

China's pursuit of suspect wealth – an opportunity for co-operation

China has had anti-corruption laws for the past 3,000 years. It was also one of the earliest countries to enact laws prohibiting insider dealing by officials. History also records a number of cases where laws relating to integrity have been robustly enforced. On the other hand, corruption appears to have been and remains a persistent issue in China. Since the opening of the Chinese economy, there is a perception, which may or may not be a reality that the opportunities for self-dealing and corruption have increased dramatically. Of course, given the development of China's rather special market economy, the scope and nature of self-dealing has changed. The pursuit of wealth has also arguably encouraged an attitude which more readily lends itself to abuse. President Hu Jin Tao on a number of occasions gave voice to the concern within the leadership that the opening of the economy might be undermined by greed and corruption. China's financial markets, which are characterised by a high level of personal speculations, are considered particularly vulnerable to insider dealing and manipulation. The Chinese Communist Party also expressed concern that the traditional mechanisms of governance, which in a large measure were based on the Party's influence if not control, were perhaps not as effective as they had been.

The initiative to address these concerns started by President Hu Jin Tao has been significantly developed by his successor President Xi Jinping. China's current anti-corruption drive has been dramatic and far-reaching. A number of leading officials, including those of ministerial rank, have been caught in its net and the caution that is now being exercised by those in business and government is noticeable. The excesses which have been increasingly visible in Chinese society are now far less obvious. Officials are far more cautious in manifesting their life styles. In large measure, the trust of this important initiative has been due to the Party and in particular its disciplinary committees. Within the Chinese system, the influence of the Communist Party is pervasive and extends over all levels of society. However, those who are directly subject to its authority have been placed under surveillance and monitoring. Officials of the Party have focussed their attention on unexplained wealth and subjected those who have aroused suspicion to examination. The Party does not, however, have legal powers and prosecutions are the responsibility of the Procuratorate. There have been tensions and some have expressed concern that those who have been subjected to Party discipline have not always been punished in accordance with the ordinary criminal law. Having said this, the Party's procedures have been seen to be both effective and efficient. There are instances, however, particularly in regards to the tracing of property where judicial powers are necessary. While there has been a great deal of cooperation between prosecutors and the Party's officials, there has been a reluctance to "share" the jurisdiction. The tensions that have arisen between the "administrative system" and the ordinary criminal justice system have increasingly attracted comment, and the Government is currently exploring how best to resolve this. It is likely that in the near future China will in fact establish a national anti-corruption agency which can utilise the powers of both the systems.

In addressing corruption, the Procuratorate has increasingly looked to utilise anti-money laundering laws. The amount of suspect wealth that has been "frozen" in



China is considerable, although much of it has been “embargoed” under the administrative and disciplinary regime rather than by the courts. Where China has failed to realise its objective is in regards to the wealth overseas. Of course, where the matter has been handled otherwise than through the criminal justice system, it is almost impossible to secure meaningful co-operation from foreign governments and institutions. Attempts in the past have been made to utilise the civil law, but this has proved to be costly, and essentially, the Chinese civilian law is perhaps not best suited to grounding such claims. Other countries even where there are procedures for mutual assistance have been cautious. There is always the concern in major corruption-related cases that political factors might be involved, and the threat of capital punishment is another inhibitor. Having said this, there have been some successes. Both the USA and Canada have assisted in the identification and interdiction of suspect wealth. The Chinese authorities are keen to foster co-operation, albeit there have been criticisms, particularly by agencies in the United Kingdom that there is not always reciprocity. Having said this, the current priority that the Chinese government is giving to the pursuit of criminal property and suspect wealth does present a real opportunity to foster and develop international co-operation. It is to be hoped that this will be taken!

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