

Preface*

A functioning system of law whose independence from the state is upheld and respected by both the state and citizens is widely recognized as intrinsic to a strong and stable nation. Law and stability are seen to be not simply coexistent but interdependent; stability is an outcome of a system of law working effectively in a relatively stable society. In contemporary China, however, this law–stability nexus is complicated by Communist Party politics and the political priorities of state development. As we will see throughout this book, in the era of Harmonious Society and Stability Maintenance, Party-state actions have given China’s legal institutions an activist role in the pursuit of national stability, a role that stretches the institutions’ legal actors into responsibilities that entangle their interests in legal and political outcomes.

This book is about judicial and governmental activism around the issue of managing social instability in China today. The studies in this volume examine the relationship between law and the political imperatives of state development and observe how the stability imperative shapes this interaction. The imposed activist disposition has enabled the Party-state to legitimize important changes in the practices and policies of courts, governments and security organs on the basis of a political narrative about the imperative of social stability. The Party-state in China has deployed this political narrative, expressed particularly through Harmonious Society and Stability Maintenance discourse, to reframe and reformulate justice and security practices to accommodate its own place leading the country through social upheaval that accompanies rapid economic growth and inspires political disaffection among citizens.

We will find in the chapters of this volume that at the local government level, Party and government involvement in achieving the stability imperative through adjudication and dispute resolution makes judicial fairness difficult to attain for many citizens who use the law to protest against land, labour and environmental decisions made by judicial and

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governmental authorities. This is because these authorities also often hold a vested financial interest in supporting the cause of local enterprises over the rights of local residents or transient workers. This is evident in cases of land, labour and environmental disputes discussed in this volume.

The legal measures to achieve stability make a life for law in China that is still at the firm hand of Party, politicians and national policy, and so have created a very potent politics of law and stability in the first decade of the 21st century. In the absence of structural reform that would improve government oversight at the local level, law and judicial activism have been deployed as mechanisms to enforce a political morality in China today that is premised on high-speed economic growth as the basis for continuity of the current political arrangements of power. This has been achieved by enhancing the 'combat power' of criminal trials, civil and criminal mediation, parapolicing operations and re-education through labour, which have been used as stop-gap mechanisms for containing social unrest.

The Party-state has articulated social conflicts as the result of 'contradictions among the people'. Yet rather than tackling social contradictions head on through structural reform, authorities have sought to counter areas of dispute and dissent by mounting Stability Maintenance operations to quell unrest and dispute. While this has proven to be effective in the short term in dealing with instability-inducing protests and disputes, it will have long-term repercussions for the prospects of a well-functioning and credible legal system. Rather than cultivating institutional arrangements that would sustain long-term stability by promoting the legitimacy of well-functioning and robust legal systems, authorities have kept law relating to social conflict and disputes in an elastic state, ready and able to respond to political sways.

As many of the studies in this volume make apparent, the political obsession with stability in the first decade of the 21st century has intensified tensions between the agendas of social order and social justice, bringing about a wider societal antipathy towards the prospects for genuine systemic reform. As is made apparent in the chapters that follow, this leads back to the wider issue of law's long-term prospects for delivering the kind of legitimacy that is essential for the future of Party rule.

Susan Trevaskes, Elisa Nesossi, Flora Sapio and Sarah Biddulph