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Peking University Journal of Legal Studies

Crime in China, 1949—2008

Zhao Guoling

On China's Death Penalty System

Guo Zili

Study on China's Criminal Law Response to Anti-Money Laundering in Light
of International Evaluation

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Editors' Foreword

After its exciting debut in 2008, the *Peking University Journal of Legal Studies* has received worldwide attention and acclaim and has been included in leading global academic databanks such as *HeinOnline*. In this volume, we have included an even more dynamic collection of scholarships, on a variety of topics valuable to the Chinese legal development and from a diversified group of authors both at home and abroad.

This volume starts with a symposium on the criminal law, which is composed of four works. Zhao Guoling's *Crime in China, 1949—2008* not only presents the data on crimes in China for the past 60 years, but also provides a more extensive documentation on the nature and scope of such crimes than what has previously been available. It also analyzes the trends, patterns, types of offenders, the causes of crime, and the efforts of the Chinese government on crime control and prevention.

Guo Zili's *On China's Death Penalty System* offers a description of the history, implementation, and procedural standards of the death penalty since the founding of the People's Republic of China. The author calls for minimizing the use of the death penalty even if it cannot be abolished at the current stage, and argues that in general, the death penalty should not be imposed on murders if they are committed with indirect intent, if the victim is partially at fault for his or her own death, or if the murder arises out of civil disputes.

Wang Xin's *Study on China's Criminal Law Response to Anti-Money Laundering in Light of International Evaluation* first examines the evaluation report by the Financial Action Task Force on China's response to Anti-Money Laundering/Combating the Financing of Terrorism (AML/

CFT). Through analyzing the current development, the article then focuses its discussion on the designation of predicate offenses, *actus reus* proofs, the scope of persons or entities liable, and criminal penalties.

Wang Shizhou's *Rethinking the Purpose of Criminal Punishment* proposes that China, in developing a theory of the purpose of criminal punishment, should choose the unified theory based on the principle of prevention with considerations of the various types of punishment and stages of the punishment process. This is based on a careful exploration of the various categories of the modern theories of the purpose of punishment, such as absolute theories, relative theories, and unified theories. The Chinese theory should adopt the retribution principle as the upper limit and the general prevention principle as the lower limit to criminal punishment, while using the special prevention principle for adjustments.

There are six other fascinating articles in this volume.

Zhang qi's *On the Method of Searching for Guiding Cases—On the Basis of Trial Experience* addresses the interesting question: how to judge the similarity between a pending case and a guiding case, so as to decide whether to refer to such a guiding case? The author finds that there are four practical ways for determining the similarity of cases by Chinese judges, and three approaches employed, namely, "directional selecting" according to value, determining after the value judgment, and selecting by referring to societal effect. It summarizes three steps to find guiding cases and puts forward some procedural and methodological suggestions to resolve the tension between form and substance.

Wang Chih-Cheng's *The Legislative Models and Practicing Experiences of the Business Mergers and Acquisitions Act in Taiwan* introduces statutory types of mergers and acquisitions in Taiwan and analyzes related stipulations as well as the statutory procedures. In the light of the statistics of M&As from 2002 to early 2009 and eight leading cases, this research shows how companies exploit the ways of organic reconstruction, such as through merger, acquisition, share exchange, corporate division, becoming more elastic to improve their competitiveness, streamlining their organization or becoming holding companies.

Liu Yan's *How We Regulate Executive Stock Options: The Interaction of Law and Accounting* explores the tension between the law and account-

ing in disciplining the ESO. Through a case study of YL, it shows that both methods of control lose their effectiveness when applied alone: the features of the process-oriented legal requirements not only tilt towards formalism, they even grant companies the opportunity to dodge accounting standards' indirect disciplining function. Therefore, in order to achieve an effective regulation of ESO, further integration of the legal control and accounting restraint is needed.

Shi Chenxia's *Self Regulation of Business Associations and Companies* explores regulatory roles played by business associations and companies in China. It starts with a discussion on the state dominated regulatory environment to explain how state-driven economic reforms have shaped government-business relations and their impact on the autonomy and capacity of business associations in China. The paper further looks at roles played by various stakeholders in corporate self-regulation, and concludes with reform proposals for improving self-regulation of business associations in China.

Lou Jianbo's *Freedom of Contract under Heavy Regulation as Reflected in Real Estate Transactions in Mainland China* investigates the freedom of contract enforced by Chinese courts with respect to real estate transactions within Mainland China, despite the strict administrative regulations pertaining to such transactions. By finding that Chinese judges tend to enforce a contract even if it violates certain prohibitive or restrictive provisions of administrative regulations, the author concludes that they are trying to apply "outdated laws" in a more "updated" manner.

Dunia P. Zongwe's *The Competitive Edges of China's Resource-for-Infrastructure Investment Contracts in Africa* evaluates the competitiveness of China's resource-for-infrastructure (R4I) investment contracts in Africa and determines whether they benefit African countries more than traditional mining investment contracts. The paper proves that R4I contracts best realize the complementarities between the economies of China and African countries, and such contract form should be recommended for cooperation in the mining sector.

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Symposium

Crime in China, 1949—2008

Zhao Guoling *

Abstract:

Data on crime in the People's Republic of China from 1949 to 2008 are presented herein. This data provides more extensive documentation on the nature and scope of crime in China than has previously been available. It also analyzes the trends, patterns, and types of offenders; the causes of crime; and, the efforts of the Chinese government on crime control and prevention.

Text:

I. INTRODUCTION

Since the founding of the People's Republic of China in 1949, and especially the economic reforms of 1978, this nation has experienced profound social change and sustained economic growth. Indeed, from 1949 to now, China's gross domestic product [hereinafter referred to as GDP] has increased annually by an average of 8.1% .^[1] The Chinese economy is now the third largest in the world.^[2] Meanwhile, the nation's crime rate has also undergone drastic change. This paper reports the extent and type of crime experienced in China from 1950, i. e. the first year for which data is available, to 2008. Although there are statis-

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[1] 国家统计局 (National Bureau of Statistics): 《建国以来中国 GDP 年均增长 8.1%》(*China's GDP increased annually by an average of 8.1% since the founding of the People's Republic of China*), 2009. <http://www.beinet.net.cn/fxyj/yjbg/200909/t459468.htm>.

[2] Ibid.

tical gaps within this period, this data provides more extensive documentation on the nature and scope of crime in China than has previously been available. And, it analyzes the trends, patterns, and types of offenders; the causes of crime; and, efforts by the Chinese government on crime control and prevention.

The bulk of the data in this paper is from statistics compiled and published by the Ministry of Public Security of the People's Republic of China and covers all the provinces within mainland China. This data is based on "registered cases", which are cases registered as criminal cases by Chinese public security organizations at both local and national levels. They are based on crimes known to the authorities, investigated by law enforcement agencies, and reported to the Police Registry. Other data reported below refer to those cases in which the offender is actually brought to trial. As in the United States and other countries, the number of criminal prosecutions is considerably lower than the number of offenses committed.

II. CRIME TRENDS SINCE 1949

An overview of the extent of crime in China from 1949 to 2008, is shown in Table 1, which indicates that there have been five separate peaks in the overall rate of crime per 10,000 people since the beginning of 1949, a period of 60 years.

Table 1 Reported Crime Rate per 10,000 People, 1949—2008 (Registered Cases)

Year	Crime Rate	Year	Crime Rate	Year	Crime Rate
1949	No Data	1966—1976	5—6 Average	1993	14.0
1950	9.2	1977	No Data	1994	14.2
1951	No Data	1978	5.5	1995	14.3
1952	4.2	1979	6.4	1996	13.5
1953	No Data	1980	7.6	1997	13.4
1954	No Data	1981	8.9	1998	16.4
1955	3.7	1982	7.4	1999	18.4
1956	2.3	1983	6.0	2000	29.0
1957	No Data	1984	5.0	2001	35.0
1958	No Data	1985	5.2	2002	33.0
1959	3.5	1986	5.2	2003	34.0

(Continued)

Year	Crime Rate	Year	Crime Rate	Year	Crime Rate
1960	3.3	1987	5.4	2004	36.3
1961	6.1	1988	7.7	2005	35.6
1962	No Data	1989	18.2	2006	35.4
1963	No Data	1990	19.9	2007	36.4
1964	3.5	1991	20.8	2008	36.8
1965	3.3	1992	13.8		

Source: *Law Yearbook of China* (1987—2009); *China Statistical Abstract* (2009); Ministry of Public Security; Wang Mu, *Criminology*, Jilin University Press, (1992).

The first crime peak appeared in the first two years after the founding of the People's Republic. This period occurred at the end of the civil war that had deposed Chiang Kai Shek. The new government was concentrating on revamping social and political institutions, and, many difficulties existed in the economy. Much of the crime committed during this period was counter-revolutionary in nature. However, both because of economic and social reforms and the suppression of counter-revolutionary activity, the crime rate dropped drastically. The crime rate in 1952 was 50% lower than in 1950; and, this rate remained low throughout the 1950s, dipping to its lowest in 1956, which was 75% lower than in 1950.

The second crime peak appeared from 1960 to 1962: a difficult three-year period for China. The crime rate in 1961 was 6.1 crimes committed per 10,000 people. This period of increased crime was short lived and limited. Crimes endangering national security declined, but property and juvenile crimes increased annually, perhaps due to the downturn in the nation's economy. However, the rate fell again in 1965. This upturn may be due to the improved economic situation of the nation, after three years of difficulty, and this resulted in a relatively stable social order.

The third crime peak appeared during the Cultural Revolution from 1966 to 1976. According to the criterion of crime applied during the Cultural Revolution, the average crime rate in that 10-year period was 5 to 6 crimes committed per 10,000 people. However, the actual crime rate was more serious than the aforementioned statistics indicate, and was the highest it had been since the founding of the People's Republic

of China. This discrepancy is due to the differing criterion of crime between pre and post Cultural Revolution. Such that had pre-Cultural Revolution criterion of crime been applied, the actual crime rate would have been closer to 10—15 per 10,000 people, double or triple the rate in the period before the Cultural Revolution. Much of the crime during this period was committed in the name of the Revolution. This was a special period in the history of China, and ended with a legacy of increased crime.

The fourth crime peak appeared at the beginning of the 1980s, soon after the conclusion of the Cultural evolution. By 1981, the number of registered cases had risen to more than 890,000. However, the crime rate dropped after the crackdown in 1983 (see below) and with the institutionalization of comprehensive economic management. But this decrease was short-lived, and the crime rate rose again at the end of the 1980s, and the fifth crime peak appeared. Since that time the rate has continued to be higher than in previous years and reached up to 36 crimes per 10,000 people in 2008. Despite having dropped three to four times during this period, there has been a marked increase in crime.

III. GENERAL CHARACTERISTICS OF CRIME: 1980—2008

The preceding discussion provided a statistical outline of crime trends in the People Republic of China for a period of sixty years. We turn now to a detailed analysis of the data on crime in China from 1980 to 2008, a period during which definitions of crime, with certain exceptions noted below, and data collection procedures have remained more or less constant.

As was noted above, although the number of criminal cases fluctuated during this twenty-nine year period, the overall trend has been an increasing crime rate. By 2008, the rate was almost five times as high as it was in 1980. Table 2 shows the number of registered cases for each year from 1980 through 2008, along with the annual percentage change in the rate.

Table 2 Number of Crimes, 1980—2008 and Percent Annual Change

Year	Number of Crimes Reported	Percent Annual Change	Year	Number of Crimes Reported	Percent Annual Change
1980	757,104	+ 19.1	1995	1,690,407	+ 1.8
1981	890,281	+ 17.6	1996	1,600,716	- 5.4
1982	748,476	- 15.9	1997	1,613,629	+ 0.8
1983	610,478	- 18.4	1998	1,986,068	+ 23.1
1984	514,369	- 15.7	1999	2,249,319	+ 13.3
1985	542,005	+ 5.4	2000	3,637,307	+ 61.7
1986	547,115	+ 0.9	2001	4,457,579	+ 22.6
1987	570,439	+ 4.3	2002	4,336,712	- 2.7
1988	827,594	+ 45.0	2003	4,393,893	+ 1.3
1989	1,971,901	+ 138.3	2004	4,718,122	+ 7.4
1990	2,216,997	+ 12.4	2005	4,648,401	- 1.5
1991	2,365,709	+ 6.7	2006	4,653,265	+ 0.1
1992	1,582,659	- 33.1	2007	4,807,517	+ 3.3
1993	1,616,879	+ 2.2	2008	4,884,960	+ 1.6
1994	1,660,743	+ 2.7	Average	2,313,815	+ 6.89

Source: *Law Yearbook of China* (1987—2009); Ministry of Public Security.

The average annual number of registered cases was more than 2,000,000 during the 29 years covered in the table. The lowest number of cases occurred in 1984 and the highest number in 2008. The annual crime rates show an overall increasing trend, with an average annual increase rate of 6.9%. The rate rose in 22 of these 29 years and fell in only seven. However, even in those 7 years, it may be argued that the crime rate actually continued to increase and that the apparent decrease was superficial, as it was the result of changes in definitions of crime and criminal justice policies.

The crime rate of China, like that of most nations, is heavily influenced by crimes against property, such as, theft. Indeed, theft cases account for 60%—80% of all crime cases in the People's Republic (see Table 4 below). However, if standards defining theft cases are revised, the number of criminal cases and the overall crime rate will correspondingly change. There were two revisions in the criteria defining theft during the period since 1980, one in 1984 and the other in 1992 (see Table 3 below).

Table 3 Theft Cases criterion by Urban vs. Rural Residence

Year	Rural	Urban
Before 1984	25	40
1984	40	80
1992	300—500	600

Source: Ministry of Public Security.

The number of officially reported crimes fell following each of these revisions. For example, the criteria (the minimal requisite) defining theft cases was raised from CNY* 15 (about USD** 2.20) to CNY 40 (about USD 5.90) in rural areas and from CNY 25 (about USD 3.70) to CNY 80 (about USD 11.80) in urban areas in 1984. It was increased again from CNY 40 to CNY 300—500 (about USD 44.10—USD 73.50) in rural areas and 80 to 600 CNY (about USD 88.20) in urban areas in 1992. Following these revisions, theft cases in 1984 declined 30.9% from 1983, leading to a corresponding decrease of 15.7 percent in the total number of registered crimes. Similarly, in 1992, the theft rate fell 40.6% from 1991, resulting in a drop of 33.1% in the overall crime rate (see Tables 2 and 4).

Table 4 Types of Criminal Cases, 1980—2008

Year	Registered Cases	Homicide	Injury	Theft	Robbery	Fraud
1980	757,104	8,318	No data	643,000	14,000	15,000
1981	890,281	9,576	21,499	743,105	22,266	18,665
1982	748,476	9,324	20,298	609,481	16,518	17,707
1983	610,478	No data	No data	No data	No data	No data
1984	514,369	9,021	14,526	395,319	7,273	13,479
1985	542,005	10,440	15,586	431,323	8,801	13,157
1986	547,115	11,510	18,364	425,845	12,124	14,663
1987	570,439	13,154	21,727	435,235	18,775	14,693
1988	827,594	15,959	26,639	658,683	36,318	18,857
1989	1,971,901	19,590	35,931	1,673,222	72,881	42,581
1990	2,216,997	21,214	45,200	1,860,793	82,361	54,719
1991	2,365,709	23,199	57,498	1,922,506	105,132	60,174

* CNY: Chinese Yuan.

** USD: United States Dollar.

(Continued)

Year	Registered Cases	Homicide	Injury	Theft	Robbery	Fraud
1992	1,582,659	24,132	59,901	1,142,556	125,092	46,991
1993	1,616,879	25,380	64,595	1,122,105	152,102	50,644
1994	1,660,743	26,553	67,864	1,133,682	159,253	57,706
1995	1,690,407	27,356	72,259	1,132,789	164,478	64,047
1996	1,600,716	25,411	68,992	1,043,982	151,147	69,688
1997	1,613,629	26,070	69,071	1,058,110	141,514	78,284
1998	1,986,068	27,670	80,862	1,296,988	175,116	83,080
1999	2,249,319	27,426	92,772	1,447,390	198,607	93,192
2000	3,637,307	28,429	120,778	2,373,696	309,818	152,614
2001	4,457,579	27,501	138,100	2,924,512	352,216	190,854
2002	4,336,712	26,276	141,825	2,861,727	354,926	191,188
2003	4,393,893	24,393	145,485	2,940,598	340,077	193,665
2004	4,718,122	24,711	148,623	3,212,822	341,908	205,844
2005	4,648,401	20,770	155,056	3,158,763	332,196	203,083
2006	4,653,265	17,936	160,964	3,143,863	309,872	213,648
2007	4,807,517	16,119	167,207	3,268,670	292,549	239,698
2008	4,884,960	14,811	160,429	3,399,600	276,372	273,703

Source: *Law Yearbook of China* (1987—2009); Ministry of Public Security.

In addition to the revisions in the criteria defining theft, crime rates were effected by changes in law enforcement and criminal justice policies. In 1983, 1996, and again at the end of 2000, Chinese officials, faced with increasing crime rates instituted a campaign-style anti-crime strategy. This crackdown, which went under the name of “severe strike” or “hard attack,” was designed to lower the crime rate by a get-tough policy involving an increase in both the speed and the severity of punishment. The three severe strike campaigns achieved rapid results, but their short-term deterrent effects were not sustained over time. Most of the short-term drops in the Chinese crime rate, as shown in Table 2, reflect the redefining of cases involving theft, but the severe strike policy was implicated in both the 18.4 percent drop in the crime rate in 1983, the 5.4 percent decrease in 1996 and the 2.7 percent fall in 2002. The 15.7 percent decrease in 1984 was partly due to the revised definitions of theft, but also reflects the impact of the crackdown on crime which was initiated the year before; whereas, the 33.1 percent decrease in 1992 was largely the result of revisions in the standards for defining