

Forward-leaning policing and stability maintenance: The politics of penal control in Xi's China

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Abstract

This article seeks to address the intensification of incarceration in Xi's China. By situating the analysis of incarceration within the theory of penal politics, I ascribe the Chinese system of penal control to a purposeful and politically charged change in policing practices. Through what I call 'forward-leaning policing' (前倾式警务), China under the current leadership has co-opted the exercise of carceral power through more aggressive and proactive policing as an intensified response to an eclectic mix of developing social issues which threaten public order and political stability, emergent from China's transition to modernity. All the while, the country's community and social policy interventions have been inadequate in addressing the evolving 'risks' in Chinese society. Those two converging forces, together, pave the way for individuals to have increased contact with the justice system, as well as exposing them to a higher probability of falling within the remit of formal punishment, including imprisonment.

Keywords

penal control, social stability, incarceration, policing, China

Introduction

Extant scholarship has done much to inform our understanding of how contemporary punishment is politically shaped and conditioned. It has been observed that, until at least a decade ago, the US and many Continental European nations moved rapidly

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towards a carceral state. This stance towards punishment responds to, among others: the emergence of ‘populist penalty’ which works to mobilise votes by advocating for penal punitiveness (Newburn, 1997; Pratt, 2007); the new paradigm of ‘managerial justice’ which optimises the costs of incapacitation (Feeley and Simon, 1992; Wacquant, 2009); and a decline of social control functions by mainstream institutions which pivot governments towards ‘mass incarceration’ (specifically the US) (Garland, 2001, 2020; Ramsay, 2012). Yet, as Vanessa Barker (2006: 11) highlights, the punishment-politics relationship plays out differently in culturally divergent jurisdictions. Typically, penal policy and practice are immersed in a government’s models, priorities, interests and interactions with social developments and subsequently shape how states perceive crime and disorder. Considering this, understanding why incarceration has become the primary form of modern penalty, referred to as ‘penal control’ (Garland, 2020: 326), requires a close inspection of the nexus between politics and carcerality (e.g. Iturralde, 2021).

Exploration of this phenomenon, thus far, has focused disproportionately on Anglophone democracies. But western theoretical accounts of penalty, as evinced in region-specific research, do not offer an adequate explanation for the prevalence of penal control in the Global South with its idiosyncratic social structures, culture dimensions and political ethos. This article aims to contribute to ‘southern criminology’ scholarship (Carrington et al., 2016) by exploring the political sociology of penal control in the People’s Republic of China (China) since Xi Jinping came to power in 2012. It is perhaps self-evident that politics plays a pivotal part in undergirding every aspect of social relations in this Marxist-Leninist regime. Its proximity with the ruling Communist Party (the Party)’s desire to maintain a permanent monopoly on power has led some to conclude that punishment is ‘not only a political tool but a distinct expression of the political’ (Trevaskes, 2010: 11). Much of the literature has spoken to the politicisation of sanctions (criminal and administrative punishments) which serve the Party’s quest for political stability and legitimacy (Biddulph, 2007; Fu, 2018; Lewis, 2011; Liang, 2005; Trevaskes, 2010; Wang, 2020).

Along the lines of this previous research, I focus on *incarceration* as a specific tool of punishment to understand its place within the political sphere. Over the past decade, the incarcerated population in China has steadily increased despite the emergence of more lenient penal policies and a decline in the severity of crimes. While prior research has described the dominance of the Party over punishment regimes, it has not gone much further than recognising and documenting this political influence. We are then left in the shadows regarding the inner workings of the politics of incarceration – specifically how political considerations and priorities produce their intended effect on penal controls. One particular purpose of this article is to tease out the mechanism of the politics-incarceration cycle, and the legal and penal circumstances in which this process is configured by state discourse, motivation and action.

Divided into three parts, this article argues that the increase in China’s incarcerated population under Xi is a result of the intensified response of penal control to an eclectic mix of developing social dislocations threatening public order and political stability, including the most recent Covid-19 pandemic.¹ Through what I call ‘forward-leaning policing’, the current Government has inherited hard policing from its predecessors and co-opted more aggressive police powers to advance the country’s overriding

agenda of stability maintenance. This paves the way for individuals to more easily come into contact with the justice system, exposing them to a higher probability of falling within the remit of formal punishments, including imprisonment. In section ‘The growth of incarceration under Xi’, I will outline the upward trajectory of incarceration across the past decade. In section ‘The politics of penal control: Penalising social dislocations for stabilising political order’, I will discuss the advent of increasingly diverse societal issues regarded as threats to the stability of the Party, upon which their legitimacy is predicated. All the while, China’s community and social policy interventions have been inadequate in addressing these evolving social ‘risks’. In section ‘Incarceration as a default outcome of ‘forward-leaning’ policing’, I will unpack the idea of forward-leaning policing – referred to as the securitisation of society, in which China exercises its carceral power through increasingly coercive police actions to carry out omnipresent control. In doing so, the vast majority of matters involving police presence generally result in individuals being funnelled into incarceration. This engenders a foreseeable reality, that Chinese citizens are more susceptible to everyday as well as ‘political’ policing that is risk-based and incapacitation-focused, thereby making incarceration a default outcome in the broader pursuit of maintaining stability.

This study relies primarily on a compilation of evidence sourced from national and international statistical data as well as secondary work. In particular, the national data was used to map the contours of incarceration with reference to imprisonment and other similar forms of custodial punishment. While scepticism has been cast over the reliability of Chinese official statistics (Bakken, 2023; Xu, 2018), I cross-referenced them against data drawn from international sources in an attempt to ensure general accuracy in the empirical data. In addition, existing research findings, both qualitative and quantitative, were considered. These prior studies, collected from published academic papers, government documents and historical records, constitute the evidential basis for my analysis.

The growth of incarceration under Xi

It is generally assumed that the magnitude of incarceration in China remains a ‘state secret’ (Li, 2018). However, fragmented data recorded in government documents and international sources have consistently pointed to a steady growth in the prison population. While the first huge leap in the prison population occurred in 2000, the past decade has witnessed a continuous increase in the prison population, from 1.65 million in 2012 to 1.69 million at the beginning of October 2021, as shown in Figure 1 (Walmsley, 2021). These figures exclude pre-trial detainees (e.g. those under arrest) and those held in ex-judicial detention (Walmsley, 2021). As of December 2022, China’s prison population is believed to surpass the US, the world’s former leading incarcerator (Statista Research Department, 2023).

Many people are held under so-called ‘administrative detention’ if the offence is not deemed serious enough to warrant criminal prosecution. Procedurally, this power to incarcerate is afforded to police without any form of prosecutorial review or judicial oversight. In 2013, there were 12,746,493 cases reportedly handled by police administratively (China Statistics Yearbook, 2014). This number appeared to drop to 9,060,768 in 2021

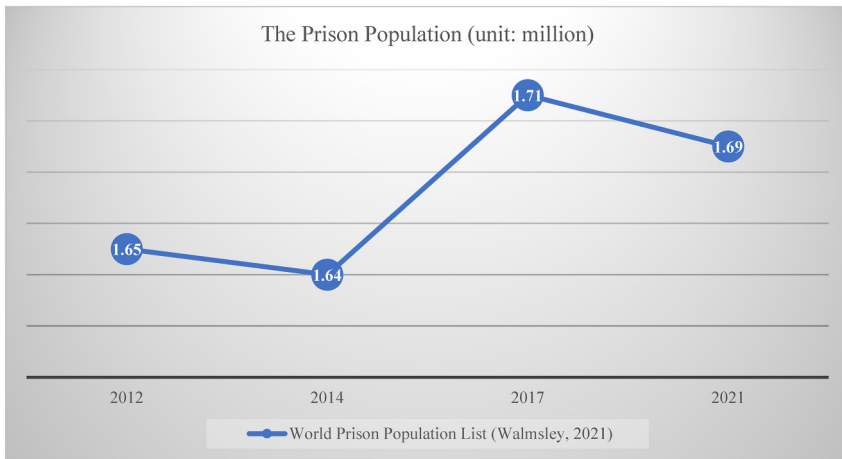


Figure 1. The prison population during 2012–2021.

(China Statistics Yearbook, 2022). The reason for such a rapid decrease remains unknown (the Covid-19 pandemic may have contributed to this). Still, manipulation of public order data in China ought to be borne in mind – as it has been observed that the (offending) rate grows considerably at the beginning of each new tenure (of a new leader), only to (gradually) fall to a laudably “harmonious” level’ as the tenure continues (Bakken 2023:41). Although not every case dealt with administratively precipitates the use of detention, statistics indicate a sizable surge in offences with *detention* as a mandatory administrative policing practice. Figure 2 reveals that the two offences most commonly handled in this way are ‘picking quarrels and provoking trouble’ and ‘fraud and scams’.² Both are subject to no less than 5 days of public order detention. The number of ‘picking quarrels and provoking trouble’ and ‘fraud and scams’ cases grew significantly during 2013–2021 (85,183 v 111,555; 271,918 v 541,456) (China Statistics Yearbook, 2014, 2022).

Oddly, this penal increase occurred at a time when the Chinese Government was gradually retreating from its ‘iron fist’ approach to crime and disorder. This retraction is demonstrated in particular by the State endorsing the criminal justice policy of ‘Combining Leniency and Severity’, which was an attempt to outstrip the ‘Strike Hard’ anti-crime campaigns that characterised penal praxis at the end of the 20th century. Perceived as a knee-jerk reaction to the spike in crime wrought by China’s commitment to market-oriented reforms, ‘Strike Hard’ law enforcement featured swift investigation, bulk trials, and the widespread imposition of tougher penalties, such as lengthy imprisonment and capital punishment (Liang, 2005). So, if the ‘Strike Hard’ strategy aimed, as many have argued, to clamp down ‘all those who disrupt social order (as) the state enemies of China’s reform drive’ (Trevaskes 2016: 146), then the ‘Combining Leniency and Severity’ policy was devised to moderate social panic accruing from rampant state violence.

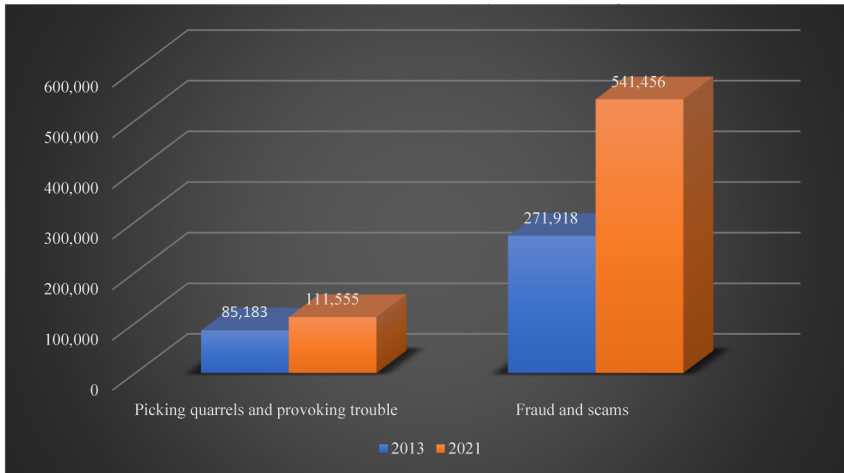


Figure 2. The numbers of the administrative cases involving ‘picking quarrels and provoking trouble’ and ‘fraud and scams’ handled by police during 2013–2021.

The ideal of ‘Combining Leniency and Severity’ was a *bifurcated* system of punishment (Seeds, 2017) – it refers to the imposition of harsh penalties on a small minority of extremely serious crimes, whilst encouraging the application of relatively more lenient sentences for the majority of crimes, particularly those with minimal social impact or mitigating circumstances. Simply put, it seeks to reverse the trend of excessive and indiscriminate use of punishment. This binary model has manifested itself in a flurry of criminal law and penal reforms. Among the most illustrative cases was the removal of criminal offences punishable by the death penalty from the *Criminal Law (CL)*, the abolition of some of the most coercive administrative detention measures (e.g. Re-education through Labour and Detention and Repatriation),³ the institution of community corrections as an alternative to short-term imprisonment, and the more recent promotion of the ‘Admission of Guilt and Acceptance of Punishment’ scheme which encouraged confessions in exchange for a lenient sentence.

Although well intended, it is clear that the foregoing efforts to neutralise penal severity have yet to make an impact on incarceration rates. Some scholars attribute this to the fact that China has gone down the path of ‘overcriminalisation’ – drawing similarities to the proliferation of new and amended criminal laws in the US, the UK, Australia and the like (Husak, 2008). This line of reasoning seems plausible. Since the Second Amendment to the *CL* in 1997, around every two years a new amendment has been introduced by the Government to broaden the scope of criminalisation. Consequently, the number of criminal offences has increased from 412 in the Second Amendment (1997) to 483 in the Eleventh Amendment (2020). Accompanying this is an emerging trend of petty criminal offences – typically punishable by a sentence of 3 years’ imprisonment or less – which have now become the largest source of criminality in post-2010 China (The Supreme People’s Procuratorate, 2023). Additionally, official data reveals a sharp decline in the

commission of serious crimes, although a cautious reading of this data is required (Bakken, 2023). Between 2012 and 2021, the commission of offences which trigger heavier punishments such as murder, intentional assault causing serious injury or death, drug dealing, robbery, arson, bombing and poisoning were decreasing (Lu, 2022; Statista Research Department, 2022). On the contrary, larceny, fraud, dangerous driving and similar offences topped the list of prosecutions nationwide (The Supreme People's Procuratorate, 2023). This resulted in longer sentences (e.g. 3 years' imprisonment and above) taking up only 8.01% of sentencing results in 2016, compared to 47% during the 'Strike Hard' era (Lu, 2022). Therefore, the supposition that overcriminalisation leads to growth in incarceration only makes partial sense: it may explain the phenomenon of net-widening as a result of the State's expanded social control over individuals, but a drastic decline in the commission of serious crimes ought to mean that there is a cohort of offenders receiving markedly shorter jail terms or even non-custodial penalties, thereby contributing to de-incarceration.

Still, those who are convicted of petty crimes are eligible to be placed under community corrections – a burgeoning penal measure which allows offenders to serve their sentences outside of prison. Government data reveals a growth in the use of community corrections, with the number of offenders placed under this non-custodial punishment gradually increasing since its inception in 2003 (Li, 2022). It had hitherto accommodated approximately 4 million convicts, and reportedly very few have reoffended and been re-sentenced to a jail term (Li, 2022). Paradoxically, however, this increase has accompanied a rise in the prison population at large. Instead of reducing imprisonment, it appears that community corrections sentences are being operationalised as a parallel system of punishment in addition to traditional prison sentences (Chen, 2018). Regardless, coalescing overcriminalisation with incarceration does not account for the nuance around the reality of the expanding number remanded under police administrative detention. A great deal of incarceration falling outside of the country's criminal penal system takes place thousands of times every day.

So, what has driven incarceration rates in China? In penological theory, there is a broad consensus that punishment is a 'uniquely revealing lens into how political regimes work' (McBride, 2007:3). Across the Anglophone democracies, for example, the politics of high incarceration rates are mainly reflected in a re-appearance of populism associated with a climate of public fear of crime (Roberts et al., 2002). This has justified the popular 'law and order' demagoguery, which describes social problems in terms of criminal behaviour and which ultimately marked the beginning of the 'prison boom'. For authoritarian systems, incarceration serves more pointedly the desire of the ruling class to maintain a permanent monopoly on power. While populism plays a role, its primary aim is to not only control crime, but regulate and shape the relationship between the people and the government through the governance of crime. Conceived in this way, Frank Dikötter (2002: 17)'s contention that incarceration, or more generally, punishment is 'a political tool linked to particular political goals', invites us to ponder the political backdrop to this incarceration crisis.

Building on the preceding analysis, my hypothesis is that the intensification of incarceration in China during the past decade is resultant of the Party's overwhelming concern

with ‘risks’ associated with a spate of new social issues and challenges. These social problems have been deemed to undermine public stability and have the potential to generate civic volatility which could challenge the Party’s legitimacy. From Deng Xiaoping’s term as the Party’s second-generation leader to Xi Jinping’s current reign, the Chinese Government has firmly espoused a *stability* imperative which mandates that ‘social stability overrides all else’ (Biddulph, 2015: 7). Although instituted by Deng as a political objective following the Tiananmen Square protests, stability has developed to become the Party’s core priority as formalized under each subsequent president. In particular, Xi has affirmed that stability is a critical precursor to the country’s latest goals of sustainable development and national rejuvenation (Xi, 2022).

The Party’s concern with stability necessitates a preventative attitude to ensure social crises do not spiral out of control. Therefore, rather than relying on soft interventions such as community programs and social policies, the Government has resorted largely to the State’s carceral power through a belligerent system of police power, namely forward-leaning policing. The idea of preventive intervention through hard policing is not new. Derived first from the Party’s trepidation from public revolt following the 1989 Tiananmen incident, forward-leaning policing surfaced as a social control instrument aimed at ‘nipping the (political) risk in the bud’ (Wong, 1998). Various forms of police detention were implemented to incapacitate individuals labelled as ‘dangerous elements (危险分子)’. The post-Deng era marked the country’s economic boom, yet abusive police power was somewhat counterbalanced by the Government’s preoccupation with marketisation as the whole nation became devoted to materialism, efficiency and economic progress. China was then saddled with two countervailing considerations: social stability and economic development. Xi’s rise to power has begun to tilt the balance, with stability concerns taking precedence over economic growth under his leadership (Göbel, 2020). This has prompted the increasing salience of forward-leaning policing, equipped with an expanding ambit of preventive coercive police powers with little to no checks and balances. Functionally, such a pattern of policing weaves an overly large blanket of security by targeting ever-growing ‘risk groups’. As more people are caught up in the law enforcement process, the likelihood of incarceration is greater than ever.

The politics of penal control: Penalising social dislocations for stabilising political order

Since the founding of communist China, police and public security agencies have been granted expansive control. Legally, they are vested with a broad range of powers, both administrative and criminal, to engage in preventing anti-social behaviour, dealing with community safety concerns, resolving disputes and investigating crime. What differentiates administrative policing from criminal policing is typically procedure. Police officers are licenced to carry out administrative regulatory responsibilities in an exclusive process with unfettered authority, whereas comparable criminal law duties such as investigation and arrest are more or less performed under the oversight of procuratorates within the criminal justice system.

The administrative and criminal powers of police have waxed and waned over time. As early as the 1980s and 1990s, a policy of 'Comprehensive Management of Social Order' was adopted by the Party to accentuate crime prevention by furthering grassroots policing. One aspiration of this strategy was to mobilise wider segments of the society to assist front-line police officers with 'intervene(ing) at the first sign of possible trouble' on the street (Chen, 2002: 10). However, as we will see, this community-based policing is no longer achieving social control due to the new social problems facing the Government. In particular, the system's 'mutual benefits and mutual aid function', described by Michael Dutton (1992: 31) is tailing off due to its inability or failure to intervene in criminal behaviour.

One of the reasons for this is the presence of new forms of criminal behaviour. In a nutshell, as China evolves to become more diverse and pluralistic, a wider range of crimes have emerged, affecting society in more subtle ways. These new threats are all-encompassing, including: telemarketing scams targeting elderly people; fraudulent fund-raising which targets the middle class; human trafficking which targets infants, children, and women; and domestic violence targeting intimate partners, just to name a few. What appears to be more alarming is that some specific crimes – for example, terrorism, corruption, cybercrime, and organised crime – have increased astronomically. Terrorist crimes, for instance, while is loosely defined in Chinese law (Roberts, 2020), occupied many news headlines after a series of violent attacks in Urumqi, Beijing, Kunming and Guangzhou in the years following Xi's inauguration (Greitens et al., 2020). Quantifying terrorist crimes is rather difficult due to the Government's concealment of terrorism-related data in the name of national security (Potter and Wang, 2021). Yet, it is believed that since 2014 the deepening operational ties between minority groups in Xinjiang and Islamic extremist groups in Southeast Asia and the Middle East has produced what is called 'the most significant set of shifts in China's external terrorist threat environment since 9/11' (Greitens et al., 2020: 37).

More frequently, though, the perceived risk of social instability arises from internal mounting tensions between citizens and the authorities. This professed threat has manifested in the form of public protest activities, motivated by civic grievances towards local (and sometimes corrupt) officials and governments. Some degree of civic discontent is hardly surprising in light of the dramatic pace of China's social change which has engendered widening regional disparity, income inequality and unemployment between different social classes (Duckett, 2020). There is significant literature showing an upsurge in 'mass incidents' in post-2000 China. By investigating the origin and evolution of mass incidents in recent decades, researchers contend that such protests are not only commonplace, but deeply embedded in social life and thought, particularly within the underprivileged population who strive to seek justice, fair treatment and the realisation of a better livelihood as promised by the Government in modernising China (Zhou, 2021). As such, the overwhelming majority of incidents are reportedly related to 'rights-asserting' activities (Biddulph, 2015: 11) through labour disputes (mostly with state-owned enterprises), land seizures and relocation (by local governments), environmentally hazardous projects (sanctioned by local governments) and negligent exercise of duty (by local officials).

Apart from the mass incidents outlined above, the risk is also seen in dissenting movements that are diametrically opposed to the Party's governance policy, ideology and dominion. There has been a growing population excoriating the ruling communist autocracy and calling for enhanced rights protection, both of which are seen as antithetical to the Party's rule. Referred to as 'human rights activists' (Fu, 2018), this particular group is diverse in respect of their occupation and education, and is comprised of human rights lawyers, academics, writers, journalists, doctors and private citizens among others. As part of the 'rights defence movement' initiated in 2003 (seen as the opening year of rights movement) (Feng, 2013), human rights activists have voiced support for universal political and civil rights in the public space, and – more recently – through virtual and anonymous means. This voice arguably appeared to gain traction in Hong Kong's Anti-Extradition Bill protests and the Covid-19 pandemic, during which China's authoritarian approach to preserving public order was called into question.

The Government, faced with these socially destabilising events, has gradually conceived massive movements and structured anti-Party activities by social organisations as imminent risks to the ruling Party. Under the current leadership, religious communities and ethnic minorities are particularly earmarked, bearing the brunt of the Party's tight scrutiny of their countervailing beliefs.⁴ For instance, after Xi took office, there has been a shift away from the relatively tolerant attitude to religion in post-Mao China to a more hostile position toward the followers of Christianity, Islam and other spiritual movements (Guo and Zhang, 2015). This move is seemingly justified as a means to stem the tide of 'foreign infiltration'. The General Office of the Central Committee of the Chinese Communist Party passed Document 18, which emphasises this line of reasoning:

Foreign hostile forces have put even greater emphasis on using religion to infiltrate China to carry out their political plot to westernize and divide China, and the spread of Christianity is a notable concern. (Tam and Hasmasth, 2015: 284)

'Security' has been repeatedly broached in Xi's speeches at and after the 19th National Congress, followed by 'struggle' (Wu, 2022). In a domestic context, Xi refers to the securitisation of political risk as the Government's determination to maintain regime stability by struggling against any possible threats to the Party's domination on state power. In a publication in the *Study Times* – the journal of the National Academy of Governance at the CCP Central Party School – Xi highlights the emerging trends and characteristics of political risks under the new circumstances of China's fast-changing social conditions and a more confrontational geopolitical environment. More specifically, Xi demands that Party cadres gain a solemn understanding and pay high attention to emerging threats while preventing and diffusing major political risks. These threats feature a comprehensive set of risks which ought to be guarded against and controlled at all costs. Party cadres are mandated to be alert about 'economic and financial risks turning into political and social risks; cyberspace risks brewing to become actual social risks; risks from external (foreign) struggles turning into internal (domestic) security and stability risks; and risks of hostile foreign forces exploiting domestic problems' (Chen, 2019). All these

risks carry the danger of political volatility, which undermines the Party's political legitimacy, stability and security required at the core of the nation's development and rejuvenation.

In facing these complex socio-political issues, community and social intervention has struggled to provide solutions. For one, strategies like community policing have yet to adjust 'to meet the needs of a changing social environment' (Zhong, 2009: 166). Mostly derived from the preeminent mass-line policing that once prevailed in Maoist China, community policing displays a strong mark of practical similarities in terms of ideological compliance, mass mobilisation, population surveillance and community service (Dai, 2008). However, this package of practices is conducive to 'mechanical solidarity' – in Durkheim (1997)'s terms – where the social cohesion arises out of the homogeneity of members of a society – namely the society under Mao. It falls short of the expectation of a highly organic and anomic society under Xi to address uncertainty and anxiety when societal crises are more serious than ever. Overall, community policing lacks the necessary power and authority to provide answers to the underlying problems of social disorder and injustice that give rise to public grievances. Community policing, while likely to curb the escalation of social disorder, is incapable of tackling root causes within deeper structural and socio-economic flaws. This is particularly the case when the problems at issue necessitate an ideological change in the gene of the Chinese polity or, at a minimum, in the mindsets of the Party elites.

This conundrum with community policing is exacerbated by the absence of sufficient social capital and resources to sustain its enforcement. Primarily, it is exemplified by the lack of genuine civic participation. Li (2018)'s study indicates that where members of the public do engage in community policing, it is more often required rather than voluntarily driven. This is mainly due to the weakening of social integrity in (post-)reform China, as the sense of community belonging, shared interests and interpersonal connections between police and residents are rapidly declining (Li, 2018). In line with Durkheim (1973)'s sociology model, the weakening of collective consciousness and social cohesiveness has caused rules that previously governed public order to break down, with anomie and increased insecurity emerging as fallouts occur. In the Chinese context, this means that the State would have to intensify governing power through authority and punishment to restore moral and social order. To a large extent, it explains why Zhong (2009: 164) noted that Chinese police have now 'actively taken the lead in carrying out community policing programs'. An illustration of this observation is the decision of the Ministry of Public Security to remove the Social Order Joint Defence Team (SOJDT) from the State's community policing forces. Integral during the revolutionary era, the SOJDT comprised of residents sent by work units and neighbourhood committees in each district, functioning as a self-regulatory grassroots organisation to assist police with a variety of daily policing activities, such as patrol and education (Chen, 2002). The upshot of repealing SOJDT was that police were pushed even further as frontline players in carrying out street-level policing.

While there are continuing efforts to promote community programs based on police-public cooperation (e.g. management of focal populations in the neighbourhood), the envisioned goals of these programs are often impeded by the paucity of independent

financial resources, professional support and consistent working philosophies. Scoggins (2021), for example, points out enduring fiscal restraint on local police in most parts of China. Drawing on interviews with ground-level police officers, it was found that many bureaus do not receive enough funds from local governments to purchase proper equipment, hire auxiliary personnel and, more importantly, engage in meaningful community services conducive to the construction of mutual trust and dependency (Scoggins, 2021). In today's China, such chronic budgetary shortfalls appear to be commonplace, especially in the rural regions. This is mainly driven by the urban–rural divide, which has caused rural regions to suffer an exodus as people migrate to increasingly dense urban areas, with socioeconomic disadvantage becoming increasingly concentrated in rural areas (Xu, 2014). The lack of financial provision has a significant bearing on police undertaking problem-oriented policing on an everyday basis. This way, the focus of many well-intended community programs has been reduced to that of control and surveillance in reality (Jiang and Liu, 2022). Despite being officially advertised as a desirable policing model in China (Zhong, 2009), community policing is devoid of the soil required for it to bloom as a self-reliant approach to addressing the evolving exigencies in the new social milieu.

This social crisis remains bleak; it is recognised that China's social policies have 'reinforced or compounded inequalities and segmented the population' (Duckett, 2020: 534). Many neoliberal-looking welfarist programs – for example, the minimum livelihood guarantee, employee social insurance and pensions – are seen as delivering social provisions for already better-off urban citizens as opposed to indigent rural citizens (Duckett, 2020). In conjunction with the commercialisation of education, health and housing in the 2000s, government social interventions have yet to reduce inequalities created by rapid economic modernisation. Instead, they have contributed to pervasive insecurities felt by low- and middle-income residents (Zhang, 2015), which intensified during the Covid-19 pandemic (He et al., 2022). Simultaneously, China's political, religious and ethnic policies have become more restrictive towards certain groups of people, for example, intellectual elites and Uyghur Muslims. From a utilitarian perspective, these policies – which are intended to diminish freedom of expression, religious exercise and ethnic identity – are aimed at aligning these so-called risk populations with the ruling priorities and interests of the Party. While it is certainly correct to suggest that these social policies are crafted with stability maintenance in mind, they tend to deepen rather than alleviate social strains. Most notably, this is illustrated by the visibility of extremist movements in minority groups in Xinjiang and Tibet, among others, who are understood to be heavily driven by resentment toward the Government's ethnic policies that intend to assimilate indigenous minorities into the Han identity (Kung, 2006).

Incarceration as a default outcome of 'Forward-leaning' policing

When compared to social interventions, police are inherently more capable of translating the regime's goal of stability maintenance into practice. Not only are the police state agents authorised to enforce the law, but their involvement in managing ground-level problems can help local governments 'more efficiently' clear up the issue through (in)formal

coercive functions. On this view, with the perceived risks looming larger since Xi's tenure, belligerent policing has occupied the forefront of penal control, with community-based measures taking a back seat. Forward-leaning policing has transformed how state coercion operates and is perceived, providing a flexible and cost-efficient (yet punitive and preventive) solution to the identification, management and mitigation of social and political instability. That being said, forward-leaning policing embodies the arbitrary exercise of the State's carceral power which has proven to be an optimal punitive and preventive instrument. On the one hand, it centres on the deprivation of rights, compulsion and hard treatment to attain an overt and prompt deterrent effect. On the other hand, it has a strong preventative function in containing and restraining anticipated risks through control and incapacitation. As the harbinger of a 'security state' (Wang and Minzner, 2015), the result of this forward-leaning policing is that citizens are increasingly exposed to ubiquitous police presence, thereby facing a much higher risk of becoming incarcerated.

The expansion of police coercive powers

Let us now review the power dynamics which shape the operation of forward-leaning policing. In 2006, the *Public Order Administrative Punishments Law (POAPL)* was promulgated to supersede the obsolete *Regulation on Public Order Administrative Punishments (RPOAP)* passed in 1986. Under this new law, the police power to deal with street-level transgressions was significantly extended in response to the increasing appearance of everyday 'incivilities'. Augmented from 45 sections in the *RPOAP* to 139 sections in the *POAPL*, the new law bestows discretion for police to punish administrative offences that include 'interfering public order; impairing public safety; infringing personal and property rights; and hindering social management' (Article 2). With 124 types of conduct falling within these four larger categories, the influence of *POAPL* is sweeping. Examples of targeted behaviours range from the act of abetting, coercing or deceiving someone into joining a cult organisation (Article 27), the act of gang fighting and chasing or intercepting another person (Article 26), as well as the act of instigating and plotting illegal gatherings, demonstrations and protests (Article 55). In its draft Amendment released in September 2023, the *POAPL* further ramps up police powers by allowing public security agencies to penalise behaviours that were previously deemed 'morally inappropriate'. For example, Article 34 states that people who wear or force others to wear clothing and symbols that 'undermine the spirit or hurt the feelings of the Chinese nation' could face punishment of detention up to 15 days. Similar provisions ban people 'insulting, slandering or otherwise infringing upon the names of local heroes and martyrs' as well as vandalising their memorial statues. The new draft also subjects behaviours like cheating in exams, flying a drone without explicit permission and throwing objects from a height to administrative penalties including detention. Although this legislative proposal has only been made public to solicit public comments at the time of writing, the expansion of police jurisdiction shows no signs of slowing down.

In the *POAPL*, the majority of administrative offences are mandatorily bound to public order detention (normally below 5, 5–10 and 10–15 days). In a run-of-the-mill situation,

Chinese police are able to stop, search, inspect and detain individuals under the aegis of maintaining social order and public safety. This can come about when police officers are on patrol or called to a scene, or, more particularly, through so-called ‘joint law enforcement’ with other government departments. In this cross-agency cooperation, for example, local administrative agencies lean on police powers to minimise public disorder from disruptive operations such as urban demolition and relocation, unregistered vehicle regulation and labour disputes (Yu and Wang, 2017). Evidence also shows that such pre-emptive policing tends to produce unwarranted citizen-police clashes rather than encourage civic compliance (Scoggins, 2021). In many instances, citizens end up being detained for offences like ‘the obstruction of official duty’ due to uncooperative or confrontational behaviours (Yu and Wang, 2017).

Yet, public order detention is by no means the only domain in which police are able to extend the boundaries of their administrative power. China has historically relied upon a range of administrative detention measures to deal with more specific behaviours that ‘disturb social order’. These measures include, typically, Detention for Education aimed at prostitution, Compulsory Drug Detoxification aimed at drug abuse and Compulsory Medical Treatment aimed at mentally ill people. On top of these, Re-education through Labour (RTL) targeted repeat wrongdoers who failed to comply with compulsory education or treatment in previous detention periods. The past decade has witnessed an excessive application of administrative detention measures to a much wider category of ‘risk individuals’ or ‘troublemakers’ (Rosenzweig, 2016). This list is not at all exhaustive and has grown to cover not only those who commit various unlawful behaviours, but also protesters, petitioners, adherents to banned religious organisations, autonomy-seeking minority groups and human rights lawyers. In the Tang Hui case, for example, which triggered a public outcry that led to the abolition of RTL in 2013, Tang persistently petitioned local authorities for justice when she learned that her 11-year-old daughter was kidnapped, raped and forced into prostitution. Tang was then sentenced for 18 months under RTL for ‘disturbing social order’. Although RTL camps have been allegedly dismantled in the last decade, some have purportedly merged with drug rehabilitation and education centres (Biddulph et al., 2017b). In other locales, RTL camps have been replaced with admonishment centres, legal education bases or even black jails to intercept ‘abnormal activities’ of ‘undesirable’ dissents (Lubman, 2014).

In parallel, police powers for handling *criminal* matters have similarly broadened. Although administrative offences and criminal offences should be regulated in separate procedures, the distinction is becoming increasingly blurred. In large part, this is shaped by the re-shuffling of administrative penalties (e.g. through the annulment of RTL and Detention for Education) which gives rise to the criminalisation of many disorderly behaviours that were otherwise handled administratively. The third amendment to the *Criminal Procedure Law (CPL)* passed in 2012 made evidence obtained by police through administrative coercive measures admissible for the purpose of criminal prosecution. This is highly controversial, as it means that police administrative powers which go unchecked can substitute criminal investigations conducted by police which have prosecutorial checks (in theory at least), should police seek to circumvent their duties under criminal prosecution.

A more striking illustration, perhaps, is the codification of ‘risk of social dangerousness’ as the pivotal legal threshold for *arrest*. In brief, as mandated in the *CPL*, police ought to arrest a suspect if he or she is at risk of committing ‘further offences’ or posing ‘substantive dangers to national security, public safety, or social order’ (Article 81). However, the concept of social dangerousness floats in a legislative limbo. Its measurement, according to the 2015 *Rules on Several Issues related to Arrest regarding Social Dangerousness* (the *Rules*), appears to be predicated on three criteria: previous conviction(s), the current status of suspected crime and the future risk of the suspect reoffending (Sections 5–9). Arguably, a history of past offending and the seriousness of a suspected crime may make the prospect of social dangerousness reasonably foreseeable, but what ‘future risk’ entails and how it is associated with social dangerousness are left undefined in both the *CPL* and the *Rules*. This inevitably breeds discretionary interpretation by police to justify arrest in circumstances to their liking. In short, any suspect can be conveniently labelled as ‘socially dangerous’ insofar as there is a chance or prospect of risk, no matter how big or small or legitimate.

Therefore, when managing mundane criminal incidents such as theft, fraud, assault, rape and other violent offences, police officers enforce a citizen’s arrest with little regard to reasonable suspicion and necessity. Nor do they take into account the principle of proportionality, which is absent in Chinese criminal law. It appears that the urgency to ‘clear the risk off the street’ is central to their decision on holding ‘the suspect’ in remand (Li, 2021). Substantial empirical studies show that the rate of arrest approval by procuratorates nationwide has never fallen below 80% despite varied nature of the suspected offences (Zalman, 2017). While this pretrial custody generally applies to serious crimes including drug trafficking, robbery and murder, petty crimes such as property-related offences result in an analogous rate of confinement (Xiong, 2016). Although there is evidence that China has begun to address the issue of high arrest rates (e.g. encouraging guilty pleas to reduce pre-trial detention) (Xinhua, 2021), the extent to which it is effective remains inauspicious. Even so, in some regions the arrest rate reaches 100% if the crime falls within the investigatory discretion of procuratorates (Lin and Shen, 2016).

Policing everyday crime is just the tip of the iceberg. ‘Political policing’ engages with a more hostile stance on ‘dangerous individuals’ to ensure stability maintenance (Scoggins, 2021: 115), policing social unrest caused by protests and dissents. On a more perceptible front, arrest is also a regular weapon of political policing. Despite the lack of official data about political policing, there has been a steady stream of reporting which suggests that police possess a wide discretion to ‘serve goals and priorities other than crime control and targeting a broad range of (risk) groups – including, but not limited to, political dissidents’ (Biddulph et al., 2017b: 37). As many researchers have found (Biddulph et al., 2017b; Fu, 2018; Pils, 2014), China under Xi’s leadership has waged crackdowns using pre-trial detention to suppress and silence rights activists. Many human rights lawyers, democracy supporters and liberal-minded artists have been reportedly held under arrest for months or years with little, if any, access to their families or legal representatives (Rosenzweig, 2016). In Xinjiang, it is reported that the rate of formal arrests increased by 306% in 2013–2017 compared to the previous five-

year period (Chinese Human Rights Defender, 2018). Although data disaggregated by religion and ethnicity is not available, it is contended that Uyghur Muslims are disproportionately targeted, reflecting a hardline law enforcement strategy to counter terrorism, religious extremism and ethnic separatism (Chinese Human Rights Defender, 2018). In doing so, arrest is not only an instrument to facilitate the process of investigation and trial, but it can be widely abused as a vehicle of ‘secret detention’ to suppress and deter dissent – whereby the process itself becomes the punishment (Feeley, 1980).

This increasing prevalence of forward-leaning policing was most patent during the Covid-19 pandemic. Since the detection of the first coronavirus case in Wuhan, China has arguably stood out among its international peers as adopting the toughest Covid controls, characterised by what is referred to as the ‘dynamic zero-Covid policy’ (Yuan, 2022). Under this policy, the imposition of public health orders and lockdowns became the norm, with Chinese authorities enacting a raft of rigorous countermeasures to combat the outbreak and spread of Covid. On a regular basis, actions such as, *inter alia*, city lockdown, building ‘Fangcang’ shelter hospitals, compulsory mask wearing, and mandatory quarantine for (overseas and domestic) travellers were central to China’s anti-Covid strategies. While the Government eventually scrapped its Covid controls to accommodate the idea of co-existing with the virus, the three years (2019–2022) of adhering to the ‘dynamic zero-Covid policy’ materialised a highly aggressive and arbitrary mode of policing to serve two primary purposes: first, guaranteeing the implementation of an authoritarian approach to pandemic control and second, suppressing public criticisms of the Government’s counter-Covid policy.

There is insufficient data on Covid policing in China. However, a glance at the reported incidents involving the use of police custodial measures point to the State’s heavy reliance upon excessive police powers to deal with individuals deemed to be a risk to the overriding zero-Covid policy. Those cases were predominately published as news reports on popular Chinese online media outlets, including both commercial websites (e.g. Sohu, Sina and Tencent) and Party-controlled websites (e.g. Xinhua, Renmin Daily and People’s Procuratorates). Concomitantly, the government released a considerable number of ‘representative cases’ to set the yardstick for law enforcement practices in Covid-related cases.⁵ These publicised cases illustrate that the vast majority of individuals caught breaching or opposing Covid restrictions were subject to either public order detention or arrest which resulted in criminal prosecution and conviction without exception (Li, 2023). The offences charged by police were heterogeneous, and it is clear that the motivations behind charging were primarily to uphold the zero-Covid strategy. For example, confirmed Covid patients refusing isolation and entering public places could be detained for *the offence of endangering public security by dangerous means*; those who thwarted community workers and members of residential committees carrying out Covid-related tests could be detained for *the offence of obstructing official duties*; those who tore protective equipment off of medical staff or spat on medical staff, causing them to be infected with Covid, could be detained for *the offence of intentionally causing injuries* – just to list a few. It has been recorded that police detention was directed vigorously at netizens engaging in the spread of so-called ‘Covid-19 infodemic’. Drawing from a public Google spreadsheet – arguably one of the most comprehensive

records of online speech crimes in China – the act of spreading Covid-19 infodemic dominates the list, which runs the gamut from the offence of ‘uploading fake news, rumours and myths on coronavirus’ to ‘disseminating (mis)information’ that is deemed antithetical to the Party’s narratives. Across all 778 cases documented in the database (as of 15 October 2022), 656 cases were handled in the form of administrative detention with 68 cases involving the imposition of arrest or other types of criminal detention (Li, 2023).

As noted by Sheptycki (2020), police coercion usually goes hand in hand with surveillance, especially in a pandemic panic. While the former refers to use-of-force techniques, the latter centres on the adoption of a range of communication and information technologies ‘replete with facial-recognition and advanced predictive computer analytic social profiling’ in order to enforce state-sanctioned lockdowns, public health restrictions and public order policing (Sheptycki, 2020: 168). Such practices were not unusual across liberal democracies during the pandemic. Yet, in an authoritarian jurisdiction like China, local law enforcement authorities were mandated to suppress the virus through intensive contact tracing, monitoring and profiling. The creation of Health Code apps, for example, tracked the location of individuals and triggered compulsory quarantine of those at risk by cross-referencing retrospective travel data through their personal mobile platforms WeChat (微信) and Alipay (支付宝) (Liang, 2020). Individuals who received a green health code were allowed to leave the house, whereas those who assigned with a yellow or red code (labelled as ‘potential exposure to the virus’ and ‘Covid-positive’ respectively) were kept off the streets. This digitalised surveillance served as a means to achieve a particular policy objective, and more essentially, created a social control mechanism backed by police action reinforcing the political dominance of the state to ensure civic compliance, obedience and conformity.

Social surveillance is far from a recent phenomenon in China. As early as 2014, Xi’s government similarly introduced the ‘Social Credit System’ to rank each individual by assessing their social and economic activities in light of a host of moral virtues and social values reflected in an online scoring system (Chong, 2019). This surveillance system deployed the power of CCTV, facial recognition, as well as personal data aggregation and analytics to elicit points being added to or deducted from the score assigned to each individual based on their ‘desirable’ or ‘unfavourable’ behaviours.⁶ Those whose score fell below a certain point had limited social mobility and restricted access to state-approved welfare benefits. Resembling the operational logistics of Health Code apps, the Social Credit System was devised to ‘persuade, entice or cajole subjects to modify their behaviour in a particular direction’ (Haggerty, 2006: 40). As a soft form of social control, this points-based system was thought to represent a compliance-inducing mechanism to stimulate and prompt citizens to make choices in line with the state’s needs and interests (Ding and Zhong, 2021).

In many respects, the way China enforced its surveillance during the pandemic through police coercion and punishment for non-compliance echoes Foucault (1977)’s idea of modern disciplinary power exercised by state institutions to train, observe and control people to internalise ruling class principles. According to the French sociologist, through modern institutions (especially prisons), people are turned into ‘docile bodies’.

Primarily, this is done by an omnipresent system of societal discipline and punishment wherein people feel being constantly surveilled and compelled, even in their private moments, to perform the values of the dominant class. On this theory, Chinese society during the pandemic became a monolithic institution, equivalent to Panopticon as cited by Foucault (1977), in the sense that citizens were treated as ‘detainees’ as they were forcibly placed under lockdown and various kinds of quarantine. More discernibly, this generated ‘the unequal gaze’ (in Foucauldian terms) at whether people obeyed the Covid regulations,⁷ which triggered the internalisation of disciplinary individualities and, ultimately, a docile body. In the meantime, this prison-like approach to Covid control was supervised by police through the threat of punitive techniques against disobedience, acting as an unshakable Party line to shore up Xi’s political legitimacy and prestige (Lin et al., 2022).

The nexus between police action and incarceration

Administrative detention and arrest both infringe upon personal liberty. While the former does so without judicial proceedings, the latter is supposed to mark the beginning of a formal criminal process where an offender may be able to circumvent imprisonment by dismissing the charge or acquittal. However, the reality speaks to a linear relationship between arrests and prison sentences. Not only does arrest tend to generate prolonged detention prior to trial, but it often signifies the start of the detainee’s carceral journey throughout the criminal justice system. Figure 3 provides an archetypal pathway to incarceration, showing that arrest opens the door for a series of law enforcement activities – for example, prosecution, adjudication and sentencing – which contribute collectively to a nearly inexorable outcome of imprisonment.

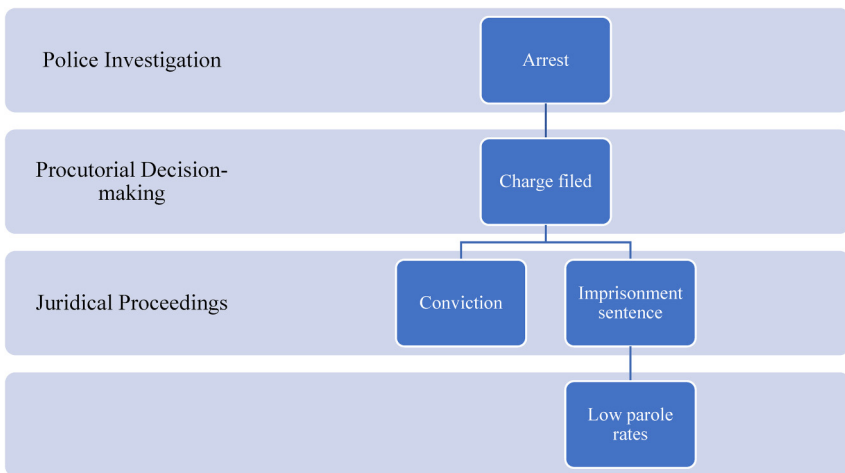


Figure 3. The archetypal pathway to imprisonment.

On a macro level, the Chinese criminal justice system has long been likened to an ‘Iron Triangle’. As the metaphor suggests, the criminal process plays out in an operational framework where the relationship among police, procuratorates and courts is coordinative for the collective purpose of combating crime. During this process, police are empowered to investigate the case, before handing inculpatory evidence over to procuratorates who then prepare a formal criminal charge, with the person on trial being finally convicted by courts. However, instead of keeping each other in check from any abuses of power potentially leading to wrongful convictions, these institutions guard each other’s backs by ‘evaluating, selecting, editing and rejecting information (or evidence) in order to engender a version of the facts’ leading to *prosecution* and *conviction* (Mou, 2020: 15).

There are indications that the very foundation of the ‘Iron Triangle’ is slowly falling apart with the institutional reframing of police, procuratorates and courts in recent years.⁸ But the deep-rooted pressure on the system to secure conviction through relentless criminal charges as a means of ‘truth finding’ has remained intact or even grown stronger (Biddulph et al., 2017a). Conviction, in the parlance of Chinese authorities, is not only a demonstration of justice being served but a conduit to solve cases in response to public opinion, especially for most high-profile criminal cases (Huang, 2012). This explains the high rates of public prosecution upon arrest, and even higher rates of conviction across the past decades. In 2000, for example, the People’s procuratorates at all levels charged 708,836 people among 715,833 arrestees. This number then increased threefold, arriving at 2,092,000 from 837,000 arrested suspects in 2022 (The Supreme People’s Procuratorate, 2001, 2023). Here, a clear conclusion can be drawn: those who are under arrest are almost always charged. This can be explained with reference to the paramount role of the prosecuting officer as the zealous advocate pursuing conviction as opposed to an officer of justice guarding legality. This comes as no surprise, however, given China’s criminal justice for decades has weighed heavily towards purported ‘substantive justice’ at the expense of due process and individual rights (Mou, 2020). Borrowing Blackstone’s ratio contrariwise, China’s prosecutorial work abides by the motto that it is ‘better that ten innocent persons suffer than that one guilty escape’. If we situate this principle within China’s consistent and persistent conviction rates – with a record conviction rate of nearly 100% (Li, 2014), it makes more sense that suspects charged by procuratorates are almost always found guilty by judges either through a full trial or simplified proceedings.

Operating alongside this judicial reluctance to acquit is the long-standing preference for the sentence of imprisonment. Despite signs of promoting lenient punishment, the imposition of custodial sanctions has been unfaltering over the past decade or so. Much empirical evidence attests to an observation that an average of 60–80% offenders are being sentenced to imprisonment across the country (Dai and Feng, 2021). This percentage reflects all types of crimes, regardless of China’s professed move towards a ‘petty crime society’ (Lu, 2022). More recently, using about 20,000 driving under influence cases in Fujian Province between 1 June 2013 and 31 January 2019, Wu (2020) identified an amplification of penal severity as measured by probation decisions and the length of sentences. Despite China’s push for an ‘Admission of Guilt and Acceptance of Punishment’ system, Wu (2020) recorded a steady decrease in rates of probation

following confession. It follows that, ironically, instead of receiving softer criminal penalties, defendants who plead guilty were more likely to be sentenced to prison. Furthermore, and of note, is the overrepresentation of rural migrants in Chinese prisons. Jiang and Kuang (2018) provide that rural-to-urban migrant defendants are more likely to be sentenced to jail compared to their urban counterparts. This inequality in sentencing across demographics has a deep social policy root – the Hukou system.⁹ It is also compounded by the perceived risk of migrants as a source of social and public instability, thus ‘warranting a punitive and managerial approach to justice and a reliance on incarceration for migration control’ (Jiang and Kuang, 2018: 210).

A comprehensive analysis of judicial mentality on tougher sentencing is beyond the scope of this article. However, a glimpse into the role of courts as a governmental organ in China’s socialist legal system indicates that judges are also pressured to commit to the Party’s agenda of stability maintenance without exception. This would explain the general reluctance to grant parole. For those who serve their sentences in prison, there exists early release criteria contingent on copious risk factors, including, *inter alia*, the nature of the crime, the likelihood of re-offending and the behavioural, social and economic qualities of an individual offender (Li, 2022). Unlike its counterparts in some Western penal systems, parole release in China is not automatically granted but considered by the court at any given date after serving half of the jail sentence, except for those convicted of more serious crimes under the non-parole rule.¹⁰ It is no wonder, then, that such discretionary power creates incredible judicial leverage to make consequential rulings classifying risk to identify whether early release is possible. Observably, the parole rate across the country has fluctuated around the 2% mark, with the highest being 2.86% and the lowest being 0.5% (Zhang, 2017). It is evident that the effect of imprisonment on incapacitating offenders and controlling their risk of insecurity likely informs and underpins a judge’s decision on parole.

Concluding thoughts

In this article, I sought to address the intensification of incarceration as a penal control mechanism in Xi’s China. By examining the connection between politics and punishment, my argument is that China’s penal control rests heavily on a politically charged motive achieved through policing practices, and this represents a draconian form of social control through the exercise of carceral power by the state. To support this statement, I explained the emergence of a set of new risks facing today’s China, which are symbiotically entwined with discourse surrounding the country’s determination to maintain political stability. Since the 2010s, new social problems have opened the arena for forward-leaning policing to re-enter. In both law and practice, police presence is becoming increasingly visible, and police power increasingly intrusive – as it has now become a basic unit of modern governance which appears in a vast array of security incidents (Dubber, 2005). As more authority is vested in the police to administer everyday policing, this increasingly leads to the imposition of administrative detention and criminal custodial sentences given incarceration is the default approach to public disorder.

Just as populism has driven the intensification of punishment in the West, a more forceful style of policing in China has won favour with a supposedly punitive public to sustain the Party's monopoly on power (Bakken, 2014). However, much of the evidence shows that serious crime rates in China are on the decline and it is accepted that harsh law enforcement is in no way proportional to the aim of preventing crime (Hebenton and Cao, 2019). In the current climate, however, the state obsession with aggressive policing and incarceration to maintain political stability is unlikely to dwindle. As Xi Jinping enters his third term as the leader of China, a security state is steadily taking shape. Under his regime, the state has worked hard on removing the challenges facing the Chinese top leader's political blueprint as prioritised in the Party's disciplinary and populist governance. This makes a top-down push for de-incarceration nearly impossible. Perhaps a viable approach to offsetting excessive police interventions lies in the construction of what Garland (2016) calls a 'welfare state' – which entails, at a minimum, a solid infrastructure of social insurance, social assistance and social rights guided by social welfarism as the organising principle. By promoting grassroots programs and institutions aimed at increasing state social insurance, service provision and economic security, a (strong) welfare state could be operative as a prophylactic mechanism to help local governments pre-empt risks of public disorder with less need to resort to heavy-handed police action. On a more pragmatic note, this paradigmatic shift would be feasible as it resonates with China's polity as a highly centralised bureaucracy with strong administrative enforcement power throughout each level of government. Although the welfare state would not be a panacea for over-policing and -incarceration, it may reshape the foundations of current governance, namely the Party's paramount demand for an orderly society.

My effort to unravel the politics-incarceration interface in this article does not seek to discuss all other explanatory narratives of penal control in today's China. In practice, penal control through forward-leaning policing is certainly not the only formal strategy for stability maintenance. Sentencing policies, for example, play a part in shaping the country's approach to social instability and its carceral landscape. Community justice programs such as community corrections and restorative practices are aimed, too, at responding to public concerns of insecurity. There is also evidence that Chinese police are engaged in service-oriented duties on a mass level, including mediation, education and providing livelihood assistance (Zhang, 2021). While these policing schemes and practices are designed as a soft means to achieve the maintenance of order, their underlying goal is to advance effective social control while generating regime support. In other words, soft initiatives such as these may not necessarily result in criminal imprisonment, but they could, intended or unintended, lead to the extension of penal control if needed. This link surely warrants some thorough inquiry (e.g. Jiang and Liu, 2022), but it seems to carry conviction as many neighbourhood-based programs are employed to provide urban security and crime prevention with coercive policing sitting as the next level of regulation. As Garland (2013) pointed out, punishment is rarely reducible to a single function. While in the Chinese context incarceration can be theorised through the lens of political origins and conditions, its social, cultural and economic connotations are equally of significance and should be situated in this theoretical analysis to diversify the scholarship on Chinese penalty.

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Notes

1. In this article, penal controls not only refer to institutions and practices associated with the criminalisation and incarceration of individuals but include more broadly control measures (e.g. during the Covid-19 pandemic) which limit personal freedoms and liberties.
2. Picking quarrels and provoking trouble is a ‘pocket offence’ and encompasses a great number of offences, ranging from wilfully attacking persons with serious circumstances to creating a disturbance in a public place that caused serious disorder (Article 26, the *Public Order Administrative Punishments Law*).
3. Re-education through Labour and Detention and Repatriation was abolished in 2013 and 2019 respectively by the Standing Committee of the National People’s Congress.
4. It is noted that foreign non-governmental organisations are also required to comply with onerous conditions, such as registration with police and submission of annual financial reports, following the *Law on Management of Domestic Activities of Overseas Non-governmental Organisations* passed in 2017.
5. For example, the Supreme People’s Court released the first set of representative cases ($n=10$) on 10 March 2020, the second set of representative cases ($n=8$) on 2 April 2020, the third set of representative cases ($n=8$) on 15 April 2020, and the fourth set of representative cases ($n=5$) on 29 April 2022.
6. The Social Credit System has extensive coverage of almost all aspects of life – ranging from not paying fines when they are overdue to driving through a red light.
7. The unequal gaze can be understood as a situation in which people feel they are constantly being watched and observed.
8. Some illustrative examples include the introduction of an ‘Admission of Guilt and Acceptance of Punishment’ system and a ‘trial-centeredness’ system.
9. The Hukou system was introduced in 1958 as a national household registration policy. It requires every Chinese citizen to be officially and constantly registered with the hukou police from birth.
10. For example, the ‘Black and Evil Forces’ (referred mainly to ‘criminal organisations’ and ‘gangsters’ involved in violent and organised crimes), ethno-religious terrorists and corrupt Party officials.

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