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Policing the Imperial Nation: Sovereignty, International Law, and the Civilizing Mission in Late Qing China

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On 15 August 1902, a battalion of Chinese police officers under the command of Superintendent Zhao Bingjun marched into city center of Tianjin and toward the Yamen Complex, the ceremonial site where the Eight Power Alliance was handing back the city to Governor General Yuan Shikai after two years of occupation following the Boxer Uprising. As they approached the complex, allied officials and commanders, standing with Yuan Shikai and his entourage under a "Friendship Forever" banner, were shocked and dismayed. As one of the preconditions for its resumption of the control of the city, the Qing government had agreed to the allied demand that its troops would not enter the vicinity of Tianjin, and some allied officials had even thought that Yuan would be compelled to beg the allied forces to stay and continue to maintain law and order. Yuan Shikai's sudden show of forces was a slap in their faces and potentially a violation of an international agreement. "What is the meaning of this?" asked an allied representative with raised voice. "Look carefully. These are not troops," Yuan replied with a smirk, "They are policemen." Not knowing what to do, allied officials pointed fingers at each other, blaming the stupidity of those who had designed the agreement. "It is not we who are stupid," one said, "It is Yuan Shikai who is so cunning."[1]

This dramatic showdown occurred in a popular television series made by the official China Central Television (CCTV) in 2003. The sensational scene resonates with the Chinese public memory of the incident; it not only reveals

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[1] The epic popular historical drama series *Zouxiang gonghe* (Toward a republic) was simultaneously released in television and book formats. Zhang Lei, "Di ershiqi ji (Episode 27)," in *Zouxiang gonghe* (Toward a republic) (China Central Television, 2003).

the sentiments of Chinese national pride and anti-imperialism in the new millennium, but also reiterates the significance of the police in the geopolitics of sovereignty in semi-colonial China. After all, while the Qing government was not permitted to send troops into Tianjin, the agreement said nothing about deploying police or other alternatives. Earlier in 1902, Yuan Shikai had already started forming a new police force in the nearby city of Baoding with help from Japanese advisors.[2] The idea of instituting police forces quickly caught on and spread to other cities. A few months later, Yuan converted two thousand of his own troops into police, outfitted them with proper uniforms and equipment, and marched them into Tianjin to restore the Qing government's sovereign rights and dignity by ending the occupation.[3]

Yuan Shikai's tactical police deployment to redeem the humiliating defeat suffered at the hands of the colonial powers was just one aspect of Qing China's ongoing state-building efforts. Indeed, some China historians have been amazed by the extent to which Chinese modernist elites embraced not just the instrumentality of modernizing state-building projects but also the broader impulse toward modernity.[4] This is still more striking if we contrast the Chinese case with the formal colonies where native intellectuals were often skeptical, if not outright hostile, to ideas and practices of modernity imposed upon them. Recent studies by Kristin Stapleton and Di Wang, among others, testify to the wide-ranging civilizing initiatives that Chinese political and cultural elites carried out at local levels.[5] Why were modernizing projects associated with the colonial civilizing mission so appealing to the Chinese elites? This essay will address this question by examining the rise during the final years of the Qing dynasty (1644–1912) of a national police system as a new kind of political technology and rationality.

Whereas scholars studying the history of police in Western Europe have generally analyzed the birth of police and Foucault's "disciplinary society" in

[2] Yuan Shikai, "Chuangli Baoding jingwuju bing tianshe xuetang yiding zhangcheng cheng lan zhe (A memorial report on the establishment of the Police Bureau and Police Academy in Baoding with regulations attached)," in *Yuan Shikai zou yi* (Court memorials by Yuan Shikai), Liao Yizhong and Luo Zhenrong, eds. (Tianjin: Tianjin guji chubanshe, 1987), 604–17; Zongyi Li, *Yuan Shikai zhuan* (A biography of Yuan Shikai) (Beijing: Zhonghua shuju, 1980).

[3] Yuan Shikai, "Gongbao di Jin riqi jieshou qingxing (A report on regaining control of Tianjin)," in *Yuan Shikai zou yi* (Court memorials by Yuan Shikai), Liao Yizhong and Luo Zhenrong, eds. (Tianjin: Tianjin guji chubanshe, 1987), 620–22.

[4] As Ruth Rogaski argues, while the term "semi-colonialism" is sometimes used to imply a "half-full" form of colonialism, the case of treaty-port Tianjin suggests that it was actually "hyper-colonial," in the sense that native reformers and intellectuals often wholeheartedly embraced the colonial project of modernization in order to resist further colonial intrusion. Ruth Rogaski, *Hygienic Modernity: Meanings of Health and Disease in Treaty-Port China* (Berkeley: University of California Press, 2004), 11.

[5] Kristin Eileen Stapleton, *Civilizing Chengdu: Chinese Urban Reform, 1895–1937*, Harvard East Asian Monographs 186 (Cambridge, Mass.: Harvard University Asia Center, 2000); Di Wang, *Street Culture in Chengdu: Public Space, Urban Commoners, and Local Politics, 1870–1930* (Stanford: Stanford University Press, 2003).

domestic contexts, this essay argues that we need to understand the rise of the national police in late Qing China within the global context of imperialism.[6] In emphasizing the Qing's attempt to establish a statewide police system in order to lay claims to sovereignty within the geopolitical logic of the empire, this essay also departs from studies that have focused on early-twentieth-century Chinese police reforms as isolated phenomena driven by local municipalities in the post-imperial period. For example, when David Strand discussed how the late Qing police system evolved into an intrusive social control apparatus regulating the everyday life of Beijing residents in the 1920s, he placed that development largely within the patriarchal and parental tradition of Confucian governance.[7] Similarly, although Frederic Wakeman did mention how the Nationalist government had tried to use police to recover its sovereign rights in Shanghai in the 1930s, he failed to notice that this rationale had already been fully articulated by police architects in the later imperial period.[8]

Qing China was hardly backward or spiraling into decline in its final years; it was quick to adopt modern technologies of governance to cope with rapidly changing geopolitical realities.[9] In what follows, I will discuss how the imperatives of war, imperial rivalries, and national emergencies expanded the power of the police beyond a narrowly defined law enforcement realm into a broader project of population management that was associated with the colonial civilizing mission. In showing that state sovereignty and an internal civilizing mission were central to the underpinning logic of the Qing's modern rationality of government, I argue that while the ideas of liberal governmentality and colonial governmentality introduced by Foucault and his postcolonial critics, respectively, are good to think with, they are not necessarily applicable to Qing China. Instead of asking how liberal technologies of government gave rise to new liberal and colonial conceptions of society and economy, as many scholars have done in the contexts of Western Europe and its colonies, I ask how these political technologies associated with capitalist modernity were appropriated and modified for the purposes of state transformation and governmentalization in the late Qing. More broadly, this essay is a preliminary attempt to illuminate the formation of what we can tentatively call "authoritarian governmentality."

[6] Francis Dodsworth, "The Idea of Police in Eighteenth-Century England: Discipline, Reformation, Superintendence, c. 1780–1800," *Journal of the History of Ideas* 69, 4 (2008): 583–604.

[7] David Strand, *Rickshaw Beijing: City People and Politics in the 1920s* (Berkeley: University of California Press, 1989), 87.

[8] Frederic Wakeman, *Policing Shanghai, 1927–1937* (Berkeley: University of California Press, 1995), 60–77.

[9] In recent years, some scholars have begun to pay attention to reform efforts at the national level in the final years of the Qing. Roger Thompson, "The Lessons of Defeat: Transforming the Qing State after the Boxer War," *Modern Asian Studies* 37, 4 (2003): 769–73.

This topic, unlike those of liberal, colonial, and neo-liberal governmentalities, has yet to receive adequate attention.[10]

STATE TRANSFORMATION IN THE WORLD OF EMPIRES

An important conceptual starting point of this essay is the colonial hierarchy in the world of empires. In his discussion of the relationship between imperialism and nationalism, Prasenjit Duara argues that the nation-states of the nineteenth century, unlike those in the twentieth, were often both nationalist and imperialist in nature.[11] John Kelly and Martha Kaplan have similarly maintained that our contemporary conception of nation-states as equal and equivalent political units—epitomized especially in the United Nations ideology—is very much a postwar order.[12] At the turn of the twentieth century, the so-called nations were essentially imperial nations or nation-based empires dictated by the colonial logic that underscored difference and hierarchy. In that older global order, whereas the Western industrial powers recognized one another as autonomous and symmetrical, those outside of the "international system" were routinely deprived of privileges and rights due to their presumed "barbaric" and "inferior" qualities.

This colonial logic had far-reaching impacts on native societies, including those not directly colonized by the industrial powers. James Hevia, for example, has demonstrated that defeat by the European powers had effectively "deterritorized" the Qing. By this he meant that they not only forced the Qing Empire to make territorial concessions, but also imposed upon it their diplomatic protocols and trade provisions, and even their interpretations of Chinese culture and history. By producing new knowledge about Chinese culture and society, Hevia argues, the industrial powers essentially remade Qing China according to their own images of the world, much as they had with their colonies.[13]

Still, even if the Qing regime had succumbed to the global colonial logic, its state-transformation and modernizing projects were not directly administered by the Euro-American powers. This was a semi-colonial context in which the native regime actively sought to deploy the geopolitical logic of colonialism to remake itself in order to resist further colonial intrusions, and to secure its own colonial enterprises that had been initiated long before the arrival of the

[10] In other words, authoritarian governmentality, like liberal governmentality, should be seen as a subset of modern governmentality. Mitchell Dean, *Governmentality: Power and Rule in Modern Society* (London: Sage Publications, 1999), 144–46.

[11] Prasenjit Duara, *Sovereignty and Authenticity: Manchukuo and the East Asian Modern* (Lanham, Md.: Rowman and Littlefield Publishers, 2003), 9, 19.

[12] They argue that Benedict Anderson has failed to demarcate these two very different forms of imagined communities. John Kelly and Martha Kaplan, *Represented Communities: Fiji and World Decolonization* (Chicago: University of Chicago Press, 2001), 1–4.

[13] James L. Hevia, *English Lessons: The Pedagogy of Imperialism in Nineteenth-Century China* (Durham, N.C.: Duke University Press, 2003).

industrial West.[14] Qing reformers were so captivated by new institutions such as police forces, censuses, and other modern political technologies introduced through Japan precisely because of their professed ability to quell domestic insurgencies and counteract further foreign intrusions. For police reformers this latter point was pivotal, and they often emphasized the role of police in asserting the empire's sovereignty and producing new citizens to strengthen the imperial nation.

I will show that the formation of the Qing's national police at this moment of crisis was at once an anti-colonial and internal colonial project. Two concerns were prominent in the minds of the reformers: First, in order to defend its territorial rights the Qing had to display certain competencies in governing its population within a bounded territory using the latest political technologies. Second, these new technologies were employed as more than just a performance of modernity; they also enabled the state to reconceptualize and remake its people by transforming them from imperial subjects into national citizens, as was required by the proposed constitutional state. The preoccupation with these two concerns became the underlying impetus for the formation of the Qing's national police, coordinated by the central government using a statewide standard. Further, the sense of emergency triggered by domestic unrest and foreign incursion gave rise to the logic of the police state, which, however rudimentary, would ultimately outlast the dynasty itself.

FROM CONSTABULARY TO POLICE

Prior to the creation of the new-style police system associated with modern governmentality, communal security and law enforcement were handled primarily by the constabulary (*bukuai*) and the communal defense system (*baojia*). Briefly, the Qing *bukuai* was an order-keeping militia administered directly by local magistrates, while the *baojia* system organized local communities into a surveillance and defense network supervised by the local gentry, who served as intermediaries between the government and the people. At times, *baojia* organizations were also used to collect taxes and conduct censuses. Over time, however, the system lost its ability to cope with the

[14] I use this term with full acknowledgment of its controversies. I do not use the concept "semi-colonial" as a way to ghettoize Chinese history, or argue for its exceptionalism and incomparability with other colonial experiences. I think we can use the term productively to describing native regimes that actively sought to remake themselves by appropriating the logic and language of colonialism. Colonial modernity and semi-colonialism, in other words, need not be two incompatible concepts. For discussions on semi-colonialism, colonial modernity, and the multiplicity of colonialisms, see Tani Barlow, "Introduction: On 'Colonial Modernity,'" in Tani Barlow, ed., *Formations of Colonial Modernity in East Asia* (Durham: Duke University Press, 1997), 1–20; Shumei Shih, *The Lure of the Modern: Writing Modernism in Semicolonial China, 1917–1937* (Berkeley: University of California Press, 2001); Frederick Cooper, "Postcolonial Studies and the Study of History," in Ania Loomba , eds., *Postcolonial Studies and Beyond* (Durham, N.C.: Duke University Press, 2005), 401–22.

nineteenth-century proliferation of social discontents, floating populations, and surging local activism. In the aftermath of the Taiping Rebellion (1850–1864) and other popular uprisings, the *baojia* system throughout much of China was on the brink of collapse.[15]

Meanwhile, as tensions grew between the colonial powers and the Chinese population, violence against foreign missionaries, diplomats, and merchants, as well as their interests, became common. The xenophobic Boxer Uprising at the turn of the twentieth century was the culmination of such conflicts. For the colonial powers, these attacks demonstrated that the Qing government could not protect the rights and interests of foreign populations. But more importantly, in the international legal context European nations maintained that the level of rights enjoyed by indigenous societies were conditional, determined by their civilizational status. From the perspective of the European civilizational hierarchy, it was unacceptable for European citizens to be subject to "barbaric" Chinese law. When Britain defeated the Qing in the First Opium War (1839–1842), one British demand was for extraterritorial rights for its citizens, which immunized them from the Qing legal system. Other foreign industrial powers quickly followed suite and were granted the same privileges in the Chinese treaty ports. In order to preserve social order and carry out municipal functions, foreign occupiers also maintained police forces in the treaty ports. In Shanghai, for example, the International Settlement jointly controlled by the British and the Americans, as well as the French Concession, had their own police forces and municipal authorities. During the two-year occupation of Beijing and its vicinity by the Eight Power Alliance, which began in 1900, the allied forces also collaborated with the local gentry to set up an agency known as the Bureau of Works (*Gongbu*) to maintain social order.[16]

Despite the presence of these colonial police forces, it seems that the Qing did not at first appreciate the significance of the European concept of policing. Even in the 1870s, when Japan was building a full-fledged police system, most Chinese visitors there appear to have given it little notice.[17] One such visitor was Huang Zunxian (1848–1905), the Qing envoy to Japan between 1877 and 1882. He wrote extensively about the Meiji government and its various Western-inspired institutions, but mentioned the police system only briefly.[18]

[15] Wang Weihai, *Zhongguo huji zhidu: lishi yu zhengzhi de fanxi* (The registration system of China: A historical and political analysis) (Shanghai: Shanghai wenhua chubanshe, 2005), 221–22; Kathryn Bernhardt, "Elite and Peasant during the Taiping Occupation of the Jiangnan, 1860–1864," *Modern China* 13, 4 (1987): 379–410.

[16] Han Yanlong and Su Yigong, *Zhongguo jindai jingcha shi* (A history of the modern Chinese police), vol. 1 (Beijing: Shehuikexue wenxian chubanshe 2000), 51.

[17] Ibid., 5.

[18] Huang Zunxian, *Riben guozhi* (Japan teatise), in Wang Baoping, ed., *Wan Qing dongyou riji huibian* (Compilations on late Qing journeys to the east) (Shanghai: Shanghai guzi shudian, 2001). Huang Zunxian, ed., *Riben zashi shi* (Poems about Japan), vol. 1, *Huang Zunxian ji* (Collected works of Huang Zunxian) (Tianjin: Tianjin renmin chubanshe, 2003), 23.

Huang only circulated his travelogues among his literati friends, and only published them after the astounding Japanese military victories over the Qing in 1895, when curiosity about Japan was replaced by urgency to understanding it.[19]

Immediately after the First Sino-Japanese War (1894–1895), Huang Zunxian received wide recognition for his firsthand observations of Meiji Japan, and during the stormy months of the 1898 reform movement he was given a chance to test out ideas that he had. With backing from the governor of Hunan Province, Huang and his associates established an organization called the Board of Defense (*Baoweiju*) in the provincial capital of Changsha, based on their rudimentary knowledge of systems in place in Japan and in China's treaty ports. In addition to establishing an elaborated organizational structure, the Board of Defense was responsible for household registration, street cleaning, traffic regulation, fire prevention, and many other municipal duties that neither the constabulary nor the *baojia* system had always carried out.[20] These new services were welcomed by the local elites, who felt that the central government had failed to provide them a stable and secure environment. The elites even provided funding and supervision for the new institution, making it essentially a joint venture between themselves and the local government.[21] But in the end the experiment was curtailed along with the short-lived reform movement.

A few years later, as winds of reform again swept across the empire under the New Policy reform movement (1901–1911), policing was once again recognized as pivotal. In 1901, the Qing court formally called for establishment of a countrywide police system as part of its long-term project of installing a constitutional monarchy.[22] During this time, the so-called police system mandated by the court was still founded upon the local *baojia* system and was primarily an urban affair, but the idea of police was clearly gaining

[19] Liu Yuzhen, "Qianyan (Preface)," in *Riben guozhi* (Japan treatise), *Wan Qing dongyou riji huibian* (Compliations on late Qing journeys to the east) (Shanghai: Shanghai guzi shudian, 2001), 1–26. Roger Thompson, *China's Local Councils in the Age of Constitutional Reform, 1898–1911* (Cambridge, Mass.: Council on East Asian Studies, Harvard University Press, 1995), 7–9. Huang nonetheless by the 1890s became enthusiastic about building a police force based on the Japanese model. Stapleton, *Civilizing Chengdu*, 61.

[20] For the duties and structure of the Board of Defense, see Huang Zunxian, "Hunan Baoweiju zhangcheng," in *Huang Zunxian ji* (Collected works of Huang Zunxian) (Tianjin: Tianjin renmin chubanshe, 2003), 570–74, 591; Yanlong and Yigong, *Zhongguo jindai jingcha shi*, 18–48; Liu Mengxi, "Chen Baozhen he Hunan xinzheng (Chen Baozhen and new policy reform in Hunan)," *Zhongguo wenhua* (Chinese culture) 19–20 (2002): 60–64.

[21] Many local merchants and elites wrote to Huang Zunxian to demand this organization be established. Huang Zunxian, "Shangmin qing suban baoweiju bingpi," in *Huang Zunxian ji* (Collected works of Huang Zunxian) (Tianjin: Tianjin renmin chubanshe, 2003), 578–80.

[22] "Xianzheng biancha guan zou zhunian choubei shiyi dan (Year-by-year itemized plans of the Bureau of Constitution Preparation)," in Jiang Yasha, ed., *Minzhengbu zouzhe huicun, Guojia tushuguan cang lishi dangan we xian congkan* (Archival materials of the National Library) (Beijing: Quanguo tushuguan wenxian suowei fuzhi zhongxin, 2004), 117–24.

momentum.[23] The localized and uneven efforts at building police forces in these turbulent days heightened a growing sense that the dynasty urgently needed a statewide police infrastructure to cope with newly emergent social conditions and anti-government revolutionary activities. Unlike conventional, large-scale peasant rebellions of the past, the latest waves of urban-based insurgencies were far more sophisticated in their planning and execution. In the late summer of 1905, for instance, a bomb exploded in a train station near the Forbidden City in Beijing, having been planted to assassinate a delegation of high-ranking officials departing for an overseas trip. Although in this case the officials survived, such attacks rattled the Qing government. They inspired terror and triggered a new awareness that political violence in crowded urban centers demanded a new kind of active, constant, and professional surveillance. In October, less than a month after this high-profile attack, a centralized police authority known as the Ministry of Police (*Xunjingbu*) was formed. It brought issues of social control and public security into much sharper focus.[24] The Ministry soon expanded its power and became the Ministry of Civil Affairs (*Minzhengbu*), which strove to manage the entire population by means of a broad range of disciplinary and biopolitical interventions. Before turning to the evolution of the *Minzhengbu*, I must first explain the motives and logic that grounded this development.

SOVEREIGNTY AND INTERNATIONAL LAW

It was no secret that Yuan Shikai and Xu Shichang—the Qing officials charged with developing a national police system—were admirers of the Japanese police institution. In addition to drawing inspiration from Meiji Japan, they actively sought to replace the old class of scholar-officials with technocrats who could use their professional knowledge and expertise to implement drastic reforms.[25] In 1902 alone, the same year that Yuan Shikai's police battalion marched into Tianjin to resume Qing control of the city, Yuan and other provincial officials dispatched dozens of students to enroll in Japanese police academies for administrative training. By 1904, so many were being sent that additional Japanese police academies were opened to accommodate the Chinese demand.[26] At the same time, police academies were mushrooming across China led by Japanese instructors and by students returned from

[23] While my research focuses mostly on Beijing, Kristin Stapleton's study of Chengdu also shows how the old *baojia* system was reconstituted as a civilizing force by the local elites. In *Civilizing Chengdu*, 134–35.

[24] Yanlong and Yigong, *Zhongguo jindai jingcha shi*.

[25] Stephen MacKinnon, *Power and Politics in Late Imperial China: Yuan Shi-kai in Beijing and Tianjin, 1901–1908* (Berkeley: University of California Press, 1980), 138–43.

[26] Douglas R. Reynolds, *China, 1898–1912: The Xinzheng Revolution and Japan*, Harvard East Asian Monographs 162 (Cambridge, Mass.: Council on East Asian Studies, Harvard University, 1993), 164.

Japan. According to an internal report from the Ministry of Police, between 1902 and 1906 over one thousand students graduated from Chinese or Japanese police academies.[27] Officials were also sent to Japan to study its police system, and though their visits were usually shorter, they too attended academy classes and learned about the theories, rationales, and techniques of police management by observing the daily operations of the Japanese force.

Two cases in point were study tours made by Qing officials Shu Hongyi and Zhang Lansun in 1906. They spent four months in Japan as representatives of the newly established Ministry of Police, attending academy lectures, chatting with Japanese officials, and visiting numerous field sites. They faithfully documented organizational structures, regulations, and personnel information, and collected other details such as census schedules, survey forms, prison blueprints, and even police uniform designs. Judging from their conversations with Japanese police officials, as well as the police training manuals, lecture notes, and textbooks they collected, it became evident that the issue of sovereignty no less than that of social intervention was an underlying *raison d'être* for the police system.

Shu and Zhang subsequently published the large body of information they had gathered in their *Dongying jingcha biji* (Notes on the Japanese police system). The book was a report and instructional manual organized into four volumes with the following themes: lecture notes, questions and answers, diagrams, and diaries. The lecture notes section is the core of the book, and is based on lectures and textbooks the authors encountered in Japanese police academies. Shu and Zhang began with the question of international law (*guojifa*) and its relationship to policing. "International law is mutually recognized by the civilized nations," they noted in a detailed discussion of how crucial it was in distinguishing civilized from uncivilized states.[28] Their notes went on to discuss the concepts of territorial rights (*lingtu quan*), the rights of equality (*pingdeng quan*), and the rights of independence (*duli quan*) as the basis of international relations.

So-called international law was far from monolithic, and it was routinely disputed by the European powers themselves. But diversity aside, what irritated the East Asian elites most was the global political hierarchy that was embedded in all versions of international law. Indeed, the concepts learned by Shu and Zhang can easily be summarized into a familiar narrative of the day, which declared that only the "civilized nations" were obligated to mutually recognize one another based on the tenets of sovereign rights, equality, and independence.

[27] Shu Hongyi. "Xunjingbu qing gesheng zhaoban xunjing xiekuan youguan wenan (Documents by the Ministry of Police to provincial authorities)," First Historical Archives of China, Beijing, 1906, Xunjingbu 1501.19.

[28] Shu Hongyi and Zhang Lansun, *Dongying jingcha biji* (Notes on the Japanese police system), vol. 1 (Shanghai: Shanghai lequn tushu bianyiju, 1906), 2.

To become a member of this self-serving, exclusive club of nation-state-based empires, a state had to possess the rights to exercise control over the sovereignty, territory, and people that it claimed to represent and govern. The lack of any one of these essential components would effectively exclude a state from becoming a civilized member of the international legal regime.[29] This universal claim of civilization also maintained that the global geopolitical arena, whether in the realms of trade, diplomacy, or war, had to be regulated by international law that superseded indigenous laws. The British impositions of "free" trade and diplomatic "equality" on the Qing Empire, the Opium Wars, and extraction of subsequent Qing concessions, were all conducted precisely in the name of this declared, normative international order.

The colonial logic that the so-called "civilized nations" could lay claims over indigenous territories was grounded in the peculiar assertion that the European states represented the highest form of political and ethical order. Once regarded as "a science of the rights," international law itself underwent a profound conceptual shift in the nineteenth century. Specifically, the legal basis of the international order was shifting from the principle of a "universal" law of nature to a positivist notion of law.[30] The American diplomat and jurist Henry Wheaton, who authored the highly influential *Elements of International Law* (first published in 1836 and translated into Chinese in 1864), even admitted that international law was not universal, but rather was "limited to the civilized and Christian people of Europe or to those of European origin."[31] And yet, paradoxically, at the same time as Wheaton and other legal theorists acknowledged the cultural provincialism of the international system, they continued to uphold the system as the objective standard of civilization and progress. For Wheaton, the sovereign state was the embodiment of what he called "civil society."[32] According to this formula, a state attained its freedom, equality, and independence only if its citizens had entered into some kind of social contract, abiding to social order and becoming politically conscious.

Under this legal pretension, although China and Japan were recognized as having statehood because of the evidence of their political societies, they had not yet attained full nationhood due to a perceived lack of social and political awareness. Therefore, as "backward," or at least "semi-backward" peoples, Chinese and Japanese would not enjoy the same level of rights and independence as their Euro-American counterparts, but would possess more rights than those indigenous societies organized primarily through tribal or kinship

[29] Ibid., 2–3.

[30] S. James Anaya, *Indigenous Peoples in International Law*, 2d ed. (New York: Oxford University Press, 2004), 452–53; Richard Horowitz, "International Law and State Transformation in China, Siam, and the Ottoman Empire during the Nineteenth Century," *Journal of World History* 15, 4 (2005): 445–86.

[31] Henry Wheaton, *Elements of International Law* (Oxford: Clarendon Press, 1936), 15.

[32] Ibid., 28.

ties. The Euro-American claims of extraterritoriality in China and Japan were, in this respect, consistent with the assertion made by international legal theorists that it was legal to deprive "backward" and "barbaric" indigenous peoples of their territorial rights.[33]

In other words, although the bulk of international legal doctrines penned by European and American jurists were about the intercourse between the contesting industrial powers, the conceptual underpinnings of these discussions of legal formalities and proprieties were implicitly or explicitly founded on the distinction between the "civilized" states and their "Others" that existed outside of the international legal system. As Lydia Liu has argued, the development of international law was as much a product of European colonial expansion as of intra-European conflicts. Wheaton's authoritative text itself had gone through numerous updates throughout the nineteenth century in order to legitimize ongoing European colonial conquests and violence in Asia and elsewhere.[34] In short, the normative global order of the day was less about equality and reciprocity than hierarchy and difference. Only around the time of the Treaty of Versailles (1919) did the notion of self-determination—itself grounded on the claims of the natural and universal right to have a state—begin to gain currency. But even so, the idea of a world made up entirely of autonomous and equal nation-states did not materialize until after the establishment of the United Nations in 1945.[35] Not surprisingly, although the late Qing regime, like its Meiji counterpart, had been trying to resist and renegotiate the terms of the various treaties imposed by the various industrial powers since the mid-nineteenth century, not until the early 1920s would the problem of "unequal treaties" emerge, along with calls for their complete repudiation as based on inequality.[36] After all, in a world of empires inequality was not just the norm—it was legally sanctioned by the international system. Arguments that legally signed treaties ought to be discarded because they were based on inequality would have been implausible.

This world, legally defined as unequal, also prioritized the global system over the rights of local states. For instance, when Wheaton defined sovereignty as "the supreme power by which any State is governed," he immediately clarified that this supremacy was actually limited since there were two sides to the notion of sovereignty. Sovereignty, he said, was made up of both internal and

[33] Anaya, *Indigenous Peoples in International Law*, 20–22.

[34] Lydia Liu, *The Clash of Empires: The Invention of China in Modern World Making* (Cambridge, Mass.: Harvard University Press, 2004), 24, 108–13.

[35] Kelly and Kaplan, *Represented Communities*, 1–4.

[36] Like their Japanese counterparts, Qing officials and intellectuals certainly wanted to repudiate these treaties signed under gunpoint. Yet, as Dong Wang has demonstrated, there was little use of the term "unequal treaties" (*bupingdeng tiaoyue*) in China prior to 1923. Dong Wang, *China's Unequal Treaties: Narrating National History*, Mark Selden, ed. (Lanham: Lexington Books, 2005), 64; Barbara J. Brooks, *Japan's Imperial Diplomacy: Consuls, Treaty Ports, and War in China, 1895–1938* (Honolulu: University of Hawai'i Press, 2000), 85.

external sovereignty.[37] The former referred to a state's supposed political and legal supremacy with respect to affairs within its territorial borders. The latter relied on recognitions by other sovereign states. So long as the state "confines its action to its own citizens, and to the limits of its own territory," Wheaton wrote "it may well dispense with such recognition."[38]

In other words, his assertion that internal sovereignty did not depend on its external recognition was flatly untrue in practice. As Gerrit Gong and Richard Horowitz have argued in various contexts, what Wheaton and other jurists conveniently left out was that non-Western societies never had the option of staying outside of the global colonial and capitalist systems.[39] The Qing Empire's refusal to accept the British framework of free trade led to not just military incursion but also a rapid deterioration of its sovereign rights, which imparted a lesson that Japanese empire builders obviously took to heart. In sum, while all sovereignties were supreme, some were more supreme than others. Even Wheaton acknowledged that the "transactions between the Chinese Empire and the Christian nations of Europe and America" had "compelled" the former to "acknowledge the independence and equality of other nations in the mutual intercourse of war and peace."[40] By "compelled," Wheaton of course referred to the imperial pedagogy and gunboat diplomacy that were embedded in international law. Furthermore, the need for external recognition was hardly reciprocal; whereas non-Western societies had to be recognized by the "civilized" states in order to be admitted to the international legal system, the validity of that system and the status of its member states did not require recognition by them.

Since non-Western societies could not themselves deny the international system in the same way that it denied them, their only option was to join it. The political discourse in Japan was dominated by this civilizing imperative as Meiji leaders unreservedly endorsed the slogan "civilization and enlightenment" (*bunmei kaika*) for virtually all of Japan's domestic and foreign initiatives. However, this elitist club was never as welcoming as it appeared, for it eternally needed the Other to reaffirm the civilization/barbarism demarcation. Some European diplomats went so far as to question the merits of translating international law into Chinese, worrying that it would enable the Qing to find legal grounds on which to challenge and abolish European extraterritoriality.[41] In the world of empires, where civilization, race, and progress established the basis of hierarchy and difference, the project of uplifting the uncivilized Other, as Uday Mehta has succinctly put it, was "infinitely patient, perhaps

[37] Wheaton, *Elements of International Law*, 27–29.
[38] Ibid., 28.
[39] Gerrit W. Gong, *The Standard of "Civilization" in International Society* (New York: Oxford University Press, 1984); Horowitz, "International Law and State Transformation."
[40] Wheaton, *Elements of International Law*, 19.
[41] Liu, *Clash of Empires*, 121–22.

even secretly counting on its own extended incompetence, of not getting *there* and hence permanently remaining in between."[42] Despite its desire to domesticate the "uncivilized Other," the international legal system needed its external Other to maintain its epistemological and political integrity.

POLICE AND THE LOGIC OF COLONIALISM

As the colonizers justified intrusions using the discourse of civilization and international law, the native regimes marshaled it to try to thwart colonialism's advance and negate the imposed colonial hierarchy. For example, when Japan was pressured to open its doors and granted the United States and other industrial powers many of the extraterritorial and trade privileges that China had conceded earlier, the focal point of Japanese domestic politics became the endeavor to escape from further deterioration of its sovereign rights. The formation of the Japanese police system was, along with other Meiji innovations, part of a frenetic attempt to reassert Japan's independent status by appropriating the colonial logic. Japan's desire to be a colonizer rather than colonized was best demonstrated by its successful imposition of unilateral extraterritoriality in China in 1895, and by its annexation of Korea in 1910. Japan rendered Korea as uncivilized and stripped away its sovereign rights through the deployment of international law.[43]

For Qing reformers, Japan's successful colonization of Korea was a powerful indicator of the importance of the international legal regime in maintaining a nation's sovereignty. They particularly believed that the ability of the Qing police to enforce laws consistent with international legal norms would immediately qualify Qing China as an independent sovereign state.[44] Students and officials who received police training from Japan were the strongest advocates for this cause. Lei Tingshou, one of the officials dispatched to Japan by the Qing Ministry of Police, urged his government to adopt the Japanese police system selectively for the purpose of "strengthening [the Qing's] sovereignty, [and] restoring and expanding the national power"[45] Likewise, while Wang Jianxiang was awaiting official assignments in his native province after returning from Japan in 1906, he wrote to the Ministry of Police and called for a speedy

[42] Uday Singh Mehta, *Liberalism and Empire: A Study in Nineteenth-Century British Liberal Thought* (Chicago: University of Chicago Press, 1999), 30.

[43] Alexis Dudden, *Japan's Colonization of Korea: Discourse and Power* (Honolulu: University of Hawai`i Press, 2005); Brooks, *Japan's Imperial Diplomacy.*

[44] Up to this point, given the regime of extraterritoriality, the Qing had little means to police the foreign population. Nonetheless, in light of the constant troubles created by missionaries, the Qing insisted that they and churches, just like monks and monasteries, register with the government through the *baojia* household registration system. Paul A. Cohen, *China and Christianity: The Missionary Movement and the Growth of Chinese Anti-Foreignism, 1860–1870* (Cambridge, Mass.: Harvard University Press, 1963), 254.

[45] Lei Tingshou, *Riben jingcha diaocha tigang* (An outline of the Japanese police system) (Weinan: Lei shi bizhai 1907), preface.

national police reform to replace the existing unprofessional local police and militias. He argued that the government's initiatives to update the legal system based upon the international standard would be in vain unless there was a capable police force to enforce it. He cited Japan's previous loss of its national rights (*guoquan*) because of its perceived xenophobic and anti-foreign activities, and said that this had provided foreign industrial powers an excuse to claim extraterritorial rights. He asserted that once China had established an effective police force to protect foreign and domestic citizens then the foreign powers would be left with no excuse for keeping their troops in China.[46]

The argument that police were indispensable for the protection of state sovereignty was fully vindicated just a few months later. In November 1907, in a premeditated act, several British patrol ships from Hong Kong forced their way into the West River, a branch of the Pearl River in Guangdong Province, to search Chinese merchant ships and detain some of their personnel in the name of combating piracy and smuggling. The British, who had been in fierce commercial competition with the Chinese, further insisted that all ships except those flying non-Chinese flags would be subjected to their search.[47] There was an immediate outpouring of public condemnation of this British infringement of Chinese sovereign rights. Students from police academies in Guangdong, Guangxi, Fujian, and other provinces frantically telegraphed the government and wrote articles for the press. They demanded that the government respond with tough actions within the confines of international law, and labeled those Qing officials who tried to downplay the incident "traitors."[48] Many merchants even called for a boycott of British products. A short time later, merchants and concerned citizens raised a large sum of money to help the Guangdong provincial government to purchase its own patrol ships to combat piracy and thereby prevent such incidents in future.[49]

There was nothing unique about the Chinese and Japanese understandings of the relationship between police and sovereignty. In Germany, before the police were disconnected from their political roots in the twentieth century, they were inherently an extension of the national policy to assert the state's sovereign rights.[50] The main difference in the East Asian contexts was that police

[46] Wang Jiaxiang, "Liuxue Riben Jingshiting youdeng biyesheng Jiangsu houbu zhao mo Wang Jiaxiang jinchen guanjian chengqing (A Petition from returned police student Wang Jiaxiang of the Jiangsu Province)," First Historical Archives of China, Beijing, 1906, Xunjingbu 1501.271.

[47] "Lun Xijiang shijian zhi jipo (On the urgency of the Xijiang incident)," *Dagongbao*, 9 Dec. 1907: 1.

[48] Ibid.; "Xijiang jingquan wenti (Problems of police rights in the West River)," *Dagongbao*, 10 Dec. 1907: 2.

[49] Zheng Chunming, "Wei Xijiang jingquan shijian jinggao tianxia tongbao (An open letter to all fellow compatriots regarding the issue of police rights in Xijiang)," *Dagongbao*, 13 Dec. 1907: 1.

[50] Mathieu Deflem, "International Policing in Nineteenth-Century Europe: The Police Union of German States, 1851–1866," *International Criminal Justice Review* 6 (1996): 36–57.

forces there were established in response to the imperatives of colonialism. In China, the connection between policing and state sovereignty was obvious in that Qing officials such as Shu Hongyi and Zhang Lansun in their writings clearly place concerns with international law above those related to domestic and municipal police activities such as managing traffic, brothels, bathhouses, hygiene, and so forth.[51]

The idea of appropriating policing techniques from the colonial powers in order to fend off their incursions was paradoxical, to say the least. Take the controversies that surrounded how different parties construed the Japanese police presence in China. At the center of the storm was Kawashima Naniwa, who the Qing court hired to facilitate the formation of the Chinese police forces at the beginning of the New Policies.[52] He had originally been sent by the Japanese government after the Boxer Uprising to take charge of policing its occupied territory in China. When the Qing government resumed its control of Beijing, Japan was reluctant to give up its rights to police, and Kawashima even wanted to extend his jurisdiction over the entire city. But the Japanese scheme backfired and triggered strong protests from the European powers. Kawashima was forced to resign, but the Qing government immediately gave him a three-year contract to organize a Police Academy (*Jingwu xuetang*).[53] Under his leadership, the academy grew into a sizable operation with several hundred students. In addition to hiring eight Japanese police instructors, the academy regularly sent students to Japan for further training.[54]

When his contract was up in 1906, allegations of a conspiracy by Kawashima to take over the Chinese elites and policing rights began to circulate in newspapers in Shanghai and Hunan Province. As the rumors spread, Chinese students and officials in Japan and in other Chinese police academies swiftly wrote to the Ministry of Police to express their outrage. In Hunan Province, which had been at the forefront of building police forces for nearly a decade, police students even organized meetings and delivered speeches to condemn the government for its inability to defend Chinese sovereignty. "Even an old-style scholar should understand that the loss of police rights (*jingcha quan*) is equivalent to the loss of the nation," wrote one petitioner, echoing sentiments common among his peers.[55] Realizing the sensitivity of the issue, the Police

[51] Hongyi and Lansun, *Dongying jingcha biji*, 5.

[52] "Xupin riren Chuandoa ren xunjing xuetang jiandu xiuding hetong (The revised contract with Superintendent Kawashima at the Police Academy)," First Historical Archives of China, Beijing, 1906, Xunjingbu 1501.249.

[53] Liu Haiwen and Yin Guohui, "Qingmo Xujingbu yu gaodeng xujing xuetang (Patrol Police Department and Patrol Police Academy at the end of the Qing)," *Henan daixue xuebao (shehui kexue ban)* [Journal of Henan University (Social Science)] 1 (2006): 90.

[54] "Xupin riren Chuandoa."

[55] Waicheng xunjing zongting, "Waicheng zongting shenbao Shanghai Hunan dengdi ji liu Ri xuesheng fandui Riren mouduo Zhongguo jingchaquan huodong qingxing (Oppositions from Chinese students in Shanghai, Hunan, and Japan regarding the Japanese conspiracy to seize

Ministry reassured the public that the entire affair was a misunderstanding, and that the Ministry was in full control of the academy. To further clarify the situation, when the Ministry renewed Kawashima's contract, with a significant pay raise, it renamed the academy and reorganized its command structure, and made it clear that Kawashima was only an employee.[56]

Controversies such as this showed the profound dilemma behind appropriating the colonial logic for nationalist and anti-colonial sentiments. While Kawashima Naniwa and Japanese police academies in general were undeniably playing a vital role in building the Chinese police forces, the resentment against the Japanese influence in China in itself confirmed the degree to which Chinese police trainees had internalized the international legal order's colonial logic.

Having a police system was not only a symbolic demonstration of sovereign rights; it was also an instrument for enforcing the colonial order through newly developed domestic laws that were made compatible with the international legal regime. For instance, the connection between modern policing and internal colonial practice was vividly apparent in exchanges between the visiting Qing police officials Shu Hongyi and Zhang Lansun and their Japanese hosts.[57] On one occasion Shu and Zhang asked how the Meiji government was dealing with foreign residents: "As your country is becoming more civilized each day, the number of foreigners residing and mixing with the locals and traveling inside your country is also increasing. Dare I ask how your country regulates these foreigners?" After reciting a laundry list of regulations for dealing with Western residents, their hosts began to discuss the problems and regulations associated with visitors, especially laborers, from Qing China.[58] According to them, officials and commoners from the Qing were treated the same as were foreigners from countries that had no modern diplomatic relationship with Japan. That meant they were normally allowed, after they had registered with the police, to reside in Japan and run their own businesses. However, Japanese authorities had increased their scrutiny of Chinese migrant laborers, who they suspected were disrupting social order, taking away jobs, and causing a general unease in the community. Since these laborers were seen to threaten security, customs, and the economy, Japanese authorities rigorously restricted their movements, work, and lives.[59]

The stark contrast in the treatment afforded different national groups in different contexts is revealing. While the Japanese authorities wanted to make sure that Euro-American colonial powers would not construe their

control of the Chinese police rights)," First Historical Archives of China, Beijing, 1906, Xunjingbu 1501.202.

[56] "Xupin riren Chuandoa."

[57] Hongyi and Lansun, *Dongying jingcha biji*, 1.

[58] Ibid., 14.

[59] Ibid.

treatment of foreigners as "barbaric," they were quite ready to subject peoples from "uncivilized" countries to police surveillance and apply discretionary police power to regulate and categorize them based on their class and racial status.

POLICE AS AGENTS OF THE CIVILIZING MISSION

The exchange between Chinese and Japanese officials regarding the inferiority of the Qing subjects indicated not only that the power relationship between the two countries was defined in civilizational terms within the colonial hierarchy, but also that people from states perceived to be weaker and inferior, like the Qing, would be automatically regarded as uncivilized. Thus, if the Qing state were to become a respectable sovereign one, its citizens, too, had to become civilized, enlightened, and politically aware. The prominent thinker Liang Qichao, for instance, published a series of essays grouped under the title "On New Citizens" (1902) in which he distinguished between what he called the "tribal people" (*bumin*) and "national citizens" (*guomin*). The former, according to him, were characteristic of the primitive world, while the latter were people who had a strong sense of "national consciousness" (*guomin sixiang*) and were capable of self-governance. Given the threat from expansive, nation-based empires—what he called "nation-based imperialism"—the state, in order to survive, had to make its top priority the creation of a social body made up of such "new citizens" (*xinmin* or *xinguomin*).[60]

Many other Chinese reformers and thinkers shared Liang Qichao's desire to make China a viable and dignified national power in the hierarchical global order of empires by forging new political citizens from within. For the Qing police architects, a police force was more than an instrument for staging the nation as "civilized," as per the international norms, or for demonstrating the Qing's capacity and will to reclaim and exercise its sovereign rights. There were parallels with the Russian context, where, as shown by Peter Holquist, placing the entire population under surveillance was a precondition for acting on and transforming the people.[61] Likewise in Qing China, the police force was to be an instrument to convert ignorant and passive subjects into enlightened and active citizens.

During their sojourn in Japan, Shu and Zhang had learned that citizens were essential components of a nation-state. "Without a patriotic citizenry who embrace the well-being of the social body (*tuanti*)," they said, a community would be nothing but "an aggregated mob" and therefore disqualified from joining the civilized nations.[62] In a similar fashion, Wang Jianxiang, who

[60] Liang Qichao, *Xin Minshui* (On new citizens) (Taipei: Zhonghua shuju, 1959), 16.

[61] Peter Holquist, "'Information Is the Alpha and Omega of Our Work': Bolshevik Surveillance in Its Pan-European Context," *Journal of Modern History* 69, 3 (1997): 415–50.

[62] Hongyi and Lansun, *Dongying jingcha biji*, 3.

was regarded as one of the most outstanding graduates returned from Japan, also repeatedly wrote to the Ministry of Police about the importance of using the police force to educate the public, cultivating them to be politically aware and enlightened citizens. He argued eloquently that such a patriotic education was a precondition for building a strong and invincible army, and that the police force, which was responsible for enforcing such an education, was therefore a tool for strengthening the nation. The police, he concluded, were essentially a "peaceful army" (*heping jundui*).[63] It seems that this vision of police as civilizing agents finally became reality during the 1920s and 1930s, when, as David Strand and Frederic Wakeman have pointed out in their respective studies, police officers became the street-level bureaucrats for forging a new civic order.[64]

This idea of the police as civilizing agents echoed practices in Meiji Japan. As early as 1873, Japanese police authorities had established a special department to manage the everyday life of the population. In addition to hygiene inspection, Japanese police imposed censorship on printed media and even drama scripts in order to eradicate undesirable materials and lifestyles. They also sought out those who were not considered "good citizens," constantly inspecting troublesome venues such as amusement parks, brothels, and restaurants. As one might expect, the guidelines and detailed procedures for carrying out such operations were translated into Chinese as soon as the Ministry of Police was established.[65] When Shu and Zhang were in Japan, they agreed with their Japanese colleagues that the police had to make sure that newspapers were used to "open people's minds and boost their morale," but not to generate controversies and disrupt social harmony.[66]

THE CIVILIZING MISSION AS TRANSNATIONAL POLICE PRACTICE

Although the ideas of international law, constitutionalism, and nationhood provided the conceptual parameters for late Qing police discourses, the Qing's civilizing mission carried out by the police cannot be reduced to a story of diffusing colonial practices. Historically, the idea of civilization had always been the ideological foundation of the Chinese state. When the Qing dynasty was established in the seventeenth century, the founding Manchu elites, as foreign occupiers, felt the urge to reinvigorate and even reinvent some of the most rigid Neo-Confucian social mores and legal codes—many of which the Chinese themselves had abandoned—to foster their political legitimacy. Men and women of late imperial China were already governed in their everyday

[63] Jiaxiang, "Liuxue Riben Jingshiting."
[64] Strand, *Rickshaw Beijing*, 65–97; Wakeman, *Policing Shanghai*, 43–59.
[65] "Jingshiting xingzheng jingcha (On administrative police)," First Historical Archives of China, Beijing, 1906, Xunjingbu guancang, 18.
[66] Hongyi and Lansun, *Dongying jingcha biji*, 6–8.

activities by a set of elaborated moral codes that addressed everything from self-cultivation to female chastity.[67] These civilizing imperatives were not just maintained by law, but were also reinforced by scholar-officials, local elites, and patriarchs who served as role models. They were also bolstered by the pervasive *baojia* system devised for local defense, mutual surveillance, and moral supervision. In this sense, aside from being the ideological justification of its outward expansion, the Confucian civilizing mission was a disciplinary force that governed the internal population.[68]

By the turn of the century, the Qing reformers regarded the indigenous Chinese legal and disciplinary regime known as the *baojia* system as inadequate and archaic, but for European colonial authorities operating in China, the system was not wholly irrelevant. This was, in part, because colonial powers, in order to make local populations more receptive to colonial rule, often tried to overcome their cultural alienation and lack of political legitimacy by making colonial law and order more locally compatible.[69] At the same time, these same legitimacy problems meant that colonial authorities had to rely heavily on intrusive and violent tactics of policing to establish their authority and control. Gyan Prakash argues that in the case of British India their readiness to apply coercive power, represented, not a fundamental departure from Western liberal norms, but instead a dislocation of British governmental practice.[70] In China, it was because of the need to deploy both carrot and stick that European colonial authorities appreciated the centuries-old *baojia* system. They incorporated elements of it, including the structure of local headmen and district divisions, into their colonial police practices of registering and tracking the population, regulating and reorganizing urban space, and disciplining the bodies of their colonial subjects. Such appropriations of indigenous methods of social control for colonial purposes were most evident in British

[67] Janet M. Theiss, *Disgraceful Matters: The Politics of Chastity in Eighteenth-Century China* (Berkeley: University of California Press, 2004).

[68] Many existing studies argue that the penal systems and their underlying modalities of power shifted from punishment to discipline in modern China and Japan as a result of their encounter with the industrial West. These rather straightforward, or sometimes mechanical, applications of Foucault's analyses to East Asia have often failed to account for the complexities of how "pre-modern" Chinese and Japanese societies were ruled and governed. For examples of these works, see Dani Botsman, *Punishment and Power in the Making of Modern Japan* (Princeton: Princeton University Press, 2005); Frank Dikötter, *Crime, Punishment and the Prison in Modern China* (New York: Columbia University Press, 2002).

[69] Even at the British proclamation about the cession of Hong Kong to Britain in 1841, colonial officials stated that the local population would "be governed, pending Her Majesty's pleasure, according to the laws, customs, and usages of the Chinese (every description of torture excepted) by the elders of the villages, subject to the control of a British magistrate." Charles Elliot, "Proclamation to the Chinese Inhabitants of Hong Kong" (Hong Kong, 1841). Other attempts to accommodate Chinese law and custom are evident in subsequent legislation.

[70] Gyan Prakash, *Another Reason: Science and the Imagination of Modern India* (Princeton: Princeton University Press, 1999), 3–4.

Hong Kong and Portuguese Macao, but they were also applied in the Chinese treaty ports.[71]

Likewise, when Meiji officials sought to establish a police infrastructure their main inspirations did not come from Europe or the United States, as is commonly assumed, but from the Euro-American colonial outposts in China such as Hong Kong and Shanghai, where the colonial police were an active "civilizing" force. As Naoyuki Umemori has shown, although Meiji Japan sent delegations to Europe and its colonies to examine how their police institutions functioned, the Japanese were more captivated by colonial police practices precisely because of their intrusive nature.[72] By the 1870s, Japanese police authorities in the colonial ports of China had adopted many such practices. These included not just regulations on sanitation, traffic, and dress styles, but also censuses and household registrations that were partially derived from the Ming and Qing dynasties.[73] Similarly, when Taiwan was integrated into the Japanese empire in 1895, the Japanese colonial authorities incorporated the existing *baojia* institution, and this contributed to Japan's colonial governance being more effective in Taiwan than in Korea.[74]

Thus, while late Qing reformers and, later, Republican iconoclasts argued that traditional governmental practices such as the *baojia* system were no longer relevant, elements of the old system were refashioned and reintroduced through a complicated process of cross-cultural meditation, negotiation, and translation. The transnational nature of the development of the Qing police system is best understood as an example of what scholars have come to call "colonial modernity," rather than in the terms of old frameworks of China versus the West, colonizer versus colonized, center versus periphery, or traditional versus modern.[75]

[71] Inspired by the Qing *baojia* system, as early as the 1860s, colonial police in Hong Kong had used similar methods to divide the territory into sub-districts and neighborhoods. For one example, see Colin Crisswell and Mike Watson, *The Royal Hong Kong Police (1841–1945)* (Hong Kong: Macmillan Publishers 1982), 52. For the case of Macao, see Li Zhoufu, "Be Ao zuihou yige dibao zoule (The death of the last local gentry of Macao)," *Aomen ribao*, 20 Nov 2006: B9. Even in the early eighteenth century, French Jesuit Jean-Baptiste Du Halde (1674–1743) was already praising the statewide "police" system in China. J. B. Du Halde, *The General History of China*, vol. 2 (London: printed by and for John Watts, 1736), 84–86.

[72] Umemori Naoyuki, "Kiritsu no ryotei: Meiji shoki keisatsu seido no keisei to shokuminchi (Itinerary of discipline: Colonial impact on the police system in Meiji Japan)," *Waseda seiji keizaigaku zasshi* (Waseda journal of political science and economics) 354 (2004): 51.

[73] Ibid., 56–57; *Sumio Oohinata, Keisatsu no shakaishi* (A social history of police) (Tokyo: Iwanami, 1993), 31–32.

[74] Ching-chin Chen, "The Japanese Adaptation of the Pao-Chia System in Taiwan, 1895–1945," *Journal of Asian Studies* 34, 2 (1975): 391–416.

[75] Tani Barlow, "Introduction." For a discussion of translation as more than a linguistic process, see chapter 4 of Liu, *Clash of Empires*.

FROM POLICING TO POPULATION MANAGEMENT

As the Qing national police infrastructure began to take shape through the establishment of the Ministry of Police in 1905, one of the Ministry's earliest initiatives was directed at densely populated urban centers where security concerns were most pressing. In Beijing, in particular, the new Ministry incorporated the existing Bureau of Works (*Gongxunbu*), an organization set up to restore social order in the aftermath of the Boxer Uprising and based on a similar institution founded by the allied forces during the occupation.[76] The everyday duties of the new Ministry involved sanitation, public works, fire prevention, and statistics compilation, but its most critical task was to register households for purposes of urban surveillance.

Immediately after its establishment, the Ministry of Police launched a house-to-house canvassing campaign to re-register all the households in Beijing. The project was designed to provide a more legible picture of the city's population, and to reorganize the social world for sterner control and security. This campaign was similar to the Meiji household survey template, and focused on basic information about households and individuals, data on occupations, ages, nationalities, land status, and similar categories that were considered as useful for identifying so-called "good citizens" and those who were not.[77] The Ministry also singled out potential trouble spots and placed them under constant surveillance:

> [The focus of the new registration] is not to study the household itself, but to investigate and clarify the state of the population and the nature of social customs…. The capital city is where officials, visitors, and merchants congregate, and where organizations and establishments are formed. Moreover, there are plenty of opium joints, teahouses, theaters, and brothels, which make easy hideouts for criminals. Respecting local residents, while it is not overly difficult to scrutinize those who dwell along major avenues, it is hard to make sense of those who live disorderly in small streets, alleys, or remote corners….[78]

In a certain sense, the rationale behind this registration eerily resembled that for policing in the early days of urbanization in Western Europe, as described by Michel Foucault. During the seventeenth and early eighteenth centuries, accordingly to Foucault, policing was intimately connected with monitoring and regulating the circulation of persons associated with market activities, such as influxes of unwanted transient populations like criminals, delinquents, vagrants, and beggars. Since such people were an inherent part of the urban traffic, the purpose of the police was to identify and separate them out. Policing, in this way, was meant to discipline and govern networks of circulation,

[76] Yanlong and Yigong, *Zhongguo jindai jingcha shi*, 61.
[77] Umemori Naoyuki, "Kiritsu no ryotei," 56.
[78] "Qingcha jingshi hukou xiaoyu jumin gaoshi gao (A public notice on the household surveys in Beijing)," First Historical Archives of China, Beijing, 1906, Xunjingbu 1501.282.

communication, and traffic so that the inevitable, contingent disruptions could be managed and controlled.[79]

Late imperial Chinese cities were commercialized and urbanized enough to necessitate similar kinds of discipline and regulation long before the twentieth century. Beijing, being the imperial capital, was heavily monitored through layers of security and defense networks ranging from the constabulary to elite Eight Banners troops.[80] The changing social and political realities of the late Qing only heightened the importance of these security measures. Similarly, household registration for taxation and conscription purposes had been integral to the longstanding *baojia* system, though its quality and accuracy were often questionable. Therefore, neither police nor household registration were new to the Qing. Yet, like the new insistence on accurate enumeration, the idea of having the police register the population directly was novel, so much so that the Ministry of Police had to explain their purpose to local officials and the public in order to alleviate anxieties and discontents. It emphasized the difference between the new registration and the old system that had aimed at counting able-bodied males for tax collection purposes: "It is important to notify officials, merchants, and others who live in the city and its vicinity that the Ministry of Police, since its establishment, has only been collecting information regarding the numbers of household, not the numbers of individuals or able-bodied males…."[81]

Unlike the old system, that of the Ministry of Police incorporated new governmental initiatives from Japan, Europe, and the treaty ports. For instance, in addition to law enforcement it began to carry out sanitation programs and statistical compilations, intruding into everyday lives by disciplining the body and administering life in a way unprecedented in scope and depth. In other words, although the late Qing national police system and its internal civilizing mission were built upon the old infrastructure of imperial security forces, surveillance networks, and Confucian civilizing imperatives, the Ministry's household registration was a significant departure from the past—it was intended to make the population legible and calculable, based on new governmental rationales.[82] In the previous *baojia* system, local elites and village heads had carried out surveillance for purposes of local defense and to prevent rebellion. In the same fashion, local elites had collected and submitted household information

[79] Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977–1978*, Arnold Davidson, ed., Graham Burchell, trans. (New York: Palgrave MacMillam, 2007), 336–38.

[80] Alison Dray-Novey, "Spatial Order and Police in Imperial Beijing," *Journal of Asian Studies* 52, 4 (1993): 885–922; Alison Dray-Novey, "The Twilight of the Beijing Gendarmerie, 1900–1924," *Modern China* 3, 3 (2007): 349–76.

[81] In order to effectively communicate intentions to the public, these announcements were written in colloquial language. "Qingcha jingshi hukou xiaoyu jumin gaoshi gao."

[82] Tong Lam, *A Passion for Facts: Social Surveys and the Construction of the Chinese Nation-State* (Berkeley: University of California Press, forthcoming 2011).

to the central government.[83] Though most of the new police districts and stations were still based on the old *baojia* administrative boundaries, the police apparatus was now in the hands of the new police officers employed by the state. The result was direct contact between society and the state.[84]

Household registration in Beijing in 1906 was only the first of a series of major changes that marked the emergence of modern governmentality in China. Just as the Meiji police came to focus more on population management, due to Japan's ongoing urbanization and colonial experiments in Korea and Taiwan, so, too, the Qing court began to realize that a centralized authority capable of performing the ever-expanding responsibilities of population management would exceed the conventional meanings of police. During this period, officials returning from Japan, Europe, and the United States frequently reminded the court of the need to clarify the administrative duties of the various emerging programs and institutions within the framework of the New Policies. While they concurred that conventional police tasks were central to all of the ongoing state-building projects, they also emphasized that policing in its narrowly defined sense could not take on other civil responsibilities.

In November 1906, acknowledging that "police work was only one aspect of civil affairs," the Qing court renamed the year-old Ministry of Police as the Ministry of Civil Affairs (*Minzhengbu*), and greatly expanded its bureaucratic infrastructure, administrative power, and mandate.[85] In addition to further expanding the national police system, the Ministry proposed and launched a series of new projects that included a national census, education curriculum reform, literacy campaigns, and legal reforms. These were part of its ongoing preparation for the establishment of a constitutional monarchy.[86] These reform initiatives were no longer to be confined to Beijing and other urban centers, but would also be extended to all the provinces and the frontiers for the purpose of asserting sovereignty, and to manage and civilize the population. By designating conventional police work as only part of its duties, the new Ministry broadly expanded its policing powers.

[83] Since taxation was the focus, the Board of Revenue (*Hubu*) was the only agency in the central government that received a copy of the register.

[84] For an example of how police districts were set up, see "Zhejiang jingcha zongju shenbao banli ge shu jingwu qingxing (A report on the progress of the formation of the Zhejiang Police)" First Historical Archives of China, Beijing, 1905, Xunjingbu 1501.182.

[85] "Minzhengbu zou xiding benbu ji neiwai cheng xunjing ting quanxian jiangcheng zhe (Guidelines setup for the police authorities by the Ministry of Civil Affairs)," *Dongfang zazhi* (The eastern miscellany) 7 (1907): 152–61.

[86] Minzhengbu, "Zunyi benbu zhunian choubei weijin shiyi zhe (A year-by-year plan on the implementation of the outstanding projects)," in Jiang Yasha, ed., *Minzhengbu zouzhe huicun* (Compilations of Ministry of Civil Affairs records), Guojia tushuguan cang lishi dangan we xian congkan (Archival materials of the National Library) (Beijing: Quanguo tushuguan wenxian suowei fuzhi zhongxin, 2004), 21–28.

Of the different aspects of the Qing's efforts to police and manage its population, its drive for nationalization was the most profound. The pace of such development was uneven, however. Generally, the system was implemented much faster in well-established provinces and urban centers, particularly when those in charge were competent and committed officials. An example is Henan Province, where between 1909 and 1910 the number of police was doubled to nearly a thousand. While this force was still small relative to the size of the province, it was quite visible in populated areas. For instance, three hundred police boxes were added in the Nanguan district of the provincial capital alone, which allowed intense and constant surveillance over certain key areas.[87] In remote and peripheral areas, however, the process was painfully slow and strenuously contested. In regions such as Manchuria and Xinjiang, while the new police system was making its presence felt as early as mid-1906, the Ministry had tremendous difficulties instituting the details of its policies.[88] Outside of major urban centers the Ministry had to rely on local magistrates rather than its own officials to supervise implementation of the new police system.[89] In the frontier regions, such as the newly established northeastern Heilongjiang Province, the program was often carried out by military commanders.[90] Subsequently, local officials and military leaders frequently failed to comply with the national standard mandated by the Ministry and fell back instead on the old constabulary model. Resistance and compromises were most common in the most remote regions. For example, in the predominately Muslim region of Xinjiang Province in the northwest, where the Qing's nation-building project could also be seen as a colonial project, a local magistrate insisted that he had to amend the national system according to what he called the inferior "wisdom and customs of the local people."[91]

Frustrated police officials and experts at the Ministry complained that in many areas the new police forces were still routinely staffed by uneducated and unqualified personnel from the old constabulary, or even by local

[87] "Henan jingjie zhi xin guimo (The new capacity of the Henan police)," *Dagongbao*, 11 Oct. 1910.

[88] Chen Dequan, "Heilongjiang jiangjun Cheng Dequan chenbao jingcha qingxing ziwen (A progress report on of the formation of the police forces)," First Historical Archives of China, Beijing, 1906, Xunjingbu 1501.22; "Xinjiang xunfu zi song zhengdun xunjing changzheng (Regulations on the revamping of the police forces)," First Historical Archives of China, Beijing, 1906, Xunjingbu 1501.26.

[89] The results of this project were often mixed. In Sichuan, for instance, by the end of the dynasty many police duties were still in the hands of the local elites rather than the national government. Kristin Stapleton, "County Administration in Late-Qing Sichuan County Administration in Late-Qing Sichuan: Conflicting Models of Rural Policing," *Late Imperial China* 18, 1 (1997): 100–32.

[90] Chen Dequan, "Heilongjiang jiangjun."

[91] "Xinjiang xunfu zi song zhengdun xunjing changzheng."

bullies.[92] For them, these irregularities simply vindicated their pleas for a professional and standardized national police system. Some even petitioned the court, to call for faster, rigorous, and more thorough reforms. Others published manuals and handbooks to educate local officials, not just on how to administer a professional police force but also why it was important to do so.[93] According to the official plan, a national police system covering the entire empire would be fully implemented by 1915.[94] In retrospect, this was unrealistic given that the system's development remained highly uneven up until the dynasty collapsed in 1912. That aside, the censusing, surveillance, and civilizing projects associated with the new police system were no longer confined to the capital and urban centers; they were slowly expanding throughout the Qing realm, including to the colonial frontiers that it claimed. The Qing's civilizing mission was having an undeniable impact on people's everyday lives.[95]

THE POLICE STATE AS THE STATE OF EXCEPTION

In some ways, the Qing's determination to apply to its frontiers a broad range of police technologies first developed in the city resembled Foucault's characterization of the emergence of the "police state" that sought to render the entire empire as an extended city.[96] Further, as Foucault argued, since the institution of police was founded on its own principles and rationality, the police state was a "permanent *coup d'Etat*" that displaced the sovereign by subjugating the imperial territory to an omniscient police gaze.[97] The founding of the Ministry of Civil Affairs to absorb the former Ministry of Police and observe, describe, and administer the entire population was in many ways the arrival of such a "police state," on paper if not yet in full practice. The numerous reform projects under the New Policies—from new schools and curricula to innovative police and prison systems—were testimony to the emergence of a new disciplinary power derived from both indigenous and foreign sources.

Despite these broad similarities, the trajectory of modern governmentality in China ultimately diverged from that in Europe and European colonies as understood by Foucault and scholars who adopted his analytical framework. In eighteenth-century Europe, Foucault said, political economists came to challenge the proliferation of police power as they began to see production rather than circulation as being the most important focus for governance. This conceptual shift led to the rise of "society" and "economy" as government's primary

[92] Wang Jiaxiang, "Jiangsu jingcha biye xueyuan Wang Jiaxiang jinbing (A petition from Police Academy graduate Wang Jiaxiang of the Jiangsu Province)," First Historical Archives of China, Beijing, 1906, Xunjingbu 1501.271.
[93] Wang Jiaxiang, "Liuxue Riben."
[94] Xianzheng biancha guan, "Xianzheng biancha."
[95] Stapleton, *Civilizing Chengdu*; Wang, *Street Culture*.
[96] Foucault, *Security, Territory, Population*, 341.
[97] Ibid., 339.

objects, and the disciplinary policing technologies that focused exclusively on the collectivity of imperial subjects were superceded, though not replaced, by new biopolitical technologies targeted at the administration of lives that industrial capitalism required.[98] In the late Qing case, too, the changing social and economic conditions associated with capitalist modernity played a role in the formation of the modern police system. However, in Qing China the ultimate reason for having a centralized police system remained the concern with sovereignty rather than biopolitics. Therefore, though the object of the New Policies was to form a constitutional polity, their ultimate impetus was not to produce or maintain a liberal social order for the sake of industrial capitalism, but rather to secure and strengthen the imperial nation's geo-body and social body in global geopolitical terms.

The historical development of the national police during the late Qing period therefore raises serious questions regarding the degree to which the governmental logics of liberal and colonial states are applicable here. Although Foucault did characterize the rise of biopolitical power since the eighteenth century as the hallmark of liberal governmentality, he cautioned against a simplistic and even teleological reading of his work; it could not be seen to demonstrate the successive replacement of a society of sovereignty by a disciplinary society, and of that by a society of government. He said that when it came to the actual operation of power there was a triangle of "sovereignty-discipline-government."[99] Giorgio Agamben has emphasized the centrality of sovereignty by showing how both liberal democratic and revolutionary regimes have repeatedly mobilized sovereign power. Citing Carl Schmitt, the legal and political theorist of the Weimar Republic who infamously stated, "The sovereign is he who decides on the exception," Agamben argues that sovereign power, far from being archaic and irrelevant, is actually the extra-juridical framework upon which the juridical power of the modern state is built.[100] Historically, whenever states were under siege or at war, sovereign powers could declare dictatorial and military rule, thereby temporarily suspending civil authority and constitutional rule. Over time, this so-called "state of exception" could evolve into a "paradigm of government" that was deployed periodically. "The subsequent history of the state of siege," Agamben notes, "is the history of its gradual emancipation from the wartime situation to which it was originally bound in order to be used as an extraordinary police measure

[98] Ibid., 340–41, 350.

[99] Michel Foucault, "Governmentality," in *The Foucault Effect: Studies in Governmentality with Two Lectures by and an Interview with Michel Foucault*, Graham Burchell, Colin Gordon, and Peter Miller, eds. (Chicago: University of Chicago Press, 1991), 102.

[100] Giorgio Agamben, *State of Exception* (Chicago: University of Chicago Press, 2005). For the original quote, see Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago: University of Chicago Press, 1985), 5.

to cope with internal sedition and disorder, thus changing from a real, or military, state of siege to a fictitious, or political one."[101]

In later imperial China, the sense of being in a state of emergency and war was neither fictitious nor metaphorical. A national police infrastructure was introduced in late Qing China precisely when the imperial nation was under siege both internally and externally (and the same could be said for Meiji Japan). In this regard, the emergence of modern governmentality there, as exemplified in the formation of a national police, was necessitated by and carried out under the paradigm of exception.[102] To borrow Agamben's logic, life under this emerging, authoritarian governmentality was not only biopoliticized but also heavily "sovereignized."[103]

Indeed, the idea of exception was in the minds of many Qing police architects. After the Qing police official Lei Tinghou returned from Japan in 1907, he wrote about the importance of using police to strengthen national power and sovereignty, and showed that he was quite aware of the tension between the supremacy of sovereign power and the rule of law. On one hand, he argued that, to be compelling, the regulatory power of police had to be grounded in law, especially the constitution, rather than in arbitrary orders from above. On the other, he acknowledged that the final authority of the Meiji state rested with the monarch, who could use his "extraordinary power" (*feichang daiquan*) to suspend the constitution in the event of war or national emergency.[104] He emphasized that although Qing China was in the process of drafting a constitution similar to those of Japan and the West, where the repression of freedom was considered unlawful, the Qing, being in the early stage of the civilizing process, was actually in an exceptional circumstance. He ultimately proposed a distinction between what he called the unacceptable "barbaric repression" and acceptable and even necessary "civilized repression." The Qing police, he asserted, should be a civilized means "to restrict the individual's freedom to act barbarically."[105]

The ideas articulated by police architects like Lei summed up the parameters of police thinking and practice during the Qing's final years. In order to transform itself from a dynastic empire into an empire-based nation, the Qing had to construct and solidify its geo-body and social body using the geopolitical language sanctioned by the international system. The purpose of police,

[101] Agamben, *State of Exception*, 5.

[102] According to Foucault, as a result of the "governmentalization of the state" in eighteenth-century Europe, the old model of sovereign power was replaced by a new rationality of government that no longer relied on coercion to enforce the juridical writ of the sovereign. "Governmentality," 193–204.

[103] Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, Daniel Heller-Roazen, trans. (Stanford: Stanford University Press, 1998).

[104] Lei Tingshou, *Riben jingcha diaocha tigang*, 7.

[105] Ibid., 5.

accordingly, was at once to lay claims on territorial rights and to strengthen sovereignty by making new political subjects for the imperial nation. The 1912 collapse of the Qing did not prevent the emergence a fully-fledged and functioning disciplinary society in China. Within the governing paradigm, the exception became the norm for the rest of the century.[106]

[106] In many ways, Chinese history through the entire twentieth century can be considered as a series of "exceptions." This seemed obvious during the Nationalist and Communist periods as the entire country was plagued by constant revolutions and wars. But even during the post-socialist era, the need for market reform was portrayed in similar terms. That is, to quote Deng Xiaoping, "Let some people get rich first." Only now, arguably, are we beginning to witness a rise of neo-liberal governmentality.