

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	251
Land:	Kina
Kilde:	Refugee Documentation Centre (Ireland).
Titel:	Legal Aid Board. Up-to-date position concerning Chinese nationals who borrowed money from informal loan providers, the sort of interest that is charged and whether harm can come to the borrower if they are unable to repay the loans. Udgivet den
Udgivet:	12. august 2010
Optaget på baggrundsmaterialet:	6. september 2010



Refugee Documentation Centre (Ireland)
LEGAL AID BOARD

China – Researched and compiled by the Refugee Documentation Centre of Ireland on 12 August 2010

RE: Up-to-date position concerning Chinese nationals who borrowed money from informal loan providers, the sort of interest that is charged and whether harm can come to the borrower if they are unable to repay the loans.

A report from *BBC Monitoring* states:

“A survey by Tsinghua University in 2008 showed that about 69 per cent of rural households in eight provinces had borrowed from private lenders. The university's Economic Management Institute also found that about 40 per cent of the 120 million capital-hungry farmers couldn't borrow anywhere.

The university estimated the capital gap in China's rural money market at 1 trillion yuan last year.

China Development Bank has forecast that the capital shortage in rural China would hit 5.4 trillion yuan by 2010 and 7.6 trillion yuan by 2015 if the situation didn't improve.

Citing his field surveys in Zhejiang and Fujian provinces, Zheng said each private loan in affluent coastal cities usually ranged from 100,000 yuan to 2 million yuan. In rural areas, however, loans could be as small as 10,000 yuan.

For those who got scarce capital, the interest rate was often three to 12 times higher than the benchmark one-year lending rate, which currently stood at 5.31 per cent, he noted.

By legalizing and regulating private lending, the government could also clamp down on loan sharks and better protect the legitimate interests of lenders and borrowers, Zheng said.” (BBC Monitoring (4 March 2009) *China to legalize private lending in bid to ease rural credit pressure*)

A report from the China Post states:

“While the broad liberalization of banking regulations has provided the public with a variety of means to legally borrow money, the loan sharks are still going strong.” (The China Post (28 May 2007) *Crack down on loan sharks to crack down on crime*)

The report also states:

“But many of the victimized debtors are legitimate businesspeople whose businesses are failing.

It could be argued that so many people are willing to risk life and limb by borrowing money from gangsters because they lack a fundamental understanding of what they are getting into.

However, with the local news media full of reports about how debtors are being victimized by loan sharks, it appears that many would rather risk it all than file for bankruptcy.

No matter why people are taking big risks by borrowing money from loan sharks, the point is that illegal financiers operate with virtual impunity in our society, since they openly advertise their services and run a relatively low risk of getting caught.

One particularly prominent loan shark, dubbed the "Godfather of Underground Money Houses" for his cruel tactics, was finally sentenced to nearly eight years in prison after making many loans to high-profile clients.

The "Godfather," whose real name is Wan Chung, was finally apprehended earlier this year after reports revealed that he had tossed a live, poisonous snake at one of his debtors, after negotiations on debt repayment failed to live up to his expectations.

Wan's preferred methods included leaving dead animals at the doors of his debtors, as well as kidnapping and beating them until they paid up.

Around the country, it is not unusual to see vicious threats spray-painted on the doors of businesses and homes belonging to people who owe money to local loan sharks." (ibid)

A November 2008 news article from the *South China Morning Post* states:

"The central government may soon allow private enterprises and individuals to extend credit to cash-hungry businesses in an effort to regulate the underground banks and widen access to capital.

A draft rule on the new policy had been submitted to the State Council, Liu Ping, a deputy director with the central bank's research department, was quoted by the Beijing Times as saying.

Ms Liu said no timetable had been set.

"The move will offer public capital access to loan business and help crack down on loan sharks," she said.

The government would also set a threshold, banning those with bad credit and criminal records from joining the lending business, she added.

Individual lenders could charge as much as four times the interest rates set by the People's Bank of China, Ms Liu said." (South China Morning Post (18 November 2008) *Beijing to legalise private lenders*)

The *United Kingdom Home Office* Country of Origin Information Report for China from December 2006 in paragraph 2.03, under the heading 'Informal Money Lenders' states:

"As reported by *TIME ASIA* on 22 November 2004, small businessmen in China often turn to informal moneylenders or shadow banks for finance. As noted here, "In the past, Beijing might have responded by cracking down and throwing a few people in jail for loan sharking. That hasn't happened for the simple reason that the gray-market provides an efficient means of capital allocation in ways the country's socialist-era financial system cannot."

As noted by *Asia Times* in a report dated 11 May 2006, "China's central bank estimates that annual underground lending, in particular loan-sharking, has reached \$118 billion, or an approximate 6-7% of all lending in China. Pawnshops are growing in popularity, since they provide the quickest option for short-term loans. Most entrepreneurs complain they have a hard time borrowing less than a million yuan." (United Kingdom Home Office (22 December 2006) *Country of Origin Information Report: China*, p.11, para. 2.03)

Paragraph 2.05 of the same report under the heading 'Consequences of Non-Repayment of a Loan' states:

"On the question of penalties for defaulting on a loan the Embassy stated, 'On a personal loan, the bank will charge punitive interest and, when the loan is long overdue, the bank can take the client to court and seek repayment of the loan through disposal of the client's property. The defaulter will be registered on an inter-bank personal credit network and deprived of any chance to obtain loans from banks in the future. On corporate loans, similar procedures apply, with the legal person bearing liabilities.'" (ibid., p.12, para. 2.05)

A report from the *Economist Intelligence Unit* states:

"Another big change is the ready availability of mortgageable or pawnable assets with which to raise money to buy shares. Since the late 1990s, the privatisation of urban housing has given many people a stake in rapidly appreciating property. And with consumer-price inflation creeping up to a two-year high of 3.3% at the end of March, real interest rates have been around zero or negative this year. This has encouraged the withdrawal of savings from banks. Hou Ning, a Beijing-based analyst, says that in the countryside unlicensed moneylenders have been helping farmers into the markets with unsecured high-interest loans." (Economist Intelligence Unit (27 April 2007) *The people's republic in the grip of popular capitalism*)

A report from *Time Magazine* states:

"Then again, a quid pro quo with an associate is safer than borrowing from the pawnbrokers who have become China's de facto commercial lenders. The booming city of Chengdu, Sichuan's capital, is home to some 200 of them. Don't think of them as small-time purveyors of rusty bikes and busted TVs. The tiled floors and tawny sofas of the Building China Pawnshop suggest a bank lobby, and rightly so. Loans from owner Liu Jianjun, which can run up to \$1 million, mostly go to private businesses. Parked in front of the pawnshop one day recently was a new Volkswagen. The owner of a construction company had hocked it in exchange for a quick \$10,000 to meet expenses. He was well advised to repay fast Liu charges interest rates of up to 5.7% a month. It's all legal; without the pawnshops, the government knows, small-business owners would

have almost nowhere to turn. "Banks make it difficult and confusing to get a loan," Liu says with a smile. 'Our business is booming.'" (Time Magazine (11 May 2003) At the mercy of loan sharks)

The evidence of a refugee applicant in the *Australian Federal Court* includes reference to very high rates of interest:

"When this business endeavour failed after the seizure of the televisions, the applicant still owed money to the lender. He said he made a payment of 58,000 yuan, being capital plus interest, in mid July 1994, after selling his restaurant. However, he said the moneylender demanded 200,000 yuan from him as a result of charging 10 per cent interest every 5 days. The applicant said he reported his dispute with this moneylender twice to the PSB. However, they refused to help him. He said that only the Law Enforcement group within the PSB could help him and they required him to pay 40,000 yuan for their assistance." (*Xie, Guo Zhong v The Minister for Immigration and Multicultural Affairs*. No. WAG 40 of 1995, FED No. 1044/95. Australia: Federal Court. 21 December 1995)

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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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