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LAW AND THE POLITICAL ECONOMY OF REPRESSION IN DENG'S CHINA

Mark M. Hager*

"Those who suppress student movements will not come to a good end."

— Mao Zedong

"The encouragement to get rich does not amount to an ideal."

— Chinese University Student, 1986

An eerie calm has settled over China. A ghastly semblance of normalcy subsists uneasily with poignant memories of recent deeds. Order has been restored, secured through violence and propaganda. What sort of order is this and what forces does it seek to keep at bay?

For weeks during the spring of 1989, the world was spellbound by the spectacle of courageous protest inside China. Then it was horrified by the ensuing violence and dismayed by the leadership's police-state crackdown and self-excusing explanations. During the course of these events, journalistic commentary attempted to assess their broader significance. This commentary, however, has frequently viewed the events through interpretive lenses which distort Western understanding rather than clarify it.

This distorted coverage of recent events is of a piece with distorted journalistic understanding of China throughout the Deng Xiaoping period. Moreover, legal scholarship, prompted by the Deng regime's ambitious construction of a new legal order, has all too frequently suffered from the same prejudices and misconceptions characterizing the journalistic record. The combined effect of these mutually-reinforcing distortions is to weave around our minds an ideological cocoon of self-congratulatory perceptions which have enormous potential for ongoing harm. The purpose of this article is to suggest, in introductory fashion, the issues and concerns that legal intellectuals should understand and explore in order to arrive at less distorted understandings of Chinese reality, its historical significance, and the West's relationship to it.

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I. CHINA DISTORTED: THE DENG PERIOD IN WESTERN COMMENTARY

The core misunderstandings of Deng's China stem from prevailing misconceptions of both capitalism and socialism. Too often those conceptions are pat and shallow, characterized by ignorance of economic facts and theory, and by inattentiveness to historical development and relationships. Cliches about capitalism and socialism, wielded uncritically as axes of social and political analysis, lie at the heart of deficient understandings of contemporary China.

Unquestionably, the leading capitalist nations of the world enjoy more democracy and higher average living standards than do the leading socialist nations.¹ One overly simplistic and erroneous conclusion commonly drawn from this fact is that capitalism must be inherently superior to socialism. This assumption, however, skews Western analysis of China's political and economic systems.²

If one starts with the assumption that socialism is inherently inferior to capitalism, one can easily conclude that China is simply wrong in trying to develop a socialist political economy. This conclusion, when combined with rigid and simplistic understandings of the nature of capitalism and socialism, creates three major intellectual distortions. First, it prevents the proper contextual evaluation and comprehension of the issues, arguments, and conflicts of socialist construction. Second, it allows for the misinterpretation of policy changes as moves toward or away from capitalism, when in fact this may not be the case. Third, it permits the labeling of those policy changes as detrimental or beneficial, by the degree to which they move away from or toward some idealized conception of capitalism.

1. See Navarro, *Historical Triumph: Capitalism or Socialism?* 41 MONTHLY REV. 37, 40-43 (1989) (comparing capitalist and socialist nations).

2. *Id.* A detailed critique of the prevailing assumption as to capitalism's inherent superiority over socialism, a conclusion drawn from the simplistic comparison of socialist countries with leading capitalist ones would include the following relevant themes: (1) capitalism's 200 year head start on socialism, a consideration which makes its apparent economic superiority over socialism unsurprising; (2) capitalism's developmental involvement with colonialism and slavery, as well as its expropriation-by-conquest of wealth and resources of militarily weaker nations, all of which cast shadows over glib assertions of capitalism's superiority in terms of productivity and democracy; (3) capitalism's current command over Third World wealth and resources and its structuring of world economic arrangements in ways often deeply harmful to Third World populations; (4) socialism's rapid successes in crude industrial development; (5) socialism's relative superiority in providing basic education and health care to the wretched of the earth, as can be observed, for example, by comparing literacy rates and life expectancy in socialist China and capitalist India, or socialist Cuba and capitalist Central America; and (6) capitalism's link, in Latin America, Africa, Asia, and the Pacific Rim, with grievously repressive, antidemocratic regimes. *Id.* at 40-42.

Despite the strong arguments against the assumption, members of the "reasoning class" in leading capitalist countries are more unanimously convinced than ever as to capitalism's inherent superiority over socialism. Soviet *perestroika* and the collapse of Eastern Europe's Party-State system only underscore entrenched and uncritical conceptions of socialism and capitalism. Failures and deficiencies in the socialist record, heinous crimes committed in the name of socialism, and illusions of stable, general affluence in the more prosperous capitalist nations fuel these convictions. The tragedy in these convictions, is their obtuseness to the fact that world capitalism has been in the throes of a desperate crisis for at least a decade—a crisis which has entailed Third World misery of enormous proportions and which has presented an ever-mounting threat to living standards and quality of life even in capitalism's privileged center. Within that center, countries that have most firmly adhered to social democratic modifications of naked capitalism—Norway, Sweden, and Austria—have best protected overall living standards during the difficult past decade.

During this same decade, some socialist regimes, searching urgently for solutions to their own serious problems, have launched new experiments with markets, with nonstate forms of enterprise, or with Western investments or loans. Western observers have hailed these moves as the sound and sensible return to capitalism. It may be true that socialist progress in the foreseeable future will entail the use of markets and the encouragement of private enterprise, especially in small-scale sectors. This does not mean, however, that pellmell marketization and privatization and integration with Western capital will bring Western-style affluence to the socialist world. Room is limited at the affluent top of capitalism's competitive and inequitable world order, and that room is already filled. Truly substantial progress for most socialist and Third World countries will require a restructuring of fundamental world economic arrangements. This cannot be expected at any time soon. In the former communist world of Eastern Europe, capitalism may perhaps be expected to bring significantly increased general affluence to East Germany and Czechoslovakia. The picture elsewhere is likely to be much more mixed.

Economic strains and hardships in the European socialist world have already sharpened in countries which have moved in the past decade toward marketization, privatization, or integration through debt with the capitalist world order: Poland, Romania, Yugoslavia, and Hungary. Socialist countries such as East Germany, Czechoslovakia, and Bulgaria, which until recently held most firmly to traditional state socialist economic strategies, managed to enhance or at least maintain general

living standards. To be sure, state socialism has engendered increasingly serious obstacles to social and economic progress. It is, however, a serious mistake to imagine that salvation lies in the simple negation of socialism and absorption into world capitalism. If quasi-capitalist methods are to become an instrument of progress in the socialist world, close, critical scrutiny is required to ensure their proper applications, and to minimize their negative effects.

For more than a decade, Western commentary has applauded Deng Xiaoping's pragmatism in leading China toward "capitalism." This commentary has frequently been simplistic in equating China's economic restructuring with capitalism. The emergence of petty private enterprise and small-scale markets, for example, is identified as capitalism. Because the re-emergence of petty private enterprise and markets have produced genuine benefits, it flatters Western vanities to designate these things capitalism so as to cast a favorable aura over our own social economy.

A more adequate analysis requires the word capitalism to be used in a more precise sense. Capitalism most usefully refers to a social economy in which private entities own most large-scale productive and financial resources, and employ nonowning wage laborers for purposes of production and profit-generation.³ It is far from certain that capitalism, so defined, will emerge from China's economic restructuring. It is even more doubtful whether such an outcome, should it indeed come to pass, would be desirable.

Within China's restructuring initiatives, virtually no significant theoretical or political support exists for the construction of capitalism as defined above. Almost no one has called for organizing the social economy on the basis of large numbers of workers, without ownership rights in productive resources, engaged in wage labor for owners with private control of such resources. Chinese policy debates occur on a spectrum which can somewhat simplistically be thought to range from traditional state socialism to what could be called "market socialism." Scrutiny of Party-sponsored economic literature published within the past decade makes it unmistakably clear that China's economic reformers view themselves as advocates of market socialism, not capitalism.⁴ Likewise,

3. See generally, K. MARX, WAGE LABOUR AND CAPITAL, THE MARX-ENGELS READER 203 (Robert Tucker ed. 1978).

4. See G. YU, CHINA'S SOCIALIST MODERNIZATION 73, 105 (1984) (stating that the growth of China's commodity economy must incorporate public ownership); S. LUI & Q. WU, CHINA'S SOCIALIST ECONOMY: AN OUTLINE HISTORY (1949-1984) 680-83 (L. Suinian & W. Qungan ed. 1986) [hereinafter CHINA'S SOCIALIST ECONOMY] (noting that China's economic growth is achievable without adopting a capitalist system).

although prominent dissidents are disillusioned with state socialism, they have by no means called for the implementation of capitalism. Dissident physicist Fang Lizhi, for example, warns that Chinese economic reform may do more harm than good unless negative capitalist features are avoided.⁵ Even though Party reformers and dissidents who support reform view capitalism negatively, full-blown capitalism could, nevertheless, emerge as an unintended result of the restructuring efforts.

Market socialism has no precise meaning, either in China or anywhere else, and could refer to a variety of different and perhaps inconsistent social-economic features. Market socialism's most salient characteristics would probably include both the replacement of detailed party-state economic planning by a system of market-based economic coordination contained within a framework of broad state planning, and the encouragement of new forms of enterprise ownership, so as to de-emphasize national state enterprise.

Within China's market socialist debates are voices calling for movement toward a truly worker-controlled socialist economy. For the foreseeable future, such an economy might entail six main elements: (1) expanding, within limits, the use of markets; (2) expanding petty private enterprise and, concomitantly, the use of small nonowning labor forces; (3) developing cooperative or collective enterprises, owned and controlled by their own work forces; (4) fostering public enterprise owned by municipalities and provinces, rather than by the national state, with meaningful management participation rights allocated to work forces and communities; (5) fostering, within limits, capitalist enterprise employing large nonowning work forces, but with management-participation rights vested in the work forces and communities; and (6) maintaining and deepening welfare-state protection for the living standards of weak and displaced people.

It is possible, though by no means probable, that China's economic restructuring will yield something like the market socialism just described. If combined with electoral democracy and expanded freedoms of speech, press, and organization, this market socialism might begin to represent what one could truly call "democratic socialism." Although democratic socialism may be a dream endorsed by most Chinese, the dream might not become reality any time soon. Whether China will actually move toward democratic socialism depends on a complex array of contending ideas, interests, and powers. A more likely scenario,

5. Fang, *The Reform That Might Not Succeed*, 21 CHINESE L. & GOV'T 59, 63-64, 66-67 (1988).

judging from current trends, is that China will move increasingly in the direction of authoritarian state capitalism, not unlike regimes recently or currently found throughout the Third World.

Western commentary, pleased with what is perhaps prematurely judged as China's turn to capitalism, frequently assumes that greater democracy will naturally emerge with the development of capitalism. Although a survey of the capitalist Third World would quickly reveal that capitalism and nondemocracy often go together, the myth persists that capitalism and democracy go hand in hand. In the case of China, this myth often takes the form of referring to the Deng reforms as a turn toward democracy or, more ambiguously, toward freedom. Due to these faulty assumptions, many Western observers, impressed by striking economic changes under Deng, have been befuddled by China's slow, or nonexistent, progress toward political democracy. Despite some flurries of democratic free speech, as in the "Democracy Wall" period during the late seventies, political freedom has shown few signs of flourishing.

The Deng regime's notorious antidemocratic actions, such as its vilification of Fang Lizhi, its imprisonment of Democracy Wall activists Wang Xizhe and Wei Jingsheng, and its general intolerance for independent political organization and action, should puzzle those who believe that capitalism and democracy rise and fall together. Because of Deng's extremely positive image in Western commentary, however, the snail's pace of democratic progress in China could only be attributed to a lingering, sinister influence of Maoist hard-liners in the Party leadership.

President Bush's words at a press conference following the Beijing bloodletting last June typified this confusion. Bush, enamored in the past with Deng's "capitalist" economic reforms, could not bring himself to admit the obvious fact that Deng stood behind the violence. Soon afterward, Henry Kissinger took the remarkable position that any picture of Deng as a "tyrant despoiling Chinese youth" was "unfair" and a "caricature."⁶ Deng cannot be a tyrant, according to Kissinger, because he clearly is the author of reforms leading China toward "market economics."⁷ Nearly blinded by ideology, Kissinger cannot bear to see that market economics and political tyranny may coexist within one state. Deng's military assault on the popular demonstrations of 1989 will perhaps drive home to other Western observers what most Chinese

6. Kissinger, *The Caricature of Deng as a Tyrant Is Unfair*, Wash. Post, Aug. 1, 1989, at A-21.

7. *Id.*

have known all too well: Deng is no friend of democracy.

Because of its distorted perceptions, Western press coverage has been unable for the most part to provide a context-sensitive rendering of the Beijing demonstrations. Much was made, for example, of the demonstrators' supposed use of Western democratic symbols, such as the Goddess of Democracy, supposedly based on the Statue of Liberty. Western media zeroed in, self-flatteringly, on these images, treating them as keys to the meaning and purpose of the demonstrations. In fact, the "Goddess of Democracy" was modelled on a famous work of revolutionary realism by Vera Mukhina, entitled "A Worker and Collective Farm Women." The work appeared atop the Soviet Pavillion at the 1937 Paris World's Fair and has long been admired in China.⁸ In addition, Goddess of Democracy resembles the White-Haired Girl of a Cultural Revolution opera.⁹ It would, of course, be very confusing to Western commentators to try to understand why a Chinese democracy movement might seize upon a symbol from the socialist revolutionary tradition.

Reports also noted, but failed to analyze, the demonstrators' use of other symbols, the significance of which cannot easily be grasped within a framework of Western preconceptions. For example, two striking features of the demonstrations were the widespread appearance of Mao images and the frequent singing of the communist anthem "Internationale." The cameras did not seek out these symbols perhaps because such symbols were less than "newsworthy" in their failure to flatter Western ideals. The print media, though they reported these symbolic developments, failed to give them meaningful analysis because they cannot be squared with the common assumption that the students' yearnings for democracy must entail a rejection of socialism. Western commentators, in their certitude that Mao was an unmitigated villain and that socialism is an outworn ideal, simply missed a crucial dimension of the demonstrations; the protesters saw themselves pursuing less the overthrow of socialism than its democratic renewal. As one activist explains:

The students and workers of China have grown up with an understanding of the benefits of a society which provides security for all and which cares for the young, the old and the sick. Socialism is their context; they know the strengths and benefits of collective organization. . . . What sort of a 'road to socialism' can

8. Tsao Hsingyuan, *The Birth of the Goddess of Democracy*, CAL. LAW., Sept. 1989, at 16.

9. *Some Questions, Some Answers About the Chinese Struggle*, 2 ECHOES FROM TIANANMEN 18, 21 (1989) (published by Friends of Chinese Minzhu) [hereinafter *Some Questions*].

be followed if the people are not free to hear contending views, to hold meetings, and to organize? Such rights are not luxuries, but the essential building blocks of socialism.¹⁰

Media failure to inquire into the meaning of Mao symbolism manifested a woeful paucity of historical perspective. By and large, the press did not even ask how Mao could represent a natural symbol of democratic aspirations.

Understanding this issue requires a familiarity with the Cultural Revolution, as well as earlier and later periods of democratic ferment in the People's Republic of China. The press has almost completely ignored the significant similarities between the 1989 dissent and key aspects of the Cultural Revolution period. The Cultural Revolution, however, received mention as an antecedent not to the dissent itself but to the current repressive crackdown on dissent. This comparison imparts a misleading and reductive historical understanding. It reinforces a distorted picture of the Cultural Revolution and thereby hampers comprehension of current and future events.

The Deng regime's polemical denunciations of the Cultural Revolution have helped solidify stereotypical Western misconceptions of that complex period. The Cultural Revolution was, of course, a tragedy of staggering magnitude. The lessons to be drawn from that calamity are not easily fathomed, however, and should be based on some detailed awareness of what triggered it and drove it forward.

Casual parallels between the Cultural Revolution and the current state repression overlook the fact that many of the Cultural Revolution's most infamous deeds were perpetrated not by the Party-State itself, but by an inflamed citizenry, outraged by both real and imagined crimes.¹¹ Such parallels also overlook the fact that the Cultural Revolution consisted of more than mere acts of repression and savagery.

In fact, the Cultural Revolution resembles in significant ways the 1989 democracy upsurge. Like the Cultural Revolution, last year's demonstrations began with student protests against Party autocracy and corruption and against the denial of democratic freedoms. As with the Cultural Revolution, last year's student protests quickly sparked the involvement of workers, discontented in their own ways with the Party regime. Also like the Cultural Revolution, last year's protests elicited popular euphoria, and tempestuous popular anger manifesting a

10. *Id.* at 21, 22.

11. For a vivid personal memoir of suffering and persecution during the Cultural Revolution, see LIANG HENG & J. SHAPIRO, *SON OF THE REVOLUTION* (1983).

potential for violence. This potential was realized on June 3, 1989, when incidents of violence against troops broke out around Beijing.¹²

Of course, parallels between the 1989 uprising and the 1966 Cultural Revolution are not exact. In 1966, Mao's wing of the Party leadership sponsored the protests; whereas last year's demonstrations appear to have first arisen without high-level Party sponsorship. It is nevertheless significant that in both 1966 and 1989 Party factions sympathetic to popular issues supported the popular upsurges of discontent and demands for democracy. Mao's efforts in 1966 to purge the Party of enemies he accused of corruption, elitism, and bad policy formulation might have gone unnoticed by history had he not managed to tap an enormous current of genuine popular discontent with the Party-State regime. The Party's General Secretary, a key leader of the faction attacked as corrupt and antidemocratic, was none other than Deng Xiaoping.

The student's use of Mao as a democratic symbol begins to make sense in this context. Although Mao's democratic impulses were, in the end, both perverted and subverted by megalomania and flawed ideas, he nevertheless voiced thoughts and launched actions which helped strengthen China's democratic yearnings and practices. Mao's ambiguous democratic role is one among a number of significant factors which must be grasped in order to understand the major forces in contemporary Chinese politics. What follows is an expanded review of key aspects in the history of the People's Republic of China, intended to further illuminate the 1989 uprising and crackdown.

II. THE POLITICAL ECONOMY OF SOCIALIST CONSTRUCTION: POLICY CONFLICTS IN CHINA

A. BACKGROUND

By the mid-1950s China had completed two main elements in its socialist agenda: the nationalization of industrial enterprise and the equitable redistribution of agrarian land from feudal landlords to peasants. Gratifying gains in China's economic productivity accompanied these reforms. Dissatisfactions and discontentments were not far to seek, however, even though life for most Chinese was better than it had ever been before. Certainly there existed little in the way of political freedom and democracy. There were, moreover, a variety of economic

12. See Shi, *What Has Happened in Beijing?*, BEIJING REV., June 26, 1989, at 1, 15 (detailing the events surrounding the student protests).

problems and a host of ideas on how best to address them.

It is commonplace to note Marx's significant error in predicting that socialism would first come to power within the bosom of the advanced capitalist world. Marx imagined socialism would simply succeed to the high economic productivity attained by capitalism and to the limited democratic political forms arising in his time alongside it. Socialism would then consolidate and expand upon that economic productivity and political democracy. Historically, however, socialist regimes have come to power in backward parts of the globe, where both capitalism's productive prowess and its structures of political democracy have been absent. Socialism has therefore faced problems Marx never imagined, such as the need simultaneously to develop forces of production, to attend to socialism's egalitarian and communitarian ideals, and perhaps to attempt to construct democratic institutions. Chinese socialism has been especially rich in divergent and conflicting approaches to achieving these not-easily-reconcilable goals.

B. THE HUNDRED FLOWERS

High Party leaders first differed visibly amongst themselves over plans to launch what became known as the Hundred Flowers campaign.¹³ At the Eighth Party Congress in late 1956, and on into the following year, Party leaders weighed a variety of ideas on how the Party could improve its performance. One key step was to reassert the principle of collective Party leadership, as opposed to the emerging tendency to treat Mao as supreme leader. This frustrated Mao, who had begun to view himself as the pure embodiment of the people's interests and virtues. The Party debates coincided with a wave of strikes and demonstrations, which manifested popular dissatisfaction.¹⁴ What emerged from the Eighth Party Congress was a program, endorsed by Mao, to solicit and encourage popular criticism, debate, and discussion of Party policies. Mao advocated greater freedom of action for non-Communist political parties and also called for dissent from and discussion about Party leaders and policies.¹⁵ At one point, Mao suggested that non-Party newspapers be launched to compete with the official press.¹⁶ This program, known as the Hundred Flowers campaign, takes its name from Mao's exhortation to "let one hundred flowers bloom

13. B. BRUGGER, *CHINA: LIBERALIZATION AND TRANSFORMATION 1942-1962* 158 (1981).

14. *See id.* at 125 (noting discontent among peasants).

15. MacFarquhar, *Problems of Liberalization and the Succession at the Eighth Party Congress*, 56 *CHINA Q.* 618-19 (1973).

16. B. BRUGGER, *supra* note 13, at 158.

and one hundred schools of thought contend.”

In launching the Hundred Flowers, Mao sought to engage non-Party persons in dialogue and participation concerning problems in socialist construction.¹⁷ He seems to have imagined that outside criticism would improve Party understanding and performance, while dialogue and participation would stimulate popular interest and engagement, which, in turn, would help the Party solve socialist problems.¹⁸ The main Party leadership viewed Mao's program with deep skepticism because it called for criticism and discussion of Party performance from voices outside the Party itself.¹⁹ If debate and criticism were indeed necessary, most Party administrators seemed to think it better to confine the campaign within the Party.²⁰ Deng, endorsed Mao's position on this issue, unlike other high Party administrators, who opposed it.²¹ In light of subsequent events, the strength of Deng's conviction on these issues is questionable. Deng's support for Mao came in the context of Deng's major promotion—at Mao's behest—to the crucial post of Party general secretary.²² Yet, it is possible that Deng earnestly supported Mao's position only to repudiate it, and the philosophy behind it, as events and his own views developed.

Mao's Hundred Flowers exhortation elicited a veritable torrent of dissent and criticism in late 1956 and early 1957.²³ Like later major episodes of dissent—the early Cultural Revolution and the 1989 democracy upsurge—the Hundred Flowers ferment broke out first among students in Beijing, then spread like wildfire.²⁴ The high Party leadership, which by and large had opposed the campaign in the first place, soon shut it down and initiated investigation and punishment of many who had voiced their dissent.²⁵ Deng led this inquisition.²⁶ Mao lent embar-

17. M. BLECHER, *CHINA: POLITICS, ECONOMICS AND SOCIETY: ICONOCLASM AND INNOVATION IN A REVOLUTIONARY SOCIALIST COUNTRY* 65-66 (1986).

18. R. SOLOMON, *MAO'S REVOLUTION AND THE CHINESE POLITICAL CULTURE* 272, 295-96 (1971).

19. H. HARDING, *ORGANIZING CHINA: THE PROBLEM OF BUREAUCRACY 1949-1976* 127 (1981); see M. BLECHER, *supra* note 17, at 65-66 (noting that many Party members wanted to restrict the Hundred Flowers movement as much as possible).

20. MacFarquhar, *supra* note 15, at 617, 618-19.

21. H. HARDING, *supra* note 19, at 128; see MacFarquhar, *supra* note 15, at 636, 638 (quoting Teng Hsiao-p'ing from the Eighth National Congress of the Communist Party of China).

22. MacFarquhar, *supra* note 15, at 640-46.

23. H. HARDING, *supra* note 19, at 134, 144.

24. *Id.* at 144.

25. Pye, *Book Reviews*, 88 *CHINA Q.* 696 (1981) (reviewing H. LEE, *THE POLITICS OF THE CHINESE CULTURAL REVOLUTION: A CASE STUDY* (1978) and N. DAS, *CHINA'S HUNDRED WEEDS: A STUDY OF THE ANTI-RIGHTIST CAMPAIGN IN CHINA* (1957-58)).

26. *Id.*

rassed support to this effort while trying to restrict its scope and also advance the implausible claim that smoking out dangerous "rightists" had always been a goal of the Hundred Flowers.²⁷ The crackdown following the Hundred Flowers soon broadened into a major pogrom, known as the Anti-Rightist Campaign, in which the Party sought to purge China of "counterrevolutionary" influences.²⁸ Those persecuted for either their ideas or their relations to former landlord or capitalist classes actually posed no serious counterrevolutionary threat and frequently were dedicated socialists.²⁹

In the wake of the Hundred Flowers, the divergent stances of Mao and Deng revealed much of the future pattern of their differences on problems of socialist construction. Mao stressed the benefits of the dissent campaign in soliciting salutary criticism and participation.³⁰ After the removal of dangerous "rightists," he advocated a revival and extension of the campaign to promote non-Party criticism.³¹ Mao sought to lend permanent legitimacy to the populist ferment of the Hundred Flowers, praising its characteristic activities of "speaking out freely, airing views fully, holding great debates, and writing big character posters." He portrayed these activities, which came to be known as the "Four Big Freedoms," as democratic, revolutionary methods, needed as supplements and corrections to Party action and tutelage.

Mao's views stood no chance of prevailing with chief Party administrators, who were furious with Mao for ignoring their advice against launching the Hundred Flowers.³² In the interests of preserving order and stability, these administrators killed proposals for reviving or institutionalizing a prodissent policy.³³ Instead, as Deng proposed, the Party launched a different type of campaign which came to be known as a "socialist education" campaign.³⁴ The purpose of this new campaign was not so much to encourage outsiders to criticize the Party, but rather to utilize the Party to correct supposedly erroneous habits and attitudes among the populace.³⁵ The new program did not encourage criticism of Party officials, except among direct subordinates. These so-

27. Bridgham, *Mao's "Cultural Revolution": Origin and Development*, 29 CHINA Q. 1, 5 (1967).

28. W. RODZINSKI, *THE PEOPLE'S REPUBLIC OF CHINA: A CONCISE POLITICAL HISTORY* 53-54 (1988).

29. *Id.*

30. H. HARDING, *supra* note 19, at 153-55.

31. *Id.*

32. Ito & Shibata, *The Dilemma of Mao Tse-tung*, 35 CHINA Q. 58, 61 (1968).

33. H. HARDING, *supra* note 19, at 154-55.

34. *Id.* at 155-58.

35. *Id.*

cialist education campaigns became a major component of Party policy during the early sixties.³⁶

Mao viewed with contempt the Party's step away from popular criticism. He began to criticize the Party as a new aristocracy, timorous in the face of dissent and insulated from popular concerns, arrogantly protecting its own interests and assuming without question the correctness of its policies. Increasingly alarmed and desperate over these trends, Mao began to contemplate more drastic and grandiose remedies. This led him ultimately to launch the Cultural Revolution.

The Hundred Flowers interlude and its aftermath gave rise to circumstances in which both Mao and his Party antagonists deemed it expedient to cultivate the Mao personality cult. Although popular reverence for Mao had always been high in post-revolutionary China, by the late fifties it had not yet reached the hysterical proportions it later attained. Party leaders, however, had laid a good deal of the ground work for the full-blown personality cult of the middle and late sixties. Shaken by the depth of anti-Party feeling and general discontent revealed during the Hundred Flowers period the Party sought to buttress its public stature by cloaking itself in the myth of the all-wise Great Helmsman.³⁷ It is not difficult to see how this posed a threat to the principle of collective leadership within the Party.³⁸ Meanwhile, Mao used the personality cult as a weapon to muster strength for the assault he planned to stage against the fortress of Party elitism and bureaucracy. Mao viewed the cult of his own persona as positive in its own right, because he believed he embodied the pure, fervent, anticomplicit and antihierarchical spirit of true revolution. The Cultural Revolution would witness the ironic spectacle of radical and thoroughgoing anti-authoritarian rebellion, waged in the name of one whose own authority could never dare be questioned.

C. THE GREAT LEAP

Following the Hundred Flowers/Anti-Rightist period came the episode in 1958-59 known as the "Great Leap Forward." The Great Leap

36. See Neuhauser, *The Chinese Communist Party in the 1960's: Prelude to the Cultural Revolution*, 32 CHINA Q. 3, 19-20 (1967) (discussing the significance of the socialist education campaign); see also Baum, *Revolution and Reaction in the Chinese Countryside: The Socialist Education Movement in Cultural Revolutionary Perspective*, 38 CHINA Q. 92 (1969) (discussing the socialist education movement in conjunction with the Cultural Revolution).

37. Bridgham, *supra* note 27, at 6.

38. See Bridgham, *supra* note 27, at 6 (discussing the struggle within the Communist party); Neuhauser, *supra* note 36, at 28-29 (discussing reaction to criticism of Mao's Great Leap policies).

was followed by a period of severe privation known as the "Three Hard Years," which prompted the implementation of a series of policies designed to correct those of the Great Leap.³⁹ Much of the wealth of writing on the Great Leap is obfuscating.⁴⁰ The period is worth discussing, at least in modest detail, because it sheds some light on the economic policy initiatives of the Deng era.

The Great Leap can best be conceptualized as an ambitious attempt to achieve the twin goals of egalitarian community and higher productivity.⁴¹ It entailed three chief policy components: (1) accelerated collectivization of agrarian ownership and production, (2) decentralization of industrial decision-making in favor of provincial and local public control, and (3) creation of a small-scale rural industry system, woven tightly into the pattern of agrarian development.

In China, as well as in the West, the Great Leap has widely been interpreted as a disastrous failure, costing millions of lives through famine and setting Chinese development back enormously.⁴² The current Chinese leadership commonly cites the supposed disaster of the Great Leap to justify the decollectivization and family-farm policy of the Deng era.⁴³

The Great Leap's industrial decentralization initiative was an attempt to alleviate the excesses of central bureaucratic control of an in-

39. See generally, H. HARDING, *supra* note 19, at 153-94 (providing historical background to the Great Leap Forward); W. RODZINSKI, *supra* note 28, at 55-116 (discussing the period known as the Great Leap).

40. See H. HARDING, *supra* note 19, at 153-94 (providing historical background to the Great Leap Forward); W. RODZINSKI, *supra* note 28, at 55-116 (discussing the Great Leap period); M. BLECHER, *supra* note 17, at 69-74 (providing a historical analysis of the Great Leap). These sources, taken together, convey a fairly well-balanced picture of the Great Leap.

41. H. HARDING, *supra* note 19, at 168.

42. W. RODZINSKI, *supra* note 28, at 77-78.

43. *Id.* at 78. A detailed exploration of the controversies surrounding assessments of the Great Leap is too complex an endeavor to attempt here. A series of cliché-confounding theses about the Great Leap, designed to help forestall oversimplified assessments of recent Chinese policies might, however, be helpful. The theses are that: (1) the Great Leap's basic developmental strategy was sound, H. HARDING, *supra* note 19, at 178; (2) rural industrialization was in some key respects badly-executed, yielding a mixture of good and bad results, M. BLECHER, *supra* note 17, at 74; see also Orleans, *Problems of Manpower Absorption in Rural China*, 7 CHINA Q. 57, 65 (1961) (discussing the problems of rural industrialization programs); Riskin, *Small Industry and the Chinese Model of Development*, 46 CHINA Q. 245, 262 (1971) (citing some of the problems with the implementation of the Great Leap's rural industrial policies); (3) overly hasty pursuit of agrarian collectivization also yielded mixed results, H. HARDING, *supra* note 19, at 179 n.92; (4) communal agriculture may have prevented more famine than it caused, M. BLECHER, *supra* note 17, at 73; and (5) to the extent communal agriculture did cause famine, this stemmed from the manner of its execution rather than from its inherent deficiencies. H. HARDING, *supra* note 19, at 178.

creasingly complex industrial system. Many Chinese leaders understood as well as their Western critics the inefficiencies of over-centralized control in the economy.⁴⁴ Conceptually, only two alternatives existed: the use of markets or some sort of decentralized economic planning system. Because Chinese leaders understood the pitfalls of market economies better than their Western critics they opted to begin developing a decentralized planning system. Industrial control was devolved downward to provinces and localities and included schemes for management-participation by work forces.⁴⁵ These policies soon encountered serious difficulties, chiefly because they made it more difficult for the center to maintain a coherent overall investment policy and to coordinate the disparate components of the economy.⁴⁶ Such difficulties eventually prompted a move back toward centralized planning as the Party abandoned Great Leap policies.⁴⁷

In contrast with the Great Leap, the Deng era's response to bureaucratic over-centralization has been marketization. This response could turn out to yield substantial, positive results, though it will also certainly yield negative ones. The effectiveness of the government in foreseeing and forestalling these detrimental effects could well determine whether this policy will be, on balance, positive or negative. If in the near future China manages to avoid becoming ensnared by the myths and elite economic interests of full-blown capitalism, it might soon see wisdom in the Great Leap strategy⁴⁸ and attempt to launch a new and improved initiative toward decentralized planning. Some sort of decentralized planning is essential in order for socialism to realize goals of both efficiency and egalitarian democratic community. Moreover, intricate combinations of central planning, decentralized planning, and markets may be necessary so that the strengths of each component can offset the weaknesses of the others.

The Great Leap's rural industrialization initiative embodied a sound developmental insight. Utilizing small-scale technologies, local industry could absorb surplus labor which is endemic to backward agriculture and tends to be aggravated by rural collectivization as it displaces la-

44. H. HARDING, *supra* note 19, at 177.

45. *Id.* at 180-81.

46. *Id.* at 181-82.

47. See Li, *China's Industrial Development 1958-63*, 17 CHINA Q. 3, 3 (1964) (tracing the course and development of the First Five-Year Plan of economic development); see also, Donnithorne, *China's Economic Planning and Industry*, 17 CHINA Q. 111, 120 (1964) (stating that during the Great Leap, the government placed greater focus on quantity and value of goods rather than on variety and cost).

48. See M. BLECHER, *supra* note 17, at 74 (identifying the benefits of the Great Leap policies).

bor-intensive techniques of cultivation. Industrial utilization of such labor could produce both production goods (e.g., tools, seeds, and fertilizer) and consumption goods (e.g., clothing and furniture) for the rural sector. In fact, the Great Leap and subsequent rural industrial efforts have proven to be greatly useful in expanding the rural economy.⁴⁹

The Great Leap, however, did yield one huge fiasco—the so-called “backyard steel furnaces” which sprang up everywhere in a hastily-contrived misapplication of the basic theory of rural industrialization.⁵⁰ Mao perversely imagined that small steel factories could be constructed in locales across China through a vast mobilization of popular work effort. The plan was expected to vault China to a high level of industrial prosperity in the space of a decade.⁵¹ Mao’s charisma energized an enormous drive to carry out this misguided vision. The effort placed a huge drain on physical and human resources to the detriment of more feasible and worthwhile tasks, including the crucial one of maintaining and expanding agricultural production.⁵² Critics have erroneously used the futility and waste of the backyard steel furnace campaign to discredit the notion of rural industrialization.⁵³ The Deng regime has ridiculed the Great Leap while anecdotally buttressing its criticism with the backyard steel furnace episode to argue that there is no alternative to current Dengist policies.

The Great Leap’s rural collectivization initiative, however, must be viewed in the context of Chinese revolutionary land policy prior to the Great Leap.⁵⁴ Chinese Communism’s most positive accomplishment—except perhaps for its still-incomplete liberation of women from feudal constraints—was the abolition of feudal land tenure when the Party came to power. Vastly inequitable feudal land ownership had kept China’s downtrodden peasantry on the brink of starvation for centuries.⁵⁵ As the Party came to power it implemented far reaching land

49. See Riskin, *supra* note 43, at 262 (noting some advantages of rural industrialization); see also, Sigurdson, *Rural Industry—A Traveller’s View*, 50 CHINA Q. 315 (1972) (describing rural Chinese industrialization); M. BLECHER, *supra* note 17, at 74 (citing positive elements of rural industrial development); H. HARDING, *supra* note 19, at 178-79 (describing positive aspects of rural industrial development).

50. H. HARDING, *supra* note 19, at 180; see also Orleans, *supra* note 43, at 64-65 (describing the “backyard furnace” program).

51. CHINA’S SOCIALIST ECONOMY, *supra* note 4, at 260-62.

52. See Orleans, *supra* note 43, at 66 (discussing the drain placed on manpower with the implementation of the Great Leap’s policies).

53. *Id.* at 65.

54. CHINA’S SOCIALIST ECONOMY, *supra* note 4, at 5-16 (describing feudal society in China prior to the founding of the People’s Republic of China).

55. See W. HINTON, *FANSHEN: A DOCUMENTARY OF REVOLUTION IN A CHINESE VILLAGE* 17-45 (1966) (providing a classic account of the plight of China’s feudal peasantry).

reform, a task previous modern Chinese governments had lacked the strength or commitment to carry out.⁵⁶ Land reform divided China's agrarian resources amongst the rural inhabitants, thus instituting a system of private ownership and family farming under which previously exploited peasants could retain the fruits of their own labors.

A system of pure private farming is not, however, the way to agrarian prosperity, nor to equality. By working tiny, separate plots with intensive labor, peasants cannot take sufficient advantage of farm tools and machinery, which are too expensive for most families to purchase and which are efficient only when used on land plots of adequate size.⁵⁷ Moreover, intensive family farming leaves too little labor and insufficient pools of organized capital for non-farm tasks and investment projects aimed at improving general prosperity, such as education, irrigation and conservation, product marketing, and rural industrialization.

Pure family farming, as many Chinese recognized, may also threaten long-run prospects for equality. Wealth disparities inevitably begin to appear, springing from the differential effects of numerous factors: weather and natural adversity, accidents and illness, proximity to landscape advantages and commercial opportunities, harder work, superior literacy, and so on. Once in place, such disparities tend to become self-magnifying. Wealthier families can better capitalize on opportunities and avoid adversities. They can pursue education, buy superior tools, and use their wealth to acquire land and other productive resources from crisis-pressed neighbors. They can lend money at interest, taking the productive assets of the debtor to secure against defaults. Superior tools and consolidated private land-holdings allow them to take advantage of more advanced and efficient farming techniques. Soon, a new class system, based on unequal ownership of productive resources, can easily emerge, with a wealth-holding class well positioned to exploit the underpaid labor of penurious, perhaps even landless, peasants. It is precisely this scenario that the highly praised Dengist family-farming system has begun to create.

The approach taken by China during the early fifties was to forestall such developments by moving toward a cooperative form of agrarian production.⁵⁸ The strategy—sometimes implemented voluntarily by peasants and sometimes under Party tutelage or force—was to organize collaborative production units, allowing the work to become progres-

56. CHINA'S SOCIALIST ECONOMY, *supra* note 4, at 12-13.

57. M. BLECHER, *supra* note 17, at 64.

58. *Id.* at 61.

sively better organized, mechanized, and diversified.⁵⁹ As the cooperative strategy developed, work teams, using appropriately-advanced tools and machinery, began cultivating consolidated land plots and sharing the proceeds with the work team families.⁶⁰ The work teams collectively purchased some tools, work animals, and machinery, while others remained privately owned. Land ownership remained in private hands, but work on some of that land employed pooled labor and implements, while the remaining land continued to be worked privately. Communally-produced income was distributed according to formulas which weighted in various ways the amounts of land, implements, and labor contributed by each family to the communal product. The work teams did retain some cash in cooperative pools, to be used for investment purposes. Furthermore, work team organization allowed the release of labor power for education, infrastructure projects, industrialization, and so on.

Cooperative production of this sort can be distinguished conceptually from collectivization, which involves the thorough communizing of resource ownership and income. When compared with co-operatives, collectives have certain advantages and certain disadvantages. The advantages of collectives may include superior equality; the possibility of larger-scale organization, which allows for higher levels of mechanization; and the increasing release of labor for diversified undertakings, including industrial ones. Disadvantages can include the excessive flattening out of work incentives to the point where productivity may actually decline.

Large-scale farming and its concomitant technical efficiencies can be achieved either through collectivization or through the evolution of a private-ownership farming system. The private ownership approach almost inevitably entails the spiral of negative effects outlined above. Certain vices of collective agriculture may not appear so distasteful in light of the consequences of private ownership.

Chinese policy during the middle fifties weighed these advantages and disadvantages and plotted a course of gradual transitions from private farming through cooperativization toward fuller forms of collectivization.⁶¹ This program differed sharply from the Soviet Union's forced collectivization during the thirties.⁶² Chinese leaders imagined that the advantages of fuller communalization would best be understood, and

59. CHINA'S SOCIALIST ECONOMY, *supra* note 4, at 129-33.

60. *Id.* at 130.

61. M. BLECHER, *supra* note 17, at 73-76.

62. *Id.* at 57.

the sapping of incentives best avoided, by encouraging peasants, through heightened understanding, to reorganize their productive lives at their own pace. In fact, this policy of gradualism probably worked relatively well. Throughout the early and middle fifties, productivity rose steadily along with the progressive organization of work team cooperatives and higher forms of communal ownership and production.⁶³

Mao, however, was impatient to see faster progress in both production and communal organization. He applauded in the late fifties when zealous mid-level and low-level Party officials began to organize the countryside into large-scale collectives called "People's Communes." This campaign was unpopular with much of the peasantry and met resistance. The Great Leap collectivization did not, however, involve the violent liquidations which accompanied Soviet collectivization.⁶⁴

The Great Leap's hasty and forced collectivization may well have been a mistake. The pre-Leap strategy of gradual communization, flexibly supplemented by private family farming, was quite possibly the soundest available policy. It is by no means true, however, that cooperative and collective agriculture were uniform failures. Tangible benefits have included technologically efficient farming, rural industrialization and economic diversification, development of crucial infrastructure, including roads, schools, and irrigation facilities; and collective protection against catastrophic drops in living standards. Additionally, the social and spiritual benefits of a life lived with at least some measure of genuine egalitarian community have been realized.

If the Great Leap's rapid collectivization was a mistake, the Deng era's wholesale dismantling of communal agriculture in favor of family farming may also be a mistake. Many blame the Great Leap's forced collectivization for the terrible famine China endured during 1959-1961.⁶⁵ The point is much controverted and cannot be resolved or even seriously addressed here. There are several reasons, however, to entertain skepticism toward the glib equation that Great Leap collectivization equals famine.

First, the years in question were ones of particularly severe droughts, typhoons, and floods throughout China. These natural disasters caused serious production setbacks and certainly played a major and perhaps predominant role in producing the famine.⁶⁶ Such famines due to ad-

63. *Id.* at 72.

64. *Id.* at 57.

65. For a more balanced view, discussing collectivization problems as one of several factors contributing to the shortcomings of the Great Leap, see W. RODZINSKI, *supra* note 28, at 64-80.

66. *Id.*; see also Watt, *The Effect of Transportation on Famine Prevention*, 6

verse weather are nothing new to China.⁶⁷ Some commentators have suggested that the weather-induced famine of the Three Hard Years would have actually been worse had there been no agrarian communes to shelter the weak against starvation.⁶⁸

Second, a substantial portion of the Great Leap's production setbacks may have stemmed not from the inherent deficiencies of collective agriculture, but from misfires in planning and resource allocation due to statistical over-reporting in the enthusiastic early months of the Great Leap.⁶⁹

Third, production setbacks also stemmed from resource misallocation for preposterous schemes like the backyard steel furnaces and from the over-allocation of labor to massive infrastructure projects with consequent neglect of basic agriculture.⁷⁰ Again, these errors have nothing to do with the inherent efficiency or inefficiency of collective agriculture. Though collective agriculture may indeed have suffered from inefficiencies, the actual scope of such short-comings cannot be assessed without carefully sorting variables. The same is true, in reverse, about Deng-era claims as to the superior efficiencies of family farming. At present, the Deng regime itself is reassessing overly optimistic early claims about the family-farm system.

In the wake of the Great Leap, Party leaders sought to ameliorate communal agriculture's inefficiencies by reverting to a kind of pre-Leap strategy. The People's Communes were reduced in size and work organization was devolved onto smaller units, where production incentives could be applied more precisely. The government instituted programs to revive rural markets and small-scale private enterprises.⁷¹ In addition, family farming was significantly revived, especially the areas of nonstaple production such as vegetable-raising and animal-husbandry. Work team cooperatives, however, retained a significant role in produc-

CHINA Q. 76, 76 (1961) (blaming the famine on these natural events).

67. M. BLECHER, *supra* note 17, at 76.

68. *Id.* at 73.

69. See W. RODZINSKI, *supra* note 28, at 65-66 (stating that over-projections in output made by government planners led to the subsequent falsification of actual output by production managers). Reports of greatly increased yields caused a mistaken "distribut[ion] according to need." *Id.* at 66.

70. See Orleans, *supra* note 43, at 65-66 (asserting that a large number of people moved from working in agriculture to the back-yard steel producing effort). This reallocation of workers led to a scarcity of food which continued for years. *Id.* at 66; see also W. RODZINSKI, *supra* note 28, at 64-65 (describing the labor shortage created by the reassignment of over 70 million people to steel producing and water conservation efforts).

71. See L. GUIKAI, A BRIEF HISTORY OF THE CULTURAL REVOLUTION 113 n.6 (1987) (stating that along with the reforms came output quotas and that despite the success of the reforms, Mao opposed them).

tion and ownership of tools and farm animals. Productivity resumed its gradual course of improvement.⁷²

All of this was done without the radical dismantling of communal agriculture characteristic of the Deng regime. Collective ownership of land, major implements, and work animals was by-and-large retained. The communes in many locales continued to organize and manage collective infrastructure projects, rural industry, and education, though in some areas such activity lapsed quite seriously.⁷³ During the Cultural Revolution period of the late sixties and early seventies, the Chinese greatly stressed improving rural medical care,⁷⁴ resulting in the construction of numerous rural clinics and the training of many thousands of paramedic "barefoot doctors."⁷⁵ By the mid-seventies, China's progress in rural health care and education was remarkable when compared with other countries in similar economic situations.⁷⁶ Despite all this, many Chinese remained dissatisfied with the pace of rural progress. In the late seventies such dissatisfaction led the Party to initiate a drastically different agrarian strategy.⁷⁷

D. THE CULTURAL REVOLUTION

By the early 1960s, divergent tendencies first dramatized during the Hundred Flowers interlude had hardened, so that two broadly distinct schools of thought on socialist construction existed within the Party. One school, with Deng as a primary advocate, adhered to what could be called a "productivist" orientation. This productivist school stressed the most rapid possible build-up of productive prowess, through the development of hierarchical discipline and technocratic managerial expertise. Its priority in the construction of socialism was the pursuit of abundance. The other school, with Mao as its point man, maintained

72. See Robinson, *The 1962 Harvest*, 13 CHINA Q. 254, 254 (1963) (describing increases of 8-10% in grain production). Yet, after the starvation levels of output of preceding years, China still had a long way to go to become self-sufficient. *Id.*

73. M. BLECHER, *supra* note 17, at 76-77.

74. See CHINESE RURAL DEVELOPMENT: THE GREAT TRANSFORMATION 5 (W. Parish ed. 1985) [hereinafter CHINESE RURAL DEVELOPMENT] (noting the increase in medical personnel and hospital space).

75. *Id.* at 5-8 (describing the increase in the number of traditionally trained medical personnel and paramedics, while the number of Western trained doctors changed little).

76. *Id.* at 8; see also D. JAMISON, CHINA: THE HEALTH SECTOR 91 (1984) (indicating that 80% of China's population has a life expectancy within six years of that in Western countries).

77. See CHINESE RURAL DEVELOPMENT, *supra* note 74, at 8 (describing the slow pace of increase in production of some foods and shortages of others leading to major changes by the Party).

what could be called a "radical democracy" orientation. Mao's school stressed the need for expanding popular political power, through participatory mass action and criticism of leaders. Its priority in socialist construction was the curtailment of subjugation. As will be discussed, Mao ultimately supported democratic ideals only to the extent that the practices checked beauracatic abuses within an all-powerful Party structure.

Both schools could lay claim to a superior Marxist foundation. The productivist school stressed Marx's notion that skewed private ownership of productive wealth provides the definitive instrument of social domination. Once social ownership replaces feudal and capitalist ownership the economic foundation for systematic social domination is presumptively gone. Therefore, the new social hierarchies of "socialism" are not a subject for serious worry. Such hierarchies are crucial to the efficient, rapid amassment of productive forces, and because they have no economic foundation in class-based private ownership, such hierarchies can be expected to disappear by natural dissolution once a condition of socialist abundance is reached. Before this abundance is attained, challenges to the Party's technocratic guidance which prematurely attempt to abolish all hierarchy, can only hamper the pace of socialist development. Such efforts are "counterrevolutionary."

The radical democracy school focused on Marx's notion of class struggle as the crucial mechanism of positive historical change. This school viewed skeptically the notion that class-based domination could not exist without private ownership of the means of production. Even under conditions of social ownership, domination and exploitation could emerge and perpetuate themselves through the pursuit of self-interest by arrogant elites, complacently self-assured that public well-being required their own positions of power and privilege. The solution to this domination and exploitation lies in revolution, directed at the new class domination embodied in Party elites themselves. The overthrow of class-based private ownership had been crucial, of course, but only as a first step in the ongoing socialist revolution against power and privilege. To stand in the way of this process, according to the radical democracy school, was "counterrevolutionary."

It was Mao's radical democracy, more and more implacably held, which launched the Cultural Revolution. The Hundred Flowers had been too tepid, too easily squelched by Party bureaucrats who had lost stomach for revolution and had instead further entrenched a new hierarchical order. Mao could imagine no remedy other than the mobilization of mass discontent, to criticize, undermine, and even overthrow the power of corrupt Party elites, replacing it with popular democracy. He

called for workers and peasants to use wall posters and the other "Big Freedoms" to criticize Party authority.⁷⁸ Mao's promptings to criticize soon managed to tap an enormous current of popular discontent.⁷⁹ The people directed much of this discontent at autocratic Party rule, both nationally and at the local levels. The violence of the ensuing attacks on constituted authority, much of it misplaced, hysterical, and brutal, was soon met with equivalent counter-violence by those attacked. In addition, as the petty slights and resentments of daily life surfaced to be fought out in the open, Mao's license to take up grievances and challenge authority in the name of *révolution* loosed a maelstrom of quarrels, feuds, vendettas, denunciations, power-plays, and cruelties within Chinese society. Deadly armed fighting broke out in many settings.

Hence, the social chaos and struggles of the 1966-1968 period were complex. There were at least three major components, conceptually distinguishable, though often interwoven in the fabric of actual events. First, there were strategically rational efforts to rebuke and democratize abusive power structures, efforts which were correspondingly resisted by strategic efforts among those who held power or feared chaos to maintain existing structures. Second, there were efforts along the same lines which were not strategic and rational, but were instead exaggerated and hysterical. Third, there were vicious petty intrigues and wars, fueled by commonplace social antagonisms, but bearing little true relationship to the shaping or reshaping of significant institutions. In this overheated atmosphere, persecuting others as counterrevolutionary sometimes became necessary in self-defense against persecution; anyone not busy ferreting out "rightists" could fall under suspicion of being a rightist herself.

To adherents of the productivist school, this frenzy could be blamed entirely on a wantonly mistaken theory of socialist construction and revolution. In socialism's postfeudal, postcapitalist regime, revolution could produce nothing but disorder and decay because, according to Marxist social science, there was no private-ownership class against which to stage revolution. Therefore, efforts to revolutionize could produce at best, chaos, at worst, counterrevolution.

Within the radical democracy school, the situation appeared quite otherwise. No revolution, it was thought, could succeed without a great deal of turbulence and without some measure of undeserved suffering.

78. Baum, *supra* note 36 at 99.

79. *See id.* (characterizing the popular response to Mao's encouragement to criticize the Party as energetic, excessive, and unprincipled).

In this light, the depth of the ongoing turbulence could be taken as an index of the existing order's true reactionary character and of the population's ripeness for ongoing revolution.

In fact, there were soon signs of significant, though rudimentary, democratic developments. By late 1966, one half year after the launching of the Cultural Revolution, popular political discussion and action was springing well beyond the bounds of high-level sponsorship by Mao's Party supporters. Wall-posters critical of government and Party institutions and leaders appeared everywhere.⁸⁰ The wall posters covered a wide variety of topics and exhibited a wide diversity of elating views. Conflicting placards sometimes appeared side by side.⁸¹ Although much of this democratic ferment was incoherent, there was, nevertheless, a level of popular political freedom—freedom both to speak and to act—unmatched during any other period of Chinese history, either before or since. Political organizations sprang up like bamboo shoots and small independent newspapers deluged the populace with political commentary.⁸² These activities deepened popular understanding of politics and institutions, and revealed scandalous official abuses.

Moreover, the most disadvantaged segments of China's work force—apprentices, and contract and temporary workers—began to protest against political disfranchisement and low-living standards.⁸³ Maoist elements vilified Deng's Party cohort for following policies leading to the "political oppression and exploitation" of such workers.⁸⁴ At the same time, many more advantaged workers and much of China's official trade union structure defended managerial authorities and Party bureaucrats against what they perceived as a dangerous and pointless onslaught.⁸⁵

By 1967, activist groups known as "Revolutionary Rebels" began to seize power in work places and other low-level institutions. More loosely-organized strikes and work-place-democracy initiatives also

80. Bridgham, *supra* note 27, at 32; see also Khan, *Class Struggle in Yellow Sandhill Commune*, 51 CHINA Q. 535, 539 (1972) (describing growth and encouragement in the use of wall posters to criticize individuals and the Party, as well as for self-criticism).

81. Ito & Shibata, *supra* note 32, at 71.

82. See generally G. LUI, A BRIEF ANALYSIS OF THE CULTURAL REVOLUTION (1987) (containing a thoughtful memoir and analysis of this period written from the perspective of an activist).

83. Bridgham, *Mao's Cultural Revolution in 1967: The Struggle to Seize Power*, 34 CHINA Q. 6, 9 (1968) [hereinafter *Struggle to Seize Power*].

84. *Id.*

85. Harper, *The Party and the Unions in Communist China*, 37 CHINA Q. 84, 115 (1969).

broke out. Before long, Revolutionary Rebel organizations actually seized the reins of government in Shanghai, and several other cities, in what became known as the "January Revolution." Inspired by the Paris Commune of 1871, they proclaimed "People's Communes" as the new form of municipal government to replace jettisoned Party organs.⁸⁶ There was much talk of operating these Communes by democratic elections with office-holding shared by nonParty persons.⁸⁷

The new Communes quickly discovered the difficulties of governing without the expertise and experience of the ousted Party officials. Moreover, large sectors of the work force opposed the new power structures and refused allegiance to them. Meanwhile, Mao himself shied from endorsing the Communes as a new governmental form. Although he unrelentingly condemned Party shortcomings, Mao could not imagine socialism thriving without Party leadership and perhaps without his own personal guidance. To jettison the Party was unthinkable, as was letting nonParty organizations exercise significant power. The Maoist commitment to radical democracy turned out to be no stronger than that which could be reconciled with a firm grip on power by Mao's Party cohort. There could be no radical democracy without leadership from the Party. The Cultural Revolution's purpose was to purge, purify, and correct the Party, not to transcend it.

Hence, Mao moved quickly to displace the Communes as the new government model. He imposed instead the so-called "three-way alliance to seize power," also known as "Revolutionary Committees," based on coalitions between the revolutionary organizations and the old Party officials, with the Army as a stabilizing, and often dominant, third component.⁸⁸ By this time, even Mao, dismayed at the savagery and chaos his revolution had loosed on the land, resolved that departures from his own correct ideas must be to blame. Mao's supporters began to denounce the evils of "anarchism" and "ultrademocracy."⁸⁹ To correct the situation, order needed to be restored.

Many vested interests applauded use of the Army to squelch disorder. As the Army intervened in various locales, contending factions jockeyed to enlist its force for their own best advantage or, where the situation was adverse, to resist the Army itself and even fight it. Eventually, the military gained greater and greater power over economic, Party, and state affairs as both established and revolutionary institu-

86. *Struggle to Seize Power*, *supra* note 83, at 6.

87. Brugger, *From "Revisionism" to "Alienation," From "Great Leaps" to "Third Waves,"* 108 CHINA Q. 643, 644 (1986).

88. *Struggle to Seize Power*, *supra* note 83, at 11-12.

89. *Id.* at 14.

tions wobbled and collapsed.⁹⁰ Overall, the deployment of the Army had the effect of stifling dissent and violent ferment, as antagonism deepened between the Army and revolutionary organizations.⁹¹ It also, in most cases, probably helped older powers maintain or regain their positions. When unleashed against the demonstrating citizenry, army firepower inflicted heavy loss of life.⁹²

By mid-1968, organized repression was in full swing, jointly sponsored by the Army and the established Party structure, each struggling with the other for relative shares of power. Dissent-oriented wall posters were banned, not to reappear until the mid-seventies.⁹³ Popular forces suffered serious setbacks, as reprisals were taken for the insults and crimes of the preceding period.⁹⁴ The punishments and suffering inflicted during the course of this repression, which lasted many years, was quite likely worse than the tumult of 1966-1968.⁹⁵ Most commentary on the Cultural Revolution fails to distinguish this long repressive period, which extended into the middle seventies from the briefer period of democratic ferment and struggle preceding it. Dengist historians have promoted this confusion by treating the entire 1966-1976 period as a single interlude, the Cultural Revolution. This has made it possible for the Dengist order to portray itself as antirepressive since it terminated some of the repressive practices of the early seventies, even though the Deng regime has itself proceeded to stifle subsequent efforts toward popular mobilization.

In any case, the democratic ferment of 1966-1968 was decisively crushed. In retrospect, there seems to have been little possibility of a

90. See Joffe, *The Chinese Army After the Cultural Revolution: The Effects of Intervention*, 55 CHINA Q. 450, 456-68 (1974) (describing the increasing number of military officials elected to the Party).

91. *Struggle to Seize Power*, *supra* note 83 at 12-19; see also Robinson, *The Wuhan Incident: Local Strike and Provincial Rebellion During the Cultural Revolution*, 47 CHINA Q. 413, 438 (1971) (describing the results of an incident in which a group led by Mao used the army to suppress fighting among revolutionary groups); Joffe, *supra* note 90, at 454-68 (relating the rise of the number of military in government, the expanding role of the military in making and carrying out the policies of Party officials, and the greater percentage of natural resources consumed by the military).

92. See Robinson, *supra* note 91, at 416-17 (stating that one incident resulted in over 2,500 casualties).

93. See Rosen, *Guangzhou's Democracy Movement in Cultural Revolution Perspective*, 101 CHINA Q. 1, 3 (1985) (stating that wall posters were finally permitted again in 1974 after a six year ban); see also Li, *Preface to On Socialist Democracy and the Legal System*, 10 CHINESE L. & GOV'T 15, 20 (1977) (discussing the efforts of a governmentally organized group to remove all wall posters with hoses and brooms).

94. See Robinson, *supra* note 91, at 438 (discussing the curtailment and/or elimination of some leftist forces by the army).

95. See Li, *supra* note 93, at 23 (outlining the repression and resulting deaths due to the Lin Piao System present during part of the 1970s).

substantially different outcome. Mao, the great proponent of democratic agitation, could not imagine institutionalizing it in the form of independent organizations, outside Party control. Without such organizational forms, however, democratic pressure on power structures cannot sustain itself.

Mao's great deficiency as a democrat was his woeful lack of interest and faith in the capability of institutional structures and independent organizations to bring democratic voices and interests to bear in social decision-making. Instead, Mao entertained a sentimental and simplistic conception of democracy, comprised of three components: the masses, the elites, and the Party. Mao imagined the democratic populace, the masses, as a monolith, and viewed democracy as a simple process by which the masses exercise mobilized vigilance over the Party, another monolith. For Mao, the fortunes of socialist democracy lay in the epic struggle between the masses and the elites for control over the Party's soul.

The Cultural Revolution revealed that merely loosing the masses cannot, without more, yield significant and durable democratization. A far more promising system would have been an ordered, perpetual tolerance for independent organizations and expression. In the years following the Cultural Revolution, this latter insight has propelled the efforts of China's best dissident activists. These activists have drawn inspiration from the Cultural Revolution experiences of democratic dissent.⁹⁶ Leading activists of the late-seventies' "Democracy Wall" movement, for example, were nearly all veterans of early Cultural Revolution campaigns.⁹⁷ In the repressive period of the late sixties and early seventies, many of these activists had begun searching to understand why the Cultural Revolution vision of popular democracy had failed.⁹⁸ Many concluded that its shortcomings lay in the absence of independent political organizations and legal protection of democratic rights. The Cultural Revolution, Mao's great campaign for socialist democracy, yielded incalculable mayhem and suffering. Its democratic achievements were episodic, fleeting, and fragile. Still, the Cultural Revolution left a legacy—the experience of active democracy and

96. See Chan, Rosen & Unger, *Students and Class Warfare: The Social Roots of the Red Guard Conflict in Guangzhou (Canton)*, 83 CHINA Q. 397, 442, 446 (1980) (discussing democratic ideals in Cultural Revolution factions).

97. See Rosen, *supra* note 93, at 3-4 (discussing earlier factional developments influencing democratic movements).

98. *Id.* at 4. Li Zhengtian, a member of the radical Red Flag Faction, believed that many of the failures of the Cultural Revolution could be attributed to the lack of socialist democracy and law. *Id.*

dreams of its restoration in more adequate form—which has persisted as a force in Chinese life. The latest manifestation of this force was in Tiananmen Square in the spring of 1989. There, Deng saw ghosts of the Cultural Revolution, ghosts which to him spelled an ominous return to chaos and, therefore, justified the order to fire.

E. DENG'S ECONOMIC REFORMS

The years 1966-1968 were years of depressed productivity and the Deng regime has used this decline to justify its own economic programs. The line of this argument is a curious one, because it suggests there was an economic program in the Cultural Revolution which can be blamed for the productivity setbacks. In fact, new economic policies were never a chief component of the Cultural Revolution. The period did see a modest shift toward more egalitarian wage scales, though this never even approached the absolute levelling sometimes said to have been implemented.⁹⁹ In addition, democratic work-place experiments emerged in many settings.¹⁰⁰ In the countryside, the revolutionary activists attacked private sideline farming and strongly supported common labor and egalitarian rewards.¹⁰¹ If any of these policies harmed productivity at all, the amount of that harm has been exaggerated. Declining output during 1966-1968 stemmed more from the vast social disruption of that period—verging on civil war in some locales—than from any specific economic policies. As order returned in the early seventies, productivity resumed its upward movement, even though economic policies were not drastically altered.¹⁰²

Despite this gradual progress during the early and middle seventies, Deng resolved to launch a bold new economic program as he consolidated power during the late seventies. This new program has been code-named the "Four Modernizations," identifying new strategies in four areas: defense, agriculture, industry, and science.¹⁰³ The detailed contours are complicated, but the economic program has revolved

99. See Teiwes, *Before and After the Cultural Revolution*, 58 CHINA Q. 332, 337-38 (1974) (discussing remuneration policies and changes resulting from the Cultural Revolution).

100. See *Whither China?*, 3 CHINESE L. & GOV'T 315, 320 (1970-71) (illustrating examples of increased enthusiasm and production when workers managed industrial plants by themselves).

101. See *Struggle to Seize Power*, *supra* note 83, at 10 (describing "free supply" reforms in which the government required peasants to surrender their private plots of land).

102. CHINA'S SOCIALIST ECONOMY, *supra* note 4, at 366.

103. For detailed discussions of the economic theory of the Four Modernizations, see CHINA'S SOCIALIST MODERNIZATION (Yu Guangyuan ed. 1984).

chiefly around five chief components: (1) marketization, (2) privatization, (3) accentuated managerial authority in enterprises, (4) widened relations with the world economy, and (5) agrarian reforms.

Too much of the commentary about these reforms has been completely uncritical. It has been assumed almost as a matter of self-evident truth that Deng's reforms could work nothing but good. In point of fact, however, reform results have been mixed at best, and there is reason to suspect that their negative effects have begun to outweigh the positive. This is not to say that structural attempts to improve China's economy are in and of themselves misplaced, nor that the Deng initiatives have been entirely wrong.

It should be kept in mind, however, that many different sorts of reform are possible, and that amongst them they carry widely different positive and negative effects, to different degrees, for different groups of people. Reform programs should be assessed, at least partly, by the extent to which they inflict severe and inequitable hardships on large numbers of people, and by the extent to which the gains they provide are narrowly and disproportionately enjoyed. We cannot comprehend the course of China's current social change without understanding the struggles over the following key issues: (1) who gains and who loses from various reform programs, (2) why do they gain or lose, (3) how do they gain or lose, and (4) how much do they gain or lose?

Western observers of Deng's China have been too-easily impressed by the regime's self-serving reports and analyses, which flatter Western assumptions about political economy. They are taken in by the rising visibility of success indicators like consumer goods and glitzy luxury hotels. No doubt some things have improved in Deng's China, but it makes sense to entertain a suspicion that those things which are getting worse may be harder to see than those things which are getting better. Though no exhaustive commentary on these matters can be attempted here, a few critical observations may be in order.

1. Marketization

Dengist willingness to expand the use of markets and contract arrangements for pricing and resource-allocation may be viewed as a necessary current antidote to the rigidities and inefficiencies which plague command economies. It is unclear whether the leadership will manage to restrain this marketization so as to minimize the crushing poverty and cyclical depressions of thoroughly market oriented economies. If not, millions of Chinese will cast a yearning eye backward to the relative security of the command economy. It may be hoped that China, in

pursuing the advantages of market oriented system, will manage to regulate its negative effects before their worst ravages have visited the people.

2. *Privatization*

Deng has decisively abandoned the doctrinaire notion that socialism requires public ownership of all enterprise. The Dengist revival of petty private enterprise has greatly helped energize and diversify the economy. Western commentary has misleadingly identified these developments as capitalism, though large-scale productive wealth has not yet been surrendered to private ownership.

It may well be that the Dengist leadership, eager for short-term results, will soon embrace true capitalism. Opportunities for personal profiteering by Party leaders and their families may hasten such an outcome, assisted by callousness and insensitivity to capitalism's negative consequences. Policies aimed at supporting worker-owned cooperative enterprises, however, would be preferable to both private capitalism and state socialism. Indeed, the cooperative sector has grown during the Deng era and there has been much talk of fostering it further.

Dissidents and Party reformers have joined forces in efforts to encourage the development of the cooperative economy. The conditions under which a cooperative economy may thrive, however, are probably more delicate than those required for capitalism. A thriving cooperative economy would require a careful and egalitarian distribution of productive property rights, a balancing of market freedom and regulation, a well-crafted welfare system, and management systems capable of reconciling discipline with democratic participation. Though such an alternative to capitalism might well be worth pursuing, its achievement would require an enormous commitment of political vision. Because of this, one may justifiably fear that the regime will choose the easier, quicker, but ultimately unsound alternative over the more difficult, less spectacular, but wiser one.

3. *Managerial Authority*

The Deng regime's reforms displace centralized economic control in favor of greater enterprise autonomy and managerial authority. This initiative, which stresses expanded enterprise freedom, can be contrasted with the Great Leap's quite different initiative, which emphasized decentralized planning. One goal of the Deng reforms is to foster

efficiency by encouraging enterprise freedom and profit-retention and by fostering local managerial authority over work-places and labor, including expanded power to authorize layoffs. Such reforms will likely achieve efficiencies in productivity and capital accumulation primarily by undermining worker security and living standards, while fostering more oppressive and autocratic work conditions. A better alternative would be to nurture growth through worker management-participation schemes, which might stimulate work morale while avoiding false economies derived from attacks on job security, living standards, and work conditions. Once again, one fears the likely adoption of simple solutions over more complex, but more promising ones.

4. *Opening to the World Economy*

The policy of openness toward the world economy has numerous aspects, each of which has complex effects not easily assessable. The perils of debt dependency—illustrated in current-day Latin America, and now Poland—should caution China's leaders away from the quick fix of heavy foreign borrowing. They should recall the historical lesson that economically weaker players have generally fared better by insulating themselves, at least partially, from world market forces, not by laying themselves open to such forces. The successful rise of the United States, Germany, and Japan all bear out this point, as does the more recent rise of South Korea.

One particular Chinese foreign investment initiative is worthy of note: the creation of special economic zones (SEZs) in China's coastal areas. The concept of an SEZ is to lure foreign investment to a locality by offering an especially favorable business climate, such as low taxes, low wage rates, and minimal regulation. If all goes well, this favorable investment climate will generate economic dynamism within the SEZ, the effects of which will spill over into the larger economy and kick-start more general development. Experiments with SEZs in the Third World have generally yielded disappointing results. Though impressive construction and low-wage job creation goes on within SEZ enclaves, these effects are typically far too minuscule to generate significant overall growth.

In China, SEZs were intended as manufacturing export platforms, from which Chinese goods could be sent out to penetrate world markets, thus boosting growth. Unfortunately, things have gone wrong. In the Shenzhen SEZ adjacent to Hong Kong, for example, enormous investment resources have been poured, not into manufacturing, but into office and hotel construction and into the supply of services to business

people. These developments have occurred in conjunction with a mania of real estate speculation, which has attracted and absorbed business energy and investment, fueling the office/hotel and service sectors, which in turn, help fuel the real estate frenzy.¹⁰⁴ Such investments can be very profitable until the bubble bursts. Yet, it has little to do with China's true development needs. Meanwhile, SEZ manufacturers are using their position for purposes contrary to the intended ones. They are exporting into China's internal market, rather than from China to the rest of the world.¹⁰⁵ This process drains China's scarce foreign exchange supplies rather than augments them, and allows foreign business to fill market niches inside China which would otherwise provide growth opportunities for domestic Chinese industry.

In spite of such unpromising developments, Chinese leaders, desperate for quick results, have expanded upon the early SEZ initiative, extending SEZ-style regulations to a significant portion of China's trading coast. This reflects an attempt to promote export-led growth tied to the world market. The so-called "Four Tigers" of Asian development—Singapore, Hong Kong, Taiwan, and South Korea—provide a much-touted model for such a strategy. The supposedly free market policies and export-led manufacturing of the Four Tigers are said to have produced miraculous growth, providing a model for other Third World development. An understanding of why such strategies are unlikely to provide Third World economic salvation, especially for a country like China, is very important.

First of all, the truth about the Four Tigers should be distinguished from the popular fiction. One key misconception is that Four Tigers' success stems from free market domestic policies. Korea, because of its size the most important case, has followed anything but a free market strategy of internal development. Korea has subsidized its key firms heavily and has protected its domestic market from foreign penetration, while using extensive state planning to organize investment for steady growth. All of this stands in clear contrast to the picture many ideologists, ignorant of the facts, paint of Korea's free market miracle.

A second key misconception is that the Four Tigers have progressed on the strength of self-generated development dynamics. In fact, both Taiwan and Korea have been heavily subsidized by U.S. foreign aid, disbursed for Cold War reasons, during crucial phases of their post-war

104. See Gross, *China's Special Economic Zones*, 4 CHINA L. REP. 23, 37 (1988) (discussing increased investment in apartments, office buildings, and hotels, resulting in housing overcrowding and high rents).

105. See Fang, *Intellectuals Should Unite*, 21 CHINESE L. & GOV'T 96, 101 (1988) (discussing the failures of the Shenzhen SEZ).

development.

A third key misconception is that Four Tiger development has produced satisfactory living standards for the bulk of the population. To the contrary, Korea's economy, for example, is characterized by rising inequality, with a substantial proportion of its populace mired in desperate poverty. Additionally, work weeks are exceedingly long and work places tend to be extremely unsafe.

The one element of Korea's development strategy which conventional commentators view correctly has been its export policy. This policy does not hold great promise for Third World development generally. The world market is of finite size and cannot provide room simultaneously for the entire globe to follow an export-led strategy. To the extent such a strategy is universally attempted, Third World economies will simply collide in competition. In the long run there is no substitute for the development of strong internal demand for the products of the domestic economy. This requires policies which may depart sharply from the low-wage, free-market, foreign-capital wisdom of the export-led strategy. These considerations are especially relevant for a continental-sized economy like China's. If they can find sufficient markets, small countries like the Four Tigers may be able to sustain an entire economy on the strength of export trade. China could not pursue a similar strategy, because it would require gargantuan world trade volume to supply equivalent support for its economy. It would be folly then for China to place much reliance on export-led growth, even assuming current SEZ initiatives had not so far yielded such disappointing results.

5. *Agrarian Policy*

The Deng regime's earliest, most thoroughgoing, and most consequential reforms have come in the area of agrarian policy. De-communization, in favor of family farming, has been hailed by both Western commentators and Chinese officials as a great boon to rural productivity and living standards. Once again, the superiority of capitalism is thought to be proved. These conclusions, based on impressive statistics from the early 1980s, may well turn out to have been exaggerated and misleading.

Reports of rural income increases, for example, have not been adjusted for inflation.¹⁰⁶ Moreover, comparisons with pre-Deng family income figures make Deng-era figures look misleadingly favorable. Dur-

106. See Hinton, *Dazhai Revisited*, MONTHLY REV., Mar. 1988, at 35 (discussing the distortion of gross income figures in the rural village of Dazhai).

ing the pre-Deng era, families enjoyed a variety of communally-provided benefits which supplemented actual living standards, but were not reported as part of family income.¹⁰⁷ These communally-provided benefits have declined during the Deng era, so that rising family income figures fail to provide an accurate index of actual living standards.¹⁰⁸ A true comparison would need to compare private income increases to declines in communally-provided benefits. At least one study which makes such a comparison concludes that Deng-era policies have prompted a decline in actual rural living standards.¹⁰⁹

Notwithstanding the seemingly strong statistics from the early 1980s, those from the later eighties are not nearly as impressive. This suggests that there might have been at least a one-time productivity burst during the early eighties due to the motivating effect of increased private incentives. If so, this burst carried little momentum.

It should be borne in mind, moreover, that the Deng agrarian program has involved simultaneous changes in a number of different policies. The most important changes are: (1) de-collectivization and family farming, (2) sharp increases in prices paid by the State for agricultural produce, and (3) vitalization of rural markets. The price increases reversed a long-standing, typical development policy of paying low prices to farmers so as to conserve state resources for industrial investment. Unfortunately, this policy tends to restrain growth in food supplies because farmers lack adequate production incentives. Most or all of China's early-eighties agrarian growth may well have stemmed from the new State policy of paying higher farm prices, rather than from the revival of family farming. There is little doubt that communal farm units would have responded to higher farm prices by stepping up productivity, had communal units been preserved as the new prices took effect. If communes had been preserved, the productivity growth may have been through communal agriculture, not private farming.

Market vitalization is the third independent variable. Mao-era attacks on rural markets manifested a doctrinaire notion that markets were entirely incompatible with socialist progress. As the Dengist leadership recognizes, this view is misguided. Market revitalization in itself has probably had positive effects on agrarian productivity. Although many have been very enthusiastic about the success of private farming, China's agrarian gains, such as they are, might very well stem entirely from the combined effects of market vitalization and state purchase

107. *Id.* at 36.

108. *Id.*

109. *Id.* at 34-39.

price increases, rather than from the abolition of communal agriculture. This is important in light of the negative effects private farming seems to be bringing in its wake: growing poverty emerging with a new class of rich peasants; deterioration of communally-maintained infrastructure, and health and education facilities; and, neglect of communal grain production in favor of family farming for non-staple cash crops. Chinese press reports have viewed with alarm the rise of wealthy rural households which practice wasteful conspicuous consumption and live on interest from money lending. The press has also reported the rise of a "new illiteracy" in China's countryside, which probably stems from the need and drive to pursue private farming activity and from the failure to maintain funding for communal education.¹¹⁰

It is likely that relatively few rural Chinese participated directly in the 1989 dissent agitations. Democracy activists are nevertheless aware of agrarian discontents and the issues they pose. One activist articulates his understanding as follows:

There are widespread reports of resentment and unhappiness within the rural population. These come from the impact [of] economic reforms rather than any desire for political change.

The reform of land ownership to a leasing system has given peasants more control over their own lives. However . . . relaxation of crop subsidies and crop planning has enabled some well-positioned peasants to grow rich, but a greater number have fallen victim to the resultant inflation and the unpredictability of the market system in agriculture. The publicity given to the few peasants who have grown rich has created a chasm between the official image of the situation in the countryside . . . and the reality¹¹¹

6. Further Problems

So far, this discussion has called attention to several negative consequences of Dengist economic reforms: inequality in, and a general decline of, living standards for much of the rural population; ominous deterioration in crucial communally-maintained agrarian infrastructure; and heightened job pressures and managerial autocracy facing urban workers. On the other hand, positive developments, such as the revival of petty private enterprise and potential for progress for worker-

110. See Sullivan, *Assault on the Reforms: Conservative Criticism of Political and Economic Liberalization in China, 1985-86*, 114 CHINA Q. 198, 212-14 (1988) (discussing rising illiteracy rates in the Chinese countryside); Walker, *Chinese Agriculture During the Period of the Readjustment, 1978-1983*, 100 CHINA Q. 783, 800-01 (1984) (citing various problems facing the agrarian society).

111. *Some Questions*, *supra* note 9, at 20 (published by Friends of Chinese Minzhu).

owned cooperatives have been realized. Unfortunately, additional detrimental features of the current economic policy package should be kept in mind. The pursuit of short-term gains in productivity and efficiency may yield serious obstacles to China's attainment of balanced long-term growth. For example, agrarian decommunization and the rise of family farming will stymie the development of agricultural mechanization needed for long-term agricultural productivity. Inhibited mechanization, moreover, depresses industrial activity oriented toward producing farm capital equipment, inflicting negative effects on industrial growth and employment.¹¹² To take another example, narrowly-conceived notions of efficiency have led to transfers of industrial production from backward inland areas to more developed coastal zones.¹¹³ Such moves may not only undermine the relative equity of developmental processes, but may also retard the very pace of long-run development due to failures to maintain balance and integration.

Despite Western commentary's nearly uniform emphasis on the positive results of Deng's policies, economic discontentment is on the rise in China. Western commentators seldom mention characteristic negative features of Third World capitalist development, such as, the mass proliferation of unspeakable urban shanty-towns. For a Third World nation, China has, until recently, been noticeably lacking such features. Under the Deng regime, however, millions of displaced peasants have begun desperate migrations to urban centers, just as many urban workers themselves begin to feel a devastating pinch. Unless the economic restructuring is itself carefully structured, shanty-towns and other typical indices of Third World capitalist development will predictably arise.

Aside from the problems listed above, two others—inflation and corruption—have become acutely serious in Deng's China. Western commentary took note that corruption was a leading issue in the democratic ferment last spring. The commentary focused far less on inflation, though inflation is unquestionably a major cause of popular discontent.

Western enthusiasts for Deng's reforms seldom understand or acknowledge the direct role played by marketization and privatization in fueling inflation and corruption. Price decontrol for staple goods had pushed inflation to an unprecedented thirty to forty percent level in the year preceding last spring demonstrations. These price increases have inflicted severe hardships on fixed-income workers. Such economic

112. See Sullivan, *supra* note 110, at 202 n.17 (discussing the large production reductions at a Shenyang tractor factory as a result of reforms).

113. *Id.* at 203.

hardships are a major reason why workers went into the streets last year to protest.

The issue of corruption, meanwhile, is widely misunderstood in the West. Too often, Westerners tend to imagine that it involves only bribery and influence-peddling, the stuff of Western political scandals. In fact, however, China's corruption issues are broader than this and are intimately tied to privatization in the economy. First, new private business opportunities are pilfered at all levels by the families and friends of Party officials. In late July, after smashing the democratic movement which had spotlighted the issue, the Party finally responded to criticism by promulgating rules designed to separate officials from special business advantages. It is doubtful how effective such rules will be in forestalling a powerful developing trend. More and more, if economic privatization continues, cozy alliances between Party elites and private business elites can be expected to develop. Such business-Party alliances will tend to dominate social opportunities and decisions. Party foes of Dengist economic policies argue that corruption almost inevitably flows from such policies.¹¹⁴

There is, however, an even deeper level to China's corruption issue and its connection to privatization. Privatization almost inevitably entails an inequitable distribution of formerly public resources. After public wealth is transferred to the private sector, many citizens cease to benefit from it because private ownership exploits it for personal gain. Western commentators often fail to realize that mounting complaints of corruption stem from the very privatization of public resources they typically praise. The legal and extra-legal plundering of public wealth through privatization has outraged the moral sensibilities of many Chinese. It is an outrage over the inequitable dismantling of socialism, an outrage most Western observers fail to recognize.

Prior to the spring demonstrations, some Party leaders, concerned with the rising rumblings of popular discontent, began to scrutinize the economic reforms critically. Although Zhao Ziyang, the demonstrators' latter-day hero, was identified with economic restructuring, accelerated progress toward capitalism was not a prominent popular demand. Though some students applauded Zhao, this was not primarily for his economic doctrine, but because he seemed to sympathize with the notion that people's free voices should be heard. Moreover, the favorable portrayal of Zhao in Western press reports was not shared in all dissent circles. Many dissent activists view Zhao disdainfully as a profiteer,

114. See *id.* at 201 (enumerating the corrupt practices of government officials in a commodity economy).

who exploited newly opened private economic opportunities for private advantage.

Meanwhile, a wave of illegal urban strikes in China during the year prior to the spring rallies foreshadowed the shape of future economic dissatisfactions. In Shanghai, at the time of the rallies, work stoppages accompanied calls for greater worker control of enterprises. That goal, long an undelivered promise of socialism, has not been high on Deng's list of economic objectives.

China's democratic uprising, powerful enough to restrain the hand of tyranny for at least a few weeks, is a genie that will now be difficult to bottle up again, regardless of how savage the repression. But popular mobilization, though dramatic and important as it is, will not by itself produce democracy, as China learned to its woe under Mao. The crucial contest in the months and years to come will be to construct new methods and institutions, both within the Party and outside of it, to make decision-makers responsive to the popular voices. Such efforts may have to proceed in the teeth of fierce resistance by Party elites.

The outcome of current Party deliberations concerning future economic and political programs cannot be foretold. The June appointment of Jiang Zemin as Party general secretary may, however, signal the leadership's intended line of march. Like his predecessor, Zhao, Jiang is closely identified with economic restructuring policies which may possibly lead toward straightforward capitalism. As Mayor, and then Party Chief, of Shanghai since the mid-1980s, Jiang has been Pollyanna-ish in his uncritical embrace of open foreign investment and export-oriented production as miracle solutions to development difficulties. He has omitted Shanghai's history of domination and exploitation by foreign powers from his optimistic analyses and projections. Jiang's appointment can be interpreted as an attempted signal to the world investment community that policies favoring their interests will be continued, despite the unseemly slaughter in Beijing.

Jiang's record on dissent reveals few of the dangerous democratic sympathies which provoked Deng to dismiss both Zhao and his predecessor, Hu Yaobang, from the party chieftanship. In April 1989, Jiang signalled his reliability in suppressing dissent when he fired Qin Benli, editor of the *World Economic Herald*, a controversial Shanghai journal which had been calling for political reforms. The *Herald's* issue of April 24, 1989 was to have criticized the unconstitutional removal of Hu from power. Qin's refusal to delete the criticism led directly to his dismissal. In May, Jiang ordered the *Herald* shut down altogether. These steps no doubt endeared him to Deng, who is keen to avoid repeating the difficulties created by Hu's and Zhao's softness on dissent.

Currently, one cannot hazard more than the most cautious predictions concerning the future course of change in China. The clash of ideas, interests, and powers is already complex and evolving rapidly. The Deng regime may well continue to push China toward an order familiar in South Korea, South America, and elsewhere, that of capitalism without democracy. Millions of Chinese, however, are dreaming of something quite different.

III. THE POLITICAL ECONOMY OF CHINESE LEGAL REFORM

Legal initiatives launched by the Deng regime provide an index to prospects for democratization. The rate of creation of legal institutions in the Deng period has surpassed that of any other period in Communist China's history. Comparatively speaking, law schools and legal culture have flourished. Important new national laws have been passed in a variety of areas, such as foreign investment, intellectual property, contracts, environment, and bankruptcy. The development of a legal system is viewed as essential to Chinese economic modernization.

A. CHINESE LEGAL REFORM AND DEMOCRACY: THE POSSIBILITIES FOR WESTERN SELF-DECEPTION

It has been common to view the development of legal institutions as an intrinsically positive step for Chinese democracy. Commentators have interpreted the developing "rule of law"¹¹⁵ as a major step toward democracy. Official commentators have portrayed this rule of law, not only as a prerequisite to modernization, but also as an antidote to the social chaos and savagery of the Cultural Revolution.¹¹⁶ Meanwhile, unofficial commentators, mainly in the West, but also in China, have viewed China's legalization in terms of frequently unspoken assumptions associating the rule of law with Western-style liberal freedoms. A typical comment, one which implicitly equates economic reform with liberal democracy, is the claim that "the present transformation is dedicated to rational development of the Chinese economy based on an equitable and just rule of law."¹¹⁷ Despite the specifically anti-democratic character of some of the new laws, the legalization process itself

115. See R. FOLSOM & J. MINAN, *LAW IN THE PEOPLE'S REPUBLIC OF CHINA* 13 (1986) [hereinafter R. FOLSOM & J. MINAN] (noting that the People's Republic of China has fused its future to the Western concept of a rule of law).

116. See *id.* (asserting that China hopes to avert a repetition of the Cultural Revolution through the establishment of a legal infrastructure).

117. Ma, *China Opens for Business*, CALIF. LAW., Aug. 1985, at 34, 35.

is thought intrinsically to enhance democracy. In the long term, this view might prove itself correct. As a legal culture of criticism and revision develops, one may hope that the law will increasingly embody norms of democratic political action and power. Such hopes should, however, be entertained skeptically.

Of course, Western commentators have taken note of the saliently antidemocratic provisions in some of China's new laws. Not uncommonly, such provisions are mentioned with a kind of covert embarrassment about how they confound optimistic projections for democracy. Simultaneously, they are perceived as the remnants of a defeated and vanishing political economy. Many may assume implicitly that as "capitalism" eclipses socialism, the latter's supposedly inherent repressiveness, now etching itself in law like the last scratchings of a dying despot, will fade away and be replaced by the freedom and light of a new political economy.

Now, however, more than ever, there is occasion to entertain a darker possibility: that repressive features in China's new legal order will, in fact, become integral components of a newly-emerging, anti-democratic political economy. If this occurs, unsettling questions pose themselves as to the burgeoning links between Western economic interests and China. Contrary to the image the West holds of itself as torch-bearer of democracy, Western political economy may actually hinder the development of Chinese democracy. A Fortune/CNN poll conducted shortly after the Beijing massacre provided some thought-provoking results. The poll asked Fortune 500 chief executives what changes China should make to induce more private investment. The most popular response, given by an ominous 21% of those polled, was to increase political stability.¹¹⁸ Repression, unfortunately, seems to be the chief Dengist strategy for ensuring stability. The Fortune/CNN poll showed only a 9% response for reforms to expand democracy.¹¹⁹

Assumptions that increased Western links with China will be positive for both Chinese economic and democratic development are overly optimistic. History shows that both the United States government and the United States press are highly capable of downplaying repression comparable to that in China when it occurs where Western economic and geo-political interests are strong. For example, in 1980, army violence stifled large prodemocracy rallies in the South Korean city of Kwangju. Tens of thousands of South Korean troops stormed the city and killed

118. *Chinese Priorities*, LEFT BUS. REV., July 27, 1985, at 30. Nineteen percent of the CEOs polled called for reduced bureaucracy. *Id.*

119. *Id.*

more than 2,000 people while suppressing a nine-day uprising. Because the South Korean army belongs to a command structure under United States military authority, a measure of American responsibility for the slaughter cannot be denied. The American press did not cover these events nearly as intensely as it did the recent events in China, nor did United States lawmakers call for or enact trade sanctions against South Korea, as was done against China. To the contrary, President Carter supported the repression and offered new loans to the South Korean government.¹²⁰ Additionally, General Chun Doo Hwan, the man who had ordered the Kwangju crackdown, was honored in 1981 as the first foreign leader to meet with newly-elected President Reagan.¹²¹

In contrast with its response to the Kwangju incident, the United States government levied serious sanctions against China for the repression of the 1989 protests: bans on sales to China of arms, satellite equipment, and police equipment; termination of nuclear cooperation with China; suspension of United States overseas investment insurance on interests in China; and a freeze on the liberalization of export controls with China.¹²² The comparison of Korea and China suggests that hypocrisy and level of economic interest characterize United States sanctions policy more than do morality and efficacy.

Westerners truly concerned about progress in Chinese democracy should be wary of expecting it to flow necessarily with either increased Western economic contacts or apparent developments in China's "rule of law." Neither Western economic contact nor "rule of law" can suffice as an adequate indicator of actual democratic progress.

Scholars have sometimes called attention to the antidemocratic dimensions of China's new rule of law. These dimensions have often been treated either anecdotally or as vestigial anachronisms of state socialism, a vanquished political economy. An interpretation of selected features of China's new rule of law follows. These features will be analyzed not as remnants of a past political economy, but as potential harbingers of a new political economy for China—autocratic state capitalism. Significant features of China's new legal order may function to undermine labor power, security, and living standards and to stifle organized political resistance against these developments.

120. Hart-Landsberg, *South Korea: Looking at the Left*, MONTHLY REV., July-Aug. 1989, at 56, 63. President Carter's support was contrary to his rhetorical support of human rights. *Id.*

121. *Id.*

122. Oberdorfer, *Conferees Approve Sanctions on China*, Wash. Post, Nov. 8, 1989, at A-38.

B. THE CONTRACT SYSTEM AND LABOR

One of the main initiatives of the legal reforms has been the development of civil contract law. This development coincides with an effort to encourage market transactions as a major device for economic organization. Nowhere is the impact of contractual organization potentially more significant than in the area of labor. Private contracts may more and more come to govern relations between workers and enterprises, relations previously controlled by general public standards. Prior to Deng's reforms, China developed an administrative system of labor relations that gave urban workers job tenure and which made enterprises responsible for supplying collective benefits like health care, housing, child-care, unemployment insurance, and benefits.¹²³ Dengist reformers have attacked this administrative system as inimical to heightened productivity. Job tenure, they argue, immunizes workers against managerial discipline and prevents enterprises from paring work forces so as to cut costs and realize the benefits of labor-saving technology. The result is stagnation, according to Dengist theorists who refer to the system derisively as the "iron rice bowl."

Reformers seek to replace this system with a labor contract system, under which workers would negotiate deals to work for specified periods, with specified responsibilities and compensation. Limited employment periods and contractually-articulated job responsibilities would help tighten labor discipline by giving managers the power to impose negative incentives, such as discharge, demotion, or pay cuts. Limited job tenure would also allow for layoffs aimed at cost-cutting and technological enhancements.

It is obvious why many workers would view such reforms as ominous. If progress implies tighter subjection to managerial authority and the specter of unemployment, many might question whether it is truly "progress." One critic suggests that the purpose of socialism is precisely so that "people of the whole country could have an 'iron rice-bowl'."¹²⁴

Popular agitation in the eighties called for a reduction in unemployment, not for the introduction of a contract system which might exacerbate it. The specter of unemployment is especially menacing to workers

123. White, *The Politics of Economic Reform in Chinese Industry: The Introduction of the Labour Contract System*, 111 CHINA Q. 365, 366 (1987).

124. Yi, *In Defense of the "Iron Rice-Bowl System"*, Guangzhou Evening News, Feb. 23, 1986, quoted in White, *supra* note 123, at 379. Yi also claims that "job security was an inseparable element of the superiority of socialism," and further argues that severe consequences will accompany any attempt to weaken this security. *Id.*

in a system where health insurance and other welfare benefits are obtained through employment. Nevertheless, China's Labor Minister, Luo Gan, predicts large-scale lay-offs and rising unemployment.¹²⁵ Though unemployment insurance may be expanded,¹²⁶ there is no convincing government commitment to shield unemployed workers from hardship.

Many prefer the low productivity of over-staffed enterprises to labor saving technologies that fuel unemployment.¹²⁷ Other critics argue that the contract system has not, and will not, remedy productivity stagnation, because it does not target stagnation's real causes. Many blame poor productivity on managerial failures, lack of proper monetary incentives, poor training practices, and lack of labor participation in the decision-making process, rather than on the iron rice bowl.¹²⁸

The contract labor system promises to bite hardest on low-skill workers and women. High-skill workers may favor a contract system which allows them to bargain for special economic advantages. Low-skill workers, however, may find themselves especially vulnerable to unemployment, and to wage and benefit cutbacks. The contract system may also give enterprises more opportunity to discriminate against women in hiring and firing decisions, wages, and terms of employment. Additionally, contract arrangements may facilitate the exclusion of payments to women for work time lost due to pregnancy and child-rearing.¹²⁹

Furthermore, it is possible that the contract system will not extend to privileged portions of the work force. Alternatively it is possible that the contract system will affect privileged workers only nominally, with contracts that effectively maintain the guarantees of the job tenure system.¹³⁰ If so, gulfs in security, income, and status will widen between tenure workers and true contract workers, exacerbating the system of disfranchisements and resentments which fueled dissent and violence among low-level workers during the Cultural Revolution.¹³¹

125. *Reforms Crack 'Iron Rice Bowl'*, 32 BEIJING REV. 12, 13 (1989). Luo believes that it would be wise for unemployed workers to organize themselves and seek out jobs. *Id.*

126. *Id.*

127. See White, *supra* note 123, at 372 (noting that some officials support the policy of "five people doing three people's work" despite its negative implications for productivity).

128. *Id.* at 380.

129. Davis, *Unequal Chances, Unequal Outcomes: Pension Reform and Urban Inequality*, 114 CHINA Q. 223, 236-37 (1988).

130. White, *supra* note 123, at 385.

131. See Davis, *supra* note 129, at 235-36 (during the late 1970s, the discrimination inherent to a contract labor system and the Cultural Revolution violence protesting it made contract labor anathema to most urban residents).

C. CHINESE CONSTITUTIONAL DEVELOPMENT

The People's Republic of China has enacted four constitutions since its founding in 1949. These constitutions—promulgated in 1954, 1975, 1978 and 1982, respectively—are not directly comparable to that of the United States in the degree to which they have actually determined the structure and limits of governmental power. None of the four constitutions has served as a touchstone of political authority the way their American counterpart does. Comparisons among the various Chinese constitutions are illuminating, nevertheless, because they index the fluctuations in dominant ideas about China's internal political economy. Each of the constitutions, deliberately crafted for the proper rhetorical treatment of controversial issues, embodies a manifesto of prevailing thought on political economy.

Though the focus here is on some of the Deng constitution's alarming antidemocratic aspects, there are ways in which the Deng constitution is an improvement over previous ones. For example, the 1982 constitution is the first to omit restrictions on the rights of certain groups deemed to have intrinsic counter-revolutionary interests because of their elitist prerevolutionary backgrounds.¹³² These restrictions, though perhaps needed during a transition period in order to protect revolutionary transformations against counterattack by elites, were unduly prolonged in China. Along with these political restrictions went frequent victimization of those with bad class background. This unwarranted victimization sometimes reached peaks of hysterical ferocity. Enormous popular political energies were wasted on these hate campaigns.

1. *Agitational Freedoms*

All four constitutions have purported to guarantee several rights which could be called rights of democratic agitation: freedoms of speech, press, assembly, association, procession, and demonstration.¹³³ Because they are included in all four constitutions, the presence of these guarantees does not index fluctuating attitudes. Telling transi-

132. See CONST. OF THE PEOPLE'S REPUBLIC OF CHINA art. 19 (1954) (restricting the rights of counterrevolutionaries, and depriving feudal landlords and bureaucratic capitalists of political rights); CONST. OF THE PEOPLE'S REPUBLIC OF CHINA art. 14 (1975) (punishing new bourgeois elements); CONST. OF THE PEOPLE'S REPUBLIC OF CHINA art. 18 (1978) (depriving capitalists of all political rights).

133. CONST. OF THE PEOPLE'S REPUBLIC OF CHINA art. 87 (1954); CONST. OF THE PEOPLE'S REPUBLIC OF CHINA art. 28 (1975); CONST. OF THE PEOPLE'S REPUBLIC OF CHINA art. 45 (1978); CONST. OF THE PEOPLE'S REPUBLIC OF CHINA art. 35 (1982).

tions can be discerned, however, in the addition or deletion of other elements. The 1975 document adds "freedom to strike" to the list of guaranteed agitational rights.¹³⁴ Moreover, in its section of General Principles, this constitution specifies protection for the "Four Big Freedoms." The Four Big Freedoms include "speaking out freely, airing views fully, holding great debates and writing big character posters"¹³⁵ It may be recalled that a not-fully-repentant Mao praised these same freedoms as salutary features of the suppressed Hundred Flowers campaign.¹³⁶ These freedoms, according to the 1975 Constitution, represented "new forms of carrying on socialist revolution created by the masses of the people."¹³⁷

The 1978 Constitution preserved these additions. Article 45 of the 1978 Constitution lists the freedom to strike, the Four Big Freedoms, and the other agitational freedoms common to all four constitutions.¹³⁸ Article 45 places the Four Big Freedoms within quotation marks,¹³⁹ emphasizing Mao's original formulation and endorsement of them. The addition of the Four Big Freedoms and the right to strike signalled the continuing sway of Maoist political economic ideas, the same ideas which had provided the theory for launching the Cultural Revolution, in the drafting of the 1975 and 1978 Constitutions. In 1954, when the first constitution was published, those ideas had not yet crystallized into a critique of authoritarian socialist power structures. By 1980, Dengists had consolidated their hold over the Party's political theory and they used it to delete strike rights and the Four Big Freedoms from the 1978 Constitution.¹⁴⁰ These deletions coincided with the suppression of Democracy Wall activism, which the Deng cohort had judged too reminiscent of Cultural Revolution tumult.¹⁴¹ The 1982 constitution affirmed this exclusion of strike rights and the Four Big Freedoms, signaling Deng's philosophical opposition to strikes and popular demonstrations.

Strikes and posters represent two of the most powerful means by which China's disempowered citizenry might meaningfully voice its

134. CONST. OF THE PEOPLE'S REPUBLIC OF CHINA art. 28 (1978).

135. *Id.* art. 13.

136. *See supra* notes 30-32 and accompanying text (reviewing Mao's promotion of these freedoms throughout the Hundred Flowers campaign).

137. *Id.*

138. CONST. OF THE PEOPLE'S REPUBLIC OF CHINA, art. 45 (1978).

139. *Id.*

140. *See Zheng, The "Dazibao": Its Rise and Fall*, 23 BEIJING REV. 22, 22-27 (1980) (noting that many deputies of the People's Congress held in June 1979 believed that *Sida*, of the Four Big Freedoms, had created problems during the "ten years of turmoil").

141. *See supra* notes 97-98 and accompanying text (discussing the relationship between the Democracy Wall movement and the Cultural Revolution).

grievances and ideas. Their studied exclusion, even from the flimsy symbolic protection of the current constitution, indicates Deng's fundamental lack of sympathy for democratic agitation. Such an attitude is easy to endorse in light of the Cultural Revolution's savage civil strife. Preventing any possible re-emergences of such strife has been a paramount motive of the Dengist leadership. Now, however, there is ample reason to contemplate the high price paid for Deng's draconian policy of order.

Strikes and democratic agitation contradict Dengism's deeply productivist orientation, an orientation that ranks productivity as its primary socialist objective. Strikes and demonstrations can only hamper this drive for productive prowess. Democratic discussions and demonstrations pose an additional problem, because they contradict Dengism's technocratic vision of social decision-making. This vision strongly doubts whether popular controversy and participation have any immediate value. This view stands in contrast with Mao's more populist approach, encapsulated in the 1975 and 1978 constitutional endorsement of strikes and the Four Big Freedoms. Mao's conflict-focused theory of socialist development encourages strikes and popular demonstrations. Despite the perils and losses inherent to such an approach, Mao trusted it more than the alternative—an illusory social peace, repressively enforced in the name of an imagined socialist community-of-interest.

Dengist anxieties over political agitation are discernible in the 1982 constitution's unprecedented antilibel article. This article provides that: "The personal dignity of citizens of the People's Republic of China is inviolable. Insult, libel, false charge or frame-up directed against citizens by any means is prohibited."¹⁴² The impetus behind this provision is not difficult to see against the background of the Cultural Revolution, when vicious vilifications and character smears became daily occurrences, inflicting enormous damage to social trust and morale.

One may wonder, however, whether the cure might not be worse than the illness. The antilibel provision will undoubtedly be used to protect Party officials from the public criticism wielded, often soundly, against abusers of power during the Cultural Revolution and at other times. These sweeping antilibel injunctions are even more ominous when we recall that the 1989 Beijing uprising was finally extinguished soon after the elaborate politeness of the early demonstrations gave way to posters, pictures, and effigies ridiculing Deng and Premier Li Peng. The possibility that the personal pique of insulted leaders catalyzed the military violence cannot be dismissed. In regimes where legal

142. CONST. OF THE PEOPLE'S REPUBLIC OF CHINA art. 38 (1982).

restraints on state violence are weak, broad anti-libel provisions can be dangerous. All in all the Maoist attitude of encouraging vigorous criticism may be preferable.

Because the implications of Dengism's antistrike philosophy may be less obvious than hostility toward purely political speech and agitation, a few more comments on strikes and worker discontent are necessary. The lack of constitutional protection for strikes does not, of course, mean that they will not occur. Government hostility toward strikes, however, will certainly inhibit them, thereby stifling a key device for the organized expression of worker discontent and demands for reform.

The sources of worker discontent will probably deepen as China's new political economy develops. Even in the doubtful event that the long-term benefits of marketization and privatization exceed their costs, there is little doubt that many citizens will face depressed living standards. Moreover, working people will probably bear a disproportionate share of those social costs.

The lowering of peasant and working-class living standards may be accentuated if large-scale private capitalism begins to flourish. Faced with the competitive imperatives of profit maximization, capitalists will battle worker demands for higher living standards. In this conflict, private capitalists may well succeed in enlisting state power on their behalf. As private capitalists acquire increasing economic power, they will also acquire increased political clout, primarily due to the following factors: the growing importance of the economic interests controlled by private capital, the mingling of capitalist and Party elites, and the Party's sympathy for the productivist orientation of capitalist interests. The crowning irony, however, may well be Communist party-state repression, enlisted by private capital and directed at workers, all in the name of "socialism."

Working people can be expected to resist imposition of the new order and to shape it in ways most advantageous, and least harmful, to themselves. For these purposes they will organize, they will strike, and they will strive for access to political power. Strikes and independent unions, if allowed to flourish, will greatly complicate the course of Chinese political economic development. The shape of the political economy will become the result of complex maneuvering, struggling, and brokering. Nothing could be further from the Dengist vision of rationally ordered economic development under technocratic direction and principles. To the extent that Dengist philosophy continues to prevail, the regime may be expected to suppress, in the name of social harmony, worker organization activity. This effort will not eliminate social antagonisms, but it may succeed in concealing them by force. Meanwhile, it will help pro-

tect economic and technocratic elites as they shape the new social economy to suit their own interests.

A wave of illegal urban strikes swept China during the twelve months preceding last year's Beijing uprising. The uprising itself witnessed the emergence of self-organized worker unions such as Beijing's Autonomous Workers' Union and Hangzhou's Workers Autonomous Federation that were independent of the Party's official trade union structure. Even the official All China Federation of Trade Unions (ACFTU) lent some support to the democracy movement, with a monetary contribution in late May.¹⁴³ The government's fearsome purge campaign over the past year has been aimed in part at democratic dissidents within the ACFTU.¹⁴⁴

It is likely that organized worker participation in last spring's uprising struck the Dengist leadership as especially ominous and indicative of deepening crisis in social control. On May 20, the day after the ACFTU contribution, Prime Minister Li Peng declared martial law in Beijing.¹⁴⁵ On June 1, two days before more large-scale rioting and military violence broke out, members of the Beijing Autonomous Workers' Union were arrested, prompting crowd attacks on police, party, and government offices.¹⁴⁶ The regime's concern over organized worker discontent extends back over the past several years. Fear of worker demonstrations almost certainly played a role in Deng's suppression of the short-lived democratic upsurge in 1987. The result of this upsurge was Deng's dismissal of Hu Yaobang, whose funeral helped spark this year's democratic ferment. The current repression sends a chilling message to China's discontented workers. Arrests, torture, and executions during the crackdown have focused heavily on worker activists.¹⁴⁷

Statements issued by autonomous unions during the 1989 uprising rebuked Deng's economic programs as anti-worker. Foreign investment, the statements maintain, will not help most of the populace. It will ben-

143. See Goldman, *Vengeance in China*, N.Y. REV. OF BOOKS, Nov. 9, 1989, at 5 (noting Prime Minister Li Peng imposed martial law the day after the demonstrating students received 10,000 yuan from the Official Federation of Trade Unions).

144. *A Faint Voice from the Deep Valley of Pain*, 2 ECHOES FROM TIANANMEN, 57, 57 (1989) (published by Friends of Chinese Minzhu).

145. *Party Lines*, 2 ECHOES FROM TIANANMEN 4, 4 (1989) (published by Friends of Chinese Minzhu) [hereinafter *Party Lines*]. This announcement followed a widespread protest movement led by students, workers, trade unionists, professionals, and state employees in large cities across China. *Id.*

146. Shi, *What Happened in Beijing*, BEIJING REV., June 26, 1989, at 15.

147. *Party Lines*, *supra* note 145, at 7. Sanctions have been directed at workers, as opposed to students, suggesting not only the widespread nature of the prodemocracy movement, but also the government's low tolerance for an uprising in the labor sector. *Id.*

efit only a profiteering officialdom, "leaving the people responsible for paying the debts."¹⁴⁸ The Communist Party is portrayed as a ruling class which lives by economic exploitation increasingly similar to what Marx posits for a capitalist economy. Far from endorsing attacks on socialist wage and price subsidies, worker activists insist that "wages should be increased and prices should be stabilized."¹⁴⁹ Despite Dengist propaganda, workers are deeply skeptical and worried about their economic futures.¹⁵⁰ The Dengist repression of agitational freedom underscores worker vulnerability and powerlessness in the face of adverse economic decisions.

2. *Work Organization*

Each version of the Constitution contains an article in its General Principles chapter setting out the proper manner in which state organizations and personnel are expected to execute their duties. The 1954 provision is bland: "All organs of state must rely on the masses of the people, constantly maintain close contact with them, heed their opinions and accept their supervision."¹⁵¹ All the later versions more or less reiterate these basic phrases and ideas. The Maoist provision of 1975, however, adds three striking concepts: 1) "proletarian politics in command" 2) "combat bureaucracy" and 3) "cadres at all levels must participate in collective productive labor."¹⁵² Each of these elements attacks Deng's productivist-oriented socialist construction.

The concept of "proletarian politics in command" implies the radical democratic premise that organizations of all kinds should observe principles of participatory governance. They should cultivate egalitarian relations, even if such goals must sometimes be placed ahead of productivist objectives. The call to "combat bureaucracy" implies much the same thing. According to this approach, the construction of democratic habits and relationships for socialism rightfully have priority over the

148. Beijing City Worker's Union, *Letter to Compatriots of the National Beijing City Worker's Union* (May 17, 1989), reprinted in 2 ECHOES FROM TIANANMEN 48 (1989) (published by Friends of Chinese Minzhu); see also *The Boycott Issue*, 2 ECHOES FROM TIANANMEN 59, 60 (1989) (published by Friends of Chinese Minzhu) (reporting that economic gains from foreign investment fall into the hands of an elite few rather than the majority of the population).

149. Beijing City Workers' Union, *Letter to Compatriots of the National Beijing City Workers' Union* (May 1, 1989), reprinted in 2 ECHOES FROM TIANANMEN 48, 49 (1989) (published by Friends of Chinese Minzhu).

150. *Id.* at 49. The Letter states: "The 'reform record' they advertise is false and nominal. In fact, the living standard of the majority of the people is falling sharply. The huge foreign debt will be repaid by the people in the future." *Id.*

151. CONST. OF THE PEOPLE'S REPUBLIC OF CHINA art. 17 (1954).

152. CONST. OF THE PEOPLE'S REPUBLIC OF CHINA art. 11 (1975).

achievement of productivist objectives. If democracy is not given priority, socialist democracy will never in fact emerge, but will instead be preempted by social hierarchies destined to consolidate themselves into a new exploitative order. To prevent this, democracy must be practiced as actively as possible in all settings. All organizations must seek out, prefer, and experiment with democratic methods of operation. Otherwise, nondemocratic tendencies inevitably become ingrained. The injunction that all Party cadres participate in "collective productive labor"¹⁵³ aims to inoculate institutions against such ingraining of anti-democratic and exploitative norms. It was thought that leaders forced to experience life from the standpoint of common workers would identify personally with democratic, anti-exploitative goals.

Of course, such an insistent democratic quest complicates and may retard the attainment of productivist objectives. Moreover, it posits as normative a social existence saturated by struggles over whether, and how, to democratize better. Again, the Cultural Revolution may represent a nightmarish apotheosis of such struggles, exploding all bounds of social order. Such anxieties are emphasized in the Dengist outlook on political economy and cannot be dismissed lightly.

Tensions between democracy and productivity may often arise in socialist construction and both deserve their proper emphasis. Dengists have blamed Maoists for sacrificing production by overemphasizing democracy. Maoists have blamed Dengists for the opposite. Without claiming to resolve this insoluble dispute, three observations may be in order.

First, Dengist accusations may exaggerate Maoist harms to production because they often fail to distinguish between the intrinsic impact of democratic organizational methods and exogenous factors inimical to production, like the droughts and floods of the Great Leap interlude, and the violence and chaos of the Cultural Revolution. Second, tensions between productivity and democracy should not be confused with questions as to whether privately-owned or socially-owned enterprise is productively superior. Neither capitalist nor socialist ownership is intrinsically tied to either productivist or democratic work organization, though social ownership may allow at least some possibilities of democratic work unavailable under a capitalist system. Third, the more imminent danger under a Dengist regime is that democracy will be short-changed, rather than production. This is true regardless of whether enterprise becomes predominantly capitalist or remains predominantly socialist.

153. *Id.*

As if to punctuate this point, Deng's 1982 Constitution deletes the 1975 exhortations of proletarian politics and labor by Party cadres.¹⁵⁴ Although it retains language on combatting bureaucracy, the 1982 provision otherwise returns to the non-controversial, meaningless homilies of the 1954 document concerning reliance on, and supervision by, the masses.¹⁵⁵ In the 1978 constitution—the transition between the 1975 and 1982 documents—there are provisions which signal ambivalence over both Maoist and Dengist political economy. The 1978 document deletes the 1975 constitution's provocative exhortation toward proletarian politics, but retains the injunction on productive labor by cadres.¹⁵⁶ We may imagine that actual enforcement of cadre labor was on the wane by this time and that any continuing practice was mainly symbolic. By 1982, however, Deng-style productivist concern—with its concomitant stress on efficiency, expertise, and specialization—had come to view even the symbolism of cadre labor as mischievous. Hence, the provision was struck entirely. Nothing could be more indicative of diminished commitment under Deng to worker-centered perspectives on economic policy.

D. THE NEW CRIMINAL CODE

China's new criminal law, like Deng's constitution, has several important ramifications for the future of China's political economy. The comprehensive criminal code initiated in 1980 was China's first in the postrevolutionary period. It is difficult to specify how much the code has modified or will modify Chinese criminal justice operations, because it is very difficult to determine how the system functioned prior to the code. Nevertheless, Western observers commonly observe criminal codification as an important step away from state repression. This viewpoint prematurely gives credence to Chinese sloganeering about a turn to the "rule of law."

The Deng regime has touted the criminal code to westerners, and to its own citizens, as an antidote to the chaotic imposition of criminal sanctions during the Cultural Revolution period. If the code truly succeeds in doing so, the protection of citizens against arbitrary punishment will certainly be positive. One may worry, however, that codification will effectuate a legitimation of repression, placing a rule of law halo over actions taken by entrenched elites to protect their self-serving order. The Cultural Revolution's chaotic offenses against justice may

154. CONST. OF THE PEOPLE'S REPUBLIC OF CHINA art. 27 (1982).

155. *Id.*

156. CONST. OF THE PEOPLE'S REPUBLIC OF CHINA art. 16 (1978).

have been replaced by something more quietly sinister—a methodical, uniform, and presumptively legal application of state force against those who dare to criticize. Even more sinister is the possibility that such force will be directed systematically at those who protest hardships inflicted by the emerging social economy.

The criminal code outlines eight major categories of crime and defines various offenses under each of the eight categories.¹⁵⁷ The first category, its rank indicative of its perceived importance, is crimes of counterrevolution.¹⁵⁸ Counterrevolutionary crimes are, to put it simply, political crimes. Under the counterrevolutionary crime provisions, all serious criticism of government policy and any organized efforts to alter such policy are potentially punishable. Commentators have frequently suggested that these provisions are less repressive than the pre-code counterrevolutionary crime statute they replace.¹⁵⁹ This optimistic assessment, however, has little foundation. It merely manifests a preconceived and uncritical assumption that Dengist reforms must mean reduced repression.

Article 90 of the new code defines counterrevolutionary crime as any act aimed at overthrowing the “dictatorship of the proletariat” or the “socialist system.”¹⁶⁰ The vagueness and breadth of such a provision are too obvious to require emphasis. Operationally, “dictatorship of the proletariat” means Party monopoly over power. Advocacy of competitive elections could, therefore, warrant imprisonment or, if such advocacy is too effective, the death penalty. “Socialist system” means whatever political economy the Party may institutionalize, because whatever type of system it adopts will be labelled “socialism.” Imagine what could happen if the Party, continuing its privatization and marke-

157. CRIMINAL LAW CODE OF THE PEOPLE'S REPUBLIC OF CHINA, pt. II, chs. 1-8 (1979), reprinted in R. FOLSOM & J. MINAN, *supra* note 115, at 612 [hereinafter CRIMINAL CODE]. Categories of crimes set forth in the Code are as follows: (1) crimes of counterrevolution; (2) crimes of endangering public security; (3) crimes of undermining the social economic order; (4) crimes of infringing upon the rights of the person and the democratic rights of citizens; (5) crimes of property violation; (6) crimes of disrupting the order of social administration; (7) crimes of disrupting marriage and family; and (8) crimes of dereliction of duty. *Id.*

158. *Id.*

159. See Leng, *Crime and Punishment in Post-Mao China*, 2 CHINA L. REP. 5, 8 (1982) (stating that the criminal code regarding counterrevolutionary crime is an improvement over the old statute); R. FOLSOM & J. MINAN, *supra* note 115, at 225 (stating that the concept of counterrevolutionary crime has been narrowed and the severity of punishment lessened by the Chinese criminal law).

160. CRIMINAL CODE, pt. II, ch. 1, art. 90. Article 90 states: “All acts endangering the People's Republic of China committed with the goal of overthrowing the political power of the dictatorship of the proletariat and the socialist system are crimes of counterrevolution.” *Id.*

tization campaigns, adopts a capitalist system. In that case, organizing trade unions, criticizing deliberately induced unemployment, advocating welfare-state expansion, or calling for controls on the economic power of wealth might all be punishable as "counterrevolutionary." Of course, such ironies are already possible in today's China, even without the full-blown emergence of capitalism.

The code outlines several additional counterrevolutionary offenses which, when taken together, afford legal sanction for the broad stifling of any significant critical politics. One may be prosecuted for "plots to subvert the government or dismember the state."¹⁶¹ One may also be prosecuted for belonging to a "counterrevolutionary group"¹⁶² or "secret society".¹⁶³ Any critical political organization, and any action it might take to secure a power base for dissidence or reform, is punishable under these provisions. Furthermore, one may be criminally prosecuted for instigating civil disobedience or for using counterrevolutionary slogans or leaflets.¹⁶⁴ These provisions are certainly broad enough to prosecute the participants of last year's dissident actions. It seems almost superfluous that the code, in addition to listing these counterrevolutionary offenses, continues to list additional prohibitions which may also be used to stifle dissent.

Consistent with the earlier termination of constitutional protection for posters, the code outlaws posters that are publicly defamatory or insulting.¹⁶⁵ Recent derisive attacks on Li and Deng, for example, may have triggered this prohibition. Consistent with the termination of constitutional protection for strikes, the code also outlaws disturbances of social order which interfere with "work," "production," or "business."¹⁶⁶ Though the Constitution currently retains boilerplate protection for freedom of assembly, the criminal code outlaws organizing any assembly which disturbs order, disrupts traffic, or frustrates state security personnel in executing their functions.¹⁶⁷

One additional criminal prohibition warrants special attention in light of China's emerging new political economy. This curious provision

161. *Id.* art. 92. Punishment for any plot to overthrow the government entails life imprisonment, or at least ten years of fixed-term imprisonment. *Id.*

162. *Id.* art. 98. One who organizes a counterrevolutionary group is automatically sentenced to at least five years imprisonment; whereas one who actively participates is not sentenced to more than a five year term. *Id.*

163. *Id.* art. 99. A member of a secret society must be sentenced to at least five years in jail. *Id.*

164. *Id.* art. 102. A participant in counterrevolutionary solicitation is subject to a maximum five year term; but ringleaders will be sentenced to at least five years. *Id.*

165. *Id.* art. 145.

166. *Id.* art. 158.

167. *Id.* art. 159.

makes it a criminal offense for anyone who "in order to give vent to spite, to retaliate, or for other personal motives" does damage to "machinery or equipment" or does serious harm to "draft animals" or otherwise sabotages production.¹⁶⁸ The precise purpose of outlawing damage to means of production, where the motives are the ones specified, is elusive. One may speculate that the provision manifests productivist anxiety about dissatisfaction which will predictably arise in a new social economy geared toward tighter managerial discipline, and toward encouragement of income disparities through private control of productive resources.

The disenchantment of stressed industrial workers, for example, or a peasant's rage as she sinks into penury while a neighbor grows rich using formerly common property, will be specifically punished if they lead to the damage of machines or breaking the legs of a neighbor's ox. Lay-offs, formerly frowned upon as antisocialist, have become increasingly common in Deng's new political economy. If, as is likely, welfare state protection for displaced workers remains inadequate, such lay-offs will provide fertile ground for anguished and desperate gestures, gestures which may be punished under this provision for the motives which impel them. Again, what is striking about this provision is not the damage it outlaws, but the diabolical way it seems to anticipate and despise the suffering imposed by a new political economy.

As a final word on repressive criminal law, the death penalty warrants mentioning. The Deng regime's liberal use of the death penalty against rioters and dissenters in the wake of 1989's protests came as a shock to many who saw Deng as a cuddly figure or were credulously optimistic about China's new rule of law. In fact, the use of the death penalty is not new at all. For years, Deng's criminal justice system has used the death penalty extensively to deal with a broad range of crimes not punishable by death anywhere in the West.

All too frequently, the use of China's death penalty corresponds not to the egregiousness of a particular criminal's acts, but to the fact that it occurred at the same time as a politically-charged anticrime campaign, such as the highly-publicized one staged between 1983 and 1986. Liberal infliction of the death penalty is just one more indication of a central element of Dengist political economy—a draconian policy of order.

Deng himself enthusiastically stands behind broad use of the death penalty, having remarked to the Politburo's five-person, now six-person, Standing Committee: "As a matter of fact, execution is the one indis-

168. *Id.* art. 125.

pensable means of education." To further such education, Chinese railway stations sport pictures of condemned persons. Those already executed are festooned with a red "X" through the face.¹⁶⁹ Once again, as in so many instances, it is instructive to contrast Deng's outlook with that of the oft-vilified Mao. Mao can certainly be blamed for, among other things, his frequent resort to overly-violent methods and liberal use of the death penalty. Nevertheless, he did not share Deng's positive embrace of the death penalty as a routine sanction. Criticizing overuse of death penalties, Mao once remarked that, "Once a head is chopped off. . . it can't be restored, nor can it grow again as chives do, after being cut."¹⁷⁰

IV. PAST AS PROLOGUE: DEMOCRACY WALL

The Cultural Revolution's gallery of horrors led many Chinese to welcome Deng as a savior. It did not take long, however, before they ceased viewing him through rose-colored glasses. Last year's Beijing blood-letting was not Deng's first go-round with suppression of democracy. In 1987, democratic protests and dissent were stifled, and Hu Yaobang was dismissed as the Party chieftain for resisting the crack-down. Hu's dismissal occurred during Deng's repressive campaign against "bourgeois liberalism." The campaign was largely aimed at resisting calls for greater democratization and tolerance of dissent. In a device which dovetails in mirror fashion with Western ideology, democratization and dissent were denounced by the Party as steps toward capitalism. In the West, supposed links between democratic dissent and capitalism shed favorable light on capitalism. In China, where "capitalism" is officially viewed negatively, supposed links between capitalism and democracy shed negative light on democratic dissent.

In the early eighties, Deng had waged his gruesome anticrime campaign alongside another major initiative in state repression, the campaign against "spiritual pollution." The spiritual pollution campaign sought to purge China of decadent pop culture and hedonist attitudes seeping in from the West.

Even earlier, in the late seventies—soon after Deng's consolidation of power—there was a flurry of dissent widely known as the "Democracy Wall" agitation. Vigorous criticism, demonstrations, and calls for reform characterized this period, much like its predecessors, the Hundred Flowers and the early Cultural Revolution. Many veterans of Cultural

169. Theroux, *Travel Writing: Why I Bother*, N.Y. Times, July 30, 1989, at 7.

170. 5 SELECTED WORKS OF MAO ZEDONG 1961-1977 299-300.

Revolution activism were among the Democracy Wall voices. Deng tolerated the Democracy Wall movement for a brief period when its attacks seemed to focus mainly on still-lingering anti-Dengist forces. Deng's repression was swift and severe, however, when the movement grew more unruly and began to attack the Party-state regime itself as both antidemocratic and, more radically, antisocialist.¹⁷¹ As he did later in 1989, Deng hit hard when the democratic agitations began to appear reminiscent of the Cultural Revolution. By this time, Deng's Party cohort had launched an official repudiation of the Cultural Revolution in all its aspects. Dissent activists, by contrast, continued to affirm democratic and educational aspects of the Cultural Revolution.¹⁷²

The Democracy Wall period saw public expression for a myriad of divergent and often contradictory ideas and criticisms. There was, however, one particular type of analysis the regime found especially intolerable—calls for true, democratic socialism. It is fitting, for several reasons, to inspect key Democracy Wall documents closely. First, such an inspection honors the courage, commitment, and vision of China's democratic activists. Second, such an inspection dispels the Western misconception that China's best dissent is anti-Marxist and antisocialist. Third, such an inspection provides contact with ideas helpful in imagining China's better future and the world's.

A. WANG XIZHE

One of the finest documents from the Democracy Wall period is Wang Xizhe's "Proletarian Dictatorship is a Humanitarian Dictatorship,"¹⁷³ ("Humanitarian Dictatorship"). Originally published in the Hong Kong journal *The Seventies*, the essay has never been published in China. In 1982, Wang was sentenced to 14 years imprisonment for his dissent activity; he was in prison during the 1989 democratic activity. In "Humanitarian Dictatorship," Wang credits both the Cultural Revolution's positive and negative effects with inspiring China's later democratic ferment. He believes democratic socialism is both possible and desirable because to him there is no true socialism without democracy and no true democracy without socialism.

171. See S. LEYS, *THE BURNING FOREST: ESSAYS ON CHINESE CULTURE AND POLITICS* 84 (1985) (stating that the Democracy Wall lasted for a limited period and those who continued protesting received long prison terms).

172. Rosen, *supra* note 93, at 27-28.

173. Wang, *Proletarian Dictatorship Is a Humanitarian Dictatorship*, in *MAO'S HARVEST: VOICES FROM CHINA'S NEW GENERATION* 212 (F. Siu & Z. Stern eds. 1983).

“Humanitarian Dictatorship” emphasizes that Chinese Communist rule has been a dictatorship “drenched in blood, cruel and inhuman.”¹⁷⁴ Wang traces the origins of Communist tyranny to the autocratic character of pre-Communist Chinese life and to the ruthless tactics the Communists adopted to triumph in their struggles against savage reactionary forces.¹⁷⁵ Ruthlessness was perhaps necessary to remove obstacles to the creation of a humane social order. Unfortunately, however, the Party has become addicted to cruel and dispassionate practices¹⁷⁶ and is increasingly dismissive of those who would criticize Party methods as inhumane. As Wang puts it: “In order to justify theoretically this widespread barbarity, theorists decided that . . . Marxism did not concern itself with humanitarianism.”¹⁷⁷ Wang criticizes this theory and in doing so, attempts to vindicate Marx. He insists that humanitarian concerns lie at the very heart of Marxism. The Marxist ideals—ending social exploitation, distributing resources according to need, and developing every person’s human capacities—are quintessentially humane concerns.¹⁷⁸

Wang takes issue with Dengist notions that development in productive forces must be socialism’s most exalted value and that, in service to that value, repression is justified.¹⁷⁹ If so, as Wang argues, Marxism must be mistaken:

Then how are we to account for the fact that Marx and Engels never showed the least bit of sympathy for the slave owners, landlords, and capitalists who had at one time stood for new relations of production? Was not the exploitative social system that they represented precisely the one that was best able, at one time, to promote the development of the productive forces? Conversely, how are we to account for the way in which Marx and Engels praised the early struggles of slaves, serfs, and workers against their exploiters?

Wang argues that such logic forgives contemporary capitalist imperial-

174. *Id.*

175. *See id.* at 211 (contending that the Chinese Communists employed a Party-dominated military, a secret service, and other ruthless tactics in response to the use of these same practices by the Goumindang (KMT)).

176. *See id.* at 210-11 (noting that many thousands of people have suffered beatings, cold, and hunger at the hands of Kang Sheng, Lin Biao, and the Gang of Four).

177. *Id.* at 212.

178. *See id.* at 214 (arguing that Marx believed that the capitalist mode of production violated human nature, and therefore had to be replaced by social conditions that permitted mankind to realize in its human nature). Wang also declares that Marx viewed human nature as that human characteristic that is demonstrated by man’s desire to develop fully and freely. *Id.* at 215.

179. *Id.* at 213.

ism, which can "develop the productive forces at high speed" and must, therefore, be good "no matter how much the workers' blood flows to maintain it."¹⁸⁰ Wang contends that although such logic may be disgusting, it is no more disgusting than the morals of productivist socialism.¹⁸¹

Wang himself is no friend of capitalism, which he characterizes as an inherently oppressive and exploitative system, which has no possibility of reform which would be just for those upon whom it preys.¹⁸² Socialism, by contrast, creates at least the possibility of developing a humane social order. The development of these possibilities is by no means inevitable however. Socialism may itself ossify into an inhumane order. The problem facing socialism is to constrain its inhumane features and to develop its humane ones.¹⁸³

Building a humane socialism is difficult. Although Wang attacks Dengist productivism, he acknowledges that humane socialism requires a high degree of wealth and productivity.¹⁸⁴ Without such wealth and productivity, economic exploitation will continue, even under socialism. Unlike members of the Dengist school, Wang insists, like Mao, that true class exploitation can persist under socialism. High productivity is necessary to eliminate such exploitation, but high productivity alone cannot abolish it and may indeed reinforce it, while crowding out the pursuit of humane values.¹⁸⁵

Wang articulates this complex predicament with candor and he offers no evasive or simplistic resolutions. His opposition to Deng-style productivist autocracy never wavers, however. He argues that socialism's continuing problems regarding the allocation of wealth should be resolved, not by Party dictate, but through the complex, difficult process of democratic negotiation among contending social groups and in-

180. *Id.* at 214.

181. *See id.* (insisting that Dengist emphasis on productivist socialism degrades the individual and that the sacrifice of innocent persons under the Dengist view represents an insignificant event). Wang says:

If we still persist in these standards, we naturally arrive at the following conclusion: in order to develop the socialist forces of production and to develop this "socialism," the needless sacrifice of a few more people or the slaughter of a few more innocent people is of quite negligible importance.

Id.

182. *See id.* at 214-15 (asserting that the capitalist system is opposed to human nature because it exploits labor for the benefit of the system, rather than allowing people to use the power of their labor to develop fully their human potential).

183. *See id.* at 215 (noting that although socialism permits the development of a model humanitarian society, it still does not fully eradicate hostility between the classes, and may, in fact engender such hostility).

184. *Id.* at 217.

185. *Id.*

terests.¹⁸⁶ Wang's emphasis on democratic discussion as the method for determining distribution of wealth clearly implies rejection of the market as society's primary allocator of wealth. Moreover, Wang stresses that reducing wealth disparities should be an ongoing priority in socialist deliberations.¹⁸⁷ In addition, he warns that productivity should not give way to mere productivism. Humane socialist goals of increased leisure, job security, adequate income minimums, safety, and decent work conditions should be paramount, not sacrificed to productivist demands.¹⁸⁸ Wang scorns capitalism's productivist critique of the leisure enjoyed by some Chinese workers.¹⁸⁹ To capitalism, Wang writes, the worker's health is "as valueless as the industrial wastes that are dumped in the sea by machines."¹⁹⁰ Socialism should not imitate this attitude.¹⁹¹

Wang rebukes those who view socialism merely as the means to achieving a "rich material life," though he certainly does not repudiate that purpose in itself.¹⁹² He also stands as a reproach to Western cynics who see Chinese dissent as nothing but a yearning to overthrow socialism for a system that provides the freedom to pursue private self-advancement. The truest purpose of socialism, Wang writes, is to create a humane life in which people "wish conscientiously to immerse themselves in the society and to offer all they have for its advancement."¹⁹³

B. WEI JINGSHENG

Another leading document is Wei Jingsheng's "The Fifth Modernization: Democracy," ("The Fifth Modernization") which was posted on Beijing's Democracy Wall in late 1978.¹⁹⁴ It elicited wide popular support and may have played a large part in prompting the Party to sup-

186. *Id.*

187. *Id.*

188. *See id.* at 217-18 (asserting that a socialist economy devoted to the development of modes of production which are in accord with human nature will be a humane economic system).

189. *See id.* at 218 (denigrating capitalists for their belief that the bottleneck in China's economic progress results from the Chinese practice of providing its workers with a midday break).

190. *Id.*

191. *See id.* (arguing that the midday break enjoyed by Chinese workers is one element in the realization of the humanitarian nature of socialism).

192. *Id.*

193. *Id.*

194. Wei, *The Fifth Modernization: Democracy*, in *THE BURNING FOREST: ESSAYS ON CHINESE CULTURE AND POLITICS* 224, 224 (translated from the Chinese by S. Leys 1983). Wei's document was the result of a brief liberalization that Deng permitted upon his return to power. *Id.*

press the Democracy Wall movement and arrest its leaders.¹⁹⁵ Unlike Wang's "Humanitarian Dictatorship," which conceals its passion within a tempered analytical mood, "The Fifth Modernization" is scathing, outrageous and inflammatory. At the same time, it displays a thorough knowledge of socialist theory and a clear allegiance to socialist vision. Wei's evaluation of Mao is far more critical and cynical than Wang's. Wang judges Mao's programs to have been seriously misguided,¹⁹⁶ but he occasionally testifies to his "utmost respect" for Mao as a person of principle, in contrast to the many "opportunist bureaucrats" who inhabit the Party.¹⁹⁷ Wei, by contrast, has nothing but scorn for Mao's despotic rule and refers to Mao contemptuously as a trash-peddler or sarcastically by the title "Great Helmsman."¹⁹⁸ Wei's unabashed iconoclasm contributed greatly to his troubles with the Communist authorities.

Wei begins by ridiculing Dengist "Four Modernizations" propaganda. Though it may have brought momentary relief from the previous monotony of the "Gang of Four" propaganda, it still is nothing more than mindless and deceptive rhetoric.¹⁹⁹ It is worthwhile to quote Wei in some detail in order to capture the relentless irony of his presentation:

To make revolution is not fashionable nowadays. Now, if you wish to achieve a brilliant career, the best way is again to work for a university degree. The people need no longer suffer the wearisome drivel of class struggle. Now it is the Four Modernizations that have become the new panacea. Needless to say, we must still obey the orders of the central authorities. Follow the guide dutifully, and all your beautiful dreams will materialize

Forward march! Within the framework of the Four Modernizations, close all ranks, and cut out the nonsense, all you dutiful packhorses of the Revolution! At the end of the road you will reach Paradise—the utopia of Communism—with the Four Modernizations. . . . Your lack of enthusiasm results from your deficient theoretical understanding, and the very fact that you do not understand the theory precisely proves its sublime depth. Come on, be good fellows now—anyway, the authorities that be, ordained by history, will not allow you any alternative. . . .²⁰⁰

195. *Id.*

196. *See* Interview with Wang Xizhe, *China's Democracy Movement*, 131 *NEW LEFT REV.* 62, 69-70 (1982) (declaring that Mao's ideal of an agrarian socialist society was not in accord with the reality of a China that was rife with poverty, ignorance, and corruption).

197. *Id.* at 70.

198. *See* Wei, *supra* note 194, at 229-30 (lambasting Mao's efforts to rid the Party of its democratic vestiges and his exaltation of himself as the "Great Leader").

199. *Id.*

200. *Id.* at 226-28.

Wei, a former Red Guard leader, affirms the early Cultural Revolution as a democratic landmark when common people "became aware of their own strength" and saw their reactionary leaders "shaking with fear."²⁰¹ In the aftermath, Wei thinks that some have managed to extricate themselves from the deceptions and delusions of the Cultural Revolution to form a clearer idea of the kind of democracy to pursue.²⁰² In a passage that ends with a deft pun on the title of Lenin's famous pamphlet, Wei exhorts his fellow Chinese to resist the Dengist order:

I beg you all—do not let these political swindlers cheat you yet again! Rather than allow what we know to be a dupery, why not, for once, simply rely on our own resources? The cruel experiences of the Cultural Revolution have opened our eyes. Let us try to discover for ourselves what is to be done.²⁰³

Wei's fluency with Marxism emerges again when he provides his ironic analysis of the kind of regime the Party has created. He calls to mind the *Communist Manifesto's* discussion of various phony socialisms masquerading as the real thing. Wei identifies China with what Marx calls "feudal socialism," or in Wei's translation "social feudalism," a system Wei describes as "a kind of feudal monarchy in socialist garb."²⁰⁴ China has become exactly the sort of phony socialism Marx railed against, Wei suggests, and adds: "We would laugh if it were not so sad. . . ."²⁰⁵

Wei criticizes the Dengists' infatuation with productivism and their toleration with inequalities that it generates. Wei cautions that socialist inequality creates its own forms of exploitation. He acknowledges the need to raise productivity, but insists that the goal must be "prosperity equally distributed among the entire population."²⁰⁶

As Wei conceptualizes it, there are two principle elements of socialist democracy. The first is democratic worker control over production processes and decisions.²⁰⁷ The second is government by elected representatives.²⁰⁸ In short, democracy is key to the success of a genuine socialism:

I firmly believe that if production is put under control of the people, it will

201. *Id.* at 239.

202. *See id.* (declaring that Mao was able to stifle the democratic trend of the early Cultural Revolution because the people revered him, but that the people finally learned that they must trust only in themselves in order to create a democracy).

203. *Id.* at 228.

204. *Id.* at 231.

205. *Id.*

206. *Id.* at 232.

207. *Id.* at 233.

208. *Id.* at 233-34.

certainly increase, because the producers will work in their own interest. Life will become beautiful and good, because everything will be geared toward the improvement of the workers' living conditions. Society will be more just, because all rights and powers will be democratically wielded by all the workers.²⁰⁹

One can scarcely imagine a more ringing reaffirmation of socialist ideals and beliefs.

Wei holds no illusions. He foretells a titanic struggle between the forces of democracy and the "fascist despots" of the Party who stand in their way.²¹⁰ The fulfillment of democracy cannot await the achievement of productivist goals. It will come only through popular struggle and suffering:

Will democracy emerge by itself at the end of a natural and necessary evolution? Certainly not. On the way toward democracy, the smallest victory will exact a terrible price; . . . democracy will be reached only after bloody sacrifices Blood will be shed, there will be new martyrs, persecution will become even more sinister; but the reactionary forces will never again succeed in obliterating our democratic flag in their poisonous mist.²¹¹

On October 16, 1979, Wei Jingsheng was convicted of counterrevolutionary crimes and condemned to 15 years imprisonment. His penalty was especially severe because he refused to confess having committed any crime. Today he languishes in Deng's dungeon, where he has never recanted his views. Reports have it he is entirely broken, in body and in spirit.

209. *Id.* at 235-36.

210. *Id.* at 236-37.

211. *Id.* at 238-39.