

Bribery with Chinese Characteristics? Corruption, Fuzzy Property Rights, and Rapid Growth

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Received: 8 December 2016 / Accepted: 24 May 2017 / Published online: 16 June 2017
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Abstract This paper addresses the question of whether the way bribery is practiced in China is such that corruption might be compatible with rapid economic growth during the boom years between 2000 and 2007. In particular, it examines whether bribery based on diffuse reciprocity transforms a corrupt relationship from one based on short-term egoistic gains (looting) to one based on long-term gains (profit maximizing), with the assumption that such a form of bribery will lead the parties to maximize total gains and hence will encourage long-term growth rather than short-term predatory looting. More broadly, the paper inquires whether a regime of informal property rights based on bribery and diffuse reciprocity might compensate for the shortcomings of an imperfectly constructed and incomplete set of formal property rights such as has emerged in post-Mao China and thereby improve the prospects for economic growth. The paper concludes that while bribery based on diffuse reciprocity may encourage the parties directly involved in such corrupt exchanges to maximize their total long-term gains, so long as bribery remains a private good and an informal property rights regime based on bribery remains subject to abrupt and catastrophic revision due to its illegal nature, “bribery with Chinese characteristics” cannot be characterized as growth enhancing and thus cannot be a major explanation for why the Chinese economy grew rapidly during the “third boom.”

Keywords China · Corruption · Bribery · Property rights · Rapid growth

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Introduction

China's rapid economic growth since the adoption of economic reforms in the early 1980s stands out not only because of its sheer magnitude¹ but also because it overtly defies conventional economic theory on two levels. First, rapid growth in China occurred even as corruption worsened, which contradicts the findings of Mauro and others that growth is negatively correlated with cross-national indices of corruption [1]. Second, throughout its peak period of growth China lacked what most economists consider a properly specified set of property rights [2–4]. Rather than decontrol prices and institute a systematic, market-friendly property rights regime, Deng Xiaoping and his confederates carried over the complex and contradictory set of property rights created during the Maoist era. The post-Mao state retained legal ownership over urban land and key natural resources, state control over the allocation of investment capital, and communal ownership of rural land. The state also retained the ability to arbitrarily revoke use rights bestowed on non-state actors and institutions. Over time, successive legal reforms, including the 2007 property law, nominally strengthened China formal property rights regime.² Nevertheless, according to Yung, China's formal property rights regime still lacks fully specified Coasian or Walrasian use, income, and alienation rights [5]. As a result, firms and property owners continue to be subject to high transaction costs, an unstable regulatory environment, and lingering threats of extra-legal expropriation by government agencies or rival firms owned by the state. More critically, China's "formal" property rights remain embedded in a legal system in which the rule of law remains incompletely established, with the result that the property rights laid down in the 2007 law and other legislation remain subject to uneven and unpredictable enforcement [6]. Would-be entrepreneurs, industrialists, and investors thus faced an anarchic, unpredictable, and unstable environment similar to that which is said to have stifled growth elsewhere in the less developed world.³ Any yet, as of 2000 per capita gross domestic product (GDP) in China was fivefold what it had been two decades earlier. By contrast, per capital GDP in

¹ According to the International Monetary Fund's "World Economic Outlook," the Chinese economy grew at an average rate of nearly 10% between 1980 and 2014, and as a result, per capita Gross Domestic Product increased over 16-fold. International Monetary Fund, "World Economic Outlook October 2014," available at <http://www.imf.org/external/pubs/ft/weo/2014/01/weodata/index.aspx>.

² "The Property Rights Law of the People's Republic of China," adopted and promulgated March 16, 2007, effective on October 1, 2007, available at <http://www.lehmanlaw.com/resource-centre/laws-and-regulations/general/property-rights-law-of-the-peoples-republic-of-china.html>. On the perceived strengthening of China property rights, see World Economic Forum, "Global Competitiveness Index," available at <http://reports.weforum.org/global-competitiveness-report-2014-2015/downloads/>.

³ In Olson's construct, insecure, unstable, and unpredictable property rights put businesses in a situation analogous to that of peasant farmers in Dark Ages Europe who faced a Hobbesian choice between having their farms ravaged by "roving bandits" who would plunder their crops, burn their hovels, and carry off their wives and children, leaving them (if they were not put to the sword) to starve and freeze to death, or paying "stationary bandits" such extortionary protection money that they were left cold and hungry. [Mancur Olson [7]. "Dictatorship, Democracy, and Development," *American Political Science Review*, 87 (3), 567–576].

the USA increased just 57% during that same period, even though Transparency International scored the USA as much less corrupt than China.⁴

According to Wedeman, the Chinese economy was able to expand at such a breathtaking pace during the 1990s despite a combination of rising corruption and “fuzzy” property because the shift from the plan to the market created “windfall profits” that could be scraped off by a loose coalition of corrupt officials and entrepreneurs while only marginally impacting growth rates [8]. If that was true, then China’s “third boom”⁵ during which growth rates rose from 7.6% in 1999 to 14.2% in 2007 compounded the “double paradox” of corruption and growth in China. Not only did growth rates rise during those years while the level of corruption remained relatively high (see Fig. 1), if the transition from the plan to the market created windfall profits, many of those rents should have been dissipated during the second boom and hence would not have sustained a combination of rapid growth and high corruption in the third boom. More critically, there is evidence corruption qualitatively “deepened” during the late 1990s as mid-level officials who had become corrupt during the mid-1990s rose up through the ranks to become members of the party, state, and military leadership in the early 2000s. It also appears that the amount of corrupt monies grew significantly in size during the early 2000s and hence before the third boom. The third boom and a possible concurrent deepening of corruption thus raise anew the question of whether “corruption with Chinese characteristics” is somehow different from corruption in other polities and might not just have not retarded growth but may have actually boosted growth.⁶

From the early days of the post-Mao period onward, practitioners and scholars seemed inclined to downplay the negative consequences of corruption in post-Mao China, with some even seeming to suggest that informal practices that would have been considered corrupt elsewhere actually mitigated the negative effects of an inefficient set of fuzzy and insecure property rights and “greased the wheels” of growth. It was held that an informal property rights regime based on “relationships” had emerged to compensate for the deficiencies of the formal rules. Rather than rely on impersonal law to regulate property rights, individuals and firms turned to *guanxi* (关系), the traditional Chinese system of relying on personal connections and relationships to bind parties together and sustain trust. It was widely argued that this informal property rights regime essentially operated in parallel to the formal regime, which many deemed to be a Potemkin façade erected by the state in an effort make it appear that China was conforming to the norms and practices of a market economy when in fact the economy continued to operate on much more traditional norms in which property rights remained fuzzy by design.

⁴ Growth in per capita GDP based on data from the World Bank, “World Development Indicators.” In its 2000 Corruption Perceptions Index, Transparency International’s “poll of polls” gave the USA a score of 2.24 on a scale of 0 (less corrupt) to 10 (most corrupt) and gave China a score of 6.50, putting the USA on the lower quartile boundary of TI’s index and China on the upper quartile boundary. Based on data from Transparency International, “Corruption Perception Index” 1995–2016, available at <http://www.transparency.org/research/cpi/overview>.

⁵ If we define an economic “boom” as a period in which the Chinese economy grew at 10% or more, the first boom was between 1983 and 1988, the second was from 1992 to 1996, and the third was from 2003 to 2007.

⁶ *South China Morning Post*, 6/7/1997.

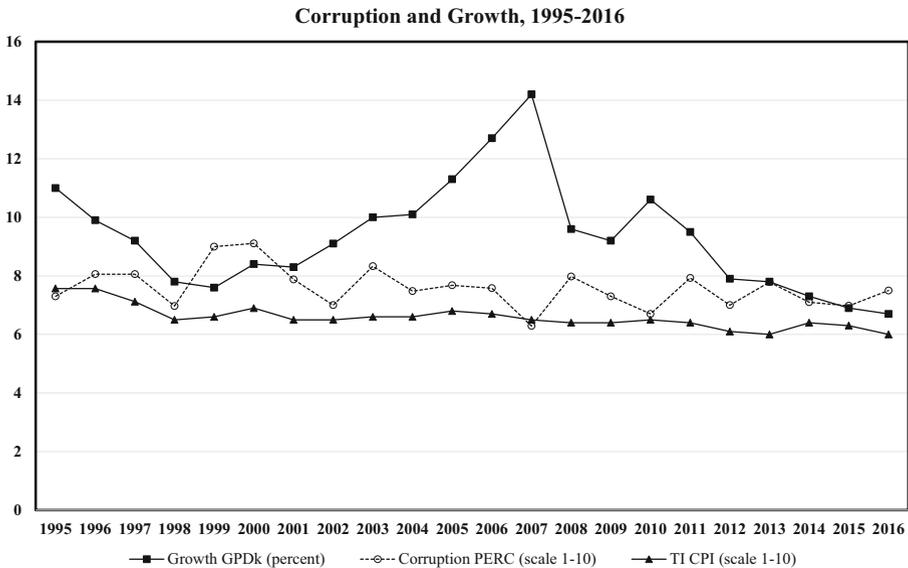


Fig. 1 Corruption and growth, 1995–2016. Source: Corruption indices from Transparency International, “Corruption Perception Index” 1995–2016, available at <http://www.transparency.org/research/cpi/overview>, and Political and Economic Risk Consultancy, “Report on Corruption in Asia,” available at <http://www.asiarisk.com/subscribe/exsum1.pdf>. Growth rates from the International Monetary Fund, “World Economic Outlook,” <http://www.imf.org/external/pubs/ft/weo/2016/02/weodata/index.aspx>

As outlined in the following section, although some saw the rise of informal relational property rights as an ad hoc functional solution to the failure of Chinese formal property rights regime, others saw it as a major source of corruption and potential instability. Absent legally defined, secure, and enforceable property rights, they argued that players in the business sector and would-be property holders were forced to buy off the officials who continued to have the ability to arbitrarily expropriate property and income. Because protections bought today can be swiftly revoked tomorrow and the buyer has no way to enforce an informal protective contract, it seems logical to accept Chang and Pei’s assertion that the lack of “real” property rights has left the Chinese economic “miracle” vulnerable to rapid and catastrophic collapse [9–11].

Ho, on the other hand, argues against the notion that endogenously created informal property rights systems are by definition less stable and dependable than those based on the neoclassical model of exogenously imposed individualized, legally based property rights. Focusing on land rights in contemporary China, he asserts that although messy and ill-defined to an outsider and blatantly at odds with neoclassical notion of what property rights “ought” to look like, the blurry communal property rights that continue to characterize China’s hinterland are not only stable, they are “credible” [12, 13]. That is, credible in the sense that they are not a dysfunctional response to the lack of formal property rights but are instead a highly functional system that secures use and income rights while circumscribing alienation rights, with the goal of allowing individual households to pursue diverse income seeking schemes while ensuring all households retain a social security minimum allocation of farmland. This latter aspect of land rights is critical, Ho suggests, because provisions for the periodic redistribution of use rights from wealthier “land surplus” households to

poorer “labor surplus” households sustains village residents’ belief in the justice of the land rights system. Ho thus suggests that credible property rights need not be formally imposed exogenously and in fully specified form, but can instead evolve endogenously and spontaneously as actors react to formal constraints and incentives by constantly seeking to game the system and thereby constantly remake and revised what is actually a relatively plastic and fluid property rights system.

Ho’s challenge to the conventional claim that exogenously created, formally defined, and privately based property rights are a prerequisite to sustained economic performance, thus raises the question: was *guanxi* not a dysfunctional “solution” to the lack of formal property rights but rather a stable and credible system of endogenously created and evolving informal property rights and did the corruption putatively ascribed to *guanxi* help drive rapid growth in China? To determine whether corruption might have contributed to China’s rapid development, I examine three forms of bribery common in post-Mao China. I first focus on bribery based on long-term diffuse reciprocity or what might be called “*guanxi* bribery” or “relational bribery.” I then focus on a variant of *guanxi* bribery based on an indirect relationship between an official and a favor-seeker in which the favor-seeker “takes care” of the officials and her or his family or what is known in Chinese as “white glove” (白手套) bribery. Finally, I focus on the use of kickbacks and “dry stocks” (干股)—stocks given to an official at little or no cost—to bind the financial interests of an official to those of a favor-seeker or what might be called “profit-sharing bribery.” A concluding section analyzes whether these “Chinese” forms of bribery act as an informal form of fuzzy but credible property rights that would either created minimal drag on economic growth or perhaps even boosted growth by forging a profit-seeking coalition between officialdom and business.

This analysis finds that while bribery with Chinese characteristics might facilitate joint gains-seeking by individual official-business “partnerships,” the illegal and unstable nature of such collusive relations is more likely to lead to extensive rent-seeking that is likely to produce the appearance of rapid growth in the short term but will harm growth in the long term. This implies that if the negative effects of corruption during the “second boom” were mitigated by windfall profits created by the transition from the plan to the market, the third boom was not somehow fueled by a deepening of corruption during the later 1990s, early 2000s. On the contrary, the apparent coincidence of rapid growth and deepening corruption during the third boom was likely the result of intensified rent-seeking and corrupt plunder.

Methodology

Corruption is a political variable that cannot be measured except in indirect, and largely unsatisfactory, ways. Organizations such as Transparency International, the World Bank, and the Hong Kong-based Political and Economic Risk Consultancy use a “poll of poll” based methodology, whereby they combine a variety of polls which ask experts to estimate the level of corruption in specific polities and then assume that given a large enough pool of experts, the average of their opinions provides a reasonable measure of the “perceived level of corruption” (PLC).

Alternatively, we can track the number of officials charged with corruption and assume that this “revealed rate of corruption” (RRC) is more or less a linear function—a relatively constant percentage—of the “actual rate of corruption” (ARC). What percentage will, of course, remain unknowable but, assuming that shifts in the intensity of enforcement drive changes in the RRC, then we might posit that if the intensity of enforcement remains relatively constant and the RRC increases then that shift reflects increases in the underlying ARC. If, on the other hand, the intensity of enforcement remains constant and the RRC trends downward, we would posit that the underlying ARC is also trending downward [14]. Conversely, if a regime launches a crackdown and the RC increases, then it seems most reasonable to posit that the increase is due to a change in the intensity of enforcement, not the ARC. By the same token, if the RRC falls in the aftermath of crackdown, then we ought to assume that while the crackdown might have caused a drop in the ARC, the major reason why the RRC fell was because the intensity of enforcement decreased when the crackdown ended. The reliability of both poll-based perceptual indices and the hard data-based RRC thus depends heavily on a set of assumptions about whether we can roughly “guesstimate” the ARC based on imperfect proxy measure.

In theory, if we believe that the two proxies are independent of each other, if the two move in tandem, then they might validate each other. But we cannot assume that experts’ guesses about the level of corruption are not derived from their reading of changes in the RRC. Nor can we assume that experts’ guesses are not driven by anecdotal evidence such as high-profile scandals—or a prolonged absence of major scandals—that call into question their previous beliefs about the level of corruption.

Not only are poll-based PLC and the hard data-based RRC imperfect proxy measures of the ARC, it is not clear that either adequately measures qualitative shifts in the severity of corruption. The severity of corruption is a joint function of the incidence of corruption (i.e., what percentage of those vested with delegated authority are usurping that authority for personal gain) and qualitative factors including the rank of those involved in corrupt, the probability that corrupt officials are caught and punished, and the amount of corrupt monies changing hands, each of which can vary independently of the incidence of corruption. It is possible, therefore, that the incidence of corruption could remain constant even as corruption spreads upward from the rank and file into the core leadership, the probability of getting caught diminishes significantly, and the stakes of corruption and the monetary size of dirty transactions increase exponentially. The incidence of corruption could thus appear to remain constant even as corruption “deepened.”

There is, in fact, reason to believe that neither polled-based perceptual indices nor the hard data based-RRC capture a major deepening of corruption in the years before Chinese Communist Party (CCP) General Secretary Xi Jinping launched the 2012 crackdown. Since then, nearly 140 senior civilian officials (popularly known in China as “tigers”) and over 85 senior military officers have been implicated, investigated, indicted, or imprisoned in cases involving huge bribes, the buying and selling of senior official positions and promotions, insider trading, and the embezzlement of major state assets. Among the ninety-odd “tigers” “bagged” between 2012 and 2017 for whom data are currently available, the median amount of corrupt monies was Y23 million, with half of those charged accused of having taken corrupt monies of

between Y11 million and Y49 million.⁷ By contrast, among the 28 officials of “tiger” rank charged with corruption between 2000 and 2007 for whom data were available, the medium amount of corruption monies was Y2.7 million, roughly a tenth of the 2012–2017 average.⁸

Moreover, most of the tigers had been involved in corruption for long periods, with 26% having first become corrupt in the 1990s and an additional 56% between 2000 and 2005.⁹ Sixty percent of these tigers had been involved in corruption for ten or more years before they were finally caught. The high-level corruption attacked during the 2012–2017 crackdown was, therefore, “old corruption.” The tigers bagged in 2012–2017 thus “went bad” when they held mid-level positions (and hence were mere “tiger cubs”) and then climbed up the ranks into the leadership, thus spreading corruption upward within the party, state, and military. Just over 20% of the tigers charged between 2000 and 2007, by contrast, had been corrupt for ten or more years. Because changes in the lag between crime and capture may provide a crude proxy measure for changes in the probability of the risk that a corrupt official will be caught [15], the fact that the number of tigers having been corrupt for ten or more years tripled from 20% for the tigers bagged between 2000 and 2007 to 60% between 2012 and 2017, it thus appears that the risk of capture significantly decreased during the third boom years. The combination of a tenfold increase in “bribe size” and threefold drop in the risk of capture suggests that corruption became qualitatively much worse during years in which indices such as the PLC-based indices show the level of corruption remaining relatively constant and thus render these indices suspect as measures of corruption.

If growth rates varied while corruption remained constant and we assume that the available proxy measures of the ARC are reasonably accurate, the norms of quantitative analysis would suggest that the latter had no statistically significant effect on the former. If we believe instead that these proxies accurately measure the incidence of the corruption in the years preceding the third boom but masked a qualitative deepening of corruption during the third boom, then we face the possibility that (a) something about the way corruption was practiced in China rendered it benign and hence the deepening of corruption had little or only a marginal effect on growth and that the observed deepening of corruption was likely a consequence of a rapidly growing economy, as Wedeman argues was the case during the second boom, or (b) that somehow the deepening of corruption

⁷ Impressive as the sums of corrupt monies of the current pack of tigers might seem, many believe that they actually represent only a fraction of the actual amounts these officials were illegally salting away. According to *Reuters*, for example, investigators seized Y90 billion (US\$14.5 billion) in cash, goods, and property when they took down former Politburo member and head of the powerful Central Committee Politics and Law Committee Zhou Yongkang, his extended family, and his circle of cronies. Zhou was, however, ultimately convicted of accepting just Y130 million (US\$21.3 million). Even with the additional Y129 million in dirty assets were seized from Zhou’s wife Jia Xiaoye and his son Zhou Bin factored in, the total prosecutors publically linked to Zhou was a tiny fraction of his allegedly loot. *Reuters*, 3/30/2014, available at <http://www.reuters.com/article/2014/03/30/us-china-corruption-zhou-idUSBREA2T02S20140330> and *Xinhua*, 6/11/2015, available at http://news.xinhuanet.com/english/china/2015-06/11/c_134318642.htm.

⁸ Data from author’s database. In total, my database identifies 50 officials holding ranks at or above a level equivalent to that of Vice Minister as having been charged with corruption between 2000 and 2007, including Politburo member Chen Liangyu who came under investigation in 2006.

⁹ Data from author’s database.

boasted growth rates. Because former represents what in statistical terms would represent the “null hypothesis” (i.e., that the deepening of corruption had no effect on growth), I shall “test” the latter “hypothesis” (i.e., that the deepening has a positive effect on growth) using a qualitative approach. I opt for such a methodology since, as argued previously, the available quantitative data do not appear capable of supporting a quantitative analysis.

Bribery with Chinese Characteristics

If corruption helped boast growth rates during the third boom, then we have to assume that something about the structure of corruption in China yoked the financial interests of officials to the profit-making interests of the business sector and thereby created a pro-growth coalition wherein businesses shared of their gains from rapid growth with officials who facilitated that growth [16]. In other words, the way corruption is “performed” in China would have had to have been different than the ways that it is performed elsewhere. Because bribery is the primary conduit for corrupt transactions between officialdom and the business sector and thus presumably the primary mechanism through which corruption might hypothetically promote growth, it follows that if the deepening of corruption contributed to the third boom that it was something about “bribery with Chinese characteristics” that explains why this was possible.

In most legal systems, bribery involves an explicit *quid pro quo* exchange. Both parties to the exchange must understand that items of value or cash being offered by one party to the other are meant as payment for an action by the receiver [17]. The receiver must have the ability to perform the action and must deliver. If either party does not understand that the exchange is a bribe or the receiver fails to deliver on his or her promise, then strictly speaking the exchange might not be construed as a bribe. In actual practice, particularly in China, bribery often involves exchanges that are not one-shot deals but are instead characterized by extended and diffuse reciprocity. Rather than giving and accepting “bribes,” the parties enter into a “relationship” whereby “gifts” are given and “help” provided in a diffuse manner. As outlined in the following three sections, there are a variety of ways such relationships can be constructed. While structured differently, in each of these examples, the underlying purpose of building a relationship is to tie the interests of the parties together in ways that promote the seeking of joint gains and help create mutual trust. In such relationships, trust is based not on exogenous enforcement of one-shot agreements, which is impossible because of the illegal and covert nature of corrupt exchanges, but rather on an interactive tit-for-tat relationship with a much longer time horizon than would be the case in a *quid-pro-quo* bribery relationship. Bribery with Chinese characteristics thus involves the creation of a form of endogenous enforcement that promotes sustained collusion between economic and political actors. This, in turn, creates a situation in which even though China’s formal property rights regime may not provide the security of ownership associated with strong incentives for investment and growth, officials have incentives to protect the interests of their private partners and to promote their profit-making activities.

Guanxi Bribery

It has long been recognized in the scholarly literature that corruption is an integral reality of doing business in China and that *quid pro quo* bribery is considered a relatively crass and crude way of trying to get things done [18, 19]. Bribery should be “performed” in a nuanced, cultured manner. Rather than offering a bribe in return for a specific favor, the would-be favor-seeker should begin by getting to know the official socially. The favor-seeker might begin by inviting the official to dinner or some other social function, join him for a round of golf, or accompany him on an outing to a festival or scenic spot. At this early stage, the focus is on establishing an “emotional bond” (认清) between the favor-seeker and the official. The favor-seeker makes an effort to discover the official’s interests, hobbies, and “needs.” Over time, the favor-seeker begins to give the official gifts (礼物). If for example, the official considers herself a talented calligrapher, the briber might give her a fancy ink stone and a set of fine writing brushes, or ask to purchase an example of her calligraphy. If she is a collector of antiques, the favor-seeker might give her some rare curios. If the official is an avid golfer, the favor-seeker might offer him passes to a local course that the favor-seeker “cannot use” himself for some reason. Early on, the gifts are often small and of limited value. The value must, however, be sufficient to demonstrate the favor-seeker’s “sincere” interest in the official and his esteem for him or her.

Over time, the value will begin to increase and the favor-seeker may begin to do other “acts of kindness” for the official. He might, for example, hire a tutor for a son or daughter studying for the annual university entrance examination (高考). At some point, the favor-seeker will begin to give the official gifts of cash. Giving cash must be done discretely. By informal convention, cash should be slipped into a “red envelope” (*hongbao* 红包) and should not be handed over directly.¹⁰ Instead, the *hongbao* should be left casually behind or handed over in an offhanded manner. Osburg, for instance, recounts how the manager of a state-owned factory handed an official who was leaving for an overseas trip an envelope filled with American dollars saying that it was “left over” from a previous trip and “I do not need it and I thought you might need some ‘pocket money’” [20]. In recent years, electronic *hongbao* have become increasingly popular, with websites such as WeChat allowing individuals to discretely transfer money to their official “friends” by e-mail and social media.¹¹

Hongbao are commonly given at the time of the annual fall and spring festivals. In the past, it was traditional to give children small gifts of cash at these times. Today, that practice had been expanded to include officials. Private parties seeking to cultivate an official will drop by their office wish them a happy holiday and slip them a *hongbao*.

¹⁰ Because the typical *hongbao* can hold about Y10,000, as the size of bribes has grown over the years, favor-seekers have had to find other ways to “package” their cash gifts to officials. Large cash “gifts” can become quite bulky since the large denomination bill is currently the 100 *kuai* note. It would, therefore, require multiple suitcases or boxes to deliver sizable cash bribes. Storing large caches of dirty cash can also become a problem if a corrupt official cannot figure out how to slip his or her monies out of China or launder them into real property or sneak them into the banking system using false name accounts. Gift cards can, however, be loaded up with Y1,000 a piece, thus making it easier to pass a bribe of Y50,000 than it would be to hand over five *hongbao*. Gift cards are also easier to hide and not likely to become moldy or rot if stored in a damp closet or buried in the backyard. *Bloomberg*, 2/12/2015, available at <https://www.bloomberg.com/news/articles/2015-02-12/china-gift-cards-are-casualty-of-anticorruption-drive>.

¹¹ *China Daily*, 9/2/2014.

Weddings and funerals provide other opportunities to discretely give cash and other gifts to an official in the guise of cash gifts meant to defray to cost of the wedding party or funeral.¹² Giving gifts and cash are not the only way to build relationships. A would-be favor-seeker can instead “lend” an official her car, let the official live in her “extra” condominium, or use her vacant vacation home. Once the relationship is well established, the favor-seeker might also begin to invite the official to travel with them, making sure to pick up all the expenses. While visiting a casino in Macao or elsewhere, the favor-seeker might offer to front their official friend the money for a night of gambling and then, if the official wins, let her keep the winnings or, if she loses, not ask to be repaid the original sum. As the relationship develops, the favor-seeker must make sure to continue to frame the relationship in terms of admiration for the official and sympathy for their “heavy duties and responsibilities.” The giving of *hongbao*, gifts, and other “considerations,” is thus never explicitly framed as a way of seeking to get “something” out of the relationship. The official, in turn, should treat the favor-seeker as an admired “friend” whose warm-hearted expressions of concern cannot be spurned or ignored but must instead be repaid with help and support.

The would-be favor-seeker and official thus develop an intimate personal relationship. But whereas a “pure” *guanxi* relationship is based on some shared experience or identity and involves the mutual exchange of gifts as a means to symbolize the closeness and enduring nature of the ties between individuals, a bribery *guanxi* relationship is by its nature instrumental. Its instrumental nature is, however, never explicit but instead remains subtly implicit. If done properly, the favor-seeker never asks the official for a favor. On the contrary, as the two get to know each other, the official develops a sense of how she might help out her new friend, and when an occasion arises, the favor is quietly done, not because the favor-seeker asked but because the official wished to repay his kindness. A favor-seeker also never explicitly links gifts and cash to a specific instrumental purpose. Explicitly asking that the official to “repay” the favor-seeker with some specific action would, after all, betray the “emotional” basis of the relationship and be “vulgar” [18]. Situations may, however, arise in which the favor-seeker can hint at the need for some specific help by, perhaps, sharing his problems and concerns. Even then, the favor-seeker should never ask for a specific favor but should instead leave it up to the official to recognize the need for intervention on behalf of the favor-seeker. The obligation for the official to reciprocate is thus very much a central part of a bribery-based *guanxi* relationship. As a former party official with the Ma’anshan Steel Corporation explained, “Taking their money

¹² In 2008, the son of Su Shunhu, a senior official in the Ministry of Railways who controlled the allocation of freight cars, reportedly received ten *hongbao* each containing Y10,000 from a single guest at his wedding. Another guest reportedly handed over a single *hongbao* with US\$10,000. After the son, Su Guanlin, and his bride Qian Yi moved to Australia, businesses seeking to get his father to allocate them space on China’s overtaxed rail freight system wired the couple a total of Y6.5 million between the end of 2008 and the beginning of 2010, which they used to make a series of real estate investments. At the time, shippers were reportedly willing to pay bribes of Y100,000 per freight carriage to get their goods moved. Another trading company reportedly paid Su Guanlin over Y10 million in “salary” for a job which he never actually worked. Su Shanhu was arrested in 2011 and charged with accepting Y25 million in bribes. He was convicted in 2014 and sentenced to life in prison. *Australian Financial Review*, 10/25/2014, available at http://www.af.com/p/national/how_chinese_fortunes_are_hidden_EQ7mBdl8pJh7Hy3q9aw6qO. In 2013, the Deputy Director of the Hunan Justice Bureau reportedly collected Y1 million in *hangbao* money from guests to his son’s wedding, which involved a thirty-table banquet at a five-star hotel that cost Y85,000. *Xinhua*, 1/6/2013.

equaled signing a contract to sell myself. When they asked for help, I must provide assistance” [21].

At a broad level, by disconnecting bribe and favor, a diffuse and extended *guanxi*-based relationship between favor-seekers and officials also makes it possible for officials to construct justifications in their minds that somehow make their actions not corrupt.¹³ An official in Shandong explained, “I used to think that receiving gifts during holidays and festivals from staff from my office, lower-level work units, and other departments is [an expression of ordinary human feelings] and repaying such good will afterwards is also reasonable and sensible” [21]. A deputy party secretary in Zhejiang argued that “...as long as I remain clear on major decisions, accepting some small gifts such as local specialty products, cash gifts or coupons is not a big deal. This is normal social exchange. I valued human emotions and social conventions, and did not want to embarrass friends and have them lose face” [21]. Another official said that he did not want to accept *hongbao* but was afraid that if he refused the would-be givers might break down in tears. He also said that during the autumn and spring festivals people, including some who he did not recognize, would rush into his office, offer a perfunctory festival greeting, and slip a *hongbao* onto his desk as they exited. None of them, he said, asked him for anything. But he understood that the “gift” created an obligation to repay [21]. The former secretary of a city in Guangxi confessed, “Because I had the highest power... I became the target of some people in the society [seeking] to ‘buy posts’ in the government. They applied [exhaustive] methods and used sugar-coated attacks to invest feelings and emotions in me, paying ‘tribute’ when I went on business trips, [for] hospital treatment, or during holidays” [17].

Officials were not always passive objects of individuals seeking to curry their favor. On the contrary, officials reportedly actively created situations in which private parties could find opportunities to display their “friendship.” An official might, for example, host banquets or other events which would give favor-seekers an excuse to drop off *hongbao*, a practice known as “banquet corruption.”¹⁴ In other cases, officials might hint that better “service” might be possible if *hongbao* were given. It is widely assumed, for example, that doctors should be “tipped” in advance by the families of a patient, not only to ensure better treatment but also as an expression of admiration for their medical skills.¹⁵

Although individuals are normally the medium for building *guanxi* relationships and the object of *guanxi* bribery, companies also engage in relationship building. JP Morgan, for example, suffered considerable embarrassment (and eventually paid a US\$264 million fine) when a spreadsheet listing the names of people it had hired under what was described as the “Sons and Daughters Program” surfaced.¹⁶ Among those JP Morgan hired were Tang Xiaoning, the son of the chairman of China

¹³ The “rules” of a *guanxi*-based bribery relationship by Chinese officials essentially mirror the “rules” laid down by former Providence Mayor Buddy Cianci, who said he followed three rules: first never take money in the office, second never do a favor directly for money, and third never discuss money and favors together. In 2001, Cianci was indicted on 27 federal charges. He beat 26 of them but was convicted on federal racketeering charges and sentenced to 4 years. [Mike Stanton [22]. *The Prince of Providence: The True Story of Buddy Cianci, America’s Most Notorious Mayor, Some Wiseguys, and the Feds*, New York: Random House].

¹⁴ *China Daily*, 8/6/2014.

¹⁵ *The Calgary Herald*, 3/23/2007; *SCMP*, 6/10/2013.

¹⁶ *Forbes*, 11/17/2017, available at <https://www.forbes.com/sites/antoinenagara/2016/11/17/jpmorgan-agrees-to-pay-264-million-fine-for-sons-and-daughters-hiring-program-in-china/#78d9d9125688>.

Everbright International and a former senior manager at the Bank of China; Joyce Wei, the daughter of the Chairman of Tianhe Chemical; and Zhang Xixi, the son of the Chief Engineer of the Ministry of Railways.¹⁷ JP Morgan was also said to have retained a Beijing-based consulting firm headed by Wen Jiabao's daughter Lily Chang.¹⁸ Although the individuals hired by JP Morgan—and other foreign companies—may well have been qualified for their jobs and in most cases were not assigned to projects that directly related to their parents' posts, hiring "princelings" is often seen as a way to generate *guanxi* with the power elite in China. Like ties based on the causal giving of *hongbao*, the goal of such hires is not an immediate *quid pro quo* favor, but rather the cementing of a "relationship" that might prove beneficial or useful in the future.

By building ties between a favor-seeker and an official, *guanxi* creates an implicit link between the interests of the two partners. As he or she benefits from the gifts given by the favor-seeker, the official not only presumably develops an emotional obligation to repay the favor-seeker's "kindness" but also an interest in ensuring that the favor-seeker's fortunes improve and hence their ability to provide future—and perhaps larger—gifts. In theory, therefore, if an official enters into a *guanxi* relationship with a private businessperson, then it becomes in their interest to use their authority to promote the growth and profitability of their private partner's business. At the same time, it is also in the official's interest to protect their partner's business from encroachment by other officials who might "cut in" on the official's stream of gifts or "muscle them out" of their *guanxi* relationship. As a result, the official should develop a personal financial interest in protecting their partner's property rights, albeit by improperly intervening on their behalf.

White Glove Bribery

In recent years, direct *guanxi* based favor-seeking has evolved into a new more indirect form of favor-seeking wherein a favor-seeker builds a relationship not with an official but with his wife or her husband, children, or other confidants. In many ways, the process of building such relationships is the same as in the construction of direct *guanxi* relationships. The favor-seeker begins by building a friendship, for example, with the official's wife by giving her gifts and inviting her to dinner or other social events. Relationships with an official's children might also be cultivated, perhaps by helping a child gain admission to a prestigious school or, in the case of an adult child, helping them establish business contacts and build networks. As before, as the relationship deepens, the favor-seeker might begin to supplement gifts and invitations with cash. Cash may be offered to help out with school or university fees or perhaps as "loan" to help with the

¹⁷ NYT, 8/29/2013; China Everbright Bank web page, available at <http://www.cebbank.com/Channel/63639272>; Foreign Corrupt Practices Act (FCPA) Blog, 2/13/2014, available at <http://www.fcablog.com/blog/2014/2/12/ubs-suspends-two-bankers-in-china-hiring-probe.html>; <http://www.fcablog.com/blog/2014/3/26/top-jpmorgan-china-banker-leaving-amid-hiring-probe.html>; <http://english.caixin.com/2014-05-22/100681090.html>; <http://www.ntd.tv/en/programs/news-politics/china-forbidden-news/20140526/148959-jp-morgans-case-publicly-reported-in-china-is-zeng-qinghong-now-in-trouble.html>.

¹⁸ Radio Free Asia, 10/5/2013, available at <http://www.rfa.org/english/news/china/wealth-11152013105758.html>.

purchase of a new home or car or to start a new business. A would-be favor-seeker might also begin to purchase goods or services from companies linked to the official's family and begin to cultivate relationships with other members of his extended family. As the relationship begins to develop, the wife or other family member who accepts gifts and cash is presumed to develop a tacit obligation to make the official "aware" of the special bond between their family and the favor-seeker, thereby sensitizing him to the need to repay the "friend's" kindness with appropriate "help" when opportunities arise. Once again, the relationship should be based on an extended and diffuse reciprocity, not a *quid pro-quo* expectation of quick repayment on a one-to-one basis.

Although favor-seekers may well have built this sort of relationship with officials' families at any level, in the case of senior officials, we have examples of favor-seekers becoming the white glove (白手套) for the official's family. The white glove acts as a behind the scenes patron, not only by providing gifts and cash but also by assuming broad responsibility for "looking after" the official's financial interests [12, 23]. In the case of Bo Xilai, two Dalian businessmen, Xu Ming, the chairman of Dalian Shide Group, and Tang Xiaolin, general manager of the Dalian International Development Corp., established relationships with Bo's wife Gu Kailai and his son Bo Guagua. They began "helping" with Bo Guagua's school expenses, first paying for tutoring in English and then covering the cost of Bo Guagua's attendance at a series of expensive overseas schools and universities, first in England where he attended high school at the prestigious public school Harrow and then went on to Cambridge University for his bachelor's degree. After graduating from Cambridge, he went on to earn a master's degree from Harvard University's Kennedy School.¹⁹ Although the exact annual cost of Bo Guagua's education, including tuition and living expenses, and the value of any scholarships he might have received is unknown, it has long been suspected that Bo Xilai's salary of around US\$20,000 could not have covered Guagua's costs, which reportedly included expensive apartments, sports cars, and an active social life.²⁰

Based on evidence presented at their respective trials, Xu and Tang were picking up a considerable portion of Guagua's expenses. Tang Xiaolin testified that in 2002 he handed Bo, who was governor of Liaoning at the time, US\$50,000 (¥415,000) at his home in Shenyang, saying the money was for Guagua's living expenses. In 2005, Tang said that he gave Bo, who was then Minister of Commerce, US\$80,000 (¥655,000) in his Beijing office, again telling Bo that the money was for Gu Kaikai and to help cover Guagua's school costs. Xu Ming also channeled money through Gu Kailai to pay Guagua's expenses. According to prosecutors, between 2004 and 2012, Xu gave Bo's family ¥2.43 million which

¹⁹ After his parents were sent to prison and had their property confiscated, Guagua, who had elected to remain in the USA after he graduated from Harvard, still apparently had the financial wherewithal to enroll in Columbia Law Schools. According to Columbia Law School's admissions webpage, the estimated cost of a year of law school is currently close to US\$86,000. <http://web.law.columbia.edu/admissions/graduate-legal-studies/tuition-fees-and-financial-aid>, access 10/26/2014. The estimated cost for an international student at the Kennedy School was US\$73,000. See <http://www.hks.harvard.edu/degrees/sfs/prospective-students/tuition/intl>. Bo Guagua's living expense may have been considerable higher as it was reported that he lived in a US\$3500 a month apartment in Cambridge.

²⁰ *New York Times*, 4/16/2012. Bo Guagua told the *Harvard Crimson* that his school costs, which *Asahi Shimbun* estimated at about US\$500,000, were covered by scholarships and money his mother had earned while working as a lawyer in the 1990s. *Asahi Shimbun*, 10/3/2012.

was used to pay for travel and accommodations, pay off credit cards, and fund an African safari for Bo Guagua and a group of his friends.²¹ Xu also reportedly funded the purchase of a villa in the south of France that was intended to generate rental income for Gu.²² Rather than give Gu the money directly, he purchased the villa using a company he controlled but which was nominally headed Patrick Devillers, a French architect with connections to the Bo-Gu family.²³ Xu is also said to have rented houses for Gu Kailai and Bo Guagua in England before Bo Guagua entered Harrow.

Even though it seems obvious that Bo should have known that somebody was picking up the cost of his son's overseas education, he denied knowing anything about Xu and Tang paying Guagua's bills or giving money to Gu. At his trial, he declared, "I was in the dark about [Bo Guagua] accepting [Xu Ming's] subsidy for flight tickets and accommodations. I also had no idea about the property in Nice [France] that Xu and [Gu Kailai] bought." Bo even denied knowing Xu well, telling the court, "He is a friend of Kailai and I ran into them from time to time when I went back home. That did not mean I took him as a friend." Bo then blamed his wife for everything,

Gu Kailai has kept me in the dark. She exhausted all her wits and suffered repeated setbacks. In the end she became reckless and angry, did terrible things against all the odds and reasoning. Did she at any point over the past 10 years try to talk to me about these things? Did she ask for my help? I'm her husband! She had so many opportunities to bring these up with me. But in the end, she would rather confide in Xu Ming and Wang Lijun²⁴ and tell me nothing. There is not a single piece of evidence in the testimony showing that I was aware of these things. Isn't that strange?²⁵

²¹ *China Daily*, 8/28/2013 and *SCMP*, 9/9/2013. According to *AFP*, Xu paid for a charter jet to take Bo Guagua to Tanzania in 2011 and paid for a trip to the World Cup in Germany in 2006. *Agence France Press*, 8/23/2013.

²² *The Wall Street Journal*, August 6, 2013, available at <http://www.wsj.com/articles/SB10001424127887323420604578650071253073626>.

²³ Xu reported cultivated a number of other senior officials. According to the *New York Times*, he invested in a number of private ventures with members of Wen Jiabao's family and may have even dated Wen's daughter Wen Ruchun. He befriended Wen's wife Zhang Beili and Wen's son Wen Yunsong by investing in a number of gem trading companies controlled by Zhang Beili or other of Wen's relatives. *NYT*, 8/31/2013.

²⁴ A "tough cop" who made his reputation fighting organized crime in Liaoning, Wang Lijun was a central figure in the fall of Bo Xilai. Bo had Wang transferred from Liaoning where he had built a reputation as a tough cop to Chongqing after Bo was appointed party secretary of the city in 2008. Once in Chongqing, Wang spearheaded a highly publicized crackdown on organized crime. In retrospect, however, it appears that the crackdown was actually a disguise for a takeover of the city's lucrative underworld from the local gangs and squeezing prominent developers, many of whom were arrested on corruption charges and had their assets seized. Bo and Wang fell out after Wang confronted Bo with evidence that Gu Kailai had murdered an English businessman, Neil Heywood, in a dispute over money. After clashing with Bo, Wang fled to Chengdu in neighboring Sichuan in an apparent attempt to gain political asylum at the US consulate. After the Americans refused to grant him asylum and police from Chongqing surrounded the consulate, Wang managed to arrange for officials from the Ministry of State Security to fly to Chengdu and escort him back to Beijing. Wang was subsequently charged with treason and corruption. He was convicted and sent to prison for 15 years. Gu received a suspended death sentenced after being convicted of murdering Heywood and accepting bribes from Xu Ming. *Radio Free Asia* (RFA), 2/13/2012 and 9/24/2012 and *Reuters*, 8/20/2012 [24].

²⁵ *South China Morning Post* (SCMP), 8/27/2013.

The court rejected Bo's claims and he was sentenced to life in prison after being convicted on bribery, embezzlement, and abuse of power charges.²⁶

In the case of former Politburo Standing Committee member Zhou Yongkang, it appears that three businessmen, Wu Bing, Mi Xiaodong, and Liu Han²⁷, acted as his family's white glove in large part by establishing a series of partnerships with Zhou's son Zhou Bin, often using Zhou Bin's mother-in-law Zhan Minli as a front. The exact nature of the relationship between Zhou Bing, Wu, Mi, and Liu has not been fully spelled out. Nevertheless, the available evidence suggests that the three businessmen cut Zhou Bin in on deals in which they needed "political influence" to secure needed leases, permits, and financing. Many of their various ventures were directly or indirectly connected to the China National Petroleum Corporation, where Zhou Yongkang had spent much of his career, including a stint as its general manager between 1996 and 1998, or were based in Sichuan province where Zhou had been party secretary from 1999 to 2002, after which he went on to be Minister of Public Security (2002–2007) and then chair of the Central Committee's powerful Politics and Law Commission.²⁸ By cutting Zhou Bin in on deals, Wu, Mi, and Liu were presumably hoping to benefit from his father's influence and, perhaps, more critically, tap into his considerable network of protégés, cronies, and flunkies. The Zhou family reported did very well financially as a result.²⁹

Like *guanxi* bribery, white glove bribery relies on diffuse reciprocity rather than a *quid pro quo* trading of favors for money. The white glove quietly covers the official's expenses and assists his or her family in every way he can, including cutting the family in on profitable business deals or investing their money "wisely" and discretely in various ventures. In return, the white glove obtains "opportunities." Xu Ming, for example, reportedly began his career as a low-level manager in a state-owned seafood export company in Dalian. In 1992, Xu set up a private company and earned a small fortune selling shrimp to Japanese importers.³⁰ He then used those profits to establish the Dalian Shide Group. At about the same time, he was introduced to Bo Xilai, who was the mayor of Dalian at the time. Technically a subsidiary of the state-owned Dalian Zhuanghe Foreign Economics and Trade Committee, Xu's new company quickly won a series of contracts from the city, including a contract to provide landfill for the construction of the new Xinghai Plaza and a contract to replace window frames in

²⁶ *The Wall Street Journal*, 9/22/2013.

²⁷ Liu Han was arrested in May 2013 on murder and organized crime charges. He and his brother were said to have built an extensive criminal syndicate based in Sichuan and carried out a series of hits on rival gangsters. Liu was sentenced to death in August 2014. Liu's relationship with Zhou Bin was not part of the charges against him. *Want China Times*, 5/14/2013; *China Daily*, 5/19/2014; *Global Times*, 8/8/2014; and *The Washington Post*, 5/23/2014.

²⁸ Career data from *China Vitae* http://chinavitae.com/biography/Zhou_Yongkang/career.

²⁹ According to *Reuters*, when they moved against Zhou, investigators froze Y37 billion in bank deposits, seized stocks and bonds worth Y51 billion, "confiscated about 300 apartments and villas worth around Y1.7 billion," and seized art worth Y1 billion. Not all of these assets necessarily belong to Zhou Yongkang or even his extended family (his brother, sisters-in-law, and a nephew were detained along with Zhou, Zhou's wife Jia Xiaoye, his sister-in-law Jia Xiaoxia, Zhou Bin, and Zhou Bin's wife Huang Wan). In July 2016, Zhou Bin was sentenced to 18 years after being convicted of accepting Y98 million in bribes and obtaining Y124 million from illegal deals. Jia Xiaoye was also convicted in July 2016 and sentenced to 9 years. Zhou Bin's mother-in-law escaped arrest because she had immigrated to Southern California. *Reuters*, 3/30/2014; *SCMP*, 6/15/2016; *SCMP*, 6/16/2016; and *China Daily*, 6/16/2016.

³⁰ *SCMP*, 10/21/2014.

municipal offices. Dalian Shide quickly morphed into a sprawling conglomerate, with ventures in plastics, construction, insurance, and banking.³¹ In 1999, Xu and his brother took full control of Dalian Shide and, with Bo's help, set up a number of foreign joint ventures.³² Xu's business went national after Bo moved to Beijing in 2004 to become Minister of Commerce.³³ In 2009, Dalian Shide followed Bo to Chongqing, settling up a real estate development subsidiary in the city.³⁴ Having started out as a poorly paid state employee, in 2012 Xu was said to be worth US\$1.03 billion and ranked 212th on the Hurun Rich List.³⁵ Bo reportedly helped Tang Xiaolin gain control over Dalian City's Shenzhen liaison office, which Tang then used to pursue a series of development projects in Guangdong. Bo also helped Tang obtain an import quota for cars that yielded him substantial profits.³⁶

Xu's and Tang's relationship with Bo was ultimately symbiotic in that all of them benefited. In essence, a white glove relationship is structured in the same way as a *guanxi* relationship: mutual exchanges of gifts and favors based on diffuse reciprocity. The relationship is framed in terms of the white glove's "concern" and "admiration" for the official and his friendship with the official's family. Unlike a classic patron-client relationship, the patron in a white glove relationship remains socially subordinate to the official and the relationship is indirect and distant, with the white glove having a friendship not directly with the official, but rather with the wife, members of the official's family, or other intermediaries. Regardless of the specific modalities, the white glove is linked to the official through an intermediary, not directly. The intermediary "helps" the white glove by saying favorable things to the official, who then repays the white glove with favors. In theory, therefore, the official has no direct relationship to the white glove and hence has a greater degree of deniability should the relationship come under scrutiny. But like an official in a direct *guanxi* relationship, the official presumably develops a personal financial interest in nurturing and protecting the white glove's financial interests. Thus, in the case of the Bo-Xu-Tang relationships, Bo would presumably profit if Xu's Dalian Shide and Tang's Dalian International Development Corp. grew and their profits increased and would have had incentives to protect their property from unwanted encroachment or arbitrary expropriation.

Profit-Sharing Bribery

In addition to *guanxi* and white glove bribery, two additional forms of bribery have figured in the current crackdown: kickback paying and what might be called "shareholder bribery." Whereas *guanxi* and white glove bribery are defined by diffuse reciprocity, these latter forms tend to be focused on quid pro quo exchanges. In abstract, kickback bribery involves a straightforward exchange of money for power. Typically, a sales agent offers to pay an official a percentage the purchase price of goods and

³¹ *Straits Times*, 8/23/2014 and *Reuters*, 4/25/2012.

³² *Caixin*, 4/9/2012.

³³ *Reuters*, 4/25/2012.

³⁴ *Ibid.*

³⁵ Hurun, "Richest People in China," available at <http://www.hurun.net/en/> and *AFP*, 8/23/2013.

³⁶ *China Daily*, 8/28/2013 and *SCMP*, 9/9/2013.

services if the official will agree to sign purchase orders or approve contracts. The amount of the kickback is thus dependent on the size of the order or contract and is directly linked to the transaction.

In abstract, both kickback and shareholding bribery seek the same goal as *guanxi* and white glove bribery—the fusion of the financial interests of the two parties in which the official party uses their authority to advance the ability of the other party to earn profits or obtain rents. Kickback and shareholding bribery, however, directly links the financial interests of an official to the profitability of his or her secret partner's business ventures. Shareholder bribery gives the official a particularly strong incentive to protect his secret partner's property rights because the official's total income from the “deal” will be maximized if the business prospers over the long term, with the greatest return likely to come from nurturing the business to the point where it can go public by listing on the Shanghai, Shenzhen, or Hong Kong stock exchanges, in which case the official might stand to reap substantial windfall profits from a successful initial public offering (IPO).

Paying kickbacks apparently become a common and “accepted” part of the “the Chinese way” of doing business beginning in the early post-Mao period.³⁷ Prior to 1993, there was little obvious effort to crackdown on kickbacks or other forms of “commercial bribery” (商业贿赂)—bribes paid to business executives and managers by other business executives or managers. The 1979 Criminal Code did not specifically criminalize the payment of kickbacks or other bribes involving private parties. On paper, such forms of bribery were criminalized in the 1990s. In 1993, the Anti-Unfair Competition Law made such payments a crime. The 1995 “Regulations Governing the Punishment of Corporate Crime” and the 1996 “Provisional Regulations Banning Commercial Bribery” then expanded the definition of commercial bribery and banned the use of hidden commissions and kickbacks, provisions which were then incorporated into the revised 1997 criminal code. Despite the promulgation of laws banning kickbacks, it was not until 2005–2006 that the government began to pay significant attention to commercial corruption [25]. Even then, investigators seemed to shy away from cracking down on foreign companies paying kickbacks, which was apparently a common practice for companies marketing their goods and service to Chinese companies and public agencies such as hospitals.

³⁷ *Global Times*, 8/20/2013; *SCMP*, 8/16/2013; http://www.jcrb.com/anticorruption/ffyw/201309/t20130925_1210283.html; *China Daily*, 9/25/2013; *Shanghai Daily*, 9/25/2013; http://www.globaltimes.cn/content/813722.shtml#_UwtY6J0o7IW; http://www.globaltimes.cn/content/851237.shtml#_UzSVoJ3D_IU; http://newspaper.jfdaily.com/shfzb/html/2014-03/28/content_30524.htm; <http://www.fcpablog.com/blog/2014/4/25/china-corruption-blotter-april-25-2014.html>; <http://www.chinanews.com/fz/2014/08-06/6464851.shtml>; <http://www.fcpablog.com/blog/2014/8/29/china-corruption-blotter-august-29-2014.html>; <http://english.caixin.com/2014-09-08/100726114.html>; <http://www.fcpablog.com/blog/2014/9/11/huawei-confronts-its-biggest-challenge-internal-graft.html>; *SCMP*, 9/10/2014; http://news.jcrb.com/jxsw/201204/t20120410_840135.html; http://news.jcrb.com/jxsw/201204/t20120412_842216.html; *China Daily*, 7/31/2012; *Caixin*, 7/31/2012; *Caixin*, 7/27/2012; *China Daily*, 9/21/2012; *Shanghai Daily*, 9/20/2012; <http://www.fcpablog.com/blog/2012/10/8/china-corruption-blotter-october-8-2012.html>; <http://www.chinanews.com/fz/2012/09-20/4197153.shtml>; *Shanghai Daily*, 10/9/2012; <http://www.fcpablog.com/blog/2012/10/18/china-corruption-blotter-october-18-2012.html>; http://news.cqnews.net/html/2012-10/09/content_20384886.htm; and *China Daily*, 12/18/2013.

In 2013, investigators stopped turning a blind eye to such shady dealings by foreign companies. Chinese investigators specifically targeted pharmaceutical and medical equipment sales, with the result that GlaxoSmithKline³⁸ and other leading international drug makers suddenly found themselves prominent targets of Xi Jinping's anti-corruption drive.³⁹ According to Chinese investigators, foreign drug manufacturers did not necessarily pay kickbacks but instead relied on locally hired sales representatives or hired a local sales firm to market their products.⁴⁰ Sales representatives reportedly offered to kickback 5–10% of the purchase price of a product to hospital administrators and doctors.⁴¹ In other cases, doctors were paid a ¥10–20 “commission” each time they prescribed a company's product.⁴² Payments could be made in cash or in kind. In kind payments might be made in the form of gifts of medical books or other personal items of value such as expensive iPhones, laptops, and cameras; payment of travel, lodging, and sustenance costs for doctors attending “conferences” (which were often held at luxury resorts or overseas in tourist destinations); or the provision of “pocket money” during periods of overseas “training.”⁴³

Because many international drug makers are forbidden by the laws of their home country from paying bribes to foreign officials, a group that would include hospital administrators and doctors employed at public hospitals in China, the cost of kickbacks had to be hidden. Sales representatives thus devised a variety of ways to obtain the cash they needed to cover their bribes. One method they used was to file for fake “reimbursement” for “entertainment and travel expenses.” A sales representative, for example, might make arrangements with a travel agency that would generate charges

³⁸ GlaxoSmithKline was accused of paying ¥3 billion in kickbacks and ultimately fired over a hundred of its sales representatives. The head of its China operations, Mark Reilly, was convicted of allowing his subordinates to pay kickbacks and sentenced to three years. Reilly's sentence was quickly suspended and he was deported. Two others, Peter Humphreys and his wife Yu Yingzeng, who GlaxoSmithKline hired to investigate the source of e-mails about the kickbacks, were charged with violating state secrecy laws and sentenced to 2.5 years. Several of the company's Chinese executives were also arrested. *China Daily*, 7/16/2013; <http://www.fcablog.com/blog/2014/4/17/gsk-cuts-150-china-staff-for-improper-sales-practices.html>; <http://www.reuters.com/article/2014/05/14/us-china-glaxosmithkline-idUSBREA4D03720140514>; <http://www.bbc.co.uk/news/business-28083796>; <http://www.ibtimes.com/mark-reilly-glaxosmithkline-bribery-investigation-complicated-new-sex-tape-scandal-1615394>; <http://www.theguardian.com/business/2014/jun/30/glaxosmithkline-pharmaceuticals-industry>; SCMP, 7/1/2014; http://www.nytimes.com/2014/05/15/business/international/glaxosmithkline-china.html?_r=0; <http://www.reuters.com/article/2014/06/30/us-gsk-china-idUSKBN0F40YN20140630>; SCMP, 9/20/2014; http://www.reuters.com/article/2014/09/19/us-gsk-china-idUSKBN0HE0TC20140919?utm_source=The+Sinocism+China+Newsletter&utm_campaign=979ce85d5f-Sinocism09_19_14&utm_medium=email&utm_term=0_171f237867-979ce85d5f-29600033&mc_cid=979ce85d5f&mc_cid=c0b48b4b5d; and <http://www.reuters.com/article/2014/05/14/us-china-glaxosmithkline-idUSBREA4D03720140514>; and SCMP, 9/20/2014.

³⁹ *CNNMoney*, 7/24/2013; <http://fanfu.people.com.cn/n/2014/0427/c64371-24947729.html>; http://epaper.jinghua.cn/html/2014-06/21/content_99438.htm; <http://www.fcablog.com/blog/2014/8/1/china-corruption-blotter-august-1-2014.html>; <http://www.fcablog.com/blog/2012/8/24/china-corruption-blotter-august-24-2012.html>; http://www.legaldaily.com.cn/locality/content/2012-06/26/content_3672165.htm?node=37232; <http://news.hc3i.cn/art/201207/20254.htm>; <http://www.fcablog.com/blog/2012/7/24/china-corruption-blotter-july-24-2012.html>; <http://www.fcablog.com/blog/2013/1/4/china-corruption-blotter-january-4-2013.html>; and <http://www.bloomberg.com/news/2013-09-12/sino-biopharm-plunges-after-cctv-bribery-report-hong-kong-mover.html>.

⁴⁰ *Global Times*, 10/15/2013 and *Reuters*, 4/4/2014.

⁴¹ *China Compliance Digest*, 1/27/2014.

⁴² *Shanghai Daily*, 7/28/2013 and *AFP*, 7/27/2013.

⁴³ “Training” was frequently conducted in places such as Hawaii, Los Vegas, and other resort destinations, with the “trainees” spending little or none of their time in the classroom.

for fake airline tickets, hotel rooms, and other travel costs. The agency then billed the company or gave the sale representative bogus receipts which he then filed with the company. Reimbursements were then split between the sale agent and the travel agency. “Receipts” for meals and other costs might be forged by the sales representative or bought from individuals who specialized in forged receipts (发票). Drug manufacturers might also hire “consultants” who covered the cost of kickbacks by inflating the fees they charged the companies and then handing part of the payment to officials. Payments might be spread out over long periods of time after an official “helped” a business. In Xiangtan, Hunan, a businessman who obtained 13 mu of land to build a logistics base in 2003, paid the official who helped him obtain the lease between Y5,000 and Y20,000 during the Spring Festival over the next 6 years [21]. Other officials accepted “thank you fees” (感谢费), “security consulting fees” (担保费), and “service fees” (咨询服务费).⁴⁴

Yet, another way to bind officials to companies was to give them a secret ownership stake in the company. Shareholder bribery takes two general forms. A favor seeking party might, for example, offer an official or members of his family the chance to buy a hidden stake in a company or might simply give the officials “dry shares”—shares for which the official pays nothing. In either case, shares are generally registered in the name of a relative and under a fake name.⁴⁵ A series of shell companies registered under the names of relatives or others may also be used to hide an official’s stake in a company. In other cases, the favor-seeker might promise to hire the official and give them a lucrative second career after they retire.⁴⁶ Alternatively, a favor-seeker might offer to “invest” in an official by offering to provide the monetary “support” they need to move up in an administrative hierarchy by buying promotions.

Evidence of these sorts of arrangements can be found in the case of Luliang Prefecture, a perennially impoverished coal producing area in eastern Shanxi. In 2002, following the central government’s decision to deregulate prices for coal used in power generation, the government of Luliang decided to privatize the state-owned Xingwu Mining Company.⁴⁷ A local mine operator named Xing Libin, who had worked in the coal industry since 1990 and owned a string of private companies involved in coal mining and washing, put in a bid. Xingwu Mining was said to have had Y262 million in assets and Y193 million in liabilities. The company, however, was believed to control 120 million tons worth of coal reserves, a potentially profitable asset given rising coal prices and surging demand. Xing bid Y59 million, a fraction of the company’s value and less than other bids. He won nevertheless apparently because he had cut a series of side deals with local officials. Soon after Xing was awarded control of the company and renamed it Liansheng Energy, Yan Guoping, the magistrate of Liulin County where the mine was located, left his government post to become the

⁴⁴ http://www.ccdi.gov.cn/ajcc/201309/t20130914_10161.html.

⁴⁵ *Jingji Cankao Bao*, 11/3/2014, available at <http://finance.sina.com.cn/china/20141103/021420711617.shtml>.

⁴⁶ Low- and middle-level Chinese officials face mandatory retirement in their fifties, and because pensions are often small, there is a need for post-retirement income.

⁴⁷ The following paragraphs draw heavily on *Caixin*, 10/24/2014, available at <http://english.caixin.com/2014-10-24/100743023.html>; *China Daily*, 8/25/2014; *Global Times*, 8/25/2014, *Caixin*, 8/25/2014; <http://english.caixin.com/2014-08-25/100720958.html>; *SCMP*, 8/24/2014; http://www.ccdi.gov.cn/ajcc/201408/t20140823_26678.html; *Caixin*, 9/5/2014; and *SCMP*, 10/23/2014.

legal representative of Shanxi Resources Liansheng Investment, a partnership between Xing's Liansheng and state-owned China Resources Power Holdings. Yan's deputy, Zou Zhongjia, who had been in charge of the coal industry in Liulin County, also quickly left public service for a job with a real estate developer in Hainan with financial ties to companies controlled by Xing. Ma Xuegeng, the Director of the Liulin County Coal Bureau, later left public service and took a job as Vice President of Liansheng. After the takeover of Xingwu, Liansheng expanded rapidly and within a year it controlled 16 subsidiary companies and 14 mines. Liansheng was estimated to account for 65% of Luliang Prefecture's GDP.

In 2004, Luliang underwent a series major leadership changes. Nie Chunyu became mayor of Luliang city (two years later Nie was appointed party secretary of Luliang city). After nine years, Nie was promoted and became a member of the Shanxi Provincial Party Committee's standing committee.⁴⁸ He was replaced by Du Shanxue, who was also quickly promoted to a post as Vice Governor of Shanxi. In both cases, it was rumored that their new jobs were obtained using money provided by Luliang's coal barons. Back in Luliang, Nie was succeeded as mayor by Ding Xuefeng, who reportedly used ample funds provided by Zhou Bin, a Beijing businessman with a variety of ventures in the energy sector and the son of Politburo Standing Committee member Zhou Yongkang, to buy his office.

Despite having become the tenth richest man in China according to Hurun, Xing found himself in financial problems due to the crushing debts he took on to rapidly expand Liansheng. His political ties, however, gave him a possible way out. Working through his friend Luliang Deputy Mayor Zhang Zhongsheng, Xing cut a deal with Song Lin, the Chairman of China Resources, a major state-owned conglomerate, whereby China Resources would buy coal mines from Liansheng at several times their estimated value and at a time when coal prices were beginning to fall. In 2013, allegations of wrongdoing in the Liansheng-China Resources deal surfaced and it became part of a scandal known as the "Shanxi earthquake" that brought down Song and a series of senior provincial officials including Ling Zhengce, the older brother of former Politburo Member Ling Jihua.⁴⁹

Conclusion

Superficially, all three of the forms of bribery described in the preceding sections might appear to be compatible with a combination of high levels of corruption and rapid economic growth. In each instance, bribery is structured in ways that move illicit private-public relationships from a one-shot, *quid pro quo* basis to one based on extended diffuse reciprocity. As a result, rather than create a situation in which both parties have incentives to opportunistically maximize their own short-term gains at the

⁴⁸ <http://english.caixin.com/2014-08-25/100720958.html>.

⁴⁹ Ling Jihua, who had been Director of the Central Committee's General Office from 2007 to 2012 and was considered to have been General Secretary Hu Jintao's right-hand man, fell from grace after his son Ling Gu was killed when he plowed a US\$200,000 Ferrari Spider into a Beijing bridge abutment in the early hours of March 18, 2012. Ling, who had been rumored to be candidate for a seat on the Politburo Standing Committee, was sidelined at the 18th Party Congress and later arrested. Ling was given a life sentence in July 2016 after being convicted of accepting bribes, abusing his authority, and stealing state secrets.

expense of the other party—a situation analogous to the Prisoners’ Dilemma game wherein the absence of iterated interaction leads to opportunistic defection—these forms of bribery give them incentives to maximize long-term joint returns. In all these forms, the private parties basically remit a cut of the gains they expect to obtain from illicit favors from their official partners. Because the total amount the official partner can earn from their share of their private partner’s income and profits will increase as the absolute amount of those incomes and profits increases, the official parties have incentives to promote the growth of their business partners. By putting corrupt private-public relationship on a long-term basis, moreover, diffuse reciprocity creates an informal enforcement mechanism in the form of a tit-for-tat game structure. In theory, therefore, the three forms of bribery discussed in the preceding sections create a form of informal property rights wherein officials have corrupt incentives to nurture and protect their private partners.

There are, however, several complications to the conclusion that corruption based on diffuse reciprocity could have sustained an informal regime of credible endogenous property rights compatible with rapid growth. First, and perhaps foremost, whereas exogenously imposed and enforced formal property rights regimes are essentially a form of public good, the endogenously created property rights embedded in the three forms of bribery described in this article are a form of private good. Although diffuse reciprocity is clearly capable of giving officials strong incentives to nurture and protect the property of their private partners, only those private parties who are able and willing to buy such property rights will obtain credible protection from arbitrary expropriation. Those who cannot or will not pay to protect their property must operate under the much less secure formal property rights regime. Because their property rights remain insecure, they are apt, according to mainstream economists, to eschew the risky investments that yield rapid growth and opt instead for conservative, property preserving activities that yield much lower long-term returns. This implies that the Chinese economy would have split into two different sub-sectors, one in which endogenously created informal property rights encouraged joint gains-seeking and rapid growth and one in which an exogenously imposed but incomplete formal property rights regime presumably renders growth-generating investments less secure and hence presumably much less likely to generate rapid growth. This implies that only the privileged companies which forged bribery-based relations with officials should have prospered.

Second, whereas the seemingly anomalous combination of rapid growth and rising corruption during the 1990s might be ascribed to the creation and skimming off of windfall profits created by the transition from the plan to the market, the deepening of corruption during China’s third boom appears to be better associated with the use of corruption to create new rents. Officials such as Zhou Yongkang were not arbitraging between the plan and the market by taking undervalued assets and properties out of the planned economy and reselling them to would-be developers, mining bosses, and industrials who could deploy them more efficiently. They were instead selling off state assets and profit making opportunities at below their markets value, using their authority to cut themselves in on profitable business opportunities, and skimming off a share of the money allocated by the state for infrastructural development and expansion. In other cases, corruption was used to restrict market competition and thereby created quasi-monopoly rents for “favored” businesses. Informal, bribery-based business-official partnerships was thus appear more likely to have resort to growth retarding rent-seeking.

Third, although an endogenous property rights regime based on diffuse reciprocity might be conducive to continued rapid growth, such a regime is subject to sudden and potentially catastrophic revision. Regardless of whether these informal property rights are credible and are capable of generating and sustaining trust between the parties operating under them, they are based on illegal activity. In arguing that the fuzzy informal regime of property rights governing land that has emerged in many areas of rural China was a credible durable alternative to an exogenously imposed set of law-based property rights, Ho claims that the system was credible because members of those communities saw it as just and fair [13]. It is clear that this is not case with the diffuse reciprocity informal property rights described in the preceding sections. On the contrary, ordinary citizens in China have ranked official and business corruption as serious problems in repeated public opinion polls and the leadership has long faced considerable public pressure to take action to curb corruption.⁵⁰ Accordingly, in November 2012, Xi Jinping and Central Discipline Inspection Commission Chairman Wang Qishan launched a massive attack on corruption, including high-level corruption, that over the next four years led to the indictment of some 200,000 officials and managers of state-owned enterprises on corruption-related charges and a series of new policies designed to crackdown on official extravagance and corruption. Whether Xi's crackdown will actually significantly lower corruption in the long-term is yet to be seen, but it seems difficult to believe that many of the cozy and profitable fuzzy local property rights systems build on a foundation of bribery in the "salad days" of rapid growth have not been severely damage, destroyed, or abandoned. The corruption-based informal property rights system described in the preceding sections are thus not a semi-stable, evolving "equilibrium" based on an informal but durable and credible commitment, but is instead a temporary arrangement that is constantly vulnerable to egoistic defection by the parties involved and external attack.

Fourth, the practices that was said to characterize *guanxi* bribery seem, in key respects, "quaint" throwbacks to a bygone era. Although bribes paid to low-level officials may still be of a size that would comfortably fit into a *hongbao*, bribes paid by real estate developers, mine operators, stock speculators, and other "big money" industrialists are more likely to be so large that they have to be delivered in suitcases, paid in the form of dry stocks, or electronically transferred to secret offshore bank accounts. The stress on long-term "emotional ties" also seems to have been displaced by a much more immediate desire to "cash in." Moreover, whereas *guanxi* bribery seems to have been embedded in a culture of propriety wherein corruption was supposed to be discrete, in the period prior to the 2012 crackdown, it seemed as if corrupt officials had lost all inhibitions and had begun to almost go out of their way to crassly flaunt their ill-gotten wealth by smoking outrageously expensive cigarettes, sporting luxury watches, driving flashy cars, living in lavish villas, and cavorting with multiple mistresses.

⁵⁰ In a 2013 poll conducted by Pew Research, 53% of the respondents said that official corruption was a very big problem and an additional 31% said that it was a moderate problem. Thus, whereas in 2008, a total of 79% of those polled said that corruption was a problem, 84% had that view when polled in 2013. Pew Research Global Attitudes Project, "Environmental Concerns on the Rise in China Many Also Worried about Inflation, Inequality, Corruption," available at <http://www.pewglobal.org/2013/09/19/environmental-concerns-on-the-rise-in-china/>.

In broad terms, this analysis of what I have called bribery with Chinese characteristics does little more than reiterate the inconclusiveness of the debate on whether corruption is a major barrier to growth. Mainstream economists and most political scientists insist that corruption is economically and politically harmful and that as corruption worsens economic performance will decline and political legitimacy erode, leaving corrupt regimes vulnerable to mounting political instability, accelerated economic decline, and capital flight [26–31]. The Chinese case, however, seems to defy their logic. China has clearly had a persistent and relatively serious problem with corruption. And yet, its economy has outperformed most of the rest of the world. The CCP-led regime has also enjoyed surprisingly strong popular support, particularly among the emerging middle and entrepreneurial classes [32–36]. Finally, even though China has putative experienced large-scale capital flight, some substantial share of the money that flows out through illegal channel ends of being “round tripped” back into China disguised as “foreign investment” [37]. Corruption also has multiple faces. On the one hand, we can find evidence of corruption being used to cement stable collusive relationship between favor-seeking private parties and officials willing to use their public authority to illicitly benefit their private partners. But we can find ample examples of predatory corruption and what can only be described as “official plunder.”

Following Ho, it might be argued in abstract that informal property rights based on a combination of bribery and diffuse reciprocity have contributed to economic growth in China. However, the fact that such informal property rights are in the form of a private good rather than a public good means that only part of the economy operates under the informal property rights regime described in this article, while the remainder of the economy operates more or less under the formal property right regime that many observers deem to be seriously flawed if not totally dysfunctional. The ultimate reality is that the Chinese economy operates not under a single unified and hegemonic property rights regime, but rather has a patchwork of different regimes that include a weak exogenous system of formal rights defined by law coexists with a series of endogenous regimes created informally by actors seeking not only to compensate for the deficiencies of the formal regime but also to create an alternative property rights system, wherein bribery serves to co-join the interests of officials and private parties in the pursuit of joint gains.⁵¹ Although such a bribery-based property rights regime might result in joint gains for the parties involved, it is not likely to bring gains for others. On the contrary, bribery with Chinese characteristics closely resembles a pattern of rent seeking that mainstream economists associate with decreased growth rates and hence retarded economic development. In conclusion, therefore, although bribery with Chinese characteristics might create credible commitment for some, it does not seem capable of prompting and sustain the growth of the Chinese economy more broadly. If anything, it appears that the Chinese economy has

⁵¹ Nee and Oppen, for example, detail an informal endogenous property rights system that operates among private entrepreneurs in which trust is built largely through *guanxi* and in which “contracts” are “enforced” through “grim trigger” responses to failures to fulfill obligations that destroy the cheater’s reputation and essentially bar them from future collaborative ventures. In this system, ostracism and shunning, not bribes, are the primarily enforcement mechanism. [Victor Nee and Sonja Oppen. [38]. *Capitalism from Below: Markets and Institutional Change in China*. Cambridge, MA: Harvard University Press].

continued to grow rapidly, though at a decreasing rate, in spite of bribery with Chinese characteristics.

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