The Democratization of China

Baogang He

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The events of 1989, culminating in the massacre in Beijing, highlight the extent to which democratic ideals have taken root in China. The future of democracy in a country undergoing great economic and social change is unclear and many argue that established Western democratic systems will simply bring about instability in China.

In *The Democratization of China,* Baogang He traces and evaluates the political discourse of democracy in contemporary China, identifying the three main competing models of democratization that dominate current Chinese intellectual trends: populist, paternalistic and liberal. Analysing the political implications of these models, the author considers how the theories may be put into practice in order to develop an appropriately Chinese, liberal conception of democracy.

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Contents

List of tables

Preface

In the late 1970s, as China's reform era opened, the Communist Party of China committed itself to first doubling and then redoubling the aggregate size of the economy of the People's Republic of China by the end of the millennium. At the time and into the early and mid-1980s, it was a prospect greeted as a desirable aspiration by most academic observers of China, but as little more. Many economists in particular pointed out the difficulties in the project and the near impossibility of its achievements. In the event, the target was attained with almost five years to spare, some time in 1995.

The rapid growth of China's economy is a useful starting-point for this series, *China in Transition,* intellectually as well as chronologically. It is not only that China has developed so spectacularly so quickly, nor that in the process its experience has proved some economists to be too cautious. Rather, its importance is to demonstrate the need for explanatory theories of social and economic change to themselves adapt and change as they encompass the processes underway in China. There is some possibility that the reform era in China will significantly alter the boundaries of the rest of the world's understanding not only of change in China, but also of the processes of modernization more generally.

China in Transition aims to participate in these intellectual developments through its focus on social, political, economic and cultural change in the China of the 1990s and beyond. Its aim is to draw on new, often cross disciplinary research from scholars in East Asia, Australasia, North America and Europe, as well as that based in the more traditional disciplines. In the process the series will not only interpret the consequences of reform in China, but also monitor and reflect the changes of the future.

Baogang He's study of democratic ideas and intellectual trends in contemporary China—*The Democratization of China*—is the first volume to appear in the series. Unlike many commentators on contemporary China, Baogang He takes the democratic project seriously, and in the process makes a case for the relevance of liberal-democratic ideas and values. He examines recent mainstream conceptualizations of democracy in China in order to develop an appropriate, and appropriately Chinese, liberal conception of democracy.

Where other accounts of China's politicians and democratic activists have tended to take their intellectual credentials and political ideas as read, Baogang He critically examines their views. In the process he not only provides a sophisticated analysis of and considerable information about the political discourse on democracy in China but also reveals an interesting relationship between universal values and Chinese practice, which is itself completely in keeping with the aims of this series. Baogang He's analysis of democratic thought in its current Chinese context leads easily to two conclusions. One is that it is its own recent experiences rather than Western influence that have made the struggle for democracy a political issue in contemporary China. The second is that, as Chinese intellectuals approach the debate on the application of democratic theories in China, they will create new syntheses that will contribute to the wider discourse of liberal democracy.

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Introduction

BACKGROUND TO THE STUDY[1]

Various Western democratic seeds have been 'planted' in modern Chinese political institutions and culture. At the beginning of this century, China adopted Western democratic institutions such as the first formally democratic institution of the gentry—the city council (1905–14)—and representative institutions (1909–13) at local and national levels. However, these institutions failed in the end. After that, both the Nationalist Party in the 1930s and 1940s and the Chinese Communist Party (CCP) after 1949 established autocratic or totalitarian systems in the name of either Sun Yat-sen's idea of democracy or of the Chinese Marxist view of democracy. Since the 1970s, a demand for true democracy has been a major theme in Chinese communities: two major democratic movements (1978–89) have emerged in mainland China; there was a democratic breakthrough in Taiwan in the late 1980s; and the success of a democratic party in the 1991 election in Hong Kong.

In particular, the tragedy of the Cultural Revolution (1966–76) resulted in, or more precisely was a prelude to, the democratic movements in contemporary China. Just as the religious wars of Europe helped give birth to toleration, the bloody vigilante violence of Mao's Cultural Revolution did encourage the development of a tolerant culture (Chapter 8) and may have given birth to new and creative democratization.

The Cultural Revolution revealed the weaknesses and shortcomings of the Chinese Communist system, and discredited Mao Zedong's ideal of 'proletarian democracy'. In direct reaction to it, populist, paternalistic and liberal ideas of democracy have been proposed; these are the three contestants in Chinese ideological in-fighting today, and are likely to remain so.

First there emerged the populist model of democracy of Yang Xiguang (*Whither China?* in 1968), Li Yizhe's group (*On Socialist Democracy and the Chinese Legal System* in 1974) and Chen Erjin (1984) (*On Proletarian-Democratic Revolution* in 1976), which inspired the young generation of that time, and influenced China's Democracy Movement in the late 1970s and early 1980s. Writers in this model advocated a direct

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mass democracy which is the antithesis of a bureaucratic apparatus, and in which the working class or proletarian class has final control over state affairs.

Second, since the end of the Cultural Revolution, Deng Xiaoping has developed a paternalistic model of 'people's democracy' characterized by collectivism, limitations on political freedom and a mixture of formalistic democracy and paternalistic authority. This model of democracy also used the state-civil society schema as a new method of ruling, albeit one limited in the economic area. It was designed by Deng to give a measure of legitimacy to the Chinese Communist regime whilst leaving the realities of party rule and power untouched by popular intrusion. As well as legitimizing the established set-up, the model also modified elements of Mao Zedong's perspective on politics and popular participation, criticized radical populist and liberal models of democracy, and even posed a challenge to Western 'bourgeois' democratic theory.

Third, since the end of the Cultural Revolution, Chinese liberals such as Wei Jingsheng, Hu Ping and Yan Jiaqi have established a liberal model of democracy which advocates human rights to fight tyranny, upholds moral scepticism to undermine official dogma and to check hierarchies of status, and believes in political competition to disrupt monopolies of political power. The rise of liberal ideas of democracy was the major intellectual challenge to paternalistic democracy and was the response to the Chinese totalitarian system. Liberalism is attractive to some Chinese intellectuals not because it is being forced on them by an aggressive and hostile world but because it appears to offer potential solutions to pressing problems.[2]

I have been greatly influenced by both populist and liberal ideas of democracy. As a high school student in 1974, I was excited to read a handwritten copy of the writings of Li Yizhe's group. Chen Erjin's radically populist idea of democracy impressed me deeply when I was an undergraduate in the University of Hangzhou in 1979. There, as well as later in the People's University of China, I was exposed to various Western liberal theories of democracy and Chinese liberal writings; for example, to John Rawls' *A Theory of Justice* which I and two colleagues translated into Chinese in 1988. I have oscillated between the liberal and populist ideas of democracy as a personal belief. This book has been in part a self-criticism over the legacy of the populist idea of democracy; in other words, the book is an attempt to work out what are the positive and negative elements of the populist and liberal ideas of democracy in a Chinese context.

An early version of this book, my Ph.D. thesis, was written whilst suffering from psychological strain and feelings of guilt as I should have returned to China in the middle of 1989 when I had finished a term as a visiting scholar at the Department of Sociology in the Australian National University. However, the events of 4 June 1989 led to an extension of my stay in Australia and to a decision to take a Ph.D. degree in the Australian

National University. The thesis has now been substantially revised into the current version of this book.

GENERAL AIMS AND FOCUS OF THE BOOK

A growing body of literature is focusing on Chinese democratic ideas and practices in the historical, political and intellectual contexts.[3] These studies have made a great contribution to the understanding of Chinese democratic ideas and democratization. In particular, the detailed studies of the historical, political and cultural backgrounds of Chinese ideas of democracy have enriched our sociological knowledge of Chinese democracy; for example, Barrett McCormick's (1993) study of the people's congress system in China. These studies have also examined strategies of Chinese writings such as their use of the words of Mao and of others, the political atmosphere where a certain degree of freedom was allowed, access to alternative ideas, and finally survival considerations, which are very important in understanding Chinese democratic ideas.[4] However, little has been said about different conceptions of democracy, and, in particular, about their implications for different types of political developments. This book attempts to overcome some of these problems.

To understand Chinese democratization more fully, we need a better grasp of the competing models of democracy, their political implications, and their different democratization programmes. The sophisticated Chinese liberal theory of democracy especially requires attention. This book is intended as both a map of the main democratic ideas and arguments and as a series of critical reflections upon them. There are three overriding objectives. The first is to provide an introduction to, and discussion of, three competing models of democracy, namely, populist, official and liberal, in contemporary China. Second, the book offers a critical review of liberal ideas of human rights, evil and proceduralism, and provides a liberal constructive critique of the intellectual foundation of the Chinese liberal theory of democracy. The third objective is to analyse carefully the issue of the practical feasibility of liberal democracy, as well as basic problems associated with Chinese demoralization, from the viewpoints of political culture, civil society and legitimacy.

Of the three models of democracy, the liberal one is a central focus of my book. This is because it is the strongest in China and, according to most estimates, has gained in strength throughout the 1980s and 1990s. Political liberalism, which is an echo of the Chinese liberalism of the period between the 1890s and the 1940s, is undoubtedly the dominant current of thought in China.[5] It will have an important role in defining the future of China.

I attempt to undertake a reconstruction, criticism and tentative extension of some particular theoretical positions that need to be developed by more stringent theoretical investigation into Chinese liberal theory of democracy. My overriding aim has been to examine some theories of democracy both in

the West and in China, and to develop them into a conception of liberal democracy appropriate to the contemporary Chinese enterprise of democratization. In particular, I attempt to develop the work of Wei Jingsheng, Hu Ping and Yan Jiaqi by providing a more coherent theoretical foundation for Chinese liberal theory of democracy.

I should say immediately that by use of the term 'foundation', I do not mean to take up a position here in methodological and foundationalist debates. Rather, I believe that it is possible to develop a practical social dimension of political philosophy independent of certain controversial philosophical questions; that is, I present a set of practical arguments for choosing political principles which are upheld on a rational basis by liberal-minded Chinese. An intellectual foundation, in my opinion, has the following three features.

1 Priority: when there are conflicts between values, certain basic values have priority over other values.
2 Reductionism: Chinese liberal theory of democracy and of institutional design is reducible to certain starting-points. In other words, we can derive the plan of political institutional design from certain starting-points and premises.
3 Coherence: there must be consistency among certain values and startingpoints, as well as between premises and arguments based on those premises.

Thus, the book will undertake a constructive critique of three basic concepts—human rights, evil and proceduralism—which serve as the intellectual foundation of a liberal theory of democracy in contemporary China. I will identify possible or existing tensions and inconsistencies associated with these three concepts in Chinese liberal thinking of democracy, and suggest ways of dissolving or resolving these tensions.

While I am in sympathy with the fundamental tenets of Chinese liberal views of democracy, I have certain misgivings about some theoretical problems and the neglect of certain elementary tensions in them. My critique of the internal limits and the problems of Chinese liberal theory of democracy is also undertaken for the sake of actually realizing political liberalism in China.

In exploring democratic ideas, we cannot move too far from the aspect of preconditions for, and their restrictions on, liberal democracy at a practical level. Thus, the book will also focus on the issue of the feasibility of liberal democracy. It will examine the preconditions of political culture, social structure and leadership, on the one hand, and investigate the problems associated with Chinese democratization on the other hand. Here the book has three tasks. The first is to examine anti-democratic arguments concerning the current cultural, political, social and demographic conditions in China. The second task is to demonstrate the existing

practical bases of these for Chinese democracy. The third task is to examine a set of serious problems for Chinese democracy associated with the existing cultural, political, demographic and social conditions, and to analyse critically the solutions adopted by Chinese liberals to resolve these problems. The Conclusion will provide more detailed reflections on Chinese democratization.

FILLING THE GAP

There has been a gap between Western normative theories of democracy and empirical studies of China's political developments and democratization. Consider Rawls' political liberalism. Rawls provides us with sophisticated philosophical justifications of the priority of basic equal liberties, but his theory says little about how the priority of freedom can be established, and how the priority of freedom can be justified in another political community such as China. On the other hand, most works on Chinese politics adopt an empiricist, scientific, objective position, or what I might call an outside observing perspective. For example, some works (see Burns, 1988; Saich, 1989; Unger, 1991a) are not interested in, even to the extent of overlooking, significant theoretical issues of Chinese democratic ideas. Some (see Jenner, 1992) deny the relevance of the normative approach in examining democratic ideas in China; one reason being that Chinese culture teaches us that no natural rights exist. Further, although Pye's studies of the problems in the process of Chinese political development have made a great contribution, he never justifies the basic value of liberty and its role in political development, and seldom analyses the process of realizing the ideal of democracy. As a result, these scholars tend to make no value judgements, so that the basic value of equal liberty is ignored in the context of Chinese political studies. This is the major gap between Rawlsian political philosophy and Pyesian theory of political development. Of course, for both Rawls and Pye there is no need to raise the question of the gap. It is only for this author who has received an education in both the West and in China, who has studied both Western normative theories of democracy and sinologists' work, and who seriously desires democracy in China, that the issue of the gap becomes extremely important.

Why is this so? Three reasons may be put forward. First, normative theories of democracy can help us to establish a relatively autonomous ideal world, where people can protect themselves against tyranny. These theories also provide clear analytical tools. Thus the works of Western normative theorists of democracy such as Locke, Hume, Rawls, Dahl, Sartori and Held are potentially relevant to the enterprise of Chinese democratization. But their relevance would not be brought out if we did not employ them in analysing the problems of Chinese democratization, or link them creatively to sinologists' studies of democratization and democratic ideas.

Second, Western theories of democracy have to be linked to the empirical studies of Chinese democratization, for normative thinking risks falling apart if it ignores practical problems. Further, if a normative theory of democracy does not incorporate the empirical approach, it will be solely concerned with what is desirable; this way of thinking will lead to little more than Utopian solutions to existing problems. The actual meaning of normative thinking must be fully understood only in the context of an analysis of the crucial problems pertaining to the process of realizing a normative ideal such as political liberalism in the transitional period. Thus a combination of the normative and empirical approaches is needed, and we need to become realistic idealists, or idealistic realists. In short, practical considerations should be incorporated as an explicit element of normative political theory.

Third, the study of China cannot be treated as detached from the great issues. There is a need to incorporate value issues in Chinese studies (Nathan, 1990b, 314). A study of Chinese ideas of democracy has to take account of the normative dimension, to deal with the fundamental issues of politics, and to focus on the development of a democratic political culture. This is because a new democratic political culture has the task of breaking the Communist political cultural value system in the transitional period. It also must make justice, rather than power, the primary virtue of social institutions (Apter, 1987, 3). The traditional and Communist political cultures must be evaluated according to democratic values, and be reconstructed and adapted to meet the needs of democratic institutions.[6]

My work has attempted to fill the above gap in the way that it has applied Rawls' theory in a constructive critique of Chinese liberal ideas of democracy and in the way it has applied the theories of sinologists such as Pye to a deeper understanding of the difficulties associated with Chinese democratization. Not only as an outside observer, but as an inside participant as well, I have joined in debates on different theoretical issues, brought some theoretical concepts in the West to life, and made them relevant to Chinese political development. I have attempted throughout the whole book to bridge the gap, or reduce the tension, between the desirable and the feasible by seeking a combination of the normative and empirical approaches.

In some 30 per cent of the book I have engaged in normative thinking. Encouraged by the works of Nathan and Apter,[7] I defend the importance of the intellectual constructs of natural rights, evil and proceduralism. The other 70 per cent of the book is devoted to empirical study of the intellectual development of the ideas of democracy in China and of preconditions for liberal democracy. Thus I have empirically studied what, how and why certain intellectual inventions are rejected and defended. Chapters 1, 2 and 3 of the book will show the decline of the official idea of Communist society and of the radical idea of populist democracy, and the rise of the liberal intellectual invention of the ideas of natural rights, evil and proceduralism.

Chapters 4, 5 and 6 will explain why Chinese liberals choose the notions of natural rights, evil and proceduralism as normative premises for democratic institutional design and how these intellectual conceptions serve as a normative basis for democratic institutional design.

The above methodological principle has guided my writing. I have been deeply concerned about the prospects for democracy in China. Much of my reading has been directed towards looking for ideas, clues, and theories that would help predict probable developments and would give hope to those who seriously desire democracy in China. At the same time, as a scholar I have sought to be as disciplined in my analyses as I can be, and not to slip into the practice of praising what pleases my hopes and condemning what dampens my hopes. Thus I have tried to evaluate the relative strengths of conflicting tendencies and to judge which are likely to be the strongest and decide what can be done to strengthen some and impede the others (Chapters 7, 8 and 9). I have done my best to constrain or give up my wishful thinking about how things might be changed in China, and to develop instead a 'thoughtful wishing'.

KEY CONCEPTS DEFINED

Models of democracy

Democracy refers to a form of government in which, in contrast to monarchies and aristocracies, the people rule. Here we have problems of different understandings and interpretations of the notion of 'people' and 'people's rule'. These different understandings give rise to various forms, or models, of democracy.

The idea of a model of democracy, borrowed from David Held (1987), refers to a theoretical construction designed to reveal and explain the chief elements of a democratic form and its underlying structure or relations. Models of democracy also necessarily involve shifting balances between descriptive, explanatory and normative statements.

Held has identified three basic variants or models of democracy in the West. First, Greek democracy exemplifies direct or participatory democracy, a system of decision-making about public affairs in which citizens are directly involved. Second, liberal democracy is a form of representative democracy which means that decisions affecting a community are not taken by its members as a whole but by a group of people whom 'the people' have elected for this purpose. Third, there is a variant of democracy based on the Marxist one-party model, a form of democracy without liberalism, and in particular without a capitalist economy (Held, 1993, 15–22).

In contemporary China there have been three competing models of democracy which correspond to the three models discussed by Held. Chinese 'populist democracy' is similar to direct and participatory democracy in the West even if, drawing on the democratic element of Marxism, its theoretical

sources are rather different. The Chinese terms, *dazhong minzhu,*
pingminminzhu, or *daminzhu,* mean direct mass democracy with direct
elections following the model of the Paris Commune. Chinese populist
democracy is the antithesis of the bureaucratic apparatus and allows the
working class or proletariat to have the power of final control of state affairs.
This populist model of democracy has three distinctive features: first, the
'new class' poses a serious problem with which it needs to deal; second,
direct control of state affairs by the working class is an ideal objective of that
model of democracy; and finally, a radical strategy of a new revolution,
political violence, and mass movements is the only way to achieve such
democracy.[8]

Deng Xiaoping's official paternalistic model of democracy, a combination
of democracy without liberalism with Chinese traditional paternalism, is a
variant of the one-party state democracy discussed by Held. It is
characterized by collectivism, limitations on political freedom and a mixture
of formalistic democracy and paternalistic authority.

Chinese liberal ideas of democracy follow and borrow from the Western
liberal model. The Chinese liberal model of democracy is characterized by:
elected government; free and fair elections; universal suffrage; freedom of
conscience, information and expression on all public matters; the right of all
adults to oppose their government and stand for office; and the right to form
independent associations, including social movements, interest groups and
political parties. Chinese liberal democracy is elitist rather than participatory
and is hostile to the model of the Paris Commune.

I should acknowledge at the beginning that the Chinese liberal model of
democracy will be discussed at the abstract level with a focus on the
principles of preventing evil, of human rights, and of proceduralism. As far
as the particular form of the Chinese liberal democracy is concerned,
Chinese democratization will involve a Chinese revised version of liberal
democracy with its characteristics. I also acknowledge that liberal
democracies take a wide variety of institutional and substantive forms in the
West. The 'liberal' component of liberal democracy cannot be treated simply
as a unity; it is different in the United States, Britain, France and Japan.
There are also tensions, or even perhaps contradictions, between the 'liberal'
and 'democratic' components of liberal democracy in the West. So are the
Chinese liberal ideas of democracy which the book will examine.

Populist democracy is analytically different from liberal democracy.
First, the three assumptions and features of populist democracy—the 'new
class' issue, direct control of state affairs and a radical strategy mentioned
above—are special properties of populist democracy; while Chinese liberal
ideas of democracy share none of them. Chinese liberal ideas of democracy
are also silent on the issues of the 'new class' and of the rights of workers
and peasants in participating in a democratic polity, and are hostile to the
violent strategy of populist democracy. Second, the concept of human
rights is not central to the populist thinking on democracy; while human

rights play a key role in Chinese liberal ideas. Third, the populist theoretical framework belongs to the Marxist and Maoist traditions; while Chinese liberals draw on the traditions of John Locke and J.S.Mill in their political thinking. Fourth, Chinese populists appeal to a mass audience and urge direct democracy. This contrasts with Chinese liberals such as today's Yang Xiaokai and Yan Jiaqi who appeal to elitist rather than participatory democracy and have no interest in the model of the Paris Commune. Thus, populist democracy is opposed to elitist democracy while liberal democracy involves elitist elements. Fifth, populists represent a politically romantic position in the sense that they have idealized politics both as an object of perfection to be attained, and as the revolutionary means whereby democracy can be reached. This contrasts with the ideas of Chinese liberals, who take a pessimistic view of human nature, regarding democratic institutions as necessary but incomplete and limited, and adopt a moderate non-violent strategy for democracy.

I should say that, clearly the above Chinese models of democracy are ideal types and distinguished as independent solely for analytical purpose. In the complex real life of political activities, these ideas are so overlapping that they are not clear-cut as the book suggests. However, these models are useful for understanding the distinctive features and the developments of democratic ideas, and for analysing their political implications in contemporary China.

I should perhaps emphasize that I have selected only these three models of democracy, which I consider to be of central importance to political development in China. As David Held (1987) does, I take the view that an extensive, in-depth coverage of a number of the most central ideas and themes is preferable to a superficial review of all. Thus, the book does not include an introduction and analysis of, for example, Chinese Marxist humanists' ideas of democracy;[9] because humanists' ideas of democracy neither provide a distinctive model of democracy at a theoretical level, nor have great importance to future political development in China (for discussion see Chapters 5 and 10) and, finally, Brugger and Kelly (1990) have already studied them in detail.

Liberalism and its key issues

Although it is difficult to give a simple definition to cover the variations and richness of liberalism in the West, the essential elements of liberalism could be identified as follows. Liberalism first of all insists that the well-being of the individual must be a central criterion in evaluating social arrangements. Liberalism is centrally concerned with defining and delimiting the legitimate scope of governmental authority. According to different versions, the state should not interfere in the 'private sphere' of religion or economic activity, the 'self-regulating' actions of individuals (J.S.Mill), the sphere defined by 'natural rights' (John Locke and Robert Nozick) or otherwise entrenched

constitutional rights (John Rawls). Liberalism is also concerned with the form of the state, the method of creating the social order. Liberalism looks to keep diversity, conflicts, and competition within society in check by a stable system of law. Liberalism respects 'procedures' of democracy (Kukathas 1989; Sartori 1987, 384).

Western political liberalism has influenced Chinese liberals and Chinese liberals have modified the ideas of Western liberalism in the context of China. Chinese liberalism has developed its ideas in a Chinese context with a concern with Chinese democratization. The influence of Western liberalism in China is not simply a case of 'importation' or 'imitation' or 'subversion' but a case in which the tragedies of China's history of Communist experiments and the real lives of Chinese people have generated problems and issues which have forced Chinese liberals to rediscover, rework, rethink, and reconstruct the following four key issues familiar to Western liberalism

First, Western liberalism is concerned with individual rights—how the state protects individual rights. This discourse of individual rights has been rediscovered in China from the experiences of the Cultural Revolution (Chapter 1). In line with Western liberalism, Chinese liberals defend the idea of human rights; more precisely, the idea of natural rights provides a basis for Chinese liberals to think about re-designing political institutions. However, when Chinese liberals attempt to link rights to law, the very concept of law becomes problematic (Chapter 4 and the Conclusion). Further, Chinese liberals face the boundary problem, the problem of breaking up if China takes a big step towards democratization. Thus, Chinese liberals have to outline a liberal, as opposed to an official, notion of the limits on rights, and have to apply this liberal view in arguing for temporary limits on the right to secede in the process of Chinese democratization (Chapter 4). Here Chinese liberals face the problem of whether various aspects of a liberal philosophy can be applied during the transition period or whether they must be ignored temporarily in order to establish them (Chapters 4 and 6).

Second, liberalism is above all the technique of limiting the state's power. Here, Chinese liberals developed the assumption that human beings are potentially evil as a starting-point for the rule of the law and procedural systems. Based on the assumption of evil, Chinese liberals argue for democratic institutional design. Interestingly, the concept of evil in human nature has entered Chinese intellectual history because of the Cultural Revolution, while in Western history, this concept developed much earlier, perhaps most influentially with St Augustine. Also, Chinese liberals have argued that an assumption of evil in human nature has to be combined with an assumption of good in human nature if institutions to control evil are to be built (Chapter 5).

Third, liberalism respects procedures and rules in facing the conflicts of rights and interests. However, Chinese liberals face the serious problem of

exceptions in a transition towards democracy, which challenges the coherence of procedural democracy. Thus they have to outline a liberal understanding of exceptions and defend the idea of procedural democracy in the light of them (Chapter 6).

Fourth, the extent to which liberalism is morally unambitious and lacks positive moral guidance in institutional design is contested among Western political theorists (John Zvesper in David Miller, 1987, 288–9). Chinese liberals take this debate in a Chinese context. They have argued that Chinese Marxist, goal-based morality and the traditional sage's conception of morality should be taken out of Chinese politics, while rights-based morality should be infused into it. Unlike some Western writers, Chinese liberals are not concerned with the moralization of individuals, but rather with the question of seeking moral principles that are to guide institutional design for a democratic form of government.

In short, Chinese liberalism shares the main foundations of Western liberalism (John Zvesper in ibid., 286): the priority of liberty over authority (Chapter 4 on natural rights); the promotion of constitutions of government and principles of law that establish the limits of government and the rights of citizens against tyrannical government (Chapter 5 on the problem of evil and Chapter 6 on procedure); the secularization of politics (Chapter 8 on the separation of official ideology from politics); and the absence of positive moral guidance in nature (Chapter 7 on rights-based morality).

Chinese liberals have contributed to the universal liberal discourse on democracy. Chinese liberalism proves that universal discourse is a fact, not a theoretical possibility. Through praxis, it disabuses the notion that universalism means the absolute identity of ideas across contexts. My work demonstrates precisely the opposite. Certain problems discussed by Machiavelli, Hume, the Federalist papers and Rawls, and so forth, have come to be relevant to Chinese thinkers. When viewed in a Chinese context these ideas and problems have some interesting new dimensions (Chapters 4, 5, 6 and 7).

ARRANGEMENT OF THE BOOK

The whole book is organized around the idea that the process of democratization in China can be seen in terms of both intellectual and practical activities of planting the democratic 'seed' in Chinese 'soil'. According to this metaphor, the book is divided into three parts to deal with 'seed selection', 'raising seedling' and 'soil amelioration' respectively.

Part One deals with 'seed selection', that is, it will provide political, philosophical and practical justifications for Chinese liberal rejection of both the radical and Chinese official paternalistic models of democracy, and of Chinese liberal selection of the liberal 'seed' democracy in contemporary China. Thus, Part One analyses the variants of democracy and explains why liberal democracy is more attractive than the other models. This is partly a

chronological review of democratic ideas and partly a critical and comparative analysis of them. It provides a very brief historical background of, and a detailed theoretical introduction to, each model of democracy.

Part One consists of three chapters. Chapter 1 examines the radical ideas of populist democracy viewed by Yang Xiguang (1968), Li Yizhe's group (1974) and Chen Erjin (1976), and shows a shift from the radical to the liberal model of democracy in the 1980s. Chapter 2 examines Deng Xiaoping's official paternalistic model of democracy and the liberal critique of that model. It shows the major ideological struggle between the official and liberal ideas of democracy. Chapter 3 undertakes a full-scale review of how three contemporary Chinese liberal thinkers, Wei Jingsheng, Hu Ping, and Yan Jiaqi, view democracy.

Part Two deals with 'raising seedling', that is, the attempt to raise the liberal 'seed' of democracy by eradicating and overcoming internal tensions in Chinese liberal ideas of democracy and providing a more coherent theoretical foundation for the Chinese liberal theory of democracy. Thus Part Two offers a detailed critical review of liberal ideas of human rights, evil and proceduralism or constitutionalism, and discusses a number of the issues associated with the intellectual and moral foundations of Chinese liberal theory of democracy. It further explains the decline of the Chinese Marxist idea of democracy and the rise of the liberal discourse of democracy. More importantly, it focuses on moral and intellectual foundations for Chinese liberal democratic theory and for Chinese political institutional design.

Part Two consists of four chapters. Chapter 4 explores the problem of the coherence of the Chinese liberals' ideas of human rights by examining the roles of, and operation of, their ideas of human rights in the process of realizing those rights. It also attempts to address a set of difficult problems relating to putting their ideal of human rights into practice in China. Chapter 5 attempts to describe, discuss and develop the supposition that human beings are potentially evil (Liao Xun 1987, 7; Yan Jiaqi, 1986c, 1988, 1991a, 54–8) and to provide a reliable theoretical foundation for the Chinese liberal arguments for democratic institutional design. Chapter 6 defends Yan Jiaqi's idea of procedural democracy by dealing with the difficult question of the problem of the exceptions which challenges the coherence of procedural democracy.

Chapter 7 focuses on creating a solid moral foundation for Chinese liberal institutional design by discussing what might be called the project of infusing rights-based morality into political institutions. That is, democratic institutional arrangements require a morality which is characterized by urgent recognition of the following: equal liberties, institutional protection of rights and fair procedures. This chapter also examines and rejects a number of arguments against that project such as the independence of politics from morality, the practical argument concerning the catastrophic consequences of that project and the cultural relativist argument.

Part Three deals with 'soil amelioration', that is, it will demonstrate the existing democratic 'soil' in Chinese political culture, social structure and leadership on the one hand, and investigate the problems associated with 'soil' for Chinese democracy on the other hand. In other words, Part Three addresses the issue of the feasibility of liberal democracy as well as basic problems associated with Chinese democratization.

Part Three consists of three chapters. Chapter 8 examines the emergent democratic cultural conditions under which Chinese liberal ideas of democracy will develop and prove feasible in China. It also examines a number of cultural problems posed for the liberals in China.

Chapter 9 studies emergent civil society as a social base for Chinese democracy. It assesses the positive impact of civil society on the Chinese democratic movement in 1989. It also explores the dual roles of civil society, the self-limitations and the problems civil society poses for Chinese democratization.

Chapter 10 investigates the search for new foundations of legitimacy by Deng's leadership and examines changes in legitimating techniques in relation to the move towards democratization in China after 1978, and particularly since 1989. The central objective is to investigate the relationship between legitimacy (old and new forms of legimization) and democracy in contemporary China. The purposes of this chapter are threefold: first, to identify changes in the conceptions of legitimacy, particularly the recent adjustment of legitimizing techniques; second, to assess the impact of these changes on the direction of political development by examining the possibility of playing the democratic card by reformer factions within the Chinese Communist Party (CCP); and finally to discuss the limits and the problems associated with the Party's search for new legitimacy.

The Conclusion focuses on Chinese democratization. It reflects on the political implications of the three models of democracy for Chinese democratization, discusses the political roles of a liberal theory of democracy in Chinese democratization, and addresses the issue of the feasibility of liberal democracy, and the practical problems assoicated with Chinese democratization.

Part I

Models of democracy

1 The radical model of populist democracy

The radical ideas on populist democracy of Yang Xiguang (*Whither China?* in 1968), the Li Yizhe group (*On Democracy and the Socialist Legal System* in 1974) and Chen Erjin (*On Proletarian-Democratic Revolution* in 1976) inspired the younger generation of that time, and influenced China's Democracy Wall Movement in the late 1970s and early 1980s. Their ideas on populist democracy, however, are now regarded as politically irrelevant to today's China and are remembered as an historical curiosity. But in recent years, populist feelings and ideas have been emerging in China. This new development calls for a re-examination of populist democracy, which is badly neglected by current Western analysis of China's prospects for democracy and is also ignored by Chinese themselves.

The above writings on democracy contain some elements of the liberal idea of democracy, and can be seen as a theoretical stage in the transition to a liberal model of democracy in contemporary China. A study of them, therefore, helps us to understand the intellectual development of democratic thought in China from the populist to the liberal model. Also, despite the difficult circumstances and narrow limits within which the above writers worked, their writings have enough intellectual substance to be accorded the dignity of an intellectual critique. A study of their intellectual merits and weaknesses, therefore, helps us to understand the advantages and the limits of Chinese ideas of democracy.

Populism, *pingminzhuyi* or *mincuizhuyi* in Chinese terms, has three features: appealing to the 'will of the people' and promotion of the interests of the masses; anti-elitism; and speaking for the poor and the ordinary people in society (see Sun Liping, 1994, 2; Shi Zhong, 1994, 11).[1] There are various versions of populism but three distinctive types are relevant here. Maoist populism attempted to incorporate popular support into the totalitarian system; whereas dissident populism attempted to rebel against the whole system as well as Maoism. There is also a neo-populism, the emergent populism in recent years, which is opposed to Deng's elitist reform policies and appeals to the rights of workers and to the value of social justice, and finally presents a populist account of reform.

'Populist democracy', in Chinese terms, *dazhong minzhu, pingminminzhu,* or *daminzhu,* was deemed to mean direct mass democracy with direct elections following the model of the Paris Commune. This populist model of democracy shared three common assumptions or distinctive features: first, the 'new class' poses a serious problem with which populist democracy needs to deal. Second, direct control of state affairs by the working class is an ideal objective of that model of democracy. Finally, a radical strategy of a new revolution is the only way to achieve such democracy. The 'radical model' is specifically used here to emphasize this radical strategy, political violence, new revolutions or mass movements.

Section 1.1 of this chapter explores the origins of Chinese notions of populist democracy in the populists' assessments of the Cultural Revolution. The next three sections review the populist ideas of democracy in detail. Thus, Section 1.2 discusses the object of populist democracy, focusing on the theoretical relationship between populists' ideas of democracy and their ideas of an emerging 'new class'. It also provides a liberal critique of the idea of a 'new class' and class analysis, constituting a rejection of a key feature of the populist model of democracy. Section 1.3 reviews the ideals of populist democracy, and provides a liberal critique of the problematic of this model. Section 1.4 briefly examines the radical dimension of populist democracy. Section 1.5 describes a historical shift from a populist to a liberal model of democracy, and explains the decline of the populist model of democracy. Section 1.6 reviews and explains the revival of neo-populism in 1989 and 1994, and acknowledges the intellectual merits of populism, which still holds an attraction. Both sections 1.5 and 1.6 will discuss the re-evaluation of the Cultural Revolution initially, then move to the three features of Chinese model of populist democracy mentioned above in turn. Section 1.7 is the Conclusion.

Before describing populist democracy, I would like to outline a picture of the continuity of the dissidents' ideas of democracy. Yang Xiguang, as Wang Xizhe observed in 1980, was the forerunner of the 'Thinking Generation' (Wang Xizhe, 1985, 252). Yang's ideas of a 'new class' and of direct democracy had an influence on the Li Yizhe group's famous dissident manifesto 'On Socialist Democracy and the Chinese Legal System' (Unger, 1991a, 33). His explanation of the Cultural Revolution in terms of social conflicts also had an influence on Liu Guokai's writings on the Cultural Revolution. Influenced by Yang and the Li Yizhe group, Chen Erjin developed the populist tradition into the much more abstract and systematic theory on the origin of the new class, the origin and nature of the Cultural Revolution and an ideal model of populist democracy.

1.1 THE ORIGINS: THE CULTURAL REVOLUTION

The early phase of the Cultural Revolution witnessed Zhang Chunqiao's suppression of Shanghai's 'Red Guards Revolutionary Committee',

rehabilitation of the majority of the cadres, and a change in policy by the Central Cultural Revolution Committee to oppose 'ferreting out a handful of capitalist-readers in the PLA'. These events awakened the radical rebels to the fact that their so-called spontaneous grass-roots movement had in reality been manipulated by those at the top. They started to shout the slogan: 'We want a genuine mass movement, not a manipulation of the mass movement!' (Liu Guokai, 1986–7, 115).

Among these radicals was Yang Xiguang, who belonged to an 'UltraLeft' group, *Shengwulian,* as an 18-year-old high school student in early 1968.[2] Yang Xiguang saw the Cultural Revolution as only the beginning of socialist revolution in China, and as a violent action of the working class overthrowing the new bureaucratic class (Yang Xiguang, 1976, 75). The Cultural Revolution, in Yang's view, was a first step towards a 'People's Commune of China', and provided an opportunity to achieve this. However, Mao's rejection of the inauguration of the 'Shanghai People's Commune' in late January 1967 hindered democratic development.

The Li Yizhe group[3] saw the Cultural Revolution as a way to resolve the problem of the new class. They also declared:

> Freedom of speech, freedom of the press, freedom of assembly, and freedom of association, which are all incorporated in the Constitution, and the freedom to travel to meet other people *[chuanlian],* which is not yet in the Constitution, have been truly practised and moreover have received the support of the Party Centre headed by Chairman Mao.
>
> (Li Yizhe, 1976, 19, see also Chan, *et al.,* 1985, 63)

However, for the Li Yizhe group, the Cultural Revolution had revealed its limitations and problems. First, the Cultural Revolution had not completed its task of institutionalizing these practices in a comprehensive socialist democracy (Li Yizhe, 1976, 4–5). Second, the Cultural Revolution, the so-called 'class struggle' had become a factional struggle among the people; or, in other words, Marxist class democracy had become a 'factional democracy' (ibid., 24–5). Third, a fundamental contradiction of the Cultural Revolution was that, on the one hand, the centralized leadership of the party could not be shaken, while on the other hand, the focus of the Cultural Revolution was to rectify the capitalist-readers in the party who were the concrete expressions of the centralized leadership in the places and the departments under their control (ibid., 26).

Chen Erjin[4] perceived the basic issue in the Cultural Revolution as the serious conflicts between the élite and the masses in the Chinese political system. The Cultural Revolution was, in Chen's view, the result of new social contradictions and was bound to happen according to historical law. Further, Chen held that the Cultural Revolution amounted to turning the first page in the history of the struggle to oppose the revisionist system and prevent it from enslaving mankind (Chen Erjin, 1984, 81).

The Cultural Revolution, in Chen's view, was to allow the Chinese people,

through individual participation in the struggle against revisionism, to accumulate concrete political experience and learn concrete political lessons (ibid., 1984, 81). Nevertheless, he thought, two limitations of the Cultural Revolution were, first, that the guiding ideology offered insufficient insight into the basic contradictions in the new mode of production. Second, it was merely a search for change within a conventional framework of existing forms, and involved no pursuit of transformation, no break with this conventional framework (ibid., 141–2).

In short, Yang Xiguang, the Li Yizhe group and Chen Erjin all regarded the Cultural Revolution as a movement to resolve the problem of the 'new class' within the party. The Li Yizhe group and Chen Erjin also regarded the Cultural Revolution as a form of mass democracy. In this respect, Liu Guokai, influenced by Yang Xiguang, summarized in 1980 the great practical significance and far-reaching historical importance of the Cultural Revolution: first, democratic rights in the Constitution became partly true; second, people gained a deeper understanding of the existing regime; third, the Cultural Revolution enabled people to see Mao in a new light: 'Mao is the root cause of all the injustices'; finally, as the 'ultra-left' trend of thought emerging in the later stage of the Cultural Revolution was like a heavy bombshell in the field of ideology. It went beyond factionalism, and focused on the fundamental problems of the existing system. It put forward far-reaching democratic ideas which inspired followers and supporters (Liu Guokai, 1986–7, 139–45).

This then was the logic of the relationship between a positive assessment of the Cultural Revolution and a populist form of democracy in the populist view: the Cultural Revolution originated in social contradictions; and it struggled against the 'new class'. If the Cultural Revolution was evaluated, then the ideal of democracy for China could be modelled on the form of the Cultural Revolution. And if the Cultural Revolution carried democratic implications, then the question was how to institutionalize democratic rights and how to legitimize independent political organizations during the Cultural Revolution. But if the Cultural Revolution was completely negated, then the people's demand for democracy, the struggle against bureaucrats and the urge for reform and protection of political rights (for example, *sida*[5]) would be denied.

However, at the same time, all these writers were dissatisfied with the limitations on the Cultural Revolution imposed by Mao and the party. They wanted to go beyond Maoist populism. They wanted to push the Cultural Revolution towards radical democratization. Thus, in my opinion, the above writers emphasized two aspects of the Cultural Revolution. While the Cultural Revolution promoted democratic ideas and practices, it also hindered democratic development. This view of the Cultural Revolution constitutes a striking contrast to current collective memories of the dark side of the Cultural Revolution, and to liberals who have negated the Cultural Revolution (see Section 1.5). Not surprisingly, the positive populist

evaluation of the Cultural Revolution is being re-emphasized by neo-populists (see Section 6).

1.2 THE OBJECT OF POPULIST DEMOCRACY: THE NEW CLASS

If the Cultural Revolution was deemed to be dealing with the new class, then what were the dissident populists' analyses of the problem of the new class? What were their contributions? What were the theoretical problems associated with their analyses of the new class?

Mao had posited the existence in China of a new bourgeois class whose leading representatives, located at the summit of the Communist Party, were bent on carrying out a 'capitalist restoration'. Yang Xiguang mulled over phrases lifted from Mao such as 'new bourgeois class' and 'capitalist restoration', and subtly reformulated them as 'red capitalist class'. Yang also developed Mao's idea in the sense that Yang explained the political events of the early Cultural Revolution in terms of a class struggle between this 'new class' and the masses. He argued that to comprehend why people hated cadres so much, a class analysis was needed. He viewed events, such as the January Storm of 1967 and the February Adverse Current through the prism of a class struggle between the new bureaucratic class manoeuvring desperately to stay in power, and the hitherto powerless masses (Yang Xiguang, 1976, 62–3). He stated that the root problem lay with the monopoly on power of a Leninist *nomenklatura* that gradually and inevitably had become transformed into a grasping self-perpetuating 'new class'.

The Li Yizhe group eloquently propounded the idea of the 'new class'. The group argued that whether recognized or not, there was an emerging privileged stratum in China similar to that in the Soviet Union. Each level of the party and government leadership, according to this group, had completed a qualitative change from being 'the servants of the people' to than its political agents (Li Yizhe, 1976, 27–8). They further argued that the being 'the masters of the people'. Liu Shaoqi and Lin Biao were no more essence of the appropriation of possessions by the 'new bourgeois class' was to 'turn public into private' while still maintaining a system of socialist ownership of the means of production. In order to protect privileges already acquired and to obtain further privileges, the 'new class' must suppress the masses who rose to oppose their privileges and must illegally deprive them of their political rights and economic interests (ibid., 2–4).

The new problem then was, according to the Li Yizhe group, that what the Liu Shaoqi faction, and especially the Lin Biao faction, attempted to establish was not ordinary bourgeois dictatorship, but a feudalistic socialistfascist despotism and this was China's main danger (ibid., 25–6). The term 'a feudalistic socialist-fascist despotism' was mainly rhetorical and polemical in the sense that it was used politically to condemn the Lin Biao

system, or feudal and fascist systems in the name of socialism. It was also a conceptual innovation in the sense that it insisted that the major task was in opposition to feudalism rather than capitalism. Here they differed from Mao, who warned of capitalist restoration in China. For the Li Yizhe group, it was impossible for a new privileged class to share its gains with the old overthrown landlords and compradors (ibid., 25–6).[6]

Chen Erjin regarded the 'new class' not as capitalists, but as the representatives of qualitatively different exploitative relations of production. Chen argued that socialist production, through the dual agency of state power and public ownership, imposed upon this social production a greater degree of concentration and monopoly, generated a high level of organization, united and integrated the powers of political leadership and economic control, and led to the formation of more formidable productive forces than before. Political power thus formed the dominant and controlling resource in the sphere of socialist public production (Chen Erjin, 1984, 88). Further, Chen pointed out that in public ownership, capital takes the form of privilege; whereas in a private-ownership society, capital is money capable of generating more money. There was, according to Chen, a new polarization of class relations, the sharp antagonism between labour and privilege, the working people and the bureaucrat-monopoly privileged class which was in a day-to-day condition of intense mutual contradiction and antagonism (ibid., 110–19).

There was a logic in the development of analysis of a new class by the above authors. Initially, Yang's term 'red capitalist class' identified the danger of capitalist restoration through the new class within the party. The developments of the Cultural Revolution nevertheless proved that it was impossible for a new privileged class to share its gains with the old overthrown landlords and compradors. Thus, Li Yizhe group argued that a feudalistic despotism, rather than capitalism, was China's main danger. While this view was shared and followed by Chen, he was not satisfied with Li Yizhe group's rhetorical and polemical condemnation of the new class. Thus, Chen developed an analysis of the economic roots of the new class. Chen saw the 'new class' as the result of socialist production which gave rise necessarily to a new polarization of class relations and the sharp antagonism between the working people and the bureaucrat-monopoly privileged class.

In conclusion, all the writers contributed greatly to a theory of the new class and to an understanding of the nature of the Communist system in terms of the serious problem of the new class and an explanation of its origin. These writers were politically against the privileged class and the Communist system on which this class is based. On the other hand, Mao's theory of a new class served as a theoretical device for strengthening his power (for a detailed argument, see Ogden, 1992).

There are, nevertheless, at least two theoretical problems associated with the populist ideas of the new class and their class analysis which Chinese

liberals rejected.[7] The first is that it is very difficult, perhaps impossible, to define the 'new class' and to identify its members. What criteria can be used to define who are and who are not members of the 'new class' among all cadres? A political criterion, which regards those who hold power as members of the 'new class,' does not work because it implies that all officials are members of the 'new class' and should be swept away, thus implying a Utopian anarchy. There is also an ideological criterion elaborated on by Chen Erjin, which regards those who do not follow the correct line as members of the 'new class'. But this ideological criterion is subjective, depending on the explanation of what the correct line is, and carries totalitarian elements.

The second problem, a more serious one, is the populists' concept of class-based democracy, a system in which the working class rules over the other classes. This is not compatible with a liberal concept of democracy, and undermines the idea of universal protection of basic human rights for all as suggested by the Li Yizhe group and Chen Erjin. Further, liberalism starts with a normative assumption that individuals are equal without being affected by their social status and class. This is a theoretical reason for the Chinese liberals' rejection of the populists' class approach.

1.3 THE IDEAL OF POPULIST DEMOCRACY

If the Cultural Revolution, as the above two sections suggest, was a form of mass democracy which aimed to eliminate the new class, what was the alternative? Yang Xiguang advocated a 'People's Commune of China'. This was to be modelled on the Paris Commune,[8] which would eliminate the need for bureaucrats (Yang Xiguang, 1976, 62–3). Yang took seriously the egalitarian principles of the Paris Commune where officials would have no special privileges. Economically, they would receive the same treatment as the masses in general. Politically they would be elected by the people rather than appointed by the bureaucracy. They could be dismissed or replaced at any time at the request of the masses.

Here, Yang differed from Mao, who initially in June 1966 had praised the Paris Commune but finally rejected the inauguration of the 'Shanghai People's Commune' model for a new form of government in late January 1967 and turned instead to the model of the revolutionary committees—the new administrative organs set up in the wake of 'power seizures' from the beginning of 1967. It was Mao's rejection of the Paris Commune model that led Yang to believe that Mao was not a pure Marxist, that he would not put the principles of the Paris Commune into practice and that only from the masses themselves could the ideal of the Paris Commune be realized in China. Further, Yang rejected the revolutionary committees as 'bourgeois reformism', still under the domination of the 'Red Capitalists' (ibid., 64–5).

From the brutal factional conflicts during the Cultural Revolution, the Li Yizhe group learned the lesson that factions should be entitled to rights of

democracy; the suppression of one faction by another does not work. As they asserted, unless we change the previous relations of suppression and being suppressed into a relationship based on criticism and countercriticism, Marxist democracy cannot exist (Li Yizhe, 1976, 24–5). This was the logic that led them to the idea of the protection of rights. An alternative solution, according to the Li Yizhe group, was to institutionalize the protection of rights and to realize genuine participatory democracy. In their letter to Chairman Mao and the Fourth National People's Congress in 1974, they presented their ideal of democracy as follows:

1 Democracy entails the rule of law. They had witnessed that, 'everywhere there was suppression and imprisonment of the innocent'. Thus they argued the need to guard against substituting party leadership for legislative and judicial powers.
2 Democracy entails a system of elections. The group argued that when certain cadres (especially high-level cadres of the central organs) lose the trust of the broad masses of people, the people's right to replace them at any time should be addressed by the Fourth National People's Congress (Li Yizhe, 1976, 28).
3 Democracy is there to safeguard the most fundamental right of the people, the power of the people to manage the state and society. The Li Yizhe group thought that the masses' right of supervision over the party's and the country's various levels of leadership—for example, the right of the people to exercise the unconditional use of 'big character' posters as a people's democratic weapon—should be guaranteed by a new constitution (ibid., 28–9).

The Li Yizhe group realized that the party Constitution and Central Committee documents did grant democratic rights to the people, but, unfortunately, in practice these rights had often not been safeguarded. They stated that the people's 'great democracy' cannot depart from the correct line. Otherwise, the revolution not only cannot complete its own task, but in fact will be used by bourgeois opportunists. Thus, the solution, according to the Li Yizhe group, was to consolidate the proletarian dictatorship under the guidance of the correct political line (ibid., 29). This gives rise to a tension between their ideal of democracy and their idea of the guidance of the correct political line. The latter undermines the former which contains some elements of liberal democracy. The contradiction is partially due to the historical constraints which forced them to use the concept of the correct line; it is also partially due to their commitment to the idea of the correct line which was then taken for granted as a fundamental principle for politics.

Chen Erjin offered an ideal of populist democracy, a model of a proletarian-democratic system with six features. The model provided a much better picture of a populist democracy than that of Yang and the Li Yizhe group (Chen Erjin, 1984, 164–97).

1 There would be a written Marxist constitution. All would be equal before the Constitution, and all, no matter who, would be obliged to respect, obey and be restricted by the terms of the Constitution.
2 The present single-party system would be replaced by a 'proletarian' two-party system, in which the two parties would not represent different classes, but rather put forward different strategies and policy proposals towards the consensual attainment of common goals. Thus, political parties would be converted from being instruments of privilege, or means whereby the bureaucratic class exercises dictatorship over the proletariat, into instruments of true, authentic proletarian dictatorship.
3 A people's democratic republican system *(renmin minzhu gonghe zhidu)* of universal suffrage, whereby every worker would enjoy the right to vote and the right to stand for election, would constitute the basis of state power as a whole.
4 The upper-level structure of power would be divided into three parts: the People's Congress would be, both in name and in fact, an organ of legislative power; the executive power of the state would be vested in the president; the judicial power of the state would rest with the Supreme People's Court, with Higher, Intermediate and Primary People's Courts designated by the People's Congress, and with a Court of Appeal.
5 The grass-roots structure of power would be located in three areas. In factories, the workers would exercise powers of legislation and supervision through a conference of workers' delegates (note that this point is repeated by the working-class populism of 1989). In the countryside, the post of production team leader would be subject to annual election. Within the military, squad, platoon, company, battalion and regiment leaders would be elected by the rank-and-file soldiers and the committees at the different levels.
6 The people would enjoy the rights of individual citizens, such as genuine freedom of speech, publication, assembly and association.

Chen's model of democracy is different from that of the democracy of Marx and Mao in the following ways. First, Chen develops Marx's idea of proletarian dictatorship in the sense that his idea of the advanced form of proletarian dictatorship incorporates the two-party system and the separation of powers. Second, Chen boldly attempted, in 1976, to appropriate the bourgeois democratic state structure for the proletarian cause on the ground that 'sublation' or 'synthesis', a particular movement of the dialectics, is necessary in democratic thinking.[9]

Chen, however, did not see a tension in his model of democracy: his advocacy of a separation of legislative and executive contradicts the Paris Commune model because the Commune, according to Marx, 'was to be a working, not a parliamentary, body, executive and legislative at the same time' (Marx, 1970, 60–70).

Further, Chen's definition of the 'people' and the 'enemy' contains total-itarian overtones and demonstrates Chen's crucial shortcoming in terms of

democratic thinking. Chen set up a new criterion for distinguishing between the people and the enemy, revolution and counter-revolution. According to Chen, all classes, strata, social groups and individuals who endorse, support and participate in the proletarian-democratic revolution belong to the category of the people. Conversely, it is argued, all those who oppose and sabotage the establishment of a proletarian-democratic system are enemies and reactionaries (Chen Erjin, 1984, 232).

Here, the definition of the people is arbitrary and uncertain; and he draws an ideological dividing line between people and the enemy.[10] According to this definition, members of the working class, which, in Chen's view, plays the leading role in the proletarian revolution, will become 'enemies' if they do not endorse, support and participate in this revolution. This is also true of individual citizens if they do not do the same. Thus, Chen's definition of people contradicts his idea of the rights of citizens, which, according to Chen's model of democracy, should be universally protected by laws; and this definitely will lead to limits on human rights that Chen does not want. There is thus a tension between Chen's idea of dictatorship, which leads to the limiting of freedom, and freedom of speech as a universal right, which tends to oppose any dictatorship. Further, there is a tension between his demand for a legal system and citizens' rights, on the one hand, and his definition of people and enemy as well as his emphasis on the proletariat's nature in his political thinking on democracy on the other hand. This is because his criterion of people and the class elements of the legal system undermine the equal nature of the legal system if we suppose the neutrality of the legal system.

In fairness, I should stress again that Chen's contradiction, as was that of the Li Yizhe group, was due to historical constraints, particularly the domination of the Maoist political language. If Chen had lived in a liberal society, he would not have bothered to use the Maoist theoretical framework and thus might have developed a more coherent theory of populist democracy. Further, Chen drew on the liberal sources of democracy, and this inevitably led to the theoretical tensions in his thinking. The most important thing is that there were consistent elements in the dissidents' populism which promoted liberal ideas of democracy (this will be discussed in Section 1.5).

1.4 THE MEANS: RADICAL STRATEGY

After the ideal of populist democracy was proposed, the next question was how to implement it. Yang supported the following methods to achieve a 'Paris Commune of China': 'Overthrow the new bureaucratic bourgeoisie', 'abolish bureaucratic organs', and 'thoroughly smash the state machinery'. These were to be accompanied by the celebration of incidents of armed struggle and the seizure of arms from the army, which the leaders of the Cultural Revolution had condemned (Yang Xiguang, 1976, 66, 88).

The Li Yizhe group seemed less radical than Yang Xiguang in terms of their written petition to Mao Zedong and to the People's Congress, and their ambiguity on the issue of political violence. But like Yang they favoured radical movements of the masses. In asserting that revolution is without doubt the most powerful and authoritative occurrence in the world, they saw the mass movement as a source for the maintenance of revolutionary spirit (Li Yizhe, 1976, 25, 28).

Chen Erjin provided a clear theoretical explanation of why moderate reform is impractical, and why political violence is necessary (this point was repeated by neo-populists). He argued that reformism is no solution because the reformist line seeks not the destruction of the bureaucratic-military machine, but merely its passage from the control of one group of individuals to that of another group of individuals. Since the basic contradiction in socialist society at the crossroads, in Chen's view, is an antagonistic one, an irreconcilable one, the reformist line, therefore, is doomed to failure from the outset (Chen Erjin, 1984, 120–2). Further, Chen Erjin claimed that if state political power fell into the hands of revisionists, then an interim period of armed struggle for the conquest of power would be necessary: one of even greater complexity, one still more cruel and bloody, than that whereby political power was wrested from the hands of the bourgeoisie—in other words, 'the unfolding of violent revolution at a still higher level' (ibid., 222). Here, in line with Yang Xiguang, Chen seemed to advocate a violent revolution.

1.5 A REJECTION OR DECLINE OF POPULIST DEMOCRACY

Since the reform policies in 1978, there has been a gradual weakening of the Chinese populist model of democracy and an increasing growth of the ideas of liberal democracy in China. In other words, there has been a shift from perceiving populist democracy as a solution to China's problem to taking liberal democracy as a better choice for China.

The shift followed a transformation from the populists' positive to the liberals' negative assessments of the Cultural Revolution. Yang Xiguang (Yang Xiaokai) today thinks that violent revolution such as the Cultural Revolution to achieve populist democracy was impractical, and would create a new dictator. Yang notes that there was a trade-off between social order and free association and the free press (Yang Xiaokai, 1991c); that is, mass participation in the Cultural Revolution had led to social disorder in the process of political development because it destroyed well-established institutions. Taking the same line, Yan Jiaqi has quoted and agrees with Huntington's view that if the rate of political participation significantly exceeds the rate of political institutionalization for a lengthy period of time then political decay will occur (Huntington, 1968, 79; Yan Jiaqi, 1988, 54).

Today Yang Xiguang (Yang Xiaokai) still acknowledges the democratic implications of the Cultural Revolution: it allowed people to seek human rights

and free association; and the factional conflicts brought about by free association during the Cultural Revolution would and did influence the development of party politics in China (Yang Xiaokai, 1990, 1991a and b). On the other hand, Yan Jiaqi has completely rejected the Cultural Revolution. He has remarked that what was billed as the era of the Cultural Revolution was a time when feudalism ran wild as never before (JPRS-CAR-88–075, 23 November 1988, 39). Yan has adopted the power struggle approach which views the Cultural Revolution as a result of a power struggle within the political élite.[11] In the pre-Cultural Revolution period, as Yan explains, Liu Shaoqi, Peng Zhen, and others had actually become centres of power not totally under Mao Zedong's control. Thus Mao Zedong needed to unleash a massive force to weaken and destroy their centres of power (JPRS-CAR-88–075, 23 November 1988, 40).

The logic of Yan is thus: the Cultural Revolution was not a form of democracy, rather, it was a form of dictatorship; an ideal of democracy, therefore, cannot be drawn from the Cultural Revolution. If the Cultural Revolution reveals the weakness of the political institutionalization of power—in particular, the shortcomings of the political succession system— the ideal of a democratic system should then be understood as procedural politics capable of resolving the political succession problem.

Now let us discuss the shift from a populist to a liberal model of democracy by examining the self-critiques and reflections of the dissidents and others according to the three features of the populist model of democracy. These features are as follows:

1 The new class issue.
2 The ideal of democracy.
3 The violent revolution.

The new class issue

Li Zhengtian, one of the Li Yizhe group, acknowledged the problem of how to define the working class in 1979:

> Today, how should we divide Chinese society into classes? Who should be included in the proletariat? If we say that the proletariat is the working class, then can the peasants in collectives be considered working class? Then there are the intellectuals; can they be considered working class? How do you draw the line? Doesn't the problem stem precisely from our attempts to transform the labourers' position from that of proletarians?
>
> (Li Zhengtian, 1985, 159)

Li Zhengtian also rejected the previously held concept of proletarian dictatorship. He denounced the concept of 'dictatorship by the entire proletarian class', which his early colleague Wang Xizhe still held, as groundless and unscientific, because, in Li's view, when a class is without

the means of production, it has no way of exercising dictatorship; and when it can exercise dictatorship, it has ceased to be proletarian (ibid., 159). Li argued that as long as the proletariat in its original meaning is preserved, there is no way for it to exercise dictatorship. Therefore it is unscientific and grossly inaccurate to propose the slogan 'Strive for the Class Dictatorship of the Proletariat'. Li wrote:

> The proletariat should not and cannot exercise any sort of dictatorship for its own special class privileges; it can emancipate itself at the end only by liberating all mankind…Irrespective of your subjective wishes, if you seek class dictatorship, it can easily be made indistinguishable objectively from totalitarian dictatorship.
>
> (ibid., 158).[12]

Yang Xiaokai (Yang Xiguang) has challenged the populist assumption that an ideal society rids itself of classes and hierarchy. In a co-authored article, 'The Optimum Hierarchy' (Yang Xiaokai and Geoff Hogbin, 1990, 125–40), Yang investigates the optimum number of layers in centralized and decentralized hierarchies. In doing so, he justifies the existence of a hierarchical system in terms of efficiency. For Yang, a hierarchical class society tends to be more efficient than an egalitarian society; and if a society lacks a hierarchy of classes it will break down. If his early work, *Whither China*? expressed his romantic feelings towards an ideal of society, we may say that The Optimum Hierarchy' shows his cool reasoning about a rational society; that is, for the rational society, class privilege and private property rights are useful in maintaining social order and it is the privileged class that attempts to maintain the existing order through legal regulation. From Yang's *Whither China*? to 'The Optimum Hierarchy', Yang has completed his ideological transition from believing in the Paris Commune to believing in a decentralized hierarchical society which spontaneously emerges from fair competition and individuals' free mobility across different layers of the hierarchy.

The ideal of democracy

The Paris Commune as a particular form of government was the sole theoretical choice in the Cultural Revolution. However, in the 1980s the Western liberal idea of democracy became an option. Although the Paris Commune model still appealed to a few intellectuals even in the 1980s (see Hu Jiwei and Chang Dalin, 1988; Rong Jian and Yang Fengshun, 1989), the Maoist language and expression of the Paris Commune seemed to many Chinese hopelessly out of touch with China's reality. Take the example of Yang Xiguang (Yang Xiaokai). After spending several years in the USA working on his Ph.D., it seemed to Yang that liberal democracy, particularly private property rights, was practical and relevant to Chinese reality, while the Paris Commune was but a Utopian ideal. Thus Yang Xiguang himself, let

alone others of his generation, abandoned the idealistic dream of a polity shaped on the model of the Paris Commune. Yang, in the past decade writing under the name of Yang Xiaokai in journals and newspapers such as Shanghai's *World Economic Herald* (e.g. 20 February 1989), has developed a reputation in China as a champion of 'bourgeois democracy' and of a decentralized, indeed privatized, economy (Unger, 1991a, 34).

Further, Yang has criticized the populist model of democracy as impossible and destructive to a society; he has avowed an elitist democracy. Democracy, in Yang's view, is a check-and-balance mechanism between professional politicians and élites, and fair competition at the top layer of the hierarchy. Democracy is only open to élites from various strata and groups and is designed to absorb these élites. As far as Chinese political reforms are concerned, Yang and other Chinese intellectuals such as Yan Jiaqi proposed to establish the authority of the Constitution and the National People's Congress, and stressed the need to democratize the élite's basis of power. For today's Yang, participation of the masses is merely a side-issue.[13]

The violent revolution

Yang Xiguang, even after a stay in jail (1968–78), criticized his own advocacy of violent revolution and concluded that violence only creates a new dictatorship and that only through non-violence and political compromise can democracy be achieved. In his article 'On Political Reforms in China' published in 1987, Yang pointed out the logic of violence: when it comes to violent confrontation, those in control of the instruments of violence are bound to win; a revolution which wants to overthrow a tyrant, therefore, has to centralize power which is required to be much stronger than that of a tyrant. Thus, in the process of overthrowing an old tyrant, what emerges at the same time is a new tyranny of the revolution that is not able to be controlled by the people. This new tyrant will produce a new revolution. Thus violent revolution implies a vicious circle (Yang Xiaokai, 1987, 35). The logic and negative consequences of a violent strategy have often been discussed by more and more Chinese intellectuals (see He Baogang, 1988). Since the Beijing massacre in 1989, there has been a call for violent revolution to overthrow the rule of the Communist Party in China. Yang has strongly criticized this advocacy.

How was this shift in views possible theoretically? Here I should stress that the populists' ideas of democracy contained liberal elements or seeds. All of them insisted on limiting special privileges and electing cadres. For the Li Yizhe group and Chen Erjin in particular, populist democracy has to protect basic human rights, take the form of constitutionalism, and incorporate elements of representative democracy. It is these liberal elements that promoted liberal ideas of democracy in the early 1980s, and served as a

theoretical link to the development of liberal ideas of democracy. Take as an example Li Zhengtian, who in 1979 used the case of Zhang Zhixin[14] to argue for a continuing need to institutionalize a whole list of human rights safeguards: from laws guaranteeing freedom of the press and of association to the establishment of a system of judicially independent defence attorneys. He urged that administrative power must be prevented from interfering with legislative and judicial powers. Appellate courts must also be set up to protect the legitimate rights of the defendant (Li Zhengtian, 1985, 170–2). He further argued that, if the masses do not truly enjoy the right to elect and recall political leaders, the officials would not consider themselves public servants of the people; they would only see themselves as officials appointed by higher authorities (ibid., 161).

Although Chinese officials had suppressed and put in jail those who hold the populist view of democracy such as Yang Xiguang, the Li Yizhe group and Chen Erjin, suppression is not the main reason why populism has declined in popularity; a few intellectuals and workers have remained followers of the populists despite official Chinese suppression of their ideas.[15] A more plausible explanation of the decline is Deng's reforms and softening cultural environment.

Li Zhengtian, one of the Li Yizhe group, provides a good example in explaining the effect of Deng's reform and softening policies. Li Zhengtian believed in 1979–80 that the party was carrying out reforms. He therefore preferred to write for the official press and sought to persuade government leaders to reform administrative and legal institutions that would safeguard the due process of law and freedom of expression. Li Zhengtian disagreed with the pessimistic view of Wang Xizhe, another of the Li Yizhe group, that party reformers would not act spontaneously to bring about either democracy or any significant extensions of freedom. Thus, in 1979–80, Li refused to join the populist actions of Wang Xizhe who participated in a national network of dissident organizations that were totally independent of the party; for this Wang was sentenced to fourteen years in prison in 1981.

Further, it is easy to understand the populists' abandoning their earlier ideas of populist democracy if we look back to the instrumental use of it made by dissidents. Take the example of Yang Xiguang, who employed Marxism and its ideal of democracy as a powerful tool to support his political interests and to legitimize his political claims. Yang was never principally committed to populist democracy. With the change in his position from a former suppressed student to a well-known intellectual, he had no reason to support populism because it is the viewpoint of the poor and suppressed.

Importantly, the idea of populist democracy is in decline because in the last decade the field of political thought has been dominated by Chinese intellectuals, whereas little has been heard from the workers and peasants at a theoretical level. Thus the democratic idea has been confined to intellectual

discourse. It has also served as an ideology for the intellectuals' road to power, and to legitimize their political actions for power. The point is that the 'big intellectuals' of China have themselves become members of a privileged group. That is why some Chinese intellectuals have entered into the 'new class' discourse only reluctantly, and have accepted the official Chinese criticism of the populist ideas of a 'new class'. This situation did not change until recently when certain 'small intellectuals' felt that they themselves were falling into the socially disadvantaged groups brought about by the reforms.

This shift, unfortunately, has abandoned some of the merits of the populist ideas of democracy, which will be discussed in the next section. It also created what Walder and Gong (1993, 29) call 'a glaring omission' in democratic thought in China. Chinese liberals have questioned the desirability of including ordinary people in the political process. They have ignored the questions which were discussed by the populists: how will movements for democracy mobilize ordinary citizens, and how will workers be incorporated into such a movement? Nevertheless, the emergent working-class populism in 1989 challenged Chinese intellectual elitist 'democratic' thought (see also Goldman, 1994; Walder and Gong, 1993, 29). The above 'omission' in democratic thought is, I would like to assert, a historical mistake.

1.6 THE REVIVAL OF POPULISM

The ideas of populist democracy were revived in 1989 and in the 1990s. There emerged two kinds of populism: working-class populism in 1989 and intellectual populism in 1994. These revived populisms, however, do not necessarily share the same ideas of populist democracy as Yang, the Li Yizhe group and Chen, or even mention their names.[16] What matters here is that some of the populist ideas have been taken up again and reconstituted in the recent revival of populism. Central issues such as the new class, participatory democracy and violent revolution are similarly raised. It should, however, be pointed that there is no clear consensus among populist writings which are still growing and unfolding. Thus, my discussion is preliminary and sketchy. Also, given the limited publicity of neo-populism in China, I will draw on information from recent writings, and my own interviews and private talks in my research trips in 1991 and 1994.

The first point concerns the link between the revaluation of the Cultural Revolution and neo-populism. The fact that during the early period of the Cultural Revolution there was a kind of populist movement against elitism is again being emphasized. It is this kind of legacy that has an impact on today's populist thinking. A positive evaluation of upsurge of the masses in the Cultural Revolution is now under way. For example, some workers said to me that they thought the Cultural Revolution was a positive experience for them; it allowed them to rebel

against bureaucracy. In 1989, one of the handbills of the Beijing Workers' Autonomous Federation *(gongzilian)* used a page directly out of the book of rebel organization during the Cultural Revolution and denounced in detail special privileges. Also, like certain factions of mass radicalism during the Cultural Revolution, *gongzilian* was profoundly anti-elitist and antibureaucratic (Hong Kong Trade Union Education Centre, 1990, 1–13, 186; Walder and Gong, 1993, 28).

Among intellectuals, Wang San, argues that, in fairness, Mao's motivation in calling for the Cultural Revolution should be seen as the desire to establish a democratic mechanism for popular participation. Otherwise, Wang San argues, we cannot explain the fact that Mao encouraged workers and peasants to rebel against bureaucracy. It is further argued that the conditions through which Mao's ideal of mass democracy could be realized were lacking, but Mao's will to establish direct democracy was so strong that he forced his will upon China. Wang recognizes that the gap between Mao's ideal and the ugly reality led to the tragedy of the Cultural Revolution and to Mao's personal tragedy (Wang San, 1994, p. 50–4). There is also an attempt in the writings of some intellectuals to correct the dominant view that the Cultural Revolution was a kind of restoration of feudalism. For Zhang Xiangping (1994, 18–19), no emperor would say like Mao that 'rebellion is justifiable', or encourage *'sida',* or hold to the class line. Although Zhang rejects the rebellion of the Cultural Revolution, he implicitly acknowledges that the Cultural Revolution was a form of mass participation.

The above ideas are not well argued in comparison with those put forward by the Li Yizhe group and Chen (see Section 1.1). But, importantly, these ideas reflect the feelings of certain socially disadvantaged groups who would welcome a certain revised form of the Cultural Revolution. Nevertheless, it should be pointed out that Wang San praises highly Maoist populism in overtones that suggest the political use of populist support for maintaining the regime. On this matter, Wang's kind of Maoist populism is quite different from the dissident populism of Yang, Li and Chen.

The neo-populists' main ideas can be outlined according to the three features of populist democracy—the new class, the ideal of populist democracy and the notion of revolution. I will first discuss these features in the context of working-class populism, then move on to intellectual populism.

Working-class populism in 1989

The workers of *gongzilian* displayed a kind of populist idea of democracy and anti-elitism. *Gongzilian* did not attempt to play the élite game of moral posturing and to influence inner-party power struggles on behalf of any favoured faction (Hong Kong Trade Union Education Centre, 1990, 150; Walder and Gong, 1993, 28). This way of thinking marked a sharp departure

from China's recent tradition of political dissidents precisely because it reflected so well the political attitudes of ordinary Chinese working people— attitudes that have rarely been expressed in China's élitecentred tradition of political dissent (Walder and Gong, 1993, 17).

The new class issue

Marx's *Capital* was employed by some members of *gongzilian* to calculate the rate of exploitation of workers. The class analysis was also employed to argue that there are only two classes: the rulers and the ruled; and the rulers, the so-called 'servants of the people', swallow all the surplus value produced by the people's blood and sweat (Hong Kong Trade Union Education Centre, 1990, 185; Walder and Gong, 1993, 8). The idea of a new class was expressed. Workers complained about the new rich or new class outside and within the party. It was argued that a group of new rich, an emergent new class had turned public property into private property. 'Foreign investment eventually becomes the legal property of top official, through *guandao* (i.e. bureaucratic corruption)' (Hong Kong Trade Union Education Centre, 1990, 185). This was seen as a great injustice for workers. Workers presented their interpretations of inflation to express their dissatisfaction with the 'new privileged class', the cadres and their sons and daughters. It was claimed that products like steel and machinery, both imported and domestic, were being sold at inflated prices because officials demand higher prices, out of which they take their cut. Imported materials fed the domestic inflationary spiral because the children of top officials used their fathers' powers to gain monopoly positions in order to extort high prices on the domestic market (Walder and Gong, 1993, 21).

Furthermore, the working class was regarded as the driving force for Chinese democratization. The Manifesto of the *Gongzilian* stated clearly that 'the proletariat is the most progressive class in society. We have to display our strength as the central force within the Democracy Movement' (Hong Kong Trade Union Education Centre, 1990, 188).

The ideal of democracy

Gongzilian advocated specific characteristics of 'democracy'. 'Workers wanted a genuine democracy that would represent them in negotiations …the All China Union didn't push for the workers' interests' (Hong Kong Trade Union Education Centre, 1990, 62–3, 149; Walder and Gong, 1993, 19–20). The workers' populist rhetoric in 1989 was blended with new political conceptions: institutional restraints on managerial power in workplaces, within a framework of union representation and collective bargaining, and more vaguely, a role for an independent union in national policy-making and an institutionalized right to 'supervise' the Communist Party's exercise of power (Walder and Gong, 1993, 28).

Revolution

There was a call for revolution and a general strike from *gongzilian*. *Gongzilian* stated that 'we have every right to expel dictators' and 'an essential obligation to overthrow all forms of despotism and domination' (Hong Kong Trade Union Education Centre, 1990, 188, 221).

Intellectual populism in 1994

The Conference on Social Transformation and Populism was held in August 1994 in Beijing. Five conference papers were subsequently published in *Strategy and Management,* the journal of China's Society of Strategy and Management, which is published with support from the military. These articles do not, however, present a unified view of populism. Among the writers, Sun Liping offers an account of why reform reproduced the conditions under which populism will be popular. Shi Zhong advocates a new perspective—populism vs elitism—to examine Chinese reform, and offers a political agenda of the populist line on the ownership reform. Other authors reflect on the traditions of populism in Russia and modern China.

The new class and mass ownership[17]

Populists also observe that what Mao tried to avoid—the restoration of capitalism—is now going on in Deng's China. It is further argued that with the introduction of capitalism in China, there has emerged a new rich or new class outside or within the party. The populists argue that Deng's reform in essence has partly turned public into private property possessed by a group of new rich, an emergent class who took the capitalist road, while still maintaining the party's rule. It is argued that this emergent new class includes the social group of sons and daughters of high-ranking officials who have used their parents' influence or power to earn money; in other words, they have exploited the reform and turned political power into private property, and are now owners or managers of private or joint businesses. This new class can, as a populist might argue, therefore, be economically defined and identified. In such a way, Chen Erjin's problem with his ideological criterion of new class may be overcome.[18] The populists also highlight the new polarization of class relations, and the sharp antagonism between the new class and the ordinary working class.

The populists further argue that one driving force of Deng's reform has been precisely this new class. The deeper the reform and marketization, the more opportunities they have to become rich. In particular, the programme of privatization in essence legalizes and protects what they have gained during the reform. As an alternative to the above programme, Shi Zhong outlines a populist policy on ownership, that is, to distribute state property equally among the people, rather than to a few new rich. The populist proposal is against

attempts to create a legitimized, institutionalized, clear-cut socio-economic hierarchy. The underlying purpose of the populist proposal is to set limits on privileged groups, or to ensure that the people should have their share, and to seek a more equal economic and political structure (Shi Zhong, 1994, 12).

Popular participation

Currently, these intellectuals are not involved in presenting an ideal picture of populist democracy as the Li Yizhe group and Chen Erjin did, but they value equality and justice. One author states that we cannot ignore the values of equality and justice cherished by the French Revolution. Interestingly, neo-populists are also concerned with gender equality. As one author puts it: Today's Chinese, including males, will feel it unfair when they see the old legal discrimination against woman set up a hundred years ago' (Shi Zhong, 1994, 13). Further, this author argues that due to the spread of education, popular participation cannot be denied, which implicitly argues that elitist politics cannot work in modern society (ibid., 13). This populist thinking contrasts with the dominant elitist idea of democracy in which mass participation should be limited.

Revolution

Violent revolution still has its attractions.[19] Before the 1989 Beijing massacre, there was a call for violent revolution to overthrow the CCP's rule (Cheng Shi, 1988; Yang Jiying, 1988). After those events, a radical feeling has been growing that there indeed exists a privileged class within the Communist Party, and that this 'new class' can only be overthrown by revolution.[20] People in China sometimes state that if Chen Sheng and Wu Guang, the heroes of a peasant rebellion in the Qin dynasty, came to call for a revolution, there would be upheaval overnight. Some intellectuals claim that Deng's moderate and evolutionary reform has encouraged corruption. There is a close association between reform and corruption because the reform has depended on the decentralized strategy of giving power to subordinate officials (Sun Liping, 1994, 9). It implies that a revolution to change social and economic structures may entail less corruption, as demonstrated by the earlier periods of Mao's revolution.

Nevertheless, it should be remembered that moderate reform and peaceful transformation are the dominant political strategy. Non-violence was adopted as a major strategy in the 1989 students' movement and the pro-democracy movement overseas. Liberals such as Hu Ping argue for the non-violent strategy as a necessary means of achieving liberal democracy in China. Those who hold the radical view of violent revolution are in a minority at the moment; and their influence has been diminished by the soft measures taken by the party after 1989 as well as the continuing economic growth.

The above discussion illustrates the neo-populists' main ideas, but the question here is what aspects are new. I would like to emphasize the populist interpretation of reform. The revised populist theory of the new class is not so much a political agenda, but an explanatory approach to an understanding of the nature and process of Deng's reform. A populist will explain that the new rich class creates and intensifies the serious problem of corruption. One populist even argues that the events of 1989 were the result of the failure of the reforms to deal with the problem of a new class; and it was this new class, its corruption and the social gap between the new class and ordinary people that led to popular support for the students' demonstration in 1989. Particularly interesting is the populist critique of the strategy of Deng's reform—economic reform began first and political reform was suspended. One populist comments sharply that Deng's strategy in essence is based on the suppression of the labour movement. What it amounts to is asking workers not to demand their rights and to sacrifice their interests for economic development. This populist idea contrasts with the current praise of Deng's strategy of reform within Western academic circles (see Pei Minxin, 1994).

We now come to the question of why populism has been revived. Let me consider this from three aspects: first, the identifiable circumstances under which populism is attractive; second, the actors who accept, revise and promote the populist ideas of democracy; and finally, the intellectual credibility and utility of the populists' ideas of democracy.

Populism always relates to industrialization and great social, political and economic transformations. In the British and French periods of industrialization, there emerged populist thinkers such as William Cobbett, Samuel T.Coleridge and Thomas Carlyle in England, and Joseph de Maistre, L.G.A.Bonald, and Felicite de Lamennais in France. Today, Chinese industrialization and modernization also create conditions for the revival of populism. The combination of the party's domination and a capitalist economy, as Gordon White suggests, promises to be economically dynamic. But it also carries with it socio-economic exploitation and the development of inequalities (White, 1994, 91). The current economic development in China has already intensified social gaps which highlight the serious problem of unequal distribution of wealth and welfare. These gaps are now becoming wider (for a detailed analysis of the deteriorative working conditions for workers, see Chan, 1995). The recent iconization of Mao Zedong on the level of popular culture in China may be explained as a kind of social complaint against this unequal distribution and people's desire for Mao's ideal of an egalitarian society. The party also appears unable to control and reduce corruption. These are favourable conditions for the development of the idea of populist democracy.

Populism, in its essence, is an ideology for the poor or the bottom groups in a society. Populism is now able to attract two major groups who have been socially disadvantaged by the reforms. The working class is one group that

has benefited less than others during the reforms. Workers have lost the special position which they had during the Cultural Revolution. They face unemployment, and have lost welfare services. They feel injustice when comparing their lives with those of the new rich.[21] They thus cherish an egalitarian ideal of the distribution of wealth.

The other group comes, as already noted, from within the intellectuals, those who do not have the opportunities to share political power or economic resources. With deepening commercialization, the value of knowledge has been depreciated. The new rich do not necessarily have knowledge and a degree. Apart from a few exceptions, most intellectuals are relatively poor compared with the new rich. Here, populism serves as a tool for these poor intellectuals who in turn are revising the tradition of populism to fit the current situation. So far, they have not developed a systematic theory of populism to offer an answer to China's current problems, but have adopted the populist perspective only to reflect the results of the reforms and to criticize some of the reform policies.

The revival of populism thus has to do with anti-elitism, emphasis on popular participation, concern for social justice and equality, and for a voice for the poor and socially disadvantaged groups. Neo-populism seems to have undergone modification and creative transformation in the way that it rejects old political language such as 'the Paris Commune', advocates less violent revolution, but stresses more social justice against elitism, and speaks more for the poor. The following questions raised by populists are being overlooked by Chinese liberals: first, the rights of workers and peasants to participate in political affairs should be institutionalized.[22] Second, although there are theoretical problems associated with the populists' views of the new class, there is still a challenging question for liberals: how do they see the problem of the new class and deal with 'a privileged class' within the party? In so far as the populists pose these challenges and speak more directly to the issue of the new class and mass participation than liberals do, the populist ideas of democracy are likely to remain alive in the field of political thought in the China of the future.

1.7 CONCLUSION

There are the close links between the Cultural Revolution and populist democracy both in the ideas of Yang Xiguang, the Li Yizhe group and Chen Erjin, as well as in neo-populism. The liberal negation of the Cultural Revolution seems to support the link in a different way. The Cultural Revolution is now, and will continue to be, subject to different interpretations[23] just as the French Revolution has been. Its legacy is far-reaching.

Yang, the Li Yizhe group and Chen in the 1960s and 1970s proposed a radical model of populist democracy characterized by a call for violent revolution to overthrow the new privileged class, a search for a particular

form of government (the Paris Commune), and stress on the importance of the working class (workers' self-government). Populists such as Yang Xiguang and Li Zhengtian, however, through self-criticism in later years, have themselves rejected the ideas of violence, the new class and direct control of state affairs by the working class, and have shifted their ideological commitment from the populist ideas of democracy to a more liberal one. This helps us to understand the intellectual development of democratic ideas in contemporary China.

The revival of populism demonstrates that the populist ideas of democracy constitute a supplement to liberal democracy, and suggests it will remain one of the competing ideology in post-Deng politics. So far, the current regime is still carrying out reforms, and the evolutionary method of changing the system is the dominant strategy of both leaders and opposition organizations at home and overseas. As this is so, neo-populism is less likely to develop into a dominant ideology in the landscape of Chinese political thought. But if post-Deng politics moves in a liberal direction, political association would thus be guaranteed, and the populist model of democracy would come to life on either a small or large scale. It may not play as major a role as the liberal model of democracy does, but it will probably attract groups socially disadvantaged by the reforms, and provide them with a theoretical basis for their political demands and their struggle against the advantaged groups. If populism is connected to certain institutions, and employed by ambitious politicians, it may become a theoretical weapon against reform policies. As the case of Poland demonstrates, there is, according to Stanislaw Gebethner, a political scientist at the University of Warsaw, little room for liberalism in a new constellation of parties and the only way to become a strong party is through populism (see *The Economist,* April 16–22, 1994, 13.) It should also be emphasized that historically populism has been a strong movement in modern China[24] and its legacy still has an impact on Chinese thinking and practice today.

Today's class cleavages and tomorrow's class alliances articulated on the level of group and party mobilization may contribute to the future of post-Deng politics. If the reform programme fails in the end, and liberal ideas of politics and democracy prove an impractical solution during serious political crises, the possibility of an upsurge moblized by populist ideology early in the next century remains.

2　The official model of paternalistic democracy

In practice, Deng's era has seen the development of limited political liberalization. The institution of village elections began more than a decade ago; some of these are now running competitively. Deputies of the National People's Congress (NPC, the Chinese parliament) have been exercising their rights of debating policies, of questioning the government's reports, of disapproving some appointments and projects, and of expressing their local interests. On the other hand, Deng's regime restricted political freedoms and opposition even as it allowed limited economic freedoms.

In theory, Deng's concept of democracy is assimilable to, or derives from, the Marxist and Leninist idea of democracy; it is characterized by its strong criticism of liberal democracy, by its class-basis (the proletarian class should be the ruling class), and by its embrace of the necessity of the party-state in the achievement of proletarian democracy. Deng's concept of democracy has also drawn on Chinese traditional paternalism. What I call the paternalistic model of democracy is characterized by collectivism, limitations on political freedom and a mixture of formalistic democracy and paternalistic authority. Also, in this model, democracy is given to people by enlightened leaders; and democracy is understood as a good government which looks after the well-being of its subjects.

I use the concept 'paternalism' to provide a basic framework for a discussion on Deng's democracy. 'Paternalism' as defined by Lucian W.Pye is an appropriate term to describe the cardinal feature of Chinese politics. As he observes:

> Probably the cardinal feature of Asian paternalistic power is an overriding concern for unity, for holding the national community together. Paternalistic authority, especially in the Confucian cultures, can demand conformity on the basis that everyone should be willing to make sacrifices for the collective good. In terms of political development the demand for unity and conformity has been translated into unquestioning patriotism.

(1985, 329)[1]

In brief, Chinese paternalism has two major features: first, limitations on individual liberty, and second, collectivism as a basis for such limitations. These two features have directly influenced the Chinese Communist leaders' model of democracy. Although the validity of paternalism as a way of describing the basic characteristics of socialism may be limited, it does help in understanding Deng Xiaoping's idea of a 'socialist model of democracy' and the 'characteristically Chinese road to democracy' which is based on limitations upon liberty and individuality, and a strong insistence on collectivism.

This chapter aims to explore the various tensions within Deng's type of democracy and to show that it has proved unsatisfactory both in theory and practice. The chapter is in five sections. Section 2.1 examines and analyses why Chinese paternalistic leaders such as Deng Xiaoping want democracy. Section 2.2 investigates what concept of democracy they currently hold, and what kind of democracy they wish to establish. Section 2.3 analyses two premises of the Chinese paternalistic model of democracy: collectivism, and limitations on liberty. Section 2.4 examines the incompatibility between paternalistic authority and liberal democracy. Section 2.5 is the Conclusion.

Although some may doubt whether it is a form of democracy at all, it is useful for us to understand this model and its roles in a transitional period in China. There are three justifications for the study of Deng's idea. First, Deng claims that there is a new type of non-liberal democracy—the mainland Chinese 'socialist democracy'—which co-exists with Western liberal democracy; we should examine whether the claim is valid. Further, Deng's kind of paternalist idea of democracy is shared by a number of Chinese élites; whatever the intellectual validity of Deng's idea of democracy, it still plays a role in Chinese politics. Finally, importantly, Deng's model of democracy offers a political agenda for élite-led democratization (which will be discussed in the Conclusion).

2.1 WHY DEMOCRACY?

In the official documents and newspapers, the party claims to seek to establish democracy for its own sake, as in the slogan 'without democracy there is no socialism'. But, in reality, the major reasons why the current Chinese leadership seeks to establish democracy are first, to resolve the authority crisis in politics; second, to make the nation more powerful and to provide better welfare, and finally, to respond to the need for modernization, and especially for economic reform.

In contemporary China the demand for democracy came in response to what Li Yizhe (Chan *et al.,* 1985) called 'feudalistic fascist dictatorship' in the Cultural Revolution (1966–76), and became recognized as an instrument which might both resolve the problem of corruption and legitimize the rule of the Communist Party. Arguments for democracy in China are concerned

with modernization; the avoidance of another Cultural Revolution; the establishment of China as a Great Power; the realization of the 'greater interests' of the people; and, finally, opposition to corrupt officials. Deng Xiaoping believes that democracy can assist in tapping the collective wisdom necessary for economic development; it can assure the smooth transition to a new leadership, supply new and more able cadres for local posts, limit the overcentralization of power and the consequent bureaucratic immobility, and prevent the re-emergence of a one-man dictatorship (Nathan, 1986, 224). This attitude is even shared by some dissidents: 'For the average citizen, the purpose of demanding democracy and rights is to promote national construction and prosperity for the whole nation. There should be no other purposes.'[2]

Thus the starting-point, purpose and premises for the demand for democracy are collectively (rather than individually) oriented, and the underlying attitude to democracy is functional (rather than idealistic). Those are the fundamental and inherent limitations and 'congenital deficiencies' in Deng Xiaoping's demands for democracy (see also Zhao Suisheng, in *Democratic China,* No. 4, Oct, 1990, 75). They have directly or indirectly limited the paternalistic leaders' choices, the range of conceptions and models of democracy, and the future prospects of Chinese democracy.

First, Chinese paternalistic democracy as a solution to the authority crisis is expected to contribute to an orderly, productive, and popular governmental system with a more competent and effective leadership structure. It is expected to reconstruct and strengthen paternalistic authority. As a result, it tends to overlook the necessity for limits on power at the highest level. As Womack correctly observes:

> The basic purpose of Chinese constitutional and legal reform is not the limitation of government itself by citizens' rights but the establishment and strengthening of public rules and the limitation of arbitrary behaviours by officials.
>
> This starting point [demand for democracy] is very different from that of Western parliamentarism. Western democracy emerged slowly, from a relatively short period of absolutism, in a process of political contention, piecemeal improvement, and institutional restriction of the public power.
>
> (1984, 422, 435)

Second, Chinese paternalistic democracy as a means for establishing China as a Great Power and serving the interests of the vast majority of people is likely to overlook individual freedom and rights, and the development of individual potential. In contrast, the dominant rationale of Western democracy is rights for all individuals, which were 'extended slowly, from civil to political to welfare rights in content, and from élite to propertied to general citizenry in scope' (Womack, 1984, 435). The collective orientation

of the Chinese has controlled and guided the construction of a particular Chinese model of democracy through the process of choosing from among different Western concepts of democracy. Liang Qichao, Sun Yat-sen, Mao Zedong, and Deng Xiaoping adapted their own collectivist experiences to the ideas of collective democracy outlined by Rousseau and Marx; they then modified the ideas of individualistic democracy within their own collectivist framework and paternalistic culture. For example, when Liang Qichao referred to the concept of individual freedom, he did not emphasize individual liberty but the freedom of participation that 'the citizenry as a whole has achieved *vis-à-vis* the government', and 'national freedom' or nation-building. Liang argued that 'the individual could have no freedom if the group to which he belonged was conquered, so the freedom of participation required the independence of the state'.[3] Another example is Deng's emphasis on the strict distinction between collective and socialist democracy on the one hand and individualist and bourgeois democracy on the other (Deng Xiaoping, 1983, 183).

Third, as Andrew Nathan (1986, xi) asserts, 'When the concept of democracy came to China it was presented as an ornament of modernity and an asset for rulers.' This underlying functional and pragmatic attitude towards democracy influences the way that the Chinese leaders have adopted Western democratic practices. It leads paternalistic leaders to reject essential elements of Western democracy and only take advantage of certain formalistic elements of Western democracy for the sake of pragmatism. They regard democracy as mere wordplay or rhetoric rather than as a serious or significant business. Chinese democracy, as a response to the need of modernization, is expected to be a means rather than an end and thus is secondary to the supreme value of power. The priority of nationalism over democracy, patriotism over individual rights, has led the Chinese Communists to sacrifice democracy to 'revolutionary necessity' in their struggle to make China a Great Power. This attitude guides, and confines, the political actions of paternalistic leaders; they always hesitate and falter when faced with the challenge of democratization.

2.2 THE PATERNALIST'S CONCEPT OF DEMOCRACY

According to the official ideology of China, which is based on Marxism-Leninism and Mao Zedong Thought, the dominant concept of democracy is not that of liberal democracy. Instead, democracy is seen in Mao's terms: the masses keeping watch over the bureaucracy under the monocratic guidance of a national leader. It is also seen as a good government 'serving the people'. Marx called democracy 'proletarian rule' and this constitutes the key concept of democracy held by the Chinese élites. In contrast to the Western individualistic tradition which was liberal first and democratic later (Macpherson, 1976, 6), China has sought to combine democracy with authority, dictatorship and centralism rather than with freedom. Its leaders

believe that individual freedom conflicts with democracy, as was demonstrated in Deng's campaigns against 'bourgeois liberalization' in both 1983 and 1987, and expressed in Deng Xiaoping's understanding of democracy: The dictatorship of the proletariat means socialist democracy for the people, democracy enjoyed by the workers, peasants, intellectuals and other working people, the broadest democracy that has ever existed in history' (1983, 176). Deng explains some features of socialist democracy:

> The socialist road, the dictatorship of the proletariat, the leadership of the Communist Party and Marxism-Leninism and Mao Zedong Thought—all these are tied up with democracy. What kind of democracy do the Chinese people need today? It can only be socialist democracy, people's democracy, and not bourgeois democracy, individual democracy. People's democracy is inseparable from dictatorship over the enemy and from centralism based on democracy. We practise democratic centralism, which is the integration of centralism based on democracy with democracy under the guidance of centralism. Democratic centralism is an integral part of the socialist system. Under this system, personal interests must be subordinated to collective ones, the interests of part to those of the whole, and immediate to long-term interests.
>
> (1983, 182–3)

According to Deng, there are three elements to which we should pay attention: first, the people's rule over the government, which is the main principle of democracy; second, leadership and centralism, which are the necessary conditions for democracy; and finally, collectivism, which is not only the starting-point for his concept of socialist democracy but also the major principle for resolving the conflicts of different interests in practice. In this concept of democracy, Deng rejects the Western power system:

> I have often criticized people in power in the United States, saying that actually they have three governments. Of course, the American bourgeoisie uses this system in dealing with other countries, but when it comes to internal affairs, the three branches often pull in different directions and that makes trouble. We cannot adopt such a system.
>
> (1987, 163)

He claims superiority for Chinese socialism:

> The greatest advantage of the socialist system is that when the central leadership makes a decision it is promptly implemented without interference from any other quarters. When we decided to reform the economic structure, the whole country responded; when we decided to establish the special economic zones, they were soon set up. We don't have to go through a lot of repetitive discussion and consultation, with

one branch of government holding up another and decisions being made but not carried out. From this point of view, our system is very efficient.

(ibid., 192)

To maintain the political leadership of the Communist Party, Deng was ready to suppress by force any opposition movement which challenged Communist authority. As he claimed in 1986:

We cannot do without dictatorship. We must not only affirm the need for it but exercise it when necessary…. if some people attempt to provoke bloodshed, what are we going to do about it? We should first expose their plot and then do our best to avoid shedding blood, even if that means some of our own people get hurt.

(ibid., 163–4)

2.3 THE PATERNALISTIC MODEL OF DEMOCRACY

The Chinese paternalistic model of democracy is a 'protective democracy', under the monocratic guidance of paternalistic leaders, which maintains and strengthens national power rather than protects individual rights. In contrast, it is said of the 'protective democracy' of liberal theory that 'nothing less could in principle protect the governed from oppression by the government' (Macpherson, 1979, 22). The Chinese paternalistic model of democracy is also a 'developmental democracy', which prefers to develop the nation rather than the individual, whereas the term 'developmental democracy' in liberal theory is used to mean 'a means of individual self-development' (ibid., 22). Also, when conflicts occur between collective interests and individual liberty, the Chinese paternalistic model of democracy affirms the supreme value of the former over the latter, and liberty must be subordinated to collective interests. Finally, the Chinese paternalistic model of democracy has not emerged from the ideas and practices of private property and a free market economy; rather, it is a mechanism through which the state intervenes in certain issues concerning social equality, especially those which are conducive to a stable and secure society. On the other hand, the demand for liberal democracy and rightsbased morality in China results from the development of a private market economy which is significant as the foundation of social power independent of the state (see Chapter 7).

Mao's model of democracy placed great emphasis on equality and socialsecurity-achieving-Communism at the expense of liberty. Deng gave less emphasis to equality and social-security-achieving-Communism, allowing more scope for individual opinion and behaviour in policy decisions but still disregarding liberty in the official ideology. Both Mao's and Deng's models of democracy share a common emphasis on leadership and centralism as the necessary conditions for democracy in China. As Pye argues:

Distaste for open criticism of authority, fear of upsetting the unity of the community, and knowledge that any violation of the community's rules of propriety will lead to ostracism, all combine to limit the appeal of Western democracy. As a result, the development of more open and enlightened politics in Asia is likely to produce a much more contained form of popular participation in public life. At best it is likely to be a form of democracy which is blended with much that Westerners might regard as authoritarian.

(1985, 341)

Another feature of the particularly Chinese form of democracy is the mixture of formalistic democracy and paternalistic authority which will be discussed in the final section of this chapter.

Let us now examine two central premises of this model of democracy:

1 Collectivism.
2 Limitations on freedom.

Collective democracy

In western political culture, it is often acknowledged that the political process can legitimately be used by individuals and groups to try to force the state to serve their own interests. In comparison, in Chinese political culture, the major principle is collectivism—the supremacy of public interests over citizens' rights. Individual interests are never taken as a fundamental principle in politics; even the interests of leaders have no legitimacy in Chinese political culture. Pye argues that:

The Chinese system lacked any explicitly acknowledged and legitimately accepted linkage between the realm of government and that of private interests. In traditional China there was no legitimized interplay among privately based power groups, and people had to be taught that it is improper and dangerous to assert self-interests in making any claim upon the political system.

(1968, 16)

The concept of collectivism held by Chinese paternalistic leaders may be seen from the following two perspectives. First, collectivism, in a narrow sense, is the theory that the means of production, distribution and exchange should be owned and controlled collectively, so that all major decisions are the results of collective choice rather than individual preference. Deng's (1983, 175) conception of socialism is collectively oriented: 'The socialist economy is based on public ownership.'

Second, collectivism is a principle which allows a collective or the leaders of the collective to have rights that can override the rights of its members. The leader can demand conformity on the basis that everyone should be

willing to make sacrifices for the collective good. As Deng (1983, 182–3) claims, under a socialist system, 'personal interests must be subordinated to collective ones, the interests of the part to those of the whole, and immediate to long-term interests'.

However, the first aspect of collectivism presents several problems. In terms of control and arrangement of public property, in reality only a few leaders control the public means of production. Those who have economic power over public property enjoy and share the political power and political privileges. Existing within such a paternalistic ownership system, the Chinese model of democracy fails to offer equality of political rights on account of this unequal distribution of the means of production and of wealth. In reality it tends towards totalitarianism or authoritarianism.

In theory, workers should and can own their property; in reality, under a socialist ownership system they own nothing. So, on the one hand, workers lack any individual motivation and responsibility for collective enterprise; on the other hand, they depend on the collectivity for their life, happiness, order and security, as well as their housing, food and children's education. This dependence reinforces paternalistic authority. As Pye (1985, 330–1) claims: 'Paternalistic authority thus must be coupled with feeling of dependence…. The expectation that authority should produce tidiness and order also justifies the practice of obtrusive authority. It is accepted that the state can and should probe into the recesses of society.'

Here I would like to comment on the relationship between the first aspect of collectivism and the suppression of freedom of speech. Talmon (1970, 250) observes that Communists saw 'the essence of freedom in ownership of everything by the State and the use of public force to ensure a rigidly equal distribution of the national income, and spiritual conformity'. Talmon (1970, 255) asks further but does not presume to answer the following question: 'must economic centralization aiming at social security sweep away spiritual freedom'? Here, I can give a definite answer because the Party which controls the public means of production can easily control the mass media and suppress freedom of speech (see also Hu Ping, 1988).

A second aspect of collectivism must also be examined. The principle of collectivism is that the people, under socialist ownership systems, should participate in controlling and discussing public affairs and should be oriented towards the group outcome or the common good, and that they should exchange their ideas in a way that has regard for common rather than selfish interests. In Mao's time, this principle was enforced in ways that were radical and extreme, and the legitimacy of individual interests and rights in public discussion was denied. As a result, people acted one way in public and another way in private, so that China became a nation of hypocrites. Mao wanted to transform human nature, that is, to develop a sense of collectivity, and get rid of selfish interests but he ultimately failed in this attempt. Mao's failure, in the Chinese liberal view, was due to the fact that his concept of

human nature denied the legitimacy of the egoistic nature of man (see Chapter 5).

In contemporary China, radical collectivism has been modified to take individual interests into account. Deng (1983, 182–3) has claimed that, 'Our advocacy and practice of those [collective] principles in no way means that we can ignore personal, local and immediate interests.' However, the political rights of the minority are still not acknowledged; and, if necessary, individual interests must be subordinated to, or sacrificed for, collective ones, when there are conflicts between them.

Let us examine the notion of collective interest. In China, the pursuit of goals by common action usually, though not necessarily, is on the level of the nation as the largest collectivity, and through the agency of the state. So one part of the collective interest is 'national interests', which can encompass national independence, state security, stability and unity. How are these collective interests ascertained? Paternalism provides one answer: collective interests are decided by enlightened élites. This is a less than democratic solution, for ordinary people have no influence over decisionmaking concerning collective interests. A crucial question is, according to Wei Jingsheng (see Chapter 3), whether the decisions made by paternalistic leaders really represent and aggregate interests of individuals. This cannot be guaranteed, for there are no social choice mechanisms and wellestablished representative systems which can coordinate or aggregate individual interests and preferences.[4]

Moreover, paternalistic leaders often abuse 'collective interests' to suppress the majority, to maintain their own privileges, to legitimate actions which violate individual rights and interests, and to ask people to make sacrifices in the name of the 'collective' which are actually for the benefit of the paternalistic leaders themselves (Wei, in Seymour, 1980, 62). This rhetorical use of 'collective interests' is shown in Deng's campaigns against 'bourgeois pollution' and the crackdown on the students' demonstrations in 1989. In such cases, 'collective interests' may be equated with paternalistic interests, and 'collectivism' becomes merely an empty rhetoric. Hence Chinese collectivism is the tool of paternalism; and the ideal of Chinese collective democracy has failed in practice.

In conclusion, I would like to quote Pennock's (1979, 108–10) statements that there are three reasons why collectivism is unsympathetic to the liberal democratic ideal:

> [The collectivist] who would bend all efforts to the development of a political whole that absorbs all individuality into itself might well hesitate to entrust this operation equally to all men. The second reason grows out of the collectivist's distinction between 'real' and 'artificial' desires…that distinction soon runs into difficulties…. It is easy to see why the collectivist is here tempted to opt for a less than democratic solution. The third reason for the collectivist's tendency toward elitism is

that he cannot accept the high valuation placed upon the individual *as he is at any given time and place,* which is the heart of individualistic democratic theory.

Paternalistic limitations upon freedom

Deng wanted to develop 'socialist democracy', but strongly criticized 'bourgeois liberalization'. His concept of democracy denied liberty as the first and major value and his model of democracy was based on a paternalistic limitation of liberty. It is, therefore, important to examine the arguments for restrictions upon liberty.

It may be argued by paternalistic leaders that freedom is nothing more than a means to promote the individual's interests, and there are values such as equality, justice and security which are more important than freedom. Freedom has positive and negative consequences depending on the individual's attitude to it, and paternalistic guidance may help people to achieve the positive consequences and avoid the negative ones. Also, liberty is not the ultimate value or solid foundation of democracy but the idea of development is the foundation of liberty. It might be argued further that paternalism contributes positively and effectively to the personal development of those who are uncivilized, so it is rational to limit their freedom. If uncivilized and benighted people have too much freedom and are not accustomed to obeying laws and regulations, this will produce disorder and destructive conduct. This situation, it may be claimed, was demonstrated in China: when the peasants were given control over the land, they cut down and used all the trees before the freedom to do so could be taken away from them. Moreover, it is argued, Chinese workers and peasants at present have more need for security and basic material necessities than for freedom, and that according to Hegel's dialectics, the limitation of freedom now will lead to more freedom in the future. Liang Qichao laid down the rationale which would be used to justify authoritarianism and the acceptance of authoritarianism: 'They [the Chinese people] must be trained as citizens first; until then, freedom would lead only to disorder' (in Nathan, 1986, 62–3).

In countering these arguments we must recognize the tensions between limitations on individual freedom and 'socialist democracy'. If ordinary people are not free to express their preferences and opinions, do not have influence over or the power to be involved in decision-making, how can there be majority rule? When paternalistic leaders make wrong decisions and there is neither freedom of speech nor a well-established system of elections through which unpopular leaders may be dismissed or mistaken policies stopped, how can we say it is a democratic system and that people are masters of the country?

If individual rights and personal freedom are denied, every act becomes open to examination in the light of revolutionary public interests, which

inevitably invites authoritarianism rather than Marx's original ideal of proletarian democracy. During the Cultural Revolution, the official ideology, to a great extent, denied the legitimacy of private affairs. In the post-Mao era, Article 51 of the new constitution contains a clause that states 'the exercise by citizens…of their freedoms and rights may not infringe upon the interests of the state, of society and the collective, or upon the lawful freedoms and rights of other citizens'.[5] Paternalistic leaders are expected to determine state interests and there is ultimately no absolute and explicit legal guarantee of personal liberty under the new Chinese constitution.

Democracy in the broader sense, according to C.B.Macpherson, has always been based on an idea of human equality (Macpherson, 1976, 20–2). Without equal individual liberties, those who have political power are in a position to enjoy their political privilege. By contrast, those without power only have the 'freedom' to sacrifice their interests for, and to subordinate their preferences to, those of the paternalistic leaders. Hence equality, which is a central feature of socialist democracy, no longer exists. What we can see in reality is that paternalistic authority in China suppresses freedom and maintains an unequal political structure.

Sherover (1968, 590f.) recognizes that, essentially, liberty and equality stand in mutual opposition. This view is debatable. Here I would argue that there are more tensions between non-liberty and equality than between liberty and equality. Without personal freedom, there can be no equal rights and opportunities or even an equal distribution of welfare and resources. The people's lack of liberty inevitably invites and maintains paternalistic political privileges and political inequality in the whole society, which in turn inevitably enlarges or deepens the unequal distribution of welfare and resources, as demonstrated by the serious official corruption under the Chinese Communist system. If individual liberties are recognized, although inequality still exists, people can freely demand that this situation of inequality be changed. Political freedom opens up the possibility of overcoming at least some of the problems of political privilege. Hence it must be concluded that the value of freedom is more important than that of equality. Only if we have basic liberty can we hope to achieve political equality and democracy. Without basic political liberty, there is no chance of achieving equality and justice. As Sartori (1987, 388–9) put it: 'From liberty we are free to go on to equality; from equality we are not free to get back to liberty.'

On the other hand, there are more tensions between liberty and inequality than between liberty and equality. Today, the most fundamental challenge to liberty derives from inequality. Under Deng's regime, there has not been equality either of rights and opportunities or in the distribution of wealth. Some people may enjoy economic freedom on the basis of connections with official cadres, but the poor and powerless are generally controlled by the rich and by the power-holders in political and economic life. Injustice has become a crucial social problem. As discussed in Chapter 1, this is why

populism has reappeared in China. I will further discuss this issue in the Conclusion.

Let us now turn to the paternalistic argument that if uncivilized and benighted people have too much freedom and are not accustomed to obeying laws and regulations, this will produce disorder and destructive conduct. Here, what is central is the legal protection of basic liberty. If liberty is protected and guaranteed by the legal system, it might help to produce both order and constructive conduct.[6] For example, in the case cited above, the peasants would not have cut down the trees for fear of inviting disaster, if their freedom to do so had been guaranteed. The reason the peasants did cut down the trees is that they were worried about how long their freedom to use the land would last. Moreover, the argument that a temporary limitation on liberty will lead to more freedom in the future is also fallacious. As Talmon points out:

> The promise of a state of perfect harmonious freedom to come after the total victory of the transitional Revolutionary dictatorship represents a contradiction in terms…the implication underlying totalitarian democracy, that freedom could not be granted as long as there is an opposition or reaction to fear, renders the promised freedom meaningless.
>
> (1970, 253–4)

The arguments presented above do not imply a total rejection of limitations on freedom; rather, it is necessary to examine why, how and under what conditions any limitations on liberty are to be imposed. Here I would like to make a simple comparison between the arguments of the paternalists and of the liberal theorists for limitations on freedom. Although John Rawls claims that rational persons would permit paternalism and its restriction on liberty, such limitations would be 'for the sake of liberty itself and [would] result in a lesser but still equal freedom' (Rawls, 1971, 247). The conditions for permitting paternalism are clear, concrete and necessary, that is:

> paternalistic intervention must be justified by the evident failure and absence of reason and will; and it must be guided by the principles of justice and what is known about the subject's more permanent aims and preferences, or by the account of primary goods.
>
> (ibid., 250)

By contrast, the starting-point and purpose of the paternalistic limitations on liberty are, theoretically, for the sake of the collective's interests, security and equality but in practice, they may be used in the interests of the power élites. This outcome is partly due to the loose, inexplicit and unlimited conditions; and partly due to the paternalistic subjective will which play a significant role in limitations on liberty.

2.4 IS PATERNALISM COMPATIBLE WITH DEMOCRACY?

Deng (1983, 183) has claimed that, 'We must link democracy for the people with dictatorship over the enemy, and with centralism, legality, discipline and the leadership of the Communist Party.' In comparing the arguments of democrats like Liang Qichao in the late Qing (Ch'ing) period with those of Deng, we find that they have faced a basic problem: how might a powerful government be reconciled with the exercise of influence from below, and how could the rules be reconciled with strong authority (Nathan, 1986, xiii)? In other words, is it possible to modify Western democracy to harmonize with Chinese paternalistic authority and collectivism?

Although J.S.Mill and John Rawls permit 'despotic democracy', or paternalism, to occur under certain conditions,[7] in essence, paternalism clashes with liberal democracy where equal liberty is concerned. Macpherson has acknowledged that socialist democracy is one type of nonliberal democracy which differs from western liberal democracy. In line with Macpherson, Womack (1990, 21–3) develops a theory of party-state democracy. This is characterized by the continuous domination of the party, democratization of the party itself, encouragement of societal articulation, guarantees of citizens' welfare as well as citizens' rights and their significant influence over personnel, and finally the emphasis of the role of the People's Congress System. The question is, can paternalism be reconciled with non-liberal democracy? And also, is the idea of non-liberal democracy a coherent one?

Deng's model of democracy, based on collectivism and limitation on liberty, failed in practice and was inevitably open to neo-authoritarianism. At best, this model of democracy may be acknowledged to be a particular type of formalistic democracy with its electoral system, multi-level system of people's congresses, 'democratic parties', and a press which is claimed to act as the most important institutional link between citizens and the state. But any real public involvement in the exercise of power is limited under this kind of democracy; small parties are allowed to exist but are prevented from becoming rivals for real power. So formalistic democracy is a means to justify paternalistic power rather than a means of public control over the government. To some extent, formalistic democratic structures are easily compatible with paternalism because under such a system liberal democracy is limited. Furthermore, these structures can justify, support and strengthen paternal authority. Paternalism and formalistic democracy are complementary. Paternalistic power is maintained, reinforced and legitimized by formalistic democracy; while only under the guidance of paternalistic leaders can formalistic democracy be established and developed. In common terms, it is 'democracy from the top'.

In the short term, formalistic democracy was used by Deng's regime to resolve the crisis of legitimacy (see Chapter 10). But in the long term,

formalistic democracy cannot fundamentally resolve the crisis of legitimacy, as the problems of official corruption, pliable institutions, and the struggle over succession still continue.

Even more important is the theoretical contradiction in the concept of 'democratic centralism' in terms of substantial rather than formalistic democracy. Substantial democracy is, in Marx's sense, the majority principle that people, workers and peasants, can effectively participate in controlling the social arrangement and become masters of their own country. Logically, it demands that people play a genuinely active and important role in decision-making. If that is the case, then paternalistic leaders must in reality share their political rights with the people, thus limiting their will and challenging paternalistic centralism. If paternalistic leaders want to maintain their centralized power, they have to limit or distort substantial democracy. As a result, revolutionary paternalism is clearly not compatible with essential democracy. In fact, to enable them to harmonize the paternalistic conception of democracy with centralism, paternalistic leaders really only seek to maintain a formalistic democracy. In short, the concept of democratic centralism is a theoretically misleading notion and it does not work in practice. Furthermore, in practice the term, 'democratic centralism' becomes mere rhetoric which has been used by paternalistic leaders at will. For example, in December 1978 Deng (1983, 155) stated:

> at present, we must lay particular stress on democracy, because for quite a long time democratic centralism was not genuinely practised: centralism was divorced from democracy and there was too little democracy. Even today, only a few advanced people dare to speak up.

However in February 1980, Deng said: 'We should promote democracy, but at the same time we need centralism. Now and perhaps for a rather long time to come, we will have to stress centralization where it is really required, so as to increase efficiency' (1983, 267).

There is also a conflict between theory and practice. Although the Chinese people theoretically control their rulers, in fact they cannot control those who make and enforce political decisions. To avoid that contradiction, paternalistic leaders tend to resort to the vanguard theory. Yet, as Macpherson has argued, paternalistic authority even justified by the vanguard theory,

> may be a government *for* the people but it is not government *by* the people, or even by the choice of the people. A vanguard state cannot in principle be a democratic state in the narrow sense, since the whole reason for vanguard rule is that the majority of the people are said to be too debased, too impregnated with the ethics and values of the inhuman society, to be trusted with immediate power.
>
> (Macpherson, 1976, 20)

It is the idea of 'government by the people' that always, both in theory and in practice, creates the tension between paternalistic leaders and those demanding essential democracy. In modern China people have a justified tool in the principle of 'the people as sovereign' with which they can struggle against any form of paternalism.

However, Macpherson (1976, 22) has argued that in terms of the broader concept of democracy as equality 'the vanguard state, so long as it remains true to its purpose, may be called democratic'. Can this idea be applicable in China so as to acknowledge Deng's model of democracy? My answer is no. The Chinese vanguard state did not remain true to its purpose. My analysis of the Chinese model of democracy has demonstrated that the vanguard state neither has achieved political equality in reality nor tends to more political equality through the action of the vanguard; rather, it tends to increase and enlarge political and economic inequality. So even in terms of equality, paternalistic authority is not compatible with essential democracy.

Now let me make a final comment about Womack's model of party-state democracy. I have no objection to Womack's (1990, 12–16, 24) theory of party-state democracy as democratic strategy, in so far as it attempts to utilize the existing institutions and habits and at the same time open them up to redirection and modification. However, I reject party-state democracy as an ideal model. The reasons are as follows:

1 Even if the party and its policies are popular and internal democratization is occurring, this can hardly be called 'democratic' because all authority still flows down and out from the party centre, and any opposition party is still rejected as counter-revolutionary. There will be no sincere and genuine internal democratization of the party itself given that there will be no external pressure from opposition parties independent of the control of the party.
2 If the party maintains its domination, this certainly conflicts with guarantees of citizen rights, in particular, civil and political rights; if civil and political rights are guaranteed and institutionalized, this goes directly against party-state democracy.
3 In the same way, continued domination by the party excludes the People's Congress System from becoming the highest authority; if popular sovereignty is exercised through the organ of the People's Congress System, this directly undermines party-state democracy. In short, the concept of party-state democracy is self-contradictory and self-rejecting.

2.5 CONCLUSION

This chapter has discussed the official Chinese paternalistic model of democracy which has two basic premises: collectivism and limitations on

liberty. These result in a contradictory mixture of formalistic democracy and paternalistic authority. The paternalistic model of democracy is unsatisfactory both in practice and in theory. It failed in practice and led to or supported neo-authoritarianism in China. It served as a means to justify paternalistic power rather than a means of public control of government. It gave rise to a conflict between theory and practice: the Chinese people theoretically control their rulers, but actually cannot control those who make and enforce political decisions. There is also a theoretical contradiction in the concept of 'democratic centralism', and paternalistic authority is not compatible with democratic institutions.

3 The liberal model of democracy

This chapter focuses on how three contemporary Chinese liberal thinkers, Wei Jingsheng, Hu Ping, and Yan Jiaqi, view democracy. It is largely descriptive, outlining the content and context of their ideas on democracy, and the similarities and differences in their views. These descriptive accounts will serve as the basis for later discussion in Chapters 4, 5, 6 and 7. The historical development of each man's thought, and a comparison between their ideas and Western liberal ideas, will not be attempted here; it would be beyond the scope of this book to do so.

I would define Wei Jingsheng, Hu Ping and Yan Jiaqi as being liberals on the basis of Eugene Lubot's criteria:

1 They look for moderate, non-violent ways of reform.
2 They exhibit a genuine concern to protect basic civil liberties such as freedom of speech and of the press.
3 They favour a constitutional government in order to support the democratization process and provide institutional checks on authoritarianism.[1]

I have selected these three as representative of Chinese liberals' thinking on democracy, because their works are relatively systematic and well argued, and have greatly influenced today's China.[2] Since all three are alive and they will surely change their thinking on democracy, my current work is limited to a study of their works up to 1990 although I have made an effort to catch up with their latest developments.

This chapter is in five sections. Sections 3.1, 3.2 and 3.3 review the concepts of democracy of Wei Jingsheng, Hu Ping and Yan Jiaqi respectively. Section 3.4 discusses their similarities and differences. Section 3.5 is the Conclusion.

3.1 WEI JINGSHENG: DEMOCRACY AS THE FIFTH MODERNIZATION

Wei Jingsheng was born in Beijing in 1950, into a family originally from a small village in Anhui Province.[3] His father, a People's Liberation Army veteran, was a tenth-grade cadre and Vice-President of a department in the important Commission for Capital Construction.

When the 'Cultural Revolution' was launched, Wei Jingsheng was in the process of completing the first part of his secondary education in the school attached to the People's University of China which was, with the secondary school attached to Qinghua University, one of the first places where Red Guards appeared. He was one of the 'Old Red Guards' who, at the end of 1966, formed the famous 'Committee for United Action' hostile to Jiang Qing.

At the end of 1967, he was imprisoned for three months, and in 1968 took refuge in his family village in Anhui. He then spent four years in the army (1969–73), and on demobilization found work as an electrician in the Peking Zoo.

He personally witnessed the events of 5 April 1976 in Tiananmen Square, when a crowd assembled to mourn Zhou Enlai and to criticize the 'Gang of Four'. This made a strong impression on him, and he became convinced that China needed a new kind of politics. He began writing political essays,[4] and established the dissident journal *Tansuo (Exploration),* which was the most militant of all underground publications. It carried many articles which were highly critical of Marxist ideology and of the Chinese government. It dealt penetratingly with the subject of democracy and modernization, and it contained shocking exposes of the appalling situation in political prisons. On 29 March 1979, Wei was imprisoned, later to be sentenced to fifteen years as a 'counter-revolutionary'.[5]

Democracy: 'The Fifth Modernization'

Wei Jingsheng has become famous for his dictum that China needs democracy as a 'Fifth Modernization' in addition to Deng Xiaoping's 'Four Modernizations' (i.e. of agriculture, industry, science and technology, and defence). He lists three reasons for demanding democracy:

1 *Human rights.* Democracy is a cooperative system that recognizes the equal rights of all human beings, and resolves all social problems on the basis of cooperation.[6] It is the opposite of autocracy, which protects the privileges of a small élite, and denies the rights of everyone else. Democracy and autocracy are the two main categories into which all the political systems of the human race can be divided. China's political system belongs to the autocratic type, as it is 'the dictatorship of the proletariat' and 'a variation of Russian autocracy'. Although the Communists claim that the people are the masters of history, it is, in fact, Wei states, more correct to call these 'masters' slaves (in Widor, 1981, 52; and in Seymour, 1980, 49–50).

2 *Prosperity.* Democracy is the prerequisite for rapid economic modernization (in Seymour, 1980, 63, 54, 146). Autocrats are wont to engage in conspiracy and violence in their struggle for power, causing great social upheavals and causing irremediable damage to production and

living conditions. The example of fascism shows that totalitarianism can only bring disaster (ibid., 54). In contrast, the American democratic system has provided the most favourable conditions for rapid social development.

3 *Freedom.* Democracy, because it promotes prosperity, creates optimal opportunities for the pursuit of freedom, which is the first goal of happiness. Democracy provides the maximum attainable freedom so far known to human beings (in Seymour, 1980, 54).

An individualistic conception of 'The People'

Wei is concerned in discussing the theme of democracy from as many angles as possible, giving various different definitions of democracy. Let us look at a number of them:

> [Democracy] means that people have the right to exercise control over everything in society, including economic, political, cultural and social affairs.
>
> (in Seymour, 1980, 144)

> True democracy means the holding of power by the labouring masses, the right of the people to choose their own representatives to work according to their will and in their own interests. Only this can be called democracy. Furthermore, the people must also have the power to replace their representatives at any time when they are found to deceive others in the name of the people.
>
> (in ibid., 52)

> In the first place, [democracy] is a political system; in the second place, it is an economic system. It is not a system of subordination or enslavement designed to do away with people's freedom, but one which protects people's freedom and consequently provides them with a chance to work in cooperation with each other…Democracy may not be a means for promoting centralism, nor may [the pretext of] freedom be used to enforce discipline. Democracy is a means of protecting freedom, and discipline is the pillar of democracy. If we recklessly reverse the means and the end, we will only find ourselves sinking back into the quagmire of Maoist dictatorship.
>
> (in ibid., 144)

Importantly, Wei opposes the official Marxist collectivist view of 'the people', and offers an individualistic definition of the concept:

> 'People' stands for a large number of individuals as well as for each individual. This is my definition of the term 'people'…At present, in a social system where there is no room for the independent existence of

individualism, there can be no collectivism to speak of. What [is presently called 'collectivism'] is actually 'autocratic individualism' and small group mentality.

(in ibid., 62)

Wei here criticizes the suppression of the interests of the individual by the ideology of collectivism, which, in reality, is aimed at furthering the interests of a small group. He points out how rulers have always tried to make autocracy acceptable to the population by pretending that it promoted the 'interests of society'.

Despite differences in vocabulary, autocratic rulers of all ages have invariably taught the people that since men are social beings, social interest should predominate over individual interests; that, since everyone has a stake in the interests of society, centralized management or administration is necessary; that, since rule by a minority, or even by a single person, is the pinnacle of centralization, autocracy is the most ideal form.

In contrast to this, Wei is of the opinion that man's individuality is more important than his sociability. In his view, society is composed of individuals who exist independently from each other, on the basis of their own natural instincts. Sociability is grounded in the common character and the common interests of many different individuals. Therefore, although both sociability and individuality are important constituents of human nature, it is sociability which depends on individuality, not the other way around. Wei argues that individuality is first and sociability secondary (in Seymour, 1980, 57). Thus, Wei believes that in evaluating social arrangements our concern must be with the well-being of the individual. Wei's idea reinforces the Western liberal position that collectives matter only because they are essential for the well-being of the individual (see Kukathas, 1990, 12–16; 1992, 112).

Democracy as harmony and cooperation

According to Wei, the difference between totalitarianism and democracy does not lie in the difference between individuality and sociability, but in the different forms of sociability on which they rest (in Seymour, 1980, 58). Totalitarianism, he argues, regards suppression of individuality as the basic condition of its survival. In essence, it is a form of enslavement. Democracy, on the other hand, regards harmony with individuality as the basic condition of its existence. In essence, it is a form of cooperation.

Wei argues that the main difference between totalitarianism and democracy lies in the exactly opposite views they have of human individuals, and in the vastly different living conditions they provide for the population (in ibid., 58). He holds that socialism is not synonymous with totalitarianism, but that, on the contrary, socialism and democracy are compatible. While disagreeing with the orthodox interpretation of 'socialism', he also disagrees with the hostile view that 'socialism' means modern totalitarianism.

Chinese official ideology holds that socialist society is the most rational means of transition to the ideal communist society, but Wei argues that all forms of totalitarianism use the promise of an ideal future as a pretext to legitimize the sacrificing of people in the present for the sake of a future ideal, which, in reality, is unattainable. He states that if we continue to uphold this Utopian kind of socialism, we actually support totalitarianism or autocratic fascism (in ibid., 60–1).

He is hostile to the idea of 'Chinese socialism' because it neglected the human rights issue, and because Marxist economics—'scientific socialism'—had not led to the promised wealth (in ibid., 141). The Marxist socialist experiment of using dictatorship to achieve equal rights has, after so many decades, finally been proved to be impossible by the actual facts. Furthermore, he states, the plan to realize the ideal society through a 'dictatorship of the majority' is a Utopian dream, since a dictatorship, albeit of the majority, is still a dictatorship. It will always lead to power falling into the hands of the few (in ibid., 68).

On the other hand, Wei finds the view that the concept 'socialism' is synonymous with modern totalitarianism too narrow, stating that this view fails to analyse the entire process of the development of socialism, and to appreciate its significance. This significance, he claims, originally lies in the socialization of production and consumption. Wei regards socialization as the process whereby all individuals receive equal rights and duties concerning the use of the means of production, and equal opportunities to enjoy economic wealth. Real socialism consists of ensuring equal rights for individuals in making a living, and ensuring that these rights can be realized through free organization and coordination in a democratic political system. He believes that socialism has an inherent tendency towards democracy (in ibid., 61–2).

Democracy, in his view, is the form of government by which the equal rights of all are protected. Founded on the recognition of everyone's right to preserve his life, democracy will provide everyone with an equal opportunity to realize this right. Wei emphasizes that people can be said to enjoy equal rights if nobody is allowed to infringe upon the rights of others, and if everyone has the actual opportunity to realize his/her rights. The point of democracy is that everyone should have equal opportunities to realize the right to preserve one's life and to earn a living, not whether or not the final result is perfect equality (in ibid., 67).

Some critical observations

Wei had a somewhat idealized and over-simplified view of democracy, in so far as he assumed that there is no tension between democracy, individualism, and harmony. He believed that in a democracy, no single idea can become the dominant dogma, and that nobody will succeed in imposing a single ideology upon society (in ibid., 145).

The main reason that Wei presented an idealized image of democracy was probably in order to use it as a forceful polemical instrument in his criticism of the Chinese autocratic system. Although he strongly criticized the utopianism underlying Socialist democracy', his idealized image of democracy does not provide any clues as to how liberal democracy can be achieved in practice in China.

Nevertheless, it should be remembered that, as a political dissident, he was a major pioneer in China. In the late 1970s, he was the first openly to call for democracy, paving the way for the dissidents of the 1980s. Sentenced to fifteen years in jail in 1979, and again to fourteen years in 1995, and recently reported to be in very bad health, he has paid an extremely heavy price for his courage and outspokenness.

3.2 HU PING: FREEDOM OF SPEECH AS A FULCRUM

Hu Ping, who was President of the *Chinese Alliance for Democracy* (CAD) in the USA from January 1988 to June 1991, was born in Sichuan in 1947.[7] The son of an executed 'counter-revolutionary', his lot was a life of poverty throughout the 1950s. His first encounter with political discrimination was at the age of 15, when he was denied admission to the Communist Youth League because of his 'bad class background', and later, he was denied entry to the ranks of the Red Guards in the early days of the 'Cultural Revolution'. He was sent to a remote village to live among the peasants. There, he had the enforced leisure to collect his thoughts, and in the early 1970s, he formed his commitment to freedom of speech.

In 1978, he was admitted to Beijing University as a graduate student in European philosophy, specializing in Hobbes, Locke, and Hume. He became a contributor to the unofficial periodical *Wotu (Fertile),* in which he published his long essay, 'Lun yanlun ziyou' (On Freedom of Speech), defending the thesis that freedom of speech benefits society.[8]

He was elected a representative on 11 December 1980 in the countylevel elections, during which he had campaigned for freedom of speech, obtaining 57 per cent of the vote. His political stance made him so controversial that, after he obtained his MA, the university was unable to find him a job. He remained unemployed for five years—the price he paid for having actively championed freedom of speech.

In 1987, he enrolled in Harvard University in the USA to obtain a Ph.D. in Western political thought. He gave up his academic work when he was elected CAD Chairman a year later. In 1989, a split occurred between him and former CAD Chairman Wang Bingzhang, culminating in a lawsuit against Wang for alleged private use of part of the CAD funds.

Freedom of speech: a 'fulcrum'

Hu is an outspoken libertarian whose predominant concern is the protection of the citizen against abuse of power by the government (Hu Ping, 1991a,

No. 4, 53). He has criticized the Chinese Communist idea of positive freedom, adopting instead Isaiah Berlin's idea of negative liberty. The reading of William Shirer's *The Rise and Fall of the Third Reich* awakened terrible visions in his mind of how the contemporary world would have looked if Hitler had succeeded in completing his plan of military expansion (Hu Ping, 1988, 3). He stated that of the two major problems of today, namely, how freedom can be maintained in liberal societies, and how despotic regimes can be toppled in totalitarian societies, the second problem is more pressing than the first (ibid., 8).

Hu defines freedom of speech as the freedom to express different views, including wrong ones, which implies that expressing one's view may never lead to one being accused of a crime (ibid., 98). This goes against the official CCP definition, which states that freedom of speech is limited to what the leadership allows to be expressed (ibid., 48).

He regards freedom of speech as the 'fulcrum' upon which to rest a lever to 'lift up this world', i.e. activate it into changing the totalitarian system (ibid., 47). He is well aware of the problem that a totalitarian regime can only be overthrown if an autonomous opposition force is established, but that the very aim of any totalitarian regime is exactly to prevent the rise of such a force (ibid., 14, 17–18). The only way out of this predicament, as Hu sees it, is to promote freedom of speech rather than to seek political power. He argues that freedom of speech strikes directly at one of the weakest spots in the totalitarian system: the power of modern totalitarianism is not only based on violent repression, but also on deception.

Although the 'Gang of Four' had lost the support of the people, Hu points out, they nevertheless enjoyed great power during the 'Cultural Revolution', because they had succeeded in suppressing freedom of speech so that the people could not communicate with each other and were unaware of what was really going on, and therefore felt powerless (ibid., 110–11). However, once in possession of freedom of speech, the citizens will be able to triumph over totalitarianism.[9] The major flaw in previous Chinese democratic movements, according to Hu, was that the principle of freedom of speech did not take root in the people's hearts (ibid., 119). For this reason, the principle of freedom of speech must now be as widely disseminated as possible (ibid., 149).

In 1975, Hu defined a democracy as the political system in which the freedom of speech, especially that of the minority, is guaranteed and protected (ibid., 96, 151). He also defined it as being a set of generally recognized rules governing the competition for political power on the basis of a rejection of violent revolution, and the protection of 'the basic human rights of political parties' (ibid., 424). As is to be expected, Hu's definition of the role of the Constitution goes against the CCP's view of the matter: he states that it is the task of the Constitution to put limitations on the power of government, and to protect the freedom of speech. The legitimacy of freedom of speech is not derived from the Constitution, but rather vice versa:

the legitimacy of the Constitution is dependent on freedom of speech (ibid., 433–4). Freedom of speech is the basis on which constitutions can be openly criticized (ibid., 51). Thus, Hu implicitly called into question the legitimacy of the Chinese State Constitution, as freedom of speech in China is a dead letter.

In a study written in 1991, he formulated more precise definitions of freedom on the one hand, and democracy on the other. Liberalization, he wrote, refers to the process of narrowing the scope of state power, and extending the autonomy of civil society. Democratization refers to the process of extending political participation, on the basis of the equal rights of all parties to enter the competition for power. Democratization is concerned with who rules and how this rule is exercised; liberalization is only concerned with the degree of rule (Hu Ping, 1991a, No. 2, 33).

Private ownership

Hu explores the complex relationship between democracy and private ownership in his essay 'Private Ownership and Democracy'. In this essay, he concedes that, at least in theory, democracy is compatible with a centralized planned economy. It is theoretically possible for people to enjoy political rights under the public ownership system. The real basis of the suppression of the democratic movement in the early 1980s, Hu states, was political violence rather than the public ownership system.

However, the public ownership system and the centralized planned economy have, in reality, encroached upon citizens' private property. They have also put strict limits on the people's freedom to engage in economic activities, and increased the power of the government to interfere with the economy. Hu agrees with Hayek that democracy must rest on private ownership: freedom, democracy and autonomy of action presuppose private ownership and a free market economy. Just as the origin of totalitarianism lies in the annihilation of private ownership and the middle class by political violence, so the establishment of freedom and democracy is a necessary condition for the development of private ownership and the middle class (Hu Ping, 1988, 154–64).

Dialogue and non-violence

It is often said that China cannot realize democracy because the country is poor, and its people lack sufficient knowledge of democracy, and do not want democracy anyway. Against these views Hu argues that if democracy is defined as the existence of a representative government and local selfgovernment, then it is not necessary for each citizen to decide personally on all major policies. It is sufficient if the people are enabled to elect their own representatives. Moreover, he states, a belief in democracy is a

necessary condition for its realization. If the Chinese believe in democracy, it will work, and if they don't, it won't (ibid., 188–95).

Freedom of speech is, he argues, a basic principle which can be easily understood and maintained without too much courage. Around this principle, a consensus can be formed between people with different views, so that 'wide-ranging prospects for the improvement of democracy' can be opened (ibid., 132–3). However, Hu fails to address the problems of how individual liberty can be combined with the interests of the nation as a whole. Earlier generations of Chinese liberals failed to arrive at a consensus by way of democratic institutions and procedures, which led them to overemphasize social stability at the cost of freedom.[10]

Hu Ping rejects the use of violence in overthrowing the totalitarian regime, advocating rationality, dialogue and non-violence. Initially, while acknowledging the legitimacy of the CCP as the ruling party, he aimed at the discontinuation of the CCP's power monopoly. Since the June 1989 massacre, he denies the legitimacy of the CCP, but is still committed to a peaceful and rational dialogue by which to resolve the disagreements between the CCP and the CAD.[11] In his view, the struggle for democracy must be conducted by democratic means (ibid., 258).

Some critical observations

Hu Ping's rebellious, libertarian view of negative liberty is a product of, and is reactive to, the Chinese totalitarian system which is based on suppression of human rights and aggression. Interpretation of liberty as 'being let alone' or 'non-interference', as Yin Haiguang (1988, 120) observes, originates in psychological anti-autocracy or anti-totalitarianism. This rebellious libertarian view of negative liberty proves unsatisfactory in discussing how to protect the rights of those who are supposed to be the 'enemies' of democracy and freedom; how to keep a balance between individual rights and social obligations; how to deal with conflicts between rights; how to justify the priority of rights and limits on rights at the same time. It seems that this rebellious concept of negative liberty has more political uses in struggling against totalitarianism than in managing state affairs as a guiding principle. In other words, it might be of more use in the struggle for power to attack totalitarianism than in ensuring social order after the collapse of totalitarianism. The possible danger is that the rebellious libertarians may come close to the anti-state position of anarchism.

3.3 YAN JIAQI: DEMOCRACY TO END THE VIOLENT TRANSFER OF POWER

Yan Jiaqi was born in 1942 in Jiangsu Province.[12] In 1960, he enrolled in the Department of Applied Mathematics and Electronic Computing at the Chinese University of Science and Technology in Beijing. Later, he became a

graduate student in the Institute of Philosophy in the Chinese Academy of Social Sciences (CASS), under the supervision of the famous philosopher and economist, Yu Guangyuan. During the 'Cultural Revolution', he was involved in the editing of a collection of the writings of Marx, Engels, Lenin, Stalin, Mao Zedong and Lin Biao on war and revolution.

From 1972 onwards, he began to make a systematic study of the history of political thought, and international political systems. In 1982, he left the Institute of Philosophy where he had been working for eighteen years, and was put in charge of the re-establishment of the CASS Institute of Political Science.

In 1985, when CASS experimented with allowing the researchers to elect their own institute directors, Yan was elected Director of the Institute of Political Science. At 43, he was the youngest CASS Institute director. In October 1986, he was assigned to Zhao Ziyang's Central Research Group for Reform of Political Structure, headed by Bao Tong.

In 1989, Yan played a major role as one of the leaders of the Beijing Association of Intellectuals. On 17 May, Yan was a member of the group of intellectuals who issued a sharply worded statement attacking Deng Xiaoping as 'China's uncrowned Emperor and a senile, muddle-headed dictator', and demanding his resignation.

After the massacre, Yan and his wife Gao Gao fled to France, and, on 20 July 1989, co-founded the Federation Democracy of China in Paris, of which he was later elected Chairman. Since June 1989, there have been some changes in his political thought, especially with regard to his view of the nature of the CCP (he is no longer as optimistic as before about its ability to transform itself), but he has retained most of his former ideas on democracy (Yan Jiaqi, 1991a, xxxiv).

Democracy to end despotism

Yan Jiaqi (1987, 2–6) advocates the establishment of democratic institutions and procedures as a means of curbing power. Power relationships between individuals and groups are what hold all human organizations together (he calls it their 'cement'). Organization is, in fact, the means of stabilizing power relationships in social groups. Although the exercise of power often produces injustice, power relationships cannot be abolished. Rather, the exercise of power must be rationalized, i.e. made to follow precisely defined procedures (ibid., 1–9).

According to Yan, the basic problem in Chinese political history is the so-called 'boom-and-bust' cycle: the gradual decline and corruption of a dynasty after its rise to power, its removal by a peasant rebellion, and succession by a new dynasty which reigns until it in turn becomes corrupt, and is overthrown by another peasant rebellion, etc. Yan holds that this recurrent pattern of succession crises and violent transfer of power is caused by four characteristics of the traditional Chinese political system:

1 The concentration of absolute, indivisible and untransferable power in the hands of one man.
2 The existence of a nationwide monolithic, pyramidal power structure, without any horizontal division of power among the people.
3 The lack of legal limits on absolute power,[13] enabling those in power to intervene in all aspects of social life, combined with the lack of any solid psychological resistance in Chinese society against despotism.
4 The exercise and succession of power without following formal, institutionalized procedures.

The overthrow of a dynasty by a peasant rebellion, Yan points out, never changed the feudal characteristics of the Chinese political system: all the rebels did was to change the ruler, but the despotic system remained the same (Yan Jiaqi, 1987, 88).

Both traditional and modern China lacked rules for power transfer: the Chinese political system is what Yan calls 'non-procedural'. In contrast, 'procedural' political systems possess basic rules and procedures for power transfer, such as those laid down in the Constitution of the USA.[14] The third category is 'the middle political system', a type in between procedural and non-procedural systems (Yan Jiaqi, 1986a, 18–19).[15] Yan's main concern is that political matters should be handled strictly in accordance with democratic procedures. In particular, the non-procedural replacement of party and government leaders should not be allowed (Yan, 1991a, 96–108).

He states that the history of socialist countries proves that the transformation from 'collective leadership' into 'individual centralism' takes place through 'inner Party struggle', without any procedural framework. Since Mao Zedong's chairmanship was a life appointment, and his power was untransferable, modern Chinese politics inevitably took on the nonprocedural form of traditional Chinese politics. The 'personality cult' was not really, as some people argue, a question of 'exaggerating the role of an individual in history'. Rather, it was the inevitable instrument of strengthening one individual's indivisible and untransferable power (Yan Jiaqi, 1989, 83–9).

Up until the Cultural Revolution, Yan states, Chinese politics remained traditional in that they were based on the assumption that supreme power, indivisible and untransferable, should be vested in a single man, resulting in a series of succession crises and fierce power struggles. The Chinese political systems of today and yesterday are basically the same, although supreme power, in the modern system, is not conferred by 'Heaven', nor hereditary, but is based on the correctness of the ideology of the individual who exercises it (Yan Jiaqi, 1988, 80).

Yan regards the Cultural Revolution as a direct result of the lack of procedures for power transfer, and the ensuing succession crisis brought about by Mao Zedong's attempt to unseat Liu Shaoqi (also see Section 1.4 of Chapter 1). It was a struggle for power along traditional feudal lines, without

any institutionalized framework of rules and procedures, leading, as usual, to immense suffering among the population. In contrast, Yan argues, the bourgeoisie in Western countries established democracy precisely by abolishing the indivisibility and untransferability of supreme power. This was brought about by two methods:

1 In democratic systems, legislative power no longer belongs to the individual, but to parliament, which is newly elected at fixed intervals. Thus, the supreme power of legislation is separate from other power.
2 In democratic systems, the executive power of the president and prime minister is limited by parliament, and by the rule that office is held for fixed terms only. This, Yan emphasizes, stands in marked contrast with the Chinese feudal system, in which office is held for life. In democratic systems, within certain constitutional limits, power is no longer untransferable.

Yan explains that the succession process in democratic countries is determined by 'rules of the game', in the form of legal regulations and constitutional conventions. Statutes determine the fixed or maximum term of office for any top leader, the method of election is prescribed by law, and political parties have their own rules and regulations governing the selection of candidates, etc. He regards the establishment of modern democracy as a great advance in human history, ending wars of succession, palace coups, and all other bloodshed previously accompanying periods of power transfer (Yan Jiaqi, 1987, 96).

His major work, *Shou nao lun (On the Head of State)*[16] is based on his extensive investigations into the many forms of government and the various succession crises in world history, and in it, he recommends the democratic system of checks-and-balances as a way of overcoming the over-centralization of power in China, and of establishing a non-violent, procedural means of power transfer (Yan Jiaqi, 1986a).

Two stages of political reform

In 'On Concepts of Democracy', Yan defines three characteristics of the concept of 'democracy' which he thinks are immediately relevant to democratic practice (Yan Jiaqi, 1987, 33):

1 It is a political system based on rule by the people, and in which the people's right to rule must be protected by a set of political institutions.
2 It guarantees the freedom of people to express their opinions.[17]
3 It is a political system providing people with direct and indirect ways of making and amending decisions on state affairs, in accordance with prescribed procedures defined by the Constitution and the laws, and the majority principle.

Yan also points out that a democratic system is not concerned with the search for the perfect man. Rather, it recognizes that human nature is imperfect and that man is inherently prone to making mistakes. It establishes rules and procedures to deal specifically with the fact that power corrupts.

Democracy, Yan points out, does not guarantee that the policy decisions it produces are completely correct, but it does guarantee that if policies turn out to be wrong, they will be corrected in accordance with predetermined procedures. Also, if decision-makers turn out to be incompetent, they can be replaced through predetermined procedures. Without democracy, the people cannot correct either of these situations (ibid., 87–8).

According to his understanding of democracy, Yan proposes a two-stage process of political reforms. The first stage should include those aspects which are closely linked with economic reform: reform of the cadre system, the separation of party and government, and the separation of government and enterprise.

The second stage is one aimed at realizing the long-range goal of political reform, namely, putting an end to the over-centralization of power through the establishment of a highly democratic socialist political system, and a system of scientific policy-making and scientific decision-making. In concrete terms, the overcentralization of power should be dealt with in four different ways (Yan Jiaqi, 1988, 79–86):

1 Perfection of the people's participation in government, including the system of People's Congresses. The National People's Congress (NPC) rather than the Communist Party's Central Committee should be the ultimate organ of state power.
2 The horizontal separation of power between party and government, in order correctly to define a suitable position for the party in the political structure of the state.
3 The vertical decentralization of power.
4 The demarcation between governmental and social organizations, and the definition of the government's sphere of authority. This includes the establishment of a national civil service system, as well as freedom of speech, freedom of the press, and freedom of association.

In this way, the four characteristics underlying the 'rule of man' of traditional Chinese politics will be replaced by a democratic system based on the 'rule of law' (ibid., 88–9; see also FBIS-CHI-80–230, 30 November 1988, 22–3).

At the moment, the power assigned by the Constitution to government leaders is in fact exercised by party leaders. The essence of partygovernment separation, Yan explains, consists of more than merely assigning different functions to party and state organs; it also involves establishing the paramount position of the Constitution and the law, so that the highest state power is assigned, exercised, and transferred in full accordance with

constitutionally and legally prescribed procedures. Here Yan follows traditional Chinese constitutionalists, such as Liang Qichao and Zhang Jiumei, advocating China's need for a 'Washington' (FBIS-CHI-88-230, 30 November 1988, 23).

Defending the Constitution

Yan states that a Constitution should stipulate the basic principles of a country's social and political system. The idea of a Constitution, he holds, originated in the struggle against the feudal autocracy, and was aimed at limiting the power of the monarch. 'Constitution', in the modern sense, refers to 'basic laws' which transcend the laws defined by the King and anyone else, and occupy a position of supreme authority and dignity (Yan Jiaqi, 1988, 168).

Yan holds the liberal view that the role of the Constitution is to stipulate civil rights, and limit the power of the government. The Constitution provides the most authoritative basic rules according to which political struggles are to be resolved. The aim and process of democratization, according to Yan, involve establishing the paramount position of the Constitution.

In the early 1980s, Yan was one of the first to oppose the life tenure system, advocating that the Constitution ought to stipulate the term of office of both the Head of State, and the Head of Government, with a maximum of two successive terms. On 28 December 1988, a group of middle-aged and young political theorists held a forum in Beijing, at which Yan defended the idea that, if we want to follow democratic procedure to resolve political problems, we have to amend the Constitution on the basis of discussion by the whole nation (FBIS-CHI-89–023, 6 February 1989, 34).

Yan has taken a series of actions to defend the Constitution's authority. On 26 May 1989, shortly before the June massacre in Beijing, he published an article entitled 'Resolving the Present Problems in China Within the Framework of Democracy and the Legal System: A Letter to Li Peng', calling for the use of constitutional means to depose the Li Peng government. On 26 June 1989, after he escaped to Hong Kong, he issued an open letter, saying:

> I hope that the China of the future…will draw up a Constitution that is everlasting and which will eliminate political disasters like the one now taking place. I would like to include in the Constitution's basic principles the separation of the three powers, a federal system, and a national, non-politicized army, with troops belonging to the State, not to any political party.
>
> (FBIS-CHI-89-177, 14 September 1989, 21)

Yan is very well aware that the modernization of Chinese politics he envisages is a long-term process, and that politicians are known to

manipulate the rules in their own interest (Yan Jiaqi, 1986a, 85, 95, 302; 1989, 88–9). He is aware of the fact that it is impossible for leaders to comply completely with the rules of the political system, and that rules and procedures themselves are relative, and change from time to time. The procedures which are regarded as the best to adopt today may well exhibit serious shortcomings tomorrow (ibid., 303).

Some critical observations

Ever since the Western impact on China made itself felt, Chinese intellectuals have always yearned to find the ultimate recipe for national salvation, tending to overlook the tension between this desire and the issue of liberty.[18] In the works of Yan, there is a conflict between his democratic ideals and his elitism. He presumes that there is no friction between the interests of the people as a whole, and the representation of those interests by intellectuals. Yan seems to believe that representation by intellectuals will be an adequate expression of the 'general will', and as such, identical with democratic representation. This intellectual paternalistic presumption may hinder the development of a non-elitist system of representation, and of a system of competing interest groups.

Yan seems to hold an old image of science as equivalent to reason, and as therefore capable of final solutions to any and all problems of both knowledge and value. This leads to an obvious tension between the principle of equal rights and the belief of Yan Jiaqi that his political views have scientific status, i.e. are absolutely rational (1988, 143–4; 1991a, 35–7, 63–76). Yan seems to claim that his idea of democracy is 'objectively and scientifically' true, offering a coherent and complete answer to all problems. This claim to absolute comprehensiveness and omniscience is incompatible with liberty, as it *a priori* excludes other theories, thereby undermining freedom of thought.

When Yan argues that democratic politics is the politics of procedures, he takes for granted the 'principle of majority decision-making'. Yan seems to pay scarce attention to discussing the tension between majority rule and individual rights, and the possibility of the tyranny of the majority.

3.4 COMPARING WEI, HU AND YAN

There are three common ideas in the political thought of Wei Jingsheng, Hu Ping, and Yan Jiaqi, which constitute intellectual and moral foundations for Chinese liberal theory of democracy:

1 *A predominant concern for human rights and freedom* All three men, in spite of the fact that they have different formal education levels, intellectual backgrounds and interests, are in fundamental agreement on the urgent importance of human rights and freedom: this constitutes one

of the basic elements in their ideal of democracy. There are, however, some differences in emphasis, which will be discussed in detail in Chapter 4.

2 *The conviction that the principle of preventing evil is a theoretical basis for institutional constraints on power* On the basis of their own experience during the past decades, all three men have thoroughly rejected the Marxist belief that human nature can be moulded at will by exposing it to proper external conditioning, agreeing with Hobbes that human nature contains ineradicable selfish instincts. Wei (in Widor, 1981, 160–4) has warned that Deng Xiaoping might become a new dictator on the basis that leaders tend to abuse power if there is a lack of a democratic power-check system. Although Hu Ping (1990a, 150) disagrees with the Hobbesian war of all against all, he does argue that democracy is meant to prevent the abuse of power, and that this implies a deep scepticism of human nature (Hu Ping, 1990b, 42). Yan Jiaqi argues in detail that the idea that human nature is potentially evil is the starting-point for the rule of law and the procedural system (Yan Jiaqi, 1986c; 1988; 1991a, 54–8). Hu Ping and Yan Jiaqi, however, while recognizing that the establishment of democracy in China necessitates an analysis of evil human nature, also emphasize that human nature is capable of goodness—it is this goodness on which the possibility of democracy in China depends.[19] I will discuss this in detail in Chapter 5.

3 *An emphasis on procedure, rule of law and rules of games* All three agree that the real purpose of a democratic system is to realize the rule of law. While Wei (in Widor, 1981, 81–2) stresses democratic rule of law, Hu Ping (1988, 398–406) emphasizes the priority of rules or rights over truth, and Yan Jiaqi specifies the procedural aspect of democracy. Here I would like to sum up the important points.

(a) Democratic politics is one form of constitutional procedural politics. 'Democracy', in a broad sense, is a process of making and amending decisions according to the prescribed procedure (defined by the Constitution and laws) and the majority principle.

(b) Procedural democracy means establishing the paramount position of the Constitution and the law so that the creation, exercise and change of the highest state power are effected fully in accordance with constitutionally and legally prescribed procedures so as to maintain political stability and reduce the people's suffering.

(c) Representative democracy is a publicly justified procedure for resolving disputes about political decisions.

(d) Procedure is understood as abstract and impersonal norms and laws with the universality of formal criteria. The legal norms are absolute, and hence a degree of objectivity is assured.

(e) Proceduralism will be put into effect in China, and will have a normative force. These ideas serve a basis for procedural democracy in China, which I will discuss in Chapter 6.

However, there are also differences among them. For Wei Jingsheng, democracy is desirable mainly for two reasons: freedom is one, and prosperity is another. On the one hand, he regards freedom as the first goal of the human race,[20] although he did not, like Hu Ping, state that freedom of speech can be used as a practical lever to change the communist system, nor did he, like Yan Jiaqi, work out concrete details for the protection of freedom by constitutional principles and organizational procedures.

As a worker, Wei regarded democracy not only as an election system, a system of cooperation between individuals, and a means to protect equal rights and freedom, but also, and much more importantly, as a system of people's management: a system in which the labouring masses hold the actual power to manage the means of production. Wei combined a Marxist concern with people's management with ideas taken from democratic practice in the USA and Japan, while Hu Ping explicitly advocated privatization of the ownership system. For Hu Ping, democracy is primarily associated with protection of freedom and civil rights—the ownership system is secondary. In this context, it should be remembered that Wei wrote his articles almost ten years before Hu wrote his.[21] For Wei, who wrote in 1978, it would have been unthinkable not to support 'socialism'.[22]

For Yan Jiaqi, 'democracy' is defined as 'rule by the people', and his predominant concern has been to specify the details of the procedural framework within which this rule should be exercised. As human beings are prone to making wrong decisions, the political system must be organized in such a way that small errors do not lead to big ones, and that incompetent or corrupt people can be removed from positions of power in time.

Here, it should be noted that Yan, as an intellectual, presupposes that 'democracy' means rule over the majority by a minority (presumably intellectuals). Unlike Wei Jingsheng, who combined individualism with populism, Yan's view of democracy is elitist. This could have significant implications for his answer to the question, which often crops up in Chinese debates on democratization, as to whether or not political participation of the masses should be limited for a certain period during the democratization process.

Before June 1989, a major difference between Hu Ping and Yan Jiaqi was that Hu was an anti-totalitarian libertarian from the outset, while Yan Jiaqi was not. Yan started out as a moderate reformer who attempted to make adjustments and improvements within the existing system, preferably in cooperation with the party. In Chinese terms, Hu was a reformer 'outside the system', while Yan was a reformer 'within the system'. Even now, their different ideas on democracy could constitute a basis for two different opposition parties with different aims and social and economic policies. For Hu Ping, democracy is based on private ownership, and he would definitely support privatization as a solution to China's present economic problems.

Yan Jiaqi is relatively more concerned with social justice and equality, and has proposed reforms to the existing system of public ownership from within (1989, 203–18; see also 1991b.).

3.5 CONCLUSION

This chapter describes the liberal views of democracy of Wei Jingsheng, Hu Ping, and Yan Jiaqi, outlining their content and context, and the similarities and differences between them. Wei Jingsheng combines the idea of democracy with individualism. Hu Ping emphasizes the importance of liberty as the basis of democracy, and regards freedom of speech as the key to the development of the population's political awareness, so that the totalitarian system can be gradually changed in a concrete fashion. Yan Jiaqi views democracy primarily in terms of institutions and procedures, and his predominant concern is how democracy can be used in stabilizing Chinese politics, and in preventing political violence.

There are three common ideas in the political thought of Wei Jingsheng, Hu Ping and Yan Jiaqi: first, a predominant concern for human rights and freedom; second, the conviction that the principle of preventing evil is a theoretical basis for institutional constraints on power; and finally an emphasis on procedure and the rule of law. These common ideas constitute intellectual and moral foundations for democracy, which I will examine in detail in the following three chapters (4, 5 and 6) respectively.

Part II

The liberal model of democracy extended

4 Human rights, natural rights and limits on rights

As briefly mentioned in Chapter 3, Chinese liberals, in spite of the fact that they all have different formal education levels, intellectual backgrounds and interests, are in fundamental agreement on the urgent importance of human rights and freedom. This chapter reviews and discusses this in detail, and undertakes a reconstruction, criticism and tentative extension of some particular theoretical positions. The purposes of this chapter are twofold: firstly, to defend the idea of human rights, and more precisely, the idea of natural rights, which provides a basis for Chinese liberals to think about re-designing political institutions; and second, to outline a liberal, as opposed to an official, idea on limits on rights, and to apply this liberal view in arguing for temporary limits on the right to secede in the process of Chinese democratization.

The chapter consists of five sections. Section 4.1 reviews the ideas of human rights of Wei Jingsheng, Hu Ping and Yan Jiaqi. Section 4.2 discusses the problem associated with liberal ideas of natural rights and defends the idea of natural rights. Section 4.3 argues for liberal limitation on liberty. Section 4.4 examines the case of the right to secede. Section 4.5 is the Conclusion.

4.1 THE CHINESE LIBERALS' IDEAS OF HUMAN RIGHTS

In practice, the Chinese people were persecuted by *ad hoc* authorities through non-legal procedures for acts that were deemed political crimes with no legal basis during the Cultural Revolution.[1] The Chinese official idea of human rights and the violation of human rights in practice, to which all of the liberals' ideas of human rights react, are the object of the Chinese liberals' attack. There has been a struggle between rights and political privilege, liberty and paternalistic authority. This struggle is the most conspicuous feature in contemporary China and constitutes the social context in which the Chinese liberals have developed their ideas of human rights in relation to democracy. Their central concerns are how human rights can be protected, and how liberty can overcome totalitarianism (Hu Ping, 1988, 3; Yan Jiaqi, 1988, 59–66). This is the context of enquiry which governs their

arguments on human rights and accounts for their strengths and shortcomings.

I have selected Wei Jingsheng, Hu Ping and Yan Jiaqi as representative of different ways in which the Chinese liberals perceive human rights. Wei Jingsheng takes an individualistic view of human rights; Hu Ping holds the idea of the priority of liberty over other political values while Yan Jiaqi favours an institutionalist notion of human rights.

Wei Jingsheng

Wei Jingsheng defines human rights as denoting the rights of an individual inherent in his humanity. He claims that:

> What rights does a person have? He or she has the rights to live, to live a meaningful life. The reason one must have these rights is that life will not be worth fighting for without such rights, and that he or she will be able to win for himself or herself some station in life through these rights.
>
> (Wei in Seymour, 1980, 65)

Human rights, according to Wei, are not bestowed but, rather, are inherent. At the same time, Wei argues that human rights only exist in relation to other things and relate, directly or indirectly, to their environment. Thus, it is argued, human rights are limited and relative rather than unlimited and absolute. This limitation constantly grows and changes with the development of the history of mankind and with man's quest to tame and control his surroundings. There is, therefore, in Wei's opinion, no such thing as 'ultimately achieving' human rights (ibid., 1980, 142).

Wei further argues that politics is the activity of obtaining or suppressing human rights. Through politics, people's rights to manage their lives are either realized or suppressed (ibid., 142). Therefore the political systems of the human race, divergent and numerous as they are, can be grouped into two categories—autocracy, such as the system of servitude, protects the special 'rights' of the few, but denies everyone else their rights as human beings, and democracy, a cooperative system, which recognizes the equal rights of all human beings and resolves all social problems on the basis of cooperation (ibid., 65).

Wei defines freedom in terms of rights and equality. Freedom is said to be the right to use one's capabilities to satisfy one's desires, though not the right to satisfy any kind of desire one pleases. Only when one's right to choose is not hindered can everyone's activities be protected and accommodated. According to Wei, the freedom we recognize is the kind that provides opportunities for unlimited choices and possibilities; it is not the kind of freedom that results in everyone acting exactly as they wish to satisfy their desires; this would actually be a denial of freedom for the majority,

because inevitably a minority would satisfy their desires at the expense of the majority. Thus, for Wei, 'freedom can only be obtained if it is enjoyed by all mankind, and it can only be realized under conditions of mutual protection; it cannot be realized by some people depriving others of their freedom, nor can it be attained through the wilful satisfaction of the desires of a minority' (ibid., 144).

Wei continues with the argument that the basic political rights are freedoms of speech, of assembly, of association, of the press, of religion, of movement, and the right to strike. These freedoms, according to Wei, are the conditions that protect the people when equal rights are endangered and that come to bear at any time to defend equal rights. Thus, basic political rights are the preconditions for equal human rights. It must be acknowledged, in Wei's view, in theory at least, that these freedoms should be unrestricted within their various spheres. After all, in an ever-changing world no one can possibly determine what ways and means may be used to deny one's human rights. 'Inasmuch as there are many people who abuse human rights to gain social power, and since the powerless common people find it relatively easy to use the above freedoms as methods of struggle, these freedoms must be unrestricted in theory and unregulated in reality' (ibid., 142–3). Here, Wei contradicts his argument set out above that human rights are limited and relative rather than unlimited and absolute. Also he assumes that any limitation imposed by the state on the individual should be denied; the choice, therefore, is between state interference and no interference at all.

Human rights and equality are seen as inseparable because, without human rights, equality is an empty expression. Because human rights and equality are two aspects of the same issue, Wei uses the term 'the equal human rights issue' *(pingdeng renquan de wenti)* (ibid., 141). In a despotic society, according to Wei, people do not enjoy equal rights of existence. Some people have the right to live by enslaving others. The majority of the people only have the right to live as slaves (ibid., 146).

From the point of view of protecting equal rights, Wei discusses the nature of the rule of law:

> Law is the permanent part of a political system. Since law is needed all the time, it is reduced to writing to form the basis of a system, which is normally not subject to change. The rule of law backed up by criminal sanctions is a vital political vehicle to sustain society. It is used by democracies as well as by autocracies. It all depends on the actual nature of the political system concerned. There are autocratic rules of law, such as that exercised by Qin Shi Huang and the Gang of Four, and democratic rules of law. Therefore the rule of law and autocracy are diametrically not opposed and the law does not mean democracy.
>
> (ibid., 67)

Wei further argues that we need the rule of law, but we need the kind of law which is conducive to the realization of equal rights. The people must scrutinize the progress of law-making and be sure that the law being adopted is the kind of law designed to protect equal rights (ibid., 69).

Hu Ping

Echoing Berlin, Hu Ping criticizes the Marxist doctrine of positive liberty which provides a moral justification for depriving others of their rights, and therefore argues for negative liberty (Hu Ping, 1991a, No. 4, 51–2). Hu further notes the distinction between political and civil rights and social and economic rights. While political rights such as freedoms of speech and association are designed to limit the power of the state, social and economic rights require positive interference of state power in promoting both social welfare and a variety of community benefits (ibid., 51–2). He emphasizes, the priority of political and civil rights over social and economic rights, as well as the priority of democracy and freedom over economic development. Rights have complete priority over certain other independent goals such as that of increasing the GNP of a society.[2] Hu carefully argues that we have to recognize the fact that it is possible to achieve modernization under an efficient autocracy, such as has been done in Russia and Germany. He continues with the argument that there indeed has been realization of modernization without democracy, but we should be made aware that first, the economic development created by autocracy is a painful process because it inevitably involves cruel purges, and second, the human race does not seek economic development alone. Democracy, human rights and dignity, according to Hu, are also goals which are much more important than the goal of economic development. We cannot develop the economy at the expense of democracy (Hu Ping, 1988, 136–40).

To legitimize his rejection of the priority of national claims over individual claims in China, he advocates the idea of the priority of rights over truth. In his early work, *On Freedom of Speech,* he claims that the right to express one's own independent view cannot be transferred. Hu Ping also wrote an essay in 1987, 'Priority of Rights over Truth', in which he defended the legitimacy (the right to exist) of the Chinese Alliance for Democracy and refuted the charge by the Chinese government that the Chinese Alliance for Democracy was a 'reactionary organization'. In this essay he argues that one of the basic principles of democracy is the priority of rights over truth, which means every citizen has a right to express and advocate his or her own political view through the freedoms of speech, of press, of assembly and of association, no matter whether this view itself is wrong or not. You may, it is argued, disagree with what another says, and, in the same way, present your view and argue against the views of others in the same way, but no one, including any ruling party or government, has the right to suppress other

people's freedom of speech. The protection of equal rights is primary—the question whether a view is right or wrong is secondary. This is what Hu calls 'the priority of rights over truth' (ibid., 400). Therefore, Hu claims, even if the political view of CAD were wrong, it nevertheless has a right to exist.

Hu emphasizes the following three points:

1 To violate a single person's right is potentially to threaten the right of others.
2 We must learn how to protect the right of the existence of unorthodox opinions.
3 A dutiful citizen is one who strongly defends civil rights (ibid., 401–8).

Hu defends the idea of an independent citizen and the right of a citizen to oppose any government: 'I willingly support a government that I can oppose, but I firmly oppose a government that I can only support' (ibid., 372).

Yan Jiaqi

Yan Jiaqi holds that civil and political rights are natural rights which should have priority over economic and social rights; and these rights do not depend on political, social and cultural conditions and can be realized right now (Yan Jiaqi, 1992a, 50). He further argues that the concept of human rights is devised to limit state power, and human rights is the specific sphere in which political power cannot interfere. Here he makes the assumption that state power and rights, state actions and liberty are antithetical; and an increase in the power of the state is prejudicial to liberty. Yan further argues that the notion of human rights belongs to an essentially universal culture, and it is a rational and civilized common rule or criterion for political civilization as discovered by human beings both in the West and in the East (Yan Jiaqi, 1988, 59–66; also in *Democratic China,* No. 2, 1990, 35–6). The tragedy of Chinese politics lies in the fact that no distinction between rights and power has ever been made, that human rights have been violated and that political power has never been limited, all of which led to the events of 4 June in 1989. The goal of Chinese democratization, according to Yan, is fully to protect human rights and strictly to limit totalitarian power.[3] As the chairperson of the Federation for a Democratic China (FDC), Yan set up the basic items of the Constitution of the FDC, which regards human rights as the cornerstone of modern, civilized society and the precondition of democratic politics. These are a guarantee to every person of inalienable human rights: the right to live and develop; the right to pursue happiness; and the inviolable rights of the individual to dignity and security.[4] Yan further believes that

> only when people enjoy the right to express themselves freely, only when people have the right, directly or indirectly, to influence state

policies, only when the people's freedom and rights are protected in their own country, can they truly link themselves to the future and fate of their country.

(Yan Jiaqi, 1991a, 145)

In conclusion, common to all authors is an emphasis on the urgent importance of human rights and freedom, which constitute one of the basic elements of their ideal of democracy. There are, nevertheless, differences among them. Wei Jingsheng adopts a liberal approach, with a few traces of Chinese Marxism, to analyse human rights. In contrast, Hu Ping and Yan Jiaqi reject class analysis of human rights and take a more universal attitude towards the issue of human rights. Changes in the political thinking on human rights from class analysis to a universal and liberal one demonstrate that there has been a process of divergence from the Chinese Marxist discourse on human rights, and of reducing the theoretical tension between the Chinese Marxist and liberal ideas of human rights. In effect, in order to obtain acceptance of his work in the early 1980s, Wei Jingsheng, an early democrat, had to use Marxist class analysis, which was not only very popular and predominant, but the only analytic tool available. Conversely, Hu Ping and Yan Jiaqi did not need to make use of Marxist class analysis in their discussion of human rights because of the official rejection of class discourse and the soft cultural background of the mid-1980s.

Importantly, the principle of human rights is central to Chinese liberal thinking on redesigning Chinese political insitutions. Wei's idea of equal natural rights implies that the workers' right to organize should be guaranteed by democratic institutions. This serves as a basis for a platform that combines civil liberties with workers' rights. Wei's idea further implies that the peasants' right to have input into the political process should be protected by democratic institutions, and that under-representation of the rural population in the National People's Congress should be discussed and altered. Also, Hu Ping's idea of the priority of right over truth implies that scientists do not have the final say in decision-making, and that even the rights of citizens who are not scientists should be protected by democratic institutions. The value of equal liberties rather than truth and science in general constitutes a basis for democratic institutional design. (See Chapter 5 on the problems of evil and of redesigning democratic institutions, and Chapter 7 on rights-based morality.) In short, no matter how well arranged or efficient political institutions are, they must be reformed or abolished if they deny and violate basic human rights. Why should this be so? Because each person possesses an inviolability: no one can be used simply as a means to make others better off. This is the basic principle of human rights for redesigning political, economic and social institutions in China.

4.2 THE IDEA OF NATURAL RIGHTS[5] AND ITS PRIORITY

The essence of the idea of natural rights is that all humans are born free and are equally endowed with reason. Specifically the natural rights refer to: the right to live and develop; the right to pursue happiness; and the inviolable rights of the individual to dignity and security. Why are these rights called 'natural' rights? Because, logically, they are held by citizens prior to their entry into political society, and prior to the formation of civil society. Or in Wei's view, these rights are conceived of as the attributes of individual human subjects deriving from their nature or essence, i.e. from their being free beings; being ends themselves rather than being means to an end.[6]

Further, the idea of natural rights constitutes a source of legitimate government; that is, if a civil government codifies and protects natural rights, it is legitimate; otherwise it is not. In other words, a genuine protection of human rights is a fundamental basis for a government to claim legitimacy. Natural rights are codified as political and civil rights in constitutions, but not granted by the state. Instead, the idea of natural right justifies a government's right to rule if it protects natural rights. Thus natural rights have an ontological status logically prior to civil government.

The idea of natural rights was little understood when it was introduced into China in the late nineteenth century. Liang Qichao treated the notion that man had ever existed outside of society in a state of nature as a curiosity (in Edwards *et al.,* 1986, 128). John C.H.Wu, a draftsman of the 1946 Constitution, accepted Western legal positivism and held that rights do not pre-exist, but are granted by the state (Greiff, 1985, 446). The Chinese Communists also regarded the idea of natural rights as fictitious and unscientific.

Wei Jingsheng's idea of rights goes beyond Liang's and Wu's in terms of his acceptance of the idea of natural rights. He argues that such a right is not granted by external agents, but is self-existent. He uses the following example to illustrate this: the stone, since it occupies a certain space, is entitled to have the right to exist in relationship to anything around it. That is a natural right which does not need to be bestowed by external agents (Wei in Claude Widor, 1981, 115).

Wei's argument that human rights are inherent may be compatible with his argument that human rights are contingent on social conditions if we accept the following: while the idea of natural rights provides us with an ideal and a criterion for actions, it is social conditions that provide us with the practical means of realizing the ideal of human rights. There is an interdependent relationship between philosophical presuppositions about natural rights and realistic consideration about rights which are social products. On the one hand, the idea of natural rights provides us with the highest authority in society, an axiom and a criterion to deal with conflicts between rights and political power, as well as conflicts of rights in practice.

The social demand for changes to the Chinese Communist system calls for, from within the society itself, the idea of natural rights so as to ensure that equal rights will be protected. The argument that human rights are contingent on social conditions can be used to justify the idea of natural rights in the Chinese social context. It is the Chinese social background, in particular the violation of human rights in current everyday life, that brings about the discourse of the idea of natural rights. On other hand, the idea of natural rights has to be contingent on certain social conditions and development within society; the universal idea of natural rights has to take concrete forms under certain social conditions. It is here, nevertheless, that the concrete forms of rights, such as the distorted forms of rights discussed in Section 11.3.2 of the Conclusion may undermine the universal idea of rights. To defend the idea of human rights, a distinction between problems of liberty and rights as an ideal and problems of liberty and rights as actual institutional norms needs to be made. The same can be said of the distinctions between the principle of human rights and the consequences of implementing the principle of human rights. Essentially, the universal idea of natural rights is a value claim.

Wei's argument that human rights are inherent may be incompatible with his argument that human rights are contingent on social conditions if he accepts that the idea of natural rights implies that rights should not be limited; as in the case of Wei's arguments about whether or not rights should be limited. On the one hand, Wei argues that basic political rights, such as freedoms of speech, of assembly, of association, of the press, of religion, of movement, and the right to strike should be unrestricted within their various spheres. At the same time, Wei contradicts this by arguing that human rights only exist in relation to other things and relate, directly or indirectly, to their environment. Thus, it is argued that human rights are limited and relative rather than unlimited and absolute.[7]

There are also problems with Hu Ping's view of natural rights. Hu emphasizes the priority of rights and freedom over truth, and that a right is a 'trump card' held by a citizen which may be played even against civil authority. But Hu (1990a, 151) claims the idea of social contract is a myth, and has no base in reality although it does help to uncover the real origin of political power. Hu (1991 a, No. 4, 50) also suggests that we do not need to have a theory of natural law to develop an idea of human rights. Due to the lack of an idea of natural rights, Hu justifies freedom in terms of social utility.[8] It is argued that to protect freedom of speech will benefit the quest for truth and development of the truth, the 'fostering of the real Marxists', and the 'strengthening of the unity of nation and political power' (Hu Ping, 1988, 74–99).[9]

Hu's argument about the priority of rights and freedom over truth may be compatible with the social utilitarian arguments[10] about freedom of speech if we presuppose the idea of natural rights and use social utilitarian arguments to supplement the rights-based arguments. However, any philosophical

justification of rights in terms of social utility has dual functions: it may either defend rights or limit and even withdraw them. Utilitarian argument is insufficient to justify rights and may be incompatible with the rights-based arguments if social utility is used to argue for deprivation of rights. For example, one might argue that it is necessary to deny individual rights in order to avoid social tragedy if conflicts between rights cannot be resolved, and such conflicts of rights will lead to civil war. The intellectual history of modern China proves that theoretical justifications of the violation of human rights always come from utilitarian arguments. In short, to quote Waldron (1984, 18)

> attempts have been made to produce utilitarian arguments for free speech, civil liberty, economic equality, toleration, and so on, but the arguments are always at best marginal and contingent and, in any case, much more heavily qualified than the corresponding liberal principles.

Arguments for the idea of natural rights

To defend the value of freedom and rights, a philosophical idea of natural rights is needed; and the idea that liberty is the source of all rights should be emphasized. The arguments for the idea of natural rights are as follows:

The argument from intellectual necessity

The operation of rights at both the dyadic (the right of voluntary exchange or contract) and collective (the right of associations and state organizations) levels is subject to, and affected by, certain social, political and cultural conditions as well as social relationships under which human rights can be realized. Rights, therefore, are often related to other rights of other people. There are conflicts between rights. According to Hardin, the protected actions of one party coincidentally bring harm to another party, typically because of the external effects of the actions (Hardin, 1988, 117). To institutionalize the right to secede, for example, would demonstrate conflicts between rights; this will be discussed later.

Obviously, one way to resolve conflicts between rights is to find a theoretically higher authority which goes beyond conflicts and provides a supreme criterion to resolve them. The idea of natural rights meets the need for a higher authority to be placed above political authority and to act as a supreme criterion by which conflicts between rights and political power as well as conflicts of rights may be resolved. Thus the idea that all humans are born free and are equally endowed with reason is the startingpoint of the whole enterprise of human rights, and is the source of all rights. Further, rights stand in a hierarchical relation to each other; there are basic ones and inferred ones and only the highest have an absolute moral claim.

As Heller argues, freedom is the axiom of all human rights, an ontological statement and a value, which the opposite (such as unfreedom, slavery, etc.) cannot be chosen for a value (Heller, 1987, 150–9). As we know, the claims that all human beings are born free and equal in dignity and rights, and are endowed with reason and conscience serve as axioms in the United States' Declaration of Independence and the Universal Declaration of Human Rights (1948).[11]

The argument from political necessity

The idea of natural rights serves as a 'trump' card overriding the purposes of government and other public agencies. From a practical point of view, although the idea of natural rights cannot guarantee equal rights in political life, it is, definitely, a powerful weapon that can be used to oppose any ideology designed to suppress, restrict and suspend rights. The Chinese Marxist view that rights are granted by the state in particular social conditions offers justification for rights provisions to be programmatic, for the state to grant rights only to those who are friendly or loyal to it, and for power holders to restrict those rights, even deprive their enemies of their rights (Nathan, in Edwards, *et al.,* 1986, 130–1). We observe that the Chinese Marxist ideas of rights cannot ensure human rights in political life, because revolutionary claims are primary and individual rights are subordinated to revolutionary claims; conversely, the idea of natural rights can indeed ensure that equal rights are protected, because the idea of natural rights implies a restriction on revolutionary claims rather than an aid to them. The idea of natural rights has the theoretical potentiality to ensure that the sphere of realization of human rights will be enlarged.

The argument from social discovery

One may avoid the question of whether or not the idea of natural rights is fiction, and simply examine how the idea of natural rights came about in contemporary China. Although the idea of natural rights is a theoretical presupposition, it is important to note that the presupposition comes from Chinese social practice. The discourse of the idea of natural rights results from the tragedy of the Cultural Revolution, and from the historical lesson that theoretical justifications of the violation of human rights always depend on the denial of the idea of natural rights. Those who deny the idea of natural rights tend to regard it as theoretical fiction, but it seems to some Chinese liberals that denial of the idea of natural rights means tragedy, unhappiness and suffering. The idea of natural rights easily takes root in the hearts of those who have suffered violations of human rights. They are happy to choose the idea of natural rights and treat it as an absolute truth. This is the practical reason why Yan Jiaqi advocates the universal idea of human rights.

   Those who have enjoyed 'bourgeois' human rights, such as Marx, criticized the idea of natural rights. But such criticism is irrelevant to Chinese practice, and even becomes an enemy of basic freedom. That is why Hu Ping and Yan Jiaqi have rejected the Chinese Marxist discourse of human rights. One even imagines that if Marx were living in Chinese communist society, he would reject his own criticism of the idea of natural rights and turn to support it.

4.3 LIBERAL JUSTIFICATIONS FOR LIMITATIONS ON RIGHTS

To criticize the official ideological claim that rights should be limited, we need to put aside rebellious attitudes and explore fully the possible legitimate and legal limits on rights. It is possible to distinguish paternalistic and liberal claims about limits on rights and liberty with reference to different purposes, conditions and procedures which I have discussed in Section 2.3 of Chapter 2.

   Chinese liberals differ in their views of limitation on liberty. Wei Jingsheng and Hu Ping, from the point of view of individual freedom, give a liberal definition of democracy and seldom talk about the limitation on freedom.[12] Yan argues that legal limitation on freedom by means of laws and institutions is necessary.

   Although Wei Jingsheng and Yan Jiaqi mention limitation on rights, in general, all three overlook the issue of how laws regulate and limit rights through institutional norms, and how, why and under what conditions rights are to be limited. This is understandable because there has been too much talk about the limitation on rights in contemporary China and not enough about the protection of rights (see Judy Polumbaum, 1991). More importantly, the 1982 Constitutions clearly limit rights so as to render them meaningless to any Chinese citizen who might have wished to invoke them against arbitrary treatment at the hands of government.

   Although Wei and Hu adopt an individualistic approach in looking at democracy, human rights and the political system, they do not make a clear demarcation between the individual and the social within the framework of the law.[13] In Mill's (1947) liberal theory, law determines which actions are and which are not within the government's sphere of duty. Law rules government by excluding it from interfering with the citizenry within the citizen's private realm. At the individual level, the individual enjoys personal freedom and the right to privacy, and state interference is unnecessary provided the right to privacy does not lead to self-harm or harm of others. Rights, therefore, are infringed if the state interferes with the life of the individual. It is important to create and expand zones of privacy through various guarantees in China. Yin Ding (1991) has actually listed the following rights to privacy: the right not to participate in political life, the right to pursue personal interests, the right to express personal opinions and beliefs, the right to have a sexual life unhindered by state intervention, the

right to have variety in life-styles, the right to choose and believe in religion, and the right freely to choose partners in marriage. The above rights should not be condemned by public morality. These rights define a sphere within which the power of the state cannot interfere.

But when we consider areas of human life which chiefly interest society, state interference becomes more complex. Rights are often related to other rights of other people. There is a conflict between rights, which this chapter will deal with later. The point here is to present the necessary regulations and limitations on rights if conflicts between rights occur. The justification for state interference[14] is that it saves individuals from harassment by other individuals who are more powerful than they are. Freedom, therefore, demands constraints on the rich to prevent corrupt government and prevent the poor from being exploited by the rich. A restriction of liberty comes from the demand for just social arrangements and distribution of rights as well as the reduction of injustice which already exists (Rawls, 1971, 244–5). Only through this limitation can the ideal of equal human rights be protected. Freedom and rights have to be developed and improved in ways that limit themselves. The answer lies in democratic institutional limitations on rights. That is, if the state substitutes ordered and reasonable interference for arbitrary interference with individuals, it increases freedom. The extent to which state interference increases and promotes rights will depend on democratic institutions, procedures and wisdom displayed in the interference, and procedures and wisdom cannot be determined beforehand by rulers. There is, therefore, a vital connection between rights and liberty on the one hand and democratic government and procedures on the other, inasmuch as democracy is an effort to ensure that government shall only be exercised subject to popular control and criticism (A.D.Lindsay's Introduction in J.S.Mill, 1947, xxii).

4.4 THE CASE OF THE RIGHT TO SECEDE

I now apply the above liberal idea on limitations on rights to argue that the right to secede should be limited temporarily in the context of Chinese democratization. The right to secede is not fundamentally inherent in human dignity, but is secondary and derived from natural rights. It is not an individual right, but a group right. Each individual has the right to leave and return to his or her country, but does not have the right to secede; only a group has the right to secede.[15] Of course, being institutionalized, the right to secede must be reduced to the individual right to vote for secession. To exercise the right to secede is a collective action such as through public protest and demand, and in the declaration of independence. Secession deals with collective goods or collective interest. The aim of the exercise of the right to secede is that a collective withdraws from an existing state, challenges the state's territorial claim, and forms a new sovereign state, or a political unit.

The right to secede is a limited one. As Buchanan (1991, 20) asserts, an unlimited right to secede for any and every ethnic group or 'people' would be a dangerous thing indeed. The right to secede is also a highly qualified one, with defined scope and limits. To exercise the right to secede is conditional. It depends on the conditions of distinctive race, cultural, historical and geographical factors. The right to secede, like the right to revolution, as an extraconstitutional, purely moral right, is appealed to as a last resort, when political and constitutional resources have proved inadequate (ibid., 155). Valid grounds for secession might include violations of laws by the central government, discriminatory redistribution, violations of so-called states' rights (the legitimate, constitutionally specified authority of political units within a state or federation) and violation of special minority group rights (e.g. language rights) (ibid., 135).

In the case of China, democratization may provide an opportunity for Tibet to separate from China, and for Taiwan to establish an independent state recognized by major international players, or to join mainland China. Thus, opportunities provided by Chinese democratization do have different political consequences and implications.

In China, we face a difficult question of whether independence or democratization should be linked or separated. In the view of some Tibetans, independence and democratization should be linked; and it might be argued further that independence takes priority over democratic institutions. The view is understandable, but not acceptable. To make a rational choice, I would like to argue for the priority of Chinese democratization, or the temporary separation of democratization from the boundary problem for the time being, that is, democratization first and independence second to resolve boundary problems. My central argument for the separation model will not be universally true, but it is true in the Chinese context if the associated arguments set out below are accepted as valid.

Arguments for democratization

The trade-off argument

The process of secession might involve a tension between collective and individual rights, nationalism and democracy. There might be a trade-off between the right to secede and democracy. Historically, there was the trap in modern China: when the nation was in danger, the philosophy of the enlightenment was set aside (Li Zehou, 1993). To take a present-day example, the exercise of the right to secede has led to the civil wars which have destroyed a fledgling democracy in the former Yugoslavia. In today's China, the discourse of human rights is popularized and used by people to struggle against the Chinese Communist authorities. Given that the Chinese Communist system is based on suppression of the expression of individuals against the state, when people are granted civil rights, these rights easily

become a powerful and subversive weapon in the struggle against the Chinese Communist system. Thus, the granting of individual human freedom and rights challenges the Party's control. Further, given that the Chinese Communist system is based on Han Chinese suppression of minorities, when minorities are granted the right to secede, the right easily becomes a powerful and subversive weapon in the struggle against the existing state. And the state will use the right of rule to do whatever is necessary to maintain its existing boundaries. Thus, an independence movement will intensify the constant tensions between the rights of the suppressed minorities and the central authority.

Further, there are conflicts of rights. If only Tibetans have the right to vote, the voting right of Han Chinese who have lived in Tibet for decades might be violated according to a Han Chinese. If only Taiwanese have the voting right to determine the future of Taiwan, the right of mainland Chinese people is denied in the opinion of a mainland Chinese. In this respect, Hu Ping has argued that mainland China should have the right to vote for the issue of Taiwan's independence.[16] The unresolved and maybe unresolvable issue is who should constitute the 'people' with the right to vote.

To deal with the problem of conflicts of rights, the UN has established the rule that the occupying part has no right to vote. If the question is whether the group that was wronged ought to be allowed to reclaim its sovereignty, then neither the colonists nor their descendants have any legitimate voice in that decision, and they should be disqualified from voting in the referendum (Buchanan, 1991, 143). There are, however, different interpretations of the above rule when applying it to China's case. A Tibetan may argue that Han Chinese are colonizers; while a Chinese may argue that China did not occupy Tibet which was originally a part of China. The point is that international rule does not provide a clear criterion on resolving the conflict of rights with regard to the right to secede; and the international rule on who should have the right to vote has limitations when it comes to resolving and reducing ethnic conflict.

The results of a secession movement can vary: it might give rise to a democratic state; it may strengthen an authoritarian state; and it may promote nationalism of Han Chinese and minorities. In the latter case, there might be tension between nationalism and democracy. In particular, nationalism when abused by ambitious politicians and left unchecked might destroy an opportunity for China to establish democracy. Tilly points out this conflict well:

> When the population under the jurisdiction of a given state is strongly segmented, principles of democracy, human rights, and national selfdetermination commonly conflict, with partisans of each prepared to take dramatic steps on behalf of their causes. In recent years, people have been slaughtering each other over the proper application of national

self-determination in Ethiopia, Afghanistan, Bosnia, Iraq, Sri Lanka, Azerbaijan, Vietnam, and many other parts of the world.

(Tilly, 1993, 31)

The argument that democracy can prevent civil war

If a secession movement were introduced first, the focus would not be on democratization, but rather on endless disputes over boundaries with the possibility of civil war. If civil war did indeed occur, this would be bad for all the people in China, even for secessionists. Peace should be taken seriously. Even Wilson who proposed that the principle of self-determination should be recognized in the Covenant of the League of Nations insisted that the Contracting Powers accept without reservation the principle that the peace of the world is superior in importance to every question of political jurisdiction or boundary' (Partsch, 1982, 63). Thus, the prevention of civil war in China overrides the value of independence if the exercise of the right to secede indeed leads to civil war.

The assumption by Chinese liberals that evil is universal reminds us that secession and nationalism could be a source of evil if politicians use it for their own interests (Chapter 5). As we have already seen, terrible things have taken place in the former Yugoslavia, where the most successful politicians have been those who most decisively played the nationalist card and inflamed the passions of mass ethnic intolerance. In Croatia, for example, Dr Franjo Tudjman ran successfully in two general elections on the slogan of being 'the most Croatian of all Croatians', and he found it politically expedient to proclaim his gratitude to God that he had married a good Croatian woman, and not a Serb or a Jew. In Serbia, Slobodan Milosevic appealed to Serbian nationalist sentiments, calling for a restoration of Serbian domination—all Serbs would live in one state.

However, the argument against civil war does have its problems. Possible civil war may arise because of politicians who play the nationalist card, but importantly, it may also arise because of Han Chinese suppression of minorities. Further, the excuse of 'civil war' might become a justification for the continuing suppression of the rights of minorities. And, if civil war did not happen, the excuse of 'civil war' could not provide any valid justification of the limits on the right to secede. But, if civil war did happen, it would be too late. Facing this dilemma, I would favour anticipatory and preventive resolution of issues of ethnic conflicts as clearly preferable to responses made after blood has been shed. The initial separation model, I believe, has a better chance of avoiding possible civil war, while at the same time respecting the right to autonomy in serving the interests of the majority and minorities.

Promoting democratization argument

Abraham Lincoln once argued that the Union must be preserved precisely in order to assure the success of the American experiment in democracy; secession is incompatible with democracy because it denies the principle of majority rule, and perhaps also because of its tendency, if not checked, towards anarchy (Whelan, 1983, 28). In today's China, to separate democratization from the boundary issue would facilitate democratization of the country. When the right to secede is granted, it becomes a tool or springboard for independence movements, which may finally break up the existing community. This is what the CCP fear, the break-up of China; and this is why some Chinese see the advocacy of democracy in China as a 'conspiracy' by the West to divide China (see He Xin, 1991, 52).[17] To impose self-limits on the right to secede would relieve the pressure on reformers within the CCP, thus promoting Chinese democratization.

Democracy as a better chance to solve the boundary problem

Democratization can provide political experiences of elections and proceduralism to address boundary problems. If mainland China established basic democratic institutions, this would narrow the gap of political differences between mainland China on the one hand, and Taiwan and Hong Kong on the other. Thus China would be in a better position to decide whether China should be divided by vote, or should establish a federal system, or should grant Tibet full autonomy. Chances would be improved to resolve the boundary problem by procedure rather than by force in a democratic state.

   Of course, democratization does not in itself resolve the problem of boundaries. Even democratic countries such as Britain and Ireland have not resolved the problem of the political status of Northern Ireland, where terrorism and bloodshed have been flourishing. But, the risks are greater in undemocratic than democratic countries; at least, a democratic state may have a better chance to prevent war in resolving the boundary problem.

Justifications for limits on the right to secede

The separation model outlined above offers us a way to rethink the right to secede, but does not justify itself. We need to provide reasonable justifications for limits on the right to secede.

Justification from the typologies of limits

We need to distinguish different types of limits on rights. For the matter is not whether the right to secede should be limited, but what types of limitation on this right are justifiable. In both the regimes of Mao and Deng,

the right to secede was denied; and any discussion on this topic was prohibited. Conversely, the type of limiting rights I suggest is one where an opposition party is allowed and civil and political individual rights are fully protected, but the exercise of some rights such as the right to secede is still limited. This might be the case in post-Deng China. The limit is conditional and procedural; it is based on majority public opinion revealed by referendums on the boundary issue; and it complies with procedures rather than resorts to force.

Justification from the democratic institutional limit on rights

To exercise the right to secede concerns society at large, both communities, the one which secedes and the other one. The right to secede exercised by one ethnic group is often related to other rights of other people. There are conflicts of rights as discussed before. One way to deal with conflicts of rights is to follow the sequential model, where there are urgent basic rights to be implemented immediately, and secondary rights such as the right to secede to be implemented later. This is a wise and realistic solution. The point is to present the necessary regulations and limitations on the right to secede in order to control and reduce ethnic conflicts, which need not be seen as violation or denial of the right to secede. The justification for state interference is that it saves individuals from being caught up in endless ethnic conflicts. Only through this limitation can a federal constitutional China be established. Freedom and rights have to be developed and improved in ways that limit themselves. The answer lies in democratic institutional limitations on rights.

Public interest justification

Justifications for the limits on rights in both the regimes of Mao and Deng appeal to collective interests (or public interests). These collective interests as seen and interpreted by the CCP do not constitute a sufficient justification for limiting the right to secede. Communist leaders are expected to determine what collective interests are. There are a lack of institutional channels to articulate so-called public interests, and a lack of independent organizations to interpret the question of public interest. In practice, the justification from collective interests may be used only in the interests of the power élites. In particular, when political freedom is suppressed, the voice of the minorities is silent, and so the CCP really does not have any legitimacy to claim its representation of collective interests.

The rejection of the CCP's kind of collective interest justification does not, however, mean rejection of all public justification for limitation on rights. In fact, in the Covenant on Civil and Political Rights, permissible limitations on rights are justified on grounds of national security (Articles 12, 14, 21, and 22), public safety (Articles 18, 21 and 22), public order

(Articles 12, 14, 18, 19, 21 and 22), and public morals (Articles 12, 14, 18, 19, 21 and 22). If there are basic democratic institutions and genuine public spheres whereby different voices can be heard, and particularly if elections and referendums reveal public opinion, we are in a better position to identify majority public interest, although this still depends on different interpretations, and public opinion is sometimes too changeable to be credited.[18] Further, it should be made clear that justification for the limit on the right to secede does not come from the interests of Han nationality or from any other social groups but from the long-term interests of communities, including Tibetans, Han Chinese and Taiwanese, etc. The concern with the long-term interests of the Chinese community is basically a kind of consequentialist and utilitarian argument, which has been advanced in discussions concerning the right to autonomy, the priority of democratization and the avoidance of civil wars.

Better off for individual rights

This justification is from the consideration of individual liberties. A temporary limit on the right to secede might be allowed if it indeed contributes to the development of democracy and the promotion of individual civil and political rights in China. Also, democratization is primarily concerned with individual civil and political liberties; while the exercise of the right to secede is not primarily concerned with individual liberty.

In short, political stability requires that minority rights be acknowledged and accommodated. The more proactive we are in recognizing minority rights, the less likely secession is to occur; and less likely are abuses of ethnic rights and violations of rights in the name of other rights (Juviler, 1993, 282). The most important thing is first to set limitations on the power of the state which imposes arbitrary restrictions on the right to secede; to do this requires democratization. A subsequent requirement is to set limitations on politicians who use the right to secede to achieve their own political ambitions at the cost to and sacrifices of individuals. As a matter of practical necessity, human rights can only become a living reality in Chinese politics if we recognize their self-limiting nature. Human rights must, as a matter of principle, not only limit the power of the state over society, but also limit the power used by society against the members of the state, and by minorities against the majority.

If the right to secede is limited to promote and further Chinese democratization, we face challenging dilemmas. On the one hand, the limit on the right to secede will lead to discrediting and delegitimizing the constitution, thus creating enormous difficulties in establishing constitutionalism. On the other hand, if the right to secede is without any limits whatsoever, it will be difficult for a new liberal government to maintain social order, to reduce and control ethnic conflicts, and to realize constitutionalism. How do we see this tension? The tension, I would argue,

reflects actual contradictions in the process of democratization; that is, as Held (1993, 25–44) points out, ironically, globalization and global democratization make national boundaries and sovereignty irrelevant, but democratization has to take place within a national polity. This further reflects the tension between constitutionalism and democracy in the sense that the basic function of a constitution is to remove certain decisions from the democratic process, that is, to tie the community's hands, and that an enduring framework of a constitution presupposes the consent of the fathers to bind the children (for a detailed discussion, see S.Holmes, 1988).

Further, is the limit on the right to secede able to bypass the old trap that temporary limitations lead to constant violations of rights? I would argue that the limit on the right to secede is a special case: it deals with the membership of the community and the boundary problem. Furthermore, the type of self-imposed limit proposed here has a better chance of avoiding the above trap, because it makes a distinction between the violation of and limitation on the right to secede; it is against an authoritarian limit on the right to secede; it demands democratization first; and it does not deny the right to secede eventually, when the time is right.

4.5 CONCLUSION

I have defended the idea of natural rights. This idea constitutes the source of all rights as a political principle and a moral basis for a democratic system which respects and is bound to honour the liberty of its members and recognizes the proper autonomy of citizens. To protect equal human rights is the primary goal of law and of political institutions, as to seek truth is of scientists.

In realizing the idea of natural rights in Chinese politics, however, we must recognize their self-limiting nature as a matter of practical necessity. Human rights must, as a matter of principle, not only limit the power of the state over society, but also limit the power used by society against the members of the state, and by minorities against the majority.

5   The problem of evil and redesigning democratic institutions[1]

Chinese liberals have been searching for a just society, one regulated by democratic institutions and rules. A society where the problem of evil is properly controlled, at worst in the case of a civil war. It is in this intellectual context that Chinese liberal intellectuals such as Yan Jiaqi (1986b, 1989, 1991a), Hu Ping (1988, 1990b, 1991b) and Liao Xun (1987), based on their respective experiences of the tragedies in China, have taken the idea of universal evil as a starting-point for democratic institutional design.

Thus the old topic of the evil side of human nature which has been discussed through the centuries by Western theorists such as Aurelius Augustine, Niccoló Machiavelli, Thomas Hobbes, David Hume and James Madison has come to be relevant to Chinese liberal thinkers.[2] Their ideas have also some interesting new dimensions in a Chinese context. In the work of a Chinese legalist, Han Fei-tzu (280?–233 BC),[3] the doctrine of evil has been discussed. Han based his autocratic institutional design on the philosophical notion of evil (He Baogang, 1990). It was often believed that Confucius ignored the issue of evil; now scholars have argued that Confucius acknowledged the evil side of human action although such acknowledgement is incomplete, secondary and inconsistent (Zhang Hao, 1989). Further, there was a debate on whether the Confucian idea of human nature hindered the development of democratic institutions in China. Zhang Hao (1989) argues that the Confucian over-estimation of the good side, and under-estimation of the evil side, of human nature was an intellectual hindrance for democracy in China; while Hu Ping (1991b, 111) believes that Zhang's argument misses the point, and argues the compatibility between the Confucian idea of the good side of human nature and democratic institutional design.[4]

The central theme, as Yan Jiaqi argues, is that the idea that the human being is potentially evil is the starting-point for the rule of law and procedural system (Yan Jiaqi, 1986b, 1988, 1991a, 54–8). Or in Liao Xun's (1987, 7) words, the principle of preventing evil is a theoretical basis for democracy. I should make it clear here that the view of evil is universally characteristic in the sense that everyone could potentially be evil; but this

does not mean that all people are actually evil. This chapter attempts to describe, discuss and develop this theme and to provide a reliable theoretical foundation for the Chinese liberal arguments for democratic institutional design.

Yan Jiaqi and Hu Ping have been selected as representatives of Chinese liberals' thinking on evil and democracy, because their works are relatively systematic and well argued and have greatly influenced today's China. Liao Xun,[5] a less well-known scholar, is selected because his article, published in 1987, specifically discusses the issue of evil and democracy and raises a lot of interesting points. The leading thinkers of democratic theory and practice in post-Mao China such as Wang Ruoshui, Su Shaozhi and Hu Jiwei are omitted because their commitment to, and discussion of, the Marxist theory of alienation presupposes an ideal of the goodness of human nature which results in them paying less attention to the problem of evil than the three writers I have selected. Also, their understanding of democracy falls into the Marxist framework which has been declining. Although I focus on the three writers, I will broadly refer to and discuss the ideas of a group of liberal writers such as Jin Guantao, Su Wei, Ding Xueliang and Ding Chu.

I should acknowledge that although Hu Ping, Yan Jiaqi and Liao Xun share some views on evil, they have different arguments, and they will play different political roles (which I will not discuss because it would be beyond the scope of this chapter). Also although political thought on institutional arrangements depends on certain suppositions of human action, institutional design in political life depends on culture, technique, economics and particular situations.

The chapter has six sections. Section 5.1 describes the emergence of the discourse of evil and institutional design, or a shift from the notion of goodness to the concept of evil as a starting-point in Chinese political thought on democracy. Section 5.2 discusses Chinese liberal views of evil and specifies the Chinese liberal concept of evil in terms of violation of basic rights. Section 5.3 justifies an attempt to take the supposition of potential evil as a starting-point for liberal democratic institutional design and briefly discusses the limits and problems associated with that attempt. Section 5.4 criticizes neo-authoritarian institutional design which is based on the concept of the evil of people. Section 5.5 argues for democratic institutional design such as an institutional guarantee of rights, division of power and coercive and restrictive institutions to deal with the problem of evil. Section 5.6 is the Conclusion.

5.1 THE EMERGENCE OF THE DISCOURSE OF EVIL

I should say right at the beginning that the emergence of the discourse of evil in China does not imply that the idea of goodness has disappeared or no longer plays a role in political thinking. Furthermore, the observation that

while the Maoist project is largely based on the idea of goodness or perfection of human nature, and Chinese liberals' institutional design dwells largely on the idea of evil, does not imply that the Maoist project does not incorporate the idea of evil and that the liberal project does not incorporate the idea of goodness.

The revolutionary and romantic project, designed and guided by Maoism, which follows J.Rousseau and Karl Marx's tradition of Enlightenment, can be seen as an attempt to design and create the best arrangements of economic, political and social institutions, and to transform the egoistic and self-interested human into 'a new socialist man'[6] in order to achieve the ideal of a Communist society. The following assumptions have been made:

1 The Maoist project assumes that humans, lacking innate defects, are thoroughly malleable and perfectible through a system of public ownership and education. This assumption makes it possible for Maoism to favour a moral-educational remedy. The Maoist 'moral approach' to politics stresses the exemplary virtues of uprightness and benevolence as the essential ethical bases of social and political order, and even denigrates written laws, regulations and punishments as ineffective and even counterproductive. As Yan Jiaqi (1986b) points out, the notion of the goodness of human nature is a starting-point for Mao Zedong 'choosing a perfect successor' and launching movements of 'self-criticizing selfishness and fostering public spirit'. Here I should stress that the Maoist sage-moral educational approach should be distinguished from the rule-following educational approach to politics, which is based on the idea that politics is about the proper procedure to deal with conflicts; and that rule-following is a necessary condition for the operation of democratic institutions.

2 The idea that people are 'perfectible' unavoidably implies that they are currently imperfect. In this respect, Maoism, according to Hu Ping (1990b, 39–40, 1991b, 117–18), distrusts people and regards them as immature and unable to distinguish good from evil. Some Chinese Communists secretly believe that human nature is inferior and liable to be seduced by evil so as not to be interested in virtues. Andrew Walder, an American sociologist, correctly observes that Maoism saw hidden enemies and traitors within Chinese intellectual circles and within the party. The proclaimed purpose of the Cultural Revolution was to unmask these hidden traitors, drag them out of their hiding places, and save socialism from domestic and international forces of subversion (Walder, 1991, 43–6). However, I should stress that the Maoist view of evil did not constitute an intellectual starting-point for the Maoist institutional design, although it did play a role in decision-making. This contrasts with Chinese liberals who have different conceptions of evil and have taken the notion of evil as a normative premise (see Sections 5.2 and 5.3).

3 The Maoist project assumes that revolutionary élites have the capacity to master truth and science, to distinguish good from evil, to recognize the right project and how to achieve it. It is this assumption that makes the romantic revolutionary project feasible.

4 Points 1 and 2 show the two-sided views of human nature held by Maoism. These views seem to be contradictory, but are self-consistent in terms of social relationships being determinants of human nature. Maoism also sees human nature as class-differentiated. During the period of the early Cultural Revolution (1966–76), a vulgar class analysis had defined the goodness of the proletariat, and the incorrigibility of evil of 'bad classes' on the basis of blood lines. Further, it was thought that economic and educational environment determines whether human beings will be good or evil. Private ownership makes people selfish; and public ownership, if it is set up, can help human beings to be altruistic.

5 For thousands of years, human beings have been the slaves of private ownership, and selfishness has taken root in the hearts of human beings. Consequently, when public ownership is established, selfish human nature will not be automatically eradicated. The solution to this problem is to carry out moral education which demands of the Chinese that they become moral sages, or achieve the highest ideal state. This requirement of being sages denies the legitimacy of individual self-interest. To be a sage is to break totally with the fundamental instinct of self-interest.

6 Economic institutional arrangements such as public ownership are important in the sense that these are conceived of as useful tools to mould human nature, and instruments to achieve the ideal of Communist society. At the same time, the idea that state institutions can be used to perfect people unavoidably implies the idea that the state is better than and should be above the people. Also, politically, institutional checks on leaders are thought to be less important because it is assumed that the first generation revolutionary leaders are intellectual masters and true moral sages. This assumption implies, creates and supports the idea that revolutionary leaders such as Mao Zedong are so good that they do not need to be checked, or at least can be trusted in general without being supervised. As a result, as Liao Xun (1987, 8) observes, the principle of preventing evil through division of power was overlooked by the Chinese Communists.

In the early 1930s, Reinhold Niebuhr (1948, 61, 222; Kegley and Bretall, 1956, 15, 139, 302) identified the errors of the Communist project in the following terms: the Communists found the Kingdom of God in history, and regarded humans as perfectible; Communist economic reorganization seriously jeopardized the condition of freedom. Niebuhr also predicted that the destruction of economic privilege could hardly be expected to alter human nature to the degree that no one thereafter would desire to make selfish use of power. Further, the attempt to establish an economic

equilibrium through social ownership might create a new disproportion of power. Finally, the abuse of power was bound to grow as the pure revolutionary idealists were supplanted by those who consciously sought the possession of power.

Fifty years after Niebuhr's remarkable criticisms of Communism, Chinese liberals have arrived at the same conclusions. The difference is that Chinese liberals' works are written not only as words but also felt in tears, suffering and even blood; that is, Chinese liberals witnessed and suffered the failures of the Maoist project in reality while Niebuhr successfully wrote about the theory. The Great Leap Forward in 1958 which aimed at the establishment of a 'People's Commune' resulted in the deaths of millions from hunger. The failure of the Great Leap Forward caused the first crisis in Mao's authority and shook the faith of the peasantry in the party and in Mao himself. Even more disillusioning were the consequences of the Cultural Revolution which led the masses, intellectuals, ordinary party members and bureaucrats to doubt the official ideology and the final goal, and to become more pragmatic and individualistic. Post-Mao China has been marked by open disbelief in the superiority of socialism, widespread contempt for those wishing to join the party, a view of officials as a selfseeking exploitative class, and pervasive political indifference. In the 1980s, what Chinese officials called a crisis of faith, confidence, and trust reflected not only the lingering disillusionment of the Maoist era but also problems generated by the emerging post-1976 policies (Teiwes, 1984 77–92).

In particular, the Cultural Revolution, as Hu Ping argues, created the following abnormalities, or various forms of evil (*China Spring,* July 1988, 50; also Jin Guantao, 1990; Yan Jiaqi, 1986b, 1991a). Some ordinary people derive pleasure from the misfortune of others, and there were those who took a free ride and sought advantages from their community while not doing their share. They are filled with envy, or hostility, at the better fortune of others and willingly would deprive them of their greater benefits. High officials such as Marshal Lin Biao who strove for supreme power consciously did wrong by practising deception, hypocrisy, and even went so far as to assassinate Mao Zedong in 1971. He said clearly that one who attempts to be ambitious has to lie in political life. In factional fights during the Cultural Revolution evil-doers were happy to dehumanize their victims before destroying them, with or without even assuming a cloak of morality. It is because of the above intellectual background that Chinese liberals take the problem of evil seriously and redefine politics and 'human nature'.

Now I will turn to the Chinese liberal redefinition of 'human nature', the ideal of politics and the solution to Chinese political problems in the following three aspects. First, liberal-minded Chinese intellectuals have rejected the Marxist belief that human nature can be moulded at will by exposing it to proper external conditioning, agreeing with Hobbes that humans contain ineradicable selfish instincts. They seem to arrive at the

same conclusion as social scientists in the former Soviet Union in the 1960s that human nature cannot be completely changed (Davies, 1963, 1). To say that human nature cannot be completely changed is misleading as argued below; but what does matter here is the underlying effort of Chinese liberals to legitimize individual interests, and the recognition that political institutional design has to meet basic individual needs, physical and social. Moreover, the question concerning the wickedness of humans has led Yan Jiaqi to the other question of the design of institutions, the finest and most subtle inventions. Now Yan Jiaqi is looking for an external remedy, i.e., to focus on how to change external conditions and how systematically to establish institutional constraints on evil. This is very close to Hume's idea that since it is impossible to change or correct anything material in our nature, the most we can do is to change our circumstance and situation, and render the observation of the laws of justice our nearest interest, and their violation our furthest desire (Hume, 1949b, 237).

Chinese liberals are also rethinking the role of economic institutions in moulding 'human nature'. In contrast to the Maoist view that public ownership can eradicate selfish human nature, Chinese liberals argue that economic institutions are limited in the sense that institutions might influence human actions in various ways, but we cannot expect that sound institutions can actually eradicate selfish actions. Chinese liberals provide a further argument against the Chinese Marxist environmentalist view of human nature: it can lead to either autocratic or democratic political institutional design. This ambiguity in the environmentalist view of human nature does not allow for a solid intellectual foundation for democracy. However, although some liberals such as Jin Guantao reject the economic environmentalist view, ironically, they do fall into, to some degree, a cultural environmentalist view in the sense that traditional Chinese culture has determined Mao's effort to look for a Utopian society (see Jin Guantao, 1990). Further, to reject Marxist economic determinism does not imply that the environmentalist view of human nature is totally wrong. In fact, institutional design does presuppose elements of the environmentalist view of 'human nature' in that well-established institutions can change, or at least, influence human actions.

Second, given the pessimistic view of humans inspired by Hobbes, the ideal of complete perfection of a political system as well as a human being is thought by Chinese liberals such as Jin Guantao, Yan Jiaqi, Hu Ping, and Su Wei to be both impossible and undesirable; and there can be no repose for humanity in a 'good society' defined once and for all (*Democratic China,* No. 2, 1990, 42, 44, 48; also Jin Guantao, 1990). Perfectionism, a teleological theory, presupposes that its proposal is unique and the best in the world, thus to maintain its superiority it denies the existence of other doctrines and the rights of others. Consequently, it has led unconsciously to totalitarianism and autocracy in China (Hu Ping, 1988, 174–8; *Democratic China,* No. 2, 1990, 46; Jin Guantao, 1990, 31; *Democratic China,* No. 2,

1990, 31–2).[7] Contrary to the perfectionist view of politics, the object of politics now, in Jin Guantao's view, is not happiness, but liberty; and a perfect value is not a necessary principle for the design of an actual and rational society (Jin Guantao, 1990, 31). Human beings are not divine; therefore their actions cannot escape the stain of self-interest and evil. Political achievements of democratic institutions must in consequence always be limited, fragmentary and incomplete. Democratic institutional design is not a final and perfectionist solution to the problem of evil, but is better than the autocratic dealing with the problem of evil. Also, as Hu Ping argues, the democratic election system cannot ensure that the best people are elected; however, it can ensure that people are capable of removing by voting out of office those who have abused their positions (*China Spring,* July 1988, 50). Chinese liberal-minded intellectuals, therefore, look to the democratic system as a relatively better political system, or in Hu Ping's (ibid., 178) terms, a 'possible good system' rather than 'the best possibility', to avoid the worst consequences associated with the evil aspects of human behaviour. (See also Su Wei's opinion *Democratic China,* No. 2, 1990, 44).

Third, Chinese liberals have opposed the Maoist 'moral approach' to politics.[8] The reason they reject Mao's 'moral approach' is their shared disappointment in the 'social experiment' in which Mao Zedong attempted to mould 'the new socialist man' by mobilizing and indoctrinating the masses. In reality, the so-called 'new socialist man' turned out to be a hypocrite: apparently an altruist, but inwardly still predominantly motivated by innate drives such as self-interest and self-protection. And after all, this 'social experiment' proved so cruel that it was undertaken at the cost of millions of people's lives; it totally ignored individuality, privacy and self-respect, and finally it forced the Chinese to behave in ways defined by the instructions of Maoism and the party. In this respect, Jin Guantao carefully argues that the Learning-From-Lei Feng Movement[9] was a moral elitism that still allowed the masses to pursue selfish interests; it consequently set a limit on Utopian perfectionism. The Red Guard Movement in the 1960s forced people to overcome selfishness and foster a public spirit. It nevertheless failed in the end; as a result, this has destroyed moral elitism and created a social catastrophe (Jin Guantao, 1990, 26–7).

Now Chinese liberals such as Yan Jiaqi view checks and balances of a political system and a socially divided structure in a civil society,[10] rather than broad ethical imperatives, as the most effective means of resolving the problem of evil and of maintaining political order (Yan Jiaqi, 1986b, 1991a, 54–8; Baogang He 1990). They would no longer rely on human beings doing good of themselves, but restrict them in such a way that they could do minimal harm under well-established institutions. This change in Chinese intellectual mentality was demonstrated in the strong criticism by Chinese intellectuals of Li Xiangnan, a heroic, honest and upright cadre in the *Xinxin* TV series[11] in 1984 and of the neo-authoritarianism[12] between 1986 and

1989, both of which were in favour of the traditional idea of the rule of honest and upright officials (see Liu Jun and Li Lin, 1989, Part 2).

5.2 LIBERAL VIEWS OF EVIL

I should first acknowledge the following points. The concept of evil is controversial and it is difficult to agree on what evil is.[13] Thus, there are difficulties with the slippery notion of evil when it is actually applied in a concrete situation. Further, it is impossible to formulate a concept of human nature which is able to constitute an intellectual basis for institutional design. This is also true of Chinese liberal-minded intellectuals who have no unified conception of evil; each usually has his or her own individual understanding of evil. In order to avoid the controversy about evil, what I would like to do here is to describe Chinese liberals' views of what is not evil and what is regarded as evil. Then I will formulate a concept of evil in terms of the violation of rights.

The Maoist Communists believed that self-interest is the source of evil and that moral destruction lies deep in the self of the individual as a sort of 'original weakness'. Now, most Chinese liberal-minded intellectuals such as Yan Jiaqi, Hu Ping and Jin Guantao share the view that if self-interest does not take the form of self-centredness—everyone is to serve my interests—it should not be regarded as evil but rather as an undifferentiated energy which might, therefore, be seen as neutral in the sense that it can become either a positive or negative force depending on the direction of the guidance of institutional arrangements (Yan Jiaqi, 1988, 98–9). Hence, Hu Ping believes that any revolutionary project which goes against individual interests would fail in the end. According to Hu Ping, to seek to advance personal interests is not necessarily evil, rather, those who block this are doing evil (*China Spring,* April, 1988, 59, June, 1988, 52, and July, 1988, 4). Jin Guantao also argues that once rules, private interests and social differences are denied, some problems associated with self-interest might be overcome, but society itself will be destroyed. The social problems arising from concern with private interests can only be resolved through the establishment of new and fair institutions and of meta-rules which define how we change rules (Jin Guantao, 1990, 31). What is more important is that, while Maoism attempts to demolish private ownership on the ground that it creates and preserves private and individual motivations, Chinese liberals favour a privatization programme on the ground that private interests are legitimately justified and are enormous energies for productivity.

Yan Jiaqi (1988, 92–8) defines evil as imperfection, corruption, weakness and being liable to make mistakes. He gives the following examples as evil: abuse of power, corruption and uncivilized service by a bureaucrat or in a shop. Yan also cites Machiavelli's ideas that human nature is, generally speaking, evil; that people are often beset by folly, wickedness, ordinary depravity, and impulses of rage, resentment, jealousy, avarice, and of

irregular and violent propensities; and that the Prince does not need to keep his word (Machiavelli, 1961). Yan further argues that what Machiavelli did was reveal the absence of regularity in political behaviour. Today, Yan continues to argue, it has become increasingly possible, through the use of scientific methods, to study movements that are without regularity; and through procedures and the institutionalization of politics, to avoid largescale, organized violence and war (Yan Jiaqi, 1988, Chapter 10). It is the awareness of the worst consequences coming from the combination of evil behaviour and unlimited power that led Yan to the idea of democratic institutions. Here, Yan (1986b) quotes Madison but does not mention his name: if people were angels, no government would be necessary. If angels were to govern the ruled, neither external nor internal controls on government would be necessary (Madison *et al.,* 1961, 322). Yan's view of evil is universally characteristic in the sense that everyone could potentially be evil.

While Yan Jiaqi presupposes the idea of *potentially universal* evil, Liao Xun (1987) rejects this. Liao has argued that assuming that human beings are potentially evil does not mean that all people are actually evil, but that anyone who holds power will become evil if there are no inbuilt checks on that power. In Liao's understanding, evil applies narrowly to the power holders rather than to the masses. This is of great significance for different types of institutional design (I will discuss this in Section 5.4).

Hu Ping emphasizes that evil ought to be distinguished as actual and potential. The Maoist Communists failed to make a distinction between actual and potential evil so that they punished those who were regarded as potentially evil. For Hu Ping, liberal institutional design should minimize potential evil at a psychological level, and prevent it from becoming a destructive force in political life. However, civil and criminal penalties are not imposed on potentially evil people, nor are such people denied their rights in the name of controlling potential evil (Hu Ping, 1988). This feature of liberal institutional design differs from that of autocratic institutional design which attempts to suppress all potential evil by depriving individuals of civil and political rights.

Hu Ping also locates evil not only in human actions but in specific organizations and ideologies. Hu regards totalitarian institutional arrangements as evil because they favour a structure of over-centralized power and deny civil and political rights. The original purpose of autocracy, Hu argues, was to do good, but it monopolized the power to do good, and prevented others from doing good. This led to the suppression of others who were willing to do good, and consequently created evil (*China Spring,* May 1988, 33). Also, as Edward Friedman (1989, 173) correctly observes, Maoism can be understood as an attempt to avoid certain evils perpetuated in Stalinism. Maoism, however, misidentified the source of those evils. Mao saw his 'opponents' as willingly taking the 'capitalist road' and looking for supreme power. Furthermore, Jin Guantao (1990, 29–30) points out, Mao

even regarded political rules, regulations and bureaucratic organs as so called 'bourgeois rights' and as a source of 'revisionism'; consequently it led to the destruction of the party and governmental organizations during the early period of the Cultural Revolution.

I would argue further that the over-centralized power which, in the Maoist view, is needed to demolish all evil, is nothing more than an institutionalized evil, or 'evil of Stalinist political system'[14] in the sense that the rationalized party organization justified by ideology does have at its disposal the means to carry out any immoral act and to anaesthetize the moral sensitivities of those whom it makes its agents. In other words, the party is capable of mobilizing respectable and rational actors in the service of an evil action. Worse still, people in positions of power and in public office do not feel guilty because even if they do wrong, they take the view that if they refuse to do it, others will not. Thus they continue to do what might be regarded as evil. As a result, the new and strongest centres of political power became new occasions for and temptations to injustice. This was also true of Nazi Germany; the holocaust, as Zygmunt Bauman, a British sociologist, comments, was a rational project of social engineering. Its evil lay not in irrational outbursts of racist feeling, but in the mobilization of bureaucracy and technology in the service of a totally evil and calculated purpose, the extinction of six million Jews (Bauman, 1991).

Hu Ping (1988) also identifies the evil of the official Chinese ideology. Maoism holds an absolute idea of goodness associated with the ideal of a Communist society. The pretension of scientific rationality in Maoism denies the validity of moral law and private ownership in terms of historical materialism, and prefers 'substantial justice' to procedure, revolutionary cause to individual liberty and life. Consequently it denies the rights of others to have their own dissident views of goodness and evil. Thus the denial of the rights of others and even murder can be justified in terms of the revolutionary enterprise; similarly, the failure to keep a promise can be justified in terms of substantial justice. For example, the fact that Wang Shiwei, a writer and liberal-minded intellectual, who attempted to maintain his own independent position, was killed in the 1940s was seen as justified because Wang did not obey the party and he wanted 'bourgeois freedom' in the Yanan Rectification Movement.[15] Also, the fact that the Red Army sold opium in Manchuria in the 1930 and 1940s was again seen as justified by the need to raise money in support of the revolutionary enterprise.

I would like to suggest that the evil of the official Chinese ideology is associated with the notion of salvation, and with the Utopian ideal of the perfect human. It sought a perfect system but unfortunately did create evils. The Marxist and Maoist doctrine of the 'dictatorship of the proletariat' in reality led to an absolute monopoly of power. Communism is more dangerous than Nazism in the sense that its Utopian illusions provide a moral facade for the most unscrupulous political policies and for those who

have evil motivations to do whatever they want (see also *China Spring,* April 1988, 58). Even worse, those such as the Red Guards who beat their teachers to death in the Cultural Revolution, did not think what they did was evil, rather, it was for the good of the whole society. They should have felt very guilty indeed, but felt nothing of the sort at that time.[16] What had facilitated, justified and even created this perverse consciousness was Mao's goal-based morality. As James Madsen, a Chinese specialist, correctly argues, Maoism with its emphasis on absolute purity and selfishness in fact precluded any kind of moral order. In the interest of absolute morality, it led to absolute immorality (Madsen, 1984). The history of the Communist movement reveals that dissidents were tortured and were killed in the name of defending Marxist faith (*China Spring,* May 1988, 33). And a moral indoctrination movement forced the Chinese to confess their 'sin', that they have not yet rid themselves of their self-interests. It is this guilty commitment mechanism that serves to control evil among the populace: it makes people feel guilty, therefore they always think that they, rather than the party, are in error.[17]

Drawing on the above idea of organizational and ideological evil, I would like to elaborate on the idea of evil implicitly held, but not made clear by Chinese liberals; that is, any doctrine, organization and action which has the actual capacity to deny, violate and deprive others of basic civil and political rights except when there involves a reasonable limitation on rights (Chapter 4) is regarded as evil. The reasons are:

1 The nature of evil of Communist organizations and ideology, and the first step towards evil in Communist China, was in fact to deny, violate and deprive others of their rights.
2 Most evil behaviour evidences, at least minimally, the feature of violation of rights such as arbitrary arrest and torture.
3 This idea of evil is formulated in order to struggle against the tyranny of the Communist rule, that is why the concept of evil in terms of violation of human rights is similar to John Locke's concept of tyranny in which political power is said to be exercised in the absence of right.[18] Also, this understanding of evil implies and favours the idea of a rights-based morality which I will discuss in Chapter 7.
4 This conception of evil does not approach the Christian idea of original sin, or the Marxist ontological view of evil as being opposite to goodness. It allows for moral pluralist views of evil; for example, the question of whether or not abortion is an evil is open to debate. Given the fact of pluralist societies, it is difficult to agree on one definition of evil. Nevertheless, a minimalist view of evil as denial of rights has to be accepted at a meta-theoretical level, because it itself defends the idea that human beings have the right to have even their own views of evil as long as they accept the superiority of rights. If one denies the superiority of rights, then he or she risks being deprived of the right to have his or her

own view of evil; because the official Chinese Marxist ontological view of good and evil would not allow people to question the doctrine itself on the basis that the doctrine claimed to be absolutely true and provided a correct answer for them. Here one of the the great intellectual virtues of the liberal conception of evil is that it is favourable to institutional protection of the rights of all and is not sympathetic to despotism when compared with the Chinese Maoist view of goodness.

5.3 THE JUSTIFICATION FOR TAKING EVIL AS A STARTING-POINT

5.3.1 The argument against taking goodness as a starting-point

Yan Jiaqi, Hu Ping and Liao Xun rejected the assumption of the goodness and perfection of human nature which facilitated Mao Zedong's attempts to seek a perfect Utopian society, and which led ironically to evil consequences during the Cultural Revolution. This rejection is on the grounds of ineradicable selfish instincts, the Utopian nature of perfectionalism, the danger of the absence of checks and balances and the ineffectiveness of the moral approach which has already been discussed in Section 5.1. The further question raised here is what was wrong with Mao's idea of goodness in institutional design. There are, at least, two serious problems. First, if one thinks that goodness is the greatest and highest value, one would regard it as universal; in other words, those who think that they represent goodness would require it to be increasingly acceptable by members of a community. Obviously, for Chinese Communists the ideal of a Communist society is a great good for China. The Chinese Communist Party, therefore, imposed the values of a Communist society on the Chinese both by propaganda and by force when faced with resistance. To force people to believe in this value and to make self-sacrifices for that value was motivated by the belief in the universalization of goodness; such an apparently good intention can easily justify the use of force to suppress dissent.

Second, Mao's assumption of universal goodness led to destruction of virtue in a totalitarian institutional design. Let me examine the social logic of this assertion. Mao's assumption of universal goodness implies a notion of hierarchical moral order by which I mean that virtuous and honest people are superior to 'dishonest' people (see Section 5.1). Hence moral persons have a legitimate duty to enlighten these 'evil' persons and deserve the right to rule over them. According to these ideas, totalitarian institutions are designed in favour of so-called moral persons who have political privileges to mobilize the masses and who are justified in ignoring the rights of 'immoral persons'. That was exactly what the vulgar class determinism (which I mentioned in Section 5.1) did in the early period of the Cultural Revolution; that is, it was the moral obligation of members of the 'virtuous' classes to remain

segregated from members of the 'bad' classes and continuously hold them suspect, even when their behaviour appeared correct. Members of the 'virtuous' classes could also humiliate and physically punish the others at the slightest provocation (see Dittmer and Chen, 1981, 112–13, 115). As a result, protection of the rights of everyone is ignored and even overridden when the so-called moral people showed themselves to be corrupt because there was no built-in institutional check. In the end, a moral crisis occurs: people no longer believe in 'revolutionary morality'; a moral vacuum emerges and virtue is destroyed. This is exactly what has happened in contemporary China.

5.3.2 The argument for taking evil as a starting-point

Having learnt a lesson from taking goodness as the starting-point, Yan Jiaqi, Hu Ping and Liao Xun supposed potential evil rather than goodness as a premise for democratic institutions and looked for a relatively better system rather than an ideally perfect political system.

However, the three writers have justified the idea of potential evil in different ways. Yan Jiaqi's justification is normatively orientated. For Yan Jiaqi (1986b), the supposition of potential evil is not a question of whether or not human beings are born evil or good; this in fact is a meaningless, old scholastic question. The supposition of evil is indeed more about finding a normative starting-point than probing the truth of human nature, because both the ideas that humans are evil and that humans are good have empirical evidence in everyday life; what does matter is the utility of assuming the existence of evil action as an intellectual premise (Yan Jiaqi, 1986b). Liao Xun provides the practical argument that the supposition of potential evil helps us question all, even those national heroes, veteran revolutionaries of great distinction and the 'great rulers'. It also compels us to design a system of institutional checks to control evil, and implement fair institutional arrangements to help transform evil into a positive force in political life (Liao Xun, 1987, 8–9). Hu Ping's justification of the idea of potential evil is very careful and takes a balanced position. Hu argues that the design of a cadre system should be based on the assumption that power-holders tend to be corrupt, rather than the ideal of 'honest and upright officials'. On the other hand, Hu Ping argues that to select and appoint cadres one needs to look at whether or not persons are honest and upright (*China Spring,* June, 1988, 53). Further, Hu (1990b, 42–3) argues that democratic politics is not merely based on the assumption of evil, which I will discuss later.

The above justifications by the three writers are occasional and unsystematic. To reconstruct their ideas of the justifications, I would like to provide the following systematic, coherent and synthetic justifications. G.W.F.Hegel (1967, 231) argued that the Christian doctrine that humans are by nature evil is loftier than the other which takes them to be by nature good, because the doctrine of original sin holds that humans are free agents

capable of not allowing themselves to be determined by natural impulse. However, Hegel (ibid., 175) has rejected the attempt to take the merely negative as a starting-point and to exalt to the first place the volition of evil, because the evil-starting-point approach does not agree with his favouring of the unification of powers. I disagree with Hegel's rejection of this approach, but agree with his idea of the strength of the doctrine of evil. Nevertheless, I hold different arguments for the supposition of potentially universal evil.

The justification from formal justice

Liberal institutional design requires formal justice of equal treatment, that is, people should be treated equally not only in the sense that people have the same rights and opportunities but also in the sense that all persons ought to be supposed to be evil. Political morality then would matter less with a presupposition of universal goodness, and more with a supposition of universal evil, because while the former favours a partial check system; the latter leads to the idea of complete check system, i.e. everyone is suspected of being capable of evil. No one is above suspicion.

The justification from the worst strategy

Human behaviour is fundamentally uncertain and contingent in different times and contexts. Also, there are cognitive limits of knowing who is evil and good. We also have a problem of defining a criterion for distinguishing good from evil due to our disagreement about moral issues. Given the uncertainty of human behaviour, the limits of knowledge and disagreement about moral judgements, one strategy is to assume, as Hume did (1964a, 117–19), that everyone ought to be supposed to be a knave. This strategy provides us with a simple model to address the serious and fundamental problem of evil involved in institutional arrangement, and to help us to focus on the issue of how political stability can be sustained in the worst situation. It highlights the worst possible consequences of evil such as civil war. This awareness of the problem can force us to keep eternal vigilance over evil, because victory against evil is never final.

Take the example of security checks. All the people who travel by airplane are required to pass through an X-ray door and to put their personal bags on metal detectors. What does this mean? It implies that each person is assumed to be carrying a weapon. In fact, it is well known that only a very small percentage of people will do so. But technically, since we cannot tell those who carry weapons from those who do not carry weapons, everyone is assumed to be a potential weapon carrier so that all are subject to checks by a set of security arrangements.

The justification from the practical value

The supposition of potentially universal evil certainly is exaggerated in being applied to humans universally as part of the character of the race (see Kant, 1960, 24). Exaggerated or not, the supposition has its value. As this claim assumes that even those who attempt to deal with the problem of evil could potentially be evil, there would be no excuse for attempting to deprive others of their rights under the guise of resolving the problem of evil. Furthermore, the supposition of potential evil strengthens our fundamental scepticism of any perfect political system, and finally helps us realize the limitations of politics. It also excludes Platonic and Confucian efforts to seek perfection of politics, because the evil side of human action sets powerful limitations on moral and political perfectionism. Consequently, this supposition of evil leads Chinese liberals such as Ding Chu, to a belief that we would rather have two evil people who check each other than an angel without check (*China Spring,* No. 79, December 1989, 37). In short, the supposition of evil is reasonable and useful in democratic political thinking.

5.3.3. Western theories and the problem of evil

One charge that might be brought against the above supposition of potential evil is that this supposition is only emotionally reactive to the Communist rule. This might be extended with the assertion that if the Chinese Communist rule were to end, the idea of evil might die away. Thus the Chinese liberals' search for a deep foundation for democratic theory would appear at best precipitative. A critic might even argue that the notion of human nature was an old concept and is no longer useful by drawing support from the fact that the problem of evil is less discussed by current Western political theorists such as John Rawls than by classical political theorists such as Hobbes, Locke, Hume and the Federalists.

This charge is not convincing because the concept of potential evil employed by liberals such as Hu Ping is not only against the Chinese Communist rule, but against the abuse of democratic powers in democratic countries overseas. The concept of potential evil is a useful tool to analyse the serious problems associated with the process of transition to democracy. However, the charge raises an interesting question: if contemporary Western political theorists are less interested in the problem of evil, does this constitute a reason to reject the use of the concept of evil held by Chinese liberals? Further, why has Hu Ping quoted the writings of Hobbes and Locke, and Yan Jiaqi cited Madison without appealing to the writings of contemporary political theorists such as those of John Rawls? In other words, why are Hu Ping and Yan Jiaqi more interested in classical rather than contemporary Western political theories in their consideration of the problem of evil?

Take an example of the limits of John Rawls' idea of the original position being applied in China. Rawls (1971) has discussed the evil man (439) envy (80–1, 530–41), the free-rider (267–70), egoism (124, 136, 354, 388, 570), the militant man and action (367), the intolerant's exploitation of allegiance to equal liberty (388) and deception and hypocrisy (570). However, all consideration of the evil side of human action is excluded in Rawls' idea of the original position because, in Rawls' theory of justice, the choice of a conception of justice should not be affected by accidental contingencies and certain psychological propensities (Rawls, 1971, 530). For example, the issue of envy is not discussed until the two principles of justice have been chosen (ibid., 531). As a result, Rawls rejects the place of the notion of evil in his idea of the original position and presupposes that human beings have a potential sense of justice. This rejection sets limits on the applicability of Rawls' ideal of the person and well-ordered society in China. If the feasibility of the ideals of the person, as Rawls argues (1980, 534), is limited by the capacities of human nature, I would argue that Rawls' conception of the original position is limited by his absence of the idea of evil. As Hu Ping has argued, if the psychological motive of being eager to excel in everything is introduced into Rawls' idea of the original position, some people might choose to be wrong-doers rather than favour the two justice principles.[19] The fact that Rawls has not given enough attention to the conception of evil limits the application of his idea of the original position in the countries where the problem of evil is an exigent issue in political life. That is why Rawls has not been quoted by Chinese liberals such as Hu Ping in their consideration of the problem of evil.[20]

Conversely, on the issue of evil, classical political theories are more relevant to Chinese liberals than John Rawls' theory of justice because of the nature of the Chinese social context. There are obvious parallels in arguing against absolutism in the writings of John Locke and against totalitarianism in the writings of Hu Ping, and in considering the issue of how to prevent civil war and how to establish federal democracy in the writings of Federalists and of Yan Jiaqi respectively.

5.3.4 Chinese liberals and the concept of virtue

It should be made clear that the whole point of the above discussion of the justifications of the supposition of potentially universal evil does not reject the assumption of a portion of honest and virtuous people as meaningless; in fact this assumption can help to explain the feasibility of the institutions designed for potential evil.

Take the problem of the feasibility of a system of institutional checks. Possibly, evil people have an interest in obeying rules in a cooperative game, otherwise they will suffer or somehow lose. But we cannot expect evil persons to strictly comply with rules that they agree to set up in a non-

cooperative game. And nothing in the nature of evil persons will inspire conformity to normative rules. Thus we must design a coercive institution forcing evil persons to obey rules. Nevertheless, if those who check such as policemen and judges themselves are evil, how can we ensure that the coercive institution will work, and how can we ensure that institutionally protected rights will be respected?

Although this problem has no easy solution, it might be resolved, or at least reduced, as Yan Jiaqi argues, by the division of powers—a method of counterpoise which is capable of the skilful counterbalancing of refractory and separately antagonistic evils. This is similar to Madison's *et al.* (1961, 322) argument that ambition must be made to counteract ambition; and the interests of humans must be connected with the constitutional rights. By increasing the price of doing harm as well as rewarding the price of doing good, democratic mechanisms indeed help to reduce evil. They also contrive an artificial identification of private and public interest. This can make conflicting private interests subservient to the public interests (Yan Jiaqi, 1988, 97–9). Thus in framing a political constitution, we can construct a relatively good whole out of bad parts.

Hu Ping and Yan Jiaqi also employ the notion of goodness as a solution to the above problem. While recognizing that the establishment of democracy in China necessitates an analysis of evil human action, they believe that human beings are capable of goodness. They argue further that it is this goodness on which the possibility of democracy in China depends (see *Democratic China,* No. 1, 1990, 6–7; Hu Ping, 1988, 268, 1990b, 43; Yan Jiaqi, 1986b, 1987, 287–91; *Zhongyang ribao,* Taiwan, 15 May 1990). Hu Ping, who insists on a high place for noble values and goodness in democratic theory, argues that the fact that democratic institutions are devised to deal with the problem of evil does not imply that democratic politics is merely based on the supposition of evil. Hu continues to argue that the idea that democratic institutions are merely based on the assumption of evil is one-sided, incomplete and dangerous, and those who hold that idea misunderstand the Western liberal theory of democracy and the idea of original sin. Hu is aware that under the assumption that all people are evil, and that institutions are operated by evil persons, logically democratic institutions cannot guarantee basic human rights, and the only choice is autocracy. Inspired by Madison, Hu favours the middle case[21] where all individuals are neither devils nor angels; it is this middle case that makes democratic institutions feasible and necessary (Hu Ping, 1990b, 42–3, 1991b, 118).[22] Thus Hu Ping's position is in line with Alexander Hamilton (in Madison *et al.* 1961, 458) who has pointed out, 'the institution of delegated power implies that there is a portion of virtue and honor among mankind, which may be a reasonable foundation of confidence'.

Yan Jiaqi also holds the same view as Hu Ping. Yan argues that the concept of 'goodness' still serves as a starting-point for the advocacy of public virtue, and awareness of this goodness is necessary for implementing

good institutions and laws. Furthermore, only through public media rather than administrative power can a good public spirit occur (Yan Jiaqi, 1986b).

It should be made clear that the role of the notion of goodness as employed by Chinese liberals is different from that of the Maoist one; it does not serve as a main starting-point as in Maoist totalitarian institutional design. Also, as Yan Jiaqi (1986b) claims, the notion of goodness is discussed by him in the context of institution building rather than in the context of moral education.

5.4 EVIL AND NEO-AUTHORITARIAN INSTITUTIONAL DESIGN[23]

If the idea of evil is taken as a starting-point for institutional design, does this necessarily lead to democratic thinking? While Yan Jiaqi is silent on this question, Hu Ping (1991b, 118) realizes that there is no simple and single logical connection between the conception of evil and democratic institutional design. Further, there is, I think, a gap between ethical foundation and practical institutions. If the concept of evil is to constitute a starting-point for institutional design, it should at least be remembered that it can lead to either autocratic or democratic institutions. As Liao Xun (1987) observes, while autocratic institutional design aims to hinder evil by the masses, democratic institutional design attempts to hinder evil by the power-holders. Here it is interesting to mention that both the ideas of dictatorship and anarchy, according to Carl Schmitt, an interwar jurist and political philosopher in Germany, also appeal to the idea of evil and good: in the face of radical evil the only solution is dictatorship; while with the aid of the axiom of the good human and corrupt government, all governments, as an anarchist argues, must be opposed for the reason that every government is a dictatorship (Schmitt, 1985, 66).

Hobbes' absolute government, Machiavelli's powerful and skilful prince, Schmitt's (1985) commissarial dictatorship and Han Fei-tzu's overcentralized government (He Baogang, 1990), all share a common idea: given that human beings are basically evil and dangerous, a stable political order is possible only under a strong man (or a sovereign authority) sufficiently powerful to control the evil of human behaviour and to coerce free-riders into doing their part so as to avoid civil war. Today, Chinese neo-authoritarians such as Zhang Binjiu (1989) follow this tradition. Zhang fears that democratic institutions may provide an open channel for civil war. The alternative is, according to Zhang, a neo-authoritarian government characterized as a model of semi-centralized power so as to maintain social order in a transition towards democracy.

Zhang's neo-authoritarian project assumes that the Chinese are selfish, aggressive, destructive, liars and tend to be free-riders; in short, they are not ready for democracy.[24] It also assumes that cadres are willing to seek supreme power at all costs; and that only a few enlightened leaders are good.

The measure to resolve the problem of evil, in the authoritarian view, is to centralize political powers in the hands of a few enlightened leaders. This will justify the deprivation of the masses of civil and political rights, which is clearly made in the view above. Neo-authoritarianism, however, is different from Maoism in the sense that neo-authoritarian institutional design aims to grant and protect people's economic rights so as to ensure economic development, albeit it attempts to limit and deprive the masses of civil and political rights.

This plan of a neo-authoritarian government has serious problems. The greatest weakness of an authoritarian institutional arrangement is that it invests individual power in one person or a few who are supposedly good people. As Hu Ping argues, it will certainly lead to autocracy and will not necessarily lead to enlightened rule which in fact depends on personality and historical fortuitousness (Hu Ping, 1988, 176; 1990a, 151–63). And if leaders become evil, people have no rights or institutional mechanisms to use against them, and the institutions will be prone to corruption and inefficiency under such egoists and there will be a lack of political order. The assumption that new enlightened leaders are good is too optimistic about human beings. Imperfection, I argue, is inherent in human action. As Hume has already argued convincingly:

> those whom we trust for rulers do not immediately become of a superior nature to the rest of human beings. We may often expect, from the irregularity of human action, that they will neglect even the public interests in the execution of justice, and be transported by their passions into all the excesses of cruelty and ambition.
>
> (Hume, 1949b, 251)

Further, neo-authoritarian institutional arrangements would potentially create social and political disorder due to the lack of institutions and proper procedures to deal with the evil of leaders. There might also be the evil of a permanent succession crisis that continually threatens chaos or even civil war when a ruler dies in a neo-authoritarian system.[25]

Furthermore, while allowing limited freedom in economic life, neo-authoritarian institutional arrangements still attempt to maintain ideological control and to suppress the aggression of the masses. Thus there is still a lack of institutional channels to 'release' the aggression; a rational answer to aggression is still a serious problem. If circumstances allowed, as in the case of the death of Hu Yaobang and the subsequent popular demonstration in 1989, suppressed aggression could turn out to be a destructive force.[26] As Lucian Pye, a Chinese specialist (1988, 128) points out, when disorder prevails, passion gets out of hand, aggression surfaces and panic is likely.

In short, as Yan Jiaqi (1992c, 313–17) argues, neo-authoritarianism is nothing but a modern version of an enlightened autocracy. The Beijing Massacre in 1989 proves the impracticality of it. What China needs is the 7

impersonal authority of the constitution and laws which fully protect civil and political rights, rather than a personalized authority.

5.5 ARGUMENTS FOR DEMOCRATIC PRINCIPLES AND INSTITUTIONS

The fact that Communist ideology first attempted to resolve the problem of evil but in the end itself became a new source of evil raises the following question or requirement, that is, how does the liberal-democratic idea or principle avoid becoming a new source of evil and overcome the problem of being abused by a despot? Here, the principles of the priority of liberty for all and of fair procedures meet the above demand and serve us best as a guide to democratic institutional design.

Hu Ping (1988, 1991a), echoing Isaiah Berlin, has argued that the Marxist idea of positive liberty is to be condemned not only because of what it entails but also because it has been used to provide a specious disguise and basic theoretical foundation for brutal tyranny (see Berlin, 1969, 131, Hu Ping, 1991a, No. 4, 51). Of course, the ideas of liberty for all and fair procedures have sometimes been used in that way. But nevertheless these two ideas would have their own capacity to resist being abused by trouble-making intellectuals and politicians to justify social evil and would leave us significantly less vulnerable to such temptations. The reason is that the principle of the priority of equal right over truths, as Hu Ping argues, is capable of defending the right to be wrong[27] (Hu Ping, 1988; see also Chapter 4). On the other hand, Chinese Marxist ideology, which is claimed to be a science of ideas, emphasizes the priority of truth over right, thus it is potentially capable of depriving others of their rights, particularly those who hold dissident views. The truth is manipulated by the party. Chinese Marxist ideology, therefore, has the inherent fault of hierarchy and lacks an internal mechanism against being abused by a despot (see also Madsen, 1984).

While Hu Ping often argues for the idea of the priority of liberty, Yan Jiaqi always focuses on proceduralism. For Yan, the principle of fair procedure is capable of withstanding abuse and correcting mistakes because it contains a self-correcting procedure. Yan further argues that we need not appeal to the direct or strategic use of brutal force, but rather to a set of prescribed procedures such as a court of appeal that is free from coercion (Yan Jiaqi, 1986b, 1988, 1989). In short, the ideas of the priority of liberty for all and fair procedure are not compatible with any totalitarian claim to truth, in particular, with any despot. Consequently these can help to reduce the number of cases of abuse although there is still a possibility of abusing liberal theories at a practical level.

The record of the Chinese Communist institutional design in dealing with the problem of evil raises the following question or requirement: how does liberal-democratic institutional design resolve the problem of evil, in

particular the problem of institutional evil, while not constituting a new evil? Liberal-democratic institutional design based on the minimalist conception of evil in terms of violation of rights meets the above demand for the following reasons.

5.5.1 As an institutional guarantee of rights

The democratic way to control evil is to provide an institutional guarantee of political liberties so as to restrict attempts to violate the liberty and destroy the lives of others. However, the difficult question is, if we know that evil persons might abuse rights to do evil things, do we have the right to deprive evil persons of civil and political rights? Should evil persons still enjoy rights granted by a liberal constitution? Here the assumption that some people are evil and others are good does not provide a moral justification for 'the good person' to deprive 'the evil person' of his or her rights, because such good people are also supposed to be potentially evil. The claim that all humans are potentially evil denies the right of the 'good person' to deprive others of their rights. There is no legitimate reason for depriving evil persons of their rights in terms of *potential* evil; to do this is to risk depriving all of us of our rights. Also, if potentially evil persons are granted civil and political rights, and if an evil person attempts to do bad things to other evil persons, he or she will be resisted by these evil persons who have the right to fight back. It is the institutional protection of rights of all (including potentially evil persons) that might counterbalance the refractory and separately antagonistic evils. The great security against evil consists in giving to good persons as well as to evil persons the basic political right to resist encroachments on their rights by other evil persons. As to the question of whether we have the right to limit the rights of *actual* evil persons, the answer is yes, because evil persons violate the principle of equal rights and do harm to others.

5.5.2 As a system to check power

Evil people might manipulate law-makers to deprive others of their liberties. The state itself might be perhaps the greatest threat to the individual's liberty. Thus institutional devices to divide and separate powers are favoured by Chinese liberals such as Yan Jiaqi, to struggle against state excesses, as well as against the evil of élite manipulation. Charles Louis Montesquieu (1989, 155, 187) who has greatly influenced Chinese liberal thinking, argued that political liberty is present only when power is not abused; and that it is formed by a certain distribution of the three powers (executive, legislative and judicial), so that one cannot abuse power. The converse of Montesquieu's thesis is true when applied to China. The Chinese Communist Party has united legislative power with executive power; thus there are no liberties although liberties are granted by the

Constitution, because the party that makes laws will execute them. Also, when the party commands the legal power of the judge which is not separate from legislative power or executive power, the power of the party over the lives and liberty of the citizens was and will continue to be arbitrary, for the judge is both the legislative and the executive, and is capable of the use of force. It was a lack of division of power and of democratic institutions within the party that, as Wang Huning (1986), a young political scientist at the Fudan University, described, caused the Cultural Revolution. That is why Chinese liberals advocate multiple party system against one-party rule. That is also why Yan (1988, 1989) favours an executive, legislative and judicial division of power and advocates the four divisions of power in China as a major task of political reform between the people and the State, between the party and the government, between the government and social organizations, and finally between the central and the local government. Yan Jiaqi (1989) and Hu Ping (1988) have also emphasized the importance of the freedom of the press and civil society which are seen as socially separate powers. Whether or not liberty will be preserved depends less upon the niceties of constitutional construction than upon the extent to which there are independent sources of power in civil society. As Yan (1988) realizes, Watergate demonstrated that the capabilities for effectiveness of the press is the fourth branch of government, which may be more effective as a means of checking power than as a contributor to viable government if freedom of the press is guaranteed. In conclusion, the principle of preventing evil, as Liao Xun (1987) argues, favours a power-check system and should be a guidance for current political reforms.

5.5.3 As restrictive and regulative institutions

Democratic institutions which have been viewed by Chinese liberalminded intellectuals such as Su Wei (*Democratic China,* No. 2, 1990, 44) as a mechanism to deal with or to control evil can be divided into two parts. First, a restrictive institutional design attempts to control evil through the use of coercion such as civil and criminal penalties; second, a regulative institutional design attempts to have evil play a positive role and to nurture civil virtue which is seen to be law-abiding.

1 Restrictive institutions
The effects of some rulers' innate drives, such as the pleasure of aggression and destruction, and the tendency to corruption, can be effectively checked by the construction of a set of political institutions, i.e. through constitutional checks and periodic elections, so as to prevent these drives from getting out of hand', and hence, prevent or set a limit on a combination of evil and power (Yan Jiaqi, 1986b). Democracy makes far less likely the ability of rulers to hide errors so as to continue in a destructive direction and thereby to

compound errors into disasters. Watergate and the resignation of Nixon demonstrated that when evil people in high positions, even the president, abuse the public trust placed in them, the multiple checks in a government of divided powers can bring such people down.

2 Regulative institutions or institutional guides
It is obvious that we cannot eradicate potentially evil instincts, but we are capable of controlling evil by an alteration of its direction (for the idea of an alteration, see Hume, 1949b, 197). Well-established institutions can compel evil people to do good things. On the part of evil leaders, the politically open competition systems are so constituted that they can aggregate the self-interested rationality of non-virtuous politicians to nevertheless achieve virtuous ends in political life. Thus lust for power can be guided adroitly to serve the public in well-established institutions; and institutions can guide in the proper manner the fight for political achievements rather than the struggle for narrow interests. It might be also argued that although the problem of evil does pose difficulties for Chinese democratization, evil persons, under institutional constraints and historically fortuitous conditions, might well choose to play the democratic card and push for Chinese democratization.

However, liberal democratic institutional arrangements, I acknowledge, cannot guarantee the functions discussed above because evil persons might find ways to get round the rules. Nevertheless, democratic institutions are able to provide a self-correcting mechanism against being abused if this occurs. Thus democratic institutions retain the internal potential to avoid the possibility of becoming a new evil, or to correct mistakes if needed.

5.6 CONCLUSION

Chinese liberals such as Hu Ping, Yan Jiaqi and Liao Xun have identified the serious problems of evil in Chinese political life, particularly Hu Ping who has highlighted ideological and organizational evil in Chinese Communist society. They implicitly hold a conception of evil in terms of violation of rights. They have also justified the supposition of potential evil, or a principle of preventing evil of power-holders, as an intellectual foundation for Chinese democratic institutional design.

Hu Ping and Liao Xun have realized that there is no close or direct logical link between democratic institutional arrangements and the concept of evil. There are, at least, two links between the different conceptions of evil and the different institutional designs. The first one is that based on the insight of the evil of the Chinese, a neo-authoritarian institutional arrangement has been urged, but this, as I argue, remains unacceptable. The second link is that drawing on the supposition that all humans are potentially evil, Chinese liberals such as Yan Jiaqi and Hu Ping have argued for the principle of the

priority of equal rights and fair procedures as a solution to the problem of official ideological evil and for the guidance of democratic institutional design. In taking account of the conception of organizational evil, they have argued for institutional protection of liberties through division of powers; they have further argued for regulative and restrictive institutions. They also argued that not only are democratic institutions desirable, those institutions are feasible through counterpoise mechanisms and the goodness of human behaviour.

Yan Jiaqi (1986b) has remarked on the significance of the awareness of evil in terms of breaking with the traditional moral approach to politics. This significance, however, should not be understood as a mere recognition of evil, because both Confucius and Han Fei-tzu have acknowledged the evil side of human action. The significance should be understood in these terms: Chinese liberals link successfully the conception of evil in terms of violation of rights to democratic institutional design, and this link which I attempt to explore and develop represents a breakthrough in Chinese democratic thinking.

6   The problem of exceptions
A defence of procedural democracy

Exceptions to the law introduce some degree of uncertainty into constitutional life. The effect of exceptions is the belief that political life rests upon an insecure foundation if the ultimate courts of appeal are rules allowing for exceptions. In other words, if an exception is allowed, which means that some laws are not followed by some people at some times and places, this weakens rules and undermines the coherence of proceduralism which requires that procedures and rules have to be followed by leaders and masses at all times and in all places.[1] The problems raised by exceptions are also serious in a transition to democracy; failure to deal with emergencies will lead to a failure of democracy and a restoration of a totalitarian regime.

   In dealing with the above problems, there are at least three competing positions. One extreme position allows of no exception. This is the case of Yan Jiaqi's proceduralism which presupposes that a decision in the legal sense must be derived entirely from the content of a norm or procedure.[2] As Yan Jiaqi asserts, 'the idea of "legal rule" is to establish the idea that laws are supreme; political parties, the government, enterprises, organizations, and individuals all have to obey the law *without exception*' (Yan Jiaqi, 1991a, 87, emphasis added). This position is understandable because there were too many exceptions to laws under Chinese Communist rule, and because the emergency articles of the 1982 Constitution were abused to suppress the students' demonstration in 1989, and lacked restraining influence upon the party dictatorship. However, I reject the position primarily because it cannot deal with complex problems of the transition period. Sections 6.3 and 6.4 will justify this rejection. Another extreme position allows exceptions without specifying conditions and plays down the importance of rules. Schmitt's theory is a good example, which I will discuss in Section 6.3. A middle, moderate liberal position allows some exceptions with specifications of conditions under which exceptions are justified, while defending the highest authority of constitution and rules. This position, as it applies in states of emergency, attempts to revise the articles concerning emergency power and to improve the system regulating states of emergency rather than abolish it. This position also sees the

application of states of emergency as a devised instrument to defend democratic and legal order in a particular situation. The moderate liberal position will be discussed in Section 6.4.

This chapter has three goals. First, it defends the idea that procedure and the rule of law are a foundation for democracy by discussing and overcoming the challenging problem of the exception. Second, it aims to provide a theoretical basis for revising articles concerning emergency power in the 1982 Constitution. Finally, it examines and criticizes the arguments against procedural democracy and formulates a basic liberal idea of the exception.

The chapter adopts Keane's proceduralist definition of democracy: democracy comprises procedures for arriving at collective decisions in a way which secures the fullest possible and qualitatively best participation of interested parties and their representatives. Democratic procedures include equal and universal adult suffrage in constituencies of various size; majority rule and guarantees of minority rights; the rule of law; constitutional guarantees of freedom of assembly and expression and other liberties (Keane, 1992, 124). Exceptions to rules, in this chapter, refer to states of exception or states of emergency which may be used to justify actions to suspend civil liberties, legislative functions, regulations and common law, as well as to suppress particular parties and movements. Further, the emergency power is, in Locke's (1956, 82) view, a 'prerogative', a power to act according to discretion for the public good, without the prescription of the law, and sometimes even against it.

The chapter is in five sections. Section 6.1 briefly introduces four cases of states of exception by describing emergency articles in the Constitutions of the People's Republic of China, Republic of China, Germany and the USA. This provides a basis for a theoretical discussion in the later sections. Section 6.2 examines the nature of the problem of the exception associated with the rules of the game in a transition to democracy. Section 6.3 reviews and criticizes a Chinese neo-authoritarian argument against procedural democracy. Section 6.4 outlines liberal ideas of the exception and defends the coherence of proceduralism and constitutionalism. It initially discusses the hierarchic and conditional approaches to dealing with the problem of exceptions, then briefly examines competing concepts of justification for exceptions. Section 6.5 is the Conclusion.

I should make it clear that the constitutional life of PRC is fragile and ephemeral, and does not enjoy the status of the US Constitution. Although in theory the Constitution of China is the highest authority, it does not work in that way. The Constitution itself is often altered with the change of political situation. PRC has the four national constitutions of 1954, 1975, 1978, and 1982. The will of the party and leaders is often above the Constitution. Although the 1982 Constitution grants an impressive list of political rights, the right to political association is largely prohibited in real life.

6.1 CASES OF EXCEPTION

Here I will first describe articles regulating emergency power in several constitutions, then turn to practices of the employment of states of exception. I will not discuss the historical backgrounds in detail because that is beyond the scope of this chapter.

6.1.1 Case 1: temporary provisions in the Republic of China (1948)

In the history of Chinese constitutionalism, the 1946 Constitution contained well-designed provisions concerning the state of exception. Article 39 of the 1946 Constitution specified that 'the President may, in accordance with law, declare martial law with the approval of, or subject to confirmation by, the Legislative Yuan. When the Legislative Yuan deems it necessary, it may by resolution request the President to terminate martial law.' Further, Article 43 specified that:

> In case of a natural calamity, an epidemic, or a national financial or economic crisis that calls for emergency measures, the President, during the recess of the Legislative Yuan, may, by resolution of the Executive Yuan Council and in accordance with the Law on Emergency Orders, issue emergency orders, proclaiming such measures as may be necessary to cope with the situation. Such orders shall, within one month after issuance, be presented to the Legislative Yuan for confirmation; in case the Legislative Yuan withholds confirmation, the said orders shall forthwith cease to be valid.
>
> (Blaustein and Flanz, 1992, 6)

However, the above articles and even the 1946 Constitution were unfortunately suspended by Chiang Kai-shek in 1948. As the First National Assembly convened, Temporary Provisions Effective During the Period of Communist Rebellion' were enacted on 29 May 1948. Although not in the form of a constitutional amendment, the Temporary Provisions radically altered the 1946 Constitution, and enhanced the powers of the President, Chiang Kai-shek. They made the office largely free of legislative control, and were later further amended to eliminate the limit of two presidential terms. See the following Articles of Temporary Provisions:

> Article 1: The President during the Period of Communist Rebellion may, by resolution of the Executive Yuan Council, take emergency measures to avert an imminent danger to the security of the State or of the people, or to cope with any serious financial or economic crisis, *without being subject to* the procedural restrictions prescribed in Article 39 or Article 43 of the 1946 Constitution.

> Article 3: During the Period of Communist Rebellion, the President and the vice President may be re-elected without being subject to the two-term restriction prescribed in Article 47 of the 1946 Constitution.

Article 10: The termination of the Period of Communist Rebellion shall
be declared by the President.

(Blaustein and Flanz, 1992, 27–9)

The above provisions had a longer life than the 1946 Constitution itself.
They remained in effect until 25 December 1990, when President Lee
Tenghui officially announced the revocation of the Temporary Provisions' in
Taiwan.[3]

6.1.2 Case 2: the declaration of martial law in China (1989)

Emergency power was specified in Paragraphs 16, 17 and 18 of Article 31
of the 1954 Constitution: that is, the standing committee of the NPC had
power

> (1) to decide, when the National People's Congress is not in session, on
> the proclamation of a state of war in the event of an armed attack on the
> country or in fulfilment of international treaty obligations concerning
> common defence against aggression (Paragraph 16); (2) to decide on
> general mobilization or partial mobilization (Paragraph 17); (3) to decide
> on the enforcement of martial law throughout the country or in particular
> provinces, autonomous regions or municipalities directly under the
> central government (Paragraph 18).[4]

This emergency power article was deleted in the 1975 Constitution.[5] Paragraph
12 of Article 25 of the 1978 Constitution, however, repeated Paragraph 16 of
Article 31 of the 1954 Constitution, but did not adopt Paragraphs 17 and 18.[6]
In the 1982 Constitution, Paragraphs 18, 19 and 20 of Article 67 re-adopted the
three Paragraphs of Article 31 of the 1954 Constitution. What is more
important is that Paragraph 16 of Article 89 of the 1982 Constitution grants for
the first time to the State Council the power to declare martial law in *some
areas* of provinces, autonomous regions or municipalities directly under the
control of jurisdiction of the central government.[7]

On 20 May 1989, Paragraph 16 of Article 89 of the 1982 Constitution was
invoked by Li Peng's government to declare martial law in some areas of
Beijing. However, there is a question of whether the declaration was
constitutionally justified. For students and intellectuals, the declaration of
martial law was illegitimate because Article 67 of the 1982 Constitution
specified that only the legislative power, the standing committee of the NPC,
is able to decide on the enforcement of martial law throughout the country or
in particular provinces, autonomous regions or municipalities directly under
the central government. A further question is concerned with who is the
overriding authority according to the 1982 Constitution. If Hu Jiwei, the
former editor of *People's Daily* and a member of the Standing Committee of
the National People's Congress, and others, had successfully convened an

emergency sitting of the Standing Committee of the NPC and had had the order of the declaration of martial law withdrawn, the following question would occur. Who, the Standing Committee of the NPC or the State Council, had the overriding authority to decide on martial law or to withdraw it? The 1982 Constitution does not specify this clearly.

6.1.3 Case 3: the state of exception in Germany (1933)

Article 48 of the Weimar Constitution specified that:

> If a state does not fulfil the duties imposed by the Reich constitution or the laws of the Reich, the Reich president may enforce such duties with the aid of armed forces.
>
> In the event that public order and security are seriously disturbed or endangered, the Reich president may take the necessary measures in order to restore public security and order, intervening, if necessary, with the aid of armed forces. To achieve this goal, he may temporarily suspend entirely or in part, the stipulated basic rights in articles 114, 115, 117, 118, 123, 124, and 153.
>
> All measures undertaken in accordance with Sections 1 and 2 of this article must be immediately reported to the Reichstag by the Reich president. These measures are to be suspended if the Reichstag so demands.
>
> (Bendersky, 1983, 74–5)

It has been argued that Hitler acquired power not through the use of Article 48, but because it was not used against him (ibid., 185). However, Hitler did use Article 48 to maintain and strengthen his power and to establish his dictatorship. The Nazis made effective use of the political premiums inherent in the legal possession of power to suppress opposition and to achieve their party goals. Along with the Nazi campaign of terror and intimidation, Hitler was abusing his control of the state apparatus, particularly the authority of Article 48, in a way that previous presidential chancellors would never have been allowed to do. Emergency decrees instituted during early February 1933, placing tight restraint on freedom of the press and public meetings, were followed by the decree of 28 February, which virtually suspended all basic rights. By purges of the Communists and by intimidating the other parties, the Nazis acquired a legal mandate in the March elections. And Hitler acquired the necessary two-thirds majority in the Reichstag under Article 76 to pass an Enabling Act on 24 March 1933. Under this Act, which was to last for four years, laws could be passed not only by the Reichstag, but by the government itself, thus eliminating the separation of powers. Equally significant, laws decreed by the government could deviate from the constitution so long as they did not violate the rights of the Reichstag, Reichsrat, and the office of the president. On 31 March 1933, Hitler's

cabinet passed a law for the coordination of the states with the Reich, through which all state governments (except the already Nazified one in Prussia) were dissolved and reorganized without elections. These new Nazi-controlled governments could deviate from state constitutions and pass laws without the consent of their legislatures (Bendersky, 1983, 196–7, 199).

6.1.4 Case 4: Lincoln's use of the emergency power in the USA

Section 9 of Article 1 of the American Constitution explicitly authorizes suspension of the privilege of the writ of habeas corpus in case of rebellion or invasion if public safety requires it. Moreover, the Amendment Documents provided for suspension of several safeguards for individual rights. For example, the Third Amendment allowed quartering of troops in civilian homes during wartime, 'in a manner prescribed by law'; and the Fifth Amendment allowed suspending of the right to indictment by grand jury of members of the militia 'when in actual service in time of war or public danger', and allowed the government to take, 'with just compensation', private property for public use (Murphy, 1986, 1176, 1232; Tucker, 1981, 905, 914).

One example of the suspension of individual rights was the Merryman case. On 25 May 1861, John Merryman, a state legislator, who stayed at his home, was arrested by union troops under control of the Commanding General, George Cadwalader. Cadwalader, who was authorized by President Lincoln, had power to suspend the privilege of the writ of habeas corpus in proper cases; or in other words, the power to arrest and detain, without resort to the ordinary processes and forms of law, such individuals as he might deem dangerous to the public safety. Chief Justice Roger Brooke Taney, however, argued that the location of emergency power in Article 1 meant that only Congress—subject to the usual presidential veto—could authorize suspension. He therefore ruled that the President had no authority to suspend the writ and thus could not authorize anyone else to do so. President Lincoln, nevertheless, defended himself in his message to Congress on 4 July 1861, saying that the President could do so on his own to fulfil the obligations imposed on him by Article 2 to 'take care that the laws be faithfully executed' and to 'protect and defend the Constitution'. In August 1861, Congress gave retrospective approval to Lincoln's suspension of habeas corpus but did not authorize future presidential suspensions. Lincoln again acted on his own in September 1862. In March 1863, Congress finally authorized the President to use his own judgement in suspending habeas corpus, but imposed certain restrictions when the President exercised this authority within states loyal to the Union (Murphy *et al.* 1986, 1184–91).

The above cases can be illustrated in Table 6.1. In conclusion:

1 While both the Constitutions of P.R China (1982) and the US were ambiguous in specifying who implements emergencies, both the *Table*

Table 6.1 The emergency power Articles and their effects in PRC, ROC, Germany and the USA

	People's Republic of China	Republic of China	Germany	USA
Articles	Articles 67 and 89 in the 1982 Constitution	Articles in Temporary Provisions (1948)	Article 48 in the Weimar Constitution	Section 9 of Article 1, the 3rd & 5th Amendments
Who implements it?	NPC or the State Council	the President	the President	Congress or the President
Limits on use of emergency power	no statements	procedural restrictions of the 1946 Constitution were removed	immediately reported to the Reichstag by the president; measures are to be suspended if the Reichstag demands	legislative approval, the Supreme Court's review, time & space limits
Rights suspended	part and all	part and all	part and all	a very few
Constitution suspended	unclear	yes	yes	no

Constitutions of R.O.China and Weimar Germany grant the president power to implement emergencies.

2 The Temporary Provisions of P.O.China (1948) had only weak and nominal constraints such as 'by resolution of the Executive Yuan Council', and the 1982 Constitution of P.R.China did not specify restrictions on the employment of emergency power; while there are limiting conditions such as legislative approval, the supreme court's review, and time and space limits in the Constitutions of Weimar Germany and the USA.

3 In terms of effects of the implementation of emergency power, the American record is certainly better than that of the other nations. It has never suspended the Constitution in its entirety and only rarely invoked Section 9 of Article 1.[8] More importantly, the use of emergency power in the USA left general constitutional rights intact. On the other hand, during the emergencies, basic rights and even the constitutions of the Republic of China (1946) and Weimar Germany were almost suspended.

6.2 THE PROBLEMS OF EXCEPTIONS IN A TRANSITION TO DEMOCRACY

The above four cases of exception occurred in different contexts of transition to democracy. In the case of the People's Republic of China, emergency power was used to suppress the 1989 Democratic Movement. In the cases of Nazi Germany and Chiang Kai-shek's China, emergency powers were used to close the door to democracy and to establish and maintain dictatorship. In the case of the USA, the emergency power was used to maintain the unity of the USA and the federal system in the Civil War. All of this highlights the importance of the exception in transitional periods, and requires us to analyse the nature of the problem of the exception in a transition.

A transition to democracy can be defined as a movement from a state of affairs in which constitutional rules are so discredited that nobody is committed to them, to one in which constitutional rules attract the commitment of a few members of the élite and are complied with by other members of the élite for their personal security and interests. In other words, a transition to democracy, by nature, is a shift from the gun to rules as the most appropriate way to resolve basic political conflicts. Thus these rules become able to regulate political life and the constitution becomes an overriding authority above executive authority. There are enormous difficulties for a new liberal government in establishing the rules of the game in the transition to democracy. In particular, China will face the following predicament. On the one hand, the frequency of exceptions will lead to the discrediting of the constitution and create enormous difficulties in establishing constitutionalism. On the other, if any exception is denied, it will be difficult for a liberal government to maintain social order and to realize constitutionalism. The following discussion will elaborate on this predicament.

During the transition to a liberal system, there is more open social and political conflict for supreme power than in the old totalitarian system where struggles for supreme power were more covert. Everyone is now able to anticipate being a supreme leader, and ambitious people willingly seek that position through election and procedures. At the same time, these ambitious people may abuse and violate rules blocking their road to power. Given that an institutional check system has not yet been fully established, in this critical situation, such people may appeal to armed force as a final and decisive means to settle political disputes. Thus, the most universal phenomenon in a transition period is that states of emergency and martial law are often invoked to violate human rights (such as torture, disappearances and virtual abolition of procedural guarantees and lack of independence of the judiciary). This is done to try to perpetuate dictatorships, to suppress democracy and to attack fundamental freedom as shown in Section 6.1 above. Worse still, in Latin America, the states of

exception in effect became the rule, acquiring permanent status, and became the essential judicial support of a 'new order' so that judicial debates were excluded, legislative powers were reduced, and the police, administrative regulations and military tribunals became the principal mechanisms of social control. And most states of exception were arbitrary and merely a pretext in the interest of the dominant regime. Thus, some Latin American jurists even advocate the total suppression of the rules authorizing states of emergency (Alvarez-Garcia, 1981; Zovatto, 1990).

The violation of rules might be justified by the so-called rapid and radical social changes of the transition, which make laws and regulations unstable and unreliable. People often seek solutions outside legal channels, and even sacrifice the requirement of proceedings so as to deal with the complex issues of the transition. For example, in China, the nature of the problem of breaking a promise in a contract lies not only in one party failing to keep the promise, but in the unfairness of the social conditions under which the contract was made. When the social conditions changed, so did the content of the contract; and difficulties of adhering to the contract occurred. Thus some Chinese often use this situation as an excuse to withdraw from a legal proceeding, and seek a more flexible solution to deal with the conflict of interests regarding whether the contract should be kept. Thus rapid and radical social changes become a justification for not complying with rules.

There are also negative effects of exceptions on constitutional rules. To admit any exception at all to a rule is to open up the possibility of an ever increasing proportion of exceptions, and open up the way to that rule's destruction. The occurrences of exceptions also increase the difficulty of making and checking judgements about whether exceptions are justifiable and this may lead more and more people to discredit rules. For example, Li Peng's government might have used constitutional and legal methods in dealing with the 1989 crisis, but it used instead arms and tanks to crack down on the students' demonstration. As a result, the 1982 Constitution was much more discredited than before, because in a critical situation, it was the gun rather than the Constitution that finally decided the outcome of the 1989 events.

On the other hand, there is a need to see the state of exception as an instrument devised to defend democratic and legal order in a transition period, as suggested by Case 4 of Section 6.1 above. The really difficult problem associated with the process of realizing the rule of law and procedural democracy is that the aim of procedural democracy is to replace the 'rule of man' with the 'rule of law', which implies a limitation on personal authority. Now, in the case of China, while legal-rational authority has not been established fully, paternalistic authority appears to have been eroded in the transition period. It follows that the positive elements of paternalistic authority seem to have disappeared in the past ten years.[9] This may have created a situation in which there are new problems such as

distortion of liberty, and burden and abuse of procedure, and in which there is a lack of a strong state to deal with the complex problems and to maintain social order. If that is the case, there is no hope for the establishment and maintenance of the highest authority of procedure. Further, even if the market becomes predominant in the Chinese economy and even if it takes a capitalist form, which is very probable, there is a continuing need for a new form of strong state to tackle fundamental economic and social problems. As the events of the late 1980s in China vividly demonstrated, the transition process was fraught with instability and tensions arising from the growing complexities of the policy process, conflicts between old and new interests, threats to economic security and growing social inequality (White, 1994). A strong state with strong personal and executive authority is thus needed to deal with complex difficult problems and to defend the authority of the constitution when it faces challenges in the transition period in order to manage the transition to democracy. This strong personal authority will require emergency power provided by the constitution on exceptional occasions. This is vital for the establishment and preservation of procedural democracy provided that a strong authority is limited and regulated by just institutional arrangements and that this authority complies with the principles of justice and procedures.

Yeltsin's appeal to 'special presidential rule' is a good example of the demand for a strong authority which requires the emergency power of president so that the president can control and reduce social conflicts in the transition.[10] We leave open the question of whether Yeltsin's appeal is constitutionally justifiable, the point is that the emergency power is vital for a successful transition, because emergencies do occur, and a new liberal state has to live through periods of real and present danger that may threaten not merely the stability of a new liberal government or the normality of constitutional life, but even the physical survival of the state and its population. The question, therefore, is now about the wise design of the articles regulating emergency power. It is well known that most constitutions have such articles. A computerized comparative study of 142 constitutions in the world before 1975 shows that 31 constitutions contain provisions concerning suspension of (part of) the constitution, 47 deviation from (part of) the constitution, 17 both suspension and deviation, and 47 have no such provisions (Maarseveen and Tang, 1978, 83). Section 6.1 above shows that the constitutions of PRC, ROC, Germany and the USA have some provisions for suspension, or relaxation of part of the constitution during emergencies. This is also true for the 1982 Spanish Constitution, European and Latin American constitutions and similar charters in Portugal and Brazil.

However, there are serious problems associated with the emergency power articles of the 1982 Constitution of the PRC. First, the provisions concerning emergency power of the 1982 Constitution are ill-designed in the sense that these articles did not set limitations on the employment of emergency power

and did not specify who has the overriding authority to implement it (Section 6.1). Second, if the Chinese Communist Party collapses, which may imply the invalidity of the Communist constitution, at least for anti-Communists, there will be no such provisions available if there is not enough time to draft and pass a liberal constitution. This is evident in Russia where Yeltsin's justification of his decree of 'special presidential rule' did not come from the former Communist constitutions but from the claim that the Congress is dominated by conservative Communists who fail to do their duty and even conspire to overthrow a democratic government.[11] On the other hand, Yeltsin's appeal to 'presidential rule' was deemed unconstitutional by the Congress.[12] This raises the question of whether the former Communist constitution can provide an overriding authority over how to resolve a crisis in the transition period. I will not discuss this question in detail here, because further discussion of this important question is beyond the scope of this present chapter. Here, I simply hold the conservative view that the former Communist constitution should be revised and be maintained rather than abolished, in so far as there is not enough time to draft and pass a liberal constitution. Given this assumption, my concern is now the question of redesign of articles regarding emergency power in the constitution. Here I should make it clear that a well-designed article regulating emergency power cannot resolve the complex problems of the transition, but it can provide a due procedure to resolve crises.

The above discussion raises the issue of justification of exception at a theoretical level. If a liberal government whose sole concern is equal political liberty is threatened by a former Communist Party movement which looks likely to gain power again, what should the liberal government do? Should it honour or respect the liberty of the Communist movement to advance its cause within the existing law? Or should it be prepared to deny the liberty of the Communist movement for the sake of preserving constitutional order and promoting liberty overall? It is well known that the former members of the Communist Party have questioned Boris Yeltsin's order that the activities of the Communist Party be banned in Russia, claiming he violated the principle of equal political rights. Does the liberal government have a right to make an exception of the intolerant, and even repress those who are former Communists and anti-constitutionalists in order to maintain social and political stability? If the answer is yes, does an exception really undermine constitutionalism? How does proceduralism constitute a solid foundation for democracy given the existence of exceptions? How do we defend constitutionalism when an exception is made? Can and how do we distinguish justifiable and unjustifiable exceptions in defending constitutionalism? Who decides that an emergency exists? Who imposes the exception? Who may implement it? Who may terminate it? What limits exist during the emergency on government authority? Do courts remain in session? What are the problems associated with the emergency power articles in the 1982 Constitution? And finally, how

do we design and revise these articles? The following sections will address these questions.

6.3 THE ARGUMENTS AGAINST PROCEDURAL DEMOCRACY

A Chinese neo-authoritarian will reject procedural democracy on the grounds that it lacks the capacity to deal with the problem of exception. Schmitt's theory of the exception may be used as a sophisticated insight into the problem of exception in the transitional period, and may present the following arguments for the necessity of establishing a new strong authority.

6.3.1 The argument of the inadequacy of procedures

How is it logically possible that a norm is valid except for one concrete case that it cannot factually determine in any definitive manner (Schmitt, 1985, 14)? The problem of the exception proves the incoherence of proceduralism, challenges the validity of legal norms, shows the uncertainty of political behaviour, and finally points to legal contradictions in an exceptional time. The procedural enterprise proposed by liberal constitutionalists who attempted to banish the exception and regulate the exception as precisely as possible is impractical and inadequate. To comply with formal procedures always delays quick decisions when an emergency occurs; while an emergency requires a quick decision and substantive correctness of existing rules, it, therefore, requires an unlimited authority. The procedural enterprise cannot cope with any serious problem concerning the independent meaning of the decision.

6.3.2 The argument of uncertainty or a limit of information on exception

This argument holds that the exception cannot be circumscribed factually and made to conform to a preformed law (Schmitt, 1985, 6). The precise details of an emergency cannot be anticipated. Nor can one spell out what may take place in such a case, especially when it is truly a matter of an extreme emergency, or how it is to be eliminated (ibid., 6–7).

6.3.3 The argument for the priority of decision

Three reasons can be presented for the argument of the priority of decision. First, rules do not sustain themselves, rather, they depend on something such as force that is provided but not based on rules. Second, legality rests on a decision and not on a norm in an exceptional time (Schmitt, 1985, 10). Finally, normativism cannot be normative in the sense that a president and a jurist by his (or her) own free will make value assessments (ibid., 20). The above argument presupposes a kind of summary conception of rules, that is,

decisions made on particular cases are logically *prior* to rules and a sovereign authority is, in principle, always entitled to reconsider the correctness of a rule and to question whether it is proper to follow it in a particular case.

Drawing on the above arguments, a Chinese Schmittian, a neoauthoritarian, favours a strong authority. Only the state can guarantee the basic human and social requirements of order, peace and stability which are prerequisites for freedom. The state must determine the enemies of the constitution and prevent their acquisition of power. The sovereign authority can stand outside, transcend, and not need to base decisions on the normally valid legal system although he (or she) is bound by, and belongs to legal norms. In such a situation it is clear that the state remains, whereas law recedes (ibid., 7, 12).

I should acknowledge that if the constitution itself is in danger or is revoked, there will be no proceduralism at all. Hence, to make an exception to some rules so as to maintain the constitutional order is necessary (see next section). Further, practical critique of normative constitutionalism does raise difficult problems such as the validity of legal norms for liberals who hope to implement the principle of proceduralism. But a Chinese Schmittian cannot go so far as to claim that these problems are themselves a convincing reason to dismiss normative proceduralism. It is wrong to dismiss proceduralism by means of exaggeration of the role of the problems of procedure in political life.

Now I turn to the above neo-authoritarian arguments against procedural democracy. The argument of uncertainty or a limit of information is not convincing. Does this limit to information about the precise details of an emergency justify the idea of unlimited authority? For liberals, the answer is definitely no, because the limit to information about the precise details of an emergency leads them to consider the uncertainty of the consequences of the use of power to make an exception. It is the fear of abuse of procedure, in particular of the power to make an exception that leads liberals to argue for restrictions on the emergency power of the government so as to reduce the harm that the government might inflict on the people. As Locke argues:

> when mistake or flattery prevailed with weak princes to make use of this power [prerogative or emergency power] for private ends of their own, and not for the public good, the people were fain by express laws to get prerogative [emergency power] determined.
>
> (1956, 83)

Thus liberals would argue that, although it is impossible to predict or to specify in advance what emergency might arise, what can and must be specified in advance is to preserve the legality of the rule. It is in the face of the limit to information that institutional devices such as rights protections and division of power are needed to overcome problems of the limits of

reason (see Hardin, 1988, 76, 115). Or in Rawls' terms, the assumption of the veil of ignorance (lack of information about how the various alternatives will affect rational persons' own particular cases so that they are obliged to evaluate principles solely on the basis of general considerations) leads rational persons in the original position to choose the two justice principles and well-designed institutions rather than unlimited authority (Rawls, 1971, 136–42).

Further, there is a mistaken assumption about the priority of decision. To make an exception requires a quick decision but not the priority of decision. A quick decision does have *relative* autonomy, but is still limited by meta-rules in the end (see next section). Also although a quick decision made by a president without complying with certain rules is justifiable, as Case 4 of Section 6.1 shows, it needs to be consented to by the senates later. If decision is given priority, making a decision is more important than how a decision is made. Moreover, implications of the priority of decision are: first, to make a decision is to be free from meta-rules; second, when a wrong decision is made, the sovereign can avoid being accused of error because there is no higher authority to review the decision; and finally, even a wrong decision can acquire legal validity according to the theory of the faulty act of state. These three implications contain seeds for all forms of dictatorship and are the enemy of constitutionalism.

The dangers of the idea of the priority of decision lead us to consider the liberal idea of the priority of rules, that is, rules are pictured as defining practices, and the rules of practices are logically prior to particular cases (Rawls, 1964, 24–7). This is so because there cannot be a particular case of an action falling under the rule of a practice unless the practice previously exists. To engage in a practice, to perform those actions specified by a practice, means to follow the appropriate rules. The priority of rules or the precedence of rules is also shown in the application of meta-rules (see next section) in everyday political life. Although there have been different justifications and explanations of rules, they still play roles in everyday political life. The meta-rules, through a mechanism of reward and punishment, function as a kind of political education which reinforces the priority of rules.

To hold the idea of the priority of rules does not, as Rawls suggests, imply that there cannot be an exception to rules. A particular situation can be an exception to particular rules. Rawls' statement that a particular case cannot be an exception to the rule of a practice is misleading in the sense that he suggests a solution of mere qualification or further specification of the rule (ibid., 24–7) rather than a solution of suspension, adjustment and redesign of the rule.

I would like now to examine the idea of the unlimited authoritarian measure to deal with the problem of exception. A Chinese neo-authoritarian presupposes the view that there must be somebody at the top of the power structure who is able to make a quick decision so as to avoid the worst

consequences in a time of crisis. However, for liberals, the worst political crisis and a situation where we are uncertain about the exception do not provide a sufficient justification for the idea of unlimited authority rather than lead us to argue for the ideas of division of power and of institutional checks. It is the authoritarian political institution that liberals fear, because the sovereign with limitless powers as sole ruler is nothing more than one of the causes of the worst consequences for human beings. Thus, liberals take the view that sovereign authority must be divided into legislative, executive and juristic powers. Who is allowed to have the power to make an exception is not determined by a particular situation but by meta-rules. Neither a president nor a judge has supreme power although the power balance may shift.

6.4 LIBERAL VIEWS OF THE EXCEPTION

There are basically two approaches, namely, hierarchic and conditional, to deal with the problem of the exception. Rules allowing for exceptions cannot function as ultimate courts of appeal primarily because they are sometimes overruled. Consequently there must be rules which do not allow for exceptions and which perform the function of fundamental principles for resolving all clashes between rules. The hierarchical approach, therefore, holds that rules can be ranked in a hierarchic way so that meta-rules are distinguished from particular rules and that meta-rules take precedence over particular rules. While meta-rules do not admit of an exception, particular rules do. Thus, meta-rules function as the principle for guidance in how to change rules or redesign rules if we face the challenge of the exception. As far as constitutional change is concerned, meta-rules can be exemplified as follows: both in Australia and in Switzerland, altering the Constitution requires not only the approval of the legislature but also of a majority of all the electors voting in a referendum and also a majority of electors in a majority of the States in the federation; and in the United States amending the Constitution requires the approval of a two-thirds majority in each House of Congress, and thereafter acceptance by a vote of the legislatures of three-quarters of the states.

The hierarchic approach further holds that to make an exception is to suspend, adjust or redesign particular rules, the practice of which has to comply with meta-rules. The bottom line is that the above meta-rules regulating constitutional changes should not be suspended. This is also true of the whole constitution; otherwise meta-rules are in danger. Thus, under truly extraordinary conditions, parts of the constitution might be suspended, but the whole constitution and its commitment to constitutionalism could not be legitimately suspended. In other words, a liberal government must observe such basic requirements as respect for the worth and dignity of each citizen, though it may, as a temporary measure, suspend some rights. Further, liberals

would never make an exception to the principle of fair procedural justice. Equal political liberties, as Rawls asserts, cannot be denied to certain social groups on the grounds that their having these liberties may enable them to block policies needed for economic efficiency and growth. Nor could a discriminatory selective service act be justified (in time of war) to raise an army (Rawls, 1982, 8–9). In other words, the priority of liberty implies in practice that a basic liberty can be limited or denied solely for the sake of one or more other basic liberties, and never for reasons of public good or of perfectionist values (ibid., 9).

On the other hand, if an exception to meta-rules or a suspension of the whole constitution is allowed, there is an incompatibility between this kind of exception and proceduralism. The idea of suspension of the constitution in its entirety indeed contradicts proceduralism because the suspension of the whole constitution implies that meta-rules no longer exist so that the fundamental procedure regulating constitutional change is denied. However, this theoretical contradiction results from the denial of the idea of meta-rules. If meta-rules are distinguished from particular rules, the former do not admit of exception, while the latter admit of and imply exception. This is the way to defend the coherence of proceduralism. This is also the fundamental procedure for making exceptions; if the procedure is followed, the exception can be deemed consistent with proceduralism. An exception to certain particular rules does not contradict meta-rules, because according to these meta-rules, an exception is made. Thus the liberal argument about exceptions is in fact the argument about meta-rules themselves. This allows liberals to resist the idea that exceptions exist apart from rules. In this manner, the Schmittian contradiction can be resolved. The problem of the exception does not disprove the principle of procedure.

The above ideas can be illustrated in a concrete manner by discussion of the case of Lincoln's use of emergency power which did not contradict proceduraiism and an equal chance before law. As President Lincoln argued, his exception, namely, the suspension of the writ of habeas corpus, was justified by Article 2 of the American Constitution, and was also approved later by Congress. Further, when the writ of habeas corpus was suspended on an exceptional occasion, meta-rules still played a major part in the sense that they provided a procedure to resolve political conflict between President Lincoln and Chief Justice Taney. Rules, therefore, ought not to be lightly discarded; nor are they of little value. Therefore, the idea that the norm is destroyed in the exception is wrong. In making an exception, the sovereign can still be defending and maintaining the importance of rules and the constitution as a whole.

Not only is there no incompatibility between exceptions and proceduralism, but exceptions are an essential element of proceduralism. Proceduralism, according to the hierarchic approach, leaves a space for an exception to particular rules. This space is open to new particular situations and brings these under the practice of meta-rules; this space, therefore,

helps to increase the capacity of proceduralism to deal with unpredictable crises. Far from weakening rules, exceptions help preserve them; they are a device which enables us to resolve conflicts between rules. Thus the rules and their exceptions occupy the same plane, the relationship between the power to create exceptions and the basis for doing so becomes an essential element of the extent of rule-based constraint itself. The power to make exceptions does not undercut the primary force of the rule itself (Schauer, 1991, 893–9).

Because the applications of states of exception were abused to violate human rights and even destroy constitutions, as shown in Cases 1, 2 and 3 in Section 6.1, it is now more important to examine the rules for states of exception than to focus on Schmitt's interpretation of the significance of the exception and on the question of compatibility between exceptions and proceduralism. This leads us to the conditional approach which holds that we can list the conditions under which the employment of exceptions are limited and justified; or we can formulate the rules for making exceptions; the exceptions failing to comply with these rules are regarded as unjustifiable. Here I am now opposed to the idea of an unlimited exception which fails to examine the rules for exceptions. Constitutional regimes of exceptions are in fact constitutional rules for making exceptions in exceptional circumstances. The rules are thus: an emergency which is defined as a time of actual war or armed rebellion, or a danger to the security of the state and public life; legislative implementation of exceptions or delegation of authority to presidents along with other restrictions such as Congress's approval; the judicial review of an emergency decree after the event of emergency. Also, further conditions under which an exception can be made are as follows: permitting restrictions on an anti-constitutional party must be justified by the evidence of possible failure of the constitution and of the absence of reason of an anti-constitutional party; and it must be guided by the principles of justice. As Rawls claims:

> A more stringent condition is required: there must be some considerable risks to our own legitimate interests. Thus just citizens should strive to preserve the constitution with all its equal liberties as long as liberty itself and their own freedoms are not in danger. They can properly force the intolerant to respect the liberty of others, since a person can be required to respect the rights established by principles that he [she] would acknowledge in the original position. But when the constitution itself is secure, there is no reason to deny freedom to the intolerant.
>
> (Rawls, 1971, 218–19)

To apply the above rules and conditions in China, the problem associated with Articles 67 and 89 concerning emergency power in the 1982 Constitution is that the rules are not stated fully or clearly. The most serious problem is that these rules did not set limitations on government authority to

employ emergency power. The remedy, which is open to further discussion, is to revise these articles or to draw up new articles concerning emergency power. In the near future, Chinese constitutionalists will probably adopt and modify Articles 39 and 43 of the 1946 Constitution in the following ways: to specify circumstances such as a time of actual war or armed rebellion, or a danger to the security of the state and public life that calls for emergency measures; emergency measures must be approved by, or be subject to confirmation by, the Congress; resolution of the executive must comply with constitutional rules; an emergency order shall, within one month after issuance, be presented to the Congress for confirmation; in case the Congress withholds confirmation, the emergency order shall forthwith cease to be valid.

If a dispute over an emergency order occurs, there is a question of who is to be given the power to explain and justify an exception for the sake of equal liberties. Schmitt answers that the president has such a power. As he says, rules do not implement themselves and procedure cannot tell you what will happen; and that the legal idea cannot translate itself independently is evident from the fact that it says nothing about who should apply it (Schmitt, 1985, 31).

Locke provides another answer:

> Between an executive power in being, with such a prerogative, and a legislative that depends upon his will for their convening, there can be no judge on earth; as there can be none between the legislative and the people, when they have got the power in their hands, design or go about to enslave or destroy them. The people have no other remedy in this, as in all other cases where they have no judge on earth, but to appeal to heaven.
>
> (1956, 85)

I am opposed to Schmitt's presidential power to explain and justify exceptions. There is a danger of that power being abused if the executive alone is awarded this power. Executive power should not be allowed to have power to explain and justify exceptions, rather, it should only have a duty to follow the rules for states of exception in the constitution. This is a lesson from Mao Zedong's manipulation of procedures. Mao was astute enough to employ a 'form' of democracy, procedures and 'consensus' to serve as a tool for maintaining his political power. For example, Mao successfully manipulated the time, place and people for party conferences in which Mao could hopefully gain a majority of votes. One reason why Mao successfully manipulated procedure is that he had unlimited power, in particular, the power to make an exception and the power to explain it; this was also due to the weaknesses of institutionalization in the Chinese political structure.

I agree with Locke's answer that the people have a right to appeal to heaven. But, practically speaking, the power to explain and justify an

exception for the sake of equal liberties should lie with the supreme court, but the successful operation of this power depends on a well-established power-check system such as a division of the three powers and the autonomy of the judicial system. These are institutional mechanisms and insuperable limitations to governmental abuses of emergency power.[13]

Now I would like to conclude this section by briefly commenting on competing conceptions of the justification of exceptions. There are risks in Schmittian kind of justification, because the exception-creating power is identical with the power to apply the purpose of social order and with the existence of the state rather than the constitution or rules, or takes these purposes as in fact being the rule. This kind of justification easily contributes to the abuse of states of exception because the subjective interpretation of what is the existence of the state has no objective criteria. The danger in this kind of justification is self-evident in Hitler's use of the justification for his dictatorship.

For liberals, when constitutional parties have the power to make exceptions, the primary objective is, in Rawls' view, to establish a just constitution with the liberties of equal citizenship. As Rawls states:

> It should be noted that even when the freedom of the intolerant is limited to safeguard a just constitution, this is not done in the name of maximizing liberty. The liberties of some are not suppressed simply to make possible a greater liberty for others…This is done for the sake of equal liberty under a just constitution the principles of which the intolerant themselves would acknowledge in the original position.
>
> (Rawls, 1971, 220)

In other words, if an anti-constitutional party's complaint about being suppressed refers to an equal stance before the law, then an anti-constitutional party has no right to complain when it is denied equal liberty. It may have the right to complain not on behalf of the intolerant, but simply as a right to object whenever a principle of justice is violated.

In conclusion, there are three criteria to make justifiable exceptions which imply limitation on rights: first, for the sake of equal liberties; second, to comply with rules for exceptions, or to comply with meta-rules; finally to maintain the constitution which should not be suspended entirely. Thus, any action by authorities that exceeds such limits would be unlawful. That would be the case if the exceptional measures last longer than the specified time limit, as suggested by Case 1 of Section 6.1 above; if they are manifestly irrational, unnecessary or disproportionate. Although Hitler claimed that his abandonment of freedom of speech and press was justified by Article 48, in the end, he destroyed the Weimar Constitution. This is an unjustifiable exception.

6.5 CONCLUSION

The problem of the exception is interesting, challenging and important, in particular, during a transition to democracy. Successful transition to constitutional democracy depends on, among other things, a wise design of a constitution which has provisions or rules not only for the protection of basic liberties but also for exceptions so that the constitution has a capacity to deal with uncertainty and crisis. It is therefore worthwhile for Chinese constitutionalists such as Yan Jiaqi to take the difficult problem of the exception into account, rather than denying it, in their political thinking. For example, Articles 67 and 89 regulating emergency power in the 1982 Constitution in China should be revised in a way that specifies the restrictions on employment of emergency power and the conditions under which the particular rules may rightfully be put aside.

In response to the challenge of the exception, liberal constitutionalists attempt to distinguish meta-rules from particular rules, and to adjust and redesign particular rules rather than to abandon the whole constitution and proceduralism. In this direction, we resolve the political problems of exceptions; and we extend the field where procedure can apply and finally enhance the degree of political order and stability. Further, the liberal type of exception is conditional and limited with constitutional restrictions, division of power and the independence of the judiciary; and the justification for making an exception is provided by the doctrine of equal liberty rather than the principle of Schmittian statism.

7 Infusing a rights-based morality into political institutions

Chinese liberals such as Yan Jiaqi and Hu Ping have explored the social and political nature of rights-based morality, the political dimension to morality, rather than morality in general; that is, political institutional arrangements should be based on a morality which is characterized by urgent recognition of the following: equal liberties, institutional protection of rights and fair procedures for democratic institutional design. This is what might be called the project of infusing rights-based morality into political institutions in China.[1] The present study has analysed that project by showing how the liberal idea of rights provides a rights-based foundation for a moral critique of established political power in China (Chapters 1, 2 and 3) as well as for constructive guidance for political institutional arrangements (Chapters 4, 5 and 6).

This chapter attempts to summarize and synthesize occasional and fragmentary discussions of moral issues presented in the previous chapters. It examines the moral foundation of liberal theory of democracy in China by discussing the idea that Chinese Marxist, goal-based morality and the traditional sage's conception of morality should be taken out of Chinese politics; while rights-based morality should be infused into political institutions in China. This chapter is not so much an historical account of the decline of Chinese Marxist, goal-based morality and the rise of rights-based morality as partly a sociological and largely a philosophical analysis of these. The aim of this chapter is to defend the necessity and the importance of that project in Chinese political life.

I should say right at the beginning that the project of infusion of morality into politics in my present work is not one that concerns the moralization of individuals,[2] rather, it is a question of seeking moral principles that are to guide institutional design for a particular form of government.[3] The institution of politics is, first of all, the democratic institution of a civil state—the use of passions against passions, power against power, threat against threat.

The chapter is in five sections. Section 7.1 presents a general picture of the infusion of the procedural conception of morality *into* politics and the removal of the sage's conception of morality *from* Chinese politics. Section

7.2 rejects the argument of the independence of politics from morality and argues for the moral principle of fairness. Section 7.3 dismisses the practical argument concerning the catastrophic consequences of infusing politics with moral principles by distinguishing between goal-based and rights-based moralities. Section 7.4 rejects the cultural relativist argument and argues for a normatively minimal international morality. Section 7.5 is the Conclusion.

7.1 INFUSION AND REMOVAL OF MORALITIES

In ancient and contemporary China, power was and is used to set an example of moral rectitude so that the conduct of all individuals should be exemplary. In this way, virtue was upheld and the consequence was to be a peaceful, harmonious society rather than a society mobilized for mundane problem-solving. Politics was to be solely a matter of ethics, not the use of power to maximize values (Pye, 1985, 56). There is a long history of the combination of Chinese morality and government; 'means and ends have become indistinguishable, and not only was and is ethical conduct the guide for government, but government was and is there to improve the ethical conduct of all (ibid., 63–4).

What is involved in this mix of politics and morality is the Chinese sage's conception of morality; this demands that human beings be altruists and sages who are the first to be concerned with the world's troubles and the last to rejoice in their own happiness. This kind of morality maximizes seeking for the highest ideal of the moral state.

Liberal institutional design does not require the sage's concept of maximizing of virtue. There are at least three reasons for this. First, the very essence of rule by moral example is anti-politics; that is, it precludes the kinds of activities associated with using power competitively in support of different values. Instead, rule by moral example favours the ideal of a static, conformist social order. Everyone is expected to know what are the moral standards that have to be shared by the entire community in order to achieve the passive state essential for such a style of governance. Those who are safely included in the élite could engage in debates about alternative definitions of virtue, but for society as a whole there should be conformity and consensus. Yet, precisely because the norm of stylized rule allows no concessions to the realities of contention, the counternorms of officialdom have to allow scope for devious tactics, intrigue, subtle ploys, and ingenious dissimulation among those certified as the most virtuous. Thus the life of officialdom was and is built upon the foundation of hypocrisy (ibid., 42). Furthermore, the Chinese cultural belief that rule should be by virtuous persons and not by impersonal laws 'makes it difficult for the Chinese to institutionalize authority since they are reluctant to invest power in impersonal arrangements' (ibid., 200).4

Second, institutional arrangements are less likely to be implementable the

more they demand of people. Liberals, in adopting the assumption that humans should be assumed to be potentially evil or knavish, take a pessimistic view of the effectiveness of the sage-moral appeal. Probably, one who is seriously committed to the democratic enterprise would be willing to sacrifice his or her time, salary and even life. But we cannot really expect that moral rules of this kind will be followed, and cannot expect too much of the average person. Although the sage-moral approach may also admit of the assumption that most persons will not be sages, it assumes that all people are, by nature, potentially moral sages, and thus encourages people to make self-sacrifices.

Third, one of the purposes of democratic institutional design is to avoid the negative consequences of a totalitarian system, the great flaw of which is that its operation depends on personal morality. Thus correctly modelled constitutions such as liberal or republican institutional arrangements function independently of the manners of humans and the goodness or badness of rulers, making it in the interests of even a bad person to act for the public good (Hume, 1964a, 99). The science of politics, therefore, is not concerned with manners and morals, but with the balancing of separate interests and the skilful division of power in order to best secure public interests (Forbes, 1975, 227). Institutional design should economize on virtue (see Brennan and Buchanan, 1985) in the following two senses: first, the social contract from which it derives assumes an impersonal model unconcerned with the best virtues. Second, fair procedures on which liberal institutional design are based aim to regulate how institutions (and rules of law) operate, rather than to regulate how individuals behave virtuously. Thus the sage's moral appeal constitutes neither a starting-point nor a guiding principle for democratic institutional design. Consequently, the institutions should not be seen as tools to produce ideal human beings as defined by one doctrine or one organization, but rather as an instrument of rational control in the management of evil.

The above project of liberal institutional design can be seen in the Chinese intellectuals' advocacy of the separation of politics from the official ideology. Just as the West separated politics from religion in the period of secularization, China, it is argued, needs to separate politics from the official ideology and its morality; and this separation is a hallmark of political modernity. With this attempt to free politics from the official ideology, Marxism-Leninism and Mao Zedong Thought, initially there needs to be a radical desacralization of the Chinese official ideology, followed by the search for a new relationship between ideas and politics as well as between morality and politics. An official ideology must carry respect for the autonomy of philosophy as an intellectual activity and, just as importantly, it must desist from relying on the power of the state in order to control opinion and thought (Baogang He, 1988, 41–2). At the same time, liberal institutional arrangements need to build on a rights-based morality, at least, on a procedural conception of morality.

Just as Hume sought a new conception of virtues, as did the moral philosophers of the eighteenth and nineteenth centuries, Chinese liberals have sought a procedural morality which constitutes a basis for proceduralism. The procedural conception of morality emphasizes rule-following and fair procedures; as David Hume (1949a and b),[5] J.S.Mill[6] and Adam Smith[7] see it, the virtue of justice is nothing but a disposition to obey the rules of law. The procedural conception of the good person is also not seen as the Confucian good person, but, as Montesquieu (1989, xli) argues, the politically good person who loves the laws and procedure and who acts from love of the law and procedure. Thus the procedural conception of morality and the good person is less demanding than the sage's conception in the sense that it only requires a minimal criteria: people have to follow the rules of the game.

This minimal demand facilitates the feasibility of institutional design, because institutional arrangements are more likely to be implementable the less they demand of people. The possibility and operation of democratic institutions also depend on the procedural view of morality; otherwise democratic institutions cannot work. Liberal institutional design, therefore, presupposes the procedural conception of virtue, or institutionalized morality in the sense that it does not stress that people should behave virtuously but requires people to follow rules through institutional devices such as the mechanism of reward and punishment. For example, Mill's morality is composed of 'coercive rules', i.e. rules that indicate when coercion may be used to compel or punish (Gaus, 1980, 266).

Now it is time to examine a possible tension in Chinese liberals' thought. Although Hu Ping and Yan Jiaqi have advocated procedural morality, they have unconsciously retained vestiges of traditional moral idealism.[8] They share two implicit assumptions about goodness. First, the democratic enterprise should be guided by those who are concerned only with the interests of the people and less with personal interests; leaders of democratic movements, therefore, should be, and can be, moral sages. Second, it is the critical and creative intellectual, and not the political ruler, who represents, advocates and holds to truth and social justice. The power of Chinese intellectuals is based on, or comes from morality and 'cultural capital' rather than from class, property or political position. The role of intellectuals is to point out the right path of politics and this role has more status than that of political leaders.

If these assumptions are taken as an intellectual basis for institutional design, then they undermine the claim in their argument for democratic institutions that human beings are self-interested, then further undermine the principle of equal liberty at the institutional design level, and possibly deny the civil and political rights of peasants in the process of democratization in terms of the superiority of intellectuals. This possible theoretical tension in the Chinese liberal theory of democracy comes from the absence of a distinction between morality as virtues (sages) and as rules

(procedures). If this distinction is made, the sage's conception of morality is taken out of democratic institutional design, and the procedural conception of morality is adopted at the institutional design level. The contradiction is then resolved, because the procedural conception of morality recognizes the legitimacy of self-interests and social conflicts which are seen as a permanent feature of human life. The theoretical tension also stems from an absence of a distinction between institutional design and practical moral advocacy. The former does not require the sage's view of morality, but rather the procedural conception of morality. The moral advocacy calls for the moral sentiment to deal with practical problems such as fights between democratic factions. And it may be useful in reducing tensions between democratic factions and speeding up the process of democratization if all the Chinese democrats were 'sages'. While the good intentions of Hu and Yan are highly laudable, the political results are likely to be dubious, and after all, this moral advocacy has to be rejected at the institutional design level in order to avoid or dissolve the built-in tension at a theoretical level.

7.2 PROCEDURAL PRINCIPLE THAT SHOULD BE FAIR

The project of infusing procedural morality into politics is evident in Yan Jiaqi's idea of procedural democracy. Yan's normative proceduralism presupposes a close association between constitutionalism and subjectivism or humanism in ethics; that is, constitutional democracy must be based on the basic humanist notion that individual human beings are the ultimate ethical units (Yan Jiaqi, 1988, 63–4, 1991a, 144–5). Thus his procedural proposal presupposes a moral dimension of politics.

Those Chinese who hold a nihilistic attitude to morality, as revealed in the slogan of the 'death of Lei Feng' which equates with the death of God in the West, might argue that there is no need to discuss morality in Chinese political life at all. This position might be supported by the argument of the independence of politics from morality. Drawing on Schmitt (1976), they might argue that the crucial political distinction is that between friend and foe. The political foe need not be morally evil or aesthetically ugly. The friend-foe antithesis is seen as independent of other antitheses, such as good and evil in morality. Politics is further seen as autonomous only in the sense that the validity of political categories is independent of morality. Politics is then a battle to conquer and retain political power, impatient of all normative bonds (see Schmitt, 1976, 25–37; see also Hirst, 1987, 26–7; Slagstad, 1988, 114–16). Thus proponents of this line of argument dismiss Yan's moral effort as naive and idealist. Moral idealism is perceived as failing to understand the essence of politics: moral principles do not guide and regulate political life, rather they are always manipulated by politicians for their own interests.[9]

No doubt, the nature of politics is the conflict between foe and friend and the struggle over competing values within or outside a political community. However, friend-foe politics does not exclude the moralistic and normative aspect of politics. Friend-foe politics can be incorporated into or subordinated to, a constitutional-democratic framework, because those who understand politics in friend-foe terms might well choose to respect rules and encourage others to respect rules in the hopes of minimizing their potential losses. Furthermore, a democratic constitution itself is devised to address and resolve the enduring problem of conflicts of interests. The key issue is how to deal with such conflicts. For a liberal, these conflicts can be resolved or controlled by commonly held norms and compromise within just institutional devices. No matter who is friend or foe, he or she has to comply with an appropriate procedure to deal with basic conflicts in political life.

At this point, there is a challenge to proceduralism in the theoretical problem of the abuse of procedure; that is, the procedural principle exists independent of the decisions it will produce. A purely procedural principle would legitimate the adoption of a policy imposing any deprivation, such as deprivation of property, or of equal opportunity in politics, in employment or in education, provided only that it is supported by procedure specified by the decision rule. This is a theoretical defect of formalistic proceduralism (Fishkin, 1979, 214).

Yan's idea of proceduralism indeed fails to address the above question of the theoretical weakness of pure proceduralism. Here, Rawls' idea of normative constructivism is employed to overcome Yan's shortcoming, to defend the ideal of procedural democracy.

Turning to the question of the principle of procedure being abused in practice, I would argue that in order to protect everyone from such deprivations and to overcome the theoretical defect of proceduralism, a principle which is not merely procedural would be required. In this context, Rawls' deontological theory of the priority of rights and his idea of pure procedural justice are suitable for this task. To put it very simply, a principle should take rights as precedent; and procedure should be fair in terms of equal political opportunities or the principle of equal liberties.[10] This procedural fairness can help us to decide on adjudicative procedures when we have exhausted the arguments showing procedures to be more or less apt to yield reasonable determinations.[11] If a fair procedure is set up, the outcome is likely to be fair,[12] whatever it is, provided that the procedure has been properly followed. Thus pure procedural justice constitutes a normative basis for procedural democracy.

Human beings need procedural fairness to regulate their actions. When procedural politics is not fair, then political force justified by so-called procedure becomes a mere brutal solution; thus procedure becomes a tool in the interests of a minority of politicians. It is important to stress again that the Chinese considerations of procedural fairness result from the

tragedy of the Cultural Revolution, and from the historical lesson that theoretical justifications of the violation of human rights always depend on the denial of the principle of equal liberty (I have discussed this in Chapters 3, 4, 5 and 6). The fact that procedures have been abused through 'autocratic rules of law' or 'rules by law' certifies that it is necessary to implement the principle of pure procedural justice and a real rule of law (for a definition of the rule of law, see Rawls, 1989, 254) to protect and maintain liberty. To do so, the crucial thing is that procedure and law must themselves be just. That a constitution should be just, therefore, is the foundation of the rule of law. It is here that Rawls' liberalism appeals as a fundamental solution to procedural and legal problems in China; that is, by securing basic rights and liberties, and assigning them a due priority, the most divisive questions are taken off the political agenda (ibid., 253, see also 1987, 21). Without this fundamental reconsideration and solution, China will repeat its old mode of rule by law. It is here that Rawls' liberal normativism indeed apprehends the fundamental problems pertaining to a moral foundation for sound politics and better political arrangements for society. Political liberalism wisely identifies the most urgent value, equal liberties: a fair procedure is set up, any principles agreed to will be just (Rawls, 1971, 136); and if the institutions of the basic structure are framed according to the value of equal liberties, intractable conflicts are unlikely to arise (Rawls, 1987, 16).

7.3 THE RIGHTS-BASED POLITICAL MORALITY

One might argue that the project of infusing politics with moral principles has led to catastrophic consequences in China: Mao Zedong's appeals to a moral movement so as to change the old face of China did result in tragedies during the Cultural Revolution. Such moralistic appeals actually comforted and caused people to back Mao's dictatorship. If moral appeals could serve the mere task of providing solace to the supporters of Mao's dictatorship, that is more than enough to give us pause in our project of trying to infuse morality into politics.

One easy reply would be to distinguish, at this point, between the 'true morality' which we hope to infuse into politics and the 'pseudo-morality' on which Mao's rule relied. The counter-examples of Mao's pseudo-morality and the like should not necessarily give us pause, this argument would go, because Mao and his supporters were not really acting on moral principles— on true moral principles—at all. The objection, therefore, is not to the infusion of moral principles into politics but rather against the infusion of false moral principles.

However, this strategy of distinction between true and false moralities is intellectually unsatisfactory. It poses, in Goodin's (1992, 163–4) view, genuine problems on two levels. First, 'the distinction between true and false moralities appeals to practices so as to identify true morality and reject false

morality. Since those employing this device will never be prepared to say what is a true moral principle until they see how it turns out in practice, they are never in a position to say in advance what morally we should do'. The second, relating to the first, is an institutional design problem posed by such an approach. 'If we do not know what the right principles are until we see how they turn out, we can never set things up in such a way as to guarantee that the right principles are put into practice in the first place. People trying to design the system so that the right principles are put into effect would simply be chasing their own tails, if this line were adopted.' On that account, the whole project of infusing morality into politics would become a logical impossibility.

Given this lack of success in distinguishing true and false moralities, a distinction among the rights-based, duty-based and goal-based moralities is employed to avoid the question of true or false and to focus on the question of the most urgent value. This alternative strategy, I suggest, is useful in defending the project of infusing morality into political institutions.

Ronald Dworkin (1977, 171–2) has suggested a 'tentative initial classification' of political theories into goal-based, rights-based, and duty-based theories. Such a theory might be goal-based, in which case it would take as fundamental some goal, such as improving the general welfare (for example, utilitarianism); it might be rights-based, taking as fundamental some right, such as the right of all humans to the greatest possible overall liberty; or it might be duty-based, taking as fundamental some duty, such as the duty to obey God's will as set forth in the Ten Commandments.

In adopting Dworkin's classification, J.L.Mackie (1984, 168–81), has applied it to moral theories generally and claimed that morality should be rights-based. He also shows that the moral theories of Mill and Rawls are rights-based. In taking up this classification, I would like to claim that the official Chinese morality is goal-based morality in the sense that the establishment of Communist society is taken as the primary goal.[13] Conversely, the new morality advocated by Chinese liberals is a rightsbased morality.

The practical argument against the project of infusing morality into politics fails because it rejects and condemns all morality and ideology as providing a potential weapon for totalitarianism, and fails to recognize the fundamental fact that the Chinese liberals' ideas of rights are totally different from those expressed in Chinese Marxist morality. The goal-based Chinese Marxist morality shows concern for what is taken to be the interest of society as a whole such as national glory; however, it overlooks rights, and has even become a tool used to deprive people of their rights. The official goal-based morality demands that individuals should be sacrificed for the well-being of collective interests. What is more, this kind of morality even denies the right to complain about making such a sacrifice (see Chapter 4, see also Yang Guang, in Widor, 1981, 94). On the other hand, Chinese liberals are rights-oriented in a way that defends natural

rights and rejects any idea that denies civil and political rights (Chapters 4 and 5). Chinese liberals have chosen natural rights as a sound starting-point for political morality: rights should take priority over truth, goals and duties (Chapters 3, 4 and 5).

There is an extensive body of literature to support a rights-based morality. As Gregory Vlastos (1984, 19, 41–77) argues, rights have priority over considerations such as utility or desert because they reflect the conditions under which it becomes possible for an agent to recognize and act on considerations such as these. Waldron also argues that rights have special importance, an importance which warrants overriding other values and ideas whenever they conflict with the protection of rights. A right is nothing but a particular interest: it is assigned a greater weight than ordinary interests and therefore counts for more in utilitarian or other welfarist calculation. Also, the interests protected by rights are given lexical priority over other interests (Waldron, 1984, 14–15). Again, as Mackie (1984, 171) argues, 'rights have obvious advantages over duties as the basis and ground of morality. Rights are something that we may well want to have; duties are irksome…. Duty for duty's sake is absurd, but rights for their own sake are not.'[14] In short, the principle of the priority of equal rights serves us best as a guide to democratic institutional design (Chapters 4, 5 and 6).

There are three points that must be clarified if rights are to be a startingpoint for political morality. First, I have argued in Chapter 4 that the idea of equal natural rights constitutes the source of all rights; a multiplicity of rights derive from fundamental natural rights. As Hu Ping (1991a, No. 4, 51–2, 56–7) argues, civil and political rights are inviolable, universal and superior to economic and social rights which are historically determined and contingent upon concrete circumstances. When conflicts between rights occur, the principle of the priority of fundamental rights over economic and social rights should take effect.

Second, theoretically, it is possible to derive both duties and rights from basic goals as is done in consequentialist arguments, and it is also possible to derive both goals and rights from duties as is done in Kant's categorical imperative. However, a rights-based morality begins with basic rights from which both goals and duties can be derived. It does not reject moral goals, but constitutes a premise from which we set up as a political goal that institutional arrangements should respect and protect human rights and liberty and recognize the proper autonomy of citizens. Thus, if a rightsbased political morality is infused into politics, it logically requires that democratic institutions should grant rights to good people as well as to potentially evil people so as to ensure a counterbalance mechanism that can effectively control and manage the problem of evil (Chapter 5). To protect equal human rights thus becomes the first and most important goal of democratic political institutions (Chapter 4). At the same time, one of the goals of the democratic state should be to dismiss Utopian goals such as realizing a Communist society.

Finally, rights-based political morality also does not ignore moral obligation, but constitutes a premise from which human beings have the duty to respect the rights of others. If A has the moral right to do X, then A has a duty to take responsibility for doing X. If A is also protected in doing X, it follows that others are morally required not to interfere or prevent him or her. I have emphasized that one who enjoys rights has a duty to respect the rights of others, and importantly has a duty to follow the rules of the game (Chapter 4). The complete fulfilment of the different kinds of rights involves the performance of multiple kinds of duties; for example, the right to physical security implies a duty not to eliminate a person's security, a duty to protect people against deprivation of security by other people and a duty to provide for the security of those unable to provide for their own (see Shue, 1980, 52–3). Also as seen above, the procedural conception of morality is distinguished from the sage's conception of morality; the former requires that procedure itself should be fair and that people have a duty to obey the rules.

Now let me make a comment on fears regarding the project of infusing politics with morality. As Goodin suggests, one might fear the general effects of 'moralizing' politics, and the sorts of attitudes people may, as a result, take towards their political opinions. 'The fear is that people will come to regard most of their political opinions as if they were matters of high moral principle, whether or not they really are. The further fear is that people will, in consequence, become increasingly adamant, inflexible, and intolerant even in the smallest matters of politics. Most particularly, the fear is that people's treating political opinions as if they were sacred values in this way will, from time to time, lead them to support the egregious excesses of a Hitler or a Stalin or a Mao or a Pol Pot. And even if matters stop well short of that, regarding political opinions as sacred values creates nonnegotiable demands of a sort that ordinarily prove utterly intractable to ordinary political processes; what cannot be settled by bargaining is left to be resolved by other, more bloody means. Such are the fears of those who resist the proposal to infuse morality into politics' (Goodin, 1992, 166–7).

These fears are reasonable if goal-based morality is infused into politics, which might produce the above negative effects that people fear. However, those who have these fears have no objection to a rights-based morality and the democratic mechanisms that Chinese liberals have been advocating. Their objection is instead to the tendency towards inflexibility and intolerance that comes from introducing the unifying official Chinese goal-based moral principles into politics. Nevertheless, those who are committed to a rights-based morality argue in the opposite direction: for Rawls, the principle of utility presumably requires some sacrifices for the sake of others. But his two principles of justice have a definite advantage: rational persons run no chance of having to acquiesce in a loss of freedom over the course of their lives for the sake of a greater good enjoyed by others (Rawls, 1971, 176, 180).

Here I do not adhere to the view that political institutional design based on the rights-based moral principle is always to the good. I support a weaker claim: political institutional design based on the rights-based moral principle in political life usually works out to the good. 'It usually does not lead to a Holocaust, or the Killing Fields, or any such horror. This is an empirical claim, not an analytic one. Being a mere empirical claim, it can only be contingently (rather than necessarily) true, and that, in turn, means that it may well prove to be false—certainly in particular instances, and perhaps in general' (Goodin, 1992, 165). Just like Goodin, I hope and believe that is not the case, though. There seem to be many good grounds for supposing that the rights-based moral principles and democratic mechanisms (which I have described in Chapters 4 and 5) will help to prevent such tragedies as the Cultural Revolution, rather than causing them. Also, a rights-based political morality is capable of withstanding abuse because it contains an internal mechanism of selfcorrective procedure and principle (Chapters 4 and 5), and because rights, in Dworkin's (1984) view, are 'political trumps' held by individuals. In short, although the matter of use of theories depends on the user rather than the theories themselves, Rawlsian rights-based morality and fair procedures can help to reduce the number of cases of abuse, while the official Chinese goal-based morality lacks an internal mechanism against abuse by a despot.

7.4 AGAINST A CULTURAL RELATIVIST ARGUMENT

A Chinese cultural relativist would not accept the project of infusing morality into politics because of his or her rejection of a universal doctrine of rights-based political morality. Julia Tao claims that the Chinese way of thinking about the self and about moral agency is in stark contrast to the image of the self as a bearer of rights in the deontological conception. She further suggests the inadequacy of the moral individualism of a rightsbased morality and argues for an alternative view of morality which places importance on the intrinsic value of collective goods and on membership in a society (Tao, 1990). Thus, a Chinese culturalist would like to infuse Confucian duty-based morality into politics.

Drawing on Julia Tao's argument, a Chinese cultural relativist might argue that rights-based political morality is too alien to be applicable in China. Morality, in a cultural relativist's view, is something which is rooted in the particular practices of actual communities. So the idea of seeking to uncover abstract principles of morality by which to evaluate or re-design existing societies is, it is argued, an implausible one. There are, in a cultural relativist's view, no universal principles of morality or justice discoverable by reason. For a cultural relativist, to seek to apply rightsbased political morality in China is to look for the wrong thing: universal principles to serve as solutions to universal (or at least

generalizable) problems—the problem of the nature of the best form of political association. The truth of the matter, it is argued, however, is that there is no such rights-based political morality except in the minds of liberal philosophers.

I would disagree with the above idea, but I would like first to acknowledge the following: first, cultural relativism is true as an empirical description of the moral practices of diverse cultures around the world. Indeed, there is a great deal of moral diversity in different cultures (see Renteln, 1989). Second, cultural integrity and national identity, as cultural relativists always claim, should be maintained within a community. Finally, cultural relativism is also useful in stressing differences, in encouraging creativity and in challenging dominant Western thought.[15]

At a theoretical level, the cultural differences between China and the West is not the problem that Julia Tao has suggested. As Kukathas argues, cultural diversity does not preclude the possibility of moral criticism or of developing universal moral standards. Nor does it make it impossible to compare moral values, or to acquire moral knowledge (Kukathas, 1994). Further, the fact of moral diversity across cultures by no means entails the sceptical conclusion that there are no rational grounds for favouring a minimal international morality. At least, we should acknowledge and support a substantive moral theory of human rights to provide minimal standards and protections that governments must provide for their citizens, as formulated, for example, in the United Nations Universal Declaration on Human Rights. For example, rights of personal security (freedom from arbitrary arrest, torture, or death) should be respected by different cultures. The minimal international morality is seen in Rawls' universal character of justice as fairness at least two ways. First, it extends to the international society and binds all its members, the nation-states; and second, in so far as certain of a society's domestic institutions and policies are likely to lead to war or to expansionist aims, or to render a people unreliable and untrustworthy as partners in a confederation of states or in a cooperative arrangement, those institutions and policies are open to censure and sanctions of varying degrees of severity by the principles of international justice. Here violations of what are recognized as human rights may be particularly serious (Rawls, 1989, 252, footnote No. 46). Without this minimal international morality, it would be hard to know how to begin to talk about rights at all.

At a practical level, the problem associated with cultural relativism, in the context of Chinese practice, is that such relativism has always been used as an excuse to abuse rights or to confuse the issues at hand.[16] Further, there are the following four types of evidence against the above cultural relativist argument. First, most Chinese liberal intellectuals, like liberals both in Poland and Yugoslavia (see Gligorov, 1991, 20–1; Walicki, 1988, 22–3), follow what Pogge (1986) calls the trend of 'the new global liberals', favouring what he calls 'the global institutional scheme'[17] and

regarding liberalism as a universal doctrine. The Chinese, among other peoples, are culturally universalistic in their belief in human rights and democracy. There are common points between Western and Chinese conceptions of rights, such as the belief in the social usefulness of free speech.[18] Both liberals in the West and in China share a certain level of recognition of rights, a level of institutional guarantee of rights and a level of the substructure of philosophical assumption that a concept of social justice must take persons as the ultimate units of moral concern. For example, Yan has argued that humanism, democracy, human rights, freedom and so on, belong to an essentially universal culture (Yan Jiaqi, 1988, 59–66); Fang Lizhi also argues that the idea of human rights is a common treasure shared by the global community just as science is (Williams, 1991). This fundamental agreement constitutes a basis for us to agree on a minimal international morality.[19]

Second, importantly, the rights-based morality is also rooted in China in the sense that it is demanded by Chinese democratic practice. The Chinese demand for just principles lies not only in philosophy but also in Chinese politics. Chinese liberals' search for a better form of political association arises from within the Chinese political community, particularly after the tragedies of the Cultural Revolution. The Chinese liberal philosophers would follow Rawls in asking the same questions about possible abstract principles of morality by which to evaluate or design democratic institutions and a sound governmental structure. Chinese liberals' acceptance of the universal truth of rights-based political morality is of relevance and of great significance to the Chinese political community.

Also the idea of infusing rights-based morality into political institutions also mirrors the development of the emergent economic civil society in China,[20] as fairness is required by the development of market economics in China. Under Mao's planned economics, the state often took what it wanted from enterprises without a return gain, through the so-called *yiping erdiao* (gratis transfer of materials). With the development of market economics in Deng's time, a rudimentary norm of fairness, that each of us must be prepared to give as well as to take, has gradually taken root in economic life and become guaranteed by legal regulations. For example, Article 5 of the Development of Contract Law was set up especially to guard against the practices of 'absolute egalitarianism and gratis transfer of materials".[21] Also, the development of contract economics together with the legal regulation of contract in China requires a further ethical norm of fairness: people must be morally obliged to keep their agreements, even when all their gains are in the past and all their costs in the future.[22]

Third, there is an emerging international law of human rights which sets standards for all states, and the Chinese are moving towards acceptance of this international law. Furthermore, the current Chinese government does

recognize the importance of human rights and appreciates the Universal Declaration of Human Rights (Chapter 4, also see *Beijing Review,* 4–10 November 1991).

Fourth, the idea of infusing the rights-based morality into politics is not arbitrary at all; nor is it purely speculative. Rather, it in fact mirrors the development of the moral and ideological lives in China, that is, the crisis of the official morality and the growing demands, in the past decades, for protection of human rights in China. In other words, the rightsbased morality seems to be an attractive and promising alternative to other forms of morality—the official goal-based morality and traditional Chinese underground morality. The crisis of Chinese Marxism and its morality is well known. Here I would like to stress two points. First, the old control mechanisms of the official goal-morality have lost their former effect. There was a revival of virtuocratic control mechanisms in the late 1980s, when the party stressed moral education as one of the top priority issues before and after 1989, and stated that improving morality among youth was a decisive factor in creating China's future. However, the conflict between traditional socialization methods and the emerging democratic demands concerning socialization that we find in modern society, and the danger of technocratization and even a form of industrialization of morality, have made official Chinese morality ineffective (Bakken, 1989). Second, the vacuum of faith among the Chinese which followed the death of Maoism was filled by traditional values such as *Hao han* (the good man), *Gemenr* (mateship), and *Yiqi* (the honour of the *Hao han* tradition) in the language of the Chinese underworld. However, these values, as Jenner (1992, 193–208) correctly points out, have always been too destructive to build something new. They glorify gangsterism and help to cement bonds among criminal or rebel gangs. Given the problems associated with the above two kinds of morality, Chinese liberals certainly think that it is worthwhile for China to implement a rights-based morality in political life.

7.5 CONCLUSION

Democratic institutional design does not require a sage's conception of morality, or a Chinese Marxist, goal-based morality. But it would be wrong to take this further and argue that no form of morality constitutes a normative basis for democratic politics. On the other hand, I have argued for a rights-based morality as being a solid moral foundation for Chinese liberal institutional design; and a procedural conception of morality as an actual basis for well-founded democratic institutions.

I have examined and rejected a number of arguments against the project of infusing politics with morality. The argument of the independence of politics from morality fails because the problem of the abuse of procedure intrinsically requires the moral remedy that procedure should be fair. The

practical argument concerning the catastrophic consequences of infusing politics with moral principles fails because it fails to distinguish between goal-based and rights-based moralities. The cultural relativist argument fails again because empirical moral diversity does not exclude a normatively minimal international morality and because a universal doctrine of rightsbased morality is rooted in today's Chinese politics.

Part III

Preconditions for liberal democracy

8 Cultural Conditions
Dual roles of political culture

The current Chinese political culture is often seen as an obstacle to Chinese democratization although it is occasionally seen as a resource favouring democratization. But to adopt either view as a sole perspective is a simplistic analysis. Investigation of the negative and positive cultural elements and their dual roles in the process of realizing the Chinese liberal idea of democracy is the goal of this chapter.

I follow Pye's definition that political culture is the set of attitudes, beliefs, and sentiments that give order and meaning to a political process and provide the underlying assumptions and rules that govern behaviour in a political system. A political culture is the product of both the collective history of a political system and the life histories of the members of that system, and thus it is rooted equally in public events and private experiences. A political culture is not fixed and transcendent but changeable and entangled in reciprocal relationships with various social, economic and political institutions.[1]

This chapter comprises five sections. Section 8.1 argues against the argument that Chinese culture does not suit democratic institutions. Section 8.2 discusses whether Confucianism constitutes an obstacle to Chinese democratization. Section 8.3 investigates new, pluralist cultural elements in China. Section 8.4 discusses the cultural limits to democracy and examines the cultural problems for Chinese democratization. Section 8.5 is the Conclusion.

8.1 AGAINST THE CULTURAL ARGUMENT

Democracy requires widespread acceptance of such values as dignity, autonomy, respect for persons, belief in individual rights and commitment to democratic procedures; it also requires virtues such as reasonableness and a sense of fairness, a spirit of compromise, a readiness to meet others halfway, mutual trust among members of the society, and a willingness to tolerate diversity and conflict among groups (Huntington 1984, 209; Hu Ping 1988, 188–95, 247–9; Pennock 1979, 236–59; Rawls 1989, 17, 21).[2] Huntington (1984, 209) also notes that a culture that is more monistic and less tolerant of

diversity and compromise, highly values hierarchical relationships and extreme deference to authority, greatly stresses the need to acquire power, and underemphasizes the need to accommodate others, is more likely to have authoritarian rule and to be less conducive to democracy. The absence of one powerful favourable condition, or conversely, the presence of a powerful negative condition that overrides the presence of otherwise favourable conditions, may prevent democratic development (ibid., 214).

One might argue that Chinese culture does not meet the above cultural requirements for democracy in that it contains too few democratic ideas, and too many 'feudal elements' to suit democratic institutions (for example, see Jenner, 1992). Drawing on this, one might argue further that it is impossible to produce democracy in China because favourable cultural conditions do not exist. This claim is misleading for the following five reasons:

1 It is highly culturally determinist (Hu Ping, 1991a, No. 4, 50). Political culture is not a transcendent force that affects and decides democratic politics but is itself affected by democratic politics. A democratic system that facilitates and encourages compromise breeds a tolerant culture while an unforgiving and repressive totalitarian system breeds a culture of intolerance and suspicion.[3] Further, democratic politics and political culture are also affected by a number of other factors: higher levels of economic well-being; the absence of extreme inequalities in wealth and income; greater social pluralism, including, in particular, a strong and autonomous bourgeoisie; a more market-oriented economy; and, greater influence *vis-à-vis* the society of existing democratic states.

2 It fails to distinguish between hard and soft cultural conditions for democracy. A hard cultural condition for democracy refers to only a conscious adoption of, and habituation to, democratic rules (or in Hu Ping's term (1988, 188–95), a commitment to the idea of democracy) which is indispensable to the genesis of democracy (Rustow, 1970, 362). A small circle of political leaders skilled at negotiation and compromise is also required for the formulation of democracy.[4] But the virtue of reasonableness and a sense of fairness, a spirit of compromise and a readiness to meet others halfway are only soft cultural conditions for democracy. These should be seen as favourable cultural conditions for maintaining stable democracy, rather than as strict preconditions for the genesis of democracy.

3 Democratic culture is not a given that comes before democracy. Consensus on fundamentals or on the rules is an implausible precondition, because the acceptance of these is logically a part of the transition process rather than its prerequisite. As Rustow (ibid., 362–3) quotes and agrees with Bernard Crick's idea that the moral consensus of a free state is not something mysteriously prior to or above politics; it is the activity (the civilizing activity) of politics itself. In other words, favourable cultural conditions have to be, and can be met in the process of democratization.

The argument for the impossibility of democracy in terms of political culture in China ignores the fact that culture is generated by human activity, and as such it is constantly being regenerated (Dittmer, 1983, 23); it presupposes the view that it is impossible for Chinese people to overcome weaknesses of a cultural-psychological nature; it also ignores the fact that China's culture is changing. Mark Elvin's (1969) study of the first formally democratic political institution of the gentry, the City Council (1905–14) in Shanghai, as well as Fincher's (1968, 1989) studies of representative institutions from 1909 to 1913 at the local, provincial and national levels in China, reveal that the traditional Chinese culture had a considerable adaptive capacity to meet the demands of the modern world (Elvin, 1969, 60).[5] These factual records of the working gentry democratic institution and representative institutions prove that there was a possibility for Chinese culture to create and support democratic institutions, and that Chinese culture had the adaptive capacity to meet the demands of democratic institutions. These also disprove the thesis that there is no hope for China to establish a democratic system because of the anti-democratic nature of its culture. But the records do not confirm that Chinese culture, without adaptation and transformation, can maintain and support democratic institutions.

4 The assumption that China's culture does not meet the cultural conditions suited to democracy is wrong, because there is indeed an emerging democratic culture in contemporary China (this will be further discussed in Section 8.3). A national sample survey in 1987 confirmed that many attributes of democratic culture already existed.[6] In the survey, 73 per cent of the people believed that serious defects in the Chinese political system were the principal reason for the under-development of China and 75 per cent expressed hope that the Chinese people would have freedom and democracy (Min Qi, 1989, 81, 179).[7] The survey suggests strong political consciousness and appreciation of the importance of political participation. To a set question 'are you willing to talk about political problems and why?', about 57 per cent replied 'willing' and specified their reasons as 'talking about politics is a form of participating in political affairs', 'is my right', 'because of my interest', 'politics is so important' and 'because of necessity for my work' (ibid., 233). The survey also shows that out of 1,720 respondents 57 per cent agreed that politicians should believe in the basic rules, choosing the appropriate rules and complying with those rules; whereas 43 per cent agreed that politicians should not be committed to fair rules (ibid., 188).

5 According to Nathan (1990b, 308), 'what is required in the realm of culture or ideology for democracy to flourish are not replicas of specific Western values, but values that perform similar functions in supporting democratic institutions'. In this perspective, the question is not whether key Western values find exact equivalents in China, but whether the Chinese tradition contains values that can potentially serve as their

functional equivalents in supporting democratic institutions. It is further argued that while the Chinese tradition does not necessarily contain functional equivalents of all the values needed for democracy, it contains strong versions of some of them (ibid., 309).

8.2 THE OBSTACLE OF CONFUCIANISM TO DEMOCRACY?

Scholars such as Huntington (1984), Cotton (1990) and Price (1990) have argued that Confucianism is an obstacle to Chinese democratization. In Confucian culture the government had to proceed on the basis of harmony rather than conflict (which leads to suppression of dissidents and renders compromise morally repugnant);[8] the interests of the collective must not be challenged by lesser groups and individuals (which is less favourable to the action of individual citizens); and, finally, rights have to be treated as something granted by the state, not inherent in the person (which is less favourable to the institutional protection of individual rights) (Cotton, 1990, 8; Price, 1990, 252–3). Confucian culture was also consummatory in character. That is, intermediate and ultimate ends were closely connected, and conceived of as a total entity, no part of which could be changed without threatening the whole. Thus Confucian culture was more resistant to change, and when change came in one significant area of the culture, the entire culture was thrown into question or was displaced and destroyed (Huntington, 1984, 208).

Pye has analysed China's cultural problems associated with its own dimensions of power, authority and legitimacy, which constitute the refractory blocks with which democracy has had to be built. Pye (1985, 183) argues that most Chinese started with the ideal that all power should emanate from above, from the centre, from a single supreme power. Most Chinese leaders believe that diversity and a pluralistic power structure lead to social disorder and do not foster more creativity or ensure faster modernization (ibid., 189). Any surfacing of autonomous power groupings has been taken as a sign of dangerous centrifugal forces (ibid., 189). The conception of legitimacy held by some Chinese is favourable to unchecked authority, and unfavourable to the competitive political structure. Legitimate power is believed to be omnipotent and omnicompetent. Rulers should be paternalistic. Some Chinese prefer a system in which they can confidently depend on a paternalistic authority (ibid., 197–8). Both in the past and under Communism there have been no codifications of the rules concerning how informal types of power operate. The dilemma of power in China stems from the initial belief that 'rule should be by (virtuous) men and not by (impersonal) law—a cultural belief which makes it difficult for the Chinese to institutionalize authority since they are reluctant to invest power in impersonal arrangements' (ibid., 200). Chinese ideology constitutes an obstacle to the rational use of power. 'Power in the Chinese political system remains a crude, blunt instrument, generally inappropriate for

a government striving to solve the complex problems of modernization' (ibid., 208). 'It has always been easy for the Chinese to establish bureaucratic hierarchies because they have an instinct for recognizing fine status differences' (ibid., 209).[9]

Nevertheless, other scholars have pointed out positive elements in Confucian culture. As de Bary (1983) remarks, individualist and liberal elements exist in the Confucian tradition. Nathan asserts that traditionally based Chinese values, such as the morally autonomous individual, the absolutely just ruler, the responsibility of the government for people's welfare, and the ordinary person's responsibility for the fate of the nation, served as the main justification for the growth of a pressure movement demanding democratization in a Schumpeterian direction (Nathan, 1990b, 308–11, 384, f.50). Friedman notes that with its emphases on selection for government administration by civil service exams, on the duty of protesting unjust policies, on light government, and on openness to all religions, traditional China was extraordinarily replete with tendencies favourable to democratization (Friedman, 1994, 27–8).

Chinese scholars have also emphasized some aspects of compatibility between Confucianism and liberalism. Liang Shuming claims that both Confucianism and liberalism recognize and respect the self, individual rights, and human dignity. Thus the demand for freedom would be buttressed by *gang*—an intentional devotion to rightness (Liang in Ip, 1991). Lin Yusheng also argues that *Ren,* a form of love, is concerned with individuality and the equality of individual moral value. *Ren,* as a psychological principle, is inherently rooted in each individual. If *Ren* plays its role, it will go against tyranny and support Western democracy. *Ren* could be a theoretical basis for the idea of human rights (Lin Yusheng, 1988).[10]

The above arguments about the compatibility between Confucianism and democracy amount to an argument about the supporting role of Confucianism in democratization. In other words, Confucianism can provide a useful cultural basis for the democratic enterprise, just as Liang Shuming in the 1920s and 1940s attempted to integrate democracy into the programme of village reconstruction and advocated the neo-Confucian model of democracy characterized by the combinations of Western notions of rights and liberty with the Chinese emphasis on responsibility and ethical education, and of Western majority rule with Chinese ethical rationality, by a criticism of Western individualism and by an advocacy of communitarianism (Ip, 1991, 481–7). Similarly, in Japan Itagaki devised the terms 'patriot' and 'public' to revise the Confucian ideal of disinterested public service so as to combat the individualist attempt to advance personal ambitions or sectional interests (Mason, 1969, 76).

To have a full picture of the dual roles of Confucianism in democratization, let us look at the experiences of democratization in East Asia. First, we briefly examine the status of Confucianism in Eastern Asian

countries. On mainland China, Confucianism was criticized in the Maoist regime, but has been revived under Deng. In Taiwan, Confucianism was respected as one element of the KMT's official ideology. Confucianism was and is still denied in North Korea, while it has been respected in South Korea. It is interesting to observe that the places where Confucianism has been respected such as Taiwan and South Korea have been the first to begin democratization. 'When Confucian Taiwan and South Korea are both democratizing, the desire to correlate democratic failure with Confucianism and success with European culture makes little sense' (Friedman, 1994, 25–30). As Friedman asserts, 'had China democratized before Europe, historians could have readily shown that China's cultural heritage was uniquely democratic: the ancient *Book of History* proclaimed that 'nature sees and hears as the people see and hear'; the mainstream Mencian tradition of Confucianism was premised on popular support as the basis of legitimate rulership' (ibid., 27).

Friedman may be too optimistic. We need to look back at the role of Confucianism in the initial phase of the transition to democracy. Japan's moral culture was pre-eminently Confucian in 1890, when Tani and Torio thought that the constitution and the Imperial Diet would give rise to an unhealthy sense of individualism among the Japanese, and make each of them think only of himself or herself. As a result the development of Japanese parliamentary institutions was to some extent limited by these ultra-conservative attitudes (Mason, 1969, 122–3).

On the mainland, China employed Confucian ideas to understand and support the Western idea of equal rights. The idea of leaders who would come from, and represent, the local community facilitated local democracy in China (Fincher, 1989, 231). However, there were negative cultural elements which blocked the development of democratic institutions, such as factionalism and intolerance of open and public competition for power. Moreover, Yuan Shikan and Jiang Jieshi both have used Confucianism to suppress democratic movements.

In South Korea, two negative elements of Confucianism—orientations of authoritarian statecraft and collectivist hierarchical behavioural traits—have been used by the political élite in their effort to maintain authoritarian rule and arrest the process of democratization. On the other hand, three positive elements of Confucianism—Korea's strong moralistic orientation, the tradition of dissent and protest, and an egalitarian tendency—have been adopted by the forces for democratization in their fight against the ruling élite (Kim Kyong-Dong, 1991, 139–40).

Confucian ideas of moderation, collectivism and harmony may have contributed to the consolidation of democracy in Japan, Taiwan and South Korea. For example, the KMT has successfully arranged candidates for provincial elections within its party in 1994 on the grounds of collective interests and harmony. In Japan, the value of community, the value of widening entry to higher education, the meritocratic recruitment of élites, the

role of harmony in companies and politics, all contribute to a consolidation of democracy. F.Fukuyama (1995, 25–6) asserts that such elements of Confucianism as the examination system, the high appreciation of education, cultural toleration and the emphasis on the role of family, have all contributed to the consolidation of democracy.

In conclusion, to have a well-balanced view of the roles of Confucianism in democratization, we have to acknowledge that Confucianism has undemocratic as well as democratic elements. So far as it stresses reverence for authority, elders, and hierarchical order, it may foster authoritarian rule. But it also calls for harmony, moderation, consensus, and mutual obligations between ruler and ruled. These are elements that facilitate a democratic life (Chou 1991, 257).

8.3 EMERGENCE OF A PLURALIST CULTURE

In Deng's China, great new things have been happening: the emergence, and expansion of the scope, of tolerance, the decline of ideocracy (the secularization of ideology and the limitation on the role of ideology, see G.White, 1993a), the advocacy of 'plural truths' by intellectuals (see *Zhexue nianjian,* 1986, 22), scepticism of unanimity and praise of plurality and dissidents, the emerging competing ideas (new constructed humanist Marxism, neo-Confucianism and Liberalism), the state's neutral attitude towards different life-styles, and the reinterpretation of the traditional Chinese culture as being of a plural nature (He Min, 1993). In particular, there has been an attempt to bring ideology's economic theory into line with a new era of market socialism, such as the argument for the legitimacy of individual and group interests (Li Fan, 1987), and the idea that the essence of law is to recognize plural interests rather than class interests (Jiang Lishan, 1988). These things, in my view, are an indication of an emerging pluralist culture in China, and more importantly, provide a cultural basis for democratic development.

8.3.1 The tradition of democratic culture

Since the May Fourth movement, there has been a new cultural emphasis on democracy and science. This emphasis is such that it has constituted a new tradition and resource in which the Chinese democratic movement has its base.[11] In the 1930s, the *Journal of the Independent Forum,* contributed to by Hu Shi, Tao Xisheng and Hu Taowei, advocated a democratic constitution while rejecting the 'new autocratic proposal' put forward by Ding Wenjiang and Jiang Yanfu (Cheng Yishen 1989, 87–117). Also in the 1950s, there was the *Journal of Free China* insisting on the establishment of an opposition party against the ruling party dictatorship in Taiwan. Recently, the *New May Fourth Manifesto* issued by the Beijing Students' Federation in 1989 declared that democracy would bring to bear the collective wisdom of the

people for modernization while allowing the full development of each individual's abilities and the protection of each individual's interests (Nathan, 1991a, 33). For a hundred years, Chinese intellectuals have been seeking to reconstruct the Chinese cultural structure. This has been achieved in so far as ideas of the rule of law, human rights and parliamentary democracy have acquired a general acceptance among intellectuals (Lin Yusheng, 1988, 58, 291–2). The new Chinese intellectual tradition contains many of the building blocks of a more liberal, pluralistic theory of rights, and the new opening to the West has made many of the resources of foreign intellectual traditions available for fresh consideration (Nathan in Edwards *et al.,* 1986, 164).

The idea of constitutionalism persisted after 1924 and persists today as is suggested by the vast literature on constitutionalism and democracy, albeit with the failures of Chinese democracy in the 1920s. Constitutionalism was, and still is, the dominant set of assumptions to which the defence of political action has to be referred. That some may have appealed to constitutionalism half-heartedly or cynically does not alter the fact that it has made and makes sufficient sense to enough people' to serve as the touchstone of political discussion (see Nathan, 1976, 19). Thus the category 'basis of legitimacy' has to be filled with the concepts 'democracy' and 'constitutionalism'.

8.3.2 Emergence of Tolerance[12]

The emergence of the idea of tolerance was a key step towards pluralism in Western societies. This is also true of China. If religious wars led to the notion of tolerance in the West, the tragedies of factional fights during the Cultural Revolution resulted in the idea of tolerance in China. Further, if the separation of God and Caesar nurtured pluralism in the West, the separation of the political economy from orthodox ideology, in particular, the separation of politics from the economy, facilitated a limited pluralist development in China.

How did the tragic results of factional struggles during the Cultural Revolution lead to favouring the idea of tolerance? Here, the writings of Li Yizhe's (1976) group in the later 1970s were a good example. For them, China had too much factional strife at both élite and mass levels, but too little tolerance among factions. In their view, which faction wins is less important than the protection of basic civil rights whereby people can express their different views. In other words, Li Yizhe's group demanded an institutionalized tolerance and protection of rights.

In the 1980s, after the end of the Cultural Revolution, the idea of tolerance was broadly disseminated. Hendrik W.Van Loon's book on human liberation was translated into Chinese, retitled as *Tolerance* and reprinted three times. Also, a leading intellectual journal, *Dusu,* published a number of review and discussion articles on the importance of tolerance in civilization

(see *Dusu,* No. 10, 1985, pp. 133–43; No. 6, 1986, pp. 11–21; and Chen Kuide, 1986). Even politicians such as Deng Xiaoping and Chen Yun also allowed and promoted tolerance of people's complaints after the ending of the Cultural Revolution (Baum, 1994), albeit their allowance and promotion were limited; for example, Deng then did not tolerate the 'people of three categories'—i.e. Cultural Revolution factionalists, especially those deemed guilty of violent crimes.

There are three types of tolerance, or three phases of the development of tolerance in China.

1 I know the truth of Marxism, yet I tolerate other doctrines which are false and misleading.
2 Since I am not sure whether I know the truth of Marxism, to tolerate other doctrines helps me to seek truth.
3 I ought to tolerate the dissenting views of others, because of their inviolable right to express their views, whether or not I approve.

In the early phase of reform, view 1 dominated, but gradually was taken over by view 2, because the reforms demonstrated the inadequacy of Marxism. Both 1 and 2 are based on the idea of truth, therefore the degree to which tolerance is granted is limited. In the latter part of the 1980s, view 3 has become an intellectual 'currency' because of the development and penetration of the idea of human rights. Even the government had to acknowledge the universal dimension of human rights. These new developments have helped to give rise to political discourse shifts from tolerance to human rights; and within this shift from an intellectual to political tolerance, tolerance is now seen as a right rather than a gift from the government.

Throughout the reforms, there has been an increase in the scope of tolerance, albeit with some exceptions. First, the government started to tolerate different ways of life, such as having long hair, which are now regarded as a matter of the private sphere with which the government should not interfere. The tolerance then extended to the economic area, natural scientific research, and literature and films where relative autonomy was granted, and different views distant from the party's ideology can be expressed (on the growth of permissible topics and the freedom, see Pei, 1994, Chapter 5).

After 1989, people in private were able to criticize the government and even Deng Xiaoping, without being punished, whereas in the middle of the 1980s, Fang Lizhi was expelled from the party because of his criticism of national leaders. Also, after 1989, the government even allowed dissidents to go overseas, rather than repress them harshly. This was certainly a tactic that the government adopted to deal with troublesome dissidents. Nevertheless, in practice, this implies a high level of tolerance by the government towards dissidents. This kind of tactic encouraged the development of dissident movements. Also, the government welcomed dissidents home if they did not

engage in organizational activities. It seems that the government has established an implicit rule that unless dissidents organize themselves in public, then dissident views can be tolerated in the private sphere, even those views which directly challenge the party's rule.

Of course, I should acknowledge that there have been limitations on tolerance. As Deng said clearly:

> Can we permit such an open call for intervention in China's internal affairs? [Referring to one wall poster requesting the President of the United States to 'show concern' for human rights in China.] Can we tolerate the kind of freedom of speech [Referring to one which slanders Mao Zedong and proclaims that 'proletarian dictatorship is the source of all evil'] which flagrantly contravenes the principles of our Constitution?
>
> (Deng Xiaoping, 1983, 181)

It should be emphasized that the most serious limit is that Deng allowed no organizational tolerance, that is, no opposition party can be tolerated in today's China.

8.3.3 Secularization of ideology

During the Cultural Revolution decade, 'politics in command' *(zhengzhi guashuai)* embodied an attempt to ensure that the thought and behaviour of ordinary people were ideologically 'correct'. Intellectuals and professionals were under particularly heavy pressure to be 'both red and expert', which meant that their specialized knowledge was to be permeated by and subordinated to the 'proletarian line' of the day.

Since 1978, Deng Xiaoping and Hu Yaobang have pushed to desanctify and secularize ideology to some degree, in order to correct a situation in which ideology had become a set of immutable precepts (a kind of 'Marxist superstition'). This process of 'de-dogmatization' or secularization brought with it a more flexible approach to ideological diversity, in both the party and society at large; it allowed criticism of intolerance and imposed uniformity and encouraged some degree of open disagreement and 'airing of views' (Bernstein, 1985, 6; G.White, 1993a, 151–2).

There was also an attempt to limit the penetration of ideology into the everyday lives of the population, fostering a process of depoliticization or political 'demobilization'. The aim of Deng and his reform allies was to reduce the range of politicization, expand the space for private life and allow greater autonomy to intellectuals and experts. In practice, this meant less attention to organized political education; less emphasis on political criteria in recruiting and assessing people for specialized training or professional jobs; a decline in the visible manifestations of political ideology (removal of posters and statues and reducing the political content of the mass media); and, overall, an effort to encourage greater intellectual and cultural freedom under the slogan of 'let a hundred flowers contend' (Harding, 1987, 225; G.White, 1993a, 152).

The secularization of ideology and the limitation on the role of ideology have three political implications. First, politics interferes less with private life such as personal beliefs than before. This encourages the development of cultural pluralism. Second, although ideology is still occasionally appealed to by the party as a political weapon to control political behaviour, the decline of ideology implies that rulers do not necessarily first unify all ideas and activities so as to rule China. China could be better ruled through diverse ideas, market, and the rule of law. Finally, Maoism no longer has claims over subjects' souls, and most importantly, orthodox Marxist ideology no longer substantially influences Chinese policy-making. Politics is slowly losing its link with orthodox ideology and, as a result, ideology no longer provides a sole criterion for judging policies.[13] Given that the role of ideology in integrating political life has been eroded, an alternative is to look for the rule of law, which is the key for the development of pluralism (see Chapter 10).

8.3.4 Suspicion of unanimity

Since the Cultural Revolution, unanimity has been viewed with suspicion, and not regarded as the necessary foundation of the Chinese polity, but as a cause for dogmatism. In the publications of the 1980 and 1990s 'plurality' has been a popular term in intellectual writings.[14] Undoubtedly, some intellectuals and leaders probably still hold the idea that values, beliefs and ideas should be unified by one doctrine. There are, however, existing competing beliefs and values, and there are more difficulties to unify ideas through force and propaganda in today's China than before. Thus, reformers have to change the methods of ruling (for a discussion of the CCP's arts of rules, see Zhang Xiangni, 1989). It seems that reformers are giving up the effort to unify ideas. They are looking for the rule of law, procedures, and in particular, the market, as effective mechanisms to integrate social and political life. They do not even care about whether people really believe ideology, although they have the semblance of making a rhetorical claim on ideology. This is because the government's legitimacy does not necessarily require ideological justification; and because the success of economic reform provides a performance legitimacy. Deng's politics are so different from Mao's in so far as Deng promotes pragmatism and is less interested in creating a 'new idea' to unify the party and society than Mao who was busy creating new ideas as 'ideological cement' for the party and society, but was not good at resolving concrete economic issues.

8.3.5 Political learning: dissent is compatible with a stable polity

Now I will turn to the central issue of cultural pluralism, that multiple ideas will not lead to chaos. In Mao's time, ideology was a major means for maintaining political and social integration and this legacy has influenced the

Chinese reforms. When ideology declined, some leaders saw this as a threat to the regime, and were worried that dissenting ideas would lead to chaos. Now, it seems that China has passed a stage where multiple ideas lead to chaos *(duoer bulun)*. In other words, China has discovered that dissent, diversity and plural ideas and values are not incompatible with social order and the well-being of the body politics. In particular, autonomy and diversity in economic areas are no longer considered as a source of discord and disorder, but rather as one of the fundamental factors for economic success. The successful experience in the economic area seems to reinforce the belief that multiple ideas are compatible with stability. Now the reformers seem to realize as long as dissident views are not directly used for political action such as open opposition activities, dissident values and ideas will not lead to the collapse of the system and the state power.

Why and how have some reformers arrived at the conclusion that diverse society and ideas may not contribute to instability? Here, the suspicion of unanimity poses difficulties for an attempt to unify ideas as a way of ruling in today's China. Further, some reformers realize that if people tolerate their competing ideas, these ideas will produce little social disruption. More importantly, the new ways of ruling come into play. The traditional way of ruling in China was that ideas and beliefs must be unified by either force or by official doctrine; any dissenting view was viewed as a potential weapon to mobilize the masses and stir them to rebel. Now, this traditional way, albeit still held by some officials and intellectuals, is regarded by reformers as outdated and impractical, because reforms require various creative ideas which demand what Hu Yaoban called the 'soft environment', a condition for protecting the freedom of speech (see the editorial comment of *Liaowang,* 24 April 1986; and Chan Shi, 1986). The reformers seem to look for the following new ways of ruling. First, they support popular culture such as music, sports and religions, to divert people's interests from politics. Second, the reformers promote commercial culture, and in particular, encourage people to earn money. This is a cunning way of controlling people's political behaviour. If people are self-interested, and busy making money, they will not risk their wealth by rebelling. Third, the reformers introduce a legal line: any dissident who uses ideas or values to mobilize people will be prohibited; otherwise, dissenting views are tolerated. Fourth, although the reformers insist on socialist spiritual civilization, the content of it is very much traditional in the sense that it appeals to Confucian ideas of family, general love and loyalty. Also, they emphasize the balance between the necessity of plural ideas and of discipline (see the editorial comment of *Liaowang,* 24 April 1986). These ideas discussed above are believed to play a part in integrating political life.

In conclusion, Chinese culture is a mixture of different value systems, such as Confucianism, legalism, communism, nationalism, liberalism, and so on. Chinese political culture is as heterogeneous as the European. It has split, and continues to split, into segmented parts. There are cultural clashes in

China between Marxism and liberalism. The major cleavage in Chinese political culture today may not be between the advanced intellectuals and the backward masses, but between a people ready for more freedom and political leaders afraid to grant it (Nathan, 1990a, 191). The pattern of cultural change in China is in the fragmentation of old cultures and the proliferation of new values, attitudes and attendant behaviour.

The development of pluralism is limited and incomplete in the political sphere. As mentioned above, the idea of political organizational tolerance has not been widely accepted by leaders. The party still uses state power oppressively to impose a single comprehensive doctrine as the way to achieve political unity. The central tenets of the political dimension of ideology (such as the 'four principles') remain. These *limited elements* of cultural pluralism hinder democratic development in China. Furthermore, the low level of tolerance, and the absence of the legitimacy of factions and of the consensus on boundary (see Section 8.4) also impose difficulties on the development of political pluralism.

In short, the lesson of the Cultural Revolution provides a collective disposition in favour of cultural pluralism. In particular, the relatively successful economic reforms have reinforced the belief in diversity, individual initiatives and autonomy. Western pluralist ideas also provide the Chinese with fresh ideas and new thinking as evident in the writings of Chinese intellectuals.

8.4 THE CULTURAL PROBLEMS IN A TRANSITION TO DEMOCRACY

Historically the failure of Chinese democratic institutions in modern China can certainly be due to the lack of support from democratic ideas and values (for this cultural explanation for the failure of democracy, see Price 1990, 251–5; Pye 1985, 186–8; Nathan, 1976, 224).[15] There have been cultural problems with democrats themselves. Values and habits of thought and action deeply rooted in a distinctively Chinese cultural tradition have precluded a genuine commitment to democracy and its prerequisites. The advocates of democracy have themselves, therefore, neither fully understood nor implemented the necessary kinds of political pluralism, individual freedom, and limits on the powers of leaders and the state (Price, 1990, 224). The pro-democratic writings of revolutionaries and constitutionalists have sometimes had an anti-democratic potential (Gray, 1979, 207; Price, 1990, 251). These writers have been preoccupied with the problem of avoiding the divisive dangers of democracy as they have sought to escape the trammels of autocracy (Price, 1990, 251). Thus they have doubted the liberal solution and turned to a totalitarian solution. As Pye (1985, 188) observes, Chinese culture has favoured a centralized form of legitimate power, which has caused the failure of the democratic movement in modern China.

The above cultural problems have negatively influenced democratic activities in modern China. The early republicans had hoped to avoid conflict by gathering consensus around a constitutional process. But the institutionalized parliament just provided an open channel for conflicts among factions; the process mandated by any republican constitution was precisely a process of conflict among the Zhili clique, the Duan Qirui faction, the Anfu club and the Communications clique. The factional kaleidoscope turned in the end to civil war in the 1920s and resulted in the decisive alienation of most Chinese, including politicians, from the constitutionalist faith. Not unnaturally, practising politicians resorted to the tools at hand—their subordinates, colleagues, schoolmates, and others tied to them by the hierarchical and personal values of their political culture. They formed factions, and consequently found themselves trapped in a frustrating and self-defeating political process (Nathan, 1976, 1–3, 221–4). Suspicions and animosities between constitutionalists and revolutionaries certainly weakened the cause of democratic government. While these two camps could agree in theory on the value of a responsible cabinet system, they failed to unite in insisting on the implementation of key elements of that system (Price, 1990, 252). An inherited propensity to factionalism constituted an immense obstacle to the establishment of constitutional government, and persuasive evidence of this has been offered for the immediate post-Yuan Shikai period in particular.

Today Chinese political culture poses a set of problems not only for Chinese leaders hoping to maintain the Communist system, but also for Chinese liberals struggling for democracy. Here I limit my consideration to the latter only.[16]

Generally speaking, the current cultural problems associated with democratization in China can be called *wenhua shifan* (a cultural dislocation, or anomie). Wang Yihua (1989, 35–9) argues that in China an established value system has been discredited by its association with a hated political regime, but no new value system has emerged to take its place. Wang also identifies three chief problems: first, opposition, particularly by those inculcated in the proletarian dictatorship, to the culture of social rationality emanating from the West. The latter includes democratic politics, popular participation, etc.. Second, demoralization of the younger Chinese generation by Western hedonism, leading to self-hatred and hopelessness, and escapism, through drink, gambling and discos. Finally, the devaluation of instrumental-rational culture which supports the development of science and technology. Few see any prospect in pursuing technical skills and careers. In line with Wang's analysis, I consider two categories of cultural problems.

The first category of problems relates to the question of democratic goals and values. There has been widespread scepticism about democracy in China.[17] The advocacy of democracy in China has been associated with debates over authoritarianism in the past as well as today (Cheng Yishen, 1989; Liu Jun and Li Lin, 1989; Ma Shuyun, 1990). In the democratic

movements overseas, neo-authoritarianism is advocated as a feasible solution to the current political problems in China (*Democratic China,* 1990, Nos 4, 5). Today Chinese intellectuals repeat the old questions about the validity and applicability of democracy in China and on China's capacity to achieve democratic goals. More seriously, anti-democratic proposals easily attract strong support from traditional Chinese political culture in various forms of arguments and doctrines, while democratic proposals may gain the support of new Chinese cultural elements, but the support is very weak. Thus, Chinese political culture has narrowed and facilitated certain options and the forms of solutions to the current crises in China: the democratic option is not seen as a strong one, or the best, while the authoritarian option appeals as an ideal.

Among Chinese democrats there is a tension between their conscious commitment to the values of democracy and liberty and their unconscious authoritarian personalities. In other words, while they demand democracy at the conscious level they also seek a new authoritarianism as a solution to the problems of Chinese politics.[18] In particular, there are authoritarian attitudes inculcated in the very process of socialization (Price, 1990, 224; Pye, 1968, 1985). In this respect, Mao Zedong's autocratic personality has greatly and negatively influenced the democrats overseas. Although Chinese intellectuals reflect on and criticize Mao's thought as internalized in every Chinese mind, it is difficult to get rid of the authoritarian personality. The crucial problem is that unconscious authoritarian personalities, due to a lack of cultural and institutional constraints on these personalities, will lead democrats towards a neo-authoritarian system when they face a set of problems stemming from the process of Chinese democratization. However, although there are also authoritarian attitudes in Western democratic countries, these attitudes are so constrained by the existing democratic institutions that it is less likely that authoritarian personalities would play a decisive role in creating a neo-authoritarian state if similar problems should occur.

The second category of problems lies in the process of democratization and relates to the operation of democratic institutions in China. Democratic institutions must work within the cultural environment, and democratic institutions will function only if people comply with their rules. In this respect there are the following five cultural difficulties for the establishment of democracy in China:

1 Tolerance is a virtue of freedom and is a recognition of the autonomy of others. However, China lacks tolerance of institutionalized opposition and dissent. There is also a lack of democratic consensus, in particular, of believing in and complying with democratic rules, and widespread scepticism about democratic rules being applicable to China. As Yuan Zhiming remarks in quoting Bo Yang: four Chinese meeting together cannot cooperate unless there is an autocrat (see *Democratic China,*

1990, 5:21). The most serious problem is that there is a tension between democratic consensus and the principle of freedom in the Chinese context, that is, use of political liberties tends to undermine consensus if liberties are not constrained. Although, indeed, there are factional compromises in Chinese political life, Chinese politics is very weak in arriving at institutional compromise. Democracy, in Przeworski's view, cannot be a result of a substantive compromise, but it can be a result of an institutional compromise: substantive outcomes are shaped by institutions and the guarantees can only be institutional (Przeworski, 1988, 64, 71).

The Chinese are indeed the least tolerant among the seven nations as revealed by the survey conducted by Nathan and Shi (1993). Fewer than 20 per cent of the Chinese respondents were willing to allow sympathizers of a deviant viewpoint to express their views in a meeting, as compared to 40 to 75 per cent of the populations in the Western countries. When asked about teaching, Chinese tolerance levels were even lower, standing at 10.3 per cent of the population, but the gap between China and the Western countries was not as large. Tolerance for publishing unpopular ideas was again low in China (10.3 per cent), with the range in the Western countries extending from 51.8 per cent to 70.3 per cent.

The low level of tolerance suggests potential difficulties if the Chinese political system begins to democratize. It may pose impediments to democratization. People may favour the repression of ideas that they do not agree with (Nathan and Shi, 1993, 112).

2 The cultural problems of consensus and compromise can be traced to deeper psychological predispositions. As Pye (1990a, 162) argues, the management of aggression is a basic problem in Chinese political culture in which there is an inability to compromise publicly; so any conflict arouses hate, and it becomes almost impossible to disagree politically without becoming disagreeable. Pye (1990b, 58) further argues that a persuasive sense of overpowering obligation has meant that there can be no compromises in Chinese cultural attitudes towards power and authority. Also, shaming in Chinese culture is a potent weapon for both authorities and the weak. But there is no way of compromising in a battle of shaming; the struggle can only intensify (Pye, 1990a, 172–4).

3 Chinese envy also undermines social cooperation. 'Oriental envy', in Chinese terms, tends to pull down those who have a large supply of primary social goods. The Chinese communist view of egalitarianism has been internalized in the psyche of the people. This legacy of psychological egalitarianism is an obstruction to the implementation of liberal democratic policies.[19] Such policies, if they do not take equality into account, are likely to fail in practice, and may create unequal distribution of social welfare. This may, in turn, constitute a source of social unrest and a revival of neo-authoritarianism. Ideally, a social

welfare system should be introduced into China, but unfortunately it is difficult to implement this because of the heavy financial cost.

4 Radical polarization of Chinese Leninist-Confucianism and Western liberalism, along with the desperate destruction of traditional and Communist Chinese culture, make it difficult for liberal virtues to develop. Most young intellectuals have aimed at eliminating traditional and Communist cultures. Such action is rooted in the unbearableness of individual powerlessness and isolation. The destruction of the Communist culture is the last, almost desperate attempt to save themselves from being crushed by the Chinese political system.

5 Finally, force rather than reason is often seen as a final solution to political conflicts in traditional and Communist political cultures (for example, Mao's slogan that political power grows out of the barrel of a gun); this poses the most difficulty for democratic proceduralism which presupposes reason as a final authority.

Moreover, look at the case of the dual roles of fear in the transitional period. In a transitional period, social conflicts are common and normal. These conflicts, in the liberal view, are believed to be a necessary condition of politics, and are supposed to proceed, and to be resolved, within the democratic institutions which are able to integrate overlapping conflicting interests. However, most Chinese are not used to these normal social conflicts, and often regard them as abnormal and destructive. The psychological fear of social disorder easily leads to a new authoritarianism.[20]

In his comparative study of the post-authoritarian system, Pye (1990c, 13–14) calls for an investigation of the association of fear with political repression, and of likely reactions to the lifting of terror. In Taiwan and Korea, as Pye suggests, the receding of fear of state power seems to inspire hope, which in turn creates increased enthusiasm and activism; in Russia fear may be followed by cynicism at the core of which lies passivity; in mainland China, fear has taken on the role of threat. This interesting topic of fear raised by Pye needs to be studied further in the context of the Tiananmen incident in 1989.

Su Xiaokang (1990, 15–21) has elaborated on the complex role of fear in the process of Chinese democratization. First, the Chinese intellectuals' fear of the CCP's terror made them less inclined to participate in the protest movement at the early stage and more worried about negative consequences of the protest movement. Su himself attempted to avoid joining in the protest movement before April 1989. Second, rationality can stem from fear as tolerance came from mutual fear in the history of the West. In Su's view, the reason that the students adopted a reasonable and moderate strategy was that they feared the danger. It was fear that produced their political wisdom. The non-violent strategy adopted by the students was not due to the students' innocence, but rather to their clear judgement of the strength of the Communist Party. Unfortunately, when the government made a concession to

dialogue with the students, this small success led to the collapse of reason among the students. Fear became 'obtuse' and political wisdom was thus clouded. The idea that fear helps to produce reasonableness may, in Su's view, also apply to the leadership. No matter how strong it is, the current regime which overruled the constitution is likely to experience fear. Such fear may bring the leaders to a more rational stance. Third, according to Su, fear has a double effect: while it leads you to reason, it also causes you to lose your moral courage. The most tragic thing in the Chinese Communist system is the fact that Chinese intellectuals have lost their moral courage due to their fear of repression by the CCP. In Su's view, Chinese intellectuals were unable to persuade people to believe in the importance of compromise; more seriously, they no longer felt fear in Deng's 'velvet prison', and did not alert the people to the need for fear until the Tiananmen incident. This is the greatest weakness of Chinese intellectuals—the incompetence of their rationality.

8.5 CONCLUSION

The nature of the political culture itself is often seen by commentators as the cause of democracy failing to take root in China; the anti-democratic elements of that culture being overemphasized while the democratic elements are underemphasized. This chapter has shown the new emergent democratic and pluralist culture in China, and examined the application of the idea of a limited pluralist culture in China to the current state of play, including the new ways of ruling. The chapter has also examined the cultural problems associated with Chinese democratization such as cultural anomie, unconscious authoritarian personalities, the legacy of egalitarianism, the radical polarization of Chinese culture, difficulties of institutional compromise and the irrational control of aggression and fear.

There are clearly many hopeful signs of positive cultural elements, but there are also many negative ones. Evaluation of the relative strength of these conflicting tendencies is difficult to make at the level of an empirical study. However, my impressionistic evidence reveals that while the antidemocratic culture is stronger at present than the democratic culture, the new Chinese democratic culture is likely to gather strength in the future. If we ask what could be done to strengthen the one and impede the other, the solutions to the above cultural problems, as Yan emphasizes, lie not only in cultural reconstruction, but also in institutional reconstruction of Chinese political structures and organizations (Yan Jiaqi, 1988, 1989).

9 Social conditions
Dual roles of semi-civil society

A pluralist and self-organizing civil society independent of the state is often assumed to be an indispensable condition for democracy. It is also assumed that the successful transformation to democratic politics depends upon the development of a civil society. If there is no strong civil society, there will be no emancipation and no democracy in the modern world (Gouldner, 1980, 371; Keane, 1988, 31–62). As the Philippines experience illustrates, civil society makes the democratic transition much more irreversible, and reduces the prospect that authoritarian forces (old or new) may overthrow or somehow capture the new democracy (Diamond *et al.,* 1987, 43). Thus the assumption of the *positive* influence of civil society on democracy is made. However, the danger of a violent and overpoliticized civil society has been addressed by some writers (Ahn, 1991; Cohen and Arato, 1992, 57), which suggests a *negative* effect of civil society on democracy in the process of democratization. Thus, the question of the dual roles of civil society in a transition to democracy needs to be studied.

In the studies of Chinese politics, a growing body of literature recognizes the emergence of civil society in Deng's China as fact (Gold, 1989a and b, 1990; He and Kelly, 1992; McCormick, 1992; Nathan, 1989 and 1990a; Ostergaard, 1989; Strand, 1990; G.White, 1989, 1990, 1993a and b) albeit some writers would deny that (see Solinger, 1992). Some writers even suggest that civil society has already developed into a factor in Chinese politics and will essentially dictate a new dimension of Chinese political development (McCormick, 1992; Nathan, 1989) as is evidenced in Taiwan, in which civil society has provided ample resources for generating democratic forces (Cheng Tunjen, 1989, 1990). The prospect of Chinese democratic politics is thus seen in terms of whether China is able to develop further and strengthen the existing civil society. Yet, the question of how a civil society impacts on Chinese democratization remains to be answered.

This chapter attempts to examine the actual and potential positive and negative roles of civil society in the context of Chinese democratization. It has three goals. The first discusses the actual positive impact of civil society on Chinese democratization by revisiting the 1989 Democratic Movement

from the perspective of civil society. The second explores the potentially positive and negative roles of civil society in the process of democratization. The third discusses potential roles of civil society discourse and the public sphere in Chinese democracy.

The chapter adopts a conventional definition of civil society as *de facto* autonomous organizations that are independent of direct political control by the state and the party. It further follows McCormick's (1992) definition of it as an autonomous organization, entrepreneurial activity, or an autonomous public sphere. Three areas of civil society—economic civil society referring to autonomous organizations and entrepreneurial activities, political civil society referring to an opposition organization and movement, and cultural civil society referring to the discourse of civil society and its relative public sphere—are distinguished for the purpose of discussion of roles of civil society.

I have rejected both a social structural determinism and a simple link between the new civil society and social behaviour in discussing the role of civil society in the process of democratization.[1] It is misleading to adopt a monolithic conception of the positive role of civil society for democratization. The roles of civil society vary in the different stages, such as initiation, consolidation and completion of democratization (see Cohen and Arato, 1992, 50). Since Chinese politics is still under the control of a neo-authoritarian state, this chapter focuses only on the roles of civil society in the initial process of transition to democratic politics.

This chapter is in five sections. Section 9.1 investigates how an emergent civil society influenced Chinese democratization before and after the events of 4 June 1989. Sections 9.2, 9.3 and 9.4 respectively examine the possible positive and negative roles of civil society in the process of Chinese democratization from the points of view of autonomous organization, entrepreneurial activity, and civil society discourse as well as an autonomous public sphere. Section 9.5 is the Conclusion.

9.1 IMPACT OF CIVIL SOCIETY ON THE 1989 DEMOCRATIC MOVEMENT

I should say right away that factors such as the split in the leadership, economic problems, corruption, new cultural enlightenment and the weakness of political institutions as well as international support played major roles in the 1989 Democratic Movement. Here I will examine only the role of civil society in Chinese democracy. On the whole, the influences of civil society were much weaker than other factors in the 1989 Democratic Movement. However, civil society was a new and important factor which needs to be weighed significantly.

In the past decade, the authority of the CCP has been declining and the party has been forced to carry out reforms and 'open door' policies for its survival. These have created an opportunity for the revival of Chinese civil

society (McCormick, 1992; G.White, 1989 and 1993b; Whyte, 1992). There were emergent autonomous organizations before the events of 4 June 1989. These included specialized academic associations and clubs, such as the Young Economists' Association, the Beijing Stone Group and its Institute for Social Development, the Beijing Social and Economic Research Institute, the Academy of Chinese Culture, the Capital Steel Research Institute, and the Happiness Bookstore. They also included newspapers such as the Shanghai *World Economic Herald,* and new academic journals such as *New Enlightenment,* which in 1988 avoided the party's control system for periodicals by registering itself as a book series. It should be noted that these autonomous organizations by that time had attained the status of 'legal persons' with the protection of statutory rights. Also, the essence of civil society lies in the growth of new social structures such as those seen in the private sector and autonomous social and cultural organizations.

These new institutionalized civil structures had a self-contained reality with forces and purposes of their own as soon as they were established. In terms of institutional need, the new structures demanded more free space and further liberalization in the interests of those who were within the new structures. For example, Wan Runnan, a former director of the Stone company, was an active advocate of privatization, and vigorously defended the Stone enterprise as having been from the start a vehicle for political action.[2] Those within the new structures also demanded influence over decision-making; they no longer willingly accepted conditions under which they had no voice. For example, Cao Siyuan who trained in the Chinese Academy of Social Science, specializing in political science and law, pushed bankruptcy legislation before the National People's Congress in 1984. He left government employment to head the Stone Social Development Research Institute (SSDRI) in 1988, where he called for far-reaching political reforms.

Although the term 'civil society' was not widely used as a self-referent by the students, intellectuals and workers, what the urban populace of China in 1989 was demanding, in short, was no less and no more than 'civil society', a political 'space' that would not be controlled by the authorities, and that would provide people with a bit of leverage *vis-à-vis* the authorities (Unger, 1991b, 5). This was an attempt to institutionalize the political opposition movement. As Ostergaard (1989, 40) claims, 'the sudden, massive spread of civil society must have been regarded as a severe threat to the Party's monopoly'. It was precisely these demands, harmless though they might appear, that seem to have frightened the old leaders such as Deng Xiaoping. From the beginning to the end, they felt they needed steadfastly to refuse to give that recognition. Thus the 1989 Chinese Democratic Movement is best understood as the expression of fundamental conflict between a state with totalitarian intentions and an emerging civil society (McCormick, 1992).

The point of view of civil society indicates that the agent or the subject of the transformation must be an independent, or a self-organizing society aiming at structural reform. This suggests a new type of social actor. There are signs that the idea of civil society has transformed the behaviour of writers, such as Wang Juntao, who took part in the 1989 Democratic Movement claiming that they wanted to be free and independent rather than official scholars.

More importantly, new social structures were 'social actors' playing an important role in Chinese democratization. To put it another way, the Democratic Movement in 1989 gained wide and strong support from various autonomous social, economic and cultural organizations, including even the official Trade Union Federation which donated 100,000 yuan to the Tiananmen demonstrators; the Democracy Wall Movement of 1978–9 lacked this type of support. It was more difficult for the party to suppress a civil society than a movement without deep organizational roots. This was one reason why the party had to use the army to close down the 1989 Democratic Movement while it only arrested Wei Jingsheng and a few others so as to end the 1978–9 Democratic Wall Movement. The existence of various autonomous organizations made the difference. The following autonomous organizations were important in 1989: the Beijing Federation of Autonomous Student Unions comprising representatives of autonomous organizations established on many Beijing campuses, the Beijing Association of Intellectuals established by Yan Jiaqi, Bao Zunxin and others, and the autonomous associations of workers which had formed throughout China (Gold, 1990, 196–211).

To elaborate on the above point, I will briefly discuss the role of the Stone group and the activity of the Stone Social Development Research Institute (SSDRI) under Cao Siyuan. Cao was the leading force in a meeting of Beijing intellectuals which tried to warn the government about impending chaos in April. Following the declaration of martial law in May, Cao and Hu Jiwei, the former editor of *People's Daily* and a member of the Standing Committee of the National People's Congress, tried to convene an emergency sitting of the NPC to have the order withdrawn. Cao's arrest just prior to the massacre, on 3 June, was at the behest of Li Peng and Yang Shangkun, who regarded the right to convene the NPC as the prerogative of the Politburo. It has been argued that the Stone company simply provided the SSDRI under Cao with a budget and left him to carry out his own programmes (Liu Ruishao, 1989, 249–51). While it is difficult to establish this, his actions supported the aims of the intellectual movement as a whole, rather than Stone as a private corporation, in attempting to force the regime to live up to its claims and allow wider freedoms.

The Beijing Social and Economic Research Institute (SERI) was a similar case. SERI was the organizational base of Wang Juntao and Chen Ziming. Shao Qun describes SERI as an 'independent kingdom' under the nose of the Communist Party, and as not receiving a cent of state funding (Shao, 1990,

10–13). Wang and Chen, its leaders, have been described by close observers as 'professional revolutionaries'. During the Democratic Movement, they organized secret meetings to help and guide student leaders. They were the behind-the-scenes 'ringleaders' who received sentences of thirteen years in February 1991.

After the events of 4 June 1989, economic civil society placed constraints on the will of the leaders and certainly narrowed options available to leaders to resolve current crises. In East Europe, as Rose rejoicingly argues, even if military coups occurred all across the region tomorrow, the new rulers would find it impossible to resurrect the apparatus of totalitarianism. A Stalinist system is not built easily; to destroy a civil society would require the use of brutal force for a long period of time (Rose, 1992, 13). This is also true of China. It was difficult for Li Peng's government to go back to Mao's centralized planned economy, although it wanted to do so in the latter half of 1989. Since the events of 4 June, the reason why the CCP still carries out economic reforms is that if it fails to do so, there will be economic decline. For the party, to destroy economic civil society costs too much, while to allow its existence and development will improve the economy, whereby the CCP may gain performance legitimacy. In other words, for leaders, to protect and develop autonomous economic organizations is one way of improving the economy, because the private sector has played an active role in promoting production and increasing both employment and state revenue. Thus, for China, a more effective check against the troublesomeness of the state is to strengthen an existing economically based civil society. However, it must be noted that although the return to Mao's totalitarian control is impossible, this does not imply that China will necessarily go towards democratic politics. In reality, China has been developing towards a neo-authoritarian state where economic autonomous organizations are allowed to exist, but political opposition is prohibited.

Also, autonomous private and joint enterprises provided democrats with a relative safeguard after the events of 4 June. Those who came out of jail, after being jailed for their participation in the Democratic Movement in 1989, could easily find jobs in private or joint enterprises.[3] To have been in jail for taking part in the democratic struggle has in fact become a much better certification than academic qualifications, because people in private and joint enterprises are sympathetic to those who have been in jail and respect them as heroes in the anti-Communist shadow of Chinese culture.

Significantly, many young intellectuals are giving up their academic careers and are joining private enterprise, as are those currently released from jail after being imprisoned for their involvement in the Democratic Movement in 1989. Those I have met told me in Beijing in April 1991 that their objective is 'to become rich and influential in the economic area first, then go back to the political battle'. Some even thought that to further develop an economically based civil society was a swift way to achieve

democracy in China. Here, there is an interesting parallel with the former Soviet Union where the 'neo-liberal' youth chose not political opposition, but business. As Rumiantsev observes:

> characteristically, many of the Soviet informal activists subsequently chose to engage in enterprises in the co-operative or mixed sectors. Far-sighted organizers of co-operative enterprises have close ties to the democratic movements. New entrepreneurs are joining ranks with those politicians who uphold ideas in favour of privatizing parts of the economy and organizing a genuine pluralism of forms of ownership.
>
> (Rumiantsev, 1991, 117)

9.2 THE QUESTION OF AUTONOMOUS ORGANIZATIONS

The development of civil society is a necessary but not a sufficient condition for democratic politics. Although emergent civil society provides us with an opportunity to proceed towards democratization, it will not necessarily lead to democracy. What is at stake is the nature or salient features of civil society. If the characteristics of civil society are sharp inequality, internal conflicts and violent tendencies, these will hinder the development of democracy. We, therefore, need thoughtful wishing (Lowenthal, 1986) rather than wishful thinking which should give way to a rational recognition of the problems associated with the autonomy of civil society, the ambiguous role of entrepreneurs and the problems associated with the discourse of civil society and the public sphere in the process of Chinese democratization. These matters will be discussed in following sections.

The distinctive and enduring pattern of relations between the state and society in the history of China, in Fincher's view, can be described as vertically parallel structures with horizontal intersections (Fincher, 1989, 89). The state 'above' is seen as operating 'at bottom' through its effect on the personality structure of individuals; while 'societal' forms extended to the highest levels—the Manchu rulers were in fact an imperial clan of between seven and eight hundred people (Pye, 1985, 58–9). Given that, the development of civil society in Chinese history was characteristic of what Zhu calls *the model of combination of officials and merchants,* that is, civil society was entangled with the state in a way so that its development depended on the power of the state (Zhu Ying, 1990, 37–44). If there was a lack of support from high officials, civil society was unlikely to develop under the constraints of this model.

This is also true in contemporary China. The sons and daughters of officials have made use of the chance given by reforms and rushed to establish various companies *(gongsi)*. Their strong relationship *(guanxi)* with high officials has helped them to develop their businesses quickly and easily. Most business people have actively sought out this kind of close

involvement with influential people to make doing business easier and more secure. This has led inevitably to a distinctive feature of Chinese civil society, namely, an overlapping or entangling with the state, in various forms and in different degrees. According to one report, 60 per cent of private entrepreneurs in rural areas were originally management or supply-and-marketing staff in state or collective enterprises, or cadres in production teams or brigades. Officials and personnel in key units such as the state supply bureau are often involved, less directly, in positions as consultants, or directors, or they have relatives employed in such enterprises (Goodman, 1995; Goodman and Hooper, 1994; Solinger, 1992; Young, 1991, 119–20).

Take the common characterization of the Stone Group as part of civil society. Institutions such as the Stone, as Nathan (1989, 21, 1990a, 181–2) notes, have had a somewhat ambiguous relationship to the CCP. Most of them have been nominally attached to some part of the CCP organizational network, but they have operated independently. In fact, the state and these institutions are so overlapping that they cannot be separated into two distinctive areas. The Stone was under the jurisdiction of the former Shijiqing (Evergreen) people's commune (now an administrative district). The Jing Hai company was a unit under the Institute of Computer Science of the Academy of Science. Such organizations can be properly described as semi-official institutions. Their autonomy was and remains compromised by their reliance on political interests backing them, interests clearly within the state. The Stone had connections to the sons and daughters of the political élite of the CCP, who enabled it to obtain soft loans, or goods produced in the state-owned manufacturing sector below market prices. It also had close ties to Zhao Ziyang, which was demonstrated in the movement in 1989. However, the nature of the ownership of the Stone group is blurred. Some view it as a kind of combination of public ownership and private management. Some regard it as a private enterprise.

There does indeed exist a rough distinction between the state and civil society in China; the former is official, the latter is *minban* and has its own power and right to run its businesses. Qin Benli, who was once chief editor of the *World Economic Herald,* argued that the newspaper was not created and run by the party and the government, but rather by the World Economic Association of China and the Institute of World Economics, the Academy of Social Science of Shanghai; and importantly, he noted that the finance of the newspaper was self-raised with independent accountants assuming sole responsibility for its profits and losses. On the other hand, as Liu Jie, a deputy-director of the Department of Propaganda in Shanghai, argued, *World Economic Herald* was official, because the publication of the *World Economic Herald* was permitted by the Department of Propaganda in Shanghai in 1980; and the appointment and removal of Qin Benli, being a high official, could be decided by the Communist Party in Shanghai (*China Spring,* No. 97, 1991, 51). On the whole, there are two sides of the *World*

Economic Herald: relative autonomy and relative dependency. It is this feature of overlapping and partial autonomy that deems Chinese civil society a semi or quasi-civil society.

The nature of Chinese quasi-civil society can also be seen in the perceived role and nature of the legal system. The legal system is seen as an instrument of the party, so that its autonomy remains problematic. If there is less space for the autonomy of law, it is less likely that there will be a normatively regulated civil society independent of the state. If the development of the private sector affects the predominance of public ownership in the national economy, the Chinese leadership is likely to adopt tight measures to restrain its development. The party can change legal regulations so as to suppress the development of civil society. In this respect, legal protection for private enterprises is fragile. As Susan Young remarks: 'A Constitution which was altered so easily to include private business can just as easily be altered to take it out again. In any case, legal guarantees are of only limited relevance to daily life in China' (Young, 1991, 130). The notable thing is that private enterprises have only an inferior legal status; the private sector merely supplements the public economy. The division between legal and illegal business also is a fine one, largely dependent on the politics of the time. There is evidence that the number of private businesses decreased in some places from late 1985 to mid-1986, a period that coincided with a crackdown on economic crime (Wang Zhonghui, 1990, 93). Also, between 1989 and April 1990, about 8,600 private businesses were suspended, 4,500 had their licences revoked, and many others were penalized (*Beijing Review,* April 15–21, 1991, 6). The crackdown on illegal businesses and tax evasion in 1989 was felt as even more of an attack on legal private business than previous attacks had been (Young, 1991, 7).

Obviously, the overlapping structure discussed above has a negative effect on democratization. If my impression is not wrong, it seems that most business people, particularly those involved in foreign trade, are quite happy with the current loosening policies of Li Peng's government; they recognize the existing situation as being favourable to business. The overlapping of private enterprise with the power of the state is at issue here because those who get support from high officials will lose their business contacts if the CCP loses power. There is a potential danger of corporatism in which some business people and the state make deals without thinking of the interests of other groups. The new entrepreneur class, in particular the sons and daughters of high officials connected with the power of the state, will transform political power into private property through privatization programme although they might eventually demand more freedom. This potential development may hinder the development of civil society and Chinese democratization.

It is misleading, however, to see this overlapping structure, or relative autonomy, as a serious limit to democratic politics while ignoring possible

positive effects. Theoretically, independent associations for non-political purposes could, as Montesquieu and Tocqueville argued before, form the basis for the fragmentation and diversity of power within the political system (see Taylor, 1990, 115, 117). Practically, it is crucial to see how civil society plays its role within such an overlapping structure (see also Ding Xueliang, 1994). There are some advantages of this mixed structure. One advantage was to provide associations with much greater political resources which can then be used to push for democratization. This was the case with the Stone and the official trade union. Another example was the Hunan and Sichuan People's Presses which published many books introducing Western ideas of democracy. Also, the relatively autonomous associations within an overlapping structure may play a much bigger role than those outside the government in checking political power and influencing decision-making. For civil society, a way to influence politics and to check the party is to play its role within the overlapping structure, because there is a trade-off between autonomy and influence. This tradeoff is evidenced when leaders of social organizations, as G.White (1993b) observes, often feel that the best way to increase their influence is to get closer to and become meshed with state and party organs, compromising their autonomy in the process. Although society, as Nathan observes, is beginning to infiltrate the party (Nathan, 1990a, 5–6), actors and leaders of autonomous organizations seem to learn by their failure that they cannot achieve their own goals without recourse to the party and the state.

In short, the overlapping structure of the state and semi-civil society may hinder radical transition to democracy, but may also provide pressures and checks on the state if civil society plays a proper role within many levels of the polity.

9.3 THE AMBIGUOUS ROLE OF ENTREPRENEURS

Historically, the anti-imperialist Chinese bourgeoisie have not played the role that the bourgeoisie have played in opposition to the government in European history. The emergence of what Marie-Claire Bergère terms 'the nearest thing to an autonomous society' between 1911 and 1927 was an urban society dominated by a united front of business circles, well structured and inspired by a modernist and pro-Western intelligentsia (Bergère, 1986, 240). For them, the state was indispensable to the constitution of society, and it thus was necessary to restore governmental authority. Despite the fact that this meant giving up the autonomy they had acquired thanks to economic expansion and the decline of the bureaucratic apparatus over the preceding years, they worked towards that end (ibid., 226).

In today's China, the role of the entrepreneur in Chinese political life is ambivalent. On the one hand, the Stone Group did support the Democratic Movement in 1989. At the moment, private operators are at a disadvantage in

that they have no legitimate access to subsidized commodities and lack the influence and prestige of a state unit when seeking supplies. They are also fearful of being classed as capitalists if the political wind shifts (see also Gold, 1989b). Also, private enterprises are encouraged by the government only as part of a reform programme. The fortunes of private businesses are therefore tied to those of the reform programme as a whole. In this respect they wish China to push for further privatization and democratization which will enhance their legal, economic and political status, as evidenced in the case of the Stone Group, SERI and similar bodies in the 1989 Democratic Movement. Thus the motive of the entrepreneur's propensity for democracy lies in, as O'Donnel (1973) argues, an instrumental calculation aimed towards gaining power via changing the rules of the political game and thereby displacing vested power-holders.

On the other hand, for the time being, Chinese entrepreneurial activities seem to be compatible with a neo-authoritarian state under the current soft policy of the party. An atomized and commercialized civil society is less interested in democratic politics than in a neo-authoritarian regime, because the former brings about uncertainty while the latter creates favourable conditions for business. For them, this is the lesson from East Europe where radical transition to democracy has led to disorder and economic chaos. In the case of private business people in Wenzhou, they seemed to welcome the democratic political movement less. They did not support the student demonstrations in Wenzhou, rather, they demanded political stability within which they could make their profits.[4] Remarkably, some business people in Beijing rethought their support for the student movement in 1989 after the events of 4 June, and arrived at the conclusion that they should not have supported the students because the student movement had destroyed a healthy economic environment for business growth.

Private business people also have an ambivalent attitude towards the state. On the one hand, they hope that the Chinese government will have a powerful position in international relations, and therefore they support a strong state authority; they also wish the state to provide them as much as possible with resources and funds. On the other hand, they demand a policy of deregulation: less taxation, and further economic flexibility and privatization. Also those who are themselves supposed to be members of civil society have ambivalent attitudes towards civil society (He and Kelly, 1992). They tend more towards cooperation with the state rather than defence of the autonomy of the civil society to which they belong when their position changes from being that of the suppressed to that of the boss (see Goodman, 1992).

This is also true in Taiwan. Cheng's study shows that the democratic political opposition was supported and led by professional intellectuals and entrepreneurs. Small and medium-sized enterprises provided these oppositionists with both funds and fallback positions. However, after the

ruling regime committed itself to political liberalization and embarked on an accelerated democratic transition, more political entrepreneurs chose the route of the reformed ruling party. Their financial and electoral support for the Democratic Progressive Party began to wane as that party increasingly resorted to social mobilization and exploited social conflicts to elicit the support of workers. Finally, entrepreneurs have begun to underscore the importance of political authority as private interests challenged state power (Cheng Tunjin, 1989, 1990, 7–9; see also Wang Zhenhuan, 1991, 62).

In conclusion, it is difficult for us and even for business people themselves to define the political role of the entrepreneur class in the process of democratization because their decisions and actions depend on concrete social conditions and on their various judgements of the situation.

9.4 THE PROBLEMS ASSOCIATED WITH CIVIL SOCIETY DISCOURSE AND THE PUBLIC SPHERE

Between 1987 and 1989, the liberal idea of civil society was popular in Chinese intellectual circles. While Liu Zhiguang and Wang Suli (1988) used *'gongmin shehui'* in 1988 and Shen Yue (1990) *'shimin shehui'* in 1987 and 1990, other writers such as Wu Jiaxiang, Fang Gang and Rong Jian did not use such terms to discuss civil society, but employed other terms such as 'professional society', 'grey market' and 'a centred-society'. These express basic ingredients of the liberal notion of civil society such as individual rights, individual autonomy, voluntary associations, the public sphere and free enterprise. This was also true of the writers Shen Yue, Liu Zhiguang and Wang Suli who used the works of Marx and Rousseau respectively. In short, this was a conceptual shift from the idea of totalitarian society to the liberal idea of civil society. Also, this conceptual transformation was achieved through the following processes and mechanisms: discovery of the value of civil society; exposure of the negative consequences of 'mass society'; and criticism of the apparent incoherencies of the dominant official ideology (I have discussed Chinese liberal ideas of civil society in detail elsewhere, see He Baogang, 1995).

After the events of 4 June 1989, some Chinese intellectuals overseas attempted to link democratic movements overseas into a version of Timothy Garton Ash's Type B[5] as happened in Poland where the institutionalization of civil society was the democratic opposition's strategy in the second half of the 1970s (Rumiantsev, 1991, 117). They adopted and highlighted the Gramscian model of civil society which is seen as an opposition movement, a democratic strategy and an antagonism between the state and society. The autonomous organizations overseas also established direct connections with various international human rights associations to create what might be seen as 'a transnational-civil society'.

The significance of the discourse of civil society is this: to talk about civil

society is to enquire into a new political theory of the state and to articulate a normative project for liberalization and demoralization. For liberal intellectuals, a society independent of the state should be developed so that the power of the state will be limited. They believe, under civil society, the dispersion of economic power means that political and legal power cannot be monopolized, and that checks and safeguards against the abuse of power are able to operate. These ideas certainly will gain influence to alter the nature and workings of existing institutions because the idea of civil society has already been taken up by opposition organizations overseas and can potentially be taken up by the reformer faction within the party as will be discussed in Chapter 10.

However, there are at least two problems associated with the discourse of civil society concerning its potential role in Chinese democracy (I have discussed this in detail elsewhere, see He Baogang, 1995). The first is the idealized notion of civil society which assumes that once civil society is established, a harmonious and democratic society will occur. This notion should be discarded. Any civil society has the inherent potential for disruptive conflicts among competing interests and traditions of behaviour. The idea, therefore, is not a useful tool for dealing with practical problems and even makes people doubt the value of civil society and democracy.

The second is the Gramscian model of civil society, which has shown theoretical and practical problems. Let us first look at a theoretical problem associated with the Gramscian model of civil society in Eastern Europe. Civil society first was used as an anti-politics strategy. The Solidarity movement was interpreted as a struggle of society against the state (Arato, 1981, 23–4). When the members of Solidarity came to power in 1989, a new problem arose: those who were the members of civil society now became officers of the state. This leads to the disappearance of the demarcation between the state and civil society. As Piccone put it (see also Cohen and Arato, 1992):

> Upon taking power, civil society ideologists quickly adjusted to the corporatist politics dictated by the communist power structure [in Poland]. Then, after it became obvious that there were no Soviet tanks propping up the various local communist regimes, they rediscovered the virtues of politics-as-usual, while attempting, like the careless sorcerer's apprentice, to control the demonic forces they had unwittingly released. The major components of the long-projected reconstitution of an autonomous civil society, the working classes, are now increasingly joining forces with the remnants of the old bureaucratic apparatus to contain the detrimental consequences of these economic reforms necessary for dismantling the system of central planning.
>
> (1990, 15)

The practical problem is that the violent tendency of some political and social movements threatened the transformation from a neo-authoritarian

state to democracy. Here I would like to emphasize that the Gramscian model of civil society favours and supports the violence strategy for democratization. Violence arising from civil society is a danger to democracy. The case of the 1989 Democratic Movement demonstrates that the Chinese students and populace were civilian and peaceful. But there was also a call for violent revolution from the Beijing Workers Autonomous Federation. Whether Chinese civil society moves towards non-violence or violence is uncertain and contingent in the future.

As the discourse of civil society emerged, so did a space for public sphere activities in 1989. Tiananmen Square in 1989 can be seen as an arena of the public sphere where political issues could be expressed, discussed and criticized, and public opinion turned into a political force (Calhoun, 1989; Li Oufan, 1989). People in the Square removed politics from the exclusive domain of the party into the realm of the public. Newspapers and television stations were also important arenas of the public sphere. Although genuine freedom of the press lasted only three days, while journalists were able to tell the truth, their power of mobilization of the populace was so great that they raised popular awareness of the student demonstration and strengthened the resistance against martial law.

This brings about a problem of mobilization. If a civil society does not mobilize, it cannot play a major role in the process of democratization. On the other hand, there is always a high level of mobilization in Chinese politics. A highly mobilized civil society may produce popular, radical and romantic politics rather than democratic politics. Romantic and polarized politics may also intensify the political struggle and make political concessions and negotiations more difficult. In the case of the 1989 Democratic Movement, the failure of the autonomous student organizations to make concessions heightened both the propensity and the legitimacy of militarybureaucratic intervention, to the point where these élites came to see it not only as their right but as their duty to guard and guide the political process from chaos. Now Chinese democrats have learnt the lesson that political negotiation is necessary for the transition to democratic politics. If the Cultural Revolution created tolerance, the events of 4 June may create consensus for negotiation.

9.5 CONCLUSION

The building of civil institutions beyond the vigilant eye of the party and the secret police is well under way, albeit still in its infancy. A semi-civil society has developed into a real basis for political pluralism, and has contributed to political changes during and after the Democratic Movement of 1989. However, the major problem is that the supremacy of the state over civil society has been a source of difficulty for democracy. On the whole, nascent, weak, ineffective, emergent civil society constitutes a very weak check on the abuse of state power. It is still unable to resist military-bureaucratic

cooperation and repression. At the moment, Chinese society is not able to combine all social forces to make itself a powerful counter-balance against the state. Only when social associations and organizations at the grass-roots level penetrate the whole Chinese nation, can a civil society be a powerful check on the power of the state. Up to now, civil society has not added up to enough to enforce the transition to democratic politics. Nevertheless, it will develop in the next decade and become a major factor influencing the direction of Chinese politics.

The positive influence of an emergent civil society on Chinese democratization can be summarized in the following ways: structural demands for democratization, civil society as a political goal and as social actors supporting and pushing the 1989 Democratic Movement, institutional constraints on the will of the leadership, and a safeguard for democrats. However, the roles of Chinese semi-civil society in Chinese democratization are twofold: it is a force for democracy and a safe refuge for democrats; while it can also be a conservative force which demands stability rather than transition to democracy. In short, the roles of civil society in Chinese democracy are ambiguous and contingent. Consequently, the actual political roles of the Stone Group, SERI or similar bodies in the process of Chinese democratization, remain vague in the future. Whether or not they will support neo-authoritarianism is an open question.

10 Legitimization and democratization in a transitional China

The crises of regime legitimacy[1] in Eastern Europe have led to a great transformation in their political systems and to a democratic direction.[2] Given the serious crisis of regime legitimacy in China, can the CCP maintain its rule? Will reformers within the party introduce some form of democracy to gain legitimacy for their leadership? Will China develop a democratic mode of legitimization as suggested by political use of elections, people's congress system, economic civil society, human rights and procedures as sources of legitimization in Deng's era?

Harry Harding (1987, 184) sees China's political reforms since 1978 as the transformation of the regime's procedural legitimacy from charismatic to rational-legal authority. The regime's substantial legitimacy is, in turn, increasingly being based on the concepts of modernization and nationalism rather than on Maoist ideology. Lucian Pye (1985, 1988) has studied in detail the development of Chinese concepts of legitimacy and the changes they have gone through.[3] Other scholars such as Frederick Teiwes (1984), David Goodman (1987, 1988), Brantly Womack (1984, 1990), Ding Xueliang (1994), Edward Friedman (1991, 162–3) and Bill Brugger (1989) have also studied the Chinese Communist Party's search for legitimacy in China from 1978 to the mid-1980s. All the above works are creative and useful in providing a basis for exploring the legitimacy issue in the 1990s. However, their relevance is confined to a certain period; thus much work still needs to be done on tracing new developments in legitimacy since 1989.

This chapter investigates the search for new foundations of legitimacy by Deng's leadership and examines changes in legitimizing techniques in relation to the move towards democratization in China since 1989. The central objective is to demonstrate how the limits and the problems associated with the party's self-legitimization lead a search for new forms of legitimization, and how new forms of legitimization, in turn, indicate a democratic direction, or lay a foundation for a move towards democracy in China. This chapter largely focuses on élite legitimacy: whether the contemporary conditions and circumstances in China will force, trick, lure, or cajole the non-democrats of élites into democratic behaviour in the process of their search for legitimacy.

Legitimacy in this chapter refers to the foundation of governmental power as it is exercised both with a consciousness on the government's part that it has a right to govern and with some recognition by the governed of that right. Legitimation refers to the process, mechanisms and techniques which secure the validity of the authority of governmental power (Sternberger, 1968, 244). Regime (or system) legitimacy is distinguished from ruler legitimacy; the former is concerned with the foundation of the political system, while the latter is concerned with the right of rulers to rule (see Huntington, 1991; Teiwes, 1984, 44).[4] Also, old modes of legitimization such as appealing to material gains, ideology, or neo-traditionalism (Walder, 1986) are distinguished from new forms of legitimization such as appealing to elections, the people's congress system, economic civil society, human rights and procedures. Moreover, the self-legitimacy of the party is distinguished from societal legitimacy; in the former situation, the source of legitimacy is from above, top and the centre, while in the latter, the source is from below and society. Relative to the self-legitimacy and societal legitimacy is an important distinction between 'élite legitimacy' with respect to the relations between the rulers and the 'administrative staff, and 'mass legitimacy' with respect to the relations between rulers and the population at large (Pakulski, 1986, 36; Rigby and Fehér, 1982, 16).

This chapter is in seven sections. Section 10.1 examines the crises of the official orthodox Marxism and Maoism and of the legitimacy of the system. This serves as a basis for the discussions which follow. Section 10.2 briefly examines Deng's various modes of legitimization. Section 10.3 discusses new trends of legal-rational legitimization and problems associated with that legitimization. Section 10.4 examines Deng's political use of the economic aspect of civil society as a new art of ruling and a new legitimizing source. Section 10.5 investigates the party's effort to seek a new ideology and a new model of legitimization by studying the case of the official discourse of human rights. Section 10.6 links the legitimacy question to succession politics and focuses on the relation between legitimacy and procedural rules, as well as institutional arrangements for succession. It further discusses a possible step by which reformer factions within the party would legally recognize political opposition movements in order to gain a form of legitimacy in post-Deng China. Section 10.7 is the Conclusion.

10.1 THE CRISES OF THE OFFICIAL IDEOLOGY AND LEGITIMACY

Communist ideological commitments can be summarized as follows:

1 The economic strategy of development is socialism, requiring nationalization and collectivization of the economy.
2 The political vehicle of development is 'proletarian dictatorship', requiring a virtual monopolization of state power by the ruling Communist party.

3 The ultimate objective of development is a classless Communist society, requiring the creation of a new 'socialist man' through continued class struggle and repeated efforts to establish a uniform collectivist consciousness in place of competing individual or group interests.

4 The world context of development is seen as an unremitting struggle between capitalist and socialist systems, requiring constant preparation for, and participation in, opposition to capitalism (Schurmann, 1988; Townsend, 1974).

These ideological commitments were successful in legitimizing Mao's authority, and were dominant and widespread during the Cultural Revolution. But the degree to which people believed in those ideological commitments is still open to debate.

Through the official ideology, Mao Zedong and his colleagues seemed to have hit upon a belief system that struck a positive chord in the psyche of the Chinese people and were thereby able to inspire them to extraordinary sacrifices. Two aspects of Mao's essential message sprang from a common psychological source. On one level he spoke to a belief in the inherent goodness and greatness of the Chinese people; on another level he justified hatred and depicted enemies against whom uninhibited aggression could be channelled (Pye, 1985, 323).

However, theoretically, Maoism as the means for ideological legitimization of society has limitations: as a ritualized dogmatic quasi-religion, Maoism is too impoverished; and, as a rational ideology, it is constantly endangered by the reality to which it is increasingly irrelevant. Further, the official ideology may serve as a source of both justification and critique of the system or regime. For example, the concept of 'people as master' has been and will still be used to justify the CCP, but it also can be used to support and justify demands for Western democracy.

In reality, the first crisis in Mao's authority was caused by an economic crisis, the failure of the Great Leap Forward, which was so severe as to shake the faith of the peasantry in the party and in Mao himself. Even more disillusioning were the consequences of the Cultural Revolution which led the masses, intellectuals, ordinary party members and bureaucrats to doubt the official ideology and the final goal, and to become more pragmatic and individualistic. Post-Mao China has been marked by open disbelief in the superiority of socialism, widespread contempt for those wishing to join the party, a view of officials as a self-seeking exploitive class, and pervasive political indifference. One survey demonstrates that 61.88 per cent of the respondents agreed that the party's image is bad; 56.8 per cent did not want to join the party; and 72.25 per cent believed that serious defects in the Chinese political system were the principal reason for the underdevelopment of China (Min Qi, 1989, 81, 98–9).

Since 1978, in order to ensure the legitimacy of the CCP, particularly of Deng's leadership, and to permit himself greater latitude for pragmatic

experimentation, Deng has conducted serious theoretical debates about the criterion of truth,[5] which have led to a movement towards intellectual emancipation and consequently undermined Maoist ideology. Official Marxism and Maoism have also been eroded and challenged by Chinese intellectuals. In the early challenge, roughly between 1977 and 1982, social values embodied in the ideological commitments, such as the people being masters of their country, truth, and respect for human dignity, gradually ceased to serve as the official legitimizers in goal-rational legitimization. But these values were also used by dissidents to question and criticize the legitimacy of the system and the regime. For example, Li Yizhe's group and liberals such as Wei Jingsheng and Hu Ping used Marxist terms and theoretical framework in their political discussion (Chapters 1 and 3). Between 1984 and 1989, some Chinese intellectuals attempted to move beyond Marxism and introduced liberal-democratic ideas, advocating privatization of the economy, a limitation on central power by means of a programme of decentralization, the abandonment of the traditional personality and the creation of a type of modern, open and aggressive man, and finally the merging of the West and the East. This movement demonstrates the communist failure to inculcate Marxism into a popular *Weltanschauung,* and yet this failure, if anything, seems to have increased the Chinese Communists' reliance on Marxist ideological doctrine, as has also been the case with Eastern European Communists (Pakulski, 1987, 139).

When old tenets have lost all credibility, a revamping of the prevailing ideology is urgent. In China, in order to resolve the ideological crisis, the humanist Marxists, such as Wang Ruoshui (1985), Gao Ertai and Xie Dezhen reinterpreted, between 1982 and 1984, the Marxist concept of alienation, and, in their search for renewal, turned to the young Marx and the philosophy of human emancipation to undermine the prevailing orthodoxy. Nevertheless, they have still retained many of the old socialist dogmas and refused to make a total break with the Communist system. At the same time, the conservative Chinese leaders repressed the Humanist School from 1982 to 1984. As a result, the goal of reconstruction of Marxism eventually failed and the humanist Marxists were criticized by both orthodox Marxists, like Deng Liqun, and rejected by the young radical intellectuals. The result was the loss of the Chinese leaders' first chance to save or reconstruct Marxism, and the emergence of a dissident counterculture rejecting the system entirely,[6] which led to a deepening of the crisis in orthodox ideology.

An alternative strategy to resolve the ideological crisis was to carry out ideological reform. In 1987 several young scholars in the Institute for Political Reform organized a number of papers which discussed ideological reforms in East Europe, the Chinese traditional ideological control system, and, more importantly, the possibility of establishing a flexible arrangement for ideological control. A separation of ideology and administrative politics was also proposed as one of the necessary elements of political reform (Baogang He, 1988). In 1989 some Chinese intellectuals insisted that

ideological reform should be carried out thoroughly, and that private newspapers should be allowed to exist.[7] Further, some intellectuals argued that China needed a transformation from 'religious ideology' (based on faith, power and myth) towards 'academic ideology' (based on reason and reality) and a structure of open and alternative ideologies (Xie Xianjun, 1989).

However, again, this second chance to carry out ideological reforms was lost, as the regime cracked down on the student demonstrations with tanks in 1989 (see also Pan Mingxiao (Michel Bonnin), 1990). The ferocity with which Deng's regime dealt with the student demonstrations showed that the political authority was manifestly incapable of coping with the problems and demands of modernization. Legitimacy always needs competence; nothing so shatters the mystique of authority as helplessness (Pye, 1968, 6).

Since the events of 4 June 1989, the CCP has made an effort to strengthen ideological control over universities, press, and the mass media. A number of conferences were held between 1989 and 1990 to carry out ideological control. Many articles appearing in *Guangming Daily* stressed that more attention should be paid to ideological work, and ideological work should be strengthened (4 August 1989); powerful and professional political thought education teams should be established in universities (21 July 1989); and the major focus for political thought education should be the Four Principles (23 July 1989). Also, a number of articles emphasized ideological themes: the privatization of the economy as counter-revolutionary (28 July 1989); class struggle as it exists in the primary stage of socialism (22 July 1989, by Zhao Guangwu and 24 July 1989, by He Xianping); the clear distinction which needed to be made between capitalism and socialism, and the need for China to stick to the socialist road (7 August 1989). These developments have led Dittmer (1989, 15) to conclude that the CCP after 1989 has translated very serious and complex problems into the moral and ideological terms with which its members are more familiar.

On the other hand, since the events of 4 June 1989, the party has still proclaimed reformism and the principle of human rights (discussed in Section 10.3). This is a kind of new ideology created and insisted on by Deng to rebuild Chinese Communist legitimacy and to avoid the coming revolution in China.[8] It seems that there will be a third chance for the party to undertake an ideological renewal, which is already under way, and that this will be continued in the near future, particularly in post-Deng politics.

10.2 REGAINING REGIME LEGITIMACY

Deng's regime has faced many more crises of legitimacy than Mao's did. First, Mao's regime based its claim to legitimacy upon its ideological message and the then unchallenged Maoism. This may be called a goalrational legitimization—the validity of orders issued by the rulers is derived from the validity of the principal social goals that the authorities claim to represent and promote (Rigby and Fehér, 1982). But Maoism has

been eroded since the ending of the Cultural Revolution. Yet the greatest difficulty for Deng to regain regime legitimacy is that he has had to cope with the problem of continuing party rule while criticizing Mao and abandoning his policies since 1978. Second, Mao's regime promised a secure existence, based upon job security, the 'iron rice bowl', and most of the necessities of life at below-cost prices (Pye, 1985, 197; Townsend, 1967, 195). On the other hand, Deng's reform policies, which attempt to break with the 'iron rice bowl', have created new problems, such as inflation and unstable security. Third, while Mao's legitimacy had charismatic roots, and Mao himself retained a significant degree of charismatic authority, Deng's regime lacks such charismatic legitimacy.

Deng's leadership has been employing various measures to counter the deficiencies of regime legitimacy. First, maintenance of political stability was and is used as a tool by the party for its claim to the legitimacy of its rule. The rationale is that 'those who restore social order have an absolute right to rule'; this rationale is often seen in the current mass media in China. Post-Communist crisis and social chaos in Eastern Europe have also been used by the current Chinese regime to support and strengthen its claims to legitimacy. This may work at a social psychological level; that is, the popular fear of social disorder can concentrate the collective mind and make legitimate authority appear preferable even when that authority is considerably less than ideal (Pye, 1985, 33).

Second, Deng and other Chinese leaders have used ideology as a way of legitimizing the moral claims associated with leadership and protecting the discussion of politics from the very threatening possibility that explicit talk could lead to the chaos associated with factional strife (ibid., 204). This is shown by the fact that the CCP has held to the Four Principles. Yet official ideology aims less to persuade people to believe in the value of Communism than to control people's political behaviour. Since the 4 June incident in 1989, the CCP has made an effort to strengthen ideological control over universities, the press, and the mass media. To maintain ideological control is a lesson that Deng has learnt from the USSR when Gorbachev's decision of giving up the official ideology was a great 'mistake' because it weakened the party's control mechanism.

On the other hand, the party has undertaken an ideological renewal in proclaiming reformism since 1978 and the principle of human rights since 1991. But reformism provides limited political justification because the reformers' wisdom seems heresy in the Leninist tradition. Therefore the reformers cannot readily legitimize their policies (Friedman, 1985, 44). Moreover, economic reforms have undermined the dominant role of the party albeit state administrative institutions retain much of their power (see also Bukowski 1986; G.White 1993a, 234).

Third, Deng has seemed to favour a pragmatic model of legitimization which rejects the idea that legitimacy must involve references to substantive values. In ignoring the content of ideology in practice, he has advanced the

interest of the party without amending the substance of ideology (Pye, 1985, 206). In Deng's eyes, legitimacy depends on the state's ability to maintain peace, order and stability, and to provide basic security, material needs and welfare for the ruled who obey the orders in return. In other words, legitimacy depends on the performance and efficiency of the government. Here, there has been a fundamental shift of legitimization in Chinese politics from being primarily based on ideology to being based primarily on the performance and legal-rationalism which will be discussed later. China has undertaken a shift from a Leninist to developmental state (Harding, 1987; G.White, 1993a). The nature of the Chinese developmental state is based on its ability to promote and sustain development as being the principle of legitimacy.

Thus, Deng's regime has issued claims to legitimacy, such as reference to the current economic achievements, the desirability of certain policies such as the open door policy, welfare measures, consumerism, and the rising standard of living. Here, the current economic crisis in Russia has often been contrasted with the successful economic achievements under Deng's leadership. Economic efficiency and the satisfaction of material needs may help to increase, or provide a small basis of, the legitimacy of the state. Nevertheless, performance legitimization is unstable, for if economic performance gets worse, the degree to which legitimacy is gained will decrease. Thus, there is a need to look for an alternative, a democratic form of legitimacy (McCormick, 1994).

Fourth, Deng's regime has also kept order through fear, expediency, fatalism (lack of alternative) and sheer discipline. This included the employment of the army and police to crack down on the students' demonstration in 1989. Here, Deng Xiaoping's conception of legitimacy— the credibility of the threat to use violence—is very traditional, according to which the crackdown of the demonstration in 1989 should have bolstered legitimacy (Dittmer, 1989, 15).

However, the role of coercion is very limited in achieving effective legitimacy. It may produce unintended consequences: decreasing legitimacy rather than increasing it, obtaining a very limited superficial compliance rather than winning free support from the masses. It further runs counter to the establishment of popular legitimacy and undermines any claim to popular support. Moreover, the legitimate state has lower transaction costs in managing society than the coercive state; the former can more easily obtain a loosely specified contract with society, and win the support from society (Gallarotti, 1989, 51–3).

The above various legitimizing techniques do not make a cohesive basis for legitimization. Deng's pragmatism contradicts Deng's emphasis on sticking to the Four Principles, because ideological legitimization implies the source of the legitimacy coming from the top and the ideologists, while Deng's pragmatism, which entails a performance legitimization, is based on material gains and is therefore open to popular scrutiny. Further, because

ideology and pragmatism imply two contradictory principles—the former accepting the role of the centre and the latter allowing for a spontaneous market mechanism, the system is in a state of permanent legitimization crisis. Thus the Chinese developmental state has been caught within a set of contradictory imperatives: if it responds to ideological requirements, it undermines the rationality of the market economy; and if it responds to economic rationalism, it undermines the ideological legitimization. Of course, Chinese leaders are less interested in a 'coherent' theory of legitimization than in using both ideology and pragmatism to regain legitimacy. What they have done in reality is to swing between the two. This is why Deng and other Chinese leaders vacillate between ideology and pragmatism.

All the above measures can be seen as belonging to the old political techniques of legitimization. They seem to entail few democratic elements. We thus need to examine the new modes of legitimization: whether they entail democratic elements, imply political innovation and overcome the tension of legitimizing techniques discussed above. The following is a discussion of legal-rational legitimization, societal legitimization, and the rights legitimization in turn.

10.3 LEGAL-RATIONAL LEGITIMIZATION: ELECTIONS AND THE NPC

There is a tendency towards legal-rational legitimization. When a goalrational legitimization decreases, the leaders are increasingly interested in emphasizing the legal-rational mode of legitimization (L.Holmes, 1993). The legal-rational legitimization is increasingly becoming the dominant mode of legitimization in Deng's China; while the official ideology is increasingly losing its primary centrality.[9] As Shambaugh argues, Deng Xiaoping ruled very differently from Mao Zedong. Deng did not largely rely on coercion, charisma or ideology, but preferred to rule through formal party institutions and Leninist norms (Shambaugh, 1993, 410).

Deng's China has been undergoing legal and institutional reconstruction since 1978. During Deng Xiaoping's leadership, law has advanced beyond the instrumental functions of Marxist political rule. Law has increasingly been seen as a channel for economic modernization and as the legitimate means of resolving conflicts and regulating social order (Lo, 1989, 413).

The Chinese leaders have made vigorous efforts to revitalize and strengthen China's legal system since 1978 (Baum, 1986; Yu Youzhi, 1986). They have regularized the NPC meetings, separated party and state, implemented electoral procedures, and recognized the legitimacy of conflicting interests in society. Also, rules and constitutions have been taken seriously by the élite as an indication of how the legal system should operate. There has been an observable trend in the legal-rational mode of legitimization from arbitrariness towards regularization and 'norms' in China.

Further, law is now seen generally as a legitimate channel by which to redress grievance (Lo, 1989). The Chinese government recognizes that rallies and demonstrations can be effective alternatives in resisting bureaucracy and corruption, in helping the government to reduce mistakes in decision-making and in maintaining a healthy work-style. They may function as 'safety valves' of society, letting out resentment and preventing negative moods from accumulating and exploding (Findlay and Chiu, 1991, 71). The new public demonstration law in China has produced a subtle shift in discourse and emphasis. The 'maintenance of order and social stability' is replaced by the protection of citizens 'in exercising their rights' as the principal purpose of the law in revised Article 1. In Article 2, reference to opposition against the 'Chinese Communist Party and the socialist system' (referred to in the draft) has been removed (ibid., 1991, 74). Of course, the above new ideas have not been put into practice yet.

The most important components of legal-rational legitimization are the National People's Congress (NPC) and elections. The NPC has been a new mode of institutionalized legitimacy since 1978. Before 1966, however, the NPC did not legitimize party rule or legalize party policy. The use of the NPC from 1978 was designed to create institutionalized legislative legitimacy. To deflect challenges and provide alternatives to autonomous, unsponsored participation, Deng and his associates were seeking to build up the NPC as a non-party organization composed of socially prestigious individuals who expressed support for party policy and worked for its implementation. By allowing social and economic élites to meet high cadres and to express their opinions, the party was seeking to show it could incorporate a range of interests, to broaden the united front to include all loyal citizens, and to secure institutionalized legitimacy (O'Brien 1990, 172–6).

Limited competitive elections have also been employed by Deng's leadership to regain system legitimacy (cf. Stephen White, 1985). The rationale is something like this: the current system is legitimate and justifiable because its leaders are elected. Deng Xiaoping was shown casting his vote in the Xicheng district of Beijing to elect deputies to a local people's congress in 1990 and 1993. His appearance served the purpose of emphasizing the importance of the elections though he knew that the so-called democratic process was a joke. At the level of local politics, elections have legitimized local leaders. When local village cadres were elected, they felt a legitimate right to rule and they found their work easily being done with little resistance from peasants.[10]

Elections and rules associated with them have practical political implications. An individual's standing as a member of the pool of potential national leaders should be confirmed by election to the party's Central Committee. Those who fail to win the majority vote will lose their positions (Harding, 1987, 231). This requirement became an institutional weapon for reformers to combat their 'enemies'. A 'democratic' selection process was

thus instituted whereby officials with conservative ideas could not go up, and they were voted down even if they managed to climb to the top echelons. For example, hardline leftists who controlled the media, literature and the arts after the Beijing massacre in June 1989 failed as candidates to the crucial 14th Party Congress in 1992. Chief among them was Deng Liqun, an arch-conservative who became so powerful after the 1989 killings of pro-democracy demonstrators in Beijing that he was dubbed the party's 'underground General-Secretary'. Deng was then a member of the Central Advisory Commission, and guided propaganda work from behind the scenes. Three of his followers also failed to win endorsement in internal party elections in July 1992, including Gao Di, director of the party's mouthpiece, *The People's Daily,* Wang Renzhi, head of the party's Propaganda Department, and his deputy, Xu Weicheng. As Gao and Wang were both members of the party's Central Committee, under the party constitution they should therefore lose their places on the Central Committee (Reuters, 12 July 1992).

People and party members have also expressed their voices by using the precious ballots in their hands through limited 'multiple-candidate' elections. Chinese people are fed up with the old system of court politics—of power passing from father to son because it is a feudal tradition. Thus, leading members of China's so-called 'gang of princelings', the sons of high-level cadres born to power and privilege were losers in elections to the 14th Party Congress. Among them were Chen Yuan, Vice President of the Bank of China. He is the son of Chen Yun, the father of the economic state-planning system (Reuters, 12 July 1992).

Elections have gained momentum with their own logic of development. They have provided institutional opportunities for people to further their interests. The extension of limited competitive elections to non-competitive areas is one logic of electoral development.[11] When elections were introduced in 1980, 'multiple-candidate' elections were held only for local leaders and local deputies; whereas the 'same-candidate' elections process was the norm for provincial leaders and top state and government positions (Jacobs, 1991). A decade later, 'multi-candidates' elections were demanded to extend first to provincial leaders, then to central leaders. In 1993, 'multiple-candidate' elections were held for provincial leaders during ballots in regional 'parliaments' in a few provinces, including Zhejiang and Guizhou where officially designated candidates for governors were voted down. Inspired by the development of provincial elections, deputies to the National People's Congress (NPC) and Chinese People's Political Consultative Conference (CPPCC) demanded a more democratic way in the selection of senior cadres in 1993. For example, a group of Hong Kong delegates to the NPC demanded that multiple-candidate elections be held in choosing NPC vice-chairmen. Also, the Governor of Sichuan, Xiao Yang, privately indicated he hoped 'direct elections' of some kind could be instituted for the election of senior officials. But the NPC presidium had decided to stick to the original

approach ('multiple-candidate' elections) for electing its chairman, vice-chairmen, secretary-general and the bulk of the standing committee. However, as a small gesture of democracy there would be a minimal degree of 'competition' for selecting the 134 members of the NPC Standing Committee. A total of 141 candidates would be nominated (*South China Morning Post,* 20 March 1993). In 1995, NPC Vice-Chairman Tian Jiyun also openly advocated 'multi-candidate' elections in parliament to fill cabinet slots (*Far Eastern Economic Review,* 30 March 1995, 14).

Interestingly, if provincial leaders win the majority vote in provincial 'parliament' through multiple-candidate elections, this would bolster legitimacy for provincial leaders who will have a sense of 'mandate' to rule their provinces and to challenge intervention from the centre. Some deputies of provincial People's Congresses have already used electoral means to challenge the authority of the central government. For example, in early 1993, a group of independent-minded deputies to the Guangdong People's Congress jointly nominated their own man to compete with seven candidates handpicked by the central authority (*South China Morning Post,* 8 February 1993).

After learning that officially designated candidates for governors were voted down in Zhejiang and Guizhou, the central leaders feared that they would lose control of provincial leaders if they were elected competitively, and thus made the decision that multiple-candidate elections for provincial leaders should be stopped. Central government leaders also replaced the governor of Heilongjiang Province for neglecting reform of state-owned businesses in 1994. In 1995, five governors and Communist Party secretaries from Hubei, Anhui and other provinces were forced to retire. However, central leaders face a challenge from Guangdong, one of the country's richest provinces. Dissatisfied with Guangdong's lack of cooperation with central economic policy, Beijing was poised to oust Governor Zhu Senlin from power in early 1995. But its efforts to bring the southern province into line were being resisted by a growing chorus of voices in Guangdong calling for the re-election of Governor Zhu in February in 1995 (*Nikkei Weekly,* 30 January 1995). It will be interesting to see whether future provincial elections will weaken the central authority just as the elections in republic states did in the USSR.

The rise of coastal regions' power, legitimate status of individual and local interests, and the emergence of the political bargaining between centre and localities, suggest that legitimacy cannot come from the centre, and that the establishing political legitimacy should be based on the interplay of political forces among competing interests. These also suggest a fundamental change in the basis of legitimacy of the Chinese system. Both traditional and Maoist China depended upon the idea of a moral order as the basis of legitimacy—rulers or cadres are more virtuous than anyone else and therefore deserve to rule. Now with modernization and development, competing interests have emerged and China has moved towards becoming more pluralistic. The result

is that legitimacy is shifting from being based on a moral order[12] to being based on the political process of the interplay of political forces among competing interests just as Europe and America and other modernizing countries did a long time ago.[13] The process is now under way. A good example is revenue sharing. Vice-Premier Zhu Rongji had to go from province to province to raise the centre's share in overall 1994 revenues to 60 per cent. As a result, Zhu lost 2.5 kilos (*Far Eastern Economic Review,* 30 March 1995, 15).

Moreover, the NPC has now become a formal institutional forum where the interplay of political forces among competing interests takes place. Deputies engage in debates over policies and express their local and provincial interests in regular sessions of the NPC and of local parliaments. For example, the 1995 session of the NPC witnessed provincial assertiveness. Also, the reason why Ge Hongsheng, originally from Ningbo, was voted down as governor in 1993 was that most deputies of Zhejiang parliament disliked his biased project of Ningbo development. Thus deputies used their votes to defend their local interests and chose Wan Xueyuan who was less committed to the priority of the development of Ningbo.[14] Importantly, the above changes reflect, to some degree, the change in the balance of power between the state and civil society in favour of the latter.

10.4 CIVIL SOCIETY, THE ART OF RULING AND SOCIETAL LEGITIMIZATION

If Eastern Europe has undertaken a major political-cultural change characteristic of the transition from the party's self-legitimization to civil society (Palma, 1991), such a transition has gone half-way in China. There are signs that Deng's regime has already used the state-civil society schema as a new legitimizing source and the basis of a new art of ruling, although the party has limited the scope of civil society to the economic area and has not used the term 'civil society' as yet.

The Maoist state was active in shaping the institutional social structures while Chinese society was peculiarly passive towards its government. The Maoist state further destroyed civil society. As a result, the source of civil society for system legitimization no longer existed. This led to the party's self-legitimization, appealing to ideology and monopolizing truth. This self-legitimization implies and reinforces the Chinese traditional idea that all power should emanate from above, from the centre, from a single supreme power (Pye, 1985, 183).

The party's self-legitimization *without* civil society was, however, one source of legitimacy crisis, because it is insufficient for the party to claim its own legitimacy. A political system can never create the foundation for itself; it has to receive it from society. Thus the fundamental remedy for fixing system legitimacy first lies in the acknowledgement of the separation of the state from civil society. This is a precondition for regime legitimacy; without

this separation, civil society can hardly be a source of legitimacy. Also, readjustment of the relationship between the state and society is needed to provide a source for system legitimacy. These two things have been occurring in Deng's reform.

The tragedies of the Cultural Revolution led to a lesson from which Deng Xiaoping learnt that it is ineffective to run the country through the penetration of the power of state into all aspects of social life. As Deng said:

> It is not good to have an over-concentration of power. It hinders the practice of socialist democracy and of the Party's democratic centralism, impedes the progress of socialist construction and prevents us from taking full advantage of collective wisdom. Over-concentration of power is liable to give rise to arbitrary rule by individuals at the expense of collective leadership, and it is an important cause of bureaucracy under the present circumstances.
>
> (Deng, 1983, 303)

Thus although Deng has been afraid of loosening controls, total control is no longer his dream. Deng has consciously rejected totalitarian temptations as unrealistic, as feeding the spirit of resistance, and as creating dangerous illusions. Instead, for Deng, to withdraw the power of the state and to allow social space is not only easier but a much better way to rule China. There are at least four rationales for that.

First, if individuals and local units are granted some degree of autonomy, they have incentives to produce, thus this can promote productivity. As Deng claims, the various localities, enterprises and production teams should be given greater powers of decision regarding both operation and management so as to encourage initiative and creativity (ibid., 157). This is a way to increase performance legitimacy.

Second, totalitarianism has entailed for the rulers the dreadful consequence of being responsible for absolutely everything. In other words, under Mao's totalitarian control, any mistakes were due to the Party, because the Party controlled everything. But, if one allows a certain degree of autonomy, individuals and local units are at least partly responsible for whatever they do. This is a way to get around the legitimacy problem. Thus Deng argues for the extension of the authority of managerial personnel. Whoever is given responsibility should be given authority as well (ibid., 163). On the other hand, the tensions among private enterprises and some aspects of the deficiencies of markets call for and justify the state's intervention (Zheng Bingwen, 1994).

Third, relatively autonomous social organizations can, as G.White argues, be seen as a new form of intermediary linkage between state and society whereby the state may attempt indirectly to control society to a varying degree. As Xue Muqiao has argued, intermediate organizations could become part of a new system of 'Indirect' economic regulation. Such

organizations, in Xue's view, are valuable because they help to prevent the potential anarchy of the market and serve as a bridge between the state and the enterprises (G.White, 1993a and b). In this respect, relatively autonomous organizations constitute an indirect control mechanism from the point of view of the state.

Fourth, a public space where people can engage in free discussion can also provide a kind of legitimacy. Policies can be easily legitimized if their initiative and implementation are through the public sphere. This is why intellectuals in general and social scientists in particular have been granted greater autonomy than ever before in Deng's reform period. Social research and public polls have increasingly been used to support Deng's reform policies. No doubt, the public sphere and public opinion have also been manipulated and controlled by the party (Rosen, 1991).

These above four reasons have led Deng's China to economic reform which has resulted in a weak civil society, and to the allowance by the party of a limited social space for relatively independent organization and expression in civil society in the economic area. For Deng, this is a wise form of exercise of political power. The political use of a limited degree of social autonomy or 'civil society' plays a central role in determining a new way of how to govern: that is, of finding the appropriate techniques for the party's rule. Deng's use of the strategy of social space is a key to understanding why civil society in the economic area was and is still allowed to exist and develop and why the party has shifted from total control of society to a loosening of that control, and from suppression of civil society to protection of it in the legal system.

However, in the past decades, autonomous activities in the political area have partially depended on the tolerance of former reformers such as Hu Yaobang and Zhao Ziyang. Although political rights are, in a limited form, granted and protected by the 1982 Constitution, the current existing legal system makes no provision for legitimizing open opposition movements.

This restriction on the political aspect of civil society can be partially explained by Deng's conception of legitimacy. As Pye argues, Chinese leaders believe that diversity and a pluralistic power structure lead to social disorder and do not foster more creativity or ensure faster modernization (Pye, 1985, 189). Any surfacing of autonomous power groupings has been taken as a sign of dangerous centrifugal forces (ibid., 189). Thus the Chinese leaders' conception of legitimacy is favourable to a neo-authoritarian system, and unfavourable to a competitive political structure.

This restriction can be further explained by practical considerations in Deng's political thinking. For Deng, to legitimize political opposition means social disorder or to commit political suicide; this is a lesson that Deng has learnt from the experience of the Cultural Revolution and from the events of Eastern Europe in 1989.

Yet having denied the legitimacy of political civil society, the Party has faced serious problems. A total suppression of and confrontation with

opposition are a high cost. Further it is difficult to maintain an uneasy coexistence of neo-authoritarian system with a varying degree of autonomy of economic civil society, because this increasingly produces tensions and contradictions. Also thanks to the influence of the Western values, the widespread communication system and the development of education, Chinese people and intellectuals seem to have developed their critical abilities to interrogate the criteria of legitimacy. In a move towards a rationally formed society it is not only possible but also necessary for the public sphere to elaborate valid criteria of legitimacy and for the state authority to act in ways which correspond to those standards. The party's self-legitimacy cannot work now. Legitimacy of government has to depend on reason and sound justifications.

An alternative to the party's self-legitimacy is to further open political channels and to allow opposition to exist. In other words, a realistic option is a constructive dialogue with opposition groups, self-restriction of monopolistic power and co-optation of opposition groups into the structures of power. Moreover, this option relies on a cognition by élites of societal legitimization.

Eastern European writers and scholars have discussed societal legitimization, a particular property of the system which is 'handed over' to those in power by society and never vice versa (see Bendix, 1990; Palma, 1991; Rumiantsev, 1991). Chinese writers have developed similar ideas. For example, Rong Jian (1987) argues that it is the distance between the state and society that brings back the issue of popular sovereignty. It is civil society that constitutes the source for the legitimacy of the government.

How does civil society legitimize the system? First, the party's intolerant attitude towards political opposition or political civil society demonstrates its absence of courage and of legitimacy. On the other hand, the tolerant attitude itself implies that the party is confident of its security and of its legitimacy. Second, elections are a key procedure to renew ruler legitimacy. But without free political civil society, elections can hardly be seen as genuine, and therefore cannot fully legitimize the regime. Only through free elections plus competitively political civil society can the regime be legitimized. Third, the transition from the great confrontation to a 'social contract' between political civil society and the state means a change from the harsh social control by a neo-authoritarian regime to a system of agreements. This system of agreements provides a strong basis for system legitimacy in the sense that the authority of the state does not come from force or violence, but from the consent of those who have submitted to it by a 'contract'. Further, if the state gains legitimacy and has support from civil society, social upheavals, economic depressions, and political crises will all be less threatening (see Gallarotti, 1989, 49).

The key issue now is whether the next generation of leadership will accept the legitimacy of opposition and the above rationales of societal legitimization (this will be discussed in the section on succession).

10.5 THE HUMAN RIGHTS LEGITIMIZATION

The core question of political civil society is that of the right to establish voluntary associations. Western governments and non-governmental organizations have been protesting at the Chinese government's restriction of independent organizations and suppression of dissidents. Since the Beijing Massacre, Deng's leadership has lost legitimacy in the eyes of the international community. In order to gain economically from the West and to improve the image of the CCP in international communities, the Chinese government issued the *White Paper on Human Rights*.[15] This official discourse on human rights has now become a new legitimizing tool both in international and domestic politics.

There are three new elements associated with the official Chinese position in the *White Paper* on human rights: the acknowledgement of the protection of human rights as a major goal of the government, the acknowledgement of the Universal Declaration of Human Rights as an international or universal enterprise, and the silence on Marxist class and economic analyses of human rights. More importantly, the Chinese government has made a number of concessions on the issue of human rights since 1989. The human rights issue in China is now open to discussion and to investigation by foreign countries; for example, Australian, Swedish and French human rights delegations have been invited in by China. Also, Fang Lizhi and wives of dissidents such as Su Xiaokang and Yuan Zhiming have been allowed to go overseas.

These above facts indicate a fundamental change in governmental rule in the sense that the Chinese government is now learning how to play the card of human rights. They also indicate a change in new adjustment to legitimizing techniques and in the conception of legitimacy: a move from the Utopian goal of Communist society to the rhetorical goal of protection and improvement of human rights as a basis of legitimacy. This is *rights legitimization,* which can be characterized by the following four features.

First, rights legitimization takes the form of Chinese nationalism rather than the form of individualism. Rights to life, liberty and the security of a person are first understood as the right to subsistence which is closely associated with Chinese nationalism. The preservation of national independence and state sovereignty and the freedom from imperialist subjugation are the most fundamental conditions for survival and development of the Chinese people (*Beijing Review,* 4–10 November 1991, 12). According to this understanding, Chinese nationalism is interpreted as a version of the urgent right to subsistence.

Second, rights legitimization is a new ideological renewal in terms of the new phrase, 'the right to development'. This right to development is a collective right which has priority over individual rights. According to this, if the Chinese government pushes for economic development, a neoauthoritarian government and its suppression of civil and political rights would be justifiable (*Renmin ribao,* 27 January 1992). Moreover, the *White*

Paper argues that the right to subsistence and the right to development are most urgent, while the idea of civil and political rights merely mirrors the developed world, and is therefore, narrow and limited in the way it can be applied to the undeveloped world *(Renmin ribao,* 5 June 1992). The idea of the priority of economic development in the Third World is another way to justify the Chinese suppression of dissidents.

This ideological renewal reflects changes in ideological legitimization. The old elements of ideological legitimization are reasons connected with the existence of a revolutionary state; the sociological formula that the party is the best representative of the interests of workers and peasants, and the dialectical assertion that only the party knows how to solve conflicts. These elements are now declining, gradually giving way to the discourses of human rights and reformism.

Third, rights legitimization is a version of performance legitimization in terms of its claim that the Chinese government and people have spared no effort to safeguard human rights (subsistence and development) and have steadily improved their human rights situation, and have achieved remarkable results (*Beijing Review,* 4–10 November 1991, 8). Not surprisingly, the *White Paper* does not mention any violation of human rights under Chinese Communist rule, in particular during the Cultural Revolution. Instead, the *White Paper* claims that the Chinese people have gained extensive political, economic and social rights, that China's judicial work has guaranteed human rights, and that citizens enjoy freedom of religious belief. This performance legitimizing claim will fail at the practical level because those who have suffered abuse of human rights in China will not believe such propaganda.

Finally, rights legitimization draws support from the international discourse on human rights. To say that the Chinese regime's actions and policies meet international standards is one way to legitimize the domestic regime. However, the official Chinese commitment to international cooperation on human rights implies that there are rational grounds for favouring a minimal international morality; that is, at least, all people should acknowledge and support minimal standards and protection that governments must provide for their citizens, as formulated, for example, in the United Nations Universal Declaration on Human Rights. For example, rights of personal security (freedom from arbitrary arrest, torture, and death) should be respected by different cultures and regimes. The Chinese government claims it is opposed to torture and strictly forbids extorting confessions by torture or corporal punishment. China signed and later ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*Beijing Review,* January 28February 1991, 16). The proclaimed acceptance of this minimal international morality by the Chinese government undermines their claim that the human rights issue is mainly an internal affair. Worst yet, physical maltreatment of political prisoners in China is pervasive.[16]

The effects of Chinese official human rights discourse on gaining system legitimacy are very limited. Instead, the official discourse does much to undermine its legitimacy. This is because there are self-contradictory elements of Chinese official discourse on human rights, and the democratic direction of the development of human rights discourse has been pushed by Chinese liberal-minded intellectuals.

There are at least three serious problems associated with the official Chinese views of human rights. First, there are tensions between universal (international) and particular (internal) aspects of human rights in the *White Paper*. Either their commitment to the international aspect of human rights undermines their argument for the idea that the human rights issue is mainly an internal affair or their argument for human rights as an internal affair indicates that their commitment to the international aspect of human rights is only rhetorical and a useful card to play.

The second problem is that the Chinese government holds doublestandards on human rights: one criterion to deal with international pressure, and another criterion to deal with internal pressure from Chinese dissidents. For example, those who have an international reputation, such as Fang Lizhi, are relatively better treated than ordinary dissidents. This practice contradicts the rhetorical claim made by the Chinese government that the Chinese people enjoy equal rights before the law. Indeed, the better treatment of foreigners and worse treatment of Chinese has made the rulers look traitors.

The third problem is that so-called 'collective rights' is a tool for the party to suppress internal dissidents and to wage an ideological war against external international pressures. To regard the 'collective rights' as primary is to affirm the existing structures and to overlook individual rights. Further, to apply the idea of 'collective rights' of China as a whole to its internal minorities raises a new problem: the rights of minorities are overlooked and even sacrificed. Moreover, the argument that individual human rights can only exist after collective human rights contradicts the official policy of allowing a few to get rich first (Shih, 1993, 64).

Chinese liberal-minded intellectuals have led the discourse on human rights in a different direction, which the party does not have absolute power to control. The party today cannot dictate how scholars conduct their research, argue their conclusions, or even express their views. The Chinese literature on human rights is growing fast.[17] There are many books and articles advocating universal human rights. For example, one book lists comprehensive rights enjoyed by citizens and tells people how to defend and protect them by appealing to constitutional and legal articles (Hou Meixian, 1988). One article discusses the tendency of the decline of state sovereignty and of the increasing internationalization of human rights, and elaborates the conditions under which international intervention on human rights is justifiable (Li Lin, 1993). The historical forms of the human rights protection by international laws are discussed in detail (Gong Renren, 1990); so is the

moral basis of human rights, or rights-based morality (Chang Yong, 1992). All these dissenting views inevitably undermine the official position on human rights and make it less secure. More importantly, a new conception of legitimacy has emerged: a genuine protection of human rights is a fundamental basis for government to claim its legitimacy. Any government which denies and violates human rights is regarded as illegitimate. As Zhang Chunjin (1989, 19) put it vividly: 'Human rights are the greatest politics. All activities of politics should take human rights as centrality, or be guided by the human rights principle. Without human rights, politics become hypocritical and cheating.' This new conception of legitimacy, plus the idea of societal legitimization discussed before, provide new sources for reformers to fix deficiencies of system legitimacy in the near future. The succession politics after Deng in China might make this happen,

10.6 LEGITIMACY AND SUCCESSION POLITICS

Now the question is whether reformers within the party will continue to employ elections and the NPC, even recognize opposition, and accept the societal legitimization and the human rights' concept in their search for legitimacy. I link this question to succession politics and focus on the relation between legitimacy and procedural rules, as well as institutional arrangements for succession.[18]

The central question in political succession is that of legitimacy, that is, by what right the successor rules. Blood lineage is certainly not a legitimate idea, and the traditional Chinese practice of hereditary succession is also unacceptable in today's China, albeit there is a 'gang of princelings'. By contrast, Chiang Ching-kuo succeeded his father in 1978 in Taiwan (this practice is very limited in the sense that Chiang Ching-kuo could not pass the power to his sons), and Kim Chong-il, his father in 1994 in North Korea (Chang Hsia, 1984; Jo, 1986). Furthermore, the Chinese military has been a decisive force in succession politics, but there is an implicit rule that no military leader can be a successor through coups. Military coups or military governments are illegitimate and unacceptable. By contrast, Thai politics underwent nineteen unconstitutional military coups to overthrow the government institutions between 1932 and 1973, of which thirteen were successful; twenty prime ministers have headed some forty-eight cabinets, of which twenty-four must be classified as those of military governments (Neher, 1992, 586). In short, to exclude heredity and military coups from succession politics, the Chinese leaders seem to have set up a 'negative' rule that successors cannot base their legitimacy on blood lineage or military force.

The record of Mao's succession arrangements is very poor. Mao first chose Liu Shaoqi, and then Lin Biao as his successors, only to turn against them later at a great social cost. Mao finally decided on Hua Guofeng. Mao died in office, which immediately created crucial political vacancies. Mao's

succession arrangements demonstrate the weakness of the Communist system and personalized politics.

Bearing in mind that in Mao's succession politics there was no clearly defined rule regulating the succession, Chinese intellectuals and élites have advocated a procedural rule on succession. Thus Yan Jiaqi (1988), former adviser to the former general secretary Zhao Ziyang, now in exile, has argued for a democratic resolution of the succession problem. Under the democratic system, elections are a key to gain legitimacy; for example, in parliamentary cabinet systems, electoral defeat provides one ready answer to the succession question (see Rustow, 1964, 112–13). Deputies of the NPC called for the election of top leaders in 1993 and 1995.

China is now in a transitional period from the absence of rules and regulations of succession to the establishment of these rules. No matter how limited and weak these new rules are, they have played a role in Deng's succession politics, and will continue to play a role in post-Deng politics. Below are the current institutional arrangements and rules on succession.

Deng's regime has established a regular system of promotion, rotation, fixed terms of office and retirement, and selected several generations of leaders to succeed. More importantly, the party's tradition of internal election and a majority vote have been emphasized as a basic rule to regulate succession politics. According to this rule, a person has to take into account whether he or she can maintain a majority vote in the top hierarchy. If he or she loses the majority vote, it will endanger his or her decision-making power. Thus the 'Gang of Four' can be explained as fourfifths of the simple majority which Mao needed to override the other four active members of the Standing Committee (Fincher, 1989, 7). Furthermore, an individual's standing as a member of the pool of potential national leaders should be confirmed by the election to the party's Central Committee. The implication of this rule is that any promising successor has to win internal elections within the party. Deng Liqun, who was dubbed the party's 'underground General-Secretary', lost his chance of succession when he was not elected as a member of the Central Committee in 1987 (Jacobs, 1991, 197) and as a candidate to the crucial 14th Party Congress in 1992. In addition, Chinese national leaders have to win the majority vote on their appointment from the Chinese parliament just as Goh Chok Tong, a successor to Lee Kuan Yew, needed at least 65 per cent to be able to claim a mandate for his personal leadership (Mauzy, 1993, 1168). In post-Deng politics, successors to Deng can boast of neither revolutionary achievements nor personal authority over the army. Among the current five members of the Politburo, no one has absolute authority. Thus, as a high Chinese official, Hua Junduo, Chinese ambassador to Australia, acknowledges, the legitimacy for rulers has to depend on elections, on the number of votes.[19]

The above procedural rule on succession has increasingly gained importance. For example, Hu Yaobang's resignation was approved by the

enlarged Politburo session: the seventeen leading members of the Central Advice Committee (CAC), two leading members of the Central Commission for Discipline Inspection (CCDI), and the eighteen members and two alternate members of the Politburo. Two things need to be stressed. First, a majority vote rule was observed albeit irregularly by the enlarged Politburo session including elder leaders from the CAC and the CCDI. This seemed to reinforce a majority vote, an institutional requirement to resolve the succession problem. Second, it was the 'enlarged' Politburo session that made people at large dissatisfied with the 'irregular' way in which Hu Yaobang was ousted. It was then often heard that this enlarged Politburo session was illegitimate. Nevertheless, the above procedural rules are still weak at the moment but will be a significant factor in the direction of Chinese politics in the long term, while the personalized network is unlikely to change and will play a major role in succession politics in the short term.

There have been attempts to reduce the influence of military power in the succession politics, like cutting down the number of military leaders in the Politburo and introducing civil control over the army. A new regulation specifies that the chairperson of the Central Military Committee does not have any military title. This implies that civilians should be leaders of the military. Moreover, Yang Shangkun, first vice-chair of the Central Military Commission (CMC), and Yang Baibing, general secretary of the CMC, were removed from their positions in 1992 to undermine a potential military dynasty in the making (Li and White, 1993).

The problem of succession has become critical since 1986, and gone through many permutations. The former successors to Deng, such as Hu Yaobang and Zhao Ziyang had the dual task of gaining legitimacy for the ruler (themselves) and for the regime (the Communist system). There was a close connection between these two kinds of legitimacy: to secure ruler legitimacy, the successors initiated political reforms in favour of liberalization and limited democratization. A link between ruler legitimacy and regime legitimacy was then established in China: the new leaders' strategies to establish their legitimacy implied a chance for regime change. Nevertheless, the encouragement given by Hu and Zhao to political liberalization and tolerance towards students' demonstrations in 1986 and 1989 outraged Deng and other senior leaders such as Chen Yun, As a result, Hu was forced to resign in 1987 and Zhao resigned as General Secretary of the party in 1989 after refusing to vote for the implementation of the martial law. Deng's first two succession arrangements had failed.

Despite the failure of Deng's previous succession arrangements, Deng has developed mechanisms for regular replacement of the top leaders. The key issue is that Deng seems to be trying to separate regime from ruler legitimacy in the sense that new successors are not supposed to look to radical democratization for regime legitimacy. Instead, they should maintain the existing political system and continue economic reforms, which will result in legitimacy.

Deng's hand-picked successor Jiang Zemin appears to be reluctant to play democratic cards to fix regime legitimacy. He seems to have learnt the lesson from his previous successors, Hu and Zhao, that he should be cautious about political liberalization and democratization if he wants to retain support from Deng and the other elderly leaders.

Today, it seems that Deng's succession arrangements have been completed. Jiang is now the General Secretary of the Central Party Committee, the President of the People's Republic of China, and the chairperson of the Central Military Committee. He has already had a few years' experience in power. Today's succession is anticipative, as is Deng's passing, as reinforced by the current rumours about Deng's death. This may be called, in Dittmer's (1990, 426) terms, pre-mortem succession: the departing Deng has installed Jiang Zemin, as heir apparent, and invested him with power before his demise. The advantages of this pre-mortem succession are reducing the uncertainty of the transition and allowing the successor to consolidate his power with the assistance of the retiring incumbent. This, if it is successful, can dismiss the well-known succession 'law' argued by scholars such as David Bachman (1991, 252) that it is all but impossible for the successor to maintain the trust of the top leader and build an independent power base at the same time. If the existing institutional arrangements produce a relatively peaceful transformation, there will be no immediate succession crises in post-Deng politics. Thus, the passing of Deng Xiaoping will not necessarily bring significant changes in politics in general and in legitimizing techniques in particular in the near future.

However, the fixed-term system has set a time limit for top leaders, and provides an opportunity for a renewal of legitimacy for rulers every five years. Thus, in every five years, a new round for a renewal of legitimacy for rulers occurs. This makes it possible for other leaders to take advantage of this rule to challenge Jiang. This may bring the issue of system legitimacy back. Besides, it is unlikely to separate regime from ruler legitimacy in the long run. For China has undergone a serious crisis of regime legitimacy; and the current neo-authoritarian system cannot resolve the problem of regime legitimacy. Furthermore, Deng's legacy of legitimacy for successors is a double-edged sword. On the one hand, the developments of legalrational legitimization, the ideological renewal of the human rights issue and the political use of the economic aspects of civil society are positive sources of legitimization on which successors to Deng can draw. On the other hand, there are inconsistent and self-contradictory modes of legitimization, such as tension between ideology and pragmatism, which will undermine the successors' efforts to gain legitimacy. In particular, there are challenging problems for the successors. The 4 June incident, combined with the growing serious problem of corruption, have led to the crisis of regime legitimacy. Thus Deng's successors will be faced with a more troublesome crisis of legitimacy than that which confronted Deng.

To ensure regime legitimacy, among other techniques, reformers usually need to establish some semblance of democratic legitimacy for their regime, although it is less likely that the current leaders will initiate an end to authoritarian rule and introduce a democratic system, because they do not have the new vision, energy and youth which Gorbachev had in the mid1980s. The reformer faction within the party, including Qiao Shi, may see the NPC, elections and political civil society as a new source of legitimacy in the post-Deng era. The current power arrangement may be favourable to this possibility. Since the 14th Party Conference and the Eighth National People's Congress, all the five Politburo members have occupied major positions in the party, government and military. For example, Qiao Shi is the chairperson of the NPC Standing Committee. This kind of power arrangement reminds one of the old pattern of the party's control and moves away from the original proposal of separation of the party and government. But this arrangement also makes the NPC more important than before. Qiao may strengthen and use the NPC in order to gain his own legitimacy just as Peng Zhen did before. Qiao Shi has already insisted that the NPC Standing Committee has been strengthened, and this will turn the NPC into 'a real power body'.[20] He has stressed the overriding importance of the legal system in China's economic reform process. According to him, political legislation plays an important role in protecting citizens' rights, as well as economic legislation; and political structural reform goes hand-in-hand with economic reform, but must be carried out according to China's conditions (BBC, 10 January 1995). During the 1995 annual session of the NPC, Qiao emphasized the need for boldness in carrying out reform. The once docile NPC was then playing a more active and relatively independent role, as demonstrated by the fact that 36 per cent of the deputies voted against the appointment of Jiang Chunyun and 33 per cent refused to support a new central bank law. Qiao congratulated deputies on their 'democratic development' and exhorted them to redouble efforts to 'reflect the will of the people' (*Far Eastern Economic Review,* 30 March 1995, 14).

Furthermore, it is difficult for people like Li Peng, who were individual members of the apparatus of the repression, to recognize their mistakes and to adopt democratic rules. But there seems an implicit rule that those involved in the massacre in 1989 are unlikely to be successful successors to Deng (Bachman, 1991, 253). This rule would be beneficial to those, such as Qiao Shi, who abstained from voting for martial law, Hu Jintao, who was then away in Tibet, and Li Ruihuan and Zhu Rongji, who did not participate in the brutal repression of the students. Those people may play the trump card of the Beijing incident, say, to revalue the students movement in 1989 so as to oppose their rivals and to achieve supreme power for themselves, in the same way that Deng Xiaoping reversed earlier condemnation of the 1976 demonstrations in Tiananmen Square to help elbow aside Mao Zedong's designated successor Hua Guofeng. Moreover, the incident of 4 June has re-

legitimized Zhao Ziyang, providing an alternative government within the party.

Also, to play the card of democracy has been a tradition in party history. During his power struggle with Liu Shaoqi, Mao advocated the populist idea of democracy in order to mobilize mass support for himself. Deng did the same thing when he was struggling with Hua Guofeng for supreme power. Astute successors to Deng may lay claim to mass legitimacy, and play the democratic card to improve their power base. Chances of success will be greater if it is a dominant faction which uses democratization to solidify its power against weaker rivals (Baogang He, 1991, 36–7, 40; Nathan, 1990a, 207).

However, both Mao and Deng withdrew their cards of democracy and suppressed democrats after they had succeeded in strengthening their power. The metaphor of playing the card of democracy implies that the leaders are not seriously committed to the principle of democracy.

10.7 CONCLUSION

Deng's legitimacy has moved decisively away from goal-rational and charismatic bases towards a mix of legal-rationality, performance, modernization, nationalism, and international standards. Legitimacy also shifts from being based on a moral order to being based on the political process of the interplay of political forces among competing interests. Deng's regime has already used the state-civil society schema as a new source of legitimacy and a new art of ruling, but this applies only to the economic area and not to the political area. The case of the official discourse on human rights indicates a move from the Utopian goal of communist society to the rhetorical goal of protection and improvement of human rights as a basis of legitimacy. Importantly, elections and the NPC have increasingly become an institutionalized source for legitimacy.

In post-Deng politics, it is likely the reformer faction within the party will use the cost of a conflict with civil society as a deterrent to hard-liners just as Zhao Ziyang attempted in 1989. Reformers may acknowledge that political opposition is not a political nuisance, but a systemic necessity; and the collapse of Communism in Eastern Europe is not a function of too much opposition, but of not enough. They may also use general elections to channel politics away from the ebullience of civil society, win international support, and perhaps even to win elections by dividing the opposition and being rewarded by the electorate.

Of course, there are potential risks: an opposition party might be able to mobilize the masses to threaten the rule of the party; and pressures from the opposition might be so great that the party would find it difficult to make decisions and retain the privileges it previously enjoyed. However, if the benefits of the legal recognition of an opposition party are greater than the

costs of the denial, and if redistributing some power such as partial democratization will engender system legitimacy, this will increase the chance for the reformer faction within the party to take the political initiative. After the events of 4 June 1989, the leaders could learn a lesson from the brutal repression of the students movement; that is, that such repression has a high cost. According to Dahl's (1971, 15) axioms—the likelihood that a government will tolerate an opposition increases as the expected costs of suppression increase; the more the costs of suppression exceed the costs of toleration, the greater the chance for a competitive regime—some reform groups within the regime might make concessions when they face opposition protest.

More importantly, the argument that democratization actually increases the risk faced by the state underestimates the capacities of the state to preserve its strategic power in decision-making structure (e.g. agenda control). A little more democracy does not mean a diminution of state power (Galiarotti, 1989, 50). As the experience of Taiwan's democratization demonstrates, the ruling party still maintains its rule while the DDP has won around 30 per cent of the votes. Although the situations are different in Taiwan and China, this experience might prove an exemplary role for the reformer faction within the party in China. If to the dissidents of Eastern Europe, Western Europe represented a successful alternative order (Palma, 1991, 68), to Chinese leaders, South Korea and Taiwan represent an alternative to the former Soviet Union scenario where the Communist Party was dismantled. The lesson to learn from Taiwan is that if the party leads a moderate transformation towards democracy and manages the process of democratization, it is likely to continue to maintain its rule. If the confidence of the reformer faction within the party is boosted by further economic achievements in the 1990s, the possibility of the recognition of an opposition party will increase.

To continue the comparison of China with East Europe: East European countries such as Poland have never developed mass legitimacy although the Romanian regime and the Kadar regime in Hungary gained some degree of legitimacy (P.Lewis, 1983, 433–4; Pakulski, 1994, Schopflin, 1990, 5). Conversely, the Chinese Communist Party certainly gained mass legitimacy historically. Also, today's Chinese state's claims to legitimacy are not weaker than those of former Eastern European Communist countries because it has maintained a high rate of economic development for a decade and thus gained performance legitimacy. These differences, among other things, may contribute to a different outcome where the Chinese Communist Party may maintain its rule if it initiates partial democratization.

Astute successors to Deng might see the legal recognition of political opposition and political use of elections and civil society as a legitimator for a new form of social control in the new leaders' political interests. They will be more confident in their competence and authority if they are elected. They will be cleverer and make less mistakes than before if they draw on the

criticisms of the opposition. The system, the state and their leadership will be more stable than before if the established democratic institutions release the ebullience of the masses. They may find that society is more easily controlled than before if procedures and laws are established and followed. They will feel secure even when they are removed by election if institutional protection of human rights provides them with minimal personal security. In short, some reform leaders may play the card of the rules of the game and democracy as an institutionalized source of legitimacy; this may be a democratic break-through in the near future in China.

Nevertheless, the party faces a paradoxical situation. If it initiates and allows democratic reforms, it may lose some control and face further demands for greater democracy, thereby having its legitimacy openly questioned. But if it refuses to allow any democratic reform, then it may lead to a further crisis of legitimacy as it fails to deal with the problem of the crisis of system legitimacy. Therefore, the CCP has found that democracy is both a supporter and challenger to its legitimacy. The party cannot completely disregard democracy, nor concede too much ground to it. Either of these choices would erode the party's rule to a dangerous level. It appears that the solution is to strike a balance where legitimacy is challenged the least. Lee Kuan Yew stated in 1994 that Asian democracy is a different concept from Western liberal democracy. Perhaps for the CCP, the solution to the balance lies in this Asian concept; one which can placate the people's desires and still allow the party's rule, what some called 'democracy with Chinese characteristics'.

11 Conclusion
Reflections on Chinese democratization

The existence of the three models of democracy implies that the totalitarian control of ideology has failed and that there has emerged an ideological 'market' where different models of democracy are able to attract different 'customers'. If these models of democracy are connected to propitious circumstances, structural forces and existing institutions, they will be decisive in shaping political developments and will develop sufficient influence to alter the nature and workings of the system in China.

This conclusion not only recapitulates earlier conclusions but also expands on them. It focuses on Chinese democratization. Section 11.1 reflects on the political implications of the three models of democracy: they offer three democratization programmes. Section 11.2 discusses the political roles of a liberal theory of democracy in Chinese democratization. In this context, the major theoretical problems associated with the Chinese liberal ideas of democracy are remedied. Section 11.3 addresses the issue of the feasibility of liberal democracy, and the practical problems associated with Chinese democratization.

11.1 THE IMPLICATIONS OF THE THREE MODELS OF DEMOCRACY

11.1.1 The differences, the limited convergence and its implications

Part One of the book discussed the three competing models of democracy. The radical model of populist democracy proposed by Yang Xiguang, Li Yizhe's group and Chen Erjin is characterized by a call for violent revolution; a particular form of government (the Paris Commune); the importance of the working class (workers' self-government) with reference to the issue of new class; and social ownership as a basis of democracy (Chapter 1). The official paternalistic model of 'people's democracy' advocated by Deng Xiaoping is characterized by collectivism, limitations on political freedom, and the mixture of formalistic democracy and paternalistic authority (Chapter 2). The liberal model of democracy proposed by Wei Jingsheng, Hu Ping, and Yan Jiaqi

contains three common ideas: a predominant concern for human rights and freedom; the conviction that the principle of preventing evil is a theoretical basis for institutional constraints on power; and an emphasis on procedure, the rule of law and the rules of games (Chapter 3). The main differences of the three models of democracy can be seen in Table 11.1.

The three models of democracy do share a very limited consensus on the need to have elections and on procedures as key elements of democracy, although they differ on the scope and pace of elections and on the extent of compliance with procedures. Further, the three models of democracy share some commitment to human rights. Although the concept of human rights is not central to populist thinking on democracy, this model indeed emphasizes and contains the basic elements of the idea of human rights. Also, the Chinese government and liberal dissidents share at least the following common views.

1 There is recognition of human rights as the most important issue. The *White Paper* states that to promote human rights and strive for the noble goal of full implementation of human rights are required by China's socialism (*Beijing Review,* 4–10 November 1991, 9). Similarly, Wei Jingsheng, Hu Ping and Yan Jiaqi, among other Chinese dissidents, are in fundamental agreement on the urgent importance of human rights: this constitutes one of the basic elements in their ideal of democracy.
2 Both seek minimal institutional protection of rights. As the *White Paper* states, the Constitution and law of China always gave priority to human rights protection. Similarly, Chinese dissidents also stress democratic institutions such as the rules of law, and the proceduralism needed to protect rights.
3 Both use, to some degree, a utilitarian justification of human rights. The ideas of the right to subsistence and of the right to development have been of practical appeal. Similarly, Hu Ping's justification of freedom of speech is also practically oriented. Here I should say that what they share is only a way of thinking at a philosophical level which is deeply rooted in Chinese 'practical rationality'.[1]

These common views seem to indicate a first step towards convergence on the human rights issue between the Chinese government and Chinese dissidents, and more importantly seem to constitute a minimal consensus for political dialogue between the government and dissidents. This is obviously a practical chance available to Chinese liberal intellectuals on the mainland and overseas to pursue their demand for further demoralization and legalization in China. But further development of the convergence and the maintaining of a minimal consensus rely on the spirit of seeking common ground while reserving differences, and depend on the following conditions. On the Chinese government's side, self-contradictory statements about human rights, in particular about universal and particular views of human rights should be reduced. On the Chinese

Table 11.1 Three models of democracy

Models	Ideal	Means	Rights	Source
populist	direct & mass democracy	violent revolution	not central, but containing elements of rights	Marxism
paternalistic	party–state democracy	from top, and slow process	rights granted by the state, economic rights protected, political rights prohibited	Marxism and Chinese tradition of paternalism
liberal	representative and elitist democracy	moderate and non-violent	natural rights, the centrality of human rights	John Locke J. S. Mill

dissidents' side, feelings of hatred towards the party should be controlled, hope rather than cynical attitudes should be preserved, and finally, anger must give way to cool reason and tolerance. Thus a positive rather than a negative interplay between the government and dissidents might be expected to develop.

The convergence and the minimal consensus are, in my personal view, significant. The process of democratization in China, I believe, entails moving away from denial of the democratic principle to recognition of it as a *modus vivendi*. In this respect, the significance of the changes in the current official views about human rights is that at the moment, as a result of various historical events and internal and external pressures, human rights have come to be accepted as a mere *modus vivendi*. This acceptance has come about, we may assume, at first reluctantly, but nevertheless as providing the only alternative to endless and destructive civil strife. It is probable that improving the human rights situation in China is a way of improving the power of the government; and to use western terms such as 'human rights' is a way of re-establishing the legitimacy of the party. Importantly, the political agents are those who are commonly regarded as *taizidang* (new élites); they want to establish their legitimacy; they are seeking something new, and they might create an opportunity for a political dialogue. Further, the convergence between official and dissident views on human rights may also provide the rules of games which are essential for the political transformation in China.

However, the basis for political dialogue is very weak. Apart from practical reasons, the idea that the basis is weak and unstable comes from the fundamental differences which lie behind the seemingly common views. The following are the differences between the Chinese government and the dissidents with respect to human rights.

1 The order of priority of rights: the right to subsistence and the right to development, in the Chinese government's view, are most urgent, and civil and political rights are not urgent in developing countries such as China (*Beijing Review,* 4–10 November 1991, 42–4). Also to protect social and economic rights implies an expansion of, and an increase in, the power of the government. Conversely, according to Chinese dissidents, civil and political rights are natural rights which should have priority over economic and social rights; and these rights do not depend on political, social and cultural conditions and can be realized right now (Yan Jiaqi, 1992a, 50). Far more importantly, to protect civil and political rights implies a limitation on, and decentralization of, the power of the government. As Yan Jiaqi argues, the concept of human rights is devised to limit state power, and the idea of human rights demarcates a specific sphere in which political power cannot interfere (1988, 59–66).

2 Collective vs. individual rights: the Chinese government perceives the right to subsistence and the right to development as collective rights, which are far more important than individual rights such as civil rights (*Beijing Review,* 4–10 November 1991, 44), while Chinese dissidents, such as Wei Jingsheng, Hu Ping and Yan Jiaqi, regard individual rights as primary. Yan also criticizes the Chinese government's abuse of 'collective rights' to deliberately confuse the rights issue (Yan Jiaqi, 1992a, 49).

3 Different institutional designs: the Chinese government does emphasize the aspect of constitutional and judicial protection of human rights (*Beijing Review,* 4–10 November 1991, 21), but does not want to change the party-rule system. It appeals to a resolution of the UN General Assembly at its 45th session: 'Each State has the right freely to choose and develop its political, social, economic and cultural systems' (ibid., 21). Chinese dissidents, however, see the party-rule system as an obstruction to the implementation of human rights and they want to introduce the system of division of three powers in China. As Wei Jingsheng argues, we need the rule of law, but we need the kind of law which is conducive to the realization of equal rights. The people must attentively watch the progress of law-making and be sure that the law being adopted is the kind of law designed to protect equal rights.

4 Philosophical justification: although both sides employ a utilitarian justification of human rights, this similarity should not be exaggerated, and more importantly, Chinese dissidents believe, and are committed to, a contractarian view of human rights. They view rights as natural and inviolable.

In conclusion, to seek common ground while reserving differences is only rhetorical for both sides. It is difficult for the Chinese government and Chinese liberal intellectuals to reach agreement about issues such as the order of priority of rights, institutional arrangements and contractarian

assumptions because of their different political positions, different backgrounds and the different major problems concerned. These difficulties will undermine the possible basis for political dialogue.

11.1.2 The three democratization programmes

The three models of democracy offer three competing democratization programmes, or three understandings of democratization in China. This is shown in Table 11.2.

These three democratization programmes will find different supporters. Populist democracy is able to attract groups socially drsadvantaged by the reforms, and provide some radicals with a theoretical basis for the populist and revolutionary strategy for democratization. Paternalist democracy is able to attract leaders at both central and local levels and to offer a scenario promising that the party will still retain its hegemony while political opposition is allowed (see G.White, 1994; Womack, 1990). This official model might also be attractive to some Chinese intellectuals, in so far as it, as a democratic strategy, attempts to utilize the existing institutions and habits and at the same time open them up to redirection and modification. The liberal model of democracy appeals to the young generation of leaders seeking political legitimacy, to intellectuals looking for space in which they can safely explore and speak about the world around them, to peasants and others who simply want to pursue a livelihood without arbitrary state intervention (see McCormick and Kelly, 1994). The bearers of liberal democracy have often been students, intellectuals and workers. The new entrepreneurial or business strata also expressed their support for liberal democracy in the 1989 Democracy Movement.

Table 11.2 Three democratization programmes

Models	Driving force	Path	Means	Process
populist	the working class	from below	radical violent revolution	one stage (no neo-authoritarian stage)
paternalistic	official élites	from top	moderate, slow and controlled by the party	two-stages (first to neo-authoritarianism, then to democracy)
liberal	intellectuals, students and entrepreneurs	from below, but alliance with reformers within the party	non-violent	one stage (no neo-authoritarian stage)

11.1.3 The prospects of the three models of democracy

In so far as the populists pose challenges and speak more directly to the issues of the new class and mass participation than liberals do, the populist model of democracy will remain one of the major ideologies in the field of political thought in China in future. In particular, if the current economic development intensifies social gaps and highlights the serious problem of unequal distribution of welfare, and if the regime fails to deal with the above problems, then further development of the idea of populist democracy and even a populist upsurge early in the next century are possible.

It is very likely that reformer factions within the party will legally recognize political opposition movements and use elections as a form of legitimacy in post-Deng China. If this happens, the official paternalistic model of democracy will play a major part. Womack (1990, 29) even concludes that the party-state democracy presents a real possibility for a modern democratic base for Chinese politics. He further argues that 'the competitive, multi-party democracy of the West cannot be imported like a turkey factory. It requires a pluralism of societal forces and a stability of political expectations that simply do not exist in mainland China at the present time' (ibid., 29). Womack's conclusion of the possibility of partystate democracy might be partially true, but his exclusion of the possibility of liberal democracy is misleading.

The liberal model of democracy will have an important role in defining the future of China. The liberal model of democracy sets the terms of debates, acts as the explicit standards of comparison for political rationality and legitimacy, and provides an answer to the existing political problems. Further, if it becomes instrumental in shaping the ideal route for political development, it will influence the direction of political development in China.

However, political liberalism faces challenges from neo-authoritarianism. The question of whether liberal democracy or paternalist democracy (in Womack's term, party-state democracy), political liberalism or neoauthoritarianism, will win in post-Deng politics remains open. Further, the following questions need to be investigated empirically. In the forthcoming democratization, how exactly will the above models impact on Chinese political life? Is there a possibility of an emergent new democratic ideology that will attempt to combine elements of the radical, official and liberal ideas of democracy? Or is there likely to be a mix of practices of liberal and paternalist democracy?

11.2 THE ROLE OF A LIBERAL THEORY OF DEMOCRACY IN DEMOCRATIZATION

Part Two of the book examined in detail a liberal theory of democracy which may play the following important roles in a transition towards democracy in China: selecting the democratic seed; mobilizing the opposition; defining the

rules of the game; and guiding democrats towards a good strategy. A liberal theory of democracy which has many flaws will not do these jobs properly. Theoretical problems associated with Chinese liberal ideas of democracy may hinder the rethinking of democratic institutional design and the development of democratic strategy. The theoretical deficiencies of Chinese liberal theory of democracy need to be overcome in the context of Chinese democratization.

11.2.1 Selecting the democratic seed

The first important thing in Chinese democratization is to select a good democratic seed, a liberal seed. In other words, we should not select the paternalist and populist models of democracy being implemented in China. Part One has shown that populists such as Yang Xiguang and Li Zhengtian, through self-criticism in later years, have themselves rejected the ideas of violence, the new class issue and direct control of state affairs by the working class, and have shifted their ideological commitment from the radical idea of populist democracy to the liberal one. It was also argued that the paternalistic model of democracy is unsatisfactory both in theory and in practice. It was concluded that political liberty should be defended as the primary value in China; what is needed in China is liberal democracy—democracy based on respect for human rights and equal liberties.

Selection of the seed of liberal democracy does not imply that the populist model of democracy has no attraction in a transitional China. Given the current dynamic economic development in China, new problems emerge, brought about by capitalism, such as social-economic exploitation, unequal distribution of welfare and resources and widening social gaps. However, Chinese liberal thinkers seem to overlook the issue of the participatory dimension of democracy, the issue of a new class, and the consequences of economic liberalism, and particularly those concerned with the operation of the right to property. To protect the right to property in Chinese economic life means, at times, that political privilege turns into economic privilege, given the corruption of power and the absence of fair rules. Thus economic privilege leads to unequal competition and injustice. On this matter, it is worthwhile for Chinese liberals to learn from the populist idea of democracy. Populists have raised the idea that the rights of workers and peasants to participate in political affairs should be institutionalized. They have also highlighted the problem of the new class and the social gap between 'a privileged class' and ordinary people.

Also, Chinese liberals need to complement liberal ideas with modified values of socialism, rather than to throw out the social baby with the socialist bathwater. G.White (1994) has observed that liberal-minded intellectuals such as Su Shaozhi have already sought a form of social democracy which steers a middle course between the Scylla of Marxist-Leninist state socialism and the Charybdis of untamed capitalism. White argues:

The most likely scenario is a form of state capitalism along East Asian lines with a competitive political institution that might still be dominated by a hegemonic political institution, a capitalist economy with a high degree of state involvement and a society permeated throughout by clientelist networks. However, while such a combination promises to be economically dynamic, it also carries the potential of the kinds of social-economic exploitation and inequalities characteristic of such societies. While some elements of Chinese state socialism—such as basic welfare services, job security and relatively egalitarian income distribution—might have reflected the actions of a quasi-patriarchal Party-state and posed problems from the point of view of economic efficiency, they are also valued attributes of a humane society.

11.2.2 Mobilizing the opposition

The Chinese liberal theory of democracy certainly helps to mobilize civil society against the state. Here I focus only on the Chinese rebellious conception of negative liberty which emphasizes 'being let alone' and 'non-interference'. It seems that it is more useful in struggling against totalitarianism than as a guiding principle in managing state affairs. In other words, it might be useful to mobilize the masses to push for democracy in the initial stage of democratization, but not in the consolidation of democracy style.

The Chinese rebellious conception of negative liberty may give rise to a high level of mobilization in Chinese politics. A highly mobilized civil society may produce popular, radical and romantic politics rather than democratic politics. Romantic and polarized politics may also intensify the political struggle and make political concessions and negotiations more difficult. In the case of the 1989 Democratic Movement, the failure of the autonomous student organizations to make concessions highlighted their lack of a full understanding of the importance of political negotiation and cooperation as necessary elements of political liberties and as indispensable for the transition to democratic politics.

The rebellious view of negative liberty proves unsatisfactory in discussing how to keep a balance between individual rights and social obligations; how to deal with the conflicts between rights; and how to justify the priority of rights and limits on rights at the same time. This rebellious conception of negative liberty should be rejected because it only emphasizes 'being let alone' and 'non-interference'; and it fails to deal with difficult problems in the process of realizing the ideal of human rights. There is a need to shift from wishful thinking about democracy and rebellious feelings towards the political system to a substantial analysis of the problems and of possible solutions to them.

11.2.3 Defining the rules of the game

A liberal theory of procedural democracy defines democratic rules and procedures, including equal and universal adult suffrage, majority rule, and guarantees of minority rights in a transitional period. A transition to democracy, by nature, is a shift from the gun to rules as the most appropriate way to resolve basic political conflicts. There are enormous difficulties for a new liberal government in establishing the rules of the game in the transition to democracy. In particular, China will face the following predicament. On the one hand, the frequency of exceptions will lead to the discrediting of the constitution and create enormous difficulties in establishing constitutionalism. On the other, if any exception is denied, it will be difficult for a liberal government to maintain social order and to realize constitutionalism.

Unfortunately, Yan Jiaqi's proceduralism seems to ignore the exception problem and fails to address a theoretical defect of formalistic proceduralism. Yan's idea of democracy would fail to defend the idea of procedural democracy if it were put into practice. To remedy this deficiency, there are two approaches, namely, hierarchical and conditional, to deal with the problem of the exception. The hierarchical approach holds that rules can be ranked in a hierarchical way so that meta-rules are distinguished from particular rules and meta-rules take precedence over particular rules. While meta-rules do not admit of an exception, particular rules do. This is the way to defend the coherence of proceduralism. This is also the fundamental procedure for making exceptions; if the procedure is followed, the exception can be deemed consistent with proceduralism. The conditional approach holds that we can list the conditions under which the employment of exceptions is limited and justified; or we can formulate the rules for making exceptions; the exceptions failing to comply with these rules are regarded as unjustifiable.

11.2.4 Guiding democrats: self-limitation on rights

It is necessary to protect, develop and improve equal human rights regulations yet limitations on some rights are necessary. Human rights must, as a matter of principle, not only limit the power of the state over society, but also limit the power used by society against the members of the state. There is a need to elaborate a liberal idea of limitation on some rights which can provide a theoretical basis for the consideration of stabilizing policy in the process of democratization. Thus I have criticized the Chinese liberals' silence on, or lack of attention to, the issue of limitation on liberties. Chinese liberals have to engage with the difficult questions of why and how and under what conditions some liberties have to be limited in order to achieve equal liberties in the process of democratization.

The idea of self-limitation on rights has implications for the self-limiting strategy of civil society. There is a need for political calculations in order to

avoid activities which could cause the state to institute repression and so jeopardize the extent of the independence which civil society has already achieved (Rau, 1987, 573–92).

The concrete strategy of constructing Chinese civil society should, as Deng and Jing suggest, adopt a rational, gradual two-step approach, or two-phase development. The first is the formative phase, during which the state and members of civil society act together: while the state instigates further reforms from the top, it speeds up changes in government functions, actively and gradually ceding social and economic domains in which it ought not interfere; members of society fully utilize the beneficial conditions and opportunities of reform consciously, rationally to promote the building of civil society from the bottom up. Activity in this phase is mainly concentrated and expressed in the economic domain. The second is the maturation phase, during which members of society, while continuing to develop and perfect themselves, gradually enter the 'public sphere', participate in and influence state policies, and set up positive interactive relationships with the state (Deng and Jing, 1992, 66).

11.3 CHINESE DEMOCRATIZATION IN PRACTICE

11.3.1 Preconditions for democracy

The book has rejected the three arguments on the impossibility of liberal democracy in China. The first argument is that Chinese culture is incapable of democracy. This argument fails because it is highly culturally determinist; it fails to distinguish between hard and soft cultural conditions for democracy as discussed in Chapter 8; it ignores the fact that culture is generated by human activity, and as such it is constantly being regenerated; it presupposes that it is impossible for the Chinese people to overcome the weaknesses of a cultural-psychological nature; and finally, it also ignores the fact that China's culture is changing. More importantly, I have demonstrated that a new Chinese democratic culture is emerging which is likely to gather strength in the future. The whole book has also demonstrated that political liberalism is an integral part of current political culture in China, and that democratic culture is becoming an increasingly important factor in Chinese politics. However, the question of the percentage of the Chinese populace and of Chinese intellectuals who are committed to liberal values needs to be studied empirically. Also I have to admit that so far, in sociological terms, the commitment must be treated as conditional and partial only.

The second argument on the impossibility of liberal democracy is that China lacks a pluralist and self-organizing civil society independent of the state, which is often assumed to be an indispensable condition for democracy. This argument also fails as I have demonstrated that civil society has emerged in Deng's China; and that civil society did have an actual

positive impact on the 1989 Democratic Movement. Also this newly emergent civil society provides a fertile bed in which political liberalism can thrive. However, I admit, a nascent, weak, and ineffective emergent civil society constitutes a very weak check on the abuse of state power; it is still unable to resist military-bureaucratic cooperation and repression.

The third argument on the impossibility of liberal democracy is that the Chinese state is totalitarian with a self-enforcing power structure that cannot be reformed or transformed into something fundamentally better, or cannot democratize itself from within (Friedman, 1989, 171). Again this argument is misleading as it neglects the fact that there has been an inherent potential for democratization within the party. I have shown that it is very likely that the next generation of leaders will play the card of democracy so as to gain legitimacy. There is also the possibility that the leaders will use existing democratic institutions and organs such as the NPC and the Chinese People's Political Consultative Conference (CPPCC) in the process of democratization rather than dismantling the whole old power apparatus (Chapter 10, see also G.White 1994).

In short, in China there are already democratic culture, civil society and reform factions within the party who will play the democratic card (Chapters 8, 9 and 10). All this demonstrates that preconditions for democracy exist in China.[2] The question is how these factors can interact at a favourable time so as to break the current deadlock of Chinese democratization.

Nevertheless, I have to admit that some elements of the preconditions favour the populist model of democracy, which, in the tradition of democratic culture in China, should not be confused with the liberal one. Populism has been reviving in today's China. Further, economic reform has changed the balance of class relations in China, with the emergence of the new rich and their increasing economic and political roles, and with the decline of the importance of the position of the working class. Highlighting the serious problem of unequal distribution of wealth and welfare, these changes should not be assumed to support only liberal democracy; they may also facilitate populist democracy.

Some elements of the preconditions also favour the paternalist model of democracy. The overlapping structure of the state and semi-civil society may help the party to control the activities of civil society. The search for legitimacy by the party also favours or facilitates paternalist rather than liberal democracy. These cautions can be further supported by the following discussion of the negative elements of the preconditions on Chinese democratization.

In the area of political culture, unconsciously authoritarian personalities, due to a lack of institutional constraints, will lead democrats towards a neo-authoritarian system when they face the problems associated with democratization. Although there are also authoritarian attitudes in Western democratic countries, these attitudes are so constrained by the existing democratic institutions that authoritarian personalities are less likely to play

a decisive role in creating a neo-authoritarian state if these problems should occur.

Cultural problems such as cultural anomie, democrats with authoritarian personalities, the legacy of egalitarianism, the radical polarization of Chinese culture, difficulties of institutional compromise and irrational control of aggression and fear may impede Chinese democratization. Here, the most serious problem is that China lacks the tolerance and willingness to reach political compromise which are virtues of freedom. Now, after the events of 4 June 1989, Chinese democrats have learnt the lesson that political negotiation is necessary for the transition to democratic politics. Further, there has emerged a limited convergence on the human rights issue between the Chinese government and Chinese dissidents. This seems to constitute a minimal consensus for political dialogue between the government and dissidents. However, to seek common ground while reserving differences is only rhetorical for both sides. It is difficult for the Chinese government and Chinese liberal intellectuals to reach an agreement about issues such as the order of priority of rights, institutional arrangements and philosophical assumptions because of their different political positions, different backgrounds and the different major problems concerned. These difficulties may undermine the possible basis for political dialogue.

In the area of civil society, the overlapping structure of the state and semi-civil society may hinder a transition to democracy. But, this overlapping structure, I have argued, may also provide pressures and checks on the state if civil society plays a proper role within the many levels of the polity. Furthermore, the roles of civil society in Chinese democracy are ambiguous, contingent and twofold. It is a force for democracy and a safe refuge for democrats; while it can also be a conservative power which demands maintaining the *status quo* rather than transition to democracy.

In the area of the leadership, there are problems with the party's search for legitimacy. The move towards legal rationality is progressive and impressive but ultimately flawed. The case of the official discourse of human rights certifies an ideological renewal and a move towards the international enterprise of human rights, but the incoherence of the official Chinese views of human rights set self-limitations on the likely effectiveness of this new legitimizing weapon in practice. Deng has already used the state-civil society schema as a new legitimizing source and the basis of a new art of ruling, but this is confined to the economic area and not to the political area. Even if the next generation of leaders play the democratic card, there is a possibility that they will later revoke the cards of democracy and suppress democrats.

11.3.2 The difficult problems in realizing democracy

The actual meaning of democracy can only be fully understood on the basis of an analysis of the crucial problems pertaining to the process of Chinese democratization in the transitional period. The greatest difficulty for the

realization of liberal democracy lies in the overlapping of the old and new problems. And the old problems such as the question of the validity of the Constitution, political privilege, corruption and the crisis of succession have not been resolved; while new problems—tensions between rights, distorted forms of rights and a burden of rights arise from the actual social and political background in China.[3]

(i) The validity of constitution and law

Here we face problems similar to those of the Weimar Constitution of August 1919;[4] that is, the Communist Party only manipulates the Constitution, and does not respect it enough to act seriously upon it. At the same time, the oppositional organizations such as FDC and CAD hope to draw up a new constitution.

In principle, equal rights must be protected by institutional arrangements such as a constitution and laws; the aim of laws is not primarily to make people good, but to uphold a system of rights. But the problems lie in the nature of the laws and the process of law-making and law-implementing. According to Wei Jingsheng, we have only autocratic rules of law, such as those exercised by Qin Shi Huang and the Gang of Four, without democratic rules of law in China. Lin Yusheng argues differently that traditional China has only 'rule by laws'; that is, law as the instrument of rule which weakens the meaning of legality and even creates an efficient totalitarian society.[5] Following Lin's view, we may claim that Deng Xiaoping's legal reforms were instrumental to changes in the economy and functionally useful in the modernization process, and not ends in themselves. It follows that the most serious problems are: first, laws themselves are unjust in the sense that legislation in China must first comply with the so-called 'Four Cardinal Principles' in the 1982 Constitution and that the Communist Party has policy superiority over the state and economy. Second, the party is above the legal system; the legal system in China gives the party a special form of authority; and legal regulations are greatly influenced and even decided by the subjective will of paternalistic leaders.[6] Finally, although there is a positive and workable law, in practice it is not taken seriously by either the leaders or the masses.

It is justifiable for a citizen not to obey the old laws, because the laws themselves are problematic, and some of them are unjust. Thus the notion of a general duty to obey the law that holds in all cases must be abandoned. In the transitional period, the old legal system has been discredited, and the new legal system does not yet function well. The new law which aims to protect equal rights implies that the duty to obey the law is justifiably required. There is, however, a paradox between obeying the law and not obeying the law in the transitional period. It is this paradox that makes laws and their protection of rights ineffective.

However, a more serious problem resides not in the justification of obeying or not obeying laws, but in the practical implementation of laws. Let us examine the effects of corruption. One often talks about the serious corruption in China and in doing so refers only to officials or cadres. Nevertheless, the problem of mass corruption should be examined. Ordinary people, like taxi drivers, doctors, ticket sellers and shop assistants, do use their power for personal gain. A common attitude is that if you do not use what power is available to you, then it will expire as quickly as a film ticket. This attitude is so popular that it seems to legitimize 'the back door' and abuse of power. The seeming legitimacy of 'the back door' and abuse of power implies that people and cadres do not make a clear distinction between what is legal and what is illegal. It follows then that if people do not have a clear sense of laws and do not care about them, it is difficult to implement the rule of law. As Machiavelli claims, when it is corrupt, good legislation is of no avail; and a corrupt people, having acquired liberty, can maintain it only with the greatest difficulty (Machiavelli, 1970, 157–60; see also Skinner, 1983). If laws and regulations are not effective, freedom in its operation is not action within the limits of law but a kind of anarchic action. Thus, without the rule of law this form of freedom inevitably increases social disorder and becomes a 'negative force' rather than a constructive one.

(ii) Conflicts between rights

The realization of freedom is always associated with what Jean-Paul Sartre calls moral dilemmas or emotional contradictions on the individual level (Slater, 1988, 317). There are more intimate links between contradictions and freedom on the collective level than on the individual level.

The operation of rights at both the dyadic (the right of voluntary exchange or contract) and collective (the right of associations and state organizations) levels is subject to, and affected by, certain social, political and cultural conditions as well as social relationships under which human rights can be realized. Rights, therefore, are often related to other rights of other people. There are conflicts between rights. According to Hardin, the protected actions of one party coincidentally bring harm to another party, typically because of the external effects of the actions. And the protected dyadic right of contract conflicts with collective rights that would deny members of relevant collectivities the right to enter certain dyadic contracts (Hardin, 1988, 117). Let us examine the example of tensions between human rights and democracy in terms of political development. When the control and suppression of minority nationalities by the ruling party loosen, conflicts between nationalities increase; and nationalism will override democracy given abuse of the right to autonomy. For example, the operation of the right to regional autonomy may undermine a possibility of the realization of a democratic federal system if conflicts between rights

occur. If people in Taiwan and Tibet are granted the right of autonomy, they may choose to build an independent nation. Therefore the rights of autonomy may contradict the idea of a democratic federal system as proposed by Yan Jiaqi.

Take another example of the consequences of the operation of the right to property. The right to property and its protection in the legal system may become an even greater source of political conflict in Chinese social life. To protect the right to property in Chinese economic life means, at times, that political privilege turns into economic privilege given the corruption of power and the absence of fair rules. Thus economic privilege leads to unequal competition and injustice. The close relationship between democracy and the right to property and private ownership is mere wishful thinking.

The conflicts between rights cannot be attributed to the old system but to the nature of rights operating in the transitional period. This will bring forth a new problem, more serious than the conflicts between political power and individual rights if the collapse of the Chinese Communist party's monopoly control occurs.

(iii) Distorted forms of rights

In adhering to a 'perfected' ideal of human rights, there will be an increase in the inevitable distortions attaching to the processes of Chinese democratization. First, freedom and rights operate in an anarchic way or, what Wei Zhengtong calls, 'break from any bondage' in China. Thus liberty is understood to be completely antagonistic to tradition and its culture. As Wei Zhengtong observes, in modern China liberty takes the form of anti-tradition: if we have tradition, then we have no freedom; if we want freedom, we have to break with tradition completely (Wei Zhengtong, 1976, 55–69, in particular, 66). Thus this rebellious kind of negative liberty not only contains the idea that liberty is being let alone, but becomes a subversive force set up to oppose the existing political and cultural system.

Second, in Mao's time, there was roughly an egalitarian distribution of wealth but there was a lack of equal rights and opportunity.[7] Conversely, in Deng's time, there was neither equal rights and opportunity nor equal distribution of wealth. Injustice has become a crucial social problem. We see that some people enjoy economic freedom on the basis of suppression of others' freedom. The poor and powerless are controlled by the rich and power-holders in political and economic life. Also freedom of contract and enterprise makes sense only in the context of a free market system in which the workers and employers are both free to give or withhold work. But under a political monopoly, freedom of contract and of enterprise becomes a privilege and a new tool of exploitation on the part of political powerholders.[8] That sort of freedom and rights becomes despotism.

Third, a person, freed from the bonds of a totalitarian society, which simultaneously gave him security and limited him, has not gained freedom in the positive sense of realization of his individual intellectual, emotional and moral potentialities. Some people break free from political oppression but, unfortunately, are then worse off because they are enslaved under economic oppression. For those people, nothing is gained except alteration of the form and sphere of enslavement.

Fourth, freedom and rights are supposed to be a consensus for political institutional arrangements and actions, but in reality China is currently an unprincipled society which lacks consensus and trust between and among governors and the governed; and the principle of freedom and rights is often manipulated by politicians and even Chinese democrats living overseas for their own interests.

Using analysis of the distorted forms of rights, we further argue that the political system in China is a mixture of totalitarianism and distorted forms of rights and freedoms; it has become part authoritarian and part free. The classic polar opposites of totalitarianism and democracy, therefore, are not an analytical value to analyse the political system in the transition period.

(iv) Burden of rights

While John Rawls (1989, 235–8) discusses the burden of reason, and Erich Fromm (1960) the burden of liberty, here, I emphasize that rights may become a burden in the following cases in which first, people do not know how to make a choice when there is a conflict of rights; and second, in which certain people do not want to be held responsible for their choices which, while ensuring independence, leave them uncertain of whether or not there will be a price to pay for their choice. The point here is to show that at the crossroads for democracy, the burden of rights may, during the transition, contribute to the neo-authoritarian tendency.

There are other important issues such as the issue of discontinuity and disintegration, the relationship between stability and democracy, the relationship between size of polity and democratic institutions, roles of social actors and political strategies such as timing and piecemeal evolution. Here, I think, the process of democratization needs to be managed through a stabilizing policy in order to cope successfully with the complex problems. A radical overnight democratization will intensify social conflicts, create a situation in which the system will return to the old one, and destroy the chance to establish liberal democracy. Therefore, I fully support G. White's (1994) argument that any rapid move towards comprehensive democratization as advocated in the 'big bang' argument would be highly problematic.

However, I have not discussed the above issues in detail. This is partially because of the fact that Chinese democratization is in an early stage, or more

precisely, in deadlock at the moment; and partially due to the scope of my book. I hope that I will discuss them in a separate study.

In conclusion, one thing is certain—that China will undertake a democratic breakthrough in the future. It is not clear what model of democracy, liberal, paternalistic or popular, will be implemented in practice. However, we can be sure that no matter what the kind of 'Chinese character' of democratization, it will involve a general election and some degree of proceduralism. We can also be sure that the road towards democracy is going to be a long one in China, and in the end the Chinese people will be able to push China along in its historical quest for modernization and its drive to become a more liberal and democratic society.

NOTES

INTRODUCTION

1 Here I only provide a very brief background to my study. For more information about this background, see Section 1.6 of Chapter 1, Section 2.1 of Chapter 2, Section 5.1 of Chapter 5, and Section 6.1 of Chapter 6.

2 Hu Ping has discussed in detail the ideas and works of liberal Chinese authors in the past ten years. See Hu Ping, 1991 a, especially No. 2, 36–8, and No. 3, 46–9. Also see Wu Guoguang, 1990.

3 For example, Nathan, 1986, 1990a; Seymour, 1980; Burns, 1988; McCormick, 1990, 1992, 1993, 1994; McCormick and Kelly, 1994; Friedman, 1989, 1991, 1993; Womack, 1984, 1990; Goodman, 1985, 1987, Gittings, 1990, Chapters 8 and 10; Ching, 1990, Chapter 9; Bachman and Yang, 1991; Unger, 1991b; White, 1993b, 1994; Rosen, 1985, 1991, 1993; Saich, 1989; Goldman, 1994.

4 For example, Unger has studied in detail Yang's personal development and the social milieu that influenced his political stance and thought. See Jonathan Unger, 1991a; see also Rosen, 1985; Seymour, 1983.

5 As for Chinese liberalism between the 1890s and the 1940s, see Elvin, 1969; Fincher, 1989; Nathan, 1986; Grieder, 1970.

6 Political culture discourse which emerged in the 1980s in China has a subversive and critical character. Conversely, empirical political cultural discourse in the West, according to Luke, lacks a critical perspective, and constitutes a system of rules for creating and legitimizing apathy, docility and passivity in mass politics. See Luke, 1989, 142–7; Carol Pateman, in Almond and Verba, 1980, 61.

7 David Apter also claims that the rationality of developmental theories enables democracy to substantiate its claim to moral uniqueness, and to maintain itself as a self-evidently superior form of politics (Apter, 1987, 7).

8 Populists were not particularly radical in the sense that they departed only as much from the orthodoxy as they dared; while liberals are radical in the sense that they depart from Maoist and populist doctrine and attempt to change the Communist system. This use of 'radical' is totally different from, and should not be confused with, the way I use the term.

9 Marxist humanists' idea of democracy contains and supports core liberal elements of individual rights, legality, pluralism and proceduralism; see Hua Shiping, 1992.

1 THE RADICAL MODEL OF POPULIST DEMOCRACY

1 I do not adopt the usage of 'populism' common in today's USA and Canada which refers to people's initiative legislation and referendas.

2   For Yang Xiguang's biographical information, see Unger, 1991a. Born in 1950,
    Yang Xiguang was from an élite political family, whose father sat on the Hunan
    provincial Party committee and headed the committee's Secretariat *(mishuzhang)*
    and whose mother served as deputy head of the provincial trade union
    organization. In 1966, Yang participated in a secretive group of officials'
    children in response to the national movement. But his parents soon came under
    attack from above and Yang himself was criticized as a 'counter-revolutionary
    revisionist'. In 1967 he organized a small group of seven students to support the
    Xiang River Storm, a mass rebel organization. He was arrested for forty days
    and was released in March 1967. Yang later took an active part in *Shengwulian,*
    the Hunan Provincial Proletarian Revolutionary Alliance Committee. In the name
    of *Shengwulian* Yang composed a short essay, *Whither China*?, arguing for the
    establishment of a People's Commune of China, a model of direct democracy, as
    a solution to the political problem of the 'new class' in China. Because of his
    dissident views, Yang was sentenced to ten years imprisonment. In 1978 he
    (renamed Yang Xiaokai) went to the Hunan University to study mathematics, and
    later on to the Chinese Academy of Social Science studying quantitative
    economics. He was granted a Ph.D. degree in 1988 from Princeton University.
    Now Yang is a reader in the Department of Economics, Monash University,
    Australia.

3   The Li Yizhe group stuck up the famous *On Socialist Democracy and the
    Chinese Legal System* posters on 10 November 1974. A Chinese version of
    their posters was included in Ding Wang, 1976, English translation see Chan *et
    al.,* 1985. The Li Yizhe group was composed of Li Zhengtian, Chen Yiyang,
    Wang Xizhe and Guo Hongzhi. Li Zhengtian, author of the first draft of the
    'Socialist Democracy' poster, had been a leader of a Rebel Red Guard group.
    He was detained in August 1968, at the close of the 'Cultural Revolution'
    fighting, and not released until 1972. With the fall of Li Biao, Li Zhengtian
    was released in 1972 under a general amnesty as China entered a period of
    leniency. He obtained a temporary job in the library of Canton Fine Arts
    Institute, and there finished the first draft of the 'Socialist Democracy' essay in
    early 1973. Wang Xizhe played the biggest role in authoring the third and final
    draft and its preface. He had participated in Li Zhengtian's Red Guard group
    and, when the rebels were repressed in 1968, was assigned to settle in the
    Guangdong countryside. In 1969, perhaps through the intervention of his
    family, Wang Xizhe managed to return to Canton and was assigned a job as a
    boiler worker in a cod-liver oil factory, a post that he would hold, in between
    arrests, until his final imprisonment in 1981. For biographical information, see
    Chan *et al.,* 1985.

4   Chen played an active part in the 'Cultural Revolution' as leader of a Rebel Red
    Guard group in Kunming. From the early 1970s onwards, he worked as a
    statistician in a local mine, and it was during this period that he wrote *On
    Proletarian-Democratic Revolution*. In early 1978, he was arrested after
    submitting the work to official publishing bodies. He spent ten months in prison.
    He was thereupon freed and declared to have been a victim of the 'Gang of Four'
    in early 1979. Shortly after his release from prison, Chen went to Beijing with
    the aim of having his book published officially, but he met with no success. He
    there contacted the *April 5th Forum* unofficial publishing group. Finally, *On
    Proletarian-Democratic Revolution* appeared as a *samizdat* edition. Chen was
    arrested again in April 1981 for his involvement in the Democracy Wall
    movement. The following year, a Kunming court sentenced him to ten years'
    imprisonment and five years' deprivation of political rights for 'plotting the
    creation of a counter-revolutionary party'. He should have been released in April
    1991, but the Chinese government has provided no information about his current

status or whereabouts. For biographical information, see Robin Munro's introduction, in Chen Erjin, 1984 and *Human Rights Tribune,* Vol. 2, No. 6, p. 20.

5 *Sida* means speaking out freely, airing views fully, holding great debates and writing posters in big characters.

6 However, Li Yizhe's group still employed the term of capitalism as a contrast to socialism to explain the task of the Cultural Revolution. This contradicts their exclusion of 'capitalist restoration' in their idea of 'feudalistic socialist—fascist despotism'. The contradiction may be due to the historical fact that they had to use this term in the political conditions in the mid-1970s.

7 For the criticisms of the ideas of new class of Mao, Zhang Chunqiao and Yao Wenyuan, see Graham Young and Dennis Woodward (1978, 43) who argue that the analysis of the emergence of a 'new class' in socialist society has been superficial and fragmentary with some confusion, or at least vagueness. Ogden (1992, 221–2) also identifies two theoretical problems associated with Mao's idea of a new class: inconsistent definition of class, and the misdiagnosis of China's problem.

8 For the role of the idea of the Paris Commune in the Cultural Revolution, see East Asian Research Center, 1971, 2–3.

9 More discussion of how Chen differs from Marxism, Maoism and the 'Gang of Four', and what his contribution to Marxism is, can be found in Munro's introduction, in Chen Erjin, 1984.

10 If Chen were to follow his idea of the written Marxist constitution, he should have drawn an institutional dividing line between the people and the enemy in terms of the Constitution. That is, the people are friends of the Constitution and understand the constitutional order, foes of the Constitution are enemies of the state. This suggestion may overcome the weakness of the ideological dividing line, but it is still arbitrary.

11 Liu Guokai (1986–7) believes the Cultural Revolution to have occurred in a three-year period from mid-1966 to mid-1969, while Yan Jiaqi adopts the official Chinese designation of 'ten years of the Cultural Revolution' from 1966 to 1976. This matters in terms of assessing the Cultural Revolution, because, for populists, there were some democratic elements within the period from 1966–67. But for Yan Jiaqi, the term of ten years of the Cultural Revolution is seen as the period of terror; see Yan Jiaqi, 1987.

12 Dong Fang has made a similar argument, see Chen Erjin, 1984, 54.

13 Yang informed me of this in our talk, in his comments on my draft and his letter of 28 October 1992.

14 Zhang Zhixin, a party member in Liaoning province, had been imprisoned in 1969 for having injudiciously confided her inner feelings to friends. She denied the charge that she had sympathized with Mao Zedong's opponents ever since Peng Dehuai's fall in 1959, but she insisted that by party tradition she did have the right to oppose a leader's position. To silence her, her vocal chords were severed in prison. She was executed after five years of gruesome treatment.

15 I was very impressed by a worker, 40 years old, who attempted to develop the idea of Chen Erjin in 1981 when I was an undergraduate in Hangzhow University. The most impressive fact is that after I presented my analysis of the impractical elements of Chen's idea of democracy in the future of China, the worker cried, because he had lost something of personal value: populist democracy was his life and his 'religion'.

16 Occasionally the works and their names have been referred to in my interviews and private talks in 1991 and 1994.

17 A detailed analysis of the new class, see Liu Binyan (1990). Liu argues that the crux of China's problem lies in its vast bureaucracy and privileged class with

around 27 million cadres (1990, 9). Nevertheless, it is an open question whether Liu clearly distinguishes populist from liberal idea of democracy.

18   Ogden notices this issue but does not develop her argument. She asserts that the price of a rebirth of true economic inequality, and hence of new economically defined classes, seems to be a price that at least the liberal wing of the leadership is willing to pay (Ogden 1992, 227).

19   I have to acknowledge that those who appeal to radical means do not necessarily believe in a populist democracy, but rather, perhaps, in an elitist democracy.

20   Given the suppression of freedom of speech, the call for revolution cannot be seen in China's publications. But we can see these ideas in overseas publications. For example, Ni Yuxian, a radical, argues that the reason why the democratic movement in 1989 failed was its commitment to non-violent strategies. He further argues that the students were misled by reformers so that they could not see the true nature of the party. He also points out that the evolutionary or non-violent approach has failed; and it has blocked the process of democratization in China. Finally, Ni claims that the execution of Ceausescu and his wife Elena in Romania proves the possibility of successful violent revolution, and that the failure of the Chinese democratic movement necessitates violent revolution in China (Ni Yuxian, 1990, 85–7). Also Da Luren argues, the events of 4 June demonstrate the failure of 'reform within the system', and necessitate violent revolution 'outside the system' (Da Luren, 1990). See also the strategy of the Chinese Liberal Democratic Party overseas, in *Central Daily News,* in Taiwan, 20 August 1990.

21   *China Worker* has discussed the important issue of industrial relations, No. 6, 1994, 19–21, on why the 'master of workers' is 'out of favour', No. 2, 18–19, No. 3, 41–3, No. 4, 17, No. 6, 1994, 24–5; on the legitimate interests of workers which are violated in joint ventures, and on measures to protect workers, No. 5, 1994, 28–9.

22   Except that Wei Jingsheng's idea of equal rights has an important implication for the rights of workers and peasants.

23   For example see Anita Chan, 1992.

24   Examples are Zhang Taiyan's national populism, Li Dazhao's anarchical populism, and Liang Shumin's village populism.

2 THE OFFICIAL MODEL OF PATERNALISTIC DEMOCRACY

1   Pye's collectivist definition of paternalism is different from an individual definition; while the former stresses the value of a community, the latter focuses on the interests of a person whose liberty is limited. See Miller who defines paternalism as follows: 'In modern use the term usually refers to those laws and public policies which restrict the freedom of a person in order that their interests may better be served' (Miller, 1987, 367). Gerald Dworkin (1977, 78) defined paternalism roughly as 'the interference with a person's liberty of action justified by reasons referring exclusively to the welfare, good, happiness, need, interests, or values of the being coerced'.

2   An unknown dissident quoted in James D.Seymour (1980, 35). This point should not be overestimated. Most liberal intellectuals have taken the position that democracy is an end in itself. See Chapter 3.

3   Liang Qichao, quoted in Nathan (1986, 56). Machiavelli also stresses the priority of national freedom to individual freedom. He argues that freedom is a form of service, since development to public service is held to be a necessary condition of maintaining personal liberty. If we wish to maximize our freedom to control our private affairs without anxiety or interference, the moral is that we must first

turn ourselves into whole-hearted servants of the public good. See Skinner, 1983, 4.

4   It might also be a problem for a theory of collective choice; see Arrow, 1950; Sen, 1970.
5   'Constitution of the PRC, 1982, *Beijing Review,* 52 (27 December 1982).
6   It might have negative consequences in the process of realizing human rights in the transitional period, as will be discussed in Chapter 4.
7   Mill argues for the possibility of a legitimate 'benevolent despotism' (see Gaus, 1983, 221). Rawls (1971, 250) argues for two stipulations which are necessary for paternalistic intervention.

3 THE LIBERAL MODEL OF DEMOCRACY

1   See Eugene Lubot, 1982, 3–4. One might argue that Wei, Hu and Yan are Marxists because they quote Marx's works in their writings, but in my opinion, they do so only for reasons of political prudence. Liberal intellectuals must dress up their liberalism with a coat of Marxism. As Yan Jiaqi says,' As for myself, when I was on the mainland I never openly criticized Marxism, but used every possible opportunity to press for democracy and freedom.' See Yan Jiaqi, 1992b.
2   Fang Lizhi is well known as a democrat outside China. He, nevertheless, does not deserve extended discussion in his own right because he is only a warm advocate of democracy, not a theorist of democracy; and his ideas on democracy are very superficial and incomplete.
3   The following biographical information was taken from Claude Widor, 1981, 38–9; James D.Seymour, 1980; and from Andrew Nathan, 1986, 14–15, 22–3, 34, 40, 43, 118, 208.
4   For examples, 'The Fifth Modernization', 'Human Rights, Equality and Democracy', and 'A Twentieth-Century Bastille', included in Widor, 1981, Seymour, 1980.
5   On 6 February 1989, dissident astrophysicist Fang Lizhi sent an open letter to the party leadership, demanding the release of all political prisoners, and of Wei Jingsheng in particular. Fang's action was a prelude to the 1989 student movement.
6   See Wei Jingsheng, 'Diwuge xiandaihua' ('The Fifth Modernization'), in Widor, 1981, 79 and in Seymour, 1980, 65.
7   The following biographical information was taken from Nathan, 1986, 206–8; 1990a, 3–4.
8   The essay was written in 1975, and first appeared in *Wotu* in 1979. Reprinted in *Qishi niandai,* Nos. 3–6, 1981; *Spear Head,* Nos. 12–13, 1982 (translated into English); *Qingnian luntai,* Nos. 7 and 9, 1986; *Zhongguo zhichun (China Spring),* Nos. 50–2, 1987. Also included in a collection of his works: Hu Ping, *Gei wo yige zhidian (Give me a fulcrum),* Taiwan: Lianjing Chuban Gongshi, 1988. This is the source used in this book, hereafter referred to as 'Hu Ping, 1988'.
9   This is the central theme of 'On Freedom of Speech'. See Hu Ping 1988, 479.
10 On the failure of Chinese liberalism in modern China, see Jerome B.Grieder, 1970.
11 'Substitution of Dialogue for Antagonism', in Hu Ping, 1988, 356–7.
12 The following biographical information was taken from Yan Jiaqi, 1988, 5–56; 1991a, xiv-xxxii.
13 However, Yu Yingshi points out that absolute power was in fact limited by Confucian ideology, which contained norms for behaviour of the emperor and the bureaucracy. See Yu Yingshi, 1976, 50–2.

14   Nixon's fall, in Yan's view, was a success of procedural democracy in the USA. See also Emmette S.Redford, 1976.

15   This emphasis on procedures as the major criterion for distinguishing political systems is not present in the thought of Wei Jingsheng and Hu Ping, who both hold that there are only two, mutually exclusive, types, i.e. autocracy (or totalitarianism) and democracy.

16   This book was circulated throughout China. In 1987, 310,000 copies rolled off the press in six successive printings. In early 1987, the Xinhua bookstore in Guangzhou rated the book as one of the ten best-sellers of 1986. At the first meeting of the East China region to select outstanding books on political science theory held in Hefei, Anhui Province, it won the first prize. At a Beijing public 'book appraisal' meeting, the book won the 1987 'Golden Key Prize'. Soon after, it was also published in Shanghai, the China Bookstore in Hong Kong, and the Yuanliu Publishing Company in Taiwan. During the 'Chinese Cultural Plaza' in Taiwan, the public rated the book as one of 'Taiwan's ten most influential books in 1987'.

17   Yan Jiaqi praised the freedom of the press in Western countries, calling for the lifting of press bans in China. See FBIS-CHI-89–200, 18 October 1989, 22. He even put forward a proposal to establish three kinds of newspaper, published independently by the state, government, and social associations respectively. See Yan Jiaqi, 1989, 39–40.

18   This attitude has often led to self-deception and defencelessness *vis-à-vis* totalitarianism. See J.L.Talmon, 1970, 253.

19   See Hu Ping, 1988, 268; see also *Democratic China,* No. 1, April, 1990, 42–3; Yan Jiaqi, 1986a, 287–91, and in *Zhongyang ribao,* Taiwan, 15 May 1990.

20   In the preface of *Exploration,* he claims that 'our basic guiding premises' should be freedom of speech, publication, and association as stipulated by the Constitution. See Seymour, 1980, 34.

21   Hu's article 'Ownership and Democracy' was written in 1987 at Harvard University.

22   I am grateful to Professor James Seymour for drawing my attention to this point.

4 HUMAN RIGHTS, NATURAL RIGHTS AND LIMITS ON RIGHTS

1   For the practices of human rights in China since 1949, see Ann Kent, 1991.

2   Rawls (1982, 5) lists basic liberties as follows: 'freedom of thought and liberty of conscience; the political liberties and freedom of association, as well as the freedoms specified by the liberty and integrity of the person; and finally, the rights and liberties covered by the rule of law'. He (1982, 72) also emphasizes that 'the basic liberties constitute a family, and that it is this family that has priority and not any single liberty by itself'.

3   See Yan Jiaqi's preface, in Zhang Jiefeng *et al.,* 1989, ii-iii.

4   See 'Manifesto of the Federation for Democracy', in *Journal of Democracy,* 1990, Winter, Vol. 1, No. 1, 122–3.

5   I am aware that in the Western literature the idea of natural rights is a debatable issue, and that in Hobbes' theory of the state of nature the idea of natural rights has been used to justify unlimited authority. Here I believe Locke has corrected Hobbes' mistake.

6   The idea of natural rights discussed here does not assume, as Hobbes or Locke did, any negative or positive views on human nature. This intellectual position is consistent with my rejection of the idea that the concept of human nature is of value for democratic thinking, see Chapter 5.

7 Here I reject Wei's Marxist dialectical discourse. If one recognizes the Marxist dialectical method, he would argue there is no tension in Wei's thinking on human rights.

8 In Hu's letter to me, he explains that, since the ideas of natural rights and of natural law were too alien to be acceptable among the populace in the 1970s, he decided to use more utilitarian arguments for freedom of speech (permission for citation is granted by Hu). This implies that Hu himself favours the idea of natural rights.

9 The Taiwanese scholar Sheng Qingsong has defined an additional justification for freedom of speech: apart from the consideration of protecting democratic institutions and of stimulating the quest for truth, he believes that freedom of speech is also helpful to the realization of the self. See *Zhongyang ribao (Central Daily News),* 10 March 1990, Taiwan.

10 Hardin (1988) gives a wonderfully systematic utilitarian justification for the value of rights. But I still believe that utilitarian justification is insufficient.

11 Lin Yusheng suggests that the Confucian concept of moral autonomy can justify the idea of basic rights. This is a challenging topic that needs to be examined. See Lin Yusheng, 1988, 320.

12 Freedoms in Wei's thinking are only limited in the sense that freedoms are not open to those who have opposite views, as he claims that we oppose any statements and theories which support bureaucratism and fascism and, as for those who are not prepared to allow freedom to other people, we should deny their right to publish in our magazine (Wei, in Seymour, 1980, 34).

13 This demarcation is debatable. As John Keane (1988) has pointed out, the boundary between public and private has been dissolved. For example, welfarestate intervention is geared to solving basic economic and social problems, and thereby touches on and redefines the more intimate areas of private life. However, the distinction between private and public has, I think, obvious normative relevance to Chinese institutional design.

14 See also Hardin's (1988, 86) utilitarian justification for state interference.

15 I do not accept the notion of individual secession as discussed by Buchanan (1991, 13–14) who himself later calls it individual independence.

16 Hu Ping discussed this in our talk in New York in November 1993.

17 He Xin's conspiracy thesis, particularly the assumption of the American attempt to divide China, lacks empirical support, and is designed to encourage Chinese nationalism. Former President Bush clearly did not support the break of Ukraine from Russia.

18 For example, 93.3 per cent of Azerbaijan said 'yes' in the referendum on union in March 1991. However, nine months later, 98.2 per cent of Azerbaijan supported independence. See S.White *et al.,* 1993, 89.

5 THE PROBLEM OF EVIL AND REDESIGNING DEMOCRATIC INSTITUTIONS

1 I should acknowledge that, although political thought about institutional arrangements depends on certain suppositions about human action, institutional design in political life depends on culture, technology, economics and particular situations.

2 In this regard, Yan Jiaqi (1986a and b, 1988) has been influenced by Machiavelli and Madison; Hu Ping (1990a) by Hobbes and Hume; Liao Xun (1987) by Madison.

3 *Fajia* was the Legalist or Realist school which emphasized strict control of the people by harsh laws, encouraged agriculture and aggressive warfare, and dealt

with a single problem: how to preserve and strengthen the state. Like Machiavelli's famous treatise, to which it has often been compared, Han Fei-tzu's work is a handbook for the prince.

4   This topic goes beyond the scope of the chapter.

5   Liao Xun, born in Beijing in 1950, is now a research fellow in economics, and the vice-director of the Research Centre of Social and Economic Development under the Hannan Government. He was a member of the Institute of Industry Economics in the Chinese Academy of Social Sciences and took part in economic reform in the early 1980s. He gained his reputation from his earlier advocation of the idea of 'small government and large society', which was adopted by provincial leaders in Hannan in the mid-1980s. He played a major role in designing the institutions of Hannan Province according to his liberal idea of limited and small government since 1985. See Liao Xun, 1991.

6   This was borrowed from the idea of the 'new Soviet man' in the former Soviet Union which dominated Soviet thought in the 1920s and 1930s.

7   In comparing Chinese moral perfectionism with German race perfectionism, I think, while the former provided a justification for the Party to deny the right of those who were regarded as immoral, the latter provided a justification for the Nazis to fight to 'liberate' mankind from the 'rule of subhumans,' and to eliminate forever certain 'races' such as Jews from the surface of the earth.

8   In traditional China, there were various ideas of hell. Yarnluor, ruler and judge of the Chinese hell, can see one's sins from the terrace; one's sins are reflected in the mirror, and evil persons are in the cangue, etc. (Eberhard, 1967, 24–59; Elvin, 1991, 41–2). Given that, if one assumes that humans are evil, one can still rely on religion. However, since the ideas of hell have been losing credence, the institutional remedy adopted by Chinese liberals is desirable and feasible.

9   Lei Feng, an ordinary soldier, was praised by Mao Zedong as a moral hero who sacrificed himself for the public good in the 1960s.

10 In their understanding, civil society refers to an autonomous organization that is independent of direct political control by the state and the Party.

11 This series told the story of Li Xiangnan, a reformer, who served people wholeheartedly and was self-sacrificing.

12 This emerged among a group of intellectuals in both the government and the academy in Beijing between 1986 and 1989, and had the attention and support of senior party reformers, including the former General Secretary, Zhao Ziyang. I will discuss their ideas of the necessity of a strong government and of the suspension of the transition towards democracy in Section 4.

13 For example, Kant (1960, 24–5) distinguishes natural evil from moral evil; Milo (1984, ix) distinguishes perverse wickedness from preferential wickedness; Schmitt (1976, 96) regards evil not only as dangerous, corrupt, weak, cowardly and stupid, but as rude, instinctive, vital and irrational. Rawls (1971, 439) remarks, what moves evil humans is the love of injustice; they delight in the impotence and humiliation of those subject to them.

14 This is the title of one of the wall-posters in Beijing University in 1989. See Gittings, 1990, 270.

15 The Yanan Rectification Movement, in Chinese, *Zhengfeng Yundong,* was launched in 1942 in Yanan to remould the party's thinking and guide its growth. It included study, discussion, and criticism and self-criticism. It involved intensive indoctrination and education in the principles of Mao Zedong Thought.

16 A similar case is that of Eichmann who played a major role in the Final Solution, the murder of six million Jews. He was not an evil-doer in the depths of his heart. He did not feel guilty before the law. Rather he declared with great emphasis that he had lived his whole life according to Kant's moral precepts, and especially according to a Kantian definition of duty. He thought he was a

law-abiding citizen. Arendt comments that Eichmann shows us the fearsome, word-and-thought-defying banality of evil (Arendt, 1963, 18, 120, 231).

17 See Schell, 1991, 30. This guilty commitment mechanism reminds us of the practices   of confession and of penitence organized by the Church in the Middle Ages. See Jean Delumeau, 1990.

18 Locke states that, 'as usurpation is the exercise of power, which another hath a right to; so tyranny is the exercise of power beyond right, which no body can have a right to'. See Locke, 1988, 199.

19 Hu made this point in my interview with him in New York on 10 January 1993.

20 It should be made clear that Hu's and my argument is not against Rawls' theory itself but against the use of Rawls' idea of the original position in China. It is unfair to charge Rawls with failing to take the problem of evil into account, because the issue of civil war and danger of totalitarianism, which is a major concern for Chinese liberals, is not a problem for him. Also, Rawls' general defence of the priority of equal liberties is relevant to Chinese debates over political values which I have often cited in my work.

21 The idea of the middle case fits well with the Chinese people's view that the majority of human beings are good and that only a minority are evil. For example, with the Chinese, a high proportion will select the good orientation and a lower proportion the evil orientation. In a survey conducted in rural Taiwan in 1983, 49.5 per cent of the responses of farmers characterized human nature as mostly good, 20.7 per cent a mixture of good and evil, 14.9 per cent all good, 11 per cent neutral, 4 per cent mostly evil, and 0 per cent all evil. See Jiang, 1987, 241. I should acknowledge that this Taiwan study cannot represent mainland Chinese attitudes and that no similar survey has been done on mainland China.

22 Hu also discussed this in his letter to me.

23 There are many Chinese articles which have argued for and against neoauthoritarianism from various aspects; see Liu Jun and Li Lin, 1989. Here I limit my discussion of neo-authoritarian institutional design in terms of evil.

24 This assumption is certainly wrong. I have examined the emergent democratic culture in China. See Chapter 8.

25 I acknowledge that although democracy is defined by Yan Jiaqi as fair procedures, with general rules that permit a peaceful succession, the problem of succession is far from being resolved during the process of democratization.

26 Feng Shengbao points out the negative effects of the students' demonstration in 1989 and argues against the strategy of creating a 'political earthquake', see *Zhishi fenzi (Chinese Intellectuals),* Vol. 6, No. 4, 1991, 56.

27 Wang Juntao has also defended the right to make counter-revolutionary statements, including those which are against the party (Gittings, 1990, 154).

6 THE PROBLEM OF EXCEPTIONS

1 The idea of proceduralism is assumed by constitutionalists such as Justice David Davis who states that 'the Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, under all circumstances.' See Murphy *et al.* 1986, 1192.

2 Also the work of Brennan and Buchanan *et al.* fails to pay attention to the problem of the exception. For example, they talk about generality of rules (1985, 29) and claim that constitutional analysis attempts to include all the relevant constraints (17). On the other hand, they defend constitutional proceduralism well at a methodological level. Their defence of constitutionalism or normativism can be summarized as follows. We require rules in society because

without them, life would indeed be 'solitary, poor, nasty, brutish and short', and all the world would surely fight. Rules would operate over a long sequence of plays in which the fortunes of each player would be somewhat uncertain (17). Processes according to certain rules are of independent value; adherence to certain values provides information about the normative status of outcomes (18).

3   On 22 April 1991, the National Assembly adopted a series of Constitutional Amendments, one of which is a provision for the exercise of emergency powers by the President in Taiwan.

4   *Zhonghua renmin gongheguo xianfa 1954 (The Constitution of People's Republic of China 1954),* Beijing: People's Press, 1954, 12.

5   *Zhonghua renmin gongheguo xianfa 1975 (The Constitution of People's Republic of China 1975),* Beijing: People's Press, 1975.

6   *Zhonghua renmin gongheguo xianfa 1978 (The Constitution of People's Republic of China 1978),* Beijing: People's Press, 1978, 18.

7   *Zhonghua renmin gongheguo xianfa 1982 (The Constitution of People's Republic of China 1982),* Hk: Shanlian shudian, 1982, 20–1, 26.

8   Of course, there was a conflict over the interpretations of the Constitution in the American Civil War. For the South, which sought to secede from the Union, the North was acting in violation of the principles of the American founding and of the rights of the states under the Constitution. However, I do not accept this interpretation because I accept the conventional view that the American Constitution does not grant the right to secede.

9   Pye has discussed four positive elements of paternalistic authority: the great flexibility in policies; the avoidance of a basic dilemma of political development; heightening people's sensitivies; and longer-term perspectives in policy practices (Pye, 1985, 332–4).

10 On Yeltsin's emergency power, see Michael Dobbs, *International Herald Tribune,* 1–2 November 1992, p. 1.

11 See *Australian,* 22–5 March, 1993.

12 Article 121 of the 1977 Constitution of the USSR specifies that the presidium of the Supreme Soviet of the USSR has power to proclaim, in the interests of the defence of the USSR, martial law in specific localities or for the whole country and general or partial mobilization. See Simons, 1988, 380.

13 I acknowledge that there are problems with court review. For example, in the Irish practice of exceptions, emergency resolutions cannot be reviewed by the courts, because they are not part of the Bill. An Emergency Bill, however, can be referred to the Supreme Court under Article 26 procedure but the scope of the court's scrutiny will be limited. See J.Kelly, 1984, 162–8.

7 INFUSING A RIGHTS-BASED MORALITY INTO POLITICAL INSTITUTIONS

1   The term, 'Infusing morality into politics' is borrowed from Goodin, 1992, 168.

2   Goodin has examined two ways—moral and political tracks—to motivate the behaviour of individuals, see Goodin, 1992.

3   Here my colleagues and I are more interested in moral principles for institutional design than in those for individuals, see the introduction of our Chinese translation of John Rawls' *A Theory of Justice* (1988).

4   Yan Jiaqi expressed a similar argument in my interview with him on 18 December 1992 in Paris.

5   See also MacIntyre, 1981, 216.

6   According to Mill, moral uses of 'right' and 'wrong' depend upon an act's conformity to, or violation of, fairly general moral rules (Gaus, 1980, 267).

7 Smith argues that to be virtuous equates with rule-following. (See MacIntyre, 1981, 218).

8 See Yan's conversation with Zhu Gaozheng, *Zhongyang ribao,* Taiwan, 15 May 1990; and Hu's conversation with Zhu Gaozheng , in Hu Ping, 1988, 238–66, see also *China Spring,* August 1990, 20–1.

9 For example, new élites which are often composed of the children of Party veterans have adopted a Machiavellian immoral position in politics. See 'Realistic Responses and Strategic Choices for China after the Soviet Coup', which is discussed by David Kelly, 1992, 5–6.

10 I acknowledge there are different understandings of fairness in the Western political theories, and tensions between fairness as mutual benefit and fairness as impartiality. For a utilitarian concept of fairness, see Robert Goodin, 1976, Chapter 6. For a discussion of tension between theories of justice, see Brian Barry, 1989. I adopt Rawls' conception of justice as fairness in my present study.

11 More discussion, see Gaus, 1991.

12 I acknowledge that institutional arrangements such as markets, legal regulations and decision rules of unanimity cannot guarantee fair outcomes.

13 Rigby and Fehér have discussed goal-rational legitimization in Communist regimes. They argue that legitimacy in Soviet society reflects the goal-rational character of its social order. The validity of orders issued by the rulers is derived from the validity of the principal social goals that the authorities claim to represent and promote. See Rigby and Fehér, 1982.

14 For more discussion of the comparative merits of rights-based, goal-based and duty-based theories, see Mackie, 1984.

15 See David D.Buck, 1991. For examples, Akos Ostor's (1984) challenge to the Western concept of the market.

16 For example, the Chinese government uses the idea that human rights are circumscribed by historical, social, economic and cultural conditions to argue against international condemnation of the Beijing Massacre in 1989.

17 Also see Beitz's (1979) cosmopolitan conception of morality, Shue's (1980, 120) idea of universal subsistence rights.

18 See Nathan in Edwards *et al.,* 1986, 163.

19 Here, I think, Daniel Kane's observation that Chinese intellectuals favour universalism while Western intellectuals favour relativism is misleading because it underestimates the universal attitude among Western intellectuals and the cultural relativist attitude among Chinese intellectuals. See Daniel Kane, 1991, 68–72. Also Nathan (1991b) shows the difficulty of explaining why an originally western concept of human rights is valid for China. However, I think, the difficulty can be overcome in the context of the common position between Chinese liberals and Western liberals rather than in the context of different positions between the Chinese government and liberals.

20 Wu Guoguang (1990) has examined China's ten-year reform, particularly rural reform, in terms of a liberalization process.

21 'Economic Contracts must be made in the principle of equality and mutual benefit, agreement through consultation and compensation of equal value. Neither party is allowed to impose its will on the other, and no unit or individual is allowed to interfere illegally.' See Yu Youzhi, 1986, 193–212, especially 203.

22 For the relationship between fairness and economics, see Goodin, 1992, 23–4.

8 CULTURAL CONDITIONS

1 For definitions of political culture, see Almond and Verba (1963, Chapter 1), and Pye and Verba, 1965, 7; Pye, 1966, 104–5; 1985, vii-viii, 19; 1988, 5–10. Pye's concept of political culture has two major problems: cultural determinism and psychological reductionism (see Baogang He, 1992). However, Pye's cultural approach can still be defended in the context of the Chinese democratic enterprise. The fact that China has experienced a continuing cultural debate since 1984 highlights the importance of cultural factors. To dismiss the importance of political culture in Chinese studies is to be ignorant of the above fact and its meaning; and such ignorance will prohibit contact with the fundamental issues in modern and contemporary China. Pye offers three major reasons for the exceptionally dominant role of cultural factors in Chinese political life: (1) The strangely potent mixture of Confucianism and Leninism seems to agitate passions and arouse visions. (2) Confucian Leninism places supreme value not just on ideology, but on highly moralistic versions of ideology. (3) The study of political culture is important for understanding Chinese politics because of the unique relationship between the primary institutions that are so important in socializing the Chinese and the public institutions of national politics (Pye, 1985, 32). It follows, I think, that (1) personalistic and paternalistic politics in China have to be clearly analysed by psychological investigation. (2) The process of transformation of modern Chinese politics has to be analysed through examination of different values and cognitions among different social groups. As a conclusion here, I quote Pye that any form of political analysis is inevitably premised upon fundamental notions about human nature and human society. Any attempt to analyse or discuss political life must involve psychological and sociological assumptions (Pye, 1988, 7). See He Baogang, 1992.

2 Here it does not imply that people, in particular politicians, are indeed committed to these values and beliefs, but they have to behave, due to cultural and institutional constraints, in a way that suggests they believe in them even if at a deeper level they remain sceptical. I thank Barry Hindess for this clarification.

3 I have discussed elsewhere three models of interplay between cultural and institutional causal factors. See Baogang He, 1992.

4 Rustow (1970, 362) also rejects what are sometimes proposed as preconditions of democracy, for example, high levels of economic and social development, or a prior consensus either on fundamentals or on the rules.

5 The revolution of 1911, according to Elvin, was indirectly the beginning of the end for the Shanghai Council (Elvin, 1969, 58), though Fincher (1968, 1989) sees the 1911 Republican revolution as a precedent for progress. Elvin and Blunden (1983, 158) and others (e.g. Nathan, 1976) have argued that the revolution ultimately wiped out for several generations China's peaceful and organic progress towards a modern and democratic future.

6 In July and August 1987, the Beijing Institute of Socioeconomic Studies carried out a massive survey of Chinese political cultural beliefs. About 500 university students were employed and trained to collect data on Chinese people's political attitudes and beliefs in twenty-two provinces and cities. More than 3,200 survey samples were obtained resulting in more than 7,400,000 pieces of survey data (see Min Qi, 1989). The survey is informative and should be used, but is not reliable. For a study of survey research, see Rosen, 1991.

7 The survey reveals a sort of 'Chinese democracy complex' which contains ideas somewhat contradictory to the Western view, but represents a viable Chinese synthesis favouring democracy of a certain sort.

8 One may argue that the need for harmony makes compromise a necessity in

Japan. This might be true. However, in the Chinese case, because there is no institutional arrangement for political opposition, the search for harmony leads to suppressing dissidents so as to maintain a voice which unifies the whole nation. If there is legitimate institutional arrangement for political opposition and recognition of, and respect for, different voices, the need for harmony may favour a compromise strategy dealing with conflicts of competing interests.

9   However, Pye's work is limited in the sense that he does not pay enough attention to the changes in today's China (see Chapter 10).

10   Japanese scholars such as Itagaki also discussed the idea of liberty in neo-Confucian terms, see Mason, 1969, 24.

11   In the new democratic tradition, liberal democracy should be distinguished from populist democracy, or in Talmon's (1970) term, totalitarian democracy, which ironically led to Communist totalitarianism in China.

12   'To tolerate' generally means to endure, suffer, or put up with a person, activity, idea or organization of which or of whom one does not really approve.

13   For more discussion, see Baogang He, 1988.

14   See Baogang He, 1985; Zhang Rulun, 1986; Yuan Zhiming *et al.*, 1988; Li Huanchung, 1988.

15   Here I limit my consideration only to cultural factors. I acknowledge that many factors, such as a sullen, desperate peasantry and a fragmented military scattered over a vast, poorly integrated national landscape, the unfavourable terms on which China entered the world market, and the Japanese invasion, caused the failure of democracy.

16   It is obvious that the political thinking of leaders is limited by Chinese culture. This has been researched by some scholars such as Lucian Pye. However, the negative impact of Chinese political culture on current Chinese liberals needs to be studied, therefore I focus on liberals rather than leaders. Also cultural, institutional and sociological approaches certainly present different views of what the problems associated with democratization in China are. Here the cultural approach attempts to identify a set of cultural problems. I will explore institutional and sociological problems in a separate study.

17   I have met and talked with many Chinese democrats overseas. Some of them remark openly that China needs a form of neo-authoritarian system rather than an elective one. It seems to me that few are really committed to democratic values. One thing that has struck me is that a reason why some have joined democratic organizations overseas was to have justifiable evidence to apply for permanent residence in Western countries. In this respect I feel the democratic movements overseas, to some degree, are surreptitious 'migration movements'.

18   For example, Yuan Zhiming, my friend and the former chief editor of *Democratic China,* moved from the vague liberalism of *River Elegy* to explicit support for 'new authoritarianism' in the year following his exile after the crackdown (see *Democratic China,* 1990, 4:49, 5:19–23). For further discussion of the authoritarian Chinese personality, see Min Qi, 1989, 166–77.

19   Egalitarianism does not necessarily lead to authoritarianism. Nevertheless Mao carried out egalitarian policies to maintain a totalitarian system. The legacy of egalitarianism has dual roles: besides the negative one discussed in the text, there might be a positive role if egalitarianism is modified to support social welfare reform so as to maintain social stability.

20   One of my colleagues, Rong Jian, the author of *Minzhu lun,* who strongly opposed neo-authoritarianism before the 4 June 1989 events, and was active in the *Beijing Association of Intellectuals,* told me in April, in Beijing, that China needed an authoritarian system because he felt, during the popular movement in 1989, that China would succumb to social unrest if it lacked a strong authority.

9 SOCIAL CONDITIONS

1 I owe this idea to Barry Hindess' critique of social structural analysis. Hindess (1989, 13–17) argues that social structure does not operate outside of, and above, actors, but rather through the decisions of actors. Actors normally have a variety of forms of assessment of their situation available to them. The variety of forms of assessment of their situation also depends on a variety of practices and conditions. There are, therefore, complex interconnections between social structure and actions.

2 See a series of discussions on 'the economic efficacy of the Stone' in *Jingji ribao,* 15 August, 3 September 1988; 'Wan Runnan dui waijie piping de huida' (Wan Runnan replies to his critics), *Jiefang zazhi,* No. 2 (February 1990), 82–4; interview with Shi Zhenrong in *Lianhe bao* (Tai-bei).

3 I was impressed by this in Beijing in February 1991. My friend, Rong Jian, who took active part in the Beijing Association of Intellectuals, happily showed me an official notice on which it said that Rong had been dismissed from the membership of the party. To be dismissed from membership of the party is regarded as a good thing in the anti-Communist shadow culture. Rong's experience in the student movement in 1989 and this punishment helped him find a wonderful job in the *tequ shibao* in Hainan.

4 See 'Guanyu Wenzhou wenti de diaocha baogao', *Guowuyuan yanjiushi songyuejian,* No. 49, 2 December 1989.

5 For Ash (1989, 246), civil society describes two different things: (A) the entire range of social associations, ties and activities independent of the state, from glee clubs to Charter 77, from *samizdat* to breviaries, and from private farmers to homosexuals; (B) more narrowly, and more politically, the products of that strategy of 'social self-organization' that was, broadly speaking, adopted by the democratic oppositions in Poland, Hungary and Czechoslovakia in the midto late 1970s. For them, the reconstitution of 'civil society' was both an end in itself and a means to political change, including change in the nature of the state.

10 LEGITIMIZATION AND DEMOCRATIZATION IN A TRANSITIONAL CHINA

1 I acknowledge Pakulski's discussion (1994) on non-legitimate domination, that is, a regime's stability does not rely on legitimacy. Nevertheless, following Palma (1991), I think that the concept of legitimacy provides an intellectual tool whereby we are better equipped to understand the significance of current political events, particularly the direction of Chinese political development in China.

2 See P.Lewis, 1983; Palma, 1991; Schopflin, 1990 and L.Holmes, 1993. Pakulski (1994) has, however, rejected the 'legitimacy crisis' explanation.

3 For a critique of Pye's cultural approach, see Baogang He, 1992.

4 This distinction may imply that a ruler may lose his or her legitimacy while the system retains legitimacy; or the system may lose its legitimacy while a ruler retains legitimacy.

5 Brugger has outlined changes in official ideology since the Third Plenum of late 1978, see Brugger, 1989, 2–12, 18–26.

6 Vladimir Tismaneanu describes the same phenomena in Eastern Europe, see Tismaneanu, 1988.

7 See *Shijian jingji daobao (World Economic Herald),* 8 May 1989.

8 In fact, reformism provides a very limited political justification. As Friedman (1985, 44) argues, 'one matter that weighs against the reformers is that their

wisdom seems heresy in the Leninist tradition. Therefore the reformers cannot readily legitimate their policies.'

9 I acknowledge Teiwes' argument that the Chinese regime is not based on legal-rational authority and the position of leader has not been strongly defined in legal-rational terms. As Teiwes (1984, 55–8) argues, Deng's move towards legal rationality is impressive but uncertain and ultimately flawed.

10 This information comes from my interview with the cadres in Jiangbei and Linhai in Zhejinag province in October 1994.

11 The 1987 Survey conducted by the People's University demonstrated that 43.8 per cent of the respondents favoured direct elections for local leaders, and 16.6 per cent and 16.2 per cent for provincial and central leaders respectively (Yu Guomin and Liu Xiayang, 1993, 90).

12 Of course, the party still appeals to virtue (see Goodman, 1987) but given rampant corruption, this is less effective. Also, the appeal to virtue has been used less in the 1990s than it was in the 1980s. Moreover, Chinese writings have developed a utilitarian conception of morality as an alternative to the Marxist goal-based morality. For example, see Wang Haimin and Sun Yin (1994).

13 Pye made this point in his letter to me, but I have expanded it (permission for citation is granted by Pye).

14 This information is gained from my interviews with the staff in the Department of Political Science at Hangzhou University in November 1994.

15 There have been various responses to the *White Paper*. Western critics and Chinese dissidents overseas are very sceptical. See the criticism by Yan Jiaqi (1992a) and *Minihu zhongguo (Democratic China Monthly),* 1992, No. 2, 21.

16 See the publications of *China Rights Forum*.

17 For a list of Chinese writings on human rights see the Institute of Law, 1992 and Shih, 1993.

18 I acknowledge that procedural rules on succession are very weak and are not well established; while Deng's personal role in selecting and abandoning successors is extremely important just as the role of Lee Kuan Yew in Singapore is (Mauzy, 1993). Also formal rules on succession are less important than an informal network, the army and even the order in which the party elders die (Bachman, 1991, 253; Sandschneider, 1985). Lin Biao, for example, was the only one who had the 'guarantee' of his designation to succeed Mao written down in the 1969 Party Consitution. Exactly two years later he was dead and his name turned into a synonym for every imaginable evil (Sandschneider, 1985, 641).

19 Hua Junduo, Chinese ambassador to Australia, made this point in his public speech, 'Prospects for the Sino-Australian Relationship', at the University of Tasmania on 28 March 1995.

20 The 1987 Survey demonstrated that 54.06 per cent of the respondents were confident of the NPC; and 15.39 per cent and 45.52 per cent believed that local People's Congresses played significant or minor roles respectively (Min Qi, 1989, 43, 64). The 1992 Survey conducted by the Beijing Institute of Social Psychology demonstrated that 67.7 per cent of the respondents saw the NPC as being the supreme organization to make laws (*A Study of Social Psychology,* No. 32, September 1992, 8).

11 CONCLUSION

1 Some Western scholars criticize Chinese utilitarian attitudes towards democracy. This criticism is unfair because social utility is seen as the origin of Western democracy; it is also misleading in the sense that the reason why dissidents such

as Hu Ping hold the utilitarian argument is in order to convince leaders to accept democratic institutions. In fact, Hu Ping regards human rights as an independent value. Also if we accept Ip's (1991) distinction between nation-oriented and individual utilitarian commitment to democracy, I would argue that while Deng's utilitarian consideration of democracy is collective-oriented, Hu Ping's is individual-oriented.

2   There is already a body of literature which has argued well that preconditions for Chinese democracy exist (Friedman, 1991; Nathan, 1990a and b; G.White, 1993a). My book only supplements their arguments.

3   As to the study of the contradictions in the transition period in the Communist societies, see Jadwiga Staniszkis (1989 and 1990).

4   In the 1920s, the Communists and National Socialists were hostile to the Weimar Constitution. See Neumann, in Keith Tribe, 1987, 7.

5   Lin further argues that the rule by laws is totally different from the rule of laws which presupposes basic human rights and implies that any laws and regulations must comply with a meta-Iegal doctrine—the idea of natural rights (Lin Yusheng, 1988, 58, 79, 292, 319, 381).

6   The view may be well elaborated by Feng Xuefeng's fable in 1956 that a snake decides to make a law that no one can interfere with another animal's privacy without due process. Then to teach the timid hare how to use this law, the snake barges into his den and bites one of the baby hares to death. He waits by the door for the hare to come out and follow the new law by charging him with breaking it (see Nathan, 1986, 161–2).

7   The degree of egalitarian distribution of wealth in Mao's China is subject to debate.

8   See also Franz Neumann 'On the Preconditions and the Legal Concept of an Economic Constitution', in Keith Tribe. 1987. 48.

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INDEX

INDEX