

Crime and Social Transition in China

Liling Yue describes how economical and social development in China has given rise to new crime 'opportunities' that call for further development of criminal justice policies.

The end of the Cultural Revolution and the reform policy promoted by Deng Xiaoping in the late 1970s was the start of a new era in criminal justice in China. The socialist market economy introduced by the reforms has developed so successfully that it has replaced the model of a planned and state economy. This economic development has also led to deep political and social changes, influencing crime, trends in criminal policies and reform of criminal law.

Side-effects of the reform of economic policies include an increased rate of unemployment, widening gaps in people's income, and the gradual distribution of wealth. Metropolitan and rural areas are developing at different rates, as are the eastern and the western regions of the country.

Unlike under Mao, when urban migration was strictly controlled, the labour force today is moving from rural areas to the cities, resulting in much greater internal migration than ever before in Chinese history. All of these phenomena produce benefits in the development of a stable economy and a society which is based upon the rule of law and free movement on the one hand, but inequality and feelings of anomie in certain segments of society on the other. Furthermore, crime rates among migrants are increasing and conventional property crime (especially theft) shows upward trends.

Changes in opportunity structures

In 1981, 744,374 theft cases were investigated by the authorities, while in 1992 the number of theft cases investigated amounted to 1,142,556. In 1987 only 400 motor vehicle thefts were reported — just 10 years later, the number of motor vehicle thefts had increased to 120,000. The increase in motor vehicle theft can be associated with a significant change in opportunity structures. Chinese society quickly changed from a society where motor vehicles were a very rare commodity into a society where motor vehicles became part of everyday life. This trend in opportunity and crime can be observed across a range of increasingly available commodities.

Floating people

Changes also occurred regarding crimes committed by migrants (or floating people as they are called in China). In Beijing, migrant suspects in 1986 accounted for 18.5% of all criminal suspects, but in 1994, 1995 and 1996, the rate jumped to 50%. The

crimes committed by migrants concern mainly property crimes such as theft and robbery — up to 40%. With easing the control of movements from the countryside to the city it has become easier for some to slip into the role of floating people — and the crime risks associated with such a life style have increased.

New crimes and new risks

The development of an economic system which places emphasis on foreign trade and on the complete insertion of China into the world economy has achieved great benefits in terms of economic growth and unprecedented levels of income for large parts of the Chinese population. However, from another perspective, border control has been weakened. Policies of opening the country go along with a process of changing opportunity structures which again are relevant for a whole range of criminal offences, especially cross-border crimes and international crimes such as trafficking in humans, money laundering, or international fraud. After the People's Republic of China was founded in 1949 the central government led a 'hard strike campaign' against drug crimes in 1950 and 1952, and managed to get rid of the last traces of the opium-smoking culture which had also been a sign of foreign economic and military influence. However, since the early eighties, drug problems have returned, not in the form of opium-smoking but predominantly in the form of heroin injection or heroin smoking. This process started first in those regions which are located close to the poppy-growing countries like Burma. According to officially published statistics in 1991, 8395 drug cases were investigated and some 4704 kg of drugs seized by police and customs. In 1998, 184,216 drug cases were investigated and 15,260 kg of controlled drugs seized. From those regions close to opium and heroin producing countries, drug problems and drug addiction spread to metropolitan areas in China.

Criminal law reform

Criminal law reform has systematically attempted to respond to changes in crime and crime structure. At least three phenomena in the newly revised criminal law of China which went into force in 1997 point to this. First, for those traditional criminal offences where new developments or new phenomenon can be observed, criminal law today provides more detailed and precise elements, and also harsher punishments, as is the case for drug offences and drug

related criminal offences. In the Code of Criminal Law of 1979, the maximum punishment for any kind of drug offence was only five years imprisonment (similar to the sort of penalties that applied in most Western societies until the end of the sixties). Soon after the first Criminal Law was enacted drug problems started to spread rapidly. As a reaction to these problems the Congress decided in 1982 to raise punishment for serious drug crimes from a maximum of five years imprisonment to the death penalty. With another legislative decision, illegal possession of drugs has been defined as crime. A second phenomenon is linked to modernisation of criminal law and legislation on new types of criminal offences. Some harmful activities existed for a long time without being defined as criminal acts – for example, money laundering, certain types of organised crime activities, and crimes against the natural environment and natural resources. Although China has introduced legislation which covers such crimes, in practice there remain significant problems of law enforcement. Since money laundering has

courtyard). In this environment neighbours knew each other very well and they would help families with conflicts to solve their problems. There were also street committees which took care of public security, cleaning, and helping older people without family to support them. In recent years, this type of informal control has weakened as a result of modernisation. However, similar local community arrangements still exist in modern buildings. And school teachers are still encouraged to visit problem children at home and to look at their immediate environment.

Another explanation of the low officially recorded crime rate concerns the way of defining crimes in China. This differs from the approach in other countries. Chinese laws have divided illegal acts into two categories: violation of law on the one hand and crime on the other hand. The former, such as minor traffic offences, disturbing social order, illegally possessing firearms, small theft etc., are defined in most other countries as minor or petty criminal offences. In China, these cases are dealt with through administrative proceedings, only administrative

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been made a criminal offence there have been very few cases which have been tried by criminal courts, a situation that is also familiar in the enforcement of money laundering statutes in European countries. There are various reasons for such practice and enforcement problems, the main reason related to the fact that – unlike conventional crime – personal victims and witnesses who have a significant interest in reporting the crime are few. Third, economic and technical developments in the 1980s have led to conditions which demand criminalisation of new types of crimes, such as stock-exchange related crimes and computer crimes.

Differences in crime rates

When comparing crime rates in China with those observed in developed Western nations or in transitional societies (in eastern Europe or in Africa for example), it has to be pointed out that enormous differences in crime rates remain and that the crime rate in China (as measured by court statistics) is still remarkably low. This is evidently due to a still functioning system in China of informal controls which are exerted by the family and the neighbourhood. Social and economic change to date has not weakened these types of behaviour controls in the way they have been affected in Western societies during periods of modernisation. To take Beijing as an example, before the reform process was initiated, political conflict was not uncommon but the crime rate was very low. Most of the citizens lived in the old type of Beijing buildings called *Siheyuan* (a compound with houses around a

punishments can be imposed, and they are not defined as ‘crimes’. It is only more serious activities which fall under the category of crimes in China and are processed through the criminal justice system and counted in official crime statistics.

Formal control and criminal law

Chinese society relies also very much on formal control and criminal law in containing crime and responding to criminal offenders. In principle, the crime control model is highly respected and pursued in practice. Criminal sanctions imposed by Chinese criminal courts are relatively severe in comparison with European countries. There still exist very few alternatives to imprisonment. The idea of implementing intermediate type penalties has not yet gained momentum, although there is a discussion of such alternatives. However, the rate of imprisonment is high in relation to the low crime rate — currently the imprisonment rate is approximately 100 per 100,000 inhabitants and is therefore close to what can be observed in quite a number of Western European countries. The death penalty is retained in Chinese criminal law. Although there are debates on abolition with most officials and academics agreeing that the death penalty should be abolished some day, there is also a consensus on retaining the death penalty at present and delaying abolition until more favourable conditions have been achieved. Both ordinary citizens and legal practitioners believe firmly that the death penalty serves as a major deterrent of crime and is demanded by the public.

Criminal procedures

Criminal proceedings in China are designed to pursue the model of crime control. However, there is a constant move towards introducing rule of law principles and strengthening major traditional legal institutions. From some implementation difficulties we see a conflicting sense of values towards criminal justice policies. To take one major problem of implementation, the character of law reform in this period of economic transition can be observed. The criminal procedure law reform (as of 1996) made great progress for the role of criminal defence, however in practice defence counsel still plays a relatively weak role. With the latest procedural law reform, the trial model adopted in China has also moved slightly towards the adversarial model, but judges still play a dominant role during the trial. Although China has made significant moves towards re-establishing such traditional legal institutions as the judge, the public prosecutor and defence lawyers, and in providing for the efficient education and training of law students at law faculties, time is still needed to see the results of all of these efforts.

In the future China needs to make further efforts to implement those laws which have been created. Criminal policies should be guided by the pursuit of justice and the rule of law, and eventually should also provide for a new relationship between police, prosecution services, courts and the correctional systems, where courts and the rule of law would have greater weight. Ultimately, with such reforms a new balance between crime control and due process should be established.

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INTERNET RESEARCH ON CRIMINAL JUSTICE AROUND THE WORLD

During my work placement at The Centre for Crime and Justice Studies, one of my primary tasks was to undertake a research project which involved locating and contacting individuals to write for the next issue of CJM on the subject of criminal justice systems worldwide.

I began using the Internet to locate individuals or organisations who were concerned with criminal justice systems or who had done research in the past. I was told to concentrate on Asia, Africa and developing countries as there is already a fair amount of information available about criminal justice in western Europe and North America. Predictably, my initial searches did result in many links to western Europe, Canada and especially the US — showing that my search details were far too broad. This meant that I had to sort through hundreds of irrelevant sites in the hope of finding one that I could use. Once I had narrowed my search details I began to find more relevant sites. I found that combining searches with countries, eg 'CJS + Asia', confused searches and that it was better to be concise and focus searches on specific aspects such 'criminal justice systems', 'prisons' and 'crime' and to use key words such as 'international'. I also found that it was extremely useful to utilise a number of different search engines rather than relying on one.

Once I had gathered the names of some possible contacts, I sent out a general e-mail stating what I was looking for and asking for replies from people interested in writing on the subject of criminal justice systems worldwide. I also asked recipients to forward the e-mail to anyone they thought would be interested.

It was suggested to me that I also try a different range of searches such as 'human rights' sites. I did this and located Derechos, an internet-based human rights organisation which works with organisations based in Latin America but coordinates a number of international electronic mailing lists. I sent the general e-mail to Derechos and they forwarded it to those on their lists. This generated a great response and I received replies from around the world from people working in human rights and criminal justice.

I made a list of all of the contacts and their proposals. This was reviewed by the editorial board, who chose to follow up possible contributors they thought would be most suitable for this issue. Many of those contributors gathered from the Internet are featured in this issue, writing about their work in places as distant as Uzbekistan, China, Sudan and Haiti - a great example of the connections that can be made through the Internet.

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