

REFLECTIONS ON THE CURRENT DRIVE TOWARD GREATER LEGALIZATION IN CHINA*

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With the fall of the Gang of Four in 1976, China began moving sharply toward expanding the role of law in Chinese society. For the first time in nearly two decades, major articles were published which stressed the importance of legal work.¹ In October 1978, Zhao Cangbi, Minister of Public Security and Vice-Director of the Political-Legal Commission of the Central Committee of the CCP, said that all original laws and statutes urgently needed to be revised.² At that time, work was completed on twenty-eight categories of statutes, including a revised Marriage Law; a new law on protection of the environment; and various regulations concerning the operation of the rural people's communes, the protection of forests, the strengthening of safety measures for industrial production, the encouraging and awarding of inventions, the making of technological improvements, and the commendation and punishment of personnel of the state administrative organizations. In February 1979, a new Regulation Governing the Arrest and Detention of Persons Accused of Crimes was issued, with considerable publicity.³

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¹ For example, see the special feature, *China's Socialist Legal System: Prospect and Retrospect*, 2 BEIJING REVIEW 25 (1979); *Strengthen Legal System and Democracy*, 27 BEIJING REVIEW 32 (1979).

² *Chao Tsang-pi (Zhao Cangbi) Attends Forum to Strengthen Socialist Legal System*, Foreign Broadcast Information Service (People's Republic of China) E1-E7 (Nov. 1, 1978) [hereinafter cited as FBIS].

³ *NPC Promulgates New Regulations on Arrest, Detention*, FBIS E2-E5 (Feb. 26, 1979). Some related articles are *Details of Public Security Ministry Arrest Circular Discussed*, FBIS E6-E7 (March 7, 1979); *Renmin Ribao Hails NPC Regulations on Arrest, Detention*, FBIS E2-E3 (March 13, 1979); *Renmin Ribao Stresses Acting According to Law*, FBIS L6-L8 (April 3, 1979).

The second session of the Fifth National People's Congress promulgated seven new laws on July 1, 1979:⁴ the Organic Law of the Local People's Congresses and Local People's Governments; the Electoral Law for the National People's Congress and Local People's Congresses of all Levels; the Organic Law of People's Courts; the Organic Law of People's Procuratorates; the Criminal Law; the Law of Criminal Procedure; and the Law on Joint Ventures. Moreover, work is progressing in a number of other areas, including civil law, civil procedure law, taxation, and corporations.⁵

This is a formidable list indeed. After a twenty-year absence of workable Chinese legal materials, we are suddenly confronted with a veritable flood of new legislation. These new laws, together with efforts such as the expansion of legal training and the publication of two new legal journals, *Faxue yanjiu* and *Minju yu fachi*, vividly demonstrate the desire of high level leaders to implement a formal system of law.

Nevertheless, an important question remains: to what extent will this legalization drive actually take root in Chinese society? We should remember that a similar effort was mounted in the mid-1950's and collapsed after the anti-rightist campaign of 1957.⁶ In addition, the Nationalists also tried to establish a Western-style legal system in the 1920's and 1930's, with little success. To cite just one example, the Civil Code of 1929⁷ provided that a deceased man's wife and daughters were to be entitled to a share of his estate, yet very frequently the traditional practice of dividing the inheritance only among the sons continued to be followed.⁸

Phrased more generally, the issue concerns how a mandate from the top is translated into concrete actions at the local and individual levels. That is, a commitment by the upper level leadership to pursue a certain course of action is a necessary, but often not a sufficient, condition for the success of the program.

The promulgation of new laws and regulations is a major step forward in the legalization effort, but much more has to be done

⁴ FBIS, 019 Supp. (July 27, 1979); FBIS 020 Supp. (July 30, 1979).

⁵ *People's Daily Articles Call for New Legal Codes*, FBIS E13-E14 (Nov. 29, 1978); *A Civil Code Must Be Drafted*, FBIS E4-E5 (December 5, 1978); Hu Chiao-mu, *Observe Economic Laws, Speed Up the Four Modernizations*, 47 PEKING REVIEW 13-22 (1978).

⁶ See J. COHEN, *THE CRIMINAL PROCESS IN THE PEOPLE'S REPUBLIC OF CHINA, 1949-1963: AN INTRODUCTION* 3-18 (1968).

⁷ CIVIL CODE, arts. 1138, 1144, 1223 (1929).

⁸ See the examples of partition of property as described by Myron Cohen, *Family Partition as Contractual Procedure in Taiwan*, CHINESE FAMILY LAW AND SOCIAL CHANGE 176-204 (D. Buxbaum ed. 1978).

before legalization actually takes root in Chinese society. We should not let our own preferences for formal law—or perhaps it is our effort to find in Chinese society something familiar with which we can identify—lead us to believe that the new legal system can be readily established in China.

A. *Pre-existing Attitudes Toward Law*

This article will not discuss in detail the strong antipathy toward law that existed in China for many centuries.⁹ Traditionally, law often was equated with coercion and was regarded as an inferior means of affecting behavior. In Confucian terms, a ruler should govern by means of virtue rather than law. That is, through a painstaking process of socialization and education the people first learn and then internalize the rules of proper behavior. Only when a person is an extreme recalcitrant or when the educational system has broken down will it be necessary to use the severe sanctions of law. When society is functioning harmoniously, law is something to be avoided—even feared. Thus, a ruler who governs by the “rule of law” is admitting the loss of virtue and the breakdown of the system of education. More laws do not make for a better or more harmonious society. On the contrary, the emphasis on law makes people more litigious and loophole-happy, and also diverts attention away from the more important work of moral education.¹⁰

A similar attitude affected the handling of commercial and civil matters. When problems arose, the disputants were supposed to resolve their differences through negotiation and compromise. Failure to do so implied that they were not reasonable or honorable men.

One striking illustration of the negative attitude toward law is the low status of the legal profession. Lawyers were popularly called “litigation tricksters,” a name hardly likely to uphold their social standing or to inspire bright young persons to join the profession. There were many complaints against lawyers for making a living through capitalizing on the disputes of others, complaints similar to the English common law attacks on inciting litigation.

For example, an 1820 imperial edict declared:

⁹ See generally S. VAN DER SPENKEL, *LEGAL INSTITUTIONS IN MANCHU CHINA* (1962); D. BODDE & C. MORRIS, *LAW IN IMPERIAL CHINA* (1967); J. COHEN, *supra* note 6, at 62-71; V. LI, *LAW WITHOUT LAWYERS* (1977).

¹⁰ It should be noted that other philosophical schools in traditional China, particularly the Legalists, did not view law in such an unfavorable light.

The multiplication of lawsuits among the people brings much harm to rural communities and the machinations of the litigation tricksters are what produce all the inconsequential verbiage going helter-skelter into these accusations. These rascally fellows entrap people for the sake of profit. They fabricate empty words and heap up false charges. At their bidding, plaintiffs are induced to bring up stupid nonsense in their accusations, whose empty falsity, when exposed at the trial, brings blame upon the plaintiffs themselves while the litigation tricksters stand to one side.

The victims of these false accusations, once they have been dragged in, remain entrapped and their livelihood is gone. Even should they have the luck to be completely exonerated as a result of the trial, their families will by then have been ruined. No one knows how many lives have thus been damaged or brought to an end at the same time that the tricksters look on from the side and chirp their satisfaction. All these devilish doings certainly deserve our bitter detestation.¹¹

The cultural factors that led to de-emphasizing law and lawyers were reinforced by the personal experiences of the Communists. It is interesting to note that virtually none of the major Communist leaders had any training in law. Many of the early leaders were philosophers, teachers, and men of letters. After the onset of the Civil War in the late 1920's, military officers took leadership positions.

Besides lacking formal legal training, the pre-Liberation leaders had only limited practical experience in law. In areas controlled by the Communists in the 1930's, such as Kiangsi and Yen-an, efforts were made to establish a legal system and promulgate laws, particularly laws dealing with land reform and marriage. The system never developed beyond the fledgling state, however, in part because the greater demands of military struggle with the Nationalists and with Japan diverted attention elsewhere, and in part because the relatively simple conditions in those areas did not require a large and sophisticated system.

When the Communists came to power in 1949, they had little specific knowledge about law. At the same time, they were extremely sensitive to earlier Western charges that traditional Chinese law was backward, and also had a general feeling that a "modern" legal system somehow would promote the development of Chinese society. They moved quickly to set up a formal legal

¹¹ BODDE & MORRIS, *supra* note 9, at 416.

system of their own. As in most other areas, China patterned the new legal system after the Soviet Union's. Converting from the Nationalists' legal system was relatively simple, since both Nationalist and Soviet law were based on the continental European model.

To staff the new legal system, the Communists retained a number of legal specialists who had worked for the Nationalists, primarily because the Communists did not have within their own ranks people with the skills and knowledge to run a complex legal system. These "retained personnel" played a major role in the 1949-57 effort to build a formal legal system. Also, a number of "new cadres" were brought into legal work after Liberation. These persons received their assignments not because of their legal skills, but because of their ideological purity or political dependability. Indeed, most had no legal training or experience prior to their appointments and some had virtually no formal education.

After Liberation, then, legal work in China was handled by two quite distinct groups. On the one hand, there were a number of Western-style legal specialists consisting of the retained personnel together with some people who had graduated from law school in the mid-1950's. While they possessed useful skills and held posts where such skills were thought necessary, some were considered politically unreliable, and others may have had an "elitist work style" that did not fit well with the "mass line" approach. They advocated the establishment of detailed codes of law that would define permissible and impermissible conduct as well as set standards and methods for resolving disputes. These codes would be enforced by a legal bureaucracy operating under fixed procedures. This system would tend to be large and complex since it would have to deal with the almost infinite variety of human conduct. Because of the complexity, trained specialists would be required to manage the legal bureaucracy and to act as advisors to members of the public dealing with the law.

On the other hand, the new cadres lacked legal skills and knowledge, but they did bring a fresh approach to law. Not having been brainwashed, if you will, by legal training, they did not automatically assume that China needed a modern legal system replete with codes and specialists. Instead, they argued that law is *not* a mysterious thing. On the contrary, it should be free of technicalities and easy for anyone to understand and use.

The new cadres' stress on simplicity was in part a rationalization for their own lack of legal expertise. But it was more than

that. They argued that law *ought* to be simple: how is law to serve the masses if the masses cannot readily understand or easily use the law? They may have been making a virtue of necessity, but their argument went much deeper. The underlying principle was that law *should* be—and indeed *must* be—broadly based and not the special province of a group of elite professionals. Law could then become a tool with which the masses could fulfill their wishes, rather than a set of rules usable only by members of the legal profession.

There was much disagreement and competition between the specialists and the new cadres in the years after Liberation. During the first few years the former generally held the dominant position. Through their efforts a number of laws were promulgated, law codification commissions were set up, judicial and police structures and rules of operation were established, law schools again began to operate, and some legal books and periodicals were published. Their work culminated in 1954 when a series of major laws was enacted, including the Chinese Constitution.

After the 1957 anti-rightist campaign, however, many of the specialists were removed from their positions, and the policies they advocated were attacked. The importance of law in Chinese society was considerably reduced. Very few cases were brought to the courts for resolution. The codification commissions stopped working and no more was heard about the drafting of legal codes. Law schools continued to operate (except during the Cultural Revolution), but they were reduced in size and their emphasis shifted from professional to political training.

After the fall of the Gang of Four in 1976, a number of legal specialists prominent in the mid-1950's began to reappear on the public scene. They probably are the persons providing the technical expertise and some of the motivation for the current legalization drive. It should be noted that today these persons, though skilled, are quite elderly. Moreover, there is not a sizeable cadre of younger specialists to provide the necessary support. The author's guess is that fewer than 10,000 persons have graduated from four-year law schools in China since 1949, although a substantially larger number have taken part in shorter term training programs. Most are probably no longer engaged in legal work. Mobilizing this group may be a problem because of what the Pres-

¹² *Supreme Court President Addresses Provincial Judicial Meetings*, FBIS E1-E11 (Oct. 26, 1978). See also *The Relationship Between Party Policy and Law*, FBIS E5-E6 (March 6, 1979).

ident of the Supreme People's Court called "the disease of lingering fear."¹² That is, having been burned before in the anti-rightist campaign and the Cultural Revolution, some persons trained in law may be reluctant to undertake legal work or, if they are willing, may be overcautious in their actions.

B. *The Drive to Legalization*

The principal targets of the drive to legalization have been the abuses of individuals and institutions attributed to the Gang of Four. This is not surprising since many of the current leaders and legal specialists themselves are former victims of the Cultural Revolution and the Gang. Having suffered from arbitrary actions, they now are determined to establish, or perhaps re-establish, a legal system to ensure that such abuses do not occur in the future.

Actually, criticism of the Gang's approach to law surfaced well before its fall in 1976. Writing under the composite name of "Li I-che" in 1974, a group of youths in Canton produced a hundred yard long wall poster which attacked the emergence of a "new class" of privileged officials.¹³ The authors argued that in order to control the "new class" there should be laws clearly defining what acts are impermissible and a legal system strong enough to enforce these laws.

The articles appearing after the Gang of Four focused on the two aspects of its misuse of law.¹⁴ First, police and judicial officials who had tried to curb the Gang's excesses in arresting or imprisoning political opponents had been unjustly criticized as revisionists or for trying to shield class enemies. Second, the Gang had taken over the legal apparatus and had become a law unto itself, allegedly beating up people, coercing confessions, and the like.

The stress in the new laws on protections against arbitrary actions by officials reflects the desire to rectify past abuses and prevent future ones. We must wait to see just how these new laws will be implemented. It may be that as the elderly leaders of the legalization drive retire from public office there will be less pressure from within the government to continue the emphasis on law. Along a different—and more troublesome—line, a number of dissidents are using the new legal rules against the government in

¹² *The Case of Li I-che*, 10 CHINESE LAW AND GOVERNMENT No. 3 (Fall 1977).

¹⁴ See, e.g., *Anhui Rally Denounces Gang's Public Security 'Crimes'*, FBIS G1-G2 (Dec. 16, 1977); *People's Daily Denounces Gang's Crimes on Judicial Front*, FBIS E3-E4 (Dec. 9, 1977); *Gang's Attacks Against Judicial, Security Organs Recounted*, FBIS E6-E7 (Dec. 12, 1977); *Gang's Crimes in Public Security Bureaus Denounced*, FBIS E5-E8 (Dec. 13, 1977).

one way or another. If their activities begin to get out of hand, the government might begin to restrict the new guarantees or to use them in unanticipated ways. The trial of the editor of *Explorations* is an example of using the legal system to combat political dissent.¹⁵

In order to implement the new legal system, a number of problems have to be addressed by the Chinese leadership.

1. *Personnel and Infrastructure*

Who will staff the legal system? In the United States, there are about 500,000 lawyers engaged in this work, not to mention accountants, policemen, probation officers, etc. It is clear that China will not need this large number of legally trained persons; it is equally clear that a substantial number will be needed.

Professor Qian Dunsheng, former dean of the Beijing Institute of Political Science and Law, says that at least 10,000 lawyers will be needed to implement the guarantees concerning the right of defense enunciated in the criminal law and criminal procedure law.¹⁶ This figure seems to refer to the number of defense counsel, about one for each 100,000 persons. To this group must be added other legally trained persons needed to staff the judiciary, procuracy, and public security. Professor Qian reports that Professor Jerome Cohen estimates that, overall, 200,000 legal workers will be needed.

China has embarked on an effort to expand legal training. A number of law schools and institutes of politics and law have been re-opened. Over 400,000 political-legal cadres received further in-service training in 1977 and 1978, probably in three- to six-month programs. Approximately 5,600 students enrolled in two-year intermediate level courses in law, and 1,100 in undergraduate or postgraduate courses. An additional 1,740 undergraduates and over 100 postgraduates enrolled in universities in 1979, with 5,000 entering the intermediate level courses.¹⁷ We do not know a great deal about the content of this training. It appears to stress techni-

¹⁵ *China Imprisons a Dissident*, San Francisco Chronicle, Oct. 17, 1979; *Another Dissident on Trial in Peking*, New York Times, Oct. 18, 1979, at A5.

¹⁶ *Comments by Noted Jurist*, FBIS L8-L10 (July 9, 1979). See also *People's Daily on Strengthening the Socialist Legal System*, FBIS E23-E24 (Dec. 14, 1978). Professor Qian says that in the mid-1950's there were 2,500 full-time and 350 part-time lawyers. It is safe to assume that many of these persons left legal work after 1957, although some may be induced to return to practice, research or teaching.

¹⁷ *Chinese Schools Training More Students in Politics and Law*, FBIS L8-L9 (May 9, 1979).

cal legal matters rather than politics or philosophy. Such a rapid expansion of training programs is likely to encounter a shortage of good teaching materials and instructors.

In looking at these figures, we should note that the number of persons receiving legal training, while significant, is not large. It will be at least a decade before China approaches the minimum number of legal specialists needed to operate the criminal legal system. If civil and economic law expands, the number of legal specialists needed will grow much, much larger.

In addition to increasing personnel, China is developing other aspects of the legal infrastructure. An eight-year National Program for the Study of Law was adopted in 1978 and called for the establishment of institutes of research in the history of China's legal system, international law, and other subjects.¹⁸ Studies also will be carried out concerning jurisprudence, constitutional law, civil law, criminal law and economic law. A number of books, papers, dictionaries and reports will be published, both scholarly and popular. A new law journal has begun publication.¹⁹

In addition, the Ministry of Justice was re-established to handle the administration of legal work. An Institute of Law was set up in the Chinese Academy of Social Sciences to supervise research. Various legal and drafting offices are being created in party and government organs. There also is some technical and scholarly exchange with foreign legal specialists. All of these developments are important steps toward implementing the new legal system but, again, much more will have to be done before the new legal system actually becomes an integral part of Chinese society.

2. *Public Education*

A broad educational campaign is being conducted in China to teach the public about the new law.²⁰ Newspapers publish many articles explaining the new legal system. Lectures on law are given on the radio. Law schools are preparing materials of a popular nature for distribution. Law-related personnel attend lectures

¹⁸ *PRC Adopts 8-Year Plan for Study of Law*, FBIS L8 (April 3, 1979).

¹⁹ *Law Research Journal*, FBIS L15 (April 26, 1979).

²⁰ *Xinhua Explains PRC Criminal Law Terms*, FBIS L1-L4 (July 11, 1979); *Newspapers Publish Columns Explaining Legal Terms*, FBIS L5 (July 11, 1979); *Xinhua Publishes Explanation of Criminal Procedure Law Terms*, FBIS L1-L3 (July 13, 1979); *Continuation of Explanation of Criminal Procedure Law Terms*, FBIS L1-L2 (July 16, 1979); *Beijing Radio Sponsors Lecture Series to Publicize Criminal Law*, FBIS L3-L4 (July 13, 1979); *Beijing Colleges Publicize Laws Passed by NPC*, FBIS R1 (July 11, 1979).

on law. Public trials and articles about trials also are used as educational tools.²¹

Despite all this activity, it is not clear that enough is being done. We must wait to see what the results of the campaign will be; it takes more than a series of dry and technical lectures or articles explaining the legal meaning of "offense" or "responsibility" to change deeply-rooted cultural attitudes. As has been learned in many societies, merely publishing a law does not mean that people will change their attitudes or behavior.

Indeed, it may be that some educational campaigns will be counterproductive to implementation of the new legal system. For example, on October 7, 1979, Chairman Hua said at a news conference: "The gang of four committed very grave crimes which will have to be settled. We will deal with them through the due process of law."²² This has led to the speculation in the Western press that the Gang will be brought to trial.

If a trial takes place, it undoubtedly will receive great coverage in China. Because of that, it will be a showcase for the new legal system. Depending on how the trial is conducted, however, the wrong message about law may be delivered to the public. Will the public see a proceeding in which the prosecution presents the Gang's crimes, the Gang vigorously defends itself, and the judges retire to deliberate and come to some decision about guilt or innocence and appropriate punishment? If the trial is merely a denunciation rally, or if it appears that the decision concerning guilt has been made prior to the trial, then the message to the public may be that the judicial process is not important, that major decisions are made outside the courtroom, and that the right to a defense is not particularly useful.

Another negative lesson may be delivered by the recent trials of dissidents. The people may shy away from law if they see it as a new tool of the state for putting down its opponents, rather than as an equitable and efficient means of resolving both criminal and civil issues.

3. *Civil and Economic Law*

Most of the legislation promulgated up to now, and almost all the newspaper and journal articles on law, deal with criminal mat-

²¹ Taichou People's Municipal Court Praises Public Trials, FBIS E8 (Nov. 14, 1978); Xinhua Reports an Open Trial in Beijing, FBIS E10-E11 (Jan. 11, 1979); District Court in Shanghai Uses Jury in Criminal Cases, FBIS (Jan. 3, 1979).

²² Premier Hua Guofeng Holds Press Conference, 41 BEIJING REVIEW 11 (1979).

ters.²³ This is understandable, given the preoccupation with the Gang of Four's abuses of the criminal system.

There is no intrinsic reason why "law" cannot be limited to criminal law. From the point of view of a Western observer, however, "law" covers a far broader range of subject matter. Chinese writers also recognize that many civil and economic matters should be governed by law.²⁴ They argue, though not in a clearly articulated way, that the formulation of "rational rules" will make the economic system operate more efficiently and hence speed up the modernization program.²⁵ Also, economic work is obstructed by the lack of an adequate dispute resolution mechanism. The recent establishment of an economic division in some people's courts alleviates the problem to some degree.²⁶ The jurisdiction of this

²³ In addition to articles cited earlier, see also *It Is Necessary to Bring Democracy into Full Play and Consolidate the Legal System*, FBIS E3-E8 (Nov. 14, 1978) and FBIS E2-E11 (Nov. 15, 1978) (described by the editors of *China Youth* as "rather long but very interesting and not boring"); *Renmin Ribao Article Discusses Judicial Procedure*, FBIS E7-E9 (March 7, 1979); *Law Professor Discusses Socialist Legality*, FBIS E3-E7 (Feb. 22, 1978); *Kwangming Daily Calls for Strengthening Legal System*, FBIS E8-E11 (Nov. 17, 1978); *Some Current Problems in Drafting Laws*, FBIS E7-E10 (Jan. 4, 1979); *Enforcing the Law*, 32 BEIJING REVIEW 4-5 (1979).

²⁴ See, e.g., *Peking Meeting Discusses Legal System, Democracy*, FBIS E8-E9 (Dec. 1, 1978); *People's Daily Articles Call for New Legal Codes*, FBIS E4-E6 (Dec. 5, 1978); Hu Chiao-mu, *Observe Economic Laws, Speed Up the Four Modernizations*, 45 PEKING REVIEW 7-12 (1978); 46 PEKING REVIEW 15-23 (1978); 47 PEKING REVIEW 13-22 (1978).

²⁵ *Draft Decision Concerning Some Problems in Speeding Up the Development of Industry, 30-Point Decision on Industry*, Part II, ISSUES AND STUDIES 76 (Jan. 1979). The following is a typical and unwieldy method for resolving inter-enterprise economic disputes:

Art. 2. All organs of the national economy must strictly implement their economic contracts; all production enterprises must produce in accordance with their contract demands, and guarantee the quality of their products and the time of delivery. Organs ordering goods must accept delivery and make payment in a timely manner, strictly implement the order contract, and not return goods. After today, if the ordered goods do not conform to production regulations or to the terms of the order contract, the organ ordering the goods may refuse to accept the goods, and the producing organ must repair the goods or deliver new goods; any loss suffered as a result shall be borne by the production enterprise. If, under special circumstances, the ordering organ must return the goods, or if the goods conform to production regulations and the terms of the contract, but the ordering organ does not accept the goods or make payment in a timely manner, any loss suffered as a result shall be borne by the ordering organ. Where disputes arise in the course of implementing a contract, the economic committees or each area shall arbitrate. The people's bank or construction bank of each area shall be responsible for carrying out the decisions of the economic committee, and shall charge the account (of the organ at fault).

Communique of the Central Committee of the Communist Party and the State Council Concerning the Strict Implementation of the Basic Construction Procedures and the Strict Implementation of Economic Contracts, 13 FA-KUEI HUI-PIEN (COMPENDIUM OF LAWS AND REGULATIONS) 62 (1962).

²⁶ *Economic Division Set Up in Court*, 32 BEIJING REVIEW 5-6 (1979).

division is limited, however, and public attitudes may be such that disputants will not turn to the courts for assistance.

Creating a set of criminal and criminal procedural laws is relatively simple since the institutions and methods for handling anti-social conduct are fairly well known, as are the protections an individual needs against possible arbitrary action by the state. Moreover, except for political offenses, the entire subject of deviancy can be relatively easily isolated from other aspects of social activity.

By comparison, establishing a thorough system of civil and economic law will be a most difficult task. To promulgate a tax law or a corporation law will involve an enormous number of people and kinds of activity and also will have far-reaching consequences in all of society. The lack of adequate personnel and infrastructure may pose an obstacle to the establishment of an economic law system that cannot be surmounted for a long time. The vagueness and incomplete character of the new Joint Ventures Law illustrates the difficulty of working successfully in the areas of civil and economic law.

In conclusion, the author does not wish to denigrate in any way the present drive toward legalization in China. The new legal system is introducing important new ideas and practices into Chinese society and it seems that the effort is being carried out with vigor. At the same time, the changes will be quite difficult to introduce. We should not let our own enthusiasm for these changes mislead us into thinking that they will be readily accepted in China. Moreover, given the history of repeated radical swings in Chinese politics, we have to at least consider the possibility that the leadership's basic attitude toward law may change once again in the future.