49)

confess honestly, thrashing out the right and wrong and weighing pro and con'. As an authoritative interpretation, this notion of PE is widely endorsed by Chinese criminologists (Xu and Li 2005). Later discussions on PE are roughly in line with this definition (Bi 1998; 2017). This consensus makes it easy to ascertain the scope and objectives of PE, which is made up of the two components of re-education and confession acquisition. Following this definition, any psychological approach and verbal exchanges conducive to meeting these aims can be lumped into the category of PE, making it an all-encompassing interrogative method.

The affinity of re-education and confession in police interrogation has a cultural pathway in the Confucian ideology, which believes that human beings are malleable and can be reformed through repentance, confessing, education and self-cultivation (MacCormack 1996:10). The idea that people are cultivatable is later embraced by the Chinese Communist Party (CCP). The CCP history is replete with various forms of thought reform campaigns (Chen and Chiu 1955:177-184. Cheek 2019). During the Rectification Campaign in the 1940s, Party members underwent rounds of public confessions, study groups and reviews of personal records to correct political deviations and achieve ideological remoulding (Kiely 2014). After the CCP came to power, a series of thought reform programmes were mass implemented to enforce the communist ideological homogeneity. Study groups in the form of accusation gatherings, criticism and self-criticism meetings were set up in universities, schools and 'revolutionary institutions' to attack bourgeois thoughts (Eddy U 2007; Demos and O'Neill 1984). These thought reform programmes revolved around the demands of confession and re-education. On the one hand, confessing allowed the individual to renounce his past and present 'evil'; on the other hand, re-education presented him with an opportunity to reshape himself in the Communist image (Lifton 1961: 66). These programmes are composed of psychological techniques, such as milieu control, assault upon identity and self-betrayal. Gudjonsson (1992: 214) considers Chinese thought reform to be tactics to 'exploit human vulnerabilities, which are induced or exacerbated by fatigue, sleep deprivation, insufficient or inadequate diet, uncertainty, pain and general physical discomfort'. The essence of thought reform, according to Lifton (1961), uses 'social, emotional and physical capacities of the person against himself, to break him down in order to remake him in another form'.

Compared to thought reform, PE focuses on detailed confessions to solve a crime, rather than 're-programming the deviationists' in the ideological struggle. Nevertheless, both comprise strategies that are set out to detect, target and exploit the individuals' vulnerabilities. In capturing individual experiences of universal vulnerability, Misztal (2011) categories vulnerability in three forms. The first describes people's inherent need for attachment to others. This dimension stems from the precarious relational bonds people rely on, which are produced or exacerbated by established social arrangements. The second form of vulnerability underscores people's anxiety about the future. The linear process we experience as time and the 'infinite improbability of action', discloses our frailty and fears about the uncertainty of the future (Arendt 1958: 178). The third manifestation of vulnerability is embedded in the irreversibility of past actions and experiences. The fact that past deeds cannot be undone and that memories are reinforced by social narratives, shapes people's relations in the present and limits their choice for the future. These three forms of vulnerability, as Misztal (2011) observes, are tangible human conditions that are susceptible to exploitation. In relation to policing, Crehan (2017) reminds us that there is a situational source of vulnerability to which police are subject when carrying out tasks, namely moral vulnerability (Arnetz et al. 2009; Karlsson and Christianson 2003). The fact that police regularly have to use normally immoral, albeit legitimate, methods (such as taking a person's property from them, physically forcing a person into a car) to realise the fundamental ends of policing, i.e., upholding moral rights of

communities, has a corrupting effect on themselves (Miller et al. 2006: 138). Their constant exposure to coercive power may account for their propensity for using immoral methods for reasons other than ones connected with the aims and goals of policing (Walker 2014; Crehan 2017). Moral vulnerability in this regard is a boomerang consequence of the police exercising coercive powers. As shall be seen in the example of PE tactics, both general vulnerability, recognised as an embodiment inherent in all people, and the moral vulnerability of police, are interwoven with police authority.

Data Collection

Understanding the ways in which police interrogations are conducted using psychological methods in China is in its infancy. In the Western context (especially the UK and US), since the 1980s, a large body of literature has evolved to explore psychological interview/interrogation techniques (See Kassin and Wrightsman 1985; Gudjonsson 1992; Kassin and Kiechel 1996). This disparity may be attributed to the fact that investigations are firmly controlled by the Chinese police, and excluded from external scrutiny.⁵ I approached several police stations and detention centres between 2016 and 2018, in the hope of observing Chinese interrogation practices. None of my requests was permitted. It might have been helpful if I were able to interview ex-prisoners who experienced police interrogations. Yet my lack of access to the potential ex-prisoner interviewees ruined the plan. Furthermore, efforts were also made to view video-recordings of police interrogation in three Intermediate People's Courts.⁶ Again, because of security reasons, my enquiries did not come to fruition.

In the course of access negotiations, a number of frontline police officers volunteered to share their knowledge of interrogations. Their consent enabled me to interview 35 frontline officers, whose interrogating experience ranged from two to 40 years. These interviews were particularly challenging in the sense that they were akin to 'asking a tiger for its skin', as the Chinese proverb goes. I was sceptical of the validity of the interviews at the very beginning of the project, assuming that some officers, consciously or subconsciously, might conceal details or modify their stories and beliefs. As the interview data accumulated, however, themes and patterns emerged from these individual experiences, shedding light on the ways in which psychological techniques are applied in the insulated interrogation rooms. Since the interviewees were scattered over seven geographic sites (A to G) and unknown to each other, the overlapping themes discerned in the conversations certainly cannot be dismissed, or treated as mere coincidence, especially as some of the details dovetailed with the strategies recommended in police interrogation manuals. To test the reliability of the interviews, I submitted the coded transcripts to two trustworthy friends, both former interrogating officers, for review. They confirmed the credence of the data and were impressed by the openness of the interviewees. Given the lack of access to direct observation, they agreed that the interview data proffered invaluable inside information on the police interrogations of China.

These police interviews provide an insight into the Chinese police culture. Research of police culture found that the way police enforce the law is rarely guided by legal precepts, but rather informal occupational norms and values operating under the apparently rigid hierarchical structure of police organisations (Chan 1996, 1997; Westley 1970; O'Neil et al. 2007;

⁵ Detention centres in China are controlled by the Ministry of Public Security and administered by the police at the local level (Cheng and Nesossi, 2016: 95-109).

⁶ Recordings of interrogating crimes punishable by life imprisonment, death penalty or other significant offences have been required according to Article 121 of Chinese Criminal Procedure Law 2012 (CPL 2012) (Article 123 of Chinese Criminal Procedure Law 2018) (CPL 2018).

Holdaway 1983; Reiner 2010). It shall be seen in the following sections that the approaches taken by the Chinese police to justify their practice and ward off threats to their institutional ego are somewhat similar to those of their western peers (Holdaway 1997; Shiner 2010; Loftus 2009). While these remarks help explain the mechanism, one should always be mindful that what the police discuss in the 'remote recessive' location may not automatically be translated into their actions (Waddington 1999; Reiner 2010: 126; Loftus 2007: 195). The interviews were loosely structured, seeking details of the way psychological interrogations were conducted. The transcribed data are coded with initials corresponding to the geographical areas where the interviewees were based (A [n] to G [n]). Informed consent was obtained from all the interviewees and cautious steps were undertaken to ensure that the identities of the interviewees were anonymised.

'Knowing your suspect and working out his social network'

There is no centralised programme to train frontline police officers in how to effectively conduct interrogations in China. Although some police officers have previously studied relevant courses on interrogation in police academies, interviewed officers indicated that they relied heavily on self-acquired skills after they had embarked on their careers, primarily by observing and assisting their senior peers (Interview A-1,3,5; C-1,3,4; D-2). When it came to general principles, all the officers agree that an important step of the PE strategy is knowing your suspect. They emphasise that not every conversation with the suspect is counted as interrogation. Conversations not directly linked to case facts are not recorded or seen as part of the interrogation (Interview A-2,3,4; D-3,4; E-1 & G-1). These low-visible exchanges, however, are crucial in understanding the suspect's background and his involvement in the case in question.⁷ The type of information that police are interested in includes the suspect's family, friends, lifestyle, those whom he cares about, his hopes and concerns, whether he was a convict, a suspect, or is associated with such persons. The enquiry is an indispensable process in building a potential rapport, reading the suspect's mind and formulating correct interrogation strategies.

Police: I put a lot of emphasis on communication skills. It does not affect my work at all. I would talk about his family and all the details that are related to him. I would also talk about myself. I don't look down upon a suspect as a person. I would talk to him on the same level. It makes the relationship more harmonious and lays a solid basis for further interrogation. The biggest problem we have is some suspects just will not confess. Then I have to put in more effort to understand the person. By knowing their history, I can find a way to solve this. (Interview A-2)

It is believed that the vast majority of suspects cling to a certain mind-set in order to resist and defend vigorous questioning. The investigation strategy, in response, is to de-stabilise their psychological fortifications (Interview D-2, 4 and 5; E-1). To this end, the suspect's weakness, if known by the police, can be utilised as a breakthrough to gather information. This technique is known as 'luring the snake out of its hole (*yinshe chudong*)'. For most suspects, their vulnerabilities reside in their care for their family. A crucial part of the education element of PE, therefore, is about reminding the suspect of his family responsibilities: to be a filial child to the old mother and a caring parent for a young child. By appealing to his obligations to family members, police inject a sense of guilt into his mind. Here, cooperation with police and making a confession amount to being a respectable person who takes on family responsibilities. It is 'his moral consciousness' (as opposed to the police) that demands the suspect confess his guilt, so that he can return home earlier to fulfil his family obligations.

⁷ There was a parallel strategy in England and Wales in the early 1990s (See McConville et al 1991: 59).

Police: My strategy is quite straightforward. I say to the suspect that if you don't tell us the details, you will be kept in the cell for a long time. Think about your old mother and your young kid. You have a responsibility to look after your family – be a filial son and a caring father. Your family needs you. Otherwise, you will be detained for another few months. You cooperate and go home earlier'. [...] Most suspects want to finish early and go home, so confessing and being cooperative will accelerate the process, which helps him return home quickly. Persuasion and education is all about using morality to make him a better person (*ganhua ta*), letting him know that it is useless to push his luck by denying it. (Interview G-1)

Being cut off from human contact and from their social networks constitutes moral pain for detainees, who are reminded of this rejection and condemnation by degradation mechanisms, such as the anonymity of their names (Skinns and Wooff 2021; Sykes 1958: 65). This type of human suffering, however, can be instrumental in serving state ends or fulfilling institutional tasks (Deng and O'Brien 2013; Hou (2019). For example, family bonds are utilised directly to exert pressure to extract confessions (Interview A-1 and 3).

Police: Every suspect has a weak spot in his heart: his family, especially his children. [...] For example, a suspect I arrested blackmailed many victims for money. I did a lot of preliminary work. I knew that he had a wife and twins. I contacted his wife and had a conversation with her privately. [...] Then I talked to the suspect about his twins and his wife. As he was eager to know information about his family, I found a way to let him cooperate. The suspect was in custody. According to the rules, he could not see his family. I told him that he could only see his family in the court, but he was allowed to write to his family. Then he asked me to send a photo of his children to him. I promised him and then asked him to tell me what happened. (Interview B-3)

Police: Part of the persuasion and education involves sentiments and emotions. Everyone has family. Suspects are concerned about them when they are under investigation. Our task is to remind them of their family – why did they commit the crime? They did that to support their family. But their crimes will have a negative impact on their family. In one instance concerned with fraud, I told the suspect that we knew he has a daughter studying in the university of whom he was very proud and we could easily check her bank account. I also told him that I knew that all he did was try to be a good father and he never meant to cause any problems to his family. After the talk, the suspect confessed everything. (Interview C-7)

This interrogation tactic is evidently built upon the exploitation of interpersonal relationships, especially family relationships: the first form of vulnerability. It is the proximate relationships for whom suspects care that make them fall prey to the interrogators. Knowing the suspect's background helps the police to select the right approach for the specific suspect. For instance, experienced interrogators may start with a friendly chat to appraise their achievement 'due to many years' hard work' when dealing with suspects from respectable social backgrounds. After feeding their egos, the talk is steered into an indoctrination that confession is the only way to expiate their guilt (Interview D-2; E-3; F-4 & 5). For female suspects, sympathy is often the best recipe, which can be given to express the interrogator's appreciation of the 'sacrifice to support her family'. In minimising the moral seriousness of the suspect, the police then offer them the 'climbing ladder' to preserve their moral integrity, and an 'opportunity' to confess (Interview D-5 & 6). In these instances, emotion is evoked to arouse awareness of their commitment to family and their purpose in life: something bigger and grander than themselves (Interview A-3 & 4; B-1,2,3,4,5; C-2,3,6; D-2,4,5,6; E-1,3; F-1,3; G-1). Most people who grew up in China are familiar with the emotional performance and the emphasis of self-sacrifice in the nationalist pedagogy. The PE strategy has apparently incorporated the same emotional management skills by which self-sacrifice is extolled and reinforced to seek confessions (Pun and Qiu 2020).

Police: The talk surrounds breaking through the suspect's psychological fortress (*tupo xinli fangxian*) and experienced colleagues use emotions to open their mouths. For example, we let them understand that cooperation would be the best solution for themselves, their family and all the important objectives they care about. They should think in the long term – there are things more important than themselves. They cannot be selfish and self-centred. They should take responsibility. (Interview B-2)

The suspect's dependence on others is not limited to his established attachment to family and/or friends. Newly forged relationships, such as the relationship with cellmates, can also be deployed to facilitate the purpose of confession extortion. PE can be conducted with the assistance of police informants in detention centres.⁸ These informants, known as the ears and eyes of the detention centre (*kanshousuo ermu*) or ears and eyes of the prison (*yuzheng ermu*, *yunei ermu* or *yunei teqing*) are extended arms of the police,⁹ working in 'the second battlefield' of detention cells (He Y 2015: 32). Detention centre informants are recruited from convicts, who are motivated to gain benefits, such as sentence deduction, material rewards and family visits (He D, 2016; He Y 2015). With the aegis of the police, they are granted special privileges in detention centres and have often become 'cell bosses (*laotou*)' bullying other detainees. These agents are tasked with securing self-condemning information against the suspect. For this purpose, they may resort to tactics of all sorts outside the legal boundaries, and maintain a constant highly-strung atmosphere to break down the targeted individual (Liu and Lin 2014; Xu 2014). Media reports have focused on tortures inflicted by police informants,¹⁰ but in practice, 'soft' techniques, such as indoctrination in the guise of offering advice, were proved to be highly efficacious in influencing the targeted suspect and inducing confessions (Interview B-5). Some informants, for instance, take active steps to befriend the suspect and 'enlighten' him that confession is the best solution forward (Interview B-6). Incarcerated incommunicado, and isolated from significant others, suspects may follow the advice of the 'affable advisor'. If amicable conversations become futile, the cell boss may mobilise other cellmates to humiliate and marginalise the uncooperative individual (Interview B-6). Constant group pressure and inmate harassments in the often-congested living space intensify the state of deprivation (Lei and Nesossi 2018: 50). Whereas privacy and rest are most needed to recover from the stressful police interrogation, stress and overstimulation from the inmates prolong the strain, exacerbate their sense of helplessness and further exhaust them psychologically (Madon et al 2012: 61). The suspect's relationship with the cell boss, at any rate, redounds to police questioning. It prepares a 'cooked interrogation subject': someone who is easily broken down, for the formal police questioning (Interview B-2, B-6). The interrogators are fully aware of the vulnerabilities of the suspect and acknowledge the enlisted help. When confessions are not forthcoming, sending the suspect back to the cell to prolong the predicament, enhances the chance of securing an admission.

Researcher: Do you think the suspect confesses honestly in the interrogation the first time?

Police: 90 per cent will not. It is all about the communication and education.

Researcher: If he still refuses to say...

Police: Continue to educate and educate until he confesses. It is all about the psychology of communicating. [...] Most of them want to get out of the detention centre quickly. It is not a nice place to live with people you don't know. Some of them are violent and dangerous (Interview D-2)

⁸ Detention centres and prisons were under the management of the Ministry of Justice at the beginning of the rule of the Chinese Communist Party, but police took them over in 1950 during the Campaign to Suppress Counterrevolutionaries. Ministry of Justice and the MPS.

⁹ The primary task of these informants is to detect crimes committed in prison, although they are tasked to assist the police with investigations (Wu 2016: 40).

¹⁰ The cause célèbre wrongful conviction of the Uncle-nephew Zhang revealed the sinister use of police informers in detention cells where torture was conducted to extort a confession by the informer, who was a cell boss. (Mou 2020:10).

These tactics undoubtedly reinforce the importance of confession, which is prized by the police, not only for its value in securing convictions, but also for the self-assuring effect it has on ‘affirming’ the correctness of their judgment and their knowledge of crime (McConville et al 2011: 72). The reliance on confessions is a reflection of the ‘orthodox Chinese investigative tradition’ that the police always arrest someone to obtain the evidence, rather than the other way round (Mou 2020: 51). The system’s toleration of such practice, especially the fact that confession evidence is, or can hardly be, disputed at trial, has also strengthened the elicitation of confessions (Mou 2020: 57; McConville et al 2011: 75). The heavy reliance on confessions in China is consolidated in a criminal policy to be discussed in the next section.

‘We must give the suspect hope’

The second mechanism of the PE strategy corresponds to the second form of vulnerability, namely the fear of unpredictability. In the words of the police, ‘suspects all want to push their luck and hope to get away with the punishment (*baoyou jiaoxin xinli*)’, meanwhile, ‘they are extremely anxious and dread to think about their future’ (Interview A-1). It is amidst the uncertainty that the criminal policy of ‘leniency for those who confess and severe punishment for those who resist (*tanbai congkuan kangju congyan*)’ is pitched to them. As a well-established ‘golden thread’ in encouraging suspects to confess, the policy consists of two prongs: the ‘carrot’ of a lenient treatment to entice cooperation and the ‘stick’ of a harsh penalty to dissuade resistance. Offering a reduced sentence for suspects who confess has secured a legal standing in law. Both Criminal Law and CPL 2018 stipulate that a sentence reduction *may* be considered if the accused pleads guilty.¹¹ With this statutory footing, a part of PE is to hammer home the policy to influence the accused’s decision-making (Interview G-1). Policy education alone, however, can hardly persuade suspects (especially recidivists) to voluntarily make a confession. Many suspects stick to the motto that the more they confess, the worse the situation is against them (*tanbai congkuan, laodi zuochuan; kangju congyan, huijia guonian*)’ (Interview C-1, 2, B-1, 2, 3 &4, D-1; G-1). This was confirmed to some extent by a police officer.

To be honest, this policy is only effective to first offenders – juveniles or people who are inexperienced. It is not that useful to recidivists. The saying that the more they confess, the worse the situation is against them (*tanbai congkuan, laodi zuochuan; kangju congyan, huijia guonian*) is correct to some degree. If a suspect confesses a minor crime, rather than a serious crime, both of which are committed by him, we may focus on the crime that he confesses and let him get away with the serious one if no other evidence is available. (Interview D-1)

Skinns (2019: 14) identified four coexisting models of police authority and suspect compliance in the western context, namely coercive compliance; normative compliance (police legitimacy); symbolic compliance¹² and compliance induced by manipulation. Resonating with their western peers, police in China also alternate different forms of authority to elicit critical information. The good cop/bad cop routine is regularly adopted in Chinese interrogations (Interview B-2 &3; C-2; G-1). Suspects are coaxed with the sweetener of sentence reduction, and in the meantime, they are warned of a heavy penalty when a confession is not forthcoming. These kind of threats are not entirely a response to their denial of guilt; quite often it is about

¹¹ The laws concerned are scattered in both Criminal Law and CPL 2018. See Criminal Law, Art. 67 (1) & (2), Art. 68, Art. 164 (4), Art. 276, Art. 383, Art. 390, Art. 392; CPL. Art. 15, Art. 120, Art. 173, Art. 174, Art. 201, Section 4 (Arts. 222-226). Additionally, the Supreme People Court, the Supreme People’s Procuratorate, the Ministry of the Public Security, the Ministry of National Security and the Ministry of Justice jointly issued stipulations on guilty plea mitigations in ‘The Guidance on Leniency for Pleading Guilty and Accepting Punishment (*renzui renfa congkuan zhidu*)’ on 24 October 2019.

¹² That refers to cultural projection of police as a figure of authority (Skinns 2019: 14).

their uncooperative attitude (*taidu*). As part of the PE strategy, interrogating officers assume the role of moral leaders, expressing their disapproval of the moral wrongs committed by suspects to ‘arouse the conscience’ (Interview A-1, 2; D-3 and G-1). In preaching the harmful consequence of suspects’ deviant conduct, suspects are expected to react in a remorseful and deferential manner (Interview B-1, 2, 3; D-4, 5, 6 and G-1). Pleading not guilty, is not merely a negation of the standpoint of interrogators, who are convinced of the guilt of the accused, rather it is a symbol of defiance and a challenge to the interrogators’ authority, and this needs to be tamed and the suspect taught a lesson.

Police: Smart suspects will learn quickly that being cooperative is most important for them. We are police and we are also human beings. We deserve respect, as being police is a tough job. Normally we do not interrogate someone easily unless we are pretty sure that we’ve got the right person, so, claiming innocence is not very useful. The confrontation can make the situation deteriorate. Their bad attitude could result in a recommendation of a severe punishment. (Interview D-4)

It is worth mentioning that police’s confidence in detecting and apprehending perpetrators as mentioned might be misleading. Numerous studies demonstrate that police perform at no better than chance level in using verbal and behavioural cues to make accurate judgments (Meissner and Kassin 2002; Porter and Salvaneli 2019; DePaulo 1994). Chinese police are no exception to this. Their adamant pursuit of confessions has resulted in a large number of miscarriages of justice (Jiang 2016; McConville et al 2011; Mou 2020). The situation is further exacerbated by police performance indicators and anti-crime political campaigns, which have a mandate for ‘severe and swift justice’ (Trevaskes 2007; 2010; Wang 2020). As noted by Wang (2020: 435), the recent ‘sweep away black’ campaign undermined checks and balances in the criminal justice system and has significantly increased the risks of producing wrongful convictions.

According to some officers, the double play usually starts with ‘the hard talk’, catastrophizing the undesired outcome, such as the draconian punishment and the concomitant consequence. The stern lecture is followed by the amicable interrogator emerging from the dire future and pointing out his salvation, which constitutes the educational part (Interview B-1, 2, 3; D-4 and 5). The educational conversation has to be specifically tailored to each suspect and delivered in a manner that is adapted to his mind-set. The suspects’ background information, once again, serves as guidance to underscore their concerns for the grim future.

Police: Educational talk varies depending on the specific individuals. It is a coordinated activity according to the interrogation plan. The timing of education is very important. Interrogation is not random chat. It is a formal conversation with a focused target of getting detailed information from the suspect. How we talk depends on our grasp of the suspect’s mind-set: his worry about the future. (Interview G-1)

These talks revolve about admonishment and cajolement, and alternate between the demands of confession and education (Interview D-3, 4, E-4 and G-1). The reprimand brings about the symbolic death; leniency and the developing confession are the bridge between ‘death’ and ‘survival’; and the education process, along with the confession, create a peak experience of being saved at the brink of death (Interview E-4).

Police: Suspects are frustrated, extremely nervous and they are afraid of the future. During the talk, we must give the suspect hope. Hope is a powerful tool. For serious cases, such as major gang-related crimes, we will first analyse his legal consequence and the worst scenario. We have to show him how irresponsible he was to have committed such horrible crimes, disregarding the impact on his family. When the suspect shows anxiety and is extremely stressful, we then point out the bright avenue (*guangming dadao*) and guide him to cooperate with us. [...] This is the interrogation technique where we create a desperate situation and let him see the grim future. Then we show him hope and ask him to cooperate with us, rescuing him from the danger. (Interview B-3)

Central to this PE mechanism is the suspect's vulnerability, his insecurity about the future, which translates into his hesitation in the critical decision-making during police questioning. The interrogators' espousing of the benefit of confession only makes him aware of the jeopardy that the police have closed the alternative lines of enquiry, to which resistance is useless, and the only option open to him is between a lesser sentence and a heavy one. Under such circumstances, suspects, including innocent ones, are likely to make a confession, as the admission of guilt seems to be the 'safe' and logical choice.

'Memory is a tricky and self-destructive thing'

The final PE strategy is concerned with tactically revealing a tranche of facts purported to be known by the interrogator, suggesting that the interrogator has obtained sufficient evidence to prove the guilt of the accused. Since the accused was under suspicion of committing a crime, this PE technique is an exploitation of the third type of human vulnerability: using his memory of past experiences against him. In China, police have no obligation to disclose any evidence to the suspect or his defence lawyer during investigations (see Article 40 of CPL 2018). However, interrogating officers have reported that selective information has often been willingly divulged to the suspect in the course of the interrogation, albeit not for the purpose of evidence disclosure in conformity with the due process principle. Known as 'knocking on the mountain to terrify the tiger' (*qiaoshan zhenghu*), this PE approach is applied to create an impression that evidence against the suspect is insurmountable, thereby reinforcing the supposition that resistance is futile.

The information released sometimes consists of genuine facts based on the preliminary investigation, and at other times, distorted facts, particulars adulterated with unverified speculations, or fabricated details with little or no evidential basis (Interview E-2 and 3; F-4 and G-1). Although the law disallows threat, enticement and deceit in eliciting confessions, there seem to be no qualms about employing such trickery in practice.¹³ The detail of information can be revealed explicitly or implicitly. When the information is released directly, it is often incorporated in the 'hard talk' to keep up the pressure in the good cop/bad cop routine.

Police: Interrogation is a kind of art. [...] How to draw the line between deceit, misleading questions and lawful techniques is puzzling. [...] Mastering the art is very technical. Investigation should be based on the truth, which guides you to find out the evidence to be collected. One technique that always works is to indicate to the suspect that he has left trails of incriminating evidence and the police have got a grip of it. I may not have concrete evidence at the time, but I can make him think and believe that I've already got it. For example, I could allude to him that on 15th December, someone saw him walking on the bridge in the evening. On hearing that, the suspect is usually terrified; they would think that the police have got it and there is no point hiding any information. (Interview E-2)

On the other hand, the police can set up an orchestrated scene to reveal the information in an oblique manner. To be effective, details of the relevant facts are mentioned in a particular way to project the police's full grip on the facts (Interview G-1, B-3).

Police: There are many ways to make the suspect believe that we have got the evidence. For example, while questioning the suspect, we can deliberately take his co-offender past the door, or we could interrogate his co-offender in the adjacent room and raise the voice, so that he could hear his voice. In

¹³ This is partially due to the fact that enticement and deceit are hard to define and to prove, given that the police control investigations and defence lawyers are not allowed to participate. The existing exclusionary rules are far from robust and their implementation is also highly unfavourable to the defendant in practice (Guo 2017; Mou 2020: 62-64).

so doing, we give an impression that his co-offender has confessed and informed us of his involvement. (Interview B-3)

This kind of evidence bluff is regarded as the most efficacious of techniques in securing a confession (Interview G-1, B-2, 3 and 5). As a general principle, information is disclosed sparingly to maximise its potency and to avoid suspicion (Interview G-1). Timing is also important; experienced interrogators reveal the information at a time when the suspect is still in bewilderment after his immediate arrest, or when he is detected, so he would be confused, lose concentration or show signs of hesitation (Interview B-1, 2; G-1, C-3). Although details of the facts are conveyed, the actual item of evidence is rarely revealed directly to the suspect (Interview G-1, C-3,4 and 6).

Police: We take advantage of the suspect's hesitant mind-set. We need to conduct an interrogation when the suspect is still in a state of shock (of his arrest). The suspect does not know what happened and why he was arrested. In most cases, we possess some evidence before arresting a suspect for questioning. In our argot, (inculpatory) evidence is called the bullet. We do not shoot the bullet easily until the right moment. (Interview B-1)

Police: If we have evidence, we will not disclose all the evidence, especially in one go: we are not going to shoot out all the bullets! But sometimes we may reveal some evidence, depending on the timing, particularly when the suspect is hesitant and unsure. [...] When there is a kind of inner struggle within himself, we will disclose our evidence. The timing is crucial: we will only reveal the evidence if he is hesitant and unsure. We need to capture the moment by judging his body language. For example, if he is a smoker, he might ask, 'Can you give me a cigarette?' We need to poke him a bit. For example, telling him that someone saw him doing something suspicious. When the signal is sent, the suspect will be shocked and confess. (Interview B-2)

To successfully persuade the suspect, the physical settings, interrogators' body language, the selection of words and tone and the timing of disclosing the information should be coordinated. Interrogators, for example, may leave volumes of files on the desk of the interrogation room as a visual aid when interrogating a complicated gang crime, even though the case bundles may be completely irrelevant (Interview B-1). No matter how anxious interrogators are, they must maintain their composure and speak causally with the suspect. Irritation and frustration, according to experienced interrogators, are poisonous to interrogation; once detected, they will alert the suspect of the weakness of the case and may lose police control of the situation (Interview B-2 &5). Argot and patois are signs of in-depth understanding of the community and interrogators should always be prepared to use them accurately to demonstrate their unfathomable knowledge of the case (Interview B-2, 3 &5). If details uncovered in the investigation are to be disclosed, they should be released slowly, with care, and utilised to the full extent in drawing the greatest amount of information possible from the accused (Interview B-5). The officers also believe that different times of day yield different results. Therefore the time of questioning is always carefully selected, based on their experience (Interview G-1, B-2 and B-3).

Police: How to create that [deceptive] impression is an art. We call inculpatory evidence, bullets. The bullets should be shot and rewarded with the prey. It should be calculated to maximise the returns. It is a test of interrogators, their comprehensive knowledge of crimes, their ability to maintain composure, asking the right questions in argot, and making an impression that we have got everything under control. This is key to investigation. (Interview B-6)

Police: It is almost natural that I started to talk to the suspect in a foul language, mixed with all sorts of argot in the interrogation room. Why? I have been a police officer for over 20 years and I know their network inside out. When I go to the bus station, I could tell you who is a pick-pocket and who served

a long sentence. [...] Offenders are afraid of me, because they know that I know them so well and I also know how to make them in awe of me. I always talk calmly and show them the card – pieces of information at the right moment. Most of them are smart and they just want to push their luck. I show them the card slowly to ensure that all the information can be drawn out. You have to understand that memory is a tricky and self-destructive thing. I say this because I know how to make my words persuasive with the aid of the bits of information I obtain. It is like performing magic. Once you know how to handle it, there is no need to beat up suspects. (Interview B-5)

Psychologists have found that memory for a complex event is constructive, and is shaped and/or influenced by factors that affect the encoding, storage and retrieval process (Loftus and Palmer 1974; Cohen 1996). The Chinese interrogators are apparently aware of the mechanism of memory. Thus, when suggesting the falsified information, they sometimes tactically amplify the suspect's involvement, carefully planting new pieces of information. Kassin (2005) found that innocent people harbour a sense of naivety that truth will prevail in an ideally just world. This 'phenomenology of innocence' leads them to believe that they will be exonerated eventually, thereby being subservient to the suggestions of the police (Perillo and Kassin 2011). Intriguingly, guilty and innocent suspects are equally affected by this aversive technique. Whereas guilty suspects may feel threatened by the evidence implied by the bluff, innocent suspects may confess voluntarily out of a misplaced confidence that their admission will later be disproved. Perillo and Kassin (2011) have warned that evidence bluff is one of the most overpowering influences that coerces suspects to confess to crimes they did not commit. By manipulating their decision-making process, it puts innocent suspects at severe risk.¹⁴

Discussion and Conclusion: Police Coercion and the Moral Vulnerability of Police

In identifying the three forms of vulnerability, this paper makes a contribution to the policing literature on how the police use psychological coercion in eliciting confessions in China. These tactics may not appear to be surprising to readers familiar with the criminal justice history in England and Wales (pre-PACE period in particular). Overlapping themes abound and can be found in examples of how police 'soften suspects up' prior to interrogations, the use of deception, 'the softly-softly approach' and informal but oppressive questioning etc. (Irving and Hilgendorf 1980; Irving and McKenzie 1989; Dixon et al. 1990; McConville et al 1991; Baldwin 1993; Choongh 1997). The lack of procedural rights as well as the police professionalisation, to some extent, sets the Chinese interrogation apart and makes it an arena of overbearing compulsion.¹⁵ A direct consequence of this compulsion is a proliferation of false confessions. Tactics, such as evidence bluff and using suspect's relationships to exert pressure, are coerced-compliant (Gudjonsson 1992: 226-8). Techniques that offer sympathy and face-saving excuses (known as minimisation), and those that emphasise the harsh sentence and catastrophize the undesired outcome (known as maximisation), are also criticised for a likelihood of inducing false confessions (Russano et al 2005; Kassin et al 2010; Kassin and McNall 1991).¹⁶ These techniques can alter the perception of the expected consequences of confessing and make an innocent suspect feel that confessing is the only option open to him, thereby coaxing him into admission of a guilt for a crime that he did not commit (Depaulo 1994; Kassin and Fong 1999; Leo 2008).

¹⁴ In Perillo and Kassin's (2011) study, the false confession rate increased by 60% due to the use of evidence bluff.

¹⁵ After PACE bedded in, there are tactics identified by researchers in police interviews to neutralise the safeguards (see Morgan et al. 1990; McConville et al. 1991; Sanders and Young 2007; Bucke et al. 2000; D. Brown 1997).

¹⁶ It is worth noting that some of the interrogation techniques are not unique to China. For instance, there are certain overlaps between the PE strategies and the Reid Technique, the highly influential interrogation method promoted by the US company John Reid & Associates, which has pollinated interrogation practices in China since the 1990s (Reid, Buckley and Jayne 2013; Liu 2012).

While they engage in exploiting vulnerabilities of suspects, the police, as the ones who exercise coercive power, become morally vulnerable (Miller et al 2006; Crehan 2017). Studies found that police who regularly employ coercion and are exposed to human sufferings are prone to emotional paralysis, compassion fatigue or inner conflict (Asquith and Bartkowiak-Théron 2021: 172; Dehaghani and Newman 2017). These ‘occupational hazards’, such as nonchalance, may result in a moral vulnerability to corruption (ibid; Crehan 2017). Walker (2014: 117) defines moral vulnerability as ‘a certain moral status’ that inheres in all human beings who are ‘rightly able to call others to account, as we ourselves are rightly liable to be called to account by others’. This type of vulnerability may be projected as being morally inferior, unworthy, or of less value in the eyes of his fellow citizen. A person is morally vulnerable to ‘being held accountable in circumstances, where such accountability is unjustifiable’ (Crehan 2017: 75).

There are indeed constant ethical dilemmas that surround the police, who use coercion, in an effort to assess whether their practice is ethically justified. Given that all of us are vulnerable, it is ethically unjustifiable in policing to utilise other people’s vulnerability against them. In exploiting suspects’ vulnerability, the police in China damage the very fabric of human trust that holds societies and organisations together. It is also doubly ironic that the police service, the institution that was set up to uphold the law, to protect the moral values of a community and claim the moral high ground when investigating crimes from which to educate suspects, fails to live up to that moral standing, and treats suspects in an unethical manner. This double standard invites critical reflection on the discrepancy between substantive practice and police rhetoric in general. As well as making suspects vulnerable in the course of confession elicitation, the manipulative PE tactics certainly undermine the police’s moral status, and in turn, also make them vulnerable.

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