Research Notes

Chinese Politics and the New Theory of "Rule of Law"*

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In light of widespread western condemnation of the Tiananmen Square event, it may seem somewhat capricious to raise the issue of the "rule of law" as it is understood in China; however, prior to 4 June the Chinese Communist Party sanctioned a provocative theoretical debate which featured the "rule of law" as opposed to the "rule of man." Even though the Chinese rule of law derived self-consciously from Chinese ideology and history, it seemed to parallel loosely the substantive concern in the western theoretical notion of "government of laws, not men."

Montesquieu focused on the checks and balances offered in the separation of powers, and his rule of law was designed to pre-empt oriental despotism. A. V. Dicey's later discourse on the subject agreed with Montesquieu that the predictability and regularity of law was necessary to prevent overweening, powerful individuals from oppressing the ruled.[1] In addition, Weberian political sociology focused attention on the relation between the legitimacy of law and the desired predictability which it lends to economic transactions. This focus highlighted the rule of law as necessary to the development of modern capitalism.[2] The "rule of law" notion poses some difficulty for contemporary western comparative politics studies of conceptual and institutional change in socialist states, insofar as it moves beyond "government of laws, not men" to incorporate liberal democratic notions which presume the limiting of the state and the expansion of individual private liberty and the market exchange economy.

Richard Baum, for example, has drawn on Roberto Unger's study of law in modernization to emphasize a conceptual distinction between "rule by law" and "rule of law."[3] Using "rule by law," Baum

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1. A.V. Dicey, *Introduction to the Study of the Law of the Constitution* (London, 1927) in the theoretical analysis of Allan Hutchinson, Patrick Monahan (ed.), *The Rule of Law: Ideal or Ideology* (Toronto: Carswell Press, 1987) pp. 4–7.

2. Stephen Potter considers Weber's analysis in the light of developing Chinese law relating to economic contracts. See his unpublished Ph.D. thesis, "Policy, law and private economic rights in China: the doctrine and practice of law on economic contracts" (University of Washington, 1986) pp. 4–6.

3. Roberto M. Unger, *Law in Modern Society* (New York: The Free Press, 1976) and Richard Baum, "Modernization and legal reform in post-Mao China: the rebirth of socialist legality," *Studies in Comparative Communism.* Vol. XIX, No. 2, Summer 1986, pp. 69–104.

compares Stalinist and traditional Chinese law with a pluralist model of politics within which law reflects the underlying balance of forces which had characterized the European transition from feudal to modern society. Chinese theory has regularly eschewed pluralism, and still the rule of law has acquired new theoretical status. Over the last decade there was significant discussion of how Chinese culture and the imperial past have obstructed recent efforts to create socialist commodity production and the rule of law.[4]

Past discussion of the importance of law was informed by several major debates on the relation of the Party and state and the relation of policy and law in revolutionary society. The specific connotations of "policy is the soul of law" (*zhengce shi falude linghun*) varied with changes of Party line, but it often related to the Party's political need for extra-legal flexibility in dealing with class enemies. Party policy was not only *a priori* to law, but, in the absence of law, policy acquired the role and status of law.

Chinese theory has often criticized western judicial independence, *sifa duli*, and Montesquieu's justification of the "separation of powers" as a capitalist institutional strategy to preserve the social inequities of private ownership. It has fostered its own constitutional notion of judicial independence, *shenpan duli*, which assumes both that the Party will continue to determine the substantive direction of law-making and that it will not become directly involved in court proceedings. The 1979 Organic Law of the People's Courts, for example, featured "independence," defined as the exercise of independent judicial power so that the courts "... are not subject to interference by administrative organs, public organizations and individuals."[5] In the early 1980s Party leaders insisted that the Party should uphold the law and not exercise "concrete leadership" over the courts.

In the context of reform and in reaction to the political excesses of the Cultural Revolution, law was conceived as an institutional buffer against *renzhi*, or the rule of man. In its warning against the inherent dangers of the rule of man and its focus on the supreme leader's unlimited power vis-à-vis law, Chinese theory drew a conclusion similar to Baum's, but this rule of law was specifically rooted in the repudiation of the Leftist theses of the Cultural Revolution. Both law and democracy were needed to insure against any future reoccurrence of the latter. Not only the masses but the Party leaders wanted

4. For example, see Wang Shubai, "Recreating China's culture – retrospect and reflections on the 70th anniversary of the May Fourth Movement," *Renmin ribao*, 14 April 1989, p. 6, in FBIS-CHI-89-078, 25 April 1989, p. 37.

5. This is the language of Article 4 of the Organic Law of the People's Courts of the PRC. Exactly the same language is used in Article 126 of the State Constitution of 1982. Both passages are in *Zhonghua renmin gongheguo changyong falu daquan* (*Compendium of Often-used Laws of the PRC*) (Beijing: Falu chubanshe, 1988) pp. 19, 55. The two usages of "judicial independence" were explained in an interview with the Beijing constitutional expert, Gong Xiangrui, in December 1982. Gong's view agrees with the current entries in *Xianfa cidian* (*Constitutional Law Dictionary*) (Chilin: Chilin renmin chubanshe, 1988) pp. 135, 302.

institutional insurance against precipitous changes of leadership and line. The persistance of feudalism within contemporary society was generally regarded as the most serious threat to modernization. Surviving Party leaders wished to substitute the predictability of socialist legality for the arbitrary politics of large-scale mass action in their bid to achieve political unity and stability.[6]

Specific theory on the rule of law emerged in light of post Cultural Revolution debate. It was, however, predated by related controversies over "judicial independence," "equality before the law" (*falu mianqian renren pingdengdi yuanze*), "give the defendant the benefit of the doubt" (*youli yu beigao*), and "policy is the soul of law." The last was unabashedly used in the 1957 Anti-Rightist campaign to reinforce the supremacy of policy over law in the mass struggle against class enemies. Support for comprehensive codification of law and its perfection was interpreted as a sign of an anti-Party position. Law was required to change with the revolutionary situation. Emphasis on the predictability, rather than the flexibility, of law was considered a sign of political reaction, as was the advocacy of the notion of "inheritability" which allowed for some retention of old law in China's new socialist society.[7]

The proponents of comprehensive legal development were made to conform to the priorities of class struggle; for example, in September 1957 the director of the Criminal Law Section of the Supreme Court was roundly criticized for his erroneous interpretations of "judicial independence" and "give the defendant the benefit of the doubt." He had too rashly presumed that "policy is the soul of law" no longer entailed the exercise of the Party's "concrete leadership" within the court system. His critics, however, insisted that policy would still have priority even in the future perfection of the legal system.[8]

Emphasis on law as offering predictable standards of measurement in the application of rules to social activity was likewise summarily rejected; for example, a February 1959 article in *Political–Legal Research* indicated:

6. See Deng Xiaoping's 25 December 1980 comment on law and stability in "Implement the policy of readjustment, ensure stability and unity" in Deng Xiaoping, *Selected Works of Deng Xiaoping (1975–1982)* (Beijing: Foreign Languages Press, 1984) p. 352.

7. A strict interpretation of Lenin's notion of "smashing" the old state machinery disallowed any inheritability of the laws of the old regime. In the 1980s debate over the "class" and "social" nature of law, some argued against the one-sided stress on the law's flexibility against class enemies. Zhang Hongsheng and Luo Jianping, for example, argued that since some rules of social behaviour would continue to apply even given changing productive forces and relations, some degree of "inheritability" would necessarily apply on the basis of common human recognition of natural laws, *ziran guilu*, governing social relations. See Zhang Hongsheng and Luo Jianping, "Lun fadi jiejixing he shehuixing" ("On law's class and social natures"), *Zhengfa luntan* (*Politics and Law Forum*), No. 2, August 1986, pp. 4–5.

8. "Buxu quangai renmin fayuandi xingzhi" ("Changing the nature of the people's court is not allowed"), *Renmin ribao*, 24 September 1957. I should like to thank Lin Sen for bringing this article to my attention.

The proverb of "employing facts as the basis and laws as measuring rods" just means that we should first ascertain the nature of contradictions from actual data, and then, based on the needs of socialist society, stretch or shorten the measuring rods in conformity with Party policies.[9]

In the subsequent Cultural Revolution those aiming to perfect the legal system became class enemies. Peng Zhen and Lo Ruiqing were targeted by Red Guards who claimed that Mao had taught "depend on the rule of man, not the rule of law."[10] Emphasis on "equality before law" and "presumption of innocence" was construed as an insidious policy of benevolence to protect class enemies. Advocacy of "inheritability of law" was yet another sign of a hidden class preference for feudalism and the inequities of the Kuomintang era.

With the advent of Deng Xiaoping's leadership there was a transformation in political thinking. Class struggle was no longer the "key link." Large-scale mass campaigns were banned. Deng rejected the "two-line struggle" as the basis of Party history, and feudalism was used to explain erroneous Leftist tendencies of the Cultural Revolution period. Legal nihilism (*falu xuwuzhuyi*) was traced to feudal phenomena such as patriarchalism, "rule of man-ism," *renzhizhuyi*, and *yi yan dang* meaning "follow only what I say."

"Equality before the law" was highlighted in Deng's instructions against corrupt cadres who had so often presumed that they were beyond the reach of the law. "Presumption of innocence," however, remained an exclusively western concept. This principle was contrasted with the scientific, dialectical principle of "seeking the truth from the facts" (*shishi qiu shi*). In these dialectical terms, an emphasis on either "presumption of guilt" (*yuzui tuiding*) or "presumption of innocence" (*wuzui tuiding*) reflected a one-sided legal judgment.

Speaking to a Party Central Work Conference Deng described a new relation between democracy and law:

Democracy has to be institutionalized and written into law, so as to make sure that institutions and laws do not change whenever the leadership changes or whenever the leaders change their views... The trouble now is that our legal system is incomplete... Very often what leaders say is taken as law and anyone who disagrees is called a lawbreaker.[11]

Deng Xiaoping proclaimed that "to realize democracy and the rule of law is the same as realizing the four modernizations."[12] His formulation, "law is better than no law, faster [law-making] is better than slower [law-making]" (*you bi mei you hao, you gao kuai bi you*

9. As cited in Ronald C. Keith, "Socialist legality and proletarian democracy in the People's Republic of China," *Canadian Journal of Political Science*, Vol. XIII, No. 3, September 1980, p. 572.

10. For example see "Completely smash the feudal, capitalist and revisionist legal systems," U.S. Consulate General, Hong Kong, *Survey of China Mainland Magazines*, 3 September 1968, No. 625, pp. 23, 26.

11. Deng Xiaoping, "Emancipate the mind, seek the truth from facts and unite as one in looking to the future," *Selected Works of Deng Xiaoping*, pp. 157–58.

12. *Ibid.*

gao man hao) authorized an acceleration in the complete codification of all categories of law.[13]

The Party recognized in its 21 June 1981 resolution that Leftist theses calling for large-scale class struggle and the exercising of all-round dictatorship over the bourgeoisie had deliberately confused the difference between "non-antagonistic" and "antagonistic" contradictions in society. The Red Guards had gone beyond "policy is the soul of law" towards three negations (*sange fouding*) calling for the demolition of the public security, procuratorial and courts organs. The relation between "law" (*fa*) and "policy" (*zhengce*) was theoretically re-examined in the light of this.

So as to distance himself from the unlawful behaviour of the Cultural Revolution Left, Deng refused to execute Mao's wife and insisted on the trial of the notorious Gang of Four. In the west the latter was widely regarded as a show trial; however, the eminent social scientist, Fei Xiaotong, as one of the presiding judges, insisted that the trial was "an important start to establish a complete socialist legal system." Fei asserted that the trial was intended to provide the Chinese people "with a lesson, vivid and profound, on the rule of law."[14]

Academics took the opportunity to argue that "law" had more stability than "policy." Peng Zhen resurrected an earlier argument that the Party itself had to respect "law" as the mature outcome of its own response to the will of the masses. Referring to Deng's injunction against "substituting words for laws" (*yi yan dai fa*), he argued that, while the border region conditions of the 1940s may have warranted the permissive use of "policy" as "law," any modern resort to the same represented a step backwards into the feudal past.[15] Law professors eagerly expounded on the law's contemporary virtues of stability and standardization, and they argued that the principles of law could not be arbitrarily changed by the Party without *a priori* legislation.

In 1986, Zhang Yongming boldly and incisively identified the need for law to combat the disruptive swings in politics from Left to Right and the problem of "spirit" which had resulted in much confusion:

13. *Deng Xiaoping wenxuan* (*Selected works of Deng Xiaoping*) (Hong Kong: Sanlian shudian/Renmin chubanshe, 1983) p. 137. There are several overviews of Deng's view of the "rule of law," for example see Wang He, "Shilun Deng Xiaopingdi fazhi jianshe sixiang" ("Examining Deng Xiaoping's thought on the rule of law") in Yue Zong and Xin Zhi (eds.), *Dui Deng Xiaoping yu lilun yanjiu huibian* (*Collection on Deng Xiaoping and Theoretical Research*) (Beijing: Zhonggong dangshi ziliao chubanshe, 1988) pp. 183–206 and Liu Peng, "Fazhi sixiang" ("Legal thought") in Zhang Lansun and Liu Peng (eds.), *Deng Xiaopingdi sixiang lilun yanjiu* (*Theoretical research of Deng Xiaoping's thought*) (Beijing: Zhongguo shuji chubanshe, 1988), pp. 104–118.

14. See Fei's preface to *A Great Trial in Chinese History* (Beijing: New World Press, 1981) pp. 7, 9.

15. Peng's speech is extracted in *Fazhan shehuizhuyi minzhu jian quan shehuizhuyi fazhi* (*Develop Socialist Democracy and Establish Socialist Legality*) (Beijing: Falu chubanshe, 1988) p. 123.

In the past our work was often guided by our leader's spirit which might show inclination toward one orientation one day but the opposite . . . the next. Very often, some kind of intrinsically good "spirit" could be freely interpreted by some people according to their own likes and dislikes. . . . In contrast, laws have the advantage of stability and cannot be changed at will.[16]

One of China's most senior legal academics, Li Buyun, discussed the distinction between "law" and "policy" in *Hongqi*: ". . . the policies of the Party usually are regulations and calls which to a certain extent are only principles. The law is different; it is rigorously standardized. It explicitly and concretely stipulates what the people should, can or cannot do."[17] Law, in other words, should not be wilfully changed as it consists of mature and lasting policy which has important social significance.

The demands of economic reform required new and more extensive applications of law which had little relevant relation to the past emphasis on the law's class nature. Legal scholars who, since the purge of Professor Yang Feilong, had not dared to publish on the law's social nature openly debated the nature of law in modern socialist society.[18] In the 1980 issues of *Faxue yanjiu* (*Studies in Law*), Wu Daying and Liu Han clashed with Zhou Fengju over the relative significance of law's social and class nature. Scholars generally subscribed to one variation or another of a unification theory, encompassing the two natures of law, but there was heated debate over the issue of relative weight. Among the most aggressive theorists, Zhou argued that too much emphasis on law's class nature would negate the new emphasis on "equality before the law."[19] The issue of "government by law, and not by men" joined debates over feudalism and the Cultural Revolution in all the major law journals, including *Zhongguo faxue* (*Law of China*), *Faxue* (*Law Science, Shanghai*), *Faxue yanjiu* (*Studies in Law*) and *Zhengfa luntan* (*Forum on Law and Government*).[20]

According to law professors from the People's and Beijing Universities, the academic community formulated three basic positions on the relation between the rule of law (*fazhi*) and the rule of man

16. Zhang Yongmin, "Strengthening the legal system is a pressing need in reform of the economic system," *Hongqi*, No. 14, 16 July 1986, in JPRS-CPS-84-068, 15 October 1984, p. 33.

17. Li Buyun, "Certain questions concerning the relationship between Party policies and state laws", *Faxue jikan* (*Jurisprudence Quarterly*) No. 3, July 1984, in JPRS-CPS-84-068, 15 October 1984, p. 33.

18. Zhang Xin discusses the history of this issue in *Zhongguo fazhizhi xianguang ji gaige* (*Conditions and Reform of China's Legal System*) (Singapore: Mingbao chubanshe, 1989) p. 17.

19. Zhou Fengju, "Fan danzhun shi jieji douzheng gongju ma?" ("Is law simply an instrument of class struggle"), *Faxue yanjiu* (*Studies in Law*) No. 1, 1980, p. 40. Zhou was attacked in Liu Han and Wu Daying. "Ye tan fadi jiejixing" ("More on the class nature of law"), *Faxue yanjiu*, No. 3, 1980, pp. 9–16.

20. Many of the related articles are reprinted in the compendium published by the People's University entitled, *Fuyin baokan ziliao* (*Duplicate Journal Materials*), under the series title, *Faxue* (*Legal Studies*).

(*renzhi*).[21] The main controversy was between those who proposed an exclusive focus on the rule of law and those who sought a positive relationship between the rule of law and the rule of man. The third position exclusively emphasizing *renzhi* had little influence especially in light of the spring 1989 attacks on new authoritarianism as an anti-democratic and anti-rule-of-law position.

Even at the level of basic terminological understanding, there was a disheartening degree of confusion. Sun Guohua attempted to clarify the different Chinese usages of "legal system" and "rule of law,"[22] as academics and politicians had indiscriminately used *fazhi* to connote both these concepts. However, the meaning of the "rule of law" generally included references to enhancing both the dignity and strict observance of law in society as well as to the related importance of legal ideology, *falu yishi* or *falu shinian*. The latter encompassed legal consciousness (*falu sixiang*), requiring that leaders and the masses not only recognize the specific content of law but also understand its conceptual roots in contemporary Chinese society. This consciousness was the antithesis of Cultural Revolutionary legal nihilism.

Chinese legal scholars negotiated the extremes of legalism (*falu-zhuyi*) and "rule of man-ism" (*renzhizhuyi*). The former invoked the anti-democratic features of traditional legalism as well as any contemporary attempt to copy the bourgeois use of law in modern China. The latter was only progressive in the historical context of the overthrow of feudalism and the advent of capitalism.

Some academics were concerned that future leaders might, in their political claims to exemplify the higher purpose of reform, use the law to gain mass compliance with their own idiosyncratic versions of the law. This was ostensibly a manifestation of *fazhizhuyi*, but its hidden essence was that of *renzhizhuyi*. Ni Zhengmao, for example, warned that certain, unnamed leaders might substitute "ruling the people by law" for the more progressive and democratic formulation, "the whole people governing the law."[23] A January 1985 Party conference acknowledged this problem and abandoned the concept "rule-by-law

21. During September–October 1989 I interviewed the following experts on legal change and the "rule of law": Beida law professors Gong Xiangrui (constitutional expert), Zhang Guohua (president, Chinese Legal History Association), Shen Zongling (expert in comparative law); Renda law professors Sun Guohua (theorist), Wu Lei (vice-general manager, Criminal Procedural Law Institute), Gao Mingxuan (criminal law expert and vice-president, China Law Society), Han Yusheng (vice-dean, Law Department); Wu Daying (director, Institute of Political Science, Chinese Academy of Social Sciences (CASS)); Li Buyun, Institute of Law, CASS, and a general editor of *Faxue yanjiu*; Liu Han, Institute of Law, CASS; Xu Chongdi, vice-president, Political Science Association and Constitutional Law Society; Yao Keming, Beijing Higher People's Court Judge and director of the court's research department; Wang Huaran, deputy general-secretary, All-China Lawyers' Association.

22. Sun Guohua, "Chuji duanjiedi fazhi: gainian he tedian" ("The legal system in the primary stage: the concept and its characteristics"), *Falu xuexi he yanjiu* (*Legal Studies and Research*) No. 6, 1988, pp. 15–19.

23. Ni Zhengmao, "Lun zhengzhi tizhi gaigedi fazhi xuyao" ("The requirements of the legal system in political restructuring"), *Faxue jikan* (*Law Science Quarterly*) Chongqing, No. 2, 1987, p. 3.

state," endorsing instead "depending-on-the-law state," *yi fa zhi guo*.[24]

As the senior Party representative responsible for legal reform, Peng Zhen was prominent in the early stages of the debate. He emphasized "equality before the law" and the separation of Party and state, but his correlation of "democratic systematization" and "legalization" drew upon established connotations of the mass line and democratic centralism. The formulation "policy is the soul of law" increasingly lost currency[25] but the Party still had a guiding role both in ensuring that the law was carried out and in ensuring the legal system's response to social and economic policies. Party discipline and enforcement of the law were part of Deng's strategy for political unity. Party members could not expect to be above the law as Deng refused to place Party members' criminal activity within the scope of Party conduct and the jurisdiction of the Central Party Commission for Discipline Inspection. Deng clearly stated: "It is not appropriate for the Party to concern itself with matters that fall within the scope of the law. If the Party intervenes in everything, the people will never acquire a sense of the rule of law."[26]

Corruption was traced to persisting feudalism, and the related emphasis on "equality before the law" had immediate historical implications for academics familiar with Confucian–Legalist debate over the relative merits of rites or decorum (*li*) and law (*fa*). The Legalists had claimed that the Confucian reluctance to apply law in cases involving those of a superior social rank revealed the weakness of the Confucian "rule of virtue" (*lizhi*).

Using Mao's principle of making the past serve the present, senior legal historians delved into the controversies of the imperial past; however there was no immediate consensus as to the exact relevance of China's legal tradition to modern society. In fact, Deng's desire to hasten change was predicated in the needs of the present *and* in the acknowledged lack of a legal tradition. Deng had once baldly stated, "Our country has no tradition of observing and enforcing laws."[27]

Chinese historians, however, did search for the positive elements within tradition. The president of the Chinese Legal History Association, Zhang Guohua, proudly pointed out that the hallowed notion of *mens rea* appeared first in China. Zhang was especially interested in the contemporary relevance of Xunzi's use of both law and moral cultivation in government. He discussed classical "unification of *li* and *fa*," *lifa jiehe*, in relation to the contemporary need to ensure a

24. Zhang Xin discusses this conference in *Conditions and Reform*, p. 15. Some commentators opposed the changed wording; for example, see Wang Qianghua, "'Yi fa zhi guo' di kouhao meiyou zuo," ("The 'rule-by-law state' slogan is not mistaken"), *Faxue* (*Law Science*) Shanghai, No. 71, 10 October 1987, pp. 14–16.

25. See Anthony Dick's discussion of this in "The Chinese legal system: reforms in the balance," *The China Quarterly*, No. 119, September 1989, p. 543.

26. Deng Xiaoping, *Fundamental Issues in Present-Day China* (Beijing: Foreign Languages Press, 1987) p. 146.

27. *Ibid.*

human element in the administration of justice.[28] Professor Zhang Xin recently made this same point:

> In sum, the true direction of the present-day Chinese system of government is towards the "rule of law" and not the "rule of man." But this . . . is not quite the same as the ancient Legalist "rule of law" which pursued a unified autocracy serving lords and aristocrats; it is a "rule of law" whereby organizations and individuals strictly observe and act according to law. . . . In that we have good men and good laws then we have good rule.[29]

Critics who believed that the dangers of feudalism could never be overstressed, countered that *renzhi* had mistakenly been emphasized in terms of the generality of men when the really fundamental issue was oppression by an all-powerful supreme leader whose words superseded even the "lofty dignity of the law."[30] Wang Liming argued that the "rule-by-law state" does not necessarily support the modern "rule-of-law." He distinguished modern democracy and the Chinese imperial "rule-by-law state" which applied the maxim "the sovereign is living law."[31] Wang focused on socialist democracy, but his distinction between "rule-by-law state" and "depending-on-law state," nonetheless, approximates Baum's distinction between "rule by law" and "rule of law" in its rejection of the arbitrary, authoritarian creation and imposition of law by the state.

Conclusion

Deng Xiaoping disappointed the western world in his supreme act as "helmsman" in June 1989. He had secretly tried on Mao's famous Hunanese sandals only to find that the messy contradictions of China's fast-changing society were so great as to defy the studied dialectical principles of "seeking the truth from the facts." However, the post 4 June focus on counter-revolution does not change the fact that it was Deng who had personally sanctioned the "rule of law" debate. Deng elaborated on an institutional strategy of checks and balances which incorporated an emphasis on the "rule of law." The latter was utilitarian in nature; it was to nurture the predictability needed in dealing with the difficulties of leadership transition and the complexities of new economic transactions.

Within prevailing Party guidance, Chinese theory sponsored a new and potentially exciting theory of "rule of law" which sanctioned equality before the law and judicial independence as Chinese socialist principles. The Chinese "rule of law" appeared to encompass both a parallel to and a deliberate ideological distinction from the western

28. Xunzi's middle position is discussed in Derk Bodde and Clarence Morris (eds.), *Law in Imperial China* (Cambridge, Mass.: Harvard University Press, 1967), p. 22.

29. Zhang Xin, *Conditions and Reform*, p. 16.

30. Li Buyun and Wang Liming, "Renzhi he fazhi neng huxiang jiehe ma?" ("Can the rule of law and rule of man be combined?"), *Faxue yanjiu*, No. 2, 1980, p. 45.

31. Wang Liming, " 'Yi fa zhi guo' fazhi," *Renmin ribao*, 27 February 1989.

conception of the term. Both pluralism and separation of powers remained ideologically reprehensible, but in the pre 4 June decade of reform there was focus on "government by laws, not men" and a rejection of the "rule-by-law state."

The theory of "rule by law" emerged within the shifting lines of political debate correlating the Leftist excesses of the Cultural Revolution with feudalism and the imperial phenomenon of *renzhi.* This theory tackled head-on the leadership issue of "spirit," and it militated against *renzhizhuyi*, "rule of man-ism," and its consequent "legal nihilism." Deng himself had endorsed the necessity of a complete and perfected legal system. In the context of rapid codification, theory increasingly moved beyond the class nature of law and the related implications of "policy is the soul of law" to endorse the "lofty dignity of law" and "legal consciousness" as fundamental prerequisites to political stability and modernization.