

Transnational Policing Cooperation in the Republic of  
China (on Taiwan):  
Developing an Agency–structure account

A thesis submitted to the University of Manchester for the degree of  
Doctor of Philosophy  
in the Faculty of Humanities  
2018

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## **Acknowledgement**

My gratitude goes to those who have accompanied me on my journey toward accomplishing this doctoral thesis. First, my gratitude goes to my supervisors, Bill Hebenton and Juanjo Medina Ariza. I thank Bill Hebenton for delivering profound advice and encouraging me to broaden my knowledge base relating to policing and transnational policing. I thank Juanjo Medina Ariza for encouraging me to familiarise myself on the methodology. Second, my gratitude goes to my participants. Their generous contributions helped me produce this thesis. Third, my gratitude goes to my wife, Chen Mei-Chen, for taking good care of the family. Finally, I thank those who live and work with me for giving me an enjoyable life.

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## List of Acronyms

ADOP	Approval-based division of power
ACPO	Association of Chief Police Officers (the United Kingdom)
AFP	Australian Federal Police
APA	Administrative Procedure Act (ROC on Taiwan)
ASEAN	Association of Southeast Asian Nations
ASEANAPOL	ASEAN Chiefs of National Police
BCGO	Basic Code Governing Central Administrative Agencies Organisation (ROC on Taiwan)
CCIC	Cross-Channel Intelligence Conference
CEPOL	European Police College
CIAD	Crime Investigation Affairs Division (CIB)
CIB	Crime Investigation Bureau (ROC on Taiwan)
CP	Communist Party (China)
CPS	Central Police School (ROC in China)
CPU	Central Police University (ROC on Taiwan)
CSAD	Cross-strait Affairs Division (CIB)
DEA	Drug and Enforcement Administration (the United States)
DOL	Division of labour
DPP	Democratic Progressive Party (ROC on Taiwan)
EAW	European Arrest Warrant
ECIM	European Criminal Intelligence Model
ELU	European Liaison Unit
ENU	Europol National Unit
EPCTF	European Police Chiefs Task Force
EU	European Union
Eurojust	European Judicial Cooperation Unit
Europol	European Police Office
FBI	Federal Bureau of Investigation (the United States)
FDOP	Function-based division of power
Frontex	European Agency for the Management of Operational Cooperation



at the External Borders

GCHQ	Government Communications Headquarters (the United Kingdom)
IC	Investigation Corp (CIB)
ICAD	International Criminal Affairs Division (CIB)
ICAO	International Civil Aviation Organization
ICE	Immigration and Customs Enforcement (the United States)
Interpol	International Criminal Police Organisation
IO	International organisation
IPO	International policing organisation
IR	International relations
JFAC & MLA	Joint Fight Against Crime and the Mutual Legal Assistance Agreement (between ROC and PRC)
JIT	Joint Investigation Team
KMT	Kuomintang (Chinese Nationalist Party, ROC on Taiwan)
LAD	Legal Affairs Division (CIB)
MAC	Mainland Affairs Council (ROC on Taiwan)
MJIB	Investigation Bureau, Ministry of Justice (ROC on Taiwan)
MLA	Mutual legal assistance
MOFA	Ministry of foreign affairs
MOI	Ministry of interior
MOJ	Ministry of Justice
MOU	memorandums of understanding
MPS	Ministry of Public Security (PRC)
NCA	National Crime Agency (the United Kingdom)
NCB	National Central Bureau
NG	National Government (ROC in China)
NGO	Non-governmental organisation
NIM	National Intelligence Model (the United Kingdom)
NPA	National Police Agency (ROC on Taiwan)
NPCC	National Police Chief Council (the United Kingdom)
NPIA	National Police Improvement Agency (the United Kingdom)

NSB	National Security Bureau (ROC on Taiwan)
NSWP	New South Wales Police (Australia)
OLAF	European Anti-Fraud Unit
P2P	Police to police
PCA	Permanent Court of Arbitration
PCC	Police and Crime Commissioner (the United Kingdom)
PLO	Police liaison officer
PRC	People's Republic of China
R&D	Research and Development Division
ROC	Republic of China
SA	Supervisor for approval
SEF	Straits Exchange Foundation (ROC on Taiwan)
SIO	Senior investigating officer
SO	Supranational organisation
SOCA	Serious Organised Crime Agency (the United Kingdom)
SOCTA	Serious Organised Crime Threat Assessment (Europol)
SOP	Standard operating procedure
SPO	Supranational policing organisation
TC	Transnational crime
TPC	Taiwan Police College (ROC on Taiwan)
UKTA	UK Threat Assessment
UNODC	UN Office of Drugs and Crime
WHA	World Health Assembly
WHO	World Health Organization
WMH	Weekly Meeting of Heads (CIB)

## Abstract

This thesis aims to examine the Republic of China's (ROC) daily transnational policing cooperation at the Criminal Investigation Bureau (CIB) from a frontline officer's stance. By developing an agency–structure framework based on Bourdieu's theory of practice, I present a peculiar type of transnational policing cooperation—**national policing against transnational crime (TC)**—in four orderly steps.

1) I proposed an agency framework by taking a ROC insider's stance into account. I selectively reviewed the insiders' preferable literature on policing cooperation to make a suitable framework to host ROC practices. By arguing that the literature does not address the police as (semi)autonomous practitioners, I proposed an agency framework.

2) I completed an agency–structure framework based on reviewing police culture and Bourdieu's theory of practice. I concluded this framework to address the habitus–field–practice relation and its evolution trajectory in terms of time and space. Practice can be represented by the following characteristics, and the habitus–field–practice relation should be maintained:

**A.** Fields (as a factor of space): Police officers' agency (as a field) of police organisation (as an organisational field) of or in connection with the government (as a national policing field) of the state (as a national bureaucratic field and/or a national field of power) to cooperate with foreign counterparts (as a transnational policing field). There are relations between the positions in the fields each actor holds: police officers, police organisations and government, state and foreign counterparts. Additionally, the influence of field is the exercise of power by the dominant to drive the dominated to do practice.

**B.** Habitus (the research focus): Collective habitus as *practiced* knowledge (re)constructed under the influence of fields is embedded in police officers'

agency.

C. Evolution (as a factor of time): Police officers initiate the evolution of practice to succeed in an internal competition for dominating agency (as successfully integrating existing and new parts of habitus) to further succeed in external competitions for dominating fields. Driven by habitus (embedded in agency) and accommodated by fields, practice can thus evolve from its past (or existing) status to its present (or future) status. In addition, the past (or existing) status of practice can influence its present (or future) status over time and across fields.

3) I selected ethnography as my research method by arguing that ethnography should be regarded as a more suitable method than interviews as a way to capture the dynamic nature of agency and structures.

4) I deployed the agency–structure framework to analyse both literature-based data and field notes to track and mediate the past and the present status of practice to portray the contemporary ROC transnational policing cooperation.

ROC transnational policing cooperation as **national policing against TC** can be understood as follows:

1) The contemporary ROC is still influenced by Confucianism and imperial legalism to some degree but in a different way—a bureaucratised Confucianism and imperial legalism.

2) Contemporary Taiwan's rule of law is structured by a peculiar arrangement, as Taiwanese residents dominate the authority by law but allow legally dominant actors (including elected legislators, governors and presidents; recruited judges; and promoted high-ranking bureaucrats) to enjoy more autonomy and fewer constraints while exercising power driven by bureaucratic habitus and bureaucratised Confucian–legal habitus.

3) CIB detectives have different styles of habitus organisation relating to transnational

policing cooperation. Detectives in one operational unit act as the investigatory operative for transnational practice, whereas detectives in another operational unit construct three conflicting identities: the liaison officer, the investigatory operative and the request processor. How managers exercise power can influence the detectives' organisation of habitus.

- 4) Taiwan's rule of law cannot effectively regulate CIB detectives' organisation of habitus relating to transnational policing cooperation due to the managers' exercise of power and the detectives' submission and resistance to different authorities.

Finally, the implications and limitations of the research are discussed throughout this thesis.



## **Chapter 1 Introduction, Rationale and Summary of Chapter Development**

Policing cooperation provides opportunities for police in different nation-states to tackle transnational crime (TC) jointly. The development and application of technology and transportation, as well as the evolution of worldwide systems, such as trade and banking, have contributed to borderless states and economic growth (Godson & Williams, 1998; Viano, 2010; Andreas, 2011). However, increasing globalisation has also facilitated criminality and illicit activities that cannot be countered effectively by affected nation-states (Godson & Williams, 1998; Viano, 2010; Andreas, 2011). While in office, former United Nations Secretary General Kofi Annan argued that the police should be granted greater powers to tackle TC beyond their borders (United Nations Office on Drugs and Crime, 2004). Policing cooperation between nation-states is widely regarded as a promising strategy for fighting TC.

In Taiwan, however, the Republic of China (ROC) has been largely unable to engage in international<sup>1</sup> policing cooperation, as it requires intergovernmental contributions that the ROC is bureaucratically precluded from making. An international policing cooperation community only allows sovereign states to link to international policing organisations (IPOs). This applies to the International Criminal Police Commission (Interpol) and to the Association of Southeast Asian Nations (ASEAN) Chiefs of National Police (ASEANAPOL), as well as to supranational policing organisations (SPOs), such as the European Police Office (Europol). It also applies to cooperation among neighbouring states, including the Nordic, Meuse–Rhine, English Channel and Irish Border arrangements (Gallagher, 1992; Sheptycki, 1998; Gallagher, 2002; Larsson, 2006; Block, 2007; Brady, 2008; Fijnaut & Spapens, 2010; Walsh, 2011), and extends

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<sup>1</sup> In this thesis, to capture the contemporary ROC policing cooperation, the term ‘international’—which usually means ‘intergovernmental’—is not suitable. Instead, the term ‘transnational’—which can depict cross-border activities by actors other than governments—will be more accurate in reflecting the ROC police’s practice in the Taiwanese context.

to deploying police liaison officers (PLOs) abroad (Block, 2007; Lemieux, 2010; Aydinli & Yön, 2011; Wu, 2013).

The ROC has been excluded from the international policing community because it has not been recognised as a UN recognised nation-state since the revocation of its UN membership after the admission of the People's Republic of China (PRC) in 1971. Therefore, the ROC government has comparatively less power to cooperate with foreign counterparts against TC.

A prominent example is the ROC National Police Agency's Interpol membership being withdrawn in 1984 (Ke, 2004). As a countermeasure, the ROC has strived to develop pragmatic bilateral cooperation strategies with the PRC, particularly during the years that the Kuomintang (KMT, Chinese Nationalist Party) held presidency. Examples of this pragmatism include the Kinmen Agreement of 1990, the Joint Fight Against Crime and the Mutual Legal Assistance Agreement (JFAC & MLA) of 2009, as well as the deployment of one PLO in Macau. Direct cooperation with other nation-states includes three crime-fighting agreements, three memorandums of understanding(MOU) and the deployment of nine PLOs since 2004.

In contrast to governments involved in international policing cooperation, it seems that the ROC police endeavour to illustrate transnational policing cooperation, as proposed by Keohane and Nye (1974), Sheptycki (2000) and Bowling and Sheptycki (2012). Transnational policing cooperation is a type of sub-state practice in which actors are involved in a policing cooperation regime, and the ROC Criminal Investigation Bureau (CIB) could have a pivotal role to play. Therefore, ROC transnational policing cooperation at the CIB should attract academic attention to examine how a non-UN recognised state and non-Interpol member has continued to fight against TC.



Academic studies of ROC transnational policing cooperation are limited, making this study particularly relevant. There are at least two arguments strongly supporting this study. First, the ROC experience concerning transnational policing cooperation is almost entirely absent from Western-centric academic literature, aside from Yang and Lemieux (2010), Chang (2013), Wu (2013) and Hufnagel's (2014) research on cross-strait policing cooperation and the ROC PLOs. Such a lack of familiarity with the ROC experience can be attributed to intergovernmentalism. Today, the nation-state remains an all-in-one player in the international domain. In the international context, the ROC is not allowed to act as a sovereign state, which further results in the ROC's disappearance in academia. Instead, 'Taipei'—the capital of Taiwan—has often been substituted for the official country name. Examples include the 'Taipei Representative Offices', which was accepted by the governments of foreign nation-states that had no diplomatic ties to the ROC, and 'Chinese Taipei', which was utilised for attending the Olympic Games.

Second, Taiwanese scholars' research activities reflect a kind of submission to Western influence. As Bigo (2011) argued, theory generated from an understanding of practice can never be isolated from phenomenon. Researchers' explorations also usually fall behind a changing phenomenon (Bowling, 2009). Thus, researchers are expected to be sensitive to and react to their surroundings. However, Taiwanese researchers often heuristically<sup>2</sup> select and apply parts of Western theory to explore the Taiwan phenomena, but do so without sufficient critical evaluation. According to Huang (2001:208), Chinese researchers have a disposition to selectively pick up what they consider useful rather than applying a theory in full; this is known as *selective*

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<sup>2</sup> In this thesis, the term 'heuristic' refers to thinking deployed to capture the psychology of researchers who apply theory without consciously recognising the original context in which theory was produced. In contrast, the term 'thinking tool' suggested by Bigo (2011) implies that practice should be explored rather than theory. Bigo (2011) further argues that practice can only be understood by deploying Bourdieu's fields and habitus.

*appropriation*. There is no exception to Taiwanese researchers who study criminology (Hebenton & Jou, 2005; Hebenton & Jou, 2013) or policing cooperation,<sup>3</sup> which results in rare indigenous and cultural meanings recognised in Taiwanese studies. Since theory cannot react to changes in Taiwan phenomena and continues to influence Taiwanese researchers (Chang, 1995; Hebenton & Jou, 2005; Hebenton & Jou, 2013), it should be balanced with indigenous cultures to shed light on each other (Huang, 2001).<sup>4</sup>

In this thesis, I aim to understand ROC transnational policing cooperation from an insider's perspective to answer how everyday transnational policing cooperation in Taiwan is accomplished. As a Taiwanese researcher, I am beholden to Western instruments to examine the practice; however, the instruments should be tailored to highlight the significance of the ROC example, particularly the cultural significance (*habitus*). To this end, this study needs a thinking tool rather than a theory. I focus more on depicting how researchers approach the phenomenon than on analysing what the findings of studies are. Such a methodological address gradually guides me through the development of the agency–structure framework based on Bourdieu's theory of practice (chapters 2 and 3). The framework assumes that contemporary ROC transnational policing cooperation is best understood by exploring the evolution of its fields and *habitus* (chapter 5) and observing through an ethnographic perspective (chapters 4 and 6).

This thesis is divided into seven chapters, including an introduction and conclusion.

Chapters 2 through 6 are introduced as follows:

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<sup>3</sup> For example, Chang and Chang (2010), Cheng (2011), Yeh (2012) and Su (2013) applied global governance theory to capture the ROC's transnational policing cooperation, but did so without explaining why the theory is suitable to the Taiwanese context. Similarly, although Cho (2013) and Lin (2014) regarded Europol as an exemplar for how the ROC should shape its cooperation instruments, the researchers overlooked the cultural differences between Europe and the ROC.

<sup>4</sup> For example, researchers can be aware of Western influences while avoiding Chinese ethnocentrism (Huang, 2001). Or, researchers should search for local meanings attached to a cosmopolitan term to better understand what a local phenomenon really is (Nelken, 2009).

## **1) Toward a theoretical framework: an analysis of literature on policing cooperation**

I review the literature on policing cooperation to develop the first draft of a theoretical framework – an agency framework – to depict practice. In this chapter, I evaluate how researchers approach policing cooperation via the police and can they depict the police as (semi)autonomous practitioners in studies.

I argue that neither model-driven nor non-model-driven researchers can capture officers' agency or their relationships with other actors. I regard the three-level framework (macro, meso, micro) proposed by the Benyon-led research team at the University of Leicester as a proper departure point and an essential cornerstone to guide me in my development of the agency framework. The framework regards transnational policing cooperation as practice undertaken in two domains — within the state and beyond the state — by a group of professionals and in which the police are focused on bringing transnational criminals to justice.

## **2) Toward a theoretical framework: capturing the sense of practice**

In this chapter, I turn my attention to both agency and structures. A shift in the research direction is necessary here because police culture studies addressing agency have encountered critiques, including vagueness of definition (e.g. norms, beliefs, values, attitudes and police personalities), a monolithic versus plural term and the potential for cultural change.

The debate about cultural change can lead to two contradictory assumptions. The first is that police cultures compete with policy implementation and law enforcement (Loftus, 2009; Holdaway, 2013; Bacon, 2016), while the second is that police cultures can adapt to policy and law (Chan 1996, 1997, 2007; Wood & Marks, 2007). A gap in the debate

about culture change can be filled by considering Bourdieu's concept of field. This field is the context in which the police are actors influenced by the logic of the field to construct associated parts of habitus to sustain and promote their positions.

I gradually transform the agency framework into the agency–structure framework. I articulate Bourdieu's theory of practice, along with some workable considerations. I then apply the theory to identify the weaknesses of police culture studies and Bourdieuism-related policing cooperation studies. I argue that **the evolution of fields and habitus results from the subject's internal competition for the domination of own agency, which leads to success in external competitions for the domination of fields**. To capture the evolution of fields and habitus, I address the issues as follows:

- A. The habitus–field–practice relation should be maintained;
- B. The habitus is a peculiar type of culture directly connected to the practice of the subject's activities rather than that of his or her talks;
- C. There are multiple fields – national field of power, national bureaucratic field, national criminal justice field, national policing field and transnational policing field – rather than just a single (macro) field. Multiple fields can impose asymmetric influence on the subject, which can result in constructing different organisation of habitus; and
- D. If the subject can occupy dominant positions by accumulating the sufficient volume (strength) and correct organisation (parts) of habitus (as capital), he or she will gain opportunities to promote the integrated habitus to (re)shape fields.

### **3) The ethnography of daily practice**

I direct my focus here from interview to ethnography. Both methods are popular research instruments adopted to study police culture, as is Bourdieu's theory of practice. A common feature of both methods is taking verbal accounts from interviewees or

ethnographic participants. However, relying on verbal accounts alone can be questionable. Particularly, some researchers, such as Westmarland (2008), Loftus (2009) and Reiner (2010), have noted that verbal accounts cannot reflect their daily work. Although Loftus (2009) found that those verbal accounts were not without value, she did not explore further what those accounts really disclosed.

I therefore search for ways to link directly the verbal accounts of interviewees and ethnographic participants to their practice. Interview cannot be regarded as a proper method in my study, because this context-free method prevents me from linking the interviewees' accounts to their working contexts. In contrast, ethnography as a context-sensitive method can locate me in my participants' working contexts and allow for capturing participants' in-context accounts and their surroundings.

To justify my choice of ethnography, I take an epistemological position to argue for the weaknesses of deploying interviews in my study. I then present my strategy for managing the research ethics and practical dilemmas I encountered during observation. The quality and reflexivity of the study are two core values of ethnography that should be maintained (Rocco, 2010; Semmens, 2011; Aull Davies, 2012; O'Reilly & Parker, 2013). In this thesis, the two core values are guaranteed by presenting my choice with sound reasoning throughout my research journey, from topic selection, research design, ethical approval and fieldwork to thesis presentation. It can be expected that:

- A. Subjects can be confident of my observations;
- B. Readers can evaluate my influence on the findings;
- C. Future researchers can enhance their research designs by evaluating my research;  
and
- D. I can demonstrate that I have upheld my responsibility to look after the interests of my academic community and those of the groups studied.

#### 4) Traditional Chinese practice in evolving fields: Chinese-based agency and structures

I explore the legacy of the past and its influence on the contemporary ROC. This is not only because exploring the evolution of fields and habitus is the study's purpose, but also because researchers who study ROC policing rarely examine a critical issue: Which rule currently drives the ROC government (and the police) to produce practice in Taiwan—the rule of law<sup>5</sup> or the rule of man? Researchers address either structures or agency but without jointly considering both concepts. Researchers who addressed structures, such as Chang (2000), Chen (2005), Ma (2009) and Tsai (2011), generally accepted that the contemporary bureaucratic structure of policing, including institutions and organisations, is regulated by the rule of law. Nevertheless, they failed to identify a struggle between the traditional Chinese-based agency, which relies on Confucian—

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<sup>5</sup> My focus is Bourdieu's field as a power system and its influence on actors' practice and habitus. This focus has two implications for the concept of the rule of law:

- 1) The rule of law adopted in this thesis should be regarded as an idea of Bourdieusism, implying that **legal habitus as capital is held by a person to do practice against a dominants' illegal or improper power exercise**. In contrast, the rule of man is the idea that **a dominant always has power to refrain a person from undertaking legal actions**. Therefore, the rule of law cannot be directly referred to a set of governing principles—to name but a few are the protection of human rights, power separation, autonomy of (legal) power exercise, the establishment of judicial and law-based institutions, the production of statues, accountability of residents and state to law and indiscriminate law enforcement (Murney et al., 2011; Maccorkindale & Mckerrell, 2012; He, 2014; Brander et al., 2017; Whiting, 2017). Similarly, the rule of law as governing principles in policing and transnational policing should not sustain a heuristic theoretical imagination—the police in a democracy are expected to do practice in accordance with law both within and outside the state. This is because principles may not be successfully transformed to habitus for the dominated against the dominant.
- 2) In a contemporary Taiwanese context where no agreements exist, prosecutors are unaware and supervisors' approval is unavailable, should the practice in information exchange be regarded as violating governing principles of law, satisfying supervisors' needs or both? Instead of only addressing legal values and principles wrongly regarded as habitus, I aim to destruct the aforementioned heuristic theoretical imagination by positioning the ROC police in Bourdieu's field. For Taiwanese residents as the dominated, in particular, law and legal knowledge does not generate power for them against rulers and supervisors as the dominants (refer to chapter 5 and 6). Hence, while looking into the Taiwanese context from an agency (or bottom-up) perspective against a structure (or top-down) one, opposite results can be anticipated as Confucian (cultural) values (Martin, 2006, 2013a, 2013b, 2014, 2016) against bureaucratic (legal) values (Chang, 2000; Chen, 2005; Ma, 2009; Tsai, 2011). To mediate the two opposite sets of values, habitus and fields should gain more attention than any principle and theory (refer to chapter 3). Therefore, I take a sociological approach to explore the contemporary ROC transnational policing cooperation by depicting the evolutionary process of fields and habitus from the past to their contemporary status (refer to chapter 4, 5 and 6). While the rule of law and rule of man are intertwined in history, it is unnecessary to distinguish one from another but to mediate both in this thesis by answering to what extent the rules can apply.

legal habitus (the rule of man), and the contemporary bureaucratic agency, which relies on bureaucratic habitus (the rule of law).

In contrast, researchers who addressed agency, such as Martin (2006, 2013a, 2013b, 2014, 2016) and Cao et al. (2015), recognised the influence of Confucianism on contemporary ROC policing, but did not recognise that the nature of Confucianism has since its creation at the end of the Zhou Dynasty. They appear unaware of imperial legalism's influence and integration with Confucianism. Additionally, they did not explain how Confucianism could still be influential in the contemporary ROC, given that the government constantly claims the rule of law is being applied.

I argue that neither the rule of law nor the rule of man alone can fully capture Taiwanese practice. Instead, Taiwanese practice is driven by the integration of four parts of habitus, resulting from the integration of the Confucian field and imperial legalists' field to formulate the Confucian–legal field (during the Chinese empire before 1895), an implantation of Japan's Taiwan-based bureaucratic field (during the Japanese colonial period between 1895 and 1945) and transplantation of KMT's bureaucratized Confucian–legal field (during KMT rule between 1945 and 1987). At the end of KMT rule, the habitus integration can be illustrated as follows:

**[Confucian–legal habitus dominates Japan's Taiwan-based bureaucratic habitus] dominates bureaucratized Confucian–legal habitus.**

This implies that, for survival, the Taiwanese residents constructed the bureaucratized Confucian–legal habitus; however, for promotion, they needed to deploy [Confucian–legal habitus dominates Japan's Taiwan-based bureaucratic habitus] to fight for natural rights.

##### **5) Transnational policing practice at Criminal Investigation Bureau (in Taiwan):**

### **officer's agency and structures**

In today's ROC, Taiwanese residents still have a disposition to expect a powerful administration inherited from the past. This disposition can be captured by the peculiar context in which the powerful administration against legislative and judicial intervention becomes admissible in the ROC national bureaucratic field (Liao, 2000; Chi, 2006; Hwang, 2011). The powerful administration cannot make the illegal type of practice prevalent in the bureaucratised Confucian–legal field. Instead, the powerful administration now can only deploy law-based (legislative and judicial entities approved) and non-law-based (administration approved) instruments to regulate Taiwanese residents' practice externally and regulate bureaucrats' practice internally. Importantly, the powerful administration's practice should be always supervised by the Taiwanese residents (Hwang, 2011). As such, the ROC national bureaucratic field illustrates Taiwanese rule of law driven by **[bureaucratised Confucian–legal habitus dominates bureaucratic habitus]**. This implies that **Taiwanese residents dominate the authority by law but allow legally dominant actors (including elected legislators, governors and presidents; recruited judges; and promoted high-ranking bureaucrats) to enjoy more autonomy and fewer constraints while exercising power driven by bureaucratic habitus and bureaucratised Confucian–legal habitus.**

In the powerful administration, the CIB is influenced by the bureaucratised Confucian–legal field to influence various specialised fields<sup>6</sup>. Working in the CIB, detectives'

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<sup>6</sup> The term 'specialised' adopted in this thesis refers to the Weberian concept of specialisation. Specialisation – function-based division of power (FDOP) in this thesis – implies that a bureaucracy is horizontally divided into several functional departments to provide types of requested services (Chi, 2006; Schultz Larsen, 2015). Specialisation can contribute to professionalism (Chi, 2006). However, specialisation does not guarantee that professionalism can be ensured. This is because in a ROC national bureaucracy, subordinates' autonomy depends substantially on hierarchical authority, rather than on professional (content) knowledge and habitus. Subordinates are not eager to accumulate professional (content) knowledge and habitus instead of exploring what hierarchical authority (dominants) expects. Hence, although studies, such as Ma (2009) and Tsai (2011), utilised the term 'professionalised' to depict that the ROC police practice is ruled by law, I instead use the term 'specialised' to capture their functions. As I articulate in chapters 5 and 6, policing and transnational



practice results from the competition of different parts of habitus in agency and between detectives and superiors' habitus. I argue that detectives in the 1st Investigation Corp (IC) and International Criminal Affairs Division (ICAD) construct different organisation of habitus to make transnational practice, as below.

- A. The 1st IC detectives' organisation of habitus can be understood as **[Bureaucratic habitus dominates bureaucratised Confucian–legal field]**, which results from detectives' investigatory habitus (in the national criminal justice field) against commander's improper commands (in the bureaucratised Confucian–legal field).
- B. The ICAD detectives' organisation of habitus can be understood as containing **three conflicting identities**: liaison officer (in the transnational policing field), investigatory operative (in the national criminal justice field) and request processor (in the bureaucratised Confucian–legal field); how the director exercises power determines the balance of competition among these three identities in practice.

Consequently, the contemporary Taiwanese residents' **[bureaucratised Confucian–legal habitus dominates bureaucratic habitus]** cannot effectively regulate the CIB detectives' transnational practice. Divisional leaders' practice can be explored in the future.

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policing cooperation in the Taiwanese context does not fit the Western idea of habitus-based professionalism (Brown, 1988; Moor, 2006; Stelfox, 2007; Hallenberg, 2012; Fahsing & Ask, 2015). Instead, ROC policing and transnational policing cooperation is hierarchical authority-driven practice.



## Chapter 2 Toward a Theoretical Framework: An Analysis of Literature on Policing Cooperation

To illustrate the uniqueness of the ROC transnational policing cooperation, a bespoke theoretical framework was developed to investigate this Taiwan-based phenomenon. This theoretical framework is expected to reflect the decreasing significance of the top-down approach to prevent heuristically deploying a theory (especially Western) to capture the Taiwanese phenomenon. It is also expected to reflect an enhanced bottom-up approach to allow for Taiwan's unique features to be recognised.

The bespoke theoretical framework was developed via a systematic literature review. A methodological stance was adopted to examine how researchers approach and exploit the practice of policing cooperation. In addition, academic knowledge obtained from the literature review was compared with the unique characteristics of this context based on an ethnographic data analysis (Huang, 2001). In this regard, Marenin's (2005) argument about the police's (semi)autonomy is worth maintaining in a designed research context<sup>7</sup>. A designed research context is a research field in which insiders can autonomously present their (semi)autonomy of practice to the researcher, and the researcher should not claim domination of specific knowledge against their autonomous presentation.

This literature review is divided into two parts<sup>8</sup>. First, it is initiated to evaluate existing

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<sup>7</sup> Anderson et al. (1995:2) acknowledged the existence of different voices expressed by various professions in a multi-actor domain by mentioning that '*different participants in the discussion, coming from various professional and political backgrounds seem to speak different languages... In a sense, this is in evitable because political considerations are bound to differ from practical operational police concerns*'. While it is true that each profession can independently speak its respective language, it is also the case that balancing police actions to serve the public against (political) elites is never an easy task. As Marenin (2005:126-127) further recalled, the police '*are more than tools in the hands of wielders of power. They are (semi)autonomous actors in the reproduction of democratic (or undemocratic) societies*'. Because the police are not tools (of the state) but '*more than tools*', they should be allowed to autonomously demonstrate their (semi)autonomous practice to researchers. Importantly, this demonstration can only be done in a research context in which participants' autonomy is the core value.

<sup>8</sup> I reserve the original contents of chapters 2 and 3 without adding new ideas afterwards. From the perspective of Bourdieusism, evolution over time is possible for researchers. While a researcher's

approaches to policing cooperation. In this chapter, Western literature on policing cooperation<sup>9</sup> is examined to reflect the emphasis on the Western influence in a Taiwanese context. ROC insiders are keen to apply Western knowledge and types of cooperation in Taiwan, such as Interpol, Europol and PLOs, and there is no exception to examining the West to understand cross-strait cooperation (Ke, 2004; Chang & Chang, 2010; Cheng, 2011; Li, 2012; Yeh, 2012; Cho, 2013; Su, 2013; Wu, 2013; Lin, 2014). Thus, empirical studies<sup>10</sup> were targeted in which researchers propose analytic frameworks to research ROC insiders' preferable types of policing cooperation. In addition, empirical studies concerning interorganisational (including regional, neighbouring, bilateral) and police-focused cooperation were evaluated rather than those considering intergovernmental and multilateral cooperation. However, among Western literature on policing cooperation, legal studies should be excluded at this stage

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decision making relies on agency, the evolution of agency should be monitored to account for his/her decision making. Thus, in addition to the main findings in chapters 5 and 6, I also present my evolving agency from a practitioner to a researcher via presenting original chapters 2 and 3 with few later alterations to demonstrate my experience. It should be noted that chapters 2 and 3 are produced in order, and I may not be able to complete the current chapter 3 (after 2014) until I complete the original production of chapter 2 (between 2013 and 2014). Such an account also involves a possibility that the current contents of chapter 2 and 3 will be altered if new ideas are added later.

<sup>9</sup> I primarily used keywords to search for materials via the e-library of the University of Manchester and University of Leicester where I conducted my postgraduate programmes. Keywords includes international/transnational/supranational/cross-border/regional/bilateral/multilateral/European police/policing/law enforcement cooperation. Once I recognised targeted materials with clear analytic frameworks, less legal features and a police-related and empirical approach, I expanded my search to cover references of articles and authors' relevant productions.

<sup>10</sup> Although literature-based studies on policing cooperation are still being reviewed, my focus is on evaluating empirical studies. This is because empirical studies rely on insiders to fill the gap between a subjective world where insiders contribute to a social phenomenon and an objective world where outsiders explore the phenomenon by appropriately approaching the insiders. In contrast, although literature-based studies can analyse written products (e.g. documents, statutes and meeting minutes) generated by the studied groups, how those products are generated remains unanswered. In other words, how practice is produced (*know-how*) should be a more important inquiry than what the practice is (*know-what*).

of the study<sup>11</sup>. To the best of my (academic and practical) knowledge<sup>12</sup>, ROC insiders do not regard law as an important issue of policing cooperation. With the exception of the transnational JFAC and MLA<sup>13</sup>, ROC insiders rarely make legal inquiries to depict ROC's policing cooperation even if there are intergovernmental agreements with the US, Thailand and Vietnam. It seems that law or intergovernmental instruments are still not concerns for ROC insiders. Hence, an analysis of ROC's preference for Western instruments in non-law-based literature can contribute to a production of a ROC insider-addressed framework, which is the first draft of the agency framework.

Second, the agency framework is further shaped and transformed to an agency–structure framework by taking police cultural studies and Bourdieu's theory of practice into account. In chapter 3, the second part of the strategies used for the literature review is described.

The present chapter consists of three sections, as follows:

**1) Is the nation-state the only contributor?** This section calls for attention to the state as a critical centre for developing policing cooperation instruments; however, it is

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<sup>11</sup> I have not researched the cross-strait cooperation in this study (refer to chapter 4). Thus, while I produced chapter 2 (between 2013-2014), it is difficult to argue whether the ROC transnational policing cooperation is regulated by law because intergovernmental instruments are generally unavailable, which further results in a lack of a ROC insider's legal exploration. Although a less legal ROC insider exploration cannot directly imply some legal features left in an insider's world, the lack of interest in legal explorations does reflect that law is less significant in daily practice. Nonetheless, this does not mean that I should entirely abandon legal literature in this thesis. As I follow a grounded theory approach to analyse fieldnotes, I can still access the relevant materials when necessary (Wakefield, 2011). If I approach legal materials at an early stage of the study, I may not be able to identify some features, such as those related to rule of man verses that of the rule of law in ROC transnational policing cooperation. As Loftus (2009:209) mentioned, *'I cannot be sure if the themes identified in this book emerged from the "objective" characteristics of the research settings, or were shaped by my own values and existing knowledge of research on police culture. This is a problem inherent to ethnographic research and cannot be solved'*. Because ROC insiders rarely present legal materials in studies on transnational policing cooperation, a legal approach may direct this study to an outsider's world rather than an insider's world. Hence, preclusion of early access to legal materials is needed. I then explore the Chinese legacy of rule of man from the past in chapter 5, which continues to influence Taiwan against a popular idea of rule of law inherited from the modern West in chapter 6.

<sup>12</sup> I describe my career as a ROC police officer in chapter 4.

<sup>13</sup> In definition, the JFAC and MLA signed by ROC's Straits Exchange Foundation and PRC's Associations for Relations across the Taiwan Straits is not an intergovernmental instrument but rather an interorganisational or transnational one used to bypass the sensitive sovereignty issue.

not a suitable analytic unit for studying policing cooperation. Instead, various actors, including the police, should be equally addressed;

**2) Do the police account for the nation-state or for themselves?** In this section, it is argued that the police cannot represent themselves as (semi)autonomous practitioners but rather as actors who should fulfil the expectations of outsiders, including governments, international policing organisations (IPOs), supranational policing organisations (SPOs) and researchers. Valuable points for developing the theoretical framework are then elucidated; and

**3) The first draft of the theoretical framework: an agency framework.** Here, the three-level framework produced by Benyon's research team is described to initiate this section. Then, Benyon's model is transformed into the agency framework.

## **2.1 Is the nation-state the only contributor?**

In the transnational policing community, it is reasonable to argue that a dominant transnational policing system cannot be established in Europe, although transnational crime (TC) is still at the top of the agenda for Home and Justice Affairs. Since the establishment of the Police Union, which was the first anti-anarchist cross-boundary strategy adopted by four police organisations in the German Confederation in 1851 (Deflem, 1996; Gerspacher & Dupont, 2007; Gerspacher, 2008), the concept of transnational policing cooperation is gradually changing its morphology, including in the following ways:

- 1) The rise of international, transnational and supranational policing organisations (Keohane & Nye, 1974; Benyon, 1992; Gerspacher, 2005; Gerspacher & Dupont, 2007; Gerspacher, 2008; Gerspacher & Pujas, 2010);
- 2) The development of IT systems for information exchange such as Schengen Information System, Europol Information System, Interpol I-24/7(Boehm, 2012, Gutiérrez Zarza, 2015); and

- 3) The development of legal instruments in crime matters, from extradition to mutual assistance, such as criminal proceeding transfer, evidence exchange, tracing assets, European Arrest Warrant (EAW), *Commission Rogatoire* (Anderson, 1993; Hebenton & Thomas, 1995; Seguin, 2001; Gerspacher, 2008; Fijnaut & Spapens, 2010; Walsh, 2011).

Although the creation of the European Union (EU) and various European supranational bureaucracies was supposed to construct an exclusive European policing and judicial system against threats from TC, the result is still unsatisfactory. Bilateral and multilateral arrangements cannot substitute for one another. Both formal (legal) instruments and informal (interorganisational and interpersonal) contacts are prevalent tools for cooperation between nation-states. Even among various multilateral instruments, an optimal and effective model cannot be formulated. This is especially evidenced by cases wherein information is practically exchanged between nation-states, bypassing Interpol and Europol, where facilitating information flows is their core business (Gerspacher & Dupont, 2007; Fijnaut & Spapens, 2010; Guille, 2010; Moor & Vermeulen, 2010; Spapens, 2011; Berenskoetter, 2012). In addition, after following the Treaty of Lisbon, undertaking operational activities in foreign territories can still be dealt with on diplomatic negotiation tables (Council of the European Union, 2009). In specific geographic areas, neighbouring arrangements can be more prevalent than others. For example, there is Nordic cooperation between Denmark, Finland, Iceland, Norway and Sweden (Larsson, 2006; Federation of American Scientists, 2013), Meuse–Rhine cooperation between Germany, Belgium and the Netherlands (Fijnaut & Spapens, 2010), cross–English Channel cooperation between the United Kingdom and France (Hebenton & Thomas, 1995; Sheptycki, 1998) and police organisational arrangements between Northern Ireland of the United Kingdom and the Republic of Ireland (Walsh, 2011). Consequently, each European member-state usually engages in multiple European policing cooperation instruments, such as the Council of the European Union,

Interpol, Europol, the Schengen Information System, Frontex, neighbouring cooperation networks, police organisational settings, police liaison officer (PLO) networks and individual contacts in person.

As Hufnagel (2016) states, the legal, organisational and personal cooperation instruments established in Europe are not hierarchical superimpositions. Hence, for each European member-state, the meaning of transnational policing cooperation against TC may not be the establishment of an exclusive transnational policing web. Instead, each European member-state endeavours to undertake cooperation practice via its preferable ways. This is why, in recent years, the United Kingdom declared that it would opt out of the European policing and judicial instruments and opt back in for a handful of arrangements after extensively evaluating the influence of such an action on domestic security (ACPO, 2012; Brady, 2012; Hinarejos et al., 2012). Moreover, in 2016, the results of the referendum also illustrated that Brexit is the decision of state, as a significant number of British citizens voted for it.

To justify the notion that the nation-state tends to create its own cooperation webs against TC, it would be fruitless to make comparisons among the transnational policing networks operated by nation-states (Hebenton & Thomas, 1995). This is because the similarities and differences identified by this comparison cannot address *why* nation-states endeavour or are made to run their preferred networks. As various scholars remind us (Hebenton & Jou, 2005; Sheptycki, 2007; Hebenton & Jou, 2013), however, cultural differences should be addressed while performing research on different nation-states. Hence, if effective transnational cooperation against TC can be achieved (Harfield, 2008; Bowling, 2009), questions will arise concerning how nation-states construct their respective transnational policing networks, why nation-states are willing or made to shape these networks and how these networks can be shaped. Importantly,



in nation-states, we must ask the following questions: Who are the contributors involved in their evolving policing cooperation network? Which cultures (or specifically, habitus) drive these contributors to (re)shape and run state-owned policing cooperation networks?

Traditionally, the political scientific community paid a lot of attention to international policing interactions. Political scholars can observe a field in which intergovernmental settings are established for national bureaucracies<sup>14</sup> and officials dealing with political and legal issues. Specifically, in an international domain, the nation-state can exercise not only power in policy-making and negotiating cross-border political and legal arrangements, but it can also exercise coercive power in pursuit of TC beyond its territory. Therefore, the idea that nation-state is the only actor in an international context dominates most political researchers' view on international policing-related topics. (Keohane & Nye, 1974).

Using the evidence below, it can be argued that the nation-state is changing its morphology, and the components of nation-state should be examined for studying transnational policing cooperation. First, according to Charles Tilley's observation, the number of European states declined considerably from the 16th to 19th centuries (Sheptycki, 2000). Such an observation may be not surprising during wartime, as conflicting interests between sovereigns can drive them to exercise power over their rivals for claiming benefits, including conquering another nation-state. Nevertheless, even after the Cold War in the 20<sup>th</sup> century, the economic and political integration of European member-states to formulate European Community, followed by the European

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<sup>14</sup> In this thesis, national bureaucracies or foreign bureaucracies mean the Weberian bureaucracy. A bureaucracy aiming at generating a type of service has a rational structure of three elements: the bureau (a specific organisational structure), bureaucrats (various organisational posts occupied by officials), and bureaucratisation (a set of values guiding officials' practice; Hull 2012). A ROC national bureaucracy is established to provide a specialised public service to people in Taiwan and its foreign counterparts. Among the ROC national bureaucracies, the CIB is specialised to tackle national and transnational crime issues.

Union, also illustrates a gradual trend of the diminishing concept of state.

Second, the traditional concept of nation-state as consisting of a permanent population, defined territory, government and capacity to enter into relations with other nation-states is contentious (Bowling & Sheptycki, 2012). The reasons for this are outlined below.

### **1) The influence of globalisation and Europeanisation on free movement**

Both globalisation and Europeanisation, which facilitate the movement of goods, services and people across frontiers, contribute to the global village and Schengen Area, respectively. It is not only the development of transportation and technology that saves travelling time. Politically, lifting internal border control has also sped up economic activities in the Schengen Area in Europe (Benyon, 1996). This implies that people can choose their living areas and decide their nationalities. As such, the state's population is fluid rather than permanent.

### **2) The influence of technology on geographical borders**

The creation of communication systems, such as the internet and mobile phones, has established a worldwide virtual network beyond geographical barriers. Hence, people's perception of geographical borders is ultimately altered. By using computers and the internet, users can easily access online shops and e-banks for commercial purposes. They can communicate with their family and friends from any point in the world. Although the Schengen Area is a unique case in which member-states have the political will to abolish internal borders (Loftus, 2015), a virtual world has demonstrated the significant idea of worldwide borderless.

### **3) The influence of asymmetric powers in the state**

To avoid the government gaining overriding power, John Locke proposed that the power of the state should be divided (Bowling & Sheptycki, 2012). For example, the tripartite power system, including the executive, legislative and judicial power in the United Kingdom, can impose the administration's supervision by Parliament. Beyond state, in contrast to the free movement of people, the government is expected to comply with multilateral and bilateral legal-political arrangements to undertake cross-border activities.

Although each type of power is theoretically equal, an imbalance between types of power can occur, especially when the nation-state is targeted by terrorists. A significant example is the fight against terrorism in the United States. Especially, with the assistance of media coverage in relation to 9/11 incident, the White House immediately gained approval of Congress on Patriot Act within weeks (Tracy, 2012). The following War on Terror further facilitated the United States' encouragement of other nation-states to take up hard solutions against terrorists (Maneri, 2012). Similarly, the British anti-terrorism legislation is no exception to this if taking the media influence into account (Foley, 2012). In other words, after spectacular attacks by terrorists, the government usually claims benefits in the media to drive the public to exchange liberties for security (Boin & Smith, 2006; June, 2011). The government's power gain is based on the fact that legislators do not comprehensively evaluate governmental proposals to balance civil liberties against national security. Hence, after adapting to the influence of media over time, especially in the case of Syrian civil war and proliferation in Iran, the United States adopted a more peaceful diplomatic approach to solve crises in 2013. Except for terrorism, there is no further evidence to indicate that nation-states can be approved to deploy hard solutions against TC abroad. Even in Europe, governmental activities against TC are still constantly overseen by the respective parliaments and European Parliament.

Third, except for bilateral arrangements, the establishment of international organisations (IOs), such as the United Nations and Interpol, or supranational organisations (SOs), such as the European Council and Europol, decreases the significance of the nation-state. Initially, realists who accept the nation-state as the only actor in an international context are reluctant to acknowledge that actors other than the nation-state can influence world politics (Keohane & Nye, 1974; Hooghe & Marks 2001; Gerspacher & Dupont, 2007). Hence, IOs and SOs are regarded by realists as an international political battlefield in which only nation-states can exercise power (Keohane & Nye, 1974; Gerspacher & Dupont, 2007). Nevertheless, the 1974 oil crisis is what comprehensively directed academics to focus on OPEC member-states, which prohibited the oil exportation, and global oil enterprises, which made significant profits from the situation (Sheptycki, 2000). In Europe, the trend toward supranationalism from intergovernmentalism was recognised between the 1960s and 1990s (Occhipinti, 2003). A significant change in the European Union is that the unanimity was substituted by qualified majority voting in the Treaty of Lisbon. Such a change indicates that SOs garner more power from member-states to handle home affairs ( Council of the European Union, 2009). Hence, it can reasonably be argued that the nation-state is losing its dominant position in handling global issues on the world stage. Instead, multi-players such as transnational criminals, sub-governmental actors (e.g. the police) and international and supranational actors retain significance over time in a transnational domain (Keohane & Nye, 1974; Sheptycki, 2000; Bowling & Sheptycki, 2012; Wu, 2013).

Fourth, from officers' perspective, conflicts between PLOs and their mother states also demonstrate a decrease in state power. Although the deployment of PLOs can be based on a governmental decision, transnational practice undertaken by PLOs cannot be

facilitated and promoted by the mother governments, but instead, it must involve their willingness (Block, 2007; Aydinli & Yön, 2011; Wu, 2013). As researchers have argued (Block, 2007; Wu, 2013), operational information exchange of the police via PLOs is reluctant to be promoted by intergovernmental settings between nation-states. In addition, representatives of nation-states do not usually have much knowledge about what PLOs can do. Hence, some diplomats show their unwillingness to host PLOs in their embassies (Aydinli & Yön 2011; Wu, 2013), and they may assign non-policing tasks in pursuit of the diplomats' interests (Wu, 2013). As a countermeasure, PLOs can make selective reports to avoid representatives' political intervention (Wu, 2013).

Since the concept of the nation-state is disaggregating, there is an opportunity for academics to reallocate their attention for exploring how other actors contribute to transnational policing cooperation. This does not mean that the nation-state is not an important player, as it still manages more resources and is more accountable than the private sectors. I agree that the nation-state has the power to negotiate solutions against transnational problems, maintain public order and chase criminals within and beyond its territory. However, I disagree that the nation-state is an analytic unit for studying transnational policing cooperation. For example, researchers who regard the ministry of interior (MOI) and ministry of foreign affairs (MOFA) as representatives of a nation-state in handling intergovernmental problems will disregard the contributions of other players, such as the PLOs' contribution to diplomatic negotiations (Wu, 2013). Likewise, researchers who regard detectives as representatives of nation-states, undertaking or assisting in transnational investigation can ignore the contributions of national bureaucracies, including government and police organisations. Therefore, to amplify the contributions of each actor, I propose that transnational practices against TC are undertaken by a group of professionals (Benyon, 1992; Benyon et al., 1994; Benyon, 1996; De Maillard & Smith, 2012; Wu, 2013). Especially, this professional

group cannot exclude government and the police, for the reasons described below.

### 1) **Influence of practice of government**

In an international context, government is a power container with the ability to undertake intergovernmental practice, including establishing and (re)shaping bilateral and multilateral frameworks to accommodate transnational practice of the police (Benyon, 1992; Robertson, 1994; Sheptycki, 1998; Van Buuren, 2012; Wegrzyn, 2013). For example, the TREVI forum, established in 1975, can be regarded as an intergovernmental initiator to escalate policing cooperation to be hosted in a European context (Sheptycki, 1998; Gerspacher, 2008). This was following by the inception of Europol in 1992, which was gradually transformed from an intergovernmental institution to a European agency in 2009, exhibiting its influence by the supranationalism adopted by the European Union (Occhipinti, 2003; European Union, 2008; Moor & Vermeulen, 2010). The governmental influence on Interpol has exhibited no exception to the trend. As a conclusion regarding the membership issue between 1923 and 1947, Interpol is now an intergovernmental policing organisation in which the members represent the respective states' interests (Wegrzyn, 2013).

In a national context, as a power container, government can impose the power to control the police's transnational practice (Gallagher, 1992, 2002; Sheptycki, 1998; Wu, 2013). In the European continent, domination of the police by government is prevalent. The French government can strengthen its interactions with IPOs, such as by increasing the numbers of officials of the police, customs and *gendarmes* and setting up a new clearinghouse, *Section Centrale de Coopératoin Opérationnelle de Police* (SCCOPOL), for coordinating various databases (Gerspacher, 2010). As another example, the police-led Cross-Channel Intelligence Conference (CCIC) also illustrates that the participation of French police should be approved by the government (Gallagher, 1992; Gallagher,

2002). Even for the relatively autonomous British police, their informal information exchange via the CCIC should also be tacitly approved by the government, as such exchange bypassed formal channels (Gallagher, 2002).

## **2) Influence of practice of the police**

In a transnational context, as a national bureaucracy within the state, the police have an obligation to implement intergovernmental arrangements. Taking Interpol and Europol as examples, the police were required to set up and operate Interpol's National Central Bureau (NCB) and the Europol National Unit (ENU). Moreover, the police should comply with relevant protocols to feed data into the Interpol and Europol databases. However, there is no guarantee that the police can only deploy formal instruments to cope with TC. Especially, Interpol and Europol as a communicative channel should wait for data input by member-states with good will. Without accurate and sufficient data input, the databases can only provide limited useful information (Cameron-Waller, 2008; Moor & Vermeulen, 2010; Bowling & Sheptycki, 2012) and inefficient information exchange for addressing criminal activities on a daily basis (Sheptycki, 1998; Harfield, 2007; Spapens, 2011); this can result in arrests of innocent people (via Interpol; Bowling & Sheptycki, 2012; Marino & Grantham, 2015) and bypassing Interpol and Europol to exchange information. This is one reason why the police regard policing cooperation via Interpol and Europol as unsuccessful. Instead, they argue that there is successful policing cooperation in the Nordic and Meuse–Rhine Euroregion, across the English Channel and between Northern Ireland and the Republic of Ireland. This is also why the police should selectively deploy intergovernmental instruments, interorganisational instruments or both as if they are searching for unique ways to better cope with TC (Gallagher, 1992; Larsson, 2006; Cameron-Waller, 2008).

While governmental top-down influence can partially drive the police's transnational

practice, the importance of the police negotiating their needs with government cannot be underestimated. By looking at historical policing cooperation in the European Union, the police's daily practice can also generate a bottom-up influence to promote intergovernmental arrangements. For example, the success of the CCIC and PLOs finalised the 1991 Cooperation Agreement (Gallagher, 1992; Sheptycki, 1998). Another example is the Meuse–Rhine cooperation, which the police initiated before WWII and contributed to the following: 1) an extradition and mutual legal assistance treaty in the region in 1962 and 2) the Benelux Police Cooperation Treaty in 2004 and the Dutch-German Treaty in 2005 (Fijnaut & Spapens, 2010). Even PLO performance can contribute to (re)shaping governmental proposals for deploying PLOs and establishing intergovernmental arrangements (Wu, 2013).

There is no easy way to weigh the importance on both sides. It should be reiterated that the practice in policing cooperation should (at least) be accomplished by both the government and police. In other words, the government establishes political and legal instruments (e.g. statutes and agreements) for the police to deploy. Nevertheless, the police also establish organisational instruments (e.g. Rules and Directives in ROC CIB) for subordinates to carry out the following: 1) deploy (inter)governmental instruments, 2) bypass (inter)governmental instruments or 3) undertake police-approved practice while no (inter)governmental instruments exist. Importantly, only the deployment of instruments rather than the existence of instruments can bring criminals to justice (Larsson, 2006). In this regard, transnational policing cooperation is a practice that can bring transnational criminals to justice by the police (consciously and unconsciously) selectively applying (inter)governmental and organisational instruments within and beyond the state.



## **2.2 Do the police account for the nation-state or for themselves?**

To address the police's contributions in a transnational domain, different research models have been proposed over the years, such as multi-level governance, national bureaucracy, history, organisational and police centrality as follows. My ultimate intention is to understand whether the police, especially police officers, can represent themselves as (semi) autonomous practitioners while being studied by researchers applying existing models to collect data.

### **1) A multi-level governance model for studying IPOs and SPOs**

Considering IPOs and SOs, such as Interpol and Europol, from an inter-governmental perspective, Den Boer (2010) was inspired by the theory of multi-level governance to develop a multilevel governance model for exploring European policing cooperation, especially in terms of Europol and Interpol. The study differentiated horizontal (intergovernmental, network) policing cooperation from vertical (supranational) policing cooperation. For example, Europol involves vertical, highly politically driven police cooperation, while both the Schengen *acquis* and deployment PLOs are examples of horizontal police cooperation. Contributions of a multi-level governance model was to recognise various players in a transnational policymaking context. For example, on a vertical level, national representatives and governmental officials, police organisations and judicial organisations can negotiate European policing initiatives. In contrast, in a horizontal level, there are national politicians and practitioners of various national law enforcements who jointly deal with issues about (inter)governmental instrument implementation. A significant finding of the study is that policing cooperation at a horizontal level, featuring with flexibility, trust, networking and informality, can be regarded as a good model for governing transnational police cooperation (Den Boer, 2010), although the example of Interpol is not such a case.

The difficulty I face in applying Den Boer's (2010) multi-level governance model is

the model generation based on a European and intergovernmental stance concerning policy-making. As such, the model can make me focus on the idea that (inter)governmental instruments can facilitate daily practice of practitioners. Meanwhile, the model cannot address issues concerning the follow: 1) how the police practically communicate with Interpol and Europol and 2) whether the practice of the police can make Interpol and Europol satisfy police demands. In other words, a lack of addressing operational reality can be expected.

Similarly, several studies have focussed on exploiting Interpol and Europol's contributions to facilitating policing cooperation with member-states (Gerspacher, 2005; Gerspacher and Dupont, 2007; Gerspacher, 2010). Although these studies present a gradually shift of the research focus from IPOs and SPOs to nation-states, there is still a missing piece – the lack of voice of the police.

#### **A. The lack of a national voice in Gerspacher's (2005) study**

Gerspacher's (2005) study suggested that Interpol and Europol should overcome sovereignty issues to direct member-states' attentions to TC, assist member-states in establishing compatible national (legal and policing) systems in connection with the two organisations and enhance a friendly environment for the police using the two communicative channels. However, these suggestions are generated from analysing interview data collected at Interpol and Europol, without exploring national needs in a national domain. For example, the study attributed infrequent communications of member-states with the two organisations to insufficient national capacity because member-states have neither professional training nor a compatible national policing system. Hence, while it is reasonable for the study to suggest the two organisations should assist member-states in capacity enhancement, the questions are as follows: 1) whether member-states (and the police) have willingness to do so and 2) if the police

are willing to enhance capacity, whether the police can acquire sufficient supports in a national context.

The study also suggests that Interpol and Europol should establish a suitable environment for facilitating police practice. However, the suggestion has been opposed by other studies arguing that the two organisations have been criticised too harshly for the police to rely on them in an operational context (Gerspacher & Dupont, 2007; Fijnaut & Spapens, 2010; Guille, 2010; Moor & Vermeulen, 2010, Spapens, 2011; Berenskoetter, 2012). In short, how governments can satisfy needs of the two organisations and that of the police and how the police can satisfy the needs of the two organisations and governments remains unanswered in Gerspacher's (2005) study.

## **B. The unclear voice of the state and police in Gerspacher and Dupont's (2007) study**

Gerspacher and Dupont (2007) proposed that a systematic structure of transnational policing networks should comprise four actors – IPOs and SPOs, national policymakers, the police and private companies. By collecting interview data from those who participated in Interpol and Europol communications, the study made the following arguments: 1) a barrier that constrains the police from communicating with Interpol and Europol is, for instance, the absence of a national database, and 2) police practice is not fully regulated by national settings of state. In this respect, the two arguments made by the study seems to compete: Do the police need a national database to regulate their information exchange, or do they enjoy autonomy to operate a professional policing network or community, as some authors have suggested (Hebenton & Thomas, 1998; Marenin, 2005)<sup>15</sup>. These competing ideas are not easy to solved.

## **C. Unclear voice of the state and police in Gerspacher's (2010) study**

In addition to Interpol- (and Europol)-centric studies, this study diverted attention to a national level and explored factors concerning the French State's increasing participation rate in Europol. The study accounted for why the French State, at the beginning of the 21st century, increasingly participated in information exchange with Europol via a national policing reform.

A question can be raised here: While the study identified that the Danish proposal concerning Europol's increasing executive power and the end term of the head of

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<sup>15</sup> A similar competition of arguments occurs in Berenskoetter's (2012) study. After interviewing officers at the Association of Chief Police Officers (ACPO), National Police Improvement Agency (NPIA), Serious Organised Crime Agency (SOCA), Europol and European Police College, the study makes the following arguments: 1) the British police are generally reluctant to communicate with Europol, and 2) the British police, represented by ACPO, want to communicate with Europol but have encountered problems with upload data into a national database. Again, unanswered questions remain: Are the British police really willing to have a national database? Do the police need a national database to communicate with Europol?

Europol jointly contributed to a policing reform in France, it is unclear that the policing reform was appreciated by the government, the police or both actors. Specifically, the study regarded the French State as a whole concept, without distinguishing the police from the government. Because of an unclear stance of the government and police, the study can mislead me in terms of considering the idea that a policing reform in France is related to governmental interests. However, such an idea cannot be supported by De Maillard and Smith's (2012) study, in which most French policing-related policy-making proposals were influenced by the *Police Nationale*, as well as the *Gendarmerie*. As a result, while the police are regarded as a member of a group, they may not clearly express their stance and contributions to outsiders (e.g. researchers).

## 2) A national bureaucratic model for studying IPOs and SPOs

In contrast to the above studies, Deflem (2000, 2006) approached Interpol and Europol by adopting a Weberian bureaucratic model to address police contributions. This national bureaucratic model assumes that

*International police organisations with broad international representation could only be formed when police institutions were sufficiently autonomous from the political centers of their respective national states to function as relatively independent bureaucracies. When this structural condition of institutional autonomy was fulfilled...police institutions would collaborate across the borders of their respective national jurisdictions on the basis of a shared system of knowledge concerning the development and enforcement of international crime. (Deflem 2000:741)*

In short, the national bureaucratic model can comprise three contexts in which policing cooperation can be captured, as follows (Deflem, 2000; Deflem, 2006):

- A. **Structural context for the police obtaining national autonomy from governments:** The police as specialised bureaucracies should obtain sufficient

autonomy from governments. If autonomy cannot be achieved, the police will only undertake a limited scope of policing cooperation. This means that the police will be constrained to carry out the type of policing cooperation to fulfil national duties designated and controlled by governments, without any willingness to go beyond governmental control;

**B. Institutional context for TC expertise accumulation and exchange:** Being located in a structural context, the police should be able to hold and exchange expertise on TC. Knowledge<sup>16</sup> is the capital that should be accumulated by the police; this not only serves to demonstrate that they can deploy appropriate instruments in pursuit of bureaucratic values in exchange for autonomy, but importantly, it is also the capital – specifically, TC expertise – that the police should acquire to interact with foreign counterparts, including IPOs and SPOs; and

**C. Collaborative context for transnational policing cooperation:** This is a new context in Deflem’s (2002, cited in Deflem 2006:338) book, *Policing World Society: Historical Foundations of International Police Cooperation*. The context illustrates that the police have a ‘national persistence’ to work in a unilateral (e.g. the deployment of PLOs), (temporary) bilateral (e.g. cooperation between the police of two nation-states) and non-supranational (e.g. IPOs or SPOs with no coercive power) context for policing cooperation (Deflem 2006:339).

In short, the model endeavours to jointly utilise national autonomy, TC expertise and

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<sup>16</sup> Except for psychological researchers and Bourdieu’s supporters, researchers may not be aware of the difference between *knowledge* and *habitus*. Hence, they can regard practitioners’ experience as knowledge, without considering the existence of habitus. Again, this is a heuristic thinking, and I differentiate the two terms in chapter 3. Here, I briefly illustrate that, in this thesis, knowledge means explicit or content knowledge, which facilitates practitioners to know rather than do practice in the field. In contrast, habitus means implicit or behaviour knowledge that drives practitioners to undertake practice in the field. Moreover, there is a potential for knowledge being changed to habitus. Such a knowledge–habitus change requires practitioners, especially new recruits, to intentionally and selectively deploy learned knowledge to make practice for a significant period. As such, knowledge-based (knowing) practice can be changed to habitus-driven (doing) practice.

transnational collaborative arrangements to capture policing cooperation undertaken by the police.

To justify the workability of the national bureaucratic model, Deflem (2000) undertook a historical analysis to examine successes and failures of (multilateral) policing cooperation in the period between 1851 and 1923. Except for the International Police Conference established in New York in 1922, the national bureaucratic model captured a developing role of the police in the policing cooperation domain. In addition, Deflem (2006) applied the national bureaucratic model to examine Europol's counterterrorism cooperation by interviewing Europol's officials.

However, three issues can be raised here, as described below

**A. A governmental influence in an international domain is absent in the model**

When the national bureaucratic model was generated, the model did not consider a context in which a state can exercise its intergovernmental power. Deflem (2000) recognised an intergovernmental influence on Interpol; for example, Interpol's first president from Austria, Johannes Schober, could implement Austrian foreign policies in Interpol. However, the study did not consider this carefully; instead, it mainly focused on government-police relations (Deflem, 2000). Such a gap can prevent the model from being applied to other geographic contexts. For example, the United States claimed advantages concerning the establishment of its Interpol administrations (1974–1975) to deploy PLOs in South America and Southeast Asia as a symbol of increasing power (Hebenton & Thomas, 1999). Hence, as Wegrzyn (2013) argued, Interpol should be better regarded as an intergovernmental policing organisation after a long battle for membership (1923–1947). As such, it is not surprising that the ROC police, having withdrawn from Interpol membership in 1984, can be a counterexample against the model. Neither TC expertise accumulation nor national persistence can account for the

interactions of the ROC police with Interpol. Instead, it is a lack of intergovernmental identity caused by a touchy sovereignty concern that impedes the ROC police to communicate with Interpol. Even the United States launched an initiative to support the ROC police to reapply for Interpol membership (Brown & Scott, 2016). The ROC government (under Democratic Progressive Party, DPP, presidency since 2016) finally decided to stop its long run application to avoid increasing any political tension across the Taiwan Strait. Hence, without considering an intergovernmental influence, the model may not be suitable for me to research ROC transnational policing cooperation.

### **B. Government–police relations are not explored in the interrelated contexts of the model**

When Deflem (2000) tried to address why some nation-states (e.g. the United Kingdom, France, Germany and Italy) could and some (e.g. Russia) could not participate in an early stage of Interpol communications, the study accounted on the same factor – close government–police relations. Government–police relations can be considered in light of Busuioc et al.'s (2011) argument that Europol's autonomy can only be increased if a national (accountability) arrangement can satisfy the police and government. However, government–police relations are not fully explored in interrelated contexts of the model. For example, while government–police relations were addressed in the first context of the model, Deflem (2000) did not provide clues about a governmental foundation for TC expertise accumulation in the second context, implying no interrelations between the model's first and second contexts. Without considering the interrelations between contexts, TC expertise can contribute to two opposite accounts of transnational participation – TC expertise can either promote (Deflem, 2000) or impede participation (Berenskoetter, 2012). Although Deflem's (2006:352) study also identified less participation of the police in Europol communications, it was not attributed to TC expertise against the model, but rather 'national persistence' to fit the model. Again, the



study ignored locating TC expertise in two more contexts of the field.

### **C. The model cannot capture dynamic government–police relations**

This is a theory-driven model for researching police practice in a transnational domain. Specifically, it is based on Weberian bureaucracy derived from an insider world in the past. Hence, it can be questioned whether the model can capture an insider world in a contemporary context because, as Bourdieu (2004) argued, a field for practice of insiders can possibly change over a significant period. If changes do occur in an insider world, how can I capture changing government–police relations? Specifically, changing government–police relations can be understood as insiders (the police) implementing altered strategies to reach a balance of autonomy against governmental control (e.g. command and supervision or accountability) over time. Therefore, although I agree that there are government–police relations, their dynamic nature should be considered.

### **3) A historical model and police-centric model for studying policing the English Channel**

Sheptycki's (1998) study endeavoured to capture the following: 1) an evolving process of neighbouring policing cooperation from a P2P to an intergovernmental cooperation arrangement, and 2) a complexity of interactions between governments and the police within and beyond the nation-state. By adopting a historical examination, along with an analysis of documents, interviews with police officers and fieldnotes, Sheptycki (1998) established a four-step process for explaining a developing policing cooperation across the English Channel, as described below

#### **A. A foundational cross-channel meeting between the British, French, Belgian and Dutch police (1968–1970)**

In the late 1960s, different policing systems across the English Channel were identified,

such as a centralised policing system in France, a centralised policing system with fragmental administrations in the Netherlands, a fragmental policing system in Belgium and a decentralised policing system in the United Kingdom. A feature in this period is a P2P cooperation, in which British (e.g. forces near the Channel), Belgium (e.g. *Police Judiciaire*, State Security Police, the Aliens Police) and Dutch (e.g. the Rotterdam Police) police forces were relatively free to participate. However, France's participation illustrated a governmental influence resulting in an impediment to the *Gendarmerie Nationale's* participation.

### **B. The Cross-Channel Intelligence Conference (CCIC) period (1971–1985)**

In 1971–1985, P2P cooperation remained. A significant feature was daily, rapid and regulated information exchange. It was acceptable for direct contacts to be initiated between members, who could autonomously refer those contacts to the respective Interpol NCBs. However, beyond CCIC, Interpol was still the only communicative channel. Importantly, personal contact was recognised as a basic component of effective cooperation. In addition, new issues were raised in CCIC, including extradition and evidence transfer, since the number of cross-border operations was increasing.

### **C. A period of CCIC encountering challenges from governments (1986–1991).**

In 1986–1991, P2P cooperation was gradually transformed to intergovernmental cooperation. Governments increasingly participated in Europeanisation and policing the English Channel. During this period, an idea of European policing was evoked because of inception of a single market and lifting of the border controls on goods and people. Meanwhile, several intergovernmental instruments were introduced in Europe, such as TREVI, which result in an increasing political concern over policing cooperation arrangements across the Channel. Finally, the Channel Tunnel Project laid a foundation for establishing intergovernmental policing arrangements, such as

dispatching PLOs on both ends of Tunnel. Finally, increasing intergovernmental participation gradually obliged members to include political and legal topics on the CCIC agenda.

The French *Gendarmerie Nationale*'s participation was approved by the French government. Nevertheless, the *Police Judiciaire* complained about problematic communications with the *Gendarmerie Nationale*, which controlled the information flow in and out of France.

#### **D. The European Liaison Unit (ELU) since 1991**

The ELU, located in the Channel Tunnel Terminal at Folkstone, accommodated British police officers along with Interpol and European officials for liaising with other police forces within and beyond the Kent County Constabulary's jurisdiction. Meanwhile, a new database at the ELU was constructed for handling cross-border enquiries, and this worked jointly with a separated database at the Kent County Constabulary, which hosted the records of local criminals with connections to cross-border crime.

Overall, from a transnational perspective, policing cooperation across the English Channel was initiated in a P2P mode and then gradually transformed to an intergovernmental mode. Such a pattern shift cannot only be attributed to a top-down governmental or intergovernmental influence (e.g. Europeanisation), as the police also encountered legal problems while undertaking the operations.

From a national perspective, the participation of each member-force in the CCIC was a reflection of the respective national policing systems in which competition arose not only between governments and the police (such as France) but also between forces (e.g. France and Belgium). In contrast, a decentralised policing system allowed different

British police forces to freely participate in the CCIC, in accordance with the 'doctrine of Constabulary Independence' (Sheptycki, 1998:222). Hence, at least two opposite patterns of policing cooperation can be identified – a government-controlled policing cooperation in France and autonomous policing cooperation in the United Kingdom. Consequently, Sheptycki (1998) argued that the police undertaking cooperation practice was influenced by the respective national policing systems due to the national politics.

While Sheptycki's (1998) study captured an evolving process of policing cooperation across the English Channel, the voice of the police is still unclear. Two issues can be raised here. First, the police practice is not fully explored. For example, the study recognises the importance of face-to-face communications, which can contribute to the success of cross-border operations; however, there are no clues for capturing the nature of face-to-face communications of the police, and importantly, whether the police can claim benefit for the type of communication to go beyond their daily tasks, such as negotiating (inter)governmental instruments, as some have argued (Bigo, 2000; Aydinli & Yön, 2011; Wu, 2013).

Second, the government–police relationship is unclear because of the lack of bottom-up influence and unappreciated governmental instruments. Regarding the former, the study ignores that there are usually opportunities for the police to impose influence on (inter)governmental negotiations to shape (inter)governmental instruments (Hebenton & Thomas, 1995; Savage et al., 1996; Joyce, 2011; De Maillard & Smith, 2012; Wu 2013). Hence, for example, an inquiry can be established to look at whether and how the British police participated in negotiating the legal instruments when the Treaty of Canterbury 1986, Channel Tunnel Project 1986 and Channel Tunnel Act 1987 were entering into force in the United Kingdom.

Regarding unappreciated (inter)governmental instruments, the study neglects consideration of the informal nature of policing cooperation. Sheptycki (1998) argued that intergovernmental politics obligated the police to steadily accept the reality that harmonisation of jurisprudence is highly likely. It seems that the police need a harmonised European or cross-channel legal system. However, other studies have illustrate that, if the types of (inter)governmental instruments are well produced, the police may still prefer face-to-face communications above utilising Europol, Interpol and diplomatic communications (Walsh, 2011; Berenskoetter, 2012). This is not to say that the police do not need (inter)governmental instruments. Instead, the police demand that the production of instruments can satisfy their daily operational needs.

In contrast to Sheptycki's (1998) study, there is a police-centric model for studying the cross-channel policing cooperation. Frank Gallagher, a previous detective inspector assigned to police the Channel, addressed the significance of police in a political battlefield while discussing a cross-Channel policing cooperation. Unlike Sheptycki (1998), Gallagher (2002) mainly focussed on monitoring performance of one British police force – the Kent police force – and its interactions with the government were carefully recorded.

What Gallagher (1992, 2002) stated but was missed in Sheptycki's (1998) paper is that the success of police-led CCIC pushed the Kent Chief Constable to become one of the actors who planned and implemented the Channel Tunnel Project in 1986. This implies that a higher-ranking police officer who bears TC expertise can be designated by the government to sit at the negotiation table to strengthen and prevent police daily practices from being interrupted and destructed.

In addition to Kent Chief Constable's role, the illustration of the ELU is also different.

For example, Sheptycki (1998) recognised the ELU's success as a clearing house for information exchange, whereas Gallagher (1992) pointed out that the selection of PLOs and maintaining good relationships with the Home Office and Interpol contributed to ELU's success. It can be said that Gallagher (1992, 2002) endeavoured to present a practitioner's perspective of police cooperation to address the fact that the police can participate in a government-dominated field.

One difference can be identified in Gallagher's two papers. Specifically, there is a missing link between the Kent Chief Constable and Home Office in Gallagher's 1992 study, but the link emerges in the 2002 study. As Gallagher (2002) stated, interactions between the British Chief Constable and the French counterpart before and after CCIC should be tacitly granted by the Home Office and Interpol. This unrevealed relationship in regional police cooperation may provide a different stance concerning police autonomy and operational independence. Although there is no indication why Gallagher did not present relevant accounts in the 1992 paper, I attribute this to an unclear research approach to officers' agency. In this respect, I intend develop an appropriate approach to not only the explicit, but importantly, the implicit part of ROC transnational policing cooperation.

#### **4) A multi-actor model for studying policing cooperation**

Bowling (2009) proposed a multi-actor model based on the idea of globalisation to study policing cooperation. This is a transnational policing network, in which five socio-spatial networks were hosted. These networks comprised the following: 1) a local network hosting the police entities, such as Interpol's NCB and drug squad, 2) national network hosting national policing institutions in charge of national responses, such as National Crime Agency (NCA), General Communication Headquarters (GCHQ) and Federal Bureau of Investigation (FBI), 3) regional network hosting regional policing

institutions, such as Europol, Frontex and ASEANAPOL), 4) international network hosting PLOs who have diplomatic missions and 5) global network hosting global policing institutions, such as Interpol HQ, UN Office of Drugs and Crime (UNODC) and Egmont Group.

In addition to illustrating the model, Bowling (2009) further suggested that academics should carry out empirical studies to better explore how the five cooperation networks can work against TC. Such a focus points to a lack of comprehensive knowledge about how the police cross-border to do their job. My thesis should be able to answer this call.

In response to Bowling's (2009) call for empirical research on practitioners, two issues should be handled if I deploy the model to study ROC transnational policing cooperation. These are the ignorance of governmental influence and interrelations between the five networks. First, an issue of sovereignty of state impeding policing cooperation was raised in Bowling's (2009); however, the five networks were unable to address the issue. Hence, if I deploy the model to study ROC transnational policing, I may be distracted by addressing the CIB contributions and fail to consider the government–police relations by which their mutual influence can be captured.

Second, like the national bureaucratic model evaluated above, the multi-actor model does not consider the interrelations between the five networks. Bowling (2009) recognised a competition between the five networks. For example, a regional network can be regarded as a specific type of international network, while an international network can be deemed an extension of a national network. Nevertheless, the issue of interrelations between networks can be more significant, while actors can transgress respective networks to do practice in other networks. For example, how researchers can explore a complex nature of practice undertaken by the British police (local), who

should cooperate with NCA (national), PLOs (international), Europol (regional) and Interpol (global) to track cross-border crime. While the issue of interrelation was raised, the study did not try to capture it; rather, it explained that the multi-actor model is used as a descriptive illustration. As such, the multi-actor model can only be regarded as a classification of policing cooperation with less applicable value.

### **5) Other police-centric studies**

Interested in the practice of the police, Block (2007, 2008) and Peters et al. (2016) empirically explored how the Russian police, British police and police in the Meuse–Rhine Euroregion cooperated with their foreign counterparts. By exploring police practice, these researchers jointly capture two positions held by the police, as follows: 1) a national position within states allowing the police to coercively tackle national crimes since its creation (Hebenton & Thomas, 1995; Occhipinti, 2003; Yang & Lemieux, 2010; Bowling & Sheptycki, 2012), and 2) a transnational position beyond the state that only allows the police to tackle transnational crime via policing cooperation, with no coercive power (Sheptycki, 2000; Occhipinti, 2003). In contrast, Europol, for instance, can only be regarded as a facilitator (Occhipinti, 2003; Europol 2013) for inciting policing cooperation between forces in a transnational domain.

In Block (2007) study, the researcher, who was a previous Dutch PLO stationed in Moscow, researched on transnational criminal investigation undertaken by Russian and European counterparts by interviewing European PLOs and various Russian police organisations. In other words, the researcher set himself as an outsider to examine how the police and officers of European member-states cooperated with their Russian counterparts. By focussing on the practical nature of policing cooperation, the study adopted Benyon's three-level model<sup>17</sup> to illustrate bilateral EU–Russia cooperation,

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<sup>17</sup> Regarding Benyon's three-level model, I evaluate it in detail in section 2.3 to elaborate on its contributions to this thesis.



especially the contributions of PLOs, active Interpol and inactive Europol in EU–Russian cooperation and ineffective intergovernmental instruments. In addition, obstacles relating to the Russian side were identified, such as time consumption created by bureaucracy, a competition culture between Russian agencies, a lack of funding, corruption and political dependence.

Two issues can be raised here. First, the voice of the police is not clear. Although obstacles to cooperation between different forces were identified, there was no further information about whether the interviewees are willing to and how they could handle perceived difficulties. For example, Block (2007) mentioned that there was no designated Russian contact point at Europol. Nevertheless, there was the Russian NCB of the Ministry of Internal Affairs in charge of Interpol communications, implying that Russia was capable of transnational communications. However, the study neglected to explain the extent to which a competent authority would be set up to communicate with Europol, and more importantly, whether the interviewees could make any contribution to this. Especially, the latter point may not be easily identified. Studies have recognised PLOs' contributions to information exchange and potential to fill a gap between politicians and police officers (Bigo, 2000; Block, 2007; Block, 2008; Aydinli and Yön, 2011). They may not identify the PLOs' direct contributions to criminal investigations, except for Wu's (2013) study, which argued that ROC PLOs need successful investigations to enhance their local investigatory networks in host states. In other words, an insider world is still under development in Block's (2007) study.

Second, information exchange is the dominant topic researched. Block (2007:368) recognised that *'the most established, and referred to form of international police co-operation is the co-operation in the field of criminal investigations, entailing exchange of police information and requests for investigative actions'*. However, while criminal

investigation is the targeted type of practice explored, the study did not focus on the practice in transnational investigation, instead considering information exchange. Although this may be an unconscious distraction, I suspect that the following elements were at play: 1) information exchange rather than transnational investigation is the type of practice undertaken by the researcher and interviewees on a daily basis, and 2) information exchange is a dominant phenomenon for understanding policing cooperation in an academic community. To handle the above issues, my approach focusses on the types of practice undertaken by practitioners rather than those recognised and exploited in the literature. Such a practice-addressed approach should be able to provide unknown information to the literature and constrain the preoccupation imposed by previous work.

Block (2008) illustrated three kinds of transnational practice from a practitioner's stance, without referring to a research model. They consist of the following:

- A. **Interviews with police commanders to depict what a transnational investigation on a drug trafficking case in Europe was:** The depiction of the practice consisted of meetings between commanders and judicial authorities, exchanging letters of request and exchanging information via cellular phone. The study then pointed out difficulties concerning real-time information exchange, as well as a fragmentation of national laws (e.g. for evidence exchange and information disclosure after an arrest);
- B. **Survey and personal experience to capture European PLOs positioned in Russia:** The study illustrated that European PLOs hosted in Russia should be able to identify a proper channel for information exchange and adapt to Russian legal systems while exchanging information; and
- C. **Interviews with police commanders to capture a European legal instrument – the Joint Investigation Team (JIT):** Based on an agreement between

participating nation-states, a JIT can allow participants to take noncoercive measures in other participating nation-states and guarantee information and evidence sharing between participants. In addition, the study identified technical issues, such as the location, management and maintenance of a JIT, that could prevent European member-states from taking part. Importantly, different participating nation-states can have different approaches to undertaking a JIT. For example, in a France–Spain JIT, France preferred to work at its border and collected information in Spain without formally assisting in Spanish forces, while in a UK–Netherlands JIT, the JIT was situated in the Netherlands.

Block (2008) acknowledged that the study was a brief illustration of the practitioners' practice in European policing cooperation. However, one issue that can be useful for me to think about while approaching ROC transnational policing cooperation is that the study did not provide a clear structure to capture transnational investigation. In other words, the practice belonged to practitioners who did not have a clear position in a context outside the practitioners' agency. For example, the study did not articulate whether participants adopted European legal instruments (e.g. JITs) to investigate the researched drug case. Hence, it may be difficult to say that the investigation researched was in accordance with law if the readers do not implicitly agree with the rule of law applied in the investigation. Nevertheless, this is not to say that the practice lives in a vacuum, as agency can also be an accommodation of practice explored via (police) cultural studies. Rather, a practice- or practitioner-centric approach should remind me to think about how I can take its accommodation into account.

Focusing on the Meuse–Rhine Euroregion from an organisational perspective, (Peters et al., 2016) adopted Scott's (2005) framework as a research model and mixed methods (including interviews, questionnaires and case study) to explore interorganisational

conflicts in the context of Euroregional investigations on crime. According to Scott's (2005) study, an interorganisational conflict was invoked from five levels in each involved organisation. The five levels of conflict within the organisation consisted of the interorganisational, intra-organisational, interprofessional, interpersonal and intra-personal levels. The findings of Peters et al.'s (2016) study are described below.

#### **A. Conflicts at the interorganisational level**

Based on Scott's (2005) model, conflicts could be identified, as each police organisation was equipped with limited resources to search for effective ways to coordinate with foreign counterparts over time. If previous interorganisational cooperation could result in the establishment of trust and reciprocity, a future successful interorganisational cooperation can be expected. Otherwise, this will not happen. Peters et al. (2016) recognised that interorganisational cooperation in Germany, Belgium and the Netherlands had negative and positive aspects. The cooperation was negative because the Dutch police relied on a case management system to prioritise investigations, where chief constables, mayors and chief prosecutors needed to agree. Paradoxically, the cooperation was positive once the Dutch police prioritised investigations that were of interests to the other two police forces.

#### **B. Conflicts at an intra-organisational level**

In Scott's (2005) model, conflicts were raised in a police organisation that could be attributed to a failing leadership disseminating negative images about foreign counterparts and being unable to establish and maintain internal cohesion. Therefore, a potential solution to decrease the effects of this kind of conflict was a leadership change. As Peters et al. (2016) illustrated, the negative image of cooperation with the Dutch police was distributed among the Belgian police. Nevertheless, the participants did not mention leadership, perhaps because there is resistance in police organisations that prevents researchers from studying this subject.

### **C. Conflicts at an interprofessional level**

Based on Scott's (2005) model, different professions related to criminal investigations could be a source of interorganisational conflict. In Peters et al.'s (2016) model, there was no interprofessional tension identified in the police because of the common goal of apprehending transnational offenders. However, assembling a group of different professions, including the police, prosecutors and judges, may produce tension. Especially, the Belgian police encountered interprofessional conflicts within and beyond the nation-state. There were interprofessional conflicts because the Belgian and German police perceived tensions while communicating with Dutch prosecutors, who dominated transnational investigations on the Dutch side. Meanwhile, the Belgian police perceived tensions in the state, as the Belgian prosecutors and judges could ignore the transnational cooperation requested by the Belgian police without any explanation for this.

### **D. Conflicts at an interpersonal level**

Interpersonal social networks, which depend highly on personal experience, could have positive or negative effects on interorganisational cooperation (Scott, 2005). Peters et al. (2016) argued that informal contact is a critical factor in effective cooperation, especially, between Eupen in Belgium and Aachen in Germany. This can be attributed to a similar bureaucratic specialisation, implying that an officer assigned to a specialised unit (e.g. anti-drug unit) of the mother organisation can be easily contacted by foreign counterparts assigned to the corresponding unit of their mother organisation.

Dutch police officers usually claimed benefits in interpersonal networks by gaining responses from their Belgian and German counterparts; however, they used Dutch bureaucracy as an excuse in responding to friends' requests. Hence, Peters et al. (2016)

further suggested initiating a follow-up cultural study in the Netherlands.

### **E. Conflicts at an intra-personal level**

As Scott (2005) assumed, police officers' emotions could influence interorganisational cooperation. However, Peters et al. (2016) did not provide evidence to support the assumption.

Overall, Peters et al. (2016) addressed conflicts occurring in three 'inter' contexts (organisational, professional, personal) and two 'intra' contexts (organisational and personal). From this, two issues can be raised, as described below.

#### **A. A government–police relationship is not addressed**

Peters et al. (2016) concluded that the interorganisational conflicts caused by the Dutch case management system were not easy to solve. Conflicts caused by the Dutch case management system illustrate a potential to structure a national context in which governments and the police (and other relevant actors) should jointly search for solutions. Such a potential cannot be exploited because it is beyond Scott's (2005) model.

#### **B. The voice of the police is unclear: a problem of capturing interviewees' accounts caused by an unclear organisation–agent relationship**

The interviewees' accounts are difficult to locate in terms of the conflict level. As Peters et al. (2016) argued, it was hard for the interviewees to recognise perceived conflicts generated at an interpersonal *vis-à-vis* interorganisational or an interpersonal *vis-à-vis* an intra-personal level. For example, one German participant argued that the Dutch case management system was the factor of conflict, whereas another German participant suspected that it was the Dutch counterparts' unwillingness to cooperate. Hence, it is difficult for researchers to capture what is really going on in the researched

phenomenon. Such an encounter can be attributed to the fact that the study did not specify a clear organisation–agent relationship.

A clear organisation–agent relationship should be able to reveal a police officer’s single or multiple positions and corresponding practice. For example, police officers from the mother organisations can act in the following ways: 1) as bureaucratic supervisors and supervisees or detectives and uniformed officers, 2) as a ‘human interface’ (Bigo, 2000:74) in a policing cooperation context and 3) as ‘courtroom evidence managers’ and ‘case solvers’ (Brodeur, 2010:214; Westera et al., 2016:2) in a criminal justice system. If interviewees do hold more than one position, they may not be able to isolate one from another to link their accounts to a specific position. However, it can be stated that perception is personal, and that of one person is different from the perceptions of others (Martin, 1944; Healy and Perry, 2000; Bowen, 2008). This is because a police officer’s accounts are supposed to be based on the individual experience of daily practice. Hence, while German and Belgian accounts depicted the Dutch case management system as unsatisfying, these accounts should be regarded as a reflection of the interviewees’ unhappiness with their Dutch counterparts rather than the system. After all, the German and Belgian interviewees did not personally utilise the system, but possibly heard about it from their Dutch counterparts. Therefore, while collecting interviewees’ accounts, the nature of the accounts (*know-how*) should be handled carefully to maintain a direct linkage of accounts to practice rather than to models.

In summary, an evaluation of the researched models in this section revealed two outcomes, as described below (refer to Table 2.1).

**1) A research model (theory or structure)–driven study directs researchers to meet the expectations of model rather than those of the police**

The police practice are expected to be captured by a research model (Sheptycki, 1998;

Deflem, 2000; Gerspacher, 2005; Deflem, 2006; Block, 2007; Gerspacher & Dupont, 2007; Bowling, 2009; Den Boer, 2010; Gerspacher, 2010; Peters et al., 2016). As such, not only do the police lose a chance to reveal their stance, but their accounts can also be adopted to counter their stance. For example, do the police need a national database to regulate information exchange, or do they enjoy the autonomy to act at will, such as face-to-face communications? Does the police's TC expertise promote or impede transnational participation? Why do the police still rely more on informal arrangements (e.g. direct contacts and PLOs) than formal ones (e.g. IPOs, SPOs and diplomatic communications)? If informal arrangements are adopted, does this signify the failure of rule of law applied in a transnational (legal) domain?

## **2) Non-research model-driven study cannot fully explore police practice**

The police are not approached in an appropriate way (Gallagher, 1992; Gallagher, 2002; Block, 2008). Hence, police practice cannot be fully explored. For example, there should be a government-police relationship in the United Kingdom. However, the Kent police required implicit approval from the Home Office to make P2P cooperation, as addressed in Gallagher's 2001 rather than his 1992 study. In addition, while researching on three types of operational European policing cooperation, Block (2008) did not mention whether JIT was applied to the studied cross-border investigation (the first type of practice); however, he illustrated JIT alone as the third type of practice. Hence, it is far from clear that the researched cross-border investigation is in accordance with formal or informal arrangements.



**Table 2.1 A position of the police in research models**

Research models	Actors and focus	Police position and related problems
<p><b>Multilevel governance model</b></p>	<p>Governments, international policing organisations (IPOs) and supranational policing organisations (SPOs)</p> <ul style="list-style-type: none"> <li>● Focus on policy-making in an international domain</li> </ul>	<p><b>Police are a member of state</b></p> <ul style="list-style-type: none"> <li>● Police are expected to satisfy the needs of governments, IPOs and SPOs</li> <li>● Police are not expected to satisfy own needs</li> </ul> <p><b>Examples of problems caused by an ignorance of a national domain (a lack of depicting government–police relations)</b></p> <ul style="list-style-type: none"> <li>● Do the police need a national database to regulate information exchange, or do they enjoy autonomy to act at will?</li> <li>● If the police need a national database, can the need be fulfilled in a national context?</li> </ul>
<p><b>National bureaucratic model</b></p>	<p>Governments and the police</p> <ul style="list-style-type: none"> <li>● <b>Structural context:</b> a government–police relationship (fixed rather than dynamic)</li> <li>● <b>Institutional context:</b> TC expertise of the police</li> <li>● <b>Collaborative context:</b> national persistence of the police</li> </ul>	<p><b>Government–police relationship exists but unclear</b></p> <ul style="list-style-type: none"> <li>● Police practice is expected to be captured by the three relatively isolated contexts</li> </ul> <p><b>Example of the problem:</b> A lack of considering intergovernmental influence (e.g. less transnational participation is attributed to a lack of international identity of the ROC government rather than a lack of TC expertise of the ROC police)</p> <ul style="list-style-type: none"> <li>● There are no linkages between a government–police relation, TC expertise and national persistence</li> </ul> <p><b>Example of the problem:</b> The police’s TC expertise can promote or impede transnational participation</p>
<p><b>Historical model</b></p>	<p>Governments and the police</p> <ul style="list-style-type: none"> <li>● <b>Developing process of policing cooperation</b> (e.g. from P2P to intergovernmental policing cooperation)</li> <li>● <b>Beyond state:</b> a competition between different national policing systems</li> <li>● <b>Within state:</b> a competition between governments and the police and between different forces</li> </ul>	<p><b>Police are dominated by governments</b></p> <p>Police are expected to satisfy demands of governments (e.g. a harmonised legal system)</p> <p><b>Examples of the problem:</b></p> <ul style="list-style-type: none"> <li>● <b>Unclear voice of the police</b> (e.g. the nature of face-to-face communications is not fully explored)</li> <li>● <b>Unclear government–police relationship:</b></li> </ul> <ol style="list-style-type: none"> <li>1) A lack of influence of the police on governments to shape the police’s preferred instruments (e.g. a</li> </ol>

Research models	Actors and focus	Police position and related problems
		<p>contribution of the British Kent police to plan Channel Tunnel Project 1986)</p> <p>2) <b>(Inter)governmental instruments are not appreciated</b> (e.g. if formal arrangements like POs, SPOs and diplomatic communications are well developed, why do the police still rely more on informal arrangements like direct contacts and PLOs?)</p>
<b>Multi-actor model</b>	<p>Various actors but governments are not included</p> <ul style="list-style-type: none"> <li>● Classification of policing cooperation</li> <li>● <b>Five networks:</b> local, national, regional, international and global networks</li> </ul>	<p><b>Police are isolated from governments</b></p> <ul style="list-style-type: none"> <li>● Police are situated in one of five networks</li> </ul> <p><b>Example of the problem:</b> a lack of government–police relations to capture their mutual influence</p> <ul style="list-style-type: none"> <li>● Police are not expected to transgress located networks because of no interrelations between networks</li> </ul> <p><b>Example of the problem:</b> while the British police cooperate with British NCA and Interpol, should the police only be situated in a local network, or should they be included in other networks?</p>
<p><b>Police-centric model</b></p> <ul style="list-style-type: none"> <li>● Benyon’s three-level framework</li> <li>● Scott’s interorganisational conflict model</li> </ul>	<p>Police</p>	<p><b>Police are focussed and a government–police relationship is addressed</b></p> <ul style="list-style-type: none"> <li>● Mutual influence between governments and the police are addressed</li> </ul> <p><b>Police are focussed but the government–police relationship is unaddressed</b></p> <ul style="list-style-type: none"> <li>● Mutual influence between governments and the police are not addressed</li> </ul> <p><b>Police are focussed in an organisational context</b> (Interorganisational, intra-organisational, interprofessional, interpersonal and intra-personal levels)</p> <ul style="list-style-type: none"> <li>● <b>Government–police relationship unaddressed</b></li> <li>● <b>Organisation–agent relationship unclear</b></li> </ul> <p><b>Examples of the problem:</b></p> <ul style="list-style-type: none"> <li>● <b>Unclear voice of the police</b> (e.g. to</li> </ul>

Research models	Actors and focus	Police position and related problems
<ul style="list-style-type: none"> <li>● Without a clear research model</li> </ul>		<p>what extent the police are willing to and can handle perceived difficulties, the nature of cooperation practice, PLOs' direct contributions to investigations and the nature of interviewees' accounts)</p> <ul style="list-style-type: none"> <li>● <b>Dominant researched concept:</b> information exchange</li> <li>● <b>Lack of a clear analytic structure to capture practice:</b> agency or structure addressed?</li> </ul>

This evaluation of research models also identifies useful directions for me to consider a research approach in which CIB (and detectives) are addressed. These useful directions can be illustrated as follows:

- 1) CIB (and detectives) as practitioners should be the subject of research;
- 2) In addition to information exchange, criminal investigation as the core mandate of CIB operational units can be equally addressed;
- 3) Detectives' accounts should be connected to the practice rather than captured by any model; and
- 4) To explore transnational practice, relations between detectives and other actors should be addressed, especially CIB–detective (within CIB), government–CIB (within the state), intergovernmental (within and beyond the state), interorganisational (within and beyond the state) and interpersonal relations (within and beyond CIB and the state).

### 2.3 The first draft of the theoretical framework: an agency framework

To further develop a research approach to ROC transnational policing cooperation, I focus on Benyon's three-level framework. The framework was proposed by a Benyon-led research team at the University of Leicester examining European policing cooperation. The three-level framework aimed at capturing government and police

practice at the following levels: 1) a macro-level in which governments constructed (inter)governmental (political and legal) instruments, 1) a meso-level in which the police formulated organisational arrangements and carried out daily practices and 3) a micro-level in which the police undertook specific crime prevention and detection actions (Benyon, 1992; Benyon et al., 1994; Benyon, 1996). In other words, the macro-level was occupied by government, while the police could act at the meso- and micro-levels.

Benyon (1992) regarded the three-level framework as a classification system without any explanatory value. However, Santiago (1998) suggested that, if the three-level framework is expected to be deployed to research policing cooperation, the framework should be further developed. I echo Santiago's (1988) suggestion and regard the three-level framework as a cornerstone to be built up further. To this end, the features, strength and weakness of the framework are identified below.

### **1) Two features**

First, the three-level framework identified two long existing actors – governments and the police – in European policing cooperation. Such an identification reflects the historical fact that policing cooperation was initiated by the state (including governments and the police) and then gradually evolved into various IPOs and SPOs in an international (and transnational) domain (Sheptycki, 1998; Gerspacher, 2008).

Second, the three-level framework was not exclusive, and each policing cooperation instrument could be structured by parts of the framework (Benyon et al., 1994). For example, the Schengen Agreement was a three-level cooperation, Interpol was a combination of meso- and micro-level cooperation and European football match events could be deemed micro-level cooperation (Benyon et al., 1994).

## **2) Strengths**

The three-level framework can overcome several issues raised in section 2.2, including the following:

- A. The lack of intergovernmental influence caused by the national bureaucratic model;
- B. Ignorance of the national domain caused by the multi-level governance model;
- C. Lack of position for government to hold caused by the multi-actor model;
- D. Unappreciated (inter)governmental instruments caused by the historical model;
- E. Lack of interrelation between the three contexts caused by the national bureaucratic model and between five networks caused by the multi-actor model; and
- F. Lack of a clear structure for studying policing cooperation caused by several police-centric models, such as those of Gallagher (1992, 2002) and Block (2008).

Moreover, because there were no extra additives beyond the practice, levels and two actors identified, the three-level framework can be developed by utilising the useful directions mentioned at the end of section 2.2.

## **3) Weaknesses**

A weakness of the model is that the interrelations between levels are not equally addressed, which can result in a lack of government–police relationship and unclear organisation–agent relationship. Regarding the lack of a government–police relationship, there is no interrelation between the macro- and meso-level. Hence, mutual influence between governments and the police could be neglected. For example, the production of police organisational arrangements (at a meso-level) did not necessarily require the existence of (inter)governmental instruments (at a macro-level). This implies the autonomous character of the police, independent from governments,

without taking top-down and bottom-up influence into account.

In contrast, there is an interrelation between the meso-level and micro-level that highlights an effect of police organisational arrangements on officers' daily practice. For example, police investigations on TC (at a micro-level) depended on the production of police organisational arrangements (at a meso-level). However, such an organisation-agent relationship was unclear, resulting in a problem of locating the practice of the police to the correct (meso- or micro-) level. Taking information exchange as an example, a problem of locating the practice on the meso- or micro-level can be anticipated. This is because police officers can share information for daily purposes (on the meso-level) or criminal investigation (on the micro-level). A further difficulty can be perceived when detectives undertake transnational investigation by exercising a collection of different instruments, such as Europol, Interpol, the Schengen Information System, PLOs and foreign counterparts in a JIT as information-sharing points.

A rule of thumb to overcome the weakness of the interrelations between levels is taking police officers and their relations with other actors (e.g. governments, organisations and foreign friends) rather than levels into account. After all, police officers' practice can be regarded as deploying one or more instruments; where those instruments are produced and deployed does not matter. Hence, Wu (2013) proposed a three-actor model (as opposed to Benyon's three-level one) to examine the interactions of ROC PLOs with the government and CIB. By interviewing PLOs, Wu (2013) made the following conclusions:

- 1) Within state, a governmental proposal for sending a PLO to a host nation-state was produced by the CIB and determined by the government. Organisational regulations, including recruitment, training and deployment, were proposed by the CIB and

determined by the NPA;

- 2) Beyond the state, although PLOs obtained limited resources provided by the government and CIB, the PLOs could distribute own resources to build up localised investigatory webs in host nation-states. Moreover, a localised investigatory web could be strengthened by PLOs cooperating with foreign allies to accomplish successful investigations; and
- 3) It was the PLO's transnational performance that had the potential to influence the government-determined scale of PLOs and NPA-determined regulations in the national domain.

As in Peters et al.'s (2016) study, the issue of interviewees' accounts can be raised. Specifically, while interviewees' accounts described unsatisfying CIB's arrangements, there was no evidence to indicate whether the interviewees were unsatisfied with the regulations, the CIB officers they interacted with or both. For example, governmental decision making on sending a PLO could be jointly carried out at the following levels: 1) within the state, by the minister and officials in MOFA, representatives and officials in the Representative Office, director-general and police officers in the NPA and commissioner and police officers in the CIB, and 2) beyond the state, foreign governmental officials and police officers in host nation-states. Hence, the generation of PLOs' practice cannot only be attributed to PLOs. Instead, various contributors who hold different posts and make corresponding types of practice should be identified. Again, actors (agency) and relations between posts other than levels, contexts and networks (structures) should be addressed.

By taking the useful directions identified at the end of section 2.2 and (re)addressing actors (agency) and relations between posts in this section, I propose the agency framework to capture ROC transnational policing cooperation (refer to Table 2.2). This

agency framework regards transnational policing cooperation as the practice produced in two domains (within and beyond the state) by a group of professionals in which the police are the focused.

**Table 2.2 An agency framework for studying transnational policing cooperation**

<b>Within or Beyond the state</b>	<b>Police officers' practice</b>	
<b>Within the state</b>	Holding posts in respective organisations (reflecting an organisation–agent relationship) of the state (reflecting a government–police relationship)	Communicating with each other, including: Interpersonal, intra- and interorganisational and intra-governmental communications
<b>Beyond the state</b>		Communicating with foreign counterparts, including: Interpersonal, interorganisational and intergovernmental communications
<p>Except for self-determined interpersonal communications, professionals may engage in the following:</p> <ol style="list-style-type: none"> <li>1) Intra-organisational communications only if they are institutionally approved by the respective supervisors;</li> <li>2) Interorganisational communications only if they are institutionally approved by the respective organisations; and</li> <li>3) Intra- and intergovernmental communications only if they are institutionally approved by the respective ministries.</li> </ol>		



### **Chapter 3 Toward a Theoretical Framework: Capturing the Sense of Practice**

In chapter 2, it has been argued that a police officer's autonomy is not addressed in studies on policing cooperation. For convenience, researchers usually heuristically deem participants as representatives of an analytic unit in studies. An analytic unit, which is the subject with the power to participate in a practice, is an all-in-one term in many studies, and the term usually refers to the police, the government or the police of the government (e.g. the CIB is an organ of MOI) rather than an account provider—police officers. Without specifying participants' stances on and their relationships with other groups, researchers are not able to establish a social context to situate participants' accounts. It can thus be argued that police officers' accounts as (semi)autonomous practitioners have not yet been investigated. To address the importance of the police officers' stances (agency) on their transnational activities, the agency framework has been developed.

Due to a general lack of a cultural approach to police cooperation and a focus on participants' own stances, studies on police/policing (organisational/occupational) culture are examined in this chapter to shape the agency framework. There is a broad consensus that culture, rather than theory in books or law, drives low-ranking officers' daily practices (Westmarland, 2008). Police culture is a concept that has informed rank-and-file officers' conduct in practice concerning topics, such as discretion, discrimination, sexism, racism and corruption, since the 1960s (Banton, 1964; Holdaway, 1983; Westmarland, 2008; Loftus, 2009; Loftus, 2010; Heslop, 2012; Holdaway, 2013; Loftus, 2015). Apart from accounting for daily conduct, police culture can also be regarded as a coping mechanism against threats within and outside police organisations (Manning, 2007; Westmarland, 2008; Loftus, 2009). In addition, due to the context sensitivity in terms of work spaces, some researchers have mentioned that police cultures can vary, such as the culture of detectives (Cohen & Chaiken, 1987;

Hobbs, 1991; Young, 1991; Smith & Flanagan, 2000; Glomseth et al., 2007; Hallenberg, 2012; Westera et al., 2014; Westera et al., 2016) or the culture of police managers (Manning, 2007; Sklansky, 2007; Westmarland, 2008). Moreover, a police officer accepts the police culture because he or she is an active user rather than a passive receiver waiting to be socialised by it (Chan, 1996, 1997, 2007; Manning, 2007; Sklansky, 2007). Finally, although police culture has been recognised as the main reason that police reforms often fail (Loftus, 2009; Holdaway, 2013; Bacon, 2016), there is also potential for cultural change to occur (Chan, 1996, 1997, 2007; Wood & Marks, 2007). Although studies on police culture do provide rank-and-file officers' insights into the practice of policing, academics have questioned the phrases 'police culture' or 'police occupational culture' from many perspectives. The debates have centred on the vagueness of the definition (e.g. norms, beliefs, values, attitudes and police personalities), whether the term is monolithic versus plural and the potential for cultural change. Debates related to police culture encouraged me to adopt an agency–structure framework to address an insider's autonomy of structuring his/her insider world. It is at this turning point that I gradually submit to Bourdieu's theory of practice<sup>18</sup>.

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<sup>18</sup> In addition to addressing the autonomy of police, particularly that of officers, there is another reason for my submission to Bourdieu's theory of practice. Bourdieu's evolution of practice over time (history) and across various social contexts suggests that fields where an actor is both dominated and dominant are influenced without exception. In this study, Bourdieu's theory is applicable, which I realised after I obtained an understanding of Bourdieusism. I articulate this reason in detail as follows.

- 1) **I crossed boundaries of disciplines to accept the influence of the academic field as an illustration of evolving my agency as a practitioner to an agency of practitioner–researcher.** The evolution of my agency began when I was driven by shaped academic habitus (e.g. a disposition to literature review) to transpose boundaries of disciplines to create a hybrid of a top–down approach to policing cooperation and a bottom–up approach to police culture to generate an agency–structure framework in an academic field. I did so over a period of time, and my first encounter with Bourdieu's theory of practice was provided by my supervisors in 2013; however, I did not explore Bourdieusism until the end of 2016 after reviewing studies on policing cooperation and police culture. In other words, the evolution of my agency was not initially influenced by any existing understanding of Bourdieusism but rather followed the logic of Bourdieusism.
- 2) **Transnational policing cooperation is not undertaken by police officers but rather by the police officers of the police of or in connection with the government of state due to an influence of multiple fields.** According to Bowling (2009), while I evolve my agency, the practice in policing cooperation itself also evolves over time. However, previous studies on policing cooperation cannot jointly illustrate the mutual influence imposed from the top and bottom over time and across multiple fields to demonstrate the evolution of practice (Gallagher, 1992, 2002; Sheptycki, 1998; Fijnaut & Spapens, 2010; Gerspacher, 2010; Wu, 2013). Instead, previous studies can only present policing cooperation in a specific term of time and in fixed contexts (e.g. political, social, legal, geographical or organisational contexts). Hence, studies cannot answer why the police in the past and in some

Bourdieu's theory of practice provides researchers with a different way of thinking to understand habitus—a term similar to culture but directly related to practice in a field as an accommodation. For Bourdieu, practice can be jointly captured by habitus and field. Neither habitus nor field can independently portray practice (Christensen et al., 2007; Emirbayer & Johnson, 2008). Hence, if researchers focus on habitus, field cannot be ignored, and vice versa. Indeed, Chan (1996, 1997), an advocate of practice, pointed out that the construction of habitus should consider the role of social contexts (hereafter, fields); however, from a methodological perspective, Chan may not have distinguished between a '*practised field*'<sup>19</sup> (in direct relation to habitus) and a '*practical field*' (in relation to knowledge concerning practice rather than habitus). Because the intention is to explore ROC transnational policing cooperation from a practitioner's perspective, it is worthwhile to explore Bourdieu's theory of practice, which forms the focus of this chapter.

The chapter is divided into four sections, as follows:

- 1) **Bourdieu's habitus as '*a feel for the game*'**: In this section, Bourdieu's important concepts of habitus and field, along with some workable considerations, are illustrated;

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contexts can participate in the practice or why they cannot do so at present and in other contexts (refer to the column entitled 'Police position and related problems', Table 2.1). Bourdieu's theory of practice is expected to answer the above question regarding whether police officers can be situated in fields to allow them to transpose boundaries of contexts. In chapters 3, 5 and 6, it is demonstrated that police officers' pre-existing practices made in past fields and driven by the past part of habitus can influence any present (and future) practice made in present (and future) fields and driven by the present (and future) part of habitus.

<sup>19</sup> Bourdieu usually employs the phrase '*practical sense*' to depict habitus. From an operational perspective, habitus is implicit in nature, which may not be consciously recognised by holders. To capture habitus, researchers are encouraged to engage in participants' fields to understand the sense of practice and to then construct their fields. This type of research can be undertaken via ethnography; however, it can be argued that an interview alone cannot precisely depict the implicit nature of habitus and its associated field; rather, it is more appropriate for explicit knowledge concerning the practice and field. To address the difference between an ethnography-based and an interview-based habitus and field, in this study, both '*practised sense*' and '*practised field*' are used to express an ethnography-based habitus and field. In contrast, '*practical sense*' and '*practical field*' can be used to express an interview-based habitus and field (a discussion on the methodology is provided in chapter 4).

- 2) **Field analysis ignored in police culture studies:** This section illustrates the critical claim that culture studies can be enhanced by applying Bourdieu's field analysis to better monitor habitus (culture) change;
- 3) **Field analysis of transnational policing cooperation:** In this section, the field analysis is extended to a transnational level. By evaluating pioneering studies led by Bigo and Berenskoetter, it is demonstrated that practice can be better captured by multiple fields rather than a single field; and
- 4) **An agency-structure framework:** In the final section, the agency framework proposed in chapter 2 is transformed into an agency-structure framework in accordance with Bourdieu's theory of practice (refer to Table 3.1 and Figure 3.1).

### **3.1 Bourdieu's habitus as '*a feel for the game*'**

The understanding of practice can be situated at the interface of field and habitus (Bourdieu, 1977; Chan, 2007). Practice can be regarded, in general, as '*actions, ways of doing, designed to carry out tasks and get work done*' (Manning, 2007:52), or in a specific sense, as a kind of manufacture, such as crime fighting and order maintenance by policing (Moore, 2006). However, from Bourdieu's viewpoint, practice should be considered essentially skilful actions that reflect an actor's dispositions to compete for various resources (capital) via strategic actions in the field (Shammas & Sandberg, 2016). Especially, the competition for capital – as the practice in capital accumulation – can allow an actor to occupy a dominant position for exercising power (Emirbayer & Johnson, 2008), or influence, a term I borrow from social psychology (Turner, 2005). Hence, Bourdieu's practice needs an accommodation (field) and dispositions (habitus) to be generated. Two further implications should be addressed here, as follows:

- 1) The practice cannot be considered the result of obeying any rule but is conditioned by the logic of the field (Bourdieu, 1977). Hence, the (re)production of practice can be anticipated because of the logic of field rather than a statistical, rational choice

or stimulus–response model (Bigo, 2011; Christoforou & Lainé, 2014; Hanappi, 2014; Shamma & Sandberg, 2016); and

- 2) The practice can only be undertaken by an actor who is driven by the habitus (or culture in general). Importantly, the (re)production of practice depends on the logic of field crystallised in the habitus to constantly drive actors to do so. In addition, this driving force generated by habitus is not required to invoke actors' consciousness. Therefore, both the logic of a specific field and its associated part of habitus contribute to the uniqueness and (re)productions of practice. In this respect, for example, while the bureaucratic field can accommodate state-launched practice, the literary field can only host the practice in producing, distributing and criticising literary materials (Bourdieu, 1995, as cited in Shamma & Sandberg, 2016). It cannot be expected that literary practice could be (re)produced in the bureaucratic field.

To understand the close relationship between habitus and field, the significance of actors cannot be ignored in terms of their ability to act and create. Although practice can be undertaken by actors, such as individuals or groups (Burke et al., 2016; Shamma & Sandberg, 2016), it can be argued that individuals are the only actors who can perceive the logic of the field, crystallise the logic into habitus and take actions in a field (structure). However, individuals are usually heuristically regarded as representatives of their groups in studies (as discussed in chapter 2). This is because individuals not only act on their own behalf, but also, in group settings, behave in a group's preferable way to some degree. As such, in the group context, individuals' mindsets are usually not successfully revealed. Hence, the difference between individuals and a group of individuals can go unrecognised. To avoid this heuristic thinking Emirbayer & Johnson's (2008:22) differentiation of '*organisations as fields*' from '*organisational fields*' inspires the idea that the relatively small unit for capturing

practice can be an individual's agency. This means that the agency is the accommodation where an individual's physical body as the field and habitus in mind are hosted. Moreover, it is through this agency that an individual is capable of 'actively interacting' with the world outside his/her body and mind and 'reactively imposed' by the world to (re)construct his/her subjective world. In return, the agency can be (re)shaped during each interaction. Hence, understanding the practice is not about exploring how others, such as other individuals or a group (e.g. the government, IPOs or SPOs) take actions. Instead, researchers should focus more on exploring how a specific individual produces a certain type of practice.

An individual's perception is the key to unlocking this complexity of practice. Using academics as an example, Lincoln and Guba once argued that researchers' belief in the world can be arbitrary for many possible reasons (Paley & Lilford, 2011). They may underestimate the power of human perception. Specifically, for subjective worldview advocates<sup>20</sup>, a researcher can regard every element, including subjective actor and

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<sup>20</sup> Generally, Popper proposed three types of worldviews (Healy & Perry, 2000), as follows:

- 1) A positive world consists of objects. Positive-world researchers believe in a single, objective world consisting of independent facts that can be measured scientifically (Healy & Perry, 2000). Measurement results are value-free data and cannot be changed over time. For positivists, a social phenomenon is an object about which researchers collect measurable and independent data to construct an understanding; however, positivists ignore that a social phenomenon is full of human participants capable of interacting with each other, evolving their viewpoints and altering behaviour over time. In other words, positivist researchers who cannot regard, for example, human participants' self as an imperative factor will lose the opportunity to study a constantly changing phenomenon, such as transnational policing cooperation;
- 2) A subjective world is constructed by human minds. Subjective-world proponents, who advocate critical theory, constructivism and naturalistic inquiry, do not believe that there is an objective world; rather, they believe in the existence of various subjective realities. These subjective realities can live only in people's minds and evolve over a long period of social change and self-experience that is accompanied by feelings, ideas and emotions (Martin, 1944; Healy & Perry, 2000; Bowen, 2008). Therefore, to perceive and understand subjective realities, researchers must collect information from and interact with participants (constructivism) and the natural environment (critical theory and naturalistic inquiry), where participants live over a significant, usually long-term, period (Aksamit et al., 1990; Healy & Perry, 2000; Awty et al., 2010; Silverman, 2013). In such a paradigm, belief and value systems are of interest to subjective-world proponents (Aksamit et al., 1990; Healy and Perry, 2000; Awty et al., 2010; Silverman, 2013);
- 3) A realistic world consists of human creations, such as language, institutions and ethics, which can exist independently of humans but cannot live without human minds. Realistic-world proponents believe that there is a world consisting of humans' creations, such as language, which exist outside and independent of human minds. Therefore, in contrast to positive-world and subjective-world proponents, realists have different views about human participants' positions in the realistic world.

objective social creations, outside his/her mind<sup>21</sup>, as a social world for perceiving. To perceive the world, a researcher should interact with it by using his/her sensory organs to obtain a sense and establish a reality (image) in his/her mind. In this respect, a researcher uses own agency to obtain the sense of world. Such a reality is a closed perceptual reality independent of others. The embodiment of this reality is that a researcher constructs his perceptual social world. However, a researcher's perceptual social world concerning the academic field comprises social creations, including materials (e.g. journal articles and books) and symbolic items (e.g. concepts, models and theory). The academic production is under the logic featuring similarities and differences across respective academic communities, including institutions, disciplines and publishers. In other words, various perceptual social worlds are interconnected and mutually influenced because of different researchers' creativity in production and the logic of production they should follow to enrich their respective perceptual social worlds. This further implies that a researcher's perceptual social world can be (re)shaped by following a combination of his/her and others' logic of production. For example, a researcher relies on his/her work and other researchers' studies to explore new sets of knowledges on the topics in question. Hence, it is not surprising that the perception of a target by a researcher who is unable to hear will differ from that of a researcher who is unable to see.

Even if two researchers are in good physical and psychological health, their perceptions of the same target can still vary. Their different perceptions may be further attributed to the standards adopted by their respective academic communities (subfields of the academic field), which partially influence their stances concerning what a reality is. As

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While positive-world proponents regard humans as objects and subjective-world proponents view humans as participants who constitute parts of reality, realistic-world advocates view humans as gatekeepers who can allow researchers to access a world of humans' creations (Healy & Perry, 2000).

<sup>21</sup> The psychological separation between the mind (subjectivity and the concept of 'I') and outside world is developed at the early stage as an infant who cries for other subjects' assistance, such as that of the mother and carers (Mahoney & Yngvesson, 1992).

such, a physicist uses the term ‘sound’ to illustrate that there are sound waves in the air, whereas a psychologist considers ‘sound’ to be a reply of the auditory sensor to its accepted length of sound waves (Martin, 1944). It makes little sense for researchers in the natural sciences to either undertake experiments without personal perceptions or keep their experiencing selves uninvolved during experiments (Martin, 1944). Policing studies are no exception. For example, a frontline police officer undertakes actions based on his/her perception of supervisors’ intentions. Such a perception does not necessarily reflect the real intentions upheld by the supervisors (Engel & Worden, 2003).

It can be argued that, because of the perception ability, a person can collect information outside his/her mind and then make sense of it and act accordingly. Specifically, in addition to using sensory organs, a person who has held relevant knowledge can actively employ language, generating conversation and communication to materialise his/her surroundings into existence (Weick et al., 2005). Hence, a proactive person should use meaning attachment in a way that he/she applies knowledge to communicate with his/her surroundings during every encounter (Chan, 2007; Ng & Tan, 2009).

A prerequisite for making sense of the surroundings and then acting accordingly is that a person should hold associated knowledge. This involves four aspects, as follows: 1) habitus can be understood as implicit and procedural knowledge (Ng & Tan, 2009), 2) the organisation of habitus can evolve, 3) habitus is not singular but can be shared within groups and 4) habitus – precisely, a specific part of habitus – is (re)produced in a field. I illustrate the four aspects in order below.

### **3.1.1 Habitus can be understood as implicit and procedural knowledge**

For Bourdieu, there are two types of knowledge – explicit and implicit knowledge. A practitioner’s explicit knowledge can be researched by theorists using empirical



methods, such as interviews and surveys, for data collection. In contrast, implicit knowledge cannot be easily transmitted by a practitioner for a theorist to recognise. This implies that there are two roles for a practitioner to play in mind, namely that of an outsider and that of an insider. Theoretically, to respond to researchers' questions, a practitioner inclines to an outsider/self-observer who can deliver explicit knowledge based on observing, analysing and memorising what has been experienced (Bourdieu, 1977). Nevertheless, he/she may neglect a sense of familiarity, which is an insider's feel for that action/game (Bourdieu, 1977). This feel cannot be understood precisely and spoken out as knowledge of the unsaid<sup>22</sup> (Bourdieu, 1977). In addition, it should be developed via practice in a significant period of time (Bourdieu, 1977). The phrase '*a feel for the game*', which Bourdieu tried to grasp, is the general expression for the practice to be embodied (Bourdieu, 1988:782). Importantly, this feel as a *practiced* sense can neither be predicted by statistics nor be a result of the stimulus–response model advocated by behaviourists (Bigo, 2011; Christoforou & Lainé, 2014; Hanappi, 2014). In contrast, a *practiced* sense is a necessary product of practice, as well as a residue of past experience (Bigo, 2011; Christoforou & Lainé, 2014; Hanappi, 2014). This type of *practiced* sense, as a '*learned ignorance (docta ignorantia)*' (Bourdieu, 1977:19) rather than an explicit theory or formal rule, should gain academic attention because it informs us that an anticipated action will be produced in a specific context consisting of the field and actors. To better depict the sense of practice, the term 'habitus' has been adopted to indicate a system of norms, values and dispositions (Bourdieu, 1977; Bourdieu, 1988; Burke, 2016). Bourdieu further noted that habitus includes habitual ways of understanding, judging and behaving, and it is attributable to holders occupying their positions in single or multiple fields, from their specific trajectory in a

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<sup>22</sup> Polanyi (1966:4), a physical chemist, made a similar argument about human knowledge: '*[W]e can know more than we can tell.*' Especially, most of human knowledge cannot be expressed and communicated by language (Polanyi, 1966). Only if receivers can catch the meanings that deliverers try to demonstrate can interpersonal language communications be successful (Polanyi, 1966). Reception of implicit messages beyond language will greatly depend on an assumption that '*the person addressed will discover that which we have not been able to communicate*' (Polanyi, 1966:6). Such a 'self-discovery' of untold messages is similar to Bourdieu's 'feel' for the game.

field and from their life experiences (Terdiman, 1987; Wacquant, 2014b). Therefore, although habitus can be studied in isolation (Wacquant, 2014b), it does not indicate that other components of practice can be overlooked. In other words, habitus should co-exist with actors and field.

Generally, Bourdieu described explicit and implicit knowledge for theoretical purposes. To empirically capture habitus, a schema<sup>23</sup> – a sophisticated cognitive framework for organising knowledge – can be adopted as a workable concept (Brewer & Nakamura, 1984, as cited in Robinson, 2000). This concept is established along with the development of psychological and neuroscientific studies. Initially, Bartlett (1932, as cited in Robinson, 2000) recognised that subjects who participated in psychological experiments frequently made meaningful errors because those who were exposed to a specific context constructed a related schema toward errors. Therefore, Bartlett hypothesised that people’s minds can produce a basic schema during constant exposure to specific experimental contexts (Robinson, 2000). Since then, the schema concept has been adopted to depict two types of people’s knowledge – *knowing-what* and *knowing-how*. A *know-what* schema including conceptual or content knowledge is constructed for a holder to understand or make sense of a specific context (Noteborn et al., 2014; Kind & Osborne, 2017). For example, what is the content of an emergency call – a crime or fire scene – and who is involved – the police or fire departments? In contrast, a *know-how* schema includes transferable knowledge, namely the procedures or frame knowledge applied by holders to undertake specific actions against problems or potential threats (Noteborn et al., 2014; Kind & Osborne, 2017). This type of schema contains people’s ‘worldviews, values, and concerns that help define the meaning of different situations, and are content-free knowledge structures that contain rules about what questions are relevant to ask and what criteria are relevant to consider in making

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<sup>23</sup> In this thesis, the terms ‘schema’ and ‘knowledge’ are interchangeable, as are the word ‘habitus’ and phrase ‘procedure schema’.

*a decision*' (Stalans & Finn, 1995:290). For instance, the procedure schema can provide implicit guidelines or principles for emergency services to respond to an emergency call.

The concept of a schema is not new in policing studies on, for instance, police discretion and culture (Stalans & Finn, 1995; Chan, 1996, 1997; Robinson, 2000; Robinson & Chandek, 2000; Sklansky, 2007). For example, Stalans & Finn (1995) illustrated that, in domestic violence incidents, experienced police officers rely on procedure schema (consisting of operational definitions of situations and resources involved in certain reactions) to provide efficient reactions. In contrast, new recruits rely on content schema (consisting of normative definitions of the involved residents' personalities and their behaviour) for the same purpose. Furthermore, Robinson (2000) mentioned that domestic violence-related policy change, along with training, can guide police officers in constructing a new schema: Domestic violence cannot be considered a private issue, and it can be ended with arrest. In addition, Chan (1997) conducted a cultural study and expressed three types of schema for front-line officers to hold: (1) A dictionary (content) schema offers meanings of what exists in a field, and it includes, for instance, meanings of activities, general public, criminals and events; (2) directory (procedural) schema provides general instructions of how assigned tasks can be completed, including such as how real police work can be performed and how officers can make an arrest on the street; and (3) recipe (procedural) schema informs what should (not) be done in certain contexts, such as maintaining a code of silence against misconduct.

It should be noted that the findings of neuroscience studies have demonstrated the significant difference between procedure and content schema – a non-interrelated feature of content and procedural schemata (Atallah et al., 2006; Lerchner et al., 2007). This implies that knowing what a new technique is does not clarify how that technique

can be used (Lerchner et al., 2007, Noteborn et al., 2014). This non-interrelated feature of the two schemata was further supported by (Noteborn et al., 2014), who illustrated that academic performance was positively influenced by procedural rather than content knowledge. However, learners still have the potential to apply what they have learned in real situations. In so doing, learners should consciously and deliberately select an applicable action based on learning and then act it out (Lerchner et al., 2007). Once a learn–select–act process can be consistently carried out over a long period, a learner’s new habitus can possibly be constructed (Lerchner et al., 2007). In other words, an implicit procedure schema is transformed from an explicit content schema over the designed process of learn–select–act.

While studying police habitus (or culture), the two schemata should be carefully handled. Special attention should be paid to differentiating the nature of the two schemata, as follows: 1) The police officer’s content schema is expected to provide explicit information concerning what the practice is, while 2) the procedure schema (habitus) can provide implicit information concerning how the practice is accomplished. Hence, in this thesis, a procedure schema that is implicitly utilised to produce the practice is the focus, rather than a content schema that is explicitly utilised to produce conversations.

### **3.1.2 The organisation of habitus can evolve**

Bourdieu considered that habitus is (re)shaped the most in familial and educational fields and then in occupational fields (Burke, 2016). Hence, the organisation of habitus is not a fixed, but rather, a changeable structure, and importantly, it can evolve in terms of time (history) and space (fields). Especially, constructing habitus can reflect the continuous competition between different parts of habitus. This has three implications, as described below.

**1) The influences of different fields are imposed on habitus in order rather than simultaneously**

Initially, primary habitus is constructed over a long period at the early stages of life, usually childhood, without any precedent (Bourdieu & Passeron, 1977; Wacquant, 2014a). Upon interacting with educational agencies, a student then has little choice but to accept an imposed pedagogic schooling knowledge (Bourdieu & Passeron, 1977; Terdiman, 1987). Such an acceptance further predicts the potential competition between schooling knowledge, transmitted as explicit principles by educational agencies, and the primary habitus constructed by developing an implicit sense during family life (Bourdieu & Passeron, 1977). An ‘implicit pedagogy’, such as familial pedagogy, can be expected to be *‘the most efficient way of transmitting traditional, undifferentiated, “total” knowledge (the assimilation of styles or knacks)’* (Bourdieu & Passeron, 1977:47). Hence, if a student wants to construct the sense of schooling, an effective way is to go through a similar process where classmates make the practice (Bourdieu & Passeron, 1977). Similarly, while entering an occupational field, such as policing, new recruits should engage in similar practice to that of their colleagues to grasp the feeling of patrolling on the street, arresting offenders at crime scenes or taking statements at police stations.

**2) Parts of habitus constructed in order can be integrated (Wacquant, 2014a; Friedman, 2016).**

This integration can be done in a way that the existing part has the potential to dominate the new part built later. Primary (generic) habitus should be considered a foundation for multiple specific (e.g. schooling and occupational) types of habitus to be built on later (Bourdieu & Passeron, 1977; Wacquant, 2014a; Wacquant, 2014b). As such, both existing college-going (primary) habitus and school or funding-programme (specific)

habitus can influence undergraduates' choice of extending their study to the postgraduate level as a new part of habitus (Posselt & Black, 2012). In addition, existing specific habitus can affect the newly constructed specific habitus. This is why researchers usually argue that the (existing) police culture is a resistant device against policy changes (Loftus, 2009; Holdaway, 2013; Bacon, 2016). For example, while the drug policy changes, detectives can still present the existing investigatory culture (constructed in field A) about crime fighting, without any interest in constructing a new culture set concerning harm reduction (constructed in field B; Bacon, 2016). Hence, the (existing) durable and transposable part of habitus usually draws much academic attention (Bourdieu, 1977; Bourdieu & Passeron, 1977; Wacquant, 2014a). For example, cynicism, suspicion and a sense of mission can be held by police officers across units, forces and even nation-states, as they are the core and basic part of the police occupational culture (Reiner, 2010).

### **3) The part other than the durable and transposable part of habitus has the potential to change the field**

Habitus integration is necessary because the habitus is usually required for surviving in history and in different fields (Wacquant, 2014a). Especially, the (existing) durable and transposable part of habitus provides an actor with the basic foundation to stabilise the practice generation, which further guarantees his/her survival and the field's feature of structuring. However, in addition to the durable and transposable part of habitus, the new part of habitus constructed in a present field and the existing part constructed in other fields should receive equal attention from academics (Chan, 1996, 1997, 2007; Wood & Marks, 2007). In terms of new parts of habitus, this habitus construction is necessary in the present field, and the failure of construction can contribute to actors losing their current position in the field. In terms of the existing part of habitus constructed in other fields, they can bring different thoughts to generate creativity into

the present field. Hence, from a macro-perspective, a bureaucratic state can be transformed from a dynastic one because of the creation of the Roman law and education system (Bourdieu, 2004). Alternatively, in chapter 5, I illustrate that the new injection of the Japan's national bureaucratic field in Taiwan can override the existing Confucian-legal field. Even from a meso-perspective, the practice in creativity generation in a public service can be jointly driven by elements like an (existing) learning-oriented personality with a (newly constructed) preference for decentralised authority<sup>24</sup> (Hirst et al., 2011).

Only when the relationships between parts of the habitus in terms of time (history) and space (fields) are elucidated can the following questions be further answered, as addressed in chapters 5 and 6:

- A. Why are the durable and transposable parts of habitus needed in the CIB?
- B. Why are the parts other than the durable and transposable parts of habitus needed in the CIB?
- C. Importantly, why can contemporary transnational policing cooperation in the CIB be different from its past status and that of its foreign counterparts?

### **3.1.3 Habitus is not singular but can be shared within groups**

Holding a certain part of habitus, living in multiple fields and developing a specific trajectory can contribute to the uniqueness of each individual (Bigo, 2011). However, this does not mean that a certain part of habitus cannot be shared (Bigo, 2011),

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<sup>24</sup> The Hirst et al. (2011) did not relate habitus to fields. Generally, authors argued that '*the concept of disposition should not be misrepresented to imply that an individual will always behave in certain ways*' without identify the relationship between habitus and fields (Hirst et al., 2011:626). Such a misunderstanding of habitus can be attributed to two factors. First, the authors heuristically regarded the existing habitus (e.g. a learning-oriented personality) constructed in one field as a sole device to produce the practice (e.g. creativity generation) in another field where the (centralised or decentralised) authority is based. Second, they did not recognise an associated part of habitus constructed in the present field. In my view, habitus-driven practice cannot be realised unless parts of habitus can be linked to respective associated fields.

especially when individuals can be identified as group members. Within a group, members who are exposed to a similar field can think, feel and act in a collective way and generate common expectations, meaning that a specific part of habitus can be alike (Wacquant, 2014b; Burke, 2016). This type of collective habitus can be further adopted to present the group's identity to distinguish 'us' from 'them' (Terdiman, 1987). For example, there is gender (in masculine and feminine contexts), class (in economic contexts), ethnic (e.g. in local, regional, and national contexts) and organisational habitus (e.g. in policing, prison and government contexts; Wacquant, 2014b). Even in a policing community, in addition to patrol officers' culture, there is also the detectives' culture (Cohen, 1987; Hobbs, 1991; Young, 1991; Smith & Flanagan, 2000; Glomseth et al., 2007; Hallenberg, 2012; Westera et al., 2014; Westera et al., 2016) and management officers' culture (Manning, 2007; Sklansky, 2007; Westmarland, 2008).

#### **3.1.4 A specific part of habitus is (re)produced in a field**

Bourdieu conceptualised a field as a '*structuring structure*' in which actors are influenced by the field to (re)generate the practice in that field (Bourdieu, 1977; Hanappi, 2014). A structuring structure is a structural competition where actors (re)generate specific types of practice to compete for a mutually accepted set of particular resources – capital – to claim domination (Dobbin, 2008). Bourdieu further argued that, although actors living in a field are expected to be influenced by the field without exception, the influence of field is unequally distributed and has its limitations (Bourdieu & Wacquant, 1992). Hence, it is the asymmetric influence of field that informs a model of a power system in which the production of practice in capital accumulation is driven by habitus. There are five features of fields that should be mentioned, as described below.



### 1) **The influence of the field as exercise of power in a field**

Bourdieu's field can be regarded as a model of interpersonal influence, a power system in which actors are influenced to produce the practice in capital accumulation to increase power or augment influence to drive others in a field. Actors do not independently live in the world; rather, they do so interdependently. Hence, from a social psychological stance, the influence of the field is embedded in actors' mutual interactions, informing the basis of power (Turner, 2005). Interpersonal interactions are what allow an actor to impose influence, as the exercise of power, on other actors, thereby intentionally altering a receiver's beliefs, attitudes and behaviour (Turner, 2005). Influence as the exercise of power can be produced in the three following ways:

- A. **Persuasion:** A delivering party persuades a receiving party to voluntarily accept defined beliefs, attitudes and behaviour as correct and appropriate values (Turner, 2005);
- B. **Control of authority:** The authority of a delivering party is granted by a receiving party in a group. Hence, a delivering party can legitimately define collective beliefs, attitudes, and behaviour in a group; the receiving party may not regard this definition as correct, but it still complies with the authority (Turner, 2005);
- C. **Coercive control:** A delivering party utilises resources, such as rewards, costs or punishments, to override the free will of a receiving party (Turner, 2005). This is a peculiar way that contributes to a receiving party's behaviour alteration involuntarily.

The field is a specific '*structured structure*' (Bourdieu, 1977:72) operating a particular type of logic to (re)produce the practice (Bourdieu, 1977:72; Hanappi, 2014). In a general sense, the logic of field is a set of principles of (re)producing the practice for

each actor, preserving and promoting common values at stake (Emirbayer & Johnson, 2008). Importantly, the logic of field is shared to and complied with by all actors, as it can function as a protective shield that guarantees actors' survival in this rather than that field, in which a different logic is applied. Moreover, by regarding a field as a field full of influence, the logic of field can be considered the principle of operating a power system in which the production of practice and habitus construction in relation to the practice are regulated.

The logic of field is changeable. This is because dominants can gain legitimacy to (re)define '*the dominate principle of domination*' (Emirbayer & Johnson, 2008:24). In contrast, dominated actors are receivers of influence, but they can be promoted to be dominants as long as they follow dominants' (re)shaping logic of field. Hence, a field is not only full of magnetic power to attract both dominant and dominated actors to become involved. A field can also be considered a battlefield (*le champ*), in which actors compete with each other for accumulating capital to occupy a dominant position (Bigo et al., 2007; Thompson, 2008; Bigo, 2011; Atkinson, 2014; Hanappi, 2014).

It is also a battlefield in an actor's agency, where an actor can encounter a psychological competition for presenting a dual identity – being a dominant actor to (re)generate and operate own fields vis-à-vis being a dominated actor of other's fields. Such a psychological competition can be described as follows:

- A. Initially, a dominated actor living in other's field A(s) is imposed by the existing logic of field A(s) (consisting of power systems, types of practice and associated parts of habitus). The logic of field A(s) is learnt from family, educational organisations and then occupational entities. It functions as a database for reference that provides a dominated actor with fundamental information for living in field A(s). Once the logic of fields A(s) can be inscribed into habitus

- A(s), a dominated actor can dominate own agency to live in field A(s);
- B. An actor can encounter a competition for deploying habitus A(s) in another field B(s) if the deployment cannot guarantee his/her survival in field B(s). To cope with this competition, the actor should again act as a dominated actor to learn the new logic of field B(s) until the actor can claim the domination of own agency to live in field B(s); and
- C. A successful evolution of an actor's agency results from the integration of habitus A(s) and B(s). Such habitus integration can further contribute to the evolution of field A(s) and B(s).

For example, a patrol officer's practice on the street is based on the habitus consisting of time limitation, efficiency, intuition-driven and procedure- and paperwork aversive practice (Stalans & Finn, 1995, Belur et al., 2015; Buvik, 2014; Constantinou, 2016). In contrast, a detective's practice in criminal investigation is based on the habitus consisting of skills, criminal knowledge, law and procedure and paperwork (Manning, 2007; Hallenberg, 2012; Westera et al., 2014; Fahsing and Ask, 2016). When a patrol officer transfers to an investigation unit, this does not mean that the officer cannot deploy the patrol part of habitus and does not know how to enforce law and create bureaucratic documentation. Instead, it can always be expected that the officer's existing habitus cannot fully support him or her to carry out criminal investigations. Hence, the officer should spend time on transforming the existing habitus (which is, e.g. less law-abiding and procedure- and paperwork aversive practice) to the new part of habitus (e.g. law-abiding and procedure-focused and paperwork ridden practice). Until the new part of habitus is constructed, the officer cannot claim his/her survival in the investigation unit. Moreover, if the officer can be promoted to uphold a leadership position in the investigation unit, he/she can obtain chances to alter the unit's logic.

## 2) The historical perspective: The evolution of field

Like the historical process of constructing habitus, a field has an evolving trajectory. A prominent example to illustrate this evolving process is Bourdieu's 2004 study on the genesis of the field of state. As Bourdieu (2004) argued, the evolution of the field of state resulted from the constant competition between a king, his brothers and bureaucrats. Ironically, this competition was initiated by a king setting up the dynastic structure of operating his kingdom as a personal house. This dynastic structure of operating the kingdom can be illustrated as follows:

A. **Holding the dominant position of a king:** This required a successor for demonstrating the king's royalty-based heredity according to his birth and blood and handling any threat imposed by his brothers who desired the position of a king (Bourdieu, 2004);

B. **The main type of power exercise: Coercive control by distributing resources:** Power existed between individuals, and the main type of power exercise was distributing resources, such as property, money, gifts, titles, indulgences, exemptions and even information in pursuit of personal interests (Bourdieu, 2004). The king inherited the right of domination of resources, such as economic capital in exchange for the loyalty (capital) of the dominated, including the royal family and bureaucrats (Bourdieu, 2004). In contrast, those dominated – including the royal family and bureaucrats – also wanted to pursue their financial interests via practices like trading vital information and avoiding carrying out the king's orders (Bourdieu, 2004). Hence, the dominated could be removed from the king's domination of resources, claiming their domination of resources in the own field(s); and

C. **The dynastic structure of the power system: The king, king's brothers and bureaucrats:** Although the king, king's brothers and bureaucrats could pursue own interests, it was the king who created a bureaucratic field for bureaucrats

against another field of the king's brothers to perpetuate his domination (Bourdieu, 2004). In this bureaucratic field, Roman law was created by jurists, and an education system was introduced to train competent bureaucrats and jurists (Bourdieu, 2004). Both law and education jointly contributed to the evolution of field in such a way that the meaning of state was gradually shifted from the king's estate to the crown, and finally, autonomous bureaucracy independent of the king (Bourdieu, 2004).

Once a subfield (e.g. a judicial entity and an educational field) can be (semi)autonomously operated to (re)produce the practice, the logic of its mother field can possibly be changed (e.g. from a dynastic field to a bureaucratic field). In the aforementioned case, the power system is gradually shifted from the rule of man in the dynastic field to the rule of law in the bureaucratic field. Hence, in a contemporary Western society, a national bureaucratic field accommodates a power system in which the rule of law is in operation. A national bureaucratic field can be further regarded as a mother field dominating various subfields, such as the government, parliament and various public services. While the involved entities compete for dominating the national bureaucratic field, there is still a potential for changing its logic. This is how a field can evolve over a process in which an actor encounters an internal competition for the domination of own agency to overcome external competitions for the domination of fields.

Although Bourdieu (2004) illustrated an evolving path of the field of state from the king's house to the bureaucratic state, researchers may heuristically consider that the adoption of rule of law is taken for granted, especially in the democratic state. There is a missing point that Bourdieu may ignore: Does the power system or way of influence change? Such an inquiry can be raised here because it is unclear why the king wants to

abandon the rule of man in exchange for the rule of law. I handle this inquiry by depicting the competition of two types of power system in Taiwan in chapter 5. In short, it is the competition between the Chinese Confucian–legal power system and Western bureaucracy–legal power system. It is the result of the competition of two power systems that influences the practice in transnational policing cooperation in the Taiwanese context, as described in chapter 6.

### **3) The spatial perspective: Relations between positions in a field**

A field contains a number of positions for actors to occupy (Shammas & Sandberg, 2016). Generally, to occupy a position, actors should meet the requirements for entering that specific field. For example, in the field of transnational cooperation, a state must be sovereign to apply for membership in an IO, such as the United Nations. Similarly, a police organisation must be designated by the government as a competent authority to join an IPO, such as Interpol. Even academics who have specialised knowledge can be invited by the government or police to jointly discuss new cooperation policy.

Actors actively or reactively engage with a specific field, and the unfixed number of positions indicates the changing boundaries of that field. This implies that a field can be small enough to contain only two actors, such as a confrontation site in which a police officer confronts a lawbreaker on the street corner. Alternatively, a field can be large enough to contain a large number of actors; for example, the European security field (I illustrate this field in section 3.3.1) hosts various national, transnational and supranational security institutions (Bigo, 1994, Bigo et al., 2007). Therefore, the determination of field boundaries relies on an empirical inquiry (Bourdieu & Wacquant, 1992; Emirbayer & Johnson, 2008).

Once actors hold positions and become involved in a field, *practiced* relations can only

be confirmed after an action is performed. Nevertheless, it can be difficult for researchers to ignore textbook relations between positions. These relations can provide essential clues to theoretically guide actors producing practice. For example, there can be a definition of diplomatic relations between two nation-states based on bilateral agreements. Likewise, a definition of operational relations between various emergency services can be based on the relevant legislation and policy. Even individuals can explicitly and verbally describe their relations with their respective supervisors based on their working experience and knowledge exchange with colleagues. However, it should be noted that these textbook relations differ from so-called *practiced* relations that, as Bigo (2011) argued, can only be confirmed while practice is produced.

To prevent researchers from adopting these textbook relations, Bigo (2011:236) encouraged researchers to adopt a '*relational approach*' to focus on the invisible relations between positions rather than between actors. Connected positions and actors' identities and personalities can only be shaped and revealed after invisible relations are visualised via actors' practice (Bigo, 2011). Studies on practice should '*begin with the moment of the making of the action and [...] consider the agents only when they act in relation to each other*' (Bigo, 2011:237). In this way, researchers are required to examine changes in procedures over a significant period of time (Bigo, 2011). In other words, researchers should focus on examining the dynamic nature of practice in which relations between positions could change frequently.

In this thesis, to better capture the dynamic nature of practice, it will be useful to distinguish actors' '*in-practice interactions*' from '*out-practice interactions*' in the field from a methodological perspective. Presumably, an actor can carry out '*in-practice interactions*' while he or she undertakes practice in a field. *In-practice interaction* via verbal or physical communications is the practice that is produced in a field of

interdependent actors. However, an actor can also engage in ‘*out-practice interaction*’ without practicing in a field. *Out-practice interaction* can occur during situations like parties, encounters in the canteen or off-duty conversations. Actors engaging in *out-practice interactions* do exchange their knowledge concerning practice in a field. Nevertheless, this type of knowledge exchange is appropriately considered content knowledge exchange by an outsider rather than an insider part of the actor’s mind (Bourdieu, 1977). Moreover, exchanging content knowledge concerning practice can formulate a *practical* rather than a *practiced* field. In other words, a *practical field* is a theoretical (or verbal-based) field in which content-based rather than procedure-based practice is accommodated. Therefore, there is no habitus – *practiced* sense –, but rather, content knowledge or theory can be studied. Furthermore, *out-practice interaction* between actors can be expected to have less power to change a *practiced* field in which procedure-based ‘action’ rather than content-based ‘talk’ is the focus.

#### **4) The spatial perspective: Capital accumulated for a dominant position**

Generally, capital should be regarded as ‘*particular resources that individuals have access to, which can be invested or exchanged for goods – tangible and otherwise*’ (Burke et al., 2016:2). Moreover, capital is the only resource for actors maintaining and promoting the status of positions in a field (Hanappi, 2014). Capital provides a guarantee that aspiration and expectation can be achieved in a field of what Bourdieu called *possibles* (Burke, 2016). Hence, to hold and promote a position in a field, an actor should learn capital accumulation.

Generally, there are three broad forms of capital, namely economic, social and cultural capital (McGinnis & Gentry, 2010; Burke et al., 2016). In terms of economic capital, it generally implies different types of assets, such as property, gifts, grants and any material of economic values (Bourdieu, 2004; McGinnis & Gentry, 2010). This is the



prevalent form of capital utilised in the Western dynastic state to deploy coercive control (Bourdieu, 2004; Turner, 2005).

In terms of social capital, a critical idea is that it can be adopted to construct a durable web of contact points, such as Chinese *guanxi* networks, based on interpersonal relationships in general and mutual familiarity and acquaintance in particular (Cheng, 1995; McGinnis & Gentry, 2010; Pan, 2010; Hsiao, 2013; Burke, 2016). In this web, dominant actors who hold significant amounts of social capital can perceive honour and are generally known to each other (McGinnis & Gentry, 2010). Social capital also facilitates the ability of a newcomer as a dominated to identify those who are worth knowing (McGinnis & Gentry, 2010). Importantly, this web can function as a referencing book in pursuit of self-interest for actors choosing appropriate types of interactions, such as favouring members of the us-group (Gur, 2012; Hwang, 2013; Yu, 2015) or mobilising other forms of capital upheld by its contact points (Hanappi, 2014).

In terms of cultural capital, it generally indicates actors' feeling of understanding and belonging to situations linked to a specific group (Burke, 2016). It comprises knowledge, attitudes, techniques, manners of speaking and social styles in relation to, for example, family, schools and occupational entities (Chan, 2007; McGinnis and Gentry, 2010; Wallace, 2016). It is this form of capital that has been extensively researched in police culture studies.

Capital is field sensitive. Certain types of capital are needed in a specific field (Bigo et al., 2007; Bigo, 2011). For example, human labour can be considered the economic capital in the market field (Hanappi, 2014). Taking studies on employees' loyalty to a company as another example, credit that reflects trust and belief in employers is the social capital that guarantees employees' promotion (Hanappi, 2014). In addition, drug

dealers need street (cultural) capital, such as techniques, *know-how*, criminal records and weapons, to demonstrate their successes in the street field (Shammas & Sandberg, 2016). In studies on transnational policing cooperation, criminal information is usually considered the capital obtained from contact points or databases and then processed to further accumulate criminal knowledge as another type of capital to develop crime prevention policy or launch investigations (Lemieux, 2010; Aydinli & Yön, 2011; Berenskoetter, 2012; Wu, 2013). By accumulating criminal knowledge, especially habitus, successful investigation can be expected (Hallenberg, 2012; Wu, 2013; Belur et al., 2015; Westera et al., 2014; Westera et al., 2016; Fahsing & Ask, 2016).

Capital can help researchers in locating actors' positions in the field by evaluating the volume (as strength) and organisation (as parts) of capital they possess (Burke, 2016; Burke et al., 2016; Friedman, 2016). Moreover, its volume and organisation are not fixed; rather, capital is relational in nature (Burke, 2016), meaning that it can only be captured while practice in the field can be observed and examined.

##### **5) The spatial perspective: The interrelation between fields**

While a field is formulated, theoretically, it can enjoy autonomy to (re)produce its practice in a logical way. However, it should be noted that multiple fields can exist and impose mutual influence on each other (Bourdieu, 2004; Emirbayer & Johnson, 2008; Vaughan, 2008; Adler-Nissen, 2011; Bigo & Madsen, 2011; Atkinson, 2014; Bigo, 2014; Shammas & Sandberg, 2016). Importantly, while the evolution of field captures the past and present components of the field, the interrelation between multiple fields should also be considered. Examples are as follows:

- A. From a micro-perspective, each researcher's creativity in academic productions can influence other researchers' perceptual social worlds. Or, a successful woman in an occupational field can dominate children's education and other critical

issues in a familial field (Atkinson, 2014);

- B. From a meso-perspective, an organisation can be considered a field within the organisational field (Emirbayer & Johnson, 2008). In this respect, a criminal syndicate complies with the street logic to survive in the street field in the national bureaucratic field in which another field – a criminal justice system consisting of legislatures, policymaking and implementation entities – also tries to take control over the street field (Shammas & Sandberg, 2016); and
- C. From a macro-perspective, a national bureaucratic field can control, for example, an educational field and judicial field in a national domain (Bourdieu, 2004). In a transnational domain, the European bureaucratic field (or the field of Eurocracy; Georgakakis, 2011)<sup>25</sup> and the European field of power (Adler-Nissen, 2011) are created and partially controlled by the national field of power<sup>26</sup>. In contrast, the European field of power can create the European security field for member-states to join (Bigo, 1994; Bigo, 2000; Bigo et al., 2007). Even in Europe, the field for

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<sup>25</sup> The European bureaucratic field accommodates the European competition for making policies, norms, discourses and instruments between ‘eurocrats’ (or Eurocratic elites) located in European entities including, such as states and private companies (Georgakakis, 2011:331; Bigo & Madsen, 2011:224). This competition can be divided into two stages. Initially, candidates of the respective European entities compete for the legitimate delegate (Georgakakis, 2011). Then, delegates are mandated by the respective entities to compete for European policymaking (Georgakakis, 2011). Hence, the European bureaucratic field can be further considered the field of delegation (of European entities; (Georgakakis, 2011) that is influenced by European entities as fields. Regarding the national delegation, for example, both the national field of power (for determining the delegation) and national bureaucratic field (for capital conversion) can impose this influence (Bigo & Madsen, 2011).

<sup>26</sup> The ‘field of power’ is the term for ‘*whenever agents located in dominant positions in several fields are engaged in struggles that affect power relations within and between the different fields*’ (Hjellbrekke et al., 2007:246). In this regard, there are two types of field of power – the national field of power and transnational (or international, supranational, European) field of power. The national field of power it can be considered the national power competition between elites to dominate the respective fields and other concerned fields, such as politics, the economy, bureaucracy and academics (Hjellbrekke et al., 2007; Cohen, 2011). The logic of the national power competition can vary across nation-states. For example, the Norwegian national field of power is structured by a tripartite positioning system based on the following: 1) economic capital, 2) educational and social capital and 3) the principle of differentiation between positions of justice and those of culture, organisations and politics (Hjellbrekke et al., 2007). In terms of the transnational field of power (or international field of power, supranational field of power, European field of power), it accommodates the power competition between elites of respective transnational fields to dominate other fields. Once, Cohen (2011) argued that any field of power was born and could not live outside the state. However, Cohen (2011) may have neglected that this specific power competition can be played by various transnational/international/supranational entities created outside the state (Adler-Nissen, 2011). For example, the European Court of Human Rights can object to arguments provided by European member-states. Hence, the transnational field of power can be considered different from the national field of power.

data analysis can influence the field for national border policing (Bigo, 2014).

Considering policing, this is a type of public service captured by instrument producer (e.g. the government, parliament and police), instrument user (e.g. the police) and instrument receivers (e.g. communities). In the United Kingdom, for instance, there is the national policing field, based on the tripartite system in the British national bureaucratic field, in which the Home Secretary (the government), Chief Constables (the police) and Police and Crime Commissioners (PCCs as representatives of communities) compete for defining the inter and transnational and local policing (Savage et al., 1996; Rogers & Gravelle, 2012; Home Affairs Committee, 2014). The influence of the national policing field on the police can be described as follows:

- A. The police (as a dominated actor) can be vulnerable to central and local politics played by the government and communities in terms of policy implementation and law enforcement (Chang, 2000; Yang, 2000; Manning, 2007; Rogers & Gravelle, 2012; Martin, 2013; Cao et al., 2014; Home Affairs Committee, 2014). Hence, the British government can introduce the NCA and the PCCs to (re)shape the British policing regime. There is also a discussion about shifting the responsibility of countering terrorism from the Metropolitan Police of London to the NCA (Home Affairs Committee, 2014). The PCCs can express their willingness to replace the Association of Chief Police Officers (ACPO) by introducing the National Police Chief Council (NPCC);
- B. The police (as a dominant actor) should directly deliver services to the local residents, whose needs may not be encapsulated in the governmental or PCC policies (Brown, 1988; Caparini & Marenin, 2005; Skolnick, 2008; Ivkovi, 2009; Home Office, 2012; Rogers & Gravelle, 2012; Martin, 2013; Tasdoven & Kapucu, 2013); and
- C. To meet diverse and even contradictory expectations in different fields, a police

organisation can be regarded as a subfield of the national policing field to function as a structuring machinery. This subfield has a logic of structuring strategies on service delivery and (re)shaping officers' daily practice via the indoctrinatory, command and supervision, reward–punishment and promotion mechanisms (Allen, 1982; Mastrofski et al., 1987; Engel & Worden, 2003; Marenin, 2005; Wood & Marks, 2007; Tasdoven & Kapucu, 2013; Constantinou, 2016; Johnson & Dai, 2016).

The national policing field can also be influenced by other fields as follows:

- A. The national policing field is influenced by the national field of power because heads of law enforcement are appointed by the government in accordance with politics (the rule of man) rather than law (Guan, 1996; Yang, 1998; Zheng, 2001; Harfield, 2006; McDaniel, 2018)
- B. The national policing field is a subfield of the national bureaucratic field in which the judicial principle (the rule of law) lays the foundation to establish the British tripartite policing system and captures Robert Peel's historical nine principles of consent on policing (Bourdieu, 2004; Home Office, 2012). The national policing field also hosts the Weber's bureaucratic principles (consisting the hierarchical authority and specialisation) to lay the foundation for the police to structure and operate police organisations and manage police officers (Hull, 2012);
- C. Connecting to the criminal justice system, the police should also follow investigatory priorities (Larsson, 2006; Fijnaut & Spapens, 2010), exercise suspiciousness/suspicionlessness (Alpert et al., 2005; Constantinou, 2016; Lennon, 2015) and evidence collection (Alderden & Ullman, 2012; Belur et al., 2015) to bring criminals to justice.

An actor, either the agency or field, usually plays multiple games rather than a single

one. A multiple logic of fields can impose asymmetric influence on actors. However, it is usually the case that the multiple logic of fields is considered the only logic of the researched field as the domination of research model discussed in chapter 2. As such, researchers lose chances to identify the different logic and asymmetric influence of multiple fields onto actors and their practice and habitus.

In this thesis, I develop a strategy for depicting the different logics and asymmetric influences of multiple fields, as described in the following:

A. **Habitus and fields should be simultaneously considered:** Although Wacquant (2014b) asserted that researchers can independently research the field or habitus, Emirbayer and Johnson (2008) argued that the correlation and mutual influence between habitus and field should be addressed to unlock the complexity of the multiple logic of fields. Hence, if the field is the concept in studies, researchers should anticipate that any associated part of habitus can be constructed in that field. Conversely, if habitus is the concept explored, researchers should anticipate that an associated field or fields can be revealed. Bourdieu elaborated on the close relationship between habitus and field by observing that

*The structures constitutive of a particular type of environment (e.g. the material conditions of existence characteristic of a class condition) produce habitus, systems of durable, transposable dispositions, structured structures predisposed to function as structuring structures, that is, as principles of the generation and structuring of practices and representations which can be objectively 'regulated' and 'regular' without in any way being the product of obedience to rules, objectively adapted to their goals without presupposing a conscious aiming at ends or an express mastery of the operations necessary to attain them.*  
(Bourdieu, 1977:72)

It can then be generally asserted that, while the field (re)shapes actors' habitus via socialisation, it also relies on the actor's practice (re)generation to endure and evolve (Hanappi, 2014). Although existing habitus can impede new types of practice generation, it can be attributed to the fact that the new part of habitus is under development. An apprehension of habitus cannot be done until the new part of habitus in a field can be explored;

- B. **Identifying the logic of field:** This can be done by illustrating how the power system, the practice in capital accumulation and habitus construction is regulated;
- C. **Depicting the volume (as strength) and organisation (as parts) of habitus (as cultural capital):** The asymmetric influence of fields imposed on the process of transformation from content knowledge to habitus can significantly affect habitus construction. By experiencing different fields in terms of time and space, an actor can have a different organisation of habitus. Even in the same field, an actor's associated part of habitus can also be different from another actor's associated part of habitus in terms of strength. Nevertheless, the inquiry about the volume and organisation of habitus is rarely launched in police culture studies that address the (existing and sounded) durable and transposable part of habitus. Consequently, why the new part of habitus is not constructed or unsound in a new field is underdeveloped; and
- D. **Capturing changes of fields and habitus:** This can be done by depicting the evolution of field and habitus in terms of time and space.

In short, to capture practice, although fields and habitus have trajectories of sustention and evolution, researchers are encouraged to study the two concepts jointly and pay attention to habitus. A subject is (re)shaping his/her perceptual social world (as agency) to live in other perceptual social worlds (as fields). Such a (re)shaping is done by the subject perceiving (as learning the logic), selecting the specific perception (as principles

of the logic) and applying the perception to generate practice to live in fields. Constant practice generation allows the subject to accumulate habitus (as cultural capital) in exchange for sustaining present positions or occupying higher positions in fields. Once the subject can occupy higher positions, he or she can promote the integrated logic of agency and fields to dominate the fields. Hence, the evolution of fields and habitus results from the subject's internal competition for the domination of own agency, which leads to success in external competitions for the domination of fields. Habitus in agency is the device that can account for the evolution of fields. As I discuss in section 3.2, whether culture can be changed may reflect different fields, different parts of habitus and different times. Thus, researchers are encouraged to explore habitus in agency and in fields in terms of time and space to monitor any change of fields, habitus and practice.

### **3.2 Field analysis ignored in police culture studies**

Bourdieu's concept of habitus is rarely applied to study police culture. Instead, the concept of 'culture' is prevalently used by researchers to understand police practice. Even Chan (1996, 1997), an advocate of Bourdieu's habitus, could not easily distinguish the difference between the two terms but mixed their usage in studies, where habitus was generally regarded as culture or cultural knowledge (O'Neill, 2016). Although the mixed usage of the two terms seems harmless, Holdaway's (2013) suspicions about cultural change raises the critical question that the concept of field is lacking in police culture studies.

As a recurring and contentious topic, police culture has been criticised as an impediment to governmental and organisational reconfigurations of policing. Similar to enforcing law, police organisations are required to mobilise their subordinates to implement policies. Mobilisation can depend on police organisations to communicate policies in organisational arrangements, such as guidelines or principles via notice



boards, posters, meetings, memorandums and even email (Loftus, 2009). Nevertheless, communicating a new policy in police organisations is usually unsuccessful because the officers commonly express negative attitudes as culture toward it.

In Loftus' (2009) study, although the British Northshire police officers were aware that they should not use discriminatory language under the diversity policy, both white and ethnic minority officers held different promotion-related attitudes against each other. Similarly, in Wood and Marks' (2007) study on the Australian Nexus Project, which aimed at building partnership with academics, there was no participation other than workshops and focus groups. This indicates the officers' reluctance to be motivated to interact with academics because of the existing culture. A recent study on the British drug policy toward harm reduction illustrated that the detectives who preferred crime fighting mostly did not welcome the closure of the Smallville drug unit (Bacon, 2016). Thus, Bacon (2016:314) argued that *'there was a lack of clarity over the definition of harm and little discussion, no guidelines or training sessions, about what a harm reduction approach to policing drug markets actually involved'*. To some degree, this situation implies that new policies, such as harm reduction, should be comprehensively injected into officers' mind and then everyday practice. Thus, how will the comprehensive injection of policy be done and evaluated if the aim of policy is cultural change?

As the above examples illustrated, researchers often collect officers' accounts. However, they may not actually examine their daily practice on the street or in a police organisation. This implies that, instead of relying on officers' negative attitudes, researchers can explore the following: What is the habitus for producing the practice in promotion in Loftus' (2009) study? What is the habitus for producing the practice in interacting with academics in Wood and Mark's (2007) study? What is the habitus for

producing the practice in harm reduction in Bacon's (2016) study? To refocus on practice, police culture researchers are encouraged to be aware of two implications based on Bourdieu's theory of practice, as described below.

### **1) The practice is not easily captured**

Focussing on negative attitudes as culture, researchers cannot direct their attention to examine habitus for practice generation. Loftus (2009:64) observed that '*political correctness*' served as a disciplinary factor contributing to the British officers' rare usage of discriminatory language. However, Loftus (2009) may have neglected to further explore why language censorship was needed, how the censorship was done, and importantly, how language censorship can affect promotion. Likewise, Bacon (2016) mentioned that a British police drug unit was closed because it was influenced by the newly introduced harm reduction policy. Although the influence of British national policing field on the police can account for the closure of the drug unit, rare information about whether harm reduction practice is still implemented and how detectives undertake harm reduction practice other than drug investigation is rare (Bacon, 2016). In contrast, Wood and Marks (2007) attributed the Australian police officers' attendance in workshops and focus groups to Commissioner Nixon's effort. This finding echoes other studies on managerial officers' role in shaping the police officers' practice (Allen, 1982; Robinson, 2000; Engel & Worden, 2003; Johnson, 2011; Johnson & Dai, 2016) and a potential for culture change. More efforts can be made to examine why Commissioner Nixon *can* and other commissioners *cannot* promote culture change.

What Chan (1996, 1997) endeavoured to explore in the Australian policing was criticised by Holdaway (2013). Especially, Holdaway (2013) regarded the police officers' enduring and transposable negative attitudes as culture. A weakness in Chan's

(1996, 1997) studies is her possible adoption of a macro-perspective in field analysis, as described below.

Capturing the practice by Bourdieu's habitus and field is not an easy task. More difficulties lie in field analysis than in habitus analysis because, even for one type of practice, such as on-street patrol, researchers may overlook the fact that the police can play multiple games in different fields rather than a single game in the macro-field.

In Chan's (1996) study, in contrast to the British legal tripartite system, it is unclear what type of field is hosting the Australian policing system, and importantly, how the system operates. Chan (1996) did recognise the (ethnic) community, New South Wales Police (NSWP) and authority as actors. However, she may have lost opportunities to explore issues concerning field, as follows:

- A. Chan (1996) did not formulate the (ethnic) community, NSWP and authority in the Australian national policing field or depict the relations of positions in between, such as legal, political, social or power relations. Hence, Chan (1996) could not explore the influence of the Australian national policing field on the NSWP;
- B. Chan (1996) did not regard the NSWP as the field hosting the police officers and their relations with supervisors or explore the influence of the NSWP on officers' organisational practice and on-street practice;
- C. Chan (1996) did not regard the community as the field hosting the police officers and their relations with residents and explore the influence of the community on the police officers' on-street practice; and
- D. Chan (1996) did not identify the interrelations between fields. Hence, Chan (1996) could not explore whether and how the police officers' organisational practice in merit accumulation, for instance, could influence their on-street practice in the community and vice versa.

Chan (1996) mentioned that the Australian authority launched a national investigation, namely the Racist Violence Inquiry, on police power abuse. However, the following issues are unclear:

- A. To what extent and how this national investigation can change the Australian national policing (in the national policing field);
- B. To what extent and how changing the Australian national policing can alter the NSW's organisational arrangements (in the NSW as a field); and
- C. To what extent and how altering the NSW's organisational arrangements can shape the police officers' organisational practice (in the NSW as a field) and on-street practice (in the policed community as a field).

Moreover, how the police officers make the organisational practice in the NSW and on-street practice in the community is also vague. A general illustration was the NSW developing a community policing strategy to overcome the debate on power abuse of ethnic minorities. From interviews with police officers, Chan (1996:129) stated that *'the extent to which changes in dictionary knowledge followed the changes in organizational objectives and strategies depends on the degree to which implementation of these objectives and strategies had been successful'*. This statement informs a hypothesis that, in addition to introducing an ethnicity-focussed community policing, the NSW can make organisational changes<sup>27</sup> to shape the police officers' habitus and on-street practice (Chan, 1996). However, it is unclear why and how the reorganisation of the NSW and the development of the new policing policy can influence the police officers' habitus and on-street practice.

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<sup>27</sup> The reorganisation of the NSW comprised elements like shaping chain of command, replacing seniority-based promotion system by the merit-based system and multicultural-addressed recruitment and training (Chan, 1996).

Chan (1996) mentioned the establishment of a merit-based promotion system in the NSW. Such an establishment can indicate that merit is one type of cultural capital for the police officers, sustaining and promoting their positions in the NSW. Nevertheless, it is unclear whether and how the Australian national investigation on power abuse, the NSW's other organisational arrangements and residents' interactions with the police officers can facilitate or impede the officers accumulating merit for promotion.

Finally, while addressing the police officers' accounts as habitus, Chan (1996) neglected habitus as capital accommodated in the field, implying that a habitus–field–practice relation is not maintained. It is expected that the police officers encounter multiple competitions for accumulating different parts of habitus to sustain and promote the officers' positions in multiple fields. Different parts of habitus can be accommodated by different fields, implying that the habitus needed in the Australian national policing field may not be necessarily the habitus required in the NSW or the community. Similarly, the habitus required in the NSW may not necessarily be that required in the community. Hence, the police officers' parts of habitus reflect a mixture of cultural values to which multiple fields contributed.

In short, the success (e.g. anti-corruption) and failure (e.g. power abuse) of NSW police officers' habitus change cannot only be attributed to the changed or unchanged macro-field, as described in Chan's (1996) study. More efforts can be made for deploying Bourdieu's field and habitus. Especially, researchers should pay extra attention to exploring multiple fields and the interrelations in between, the volume and organisation of habitus as capital and types of practice. As long as a habitus–field–practice relation can be maintained, it is possible to monitor any change in these components.

## **2) The nature of police talk about practice is unknown**

Some researchers, such as Westmarland (2008), Loftus (2009) and Reiner (2010), have argued that the police's verbal accounts cannot reflect their daily work. Although Loftus (2009) mentioned that police accounts were not worthless, she did not explore what police accounts disclosed, implying the unknown nature of officers' talk. There are at least two different scenarios concerning this talk, as described below.

First, from a methodological perspective, if police accounts are collected by interviewers as a result of out-practice interactions, these accounts should be regarded as different from those gathered as a result of in-practice interactions. Interviews with the police officers in a chosen room while they are taking a break or off duty is one example of out-practice interactions. This chosen room is away from the police officers' daily encounters, and the officers as outsiders rely on retrieving information from a content schema to interact with another outsider – the interviewer (Bourdieu, 1977). This chosen room can be regarded as a practical field hosting information exchange between outsiders' content schemata. A practical field is different from a practised field, in which the police officers rely on a procedure schema to handle daily encounters. To ensure that the police officers can express in-practice interactions with researchers, ethnography is a more suitable method of approaching police culture than other qualitative and quantitative methods are (as discussed in chapter 4).

Second, from a field perspective, especially the evolution of field in terms of time, police accounts against a new policy can be regarded as the collective part of habitus resulting from the influence of past fields, without considering the influence of the present field in which the new policy is hosted. While the government can impose a new policy on the police in the national policing field, the police should deal with policy implementation internally and cope with residents' opinions about policy

implementation externally. As a member of the police and the policed community, the police officers' negative attitudes toward the new policy should be regarded as resulting from the influence of the past status of the police and community. In contrast, their new habitus – resulting from the influence of the present fields hosting the new policy – has yet to develop.

Before arguing about whether cultural changes are occurring, culture-associated fields should be identified. Researchers like Wood and Marks (2007), Loftus (2009), Holdaway (2013) and Bacon (2016), who regard police accounts as police culture against policy, can further articulate its accommodation via the appropriate field analysis. Here, I assume that there can be two different fields hosting the police officers' accounts and respective types of practice, as follows:

- A. For the accounts against policy, the accounts are supposed to be generated in the past field. The past field is for the 'existing unknown type of practice' associated with the culture against policy, as the police officers talk about the unknown type of practice without necessarily linking the accounts to the practice. This approach to account collection can be carried out using interviews. This past field is under development because researchers, such as Chan (1996, 1997), Wood and Marks (2007), Loftus (2009), Holdaway (2013) and Bacon (2016), usually heuristically link the police's past culture to the present context. In chapter 5, I break the linkage between the past culture and present context by exploring Chinese-based habitus generation in the past fields and how the habitus continues to represent the past fields to influence the contemporary ROC in Taiwan; and
- B. For the accounts supporting policy, they are supposed to be generated in the present field. The present field is for the 'developing new type of practice' associated with the habitus for policy implementation. This is the field in which the police officers produce the new type of practice and provide accounts to

researchers. This approach to account collection can be done using ethnography. In chapter 6, I explore CIB detectives' habitus in the present fields, representation of the past fields and habitus integration of the two components (the past and present parts of habitus).

Considering the daily practice as the main concern in my study, it will be fruitful to examine how routine policing cooperation can be captured by Bourdieu's field in the next section.

### **3.3 Field analysis of transnational policing cooperation**

Like in police culture studies, field analysis is not prevalent in studies on transnational policing cooperation. The scarceness of field analysis in such studies may be because this topic is still of political rather than sociological researchers' interests. When political researchers' attention is attracted to an international domain, the state rather than the police or officers is usually considered the main player (Bigo, 2000). Thus, studies on transnational policing cooperation can be regarded as a branch of security studies or international relations (IR) studies to some degree.

The political approach to transnational policing cooperation is gradually changing among political academics. While it is true that security studies capture political, and especially IR, researchers' interests, some of these researchers have been accepting alternative approaches to exploring the topics in question. There is a slow but steadily developing sociological trend for studying European security practice by the Paris School, along with researchers from Europe and North America (C.A.S.E. Collective, 2006). A socio-political approach aims at transgressing the conventional boundary between and hybridising the national, international and transnational politics (C.A.S.E. Collective, 2006). In this socio-political trend, Bigo (2011) encouraged researchers to



deploy Bourdieu's theory of practice to capture European security practice and situate it within a context of field, time and topics, as well as considering its limitations, influence and condition of production. In addition, Bigo et al. (2007) argued that researchers' mindset cannot be constrained by any institutional and legal boundary. Instead, researchers should simultaneously consider the accommodation for the practice (Bigo et al., 2007).

Researchers have developed useful field frameworks for examining policing cooperation in a European domain and UK–EU domain, respectively (Bigo, 1994, 2000, 2008, 2014; Bigo et al., 2007; Berenskoetter, 2012). In this section, the two field frameworks are examined by deploying Bourdieu's theory of practice for identifying their weaknesses. In section 3.4, by considering Bourdieu's field, an agency-structure framework is transformed from the agency framework proposed in chapter 2 and deployed in the present study.

### **3.3.1 The European security field**

The creation of the European security field resulted from the political trend toward a unified Europe. The trend of European unification involved the political elites' disposition and decision making toward unifying Europe as a whole, which has gradually developed for decades in the European field of power and European bureaucratic field. However, the process of unification is not a smooth path devoid of conflicts and dilemmas. The state usually encounters a power competition to maintain the balance between intergovernmentalism to uphold sovereignty and supranationalism to upload partial sovereignty in exchange for its European participation. The United Kingdom, for instance, is in favour of sovereignty, and constantly expresses scepticism on European unification (Bigo, 2000). In contrast, the German approach is toward a federalised Europe, while France prefers a unified Europe in which it does not lose its

sovereignty (Bigo, 2000). The power competition beyond the state contributes not only to the formation of the European Community and then the European Union; it also contributes to struggles between European and non-European states, as well as various national, international, supranational and transnational actors created by multi-level political authorities in various topics, including security-related ones. Accordingly, the creation of the European Council, European Commission, European Parliament and other relevant political authorities beyond the state is the product of this power game. Acknowledging that the threat to security cannot be handled solely by the state, political authorities within and beyond the state begin to formulate diverse political sub-areas to discuss security solutions. The result from the exercise of power in these sub-areas is the creation of various European security institutions, along with judicial and policing cooperation instruments. Such creation can be described as follows:

- 1) Regarding the European security institutions, for example, arrangements under the first pillar of the European Union are the European Anti-Fraud Unit (OLAF) and the European Agency for the Management of Operational Cooperation at the External Borders (Frontex; Bigo et al., 2007). Those under the third pillar of the European Union are Europol and the European Judicial Cooperation Unit (Eurojust; Bigo et al., 2007); and
- 2) Regarding cooperation instruments, there are Europe-wide apparatuses, such as the TREVI forum, Treaty of Prüm, Hague Programme, Schengen *acquis*, EAW and Interpol. There are also special arrangements in the Nordic region, Meuse-Rhine region and English Channel and deployment of PLOs overseas, for instance.

Because of the power balance and (semi)autonomy of various European security institutions at different levels, the formation of the European security field could not be considered a fixed field; instead, it should be viewed as complex and fluid (Bigo et al., 2007).

In the European security field, the actors involved can comprise national, international, supranational and transnational political authorities, security institutions and individuals (Bigo, 1994, 2000, 2008, 2014; Bigo et al., 2007). The nature of dominant positions and relations in between are not permanent but temporary, as practice in this field will depend on the quantity and quality of capital (security knowledge) collection and application (Bigo, 2000). Several characters of the European security field have been explored in Bigo et al.'s (2007) study, as described below.

**1) The aim of competition is to define the threat and security and to control the European security field**

Various European security institutions encounter a security knowledge (capital) competition to uphold and promote their positions (Bigo, 2000). This competition involved data collection and application to demonstrate that European security institutions are capable of European security delivery. In terms of data collection, European security institutions should establish their respective security knowledge generation networks by determining who can join (Bigo, 1994) and what kinds of relation should be bridged (Bigo et al., 2007). European security institutions could also fund research projects to enrich and broaden their security knowledge (Bigo, 1994). Hence, they could determine own agendas to encourage allies and researchers to provide knowledge in relation to European security institutions' prioritised security topics (Bigo, 1994).

In terms of data application, the security knowledge competition is aimed at defining European threat and security. By utilising security knowledge, European security institutions have formulated their respective approaches to define threat as depicting and categorising the enemy (C.A.S.E. Collective, 2006; Bigo et al., 2007), such as Europol's Serious Organised Crime Threat Assessment (SOCTA). Meanwhile,

European security institutions could also battle for defining security as protecting individuals or groups, delivering proactive services for the future or pursuing and punishing recognised criminal suspects (C.A.S.E. Collective, 2006; Bigo et al., 2007). A result of the competition was that European security institutions could gradually develop a similar common sense (culture) regarding European security (Bigo et al., 2007). For example, European security institutions usually addressed issues beyond rather than within the state and agreed on transgressing national boundaries as an acceptable solution (Bigo et al., 2007). In addition, European security institutions preferred apolitical and technological approaches against any threat to security (Bigo et al., 2007).

## **2) Relations between positions comprise both legal-political and non-legal-political elements**

In the European field of power, *European political authorities* have significant willingness to forge European security institutions' *legal-political* relation in between and with European member-states and non-European nation-states. It can be said that the establishment of legal-political relations usually implies involving actors' practice in politics rather than security delivery. In this regard, both in the European field of power and European bureaucratic field, the decision making on forging the legal-political relations between European security institutions was based on mitigating redundant efforts, compensating weakness or even promoting trust building (Bigo et al., 2007). Nevertheless, these legal-political arrangements in the European security field could not guarantee European security institutions' effective cooperation. For example, Europol was designated by the 2005 Council Decision as the only European point of contact to suppress counterfeit Euros, while OLAF was also a competent party to tackle the same issue (Bigo et al., 2007). However, in fact, there was rare information exchange concerning counterfeit Euros between OLAF and Europol (Bigo et al., 2007).

Similarly, to compensate for the two institutions in the third pillar, Eurojust established a special unit in 2005 to cooperate with Europol (Bigo et al., 2007). Nevertheless, in actuality, Europol regarded the Eurojust's special unit as an instrument of interinstitutional surveillance (Bigo et al., 2007). Even if the Memorandum was signed by OLAF and Eurojust, the two institutions did not have any intention to build mutual trust (Bigo et al., 2007). This is because the historical barrier existing between pillars (in the European bureaucratic field) was hard to break through in the European security field (Bigo et al., 2007).

European and non-European states are also keen to forge the legal-political relation with European security institutions in pursuit of political interests. In Europe, although Europol's practice was relatively autonomous from member-states (Moor & Vermeulen, 2010; Gutiérrez Zarza, 2015), this does not simply imply that member-states could not influence Europol. As Bigo et al. (2007) argued, Europol's first two German presidencies intended to impose the German national cooperation system on Europol's liaison system. Beyond Europe, for example, according to an agreement concluded in 2006, the United States could dispatch liaison prosecutors to Eurojust; however, there was no such arrangement for Eurojust to deploy personnel to the United States (Bigo et al., 2007).

In some cases, the relation was purely *non-legal-political* in nature (Bigo et al., 2007). For example, in terms of training and best practice concerning information exchange, cooperation between the European Police College (CEPOL) and Frontex was based on the non-legal-political relation (Bigo et al., 2007). In addition, Frontex's contribution to Europol's SOCTA also occurs on a non-legal-political basis (Bigo et al., 2007). Establishing non-legal-political relations can be a flexible option, whereas constructing the legal-political relation is politics driven and time consuming. This is a reason why

Europol preferred to bridge non-legal–political relations with other actors in and beyond Europe (Bigo et al., 2007).

Above all, the establishment of legal–political relations can be attributed to European security institutions’ legal–political foundation, as established in the European field of power and European bureaucratic field. Hence, the legal–political relation cannot be considered a driving force for imposing European security institutions producing practice in the European security field. It can be addressed that European security institutions’ practice is trust- and non-legal–political relation–based (Bigo et al., 2007). To distinguish the trust relation from the legal–political relation, researchers are encouraged to examine the (dis)trust relation between actors (Bigo et al., 2007). This implies that, if there are no legal–political relations between actors, cooperation based on the trust relation will still occur (Bigo et al., 2007). Nevertheless, actors’ cooperation based on the legal–political relation will be hampered if distrust has been perceived (Bigo et al., 2007). In other words, the legal–political relation can be regarded as an instrument. As an instrument, in what way European security institutions decide to rely on it will depend on their decision-making in the European security field.

### **3) Actors should practice in accumulating security knowledge as capital**

Bigo et al. (2007) proposed a model for illustrating the legitimacy of dominant positions to master security knowledge. This model comprises four aspects – the legal–political foundation, technological infrastructure, information management and capability of operational activities. I use Europol as an example to illustrate the model, as outlined below.

#### **A. The legal–political foundation: Europol acts as a European agency**

Europol’s political transformation began with the 1992 Maastricht Treaty, then the 1995

Europol Convention and 2009 Council Decision (Eur-Lex, 1995; European Union, 2008; Moor & Vermeulen, 2010; Europol, 2013c; Europol, 2013d; Gutiérrez Zarza, 2015). Currently, Europol is a European supranational agency budgeted and supervised by the Council and democratically controlled by the European Parliament (European Union, 2008; Moor & Vermeulen, 2010; Gutiérrez Zarza, 2015). The foundation implies that Europol can enjoy relative autonomy away from its member-states (Moor & Vermeulen, 2010). This foundation also illustrates that Europol can build relations with European member-states, non-European nation-states, European security institutions and national security institutions (Bigo et al., 2007). Moreover, this foundation can be (re)shaped by the European field of power and European bureaucratic field.

**B. The technological infrastructure: Europol's databases are secured but not usually available for frontline operations**

Currently, Europol runs the Europol Information System, Analysis Work Files and Europol Secure Network (Europol, 2013b; Gutiérrez Zarza, 2015). According to the availability principle in the Hague Programme, Europol's databases should be available to allies. However, while it is a tech infrastructure accompanying the global technological development, some questions concerning availability are featured with politics. For example, European member-states were generally not motivated to harmonise relevant standards and legislations toward a unified data system (Bigo et al., 2007). Rather, European member-states preferred an interrelation approach to communicating with each other (Bigo et al., 2007). They were inclined to hold isolated, interlinked but differentiated access to national databases because their law enforcement, including the police, were reluctant to share information on an unlimited basis (Bigo et al., 2007). An interrelation approach allowed points of contact, including Europol, to communicate with trusty allies, rather than using a nonhuman interface

(Bigo et al., 2007).

### **C. Information management: Europol can produce SOCTA**

The Europol needs to master its collected information in the first instance. In so doing, it could set up relevant guidelines and utilise technology to effectively manage data flows and apply knowledge generated from its database (Bigo et al., 2007). Moreover, Europol could negotiate with other actors to directly or indirectly access their databases (Bigo et al., 2007). With member-states and other European security institutions' contributions, Europol could better produce SOCTA to deliver a Europe-wide trend of serious organised crime and threat prediction to illustrate its intelligence-led practice (Bigo et al., 2007; Van Duyne, 2007; Den Boer, 2010; Zoutendijk, 2010; Gutiérrez Zarza, 2015).

### **D. The capability of operational activities: Europol can only make strategic activities to support member-states' operations**

Europol is not designated as an operational agency; rather, it is strategic and assistive, meaning that it cannot exercise coercive power, such as search and arrest, in any member-states (Occhipinti, 2003; Europol, 2013a). Indeed, the specific arrangement of JIT allowed Europol to jointly cooperate with involved national, European and other professional institutions (Bigo et al., 2007; Moor & Vermeulen, 2010; Klimek, 2012). Nevertheless, Europol's participation in JITs was only allowed to assist involved actors legally setting up a JIT and provide information and logistic support to facilitate a JIT operation (De Buck, 2007; Spapens, 2011; Klimek, 2012). In contrast, OLAF and Frontex were relatively autonomous and flexible for initiating operations in member-states (Bigo et al., 2007). One difference between OLAF and Frontex was that the latter should receive a request from a member-state (Bigo et al., 2007).



While the field analysis is the approach deployed in Bigo et al.'s (2007) study, a missing point can be raised here – the lack of explicit expression of the interrelations of multiple fields. Without addressing these interrelations, the organisation of habitus is unclear. Bigo's all-encompassing European security field has been criticised as his ambition to construct a shared value across European security institutions (De Maillard & Smith, 2012). De Maillard and Smith (2012) argued that national delegates can construct the European bureaucratic field based habitus because they are aware of European policy-making rules. Meanwhile, they also insisted that the national value as the national bureaucratic field based habitus can affect European policy-making in terms of security issues<sup>28</sup>. Bigo et al. (2007) did mention a legal–political relation between the state and European security institutions that contributed to Europol's first two German presidencies imposing their national cooperation system on Europol, for instance; however, they did not further explore the organisation of habitus to reflect different influences imposed by the state and European security institutions. Hence, it is unclear whether the organisation of habitus held by national delegates (and employees) consists of values of the single European security field or that of multiple fields, including the European security field, European field of power, European bureaucratic field, national field of power, national bureaucratic field and an organisation as a field.

The aforementioned lack of interrelations between multiple fields was addressed in Bigo's (2014) study on border control. Instead of regarding the field as a whole, Bigo (2014) recognised three actors producing three types of practice in the three fields, as follows (Bigo, 2014:211):

- 1) The military were located in the '*strategic field*' in charge of patrolling,

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<sup>28</sup> Adler-Nissen (2011), Georgakakis (2011) and Madsen (2011) argued that national fields, such as national field of power, national bureaucratic field and organisations as fields, can influence European fields, such as European field of power, European bureaucratic field and European institutions as fields. However, they did not explicitly refer to the influence of habitus. In contrast, De Maillard and Smith (2012) asserted that habitus as values generated in national fields can drive national actors' practice in European fields.

- intercepting and containment to defend the state sovereignty;
- 2) The police were located in the '*internal security field*' in charge of filtering, and separating legal and illegal travellers and the management of flows of people; and
  - 3) Information analysts were located in the '*global cyber surveillance social universe*' in charge of managing big data without actually touching people.

Importantly, it is the global cyber surveillance social universe that could influence the two other fields in the way that information analysts manage online data to prevent unwanted people from reaching borderlines for physical checks (Bigo, 2014). Thus, Bigo (2014) argued that, being situated in the own field and influenced by other fields, the three actors constructed respective sets of habitus in the fields as inheriting the legacy of the own field, and importantly, adapting to the influence of other fields<sup>29</sup> (Bigo, 2014). Again, while deploying Bourdieu's concept of field to examine practice and habitus, researchers should anticipate that actors are not located in a single field, but rather, in multiple fields.

### **3.3.2 The UK–EU transnational policing field**

Berenskoetter (2012) explored how the British police officers and officials and their European counterparts mutually cooperated with each other in the UK–EU transnational policing field. The study focussed more on habitus than field, although

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<sup>29</sup> Bigo (2014) adopted Bruno Lahire's (2014:44–48, as cited in Bigo, 2014:210) concept of '*patrimony of dispositions*' to substitute for Bourdieu's conventional concept of habitus. Bigo (2014:210) argued that the concept of a '*patrimony of dispositions*' can adjust the concept of habitus, as the former captures '*the concepts of legacy and inheritance (patrimony), without presupposing that the system of dispositions remains durable, transposable or generally permanent within an individual*'. In other words, Bigo (2014) focussed on the changeable character of habitus. In my view, Bigo (2014) may misunderstand Bourdieu's concept of habitus. As discussed in section 3.1.2, the habitus can evolve over time and across space. The primary part can lay the foundation for integrating various specific parts of habitus over subjects' lifetimes. Even the durable and transposable part of habitus can be organised differently between subjects and between groups of subjects. Thus, the inquiry of the volume (as strength) and organisation (as parts) of habitus (as cultural capital) should be explored to capture the influence and interrelations of multiple fields. However, it seems that studies, such as Bigo (1994, 2000, 2008) and Bigo et al. (2007), rarely initiate the inquiry.

the title of the study – Mapping the field of UK–EU policing – addresses the concept of field. To understand communications between the United Kingdom and European Union, Berenskoetter (2012) adopted a sampling strategy, as follows:

- 1) Policing organisations: In the United Kingdom, there were the ACPO, SOCA and NPIA (the successor is the College of Policing). In Europe, there were the CEPOL, Europol and European Police Chiefs Task Force (EPCTF); and
- 2) Types of practice include information sharing via databases and PLOs, participating in training and defining threat.

Berenskoetter (2012) argued that there was the collective part of habitus on the British side in relation to PLOs' information sharing and police officers' participation in training. This collective part of habitus can reflect the logic of competition in the UK–EU transnational policing field, as follows:

- 1) Regarding PLOs, the study illustrated the logic of human interface in the field. The success of the practice has been attributed to the fact that they are capable of overcoming cultural, linguistic and bureaucratic obstacles (Berenskoetter, 2012). Meanwhile, the misunderstanding of communications could also be prevented (Berenskoetter, 2012). Importantly, without the operational power (Berenskoetter, 2012), PLOs did not breach the sovereignty of posted nation-states. Hence, PLOs were welcomed by the European Union because they illustrated a shared identity '*as members of a "European" force working to solve "European" problems*' (Berenskoetter, 2012:44). Meanwhile, using the channel of PLOs reflected the fact that the United Kingdom *de facto* bypassed Europol's databases, although the state should *de jure* communicate with Europol (Berenskoetter, 2012); and
- 2) In terms of training, the study illustrated the logic of promoting the British policing model to the European Union in the field. The British police officers argued that CEPOL focusses on European policing rather than British policing. Hence, British

participants did not regard CEPOL as a valuable institute for them to attend and learn. Instead, they regarded CEPOL as a platform for exporting and teaching British policing strategies. Holding the exportation of the British policing as a specific part of habitus, the police officers were constantly driven to attend various European programmes aiming at '*institution building*' (Berenskoetter, 2012:47).

Regarding defining threat, there were collective and fragmental parts of habitus in the UK–EU transnational policing field. The collective part of habitus of defining threat indicated that the United Kingdom endeavoured to promote the threat model to the European Union. For example, as one SOCA interviewee argued, the UK Threat Assessment (UKTA) and Europol's OCTA are '*underpinned by the same methodology and by the same intelligence network principles*' (Berenskoetter, 2012:49). This is because the United Kingdom successfully embeds the UKTA and National Intelligence Model (NIM) into Europol's OCTA and European Criminal Intelligence Model (ECIM), respectively.

The fragmental part of the habitus of defining threat indicates a transnational competition between national policing systems beyond the state and a national competition between national forces within the state. The two competitions cannot be captured by the UK–EU transnational policing field for the following reasons:

- 1) In a transnational domain, as Berenskoetter (2012) elucidated, the British presidency in the European Union and British delegates to Europol's Management Board could contribute to exporting the UKTA and NIM to Europol. Nevertheless, the British national influence could not reach police forces of European member-states because of different policing systems at play across Europe (Berenskoetter, 2012). The transnational competition of the policing system contributed to the fragmental part of habitus between the United Kingdom and European member-

states; and

- 2) In a national domain, there was the British national policing field at play because the ACPO deploys an '*Organised Crime Group Map*' to compete with SOCA's OCTA (Berenskoetter, 2012:49). Hence, this national competition contributed to the fragmental part of the habitus between SOCA and the police.

Regarding information sharing via databases, there is also the fragmental part of habitus that cannot be solely attributed to the influence of the UK–EU transnational policing field. The fragmental part of habitus concerning information sharing via databases reflects two types of national competition for information accumulation, as illustrated in the following:

- 1) **A national competition between SOCA and the police:** The British police officers were not willing to share information due to SOCA's position: Uploading information via SOCA to Europol was time consuming, Europol's visibility was low and SOCA reorganised information communicated by the police and Europol (Berenskoetter, 2012). As one SOCA interviewee responded, '*there are different ways to get an answer for a question, and we decide which channel is most useful*' (Berenskoetter, 2012:42). While SOCA tried to claim its authority of information, such a claim also distanced it from the police (Berenskoetter, 2012); and
- 2) **A national competition between different police forces:** The British police, for example, internally encountered the challenge of downsizing the number of national databases and interconnecting national databases within the state (Berenskoetter, 2012).

The two types of national competition outlined above could influence the UK–EU transnational policing field, as the police were reluctant to communicate with Europol. However, while those national competitions are identified, the competition in the UK–EU transnational policing field for information accumulation via databases is somehow

rarely explored. It is unclear whether the two types of national competition were regarded as the competition in the UK–EU transnational policing field in Berenskoetter's (2012) study.

Above all, although Berenskoetter (2012) endeavoured to map out the UK–EU transnational policing field, he did not recognise the existence of multiple fields. As discussed in chapter 2 and this section, before entering the competition in the UK–EU transnational policing field, the British policing organisations should compete for the domination of the national policing field. The results of this national competition can be recognised in the form of habitus. For example, the United Kingdom successfully promoting the UKTA as a part of habitus resulted from the influence of the national policing field in which SOCA claimed its domination. Likewise, the United Kingdom successfully promoting the British policing model as a part of habitus resulted from the influence of the national policing field in which the police claimed their domination. In contrast, the argument of the British police against SOCA about information sharing via databases reflected the unsettlement in the national policing field in which both parties still competed for information as capital. Hence, while examining the UK–EU transnational policing field, the field cannot stand alone without considering the influence of other fields. Especially, from a perspective of police officers, they are recruited by the force of the mother state to generate and deliver policing service. The practice in transnational policing cooperation is one type of policing service. Hence, the influence of national fields (e.g. the national policing field, national bureaucratic field and national criminal justice field) on the transnational policing field cannot be ignored.

### **3.4 An agency–structure framework**

In this chapter, the analysis of studies on police culture and policing cooperation

elucidates the importance of closeness between habitus, fields and practice. Practice should be captured by multiple fields in which a specific part of habitus can be constructed in each field. In addition to the methodological considerations, interviewees' accounts as habitus cannot heuristically be considered a sole reflection of the single field; rather, they exemplify multiple fields. By considering Bourdieu's theory of practice, I transform the agency framework proposed in chapter 2 to the agency–structure framework, as described below.

The initial thought for proposing the agency framework aims at understanding how researchers depict the police as (semi)autonomous practitioners in studies. The results of evaluating research models of policing cooperation studies suggest that there should be a focus on police officers and their relationships with other actors, as follows:

- 1) Within the state, there are intra-organisational (organisation–agent) and intra-governmental (government–police) relationships. Communications can be initiated at the interpersonal, intra- and interorganisational and intra-governmental levels;
- 2) Beyond the state, communications can be initiated at the interpersonal, interorganisational and intergovernmental levels; and
- 3) Except for self-determined interpersonal communications, communications at the intra- and interorganisational and intra- and intergovernmental levels should be approved by the hierarchical authority of the police organisation and that of the government.

By using Bourdieu's theory of practice to examine the agency framework, the question about why police officers have to produce practice and why they only have negative attitudes as culture while producing practice cannot be answered. As discussed in section 3.2, if the influence of field is not considered in my study, the durable and transposable part of habitus will still be the dominant topic and other parts of habitus

and changes of habitus will not be recognised. In addition, although I assume that there are the organisation–agent and government–police relationships, I may ignore the fact that those relationships do not have the power to drive the police officers to accomplish their tasks. Instead, it is the field in which, to sustain and promote positions, the police officers need to accumulate capital rather than relying on their relationships with other actors. Hence, a habitus–practice relation is not sufficient for capturing practice. Instead, a habitus–field–practice relation should be maintained in my study. Accordingly, I redefine the meaning of transnational policing cooperation as follows:

- 1) Transnational policing cooperation is the practice that can bring transnational criminals to justice by the police (consciously and unconsciously) selectively applying (inter)governmental and organisational instruments within and beyond the state (as defined at the end of section 2.1);**
- 2) Transnational policing cooperation (including criminal investigation, information exchange, attending meetings, conferences and training) is one cluster of practice during the police officers' lives and careers;**
- 3) Before producing the practice, the police officers who has constructed the existing part of habitus should be recruited and posted in the current police organisations as a field;**
- 4) To produce the practice, the police officers should succeed the internal competition for the domination of own agency to succeed external competitions for the domination on multiple fields. This means that the police officers should dominate their agency by constructing the associated part of habitus within police organisations influenced by multiple fields (refer to Table 3.1 and Figure 3.1). The habitus construction requires the police officers to complete the learn–select–act process. Once the associated part of habitus is constructed, it integrates the existing part of habitus to drive the police officers to make the practice; and**



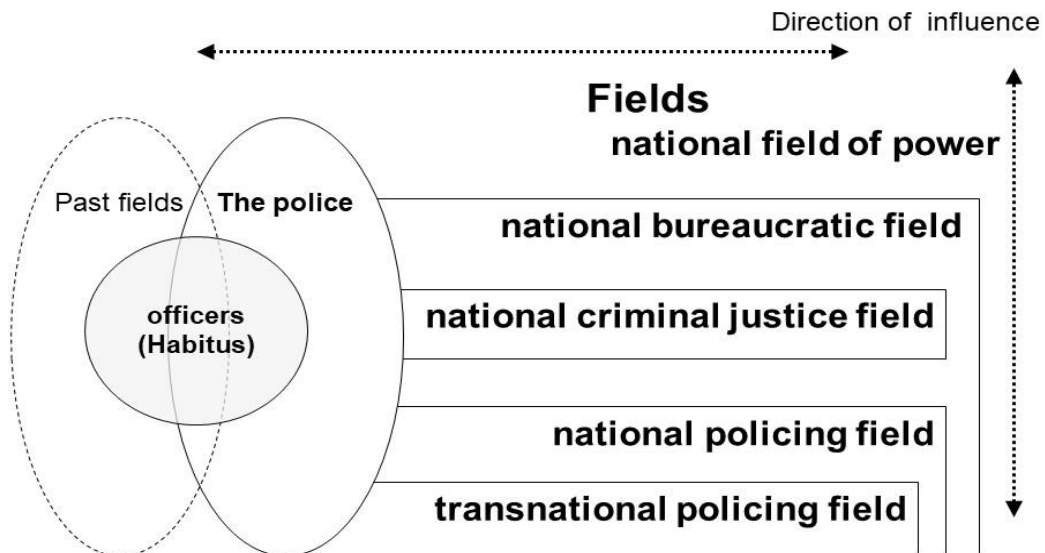
**5) The multiple fields can be changed. If the police officers obtain dominant positions by accumulating sufficient volume (strength) and correct organisation (parts) of habitus as capital, they will gain opportunities to promote the integrated habitus to (re)shape fields.**

**Table 3.1 Multiple fields for transnational policing cooperation**

Field	Competition	Examples of contenders
<p><b>National field of power</b></p>	<ul style="list-style-type: none"> <li>● Actors compete for dominating respective communities</li> <li>● Communities compete for dominating the field</li> </ul> <p>Example: being appointed as chief constable in accordance with politics</p> <p>The national field of power's influence on the transnational policing field</p> <p>Examples</p> <ul style="list-style-type: none"> <li>● The Cross-Channel Intelligence Conference and European Liaison Unit were created by the one who held the position as the Kent Chief Constable</li> <li>● Europol's first two German presidencies intended to impose the German national cooperation system on Europol's liaison system</li> </ul>	<p>Members of political, judicial, academic, financial and religious communities, including police forces</p>
<p><b>National bureaucratic field</b></p>	<p>Actors compete for defining bureaucracy (including the hierarchical authority and specialisation)</p> <p>Example: defining the British tripartite policing system, structuring and operating police organisations and managing police officers</p> <p><b>The national bureaucratic field's influence on the transnational policing field</b></p> <p>Example</p> <ul style="list-style-type: none"> <li>● British government introduced the National Crime Agency (NCA) and the Police and Crime Commissioners (PCCs) to (re)shape the British policing regime</li> <li>● The discussion about shifting the responsibility of countering terrorism from the</li> </ul>	<ul style="list-style-type: none"> <li>● <b>Instrument producer:</b> government and parliament</li> <li>● <b>Instrument producer, user and receiver:</b> police</li> <li>● <b>Instrument receiver:</b> communities</li> <li>● <b>Supervisory body:</b> media and interest groups</li> </ul>

Field	Competition	Examples of contenders
<p><b>National criminal justice field</b></p>	<p>Actors compete for defining criminal justice service</p> <p>Example: Belgian police compete with their prosecutors and judges for undertaking criminal investigation</p> <p><b>The national criminal justice field's influence on the transnational policing field</b></p> <p>Example: police's transnational criminal investigation can be influenced by the prosecutors in the NJCF</p>	<p>Metropolitan Police of London to the NCA</p> <ul style="list-style-type: none"> <li>● <b>Instrument producer:</b> government, parliament, police, prosecutors, courts and prisons</li> <li>● <b>Instrument user:</b> police, prosecutors, courts and prisons</li> <li>● <b>Instrument receiver:</b> communities</li> <li>● <b>Supervisory body:</b> media and interest groups</li> </ul>
<p><b>National policing field</b></p>	<p>Actors compete for defining policing</p> <p>Example: British police compete with the Home Office and PCCs to determine interand transnational and local policing</p> <p><b>The national policing field's influence on the transnational policing field</b></p> <p>Example</p> <ul style="list-style-type: none"> <li>● The establishment of Interpol's National Central Bureau (NCB) and the Europol National Unit</li> <li>● Defining transnational threat, attending training courses overseas and sharing information via databases is in accordance with the regulations established in the national policing field</li> </ul>	<ul style="list-style-type: none"> <li>● <b>Instrument producer:</b> government, parliament and police</li> <li>● <b>Instrument user:</b> police</li> <li>● <b>Instrument receiver:</b> communities</li> <li>● <b>Supervisory body:</b> media and interest groups</li> </ul>
<p><b>Transnational policing field</b></p>	<p>Actors compete for defining transnational policing cooperation</p> <p>Example: police can compete with foreign counterparts for defining threat, designing training programmes, undertaking transnational investigation and exchanging information</p>	<ul style="list-style-type: none"> <li>● <b>Instrument producer:</b> government, parliament and police</li> <li>● <b>Instrument user:</b> government and police</li> <li>● <b>Instrument receiver:</b> communities and foreign counterparts</li> <li>● <b>Supervisory body:</b> media and interest groups</li> </ul>

Field	Competition	Examples of contenders
	<p><b>The transnational policing field's influence on the national policing field</b></p> <p>Example</p> <ul style="list-style-type: none"> <li>● Kent Chief Constable was invited to participate in the government-led Channel Tunnel Project 1986</li> <li>● Police-initiated Meuse–Rhine cooperation before WWII contributed to an extradition and mutual legal assistance treaty in the region in 1962 and the Benelux Police Cooperation Treaty in 2004 and the Dutch-German Treaty in 2005</li> <li>● PLO performance can contribute to (re)shaping governmental proposals for deploying PLOs and establishing intergovernmental arrangements</li> </ul>	



**Figure 3.1 The agency-structure framework**

## **Chapter 4: The Ethnography of Daily Practice**

Researching a social phenomenon to broaden academic knowledge does not mean that a researcher has a responsibility solely toward his/her academic community. To produce intellectual knowledge, a researcher is expected to hold a pivotal position in connection with the academic community and research groups. Because the production of knowledge can either positively or a negatively influence either side, researchers should regard academic research seriously. Therefore, research projects should be designed after considering issues relating to knowledge generation (for academics) and ethical sensitivity (for participants). Moreover, a researcher should acknowledge that his/her responsibilities to protect each party's interests will never conclude but will, rather, be a lifelong commitment (Schrag, 2006; 2009).

Regarding a researcher's responsibility to participants, ethics regulate researchers' academic activities. The knowledge that their research generates would be contaminated if they ignored the ethical demands of their research. To this end, researchers must protect the participants and the academic community from physical and psychological harm (Economic and Social Research Council, 2012). Pressure and discomfort, which can put participants at risk and violate their anonymity and confidentiality, must be prohibited (Economic and Social Research Council, 2012). In addition, the participants' relationships with their communities must not be damaged by the research process (British Sociological Association, 2002).

Regarding a researcher's responsibility to the academic community, he or she should generally encourage the production and dissemination of intellectual knowledge, protect the freedom of research, create an appropriate environment for study and avoid overstating the accuracy of findings (Social Research Association, 2003; British

Society of Criminology, 2006). In addition, the research should be transparent, demonstrating that the study was accurate, the participants acted freely and the researcher acted with integrity (British Sociological Association, 2002; Social Research Association; 2003; British Society of Criminology, 2006). This implies that researchers need to account for their research practices and diminish the risks to both parties (Semmens, 2011). Bearing academic responsibilities can prepare researchers for joining an academic community. To this end, researchers, as producers of knowledge, should be able to justify their decisions at every stage of the research process, from selecting a research question and the corresponding methodology to producing the findings and defending them against criticisms from their colleagues.

It is important that, as an ethnographic researcher who embraces Bourdieusism, I should be sensitive to the evolution of my agency by documenting every reflection on my perception in the study. Reflection in this sense has two implications. First, outside the field, I should develop an analytic framework to (re)construct an understanding of transnational policing cooperation through literature reviews and fieldnote analyses. Hence, if I do not produce chapter 2, I will not produce chapter 3. Likewise, if I choose interviewing as my research method, my exploration of transnational policing cooperation will be much different from my current choice of ethnography. Second, in the field, I should remain open-minded while interacting with my participants, and document the expected and unexpected and the explicit and implicit parts of transnational policing cooperation. After all, the way I evolve my agency can influence the way I undertake and present my study.

In this chapter, I reflect my acting proposal in the field. There are five sections, including: 1) choosing the ethnography, 2) the researcher's dual identity, 3) sampling for the fieldwork, 4) participant recruitment and access to the participants and 5) data

analysis.

#### **4.1 Choosing the ethnography**

The selection of a method is rarely predetermined; rather, the choice of method depends on what a researcher is trying to explore (Silverman, 2013). As expressed in chapter 3, how a subject perceives the world offers clues for choosing a suitable research method. Because human perception is a closed system, a researcher should anticipate discovering multiple realities surrounding a subject.

A practitioner's reality of transnational policing cooperation is based on his/her perceptions. Therefore, understanding transnational policing cooperation requires exploring not how a group, such as an organisation, state, IPO or SPO, explains a practice but rather how an individual member of a group explains it. There is one difference between a group-established reality and a practitioner-established reality; it is rooted in the fact that a practitioner is only one contributor in generating a particular type of practice. For example, a ROC police officer's practices can be perceived differently according to various settings, including: 1) where they are within a national bureaucracy, their posts and divisions and the national bureaucracy's hierarchical authority and specialisation; 2) where they are within the ROC, a national bureaucracy's relation with other national bureaucracies; 3) beyond the ROC, the governmental relation and a national bureaucracy's relation with their foreign counterparts; and 4) an officer's relation *vis-à-vis* other officers within and beyond the CIB and the ROC. In other words, transnational policing cooperation in the ROC is a social, complex, changing and human-involved phenomenon, rather than a natural, simple, fixed and object-involved phenomenon.

To explore how the CIB officers launch a transnational policing cooperation

programme, I needed a research method to examine what happened in the studied phenomenon (Bourdieu, 1977; Smith, 1987; Webley, 2010; Silverman, 2013). In particular, to depict practice in action, not in theory, this method cannot be fixed; rather, it must be adaptable: identifying, examining and interpreting the CIB officers' practices, fields and habitus. I should be able to understand how the CIB officers perceive their practices, fields and habitus before I construct my reality<sup>30</sup> of transnational policing cooperation.

The nature of this phenomenon makes a quantitative approach inappropriate. Generally, a quantitative researcher can encounter difficulties when using a number of objective variables to account for a continuously evolving phenomenon. There are several reasons for this as described below:

- 1) **By viewing a social phenomenon as a physical target, the measurable variables are regarded as key components of a phenomenon** (Paley & Lilford, 2011)

Quantitative researchers are expected to identify variables using existing theories and to utilise questionnaires for the data collection. Different understandings of a phenomenon in terms of depth and breadth can influence how researchers organise questions and, consequentially, the outcomes of particular measurements. A well-known example is in the field of terrorism-related research, in which the types of variables are subject to debate (Schmid & Jongman, 1988). Moreover, as discussed in chapter 2 (section 2.2), theory-driven research models usually guide researchers to focus on a number of variables that satisfy the expectations of those particular models and, thus, cause them to ignore other valuable variables.

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<sup>30</sup> I should address that the presentation of this thesis is a reflection of my perceptual world. An understanding of how the CIB and its officers launch transnational policing cooperation reflects the subjective nature of knowledge. This subjective nature cannot be approached and constructed if 1) I do not live in the CIB officers' *practiced* worlds and if 2) I do not live in my academic world. In other words, the subjective nature of knowledge reflects my perceptual reality of coordinating the worlds of practice and academia. Although success of this thesis can be shared with my participating group and my academic community, the failure of this thesis should rest on me alone.



2) **The outcomes of measurement are regarded as value-free products** (Healy & Perry, 2000)

Quantitative researchers may neglect a crucial feature of a social phenomenon: namely, the human beings involved. In specific terms, participants are able to alter the morphology of a phenomenon by reflecting on their own understandings and interacting with other participants over time and across different contexts. These result in changes to the participants' future activities and, thus, change the phenomenon. Quantitative studies cannot adequately account for this kind of evolution in behaviour and context.

3) **Quantitative and qualitative approaches often produce contradictory findings**

In general, qualitative researchers have been able to illustrate a consistent relationship between the attitudes of police officers and particular behaviours; however, this relationship has rarely been validated by quantitative researchers (Johnson & Dai, 2016; Buvik, 2014; Engel & Worden, 2003). Even quantitative studies on the same topic have generated opposite results, such as police officers' contradictory attitudes about women and rape (Alderden & Ullman, 2012). Page (2008) contended that a participant's response to gender issues may not be a reflection of his/her education. Instead, the response may also reflect that he or she feels obligated to curry organisational favour and desires to be viewed positively by western societies.

Similarly, Ladner and Nocker (2016), who adopted surveys and ethnographies to examine governmental influence on organisational practice, argued that their survey findings showed that the participants approved of the policy changes while their ethnographic results showed that they disapproved of them. Though they attributed the contradictory results to the limitations of the literature-based survey, which was unable to identify unknown features in the field, the researchers should have interpreted the survey responses as official statements without much operational meaning (Burruss & Giblin, 2014).

#### **4) Surveys rely on the people's willingness to participate**

Successful quantitative measurements depend on the participants understanding the meaning of the questions and on their willingness to complete the questionnaires. Since participants do not always have the ability to communicate with the researchers, it is often not possible to clarify ambiguous phrasing. Moreover, quantitative studies are often imbued with the researchers' expectations and fail to account for the participants' realities.

A qualitative approach is suitable for grasping a social, complex, changing and human-involved phenomenon. However, different qualitative methods may produce different constructions of the phenomenon (Banton, 1964; Young, 1991; Chan, 1996; 1997; 2007; Cockcroft, 2007; Loftus, 2009; Ingram, 2013; Paoline et al., 2013). In the debate about habitus (or culture) changes in policing practices, different methodological approaches have resulted in opposing viewpoints. For example, Chan (1996; 1997; 2007) adopted surveys and interviews to illustrate a potential of habitus change. In contrast, Holdaway (1983; 2013) and Loftus (2009; 2010) adopted ethnographic approaches and concluded that culture change should be resisted. It should be noted that what ethnographies depict may differ from what other methods depict.

Ethnographic and interview-based approaches are the most popular research instruments to study police culture and Bourdieu's theory of practice. However, these research instruments differ in nature. Interviews rely on interviewees to use their content schema to respond to the interviewers' questions. The nature of content schema as explicit knowledge requires that the interviewees act as outsiders and observe, analyse and memorise what they have experienced (Bourdieu, 1977). Once a content schema is established, it can assist people in anticipating future events and enhances

their ability to learn (Zacks & Swallow, 2007; Swallow et al., 2009).

The establishment of a content schema relies on an automatic psychological mechanism to rapidly, coherently and meaningfully interpret segments of experienced events (Zacks & Swallow, 2007; Strickland & Keil, 2011). In other words, a content schema relating to an event is not fully constructed. This implies that people tend to ignore or forget the incoherent and meaningless segments that the content schema cannot recognise. Therefore, when interviewees provide accounts by retrieving information from a content schema, they are providing partial and guided accounts of the events.

Partial and guided representations are rarely complemented by the interviewers. This is because interviewers do not experience the same events as their interviewees do. Even if interviewers attempt to use the triangulation principle to find the lost segments, the content schema may not allow the interviewees to retrieve the data. For example, a performance evaluation related content schema can predict PLOs to document and report solved cases but not unsuccessful investigations (Wu, 2013). While a content schema can help an interviewee predict future scenarios, it also limits the ways an interviewee can look these future scenarios. Thus, the segments that remain unrecognised are lost.

There are several other interview-related problems as described below:

**1) Interviewees' accounts are not derived from habitus**

Habitus is more important than content schemas in driving the interviewees to produce practices and achieve occupational performance (Polanyi, 1966; Bourdieu, 1977; Stalans & Finn, 1995; Noteborn, 2014; Dailey-Hebert et al., 2014). However, interviewees are often unable to recognise and express habitus verbally (Polanyi, 1966;

Bourdieu, 1977). Although transferring a content schema to habitus is possible<sup>31</sup> (Atallah et al., 2006; Lerchner et al., 2007), and though the two kinds of schema share similar elements, researchers should be aware of their differences. To study a person's habitus, a habitus–field–practice relation should be maintained because habitus is an operation-aroused and context-sensitive device. In contrast, a content schema is a context-free device.

**2) A habitus (account)-field (position)-practice relation cannot be confirmed because interviewees can occupy a combination of positions**

Although Silverman (2013) argued that a researcher should distinguish which kind of position an interviewee occupies while expressing a subjective world, there are difficulties involved in identifying an interviewee's position(s). For example, an interviewee may not be aware of his/her own position(s). An interviewee who expresses an understanding of policing cooperation can occupy a number of positions, ranging from a bureaucratic supervisee (an officer in an organisation), a human-interface (PLO) and/or a case-solver (detective). If an interviewee explicitly expresses trust or mistrust in his/her foreign counterparts, this cannot be merely attributed to the fact that an interviewee is an officer. Instead, his/her accounts should be linked to: 1) the position(s) as a bureaucratic supervisee, a human-interface, a case-solver or a combination of these positions, and 2) the practices in information exchange, criminal investigation and/or training. If an interviewee does not have a clear idea of his/her positions, the interviewer will not be able to judge how these accounts came to be and from where these accounts were derived. As a result, the interviewer will miss the opportunity to explore the interviewee's accounts in more detail (Wu, 2013; Peters et al., 2016).

**3) Interviewees' accounts may not reflect the phenomenon (Miller & Tewksbury,**

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<sup>31</sup> An articulation of schema transfer can be found in section 3.1.1, chapter 3. In short, a schema transfer requires people to selectively act out what they have learnt.

2012). **Instead, they may reflect the researcher's questions or socially desired expectations**

Vidali and Tufte (2014) argue that, although language provides researchers with an opportunity to approach a phenomenon, it is an illusion that the continuity of a language-phenomenon relation cannot be interrupted. For example, if an interviewee answers 'It depends' to the question, 'Do you approve or disapprove of the way Barack Obama is handling his job as president?', the interviewer may identify the interviewee's answer as 'Doesn't know' to indicate a low level of political engagement (Vidali & Tufte, 2014).

However, an objection can be raised here. 'Doesn't know' can imply several different meanings, including 'I don't know', 'I don't care' or simply a refusal to answer the question. Each of these answers reflects a different psychological status (Vidali & Tufte, 2014). Even if the interviewer could observe the interviewee's daily political activities over a significant period of time, the question 'Did you register to vote?' would still be inadequate because the interviewee may simply not be in the mood to respond (Vidali & Tufte, 2014). This implies that an interviewee's answer can only be judged as a response to a question and not necessarily as a reflection of a phenomenon (Vidali & Tufte, 2014; Peters et al., 2016).

Even if the interviewees attempt to define a phenomenon, a researcher can anticipate that they will be influenced by the bias of social desirability. This implies that the interviewees' accounts will reflect societal values rather than their own (Van Der Wal, 2013; Van Der Wal & Yang, 2015).

Ultimately, what an interviewer aims to establish are the interviewees' perceptions of events in general (Silverman, 2013) and the practical knowledge of '*know-what*' in

specific terms. In short, content knowledge-based perceptions do not offer any insights into how practices are generated.

To overcome this methodological shortcoming, this study focuses on the *practiced* knowledge of '*know-how*'. Therefore, if interviews are conducted, the proper way to use them would be to wait until a type of practice can be observed to ensure a habitus–field–practice relation. As such, a significant amount of time may be required for this to occur. Considering the length of this kind of intervention, I chose ethnography.

Generally, ethnography, as a method, seeks to '*apprehend the life of others and make sense of their ideas and actions*' (Fassin, 2013:122). Although historians also care about people's lives, they are interested in the past status of studied groups and remain distant from them (Fassin, 2013). In contrast, ethnographers focus mainly on a group's present status (Fassin, 2013) and engage with them to understand their lives (Davies et al., 2011). In other words, the ethnographer is a sensory tool that is able to experience what happens in the field personally (Fassin, 2013), and ethnography is able to establish a real-time understanding of a changing phenomenon. Moreover, an ethnographer is required to take notes of his/her own auditory and visual perceptions and handle emergent topics over time (Van den Hoonaard & Connolly, 2006; Davies & Francis, 2011). By continuous reflection, an ethnographer can correct misjudgements over the course of the fieldwork (Pogrebin, 2012). At the end of a research journey, an ethnographer is also required to represent own understanding of a phenomenon to an academic community.

#### **4.2 The researcher's dual identity**

In this study, I gradually evolved my agency from acting as a practitioner to acting as a practitioner–researcher as described below.

### **1) As an academic (and an outsider)**

In general, an ethnographer can serve as a mirror that reflects what the participants have done in the field. The implicit and explicit data exposed by the participants are equally important (Bourdieu, 1977; Leedy & Ormrod, 2013) and should be faithfully documented. Nevertheless, to collect data in the field, an ethnographer must begin as an outsider. This outsider identity forces the ethnographer to immerse himself or herself in the field over a significant period of time, usually for months or years (Leedy & Ormrod, 2013). As time passes, the ethnographer (as an outsider) can gradually become an insider (or native member) of the phenomenon (Webley, 2010; Leedy & Ormrod, 2013).

This kind of outsider–insider transformation is necessary because it allows the ethnographer to experience a participant’s journey (Fassin, 2013) and construct his/her own reality of practice. Here, I regarded an ethnographer as a ‘sharing house’ (a phrase that I borrow from policing cooperation studies) who exchanges ideas with the participants to construct a joint understanding of policing cooperation. My ethnographic tasks were: A) to explore and document the participants’ practices, and B) to function as the participants’ consciousness to communicate with participants to jointly search for meanings of practice.

It should be noted that an ethnographer is always be different from the participants. For participants, the ethnographer will never be an insider. Specifically, each party has a different closed perceptual system, which implies that they may not construct similar realities. As an academic, an ethnographer is required to possess a wider range of intellectual knowledge than the participants. Before studying in the U.K., I obtained a BA in 1996 and an MA in 2002 in the ROC. Both of my degrees relate to criminal investigation. In 2013, I obtained an MSc in terrorism, security and policing with a

study on ROC PLOs.

Since 2013, I have gradually accumulated knowledge about transnational policing cooperation, police culture and criminal investigation, and I have attended several qualitative- and ethnography-focused workshops, seminars and conferences to improve my skills in designing methodologies. These skills and associated classes are as follows:

- A. **Research design and skills:** Qualitative Research Design; In-Depth Interviewing Skills; Ethnography and Observation in Criminological Contexts; Ethnography Now: Making, Doing and Selling Ethnography in the 21st Century; Advanced Ethnography; and the Ethnography Symposium.
- B. **Preparing for fieldwork:** Planning Your Fieldwork and Research Ethics Workshop.
- C. **Data analysis:** Data and Methods of Analysis for Qualitative Social Science Data; Introduction to Qualitative Data Analysis; and Interpreting and Writing Up Your Qualitative Findings.

As Hegelund (2005) and Cheng (2009) contended, however, ethnography should not be influenced by an ethnographer's existing knowledge, including knowledge obtained from literature review and his/her academic background, personality and work experience. Although Loftus (2009) mentioned that existing knowledge may have influenced her ethnography, it is not obvious that this is inherently problematic. In fact, by utilising existing knowledge to guide the process of data collection, an ethnographer can skilfully document the collected information<sup>32</sup>.

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<sup>32</sup> For example, during my fieldwork, there was an incident where a participant's idea (as a practitioner) and my idea (as a practitioner-researcher) came into conflict. CIB subordinates have the (legal) power to question and complain about their supervisors' commands; however, they do not encourage each other to try to do so. This means that, if I act as a full practitioner, I will not encourage my participants to persuade their supervisors. Nevertheless, I have elicited the following conversation by acting as a practitioner-researcher to deploy my practitioner-related knowledge to explore a participant's perception. Most importantly, the following conversation has been faithfully documented as a strategy of respecting the participants, my academic community and my own work experience.

**Me:** *'According to my previous work experience, a detective should try his best to persuade*



## 2) As a practitioner (and an insider)

The case of a researcher as an insider is not rare in policing studies (Holdaway, 1983; Young, 1991; Heslop, 2011), and it is reasonable to expect that an insider would have more opportunities to get a *practiced* understanding. In addition, as an insider, an ethnographer is relatively qualified to identify the issues that the participants do not express (Heslop, 2012) and is well-positioned to reflect on his/her own practices and explore the cultural meanings of a phenomenon. This is one of the reasons Bradley and Nixon (2009) and Heslop (2011) urge for more police officers to become involved in academic studies.

Since graduating in 1997, I have served as a police officer for 16 years, which includes 10 years serving as a CIB officer before entering my post-graduate research programme. While working at the CIB, I have gained both strategic and operational experience. Regarding my strategic experience, I have overseen several major projects, including policy-making on crime fighting-related strategies and the establishment of the CIB Exhibition Hall, and I assisted in the publication of the CIB Bimonthly. Regarding my operational experience, I have undertaken gun-related investigations in Taiwan and several transnational fraud investigations with my counterparts in China, Vietnam and Indonesia.

Moreover, because I have continuously held a post as a senior detective in the CIB, I can observe my own practices in the field. As an illustration of reflexivity, observing own practices requires me to be constantly aware of my academic identity (Marks, 2004; Westmarland, 2008; Webley, 2010). For example, I have documented my practices in

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*his supervisors to grant his proposal for action. If he or she chooses to give up before the trial, the efforts were in vain.'*

**Participant 1:** *'It's just too hard to convince my supervisors to give me approval if they have different viewpoints. You may have the ability to persuade your supervisors. But, that is your experience, not mine, particularly in this division.'*

articles in the CIB Bimonthly and made one brief presentation to my participants at ICAD to illustrate my journey of study (Chiou & Wu, 2015; Wu & Li, 2015; Wu, 2017). There are two benefits from my interactions with the CIB and my participants. First, I can express my academic identity to the group. Second, I can enhance my fieldwork-based arguments. By collecting my participants' feedback to the aforementioned brief presentation about my attending a transnational conference, I can confirm that one part of the habitus of transnational policing cooperation is embedded in the bureaucratic procedure of document processing. This procedure regulates the officers' daily work, but its influence is generally ignored in the field.

Being a practitioner, however, can also raise concerns about the study's integrity. This study is not commissioned by the CIB; however, gatekeepers can still assign political intentions to it. This kind of ethical issue is rarely discussed in transnational policing studies in Taiwan (Cheng, 2011; Li, 2012; Wen, 2012; Yeh, 2012; Su, 2013). Even in Taiwanese criminological studies, relevant ethical issues are not given much attention, and only 253 of 939 Masters and PhD studies (1998–2013) address ethical concerns (Albane & Lin, 2013). To limit the gatekeepers' influences, I have formulated a general strategy to communicate the purpose of my research to the gatekeepers and carefully avoid their political intentions. I plan to weigh the outcomes of any proposed actions against the gatekeepers' political intentions and communicate with my supervisors and the University Research Ethics Committee. I have agreed not to make any inappropriate changes in the study's purpose, process or findings (American Anthropological Association, 2012).

### **4.3 Sampling for fieldwork**

Generally, participants are selected because they have specialised knowledge about a research topic (Cleary et al., 2014). To fight crime, the CIB interacts with other national

bureaucracies and foreign counterparts within and beyond the ROC, respectively. The crime-fighting mandate ensures that the CIB is responsible for facilitating national and transnational (including cross-strait) practices in criminal investigations, information exchange and participation in meetings, conferences and training. Thus, CIB officers are ideal participants for this study.

To identify appropriate sites for observation, purposive and snowball sampling were applied, which are described as follows:

### **1) Purposive sampling**

Officers responsible for transnational policing cooperation were chosen. In the CIB, there are nine of ICs, ICAD and Cross-Strait Affairs Division (CSAD). Although the participants could include officers working in these functional divisions, two issues should be considered, including confidentiality of practice and availability of space.

#### **A. Confidentiality of practice:**

CSAD and two strategic sections of ICAD have not been chosen for observation because they are responsible for the policy making of cross-strait and transnational businesses during a period of political tension across the Taiwan Strait.

Taiwan is contested on the sovereignty issue by the Taipei and Beijing regimes. Intergovernmental conflict over Taiwan contributed to the ROC losing its membership in the United Nations in 1971 and in Interpol in 1984 (Ke, 2004; Li, 2006). Between 2008 and 2016, the KMT-led Taipei regime maintained a stable relationship with the Beijing regime based on the ‘1992 Consensus’<sup>33</sup>. The ROC government has been able

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<sup>33</sup> Although the term ‘1992 Consensus’ was adopted to capture the cross-strait political stability, this is merely a rhetorical device. The term does not reflect the fact that the ROC’s international identity has never been recognised by the Beijing regime. Hence, types of cross-strait practices are accommodated by the respective political frameworks of the two regimes. Currently, the DPP-led Taipei regime, which has been in place since 2016, adopts the opposite approach to addressing international participation against the approach addressing cross-strait participation adopted by the KMT-led Taipei and the CP-led Beijing regimes. In addition, the DPP has gradually shifted its passive stance to a progressive stance of international participation in correspondence with the PRC decreasing the number of ROC’s diplomatic allies, interrupting the ROC’s participation in IOs and repatriating Taiwanese fraud

to increase its cross-strait and international participation in economic negotiations with China, Japan, Singapore and New Zealand (Okano-Heijmans, 2016) and to participate, though in a limited role, in the World Health Organisation (WHO), the World Health Assembly (WHA) and the International Civil Aviation Organisation (ICAO) (deLisle, 2016); however, this type of ROC intergovernmental participation is implicitly based on the ‘One China (as PRC)’ propagated by the Beijing regime rather than ‘One China (as ROC)’ advocated by the Taipei regime (deLisle, 2016; Okano-Heijmans, 2016).

Since DPP came to power in 2016, cross-strait relations have entered a new stage: a ‘Cold Peace’ (Okano-Heijmans, 2016). Because it was not acknowledged the ‘1992 Consensus’, the ROC government was forced to withdraw from the WHO, the WHA and the ICAO. Hence, sites for policy making in both international and transnational arenas, such as reapplying for Interpol membership, must remain confidential. After all, the products of policy making can be used to improve the ROC’s intergovernmental status as well as the CIB’s interorganisational participation, which would likely be regarded by China as a violation of the ‘One China (as PRC)’ principle.

### **B. Space availability at the sites**

The detectives’ routine work should be considered. Generally, a detective’s working personality can be characterised as that of an information handler (Cohen & Chaiken, 1987; Hallenberg, 2012; Westera, 2016; Keibell et al., 2016). Detectives identify, collect and apply information from the beginning of an investigation until the case is brought to court (Wu, 2017). Various activities can be undertaken within a police organisation when processing information, and producing documents is an important part of these information-related activities (Cohen & Chaiken, 1987).

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suspects to China.

There is no exception for CIB detectives in charge of a criminal investigation to act as an information handler. According to the *Manual for Processing Documents* (文書處理手冊, *wen-shu-chu-li-chou-ce*), CIB detectives spend most of their time at their desks writing reports. Thus, it is appropriate for the researcher to be located in the offices to observe the participants' work. After consulting with two divisional leaders, I have been given my own desk in two operational squadrons of the two divisions, namely the 1st IC and ICAD.

#### **A) The 1st IC**

The 1st IC has been chosen because it hosts my post, and I already have established relationships with members of corps. The legal organisation of the 1st IC includes one Commander, one Deputy Commander, three Squadron Chiefs, three Assistant Squadron Chiefs and a *de jure* number of 24 detectives. Regarding its mandates, the IC is in charge of criminal investigations for homicide and gun-related crimes within and beyond the ROC. The corps is also designated as a point of contact for information exchange with the Fujian Province in China.

#### **B) ICAD**

The legal organisation of ICAD includes one Director, one Senior Secretary, two Section Chiefs, two Squadron Chiefs, two Assistant Squadron Chiefs and a *de jure* number of 23 detectives. Moreover, ICAD accommodates two sections in charge of policy making related to transnational business and two squadrons in charge of criminal investigations within and beyond the ROC. In addition, ICAD is designated as a point of contact for communicating with non-Chinese counterparts. It also oversees the nine PLOs posted in Vietnam, Thailand, the Philippines, Indonesia, Malaysia, Japan, the United States, South Africa and Korea.

### **2) Snowball sampling**

The research field is not limited by spatial arrangements. When the participants need to

engage in work outside of their offices, such as attending official meetings or policing conferences, the research field can be extended. This extension includes relevant venues where activities can be observed and additional potential participants can gather. This latter group was identified to explore how the chosen participants interact with others in transnational policing cooperation. For example, in this study, the researcher has been given permission by divisional leaders to participate in transnational conferences, trainings and meetings overseas. Hence, I have extended my field of observation within the CIB to explore how the CIB officers cooperate with others to engage in transnational policing practices. In this regard, snowball sampling can also be applied to CSAD and two strategic sections of ICAD once they enter the observational field and the researcher is permitted to perform observations.

In addition to the sampling strategy, this study involved a year-long period of fieldwork during which I have spent six months in each division. It should be noted that my observations could inconvenience and discomfit participants. It was my responsibility to comply with the CIB's institutional arrangements and my participants' instructions to gain their trust<sup>34</sup>.

While it has been necessary to undertake long-term fieldwork, my presence in the field

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<sup>34</sup> For example, I have considered the participants' psychological statuses, the busyness of their schedules and the pressure they have experienced. 'Trust in China' is an important issue for the CIB in cooperating with its Chinese counterparts effectively; however, Participant 2 in the 1st IC mentioned that when the CIB officers request information, they rarely receive a response from the Chinese side. Participant 2 stated that he is reluctant to interact with his Chinese counterpart, officially or privately, because the channel is not effective: *'I don't trust it [China], so I don't want to do anything to strengthen cross-strait cooperation in terms of information exchange'*. His response prompted me to explore the root of his mistrust of China. I asked a follow-up question: *'From your routine activities, can you give me some examples that show that China is untrustworthy?'* He responded, *'I just don't trust China'*; however, this was not the end of this narrative. After an official visit to China, a top manager of the CIB entered the squadron's common room and asked Participant 2 about how his Chinese counterpart handles his information requests. Participant 2 said that *'one critical point is the establishment of an investigation based on Chinese criminal laws ... If an investigation cannot be legally established in China, our request for information will come to nothing'*. Participant 2's mistrust of China can be explained by 'inadequate knowledge of Chinese criminal laws'. In other words, considering the participants' psychological statuses implies that: 1) I should collect data by taking notes rather than asking questions and that 2) I should spend significant time in the field and wait for critical events to occur that reveal the participants' unspoken knowledge.

could cause the observer (or Hawthorne) effect. Although it is generally suspected that an observer's appearance in the field changes the participants' behaviours (Leedy & Ormrod, 2013), its influence on qualitative research has rarely been examined (Monahan & Fisher, 2010). A general argument against this effect is that participants would find it difficult to sustain long-term behaviour changes (Monahan & Fisher, 2010). It can be further argued that for the participants, accomplishing routine tasks is more important than staging particular behaviours to satisfy a researcher's goals<sup>35</sup>.

#### **4.4 Participant recruitment and access to the participants**

Respect for human beings and transparency is at the core of participant recruitment (Schrag, 2009; Economic and Social Research Council, 2012). Specifically, the participants have the rights to participate voluntarily and anonymously, to maintain their confidentiality and to withdraw at any time (Social Research Association, 2003; British Society of Criminology, 2006). To this end, I have developed a strategy for participant recruitment. In all cases, the participants have been informed about and been made aware of the benefits and risks of their participation.

##### **1) Participants are informed**

A participant's decision to become involved relies on the researcher providing him or her with relevant information (British Society of Criminology, 2006). Participants must be given enough information to allow them to make informed decisions. A criterion for judging the sufficiency of the information is that any information that could influence the decision must not be withheld (Social Research Association, 2003). A proposed information sheet should explicitly express the study's aims and methods, how the participants will be involved, the participants' right to withdraw, the risks and benefits

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<sup>35</sup> In my fieldwork, I have not come across the observer effect. Particularly, when I have acted as a researcher and reminded the participants of taking notes, they do not refuse to talk to me. Instead, they have continuously and voluntarily identified their intentions while engaging in their practices, even if their ideas are opposed to mine (as was the case with my conversation with Participant 1). The participants have not questioned my presence in the field.

of participation, how their data will be used and the contact details for the researcher, the supervisors and the research ethical committee. Although Plankey-Videla (2012) argued that researchers do not have an incentive to inform their participants, the participants in this study must be frequently provided with information because the study involves a long-term intervention. These frequent notifications can ensure that participants are aware of all developments in the research. Importantly, participants are safe from harm and develop trust in the researcher.

Although a researcher should always endeavour to obtain informed consent, consent is not a single event for this study. Obtaining consent does not imply that the observation can be carried out to an unlimited extent. The participants and I must be engaged in a constant negotiation (Plankey-Videla, 2012; Economic and Social Research Council, 2012; British Sociological Association, 2002) to ensure that their participation remains free and voluntary, that no harm occurs and that they understand that they are free to withdraw.

In addition, the notion of observations in public areas without prior consent is contested (American Anthropological Association, 2012). In research, the line between public and private spaces is usually blurred. Even if researchers receive consent to conduct observations in public areas, they do not necessarily have the permission to publish the findings that are generated from the observations (Schrag, 2009). The effect of inflicted insight on participants should always be prevented (Schrag, 2006). Hence, it is the researcher's responsibility to evaluate the potential outcomes of the proposed activities and to take suitable actions to account for ethical issues.

Although obtaining informed consent is necessary for this study, two situations are also considered:



**A. Obtaining consent from participants whose activities are not relevant could negatively affect the study**

A researcher's identity as an outsider or an insider usually raises concerns about his/her ability to gain access. Because ethnographies are sensitive to contexts, researchers must be adaptable and must be able to assume different identities in different contexts. For example, as Loftus (2009) argued, researchers who are perceived to be insiders, such as police officers, can be allowed to observe the police officers' actions against lawbreakers. In this case, insisting on obtaining consent from a criminal could interrupt the observation and could unnecessarily stop doing the research (Loftus, 2009).

In some cases, the participants predefine the relationship they have with the researcher. For example, Lavanchy (2013) was forbidden from contacting people other than national bureaucracy staff members while observing Swiss registrars' interviews with foreign fiancés. Hence, Lavanchy did not ask the foreign fiancés to give their consent. Without revealing his identity as a researcher, Lavanchy (2013) was able to conduct observations.

In addition to the CIB officers' practices, the observations have occasionally targeted the practices of criminals, public services, foreign police officers and even the public. Hence, it is almost impossible to identify participants other than the CIB officers in advance. Collecting consent from other participants could interfere with the observations of the CIB officers' practices. It should be reiterated that the research focus is to explore how CIB officers—not related personnel—develop particular practices in transnational policing cooperation. Thus, consent was only requested from the CIB officers.

Gaining access to an environment with the intention to observe events is always an

ethnographer's primary challenge, and being approved by gatekeepers does not tacitly imply that the participants have given their consent. Researchers who act as academics to gain access to participants must become an insider before they can observe events and collect data (Loftus, 2009; Webley, 2010; Scoggins, 2014); however, even if I am an insider at the CIB, I do not necessarily have total access. For example, a divisional leader has rejected my request to attend an operational meeting at Europol due to confidentiality concerns regarding an ongoing criminal case. Hence, the necessity of obtaining consent from extraneous participants, such as those in addition to the CIB officers, should be evaluated by carefully considering how the act of obtaining consent would impact the study and the participants.

### **B. Collecting written consent may not always be possible**

Even if pseudonyms are used, the participants' identities are still vulnerable to exposure. This is because transnational police cooperation is almost exclusively assigned to CSAD, ICAD and the nine ICs, and the participants' identities could potentially be linked to these divisions. Although the participants' identities are concealed, they could perceive undue pressure once they become involved. To gain the participants' trust, I have asked for either oral or written consent, which can alleviate their concerns<sup>36</sup>. In Chinese society, oral approval is often more important than signing a piece of paper (Silverman, 2013). Divisional and sectional leaders who hold a higher rank than the researcher are potential participants, and to obtain their informed consent, I must manage my bureaucratic relations with these higher-ranking officers. When they give their oral—rather than written—consent, I should respect their decision.

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<sup>36</sup> During my fieldwork, both written and oral consent were obtained. As a rule of thumb for obtaining written or oral consent, I have considered how each would influence the participants and my study. Meanwhile, I have sought to maintain positive relationships with my participants. This required me to be diplomatic. For example, participants often complain about being given too much information. This complaint reflects the fact that Taiwan's research culture does not usually address ethical issues in policing and criminological studies (Cheng, 2011; Li, 2012; Wen, 2012; Yeh, 2012; Albane & Lin, 2013; Su, 2013). If my participants complain about being given too much information, I explain the university's policy and add that I am happy to accept their oral consent if that would ease their tension and confusion.

### **C. Participants are aware of their participation**

Participation consists of three distinct types of activities:

- A) **Deciding to participate or withdraw:** The participants have been given five working days to decide whether they want to participate. This ensures that they have enough time to ask questions and to obtain all the information they need. They are also free to decide which activities they are comfortable having observed, and they are free to withdraw at any time.
- B) **Participating in the observations:** The participants have been made aware of the researcher recording their daily practices excluding their off-duty activities.
- C) **Participating in data recording:** The participants have been made aware that the researcher will take notes during observations; however, taking notes is contingent on the participants granting their permission. If the participants feel uncomfortable, they can request that the researcher cease taking notes.

Given my identity as a practitioner, the participants may forget that ultimately, I am a researcher. Hence, it is my responsibility to remind them that observational note-taking will occur.

### **D. Participants are aware of the benefits and risks of participation**

- A) **The benefits of participation:** The participants can enrich their understanding of transnational police cooperation in the ROC and can obtain information that could improve future transnational activities.
- B) **The risks with power relations:** The influence of gatekeepers must be addressed. In the CIB, the officers in positions of leadership, such as divisional leaders, have the power to command and to supervise their subordinates' practices. In most cases, subordinates should comply with their superiors' orders. Because this study is not funded by the CIB, the supervisors have no motivation

to influence their subordinates. There are no unequal power relationships between the participants and the researcher. During fieldwork, I usually inform the participants directly that they are free to determine the extent of their involvement, and I do not attempt to negotiate with them if they want to withdraw.

- C) **Risk of losing anonymity and confidentiality:** Taiwan's international political identity is contested due to sovereignty issues with China; however, a number of studies have been conducted on similar topics (Li, 2009; Yeh, 2012; Lin, 2013; Su, 2013; Wu, 2013). Hence, sharing information is not an issue as long as positive relationships with the participants are maintained and their information remains anonymous and confidential.

Approaching a clearinghouse can be inherently problematic due to its connection to national security (Sheptycki, 2007); however, I have encountered few difficulties in gaining full access to the participants for observations. Generally, it is not difficult to access ROC police officers because they are frequently the subjects of empirical studies.

#### **4.5 Data analysis**

Generally, there is an assumption that participants usually implicitly or explicitly perceive surroundings in a certain way (Silverman, 2013:247). In this sense, ethnographers are expected to visualise an insider's sense-making of an event. Whether an insider's psychological activity informs a struggle for survival or a submission to or a conflict in surroundings, ethnographers should initiate the process of data analysis while they make observations in the field (Silverman, 2013:233). Ethnographers are not only required to collect data on as numerous participants and in as numerous events as possible to construct a relatively whole image of the researched phenomenon (Holdaway, 1983:11), but they are also expected to code data and to identify themes

(and categories) based on their analytic frameworks to further examine how the recognised elements are connected (Silverman, 2013:247). Above all, ethnographers should interweave data collection, data analysis and systematic account building, and if possible, they should undertake the three steps simultaneously (Bowen, 2008; Leedy & Ormrod, 2013:144; Silverman, 2013:247).

For most ethnographers, the data analysis process is similar to what has been mentioned above. Particularly, a data analysis heavily relies on fieldnotes (and/or interviews) and is undertaken when researchers make notes in the field; however, I approached this process in a different and separate way based on my evolution of agency.

Initially, I followed the agency framework developed in chapter 2 to take notes and to focus on cultural meaning during my fieldwork. I relied on making notes (in Chinese<sup>37</sup>) during or right after an event had been observed. A fieldnote of an event should be detailed in nature so ethnographers can develop a comprehensive account of the event (Silverman, 2013:243; Webley, 2010). In this regard, fieldnotes were taken based on answers to the following questions: What is the (political, legal or bureaucratic) basis of scheduling (relevant) events? Who are the participants involved? What is the purpose of the event? What are the topics discussed? When and where does an event occur? What are participants' behaviours during an event, including conversations, interactions between participants and producing documents? Which emotions do participants' experience during an event and why? In addition, fieldnotes of an event not only represent a memory of an event but also a thread to expand one event to multiple ones (e.g. locating documents). Importantly, ethnographers can also record their conversations with participants and can make academic and practical reflections on events to prepare for follow-up observations, document collection and data analysis.

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<sup>37</sup> In the field, I have taken fieldnotes and conducted analyses in Chinese. I only translate Chinese notes into English when I present my findings in chapter 6.

Although fieldnotes of an event include basic data, it should be noted that making notes in the full context is not always possible and that it is impossible for ethnographers to observe all types of events (Silverman, 2013:51). During my fieldwork, I began with one event to make a brief note and then expanded it to cover the entire content immediately after the event ended or after I left the field for that day. Of course, there were cases in which my memory and brief notes were challenged to handle multiple events in one day. Accordingly, I identified relevant, particularly subsequent, events to record (Silverman, 2013:243), such as a continuous procedure for processing documents, a subsequent squadron meeting after a divisional meeting and multiple events related to one specific transnational participation event. In other words, I followed relevant and orderly events in which, if possible, one participant was engaged to develop a cultural understanding of the participant's transnational policing cooperation.

Because I submitted to Bourdieu's theory of practice after my engagement in the field, I substituted the agency framework with the agency–structure framework to reconstruct a *practiced* understanding of transnational policing cooperation. According to the agency–structure framework, transnational policing cooperation cannot be heuristically regarded as a practice beyond the state. As an advocator of Bourdieuism, I have endeavoured to interrupt a heuristic thinking of transnational policing cooperation as the practice mostly undertaken in a transnational domain. From the perspective of a police officer in particular, practice is first influenced by multiple national fields before it is influenced by a transnational field. Thus, national features pertaining to practice should receive more attention than transnational features to reflect practice as a type of **national policing against TC**. Importantly, practice should be represented by the following characteristics, and the habitus–field–practice relation should be maintained:

- 1) Fields (as a factor of space): Police officers' agency (as a field) of police organisation (as an organisational field) of or in connection with the government (as a national policing field) of the state (as a national bureaucratic field and/or a national field of power) to cooperate with foreign counterparts (as a transnational policing field). There are relations between the positions in the fields each actor holds: police officers, police organisations and government, state and foreign counterparts. Additionally, the influence of field is the exercise of power by the dominant to drive the dominated to do practice.
- 2) Habitus (the research focus): Collective habitus as *practiced* knowledge (re)constructed under the influence of fields is embedded in police officers' agency.
- 3) Evolution (as a factor of time): Police officers initiate the evolution of practice to succeed in an internal competition for dominating agency (as successfully integrating existing and new parts of habitus) to further succeed in external competitions for dominating fields. Driven by habitus (embedded in agency) and accommodated by fields, practice can thus evolve from its past (or existing) status to its present (or future) status. In addition, the past (or existing) status of practice can influence its present (or future) status over time and across fields.

Although the aim is to illustrate contemporary ROC transnational policing cooperation by examining police officers' agency in this study, the evolution of agency should be considered to mediate the past status into the present status of agency. In particular, there is a competition between Confucian (culture) values (as rule of man) and bureaucratic (legal) values (as rule of law) in ROC police officers' agency; however, researchers have either chosen one or the other without simultaneously considering both<sup>38</sup>. Thus, the data analysis has been expanded to two chapters to capture the

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<sup>38</sup> For example, ROC policing researchers usually choose either Confucian values (as rule of man) or bureaucratic values (as rule of law) to conduct research. Researchers who address bureaucratic structures have usually accepted the following: 1) the contemporary structure of policing, including institutions and organisations, was inherited from the past, especially from the Japanese policing system (Chen, 2005; Ma, 2009); and 2) Confucian values shifted to bureaucratic values to drive

evolution of practice by tracing Chinese-based agency and structures in chapter 5 and by structuring ROC detectives' agency and structure in chapter 6. As such, both the literature (for producing chapter 5) and fieldnotes (for producing chapter 6) were used as the basic data for analysis. Particularly, the constant comparison adopted for the grounded theory approach could be utilised for the data analysis (Corbin & Strauss, 2008:195; Davies, Francis et al. 2011:348; Silverman, 2013:290). The constant comparison involves 'inspecting and comparing all the data fragments that arise in a single case' (Silverman, 2013:290). It also allows ethnographers to distinguish one theme from another and to recognise features and dimensions pertaining to the theme (Corbin & Strauss, 2008:195). Because the three existing categories of habitus, field and practice have been developed, themes pertaining to the three categories simply needed to be extracted from relevant literature as well as from the fieldnotes of an event.

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contemporary ROC policing (Chang, 2000; Chen, 2005; Ma, 2009; Tsai, 2011). Evidence often cited for this value shift includes the following:

- 1) At the legal level, the ROC police have become more accountable for exercising their powers, including in terms of altered relevant legal instruments in responding to constitutional explanations, such as the production of the Police Power Exercise Act that resulted from Constitutional Explanation No. 535 (Chen, 2005), and in terms of public order and democracy, such as the creation of the Assembly and Parade Act after Martial Law was abandoned (Ma, 2009; Tsai, 2011);
- 2) Constant specialisation of the police contributed to the shift of the NPA from being part of the military based National Security Meeting arrangements to the meetings under the MOI (Ma, 2009). Specialisation of the police also resulted in the establishment of the National Fire Agency, National Immigration Agency and Coast Guard Administration (Ma, 2009; Tsai, 2011); and
- 3) The power of appointing a municipal or county chief constable was shifted from the monopoly of the NPA (and the MOI) to a shared power between the NPA (and the MOI) and the local administrations (Chen, 2005). Hence, a municipal or county chief constable is expected to be accountable to the NPA (and the MOI) as well as to local governors (Chen, 2005).

These shifts in police practice on a legal basis of powers in the specialisation and in sharing the power to appoint chief constables are often viewed as representing a trend of submission to bureaucratic values or a trend toward democracy; however, these studies have neglected the influence of two facts. First, from a macro-perspective, a demand for submitting to bureaucratic values in Taiwan was imposed by pro-human rights and anti- (KMT-led) government groups rather than the (KMT-led) government or police (Wang, 2004b; Wang, 2012). Any change was effectively not government-initiated, and it is unclear whether and how the police enforce the law in their daily interactions with the public. Second, from a micro-perspective, the ROC police officers are not subject to objective standards or statutes in (re)shaping practice; rather, they act as subjective dominants behind and beyond statutes<sup>38</sup> (Martin, 2006, 2013a, 2013b, 2014, 2016). As Martin (2014:461) argued, ROC policing represented an alternative to law, namely '*policing through virtue*'. Paradoxically, what Chang (2000), Chen (2005), Ma (2009) and Tsai (2011) represented could contradict Martin's (2006, 2013a, 2013b, 2014, 2016) depiction of contemporary ROC policing. The former is the ROC *policing by law* (resulting from a structure-based research model), whereas the latter is the ROC *policing through virtue* (resulting from an agency research model). Without specifying which set of values reflects public demand and currently drives practice in the Taiwan context, the analysis of the ROC's transnational policing cooperation in chapter 6 can be affected to some degree.



## Chapter 5 Traditional Chinese Practice in Evolving Fields: Chinese-Based Agency and Structures

In the following chapters, the influence of the field on ROC police officers' agency as being Chinese in connection with the past and as ROC bureaucrats in connection with the present is identified using the agency–structure framework. This long-term track is undertaken for four continuous periods: Chinese empires, Japanese colonies, KMT rule and ROC governance. The four continuous periods inform a long-term shift of a national field of power in which: 1) a dominant–dominated relation is gradually shifted from a ruler–official–resident to a resident–government relation, 2) each national field of power (and its subfields<sup>39</sup>) imposes an asymmetric influence on ROC police officers' agency to construct collective habitus of practice in transnational policing cooperation and 3) policing is a new type of practice against Taiwanese residents introduced to Taiwan during Japanese occupation, which then gradually shifted its focus to crime and TC in the ROC democracy. As a substitution of Chinese imperial reign, Japanese bureaucratic colonisation and KMT bureaucratic rule, contemporary ROC policing can embrace different values of governance to some degree. There is no exception to ROC transnational policing cooperation.

In this chapter, I initiate this long-term track to explore the Chinese-based agency from the past by analysing historical–political, –social, –legal and even –policing literature<sup>40</sup> over the first three periods: Chinese empires, Japanese colonisation and KMT rule. The aim is to identify the legacy (of habitus, field and practice) left from the three national fields of power and its influence on Taiwanese daily interactions with rulers and

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<sup>39</sup> According to Table 3.1 and Figure 3.1 in this thesis, the national bureaucratic field is a subfield created by a national field of power (Bourdieu, 2004). The national policing field, national criminal justice field and transnational policing field are subfields created by the national bureaucratic field. In addition, the transnational policing field can be considered a subfield created by the national policing field to illustrate a type of practice in **national policing against TC** to satisfy demands of policed communities (Bittner, 1983; Bayley, 2005a; Caparini & Marenin, 2005; Manning, 2007; Ivkovi, 2009; Home Office, 2012; Rogers & Gravelle, 2012; Martin 2013b).

<sup>40</sup> I mainly targeted literature in Chinese to search for the specific cultural meaning. I then searched for literature in English if Chinese material is not available.

officials to survive in fields. Thus, there is no additional literature review to address political, legal, social or policing contents or theory but rather a focus on deploying Bourdieu's theory of practice. The literature-based data analysis in this chapter can further form a foundation for the ethnography to be expanded on in chapter 6.

This chapter is divided into four sections, encapsulating three different types of state power systems and the integration of habitus over time, as follows:

1) **The genesis and influence of the Confucian–legal field in the imperial period:**

**Confucianism and imperial legalism:** In this section, the creation of the Confucian field and the imperial legalists' field, the integration of two fields into the Confucian–legal field and the construction of the Confucian–legal habitus is discussed. The Confucian–legal habitus is the habitus (as the rule of man or precisely the imperial legalism dominating Confucianism) in which the dominated should favour the dominant, including bypassing imperial *fa* (法, law of nature for regulating the residents) enforcement;

2) **The implantation and influence of Japan's Taiwan-based bureaucratic field**

**(1895–1945):** In this section, the creation of the Japanese national bureaucratic field based on the Meiji Constitution (1889–1946) and the implantation of the Japanese national bureaucratic field to create Japan's Taiwan-based bureaucratic field in Taiwan is described. This was the first time that Taiwanese residents could understand what the rule of law is. Hence, Taiwanese residents needed to shape the existing Confucian–legal habitus and to construct Japan's Taiwan-based bureaucratic habitus to live in Japan's Taiwan-based bureaucratic field;

3) **The transplantation and influence of the KMT's bureaucratized Confucian–**

**legal field (1945–1987):** In this section, the creation of the KMT's bureaucratized Confucian–legal field as the substitution for the Confucian–legal field in China and its transplantation to Taiwan up to 1987 is discussed. The difference between the

bureaucratized Confucian–legal field and the Confucian–legal field is that the former produced bureaucratic instruments—party principles and national laws—to substitute for imperial *shu* (術, skills of domination for managing the officials) and *fa*. The difference between the bureaucratized Confucian–legal field and Japan’s Taiwan-based bureaucratic field is that the power of the bureaucratized Confucian–legal field was based on Confucian–legal habitus rather than bureaucratic habitus. Thus, the Taiwanese residents integrated the existing Confucian–legal habitus, Japan’s Taiwan-based bureaucratic habitus and the newly constructed bureaucratized Confucian–legal habitus to survive in the bureaucratized Confucian–legal field; and

- 4) **Toward a national bureaucratic field after 1987:** In this section, the formulation of ROC national bureaucratic field is illustrated. A competition between ROC national bureaucratic field and KMT’s bureaucratized Confucian–legal field exists. In response, Taiwanese residents make another habitus integration to democratically control administrations (driven by bureaucratic habitus) but implicitly allow administrations to exercise *fa* deployment (driven by Confucian–legal habitus) to asymmetrically regulate Taiwanese residents’ practices and bureaucrats’ practices.

### **5.1 The genesis and influence of the Confucian–legal field in the imperial period: Confucianism and imperial legalism**

The legitimacy of holding the highest position of power in any Chinese empire should take *Tian* (天) into account. The concept of *Tian* is a Chinese term that was well developed in the Zhou Dynasty (11 century BC–256 BC), illustrating a Chinese religious belief (Chang, 2013; Chan, 2015). *Tian* indicates nature, world and universe, and it dominates all forms of life (Chan, 2015). The development of any natural and social event followed rules of *Tian*. Hence, it is believed that a man who held the highest position of power should fulfil the two following requirements: 1) he was designated

by *Tian* to be *the Son of Tian* (天子), and 2) he was able to take care of the willingness of the public (Pan, 2010; Chan, 2015; Hung, 2016). The *Son of Tian* was an informal term implying that a man could act as the representative of *Tian* to rule Chinese society. Meanwhile, this man could also act on the public's behalf to communicate the people's demands with *Tian*. Therefore, it is important for a Chinese successor to demonstrate that he was eligible to represent *Tian* to effectively rule Chinese society.

To represent *Tian* implies that a Chinese successor should demonstrate his receipt of *Orders of Tian* (天命) to elites (royal family and officials) and the public. Like a Western king (Bourdieu, 2004), a Chinese successor of empire should, for example, have royal blood and undertake a ritual of coronation. To demonstrate the divine character to the elite, a Chinese successor should select physical or political approaches or both to succeed in any struggle among his royal family and officials, as *Tian* has chosen him. To demonstrate the divine character to the public, a Chinese successor could publicly and constantly present his divine characteristics (Pan, 2010). This could be done by a Chinese successor, for instance, presenting himself in altars and applying astrology to mutually communicate public demands to *Tian* and *Orders of Tian* to the public (Pan, 2010).

Although *Tian* provided the initial legitimacy for the ruler to hold the top position in Chinese society, it does not mean that he could overcome any natural disaster or manmade incident. To solve natural and social problems, the ruler should rely on ruling strategies rather than divination to determine which solution should be applied (Chan, 2015). Ruling implies that the ruler should develop instruments to rule in such a way that people are willing to be governed (Pan, 2010; Chan, 2015). If the deployment of the ruling instrument fails, the public can overthrow the ruler's state by force in the name of *Tian*, which is known as revolution (Wang, 2004b; Liu, 2006b). However, if

the deployment of the ruling instrument is successful, the ruler can be approved by the public as residents expressing obedience to him.

Since the Zhou Dynasty, an initially positioning hierarchy was established to comprise the ruler on the top, officials in the middle and residents at the bottom. A Chinese social position consists of ‘*identity, role, duties, privileges, and responsibilities*’ (Frederickson 2002:620), and it is usually held by birth, as in the cases of the *Son of Tian* and members of families. Chinese residents’ socio-economic background, especially their birth and family business, informs what type of position they hold. It is reasonable for Chinese people to identify who holds honourable and menial positions (Pan, 2010; Wu, 2011; Hsiao, 2013). However, holding hierarchical positions does not mean that residents’ activities should be dominated by others. There is no exception for the ruler to rule the state.

In the periods of Spring and Autumn and Warring States at the end of the Zhou Dynasty, Confucianism and imperial legalism were two independent ideologies introduced to various states (Huang, 2005; Wang, 2005). As a virtue-based ideology, Confucianism assumes that, by having extensive Confucian education in the society, residents can carry out their obligatory practice as presented through behavioural propriety. In contrast, imperial legalism as a *two-handle* (rewards and punishments)-based ideology assumes that residents’ practice should be regulated by the ruler’s *shi* (勢, the top position in the field cannot be shared), *fa* (法, law of nature for regulating the residents) and *shu* (術, skills of domination for managing the officials). The following part of this section is an illustration of Confucian virtue, imperial legalists’ *two handles* and the integration of the two ideologies and influence.

### 5.1.1 Confucian virtue

To maintain the established social hierarchy, Confucius proposed that the legitimacy of holding a dominant position should be based on virtue rather than any socio-economic background (Frederickson, 2002; Liu, 2006b; Martin, 2014; Van Der Wal & Yang, 2015). Any resident with virtue can be granted the authority to exercise power (Liu, 2006b). As such, the ruler can dominate others because of holding the highest amount of virtue. Likewise, a father can dominate a son in the family because of virtue.

Confucians encouraged people to study, practice and demonstrate their virtue accumulation while handling daily encounters. The title of *sage King* (賢君) was given to the ruler who accumulated the highest amount of virtue (Hwang, 2013). Similarly, the title of *junzi* (君子) was given to a male resident who accumulated a qualified amount of virtue (Frederickson, 2002; Liu, 2006b). Confucians believed that, if the *sage King* and *junzi* constantly generated obligation-addressed practice as presenting behavioural propriety, the public could produce like practice without being forced to do so (Wang, 2005; Hwang, 2013; Hung, 2016). If all the actors in the society aim at virtue accumulation, the social order can be established, and the state's prosperity can be expected.

To be entitled *junzi*, the male residents must behave in accordance with ethical rules. Confucian ethics are considered an important instrument applied for (re)producing physical and psychological propriety daily. Confucian ethics aim at guiding people to capture the nature of human beings, known as *ren* (仁; Hsieh, 2015). The concept of *ren* can be illustrated as follows:

- 1) **The presentation of *ren*:** People should have thoughts and deliver speeches in accordance with their respective positions; people should take actions based on promises, without any ulterior motive, that present honesty and credibility.

Moreover, people are required to help others in shaping *ren* (Wang, 2005);

- 2) **The process of pursuing *ren*:** People should first control own agency and then expand to control the family, rule the state, and finally, pacify the world; and
- 3) ***Ren* informs people's positions and obligations:** There are five types of dominant–dominated relation, including the following: in the officialdom, ruler–official relation; in the family, father–son, husband–wife and elder–younger relations; and in other contexts, friend–friend relations. Each position is attached to Confucian obligations rather than the Western concept of the social contract (Frederickson, 2002; Su, 2005). Confucian obligations reflect human beings' conscience when it comes to morally differentiating right from wrong (Yeh, 2011). Hence, it is right for the ruler delivering benevolence to residents and deploying *li* (禮), known as social norms for behavioural regulation, to manage officials (Yeh, 2011; Hwang, 2013, Hsu, 2016). In return, it is right for the residents to enact obedience and officials to present loyalty to the ruler (Yeh, 2011; Hsiao, 2013; Hwang, 2013). If the actor can produce the practice based on Confucian obligations, a peaceful, prosperous and just life can be ensured (Frederickson, 2002; Su, 2005; Liu 2006b).

Confucian obligations do not include the pursuit of private interests. Instead, Confucian obligations require people to present righteousness, known as *yi* (義), seeking a righteous approach for handling each encounter (Wang, 2005; Yeh, 2011; Hwang, 2013). If people approach private interests via any unrighteous route, the state will fall (Wang, 2005; Yeh, 2011). For example, if a man adopts an unrighteous approach to be recruited as an official, he will constantly adopt a similar approach in his career (Yeh, 2011). However, if people deploy Confucianism, they can automatically reach their private

interests as the results rather than aims of practice (Yeh, 2011). Hence, Confucians argued that, if *yi* is in danger, life is worth sacrificing (Yeh, 2011).

4) **Ren informs people's *guanxi* with each other:** *Guanxi* is the Chinese style of interpersonal relationship, depicting two people's degree of acquaintance (Cheng, 1995; Pan, 2010; Hsiao, 2013). *Guanxi* is initially established in the family, then expanded to schools and careers. The foundation for establishing *guanxi* consists of the similarity of kinship, living places (or villages), hobbies, school classes, offices and careers (Cheng, 1995). It functions as the guideline to direct people in choosing proper types of interaction in which harmony is maintained via the expression of politeness and hospitality (Pan, 2010; Hwang, 2013). Differential interactions are acceptable, as described in the following:

A. **Different types of interaction:** It is an unethical expression by which an officer delivers benevolence to the ruler. Benevolence can be expressed by the ruler, whereas loyalty, credibility and respect should be expressed by the officials (Frederickson, 2002; Su, 2005; Liu, 2006b; Hwang, 2013). In addition, people should favour specific parties that they have built or are trying to build *guanxi* (Hwang 2013). As such, people can divide the interacting parties into the 'us' group (自己人) and 'them' group (他人; Pan, 2010; Gur, 2012; Yu, 2015). The former illustrates people's closeness to the interacting parties, which allows mutual favour exchange (Gur, 2012). In contrast, the latter presents people's distant *guanxi* with the interacting parties, meaning that fairness should be applied (Gur, 2012); and

B. **Different degrees of interactions:** Exchanging favours can increase the degree of acquaintance between two non-familial people (e.g. people with a friend–friend relation), implying that *guanxi* can be strengthened (Cheng, 1995; Pan, 2010; Gur, 2012; Hwang, 2013). This is because the delivering party usually



expects that the receiving party will pay back the favour in the future (Pan, 2010; Yu, 2015). Hence, it is reasonable for the ruler to express a more significant level of benevolence toward one official than another because of his differentiated *guanxi* with the two. Likewise, each official's differentiated loyalty to the ruler can be anticipated. Once *guanxi* is enhanced, the level of interaction can be altered accordingly.

Above all, Confucianism is an ideology that can be characterised as follows: 1) with no intention for alteration, it aims at maintaining the existing social hierarchy (ruler–official–resident) by imposing various Confucian obligations embedded in ethics on position holders, and 2) it requires people to engage in differential actions in accordance with their respective positions and *guanxi*. As such, Confucianism assumes that the social order can be illustrated as the ruler acting as the ruler, the official acting as the official, the father acting as the father and the son acting as the son (Confucius, 1997; Lin, 2015a). To this end, Confucians try to educate position holders about Confucianism.

### **5.1.2 Legalists' *two handles***

In contrast to Confucianism, power rather than virtue is at the heart of imperial legalism. Although Confucian virtue provides an account for the legitimacy of power in Chinese society, the practice in virtue accumulation relies greatly on the self-controlled exercise of power (Frederickson, 2002; Wang, 2005; Liu, 2006b; Hwang, 2013). People are required to present behavioural propriety by refraining from pursuing personal interests. In contrast, imperial legalists argued that the power exercise constrained by the self is unrealistic and Chinese are keen to fight for own interests (Wang, 2004a; Liu, 2006b). They thought that pursuing private interests without external regulations and a lack of public interests can contribute to social disorder (Wang, 2004a; Liu, 2006b; Hwang, 2013). If society is in disorder, the ruler will lose the highest position of power and the

state will fall. Hence, imperial legalists assumed that if the ruler can occupy the highest position of power, his power will be able to reach each corner of the society, and then prosperity can be brought to the whole state (Liu, 2006b). In other words, what imperial legalists try to establish is the ruler's (imperial legalism driven) authority and residents' involuntary obedience (Hung, 2016).

The highest position of power can be referred to in imperial legalists' concept of *shi*. *Shi* is the requisite of survival in a war period and cannot be shared with anyone (Wang, 2004a; Huang, 2005; Liu, 2006b; Huang, 2008; Hwang, 2013). To occupy *shi*, as the main advocate of imperial legalism, Han-Fei argued that the ruler should oblige residents to construct a new disposition in pursuit of public interests to override an inherent disposition – '*benefit-oriented and harm-aversive*' (Hung, 2016:2). Thus, imperial legalists developed two kinds of controlling instrument – *fa* and *shu* – for the ruler to distribute the *two handles*, as described below (Hung, 2016).

#### 1) *Fa*

*Fa* exists in the universe as an instrument that dominates people's daily practice, and it should be realised rather than created by the ruler (Hwang, 2013). *Fa* can function as a guideline to deter people from pursuing private against public interests (Wang, 2004a; Huang, 2005; Huang, 2008; Hwang, 2013). The term public interest implies a consensus on a group or state's values, which can contribute to improving the welfare of its members (Wang, 2004a). Inevitably, the ruler's private interests are encapsulated in *fa*, as imperial legalists assume that the state will fall if the ruler's interests cannot be secured (Wang, 2004a; Wu, 2007). As such, an essential type of public interest involves building up the wealthy state by agriculture, along with strengthened military force to make the ruler a hegemonist (Wang, 2004a; Wu, 2007; Peng, 2012). Thus, *fa* is a codified way for the state to approach hegemony in such a way that the ruler obliges

residents to produce *fa*-abiding practice. Any type of practice against *fa* represents disobedience and cannot be accepted (Hung, 2016). To develop a standard legal structure, ‘*publicity, objectivity, feasibility, enforceability, universality*’ are general features of *fa* (Hwang, 2013:1010). In addition, *fa* can change with the society over time (Liang, 2008).

## 2) *Shu*

Imperial legalists argued that officials’ practice should be dominated by the ruler’s *shu*; then, residents’ practice could be regulated by the ruler’s *fa* (Huang, 2005; Huang, 2008; Hwang, 2013). This is because commoners interact with and learn from officials rather than the ruler on a daily basis (Huang, 2005; Liu, 2006b). Hence, officials positioned in the middle of society (ruler–official–resident) become key actors that can ensure that the ruler holds sustained *shi* and *fa* is applied to residents. To dominate the officials’ practice, it is suggested that the ruler can utilise three devices embedded in *shu*. These consist of appointment (appointing competent candidates to the right positions), supervision (checking officials’ proposals and implementation) and evaluation (rewarding or punishing based on performance evaluation; Huang, 2008; Hwang, 2013; Kuo, 2016). Furthermore, in contrast to the explicit nature of *fa*, *shu* should be concealed to protect the ruler from officials’ deception (Huang, 2005; Liu, 2006b; Huang, 2008). If *shu* is revealed, the ruler will lose *shi* because his power exercise can be manipulated by officials providing incorrect information that the ruler wants to hear (Huang, 2005; Huang, 2008).

## 3) *Two handles*

To make *fa* and *shu* effective instruments, imperial legalists suggested that the ruler should distribute rewards and punishment, including execution, known as the *two handles* (Huang, 2005; Huang, 2008). They considered that rewards could drive people

to pursue public interests, while punishment could constrain the inherent disposition of pursuing private interests (Liu, 2006b; Hwang, 2013). Hence, the *two handles* should be explicitly codified in *fa* and implicitly inscribed in *shu* (Hwang, 2013). Like *shi*, *fa* and *shu*, the *two handles* cannot be controlled by anyone other than the ruler.

Like that of Confucianism, the effectiveness of imperial legalism relies on the ruler's self-controlled behaviour, although imperial legalists are not advocates of a *sage King*. According to imperial legalism, the ruler's interests in hegemony can be explicitly encapsulated in *fa*. However, the ruler is taught to constrain own interests in two scenarios. First, while *fa* is applied, the ruler and officials should express equity rather than personal favour and *guanxi* in each case (Huang, 2005; Huang, 2008). Second, while *shu* is deployed, the ruler is expected to conceal personal attitudes, desires and favours to illustrate an inactive personality (Liu, 2006b; Huang, 2008). Hence, the ruler encounters a psychological struggle between publicising own interests while codifying *fa* and concealing own interests while deploying *fa* and *shu*.

Above all, imperial legalists endeavoured to enhance the ruler's power by deploying *shi*, *fa* and *shu* to distribute the *two handles*. To ensure the ruler's *shi*, imperial legalists advocated that the ruler should manage officials by *shu*, while the officials should regulate the residents by *fa*. Like Confucians, imperial legalists did not have any intention to alter the established social hierarchy. However, in contrast to Confucianism, which advocated that each actor should control his/her agency while approaching *ren*, imperial legalism formulated an external power structure to drive people in pursuit of the ruler's interests as public interests. Importantly, unlike Confucianism was taught to all people equally, the content knowledge and habitus concerning imperial legalism were unequally distributed in Chinese society. Hence, in the imperial legalists' field, the dominated officials and residents usually had a disposition for detecting the *know-*

*how* of deploying *fa* and *shu*.

### 5.1.3 The formulation and influence of the Confucian–legal field

Although both Confucianism and imperial legalism provide strategies for the ruler effectively running the state, the two ideologies do not aim at changing the social hierarchy (ruler–official–resident), but rather, sustaining it. What Confucians and imperial legalists formulated were two different fields to host two different sets of practice in accordance with the social hierarchy, as described in the following:

- 1) **The Confucian field:** The field accommodates actors – the ruler, officials and residents – (re)producing virtue-based behavioural propriety in accordance with respective positions and obligations. By using Confucian ethics as an instrument for controlling agency, each actor has an equal chance to construct an alike part of habitus about virtue accumulation; and
- 2) **The imperial legalists’ field:** The field as the man-made power structure described by Hung (2016) is formulated to ensure the ruler holding *shi* by deploying *fa* and *shu* to distribute the *two handles*. The ruler is the only actor who can acquire the relevant content knowledge and habitus to operate the field. The officials and residents can be taught about what *fa* is; however, they are not taught about what *shu* is, how the ruler deploys *fa* and *shu* or how the officials deploy *fa*. Hence, the officials and residents have a disposition toward detecting the dominant’s *know-how* about the deployment of *fa* and *shu*.

I argue that both ideologies illustrate the idea of the rule of man, although Liu (2006b) argued that the imperial legalism presents the idea of the rule of law. In my view, the difference between the two ideologies lies in the fact that they adopt different meanings of the word *man*, as described in the following:

- 1) **The Confucian dominant is the man with virtue.** The man holds a position in the

established social hierarchy. Confucianism does not encourage the man to dominate others. Instead, the Confucianism assumes that the man should bear Confucian obligations to present behavioural propriety in reflection on the own position. Hence, the Confucian domination is imperceptibly embedded in each actor's agency to make an orderly society; and

- 2) **The imperial legalist's dominant is the man with *two handles*.** Although the man holds a position in the established social hierarchy, he can encounter the power competition of detecting the *know-how* about the dominant's deployment of *fa* and *shu* to distribute the *two handles*. Once the man can successfully make the detection, his position can be upgraded from the dominated to dominant. If all actors – the ruler, officials and residents – are eager to obtain the *know-how* of imperial legalism to become the dominant, social disorder can be anticipated.

Since the creation of Confucianism and imperial legalism, both ideologies do not exist independently in Chinese history. The deployment of imperial legalism to successfully conquer the six states contributes to the establishment of the first Chinese empire – the Qin Dynasty (221–207 BC). Destructing ideologies other than imperial legalism and abolishing feudality to set up prefectures are examples that the emperor – Qin Shi-Huang – increasing the power against any rival relied on the imperial legalism (Chang, 2001; Huang, 2005). However, deploying *fa* without considering the wellbeing of the public and *shi* shared to the empress' familial members led to the fall of the Qin Dynasty within 15 years (Chang, 2001; Wang, 2004a). Following the Han Dynasty (202 BC–220 AD), the emperor adopted an alternative policy to jointly deploy Confucianism and imperial legalism to rule the empire (Hwang, 2013). By coordinating the two ideologies, the policy aimed at maintaining the social order by deploying Confucianism and ensuring the emperor's *shi* via deploying imperial legalism. Confucianism was taught to and acted out by all actors – the ruler, officials and residents – whereas imperial

legalism was taught to and acted out by the emperor only (Hwang, 2013). The mixture of the two ideologies gradually formulated the Confucian–legal field over time.

The Confucian–legal field is different from both the Confucian and imperial legalist fields. The positions of the dominant and dominated in the Confucian–legal field are redefined as described below.

### **1) Abandoning obligations *vis-à-vis* complying with obligations**

The shaped Confucianism addresses three types of dominant–dominated relation, including ruler–official, father–son and husband–wife relations. The shaped Confucianism allows the dominant – the ruler, father and husband – to abandon his Confucian obligations; however, the dominated – the official, son and wife – is not allowed to do so (Lin, 2015a).

### **2) *Fa* selectively deployed and unequally applied**

The shaped imperial legalism that adapts to the shaped Confucianism allows *fa* to be selectively deployed and unequally applied because the dominant can enjoy more autonomy and fewer constraints on exercising power and privileges away from being regulated by *fa*, whereas the Confucian–legal field dominant cannot. This is described below.

#### **A. The dominant: more autonomy and fewer constraint while exercising power**

The dominant – the ruler and officials – enjoys more autonomy than the dominant of the Confucian and imperial legalist fields. This is because the legitimacy of the Confucian–legal field dominant’s power is based on both Confucian virtue and imperial legalists’ *two handles*. Nevertheless, the Confucian–legal field dominant can exercise power at his discretion to selectively deploy Confucian ethics and imperial legalists’

*shi, fa* and *shu*. For example, if the practice of the dominated is not subject to evaluation by *fa*, the dominant can still apply Confucian *li* to make this evaluation and issue rewards or punishment accordingly (Wang, 2000b). The Confucian–legal field dominant’s discretion results from the fact that the internal (Confucian ethics) and external (Confucian ethics and imperial legalists’ *shi, fa* and *shu*) controlling instruments cannot fully constrain the dominant’s agency and power exercise.

The agency of dominated and its practice in the Confucian–legal field should be regulated by Confucianism (ethics) and imperial legalism (*fa* and *shu*), which results in the decreasing autonomy of the dominated. Moreover, the decreasing autonomy of the Confucian–legal field dominated also implies that the influences of the two ideologies on it are different. To maintain social order, the shaped Confucianism is extensively injected into the Confucian–legal field dominated via education and should be deployed to handle daily encounter (Wang 2000b). In contrast, the dominant can selectively deploy ethics or *fa* and *shu* to regulate the agency and practice of dominated if the dominant regards the deployment as a necessary measure (Wang, 2000b).

#### **B. The dominant: privileges away from being regulated by *fa***

Holding a position in the imperial officialdom implies personal celebrity, wealth and privilege and prosperity of lineage (Hsieh, 2003; Lee, 2003; Liu, 2006a; Liao, 2008; Lin, 2011). Especially, the officials have the privilege that they cannot be prosecuted if they commit a crime, whereas the residents do not have such privilege (Wang, 2000b). If the officials have confrontations with the residents, they do not have to appear in an imperial local office – *yamen* (Wang, 2000b). Meanwhile, if the residents violate officials’ rights, they are subject to different types of punishment according to the rank of the involved officials (Wang, 2000b).



Because the actor's practice is captured by shaped Confucianism and shaped imperial legalism, the Confucian–legal habitus is gradually constructed in the actor's agency. The Confucian–legal habitus is also known as '*Confucianism in public and Legalism in private*' (Hwang, 2013:1010). There are two features of the Confucian–legal habitus, as described below.

**1) The Confucian–legal habitus is a dual context-sensitive device**

The Confucian–legal habitus can assist the actor in determining to what extent which ideology – the shaped Confucianism or the shaped imperial legalism – should be deployed. It is a case where the Confucian part of the Confucian–legal habitus drives the actor to maintain harmony, approach consensus and pursue public interests in a public context (Hsieh, 2003; Pan, 2010). In contrast, the imperial legalist part of the Confucian–legal habitus drives the actor to enhance power and exchange private interests, even without speaking out in a private context (Hsieh, 2003; Pan, 2010). Consequently, the actor should cope with the psychological conflict while deploying the Confucian–legal habitus in the way that the actor *talks* about Confucianism (addressing obligations of the dominated) in public but *acts out* imperial legalism (power and interest addressed) in secret (Pan, 2010).

**2) The construction of the Confucian–legal habitus begins with constructing Confucianism, which is then dominated by the newly constructed imperial legalism**

Although the actor is taught about Confucianism at a young age in Confucian schools, he needs to learn and deploy imperial legalism to succeed in his career. This is because the dominant talks about Confucian obligations rather than acts on them while interacting with the dominated (Pan, 2010; Hwang, 2013; Lin, 2015a). To encourage the dominant to produce the obligation-addressed practice, the actor should act as the

dominated to join the ‘us’ group of dominants to detect what the dominants’ interests are and how *fa* or *shu* is deployed (Chang, 2011). Once interests and the *know-how* about *fa* or *shu* deployment are detected, the actor should further act as the dominant to ethically impose and deploy the *two handles* to drive his followers (the dominated) to engage in practice to fulfil the dominant’s interests (Lee, 2008). In return, the actor can expect that the dominant will reward him, such as with a preferable post, weak supervision, positive results of performance evaluation and survival in the imperial officialdom.

The qualification of recruitment in the imperial officialdom, for example, is set by the emperor and officials exercising *shu* (Hsieh, 2003; Lee, 2003; Liu, 2006a; Liao, 2008; Lin, 2012). The qualification of recruitment comprises references, donations, political background or the most popular approach for commoners – the imperial examination of Confucianism<sup>41</sup> (He, 1964; Hsieh, 2003; Liu, 2006a; Liao, 2008; Shih, 2009; Lin, 2011). The actor should learn to detect and satisfy gatekeepers’ *shu* and interests, such as by deploying the *guanxi* to obtain references from unknown referees or studying officials’ papers to pass the examination (Hsieh, 2003; Wang, 2005; Lee, 2008; Pan, 2010; Lin, 2012).

Addressing Confucian obligations alone without considering imperial legalists’ assumption of the benefit-oriented personality can endanger the actor’s position in the imperial officialdom, as described below.

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<sup>41</sup> The imperial examination of Confucianism was introduced in the Sui Dynasty (581–618 AD). Instead of selecting candidates from lineages who hold a political background, the imperial examination allows local officials to be chosen from commoners who study Confucianism (Shih, 2009). The imperial examination is believed to stabilise the social hierarchy because commoners (as the dominated) have the chance to be promoted to be officials, even high-ranking officials (as the dominant). If the promotion is not possible, social disorder can be expected. For example, in the later Tang Dynasty (618–907 AD), without any chance to hold a high-ranking position in the officialdom, commoner-based officials deployed forces against political lineage-based officials in *Pai-Ma-I* (Shih, 2009). The *Pai-Ma-I* Incident contributes to the commoner-based officials holding a dominant position in the following Song Dynasty (960–1279 AD; Shih, 2009).

### **A. Addressing Confucian obligations does not contribute to the actor's survival**

The actor should consider the dominant's interests. In the Qing Dynasty, the Chinese governor-general – Tseng Kuo-Fan – deployed Confucianism and imperial legalism (e.g. execution without trial) to drive his *mu-fu*<sup>42</sup> – Hunan force – to pacify the *Taiiping Rebellion* (Lee, 2008). However, successfully pacifying the rebellion did not guarantee that the governor-general could continue his career or even life (Lee, 2008). As the governor-general argued, ‘*Even if I am in service for only one day, I still encounter a political power competition on the day*’ (Lee, 2008:71). A Chinese official holding a temporary or strengthened force was considered a threat against the Manchu regime (Lee, 2008). Hence, by considering the *shu* of execution and dismissal and interests of the dominant, the governor-general voluntarily disarmed his Hunan force after social order was restored (Lee, 2008).

### **B. Addressing Confucian obligations does not contribute to the actor's success in policy implementation**

The actor should take extra care of the dominated's interests. In the Northern Song Dynasty, the prime minister – Wang An-Shi – launched the political reform to oblige local officials to learn the *know-how* about *fa* enforcement, but the reform ultimately failed (Hsieh, 2003). Previously, the local officials who were dispatched away from the residential prefectures often exercised power to drive the local clerks – *fa lis*, who were frontline officers chosen from residential prefectures – to enforce *fa* (Hsieh, 2003). In other words, the local officials were acting as the *de jure fa* enforcement to implicitly share the authority with the *fa lis* who were acting as *de facto fa* enforcement. While implementing the emperor's orders, the local officials could ignore the fact that the *fa*

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<sup>42</sup> Tseng's *mu-fu* was an own institution that was not directly controlled by the ruling regime, in which he recruited section leaders independently and approved those leaders recruiting their members (Lee, 2008). In other words, Tseng shared the power to section leaders in exchange for their loyalty, obedience, and morality. In addition, section leaders could also obtain the loyalty, obedience and morality of members in the respective sections.

*lis*' discretionary *fa* enforcement contributed to some residents' bribery in exchange for bypassing the order implementation (Hsieh, 2003; Chiu, 2006). Hence, the failure of the political reform can be attributed to that fact that the prime minister ignored the expectations of his dominated in two ways, as follows: A) the reform contaminated local officials' honourable Confucian identity, as the dominant was removed from *de facto fa* enforcement, and B) it endangers local officials' and *fa lis*' imperial legalists' identity to favour the dominant in exchange for private interests (Hsieh, 2003; Pan, 2010).

Above all, the Confucian–legal field is the field in which the actor should deploy the Confucian–legal habitus based on the shaped Confucianism and imperial legalism to survive in a man-made power competition. Importantly, the Confucian–legal field addresses imperial legalism (addressing power and interest) more than Confucianism (addressing the obligations of the dominated). The creation of Confucianism contributes to the social order by mandating that the actor needs to address obligations rather than favouring his dominant and controlling his dominated. However, the shaped Confucianism allowed the dominant to ignore obligations, while the shaped imperial legalism allowed the dominant to freely deploy the *two handles* to control the dominated. Hence, the dominant obtained more power and enjoyed more autonomy. In contrast, the dominated always had to be regulated by the dominant. Such an asymmetric dominant–dominated relation mandated that the dominated should strive for a dominant position by favouring the dominant and controlling the dominated. The fact that the interests of dominant and dominated were fulfilled became more important than how the interests were fulfilled (Hsieh, 2003; Pan, 2010). Hence, the actor's early established Confucianism is regarded as an instrument for satisfying imperial legalists' assumption of benefit-oriented personality in exchange for the actor's survival in the Confucian–legal field. There was no exception for residents in Taiwan to prevent the

influence of the Confucian–legal field and Confucian–legal habitus, since the governor-general, namely Cheng-Kung Cheng, ruled the island in the later Ming Dynasty and the following occupation of the Qing Dynasty onwards.

## **5.2 The implantation and influence of Japan’s Taiwan-based bureaucratic field (1895–1945)**

Compared with the Chinese imperial power system, established from 221 BC, Japan finally shifted its ruling power from (local) governors-general to the Mikado in 1868 (Yeh, 2009). The power gained by the Mikado’s regime can be attributed to two factors, as follows: 1) Internally, the Japanese-inherited social hierarchy – the samurai ruling regime and the public – was shaken by businessmen, peasants and even samurai for economic purposes; and 2) externally, the governors-general were unable to tackle foreign affairs, including military invasions (Yeh, 2009; Chou, 2010). To handle the two factors, the Mikado regime launched the Meiji Political Reform in 1868, in which the Meiji Constitution was introduced (Yeh, 2009). The reform transformed Japan into a bureaucratic state, hereafter the Japanese national bureaucratic field, in which the rule of (Western conceptual) law and the idea of bureaucratic specialisation were applied.

Although the newly established Japanese social hierarchy was the Mikado at the top, government in the middle and residents at the bottom, relations between the three actors were codified by the Meiji Constitution rather than Confucian ethics. While Japanese nationals were still indoctrinated with elements of Confucianism, such as loyalty, obedience and filial duty, from when they entered primary school (Yeh, 2009), the legal regulations gradually became an important device for guiding Japanese nationals’ practice. In contrast with the Chinese imperial legalism, the Mikado’s power could be shared with the public. The Mikado’s exercise of power was assisted by the administrative, legislative, judicial and military entities (Wang, 2004b; Yeh, 2009; Takashi, 2012). Japanese nationals could have legal rights, such as political

participation and joining public services, although legal rights were still different from natural rights (Wang, 2004b; Yeh, 2009).

After winning the first Sino–Japanese War (1894–1895), the Japanese national bureaucratic field was *partially* applied to the Taiwan island, resulting in the creation of the Japan’s Taiwan-based bureaucratic field. The Shimonoseki Treaty imposed the defeated Manchu regime’s ceding the island to Japan in 1895. Since then, Taiwan was influenced by the Meiji Constitution (Goto, 1909; Wang, 1999; Wang, 2004b; Takashi, 2012). The constitutional influence had two implications. First, Japan’s government did not have a clear colonial policy about how the island would be governed in accordance with the Meiji Constitution (Goto, 1909; Yu, 2010). In the Japanese national bureaucratic field, the requirements for holding the position of governor-general<sup>43</sup> in Taiwan were constantly changing. Accordingly, the governor-general in Taiwan also shaped his dominant position in the Japan’s Taiwan-based bureaucratic field. Second, in contrast to the governor-general’s position, the Taiwanese residents were under the level of the public in the Japan’s Taiwan-based bureaucratic field and Japanese national bureaucratic field (Wang, 2004b; Yu, 2010; Takashi, 2012). The Taiwanese residents relied on the existing Confucian–legal habitus and newly constructed Japan’s Taiwan-based bureaucratic habitus to favour the Japanese administrations in Taiwan and fight for the legal rights set out in the Meiji Constitution.

The creation of the Japan’s Taiwan-based bureaucratic field in Taiwan was influenced by the Japanese national bureaucratic field, in which Japan’s government appointed the governors-general in Taiwan, with the power to exercise authority, including the

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<sup>43</sup> According to the Meiji Constitution, to handle Taiwan’s affairs, there was one responsible secretary of state in the Japanese cabinet (Wang, 1999). Hence, appointing the governor-general of Taiwan and approving his exercise of power was first proposed by the responsible secretary of state and determined by the prime minister and the Mikado. Other secretaries of state could not independently intervene in Taiwan’s affairs; however, they could discuss relevant issues during cabinet meetings.

administrative, judicial administrative, legislative and military power<sup>44</sup> (Wang, 1999; Wang, 2004b; Chen, 2005; Tsai, 2011). Hence, the governors-general could operate the Taiwan administration to quell insurrections, implement policies and grant legal rights to the Taiwanese residents for engaging in public participation in a restricted way (Wang, 2004b; Chen, 2005; Takashi, 2012). Meanwhile, the governors-general were accountable to the responsible secretary of state, Diet and Commanding Headquarters while exercising power<sup>45</sup> (Wang, 1999; Wang, 2004b).

The qualification for being appointed as governor-general in Taiwan was changed from candidates requiring a military background (1895–1919) to a bureaucratic one (1919–1936), because the government preferred the administrative approach to ruling Taiwan. In the period between 1895 and 1919, candidates with a military background were qualified to be appointed as governors-general (Wang, 2004b; Chen, 2005). The first governor-general (1895–1896, appointed on 10 May 1895) operated the civil administration for 2 months and was then commanded by the government to transform the administrations to a military formation (Takashi, 2012). However, on 1 April 1896, the civil administrations were back in operation (Takashi, 2012). The short period of military formation reflects the fact that the government was struggling to comply with the Meiji Constitution, as there was neither martial law enacted nor war waged (Takashi, 2012). Meanwhile, the civil administrations' return to operation further reflects that the government preferred to adopt the administrative approach to ruling Taiwan. Hence, the first three governors-general (1895–1898), who adopted the military approach<sup>46</sup>,

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<sup>44</sup> According to the Act No. 3, the governors-general could not exercise legislative power from 1922. However, the governors-general's opinions could still affect the governmental legislations relating to Taiwanese affairs (Wang, 1999).

<sup>45</sup> Especially, the governors-general's exercise of legislative power was not self-determined; rather, it needed to be approved by the secretary of state, cabinet and Mikado (Wang, 1999, 2004b). Hence, the governors-general's exercise of legislative power could be vetoed or altered, although such a situation rarely occurred (Wang, 1999, 2004b).

<sup>46</sup> For example, in 1897, the third governor-general launched an order maintenance strategy, namely differentiating force deployment in three zones categorised as dangerous – the military, military police and police – to stop insurrections (Chen, 2005).

only occupied the office for a short period, with the briefest being 4 months (Chen, 2005). Meanwhile, the government significantly reduced the annual budget from 6 to 3.9 million yen in 1898, which drove the governors-general to strengthen the island's economy (Goto, 1909). After this point, the governors-general, who may still hold a military background, began to consider the administrative approach to ruling Taiwan. Finally, in 1919, the candidates were required to have a bureaucratic background; this lasted until 1936, which represented the preparations for the second Sino–Japanese War (Chen, 2005).

In contrast to the first three governors-general, the fourth (1898–1906) – Kodama Gentarou – focussed on tackling anti-regime groups and building a self-sufficient island to make contributions to Japan (Goto, 1909; Chu, 1999; Chen, 2005; Martin, 2006; Yu, 2010). The fourth governor-general, accompanied by the Chief of Civil Affairs – Shimpei Goto, initiated strategic proposals, and four initiatives were considered to lay the foundation for the administrations to rule Taiwan. These included the following: 1) conducting a land survey to differentiate public from private lands, 2) opening and continuing Japanese language schools and public schools to specialise the Taiwanese residents' labour, 3) extensively exploring Taiwan's indigenous customs and investigating households and 4) extensively exercising police power<sup>47</sup> to handle armed insurgents and prevent the Taiwanese residents from revolting against the regimes (Goto, 1909; Chen, 1975; Chu, 1999; Chen, 2005; Martin, 2006; Yu, 2010; Takashi, 2012).

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<sup>47</sup> According to the Meiji Constitution, as one of the Mikado's ruling powers, the Mikado's exercise of police power should be assisted by the cabinet. According to Article 9 of the Meiji Constitution, cabinet can approve the exercise of police power if the exercise can secure public order and promote the ministers' and residents' welfare while refraining from violating the existing laws (Takashi, 2012). This implies that the exercise of police power does not require any legal basis (Takashi, 2012). Since the governors-general can be approved to exercise police power, policing in Taiwan would be comparable to policing in Japan to some degree (Takashi, 2012). For example, the Japanese police system in Taiwan was established by the governors-general in accordance with Article 10 of the Meiji Constitution. The governors-general could make nondelegated legislations, such as the *Hoko* legislations, to define the legal relation and obligations between the police and Taiwanese residents.



The initiatives forced the Taiwanese residents to engage in internal and external competitions before the evolution of habitus and fields. As I argued in chapter 3, the evolution of fields and habitus results from the subject's internal competition for the domination of own agency, which leads to success in external competitions for the domination of fields. The acceptance of the new field and the construction of a new part of habitus requires the actor to acknowledge that the existing habitus (in terms of agency) is not sufficient to support its survival in the new field, and shaping the habitus is a necessary step. As such, the evolution of Taiwanese residents' existing Confucian–legal habitus and the newly constructed Japan's Taiwan-based bureaucratic habitus can be captured as described below.

#### **1) The resistance of the Confucian–legal habitus**

Being located in the Japan's Taiwan-based bureaucratic field did not mean that the Taiwanese residents could not live in the Confucian–legal field. However, the Confucian–legal habitus alone was not enough to support the Taiwanese residents' survival in the Japan's Taiwan-based bureaucratic field. The major difference between the Confucian–legal habitus and Japan's Taiwan-based bureaucratic habitus was that the former addressed the Confucian obligations and *fa* to favour the dominant – the emperor and officials, while the latter focussed on the specialisation of labour, submission to the authority – the administration and police – and the fight for legal rights. Nevertheless, such a difference did not mean that the Taiwanese residents had to abandon the Confucian–legal habitus. Instead, the residents shaped the Confucian–legal habitus to support their survival and even promote their position in the Japan's Taiwan-based bureaucratic field. Shaping the Confucian–legal habitus had two implications, as described below.

**A. The Japan's Taiwan-based bureaucratic field could not integrate the Confucian–legal field**

The Japan's Taiwan-based bureaucratic field's lack of ability to integrate the Confucian–legal field can be attributed to the ethnic discrimination whereby it was perceived that Taiwanese should always be dominated by Japanese. The creation of the Japan's Taiwan-based bureaucratic field was based on the Meiji Constitution. The Mikado shared the power with the governmental entities that qualified Japanese residents who had the legal rights and specialised intellectual content knowledge could join. However, the Japanese authority did not grant Taiwanese residents legal rights, while they still had legal obligations (Chen, 1975; Chen, 2005; Martin, 2006). The Japanese authority also denied the Taiwanese residents access to specialised intellectual technical content knowledge (Goto, 1909; Chu, 1999; Yu, 2010). Thus, the Taiwanese residents were obliged to act as the dominated to accumulate specialised technical and bureaucratic habitus to assist the Taiwan administrations in maintaining social order and boosting the economy. Such a positioning arrangement located the Taiwanese residents at the bottom of the Japanese social hierarchy and prevented them from holding dominant positions, such as those of legislators and high-ranking police officers, in the Japan's Taiwan-based bureaucratic field. The ethnic discrimination caused the Taiwanese residents to resist Japanisation and strengthened the concept of the 'us' group in the Confucian–legal field (Chen, 2005; Hsiao, 2008). In other words, the Taiwanese residents were forced to reproduce the Confucian–legal field, which was never dissolved.

**B. The territory of the Confucian–legal field was decreased – from openly defying the authority to secretly protecting Taiwanese lawbreakers**

The perception of losing the territory of the Confucian–legal field is evidenced by observing the transformation of openly defying to secretly protecting against the

Taiwanese administrations. Initially, the Confucian–legal habitus significantly drove Taiwanese residents to engage in violence against the Taiwan administrations in the Japan’s Taiwan-based bureaucratic field. The most significant effect imposed by the Confucian–legal habitus on the Japan’s Taiwan-based bureaucratic field can be observed in the first two decades of the Japanese colonial period. The Taiwanese residents’ violence against the Taiwan administrations was an anticipated practice reflecting their unwillingness to be in the Japan’s Taiwan-based bureaucratic field and desire to destruct the Japan’s Taiwan-based bureaucratic field and reproduce the Confucian–legal field. Especially, such a strong rejection via the violent approach can be attributed to the fact that the government did not obtain the *Orders of Tian* until the Manchu regime fell in 1911 (Wang, 2004b; Lin, 2015b).

In addition to the violent practice, the Taiwanese residents who were employed as interpreters, constables and heads of *Hoko* also constantly provided protection to Taiwanese who were in need and had violated the law (Goto, 1909; Chen, 1975). While the generation of protection was driven by the Confucian–legal habitus, this protection was delivered in an undetected way in the Japan’s Taiwan-based bureaucratic field. In other words, the Taiwanese residents learned to conceal their protection delivery as changing their Confucian–legal habitus (from explicit violence to implicit protection) to adapt to the Japan’s Taiwan-based bureaucratic field. The secret protection delivery reflects two facts, as follows: A) Taiwanese residents covered insurgents’ attack plots by providing incorrect intelligence to the police, making incorrect statements against the police’s intelligence and informing the police after the attacks, and B) the Taiwanese residents resisted legal obligations without violating laws (Goto, 1909; Chen, 1975).

Although the Taiwanese residents’ violent practice against the Taiwan administrations

was abandoned after the *Ta-pa-ni* Incident, this does not imply that the Confucian–legal habitus was dissolved. As a chief constable of the Taiwan administrations testified in the Diet of 1934, the Taiwanese residents delivering shelters to Taiwanese outlaws still existed because of their (Chinese) ethnicity (Takashi, 2012). Hence, instead of dissolution, the accommodation of the Confucian–legal habitus – the Confucian–legal field – shrank to protect and continue to dominate the Taiwanese communities against the influence of Japan’s Taiwan-based bureaucratic field.

## **2) The construction of the Japan’s Taiwan-based bureaucratic habitus**

The construction of the Japan’s Taiwan-based bureaucratic habitus represented the replacement of the Confucian–legal habitus in the Japan’s Taiwan-based bureaucratic field. The Taiwanese residents could not only deploy the Confucian–legal habitus, but they needed to construct the new part of habitus – Japan’s Taiwan-based bureaucratic habitus – to survive in the Japan’s Taiwan-based bureaucratic field. The Japan’s Taiwan-based bureaucratic habitus consisted of three components, including the following: the specialisation of labour, addressing technical rather than intellectual content knowledge; submission to the authority, addressing legal obligations; and fight for legal rights. These are described in more detail below.

### **A. Specialisation of labour**

In the Japan's Taiwan-based bureaucratic field, the establishment of the police and judicial system, for example, could illustrate Japan's willingness to rule Taiwan by qualified constables, judges and prosecutors (Wang, 2017). Unlike the Chinese imperial officials and *fa li*, who aimed at favouring the dominant by measures like bypassing the deployment of *fa* in pursuit of private interests, the Japanese specialised practitioners sought efficiency and anti-corruption (Hsiao, 2008). The degree of specialisation could influence candidates' position taking in the Japanese national bureaucracies. It was usually the case that the intellectual specialists could occupy a management position, whereas the technical specialists could have manual positions. If the Taiwanese residents were striving to attain these positions, specialisation was supposed to be applied (Hsiao, 2008; Wang, 2017). However, this was not the case for the Taiwanese residents.

Unlike the Japanese residents, the idea of specialisation introduced to Taiwan was intended to extensively teach the Japanese language and technical rather than intellectual content knowledge to effectively boost the island's economy (Goto, 1909; Chu, 1999; Yu, 2010). Meanwhile, by setting restricted access to intellectual content knowledge, the Taiwan administrations could prevent domination by the Taiwanese residents (Chu, 1999; Yu, 2010). The constrained education policy did prevent the Taiwanese residents from pursuing the dominant position in the Japan's Taiwan-based bureaucratic field. For example, as assistants to the level-A constable, the most level-B constables were recruited from Taiwanese society (Chen, 2005). To be a level-B constable, the candidates needed to undertake orientation training for 2 months and on-the-job training for 1 month (Chen, 2005). To hold the position of level-A constable, candidates needed a certificate stating that they were the best performers approved by their supervisors to apply for a 20-week training course (Chen, 2005). To hold the

position of sergeant or inspector, the candidates needed graduate from secondary school and pass an entrance exam (Chen, 2005). This was an inherent obstacle for the Taiwanese candidates because, as they had to attend public schools (for Taiwanese residents) rather than primary schools (for Japanese nationals), Taiwanese candidates were disqualified from attending secondary schools (Goto, 1909; Yu, 2010). Hence, the Taiwanese constables were rarely promoted to hold high-ranking and managerial positions in the police in Taiwan (Chen, 2005)<sup>48</sup>.

### **B. Submission to the authority**

The deployment of Japanese law was not a commodity for interest exchange. Unlike the Chinese imperial *fa*, which could be bypassed once the emperors' demands were satisfied, the (Japanese) police – representing the Mikado's exercise of power – were intended to ensure the Japanese (public) interests rather than Taiwanese (private) ones (Takashi, 2012). The prominent example of Japanese law enforcement is the creation of the *Hoko* system, in which the police and the Qing Dynastic *Baojia*<sup>49</sup> (保甲, or *Pao-Chia*) were hosted (Goto, 1909; Chen, 1975; Martin, 2006). In contrast to the loosely organised *Baojia*, based on Confucian obligations, the *Hoko* system was based on legislations in which legal obligations were assigned to the police and Taiwanese members of the *Baojia* (Chen, 1975). In the *Hoko* system, the Taiwanese residents needed to accumulate relevant habitus, as described below.

#### **A) The Taiwanese residents had to submit to the police**

Taiwanese residents were required to comply with police orders by law. The genesis of the police's power was based on the Meiji Constitution. Nevertheless, it was the

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<sup>48</sup> For example, in 1935, there were only two Taiwanese among 239 inspectors, six Taiwanese among 181 sergeants and 158 Taiwanese among 3939 level-A constables (Chen, 2005). In contrast, 1159 out of 1952 level-B constables were Taiwanese (Chen, 2005).

<sup>49</sup> The Qing Dynastic *Baojia* was the self-defence and mutual-surveillance system run by local administrations and residents in rural areas of China (Goto, 1909; Chen, 1975; Martin, 2006; Wang, 2006; Jing, 2008).

governor-general who granted the police's authority to legally command and supervise the Taiwanese members of the *Baojia* (Chen, 1975; Chen, 2005; Martin, 2006). The police were also allowed to evaluate performance of the Taiwanese members of the *Baojia* and reward and punish them accordingly (Chen, 1975; Chen, 2005). Hence, Taiwanese did not comply with officers' personal orders, but they did follow their legal ones.

Taiwanese residents were assigned more legal obligations to comply with the police's non-*Hoko* orders. The successful *Hoko* system in regulating and mobilising Taiwanese labour promoted the idea that various civil affairs other than policing can be handled by the police. The success of the *Hoko* system can be attributed to the following three factors: A) the need for defending against island-wide threats became less apparent, especially after the 1915 *Ta-pa-ni* Incident; B) the police system in Taiwan was better developed than any other public services; and C) the Manchu regime in China was toppled by Chinese anti-empire groups in 1911, implying that the Taiwanese residents' historical link to China was broken (Chen, 1975; Chen, 2005; Martin, 2006; Tsai, 2011; Takashi, 2012; Lin, 2015b). Hence, the administrations expected that Taiwanese residents no longer held any justification for deferring or denying their ruling. Instead, the administrations anticipated that their ruling could be legitimised by constantly strengthening the legal relationship between the police and Taiwanese residents. Hence, the administrations further granted the police the authority to command Taiwanese residents to accomplish civil acts other than *Hoko* tasks, such as health, traffic, agriculture, tax, household registration and land surveys (Chen, 1975; Chen, 2005)<sup>50</sup>.

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<sup>50</sup> The accomplishment of civil tasks was also required the assistance of civil services in the local administrations. Previously, the chief constable in Taiwan could command the local administrations to help. However, after 1922, to ensure the effectiveness of local administrations, the police commanding power reverted to the governors-general (Chen, 2005). Since then, the chief constable needed to receive approval from the governor-general before he requested assistance from the local administrations (Chen, 2005).

### **B) Taiwanese residents needed to accumulate *Hoko* (bureaucratic) habitus**

According to the *Hoko* legislations, Taiwanese residents had the legal obligation to formally organise and run *Baojia* without payment (Chen, 1975; Chen, 2005; Takashi, 2012). The legal obligations required the Taiwanese residents to inform the police about any change of population in households, including members' temporary travels and visitors' stays (Chen, 1975; Chen, 2005). The Taiwanese residents were also required to collect and report intelligence concerning plots of insurgents' attacks (Chen, 1975). If any member of the *Baojia* fails to fulfil the legal obligations, all *Baojia* members would be subject to punishment (Chen, 1975; Chen, 2005).

### **C. The fight for legal rights**

The Meiji Constitution provided the foundation for the Taiwanese residents' pursuit of legal rights, which was different from passing the Chinese imperial examination to claim privileges. Although the Confucian–legal habitus could be deployed to mobilise the Taiwanese residents in pursuit of Taiwanese (private) interests, the concept of legal rights did not pertain to the Confucian–legal field's position (Wang, 2000). It was the Japan's Taiwan-based bureaucratic field by which the Taiwanese political and well-educated elites – retired Chinese imperial officials and overseas students – gradually construct the habitus to compete for Taiwanese legal rights. Those Taiwanese elites set up goals to accomplish the following: 1) claim the legal rights set out in the Meiji Constitution, 2) abolish the governors-general's legislative power and Taiwanese legal obligations of the *Hoko* system and 3) establish the Taiwan-based legislature (Chen, 1975; Yu, 2003; Wang, 2004b; Takashi, 2012). To propagate the goals, the Taiwanese elites further formulated political and cultural campaigns and issued newspapers (Chen, 1975; Yu, 2003; Wang, 2004b; Takashi, 2012). In addition, their practice was constantly shaped. For example, to prevent being banned by the Japanese authority, a Taiwanese-owned publisher changed its name and types of publishing from *Taiwan*



*Youth Monthly Magazine* (臺灣青年月刊雜誌, *tai-wan-qing-nian-yue-kan-za-zhi*), *Taiwan Magazine* (臺灣雜誌, *tai-wan-za-zhi*) and *Taiwan Citizen Newspaper* (臺灣民報, *tai-wan-min-bao*) to *Taiwan New Citizen Newspaper* (臺灣新民報, *tai-wan-xin-min-bao*; Yu, 2003).

Above all, the integration of the two kinds of habitus illustrated the following: [Confucian–legal habitus dominates Japan’s Taiwan-based bureaucratic habitus] in a way that the Confucian–legal habitus dominated in private, while the Japan’s Taiwan-based bureaucratic habitus did so in public. Initially, being influenced by the Japan’s Taiwan-based bureaucratic field, Taiwanese residents did not abandon the Confucian–legal habitus, but they were constantly deployed to produce the Confucian–legal habitus driven practice in public – violence against the Taiwan administrations. Nevertheless, the Confucian–legal field could not maintain its previous nature, and it was forced by the Japan’s Taiwan-based bureaucratic field to shrink its territory to accommodate Taiwanese communities only. Accordingly, the Taiwanese residents shaped the Confucian–legal habitus to secretly protect Taiwanese lawbreakers from being punished by the Taiwan administrations. Meanwhile, the Taiwanese residents needed to construct the bureaucratic part of habitus – Japan’s Taiwan-based bureaucratic habitus – to specialise labour, submit to the (bureaucratic habitus driven) authority and fight for legal rights. The integration of the two kinds of habitus further contributed to the shift of Taiwanese residents’ anti-Japan attitudes to acceptance and even (some) satisfaction with the Japanese bureaucracy (Hsiao, 2008). However, the Japan’s Taiwan-based bureaucratic field had been challenged by the following KMT regime (including the party, government and state-owned business) since 1945. Instead of inheriting the Japan’s Taiwan-based bureaucratic field, the KMT regime introduced the bureaucratized Confucian–legal field as the Confucian–legal field in the bureaucratic structure, which I turn to articulate in the final section of this chapter.

### **5.3 The transplantation and influence of the KMT's bureaucratized Confucian–legal field (1945–1987)**

Distinct from the Taiwanese resident's struggle against Japan's Taiwan-based bureaucratic field since 1895, the Chinese residents acquired an opportunity to operate the bureaucratic field after 1911. For Chinese residents, the end of the Qing Dynasty in 1911 indicated the end of the imperial (power) system, in which the position of emperor was no longer possible. Instead, the dominant position awaited being defined in the proposed bureaucratic framework, in which the power of government and parliament were constitutionally defined (Chen, 2011). To transform the bureaucratic framework to the bureaucratic field, the bureaucratic content knowledge was expected to be transformed to the bureaucratic habitus to drive the Chinese residents to produce the practice. This required that the Confucian–legal habitus driven officials and scholars who obtained the bureaucratic content knowledge could drive the Chinese residents to generate the practice in rule of law. However, those Confucian–legal habitus driven officials and scholars gradually transformed the Confucian–legal field to the bureaucratized Confucian–legal field, which can be characterised as follows: 1) power was generated in the Confucian–legal field and strengthened via bureaucratisation; and 2) in addition to the influence of Confucian–legal habitus, actors also constructed the bureaucratized Confucian–legal habitus to manipulate law enforcement in pursuit of private interests. It was the bureaucratized Confucian–legal field, transplanted to Taiwan since 1945 as the replacement of the Japan's Taiwan-based bureaucratic field, that continued to dominate the Taiwanese communities until Martial Law was lifted in 1987.

#### **5.3.1 The creation of the bureaucratized Confucian–legal field in China (1911–1949)**

The later Qing Dynasty witnessed the Manchu regime's incapability against foreign

invasions and internal unrest. In the second half of the 19th century, the Manchu regime was extensively challenged by the foreign nation-states. Like Meiji Japan, the Qing's Confucian–legal habitus driven officials (and scholars) were eager to obtain bureaucratic content knowledge (Yang, 2003a; Yeh, 2009; Chen, 2011). The emperor and some officials launched the Self-Strengthening Movement (1861–1894, 自強運動, *zi-qiang-yun-dong*), in which the Confucian education system, substituted by the Western education system – including the Westernised military and police – was established to address specialisation and bureaucratic organs (Zeng, 1995; Zhang, 1995; Yeh, 2009; Liu, 2010). However, the construction of associated habitus was not satisfying. Especially, the loss of the first Sino–Japanese War after the Self-Strengthening Movement was attributed to the fact that the dominant Confucian–legal habitus driven officials were reluctant to accept the Westernised military system<sup>51</sup> (Yang, 2003a). Even the Hundred-day Reform in 1898 (戊戌變法, *wu-xu-bian-fa*) of the monarchic constitutional system, initiated by the emperor, failed because he lost his *shi* to the empress dowager, Ci-Xi (Lin, 2003; Feng 2005; Chung, 2011). The reform's failure further contributed not only to the Manchu regime losing the dominant position. Importantly, the Confucian–legal habitus driven practitioners and scholars were also divided into two campaigns, including the following:

- 1) The reform campaign: The Confucian–legal habitus driven officials, including high-ranking military generals, advocated that the monarchic constitutional system should merge with the imperial system; and
- 2) The revolutionary campaign: The Confucian–legal habitus driven scholars and low-ranking military officers advocated natural rights by introducing the bureaucratic framework to substitute for the imperial system (Su, 1999; Chung, 2011; Zhou, 2011).

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<sup>51</sup> During the Self-Strengthening Movement, the Western military habitus was mainly constructed by the low-ranking military officers to crystallise their learnt content knowledge, battle skills and skills of using weapons (Yang, 2003a). However, there is no logistic or tactic-related content knowledge taught to the high-ranking military generals for running the modern military system (Yang, 2003a).

Although the revolutionary campaign successfully toppled the Qing Dynasty, neither revolution nor a reform campaign could successfully transform the bureaucratic framework to the bureaucratic field. A strong bureaucratic habitus driven authority would be necessary to operate the bureaucratic field (Wang, 2004b). Presumably, the optimal bureaucratic habitus driven authority constructed after the 1911 Revolution should have been based on the Confucian–legal habitus and bureaucratic habitus to claim its domination of the two fields – the (past) Confucian–legal field and (present) bureaucratic field. However, the existing authorities were based on the Confucian–legal habitus and/or bureaucratic content knowledge rather than bureaucratic habitus. The existing authorities of both campaigns were too weak to be transformed or contribute to the bureaucratic habitus driven authority of the state, as described below.

Regarding the revolutionary campaign, the existing authority was relatively weak, as the advocates did not occupy the dominant position in the imperial officialdom and only upheld the unsound Confucian–legal habitus and relatively well-constructed bureaucratic content knowledge rather than the bureaucratic habitus. The main advocator of the revolutionary campaign – Dr Sun Yat-Sen, also the Father of the ROC – did not serve as an imperial official that illustrated the three following facts:

- 1) Before the 1911 Revolution, Dr Sun’s authority was based on the unsound Confucian–legal habitus and relatively well-constructed bureaucratic content knowledge and he was not the dominant in the Confucian–legal field and the bureaucratic field. Hence, he failed to drive the members of the anti-regime campaign, such as the *Tong-Meng-Hui* (同盟會, 1905–1912, a forerunner of the KMT), to undertake joint operations against the Manchu regime (Yang, 2003b; Zhou, 2011); and
- 2) After the 1911 Revolution, Dr Sun’s authority was still challenged by the imperial

(military) officials, and his (military) power was rarely successfully exercised (Su, 1999). For example, in 1917, Dr Sun's authority as the Grand Marshal was approved by the parliament assembling in the Guangdong Provincial Legislature, but his authority was challenged by the military subordinates (Chen, 2011). This is because the military generals and officers did not extensively accept the existence of legal power, implying that the rule of law was still not an effective concept in China (Su, 1999; Chen, 2011; King, 2012).

In contrast to Dr Sun's unsound Confucian–legal habitus and relatively well-constructed bureaucratic content knowledge, the strong bureaucratic habitus driven authority was possibly fostered by the Confucian–legal habitus driven military generals in the reform campaign if they can construct bureaucratic habitus (Chang, 2002; Chen, 2004; Yeh, 2009; Chen, 2011). After the 1911 Revolution, the Confucian–legal habitus continued to legitimise the Confucian–legal habitus driven military generals' power if they could accomplish the following: 1) satisfy subordinates' demands, such as for certain wages, in exchange for their loyalty and obedience; 2) maintain the force in exchange for the Confucian–legal habitus driven administrative officials' supports; and 3) successfully control the Chinese provinces, illustrating the receipt of *Orders of Tian*, in exchange for the resident's loyalty and obedience. Having the Confucian–legal field power, the military generals could possibly operate the bureaucratic field; however, they were eager to reproduce the Confucian–legal field with no intentions to operate the bureaucratic field (Chen, 2011). For example, General Yuan Shi-Ka established the Beijing government (1911–1928) and endeavoured to transform the government to the new empire (Chang, 2002; Chen, 2004). Another military figure, General Zhang Xun restored the imperial system and dissolved the parliament in 1917 (Chen, 2011). As a countermeasure, the provincial military generals, rather than chiefs of civil

administrations, declared autonomy<sup>52</sup> against the dismissal of the parliament in 1917 (Chen, 2011). Finally, the KMT's military general – Chiang Kai-She – conquered the Beijing government to unify China in 1928 but enacted Martial Law in Taiwan (1949–1987) against the Communist Party (CP) in China (Chang, 2002; Chen, 2004).

Building up a strong authority became the actors' main goal after the 1911 Revolution. The KMT was no exception. Especially, in 1924, Dr Sun introduced the Leninist party framework to centralise the power in the KMT (created in 1912) to control the government (King, 2012). Power centralisation could be accomplished using the Weberian bureaucratisation approach, which involved regulating actors' practice via organisational principles (Schultz Larsen, 2015). By introducing the party principles, the KMT's power centralisation formulated the field in which the dominant–dominated relation was redefined as the KMT (authority–member)–government (member–non-member)–resident relation (Chang, 2002; Wang, 2003; Yang, 2003b; Chen, 2004; King, 2012).

The KMT's field was not bureaucratic field (applying the rule of law). As Bayley (2005b) argued, bureaucratisation is the instrument deployed by the government to operate the democratic (or in this thesis, bureaucratic) authoritarian or totalitarian state. Hence, bureaucratisation cannot guarantee that the state is bureaucratic. Presumably, to operate the bureaucratic field, the exercise of power by the KMT and government should be regulated by the party principles and national laws in pursuit of members' and residents' interests (Wang, 2003; Yi, 2013). Nevertheless, the KMT did otherwise. The KMT bureaucratized the Confucian–legal field to formulate the bureaucratized

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<sup>52</sup> Autonomy is the opposite concept from independence. The military general of Guangdong Province – Chen Bing-Kun – argued that independence means the province acting against the government (Chen, 2011). In contrast, autonomy means that the province still complied with national laws if the law is produced via a legal process (Chen, 2011). Hence, the purpose of the military general declaring autonomy was to make independent decisions on whether governmental orders should be complied with (Chen, 2011).

Confucian–legal field (the rule of man dominating the rule of law). The bureaucratised Confucian–legal field is the field in which, in the name of bureaucratisation, the dominant (the KMT’s bureaucratised Confucian–legal habitus driven authority) held *shi* to deploy the shaped Confucianism (addressing the obligations of the dominated) and imperial legalism (party principles as *shu* and national laws as *fa*) to drive the dominated (members and residents) to engage in the practice. The characteristics of the bureaucratised Confucian–legal field are illustrated below.

### **1) The new social hierarchy in the bureaucratic structure**

The KMT’s bureaucratised Confucian–legal field had a bureaucratic structure – the Leninist party framework – in which the party–state and party–member relations were (re)defined. The (re)definition of relations was carried out by introducing the party principles to codify the party–state relation, which shifted the traditional social hierarchy (ruler–official–resident) to the new social hierarchy (KMT–government–resident). Meanwhile, the party principles also codified the party–member relation to allow the authority (as the dominant) to drive the members (as the dominated) to control government. The party principles can be illustrated as follows:

- A. The members should obey the President of the party – Dr Sun – who upholds the power of veto to present an orderly and disciplined party (King, 2012);
- B. The members should comply with the authority<sup>53</sup> based on the idea of democratic participation with power centralisation. This means that the members can enjoy the rights of political participation, such as electing national assembly representatives and discussing policy proposals; however, they have the party obligation to implement the authority-granted policies without question (Wang, 2003; Yang, 2003b; King, 2012);

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<sup>53</sup> The KMT’s authority is hierarchically established to parallel the bureaucracy of state in which there is the KMT’s central authority (including the president, national assembly and national executive committee) at the national level to command the KMT’s provincial authority, which further commands the KMT’s county authority (King, 2012).

- C. If the members are military personnel, they should be ready to die for the party to demonstrate their loyalty to the KMT<sup>54</sup> (Chang, 2002);
- D. The members should strive for establishing the government of the people, by the people and for the people in accordance with the doctrine – the Three Principles of the People – to address nationalism, natural rights and livelihood (Chang, 2002; King, 2012); and
- E. The state is governed by the party (Chang, 2002; Ma, 2009). The KMT's domination of the government is done by introducing the idea of which governmental policies, including recruitment, organisation, administration and legislation, should be generated by the KMT (Chen, 2004; Wang, 2004b; King, 2012).

Accordingly, the KMT's hierarchical membership could dominate the governmental hierarchical personnel system. If the residents applied for governmental posts, they should obtain the KMT membership to succeed in their applications.

## **2) Power based on the bureaucratised Confucian–legal habitus rather than law**

The power in the bureaucratised Confucian–legal field was generated by the bureaucratised Confucian–legal habitus. This means that that, like the ruler in the Confucian–legal field, the KMT's authority was still legitimised by Confucianism (addressing obligations of the dominated) and imperial legalism (*two handles, shi, fa* and *shu*). However, the BLCF was different from the Confucian–legal field because the imperial legalists' instruments – *shu* and *fa* – were substituted by the bureaucratic instruments – party principles and national laws. In addition, the bureaucratised Confucian–legal field was also different from the Japan's Taiwan-based bureaucratic field because the KMT's authority was not based on bureaucratic habitus. This implies that the national laws as *fa* could be deployed in the legal, illegal and non-law-based

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<sup>54</sup> Dr Sun requested Chiang to create the *Huangpo* (黃埔) Military Academy of the KMT in 1924 (Chang, 2002).



ways<sup>55</sup>. Both Dr Sun and Chiang deployed of Confucian obligations, *shu* and *fa* in pursuit of *shi*, as described below.

#### **A. Dr Sun's deployment of Confucian obligations, *shu* and *fa***

Dr Sun's deployment reflects his unsound Confucian–legal habitus with no bureaucratic habitus. During Dr Sun's presidency in the KMT, for example, while Hu Han-Min (Dr Sun's follower) was assigned the new post away from the KMT's central authority in Guangdong Province, Chiang complained to Dr Sun by arguing about the current *guanxi* between the three actors (Chang, 2002). In response, regardless the decree that the assigned post had issued, Dr Sun asked Hu to ignore the decree and return to Guangdong Province (Chang, 2002). Another example is that Hu tried to resign the post in the military government established in the Guangdong Province because the Mayor of Guangzhou City – Sun Ke – raised a financial debate against him (Chang, 2002). Dr Sun did not act as the KMT's President or the Grand Marshal of the military government to keep Hu in the post. Instead, he acted as the father to order his son – Sun Ke – to keep Hu in the post (Chang, 2002).

#### **B. Chiang's deployment of Confucian obligations, *shu* and *fa***

As the successor of KMT presidency, Chiang once argued that '*I don't have (loyal) cadres, units (in the KMT)*' (Yang, 1996:37, as cited in King, 2012:117). The argument implies Chiang's desire to construct the 'us' group. To fulfil the desire, Chiang deployed

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<sup>55</sup> In this thesis, the non-law-based practice does not heuristically imply practice against law. The development of non-law-based practice is contributed by the bureaucratised Confucian–legal habitus and gradually accepted in the ROC Constitution. Regarding the contribution of bureaucratised Confucian–legal habitus, in addition to Dr Sun's and Chiang's examples, the police in Taiwan before 1987 could ban the sale of prohibited book by only seize exhibitve books without considering those in the warehouse (Lin, 2009). While handling protests, the police could also differentiate the countermeasure from passive observation and resistance to aggressive suppression (Hsu, 2015). This kind of *fa* deployment was not regulated by law or addressing people's interests but launched to favour and prevent the KMT's authority from being challenged. Regarding the acceptance of ROC Constitution, it means that the non-law-based practice is admissible to prevent the national bureaucracies' power exercise from legislative and judicial intervention (Liao, 2000; Chi, 2006; Hwang, 2011). I articulate later in chapter 6.

*shu* in exchange for followers' (Confucian) loyalty to him against non-loyal followers (in the 'us' group) and non-followers (in the 'them' group). Some examples are as follows:

**A) Addressing the members' loyalty to Chiang:** Chiang's *shi* could be strengthened by the followers presenting their loyalty to Chiang. To address the issue of loyalty, for example, Chiang could privately assign the posts of the KMT's national assembly to his followers even if the KMT did not hold an election (Wang, 2003). Chiang could also disapprove of the corrupt relative – Kong Xiang-Xi – leaving the governmental post as the Deputy Prime Minister, as Kong's *guanxi* with Chiang reflected Kong's loyalty to Chiang, which decreased the significance of the problem of corruption (Wang, 2003). Even if members' KMT membership was withdrawn, as resulted from their non-loyal presentation in one (previous) context, they could still regain membership in another (present) context in which they expressed their loyalty to Chiang against the Sino–Japanese Military Conflict in north-eastern China in 1931, for instance (Wang 2003);

**B) Against non-loyal followers (in the 'us' group):** In the KMT, Chiang's *shi* could be challenged by his followers when Chiang sensed their lack of loyalty. As a countermeasure, Chiang could covertly breach the party principles to informally punish non-loyal followers. For example, in one KMT election, Chiang as one candidate breached the idea of democratic participation with power centralisation and privately altered the results to signify that he had obtained a higher number of votes than his follower, Chen Li-Fu (King, 2012). Moreover, Chiang overtly revised party principles to formally punish his non-loyal followers. For example, the dissolution of Chiang's constructed subparty – the KMT's Youth Association of Three Principles of the People – can be attributed to the fact that the association intended to act as an independent

entity against the Chiang-led KMT (Chen, 2000); and

**C) Against non-followers** (in the ‘them’ group): In the KMT, Chiang’s *shi* could be challenged by the non-followers who did not present loyalty to Chiang. Hence, a plot of party purging followed by reorganisation<sup>56</sup> was approved by Chiang to banish the members of the CP, Xi-Shan meeting affiliation and Wang Zhao-Ming’s reform affiliation (Chen, 2000; Wang, 2003).

Chiang also regarded the national laws as *fa* deployed to implement his orders. As discussed in section 5.1.3, the nature of *fa* in the Confucian–legal field is that *fa* can be selectively deployed by the dominant who enjoys more autonomy and fewer constraints while exercising power. Chiang’s deployment of *fa* reflects the above nature. The national laws were only one type of instrument deployed to meet Chiang’s demands. Their existence or non-existence could not impede but rather facilitated the implementation of Chiang’s orders (Wang, 2004b). Examples of Chiang’s deployment of *fa* are described below.

**A) National Government (NG, 1925–1947): setting the illegal arrangement to ignore the temporary constitution (1931–1947)**

The illegal arrangement was produced for the KMT’s political intervention in the governmental arena, although the government had *de jure* autonomy and accountability. The arrangement allowed the NG to be *de facto* accountable to Chiang as the President of the KMT and implement the KMT’s policy against Chiang’s opponents (Wang, 2004b). For example, the KMT’s authority overlooked the need for extensive legal education to distribute the bureaucratic content knowledge and constructed the bureaucratic habitus to operate the bureaucratic field. Especially, after the Sino–

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<sup>56</sup> This initiative of party purging and reorganisation included the following: 1) the KMT’s command to choose and appoint central instructors to reorganise local units and request members for re-registration, and 2) the KMT’s supervision of requesting the reorganised local units to obtain the central approval before running their business (Wang, 2003).

Japanese Military Conflict in 1931, the KMT's authority regarded legal education as an impediment to state development, as law students were viewed as political opponents who were keen to work in government without contributing to economic growth and political reform (Liu, 2010). Hence, from 1932 until the second Sino–Japanese War, the KMT's authority drove the NG to initiate educational reform to shrink the legal educational domain (e.g. decreasing the number of admissions and schools and financial support for overseas studies) in exchange for the expansion of the industrial educational domain (e.g. increasing the number of agriculture, medical and business schools; Liu, 2010). Although, after the second Sino–Japanese War, the KMT and ROC government readdressed the legal education in China, the civil war redirected the governmental attention to industrial education (Liu, 2010). Until 1987, the legal education in Taiwan was still significantly influenced by the reform of 1932, and it developed slowly (Liu, 2010).

The establishment of the police in China is another example. The police system (including education, budget and bureaucratic specialisation) was introduced to China after the later Qing Dynasty as a part of the Self-Strengthening Movement and Hundred-day Reform (Zeng, 1995; Zhang, 1995; Zeng, 1999). However, the NG still encountered difficulties in expanding and maintaining the forces in most Chinese provinces (Wang, 2006). The encountered difficulties should be attributed to the financial problems resulting from the long-term military conflicts and corruption caused by the local Confucian–legal field based politics – the *guanxi* between the local administrations (as imperial officials), police (as *fa li*) and residents (Hsieh, 2003; Chiu, 2006; Wang, 2006; Jing, 2008). Especially, to cope with the issue of police corruption, Chiang converted the military officers to managerial police officers after the creation of the Central Police School in 1936 (CPS, transformed to the Central Police University, CPU, in 1995; Chen, 2004; Wang, 2006). In 1947, nearly one-third of the managerial

police officers in China were converted from the military (Wang, 2006). Such a conversion and the idea of military dominating the police was not based on law, but rather, Chiang's orders to address followers' loyalty (Wang, 2006; Ma, 2009).

### **B) The ROC government (since 1947): blocking the ROC Constitution of 1946**

The existence of legal instruments did not codify the public interests. Instead, the legal instruments needed to be produced and deployed by the dominant to maintain *shi*. In so doing, Chiang as the ROC President since 1948 established the bespoke arrangement to block the ROC Constitution of 1946 for 40 years and enact the Temporary Provisions Effective during the Period of Communist Rebellion (1948–1991) and Martial Law (1949–1987) against his political opponent – the CP (Martin, 2006).

This bespoke arrangement allowed Chiang to strengthen his authority, such that he could *de facto* exercise the five types of power – the executive, legislative, judicial, examination and control powers – without being constrained by the ROC Constitution (Wang, 2004b). Hence, Chiang's authority could freely issue administrative decrees to establish anti-Communist organs (e.g. the National Security Meeting) and reorganise the government, which *de facto* went beyond the Executive Yuan's authority and bypassed the Legislative Yuan's supervision (Chen, 2004; Wang, 2004b). Chiang could also informally command the prime minister to make policy and intervene in national and local legislations through the KMT's domination of government (Chen, 2004; Wang, 2004b).

The bespoke arrangement also decreased the Chinese, and later, Taiwanese residents' power in that natural rights and political participation were strictly limited. For example, being influenced by Martial Law, residents were prevented from exercising their (legal)

power, such as freedom of speech, publication, assembly and association (Ma, 2009). In addition, due to the enactment of the Temporary Provisions Effective during the Period of Communist Rebellion, the national elections were not held, including the election for National Assembly – the highest authority of state in handling the presidential election and amending the Constitution – and the election for national legislators (in the Legislative Yuan) and controllers (in the Control Yuan; Ma, 2009; Yeh, 2013). Even if the local general elections were held, Chiang’s authority could still manipulate the elections to choose preferable candidates (Ma, 2009). Hence, if residents wanted to exercise their legal power, they needed to submit to Chiang’s authority (Wang, 2004b).

Above all, the constant internal unrest and foreign invasions since the later Qing Dynasty gradually altered the traditional dominant–dominated relation from the ruler–official–resident to KMT (authority–member)–government (member–non-member)–resident relation. The alteration of the relation resulted from the KMT’s power centralisation to build up a strong bureaucratised Confucian–legal habitus driven authority in the bureaucratised Confucian–legal field, in which the power was based on the Confucian–legal habitus along with the production of bureaucratic instruments – party principles as *shu* and national laws as *fa*. Hence, the bureaucratised Confucian–legal field was different from the Confucian–legal field (in which no bureaucratic instruments were hosted), discussed in section 5.1.3, and Japan’s Taiwan-based bureaucratic field (in which the Confucian–legal habitus could not be hosted), discussed in section 5.2. Meanwhile, the bureaucratised Confucian–legal field could not contribute to the production of the bureaucratic field because the bureaucratic content knowledge was not yet transformed to bureaucratic habitus to formulate the bureaucratic habitus driven authority. As illustrated in this section, the leaders of the KMT – Dr Sun and Chiang – exercised power in pursuit of *shi* in the KMT and the

government rather than complying with the party principles and national laws. It was the bureaucratised Confucian–legal field, as the peculiar accommodation for Chiang as the dominant driving the KMT members and Chinese residents as the dominated to fight against the CP. The bureaucratised Confucian–legal field was then transplanted to Taiwan in 1945, as I turn to articulate in the final section.

### **5.3.2 The transplantation and influence of the bureaucratised Confucian–legal field in Taiwan (1945–1987)**

Although the bureaucratised Confucian–legal field was created in China in 1924, the field was still weak for ensuring the KMT’s domination in China. This can be illustrated by two examples. First, after the second Sino–Japanese War, the establishment of the *Taiwan Provincial Administrative Executive Office* (臺灣省行政長官公署, 1945–1947), holding the administrative, legislative, judicial and military power, failed to handle the 228 Incident in Taiwan in 1947; this was caused by bureaucrats violently banning a Taiwanese woman’s illegal sale of cigarettes on the street but ended up with island-wide military oppression and dissolution of the *Taiwan Provincial Administrative Executive Office* (Tseng, 2011; Huang, 2016). Second, the KMT failed to expel the CP in China and then retreated to Taiwan in 1949 (Chang, 2002; Chen, 2004; Wang, 2017). Without considering strategies other than power centralisation, the KMT transplanted the bureaucratised Confucian–legal field to Taiwan to continue its battle against the CP. The transplantation of the bureaucratised Confucian–legal field was aimed at military unification of China and Taiwan by absorbing the Taiwanese residents’ Confucian–legal field and resisting the production of their Japan’s Taiwan-based bureaucratic field. In response, the Taiwanese residents sought to reshape the existing Confucian–legal habitus and Japan’s Taiwan-based bureaucratic habitus and construct the bureaucratised Confucian–legal habitus to live in the bureaucratised Confucian–legal field, as described below.

### **1) The Confucian–legal field was absorbed by the bureaucratised Confucian–legal field to construct the bureaucratised Confucian–legal habitus**

During the KMT rule, the Taiwanese residents' Confucian–legal field was gradually absorbed by the KMT's bureaucratised Confucian–legal field. Accordingly, the Taiwanese residents sought to construct the bureaucratised Confucian–legal habitus to submit to the KMT's authority.

#### **A. Taiwanese residents in the KMT**

The KMT's bureaucratised Confucian–legal field accommodated the Taiwanese residents at the bottom of the established KMT (authority–member)–government (member–non-member)–Chinese–Taiwanese relation (Wang, 2004b). The Taiwanese residents' position in this relation was different from their position in the Japan's Taiwan-based bureaucratic field, as the KMT allowed them to be promoted as party members and enjoy the privilege to work under the KMT regime (Ma, 2009; Chen, 2000; King, 2012). Meanwhile, Taiwanese residents as KMT members were also required to observe and report any known people's social, economic and political backgrounds, social networks and suspicious activities to the authority (Chen, 2000; Ma, 2009). In doing so, not only could the society be stabilised, but also, Taiwanese members who were directly regulated by party principles (as *shu*) could lead the Taiwanese communities to submit to and counter any threat to the KMT's authority (Chen, 2000).

#### **B. Taiwanese residents in the government**

The KMT regarded efficient and effective implementation of its orders as the top priority (Ma, 2009). Based on studying the Western bureaucracy, the KMT reorganised the government in two ways – undertaking specialisation and clarifying the hierarchical authority as deploying *shu* – to control the bureaucrats, including Taiwanese



bureaucrats, as described below.

### **A) Specialisation**

Specialisation – function-based division of power (FDOP) in this these – is adopted to demarcate various functional fields in the national bureaucracies to generate service (Chi, 2006; Schultz Larsen, 2015). Examples of specialisation in the KMT's government that influenced policing are described below.

#### **a. The struggle of power separation**

In 1955, the Huang Ji-Lu-led research team proposed the KMT to differentiate the administrative power from judicial power (Ma, 2009). Traditionally, judicial power was held by the administrations in imperial China (Liang, 2009). The KMT-led government followed the tradition and allowed the Ministry of Judicial Administration (of the Executive Yuan, 1928–1980) to command and supervise the local and high courts (Wang, 2004b; Liang, 2009). Regardless of the Constitutional Explanation No. 86 of 1960, the judicial power could not be isolated from the administrative power until the creation of the MOJ in 1980 (Liang, 2009). The military and law enforcement including the police thus acquired more power from the strong administration against relative weak judicial (including the local, high and even constitutional courts) and legislative entities (Hung, 2003; Liao, 2005; Hsu, 2015).

#### **b. Managing the national bureaucracies**

In 1967, the Personnel Administration Bureau<sup>57</sup> (of the Executive Yuan) was established to regulate the governmental organisation and management of bureaucrats (including recruitment, training, rewards and punishment, post promotion and transfer,

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<sup>57</sup> According to the ROC Constitution, the power of personnel management is shared by two competent national bureaucracies. The Personnel Administration Bureau is in charge of administration, while the Examination Yuan is in charge of legislation.

retirement and welfare; Chen, 2004; Ma, 2009; Hsu, 2015). The organisation and management of the police were also regulated by the bureau, as follows:

- a) **The organisation of police:** The creation of police in Taiwan was initially based on administrative decrees and legalised after the Police Act of 1953 was promulgated. For example, at the national level, the Police Department of the MOI was created in 1911, transformed to the National Police General Administration in 1946, Police Department in 1949, and finally, the NPA in 1971 (Yang, 2004; Wang, 2006). In addition, the CIB was created as the NPA's crime-fighting organ in 1972 but legalised in 1994 (Yang, 2004);
- b) **The management of police:** Police recruitment required the Taiwanese residents to take the training programme in the CPU or Taiwan Police College (TPC of the NPA)<sup>58</sup> and pass the national exam before joining the forces (Chiou, 2003; Wu & Su, 2010; Cao et al., 2014). The approaches to graduate recruitment from the two training organisations were different in that the CPU graduates could hold the ranking of inspector to occupy managerial posts, whereas TPC graduates could only hold the ranking of constable to occupy frontline posts. Meanwhile, the promotion of graduates from the two training organisations was also different in that the CPU graduates could be promoted to the highest rank of the NPA director-general, whereas the TPC graduates were only promoted to the rank of sergeant. If the TPC graduates wanted to be promoted to inspector and above in their career, they needed to apply to the CPU training programme.

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<sup>58</sup> The TPC was transformed from the Taiwan Provincial Police School (1948–1986, transformed from the Taiwan Provincial Police Training Institution, 1945–1948; Chiou, 2003; Chen, 2004; Chen, 2005). Initially, it was the Taiwan Provincial Police Training Institution that delivered the island-wide recruit training for constables and managerial officers (Chen, 2004). Since the transformation of the Taiwan Provincial Police School, it stopped delivering the recruit training of managerial officers and began only training recruits for rank-and-file officers who graduated from senior high school or above (Chen, 2004).

### c. Standardising the practice

In 1969, the Research, Development and Evaluation Commission (1969–2014, of the Executive Yuan) was established to introduce the idea of the three steps of administrative practice: design, implementation and evaluation (Ma, 2009). As such, the police practice, especially policy-making, was regulated by the Commission.

### B) Hierarchical authority

The hierarchical authority – approval-based division of power (ADOP) in this thesis – functions to codify the vertical relation between superiors and subordinates (Chi, 2006; Schultz Larsen, 2015)<sup>59</sup>. The idea of ADOP was introduced to ROC in the 1970s to divide the national bureaucracy into three levels of approval (Ma, 2009). These consisted of level-1 approval by the head of a national bureaucracy, level-2 approval by a divisional leader and level-3 approval by a sectional leader. Hence, to produce the appropriate practice, each bureaucrat should know what his/her (bureaucratic) obligations are, how the practice can be undertaken and to whom he/she should be accountable. Accordingly, for example, while making the practice, the CIB officers are commanded and supervised by sectional (or squadron) chiefs (level-3 supervisor for approval, SA), divisional leaders (level-2 SA) and commissioners (level-1 SA). Meanwhile, the CIB (level-4 national bureaucracy) is commanded and supervised by the NPA (level-3 national bureaucracy), MOI (level-2 national bureaucracy) and Executive Yuan (level-1 national bureaucracy).

Taiwanese legal scholars have usually attributed the superior–subordinate relation to the concept of '*besonderes Gewaltverhältnis*', inherited from German and Japanese

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<sup>59</sup> According to ROC Basic Code Governing Central Administrative Agencies Organisation (BCGO), it is the head of national bureaucracy who can hold the authority to legally make decisions on subordinates' proposals. However, in practice, it is unrealistic that the authority can be exercised by the head only (Chi 2006). The creation of ADOP allows the head to distribute his power to various managers for facilitating his/her decision making.

legal academics. This means that the superior–subordinate relation is a type of power relation that exists in each administration and in which the legislative and judicial power cannot intervene (Guan, 1996; Su, 2005; Lee, 2013). Hence, the superior–subordinate relation could prevent the subordinates from making appeals to courts while their natural rights are violated (Lee, 2013). This further implies that Taiwanese bureaucrats cannot claim the constitutional rights of holding a position in public services if they are sacked or their ranking and salary are degraded in an illegal way, but they should fulfil their obligations to do what their superiors command them to do (Guan, 1996; Lee, 2013; Liou, 2013). As such, the superior–subordinate power relation captured by *besonderes Gewaltverhältnis* is better regarded as that captured by the bureaucratized Confucian–legal habitus which addressing obligations of the dominated with sacrificed rights.

In addition to the hierarchical authority set in the national bureaucracies, the police still needed to handle national security issues. The police were commanded by the Taiwan Provincial Military Garrison Command to document and report any suspicious pro-Communism and criminal behaviour and respond accordingly (Ma, 2009; Martin, 2006; Martin, 2014). This military chain of command reflects Chiang’s disposition toward military dominating police, since he joined Dr Sun’s revolutionary campaign against the Qing Dynasty. The military chain of command was the channel that could directly and precisely inject the demands of the authority, such as the Ministry of Defence and National Security Bureau (NSB), to the police (Ma, 2009). The disposition of military-dominated police was gradually stopped after the deaths of Chiang in 1975 and son – Chiang Ching-Kuo – in 1988. Finally, the first civilian director-general of the NPA – Zhuang Heng-Dai – was appointed in 1990, and the military Garrison Command was deactivated in 1992 (Ma, 2009; Cao et al., 2014).

### **C. Taiwanese residents in communities: the KMT's ideological education**

The KMT drove government to implement the educational policy to implant its ideology in Taiwanese residents from their primary education, including Chinese nationalism, the Three Principles of the People, Confucianism and the ideas of submission to the KMT's authority and loyalty to Chiang and his successor and son, Chiang Ching-Kuo (Wang, 2004b; Guo & Wang, 2009). The policy implementation could ensure that the Taiwanese residents submitted to the KMT's authority and its promise of unification and prevented the reproduction of Japanese values and dispositions (Guo & Wang, 2009; Zhou, 2011). In addition, the legal education in universities was still sacrificed to expend the industrial education after the 1932 educational reform (Liu, 2010). Consequently, the Taiwanese residents may not have had enough legal content knowledge to criticise governmental practice, or they had legal education abroad but they were reluctant to challenge the authority because of the long-term implantation of the KMT's ideology (Wang, 2004b).

#### **D. Taiwanese residents in communities: the deployment of national laws as *fa***

The police – as one of Chiang’s security regimes in Taiwan<sup>60</sup> – were taught to be loyal to Chiang and act as tutors to deploy Confucianism to cultivate Taiwanese residents’ submission to the KMT’s authority (Chen, 2004; Martin, 2014). Although the police were also taught content knowledge about law and natural and social scientific subjects, the police still had a disposition to engage in *fa* (including legal, illegal and non-law-based) practice against residents to accomplish superiors’ orders (Chen, 2000; Chen, 2004; Chen, 2005; Lin, 2009). Especially, how the police hit the target was not the superiors’ concern if the superiors’ demands could be fulfilled (Chen, 2000).

#### **E. Taiwanese residents’ position taking**

As one Taiwanese employee who worked at the state-owned sugar company across the Japanese colonial and KMT rule periods argued, ‘*I’d rather be ruled by Japanese than Chinese*’ (Hsiao, 2008:245). This is because, under the KMT rule, Taiwanese employees encountered the problem of *guanxi*-based position taking and associated problems, including bribery, too flexible working time, non-specialised bureaucrats, no sense of responsibility and frequent policy change (Hsiao, 2008). In the bureaucratized Confucian–legal field, position taking was not *de facto* regulated by law. In the KMT regime, in terms of the party, government and state-owned business, the law provided the bureaucratic qualification of position taking; however, the qualification did not guarantee the success of position taking (Guan, 1996; Yang, 1998; Hsiao, 2008). A post in the KMT regime was usually given to whomever could make bureaucratized Confucian–legal habitus driven practice to present loyalty to or have *guanxi* with the

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<sup>60</sup> Chiang’s security regime in Taiwan comprised the following: 1) under the Presidential Office, there was the National Security Meeting (transformed from the Meeting of Defence) commanding the NSB (transformed from the Information Division of the Presidential Office); 2) at the ministry level, there were the Ministry of Defence (consisting of the Military Police Command and Military Intelligence Bureau), MOI (consisting of the NPA transformed from the Police Department) and Ministry of Justice (consisting of the Investigation Bureau); and 3) at the provincial level, there were the Taiwan Provincial Military Garrison Command and Taiwan Provincial Police Administration (Martin, 2006; Ma, 2009).

KMT, such as the military generals appointed to command the police (Chen, 2000; Chen, 2004; Hsiao, 2008; Ma, 2009; King, 2012; He, 2015). Meanwhile, the post could also be discharged because the holder presented non-loyalty; the NPA director-general – Kong Ling-Sheng – left the post because of launching a project promoting democracy against the authority (Ma, 2009). The Taiwanese residents were no exception. Once their loyalty was recognised, the KMT could appoint them to hold a governmental position as deputy prime minister (e.g. Lin Yang-Gang), minister (e.g. Lain Zhen-Dong) or provincial governor (e.g. Li Deng-Hui) or support them to successfully win the state general election (especially after the Chiang's death in 1975 (Ma, 2009; Zhan, 2007).

Even in private and state-owned business (e.g. banks and the monopoly on tobacco and liquor), the KMT could manipulate internal elections and personal systems to allow the loyal Taiwanese residents to occupy the (top) managerial positions (Chen, 2005; King, 2012). The loyal Taiwanese residents were eager to occupy these positions because they could have the privilege to enjoy the KMT's shared power and capital, although they sacrificed (own and others') natural rights to the fulfil the KMT authority's demands (Guan, 1996; Wang, 2000a; King, 2012).

## **2) The resistance of existing habitus: [Confucian–legal habitus dominates Japan's Taiwan-based bureaucratic habitus]**

The Taiwanese residents' existing integrated habitus in Japanese colonial period – [Confucian–legal habitus dominates Japan's Taiwan-based bureaucratic habitus] – may have contributed to the occurrence of the 228 Incident. As Shengen Magazine (1986, as cited in Lin, 2009) illustrated, without being orchestrated by any organised or political group, the Taiwanese island-wide rebellion against the *Taiwan Provincial Administrative Executive Office* and claim for running own legislature was driven by an indigenous value – Taiwanese nationalism. I argue that the indigenous value should

imply the integrated [Confucian–legal habitus dominates Japan’s Taiwan-based bureaucratic habitus], in which the Taiwanese residents deployed the Confucian–legal habitus to secretly prevent Taiwanese lawbreakers from undergoing punishment and the Japan’s Taiwan-based bureaucratic field to openly submit to the bureaucratic authority and fight for legal rights. In other words, the integrated [Confucian–legal habitus dominates Japan’s Taiwan-based bureaucratic habitus] did not vanish, although Li and Liu (1994, as cited in Chen, 2000) contended that the Taiwanese residents resisted political participation after the 228 Incident. Instead, the existing [Confucian–legal habitus dominates Japan’s Taiwan-based bureaucratic habitus] shifted from open (before the 228 Incident) or secret (after the 228 Incident)<sup>61</sup> to open again (after 1971), which prevented the Taiwanese residents’ practice from being punished by the KMT’s authority. Importantly, the existing [Confucian–legal habitus dominates Japan’s Taiwan-based bureaucratic habitus] laid the foundation for other bureaucratic elements being built.

The Taiwanese residents’ resistance of [Confucian–legal habitus dominates Japan’s Taiwan-based bureaucratic habitus] needed to take the KMT’s changing *shi* into account. Especially, the KMT losing the stance of claiming legitimacy of ruling Taiwan after the revocation of the ROC’s UN membership in 1971 and a serial loss of diplomatic allies (e.g. the United Kingdom, Japan and United States; Zhan, 2007; Ma, 2009). The loss of *shi* forced the KMT to focus more on Taiwanese residents’ demands in exchange for sustaining the KMT’s authority. Thus, the Taiwanese residents gained the opportunity to strengthen the [Confucian–legal habitus dominates Japan’s Taiwan-

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<sup>61</sup> There is one opposite example: The production of household registration in the KMT rule was contributed to by the KMT’s anti-Communist experience in China and its acceptance of the Taiwanese *Hoko* experience (Wang, 2006; Jing, 2008; Lee, 2011). The acceptance of Taiwanese *Hoko* should be attributed to two elements, as follows: 1) the legal instrument – the Household Registration Act of 1946 – did not guarantee that the local administrations as a *de jure* competent body could effectively undertake household registration; and 2) the police as the *de facto* competent body of household registration were trained to be the KMT’s loyal forces to oversee the Taiwanese residents’ *Hoko* practice.



based bureaucratic habitus] by constantly fighting for natural rights against the newly constructed bureaucratized Confucian–legal habitus resulting from submission to the KMT’s authority.

Initially, the Taiwanese residents’ *Tangwai* (黨外, non-KMT) practice – the fight for democracy, natural rights, rule of law, and ultimately, domination of state – was driven by the existing [Confucian–legal habitus dominates Japan’s Taiwan-based bureaucratic habitus] and regulated in the KMT’s bureaucratized Confucian–legal field since 1945. Hence, the Taiwanese residents began to participate in the KMT’s approved local elections from 1946 and local autonomy from the 1950s. However, the [Confucian–legal habitus dominates Japan’s Taiwan-based bureaucratic habitus] was gradually shaped to drive the Taiwanese residents to engage in other types of practice against the KMT’s malpractice (e.g. vote rigging) and rule, as follows (Lin, 2009; Ho, 2016).

- A. Establishing associations and assembling points (e.g. Taiwanese candidates’ service centres and bookstores) to claim for and propagate fair elections;
- B. Monitoring the process of voting and calculating votes and undertaking legal actions; and
- C. Issuing *Tangwai* magazine, advocating national elections for legislators (elected in Taiwan from 1992) and representatives of the National Assembly (elected in Taiwan from 1991) and organising opposition parties (e.g. the DPP created in 1986).

Particularly, by winning the elections, the elected Taiwanese legislators, known as *dai-biao* (代表), *yi-yuan* (議員) or *wei-yuan* (委員), occupied the dominant position to supervise the KMT-led government and protect Taiwanese residents from being influenced by the KMT’s power exercise (Ho, 2016).

The existing [Confucian–legal habitus dominates Japan’s Taiwan-based bureaucratic

habitus] and the bureaucratised Confucian–legal habitus were integrated into **[Confucian–legal habitus dominates Japan’s Taiwan-based bureaucratic habitus] dominates bureaucratised Confucian–legal habitus**. The habitus integration had three implications. First, the Taiwanese residents had to sacrifice natural rights in exchange for their survival and promotion in the bureaucratised Confucian–legal field. Hence, the Taiwanese residents’ practice in the KMT and communities was regulated by party principles as *shu* and national laws as *fa* respectively. Their practice in the national bureaucracies was also in accordance with bureaucratic specialisation and hierarchical authority. Second, the way of promotion was to address natural rights against the KMT’s authority to dominate the bureaucratised Confucian–legal field. Hence, the elected Taiwanese actors could deliver protection to those residents in need in exchange for the constant dominant position. Third, the dominant part of habitus was still the Confucian–legal habitus (imperial legalism dominating Confucianism), implying that the Taiwanese residents’ position taking was in pursuit of personal interests by deploying Confucian ethics (e.g. loyalty and *guanxi*), imperial legalists’ *two handles* and bureaucratic instruments.

Hence, I argue that the Chinese habitus (Confucian–legal habitus) and Western habitus (bureaucratic habitus) did not impose equal influence on Taiwanese residents. The practice of Taiwanese residents was constantly shaped because the gradual integration of four parts of habitus resulted from the integration of the Confucian field and imperial legalists’ field to formulate the Confucian–legal field, the implantation of the Japan’s Taiwan-based bureaucratic field and transplantation of the KMT’s bureaucratised Confucian–legal field (refer to Table 5.1). Especially, the factor of time cannot contribute to the extinction of the past part of habitus. However, it is possible for actors to be less influenced by the past parts of habitus if its present parts can be strengthened, such as with the Confucian–legal field decreasing its territory in the Japanese colonial

period. Hence, if the Taiwanese residents wanted to operate the bureaucratic field after 1987, the bureaucratic habitus (e.g. Japan’s Taiwan-based bureaucratic habitus) rather than bureaucratized Confucian–legal habitus needed to be constructed from the familial, educational and occupational contexts.

**Table 5.1 The evolutions of Chinese-based agency and structures**

History	The Chinese-based habitus in fields		
	Confucian–legal field (before 1895)	Japan’s Taiwan-based bureaucratic field (1895–1945)	Kuomintang’s (KMT) bureaucratized Confucian–legal field (1945–1987)
<b>Zhou Dynasty</b> (11 century BC–256 BC)	<p><b>Social hierarchy:</b> ruler–official–resident</p> <p><b>Confucian field</b></p> <ul style="list-style-type: none"> <li>● <b>Obligation-addressed</b> practice</li> <li>● <b>Dominant–dominated relation:</b> Ruler–official, father–son, husband–wife, elder–younger and friend–friend</li> </ul> <ol style="list-style-type: none"> <li>1) <b>Dominant:</b> <i>Sage king</i> and <i>Junzi</i> (君子)</li> <li>2) <b>Dominated:</b> Residents are encouraged to learn Confucianism</li> </ol> <ul style="list-style-type: none"> <li>● Learn to control agency and then structures</li> <li>● <b>Instruments:</b> Confucian ethics (<i>ren</i>, <i>yi</i>, <i>li</i> and <i>guanxi</i>)</li> </ul> <p><b>Imperial legalists’ field</b></p> <ul style="list-style-type: none"> <li>● <b>Two handles</b> (rewards and punishments) addressed practice</li> <li>● Addressing the ruler’s private interests as public interests</li> </ul> <ol style="list-style-type: none"> <li>1) <b>Instrument for distributing the two handles:</b> <i>shi</i> (the top position in the field cannot be shared), <i>fa</i> (law of nature for regulating the residents) and <i>shu</i></li> </ol>		

	<p>(skills of domination for managing the officials)</p> <p>2) <b>The ruler's psychological conflict:</b> Publicising interests in <i>fa</i> and concealing interests while deploying <i>fa</i> and <i>shu</i></p> <ul style="list-style-type: none"> <li>● <b>Dominant</b></li> </ul> <p>1) <b>Ruler</b> deploys <i>shi</i>, <i>fa</i> and <i>shu</i> without revealing <i>know-how</i></p> <p>2) <b>Officials</b> deploy <i>fa</i> without revealing <i>know-how</i></p> <ul style="list-style-type: none"> <li>● <b>Dominated</b></li> </ul> <p>1) <b>Officials</b> managed by <i>shu</i> without knowing the <i>know-how</i> of <i>shu</i> deployment</p> <p>2) <b>Residents</b> regulated by <i>fa</i> without knowing the <i>know-how</i> of <i>fa</i> deployment</p> <p>3) <b>Disposition:</b> Detecting the <i>know-how</i> of <i>fa</i> and <i>shu</i> deployment of the dominant</p>		
<p><b>Han Dynasty–Qing Dynasty (before 1895)</b></p>	<p><b>Evolution of fields</b></p> <p><b>Confucian–legal field</b></p> <ul style="list-style-type: none"> <li>● <b>Social hierarchy:</b> ruler–official–resident</li> <li>● <b>Instruments:</b> Shaped Confucianism and imperial legalism</li> <li>● <b>Addressing the private interests of the dominant (ruler and officials)</b></li> <li>● <b>Shaped Confucianism:</b></li> </ul> <p>1) <b>Dominant–dominated relation addressed:</b> ruler–official, father–son and husband–wife</p> <p>2) Only can the dominant abandon Confucian obligations</p> <ul style="list-style-type: none"> <li>● <b>Shaping imperial legalism</b></li> </ul>		

	<p>1) Adapted to Confucianism</p> <p>2) <b><i>Fa</i> selectively deployed by the dominant</b> (who enjoys more autonomy and fewer constraints while exercising power)</p> <p>3) <b><i>Fa</i> unequally applied to the dominant</b> (who enjoys privileges from being regulated by <i>fa</i>)</p> <p><b>Evolution of habitus</b>  <b>Confucian–legal habitus:</b>  Confucianism in public and legalism in private</p> <ul style="list-style-type: none"> <li>● <b>Dual context-sensitive device:</b> actors talk about obligations in public but address the power and interests in private</li> <li>● <b>Imperial legalism dominates Confucianism:</b>  Dominated actors addressing obligations cannot guarantee its survival and success in the Confucian–legal field</li> </ul>		
<p><b>Japanese colonies (1895–1945)</b></p>	<p><b>The evolution of Confucian–legal field</b></p> <ul style="list-style-type: none"> <li>● <b>Japan’s Taiwan-based bureaucratic field unable to integrate the Confucian–legal field:</b>  Ethnic discrimination</li> <li>● <b>Confucian–legal field losing territory:</b> From openly defying the authority to secretly protect Taiwanese lawbreakers</li> </ul> <p><b>The evolution of Confucian–legal habitus</b></p> <ul style="list-style-type: none"> <li>● <b>Confucian–legal habitus applied to Taiwanese communities</b></li> </ul>	<p><b>Japan’s Taiwan-based bureaucratic field</b></p> <ul style="list-style-type: none"> <li>● <b>Social hierarchy:</b>  ruler–government–Japanese–Taiwanese</li> <li>● <b>Instruments:</b>  National laws</li> <li>● <b>Dominant:</b> Authority (Taiwan administration)</li> </ul> <ol style="list-style-type: none"> <li>1) Power based on the Meiji Constitution and approved by the government</li> <li>2) Exercise of power supervised by the government, Diet and Commanding Headquarters</li> <li>3) Ruling Taiwan by adopting the</li> </ol>	

		<p>administrative approach</p> <ul style="list-style-type: none"> <li>● <b>Dominated:</b> Taiwanese residents</li> </ul> <p><b>Japan's Taiwan-based bureaucratic habitus</b></p> <ul style="list-style-type: none"> <li>● <b>Specialisation of labour:</b> Addressing the Japanese language and technical content knowledge rather than intellectual knowledge</li> <li>● <b>Submission to the authority:</b> Addressing legal obligations and accumulating bureaucratic habitus (e.g. the <i>Hoko</i> system)</li> <li>● <b>Fight for legal rights</b> <ol style="list-style-type: none"> <li>1) Addressing legal rights set out in the Meiji Constitution</li> <li>2) Aiming at abolishing governors-general's legislative power and the legal obligations of the <i>Hoko</i> system</li> <li>3) Propagating the establishment of the Taiwan-based legislature</li> </ol> </li> </ul>	
	<p><b>Habitus integration:</b> [Confucian–legal habitus dominates Japan's Taiwan-based bureaucratic habitus] in a way that the Confucian–legal habitus dominated in private, while the Japan's Taiwan-based bureaucratic habitus did so in public</p>		
<p><b>KMT ruling (1945–1987)</b></p>	<p><b>Evolution of fields</b></p> <ul style="list-style-type: none"> <li>● Confucian–legal field absorbed by the bureaucratized Confucian–legal field</li> </ul> <p><b>Evolution of habitus</b></p> <ul style="list-style-type: none"> <li>● Resistance of [Confucian–legal habitus dominates Japan's Taiwan-based bureaucratic habitus]: Fight for democracy, natural rights, rule of law and domination of state via elections, propagation of democracy, legal action against KMT's malpractice and the establishment of opposition parties</li> </ul>	<p><b>Bureaucratized Confucian–legal field</b></p> <ul style="list-style-type: none"> <li>● <b>Social hierarchy:</b> KMT–government–Chinese–Taiwanese</li> <li>● <b>Instruments:</b> Confucianism, imperial legalism and national laws as <i>fa</i> and party principles as <i>shu</i></li> <li>● <b>Dominant:</b> Authority (Chiang Kai-Shek, KMT and government) <ol style="list-style-type: none"> <li>1) Power based on Confucian–legal habitus</li> </ol> </li> </ul>	

		<ul style="list-style-type: none"> <li>2) Production of party principles and national laws</li> <li>3) Deploying party principles as <i>shu</i> and national laws as <i>fa</i></li> <li>4) Addressing <i>shi</i> of dominant</li> <li>● <b>Dominated:</b> Taiwanese residents (obligation-addressed)</li> </ul> <p><b>Bureaucratized Confucian–legal habitus</b></p> <ul style="list-style-type: none"> <li>● Submission to the authority</li> <li>1) Becoming the KMT members (regulated by party principles as <i>shu</i>)</li> <li>2) Joining the national bureaucracies (regulated by bureaucratic specialisation and hierarchical authority as <i>shu</i>)</li> <li>3) Having KMT’s ideology via education</li> <li>4) Activities in communities regulated by national laws as <i>fa</i></li> <li>5) Position taking by presenting loyalty and <i>guanxi</i></li> </ul>
	<p><b>Habitus integration:</b> [Confucian–legal habitus dominates Japan’s Taiwan-based bureaucratic habitus] to dominate bureaucratized Confucian–legal habitus</p> <p><b>Implication:</b> For survival, the Taiwanese residents constructed the bureaucratized Confucian–legal habitus; however, for promotion, they needed to deploy [Confucian–legal habitus dominates Japan’s Taiwan-based bureaucratic habitus]</p>	

#### 5.4 Toward a national bureaucratic field after 1987

In the West, the parliament-centred state as national bureaucratic field is formed to maintain daily order by law (Hwang, 2011). In the field, the dominant–dominated relation is known as legislature–administration (Hwang, 2011). However, in

contemporary ROC in Taiwan, especially since 1987, the Western logic of rule of law does not fully operate. Instead, ROC operates its own logic of rule of law, as follows: 1) to satisfy their own interests in the name of democracy, Taiwanese residents have a disposition to dominate the ROC's administrations, and 2) Taiwanese residents allow legally dominant actors to enjoy more autonomy and fewer constraints while exercising dual (bureaucratized Confucian–legal habitus driven and bureaucratic habitus driven) power. As such, the legally dominant actors are free from Confucian and bureaucratic obligations to exercise dual power to deploy national laws as *fa* and organisational principles (e.g. KMT's party principles, national bureaucracies' Rules and Directives) as *shu*. This drives the dominated bureaucrats, who are expected to bear the dual obligation and constrained natural rights, to comply with legally dominant actors' commands.<sup>62</sup> This Taiwanese homegrown logic of rule of law has three implications as described below.

**1) KMT's bureaucratized Confucian–legal field loses its territory to national bureaucratic field: The new bureaucratic habitus**

The existence of the national bureaucratic field can be proven by witnessing the change of KMT's social hierarchy (KMT–government–Chinese–Taiwanese). In the year 2000, the KMT regime, which had been dominant since 1945, was peacefully shifted to the DPP regime. This was the first time that people in Taiwan chose the opposition party's candidate to be the president of the state, and it marked the conclusion of the long-term Taiwanese battle for natural rights against KMT's abusive exercise of power. Importantly, the change of the ruling party implies that the social hierarchy has been shifted to the resident–government relations, addressing the government of the people, by the people, and for the people. While this shift of the ruling party and social hierarchy

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<sup>62</sup> In this thesis, the dual obligation refers to Confucian and bureaucratic obligations. Regarding Confucian obligation, this requires the dominated actor to fully act on obligation while the dominant actor does not have to do so (refer to section 5.1.3). Regarding bureaucratic obligation, this consists of organisational obligation, if bearers are members of organisations (e.g. KMT members and employees of private services), and legal obligation codified in law (e.g. national bureaucracies' employees).



proves the existence of national bureaucratic field, they do not heuristically indicate that the national bureaucratic field (rule of law applied) was in full operation in Taiwan after 1987. This is because Taiwanese residents still have a disposition to expect a powerful administration, which is reflected in their domination of administration and submission to Japanese and KMT's authority.

To coordinate the Japan's Taiwan-based bureaucratic habitus and bureaucratized Confucian-legal habitus, a powerful administration becomes admissible in the national bureaucratic field (Liao, 2000; Chi, 2006; Hwang, 2011). This powerful administration, as a constitutional preservation of the national bureaucracies' exercise of administrative power, is a result of constitutional amendments in 1994 and 1997 and constitutional explanations (Liao, 2000; Chi, 2006; Hwang, 2011). This constitutional arrangement addresses the national bureaucracies' three features, including 1) mutual trust and cooperation, rather than mutual competition and intervention, with legislative and judicial entities; 2) bureaucratic efficiency as a core value; and 3) aggressive and creative disposition against a rapidly developing world (Liao, 2000; Fan, 2006; Lee, 2013).<sup>63</sup> The constitutional arrangement also protects the national bureaucracies' core mandates from legislative and judicial intervention. There are five core mandates, as described below (Liao, 2000; Chi, 2006; Hwang, 2011):

- A. The appointment of high-ranking and political appointees, such as the ministers and director-general of the NPA;
- B. The power of handling the budget, such as an increase or decrease in the budget;

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<sup>63</sup> Bureaucratic efficiency is a contesting term in the rule-of-law society. In a modern bureaucracy, efficiency is more important than process (Cho et al., 2013). However, efficiency may not be a common legal value embedded in statutes. For example, the abolishment of Misdemeanour Act of 1943, through creation of Social Order Maintenance Act of 1991 to withdraw the police power of detention, does not regard bureaucratic efficiency as an approach to secure national security; rather, it addresses that the power of detention should be exercised by the courts in accordance with the ROC Constitution (Hung, 2003). Similarly, the amendment of ROC Code of Criminal Prosecution and Communication Security and Surveillance Act to withdraw prosecutors' power of search, detention and surveillance does not consider investigatory (bureaucratic) efficiency but addresses the supervision of courts as necessary.

- C. The power of handling intergovernmental affairs, such as defence, diplomacy and cross-strait affairs;
- D. The organisation of national bureaucracies. A national bureaucracy's organisational power is shared by the Legislative Yuan and Executive Yuan. Except for the constitutional preservation for legislation, including the designation of a national bureaucracy's power, the determination of a national bureaucracy's scale and the protection of natural rights, national bureaucracies can determine their own division of power – specialisation (FDOP) and hierarchical authority (ADOP) – and resource allocation, including bureaucrat recruitment and promotion; and
- E. Autonomy of law enforcement. Especially, according to Constitutional Explanation No. 443 of 1997, national bureaucracies can engage in non-law-based practice if people's natural rights are not violated and the *know-how* of practice is only detailed and technical-issues related. The non-law-based practice can be undertaken in accordance with managerial instruments – rules, directives and divisional orders – issued by the head of the national bureaucracy at his/her discretion.<sup>64</sup>

Above all, the powerful administration of national bureaucratic field cannot engage in the illegal type of practices which are prevalent in the bureaucratized Confucian–legal field. Instead, the administration now can only deploy law-based (approved by legislative and judicial entities) and non-law-based (approved by administration)

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<sup>64</sup> In this thesis, the term *rule* refers to the rule defined in the ROC Administrative Procedure Act (APA) and BCGO. According to the APA, rule is one type of administrative instrument that functions to guide bureaucrats' practice in four ways, including: 1) an organisation rule functions to structure a level-4 national bureaucracy's organisation (e.g. the CIB), and its generation should also comply with the BCGO to codify the authority (e.g. commissioner of CIB) and type of function (e.g. the CIB for crime-fighting affairs) and provide guidance for structuring hierarchical authority and departments (e.g. a legal number of functional departments); 2) a rule on FDOP functions to create a national bureaucracy's functional departments and a rule on ADOP functions to set a national bureaucracy's hierarchical authority; 3) a rule can codify guidelines to regulate bureaucrats' business and personnel management; and 4) a rule can provide a unified way to regulate bureaucrats' exercise of power, the explanation of legal instruments and the construction of fact. Moreover, since a rule is generated and deployed by authority to control subordinates' practice, the authority itself should also be bound.

instruments to externally regulate Taiwanese residents' practices and internally regulate bureaucrats' practices. Importantly, the practices of the administration should always be supervised by Taiwanese residents (Hwang, 2011). Accordingly, the 'bureaucratic' part of Japan's Taiwan-based bureaucratic habitus and the 'bureaucratised' part of bureaucratised Confucian–legal habitus can be integrated into the new bureaucratic habitus to capture Taiwanese residents' domination of and submission to the powerful administration.

## **2) The resistance of the 'Confucian–legal habitus' part of bureaucratised Confucian–legal habitus in national bureaucratic field**

The resistance can be approved by two facts, including the *de facto* superior–subordinate power relations and law enforcement as *fa* deployment, as described below.

### **A. *De facto* superior–subordinate relations**

Since 1987, the practice of judicial entities has gradually become independent from administrative control. This is partly due to the creation of the MOJ in 1980 as the administrative power was withdrawn *de jure* from the judicial power. The Constitutional Court also acquired *de facto* autonomy to ensure constitutional and legal order. Hence, the police were forced by two constitutional explanations to abolish the Misdemeanour Act of 1943 (違警罰法, *wei-jing-fa-fa*), under which they could detain violators for 14 days at their discretion, by introducing the Social Order Maintenance Act of 1991 in which power of detention is exercised by the courts (Hung, 2003).<sup>65</sup> In addition, the Police Power Exercise Act was enacted in 2003 as a result of Constitutional Explanation No. 535 of 2001 which addresses that police stops against individuals' personal freedom should be regulated by law.

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<sup>65</sup> The creation of the Social Order Maintenance Act of 1991 was the result of Constitutional Explanation No. 166 of 1980 and No. 251 of 1990 which aimed to return the police power to detain misbehaving residents to the courts, but they had different influences on the government. Constitutional Explanation No. 166 could not stop the government detaining violators for 14 days because the Constitutional Court did not independently exercise power under KMT rule until No. 251 was issued to ask for governmental response before 1 July 1991 (Hung, 2003).

While the judicial entities can examine a national bureaucracy's external practice, they cannot intervene in a national bureaucracy's core mandates. As discussed in this chapter, superior-subordinate relation known as *besonderes Gewaltverhältnis* was regarded as a kind of power relation in national bureaucracies which could reject legislative and judicial intervention. Since the 1980s onward and particularly due to Constitutional Explanation No. 395 of 1996, the power relation was gradually shifted to the legal relation (Su, 2005; Lee, 2013). This shift requires the superior-subordinate relation to be codified in law to address two facts, including: 1) that subordinates only have legal obligations pertaining to their posts to comply with superiors' legal power exercise as a presentation of impersonal loyalty to the state, and 2) that subordinates have the right to hold a post in national bureaucracies against their superiors' illegal power exercise in terms of salary, ranking, recruitment and discharge (Su, 2005; Lee, 2013; Liou, 2013). However, the superior-subordinate legal relation cannot protect subordinates from superiors' *improper imposition of managerial instrument*, which can influence the subordinates' practice (e.g. by following superiors' rule-breaking commands) and position taking (e.g. by using *guanxi* for promotion and post transfer) but are not subject to legislative regulation and judicial examination (Lee, 2013; Liou, 2013). Although subordinates can express opinions on superiors' *improper imposition of managerial instrument*, according to the Civil Service Act of 1939, they are still obligated to comply with the command if superiors insist. Even if the subordinates can question their superiors' command, and superiors must issue written command according to the Civil Service Protection Act of 2003, the two actors may not generate the appropriate kind of practice (as discussed in this chapter). In other words, the superior-subordinate legal relation may not guarantee that the subordinates can *de facto* make independent decisions based on their superiors' questionable commands. Instead, the residue of power relation as the influence of the 'Confucian-legal habitus' part of bureaucratized

Confucian–legal habitus can drive subordinates to act on superiors’ questionable commands.

### **B. Law enforcement as *fa* deployment**

The nature of law has been changed. The national laws produced by elected legislators since 1992 illustrate the fact that the ruler-centric imperial *fa* and the KMT-dominated national laws have been transformed to people-centric national laws that regulate the social order in Taiwan. However, the legally dominant actors may not expect themselves to be restrained by national laws. They can exercise bureaucratized Confucian–legal habitus based power to impose bureaucrats to deploy *fa*.

There are at least three scenarios which can illustrate *fa* deployment influenced by the bureaucratized Confucian–legal habitus. First, to maintain *guanxi* with the voters, the elected actors can exercise the bureaucratized Confucian–legal habitus based power to influence high-ranking bureaucrats to drive subordinates to meet residents’ needs (Tang, 2002; Du et al., 2013; Zou, 2014). For example, in 2012, ex-legislator Lin Yi-Shi influenced the state-run China Steel Corporation to forge an illegal contract with a local company (Lin & Zhang, 2016). In the same year, the mayor of Keelung City, Zhang Tong-Rong, influenced the police to illegally free a suspect of driving under the influence of alcohol (Zou, 2014).

Second, subordinates can make the practice to present their loyalty to superiors. For example, in 2006, the ex-commissioner of MJIB, Ye Sheng-Mao, disclosed intelligence sent by Egmont Group to ex-ROC president Chen Shui-Bian (2000–2008), who was suspected of money laundering (Zhang, 2014; Yu, 2015). In 2013, the ex-attorney-general of prosecution service, Huang Shi-Ming, disclosed investigatory information to ex-ROC president Ma Ying-Jiu (2008–2016) for damaging the reputation of two

legislators (Liberty Times, 2014). According to the disclosed investigatory information, one prosecutor withdrew an appeal after being influenced by one supervisor in the prosecution service and one superior in the MOJ, who were both influenced by the two legislators (Liberty Times, 2014).

Third, the courts can unequally apply rules to judges and employees. For example, in 2016, a judicial police officer of Taichung District Court complained that the judges did not follow the on-day-duty shift to do designated tasks and yet still received payment; however, the judicial police were not allowed to do so (Li, 2018). The above examples illustrate that bureaucrats, including the police, cannot prevent the influence imposed by bureaucratised Confucian–legal habitus driven elected actors, judges and even bureaucrats themselves.

The subordinates who work in the national bureaucracies are always struggling to deploy the bureaucratised Confucian–legal habitus and/or the bureaucratic habitus. To satisfy the needs of Taiwanese residents and legally dominant actors, subordinates are expected to deploy expertise, rather than learned knowledge, as habitus to make law-based and non-law-based practice while generating service in specialised fields (Brown, 1988; Liao, 2000; Chi, 2006; Moore, 2006; Hwang, 2011; Belur et al., 2015; Chen, 2014; Wu, 2017; Wu, 2018).<sup>66</sup> Thus, it can be expected that, as Taiwanese, contemporary CIB officers inherit the legacy of past habitus to some degree.

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<sup>66</sup> Autonomy of expertise is secured in the ROC Constitution; however, it may not be applied to the police. According to Constitutional Explanation No. 462 of 1998, if an academic subordinate's decision-making is based on expertise and complies with law, the decision can protect him/her from his/her superior's intervention. As articulated later in this chapter, although the Constitution acknowledges the autonomy of expertise, the CIB may not rely on bureaucratic habitus but, rather, on bureaucratised Confucian–legal habitus.

## **Chapter 6 Transnational Policing Practice at Criminal Investigation Bureau (Taiwan): Officers' Agency and Structures**

My ethnography aims to present ROC transnational policing cooperation from the perspective of CIB's frontline officers. Although it has been anticipated that the practice theoretically could be influenced by multiple fields, according to Table 3.1, my ethnography has suggested a type of **national policing against TC**. This means that CIB officers' position is better when located in the CIB of NPA within NOI in the national bureaucratic field, as the basic field against the influence of other fields. As a starting point in this chapter, I specify the relevant fields as follows and articulate their mutual influence on practice in the following sections:

- 1) **Bureaucratised Confucian–legal field:** In the bureaucratized Confucian–legal field, the dominant relation in private, rather than public, contexts is the superior-subordinate relation to address Confucian, rather than legal, obligations. The field is interpersonal in nature, so it is not the CIB of NPA within NOI in the field, but rather the CIB officers as subordinates in the field who make *fa* deployments and satisfy superiors' needs.
- 2) **National bureaucratic field:** The ROC Constitution created the ROC national bureaucratic field to accommodate Max Weber's bureaucracy by law. Positions in the field are legalised as a national bureaucracy (or administration) comprising hierarchical authority (with superior-subordinate relations between each level) and functional departments (including interdepartmental relations). The CIB of NPA within NOI in the field illustrates the CIB as a level-4 national bureaucracy that specialises in fighting crime. Within the CIB are bureaucratic divisions that specialise in criminal investigations and transnational affairs, including the 1st IC, ICAD and CSAD. Within each CIB division are bureaucrats who specialise in processing documents, investigating criminal cases, exchanging information and

participating in transnational events.

- 3) **National criminal justice field:** The ROC national criminal justice field is a subfield of the national bureaucratic field, but it differs in that positions in the field do not feature hierarchical authority, but instead are functional departments (with *de facto* operative-initiator relations between them), including police for investigating crimes and prosecutors for initiating criminal-justice proceedings. However, CIB officers do not hold legal positions in the field. They can act as investigators only when they hold positions as bureaucrats in the police department (in the national bureaucratic field). In other words, CIB officers first must work as police officers, then eventually can practice as investigators in the field.
- 4) **Transnational policing field:** The ROC transnational policing field is a subfield of the national policing field under the national bureaucratic field. Positions that specialise in transnational cooperation do not include hierarchical authority, as these are functional departments with intergovernmental identities and abilities to facilitate transnational participation. Although relations between transnational positions are not legal, but professional P2P in nature, being a transnational actor in the field requires that the CIB first hold a legal position as a national bureaucracy (the police). In this regard, CIB officers are required to act as bureaucrats of the police in order to cooperate with foreign counterparts.

Above all, the production of ROC transnational policing cooperation derives from competition between CIB officers acting as (investigatory operatives and transnational) bureaucrats and Confucian subordinates.

In addition to the above introduction of fields, the organisation of practice in my ethnography also should be considered. Each type of transnational practice—including criminal investigation, information exchange and attendance at meetings, conferences



and training sessions—involves mutual influence from two kinds of activity: request (document) processing in the national bureaucratic field and response (proposal) generation in specialised fields, as described below.

**1) Request processing.**<sup>67</sup> As Hull (2012: 253) argued, the production of a document encapsulates ‘*bureaucratic rules, ideologies, knowledge, practices, subjectivities, objects, outcomes and even the organisations themselves*’. From the perspective of Bourdieusism, the value of a document is more than that. In the ROC, a request for a document is processed in the ROC’s national infrastructure based on the *Manual for Processing Documents*, which the Executive Yuan issued in 1985. The national infrastructure for processing documents is the context in which a national bureaucracy connects with other national and foreign bureaucracies. For example, the CIB externally can connect with other national bureaucracies (e.g., prosecution agencies) and foreign bureaucracies (e.g., foreign police forces) to guarantee a request-response linkage. Internally, a CIB officer should compete with specialised divisions and hierarchical authority to get his or her response approved. The CIB evaluates the officer’s successful or unsuccessful implementation of an approved response, and the officer can be rewarded or punished based on accumulated capital, which can affect the officer’s ability to receive a higher position in the CIB’s hierarchy (Wu, 2018). However, request processing can hinder officers’ ability to accumulate information, further endangering officers’ response processing if an

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<sup>67</sup> In this thesis, the term *request* indicates a type of document that ROC national bureaucracies adopted to facilitate internal and external communications according to the *Manual for Processing Documents*. The generation of a request requires each national bureaucracy to create a structured response (proposal) by presenting three facts: the reason why a response is needed, the evidentiary illustration of the response and future actions to be taken. Several types of requests can be made, including: 1) an *internal request* (簽, *qian*) for functional divisions seeking responses that the national bureaucracy’s authority approves, and 2) a *national request* (函, *han*) for national bureaucracies to communicate their responses externally with other national bureaucracies. In addition, the CIB uses the *cross-strait request* (兩岸協查函, *liang-an-xie-cha-han*), to communicate with Chinese counterparts, and the *transnational request* (跨境協查函, *kua-jing-xie-cha-han*), to communicate with ROC PLOs and foreign bureaucracies.

approval is not available.

- 2) **Response generation.** This means that CIB officers construct their own referencing database to generate responses to their assigned requests. This referencing database is supported through habitus-driven exploitation of information by identifying what kind of information is needed and where information is located, then choosing and applying appropriate instruments to collect information, and finally applying the collected information to create a response (Wu, 2017). In other words, the referencing database helps CIB officers generate sound responses, which are reviewed by response scrutinisers, i.e., hierarchical authorities and specialised divisions—whose businesses the response generators’ interventions affect—to obtain approval.<sup>68</sup> Thus, response generation is an important activity for actors involved in request processing.

To present CIB officers’ transnational practice, this chapter is divided into three sections, as described below:

- 1) **CIB in the national bureaucratic field: (re)defining CIB positions.** In this section, I articulate two kinds of *de jure* positions—specialised and hierarchical—to locate the CIB in the national bureaucratic field and CIB officers’ posts in the CIB. In the following section, I also consider that officers’ *de facto* practice should factor in the power exercise.
- 2) **Power exercise and its influence in the CIB.** In this section, I examine how habitus is organised among 1st IC and ICAD detectives, resulting from their

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<sup>68</sup> Response scrutinisers examine an officer’s response against existing national laws and managerial instruments to ensure that the response has a legal and functional basis before implementation. Scrutinisers can undertake three kinds of activity, including: 1) scrutinising an officer’s response against existing rules; 2) requiring that the officer alter the response if any rule-breaking content is identified in the response (proposal); and 3) repeating the first two steps to scrutinise the altered response until an approval can be issued.

practice against superiors' imposition of managerial instruments in the field.

- 3) **Detective-promotion systems at CIB.** In this section, I explain how managers influence detectives' organisation of habitus to fulfil their expectations in exchange for detectives' promotions.

### **6.1 CIB in the national bureaucratic field: (re)defining CIB positions**

The CIB can be considered a legal power container for administration in the national bureaucratic field where its organisation, management and service generation and delivery can be produced by law. According to the Basic Code Governing Central Administrative Agencies Organisations (BCGO), the MOI and NPA Organisation Act and CIB Organisation Rule, a CIB's position is essentially determined by its authority.

In the ROC, only the head of a national bureaucracy can have the authority and take full administrative responsibility to organise and manage the national bureaucracy to deliver a specialised type of service. For example, the MOI minister is in charge of interior affairs, including policing; the NPA director-general is in charge of policing, including crime-fighting matters; and the CIB commissioner is in charge of crime-fighting matters, including criminal investigation and prevention.

To produce a specific type of service within a national bureaucracy, the head of a national bureaucracy can designate the power of command and supervision to managers to run respective departments by setting up functional departments and hierarchical authority (Chi, 2006; Schultz & Larsen, 2015). As such, the MOI minister can appoint and designate its power to the NPA director-general to run policing-related business, and the NPA director-general can appoint and designate its power to the CIB commissioner to run crime-fighting-related business. Similarly, the CIB commissioner can designate power to CIB managers to manage respective functional divisions in

which officers are posted.

The powers which the authority can exercise within national bureaucracy are command and supervision. These are types of power that ensure the maintenance of a national bureaucracy's internal order. By exercising the power, the national bureaucracy's authority can create managerial instruments, evaluate performance, and reward and punish accordingly to drive subordinates in pursuit of bureaucratic efficiency (Zheng, 1994; Huang, 2000; Su, 2005; Chi, 2006; Tsai, 2008).<sup>69</sup> As such, a well-organised and disciplined national bureaucracy can be expected to deliver a similar and standardised type of service (Hsu, 1997).

The CIB in operation is, thus, not contributed to by a commissioner alone. Contributions of other actors should also be considered. Other actors include CIB's superiors (e.g. the NPA and MOI which can designate the power to the CIB and oversee its practice), managers (e.g. CIB divisional leaders who can manage respective specialised divisions and facilitate CIB commissioners' decision-making; Chi, 2006), and subordinates (e.g. CIB detectives who contribute their content knowledge and habitus to undertake transnational practice to sustain the CIB's crime-fighting character). Together, they all play roles to contribute to generating transnational practice.

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<sup>69</sup> There are situations when there are no rules (e.g., a divisional division of labour (DOL) has not been approved by the authority), inefficient rules (e.g., an approved divisional DOL is inefficient for assigning a task to a responsible officer) or no known ways to accomplish a task. To cope with these situations, according to Civil Service Act of 1939 and Civil Service Protection Act of 2003, the CIB commissioner, for instance, can issue CIB directives (oral or written) as a part of his/her power exercise to command subordinates to practice in a certain way. The directives are usually issued at CIB Weekly Meeting of Heads (WMH, articulated later) on *Internal Requests*, during which officers' responses should take the (usually written) directives into account before obtaining an approval. Alternatively, the *Internal Request* can issue directives to regulate future practice once the request gains approval. It should be addressed that the existence of directives may not be attributed to any legal consideration, rather to constant practice over years without violating commissioner's expectation of bureaucratic efficiency. In addition to directives, CIB managers can exercise the designated power by commissioner to issue (usually oral) orders to drive subordinates to undertake a practice.

### 6.1.1. (Re)defining the CIB’s specialised position

Once the MOI establishes the NPA for policing affairs and the NPA establishes the CIB for criminal affairs, the CIB can hold a specialised position as a crime-fighting organ of the NPA and MOI. As such, in fighting against national crime, the CIB can launch investigations in pursuit of criminal facts that consist of surveilling suspect and criminal activities. Based on collected evidence and accumulated investigatory habitus (Chen, 2014), the CIB can request that prosecutors initiate a criminal proceeding, known as an indictment. In combating TC, the CIB can promote the establishment of international agreements with the US, Vietnam and Thailand, that of transnational JFAC & MLA with China, and that of interorganizational MOU with South Africa, the Philippines and Singapore. If there is an on-going transnational crime-related incident concerning China staging a repatriation of Taiwanese fraudsters, the CIB can also be a member of a ministerial meeting to make contributions. Importantly, according to the *Manual for Processing Documents*, the CIB should guarantee a request-response for each crime-fighting request submitted by people, national bureaucracies and foreign bureaucracies.

The CIB as a crime-fighting national bureaucracy has been challenged by its superiors and other bureaucracies. By making non-crime-fighting requests or decreasing the significance of CIB’s transnational identify, the superiors and other bureaucracies can redefine the CIB’s specialised position. Examples are illustrated in Table 6.1.

**Table 6.1 Redefining Criminal Investigation Bureau’s specialised position**

<b>Bureaucracy</b>	<b>Content of redefinition</b>
<b>Executive Yuan</b>	<b>CIB is not a direct contact point with the European Union</b>  The Criminal Investigation Bureau (CIB) can make indirect communications with the European Union via MOFA for online security issues.
<b>National Police Agency (NPA of ROC)</b>	<b>CIB is not a direct contact point with Europol and European Union</b>
<b>Prosecutors (ROC)</b>	<b>(Unsuccessful) A cross-strait contact point for evidence</b>

	<p><b>exchange</b></p> <p>After cases were submitted by regional police to prosecutors, two requests submitted by prosecutors to collect Chinese criminals' statements have been rejected by the CIB (the 1st IC) because they violated the Cross-strait Joint Fight Against Crime and the Mutual Legal Assistance Agreement (JFAC &amp; MLA).</p> <p>The CIB's rejection can be attributed to the police endeavour to enhance their <i>de facto</i> position as an investigatory operative and to weaken their <i>de jure</i> position as an investigatory assistant in the national criminal justice field (Zheng, 1990; Li, 2009).</p>
<b>Straits Exchange Foundation (ROC)</b>	<p><b>CIB is A general service provider of policing</b></p> <p>Examples include submitting Taiwanese victims' complaints to Chinese counterparts and assisting the Chinese spouse of a Taiwanese citizen in reporting a crime in China.</p>
<b>Ministry of Justice (ROC)</b>	<p><b>CIB is an initiator for mutual legal assistance (MLA) in cybercrime</b></p> <p>Before an MLA can be initiated, the request for evidence preservation should be submitted by the CIB via the G8 Computer Crime Network.</p>
<b>Foreign bureaucracies</b>	<p><b>CIB is not a direct contact point with Interpol</b></p> <p>CIB's communication with Interpol should be assisted by the Japanese Interpol National Central Bureau (NCB).</p> <p><b>Other channels:</b></p> <ul style="list-style-type: none"> <li>● CIB has a PLO network in which there are 10 ROC PLOs dispatched overseas</li> <li>● CIB maintains multiple investigatory contacts, such as the UK's National Crime Agency (NCA), Australian Federal Police (AFP), and US's Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI) and Immigration and Customs Enforcement (ICE)</li> <li>● CIB's other transnational communications should be assisted by such as the Ministry of Foreign Affairs and National Security Bureau</li> </ul>

Accordingly, except for the redefinition of cross-strait evidence exchange rejected by the CIB, the CIB's specialised position is expected to capture the CIB as a crime-fighting national bureaucracy without direct contact with Interpol, Europol or the European Union; as an initiator for mutual legal assistance (MLA) in cybercrime; and as a general service provider for policing.

The CIB can establish various specialised divisions to support its specialised position in the national bureaucratic field. According to the CIB's FDOP, those divisions having transnational mandates comprise<sup>70</sup>:

- 1) International Criminal Affairs Division (ICAD) for handling transnational criminal affairs outside the Cross-strait region by policy-making and investigation;
- 2) Cross-strait Affairs Division (CSAD) for handling criminal affairs across the Taiwan Strait by policy-making; and
- 3) Nine Investigation Corps (ICs) for undertaking investigation and investigatory information exchange with Chinese counterparts.

The CIB can also accommodate specialised officers who handle assigned tasks by investing their specialised labour. According to the CIB's FDOP, each division can establish sections. For example, ICAD hosts two sections (International Intelligence Section and Liaison Officer Section) and two squadrons; CSAD hosts two sections (Intelligence Section and General Affairs Section); and the 10 ICs host a total number of 37 squadrons. Divisional leaders can set up their own division of labour (DOL) to link an officer to a designated business area to satisfy the CIB's request-response guarantee (refer to Table 6.2).

**Table 6.2 The division of labour for transnational practice at International Criminal Affairs Division and the 1st Investigation Corp**

Nature of request	International Criminal Affairs Division (ICAD)	1st Investigation Corp (IC)
Origin of request	<ul style="list-style-type: none"> <li>● Transnational counterparts</li> <li>● Local police</li> <li>● Criminal Investigation Bureau's</li> </ul>	<ul style="list-style-type: none"> <li>● Fujian Provincial Police</li> <li>● Local police via Cross-strait Affairs Division (CSAD)</li> </ul>

<sup>70</sup> In addition to ICAD, CSAD and ICs, there are also other divisions approved to form transnational practice. For example, the 9<sup>th</sup> IC (approved by the CIB) can participate in the G8 Computer Crime Network to preserve cybercrime evidence. However, after my fieldwork, the designated contact point with the G8 Computer Crime Network was shifted to the ICAD. On the contrary, R&D (approved by the Executive Yuan) can make indirect communications with the European Union via MOFA for online security issues. There are also divisions in charge of forensic examination that can participate in conferences, meetings and training on their own. Because my research samples are the ICAD and the 1st IC, my ethnographic examination focuses on the practice made by the two divisions.

	(CIB) ICs	● CIB's ICs
<b>Type of request</b>	Investigatory and non-investigatory	Investigatory
<b>Request (document) processing</b>		
<b>Receiving and registration</b>	<b>Three registrars</b> <ul style="list-style-type: none"> <li>● One for Interpol business</li> <li>● One for ROC PLO-related and other business</li> <li>● One for criminal cases</li> </ul>	<ul style="list-style-type: none"> <li>● <b>A registrar:</b> One detective as contact point (connecting to other CIB divisions)</li> <li>● <b>A liaison chief:</b> One chief as contact point with a contact email (connecting to Fujian Province)</li> </ul>
<b>Assignment</b>	<b>Non-investigatory request:</b> Responsible officer of Liaison Section or Intelligent Section  <b>Investigatory request</b> <ul style="list-style-type: none"> <li>● <b>On-going investigation:</b> ICAD's responsible detective</li> <li>● <b>New investigation:</b> ICAD's on-day-duty detective<sup>71</sup></li> </ul>	<b>On-going investigation:</b> The 1st and other ICs' and ICAD's responsible detectives <b>New investigation</b> <ul style="list-style-type: none"> <li>● <b>Request by Fujian:</b> One squadron assigned by the commander and one detective assigned by the chief of the 1st IC</li> <li>● <b>Request via CSAD:</b> The 1st IC's registrar</li> <li>● <b>Request by CIB's other ICs:</b> Checked by the registrar, the liaison chief and commander in the 1st IC</li> </ul>
<b>Response (proposal) generation</b>	<b>Non-investigatory request:</b> Responsible ICAD's officer  <b>Investigatory request</b> <ul style="list-style-type: none"> <li>● <b>On-going investigation:</b> ICAD's responsible detective</li> <li>● <b>New investigation:</b> ICAD's on-day-duty detective</li> </ul>	<b>On-going investigation:</b> The 1st and other ICs' and ICAD's responsible detectives <b>New investigation</b> <ul style="list-style-type: none"> <li>● <b>Request by Fujian:</b> The 1st IC's responsible detective</li> <li>● <b>Request via CSAD:</b> The 1st IC's registrar</li> <li>● <b>Request by CIB's other ICs:</b> Other ICs' detectives</li> </ul>
<b>Response (proposal) delivery</b>	<b>Aiming at contacting transnational counterparts via Interpol or ROC PLO channels:</b> Response submitted by the ICAD's registrar for connecting to Interpol or ROC PLO channels	<b>Aiming at contacting Fujian:</b> <ul style="list-style-type: none"> <li>● Response signed and submitted by the 1st IC's liaison chief via email</li> <li>● CSAD informed of copied response</li> </ul> <b>Aiming at contacting the local police:</b>

<sup>71</sup> After my fieldwork, the ICAD's arrangement for assigning investigatory requests was changed to two contexts: 1) if an investigatory request is made by foreign forces or CIB's ICs, the ICAD's on-day-duty detective is assigned; and 2) if an investigatory Request is made by the local police, the section's policy-maker is assigned.



	<p><b>Aiming at contacting transnational counterparts via channels other than Interpol or ROC PLO:</b> Response submitted by the ICAD's responsible officer/detectives</p> <p><b>Aiming at contacting the national bureaucracies:</b> Response submitted by the ICAD's responsible officer/detectives via national infrastructure for processing documents</p> <p><b>Aiming at contacting CIB's ICs:</b> Response submitted by the ICAD's responsible detectives to the requesting party</p>	<ul style="list-style-type: none"> <li>● Response transmitted by the 1st IC's registrar to the CSAD</li> <li>● CSAD submits the transmitted response to the requesting local police</li> </ul> <p><b>Aiming at contacting CIB's other ICs:</b> Response submitted by the registrar to the requesting IC.</p>
<b>Exception</b>	<p><b>A combination of investigatory and non-investigatory request:</b> Squadron's obligation</p> <ul style="list-style-type: none"> <li>● A squadron identified by registrars and then a detective assigned by the ICAD chief</li> <li>● If the identified squadron or the assigned detective refuses to accept, the ICAD's director can assign the request to one squadron or the registrar of a criminal case (e.g. proposals for negotiating mutual agreements, policy-making for Interpol business, a presentation of ICAD's business, proposals for standard operating procedure or information exchange without investigation)</li> </ul>	<p><b>Request (non-investigatory) assigned by CSAD:</b> One squadron identified by commander and one detective assigned by chief (e.g. assisting Taiwanese victims or the Chinese spouse of a Taiwanese citizen in reporting a crime in China, taking Chinese criminals' statements after case solved by the local police)</p>

The production of transnational practice is contributed to by officers in charge of interrelated business areas who interact with each other. These officers occupy different specialised positions within each division, including request receiver, registrar, assigner and response generator, scrutiniser and deliverer (refer to Table 6.3).

**Table 6.3 An example of Criminal Investigation Bureau officers' positions for information exchange with Chinese Fujian Provincial Police**

Position	The 1st Investigation Corp (IC)	Cross-strait Affairs Division (CSAD)	International Criminal Affairs Division (ICAD) & other ICs
Request receiver	<ul style="list-style-type: none"> <li>● Registrar Connects to other CIB</li> </ul>	<p><b>Responsible officer</b> Connects to the national</p>	

	divisions  ● <b>Liaison chief</b> Connects to Fujian Province	bureaucracies, Chinese counterparts and CIB's other divisions	
<b>Request registrar</b>	<b>Registrar</b> Registers all requests		
<b>Request assigner</b>	<b>Commander and chief</b>	<b>Responsible officer</b> The assignment requires approval by the CIB level-1 supervisor for approval (SA)	
<b>Response generator</b>	● <b>On-going cases and requests by Fujian</b> Responsible detective ● <b>Requests by CSAD</b> Registrar		<b>Responsible detective</b>
<b>Response scrutiniser</b>	● <b>Registrar, liaison chief and commander</b> Scrutinises the responses made by CIB's other divisions  ● <b>Responsible chief and commander</b> Scrutinises the responses made by the 1st IC's responsible detectives	<b>Director, chief and designated officer</b> Scrutinises the 1st IC's responses	<b>Commander/director and chief</b> Scrutinises own divisional responses before they are scrutinised by the 1st IC
<b>Response deliverer</b>	<b>Liaison chief</b>		

Taking the 1st ICs as an example:

- 1) The commander manages the 1st IC and acts as the request assigner to assign requests to squadrons in which chiefs further assign requests to detectives. Commanders can assign non-investigatory requests to subordinates, meaning that a detective's specialised position for investigation can be (re)defined. In addition, the commander also acts as the response scrutiniser to oversee responses made by the CIB's other divisions and the 1st IC's detectives.
- 2) The liaison chief acts as the Fujian Request receiver and the response deliverer to communicate with the Fujian counterpart. The liaison chief also acts as the response scrutiniser to oversee the responses made by the CIB's other divisions.
- 3) The registrar acts as the request receiver and connects to the CIB's other divisions.

The registrar is in charge of registering requests submitted by Fujian and CIB's other divisions. The registrar further acts as the response generator to reply to CSAD's requests. Additionally, the registrar also acts as the response scrutiniser to oversee the responses made by the CIB's other divisions.

- 4) A responsible detective acts as the response generator to propose future actions in correspondence with the assigned requests.

To horizontally identify the CIB's specialised position in the national bureaucratic field, it is insufficient to identify CIB's *de jure* crime-fighting character defined by law – the CIB should maintain a request-response connection for its crime-fighting business. Instead, the CIB's specialised position should be able to reflect its *de facto* crime-fighting character as follows:

- 1) **CIB's crime-fighting character can be redefined by other national bureaucracies and foreign bureaucracies.** For example, beyond the ROC, CIB can still be the *de facto* crime-fighting national bureaucracy in connection with organizations such as the G8 Computer Crime Network, the ROC PLO network, the UK's National Crime Agency (NCA), Australia Federal Police and the US Federal Bureau of Investigations (FBI), Drug Enforcement Administration (DEA) and Immigration and Customs Enforcement (ICE). However, after the redefinition of specialised positions, the CIB is prevented from directly communicating with Interpol (because of Interpol's redefinition), Europol (because of the NPA's redefinition) and the European Union (because of the Executive Yuan's and NPA's redefinition). Additionally, the CIB can also be an initiator for MLA in cybercrime (because of the MOJ's redefinition) and a general service provider for policing (because of SEF's redefinition).
- 2) **CIB's crime fighting character is supported by the CIB defining officers' specialised positions.** According to the CIB's FDOP and divisional DOLs, the

CIB's *de facto* crime fighting character should be contributed to by officers who occupy specialised positions in the CIB. Examples are illustrated below.

- A. The request receiver and response deliverer can support the CIB's *de facto* crime-fighting character to maintain a request-response connection.
- B. The request assigner can determine who will be in charge, what kinds of content shall be expected on responses proposals, what kinds of instruments shall be deployed and who shall be contacted while processing a response document.
- C. The response generator is expected to produce a response and get the response approved by deploying habitus.

If managerial instruments are shaped, CIB officers' specialised positions can be changed accordingly which can further change the CIB's *de facto* crime-fighting character.

### **6.1.2 CIB's vertical positions**

According to the BCGO, the CIB is a level-4 national bureaucracy. However, this does not mean that the CIB can only be positioned in the level-4 domain. Instead, the CIB can exercise its superiors' designated power, including the MOI (level-2 national bureaucracy) and NPA (level-3 national bureaucracy), to present their interests. This means that the CIB can occupy the hierarchical position with its superiors according to the superiors' ADOPs.

In general, the CIB's hierarchical positions can be determined by classifying the scale of CIB-made responses in terms of which levels of national bureaucracies can get involved, as described below.

- 1) If crime problems should be tackled in a governmental context where various governmental organs (level-1 or 2) get involved, such as the national public security meeting in the Executive Yuan or the emergent ministerial meeting for Chinese

repatriation of Taiwanese to China, the CIB can act as the MOI's manager to attend meetings.

- 2) If crime problems can be tackled in a national policing context where little governmental involvement can be identified, such as the MOI regular meeting of heads (level-2 or 3), the CIB can act as the NPA's manager to make contributions.
- 3) If organisational or operational issues need to be handled, the CIB can act as itself to establish or close functional divisions or cooperate with responsible police forces and prosecutors to investigate transnational crimes.

Specifically, each national bureaucracy, including the MOI, NPA and CIB, can set their own ADOP to designate power, along with its corresponding responsibility, to their managers. Hence, the MOI can designate its power to the NPA which can further designate its power to the CIB. Although the CIB can act as the MOI's and NPA's manager, it does not necessarily indicate that the CIB should take full responsibility for malpractice unless the CIB makes the final decisions.<sup>72</sup> For example, transnational participation (including meetings, conferences and training) in the European Police Congress was proposed and implemented by the CIB, scrutinised by the NPA, and approved by the MOI. By acting as the MOI's manager, the CIB could communicate with the ROC representative of MOFA, undertook transnational participation and shared responsibility with the MOI and NPA. On the contrary, a national standard operating procedure (SOP) for handling reported transnational fraud crime was generated and approved by the CIB acting as the NPA's manager. As such, if there is anything wrong with the national SOP, the CIB should take responsibility for this malpractice.

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<sup>72</sup> In the ROC, the bureaucrats' legal responsibility is composed of criminal and administrative elements. Lapse in criminal responsibility can result in prosecution if the bureaucrats act against Chapter 15 of the Criminal Code to forge instruments, including documents. Lapse in administrative responsibility can result in managerial punishments, such as negative performance evaluation, leadership withdrawal or promotion delay.

In the CIB, while the responsibility pertains to the commissioner, he/she can also establish the CIB’s ADOP to designate power, along with hierarchical responsibility, to managers. Except for the power and responsibility relating to response proposal implementation pertaining to executors, the CIB officers as subordinates can be prevented from taking full responsibility because their responses always require approval from supervisors. These supervisors include section or squadron chiefs as the level-3 SA, divisional leaders as the level-2 SA and top managers as the level-1 SA (including the commissioner, three deputy commissioners, one chief secretary and four chief administrators). The arrangement of SA to grant CIB officers’ responses for transnational practice is illustrated in Table 6.4.

**Table 6.4 Examples of Criminal Investigation Bureau’s arrangement of supervisor for approval for transnational practice**

Types of practice	Arrangement of supervisor for approval	Reasons for the arrangement
<b>Transnational practice</b> (including meetings, conferences and training)	Criminal Investigation Bureau (CIB) level-1 SA	<b>Practice with budget</b> The Ministry of Interior (MOI) is the decision-maker  <b>Practice without specified budget</b> <ul style="list-style-type: none"> <li>● Attendees are chosen from all police forces, and the National Police Agency (NPA) is the decision-maker</li> <li>● Attendees are chosen from the CIB, and CIB is the decision-maker</li> </ul>
<b>Cross-strait practice</b> (e.g., meetings, information exchange, fugitive repatriation from China and other nation-states)	CIB level-1 SA (particularly commissioner and deputy commissioners)	<ul style="list-style-type: none"> <li>● The practice is supervised by ministries, including the MOI, Mainland Affairs Council (MAC), National Security Bureau (NSB) and Ministry of Justice (MOJ)<sup>73</sup></li> <li>● Regarding meetings, responses are made in advance, and the subsequent minutes are generated and overseen</li> </ul>

<sup>73</sup> This is partially because cross-strait issues are national security-related and of government interests since KMT lost power in mainland China in 1949. In 2014, the students’ occupation of the Legislative Yuan to call for legislative intervention in governmental cross-strait arrangements, known as the Sunflower Movement, also demonstrates that cross-strait issues should take public interests into account (Rowen, 2015).

<p><b>Criminal investigation</b></p> <ul style="list-style-type: none"> <li>● Initiating an investigation</li> <li>● Making a statement, warrant and prosecution</li> <li>● Assisting in transnational operation, evidence collection and crime scene investigation</li> <li>● Operational investigatory issues and management of squadron</li> </ul>	<p>CIB level-1 SA</p> <p>CIB level-1 SA</p> <p>CIB level-1 SA</p> <p>CIB level-3 SA</p>	<ul style="list-style-type: none"> <li>● The legal basis of the practice should be guaranteed as applying rule of law<sup>74</sup></li> <li>● The SA arrangement has two functions, including decreasing the significance of the <i>de jure</i> position as an investigatory assistant and strengthening the <i>de facto</i> position as the investigatory operative in the ROC national criminal justice field <sup>75</sup></li> <li>● Operational investigatory issues (e.g. online access to criminal databases, meta-data database and interception resources) and management of squadrons (e.g. on-day-duty rotation, carrying weapons for operation and logistics management)</li> </ul>
<p><b>Transnational information exchange</b> (E.g. Interpol, ROC PLOs and other foreign bureaucracies)</p>	<p>CIB level-2 SA</p>	<ul style="list-style-type: none"> <li>● The practice is not supervised by ministries (e.g. MOI, MOFA and MOJ) or the NPA</li> <li>● Except for cybercrime evidence preservation (the 9th IC's business) and online security issues (the Research and Development Division's business), the practice is undertaken by ICAD alone without intervening in other divisions' business</li> </ul>

One goal of exercising this hierarchical authority is to produce managerial instruments to regulate national bureaucracies' practices. Managerial instruments for regulating the CIB's transnational practice are created by the CIB's superiors and the CIB. There are at least four types of managerial instrument, including governmental rule, the NPA's and CIB's rules and CIB's directives, as illustrated in Table 6.5.

**Table 6.5 Examples of managerial instruments for regulating Criminal Investigation Bureau's transnational practice**

<sup>74</sup> In the ROC, the legal basis of criminal investigations should be presented in an investigatory report, which I articulate in section 6.2.1.

<sup>75</sup> The *de facto* ROC police-prosecutor relation is the operative-initiator relation against the *de jure* assistant-authority relation, as codified in the ROC Code of Criminal Prosecution. To strengthen the CIB's *de facto* position as an investigatory operative and to weaken its *de jure* position as an investigatory assistant, the CIB detectives' investigatory reports should be scrutinised by the CIB level-1 SAs. Under such SA arrangements, the content of reports is expected to be generated according to law and contributed to by detectives' habitus (Chen, 2014; Wu, 2017; Wu, 2018) and experienced managers' habitus (e.g. the 1st IC's commander in this thesis). Importantly, those CIB-scrutinised investigatory reports can be approved rather than rejected by prosecutors. I articulate the police-prosecutor relation in section 6.2.1.

Types of instrument	Aims of instrument	Content of instrument
Governmental Rule (issued by Executive Yuan)	<i>Manual for processing documents</i>	<p>CIB <i>Internal Requests</i> (簽, <i>qian</i>) should be made by a division in charge and reviewed by relevant divisions once their business areas are identified.</p> <p>For example, if any division makes <i>Transnational Requests</i> (跨境協查函, <i>kua-jing-xie-cha-han</i>) or <i>Cross-strait Requests</i> (兩岸協查函, <i>liang-an-xie-cha-han</i>), ICAD or CSAD, respectively, can be expected to review. If the request is cybercrime or online security-related, the 9th IC or Research and Development Division (R&amp;D), respectively, should review. Or, if an IC requests the initiation of an investigation or indictment, Crime Investigation Affairs Division (CIAD), only for case registration, or Legal Affairs Division (LAD), for scrutinizing legal requirements, respectively, shall be called upon.</p>
NPA Rule	Manual for Criminal Investigation by the Police (警察偵查犯罪手冊, <i>Jing-cha-zhen-cha-fan-zui-shou-ce</i> )	<ul style="list-style-type: none"> <li>● <b>The Manual captures:</b> 1) investigatory power and jurisdictions, 2) crime detection, 3) crime scene investigation, 4) other types of investigatory practice, 5) criminal record and its application, and 6) supervision and performance evaluation</li> <li>● <b>CIB's legal obligations</b> <ol style="list-style-type: none"> <li>1. Supervision of high-profile, serious or serial cases</li> <li>2. Decision-making on competing jurisdictions between involving force</li> <li>3. Assistance in serious or transnational cases</li> <li>4. Non-requested assistance in high-profile cases which cause serious damage to social order or illustrate new types of <i>modus operandi</i></li> <li>5. Forensic examination and a requested assistance in crime scene investigation</li> <li>6. Management of criminal record and fingerprints of suspect</li> </ol> </li> </ul>
NPA Rule	Function-based Division of Power (FDOP) for cross-strait investigations	<ul style="list-style-type: none"> <li>● <b>FDOP for cross-strait investigation</b></li> <li><b>Cross-strait contact points:</b></li> <li>1st IC: Cross-strait crime involving Fujian Province</li> <li>2nd IC: Cross-strait crime involving Jiangsu or Zhejiang Provinces</li> </ul>



		<p>3rd IC: Cross-strait drug crimes  4th IC: Cross-strait crime involving Shanghai City  7th IC: Cross-strait telecommunications fraud involving multiple provinces  9th IC: Cross-strait crime involving Guangdong Province</p> <ul style="list-style-type: none"> <li>● <b>Requirements for making a Cross-strait Request:</b> National Requests for cross-strait communication submitted to the CIB should comprise an abstract of the criminal case, criminal facts and investigatory practice and specify types of information requested</li> </ul>
CIB Rule	<p>SOP for transnational investigation in foreign nation-states<sup>76</sup></p> <p>(both Taiwanese and Chinese citizens involved)</p>	<p><b>An investigation initiated by either the CIB or Chinese counterparts</b></p> <ul style="list-style-type: none"> <li>● Bridging a channel for multilateral communication</li> <li>● Information exchange between involved forces</li> <li>● Negotiating operational projects</li> <li>● Assisting in crime scene investigation and evidence collection</li> <li>● Taiwanese suspect repatriation</li> </ul> <p><b>A raid in a foreign nation-state</b></p> <ul style="list-style-type: none"> <li>● Cross-strait mutual notification</li> <li>● Information exchange between involved forces to evaluate whether an investigation can be initiated in Taiwan or China</li> <li>● Assisting in crime scene investigation and evidence collection</li> <li>● If Taiwanese are involved: if an investigation is initiated, preparation to repatriate and arrest at Taiwan's airports; if an investigation is not possible, involved Taiwanese can be put on a watch list for tracking their future overseas activities</li> </ul>
CIB Rule	FDOP for cross-strait affairs	<ul style="list-style-type: none"> <li>● <b>Non-investigatory Requests by national bureaucracies:</b> CSAD is the handling division</li> <li>● <b>Investigatory Requests by national bureaucracies:</b> Assigned to a designated IC</li> <li>● <b>Investigatory Requests by Chinese counterparts:</b> CIB can only provide</li> </ul>

<sup>76</sup> The establishment of the standard operating procedure is based on 1) the Philippines incident of 2011 in which 14 Taiwanese fraudsters were repatriated to China and 2) detectives' experience of transnational investigatory assistance in operation, evidence collection and crime scene investigation in foreign nation-states (Su, 2013).

		crime-related information, rather than evidence, as a response; if a case is assigned to a prosecutor, a response to the request should be approved by the prosecutor before delivery; if the request is for evidence, MOJ, as the designated contact point, should be called upon
CIB Directive	Cross-strait (non-investigatory) requests assignment <sup>77</sup>  (against the CIB Rule: FDOP for cross-strait affairs)	<b>National bureaucracies' non-investigatory request can be assigned to the CIB ICs by CSAD</b>  For example, submitting Taiwanese victims' complaints to Chinese counterparts and assisting Taiwanese in reporting a crime in China
CIB Directive	Requirement for making <i>Cross-strait Requests</i>  (Investigating transnational fraud only)	According to the PRC Criminal Prosecution Code, the Chinese counterparts launching an investigation on fraud requires information as described below: <ul style="list-style-type: none"> <li>● The <i>cross-strait request</i> consists of an abstract of a criminal case, criminal facts and investigatory practice and specifies types of information requested</li> <li>● Criminal facts should ensure that the crime venues and suspects' residence are in the requested Chinese counterparts' jurisdiction</li> <li>● Victims should lose an amount of 3,000 RMB, and their statements should be provided to Chinese counterparts</li> <li>● Evidence which can prove criminal facts should be provided</li> </ul>
CIB Directive	FDOP for processing <i>Cross-strait Requests</i>	<b>Request generation and delivery</b> There are different arrangements For example: <ul style="list-style-type: none"> <li>● CIB <i>Cross-strait Requests</i> for information exchange with Jiangsu or Zhejiang Provinces are made by the 2<sup>nd</sup> IC but submitted by the CSAD</li> <li>● CIB <i>Cross-strait Requests</i> for information exchange with Fujian and Chinese national forces (e.g. Ministry of Public Security) are made and submitted by the 1st and 7th ICs,</li> </ul>

<sup>77</sup> An investigatory request means the request aims at investigating a specific crime, including criminal information exchange. On the contrary, a non-investigatory request (e.g. a request to assist victims in reporting a crime) means the request is not for investigation or criminal information exchange.

		respectively (also refer to Table 6.2)
CIB Directive	Transnational (investigatory) request assignment	<b>IC assigned to assist a raid in a foreign nation-state</b> <ul style="list-style-type: none"> <li>● Identify the responsible IC which subsequently undertakes the investigation</li> <li>● If the responsible IC is not available and a Chinese counterpart gets involved, the cross-strait contact point can be assigned according to the NPA's FDOP for cross-strait investigation illustrated above</li> <li>● If the responsible IC is not available and there are no Chinese counterparts involved, ICAD should be assigned</li> </ul>

Although CIB and its superiors' ADOP functions as a guideline to locate the CIB and its officers' *de jure* hierarchical positions, the guideline is insufficient to locate their *de facto* positions. In other words, the CIB acting *de jure* as the CIB, NPA's manager or MOI's manager cannot be heuristically regarded as the CIB *de facto* representing those national bureaucracies' interests. Similarly, the CIB officers acting *de jure* as themselves or CIB's subordinates cannot be heuristically considered as officers *de facto* representing their or the CIB's interests. This is because the hierarchical authority has prevented the CIB and its officers from acting on will but has imposed them to submit to superiors' and managers' authority by law. Under this superior-subordinate legal relation, only if the CIB's superiors or managers can *de facto* exercise legal power as fulfilling their legal obligations can the CIB and its officers be granted to act *de facto* as the superiors' manager and CIB's subordinates, respectively, to generate and implement responses.

As I articulate later in section 6.2, however, the CIB's superiors and managers, as the dominant actors, may asymmetrically exercise their power on the dominated actor – CIB officers. The asymmetric power exercise can influence the CIB officers' transnational practice and content knowledge and habitus, as the CIB's superiors and

mangers selectively apply their implicit *know-how* of law enforcement. For example, in Table 6.3, although the 1st IC's and CSAD's officers can occupy the similar specialised position as the request receiver and hierarchical positions as subordinates, the occupation should independently reflect its relation with other actors. In this way, 1) the 1st IC's liaison chief acts as the CIB's contact point connecting to the Fujian Province, 2) the 1st IC's registrar acts as the 1st IC's contact point connecting to the CIB's other divisions, 3) the 1st IC's detective acts as the response generator to propose future actions in correspondence with the assigned requests, 4) CSAD's responsible officer acts as the CIB's and CSAD's contact points connecting to national bureaucracies and the CIB's other divisions and 5) the 1st IC's officers submit to their commander's authority while the CSAD's responsible officer submits to his/her director's authority. Hence, it can be expected that content knowledge and habitus relating to cross-strait practice undertaken by the 1st IC's officers and CSAD's responsible officers should be different to some degree, as described below.

### **1) Different bureaucratic habitus driven knowledge but similar habitus**

In example 1, regarding handling alike cross-strait (non-investigatory) requests for information exchange, the CSAD's and the 1st IC's officers can make complaints about the Straits Exchange Foundation (SEF) and CSAD, respectively.<sup>78</sup> Meanwhile, they can have a similar disposition to accomplish tasks because of being commanded to do so, as described below.

- A. One CSAD officer complained about the SEF: *'I've told the SEF several times that this kind of case is not investigation-based, and the CIB should not be called upon.'* Instead of rejecting the request by national laws (e.g., the JFAC and MLA), the CSAD officer accepted and assigned it to the 1st IC.
- B. According to two requests, the 1st IC detectives complained about CSAD rather

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<sup>78</sup> The SEF is a semi-official institution designated by the Executive Yuan and supervised by Mainland Affairs Council (MAC) of the Executive Yuan to exercise authority on cross-strait matters in connection with its Chinese counterpart – the Association for Relations Across the Taiwan Straits (Straits Exchange Foundation, 2018).

than SEF by arguing, '*CSAD should handle the case rather than pass it to us because investigation into the case is unnecessary*', or, '*should a detective deal with this case? The victim is Chinese, and the crime occurred in China rather than in Taiwan.*' Nevertheless, instead of rejecting the two cases by deploying CIB's managerial instruments (e.g. the CIB's Rule on FDOP for cross-strait affairs, as illustrated in Table 6.5), the 1st IC's detectives accepted and handled the CSAD-assigned requests after the commander's assignments.

## **2) Similar bureaucratic habitus driven knowledge but different habitus**

In example 2, while handling a Chinese request for information in which a joint investigation had been carried out by another CIB IC, one 1st IC detective complained about his commander's decision by arguing that 'previously, such a request is assigned to a responsible IC. However, I really don't know why I should handle this request and make a corresponding response'. The detective's complaint is related to the 1st IC's DOL in which on-going investigations should be assigned to the responsible detective (refer to Table 6.2). Such a complaint of managerial instruments resulted in no response generated by the detective as his/her submission to bureaucratic habitus driven authority. However, although the 1st IC's chief also made a similar complaint of managerial instruments, it was the chief who generated a response to the request as his/her submission to bureaucratized Confucian-legal habitus driven authority. This is because the commander had assigned the request, and it should be handled regardless of whose obligation it is.

It can be argued that CIB officers' submission to authority is the key that accounts for their different knowledge and habitus. Complaint about law or managerial instruments as bureaucratic knowledge is not the force to drive officers to make transnational practice. Examples 1 and 2 and the 1st IC's rejection of two prosecutors' requests for

cross-strait evidence collection based on the JFAC & MLA (refer to Table 6.1) is the way that the 1st IC detectives try to preserve against *improper imposition of managerial instrument*. In contrast, the ICAD detectives' submission to bureaucratised Confucian–legal habitus driven authority is a common phenomenon. I examine the different habitus between 1st IC and ICAD detectives in the next section.

## **6.2 Power exercise and its influence in the CIB**

Subordinates may not be persuaded to accept their superiors' authority, but they do accept that their superiors have the right to enforce certain types of practice (Turner, 2005). In the ROC national bureaucratic field, it is the subordinates' legal obligation to be commanded by their superiors' legal power exercise and react to commands while their reactions are supervised. To regulate subordinates' practice, the superiors can create and deploy managerial instruments by law. However, the deployment of managerial instruments, in particular, rules, should also confine their creators' practice in accordance with Article 161 of the APA. Since the superior–subordinate relation is legally defined by law, subordinates should submit to superiors' legal authority. Hence, how subordinates respond to their superiors' power exercise can be an index for examining whether the national bureaucratic field or Confucian–legal field is in operation to accommodate national bureaucracies. This is analysed as follows: 1) the national bureaucratic field will be in operation if subordinates comply with superiors' legal deployment of managerial instruments; or 2) the Confucian–legal field will be in operation if subordinates comply with superiors' *improper imposition of managerial instrument*.

The superior's *know-how* of deploying managerial instruments are two types, including: 1) managerial instrument dissemination in the way of command without supervision, and 2) managerial instrument imposition in the way of command and supervision.

Accordingly, being influenced by the imposition of managerial instruments, subordinates should construct corresponding parts of habitus. Managerial instrument dissemination means that superiors only command subordinates to do specific practices without examining subordinates' subsequent reactions. In other words, the subordinates can exercise discretion to decide whether to comply with the command. **Example 3** of this type of power exercise occurs at the CIB Weekly Meeting of Heads (WMH). The WMH is the context where commissioners can issue directives to divisional leaders in response to superiors' directives, divisional analysis of crime-related news coverage and violent and high-profile crime; to divisional responses of policy-making and instrument-making; to divisional demonstration of new technology; and to managerial issues (e.g. personnel, logistics, budget and organisational security). The existence of WMH is based on a CIB rule. According to the rule, the CIB directives disseminated at the WMH are recorded in the minutes and then published on the CIB Platform for Knowledge Management. From a legal perspective, officers are expected to be influenced by the published directives and act accordingly.

While managerial instrument dissemination is chosen, directives issued at the WMH and recorded in the minutes may not always have an influence on regulating officers' practice. Officers can ignore those directives with statements like the following: *'I don't review the minutes because my leader doesn't command me to do'*; *'if the minutes are related to my business, the section in charge will pass them on to me'*; or *'my leader will let me know if any part of the minutes relates to my business'*. Instrument dissemination does not imply that officers' practice can be influenced by the directive because officers do not voluntarily and actively check the minutes; rather, they reactively wait for information from colleagues and divisional leaders. Although managerial instrument dissemination conveys commissioners' expectations, nothing will be changed if divisional leaders disseminate the instruments and officers constantly

ignore them. Superiors should impose the managerial instrument on a specific subordinate and the subordinate's reactions should be supervised by the hierarchical authority and involved special divisions. For example, CSAD scrutinises the 1<sup>st</sup> IC's response for information exchange with Fujian Province (refer to Table 6.3). This ensures that the command–reaction–supervision connection is maintained.

In **example 4**, there was one WMH directive in which ICAD was identified as a managerial instrument violator as a result of a performance evaluation for request processing made by the CIB Secretarial Office. Thus, at a divisional meeting of heads,<sup>79</sup> the director commanded the responsible section to analyse those violating officers' commands and asked all chiefs to enhance scrutiny practice. Such a divisional reaction to a performance evaluation of request processing is rarely presented. Generally, outside the WMH, results of performance evaluations of request processing are rarely imposed by the commissioner but disseminated by the CIB Secretarial Office to all divisions where leaders disseminate to subordinates for self-correction. The director altering the traditional reaction of disseminating the WMH directive to actively imposing it can be attributed to the fact that the commissioner at the WMH imposed the division to make changes to prevent future malpractice. In response, the officers also complied with the director's command to make a practice that was further supervised by the director.

If the commissioner does not impose managerial instruments, a divisional leader can still impose the managerial instruments on officers at his/her discretion. As such, the sustention of command–reaction–supervision connections relies on the divisional

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<sup>79</sup> Like the WMH, each division can hold a divisional meeting of heads. It is a context in which a divisional leader can issue orders to section/squadron chiefs and/or assistant squadron chiefs. The meeting aims to maintain a disciplined division to (re)produce a specialised type of practice and is the context in which divisional leaders can enforce the superior-imposed managerial instruments on subordinates. However, unlike the WMH, the existence of divisional meetings is not based on rule but, rather, on the designated power held by divisional leaders. Hence, whether and how often the divisional meeting should be held is at the discretion of divisional leaders. For example, at the 1st IC, the meeting was held on a weekly basis, whereas at the ICAD, the meeting was held occasionally.



leader's autonomous supervision. In **example 5**, in one divisional meeting of heads, the 1st IC commander stated that '*based on a rule-breaking case captured in one WMH directive, subordinates cannot take actions until responses are approved.*' Although the 1st IC was not accountable for the rule-breaking case, the commander autonomously focused on subordinates' criminal evidence presented in responses and imposed the following:

*'Please remember, you should promptly report any development of investigation to me and present evidence in your CIB Internal Request in a timely manner. Accordingly, I can verify your request without question and pass it to the next step for scrutinization and approval. Therefore, recently I asked one detective to withdraw his Internal Request before it reached a final decision-maker.'*

In the above case, only the rule-breaking division was imposed to react to the directive. Hence, the 1st IC's commander autonomously imposed the directive by reiterating that an *Internal Request* had been withdrawn because he found insufficient and unsound evidence.

The managerial instrument imposition at the discretion of divisional leaders can reflect two opposite facts: divisions either constantly or rarely command subordinates to do practice. The asymmetric imposition of managerial instrument has different influences on subordinates' practice and habitus, as described in the following two sections.

### **6.2.1 Constant power imposition and influence in the 1st Investigation Corp**

For the CIB ICs, criminal investigation is the core practice jointly undertaken by police and prosecutors in the ROC national criminal justice field in which the Code of Criminal Prosecution is applied. There is a *de jure* police–prosecutor relation between assistant and authority, as described below.

- 1) **A *de jure* national criminal justice field based position of prosecutors:**  
Investigatory authority is designated to prosecutors. Thus, prosecutors are granted the power to investigate and then initiate criminal proceedings based on legally collected evidence relating to a specific crime. Moreover, prosecutors also have the power of command and supervision to drive the practice undertaken by the police. In doing so, it can be expected that a police-launched investigation has a sound legal basis and results of a police investigation can have an influence on a criminal case at court.
- 2) **A *de jure* national criminal justice field based position of the police:** Although the police should be commanded by prosecutors, the police are also designated power to undertake investigation without prosecutors' command once they detect crimes such as non-warrant-based search for evidence, non-warrant-based arrest and statements taken from suspects. Nevertheless, responses for and results of power exercise by the police should still be submitted to a responsible prosecutor for scrutiny. In other words, regardless of power exercise by prosecutors on the police, the police should always report to prosecutors as an investigatory assistant.

In practice, the *de facto* police–prosecutor relation can be regarded as the operative–initiator relation. The police are the *de facto* investigatory operative in charge of collecting evidence to construct criminal facts, which consist of obtaining suspects' identification and their criminal activities for a particular criminal case, and locating and apprehending suspects (Zheng, 1990, Li 2009, Chen 2014). In contrast, prosecutors are the *de facto* initiators for criminal proceedings to ensure that a criminal case can be successfully submitted to the court and a verdict can be reached (Zheng, 1990; Li, 2009). Although prosecutors are the *de jure* superior of the police, they may not be the *de facto* superior to intervene in detectives' criminal investigations except to schedule raids and in transnational evidence collection. Instead of being commanded to do investigations,

the CIB IC detectives usually persuade prosecutors by discussing their responses and making alterations accordingly, either at prosecutors' offices or via social media. Hence, CIB IC detectives' investigatory habitus is a key type of capital which can support the CIB's position as an investigatory operative.

The 1st IC detectives' investigatory habitus (including mine) consists of three clusters, including interest, information processing and documentation processing.

**1) Enjoying criminal investigation rather than feeling burdensome:** Launching an investigation is based on criminal information collected by detectives themselves or assigned to detectives. No matter how a criminal investigation is initiated, as one 1st IC detective argued, '*How can I do my investigation while I'm forced to make presentations and reports of cases? While doing investigations, detectives should enjoy it rather than feel burdensome*'. Enjoyable (and interested) feelings mean that detectives are willing to invest their resources to do creative investigation against different *modus operandi* and communicate with other national bureaucracies and foreign bureaucracies who hold necessary information (Liao & Wu, 2014; Wu, 2017). If detectives are commanded by superiors to do investigations or tasks other than investigations, such as handling non-investigatory requests, they will be involuntarily forced to share their time which could endanger the effectiveness of their investigations (refer to the column of exception in Table 6.2 and Table 6.6).

**2) Response processing:** This is the core part of investigatory habitus to illustrate detectives' confidence in successfully undertaking the investigation and the labour-ridden character of investigation. This habitus consists three elements, as follows (Wu, 2017).

**A. A belief that evidence cannot exist forever:** As the 1st IC commander argued, '*an investigation, like music, has tempo*'. This means that, while investigating crimes, detectives should trust their feelings to decide the right time to launch

investigatory activities (e.g. the time for tailing, search and arrest). If detectives struggle to decide whether an annual leave should be taken during an investigation, they should consider that they will lose their chance to collect valuable evidence. Hence, detectives should always be ready to race against the clock to promptly collect evidence before its elimination. For example, CCTV footage can be utilised to reconstruct routes of a suspicious vehicle or a suspect's movements. A limited period of CCTV footage storage can vary from a week to months depending on whether it is accommodated in shops, banks or private houses. If a suspicious vehicle or suspect cannot be identified before the elimination of footage, detectives will lose their chance to track their whereabouts to stop future crime. In addition to collecting CCTV footage, warrant-based interception is usually applied to investigate serious crimes, including fraud, drug and gun-related cases. Such a legal instrument provides an opportunity for detectives to proactively, promptly and implicitly establish suspects' criminal networks and identify their criminal activities. In so doing, detectives should direct manpower to daily transcribe vocal communications and undertake content analysis to make follow-up collections of suspects' future criminal plots. If detectives fail to do so, they lose their chance to monitor suspects' timely criminal activities, such as a video recording of on-going activity of arms and drug dealing. This is because other types of evidence (usually suspects' statements) collected are not enough to verify the illegal activity.

**B. A belief that evidence is always at crime scenes:** Detectives should choose and apply proper instruments to collect evidence, including legal instruments (e.g. warrant-based meta-data collection, search and interception) and technical instruments (e.g. forensic science and IT techniques). Importantly, detectives should be confident in mastering those instruments to collect evidence, implying that they should experience their deployment rather than simply understand how

to deploy. In addition to the above instruments, detectives should also search for reliable local police allies to strengthen their investigatory manpower. The search for reliable local police allies can be done by detectives who constantly cooperate to identify and then augment allies' strengths and decrease the influence of weakness.

**C. A belief that detectives should follow own investigatory footsteps:** This means that detectives' future investigatory activities should be based on their past investigatory accomplishments and failures. While the past effective investigatory activities can contribute to evidence collection for planning future investigatory activities, the past ineffective investigatory activities can also drive detectives to realise their weaknesses in instrument deployment and, thus, enhance their skills and learn new skills accordingly. In other words, effective and ineffective investigatory experiences are important assets to ensure that detectives can constantly evolve their agency on their own. To maintain this important asset, detectives should record and manage their investigatory path by constructing their own investigatory referencing database to facilitate future activities.

**3) Request processing:** An *Internal Request* for investigation should be presented in an *investigatory report* (偵查報告, *zhen-cha-bao-gao*). According to the ROC Constitution, criminal investigation, particularly arrest and detention, is a practice against the rights of personal freedom. Hence, a legal basis of the practice should be sound and expressed in an investigatory report. An investigatory report accommodates four types of information collected by detectives' response processing: 1) violated provisions of criminal laws, 2) suspects' identification, 3) criminal facts with evidence (e.g. an analysis of suspicious metadata, CCTV footage and the content of legal interception) and 4) proposals for future activities. This investigatory report is not only scrutinised by the CIB hierarchical authority but

also by the prosecutorial services and courts prior to issuing warrants.

In the 1st IC, the commander intends to maintain an evidence-based force in pursuit of the *de facto* investigatory operative position of the national criminal justice field. Criminal investigation is an important topic reviewed in each divisional meeting of heads for supervisory purposes. A list of on-going cases is utilised by three squadron chiefs, who report on current developments within the last week and propose future action in the following week, and by the commander to determine whether detectives can act on their proposals. If any legal and professional concern can be raised, the commander will impose orders to chiefs for reactions. In example 6, the commander can address investigatory experience by arguing that

[in a gun-related case] *‘Your response for arrest is based on information provided by the responsible director of the police precinct. However, you should know that the director may not have any investigatory experience.’*<sup>80</sup>

The 1st IC detectives do not appreciate the commander’s commands for criminal investigations and strain to find their own ways to go against those commands. In **example 7**, in a false transnational kidnapping case imposed by the legislator and referred by the NPA to CIB, the 1st IC commander commanded by the commissioner to further direct two detectives to collect information about a Taiwanese victim and prepared for warrant-based meta-data collection and interception. The commander was aware that the transnational kidnapping case might be a transnational fraud case. To confirm his suspicion, more information was required, or he could have been blamed

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<sup>80</sup> From a professional perspective, I agree with the commander’s address that investigatory experience may not be held by directors of a police precinct. However, the directors have been given the power to manage criminal investigations of serious crime in their jurisdiction according to the NPA’s Manual for Criminal Investigation by the Police. The commander’s address is in fact against the NPA’s rule. I thus disagree with his/her improper power exercise to override detectives’ submission to law. Perhaps the solution to satisfy the commander’s concern is to advocate for the CIB, as the NPA’s manager of the manual, to consider investigatory experience as a core value of criminal investigation and make necessary alterations.

for the malpractice. Finally, with the MOFA's and ICAD's assistance, the commander was convinced that the victim was safe, that there was no kidnapping at all, and a report was made to the commissioner.

In general, the CIB's superiors can command the CIB to tackle crime problems. Especially in the ROC, fraud, drug-related and serious crimes (e.g. murder, gun-related crimes and kidnapping for ransom) usually attract much attention from the public, media, legislators and the government. The CIB can be expected to invest lots of resources to investigate those crimes with or without superiors imposing managerial instruments. However, for the two detectives, the case fitted in a transnational fraud scenario which does not require an immediate response. Instead of implementing the commander's order at once, they searched for online news coverage in relation to a transnational fraud *modus operandi* because of the relatively small amount of ransom. When the commander entered the squadron office, the detectives did not mention their suspicion; rather, they slowed down their movements to pretend that they had implemented the command.

The detectives' reactions against the command illustrates their unwillingness to be commanded to investigate because criminal investigation is their core business, and they had categorised the case as a transnational fraud case. If there is no superior managerial instrument imposition, the commander will not intervene in this kind of investigation. For the two detectives (and for me, as well), the commander had changed his/her response from a transnational fraud case to a transnational kidnapping case because of CIB's superiors imposed the managerial instrument on him/her to receive a reaction. As a countermeasure, the detectives did otherwise to slow down their movement in exchange for time to prove their suspicion about the false case (for other examples, refer to Table 6.6).

**Table 6.6 The 1st Investigation Corp detectives' habitus toward commands**

Command	Detectives' habitus	Implications
<p>Actively requesting for intervention in local gun-related and murder investigations</p> <p>(against the Manual for Criminal Investigation by the Police: a requested-assistance in serious cases and transnational ones; illustrated in Table 6.5)</p>	<p><b>Detective's domination of investigation</b></p> <ul style="list-style-type: none"> <li>● The domination of investigation implies detectives hold the power to distribute resources (e.g. manpower, information and rewards after accomplishment) to do their investigation. If the investigation can be concluded as an indictment, the responsible detective can feel satisfaction (Liao &amp; Wu, 2014).</li> <li>● <i>'If we make a call to a local squadron to request intervention in a nearly solved case in which some suspects are at large, this is not our style because we cannot dominate the investigation. Besides, the local squadron will regard our intervention as a way of claiming benefit without contributions.'</i></li> <li>● <i>'I don't contact regional squadrons for further information. Instead, I will only search CIB databases and news coverage to meet my commander's expectation. Above all, it is not our style.'</i></li> </ul>	<p>Detectives should be in charge of cases. If a commander intervenes, detectives should expect the following situations:</p> <ul style="list-style-type: none"> <li>● Expect poor performance while paying much attention to fulfil commands</li> <li>● Be prevented from being a competitor in any local police investigation by developing own ways to go against commands</li> <li>● Once detectives decide to finalise an investigation, they will not actively continue the investigation, rather, reactively fulfil the commands only</li> <li>● Detectives should solve problems caused by commander's intervention on their own</li> </ul>



<p>Intervening in investigation (including information exchange)</p>	<p><b>Commander's intervention can cause poor performance</b>  <i>'I am disappointed at the result of the Bureau's performance evaluation of solving cases. The commander almost got involved in each serious case. Lots of attention is required for fulfilling his/her commands. I never experienced so much intervention when I worked at other Investigation Corps.'</i></p> <p><b>Commander's intervention without considering operational issues</b></p> <ul style="list-style-type: none"> <li>● <i>'Commander's orders do nothing about legal requirement, and are issued, rather, to meet managerial needs'; 'Any case in which the commander intervenes is hardly solved'.</i></li> <li>● [in a cross-strait fraud case] <i>'For the Chinese counterpart, the case was over since our IC provided Taiwanese victims' statements to it last year. I don't want to continue the investigation but my commander insists. Although I know what to do, I only reply to the commander's order without furthering the investigation.'</i></li> <li>● [in organised crime] Commander requested a chief prosecutor substitute the responsible prosecutor A with prosecutor B. The responsible detective felt sorry for prosecutor A and argued, <i>'How can I request prosecutor A to command my future cases?'</i> The next day, the detective argued, <i>'You know, prosecutor B will not be available to command an operation this month and has asked me to wait until August.'</i> However, the commander asked the detective to overcome this issue by the next day.</li> </ul> <p><b>Commander's intervention is for own benefit</b>  A detective was blamed by the commander for not promptly reporting information relating to a murder case. <i>'I obtained the information several days ago. I then suggested the responsible local force verify it. The force did check but neglected to give me feedback. Why is this kind of report (to the commander) so important? No matter who provided the information, the fact is that the commander still knows it. I'm suspicious that the commander reports the</i></p>	<ul style="list-style-type: none"> <li>● Although an investigation may not be facilitated by cross-strait communications, detectives are still commanded to complete communications</li> <li>● Promptly informing the commander is not a part of the investigation but adopted to satisfy commander's personal benefit (e.g. <i>guanxi</i> enhancement and promotion)</li> <li>● Commander not only bridges a communicative channel with a new contact point but also creates communications on his/her own</li> </ul>
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	<p><i>information to superiors for his own benefit, such as enhancing guanxi with the commissioner and self-promotion.'</i></p> <p><b>It is useless to contact Chinese counterparts if an investigation is not of their interests</b></p> <p>A Chinese counterpart arrested a fraud syndicate in China in which suspects were Chinese and victims were Taiwanese. Meanwhile, the 1st IC initiated a corresponding investigation and request for information exchange to track the Taiwanese suspects. However, the Chinese counterpart did not reply. The 1st IC's commander asked one detective to push the CIB-designated contact to communicate with the Chinese counterpart. While the CIB-designated contact was imposed with contacting the Chinese counterpart, a responsible Chinese officer turned off the phone. The CIB-designated contact mentioned that the case was not of Chinese interests because of no Chinese victims were involved.</p> <p><b>Commander does not need to personally do information exchange</b></p> <p>In a murder case, the commander was eager to directly obtain first-hand information from original holders, including the CIB divisions and ROC PLOs, and bypass subordinates. However, one detective argued that 'information exchange can be done by subordinates. The commander does not have to do so'.</p>	
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The cross-strait practice is highly supervised by the CIB's superiors, including the MOI, MOJ, NSB and Mainland Affairs Council (MAC). The practice requires a combination of hierarchical and cross-divisional instruments (refer to Table 6.3, 6.4, 6.5). Cross-strait participation, including meetings and conferences, requires attendees to generate responses in advance and subsequent, detailed reports. CIB-relevant *Internal Requests* must also be approved by the CIB level-1 SA, in particular, the commissioner and deputy commissioner. In this highly supervised context, CSAD can hold a higher position than the ICs and ICAD to regularly request all ICs and ICAD hand in statistics

of cross-strait information exchange and solve cross-strait crimes to fulfil CIB superiors' supervisory purposes. CSAD also acts as the CIB manager to receive and assign the national bureaucracies' and Chinese *Cross-strait Requests* (兩岸協查函, *liang-an-xie-cha-han*) and to scrutinise responses from the designated ICs. However, CSAD submits to the dominant actors' bureaucratized Confucian–legal habitus driven authority because it does not deploy legal instruments, such as JFAC & MLA, against the dominant actors' improper request delivery (refer to the cases of prosecutor service and SEF in Table 6.1 and the exception column in Table 6.2). Instead, CSAD assigned the requests to the 1st IC in which the commander rarely rejected the CSAD's rule-breaking assignments and further assigned them to detectives. Such an *improper imposition of managerial instrument* contributed to the 1st IC detectives' non-satisfaction with CSAD and commander, although detectives still needed to accomplish assignments (refer to examples 1 and 2).

The cross-strait practice is a burdensome practice. In **example 8**, to undertake a cross-strait investigatory meeting in a Chinese police force, there is a culture-based cross-divisional DOL which has transformed into the CIB directive between CSAD and involved ICs.<sup>81</sup> In general, both parties can jointly discuss flights, accommodation and schedule. In specific, CSAD is responsible for getting approval from CIB's superiors and Chinese counterparts. The involved ICs, by contrast, are responsible for making presentations for investigating TC, usually fraud, minutes and subsequent reports.

In the 1st IC, the culture-based cross-divisional DOL for the cross-strait investigatory meeting was determined by the commander. In the above **example 8**, one chief was assigned to generate a presentation to illustrate current joint investigations and

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<sup>81</sup> A culture-based cross-divisional DOL results from constant practice between involved divisions, particularly between divisional leaders who hold the power to change. A culture-based cross-divisional DOL can obtain the commissioner's approval and be transformed to the CIB directive to regulate future practice.

encourage Chinese responses to CIB's *Cross-strait Requests*. I, as one attendee, was also assigned to produce the minutes and subsequent report right after we were back in Taiwan. Relevant products – presentation, minutes and subsequent report – and flights, accommodation and schedule were highly supervised, and the commander intervened frequently asking for alterations. As one attendee helplessly complained, '*There's nothing I can do to shape our visiting schedule. As you saw yesterday morning, the commander asked for my opinion and my answer was no comment*'. Other attendees commanded to assist my generation of minutes over the weekend did not come into the office as a countermeasure against the commander's demands.

In the example 8, the commands did not bother me because before my transfer to the 1st IC, I had been familiarised with those documentation tasks. It really takes time to balance investigations against a commander's improper imposition of managerial instruments as it presents in my working life. In addition, I usually regard commander-assigned tasks as challenges for familiarising my investigatory and documentation skills to accumulate my habitus. I also regard the accomplishment of my commander's assignments as presenting loyalty in exchange for better results on my annual performance evaluation.

The example of cross-strait communications illustrated in Table 6.6 captures the fact that the 1st IC detectives get a feel that cross-strait communication is useless if the case is not of Chinese interests. If the CIB's *cross-strait request* for the transnational fraud investigation cannot satisfy Chinese criminal laws, the Chinese counterparts will not provide any response. As one 1st IC detective mentioned, '*One critical point is the establishment of an investigation based on Chinese criminal laws.... If an investigation cannot be legally established in China, our request for information will come to nothing*' (also refer to CIB's directive requirement of making a *Cross-strait Request* for

investigating transnational fraud in Table 6.5). Hence, the 1st IC commander's demands can become burdensome to the detectives if the command is about a non-legalised investigation in China.

Handling non-investigatory *Cross-strait requests* can be a time-consuming task. **Example 9** shows the handling of an SEF-referred cross-strait (non-investigatory) request. The request was a law-breaking request. According to the JFAC & MLA, the CIB is mandated to fight against cross-strait crime. However, the request was to assist a Chinese national in reporting a crime which occurred in China, meaning that there was no need for launching an investigation, and the case was beyond ROC jurisdiction. If the request is submitted to the Chinese side via the cross-strait channel, the channel will be abused. I as the responsible detective, without being allowed to reject the request back to the SEF, consulted with CSAD and made a response requesting that CSAD texts Fujian instead of submitting the request. As one scrutiniser observed, *'If you mention ROC jurisdiction and suggest not to submit the request, no SA can grant your response. Besides, you need to put what the Chinese reply to the CSAD's text in your response.'* After several drafts of response were rejected, I finally altered the response to fulfil the scrutiniser's expectations and submitted the request to Fujian. For me, handling non-investigatory requests can be a time-consuming task if detectives do not fulfil superiors' expectation.

Above all, the 1st IC detectives' organisation of habitus can be understood as [bureaucratic habitus dominate bureaucratised Confucian–legal field] which results from detectives' bureaucratic habitus against commander's bureaucratised Confucian–legal habitus. Although the commander intends to act as an investigatory operative, his/her rule-breaking commands, driven by the bureaucratised Confucian–legal habitus, cannot persuade but, rather, force the detectives to comply. This is because the

commander deploys rule-breaking commands as *shu* to regulate detectives without constraining their own power exercise and complying with existing rules. In contrast, for survival within the national criminal justice field and bureaucratised Confucian–legal field, the detectives should figure out their own ways to balance their investigations against improper commands by fulfilling commanders’ expectations as soon as possible and, thus, saving time for investigation. Under such a context, the cross-strait practice is not always helpful for detectives’ investigations but becomes a burdensome task to satisfy superiors’ needs.

### **6.2.2 Lesser power imposition and influence in International Criminal Affairs Division**

In contrast to the 1st IC commander, who intends to hold an investigatory operative position in the national criminal justice field but submits to the dominant actors’ bureaucratised Confucian–legal field driven authority (e.g. CIB’s superiors, hierarchical authority and CSAD), the ICAD director does not engage in such active participation. Instead, the ICAD director focuses more on ROC PLO- and IPO-related issues. Hence, no regular meetings are held in ICAD to supervise detectives’ on-going investigations. Instead, the ICAD director is regarded by detectives as a directive-driven manager who has a disposition for being commanded by commissioners to address investigatory issues.<sup>82</sup>

The commissioners’ lack of focus on other types of transnational practice is also evident.

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<sup>82</sup> For example, one directive regarded presenting divisional capability to investigate crime by using the internet as a tool at future WMH. Hence, at a divisional meeting, the ICAD director commanded that ‘*each squadron should prepare such a presentation based on two cases to demonstrate your capability*’. In another divisional meeting, the director disseminated an R&D presentation to illustrate how social media can be applied in investigations and further commanded, ‘*please consult with the division if you have any inquiries*’. Even outside divisional meetings, the director could also invite the R&D to exhibit useful toolkits and uphold supervisory meetings to check subordinates’ demonstration of learned knowledge. It can be said that such divisional and cross-divisional reactions aim to fulfil the commissioner’s expectations. If commissioners do not constantly issue directives to drive the director, the ICAD detectives will not deploy the learned technology in their investigations.

The transnational information exchange with Interpol, PLOs and other foreign bureaucracies which have a CIB level-2 SA arrangement (divisional leaders) is rarely influenced by a commissioner, but it is influenced by the ICAD director's power exercise (refer to Table 6.4). In addition, the CIB- and NPA-approved transnational practices, including meetings, conferences and training, are also rarely influenced by the governmental paperwork arrangement (articulated later in this section). In other words, in contrast to cross-strait practice, the ICAD director holds more autonomy *de jure* than the 1st IC commander to drive ICAD detectives to participate in transnational practice but less *de facto* power.

While the ICAD director's directive-driven reactor is different from the 1st IC commander's improper power imposer, the ICAD detectives' combined habitus is also different from the 1st IC detectives' investigatory habitus, as described below.

### **1) Acting as the human interface (in the transnational policing field)**

The construction of liaison habitus reflects the ICAD's position in connection with the ROC PLOs and foreign bureaucracies and the CIB ICs to coordinate how information flows between the two parties as in the transnational policing field. The liaison habitus drives the ICAD detectives to act as a human interface to mutually exchange information between CIB ICs, PLOs and the foreign bureaucracies. The difference between the ICAD detectives' and PLOs' liaison networks lies in the fact that the ICAD detectives live with national allies in the state, whereas the PLOs live with foreign bureaucracies in foreign nation-states (Wu, 2013). By using technology, including email, mobile phones and social media, the ICAD detectives can virtually link to the PLOs and foreign bureaucracies. As such, communications between the ICAD detectives, PLOs and foreign bureaucracies are not constrained by geography.

The way that ICAD detectives handle information is like the way that the PLOs do – verify information received, adding values and pass it to the requesting party (Wu, 2013). In so doing, the ICAD detectives need to maintain good relationships with PLOs and foreign bureaucracies by satisfying their investigatory needs in exchange for the fulfilment of their own investigatory needs. In **example 10**, an ICAD detective’s good relationships with the PLOs could result in the obtainment of timely investigatory information provided by foreign bureaucracies, such as video recordings, pictures or audio tracks. In presenting mutual trust, the **example 10** ICAD detective did not pass on the information without adding value. The detective provided a bespoke service to communicate with the delivering and requesting parties to tailor the received information without violating its core message before it reached to the requesting party. There is also **example 11** to illustrate that, without any assistance from PLOs, to fulfil one of the CIB ICs’ and foreign bureaucracies’ needs, the ICAD detective who liaised a transnational drug trafficking case also needed to add value to the exchanged information. The detective’s liaison consists of translation tasks and participation in the IC’s controlled delivery. However, the liaison was initiated at the beginning of the investigation once the detective received the IC’s first *Transnational Request* (跨境協查函, *kua-jing-xie-cha-han*) and continued until the case was closed. The **example 11** ICAD detective should have also liaised the news conferences on both sides to ensure both parties had the same information. The **example 10** and **11** ICAD detectives mentioned that the liaison cannot be constrained by time: *‘Information exchange can be undertaken at anytime and anywhere. My allies do not consider my off-duty time but are eager to request my prompt response for them to plan future actions’*; *‘There are time differences between the ROC and foreign nation-states; those desk officers in our division cannot afford the liaison work because they are not on duty 24/7. Only we, detectives, can handle information beyond our working hours.’* Hence, adding value to information should include the ICAD detectives’ time.



## **2) Partially acting as the investigatory operative (in the national criminal justice field)**

The ICAD detectives are hardly constructing an investigatory habitus similar to the 1st IC detectives (described in the section 6.2.1). ICAD detectives cannot deploy investigatory habitus to successfully compete in the bureaucratised Confucian–legal field. **Example 12** is about a transnational crime-based emergency in which Chinese counterparts staged an initiative to repatriate Taiwanese fraud criminals from foreign nation-states. Both the Philippine incident of 2011 and the Kenya incident of 2016, in which Taiwanese fraudsters were repatriated to China, do attract significant government attention (Su, 2013; Ministry of Justice, 2016). Once, there was a governmental meeting held in the Executive Yuan with members represented the MOI (and NPA), MOJ, MOFA and Mainland Affairs Council. The meeting required information sharing between ministries. As the MOI’s subordinate, one ICAD detective was commanded by the director to produce a response. Types of information provided by the ICAD detective included a timeline of the incident, identification of involved Taiwanese, transnational communications between forces and the plan for repatriation. However, investigatory information relating to a warrant-based arrest and statement taking, which should be concealed in the national criminal justice field, was also shared in the meeting.

**Example 12** reflects two facts, including: A. the ICAD detective’s and scrutinisers’ submission to the CIB and its superiors’ bureaucratised Confucian–legal habitus based authority violates the rule on keeping investigatory information secret within the national criminal justice field, and B. the specialised position of the ICAD detective, scrutinisers and CIB, as the investigatory operative in the national criminal justice field, is challenged because it is not only a violation of the rule on keeping investigatory information a secret but also because the ICAD detective could not persuade the

responsible prosecutor to issue warrants for arrest.

In ICAD, the **example 10** detective endeavoured to construct the investigatory habitus. He/she mentioned that he/she did not construct the investigatory habitus at ICAD but in his/her past career and was willing to learn investigatory skills with liaised ICs. In particular, he/she spent lots of time consulting with the liaised ICs and launched investigations apart from the liaised cases. The detective argued that *'Although many ICAD detectives complain about labour-ridden tasks without sufficient rewards, I don't feel this way. Being a detective in the CIB and ICAD, you should have your own investigations rather than assisting your colleagues to do their investigations and exchange their information'* (refer to Table 6.6). For the **example 10** ICAD detective, those ICAD detectives who only do liaison work are not real detectives; rather, they are liaison officers.

While the **example 10** detective strived to act as the investigatory operative, he/she encountered difficulties balancing his/her identity as the investigatory operative against that of the liaison officer. Once, the detective mentioned, *'There are two squadrons targeting the same transnational syndicate. One squadron has developed the syndicate operating in Taiwan whereas another squadron developed the syndicate operating in one foreign nation-state.'* Instead of deploying the investigatory habitus, the detective deployed the liaison habitus (as maintaining good relationships by mutually fulfilling investigatory needs) but failed to persuade the two squadrons to cooperate with each other. He/she neglected the fact that the responsible IC detectives had invested resources in the respective investigations and were hardly willing to share with others. The IC detectives usually compete, rather than cooperate, to claim their domination in investigations in exchange for satisfaction and rewards distribution after accomplishment (refer to Table 6.6).

The ICAD detectives' practice can also be challenged by the IC detectives' investigatory habitus. The **example 11** ICAD detective deployed the liaison habitus to complain that, 'While our liaison cases are evaluated for rewards distribution, we are rarely rewarded for many of our contributions. This is because our liaised ICs do not cherish our contributions.' The **example 11** ICAD detective's contributions, such as participating in controlled delivery of a suspect, is challenged by one 1st IC detective who argued, '*The ICAD detectives do not need to participate in controlled delivery. CIB ICs can provide video recordings of the whole process to them.*' Hence, the ICAD detectives' conflict between the liaison habitus and investigatory one is hardly mediated in agency (such as the **example 10** detective) or between divisions ( as was the case with the **example 11** detective and the 1st IC detective) while they work in ICAD to do criminal investigation.

### **3) Rejecting the identity of request registrar in the bureaucratised Confucian–legal field**

The establishment of ICAD's new communicative channels with foreign bureaucracies is based on ICAD detectives' constant practice rather than the ICAD's DOL, as illustrated in Table 6.2. If the ICAD's DOL is in operation, newly established communicative channels will be the obligation of the ICAD registrar for ROC PLO-related and other business. The ICAD registrar can then assign investigatory or non-investigatory *Transnational Requests* to responsible detectives or sectional officers, respectively. However, the **example 11** ICAD detective's experience of maintaining new communicative channels is uncomfortable and burdensome. The ICAD detective's initial communications with the two foreign bureaucracies were based on the need to exchange information relating to specific investigations. Although the investigations were completed, the communicative channels did not close. Instead, the existence of

these communicative channels ensured that the ICAD detective was obligated to handle the whole procedure of request processing, from receiving, registration and response generation to delivery. The commander did not impose any managerial instruments to relocate the communicative channels to the ICAD registrar. While receiving *Transnational Requests*, the detective felt it unfair that he/she did not have the power to assign requests but the ICAD registrars could assign requests to him/her. To reinforce his or her identity as liaison officer and as request registrar, the ICAD detective did not register all received *Transnational Requests* in the national infrastructure of processing documents because, as he/she argued, *'I don't have much time to handle each request.'* By using discretion, the **example 11** ICAD detective tried to save time to act as the liaison officer. However, selectively handling received *Transnational Requests* can also endanger his/her relationships with the two foreign bureaucracies.

#### **4) Enhancing identity as response generator in the bureaucratized Confucian–legal field**

Except for the **example 11** ICAD detective's rejection of being the registrar, ICAD detectives are forced to act as the response generator in pursuit of efficiency (in the bureaucratized Confucian–legal field) rather than creativity (in the national criminal justice field). It is believed that, if a response for transnational participation should be approved by the MOI, lots of paperwork should be done. In contrast, there is less written work while doing NPA- or CIB-approved alike practices. However, this does not simply imply that subordinates are keen to make the NPA or CIB approve transnational participation. Instead, superiors addressing efficiency and the accomplishment of tasks, rather than creativity, can constrain subordinates to do the practice.

According to the Executive Yuan's and MOI's Rules, while the national bureaucracies propose to make transnational participation, attendees should comply with a general

paperwork arrangement. This means that 1) a response should be generated before the practice, 2) a subsequent report should be generated after the practice and 3) a response to the subsequent report should also be generated. However, this general paperwork arrangement is not universally applied to the MOI-, NPA- and CIB-approved responses.

To obtain the MOI's approval, the CIB officers are required to fully comply with the paperwork arrangement in a highly supervised context in which officers are imposed to pursue efficiency and accomplish tasks rather than utilise their creativity. This can be described as follows.

#### **A. Pursuing efficiency**

In **example 13**, in regards to attending European Congress, the ICAD director focused on the request processing by addressing that '*There is a time limitation. Hence, MOI's approval should be obtained as soon as possible.*' In response, I, as the attendee, can speed up the request processing by taking the request to the involved divisions and SAs for scrutiny in person and, thus, bypass a time-consuming clerk service in which a responsible clerk delivers the request.

#### **B. Accomplishing tasks**

In **example 13**, the ICAD director addressed a concern about insufficient governmental budget to support the practice. I, as the attendee, should aim to apply for private financial support which requires the MOI's approval. In addition, the ICAD director and chiefs also addressed that bilateral arrangements between the CIB and its foreign counterparts should be strengthened. They stated that '*Participants should communicate with officials from Interpol or Europol and try to establish and strengthen our relationship in between*', '*This kind of participation is usually unhelpful for us to establish a communicative channel between forces*', and, if participants plan to call on foreign counterparts, '*Representative offices will not be interested in this call but will*

be interested in negotiating a governmental arrangement (e.g. an agreement or MOU)'. I, the attendee, should put superiors' expectations – strengthening bilateral arrangements – in my response.

### **C. Lack of creativity**

While in pursuit of efficiency, attendees are keen to obtain approval as soon as possible by making responses similar to previous ones against the time-consuming request process. Obtaining the MOI's approval is a long journey, and the scrutinisers tend to address rules. It can be more time-consuming if in pursuit of efficiency and creativity at the same time. In **example 13**, I spent much time altering what scrutinisers in each level addressed, including budget (the main concern), schedule, NPA National Requests, the format of the response and introduction of foreign counterparts. Except for the budget, other alterations resulted from the MOI's scrutiny, implying that I should regenerate my response and repetitively go through the procedure of request processing. These alterations can be prevented. If this is my first time attending, I should spend more time to master relevant rules, and CIB and NPA scrutinisers can fully and carefully scrutinise my response against the rules. In actuality, I am not the only one who underwent such practice the first time because the ICAD detectives also encounter the same struggle.

In addition, while in pursuit of accomplishing tasks, the ICAD detectives can produce similar subsequent reports because superiors may not focus on attendees' report creativity but its existence as proof that the task was accomplished. For instance, suggestions for future alike practices are constantly presented in reports, and attendees also repeatedly express their willingness to do presentations in future conferences and to call on IPOs (e.g. Interpol) or foreign police forces. Nevertheless, these suggestions are rarely brought into reality. This is because attendees have simply accomplished the

task to attend the conference and the creation of a subsequent report is the final part of the practice. The kind of content written in the subsequent report may not matter.<sup>83</sup>

A relatively free supervisory context in which paperwork is not required cannot attract the ICAD detectives to participate in transnational exchange. For the NPA- and CIB-approved responses, the governmental paperwork arrangement can be expected to apply. However, if the approval is issued by the NPA and CIB, a comprehensive response in advance and a detailed subsequent report are not a necessity except in cross-strait participation. Hence, managerial instruments are only deployed to regulate attendees' official leave, financial support and performance evaluations. Attendees are not influenced by, and scrutinisers do not deploy, the governmental paperwork arrangement to regulate transnational participation. Examples can be illustrated as follows.

- A) In a transnational policing training course run in Southeast Asia, I, as the attendee, did not produce any response in advance or subsequent report after my attendance. Instead, a ROC PLO and I jointly published an article in CIB Bimonthly at our discretion to share our experience of attendance (Wu & Li, 2015).
- B) In a transnational investigatory meeting held in the CIB, there was a CIB *Internal Request* to hold the meeting because of an application for financial support. No subsequent report or minutes were generated.
- C) In a transnational policing conference held in Southeast Asia, a PLO in attendance produced a subsequent report to the CIB because the production was a part of performance evaluations rather than a requirement of such participation.

Above all, the ICAD detectives encounter difficulties in coordinating three entities –

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<sup>83</sup> In addition to the uncreative subsequent report in **example 13**, I was also commanded by the ICAD director to contribute my experience attending the European Police Congress by responding to one NPA *Internal Request* for enhancing cooperation with the European Union. However, the ICAD section had decided to rely on its own suggestions (e.g. the establishment of ROC PLO) and, therefore, rejected my experience and my suggestion to consult with the R&D, which is the level-1 national bureaucracy-designated contact point with the European Union.

liaison officer, investigatory operative and request processor (including request registrar and response generator). Internally, they encounter competition between three parts of habitus in the agency – maintaining good relationships by mutually fulfilling investigatory needs (liaison officer) against the domination of investigation (investigatory operative) and handling all received requests in an efficient way (request processor). Externally, the ICAD detectives’ investigatory operative identity is partially constructed (e.g. they are unfamiliar with the domination of investigation and they do not have a feeling about enjoyable and creative investigations) and can be challenged by the 1st IC detectives’ investigatory habitus. The combination and competition of different parts of habitus can be attributed to the fact that the ICAD commander is a directive-driven reactor who does not autonomously exercise power to regulate subordinates’ practice.

### **6.3 Detective promotion system at the CIB**

Performance evaluation, and rewards and punishments, accordingly, is a particular type of power that can influence CIB detectives’ position of rank, post and salary (Yang, 1998). The power exercised by the CIB authority provides an opportunity for CIB detectives to accumulate capital for promotion (Wu, 2018). The capital accumulation is processed in two steps. First, CIB detectives’ performance is evaluated on a regular basis to reward (e.g. issuing merit, bonus or increasing salary) or punish (e.g. issuing reprimands and forced post transfer, suspension and dismissal). A regular performance evaluation regime in relation to transnational practice include: 1) The Secretarial Office is in charge of monthly performance evaluations of request processing to identify rule-breaking issues. In addition, the Secretarial Office is also responsible for regular scrutiny of directive implementation in pursuit of bureaucratic efficiency.<sup>84</sup> 2) The

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<sup>84</sup> There is one type of regular scrutiny on directive implementation by the CIB Secretarial Office, namely CIB Scrutiny on Divisional Responses to WMH Directives. For example, once, the ICAD was supervised biweekly to efficiently propose a CIB rule to enhance the outcomes of investigations on gun- and drug-related transnational crime.



Crime Investigation Affairs Division (CIAD) is in charge of performance evaluations in case-solving to identify the best and the worst case-solver at the divisional, squadron and individual levels, and 3) the Personnel Office is in charge of evaluating detectives' applications for rewards or punishments on a case-by-case basis. Detectives should submit applications to the Personnel Office for scrutiny. For example, detectives can apply for rewards after responsible investigations are indicted, whereas the CIAD officers can apply for punishments once they identify the worst case-solver.

Second, detectives' rewards and punishments should be translated into a score for promotion. A score is structured into three categories:

- 1) **Specialised categories:** A category consists of the results of performance evaluations (a calculation of rewards and punishments); types of education, training and national examination scores; and years in police service (e.g. leaders can obtain a higher score than rank-and-file officers). Data input in the category is automatically generated from a personnel database and checked by candidates.
- 2) **Manager's evaluation of candidate's personality:** This category consists of career development, ability to overcome challenges, profession (e.g. do candidates learn and deploy crime-fighting skills, and what is the candidate's performance in case-solving) and potential to hold a leadership post. Data input is contributed to by candidates' supervisors. For example, if candidates are detectives, squadron chiefs fill in the category (by pencil), which is then corrected and approved by commanders.
- 3) **Manager's general evaluation:** This category allows managers (including chiefs and divisional leaders) to evaluate each candidate's performance. Like the evaluation of a candidate's personality, if candidates are detectives, results of the evaluation in each category are produced by squadron chiefs and then corrected and approved by commanders.

Taking CIB detectives who hold the rank of superintendent with no leadership score as an example, they are candidates for the promotion to assistant squadron chief of CIB. To facilitate the commissioner's decision-making, a final score is structured so that 40% of the score is from the specialised category and a 60% is from the manager's evaluation (including 40% candidate's personal character and 20% general evaluation). On the contrary, for CIB top-ranking managers (e.g., level-1 and 2 SAs), they are candidates to manage a county police department or a metropolitan police precinct. Although the NPA sets an arrangement to evaluate top-ranking managers' performance,<sup>85</sup> results of evaluations are contributed to by the commissioner's understanding of candidates. In other words, promotion is not directly a result of subordinates' performance but, rather, of a manager's personalised evaluation of subordinates' performance, personality and other traits.

Influenced by the past, performance in contemporary ROC national bureaucracies is one item, but it is not the key that can determine a bureaucrats' promotion (Guan, 1996; Yang, 1998). Instead, bureaucrats' compliance, presented as loyalty and *guanxi*, with a decision-maker (or a decision-maker's superiors) has been regarded as the key determinant (Guan, 1996; Yang, 1998; Zheng, 2001; Pan, 2010; Gur, 2012). Hence, the 1st IC and ICAD detectives' promotions should be regarded as a result of the commander or director evaluating detectives' performance (driven by specialised habitus), loyalty and *guanxi* (driven by the bureaucratized Confucian–legal habitus).

The specialised authority which functions to differentiate insiders from outsiders is classically driven by two kinds of knowledge, including: 1) a *know-what* schema

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<sup>85</sup> This type of evaluation comprises performance evaluation, personality evaluation (including virtue against corruption and ability to overcome challenges), profession (e.g. maintaining order, crime-fighting and enforcing traffic laws) and career development. Moreover, depending on hierarchical types of vacancies, results of evaluations can be submitted to the NPA, MOI or Executive Yuan for decision-making.

(content knowledge), which is accumulated while getting education and trainings and following standardized procedure, and 2) a *know-how* schema (*habitus*), which is accumulated while practicing in the field (Brown, 1988; Stelfox, 2007; Hallenberg, 2012; Fahsing & Ask, 2016). The two schemata do not equally influence performance. A *know-what* schema cannot guarantee that holders can effectively accomplish their tasks but, rather, ensures that their practice is in accordance with law and that they are qualified to join a specialised organisation (Stelfox, 2007; Wu, 2018). Instead, if in pursuit of effectiveness of practice, a *know-how* schema should be constructed as a result of holders intentionally and selectively deploying the *know-what* schema to overcome unknown danger and adapt to various changing structures (Moore, 2006; Stelfox, 2007; Wu, 2017).

Doing investigation or liaison work is the only approach to claim the specialised authority of investigation or liaison that only the ICs' or ICAD's detectives can acquire in the national criminal justice field or transnational policing field. A competent evaluator is their fellow detective because they make alike practices in investigation or liaison rather than management (Manning, 2007). If managers do not undertake investigations or act as liaisons but instead intervene or act as a senior investigating officer (SIO; e.g. the 1st IC commander) who manages detectives to investigate major crimes (Westera et al., 2016), they are not qualified to claim the authority of investigation or liaison. Instead, the CIB managers are legitimised *de jure* to hold administrative (or managerial) authority in the national bureaucratic field and can legally deploy managerial instruments. In actuality, the way of CIB managers exercise their authority reflects that they *de facto* hold the bureaucratised Confucian–legal *habitus* driven authority to selectively impose (improper) managerial instruments to regulate detectives' practice while freeing themselves from being regulated by those same instruments.

Working in the CIB (of national bureaucratic field dominated by the bureaucratised Confucian–legal field), in connection with the national criminal justice field and transnational policing field, the 1st IC and ICAD detectives’ organisation of habitus is different. The 1st IC detectives’ organisation of habitus is that bureaucratic habitus dominates bureaucratised Confucian–legal field which drives them to act as the investigatory operative (in the national criminal justice field) and engage in transnational practice against commander’s *improper imposition of managerial instruments* (in the bureaucratised Confucian–legal field). In contrast, the ICAD detectives’ organisation of habitus includes three conflicting identities, including the liaison officer (in the transnational policing field), the investigatory operative (in the national criminal justice field) and the request processor (in the bureaucratised Confucian–legal field). The ICAD director’s lesser but directive-driven power exercise can determine the detectives’ organisation of habitus. As such, my second assumption made in the beginning of the chapter – that the officers’ bureaucratised Confucian–legal habitus and bureaucratic habitus are shaped in the CIB, and their integration should be that bureaucratised Confucian–legal habitus dominates bureaucratic habitus, thus reflecting the peculiar Taiwanese rule of law – cannot be proven by my ethnographic account. This implies that the Taiwanese concept that bureaucratised Confucian–legal habitus dominates bureaucratic habitus cannot effectively regulate the CIB detectives’ transnational practice. Divisional leaders’ practice should be explored in the future

Given that the CIB managers dominate detectives’ promotions, the managers have reinforced their bureaucratised Confucian–legal habitus driven power to impose detectives to strengthen the bureaucratised Confucian–legal habitus and decrease detectives’ specialised (investigatory and liaison) habitus. This has two implications, as described below.

- 1) **Conflict in detectives' agency:** The 1st IC detectives' countermeasure against their commander's improper demands cannot be merely regarded as their investigatory habitus against the commander's bureaucratized Confucian–legal habitus. It should also be considered that the 1st IC detectives also struggle in agency to decrease the influence of their own bureaucratized Confucian–legal habitus because they still need to implement their commanders' improper commands. Similarly, the ICAD detectives' struggle to handle three conflicting identities should be considered while they are still on their way toward becoming more specialised. A specialised detective should be able to claim his/her identity as a liaison officer in the transnational policing field or as an investigatory operative in the national criminal justice field to ease the tension between identities and against bureaucratized Confucian–legal field.
- 2) **Conflict between detectives' agency and structures:** Unless the 1st IC and ICAD directors can invest extra time to strengthen the specialised habitus or make a post transfer to other ICs to prevent their commander's or director's bureaucratized Confucian–legal habitus, their specialised habitus can gradually lose power against the bureaucratized Confucian–legal habitus. For example, the 1st IC detectives have poor performance in solving cases because detectives are driven by their own bureaucratized Confucian–legal habitus rather than by investigatory habitus (refer to Table 6.6). Additionally, the ICAD chiefs cannot be promoted to local IC commanders in county police departments because they only accumulate the ICAD director's preferable type of habitus – bureaucratized Confucian–legal habitus – against the commissioner's preferable type of habitus – investigatory habitus.

If specialised fields, national bureaucratic field or bureaucratized Confucian–legal field constantly impose asymmetric influence (e.g. reshuffling administrations and legislatures, statute amendments and CIB leadership changes) on detectives' practice

and position taking in the CIB, detectives will also constantly struggle to rebalance each part of their habitus in the agency. After all, detectives are living in multiple battlefields for survival and promotion. This will never stop until they leave the field.

## Chapter 7 Conclusion and Implications

This study aimed to develop an agency–structure framework to explore transnational policing cooperation at the CIB in the ROC. The methodology used in this thesis is based on Bourdieu’s theory of practice and ethnography rather than theory, research models and interviews. Influenced by Bourdieu’s theory of practice, this thesis was organised as follows. In chapter 2, chapter 3 and chapter 4, I discuss my agency as a researcher. In chapter 5 and chapter 6, I discuss my agency and the participants’ agency as being detectives. In other words, I have evolved my practitioner-based agency in connection with the CIB in order to act as a practitioner–researcher in connection with the CIB and within an academic community to capture the participants’ cooperation with the transnational police and my own cooperation in the fields. As such, in addition to the literature review and ethnographic analysis, which are presented in chapter 5 and chapter 6, the production of the thesis can also prove the argument I present in chapter 3 that the evolution of the fields and habitus results from the subject’s internal competition for the domination of his/her own agency, which leads to success in external competitions for the domination of the fields.

In this thesis, I present a unique type of ROC transnational policing cooperation. Traditionally, transnational policing cooperation has been considered to be a practice that transcends a specific state. It is also considered to be a type of sub-state practice in which multiple actors are involved in a policing cooperation regime across the state. As an ethnographer embracing Bourdieusism, I illustrate a different image, which is **national policing against TC**, as described below:

- 1) **Cross-strait participation is more important than transnational practice.** For example, the scrutinisers at all levels scrutinise the transnational information exchange, except for the cross-strait information exchange, although the practice

is to have a specific type of transnational policing cooperation practice (Harfield, 2007; Cameron-Waller, 2008; Moor & Vermeulen, 2010; Bowling & Sheptycki, 2012; Marino & Grantham, 2015). Less scrutiny of a transnational information exchange has contributed to ICAD detectives being able to freely make processing requests and even ignore handling foreign bureaucracies' requests because either their superiors do not command the detectives or the detectives do not have time to handle the requests. In contrast, a highly supervised cross-strait information exchange has contributed to the 1st IC detectives' dissatisfaction with the commander's improper commands because they are disposed to performing investigations rather than fulfilling their superiors' needs. Although the CIB can reply to the requests of foreign bureaucracies and the Chinese counterparts, the detectives' *know-how* about engaging in practice is influenced by the national fields.

- 2) **The practice aims to fulfil different kinds of demands.** Fulfilling demands implies that the CIB detectives should provide responses to satisfy the requesting and commanding parties. The 1st IC detectives' transnational practice aims to fulfil the superiors' improper cross-strait-related commands by endangering their identity as an investigatory operative. In contrast, the ICAD detectives' practice aims to fulfil the demands of their colleagues, the ROC PLOs and foreign bureaucracies, as well as the director's directive-driven commands, by adopting three conflicting identities: a liaison officer, an investigatory operative and a request processor. How the 1st IC and ICAD detectives meet different kinds of demands is less of a concern to the requesting and commanding parties than it is to the detectives themselves.
- 3) **What has not changed from the past to the present is that the dominant habitus is always the Confucian–legal habitus regardless of whether the dominant actors' instruments are imperial *fa* and *shu* or national laws and**



**organisational rules.** Thus, in contemporary ROC, Taiwanese residents have their own meaning for the rule of law, which is driven by the integrated habitus [bureaucratised Confucian–legal habitus dominates bureaucratic habitus]: Taiwanese residents dominate the authority by law but allow legally dominant actors to enjoy more autonomy and fewer constraints while exercising bureaucratised Confucian–legal habitus and bureaucratic habitus driven power. Although people-centric national laws are enacted for the police to maintain social order, Taiwanese residents do not expect the police to enforce the law; rather, they expect them to perform *fa* deployment. Taiwanese residents allow the legally-dominant actors to enjoy autonomous exercise of power, with fewer constraints to regulate those actors. As legally-dominated actors, CIB detectives can struggle to deploy the bureaucratised Confucian–legal habitus and/or the bureaucratic habitus to compete with their managers, as follows.

- A. The 1st IC detectives’ organisation of habitus is that [bureaucratic habitus dominates bureaucratised Confucian–legal field], which compels them to act as the investigatory operative in the national criminal justice field to engage in transnational practice against the commander’s *improper imposition of managerial instruments* in the bureaucratised Confucian–legal field.
- B. The ICAD detectives’ organisation of habitus involves three conflicting identities, including the liaison officer in the transnational policing field, the investigatory operative in the national criminal justice field and the request processor in the bureaucratised Confucian–legal field. The ICAD director’s directive-driven exercise of power can determine the ICAD detectives’ organisation of habitus.

As such, the Taiwanese residents’ Taiwanese residents’ [bureaucratised Confucian–legal habitus dominates bureaucratic habitus] cannot effectively regulate the CIB detectives’ transnational practice due to the managers’

asymmetric exercise of power and the 1st IC detectives' resistance driven by investigatory habitus or the ICAD detectives' struggle for mastering conflicting identities.

- 4) **Historically, the existence of bureaucratized Confucian–legal habitus has encouraged dominated CIB detectives to hold a position as dominant.** In the past, the police (or imperial officials and *fa li*) were the dominated actors that maintained the social hierarchy during different periods, including imperial Chinese ruler–official–resident relations, Japanese Mikado–government–Japanese–Taiwanese relations, the KMT's KMT–government–Chinese–Taiwanese relations and the ROC's resident–government relations. As the dominated actor, the police (or imperial officials and *fa li*) have been influenced by four types of power systems, in the following order. The Confucian–legal field addressed Confucian obligations to meet the ruler's demands; Japan's Taiwan-based bureaucratic field addressed the legal obligations to meet the legal authority's demands; the bureaucratized Confucian–legal field addressed the Confucian and bureaucratic obligations to meet the KMT's demands; and, now, the national bureaucratic field, dominated by the bureaucratized Confucian–legal field, addresses the Confucian and bureaucratic obligations to meet the residents' demands. In response, the police (or imperial officials and *fa li* in the past) gradually constructed and shaped relevant parts of the habitus in order to live in each period. They needed the Confucian–legal habitus to live in imperial China; they needed the [Confucian–legal habitus dominates Japan's Taiwan-based bureaucratic habitus] during Japanese occupation; the [Confucian–legal habitus dominates Japan's Taiwan-based bureaucratic habitus] to dominate the bureaucratized Confucian–legal habitus during the KMT rule; and finally, the [bureaucratized Confucian–legal habitus dominates bureaucratic habitus] in the national bureaucratic field.

- 5) **Performance evaluations, rewards and punishments can be adopted to strengthen the CIB managers' Confucian–legal power.** The imposition of these instruments dominates the CIB detectives' promotions; thus, it strengthens the managers' bureaucratized Confucian–legal habitus driven command. CIB detectives are disposed to accumulate their managers' preferred type of habitus in exchange for the necessary score in order to earn a promotion. Thus, the 1st IC commander expects the detectives to have the bureaucratized Confucian–legal habitus needed to fully comply with his/her constant commands and investigatory habitus to perform investigations. In contrast, the ICAD directors do not expect detectives to have investigatory habitus; rather they want them to have the bureaucratized Confucian–legal habitus to react to his/her directive-driven commands. The 1st IC and ICAD detectives who can fulfil their respective managers' expectations can receive positive performance evaluations and high scores and earn a promotion, unless a promotion is not the CIB detectives' concern.
- 6) **The CIB detectives' *know-how* of transnational practice, exhibited by acting as an investigatory operative, a liaison officer and a request processor, cannot be shared across an agency and divisions, although habitus is expected to be shared in an occupational group** (refer to section 3.1.3 and examples 2, 8, 10 and 11). Non-sharing habitus across an agency and divisions should be attributed to three facts, as follows:
- A. Different specialised posts (e.g. request receiver, registrar and assigner, and response generator, scrutiniser and deliverer) that attract the managers' asymmetric power imposition;
  - B. Different specialised divisions (e.g. ICs and ICAD) that attract the commissioner's asymmetric power imposition; and
  - C. Different types of practice (criminal investigation vs. information exchange; transnational vs. cross-strait information exchange; and MOI-approved

proposals vs. CIB-approved proposals) that attract asymmetric power imposition by the hierarchical authority.

These differences can contribute to differences in the nature of practice and to differences in the strengths and styles of how habitus is organised.

The implications of study are described below:

- 1) **The police officers as (semi)autonomous actors can (consciously and unconsciously) selectively apply (inter)governmental and organisational instruments within and beyond the state to bring transnational criminals to justice.** To understand the police officers as (semi)autonomous actors, I suggest that they should be approached in an orchestrated research context, such as the agency–structure framework, rather than by applying any theory or models, and by using ethnography instead of conducting interviews.
- 2) **The term ‘transnational’ cannot solely embrace transnational features.** Instead, the term ‘transnational’ should encompass both transnational and national features. Particularly, the practice can be understood as the police officers generating responses in specialised fields to process the requests of national and foreign bureaucracies within the state. Thus, national features (e.g. bureaucratised Confucianism and imperial legalism and Taiwan’s peculiar concept of the rule of law) can play a more significant role than transnational features (e.g. intergovernmental identity and transnational participation) in driving the police officers to engage in practice. I suggest that researchers should study the practice in both transnational and national contexts.
- 3) **The practice can evolve.** Importantly, the past (or existing) status of practice can influence its present (or future) status over time and across fields. It is assumed that the police officers can initiate this evolution in the dominate agency (by successfully integrating existing and new parts of the habitus) to further dominate

the fields. Driven by habitus (embedded in agency) and accommodated by the fields, the practice can evolve from its past (or existing) status to its present (or future) status. Thus, the organisation of habitus can be changed in terms of time and space. As presented in this thesis, it is time-consuming to integrate Confucianism, imperial legalism, Japanese bureaucratic habitus, KMT's bureaucratised Confucian–legalism and contemporary ROC bureaucratic habitus. Four parts of habitus, not one, can be located in the CIB officers' agency. Thus, I suggest that researchers interested in the practice should consider a historical study of it with a multiple-context focus to capture both the present status and the past status of the practice

- 4) **Research limitations.** Any understanding of a phenomenon has inherent limitations because we live in a changing world in which multiple realities are constructed by participants and researchers. A scholarly understanding of a phenomenon is produced by researchers who are outsiders studying participants. This can be very different from a practical understanding based on practitioners, as insiders, constructing phenomena. Hence, any scholarly understanding is subject to being reshaped by the participants and researchers over time. This thesis is no exception. The ROC transnational policing cooperation at the CIB can be vulnerable to limitations that are caused by both myself (as the researcher) and the study participants. Thus, a constant ethnography is required, as described below.

#### **A. Limitations caused by the participants**

If participants constantly change their agency, they will change the phenomenon they construct. For example, participants should adapt to governmental countermeasures against a cold cross-strait relationship and Chinese diplomatic suppression (e.g. decreasing the number of the ROC's diplomatic allies, interrupting the ROC's participation in IOs and repatriating Taiwanese fraud suspects to China), the enactment of newly established and amended statutes (e.g.

the International Criminal Judicial Mutual Assistance Act) and the shift of leadership and new recruits in interrelated national bureaucracies, including the police. Hence, this thesis can only reflect a partial, time-specific reality of the transnational policing cooperation at the CIB in the ROC.

Follow-up studies can continue to address the evolution of practice to identify the changed and unchanged components of habitus and the impacted fields, such as the evolution of the detectives' practice from their past to present careers or the evolution of the managers' daily exercise of power. Especially, in the ROC, the transnational policing cooperation at the CIB is highly driven by the hierarchical authority that can autonomously exercise bureaucratized Confucian–legal-driven and national bureaucratic field driven power with few constraints. In contrast, subordinates have *de jure* power, but not *de facto* power, to challenge their superiors, and they strain to sustain their current position at the CIB of the national bureaucratic field dominated by the bureaucratized Confucian–legal field and their positions in the national criminal justice field and transnational policing field. This also means that the superiors' practice in these fields can be the subject of future studies because they are the dominant actors in the detectives' daily working life.

#### **B. Limitations caused by myself (the researcher)**

If I constantly shape my agency, I will shape my understanding of transnational policing cooperation at the CIB in the ROC. My developing methodological strategy—selectively evaluating the literature and choosing ethnography—aimed to examine Taiwanese indigenous culture in its proper context rather than in a Western context, and, to some degree, this can constrain the scope of my understanding of transnational policing cooperation at the CIB in the ROC. For example, I bypassed legal studies on policing cooperation to avoid committing to

the idea that the rule of law is currently applied in the Taiwanese context. I also transformed the agency framework to the agency–structure framework to address Bourdieu’s theory of practice.

Importantly, I chose ethnography instead of interviews to address the participants’ practice in action. Consequently, my perceptual limitations can influence my fieldwork because I cannot predict or participate in all kinds of events to record the phenomenon (Lavanchy, 2013). I also paid attention to the pain the participants and I felt when we struggled with the managers’ exercise of power and the joy we felt when an investigation was successful.

- 5) **A unique ethnography.** My practitioner–researcher-based agency can also produce a unique ethnography that may be different from other researchers’ ethnographies of the same phenomenon (Cheng, 2009). It is important to note that, when I wrote Chapter 6, I needed to select examples for the chapter. Although my emphasis is on the detective’s daily accomplishment of transnational policing cooperation, I cannot ignore the fact that transnational practice is only one part of their daily realities. I analysed those examples to capture the detective’s identity and to examine that identity of working in the field. Coping with the detectives’ daily encounters in multiple fields rather than one field has contributed to a general understanding of ROC transnational policing cooperation at the CIB in this word-limited thesis. It can be expected that each of the periods presented in Chapter 5, and the example included in Chapter 6, have the potential to be developed into a more detailed account than was possible to provide in this thesis. Hence, researchers can regard this thesis as a fundamental study aimed at presenting the potential of the agency–structure framework to address the practice of transnational policing cooperation.

## **Appendix: Information sheet and informed consent**

### **INFORMATION SHEET**

#### **■ Introduction**

You being invited to take part in a research study about transnational police cooperation between Taiwan and other states including China as there is a lack of in-depth exploration of how everyday police related cooperation in Taiwan is accomplished. This research project aims to fill this gap. If you are interested in taking part please read this information sheet, speak to your friends and family or colleagues first and feel free to ask me any questions before you decide whether to take part. Thank you for taking the time to consider becoming involved in this study

#### **■ What will I have to do if I take part?**

If you take part in this study you will be invited to have your everyday work activities observed by me as I will try to shadow you without interrupting what you are doing. This will involve me observing your everyday police cooperation related activities and conversations within and outside your divisions. If the meaning of what I observe is unclear I will invite you to explain what is happening so that the data I record is an accurate reflection of what went on. The observations will be formally noted by me either making notes or dictating my observations into a dictaphone with your permission. However you can stop this process if you feel uncomfortable at any point. In addition you will be invited to take part in an interview lasting up to 90minutes.

#### **■ What are the risks to me if I take part?**

You may feel that you have to take part because of pressure from your peers or superiors. However you are free to withdraw at any time without giving a reason and without detriment to you or your career as this study is not being funded by any official body.

#### **■ What will happen to my data in the form of recordings and observations?**

Data collected in will remain confidential. You will not be named in any reports and all identifying features such as your name and rank will be anonymised by the use of a unique code. All recordings will be transcribed and stored on encrypted computers in password protected files. All recordings will then be destroyed in a safe



manner. Field notes from observation, interview transcripts and relevant documents collected will be used for data analysis. Quotations from field notes and interview transcripts will be embedded into this project and will form my PhD thesis and may be presented in academic journal and international conferences in anonymised format. All handwritten notes will be stored in locked files in a locked room, which only I and my doctoral supervisors will have access to. This data will be kept for five years in accord with the University of Manchester (the location of my PhD studies) requirements. If you wish you can request to see a summary of the final report of this project. If you are interviewed, you can also request a copy of your transcript.

■ What are the benefits of taking part?

The benefit of taking part in this study is that you can help to enrich your own and the services understanding of Taiwan's transnational police cooperation. Additionally, it may also help to develop future operational and strategic transnational activities.

■ Do I have to take part?

You are invited to make your decision about your involvement in this study within five working days. However, if you decide to take part and later change your mind, you are free to fully withdraw your participation in this project at any time if you are not comfortable with your involvement. Moreover, you are free to partially decide what kinds of activities you are comfortable having observed or whether you are willing to be interviewed.

■ Who will have access to my data and why?

Only myself and my PhD supervisors will have access to your data for analysis and supervisory purposes. However, my supervisors will only have access to anonymised data.

■ What if something goes wrong?

Over this project, if you have any enquiries about your involvement or the researcher's activities, do not hesitate to contact me the researcher.

■ What if I want to complain?

If you want to make any complaint concerning this project or the researcher, please contact relevant personnel or organisations below:

1. Me in the first instance

However if you are still not happy and wish to complain further you can contact my supervisors: Mr. Bill Hebenton; Dr. Juanjo Medina-Ariza.

If there are any issues regarding this research that you would prefer not to discuss with members of the research team, you can contact the Research Governance and Integrity Team by either writing to 'The Research Governance and Integrity Manager, Research Office, Christie Building, The University of Manchester, Oxford Road, Manchester M13 9PL', by emailing: [Research.Complaints@manchester.ac.uk](mailto:Research.Complaints@manchester.ac.uk) <<mailto:Research.Complaints@manchester.ac.uk>>, or by telephoning 0161 275 7583 or 275 8093 (UK).

■ What happens if I am observed doing something that is against policy and procedure?

It is my responsibility to report any suspicious activity against policy and procedure to my supervisors then to any responsible personnel in your organization, e.g. your supervisors and internal affairs related Division.

■ What happens if I say something that incriminates me or others in dubious activities?

Please be aware if you alert me to the fact that you or others have or are about to engage in dubious activities I will be obliged to report any suspicious activity to my supervisors then government ethic related division in your organisation or the authority in Taiwan, e.g. Regional Prosecutors Office.

■ Who has reviewed the study?

The University Research Ethic Committee one has reviewed this project.

■ What do I need to do if I want to take part?

If you have any further questions or if you want to take part in this study, then, you will need to inform me that you want to take part by completing the informed consent form and returning it to me at the address indicated below.

■ How to contact the researcher?

Po-Yuan Wu

School of Law, the University of Manchester, Oxford Road, Manchester M13 9PL, UK

## CONSENT FORM

If you are happy to participate please read the consent form and initial it:

**Please Initial Box**

I confirm that I have read the attached information sheet version 2 dated \_\_\_\_\_ regarding the above project and have had the opportunity to consider the information and ask questions and had these answered satisfactorily.

I understand that my participation in the study is voluntary and that I am free to withdraw at any time without giving a reason and without detriment to my career prospects.

I understand that the interviews will be audio-recorded.

I agree to the use of quotations that are anonymous/attributed.

I agree to take part in the above project

I agree to take part in the above project

Name/ID No. of participant

Date

Signature

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If you prefer to provide ID No., please write the first letter  
and the last four numbers on above gap.

Name of person taking consent

Date

Signature

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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