

problems show that, fundamentally, China is not subject to the rule of law, and that domestic legal developments are not meaningfully working towards this endpoint. First, the existence of laws does not mean that they are enforced, let alone against the government. China suffers from massive deficiencies in the consistent and impartial enforcement of laws, as the book's expositions on environmental and intellectual property law vividly show (pp. 109, 127) – though this issue is certainly not limited to these areas.

Second, the law-making and judicial regulatory powers ultimately reside entirely, and without limitation, with the National People's Congress and its Standing Committee, which are run by the CCP (pp. 12–16). This means that, at the highest level, Chinese law is created, administered and enforced by one body. While there is room for different actors at different levels – including courts – to assert themselves and interpret and apply law in particular fashions, the CCP is unchecked in its ability to craft and apply the law as it sees fit when it so desires. This is certainly not the subjugation of power to law; it is certainly not the rule of law. Rather, Chinese law is often a tool of state and Party power, and this aspect of it is inadequately addressed.

In summation, as an introduction to the Chinese legal system, the book is a recommended read for newcomers to the subject. But as a critical assessment of this system, it is wanting.

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Financial Crime in China: Developments, Sanctions, and the Systemic Spread of Corruption

HONGMING CHENG

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In this book, Hongming Cheng seeks to achieve two goals. First, as the title suggests, he aims to provide a detailed study of the development of laws and regulations governing financial crime in China, as well as assessing the evolving enforcement mechanisms that are supposed to control financial crime. This element of the book tends to be relatively technical, although even non-specialists should find these sections informative. The technical detail is also important because the second main theme of the book – the emergence of a predatory power elite that relies on political power to essentially plunder the economy – would seem to suggest that the spread of financial crime in China is the result of its failure to develop legal and regulatory structures. Cheng, however, argues the opposite, asserting that it is these structures that have empowered China's new elite and become the mechanisms through which they perpetuate their predatory rule.

Second, and perhaps more critically, Cheng, who is a sociologist rather than a financial specialist, seeks to explicate the social and political context in which financial crime has grown in post-Mao China. According to Cheng, the bulk of financial crime in China is linked to what he calls the new “blue blood elite.” This elite includes what others describe as the “princelings,” the offspring of China's first generation revolutionary elite. The new elite is not, however, coterminous with the princelings. In fact, according to Cheng, the princelings make up only a portion of the new power elite. Much more of the blue blood elite is made up of what he describes as a new technocratic elite that

began to acquire positions of power in 1980s. Populated by individuals whose parents were members of what Cheng describes as China's "middle class" (a term that seems misplaced since it is generally believed that China had no middle class until the 1990s or perhaps even more recently), the technocratic elite used advanced education and training to gain positions of authority in the new financial, corporate and regulatory institution created by China's abandonment of central planning.

In Cheng's view, this technocratic elite is embedded in the older political elite, including the military, state officials and Party cadres. The new elite, however, also penetrates the economy through its control of the some 150,000 state-owned enterprises, the financial system and the regulatory institutions. China's emerging class of private industrialists, capitalists and entrepreneurs are, according to Cheng, intimately tied to the political and technocratic elite and essentially dependent on its ties to political power for its economic power. Economic power, in other words, grows out of political power. As a result, rather than spawn a private elite that might serve as counterweight to the public elite and hence might act as a force for political reform and liberalization, three plus decades of reform in China have created a dependent class of private economic elites that colludes with the political and technocratic elites rather than constrains them.

As a class, Cheng asserts, China's blue bloods, princelings and dependent private capitalists exist in a post-Marxist social climate characterized by "anomie," a lack of "financial ethics," and a "moral vacuum." China's "premature capitalism" has, in fact, spawned a culture that places paramount emphasis on "face" and the acquisition of wealth. Money, regardless of how obtained, has become the "exclusive denominator, defining prestige and excellence" (p. 139). In such a climate, corruption, fraud, tax evasion and financial crimes have naturally flourished, Cheng concludes.

The situation is exacerbated, Cheng argues, by the fact that those in the blue blood elite can rely on their political connections to block, stymie and obstruct efforts to enforce the complex web of laws and regulations enacted since the 1980s. These same laws and regulations are used, however, against those without political connections. It has thus not been the lack of laws and regulations that has fuelled financial crime, but rather the selective and arbitrary use of the law. Selective enforcement has thus allowed the political elite to enrich themselves at the expense of the majority of society, with the result, Cheng reports, that "common" Chinese now "hate the rich" and "hate the government officials" (p. 160). Cheng thus speculates that rising social tensions fueled by inequality and financial crime could pose a threat to economic and political stability if left unchecked. Although the current anti-corruption campaign may have some "limited deterrent" effect, he argues, the leadership's increasing reliance on the Party's extra-judicial Central Disciplines Inspection Commission could further undermine and pervert the legal and regulatory structures need to effectively hedge against financial crime and hence the power elite's arbitrary and predatory rule.

In sum, the major impact of Cheng's book is not so much as a study of why financial crime has flourished in contemporary China. Rather its strength rests on its focus on the sociology of power and how regulatory institutions have contributed to what Cheng terms "the systematic spread of corruption." The result is an interesting argument that Cheng supports with extensive anecdotal evidence drawn from reports on financial crimes and his own interviews. Data are, however, perhaps the most significant limitation of Cheng's analysis. He is making a large and, I believe, interesting argument, but the scope of the argument may exceed Cheng's evidentiary base.

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