Index

Aamodt, M. 132, 137
advocacy for legal reforms 218, 222, 230, 231, 328–30, 414, 415, 416
Ageloff, H. 18
Ai Weiwei case 5–6, 8, 56, 61, 461
Akehurst, L. 131
Alford, W. 257
Alschuler, A. 67
Amodio, E. 38
Anderson, E. 327
anti-corruption enforcement 390–410
anti-corruption administration (ACA) responsibilities 394–5
bribery, prevalence of 401
case numbers 390–91
centralization of power 403–4
collapsing thesis 391
criminal detention 407
detention for interrogation mechanism (shuanggui) 398–9, 403, 404
disciplinary inspection committee (CDI), accountability of 393–4
disciplinary inspection committee (CDI), responsibilities 394–5
disciplinary matters as opposed to criminal offences 396
disciplinary mechanism 397–400
disciplinary punishments imposed (2005–2006) 398
economic decentralization effects 400
extra-legal detention 398–9
future of 409–10
gap thesis 391–2
high-profile cases 400–404
high-profile cases, and political structure of CCP 402–3
high-profile prosecutions 406
institutionalization of corruption 404–10
judicial corruption 405
local level prosecutions 405–6
Party and marginalization of law 393–5
Party norms, prevalence over legal norms 395–7, 449
Party’s disciplinary inspection mechanism 393–400
punishment leniency 406–8
soft laws 395–7
whistle-blowers, treatment of 403
Armstrong, G. 27
audio/video recording of interrogation 102, 112, 113, 116, 272, 487
Australian/Chinese comparison 193, 196
Taiwan 216, 224
Australia
Department of Correctional Services 192
ERISP programme (Electronic Recording of Interviews with Suspected Persons) 193, 196
Evidence Act (NSW) 196–7
guilty plea see guilty plea, Australian/Chinese comparison
Law Enforcement (Police Responsibilities) Act (LEPRA) 190–91, 204
plea bargaining 39–40
R v Thomson and Hoult 201
authoritarianism 36, 64, 210, 211–12, 222, 411–12
bail 192, 194–6, 456, 466, 468, 469
Bajer, R. 95
Balbus, I. 14, 31, 37
Baldwin, J. 40, 41
Balmer, N. 48
Bandurski, D. 372
Barboza, D. 302
Comparative perspectives on criminal justice in China

Bartol, C. and A. 119
Baxi, U. 51
Beken, T. 50
Belgium 28
Belkin, Ira 91–117, 417
Benjamin, W. 345
Bennett, R. 47
Bennetto, J. 19
Bi, X. 16, 21
Biddulph, Sarah 16, 323–44, 413, 448
Bitter, E. 16
Black, D. 17
black hood, and torture 432–3
black jails 9–10, 24, 57
blogging see media, social
Blumberg, A. 16
Bond, C. 131, 132, 141, 142, 144
Booth, T. 192
Borestein, B. 141, 142, 143, 144
Bowling, B. 37
Boyle, K. 14, 31, 45
Branigan, T. 57, 59, 61, 66, 93
Bray, D. 335
Briar, S. 17
Bridges, A. 31, 32
Bristow, M. 57, 58, 63, 64
Brodeur, J.-P. 16
Broden, A. 23
Broden, M. 16, 17, 23
Burgh, E. 346
Burns, J. 401
Burrell, I. 19
Burton, F. 40
Canada 95
Canaves, S. 94
Cape, E. 259
Carlen, P. 17, 31, 40
Carson, D. 121
censorship measures 371–2
see also media
Chabris, C. 124
Chan, M. 64
Chang, J. 95, 111, 112
Chang, P. 62
Chen, A. 394
Chen Baifeng 350
Chen Baocheng 459
Chen Deling 475–6
Chen Duancai 396
Chen Guangcheng 10, 56, 57, 59, 61
Chen Guangzhong 104, 107, 112,
153–71, 234, 343, 448, 458–9, 463,
488, 490, 491, 499
Chen Hefa 120
Chen Huang 234
Chen Jiawu 185
Chen Jianhua 328
Chen Jianli 54, 458
Chen Liangyu case 62, 400, 404
Chen, R. 263, 288, 325, 477, 485
Chen Shui-Bian case 223
Chen Sixi 329–30
Chen Weidong 172–86, 202, 205, 387,
463, 486, 501
Chen Weitseng 211, 222
Chen Xi 53, 304–5
Chen Xia 402
Chen Xiaoming 202
Chen Xingliang 329
Chen Xingyou 326
Chen, Y. 312, 315
Chen Yanhui 501
Chen Yanwei 307
Chen Yongsheng 17
Chen Youxi 305, 428
Chen Yu-Jie 209–33, 440
Cheng, L. 265
Chile 51
Ching, F. 61
Choung, S. 23
Christian, L. 33
Chu, F. 234
Chu, H. 337
Chu, Y.-H. 212
civil disobedience see legal erosion and
policing of petitions
Clarke, C. 40
Clarke, D. 413
Clay, R. 119
Cobain, I. 46
coercive measures
Coercive Quarantine for Drug
Rehabilitation (CQDR) 336,
337, 338–9, 340, 341–2
confessions and torture 94–8, 107–8
Criminal Procedure Law (CPL)
457–9, 471, 499–500
interrogation targets 17, 23
see also confession
Index

Cole, G. 16
confession
   confession-based system 35
guilty plea see guilty plea,
   Australian/Chinese comparison
lawyer as criminal see under lawyer
   as criminal, criminal defence
   and Li Zhuang case
role of 53
voluntariness of, and torture in
   criminal investigations, moves
to end use of 107–8
see also coercive measures; torture
headings
corruption, anti-corruption see anti-
corruption enforcement
Costa, A. 324
criminal defamation and expression
   rights 370–89, 450–51
appeal cases 382–3
censorship measures 371–2
constitutive criteria for the crime of
defamation 375–6
criminal defamation cases, increase
in 372–5
criminal detention 375, 384
Criminal Law Article 246 exception
   clause 375–7, 380, 381, 386
defamation laws and human rights,
   conflict between 371–7, 388
Deng Yonggu case 374
formal arrest approval, absence of
385
Fujian bloggers case 383–4
government, citizens’ right to
criticize 377, 388
Han Xingchang case 379–83
harmonious society and right to
expression, conflict with 374–5
higher-level authorities, need to seek
approval of 387–8
institutional reform, call for 387–8
Internet access, effects of 372–4
legal accountability, need for 388
media control, changing 371–2
National Human Rights Action Plan
375
natural and artificial persons,
differences between 376–7
private prosecution aspects 376
procedural measures, police 377–84
procedural measures, procuratorate
384–8
Public Order Punishment Law 385
residential surveillance orders
380–81
social stability concerns 376, 381, 381, 382
Wang Shuai case 372–3, 374, 375, 377
Wu Baoquan case 373–4
criminal defence lawyers, role of
234–55, 449–50
attorney–client interviews, content
of 245–6
attorney–client interviews, frequency
and length of 244–5
attorney–client interviews, limited
effectiveness of 244–6
Criminal Procedure Law (CPL),
impact on 490–503
cross-examination role 249–50
defence opinions, content of 251–2
defence opinions, frequency of 251
defence opinions as major vehicle of
defence 250–52
defence opinions, oral versus written
form 252
defenders other than lawyers 262–3
evidence presentation role 246–9
evidence presentation role, adducing
evidence 248–9
evidence presentation role,
prosecution advantage 246–7
evidence presentation role, types of
evidence 247–8
lawyer as criminal see lawyer as
criminal, criminal defence
   and Li Zhuang case
legal counsel defence versus self-
defence 237–40, 242–3
legal counsel defence versus self-
defence, general procedures
240
legal counsel defence versus self-
defence, not-guilty verdicts
237–9
Comparative perspectives on criminal justice in China

- Legal counsel defence versus self-defence, sentencing defence
- Legal counsel effectiveness, and sentencing
- Legal counsel effectiveness, and sentencing, acceptance rate
- Legal counsel effectiveness, and sentencing, discretionary circumstances
- Legal counsel effectiveness, and sentencing, procedural defence
- Legal defence forms
- Perjury cases, USA
- Research methods and data
- Restrictions, mental examination process
- Silencing of, Article 306 (Big Stick)
- Substantive role
- Criminal justice dynamics and comparative empirical co-ordinates
- Activists, dealing with
- Coercive interrogation targets
- Confession-based system
- Cordon sanitaire around criminal justice system
- Criminal justice systems
- Judges role
- Labour disputes
- Legal rights of individuals
- Media involvement
- Official courtroom actors, limited powers
- Party political influence
- Police powers
- Problem populations
- Prosecutors
- Public scrutiny
- Rationality
- Rule by terror
- State secrets, leaking
- State transgressions, apologies for
- Torture, aims of
- Torture, complicit
- Torture, instruments of
- Criminal justice dynamics, legitimacy techniques
- Authoritarianism
- Beatings and torture of lawyers
- Black jails
- Collective values, influence of
- Confessions, role of
- Criminal justice system and the state
- Criminalization of lawyers and activists
- De-registration of lawyers
- Disappearance of lawyers and activists
- Hierarchical order in society
- House arrest
- Independent sentencing procedures, research on
- Institutionalized control system
- Internet restrictions
- ‘Invitations to tea’ warnings
- Judicial and prosecution power limitations
- Jury independence
- Lawyers and legitimacy limits
- Limits, and criminal justice structure
- Ma Xiwu justice
- Mass public protests, reporting of
- Media restrictions and legitimacy limits
- Media and spin
- Mediation role
- Mobile phone tracking
- Official discourse, institutions of the law
- Official discourse, legal process
- Official discourse, politics of discreditation
- Official discourse, values and rights
- Official discourse, venues of the law
- Party-state control
- Plea bargaining
- Police malpractice
Index

police powers 52, 63
population management 63–4
protections for individuals 50
public security 50, 57, 60, 61
social media (microblogging) 53, 54, 55, 59
spatial dimensions of law 38–40
State Council document to strengthen law enforcement 63
state and system, identity between 64
surveillance techniques 52
suspects' rights, lack of 52
Three Supremes doctrine 53, 63, 64
travel restriction impositions 56
university student surveillance and restrictions 54–5
well-being (xingfu index) 64–5
yanda campaigns (swift and severe punishment) 49–50
criminal justice reform and experimental psychology 118–49, 450
American Criminal Process flowchart 121–3
challenges to use of 144–7
Chinese participants, scarcity of 146–7
Chinese scholars, capacity to conduct research 147
confirmation bias 138
as confirmation of common sense 124–34
decision-making, implicit bias in 132–4, 140–41
experimental approach 134–44
external validity 139–44
eyewitness testimony, differing views on 125–31, 136–7, 139, 141, 142, 143–4
‘fireside inductions’ 134–5, 137
generalizability to criminal justice settings 142–4
internal validity 136–9
internal validity, experimental control 138–9
internal validity, measurement 136–8
interrogation procedures and lack of feedback 138
laboratory setting, emulating consequentiality of activity 143
lie detection 123, 131–2, 135, 137–8, 142, 144
non-experimental methods 136
objectivity and fairness, problems of adhering to 133
psychological beliefs and assumptions in evidentiary procedures 121–4
purpose and effectiveness of 124–34
scientific psychology research, history of 118–20
subconscious influences on decision-making 132–4
target population and participants, differences between 140–43
truthfulness and deception clues 131
Western research, limited availability 145–6
Criminal Law (CL)
Article 18, mental health treatment 292
Article 62, sentencing within legal limits 203
Articles 67 and 68, voluntary surrender 201–2
Article 140, sentencing within legal limits 203
Article 246 exception clause 375–7, 380, 381, 386
Article 247, confessions by torture 307
Article 306 and silencing of defence lawyers (Big Stick) 58, 232, 263, 272, 310–13, 315–16, 318–19, 430–31, 500–502
Article 347, drug trafficking 281
Criminal Procedure Law (CPL) 5, 6, 29, 30
adversarial approach, move to 50–51
arrest, detention and interrogation 191
bail and residential surveillance 194, 195, 456, 466, 468, 469
black hood clause and forced disappearances 433
burden of proof 262, 465–6
case review period 192
coercive measures 457–9, 471, 499–500
compulsory measures 262, 455–64
Comparative perspectives on criminal justice in China

corroborating evidence 194, 197
criminal defence lawyers, impact on 490–503
criminal detention 455–6, 457, 458–9, 464
criminal reconciliation 473–82, 496, 497
criminal suspect truthfulness 499
deadline penalty review procedures, changes in 470, 478, 482–90
defence lawyer access 264, 266, 464
detention of lawyers and activists 59–60, 459
disappearance clause 457–63
disclosure by the prosecution of all material evidence 262
evidence categories 289, 311, 501
evidence presentation 249, 262, 285–6, 472
evidence regime reform 465–70
forensic and mental examinations 284, 289
illegally obtained evidence 87–90, 96, 97, 99–101, 154, 157, 159, 192, 197–8, 232, 466–9
independent sentencing procedure model 178–9
lawyer–client meetings, withdrawal of approval 459–60, 492, 494, 495, 496
legal aid 267
non-prosecution rulings 161
oral evidence 466, 469–70, 487
out-of-court mediation 471–2
police detention rulings 96, 106
post- and pre-arrest custody 191
pre-trial conference rules 191, 262, 265, 459, 468–9, 491–6
reinvestigation rules 101
residential surveillance 194, 456–7, 459–64, 466, 468, 469, 494, 502
revision of 455–503
right to silence 193–4
rules of evidence 464–72
self-incrimination 466, 499
sentencing recommendations 170–71
shelter for investigation, abolition of 189
state security offences 457–9, 492, 494
summary procedure 471
Taiwan see Taiwan, lawyers’ activism and expansion of right to counsel
time limits for compulsory measures 455–7
witness examination 262, 492–3
Criminal Procedure Law (CPL), Articles
Articles 5–7 and 10–11, illegally obtained evidence, elimination of 89–90, 468
Article 12, judicial determination of guilt after a trial 262
Article 32, defence choices 262–3
Article 33, pre-trial client access 191, 262, 459
Article 34, legal aid eligibility 267
Article 36, defence lawyer access 264, 266, 464
Article 37, lawyer–client meetings, withdrawal of approval 459–60, 492, 494, 495, 496
Article 42, evidence categories 289, 311, 501
Article 43, illegally obtained evidence 87–8, 99–100, 154, 192, 197, 198, 499
Article 45, disclosure by the prosecution of all material evidence 262
Article 46, corroborating evidence 194, 197
Article 47, witness examination 262, 492–3
Article 49, burden of proof 465
Article 50, self-incrimination 466, 499
Articles 51–58, bail and residential surveillance 194, 456, 466, 468, 469
Article 64, arrest, detention and interrogation 191
Article 65, pre-arrest custody 191
Articles 66 and 70, defamation cases 385
Article 73, detention of lawyers and activists 59–60, 459
Article 77, designated-location residential surveillance 462
gongjianfa triangle (police, procuratorate and court), management of 257, 258, 272
injustice, reactions to 261
justice of compromise 269–74
justice definitions 259–61
justice and perceived state interests 260
legal aid 266–8, 271
legal assistance and suspects’ rights 259
legislation details 275–8
political implications 269–70
pre-trial criminal justice 262–8
procedural fairness 259–60
safety considerations 269, 271–2
social justice 261
state obstacles to legal advice and defence 263
torture allegations, dealing with 272–4
weiquan (rights defence) movement 269–70
criminal reconciliation 473–82, 496, 497
Cui, C. 396, 403
Cui, M. 105, 109–10, 111, 112, 113, 462
Cullen, R. 231, 270
Custer, H. 132, 137
Dangzi (Li Hui) 387
Daum, J. 466, 470
Davies, C. 27
Davis, J. 23
defenders other than lawyers 262–3
defamation cases see criminal defamation and expression rights
defamation and expression rights
death penalty independent sentencing procedures 182, 183
public prosecution system reform 154–5
reform recommendations, mental examination process 295–6
with reprieve 101, 484, 485, 486
Supreme People’s Court 283, 296, 483–6, 487, 488–90
suspended 182, 183
torture in criminal investigations 101, 103
criminal proceedings and ethical quandaries of Chinese lawyers 256–78
audio/video recording of client meetings 272, 487
Basic Principles on the Role of Lawyers 271
criminal process and legal justice 259–60
confidentiality of lawyer, client meetings 265, 266
criminal detention centres 264
criminal detection 473, 479, 481, 496
criminal detection 473, 479, 481, 496
criminal detection 473, 479, 481, 496
Basic Principles on the Role of Lawyers 271
criminal process and legal justice 259–60
criminal detention centres 264
defenders other than lawyers 262–3
evolution of legal profession, recent 257
Comparative perspectives on criminal justice in China

defence lawyers see criminal defence lawyers, role of
DeLisle, J. 392
Demuth, C. 17
Deng, G. 234
Deng, J. 385
Deng, X. 401
Deng Yonggu case 374
DePaulo, B. 131, 132, 137, 138, 141, 142, 144
Desmarais, S. 125
detention
criminal 375, 384, 407
extra-legal 10–11, 365, 398–9
for interrogation mechanism (shuanggui) 398–9, 403, 404
legal erosion and policing of petitions 307, 310
police detention rulings 96, 106
private facilities, legal erosion and policing of petitions 360
Public Security Bureau (PSB), arrest, detention and interrogation 190–92, 194, 198, 204
detention, administrative
detention centres 264
detention centres, problems with, drug dependency treatment 339–40
Detention Law, Taiwan, lawyers’ activism and expansion of right to counsel 215–16, 228
for repatriation, abolition of, drug dependency treatment 328–9
RETL (re-education through labour) 326, 328, 329, 332, 337, 338, 339, 340–41, 360, 361–2, 363
shelter and deportation, legal erosion and policing of petitions 345–6, 349–53
Devine, D. 142
Diao, J. 349
Ding, X. 432
Ding, Y. 105, 110
disappearance
enforced, and retrieval, differences between 358–60
forced see human rights lawyers, disappearance of
disappearance clause, Criminal Procedure Law (CPL) 457–63
Dixon, D. 193, 196
Dobinson, Ian 187–205
Dong, X. 19–20, 21
drug dependency treatment 323–44
Administrative Coercion Law 328
Administrative Litigation Law 342
administrative measures 325–6, 328, 342
Administrative Punishments Law 328
Administrative Review Law 342
advocacy for legality, fairness and rights-based regulation 328–30
appraisal mechanisms 338
Coercive Quarantine for Drug Rehabilitation (CQDR) 336, 337, 338–9, 340, 341–2
Community Rehabilitation orders 334, 335–6, 342
compulsory rehabilitation 326
custodial treatment orders 337–40
demand side, strategies to attack 325–6
detention centres, problems with 339–40
detention for repatriation, abolition of 328–9
drug dependency rates 326
Drug Prohibition Law 323, 324, 327, 328, 331, 332–5, 337, 338–9, 342
dynamic control 331–3
Hard Strike policy 324, 326
harm reduction strategies 327
harm reduction and voluntary rehabilitation 333–4
Harmonious Society policy 325, 329–30
HIV/AIDS strategy 327, 333
human rights 327–31, 332, 334
International Covenant on Civil and Political Rights (ICCPR) signing 99, 327, 329, 334, 340
Legislation Law 328
medically assisted treatment (MAT) 331, 333–4, 339, 340
migrant workers 336
National Narcotics Control Commission (NNCC) 326, 331
national register of drug users 331–3
non-custodial treatment orders 334–7
People’s War on Drugs 326
policy, 1980s to 2007 325–7
procedural protections, lack of 341–2
random drug tests 332
Recovering Health orders 334–6, 340–41, 342
rehabilitation legal regime 331–42
relapse rate 326
RETL (re-education through labour) 326, 328, 329, 332, 337–41
Scientific Concept of Development and people-oriented governance 329, 330
Security Administrative Punishments Law 328
social management 330–31, 336–7
social order policies 324
voluntary rehabilitation 326–7
weiwen (stability protection) 330
zero-tolerance treatment in rehabilitation 334
Du Peiwu case 101
Dui, H. 478
Ekman, P. 137
Ellis, L. 133
Ennis, B. 289
Ericson, R. 52
ethical quandaries see criminal proceedings and ethical quandaries of Chinese lawyers
European Court of Human Rights 189–90
Al-Khawaja and Tahery v. United Kingdom 39
Evans, J. 133
evidence
categories 289, 311, 501
corroborating 194, 197, 315–16
expert opinion as legal evidence, mental examination process 289
eyewitness testimony 125–31, 136–7, 139, 141, 142, 143–4
illegally obtained 87–90, 95–7, 99–102, 105–6, 154–5, 157, 159, 192, 197–8, 232, 466–9
oral 466, 469–70, 487
physical evidence, torture in criminal investigations 107, 116
presentation see under criminal defence lawyers, role of regime reform 465–70
regulations, Ministry of State Security 154–5
verification, mental examination process 285–6
wrongful convictions and tortured confessions 78–9, 82–4
exclusionary rules
Taiwan 226
torture in criminal investigations 94, 98–9, 101, 102–5, 106, 107, 108–9, 111
experimental psychology see criminal justice reform and experimental psychology
expression rights see criminal defamation and expression rights
eyewitness testimony 125–31, 136–7, 139, 141, 142, 143–4
Fabri, M. 29, 40
Falun Gong 57, 60, 416, 422–4, 429, 434, 440
Fan Chenggang 485
Fan Chengze 400
Fan Chongyi 102, 119, 193, 325, 458
Fan Qihang case 20, 307–8, 494
Fan Yafeng case 56, 61, 428, 432
Fan Yanqiong 383, 384
Fang, P. 92
Fang, X. 65
Feeley, M. 16
Feinerman, J. 413
Feng, C. 309
Feng, W. 478
Fewsmith, J. 329
Field, D. 203
Finch, A. 17
Findley, K. 138
Flynn, A. 40
Foglesong, T. 51
Foley, C. 19
Fong, C. 135
Foster, R. 143
Foucault, M. 36
France 28, 29, 31, 35, 38–9, 51
Medvedev v. France 38
Outreau 29
Selimoni v France 19
Franey, R. 18, 21, 26, 33, 34
Franklin, C. 18
Freiberg, A. 40
Fu Hualing 50, 188, 231, 232, 263, 266, 270, 390–410, 431
Fuller, L. 347
Fung, F. 54
Furnham, A. 124
Gage, N. 124
Galanter, M. 332
Gao Zhisheng 4, 20, 60, 416, 420, 430, 431, 432, 433, 434–5, 439, 440, 441, 460
Gao Zicheng 308
Ge, L. 475, 476
Germany 28, 30, 160, 167
Gibson, J. 192
Gilley, B. 233
Ginsburg, T. 212
Gong Gangmo case 57, 305–6
Gong, T. 390, 400, 402, 403
Gong, X. 267
gōng’ān’bù see Ministry of Public Security
gōng’jiàn’fǎ triangle (police, procuratorate and court), management of 257, 258, 272
Goodman, J. 54
Goodwin, C. 136
Goold, B. 27
Gottfredson, M. and D. 121
Gould, J. 113, 115
Grammaticas, D. 59
Granhag, P. 131
Greene, E. 133
Greenwald, A. 133
Gregory, J. 42
Grossman, H. 400
Gu, Y. 102, 119
Guan, Y. 263
Gudjonsson, G. 145
guilt-determination and sentencing stages, interval between 176–9, 180–81
 guilty plea, Australian/Chinese comparison 187–205
admissions and confessions 192–4, 196–7
arrest, detention and interrogation 190–92
audio/visual recording 193, 196
bail 192, 194–6
client access in police custody 191–2
confession challenges 199
confession pressure 193
confession reliability 197–8
confessional evidence, reliance on 196
corroborating evidence 194
fair trial right 189–90
faithful confession 193–4
guilty plea or admission of charges 196–200
guilty plea and trial costs 203
harassment of lawyers 188, 189
legal representation prior to the trial 199, 203–4
mitigation submissions 201
right to silence 193–4, 197
sentencing 201–3
sentencing impact of pleading not guilty 202–3
torture and confession 192–3, 198, 200, 204
voluntary surrender 201–2
Guo, C. 402
Guo, D. 329
Guo Feixiong case 431
Guo Guangdong 482
Guo Guoting 420
Guo, J. 337
Guo Zhiyuan 279–303
Hall, J. 312, 314, 320
Halliday, T. 16, 209, 263
Hammergren, L. 51
Han, J. 478
Han Xingchang case 379–83
Han Xu 305
Han, Y. 232
Hand, K. 94, 415
Haney, C. 67, 124
Hao, J. 489
Index

Hard Strike policy 324, 326
Hartwig, M. 144
He Jiahong 73–90, 93, 307
He Ran 73–90, 93, 307
He, W. 92, 280, 424
He, X. 308
He, Y. 423, 429, 434, 494, 498
Hecht, J. 231
Hedderman, C. 42
Henderson, K. 401, 405
Henderson, P. 47
Herrmann, J. 30
high-profile cases see under anti-corruption enforcement
Hillyard, P. 37, 47
Hiu, S. 503
HIV/AIDS strategy, drug dependency treatment 327, 333
Hodgson, J. 29, 31, 35, 38, 51
Hogg, C. 57
Hong Kong 32, 55
Hopkins, E. 18
Hou, X. 191, 193, 194, 195, 198, 202
Hu Jia case 20, 59, 61, 415–16
Hu Jintao 63–4, 329–30, 374–5
Huang, C. 62, 63, 65
Huang, S. 383
Huang, T. 337
Huang, W. 334, 341
Huang, Y. 179
human rights
advocacy for legality, drug dependency treatment 328–30
calls for reform, torture in criminal investigations 97, 112
and defamation laws, conflict between 371–7, 388
drug dependency treatment 327–31, 332, 334
mental examination process 287, 292, 301–2
residential surveillance 463–4
Taiwan 213, 221, 222, 224
human rights lawyers, disappearance of 10, 411–38
advocacy for legal reforms 414, 415, 416
authoritarianism 411–12
enforced disappearances and torture 431–6
formal criminal process, limited use of 430–31
GPS-based surveillance 424
justice bureaux control over lawyers 418–21
law firms’ control over lawyers 419, 425
lawfulness of government behaviour and judicial processes, importance of 415
Lawyers’ Law, effects of introduction 416, 417
lawyers as targets of criticism 416–17, 430–31
lawyers’ associations, control over lawyers 419–21
licences to practise revoked 420
marginalization of human rights lawyers 414–17
police surveillance, guobao (domestic security squad) 424–6
police, verbal interaction with (‘being asked to tea’) 426–8, 432
politics and criminal justice 440–41
reforms of unconstitutional litigation 415–16, 417–18, 441
‘state of norms’ and ‘state of measures’, differences between 412–14, 424, 437, 449
state obstruction and repression of lawyers 417–36
torture and black hood 432–3
violence, casual and planned
violence against lawyers 428–30
zuo ban (motionless torture) used on lawyers 431
Huo, Y. 119
Hutchins, R. 121
Ibusuki, M. 17
Igarashi, F. 17
illegally obtained evidence, exclusion of see public prosecution system reform, exclusion of illegally obtained evidence
Inbau, F. 135
Comparative perspectives on criminal justice in China

independent sentencing procedures, research on 172–86

criticism of legality of model 178–9

dead penalty cases 182, 183
discretionary scope over terms and forms of punishment 183
doubling of procedures, criticism of, and litigation costs 179–80
evasion possibility of relatively independent procedure 175
fixed sentencing recommendations 183
guilt-determination and sentencing stages, interval between 176–9, 180–81
jury trials 180–81
official and civil society reforms, differences between 173–4
practical difficulties of implementation 176
presumption of innocence principle 175, 181
procedural appropriateness, criticism of 179
procurator’s power to make sentencing recommendations 182–4
procurator’s power to make sentencing recommendations, writing or oral, choice between 182
proof process 185–6
rationality and legitimacy considerations 174–81
rights protection 175
sentencing procedure in not guilty pleas 176, 179–80
sentencing procedure in not guilty pleas, refusal to participate in sentencing procedure 178
sentencing procedures 177
social investigation reports, formulation and application of 184–5
suspended death sentence 182, 183
Wuhu pilot project 173, 174, 176, 178, 179, 182, 205
innocence, presumption of 175, 181
institutional reform, call for 387–8
institutionalization of corruption 404–10
Internet access, effects of 54–5, 64, 372–4
see also media
Italy 28, 29, 38, 40, 51
Jacoby, J. 167
Janda, L. 124
Japan 17, 51, 160, 167
Jasmine Crackdown 461–3, 502
Ji, B. 92
Jiang, A. 176
Jiang, D. 381
Jiang Jiuhua 120
Jiang Jue 455–503
Jiang, P. 413–14
Jiang Tianyong case 11, 61, 432–3, 440–41
Jiangnan, Z. 405
Jiao, P. 54, 59, 326
Jin, D. 396
Jing, Q. 119
Johnston, M. 391
Jones, C. 189
Jones, G. 346
Jones, R. 32
judges role 30–31, 35–6, 156
jury trials 40–41, 180–81
justice bureaux control over lawyers 418–21
of compromise 269–74
definitions 259–61
dynamics see criminal justice
dynamics and comparative empirical co-ordinates
Ministry see Ministry of Justice
perceived state interests 260
violation, effects of, wrongful convictions and tortured confessions 75–6
Kahn, J. 21, 443
Kahneman, D. 133
Kang, Z. 382
Kassin, S. 125, 135, 138
Kee, R. 25
Kelley, H. 124
Kemp, V. 48
Kennedy, L. 25, 26
Index

Kitsuse, J. 38
Koenig, K. 18, 20, 21–2, 23, 24–5
Kong, Y. 307
Krash, A. 299
Krieger, L. 133

labour disputes 65–6
Lacey, N. 37, 44
LaFave, W. 160
LaFraniere, S. 459
Lam, W. 330, 335, 413
Lan Rongjie 304–20, 431
Landers, P. 17
Landry, P. 400
Langbein, J. 30
Lau, E. 57
Lau, M. 66
Lavine, E. 18

lawyer as criminal, criminal defence and Li Zhuang case 304–20
Article 306 of Criminal Code 310–12, 313, 315, 316, 318, 319
case details 305–9
clients and co-counsel as potential government informants 315–16
client’s confession retraction, dangers inherent in 317–18
client’s confession retraction, and potential informant 318–19
client’s confession retraction, witness/recording considerations 317–18
client’s possible reasons for perjury claims 309
client’s torture allegations, confusion over 305–8, 317
 corroborative evidence, obtaining 315–16
criminal cases, dangers inherent in 319–20
defence lawyers’ lack of immunity from prosecution if clients lie 310–12
defence lawyers’ response and self-censorship 316–20
lawyers are punished for shaping a client’s mind 312–13
lawyer’s behaviour construed as instigation, possibility of 313–15

lessons to be learned from taking criminal cases 310–16
perjury allegations, evidence for 308–9
pretrial confession, accusations of forced retraction 305–6, 314
uncooperative lawyers, perception of 304–5

lawyers
activity, Taiwan see Taiwan,
lawyers’ activism and expansion of right to counsel
criminalization of 58–9
de-registration of 56–7
defence see criminal defence lawyers
disappearance of, legitimacy techniques 59–62
ethical quandaries see criminal proceedings and ethical quandaries of Chinese lawyers
harassment of, Australian/Chinese comparison 188, 189
human rights see human rights lawyers, disappearance of legitimacy limits 55–62
Lawyers’ Law 6, 97, 262, 263, 264, 265, 267, 315, 416, 417, 422, 492, 493
legal aid 266–8, 271
legal counsel defence versus self-defence see under criminal defence lawyers
legal erosion and policing of petitions 345–69, 475
abnormal petitioning 352–3
adjudication changes 361–4
Central Joint Conference on Handling Major Problems 353
change and legal erosion 346–8
change, reasons for 347–8
civil disobedience, governance problems 352
civil disobedience as minor offence 354, 355
court verdicts 367–9
criminal detention 307, 310
extra-legal detention 365
extra-legal measures 346, 365
governance technique and administrative regulation 348–51
internal migrants 365
joint conference network, courts’ membership of 361–2
legalizing retrieval 354–60, 362
legalizing retrieval, future possibilities 365
mediation role 354, 448–9
monitoring of prospective petitioners 356–7
Party-state control 365–6
petition management 348, 351–2, 353–4, 360
pre-emptive arrests 356
principle of responsibility by local organs 357–60, 362–3
private detention facilities 360
protest policing, negotiated management style 357
re-education through labour (RETL) 360, 361–2, 363
retrieval and enforced disappearance, differences between 358–60
Security Administration Punishment Law (SAPL) 354, 356, 360, 363
shelter and deportation 345–6, 349–53
shelter and deportation, withdrawal of legislation 351–3
skip-level petitions 352, 363
social dangerousness of petitioners 364
social management 348–51, 353–60
study classes and deprivation of personal freedom 360
Xinfang (Letters and Visits) office 475
Léger, P. 38
legitimacy techniques see criminal justice dynamics, legitimacy techniques
Leo, R. 18, 20, 21–2, 23, 24–5, 113, 115
Leubsdorf, J. 132
Levinson, J. 133–4
Lewis, M. 109, 466
Lewis, P. 19
Li, B. 20
Li Fangping case 56, 61
Li, G. 377
Li Heping 416, 423, 432, 434
Li Hongjiang 476
Li, J. 429, 498
Li, L. 405
Li Lan 334, 341
Li Ling 401, 405
Li, M. 385, 387
Li, N. 104
Li, Q. 349
Li Rong-Geng 227, 229
Li Rongwen 337
Li Sanbao 376
Li Shuyin 326
Li Song 386
Li, X. 387
Li Yanan 62, 99, 115
Li Yongxin 119
Li Yuwen 257, 265
Li Zhuang case 10–11, 57, 272, 273, 304–20, 431, 440, 501
see also lawyer as criminal, criminal defence and Li Zhuang case
lie detection 123, 131–2, 135, 137–8, 142, 144
Liebman, B. 53, 375
Lilienfeld, S. 124
Lin, H. 338
Lin, L. 234, 307
Lin, Y.-S. 221
Lissaman, C. 19
Litwack, T. 289
Liu, C. 316
Liu, H. 388
Liu Jian 97
Liu Jihua 486
Liu Jinlin 377
Liu Jinpeng 326
Liu, M. 112
Liu, N. 119
Liu, P. 77
Liu, R. 265
Liu, S. 16
Liu Shihui case 61, 429–30, 432, 433
Liu Sida 16, 118–19, 209, 257, 263, 360, 431
Liu Wei case 420, 423, 498
Liu Xiaobo case 56, 59, 461
Liu Xiaoyuan 384, 432
Liu Xuanlue 326
Liu Yong case 35–6
Loftus, E. 119
Index

Long, P. 387
Long, Z. 305, 309
Lorentzen, P. 348
Lowy, M. 67
Lu, J. 17
Lubman, Stanley B. 447–51, 477
Luo, D. 119
Luo, H. 488
Luo, S. 237
Lynch, E. 20, 282, 287, 466
Ma, H. 20, 21
Ma Jinghua 21, 28, 234–55
Ma, W. 105, 110
Ma, X. 28
Ma Xiwu justice 64
McBarnet, D. 14, 16
Maclaurin, N. 272, 273
McCabe, S. 143
McConville, Mike 13–69, 97, 187, 189–200 passim, 204, 209, 417, 421, 447, 456, 467, 470, 484, 488, 496–7
McEwan, J. 51
Mack, K. 39–40
McKee, G. 18, 21, 26
MacKenzie, G. 202, 203
McMorrow, J. 269
McPhail, C. 357
Maffei, S. 51
Magnussen, S. 125
Maguire, M. 44
Man, M. 29
Manion, M. 390, 392, 394, 402
Mann, S. 135, 144
Mao, L. 500
Marangunic, A. 51
Marcin, R. 261
Marsh, K. 51
Mathias, E. 28
measures
administrative, drug dependency treatment 325–6, 328, 342
compulsory, Criminal Procedure Law (CPL) 262, 455–64
extra-legal 346, 365
procedural 377–88
media
censorship measures 371–2
control, changing 371–2
Internet access, effects of 54–5, 64, 372–4
involvement, UK (England and Wales) 32–3, 34–5
restrictions and legitimacy limits 53–5, 61
and spin 61–2
media, social media
Fujian bloggers case 383–4
Twitter 61
weibo (microblogging) 53, 54, 55, 59
mediation role 64, 354, 448–9
Meehl, P. 134–5
Memon, A. 135
Meng, C. 265
Meng, J. 265, 266, 269, 273
mental examination process, entitlement to initiate 279–303
current legislation 283–7
death penalty cases, reform recommendations 295–6
defence lawyer restrictions 287–8
evidence verification 285–6
expert opinion as legal evidence 289
high-profile cases as exception 290–91
human rights issues 287, 292, 301–2
insanity defences 279
official-dominated model, proposed 287, 297–9
official-dominated model, satisfaction with 291, 294–5
Qiu Xinghua case 279–80, 283, 302
reform models, proposed 287–95
Shaikh, Akmal case 281–2, 283, 302
Yang Jia case 281, 297, 299, 302
Yang Yiyong case 294
mental examination process, entitlement to initiate, adversarial model
equal arms theory 288
justifications for 288–90
personal safety concerns 294–5
practical obstacles 290–95
principle of participation 288
and principle of presumption of mental illness 294
proposed 287–8
psychiatric evaluation problems 289–90, 293–4, 300
Comparative perspectives on criminal justice in China

and psychiatric hospital conditions 292
public trust and corruption concerns 295
rights to defence 289
suspects pretending to be ill 292–3
mental examination process, entitlement to initiate, reform models, alternative proposals 295–303
burden of proof 302–3
criteria for initiating mental examinations, establishing 300–302
defence procedural safeguards, strengthening 299–300
discretionary power of official agencies, restricting 297–9
expert consulting system 297–9, 300 justification for rejection 299
quasi-mandatory examination in capital cases 295–6
reconsideration and appeal opportunities 300
social effect considerations 301–2

Merryman, J. 346
Mertz, E. 119
Michelson, E. 415, 450
migrants
drug dependency treatment 336
internal, legal erosion and policing of petitions 365
Milgram, S. 124
Miller, J. 40
Ming, F. 352
Ministry of Justice
Drug Prohibition Bureau 337–8, 340–41
legal aid 266–7, 268, 271
sentencing recommendations 166
Ministry of Public Security
client access problems 264
defamation cases 377–9
exclusionary rule 102–5
freedom of movement restrictions 456
mental examinations 284
Narcotics Control Bureau 332, 337, 338, 341
sentencing recommendations 166
Ministry of State Security
evidence regulations 154–5
exclusionary rule 103, 106
sentencing recommendations 166
Minzner, C. 346, 348, 413, 437, 475
Mirsky, C. 23, 38, 40
mobile phone tracking 54
Mooney, P. 57, 61, 231, 434
moral issues see criminal proceedings
and ethical quandaries of Chinese lawyers
Morton, J. 27
Mosher, Stacy Ann xiii
Moxon, D. 42
Mullin, C. 18, 19, 21, 26
Murphy, Z. 55, 61–2
Naughton, M. 25, 43
Nesossi, Elisa 256–78, 447
Ng, Teddy 60
Ng Tze-wei 53, 55, 56, 57, 58, 59, 61, 62, 432, 433, 434, 498, 500
Ni Yulan case 440
Nie Shubin case 20
Nie, Z. 92, 95, 111, 112
Nisquet, V. 472
Nisbett, R. 133, 147
Nobles, R. 43
non-prosecution, conditional see public prosecution system reform, conditional non-prosecution
Nonet, P. 345
Norris, C. 27, 44
Northam, G. 32
O’Brien, W. 39
O’Brien, K. 348
Ogloff, J. 119
Ong, Y. 64
Ormrod, M. 348
O’Sullivan, M. 137, 144
Otto, J. 265
Ou, W. 234
Palmer, J. 119
Party-state control
adjudication committees 360, 361, 363, 422, 484
authoritarianism 36, 64, 210, 211–12, 222, 411–12
criminal justice dynamics, legitimacy techniques 51, 62, 64, 68–9
disciplinary inspection mechanism 393–400
dual 412, 413
legal erosion and policing of petitions 365–6
and marginalization of law 393–5
norms, prevalence over legal norms 395–7, 449
Party Discipline and Inspection Commission 10
political influence 15
totalitarian state 411–13
see also politics and criminal justice; state
Peerenboom, R. 50, 64, 188, 211, 222
Pei, M. 62, 65, 391, 400, 409
Peirce, G. 19, 27
Peng, M. 21, 28
Peng Xinlin 377
Peng, Xizhe 336
People’s Court 74
Basic Court 192, 199–200, 204
criminal reconciliation 473, 474
Higher People’s Court 74, 361
Intermediate Court 73–4, 192, 199, 200, 204, 485
Supreme see Supreme People’s Court
People’s Procuratorate 74
conditional non-prosecution 163–4
criminal reconciliation 473, 474
and illegally obtained evidence 88, 95, 100, 155
sentencing recommendations 182, 183, 184
Supreme see Supreme People’s Procuratorate
petitioning see legal erosion and policing of petitions
Pfeifer, R. 137, 138
Phillips, E. 51
Piliavin, I. 17
plea bargaining 30–31, 39–40, 48–9
Poland 51
police
custody, client access, Australian/Chinese comparison 191–2
decisions to use formal/informal criminal process 439
detention rulings 96, 106
gongjianfa triangle (police, procuratorate and court), management of 257, 258, 272
injustice and torture, Taiwan 218–19, 220, 221, 222, 226, 227
interrogation procedures, and torture in criminal investigations 96–7, 104, 106–7
malpractice 44–6
policing of petitions see legal erosion and policing of petitions
powers 15–17, 36, 52, 63
presence, client access problems 265–6
surveillance, guobao (domestic security squad), human rights lawyers, disappearance of 424–8, 432
politics and criminal justice 439–44
Criminal Procedure Law reform 441, 442
criminal process and government repression 441–2
human rights lawyers, protection of 440–41
police decisions to use formal/informal criminal process 439
state secret and sensitive prosecutions 443
see also Party-state control; state poverty reduction 65–6
presumption of innocence principle 175, 181
protests see legal erosion and policing of petitions
psychiatric evaluation see mental examination process, entitlement to initiate
psychology, experimental see criminal justice reform and experimental psychology
public prosecution system reform 153–71
death penalty cases 154–5
public prosecution system reform, conditional non-prosecution 159–65
basis for establishing 161–3
 economical litigation principle 162
evidence reliability 164
issues, important 164–5
judicial harmonization
implementation 162
legislative plan and operation
recommendations 163–5
modesty and restraint concept 161
order violation 163–4
probation period 163
prosecutorial and judicial authority
rebalancing 162–3
reconciliation of concerned parties
164
social investigation system
integration 164–5
supervisory mechanism, need for 165
systems comparison 159–61
tempering justice with mercy 161–2
public prosecution system reform,
exclusion of illegally obtained
evidence 154–9
criminal suspects’ rights 157–8
criminal suspects’ rights, application
investigation 158
criminal suspects’ rights, decision
process suggestions 158–9
criminal suspects’ rights, evidence
legality investigation 158
establishment of rules 154–5
functions of procuratorial organs
157–9
judicial responsibility 156
procuratorial organs, need for 155–6
supervisory responsibilities 156
public prosecution system reform,
sentencing recommendations
165–71
competence and proficiency
improvements 169
comprehensive pilot project 165–6
and effective defence 168
operational mechanisms 169–71
overseas perspective 166–8
and procedural efficiency 168–9
value implications 168–9
public security 50, 57, 60, 61
Ministry see Ministry of Public
Security
Public Security Bureau (PSB) 191,
192, 194, 198, 204
see also social stability concerns
public trust
and corruption concerns, mental
examination process 295
and torture in criminal investigations
94
Pugh, D. 289
Qi, D. 325, 332
Qian, G. 372
Qiang, F. 348
Qin, X. 320
Qiu, G. 120
Qiu Xinghua case 279–80, 283, 302
Rachlinski, J. 134
Ran, J. 306, 308
Ran, Y. 54, 58, 59, 374, 500–501
Rauxloh, R. 30
Read, J. 125
Ren, X. 49
residential surveillance 194, 456,
459–62, 466, 468, 469, 494, 502
criminal defamation and expression
rights 380–81
designated-abode 460–61, 462
and human rights 463–4
time limits 456–7
RETL (re-education through labour)
6–7, 9
drug dependency treatment 326, 328,
329, 332, 337, 338, 339, 340–41
Rigger, S. 222
right to silence 193–4, 197, 222–5, 226
Roach Anleu, S. 39–40
Rock, P. 16
Rosenzweig, Joshua D. 370–89, 437,
450, 455–503
Roskill, Lord 41
Ruhl, J. 346
Russia 19, 51
Safer, M. 125, 137, 142
safety considerations 269, 271–2
Sanders, A. 38, 48
Sapio, Flora 273, 345–69, 399, 428,
434, 448, 455–503
Scarry, E. 433, 435
Schiff, D. 43
Schopenhauer, A. 261
Schünemann, B. 30
Schwandt, B. 131
Scott, M. 138
Scranton, P. 16, 33, 37
security
domestic, police surveillance, guobao
(domestic security squad) 424–6
Public Security Bureau (PSB) 191, 192, 194, 198, 204
Security Administration Punishment Law (SAPL) 354, 356, 360, 363
see also Ministry of Public Security; Ministry of State Security
Seifman, R. 40
self-censorship, lawyer as criminal 316–20
self-defence versus legal counsel defence see under criminal defence lawyers
Selvaggi, E. 38
Selznick, P. 345
Semin, G. 137
Sen, A. 261
sentencing
guilty plea, Australian/Chinese comparison 201–3
independent see independent sentencing procedures, research on
and legal counsel effectiveness see under criminal defence lawyers, role of
recommendations see public prosecution system reform, sentencing recommendations
Shaikh, Akmal case 281–2, 283, 302
Shan, S. 476
She Xianglin case 20, 73–4, 92, 93, 108
Shearing, C. 16
Shen, H. 105
Shen, X. 105, 316
Sheng, D. 385, 387, 388
Sheng, Z. 477
Sheskin, A. 14, 67
Shi, J. 55
Shieh, S. 401
shuanggui (detention for interrogation mechanism) 398–9, 403, 404
see also detention, administrative
Shyu, B. 61
Si, A. 374
silence, right to 193–4, 197, 222–5, 226
Simon, D. 123
Simons, D. 124
Skinns, L. 48
Skogan, W. 356
Skolnick, J. 16
Slesinger, D. 121
Smith, N. 348
social management
drug dependency treatment 330–31, 336–7
legal erosion and policing of petitions 348–51, 353–60
social stability concerns 376, 378, 381, 382
see also public security
Sondrol, P. 412
Song, T. 395
Song, Y. 119
Song, Z. 326
South Africa 40
Spain 51
Spector, M. 38
Sporer, S. 131
stability
social see social stability concerns
weiwen (stability protection), drug dependency treatment 330
Stainton-Rogers, W. 136
state
interests, perceived, and justice 260
obstacles to legal advice and defence 263
obstruction and repression of lawyers 417–36
prerogative 412, 413, 418, 420, 428–30, 436–8
secrets 58, 220, 225–6, 443
security see Ministry of State Security
security offences 457–9, 492, 494
see also Party-state control; politics and criminal justice
Comparative perspectives on criminal justice in China

‘state of norms’ and ‘state of measures’, differences between 412–14, 424, 437, 449
Steblay, N. 144
Storch, R. 16
Streeck, W. 364
Strömwall, L. 131
Stutsman, Thomas 102, 118–49, 450
Su, L. 326
Suchman, M. 119
Sun, C. 234
Sun, D. 294
Sun Jian 425
Sun Jibin 97
Sun, R. 458
Sun, Y. 390, 400
Sun, Z. 487
Supreme People’s Court
        corruption cases, increase in 402
        criminal reconciliation 474–5
        death penalty decisions 283, 296, 483–6, 487, 488–90
        illegally obtained evidence ruling 87–8, 100, 105, 106, 154, 198
        mental examinations 285
        residential surveillance 462
        sentencing recommendations 166, 170–71, 172, 173, 174, 202
Supreme People’s Procuratorate
        corruption cases, increase in 402
        criminal defamation cases 384–8
        criminal reconciliation 474–5
        and illegally obtained evidence 100, 101, 102, 105, 106, 154
        mental examinations 284–5, 286–7
        sentencing recommendations 165–6, 170–71
        Working Report (2011) 262
Tague, P. 203–4
Tai, J. 379, 380, 382
Taiwan 8, 9, 160
Taiwan, lawyers’ activism and expansion of right to counsel 209–33
        advocacy for legal reforms 218, 222, 230, 231
        audio/video recording of interrogation 216, 224
authoritarian martial law, lifting of 210, 211–12, 222
business incentives for change 218
Chinese Society for Comparative Law 226
comparative study and future research 230–33
Council of Grand Justices 225, 228
counsel’s right to state opinions during interrogations (2000) 225
custody time limits 224
defence lawyer presence, restrictions on 219–20
Detention Law 215–16, 228
exclusionary rules regarding right to counsel (2003) 226
government-sponsored lawyers, access to 224
human rights concerns 213, 221, 222, 224
interrogation after arrest 215–16
Judicial Reform Foundation 213, 223, 226, 227, 229
law graduates, increase in 212–13, 223
Lawyers Disciplinary Committee 213
Lawyers Law 211, 213
liberal and conservative division 219–21
Miranda-type warning as reform model 216, 222–5, 226, 228–9
monitoring of lawyer–client meetings 227
National Judicial Reform Conference 214, 226
National Lawyers’ Association 217, 226, 227
one-hour counsel–arrestee meeting (2010) 227–30
political transformation, history of 211–14
right to counsel for arrested persons 214–30
right to counsel at investigation stage 216–21
right to silence 222–5, 226

Mike McConville and Eva Pils - 9781781955864
Downloaded from Elgar Online at 04/05/2019 01:44:20AM
via free access
Index

‘secrecy of investigation’ principle 219
state secrets risk 220, 225–6
Taihung Lawyers’ Association 217
Taipei Lawyers’ Association 212, 213, 217–18, 221, 223, 226, 227
Taiwan Law Society 212, 213
torture and police injustice 218–19, 220, 221, 222, 226, 227
Wang Ying-Xian case 218, 220
Tam, F. 24
Tan Zuoren case 58–9
Tang, J. 280
Tang Jitian case 420, 423, 432, 498
Tang, W. 478
Teubner, G. 346
Thaman, S. 19, 51
Thelen, K. 364
Thelle, H. 428
Thibaut, J. 260
Three Supremes doctrine 53, 63, 64
Tian, W. 495, 496, 503
Tian, X. 430
Ting, G. 393, 394, 396–7
Tobin, D. 65
torture 17–28, 31, 36, 45–6, 60
aims of 23–4
allegations, confusion over, lawyer as criminal 305–8, 317
allegations, dealing with 272–4
and black hood 432–3
complicit 21–3
and confession, guilty plea, Australian/Chinese comparison 192–3, 198, 200, 204
confessions by, history of, USA 113–15
confessions and wrongful convictions see wrongful convictions and tortured confessions
of criminal defendants, human rights lawyers 428–9
and enforced disappearances, human rights lawyers, disappearance of 431–6
instruments of 18
lawyers broken by 435–6
of lawyers, criminal justice dynamics, legitimacy techniques 57–8
police injustice, Taiwan 218–19, 220, 221, 222, 226, 227
zuo ban (motionless torture) used on lawyers, human rights lawyers, disappearance of 431
torture in criminal investigations, moves to end use of 91–117
audio/video equipment use 102, 112, 113, 116
coerced confessions, problems with 94–8, 107–8
compensation costs 93
confessions, legal reliance on 95–6
death penalty cases 101, 103
defendants’ legal representation 97–8
exclusionary rule 94, 98–9, 101, 102–5, 106, 107, 108–9, 111
government’s attempts to address problem 98–105
human rights and calls for reform 97, 112
innocence presumption, need for 111–12, 113
international conventions, signing of 98, 99, 107
law enforcement officials, ideology reform need 111
legal representation during interrogations, need for 112
modern evidence gathering techniques, need for 112
physical evidence, obtaining 107, 116
police interrogation procedures 96–7, 104, 106–7
political-legal hierarchy restrictions 105–6
public trust effects 94
reform prescriptions 111–16
reforms, perceived failure of 105–11
reforms prior to 2010 99–102, 106
right to silence, lack of 108, 112, 113
self-incrimination, need for privilege against 112
torture, defence of 109–11
voluntariness of confession, assessing 107–8
wrongful convictions 91–4
Comparative perspectives on criminal justice in China

wrongful convictions, costs, economic and personal 93–4
totalitarian state 411–13
Townsend, L. 192
Travis, G. 196
Trevaskes, S. 324, 326
Trubek, D. 346
Tsai, T.-M. 218
Tu, M. 383
Twitter 61
see also media, social

UK (England and Wales)
Al-Khawaja and Tahery v. United Kingdom 39
Association of Chief Police Officers of England and Wales (ACPO) 42
audio/visual recording 196
Bail Act 34
Birmingham Six 18, 19, 22, 26, 44, 47
burden of proof 37, 47–8
case distribution between higher and lower courts 41–2
Compton Report 45–6
Conflai 26
cracked trials 46–7
Criminal Cases Review Commission (CCRC) 42–3
Criminal Justice Act 40–41, 48
Crown Prosecution Service (CPS) 42
Diplock Committee 46
flying magistrates 33
free legal advice prior to interrogation 27
Guildford Four 18, 25, 47
homeless claimants, mass arrest of 33–5
human rights issues 37
Independent Custody Visitor Scheme 27
Independent Police Complaints Commission 27, 42
institutional independence 42–3
institutional torture, history of 17, 18–19, 20–21, 22, 23, 24, 25–6
James Committee 41–2
jury effectiveness 40–41
justice values and rights 47–9
legitimacy and criminal justice system 37–49, 51
Maguire Seven 44, 47
media involvement 32–3, 34–5
miners’ strike 32–3
miscarriages of justice 18, 19, 22, 25, 26–7, 43–5, 47
Northern Ireland, police interview techniques 45–6
Operation Major 33–5
Parker Committee 45–6
plea bargaining 39–40, 48–9
Police and Criminal Evidence Act 27, 38, 48
police interrogation 39, 45–6
police malpractice 44–6, 47
police powers of detention 38
politics of discreditation 46–7
presumption of innocence 37, 47–8
riot police 32
Royal Commission on Criminal Justice 43–5, 46–7, 48
Seabrook Committee 46
sentencing recommendations 166–7
television exposé of torture 25–6
Timothy Evans 25, 26

UN
Commission on Crime Prevention and Criminal Justice 164
Commission on Narcotic Drugs 323–4
Committee against Torture 98, 107
Convention Against Torture (CAT) 99, 107
International Covenant on Civil and Political Rights (ICCPR) signing 99, 327, 329, 334, 340

USA
Ake v. Oklahoma 296
Blunt v. United States 293
Calloway v. United States 299
conditional non-prosecution system 160
confessions by torture, history of 113–15
Criminal Process flowchart 121–3
defence lawyer perjury cases 312, 314, 315
defendant’s right to testify in own defence 311–12
Innocence Project 75, 76, 95
institutional torture, history of 18, 20, 21–2, 23, 24–5
interrogation recording 113
legitimacy of criminal justice system 38
libel against a public official 377
Miranda v. Arizona 114–15, 216, 222–5, 226, 228–9
plea bargaining 40
sentencing recommendations 166–7
third degree, use of 24–5
Wickersham Commission 25, 114
wrongful convictions, causes of 75–6, 95

Van der Sprenkel, Sybille 11–12
Vander Beken, T. 64
Vennard, J. 42
video recording see audio/video recording of interrogation
Vidmar, N. 136
Vrij, A. 135, 137, 144, 145

Wald, E. 269
Walker, C. 14
Walker, L. 260
Wang, D. 104
Wang, F. 332
Wang, G. 386
Wang Haijun 336, 339
Wang Haiyan 234
Wang Hanbin 50
Wang Heyan 24, 308, 458
Wang Hui 280
Wang, Jaw-Peng 227
Wang Jinli 477–8
Wang Junxiu 372–3
Wang, K. 403
Wang Lili 265
Wang Lin 386
Wang Liquan 338, 340
Wang, P. 28, 345
Wang, Sally 66
Wang Shengjun 236
Wang Shengyang 234
Wang Shuai case 372–3, 374, 375, 377
Wang Xiangwei 62, 63
Wang Xuejun 350, 360
Wang Ying-Xian case 218, 220
Wang, Z. 28
Warden, R. 115
wealth distribution 65–6
Wedeman, A. 390, 392, 397, 400, 405, 409
Wei, D. 305
Wei, O. 218
Wei Wenhao 501
Wei Wu 50, 64
Wei Xiaoning 382
weiquan (rights lawyers) see human rights lawyers, disappearance of
weiwren (stability protection), drug dependency treatment 330

Wen, Y. 92
Wen, Z. 401
Weng, Y.-S. 226
Wenzhou train disaster 55, 61–2
Western democracies
illicit behavior 14
institutional torture, history of 17, 18–19, 20–22, 23
plea bargaining 30
police powers 15–16
prosecutor role 28–9
’scum’ populations, dealing with 16–17, 23
third degree, use of 24–5
see also individual countries
whistle-blowers, treatment of 403

Willig, C. 136
Wilson, T. 133
Wise, R. 125, 137, 142
Wistrich, A. 142
Woffinden, B. 14
Wood, W. 124
Wrightsman, L. 145
wrongful convictions and tortured confessions 73–90
case solving and confession ‘route’ 82–5
compensation payouts 74
everbal analysis 79–81
everbal research 76–81
error, causes of 80
evidential weight of confessions 84–5
false statements 79, 80
Comparative perspectives on criminal justice in China

history of 74–5
illegally obtained evidence, types of 87
improper behaviour by official parties 79–80
investigative resources, limitations on 81–2
investigative resources, sunk-cost fallacy 82
justice violation, effects of 75–6
moves to end use of 91–4
non-confession route 83, 84
She Xianglin case 20, 73–4, 92, 93, 108
survey on causes 77–8
survey of relationship between seven types of evidence 78–9, 82–4
suspended death sentence 88
tortured confessions, economic analysis of 81–6
tortured confessions, investigative problems 86–7
tortured confessions, net gains from 85
tortured confessions, problems with 80–81
tortured confessions, regulation improvement for elimination of 86–90
Wu, B. 329
Wu Baoquan case 373–4
Wu, C. 352, 353
Wu, D. 17
Wu, G. 420
Wu, R. 28
Wu Shuanquan 20
Wu Siang 16
Wu, T. 382
Wu, W. 428
Wu, Z. 336
Wuhu pilot project 173, 174, 176, 178, 179, 182, 205
Xia, Y. 95, 101
Xiang, L. 65, 399
Xiang, X. 393
Xiao Yang 395, 406
Xiao Yu 280
Xie, C. 334, 338
Xie, Y. 415
Xinfang (Letters and Visits) office, legal erosion and policing of petitions 475
Xing, H. 315
Xiong, Q. 234
Xu, C. 482
Xu, H. 234
Xu, J. 463
Xu, K. 402, 501
Xu Lindong case 57–8
Xu, R. 385
Xu, W. 496
Xu, Z. 350, 415
Yan Fufeng case 485
Yang, D. 392
Yang, H. 487
Yang Jia case 281, 297, 299, 302
Yang, W. 461
Yang Yuguang 95, 111, 112
Yang Yuzhang 467
Yang Zaixin case 502
Yang Zonghui 19, 337
Yardley, J. 443
Yo, G. 227
Young, M. 23
Yu Jiang 415
Yu Jianrong 360
Yu Jie case 58
Yu, K. 62
Yu, L. 65
Yu, V. 56, 58, 60, 61, 65
Yu, Z. 326, 337
Yuan, C. 326
Yuan, D. 97
Yuan, X. 280
Zander, M. 47
Zeng, X. 343
Zhai, Y. 396, 403
Zhan, J. 385
Zhang, D. 374
Zhang, E. 53, 65
Zhang, F. 297
Zhang, G. 267
Zhang Liang 102, 116
Zhang Lin 280
Zhang Liyun 78
Zhang, M. 432, 433
Zhang, T. 280
Zhang, W. 65
Zhang Xiaojian 19, 337
Zhang Xingrong 307
Zhang Yongran 120
Zhang Yuan 484, 488
Zhao, B. 326, 337, 377, 381
Zhao Lei 306, 308
Zhao Lianhai case 55–6, 59
Zhao, S. 95, 111, 112
Zhao, X. 310
Zhao Zuohai case 20, 88, 91–2, 93, 94, 98–9, 101–3, 106, 115
Zheng Enchong case 10, 61, 430, 440
Zheng Liang 384
Zheng Lin 304, 309
Zhong, O. 181

Zhou Bin 483, 486, 487, 490
Zhou, D. 237
Zhou, F. 19
Zhou, Z. 379, 380, 381, 382, 383, 388
Zhu, L. 21
Zhu Mingyong case 20, 116, 307, 434, 494
Zhu, S. 257
Zhuang, P. 56
Zhuang, Q. 304, 309
Zou, S. 352
Zu, T. 376
Zuo, H. 269
Zuo Weimin 118, 119, 148, 234–55, 447, 450
Zuo, Z. 374