

**REFORM,
LEGITIMACY
AND
DILEMMAS**

China's Politics and Society

Editors

Wang Gungwu

Zheng Yongnian

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China's Politics and Society**

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Introduction: Reform, Legitimacy, and Dilemmas



WANG GUNGWU & ZHENG YONGNIAN

Politics is about power, as Italian political thinker Niccolo Machiavelli argued.¹ Since power can be based on different sources such as individual charisma, traditions and rational institutions, as Max Weber contended, the political legitimacy of the ruling elite varies.² For new political leaders who are not able to rely on the old base of political legitimacy, it is vital to discover and explore a new base of legitimacy; otherwise, effective governance can hardly be established. Since the base of political legitimacy varies, leaders have to create new sources of political legitimacy in accordance with changing circumstances. In other words, political legitimacy is dynamic: once a certain type of legitimacy is established, it will generate new challenges and thus push political leaders to search for new sources of legitimacy.

Searching for a new base of political legitimacy has been the major

¹ See Niccolo Machiavelli (1469-1527), *The Prince and the Discourses*. Translated by Luigi Ricci and Christian E. Detmond (New York: The Modern Library, n.d.). Also see Harold D. Lasswell, *Politics: Who Gets What, When, How* (New York: McGraw-Hill, 1936).

² Max Weber, *The Theory of Social and Economic Organization*. Translated by A. M. Henderson & Talcott Parsons (New York: The Free Press, 1964).

theme of China's reform in the past two decades. While various reform measures have been implemented in accordance with changing economic, social and political circumstances, one major theme has stood out and remained unchanged, that is, all reforms have to enable the regime to increase or strengthen its political legitimacy. This is especially true in the post-Deng era. While the second generation of leadership, centered around Deng Xiaoping, could base its political legitimacy on the revolutionary experience of individual leaders, the Jiang Zemin-centered third generation leadership did not have such qualifications. Furthermore, while the various reform measures taken by Deng Xiaoping in the 1980s had strengthened the political legitimacy of the regime, Jiang Zemin can no longer rely on these old measures. Instead, Jiang and his colleagues have to look for new reform measures to push reform further on the one hand, and strengthen legitimacy on the other hand.

Since its establishment in 1997, the East Asian Institute (EAI) has been keeping a close watch on China's development in the post-Deng era. This volume is essentially selected from a collection of working papers and background briefs by EAI scholars and our academic visitors during the past two years. Our basic purpose in selecting these papers is to show the reader major agendas and characteristics of the post-Deng reform. This volume is divided into three parts. Papers in Part One examine political and social changes and the leadership's responses to these changes. Part Two focuses on the linkages between economic and social reforms, and shows how social reforms are so crucial for regime legitimacy. Part Three discusses domestic concerns for external relations, i.e., how domestic factors affect China's foreign behavior.

This introduction attempts to answer some key questions by summarizing major points presented in these papers. They include: What are the new sources of political legitimacy of the new leadership? How have changing social and political environments changed the bases of political legitimacy? What strategies has Jiang Zemin adopted to cope with changing circumstances to improve and strengthen his leadership? What challenges have new reform measures generated for the leadership? And how have domestic concerns constrained the leadership's plans in China's foreign relations?

NEW SOURCES OF POLITICAL LEGITIMACY

Since Jiang Zemin's arrival in Beijing and his appointment as the core of the third generation of leadership in the early 1990s, he has struggled for a new basis of political legitimacy. Briefly, Jiang and his colleagues have focused on three major areas for the sources of the political legitimacy of the Chinese Communist Party (CCP), that is, development, stability, and national unity.

It would not be correct to say that only Jiang Zemin and his team have stressed these three areas. As a matter of fact, all three were already very much emphasized by Deng Xiaoping. As the heir of Deng Xiaoping, Jiang has to act within the institutional environment laid down by Deng Xiaoping. When Deng Xiaoping came to power, he identified reform and development as the only means to cope with growing internal and external pressures, which would in turn help strengthen the political legitimacy of the CCP. Furthermore, stability was a prerequisite for reform and development. Domestically, the leadership has to maintain social and political stability and prevent any sort of chaos from taking place at all costs. Internationally, stability means a peaceful environment. In order to achieve this goal, the leadership has to adopt "right" international strategies.

Amidst its multifarious concerns, the CCP's highest priority has been national unity. The leadership is prepared to fight for national integrity at any cost. However, for Deng Xiaoping, domestic development and national unity were closely linked. The issue of national unity could be resolved through domestic development.³ In other words, national unity depended on whether rapid development could be achieved.⁴

The third generation of leadership undoubtedly has not gone beyond this development framework set forth by Deng Xiaoping. It is also certain

³ For a discussion of the issue of national unification in the context of reform and development, see, Wang Gungwu, *The Chinese Way: China's Position in International Relations* (Oslo: Scandinavian University Press, 1995).

⁴ For a discussion of Deng Xiaoping's perception in this regard, see, Yongnian Zheng, *Discovering Chinese Nationalism in China: Modernization, Identity, and International Relations* (Cambridge: Cambridge University Press, 1999), pp. 117-119.

that Jiang has enhanced the political legitimacy of his leadership by emphasizing all three areas of legitimacy sources.

First of all, the leadership has emphasized that its reform policies have brought about rapid economic development and have given enormous benefits to the majority of the population. Indeed, the Chinese economy has experienced unprecedented growth since it began to implement the reform and open door policy two decades ago. Economic performance was even more spectacular after Deng Xiaoping called for more radical reform during his southern tour in 1992. Real growth during 1978-97 was at an annual rate of 9.8 percent. By 1997 China moved away from the category of lower middle-income countries when its per capita GNP soared to US\$860. In 1978 China's nominal GNP was only US\$44 billion, or about 70 percent of South Korea's. By 1997 China's nominal GNP had grown to US\$1,055 billion, giving it a ranking as the world's seventh largest economy.⁵

Such an impressive economic performance has provided the leadership with a solid base for political legitimacy. As the above figures indicate, rapid development not only raised the living standards of the Chinese, but also propelled China into the ranks of the major economic powers in the world. Though the country is still experiencing serious income disparities among different social groups and regions, the majority of the population have benefited greatly from various reform policies. Also, people are increasingly proud of their country's economic success. China was humiliated by foreign imperialism and bullied by other great powers for more than a century. But the reform and consequent rapid development have provided the country with opportunities to recover her old glory in world affairs. It is no exaggeration to say that rapid development has led many people to feel proud, for the first time in the 20th century, of being Chinese. A comparison of national sentiments of the 1980s, represented by the TV series "River Elegy", with those of the 1990s, represented by best-sellers such as *The China that Says No*, shows this dramatic change.⁶ Rapid development has not only changed China's position of subordination to other major

⁵ All these figures are based on The World Bank, *World Development Report 1998/99* (New York: Oxford University Press, 1999).

⁶ See, Zheng, *Discovering Chinese Nationalism in China*.

powers, but also enabled China to say “No” to the latter, especially the United States. The CCP and the government have showed a strong willingness to use such popular sentiments to strengthen their political legitimacy. Jiang Zemin is ready to tell the people that only the CCP can save the country, as well as glorify her.

Second, Jiang Zemin and his colleagues have maneuvered the issue of socio-political stability to reinforce the regime’s political legitimacy. The leadership has emphasized two functions of stability: stability as a prerequisite for economic growth, and stability as a justification for the regime’s authoritarian rule. The utility of “stability” has changed over time. In the 1980s, party leaders met with great difficulty in justifying the use of stability as a prerequisite of economic reform. They attempted to use the East Asian model of development to defend the measures they had introduced to maintain socio-political stability, since they believed that it was stability that had helped East Asian countries achieve rapid and continuous economic growth. But many social groups were skeptical. They believed that by emphasizing stability, the CCP government was only trying to maintain its authoritarian rule. Throughout the 1980s, while the government consistently stressed the importance of stability, there were rising social forces calling for political reform to open up the political process for popular participation. These forces gradually grew into something close to a social movement by the late 1980s, as shown in the 1989 pro-democracy movement.

Without the demise of the Soviet Union in the early 1990s, the CCP would have encountered increasing pressure for political reform. The collapse of Eastern European communism and the breakup of the Soviet Union as a nation state radically changed the socio-political environment within China. The necessity of political stability seemed to have been “naturally” justified by what happened outside China. Radical political reform would push China to follow in the direction of the Soviet Union, whereas an authoritarian rule quickly became an acceptable price to pay for continuous economic improvement. The leadership certainly welcomed changing popular perceptions on stability, and it took every opportunity to show that only the CCP was able to provide the country with stability and to guarantee continuous economic growth. In fact, the leadership did not meet any strong demand for political reform for the most part of the 1990s. As long

as the regime is capable of providing people with economic goods, authoritarian rule seems to be acceptable for the majority.

Third, the issue of national unity has also been used to enhance the regime's political legitimacy. The agenda of national unification was set forth earlier by Deng Xiaoping. It was under Deng's leadership that the country reached agreements with Britain and Portugal on the return of Hong Kong and Macao, respectively, to China. But it was Jiang Zemin who enjoyed the fruits of national unification. The new leadership has reiterated its efforts to bring together different parts of China. National unification has been a most sensitive issue which can easily arouse patriotic sentiments.⁷ Therefore, the beneficial impact of Hong Kong's and Macao's return to China on the strengthening of political legitimacy for the Jiang leadership cannot be underestimated.

It would be unfair to say that Jiang Zemin is a man without any political initiative. Since his appointment as the core of the third generation of leadership, Jiang has made enormous efforts to improve his leadership. He has vigorously struggled to establish his own style of leadership and to strengthen the legitimacy of his own leadership by setting forth new rules and institutions for political games and by discovering new measures to cope with new challenges. The following two sections summarize the major efforts the Jiang leadership made in this regards. It will show the extent, to which Jiang and his colleagues have been successful in strengthening leadership; how the different measures of reform have strengthened the legitimacy of the new leadership; and how the on-going reform has created new challenges for the leadership.

PARTY, STATE AND SOCIETY

The CCP has been the most important institution in China since the establishment of the People's Republic in 1949. Indeed, the state *per se* was

⁷ Wang, *The Chinese Way*.

created by the CCP.⁸ The unique role of the CCP makes it central to all reforms in the country. Whenever the leadership attempts to initiate any new reform, the highest priority must be given to the CCP. After Deng Xiaoping returned to power, he first called for reforming the CCP and its leadership in the early 1980s. According to Deng, the CCP had to play a leading role in initiating the reform and maintain a stable socio-political environment. The reform, however, was not to weaken the CCP; instead, it was to improve and strengthen the legitimacy of the CCP.⁹ To improve and revitalize the CCP, Deng initiated a nationwide personnel reform, retiring old revolutionaries and recruiting young and educated elite into the CCP.¹⁰

After Jiang Zemin succeeded Deng Xiaoping as the core of the new leadership, he inherited many of Deng's legacies in reforming the CCP. Jiang focused on building an effective leadership by continuously recruiting technocrats into the CCP and government. Jiang also took initiatives in dealing with the issue of power succession. In the article "The Politics of Power Succession", Zheng Yongnian examines Jiang's efforts in this regard. The issue of power succession has been vital for political stability in the history of the CCP. During the Mao Zedong era, every power succession caused socio-political chaos, as in the cases of Liu Shaoqi and Lin Biao. Any breakdown in power succession not only led to bitter power struggles among major leaders, but also undermined the regime's legitimacy in the eyes of the people. After Deng Xiaoping came to power, the CCP began to pay great attention to the issue of power succession. But Deng was not successful either, as in the cases of his two heirs apparents, Hu Yaobang and Zhao Ziyang.

⁸ For a classical discussion of the CCP's role in China's political system, see, Franz Schurmann, *Ideologies and Organizations in Communist China* (Berkeley, CA.: University of California Press, 1968).

⁹ Deng Xiaoping, "On the Reform of the System of Party and State Leadership (August 18, 1980)", in Deng, *Selected Works of Deng Xiaoping (1975-1982)* (Beijing: Foreign Language Press, 1984), pp. 302-25.

¹⁰ For example, Hong Yung Lee, *From Revolutionary Cadres to Party Technocrats in Socialist China* (Berkeley, CA.: University of California Press, 1991).

Jiang has undoubtedly learned from the failures of Deng Xiaoping. After Jiang consolidated his power, he has increasingly paid close attention to power succession. The issue has become one of the highest priorities of Jiang Zemin since, unlike Deng Xiaoping, Jiang does not have a legitimacy based on Communist revolutions. Deng was able to pick his own heir(s), but Jiang is unlikely to be able to do so since he is no longer a paramount leader, but the first among equals. Therefore, Jiang has to turn to institutional means to deal with the issue. Zheng shows that in doing so, Jiang has focused on two aspects. First, Jiang has painstakingly built a system of political "exit" to provide a legitimate way for aged leaders to gracefully step down from position of power, as in the cases of Qiao Shi and General Liu Huaqing. Second, Jiang has begun to groom younger leaders and build the fourth generation of leadership. This is apparent in the case of the rise of Hu Jintao. By doing so, Jiang is expected to meet no challenger within the CCP on the one hand, and to guarantee a smooth power transition in the next CCP congress in 2002 on the other hand.

At the grassroots level, that is, in the countryside, the CCP has also implemented radical reforms since the early 1980s. In this volume, Ignatius Wibowo shows that the CCP has transformed itself from a vanguard party to a rearguard one. In the pre-reform era, the main responsibility of party cadres in rural areas was to implement party policies and maintain social order for the party. In order to implement its reform programs, the party leadership not only allowed party cadres to engage in commercial activities, but also encouraged them to lead in economic development. In so doing, the old political elite was transformed into an economic elite. The party also recruited many successful rural business people into rural leadership positions in order to enhance the party's role in promoting rural development.

For the CCP, the impact of the transformation in rural areas was contradictory. On the one hand, it was very beneficial. Active participation of rural party cadres in economic activities effectively helped promote rural development and provided the leadership with a new source of legitimacy in the countryside. On the other hand, the party is no longer able to rule the countryside effectively. In order to promote rural development, party cadres have had to de-emphasize the role of the CCP ideology, and they have to be very pragmatic and appeal to more traditional ways to rule the

village. For instance, according to Wibowo, party cadres now are tolerant to religious activities in rural areas, and many of them even take part in such activities. Such are the unexpected consequences for the party leadership in Beijing. Though Wibowo based his study on the data in the 1980s and the early 1990s, his judgment is still valid. Since Deng Xiaoping's talk during his trip to south China in 1992, rural party cadres have increasingly been pulled into the business arena, and the contradictions have undoubtedly become more serious.

One missing point needs to be added here. Since 1987, the CCP has gradually implemented the system of direct rural democracy, and village leaders (e.g., members of the village committee) are elected directly by villagers. The CCP's original intention in developing the election system was to improve its legitimacy and re-construct rural governance.¹¹ However, to a great degree, the establishment of the system has complicated the CCP's relations with rural residents, since the relationship between the rural party organization and the elected village committee is not clearly defined. In some cases, the selection of candidates is controlled and monitored by the party, and the party's interference into the election process often leads to complaint from rural residents. In other cases, the elected committee is unwilling to take orders from and cooperate with the party organization. How effective governance can be realized is still an issue plaguing the CCP.

The CCP established rural direct democracy as a new way to organize rural residents after the collapse of the old commune system. In urban areas, the party encountered a different issue, that is, how to accommodate newly organized social forces. This is the theme of Gu Xin's article "State Corporatism and Civil Society". Unlike rural areas, urban China has been highly organized since the establishment of the People's Republic. Needless to say, all urban organizations were governmental or at least under the control of the government. The post-Mao reform has changed the configuration of urban organizations since the development of a market economy has created new social forces not controlled by the CCP. This is

¹¹ For this point, see Yongnian Zheng, "Political Incrementalism: Political lessons from China's 20 years of reform", *Third World Quarterly*, vol. 20, no. 6 (1999), pp. 1157-1177.

especially true after 1992 when Deng Xiaoping called for more radical reforms in his southern tour talks. As Gu shows, the 1990s was a golden age for the development of social forces.

How to organize newly rising social forces has become a major issue for the CCP. According to Gu, the party has realized that traditional ways were no longer effective to cope with the issue; it also would not allow these social forces to be organized outside of the party's control, since they could become their potential threats to the CCP. Consequently, the CCP has gradually developed a strategy of state corporatism. The CCP allows selected social forces to be organized, but these forces are to remain under party control. Social organizations have a certain degree of autonomy, depending on their relationship with the party and their political and economic significance. One explicit point in Gu's examination is that the strategy of state corporatism is a way of incremental political change. It allows civil society to grow and social forces to organize, without at the same time posing a threat to the party. The strategy also enables the party to make use of these social organizations to serve the regime's goals of economic development and social stability.

It is obvious that state corporatism has failed to accommodate all social forces. As mentioned above, state corporatism can only accommodate selected social forces. Gu shows us that the degree of autonomy of social organizations varies, depending on whether each organization is in conflict with party ideology. The party will not allow social forces which are in serious conflict with the party ideology to be organized. Therefore, there are still numerous social forces beyond party control. Religious forces are one of them, probably the most important one. The sudden rise of *Falun Gong* is a case in point. In his article "The Religio-Political Significance of *Falun Gong* and Jiang Zemin's Legacy of Social Stability", William Liu analyzes the rise of *Falun Gong* and its impact on social stability.

China's reform has been characterized by pragmatism. The role of party ideology has been de-emphasized. This is simply because party ideology can no longer be used as policy guidelines. While the old ideology declined, the party has not allowed other forms of "unofficial" spirits to grow. More importantly, rapid economic growth and prevalent materialism have increasingly generated demands for spiritual fulfillment. A spiritual vacuum

has thus been formed among different social and political groups. As Liu shows, most *Falun Gong* followers are actually not ordinary people, but party cadres, government officials, PLA officers, professionals, and intellectuals. A spiritual vacuum is undoubtedly the major factor behind the rise of various religious activities in recent years.

Since organizations such as *Falun Gong* are not recognized by the party, their public activities, though not necessarily political, are often regarded by the party as a political challenge. According to Liu, a serious problem is that the party does not have sophisticated means to deal with “unofficial” religious activities. Throughout Chinese history, religion has no place in official ideology, be it Confucianism or Communism. Any religious activity, once perceived as a threat to the existing authority, will be clamped down. This is certainly true in the case of *Falun Gong*. Once defined as a cult, the party took decisive action to crack down on it. Regrettably, a crackdown is not the answer given the widespread and deep-rooted belief crisis. How to cope with the spiritual crisis and how to manage “unofficial” religious activities is one major challenge facing the party.

While society becomes more complex, the leadership has to find a new way to govern; otherwise, not only will the effectiveness of the governing institutions, but also the legitimacy of the system become problematic. The most ambitious goal of the CCP in coping with an increasingly complex society is to establish a system of “rule of law”. Zheng Yongnian, in his paper “The Rule by Law vs the Rule of Law”, explains why the CCP, which had stood above the law, set up the rule of law as one of the most important goals of the country’s political development at its Fifteenth Congress in 1997.

During Mao Zedong’s time, the country was ruled by man. Mao Zedong himself faced no institutional constraint at all and could act according to his own will. This enabled Mao to initiate great social movements, such as the Cultural Revolution, that caused socio-political chaos. Since Deng’s reform, the perceptions of the CCP over the role of law in governing the country have undergone major changes. After Deng Xiaoping came to power, he put much emphasis on the rule by law. It seemed to Deng that the rule by law could not only provide an institutional guarantee for economic reform but also increase the legitimacy of the CCP. How different then is

the concept of the rule of law, as emphasized by Jiang Zemin? While the rule by law means that the government governs the country in accordance with established laws, the rule of law implies that party cadres and government officials themselves have to obey the law. The rule of law is undoubtedly one step further than the rule by law. What is Jiang's motive in taking this step?

According to Zheng, Jiang did so in order to strengthen the legitimacy of the party. Although numerous laws and regulations were passed to meet changing socio-economic conditions, the legal system became increasingly ineffective since party cadres and government officials themselves did not follow the law. Consequently, the political system lost its effectiveness, and the party (e.g., party cadres and government officials) *per se* became corrupt. More serious was that the party lost its credibility among the people and its legitimacy became problematic. This could have pushed Jiang Zemin to decide to rule the party itself by law.

Although after its Fifteenth Congress, the party has launched a nationwide campaign against corruption within the party and government, it is still doubtful whether the party *per se*, especially high-ranking leaders, can be constrained by law. As Zheng points out, democracy plays an important role in the development of the rule of law. Hence, without any democratic development, the party still faces great difficulty in establishing a system of the rule of law. In other words, without any external constraints, it is difficult to expect the party to be subordinated to the law.

SOCIAL REFORMS AND CHALLENGES

We have discussed how the Chinese leadership responded to socio-political changes in order to maintain stability and increase governmental legitimacy. Similarly, central to all the social reforms the government initiated are also stability and legitimacy. Two major points can be highlighted here. First of all, the social reform is to provide a favorable social environment for economic reform, especially the reform of state-owned enterprises (SOEs). In the pre-reform period, China's enterprises were not merely economic units, but also political and social ones. Politically, an enterprise was seen

as an organization in which the government controlled all its workers. Socially, an enterprise had to be responsible for the workers' every need. In other words, economic and social functions were well integrated. Since the reform was market-oriented, enterprises had to become economic units, and seeking profit had to be their primary goal. As such, the leadership had to remove social functions from the enterprises. Without such a separation, enterprise reform would not be possible.

Second, social reforms are to assimilate the social consequences of economic reforms, thereby reducing social pressure and guaranteeing social stability. The economic reforms have undermined, even destroyed, the old institutions that protected workers' interests. From a social point of view, any economic reform could be a very destabilizing process. The government has to build new institutions to perform all functions previously performed by enterprises; otherwise, social instability will follow and governmental legitimacy will be undermined by the economic reforms.

The four papers in this section deal with social reform issues, and all the authors point to the close linkages between economic and social reforms. In her article "Labor Law for Foreign Enterprises", Lo Vai Io traces the development of the law and surveys in detail the context of the law. With the deepening of economic reforms, protection of Chinese workers by legislation has become a necessity. The smashing of the "iron rice bowl" in state-owned enterprises and the abuse of workers' rights have led to periodic incidents of labor unrest. This is especially true in foreign investment enterprises. In the early stages of the economic reform, the government implemented various preferential policies towards foreign investors in the country in order to attract more foreign investment. But with the surge in labor abuses in the foreign sector, labor law became increasingly important to regulate industrial relations and protect workers. Such is the background of the Labor Law and the Regulations on Labor Management in Foreign Investment Enterprises.

Nevertheless, Lo cautiously points out that the success of the Labor Law and Regulations depends on enforcement efforts. One major obstacle that stands in the way of law implementation is local protectionism. Since different regions compete with each other for foreign investment, local authorities are inclined not to enforce the law in order to attract foreign

capital and technology for local growth. However, in the long run, the law should provide foreign investors an institutional way to deal with Chinese workers.

Gu Xin's case study of urban housing reform clearly shows why social reforms have become necessary with the introduction of economic reforms. In the pre-reform period, China's urban housing system was a reflection of its planned economy. Housing was a welfare good, not a commodity; the state monopolized housing investment and construction; and housing allocation was work-unit-based. The system imposed a heavy financial burden on the work units (*danwei*), and became a major obstacle to the country's transition to a market economy. In Deng's era, many measures of housing reform were introduced. For instance, in order to enhance the regime's legitimacy, investment in housing was increased to improve people's standard of living. Other measures included rent increases and the diversification of housing investment. But all these measures did not succeed since they were only a reaction to the decline of the old planned economy rather than efforts to build a market system.

Thus, after the new government of Zhu Rongji was established, China initiated a new housing reform in 1998. The aim was to boost the transition of the urban housing system from a state socialist model to a market-based one. But implementing this policy is not an easy task, since, as Gu correctly points out, the new reform is to erode one of the cornerstones of the state socialist welfare system. In order eventually to dismantle the pre-reform public housing system, greater obstacles are expected. The leadership will have to engage in policy coordination, otherwise, there will be less possibility of the new policy succeeding.

Similarly, Yu Wei's case study of urban health insurance reform shows the linkages between economic and social reforms. The structural transition of state-owned enterprises under the market system has generated social instability, especially in urban areas where SOEs are concentrated. An effective social safety system is thus needed to smooth the transition. According to Yu, the economic reform has affected China's healthcare system in two ways. The first is with respect to the insurance system. Before the reform, the system was backed by the government and costs of medical care were strictly controlled. The reform has gradually shifted financial

responsibilities to SOEs, and transformed the government-supported health insurance program into an enterprise-self-insured system. The second effect is on hospitals. Before the reform, the salaries of hospital employees were set and paid by the government and had no relation with the hospitals' profits or performance. Since the reform, employees' income is directly linked to profit. The market system has effectively improved hospital services on the one hand, and created the problem of inefficient use of medical resources on the other.

Based on his empirical surveys, Yu details practical problems associated with new measures of healthcare reform such as those in financing an individual healthcare account. Yu points out that the most difficult problem facing the leadership is managing the conflict between societal desire and individual responsibilities. The market-oriented healthcare reform wants to shift responsibility from the state to individuals, but individuals are different in terms of their level of income, their status of health, and their preference for risk. To illustrate, if everyone is charged by the market-oriented insurance rule, the elderly, the sick, and the disabled would have to pay a much higher level of insurance premium for healthcare, but this is not consistent with socially accepted moral standards. The issue for the leadership is how a reasonable level of healthcare could be provided at a cost affordable to everyone in the society.

In her paper "China's Growing Concern over Its Environmental Problems", Tong Yanqi deals with one of the most serious consequences resulting from rapid modernization and industrialization, that is, environmental degradation. No one will deny that China is now among the most polluted countries in the world. Polluted air and water have endangered people's life. The government has recognized the problem and made great efforts to cope with it. Tong examines in detail how the government has established both institutional and regulatory frameworks in doing so. Tong also shows how other non-governmental actors such as NGOs (non-governmental organizations) and the news media have made efforts in this regard.

But again, it is not an easy task. The government has met with enormous difficulties in coping with an increasingly worsening environment, including the conflicting needs for continuous economic growth and environmental protection, difficulty in law enforcement and policy implementation, and

low public awareness. Tong argues that environmental degradation is not only an economic issue, but also a political one. It is intertwined with China's economic development drive, internal politics, legal system, international relations and regional development. Therefore, the leadership needs to coordinate its economic and political measures in the future in order to address the issue more effectively.

DOMESTIC CONCERNS FOR EXTERNAL RELATIONS

"War is not a mere act of policy, but a true political instrument, a continuation of political activity by other means."¹² We have heard so often this dictum of the great political thinker Carl von Clausewitz. We are citing it here again since it is very relevant to the three papers in this section. Today, almost every China scholar will have two basic questions: What will China do after she becomes strong? What impact will China's domestic reform have on its external relations? This volume is about domestic reforms and changes in China, but what happens inside China will have a significant impact on the country's external relations, since as Clausewitz tells us, foreign policy can be seen as a reflection of domestic politics. The four papers in the third part attempt to spell out the impact of the leadership's domestic concerns for its foreign policy intentions.

Lance Gore's and Lo Vai lo's papers discuss the politics of human rights in China. Since the post-Mao reform began, human rights has not only come to the forefront of the leadership's domestic agenda, more importantly, they have become a major issue of China's external relations. Deng Xiaoping did realize the importance of the human rights issue. Mao Zedong's personal dictatorship not only violated human rights but also resulted in bitter political struggles among political leaders, that brought great chaos to the country. Deng thus argued that political reform was necessary to prevent an individual leader from establishing personal dictatorship and violating human rights. But overall, in the 1980s, due to its reform and open-door policy, China

¹² Carl von Clausewitz, *On War*, ed. and trans. Michael Howard and Peter Paret (Princeton: Princeton University Press, 1976), p. 87.

encountered a benign international environment, and the leadership did not face high international pressure on human rights.

However, since the early 1990s, two major factors have dramatically changed China's human rights environment. First of all, the crackdown on the pro-democracy movement in 1989 led Western countries to believe that China's reform would not make the Communist regime more liberal and democratic; instead, the communist regime would stay opposed to human rights. Second, the end of the Cold War made China lose its strategic importance for the West, especially the United States. China seemed to have become the center of world communism after the collapse of the Soviet Union and Eastern European communism. These two changes brought China under increasingly intense international pressure on its human rights violations.

With the changing international environments, the leadership's international strategy on human rights also witnessed a change. In the early 1990s, the Jiang Zemin leadership began to express China's willingness to engage in dialogues on human rights issues with the international community. China was willing to discuss with relevant countries every aspect of human rights. Through these dialogues, China expressed its own views on the issue, and learned about other countries' concerns on the issue. More positively, these dialogues also gradually changed perceptions on human rights among China's leaders. In the late 1990s, China signed two important documents of the United Nations on human rights, that is, the International Covenant on Economic, Social, and Cultural Rights, and the International Covenant on Civil and Political Rights. Certainly, the leadership no longer takes a confrontational approach to the issue; instead, it expects to reduce, even resolve, the disagreements on the issue between China and the international community.

Yet, even with all these changes, China is still in conflict with the West on the issue. This is partly because human rights have different meanings in the Chinese culture as compared with the Western culture. More importantly, as indicated in both papers, the leadership's stand on the human rights issue is mainly decided by its domestic concerns. There are dilemmas for the leadership. The leadership still needs to give the highest priority to economic development, without which China would not be able

to improve the human rights environment in the country. The improvement of human rights also depends on whether the leadership can implement new measures of political reform. But with its preoccupation with economic growth, political reform is not given high priority in the leadership's agendas. It is certain that without the improvement of human rights conditions, the leadership will increasingly face international pressure on the issue.

In their study of the Chinese responses to the NATO bombing of the Chinese Embassy, John Wong and Zheng Yongnian discuss the complicated nature of China's new nationalism. The international community has witnessed the rise of new nationalism in China since the early 1990s. Considerable concerns have also been raised over the potential impact of Chinese nationalism on international peace and order, given the fact that German and Japanese nationalism in the first half of the 20th century caused millions of civilian lives.

Indeed, new nationalism in China has become a fact. In the old days, China's nationalism was basically a reaction to national humiliation by Western imperialism. But the new wave of nationalism has been largely motivated by China's economic success in the past two decades. Growing wealth has provided China with an opportunity to restore her past glory and increase her influence in world affairs. According to Wong and Zheng, whether new nationalism will push China to pursue an expansionist foreign strategy will depend on the leadership's intention and China's interaction with the outside world.

Wong and Zheng show that the complicated nature of China's nationalism makes it difficult for the Chinese leadership to utilize nationalism in foreign policy making. Nationalism is a double-edged sword. It can increase the regime's legitimacy, but, if out of control, it can undermine socio-political stability. Ongoing reforms in the country have resulted in enormous negative consequences and are continuously producing elements threatening social instability, hence, the new leadership is likely to constrain nationalist sentiments rather than promote them.

Furthermore, how China's nationalism develops is also dependent on the way Western countries interact with China. With its rapid economic development, China is determined to play an important role in world affairs. Whether the West can accommodate China's rise will have a major impact

on China's nationalism. A benign China policy appeases Chinese nationalism, while a non-accommodative policy provokes it.

In his paper "China's Strategic Intentions and Demands", Wang Fei-Ling discusses more directly the domestic constraints on the leadership's international intentions. Wang observed that China has taken a rather conservative and defensive foreign policy since the start of the reform. This is understandable since the leadership's priority has been on economic development, and foreign policy has to serve this domestic agenda. As mentioned earlier, the aim of China's foreign policy is to create a peaceful international environment for domestic modernization. As Wang correctly points out, for the Chinese leadership, national security is dependent on economic development, and this perception will push China to continue to pursue a peaceful international strategy and the leadership is unlikely to take an adventurous foreign policy abroad, let alone an expansionist program. Yes, China has continuously raised its international assertiveness, but what Beijing wants is international accommodation of China's demands.

We have seen what the Chinese leadership has done to maintain a peaceful international standing. Nevertheless, it is particularly important to see what the leadership cannot do. This is the area of national sovereignty and national unification. As discussed at the beginning of this introduction, national unity has served one major source for the regime's legitimacy. Given the importance of national unity, it is almost impossible for the leadership to make any concession on the issue. Wang Fei-Ling further discusses the issue from the point of view of political security, and points out that national unity is an essential part of the regime's political security and stability. Any wrong moves on the issue would undermine the PRC political system.

From this point of view, the immediate challenge for the leadership would be the Taiwan issue. After the return of Hong Kong and Macao, the leadership has shifted its attention to Taiwan. But the Taiwan issue is obviously more complicated and difficult than the previous two. After Lee Teng-hui raised the concept of the "special state-to-state relation" in 1999, cross-strait relations have considerably deteriorated. The Taiwan issue is not merely between the Mainland and Taiwan, but is also a key part of China's external relations, especially Sino-US relations. Since the Taiwan

issue is one of life and death for the Chinese Communist Party, the leadership has no choice but to react forcefully and decisively. Although the leadership has so far taken a conservative foreign policy, the Taiwan issue would almost certainly force China to act outside this current defensive framework. Therefore, the Taiwan issue is not only a challenge for the Chinese leadership, but also a challenge for major powers in the Asia-Pacific region.

Part One



PARTY, STATE AND SOCIETY

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CHAPTER 1

The Politics of Power Succession



ZHENG YONGNIAN*

Hu Jintao, Vice President of the People's Republic of China (PRC), was appointed as a Vice Chairman of the Central Military Commission by the Fifth Plenum of the Fifteenth Central Committee of the Chinese Communist Party (CCP) held in Beijing from September 19 to 22, 1999.¹ A few days later, on September 27, when President Jiang Zemin met Singapore Senior Minister (SM) Lee Kuan Yew in Shanghai, Jiang claimed that it was the responsibility of old leaders to groom the younger generation of political leaders.² It is increasingly clear that so far Hu has become *the* candidate to succeed Jiang Zemin as the core of the fourth generation of the CCP

* The author is grateful to colleagues John Wong, Vincent Benziger, Guo Liangping, Gu Xin, Zou Keyuan and Luo Qi for their comments on the draft of this paper. Mr. Aw Beng Teck provided valuable editorial assistance.

¹ Other personnel changes included the appointment of Guo Boxiang and Xu Caihou as Vice Chairmen of the Central Military Commission. See Appendix 2.

² The Xinhua News Agency, "Jiang Zemin huijian Li Guangyao" ("Jiang Zemin Meets Lee Kuan Yew"), *People's Daily*, 28 September 1999 (overseas edition), p. 1; Mary Kwang, "Meeting between Old Friends", *The Straits Times*, 28 September 1999, p. 1.

leadership in the next Party congress in 2002. The appointment has aroused the interest of *Zhongnanhai* (China's White House) watchers both inside and outside China. Why is Jiang Zemin willing to pass his power to Hu Jintao? Will it be a smooth transition of power from the third to the fourth generation of leadership? Is the CCP becoming mature in dealing with the power succession issue? Given the fact that power succession has troubled the CCP leadership since 1949, such questions are not entirely baseless. The appointment of Hu Jintao gives us an opportunity to examine what the Jiang Zemin-centered new leadership has learned from past experience, to what degree power succession has been institutionalized, and what challenges are ahead for the leadership.

POLITICAL SYSTEMS AND POWER SUCCESSION

Power succession is a major issue in every political system. Different political systems have different rules of the game, and power succession bears different socio-political costs and impacts. In democracies, it is relatively easy to handle the problem of power succession. The selection of top leaders such as "President" or "Prime Minister" is institutionalized, and it is done in a predictable manner by some "rules of game" in the form of legal regulations and constitutional conventions. In other words, the method of election is prescribed by law.³

Nevertheless, it is worth noting that democracy as a means of power succession performs differently in different political systems. In well-established democracies in Europe and North America, power succession appears as a peaceful process, while in late democratized countries, it is often rather violent.⁴

³ For discussions of the differences between elections of presidents and those of prime ministers, see, Richard Rose & Ezra N. Suleiman, (eds.), *Presidents and Prime Ministers* (Washington, D. C.: American Enterprise Institute for Public Policy Research, 1980).

⁴ See Larry Diamond & Marc F. Plattner, (eds.), *Nationalism, Ethnic Conflict, and Democracy* (Baltimore: Johns Hopkins University Press, 1994); Larry Diamond, (ed.), *Political Culture and Democracy in Developing Countries* (Boulder: L. Rienner Publishers, 1993), and Larry Diamond, Juan J. Linz and Seymoure Martin Lepset, (eds.), *Politics in Developing Countries: Comparing Experiences with Democracy* (Boulder: L. Rienner Publishers, 1990).

Although some sort of electoral mechanism exists within the CCP, the Party is undoubtedly undemocratic. Without institutionalized methods of power succession as in a democracy, the Chinese leadership has to find other ways to deal with the succession issue. Actually, the succession issue has been affecting the country's political stability since the establishment of the PRC in 1949. Mao Zedong ruled China for several decades. He did not need to worry about power succession. Since he owned ultimate power, he was supposed to be able to appoint anyone of his choice to be his successor. Still, during his time, bitter political struggles that resulted from power succession took place and plunged the country into chaos, as in the cases of his appointed successors Liu Shaoqi and Lin Biao.⁵

After returning to power, Deng Xiaoping realized the importance of power succession. As a victim of Mao's personal dictatorship, Deng called for the reform of China's political and leadership system. The objective of Deng's reform plan was not to democratize China's political system, but to institutionalize its power succession.⁶ However, power succession during Deng's time also did not go smoothly, as evidenced by the ousting of Hu Yaobang and Zhao Ziyang by irregular political means.⁷

With the passing of the old generation of leaders, the issue of power succession becomes increasingly important. Since China's new leaders lack

⁵ M. Rush, *How Communist States Change Their Leaders*, Ithaca (NY: Cornell University Press, 1974); Alan P. L. Liu, *Political Culture and Group Conflict in Communist China* (Oxford: Clio Books, 1976); Lowell Dittmer, *Liu Shao-chi and the Chinese Cultural Revolution: The Politics of Mass Criticism* (Berkeley, CA: University of California Press, 1974); Michael Y. M. Kau, ed., *The Lin Biao Affairs: Power Politics and Military Coup* (White Plains, NY: International Arts and Sciences Press, 1975); Frederick C. Teiwes & Warren Sun, *The Tragedy of Lin Biao: Riding the Tiger During the Cultural Revolution 1966–1971* (Honolulu: University of Hawaii Press, 1996); and Jin Qiu, *The Culture of Power: The Lin Biao Incident in the Cultural Revolution* (Stanford, CA: Stanford University Press, 1999).

⁶ Deng Xiaoping, "Reform System of the Party and State Leadership", in Deng, *Selected Works of Deng Xiaoping (1975–1982)* (Beijing: Foreign Language Press, 1984), pp. 302–25.

⁷ In Chinese literature in this regard, the most detailed discussion of power succession under Deng Xiaoping, see, Wu Guoguang, *Zhao Ziyang yu zhengzhi gaige (Political Reform under Zhao Ziyang)* (Hong Kong: The Pacific Century Institute, 1997). For a general discussion in English literature, see, Richard Baum, "The Road to Tiananmen: Chinese Politics in the 1980s", in Roderick MacFarquhar, (ed.), *The Politics of China: The Eras of Mao and Deng*, second edition (New York: Cambridge University Press, 1997), pp. 340–71.

the personal and autocratic power that their old counterparts shared based on their revolutionary experience, they have to build up new power bases by discovering new rules and methods. The Jiang Zemin-centered third generation of leadership has made great efforts to cope with the issue of power succession.

It is not difficult to observe that a-given-leader-centered leadership is the key to China's power succession. Outside observers often wonder why the CCP puts so much emphasis on the core leadership. But Chinese leaders know its significance. Without a democratic means of power succession, power has to be centralized in the hand of a dominant political faction so that the selection of power successor(s) will not become deadlocked, and power competition among different factions can be mediated. Therefore, throughout the history of the CCP, once a new generation of leadership was created, a given leader had to establish himself as the core. Deng Xiaoping himself pointed to the significance of a given-leader-centered leadership in 1989 when Jiang Zemin was appointed to be the core of the new leadership. According to Deng,

Any collective leadership must have a core. Without a core, the leadership will not be reliable. The core of the first generation of leadership was Mao Zedong. Because Mao served as the core, the Communist Party did not collapse during the Cultural Revolution. The core of the second generation of leadership was myself. Due to this, the leadership of the party was not affected greatly by changes over party leadership two times (i.e., Hu Yaobang and Zhao Ziyang). Instead, it was always stable. There also must be a core of the third generation of the leadership. . . .Every one has to defend this core, that is, comrade Jiang Zemin.⁸

⁸ Deng Xiaoping, "Di san dai lingdao jiti de dagnwu zhiji" ("The Top Priority of the Third Collective Leadership"), in Deng, *Deng Xiaoping wenxuan* (Selected Works of Deng Xiaoping), vol. 3 (Beijing: Renmin chubanshe, 1993), p. 310.

POWER CONSOLIDATION AND SUCCESSION POLITICS

Jiang Zemin was appointed as the core of the third generation of leadership by Deng Xiaoping. But to become a real core of the new leadership is a difficult process. In addition to handling the issue of power succession, Jiang needed to build new rules and methods. In order to do so, Jiang's most important task was to consolidate his own power network first. Jiang began to build his personnel fortress in 1992 as soon as he was formally elected as General Secretary of the CCP at the Fourteenth Party Congress; from here Jiang managed to establish a Jiang-centered leadership and consolidated his relations with the military.⁹ In the Second Plenum in 1993, Jiang continued to emphasize building his organizational base of power. The same Plenum endorsed the proposal of reforming the Party and government organs, aiming to improve the effectiveness of the Party-state's government. The focus of the Fourth Plenum in 1994 was on strengthening Party organizations, and major personnel changes were made in that session. Before this Plenum, Jiang did make great efforts to build his own power network by promoting party cadres and government officials into the central leadership. Major personnel changes included: Gong Xinhan, Vice-Secretary of the Shanghai Party Committee was promoted to Vice-Director of the Central Propaganda Department; Zhou Ruijin, Deputy General Editor of *Liberation Daily* (Shanghai), was promoted to Deputy General Editor of *People's Daily* (Beijing); Liu Ji, Deputy Director of the Propaganda Department of the Shanghai Party Committee, was promoted to Vice President of the Chinese Academy of Social Sciences; and Ba Zhongtan, commander of the Shanghai garrison, was promoted to Commander of the Armed Police. These personnel changes were believed to have led to the formation of the Shanghai Clique, but Jiang's efforts were indeed very constrained.¹⁰ As we can see, all these

⁹ Willy Wo-lap Lam, "Leadership Changes at the Fourteenth Party Congress", in Joseph Y. S. Cheng & Maurice Brosseau, (eds.), *China Review 1993* (Hong Kong: The Chinese University of Hong Kong, 1993), pp. 17-67.

¹⁰ IEAPE Special Correspondent, "The Decision of the Fourth Plenum- Coping with the Decline of the Communist Party of China", *IEAPE Commentaries*, no. 10, Institute of East Asian Political Economy, Singapore, December 21, 1994; and "The 4th Party Plenum — Emergence of a New Shanghai Clique in the Top Leadership", *IEAPE Commentaries*, no. 9, Institute of East Asian Political Economy, Singapore, October 18, 1994.

personnel changes were at the deputy-minister level. Nevertheless, the Fourth Plenum strengthened the so-called Shanghai Clique. At this Plenum, Wu Bangguo, Secretary of the Shanghai Party Committee, was appointed as a member of the Political Bureau and Secretary of the Central Secretariat; and Huang Ju, Mayor of Shanghai, was appointed a member of the Political Bureau.¹¹

However, it is important to point out that Jiang has been very cautious in dealing with different political factions at the top. Since the early 1990s, Jiang has been successful in winning support from the People's Liberation Army (PLA) and gaining cooperation from Li Peng, who had been in the top leadership longer than Jiang. Jiang formed a Jiang Zemin-Li Peng political coalition in his early career in *Zhongnanhai*.¹² Jiang needed this coalition to fend off any challenge to his leadership. Therefore, when Jiang felt that his leadership was challenged by the so-called Beijing faction, he was unafraid but rather confident. In 1995, Jiang reduced greatly the influence of the "Beijing faction" by removing the corrupt Chen Xitong, member of the Standing Committee of the Political Bureau and Mayor of Beijing, from the top leadership.¹³

The Fifteenth Party Congress in 1997 reinforced Jiang's power base with a major personnel reshuffling. It is obvious that Jiang continued to make efforts to consolidate his "Shanghai Clique" by bringing Zeng Qinghong into the Political Bureau (as an alternate member). At the Ninth National People's Congress (1998), Chen Zhili, also a Jiang ally, was appointed as Minister of Education.¹⁴ It is important to note, however, that the "Jiang Fortress" was consolidated at this congress not only because the "Shanghai Clique" was expanded, but also because many of Jiang's supporters came from other areas. With many years of experience at the center of power,

¹¹ *Ibid.*

¹² For a discussion of this coalition, see, Wu Guoguang, *Zhulu shiwuda* (Power Competition for the Fifteenth Party Congress) (Hong Kong: The Asian-Pacific Century Institute, 1997).

¹³ You Ji, "Jiang Zemin: In Quest of Post-Deng Supremacy", in Maurice Brosseau, Suzanne Pepper & Tsang Shu-ki, (eds.), *China Review 1996* (Hong Kong: The Chinese University of Hong Kong, 1996), pp. 1-28.

¹⁴ Both Zeng Qinghong and Chen Zhili came from Shanghai, and used to work with Jiang Zemin when Jiang served as Party Secretary of Shanghai Party Committee in the 1980s.

Jiang no longer needed to recruit his people exclusively from Shanghai. Newly recruited members of the Political Bureau were from different parts of China. For instance, Li Changchun and Wu Guangzhen, two newly recruited members of the Political Bureau, are the respective provincial Party secretaries of Henan and Shandong (Li was transferred to Guangdong later).¹⁵

As a matter of fact, Jiang could not be too openly ambitious in building his own fortress. Otherwise, he could be challenged by those whose power and interests were seriously threatened. Before the Fifteenth Party Congress, it was widely speculated that Shanghai Party Secretary Huang Ju and Mayor Xu Kuangdi would move to Beijing to take over important offices, while other Shanghai notables would enter the Central Committee. Nevertheless, such promotions did not happen. All this demonstrates that Jiang has attempted to play a more balanced role as a mediator among different power factions, just as Deng Xiaoping had done before him.

MANAGING POWER SUCCESSION

Power succession is an integral part of Jiang's process of consolidating his own power. But in the context of China's political system, power succession is not just choosing a power successor. In fact, it means several things. Four most important aspects of power succession include:

- Restructuring ideology
- Recruiting new types of elite into the leadership
- Building political "exit" for aging leaders
- Grooming the core of the future generation of leadership.

Restructuring Ideology

Ideology plays a complicated role in Chinese politics. It can be used to

¹⁵ Paul Cavey, "Building a Power Base: Jiang Zemin and the Post-Deng Succession", *Issues and Studies*, vol. 33, no. 11 (November 1997), pp. 1-34, and Joseph Y. S. Cheng, "Power Consolidation and Further Economic Reforms", in Joseph Y. S. Cheng, (ed.), *China Review 1998* (Hong Kong: The Chinese University of Hong Kong, 1998), pp. 25-60.

justify and to preserve the status quo, or it can be utilized to transcend and transform the status quo. Furthermore, ideology can be used to force Party cadres and government officials to identify with the top leadership, shape their behavior and prevent their deviation from the leadership's guidelines.¹⁶ Restructuring ideology is especially meaningful for power succession. Without it, the political legitimacy of any new leadership could hardly be justified.

In the pre-reform era, Mao Zedong used ideology to mobilize mass support to the Party-state, and indeed, ideology was an effective and powerful instrument to exercise control over the population. After the reform began, ideology was greatly depoliticized. Ideology was used not as the guidelines for policy making, but for policy justification. In other words, leaders now are less influenced by ideology in policy making, but they still need it to justify their policies. Ideology is still an effective way for leaders to communicate with people and thus legitimize their policies. Without doubt, throughout the whole reform process, ideology has been increasingly used as a "tool" by the leadership to legitimize its policy packages. Changes in the leadership have often brought about changes in ideology.

Owing to such unique functions, ideological reorientation indeed has been a major agenda for the Chinese leaders from Deng Xiaoping to Jiang Zemin. Deng Xiaoping restructured the Communist ideology and transformed the party from a revolutionary and radical one to a reform oriented and pragmatic one. By initiating a campaign of so-called "first liberation of thought" after he came to power in the late 1970s, Deng established a non-Maoist reform ideology and provided an ideological legitimacy for his own reform agenda. At the Thirteenth Party Congress in 1987, Zhao Ziyang proposed the theory of the primary stage of socialism in an attempt to provide a new ideological base for China's development. Similarly, during the Fourteenth Party Congress, Jiang Zemin followed Deng's call for a "second liberation of thought" and established the theory of "socialist market economy" as the core of the CCP ideology.

Prior to the Fifteenth Party gathering (1997), the CCP initiated a so-called "third liberation of thought". Central to this wave of liberation is to

¹⁶ For a discussion of the role of ideology in China, see Franz Schurmann, *Ideology and Organization in Communist China* (Berkeley and Los Angeles: University of California Press, 1968).

“let Deng’s flag fly” and reaffirm the “theory of primary stage of socialism”. As mentioned above, Zhao Ziyang proposed the primary stage theory at the Thirteenth Party Congress, aiming to defend his reform policies and rationalize various “negative” consequences resulting from these reform policies. With Zhao out of power, the Fourteenth Party Congress no longer mentioned this theory. Why did Jiang Zemin reemphasize this theory at the Fifteenth Congress? What role did the theory play in the restructuring of Party ideology?

What happened is that Jiang encountered serious ideological challenges from the Leftists. China’s rapid economic growth after 1992 has brought about enormous social problems. For the Leftists, such as Deng Liqun and other old ideologues, these newly emerged problems are related to Deng’s development strategy of “economic priority”. To cure these diseases, Deng’s reform line has to be modified somehow. Otherwise, the Party-state would be threatened.

The first issue that worries the Leftists is the strategy of decentralization and its negative impact on state capacity. Chinese economic reform is characterized by decentralization. The national government decentralized different aspects of economic decision-making power, such as fiscal and financial power, property rights and material allocation power to different levels of local governments, individual enterprises, and even individuals, in an attempt to provide them with economic incentives to promote the country’s economic growth. As a result, the local economy boomed, but the national government lost its capacity to coordinate local economic activities and balance regional development. Income disparities among different social groups and among different regions were widened. For the Leftists, the rise of localism, ethnic nationalism, and widening income disparities and many other problems are just some early signs of national disintegration. If this trend cannot be reversed, not only the Party, but the whole country would be in trouble.

Second, it seems to the Leftists that the rise of a middle class has increasingly become a major threat to the CCP’s dominant rule. With enormous difficulties in reforming the state sector, the central government has encouraged the development of different non-state sectors such as collectives, joint ventures and private enterprises of various forms. In terms

of economic composition, the state sector is now no longer dominant. The rapid development of the non-state sector seems irreversible. A booming non-state sector in China's coastal provinces such as Guangdong, Zhejiang, Jiangsu and Shandong is already well known. Moreover, even in China's industrial center, the Northeast region, provincial government officials have blamed the state sector for slowing their economic growth, and begin to explore a "second front" to revive local economies, shifting their priority from the state sector to the non-state sector by making great efforts to introduce various forms of private economic activities.

What do these changes imply for China's political order? Old-fashioned Leftists are afraid that a shrinking state sector would change the socialist nature of the CCP regime, and that the bourgeoisie and its representatives would take over political power. According to a widely circulated *Wan Yan Shu* (literally 10,000-word letter) by Chinese Leftists,

An economy of state ownership is the pillar of the Chinese state. State enterprises are where China's industrial workers locate and are the sources of national revenues. The shrinking of state enterprises will necessarily lead to the weakening of the Party's leading position and the decline of central power and capacity to cope with various issues, and thus impose a serious threat to the CCP regime. [Moreover], a rising private sector is increasingly becoming the backup force of a newly emerging bourgeoisie and their political demands. Historically, the rise of European bourgeoisie won in their struggle for political power based on their principle of "without representatives, without taxes." Now, representatives of Chinese bourgeois also begin to "buy" through "taxation mechanism" "public goods" from the government such as the rule of law, order, national defence and even democracy.¹⁷

¹⁷ See *Wan Yan Shu* (10,000 word letter), "Yingxiang woguo guojia anquan de ruogan yinsu" ("Some Elements that Influence our National Security", in *Yazhou zhouban* (Asian Weekly), Hong Kong, January 14, 1996, p. 23.

On the other hand, for the New Leftists,¹⁸ the rise of a middle class means something else. They are afraid that the CCP regime would turn into an ultra-rightist one. Their reasoning goes like this: because economic growth in China was not achieved by privatization, the reform had resulted in a strong bureaucratic bourgeoisie. Without privatization of state-owned enterprises, the private sector in China is still rather small. More importantly, rapid development of the non-state sector, including the collectives, is closely related to the “loss of state properties”. This means that government officials often become entrepreneurs and privatize state properties. *Guanshang* (literally official-businessmen) has been a major driving force behind China’s rapid growth. The CCP regime depends increasingly on such a bureaucratic bourgeoisie. Such a regime will not be capable of redistributing income among different social groups and regions, and will become more coercive toward its people.

How can this tendency be reversed? The New Leftists seem to have become very nostalgic, appealing to Maoism and calling for their own versions of economic and political democracy. For them, economic democracy means that the government needs an egalitarianism-oriented distribution policy which will constrain the regime’s ultra-Rightist tendency. Furthermore, political democracy can be achieved through institutionalizing Maoist “mass democracy”. Without mass participation in the political process, the people will not be able to share the fruits of development and their interests will be ignored by the regime.¹⁹

Third, the Leftists are also worried about the impact of socio-economic changes on the CCP’s ideology. No one doubts that the old ideology is no longer effective in constraining and regulating government officials’ behavior, let alone people’s behavior. But a new ideology has not come into being yet. Much confusion has arisen. In the Leftists’ words again, “what was regarded right in the past is now regarded wrong; what was regarded wrong

¹⁸ The term “New Left” was given by many Chinese commentators in the Mainland and Hong Kong. See *Yazhou zhoukan* (Asia Weekly), Hong Kong, September 18, 1994, pp. 26–7; and *Dangdai yuekan* (Current Affairs Monthly), Hong Kong, November 15, 1994, pp. 26–30.

¹⁹ For example, see Cui Zhiyuan, “Mao Zedong ‘wenge’ lilun de deshi yu ‘xiandaixing’ de chongjian” (“Mao Zedong’s Idea of Cultural Revolution and the Restructuring of Chinese Modernity”), *Hong Kong Journal of Social Sciences*, no. 7 (Spring 1996), pp. 49–74.

in the past is now regarded right".²⁰ For the "Old Leftists", it is a rising middle class that has undermined the Communist ideology. Many Party cadres and government officials at different levels, as well as intellectuals, now publicly propose that China give up its state ownership and accept private ownership. Indeed, they have been a driving force that is leading the country to capitalism. More importantly, the CCP regime is undergoing change, and more and more local government positions are filled by those from the private sector. With enormous economic resource in hand, they are developing a non-communist ideology.

The concerns raised by the Old and New Leftists are not without reasons. Indeed, because they raised many practical issues facing the country, such as income disparities, worsening morale, money worship, laid-off workers, social chaos, etc., they are very appealing to the people. It is in this sense that both the "New Left" and the "Old Left" could pose a serious threat to Jiang Zemin and his leadership. The existing leadership cannot totally ignore these issues. Otherwise, it will lose its ideological authority, and thus the ideological base of its political legitimacy. It is against this background that Jiang Zemin re-emphasised the theory of the primary stage of socialism.

Jiang Zemin certainly sees the need to fend off the Leftists' attack on Deng's reform policies. However, what Jiang wants is not simply to defend "Deng's flag." More importantly, Jiang has to establish himself as the Party's new theoretical authority. If Jiang Zemin is not able to defend himself and set forth his own theory of governing the country, like what Mao and Deng did before, his position in the Party's hierarchy will eventually be challenged.

What is implicit in Jiang's re-emphasis on the theory of the primary stage of socialism is multifold.²¹ First of all, it is understandable that Jiang wants to fly "Deng's flag". As the heir to Deng Xiaoping, Jiang's political legitimacy is based on Deng's legacies. If Jiang tolerated the Leftists' attack on Deng's reform line, his own position would certainly be destabilized. Faced with challenges from the Leftists, Jiang and his leadership had no choice but to strike back.

²⁰ Wan Yan Shu, "Yingxiang woguo guojia anquan", op. cit., p. 26.

²¹ On the economic side, see John Wong, "Good Political Arithmetic: China's Economy on the Eve of the Fifteenth Party Congress", *EAI Background Brief* No. 1, East Asian Institute, National University of Singapore, September 2, 1997.

Second, even though Deng's reform line has resulted in enormous "negative" socio-economic consequences, China's rapid economic growth is without doubt attributed to Deng's reform. With no revolutionary experience, the new leadership is increasingly dependent on economic development for their political legitimacy. If economic reform made China chaotic, then the new leadership had to show that it was only a transitional phenomenon. It is in this context that Jiang reiterated the theory of primary stage of socialism. In doing so, Jiang attempts to show that economic development is still the Party's highest priority. Since China is still at a primary stage of socialism, its main task is economic growth, regardless of whether it is socialistic or capitalistic. Meanwhile Jiang also wants to justify China's chaotic situation. Because of the primary stage, the Party needs to allow so-called "negative" elements to occur. Their presence is something inevitable. With the discovery of new institutions and methods, they can be controlled by the Party-state.

Third, by calling for a third liberation of thought, Jiang began to pursue his own path of ideological reconstruction. Yes, Jiang was the heir of Deng Xiaoping and it was necessary to defend Deng. But "let Deng's flag fly" is not the only purpose of Jiang's call for a third liberation. With the passing of Deng and other elders and with no more support from them, Jiang certainly needs to expand and consolidate his own power. This situation was similar to what Deng Xiaoping did to Mao Zedong. Deng did not totally abandon Mao's legacies. Deng took the political initiative and established his own theory of Chinese development. Now, it is Jiang's turn. Indeed, as one scholar observed, after the Fourteenth Party Congress, Jiang began to make efforts to formulate his way of governing the country, a way that is different from Deng's. While Deng called for decentralization, Jiang put much emphasis on recentralization.²² A new and a third liberation of thought is necessary for Jiang to develop a non-Deng theory. Needless to say, Jiang wanted to create his own version of the theory of primary stage of socialism, aiming at justifying the new leadership's measures of economic reform.²³ Thus, there is no inherent contradiction between "letting Deng's

²² Wu Guoguang, *Zhulu shiwuda*, op. cit., pp. 20–23.

²³ On the economic program of the new leadership, see John Wong and Sim Poh Kheng, "Reforming China's State-Owned Enterprises: Problems and Prospects", in East Asian Institute,

flag fly” and “developing a non-Deng theory”. For Jiang and his leadership, to continue to insist on Deng’s theory is to develop and even to go beyond Deng’s theory in accordance with changing internal and external circumstances.

RECRUITING NEW TYPES OF ELITE INTO THE LEADERSHIP

Elite recruitment is significant for power succession. First, it can increase the sense of loyalty to the Party among newly recruited Party cadres and government officials. We have seen that when a new leader comes to power, he will usually consolidate his power position by recruiting new elites into the leadership. This is so simply because elite recruitment can lead to the formation of new power networks among leaders and the creation of a political legitimacy for the new leader.

Second, elite recruitment can also increase the political legitimacy of the Party among people. In democratic states, political leaders gain the legitimacy of their power positions through winning votes. In China, without such a mechanism, the Party has to search for other alternatives for political legitimation. After the post-Mao reform began in the late 1970s, the Party’s legitimacy has increasingly depended on the Party’s ability to deliver economic goods to the people. In order to do so, the Party needs a new type of elite for effective policy implementation. Certainly, the elite transformation from revolutionaries to technocrats in China is evidently attained by elite recruitment.²⁴

China After the Fifteenth Party Congress: New Initiatives, EAI Occasional Paper No. 1 (World Scientific & Singapore University Press, 1997), pp. 61–86; and John Wong, “Interpreting Zhu Rongji’s Strategies for the Chinese Economy”, in East Asian Institute, *China After the Ninth National People’s Congress: Meeting Cross-Century Challenges* (World Scientific & Singapore University Press, 1998), pp. 29–50.

²⁴ On the movement of technocracy, see, Hong Yung Lee, *From Revolutionary Cadres to Party Technocrats in Socialist China* (Berkeley, CA.: University of California Press, 1991); Cheng Li and Lynn White, “The Fifteenth Central Committee of the Chinese Communist Party: Full-Fledged Technocratic Leadership with Partial Control by Jiang Zemin”, *Asian Survey*, vol. 38, no. 3 (March 1998), pp. 231–264.

Table 1 Elite Turnover of the Central Committee and Political Bureau (12th – 15th CCs)

	12 th (1982)	13 th (1987)	14 th (1992)	15 th (1997)
Full Number: No.	210	175	189	193
New(%)	96(45)	114(65)	84(44)	109(57)
Alternative Number: No.	138	110	130	151
New(%)	114(82)	79(72)	97(75)	106(70)
Total Number: No.	348	285	319	344
New(%)	210(60)	193(68)	181(57)	215(63)
Political Bureaus: No.	23	18	22	24
New (%)	13(43)	12(66)	15(68)	8(33)
Re-elected(%)	10 (57)	6(34)	7(32)	16(67)

Source: The author's database.

The past two decades have seen great changes in the elite turnover at all levels of Party organization and government. Table 1 shows the elite turnover of the Central Committees (CC) and Political Bureaus from the Twelfth to Fifteenth CCs. Take the Fifteenth Central Committee as an example. Among 193 full members of the Central Committee, 57 percent (109) were newly recruited, compared to 44 percent newly recruited in the previous congress (1992).²⁵ Furthermore, most newly recruited elites had their training in engineering and other fields of science and technology. For example, among 177 full CC members with college degrees, 44 percent (78) majored in engineering, 11.3 percent (20) in geology, agricultural science, biology, physics, chemistry, medicine, economics and management, and 10 percent (18) in military science and engineering.²⁶ Indeed, at the Fifteenth Party Congress (1997), all seven members of the Standing Committee of the CC's Political Bureau and eighteen of the twenty-four Political Bureau members were primarily technocrats (see Table 2 for details).

²⁵ All figures are based on the author's database.

²⁶ Li and White, "The Fifteenth Central Committee of the Chinese Communist Party", p. 250.

Table 2 The New Political Bureau at the Fifteenth Party Congress (1997)

Name	Year of Birth	Educational Background
Jiang Zemin	1926	Engineering, Jiaotong University & Soviet Union
Li Peng	1928	Engineering, Soviet Union
Zhu Rongji	1928	Engineering, Qinghua University
Hu Jintao	1942	Engineering, Qinghua University
Li Ruihuan	1934	Architecture, Beijing Architecture Institute.
Wei Jiangxin*	1931	Engineering, Dalian Eng. Institute
Li Lanqing*	1932	Business, Fudan University & Soviet Union
above as members of the Standing Committee		
Average Age	65.4	
Ding Guan'gen	1929	Engineering, Jiaotong University
Tian Jiyun	1929	Middle School
Li Changchun*	1944	Engineering, Ha'erbin Indu. University
Li Tieying	1936	Physics, Czechoslovakia
Wu Bangguo	1941	Engineering, Qinghua University
Wu Guanzheng*	1938	Engineering, Qinghua University
Chi Haotian*	1929	PLA Military Academy
Zhang Wannian*	1928	PLA Nanjing Military Academy
Luo Gan*	1935	Engineering, Beijing Steel Institute
Jiang Chunyun	1930	Chinese Language/Literature University
Jia Qinglin*	1940	Engineering, Hebei Engineering Institute
Qian Qichen	1928	Junior College & Soviet Union
Huang Ju	1938	Engineering, Qinghua University
Wen Jiabao*	1942	Geology, Beijing Geology Institute
Xie Fei	1932	Middle School
Zeng Qinghong	1939	Engineering, Beijing Engineering Institute
Wu Yi	1938	Engineering, Beijing Petroleum Institute
#above as alternate members of the Political Bureau		
Average Age	61.9	

*Newly recruited member

Source: The author's database.

Building Political "Exits" for Aging Senior Leaders

The retirement system for aged cadres has been rather institutionalized. According to the CCP regulations on cadre retirement established in the early 1980s, candidates for ministers, provincial Party secretaries and governors have to be below 65 years of age, and those for deputy ministers,

deputy provincial Party secretaries and deputy governors below 60 years of age.²⁷ An unwritten practice is that candidates for the Premier and Vice Premier positions have to be below 70 years of age. These practices have been increasingly institutionalized in Chinese high politics. What is more important though is to build “exit” for aging senior leaders.

To a great degree, political succession is a matter of “exit”. When new elites come to power, old ones have to give way. Before Deng Xiaoping, China virtually did not have a system of “exit”. Major officials were able to hold on to their positions until the last day of their lives. The “exit” problem has troubled both the top leadership and the country, since it has been often solved by bitter political struggle. More seriously, when leaders become aged, they are not prepared to give up their power positions. When young leaders “fight” in the front line, old guards stand behind and watch.

From the onset, the new leadership realized how important it was to build a system of political “exit”. To a great degree, Jiang Zemin has been quite successful in this regard. During the Fifteenth Party Congress, one of the most powerful political figures, Qiao Shi, retired gracefully from all power positions. Qiao Shi, number two in the Political Bureau of the Fourteenth Central Committee, was widely regarded as the political challenger to Jiang Zemin.²⁸ Regardless of whether Qiao retired voluntarily or was pushed out, his retirement was a major step for the CCP to resolve its endemic problem of political “exit”. With Qiao’s departure, Jiang has now put in place a procedure for old leaders to “exit” gracefully from their power positions when they become aged.

This is also true in the case of the “exit” of General Liu Huaqing. The departure of General Liu from the Standing Committee of the Political Bureau means that Jiang has secured his control over the military. But the significance of General Liu’s departure is more than that. It is the first time in the history of the People’s Republic that no representative from the

²⁷ The Central Committee of the CCP, “Guanyu jianli lao ganbu tuixiu zhidu de jue ding” (“The Decision to Establish the Retirement System for Aged Cadres”), in The Office of Documentary Studies of the Central Committee of the CCP, ed., *Shiyijie sanzong quan hui yilai zhongyao wenxian xuanbian* (Selected Important Documents since the Third Plenum of the Eleventh Party Congress) (Beijing: Renmin chubanshe, 1987), pp. 411–421.

²⁸ For a discussion, see, Wu Guoguang, *Zhulu shiwuda*.

military sits on the Standing Committee. In the pre-reform period, Mao Zedong controlled the military as Chairman of the Central Military Commission for more than 27 years (1949–1976), with support from Zhu De, Lin Biao, Ye Jianying and other generals. Deng Xiaoping was also capable of exerting control over the military owing to his strong military background. When Zhao Ziyang was General Secretary of the Party, there was no military representative in the Standing Committee. Nevertheless, it was Deng Xiaoping, as the Chairman of the Central Military Commission, that controlled the military. Now, among the seven members of the Standing Committee, no one has a military background. The weakening of the military's presence at the top leadership tends to provide the leadership with an opportunity to push the country's transition towards a modern pattern of civilian-military relationship (this point will be discussed later).

Grooming Younger Leaders

Grooming a younger generation of leaders indeed was one of the most important policy legacies of Deng Xiaoping, who argued that the Party could renew itself by recruiting younger cadres into the leadership. Since the early 1980s, we have seen a consistent process of *nianqinghua* (rejuvenation). The average age of the Central Committee dropped from 62 in the Twelfth Party Congress in 1982, when most CC members were still revolutionaries, to less than 60 in the Fifteenth Party Congress in 1997. The average ages of the Standing Committee, Political Bureau, and Secretariat of the Fifteenth CC, the most powerful institutions, are much lower than those of the Twelfth CC (see Table 3 for details).

Table 3 Average Age of the Members of the Central Committee, Standing Committee of the Political Bureau, Political Bureau, and Secretariat (12th – 15th CCs)

	12 th (1982)	13 th (1987)	14 th (1992)	15 th (1997)
Member of Central Committee	62.0	55.2	56.3	55.9
Member of Standing Committee	73.75	63.6	63.4	65.1
Member of Political Bureau	71.8	64.0	61.9	62.9
Member of Secretariat	63.7	56.2	59.3	62.9

Source: The author's database.

Jiang and his leadership undoubtedly have continued to push this process forward. More importantly, they have begun to build up a fourth generation of leadership. With the passing of the Old Guards, Jiang and his third generation are now in charge of building the next generation of leadership. In previous Party gatherings, old guards such as Deng Xiaoping, Chen Yun, Ye Jianying and Li Xiannian were powerful enough to choose their own successors. However, even these powerful figures were not able to make sure that power succession could be smooth. Jiang has learned from the country's past experience that power succession, especially in an age of great transformation, is vital both for the Party itself and for the country. Without the old guards, the Standing Committee of the Political Bureau as a whole has to play the role of guardians to choose the next generation of leadership. Such is the political background that has led to the rise of Hu Jintao.

Hu was born in 1942 in Anhui province. He graduated from Qinghua University in hydraulic engineering in 1965. Later he served as an instructor of a university art association and several years as a leader of economic work in Gansu Province, taking part in the construction of two hydropower stations on the upper reaches of the Yellow River. In 1982, Hu became the youngest alternate member of the CCP Central Committee at the Twelfth Party Congress. In the same year, Hu was elected as Secretary of the Communist Youth League. In 1985, Hu was appointed as Secretary of Guizhou Provincial Party Committee. Three years later, he was transferred to Tibet as Secretary of Tibet Autonomous Region Party Committee. As we can see, with all these experiences, Hu indeed was well prepared to ascend to the highest level of leadership in the country (see Appendix 1).

Hu Jintao came to the center of political power at the CCP's Fourteenth Congress in 1992 when he became the youngest member of the Standing Committee of the Political Bureau. It was Deng Xiaoping that had played an important role in pushing Hu Jintao's rise. Learning from his previous practice of power succession in connection with Hu Yaobang and Zhao Ziyang, Deng realized that it was important to groom successor(s) when they were still young. The political endorsement from Deng Xiaoping granted Hu Jintao a unique position within the CCP leadership. As a matter of fact, to groom Hu as the core of the future generation of leadership became a

political consensus among China's top leaders. Since then, the leadership has provided various opportunities to groom Hu as Jiang's successor.

One major measure is to use the State Presidency as a platform to groom Hu Jintao. The State Presidency used to be the titular head of the state under both Mao Zedong and Deng Xiaoping. The Ninth National People's Congress elected Hu Jintao as Vice President of the State. Previously, this position of deputy head of the state was assumed by retired Party cadres (as one of the most important political "exits") or senior non-communist politicians (as a symbol of multi-party cooperation). By doing so, Jiang attempted to expose Hu to the outside world and to provide him with opportunities to gain experience in dealing with China's international affairs.

THE SELECTION OF HU JINTAO AND CIVILIAN-MILITARY RELATIONS

The appointment of Hu Jintao as a Vice Chairman of the Central Military Commission is significant in terms of building a modern civilian-military relationship. Since the establishment of the People's Republic, the PLA has played an important role in maintaining regime stability in particular and sociopolitical stability in general. When China descended into political chaos in the late 1960s and 1970s, Mao Zedong relied on the support of Defence Minister Lin Biao against other senior leaders such as Peng Zhen, Liu Shaoqi and Deng Xiaoping. During the last years of the Cultural Revolution, Lin Biao and his lieutenants attempted to institutionalize the role of the military in civilian affairs. Although Lin Biao died in 1971, after allegedly plotting against Mao, the PLA remained an essential part of the country's political system. When Mao Zedong died in 1976, the military's support was essential to Hua Guofeng in arresting Jiang Qing and the other members of the "Gang of Four".²⁹

After Deng Xiaoping came to power, one of the major goals of the reform was to restore the control of the civilian government over the PLA

²⁹ For a general discussion, see, Roderick MacFarquhar, "The Succession to Mao and the End of Maoism, 1969–82", in MacFarquhar, (ed.), *The Politics of China*, pp. 248–339.

and reduce the military's role in civilian affairs. From an institutional point of view, Deng's military reform was rather successful. At the time of his death, Deng had succeeded in retiring senior officers, reducing the number of military regions, reshuffling regional military commands, and trimming military representation on the Political Bureau and Central Committee.

With the passing of the old guards, it is increasingly important to institutionalize the civilian-military relationship. Jiang Zemin has made enormous efforts to improve his relationship with the military and thus strengthen his influence over military affairs. As Chairman of the Central Military Commission, Jiang has been involved in the massive changes in command positions of the last few years, thereby generating quite a strong sense of obligation towards him among the younger, better educated and more professional officer corps.

Even so, Jiang has emphasized the importance of further strengthening the Party's control over the military. For example, prior to the Fourteenth Party Congress, the Yang brothers (President Yang Shangkun and his brother Yang Baibing, the Director of the General Political Department of the PLA) argued that the PLA had to play the role of "escorting the reform process". Jiang regarded the Yang brothers' argument as an attempt to interfere with civilian affairs. Consequently, under the auspices of Deng Xiaoping, Jiang removed the Yang brothers from the Central Military Commission and replaced them by two elderly military officers, Liu Huaqing and Zhang Zhen in 1992 during the Party's Fourteenth Congress.³⁰

In 1997, China passed the *National Defense Law*, the first of its kind for China. The major objective of the new law was to legalize the Party's command over the military. Legalizing the relationship between the Party and the military is in fact the rational method to institutionalize the Party's control over the gun, a relationship that in the past depended largely on

³⁰ As a matter of fact, the Yang brothers not only strongly supported Deng's reform policies, but also were loyal to Deng himself. Why did Deng want to remove the Yang brothers? According to Wu Guoguang, it was because the Yang brothers showed their rather strong political ambitions, and Deng did not want to see his third heir apparent Jiang Zemin to be removed. Generals Liu Huaqing and Zhang Zhen were chosen to assist Jiang because both generals were also loyal to Deng and had no political ambitions. See, Wu, *Zhulu shiwuda*. Also see, Willy Lam, "Leadership Changes."

personal rather than on institutional power which defined the civilian-military relations. Until the *National Defense Law* was passed, it had always been a strong military man in the Party, rather than the leadership of the Party as an institution, that had ruled the military.

The passage of the *National Defense Law* undoubtedly pushed the progress towards the civilian government's control over the military. But as it turned out, it seemed to the new leadership that the passage of the law did not necessarily mean that the civilian government would be able to control the gun. Personnel changes were also important to bring about a more modern pattern of civilian-military relationship. At the Fifteenth Party Congress, two military leaders, Minister of Defense Chi Haotian and Vice Chairman of the Military Affair Commission Zhang Wannian, were on the new Political Bureau (see Appendix 2). However, as discussed earlier, General Liu Huaqing exited peacefully from the Standing Committee of the Political Bureau and no PLA general has since been promoted to this most important institution. Furthermore, at the Ninth National People's Congress (March 1998), the State Commission of Science and Technology for National Defense became the chief advisor to the government on science and technology for the military, rather than the military's own rank in the PLA's various companies. For the first time since 1949, a civilian official, former Vice Minister of Finance Liu Jibin, became the Director of that Commission.

Nonetheless, the most important step was to create opportunities for Hu Jintao to develop his relations with the military. It took Jiang Zemin many years to develop the capability to exercise his control over the military. Like Jiang Zemin, Hu Jintao also has no military background. Though Hu has engaged in Party affairs for years, he is rather distant from the military. To be an effective successor, Hu has to be provided with an institutional base to develop his relations with the military. But this is not an easy process. Jiang Zemin had tried to install Hu in the commission for at least two years, but there was fierce opposition from the generals to the appointment of a second civilian to the highest PLA decision-making body. Before the Third Plenum of the Fourteenth Central Committee (September 1998), it was widely believed that Hu Jintao would be brought into the Central Military Commission. But this did not materialize.

In late 1998, the central government initiated a nationwide movement to wind up the military's business operations. Hu Jintao was appointed Director of the Transfer Office (for transferring business operations from the military to the civilian sector) and was put in charge of policy implementation. Hu Jintao also took part in another task force, known as the "Leading Group to Handle the Businesses of Party and Government Units". The group was chaired by Premier Zhu Rongji, with Hu Jintao and General Zhang Wannian as deputies, and its aim was to accelerate the process of de-linking the military from business. The campaign was rather successful for at least the military was formally de-linked with business. The success of the campaign enabled Hu Jintao to earn some prestige from the military and thus paved the way for him to become Vice Chairman of the Central Military Commission.³¹

CONCLUDING REMARKS

Compared to the leadership under Mao and Deng, the new leadership has undoubtedly made progress in institutionalizing power succession. Indeed, the rather smooth power transition has had a positive impact on the country's political stability in general. A strong and stable leadership is favorable to the country's economic development. Nevertheless, it is worthwhile to point out that the so-far peaceful power succession is based on the consensus among top leaders. As discussed earlier, Hu Jintao was brought into the top leadership by Deng Xiaoping and this granted him a unique power position within the Party. So far, Hu has not met any serious challenger within the Party. However, this does not mean that from now on, Hu will not meet any difficulty in succeeding Jiang Zemin in future.

Hu has to face three great difficulties, this is, problem of being as a Number Two, party decay, and challenges from society. The greatest obstacle comes from the problem of being Number Two. Once Hu Jintao has formalized his position as Number Two, he has to behave like a Number

³¹ For a discussion of the campaign, see, Zheng Yongnian & Zou Keyuan, *Towards More Effective Governance: China's Politics in 1998*, EAI Occasional Paper No. 16 (Singapore: World Scientific and Singapore University Press, 1999).

Two. This puts him in an awkward position. To Hu, Jiang's continuing support is essential, but remains uncertain. When Mao Zedong felt threatened by his successor Liu Shaoqi and later by Lin Biao, he became suspicious and removed both Liu and Lin. Again, when Deng Xiaoping felt that Hu Yaobang and late Zhao Ziyang no longer followed his policy lines, Deng removed Hu and Zhao. Will such thing happen to Hu Jintao?

Certainly, Hu Jintao has to take the initiative and perform like Number Two. Only by so doing can Hu gain acceptance from Party cadres, government officials and the general public. However, Hu has to do so without seeming too ambitious and causing Jiang Zemin to feel challenged. This is really not an easy task. It will be extremely difficult for Hu to reconcile his own initiatives and his loyalty to Jiang Zemin. Hu is in a similar predicament as both Hu Yaobang and Zhao Ziyang, who both did not perform their role as Number Two appropriately.

Second, party decay seems to have become irreversible. The official ideology of the CCP has shifted from an offensive position to a defensive one, that is., from being a means to control party cadres and government officials and to guide decision-making to serving as a means to provide justification for party and government policies. There is nothing wrong with this transformation. In fact, both the leadership and the country have benefited greatly from it. Nevertheless, there have been unexpected consequences resulting from this transformation. The most notable is that it has led to an inevitable decay of the party itself. The meaning of party decay is twofold. First, it implies that there has been a rapid decline in party identity among party cadres and government officials. For them, the party is becoming an organization without a vision. Secondly, the party has lost its ability to meet society's demands for spiritual fulfillment, and has inadvertently created a spiritual vacuum in the process. It is reasonable to say that the leadership does realize the seriousness of party decay. In fact, it has made enormous efforts to revive party identity and provide society with a new vision. For many years, it has been focusing on building a socialist spiritual civilization.³² The *San-jiang* (literally three talks) campaign

³² For example, Zheng Yongnian, "The Decision of the Sixth Plenum: The Chinese Communist Party's Search for a 'Spiritual Civilization'," *IEAPE Commentaries*, no. 21, The Institute of East Asian Political Economy, Singapore, October 18, 1996.

in recent years can be indeed interpreted as an effort to revitalize party identity.³³ Nevertheless, all these efforts have not enabled the leadership to achieve its goal. If Jiang Zemin is not able to help Hu Jintao revitalize the party ideology, it will be very difficult for Hu to justify the political legitimacy of the Hu-centered fourth generation of leadership.

Third, since it is not a sort of democratic power succession, Hu is also subject to challenges from the Chinese society. This does not mean that any opposition party will compete with Hu for power position. Although there are demands for organizing opposition political parties, it is unlikely for any newly established opposition party to challenge the Communist Party in the foreseeable future. Instead, Hu has to find effective ways to cope with growing social forces, which are likely to disturb China's political stability. The impact of rising social forces on the regime has been on the increase, as the recent *Falun Gong* event showed.³⁴ The rise of social challenges often provides dynamics for political factionalism among major leaders due to their different views of social forces and thus different ways to cope with these forces. This in turn often leads to breakdown of the leadership consensus on power succession. To a great degree, the fall of both Hu Yaobang and Zhao Ziyang was also because they were not able to provide an effective ways of coping with rising social forces. Although the new leadership has made greater efforts to institutionalize power succession, judging from China's experience, we must wait until the next Party congress in 2002 to see whether Hu Jintao will be able to succeed Jiang Zemin.

³³ *San-jiang* (three talks) refers to *jiang-zhengzhi*, *jiang-zhengqi*, *jiang-xuexi* (literally, talking about politics, talking about virtues, and talking about studying). The *San-jiang* campaign was initiated in 1999 and continues in 2000.

³⁴ On the *Falun Gong* movement, see, John Wong, "The Mystery of *Falun Gong*: Its Rise and Fall in China", *EAI Background Brief* No. 39, The East Asian Institute, National University of Singapore, 4 August 1999; and William T. Liu, "A Sociological Perspective on *Falun Gong*", *EAI Background Brief* No. 40, The East Asian Institute, National University of Singapore, 11 August 1999.

APPENDIX 1

Brief Biodata of Hu Jintao

- 1942 Born in Anhui Province
- 1965 Graduated from Qinghua University; joined the CCP
- 1974-1982 Served as deputy director and the director of the Capital Construction Commission of Gansu Autonomous Region Government
- 1982 Elected the youngest alternate member of the CCP Central Committee by the 12th Party Congress; served as director of the Construction Commission under the Gansu Autonomous Region Government; elected secretary of the Communist Youth League (until 1984)
- 1983 Appointed member of the Standing Committee of the National Committee for Promoting Socialist Ethics; served as president of the Society of Young Pioneers' Work (until 1985); elected president of the Youth Federation (until 1985)
- 1984 Served as director of the Young Pioneers' Work Committee under the Communist Youth League; elected vice-chairman of the International Cultural Exchange Center; elected 1st secretary of the Communist Youth League
- 1985 Elected secretary of Guizhou Provincial Party Committee; elected member of the CCP 12th Central Committee by its National Party Conference
- 1987 Member of the Presidium of the 13th Party Congress; re-elected member of the CCP 13th Central Committee by its 1st Plenum
- 1988 Appointed Secretary of Tibet Autonomous Region Party Committee
- 1989 Cracked down Tibetans' rebellion in Lhasa
- 1992 Member of the Presidium of the 14th Party Congress; elected member of the Standing Committee of the Political Bureau; elected secretary of the Secretariat of the Central Committee
- 1993 Appointed the president of Central Party School
- 1998 Elected Vice State President
- 1999 Appointed Vice Chairman of the Central Military Commission

APPENDIX 2

Leadership Line-up of the Communist Party of China

Position	Name	Birth	Name	Birth
General Secretary	Jiang Zemin	Aug. 1926		
Political Bureau Standing Committee Member (7)	Jiang Zemin Zhu Rongji Hu Jintao Li Lanqing	** Oct. 1928 Dec. 1942 May 1932	Li Peng Li Ruihuan Wei Jianxing	Oct. 1928 Sep. 1934 Jan. 1931
Members (22)	Ding Guangen Zhu Rongji Li Peng Li Lanqing Li Ruihuan Wu Guanzhen Zhang Wannian Hu Jintao Jia Qinglin Huang Ju Wen Jiabao	Sep. 1929 ** ** ** ** Aug. 1938 Aug. 1928 ** Mar. 1940 Sep. 1938 Sep. 1942	Tian Jiyun Jiang Zemin Li Changchun Li Tieying Wu Bangguo Chi Haotian Luo Gan Jiang Chunyun Qian Qichen Wei Jiangxin Xie Fei	Jun. 1929 ** Feb. 1944 Sep. 1936 Jul. 1941 Jul. 1929 Jul. 1935 Apr. 1930 Jan. 1928 ** Nov. 1932
Alternate Members (2)	Zeng Qinghong	Dec. 1939	Wu Yi (female)	Nov. 1938
Central Military Commission Chairman	Jiang Zemin	**		
Vice Chairmen (3)	Zhang Wannian Chi Haotian	** **	#Hu Jintao	**
Members (6)	Fu Quanyou Wang Ke Yu Yongbo	Nov. 1930 Aug. 1931 Sep. 1931	Wang Ruilin #Guo Boxiong #Xu Caihou	Dec. 1929 1944 N/A

N/A: Information not available

#Newly appointed.

Guo Boxiang: Lieutenant-General of the Lanzhou military region.

Xu Caihou: Political Commissar of the the Jinan military region.

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CHAPTER 2

The Chinese Communist Party in the Countryside



IGNATIUS WOBOWO

OUT OF THE CULTURAL REVOLUTION

The “Great Proletarian Cultural Revolution” (1966–1969), definitely, brought significant damage to the Party, especially in organisation terms. The activities of the Party from Beijing down to the villages were halted as extensive purges of Party personnel took place. In this chaotic situation, the role of the Red Guards was decisive because it was the Red Guards which took orders from Mao Zedong “to struggle against” (*douzheng*) all those who were in power (*dang quan pai*). Under the slogan “to rebel is justified” (*zaofan you li*), the Red Guards roamed the whole country, running up and down, from north to south, taking advantage of free rides by train. The biggest casualties were the Head of the State, Liu Shaoqi, the Mayor of Beijing, Peng Zhen, and not the least, the General Secretary, Deng Xiaoping.¹

¹ For a further account on the politics of Red Guards, see Hong Yung Lee, *The Politics of Cultural Revolution* (Berkeley, CA: University of California Press, 1978).

The virtual annihilation of the Party apparatus by the Red Guards in the last months of 1966 alerted Mao Zedong himself. In late January 1967, the army was summoned and took over the control of society. "Revolutionary Committees" (consisting of revolutionary masses, revolutionary cadres, military man) were set up as a temporary substitute for the Party machine, and also for the government.² The former territorial Party committees at the regional and provincial levels, and to a lesser extent below that, ceased to function as coherent entities. The functional Party committees also became largely inactive, with one important exception — those in the armed forces. This situation persisted until the death of Mao Zedong in 1976, after which time the elite of the Party started debating ways and means of reforming the Party (or "re-constructing the Party", *dang de jianshe*).

The process of reforming the Party, despite its apparent need, is a very tortuous one, involving long debates, negotiations, and compromises. Too many factors had to be taken into consideration, each with its advantages and disadvantages. Chen Yun, for one, charted the options for reforming the Party as follows: "The first method is to bring out all the problems, including those in sensitive areas, asking people whether or not they want the leadership of the CCP ... The intermediate option is to carry out reform (*gailiang*), although not thoroughly, which would entail a large scale readjustment of economic relations. ... The third method is to maintain the present situation".³ While the first and third options can be easily dismissed as too dangerous, no one had a clear idea as yet on how to conduct the "intermediate option" reform. Deng Xiaoping, however, was quick to set out the principles for reforming the Party when he laid out the "Four Basic Principles" (*si xiang jiben yuanze*): (1) the leadership of the CCP, (2) the socialist road, (3) the people's democratic dictatorship, (4) Marxism-Leninism Thought.

A widely accepted view says that basically, there are two contrasting views, "the reformist" and "the conservatives". But actually things are more

² On "revolutionary committees", see David S. Goodman, "The Provincial Revolutionary Committee in the People's Republic of China, 1967–1979: An Obituary", in *China Quarterly*, No. 85 (1981), p. 49–79.

³ Cited in Hong Yung Lee, *From Revolutionary Cadres to Party Technocrats in Socialist China* (Berkeley: University of California Press, 1991), p. 168.

complex than this. As one observer argues there are, at least, three different proposals: Leninist Resurrection, Consultation, Democratisation.⁴ The first group argued that as the Party had been badly damaged during the Cultural Revolution, the best way to remedy the situation is by returning to the orthodox Leninist principle. This means that the Party should exercise overall leadership, including political, ideological, and organisational leadership. Non-Party organs must ask for instructions or submit reports to Party Committees on major issues.⁵ Among important figures who belonged to this group were Chen Yun and Peng Zhen.

The second group, concerned about the prospect of both the Party and the “Four Modernisations”, argued that the Party should not obstruct the enthusiasm of the people. Instead, the Party should play a declining role in the day-to-day workings of society, reduce its intervention in social life to allow greater room for individual expression.⁶ If the Party had to play a role at all, it would be reflected in the implementation of political principles, the control of the political orientation, and the making of the major policies. In this vision, the Party is ready to work together with the non-Party sectors, such as technocrats, managers, etc. Most of those who subscribed to this view belonged to the group headed by Hu Yaobang and Zhao Ziyang.

The last group, taking a fundamentally different stance from the previous two groups, sought to “democratise” the Party and accordingly, the society. In their view, the problem faced by China was a political system which was overly centralised. Lacking of democracy in the true Western sense, the “democratisation” of the Party would simply mean “making politics public, turning policy-making into a scientific process, building a legal structure for political activities, and systematising supervision of the power organs”.⁷ As such, the advocates of “democracy” believed that the Party should acknowledge that real diversity existed in a socialist society. In concrete terms, the Party should support the freedom of press, freedom of speech,

⁴ Kim Jae Cheol, *Party Reform in Post-Mao China: Reconceptualizing the Party's "Leading Role"* (unpublished PhD dissertation, University of Washington, 1993).

⁵ *Ibid.*, p. 69.

⁶ *Ibid.*, p. 73.

⁷ *Ibid.*, pp. 75–76.

and the freedom of publication. Su Shaozhi and Liao Gailong, at that time, were the two most important proponents of the “democratisation” of the Party.⁸

There are, perhaps, many more camps. But whatever their stands, it is clear that it is not easy to decipher what the CCP has really been up to. Public statements by Party leaders, often times, conceal their real meaning. For instance, the CCP’s leaders used to employ the term “Party rectification”, which in actuality, is a massive movement to purge unwanted cadres or Party members. The study of policies as issued by the leadership, therefore, only uncovers a limited facet of the activities of the Party. To understand what the CCP has done to reform itself, it may be more productive to look at what tasks the Central Leadership has assigned the Party Secretaries (PS) in the villages, because at the basic-level organisations, one will find a pattern of operation which is different from pronouncements made at the national level.⁹

Before going further, it may be relevant to look into the current situation of the CCP in terms of membership. The latest figures (1999) indicate the current CCP members stand at 59 million,¹⁰ or an increase of two million from three years ago.¹¹ Yet, it is also reported that from 1993–1998, 632,000 members were disciplined. In 1998 alone 158,000 members had to face disciplinary action.¹² If we compare it with the situation in the past 20 years, there is actually a steady increase of membership since 1976 when Party members numbered 35 million, with the largest increase taking place in 1995 (5.2%). See Table 1.

⁸ Su Shaozhi was the former Director of the Institute of Marxism-Leninism and Mao Zedong Thought, and Liao Gailong was Deputy Director of the Party History Research Centre under the CCP Central Committee.

⁹ This strategy has been successfully used by several researchers, such as Joel Samoff, *Tanzania: Local Politics and the Structure of Power* (Madison, WI: University of Wisconsin Press, 1974); Grey Hodnett, “Mobilization within the Primary Party Organisation in the Communist Party of the Soviet Union: 1945–1961” (unpublished PhD dissertation, Columbia University, 1962); Cheryl L. Brown “Restoring a One-Party Regime in China: A Study of Party Branches, 1964–1978” (unpublished PhD dissertation, University of Michigan, 1983).

¹⁰ *Renmin ribao* (22 June 1999).

¹¹ *Zheng ming*, No. 7 (July 1996), p. 7.

¹² *Renmin ribao* (22 June 1999).

Table 1 CCP Membership Changes, 1949–1999

Year	Total membership	Gross change	% of change
1949	4,488,000	1,488,00	49.6
1950	5,000,000	512,000	11.4
1951	5,800,000	800,000	16.0
1952	6,001,698	239,405	4.2
1953	6,369,000	367,302	6.1
1954	7,859,473	1,490,473	23.4
1955	9,393,394	1,533,921	19.5
1956	10,730,000	1,336,606	14.2
1957	12,720,000	1,990,000	18.5
1958	12,450,000	-270,000	-2.1
1959	13,960,000	1,510,000	12.1
1961	17,380,000	NA	NA
1964	18,010,000	NA	NA
1965	18,710,000	700,000	3.9
1966	20,000,000	NA	NA
1969	22,000,000	NA	NA
1971	17,000,000	NA	NA
1972	20,000,000	3,000,000	17.6
1973	28,000,000	8,000,000	40.0
1976	35,070,000	NA	NA
1977	35,000,000	NA	NA
1979	37,000,000	NA	NA
1980	38,000,000	1,000,000	2.7
1981	38,923,569	923,569	2.4
1982	39,657,212	733,643	1.9
1983	40,950,000	1,292,788	3.3
1984	41,000,000	50,000	0.1
1985	42,000,000	1,000,000	2.4
1986	44,000,000	2,000,000	4.8
1987	46,011,951	2,011,951	4.6
1988	48,000,000	1,988,049	4.3
1989	49,000,000	1,000,000	2.1
1990	50,000,000	1,000,000	2.0
1991	50,320,000	320,000	0.6
1992	51,956,000	1,636,000	3.3
1993	52,800,000	844,000	1.6
1994	54,000,000	1,200,000	2.3
1995	56,781,000	2,781,000	5.2
1996	57,000,000	2,190,000	3.9
1999	59,000,000	2,000,000	3.3

Source: 1949–1996 from Zheng Shiping *Party vs. State in Post-1949 China. The Institutional Dilemma* (Cambridge: Cambridge University Press, 1997), p. 268; 1999 from *Renmin ribao*, 22 June 1999.

In the period between 1956–1957, we know the detail of the distribution of Party members. Peasants occupied the highest percentage: 69.1% and 66.8% respectively. Despite its claim of being the party of the proletariat, workers accounted for a much smaller share, namely only 14% in 1956 and 13.7% in 1957.¹³ Such a large proportion of peasants is natural in an agriculture country like China. But according to Roberta Martin, it was also the result of the sponsorship of Mao Zedong who wanted to see the emergence of peasant cadres to carry out collectivisation in the countryside.¹⁴ After the economic reform of 1978, however, more intellectuals were inducted into the Party, by which time the Party showed its solid commitment to modernisation in technology.¹⁵ Recruitment of new members is now based on competence and professionalism. (Party Constitution, 1992, art. 34) This shift was, undoubtedly, prompted by the fact that in 1985 as many as 15 million of the 40 million Party members were illiterate or poorly educated peasants.¹⁶

PARTY SECRETARIES IN THE COUNTRYSIDE

In 1991 there were about 700,000 Party Secretaries in the villages in China.¹⁷ Unlike their counterparts in the cities, they exercise their power in a fixed area over a large number of people. If there are approximately 800 million Chinese living in the countryside and there are 700,000 PS, then on average, one Party secretary is in charge of more than one thousand peasants within a specific area. As such, it is not an exaggeration to say that good control

¹³ These figures are from James C.F. Wang, *Contemporary Chinese Politics: An Introduction*, Fourth Edition (New Jersey: Prentice Hall, 1992), p. 96.

¹⁴ Roberta Martin *Party Recruitment in China: Patterns and Prospects. A Study of the Recruitment Campaign of 1954–1956 and Its Impact on Party Expansion through 1980* (New York: Occasional Papers of the East Asian Institute, Columbia University, 1981), pp. 28–30.

¹⁵ *Ibid.*, p. 79.

¹⁶ James C.F. Wang, *Contemporary Chinese...*, p. 99.

¹⁷ In 1991 there were 732,000 PS throughout China. See, *Jiaqiang nongcun jiceng zuzhi jianshe* [Strengthen the construction of village-level organisation] in *Zhongguo nongye nianjian 1991* [China Agricultural Yearbook 1991] (Beijing: Nongye chubanshe, 1991), p. 141.

over the countryside is the key to the success of the domination of the CCP in China today.

Within the hierarchical structure of the CCP, a Party branch (*dang zhibu*) occupies the lowest rank. But, it is in the Party branches that a lot of routine activities, such as recruitment and education, takes place. New members are recruited and then trained within the Party branch. It is to a Party branch that Party members pay their monthly fee. Besides, a Party branch also serves as transmission belt, through which all policies and decisions from the Central Leadership are passed down to the rank-and-file. Normally, when a new policy comes out, a meeting is organised to discuss it. That is why Party members normally know new policies ahead of their fellow villagers.

A Party Secretary is the leader of a Party branch committee which consists of at least three members, though it could go up to seven. These cadres are required to meet at least once a month to discuss all sorts of problems arising in the village. A Party Secretary would not be so powerful if he were just the head of the Party branch Committee. He/she becomes very powerful and influential primarily because all other cadres in the village are Party members who, according to the principle of democratic centralism, have to obey him as the highest leader. In a village there are a group of leading cadres: chairman of villagers' committee, chairwoman of the Women's Federation, the branch secretary of Youth League. Since they are all Party members, they have to obey the PS. In many cases, the chairman of villagers' committee also serves as "Deputy Party Secretary" (*fu shuji*).

The fundamental difference between a PS in a village and the one in the cities is that a PS in the countryside is ruling a large number of people in a well-defined area. The whole village is his/her territory. The "higher authority" who is the "Party Committee" (*dang wei*) is far away, perhaps by many kilometres, residing in the township (*xiang*). Most of the time the PS is left alone to manage his people with little direct intervention from the *xiang* authorities.

All of these have made the position of a village Party branch secretary very special. It is not surprising if such a leader could become a "village lord" or *tu huangdi* who rules his village like a king. When a PS becomes a "village lord", he could command his fellow villagers to do almost anything

he wanted. In many cases, he could even mete out punishments with impunity. The whole village could do nothing, and would have to put up with him, until the cadres from *xiang* discover the situation. Only by then, could the “bad” PS be removed from his office.

However, not all PS are “village lords”. Perhaps, the majority of them actually find themselves in a very difficult position. Cheng Baocheng and Qiang Yushan, in 1991, conducted a large survey on village cadres, including their complaints, in Rudong County (Jiangsu Province).¹⁸ Two hundred and ninety four (294) Party branches and 9,642 Party members were surveyed, and 1,504 peasants of 126 villages were interviewed for their opinions about Party branches, about joining the Party, etc. The most important finding was the statistics on the opinion of the PS on “their attitude toward working in the Party branch”. Out of 294 PS, 245 or 83% complained that the work to be done was very difficult and yet the salary was quite low.

Resignations of village PS therefore become unavoidable. For instance, in 1993, there were 47 village PS under Jingmen City (Hubei Province) who submitted their resignations, and they were part of a total of 120 village cadres who resigned.¹⁹ In Hunan Province, out of 170 PS, 42 of them (24.7%) had asked for resignation. This was the finding of Tang Yiming in ten townships there.²⁰ In all these cases, the main reason given was that the job of a Party secretary was too difficult.

Another survey of 28 villages in Jing Perfecture (Hubei Province) also reports on PS who resigned for such reasons.²¹ “Now, ‘the living have to be castrated (birth control), the dead have to be burnt (cremation), the irrigation task has to be shouldered, and every sort of levies has to be

¹⁸ Cheng Baoheng and Qiang Yushan “Nongcun gaige yu xingzheng cun de jianshe” [Village reform and the construction of administrative village] *Nantong xuekan*, No. 4 (1991), pp. 9–15.

¹⁹ “Wei shenme daliang cunzhu ganbu yaoqiu cizhi” [Why do so many village cadres want to resign?] *Renmin ribao* (11 May 1993), p. 5.

²⁰ Tang Yimin, “Bufen cun dangzhibu shuji cizhi de yuanyin he jie jue de banfa” [Causes and solution to the resignation of village Party secretaries] *Hunan gongchandang ren*, No. 3 (1989), pp. 34–35.

²¹ Bao Houcheng “Cun zhishu liao tiaoxi gei women qiao xiang le jingzhong” [Village party secretaries throwing up their job, it strikes an alarm bell for us] *Xiang-zhen luntan*, No. 4 (1990), pp. 12–13.

delivered.' All the work is really tormenting. [...] If I carry out the task heartlessly, then the masses will insult my father."²²

There are two problems, evidently, which most PS have to face: low salary and handling a difficult job. The salaries of the PS are, indeed, very low. During the commune era, a PS did not work, but received "subsidised work points" which were not lower than average commune members. After the economic reform of 1978, when many fellow villagers could start their own business and make money, the salary of PS simply could not keep up. From my fieldwork, I was informed that the salary of a PS averages between 100 RMB and 200 RMB a month, depending on the economic condition of the village.²³ This amount of money is too low for a village leader to live on.

As for the job itself, whereas in the Maoist era, a PS had an easy job (just giving command), after 1978 this practice could not be continued. Villagers, feeling no longer dependent on the cadres, would challenge the PS if the latter did not act in a reasonable manner. For instance, writing in the Party journal, *Qiushi*, in 1991, the Deputy Party Secretary of Shaanxi Provincial Party Committee, Mo Lingsheng, often heard peasants saying: "After the contract is given to the household, we no longer need the Party branch. Everybody goes out to make money, everybody goes his/her own way."²⁴ Peasants even dare to question a policy from the state which they see as strange. Peasants are reported to have said: "Why does the government ask us to do something which we don't like to do?" "We have made a production contract. Whether we harvest more or harvest less, it's our responsibility. Why should the government reward or punish us?"²⁵ This assertiveness, to a certain degree, has taken many village cadres by surprise.

²² *Ibid.*, p. 12.

²³ This is in 1993, now it may have increased, but could not be very substantial, considering the low cash in the village.

²⁴ Mou Lingsheng, "Gonggu nongcun shehuizhuyi zhendi de yi xiang zhongda zhanlue cuoshi" [Important strategy and measures of consolidating the position of socialism in the countryside] *Qiushi*, No. 24, (1991), pp. 30–48.

²⁵ "Lai zi nongcun zhong bu rong huibi de huati" [A subject of conversation which comes from villages and which cannot be easily avoided] *Nongmin ribao* (24 January 1989), p. 3.

“Now peasants are no longer obedient!”²⁶ Retaliation against village cadres or PS is on the increase. *Renmin gong'an* (People's Security News), the official newspaper from the Public Security Bureau, in 1991, indicated that, according to an investigation conducted in Jiande County, Zhejiang Province, from 1988–1990, in 49 out of 120 cases the motive was revenge against PS. Furthermore, the majority of revenge actions (55.83%) were directed at cadres' property such as harvest in the field or trees planted in their private plots. Peasants did not attack the PS physically.²⁷

It should be noted that peasant hostility to the cadres is driven less by personal animosity than by general social discontent in the countryside which increased significantly since the dissolution of the commune system. As reported by journalists, in the countryside of today there is no more community services available — health, education, road, transport, and so on, which were formerly provided by the commune.²⁸ In some villages, cadres take advantage of this situation by extracting various kinds of taxes but do not deliver the promised services to the villagers. Peasants are angry because they feel cheated by corrupt cadres. This accumulated frustration, in the end, exploded in the form of protests and riots. Peasants come to dislike the cadres because they do not do their job well and also because they are corrupt. Almost every week there are reports of peasants rioting, and attacking village cadres who are rendered helpless.²⁹

It is, therefore, understandable that PS find their job very difficult, and may leave their job as a result of various difficulties. Of course, not all PS

²⁶ “*Nongmin yue lai yue bu tinghua le ma?*” [Do peasants become less and less obedient] *Jingji ribao* (22 December 1988).

²⁷ “*Nongcun baofu jiceng ganbu anjian de tedian, yuanyin ji duice*” [The characteristics, reason and policy to cases of revenge against cadres in the countryside] *Renmin gong'an bao*, 2 May 1991, p. 3. Similar result from a survey of two counties in Hebei Province, see Zheng Jian, “*Nongcun jiceng ganbu zao baofu de wenti zhide zhongshi*” [The problem of grass-root cadres in the countryside suffering from revenge needs a special attention] *Xiang-zhen luntan*, No. 1 (1991), p. 34.

²⁸ John Gittings, *Real China* (London: Pocket Books, 1997), pp. 36–37.

²⁹ The biggest one is from Renshou, Sichuan Province, in 1993. See, for instance, “The Social Unrest in the Countryside”, *China News Analysis*, No. 1492 (1 September 1993); Li Kan, “*Si sheng wushi wan nongmin kangzheng*” [500 thousands peasants from four provinces rebel] in *Zheng Ming*, No. 238 (1 August 1997), pp. 19–20.

have left their job. From my conversation with a number of PS, I learned that those who had stayed in the job did so because “it is the job given by the Party”. “As a good Party member, I should not reject the job assigned to me,” says one PS. Ideology may play a role here. Beyond ideology, however, one can also detect a hidden motive. From my observation on the villages I visited, the houses of the PS were invariably more luxurious than those of the ordinary villagers. In one village in Yunnan, where the majority of the people were poverty stricken, the house of the PS stood out, perhaps like a palace if compared to its surrounding.

“From where did they get the money?”. To those who do not quit, money, apparently, is not a big problem because they are running village enterprises. In my visit to PS, the first thing they always related to me and most probably to other visitors too, was the number of village enterprises (*xiang-zhen qiye*) in their village, and the contribution they had made to the prosperity to the village. If one pursued the issue further, then he/she would find at once that these village enterprises were actually managed by the PS themselves. One PS from Yunnan did not hesitate to give me his business card in which it is written: “Party Secretary and Manager”.

Village enterprises, obviously, have become the major source of income for the village PS after the economic reform of 1978. In most cases, it is the PS who started the business, and then manage it as well. A typical example is Party Secretary Xie Mengcang, from Shanxi Province.³⁰ He was invited to go back to home village in 1985 to take up the post of Party Secretary. His home village was very poor, but he was determined to set up a factory. He discussed with the villagers, asking them for ideas. After a long deliberation and investigation, the villagers gave a mandate to set up an acetylene factory. There was no problem with regard to land, but there was certainly not enough capital available. The PS himself started by selling his car and furniture, and his wife opened a small shop to raise additional funds. This action attracted the attention of other village cadres, and they also sold some of their things to provide the start-up capital. Some of the villagers followed suit, and the factory was set up in the beginning of 1986.

³⁰ Li Yicong, *Zai dangzhibu shuji de gangwei shang* [Under the post of the party secretaries] (Shenyang: Baishan chubanshe, 1991), pp. 81–84.

In the first year, it made a profit of 100,000 yuan, and the following year 440,000 yuan.

Many villages in China now have village enterprises, and this phenomenon has been reported widely. What is missing in the studies is the fact that most of those enterprises are started by PS. Of course, this situation has aroused heated debates among the peasants. During the time of the Great Leap Forward, to have a hen could lead one to be branded as "capitalist roader", but now, after the economic reform of 1978, to have a factory is an acceptable practice. In 1985, for two months, the paper for the countryside, *Nongmin ribao* (Peasants' Daily), carried a special column under the heading "Is it permissible for a village Party Secretary to take a lead in achieving prosperity?" The editor wrote that since the opening of the forum, it had attracted not less than 800 letters from all over China.³¹

The result of the debate is that it is okay for PS to become capitalist entrepreneurs. PS invariably takes a lead in achieving prosperity (*dai tou zhi fu*). An editorial in the government sponsored newspaper for peasants, *Nongmin ribao* (Peasants' Daily) of 10 March 1987, showed a clear support for them. Arguing that the success of many villages in changing their situation lies in good leadership by PS, it continued to stress the crucial role of the Party in developing the economy. "If you want to change poor appearance, you have to construct a good village grass-root Party branch leader's quad. [...]. If peasants want to get rid of their poverty and reach prosperity, they need capital, skill, and various other services. Thus, more than ever, they need the Party branch to animate all aspects of enthusiasm".³² Table 2 below shows those PS who have become models of successful capitalists to be imitated by other PS.

There is actually a very interesting process in this regard. The Central Leadership has never issued a specific policy which allows PS in the villages to become entrepreneurs, but they have made it an accepted norm.³³ This

³¹ "Nongcun dangzhibu shuji gai bu gai daitou zhifu?" [Is it permissible that a village party secretary take a lead in achieving prosperity?] *Nongmin ribao* (4 June 1985), p. 3.

³² "Gaibian mianmao guanjian zai banzi" [In order to change the appearance, the critical thing is the leaders] *Nongmin ribao* (10 March 1987), p. 3.

³³ A friend related to me that it is quite a normal practice for Central Leadership "not to announce, and yet not to veto" (*bu xuanchuan, ye bu fouding*).

Table 2 Party Secretaries and the Enterprises They Set Up

Party secretary	Village	Enterprise
1. Xie Mengcang	Xin Village Chang'an County, Shanxi Province	Acetylene factory
2. Liu Qinzhang	Nanjie hedian village, Yongnian County, Hebei Province	Paper factory, Ferroalloy factory, Wooden Furniture factory
3. Zhang Xiumei	Jiankang Village Tianmen City, Hubei Province	Weaver factory
4. Ma Lihai	Liujia Village Ningyang County, Shandong Province	Shoe factory
5. Yang Zhiguo	Xiashitang Village Yibin County, Sichuan Province	Wine factory
6. Yu Tianruan	Xishuangdan Village Xian County, Hebei Province	Orchard, Candied fruit factory, Aquatics
7. Zhang Weiwei	Nanling Village Bao'an County, Guangdong Province	Silk flower factory, Feed processing plant
8. Zheng Meiyun	Zhulinhu Village Huanggang Dist., Hubei Province	Brick and tile factory
9. Li Zhongyang	Ludun Village Jin County, Liaoning Province	Vegetable shed
10. Yue Xianjie	Jinqiao Village Yushan County, Jiangxi Province	Feed processing plant, Tomato yard
11. Chang Yuchun	Bachakou Village Shan County, Shandong Province	Asbestos factory
12. Zhu Haishui	Henggang Village Guixi County, Jiangxi Province	Bamboo goods factory

Sources: Li Yicong, *Zai dangzhibu shuji de gangwei shang* [Under the post of the party secretaries], (Shenyang: Baishan chubanshe, 1991): (1) pp. 81–84; (2) pp. 115–117; (3) pp. 129–132; (4) pp. 239–240; (5) pp. 338–340; (6) pp. 364–368; (7) pp. 413–415; (8) pp. 479–480; (9) pp. 490–492; (10) pp. 517–520; (11) pp. 605–607; (12) pp. 631–634.

kind of action is the result of a dilemma. On the one hand, it is impossible for the Central Leadership to issue an official document which endorses PS to get involved in business because this would contravene the principle of every communist party, namely to oppose capitalism and the capitalists. On the other hand, it is equally impossible to ask PS to work without adequate financial support, when the whole village is moving towards a booming

private economy. The Central Leadership acknowledges this dilemma, and it chooses to reconcile these conflicting principles by inconspicuously permitting PS to go into business. This is why I term this situation as a “corridor of concession”, where the Central Leadership — despite their being communists — gives concessions to PS to make up for their salary deficit by becoming capitalist entrepreneurs.

If PS can run the business themselves, do they still have time to manage village affairs as well as Party affairs? This intriguing question was dealt with in a series of policies issued by the Central Leadership since 1978 which I term opening “a zone of indifference”. I detect three main areas of policies connected to this zone. First, the **villagers’ committee** (*cunmin weiyuan hui*). This new institution has freed PS from getting involved in village affairs because according to Art. 2 and 5 of “The Law of the Organisation Villagers’ Committee,” it is the job of the villagers’ committee to manage both social and economic affairs. Art. 2 stipulates that the villagers’ committee is to handle “the public affairs and utilities of the village, mediating disputes among villagers, assisting in maintaining public order”. Art. 5 says it is “to support and organise villagers to develop, according to law, various forms of co-operative economy and other economics” or “to co-ordinate and provide services to production in the village”.³⁴ The villagers’ committee, therefore, tackles a wide range of problems. The chairman of the villagers’ committee, assisted by his staff, solves all sorts of problems which arise everyday.³⁵

From my fieldwork in the village in Hunan Province, it appears that the villagers’ committee pays more attention to village affairs than the PS. Cases of disputes between neighbours are the most frequent, and the head of the villagers’ committee is asked to mediate. Next to dispute solving, the villagers’ committee also had to be active in the planting season as well as the harvest season. On one evening session which I attended, they discussed

³⁴ The translation is from “The Organic Law Governing Village Committees of the People’s Republic of China (Trial)” in FBIS-CHI, (27 November 1987), p. 21.

³⁵ This daily activity is made possible by the fact that the chairman and vice-chairman of the villagers committee are permitted not to work in the field, and receive salaries. See, The Law of the Villagers’ Committee, Art. 8.

intensively how to organise peasants for the planting season. In the meeting, the PS was present, but he did not preside it. These examples highlight how the PS often have little to do with village affairs, or how widely open the “zone of indifference” has become. The villagers themselves make decisions, including important ones.

Secondly, **religion**, the Party used to control people’s religion and belief under the rubric of “feudal superstition.” Indeed, in 1967, during the Cultural Revolution, the Party launched a big campaign against “Four Olds” namely old culture, old beliefs, old customs, and old habits. As noted by Richard Madsen: “In effect this was an attack on traditional religious practices. Red Guards, mostly from the cities, demanded that all traditional ritual objects be destroyed. They forced peasant households to bring out and destroy their most precious sacred objects, the tablets engraved with the names of the ancestors that stood atop an altar in the front of the house. They confiscated and burnt old books containing religious teaching. They destroyed images of the gods and symbols of good luck.”³⁶ But, since the beginning of the economic reform of 1978, the Party has taken a sharp turn, allowing villagers to practise religion. Not only have Taoism and Buddhism flourished again, but also Protestantism, Catholicism, and Islam.³⁷

As an example consider the rise of religion in Houhua Village in Henan Province.³⁸ Temples and shrines demolished during the Mao era, have been rebuilt with more grandeur. It is said that “people burn incense there to the Grandmother God, the Grandfather God, the Goddess of Mercy, the God of Wealth, and the Great Jade Emperor.” Asked about this situation, the PS said: “The temple cost less to build than an ordinary house of the same size because all of the labour was voluntary. I also helped by passing bricks. We began building the temple on the second day of the second month in 1990. It is completed now, including the paintings of saints inside

³⁶ Denis Twitchett and John K. Fairbank (ed.) *The Cambridge History of China*, Vol. 15, Part. 2 (Cambridge: Cambridge University Press, 1991), p. 663.

³⁷ “*Ruhe miandui nongcun fengjian mixin de shengxing*” [How to face the prevalence of feudal superstition in the countryside] in *Liaowang*, No. 22 (1996), pp. 28–30; cf. cover story, “Religion in China,” *Far Eastern Economic Review* (June 6, 1996), pp. 46–53.

³⁸ Peter Seybolt, *Throwing the Emperor from His Horse* (Boulder: Westview Press, 1996), pp. 106–115.

and three god statues in the front.” There seems to be little, or no concern at all on the part of the PS on building of the temple.³⁹ Indeed, he himself took part in the activity. The Party appears to adopt a very tolerant attitude, in marked contrast to the previous era.

The Party also shows an indifferent attitude towards the re-emergence of clans. Looking back to the long history of China, clans have undoubtedly become an integral part of Chinese culture.⁴⁰ Mao Zedong, however, argued that clans constituted one of the “four thick ropes binding the Chinese people, particularly the peasants”.⁴¹ Clan destruction, therefore, was one of the main agenda of the CCP after it came to power. In combination with land reform 1950–1952, the campaign confiscated not only lands owned by landlords but also lands belonging to clans, which had been used to set up temples, ancestral halls, schools, etc.

After the economic reform in 1978 clan activities have re-emerged. Peasants start to write “clan registers” again, and set up clan organisations.⁴² Along with this, they also began “to offer sacrifices at the Spring and Qingming festivals, bringing offerings, burning incense and paper money, genuflecting, repairing graves, erecting stone tablets, etc.”⁴³ The most conspicuous one is that today peasants are burying their dead, and doing so in an elaborate manner, in terms of both funeral rites and gravesites. As clans re-emerge, all other rites and celebrations connected with it also flourish.

³⁹ Similar account, see Jun Jing, *The Temple of Memories* (Stanford, CA: Stanford University Press, 1997), pp. 89–90.

⁴⁰ One classic study on the subject, see Maurice Freedman, *Chinese Lineage and Society: Fukien and Kwangtung* (London: The Athlone Press, 1971).

⁴¹ Mao Zedong, “Hunan nongmin yundong kaocha baogao” [Report on an investigation of the peasant movement in Hunan] in *Mao Zedong xuanji*, Vol. I (Beijing: Renmin chubanshe, 1966), p. 33.

⁴² “Politics of Memory: Peasant Clans & the State”, *China News Analysis*, No. 1592 (September 1, 1997); cf. Jun Jing, *The Temple ...*, pp. 119–123. On the Central Leadership’s assessment, see “Summary of Minutes of a National Seminar on the Construction of Village-level Organisations”, in *Xin shiqi nongye he nongcun gongzuo zhongyao wenjian xuanbian* [A Selection of Important Texts on Agriculture and Villages in the New Era] (Beijing: Zhongyang chubanshe, 1992), p. 653.

⁴³ See, *Dazhong ribao* (26 July, 1996), p. 2.

What is the general situation of the Party? There is no extensive survey to answer this question. Currently, the Central Leadership acknowledged three categories of PS in the countryside. The first are those categorised as good, while the last are bad. The number of the two categories are small, compared to what they call the “intermediate state” (*zhongjian zhuangtai*). These are PS who do their job — according to CCP’s central leadership — neither excellently nor poorly. The Fourth Plenum of the Central Committee (1994) decided to change this situation, saying: ⁴⁴

“The building of leading bodies of intermediate-condition villages should be strengthened, their economic development should be speeded up and greater efforts should be made to build spiritual civilisation in these villages to attain the objective of enabling their residents to live a more comfortable life.”

This statement is the most explicit one regarding the situation of the PS in the countryside. It looks as if the majority of them — despite being classified as “intermediate state — are actually in quite bad shape. What does “intermediate-condition villages” refer to? The document does not give specification; the readers who are mostly Party members are supposed to understand this term. Zhong Zhushan in his article published in the journal *Liaowang* described Party branches under intermediate-condition category as follows:⁴⁵ “Party branches in the intermediate situation, in general, can implement the Party’s line and policies; their leaders are quite sound; the Party branches work quite hard. Nevertheless, for different reasons, their work is ordinary (*yi ban hua*), their ‘coagulation ability’ and ‘appeal ability’

⁴⁴ “CCP Circular on Strengthening Rural Primary and Grass-Roots Organizations”, in SWB, FE/2168 (2 December 1994) G/4. This translation uses the term “average village”; I deliberately alter the translation.

⁴⁵ This description is the result of an investigation of 1358 village Party branches in 12 provinces [Hebei, Liaoning, Heilongjiang, Zhejiang, Anhui, Henan, Hubei, Guangdong, Sichuan, Guizhou, Shaanxi, and Qinghai] where 32.6 per cent belong to category “good”, 59.5 per cent “fair”, and 7.9 per cent “not good”. See, Zhong Zhushan “*Nongcun jiceng dang zuzhi xianzhuang tanxi*”, [Analysis of current situation of village grass-root Party organization] *Liaowang* (Jing) No. 1 (1990), pp. 12–14 in *Zhongguo renmin daxue shubao ziliao zhongxin*, No. 3 (1990), pp. 133–134.

are not strong." Compare this description with that given by Wang Guangqian. Party branches at the "intermediate state", according to him, displayed five characteristics: (1) the structure of the leadership team is not excellent, (2) Party activities are not very effective, (3) activities within the Party are limited, (4) the leaders have little enthusiasm, (5) no breakthrough in developing "commodity economy".⁴⁶

These data, pieced together, reveal more or less a complete portrait of the Party. Although the survey data are admittedly quite dated, but considering the fact that so far, there have been no good news with regard to the Party, it is quite safe to accept the survey data as still valid and reasonably accurate. The majority of PS in the countryside in China today belong to the "intermediate state": they just let society go its own way, only once in a while do they do something significant.

THE CCP THROUGH THE NEXT MILLENNIUM?

The CCP is undoubtedly moving away from its original mission as a vanguard Party, retreating at the rear line, and allowing society and individuals to enjoy a high degree of freedom. Two strategies are observable. Firstly the Central Leadership decides to set up villagers' committee to allow peasants to practice religion, and to let peasants resurrect the clans, they adopt the strategy of opening a "zone of indifference". Secondly the Central Leadership decides to allow, even to urge, PS to go into business, they adopt the strategy of opening a "corridor of concession".

Both strategies help the Party, on the one hand, to reduce the hostility of the peasant population; and, on the other hand, to attract younger members to fill up the position of PS in the villages. The current situation of the CCP in China is indeed quite critical. *Zheng Ming* magazine, in one

⁴⁶ This article is based on his investigation over 519 village Party branches under Fengcheng City [Jiangxi Province]. He found, in 1986, 51% per cent of 519 village Party branches were under the category of "intermediate state". Wang Guangqian, "Dui nongcun zhongjian zhuangtai dang zuzhi de diaocha yu sikao" [An investigation and reflection on village Party organizations at the intermediate state] *Lilun daobao* (Nanchang) 1992, No. 6, pp. 41-42 in *Zhongguo renmin daxue shubao ziliao zhongxin*, No. 7 (1992), pp. 159-160.

of its 1996 editions, carried a report which disclosed a meeting in Beijing on 18 June 1996 of the top elite Party leaders. In that meeting, Jiang Zemin, the General Party Secretary, delivered a speech (considered “classified”) entitled “The development and situation of the rank-and-file of the Chinese Communist Party”.⁴⁷ If one must use one word to summarise Jiang’s speech, probably the word “pessimism” is most appropriate. Jiang admitted that the Party has lost much of its identity and fighting spirit, at the organisation level, at the cadre level, and at the rank-and-file level. For instance, he said, “the Party already lost its firm political direction, unable to provide leadership in the fore front of the building of socialism”.

Taken as a whole, the opening of a “zone of indifference”, and a “corridor of concession” leads to a new pattern of leadership by the Party. Originally, Lenin designed a communist party as “vanguard party,” meaning “the Party is the highest of all forms of organisation of the working class and its mission is to guide all the other organisations of the working class”. In addition, it should “consist of the finest members of the class, armed with an advanced theory, with knowledge of the laws of the class struggle and with the experience of the evolutionary movement”. All these features are virtually absent from the CCP.

Now, instead of becoming a “vanguard Party”, it has turned itself into a “rearguard Party” by which the CCP stands at the rearline, adopting a least interfering attitude. The Party no longer demands the whole population to believe in one single ideology of communism, and secondly, the Party also agrees that their cadres have become like anybody else, i.e. pursue wealth. In this way, the CCP seems to expect that it will gain more credibility, and more importantly, legitimacy. Any communist party, after its triumph, is invariably plagued by a crisis of legitimation, and is forced to devise ways and methods to moderate the negative response by the population.

Will this new situation bring the CCP to an end? Based on the experience of the former Soviet Union and its satellite states in Eastern Europe, a communist party ended because of tremendous pressures coming from the society, something which is unavoidable given the strict control imposed by

⁴⁷ *Zhengming*, (July 1996), pp. 6–8.

the Party for 40 more years. In China, the process appears to be rather different. The enlargement of "zone of indifference" by the CCP seems to be designed to forestall similar fate. But, as reform in China progresses, it would mean that the CCP has to open a wider zone of indifference, with each year getting wider and wider. Perhaps, it is safe to speculate that as the zone of indifference grows wider, the Party may find itself unable to control the population, and finally completely give up. Isn't this not "one step forward, two steps backward"?

CHAPTER 3

State Corporatism and Civil Society



EDWARD X. GU

Over the past two decades, China's economic reforms from a planned to a market economy have brought about tremendous changes in every aspect of the life of Chinese people. One of the most profound changes has been the revitalization of Chinese society. Mao Zedong's China, roughly speaking, was closed to the ideal type (or model) of totalitarianism, in which the state monitored, controlled, and penetrated almost every corner of society, including all social organizations.¹ During the Deng Xiaoping's era, starting

¹ Treating Mao's China as "totalitarian" and speaking of "ubiquitous control" is controversial because, as some scholars argue, the structure of Chinese grassroots organizations posed certain obstacles to state penetration. But the debate over whether or not or to what extent Mao's China was totalitarian is best elided here, because the focus of the article is not on the nature of the Chinese state during the Mao era and because the study of the politics of Mao's China itself has not generated convincing theories for either China scholar or general comparativists. For the most sophisticated discussions of the totalitarian features of the Mao regime, see Tang Tsou, *The Cultural Revolution and Post-Mao Reforms: A Historical Perspective* (Chicago and London: The University of Chicago Press, 1986); and Benjamin I. Schwartz, *Communism and China: ideology in Flux* (Cambridge, Mass.: Harvard University Press, 1968). For most sophisticated criticisms of the applicability of totalitarianism to Chinese politics, see Andrew G. Walder, *Communist Neo-traditionalism: Work and Authority in Chinese Industry*

from 1978, China underwent a transition from totalitarianism to authoritarianism.² After Deng's death in March 1997, China began the transformation from authoritarian communism to post-communism, although it is uncertain in what direction the transformation is heading.³

Authoritarianism distinguishes itself from totalitarianism in that limited pluralism in the social, economic, and even political realms is tolerated in the former as opposed to the latter.⁴ As economic reforms proceed, the Chinese state has gradually loosened its ubiquitous control over the economy and society, and as a result many intermediary social organizations, such as civil associations, business organizations, professional associations, and intellectual organizations, have developed to fill the public sphere emerging between the family and the state. After two decades of development, some of these social organizations, in particular those that show few signs of challenging the legitimacy of the regime, have obtained varying degrees of autonomy from the state.

This development has led to an enormous number of empirical studies on the rise of the social space in a number of social sectors in China, but

(Berkeley and Los Angeles: University of California Press, 1986), and Vivienne Shue, *The Reach of the State: Sketches of the Chinese Body Politics* (Stanford: Stanford University Press, 1988). For discussion on the state's monopolistic control as one of the characteristic features of totalitarianism, see Carl J. Friedrich, Michael Curtis, and Benjamin R. Barber, *Totalitarianism in Perspective: Three Views* (New York: Praeger, 1969).

² See Tony Saich, "The Fourteenth Party Congress: A Programme for Authoritarian Rule", *The China Quarterly*, No. 132 (December 1992), pp. 1136–1160; and Elizabeth J. Perry, "China in 1992: An Experiment in Neo-Authoritarianism", *Asian Survey*, Vol. 33, No. 1 (January 1993), pp. 12–21; Jie Chen and Peng Deng, *China since the Cultural Revolution: From Totalitarianism to Authoritarianism* (Westport, Conn.: Praeger, 1995).

³ Some scholars who are studying post-communism suggest that a paradigmatic shift from a transition to a transformation is underway. The emerging transformation paradigm focuses on the institutional peculiarities of transitional and/or post communism. For a review of this paradigmatic shift, see Akos Rona-Tas, "Path Dependence and Capital Theory: Sociology of the Post-communist Economic Transformation", *East European Politics and Societies*, Vol. 12, No. 1 (Winter 1998), pp. 107–131.

⁴ See Juan J. Linz, "Totalitarian and Authoritarian Regimes", in Fred Greenstein and Nelson Polsby, eds., *Handbook of Political Science*, Vol. 3 (Reading, Mass.: Addison-Wesley, 1975), pp. 264–285.

a systematic study with a theoretical synthesis is still lacking.⁵ The goal of this article is to provide a balanced assessment of the development through examining the theoretical debate in the existing literature and through putting new empirical data in context. The focus is on the institutional peculiarities of the newly emergent social space, in particular on the institutional transformation of the state-society relationship accompanying institutional changes taking place both in the state and in society. Further, this article attempts to answer the question: Do current trends in revitalizing Chinese society favor the emergence of a pluralistic civil society in the near future or the retention of a state-controlled society, or something else in between?

1. DEVELOPMENT OF CIVIL SOCIETY IN COMPARATIVE PERSPECTIVE

Civil society is defined as the arena of the polity where social movements (women's group, religious groupings, and intellectual organizations) and civic associations from all social strata (such as trade unions, entrepreneurial groups, journalists, or lawyers), relatively autonomous from the state, attempt to articulate values and advance their interests. The emergence of civil society is seen as a precondition for a transition from authoritarianism to democracy, and its development as a precondition for democratic consolidation during post-transition periods.⁶

⁵ For those studies on this topic with plentiful empirical data, see, among others, Minxin Pei, "Chinese Civil Association: An Empirical Analysis", *Modern China*, Vol. 24, No. 3 (July 1998), pp. 285–319; Margaret M. Pearson, *China's New Business Elite: The Political Consequences of Economic Reform* (Berkeley and Los Angeles: University of California Press, 1997), esp. Chap. 5; Timothy Brook and B. Micheal Frolic, eds., *Civil Society in China* (Armonk: N.Y.: M. E. Sharpe, 1997); Gordon White, Jude Howell, and Shang Xiaoyuan, *In Search of Civil Society: Market Reform and Social Change in Contemporary China* (Oxford: Oxford University Press, 1996). It is worth noting that comprehensive studies of professional and intellectual organizations are rarely seen in the literature.

⁶ See Juan J. Linz and Alfred Stephan, *Problems of Democratic Transition and Consolidation* (Baltimore and London: The John Hopkins University Press, 1996), pp. 15–16. See also Ernest Gellner, *Conditions of Liberty; Civil Society and its Rivals* (London: Hamish Hamilton, 1994).

In different political theories, there are different perceptions of civil society.⁷ Nevertheless, a dominant one is a liberal, pluralistic image of civil society, which reminds us of the functioning of the Tocquevillean civil associations in nineteenth-century America. In emphasizing the social balance of political power, Tocqueville saw the existence of pluralist and self-organizing civil associations, which moderated the despotism of the majority and gave the people both a taste for freedom and the skill to be free, as an indispensable condition of democracy.⁸ The Tocquevillean civil associations operate in a democracy as, in John Keane's words, "the independent eye of society" to the state.⁹ To limit the scope of state action, to protect society from the intervention of the state, and to create a social space with a substantial degree of autonomy, independence, and self-management, are among the most significant characteristics of a liberal, pluralistic civil society.

In the early 1990s, the idea that a "civil society", presumably in its liberal, pluralistic sense, was emerging in China was a recurrent theme in the publications of Western China scholars. Within the conceptual scheme of "civil society vis-à-vis the state", many different phenomena that emerged as an outcome of the relaxation of state control were labelled "ingredients of a civil society."¹⁰ This scholarly trend was a reflection of the broader intellectual context in both communist and post-communist studies. The democratic transition in Central-Eastern Europe and Russia was widely viewed as being the consequence of the activities of dissident or other independent social forces in the 1970s and 1980s aimed at creating a genuine civil society — that is, a pluralist and self-organizing civil society independent of the state.¹¹

⁷ For an exploration of the different ideals, imaginations, and contradictions of civil society, see Keith Tester, *Civil Society* (London: Routledge, 1992).

⁸ See Alexis de Tocqueville, *Democracy in America* (trans. George Lawrence, Garden City, New York: Doubleday & Co., Inc., 1969), pp. 513–524.

⁹ John Keane, *Democracy and Civil Society* (London: Verso, 1988), p. 51.

¹⁰ For a review of this scholarly trend, see Gu Xin, "A Civil Society and Public Sphere in Post-Mao China?", *China Information*, Vol. 8, No. 3 (Winter 1993–94), pp. 38–52.

¹¹ The contemporary notion of civil society was initially applied to the Soviet and East-Central European cases in the early 1990s. See, for example, John Keane, ed., *Civil Society and the State: New European Perspectives* (London: Verso, 1988); William G. Miller, ed.,

Since the mid-1990s, this approach to the Chinese state-society relationship has sparked off a debate. Many scholars are somewhat hesitant to acknowledge the existence of civil society, or avoid using the concept of civil society in describing the newly emergent social space in China.¹² Some highlight the fact that the boundary between state and society in China is vague and indeterminate, and that those so-called “autonomous” social organizations were actually at best quasi-autonomous.¹³ For those who have discovered cooperation rather than antagonism between state and society and dependence of society upon rather than independence of society from the state, the concept of corporatism is more appealing than that of civil society.¹⁴ Some scholars simply use the dichotomy of “civil society versus corporatism” in their studies of the relationship between the Chinese state and social organizations.¹⁵

Towards A More Civil Society? The USSR under Mikhail Gorbachev (New York: Harper & Row, 1989); H. Gordon Skilling, *Samizdat and an Independent Society in Central and Eastern Europe* (Houndmills: Macmillan, 1989); Zbigniew Rau, ed., *The Reemergence of Civil Society in Eastern Europe and the Soviet Union* (Boulder: Westview Press, 1991); Miller, ed., *Developments of Civil Society in Communist Systems*; and Paul G. Lewis, ed., *Democracy and Civil Society in Eastern Europe* (Houndmills: St. Martin's Press, 1992).

¹² See Andrew G. Walder, “The Political Sociology of the Beijing Upheaval of 1989”, *Problems of Communism*, Vol. 38, No. 5 (September–October, 1989), pp. 30–40; Tony Saich, “When Worlds Collide: The Beijing People’s Movement of 1989”, in Tony Saich (ed.), *The Chinese People’s Movement*, pp. 25–49; Dorothy J. Solinger, “Urban Entrepreneurs and the State: The Merger of State and Society”, in Rosenbaum (ed.), *State and Society*, pp. 121–141.

¹³ See Christopher E. Nevitt, “Private Business Associations in China: Evidence of Civil Society or Local State Power”, *The China Journal*, No. 36 (July 1996), pp. 25–43; and X. L. Ding, *The Decline of Communism in China: Legitimacy Crisis, 1977–1989* (Cambridge: Cambridge University Press, 1994).

¹⁴ See, e.g., Anita Chan, “Revolution or Corporatism? Workers and Trade Unions in Post-Mao China”, *The Australian Journal of Chinese Affairs*, No. 29 (January 1993), pp. 31–61; Kristen Parris, “Private Entrepreneurs as Citizens: From Leninism to Corporatism”, *China Information*, Vol. 5, Nos. 3–4 (Winter 1995/Spring 1996), pp. 1–28; Jonathan Unger, “‘Bridges’: Private Business, The Chinese Government and the Rise of New Associations”, *The China Quarterly*, No. 147 (September 1996), pp. 795–819. For a review of the debate, see Yijiang Ding, “Corporatism and Civil Society in China”, *China Information*, Vol. 7, No. 4 (Spring 1998), pp. 44–67.

¹⁵ The representative examples of this approach are White, Howell and Shang, *In Search of Civil Society*; and Brook and Frolic, *Civil Society in China*.

However, it is theoretically faulty to view corporatism as the opposite of civil society. In the existing literature, the term “corporatism” is used to describe a certain type of the relationship between state and society — often referred to by corporatists as “intermediation.”¹⁶ The characteristic features of the corporatist state-society relationship include: (1) the number of social organizations is limited; (2) only one social organization is recognized or licensed by the state and granted a deliberate representational monopoly within a social category; (3) social organizations are hierarchically ordered; (4) membership of social organizations are normally compulsory; and (5) the state exercises formal or informal control over some internal affairs (e.g., leadership selections) of social organizations. In contrast with corporatism is pluralism, which is characterized by an unspecified number of social organizations, competitive representation, non-hierarchically ordered in their internal structure, voluntary in membership, and without state intervention into their internal affairs.¹⁷

In liberal democracy, corporatism is considered as an “institutional arrangement for linking the associationally organized interests of civil society with the decisional structures of the state,”¹⁸ while pluralism is another.¹⁹ But the corporatist state-society relationship does not exclusively exist in liberal democracies. Whenever and wherever there is a strong but not a totalitarian state, it is likely that corporatism will be present.²⁰ Actually,

¹⁶ See Peter J. Williamson, *Corporatism in Perspective* (London: Sage, 1989), p. 6.

¹⁷ Philippe C. Schmitter, “Still a Century of Corporatism”, in Philippe C. Schmitter and Gerhard Lehbruch, eds., *Trends toward Corporatist Intermediation* (Beverly Hills: Sage, 1979), pp. 13–15.

¹⁸ *Ibid.*, p. 9.

¹⁹ For the purpose of this article, there is no need to deal with the corporatist-pluralist debate in detail and to consider the possibility of corporate pluralism. See Reginald J. Harrison, *Pluralism and Corporatism* (London: George Allen & Unwin, 1980); Youssef Cohen and Franco Pavoncello, “Corporatism and Pluralism: A Critique of Schmitter’s Typology”, *British Journal of Political Science*, Vol. 17, Part 1 (January 1987), pp. 117–122; and Martin Heisler, “Corporate Pluralism Revisited: Where is the Theory?”, *Scandinavian Political Studies*, Vol. 2, Part 3 (1979), pp. 278–98.

²⁰ See Howard J. Wiarda, *Corporatism and Comparative Politics* (Armonk, N.Y.: M. E. Sharpe, 1997), p. 15.

corporatism had its origins in authoritarian Southern Europe in the 1930–40s, and some dictatorial forms of corporatism existed in Latin America in the 1960–70s. In academic circles, the term “neo-corporatism” is used to refer to the corporatist intermediation between state and society that scholars have rediscovered since the 1960s in some European liberal democracies, where the welfare state is influential in every arena of social life.²¹

To differentiate the authoritarian forms of corporatism from the welfare-oriented, democratic neo-corporatism of contemporary Europe, Philippe C. Schmitter delineates two subtypes of corporatism: *societal (neo-)corporatism* and *state corporatism*.²² Social organizations are autonomous from and penetrative to the state in the former, while they are dependent upon and penetrated by the state in the latter. “Societal corporatism appears to be a concomitant, if not ineluctable, component of the postliberal, advanced capitalist, organized democratic welfare state; state corporatism seems to be a defining element of, if not a structural necessity for, the antiliberal, delayed capitalist, authoritarian, neomercantilist state.”²³

One of the flaws with the Schmitter formulation is that it ignores the possibility of the existence of state corporatism in democratic regimes. This flaw causes some problems in applying the concept to non-liberal and/or transitional democracies in East and Central Asia, Latin America, and Eastern-Central Europe, where the tradition of strong states and weak societies is still working as a negative element against their democratic consolidation. Schmitter’s formulation can be modified here by introducing the distinction between authoritarian and democratic state corporatism, which operate respectively in an authoritarian and democratic political system (see Figure 1). In authoritarian state corporatism, the establishment, survival, and operation of social organizations are not only under the tough control of the state, but are also subject to arbitrary, irregular, and personal interventions from the state. On many occasions, such state control and

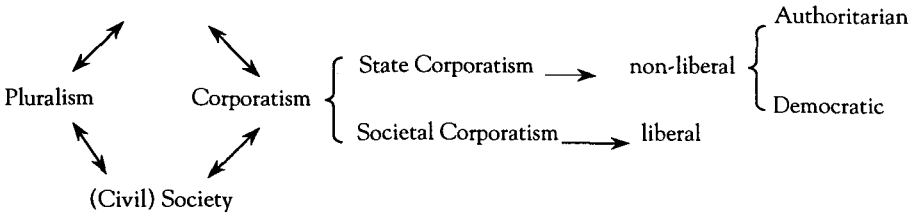
²¹ See Andrew Cox and Noel O’Sullivan, eds., *The Corporate State: Corporatism and the State Tradition in Western Europe* (Hants, England: Edward Elgar, 1988); and Gerhard Lehbruch and Philippe C. Schmitter, eds., *Patterns of Corporatist Policy-making* (London: Sage, 1982).

²² Schmitter, “Still the Century of Corporatism”, pp. 20–21.

²³ *Ibid.*, p. 22.

interventions are based upon political clientelism.²⁴ In democratic state corporatism, the state's control over and intervention into society is normally imposed on a legal, regular, and impersonal basis.

Figure 1. Pluralism, Corporatism, and the Intermediation between State and Society



After clarifying the conceptual relationship between corporatism and civil society, we can develop a typology of state-society relations under different political regimes as is shown in Table 1. The relationship between state and society is regarded as a continuum, with one extreme being totalitarianism and the other anarchy. Totalitarianism is characterized as “a state without a society”,²⁵ while anarchy as “a society without a state”. Corporatism and pluralism lie in between.

In East Asia, the communalist basis of culture and society and the political tradition of strong states provide a strong foundation for the development of corporatism. The predominant form of the East Asian corporatist development before the 1960s was authoritarian state corporatism.

²⁴ See Jean C. Oi, “Communism and Clientelism”, *World Politics*, Vol. 32, No. 2 (January 1985), pp. 238–266.

²⁵ In the literature of totalitarianism, we hardly ever find concern with state-society relations because the feature of totalitarian society is social atomization. In this article, I do not discuss whether the actual reach of the state is without bounds. Actually, as many scholars have pointed out, the reach of the state may vary at different times and for different institutional realms, territorial jurisdictions, and ethnic groups, even within a single totalitarian state. See Tang Tsou, “The Tiananmen Tragedy: The State-society Relationship, Choices, and Mechanisms in Historical Perspective”, in Brantly Womack, ed., *Contemporary Chinese Politics in Historical Perspective* (New York: Cambridge University Press, 1991), p. 271.

Table 1 Typology of State-Society Relations under Different Political Regimes

Regime type \ State-society Relations	Non-democratic	Non-liberal, democratic	Liberal, democratic
Non-democratic			
Totalitarianism	Hitler's Germany, Stalin's Soviet Union, Mao's China		
Authoritarianism	Deng's China, Jiang Jieshi's Taiwan, Brezhnev's Soviet Union		
Authoritarian state-corporatism	Post-Deng China, Jiang Jinguo's Taiwan, Gorbachev's Soviet Union		
Democratic			
Democratic state-corporatism		Singapore, Belarus, Kazakstan, Peru,	Taiwan, Thailand, Korea, Russia
Societal corporatism			France, Japan, Germany, Sweden, Austria, Spain
Pluralism			U.K.
Anarchy			U.S., Australia, Canada

Since the 1970s, in some East Asian countries, the authoritarian state-corporatist structures that formed before and after World War II have gradually moved in the direction of societal corporatism accompanying their democratic transition and consolidation.²⁶ As will be shown below,

²⁶ Wiarda, *Corporatism*, pp. 81–87; Ronald Dore, “Japan: A Nation Made for Corporatism?”,

as China's transformation from authoritarian communism to post-communism gets under way, hybrid state-society relations are evolving to the stage of authoritarian state-corporatism and will probably move in the direction of democratic state-corporatism in the near future.

2. FROM MASS ORGANIZATIONS TO SOCIAL ORGANIZATIONS: THE EXPANSION OF THE SOCIAL SPACE IN CHINA

In the Mao era, there was little space for the existence of civil activities. Immediately after the founding of the People's Republic of China, the ruling party the Chinese Communist Party (CCP) made efforts to reshape the sphere of intermediary organizations in the light of the reordering of class relations and the legitimization of power. Most civil associations that existed in the pre-modern and Republican eras disappeared.²⁷ All social organizations that were regarded as or even suspected to be so-called "counter-revolutionary" by the government were banned.²⁸ Meanwhile, to mobilize billions of people to implement public policy and to achieve the Party-state's political purposes, many mass civilian bodies, which were called "mass organizations" (*qunzhong zuzhi*), were created by the totalitarian regime. Politicians and governmental officials used such organizations to organize

in Colin Crouch and Ronald Dorer, eds., *Corporatism and Accountability: Organized Interests in British Public Life* (Oxford: Clarendon Press, 1990), pp. 45–62; and Jonathan Unger and Anita Chan, "Corporatism in China: A Developmental State in an East Asian Context", in Barrett L. McCormick and Jonathan Unger, eds., *China after Socialism: In the Footsteps of Eastern Europe or East Asia* (Armonk, N. Y.: M. E. Sharpe, 1996), pp. 95–129.

²⁷ For details about the social space in China before communist rule, see William T. Rowe, *Hankow: Commerce and Society in a Chinese City, 1796–1889* (Stanford: Stanford University Press, 1984) and *Hankow: Conflict and Community in a Chinese City, 1796–1885* (Stanford: Stanford University Press, 1989); Mary B. Rankin, *Elite Activism and Political Transformation in China: Zhejiang Province 1865–1911* (Stanford: Stanford University Press, 1986); and David Strand, *Rickshaw Beijing: City People and Politics in 1920s China* (Berkeley and Los Angeles: The University of California Press, 1989).

²⁸ White, Howell, and Shang, *In Search of Civil Society*, pp. 100–101.

workers, youths, women, or members of other social sectors into bodies assembling “a conscription society.”²⁹

There were two striking characteristics of the social space in Mao’s China. First, there were relatively few civil associations at all levels. Second, there was little diversity of civil associations. Apart from three major state-led mass organizations of workers, the youth, and women, the majority of civil associations were involved in the natural sciences, technology, and engineering — areas considered politically safe and not directly a part of civil activities in the ordinary sense.³⁰ After two decades of reform, the landscape of the social space in China has considerably changed.

The Gradual Reform of Mass Organizations

The CCP had a long experience of working with trade unions, youth movements, and women movements before it took power in 1949.³¹ Since the founding of the communist regime, workers, the youth, and women have been organized into three major mass organizations, namely, the All-China Federation of Trade Unions (ACFTU), the Communist Youth League (CYL), and the All-China Women’s Federation (ACWF).³² They are hierarchically organized and incorporated into the Party-state body. Their cadres are appointed and paid by the state, and in particular the successive

²⁹ See Gregory J. Kasza, *The Conscription Society: Administered Mass Organizations* (New Haven: Yale University Press, 1995).

³⁰ See Pei, “Chinese Civic Association”, pp. 290–291.

³¹ See Elizabeth J. Perry, *Shanghai on Strike: The Politics of Chinese Labor* (Stanford: Stanford University Press, 1993); Gail Hershatter, *The Workers of Tianjin, 1900–1949* (Stanford: Stanford University Press, 1986); Jean Chesneaux, *The Chinese Labor Movement, 1919–1927* (Stanford: Stanford University Press, 1968); Jeffrey N. Wasserstrom, *Student Protests in Twentieth-century China* (Stanford: Stanford University Press, 1991); and Christina K. Gilmartin, *Engendering the Chinese Revolution: Radical Women, Communist Politics, and Mass Movements in the 1920s* (Berkeley and Los Angeles: The University of California Press, 1995).

³² These three organizations were not necessarily created in the 1950s. For example, as early as 1925, ACFTU was set up by the fledging CCP. See Lee Lai To, *Trade Unions in China, 1949 to the Present: The Organization and Leadership of the All-China Federation of Trade Unions* (Singapore: Singapore University Press, 1986), pp. 8–9.

chairmen of ACFTU are members of the Party-state's top leadership.³³ Like other state entities, their activities are largely generated from above rather than from below, and this was particularly the case during the pre-reform periods. During the pre-reform periods, in particular under the totalitarian Mao regime, they functioned as Leninist "transmission belts" in the totalitarian system of political social control.

After two decades of reform, the nature of the three mass organizations as state entities basically remains unchanged, although the process of reform has set in train changes in their internal structures, institutions, and functions. Due to limited space, this article examines only trade unions.

Up to the present, the ACFTU still holds the monopolistic power of representation within the social category of trade unions. All trade unions are its subsidiaries, and they are organized within a hierarchical system. Like other state entities, the hierarchical system is shaped on two principles, namely vertical and horizontal. Based on the vertical principle, eighteen federations of trade unions in industrial and public sectors constitute the constituent parts of the ACFTU. All other trade unions are integrated within the ACFTU based on the horizontal principle (see Figure 2). In urban China, the "closed-shop" nature of ACFTU membership in the state sector results in a high unionization rate (see Table 2).

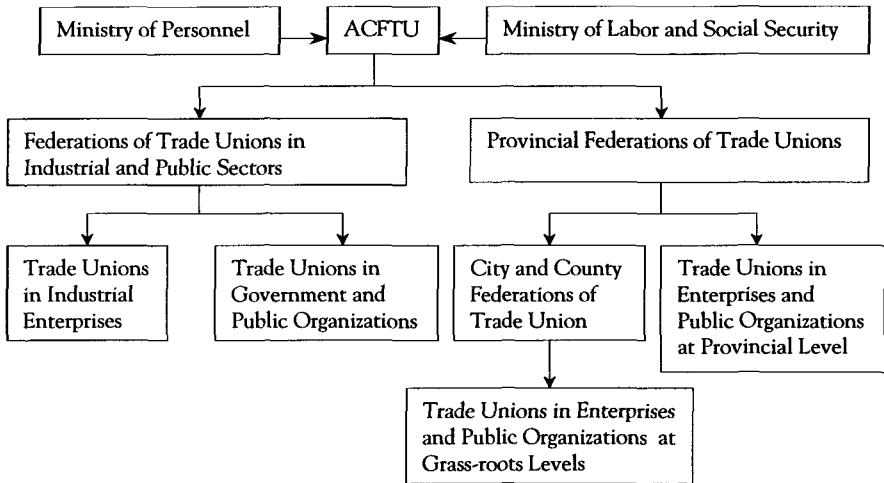
Alongside these official trade unions have emerged independent trade unions willing to push for autonomous workers' rights. However, fearful of the rise of a Polish-style Solidarity, the Party-state has strictly forbidden the establishment of independent (or unofficial) trade unions.³⁴ Therefore, there is little, if not zero, political and social space for free trade union movements in China.

The general impression of Chinese official trade unions is that they have been docile entities, which usually toed the Party line, although sometimes they showed an inclination towards the autonomous articulation of workers' interests.³⁵ During the reform years, a gradual transformation of

³³ The current Chairman of the ACFTU, Wei Jianxing, is one of the six members of the Standing Committee of the CCP's Politburo, the highest policy-making body.

³⁴ See Ng Sek Hong and Malcolm Warner, *China's Trade Unions and Management* (London: Macmillan Press Ltd., 1998), pp. 54–58.

Figure 2. Hierarchical Ordering of Trade Unions under the ACFTU



Source: Adapted from various ACFTU documents.

Table 2 Unionization in Urban China (millions)

Year	Total Employees	Employees in Unionized		Members of		Number of Union Staffs
		Organizations	Rate A*	Trade Unions	Rate B*	
1993	148.49	111.04	74.78 %	101.76	91.64 %	0.55
1994	148.49	118.13	79.55 %	114.28	96.74 %	NA
1995	149.00	113.21	75.98 %	104.00	91.86 %	0.55
1996	148.45	111.81	75.32 %	102.12	91.33 %	0.61
1997	146.68	101.11	68.93 %	91.30	90.30 %	0.58

Note: * Rate A (Union Density) = Employees in Unionized Organizations / Total Number of Employees; Rate B (Unionization Rate) = Members of Trade Unions / Employees in Unionized Organizations.

Sources: *China Yearbook of Trade Unions*, various years.

official trade unions, in particular ones at local levels, as transmission belts between state and workers to representatives of workers has got underway. To varying degrees depending on sector and location, local trade unions

³⁵ See Elizabeth J. Perry, "Labor's Battle for Political Space: The Role of Worker's Associations in Contemporary China", in Deborah S. Davis, Richard Kraus, Barry Naughton, and Elizabeth J. Perry, eds., *Urban Spaces in Contemporary China* (New York: Cambridge University Press, 1995), pp. 302–325.

have got more and more actively involved in the mediation of labor disputes, collective bargaining, social welfare delivery, management issues, and even corporate governance. This transformation has been induced by some changes in the state-society relationship at large: First, new social groups (e.g., entrepreneurial groups) arose and there was a proliferation of new sectoral interests (e.g., that of employees in Sino-foreign joint ventures) during the transition from totalitarianism to authoritarianism; second, the tension between workers and managers intensifies during the restructuring of state-owned enterprises (SOEs); and third, the eruption of widespread worker protests is often accompanied by general dissatisfaction with the official trade union.³⁶

In response to the transformation of local trade unions, the Chinese state is facing a dilemma. On the one hand, the authorities are implementing pro-business policies to boost economic development, which has become an important foundation for the legitimacy of the regime after China's transition from totalitarianism to authoritarianism.³⁷ Many pro-business policies are accompanied by institutional changes purporting to amend or even abolish existing institutional arrangements that have been favourable to the worker in the state sector, e.g., permanent employment and comprehensive social welfare provisions. At the same time, during the reform of the state assets management system, the Chinese state has tended to become the shareholder of companies.³⁸ Therefore, the differentiation of interests between the state and workers has become increasingly manifested. From the perspective of a state-centred approach,³⁹ the state as an independent player in the

³⁶ See Anita Chan, "Revolution or Corporatism? Workers and Trade Unions in Post-Mao China", in Goodman and Hooper, eds., *China's Quiet Revolution*, pp. 162–193; Yunqiu Zhang, "From State Corporatism to Social Representation: Local Trade unions in the Reform Years", in Brook and Frolic, eds., *Civil Society in China*, pp. 124–148.

³⁷ For an elaboration of economic development as a ground of legitimacy for post-revolutionary communist regimes, see Richard Lowenthal, "Development vs. Utopia in Communist Policy", in Chalmers Johnson, ed., *Change in Communist Systems* (Stanford: Stanford University Press, 1970), pp. 33–115.

³⁸ World Bank, *China's Management of Enterprise Assets: The State as Shareholder* (Washington, D.C.: The World Bank, 1997).

³⁹ See Peter B. Evans, Dietrich Rueschemeyer, and Theda Skocpol, eds., *Bringing the State Back In* (New York: Cambridge University Press, 1985).

political game concerning labour issues has its own interests in containing the tendency of trade unions towards social representation. On the other hand, the official ideology still claims that the CCP is a political party of and for workers, and that the interests of the Party-state and workers are identical, in the final analysis. As a self-claimed representative of workers, the Party-state finds it difficult to publicly denounce local trade unions as a voice of workers.

The existence of the ACFTU provides the Party-state with the best solution to resolve that dilemma, namely allowing or even encouraging it to transform itself from a Leninist transmission belt between state and society to a monopolistic representative of workers' interests within a state corporatist framework. By promulgating many corporatist-coloured laws and regulations relating to labour issues and trade unions, the ACFTU has been transformed into a corporatist vehicle by which the state can keep local trade unions in control.⁴⁰

The Rise of New-style Social Organizations

While those old-style mass organizations within the Party-state establishment underwent gradual, incremental reforms, a new social space for a variety of new-style social organizations has emerged since the late 1970s. From 1988 onward, the term "social organizations" (*shehui tuanti*) has been adopted in government documents to refer to a range of organizations that mediate between state and society, such as professional associations, business associations, guilds, learned societies, non-profit organizations (e.g., foundations, charities, and social and recreational clubs), and non-governmental organizations (NGOs) (e.g., environmental organizations).⁴¹

The growth of social organizations, both in number and in diversity, has been dramatic since economic reform began in 1979. Throughout the 1980s, the number of such organizations at the national level rose about sevenfold,

⁴⁰ For details of the ACFTU's reform, see Ng and Warner, *China's Trade Unions and Management*; Chan, "Revolution or Corporatism?"; and Zhang, "From State Corporatism to Social Representation".

⁴¹ White, Howell, and Shang, *In Search of Civil Society*, pp. 98–127.

averaging 48 per cent a year. At local levels, growth rates were even larger.⁴² From 1991 onwards, national statistics of social organizations have become available. In Table 3, we can see that the explosive growth of social organizations in the 1980s no longer continued in the early and mid-1990s. And the development of social organizations was under tough control of the state. During the period, the number of disbanded social organizations and refused applications was considerable.

Table 3 Number of Social Organizations, Social Organizations Disbanded, Applications for Registration, and Applications Refused

Year	Number		The Disbanded		Applications		Applications Refused	
	No.	Growth	No.	Proportion*	No.	Growth	No.	Proportion +
1991	115,738	—	9,974	7.9%	118,691	—	28,722	24.2%
1992	154,502	33.5%	7,654	4.7%	62,891	-47.0%	8,039	12.3%
1993	167,506	8.4%	11,331	6.3%	29,773	-52.7%	3,815	12.8%
1994	174,060	3.9%	8,298	4.6%	18,826	-36.8%	3,591	19.1%
1995	180,538	3.7%	6,472	3.5%	NA	NA	NA	NA
1996	186,666	3.4%	6,757	3.5%	13,976	NA	2,804	NA
1997	181,318	-2.7%	13995	7.2%	NA	NA	NA	NA

Notes: * Proportion = Number of social organizations disbanded / Number of social organizations existed and disbanded.

+ Proportion = Number of Applications Refused / Number of Applications

Sources: *Law Yearbook of China*, 1990–1998.

As Minxin Pei shows, a structural change of the intermediary sphere, which was caused by the rapid emergence of business, trade, professional, and management associations and the increase of scholarly societies in the social sciences and humanities, took place during the period between 1978 to 1992. In contrast, charitable organizations, foundations, and civil associations involved in public affairs failed to expand at the same rapid rate as other types.⁴³ It seems that this situation has changed since the mid-1990s, although no detailed national statistics on the structure of the

⁴² See Pei, "Chinese Civic Association", pp. 291–294.

⁴³ *Ibid.*, pp. 291–294.

intermediary sphere were available. In November 1995, the China Charity Federation (CCF), a non-governmental charity organization, was formed as a national and umbrella legal entity. By mid-1999, the CCF has 79 institutional members located across China.⁴⁴ In 1997 alone, newly established foundations accounted for about 5.0 per cent of newly established social organizations.⁴⁵

One of the most profound impacts that China's market-oriented reforms have imposed upon the state-society relationship is the rapid growth of professional groups in some socioeconomic arenas. Let us take lawyers as an example. In China, the legal profession was both modern and foreign in origin, and a formal system of lawyers took shape during the Republican period.⁴⁶ After 1949, the communist government outlawed the so-called "black lawyers" who were trained during the Republican era and attempted to establish a new-style system of "people's lawyers" in the mid-1950s. The new system survived only two years, and it was actually demolished during the Anti-rightist movement in 1958 and the Cultural Revolution in the 1960s.⁴⁷ From 1978 onwards, the Chinese leadership gave priority to a "strengthening of the socialist legal system". As a step in this direction, the legal profession was reestablished in 1980.⁴⁸ Since then, the community of lawyers has seen a rapid growth (see Table 4). The official goal is to have 150,000 lawyers by the end of the twentieth century, roughly equivalent to all such personnel in Germany, France, the Benelux nations and Denmark.⁴⁹

⁴⁴ The Constitution of the CCF is available at its web-site: www.charity-online.org.cn/ccf.

⁴⁵ See *Law Yearbook of China*, 1998 (Beijing: Zhongguo Falu Nianjianshe, 1998), p. 1259.

⁴⁶ See Alison Conner, "Lawyers and the Legal Profession during the Republican Period", in Philip Huang and Kathryn Bernhart (eds.), *Civil Law in Qing and Republican China* (Stanford: Stanford University Press, 1994), pp. 215–248.

⁴⁷ Mao Pengnian and Li Bida (eds.), *Zhongguo Lushi Zhidu Yanjiu (A Study of China's Lawyer's System)* (Beijing: Falu Chubanshe, 1992), pp. 39–41.

⁴⁸ *Ibid.*, pp. 41–42.

⁴⁹ William P. Alford, "Tasselled Loafers for Barefoot Lawyers: Transformation and Tension in the World of Chinese Legal Workers", in Stanley B. Lubman (ed.), *China's Legal Reforms* (Oxford: Oxford University Press, 1996), pp. 22–23.

Table 4 Growth of the Community of Lawyers

Year	Full-Time Lawyers	Part-Time Lawyers	Specially Invited Lawyers	Total	Licensed Lawyers
1986	14,500	7,046	601	21,546	NA
1987	18,308	8,972	855	27,280	NA
1988	21,051	10,359	1,002	31,410	23,274
1989	23,766	19,767	2,409	43,533	26,584
1990	23,599	15,170	2,614	38,769	27,199
1991	18,878	10,662	3,901	46,850	41,956
1992	22,124	12,391	3,975	45,662	48,094
1993	30,401	16,793	10,166	68,834	58,740
1994	40,730	20,171	9,637	83,619	79,473
1995	45,094	17,994	11,696	90,602	89,767
1996	47,879	20,243	15,376	100,198	100,148
1997	47,574	18,695	12,892	98,902	NA

Source: *Law Yearbook of China*, various years.

3. AUTHORITARIAN STATE CORPORATISM IN ACTION: INSTITUTIONAL ASPECTS

For some China scholars, the transformation of the state-society relationship is moving from state corporatism to societal corporatism based on an observable tendency of social organizations towards social representation.⁵⁰ However, the growth of social representation does not necessarily mean the rise of societal corporatism. Rather, social representation itself is an essential part of state corporatism, and theoretically there is a probability that it can be developed within a state corporatist framework during the transition from authoritarianism to democracy. Owing to the limitations of democratization in China, the current evolution of the Chinese state-society relationship is still confined to the stage of authoritarian state corporatism.

The Forging of an Authoritarian State Corporatist Regulatory System

In spite of the rapid proliferation of social organizations, there was no

⁵⁰ Chan, "Revolution or Corporatism?"; Unger, "'Bridge'"; and Zhang, "From State Corporatism to Social Representation".

formal, universal, and comprehensive system of regulation over this intermediary sphere until the very late 1980s. In 1950, the Communist government did issue a regulation titled "Temporary Methods for the Registration of Social Organizations". In accordance with this revolutionary, totalitarian regulation, all organizations deemed to be "counter-revolutionary" were banned, and other organizations that were perceived as inimical to the interests of the proletariat were gradually phased out.⁵¹

Throughout the 1980s, many social organizations were either set up spontaneously in society or spun off from the Party-state establishment. This was particularly evident in the intellectual field. In order to avoid any possible political troubles, most of these newly emergent social organizations managed to become affiliated with some Party-state organs by establishing patron-client relations with some officials within the establishment.⁵² In seizing the opportunities opened up by the situation of institutional pluralism, some dissidents (or would-be dissidents) established their own organizational bases (including profitable schools for adult education and companies, and non-profitable research institutes) for their political activities.⁵³ In the spring of 1989, some dissident-coloured social organizations were deeply involved in the Tiananmen protest movement. Some new social organizations, such as the University-and-College Students' Autonomous Federation and the Beijing Workers' Autonomous Federation, were spontaneously established, and played an active role in organizing the protest.⁵⁴ After the crackdown on the protests on June Fourth, the

⁵¹ See White, Howell, and Shang, *In Search of Civil Society*, pp. 100–101.

⁵² See Gu Xin, "Plural Institutionalism and the Emergence of Intellectual Public Spaces in Contemporary China", *Journal of Contemporary China*, Vol. 7, No. 18 (July 1998), pp. 271–301.

⁵³ See Edward X. Gu, "'Non-establishment' Intellectuals, Public Space, and the Creation of Non-government Organizations in China", *The China Journal*, No. 39 (January 1998), pp. 39–58.

⁵⁴ For more details about these spontaneously established social organizations during the movement, see Lawrence R. Sullivan, "The Emergence of Civil Society in China, Spring 1989", in Tony Saich (ed.), *The Chinese People's Movement: Perspective on Spring 1989* (Armonk, N. Y.: M. E. Sharpe, 1990), pp. 126–144; Andrew G. Walder and Gong Xiaoxia, "Workers in the Tiananmen Protests: The Politics of the Beijing Workers' Autonomous Federation", *The Australian Journal of Chinese Affairs*, No. 29 (January 1993), pp. 1–29;

threatening appearance of such non-conformist social organizations impelled the Party-state to keep an eagle eye over society. In October 1989, the Li Peng Administration issued a "Management Regulations on the Registration of Social Organizations," introducing a comprehensive registration system in order to regain control of the intermediary sphere. Within the regulatory system, all social organizations were required to re-register with the Ministry of Civil Affairs at corresponding administrative levels.⁵⁵

Although all Chinese Constitutions guarantee citizens "freedom of association", the 1989 regulation clearly spelled out some authoritarian, state corporatist limitations. First, all unregistered social organizations would be considered illegal and be compelled to close down by the authorities. Second, each social organization applying for registration was required to be affiliated with a supervisory body (*guakao danwei*), which acted as a sponsor and was responsible for supervising the day-to-day affairs of its dependent associations. Third, only one organization (say, a labour union, a small business association, a women's federation, or a philately association) was allowed to register as the representative for each sectoral constituency within each administrative area. And fourth, the authorities that were in charge of registration, namely departments or bureaux of civil affairs at different government levels, were entitled to carry out annual reviews over the operation of social organizations.⁵⁶

In November 1998, the Chinese government promulgated a newly revised, detailed regulation. Compared with the 1989 regulation, the 1998 regulation has added more limitations on the establishment of social organizations in terms of the minimum size of membership and operation funding. Supervisory organs with which social organizations are affiliated are obligated to take part in annual reviews.⁵⁷ This essentially gives these

Jeffrey N. Wasserstrom and Liu Xinyong, "Student Associations and Mass Movements", in Davis, Kraus, Naughton, and Perry, eds., *Urban Spaces*, pp. 362–393; and Craig Calhoun, *Neither Gods Nor Emperors: Students and the Struggle for Democracy in China* (Berkeley and Los Angeles: University of California Press, 1997).

⁵⁵ For the text of the 1989 regulation, see *Law Yearbook of China, 1990* (Beijing: Zhongguo Falu Nianjianshe, 1990), pp. 253–254.

⁵⁶ See *ibid.*, Articles 26, 9, 16.

⁵⁷ For the text of the 1998 regulation, see *Renmin Ribao (People's Daily)*, 4 November 1998.

government bodies veto power and entrusts to them the duty to make sure that those social organizations affiliated with them will not go off the rails politically. There are no indications at all that the regulatory system over the intermediate sphere is moving away from the framework of authoritarian state corporatism.

Within the regulatory system, the intermediary sphere of social organizations was subject to the state's control, which was based upon both political clientalism and state corporatism. In those social arenas in which old-style mass organizations already exist, all newly established social organizations are compelled to join the establishment. Social organizations initiated from below have to establish "affiliation relationships" with state organs in order to get approvals for their registration and operation. It is likely that those activists who can mobilize their social connections (*guanxi* in Chinese) with Party-state officials have more opportunities to achieve this goal than others.⁵⁸ By the same token, the authoritarian, state corporatist regulatory system provides the Party-state with many channels, formal or informal, to intervene into internal affairs of social organizations, in particular in the selection of leadership. Actually, many key posts in some large, high-profile, and influential social organizations are held concurrently by current Party-state officials or by retired officials. In the wake of the organizational restructuring (downsizing) of the central government launched by the Zhu Rongji administration in 1998, many laid-off officials have been "assigned" jobs (that is, key posts) in social organizations.⁵⁹

As economic reforms continue to go forward in the post-Deng era, however, the Party-state is increasingly aware that the desperate dependence of social organizations upon the Party-state has resulted in certain negative consequences. First, the situation is adverse to the transformation of governmental functions and the restructuring of governmental organizations. Second, social organizations cannot fully play their role as intermediary organizations between state and society as they ought to do so. On many

⁵⁸ For a scrutiny of the importance of social connections to socio-political life in contemporary China, see Mayfair M. Yang, *Gifts, Favors, and Banquets: The Art of Social Relationships in China* (Ithaca: Cornell University Press, 1994).

⁵⁹ The author's interview with officials of the Ministry of Civil Affairs, Beijing, 20 November 1998.

occasions and in many arenas, they have been bureaucratized. And third, both officials in government organs and officers in social organization mutually utilize each other's monopolistic power and social capitals to pursue their own interests. Therefore, the current Party-state leadership, after consolidating its power basis in the post-Deng era, is carefully engaged in taking some small steps to decrease the dependence of social organizations upon the state while keeping the changes under control. In June 1998, the Central Committee of CCP and the State Council jointly issued a policy document, commanding that all government and Party officials no longer be allowed to hold concurrent leading positions in social organizations. Those who hold such positions must resign from their posts in social organizations, but they are still allowed to hold honourable positions in social organizations.⁶⁰ Of course, policy is one thing, and implementation another. It is worth observing how far the government wants to go in this direction.

The Role of the Semi-official Sector in the Expansion of the Social Space

During the expansion of the intermediary sphere of social organizations, the rise of a semi-official sector is an ascertainable phenomenon. A survey of social organizations conducted in 1990 by a group of Chinese sociologists in Xiaoshan city, Zhejiang Province, shows that social organizations of a semi-official nature accounted for the majority of the total number (see Table 5). The relatively fast increase in semi-official social organizations occurred during the initial period of the development of the social space, namely the early 1980s. Since the mid-1980s, the increase of social organizations which are non-governmental in nature has accelerated (see Table 6). There are no indications that this tendency has reversed in the 1990s. Although the current composition of social organization in this line is unknown because neither national statistics nor case studies are available, it is safe to say that the semi-official sector is still dominant in the intermediary sphere.⁶¹ The

⁶⁰ See *Legal System Daily* (*Fazhi Ribao*), 15 July 1998.

⁶¹ See Leng Mingquan, "Shehui zhuyi shichang jingji tiaojian xia de shetuan wenti" (The Problem of Social Organizations under the economic conditions of a socialist market economy), *Xin Dongfang* (*The New East*), March 1998, pp. 42–48.

vast majority of large social organizations in important sectors at local levels fall into the semi-official category.⁶²

Table 5 Social Organizations in Xiaoshan City, Zhejiang Province, in 1990

	Official	Semi-official	Non-governmental	Total
Politics	6	2	0	8
Business-related Affairs	0	20	0	20
Science & Technology	0	42	0	42
Culture & Education	0	0	9	9
Sports	0	0	9	9
Health	0	0	2	2
Social Welfare	0	1	0	1
Religions	0	0	2	2
Friendship	0	1	2	3
Public Affairs	0	3	0	3
Total	6	69	24	99

Source: Wang Ying, Zhe Xiaoye, and Sun Bingyao, *Shehui Zhongjianceng: Gaige yu Zhongguo de Shetuan Zuzhi (The Intermediary Level of Society: The Reform and China's Associational Organizations)* (Beijing: Zhongguo Fazhan chubanshe, 1993), p. 54.

Table 6 Types of Social Organizations founded during Different Periods in Xiaoshan City, Zhejiang Province

	Before 1978		1979–1983		1984–1990	
	Number	Proportion (%)	Number	Proportion (%)	Number	Proportion (%)
Official	4	100	1	6	1	1
Semi-official	0	0	17	94	52	68
Non-governmental	0	0	0	0	24	31
Total	4	100	18	100	77	100

Source: Wang, Zhe, and Sun, *The Intermediary Level of Society*, p. 77.

The demarcation lines between the three subtypes of social organizations, official, semi-official, and non-governmental, can be drawn in terms of financing, leadership selection, and personnel management. Official social organizations are incorporated into the Party-state bureaucratic hierarchy.

⁶² The author's interview with officials of the Ministry of Civil Affairs, Beijing, 20 November 1998.

They are founded by some Party-state organs, and their activities are financed by financial appropriations from the government budget. The staff of social organizations of this sort are classified as civil servants within the state personnel management system. Key posts in such organizations are held by high-ranking Party-state leaders. Actually, almost all civil associations at the national level fall into this category. In contrast, non-government social organizations have to raise funds by themselves, although some of them may have channels to receive some subsidies from the government or state organs. Leadership selections in such organizations are normally based on democratic elections. The Party-state imposes little or even no control over their personnel management. Social organizations of a semi-official nature lie in between.⁶³

There are two ways in which semi-official social organizations have boomed in the intermediary sphere. Some were originally initiated and founded by non-establishment activists, and were later incorporated into the establishment, becoming subsidiaries of some Party-state organs. But more are established directly by or spun off from Party-state organs. Within a state corporatist regulatory system, these state-initiated social organizations can easily obtain monopolistic power in representation, and sometimes get pulled into the government's policy-making process. Their close ties to the state have prompted some scholars to label them "government-organized non-governmental organizations" or "GONGOs".⁶⁴

The Variations of Social Autonomy in Different Institutional Realms

Beginning in the mid-1980s, it became *de rigueur* in China for some social organizations to describe themselves as *minjian* ("non-governmental"), although most of them could only be described as "GONGOs." The term *minjian* implies a distance from the state and suggests social autonomy. In reality, there has indeed been some pressure for autonomy.⁶⁵

⁶³ See Li Fan, *Jingqiaoqiao de Geming (A Silent Revolution)* (Brampton, Ontario, Canada: Mirror Books Ltd., 1998), pp. 264–267.

⁶⁴ Gordon White, et al., *In Search of Civil Society*, p. 112.

⁶⁵ Pearson, *China's New Business Elite*, p. 119.

The financial independence of social organizations from the state is an important indicator for social autonomy. Apart from those of an official nature, most social organizations must to some extent achieve self-financing. Major funding sources include membership fees, donations, and payments from so-called “payable services” (*youchang fuwu*). The 1989 Regulation prohibited social organizations from engaging in profit-making activities. In early 1992, the state issued a new policy, permitting all social organizations to do so. The newly promulgated 1998 regulation, however, has made a U-turn in policy direction by reconfirming the non-profit-making nature of social organizations. Nevertheless, it is still ambiguous whether social organizations are allowed to become shareholders of companies. In reality, many social organizations have their affiliated non-profit organizations or companies — a common practice, which is called “second-order affiliation” (*erji guakao*) in China, and rely upon their management fees or dividends.⁶⁶

The degree of social autonomy varies across different institutional realms. A general tendency is that in those socioeconomic realms in which the degree of political sensitiveness (measured by the probability of challenging the legitimacy of the regime) is low and institutional changes may have a directly favorable impact upon the implementation of market-oriented reforms, it is easier for social organizations to gain autonomy from the state (see Figure 3). This tendency can be best manifested by briefly examining the different degrees of social autonomy in three professional realms, namely accounting, legal services, and journalism.

As a result of economic reforms and in particular of the increasing internationalization of economic activities, Chinese accounting practice and theory have undergone a significant evolution, which comprises the reform of accounting regulations, to meet international standards, presumably the conventional standards in market economies.⁶⁷ After more than 30

⁶⁶ The author's interviews with many officers in some Beijing-based social organizations in November 1998. See also Li Fan, *Silent Revolution*, pp. 296–298.

⁶⁷ For a relatively comprehensive examination of China's accounting reform, see Yun-wei Tang, Lynne Chow, and Barry J. Cooper, *Accounting and Finance in China* (Hong Kong: Law & Tax Asia Pacific, 1996), pp. 41–74.

Figure 3. Variations of the Development of Social Autonomy in Different Institutional Realms



years of suspension, a system of certified public accountants (CPA)⁶⁸ was revived in 1980. In November 1988, the Chinese Institute of Certified Public Accountants (CICPA) was established, and local institutes have been gradually set up since then. All public accounting firms are corporate members of the CICPA. Unlike its western counterparts that are usually private organizations, the CICPA is a semi-official organization under the close supervision of the Ministry of Finance (MOF), and all its staff are governmental officers. On behalf of the MOF, the CICPA takes up the responsibilities in respect of the registration of CPAs and public accounting firms, monitoring their work and operation, organizing CPA examinations and professional training programs, and most importantly setting accounting standards. In spite of this state-corporatist arrangement, the Chinese government is taking a crucial step in separating accounting firms from the

⁶⁸ The designation CPA is used in the U.S., Canada, and Japan. In the U.K. and Australia, the designation CA (chartered accountants) is used instead.

state in the late 1990s. One of the major driving forces behind this step is that the development of a mature market economy needs an independent profession in the field of public accounting. In July 1998, the MOF commanded that the 105 accounting agents licensed to be engaged in securities and futures businesses should renounce their affiliation relations with their supervisory organs by the end of the year. According to an official plan, all the remaining agents must complete the termination of affiliation by June 2000, otherwise their licenses will be revoked.⁶⁹

The autonomy and independence generally seen in market economies as constituting legal professionalism are not distinctive features of the Chinese legal landscape. Let us take the legal profession of lawyers as an example. During the early stages of the reform era, Chinese lawyers were regarded as “legal workers of the state” (*guojia falu gongzuo zhe*), whose duties were to give legal advice to government agencies, enterprises, and public organizations.⁷⁰ To institutionalize the lawyer’s system, the state moved to establish state-owned and state-run legal advice offices (*falu guwen chu*) as non-profit organizations (*shiyeh danwei*) under the supervision of the Ministry of Justice (MOJ). In the mid-1980s, in order to boost the exchanges with their western counterparts, many legal advice offices renamed themselves as law firms. In 1986, the All-China Lawyers’ Association, a GONGO, was established.⁷¹ In 1988, law firms under either cooperative ownership or partnership appeared, and throughout the 1990s the development of this non-state sector has been quicker than that of the state-sector (see Table 7). In the late 1990s, the MOJ is making a great effort to reshape the legal profession to meet the needs of broader economic reforms. The most potentially significant change regarding Chinese lawyers is that the state has begun to encourage the transformation of state-owned and run law firms from non-profit, public organizations to private companies. Rather than privatizing state-owned law firms immediately, the Chinese authorities

⁶⁹ See *Zhongguo Caijing Bao* (China’s Financial and Economic Newspaper), 11 July 1998.

⁷⁰ See James V. Feinerman. “Law and Legal Professionalism in the People’s Republic of China”, in Merle Goldman (ed.), *China’s Intellectuals and the State: In Search of a New Relationship* (Cambridge, Mass.: The Council on East Asian Studies/Harvard University, 1987), p. 118.

⁷¹ Alford, “Tasselled Loafers for Barefoot Lawyers”, p. 31.

are adopting a gradualist, incremental approach that has been successfully imposed in many other economic realms, increasingly granting managerial autonomy to them while allowing more and more non-state-owned law firms to appear. It can be expected that once the proportion of non-state-owned law firms reaches a point, e.g., more than 50 per cent, the structural transformation of the profession will be further accelerated.

Table 7 Number of Law Firms

Year	State-owned	Non-state-owned	Total		
			Growth (%)		Growth (%)
1986	3,198	NIL	—		—
1987	3,291	NIL	—		2.91
1988	3,514	41	410.00		5.53
1989	3,583	70	70.73		5.18
1990	NA	NA	—		—
1991	3,633	73	—		—
1992	3,978	198	171.23		12.68
1993	4,624	505	155.05		22.82
1994	5,426	1,193	136.24		29.05
1995	5,622	1,625	36.21		9.49
1996	5,610	2,655	63.38		14.05
1997	5,484	2,958	11.41		2.14

Source: *Law Yearbook of China*, various years.

Journalism is one of the professions that the Party-state has never intended to liberalize. During the Mao era, the Chinese media served as the Party-state's mouthpiece for political indoctrination and mass mobilization.⁷² All journalists were seen as "Party's news workers" (*dang de xinwen gongzuozhe*). Only high-ranking Party-state organs as well as a limited number of Party-led mass organizations were allowed to publish newspapers.⁷³ In 1970, there were only 42 newspapers and 21 magazines regularly published

⁷² See Alan P. L. Liu, *Communication and National Integration in Communist China* (Berkeley: University of California Press, 1971); and Frederick T. C. Yu, *Mass Persuasion in Communist China* (New York: Frederick A. Praeger, 1964).

⁷³ Yuezhi Zhao, *Media, Market, and Democracy in China: Between the Party Line and the Bottom Line* (Urbana and Chicago: University of Illinois Press, 1998), pp. 16–17.

in the whole country.⁷⁴ Since 1978, dramatic changes have taken place in the Chinese media system. Among the most evident changes is a move towards self-liberalization, which is embodied in: (1) the pluralization of permissible topics and the freedom with which they were treated; (2) increased criticisms of the government's policies and practices by the press; (3) the emergence of semiofficial and/or non-official publications, and (4) the emergence of a resilient, well-integrated, and market-based network of publishing houses, privately operated printing facilities, distributors, and retailers.⁷⁵ In response to the marketization of the mass media, since 1992 the authorities have further set out to liberalize Party control over publications that did not touch on ideological and political matters. For instance, greater autonomy has been granted to four categories of newspapers: (1) afternoon and evening publications; (2) news digests; (3) newspapers specializing in culture and lifestyle; and (4) economic and business journals.⁷⁶ These changes, however, are fragmented and not institutionalized. The Party-state's control over the media system still lies at the authoritarian, or even semi-totalitarian extreme. The All-China Association of Journalists, a GONGO established in 1954, plays the role of transmission belt between journalists and the state.

4. CONCLUDING REMARKS: TOWARDS A CORPORATIST DEVELOPMENT OF CIVIL SOCIETY IN CHINA?

Let us return to the question we asked above in the first section: Is a pluralistic civil society in the making in the post-Deng China?

The answer is No. There are no evident indications that in the post-Deng era, China is moving towards the development of a civil society in a liberal, pluralistic direction. On the one hand, the Party-state never intends to relax its vigilance against any non-establishment social activities, in particular politically oriented ones, and does all it can to prevent any

⁷⁴ See *China Statistical Yearbooks*, 1997, p. 705.

⁷⁵ Pei, *From Reform to Revolution*, pp. 150–151.

⁷⁶ Chan, "Commercialization without Independence", p. 25.4.

existing non-establishment organizations and individuals from menacing the communist rule. It imposes tough control over society in the authoritarian manner of state corporatism. Social organizations are limited in number, usually enjoy official or semi-official status, and are organized within a number of nationwide hierarchical systems. Their leadership selection is largely controlled by supervisory state organizational units. Many social organizations cannot survive without receiving subsidies from the state budget. By and large, Chinese society is not a civil society, but a "state-led society."

On the other hand, although there are some indications that social autonomy is emerging and developing, the dependence of society upon the state is still dominant. Following the routinely operating rules of the game, namely political clientelism, founders and/or activists of social organizations are almost never bored with seeking patron-client ties or connections with some high ranking Party-state officials in order to boost their own interests. Actually, the Party-state has found that in the economic arena the situation of society exploiting the state is harmful to the progress of market-oriented reforms. It is forcing social agents to de-link the affiliation ties with their sponsoring state organs. In general, like the political economy in which it nests, the Chinese public sphere is at best "half-reformed." The crucial flaw in the civil society analogy, as Lowell Dittmer points out, is "the continuing dependence of the Chinese public sphere on leadership patronage."⁷⁷

Nevertheless, social autonomy is booming, no matter whether it is promoted or even imposed by the state or spontaneously initiated by society. In particular in those realms influencing the process of market reforms or being politically irrelevant, many social organizations are becoming increasingly independent agents acting on behalf of their members rather than being used as a means of state control. The emergence and increasing awareness of social group interests is more evident at local levels than at the central level.

Despite the development of social autonomy, it is unlikely that a civil society in its liberal, pluralistic version will take shape in China in the near

⁷⁷ Lowell Dittmer, "The Politics of Publicity in Reform China", in Lee, *China's Media, Media's China*, p. 106.

future. The unique course through which the intermediary sphere of social organizations expands itself in China prompts us to consider the possibility of a corporatist development of civil society, compared with the pluralist developmental model that has been nourished in some Western and East-Central European countries.⁷⁸ One of most characteristic features of the corporatist development of civil society is that social organizations in the semi-official sector, or GONGOs, play an important role in transforming state-society relationship during the process of liberal, democratic transition (see Figure 4).

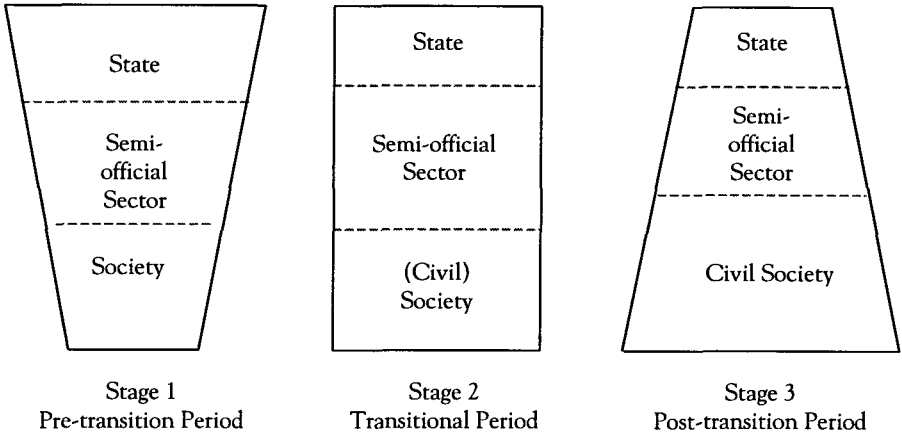
Within the framework of corporatism, it is more relevant to discuss whether a Chinese civil society will develop in the direction of societal corporatism than in the direction of pluralism. The likeliness of development in the former way would be clearer if we put the Chinese case within the East Asian context. In many non-communist East Asian countries, the basic pattern of state-society relations is corporatist, and the major form of NGOs in East Asian countries is GONGOs.⁷⁹ The predominant form of corporatism in East Asia was state corporatism up until very recently when the wave of world-wide democratization has swept this region. The transition from “state” to “societal” corporatism is underway, and the development of civil society has made considerable progress in the East Asian-Pacific region.⁸⁰ Nevertheless, the retreat of the state from social life has not yet formed a dominant trend.

⁷⁸ See Jurgen Habermas, *The Structural Transformation of the Public Sphere* (Cambridge, M.A.: The MIT Press, 1989); Z. A. Pelczynski, “Solidarity and ‘The Rebirth of Civil Society’ in Poland, 1976–81”, in Keane, ed., *Civil Society and the State*, pp. 361–380; Skilling, *Samizdat and an Independent Society*; and Linz and Stephan, *Problems of Democratic Transition and Consolidation*, pp. 245–274, 300–310, 346–365.

⁷⁹ For more details about the dominance of GONGOs in civil society in Asia, see Rajni Kothari, “NGOs, the State and World Capitalism”, *Social Action*, Vol. 36, No. 4 (October–December 1986), pp. 359–377; David L. Brown and David C. Korten, *The Role of Voluntary Organizations in Development* (Boston: Institute for Development Research, 1989); and Noeleen Heyzer, James V. Riker, and Antonio B. Quizon, eds., *Government-NGO Relations in Asia: Prospects and Challenges for People-centred Development* (New York: St. Martin’s Press, 1995), *passim*.

⁸⁰ See, e.g., Anek Laothamatas, *Business Associations and the New Political Economy of Thailand: From Bureaucratic Polity to Liberal Corporatism* (Boulder: Westview, 1992); Isagani R. Serrano,

Figure 4. Role of the Semi-official Sector in the Changing Relationship between State and Society during the Liberal, Democratic Transition



To the extent that the Chinese state continues to loosen up political and social control, it is far more likely that the relationship between the state and society will involve such incremental shifts into societal corporatism rather than the development of any form of liberal, pluralist civil society.⁸¹ One of the signs of the starting of this corporatist development of civil society is the termination of those authoritarian limitations on the registration of social organizations, in particular the clientelistic-colored stipulation about the affiliation relations between social organizations and their supervisory organs in the state sector. Democratic state corporatism may appear as a pattern of the state-society relationship during a long, tortuous transitional period of the corporatistic development of civil society.

Civil Society in the Asia-Pacific Region (Washington, D.C.: World Alliance for Citizen Participation, 1994); and Tadashi Yamamoto, ed., *Emerging Civil Society in the Asia-Pacific Community* (Singapore: Institute of Southeast Asian Studies, 1995).

⁸¹ See Unger and Chan, "Corporatism in China", pp. 95–129.

CHAPTER 4

The Religio-Political Significance of Falun Gong and Jiang Zemin's Legacy of Social Stability



WILLIAM T. LIU

This chapter deals with two issues: religious beliefs and social stability amidst a strong and sustained economic performance in the post Deng *nanxun* period. While neither by itself is particularly controversial, by combining both topics in one paper may provoke discussions that so far have not been widely recognized. Religion in China is an antithesis of dialectic materialism; it is therefore understandable that the co-existence between religious institutions and a Marxist ideology is bound to create tension. But the sensitivity of politics in religion, and religion in politics, has always been keen in any society: in Christian countries such as Northern Ireland, or in non-Christian and traditional and Islamic societies. Problems related to China's policy in Tibet, for example, is both religious in nature and ethnic politics in essence. But in Xinjiang, ethnicity poses a greater problem than religion and both ethnicity and religion pose political problems for the government in Beijing at present, in the historical past, and will always be a challenge in the future. The Party's early strategy was to destroy organized religion by shifting loyalty and faith of believers to the cause of the Communist Party, and its effort to establish new institutions in the imagery of a socialist utopia. After the Reform and the declining significance

of Communist ideology, the new political milieu obviously demands a more flexible policy. The Party and the state will have to control religion by appealing to the faithful and the general public to a different political agenda in the wake of increased skepticism towards the Party. Against this goal, the Party's political agenda of the post-Reform era centers on the market economy-driven political power in the international arena, the emphasis on nationalism,¹ and the priority of social stability.²

The aim of this essay is to analyze the rise and crackdown of *Falun Gong* as it was labeled a religious cult. By doing so the reader is led to examine one specific case that may shed some light on government's policy of all religious practices. It is quite obvious that there is no one single policy in dealing with all officially recognized five religions, for the historical and social milieu of any one religion is different from the next. One thing is sure: religion is still considered incompatible with socialist agnosticism; religious leaders are invariably viewed as being hostile to the power of the Party, and loosening control of religious expansion will, according to the views of present leadership, threaten social stability. More exposition on this point will follow.

THE RISE OF RELIGIOUS BELIEF UNDER COMMUNISM

It may be a surprise to many that, after one-half of a century of the establishment of a socialist society in China, there is the continuing existence, and in some places explosive growth, of religion. Marxist theory posited that religious belief would wither away when inequalities and "crushing system of exploitation" of feudalism and capitalism are eliminated.

But the fact is, despite the elimination of former class inequalities through years of class struggle, religion thrives under socialism. The combined number of Buddhists and Taoists given by China's official statistics was 68 million

¹ See Yongnian Zheng, *Discovering Chinese Nationalism in China*, Cambridge: Cambridge University Press, 1999.

² It has been generally acknowledged that Mao Zedong was acclaimed the man who succeeded in the Chinese Revolution. Deng Xiaoping was known for his economic reform; and the third generation Party leader Jiang Zeming's legacy is on social stability.

in 1997, and those who followed Islam was estimated at 18 million.³ Protestants grew from 700,000 members in 1949 to an estimated 5 million in 1989; and doubled again in the next ten years towards the end of the millennium.⁴ The estimated Catholics in a combined figure of both the national Catholic church supported by the state, and the underground church that recognizes Papacy in Rome, is said to equal that of the Protestants, despite the fact that Christianity⁵ is viewed as a foreign religion, and associated with the colonial control of China prior to the revolution. A more recent estimate gave the total Christian faithful at 30 million.⁶ These figures, however they were obtained and reported, are consistent with the figure given in a recent article published in the prestigious U.S. newspaper *The Washington Post* quoting Premier Zhu Rongji as having said on February 11 (Tuesday) that China has more than 100 million believers of different faiths.⁷

Community surveys made in different provinces acknowledged the rapid growth of religion, as evidenced by both the number of churches built and the number of church-goers. The plain facts of the unexpected data against Marxist theory on religion, necessitated indigenous Chinese researchers to give two factors that explain the continued existence and rapid growth of religious believers in China: sociological and psychological.⁸ Sociological explanation includes such conditions as the continuing backwardness, illiteracy and inferior education, poor medical care, and the lack of or inadequate cultural and recreational activities, especially in rural areas. In

³ *White Paper on the Freedom of Religious Belief in China*, Beijing, 1997.

⁴ *Ibid.*

⁵ Both Catholicism and Protestantism are put under the generic category of Christianity. The Chinese official statistics on Catholic faithful is limited to the officially recognized National Catholic Church whose allegiance is to the Party, rather than Papacy in Rome. The underground Catholic Church has been given no official statistics, though their existence is well recognized by both the central and local Party leadership. An estimate of between 5 to 6 million is obtained from fairly reliable sources in Hong Kong's Archdiocese.

⁶ *The Washington Post*, January 16, 2000.

⁷ *The Washington Post*, January 16, 2000, an article by John Leicester, Associated Press writer.

⁸ See Luo Zhufeng (ed.) "Religion Under Socialism in China" (in Chinese), trans. by D.E. MacInnis and Zheng Xi'an. English edition is published by M.E. Sharpe, Inc., 1991.

urban areas, the same growth pattern was attributed to the boredom among young people and depression among the old and women. Also attributed to are emotional suffering and despair due to “leftist errors, false accusations, persecutions and factional struggle”⁹ One report showed that over one-half of the eight hundred Buddhist monks and nuns in one country in Fujian Province who embraced religion “as a result of disillusionment and world-weariness brought on by the Cultural Revolution”.¹⁰

The psychological reason was not well articulated; but the authors denied that it means the need for spiritual fulfillment. They argued that “religious belief is a kind of psychological activity” and that “a person’s psychology and will are products of the brain”.¹¹ This is almost a verbatim quote from Lenin.¹² The authors of the report, in accordance with the orthodox line, quickly added:

“as highly developed creature, man has a variety of needs. Besides basic physical needs, man has higher-level spiritual needs... Since food and clothing alone do not provide a satisfying life, we must intensify the building of a spiritual civilization at the same time as we build a socialist material civilization. The diverse needs of the people can only be satisfied with rich spiritual life.”¹³

⁹ Though not mentioned explicitly, presumably it means the Gang of Four during the Cultural Revolution.

¹⁰ The study was conducted by indigenous social scientists in a report published by the Shanghai Academy of Social Sciences in 1987, names of the author(s) were not given. The work was a response to the designation of religion as one of 12 “key topics” for special study in the Sixth Five-Year Plan for Economic and Social Development after the Economic Reform of Deng Xiaoping. The Fujian Study of Buddhism can be found in the Appendix (pp. 183–191) of Luo Zhufeng (ed.) *Religion Under Socialism in China* (in Chinese), translated into English by D.E. MacInnis and Zheng Xi’an, Armonk, N.Y.: M.E. Sharpe, Inc., 1991

¹¹ Chapter 4, “Reasons for Persistence of Religion”, in Luo Zhufeng (ed.) *op. cit.* English trans., p. 101.

¹² In Lenin’s words: “Mental things, ideology, etc. are the highest material product, functions of the particularly complex material thing called the human brain.” and “every ideological image ... is always limited objectively by historical conditions and subjectively by...spiritual conditions of the person...”, quoted from *Complete Works of Lenin* (Chinese edition), vol. 14: 238.

¹³ Donald E. Macinnis, in Translator’s Introduction of Luo, *op. cit.*, p. xvii.

Here the use of spiritual needs that does not include the transcendental dimension. But to say that the spiritual needs is on a “higher level” seemed to contradict the material base of psychological needs. If reading correctly, the authors’ usage of the word “spiritual” is not what Lenin referred to as mental things.

A similar explanation was given in a report that was based on a survey of Buddhist religion in Anhui Province. The authors (names were not given) put it this way:

“All people are pragmatic, and peasants even more so. Peasants can begin to abandon religion only when the pace of socialist modernization has greatly quickened, when their material and cultural life has risen to a sufficient level, when the knowledge of science has become universal, and when they can easily free themselves from ills and pains of their real lives. Only when their spirit is fulfilled can they consciously place their hope in socialism.”¹⁴

Semantics aside, it is certain that members of the Shanghai Academy of Social Science that collected and published a series of provincial and county level studies on religion and religious lives in China had to acquiesce to the fact that in one half of a century, the Party’s efforts to limit the influence of religion had not been successful. In defending the Marxist view, these unknown writers utilized the Aristotelian doctrine of “obstacles,” which suggests that the process of eliminating or weaken religious beliefs in the socialist society is merely delayed. In their words:

“Traditional religious influences have a long history in China and will continue for a long time, particularly where they are combined with the culture and customs of (ethnic) nationalities. As we implement the open-door policy, overseas religious influences will inevitably increase.”

¹⁴ See Appendix Nine, no author, “The Rich Soil on Which Christianity Grows in an Anhui County”, in Luo Zhufeng (ed.) *op. cit.*, pp. 232–24, English translation.

However, the argument appeared to be weak, as the authors continued:

“The reasons for religious belief can be summed up under two headings: objective social reasons and subjective mental or psychological reasons. The process that gives rise to religious belief comes from the mutual interaction of objective and subjective elements; these are interdependent, and neither can be slighted... In today’s society the emotional needs and the levels of understanding of the people cannot be standardized, so these will continue at diverse levels, along with the psychological reasons for religion, for a long time to come.”

Marxist view further asserts that only Communist scientism can relieve people of their dependence on religion. At this time, social scientists on religious beliefs argued that only a small minority of China’s one billion people have a progressive scientific world outlook. Quoting the Anhui Survey, the authors put it this way:

“All people are pragmatic, and peasants even more so. Peasants can begin to abandon religion only when the pace of socialist modernization has greatly quickened, when their material and cultural life has risen to a sufficient level, when the knowledge of science has become universal, and when they can easily free themselves from ills and pains of their real lives. Only when their spirit is fulfilled can they consciously place their hope in socialism.”¹⁵

Writers of these study reports obviously reflected the orthodox view of Marxists when it comes to evaluate the functions of religion in a society. Such views serve as an important framework upon evaluating the basis for

¹⁵ See Appendix Nine, no author, “The Rich Soil on Which Christianity Grows in an Anhui County”, in Luo Zhufeng (ed.) *Religion Under Socialism in China* (in Chinese), translated into English by D.E. MacInnis and Zheng Xi’an, Armonk, N.Y.: M.E. Sharpe, Inc. 1991; pp. 232–24, English translation.

the government's argument against anti-Falun Gong¹⁶ policy that eventually played itself out in July of 1999. This point shall be discussed later in this chapter. For the present, a more detailed exposition of the significance of politics in religious control of Falun Gong is warranted.

HOW DID THE QIGONG EXERCISE BECAME A POLITICAL ISSUE?

A late April heat wave enveloped Beijing, and young people milled about in shorts or sleeveless summer frocks. In front of *Zhongnanhai*, the residence of top Party and State leaders, reportedly ten thousand followers of a newly established and loosely organized followers of Falun Gong sat motionless early that morning on April 25th. Inside the huge red gates to the compound, life went on as usual. It was just another day in the capitol city of the world's most populous country. Few security guards suspected that the seemingly harmless protest of a quiet and well-disciplined *qigong* group could compete for a space and a headline on the front-page news around the world.¹⁷ Bureaucrats whose jobs were to monitor collective activities in the capitol city were in their final preparation stage to celebrate the nation's fiftieth anniversary. They were reportedly caught by surprise. Was this (quiet sit-in) going to lead to a second innocent prelude to another June Fourth Incident in Beijing?

The collective action, or *inaction*, was a source of intense irritation to leaders of the Party, who were already on edge because 1999 is a busy year for the Party. A grand celebration of the 50th Anniversary of the founding of the People's Republic; the tenth anniversary of the yet unsettled historical judgment by the Party of the Tiananmen Square, and the first problem on the horizon about the accusation of Beijing's interference on the judicial

¹⁶ Falun Gong is a mix of ancient Chinese qigong, or breathing exercise, coupled with Buddhist theology and Taoist metaphysics. In July 1999, it was banned in China as an evil religious cult. More detailed description of Falun Gong is given in the text of the paper.

¹⁷ Known to the author at the time of this writing, the "sit-in" was reported in *The New York Times*, *The Washington Post*, *The Economist*, *International Herald Tribune*, *Los Angeles Times*, *Far Eastern Economic Review*, *Wall Street Journal*, *South China Morning Post*, and CNN had hourly taped interviews with Master Li around the clock.

decision granting mainland children of Hong Kong parents the right to abode in the Special Administration Region. The thorny issue was said as the first and ultimate test of Beijing's promise to the world that Hong Kong's autonomy will not be changed in fifty years.¹⁸ There was also the problem of the Asian financial crisis that had influenced both China and Hong Kong. At home, hundreds upon thousands of unemployed and *xia gang* (paid laid-off) families could be a time bomb that could undermine the Party's plan to have the desired "stability" at the home front.

The spontaneous gathering of an estimated ten thousand people in front of *Zhongnanhai* was said to be the biggest crowd since the Tiananmen incident that took place ten years ago. No one knew this was coming — neither the Ministry of Public Security, nor the Mayor's Office. Some people¹⁹ believed that a small number of the nearby police force did know about the influx of people that morning and had directed the large crowd, who came in small groups from all over China, to come to the front of the square through side streets, to avoid the traffic congestion at the morning rush hour. Just who were these people and what were they up to? What was even more puzzling to the authority and the police was that no one carried a placard; no protest message in sight, no symbols of unity displayed; and no one spoke out.

The only grievance they had was to ask a government publication editor to recant an article that described *Falun Gong* (FLG in future reference) as a religious cult. Was this a public protest against the government itself, or the Party leadership? Was it a case of civil disobedience in the form of a mass gathering without license or permission? When a large caravan of

¹⁸ The case involved Hong Kong's high court's decision to allow residents of Hong Kong to bring their natural children to Hong Kong from mainland as legitimate Hong Kong residents. This decision was viewed by Beijing as the potential source of trouble because of the number is huge and would presumably harm the social stability of Hong Kong. The People's Congress that voted to overturn the high court's decision echoed Beijing's views. Critics of Beijing's action as an interference of Hong Kong's judicial system that was guaranteed of no change for 50 years. The Chief Justice later endorsed the final decision as in accord with the Basic Laws, the mini-Constitution of Hong Kong.

¹⁹ Based on interviews with some sit-in followers who claimed that they had considerable cooperation that morning from security people who oriented them to the front via side streets to avoid traffic jam.

trucks was called in by the security guards of *Zhongnanhai* to haul followers away, it was reported that there were no signs of resistance, and followers left without a single scrap of paper on the ground.

Falun Gong is Seen as a Threat to Social Stability

The report of the *Zhongnanhai* sit-in became a major source of headaches for the leadership of the Party. It is said to be a wake-up call,²⁰ and according to the report in the *Far Eastern Economic Review*, “the incident raised ... questions about the... early warning systems the party relies on to head off public protests”. Even though the entire episode was reported to be a spontaneous gathering, with only a few hours or days of ‘the word of the mouth’ communication about a planned sit-in demonstration, the Party’s concern is the well-proven readiness of FLG followers to act collectively to protect their interests at such a numerical strength. State Chairman and Party Secretary Jiang Zemin allegedly had warned top leadership of the Politburo, the People’s Liberation Army, and the People’s Congress that the “religious cult”, had “international background” which included “hostile foreign forces who wanted to see a peaceful evolution to end the communist rule in China”.²¹ Publicly, however, the caution he took not to further alienate the group had resulted in extreme constraint silence. In a careful and low-key response to the incidence two days after the sit-in, the Xinhua News Agency dispatched, published in major Chinese newspapers the next day on April 27, used the word “gathering” rather than “demonstration”. Over the next two months, numerous media declared, in news reporting format, that the authorities never prohibited any health fitness activities, and that the five major religions continued to have flourished in China. At the same time, warning message was sent out that “those who jeopardize social stability under the pretext of practicing any *qigong* shall be dealt with

²⁰ As reported in *Far Eastern Economic Review*, by Susan V. Lawrence, May 13, 1999, p. 40.

²¹ *Hong Kong Standard* “Tigernet” June 29, 1999. Jiang Zemin’s warning turned out to be the accusation made by the government that was later reported in the media at the time of the crackdown a month later.

according to law.”²² Some observers believe that the “wait-and-see” attitude of the Party leaders is a tactical response aimed at flushing out the group’s leaders in a situation where no organizational structure is apparent for which actions taken on the part of the authorities could possibly be effective. Though not publicly banning FLG across the country until 21 July 1999,²³ the top leadership has reached a consensus that it “was not a normal phenomenon.” Party members, officers of the People’s Liberation Army, and government employees were asked not to continue to participate, or to join the *qigong* group.²⁴ In spite of the warning, followers are far from running scared, nor retreating from broad face attack by different groups in their publications and to an organized anti-FLG website group. Banners identifying group *qigong* exercises at parks in Beijing in the morning seemed to have increased, and reports of local protests continue to come across the wire. On July 19, for example, it was reported that another 5,000 followers gathered in the city of Weifang, Shangdong Province to protest a local magazine article that called FLG a pseudo-science. The next day Associated Press in the United States reported the first nationwide crackdown of the group and the government arrested at least 70 members. Though Beijing police refused to verify the story on that day, it seemed that the inevitable crack down by the authority would become a reality, as it did on July 21st when more than 1,000 people were arrested.²⁵ Arrests of practicing site-leaders at their homes at night continued. By the year end, reports in newspapers in the US estimated that altogether, more than 5,000 FLG followers were arrested, including three U.S. Resident biomedical researchers at the famed Scripps Institute in La Jolla, California, who were officially being reported as being “administratively detained” by Shenzhen police while they simply crossed the border from Hong Kong. They were

²² *China Daily*, June 29, 1999.

²³ On July 19, Associated Press reported that 70 followers were arrested. On 21 July, 1999 several TV stations in Hong Kong and Singapore reported mass arrests of more than 1,000 followers in several cities.

²⁴ *Hong Kong Standard* “Tigernet”, *op. cit.*

²⁵ As the writing of this paper goes on, the latest news of arrests necessitated revisions of the text repeatedly. By the time this paper is ready for publication, more development is anticipated.

subsequently released after 15 days, an incident widely reported in both Hong Kong and the western media.

The Mystery of Falun Gong: Just Exactly What Is It?

Authorities in Beijing and Zhongnanhai charged that *Falun Gong*, without due process, is nothing but a religious cult; and its leader, Li Hongzhi, is a lowly educated scoundrel.²⁶ The Chinese word for cult was *xie jiao*, meaning an illegitimate offshoot of an established religion. The simultaneous crackdown that took place in several cities after the ban of FLG was not the first time such arrests were reported. In June 1999, before the ban, media reported several arrests after weeks of mounting pressure on the group since the April 25 sit-in. A French news agency (Agence France Presse) reported an arrest of a follower in Dalian, a major seaport city in China's northeastern province, Yu Xiaode, while he was photocopying materials. Changchun and Tianjin are two other cities that had similar arrests. None of the arrests, in June or July, however, could be verified.²⁷ These arrests in fact set in opposition to Beijing a group with a membership between 20 million and 60 million nationwide. Some estimated the number at 100 million worldwide. Sources also confirmed that followers include high-ranking Party cadres, professionals and intellectuals, research scientists, members of the People Liberation Army and public security officers.²⁸ Even taking the lowest figure of estimate at 20 million, it is truly an amazing sociological phenomenon of a collective behavior in a socialist regime.

²⁶ As reported in the *People's Daily* website page, July 7, 1999, with e-mail address: fflg@163.net

²⁷ *Wall Street Journal* (USA Edition), June 5, 1999 said that the report was not verified. The Associated Press on 21 July said that the Beijing police would not wish to comment on the accuracy of the report of arrests in Beijing. All such reports traced the source of information to an unnamed human rights watch group in Hong Kong. The author made some efforts to obtain independent information about arrests, only to be told that the number of arrests was much larger than 70, but the unidentified informant declined to give either the source of information, nor the exact figure beyond the number 70 on the AP website.

²⁸ In late 1999, several "cult" leaders were convicted and harshly sentenced to 3 to 7 years in prison and hard labor, including high ranking Party members.

Followers include Party Cadres, PLA Officers, Professionals and Intellectuals

Though most of the followers are retired and elderly, a considerable number of followers are active high ranking Party cadres, members of the Liberation Army, research scientists, teachers and professional and technical people, as well as a large number of overseas Chinese students and scientists. The large numbers of younger, better educated, and people at the higher end of the occupational ladder raise additional questions about the apparent attraction of FLG across the entire spectrum of the population that could not easily be explained. Given the fact that: (1) *Falun Gong* began in 1992 at a time other *qigong* groups have already long been established; (2) founder of FLG, Li Hongzhi is neither a persuasive speaker, nor a charismatic *persona* seemed to made a remarkable achievement if FLG is indeed a religious group; and (3) there seemed to be little evidence that it is a group with a definite political agenda until the sit-in in 1999, why then has the phenomenon been regarded as the greatest threat to the stability of China's political and social order, and a threat to the Communist Party?

THE ORIGIN AND NATURE OF FALUN GONG

Falun Gong began in 1992 by a minor government office worker, Li Hongzi. Li was said to have handled farm products in northern Jilin Province. His public appearance on television did not impress viewers that he is a man of great charisma. Instead of being an arm-waving emotional speaker like most cult leaders in the past, or election style politicians, Li is soft-spoken and his style of using peasant-like vernacular language of northern China made him a person with whom you can have close personal relations. He is said to have a virtuous character whose only message to people is to purify both the body and the mind of the followers.

Falun Gong is also known as *Falun Dafa* which translates literally as *law wheel great way* or Dharma wheel discipline. It is a mix of Buddhist mysticism, Taoist metaphysics, and slow-motion *qigong* exercise with lotus sitting meditation that advocates traditional moral values and pacifism. The *qigong* exercise is so simple with only five sections that one can learn

in one hour,²⁹ whereas other types of *qigong*, *taiqi* and sword exercises or *wujian* range anywhere from 22 to 34 sections of rather complex movements. Demographic characteristics of followers have been described as middle-aged or older, and predominately unemployed and retired workers. Four years after it was first formed, the group had grown so large that allegedly the government pressured Li to leave China. In 1998 he first moved to New York and later to Houston where he is a permanent U.S. resident.

Overseas reactions from both followers and Li Hongzhi himself denied that believers were organized with ulterior motives, not least with political overtone. Li's own statements, apparently in response to Chinese website accusations, had repeatedly emphasized the character cultivation and health promotion aspects of Falun Gong.³⁰ But ever since the April 25 "sit-in" in front of *Zhongnanhai*, an avalanche of letters and testimonials appeared on a newly created website by an organization called the World Anti Falung Gong Alliance, or *si jie fan falun lian meng*, that impresses any reader as being a well organized and all out campaign of mass mobilization to discredit the group and its leader. Also published in the Alliance's website are several editorials taken verbatim from the *People's Daily*, a state-run newspaper, with both national and international editions. The newspaper had published a number of investigatory reports that labeled FLG a "money-grabbing swindling scheme". Other reports posted on the Alliance's website showed that both the language and the rhetoric are similar to those which appeared in the "big word bulletin" (*da zhi bao*) during the Cultural Revolution.³¹

²⁹ For description of the five stages, see the Appendix.

³⁰ In a series of statements, Li Hongzhi reiterated the nature of Falun Gong and the intended outcome for individual character education and health promotion. The most comprehensive report of such statements are embodied in a transcription of his interview with Chinese media in Sydney, Australia, specifically with reporters from Australia News Daily, Independence Express, Asia Newsweek, China Television, and others on May 2, 1999 at the International Convention Centre in Sydney. The transcript is available on the website.

³¹ There is neither an indication of what are the auspices of the Alliance, (e.g., government or NGO), nor a published address and the CEO of the organization. These letters and testimonials can be divided to several categories: investigatory reports to discredit the claims of the FLG followers; background checks of the founder and Master, Li Hongzhi; scientific discrediting of Li's analysis of pre-historical civilization and the geophysics of the universe;

The website of the Alliance also published an on-going and cumulative counts of responses of a public opinion poll based on readers, initiatives of write-in. On 14 July, for example, the cumulative responses showed 60% of people who wrote in thought that *Falun Gong* is a cult, or *xie jiao*; another 14% thought it is a pseudo-science; and only 2% thought that it is a form of exercise.³²

Is Falun Gong a Religious Cult Group?

To qualify *Falun Gong* as *xie jiao*, or a cult, it has to meet the criterion vis-à-vis long established definition that a cult is an offshoot of an already established religion. It is therefore necessary to first discuss the nature and definition of religion. Ordinarily, religion is associated with a set of belief system. But not every belief system is associated with religion. In every society, for example, there are scattered beliefs and practices, be they individual or local, which are not institutionalized or integrated into a definite system. In other word, not all beliefs and practices, no matter how they may invoke supra-human influence, should be labeled as religious.³³

theological disputes of Li's analysis of Buddhism; and news reports of the disastrous misfortunes of believers such as mental illness, suicide, and fatal diseases. Since these documents were categorized by each of the above types, a reader is led to believe that there is a concerted and well-organized campaign against FLG from inside mainland China.

³² See Alliance's Website: www.netbug.net.cn/~falungong

³³ An obvious belief that distinguishes religion from non-religious belief is the faith in god or deity, monotheistic or polytheistic. Some people argued, however, that the presence of deity might not be necessary in religion. Proponents of this view³³ pointed out that if god were really the critical focus where all religious phenomena converge, it would still need a different definition of god for the idea of god to serve as a definition of religion. But not all religion has the idea of god. One example is Buddhism, whose teachings contained four noble truths, and the existence of deity is not mentioned. The holy man delivers himself from suffering. He retires within *himself* and meditates. Like Buddhism, another Indian religion, Jainism, presents the same characteristics. Neither Buddhism nor Jainism admits a Creator. The indifference to the divine in both of these religions that originated in India is apparently related to Brahmanism, according to Oldenberg. Brahmanic metaphysics consisted of an explanation of the universe, which is both materialistic and atheistic. See Hermann Oldenberg, *Buddha, Sein Leben, Sein Lebre, Sein Gemeinde*, which was published posthumously in 1921. The English translation was by W. Hoey under the title *Budda: His Life, His Doctrine, His Order*, Delhi: Idological Book House, 1971, from which I drew the conclusion.

A system of core beliefs in religion is ordinarily identified as “dogma”.³⁴ In addition to a system of beliefs, two other elements are deemed important in the definition of religion, namely; a system of symbolic and public ceremonial rites that are associated with divine (supernatural) power; and a social organization which is normally called the denominational congregation, with physical places to worship in a church, a synagogue, a temple, or a mosque. The principle of grouping and unification of beliefs and rituals calls for a system of roles and status in well-established religious bodies. The rule of organization, which shows differentiations of functions and hierarchical arrangement of individuals within the system, is the very essence of religious organizations.³⁵

The master teacher of FLG explicitly denied that *Falun Gong* is a religion in all his known public writings and speeches.³⁶ If evaluated against a long

³⁴ The belief system brings about certain more or less permanent norms that are associated with *value*. When group values are brought to operate at a level associated with the divine, it can be viewed as sacred. But the distinction between sacred and profane is very often independent of the idea of god, as much as it is also frequently associated with the concept of god.³⁴ The idea cannot then have been the original point of departure from which this distinction is made; it is formulated later on to introduce a well-articulated organization of sacred concepts. In fact, each god becomes a sort of center around which gravitated a certain aspects of the religious world. The different spheres of divine influence progressively to form a configuration of hierarchically structured relationships. In this way the notion of divinity plays a role in the religious life of people, somewhat analogous to that of the idea of the ego in the psychic life of the individual. See Sigmund Freud, *Group Psychology and the Analysis of Ego*, London: Hogarth Press, 1921.

³⁵ For example, there is the existence of a sharply graded hierarchy composed of followers and a well-organized elite leadership. It is only to this elect that the secrets were revealed. In mainstream religious groups the “truth” is not treated as magic to be entrusted only to the elect. But gradations develop within the hierarchy itself whose very development is inherent in a theology that treats “knowledge” as reserved only to a few. Well-established religions almost always assign status along gender roles. Women have long been passed over for cleric privileges. Age seemed always been associated with knowledge and sagacious qualities, and thus related to the hierarchy of status as well.

³⁶ Li Hongzhi has given lectures on FLG in Australia, Southeast Asia, North America and Europe. Altogether, nine lectures each lasted two to three hours were videotaped and translated into half a dozen languages. These lectures, given in vernacular rather than scholarly fashion in both style and structure, were also edited and published in book forms that appeared in no less than six volumes to date, published privately and widely distributed among followers for the cost of the publication. Li Hongzhi made numerous references to

line of sociological writings on religion, his claim that FLG is not a religion does have merits, and therefore is valid. But to ascertain as to whether FLG is a socio-religious phenomenon is not a simple exercise of classification. Given the available information about FLG, however, it is clearly not an organized religious body.³⁷

The argument should end here. However, there is the opposite view which asserts that Li Hongzhi drew heavily his ideas about cultivation of mind and body from both Taoism and Buddhism. In other words, even though the total configuration of FLG may not be technically defined as a religion, or a religious cult, it has embodied religious beliefs of both Buddhism and Taoism.³⁸ This line of argument continues to say that if FLG is not the kind of religion that Buddhism is, the close resemblance of Buddhist beliefs makes it *ipso facto* an offshoot of Buddhism.

The most concrete message seems to lie in the statement that FLG's aim is to develop a trilogy of virtues: *Truthfulness, Benevolence, and Forbearance*, which owes its origin in Buddhism. Li Hongzhi's writings also touched upon his interpretation of Buddhism and what he called Buddhist Law.³⁹

In addition, there is a clear evidence that FLG is linked directly to Buddhism or *fu jiao* as a religion. The evidence is the use of *Falun Dafa's*

Buddhism in his lectures. Though obviously Buddhism is the source for his explanations of *Falun Dafa*, he also emphatically distanced his views of *fa lun* from Buddhism that is a religion, and denies that *fa lun* theory is a religious doctrine. On the other hand, he admits that *Falun Dafa* as a system of beliefs is closely akin to Buddha Fa, or the ways of Buddha. Buddha Fa is not the same as Buddhism. The former is something like a system of moral philosophy. What he sees in Buddha Fa is that the law of Buddha is the law of the universe, which he believed of having created Buddhas. He denies that Buddha Sakyamuni created the Buddha Fa. Rather, Buddha Sakyamuni was "enlightened" by the Buddha Fa, that existed long before Buddha Sakyamuni.

³⁷ Even though *Falun Gong* is not a religion, if in the eyes of the follower that the belief system has the psychological function of a religion, it becomes a religious phenomenon even though it may not have the transcendental element. A good example is the belief in Communism. See Richard Grossman (ed), *The God That Failed*, New York: Bantam Books, first published as a Harper Edition, 1950.

³⁸ Li Hongzhi, *Zhuan Fa Lung*, Singapore: C.O.S. Printers, Ltd. 1999; especially pp. 81–124.

³⁹ The tiology of virtues, according to Li, is the highest level and the core value of Buddhist Law, or *fu-fa*. See Li, *op. cit.*, 1999, p. 12.

symbol, which was borrowed directly from Buddhism and Buddha Religious Society. The symbol shows a reverse of the *swastika*, with bended ends of a cross that had been used as the Nazi emblem. The emblem of *fa lun* is placed in a circle that gives the idea of perpetual motion of the universe towards one direction, like a wheel in motion. If *Falun Gong* is not a religion like Buddhism is, then it is an offshoot of Buddhism, which by definition is a sect or cult. In any case, given the elusive nature of a combination of mysticism, explanation of the law of the universe, and traditional *qigong*, FLG cannot simply be labeled as any of these. Even the press report had a difficult time to relate the phenomenon to the public.⁴⁰

As a cult, sociological literature has additional definitional requirements. In 1929, Niebuhr⁴¹ gave theoretical life to the term sect as a process in which sects broke away from churches and only later to be transformed into churches. Niebuhr's views did not suggest that a sect is necessarily bad. When later, Johnson⁴² elaborated some of the attributes of a sect, among which are characteristics such as having largely converted membership, the stress of austerity, and engaging in highly emotional style of worship.⁴³ The term sect has since evolved into the term "cult", which has all the characteristics of the sect, but with additional social psychological features that includes, among other things, the idol worship of a very totalitarian style of leadership. Other common characteristics of cults in the past included an immanent sense of man as having fallen from a higher spiritual realm to this material world; and a pervasive sense of an imminent Armageddon.⁴⁴

⁴⁰ In the beginning, *Qigong* group, or cult group were used in the media, though the usage by no means was uniform. However, on 23 July, BBC and CNN used the word "quasi-religious" group. The new word seems to be closer to the correct labeling of the group.

⁴¹ Richard H. Niebuhr, *The Social Sources of Denominationalism*, New York, Henry Holt, 1929.

⁴² Benton Johnson, "On Church and Sect", *American Sociological Review*, 28:539-549, 1963.

⁴³ See also R. Dynes, 1955, "Church-Sect Typology and Socioeconomic Status", *American Sociological Review*, 20:555-560; and 1957, "The Consequences of Sectarianism for Political Participation", *Social Forces*, 35:331-334.

⁴⁴ The "end of the world" belief itself is not the exclusive characteristic of cults. Both Christianity and Buddhism held the same belief. The Bible gave the scene of the final conflict between the forces of good and evil at the end of the world.

The imminence of this “threat” then justifies the search for salvation through a mystical solution that would presumably preserve the ‘spiritual elect’ who would then reign in a new age as the world’s spiritual rulers. The presence of apocalyptic scenarios in groups as diverse as the Unification Church, People’s Temple, Transcendental Meditation, Jehovah’s Witnesses and Seventh Day Adventists underlines the importance of the apocalypse in the formation of new religions. These features of cults were the basis for sociologists to suggest that a cult is characterized “by the degree of tension between a religious group and its socio-cultural environment.”⁴⁵

In Li Hongzhi’s lectures and writings, there appeared to have no mention of the end of the world.⁴⁶ The style of governance is neither totalitarian nor with suggestion of exclusivity and isolation. Furthermore, Li Hongzhi argues that all religions had gone through transformations either in beliefs or in ritual worships, or both. He implicitly attacks the turning of a set of secular beliefs into religious dogma. He regards himself as a teacher of *fa*, or the law of the universe, rather than a priest explaining a set of religious dogma. The differentiation between metaphysics and theology here is the essence of his message, though neither metaphysics nor theology was explicitly mentioned. Teaching *fa* gives him the status of a teacher. It also gives him the priest-like status in the eyes of some believers, which he himself denies being one.

In the absence of corroborative information, and published reports that have been verified are so scarce, it is perhaps premature to ascertain the

⁴⁵ See Benten Johnson, *op. cit.* The peculiar characteristics of a cult *vis à vis* established religion also provided Singer⁴⁵ with a list of neatly summarized description of common characteristics of cults, as in contrast to an established religion. She identified the following: (1) a leader claims divinity or special relationship with God; (2) a leader who is the sole judge of a member’s actions or faith; (3) totalitarian governance; (4) totalistic control over the member’s daily lives; (5) exclusivity and isolation; (6) development of deep emotional dependence; (7) prohibition of critical analysis and independent thinking; (8) utilization of methods of ego destruction and mind control; and (9) exploitation of a member’s finances; (10) underemployment and exploitative working conditions. See Margaret Thaler Singer, “Cults, quack and nonprofessional psychotherapies”, in Kaplan H. Freedman and A. Sadock (eds.): *Comprehensive Textbook of Psychiatry III*, Baltimore: Williams and Wilkins, 1980.

⁴⁶ The mention of an imminent fallen of men was, however, shown in one of the discrediting testimonies of FLG appeared in the Alliance’s website as the author’s interpretation of *Falun Gong* in an attempt to associate FLG with better known cults in the West.

style of Li's leadership, and the kind of esteem held by his followers of him. A clear answer to the question of idol worship, Li Hongzhi is most often mentioned by his name, and is referred to simply as teacher, or *lao shi*; and "the author", when his book is used as the context of conversation. Not uncommonly, people referred to him as the Master Teacher, or *Falun Da Shi*, but that is normally used when people talked about the origin and the expansion of FLG as a form of *qigong*. Whether or not he has attained the status of an idol in the eyes of the follower, it depends perhaps on the person being interviewed. The majority of the followers, especially those better educated, did not report their impression that Li was an idol. Most of those less educated and the elderly referred him as *lao shi*, or master, out of respect.⁴⁷

IS FLG A FORM OF THERAPEUTIC EXERCISES?

The slow-motion movement of arms requires both force and muscle control, like *taiqi*, or martial arts movements. Long duration of motionless meditation is akin to deep breathing exercise. Deep breathing exercises and concentration on meditation are known to have scientific basis of being beneficial to health. Breathing brings oxygen into blood that helps circulation, which brings energies throughout the system. Meditation reduces anxiety and stress, which in turn lowers the cholesterol level. It is the kind of exercise that had been referred to as "a double-cultivation"; namely, the cultivation of the mind and exercise of the body (see Appendix 2).

These exercises normally take place at dawn when the air is less polluted. Group exercises following the rhythm of a pre-recorded Buddhist music

⁴⁷ In the life course of a religious movement, followers may see their leaders as the Messiah (Sun Myung Moon), or as a religious philosopher (A.C. Bhaktivedanta Swami Prahupada). Li Hongzhi's role resembles closely a movement's leader, in spite of his non-charismatic leadership style. Social psychologists depict the religious movement as a transactional collective behavior, which might have begun with no element of religious inclination. The circular and reciprocal interaction between a charismatic leader with skills to manipulate symbols and crowds and the need for a common cause can easily turn a regular event into a religious movement.

assures a disciplined and controlled movement in silence. Subjectively, followers claimed that these morning exercises were beneficial and their chronic symptoms prior to joining the group had all but disappeared.⁴⁸ In his books, Li referred to the health benefit of FLG in terms of purification of both the body and the mind. Without the stress brought about by jealousy, envy, greed, and anger, and with the flow of *qi* through one's internal organs, health therefore is restored. The FLG "theory" of health is similar to traditional Chinese medicine, though it is difficult to integrate such explanations to a healing method based on the basic sciences of physiology and anatomy. The subjective testimony of its reputed health benefit for followers is self evident, for if no benefit were felt, the participant would soon cease to attend these early morning exercises.

Why Falun Gong Has Created a Collective Frenzy?

There are three explanations why FLG has attracted so many followers: psychological needs, health seeking behavior, and China's changing social-demographic characteristics that created an unprecedented mass leisure in a society in which the average citizen is not accustomed to leisure.

1. Psychological Needs

There are a number of socio-psychological reasons that are mentioned frequently when the question of why FLG became such a cult-like frenzy. One explanation derives from the well-known psychological study of a cult in the fifties in the United States known by the title of the book, *When Prophecy Fails*. The study was the basis for the formulation of a well-known psychological law, *the cognitive dissonance theory*, from which we learned

⁴⁸ A physician follower of *Falun Gong* in Beijing, whose name is withheld for obvious reasons, told at the interview that he actually measured and recorded his blood pressure, sugar level, pauses, and other chemical readings of himself before and after he practiced *Falun qigong*. His records provide at least some evidence of an objective measure of changes that are beneficial to his health.

that modern cult groups are important in meeting deep psychic needs.⁴⁹ The emergence of the Gnostics in late Roman Empire could be compared with the mushrooming of modern cult groups in the sixties that reflected parallel deficits in the broader society.⁵⁰ Earlier sociological studies of cults and cult movements in the United States had centered on communities in California that are both spiritually creative and environmentally fertile in the creation of cults. Sociologists believed that during the 60s and the subsequent rise of prominence of “cults” and/or new religions was an indication of transient adjustment problems within the American *imperium*.⁵¹ This explanation, if applied to FLG in China, confirms the Party’s fear for social instability and people’s desire for psychological comfort during a period of economic and political transition.

⁴⁹ Leon Festinger and his associates studied an occult group in the United States that predicted the precise time and day the end of the world would come. The study was the basis of the famous psychological theory about decision and choice known as the ‘Theory of Cognitive Dissonance’ that kept two generations of graduate students busy in replicating the study in laboratories. See Leon Festinger, Henry W. Riecken and Stanley Schachter, *When Prophecy Fails: A Social Psychological Study of a Modern Group that Predicted the Destruction of the World*, New York: Harper and Row, 1964. In the 60s, there had been numerous studies of religious cults and their psychological and psychiatric ramifications. See David A. Halperin (ed.), *Psychodynamic Perspectives on Religion, Sect, and Cult*, New York, John Wright, 1983.

⁵⁰ The favorable environment for the birth of cults or cult-like movements is characterized by communities with large immigrants of heterogeneous background and by rapid social change that made old social norms ambiguous and new norms are not yet formed, a condition which Durkheim called *anomie*, or **normlessness**. For a theoretical discussion, see Emile Durkheim, *Le Suicide: Etude de Sociologie*, Paris: Alcan, 1898 and translated by J. A. Spaulding and G. Simpson, Chicago: The Free Press, 1951; and Robert Merton’s “Introduction” in Freda Alder and William Laufer (eds.) *The Legacy of Anomie Theory*, N. J.: New Brunswick, The Transaction Publishers, 1995.

⁵¹ Halperin argued that the aftermath of the Vietnam War within the United States has been a period of soul-searching. It has been a period in which the “state religion” of a liberal humanistic democracy with its progressive expectations and rationalistic ideology seemed less valid after having expressed itself in a frustrating war and within an economy marked by stagnation. . It was a period when frustration and anxieties were expressed in religious revivals even among most conservative and established religions. But the rise of cults and new religions was considered to be a kind of collective expression of disillusionment with established forms, and one that was also ultimately to disappear. See D.A. Halperin, *op. cit.* See also William S. Bainbridge, “Utopian Communities: Theoretical Issues”, pp. 21–35 in P.E. Hammond (ed.) *The Sacred in a Secular Age*, Berkeley: University of California Press, 1985.

2. As a Health Seeking Behavior at Old Age

A second explanation, one which has been implied in almost all of the earlier news report about the April 25 "sit-in" in front of *Zhongnanhai*. Though not succinctly formulated, recent reports linked the sudden rise of FLG with Chinese people's thirst for religious experience and their longing for answers to questions in *life, sickness and death*. If taking this view, the quick gathering of FLG followers may reflect a different kind of social and economic conditions in the Chinese societies in the late Reform period for a population that is largely agnostic in a largely Buddhist environment. Let it be that the most salient reason is the therapeutic and preventive health functions of FLG given by personal testimonies of its followers especially those who had been victims of chronic illness and disabling pains. This is a very practical consideration particularly at a time when the workplace, the *danwei*, has considerably cut down health benefits and withheld medical cost reimbursement in recent years during the reform period of the state welfare system. Under these circumstances, a form of exercise known as *qigong* that is easy to follow, can act as both a preventive and therapeutic health measures, is a plausible explanation.

3. The Challenge of Ageing and Mass Leisure

A third explanation lies in the structural change of the population, the change at the workplace, and the economic reform associated with laid-off workers. First, the changing demographic age-structure of China's population in the 1990s is unprecedented. More than 10% of the population is over 60 years of age, who are retired. This is a major source of mass leisure. Mass leisure can create social problems in that people who are bored for the first time in their lives want to be active, and activities are good for health. Group exercise has become popular as a way to restore the daily rhythm of activities.

A second source of mass leisure is said to be associated with the shrinking of the age cohort commonly known as children. The one child policy releases childcare chores from both parents and grandparents, or at least reduces such chores to a minimum. A third source of mass leisure is the expanding population of *xia gang* or laid-off workers who contributed to the

pool of potential FLG followers.⁵² Finally, the fourth source of leisure is the reduction of work-hour week, from six days to five days that was implemented in the mid-1990s. In short, none of these causes alone could provide sufficient explanation of the rise of FLG. Acting together, however, they contribute greatly to social instability.

HAS THE PARTY LEADERSHIP OVER-REACTED? AND WHY?

Some Party members, who are not practitioners of the *qigong* group had expressed their dismay in private for the all out attack on the *Falun Gong*. Western newspapers reported that the prison terms of the five leaders of FLG ranging from 7 to 18 years was too harsh and unprecedented. Five thousand followers had been arrested and at least 50 followers were committed to psychiatric hospitals in Beijing,⁵³ Committing political or religious offenders to mental institutions was a method used during the Communist era in the Soviet Union, since such commitment can be done by a government physician without legal due process. Why did the Party single out *Falun Gong*, for the seemingly minor act of non-violent petition in front of government office buildings? The following are some views.

The Political Significance of the "Non-Political" FLG

First, it seems the large following of a belief system can undermine people's belief in the Communist Party. In the context of economic stability, and Beijing's plans to pursue a reform agenda, a mass movement of FLG has to be a major headache for leaders who are already harassed by many internal and external problems. Media reports clearly established the fact that: (1)

⁵² See Yang Mu and Tam Chen Hee, "Xia Gang: Chinese Way of Reducing Labour Redundancy and Reforming State Owned Enterprises", *Background Brief*, No.38, EAI, July 1999

⁵³ The incarceration of FLG followers in mental hospitals was reported in the news daily in Singapore, *The Straits Times* and other international dailies. See *The Straits Times*, Friday, January 21, 2000. These "leaders" so qualified because they allegedly have been to Beijing to protest at least 10 times, according to the newspaper.

FLG's organization is unusual, but organizational efficiency is nonetheless remarkable; (2) efforts made by some organizers abroad, particularly in the United States may signal additional problems for Party leaders in Beijing; (3) the leader of the movement, Li Hongzhi, apparently has attracted attention worldwide, not just among followers of FLG, including human rights watchers, and some local political heavy weight in foreign cities where large Chinese immigrant population concentrate. The political significance of such a phenomenon can be viewed as follows.

(1) *Falun Gong* is a Special Kind of Organization

While many observers initially dismissed the claim that FLG was a well organized and close-knit group of innocent *qigong* exercisers, events that took place in the past few weeks following the April 25 'sit-in' suggested that simultaneous protests could not have happened without organized leadership that called signals and relayed messages. *Falun Gong therefore is a special kind of a non-organizational organization*. It is the very nature of its non-organizational feature of a well-organized collectivity that has created fear for Party leaders in Beijing. Communist cadres knew how to deal with organizations.⁵⁴ But how does the Party deal with a non-group? How can the Party organize an elusive gathering of morning exercisers into a political arm that serves the cause of the revolution? The problem of controlling the "cult" for the security force is like using a regular army to find a guerrilla, there is no telling who is the enemy and who is not.⁵⁵ The old Chinese saying "*qin zei xian qin wang*" or "to catch the cohort of bad people, you catch the leader first" was exactly how the government handled the matter. In the absence of knowing exactly who leaders of the group were, the

⁵⁴ Bolshevik leaders since the time of Lenin had used organizational weapon and stratagems to their greatest effect in transforming an ideologically isolated group into a powerful political instrument. See P. Selznick, *The Organizational Weapon*, Glencoe, IL: The Free Press, 1960.

⁵⁵ During the Vietnam War, American soldiers, who were well trained in regular army combat, the objective of winning is to capture or annihilate uniformed enemy soldiers and gain territories. But soldiers in the Vietnam War were unable to single out who were enemy soldiers and who were civilian village-farmers, and there was no territory to gain. The solution at the end of the day was an exercise of body-count of those who were killed at the end of each day instead.

security officers identified them by counting how many times an individual had been in presence at various demonstrations. The fact is that Party members who were also among the protestors or served as spokespersons invariably risked arrest since members of the Party are easily identified by the government. A non-organization organization, with non identifiable leaders had changed the sociological concept of a social organization in an age of internet communication of high technology. One political scientist in Hong Kong put it succinctly:

“The problem Jiang Zemin faces is that, whereas in the past, the Communist Party had ‘infiltrated’ into every organization, this time members of FLG had ‘infiltrated’ the Communist Party.”⁵⁶

It seems that the government initially had no idea as to how to deal with the reported ten thousand *qigong* practitioners sit-in demonstration in front of Tiananmen. Since the beginning of July, there has been an increasing pressure from Beijing to control further activities of FLG, but this is done in a subtle and indirect manner. It is too early to predict at that time what might be the future development, as the situation seems to be fluid and changing on a daily basis. But the “wait-and-see” strategy seemed to have worked for Jiang Zemin. As days went by, more information was gathered about places and names of coordinators of FLG in major cities throughout China. The crackdown that took place around the 21st of July could mean a fatal blow to the FLG. The government security people even piece together a simple hierarchical structure of FLG communications structure.⁵⁷

It seems that Jiang’s strategy of initial silence was a period to map out a major media campaign, and to encourage those who opposed the *qigong* group, and its leader, Li Hongzhi, to “uncover” the political agenda that

⁵⁶ Professor Beatrice Leung first brought this up with the author in a casual conversation about FLG for which the author is grateful.

⁵⁷ See Tam Chen Hee, “Organization Structure of Falun Gong in China” as Appendix 3 in John Wong and William T. Liu, *The Mystery of China’s Falun Gong: Its Rise and Its Sociological Implications*, Contemporary China Series Publication # 22, Singapore: University of Singapore Press and World Scientific Publishing Company.

laid beneath the surface.⁵⁸ Such an attack, whether supported by facts or merely conjectures, would predictably elicit responses and actions from some core followers of FLG, which would in turn trigger off more organized protests. These new anticipated protests would then predictably bare the identities of core followers, and crackdown by citing illegality due to non-registration can then be an effective solution to Beijing's problems. But since it was difficult to establish the fact that FLG is an organization, the "non-registration with the government" as the charge may be legally challenged and may raise further questions among human rights groups and legal experts about China's judicial system. The alternatives are to declare that FLG is a cult, and the People's Congress then passed the law to ban all cults. In short, the government's strategy was to force the group to concretize its organizational functions not through "beliefs" and "exercises," but through group protests.

(2) *Falun Gong* is Said to Have International Connections

On July 23, 1999, the local FLG website in Chicago posted an announcement which said that the Mayor, Richard M. Daley, had proclaimed June 25 as 'Master Li Hongzhi Day in Chicago, and the Governor of the State of Illinois, George H. Ryan "commends and recognizes Master Li" in a letter with the Governor's seal. This was preceded by a report that the Mayor of Houston had given similar honors to the Founder of FLG earlier, on October 12, 1996. On June 25, the day after the City of Chicago and the State of Illinois gave Li the honour, Falun Dafa Practitioners held an Experience

⁵⁸ As of this writing, on 14 July 1999, the Website of the Global Alliance Against FLG, an organization with unknown auspices and is located in China (one derives that from website address), there is a concerted campaign effort to discredit the group through the use of individual letters, testimonies, investigatory journalism that is published in the *People's Daily*, pronouncement from scientific organizations, National Political Consultative Council of non-Party members, and medical societies and health professionals, as well as from allegedly victims of cult practices. The General Secretary of the Party has made known his own beliefs that: (1) FLG is clearly a religious cult and a form of superstition harmful to the public; and (2) Party members should follow the orthodox dialectical materialism instead of believing in spiritual idealism of the mind, and has called Party members to dissociate themselves from FLG group.

Sharing Conference at the Chicago Downtown Marriott Hotel and Li was reported to have given a lecture to an estimated 1,300 people who attended the event. It was likely that similar events will take place in other cities. These events revealed that there are obvious organizational cadres working overtime to make these public relations achievement possible. The fact that American political leaders traditionally had not made it a practice to acknowledge a particular religious leader because of the constitutional guarantee of the separation of religion and the state. The acknowledgment and commendation of Li Hongzhi was taken to mean that *Falun Gong* was not likely to be viewed as a religion, much less a cult. Politicians were likely, however, to recognize people with followers as potential political base. The charge that FLG has international political connections, so far as facts could back up the charge, was not entirely unwarranted, even though international criticism of the crackdown came from human rights groups and not from religious bodies.

The internal crises of political tensions, economic problems of both the rise of unemployment and laid-off state enterprise workers, and Taiwan's defiance towards the one-China policy, the international pressure stirred up by Li Hongzhi followers could mean real trouble at home. In retrospect, the April 25th "sit-in" episode that began first as an unexpected silent sit-in, had turned out to have a life of its own. The international connection, if judged by the municipal acknowledgement of two cities of Li Hongzhi as an individual, can hardly be described as having international connection. Having followers abroad also demonstrated the fact that followers of FLG were not limited to those in China.

FLG AS A COLLECTIVE SEARCH FOR MEANING AND AN INDICATION OF INSTABILITY

The question as to whether or not FLG followers have political objectives, and as a disguised *qigong* group is probably a difficult question to answer without further convincing evidence. But if it is viewed as a political issue, the consequences tend to give credence to its validity. Surely the majority of individual practitioners of FLG may not have political motives. There

remains the possibility that a few may use the group, with its large number of followers, as a means to achieve other ends. This issue aside, FLG nonetheless does in many ways reflect the society's *new search for meaning* at a time of economic and political transition. More explication is needed.

Religion, according to Durkheim⁵⁹ is "only, or little more than a system of ideas destined to express some part of reality like sleep, dreams, illness, death or the great dramas of nature."⁶⁰ What one sees in religion are mainly ideas; it seems also that the individual could only bring it to a religious phenomenon through his own efforts. Such a phenomenon understandably disturbs the Party leadership in *Zhongnanhai*, as it is difficult to ascertain an individual belief system in collective action and in what ways they might be religious and what may be non-religious.⁶¹

From the viewpoint of the society, particularly in the case of China, the period that religious phenomena flourished came about the time after the Reform that destroyed the myth and cult-like image of the late Chairman Mao. While it is true that during Mao's revolutionary period, theistic religious practices in principle were forbidden, for it contradicted directly with the belief in dialectic materialism, it is also true that Maoism had replaced all religions between 1950 and 1978 as *the* accepted faith of worship.

A sudden turn-about of the collective beliefs instigated by the reform economy was not particularly helpful to replace the old faith. The needed concept of a "community" with a strong sense of mutual identity was destroyed. The change also made some of the old norms and values socially ambiguous: when one no longer could tell the evils of the old apart from the classics to be treasured. The state of anomie began when the paramount leader publicly declare that there is no difference between the black or the

⁵⁹ First published in French in F. Abauzit, *et al.* (eds.) *Le Sentiment Religieux a l'heure Actuelle*, Paris: Vrin, pp. 97–105, and 142–3, as abstracted and translated in W.S.F. Pickering (ed.) *Durkheim on Religion*, London: Routledge & Kegan Paul, 1975.

⁶⁰ *Ibid.*, p. 182.

⁶¹ No wonder, if the newspaper account is correct, the Party places FLG under the National Martial Arts Institute for monitoring purposes, and not under the Religious Affairs Bureau of the State, nor the United Front of the CCP. Does this signify the fact that the Party leadership did not know what FLG really was?

white cats, as long as it catches the mouse. Scientific pragmatism has its own built-in contradictions.

The Mao's era was characteristic of the demise of theistic religion and replacing it with personal cult. But the most important achievement was the establishment of a national frenzy of revolutionary cohesion characterized by a collective hysteria. When the Gang of Four collapsed, the revolutionary goals of class struggles were replaced by the frenzy of *xia hai*, or going into business, and the "great cohesion" of Communist comradeship collapsed with it. Entrepreneurialism thrives on social disequilibria as opportunities to make money, and an antithesis to social cohesion in a state of change. There is the need amidst moral poverty to search for an objective ethical value. As long as religion remains as a political threat to The Party, and Marxism is no longer applicable in the changing economic order, there is no common eternal value that can jell the population together as members of a community. The need for a common value after the Reform became urgent.⁶² Political scientists attributed, in part, the moral vacuum and has created a commitment to nationalism.⁶³

It is in the search of a faith that *Falun Gong* could not have come at a better time in 1992. The economic reform had created *xia gang* and unemployment, which affected state workers who are middle-aged; those with poor health, the uninsured and the uninsurable (health costs) and those retired without pensions. Somehow the naked cries are the same for all of them, and answers are being sought as to the purpose of their lives

⁶² To fill the void, the Party found ways to cultivate a strong, religion-like moral value of nationalism. Episodes such as the return of Hong Kong to China and the bombing of the Belgrade Embassy were tools of nationalism intensification campaigns. World's sports competitions are also helpful for which the leadership gave strong endorsement and support. Sports competition among women athletes, first in volleyball and later in swimming and gymnastics, and most recently in English soccer, had undoubtedly provided opportunities for mending the lost cohesive factor. Hong Kong, Tibet, and Taiwan political agenda have helped with the increased social capital for national solidarity. One cannot deny the fact that in almost every national and domestic calamity, such as the flood of Yangtze River in 1998, emotions of a national effort had always paid dividends towards the collective sense of a purpose.

⁶³ For a well-articulated thesis on this point, see Yongnian Zheng, *Discovering Chinese Nationalism in China*, Cambridge: Cambridge University Press, 1999.

when Post Mao era socialism could not answer. Collective exercises for the old and the retired seemed to be a politically safe and culturally appropriate way to healthier lives. *Falun Dafa* gave *qigong* followers a pseudo-scientific explanation of the ways of the universe. Meditation provides the needed religious ecstasy. The religion of a mixture of ancient Buddhism, Taoism, and traditional *qigong* has it all that is required to speak to FLG believers in a tone that is no less imperative than the religion it replaces. The society is ripe to accept a non-religious, non-cult like faith in the absence of alternatives.

APPENDIX: THE STRUCTURE OF FALUN GONG

With both feet firmly planted on the ground, apart at the width of one's shoulder, the person literally does all the arms movement without moving one's feet for one full hour in four different sections of the *qigong*. The first section, which lasted 10 minutes, consists only of the stretching and tightening of arms and legs, followed by a sudden release of tension of joint — a jerk of the knee and arm joints; and the tightening of one's abdominal and rectum muscles. This section ends with both hands crossed over, but not mutually touched, in front of one's abdomen that circulates and moves one's *qi*.

The second section consists entirely of motionless embracing of an imaginary huge ball at the level of one's eyebrows, below the abdomen, above one's head, and at the shoulder level, for altogether one half of an hour. This is the most difficult and physically demanding exercise that comes with meditation. One-half of an hour is sufficient to discourage any new participant from trying it for a second time. This exercise also ends with both hands cross over the abdomen for another six minutes.

The third section consists of raising one arm at a time straight-up and move it down below the knees nine times, followed by both arms for the same motion together nine times. This is to be followed by having both hands moving clockwise four times in front of the abdomen. The same is repeated three times. Circling in front of the abdomen four times is said to push an imaginary wheel that generate the *qi*, a symbolic ritual.

The final section of the *qigong* consists of moving both arms along the inseam of one's trousers until they touched the ground. This was followed by drawing a circle to the back of one's heels, one hand for each foot (from yang to yin), and move both hands upward in the back without touching one's body, and leaving a distance of not more than 10 centimeters. After having reached as far as possible in the back, both hands are raised in front of the face to crossover and to touch the opposite shoulders, which presumably deliver the *qi* onto the shoulders. From there one transfers the *qi* from positive to the negative side and to reach spots just below the shoulder in the back, and then across one's face to the front where one starts another round of the same motions nine times. Repeat the same set motions three times until the end when both hands are crossed over in front of one's abdomen. The fourth section ends with both hands crossover in a trance-like manner for a few minutes until the music ends.

Is *Falun Gong* a form of exercise? Hardly, according to the Western view. The person is hardly moving, and he can go through the entire two-hour period without locomotion. *Falun Gong* copies from *taiqi* in the characteristics of slow motions. Unlike *taiji*, however, it is non-locomotive. Yet, two hours of slow motion increases one's body temperature and heartbeat. It is not uncommon to perspire during the session. It is a non-exercise-like exercise.

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CHAPTER 5

The Rule by Law vs the Rule of Law*



ZHENG YONGNIAN

The Fifteenth Congress of the Chinese Communist Party, convened in September 1997 in Beijing, proposed for the first time since the reform began in the late 1970s that the Party would give its highest priority to the rule of law. The second plenary session of the Ninth National People's Congress, held in March 1999, declared that a new constitutional amendment would be made to give constitutional legitimacy to the "rule of law."¹ Meanwhile, Jiang Zemin and other major leaders argued that the

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¹ *People's Daily*, March 14, 1999.

rule of law is a key to the building of Chinese democracy.² Since Deng Xiaoping came to power, the CCP has striven to set up an effective system. While the rule by law has been repeatedly emphasized by major Party leaders, the rule of law is barely mentioned. Will the transition from rule by law to rule of law become possible in China with the Party's endorsement?

Scholars have disagreed with each other over whether China will become a country of the rule of law. Pessimistic scholars have contended that it is not possible for China to develop a system of the rule of law because of the irreconcilable clash between Chinese socialism and the rule of law.³ For those who advocate a fundamental change of China's legal system, the constitutionalist era will not fully arrive until the system of one-party dictatorship ends.⁴ On the other hand, optimists believe that China is developing towards a country of the rule of law even though there are still enormous difficulties for China to overcome.⁵

How should the Chinese law in a transitional period be explained? Controversies aroused because of different analytical concepts used to interpret China's law development. Since the late 1970s, Chinese scholars began to use western legal concepts in their debates on what kind of legal

² For a full text of Jiang Zemin's report delivered at the 15th National Congress of the Communist Party of China on September 12, 1997, see, "Hold High the Great Banner of Deng Xiaoping Theory for an All-Round Advancement of the Cause of Building Socialism with Chinese Characteristics to the 21st Century", *China Daily*, September 23, 1997.

³ For instance, Franz Michael, "Law: A Tool of Power," in Yuan-li Wu et al., *Human Rights in the People's Republic of China* (Boulder, CO.: Westview Press, 1988), pp. 33–55; Richard Baum, "'Modernization' and Legal Reform in Post-Mao China: the Rebirth of Socialist Legality", *Studies in Comparative Communism*, vol. xix, no. 2 (Summer 1986), pp. 69–103; and Edward J. Epstein, "Law and Legitimation in Post-Mao China," in Pitman B. Potter, ed., *Domestic Law Reforms in Post-Mao China* (Armonk, NY.: M. E. Sharpe, 1994), pp. 19–55.

⁴ For a discussion of different opinions over China's constitutional reforms, see R. Randle Edwards et al., "Symposium on China and Constitutionalism: Introduction", *Journal of Chinese Law*, vol. 9, no. 1 (Spring 1995), pp. 1–6.

⁵ For example, Ronald C. Keith, *China's Struggle for the Rule of Law* (London: St. Martin's Press, 1994); and Henry S. Rowen, "The Short March", *The National Interest*, no. 45 (Fall 1996), pp. 61–70.

system China should develop and on how it could be developed.⁶ Similarly, Western scholars also use their own concepts to interpret China's legal development. An important aspect has been ignored, however, that is, legal development occurred in the context of China's transitional socio-economic and political order. Laws were made not based on Chinese leaders' and scholars' ideals or perceptions of law, but because of the necessity of socio-economic development. In understanding law development in post-Mao China, what we need is to develop a, if not *the*, Chinese way, rather than to simply use Western concepts to interpret law development.

Much work has been done in interpreting China's legal development from legal perspective *per se*.⁷ The purpose of this article is to provide an explanation of China's law development in the post-Mao era by locating laws in the context of China's transitional socio-economic and political order. By locating legal development in the socio-economic and political context, it attempts to show why the rule by law is an unavoidable development stage in China's legal progress, and analyse the difficulties of the transition from the rule by law to the rule of law.

The article is divided into four sections. The first section discusses two concepts, i.e., the rule of law, and the rule by law. The second section explains law development in post-Mao China using statistical data. Section three discusses the difficulties that China faces in its development of the rule of law, and the necessity of the rule by law; and finally, it discusses why it is possible for China to transform from the rule by law to the rule of law.

⁶ For a comprehensive survey of various concepts that Chinese legal scholars used in the reform era, see Wang Yongfei and Zhang Guicheng, eds., *Zhongguo falixue yanjiu zongshu yu pingjia* (A Comprehensive Survey and Evaluation of the Studies of Legal Theories in China) (Beijing: Zhongguo Zhengfa daxue chubanshe, 1992).

⁷ For example, Potter, ed., *Domestic Law Reforms in Post-Mao China*, *op. cit.*; *China Quarterly*, China's Legal Reform, special issue, no. 141 (March 1995), and *Focus on Law and Politics in China*, no. 138 (June 1994); and Jingshan Wang, *The Role of Law in Contemporary China: Theory and Practice* (Ph. D thesis, Department of Government, Cornell University, 1988).

RULE OF LAW VS. RULE BY LAW

In the Western context, according to *Black's Dictionary of Law*, "the rule of law" refers to "a legal principle, of general application, sanctioned by the recognition of authorities, and usually expressed in the form of a maxim or logical proposition. The rule of law, sometimes called 'the supremacy of law', provides that decisions should be made by the application of known principles or laws without the intervention of discretion in their application."⁸

The notion of the rule of law, however, does not merely imply the existence of law and its application. It was developed in the context of Western liberalism as a means of restraining the arbitrary actions of power-holders. According to F. A. Hayek, the rule of law means that "government in all its actions is bound by rules fixed and announced beforehand - rules which make it possible to foresee with fair certainty how the authority will use its coercive powers in given circumstances and to plan one's individual affairs on the basis of this knowledge."⁹ More concretely, the rule of law means, first, that laws must be applicable to every individual in a given society; second, the rulers must follow the laws as the ruled do, and third, the rulers' behavior is predictable.¹⁰ In this sense, Franz Michael contends that,

Rule of law is the very foundation of human rights. In the Western legal tradition, law is applied equally to all; it is binding on the lawgiver and is meant to prevent arbitrary action by the ruler. Law guarantees a realm of freedom for the members of a political community that is essential to the protection of life and human dignity against tyrannical oppression and to the regulation of human relations within the community.¹¹

⁸ Henry Campbell Black, *et al.*, *Black's Law Dictionary* (St. Paul, MN.: West Publishing Co., 1990), p. 1332.

⁹ F. A. Hayek, *The Road to Serfdom* (The University of Chicago Press, 1994), p. 80.

¹⁰ *Ibid.*, Chapter 6.

¹¹ Franz Michael, "Law: A Tool of Power", *op. cit.*, p. 33.

When scholars analyzed legal development in post-Mao China, they found that the Chinese concept of the rule of law was different from that prevalent in the West even though the Chinese did not oppose the concept. Richard Baum distinguishes “the rule of law” from “the rule by law”. According to Baum, the concept of the rule of law belongs to the West and connotes a pluralistic law reflecting a delicate balance of social forces, acting as a shield to protect various socio-economic classes and strata against the arbitrary tutelage of government. On the other hand, the concept of the rule by law in China means “statist instrumentalism and invokes both the doctrines of traditional Chinese legalism” and the “bureaucratic ethos of Soviet socialist legality” which was transferred to China in the 1950s.¹² In the same vein, Edward Epstein argues that law in China is “still conceived and operates as an instrument with which to uphold the Socialist political order and perpetuate party domination”, and “used to carry out and consolidate institutional, primarily economic, changes according to predetermined policy”.¹³

On the Chinese side, the rule of law has become a, if not *the*, major aim of Chinese political and legal development since the reform began in the late 1970s. “The rule of law” is clearly expressed in the sixteen-word formula proposed by the Third Plenum of the Eleventh Party Congress convened in 1978, that is, “*you fa ke yi, you fa bi yi, zhi fa bi yan, wei fa bi jiu*” (literally, there must be laws for people to follow, these laws must be observed, their enforcement must be strict, and law-breakers must be dealt with). In this context, the terms or concepts such as “equality before the laws,” “the supremacy of the law,” “the rule-of-law-state”, and “legalization” have become popular in the Chinese discourse of legal development.

Similar to that in the West, the rule of law was discussed in the context of democracy. As a matter of fact, “*minzhu*” (democracy) and “*fazhi*” (legal system) are two interchangeable terms in post-Mao China. The communiqué of the Third Plenum of the Eleventh Party Congress claimed,

¹² Baum, “Modernization and Legal Reform in Post-Mao China”, *op. cit.*, pp. 70–2.

¹³ Epstein, “Law and Legitimation in Post-Mao China”, *op. cit.*, p. 19.

In order to safeguard people's democracy, it is imperative to strengthen the socialist legal system so that democracy is systematized and written into law in such a way as to ensure the stability, continuity and full authority of this democratic system and laws.¹⁴

Also, the aim of the rule of law or democracy is to protect the ruled from arbitrary rule. According to Deng Xiaoping,

Democracy has to be institutionalized and written into law, so as to make sure that institutions and laws do not change whenever the leadership changes or whenever the leaders change their views... The trouble now is that our legal system is incomplete... Very often what leaders say is taken as law and anyone who disagrees is called a lawbreaker. That kind of law changes whenever a leader's views change. So we must concentrate on enacting criminal and civil codes, procedural laws and other necessary laws... These laws should be discussed and adopted through democratic procedures.¹⁵

Nevertheless, the rule of law is an ideal state of legal development to China. How could this ideal become a reality? Without doubt, evolving from a lawless society to a society of the rule of law is a historical, developmental and political process. Various debates on the development of legal system in China have focused on the transformation to the rule of law. It is worth discussing some main concepts that Chinese scholars have used in these debates because it will help us to identify Chinese internal dynamism towards the rule of law as different from that discussed in the West. These concepts include "the rule of men", "the legal system", "the rule by law", and "the rule of law".

¹⁴ "Communiqué of the Third Plenum of the Eleventh Central Committee of the Communist Party of China," December 22, 1978, *Peking Review*, no. 52, December 29, 1978, p. 14.

¹⁵ Deng Xiaoping, "Emancipate the Mind; Seek Truth from Facts and Unite as One in Looking to the Future," December 13 1978, in Deng, *Selected Works of Deng Xiaoping (1975–1982)* (Beijing: Foreign Language Press, 1984), p. 158.

Earlier debates of the development of legal system were around the rule of men vs the rule of law. During Mao's time, because of "politics in command", Party policy was regarded as the soul of law and law as an instrument to realize Party policy. This notion of the rule of men was denied when those who became Mao's victims came to power such as Deng Xiaoping and Peng Zhen. Deng and other senior leaders realized that without laws, both the ruler and the ruled cannot be protected from individual leaders' arbitrary behaviour. But the rejection of the rule of men does not mean rejecting the role of the party-state in legal development. There were scholars who argued that the rule of law and the rule of men are not contradictory, but mutually complementary simply because that laws are made and implemented by men.¹⁶ These scholars were criticized in the Chinese academic circles, but their main concerns were not without reasons.¹⁷ It has been argued that the advocates of the unity of the rule of law and the rule of men worried about that excess stress on the rule of law would necessarily downgrade the importance of the party-state or political leadership, and that the law would become omnipotent and a source of superstitious power.¹⁸ Indeed, the CCP has emphasized implicitly and explicitly that laws have to be made within the "Four Basic Principles". In other words, the Party needs to stay above law. Nevertheless, a deep concern behind their insistence on the role of the party-state was how a system of the rule of law could be established without active participation of the party-state in this process.

The concept of the rule of men has disappeared from the Chinese discourse of legal development. But this does not mean that such an idea no longer exists. Even those who advocate the rule of law also oppose legal

¹⁶ For example, Wang Guiwu, "Luetan renzhi yu fazhi di tongyi" ("An Brief Discussion of the Unity of the Rule of Law and the Rule of Men"); and Han Yanlong, "Shilun renzhi yu fazhi di tongyi" ("On the Unity of the Rule of Law and the Rule of Men"), both in *Fazhi yu renzhi wenti taolun ji* (Selected Works of the Debates on the Rule of Law and the Rule of Men) (Beijing: Qunzhong chubanshe, 1980). Also see Carlos Wing-hung Lo, *China's Legal Awakening: Legal Theory and Criminal Justice in Deng's China* (Hong Kong: Hong Kong University Press, 1995), Chapter Three.

¹⁷ For example, Wang and Zhang, eds., *Zhongguo falixue yanjiu*, op. cit., Chapter 16.

¹⁸ Lo, *Legal Awakening*, op. cit., p. 48.

fetishism. Chinese legal scholars and government officials have used different terms to indicate the way to the rule of law such as “legalization” (establishing a legal system or *fa zhi hua*), “the rule by law” (*yi fa zhi guo*) and “the rule of law” (*fa zhi*). Even though most scholars denied the rule of men which became prevalent during Mao’s time, especially during the Cultural Revolution, they did not believe that the rule of law would be established automatically and in a short period of time. It had to go through certain historical or developmental stages. The first step was to establish a legal system. Deng Xiaoping repeatedly emphasized that Mao Zedong’s great failure was not personal, but institutional and organizational. In order to avoid such mistakes, a legal system had to be established. According to Deng,

It is true that the errors we made in the past were partly attributable to the way of thinking and style of work of some leaders. But they were even more attributable to the problems in our organizational and working systems. If these systems are sound, they can place restraints on the actions of bad people. ...Stalin gravely damaged socialist legality, doing things which Comrade Mao Zedong once said would have been impossible in Western countries like Britain, France and the United States. Yet although Comrade Mao was aware of this, he did not in practice solve the problems in our system of leadership.¹⁹

A second step of developing the rule of law was to act according to law, or to rule by law. So, in Chinese, the term “*fazhi*” (legal system) not only means the establishment of a legal system. More importantly, it implies ruling the country in accordance with a set of legal system, i.e., “the rule by law” (*yi fa zhi guo*). In other words, the country has to be governed not by leaders’ personal authority, but by institutional authority.

According to the proponents of the rule of law, the “*fazhi*” refers to “a given society’s legal system established and implemented by the ruling class

¹⁹ Deng Xiaoping, “On the Reform of the System of Party and State Leadership”, in Deng, *Selected Works of Deng Xiaoping (1975–1982)* (Beijing: Foreign Languages Press, 1984), p. 316.

in that society through its state organizations.”²⁰ From this perspective, “*fazhi*” exists in every type of society. But the modern concept of “*fazhi*” was a result of the bourgeois revolution which occurred in the West in the last centuries. This bourgeois origin of “*fazhi*”, however, does not prevent China from learning from the West. It was the bourgeois revolution that brought about modern concepts of the rule of law, equality before law, democracy, justice and so on. Indeed, “*fazhi*” is a necessary and impassable stage of Chinese way to the rule of law.

Nevertheless, “*fazhi*” or the rule by law is not the rule of law, even though the former is the very foundation of the latter. As one Chinese scholar argues that “although every country has its own legal system in different historical stages, it is not necessarily a country of the rule of law. Even if there exists a legal system, a country cannot be the one of the rule of law if the spirit of the rule of men becomes prevalent and dominant.”²¹ The “*fazhi*” is institutional and organizational, and it can be used for different purposes. The state or government can use its legal system to govern its society in different ways. But the rule of law means that every social member is governed by law, or both rulers and the ruled are governed by law. The rule of law means that every one is equal before the law, but the rule by law will not necessarily lead to this result. If laws cannot regulate and constrain the ruler’s behaviour, the country cannot become the rule of law. Indeed, Deng Xiaoping once commented, “it is not appropriate for the Party to intervene in everything that fall within the scope of the law. If the Party intervenes in everything, the people will never acquire a sense of the rule of law.”²²

Without doubt, it is difficult to say that the Chinese have not realized the differences between the rule of law and the rule by law. The rule of law has also been the ultimate goal of the country’s political and legal

²⁰ For example, Li Buyun, *Fazhi, minzhu, ziyou* (Legal System, Democracy and Freedom), Chengdu: Sichuan renmin chubanshe, 1985, p. 1). Also see Wang and Zhang, eds., *Zhongguo falixue*, *op. cit.*

²¹ Li Buyun, *Fazhi*, *ibid.*, p. 154.

²² Deng Xiaoping, *Fundamental Issues in China Today* (Beijing: Foreign Languages Press, 1987), p. 146.

development. What concerns many Chinese scholars, and government officials to an extent, is how the rule by law can be transformed to the rule of law. Therefore, to a great degree, western legal concepts cannot be the starting points to understanding of legal development in post-Mao China. Otherwise, we will reach some unrealistic views of China's legal system, optimistic or pessimistic, as mentioned at the very beginning of this essay. The following sections attempt to provide a realistic picture of China's legal development, and identify internal forces that influence China's development toward the rule of law and thus present a Chinese way to the rule of law.

THE RULE BY LAW: EMPIRIAL DATA AND ANALYSIS

During Mao's time, China was regarded as a country without law or a country of "law without lawyers".²³ This is no longer the case. Since the reform in 1978, China's legal system gained a developmental momentum. The growth rate of both laws and lawyers is much higher than economic growth rate. As shown in Table 1, 514 laws and regulations were made from 1949 to 1978, but the number increased to 1,6493 from 1979 to 1997. The National People's Congress made 7 laws from 1966 to 1978. But it made 327 laws from 1979 to 1998 (Table 2). According to the Five-Year Plan for legal reform drafted by the Eighth People's Congress, close to 152 laws are expected to be enacted between 1993 and 1998.²⁴

There were only less than 3,000 attorneys in 1957, the year when the Chinese legal profession reached its peak before the end of the Cultural Revolution.²⁵ The number was increased to 98,902 in 1997 (Table 3). Law firms (*falu shiwusuo*) developed from none to 8,441 in 1997. More

²³ Victor H. Li, *Law Without Lawyers: A Comparative View of Law in China and the United States* (Boulder, CO: Westview Press, 1978).

²⁴ Jiang Ping, "Chinese Legal Reform: Achievements, Problems and Prospects", *Journal of Chinese Law*, vol. 9, no. 1 (Spring 1995), p. 67.

²⁵ Chen Weidong & Wang Jiafu, *Zhongguo lushi xue* (Studies of Lawyers in China) (Beijing: Zhongguo renmin daxue chubanshe, 1990), p. 46.

Table 1 Laws and Regulations Passed in the People's Republic of China

Year	No.
1949–1978	514
1979–1985	2,715
1986–1990	4,349
1991–1995	8,089
1996–4/1997	1,340
Total	17,010

Source: The Center of Legal Information at Beijing University and Beijing Zhongtian Software Company, eds., *Zhongguo falu fagui guizhang daquan* (Complete Collection of Laws, Regulations and Rules in China) (Beijing: Beijing University Press, 1997).

Table 2 Laws and Regulations Passed by The National People's Congress and The State Council (1949-1998)

Year	NPC	The State Council	Total
1949–1965	122	1,587	1,709
1966–1978	7	217	224
1979–1998	327	750	1,077
Total	456	2,554	3,010

Sources: The Legal Bureau of the State Council of the People's Republic of China, ed., *Zhonghua renmin gongheguo fagui mulu* (The Catalogue of Laws and Regulations in the People's Republic of China), Beijing: Renmin chubanshe, 1992; The Editorial Office of the Law Year-book of China, ed., *Zhongguo falu nianjian* 1993 and 1994 (The Law Year Book of China) (Beijing: The Law Year-Book Press, 1994, 1995); and The Center of Legal Information at Beijing University, ed., *1994 falu he xingzheng fagui mulu* (The 1994 Catalogue of Laws and Administrative Regulations and Rules), in *Zhongguo faxue* (China Legal Studies), no. 1, 1995; *People's Daily*, December 3, 1998.

importantly, the government now encourages the development of non-state law firms, which was eliminated and prohibited during Mao's time. Consequently, non-state law firms increased from 73 in 1991 to 2,957 in 1997 (Table 3). Lawyers now play an increasingly important role in the Chinese society. Table 4 shows the rapid development of lawyers' business. There is no sign that this momentum will not continue in the future. For example, according to the Chinese government, China will have 150,000

Table 3 Lawyers and Law Firms in China (1985-1997)

Year	Lawyers	State law firms	Non-state law firms
1985	18,000	—	—
1986	21,546	—	—
1987	27,280	—	—
1988	31,410	—	—
1989	43,533	—	—
1990	38,769	3,653	—
1991	46,850	3,633	73
1992	45,666	4,518	198
1993	68,834	4,624	505
1994	83,619	5,426	1,193
1995	90,602	5,622	1,625
1996	100,198	5,610	2,655
1997	98,902	5,484	2,957

Sources: The Editorial Office of the Law Year Book of China, ed., *Zhongguo falu nianjian* (The Law Year Book of China), various issues (Beijing: The Law Year Book of China Press, 1986-1998), Part 3, Statistics.

Table 4 Development of Legal Businesses in China (1985-1997)

	Unit: 1,000												
	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
No. of full time legal consultants	39	43	60	88	109	111	129	152	186	203	234	223	232
Cases of preparing legal documents	316	329	416	535	568	524	751	610	600	528	544	523	959
Cases of legal consulting	1,636	1,590	1,904	2,411	2,626	2,741	2,442	2,775	2,415	2,907	1,960	1,864	4,259
Cases of criminal litigation	107	137	155	170	232	258	231	220	192	209	204	249	275
Cases of civil and economic litigation	108	163	209	265	329	334	227	396	483	542	641	714	858
Cases of administrative litigation	—	—	—	—	—	—	14	16	15	16	18	19	30

Source: The Editorial Office of the Law Year Book of China, ed., *Zhongguo falu nianjian* (The Law Year Book of China) (Beijing: The Law Year Book of China Press, 1987-1998), various issues, Part 3, Statistics.

lawyers by the end of this century.²⁶ The Shandong provincial government claimed that the province alone will have 1,000 law firms in the year 2000 from 291 in 1994.²⁷

The phenomenon of rapid legal development can be explained in the context of the Chinese government's search for a new political order to cope with radical socio-economic changes. Embedded in the government's efforts to promote legal development is such an idea that laws must be used to strengthen the state's capability of governing a country with growing complexity resulting from economic reforms. In other words, a new political order needs to be based on the rule by law.

First, the rule by law became imperative because of economic necessity. The aim of the economic reform was to replace the old planned system with a market one. As the planned system faded, laws came to regulate China's economic activities. Even though privatization did not occur, the impact of China's economic reform on economic order could not be underestimated. The way of Chinese economic reform is characterized by decentralization, the development of non-state sectors, and the introduction of foreign investment. The central government decentralized different aspects of economic power such as financial and fiscal power, property rights and material allocation power to local governments at different levels, individual enterprises and even to individuals in order to provide them with economic incentives to promote the country's economic growth. With enormous difficulties in reforming the state sector, the central government encouraged the development of different non-state sectors such as collectives, joint ventures and private enterprises. Furthermore, like other newly industrializing economies in East Asia, China implemented an open-door policy in order to utilize foreign investment.²⁸ The results of these measures are enormous.

²⁶ Xia Yong, ed., *Zuoxiang quanli di shidai* (An Age Towards Rights) (Beijing: Zhongguo zhengfa daxue chubanshe, 1995), p. 170.

²⁷ *Zhongguo lushi bao* (China Lawyers' News), August 23, 1994.

²⁸ The literature on China's post-Mao economic reform is enormous, for example, see Barry Naughton, *Growing Out of the Plan: China's Economic Reform, 1978-90* (Cambridge: Cambridge University Press, 1994); Nicholas Lardy, *China in the World Economy* (Washington, D. C.: Institute for International Economy, 1994), and Lardy, *Foreign Trade and Economic Reform in China, 1978-1990* (Cambridge University Press, 1992).

The Chinese economy chalked up an average annual growth rate of 9.7 percent during 1978–1995, and double-digit rates for four consecutive years from 1992 to 1995. China has become the world's highly favored destination of foreign investors, and total foreign investment increased from US\$11 billion in 1992 to US\$42 billion in 1996.²⁹

Changes behind these figures are no less important for China's political order. In terms of "economic component" (*jingji chengfen*), the state sector is now no longer dominant. The gross value of industrial production from the state sector declined from 78.5 percent of the total in 1979 to 30.9 percent in 1995, while that from the collective sector increased from 21.5 percent to 42.8 percent during the same period. Also, as of 1995, the private sector produced 13.2 percent of China's total industrial production while foreign and other forms of enterprises produced 13.1 percent.³⁰ The employees in the collective sector increased from 20 million in 1978 to 32 million in 1995 while these in the private sector increased from 150,000 to more than 20 million in the same period. In 1995, foreign and overseas Chinese firms hired more than 5 million Chinese workers.³¹

A shrinking state sector means that the government can no longer use the way that it managed a planned economy to manage an economy with growing capitalistic characteristics. Laws gradually replaced plans to manage economic relations among different actors and govern people's economic behavior.³² As shown in Table 5, economic cases that the people's courts received grew from 226,600 in 1985 to 1,483,356 in 1997. It is understandable that most of the laws made since 1978 are those on economic and commercial activities, and foreign investment.

²⁹ John Wong, "Some Thoughts on China's Post-Deng Economy", EAI Monograph Series, no. 1, East Asian Institute, National University of Singapore, 1997.

³⁰ Lawrence J. Lau, "Gain Without Pain: Why Economic Reform in China Worked?", Public Lecture, East Asian Institute, National University of Singapore, July 22 1997, p. 7.

³¹ The State Statistical Bureau, *Zhongguo tongji nianjian 1995* (The Statistical Year Book of China 1995) (Beijing: Zhongguo tongji chubanshe, 1996), p. 90.

³² See James V. Feinerman, "Legal Institution, Administrative Device, or Foreign Import: The Roles of Contract in the People's Republic of China", in Potter, ed., *op. cit.*, pp. 225–246; Pitman B. Potter, "Foreign Investment Law in the People's Republic of China: Dilemma of State Control", *China Quarterly*, no. 141 (March 1995), pp. 155–184; and Keith, *China's Struggle for the Rule of Law*, *op. cit.*, chapter 5.

Table 5 Cases Handled By the People's Courts in the First Instance (1985-1997) and Percentage Change

Year	Criminal	% change	Civil	% change	Economic	% change	Administrative	% change	Total	% change
1985	246,000	—	846,000	—	226,600	—	—	—	1,318,600	—
1986	299,720	22%	989,409	17%	322,153	42%	—	—	1,611,282	22%
1987	289,614	-3%	1,213,219	23%	367,156	14%	—	—	1,869,989	16%
1988	313,306	8%	1,455,130	20%	513,615	40%	—	—	2,282,051	22%
1989	392,564	25%	1,815,385	25%	690,765	34%	9,934	—	2,908,648	27%
1990	459,656	17%	1,851,897	2%	588,143	-15%	13,006	31%	2,912,702	—
1991	427,840	-7%	1,880,635	2%	563,260	-4%	25,667	97%	2,897,402	—
1992	422,991	-2%	1,948,786	4%	650,601	20%	27,125	6%	3,049,5	5%
1993	403,267	-5%	2,089,257	7%	894,410	37%	27,911	3%	3,414,845	2%
1994	482,927	20%	2,383,764	14%	1,053,701	18%	35,083	26%	3,955,475	16%
1995	495,741	2.7%	2,718,533	14%	1,278,806	21.4%	52,596	49.9%	4,545,676	14.9%
1996	618,826	24.8%	3,093,995	13.8%	1,519,793	18.8%	79,966	52%	5,312,580	16.9%
1997	436,894	-29.4%	3,277,572	5.9%	1,483,356	-2.4%	90,557	13.2%	5,288,379	0.46%

Sources: The Editorial Office of the Law Year Book of China, ed., *Zhongguo falu nianjian* (The Law Year Book of China) (Beijing: The Law Year Book of China Press, 1985-1998), various issues, Part 3, Statistics.

How the Chinese government controlled the country's economic activities through a planned system is already well known.³³ Less known is the fact that the planned economy of the old days was also a system of political and social control. Without doubt, under the planned system, an economic unit was also a political one. The state exercised a tight control over its citizens through the "unit" system (*danwei zhidu*). The household registration system (*hukou zhidu*) further reinforced the state's control.³⁴ With the introduction of a market system, the planned system became ineffective, while laws became important in governing people's social activities.

The state has to loosen its political control over the population through the "unit" system if it wants to promote economic development. Economic liberalization led to the rise of various non-state sectors which employed a large part of the population. Interest conflicts between different sectors of the economy can no longer be coordinated or resolved simply by political means as before. Furthermore, economic liberalization also rendered the household registration system ineffective. When money instead of political power became important in regulating human relations, when people were able to obtain daily necessities freely from markets, they gained freedom migrating for a better life. Today, millions of people in China, especially rural workers, are migrating from one place to another. Indeed, up to the end of the 1980s, Chinese migrant population already reached more than 80 million. By the mid 1990s, the figure passed 100 million. Large scale migration of the population complicated human interaction in China.³⁵

³³ For example, Audrey Donnithorne, *China's Economic System* (New York: Praeger, 1967); Nicholas R. Lardy, *Economic Growth and Distribution in China* (Cambridge: Cambridge University Press, 1978); and Thomas P. Lyons, *Economic Integration and Planning in Maoist System* (New York: Columbia University Press, 1987).

³⁴ On the household registration system, see, Cheng Tiejun, "Zhongguo hukou zhidu di xianzhuang yu weilai" (The Current Situation of China's Household Registration System and Its Future), in Li Shaomin, ed., *Zhongguo dalu di shehui zhengzhi jingji* (Society, Politics and Economy in Mainland China) (Taipei: Guiguan tushu, 1992), pp. 393–422.

³⁵ On migrating population and its impacts, see Li Mengbai, Hu Xin et al., eds., *Liudong renkou dai da chengshi di yingxiang jiqi duice* (The Impact of Migrating Population on Large Cities and Countermeasures) (Beijing: Jingji ribao chubanshe, 1991); and Ma Xia et al., eds., *Zhongguo chengshi renkou qianyi* (Migration of Chinese Population) (Beijing: Zhongguo

Rural migrant population, together with the urban unemployed such as “off-post workers,” posed a serious threat to public order.³⁶ Without doubt, laws are becoming increasingly important in coping with public order crisis, even though different administrative measures are still used to counter public violence. Table 4 shows that from 1985 to 1993, professional lawyers increased by 371 percent, legal consulting increased by nearly 48 percent, civil and economic litigations increased by 348 percent and criminal litigations increased by 79 percent. This means that law plays an increasingly important part in regulating relations among people and between the ruler and the ruled.

A third, probably more important, driving force of China’s rapid development of legal system relates to the leadership’s political legitimacy. With the passing of the old generation of revolutionaries, the new generation of leadership must create a new base of political legitimacy. Old leaders could base their political legitimacy on their revolutionary experience. But this is no longer the case for the new generation of leaders. Laws obviously could be used to consolidate and strengthen their hold on power.³⁷

In order to increase or strengthen the leadership’s political legitimacy, two things have to be done in the context of legal development. First, the leadership must provide a stable public order. Second, the state must reduce official arbitrariness.

Without doubt, providing public order is the most basic function of modern states, and laws are made to guarantee such an order. The linkage

renkou chubanshe, 1994). In English, see Lincoln H. Day and Ma Xia, eds., *Migration and Urbanization in China* (Armonk, NY.: M. E. Sharpe, 1994); and Cheng Li, “Surplus Rural Laborers and Internal Migration in China: Current Status and Future Prospects”, *Asian Survey*, vol. xxxvi, no. 11 (November 1996), pp. 1122–1145.

³⁶ Qiu Zeqi & Zheng Yongnian, “‘Off-Post,’ Job Perception, and the Dilemma of SOE Reform in China: A Sociological Analysis”, the East Asian Institute, 1997; and Greg Austin, “The Strategic Implications of China’s Public Order Crisis”, *Survival*, vol. 37, no. 2 (Summer 1995), pp. 7–23.

³⁷ This coincided with various debates in the Chinese legal circles on Weberian distinction between personal authority and legal-rational authority. Since the early 1980s, Max Weber’s discussion of modernization and law, especially the transition from personality-based authority to legal authority, has become increasingly attractive to the Chinese. See discussion in Keith, *China’s Struggle for the Rule of Law*, *op. cit.*

between law and order has been emphasized by almost all schools of statist theories.³⁸ With rapid modernization and economic growth, China's public order became problematic. On one hand, a phenomenon that modernization theorists called *anomie* or role conflict occurred with economic and social transition. Modernization is characterized by changes of values and norms and this causes orientational upheaval. The resultant disorientation weakens societal ties and creates psychological stress. These factors in turn lead to political instability.³⁹ With rapid development and rising crimes, people increasingly felt insecure both psychologically and physically. A survey conducted at the end of the 1980s revealed the Chinese feeling of public security (Table 6). According to China's Public Security Ministry, this situation continues due to an increasing crime rate and other factors.⁴⁰

On the other hand, rapid modernization also had a negative impact on the state's capacity to provide public order. According to Samuel Huntington, rapid social and economic change "calls into question existing values and behavior patterns". It breeds corruption, which in turn breeds violence. Modernization creates new wealth and power whose relations to politics are undefined. Corruption frequently occurs in the process of using political power to procure wealth.⁴¹ Various studies show that in China there are

³⁸ For example, see Martin Carnoy, *The State and Political Theory* (Princeton, NJ.: Princeton University Press, 1984).

³⁹ For a classical discussion of this regard, see Emile Durkheim, *The Division of Labor in Society* (New York: Free Press, 1969). On Durkheim, see Robert Nisbet, *Sociology of Emile Durkheim* (New York: Oxford University Press, 1973). See also David Apter, *The Politics of Modernization* (Chicago: Chicago University Press, 1965); and Lucian W. Pye, *Politics, Personality and National Building* (New Haven: Yale University Press, 1963).

⁴⁰ Chen Baoshu & Tang Junqi, "1993–1994 nian shehui zhian xingshi fenxi yu yuce" ("An Analysis and Forecast of Public Security 1993–1994"), in Jiang Liu *et al.*, eds., *1993–1994 nian Zhongguo: shehui xingshi fenxi yu yuce* (An Analysis and Forecast of Social Developments in China 1993–1994), Beijing: Zhongguo shehui kexue chubanshe, 1994), pp. 151–161; and Liu Renwen and Tang Junqi, "1996–1997 Zhongguo shehui zhian xingshi di fenxi yu yuce" ("An Analysis and Forecast of China's Public Security 1996–1997"), in Jiang Liu *et al.*, eds., *1996–1997 nian Zhongguo shehui xingshi fenxi yu yuce* (An Analysis and Forecast of Social Development in China 1996–1997) (Beijing: Zhongguo shehui kexue chubanshe, 1997), pp. 162–172.

⁴¹ Samuel Huntington, *Political Order in Changing Societies* (New Haven: Yale University Press, 1968), pp. 59–69.

Table 6 Chinese People's Attitudes Towards Public Security (1988)
(total sample 14,882)

Items	Subtotal	Percentage
I. Your evaluation of current public security		
a. very good	554	3.7%
b. good	3,093	20.9%
c. so so	7,020	47.7%
d. bad	3,126	21.2%
e. very bad	906	6.1%
II. Your feeling about your own security		
a. very secure	1,168	7.9%
b. relatively secure	3,417	23.1%
c. so so	4,503	30.4%
d. insecure	4,081	27.5%
e. very insecure	1,621	10.9%
III. Dare you go out alone at night?		
No	7,280	49.1%
IV. Do you fear someone visits you when you are alone?		
Yes	4,896	33%

Source: The Research Group of "Index of Public Security: Studies and Evaluation" of the Ministry of Public Security, "Zhongguo gongzhou anquan gan xianzhuang diaocha yi fenxi" ("A Study and Analysis of the Sense of Security among China's Residents"), in *Shehui xue yanjiu* (Sociological Studies), no. 6 (June 1989).

links between economic reforms and an increasing rate of crime by officials, especially in the economic field.⁴² Official corruption dramatically reduced the state's capacity to maintain public order.

Both people's insecurity and crimes committed by government officials posed a severe threat to the political legitimacy of the state. The state initiated waves of anti-crime campaign, including crimes among government officials, in order to control rapid growth of crime rate. Nevertheless, for the new leadership, more important was how official arbitrariness could be

⁴² For example, Alan P. L. Liu, "The Politics of Corruption in the People's Republic of China", *American Political Science Review*, vol. 77, no. 3 (September 1983), pp. 602-23; and James T. Myers, "China: Modernization and 'Unhealthy Tendencies'", *Comparative Politics* (January 1989), pp. 193-213.

controlled. Many senior leaders realized that official corruption and crime, plus official arbitrariness, could cause rebellion by people against the rule of the Party. As a matter of fact, official corruption and crime became a major target of popular demonstrations in the 1989 Tiananmen protest. Obviously, official anti-crime campaign would not be effective in reducing official arbitrariness without a sound legal system. During Mao's time, the state initiated waves of popular movements against officials' arbitrariness. But this strategy was no longer workable because popular mobilization would often lead to social chaos, and also because stability was the highest priority for the new leadership. Therefore, laws came to regulate officials' behavior. In 1989, China unprecedentedly passed the administrative litigation law, which provided the people with an institutional means to sue officials' arbitrariness.⁴³ As shown in Table 3, since then, administrative cases increased dramatically, from 9,939 in 1989 to 35,083 in 1994. Even though the administrative litigation law is far more perfect, it is an institutional channel to reduce people's complaints and thus increase the state's political legitimacy.

THE NEED FOR THE RULE BY LAW

Even with its dramatic development, China's legal system is still a long way from the rule of law. As mentioned at the beginning of this essay, scholars have argued that it is still uncertain whether China will develop the rule of law. The government appreciates the importance of laws because Chinese leaders realized that law is an effective means of coping with social, economic and political chaos resulting from rapid social and economic changes. When Deng Xiaoping transformed the CCP from a revolutionary party to an administrative one, he also emphasized that the country should be governed

⁴³ *People's Daily*, "Zhonghua renmin gongheguo xingzheng susong fa" ("Administrative Litigation Law of the PRC"), April 10, 1989, p. 2. For a discussion, see Pitman B. Potter, "The Administrative Litigation Law of the PRC: Judicial Review and Bureaucratic Reform", in Potter, ed., *Domestic Law Reforms*, *op. cit.*, pp. 270-304. Also see Song Bing, "Citizens Suing the Government: A New Phenomenon in China?", IEAPE Background Brief no. 24, 24 February 1992.

by law. The rule by law has become a major goal of Chinese political development. Put it in another way, laws have become an increasingly important instrument in governing or regulating people's activities, coping and constraining socio-economic chaos, but not in governing official behavior even though the party-state also aimed to use laws to regulate the relations between officials and the people, and among government officials.

As we discussed above, the rule of law differs greatly from the rule by law, because, as Hayek argued, the rule of law means that rulers have to follow laws as ordinary people do. In terms of the rule of law, China faces enormous difficulties which cannot be overcome in the short run.

There are cultural, organizational and structural obstacles to the rule of law. Culturally, the rule of law seems so remote from the Chinese tradition, including the big tradition (Confucianism and Legalist), and the small tradition (communism). Confucianism assumes that on the one hand, the rule by law would not become a "good" way to govern people, and on the other hand, political elites should not be constrained by any institutional forces like law. According to Confucius,

If you try to lead the people by regulations and order them by punishments, the people will evade these and have no sense of shame [in doing so]. If you lead them by virtue and order them through the rites, they will have a sense of shame and will correct themselves.⁴⁴

Even though Confucius put much emphasis on the role of rites (*li*) in governance, his emphasis was on individual virtue and public morality. Since rulers or political elites are a symbol of virtue and morality and are superior to ordinary people from whatever perspective, people should be ready to give up their own decision making power to government officials. This cultural perspective coincided with the Chinese interpretation of the modern concept of democracy. Democracy or popular sovereignty, as a Western concept, came to China from a Japanese translation. Chinese

⁴⁴ Confucius, *Analects*, 2: 3. For the translation quoted here see Wm. Theodore De Bary, "The 'Constitutional Tradition' in China", *Journal of Chinese Law*, vol. 9, no. 1 (Spring 1995), p. 78.

interpreted “democracy” as “to make decisions for people (*weimin zuozhu*)”. Obviously, “to make decisions for people” is in accordance with Confucian elitism. The rule of law is also contradictory with China’s Legalist tradition. According to the Legalist, laws were made for governing people, not for checking the rulers’ behavior. Also, laws must be sufficiently draconian in order to form a deterrence to people. As De Bary pointed out, “law, as developed by the Legalists, was perceived as an instrument of state power, imposed on the people for their own good but not ratified by any consensual process. Law and the state were absolute in their authority. There was no sense of a need for countervailing powers, or checks and balances, such as modern constitutionalism has most often attempted to provide.”⁴⁵

The rule of law is also remote from the Chinese small tradition of communist ideology. As Epstein pointed out, “following the Leninist interpretation of law and state, Chinese communists have taken an instrumentalist approach to law.”⁴⁶ Law and the state are nothing but the coercive expression of economic power enjoyed by the ruling class. In the Chinese socialist state, as long as classes exist, law could only reflect the will of the Communist Party, the vanguard class. Within this small tradition, law is taken as “a tool of state administration.”⁴⁷ Even though the Chinese legal circles began to shift emphasis from the class nature of law to its social nature (*shehui xing*), the mind-set of law as a tool still dominates many people’s way of thinking. For example, it is still wondered why the Chinese Communist Party should be subordinated to constitutional supervision because according to some, “the CCP is the state’s leading political party, and it exercises control over the NPC (National People’s Congress) in many ways. Its activities reach beyond the realm of the state system, and its authority is therefore greater than that of the NPC. The NPC is simply unable to conduct constitutional supervision over the CCP.”⁴⁸

⁴⁵ *Ibid.*, p. 11.

⁴⁶ Epstein, “Law and Legitimation in Post-Mao China”, *op. cit.*, p. 22.

⁴⁷ Willian P. Alford, “Seek Truth from Facts — Especially when They Are Unpleasant: America’s Understanding of China’s Efforts at law Reform”, *Pacific Basin Law Journal*, vol. 8 (1990), p. 182.

⁴⁸ Cai Dingjian, “Constitutional Supervision and Interpretation in the People’s Republic of China”, *Journal of Chinese Law*, vol. 9, no. 2 (Fall 1995), p. 228. The article (pp. 219–245)

A second difficulty of the rule of law comes from the organizational structure of the Chinese state. The organizational difficulty relates to the above-mentioned CCP ideology which emphasizes the supremacy of the CCP and its state. Western scholars have found that post-Mao reforms have led to the erosion of Communist Party's control over lawmaking. For example, according to Murray Scot Tanner, the lawmaking process has become so complex that the CCP officials have tended to become less involved in the details of drafting laws and regulations, and the Politburo can neither diminish confusion on policy nor monopolize law making while other institutions come to play an increasingly important role in lawmaking. The NPC has begun to exercise something more than a "rubber-stamp" function and its reviews of proposed legislation are no longer perfunctory or a simple public show of socialist democracy.⁴⁹

It is true that power over lawmaking tends to be pluralized. But the weakening of the CCP's power over lawmaking does not necessarily mean that the CCP is under the control of law, but rather the other way around.

Chinese people still feel that the Party's power is still untamable. A recent report by the Chinese People's University stated that the NPC has the rights to revise and rescind any laws or legislations made by other state organs which are contradictory with those made by the NPC. However, up to now, the NPC has not revised and rescinded any single piece of law or legislation, because the Party or other government organs seem more powerful than the NPC and what the NPC can do is to persuade them to change and revise laws and legislation they made.⁵⁰

discussed different views of point on constitutional supervision over the Chinese Communist Party.

⁴⁹ Murray Scot Tanner, "Organizations and Politics in China's Post-Mao Law-Making System", in Potter, *Domestic Law Reforms in Post-Mao China*, *op. cit.*, pp. 56–96; "The Erosion of Communist Party Control over Lawmaking in China", *China Quarterly*, no. 138 (June 1994), pp. 381–403; and "How a Bill Becomes a Law in China: Stages and Processes in Lawmaking", *China Quarterly*, no. 141 (March 1995), pp. 39–64. For a more detailed discussion, see Tanner, *The Politics of Lawmaking in Post-Mao China*, unpublished Ph. D thesis (Department of Political Science, The University of Michigan, 1991).

⁵⁰ Zheng Hangsheng, ed., *Cong chuantong dao xiandai kuaisu zhuanxing guocheng de Zhongguo shehui* (Chinese Society in the Process of Rapid Transition from Tradition to Modernity) (Beijing: Zhongguo renmin daxue chubanshe, 1996), p. 57.

According to Jiang Ping, former vice-president of the Law Committee of the National People's Congress, lawmakers still live under the shadow of the CCP, and a major difficulty facing Chinese legal reform is "the contradiction between the country's legal and political structures". For example, "under the Constitution, budgets drafted by the State Council are to be approved by the NPC, the State Council has frequently broken ceilings imposed on the budget without obtaining prior consent from the NPC. In a draft law called the supervision law, the powers of the NPC would have been shored up against the executive organs. This law would have given the NPC power to review the performance of China's executive organs. However, it never progressed beyond the status of a draft".⁵¹ According to Jiang, the CCP's power is also dominant in other areas of lawmaking such as laws for freedom of speech and the press, the role of the judiciary, and the representation of the CCP in the Chinese economy.

The difficulty of transition from the rule by law to the rule of law is also structural. This can be understood in the context of the relationship between the state and development. The state in a developing country like China is not only a coordinator of different interests; it is also responsible for providing a political order and facilitating socio-economic development from above. The state is thus in command of socio-economic change and political order. As a matter of fact, the rise of developmental state in China has been the most important factor in leading to rapid economic growth.⁵² As discussed before, most laws made in post-Mao China are about economic activities. In other words, laws have been used by the state to promote economic development. This implies that the executive organ has to play a more important role in lawmaking than any other state organs. As shown in Table 2, the State Council made 327 regulations from 1979 to 1997

⁵¹ Jiang Ping, "Chinese Legal Reform: Achievements, Problems and Prospects," *Journal of Chinese Law*, vol. 9, no. 1 (Spring 1995), p. 72.

⁵² See Gordon White, ed., *The Chinese State in the Era of Economic Reform: The Road to Crisis* (London: The Macmillan Press, 1992); White, ed., *Developmental States in East Asia* (London: The Macmillan Press, 1988). Also see Yongnian Zheng, *Institutional Change, Local Developmentalism, and Economic Growth: The Making of Semi-Federalism in Reform China* (Ph.D thesis, Department of Politics, Princeton University, 1995).

compared to 327 laws made by the National People's Congress during the same period.

State-domination of society makes the rule of law difficult to develop. In other words, the developmental nature of the state is contradictory with the rule of law. The rule of law requires the ruler to obey law as the ruled does. But development and political order require the state to rule by law to impose its own "rational order" on society. State-domination of society also constrains the rise of civil society, forces independent from the state. Without strong demands and pressure from society, the state is unwilling to make laws to constrain itself.⁵³

Therefore, there is a dilemma for China to develop the rule of law. On one hand, all the above-mentioned cultural, organizational and structural factors do not encourage, but hinder, the development of a high degree of rights-consciousness. On the other hand, the rule of law requires social members' rights-consciousness. That is, they must "fight" against officials' intrusion into their rights. But in reality, it is not the case. Chinese scholars often complain that people are too indifferent to their own rights so that they are unable to resist officials' violation of their rights. Consequently, the rule of law becomes difficult.⁵⁴ A nation-wide survey shows a low degree of rights-consciousness in the population (Table 7). Most people believe that their rights are given by the state or government, rather than by birth. With such conception, they are less likely to "sue" government officials unless their interests or rights are severely deprived, as an empirical study showed.⁵⁵

⁵³ For the discussion of state-domination of society, see Atul Kohli, "Democracy and Development", in John P. Lewis and Valeriana Kallab, eds., *Development Strategies Reconsidered* (New Brunswick: Transaction, 1986), pp. 153–82; and Yongnian Zheng, "Development and Democracy: Are They Compatible in China?", *Political Science Quarterly*, vol. 109, no. 2 (Summer 1994), pp. 235–59.

⁵⁴ For example, Gao Hongjun, "Zhongguo gongmin quanli yishi di yanjin" ("The Development of Rights-Consciousness among Chinese Citizens"), in Xia Yong, ed., *Zuoxiang quanli di shidai* (An Age Toward Rights) (Beijing: Zhongguo zhengfa daxue chubanshe, 1995), pp. 70–134.

⁵⁵ Jiang Ping, "Xingzheng guanli xiangduiren di quanli jiuji" ("Enforcement Mechanisms for the Citizens' Rights against Unlawful Administrative Actions"), in Xia Yong, ed., *ibid.*, pp. 595–658.

Table 7 Sources of Chinese Rights-consciousness

Question: According to the Constitution, you enjoy the following rights. Where do you think your rights come from? Please choose between (A) and (B)

Rights (N. of sample)	(A) Given by the State or government (%)	(B) Given by birth (%)
Life safety (N. 5,451)	32.4	8
Life security(N. 5,450)	37	1
Elect or remove cadres (N. 5,448)	35	1.1
Getting rich by hard work (N. 5,449)	24	7.5
Rights to basic education (N. 5,450)	40.1	6.7
Inmates free of ill-treatment (N. 5,450)	50	3

Sources: Gao Hongjun, "Zhonguo gongmin quanli yishi di yanjin" ("The Development of Rights-Consciousness among Chinese Citizens"), in Xia Yong, ed., *Zuoxiang quanli di shidai* (An Age Toward Rights), Beijing: Zhongguo zhengfa daxue chubanshe, 1995, p. 46.

As a matter of fact, to raise the people's rights-consciousness has been a major political task for the government. As discussed before, in order to increase its political legitimacy, the national government needs to reduce its officials' arbitrariness. But this cannot be done simply by supervision from higher authorities. Indeed, people have to defend their own rights against officials' violation. The national government have initiated waves of campaign to spread law (*pufa yundong*) and raise citizens' rights-consciousness. The government and its various organization have initiated enormous seminars or lectures on laws as shown in Table 8. Although the rise of rights-consciousness leads to popular pressure over the state, some degree of citizens' control over officials' behavior certainly has a positive impact on the state's legitimacy. The state's campaigns of popularizing laws indeed had a significant impact on people's rights-consciousness. Table 9 reveals that eighty percent of respondents believe that they gained the perception of their legal rights from the study groups of *pufa yundong* that they took part in.

FROM RULE BY LAW TO RULE OF LAW

Will China eventually become a country of the rule of law? This article

Table 8 The Chinese Government's Campaigns to Popularize Law

	1987	1988	1989	1990	1991	1992	1993	1994	1995
No. of law seminars or lectures (1,000)	576	923	823	4,900	1014	613	596	564	547
No. of attendants (million)	235	—	302	295	373	329	337	349	356

Sources: The Editorial Office of the Law Year Book of China, ed., *Zhongguo falu nianjian* (The Law Year Book of China), Beijing: The Law Year Book of China Press, 1988-1996, various issues.

Table 9 Origins of the Perception of Legal Rights (1993 Survey)

Question: Where did you learn the laws and regulations about your rights?		
	Number (275)	%
Learn on one's own	15	5.4
Law-study groups	220	80
Through newspaper, TV, and broadcast	20	7.3
Through legal cases of relatives or friends	13	4.7
Others	7	2.5

Source: Chang Guangxing, "Shehui fazhan zhong di renshen quanli" (Social Development and Personal Rights), in Xia Yong, ed., *Zuoxiang quanli di shidai* (An Age Toward Rights), Beijing: Zhongguo zhengfa daxue chubanshe, 1995, p. 414.

argues that the issue cannot be understood simply from legal perspective *per se*, but it needs to be examined in the broad socio-economic context. Without doubt, compared to Mao's time, China is increasingly becoming a country to be ruled by law. The state's "economic growth first" principle requires legal development because, first, laws can promote socio-economic development by providing a new institutional framework; second, laws can be used to manage socio-economic chaos resulting from rapid social and economic development; and third, laws can help reduce officials' arbitrariness and thus strengthen the political legitimacy of the state.

But in terms of the rule of law, China encounters enormous difficulties. The difficulties not only come from the fact that law is used by the Party-state as an instrument. They are also cultural, organizational and structural. As discussed above, the state promotes legal development on one hand, and hinders the country's process toward the rule of law on the other hand.

Enormous obstacles, such as the Party-state's position in China's political hierarchy, the state of domination of society, and economic priority, discourage the rule of law. Therefore, whether China will become a country of the rule of law not only depends on the development and improvement of legal system *per se*. More importantly, it depends on further changes in China's socio-economic structure.

Yes, the existing legal system is still a long way from the rule of law. But this fact cannot be read as that the rule of law will be impossible in China. Law is a two-edged sword. It can be used by the state to govern people, but it can also be used by the people to restrain the state. An example is the administrative litigation law (ALL). The ALL aims to reduce officials' arbitrariness and thus to increase or consolidate the state's legitimacy. It also helps ordinary citizens to defend themselves from the intrusion of state power. Besides, the state which campaigns to popularize laws to educate people to behave according to law, has also raised people's rights-consciousness. Once more people know what their natural rights are, they will be able to challenge state power.

Rapid socio-economic progress will necessarily change China's political structure. We have seen in European history that the rule of law did not occur overnight. The development of the rule of law concurred with the development of democracy. Central to the rule of law is how state power can be tamed. The historical analysis of European democracies suggests the importance of a victorious bourgeoisie. The rising business class successfully tamed the monarchical state, challenging the aristocratic claim of government as a prerogative of birth and slowly replacing it by the principle of government as a natural domain of wealthy "commers". Later, a rising and organized working class came to challenge the power of the bourgeois state and established the notion of equal citizenship before the law.⁵⁶

China is unlikely to repeat what happened in Europe, but it is true that rapid socio-economic development has introduced changes in the relations

⁵⁶ For example, see Barrington Moore, Jr., *Social Origins of Dictatorship and Democracy* (Boston: Beacon, 1966), especially Chapter 7; Reinhard Bendix, *Nation-Building and Citizenship* (Berkeley: University of California Press, 1977), especially Chapter 3; and T. H. Marshall, *Class, Citizenship and Social Development* (New York: Doubleday, 1964).

between the state and society.⁵⁷ Yes, state power is still overwhelmingly dominant. However, with the rise of social forces, the state has to adjust its own power structure to gradually accommodate social reality. This is especially true in rural China. With the establishment of the rural election system, great changes have happened to rural power structure. The rule of law becomes more and more a reality.⁵⁸ Therefore, the difficulties of the transition from the rule by law to the rule of law are not insurmountable. With changing socio-economic structure, the institutional foundation will be laid for the rule of law.

⁵⁷ For example, Brian Hook, ed., *The Individual and the State in China* (Oxford: Oxford University Press, 1996); Gordon White, Jude Howell and Shang Xiaoyuan, *In Search of Civil Society: Market Reform and Social Change in Contemporary China* (Oxford: Oxford University Press, 1996); and Thomas B. Gold, "The Resurgence of Civil Society in China", *Journal of Democracy*, vol. 1, no. 1 (Winter 1990), pp. 18–31.

⁵⁸ On rural democracy, see Jean Oi, "Economic Development, Stability and Democratic Village Self-Governance", in Maurice Brosseau, Suzanne Pepper, and Tsang Shu-ki, eds., *China Review 1996* (Hong Kong: The Chinese University Press, 1996), pp. 125–35; Kevin O'Brien, "Implementing Political Reform in China's Village", and Susan Lawrence, "Village Representative Assemblies: Democracy, Chinese Style", both in *Australian Journal of Chinese Affairs*, no. 32 (July 1994), pp. 33–60, 61–70, respectively. Also see Kevin J. O'Brien, "Rightful Resistance", *World Politics*, vol. 49 (1996), pp. 31–55.

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Part Two



SOCIAL REFORM AND CHALLENGES

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CHAPTER 6

Labor Law for Foreign Investment Enterprises in China



LO VAI IO

INTRODUCTION

With the passage of the Law of People's Republic of China on Sino-Foreign Equity Joint Ventures in 1979,¹ China opened its door to foreign investors. In the past two decades, foreign investment steadily increased,² with the concomitant inflow of foreign capital, technology, and management expertise. As recent as in 1997, there were 21,001 direct foreign investment projects signed, totaling about US\$51 billion.³ Of these foreign direct investment projects, there were 9,001 equity joint ventures (43 percent),

¹ Law of the People's Republic of China on Sino-Foreign Equity Joint Ventures [hereinafter Joint Venture Law], adopted by the 2nd Session of the 5th National People's Congress on July 1, 1979 (amended 1990).

² From 1979 to 1983, "direct foreign investment actually used" totaled about US\$1.8 billion. In 1984, "direct foreign investment actually used" amounted to US\$1.3 billion. The amounts of foreign direct investment gradually increased in the following years. In 1997, "direct foreign investment actually used" amounted to about US\$45.3 billion. State Statistical Bureau, 1998 *China Statistical Yearbook*, 637, Table 17-13.

³ State Statistical Bureau, 1998 *China Statistical Yearbook*, 638, Table 17-14.

2,373 cooperative joint ventures (11 percent), and 9,602 wholly foreign-owned enterprises (46 percent).⁴

Apparently, foreign investors have rushed to China for two major reasons. First, China's huge potential market has made it imperative for foreign enterprises to establish their presence as early as possible. Second, the cost of production in China has been relatively low, as compared to those of other developed countries. Especially in the early years, enterprises in labor-intensive industries would like to benefit from China's cheap labor force and the relatively unregulated labor market.

Nonetheless, as economic reforms intensify and foreign investment expands, protection of Chinese workers by legislation has become a necessity. This is particularly true in view of the fact that the smashing of the "iron rice bowl" in state-owned enterprises and the abuses of workers in foreign investment enterprises⁵ have led to periodic incidents of labor unrest. Since China's labor policy and legislation in general has been discussed elsewhere,⁶ this paper aims at providing an overview of labor laws applicable to foreign investment enterprises in China. However, it is worth noting that labor provisions in statutes and regulations not discussed here may also be applicable to foreign investment enterprises, and that this paper does not intend to provide an exhaustive list.

To facilitate reading, this paper is divided into two main sections. The first section outlines labor statutes and regulations enacted in the 1980s and early 1990s. The second section discusses the Labor Law,⁷ the Regulations

⁴ State Statistical Bureau, 1998 *China Statistical Yearbook*, 638, Table 17-14.

⁵ Foreign investment enterprises refer to Sino-foreign equity joint ventures, Sino-foreign cooperative joint ventures, wholly foreign-owned enterprises, and Sino-foreign stock limited companies. Since labor rules covering these business entities are also applicable to enterprises funded by overseas Chinese and Chinese from Hong Kong, Macao, and Taiwan, the latter are also included as foreign investment enterprises here. Regulations on Labor Management in Foreign Investment Enterprises (see citation below), arts. 2 & 35.

⁶ See Vai Io Lo, "Labor and Employment in the People's Republic of China: From a Nonmarket Driven to a Market-Driven Economy", *Indiana International and Comparative Law Review*, Vol. 6, No. 2, pp. 337-410 (1996).

⁷ Labor Law of the People's Republic of China [hereinafter Labor Law], adopted by the 8th Session of the Standing Committee of the 8th National People Congress on July 5, 1994.

on Labor Management in Foreign Investment Enterprises,⁸ and relevant rules enacted in the ensuing period. Although provincial, autonomous-regional, and municipal people's congresses are authorized to enact labor regulations in light of local circumstances for the purpose of implementing national legislation, the discussion of local implementation provisions here will be beyond manageability. As a result, this paper focuses on national laws and regulations.

LABOR LEGISLATION IN THE 1980S AND EARLY 1990S

The Joint Venture Law contains only broad provisions on labor management in equity joint ventures. To provide foreign investors with more guidelines on labor management in foreign investment enterprises, China issued a series of laws and regulations during the period of 1980 to 1993:

- Regulations on Labor Management in Sino-Foreign Equity Joint Ventures;⁹
- Regulations for the Implementation of the Law on Sino-Foreign Equity Joint Ventures;¹⁰
- Provisions for the Implementation of the Regulations on Labor Management in Sino-Foreign Equity Joint Ventures;¹¹

⁸ Regulations on Labor Management in Foreign Investment Enterprises [hereinafter FIE Regulations], promulgated by the Ministry of Labor and the Ministry of Foreign Trade and Economic Cooperation on Aug. 11, 1994.

⁹ Regulations of the People's Republic of China on Labor Management in Sino-Foreign Equity Joint Ventures [hereinafter Regulations on Labor Management], promulgated by the State Council on July 26, 1980.

¹⁰ Regulations for the Implementation of the Law of the People's Republic of China on Sino-Foreign Equity Joint Ventures [hereinafter Implementation Regulations on Joint Ventures], promulgated by the State Council on Sept. 20, 1983 (amended 1986).

¹¹ Provisions for the Implementation of the Regulations on Labor Management in Sino-Foreign Equity Joint Ventures [hereinafter Implementation Provisions on Labor Management], promulgated by the Ministry of Labor and Personnel on Jan. 19, 1984.

- Law on Enterprises with Sole Foreign Investment;¹²
- Regulations on Encouragement of Foreign Investment;¹³
- Regulations on the Right of Autonomy of Foreign Investment Enterprises in the Hiring of Personnel and on Employees' Wages, Insurance, and Welfare Expenses;¹⁴
- Rules for the Implementation of the Right of Autonomy of Foreign Investment Enterprises in Their Use of Personnel;¹⁵
- Law on Sino-Foreign Cooperative Joint Ventures;¹⁶ and
- Detailed Rules for the Implementation of the Law on Enterprises with Sole Foreign Investment.¹⁷

Together with the Joint Venture Law, these laws and regulations provided a basic framework for labor management in foreign investment enterprises before the passage of the Labor Law. The following highlights their major provisions:

¹² Law of the People's Republic of China on Enterprises with Sole Foreign Investment [hereinafter Law on Wholly Foreign-Owned Enterprises], adopted by the 4th Session of the 6th National People's Congress on Apr. 12, 1986.

¹³ Regulations on Encouragement of Foreign Investment [hereinafter Encouragement Regulations], promulgated by the State Council on Oct. 11, 1986.

¹⁴ Regulations on the Right of Autonomy of Foreign Investment Enterprises in the Hiring of Personnel and on Employees' Wages, Insurance, and Welfare Expenses [hereinafter Regulations on Autonomy], promulgated by the Ministry of Labor and Personnel on Nov. 10, 1986.

¹⁵ Rules for the Implementation of the Right of Autonomy of Foreign Investment Enterprises in Their Use of Personnel [hereinafter Implementation Rules on Autonomy], approved by the State Council on Apr. 25, 1988.

¹⁶ Law of the People's Republic of China on Sino-Foreign Cooperative Joint Ventures [hereinafter Law on Cooperative Joint Ventures], adopted by the 1st Session of the 7th National People's Congress on Apr. 13, 1988.

¹⁷ Detailed Rules for the Implementation of the Law of the People's Republic of China on Enterprises with Sole Foreign Investment [hereinafter Implementation Rules on Wholly Foreign-Owned Enterprises], promulgated by the Ministry of Foreign Economy and Trade on Dec. 12, 1990.

Recruitment and Hiring

Initially, a joint venture recruiting new employees could select them only within the areas stipulated by the labor-and-personnel department.¹⁸ Even so, it was allowed to hire outside its locality engineering, technical, and managerial employees who were not available in its area, subject to the approval of the labor-and-personnel departments of the provincial, autonomous-regional, or municipal government and of the relevant district.¹⁹ Thereafter, a foreign investment enterprise might recruit "staff and workers" outside its locality and no longer needed to obtain the approval of the labor-and-personnel department at the provincial level, even though the labor-and-personnel department of the relevant district shall organize, coordinate, and serve.²⁰ In any case, foreign investment enterprises should report their recruiting, hiring, dismissal, or termination of "staff and workers" to the local labor-and-personnel department.²¹

Nonetheless, foreign investors complained of having difficulties in recruiting workers of their choice and in raising productivity.²² In response, subsequent regulations provided that the units to which operations and management employees, engineering and technical personnel, and workers belonged should give active support, permit transfer, and not use unreasonable tactics, such as collection of fees or withdrawal of housing, to restrict transfers.²³ In cases where the original unit unreasonably obstructed transfer, the staff or worker who would like to transfer to a foreign investment enterprise might resign, and his or her years of service would be consecutively calculated.²⁴ If a dispute regarding transfer arose, the disputants might

¹⁸ Implementation Provisions on Labor Management, art. 2.

¹⁹ Implementation Provisions on Labor Management, art. 3; Regulations on Autonomy, art. 1(I).

²⁰ Implementation Rules on Autonomy, arts. 1 & 3.

²¹ Encouragement Regulations, art. 15.

²² John B. Lewis & David Fleshler, "China Charts A New Course for Labor", *East Asian Executive Report*, Mar. 1987, at 9, 12.

²³ Implementation Rules on Autonomy, art. 2; Regulations on Autonomy, art. 1(ii).

²⁴ Implementation Rules on Autonomy, art. 2.

apply to the local labor-dispute arbitration committee or the personnel-exchange service agency authorized by the local government for arbitration.²⁵ More importantly, when circumstances warranted, the local labor-and-personnel department might handle the transfer directly.²⁶

Furthermore, the board of directors of a joint venture could decide on the appointment or hiring of the general managers, chief engineer, chief accountant, and auditor.²⁷ Managers and directors could not be transferred during their term of office without authorization.²⁸ If a transfer of managerial personnel became necessary, the board of directors must give its approval.²⁹ In the case of transferring a Chinese director, the unit that assigned the director should seek the views of both the enterprise's reviewing-and-approving organ and the other party to the joint venture.³⁰

Labor Contract

Joint ventures should conclude collective labor contracts with the trade unions established therein or individual labor contracts with their staff or workers.³¹ If a joint venture had no trade union, a labor contract might be concluded between the joint venture and the representatives of "staff and workers."³² A labor contract must stipulate employment conditions such as the hiring, dismissal, or resignation of "staff and workers"; tasks of production or work; wages, awards, and punishment; labor insurance and welfare; labor protection; labor discipline; duration of the contract; conditions for modifying and terminating the contract; and the rights and obligations to be executed

²⁵ Implementation Rules on Autonomy, art. 2.

²⁶ Implementation Rules on Autonomy, art. 2.

²⁷ Joint Venture Law, art. 6.

²⁸ Regulations on Autonomy, art. 1(iii); Implementation Rules on Autonomy, art. 6.

²⁹ Regulations on Autonomy, art. 1(iii).

³⁰ Implementation Rules on Autonomy, art. 6.

³¹ Regulations on Labor Management, art. 2; Implementation Provisions on Labor Management, art. 5.

³² Implementation Provisions on Labor Management, art. 5.

by both parties.³³ In addition, the labor contract or its revision must be submitted to the labor-and-personnel department of the provincial, autonomous-regional, or municipal government for approval.³⁴

Remuneration and Benefits

At the beginning, wages of “staff and workers” of a joint venture were to be set at 120 to 150 percent of the “actual wages” of “staff and workers” of state-owned enterprises of the same trade in the locality.³⁵ The “actual wages” referred to the average wage of “staff and workers” in state-owned enterprises of the same trade in the locality having similar production capacity and technical conditions; however, the specific amount was to be determined by the local labor-and personnel department, finance department, and the department-in-charge of the enterprise.³⁶ Moreover, since wage increases were to be determined by the board of directors in accordance with the joint-venture contract as well as production and operations conditions, joint ventures did not have to synchronize their wage increases with those of state-owned enterprises.³⁷

Subsequently, wage levels of “staff and workers” in foreign investment enterprises were to be determined by the board of directors and could not be less than 120 percent of the average wage of employees of similar state-owned enterprises of the same trade in the locality.³⁸ In addition, wages should be adjusted gradually in accordance with the economic performance of the enterprise.³⁹ Therefore, if economic performance was good, wages

³³ Regulations on Labor Management, art. 2; Implementation Provisions on Labor Management, art. 5; Law on Wholly Foreign-Owned Enterprises, art. 12; Implementation Rules for Wholly Foreign-Owned Enterprises, art. 67; Law on Cooperative Joint Ventures, art. 13.

³⁴ Regulations on Labor Management, art. 2; Implementation Provisions on Labor Management, art. 5.

³⁵ Regulations on Labor Management, art. 8.

³⁶ Implementation Provisions on Labor Management, art. 12.

³⁷ Implementation Provisions on Labor Management, art. 12.

³⁸ Regulations on Autonomy, art. 2(I).

³⁹ Regulations on Autonomy, art. 2(I).

might be increased significantly; if economic performance was poor, they might be slightly increased or not increased at all.⁴⁰ Similarly, wage standards, wage forms, rewards and subsidies to "staff and workers", as well as the salaries of high-ranking employees in joint ventures were to be determined by the board of directors.⁴¹

In addition, joint ventures must pay compensation to "staff and workers" who were dismissed within the labor contract period or whose labor contracts were terminated upon expiration.⁴² A dismissed staff or worker received one month's average pay for each year of service,⁴³ but with over ten years of service, the dismissed staff or worker would receive one-and-a-half months' average pay for each year of service, starting from the eleventh year.⁴⁴ Apart from severance pay, a joint venture must pay for its workers' labor insurance, medical expenses, welfare benefits, and the amount which the government subsidized for housing, basic living necessities, culture, education, and hygiene and health of workers, pursuant to the standards existing in state-owned enterprises.⁴⁵ The amounts of these payments were to be determined by the labor-and-personnel department of the province, municipality, or autonomous region; finance department; and other relevant departments.⁴⁶ It must also be adjusted correspondingly to any changes in labor insurance, welfare benefits, and government subsidies in state-owned enterprises.⁴⁷

Thereafter, a foreign investment enterprise must disburse old-age pensions and unemployment insurance funds in accordance with the requirements of the local government.⁴⁸ A foreign investment enterprise should disburse a

⁴⁰ Regulations on Autonomy, art. 2(I).

⁴¹ Regulations on Labor Management, art. 9; Implementation Regulations on Joint Ventures, art. 94.

⁴² Implementation Provisions on Labor Management, art. 7.

⁴³ Implementation Provisions on Labor Management, art. 7.

⁴⁴ Implementation Provisions on Labor Management, art. 7.

⁴⁵ Regulations on Labor Management, art. 11; Implementation Provisions on Labor Management, art. 13.

⁴⁶ Implementation Provisions on Labor Management, art. 13.

⁴⁷ Implementation Provisions on Labor Management, art. 13.

⁴⁸ Regulations on Autonomy, art. 2(ii).

housing subsidy pursuant to the requirements of the local government to be used for the construction and purchase of housing for “staff and workers.”⁴⁹ Even so, export and technologically advanced foreign enterprises were exempt from paying State subsidies, except for labor insurance, welfare costs, and housing subsidies.⁵⁰ In any event, provisions governing the employment of Chinese “staff and workers” should be stipulated in the agreement concluded between the parties in accordance with the law.⁵¹

Discipline

According to the severity of a case, a joint venture might criticize, educate, or impose administrative punishment on its “staff and workers” whose violations of labor discipline had resulted in “certain consequences.”⁵² Moreover, a joint venture might impose a lump-sum fine or seek economic compensation when necessary and might discharge serious offenders who refused to change after repeated admonition.⁵³ In cases where a joint venture planned to take disciplinary action, it must solicit the views of the trade union, listen to the defense of the staff or worker, and have the general and deputy-general manager decide.⁵⁴

Occupational Safety

Joint ventures must implement the relevant rules and regulations of the Chinese government on labor protection and to guarantee safe and “civilized” production.⁵⁵ In addition, joint ventures must provide labor protection articles to “staff and workers” with reference to the standards used in state-

⁴⁹ Regulations on Autonomy, art. 2(iii).

⁵⁰ Encouragement Regulations, art. 3.

⁵¹ Joint Venture Law, art. 6; Law on Wholly Foreign-Owned Enterprises, art. 12; Law on Cooperative Joint Ventures, art. 13.

⁵² Implementation Provisions on Labor Management, art. 10.

⁵³ Implementation Provisions on Labor Management, art. 10.

⁵⁴ Implementation Provisions on Labor Management, art. 10.

⁵⁵ Regulations on Labor Management, art. 13.

owned enterprises.⁵⁶ In case of work-related injury or death or serious occupational poisoning, a joint venture should report in time to its department-in-charge, the local labor-and-personnel department, and the trade union, and accept their investigation and handling of the incident.⁵⁷

Termination

A joint venture might dismiss surplus "staff and workers" resulting from changes in production and technical conditions, or those who remained unqualified after training and were unsuitable for other posts.⁵⁸ A notice of dismissal based on redundancy or other reasons must be given to the trade union and the worker one month in advance and be filed with the department-in-charge of the joint venture and the local labor-and-personnel department.⁵⁹

Punishment by discharge was permissible. At first, a joint venture must obtain the approval of its department-in-charge and the labor-administration department.⁶⁰ Afterward, a foreign investment enterprise was required only to report the dismissal to the local labor-and-personnel department.⁶¹ In any case, a joint venture could not dismiss "staff and workers" who were under medical treatment or were recuperating due to work-related injury or occupational disease, who were receiving treatment in hospital for illness or nonwork-related injury, or who were six-month or more pregnant or on maternity leave.⁶²

If an employee of a joint venture wanted to leave due to special circumstances and submitted his or her resignation through the trade union one month in advance, the joint venture should give its consent if proper

⁵⁶ Implementation Provisions on Labor Management, art. 16.

⁵⁷ Implementation Provisions on Labor Management, art. 17.

⁵⁸ Regulations on Labor Management, art. 4.

⁵⁹ Implementation Provisions on Labor Management, art. 7.

⁶⁰ Regulations on Labor Management, art. 5.

⁶¹ Encouragement Regulations, art. 15.

⁶² Implementation Provisions on Labor Management, art. 7.

reasons were given.⁶³ However, if the resignee had received training paid by the joint venture but had not worked for the number of years as stipulated in the labor contract, he or she should refund an appropriate amount of the training expenses in accordance with the contract.⁶⁴

In addition, no department, unit, or individual could intervene when a foreign investment enterprise dismissed a staff or worker pursuant to the provisions of the labor contract or other relevant regulations.⁶⁵ If the dismissed staff or worker was borrowed from another unit, he or she would return to the original unit.⁶⁶ If the dismissed staff or worker was recruited and employed by the foreign investment enterprise, he or she should register as “waiting for employment” with the labor-service company or personnel-exchange service agency of the local area prior to his or her employment.⁶⁷

Dispute Resolution

A labor dispute in a joint venture should first be resolved through mutual consultation.⁶⁸ If consultation failed to settle the dispute, either party or both parties might seek arbitration by the labor-administration department of the people’s government of the province, “autonomous region”, or municipality where the joint venture was located.⁶⁹ In addition, if one party disagreed on the arbitration award, it might file a lawsuit.⁷⁰

Union Representation

The “staff and workers” of a joint venture had the right to form a grassroots trade union and conduct union activities.⁷¹ As representatives of “staff and

⁶³ Implementation Provisions on Labor Management, art. 8.

⁶⁴ Implementation Provisions on Labor Management, art. 8.

⁶⁵ Implementation Rules on Autonomy, art. 5.

⁶⁶ Implementation Rules on Autonomy, art. 5.

⁶⁷ Implementation Rules on Autonomy, art. 5.

⁶⁸ Regulations on Labor Management, art. 14.

⁶⁹ Regulations on Labor Management, art. 14.

⁷⁰ Regulations on Labor Management, art. 14.

⁷¹ Implementation Regulations on Joint Ventures, art. 95.

workers," trade unions had the power to represent "staff and workers" to conclude labor contracts with joint ventures and to supervise the execution of those contracts.⁷² Even so, trade unions should assist joint ventures in rationally utilizing welfare and bonus funds and educate "staff and workers" to observe labor discipline and to strive to complete the economic tasks of the enterprise.⁷³ On the other hand, a joint venture must provide housing and facilities for the union to conduct office work; meetings; and welfare, cultural, and sports activities.⁷⁴ Each month a joint venture must pay 2 percent of the total "actual wages" of its "staff and workers" as a trade union's fund.⁷⁵

Moreover, trade union representatives had the right to attend as nonvoting members the meetings of the board of directors held to discuss such important issues as development plans and production and operational activities, and to reflect the opinions and demands of "staff and workers".⁷⁶ In board meetings held to discuss employee awards and penalties, wage system, welfare benefits, labor protection, and labor insurance, trade union representatives could attend as nonvoting members, and the board should listen to the views of the trade union and obtain its cooperation.⁷⁷ Furthermore, in cases of termination and punishment, trade unions had the right to object on the basis of unreasonableness and send representatives to obtain a negotiated settlement with the board of directors.⁷⁸

Similarly, the "staff and workers" of a wholly foreign-owned enterprise or a cooperative joint venture had the right to establish a grassroots trade union and conduct union activities.⁷⁹ The responsibilities of a trade union,⁸⁰

⁷² Implementation Regulations on Joint Ventures, art. 96.

⁷³ Implementation Regulations on Joint Ventures, art. 97.

⁷⁴ Implementation Regulations on Joint Ventures, art. 99.

⁷⁵ Implementation Regulations on Joint Ventures, art. 99.

⁷⁶ Implementation Regulations on Joint Ventures, art. 98.

⁷⁷ Implementation Regulations on Joint Ventures, art. 98.

⁷⁸ Regulations on Labor Management, art. 6.

⁷⁹ Law on Wholly Foreign-Owned Enterprises, art. 13; Implementation Rules for Wholly Foreign-Owned Enterprises, art. 69; Law on Cooperative Joint Ventures, art. 14.

⁸⁰ Implementation Rules on Wholly Foreign-Owned Enterprises, art. 71.

the attendance of board meetings by its representatives,⁸¹ and the required support from the enterprise⁸² were similar to those of the trade union in a joint venture.

Discussion

As the preceding discussion reflects, foreign investment enterprises might recruit “staff and workers” outside their localities, though once geographically restricted. Moreover, the government had tried to assist foreign investment enterprises in recruiting and maintaining competent employees by providing means to facilitate transfer and prevent talent-raiding.⁸³

The wages of the “staff and workers” in a foreign investment enterprise were supposed to be higher than those of their counterparts in a state-owned enterprise. Pay raises should be tied to the economic performance of an enterprise. Although a joint venture might pay additional subsidies and bonuses that were to be determined by its board of directors, it must pay for labor insurance, welfare benefits, old-age pensions, medical expenses, unemployment insurance, and subsidies as determined by the government. In order to promote export and attract advanced technology, the government required export-oriented and technologically advanced enterprises to pay only labor insurance, housing subsidies, and welfare costs.

In addition, a foreign investment enterprise could dismiss its “staff and workers” due to changes in production or technical conditions or as a disciplinary measure. A staff or worker could obtain an earlier termination

⁸¹ Implementation Rules on Wholly Foreign-Owned Enterprises, art. 71. The representatives of a trade union in a wholly foreign-owned enterprise can attend meetings of the enterprise held to discuss such issues as employee awards and penalties, wage system, welfare benefits, labor protection, and labor insurance, and the enterprise shall *listen* to the union's opinions and obtain its cooperation. Nevertheless, the trade union is not given the right to attend meetings held to discuss development plans as well as production and operational activities. Implementation Rules on Wholly Foreign-Owned Enterprises, art. 71.

⁸² Law on Wholly Foreign-Owned Enterprises, art. 13; Implementation Rules for Wholly Foreign-Owned Enterprises, art. 72.

⁸³ The demand for local managers far exceeded supply; thus, joint ventures often raided one another for managerial talent. “12.00 Labor”, *Business International Investing Licensing & Trading*, Feb. 1, 1993.

of the labor contract; however, he or she was required to reimburse the enterprise for training expenses. Probably, this requirement was to ensure that enterprises would not hesitate to invest in human capital. At the same time, the government had removed the requirement of prior approval for termination.

Furthermore, trade unions in foreign investment enterprises were supposed not only to represent the interests of workers, but also to assist in utilizing welfare and bonus funds and to reduce the disruption of economic tasks. Although union representatives could attend board meetings concerning the interests of workers, they did not have power because the law required enterprises only to listen to their views and obtain their cooperation. It has also been reported that labor disputes were resolved by the intervention of local authorities as well as arbitration.⁸⁴

Throughout this period, laws and regulations were enacted to provide more structure for labor management in foreign investment enterprises, as well as to resolve labor issues arising from changing economic conditions. In order to attract foreign capital and technology, the government appeared increasingly accommodative toward foreign investors. Moreover, foreign investment enterprises were given much more latitude in deciding personnel matters. Basically, the sphere of "managerial prerogatives" was maintained due to the general and somewhat precatory language of the provisions regarding worker participation. Even so, the reality facing foreign investors was less rosy than it appeared.

In the first place, it was difficult for foreign investment enterprises to recruit skilled workers because China had an oversupply of unskilled workers and an under-supply of skilled and professional labor.⁸⁵ Moreover, joint ventures that used the existing workforce of or delegated hiring responsibility to their Chinese partners experienced pressure to hire more than necessary

⁸⁴ For example, in Tianjin, one strike had lasted for almost a month until the local labor bureau negotiated a settlement, while another strike was resolved after several weeks of arbitration. Andrew Quinn, "Strikes Hit Foreign Factories in China's Tianjin", *The Reuters Library Report*, Sept. 28, 1993.

⁸⁵ Hilary Josephs, *Labor Law in China: Choice and Responsibility*, p. 19 (Salem, NH: Butterworths, 1990).

or maintain nonproductive employees due to individuals' Party affiliations.⁸⁶ Since labor discipline was quite lax during the Cultural Revolution, management nowadays faced a pool of workers, many of whom were not used to disciplinary measures. More importantly, because of a shortage of qualified people for managerial and technical positions, foreign investment enterprises had to spend substantial amounts of money on training courses and seminars.⁸⁷

At the same time, many foreign investment enterprises had either not complied with the law or mistreated workers. For example, although the regulations required foreign investment enterprises and their workers or unions to sign labor contracts, this mandate had been ignored.⁸⁸ Moreover, some foreign investment enterprises imposed innovative and strict disciplinary measures, which showed no respect for workers.⁸⁹ Indeed, many

⁸⁶ W. Gary Vause & Georgia Bush Vrionis, "China's Labor Reform Challenge: Motivation of the Production Forces", 24 *Stanford Journal of International Law* 447, at 469.

⁸⁷ As of now, it is difficult to find people with specialized skills or training in accounting, finance, marketing, advertising, and management. In addition, most engineers are either not specialized or bound for employment in state enterprises. A Shanghai joint venture brought in experts from its overseas headquarters several times a year to train its employees, which cost \$5,000 per employee per year, \$1,000 more than the average annual pay packet. Finally, joint ventures trying to fill a gap in the Chinese manufacturing find a corresponding gap in the educational preparation. "12.00 Labor", *Business International Investing Licensing & Trading*, Feb. 1, 1993.

⁸⁸ One article indicates that more than 90 percent of Taiwan-funded enterprises and other wholly foreign-owned enterprises in Xiamen, 70 percent of all foreign investment enterprises in Shantou, and 90 percent of all foreign investment enterprises in Zhuhai had not concluded employment contracts with their workers. "'Massive Survey' Accuses Foreign Firms of 'Wantonly' Abusing Workers", *BBC Summary of World Broadcasts*, Mar. 2, 1994, Part 3: Asia-Pacific.

⁸⁹ Workers at foreign-funded factories in Tianjin went on strike over low pay and bad conditions at least ten times in 1993. One strike began after the bosses at a South Korean factory forced slow workers to kneel before them and sometimes kicked their legs. Andrew Quinn, "Strikes Hit Foreign Factories in China's Tianjin", *The Reuters Library Report*, Sept. 28, 1993. Another report reveals that workers were beaten for producing poor-quality goods, fired for dozing on the job during long work hours, fined for chewing gum, and locked up in a doghouse for stealing. Sheila Tefft, "Growing Labor Unrest Roils Foreign Businesses in China", *Christian Science Monitor*, Dec. 22, 1993, § World, at 1.

foreign investment enterprises failed to provide workers with safe working conditions.⁹⁰

Furthermore, almost all coastal provinces and cities issued regulations to require the establishment of trade unions in joint ventures.⁹¹ By the end of 1993, only about 10,000 of China's more than 40,000 foreign investment enterprises had any forms of union organization.⁹² More specifically, many small, wholly foreign-owned enterprises in South China were not unionized.⁹³ As a result, the All-China Federation of Trade Unions started a recruitment drive to establish unions in joint ventures.⁹⁴

LABOR LEGISLATION SINCE 1994

In July 1994, China enacted the Labor law, which is the most comprehensive legislation dealing with labor and employment. One month later, the

⁹⁰ In Tianjin, thirty female workers of a foreign investment enterprise lived in a room of 20 square meters in which there were no beds. All the windows in the workshop were sealed, while the window glass was painted over. Moreover, a poisoning case in a garment factory in Dalian causing 42 casualties resulted from poisonous gas being released by fabric supplied by an overseas customer for processing. "Massive Survey' Accuses Foreign Firms of 'Wantonly' Abusing Workers", *BBC Summary of World Broadcasts*, Mar. 2, 1994, Part 3: Asia-Pacific.

⁹¹ "China—Foreign Labor Trends 1990–92", *National Trade Data Bank Market Reports*, Dec. 17, 1992.

⁹² Geoffrey Crothall, "Strikes Prompt Call to Unionize; Call to Unionize Strike-Plagued Foreign Enterprises", *South China Morning Post*, Feb. 22, 1994.

⁹³ "China—Foreign Labor Trends 1990–92", *National Trade Data Bank Market Reports*, Dec. 17, 1992.

⁹⁴ Hiroyuki Akita, "Union Leader Says Cooperation Key; China Law Targets Workers at Foreign Companies", *The Nikkei Weekly*, Feb. 6, 1995, §Asia & Pacific, at 18 (the grassroots section of the All-China Federation of Trade Unions wanted to establish unions in 80 percent of all foreign firms in China by the end of 1995). On November 1, 1994, the All-China Federation of Trade Unions, the Organization Department of the Central Committee of the Communist Party, the State Economic and Trade Commission, the Ministry of Foreign Trade and Economic Cooperation, the Ministry of Labor, and the State Administration for Industry and Commerce jointly issued the Circular on Several Issues about Strengthening the Work Regarding Labor Union in Foreign Investment Enterprises, which urged all localities to accelerate efforts to organize workers in foreign investment enterprises. "Labor; Circular Urges Establishment of Trade Unions in Foreign-Funded Firms", *BBC Summary of World Broadcasts*, Nov. 5, 1994, Part 3: Asia-Pacific.

Ministry of Labor and the Ministry of Foreign Trade and Economic Cooperation promulgated the Regulations on Labor Management in Foreign Investment Enterprises. These two laws together provide the governing rules for labor management in foreign investment enterprises. In particular, the latter explicitly states that any contradictory provisions in previous regulations will be superseded.⁹⁵

Subsequently, the Ministry of Labor, Ministry of Public Security, Ministry of Foreign Affairs, and Ministry of Foreign Trade and Economic Cooperation promulgated the Regulations on the Employment of Foreigners in China to provide guidance on the employment of expatriates.⁹⁶ Furthermore, the Ministry of Labor issued Several Opinions regarding Collective Bargaining of Wages in Foreign Investment Enterprises and the Provisional Measures on Management of Wage Incomes in Foreign Investment Enterprises to provide further guidelines.⁹⁷ The following is a summary of these laws and regulations:

Labor Contract

According to the Labor Law, an employment relationship is established through a labor contract.⁹⁸ However, a labor contract will be void if it violates any laws and administrative regulations, or if it is concluded by means of fraud or threat.⁹⁹ In addition, the trade union should conclude a collective contract on behalf of "staff and workers", and if there is no union,

⁹⁵ FIE Regulations, art. 36.

⁹⁶ *Regulations on the Employment of Foreigners in China* [hereinafter *Regulations on Foreigners*], promulgated by the Ministry of Labor, Ministry of Public Security, Ministry of Foreign Affairs, and the Ministry of Foreign Trade and Economic Cooperation on Jan. 22, 1996.

⁹⁷ *Several Opinions regarding Collective Bargaining of Wages in Foreign Investment Enterprises* [hereinafter *Opinions on Collective Bargaining*], promulgated by the Ministry of Labor on Feb. 14, 1997; *Provisional Measures on Management of Wage Incomes in Foreign Investment Enterprises* [hereinafter *Provisional Measures on Wage Incomes*], promulgated by the Ministry of Labor on Feb. 14, 1997.

⁹⁸ Labor Law, art. 16.

⁹⁹ Labor Law, art. 18.

the elected representatives of "staff and workers" should sign the contract.¹⁰⁰ An individual labor contract should be submitted to the local labor-administration department within one month of being concluded.¹⁰¹ A collective labor contract should be submitted to the labor-administration department for record; if the labor-administration department raises no objection, a collective contract will become effective after fifteen days.¹⁰²

Recruitment

In recruiting "staff and workers", foreign investment enterprises have autonomy in deciding the time, conditions, format, and quantity.¹⁰³ Moreover, foreign investment enterprises may recruit through employment services endorsed by the local labor department.¹⁰⁴ Nonetheless, if the local labor-administration department approves, a foreign investment enterprise can recruit directly or outside its locality.¹⁰⁵ If it is necessary to hire employees not of Chinese nationality or from Taiwan, Hong Kong, and Macao, a foreign investment enterprise must obtain approval from the local labor-administration department and go through such formalities as applying for employment permits.¹⁰⁶

Remuneration

Nowadays, a hiring unit can autonomously determine its methods of wage distribution and wage levels with reference to its production and operations characteristics as well as economic performance.¹⁰⁷ Foreign investment enterprises should gradually increase the wage levels of "staff and workers"

¹⁰⁰ Labor Law, art. 33; FIE Regulations, art. 8.

¹⁰¹ FIE Regulations, art. 9.

¹⁰² Labor Law, art. 34; FIE Regulations, art. 9.

¹⁰³ FIE Regulations, art. 5.

¹⁰⁴ FIE Regulations, art. 5.

¹⁰⁵ FIE Regulations, art. 5.

¹⁰⁶ FIE Regulations, art. 6.

¹⁰⁷ Labor Law, art. 47.

based on their economic development.¹⁰⁸ The average wage level of a foreign investment enterprise at the time of its establishment is to be determined by the board of directors and may not be lower than the average wage level of “staff and workers” in the same trade or industry in its locality.¹⁰⁹ In addition, the wage levels of foreign investment enterprises are to be determined by collective bargaining with reference to the wage guidelines promulgated by the local government or labor-administration department.¹¹⁰ The minimum wage of “staff and workers” cannot be lower than the local minimum wage.¹¹¹ Wages are to be paid in currency, in full, on time, and at least once a month, and the enterprise should withhold income tax payable by the worker.¹¹²

With respect to wages of management in equity or cooperative joint ventures, if the wages of senior management from the foreign side are not paid by the joint venture, the wages of senior management from the Chinese side should be determined by the “actual wages” system.¹¹³ If an equity or cooperative joint venture pays the wages of senior managers appointed by the foreign party, the wages of senior management from the Chinese side will be paid in accordance with the “nominal wages and actual wages” system.¹¹⁴ The “nominal wages” of senior management from the Chinese side are to be determined by the board of directors in accordance with the principle of equal pay for equal work and with reference to the wages of senior management from the foreign side.¹¹⁵ The “actual wages” of senior management from the Chinese side are to be determined by the Chinese

¹⁰⁸ FIE Regulations, art. 14; Provisional Measures on Wage Incomes, art. 5.

¹⁰⁹ Provisional Measures on Wage Incomes, art. 4.

¹¹⁰ FIE Regulations, art. 14. However, article 5 of Provisional Measures on Wage Incomes provides that the amount of increase in the average wage level of foreign investment enterprises should be determined by the board of directors or through “collective consultation” in accordance with the enterprise’s economic efficiency and labor productivity, and with reference to local consumer price index and wage guidelines.

¹¹¹ FIE Regulations, art. 14.

¹¹² FIE Regulations, art. 15.

¹¹³ Provisional Measures on Wage Incomes, art. 6.

¹¹⁴ Provisional Measures on Wage Incomes, art. 7.

¹¹⁵ Provisional Measures on Wage Incomes, art. 8.

partner in consultation with its department-in-charge in accordance with the joint venture's internal wage system, wage standards, labor productivity, realized profits and other economic performance indicators; average wage of "staff and workers"; and relevant State regulations.¹¹⁶

Social Insurance and Benefits

A foreign investment enterprise must participate in old-age, unemployment, medical, work-related injury, child-bearing, and other social insurance schemes in accordance with relevant State regulations.¹¹⁷ Accordingly, a foreign investment enterprise must make social insurance payments in full and on time to the social insurance organs in accordance with the standards stipulated by the local people's government.¹¹⁸ Likewise, an employee must pay his or her old-age insurance premiums pursuant to relevant State regulations.¹¹⁹ Thus, a foreign investment enterprise must establish the systems of "Labor Manuals" and "Old-Age Insurance Manuals" in which to record workers' length of service, wages, and payments and expenditures on old-age, unemployment, work-related-injury, and medical insurance.¹²⁰

In addition, a foreign investment enterprise must pay a lump-sum living allowance to a staff or worker whose labor contract is terminated (1) by agreement after mutual consultation, (2) due to the enterprise's coercive tactics to force labor or unlawful violations of his or her interests, (3) because he or she cannot resume duty after illness or nonwork-related injury, or is unqualified for the position after training, and (4) if changes in objective circumstances have rendered the performance of the labor contract impossible.¹²¹ If a labor contract is terminated due to inability to resume duty after illness or nonwork-related injury, the foreign investment enterprise must also pay a medical treatment allowance.¹²²

¹¹⁶ Provisional Measures on Wage Incomes, art. 9.

¹¹⁷ FIE Regulations, art. 17.

¹¹⁸ FIE Regulations, art. 17.

¹¹⁹ FIE Regulations, art. 17.

¹²⁰ FIE Regulations, art. 18.

¹²¹ FIE Regulations, art. 19.

¹²² FIE Regulations, art. 19.

Specifically, a living allowance equivalent to one month's "actual wages" will be paid for each year of service.¹²³ A medical treatment allowance equivalent to three months' "actual wages" will be paid if the employee has served for less than five years, but six months' wages will be paid if the employee has served for five years or more.¹²⁴ Service of more than six months but less than one year is deemed to be service for one year.¹²⁵ The average monthly "actual wages" for the six months prior to the termination of the labor contract will be used as the basis for calculating living and medical treatment allowances.¹²⁶

On behalf of the following employees, the enterprise must, in accordance with the relevant regulations of the local people's government, make a lump-sum payment as required for living expenses and social insurance premiums if it declares dissolution pursuant to relevant regulations or the labor contract is terminated after consultation: (1) those who have suffered a work-related injury or occupational illness and have obtained a hospital certification to show that they are undergoing medical treatment or convalescing; (2) those who are confirmed by the labor appraisal committee to have fully or partially lost their ability to work; (3) the pension-receiving dependents of a staff or worker who has died as a result of work-related injury; (4) female staff or workers who are pregnant, on maternity leave, or nursing a child; and (5) "staff and workers" who are not covered by any type of social insurance.¹²⁷

At the same time, "staff and workers" of a foreign investment enterprise receive welfare benefits in accordance with the relevant State regulations.¹²⁸

¹²³ FIE Regulations, art. 20.

¹²⁴ FIE Regulations, art. 20.

¹²⁵ FIE Regulations, art. 20.

¹²⁶ FIE Regulations, art. 20.

¹²⁷ FIE Regulations, art. 21. The Labor Law provides that in cases of disability, receiving medical treatment, pregnancy, etc., a hiring unit cannot terminate a labor contract on the basis of inability to resume work, lack of qualifications, changes in objective circumstances, or reduction of workforce. Labor Law, art. 29. It is worth noting that the Regulations refer to these payments only when the termination is based on dissolution of the enterprise or mutual agreement between the parties.

¹²⁸ FIE Regulations, art. 22.

A foreign investment enterprise must draw housing funds and use such funds on behalf of its Chinese "staff and workers" in accordance with the regulations of the local people's government.¹²⁹ In addition to public holidays for festivals and rest, "staff and workers" are entitled to take leave for visits to family members, weddings, funerals, maternity etc.¹³⁰ Finally, the difference between the "nominal wages" and "actual wages" of senior management from the Chinese side in a joint venture will be used for supplementary social insurance, welfare, and housing funds for its Chinese "staff and workers."¹³¹

Employment of Expatriates

When a foreign investment enterprise wants to recruit foreigners, it should apply for a Foreigner Employment License,¹³² except in the case of the chief representative or representatives of its permanent representative office in China.¹³³ A foreign investment enterprise can sign a labor contract with a foreigner for a maximum term of five years.¹³⁴ To renew the labor contract, the employer must apply to the labor-administration department for an extension thirty days before the expiration of the original labor contract.¹³⁵

Within fifteen days of a foreigner's entry into China, the employer must submit the Foreigner Employment License, the labor contract, and the travel document of the employee to the original licensing office to obtain a Foreigner Employment Permit and complete a Foreigner Employment Registration Form.¹³⁶ Similarly, a foreigner to whom a Foreigner Employment Permit has been issued should, within thirty days of entering China, present the permit to the public security to apply for a Foreigner Residence

¹²⁹ FIE Regulations, art. 23.

¹³⁰ FIE Regulations, art. 24.

¹³¹ Provisional Measures on Wage Incomes, art. 10.

¹³² Regulations on Foreigners, art. 5.

¹³³ Regulations on Foreigners, art. 10.

¹³⁴ Regulations on Foreigners, art. 18.

¹³⁵ Regulations on Foreigners, art. 19.

¹³⁶ Regulations on Foreigners, art. 16.

Certificate.¹³⁷ A foreigner may begin work only after obtaining a Foreigner Employment Permit and a Foreigner Residence Certificate.¹³⁸

Maximum Hours and Overtime Work

Workers cannot work more than eight hours a day or forty hours a week and must be guaranteed at least two days' rest per week.¹³⁹ If a foreign investment enterprise has production needs, it should consult the trade union and workers to extend the working hours.¹⁴⁰ Overtime work cannot exceed one hour per day; however, when special circumstances render it necessary to do longer overtime work, the enterprise may request overtime work for a maximum of three hours per day or thirty-six hours per month.¹⁴¹ Moreover, overtime work should be paid as follows: 150 percent of the normal-hour wages for work done after regular hours, 200 percent for work done on rest days, and 300 percent for work done during legal holidays.¹⁴²

Occupational Safety

A foreign investment enterprise must provide its workers with safe working conditions as established by the State, as well as regularly check the health of workers who are engaged in work involving occupational hazards.¹⁴³ Workers have the rights to refuse to carry out orders that violate safety rules and put them under risks, and to criticize, report, and file charges against conduct endangering their lives and safety.¹⁴⁴

¹³⁷ Regulations on Foreigners, art. 17.

¹³⁸ Regulations on Foreigners, art. 8.

¹³⁹ Labor Law, arts. 36 (forty-four hours) & 38 (one day). In 1995, the State Council authorized the adoption of a five-day workweek. Regulations of the State Council governing Working Hours for Workers, Mar. 25, 1995, art. 3.

¹⁴⁰ Labor Law, art. 41.

¹⁴¹ Labor Law, art. 41.

¹⁴² Labor Law, art. 44.

¹⁴³ Labor Law, art. 54.

¹⁴⁴ Labor Law, art. 56.

Union Representation

The “staff and workers” of a foreign investment enterprise have the right to organize a union to represent them and to protect their legal rights and interests.¹⁴⁵ For example, the trade union in a foreign investment enterprise can represent “staff and workers” to collectively bargain with the enterprise on such issues as the internal wage distribution system, the wage distribution format, wage income levels, wage increases, labor insurance, and welfare benefits.¹⁴⁶

Dispute Resolution

In general, when a labor dispute arises, the parties may request mediation by the labor-dispute mediation committee within the foreign investment enterprise.¹⁴⁷ If mediation fails, one party may seek arbitration from the labor-dispute arbitration committee (it may also directly request arbitration from the labor-dispute arbitration committee).¹⁴⁸ If one party does not accept the arbitration award, it can file a lawsuit.¹⁴⁹

If a labor dispute arises out of the formation of a collective labor contract, the parties can resolve it through mutual consultation.¹⁵⁰ If consultation fails, the local labor-administration department can coordinate the relevant parties to resolve the dispute.¹⁵¹ If a labor dispute arises out of the performance of a collective labor contract, the parties may resolve it through consultation.¹⁵² If consultation fails, the parties may first request arbitration and then file a lawsuit within fifteen days of receiving the arbitration award.¹⁵³

¹⁴⁵ Labor Law, art. 7.

¹⁴⁶ Opinions on Collective Bargaining, art. 1.

¹⁴⁷ Labor Law, art. 79.

¹⁴⁸ Labor Law, art. 79.

¹⁴⁹ Labor Law, art. 79.

¹⁵⁰ Labor Law, art. 84.

¹⁵¹ Labor Law, art. 84; FIE Regulations, art. 25.

¹⁵² Labor Law, art. 84.

¹⁵³ Labor Law, art. 84; FIE Regulations, art. 25.

Termination

A labor contract can be terminated if (1) both parties agree after consultation; (2) the worker is found to be unqualified during the probation period; (3) the worker has seriously violated labor discipline; (4) the worker has been sentenced to imprisonment or will receive labor re-education; (5) the enterprise uses violence, threat, or illegal restraint of freedom to force labor; and (6) the enterprise does not perform its contractual duties or has breached laws or regulations in violation of the rights of the worker.¹⁵⁴

Moreover, under any one of the following circumstances, a foreign investment enterprise can terminate a labor contract after it has obtained the consent of the trade union and has sent a written notice to the staff or worker thirty days in advance: (1) a worker who has been ill or has suffered nonwork-related injury cannot resume his or her original duty or perform other work arranged by the enterprise; (2) a worker is not qualified after receiving training and despite change of post; and (3) changes in objective circumstances have rendered the performance of the labor contract impossible.¹⁵⁵

Last of all, if a foreign investment enterprise must reduce workers during the period of reorganization pending bankruptcy or when serious difficulties arise in production and operations, it can lay off workers by giving a thirty-day notice to the trade union or the entire workforce as well as reporting to the labor-administration department.¹⁵⁶ Nonetheless, if the foreign investment enterprise would like to recruit workers in the following six months, it must first hire those who have been laid off.¹⁵⁷

Discussion

In 1997, foreign-funded enterprises employed 3 million urban "staff and

¹⁵⁴ FIE Regulations, art. 11; Labor Law, arts. 24, 25 & 32.

¹⁵⁵ FIE Regulations, art. 12. To an extent, the Regulations conflict with the Labor Law because the latter does not require the trade union's consent under these circumstances. Labor Law, art. 26.

¹⁵⁶ Labor Law, art. 27.

¹⁵⁷ Labor Law, art. 27.

workers," and enterprises funded by entrepreneurs from Hong Kong, Macao, and Taiwan employed 2.81 million urban workers.¹⁵⁸ The average annual wage of workers in foreign-funded economic units amounted to 10,361 yuan, while the figure for workers in economic units funded by entrepreneurs from Hong Kong, Macao, and Taiwan was 9,329 yuan.¹⁵⁹ Moreover, in 1996, foreign-funded enterprises spent about 2.1 billion yuan in labor insurance and welfare benefits, while enterprises funded by entrepreneurs from Hong Kong, Macao, and Taiwan spent about 1 billion yuan.¹⁶⁰

As a basic law, the Labor Law applies to all enterprises located in China. Thus, the distinction between domestic and foreign enterprises should be abolished or narrowed. However, the Regulations on Labor Management in Foreign Investment Enterprises have cast doubt on this development. It is because the Regulations on Labor Management in Foreign Investment Enterprises appear to take back some autonomy already granted to foreign investors by the Labor Law and previous regulations. For example, the Regulations require foreign investment enterprises to secure prior approval from the local labor-administration department if they would like to recruit directly or outside their localities. As discussed above, the requirement of obtaining approval prior to recruitment in other localities was abolished by the Rules for the Implementation of the Right of Autonomy of Foreign Investment Enterprises in Their Use of Personnel. Similarly, the Regulations provide that if a foreign investment enterprise wants to terminate a labor contract by giving a thirty-day advance notice, it must obtain the consent of the trade union. In contrast, the Labor Law does not mention the consent of the trade union.

The conflicting provisions of the Labor Law and the Regulations on Labor Management in Foreign Investment Enterprises raise the question as to which one of them should control. Because the Regulations on Labor Management in Foreign Investment Enterprises were promulgated by the Ministry of Labor and the Ministry of Foreign Trade and Economic

¹⁵⁸ State Statistical Bureau, 1998 *China Statistical Yearbook*, 127, Table 5-1.

¹⁵⁹ State Statistical Bureau, 1998 *China Statistical Yearbook*, 168, Table 5-28.

¹⁶⁰ Zhongguo Laodong Nianjian Bianjibu, 1997 *Zhongguo Laodong Nianjian* [1997 *China Labor Yearbook*], 704.

Cooperation, two administrative agencies, while the Labor Law was passed by the National People's Congress, it logically follows that the Labor Law should take precedence. Nonetheless, one may argue that these two administrative agencies have issued the Regulations in order to implement the Labor Law in the foreign sector.

The success of the Labor Law and the Regulations depends on enforcement efforts. Enforcement, in turn, depends on two major factors. First, regional protectionism may cause local authorities not to enforce the law in order to attract foreign capital and technology for promoting economic growth. Second, the investment climate at a particular point in time may also affect enforcement of the law. It is because the more foreign investment a local government receives, the more vigorously it will enforce the law; but the less foreign investment, the less arduously it will enforce the law.

CONCLUSION

In the past two decades, China opened its door to foreign investors by attempting to foster a hospitable investment environment. With respect to labor management, China gradually enacted laws and regulations to provide a legal framework and to resolve problems arising out of changing economic circumstances. In the 1980s, labor-management provisions relating to foreign investment enterprises were increasingly accommodative. With the surge in labor abuses in the foreign sector, the Labor Law and the Regulations on Labor Management in Foreign Investment Enterprises appear to be more protective of workers.

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CHAPTER 7

The Political Economy of Public Housing Reform



EDWARD X. GU

In all transitional economies, housing reform is an integral part of macroeconomic stabilisation and structural change. It has become a high priority on the reform agenda because the pre-reform socialist housing system has brought many serious economic and social problems, e.g., the huge direct impact that housing subsidies have on national budgets; the ineffective mobilisation of household savings they cause; the significant constraints on labour mobility and industrial location they may generate; the economic burden that they often place on enterprises, in particular state owned enterprises (SOEs), which is then shifted to the state; and the high infrastructure intensity of the urban economy.¹

China's housing reform has been underway for nearly two decades, and its goal is the commodification of housing — that is, to develop an institutional structure in which the production and consumption of housing are mainly driven by market forces. However, it has proceeded very slowly

¹ Bertrand Renaud, *Housing Reform in Socialist Economies*. Washington, D.C. The World Bank, 1991, p. 29.

and at present is still a long way from its target. The slow progress of housing reform has shown negative impacts upon macroeconomic stabilisation and structural change. The proportion of housing expenditures to the total annual consumption expenditure of urban households is still relatively low (see Table 1).² The development of some housing-related sectors, such as construction and real estate development and management, is still sluggish (see Table 2).³ Without bold measures to speed up the housing reform, it is unlikely that these sectors will become new pillars of the Chinese economy. Having realised its importance and urgency, the Chinese central government unveiled a new housing reform policy in mid-July of 1998.

Table 1 Expenditure of Urban Households on Housing

Year	Annual Consumption Expenditures (per capita, yuan)	Housing Expenditures*	
		Amount (per capita, yuan)	Proportion (percentage)
1990	1278.89	46.09	3.60
1991	1453.81	61.35	4.22
1992	1671.73	—	—
1993	2110.81	206.51	9.78
1994	2851.34	—	—
1995	3537.57	322.96	9.13
1996	3919.47	351.94	8.98
1997	4185.64	426.09	10.18

Note: * Housing Expenditures include payments for housing purchase, housing building, mortgage, housing renovation, rental, maintenance and service.

Sources: *China Statistical Yearbook of Prices and Urban Household's Revenues and Expenditures*, 1996, 1997, 1998; and *Survey Data of Urban Household's Revenues and Expenditures*, 1990, 1991, 1993.

² In EU countries, the same figure of 1989 ranges from the lowest 10.9 percent in Ireland to the highest 27.4 in Denmark. See Paul Balchin (ed.) *Housing Policy in Europe*. London: Routledge, 1996, p. 3.

³ No separate national statistical figure on the housing sector is available. The housing sector falls into the category of construction and/or real estate sector.

The major point of the new policy is that the existing housing allocation system, based on the concept of housing as a welfare benefit rather than a commodity, will cease to operate in the near future. The revolutionary implication of the new policy is that it will amend a tacit agreement between the state and urban residents whereby the former provides the latter with a wide range of social welfare provisions (including housing) in return for the latter's political compliance. The agreement, which is called the "Soviet social contract" by Linda J. Cook,⁴ has worked for more than four decades in urban China, and it constituted the institutional basis of the Chinese state socialist welfare system. By undermining a cornerstone of the present welfare system, the 1998 new housing policy is designed to boost the transition of urban China's housing system from a state socialist model to a market-based one.

Table 2 Proportion (percentage) of Construction and Real Estate Sectors to GDP (billion yuan)

Year	GDP	Construction	Real Estate	
			Proportion	Proportion
1990	1854.79	85.94	4.63	1.75
1991	2161.78	101.51	4.70	1.70
1992	2663.81	141.50	5.31	1.96
1993	3463.44	228.47	6.60	1.85
1994	4675.94	301.26	6.44	1.86
1995	5847.81	381.96	6.53	1.81
1996	6788.46	453.03	6.67	1.69
1997	7477.24	501.80	6.71	

Source: *China Statistical Yearbook*, 1998. Beijing: China Statistics Press, various years, 1988, pp. 55, 59.

The key to the new housing policy is to carry out public policy by imposing institutional change. To understand the rationale of the new

⁴Linda J. Cook, *The Soviet Social Contract and Why It Failed: Welfare Policy and Workers Politics from Brezhnev to Yeltsin*. Cambridge, Mass.: Harvard University Press, 1993.

housing policy as well as its implications, we must put it into the historical context of previous housing reforms. This article, however, does not present a comprehensive study of the process of housing reform in urban China. Many important issues, such as the development of commercial housing, the evolution of housing finance system, the land reform, etc., are not systematically examined here. It also makes no reference to local variations, but is concerned only with some common issues at national level. Instead, the basic purpose of the article is to bring to light the institutional factors that promoted institutional change in certain institutional arrangements but impeded that in others by focusing on how urban China's public housing reform is embedded in the institutional transformation of the state socialist welfare system.

To provide the reader with a clearer sense, this article is divided into seven sections. The first section presents a theoretical framework identifying major actors involved in the reform and to ascertain their incentive structure for institutional changes, by drawing insights from the new institutionalism that has aroused wide attention in the social sciences. Section 2 gives a brief picture of China's pre-reform housing system, highlighting its unfavourable political, economic and social consequences. Section 3 outlines the historical process of housing reform since 1979. Section 4 examines the interactions of the central government, local government, work-units, and urban residents in initiating and responding to partial reform measures. Section 5 analyzes the limits of some partial reforms, focusing on the problem of how some changes in certain institutional arrangements are embedded in broader institutional structure and political contexts. Section 6 gives a preliminary assessment of the 1998 new housing policy. Section 7 presents some concluding remarks.

1. THEORETICAL FRAMEWORK

Housing reform is a process of institutional change. Institutional change takes place as a result of actors making choices between different alternative institutional arrangements. How actors make choices under the constraints of existing institutional arrangements and how their choices influence the

process of institutional changes are among the major topics of new institutionalism.⁵

The basic driving force of institutional change is that the existing institutional arrangement is no longer the efficient one out of the choice set of possible institutional arrangements. The change from an existing institutional arrangement to an alternative, however, is a costly process. A voluntary institutional change will not take place unless the net gains to actors from changing to the new arrangement outweigh the costs of the change.⁶ No doubt, actors do not calculate their costs and gains in an institutional vacuum. The existing institutional configuration, which is defined as the totality of both formal and informal institutional arrangements, constrains and shapes the choices that actors make for changing some rules of the game in some institutional realms.⁷ In other words, institutional change is embedded in broader institutional structure and furthermore in broader socio-political contexts. The path of previous institutional changes also influences or even constrains the further choices that actors can make. As Douglass North argues, institutional change is "path dependent".⁸

The focus of this article is to examine how different actors make choices to change some existing institutional arrangements involving public housing in response to the evolving institutional configuration of China's social and economic systems, in particular the institutional structure of the state socialist

⁵ See Ellen M. Immergut, "The Theoretical Core of the New Institutionalism", *Politics and Society*, Vol. 26, No. 1 (1998), pp. 5–34; Peter A. Hall and Rosemary C. R. Taylor "Political Science and the Three New Institutionalisms", *Political Studies*, Vol. 44, No. 5 (1996), pp. 936–957; Junko Kato, "Institutions and Rationality in Politics: Three Varieties of Neo-Institutionalists", *British Journal of Political Science*, Vol. 26, No. 4 (1996), pp. 553–582; Koelble, Thomas A. (1995) "The New Institutionalism in Political Science and Sociology", *Comparative Politics*, Vol. 27, No. 2 (1995), 231–243.

⁶ Justin Yifu Lin, "An Economic Theory of Institutional Change: Induced and Imposed Change", *The Cato Journal*, Vol. 9, No. 1 (1989), pp. 1–33.

⁷ Kathleen Thelen and Sven Steinmo, "Historical Institutionalism in Comparative Politics", in Sven Steinmo, Kathleen Thelen, and Frank Longstreth (eds.), *Structuring Politics: Historical Institutionalism in Comparative Analysis*. Cambridge: Cambridge University Press, 1992, pp. 1–32.

⁸ Douglass North, *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press, 1990, pp. 93–100.

welfare system. In identifying the major actors who play important roles in institutional change, many new institutionalists draw an insight from the "state-centred approach", which holds that politicians, governmental officials, and administrators must be taken seriously. They are not merely agents of other social interests, but actors in their own rights, both empowered and constrained by the historically evolving institutions within which they made decisions. They can make independent contributions to the development of institutional change.⁹

In response to Skocpol and Amenta's call to identify "the political actors that initiate and shape public policies",¹⁰ this study takes officials of central and local governments and managers of state-owned work units on the one hand and urban households on the other as key actors (sometimes institution-building entrepreneurs) in the process of housing reform. It is worth noting that different local governments, work-units and urban households occupy different positions within the administrative hierarchy, and hence in response to the same institutional constraints they tend to make different types of "rational choices". In other words, "rationality" is bounded. The concept of "bounded rationality" here means that rationality can be bounded not only because of certain universal limitations in human psychology, as Herbert Simon developed,¹¹ but also because of certain specific socio-political elements.

2. THE PRE-REFORM PUBLIC HOUSING SYSTEM IN URBAN CHINA

Urban China's pre-reform housing system, which worked during the pre-reform era and the greater part of which was still working in the reform era until the 1998 new housing policy takes effect, was characterised by (a)

⁹ Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States*. Cambridge, Mass.: Harvard University Press, 1992, pp. 41–42.

¹⁰ Theda Skocpol and Edwin Amenta, "States and Social Policies", *Annual Review of Sociology*, Vol. 12 (1986), p. 136.

¹¹ Herbert Simon, *Models of Bounded Rationality*, Vol. 2. Cambridge, Mass.: The MIT Press, 1982, pp. 408–423.

housing as a welfare good but not a commodity; (b) state monopoly over housing investment and construction; and (c) a work-unit based, administrative system of housing allocation.

All these three characteristics were not unique to China, but common to communist countries. As Ivan Szelenyi puts it, the guiding ideological principles of housing policy in communist countries were two: (1) housing should be a universal provision, not a market commodity; and (2) the capitalist production and marketing of housing should cease.¹² For a long time, the provision of housing to every family (and in particular newly married couples) had been a cornerstone of the Soviet-style social welfare system.¹³ The allocation of housing was organised mainly by work-units for their employees as an employment benefit,¹⁴ and communities played a supplementary role in distributing housing to families, in particular those with low income.¹⁵

By enforcing these ideological principles, communist governments had gradually abolished capitalist housing systems and had assumed the fundamental responsibility for meeting the people's housing needs.¹⁶ Housing construction was incorporated into the central planning process. However, in many communist countries, including China, housing was not a distinct sector. It normally fell into the category of so-called "non-productive construction".¹⁷

In the Soviet Union, the socialist housing system took shape as early as the 1930s. In China, the new communist government has ruled the country since 1949, and took over the majority of private housing by various means throughout the 1950s and in the early 1960s. Under the umbrella of public ownership, the state has quickly monopolized land use and housing

¹² Ivan Szelenyi, *Urban Inequalities under State Socialism*. New York: Oxford University Press, 1983, p. 28.

¹³ See Cook, *Soviet Social Contract*, pp. 20, 23, 48, 52–53.

¹⁴ See Renaud, *Housing Reform*, pp. 6–7.

¹⁵ Kosta Mathey, "Socialist Housing: Some Key Issues", in Kosta Mathey (ed.), *Housing Policies in the Socialist Third World*. London and New York: Mansell, 1990, p. 16.

¹⁶ Szelenyi, *Urban Inequalities* p. 28.

¹⁷ See Renaud, *Housing Reform*, p. 7.

investment since the founding of the People's Republic of China.¹⁸ By the early 1960s, a work-unit-based housing allocation system was set up.¹⁹ However, this system operated only in urban China, because it was simply not affordable for the state to offer universal provision of housing to all citizens. There has been an institutional demarcation between urban and rural areas since the state began to impose a household registration system (*hukou zhidu*) in the late 1950s.²⁰

In urban China, all organizations where people work — including enterprises, retail shops, hospitals, schools, civil associations, governmental organs, and the like — are generally called “*danwei*” (which literally means “workplace units” or “work units”). With regard to their operations, work units fall into three categories: (1) enterprise units (*qiye danwei*), which covers all units engaged in profit-making; (2) non-profit units (*shiyi danwei*) including scientific, educational, professional, cultural, athletic, and health care organisations; and (3) administrative units (*xingzheng danwei*), i.e., governmental organs.²¹

While the term “*danwei*” can be used to refer to any kinds of workplace units in urban China, the term “*danwei* system” is usually used to refer to a hierarchy of state-owned workplace units. The most defining characteristic of the *danwei* system is that it serves important socio-economic needs by offering permanent employment. The *danwei* system also guarantees a variety of welfare benefits: inexpensive housing, medical care, a wide range of subsidies for everything from transportation to nutrition, and above all

¹⁸ Yanjie Bian, John R. Logan, Hanlong Lu, Yunkang Pan, “Work Units and Housing Reform in Two Chinese Cities”, in Xiaobo L and Elizabeth J. Perry (eds.), *Danwei: The Changing Chinese Workplace in Historical and Comparative Perspective*. Armonk, New York: M. E. Sharpe, 1997, p. 228.

¹⁹ See Barry Naughton, “Danwei: The Economic Foundations of a Unique Institution”, in Lü and Perry, *Danwei*, pp. 171–179.

²⁰ Tiejun Cheng and Mark Selden (1997), “The Construction of Spatial Hierarchies: China’s *Hukou* and *Danwei* Systems”, in Timothy Cheek and Tony Saich (eds.), *New Perspectives on State Socialism in China*. Armonk, New York: M. E. Sharpe, pp. 23–50; Hein Mallee, “China’s Household Registration System under Reform”, *Development and Change*, Vol. 26, No. 1 (1995), pp. 1–29.

²¹ See Xiaobo Lü and Elizabeth J. Perry, “Introduction: The Changing Chinese Workplace in Historical and Comparative Perspective”, in Lü and Perry, *Danwei*, pp. 3–7.

generous retirement pensions.²² Put it simply, the *danwei* system constitutes the organizational basis of the Chinese state socialist welfare system.

The provision of housing is of particular importance to the “*danwei*-based state socialist welfare system” because housing is deemed essential to people’s everyday life. In China, public housing is normally classified into two categories: (1) “directly controlled public housing” (*zhiguan gongfang*), i.e., housing under the direct control of the city bureau of housing management, a bureaucratic organ of the municipal government; and (2) “self-managed public housing” (*ziguan gongfang*), i.e., housing under the management of various work-units in the state sector.²³ In general, in the pre-reform housing system, the task of the city bureau of housing management was to serve people whose work-units (e.g. many collectively owned enterprises) could not provide housing or who were not affiliated with a *danwei*.²⁴

The proportions of the two types of public housing varied both temporally and geographically. Relatively speaking, the “self-managed public housing” constituted the majority of public housing (see Table 3). Within the *danwei* system, housing allocation system had been characterised as an administrative process of distribution, in which dwelling units available were assigned to employees as an employment benefit according to certain criteria. Normally, the criteria were not transparent, and varied among different work-units. Basically, the major factors taken into the consideration were as follows: occupational rank; seniority; marital status; number, ages, and sexes of children at home; the presence of elderly parents; employment of both husband and wife at the same work-unit; and the current amount of living floorspace, etc.²⁵ “Directly controlled public housing” was distributed in a similar way because most of the eligible applicants were employees of

²² *Ibid.*, pp. 3–7, 9–12.

²³ Institute of Finance and Trade Economics (Chinese Academy of Social Sciences) and Institute of Public Administration (New York) (abbreviated as Institute of Finance), *Zhongguo Chengzhen Zhuzhai Zhidu Gaige (China’s Urban Housing Reform)*. Beijing: Jingji Guanli Chubanshe, 1996, p. 13.

²⁴ Joochul Kim, “Housing Development and Reforms in China”, in Gil Shidlo (ed.), *Housing Policy in Developing Countries*. London: Routledge, 1990, pp. 104–120.

²⁵ *Ibid.*, p. 108.

collectively owned enterprises and grassroots non-profit or administrative work-units. Therefore, it is safe to say that the allocation of public housing, whether it was controlled by work-units or by local governments, was a work-unit-based system.

Table 3 Proportion of Different Types of Housing in Shanghai and 200 Cities in 1981

Types of Housing	Shanghai	200 Cities
Directly controlled public housing	44.23 (%)	28.67 (%)
Self-managed public housing	45.44 (%)	53.60 (%)
Private housing	10.33 (%)	17.73 (%)

Source: Yok-shiu F. Lee, "The Urban Housing Problem in China," *The China Quarterly*, No. 115 (1988), p. 398.

Within the pre-reform housing system, all public housing was for rent, and rents were extremely low, ranging only from 0.71 to 1.52 per cent of the cost of living (see Table 4).²⁶ Because of the low rent, the construction of public housing was a loss-making business and had thereby suffered underinvestment for a long time during the Mao Zedong era. As a result, Chinese urban centres experienced a growing housing shortage due to the low level of state investment in the 1970s.²⁷

The severe situation of housing shortage led to the fact that those who had not yet been allotted housing had to wait for a long time to have their houses. The process of housing assignment was one of intensive conflict of interest. On the one hand, how to satisfy the endless demand for housing and to deal with the conflict of interest among employees was a headache for all directors of work units; on the other hand, it was natural for directors to allot more housing for themselves by utilising the power that they could

²⁶ From 1990 onward, expenditures on housing purchase and mortgage payments are included in the national statistics. No surveys on the level of housing rent based only on samples of urban residents who live in rental housing are available.

²⁷ See Bian, *et al.*, "Work Units and Housing Reform", p. 225.

seize in their hands. It is safe to say that the *danwei* welfare socialism has become one of the sources of social inequality and social conflict in urban China.²⁸

Table 4 Expenditure of Urban Households on Housing Rent

Year	Annual Living Expenditures Per Capita (yuan)	Rent (yuan)	Proportion (%)
1981	456.84	6.36	1.39
1982	471.00	7.08	1.50
1983	505.92	7.68	1.52
1984	559.44	7.80	1.39
1985	673.20	6.48	0.96
1986	798.96	7.20	0.90
1987	884.40	7.74	0.87
1988	1103.98	7.83	0.71
1989	1210.95	8.82	0.73

Sources: *Chinese Statistical Yearbook*, 1990, p. 300; 1989, p. 727; and 1988, p. 807.

Inequalities between work-units in terms of the housing conditions that their employees could enjoy were also severe. Basically, work-units in the state sector provided their employees with many more welfare goods than those in the non-state sector did. In fact, many new non-state enterprises as well as other organisations (such as professional agencies), which were established in accordance with the principles of market economy after the reform began in 1979, did not offer secure jobs and universal welfare provisions to their employees. Hence, in urban China, the vast majority of families must have at least one of their members employed in the state sector, otherwise they would experience troubles with housing.²⁹ Housing availability was often a significant factor when people were contemplating marriage.³⁰

²⁸ Lee, "Urban Housing Problem", pp. 397–399.

²⁹ *Ibid.*, p. 406.

³⁰ Kim, "Housing Development", p. 108.

The situation of housing inequality was also caused by the different administrative positions that different work-units occupied in the hierarchy of the work-unit system. A regular pattern was that the higher the administrative ranking a work-unit had, the greater the probability that it could obtain housing funds from the state, and the better the living conditions for its employees. The administrative ranking that a work-unit enjoyed in the hierarchy of the work-unit system depended upon many factors, among which size of the work-unit was important. This is why in planned economies the drive for expansion was found at all levels of the work-unit hierarchy. Because of soft budget constraints, as Janos Kornai argues, there was no enterprise or non-profit organisation that did not want to invest, regardless of the costs and the extent of possible losses. As a result, investment hunger was ubiquitous.³¹

In sum, we can assert that the pre-reform housing system under the institutional configuration of the *danwei* welfare socialism was never close to the achievement of its social goal. Instead, the system has led to just the opposite outcome, a severe situation of social inequality among urban families.³²

3. CHINA'S HOUSING REFORM (1979-1997): A HISTORICAL OUTLINE

Not only did public housing become a major factor that gave the appearance of social inequality and social dissent, but also it was a heavy burden to the central government. Housing reform seemed inevitable. In April 1980, Deng Xiaoping suggested that reform of the housing system be put on the agenda. Two months later, the National Urban Housing Conference formulated the "commodification of housing" (*zhufang shangpinhua*) as the central theme of

³¹ Janos Kornai, *Economics of Shortage*, Vol. 1. Amsterdam: North-Holland Publishing Co., 1980, pp. 191–195; and his *The Socialist System: The Political Economy of Communism*. Oxford: Clarendon Press, 1992, pp. 160–163.

³² Bian, *et al.*, "Work Units and Housing Reform", pp. 230–240.

housing reform.³³ From that time on, China's housing reform went through four phases as follows:

The First Phase (1979-1985): The Subsidised Housing Sales

In as early as late 1979, four cities had been selected to experiment with selling new public housing at prices comparable to construction costs.³⁴ In 1982, the Ministry of Construction formally proposed a so-called "three-threes scheme" (*sansan zhi*) for promoting subsidised housing sales. Under this scheme, the government first set standard sale prices (equivalent to half of construction costs) for all newly built houses on sale; then, buyers paid just one third of the price, and their work-units and local governments paid the remaining two thirds of the price. The implementation of the "three-threes scheme" was initially limited to a number of cities, and then it was extended to 160 cities. During this round of housing sales, governments and work-units found that they could not bear the heavy burden of subsidies, although only 3 per cent of newly built houses were sold off. The "three-threes scheme" ceased to exist in 1985.³⁵

The Second Phase (1986-1988): The Rent Increase with Subsidies

In 1986, the Leading Group for Housing Reform, a governmental body in charge of policy-making concerning related issues, was established in the State Council. Rent increase was put forth as the core of new policy initiatives.³⁶ The first experiments with the reform of the low rent system were conducted in Yantai of Shandong Province, Tangshan of Hebei Province, and Bengbu of Henan Province in 1987. Since such a reform was

³³ Gao Shangquan and Chu Chuanheng (eds.) *Zhongguo Chengzhen Zhufang Gaige Quanshu* (*Handbook of Housing Reform in Urban China*). Beijing: Zhongguo Jihua Chubanshe, 1996, p. 36.

³⁴ Victor N. Shaw, "Urban Housing Reform in China", *Habitat International*, Vol. 21, No. 2 (1997), p. 203.

³⁵ Gao and Chu., *Handbook of Housing Reform*, p. 36; World Bank, *China: Implementation Options for Urban Housing Reform*. Washington, D.C.: The World Bank, 1992, p. 26.

³⁶ Shaw, "Urban Housing Reform", p. 204.

initiated and carried out smoothly in Yantai, it has been widely called the "Yantai model" in China.

In February 1988, the central government decided to extend the "Yantai model" to cities all over the country, hoping that the nation-wide reform of the low rent system could be completed within three to five years and eventually the commodification of public housing could be achieved in the near future. This ambitious reform plan, however, was aborted immediately soon after it began because China was confronted unprecedented severe inflation. According to World Bank estimates, inflation had been rising at annualised monthly rates of 10-15 per cent in early 1988, and soared to a rate of almost 80 per cent in August.³⁷

The Third Phase (1988-1990): Housing Sales at Preferential Prices

In the very late 1980s, the housing reform policy shifted from the increase of rent to the promotion of home ownership.³⁸ Local governments reacted with alacrity and housing sales at preferential prices reemerged as the main experimental reform in the housing sector. By the end of 1988, 7.5 per cent of newly built public housing was sold, along with 0.3 per cent of the existing stock.³⁹ The experimentation with "low-priced privatization of public housing" was temporarily interrupted by a series of political events in 1989, but resumed and accelerated in 1990. In many areas, the prices of housing sold off ranged from 5 to 15 per cent of costs. Sometimes a two-bedroom apartment unit could be purchased for the price of a large-screen television set.⁴⁰

The Fourth Phase (1991-1997): Wholesale Housing Reforms

In late 1990, under the leadership of Zhu Rongji, then the mayor, the

³⁷ World Bank, *China*, p. 26.

³⁸ Yang Lu and Wang Yukun, *Zhufang Gaige: Lilun de Fansi yu Xianshi de Xuanze (Housing Reform: Theoretical Reflections and Realistic Choices)*. Tianjin: Tianjin Renmin Chubanshe, 1992, pp. 6-7.

³⁹ World Bank, *China*, p. 26.

⁴⁰ Institute of Finance, *China's Urban Housing Reform*, p. 16.

Shanghai municipal government proposed a package of wholesale housing reforms, later widely called the “Shanghai model”. The reform package was approved by the central government in February 1991. The main contents of the “Shanghai model” are as follows: (1) the creation of “housing provident funds” (HPFs), which can be used only for house purchase, mortgage payment, self-help construction of housing, and large-scale house repairs; (2) rent increases with subsidies; (3) the issue of “housing construction bonds” with low interest rates, which it is compulsory for new tenants of public housing to buy; (4) the sale of public housing to their tenants at preferential prices; and (5) the establishment of housing management committees at various governmental levels.⁴¹

In April and November 1991, the central government issued two policy documents, imposing the nation-wide implementation of the “Shanghai model”. The positive implications of “HPFs” and “housing construction bonds” for housing finance were highlighted in documents. At the same time, the central government also issued a new policy, namely “new housing, new institutions” (*xinfang xinzhidu*), asking local governments to create new institutions to manage all public housing built after 1992. The guiding principle of new institutions consisted of two points: (1) the sales of newly built public housing should be given top priority and (2) if part of newly built public housing has to be for rent, rent levels should be greatly raised.⁴²

During the initial years of “wholesale housing reforms,” a couple of waves of “low-priced privatization of public housing” initiated by local actors again appeared. The central government attempted to ban such practices many times in 1993 and 1994. To bring local initiatives back on the “correct” track of housing reform, namely the combination of rent increase and public housing sales, the State Council issued a policy document entitled “Decision on Deepening Urban Housing Reform” in July 1994, reiterating the major points of the “Shanghai model”.⁴³

From the above historical process outline, we can see that the goal of housing reform was clear, that is, the commodification of housing. The

⁴¹ Gao and Chu, *Handbook of Housing Reform*, pp. 279–283.

⁴² *Ibid.*, pp. 788–793.

⁴³ *Ibid.*, pp. 797–801.

policy instruments that were utilised, however, failed to bring the ongoing reform close to the policy goal. A crucial point is that no reform measures can be thoroughly implemented to achieve their original policy purposes as long as the allocation of state-subsidised welfare public housing remains unchanged. Within the existing state welfare socialist welfare system, the majority of urban residents showed little willingness to buy houses from the market. They preferred to wait for the distribution of welfare public housing by their work-units.

4. WHY HOUSING REFORM?: THE INCENTIVE STRUCTURE OF INSTITUTIONAL CHANGES

The question is why the Chinese government failed to impose a set of consistent policies for housing reform and why the central government and local government were inclined to take different policy approaches.

For the central government, the legitimation of the regime often lies at the core of housing policy-making.⁴⁴ Like other communist regimes during the post-revolutionary era, the Deng Xiaoping and Jiang Zemin regimes both lay their legitimacy mainly on the basis of economic performance,⁴⁵ and an important benchmark by which people measure economic performance is the improvement of their housing conditions. During the 1950s and 1960s, the Chinese government adopted a policy of "production first, consumption later", and housing was regarded as consumption. Therefore, the proportion of basic construction investment funds allocated to housing declined from 9.1 per cent in the mid-1950s to only 2.6 per cent in 1970. As a result, Chinese urban centers experienced a growing housing shortage before the market reform period.⁴⁶ In contrast, the government

⁴⁴ Beng Huat Chua, *Political Legitimacy and Housing: Stakeholding in Singapore*. London and New York: Routledge, 1997, pp. 124–167.

⁴⁵ Richard Lowenthal, "Development versus Utopia in Communist Policy", in Chalmers Johnson (ed.), *Change in Communist Systems*. Stanford: Stanford University Press, 1970, pp. 33–116.

⁴⁶ Xiangming Chen and Xiaoyuan Gao, "Urban Economic Reform and Public-Housing Investment in China", *Urban Affairs Quarterly*, Vol. 29, No. 1 (1993), pp. 117–145.

has shifted its investment focus from 1978 onward, putting a larger share of total capital investment into housing construction throughout the 1980s and the 1990s (See Table 5). Even judging it by international standard, the level of housing investment in China has been very high for nearly two decades.⁴⁷

Table 5 Housing Investment as a Proportion of Fixed Asset Investment and of GDP

Year	HI (billion yuan)	FAI (billion yuan)	Proportion (percentage)	GDP (billion yuan)	Proportion (percentage)
1981	29.58	96.10	30.78	486.24	6.08
1982	35.71	123.04	29.02	529.47	6.74
1983	41.61	143.01	29.10	593.45	7.01
1984	46.56	183.29	25.40	717.10	6.49
1985	64.16	254.32	25.23	896.44	7.16
1986	72.94	301.96	24.16	1020.22	7.15
1987	87.21	364.09	23.95	1196.25	7.29
1988	106.70	449.65	23.73	1492.83	7.15
1989	106.38	413.77	25.71	1690.92	6.29
1990	116.45	444.93	26.17	1854.79	6.28
1991	141.74	550.88	25.73	2161.78	6.56
1992	171.70	785.50	21.86	2663.81	6.45
1993	272.58	1245.79	21.88	3463.44	7.87
1994	380.64	1704.29	22.33	4675.94	8.14
1995	473.67	2001.93	23.66	5847.81	8.10
1996	519.85	2291.36	22.69	6788.46	7.66
1997		2494.11		7477.24	

Abbreviations: HI = Housing Investment; FAI = Fixed Asset Investment.

Sources: *China Fixed Asset Investment Data, 1958-1991*. Beijing: China Statistics Press, 1992; *China Fixed Asset Investment Yearbook, 1992-1998*. Beijing: China Statistics Press, various years.

However, as the scale of investment in housing rapidly grew, more and more housing joined the stock of public housing operating within the old

⁴⁷ In Western Europe, average housing investment as a proportion of GDP during the period from 1970 to 1989 ranged from 3.59 to 6.34 per cent. See Balchin, *Housing Policy in Europe*, p. 5.

institutional structure. The rapid increase of investment in housing increasingly shifted the heavy financial burden to the central government. According to North, many institutional changes are the result of the initiatives by states in response to continuing financial crises.⁴⁸ As mentioned above, within the old institutional structure of the housing system, investment in housing yielded little, and therefore the continuing increase in housing investment met with hard financial constraints. Since the old housing system hindered its efforts to strengthen the legitimacy of the regime by implementing relevant social policies, the government had strong motivation to push forward housing reform.

While the commodification of housing was set forth as the ultimate goal of housing reform, the immediate reformist step that the central government took in the early 1980s was the decentralisation and diversification of sources for financing housing construction. Both local governments and work-units, in particular state-owned enterprises (SOEs), were granted more autonomy in housing investment and construction. They were also encouraged to apply for loans from state banks such as the Industrial and Commercial Bank of China and the People's Construction Bank of China.⁴⁹ The decentralisation and diversification of housing investment, of course, accorded with the general trends of strengthening financial decentralisation and expanding enterprise autonomy during the reform era.⁵⁰

The incentive structure of local governments for housing reform has similarities and differences with that of the central government. Generally speaking, local governmental officials are willing to take positive actions to improve the living conditions of residents under their jurisdiction, which is regarded as one of the important signs showing their political achievements. Under favourable conditions, they are inclined to cater to the wishes of the central government, promoting those institutional changes introduced and executed from above. Many local governments often showed enthusiasm to

⁴⁸ Douglass North and Robert Thomas, *The Rise of the Western World: A New Economic History*. Cambridge: Cambridge University Press, 1973.

⁴⁹ Chen and Gao, "Urban Economic Reform", pp. 124–125.

⁵⁰ Barry Naughton, *Growing Out of the Plan: Chinese Economic Reform, 1978–1993*. Cambridge: Cambridge University Press, 1996.

join reform experiments launched by the central government during the past two decades. Meanwhile, local governmental officials are fully aware of deficiencies of the old housing system and in order to boost the development of the local property industry they are highly likely to give all efforts to initiatives in housing reform. Nevertheless, serving as the *de facto* representative of the state, local governments as a rule tend to oppose any radical amendments of the “social contract” between the state and urban residents, as such amendments are likely to lead to strong social dissent or even social unrest under their jurisdiction. In addition, it would be reasonable to assume that local government officials would seize benefits for themselves by changing rules of the game that involve in housing.

After two decades of reform, work-units (in particular SOEs) have gained a lot of managerial autonomy, but the problems of soft budgetary constraints and investment hunger are still unresolved. They tend to do their utmost to strive for all possible budgetary or extra-budgetary investments from governments, including investments in housing, which results in a tremendous, everyday process of “rent-seeking”. At the same time, as will be discussed below, work-units have now become major players in housing construction and on the market of commercial housing, as a result of policy encouragement from both central and local governments.

Different work-units that occupy different positions within the administrative hierarchy of the work-unit system play their roles in housing affairs in different ways. Two points are crucial: first, the higher the administrative ranking a work-unit has, the more powerful its capability of rent-seeking is, and hence the greater the investment in housing it can gain from government; second, the higher a work unit has the ability to make money, the more funds it can put into housing investment.

In this article, urban residents are seen as an actor with great internal differentiation. Different sub-groups of urban residents have different responses to the evolving institutional structure of housing. In general, all are inclined to do their best to improve their living conditions within their individual budgetary limits. For the purpose of this article, it is crucial to distinguish two sub-groups. The first consists of those who are employed by state-owned work-units. Under certain specific institutional conditions (e.g., the low rent system and the low-priced privatization of public housing),

they are likely to exert pressure on their managers to assign them more and better housing rather than to buy houses for themselves directly from the market of commercial housing. The second sub-group comprises those who have no hope of being assigned housing from their work-units, mainly those who are employed in the non-state sectors. Members of the second group, plus a minority of the "new rich", are actual and potential buyers of commercial housing.

From Table 6, we can see that after many years of reform the first sub-group still constitutes the vast majority of urban residents. Therefore, employees in the state sector, who are mostly tenants of public housing assigned by their work-units, are representatives of urban residents by their tacit "social contract" with the state. Any major efforts to amend the "social contract" are influenced and constrained by preferences expressed by this sub-group. Any negative responses of this sub-group to proposals for institutional changes, aggregated and exaggerated by managers of work-units, are highly likely to be interpreted as actual or potential factors of social instability by the government. In particular, in order to bargain with the central government to obtain more benefits, local governments often utilise their advantages in information gathering and access to make such interpretations.

5. PATH DEPENDENCE, INSTITUTIONAL EMBEDDEDNESS, AND THE LIMITS OF SOME PARTIAL REFORMS

After presenting a brief picture of the actors and their incentive structure, we turn in this section to the analysis of certain institutional aspects of housing reform in the light of new institutionalism.

The Reform of the Low Rent System

As mentioned above, a consistent goal of China's housing reform up to the present was commodification of housing, which is often specified as the development of home ownership. However, few were willing to buy houses as long as the low rent system of public housing worked and tenancy rights were relatively strong. Therefore, after the "three-threes scheme" for

Table 6 Distribution of Urban Employment by Ownership during the Reform Era

Year	Total (million persons)	State-owned		Collectively Owned		Private	
		No. (million persons)	%	No. (million persons)	%	No. (million persons)	%
1979	99.99	76.93	76.94	22.74	22.74	0.32	0.32
1980	105.25	80.19	76.19	24.25	23.04	0.81	0.77
1981	110.53	83.72	75.74	25.68	23.23	1.13	1.02
1982	114.28	86.30	75.52	26.51	23.20	1.47	1.29
1983	117.46	87.71	74.67	27.44	23.36	2.31	1.97
1984	122.29	86.37	70.62	32.16	26.30	3.76	3.08
1985	128.08	89.90	70.19	33.24	25.95	4.94	3.86
1986	132.93	93.33	70.21	34.21	25.74	5.39	4.05
1987	137.83	96.54	70.04	34.88	25.31	6.41	4.65
1988	142.67	99.84	69.98	35.27	24.72	7.56	5.30
1989	143.90	101.08	70.24	35.02	24.34	7.80	5.42
1990	166.16	103.46	62.26	35.49	21.36	27.21	16.38
1991	169.77	106.64	62.81	36.28	21.37	26.85	15.82
1992	172.41	108.89	63.16	36.21	21.00	29.76	17.26
1993	175.89	109.20	62.08	33.93	19.29	32.76	18.63
1994	184.13	112.14	60.90	32.85	17.84	39.14	21.26
1995	190.93	112.61	58.98	31.47	16.28	46.85	24.54
1996	198.15	112.44	56.74	30.16	15.22	58.88	29.71
1997	202.07	110.44	54.65	28.83	14.27	62.80	31.08
1998	206.78	90.58	43.81	19.63	9.49	96.57	46.70

Sources: *Chinese Statistical Yearbook*, 1999. Beijing: China Statistics Press, 2000, p. 13; 1998, p. 130; 1995, p. 84.

subsidised housing sales ceased to exist in 1985, the reform of the low rent system was given top priority of housing reform in the late 1980s and still is a focus in the 1990s. From a policy makers' point of view, this measure was inevitable and an inseparable step for any housing reform plan because nobody would like to buy houses if the rent levels remained extremely low, usually just a few dollars a month.

Rent reform was the main content of the "Yantai model", which was tried out in three cities. Rent increases were accompanied by governmental subsidies, which were delivered through work-units to those families affected by the reform in the form of "housing vouchers". Two years later, the rents

of public housing in the three cities rose to 12 to 17 times the original, and on average the rent was the equivalent to some 10 per cent of family's income.⁵¹ To some extent, the policy goal of the "Yantai model" was achieved. As the level of rent substantially went up, the demand for public housing declined and the sales of newly-built housing warmed up.⁵² Nevertheless, the new standard of rents, because they were linked to an arbitrary cap on wage adjustment, bore little relationship to the full cost recovery consideration implied by the asset value of newly-constructed housing.⁵³

Although the bold decision to extend the "Yantai model" to the rest of the country became abortive in 1988 because of the then macroeconomic problems, rent increases with subsidies as a reform measure appeared to be incorporated into almost all housing reform plans in the 1990s. However, with a few exceptions, the nation-wide rental level of public housing has never substantially increased. In 1997, the level of rent only averaged 1.29 yuan per square meter, much lower than the per-unit cost rent of 6.2 yuan. Housing rentals only accounted for some 4 per cent of an average urban family's income.⁵⁴

The most important reason for the failure of the rent reform was that, since the majority of the urban population were tenants of public housing, the rapid increase of rents during a short period meant a radical amendment of the "social contract" between the state and urban residents. Those urban residents who were severely influenced by the institutional change would loudly demand compensation, and the greatest share of compensation must be assumed by local governments and work-units. The larger the work-units, the more public housing were under their management, the greater the amount of compensation they had to pay. Actually, neither local governments nor work-units were willing or able to bear the financial burden of the compensation called for by the rent reform. Furthermore, those work-

⁵¹ World Bank, *China*, p. 29.

⁵² Gao and Chu, *Handbook of Housing Reform*, p. 37.

⁵³ World Bank, *China*, p. 29.

⁵⁴ Li, Rongxia (1998) "Residential Houses Go to the Market", *Beijing Review*, Vol. 41, No. 20 (May 18–24, 1998), p. 14.

units which were likely to incur more expenses were those which possessed powerful political influence upon the policy-making process because of their sheer size and administrative ranking.⁵⁵ Therefore, they were strongly opposed to any radical rent reforms, openly or surreptitiously.

The Privatization of Existing Public Housing

In fact, the privatization of public housing has become a dominant theme in housing policy in many countries.⁵⁶ During the different phases of China's housing reform, two main policy tools were frequently used to achieve the goal of developing private ownership of housing: the sales of newly-built housing and the privatization of existing public housing. As the reform of the rent system proceeded very slowly, the sales of newly-built housing were relevant and attractive only to a minority of the urban population, i.e., the "new rich". The majority of urban households, however, simply could not afford commercial housing. For them, the privatization of existing public housing was a feasible policy option because during this process the sale price was normally much lower than the market one. In addition, they also expected that the value of privatised public housing would soar once a mature housing market takes shape in the near future.

From the brief history of housing reform presented in the second section of this article, we can see that privatization of public housing was carried out to varying degrees in each of those four phases. In particular, it has become a popular practice in the 1990s. Throughout the last two decades of housing reform, many waves of low-priced privatization of existing public housing were encouraged by local governments, undertaken by work-units, and welcomed by most present tenants of public housing, but were frequently prohibited by the central government.

The essence of the low-priced privatization of existing public housing was that tenants of state-subsidised public housing had yet another opportunity to receive subsidies from state organs once again. It is fully justifiable that newly recruited employees in the state sector who were

⁵⁵ Institute of Finance, *China's Urban Housing Reform*, pp. 15–16.

⁵⁶ See Ray Forrest and Alan Murie, *Selling the Welfare State: The Privatization of Public Housing*. London: Routledge.

waiting for the allocation of public housing urged their work-units to treat all equally, assigning them apartment units as their welfare benefit as soon as possible and then privatizing these units to them. As a result, the motivation of people to buy commercial housing from the market was terribly dampened. The low-priced privatization of existing public housing also devastated the government's hopes that housing investments raised by governments would be fully recovered for constructing new apartment units to meet endless demands for public housing. Another reason why the central government often obstructed the privatization of existing public housing was that it was considered by government officials and bureaucrats as a form of so-called "state asset stripping". From the central government's point of view, all public housing belonged to the "state assets" and should not be distributed to the private hands either freely or at very low prices.

The central government's position on the low-priced privatization of existing public housing fully reflected its dilemma: promoting the sale of public housing while preventing "state assets" from "being stripped". In order to keep in control, the central government always attempted to regulate the prices of sales, formulating various "suggested prices" for different areas. However, many regulations concerning housing prices from above were often impracticable because regional differences in such a vast country could not be completely taken into account when formulating the policy. Under the pressure of buyers, local governments and work-units could always find a pretext to ignore the regulations imposed from above when they carried out the policy for the sale of housing.

The Marriage of Housing and Work-units

One of the significant characteristics of the pre-reform housing system, as it was frequently mentioned in previous sections, was that the allocation and management of public housing were part of the *danwei*-based state socialist system. As an unexpected consequence of this institutional structure, public housing has now increasingly become a financial and managerial burden for work-units. In particular in the realm of "enterprise work-units" (*qiye danwei*), one of the toughest problems facing SOEs under current restructuring or privatization is to find a way to deal with the so-called "self

managed public housing”, which has added a large amount of non-performing assets to the balance sheets of these enterprises.

Therefore, the most fundamental problem with housing reforms up to the present time, as the World Bank pointed out as early as 1992, is that they fail to end the dependency of households on work-units for housing services. In a report analysing China’s housing reform in the 1980s, World bank economist George Tolley suggests that the key to the transition from housing as a welfare benefit to housing as a commodity is to “divorce housing from work-units”.⁵⁷ In principle, Chinese policy consultants as well as policy makers are also aware of the advantage of separating housing from work-units, and this reform approach is commonly called the “socialization of housing” (*zhufang shehuihua*) in China.

After two decades of housing reform, however, the “socialization of public housing” has achieved very little so far. On the contrary, there is a tendency that the linkage between housing and work-units has become closer and closer.

First of all, the most important change which has happened since 1979 is that there has been a substantial shift in the role of work-units (*danwei*) in the evolving housing system, from being a manager of state public housing funds to taking responsibility for housing investment out of their own budgets.⁵⁸ As the institutional structure of housing investment changed, work-units in the state sector also became a major builder of public housing, in particular in the early and mid-1980s (see Table 7).

In 1979, more than 90 per cent of total urban housing investment were from a “unified” budget of the central government and local governments. As the reform of fiscal decentralisation proceeded,⁵⁹ the central government came to be a relatively small player in housing construction, and local governments assumed more responsibility in public housing investment. Meanwhile, a variety of profit retention schemes, which were imposed as

⁵⁷ George Tolley, “Urban Housing Reform in China: An Economic Analysis”, *World Bank Discussion Papers*, No. 123 (1991).

⁵⁸ Bian, *et al.* “Work Units and Housing Reform”, pp. 224–230.

⁵⁹ Christine P. W. Wong, “Central-Local Relations in an Era of Fiscal Decline: The Paradox of Fiscal Decentralisation in Post-Mao China”, *The China Quarterly*, No. 128 (1991), pp. 691–715.

the main measures to expand enterprise autonomy,⁶⁰ made it possible that state-owned enterprise had legal provisions to raise funds for housing investment. Non-profit organizations in the state sector were also encouraged to raise funds to build houses through many ways. The increasingly expanding financial autonomy of various work-units in the state sector created an institutional base for the diversification of housing investment. In 1993, governmental and private investments amounted to 23 and 17 per cent respectively, and work-units' investment to 70 per cent of total housing investment in urban China.⁶¹ The investment of work-units in housing was also drawn from loans from bank and from a variety of self-generated funds, such as HPFs.

Table 7 Floorspace of Dwellings Newly Constructed

Year	Total (100 million m ²)	Urban Areas (100 million m ²)	By State-owned Work-units	
			Areas (100 million m ²)	Proportion (percentage)
1981	6.94	1.17	0.93	79.5
1982	7.15	1.38	1.11	80.4
1983	8.65	1.41	1.08	77.2
1984	7.58	1.47	0.99	67.3
1985	9.10	1.88	1.16	61.7
1986	11.77	1.93	1.11	57.5
1987	10.77	1.93	1.01	52.3
1988	10.48	2.03	0.99	48.8
1989	8.32	1.56	0.71	45.5
1990	8.83	1.73	1.02	59.0
1991	9.40	1.93	1.11	57.5
1992	8.50	2.40	1.38	57.5
1993	7.68	3.07	1.59	44.5
1994	9.58	3.57	1.72	48.2
1995	10.74	3.75	1.77	47.2
1996	12.19	3.94	1.79	45.4
1997	12.11	4.05	1.80	44.4

Sources: *China Statistical Yearbook*, various years;

⁶⁰ See Naughton, *Growing Out of the Plan*, pp. 99–106, 123–124.

⁶¹ Institute of Finance, *China's Urban Housing Reform*, p. 14.

Secondly, the property rights arrangement of public housing has undergone tremendous changes as work-units have become a major player in the institutional structure of housing investment. During the pre-reform era and the initial periods of reform, the state claimed the nominal ownership of almost all “self-managed public housing”, although work-units exerted almost all substantial rights, including the rights of procession, use, benefit, and disposition. As the proportion of work-units’ investment in the structure of total housing investment, the vast majority of “self-managed public housing” must be re-classified into a new category of “self-owned public housing”.

Thirdly, many work-units in sound financial condition bought apartment units directly from the market of commercial housing and then distributed them to their employees as a welfare benefit. As a result, a great number of newly-built housing joined the stock of existing public housing operating within the “old institutional structure”. Work-units became major buyers in the market of commercial housing. A considerable share of the new “self-owned public housing” was not constructed by state-owned work-units but purchased by them directly from the market of commercial housing.

Table 8 Floorspace of Commercial Houses Sold Out (10,000 m²) (1987-1997)

Year	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Total	2697	2927	2855	2872	3025	4288	6688	7230	7906	7900	9010
Private purchase	427	723	805	731	927	1456	2943	3345	3345	3667	5234
Private/Total	15.8	24.7	28.2	25.5	30.6	34.0	44.0	46.3	42.3	46.4	58.1

Sources: China Statistical Yearbook (1998), p. 236.

Table 8 shows that although the amount and proportion of private purchase gradually increased over the years, the *danwei* purchase still amounted to about half of the total sales of commercial housing. Compared with households as private purchasers under hard budget constraints, the budget constraints of work-units as collective purchasers normally were relatively soft. When purchasing housing, work-units were normally unconcerned about petty gain or loss as much as households did. As a consequence, the distortion of the market of commercial housing in terms

of price and quality would be inevitable. It is safe to say that the soaring prices of commercial housing over the past two decades were pulled up by the "extraordinary demand" for housing resulted from the fact of work-units rather than households as main buyers in the market.⁶²

Basically, the "socialization of public housing" failed because the trend was in the opposite direction to the policy goal until the mid-1990s.⁶³ This happened because any change of a particular institutional arrangement is countered by the institutional configuration in which the institutional arrangement operates. The "socialization of public housing" is such an institutional change, which cannot proceed alone without being synchronized with reform in other parts of the economic system. Actually, in urban China, it was slowed down by the sluggish reform of the whole public sector, including SOEs, non-profit and administrative work-units. Meanwhile, few governmental actions were taken to facilitate the process. Under the conditions of fiscal difficulties, both the central government and local governments needed to mobilise work-units to share some responsibilities to implement social policies. Therefore, they had never really put the "socialization of public housing" on the top priority of the policy agenda during the early stages of the housing reform.

Another explanation of the failure in separating housing from work-units is that no feasible policy approaches to this reform were available during the early stages of the housing reform. Among the cardinal factors in inducing appropriate institutional changes, as Vernon W. Ruttan argues, is advances in knowledge in general, and in this case, advances in the knowledge of available policy instruments in particular.⁶⁴ The World Bank proposed a policy option in 1992 that work-units be required to divest themselves of all housing, in exchange for taking shares in rental management companies.⁶⁵ This policy option has been widely accepted, and further

⁶² *Ibid.*, p. 34.

⁶³ Bian, *et al.*, "Work Units and Housing Reform", p. 243.

⁶⁴ Vernon W. Ruttan, "Induced Institutional Change", in Hans P. Binswanger and Vernon W. Ruttan (eds.), *Induced Innovation: Technology, Institutions and Development*. Baltimore: Johns Hopkins University Press, 1978, p. 338

⁶⁵ World Bank, *China*, p. 54.

deliberated, by Chinese policy consultants. It is considered that all “self-managed and/or self-owned public housing” can be taken over by independent housing management companies, which are in charge of housing maintenance, construction, and development. Those work-units which possess fewer “self-managed and/or self-owned public housing” should establish shareholding companies for housing management. During the initial periods of the reform, these companies are expected to serve only the employees of the work-units, namely their shareholders. After obtaining more operational independence from the work-units, they can be transformed into “socialized” companies, weakening their relations with the work-units.⁶⁶ A common problem with this policy proposal, however, is how such companies can become profit-oriented ones and furthermore obtain financial independence from their shareholders if the low rent system of public housing and, more fundamentally, the *danwei*-based system of state-subsidised public housing remains unchanged.

6. THE NEW HOUSING REFORM POLICY OF 1998: A PRELIMINARY ASSESSMENT

The new housing reform policy publicized in July 1998 comprises four major components: (1) stopping the welfare public housing allocation system by the end of the year; (2) establishing a supply system of affordable housing for low-income families; (3) simplifying regulations concerning mortgages; and (4) developing a market for second-hand housing exchange.⁶⁷

The first point of the 1998 housing policy package is the key to speeding up the whole housing reform. As mentioned above, the major institutional obstacle to the commodification of housing was the continuation of the allocation system of state-subsidised welfare public housing. With the introduction of a new housing system, all kinds of work-units will no longer build, purchase and allot residential houses to their employees. Instead,

⁶⁶ See Gao and Chu, *Handbook of Housing Reform*, p. 232; Institute of Finance, *China's Urban Housing Reform*, p. 38.

⁶⁷ See *China Reform Newspaper*, 22 July 1998, p. 1.

they will turn their original funds for housing construction and purchase into various forms of housing allowances, which should be directly paid to employees either on a monthly basis or in a lump sum. Employees will then have to resolve their problems with housing by themselves through either purchase or rental of housing from the market. In so doing, the state subsidies in housing originally *implicit* in the low rents will be delivered to eligible households as *explicit* entitlements, such as “housing allowances”, “housing vouchers”, “HPFs”, and so on.

The approach of shifting “implicit” subsidies into “explicit” ones, which is widely called the “monetisation of housing subsidies” (*zhufang butie huobihua*) in China,⁶⁸ was at the core of the “Yantai model”. The scope of the Yantai Reform was limited, of course. The 1998 housing reform plan takes one step further beyond the Yantai model, namely, combining the monetisation of housing subsidies with the end of the allocation system of welfare public housing. This is a typical example of exerting public policy by introducing institutional change.

The efforts to put institutional reform on the political agenda, as March and Olsen argue, are often resulted from the response of the political elite to contemporary pressures.⁶⁹ The contemporary pressure that the present Chinese leadership is now facing is twofold. On the one hand, Zhu Rongji, who assumed the Premiership in March 1998, pins his hopes on the prospect that the development of housing construction and of the real estate industry will pull the growth of other industries. As early as 1996, he argued that housing construction should become a so-called “new point of growth in the Chinese economy”.⁷⁰ The significant implication of boosting housing construction for China’s macroeconomic performance becomes more evident against the international background of the Asian financial crisis in 1997-1998. On the other hand, comprehensive SOE reform has become an urgent task since a great number of SOEs have been running at a loss and the assets of these enterprises have been greatly devaluated in the mid and late

⁶⁸ See Li Rongxia, “Residential Houses”, pp. 14–15.

⁶⁹ James G. March and Johan P. Olsen, *Rediscovering Institutions: The Organisational Basis of Politics*. New York: The Free Press, 1989, pp. 96–99.

⁷⁰ See *China Information Newspaper*, 11 June 1998, p. 1.

1990s. Among the major measures of SOE reform is a need to divest SOEs of public housing.

The new housing system, in reality, is not totally new. It has worked for a decade in Shenzhen, the largest special economic zone. Under a comprehensive housing reform plan which took effect in 1988, all enterprises (companies) paid all state-subsidies for housing to their employees, and all employees had to take care of their housing needs themselves.⁷¹ The present real estate market in Shenzhen is mature, and the commodification of housing has been achieved.⁷² Of course, it was relatively easy to adopt new institutional arrangements in Shenzhen because it was a newly built city and from the very beginning it was established on the basis of a market economy.

Above all, the success of the new housing system in Shenzhen has served as a bright beacon to nation-wide housing reform. As early as the second half of 1997, the new system was to be experimented in other cities in Guangdong Province. In some new cities where the market economy has become well developed, such as Shunde, Zhongshan, and Foshan cities in Guangdong, the new housing system is replacing the old one.⁷³

However, from a national point of view, it is impossible to establish the new housing system overnight. In reality, Zhu Rongji's announcement in March 1998 that the new housing policy would be imposed from July of this year onward sparked off a mini-social shock for the majority of the Chinese urban population. On the one hand, stopping the welfare housing allocation system will change the rules of the game that urban residents have taken for granted for almost four decades. It is natural that it will take some time for them to adapt themselves to a new institutional environment. Many urban residents were worried that they could not afford to buy or rent houses at market prices. On the other hand, some work-units with sound

⁷¹ For more details, see Office for Housing Reform in Shenzhen, *Shenzhen Jingji Tequ Zhufang Zhidu Gaige (Housing Reform in Shenzhen Specific Economic Zone)*. Shenzhen: Haitian Chubanshe, 1992.

⁷² See *China Information Newspaper*, 9 June 1998, p. B3.

⁷³ Huang Hai, "Dui Zhufang Fenpei Huabihua de Sikao" (A Reflection on the Monetisation of Housing Allocation), *Zhongguo Fangdichan (The Chinese Real Estate)*, No. 209 (May 1998), pp. 16–18.

financial conditions hurried up to allot welfare housing to their employees,⁷⁴ which led to widespread complaints of social inequality and social injustice among those who had no opportunity to enjoy this so-called "last dinner" of welfare public housing.

Seeing that the new housing policy resulted in social shock and social instability in some areas, the central government issued an urgent policy announcement in mid-June of 1998, commanding local governments to stop rushing the assignment of public housing. However, in the final version of the new housing policy issued in July, the deadline to cut off welfare housing allocation system has been postponed from July 1st to the end of 1998, and even to the end of 1999 in some areas.

If the implementation of the new housing policy slows down considerably, the effect will be heavily discounted. As we have seen, the welfare housing allocation system constitutes a major institutional obstacle to housing reform. Without removing this obstacle, housing reform cannot proceed smoothly and the socio-economic goals of the new housing policy will be difficult to achieve.

The new housing policy sparked off social uneasiness because it failed to convey a balanced policy message to the urban population, in particular to low-income families. The impression was that the new housing policy meant the end of welfare public housing system. Therefore, people from low-income families worried about the uncertainty caused by the possible dominance of a competitive market ethos in the housing sector, something that they had simply never experienced.⁷⁵ Actually, Chinese policy makers are aware that even in developed market economies, there is a certain proportion of welfare public housing available to the poor, which constitutes an integral part of the social welfare system.⁷⁶ In principle, they realise that market forces can and should mix with public welfare in the public housing

⁷⁴ See *China Information Newspaper*, 9 June 1998, p. B3.

⁷⁵ See *China Information Newspaper*, 9 June 1998, p. B3.

⁷⁶ For more details about public housing programmes in market economies, see Riaz Hassan, *Families in Flats: A Study of Low Income Families in Public Housing*. Singapore: Singapore University Press, 1977; Claire H. Hammond, *The Benefits of Subsidized Housing Programs*. Cambridge: Cambridge University Press, 1987.

sector. In reality, however, it is unclear in the new housing policy which organisation will take responsibility for meeting the demand of low-income families for housing in China.

In most market economies, this responsibility is normally assumed by local governments, i.e., municipal or town governments, or by non-profit organizations which manage social rented housing in receipt of state subsidy.⁷⁷ “It would be appropriate for the public sector”, as the World Bank put forward many years ago, “to introduce a *sharply-targeted* housing allowance program that supplements the income of severely disadvantaged households, including those impoverished by unemployment, disability, retirement, or death of the breadwinners. These income supplements should be clearly labelled as a tool of poverty alleviation, and not meant as another disguised mechanism for increasing the monetary compensation of most workers”.⁷⁸ It seems that in China only municipal governments are capable of taking charge of such programs. In addition, municipal governments can directly own a certain amount of low-quality public housing, renting it out to low-income families while imposing strict regulations upon eligibility of tenants and re-renting. That local governments take over the responsibility of managing public housing is also a key to separating housing from work-units.

Another point that remains ambiguous and obscure in the new housing policy is how to deal with the privatization of existing “self-managed public housing” to existing tenants, which should become a feasible policy after the welfare housing allocation system ceases to operate. As we have seen, during the process of China’s housing reform, such a practice was warmly welcomed by all local actors, and the only opposing side was the central government. When the welfare housing allocation system remained unchanged, it was justifiable that the central government worried about the negative impact of low-priced privatization of public housing upon the establishment of a market for commercial housing. After the most significant rule of the game — namely, the welfare housing allocation system — is changed, the situation would be quite different. Within the new housing

⁷⁷ See Hammond, *Benefits of Subsidized Housing Programs*, pp. 3–9.

⁷⁸ World Bank, *China*, p. 55 (italic in original).

system, the central government will no longer need to be concerned with the possibility that the newly built housing would be allotted and managed within the old institutional structure of the state socialist welfare system. It would also be unwise for the central government to obstruct the privatization of existing public housing to prevent "state asset stripping". Actually, given the fact that the central government never exerted complete property rights over "self-managed public housing" in any sense, it will lose little from the privatization of existing public housing. Clearly, as the experience of housing privatization in Eastern Europe has shown,⁷⁹ the sale of existing tenanted public housing to people other than the occupiers is fraught with problems and therefore should not constitute a major constituent of the privatization program. The remaining unprivatized part of "self-managed public housing" could be taken over by, or entrusted to local governments. In so doing, the heavy burden of social responsibility that work-units (*danwei*), in particular SOEs, shared with the state could be immediately unloaded. At the same time, local governments could possess enough public housing to assume their responsibility for delivering the social service of appropriate accommodations to the poor.

7. CONCLUSIONS

The pre-reform public housing system as part of the state socialist welfare system has operated in urban China for almost forty years. The majority of urban households were tenants of public housing, which were allocated by work-units to their employees as a welfare benefit related to employment. The rent level of public housing was so low that the state investment in housing could not be recovered to build new housing. In the Mao era, therefore, Chinese people suffered a tremendous housing shortage.

In the Deng Xiaoping era, the Chinese government greatly increased its investment in housing in order to enhance the regime legitimacy by

⁷⁹ See David Clapham and Keith Kintrea, "The Patterns of Housing Privatization in Eastern Europe", in David Clapham, *et al. Housing Privatization in Eastern Europe*. Westport, Connecticut: Greenwood Press, 1996, p. 178.

improving people's standard of living. The government efforts to raise the level of housing investment met with fiscal constraints. The authorities had to initiate housing reform. The initial steps in housing reform included the rent increase and the diversification of housing investment. Work-units, in particular SOEs, had to bear more financial burden in offering housing subsidies to their employees after the rent of public housing was raised and in raising more funds to build or purchase housing units for their employees.

Embedded in the state socialist welfare system, the rent reform hardly succeeded. As the beneficiaries of the state socialist welfare system, the majority of urban residents, including local governmental officials and work-unit managers who were politically influential, strongly opposed to the rent reform. After many years of housing reform, the rent level of public housing remains very low in the 1990s, and therefore current or would-be tenants of public housing have little incentive to buy expensive commercial housing. In the meantime, the diversification of housing investment as an initial institutional change in housing system has greatly hindered the further reform steps for separating public housing from work-units.

As the previous steps of housing reform have led to a situation that work-units have become major investors and owners of public housing, it would be costly to reverse the direction of reform back to its former stance because institutional change is path-dependent. Therefore, institutional innovations are needed. From the late-1980s, the privatization of existing public housing to tenants became a favorite tool of institutional change with local actors. Again, this institutional change could not succeed because it was embedded in the welfare housing allocation system. As long as public housing units continue to be allocated to employees as welfare benefit in the state sector, the privatization of existing public housing to current tenants would lead to an unjustifiable situation in which the state (or its agents, state-owned work-units) has to build new housing units and sell them to state employees constantly.

After two decades of reform, the core part of the pre-reform public housing system in urban China has undergone little change. The commodification and socialization of housing as policy goals of housing reform are still remote targets to be hit. The nation-wide implementation of the new housing policy of 1998 is about to erode one of the cornerstones

of the state socialist welfare system and, eventually, to dismantle the pre-reform public housing system in urban China. However, it is not an easy task. To bring about the institutional transformation of public housing system successfully, more policy coordination is needed.

CHAPTER 8

Conflicts between Societal Desire and Individual Responsibility: Financing Issues in China's Urban Health Insurance Reform



WEI YU

INTRODUCTION

Since China initiated the economic reform 20 years ago, its economy has been growing rapidly. While the market system continuously stimulates a steady economic growth, the structural transition of state-owned enterprises (SOEs) under the market system also generates social instability, especially in urban areas where SOEs are concentrated. Under such a special circumstance, an effective social safety system is needed to smooth the transition.

As a socialist country, the Chinese government established a Labor Health Insurance (LHI) for SOE employees and a Government Health Insurance (GHI) for employees of government agencies in 1950s. Both programs worked effectively for 30 years. The economic reform breaks the LHI and GHI into working-unit-based insurance programs, which considerably weakens the capability of spreading financial risk.

Starting in 1995, the government conducted a series of experiments in health insurance in 57 cities. This paper examines financial problems in these experimental cities. It focuses on: 1) effects of the economic reform

on the LHI and GHI programs; 2) incentives of employers and employees in financing a Community-Based Health Insurance System (CBHIS); and 3) problems with the financing policy that combines an individual health care account with a social risk pooling account.

The paper is organized in five sections. The next section provides a general background about demographics, health care system, and facilities for the 57 experimental cities. Section 3 will review effects of China's economic reform on health care financing. Section 4 analyzes employers' incentives in the new health insurance system, and Section 5 examines practical problems associated with the individual health care account. The last section contains concluding remarks.

HEALTH CARE IN THE 57 CITIES¹

The State Council and the Ministry of Health started health care reform in Zhejiang, Jiangsu province and Jiujiang, Jiangxi province in 1995 and extended the reform to 57 cities in 27 provinces late. Differing from the U.S. system, cities in China contain suburban counties where most people work on farms and are classified as agricultural population.² About 30% of the population in these cities belongs to agricultural population. There are 46.79 million people in the 57 cities are non-agricultural population, which accounts for 13% of total non-agricultural population in the nation. Among the 57 cities, 25 have population less than 2 million, 20 have population between 2 and 5 million, and 12 cities have more than 5 million people (1995 data).

¹ Data and statistics used in this section are obtained from the survey conducted by the Department of Legal and Policy, the Ministry of Health in China and Hu *et al.* 1997.

² China had a strict regulation that separate resident between rural and urban areas before the economic reform. Rural people who worked on farms were defined as agricultural population. The rural people are covered by a Medical Cooperative System (MCS) which is under a separate reform plan. The MCS is financed by residents in each village and has very limited coverage.

Table 1 Distributions of Proportions of People Covered by LHI and GHI by City Size (1995)

City population	25 percentile	Media	75 percentile
Proportion of total population (%)			
< 2 million (25 cities)	4.88	11.65	25.13
2 – 5 millions (20 cities)	5.70	7.95	20.04
> 5 million (12 cities)	8.93	9.75	15.23
Proportion of non-agricultural population (%)			
< 2 million (25 cities)	20.30	49.40	56.50
2 – 5 millions (20 cities)	29.30	45.10	57.50
> 5 million (12 cities)	36.01	61.80	66.00

Source: Hu Shanlian, Ren Minghui, et al., "Quanguo yiliao baozhang zhidu gaige kuoda shidian chengshi jiben zhuangquang fenxi baogao" ("General Report about Basic Health Care System for the 57 Experimental Cities in Health Care Reform"), *Chinese Health Economics*, vol. 16, no. 5, 1997, pp. 44–48.

Table 2 Distribution of Average Annual Medical Expenditure per Person and its Proportion of Annual Average Wage or Salary (1995)

City population	25 percentile	Media	75 percentile
Annual average expenditure per person by LHI (Yuan)			
< 2 million (25 cities)	223.0 (5.5)	451.5 (7)	576.5 (9)
2 – 5 millions (20 cities)	224.0 (6.0)	327.0 (7)	467.0 (9)
> 5 million (12 cities)	289.5 (6.0)	515.0 (10)	713.0 (13)
Annual average expenditure per person by GHI (Yuan)			
< 2 million (25 cities)	220.0 (5)	345.5 (7)	499.0 (3)
2 – 5 millions (20 cities)	262.0 (8)	354.0 (9)	394.0 (10)
> 5 million (12 cities)	352.0 (7)	547.0 (10)	634.0 (12)
Annual average expenditure per person by individual (Yuan)			
< 2 million (25 cities)	25.0 (1)	107.0 (2)	136.0 (2)
2 – 5 millions (20 cities)	25.5 (1)	33.5 (1)	45.0 (1)
> 5 million (12 cities)	25.0 (1)	37.0 (1)	90.0 (2)

Source: Same as Table 1.

Coverage Rates by LHI and GHI

Proportions of the people covered by LHI or GHI among the 57 cities are summarized in Table 1. Since non-agricultural people reside in urban areas,

Table 1 indicates that about half of the urban population is covered by LHI and GHI programs. Coverage rate depends on industrial structure in each city. Coverage rates are higher in cities where the proportion of residents who work in SOEs is higher. The large variation in coverage rates suggests that conditions vary a lot across cities and a one-size-fit-all-policy may not work. For instance, cities with small proportion of people covered by LHI and GHI may have to lower the contribution rate from employers because most of them did not previously pay for health insurance.

Medical Expenditure and Utilization

For people covered by LHI and GHI, LHI paid 61% of the total medical expenditure, GHI paid 23%, and individuals paid 16%. The distribution of average medical payment per person by city size and source of payment is tabulated in Table 2. In small cities, employers pay less and individuals pay more under LHI and GHI. A possible explanation for this difference is that SOEs in large cities are managed by higher level of government agencies (province or ministry) and their benefits are usually better than companies managed by the county or even lower level government.

In 1995, the average number of outpatient visits for people covered by LHI and GHI is 10 times and the average rate of hospitalizations is 16.3%. The average length of hospital stays is 15 days (Table 3).

Table 3 Utilization of Medical Services by People Covered Under LHI and GHI in 1995

	25 percentile	Media	75 percentile
Number of annual average outpatient visits	6.0	10.2	13.8
Percent of people hospitalized	9.7	16.3	29.5
Average length of hospital stays	10.1	15.5	21.0

Source: Same as Table 1.

Hospital Revenue and Expenditure

Due to price regulation, hospitals still use revenue from drugs to compensate the cost of medical services. On average, more than 50% of total revenue (either inpatient or outpatient services) is from drugs (Table 4). Hospitals

at all levels lose money from medical services and make profit from drugs (Table 5). Among provincial hospitals, for example, 41% of total revenue is from medical services, but medical services account for 53% of total cost. This directly affects the way to allocate medical resources.

Table 4 Structure of Hospital Revenue in 1995

Average revenue (yuan)	25 percentile	Media	75 percentile
For an outpatient visit	22.4	31.1	44.0
For drug in an outpatient visit	14.5	20.4	29.0
Per hospitalization	639.4	1173.5	1854.7
For drug per hospitalization	475.3	720.0	1205.0

Source: Same as Table 1.

Table 5 Structure of Hospital Revenue and Cost by Hospital Ranks* (%)

	Province	City	District	County
Revenue: Medical Services	40.8	33.1	31.4	37.5
Drugs	50.6	62.5	63.9	52.0
Cost: Medical Services	52.7	43.5	42.1	47.6
Drugs	46.0	56.2	57.4	50.0

Source: Same as Table 1.

* Hospitals are classified by its management relation with each level of governments into five ranks: province, city, district, county, and others.

EFFECTS OF THE ECONOMIC REFORM ON HEALTH CARE FINANCING

To understand health insurance reform in urban China, it is necessary to review effects of the economic reform on existing LHI and GHI programs. Under the centrally-planned system, behaviors of consumers and providers in medical services are much less complicated than that under the market system. The reform, however, brings the market system into health care services which creates many incentives of consumers and providers for health care services. To understand these changes, we have to understand special characteristics of medical services.

Characteristics of Medical Services

Medical care has a strong nature in social welfare. In almost every country, regardless of its institutional structure and economic system, the government always plays an important role in financing medical care. Medical services also have very special characteristics in resource allocation under a market system.³ First, providers have the power to affect demand because there is significant informational asymmetry on medical services between the supply and demand sides. Second, as medical services are usually paid by a third party (an insurance company), patients may consume more than they would have if services were paid by themselves (moral hazards). With these factors, a market-oriented and private-owned medical care system can easily push medical expenditures up to an unaffordable level. Third, as medical services are highly technical and specialized, it is very costly to manage the system. The experience in U.S. is a good example. Based on the 1988 data, commercial insurance spent 26.9% of the total premiums for management while the Medicare program only spent 2.3% and Canadian national health insurance program spent 3%.⁴

China's Health Care System before the Reform

China's health care system before the economic reform was relatively effective. With little resource (per capita GDP in 1978 was only 915 yuan), its life expectancy at birth increased dramatically between 1950 and 1981⁵ from 35 years to 68 years in 1981 (China Annual Statistics 1986 and China

³ Kenneth J. Arrow, "Uncertainty and the Welfare Economics of Medical Care", *American Economic Review*, vol. 53, 1963, pp. 941-973.

⁴ Robert M. Brandon, Michael Podhorzer, and Thomas H. Pollak, "Premiums without Benefits: Waste and Inefficiency in the Commercial Health Insurance Industry", *International Journal of Health Services*, vol. 21, no. 2 1991, pp. 265-83.

⁵ There is no statistics for the life expectancy at birth before the establishment of the People's Republic of China except a survey conducted by a student at Jinling University in 1931. That survey showed that the life expectancy at birth was 35 years. Because there was little improvement in nutrition and health care services from 1931 through 1949 and there were two wars during that period, the life expectancy is believed to be at the similar level (35 years) in 1949.

Health Statistics 1992). In addition to significant improvement in nutrition, China's health care policy during that period was also an important factor for such a great achievement. First, the government funded a series of projects to improve public health such as cleaning drinking water, processing sewage, providing free immunizations for children, and other preventive care for pregnant women. Second, it established affordable health insurance systems in both rural and urban areas. China achieved this mainly by a very centralized policy in finance and resource management. This policy, however, has been considerably weakened by the economic reform.⁶

Effects of the Reform on Health Care System

The economic reform has affected China's health care system so dramatically because policy makers do not fully realize the weakness of a market system in health care industry. The principal aim of China's economic reform is to improve efficiency in state-owned enterprises. Therefore, tying personal interest to working effort so that people have incentives to work hard becomes the major principle of the reform. Economic profit is often the only measurement of performance for enterprises, including hospitals.

The economic reform affects China's health care system in two aspects. The first is on the insurance system, especially the Labor Health Insurance (LHI) which covers 140 million employees of SOEs⁷ in 1992. Before the economic reform, LHI was backed up by the government and costs of medical care were strictly controlled. It functioned effectively for almost 30 years. The economic reform shifts financial responsibilities to SOEs, including pension and health insurance. This policy transfers the government-supported health insurance program into an enterprise-self-insured system. When the LHI is independently financed by individual enterprises, several problems immediately emerge. First, financially insolvent SOEs cannot pay health

⁶ Yu Wei and Ren Minghui, "Guoyou qiye gaige de zhongyao yihuan: Gonggei yilian baoxian" ("The Important Part of State-Owned Enterprise Reform: Employee Health Insurance"), in Xu Dianqing and Wen Guanzhong, eds., *Reform of China's State-Owned Enterprises* (Zhongguo guoyou qiye gaige), Beijing: China Economics Publishing House, 1996, pp. 433–458.

⁷ Data obtained from the Ministry of Health.

care bills for their employees. Second, small enterprises have much higher risk. A severe illness can quickly bankrupt the insurance fund. Also, SOEs with a large proportion of retired employees have much higher cost for health care than other enterprises.

The second effect is on hospitals. Before the reform, salaries of hospital employees (doctors, nurses, and managers) were set and paid by the government and had no relation with hospitals' profit or performance. Since the economic reform, profit is directly connected to employees' income. Under the old system, hospital employees did not have incentive to work hard. Shirking and poor quality were the major problems in hospitals. The marketing system has effectively improved hospital services in both quality and quantity. It, however, also creates another problem - inefficient use of medical resources. For example, since the government still controls prices, selling drugs and ordering certain tests (such as CT and MRI) are more profitable than other services. As a result of this price regulation, physicians are more likely to order profitable tests and prescribe more profitable drugs than the level of clinically necessary.

In general, China's urban health insurance reform touches interests of three entities: the government, the business enterprise, and the hospital. When many people lose their health insurance, they put strong pressure on the government to reestablish an effective health insurance system. Managers in business enterprises must consider how to keep the balance between the social responsibility to finance medical services for their employees and the business responsibility to compete on the market. With limited support from the government, hospital directors must balance between hospital profit and efficient use of medical resources.

The economic reform has raised a couple of important questions on health care to China's policy makers. Under the central-planned system, policy makers did not concern financing problems. For any health care project, they just made a plan and wrote a budget. Now, they must decide how to raise funds reasonably for health care services and how to allocate resources efficiently. Because both questions are subject to value judgement, arguments on health care policies are inevitable. The general conflict is between the societal desire to have a universal health care system and an individual or an employer's responsibility to finance such a system.

EMPLOYERS IN THE CBHIS

The immediate objective of the CBHIS is to replace the collapsing LHI and GHI programs. Since both programs were completely paid by employers, they still pay most of the premiums for the CBHIS to smooth the transition. Therefore, employers' incentives under the new health insurance program are important to carry out the CBHIS successfully.

Employers' Attitudes to the CBHIS

As SOEs are now all financially self-responsible, employers act like individuals and try to minimize their cost for health insurance. It is also possible that employers may maximize their own interest, not employees' benefit. Financially, enterprises and government agencies participating in the CBHIS can be generally divided into four categories: the loser, the winner, the unaffordable ones, and those that just break even.

The winners benefit from the CBHIS in two aspects. Some employers benefit financially from the CBHIS because they pay less than actual costs. SOEs with a large number of retired employees are likely to be in this group. Another type of benefit from the CBHIS is risk spreading. By pooling resource in a large group, many small and middle sized enterprises have considerably reduced their financial risk caused by catastrophic diseases. SOEs that cannot afford to pay premiums may have to be subsidized by the government through other financial channels. In Jiujiang, for example, about 20% of enterprises could not afford the CBHIS. Losers have strong incentive against the CBHIS. If these enterprises do not participate, the CBHIS could not succeed. Hence, it is important to justify their behaviors and adjust policy accordingly.

Determinants of Joining the CBHIS

The unwillingness to join the CBHIS program are associated with four major factors. First, they are not happy with the rate of contribution. The premium often is a fixed percentage of total salary of a firm. Thus, companies with better financial status and higher salaries pay more than other

companies. Second, companies with healthy employees (usually new ones with younger employees) may pay more than the actual health care expenditures occurred to their employees. Third, managers want to control health care funds. And, the last one is that many large enterprises have their own clinics, even hospitals. If they join the CBHIS, they may not fully use their own facilities.

Among the four major problems, the third one is a typical agency problem though it sometimes can be a major factor in decision making. The last factor is associated with reorganization of the medical industry. A considerable number of hospitals belong to large SOEs and industrial ministries. In 1997, 39% of outpatient visits and 31% of hospitalizations were provided by those industrial-owned clinics and hospitals.⁸ Therefore, any adjustment to those industrial hospitals should be done carefully. If these large enterprises can provide reasonable health care to their employees, it may be more efficient to let them self-insure. The first two factors, however, deserve more discussion.

Societal and Moral Standards for Health Care Financing and Distribution

The common argument for enterprises that have either higher salary level or healthy employees will be that joining CBHIS costs them more money and covers less for their employees. They believe that it is not fair for them to subsidize others in health insurance. As fairness in financing health care services is related to many factors such as cultural background and moral standards, it is hard to establish a criterion that can be accepted by everyone. However, two principles in health care policy are commonly accepted by many nations with different cultural background and economic capacity. First, the level of contribution to health care services is more related to income than health status. Second, the distribution of medical resource depends more on health condition than capability to pay.

These two common principles reflect the development in human civilization for medical services. Even in the very early day, doctors often charge patients based on their capability to pay. With the social and

⁸ *China Health Statistics Abstract*, Beijing, 1997.

economic development, financing health care is gradually taken over by the government as a public program. Some countries have universal health insurance financed through either general or specific taxes such as British and Canada. Others have commercial insurance financed jointly by employers and employees and the government only take care of the poor and the elderly such as the U.S. system. Regardless of different financing methods, the premium or tax paid by individuals is never based on health status. These financing methods are different from the financing principles in commercial insurance. It reflects the social moral standard for health care financing.

Enterprises with Better Financial Status

If we agree with the two common principles in financing health insurance, it then is not difficult to answer the questions raised by enterprises that have higher level of salaries and wages. The rule to collect premiums based on the total salary of an enterprise is consistent with the societal agreement that people have higher income should contribute more.

However, since the way to calculate salary among different types of enterprises is quite different, using salary as a base to calculate premiums may not reflect the actual income level of employees in the enterprise. It also induces the incentive to report less salary by shifting compensation into other categories. With these problems, the financing method may punish more efficiently operated and honorably reported companies.

Enterprises with Healthy Employees

Many newly established companies such as foreign-invested or jointly-invested companies hire young and healthy employees. Therefore, medical expenditures for these new enterprises are much less than old SOEs. When these new companies join the CBHIS, they are more likely to pay more than their actual medical expenditures. If we agree with the principle that health insurance premium should not be based on individuals' health status, it may not be desirable to charge more to enterprises with a large proportion of old employees and retirees. In the short run, the enterprises with young

employees pay more than they get from the insurance program. In the long run, however, employees in these companies will get older and medical cost will go up. Paying the same rate for health insurance for young employees can be considered as a responsibility to the society for employing young labors. By averaging health care cost of hiring old and young labors, this policy also avoids discrimination against age.

In many cities, attracting foreign investment is a major policy to stimulate local economic growth. Therefore, local governments often set special policies for foreign invested companies. If attracting foreign investment is indeed good to local economy, how to transfer the benefit from the economic growth to public programs such as health insurance should be considered. When foreign investment increases economic growth, a share of the growth should be transferred into social safety programs.

A Feasible Financing Method

A possible financing method is that every employer pays the same premium which is only based on the number of employees insured. For those that cannot afford health insurance, the government may subsidize through consumption tax. Since consumption, especially luxury consumption is closely related to individual income, using consumption tax to subsidize low income families for health insurance is consistent with social moral standard. Another source to subsidize health care may come from cigarette tax. It is well understood that smokers will cost more for health care. Since it is difficult to collect higher premiums from smokers, it is easy to collect from sales tax.

INDIVIDUAL HEALTH ACCOUNT

To participate the CBHIS, employers contribute 10% of total salary and individuals contribute 1% of personal salary.⁹ The fund is then divided into

⁹ These rates are based on the experiment in over 50 cities. According to recent policy, the employers' share may be reduced and individual contribution may increase.

two accounts: the social pooling account and the individual account. The saving in an individual account is accumulated over time for each person. When a person needs medical care, money in his individual account is used first. Once the person's medical expenditure has depleted his individual account, the social pooling account will take over with cost sharing and deductions. Using individual account to finance health insurance in China, however, has several problems.

Extra Burden to Employers

One of the important goals for China's urban health reform is to release financial burden of SOEs on social programs. With the individual account established, employers have to pay more unless it can significantly reduce the medical consumption. China's individual account is paid mainly by the government and employer, and the personal contribution only accounts for a very small proportion. Table 6 shows the shares of health insurance funds in four cities which are under the experiment of CBHIS.

Table 6 Rates* of Contributions by Employer and Employees and for Individual Account in Four Cities with CBHIS

City	Employer	Individual	Percentage deposited into the individual account
Zhen-jiang ¹	10%	1%	age ≤ 45: 5%; age > 45: 7%; retired: 5%
Jiu-jiang ²	10%	1%	age ≤ 45: 4%; age > 45: 5.5%; retired: 5.5%
Yang-zhong ³	10%	1%	age ≤ 45: 5%; age > 45: 7%; retired 5%
Hai-nan ³	10%	1%	age ≤ 40: 4%; age 41-50: 5%; age >50 (not retired): 6% retired: 8%

Sources:

1. Gu Xiandan "Woguo zhigong yiliao baoxian zhidu gaige zhong ying zhuzhong de ruogan wenti" ("Important Theoretical and Policy Issues in China Employee Health Insurance Reform"), *China Health Economics*, No. 2, 1997, pp. 25-27.
2. Tu Zixian "Jiu-jiang shi yiliao zhidu gaige de jiben neirong" ("Brief Introduction of Jiu-jiang Health Care Insurance Reform"), *China Health Economics*, No. 9, 1995.
3. Ma Lishun, Zhang Yongjun, Dai Jinfeng "yiliao geren zhanghu bili chutan" ("Discussion on Share of Individual Medical Account"), *China Health Economics*, No. 11, 1996, pp. 53-54.

* All rates for individuals are based on personal annual wages in the previous year. For employers, the rates are based on last year's total wage and salary as well as pension for retired persons.

Table 6 shows that about half of the health insurance funds is deposited into individual accounts. Zhejiang's individual account took 48.5% of the total health insurance fund (1995 data), and Hainan's individual account took 64.2% (1996 data). Because a large proportion of medical expenditure is spent by a small group of people, a considerable amount of money in the individual account will not be used. In 1995, 17.7% of the total health insurance fund was left in the individual account in Zhejiang, and 15.7% left in Jiujiang. These numbers suggest that employers would have to pay about 1.5% of total wages to the health insurance fund which is left in individual accounts. Furthermore, both cities have deficits in the social pooling account (4.5% in Zhejiang and 5.9% in Jiujiang in 1995) which were covered by borrowing from individual accounts. Including the deficits, employers' contribution increased about 2% of total wages which were due to the saving in the individual account.¹⁰

Limited Power to Control Cost

By using the individual account, policy makers hope that people will not overuse medical services. Individual accounts are used in Singapore and Chile to finance social safety programs, including pension and health insurance. Individual accounts are more appropriate when it is used for pensions. It can ensure that every person has certain amount of saving after retirement. However, it is not effective to control medical cost.

First, a small proportion of people consume a large proportion of medical resources. In the United States, for example, 10% of the population consumes about 60% of total medical resources. China has a similar situation. According to the survey of Yangzhong, Jiangsu province, the 1995 annual

¹⁰ Numbers in the above paragraph come from Wang Huanqing, "Guanyu yilian shehui tongchou yu geren zhanghu jiehe fangshi de sikao" ("Thoughts about the Combination of the Social Pooling Account and the Individual Account in Health Insurance"), *China Health Economics*, no. 3, 1997, pp. 21–22, and Yang Huayou, "Jiujiang yiliao baoxian zhidu gaige de chengxiao, wenti, he duice" ("Effects, Problems, and Policies of Jiujiang's Health Care Reform"), *China Health Economics*, no. 10, 1996, pp. 27–28.

medical expenditure is 998 yuan for the retired and 380 yuan for employees.¹¹ For those who used a large proportion of medical resources, the individual account has no impact on their demand. In Yangzhong CBHIS, 71% of retired has entered into the social pooling account and only 17% of employees entered the social pooling account. Therefore, the power of controlling medical cost by an individual account is very limited.

Second, share of the resources used for chronic diseases is increasing over time. Shangdong Medical University Lei et al. simulated the growth of medical cost for chronic diseases.¹² Their study indicates that total medical expenditures for chronic diseases accounted for 29% in 1994 and would grow at 18% per year. When chronic diseases account for a large part of medical expenditures, an individual account has very limited power to control cost.

Individual accounts also induce illegal activities. In the cities with the CBHIS established, it is observed that when a person's individual account is depleted, he may lend his card to his relatives or friends. Because hospitals also want to increase revenue, such violations are not seriously controlled. In Gaoqing country of Shangdong Province, to encourage saving in an individual account, 50% of the money left in an individual account can be withdrawn at the end of the year.¹³ This, in fact, still does not have impact to control cost for those who have chronic diseases or severe medical problems. It may further encourage illegal behavior under the system.

Investment of the Saving in Individual Accounts

When there is long-term saving in the individual account, investment becomes important, especially for the young. Financing health care through

¹¹ Ma Lishun, Zhang Yongjun, and Dai Jinfeng, "Yilian geren zhanghu bili chutan" ("Discussion on Share of Individual Medical Account"), *China Health Economics*, no. 11, 1996, pp. 53–54.

¹² Lei Haichao, Liu Xingzhu, and Bian Ying, "Manxingbing zhengjia dui woguo weisheng zongfeiyong ji hongguan jingji de yingxiang yanjiu" ("Effects of Increasing in Chronic Diseases on China's Total Health Expenditure and Macro Economy"), 1996.

¹³ Zhong Aifen and Wang Xinyao, "Woguo Zhigong yiliao baojian zhidu de huigu yu zhanwang" ("Review and Future of China's Employee Health Care System"), *China Health Economics*, no. 11, 1996, pp. 49–50.

an individual account is actually a self-insurance during the lifetime. When a person is young with little medical expenditure, money is accumulated into his or her individual account. When the person is getting old, the saving accumulated in his or her individual account will be used to pay medical services. For a healthy young person, the period of accumulation may take 20 or 30 years before he starts heavily using the money for medical services. In this case, the rate of return becomes very important.

Suppose a young man has annual income 10,000 yuan, and each year, 5% (500 yuan) of his wage is deposited into his individual health insurance account. Assume that he is healthy between age 25 and 55, and his average annual medical expenditure during the 30 years is only 200 yuan. In this case, he will save 300 yuan each year for 30 years. If the real rate of return is 0% (return just equals to inflation), 3%, and 5% respectively, the accumulated amount in his individual account will be 9,000 yuan, 14,727 yuan, and 19,931 yuan by the time when he reaches 55. Therefore, it is very important to have a good return in individual accounts. If the saving in the individual account is used for high-risk investment, it may lose everything.

Currently, savings in individual accounts in most cities do not have positive real return, and some of savings are actually used to cover deficits in social pooling accounts. When the debt from individual account is accumulated and the saving does not have real return, the individual account will not have adequate funds for healthy people to withdraw for other purposes that is designed to attract saving. When people realize that the individual account is actually an empty account, the very limited incentive to control cost will disappear too.

Portability

Still another practical problem for China to establish an individual account is the portability. Differing from Singapore and Chile, China has a large variation in income level among provinces. The per capita gross domestic income in rich provinces such as Shanghai and Guangdong is much higher than that in poor provinces such as Gansu and Qinghai. Therefore, under the market system it is almost impossible for China to establish a national system for health insurance. Without an individual account involved, moving

from place to place will be relatively easy. When only some cities have an individual-account system for health insurance, however, carrying the saving from one area to the other under different systems is a problem. For example, if city A has an individual account and city B does not. If a worker moves from city A to city B, he may simply withdraw his money and deposits to his personal account in city B. However, it may raise some concerns if a worker moves from city B to city A. Because he does not have any saving in his individual account, he will have to immediately use the social pooling account to pay any health care for him and his family. If a city has a large number of new labors moving in (such as rural labors), the social pooling account will be used more than expected.

Another potential problem in China's case is that healthy people have incentive to leave the system when they retire. Because they are healthy, they must have accumulated a large amount of saving on their individual accounts. When reaching the retirement age, they are free to determine where to live. If these people can withdraw their saving on individual accounts and move to a place that has no individual accounts, they then can obtain a large amount of cash for other consumption. This will have two effects on the health care system.

First, this behavior will severely affect the financial situation of a local health care system if the system regularly borrows money from the individual account to cover the deficit of the social pooling account. In this case, the insurance administration has no choice but restrict withdrawing from the individual account. This will, in turn, completely destroy any incentive to save money in individual accounts.

Second, this behavior will also affect the total health expenditures in the nation. Since retired healthy persons with accumulated saving in their individual account move into cities without an individual account system, they can immediately spend their saving for other consumption. They can pay a premium to join the new health insurance or stay uninsured. The problem is that when these people get sick late, they have to consume extra resource transferred from the society. In this case, the major purpose of the individual account, which is self-insure during life time, completely disappears.

CONCLUDING REMARKS

A general feature of China's economic reform is to tie benefit closely to individuals' effort. When this principle is applied to policies in health insurance programs, it induces personal behavior that is conflict with societal desire. An individual's decision to purchase health insurance is affected by three factors: income level, health status, and willingness to bear risk. Financing health care will be much simple if everyone has the same level of income, same status of health, and same preferences for risk. Unfortunately, people differ from each other and conflicts appear.

Economic theory predicts that the optimum level of insurance coverage is equal to expected loss and the best premium is the product of the probability of being sick and the expected loss of being sick.¹⁴ If everyone is charged by the insurance rule, the elderly, the sick, and the disabled must pay a much higher level of insurance premium for health care, which is not consistent with socially accepted moral standards.

This conflict between societal desire and individual responsibility can be extended to employers. The difference between an employer and an individual to purchase health insurance is that an individual bears the loss of being sick directly and an employer bears the loss of sick employees indirectly. Employers are often restricted by their responsibility to employees and act passively to protect employees from financial hazards due to sickness.

This difference, however, only affects the level of coverage an employer would like to purchase. It does not affect an employer's behavior regarding to the payment for health insurance. The premium which an employer is willing to pay is the product of the coverage and the probability of being sick (the average level), which is closely related to the average level of health status of employees. Employers have less incentive to subsidize the poor than individuals. Therefore, the conflict between societal desire for health care and employers' responsibility may be more intensive.

In summary, the development of human civilization suggests that health care should be provided at a reasonable level (usually determined by the

¹⁴ Sherman Folland, Allen C. Goodman, and Miron Stano, *The Economics of Health and Health Care*, New Jersey: Prentice-Hall, 1997.

economic level) to everyone in a society. However, each person or employer has strong incentive to achieve an optimum level of risk sharing, which is generally not consistent with the societal desire. Such conflict may have to be balanced by the government's redistribution policy. Hence, a tax-based redistribution is needed to achieve the socially desired health care system. How much such a tax-based health insurance policy can effect economic growth is an empirical question and depend on economic conditions and historical structure in health insurance. Therefore, it may be much easier for local government to determine what is the best policy in health care than for the central government.

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CHAPTER 9

China's Growing Concerns over Its Environmental Problems



TONG YANQI

CHINA'S ENVIRONMENTAL PROBLEMS

China's rapid economic growth since 1978 has brought about serious environmental deterioration. Air quality has worsened in many Chinese cities. Acid rain is frequent in southern provinces because of the consumption of high sulfur content coal produced in those regions. The quality of China's surface water and groundwater has also deteriorated significantly under the pressure of rapid industrial development, continuing population growth, and increased use of chemical fertilizers and pesticides.

The Chinese government has recognized the problem of environmental degradation. It has established both institutional and regulatory frameworks to cope with China's environmental problems. Although the unofficial environmental movement is weak in China, due to a rigid political system and low awareness of environmental issues among the general population, an environmentally conscious public is beginning to emerge.

Environmental protection has become a major objective in national politics, and is one of the major criteria set by the central government for evaluating government performance at all levels. And yet, implementation

of environmental legislation remains largely ineffective. A lack of commitment to the rule of law has created a situation in which laws are not effectively enforced, and central policies are often distorted by local governments. These problems with law enforcement and policy implementation problems reveal an underlying contradiction between economic and environmental objectives. When environmental protection clashes with the continued pursuit of rapid economic modernization, government officials are unwilling to sacrifice economic interests to protect the environment.

AIR POLLUTION

Many cities in China have experienced worsening air quality in recent years. In January 1999, the news media in China reported that of the ten most air polluted cities in the world, eight are in China.¹ Although some scholars question the credibility of the sources of the report, there is little doubt that Chinese cities are among the most air polluted in the world. Figure 1 shows that the ambient concentrations of air pollutants in many Chinese cities are significantly above World Health Organization (WHO) guidelines.

Air pollution produces acid rain.² About thirty percent of China's total land area is affected by acid rain in varying degrees.³ In central and southwest China, 70 percent of the rain contains acid. Sichuan, Guizhou, Guangxi, and Hunan provinces have the highest sulfur emissions, primarily because

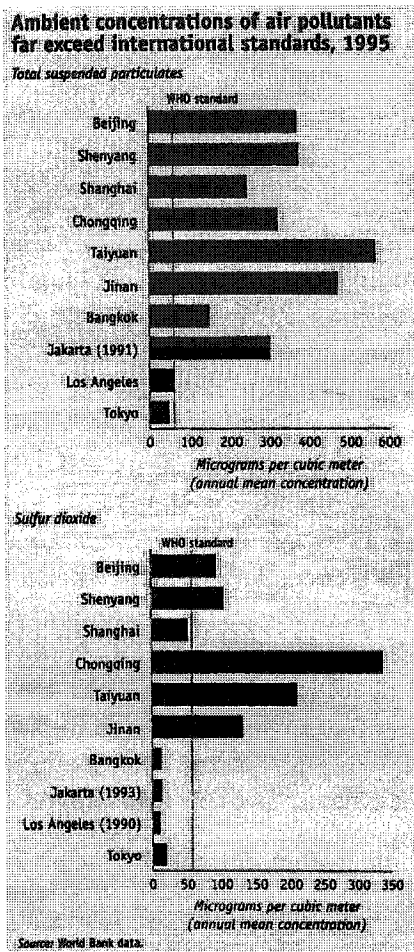
¹ Li Rongxia, "Environment Becoming of More Concern to the Public", *Beijing Review*, May 3-9, 1999, p. 16.

² Acid rain refers to the products of chemical reactions between airborne pollutants (sulfur and nitrogen compounds) and atmospheric water and oxygen. When fossil fuels are burned, oxides of sulfur and nitrogen are emitted into the atmosphere. Once there, sulfur dioxide and nitrogen oxides react with other chemicals to form sulfuric acid and nitric acid. These gaseous emissions can stay in the atmosphere for several days and travel hundreds or thousands of kilometers before falling back to the earth's surface as acid rain. This process is more accurately termed acid deposition, since acidity can travel to the earth's surface in many forms: rain, snow, fog, dew, particles, or aerosol gases.

³ Li Wen, "China's Environmental Conditions in 1998", *Beijing Review*, July 12, 1999, p. 15.

of the large amounts of high-sulfur coal produced and consumed there. Sulfur deposition has exceeded the critical load in Sichuan and parts of eastern China and is expected to increase there and elsewhere in the near future. Some of the most sensitive ecosystems in southern China may have already been damaged by acidic precipitation.

Figure 1. Ambient Concentrations of Air Pollutants Far Exceeded International Standards, 1995



Sources: The World Bank. *Clear Water, Blue Skies: China's Environment in the New Century*. Washington DC: The World Bank, 1997.

There are two major sources of air pollutants. The first is the energy consumption. Rapid growth in the economy and income has increased energy consumption. Since about 73.5 percent of China's consumption comes from coal, coal combustion in industrial boilers and household stoves account for a large percentage of ground-level air pollution. In 1995, the coal use has more than doubled since 1980, reaching some 1.3 billion tons.⁴

The dramatically increased number of automobiles in major cities over the past decade is the second source of air pollution. Motor vehicles emit sulfur, carbon monoxide, nitrogen oxides, and volatile organic compounds, aggravating the already dismal air quality.

Damages

Air pollution has caused high rates of respiratory disease, which in turn has become the leading cause of death in China's rural areas and the third leading cause of death in cities. According to World Bank estimates, hospital admissions in China from respiratory illness caused by air pollution number some 346,000 higher per year. Air pollution has also caused 6.8 million emergency room visits, and 178,000 premature deaths each year.⁵

Another danger comes from exposure to lead. About half of China's gasoline production is leaded, consumption of which jumped from 14 million tons in 1985 to 27 million tons in 1994. The exposure to lead is particularly damaging to the intelligence development of children. Studies have demonstrated that there is a correlation between automobile emissions and elevated blood-lead levels in children.⁶ Studies from various Chinese cities show that blood-lead levels in children exceed the US standard of 10 micrograms per deciliter (ug/dl), above which adverse health effects occur. In Shanghai, children living in industrial and congested traffic areas had blood-lead levels averaging 21.8–67.9 ug/dl.⁷ Even though the ambient

⁴ World Bank, *Clear Water, Blue Skies*, p. 8.

⁵ *Ibid.*, p. 19.

⁶ The most common index of lead exposure is the lead level of blood.

⁷ World Bank, *ibid.*, p. 20.

lead levels are below Chinese and WHO standards in most Chinese cities, the levels have been rising over the past decade as vehicle use increases.

Acid rain is associated with many types of damage, from effects on human health to destruction of boreal and subtropical evergreen forests. The impact on forests and agricultural crops occur directly through high ambient concentrations of sulfur dioxide and nitrogen oxides, and indirectly through the acidification of soils. Soil acidification is likely to have long-term impacts on ecosystems and may cause extensive dieback of forests.

The increasing concentration of carbon dioxide in the atmosphere as a result of fossil fuel combustion and other human activities is known as the greenhouse effect. It can cause changes in the earth's climate, producing rising sea levels and frequent and severe storms, which result in damage to agricultural production, terrestrial and aquatic ecosystems, human settlements, and human health. Some air pollution problems, such as acid rain and the climate change caused by greenhouse gas emissions, can have regional and even global consequences. By the early twenty-first century, China is expected to be one of the largest emitters of greenhouse gases. However, most of these broader effects of climate change are more likely to occur beyond 2020. Until then, the impact of China's air pollution is likely to be felt locally, rather than on a wider geographic scale.

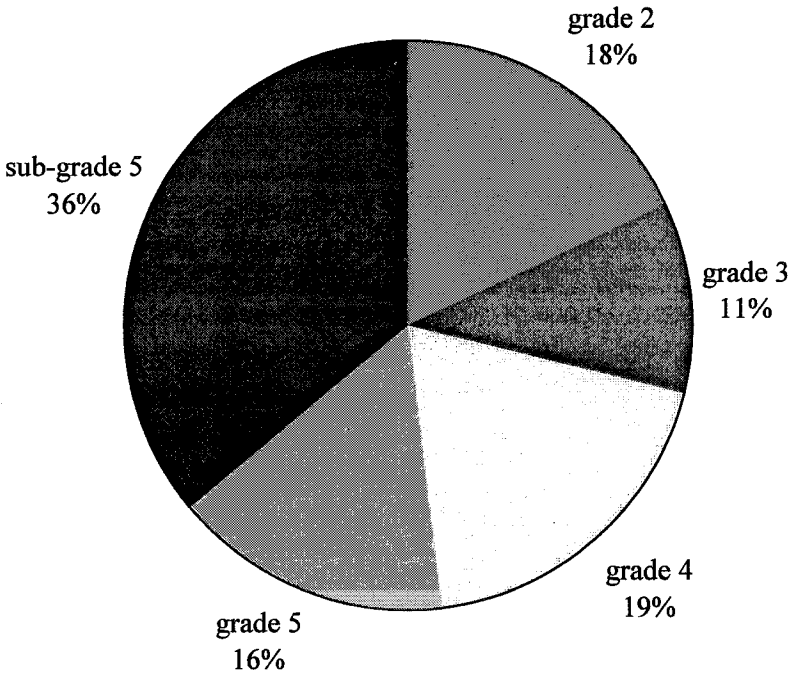
WATER POLLUTION

China's surface water and groundwater quality has deteriorated significantly in recent years.⁸ About 36 percent of the urban river sections do not meet minimum water quality standards (below grade 5), and only 29 percent meets the standards for direct human contact (grade 3 and better)⁹ (Figure 2). This, in turn, has led to a serious problem for urban and rural drinking

⁸ The government has defined five categories of ambient freshwater quality standards. Grade 1, 2, and 3 permit direct human contact and use as raw water for potable water systems. Grade 4 is restricted to industrial use and recreational use other than swimming. Grade 5 is restricted to irrigation. Each grade specifies an acidity level (pH) and maximum concentrations for twenty-eight major pollutants.

⁹ Li Wen, *ibid.*, p. 15.

Figure 2. Water Quality of Urban River Sections, 1998



Source: Li Wen, "China's Environmental Conditions in 1998", *Beijing Review*, July 12, 1999, p. 15. Note: The Chinese government has defined five categories of ambient freshwater quality standards. Grade 1, 2, and 3 permit direct human contact and use as raw water for potable water systems. Grade 4 is restricted to industrial use and recreational use other than swimming. Grade 5 is restricted to irrigation. Each grade specifies an acidity level (pH) and maximum concentrations for twenty-eight major pollutants.

water. According to "Agenda 21 — China's White Paper on Population, Environment and Development in the 21st Century", nearly 50 percent of the city water sources is below the drinking standard. About 2,400 km rivers have no aquatic life because of the pollution.¹⁰

There is a regional difference between northern and southern water sources. Surface water quality in the water-short northern regions is poor. About half of the monitored urban river sections in northern China do not

¹⁰ *Agenda 21 — China's White Paper on Population, Environment and Development in the 21st Century*.

meet the lowest ambient standards (grade 5), making the water unsuitable even for irrigation. Only about 8 percent of the monitored urban river sections in northern China meet the standards for direct human contact (grade 3 and better).¹¹ Southern urban river sections are less polluted and fairly clean. This may be due to the much larger amount of annual precipitation in the South.

Sources

Sources of water pollution are many-fold. The rapid expansion of industrial sector, especially in rural areas, is one of the major contributors of water pollution. During the past twenty years of nationwide industrial drive, governments at county, township, and village levels, as well as private individuals, have been going all out to set up industrial enterprises. There has been a rapid expansion of the production lines for pulp and paper, metallurgical, chemical, coal mines, and agroprocessing and food industries (grain processing, breweries, leather, and tanning). These enterprises contribute a great deal of industrial wastewater, and are the least compliant with environmental regulations.

A second major source of water pollution is the rapid urbanization process that has exceeded the municipal waste treatment capabilities. While about 84 percent of the industrial wastewater from regulated industries receives some treatment, only 7 percent of the municipal wastewater is treated.¹² Yet municipal wastewater discharges nearly tripled between 1981 and 1995, due to the drastic growth in urban population. Since 1980, the formal urban population has been growing by 4 percent a year. Currently the urban population stands at 350 million, plus a floating population of more than 20 million. The rapid inflation of urban dwellers will continue to worsen the urban environment.

Population growth creates heavy pressure on agriculture to produce more food. Intensive use of nitrogen fertilizer and pesticides is the third source of water pollution. Of particular concern is the widespread use of

¹¹ World Bank, *ibid.*, p. 14.

¹² *China Environment Yearbook*, 1997.

ammonia bicarbonate fertilizer, which is cheap and easy to use but is also soluble and easily washed out to streams, lakes, and aquifers. Pesticide use, more widespread in recent years, has been implicated in species loss (birds) and has polluted some important bodies of water. Meat production (chicken, pork, beef, and lamb) has grown considerably over the past fifteen years, and much of the manure from livestock farms has found its way into nearby water systems.

According to a World Bank study, uncoordinated water basin management has also contributed to the surface water pollution. For example, during the dry season, local water agencies often close gates along their section of a river to retain water for local users. In so doing, they retain pollutants from industrial, municipal, and irrigation discharges. When the rainy season comes, they flush their sections of the river and force a highly polluted waste stream into the main river channel. A surge of this sort on the Huai River in 1994 killed massive number of fish, caused widespread illness, and forced municipal and industrial water intakes along the river to shut down.¹³

Damages

Water pollution damages human health. The most common case is intestinal infectious diseases that may cause death. In 1996, nation-wide cases of intestinal infectious diseases had declined, but there were still 3,500 cases of cholera, 708,000 cases of viral hepatitis, 747,000 cases of dysentery and 60,000 typhoid cases reported for that year, resulting in a thousand deaths.¹⁴ In general, water-related diseases are less common in China than in other developing countries. Relative to other Asian countries at similar income levels, China's water supply and sanitation are good, although there are differences between urban and rural areas.

Water pollution damages fisheries and agriculture and increases spending on clean water supplies. It also causes damages to ecosystems and the loss of animal species. According to China Environmental Yearbook (1998),

¹³ World Bank, *ibid.*, pp. 92–93.

¹⁴ *Ibid.*, pp. 20–21.

there were 5,733 water pollution incidents from 1993 to 1997, with an economic loss of 412.5 million *yuan*.¹⁵

GOVERNMENT REMEDIAL EFFORTS

Facing immense environmental deterioration, the Chinese government has made efforts to contain the damage and improve the environmental conditions. This section will provide a brief description of the frameworks (institutional and regulatory) and policies the Chinese government has set in place to tackle the problem.

THE INSTITUTIONAL FRAMEWORK

On the top of this institutional framework there is the **Commission on Environmental and Natural Resources Protection** within the National People's Congress. As the highest, yet may not be the most critical, body responsible for environmental welfare in China, the Commission deals with general policy matters in the area of protection of the environment and natural resources, and assists the NPC's Standing Committee in its drafting of regulations and guidelines on issues of environmental welfare. However, since this body was only established in 1993, it has yet to define its role in the system of environmental protection.

The second in the rank is the **State Council Committee on Environmental Protection**. This Committee is an administrative organ with responsibilities for such matters as drafting legislation, producing plans for and reports on environmental protection for the State Council, conducting investigations into serious incidents of pollution, handling conflicts over environmental problems between provinces through mediation processes, registering dangerous chemical products, issuing emission licenses, imposing

¹⁵ It is unclear how the Chinese authorities calculate the number of environmental incidents and their economic cost. It seems that the economic loss caused by environmental pollution is grossly unestimated.

finances for industrial effluents, and promoting research and wider awareness of environmental welfare.

The third key central body is the **State Environmental Protection Administration** (SEPA), formerly the National Environmental Protection Agency (NEPA). It functions under the direct leadership of the State Council. It has a wide range of specific functions including the development of state policies and laws on environmental protection, assisting subordinate departments in the formulation of administrative regulations, setting of environmental standards, assisting in dealing with such problems as international and trans-provincial boundary pollution, and co-ordination of China's responses to the UN Environment Programme and other international environmental developments.

At the level of provincial government and below, the key institutions are the local **Environmental Protection Bureaus** (EPBs), whose main tasks are the implementation of policies and laws specified by SEPA and supervision of the work of the local Environmental Monitoring Stations. They also work under the leadership of the local government. They are primarily funded by their respective local governments, but a small proportion of their budget comes from the SEPA, and another source of income is the pollution fees collected from local enterprises.

REGULATORY FRAMEWORK

The environmental regulatory framework is composed of the Constitution, the general laws, international treaties ratified by the NPC, State Council regulations, regulations promulgated and enforced by the State Council's subordinate bodies, local laws, and interpretations of law.

Constitution and General Laws

Article 9 of the 1982 Constitution provides that "the State ensures the rational use of natural resources and protects rare animals and plants. The appropriation or damage of natural resources by an organization or individual by whatever means is prohibited." In addition, Article 26 declares that "the

State protects and improves the living environment and the ecological environment. It prevents and remedies pollution and other public hazards.”

The 1986 General Principles of the Civil Law includes a number of environmentally relevant provisions. Article 80 and 81 require that those who lease state-owned land or other natural resources are obliged to “manage, protect, and properly use” the land or natural resources. Article 83 obliges neighbors to “maintain proper neighborly relations over matters as water supply, drainage, passage-way, ventilation and lighting.” In addition, civil liability will arise if damage is caused by hazardous operations – such as those involving use of high pressure, high voltage, combustibles, explosives, highly toxic or radioactive substances, or where damaging pollution occurs in violation of the state provisions on environmental protection and pollution prevention.

The Criminal Law (1979 and revised in 1997) contains provisions that specifically deals with the “crime of sabotaging the protection of the environment and resources.” These provisions clearly define the crimes and heavy punishments involved in polluting or destroying land, water, air, forests, mineral deposits, or wild animals and illegally importing hazardous wastes. Officials responsible for supervising and managing the protection of the environment may be liable for criminal punishment for deviant acts committed in the course of duty. The significance of these provisions is that the failure to carry out legal responsibilities in the area of environmental law is now likely to be characterized as a criminal offense, carrying criminal punishment instead of administrative penalties.

In addition, other pieces of national legislation contain environmental regulations. These include the 1990 Joint Venture Law and the 1994 Foreign Trade Law.

Environmental Laws and Regulations

The Environmental Protection Law (issued in 1979 for trial use and formally adopted in 1989) provides basic principles and methods to protect the environment, prevent pollution, and afford rehabilitation possibilities for existing problems of pollution. It has granted greater authority and discretion to provincial and local regulators, who are permitted to set more stringent

emissions standards than those imposed by the central government, and also to set guidelines for pollutants for which Beijing has yet to issue standards. It also confers a general right on citizens to report on or file charges against those who pollute or otherwise damage the environment. It provides that the provisions of international environmental law treaties to which China has concluded or acceded apply in China even if they differ from those of Chinese domestic law unless China announced reservations in regard to the relevant provisions.

A number of legislative provisions have been introduced steadily throughout the 1980s and 1990s. Now China has six comprehensive laws on environmental protection, nine laws on conservation of resources (List 1), and twenty-eight administrative regulations on environmental protection. Local governments have also issued over nine hundred regulations on environmental protection.¹⁶

Policies

China's pollution control strategy is based on two chief principles: 1) prevention first, and 2) "the polluter pays".

For pollution prevention there are two main policy mechanisms requiring firms to invest in emissions control equipment. First, enterprises constructing new, expanded, or renovated industrial facilities are required to submit environmental impact assessments for approval by the environmental protection authorities. Second, the "three simultaneities program" requires that pollution control facilities be incorporated into the design, construction, and operation phases of new projects.

Two policy programs target emissions from existing industry in line with the principles of the polluter pays. The first is a levy system in which noncompliance charges are assessed on discharges exceeding given emission standards. The problem is that these fees are set at less than the cost of controlling the emissions and are not indexed to inflation, which often leads firms to simply pay the fee as a matter of course, when it is enforced, rather than investing in equipment to limit emissions. Moreover, 80 percent

¹⁶ *China Environmental Yearbook*, 1998, p. 169.

of the fee is allocated back to the fee-paying enterprise, ostensibly to invest in pollution control, further diluting the incentive for compliance. The other 20 percent is retained as budget for local environmental protection bureaus.

The second program, on a trial basis, established a license (or permit) system targeting total pollution emissions rather than concentration of pollutants. The new system under trial takes into account disparities in geography and meteorology in setting differentiated requirements on major sources of air pollution. This system prescribes specific maximum levels and rates of various pollution emissions that are permitted. The government levies financial penalties for exceeding the limits of the license.

THE DEVELOPMENT OF AN ENVIRONMENTALLY CONSCIOUS PUBLIC

Effective environmental protection requires a full-fledged policy regime that extends beyond the passage of legislation and establishment of regulatory agencies. It must also include non-governmental actors concerned about environmental issues. While previous studies of environmental movements in democratic countries demonstrate that the existence of an environmentally conscious public is indispensable for effective environmental protection, it is uncertain how it functions in an authoritarian system in China.

THE NGOS

Elsewhere in the world non-governmental organizations have often proved critical in the development of environmental awareness and the enforcement legal mechanisms for promoting environmental standards. In China, however, the role of environmental NGOs is limited. On the one hand, the legal and political environment for environmental NGOs is not supportive: the government is not keen to encourage this kind of organization that is often associated with political dissent. On the other hand, the public environmental awareness is weak. Even if the legal and political conditions for NGOs improve, the environmental organizations probably will not be among the first to emerge.

Despite the restrictive political conditions and low public awareness, there are nonetheless environmental NGOs in China. The most influential one is the "Friends of Nature". It was established by a group of intellectuals in 1994, and now has about 800 active members in Beijing. Its mission is to promote environmental awareness through education and the mass media, champion environmental, wildlife and natural resource protection causes, and promote environmental friendly living.

This group has wide international connections, and keeps good relationships with the media. Because its cause is politically correct, and because it is not associated with any political dissidents, it has survived in China's current political climate. It is a successful case in which a voluntary and autonomous social organization has carved out a social space in an authoritarian system. The "Friends of Nature" has been very active in sponsoring public lectures on environmental protection, conducting surveys on environmental awareness, mobilizing support for the protection of yak, antelope, and golden money, and issuing appeals to stop the felling of virgin forests.¹⁷

There are also environmental groups on most of the university campuses in Beijing. According to an incomplete source, there are at least 19 environmental clubs from 17 universities and colleges in Beijing.¹⁸ This fact indicates that the younger generation of college students is more environmentally conscious and active than their predecessors.

THE NEWS MEDIA

The news media play an important role in educating the public and disseminating information about environmental issues. For example, when the news report about China's having eight of the world ten worst air polluted cities came out in early 1999, it was quite shocking to the general public and was widely quoted among those who were concerned about the deterioration of the environment.

¹⁷ Personal interview with the director of the Friends of Nature, February 1999.

¹⁸ The Friend of Nature's *Newsletter*.

The "Friends of Nature" conducted three annual surveys of Chinese newspapers' coverage of environmental issues in 1995, 1996 and 1997. The sample size includes 76 national, provincial, city, evening and specialty papers. The results show that there were an average of about 290 environmentally related articles per newspaper in 1997, compared with 250 in 1996 and 135 in 1995. Thus, environmental awareness on the part of the media was on the rise. However, although media coverage has more than doubled since 1995, environmental news accounted only for 1 percent of the total.¹⁹

The survey also found that in 1997 local newspapers had more environmental coverage than national newspapers, and newspapers from coastal areas had the greater environmental awareness than newspapers in the interior. This may indicate that the function of environmental education and protection has moved down to local governments from the national level. It also signals that the more economically and socially developed areas are now concerned more about the environmental quality issues. These areas have passed the first stage of economic development, at which the environmental protection is sacrificed for economic growth. They are now entering the stage where environmental protection and economic development may be seen as mutually supportive.

Exposure of environmental pollution and discussion of environmental protection has also increased in other media, especially television programs. Environmental protection is the only government sponsored information piece on TV. It also becomes one of the major topics in TV and radio talk shows, including women's forum on TV. Increasing media exposure will gradually introduce the concept of environmental protection into the thinking of the general population and raise their awareness of such matters.

SOCIETAL DEMANDS

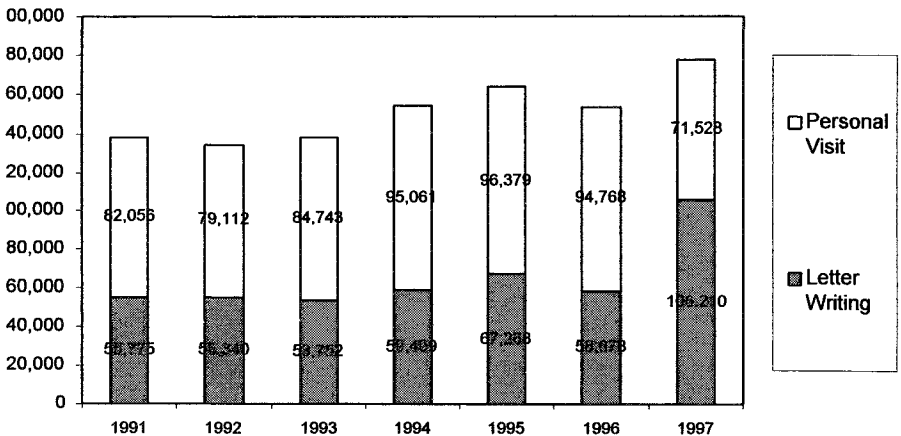
Several surveys have found that the public environmental awareness is low. The popular desire for material wealth is much stronger than that for a

¹⁹ Reports by the Friends of Nature.

clean environment. However, when environmental pollution affects immediate living conditions, those affected do take actions seeking to address their grievances. The most common channel is letter writing and personal visit to local, or even national, governmental agencies. From 1995 to 1997, there were 232,156 letters of complaints and 242,705 personal visits to environmental protection bureaus at various levels of government.²⁰ (Figure 3) Most of the complaints dealt with water, air, and noise pollution in their immediate living environment.

As a sign reflecting the responsiveness to growing popular concern about environmental quality, members of the National People's Congress (NPC) and the Chinese People's Political Consultative Conference (CPPCC) have introduced increasing numbers of proposals and motions regarding environmental protection during their regular annual sessions. For instance, the total number of proposals and motions on environmental protection issues increased from 27 in 1992 to 77 in 1997.²¹ Figure 4 shows the trend in recent years.

Figure 3. Cases Of Complaints About Environmental Pollution

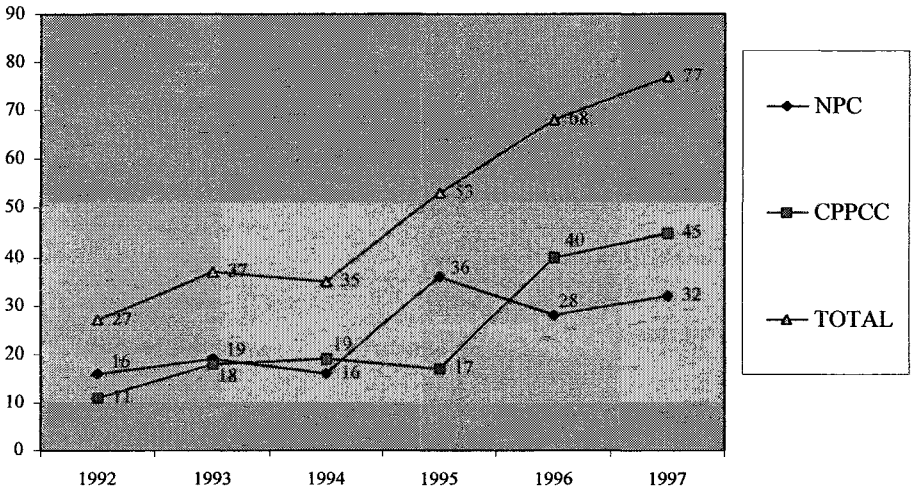


Source: *China Environment Yearbooks*, various years.

²⁰ *China Environmental Yearbook*, various years.

²¹ *Ibid.*

Figure 4. Number of Environmental Motions and Proposals Received by the NPC and CPPCC



NPC — The National People's Congress
 CPPCC — The Chinese People's Political Consultative Conference
 Source: *China Environmental Yearbook*, various years.

SUMMARY

The environmentally attentive public in China remains relatively small. Yet there is every sign to indicate that it is growing. This growth is associated with rising living standards and the gradually liberalized political system. In fact, the study of the social components of an environmental policy regime cannot be separated from the study of the overall transition of an authoritarian system. While the growing environmentally conscious public has produced some marginal effects on environmental protection in China, the driving force remains at the center of the power structure — the government and its policies. The following section will evaluate the progress and problems of China's environmental protection work.

PROBLEMS AND DILEMMAS

With a framework of legislation, regulations, fines, and emissions standards in place, China has achieved some positive results in protecting the environment. Gas and electricity have gradually replaced coal as sources of cooking and heating. More than 20 large and medium-sized cities have banned the use of leaded gasoline. Unleaded gas will be required for automobiles nationwide by the end of 2000. By the end of 1998, some 59 cities had released urban air quality reports on a weekly basis. Beijing, Shanghai, and four other cities issued air quality reports on a daily basis.²²

Figure 5 shows that from 1990 to 1997, the quantity of industrial pollution emissions has declined, with that of waste water more so than sulfur dioxide. Figure 6 also indicates that the treatment of industrial discharges has increased.²³ Although the decline of pollution emissions and the increase in waste treatment are not dramatic, they are nonetheless quite impressive given the robust growth in industrial output during the same period.

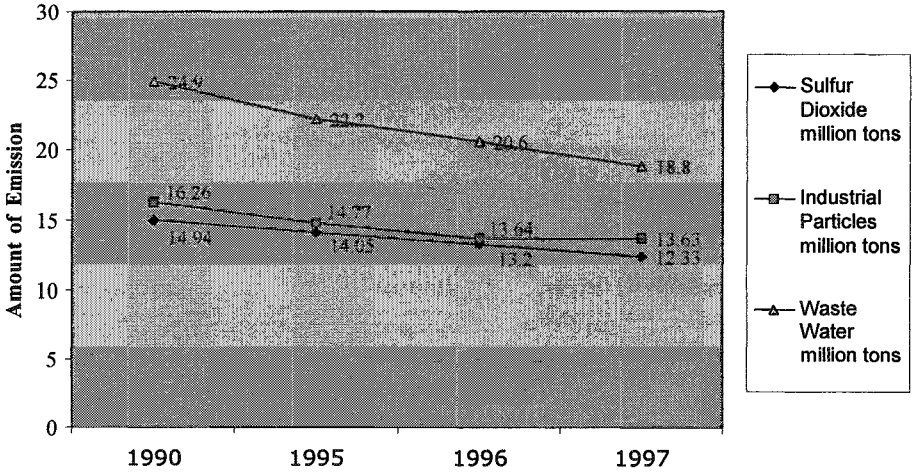
In some cases, when the scale of pollution was so severe and local governments were reluctant to tackle the pollution problem seriously, the central government had to step in and use harsh administrative measures. The case of Huai River pollution is an example in this regard. In the summer of 1994, the Huai River experienced the biggest pollution incident to date, with a 70-kilometer-long highly polluted and poisonous water stream traveling from the upper river basin in Henan province to the lower river basin in Anhui province. The central government stepped in and ordered the polluting enterprises, most of them local enterprises, to tackle the pollution by a certain deadline or else to close down. By the end of 1997, the entire Huai River basin had closed 4987 severely polluting enterprises. Another 2646 enterprises claimed to have successfully tackled the pollution and are allowed to continue their production.²⁴

²² Li Wen, *ibid.*, p. 16.

²³ *China Environmental Yearbook*, various years.

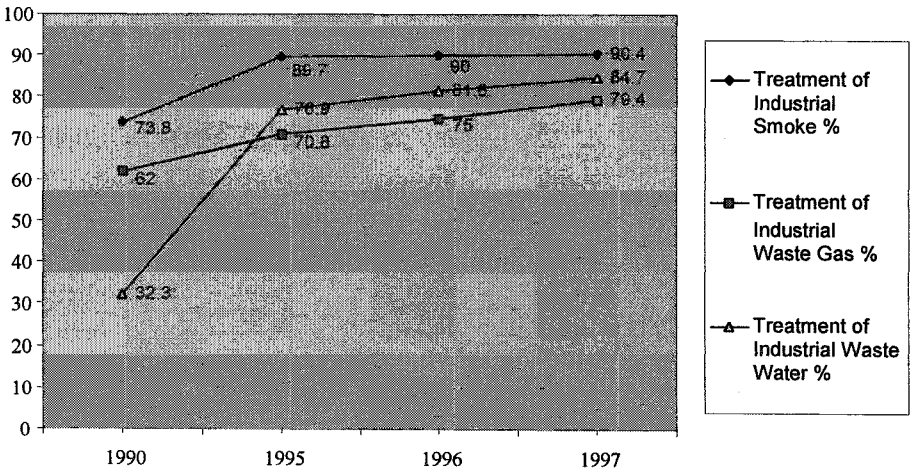
²⁴ *China Environment Yearbook*, 1998, p. 523.

Figure 5. Amount of Emission of Industrial Pollutants



Source: China Environment Yearbooks, various years.

Figure 6. Ratio Of Industrial Discharges Treatment



Note: The industrial discharges treatment does not include the industrial discharges from township and village enterprises, which contributed about a quarter of the industrial waste water, a third of the waste gas, and 60 percent of the industrial smoke.

Source: Almanac of China's Economy, and China Environmental Yearbook, 1998.

As a developing country, China has made some significant progress in environmental protection. However, China's environmental protection work also runs into serious problems and is facing hard choices. China has serious law enforcement and policy implementation problems. Laws are passed but not enforced. The central government's policy often encounters resistance and distortion at local levels.

LAW ENFORCEMENT PROBLEM

The law enforcement problem lies in a deficient legal environment. The principle of the rule of law has not been firmly established. Administrative intervention is common. And there is a lack of a tradition of resorting to legal resolution of disputes. In a cultural milieu that has long favored compromise in dispute situations and a legal and political environment that does not encourage the assertion of rights, many environmental grievances are not transformed into legal disputes. In the circumstances when there is a legal dispute, informal mechanisms of administrative or people's mediation are employed as the common pattern of dispute resolution. Court proceedings are taken only as a last resort. This kind of tradition may solve many disputes but does create problems for the law enforcement.

In recent years, however, with the gradual strengthening of the legal system and with increasing legal awareness, more and more people have chosen legal procedures to resolve disputes. There is now evidence that in environmentally related disputes between medium-sized and larger enterprises in urban areas, lawyers are increasingly called in to assist the parties in reaching a negotiated settlement of their dispute.

POLICY IMPLEMENTATION PROBLEM

More generally, environmental matters are very much seen as a matter of policy, which is variable and ambiguous, rather than law. In the realm of policy implementation, there is the problem of the so-called "fragmented

authoritarianism.”²⁵ According to this model, local governments now possess greater autonomy in the making and implementation of policies. The declining importance of ideology and the increasing fiscal autonomy have increased local governments' bargaining positions over resource allocation with the center and have given them room to exercise discretion in enforcing national regulations.

During the reform period, with the change of central policy from “politics in command” to “development in command”, the function of the local governments has changed accordingly. Business groups (both from state and private sectors) have become powerful partners of the local governments in promoting development. Scholars refer to this emerging new partnership as “local state corporatism.”²⁶ As the economic growth rate is the major criterion for evaluating local government performance, the success and failure of local business either burnishes or tarnishes the government's record. Local governments are therefore extremely reluctant to enforce environmental regulations that may hurt the economic development of the locality.

DILEMMAS BETWEEN ECONOMIC AND ENVIRONMENTAL OBJECTIVES

The reluctance of the local government to enforce environmental regulations highlights the contradiction between economic and environmental objectives. Areas undergoing rapid economic growth face a series of choices between, on the one hand, establishing an environmental regulatory regime to mitigate water, land, and air pollution and, on the other hand, promoting economic growth. In theory, economic growth and environmental protection may be mutually supportive to each other and the cost of cleaning up the pollution later is much more expensive. However, the two objectives are contradictory in reality, especially at the early stage of economic

²⁵ Kenneth Lieberthal, ed. *Bureaucracy, Politics, and Decision Making in Post-Mao China* (Berkeley: University of California Press, 1992).

²⁶ Jean Oi, “The Role of the Local State in China's Transitional Economy”, *China Quarterly* 144 (December 1995), 1132–1149.

development. As a local official puts it bluntly, "it is a choice between being alive or living longer". To most officials in developing areas, "being alive" is the first priority.

The priority is often given to economic growth over environmental protection for several reasons. First, enforcing environmental policies requires a large amount of resources on the part of both the national and local governments that could be used for other objectives. With limited resources at the early stage of development, no officials are willing to place a higher priority on environmental protection than on economic growth, as far as there is no immediate physical threat to their constituencies.

Second, enterprises are the major providers of employment opportunities and taxes for local community and government. Closing down the polluting enterprises means a loss in both employment and tax income. Few government officials would sacrifice these economic interests to enhance environmental protection.

Third, at the early stage of economic development, the general population is more interested in getting rid of poverty than maintaining a clean environment. The official priority given to economic modernization also reflects this popular demand.

FUTURE

The problems in China's environmental protection work are rooted in China's political system and its level of development. If the Chinese economy continues to grow, the contradiction between economic development and environmental protection may eventually cease being a zero-sum game and become a positive-sum situation. If the political system continues to liberalize, there may be more space for a popular environmental movement. When the government has more resources available at hand, and when the general population starts to demand environmental quality as part of their standard of living, an environmental regulatory regime may come to life in China. However, if the economy stagnates and political reform is stifled, environmental protection will be pushed to the back seat.

Environmental regulation is an integral part of China's transition from authoritarianism to a more liberal political system and from central planing

to a more market-oriented economic system. These issues will inevitably intertwine with China's economic development drive, internal politics, legal development, international relations and regional development issues. It is of particular importance for us to obtain a rough sketch of the environmental situation in China today, so as to not lose track of China's future direction with regard to these critical issues.

APPENDIX: LAND AND WATER RESOURCES

Loss of Cultivated Land

Statistics show that China has 21 percent of the world population, but only 7 percent of the world's arable land. While arable land is so precious in China, it has been shrinking rapidly during the reform period. From 1979 to 1996, the loss of arable area amounted to 15,179,300 hectares, and the new addition to arable area is 11,255,000 hectares, with a net loss of 3,923,000 hectares of arable land.¹ (Table 1)

Table 1 Cumulative Changes in China's Arable Area: Selected Periods, 1979-1996
(in 1,000 hectares)

Period	Cumulative decline in arable area	Cumulative addition to arable area	Cumulative net change in arable area
1979-1980	1,875	1,791	-84
1981-1985	5,835	3,376	-2,459
1986-1990	3,555	2,382	-1,173
1991-1995	3,289	2,590	-699
1979-1996	14,534	10,138	-4,416
1979-1996	15,179	11,255	-3,924

Source: Robert Ash and Richard Louis Edmonds (1998)

¹ All the figures in this section are from Ash, Robert F. and Richard Louis Edmonds. "China's Land Resources, Environment and Agricultural Production", *The China Quarterly* 156 (December 1998), 836-879.

Moreover, if we examine the loss and addition of arable land by geographic region, we find that most of the additions have been low quality agricultural land in the northwest and most of the losses have come from the high quality arable land in center-, south-, and south-west China. (Table 2)

Table 2 Cumulative Changes in China's Arable Area
(in 1,000 hectares)

Period	Cumulative net change in arable area (+/-) in each of the following regions					
	Northeast	North	Northwest	Centre-east	Southeast	Southwest
1981-1985	-15	-525	-796	-522	-266	-334
1986-1990	-142	-424	-56	-321	-67	-19
1991-1995	+101	-389	+457	-545	-227	-97
1996	+179	-81	+455	-56	-2	-3
1981-1996	+123	-1419	+455	-1444	-562	-453

Source: Robert Ash and Richard Louis Edmonds (1998)

Sources

One source of the reduction of arable land is its use by state and collective units for industrial and construction purposes. For example, the number of development zones (where preferential terms are offered to investment for development projects) jumped from 117 in 1991 to over 4,210 in 1992, occupying 232,000 hectares of land with 55 percent of them on agricultural land. There is also a great deal of illegal allocations of land through connections. The construction by the state, collective, and private sources account for about one-fifth to a quarter of the land loss in China. (Table 3)

Another 50-60 percent of the land loss is due to structural adjustment. By this, we mean the transfers of land out of cropping and into animal husbandry, aquaculture or forestry. While this is the major source of land loss in China, there are few studies on this category.

The third source of land loss is natural disasters, flooding or soil erosion. Soil erosion is serious. According to Agenda 21, 1.8 million square km of land has been washed away by floods. Desert and desertification land covers an area of 1.5 million square km, making up 15.9 percent of the total land, and surpassing the total of existing cultivated plots.

Table 3 Shares of Loss to Arable Land in China, 1987-1991 (%)

Year	Proportion of arable land loss resulting from:				
	State Construction	Collective Construction	House Building	Structural Adjustment	Natural Disasters
1987	11.2	5.8	5.1	63.5	14.4
1988	11.4	4.5	3.4	57.1	23.6
1989	2.3	5.4	3.7	55.4	23.2
1990	13.1	7.2	3.5	60.0	16.3
1991	13.0	7.5	2.3	52.4	24.9

Source: Robert Ash and Richard Louis Edmonds (1998)

It is hard to assess the short term damage resulted from the land loss. The land allocated to development zones probably yields much higher profit than staying in agricultural production. The same goes with the structural adjustment. The loss of agricultural output may not be very striking because of the low profitability of farming in the first place. However, in the long run, the land loss will worsen the shortage in arable land, and increase the pressure on food production.

The Drying-up of the Yellow River

In addition to water pollution, problems in water resources also emerge. The Yellow River, the world third longest river, has become a seasonal river. During the year of 1997, an average of 700 kilometers of Yellow River have dried up for 226 days, whereas in the 1970s, the average was 135 kilometers and 14.3 days. The drying up of Yellow River indicates that the entire ecological environment along the Yellow River basin has deteriorated, resulting in desertification and the loss of variety of species in the lower Yellow River region. Agricultural and industrial losses have been enormous. For instance, in 1996, because of the water shortage, the Shengli Oil Field in Shandong Province reduced its production of oil by 2.6 million tons, an economic loss of 3 billion *yuan*.²

² *China Environmental Yearbook*, 1998, pp. 522-523.

MAJOR ENVIRONMENTAL LEGISLATION

1. Environmental Protection Law (1979 and 1989)
3. Marine Environmental Protection Pollution Law (1982)
2. Water Pollution Prevention and Control Law (1984, and revised 1996)
4. Grassland Law (1985)
5. Forestry Law (1986, and revised 1998)
6. Mineral Resources Law (1986)
7. Law on the Prevention and Control of Atmospheric Pollution (1987)
8. Land Administration Law (1988)
9. Water Law (1988)
10. Law on Protection of Wildlife (1988)
11. Law on Water and Soil Conservation (1991)
12. Law on the Prevention and Control of Environmental Pollution by Solid Waste (1995)
13. Flood Control Law (1997)
14. Law on Control and Treatment of Noise Pollution (1997)
15. Law on Energy Saving (1997)

Part Three



DOMESTIC RESPONSES TO EXTERNAL RELATIONS

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CHAPTER 10

The Politics of Human Rights: Stability First, Development Second, and Everything Else Can Wait



LANCE L. P. GORE

On February 17th, 2000, the Chinese government launched its latest human rights White Paper¹ entitled *Fifty Years of Progress in China's Human Rights* in anticipation of US State Department's "1999 Country Reports on Human Rights Practices", which was released a week later on February 25. The White Paper is part of an orchestrated counter-offensive in response to intensified criticisms from abroad of what was perceived as deterioration of China's human rights record in 1999¹. As expected, the State Department's report severely criticizes China, stating that "The Government's poor human rights record deteriorated markedly throughout the year, ..The Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms." The report also identifies

¹ For the full text, visit the official *People's Daily* website: <http://www.peopledaily.com.cn/item/rqbpsb/01.html>. In November, 1993, China released its first White Paper on human rights, "China's Human Rights Conditions", in response to international sanctions and condemnations of China in the aftermath of the bloody Tiananmen crackdown. In September 1992 China issued another White Paper under the title, "The Sovereignty and Human Rights Condition of Tibet" similarly in response to international criticisms.

a political cause of continued human right violations in China: "The abuses stemmed from the authorities' extremely limited tolerance of public dissent aimed at the Government, fear of unrest and the limited scope or inadequate implementation of laws protecting basic freedoms."²

On February 26, 2000, Chinese Foreign Ministry spokesman Zhu Bangzao responded with a three-point rebuttal to U.S. criticism at a press conference: 1) the level of human rights and freedom enjoyed by the Chinese people now is unprecedented in Chinese history as the result of the "prolonged and unflinching effort" of the Chinese government; 2) the conditions of serious human rights violations inside the United States are deteriorating rather than improving; 3) the U.S. government follows a double standard on the human rights issue by avoiding mentioning its domestic human rights violations while using human rights as excuses to interfere with other countries' internal affairs.³ On the following day, the Chinese government released its counter-report on U.S. human rights: "The Human Rights Record of the United States in 1999",⁴ outlining problem areas in guns and violence in society; large prison population and prison labor; sexual assaults committed against female inmates; the power of special interests groups; the widening gap between the rich and the poor; the plight of the homeless; persisting racial discrimination; children living in poverty and so forth. The stage is set for another round of political battle on human rights in the international arena.

Among the Chinese responses, the White Paper is the most comprehensive statement of the official Chinese view on the human rights issue. It offers hitherto the most sweeping official defense of the human rights record for the full fifty years of PRC's existence, covering a wide range of areas in which progress has been made: ridding of foreign oppression and regaining national sovereignty; the improvements in economic, social and cultural conditions; the advancement in civil and political rights of citizens; rights protection for women and children; and promotion of the

² For the full text, visit U.S. Department of State website: http://www.state.gov/www/global/human_rights/1999_hrp_report/china.html.

³ New China News Agent, February 26, 2000.

⁴ For the full text, visit: <http://www.peopledaily.com.cn/zdxw/19/20000227/20000227194.html>.

rights of ethnic minorities. It also outlines China's strategy of human rights development in the new century. The document signifies the consolidation of Chinese official strategic thinking on the politics of human rights. As it declares, "(China) has found a road for the promotion and development of human rights that suits its reality", which is thus summarized:

"...in the basic orientation of developing human rights, we stick to the principle of developing the productive forces and promoting common prosperity on the basis of improving the living standards and human rights for the entire people; in the ordering of priority, the top priority is given to the rights to subsistence and development, while taking into consideration of the people's political, economic, social and cultural rights and the overall development of individual and collective rights; with regard to the methods of promoting and guaranteeing human rights, we stress that stability is the prerequisite, development is the key, reform is the driving force, and government according to law is the guarantee."

There are three key points to this strategy of human rights development. First, it adopts a very broad conception of human rights; second, within this broad conception it prioritizes the various categories of human rights and their subsequent pursuit; third, it advocates legal guarantee for rights. Behind the three points is however the same emphasis on the interests of the nation, the collectivity or society over those of the individual.

This is a well thought out strategy. On the positive side, it not only continues to embrace the validity of universal human rights but has charted a course of action for their attainment. By elevating human rights development to an umbrella concept encompassing all of China's modernization endeavors, the strategy has helped to put human rights on the center stage of the official policy discourse.

On the more cynical side, however, the equalization of human rights to the country's modernization drive and development efforts also helps to dilute the concept; it is an attempt to redirect the attention on human rights to economic, social and cultural developments — areas in which

China has performed admirably — and therefore deflect criticisms of right abuses in other areas. In fact the White Paper is part of a comprehensive strategy to recast China's human rights record in a new light and to get out of what appears to be paradoxical situation China faces: while its overall record improves dramatically, criticisms also rise precipitously.

THE PARADOX IN CHINA'S HUMAN RIGHTS CONDITION

The White Paper produces a long list of achievements in the fifty-years PRC history. It consists of a mixture of credible, dubious and preposterous claims⁵ that are reminiscent of Party propaganda. Among the more credible achievements listed, the following are particularly noteworthy:

- GDP growth at an annual average rate of 7.7% for the past fifty years, or two and half the rate of the world economy as a whole. As a result, China has become the world's number one producer of steel, coal, cement, chemical fertilizer, TV sets, grain, meat, cotton, peanuts, and fruit; per capita consumption increased from 80 yuan in 1952 to 2,972 yuan in 1998 and per capita share of grain, meat, egg and fishery products has risen above the world average level. China is feeding 22% of the world's population with on 7% of the world's farmland.
- During the past 20 years, while the size of the world's poor was constantly expanding, China was lifting massive numbers of people from poverty — at a rate of ten million per year. The percentage of people living under the poverty line in rural areas was reduced from 30.7% to 4.6% and the average income of the poor increased from 206 yuan of 1985 to 1318 yuan in 1998.

⁵ For example, the White Paper mentioned the constitutional guarantee of the freedom of speech, thought, publishing, association, communication, moving, personal security, strike, demonstration and religion etc. since the provisional constitution of 1949. However, such freedom has never been fully implemented and often grossly violated during the fifty years of PRC history. Similar preposterous claim is made on democratic elections when China is strictly under one-party dictatorship.

- Great improvement in health care services and sharp reduction of mortality rate — from 33 per thousand in 1949 to 6.49 in 1994. As a result, life expectancy has increased from 35 in 1949 to the present 70.8 years.
- Great achievements in education: the rate of school age children in primary schools increased from 20% in 1949 to 99.3% in 1998. The 87.3% secondary school enrollment rate was above the average of developing countries. The number of college-level students in 1998 was 40.11 times that of 1949.
- Large strides have been made in the areas of building the legal infrastructure and establishing the rule of law. During the twenty years of reform and opening, the National People's Congress passed more than 360 laws and another seven thousands were passed by local legislatures. Transparency of court proceedings increased. The number of lawyers reached 100 thousand and there were 9,000 law firms and 800 legal assistant organizations nationwide at the end of 1999. The *Administrative Litigation Law* passed in 1991 and *State Compensation Law* passed in 1995 enhanced protection of citizen's rights against government officials.
- Village popular elections are widely implemented since 1988 and since the passage of the new *Organic Law of Villagers' Committee* in 1999, half of China's provinces issued local elections rules and regulations and the voting rate of village-level elections in 1999 was over 90% in general.

Far from cosmetic changes, these are all major achievements that have fundamentally transformed the lives of ordinary people and the socioeconomic landscape of the country. The significance of their long-term political ramifications is also impossible to overstate. It is not empty talk when Zhu Bangzao claimed that “the level of human rights and freedom enjoyed by the Chinese people now is unprecedented in Chinese history”. From this perspective, the Chinese government, especially the leadership in the reform era, deserves to be recommended and its achievements fully acknowledged, appreciated and used as the basis for further improvements in human rights. Fore these are indeed the only foundations or even the preconditions for future substantive progresses in human rights protection.

However, there is another side to the story. The Chinese government has insisted that all these achievements would not have been possible without political stability and the unchallenged rule of the Communist Party. It is under these claims that major human rights violations identified by the Western critiques were committed in the past decade, and it is under such justifications the government is totally unabashed and unrepentant under accusations from abroad. Such attitude in turn renders the international tug of war around China's human rights record futile or even at times counterproductive. From this perspective, the U.S. State Department report is also correct in asserting that the causes of many of the human rights abuses are political.

The human rights events of 1999 illustrate the paradoxical situation well. The cases of human rights abuses compiled by the West for the year fall roughly into three categories according to the underlying political intention. The first is intended to "nip in the bud"⁶ any organized political opposition; the second is to control the flow of politically sensitive information; and the third is to prevent the outbreak of any spontaneous mass protests or mass movements, either secular or religious, that the current Chinese society is particularly prone to. All these speak of the fragility of current political system of which the Communist Party has resisted any significant political reform ever since Deng Xiaoping's time.

From the beginning, the year 1999 did not bode well for human rights advocates in the West. The year contained a potent combination of elements that might derail political stability. Economic slowdown amidst a broad range of reforms in housing, social security, pension, medical care and education was undermining consumer confidence, creating uncertainty, anxiety as well as discontent among the populace; millions more SOE workers were laid off and the trend is set to continue; corruption had become a politically threatening issue now amidst general uncertainties. Widespread anxiety and discontent needed only a focusing event to gather the momentum needed for a major political eruption, and 1999 had plenty

⁶ Xiaomie yu mengya zuangtai, a Chinese phrase used by Jiang Zemin when he launched the crack down on the newly organized China Democratic Party immediately after his return from the historical visit to the United States in 1998.

of those: the fortieth anniversary of the March 10, 1959, Tibetan uprising, the tenth anniversary of the crackdown in Tiananmen Square on June 4, 1989, the eightieth anniversary of the May Fourth Movement of 1919 with its call for democracy and a fundamental transformation of the political culture, the fiftieth anniversary of the founding of the People's Republic of China (PRC) on October 1, 1949, and the return of Macao to the motherland after four hundred years' colonial rule, to name only the major ones. Therefore from the very beginning, stability was the top priority for the government.⁷

As expected, the government tightened its political grip. The year began in the shadow of Jiang Zemin's drive to "nip in the bud" the stirring political opposition movement in late 1998 that resulted in a series of sentencing of leaders of the outlawed China Democracy Party. Veteran dissident Xu Wenli in Beijing, Qin Yongmin in Hubei province, and Wang Youcai in Zhejiang were sentenced to thirteen, twelve, and eleven years in prison respectively on charges of subversion in December 1998. By the middle of 1999, according to the just released U.S. human rights report, almost all of the leaders of the CDP were in jail.⁸ Legal authorities also squashed the China Development Union, a nongovernmental organization committed to environmental and political reform. In February, its leader, Peng Ming, was detained for fifteen days and subsequently sentenced to a term of eighteen months in labor camp.⁹

Labour and peasant activists also received harsh punishment as a way to warn off others who might want to follow their steps. Unrest in Hunan province resulted in sentences of up to six years for nine peasants who protested the imposition of exorbitant taxes; the arrest of Liao Shihua for organizing workers to demand an end to pervasive corruption in the province;

⁷ See Zheng Yongnian, "China's Politics in 1999: *Neiyou Waihuan*, A Year of Trials for the Leadership" (Background Brief No. 54, East Asian Institute, January 2000).

⁸ See US State Department "China Country Report on Human Rights Practices for 1999".

⁹ The following is a typical list of human rights violations compiled by human rights groups, foreign governments and international organizations. This and many of the following incidents cited below are also listed by Human Rights Watch, a New York based human rights group in its report, "Human Rights Developments in China — 1999" (<http://www.hrw.org/press/1999/otc/china1014bg.htm>) and in U.S. State Department 1999 Annual Country Reports.

and two-year terms for six farmers who alleged that local elections had been rigged.

The authorities also took special care to sever the ties between domestic dissidents and their overseas supporters, and to obstruct the flow of politically sensitive information. On January 20, 1999 the Shanghai No.1 Intermediate Court announced a two-year sentence for computer entrepreneur Lin Hai for passing some 30,000 e-mail addresses to VIP Reference, an overseas dissident publication. In March, a district court sentenced Gao Shaokun, a retired police officer, to a two-year term after he informed the foreign press about a peasant protest. On May 11 a Beijing court sentenced Liu Xianli to a four-year term for his attempts to publish a work about well-known Chinese dissidents. Song Yongyi, a Dickinson College (Pennsylvania) researcher, was detained for espionage in August when he was collecting materials on the Cultural Revolution.¹⁰

The rapid spread of Internet usage caused concerns from Chinese authorities. New regulations in January 1999 required bars and cafes with Internet access to register and inform the police about their business operations and customers. In May 1999 the Ministry of State Security installed monitoring devices on Internet service providers capable of tracking individual e-mail accounts. Special computer task forces began round-the-clock checks on bulletin boards. In early September, after overseas dissidents hacked into the website of the official newspaper, *People's Daily*, a police circular called for a crackdown on all anti-Party and government articles on the Internet.

The government also tightened controls on publishing and the print media. On January 1, 1999, new regulations required shippers of printed material to obtain government permits. President Jiang Zemin personally ordered senior officials to prevent the media from undermining the fiftieth anniversary celebration. His complaints about the number of publications in circulation resulted in a decision to stop issuing new publication permits at least through June 1999. In September the government decreed that local newspapers and magazines had to be placed under Party management

¹⁰ Song later received a prison sentence but was subsequently released and went back to the United States after the intervention of some US officials and senators.

by October 30 or face closure. In September Chinese authorities banned newsstand sales of special editions of *The Time Magazine*, *Asiaweek*, and *Newsweek* covering fifty years of the PRC.

The government's reaction to any real or potential organized opposition was swift and determined thanks to the lessons it learned from the 1989 Tiananmen incident. The top leadership was infuriated by a surprising public show of strength by the members of *Falun Gong* (a quasi-religious group whose beliefs were loosely based on Buddhist and Daoist traditions), who surrounded the compound housing the central government and the CCP headquarters in Beijing on April 25th in peaceful protest. It was the massive number and highly organized fashion of the demonstration that impressed and worried the government. *Falun Gong* has since been declared the "greatest domestic threat since the founding of the PRC" and outlawed as an "evil sect". All public and private practice of *Falun Gong* was banned; many of its leaders were sentenced to long prison terms and its founder Li Hongzhi, now residing in New York, was put on the wanted list. Many of the methods used in this crackdown are reminiscent of aspects of the old communist rule of terror.¹¹

The *Falun Gong* episode also intensified the authority's vigilance and control over other religions. In March through May 1999, a campaign centered in parts of Zhejiang and Hebei provinces with large Catholic populations was waged to force Catholic congregations to register with the government's Bureau of Religious Affairs, forcing many to go underground. The freedom of assembly granted by the Constitution was severely restricted during 1999. Following the crackdown on *Falun Gong*, a regulation was issued requiring all public gatherings, even those for physical exercise or entertainment purposes, must obtain prior approval of the police if their number is to exceed two hundred.

To ensure the security of the October 1st National Day celebration, the Beijing municipal government banned all public gatherings after July 1.

¹¹ For analyses of the Falun Gong incident of 1999, see John Wong, "The Mystery of Falun Gong: Its Rise and Fall in China" (Background Brief No. 39, East Asia Institute, August 1999) and William Liu, "A Sociological Perspective on Falun Gong" (Background Brief No. 40, East Asia Institute, August 1999).

Police detained or deported those without papers, legal residence permits or regular incomes. They targeted migrants, beggars, hawkers, food vendors, the homeless, the unemployed, the mentally ill, prostitutes, and other "undesirables". On September 6, 1999 the Public Security Bureau notified hostels, hotels, boarding houses, and private citizens that they would be penalized for housing illegal migrants. Dissidents were under heavy surveillance, their movements restricted, and their phone lines cut. Any non-residents wishing to enter Beijing needed a detailed letter of introduction from a proper authority in their own locale.

The government also stepped up campaigns to crack down on crime. The death penalty continued in use, and public executions were common. On September 27 the Guangdong Supreme People's Court declared it would hold fifty-seven public rallies to announce 818 sentences. Two hundred and thirty-eight prisoners were executed before October 1, 1999. Similar executions were carried out in other cities and provinces.

From the perspective of the Chinese authorities, these measures succeeded in achieving their goals. They helped the government to pass through relatively smoothly the many landmark events over the course of the year and to carry on with a wide range of reforms. And for the first time, the central leadership's preoccupation with stability seemed to have found echo among even the politically most active segment of the population — university students, as indicated by the slogan "China must not be destabilized" carried by anti-US and NATO demonstrators in the aftermath of the bombing of the Chinese Embassy in Yugoslavia in July. From a Western point of view, however, 1999 was a bad year for human rights in China; it witnessed deterioration and even a rollback of some human rights progresses made in recent years. As a result, the US has decided to again sponsor a resolution to censure China at UN Human Rights Commission in Geneva in March 2000.¹² The European Parliament also passed a resolution condemning China's human rights violations on January 25, 2000. Human rights organizations around the world all called on Western governments to take a tougher stand against China. The UN High Commissioner for Human Rights, Mary Robinson, also visited Beijing

¹² Reuters (Beijing, January 12, 2000), "China Rejects U.S. Human rights Censure Plan".

in the week starting February 28, 2000, to push for human rights progress just ahead of the Geneva Conference on human rights.¹³

However, all external pressure will come to no avail when these human rights abuses are regarded essential to ensure political stability and the continued rule of the Chinese Communist Party. The question then boils down to that of political reform, for only after a fundamentally transform of the current political system will it be possible to accommodate the kinds of human rights pushed for by the West without causing fatal tensions and strains in the political structure. But the current political system is regarded by the Chinese authorities as very effective in promoting human rights in the economic and social spheres. Naturally the government suspects that the criticisms and pressure from the West are but disguised attempts to subvert the government and overthrow the Communist Party.¹⁴ Once Western intension is interpreted as “peaceful subversion”,¹⁵ little room is left for a constructive dialogue between the parties. China is thus caught in a paradoxical situation in which the more progress it makes in improving human rights, the more it is under criticism for human rights violations.

To alleviate the Chinese suspicion and create a more positive atmosphere for dialogue, the West must find ways to persuade the Chinese government that it is in its own self-interests to promote human rights. To do so it will have to acknowledge the progresses China has made and use them as the foundation to build future progresses on; it must recognize that the West could only play an auxiliary role as a catalyst to changes in China. The main role has to be played by the Chinese themselves. In this regard, the evolution in the official Chinese thinking on the human rights issue is particularly important.

CHINA'S EVOLVING HUMAN RIGHTS STRATEGY

Andrew Nathan described the Chinese response to international human

¹³ *South China Morning Post*, February 26, 2000.

¹⁴ It may well be right to a certain extent, as we will see later.

¹⁵ *Heping yanbian*, also translated as “peaceful evolution”.

rights pressures as characterized by “realism, central coordination, strategic consistency, and tactical flexibility”.¹⁶ Coordination is evident in the politics of human rights in 1999 as well. China’s human rights defense in 1999¹⁷ was anchored on three defenses: the sovereignty and non-interference defense, the complexity and relativity of the human rights issue defense, and the dialogue, not-confrontation defense. The sovereignty principle insists that human rights are domestic issues that should be left to the respective national governments for their resolution; foreign parties have no rights to interfere. However, this emphasis on non-interference was replaced in 1999 by the emphasis that national sovereignty is the pre-condition for the protection of human rights. According to this idea, only the national government is in a position to enforce and protect human rights within its territories. The second defense stresses the historical evolution of human rights; it argues that the standards and levels of human rights attained are relative to each country’s specific conditions in social, political and economic development and no uniform standards are enforceable around the world. The third defense insists that dialogue among the countries in equality and mutual respect is more effective in promoting human rights than sanctions and confrontation.

Meeting with Algerian President on November 9, 1999 the visiting President Jiang Zemin declared that national sovereignty is a pre-condition for human rights. “Human rights depend on a sovereign national government for their guarantee; no sovereignty, no human rights”, he added. He also warned about a “new interventionism” under the theoretical disguise of “human rights higher than sovereignty” and “limited sovereignty”, and restated the Chinese position that countries should engaged in a cooperative and constructive dialogue on human rights “on the basis of equality and mutual respect”, and China’s opposition to “politicization of the human

¹⁶ Adrew Nathan, “China and the International Human Rights Regime” in Elizabeth Economy and Michel Oksenberg eds., *China Joins the World: Progress and Prospect* (New York: Council on Foreign Relations Press, 1999), p. 148.

¹⁷ For a survey of China’s defense on the human rights issue during the 1980s and 1990s, especially in the context of China-US relations, see Gerald Chan, “Human Rights in Sino-American Relations: A Chinese Perspective” (Background Brief No. 18, East Asia Institute, August 1998).

rights issue” and to “using the human rights issue to interfere with the domestic affairs of developing countries”.¹⁸ On the same day Shen Guofang, China’s new deputy commissioner to the UN, elaborated on Jiang’s points in New York City. He also accused the West for continuing “Cold War thinking” and its effort to “change other countries’ social systems and cultural values”.¹⁹

On November 16, President Jiang Zemin outlined once again China’s relativist view on human rights to the visiting UN Secretary General Kofi Annan. He first reiterated China’s “respect for the universal principles of human rights embodied in various UN documents” and then emphasized that because of the differences in history, culture, social system and level of economic development among the countries of the world, “there should be differences in the specific measures of human rights protection and in the ways in which the democratic principle is expressed”. Annan, for his part, agreed on the complexity of the human rights issue; he also agreed that “the rights for survival²⁰ and development”, which China stresses over all others, was a basic human right equally important to political rights.²¹

China’s advocacy of a “dialogue instead of confrontation” approach to the human rights issue has been remarkably successful in recent years. All major industrialized countries are engaged in a bilateral discussion with China. On February 7-8, 1999 Germany hosted an E.U.-China dialogue in Berlin on human rights focusing on China’s relationship to various U.N. human rights mechanisms, the recent crackdown on political activists, and the Tibetan issue. In March, an E.U. troika delegation (Germany, Austria,

¹⁸ *Mingpao* (Hong Kong, November 11, 1999), “Jiang Emphasizes: ‘No Sovereignty, No Human Rights’”.

¹⁹ *People’s Daily* (November 11, 1999), “Our Representative at UN Stress that Respecting Sovereignty is the Foundation of Human Rights”.

²⁰ That is, the right for food, shelter and economic development.

²¹ *People’s Daily* (November 11, 1999), “President Jiang Meet with Annan, Indicating China’s Unfailing Support and Following of the Principles of the UN Charter and China’s Dedication to the Cause of Peace and Development”. For Annan’s view on the dilemma of national sovereignty and international humanitarian intervention, see his article, “Two Concepts of Sovereignty”, *The Economist*, September 18th, 1999, pp. 49–50.

and Finland) visited Beijing to press for human rights progress.²² In February 1999, a U.N. Committee reviewing China's compliance with the *Convention to Eliminate Discrimination Against Women* issued a report and recommended that China invite the Special Rapporteur on Violence Against Women to visit China. It listed among its concerns domestic violence and custodial abuse, sexual harassment in the workplace, and various aspects of the implementation of China's population policy. In early September 1999, Finland, the new E.U. president, chaired a seminar on ethnic minorities, discrimination against women, and other human rights concerns. The E.U. issued a mild demarche in Beijing on the banning of *Fahun Gong*, not a public protest.

However, these dialogues are increasingly under criticism by human rights activists as superficial and useless. They charge these governments for their insincerity in the fight for human rights and for putting commercial interests above human rights. Similarly, China's well-orchestrated diplomatic maneuvers, its active participation in the human rights discourse and politics while its own record deteriorating, also gives the impression of insincerity or even hypocrisy. But it will not be fair to accuse China for its lack of sincerity or genuine effort in improving the country's human rights condition.

The Chinese government often angrily denounces the West for "totally ignoring" the vast human rights progresses that have been achieved in China. Even some Western human rights watchers acknowledge, if only grudgingly, continued positive developments in 1999. In the area of legal reform, Supreme Court President Xiao Yang announced in March 1999 that in the interests of transparency, trials would be open and verdicts quickly made public, except for cases involving state secrets. In April, he announced plans to curb government interference with the legal process.²³ Chinese judicial and legal experts continued to meet with their counterparts in many countries in an effort to further the reform process. A sharp increase in the number of lawsuits brought by citizens against officials through

²² An E.U.-China summit planned for May was called off after the NATO bombing of the Chinese embassy in Belgrade. The Chinese government also suspended the bilateral human rights dialogue with the U.S. after the bombing.

²³ Human Rights Watch, "Human Rights Developments in China — 1999".

administrative courts seemed to indicate a growing consciousness of individual rights.

Others also notice the development of an incipient civil society in the emergence of community-based citizen's organizations: private citizens are forming voluntary associations that seek to address social needs that are unfunded or ignored by the government. These include care of the disabled, environmental protection, help for battered women and eradication of illiteracy. Some social service groups are cautiously acquiring advocacy functions and are even sought by government officials and legislators for their views on policy reform. As long as they do not become politically unruly, the government generally adopts a benign attitude toward their activities and even encourage them to seek out a niche in the cracks of government services left open by rapid marketization of the economy.²⁴

More fundamental is, however, a paradigm shift in the Chinese leadership's thinking on human rights that is by and large ignored by the West. The shift is marked by China's acceptance of the "universal principles of human rights embodied in UN documents" and its active participation in the international human rights regime.²⁵

China used to subscribe to the Marxist view that dismisses universal humanity as a bourgeois hypocrisy masking the actual inequality in the relations of production and advocates instead a relativist view of humanity as consisting of class relations. According to the Marxist orthodoxy, inequality in the class relations, the existence of exploitation and oppression of one class by another are the root cause of human sufferings and human rights abuses. The foundation of class exploitation and oppression is private ownership of the means of production by the few (the exploiting class), which allows them to possess the fruit of labor of the majority of people (the working class). The elimination of exploitation and class divisions by

²⁴ Cathann Dalpino (a visiting scholar at the Brookings Institute, Washington D. C.), "China Eases Gingerly into an Era of Cautious Openness" (<http://cnn.com/specials/1999/china.50/red.giant/human.rights.dalpino>).

²⁵ C.f., Adrew Nathan, "China and the International Human Rights Regime"; Gerald Chan, "Human Rights in Sino-American Relations: A Chinese Perspective", and Xia Xudong, Ma Shengli and Duan Qizen eds. *Shijie renquan zongheng* (A worldwide survey of human rights) (Beijing: Shishi chubanshe, 1993).

abolishing private ownership of the means of production is therefore the only real solution to the problems of human rights. In this theoretic scheme, there is no such a thing as universal human rights. Human rights only come about when one group gains at the expense of other groups: either the exploiting capitalist class enjoys “human rights” at the expense of the working masses or the working class gains liberation by wiping out its class enemies — the bourgeoisie and its political representatives. In this view, China’s human rights are among the best in the world because under socialism and public ownership the working masses — workers and peasants comprising the overwhelming majority of the population — are freed from exploitation and oppression and enjoy real equality; the violations of the human rights of individuals of the overthrown ruling class — the landlords and capitalists — are legitimate exercise of the “dictatorship of the proletariat” which is a necessary condition to protect the human rights of the majority.

This view and the Marxist-Leninist emphasis on class struggle and “the dictatorship of the proletariat” served as the theoretical basis for some of the worst violations of human rights in modern history, especially during Stalin’s rule of terror and Mao’s Cultural Revolution. Millions were murdered in the name of the revolution and tens of millions lived under constant terror of purge and political persecution. Unlike the Western concept of human rights, which in theory applies to every human being indiscriminately, the term “class enemy” has no definitive reference at the level of the individual and can be applied to anybody and therefore everybody. It is a convenient and therefore widely abused label in political struggles and even top leaders of the revolution were brought down as “class enemies”. In the Marxist theoretical edifice, human rights for all necessarily entails the deprivation of the human rights for some. For it is class, not the abstract humanity, that matters for Marxism.

Therefore China’s embrace of “the universal principles of human rights” and its signing of *The International Covenant on Economic, Social and Cultural Rights* and *The International Covenant on Civil and Political Rights* in 1997 and 1998²⁶ are landmark events in China’s human rights development, the

²⁶ However, the National People’s Congress, China’s legislature, is yet to ratify them despite repeated reassurances to the West by top Chinese leaders such as Premier Zhu Rongji.

importance of which cannot be exaggerated. It not only signifies that China is now willing to negotiate on “bourgeois terms” that it used to dismiss out of hand and thus opens the door for constructive dialogue, but more importantly it has also eliminated the most significant ideological sources of human rights abuses — abuses on a grand scale such as what happened during Stalin’s purge and Mao’s anti-rightist campaign, the Great Leap Forward, and the Cultural Revolution. These human disasters caused by practicing Marxist ideas, not West preaching or the power of the liberal ideology, are the real cause of China’s paradigm shift on the issue of human rights, as well as an important driving force behind China’s emphasis on legal guarantee for rights.

However, the shift is still far from complete. Given the supremacy of the Communist Party in the Chinese political system and the Party’s overwhelming concern for staying in power, it is difficult to ascertain how much of the newly professed belief in universal human rights is genuine and how much is mere lip service or simply playing politics. Recent advances in human rights in China are by no means guaranteed by or entrenched with a good measure of reliability in well-established political, legal and institutional mechanisms. Without legal and democratic accountability, the authorities are in a position not only to erode these fragile rights but also to persecute any individual in the name of national security or the interests of the majority. Indeed most human rights abuses cited by the West in recent years are of this nature.

At root is China’s reluctance to embrace the Western ideal that places primacy on the individual with regard to human rights. Like many other developing countries, China still holds on to the view that national, collective, and communitarian interests are more important than individual rights, although the notion is expressed more in terms of “cultural values”²⁷ and less framed in the Marxist theoretical edifice. The government should,

²⁷ For an analysis of this issue in the Chinese context, see Davis, Michael C. ed., *Human Rights and Chinese Values: Legal, Philosophical and Political Perspectives*. (Oxford University Press, 1995). For an excellent analytic survey of other historical sources influencing China’s human rights thinking, see Andrew Nathan, “Sources of Chinese Rights Thinking” in Randle Edwards, Louis Henkin and Andrew Nathan, *Human rights in Contemporary China* (New York: Columbia University Press, 1986).

according to this view, concentrate its effort on the larger interests of the nation and the people. Advancing the interests of the majority is a far more effective way than being mired in individual cases to improve the human rights for all. Individual should sacrifice for the nation and national interests have a legitimate right to override individual rights.

Aside from the lingering influences of the Marxist ideology, another implication of this thinking that worries most human rights activists is that the interests of the nation or the majority can be used to justify the violation of the human rights of any individual and therefore of all individuals. In fact the UN *Declaration of Universal Human Rights* is based in part on the experiences of World War II, the lessons of Nazi Germany and, in hindsight, of the Cultural Revolution in China and Soviet totalitarianism. The West therefore generally subscribes to the philosophy that only when the rights of the individual or the minority are guaranteed are the rights of all citizens safeguarded. There is a bloody historical lesson behind its emphasis on the individual.

The jury is still out on the effectiveness of the two approaches in improving human conditions for the greatest majority in the shortest possible time. The Western approach, which emphasizes protection of the political and civil rights of the individual, has however often failed to safeguard the basic livelihood and human dignity of segments of the population: the homeless, the mentally ill, the ethnic minorities and the urban underclass, despite the enormous riches of Western countries. The situation basically makes the legal guarantee of rights empty for these people.

The Chinese approach, which gives priority to the more basic rights of "survival and economic development" of the people, has delivered spectacularly in the past two decades, but the improvements are essentially without any reliable guarantee. In addition, similar to the orthodox Marxist view China has abandoned, the current approach to human rights also requires the suppression of the rights and freedom of some individuals and groups in the name or for the sake²⁸ of the nation and the majority. There

²⁸ It is still far from clear which one of them is the case; it is likely to be a mixture of both. A clear distinction between the two would mean a giant leap forward in China's human rights protection. However, so far the authorities seem to be intentionally mixing the two up.

are two loopholes in the Chinese strategy in human rights development for abuses: first, stability used to justify repression; second, national interests used to justify sacrificing individual rights. Both put the government in a too lofty position with too much unchecked power. The stability China has bought with restrictions on freedom can be used for different purposes: to improve the lot of the majority with timely and appropriate reforms, or to protect the self-interests of the elite at the expense of the people. Without democratic accountability and reliable legal guarantee, the choice is largely at the mercy of the political elite. So far the government has stayed on course with the former rather than succumbing to the latter. The intensifying anti-corruption campaigns and the progress in legal and administrative reforms that limit the power of government officials are testimony to this. However, there is no denying that repression in the name of stability has inevitably also served to protect the interests of some of those in power whose activities are undermining public interests and violating the rights of many citizens.

Under such conditions, one cannot underestimate the importance of China's legislative effort at defining and specifying the respective rights, responsibilities and liabilities of the individual citizens and the government. Although some of the laws passed will fall short of internationally recognized standards and the enforcement of the laws will remain problematic for a long time to come due to the nature of an authoritarian regime, it is in the legislations that guarantee for human rights that the West finds common grounds with China's interests in establishing a law-based market economy compatible with the advanced economies that China aspires to joint rank with. To assist China's legislative effort to define and specify the rights of individual citizens is the best way to push China away from its legacy as a "dictatorship of the proletariat" and seal the channels of human rights abuses that flows from the Leninist tradition — a tradition China has not officially renounced yet. However, the politics of human rights has too often led the West astray from its target.

THE WESTERN HUMAN RIGHTS OFFENSIVE IN PERSPECTIVE

The politics of human rights played by the West has led to abuses of

another kind, which similarly obstruct rather than help the human rights cause. The obstruction comes in several forms. First, ever since President Carter incorporated promoting human rights as a pillar in U.S. foreign policy in 1977, the issue of human rights has been entangled with big power politics and strategic interests of nations. A large part of the Western enthusiasm for a human rights crusade in China is derived from the perceived success of the human rights discourse in bringing down the communist regimes in Eastern Europe. Zbigniew Brzezinski (former national security advisor to President Jimmy Carter, commonly recognized as the chief architect of U.S. human rights diplomacy), for example, credited the Western human rights strategy for putting these regimes on the defensive, undermining their political and ideological legitimacy, and eventually bringing about their downfall.²⁹ The Chinese similarly felt the power of the West's human rights offensive, as thus described by two Chinese authors:

To some extent it is impossible for any country or government to openly oppose human rights; otherwise it will find itself isolated in the international community and condemned by international public opinion. In international relations certain big powers, taking advantage of the universal appeal of human rights, use human rights protection as an ace card in their strategic offense to expand their power and influence.³⁰

As such, the Chinese usually distrust the motive behind big power politics on human rights. As the above authors put it, "...human rights

²⁹ See Brzezinski, *The Grand Failure: the Birth and Death of Communism in the Twentieth Century* (New York: Scribner, 1989) and "The New Challenges to Human Rights", *Journal of Democracy* 8:2 (1997), pp. 3–7.

³⁰ Ding Yifan and Wang Liqiang, *Renquan zhanlue zaiguojiguanxizhongde yunyong* (The Use of Human Rights Strategy in International Relations) in Xia Xudong, Ma Shengli and Duan Qizen eds. *Shijie renquan zongheng* (A worldwide survey of human rights). Beijing: Shishi chubanshe, 1993. p. 317. The book is the result of a series of workshops sponsored by the Chinese government to study the post-Tiananmen international situation in which China was condemned and sanctioned for human rights violations and to formulate China's human rights counter-strategies. For a Western perspective on China's strategy on human rights in international relations, see Seymour, James D. "Human Rights in Chinese Foreign Relations" in Samuel S. Kim ed. *China and the World: Chinese Foreign Policy Faces the New Millennium* (Boulder, CO.: Westview, 1998; fourth edition).

diplomacy is the means to realize certain strategic objectives”,³¹ a conclusion they seconded with the example of the double standards the U.S. appears to be applying on the human rights issue: it pursued human rights diplomacy vehemently with regard to the former socialist countries, China and other Third World countries at odds with the U.S., while turned a blind eye to human rights violations by its allies such as Israel and many military dictators in Latin America, Africa and Asia.³² Once the strategic interests of nations are involved, all parties are liable to being accused of lack of sincerity in the diplomatic warfare on human rights.

With the collapse of the communist regimes in Eastern Europe, the West naturally wants to replicate the perceived success of human rights diplomacy in their dealings with communist regimes in Asia. Therefore there are elements of truth to the Chinese accusation of “continued Cold-War thinking” by some in the West (especially in the United States). However, once the “ulterior motive” of the West on the human rights issue is perceived as subversion of the Chinese government, very little room is left for a constructive dialogue at the government-to-government level; the human rights discourse is subject to abuses and manipulations for political purposes by both sides. This in turn clouds the real moral issues and frequently makes the discussion and debate on human rights cynical as well as futile.

Secondly, the customary framing of the human rights discourse is also sterile in producing progress. In the tug of war over human rights, the West clearly enjoys a psychological edge over China. By tacitly but resiliently framing the fight as good guys versus bad guys or defenders versus violators of human rights and dignity, the Chinese are constantly put on the defensive. There is no denying that there are many in the West who are genuinely concerned with China’s human rights condition and are idealistic about the human rights cause. However, the black and white framing tends to polarize the debate, to antagonize and alienate not only government but also the Chinese people. It allows the human rights issue to be exploited for “ulterior purposes” (as often charged by the Chinese), thus reducing the

³¹ Ding Yifan and Wang Liqiang, “The Use of Human Rights Strategy in International Relations”, p. 321.

³² *Ibid.*, p. 320.

effectiveness of the discourse on human rights in inducing progress. The good guy vs. bad guy framing does not easily allow one to openly acknowledge the progresses China has made in past two decades in improving the basic human conditions for concern of being "politically correct". This is obstructing a meaningful and constructive dialogue, for without acknowledging and studying the progresses made, there is no feasible foundation to build future progress on.

Bad guys can do nothing good by definition, but there is a great deal of truth to the Chinese claim that, during the past two decades of reform and opening, China has made vast improvements in the basic conditions of the people. Since 1979, two hundred millions have been lifted out of grinding poverty; standards of living have risen exponentially; the ordinary people are freer to move around, to speak their mind and enjoy more political and legal rights than anytime in the history of the PRC. The March 1999 constitutional amendment elevated the rule of law to a founding principle of a new, market-based "socialism with Chinese characteristics". Democratic ideals are gaining currency in people's consciousness as well as in many formal and informal practices in the country's political life. One notable example is village elections widely held in the rural areas.³³ The speed as well as scope of the progress is unprecedented perhaps anywhere in the world, and there is little evidence of the impact of Western pressure in any of these developments. Therefore, politics in the international arena aside, it would be unfair to accuse China for a lack of sincerity in improving its human rights.

Finally and more importantly, the Western approach has failed to engage the wider public in China. There are several reasons for this. In the first place, with genuine improvements in the broader human rights conditions during the past two decades, ordinary citizens in China often do not understand what the Western "fuss" on human rights is about, and in general the kind of human rights pursued by the West does not occupy a high priority on the ordinary people's agenda now (for whatever the reason). The Western enthusiasm is therefore met with a curious indifference. Clearly,

³³ Shi Tianjian, "Electoral Reform in Rural China: The Critical First Step toward Democracy" (Background Brief No. 32, East Asian Institute, May 1999).

a process of consciousness-raising and even cultural change is needed and the West is doing virtually nothing in this area; the West needs to do more to find the necessary resonance with the Chinese people by focusing more on the people's conditions rather than solely on the few political dissidents. However, there seems to be an equally curious lack of interest from the West in this regard.

The second reason is that the "China-bashing" style discourse on human rights conducted by the West, for which the good guy vs. bad guy framing is partly responsible, has caused widespread resentment among the Chinese people to the perceived Western sense of superiority and created (with the assistance of the official Chinese media of course) a general suspicion that the West is out to destabilize China and prevent China from re-emerging as a great power. It tends to alienate rather than engage the very people it is supposed to help, including the Chinese intelligentsia whose counterparts in the former communist countries of Eastern Europe used to be staunch allies of the West in the fight against communism. The perceived "China bashing" has helped to bring about surges of Chinese nationalism, which are exploited by the government to the full extent and are from the opposite direction crowding out real human right concerns and preventing a rational and constructive discussion.

The third reason is the West's misguided focus on China's dissidents in its discussion on human rights with China. In recent years Western dignitaries visiting Beijing routinely and almost ritually produce to Chinese leaders a list of names of dissidents jailed in China and demand their release. Human rights groups outside China constantly keep track of the activities and conditions of these dissidents who have become the primary feeders to the Western public's image of human rights condition in China. There is no denying that many of these dissidents are devoted idealists, but their common tragedy is their extreme marginalization in the larger Chinese society and their fate as the pawns in the politics of human rights between China and the West. Unlike the dissidents in the former Soviet Union and other former communist countries, the present Chinese dissident movements have virtually no popular base inside China. Very few ordinary people know of their names or existence, let alone their ideas. This situation is partly due to the government's effort to isolate them and partly a reflection

on the general social and political condition in which these dissidents and the causes they champion are, at least for now, no longer the banner-bearers for the common people.³⁴ As a result, these dissidents derive their moral and other supports almost solely from abroad and feed on the attention of Western media. Many in the West use them for a variety of purposes that may or may not be related to human rights while their isolation also allows the Chinese authorities to cynically use their detention and release to play back to Western public opinion and to manipulate the politics of Western countries. This is a tragedy for these dissidents; this is also a tragedy for the cause of human rights in China.

Domestic politics of Western countries are primarily responsible for the above distortions in the human rights discourse. Most public statements, postures and often policy choices of Western politicians are played to their domestic constituencies who in general know little of China but have a fixed mental frame of good versus evil on the human rights issue. The politicians naturally look for symbols, sound bites, and easy targets; their statements, postures and policy choices are as a consequence often inappropriate, irrelevant or even downright counterproductive in addressing the human rights issues in China. Because they are intended for a different audience in the first place, they naturally fail to impress, let alone engage the people in China. To the contrary, they often have the effect of increasing the latter's suspicion of the "ulterior motives" of the Western politicians as well as their sincerity as human rights defenders. This is a structural defect in the politics of human rights in the international arena which is unlikely to be overcome any time soon.

POLICY AND POLITICAL IMPLICATIONS

Universal human rights are a fiction from the beginning, and may remain a fiction forever. However, the concept of universal human rights has proven a powerful myth driving progresses in human history, gaining power and

³⁴ Of course China's much relaxed society (compared to the Soviet Union in 1970s and 1980s) also reduced the appeal of vanguard freedom fighters by reshuffling the order of their priorities.

momentum when it gains wider acceptance by people around the world. Selections or even sacrifices among the categories of human rights may well be unavoidable in plotting the strategies of human rights advancement, but none of these should be used for political purposes. Unfortunately, the popular appeal of human rights has too frequently made the concept a convenient political tool and the human rights cause a victim of international politics.

China's human rights record co-varies with its effort at maintaining political stability or the challenges the regime faces to the continued rule of the CCP. In 1999, the Chinese government considerably tightened up control over all real and potential destabilizing elements in society. The year saw a significant increase in the cases of human rights violations as a result of intensified use of repression. However, this does not mean China's abandonment of the universal principles of human rights it had just embraced. It simply means that China values stability more than anything else at this juncture of history. For in the politics of human rights, China's current political system is at stake—short of a fundamental political transformation, the kind of civil and political rights pressed for by the West may well throw the Chinese system into chaos if abruptly introduced. The current system has both delivered development results and ensured the supreme power position of the Chinese Communist Party, for this reason China is unlikely to abandon it any time soon, and because of the party-state's vigilance as evidenced in 1999, the prospect of any real and potential oppositions growing strong enough to challenge the current system is also remote. The implications is that the battle on China's human rights record will be a long-drawn one.

But as a whole, China's human rights are improving, and perhaps as fast as the country's current political system could manage. There are still large rooms for further improvements under the present political structure and the West can play a positive role in the process if it appropriately adjusts its policy and strategy. So far all major and fundamental progresses are made by the Chinese themselves and the role of the West in them is marginal as well as mixed in its effect. The West must recognize that it could only play an auxiliary role, and for this role to become effective and genuinely constructive it should move along with the progressive forces

inside China (and inside the Chinese government) and engage the Chinese people; it should remove its strategic interests in big-nation politics from the human rights cause. As Andrew Nathan pointed out, "the human rights agenda is damaged when it is mixed with other goals, including opposition to communism, antagonism to population planning, and promotion of Tibetan independence".³⁵ For the human rights cause is most powerful when it remains a moral cause, and a moral cause should be able to engage the greatest number of people, not just a few dissidents. Playing power politics on human rights with a rising power like China is a losing proposition. The West will find its leverage diminishing with each passing day, for time is on China's side: its growing clout has already allowed it to intentionally take hardline measures (such as in the re-jailing of Wei Jingsheng in 1996) to make the point of punishing hard ball players and rewarding flexible partners in the human rights discussion. Power politics poison the human rights discourse.

In the game of big power politics the West's ill-targeted criticisms on China's human rights are easily construed as an attempt to destabilize China and undermine its national interests. This suspicion too often renders the politics of human rights futile and pointless, with the two sides shooting at cross-purposes. To build a more constructive dialogue, the West needs to come up with better-targeted and more effective strategies, find ways to engage the Chinese public more extensively than it has done so far, and push in areas common interests could unite the effort by both sides. In particular, it should help China's legislative effort to provide legal guarantees for the rights of individual citizens. China for its part should rethink about the long-term feasibility of its strategy of sacrificing freedom for stability in an increasingly complex, fast-changing and globalizing world. For it is unnatural for a powerful government to feel threatened by a few isolated dissidents. China will have to speed up the pace of political reform so that freedom and dissent are no longer politically threatening but instead are the institutional underpinnings of stability and prosperity. China must accomplish this in order to stay politically viable in the new century.

³⁵ Nathan, "China and the International Human Rights Regime", p. 157.

CHAPTER 11

China's Dialogue with the West on Human Rights: Is There Any Common Ground?



LO VAI IO

THE DIALOGUE ON HUMAN RIGHTS

From the arrests of political dissidents, to the conflicts in Tibet, to the Tiananmen Square Incident, and to the recent suppression of *Falun Gong* practitioners, Western media have seldom failed to highlight China's alleged human rights violations. To rectify China's "mistakes", Western developed countries have put the topic of human rights on the agenda for trade and economic cooperation talks, even though they also concede that trade and human rights are two separate and distinct issues.

The dialogue on human rights has been going on at least since the opening-up of China in the late 1970s. At the beginning, China either denied any violations of human rights or defended its own practices. Western accusations, all in all, were considered an interference with its internal affairs, and consequently, a threat to its sovereignty. As time goes by, China apparently has understood what developed countries have been aiming at. Accordingly, China has shifted from the position of complete denial to some sort of concession. That is, China has tried to improve its human rights record, formulate legal rules protecting human rights in accordance

with international conventions, and become increasingly active in international human rights activities.

Nonetheless, the dialogue on human rights has not yet come to fruition. Numerous causes, ranging from political to economic, can account for this apparent failure. The main problem, however, seems to stem from the fact that there are some fundamental differences in the Chinese and Western views on human rights.

DIFFERENCES BETWEEN WESTERN DEVELOPED COUNTRIES AND CHINA

The Chinese and Western discourses on human rights reflect fundamental differences in their views on this subject. The following discussion, therefore, highlights their differences by examining two major respects:

A. What Are Human Rights?

The definition of human rights is elusive in the sense that it is culturally, ethically, socially, historically, and economically derived. As such, countries with differences in culture, ethics, social structure, historical background, and economic development may have disparate standards with respect to what constitutes human rights and what needs to be done to protect human rights. Apparently, this is the case between China and Western developed countries.

From the Western perspective, human rights include such individual rights as freedoms of religion, expression, association, and travel; substantive and procedural due processes; and political participation. These individual rights are inalienable, and as the majority believes, universally applicable. Every country should provide its citizen with these basic rights, and none of these rights can be compromised under any circumstances. A country that falls short of protecting these rights, let alone blatant violations, is guilty of human rights violations.

While acknowledging some universal aspects of human rights, China maintains that human rights are largely an issue of sovereignty. Owing to the immense differences in historical background, social system, cultural tradition, and economic development of various countries, the

comprehension and realization of human rights cannot be all the same. In the Chinese context, the scope of human rights is broader than the aforementioned individual rights. Human rights should include such collective rights as right of subsistence (economic survival); right of development; and emancipation from imperialism, feudalism, and bureaucratic-capitalism (the “three big mountains”).¹ If national circumstances dictate, the protection of collective rights and individual rights should be prioritized. Currently, subsistence and development are on the top of China’s list of priorities.²

B. How Are Human Rights Practices Assessed?

With respect to violation or safeguard of human rights, it is always a question of context — where, when, and how the alleged abuse or protection occurred. In addition, the accuracy of human rights reports depends on who the reporters are, namely, whether they are too eager or neutral in securing the information, what affiliations they have, and what perspectives they maintain. Furthermore, there is the question whether human rights practices should be assessed qualitatively or quantitatively.

In assessing China’s human rights practices, Western developed countries tend to concentrate on concrete events that have occurred since the opening-up of China in the late 1970s. Although international human rights organizations can often provide documented examples of China’s human rights abuses, many anecdotes are also based on hearsay. On the contrary, the Chinese government focuses on highlighting how much it has done to improve the lot of the Chinese people after 1949 and outlining what it has achieved in terms of compliance with international human rights

¹ Information Office of the State Council of the People’s Republic of China, “White Paper on Human Rights”, November 1991 [hereinafter “1991 White paper on Human Rights”]; Information Office of the State Council of the People’s Republic of China, “Fifty Years of Progress in China’s Human Rights”, February 2000 [hereinafter “Fifty Years of Progress in China’s Human Rights”].

² Information Office of the State Council of the People’s Republic of China, “Fifty Years of Progress in China’s Human Rights”, February 2000.

conventions. Generally, China's evaluation of its human rights record is given in broad terms and at an abstract level.

(1) What Does the West Say?

Until now, Western developed countries' standard criticisms against China include: arbitrary arrests; lengthy and incommunicado detention; forced confessions; house arrest, imprisonment, or exile of political dissidents; torture of prisoners; restriction of worker rights; prohibition of independent union movement; suppression of unregistered religious groups; and repressive measures against Buddhists and separatists in Tibet and Xinjiang.

Apart from these general accusations, China's human right practices have been specifically assessed each year. The following is a summary of China's human rights practices from 1997 to mid-1999:

Political Activities

In 1997, the government allowed limited public expressions of opposition to government policies and calls for political reform.³ Several political prisoners were released on medical parole or before their jail terms were over.⁴ Numerous villagers participated in the village multi-candidate elections for non-governmental village committees.⁵

In the first half 1998, restrictions on political debate and activism continued to loosen.⁶ Several political prisoners were released on medical

³ U.S. Department of State, "China Country Report on Human Rights Practices for 1997", January 30, 1998 [hereinafter "China Country Report on Human Rights Practices for 1997"]. For example, Fang Jue, Shang Dewen, and Lin Mu had no actions taken against them, while Bao Ge, Qing Yongmin, and Shen Liangqing were harassed, arrested, left the country under pressure, or were subjected to house arrest. *Ibid.*

⁴ "China Country Report on Human Rights Practices for 1997". For example, Wei Jingsheng was released from prison in November, and Xi Yang (journalist), Zhao Lei (journalist), Tang Yuanjuan (labor activist), etc. were released before the end of their prison terms. *Ibid.*

⁵ "China Country Report on Human Right Practices for 1997".

⁶ Harold Hongju Koh, "1998 Annual Country Reports on Human Rights Practices", Testimony before the Subcommittee on Human Rights and International Operations, Committee on International Relations, U.S. House of Representatives, February 26, 1999 [hereinafter "1998 Annual Country Reports on Human Rights Practices"].

parole.⁷ Non-governmental village committee elections were expanded, while at least one experiment with township election was conducted successfully.⁸ Starting in the fall, however, public calls for political reform and expressions of opposition to government policy abruptly ceased.⁹ At the end of 1998, there was a crackdown against organized political dissents.¹⁰ More than 30 members and supporters of the China Democracy Party were detained, and three of its leaders were sentenced to lengthy jail terms in closed trials.¹¹ In addition, the China Development Union, an independent discussion group located in Beijing, was shut down.¹²

Religious Activities

In 1997 and 1998, unregistered religious groups experienced various degrees of official interference and repression, depending on the region or locality. Some local authorities made strong efforts to control the activities of unregistered Catholic and Protestant churches. For example, religious services were interrupted, and some church leaders or adherents were arrested, detained, or imprisoned because of their religious activities.¹³ Nonetheless, in some areas, both registered and unregistered religious groups were treated similarly.¹⁴ Moreover, citizens worshipping in officially sanctioned churches,

⁷ U.S. Department of State, "China Country Report on Human Rights Practices for 1998", February 26, 1999 [hereinafter "China Country Report on Human Rights Practices for 1998"]. For example, Wang Dan, Liu Nianchun, and Catholic Bishop Zeng Jingmu were released on medical parole. *Ibid.*

⁸ "China Country Report on Human Rights Practices for 1998".

⁹ "1998 Annual Country Reports on Human Rights Practices"; "China Country Report on Human Rights Practices for 1998".

¹⁰ "China Country Report on Human Rights Practices for 1998".

¹¹ "1998 Annual Country Reports on Human Rights Practices"; "China Country Report on Human Rights Practices for 1998".

¹² "China Country Report on Human Rights Practices for 1998".

¹³ "China Country Report on Human Rights Practices for 1997"; "China Country Report on Human Rights Practices for 1998".

¹⁴ "China Country Report on Human Rights Practices for 1997"; "China Country Report on Human Rights Practices for 1998"; "1998 Annual Country Reports on Human Rights Practices".

mosques, and temple experienced no interference from the government.¹⁵ Indeed, the government discussed religious freedom issues with the international community and welcomed several high-level foreign delegations.¹⁶

In April of 1999, about ten thousand *Falun Gong* practitioners¹⁷ held a peaceful demonstration at *Zhongnanhai*, the headquarters of the Chinese Community Party. On July 22, the Ministry of Civil Affairs denounced *Falun Gong* as being an illegal organization; banned its practice both in public or private; and accused its leaders of engaging in illegal activities, advocating superstition, and jeopardizing social stability.¹⁸

Freedom of Expression

In 1997, satellite television broadcasts were widely available, especially in coastal provinces, even though the government continued to regulate the sale and use of satellite dishes.¹⁹ Cable television was also available in many areas, including access to global news networks.²⁰ Although an increasing number of people had access to the Internet, the government tried to control the contents of material available.²¹

In 1998, satellite television broadcasts and cable news networks were still available, and about 6 million citizens had access to the Internet.²² Nevertheless, the government strengthened control over print and broadcast media and increased monitoring of the Internet.²³ In addition, the

¹⁵ "China Country Report on Human Rights Practices for 1997"; "China Country Report on Human Rights Practices for 1998".

¹⁶ "China Country Report on Human Rights Practices for 1998".

¹⁷ *Falungong* is a worldwide organization, whose founder, Li Hongzhi, is now living in the U.S. Li urges his followers to practice *falungong* (one type of *qigong*) in order to improve physical health as well as mental well-being.

¹⁸ Mike Jendrzeczyk, "U.N. Asked to Intervene to Protect Falun Gong's Rights", Human Rights Watch, July 22, 1999.

¹⁹ "China Country Report on Human Rights Practices for 1997".

²⁰ "China Country Report on Human Rights Practices for 1997".

²¹ "China Country Report on Human Rights Practices for 1997".

²² "China Country Report on Human Rights Practices for 1998".

²³ "1998 Annual Country Reports on Human Rights Practices".

government banned a popular but politically sensitive book series, closed several newspapers, and fired editors and writers.²⁴

Xinjiang and Tibet

In Xinjiang, there were some extra-judicial killings related to separatist activities, while separatist groups also killed a number of people by bombs.²⁵ In Tibet, the Chinese government continued to suppress religious manifestations that advocated independence or separatism. For example, the government renewed its campaign against the Dalai Lama and launched a re-education campaign against Buddhist monks and nuns.²⁶ Some monks and nuns were tortured or put in prison, while several monasteries were closed.²⁷ The government also refused international observers access to the Panchen Lama designated by the Dalai Lama.²⁸

(2) What Does China Say?

For many years, China has protested against human rights accusations as an interference with its internal affairs, and consequently, a threat to its sovereignty. In addition, to refute the aforementioned criticisms, China intermittently highlights how much it has achieved in terms of compliance with international human rights conventions. China's reports, couched in relatively broad terms and supported by basic statistics, often present a panoramic view of its human rights practices.

Political Participation

The Chinese government maintains that its citizens enjoy democracy. That is, although the Communist Party leads the country, decisions are made by people's congresses at various levels, to which citizens send their elected

²⁴ "1998 Annual Country Reports on Human Rights Practices".

²⁵ "China Country Report on Human Rights Practices for 1997".

²⁶ "1998 Annual Country Reports on Human Rights Practices".

²⁷ "1998 Annual Country Reports on Human Rights Practices".

²⁸ "1998 Annual Country Reports on Human Rights Practices".

representatives. Moreover, China is not a totalitarian country, as evidenced by the fact that there are eight other democratic parties participating in the administration of the county.²⁹ Indeed, in the Ninth National People's Congress, delegates of democratic parties and delegates with no party affiliation constituted 30 percent of the Standing Committee.³⁰ More importantly, the Communist Party must operate within the confines of the Constitution and all laws.³¹

Religious Activities

According to the government, all normal religious activities and the lawful rights and interests of religious groups are protected.³² In addition, government officials who unlawfully deprive others of religious freedom will be prosecuted.³³ According to incomplete statistics, there are about 85,000 registered religious sites, 3,000 national or local religious organizations, and 74 religious schools in China.³⁴ Although religious organizations in China must operate independently, that is, the government is opposed to any foreign control of or interference with the internal affairs of Chinese religious groups,³⁵ Chinese religious groups have established relations with religious organizations in about seventy countries or regions.³⁶

Publication and Assembly

China claims that its citizens enjoy freedoms of expression, publication, assembly, association, procession, and demonstration, and that there is no system of press censorship in China.³⁷ In addition, of all the newspapers

²⁹ "1991 White Paper on Human Rights".

³⁰ "Fifty Years of Progress in China's Human Rights".

³¹ "1991 White Paper on Human Rights".

³² "1991 White Paper on Human Rights".

³³ "1991 White Paper on Human Rights".

³⁴ "Fifty Years of Progress in China's Human Rights".

³⁵ "1991 White Paper on Human Rights".

³⁶ "Fifty Years of Progress in China's Human Rights".

³⁷ "1991 White Paper on Human Rights".

published in China, only one-fifth belongs to the Party or government organs.³⁸ By the end of 1998, there were about 165,600 organizations of varying purposes in China.³⁹

Ethnic Minorities

The Chinese government maintains ethnic minorities in China enjoy a high degree of autonomy in administering their internal affairs. For example, autonomous regions can enact regulations in accordance with their respective political, economic, and cultural characteristics, or apply for exemption from national decrees.⁴⁰ Moreover, minorities are well represented in the National People's Congress and local people's congresses. For example, in 1998, delegates of ethnic minorities formed 14.37 percent of the Ninth National People's Congress, while ethnic minorities constituted only 8.9 percent of the total population.⁴¹

Human Rights Organizations

In March of 1993, the China Society for Human Rights Studies, a national and non-governmental entity, was established to promote human rights. Similarly, in August of 1994, the China Foundation for Human Rights Development was established to "develop and perfect" human rights in China.

LEGAL REFORMS AND HUMAN RIGHTS

Despite the aforementioned differences, China has been trying to bring its human rights practices more in line with international norms. Toward this end, China has undertaken two main measures. First, China has signed

³⁸ "1991 White Paper on Human Rights".

³⁹ "Fifty Years of Progress in China's Human Rights".

⁴⁰ "1991 White Paper on Human Rights".

⁴¹ "Fifty Years of Progress in China's Human Rights".

seventeen international human rights conventions, including nondiscrimination against women, refugees' status, and prohibition of cruel and inhuman treatment and punishment. Recently, in 1997, China signed the International Convention on Economic, Social, and Cultural Rights and allowed the United Nations Working Group on Arbitrary Detention to visit China.⁴² In 1998, China signed the International Convention on Civil and Political Rights, invited the United Nations High Commissioner for Human Rights to visit prisons in several cities, and held an international human rights conference in Beijing.⁴³ Second, in the past two decades, China has enacted scores of statutes and regulations to safeguard human rights, whether to comply with international conventions or on its own initiative.⁴⁴ The following is a summary of the most significant legal provisions relating to human rights:

First of all, the 1982 Constitution provides for such basic rights as popular sovereignty (article 2);⁴⁵ nondiscrimination of ethnic minorities (article 4); equality before the law (article 33); right to vote and to participate in elections (article 34); freedoms of speech, press, assembly, association, procession, and demonstration (article 35); freedom of religious belief (article 36); freedom from unlawful search and seizure (articles 37 and 39); privacy of correspondence (article 40); freedom to criticize the government (article 41); and right to work (article 42). Nevertheless, in exercising these rights, citizens cannot infringe upon the collective interests of the country as well as the lawful rights of others (article 51).⁴⁶

⁴² "China Country Report on Human Rights Practices for 1997".

⁴³ "China Country Report on Human Rights Practices for 1998". Even so, China did not indicate when the Covenant would be ratified. *Ibid.*

⁴⁴ During the period of 1979–1990, provinces, autonomous regions, and municipalities directly under the central government enacted about 1,000 human-rights-related local laws and administrative regulations. See "1991 White Paper on Human Rights".

⁴⁵ According to the Chinese Constitution, all powers belong to the people. Citizens exercise their political rights through representatives to people's congresses at various levels. Representatives to people's congresses above the county level are elected indirectly, while direct elections are held at the county level or below.

⁴⁶ Constitution of the People's Republic of China, adopted at the 5th Session of the 5th National People's Congress on December 4, 1982 (amended in 1988, 1993, and 1999, respectively).

Apart from the Constitution, China has enacted the following laws and regulations to safeguard human rights: The Prison Law is enacted to improve the treatment of prisoners and enhance respect for their legal rights.⁴⁷ The Law on the Protection of Disabled Persons outlines the rights of people with disabilities and the various policies to assist them.⁴⁸ The Regulations Prohibiting the Use of Child Labor forbid the employment of children who are below the age of sixteen.⁴⁹ The Law Protecting the Rights and Interests of Women provides for equality between men and woman and enumerates the rights of women.⁵⁰ The Law on the Election of National People's Congress and the People's Congresses at Various Levels enables citizens to vote and to participate in elections.⁵¹

Furthermore, China has enacted legislation, enabling citizens, legal persons, or organizations to sue the government for unlawful acts. For example, the Administrative Procedure Law enables citizens to sue governmental agencies for their official actions or to appeal against decisions to undergo labor reeducation.⁵² Similarly, the State Compensation Law allows citizens to seek compensation from administrative organs, the

⁴⁷ Prison Law of the People's Republic of China, adopted at the 11th Meeting of the Standing Committee of the 8th National People's Congress on December 29, 1994. The government would like to convert one-half of the country's prisons and 150 reeducation-through-labor camps into "modernized, civilized" facilities by the year 2010. In addition, the government took several steps toward greater transparency in the prison system. See "China Country Report on Human Rights Practices for 1997".

⁴⁸ Law of the People's Republic of China on the Protection of Disabled Persons, adopted at 17th Meeting of the Standing Committee of the 7th National People's Congress on December 28, 1990.

⁴⁹ Regulations Prohibiting the Use of Child Labor, promulgated by the State Council on April 15, 1991.

⁵⁰ Law of the People's Republic of China on Protecting the Rights and Interests of Women, adopted at the 5th Session of the 7th National People's Congress on April 3, 1992.

⁵¹ Law of the People's Republic of China on the Election of the National People's Congress and People's Congresses at Various Levels, adopted at the 2nd Session of the 5th National People's Congress on July 1, 1979 (amended in 1982, 1986, and 1995, respectively).

⁵² Administrative Procedure Law of the People's Republic of China, adopted at the 2nd Session of the 7th National People's Congress on April 4, 1989.

procuratorate, the judiciary, and prison administrators for injury to their person or property.⁵³

At the same time, the revised Criminal Procedure Law, which became effective on January 1, 1997, provides the defendant with the right to legal counsel from the day on which the case is transferred to the procuratorate for examination before prosecution.⁵⁴ In addition, the revised Criminal Law deletes the crime of being a counter-revolutionary.⁵⁵ If the Criminal Procedure Law and Criminal Law are fully implemented, China's criminal justice will be more in line with international standards.⁵⁶

Nonetheless, some legal provisions, though neutral on their face, may restrict human rights upon application. For example, the Criminal Law contains provisions prohibiting behavior that endangers national security.⁵⁷ These provisions can be broadly interpreted in order to curtail freedom of expression, assembly, procession, or demonstration. In addition, the Decision on Labor Reeducation empowers the labor reeducation committee, which consists of representatives from the Ministries of Civic Administration, Public Security, and Labor, to sentence hooligans or people who have committed minor offenses to one to three years of labor reeducation without judicial intervention.⁵⁸ Similarly, the Regulations on Public Security

⁵³ State Compensation Law of the People's Republic of China, adopted at the 7th Meeting of the Standing Committee of the 8th National People's Congress on May 12, 1994.

⁵⁴ Criminal Procedure Law of the People's Republic of China, adopted at the 2nd Session of the 5th National People's Congress on July 1, 1979 and revised at the 4th Session of the 8th National People's Congress on March 17, 1996. Under the old criminal justice system, defendants were not allowed to consult a lawyer until 7 days before trial. Thus, defendant might not have effective counsel.

⁵⁵ Criminal Law of the People's Republic of China, adopted at the 2nd Session of the 5th National People's Congress on July 1, 1979 and revised at the 5th Session of the 8th National People's Congress on March 14, 1997.

⁵⁶ The new Criminal Procedure Law has also been criticized for failing to provide sufficient safeguards against the use of evidence gathered through illegal means or adequate remedies for violations of defendants' rights. See "China Country Report on Human Rights Practices for 1998".

⁵⁷ Criminal Law of the People's Republic of China, arts. 102–113.

⁵⁸ Approval by the Standing Committee of the National People's Congress with respect to the State Council's Decision concerning the Question of Labor Reeducation, adopted by the

Administration Punishment, which enable the public security to impose fines or to detain for fifteen days for minor offenses, may have a chilling effect on freedom of assembly, procession, or demonstration.⁵⁹

Moreover, the Regulations on Managing the Registration of Social Organizations require all social organizations to register with the government.⁶⁰ This set of regulations may impair freedom of association if registration is rejected for political reasons. Likewise, the Assembly, Procession, and Demonstration Law requires the organizers to obtain approval from the government for public assembly, procession, and demonstration.⁶¹ Application for conducting these activities may be arbitrarily rejected, even though judicial review is available. In any event, it appears that freedom of religion is increasingly politicized because secular alternatives are not available.

As of now, implementation of the new Criminal Procedure Law has been uneven and incomplete, especially in cases where judicial and police departments take different interpretations or high-profile political dissidents were involved.⁶² In addition, political activists still have difficulties in obtaining competent legal representation.⁶³ Thus, the Supreme People's

78th Meeting of the Standing Committee of the National People's Congress on August 1, 1957; Decision of the Standing Committee of the National People's Congress on the State Council's Supplementary Regulations concerning Labor Reeducation, adopted by the 12th Meeting of the Standing Committee of the 5th National People's Congress on November 29, 1979.

⁵⁹ Regulations of the People's Republic of China on Public Security Administration Punishment, adopted at 17th Meeting of the Standing Committee of the 6 National People's Congress on September 5, 1986 and revised at 7th Meeting of the Standing Committee of the 8th National People's Congress on May 12, 1994.

⁶⁰ Regulations on Managing the Registration of Social Organizations, promulgated by the State Council on October 25, 1998.

⁶¹ The Law of the People's Republic of China on Assembly, Procession, and Demonstration, adopted at the 10th Meeting of the Standing Committee of the 7th National People's Congress on October 31, 1989.

⁶² "China Country Report on Human Rights Practices for 1998".

⁶³ "China Country Report on Human Rights Practices for 1998". For example, Wang Youcai had to defend himself at trial because authorities prevented his lawyer from travel. *Ibid.* In another politically sensitive case, the lawyer who represented a local official accused of

Court, the Supreme People's Procuratorate, the Ministry of Public Security, Ministry of State Security, the Ministry of Justice, and the Legal Work Committee of the National People's Congress have issued supplementary implementation rules to address these problems.⁶⁴

In sum, China has a reasonably comprehensive legal framework to protect human rights. However, reports of human rights abuses periodically appear. Human rights abuses in China can occur for several reasons. First, the law may just sit on the book without enforcement. Second, statutory gaps sometimes leave citizens unprotected. Third, implementation of public security laws without strict scrutiny may result in human rights abuses. Fourth, in carrying out their duties, local officials may lack legal consciousness to comprehend the consequences of their actions.

Nevertheless, China has taken positive steps to strengthen its legal system. For example, the Lawyers' Law is designed to improve the qualifications of those who practice law.⁶⁵ The Judges' Law aims at strengthening judicial independence and enhancing the quality of judges.⁶⁶ In 1998, the government initiated a campaign to fight against corruption and abuse of power on the part of judges, prosecutors, and police.⁶⁷ Moreover, the government expanded its efforts to increase bilateral and multilateral cooperation in the field of law.⁶⁸ Furthermore, China continued the restructuring of its civil service and took steps to create a less intrusive government under the leadership of the Communist Party.⁶⁹

of taking bribes was prosecuted for "illegally obtaining evidence". The police tortured him during detention, and he eventually read a confession to the camera. Elisabeth Rosenthal, "In China's Legal Evolution, the Lawyers Are Handcuffed", *New York Times*, January 6, 2000.

⁶⁴ "China Country Report on Human Rights Practices for 1998".

⁶⁵ Law of the People's Republic of China on Lawyers, adopted at the 19th Meeting of the Standing Committee of the 8th National People's Congress on May 15, 1996.

⁶⁶ Law of the People's Republic of China on Judges, adopted at the 12th Meeting of the Standing Committee of the 8th National People's Congress on February 28, 1995.

⁶⁷ "China Country Report on Human Rights Practices for 1998".

⁶⁸ "China Country Report on Human Rights Practices for 1998".

⁶⁹ "China Country Report on Human Rights Practices for 1998".

CONCLUSION

Fundamental differences exist between China and Western developed countries in their views on human rights. Too much external interference may lead to China's defiance; perhaps it would be better to agree to disagree. Nonetheless, there is still one common ground, namely, legislation is considered an effective vehicle to achieve the realization of human rights. China has established a somewhat comprehensive legal framework to protect basic human rights. This formal structure can be seen from a perusal of its existing legal rules. However, lack of or incomplete enforcement has been a primary factor contributing to human rights abuses in China.

Until now, China has tried to improve its human rights record by legislative enactment and judicial reform. This gesture does not result only from international pressure, but also from developmental forces within the country. The notorious Cultural Revolution has left scars on many people. In addition, instances of the so-called civil disobedience, such as *Falun Gong* assemblies, have emerged, even though the government has successfully suppressed them. Therefore, China has the internal motivation to safeguard human rights.

Nevertheless, as in many other types of reform, China has taken an incremental approach in the area of human rights. Currently, the priorities of the government are to promote economic development and to raise the living standards of its citizens. If economic development in China has undergone different stages, so has human rights development. At this point, however, it is not clear when the time will come for Chinese citizens to enjoy full protection of human rights.

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CHAPTER 12

Nationalism and Its Dilemma: Chinese Responses to Embassy Bombing



JOHN WONG & ZHENG YONGNIAN

At midnight on May 7, 1999 (5:45am on 8 May Beijing time), three missiles of the NATO forces hit the Chinese Embassy in Belgrade, Yugoslavia, killing three Chinese journalists (one from the Xinhua News Agency, and two from the *Guangming Daily*) and injuring more than 20 Chinese diplomats. At noon on May 8, the Chinese government published a statement through its Xinhua News Agency and the Central Chinese Television to strongly condemn the incident.¹ Indeed, students in Beijing's universities and colleges already got wind of this before public official reaction. When the news spread, the public at large was thrown into great fury and anger.

Around 4:00pm on May 8, organized demonstrations took place in Beijing, Shanghai, Guangzhou, Chengdu, Shenyang and other major Chinese cities. According to the statistics provided by the public security organizations, more than 700,000 students took part in demonstrations all over the country.² It was the first time that anti-West demonstrations

¹ For the text of the "Solemn Statement of the Chinese Government", see, *Beijing Review*, May 24, 1999, p. 9.

² *Yazhou zhouban (Asiaweek)*, May 17–23, 1999, p. 43.

occurred in the country since the end of the Cultural Revolution. It was also the largest protest since the pro-democracy movement in 1989.

It is an history irony. Almost exactly ten years ago, students from the Central Academy of Fine Arts in Beijing built a sculpture in Tiananmen Square with white plaster and styrofoam, modelled after the New York's Statue of Liberty and christened the "goddess of democracy." The sculpture indeed became the most recognized symbol of pro-democracy movement. The scene this time, however, was totally different. On May 10 1999, students, ironically from the same Academy, were marching in the streets of Beijing again. They brandished instead of the noble goddess a plywood caricatures of the Statues of Liberty, clutching a bomb in one hand and a dove of peace together with a book entitled "human rights" in the other. On another figure a red Nazi swastika symbol was emblazoned on her black gown. Ten years ago, the Americans were adored and their values admired. This time, American institutions and values were openly questioned and even vilified. It was only a matter of ten years, but the contrast was too sharp to be ignored.

Certainly, these demonstrations were a direct expression of China's nationalism in the reform era. Questions have been raised about this surging nationalism after the bombing incident. How could such nationalistic demonstrations happen in China today? Since the crackdown on the 1989 pro-democracy movement, the Chinese leadership had been very nervous about student movements. The year of 1999 became even more sensitive politically for it was the eightieth anniversary of the May-Fourth Movement (1919), the Fiftieth anniversary of the founding of the People's Republic (1949), and the tenth anniversary of the June-Fourth Incident (1989). Why did the government still allow demonstrations to occur? How spontaneous were these demonstrations? How far was the Chinese government involved in them? How far would China new nationalism affect its domestic developments and international relations?

The Chinese responses to the embassy bombing provided us an opportunity to see the evolution and nature of China's new nationalism in the reform era. Our analyses will show that although the bombing incident resulted in the immediate rise of the anti-American nationalistic fury, such nationalistic sentiments have grown rapidly since the late 1980s. The Chinese government who was involved in nationalist demonstrations,

nevertheless encountered various constraints in utilizing nationalism to serve its own political goals due to the complicated nature of Chinese nationalism. The government could not afford to be indifferent to the rise of nationalism. Instead, it had to take part in the process of the nationalistic movement in order to manage it. How the rise of nationalism will affect China's domestic development and external relations not only depends on how the Chinese government manages the movement, but also on how the West, especially the United States, deals with China.

THE ORIGINS OF THE ANTI-AMERICAN MOVEMENT

The outbreak of the anti-American fury, though seemingly unexpected, should not come as a surprise to those who have followed closely the growth of Chinese nationalism since the early 1990s. Nationalistic sentiments among various social groups, especially among students, have been steadily building up for years — one can say, to a boiling point awaiting for an opportunity like the bombing of the Chinese Embassy to explode. A brief look at how the Chinese has shifted their sentiments from pro-America in the 1980s to growing anti-America in the 1990s enables us to understand the latest outbreak of nationalistic movements.

From Admiration to Disillusion and Antagonism

The formation of nationalism has been a process from admiration to disillusion and antagonism. When China began to carry out its reform and open-door policy in the late 1970s, optimism prevailed in the United States. It was believed that Deng had renounced Marxism-Leninism and China was becoming the first communist state to transit from a centrally planned economy and totalitarianism to a market one, and even a democratic political system. In other words, China would be “more like us (Americans).” Naturally, this expectation resulted in quite a benign policy of the West towards China throughout the 1980s.³

³ For a description of the Sino-US relations in the 1980s, see, Harry Harding, *A Fragile Relationship: The United States and China since 1972* (Washington, D. C.: The Brookings Institutions, 1992), chapters 5 & 6.

The Chinese responded quite positively to the benign policy of the West. While conservative leaders resisted Western influences on various aspects of social and political life in China, social groups obviously welcomed such influences and regarded them as forces pushing for the country's modernization, especially political democratization. Thus, when the government was unable to satisfy the people's demands for political reform, the intellectuals lost faith in the Party-state.⁴ For many, the reasons for China's difficulty in democratization lay in its traditional authoritarian culture. Thus, in order to democratize China, it was the first priority for the intellectuals to criticize Chinese authoritarianism embedded in culture. The authors of the TV series "River Elegy (1988)," who ascribed China's authoritarian regime and its backwardness to Chinese traditional culture and believed that only through wholesale westernization and the introduction of advanced Western cultures could China develop itself, highlighted this.⁵

It was not until after the Tiananmen Incident, especially after Jiang Zemin took over power in the early 1990s, that nationalism became a dominant discourse among Chinese intellectuals.⁶ The major causes were the enormous changes that occurred to China's internal and external environments, and Chinese perceptions about China's interplay with the outside world. Various factors pushed the surge of nationalism.⁷

The end of the Cold War led to the rise of nationalism in the former Soviet Union and Eastern Europe, and nationalism replaced the old communist ideology in these countries. The collapse of European communism

⁴ For example, Merle Goldman, Perry Link, and Su Wei, "China's Intellectuals in the Deng Era: Loss of Identity with the State", in Lowell Dittmer & Samuel S. Kim, (eds.), *China's Quest for National Identity* (Ithaca, NY.: Cornell University Press, 1993), pp. 125–53.

⁵ For a full text of the River Elegy, see, Su Xiaokang & Wang Luxiang, *Hesheng* (River Elegy) (Beijing: Xiandai chubanshe, 1988). For an analysis of the Chinese perceptions of the United States, see, Yang Yusheng, *Zhongguo ren de Meiguo guan* (Chinese Views of America: A Historical Interpretation) (Shanghai: Fudan University Press, 1996).

⁶ For the analyses of nationalism as a major theme of political thoughts in the 1990s, see, Yongnian Zheng, *Discovering Chinese Nationalism in China: Modernization, Identity, and International Relations* (Cambridge: Cambridge University Press, 1999); and Zu Zhiguo, *Jiushi niandai zhongguo dalu de xin baoshou zhuyi* (China's New Conservatism in the 1990s) (Taipei: Zhiliang chubanshe, 1998).

⁷ This analysis is based on Zheng, *ibid.*, chapter 7.

had an important impact on Chinese nationalists. What happened in the Soviet Union and Eastern Europe led Chinese intellectuals to believe that social disintegration was a more serious threat to China than social stagnation and conservatism. It implied that political and social chaos would follow the decline of the traditional ideology and the worsening of social crisis. Therefore, it was necessary to promote nationalism as a new ideology.⁸ Similarly, with the transition from a planned economy to a market one, China's economic power was strengthened and the old ideology was no longer effective to manage a changing society. The regime thus needed a new spiritual instrument to guide the reform and to control enormous changes resulting from the reform policy. Without doubt, nationalism became such a spiritual instrument.

With China's integration into the international system, especially with the continuous inflow of information on the Western world, Chinese intellectuals began to reflect on Western culture. In the earlier stages of reform, the West was regarded as model for China to follow. But now many Chinese felt that the West did not want China to be strong and the inflow of Western influences had a "negative" impact on Chinese traditional culture. In other words, the Chinese's reflection on Western cultures and ideas resulted in the rise of nationalism. In the early days of the reform and open-door policy, the Chinese regarded the West as a symbol of comfortable material life, spirit of initiative, rational institutional arrangements, and advanced technologies. A decade later, when China was increasingly integrated into the world system, the Chinese found that the West was not perfect. In fact, it was far from their original high expectations, and that its practices were unfair towards China's national interests. When the West imposed high conditions on China's entry into the World Trade Organization (WTO), the Chinese began to doubt the West's motives towards the rise of China. Consequently, although China has been increasingly integrated into the international system, it is unwilling to identify with the existing international rules and norms. This leads to China's exposure to various forms of international pressure. Nationalism has become a spiritual force for China to resist foreign influence.

⁸ Sun Liping, "Huiru shijie wenming-minzu zhuyi santi", ("Flowing Together with the World's Mainstream Civilization"), *Dong Fang* (The Orient), 1 (1996), p. 17.

These are really internal driving forces of China's nationalism. Nevertheless, even with rising nationalistic sentiments, most Chinese were still impressed by Western countries, such as USA and Japan and believed that China should learn from those countries in order to promote its own modernization. A survey conducted by a commercial organization Lingdian (Beijing) and the China Youth (a government news agency) in five major cities in May 1995 showed this general sentiment. As shown in Table 1, the most favored countries among urban residents were USA, Japan, and Singapore.

Table 1 Four Most Favored Countries (1995)

	Beijing	Guangzhou	Wuhan	Ha'erbing	Shanghai
1	USA	China	USA	Japan	USA
2	Japan	USA	Japan	USA	Japan
3	China	Japan	China	China	China
4	Switzerland/ German	Singapore	Singapore	Singapore	Singapore

Source: The Lingdian Survey Company et al., *Guancha Zhongguo* (Surveying China), Beijing: Gongshang chubanshe, 1997, p. 35.

It is important, however, to point out that the Chinese began to develop their own judgments and evaluations about these countries with the inflow of foreign information. For instance, as shown in Table 2, the Chinese began to associate USA with many negative images, i.e., a country with drug addicts, unemployment and the homeless. While in the 1980s the efforts by USA in pushing for economic liberalization and political democratization were highly appreciated by Chinese social groups, such efforts were viewed as interfering in China's internal affairs now. For many Chinese, the Americans wanted to play a role of world police to promote their national interests. Such a complicated feeling about USA was fully expressed in the best-seller entitled *The China That Says No*.⁹

⁹ Song Qiang, Zhang Zhangzang & Qiao Bian, *Zhongguo keyi shuo bu* (The China That Says No) (Beijing: Zhongguo gongshang chubanshe, 1996).

Table 2 Images Associated with Foreign Countries (1995)

Singapore	USA	Japan
<ul style="list-style-type: none"> • A graceful, clean and comfortable country • A country with many Chinese • A country with rich cultural activities • A country with rich people 	<ul style="list-style-type: none"> • A rich and strong country which plays a role of world police • A country with massive addicts, unemployment, and homeless • A country with many fine scenery • A country with high technologies (Motorola/IBM/other famous brands) 	<ul style="list-style-type: none"> • A rich country • A country with high technologies and famous electronics • A country once invaded China • A country with rigidity, militarism and efficiency

Source: As the same as Table 1, pp. 36-37.

This changing trend is also reflected in the two surveys conducted in Beijing in 1988 and 1996 respectively. As shown in Table 3, those who like the US ("like it very much" plus "like it") were decreased from 48 percent in 1988 to 23 percent in 1996, while those who dislike the US ("dislike it" plus "dislike it very much") were increased from 14 percent to 27 percent in the same period.¹⁰

It is also worthwhile to point out that since the Chinese began to cast doubt on the US, they began to turn to other countries for searching development experience such as South Korea and Singapore. Indeed, in 1992, when China's senior leader Deng Xiaoping toured Guangdong, he called for learning from Singapore to promote a Chinese way of development.¹¹ As a matter of fact, by 1996, Singapore became the most liked country among Beijing residents (see Table 3). Changing attitudes towards South Korea also confirmed this trend.

¹⁰ The author is grateful for Professor Shi Tianjian at Duke University for providing the data of the two surveys.

¹¹ Deng Xiaoping, "Zai Wuchang, Shenzhen, Shanghai dengdi de tanhua yaodian" ("Main Points in the Speeches Made in Wuchang, Shenzhen, and Shanghai", January 18–February 21, 1992), in *Deng Xiaoping, Deng Xiaoping wenxuan* (Selected Works of Deng Xiaoping), vol. 3 (Beijing: Renmin chubanshe, 1993), pp. 370–83.

When the Chinese began to change their perceptions on the United States, so did the Americans on China.¹² Following the crackdown of the 1989 pro-democracy movement, the United States imposed serious economic and political sanctions on China. Sino-US relations began to worsen. After Bill Clinton took office in 1993, his administration regarded human rights issues as central to its China policy by explicitly linking the renewal of China's most-favored-nation trade status with improvements in its human rights record.

Changes in US's policy towards China resulted in a strong Chinese reaction. Immediately after the 1989 crackdown, the Chinese government attacked America's preoccupation with human rights as an illegitimate intervention in China's internal affairs, and as a strategy of encouraging China's "peaceful evolution" from socialism to capitalism. Another two events worsened the relationship between the two countries: America's opposition of China's bid to host the Olympic Games in 2000 and Clinton Administration's order to the US Navy to search a Chinese merchant ship (*Yin He Hao*), which allegedly carried precursors for chemical weapons to the Middle East. These events, plus the rise of the "China Threat" theory in the West, changed public opinions among ordinary Chinese. An essential portion of the population began to regard US as China's foe.

In late 1993, after reviewing its previous China policy, the Clinton Administration announced a policy of "engagement." Nevertheless, for the Chinese leaders and government analysts, what the "engagement policy" meant was never clear. Many regarded "engagement policy" as an internal part of the US "containment" strategy. Changes in the way the United States dealt with Taiwan reinforced China's suspicions over the US's China policy. In 1994, the Clinton Administration reviewed its Taiwan policy. It did not clarify long-term US intentions towards Taiwan, nor did it touch the most sensitive issue of the US's outlook on the rising demands for independence on the island. Instead, it focused on the rules governing contact between US and Taiwanese officials. One of these new rules allowed

¹² For a general discussion of changes in U.S's China policy, see, James C. Hsiung, "New World Order and A New U. S. Policy Towards China", *EAI Working Papers*, No. 2, April 1, 1998.

Taiwanese officials to enter the United States only in transit to some other countries. But the Administration soon violated this rule when it allowed Taiwan President Lee Teng-hui to make a major speech at Cornell University in the late spring of 1995. Chinese leaders believed that the US was implementing its containment policy by blocking China's unification with Taiwan or even by supporting Taiwan's independence. Logically, when China fired missiles and deployed its fleet off the coast of Taiwan to demonstrate its displeasure with the advocates of Taiwanese independence, the US expressed its willingness to protect Taiwan by sending two aircraft carriers to the Strait. Anti-American nationalistic voices reached a new peak. Popular nationalistic sentiments were confirmed by various surveys. It was reported in 1996 that almost 100 percent of the respondents suggested that they would support the government's decision of using force against Taiwan. Another nationwide survey conducted in September 1995 published by *China Youth* indicated that 57 percent of the respondents regarded the United States as the most disliked country and more than 87 percent regarded it as the most unfriendly country to China.¹³

After the Taiwan Strait crisis, the Clinton Administration declared that its long-term goal was to integrate China into the international community with all the privileges and responsibilities of a major power. The United States would not attempt to block the rise of China. Nor did it want to contain China. "Engagement" was meant to encourage China to be a major power, a respected and responsible one.

The Clinton Administration resumed official bilateral contact at the highest level. In September 1997, President Jiang Zemin visited the United State. Clinton and Jiang agreed to build a "strategic partnership" between the two countries though no specific meaning was given to the concept. The Clinton-Jiang summit of 1997 was regarded as symbolic and the Chinese government viewed it as a great success. President Clinton's visit to China in June 1998 undoubtedly reinforced the Chinese good feeling towards the United States.

¹³ Si Cheng, "Chinese Say 'No' to the United States", *Beijing Review* (October 21–27, 1996), p. 13; and Ren Weiwēn, "Beijing yi daodan yanxi jinggao Li Denghui" ("Beijing Uses Missile Test to Warn Lee Teng-hui"), *Xinbao* (Hong Kong Economic Journal), July 19, 1995.

Chinese leaders and government analysts interpreted the new strategy of integration as that the United States was beginning to treat China as an equal partner. As a matter of fact, many Chinese previously regarded the West's "integration" strategy as a way of enmeshing China in international institutions created and dominated by major Western powers and thus a way of constraining China's development. Surprisingly, once the United States expressed its willingness to acknowledge China's status as a great power, the Chinese welcomed the new concept and regarded it as a way to become a real great power. Indeed, becoming a member of the club of great powers has long been the most important theme of Chinese nationalism.

It is important to note that when the United States showed its respect to China, nationalistic voices declined. After Jiang Zemin consolidated his power as the core of the third generation of leadership, China began to show its strong willingness to integrate the country into the world system. The Chinese government tended to behave as a fully pledged partner in world affairs. While conflicts remained between China and the US, China was willing to resolve these issues through engaging in dialogues with the West rather than a confrontational approach. In two years time (1997-1998), China signed the two important documents of the United Nations on human rights, i.e., the International Covenant on Economic, Social, and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights.

On the economic side, the Chinese leadership also became determined to integrate the country into the world economic system fully. Major leaders, especially new Premier Zhu Rongji, showed their willingness to accept the existing international principles and norms in order to join the WTO. Indeed, before Zhu's departure to the United States in April 1997, the leadership was well-prepared to make major concessions to the US on the conditions of China's membership.

To a great degree, all foreign policy is domestic. The efforts by the Chinese leadership to improve Sino-US relationship are seriously constrained by a rising nationalistic voice inside. Prior to Zhu's departure for and during his stay in the US, several events already created new sources for popular nationalism in China. The most important event was the way that the NATO dealt with the Kosovo crisis. When the NATO began air strikes against Yugoslavia, China joined Russia in opposition to NATO's action.

The Chinese leadership saw an eerie parallel between Taiwan and Kosovo in that the Balkans operation represented the Western alliance getting involved militarily in the internal affairs of a sovereign nation. The ignorance of the US to China's position resulted in an increase in nationalistic voices since for the Chinese, as it meant that the US did not regard China as an important power in world affairs.

A second factor was the US's espionage allegation against China. One main goal of the decision of the Chinese leadership to join the WTO was to facilitate the transfer of US's high technologies to China. The allegation was certainly in opposition to China's intention. More seriously, while the allegation was largely due to party politics between republicans and democrats in the US, it represented a humiliation to their nation for the Chinese, implying that China was not capable of developing its own technologies; that what China achieved was "stolen" from the US. It was certainly unacceptable for patriotic Chinese.

Third, Japan passed its new defense treaty with the US. The treaty *per se* did not defined clearly whether it covered the Taiwan Strait. The Chinese leadership and government analysts believed that the vagueness of the treaty was deliberately planned, aiming to contain the rise of China on one hand, and to prevent China's unification with Taiwan on the other. The news that the US was considering to invite Taiwan to join TMD (Theater Missile Defense) program seemed to serve as a confirmation to the Chinese belief. Though the issue around the treaty existed for a few years, the fact that it was formally passed in Japan, plus the new development of the TMD, stirred up nationalistic sentiments in China.

Fourth, on the front of human rights, while other Western countries showed less interests in accusing China of human rights violations in 1999, the US alone submitted a resolution criticizing violations in China to the main United Nations human rights body. Though the US welcomed changes in criminal procedure law, it called on China to release political prisoners to protect the cultural and religious identity in Tibet. As usual, the Chinese read the US resolution as an interference in China's internal affairs.

All these factors jointly deteriorated Sino-US relations. With a worsening atmosphere both in China and the US, the Chinese leadership doubted whether Premier Zhu Rongji should make his visit to the US in April 1999. The Political Bureau had several meetings to discuss the relevant issues

before Zhu's departure. Zhu Rongji eventually made his trip. As Zhu told his audience in Los Angeles, "The political atmosphere in the US is not very good. But we finally came here because we have in mind the long-term mutual interests of Sino-US cooperative relations".¹⁴ During his stay in the US, Premier Zhu Rongji indeed made enormous efforts to promote the mutual understanding between the two countries on a wide range of issues. On the WTO issues, he almost signed a formal treaty with the US. On the human rights issues, Zhu conceded there was room for improvement in China's rights record.¹⁵

Nevertheless, worsening political atmosphere in the US and rising nationalistic sentiments in China seriously constrained Zhu's efforts. Indeed, Zhu was criticized by various domestic groups as betraying China's national interests and the agreement prepared by the US was regarded as a new version of the "twenty-one treaties" which was signed with Japan by the traitorous leadership during the early 20th century. Given the fact that the "twenty-one treaties" triggered off a nationwide nationalistic movement, i.e., the May-Fourth Movement, it was difficult for Zhu to make further concessions to the US. As Zhu said in the US that if he signed the agreement prepared by the US, he would be regarded as a traitor at home.

As a matter of fact, facing rising nationalistic sentiments, the Chinese leadership dealt with Zhu's visit rather cautiously. While the whole international community, especially among overseas Chinese, paid close attention to Zhu's visit, official media gave it rather low-key coverage. In response to various criticisms against Zhu Rongji, especially on WTO issues, *People's Daily*, the Communist Party mouthpiece, published an editorial on April 22, 1999 to show the Party's recognition of Zhu's visit.¹⁶

GOVERNMENT PARTICIPATION AS MANAGEMENT

As Chinese nationalism was boiling high, the bombing of the Chinese Embassy in Belgrade just provided the ignition for it to explode. Were the

¹⁴ *South China Morning Post* (SCMP), April 8, 1999.

¹⁵ SCMP, April 10, 1999.

¹⁶ *People's Daily*, April 22, 1999.

demonstrations government-led or spontaneous reactions of the Chinese people? What was the extent of the government involvement? How did the government and people interact during the formation and process of demonstrations?

For many outsiders, the protest was “organized by the government against the United States”.¹⁷ Indeed, US Defense Secretary William Cohen, speaking before a Senate Committee, accused Beijing of stirring up anti-American sentiments with a “stream of invective” against NATO and Washington.¹⁸

The American view of the involvement of the Chinese government in the protest sounds reasonable. When the news of bombing reached the Xinhua News Agency at early morning on May 8, it was not known by the Chinese society. The Political Bureau of the Central Committee of the Chinese Communist Party held an emergency meeting and made several important decisions, of which one was to allow people to demonstrate against the NATO and the United States. At 3:00p.m, nine hours after the bombing of the embassy, top universities in Beijing were notified that they were welcome to join demonstrations against the US and NATO. The schools provided buses and slogans. By 4:30p.m, the streets of the embassy district in Beijing were choked with thousands of protesters. Demonstrations also took places almost simultaneously in other major cities such as Shanghai, Shenyang, Guangzhou and Chengdu. When students in Beijing began pelting the American embassy with rocks, eggs and paint-bombs, hundreds of police looked on, without taking any action. On the next day (May 9), Vice-President Hu Jintao told the nation in a national TV speech that the leadership strongly supported protesting activities. This led the outside world to suspect that the demonstrations were carefully orchestrated by the Chinese government. It became even more convincing a few days later when the demonstrations suddenly disappeared after the Chinese government called a halt to the protests.¹⁹

¹⁷ Susan V. Lawrence and Shawn W. Crispin, “Double-Edged Fury”, *Far Eastern Economic Review*, May 20, 1999, p. 10.

¹⁸ *China Daily*, May 14, 1999.

¹⁹ *International Herald Tribune*, May 12, 1999, p. 6.

This seemingly logic view needs to be scrutinized, however. The argument implies that the Chinese government promoted nationalistic sentiments in order to benefit from it. Nevertheless, the issue is obviously far more complex. As two Western journalists observed that “to say that the students were forced to protest would be wrong. While the protests were organized by the government and directed by the government-run student union, to a great degree, they represented the people’s will”.²⁰

As a matter of fact, since the early 1990s, the outside world has regarded the Chinese government as playing an important role in promoting the rise of nationalism. It is believed that with the decline of communist ideology and the loss of people’s faith in Marxism-Maoism, nothing now stands in the way in the Chinese government’s appeal to nationalism to strengthen its political legitimacy within the country and to seek China’s national interests abroad. Logically, according to this reasoning, many have argued that the rise of anti-West demonstrations has been facilitated by the regime’s efforts to strengthen its political legitimacy.

This argument, however, missed an important point. It neglects, or at least underestimates, the contradictions between popular nationalism and official nationalism. The official discourse of nationalism has focused on patriotism that is rather different from popular nationalism. Nationalism can be used to strengthen the political legitimacy of the government, but intensive nationalism can often destabilize Chinese society and thus is not in the government’s interests.²¹ In other words, nationalism is double-edged, for it can benefit the government on one hand while hurting it on the other.

The double-edged nature of Chinese nationalism forced the government to get involved in anti-US demonstrations. It is not a matter as to whether the government should take part in, but it is how the government should get involved. So, what needs to be questioned is not the role played by the

²⁰ John Pomfret and Michael Laris, “Vast Anti-U.S. Protests Raging in China’s Cities”, *International Herald Tribune*, May 10, 1999, p. 1.

²¹ For discussion of this point, see, Yongnian Zheng, *Discovering Chinese Nationalism in China: Modernization, Identity, and International Relations* (Cambridge: Cambridge University Press, 1999), chapter 5.

government in the process of the demonstrations, but the way in which the government managed nationalistic sentiments and the rationale behind the way the government dealt with the demonstrations.

Though nationalistic sentiments were quite xenophobic, the direction of the nationalistic movement could easily be changed. If uncontrolled, such sentiments could be easily turned against the government. The government had to take an initiative in managing the sudden rise of nationalism. In order to manage the demonstrations, the government had to take part in them. The significance of managing the nationalistic demonstrations can be seen from different perspectives.

First, the Chinese leadership is in a transitional period and, power consolidation has been given the highest priority. Though Jiang Zemin established himself as the core of the third generation of leadership, he could not afford to ignore nationalistic sentiments among social groups. As the first among the equals, Jiang could easily be attacked by both conservative leaders and social groups as well. Indeed, the leadership *per se* had to make nationalistic responses to the bombing from a political point of view. Jiang could hardly forget how leaders fell because they mishandled popular nationalistic sentiments.

In the 1980s, the pro-Japanese policy of former General Secretary Hu Yaobang aroused nationalistic sentiments among Chinese intellectuals and students. After he came to power, Hu called for China to adopt a friendly policy toward Japan in order to improve and strengthen Sino-Japanese relations. Nevertheless, Hu's friendly stance provoked anti-Japanese sentiments. Hu was forced to resign as General Secretary of the Chinese Communist Party (CCP) in 1987 after the formation of two major student movements in 1985 and 1986. Indeed, Hu was criticized within the Party for his pro-Japan stance, which was regarded a major factor that led to the rise of the 1985 anti-Japanese student movement. Though the fall of Hu can be interpreted differently, his moderate Japan policy without doubt is one of its major factors.

Jiang Zemin could also learn from his another predecessor Zhao Ziyang. It is hard to say that Zhao's pro-West policy contributed to his fall, but it was one of major factors for conservative leaders to criticize Zhao. In the 1980s, China's reformist leaders did not have a clear line of thinking on

economic reform, but they were willing to listen to, if not follow, the suggestions by Western economists and international economic organizations as exemplified by Milton Friedman, who visited China in 1980 and 1988, and who became influential among reformist leaders. In 1988, Zhao Ziyang, General Secretary of the CCP then, discussed China's economic reform with Friedman. After his fall, Zhao was criticized for his pro-West policy. Anyway, for the Jiang leadership, the lesson from both Hu and Zhao is that popular nationalistic sentiments cannot be ignored.

Second, as mentioned earlier, the year 1999 was the eightieth anniversary of the May-Fourth Movement (1919) and the tenth anniversary of the pro-democracy movement (1989). Both events could pose a major challenge to the Party. The May-Fourth Movement of 1919 almost toppled down the "traitorous government", which signed the notorious "twenty one treaties" with Japan. The pro-democracy movement of 1989 destabilized the top leadership and society as well. The government cracked it down by using coercive measures, but also left various negative consequences which still affect the government's relations with its people today. The challenges posed by the two events could be reinforced by the new wave of nationalism resulting from the NATO's bombing. If the government was regarded as both "unpatriotic" and "anti-democratic", troubles would come. The government had to be nationalistic towards the bombing in order to appease popular sentiments. Indeed, it would be unwise for the government to take a hand-line policy towards nationalistic sentiments for once the government was viewed as "unpatriotic", its legitimacy would be in question.

Third, the growing nationalistic sentiments could trigger off a major social movement, which in turn would destabilize the entire Chinese society. With the Chinese economy showing signs of a slowdown in growth due to the contagion effect of the Asian financial crisis, social unrest in major cities is reportedly growing. This has emboldened urban intellectuals and political activists to become more vocal in their demand for political reform. Though the Party since the early 1990s has tightened its control over growing social movements, it is not able to stop them from challenging the Party from time to time. The recent attempts of Chinese pro-democracy activists to organize an opposition party serves an example. Within a few months towards the end of 1998, the preparatory committees of China's

democracy Party were established in twenty three out of China's thirty one provinces and major cities. Applications to register the new party were made in fourteen provinces and cities.²² This explains why order and stability have been the top priority of the Chinese leadership. So long as the nationalistic movement could endanger social stability, there was no reason for the government not to be involved in it.

All these considerations pushed the government to step in. Once the decision was made, the government had to decide how it could control the direction and development of the entire movement. Only by so doing could the government benefit from the movement while preventing it from challenging the government. As usual, the government first recognized the movement as "patriotic" and showed its firm support. When the bombing occurred on May 8, the government decided to allow demonstrations against the NATO, especially the United States, to take place. Then the next day, Vice-President Hu Jintao appeared in national TV and endorsed the demonstrations as "patriotic," stating that nationalistic activities reflected "the keen patriotism of the Chinese people," and thus the government "firmly supports and protects all legal protect activities".²³ The reason was simple, as President Jiang Zemin said on May 11 when he met Russian presidential special envoy Viktor Chernomyrdin that the US-led NATO's missile attack on the Chinese Embassy in Belgrade was a severe act of aggression against China's sovereignty.²⁴ Since it was a patriotic movement, the government had to stay in the same front with the student protesters. Consequently, for the outsiders, the organized way in which the students demonstrated could be seen as a way the Chinese government was tacitly encouraging the students to protest and create trouble for the Americans. But for the Chinese leaders, if the students were not allowed by the police or the military to vent their anger, these students would turn hostile on them, accusing them of being unpatriotic.

²² John Pomfret, "Why 'Beijing Spring' Cooled: Dissidents Overstepped", *International Herald Tribune*, January 4, 1999, pp. 1 & 7.

²³ Hu Jintao, "Vice-President Hu Jintao's TV Speech on US-Led NATO Attack", *Beijing Review*, May 24, 1999, p. 7.

²⁴ *China Daily*, May 12, 1999.

During the entire process of demonstrations, the worst thing was that both government officials and ordinary people believed that the bombing of the Embassy by the NATO was deliberately designed. This belief was largely due to very contradictory explanations from the NATO/US. While most people in the United States believed that there was no reason for the NATO to bomb the Chinese Embassy intentionally, most Chinese believed that there was no reason for the NATO not to bomb the embassy. For the Chinese, the bombing could not be a "mistake" or an "accident," as the NATO explained. Instead, it can only be interpreted as "a premeditated scheme".²⁵

Why did the NATO want to bomb the Chinese Embassy? For the Chinese analysts, the reasoning was simple: the NATO was a product of Cold War hostility and it could not survive without hostility. NATO countries treated those who dared to say no to their action as their enemies. China had opposed NATO's aggression against Yugoslavia from the very beginning and thus became a big obstacle to the US's attempt to pursue hegemonism. Most Chinese believed that after the fall of the Soviet Union, China became the main enemy in the US's global strategy. This is why the US has made enormous efforts to contain the rise of China. As an official editorial stated,

The United States has continuously made troubles on such issues as Taiwan, Tibet, trade, human rights, non-proliferation of weapons, and has cooked up a "scandal" after another so-called "Chinagate". As a matter of fact, Washington prefers confrontation to cooperation. It is widely believed in China that the United States is containing and encircling this country from the east, by strengthening its military ties with Japan, and from the west, by enlarging NATO. The raid on the Embassy is just a signal that US-led NATO is speeding up the pace of its strategy of containing China.²⁶

²⁵ The Editorial, "Behind the Bombing of the Chinese Embassy", *Beijing Review*, May 24, 1999, p. 5.

²⁶ *Ibid.*, p. 5.

The belief that the bombing was deliberately designed was shared widely. According to a telephone survey of 800 urban Chinese in Beijing and Shanghai on May 16 and 17 by the *Beijing Youth Daily* and a private pooling company, no one believed that the missile attack on the embassy was a “tragic mistake” as the NATO had explained.²⁷ More concretely, 40 percent of the respondents said NATO’s intention was to test China’s reaction; 14 percent said that NATO aimed at silencing China’s opposition to the bombing of Yugoslavia; 16 percent said the United States was bullying countries which dared to say “No” to the only superpower in the world; 7 percent said that the US was showing off its power; and 6 percent said that the United States was so arrogant that it had gone crazy. The same survey also found that the United States’ popularity in China dropped 24 percentage points after the bombing. Another survey conducted by the Lidian Survey Company after the bombing also found similar results.²⁸

Such a strong belief reinforced anti-NATO nationalistic sentiments. Indeed, even the leadership was not certain why the NATO bombed the embassy. In order to appease nationalistic sentiments, it would be insufficient for the government just to attack the United States rhetorically, as students did. More things needed to be done. The government needed to adjust its US policy practically. On May 9, as a gesture of anti-NATO bombing, the Chinese government announced to the suspension of high-level military ties and discussion of human rights and non-proliferation of weapons with the United States. On May 10, the Chinese government issued four requests to US-led NATO, including:

- To make an open and official apology to the Chinese government, the Chinese people, and relatives of the Chinese victims;
- To carry out a complete and thorough investigation of the NATO missile attack on China’s embassy in Yugoslavia;
- To promptly publicize the detailed results of the investigation;
- To severely punish those responsible for the attack.²⁹

²⁷ *China Daily*, May 20, 1999.

²⁸ *Lianhe zaobao* (Singapore), May 13, 1999.

²⁹ *Beijing Review*, May 24, 1999, p. 11.

The NATO and the United States only made limited responses to various Chinese requests. President Clinton made a public apology on May 10 and the US promised to report to China about the on-going investigation of the bombing. Nevertheless, the NATO did not make any concession to the Chinese request that the precondition to any political solution to the Kosovo crisis was that NATO should stop bombing immediately. Actually, the Chinese leaders and government analysts knew that the NATO would not make any concession on the Kosovo crisis.

As a matter of fact, throughout the whole movement of demonstrations, the highest priority of the Chinese government was to make sure that domestic social stability would not be affected by the bombing. Just several days before the bombing, the incident of the well-organized protest movement of the *Falun Gong* (religious cult) had shocked the government especially because none of its organs had anticipated it and thus were totally unprepared for it.³⁰ Now with the rise of nationalistic sentiments, the government had to support popular demonstrations. But the movement could not go too far, otherwise it would endanger social stability. Thus, it appears that rather than using the students to stage demonstrations for its own purpose as alleged in the West, the Chinese government is in fact anxious to keep the nationalistic sentiment and behavior of the students in check.

So, when Hu Jintao appeared in national TV, he emphasized before the nation that the government "firmly supports and protects, *in accordance with the law*, all *legal* protest activities" (emphasis added). Certainly, it is the government that can define whether the movement is legal or not. In effect, Hu's national speech showed the government's support to the movement on one hand, and set up the boundary for the movement on the other hand.

To a great degree, the decision that Hu Jintao rather than Jiang Zemin or Zhu Rongji as the representative of the government in condemning America was deliberately planned, meaning that the government was

³⁰ John Wong, "The Mystery of Falun Gong: Its Rise and Fall in China", *EAI Background Brief* No. 39, East Asian Institute, National University of Singapore, 4 August 1999; and William T. Liu, "A Sociological Perspective on Falun Gong", *EAI Background Brief* No. 40, East Asian Institute, National University of Singapore, 11 August, 1999.

reluctant to give a full support to the demonstrations. Many people were actually dismayed by the choice of Hu Jintao. It was not until May 12, when Jiang Zemin, Zhu Rongji and other leaders appeared in the media to state their positions against America, did people feel that China had finally reacted and shown its mettle.

The government monitored closely the development of the movement and rather skillfully maneuvered the movement to the government-expected direction, namely, patriotism, implying while students were allowed to express their nationalistic sentiments against the NATO and the United States, they had to take social stability into account. Actually, from the very beginning, the Chinese media repeatedly emphasized the need for the students to fulfill their duty as students rather than be engaged in other affairs. And grass-roots cadres were told to be responsible for maintaining social order at their level.

Ten years ago, when student demonstrations occurred, the government excluded itself from students. This time was different. The government was deeply involved in the process and efforts were made to direct the movement in favor of the government. The nation was told that national dignity was dependent on China's continuous development. This strategy worked, indeed. A survey indicated that nearly 60 percent of the respondents said that they would study and work harder for a stronger China, and this was the best way to channel their indignation. Many Chinese stressed the need for the whole country to strengthen itself first before it could confront the United States on an equal basis.³¹

Certainly, the strategy of the government in directing the movement was quite effective. Within a week after the May 8 bombing, the government had succeeded in restraining the nationalistic sentiments of the students from going beyond the boundary.

MIXED CONSEQUENCES AND CHINA'S NATIONALISM

Like every major historical event, the bombing incident created its own legacies for China *per se* and the international community as well. The new

³¹ *China Daily*, May 20, 1999.

wave of anti-foreign nationalistic movement was a continuity of the old legacy of Chinese nationalism on one hand, and a reflection of various aspects of new developments in China on the other. Legacies are mixed. What are they? How will they affect the country's current reform and future development?

The bombing has had and will have an important impact on both political and economic reforms. Politically, modern Chinese history showed that when nationalism came, domestic demands for political democracy had to go away. The formation of modern Chinese nationalism coincided with the intrusion of Western imperialism into China. China's nationalism is not necessarily contradictory with democracy since nationalism pursues national dignity abroad and individual dignity at home. Nonetheless, when national dignity is threatened by external pressure, individual dignity cannot be protected. For the Chinese, a strong state undoubtedly is a precondition for individual dignity and freedom. When external pressure is present, individual rights have to give way to national rights.³²

From this point of view, the bombing indeed had an unexpected impact on China's political stability. As discussed earlier, the recent years have witnessed the rise of various elements that could destabilize the Chinese society, and democratic activists attempted to organize themselves to challenge the Chinese Communist Party (CCP). Indeed, before the bombing incident, the Chinese leadership was worried about such new developments. But with the bombing, such a worry proved to be unnecessary. For many ordinary Chinese, the West had been a symbol of democracy. Now that the West violated China's sovereignty by bombing the Chinese Embassy, why should China still need to learn from the Western democracy? On the other hand, the Chinese government took this opportunity to tighten its control over pro-democracy activists. More concretely, the bombing incident had the effect of consolidating the Party's hold on society by labeling any form of dissent, however minor or seemingly non-political as unpatriotic and threatening to China in time of external challenge.

³² For an analysis of this theme of Chinese nationalism, see, Zheng Yongnian, *Zhongguo minzu zhuyi di juqi* (The Revival of Chinese Nationalism) (Hong Kong: Sanlian shudian, 1997).

Certainly, in the short run, the bombing incident seemed to have a positive impact on the country's stability. Nevertheless, in the long run, it constrains democratic forces from developing. This is so, not only because when nationalism arises, popular demands for democracy decrease, but also because the government can employ popular nationalistic sentiments to exercise its control over pro-democracy forces.

While such effect is potential, whether it will become true depends on how the leadership will cope with conservative nationalistic forces. Without doubt, the bombing incident has led to the rise of conservative forces, which had been constrained in the past years by the reformist leadership. Will the rise of conservative forces affect the government's the reform and open-door policy? Obviously, the reformist leadership has to take conservative voices into account when decisions are made because conservative voices arise in the form of nationalism and are rather appealing to a nationalistic population. Nevertheless, it is difficult for conservative forces to change the course of the reform and open-door policy. Since China has benefited from this policy for the past two decades, it is unlikely for the Chinese leaders to reverse the policy. Even though the government has to face higher domestic pressure for the time being, it is still determined in pushing the reform forward.

The outsiders often blames Chinese nationalism. Nevertheless, they often ignore the fact that Chinese nationalism is not only a reaction to external pressure, but also to domestic development. How nationalism affects China's reform is not only dependent on how the Chinese leadership deals with nationalism, but also dependent on how the Western world deals with China. A benign China policy appeases Chinese nationalism. China is determined to be an important player in world affairs. But whether China will be a benign power depends on how the Western powers treat China.

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CHAPTER 13

China's Strategic Intentions and Demands: What is New?



FEI-LING WANG

A CONSERVATIVE FOREIGN POLICY

As a reflection of the speed and depth of the great changes and the immense potential and uncertainties the nation has been experiencing, China has a self-image that is filled with contradictions.¹ An increased self confidence of the Chinese nation and a peculiar but persisting sense of insecurity of the CCP (Chinese Communist Party) leadership have deeply colored China's strategic considerations. Increasingly self-assured, China is now rightfully feeling safe as a nation. Likely to be more assertive and even nationalistically

¹ China's strategic intentions have been consciously discussed, to various extent, by works such as Lowell Dittmer & Samuel Kim eds., *China's Quest for National Identity*, Ithaca, NY: Cornell Univ. Press, 1993; Samuel Kim ed., *China and the World: Chinese Foreign Relations in the Post-Cold War Era*, Boulder, CO., Westview Press, 1994; Thomas Robinson & David Shambaugh eds., *Chinese Foreign Policy: Theory and Practice*, New York, Oxford University Press, 1995; Michael Swaine & Donald Henry, *China : Domestic Change and Foreign Policy*, Santa Monica, CA.: Rand Corporation, 1995; and Yong Deng and Fei-Ling Wang eds., *In the Eyes of the Dragon: China Views the World*, New York and London, Rowman & Littlefield, 1999.

demanding, the PRC, under the current political regime, appears to prefer a conservative foreign policy for the sake of its political stability. Ironically perhaps, the more capabilities the PRC develops and the bigger role Beijing can play internationally, the more acute the sense of CCP's political insecurity is likely to become and thus the even stronger the restraining effect of such a mentality on China's foreign policy.

Despite the noticeable nationalist sentiment, aspirations, and even ambitions, common to a rising power, China appears to have accepted two basic facts of today's international relations: First, the world is organized in a nation-state political system and an international market economy, rather than anything like the "Chinese world order" of the Middle Kingdom in the past; Second, China is still a backward or developing nation and lacks the capital and technology to qualify itself to be an equal to the West. Thus, not only the self evaluation of the Chinese capabilities but also the intended purpose assigned to that capabilities have been limited. More important, the debilitating impact of the CCP's sense of political insecurity, code-named as "China's political security" as supposed to "survival or military security and economic security,"² may have effectively constrained the foreign policy of a rising Chinese power. With a general sense of national security, a peculiar leadership insecurity, and the limited and rather transparent external demands centered around the political survival of the CCP regime and the national reunification course, China's strategic intentions are likely to sustain a conservative and pragmatic foreign policy for the PRC in the near future.

Unlike other rising powers in modern history, the PRC now has no known international ambitions based on ideological, religious, or racial claims. (Even the United States had a clearly imperialistic impulse, as an asserted "manifest destiny" was inciting the young American power onto the road of imperialism one hundred years ago.) There are clear differences, mainly centered on Beijing's political system, between China and the existing major powers. Those differences may rightfully cause concerns in the West. They are likely to be a major point of contention in the near future. Yet

² Yan Xuetong *et al.*, *Zhongguo yu yatai anquan* (China and Security of Asia-Pacific Region), Shishi Press, Beijing, 1999, pp. 29–45 and especially pp. 257–260.

China seems to have accepted the basic ideological orientation of the West and thus have little ambition to impose its views onto the other nations. The peculiar Chinese value system and norms, already blended into the official national interests of the PRC, should be interpreted, perhaps more accurately, as a cover and a defense of CCP's political interests which may not fit the Western value system. Jiang Zemin's "New Security View", proposed in March of 1999, only re-emphasized that "sovereignty security" should be the guiding principle of foreign policies.³ Unlike an "ordinary" rising power, therefore, Beijing lacks the moral calling to take adventurous foreign policies abroad, let alone an expansionist or colonial program.

Although China's strategic intentions and demands, outlined above, have been consistent and stable, periodical variations of Beijing's foreign policy are fully expected. The tragic bombing by NATO of the Chinese Embassy in Yugoslavia in May of 1999 has set off a national debate in China as to what should be the proper Chinese role to play in international affairs. More specifically, Beijing launched an internal reassessment in May-June of 1999 to examine its foreign relations in general and its relations with the United States in particular. There has been loud voice for a tougher and more active Chinese foreign policy and a stronger effort to deal with the American hegemonism. Chinese military has also been given a higher priority in the new PRC budget. Yet various signs from Beijing have indicated that the Chinese strategic intentions and foreign policy are likely to remain as they have been since the end of the 1980s. According to one participant of the reassessment sessions, "it (the bombing) has not altered the fundamentals of the post-Cold War international relations or the nature of the Sino-American relations".⁴ By the end of 1999, after Jiang Zemin and Clinton's summit meeting in New Zealand, Beijing and Washington openly announced that a normal relationship between them was "restored". But the once loudly hailed "strategic partnership" between Beijing and Washington seems to be all but forgotten. As perhaps a precaution and a reaction against its "partner", it is reported that Beijing recently ordered all

³ Jiang's speech at the Arms Control Conference in Geneva, *Renmin Ribao*, Beijing, March 27, 1999.

⁴ Author's interviews in Beijing. July, 1999.

of its government agencies to stop using any American made Microsoft Windows 2000 software on their computer systems and start to use the Chinese developed Red Flag- Linux 1.0 and 2.0 operation software instead.⁵

By the Spring of 2000, new events seem to be forcing Beijing to adjust its foreign policy with regard to Taiwan. After Taiwan's President Lee Teng-Hui's "two states" comment and his effort to transform the cross-strait relationship to a "state to state relationship",⁶ Beijing is likely to have further reassessment and recalculation of its strategic intentions and demands. Concrete actions are fully expected from Beijing, including the use of military force, if the new DPP (Democratic Progressive Party) regime does not give the "one China" principle at least an adequate lip-service, and especially if the United States is seen to change its One China policy in an election year, as some in the US Congress are already working on right now.⁷ The complete impact of Lee's provocation and Chen Shui-Bian's policy moves on China's strategic intentions and demands still remain to be seen. But we should not expect any major change of China's fundamental goals and demands other than an enhanced effort to address the reunification issue. As long as the United States is not drastically changing its China policy,⁸ a certain stability in Beijing's strategic views is fully expected.

⁵ *Yangcheng Wanbao* (Yangcheng Evening News), Guangzhou, January 6, 2000.

⁶ Lee Teng-Hui's interview with German Radio journalists on July 9, 1999. For elaboration on Lee's views on Taiwanese nationalism and a protraction strategy for alternatives to "One China" framework, see his *Taiwan De Zhuzhang* (Taiwan's proclamation), Taipei, Yuanliu Co., 1999. A Taiwanese scholar who interviewed "all members of the task force" that was planning and drafting Lee's two-state statement and the subsequent policy moves since the Summer of 1998, concluded that Lee and his associates were "deeply concerned that Washington and other major powers have all accepted the one China principle" thus decided to take advantage of the cold Sino-American relations in the Summer of 1999 "to vent their frustration and to make noises" thus to regain the initiative and momentum in Taipei's pursuit of a *de jure* independence. Conversations in the U.S., November 6, 1999.

⁷ In February 2000, the US House of representatives passed a bill calling for more US effort to "enhance" Taiwan's security. Though unlikely to become a law, such moves are likely to prompt Beijing to react seriously.

⁸ The standing China policy of the US government, as articulated by Clinton's National Security Advisor, is likely to remain to be for a stable, engaged, and non-hostile China. See Samuel R. Berger's Speech on China at the Woodrow Wilson International Center for Scholars, Washington, D.C., February 2, 2000.

RISING HOPES AND PERSISTING DOUBTS

Given the massive population and thus huge domestic market, a still very cheap labor force of nearly 800 million, one of the largest natural endowments in the world, and the rapidly advancing market institutions, the high economic growth of the PRC is expected to continue into the 21st century to produce a world-class continental power. One analyst in Beijing reported that “more and more Westerners have viewed it to be final that China has become a world-class power”.⁹ Such a “universal” feeling has substantially enhanced China’s self image by the late 1990s. Accordingly, talks about more and larger Chinese role in international affairs emerge. Clearly, one sees a rise of confidence and hopes among the Chinese elites. One economist, noted for his independent analysis of the Chinese national capabilities, concluded that the current era has been China’s “greatest era of reform and most prosperous era of construction” in history. Furthermore, after the U.S. and Japan, China has now been granted “the third rare historical opportunity in 100 years” to have an economic take-off into the status of a world economic power.¹⁰

A book by a group of scholars and analysts, prefaced by a long-time close associate of Jiang Zemin’s, asserts that the “rapidly growing Chinese economy will inevitably become the locomotive of the world’s economy in the 21st century”. Thus,

A rising China will never be a nation that is satisfied with only food and shelter. Her development and progress will definitely make increasing contributions to peace and prosperity of the world. China was such a [nation] in the past for several thousands years, it will definitely become such a nation again in the next millennium.

⁹ Yan Xuetong: “Xifangren kan zhongguo de jueqi” (Westerns view the rise of China), *Xiandai guoji guanxi* (Contemporary International Relations), Beijing, China Institute of Contemporary International Relations, No. 9, 1996, 37.

¹⁰ Hu Angang, *Zhongguo xiayibu*: (The next step of China), Chengdu, Sichuan Renmin Press, 1996, 1, 20–22, & 221.

Our nation used to be a crucial player on the playground of international politics. [Its] enhancing economic capabilities, and its status of being a major nuclear power and a permanent member of the UN Security Council, will give our nation a larger and larger role in world affairs. (O)ur nation enjoys a position as an irreplaceable major world power .¹¹

Other analysts who are more ideologically-oriented believe that the PRC is not only carrying the mission of rejuvenating the Chinese civilization and restoring its past glory, but also the grand task of safeguarding and promoting socialism that requires patience and hard work. One faculty member of the CCP's Central Party School summarized Deng Xiaoping's "strategic thoughts" as "so long as China's socialism does not collapse, socialism will forever stay in the world. If by the middle of the next century, China develops to be a mid-level developed country and realize its development strategy, socialism will become invincible".¹²

Due cautions, however, must be exercised when assessing China's capabilities. Despite the seemingly high trade surplus the PRC currently enjoys, its economy is still basically a low-tech one. "China's leading exports are products that have not been produced in large quantity by American factories for more than a decade".¹³ In many important aspects, China still remains to be a developing country that has a large number of poor people and mounting economic, social, and political problems. Militarily, China is still a very modest power and it simply cannot purchase a modern military might from abroad with its limited military budget.¹⁴ Furthermore, "analysts

¹¹ Wen Jieming *et al.*, eds., *Yu zhongshuji tanxin* (Chat with the General Secretary), Beijing, Zhongguo Shihui Kexue Press, 1997, 70 & 232–233.

¹² Zhang Tuosheng ed.: *Huanqio tongci liangre: Yidai lingxoumen de guoji zhanlue shixiang* (Same to the whole globe: the international strategic thoughts of a generation of leaders), Beijing, Zhongyang Wenxian Press. 1993, 312.

¹³ Seth Faison: "The Giant Follows Asia's Growth Path", in *New York Times*, March 4, 1997.

¹⁴ Robert S. Ross: "Beijing as a Conservative Power", *Foreign Affairs*, Vol. 76, No. 2 (March–April), 1997, pp. 36–38. For a new analysis on the modest military spending by the PLA, see Shaoguang Wang: "Chinese Military Spending", *The China Quarterly*, 1997.

need to provide more evidence that demonstrates whether China's PLA (People's Liberation Army) is catching up, merely keeping pace with, or perhaps falling behind" the existing major powers.¹⁵ Chinese elites are clearly aware of China's lack of power projecting capabilities, especially beyond its immediate neighborhood.

Checks on the growth of the Chinese power are visible, although none of them has appeared to be fundamentally undermining. A rising individualism and consumerism, the inevitable products of a market economy, are likely to reduce the resources available to the state's foreign ventures. The on-going political and economic decentralization may cut deeply into Beijing's ability of utilizing the PRC resources. Obstacles and potential hazards to the economic development are abundant. Compared to the world average, for example, China's per capita arable land, water, mineral and energy deposits are low. "Frankly speaking", even to feed the Chinese has become a serious challenge that is viewed by analysts as being currently under "very great pressure".¹⁶

The concerns and reservations are well reflected in the Chinese self assessment. The CCP leadership has been insisting that it needs at least another fifty years (from the mid-1990s) to turn China into a "middle-level developed" country. Scholarly discussion of the "national conditions" of China is often filled with deep and often well-grounded concerns over some of the monumental problems China is facing: huge population that is still growing by over ten million every year; hundred of millions of low- or unskilled laborers needing jobs; the chronic problem of state-owned enterprises; and the decline of both political legitimacy and governing authority of Beijing in a nation that is rich of regionalist traditions and is developing very unevenly.¹⁷ Others acknowledged in 1997 that there was a "hard to ignore belief crisis and social problems", and a possible "Yugoslavia-nization"

¹⁵ Avery Goldstein: "Great Expectations: Interpreting China's Arrival", Working Papers Series of the Christopher H. Browne Center for International Politics, University of Pennsylvania, March 1997, 52.

¹⁶ Wen Jieming *et al.*, eds., *Yu zhongshuji...*, 1997, pp. 66 & 82.

¹⁷ Xu Ming ed., *Guanjian shike: dandai zhongguo jidai jieju de 27 ge wenti* (Crucial moment: the 27 issues that need to be urgently solved), Beijing, Jingri Zhongguo Press, 1997.

of the PRC.¹⁸ The very promising future of the PRC, therefore, is not guaranteed. It is indeed remarkable to notice that Chinese analysts often tend to be less optimistic than their Western counterparts in assessing the rise of Chinese power. The Western “inaccuracies” in estimating the Chinese power and its impact, explained some Chinese analysts, were caused by the Western analysts’ “epistemological limits” or their “evil intentions” of manipulating the world opinion and hurting China.¹⁹

Overall, China’s “comprehensive national power” is self-ranked roughly the same as Japan (behind U.S. and Russia) and only a “regional power” in East Asia.²⁰ There is a recognition of the significant gap between China’s perceived or potential role and its acquired capabilities. China has thus basically viewed itself as “a regional, or trans-regional, major power with glistening global color”, or “a quasi global power” with regional capabilities and rooms of maneuver.²¹ As China is now more closely scrutinized by the existing major powers and aspires to be more active in international affairs, the self-recognition of the gap between a “major power” role and China’s deficiency of capabilities is likely to be even more apparent.

Perhaps as a sign of self-awareness of the shortcomings of China’s political system, Chinese intellectuals generally adopt a defensive position rather than promoting its political system. Other than a few popular readings, there are hardly any Chinese writings, openly published or internal, suggesting that Chinese ought to impose their understanding of human rights onto the West as they getting stronger. On the contrary, many imply that the Western notion of human rights may eventually take place in China as they suggest that the Western criticism against Chinese human rights problems are simply an act of “impatience” if not of evil intentions. A common response has been that the Westerners’ criticisms against China for its human rights problems have been prompted by their fear of a different and strong China,

¹⁸ Wen Jieming et al, eds., *Yu zhongshuji...*, 1997, pp. 252 & 172–174.

¹⁹ Yan Xuetong: “Xifangren kan...”, 1996, p. 45.

²⁰ Yan Xuetong: *Zhongguo guojia liyi fengxi* (An analysis of China’s national interests), Tianjin, Tianjin Renmin Press, 1996, pp. 88–95.

²¹ Song Xinning, *Guoji Zhengzhi jingji yu zhongguo duiwai guanxi* (International political economy and Chinese foreign relations), Hong Kong, Hong Kong Social Science Press, 1996, pp. 204, 208 & 281.

their ignorance of the Chinese culture and history, or their evil intention to make an enemy out of China.²² Western criticisms may cause some moves in Beijing to improve its human rights record for practical considerations and diplomatic interests, but may also produce considerable resentments and misgivings among the Chinese youth, who tend to view Western criticisms of the Chinese political system as attacks on the nationhood and statehood of China.

NATIONAL SECURITY VERSUS POLITICAL INSECURITY

The CCP is determined to maintain its domestic political monopoly. External respects or disrespects and criticisms, however, have now become the leading sources of CCP's political legitimacy or destabilization.²³ CCP's political insecurity has often been translated directly to the official assessment of China's national security. Beijing was preparing for an "inevitable" world war at any time until 1983 when Deng Xiaoping assessed that a new world war was unlikely within ten years. The new leadership under Jiang Zemin in 1995 reestimated that "it is possible to earn an international peace for the next fifteen years" until 2010 when China and, in the leadership's calculation, the CCP regime as well, would expect to be strong enough to rid itself of the danger.

A military invasion of China by foreign powers may be remote now, but the CCP regime may indeed have good reasons to feel insecure in the post-Cold War world where the dominant powers led by the United States have appeared to be at odds with this last "communist" government. The growing Chinese capabilities have actually heightened the West's scrutiny and criticisms of the CCP political system. It is not difficult to imagine, looking out from *Zhongnanhai* (the headquarters of the CCP), the serious threat to China (actually, to the CCP political regime) of the democracy-

²² Almost all of the PRC official responses and many of the Chinese writings (such as the edited volumes by Wen Jianming and Xu Ming cited earlier) have unmistakably expressed such responses. Radical publications are even more confrontational to the West's criticisms.

²³ Yan Xuetong *et al.*, *Zhongguo yu...*, 1999, pp. 256–258.

promoting and human rights-advocating United States. The State Council of the PRC thus concluded that:

As long as China remains to be a socialist country with the Communist Party in power and as long as China does not adopt the American style political system, no matter how much Chinese economy develops, how much democracy in politics, and how much improvement of human rights, (the U.S.) will just looking but not seeing and listening but not hearing.... [The U.S. is just] using human rights [issue] to interfere in Chinese domestic politics and promote hegemonism and power-politics.²⁴

Consequently, the PRC analysts talk about a “comprehensive security” goal and view international organizations or collective security arrangements very suspiciously. A Foreign Ministry-backed journal published an article asserting that a “grand strategy” of China must consider a “comprehensive security” of “domestic and external security” and “not only military security but also political, economic, and cultural security.”²⁵ Beijing vigilantly watches for dangers. Other than the United States which is clearly the direct and likely most serious threat, nearly all of China’s neighboring countries are viewed internally as potentially “trouble-making”: Japan “is transforming from a potential threat to a real threat”, Russia is “our long-term potential rival”, India “is the potential source of insecurity and instability in our southwestern regions”, the ASEAN (Association of Southeast Asia Nations) is the “direct party of struggle over our sovereignty of Nansha (Spratly) islands” and the development of “a larger ASEAN” would be a serious and unfavorable challenge to China.²⁶

²⁴ Press Office of the State Council: “Wei hu ren quan haishi ganshe neizheng? (Protect human rights or interfere internal affairs?)” in *Renmin Ribao*, Beijing, March 29, 1996.

²⁵ Tang Yongsheng: “Zhonghe anquan yu zhongti zhanlue (Comprehensive security and grand strategy).” *Shijie Zhishi* (World Affairs), Beijing, 1996, No. 20 (Oct. 16), 16–17.

²⁶ Yang Jianyong: “Guanyu woguo zhoubian anquan huanjing de fenxi yu sikao” (An analysis and thinking on the security environment of our nation), in *Yatai Cankao* (Asia-Pacific reference), an internal publication, Beijing, No. 34 (August 19), 1996. Ren Rongrong: “Dadongmeng de jiuqi he Zhongguo de duice” (The rise of a larger ASEAN and China’s

While it is perhaps penetratingly correct to say that the differences between the PRC and the US are not exactly ideological or political,²⁷ the Western/American threat to the CCP regime, not necessarily the Chinese nation, apparently weighs heavily in Beijing's strategic calculation of the post-Cold War world. Practically, however, between the national sense of security and the insecurity of the ruling regime, Beijing has become profoundly sensitive and susceptible to external pressures and incentives.

STRATEGIC CONCERNS AND THE RISE OF NATIONALISM

With the mentality of political insecurity, the CCP regime has concluded that the fundamental Chinese national interests should include three components at this time: First, to safeguard the PRC political system, i.e., the stability of the CCP regime; Second, to maintain the peaceful international environment for the economic development of China; Third, to unify the motherland, i.e., to take back Macao (accomplished in 1999), and Taiwan (no timetable yet but at least the *status quo* must be preserved).

The political stability of the CCP regime has seemed to be the top concern to Beijing. Not only the economic development is seen as the foundation for that goal, even the unification of the motherland may be delayed for the sake of political stability. Beijing has demonstrated remarkable patience and flexibility in its attempt to lure Taipei to the negotiation table thus to address the unification issue without the otherwise probable shocks to the political stability of the CCP. Semi-officially, Beijing has said that everything but its political system is on the table.²⁸ Essentially, besides Taiwan, the rising power of the PRC, under the leadership of the CCP,

policy), in *Yatai Cankao* (Asia-Pacific reference), an internal publication, Beijing, No. 38 (September 16), 1996

²⁷ Jianwei Wang: "Coping with China as a Rising Power", in James Shinn ed.: *Weaving the Net: Conditional Engagement with China*, New York: Council on Foreign Relations, 1996, 134.

²⁸ The author was told by senior CCP officials repeatedly in 1996–98 that even the national flag, name, and anthem of the PRC can all be changed through the negotiations between Beijing and Taipei for the new united China. By 1998, there was a growing view inside Beijing arguing for the political "disadvantages" of a rapid reunification with Taiwan.

currently appears to have asked for very little beyond its own survival. Recalling what Germany, Japan, the former USSR, and even the United States wanted during their rise through the global ranks, the world may indeed feel lucky this time.

There are other concerns. The PRC has thorny friction with the existing major powers mainly the United States on issues of market access, WTO (World Trade Organization) membership, intellectual property rights protection, and Tibet. There are also a Sino-Indian border dispute, a Sino-Japanese dispute over Diaoyu (Senkaku) islands, and the disputes over the South China Sea islets. Those, however, are not the main strategic concerns of the PRC. In general, Beijing inclines to either make compromises after hard bargaining or postpone a settlement on those issues. Deng Xiaoping's low-profile and conservative guidelines for Chinese foreign policy after 1989 appears to be still in effect after his death despite the now surging criticisms from some radical nationalist youth. Based on that, Jiang Zemin proposed a 16-word US policy in 1993: *Zeng jia xin ren, jian shao ma fan, fa zhan he zuo, bu gao dui kang* (to enhance trust, reduce trouble, develop cooperation, and refrain from confrontation).²⁹ It clearly reflects a similarly cautious, low profile, cooperative, and patient approach. Such a policy seems to be still in place after the May 1999 bombing of China's Embassy in Belgrade by NATO.

Naturally accompany the rising status of national power, a rather "broad-based" nationalist sentiment of "Greater China" or "Greater PRC" is also on the rise inside China. Several popular readings have cashed in successfully on those sentiments. The clearly-existing strong interest of Chinese readers has sustained the publication of dozens of books filled with nationalistic rhetoric and even xenophobic writings. Some, like the popular reading cleverly titled *China's Grand Strategy*, even outlined a future of China's destined "re-integration of Asia" and "new leadership" of the world in the

²⁹ Zhongguo Tongxun News Agency: "PRC: Review of Developments in Sino-U.S. Relations." November 18, 1996. In FBIS-CHI-96-224. Also in Xinhua New Agency: "China: Qian Qichen Discusses World and Foreign Affairs". December 30, 1996, in FBIS-CHI-96-251. Wang Jisi: "Ezhi haishi jiaowang? (Containment or engagement?)" in *Guoji wenti yanjiu* (International Affairs), Beijing, No. 1, 1996, 6.

next 15–30 years.³⁰ Serious scholars have also argued for a more assertive and more demanding Chinese foreign policy.³¹ An article claimed that the NATO bombing of Yugoslavia especially the Chinese Embassy there have indicated that the United States has embarked upon a road of “danger and irresponsibility” that “disrespect the integrity of territory and sovereignty of other nations.” Many countries will wake up and “reassess their own national defence policies; a new round of arms race will start..The world will thus become less safe”.³²

A leading target of China's rising nationalism, not surprisingly, has been the United States. With an overwhelming desire to avoid a direct confrontation with the lone superpower, some Chinese nonetheless have predicted a collision course and succession process between the U.S. and China in the not very distant future. At least, the rising Chinese power may despise America's criticisms and act accordingly especially in the neighboring regions. One expert of America studies concluded in 1995:

Data shows that in recent years, in the eyes and minds of the Chinese public including most of the intellectuals and young students, the United States has changed from a friendly country to a bully and anti-China country. As time goes by, the US will eventually realize what kind of consequences its bad image in China will have done to its interests in the Asian-Pacific region.³³

³⁰ Cai Xianwei: *Zhongguo da zhanlue: lingdao shijie de lantu* (China's grand strategy: a blueprint for leading the world), Haikou, Hainan Press, 1997.

³¹ For example, see Luo Weilong: “Zhongguoren yao shuo bu (Chinese want to say no)”, in *Taipingyang Xuebao* (Pacific journal), Beijing, No. 2, 1995. We detected in China in 1999 a widespread nationalist sentiment and anti-American feelings among the majority of intellectuals and officials.

³² He Ping: “Meiguo: weixian er bufuzhiren de waijiao zhengce” (The US: A dangerous and irresponsible foreign policy), in *Guangming Ribao*, Beijing, June 23, 1999.

³³ Niu Jun: “Duoshi zhichou: Zhongmei guanxi de xianzhuang ji qianjing (The troubling autumn: the current situation and prospect of the Sino-American relations),” in *Meiguo Yanjiu* (American Studies), Beijing, No. 4, 1995, 134. For the opinion surveys describing the U.S. as the “most disliked country” amongst the Chinese youth, see Xu Ming, ed., 1997, pp. 547–548.

Another article published by the military internally in late 1996 concluded that:

the United States has been against us everywhere on the important issues and wants to contain us at every moment. For a considerably long period of time in the future, the United States will be the most direct and most serious threat to us.³⁴

Still under the conscious control by the CCP regime, the rising nationalism nonetheless deserves the close attention of the existing major powers. Ironically perhaps, the very CCP regime that is criticized by the West may actually do a better job in controlling the potentially dangerous nationalism that is bound to be more common and even radical in a more powerful and confident China. Any political regime in Beijing must address the potentially explosive issue of Taiwan and other Chinese interests in conflict with other nations. A non-communist Chinese government is by no means more likely to compromise on the issues of Tibet or the South China Sea islets. On the contrary, a "democratic" regime in Beijing, free from the debilitating concerns for its own survival but likely driven by popular emotions, could make the rising Chinese power a much more assertive, impatient, belligerent, and even aggressive force at least during the unstable period of fast ascendance to the ranks of world-class power. A democratizing China with apparent and perhaps justifiable strategic concerns and demands, may actually be much more likely to become a systemic challenger.³⁵ The authoritarian CCP regime has been able to shield itself from the newly rising nationalist sentiment.³⁶ Beijing, for example, has recently tried to stop the spread of radical nationalist sentiment in the

³⁴ Yang Jianyong: "Guangyu woguo...", 1996, p. 6.

³⁵ For an analysis on the relationship between war proneness and political democratization, see Edward D. Mansfield & Jack Snyder: "Democratization and the Danger of War", *International Security*, Vol. 20, No. 1 (Summer) 1995.

³⁶ Ming Zhang: "The Shifting Chinese Public Image of the United States", in *Strategic Forum*, National Defense University, Washington, No. 89, November, 1996.

PRC.³⁷ But a “democratic” regime would have a very difficult time to prevent such thoughts and ideas, rather “natural” in a nation experiencing drastic changes and growth, from affecting and even controlling the rising Chinese power.

THE CHINESE DEMANDS

Besides the “let me live” political request of the CCP, China has, and is likely to have more, real and even ambitious demands. As one analyst wrote: “The growth of the Chinese national power is the logical consequence of its economic reform. And the adjustment or development of Chinese foreign policy is the logical consequence of the growth of its power.”³⁸

The most pressing desire, however, still appears to be on the issue of Taiwan. The Taiwan issue will continue to be a great card offered by the two sides of the Taiwan Strait for the United States and others to play, yet it carries a huge price tag. The developments in 1995-96 exposed the explosive nature of this issue and led many in Beijing to believe that a military solution has appeared to be harder to avoid. The controversies after the “two states” declaration by Lee Teng-Hui on 9 July of 1999 have further highlighted the issue to all international observers. If many on the island are attempting to change the status quo by seeking the full title of independence, increasingly many in Beijing may have also decided to solve the problem at an earlier date. The recent surge of nationalist sentiment has largely focused on a “decisive” and rapid solution of the division of the motherland. As a historical curse spelled on the CCP regime, to unify the motherland and finally eliminate domestic political rivalries on the island

³⁷ Beijing ordered a ban on media coverage of the two very popular readings advocating radical nationalism and crude anti-Japanese and anti-American sentiments. Ma Shih-t'u: “Why Have the CCP Authorities Banned ‘China Can Say No’? — ‘China Can Still Say No’ Is Accused of Heterodoxy”, in *Hong Kong Hsin Pao* (Hong Kong Economic Journal), Oct. 29, 1996, 18. FBIS-CHI-96-218.

³⁸ Zhao Gancheng: “Yatai diqu xinzhixu yu zhongguo de zeren” (The new order in Asia-Pacific and the responsibility of China), in *Guoji Wenti Luntan* (Forum on International Issues), Beijing, No. 2, 1996, 53.

of Taiwan are intertwined with the political legitimacy of the CCP regime and thus an issue of vital national and political interests. Multiple sources in Beijing have indicated that the CCP leadership is determined to use force to prevent a Taiwanese independence even at the risk of openly opposing the American military might.³⁹ Beijing insists that: "The issue of Taiwan has always been the most important and most sensitive core issue of the Sino-American relationship."⁴⁰

On the Taiwan issue, we detect very little differences among the Chinese elites, officials, youth, and even political exiles. One senior official close to Jiang Zemin openly stated at Harvard University that on the unification issue, Beijing has no room for negotiation and to maintain the status quo is in the Chinese and American interests.⁴¹ The Chinese seem to have realized that the U.S. is not necessarily interested in having an independent Taiwan. One internal journal asserts:

The issue of Taiwan is a card in the hands of the United States with relevance to its strategic interests in Northeast Asia. The U.S. will inevitably use this card to bargain with (China). To maintain the status quo of division between the two sides of the Taiwan Strait fits best (American) interests.⁴²

Another likely Chinese demand is the rights to the islets in the South China Sea and the related and much talked about expansion of the Chinese naval force. Despite its insistence that it has the indisputable sovereignty over all of those islets and the surrounding waters, Beijing has agreed to

³⁹ Author's interviews with PRC officials and PLA officers in 1995–2000.

⁴⁰ *Renmin Ribao*, Beijing, March 4, 4 and 26, 1997, 1.

⁴¹ Liu Ji: "21 shiji Zhongmei guanxi de xuanze" (Choices for the Sino-American relations in the 21st Century, speech at the Harvard University's Fairbank Center for East Asian Studies, May 27, 1997. English text is in *The Journal of Contemporary China*, Spring issue, 1998.

⁴² Tang Yongxing: "Zhongmei guanxi jinru yige xinde lishi jieduan" (Sino-American relations have entered a new historical stage), *Shijia xinshi yanjiu* (Studies of world's situations), Beijing, no. 26, 1997, 5.

shelve the disputes and allow some “joint explorations” to proceed.⁴³ Aware of its own limited naval capabilities and the still uncertain value of the region, Beijing seems to have decided to postpone the “show down” on this issue with its competitors to avoid prematurely “internationalizing” the issue, i.e., bringing in the United States.⁴⁴ The growth of the Chinese Navy has caught more attentive eyes. Indeed, some in Beijing have clearly longed: “had we had a strong enough fleet to appear in the Taiwan Straits first, who would have dared to try to interfere with Chinese domestic politics with force?”⁴⁵ A senior officer in the PLA Navy hinted recently that China may indeed demand more maritime rights and interests in the future — the so-called “maritime space,” which according to his calculation is disproportionately small for the Chinese (only 30 percent of the size of Chinese territory versus the world average of 94 percent). Yet he apparently believed that the United Nations’ Law of Sea is in the Chinese interests and what the PLA Navy wanted is to “protect our legitimate interests” as stipulated by the Law of Sea.⁴⁶

Beyond Taiwan and the South China Sea and on a more grand scale, according to some analysts in Beijing, the rising Chinese power may proactively seek a “counter-containment” strategy against the existing major powers to secure its political regime and create rooms of making new demands especially in East Asia. Sounded like a realist strategist, Deng Xiaoping prescribed for the PRC in the 1980s that:

How much role we can play in international affairs depends on how much achievement of our economic construction. If our country developed and became more prosperous, we would play a larger role in international affairs. Our current role in

⁴³ Xinhua New Agency: “China: Qian Qichen Discusses World and Foreign Affairs”. December 30, 1996, in FBIS-CHI-96-251.

⁴⁴ Wang Yuzhou: “Lianheguo haiyangfa gongyue yu zhongguo” (The UN law of Sea and China), in *Taipingyang xuebao* (Pacific journal), Beijing, No. 2 (Summer), 1996, pp. 9–17.

⁴⁵ Wen Jieming *et al.*, eds., *Yu zhongshuji...*, 1997, pp. 232–238.

⁴⁶ Liu Zhenhuan, director of the PLA Navy’s Military Research Institute: “Ping Lianheguo haiyang fa” (Commentary on UN Law of the Sea), *Guofang* (National Defense), Beijing, No. 15, 1996 (Nov. 15), 14–16.

international affairs is not small; but if our material basis and material capabilities are enhanced, [our] role will be even larger.⁴⁷

More active Chinese participation in the management of international affairs and a more evenly constructed multipolar world sound more satisfactory to Beijing. Therefore, the PRC prefers to be first given a great power (*daguo*) responsibility in the Asian-Pacific region to ensure a “just and rational” new security order in the region. A quadrangular arrangement of the US, Japan, China, and Russia should replace the unfavorable bilateral US-Japan alliance. China can then “rightfully” play its role of “balancer” thus to “share” the major powers’ responsibility for the region’s security.⁴⁸ Beyond that, China could take advantage of the differences between the United States and its allies in Europe — the so-called strategy of “utilizing the West-West conflicts” by forging more ties between the “rising Asia” and the European Union. An American-European-Asian tripolarity may thus replace the American-European-Japanese dominance, and a five power (US, Russia, China, Japan, and European Union) structure may replace the “one superpower plus multiple major powers” situation currently seen.⁴⁹ An internally published analysis argued more bluntly that:

We must seize the opportunity, develop ourselves, and to further strengthen our position and function in our neighboring areas. ... (We) must be strategic and grasp the initiatives in the management of the affairs in our neighboring regions... to skillfully handle the several triangular relationships for the

⁴⁷ Deng Xiaoping: *Deng Xiaoping Wenxuan (1975–1982)* (Selected works of Deng Xiaoping), Beijing, Renmin Press, 1986, 204.

⁴⁸ Zhao Gancheng: “Yatai diqu xinzhixu yu zhongguo de zeren” (The new order in Asia-Pacific and the responsibility of China), in *Guoji Wenti Luntan* (Forum on International Issues), Beijing, No. 2, 1996: 49–51. Also see Shi Yongming: “Yatai anquan huanjing yu diqu duobian zhuyi” (Security environment in Asia-Pacific and regional multilateralism), in *Guoji wenti yanjiu* (International Affairs), Beijing, No. 1, 1996, 41–47.

⁴⁹ Xiao Ding: “Yaou hezuo yu fazhan wenti yantaohui jiyao (Summary of the Symposium on Asian-European cooperation and development),” in *Xiandai guoji guanxi* (Contemporary international relations), Beijing, No. 7, 1996, pp. 42–53.

strategic interests of China: the big China-US-Japan triangle and the (five) small triangles of China-Japan-ASEAN, China-Japan-Russia, China-India-Pakistan, China-Japan-South Korea, and China-North Korea-South Korea.⁵⁰

In very general terms, some Chinese analysts have suggested that in the 21st century, China's strategic goal of international politics and diplomacy "should be for a peaceful, democratic, harmonious and cooperative new international political-economic order". Such a new order will depart from the past history of hegemonic struggles of five centuries. China should work to reach "such a goal: Through the rise of a multipolar world, [we] will make the lone superpower of the United States to have a smooth and dignified 'soft landing' type of transformation to become a normal major power, a normal pole".⁵¹ Yet, such an aspiration has not been a consensus in the PRC. To deal with the United States with extra care, however, has appeared to be the common view in Beijing. Internally, analysts suggested that China may oppose "hegemonic policies" of the United States but need "to recognize its superpower status and its influence on the global major issues".⁵² A more scholarly work concluded that:

The United States is the world's only superpower after the Cold war and its position will continue for at least another 20-30 years to come.... Thus, avoiding military confrontation with the United states is China's long-term strategic and security interest.⁵³

In the long run, a rising Chinese power is likely to develop new and more concrete demands and Beijing may argue for an effective, if not entire, accommodation. The nature of those demands will depend on the circumstances in the future and mainly the responses of the existing major powers to the already stated demands of the PRC. So far, few of Beijing's

⁵⁰ Yang Jianyong: "Guanyu woguo ...", 1996, pp. 10-12.

⁵¹ Xu Ming ed., *Guanjian shike...*, 1997, pp. 8-9 & 17-18.

⁵² Tang Yongxing: "Zhongmei guanxi ...", 1997, p. 4.

⁵³ Yan Xuetong: *Zhongguo guojia...*, 1996, p. 158.

known demands have appeared to threaten the vital interests of the existing major powers, nor constitute a fundamental challenge to the existing international political and economic order. They appear to be largely relating to the neighboring areas of China and wanting a true major power status, not just the nominal one, for the PRC. Furthermore, the *realpolitik* logic and realist rationale as well as geopolitical perspectives of the Chinese strategists⁵⁴ have appeared to be very Western-like and have little ideological or racial overtones. Of course, *realpolitik* logic may lead Beijing to demand more when it becomes much stronger. A natural inference is that the Chinese demands especially the one on Taiwan, if ignored by the existing major powers for too long, could well ignite and fuel a dangerously aggressive nationalism in a stronger and perhaps a more democratic China.

WILL CHINA REMAINS TO BE CONSERVATIVE?

China currently enjoys the best security posture since the 19th century and the highest economic growth in its long history. The rapidly growing Chinese economy is making the PRC a rising power that may rival the most powerful nations in the foreseeable future. But that much anticipated ascendance to world power status is by no means guaranteed. What China wants and will act are not exactly settled even among the Chinese themselves. China's self-image has reflected and been affected by that fact. A more powerful China is likely to further increase the self-confidence of the Chinese leaders. Primarily on the issue of human rights, China will be, or arguably have to be, different from the West for some time to come. Under the overall self-labels of "socialist market economy with Chinese characteristics" or "the primary stage of socialism with Chinese characteristics", China has shown a mixed picture of strategic intentions: one that is filled with increasing self-assurance, assertiveness, and some ambitious aspirations but also deep concerns, uncertainties, and fears. Moreover, Beijing has a peculiar but old

⁵⁴ Thomas Christensen: "Chinese Realpolitik," *Foreign Affairs*, Vol. 75, No. 5 (September/October), 1996, pp. 37–52.

mentality of political insecurity. The growth of China's capabilities has ironically enhanced Beijing's political insecurity as the West is now "compelled" to increase its scrutiny and criticism of the CCP's political system in the rising Chinese power. The political insecurity of the CCP regime has already been translated into the definition of the Chinese national interests. The rising power of China has thus shown a clear, though perhaps false, sense of insecurity. Consequently, China has only a short list of fairly transparent and limited demands centered around the CCP's political survival and a reunification with Taiwan. In his "Year 2000 Speech," Jiang Zemin outlined Beijing's diplomatic goals for the new century:

"The world is moving toward multipolarity and this is the inevitable trend of the history and the shared desire of the people of all nations. The Chinese people is willing to struggle together with the people of all nations to oppose hegemonism and power politics, to promote the multipolarization process, and to create a better future for the world. ... In the new century, ... the Chinese nation will have a great rejuvenation on the basis of the reunification of the motherland and the construction of a prosperous, strong, democratic, and civilized socialist modern country."⁵⁵

Such a peculiar and limited strategic intention is likely to sustain a rather conservative, conformist, and defensive Chinese foreign policy. The "approval" and support from the existing major powers have been viewed as a source of legitimacy to the CCP. In fact, the CCP has pinned its legitimacy and ruling ability on that effort with a wholesale slogan called "to connect to the tracks of the world" (*yu shijia jiegui*). The rapid socioeconomic and inevitably political development such as a national democratization in the PRC, however, may soon solve the political insecurity issue for China. Thus leading to a more confident and active rising power. Two external factors could also profoundly affect China's strategic intentions and moves abroad: Drastic events concerning Taiwan or enhanced

⁵⁵ *Renmin Ribao*, Beijing, January 1, 2000, p. 1.

encroaching actions by the existing major powers. Such external developments could force China to act out its persisting sense of insecurity. In either of these cases, China's self-image would predictably be highlighted and enhanced by foreign stimuli thus becoming more assertive, singular, and even twisted. China's strategic intentions, therefore, could become much more nationalistic and even dangerously militant and aggressive.

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REFORM, LEGITIMACY AND DILEMMAS

China's Politics and Society

How has China's post-Deng leadership governed the country? How have the changing social and political environments shifted the bases of political legitimacy? What strategies has Jiang Zemin adopted to cope with new circumstances in order to strengthen his leadership? What are the challenges these new reform measures have generated for the leadership? And how have domestic concerns constrained the leadership's intention in China's foreign relations? These are some of the questions which this volume attempts to address.

The authors agree that Jiang Zemin is not a man without any political initiative. He has struggled to establish his own style of leadership, and to strengthen the legitimacy of his leadership by setting forth new rules and institutions for political games and by finding new measures to cope with new challenges. This collection of articles shows the success Jiang and his colleagues have had in strengthening their leadership; how the different reform measures have strengthened Jiang's rule; and how the ongoing reform has created new challenges for his regime.