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# BLACK SOCIETIES AND TRIAD-LIKE ORGANIZED CRIME IN CHINA

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### Introduction

Since the first edition of this chapter was written in June 2012 the policing and anti-corruption institutions of the People's Republic of China (PRC) have undergone profound changes, leading to a coordinated national effort to 'sweep away the underworld'. The anti-corruption effort has shifted from periodic crackdowns on organized crime to tackling the underlying causes and stressing education and rectification as long-term preventive measures. Reform of the political and legal affairs apparatus of the PRC party-state has impacted substantially on the nature and scale of organized crime in China. A sustained national effort against criminal gangs and enterprises and corrupt officials has also led to the dispersal and displacement of organized criminal activity to neighbouring South East Asia and further afield (Broadhurst 2017; Chalmers 2016).

The ascendancy of Xi Jinping to the post of general-secretary of the Chinese Communist Party (CCP) in 2012 and president of the PRC in 2013 came in the wake of the 'Wang Lijun incident', a high-level corruption and abuse of power scandal involving Chongqing party secretary Bo Xilai, a key leadership rival. The event shook the Chinese leadership and prompted a major anti-corruption campaign that led to the arrest of thousands of party 'tigers and flies' (low and high officials). In January 2018 President Xi Jinping commenced his second term at the helm of the PRC by reinforcing all-out efforts to promote social stability and internal security while openly recognizing the corrosive link between crime and corruption. Consequently, State Council and the CCP Central Committee "under the core leadership of comrade Xi Jinping" sought to sharpen party discipline and ideological fidelity and to expose and eliminate corrupt officials (or 'protection umbrellas' – *baohusan*); first among law enforcement (and local political-legal affairs committees) and more broadly the officials of the party-state who collude with organized crime or turn a blind eye to grassroots corruption. The popular anti-corruption campaign, which had prioritized miscreant CCP party members ('tigers and flies'), now turned specifically to the dangers of the capture of law enforcement officials by criminals. The establishment of a permanent National Supervision Commission (NSC<sup>1</sup>) in early 2018 integrated the powerful Central Commission for Discipline Inspection (CCDI) and the Central Political and Legal Commission (CPLC, *zhongyang zhengfawei*) to sharpen oversight over the integrity of party cadre from village to centre has transformed anti-corruption investigations (Deng 2018; Greitens 2020).

Corruption long perceived as a key threat to the legitimacy of the CCP ultimately prompted a radical reorganization of the approach to domestic security and extensive reform of the political and legal institutions. A number of high-ranking cadre ('tigers') in both the military and political-legal affairs have been convicted of corruption. Most prominent was Bo Xilai's patron Zhou Yongkang, the former Politburo Standing Committee member, minister of public security, and chair of the Central Political and Legal Affairs Commission, who was detained in 2013 and convicted in 2015 of corruption and abuse of power. Zhou was the most senior official to be convicted, but others included the head of Interpol Meng Hongwei, a former deputy minister of public security detained in 2018 and convicted in 2020 of corruption, and in August 2020 Gong Dao'an, vice-mayor of Shanghai and director of the Public Security Bureau (PSB), was under investigation by the CCDI and NSC (*China Daily* August 19, 2020, online<sup>2</sup>). The campaign to eliminate organized crime (black societies and evil forces) firmly targets "scraping poison from the bone": the poison being the 'protective umbrellas' in government and party that enabled 'gangsterism' to flourish (Mulvenon 2019). Under the banner "Clearing Away Organized Crime and Eliminating Vice" (*saohei chu'e zhuanxiang douzheng*) or colloquially "clearing out the underworld" and "sweep away the black and evil forces", a sustained purge of officials that protect 'underworld forces' intensified to remove corrupt influence and interference at odds with the CCP and ensure commitment to the core leadership.

This chapter briefly outlines the criminal activities of 'black societies' or triad-like crime groups in China and discusses theories about their emergence and resilience. We review measures taken to suppress organized crime, including developments in the criminal law and anti-corruption efforts in the PRC and legal reforms in the Hong Kong Special Administrative Region (HKSAR). We explore Chinese definitions and views about criminal organizations, corruption and current efforts to crush the underworld and its hidden influence on the PRC party-state.

## **Background**

Within the short span of 40 years China has rapidly transformed into one of the world's most dynamic and globalized economies. This transformation also provided opportunities for traditional and new crime groups to exploit licit and illicit markets, trade links and connections in the wake of the rise of private enterprise. After the establishment of the PRC in 1949, the punitive People's Tribunals repressed crime groups that once flourished in pre-communist China, such as the notorious Shanghai Green Gang, along with drug addiction, feudal remnants and 'exploitation of the masses'. However, rapid change from a socialist command economy to a quasi-capitalist market economy accompanied by regulative uncertainty engendered a parallel increase in crime (Zhong 2009; Bakken 2005), especially crimes committed by 'black and evil' forces (Xia 2006; He 2009). In the first phase of economic reform (1979–97), criminal gangs gradually re-emerged, especially in the form of Hong Kong, Taiwan and Macau triads in Shenzhen (Chiu 2010). As early as 1982–83 the Shenzhen government issued the 'Notice on Abolishing Black Society Activities' in the face of the growing presence of Hong Kong triads (He 2009: 200). Despite the successive waves of strike-hard against crime campaigns launched since the early 1980s, crime groups continued to emerge and expand their activities (Trevaskes 2010). The re-emergence of black societies and evil forces (the latter putative crime gangs and criminal organizations yet to develop into a black society) also resulted in efforts over the last decade to suppress them and prevent capture of elements of the state and party.

The presence of mafia or triad-like crime groups or 'black society' (*hei she hui* or *hak she wui* in Cantonese)<sup>3</sup> was not, until recently, officially recognized because the existence of fully-fledged

criminal organizations or black societies have long been considered incompatible with Chinese communism (Liu and Wu 2002). We adopt the term ‘black society’ and ‘triad-like’ to capture the idea of a criminal organization that may or may not have triad or secret society origins. Organizations with the ‘character of black society’ are, in Chinese law, a type of crime group, and they can be distinguished by their attachment to a particular locality, the use of violence, durability and command complexity (Zhang 2010). Nevertheless, since the trial of high-ranking party official Bo Xilai on grand corruption in 2012 (and subsequent disgrace of his patron, Minister of Public Security Zhou Yongkang in 2013), alarm over the influence of black societies as a driver of corruption in the PRC made their suppression central to the consolidation of Xi Jinping’s authority (Broadhurst and Wang 2014; Wang 2020).

The main feature of fully-fledged black societies is their reliance on official protection (‘umbrella’) and the adoption of legal business forms (Liu and Wu 2002; Wang 2017). Black societies operating ‘behind the curtain’ have sometimes captured local authorities and challenged the local authority of PSB and People’s Court officials (Choi 2007). Triads have also been depicted as a worldwide network that uses connections among overseas Chinese for drug and human trafficking (Lintner 2003). Chin and Zhang (2003; Zhang and Chin 2008), however, questioned the existence of such global networks because of a ‘structural deficiency’ that arises from the strength of the local subculture, which also limits the capacity to develop strong transnational networks (see later). However, the ‘structural deficiency’ arising from the localized origins of Chinese crime groups has been partly overcome by the development of secure (encrypted) global communications, interdependence of illicit supply chains and novel means of payment for illicit services and contraband (e.g. crypto-currencies). The emergence of black societies in China, sometimes with the aid of Hong Kong (HK), Macau or Taiwan triad connections (Chin 2003; Xia 2008), raised concerns about the influence of foreign criminals and encouraged cooperation with foreign police services (Xie and Wang 2005; Zhang Yan 2019).

Loose confederacies or alliances among triads often arise. *Sam Gor* or “The Company” presents a current example that coalesced to leverage interdependencies between HK and Taiwan triads to exploit the lucrative illicit drug trade, notably amphetamine-type stimulants (ATS), synthetic opioids and novel psychoactive substances (NPS). This crime network quickly adapted to the opportunities arising from the dispersal and displacement of high-risk ‘grey’ businesses that formerly enjoyed protection in the PRC. According to Australian law enforcement and other sources, *Sam Gor* or “The Company” links the *Sun Yee On*, *Bamboo Union*, *14K* and *Wo Shing Wo* triads with crime groups in South East Asia, Australia and the Americas in the production and smuggling of illicit drugs from the Golden Triangle. Allegedly led by fugitive Canadian citizen (a former Chinese national) Tse Chi Lop, once linked to the *Dai Heun Jai* (Big Circle Boys) and a convicted drug importer, *Sam Gor* reputedly dominates the ATS, opioid and NPS trade in SE Asia and has been estimated to earn revenue in excess of US\$18 billion per annum (Allard 2019).

### Evolution and activities of ‘triads’ or ‘black’ societies

Contemporary black societies, such as the Hong Kong triads, have become more corporatized (Chu 2000) and operate beyond traditional protection services, predatory street crime, vice, extortion and drug dealing predicated on brand violence to embrace diverse mixed licit and illicit business activities that also include trafficking, copyright, Internet and financial crime. The latter activities exemplify so-called soft violence, a current focus of efforts to sweep away black societies. Cole (2010) also noted a similar trend of gentrification among black societies in

Taiwan such as the *Four Seas* and *Bamboo Union*. Triad-like groups are not exclusively criminal but are loose brotherhoods (often master-disciple form) bound by social as well as economic ties. Many of the traditional rituals performed at initiation and promotion have become perfunctory, while traditional values such as the exclusion of women or foreigners and the imposition of strict punishments have weakened. Organizational forms have also been transformed to become less hierarchical and visible (Yu 1998; Ip 1999). Ip (1999) and Xia (2008) also noted that triad rituals had been copied from films romanticizing triads and revived by contemporary black societies.

The arcane history of the 'triads' created a self-serving mythology about them that drew on precepts of loyalty and brotherhood central to Confucianism (Bolton *et al.* 1996; S. Zhang 2009). Their violent subculture originated in the vigorous market competition of the nineteenth and early twentieth centuries over waterfront labour and competition over the lucrative (and later illicit) opium trade (Morgan 1960; Lim 1999). In largely immigrant societies, such as Hong Kong, Singapore, Shanghai and other coastal cities with a large 'floating' population, triad-like groups provided social capital in lieu of family, place and clan affiliation. Membership offered protection for vulnerable individuals exposed to unemployment and social exclusion. The triad secret societies that emerged in the late Qing were seen as a threat to both the Chinese imperial and later British colonial order, and suppression forced elements of these mutual aid societies underground (Mei 2003). The criminalization of membership of triad societies led to their full transformation into the 'black society', whose members often competed for a monopoly over illicit activities and involved themselves in protection, mercenary violence and predatory crime (Murray 1993).

### **Activities**

In Hong Kong, triads have long been regarded as "simply a criminal conspiracy that has been given statutory recognition" (see *R v Sit Yat-keung* 1985 cited in Broadhurst and Lee 2009). There were about 50 known triad societies reportedly operating in the 1970s–90s, of which 15–20 commonly came to the attention of the police due to their criminal activities (Hong Kong Fight Crime Committee 1986; Ip 1999). The largest among them were the *Sun Yee On*, *Wo Shing Wo*, *14K* and *Wo Hop To* (Chu 2005). No estimates of membership or active groups are currently ventured. These groups operated as territorial-based street or youth gangs drawn from disadvantaged areas, who often served entrepreneurs or 'racketeers' in illegal enterprises and projects. They were loosely connected and reinforced their authority by means of threats or signs associated with triad subculture. Lo and Kwok (2017) explored the changes in recruitment of triad among disadvantaged youth and observed a shift towards engagement in criminal enterprise rather than the cultivation of violent reputations in the service of the protection of illicit markets.

Typical offences reported in Hong Kong, Macau, Taiwan and Guangdong and other provinces include street-level narcotic trafficking, illegal gambling, loan-sharking, blackmail, extortion, price fixing and protection rackets involving local shops, small businesses, restaurants, hawkers, construction sites, recycling, unofficial taxi stands, car valet services, columbaria and funeral services, wholesale and retail markets, and bars, brothels, billiard halls, mahjong gaming, karaoke and nightclubs often associated with prostitution. Triads have also monopolized home decoration companies, the film industry, waste disposal and non-franchised public transport routes. Counterfeit products, pornography and cigarette and fuel smuggling are also important sources of illicit profit (Broadhurst and Lee 2009). In the PRC a similar variety of offences is found. Recent cases show how gangs use violence to monopolize a local commercial activity

and, through ‘public relations’ and corruption, evolve into a black society operating large-scale business (e.g. Zhang 2010).

The first PRC nationwide strike-hard (*yanda*) campaign against the ‘black and evil forces’ (December 2000–April 2003) uncovered 631 organizations with the ‘character of a black society’. The second campaign (February 2006–September 2009) yielded 1,267 suspected black society organizations (Zhou 2009). Since January 2018 a further national effort led by the NSC and key law enforcement agencies to “sweep away the black” targeted the role of public officials in crimes of a ‘gangland nature’ (Supreme People’s Court 2018). The ‘clear the underground’ campaign due to conclude in 2021 reportedly detained 79,000 suspects as of April 2019 (Guo Rui 2019). Reports covering the first phase of the campaign released by the CCDI and NSC noted high levels of reports by citizens, 1,791 corruption and protection umbrella cases and the elimination of 96 criminal gangs as well as 180,000 suspects who took advantage of inducements to voluntary confess and surrender (Greitens 2020: 4–7). The Economist (2019) reported Chinese media claims that 10,000 gangsters had been brought to trial and 6,000 criminal gangs eliminated aided by citizens offered rewards for leads and tips.

A 2020 guiding case issued by the Supreme People’s procurator, the *People v Xie*, illustrated the model forms of organizing and leading an organization of a gangland nature. These included picking quarrels and provoking troubles, gathering a crowd for a brawl, racketeering, opening casinos and committing intentional injuries. This case also stressed concern about the employment of minors in the activities of criminal syndicates, especially drug distribution and smuggling. In another example, Zhanjiang city in Guangdong broke up “taxi-business mafias”, “sand tyrants” (gangs that control the sand-mining industry), “sea tyrants” (gangs involved in the seafood business) and “basket tyrants” (those engaged in the basket trade) (The Economist 2019). Subsequent reports include case examples of corrupt links between gang leaders, village heads, party secretaries and local PSB officers that bully and oppress the people. A difference from previous ‘strike hard’ campaigns is the permanent national framework provided by the NSC linking CCP cadre integrity and the work of the CCDI and the Discipline Inspection Committees (DICs) with the suppression of underground actors (Li and Wang 2019).

Chinese studies of black societies describe their structure and activities. Tan and Yang (2009) analysed 20 organizations in North West China with the “character of a black society” that involved 180 offenders of low “cultural quality”. The authors found offenders were poorly educated and relatively young, with two-fifths aged 21–30, although ages ranged from 17 to 47. Just over a third involved groups of less than 10 persons, and the relationships among them were limited to relatives, neighbours and work colleagues. Over two-thirds (69 per cent) involved ‘umbrellas’ and two out of five (43 per cent) used police protection or connivance. Mo and Zhen (2010) examined 76 organized crime cases in central China (Hubei Hunan, and Heinan). Most ( $n = 64$ ) involved organizations with the ‘character of black society’, and 12 cases involved simple gangs, but none involved fully-fledged black societies, although murder assault and robbery were common offences. Only one case had connections outside of China, and nearly a third ( $n = 22$ ) conducted activities under the cover of legal business. These studies pre-date the rapid growth of CCTV and other surveillance technology so ubiquitous throughout contemporary PRC. Sharp declines in street crime have been widely reported in state media – the official crime rate falling substantially since 2009 while arrests of criminal suspects peaked in 2018 (World Bank 2020; Statista<sup>4</sup>). Detailed statistics on gang violence are not available.

The activities of black societies and triads expose them to contests over status, markets or territory, and the presence of violence may be a marker of their prevalence. Territorial or honour contests are disruptive to illicit markets and attract unwanted police attention and may deter customers from seeking the illicit services provided. Cases of triad-related homicide in Hong

Kong between 1989 and 1998 reveal the nature of triad violence and show that most lethal events (49.5 per cent) occurred between competing lower-rank triads often involved in street-level crime. These events were diverse, sometimes combining honour-like contests with disputes over territory. Lethal violence between competing illicit entrepreneurs occurred in a fifth of cases (21.1 per cent), and customers of illicit goods and services also comprised a significant proportion of fatalities (16.8 per cent), some associated with unpaid debts. Internal punishment of a triad was less common (13.8 per cent) but occurred equally in the context of the street-level group or the network-like syndicate (Lee *et al.* 2006).

### Theories of 'black societies'

In the general context of China's rapid economic and social change, functionalist theories of crime as a form of adaptation enhanced by anomie at the institutional level are relevant (Messner and Rosenfeld 2009; Bernberg 2002). Institutional or regulatory weakness occurs alongside anomie when the 'rules of the game' are unclear, such as in a transitional economy or a colonial order of dubious legitimacy. In these circumstances a permissive environment for organized crime emerges. Lo (2010) applied the notion of social capital in this context and discussed three explanations of triad-like groups that have been advanced: *structure-control*, *social network* and *social capital* approaches.

The structure-control theory emphasizes a formal structure based on the master-disciple relation and triad subculture or values that facilitate the discipline necessary to minimize social exclusion and exploit illicit markets (e.g. Morgan 1960). Lo (1984) observed that Hong Kong street gangs were protected by triad societies and their activities were influenced by triad subculture, such as sworn brotherhood and loyalty. Triad norms and punishments ordered their behaviour and created internal cohesion but rivalry with other gangs. Triads fostered a fictive family where members were expected to support their brothers, sacrifice themselves for the triad and take revenge if others attacked them. Through such structural and subcultural control, triad societies are able to run illicit activities despite the risks from police, putative rivals and other triads. Triad-like groups often have a distinct subculture and hierarchical structure, but individual members, not the organization, run the illicit business, like a franchise. Members of different triads can join illegal entrepreneurs to run an illicit or 'grey' business, but do not need permission from leaders and often link with other crime groups for particular criminal activities.

The social network approach to criminal groups stresses *guanxi*. *Guanxi* defines reciprocal obligations in personal and social networks as the basis of contemporary organized crime. *Guanxi* is also a fundamental element of social capital but draws on the notion that reciprocal relations create trusted networks with similar obligations to those within families or clans. Since the 1990s, triad-like groups have been undergoing a process of transformation that involve decentralization or 'disorganization' and have become loose networks with more fluid and dynamic structures (Xia 2008). Internal conflict and clashes between triad-related gangs are common, while cohesiveness and members' loyalty and righteousness have diminished (Yu 1998). To maximize profits and expand power and territories, members from different triads often combined to run both legitimate and illicit businesses (Chu 2000, 2005). *Sam Gor* provides an example of how these interdependencies enable otherwise local crime groups to engage in global illicit enterprises and trade. Although subcultural norms (e.g. rituals, oaths, secrecy and brotherhood) have been diluted and triad-like groups are more disorganized, *guanxi* is a crucial expression of relationships that helps maintain trust among disparate groups and individuals (Williams and Godson 2002).

Zhang and Chin's (2002, 2008) structural-deficiency thesis argued that the culture and organizational structure of triad societies, though effective in enforcing control in local neighbourhoods, is incompatible with the dynamic nature of transnational crime, drawing on the example of human trafficking. Human trafficking, in their study, was dominated by individual triads or entrepreneurs who make use of their own familial and social networks to commit crime. These players come from diverse social backgrounds and legitimate businesses and are well connected with wider society. They team up because they share the same entrepreneurial drive to make quick money and, because they are not part of a triad structure nor bound by triad rules, they can easily join or leave these illicit activities in response to criminal opportunities (Zhang and Chin 2002). Such project-driven groups exemplify the utility of trusted networks over traditional command and control structures. These networks of criminal actors evolve when lucrative business that requires supply chain continuity, such as that found in the synthetic drug trade, necessitate coordination. Interdependent triad-like groups such as *Sam Gor* thus link capability (finance, production, transport and wholesale distribution) across both triad and non-triad crime groups at the local, regional and global level.

To account for the interdependence of triad-like groups and their revenue from criminal enterprises, Lo (2010) argues that the aforementioned theories are insufficient as both underplay the role of social capital to explain the connections between political interests, social networks and organized crime. Lo based his work on a case study of the *Sun Yee On*, one of the most powerful Hong Kong triads. The *Sun Yee On* is reportedly engaged with other triads in the highly profitable and global trade in illicit drug sourced from their long-held connections with the warlords of the Golden Triangle and the Chinese grey business that supply essential precursor chemicals (Allard 2019). Lo distinguished networks based on bonding, bridging and linking social capital. *Bonding* social capital is characterized by dense interactions and collective actions within relatively homogenous groups of people (Putnam 2000). Although bonding social capital strengthens norms of reciprocity, solidarity and trust, it is inward looking, excluding other social groups with diverse backgrounds, and as such has the negative consequences of limiting illicit opportunities or increasing conflict between groups. Triads might be limited by bonding social capital due to the emphasis on internal control and subculture, as per the 'structural deficiency' thesis argued by Zhang and Chin (2008). In contrast, *bridging* social capital promotes interactions between diverse and heterogeneous groups of people while *linking* social capital also involves vertical relationships with those in authority. Bonding and bridging social capital essentially link groups in horizontal networks. In asymmetric power relations (as in relations between the state and crime groups with the 'characteristics of a black society'), linking social capital strengthens ties between state organizations and less powerful organizations. Such vertical linking enables access to power, social status and wealth by diverse social groups, including criminal groups.

Accordingly, rather than suppressing triad-like activities in Hong Kong, the mainland Chinese authorities deployed a 'united front' tactic to *include* triad leaders as their allies. A 'patriotic triad' label served such a function and was an example of linking social capital that enabled leaders of the *Sun Yee On* to develop 'bridging capital' with state-owned enterprises in China. Triad leaders were thus co-opted but also had to comply with demands for law and order by officials in exchange for business opportunities. They converted the social capital they had developed into economic capital through illicit means in the stock market as well as through illicit markets (e.g. counterfeit products).

The structure-control approach focuses on the nature of associations, whereas the social network model specifies the types of mutual activities (Cohen 1977; Levi 1998). The structure-control model emphasizes the internal organization of a triad-like society; the social network

model looks beyond command and control to examine the triad's relationship with external parties that helps them survive and grow. The social capital approach recognizes the role of both vertical and horizontal relationships in maintaining external connections needed by a crime group by distinguishing between bridging and linking social capital. The social capital approach helps explain the transformation of criminal groups into black societies and the development of more enduring structures that occur when a political-criminal nexus is formed (Chin and Godson 2005). Given the role of social capital in the transformation of organized crime, different policing strategies and countermeasures are needed. Disrupting the different forms of 'capital' suggests that the emphasis should be on strengthening anti-corruption measures, crime-proofing licit business, seizing tainted wealth and ensuring that measures against bribery and intimidation are effective rather than relying on offender-centric approaches.

### **The suppression of 'black societies' in China**

Concern about the role of criminal secret societies has a long history. Anti-triad laws prohibiting membership in Hong Kong, for example, date back to 1845. However, in post-reform China, only recently have the former colonial territories Macau, Hong Kong and Taiwan<sup>5</sup> developed comprehensive anti-organized crime legislation and strategies, while on the mainland efforts were aperiodic, fragmented and underdeveloped until the 2018 'sweep away black' campaign and the creation of the NSC which also casts black societies and evil forces (putative crime gangs) as threats to the political system and party authority (Cheung 2020; Wang 2020).

#### ***Hong Kong and Macau Special Administrative Regions (SARs)***

In HKSAR the law had been "cast wide . . . to enable triad type activities to be stamped out" (*HKSAR v Chan Yuet Ching*, cited in Broadhurst and Lee 2009) and triads have long been regarded as a criminal conspiracy. Suppression of corruption among police had been a priority in post-war Hong Kong. A series of scandals involving corrupt police officers led to political intervention and the establishment of the Independent Commission Against Corruption (ICAC) in 1974, with powers to compel witnesses to give evidence and to examine unexplained wealth. This severed the symbiotic link between the police and triads (Cheung and Lau 1981) and hostility towards any symbiotic relationship between organized crime and police thereafter sustained. Corruption had provided the soil upon which the triads flourished; without it growth was limited. Specific measures such as the Drug Trafficking (Recovery of Proceeds) Ordinance of 1989, the 1994 Organized and Serious Crimes Ordinance (OSCO) and later amendments and statutes granted law enforcement agencies further powers to protect witnesses and intercept communications associated with organized crime.

Following the establishment of the ICAC, 14,269 arrests for triad memberships were recorded between 1974 and 1977, and police claimed that triads were in terminal decline. Arrests of alleged triads fell steadily from a peak of 2,745 in 1972–76, to half that (1,337) in 1991–95 and then an average of 780 arrests per annum in 2000–08. Arrests for triad-related offences, however, increased over the past decade, averaging 1,881 per annum (e.g. 2,037 in 2010, and 1,353 in 2019: Hong Kong Police 2020). Over time, the age of offenders arrested declined: 56 per cent were under 21 years of age in 2008 compared to 72 per cent in 1989; but in 1959 only 8 per cent of those arrested for triad offences were under 21. The patriotic origins and social roles of the triads faded among the looser triad-affiliated youth and street gangs but nevertheless supply the muscle that criminal entrepreneurs need to protect illicit markets and transport and distribute contraband.



The reforms in Hong Kong acknowledged that police had concentrated on the presence of triads and the perpetrators of organized crime rather than those who influenced or controlled them. The law reforms broadened the concept of what constituted organized crime beyond the ambiguous identity of the triad. Organized crime groups were redefined as any triad society or any group of two or more persons associated solely or partly for the purpose of engaging repeatedly in offences such as drug trafficking, loan-sharking, extortion, corruption, blackmail, prostitution, illegal gambling, import of illegal immigrants, robbery, forgery and smuggling. In a similar way, Macau amended the 1995 Macau Penal Code and redefined organized crime in 1997 as “associations or secret societies” constituted for the purpose of obtaining illegal advantages (Article 1: 1). The definition also required that the “existence of the association is manifested in an accord, agreement or in other ways” (Article 2: 2), aimed at committing one or more specified serious crimes.<sup>6</sup> A secret society need not have a clear hierarchy, have places to meet, meet regularly or have written rules of formation and profit sharing to be proven to exist.

### ***People's Republic of China (PRC)***

The first PRC Criminal Law promulgated in 1979 defined a crime group or syndicate as “hooligan activities and groups” (Article 160). This proved difficult to interpret in practice, despite a joint ‘Explanation’ by the Supreme Peoples’ Court (SPC) and the Supreme People’s Procuratorate (SPP) during the first national strike-hard campaign in 1984 (Zhong 2009: 135). In the 1997 extensive revision of the Criminal Law, clauses on hooliganism which emphasized group behaviour were divided into those on “molesting and humiliating women” (Article 237), “assembling to have brawls” (Article 292), “undermining public order with provocative and disturbing behaviours” (Article 293) and “assembling a crowd to engage in promiscuous activities” (Article 301). The 1997 Criminal Law retained the 1979 concept of a ‘criminal syndicate’ and defined it as any relatively stable criminal organization, which is composed of more than three persons for the purpose of jointly committing a crime (Article 26). Although police had cracked down on a substantial number of gangs and criminal groups, the existence of ‘black societies’ like the Hong Kong triads was officially denied. Only crime groups of the ‘character of a black society’ that played the tyrant in a locality existed.

Organizations with the ‘character of a black society’ are more formal than a criminal gang (Article 26, Criminal Law 1997), with positions for a leader, mid-level organizers and core members, as well as ordinary or affiliate members subject to internal discipline. Article 26 holds organizers and ringleaders criminally responsible for offences committed by the group. Proto ‘black societies’ are also profit oriented but have a stable income derived from providing illegal drugs or goods, extortion and receiving protection fees from legal business. They use violence or threats to extort or manipulate a market or business or elements of society. Finally, officials provide protection through the use of bribery, threats or induction, or by placing a member into a government agency to provide an ‘umbrella’. Article 294 of the 1997 Criminal Law defines organized criminality as

Whoever forms, leads or takes an active part in organizations in the nature of criminal syndicate to commit organized illegal or criminal acts through violence, threat or other means, such as lording it over the people in an area, perpetrating outrages, riding roughshod over or cruelly injuring or killing people, thus seriously disrupting economic order and people’s daily activities, shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years; other participants

shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, public surveillance or deprivation of political rights.

Article 294 also refers to the activities of overseas criminal groups:

Members of Mafia abroad who recruit members within the territory of the People's Republic of China shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Whoever, in addition to the offenses mentioned in the preceding two paragraphs, commits any other offences shall be punished in accordance with the provisions on combined punishment for several crimes.

Article 294 also identifies the threat of so-called red-black collusion (Wang 2017):

Any functionary of a State organ who harbors an organization in the nature of criminal syndicate or connives at such organization to conduct illegal or criminal acts shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or deprivation of political rights; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years.

Three activities are criminalized by Article 294: (a) organizing, leading and participating; (b) recruitment by overseas organized crime; and (c) officials 'harbouring and conniving' with criminals. Harsh punishment is meted out for offenders who lead and officials who protect them. Due to the ambiguity of what is 'an organization of the character of a black society' among police and court officials, the People's Supreme Court, in 2000, issued one of the first judicial interpretations, 'Explanation of Questions Related to Judging Cases of Organizations with Character of Black Society'. This stated that such a criminal organization should simultaneously possess four features (Zhang 2010): (1) they are relatively stable, possess a relatively large membership and a definite line of leadership; (2) they embark on criminal and illegal activities for economic interests. Such syndicates must have a firm economic base that exists to support the routine work of the syndicate; (3) they employ violent or threatening means to commit crimes in a well-organized fashion; and (4) they use bribery or threats to lure or compel government officials to participate in syndicate activities or to obtain protection from them in order to take control of a particular trade or industry or seriously damage the economic order or way of life in an area.

The last feature (the 'protective umbrella') was considered crucial. The collusion between the protective umbrella and the crime group constitutes a 'political-criminal nexus' that can threaten revenues and the legitimacy of the state. Protection by a state official is an important, but not necessary, precondition for a criminal group to grow into an organization of the character of a black society. The difficulties in defining 'an organization of the character of a black society' further prompted the Standing Committee of the National People's Congress (NPC) to issue an Interpretation in 2002 of Article 294. In terms similar to the earlier judicial

Interpretation of Article 294, the NPC stated that the offence of organized criminality should simultaneously comprise four characteristics:

- 1 The criminal organization is stable, with large number of members, definite organizers or leaders, and fixed backbone members;
- 2 Gains economic benefit through organized illegal acts, criminal acts or other means, with a certain economic base to support its activities;
- 3 Has frequently committed organized illegal and criminal acts through violence, threats or other means, perpetrating outrages, riding roughshod over or cruelly injuring or killing people; and
- 4 Committed illegal and criminal acts, or taken advantage of protection and connivance by State functionaries, it plays the bully over an area, exercising illegal control and wielding illegal enormous influence over a certain area or trade, thus seriously disrupting the economic order and people's daily activities.

This interpretation rendered 'a protective umbrella' as an optional aspect of a black society and guided the campaigns of 'strike at the black and eradicate the evil' until the 2018 'sweep away the black' campaign. The national campaign launched in 2006 regarded 'eradicating protective umbrellas' as an important measure of campaign success. Nevertheless, uncertainty and confusion about the application of an Article 294 offence remained among police, lawyers and the courts (Wang *et al.* 2009). Subsequent amendments and changes included enhanced punishments for overseas mafia who recruit members within the PRC and corrupt officials, the addition of fines and the confiscation of property from offenders. Other changes included enhanced punishments in respect of extortion and blackmail (Article 274), violence and threats or violence to intimidate those at auctions, company share, bond or capital trade or to force involvement or withdrawal from a specific business (Article 226), and finally to sharply challenge criminals playing the town tyrant and creating fear among the people and instigate repeated disturbances to social order (Article 293).

The scope of the *Saohai* campaign differs from these early strike-hard campaigns because of its express focus on protective umbrellas and prime goal of preserving the CCP's control over public security and adherence to the party line. 'Underworld forces' comprise several patterns of criminal activity, although these may vary by locality, but include a broader group of actors than has usually been the focus of strike hard campaigns. The PRC's Supreme Courts (July 2018) *Guiding Opinions on Several Issues in Handling Cases of Underworld Forces Crimes* outlined the purpose of *Saohai*:

to fully implement the spirit of the "CPC Central Committee and State Council's Notice on Carrying Out the Special Crackdown on Clearing Away Organized Crime and Eliminating Vice", to unify thinking on law enforcement, to increase the efficacy of law enforcement, to lawfully, correctly, and effectively punish underworld forces crimes, and to strictly combat 'village bosses', villainous clan forces, 'protective umbrellas' as well as 'soft violence' and other such crimes.

Further guidance issued later in 2019 by the NSC<sup>7</sup> were also designed to avoid abuse of private entrepreneurs and the seizure of their property by lower level courts and public security officials and to stress strict handling of cases of public officials accused of involvement in underworld crimes according to Xi Jinping Thought on Socialism with Chinese Characteristics in a

New Era, that is, adhering to seeking truth from facts; using a problem-oriented approach and strengthening

consciousness of the need to maintain political integrity, think in big-picture terms, follow the leadership core, and keep in alignment, increasing the confidence in the path, theory, system, and culture of socialism with Chinese characteristics, and defending the status of General Secretary Xi Jinping as the core of the CPC Central Committee and the whole Party and the authority and centralized and unified leadership of the CPC Central Committee.

The guidance offered examples of activities targeted by *Saohei* and stressed attention to industries and activities prone to organizations of a gangland nature and crime gangs, such as construction projects, transportation, mineral resources, trade fairs, fishing, and fundraising and lending. Village party committees and villagers' committees, township, and basic-level stations and offices and their staff also required close attention. The diversity of 'black and evil' captured here is akin to contemporary views of the triad/black society as a variant of crime defined by the formulation 'serious *and* organized crime':

- Corrupt local village officials and 'men behind the curtain' who control and abuse state authority or misappropriate village assets.
- Village or town 'bosses' who control a region by exploiting familial, religious or clan affiliations.
- Industry and market 'bosses' that seized control of local construction, transportation, shipping, mining, agriculture, fishing or tourism that organize illegal operations, have illegal monopolies, enforce transactions and collect protection fees.
- Those organizing disruptions of major economic activities such as land acquisition, project bidding and the like.
- 'Underground police forces' (enforcers) and medical dispute profiteers that insert themselves in civil financial disputes.
- The organizing of illegal activities involving sex, gambling, drugs or guns.
- Loan sharks, lenders and debt collection agencies using illegal methods.
- Developing presence of foreign or cross-border criminal groups.

### **Conclusion: reform and change**

While China's domestic laws comply in part with the United Nations Convention against Transnational Organized Crime, legal reforms are driven not solely by dread of transnational organized crime or black societies but also by internal security and threats from 'separatists', secret societies and cults such as *Falun Gong*. There are concerns about the reach of organized crime and the role of foreign crime syndicates, but political stability is the priority. Evidence that PRC crime groups have extensive transnational crime operations or control foreign illicit enterprises appear limited, although involvement in the transnational illicit drug trade, particularly the supply of precursor chemicals, is apparent (UNODC 2019). However, as China consolidates overseas markets in Africa and elsewhere in Asia in the wake of 'one belt one road', the opportunities for black society transnational activities to develop arise.

Further substantial changes (Criminal Law Amendment XI before the National People's Congress at 14 November 2020) to the criminal law retain the articles dealing with black

societies but lower the age of criminal responsibility from 14 to 12 years of age. The amendments tackle a raft of changes across worker safety, interference with public transport, sale/production of fake medicines, violations of regulations governing the sale and production of drugs, various forms of fraud, abuse of corporate office and usury, identity theft, organized gambling (and touting overseas gambling), sex crimes against minors, food safety, environmental pollution, wildlife consumption and insulting martyrs and heroes.

A United Nations survey of the prevalence of crime victimization among businesses in four cities (Hong Kong, Shanghai, Shenzhen and Xi'an;  $n = 5,117$ ) showed that the prevalence of crime against business was common. Extortion – a typical triad-related offence – was similar in Shenzhen and Hong Kong (3.1 per cent), but the prevalence of corruption was much lower in Hong Kong (2.7 per cent) than in Shenzhen (8.5 per cent). Shanghai reported relatively low levels of extortion and bribery, but corruption by party officials was significant in Xi'an. Although this data reflects patterns in 2004–05, it suggests that the victimization of business by criminal groups varied with the crime control capacities of the respective cities (Broadhurst *et al.* 2013).

For effective measures against black societies in China, it is argued that the Hong Kong experience offered a model. With the advent of the ICAC, law enforcement shifted from symbiosis (partial capture) to one of hostility towards organized crime and sustained suppression of triad subculture that transformed triads to less visible, flexible and more diverse forms. Crime victim survey respondents reported fewer crimes involving triads, and fear of crime was among the lowest of any city surveyed by the United Nations International Crime Victim Survey in 2005 (Broadhurst *et al.* 2010). The overall crime rate had also begun to decline through the 1990s, including serious crimes associated with triad activities (Broadhurst *et al.* 2017). According to victims, even commonplace triad-related crimes such as criminal intimidation, wounding and assault, blackmail and robbery were less likely to involve triad-like groups in 2005 than in 1989. However, Hong Kong's low tax system and advanced financial services combined with the absence of currency and exchange controls also encouraged money laundering, especially arising from tax avoidance and illicit profits from mainland China.

Effective anti-corruption measures in Hong Kong reduced criminal revenue due to disruption of the supply of illicit services and goods (Lethbridge 1985). Thus, as some triad-related activities become less prevalent from the 1980s on as they shifted attention to the growing markets, licit and illicit, that quickly emerged with the opening of the Chinese economy. These new illicit markets survived in environments where corruption flourished and government underestimated or colluded with underground economies. Some of these markets were relatively new, such as copyright theft, waste disposal, Internet-driven gambling and scams, while smuggling (including exotic species and products), product adulteration, tax avoidance and money laundering evolved and exploited the disconnect between international standards and local practice (He 2006).

Suppression of black societies via effective confiscation of their illicit assets and a broad approach that disrupt profits and money laundering became priorities of law enforcement policy. Efforts to curtail corruption and links between crime groups and the political classes was also crucial, and further reforms of criminal law and political-legal affairs addressed some of these problems.

As the *Saohei* program demonstrates, a powerful NSC underpinned firmer use of CCP ideological and disciplinary mechanisms, but transparency in the oversight role of the reformed Political and Legal Committees has not fully materialized and may render these measures open to political misuse (Gong 2008). Countermeasures, such as the concerted effort to 'clear away the underground', can succeed only to the extent that integrity among law enforcement and inspection systems designed to ensure professional standards among police and anti-corruption

officials prevail. This may require salaries that are sufficiently high to make rent-seeking redundant and unexplained wealth laws palatable. Reform and oversight of local elections could also discourage linking social capital and decrease the risk of 'black-gold' (and 'red-black') politics, vote buying and corruption. Frequent rotation of senior PSB and PAP personnel and other service reforms aim to disrupt the risk of 'umbrella' capture by black societies.

The establishment of the NSC as a permanent anti-corruption body with experienced investigators drawn from the Procuratorate, PSB and CCDI also foreshadows the 'regular management' of the 'red-black' threat and political fidelity. Wang (2020: 428) suggested that the 'sweep away black' campaign enabled the party-state to consolidate its "authoritarian rule by solving three challenges: a legitimacy crisis caused by an economic slowdown; gang infiltration into grassroots political structures and the crisis in police legitimacy caused by police corruption and shirking". Although similar to past 'strike hard' campaigns that aimed to improve social security, the current approach also aims to bolster Party loyalty and improve grassroots governance (Wang 2020: 439).

Countering black societies and evil forces require a concerted national approach such as *Sao-hei* but can only succeed if the political will exists beyond the temptation to eliminate rivals and the need to shore up political loyalty. The drive for enrichment among officials may be hard to quell, and strengthening the independence of institutions serving the rule of law may not serve the interests of the party-state if it comes at the expense of chilling the entrepreneurial acuity that drives Chinese economic development.

## Notes

- 1 The NSC was established to improve intelligence and coordination. The NSC has powerful inspection duties over the various judicial organs including the PRC Supreme Court. Structural reform of the People's Armed Police (PAP) was also undertaken along with significant turnover of personnel in the Ministry of Public Security and other judicial organs. In addition, new laws (e.g. cybersecurity) and policies that aim to broaden social control such as the social credit and grid system have been implemented; however, space limitations prevent further discussion of these developments.
- 2 <http://epaper.chinadaily.com.cn/a/202008/19/WS5f3c6827a3107831ec7545fd.html>
- 3 The word 'triad' (the English rendition of *Hung Mun* or 'heaven and earth' societies) is often used to describe 'black societies' and has become synonymous with Chinese organized crime in general. Definitions of Chinese criminal groups are ambiguous because of definitional overlap between triad society, secret society, gang (*bang hui* in Mandarin), criminal syndicate and organized crime.
- 4 See Satista (2020) 'Number of crimes in China 2018, by type'; [www.statista.com/statistics/224776/number-of-crimes-in-china-by-type/](http://www.statista.com/statistics/224776/number-of-crimes-in-china-by-type/); World Bank (2020) 'China Crime Rate'; [www.macrotrends.net/countries/CHN/china/crime-rate-statistics](http://www.macrotrends.net/countries/CHN/china/crime-rate-statistics); retrieved 11-11-2020.
- 5 Due to space limitations, Taiwan (see Republic of China, Organized Crime Law 1996) and Macau are not examined.
- 6 "Macau Penal Code 1995 as Amended: Law 6/97M of July 30 (Law against Organized Crime)". Available online at <https://www.dsaj.gov.mo/download/dadidir/laws/LawNo6-97M.pdf>.
- 7 Supreme People's Court, PRC (20 October 2019) Notice by the National Supervisory Commission, the Supreme People's Court, the Supreme People's Procuratorate, and other Ministries Assuming Responsibility According to the Division of Labour for, mutually Cooperating and Restricting in Severely Punishing Public Officials Committing Violations and Crimes Related to Organizations of a Gangland Nature and Gang-like Groups in the Special Criminal Syndicate Combat.

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