

12-20-2008

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Katz, Paul, "Divine Justice" (2008). *The China Beat Blog Archive 2008-2012*. 131.  
<http://digitalcommons.unl.edu/chinabeatarchive/131>

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# Divine Justice

December 20, 2008 in [Self-Promotion Saturday](#), [Tales from Taiwan](#) by [The China Beat](#) | [2 comments](#)

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By Paul Katz

As China ascends to its place as a leading nation on the world stage, questions have arisen concerning the role of its legal system. As Joseph Kahn noted in a feature article entitled [Deep Flaws, and Little Justice, in China's Court System](#), "Justice in China is swift but not sure." Many protests in China today center on the issue of justice, with one blogger responding to the January 2008 fatal beating by parapolice officials of a man trying to videotape a protest by lamenting "[Where is justice? Where is the law? Aren't there any rules in China?](#)"

My newest book, *Divine Justice: Religion and the Development of Chinese Legal Culture* (Routledge 2008) considers these issues by examining the ways in which religious beliefs and practices have contributed to the formation of Chinese legal culture. It does so by describing two forms of overlap between religion and the law: the ideology of justice and the performance of judicial rituals.

The former covers beliefs about how the gods intervene in human affairs in this life and the next in order to ensure the attainment of justice. Because this ideal is rarely realized in earthly courts, many people place their faith in underworld deities who have the power to pass judgment on both the living and the dead.

The latter extends to the realm of practice, and involves instances when men and women perform oaths, chicken-beheadings, and underworld indictments in order to enhance the legitimacy of their positions, deal with cases of perceived injustice, and resolve disputes.

These rites coexist with other forms of legal practice, including private mediation and the courts, comprising a wide-ranging spectrum of practices that I refer to as the judicial continuum. Individuals ranging from high-ranking officials to chaste widows have performed judicial rituals for centuries, and such rites have shaped the legal histories of overseas Chinese in colonies like Batavia, the Straits Settlements, and Hong Kong, as well as those who immigrated to countries like Australia and the United States.

Despite the fact that China is experiencing a period of rapid religious revival, the fate of its judicial rituals is unclear, especially since religious beliefs and practices labeled as "superstition" (*mixin* 迷信) still face the very real threat of state persecution. Judicial rituals remain largely underground, meaning that the judicial continuum in China today remains fragmentary and inchoate. Inasmuch as the effective functioning of any legal system requires a certain degree of entirety, the extent to which the Chinese government proves willing to tolerate the performance of judicial rites may influence its citizens' confidence in their ability to obtain true justice.



*Penitents dressed as criminals process in front of a Hsinchu police station, with McDonald's sign in the background*

In contrast, judicial rituals are an integral part of legitimation and dispute resolution processes in modern, high-tech nations like Taiwan, where people rely on such rites to deal with problems that are not readily addressed in the courtroom (particularly family tensions) or even resolve disputes that have already entered the formal legal system. The role of such rites in Taiwan's current political environment remains to be seen, however, as its legal system faces many new challenges. The present state of affairs has prompted Amnesty International to issue a [public statement](#) urging the authorities to investigate concerns centering on charges of excessive use of police force, and to conduct legal procedures in a "fair, transparent, and timely manner in compliance with international standards."

While [some Taiwanese prosecutors have been quoted](#) as asserting judicial authority by making statements such as "Suspects in certain cases investigated by prosecutors need not be convicted of a crime, but we can use [the legal process] to teach them a lesson" (檢察官辦案不一定要當事人被判有罪，但至少要讓他們得到『教訓』), it might be worth bearing in mind the late Attorney General Robert Jackson (1892-1954)'s [definition of what it takes to be a distinguished prosecutor](#): "The citizens' safety lies in [someone who] tempers zeal with human kindness, who seeks truth and not victims, [and] who serves the law and not factional purposes."