

*Why People Want Punishment: Retributive Justice and the Puzzle of Authoritarian Popularity*

LILY L. TSAI

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Lily L. Tsai's book starts with some questions about the puzzle of authoritarian popularity – “why do authoritarian leaders appeal to so many?” and “when and why are authoritarian regimes genuinely popular?” (p. 1). Tsai goes to China to find answers but extends the question to the rest of the world to explain a period that some have described as a global democratic backlash and authoritarian political advance. One of her observations is that stable authoritarian regimes do not rule solely through fear and correction, but also through playing up to the social norms and emotions that exist among people about justice and punishment.

Sociologists have long claimed that emotions are the most striking component of social norms. To use one of Max Weber's famous ideal types of domination – it has become increasingly clear that the Party is losing its revolutionary charisma. It has simply been “routinized” and emptied of the revolutionary passion that once characterized the Chinese revolution. Today's Chinese propaganda tries to refurbish some of the lost charisma and legitimacy by reconnecting with the passion of original charisma. The theme of retributive justice – the use of punishment to uphold what is fair and right – is clearly one of the fields where the Party can succeed in mobilizing popular sentiment to regain some of its lost legitimacy. Passionate violence, often described as “the people's anger,” was always at the core of Chinese politics, but although the excesses of the Maoist past are gone, the retributive justice sentiments of the past are still alive and well, even if they may have faded.

Popular sentiments of retributive justice are tested through an analysis of fresh survey data, and Tsai combines both qualitative and quantitative methodology to reach her conclusions. She finds that Chinese respondents still staunchly support retributive justice, and Tsai traces such support for punitive norms and action, not only in China, but internationally, to a “deep-seated need for social and moral order” (p. 1). The right of free speech and civil liberties seems rather irrelevant in the world of hard authoritarian values of “law and order.” Tsai's book gives insightful observations about how this becomes a legitimizing factor for any authoritarian regime. She correctly sums up that the real purpose of Xi Jinping's alleged “anti-corruption campaigns” has much more to do with boosting public support for the regime than with improving government performance as such. Making the punishment of corruption severe and highly visible has become very important for the legitimacy of the regime.

The view that punishment of corrupt officials represents the just state waging war against its own immoral agents has become a popular theme. The moralistic issues of “good vs. evil officials” has been an effective buffer against criticism of the system, as “bad apples” have been emphasized rather than “bad government.” Tsai found that people “yearn for agents of higher levels that discipline lower levels for misbehaviour and poor performance” (p. 155).

When Tsai asks the question “Why have we focused on elites and institutions rather than the opinions and actions of ordinary people?” (pp. 2–3), she basically criticizes – and correctly so – her own field of political science. However, in anthropology, sociology and not least in criminology, there has been due focus on the retributive attitudes of ordinary people. Such research has questioned how deeply

the “eye for an eye” norm is entrenched in the Chinese norm system. Tsai is right that Chinese penal populism is strong, but in her discussion there tends to be an assumption of the constancy of a never-changing retributive norm. I would have liked to see some reference to the many – and increasingly thorough – surveys on attitudes towards capital punishment in China over the last 30 years or so. The support for the practice has dwindled from a 99 per cent support and 0.8 per cent for its abolition in 1995 (although the 1995 survey is questionable), via 78 per cent in favour and 14 per cent against in 2010, to 59 per cent support and an increase to 31 per cent abolitionists in 2020, at the same level as in the US. The recent death penalty surveys are solid and extensive, and even show that the elites rather than those at the bottom of the society are the most punitive. It is also interesting to note that one of the crimes that aroused the least support for the death penalty was corruption, where only 30 per cent thought a death sentence should be the strongest punitive response. While Tsai’s main finding of strong support for retributive justice holds true, the fact could perhaps be modified by the quite dramatic popular norm change we have seen in this field over the last decades. There are also reports of local peasants protesting “the rule of death,” most recently in Shandong province.

The final discussion on the global situation is illuminated by Tsai’s arguments about China. She ends the book on a strong note against authoritarianism and a firm warning, stating that “democracy cannot be assumed, it must be strategically constructed and continuously maintained” (p. 214).

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*Decoding Chinese Bilateral Investment Treaties*

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As its title aptly suggests, this eleven-chapter monograph, published in 2021, seeks to understand the motivations behind the design and evolution of China’s Bilateral Investment Treaties (BITs). Most notably, its author, Shen Wei, questions the rationale often given for China’s BIT policy, namely that China’s BITs have changed in accordance with China’s transformation from an inward foreign investor to an inward and outward foreign investor. Through a comparative study of China’s BITs with those of its negotiating partners, the author concludes that the changes over time in the drafting of China’s BITs do not reflect the aforementioned transformation, but rather have largely been influenced by China’s negotiating partners, particularly in the case of developed-country partners.

This cross-disciplinary analysis, which delves into investment treaty law and the political economy of China’s BIT policy, succeeds in covering a lot of ground. It opens with a survey of China’s domestic investment law over the past forty years, and subsequent chapters address key provisions of its BITs, including substantive provisions, expropriation, non-discrimination, parallel proceedings and transitional clauses. The book also has a comprehensive chapter on investor–state arbitration under China’s BITs, noting that although China is the second largest global signatory