

Meng Wanzhou Surely Won't be the Last: The Hidden Logic of the American 'Hand-Over'

Jiang Shigong, with Introduction and Translation by David Ownby

Abstract: Jiang Shigong (b. 1967) is a professor of law at Peking University and a prominent member of China's New Left, as well as a talented apologist for Xi Jinping Thought. This text, originally published in August, 2019, was republished online on September 26, 2020, following Meng Wanzhou's return to China. Jiang, who writes frequently about empire, and particularly the American empire, penned this text to explain to Chinese readers the legal mechanisms by which the "long arm of justice" of the United States works its mischief throughout the world on behalf of the financial and legal interests of the American empire.



Meng Wanzhou

The text translated here,¹ by Peking University law professor Jiang Shigong (b. 1967) is somewhat different.

Introduction

Meng Wanzhou's triumphant return to China in late September, after spending nearly three years under house arrest in Vancouver, made headlines around the world, as did China's subsequent release of the "two Michaels," who had been detained by China in protest of Canada's arrest of Meng, chief financial officer of Huawei and daughter of Huawei founder and CEO Ren Zhengfei. China's media was full of celebratory, often jingoistic accounts of Meng's—and China's— "victory," as Huawei is a source of national pride and Meng's arrest was widely seen as having been politically motivated.

Jiang is an important public intellectual, a prominent member of China's New Left and a leading apologist for the Xi Jinping regime. His 2019 essay on "[Philosophy and History: Interpreting the 'Xi Jinping Era' through Xi's Report to the Nineteenth National Congress of the CCP](#)" is one of the most important texts to appear in China in the past few years, in which Jiang attempts to connect Xi Jinping Thought, Socialism with Chinese Characteristics in a New Era, and an "upgrade" of classical Marxism, with an eye toward providing Chinese with an ideological superstructure that corresponds to its material base, and thus to point the way forward.

Jiang has written on many other important topics, including "[unwritten constitutions](#)" and various issues relating to the [Hong Kong](#)

question. One of his favorite themes is that of “empire:” the role of [empire throughout history](#), the power of the [American global empire](#), the fact that Chinese may be [building her own empire](#) through the One Belt—One Road initiative. In this text, he explains how the American empire controls the world economy by claiming jurisdiction over corporations, companies, and individuals whose business “connections” link them to the American economy—which of course can include virtually anyone. Although Meng Wanzhou is not mentioned except in the title, all Chinese readers will have understood immediately why Jiang chose to write this text.

Jiang’s argument concerning the “long-arm jurisdiction” of the American legal system is fairly straightforward. He explains how individual states in the U.S. first developed the concept and practice in the (general) pursuit of fairness and justice, and then traces how similar ideas were applied internationally, first as a part of the Foreign Corrupt Practices Act, and more recently via various anti-terrorist initiatives. He describes a world that is quite literally at the mercy of the American legal system, both the prosecutors who are part of various government agencies, and the law firms that “help” multinational corporations to “comply” with American laws and regulations. I confess that I have no idea if Jiang is exaggerating or not; this [document](#) on U.S. jurisdiction abroad, put together by the [Society of Corporate Compliance and Ethics](#), suggests that Jiang is not completely off base.

In a deft rhetorical flourish, Jiang compares the reach and power of the American legal system to that of the medieval pope:

“In the current era of globalization, any country or company that is excluded from the global order becomes an isolated economic and political island that cannot join the system, meaning that it is deprived of its basic right to development and even survival. This is exactly

like being excommunicated from the world of Christendom, which means being deprived of the right of the soul to enter heaven. The United States today, based on its control of the global economic system, has adopted a series of laws that turn ‘economic sanctions’ into a legal power similar to medieval papal excommunication. As for which country or company becomes the object of global sanctions or expulsion from the global trading system, no legal trial is required, nor are international judicial procedures, the defendant cannot defend himself and the verdict is not explained—everything is reminiscent of the crime of ‘heresy’ during the medieval Inquisition. The determination of ‘heresy’ depends on the national interests of the United States, the ideological bias of the United States and even the temperament of the President of the United States, the ‘new pope.’”

Translation

The Long Arm of Empire's Justice: The Legal Underpinnings of U.S. Economic Hegemony

In 1075, Pope Gregory VII launched his famous “Papal Revolution,” which not only highlighted the independence of the pope from the monarchs of various kingdoms, and, indeed, the pope’s supremacy over those monarchs, but also, and more importantly, systematized church law by fully incorporating Roman legal principles, thus bringing all clergy and believers under the jurisdiction of the ecclesiastical law system, even stipulating that in the event of a conflict between church law and secular law, church law takes precedence. Under this pluralistic system of ecclesiastical and secular law, the jurisdiction of secular law was limited to the narrow territories of

monarchs and feudal lords and became "local law," while ecclesiastical law evolved into a kind of international law, known as "European public law," that transcended secular law and was universally employed throughout Europe. In this system, the pope had the supreme power to deal with the monarchs in matters both religious and secular, deciding whether the monarch's soul could enter heaven after death, or refusing to crown the monarch in life, in addition to the power conferred by the Inquisition to decide who was a "heretic," which could lead to excommunication and exile from Christendom.

Modern society was born out of the destruction of this dark Christian empire. However, it may well be that this dark page of European history is being reproduced in a different way in today's era of globalization. When the U.S. government constantly declares that such-and-such a country is a "rogue state," and prohibits other countries, companies, and individuals from doing business with it and attempts to exclude such countries from the global economic system, is this not similar to the exercise of the Pope's power of excommunication in the Middle Ages? When the U.S. government openly advocates "sanctions" against Huawei without legal evidence, based only on its inner conviction of potential danger, isn't it following the logic of the medieval Inquisition? From this perspective, it is urgent to understand how, in the current era, the U.S. has turned its domestic law into a "new church law" that runs roughshod over the countries of the world, and how it has brought all those who are engaged in business activities in the global economic system under the jurisdiction of this "new church law."

The Origin and Internationalization of the "Long Arm of the Law"

The founding of the United States was itself a

kind of imperialistic project, in the sense that a new political entity was erected on top of thirteen independent states, a mega-empire larger than the traditional European republics or monarchies, called the "United States 合众国." In this sense, federalism is in and of itself an imperialistic system. However, in the normative system of international law, only sovereign states can be subjects of international law, and the United States was thus considered a sovereign state. Manifestations of American imperialism are not limited to territorial expansion outside the United States and the resulting debate over whether "the Constitution follows the flag," but are also visible in the intra-imperial tensions between the individual commonwealths (states) within the United States, two of the most of important being debates over citizenship and jurisdiction. The issue of citizenship, i.e., state versus federal citizenship, was largely resolved after the Civil War, while the issue of cross-state jurisdiction was not resolved until the development of the concept of "long-arm jurisdiction."

The Origins of "Long-Arm Jurisdiction"

Sovereignty means jurisdiction, which means that state courts only have jurisdiction over cases that occur involving the citizens and territory of the state in question. If an out-of-state resident appears as a defendant, a court in the defendant's home state must perform the relevant legal procedures, a fundamental principle established by the federal Supreme Court in 1877 in *Pennoyer v. Neff*. However, the complex and lengthy nature of interstate judicial procedures undoubtedly increases the cost of litigation. Thus, in the 1955 case of *International Shoe Co. v. Washington*, the federal Supreme Court developed the doctrine of "minimum contacts," which states that a state court may enforce a lawsuit against a non-resident as long as the non-resident is aware that his activities or gains in the state are likely to be of interest to the court, or that

the dispute involves a state interest, or that suing the non-resident is not contrary to "notions of fair play and substantive justice." This means that state courts can legitimately extend their jurisdiction into the sovereign territory of other states, thus giving rise to "long-arm jurisdiction."

It was in accordance with the "minimum contacts" principle established in this case that the states enacted "long-arm jurisdiction laws" to clarify their jurisdiction over citizens of other states, and jurisdiction was even extended to "legal persons" as a result. Illinois was the first state to pass legislation to the effect that Illinois courts would have long-arm jurisdiction whenever there was a commercial transaction in the state, or damages, or the ownership or use of real property, or insurance coverage for persons, property, or risks located in the state. On this basis, in 1963, the Uniform Interstate and International Procedure Act (UIPA) was passed to further stipulate that acts or omissions occurring outside of the state but incurring damages within the state also fall within this long-arm jurisdiction. This law has served as a template for long-arm jurisdiction laws in other states, and many such laws have expanded the interstate jurisdiction of the courts beyond the "minimum contacts" doctrine.

The Internationalization of "Long Arm Jurisdiction:" The Foreign Corrupt Practices Act

While at the outset, "long-arm jurisdiction" accorded U.S. state courts jurisdiction over citizens or companies in other states, U.S. law has gradually extended this "long-arm jurisdiction" to non-U.S. companies and individuals, thus creating a legal system that claims jurisdiction over multinational companies and individuals involved in the global economic system. The most critical step in the internationalization of "long-arm

jurisdiction" was the Foreign Corrupt Practices Act of 1977 (FCPA).

In the 1970s, the U.S. media not only broke the story of the Watergate scandal, but also uncovered a series of scandals involving U.S. companies trading in power and money abroad. For example, in 1975, the media exposed the "Bananagate" scandal in which United Fruit Company bribed the president of Honduras to gain access to the Honduran market while paying low tariff rates. In 1976, the media revealed that Lockheed, with the help of the CIA, successfully defeated competitors by bribing the Japanese government to sell 200 fighter jets to the Japanese Air Force; the company followed the same playbook in subsequent civilian aviation deals. In addition to the Japanese government, Lockheed used the same tactics to bribe the federal governments of Germany, Italy, and the Netherlands to secure important sales of their aircraft. In the face of media and public condemnation, the U.S. Congress launched an investigation that culminated in a 1977 report, revealing that more than 400 U.S. companies had made suspicious or unlawful transactions in which they had bribed foreign government leaders, politicians, or political parties to the tune of more than \$300 million.

Against the backdrop of the Cold War, these scandals dealt a fatal blow to America's global moral image, forcing U.S. politicians to take steps to curb global corruption by U.S. corporations and hence rescue the country's reputation, which was on the verge of crisis. As a result, the issue of overseas bribes by U.S. corporations was transformed from what had been a question of morality to a national foreign policy and national security issue, forcing the government to take action to consolidate U.S. world leadership. In 1977, the U.S. Congress passed the Foreign Corrupt Practices Act (FCPA), which explicitly prohibited U.S. companies from bribing foreign public officials. However, the law encountered

significant opposition from the moment of its initial drafting, one objection being that unilaterally prohibiting U.S. companies from paying bribes would put them at a competitive disadvantage overseas and ultimately cost them overseas markets. This opposition inevitably pushed the U.S. government to consider how to promote the internationalization of the Foreign Corrupt Practices Act.

The United States was the first to propose the adoption of international treaties against corruption at the United Nations. But other countries soon realized that this was a legal trap: the United States has a huge judicial structure and the capacity to enforce its laws throughout the world. The international legalization of the fight against corruption means giving American judicial institutions extraterritorial law enforcement powers. The U.S. government subsequently pressed the International Criminal Court to accept its claims, but to no avail. Since going through the U. N. proved to be unworkable, the U.S. bypassed it and lobbied the Organization for Economic Cooperation and Development (OECD), which it could influence and control, and the OECD eventually adopted the Convention on Combating Bribery of Foreign Public Officials in International Trade and Economic Cooperation in 1997, which essentially replicates the U.S. Foreign Corrupt Practices Act. In this way, the principle of "long-arm jurisdiction" of U.S. justice was extended to all countries in the world through the OECD and its international legalization. Henceforth, any enterprise of any country that has any kind of connection with the U.S., such as trading in U.S. dollars, or even using an e-mail server in the U.S., becomes a subject under the "long arm" of this American legal empire.

Evidence Collection: Controlling the Global Data Empire

While "long-arm jurisdiction" may extend throughout the globe in terms of legal theory, judicial prosecution is contingent on law enforcement agencies' obtaining relevant evidentiary materials. This means that U.S. law enforcement agencies must have the ability to collect a wide range of information and data on a global scale that can be used as evidence in criminal prosecutions. To this end, the United States has seized every favorable opportunity to bring many countries, organizations, companies, and individuals under its imperial jurisdiction by passing a series of laws that allow U.S. law enforcement agencies to collect all kinds of information and data around the world as they please. Two of the most important acts in this regard are the Patriot Act of 2001 and the Cloud Act of 2018.

The Global Fight Against Terrorism: The Patriot Act

Less than two months after 9/11, the United States quickly passed the "Uniting and Strengthening America by Providing Appropriate Tools to Restrict, Intercept and Obstruct Terrorism Act" in the name of fighting terrorism, which became known by its acronym as the "Patriot Act" (Providing Appropriate Tools to Restrict, Intercept and Obstruct Terrorism). The law substantially revises U.S. information, communications, and privacy laws and strengthens the authority of U.S. law enforcement agencies to collect relevant information and intelligence on a global basis.

First, the removal of legal restrictions gives law enforcement agencies enormous, virtually unfettered power. Due to a long tradition of rule of law, American society cherishes freedom and is distrustful of state power, so law enforcement agencies are subject to severe restrictions on the collection of information on institutions and citizens, both in terms of surveillance targets and privacy protection, which are strictly regulated by law and

procedure. The Patriot Act removes these restrictions, allowing law enforcement to legally make use of investigative techniques that were previously limited to a very small number of individuals (such as criminal gang members) to investigate anyone suspected of terrorist activity. This means that U.S. law enforcement agencies can legally search the phone, email, communications, medical, financial, and other kinds of records of anyone, for reasons of suspicion of terrorism. And the U.S. Treasury can legally track and control money flows and financial activities of all kinds throughout the world. Border enforcement authorities have the power to detain, interrogate, and deport foreign nationals suspected of having any connection to terrorism. The U.S. government is thus free from any legal constraints to wiretap, investigate, and collect information on everyone around the world; what Edward Snowden exposed is just the tip of the iceberg of U.S. worldwide information collection. In this sense, the U.S. has established a global information hegemony and has set itself up as a "Big Brother" peering out at the entire world.

Second, the Patriot Act establishes a centralized system of information- and intelligence-sharing and strengthens the U.S. government's ability to act globally. In the past, information and intelligence among various agencies, such as the CIA, Homeland Security, the Department of Justice, the Treasury Department, financial regulators, and immigration authorities, were relatively independent and mutually sealed off from one another, but the Patriot Act broke this blockage and allowed these agencies to share information. This integration of intelligence and information among all law enforcement agencies gives the U.S. government a powerful global capability to focus its efforts on what Americans perceive to be the "enemy," whether it is a nation, a multinational corporation, or an individual.

Public Security and the Global Rule of Law: the Cloud Act of 2018

In the age of global information and data, everyone has become a huge conglomeration of data, and even the most abstract parts of a person's values, character and personality can be reduced to data. Thus in a certain sense, whoever controls the Internet controls the data, and whoever controls the data controls the world. Having noted this trend in digital development, the U.S. government is actively passing laws to take control of the global data empire. In 2018, the Cloud Act was sneaked into the 2018 Omnibus Appropriations Proposal submitted by the Trump administration, and was passed by Congress without debate.

The original name of the Cloud Act was the Clarifying Lawful Use of Data Abroad Act (CLOUD), and is known by its acronym, which points to U.S. claims to possess jurisdiction over the "cloud" of global Internet information storage. The act is related to a lawsuit over Microsoft's refusal to provide the U.S. Department of Justice with emails stored in a data center in Dublin, Ireland. The bill provides that any company that owns, supervises, or controls communications, records, or other information of any kind, whether registered in the United States or not, and whether or not such data and information is stored in the United States, will fall under the jurisdiction of the United States if it has a sufficient "connection" with the United States in the course of its business activities. The act applies not only to providers of traditional "electronic communications services" but also to providers of "remote computing services."

From the "minimum connection" principle established by "long-arm jurisdiction", these "connections" obviously include companies listed in the United States, trading in U.S. dollars, possessing servers in the United States, etc. Even the use of the U.S. Internet can be said to constitute a "connection" with

the United States. The Cloud Act in fact unilaterally gives the U.S. government "long-arm jurisdiction" over most of the world's Internet data, which poses a great challenge to countries that emphasize "privacy protection" or "digital sovereignty," and consequently is bound to provoke a backlash. The U.S. government is aware of this opposition, and for this reason the Cloud Act cleverly constructs a legal empire with the U.S. at its center, in order to control global data.

This begins with what we might call the "data core." Data within the U.S., or data involving "Americans," belongs to the core area, which is strictly under U.S. law and protected by the right to privacy, and cannot be accessed unilaterally by any other country.

Outside of the core area is what we might call the "data cooperation zone." The bill proposes that the United States and "qualifying foreign governments," based on "comity," will exchange data information, allowing law enforcement agencies in these countries to access the data of U.S. companies located outside of the U.S., in exchange for U.S. authority to access the data of those countries located outside their national boundaries. At the same time, when the U.S. government obtains information in these countries, the provider of the information can file a motion to revoke or amend the information or data in U.S. courts, refusing to provide the information or data on the grounds that it violates the relevant laws of the country in question. This means at some level that the U.S. is sharing the data of "non-U.S. persons" with these "qualified foreign governments."

Next, there is what might be called the "free data zone." That is, information and data of "non-qualified foreign governments" that have a "minimum connection" to the United States and are fully under the jurisdiction of the United States. The U.S. government can access this information as it pleases, and the legal

protection of such information under the laws of that country cannot be a judicial defense for the provider of the information to refuse to provide it to the government.

The Kings of the Global Legal Empire: Law Enforcement Officers, not Courts

In *Law's Empire*, Ronald Dworkin (1931-2013) refers to judges as the kings in the capital of law's empire. What he calls "law's empire" is meant to be a metaphor that highlights the supremacy of the federal Supreme Court in establishing the rule of law in the United States. In the real legal empire that the United States has built throughout the world, the kings in the empire's capital are, however, not the judges, but instead the prosecutors who bring the lawsuits, and this includes even the law enforcement officials of the Justice Department, Treasury Department, and financial regulatory agencies. These law enforcement officers possess the real power of life and death, and many multinational companies are punished by these officers before they even arrive at the judicial process, while the few that do go to trial often accept a pre-trial settlement under the guidance of the prosecutor. We should understand that modern society is a society under the control of bureaucratic administration, and the modern rule of law is no longer the legislative or judicial rule of law of the 18th to 19th centuries, but instead the rule of administrative law, where the administrative law enforcement official really controls the law of the land.

Internal Hearings and Internal Investigations: The Global Domination of U.S. Attorneys

Once the U.S. judicial system has established its jurisdiction over global companies, companies that enter the U.S. global "judicial scan" may be investigated by U.S. law

enforcement agencies for various violations of "corruption," "fraud," and other irregularities. The problem is that there is a large gray area between "legal" and "illegal," leaving multinational companies confused as to what they can do and what they cannot, and it is American law enforcement agencies that decide. In November of 2012, the U.S. Department of Justice and the Securities Exchange Commission released the U.S. Foreign Corrupt Practices Act Implementation Guide, which has become an invaluable reference for global multinational companies when they conduct internal compliance reviews. Given that these laws are part of the U.S. legal system and should be understood in the context of common law, this means that the U.S. government has opened up a huge global legal services market for U.S. lawyers, and multinational companies can only hire U.S. legal teams to conduct internal compliance reviews and risk management.

If a company raises red flags in the American law enforcement system's "judicial scan" of global multinationals, a major U.S. law firm is immediately hired to conduct a comprehensive compliance review and internal hearings to help the company sort out its businesses and determine which ones are safe, which are risky, and which are suspected of being illegal and must be shut down. If the U.S. law enforcement agency decides to investigate and collect evidence against the company, it also engages a large U.S. law firm to investigate. Once the U.S. law enforcement agency has communicated to the company that it is "suspected" of violating a law, the company is required to file an appropriate report with the U.S. judicial authorities to clarify the issue.

As a result, U.S. attorneys are responsible for everything from routine compliance reviews of multinational companies to internal hearings for risk alerts and eventual internal investigations for U.S. law enforcement agencies. These huge investigations can cost

tens of millions of dollars. In addition, these attorneys are immediately transformed into "imperial appointed emissaries 钦差大臣"² when they enter a company. They have access to all information and records of the company, including board minutes, internal emails, emails to and from customers, and they can require every employee, including senior management, to answer questions at the time and place of the attorney's choice, and they can record these talks without the permission of the person being interviewed. Throughout the process, the company must show itself to be transparent, frank, and cooperative, because transparency and honesty are required to earn the forgiveness of the Americans. If the company holds something back, they may receive stiff fines for "fraud," as in the U.S. handling of the ZTE incident.

Thus, the role of these teams of highly paid corporate lawyers is neither that of corporate defenders nor that of U.S. government prosecutors, but rather that of navigating between the two and ultimately trying to win the trust of U.S. law enforcement. Despite the U.S. bar's repeated emphasis on its professionalism and independence, it is not clear which U.S. lawyers are CIA informants, just as it is unclear if the Jewish lawyer³ hired by the Chinese communications company ZTE was an undercover agent for U.S. law enforcement.

It is particularly important to note that the "revolving door" system in U.S. politics has paved the way for lawyers to enter government and politics. One day they are a highly paid business lawyer of a multinational company, the next day they will be commissioned to assist the U.S. law enforcement agencies to investigate the company, and the next day they may join the U.S. law enforcement agencies and become a prosecutor of the U.S. Department of Justice or a legal regulator of the U.S. Treasury Department or the Securities and Exchange Commission to initiate

investigations and penalties against the company. We see this in today's U.S.-China trade talks, where Robert Lighthizer, the trade negotiator in the U.S. delegation, is a partner in the famous U.S. law firm Skadden. In this sense, the large U.S. law firms around the world are actually the legal corps of the U.S. global empire fighting on the front lines. On the one hand, they constantly collect all kinds of information about large corporations that are noticed by the imperial judicial scan for the benefit of U.S. law enforcement agencies, and on the other, they use their close ties with the U.S. law enforcement agencies to earn high monopoly profits and even manipulate the fate of these corporations. It can be said that the U.S. legal profession controls the U.S. global legal empire. As a result, both European and Asian legal professionals are eager to study in U.S. law schools and, after graduation, often become attached to these immensely powerful U.S. law firms, becoming mercenaries in the legal corps of this global empire. Under the huge offensive of the American legal profession, the European continental law system is on the verge of faltering, and the Americanization of legal education has become an unstoppable trend.

"Rubber-Stamp Judges:" Prosecutor-Led Settlement Agreements

After a lengthy and "thorough" investigation, the team of lawyers will submit a final investigation report to the U.S. government to determine whether the business has violated U.S. law. The U.S. government evaluates the quality of the investigative report using ten criteria, also known as "Filip Factors," including the nature and severity of the violation; the company's prior convictions; the number of punishable acts committed; the company's degree of cooperation with the investigation; the efficiency of the implementation of corrective actions; the company's willingness to reveal its own

activities that are subject to punishment; the measures taken by the enterprise to remedy these activities; the possible consequences of the punishment on its shareholders and the public, etc. It is on the basis of the different scenarios of the "Filip Factors" that the U.S. enforcement agencies negotiate with the companies under investigation. The negotiations result in three types of agreements, depending on the level of violations.

First is a Non-Prosecution Agreement (NPA), in which the U.S. law enforcement agency determines that the company's internal compliance management is at least procedurally flawless. At this point, the case against the company is dismissed, but if the company does not comply with the agreement, the U.S. law enforcement agency has every right to reopen the case. In a second scenario, both parties sign a Deferred Prosecution Agreement (DPA), which means that the company acknowledges the fact that its conduct is illegal, but the legal nature of the violation has not yet been determined, in which case the company promises never to repeat the violation, thus paying a fine and accepting a series of reform measures proposed by the U.S. law enforcement agencies, and even accepting the supervision of the U.S. government. In a third scenario, the company signs a "guilty plea," by which the enterprise admits that it has violated the U.S. law and made a serious mistake and accepts the punishment, or the U.S. judicial department thinks that the enterprise's attitude is problematic and thus cannot engage in positive cooperation with the U.S. investigation. At this point, U.S. authorities impose a heavy penalty on the enterprise, and directly send a regulatory team to carry out comprehensive monitoring. The latter two types of agreements are often subject to full regulatory oversight, to the point that these companies become completely transparent and have no trade secrets to speak of.

In fact, there are many sanctions that are often imposed directly by U.S. law enforcement agencies following these investigations. Even if some cases go to trial, the common law litigation system promotes settlement between the parties through "plea bargains." In this way, the weaker party often pleads guilty to avoid the burden of lengthy litigation when there is a disparity in financial resources and power between the parties. In such a system, the point of a guilty plea is not that the party admits guilt, but instead that the party prefers to receive its punishment without litigation, so the party waives the right to defend itself before a judge or jury. In these cases, the judges step in only when the parties reach an agreement and validate the plea settlement agreement. Such a decision is a "consent decree" in which the judge, in the name of the state's judicial power, agrees to a settlement agreement between the parties. The judges are not required to know the facts of the case or ask any questions; their role is simply to rubber-stamp the agreement reached by the parties, and these judges have been nicknamed "rubber stamp judges." In this type of system, the weaker party in a lawsuit tends to plead guilty and settle. In the United States, approximately 95 percent of federal cases are settled in this manner.

This system effectively gives U.S. law enforcement agencies and prosecutors enormous power to employ the immense weight of the state, while leaving defendants with the option of plea bargaining pre-trial settlements. Defendants who are individuals or businesses, especially foreigners and foreign companies, have a difficult time bearing the burden of lengthy litigation in the face of the state power of the United States. The investigation of a case is a lengthy process, the business is always confronted with the uncertainty of the outcome of the litigation, and once the litigation is reported in the media, it can seriously affect the business's reputation and investor confidence. More importantly, if a company

chooses to engage in a judicial confrontation with the U.S. authorities, the U.S. government will exert pressure on the company's operations in the United States. As a result, the vast majority of multinational enterprises simply have no choice but to obey the orders of U.S. law enforcement authorities and choose to plead guilty and pay a fine. In fact, most such cases are not resolved by trial, and multinational companies such as Siemens, Alstom, or BNP Paribas have signed agreements with U.S. law enforcement agencies, such as the Department of Justice, the Treasury Department, and the Securities and Exchange Commission, to plead guilty and settle.

Economic Sanctions: A New Kind of Religious Inquisition

Why are the sovereign nations of the world helpless against the "long arm" of the United States? The key is that the U.S. controls the U.S. dollar—the world's currency—through its economic power, and similarly controls the Internet through its technological power, and the U.S. dollar and the Internet are the way to the global economic system. So the U.S. controls the global economic system.

There has always been an imperial order of center and periphery in the global economic system. Since the Age of Discovery, the Western powers have controlled global commerce and trade, and through gunboats and colonial policies have forced open the doors of the world to include other countries in this global system. In the 20th century, the U.S. invented a seemingly "civilized" way to maintain this U.S.-dominated global order, which was to exclude from the trade system countries that did not submit politically and economically to the U.S. order through the use of embargoes. After the Cold War, the U.S. accelerated its control of the global order by directly using U.S. domestic law and

"sanctions" as a weapon to interfere in the internal affairs of other countries, including subverting their governments. For example, the Cuban Liberty and Democratic Solidarity Act, passed in 1996, blatantly promoted the overthrow of the Cuban government and the installation of a new government that would bow to the will of the United States. The act defined any direct or indirect commerce with Cuba as "illegal transactions" and subjected such commerce to severe U.S. penalties. Today, sanctions against North Korea, Iran, and even Huawei are legal weapons in the hands of the United States.

In the current era of globalization, any country or company that is excluded from the global order becomes an isolated economic and political island that cannot join the system, meaning that it is deprived of its basic right to development and even survival. This is exactly like being excommunicated from the world of Christendom, which means being deprived of the right of the soul to enter heaven. The United States today, based on its control of the

global economic system, has adopted a series of laws that turn "economic sanctions" into a legal power similar to medieval papal excommunication. As for which country or company becomes the object of global sanctions or expulsion from the global trading system, no legal trial is required, nor are international judicial procedures, the defendant cannot defend himself and the verdict is not explained—everything is reminiscent of the crime of "heresy" during the medieval Inquisition. The determination of "heresy" depends on the national interests of the United States, the ideological bias of the United States and even the temperament of the President of the United States, the "new pope."

Thus, we see that the political war of the United States to maintain global hegemony becomes an economic war, and the war of economic sanctions is carried out through legal means. The huge fines paid by these multinational corporations to the U.S. government have become a new type of "tithe," a ticket to the global capitalist paradise.

Jiang Shigong's text here "[Meng Wanzhou Surely Won't be the Last: The Hidden Logic of the American 'Hand-Over'](#)" is translated as a part of David Ownby's [Reading the China Dream](#) project, in which Ownby and his team translate and curate the work of contemporary Chinese establishment intellectuals. It is updated and slightly adapted for *The Asia-Pacific Journal*.

David Ownby is Professor of History at the Université de Montréal.

Notes

¹ 强世功, “[孟晚舟果然不是最后一个: 美国再度' 换手' 的隐藏逻辑](#),” published in the online edition of *Beijing Cultural Review* on September 26, 2021. In fact, this is a republication, and the original was published by *Beijing Cultural Review* in August of 2019, under the title “The Long Arm of Empire's Justice: The Legal Underpinnings of U.S. Economic Hegemony.”

² Translator's note: This term is part of the lexicon from Chinese imperial administrative practice. Such an emissary would be dispatched by the emperor and subject to no authority but his.

³ Translator's note: I have seen passing references to a "Jewish lawyer" who reversed course half way through and turned over his findings to the U.S. government rather than serving ZTE, but the publications were of the *National Enquirer* variety and no details were given.