THE CHINESE MODEL, THE CHINESE DREAM AND THE MANDATE OF HEAVEN

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Abstract: The four decades of breath-taking political and economic changes in China raise a host of questions about the governance of this, in many ways unique, world power. The authors analyse the economic, political and historical context of the origins and operation of the present-day Chinese political model, the country’s legal system and the role of the Communist Party in the Chinese society, similar in many ways to the role previously played by China’s imperial dynasties. They also highlight the new trends in Chinese domestic politics and foreign policy of the late 2010s, which bear witness to a sustained effort of the Chinese political leadership to enhance China’s great-power status on the global stage.

Keywords: Model, Reforms, Economic Growth, Law, Power, Political System, Communist Party, Mandate of Heaven, Vision, Chinese National Rejuvenation, Chinese Dream

A CHALLENGE TO THE WEST

In its recent study, Global Risks: 2035, the Atlantic Council notes the scope and dynamics of the political, economic and social changes that have taken place in China over the last four decades and comes to an interesting conclusion: “To what degree China becomes innovative, without politically reforming, will be a critical test of the importance of traditional Western liberal values for prosperity and progress.”

This statement may well reflect a certain unease: what if the existing Chinese model – in fact a model of “illiberal capitalism” combining a free market economy with illiberal governance – eventually turned out to be more successful than western liberal democracy, especially as the latter has had to deal with a number of crisis moments during the last decade?

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3 An interesting perspective on this issue is offered by professor Zhang Weiwei of Shanghai’s Fudan University. In a New York Times article “Meritocracy versus democracy”, published on 9 November 2012, Zhang Weiwei notes that the principle of merit-based promotion is part of China’s Confucian political tradition and as such it is also recognized by the Chinese Communist party. For example, the seven new members of the party’s top leadership all have long and successful records of governing various Chinese provinces, each of which is comparable in size to five decent-sized European states. Now they can put this experience to use during their ten-year term in central government. Zhang Weiwei believes China to be the world’s largest laboratory for economic, social and political change and is convinced that Chinese meritocracy, with its “selection plus election” model, may rival the American model of electoral democracy. For details see http://www.nytimes.com/2012/11/10/opinion/meritocracy-versus-democracy.html.
China does not seem to conform to the pattern posited by modernization theory, which assumes that economic modernization is inevitably followed by democratization. True, this was the case of Japan, South Korea, Taiwan and the other Asian Tigers. However, in the case of China there are two factors speaking against such “automatism”. China is incomparably larger than all the other countries mentioned, and it is also a unique civilization going back several thousand years which has always endeavoured to follow its own patterns of development.

So far, China has undeniably succeeded where the USSR had previously failed: it has managed to build an economy not based on the Western political model. The two models can now be compared especially in terms of their coping with the effects of the financial and economic crisis that started in the United States in 2008.

The crisis has served as a measure of Chinese stability. At a time when the global economy was under the greatest pressure since the Great Depression of the 1930s, Chinese growth did not stall. Between 2008 and 2009 the GDP rose by 9.4%, admittedly less than in the three previous years when the country’s economy grew by 12.7% a year. However, had the economy not shown its resilience and actually stagnated, the global GDP might have fallen by as much as 1.3%, which would have been the most marked decline of worldwide economic activity in the post-war era. As it was, the decline amounted only to 0.1%.

But economic stability was maintained at a huge cost. In November 2008 when the late-2008 plunge in Chinese exports reached 45%, the government approved a USD 586-billion economic stimulus.

Charles Kupchan, Professor of International Affairs at Georgetown University and a senior fellow at the Council on Foreign Relations, believes the Chinese model to have greater stability in the volatile, unpredictable global economy. This is hardly a surprising conclusion, given the above facts. In Kupchan’s view, China has outperformed the United States in coping with the financial crisis precisely because the Chinese government and the ruling Communist Party control capital and the banks, which enables them to deploy vast resources in a crisis.

But the government and the party have also been motivated by wholly pragmatic concerns. A potential economic stagnation and a spike in unemployment that might provoke

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4 The Czech economist Dušan Trška described the Chinese model quite strikingly: “We know two things for sure about the People’s Republic of China. It is a country whose gigantic and exceptionally positive transformation over the last 25 years is unmatched in scale by anything that has taken place elsewhere. The other thing we know is that no plausible explanation has yet been offered for the Chinese miracle. Moreover, there is widespread scepticism concerning Chinese macroeconomic statistics. You can therefore be more or less sure that applying standard analytical procedures to the Chinese economy would not yield meaningful results because no one in the West has yet explained how it works.” (Lidové noviny, 26 October 2015).


6 During Bill Clinton’s first presidential term (1993–1997), Charles Kupchan served as Director for European Affairs on the National Security Council. Between 2014 and 2017, he was Special Assistant to the President and Senior Director of European Affairs in the Obama administration.

social unrest would have been highly undesirable. The intervention to prevent the crisis has shown that centralized political and economic power may operate effectively, adding ballast to the proposition that it is possible for China to become the world’s largest economy without instituting democracy.

Can this actually happen? Two US experts on China and its global rise suggested as early as 2006 that Chinese growth may be the first major ideological challenge that the democratic liberal paradigm of the West has faced since the fall of the Berlin Wall. Naazneen Barma and Ely Ratner argue that the Chinese model combines “illiberal capitalism” (free market coupled with an authoritarian political environment) with “illiberal sovereignty” (denying the international community any right to interfere in the country’s internal affairs). According to Barma and Ratner, this model is attractive for a number of third-world countries in Africa, Latin America, Asia and the Middle East.8

THREE PRINCIPLES OF THE PEOPLE

Interestingly, the idea of a specific “Chinese model” that would also have global appeal goes back to the founder of the modern Chinese state, Sun Yat-sen (1866–1925). Sun Yat-sen argued that it was possible to “make capitalism create socialism in China so that these two economic forces of human evolution [would] work side by side in a future civilization”.9

Sun Yat-sen sought to combine the most important western legal and philosophical ideas with the finest traditions of Chinese legal thought to create a new model of Chinese constitutionalism. The fundamentals of his legal and political theory are laid out in the Three Principles of the People. The principles – nationalism, popular government (democracy) and livelihood (welfare) of the people – were regarded by him as a combination of traditional Chinese thought with modern Chinese and foreign political doctrines, applied to the needs of the present.10 A typical example is the theory of “five powers” and its practical application. Sun Yat-sen did not mechanically adopt the system of three powers (legislative, executive, judicial). He believed it did not sufficiently address Chinese needs and should be expanded to include some of the best products of Chinese civilization, namely the systems of examination and control (audit). The Chinese state was to be organized as a system of five powers exercised by five government branches – yuans: the legislative yuan, the executive yuan, the judicial yuan, the examination yuan and the control yuan. Sun Yat-Sen’s brother-in-law, General Chiang Kai-shek, who developed his legacy as President of the Republic of China, anchored this system in the provisional constitution of 1931 and later in the definitive constitution, adopted in 1947. In Taiwan, the system has survived to this day.11

Sun Yat-sen also foresaw China’s transition from imperial monarchy to the republican form of government. He envisaged it as a three-stage process. In the first stage, characterized by

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military operations, the country would be united by military force, through a gradual elimination of local warlords who, taking advantage of the demise of the monarchy, had bolstered their own authority and exhausted the country with civil wars. In practice, this phase ended with the inception of Chiang Kai-shek’s regime in 1927. Sun Yat-sen assumed that, in the second phase of transition, China would have an authoritarian military government since there would still be internal forces that would hamper the full development of democracy. He called this a period of “political tutelage”. From 1929 on, the principle of political tutelage was implemented by Chiang Kai-shek. After 1949, Chiang Kai-shek brought the idea of political tutelage to Taiwan, along with the Chinese constitution. In Taiwan the constitution of 1947 was brought back into force in 1987, with its practical application beginning somewhat later, in 1991. The adoption of a constitution was, in Sun Yat-sen’s view, the hallmark of the third and last stage of transition to full democracy. This part of Sun Yat-sen’s doctrine has also been adopted by Chinese rulers. This is true not only of Chiang Kai-shek, who promulgated a constitution as late as 1935 (i.e. after eight years in power), but also of Mao Zedong: the Constitution of the People’s Republic of China was adopted in 1954, full five years after Mao’s takeover. It could, of course, be argued that the Chinese communists did not adopt a constitution earlier simply because they had no use for it. Simply as a matter of form, however, they could have adopted the Soviet constitutional model as Czechoslovakia had done. The fact that they did not is significant inter alia because it documents how the constitutional concept of the Chinese Communist Party was influenced by Sun Yat-sen’s theory of gradual transition to constitutionalism.12

SUSTAINABILITY OF THE CHINESE MODEL

The attractiveness of the contemporary Chinese model undoubtedly increased after the outbreak and during the aftermath of the US-triggered financial and economic crisis of 2008. Political commentators once again turned their attention to what is known as the Beijing Consensus (Ramo 2004).13 This doctrine claims that, following China’s example, the developing countries should build up their economies gradually while keeping the bulk of assets in the hands of the state and should introduce well-prepared market reforms in advance of political and cultural changes. This is the exact opposite of the long-dominant Washington consensus,14 according to which the governments of poorer countries should privatise state companies as soon as possible, promote free market principles at any cost, deregulate the economy and curb public spending.15

15 In fact, a number of leaders from developing countries have questioned the validity of the Washington Consensus since the 2008 outbreak of the financial and economic crisis in the United States. The former Brazilian president, Luiz Inacio Lula da Silva, went so far as to declare that “this was a crisis that was fostered and boosted by irrational behaviour of people that are white, blue-eyed, that before the crisis looked like they knew everything about economics” but “now they have demonstrated that they don’t know anything about economics.”
With three decades’ experience in analysing Chinese policies, Professor David Shambaugh, Director of the China Policy Program at George Washington University, is very sceptical about the existence of a specific “Chinese model”. In his opinion, Chinese economic growth has been caused by a unique combination of several factors – a competitive economy, Soviet-style planning, individual entrepreneurship, large, disciplined workforce, and massive foreign investment – a combination that cannot be replicated in other countries. Moreover, the eclectic Chinese political system fuses together Leninist communism, Asian authoritarianism, Confucian traditionalism and a strong security state.16

Shambaugh concludes that the Chinese political model is unsustainable and that China’s economy is stuck in a series of “systemic traps” from which there is no easy exit, also due to the growing contradictions within the Chinese society and the Communist Party. He believes that the Communist rule in China has entered its last phase and that its downfall will be violent, not excluding even the possibility of a coup against the current Chinese president, Xi Jinping.17

In our opinion the above-mentioned scenario is too extreme and unlikely to materialize, given the current situation in the country and the available data on its political and economic trajectory. It is true, however, that China finds itself in a difficult period of transition: what is still largely an export-oriented economy based on heavy industry, with the consequent negative impact on the environment, should gradually evolve into a high-tech, “green” economy, relying also on domestic consumption and services.

This transformation entails a slowing down of Chinese economic growth, an inevitable change after three decades of breath-taking expansion. According to estimates, the annual GDP reached USD 10 trillion in 2014; this means that an increase of another 10% would amount to USD 1 trillion. Sustaining such a growth rate is unviable, not least because it would require a further increase in the consumption of energy resources with the corresponding impact on the environment.

The slowing down of economic growth after three decades from the start of economic reforms has been caused by several key factors: a declining share of the working population, lower savings and investment rates, a slower relocation of labour from the agricultural sector to the non-agricultural sectors and, finally, declining work productivity. With an annual GDP growth rate between 6 and 7%, China has entered a period of “new nor-


mal” (a term used by President Xi Jinping but coined by the ex-director general of Pimco, Mohamed El-Erian, who first used it to describe the difficult recovery of the western economies after the financial crisis of 2008).

According to Professor Hu Angang of Beijing’s Tsinghua University, New Normal, as presented by President Xi, means greater diversification of the economy, stable growth, improvement of material conditions and living standards, and China’s closer integration into the global economy.18

Dean of the Guanghua School of Management of Peking University, Liu Qiao, adds more detail to this general outlook, describing the potential trajectory of the Chinese GDP. If GDP growth rate is kept at the optimal level of 5.5%, it will reach CNY 157 trillion (approximately USD 22 trillion) in 2030. This would be double the 2016 amount. Sustaining such growth will depend on technological and business innovation, on increasing investment efficiency and the amount of private investment, and on improving the institutional infrastructure of the Chinese economy. Liu also mentions the need for a “leap” in R&D funding that would bring it from the current level of 2% to the required 4% of GDP.19

GDP data show a dynamic growth even under the New Normal: in 2017 it amounted approximately to USD 1 trillion. The total GDP figure was at USD 12.1 trillion, double the amount in 2010. While China still lags behind America’s total output – its own output amounts to two thirds of that of the United States – its trillion-dollar annual growth exceeds the total output of all but the first fifteen of the world’s economies. It is more that the total GDP of Indonesia or Turkey and nearly as much as the total output of the Mexican economy.

The Chinese economy needs to boost private domestic consumption. This can be seen as an opportunity as well as a challenge as this sector’s share of GDP currently stands at a mere 39.2%, i.e. very little compared to high-income countries. However, the indicator shows an upward trend: it was at 35.5% in 2010 and, as pointed out by the well-known economist Jim O’Neill, in absolute numbers the growth amounts to USD 2.58 trillion, a sum bigger than the total output of the Indian economy. O’Neill notes that if Chinese consumption maintains the current growth trajectory, in 2020 its share of GDP will climb to 41.5% GDP – a further $2-trillion increase.20

But the Chinese growth rate may also be sustained by the rapid development of the digital economy, a field in which China has already become the global leader. It has a 42% share in global e-commerce and eleven times more mobile payments that the United States. The MGI Industry Digitization Index also shows the gradual closing of the “digitalization gap” between the United States and China: in 2013, the US digitization index was 4.9 times higher than that of China; within three years the figure dropped to 3.7.21

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With respect to digitization, China has an economic joker in the pack: 400 million millennials. This vast group of consumers who reached maturity at the turn of the century has now begun to have a strong impact on both Chinese and global markets. In this respect, the Chinese millennials may be compared to the young Americans of the 1950s and 1960s whose needs and interests likewise had a major impact on the trajectory of the global economy.

The most marked characteristic of the millennial generation in China is their mass use of social networks and online shopping platforms which have become an integral part of their lifestyle (hence the nickname “i-can” generation). This is the result of a technological revolution rather than evolution: China’s development is so fast that the Chinese leapt from the pre-web era directly to the mobile Internet, skipping the personal computer altogether.

Statistical data show how the millennial segment of the Chinese population – the core of the newly emerging middle class – shapes the trends in the Chinese society and influences the global economy. It represents nearly one third of the Chinese population (more than the working population of Europe and the United States taken together). Its current share in total domestic consumption is 45% (2016), projected to increase to 53% by 2020. Its share in consumption growth is to be ever larger – 65% – by the same year. Ninety-five percent of the “i-can” generation have a smartphone connection, and the total sum spent by the Chinese via mobile platforms was USD 5.5 billion in 2016, which is fifty times more than the US figure.

This segment of the Chinese society may have a crucial impact on the expansion of the service sector. The latter could be a major facilitating factor in China’s structural transformation from an economy dependent on exports and “traditional” foreign investment to an economy relying on domestic consumption. In a longer-term perspective, the fact that the i-can generation is ushering China into the digital economy era creates conditions for sustained economic growth and can also serve as a source of global economic stability.

22 The most important player in this field is WeChat (known as Weixin in China), a social network developed by Tencent. With more than one billion active users, WeChat is the largest social network in China. As regards Chinese online shopping platforms, Taobao, part of the Alibaba group, ranks among the largest e-commerce websites in the world (with 580 million users a month it is among the top ten most visited websites of this type).


This, together with economic modernization – the development of high-tech production with higher added value – should enable China to create the world’s largest internal market, says the US economist and Nobel Prize winner Michael Spence. And since access to this market is controlled by the Chinese government, China’s influence in and outside Asia will continue to grow. As China is simultaneously reducing the dependence of its growth on exports, it will also be less vulnerable to unwelcome “surprises” from those who control global markets.\(^{25}\)

In the mid-term perspective, however, the Chinese economy will still rely significantly on exports and may therefore be vulnerable to anti-globalization tendencies, epitomized e.g. by Brexit or the election of Donald Trump. If protectionism gains ground in global trade, it could definitely jeopardize China’s prosperity and have impact on its internal stability.

The Chinese political leadership must realize that, in a single-party political system, the government cannot afford a protracted economic stagnation of the kind now taking place in Japan, which, in China, would also be accompanied by serious social unrest. Moreover, the achievements of the Chinese economic boom have their flipside. The series of reforms and changes has reduced the share of publicly-owned property and led to the emergence of class differences, bringing new moral dilemmas and a feeling of alienation. The combination of a reformed economy with an unchanged political order breeds problems, and the Chinese may understandably be asking themselves to what extent the current system, with the leading role of the Communist Party, really serves (or can serve) the needs of the country. This is especially true of the middle-income groups that may have substantially higher expectations with regard to economic prosperity and the functioning of state administration.

It is, therefore, worthwhile to examine in more detail the role of the Chinese Communist Party and estimate to what extent it is capable of responding to the changing social realities. Since the Communist Party is definitely an integral part of the unique “Chinese model”, the traditional evaluation criteria applied to political parties or systems are largely of no avail in its case. Its role should also be perceived in the context of China’s history. The status and position of the Chinese Communist Party in the context of Chinese reforms has been studied by Professor Frank Pieke, Executive Director of the Leiden Asia Centre (University of Leiden). Pieke believes that the party should not be perceived as a distorted version of an ideal type of political party from the liberal world, but as an entity that has grown up over decades as part of an organic set of developments defining the relationship between the Chinese people and their political rulers.

According to Pieke, the four decades since 1978 should be defined not only as a period of reforms (with implications of neoliberalism) but also as a period of “neo-socialism”. In his view, a continuation of the Communist rule is not an obstacle to but rather a pre-condition for China’s successful coping with future challenges, as the party provides a guarantee of the country’s unity, stability and peace.

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THE MANDATE OF HEAVEN

Pieke also argues that, according to a traditional Chinese cultural pattern, the Communist Party’s success in ensuring prosperity proves it now holds what is known as the “Mandate of Heaven”. Its secure position also gives it more leeway to use mechanisms that can improve decision-making processes in the society. This includes the procedures of “consultative democracy”, a growing number of petitions or the fast-developing, albeit limited, legal system.26

In ancient Chinese political thought, the Mandate of Heaven is the divine right of the monarch to rule the country. On the one hand, the concept of monarchical power based on the Mandate of Heaven emphasized the absolute sovereignty of the emperor, who ruled over everything under Heaven. On the other hand it placed enormous responsibility on his shoulders. If the emperor enjoyed unlimited power over his realm, he was also fully and personally responsible for its fortunes. The mandate would last until Heaven made a sign it was displeased with those in power. Such celestial displeasure could be expressed through natural disasters, famine, but also mass unrest.27 The doctrine that established the monarch’s direct relationship to Heaven and his status of a “Son of Heaven” goes back to the oldest periods of Chinese history. Chinese rulers saw their empire as a “sub-celestial realm” and used this doctrine to justify to themselves and others their responsibility for the whole world, a world whose centre lay in China – the Middle Kingdom (中国) surrounded by barbaric tribes (De Bary, Bloom 1999).28

Heaven, the highest deity that had control over everything, did not have a purely sacral character but was also a source of the moral and ethical dimension. Great Heaven was believed to punish the unworthy and reward the deserving. Virtue included a sacral component – devotion to the gods, which should be especially strong in the monarch as the “Son of Heaven”. The monarch could only rule over others if endowed with virtue. Loss of virtue meant a loss of the right to rule. The traditional idea was that the mandate to rule was conferred by Heaven. If the monarch became unworthy of heavenly trust, Heaven would withdraw the mandate, placing it in the hands of another dynasty. To stay in power, the ruler must emulate the founders of the dynasties, since these men, who had been entrusted with rule in the sub-celestial kingdom, had definitely found grace in the eyes of Heaven. Every founder of a dynasty was thus considered a model worthy of emulation. The conception of a monarch as a genius stemmed from ancient notions of a ruler as a “magician” capable of bringing good to all and maintaining things as they should be. The primary task of a monarch wishing to strengthen his rule and ensure his people’s welfare was to cultivate his own moral fortitude and virtue – the magic of his nature that pervaded the whole universe and kept it in harmony.29

27 This belief is still strong among the modern-day Chinese. For example, the disastrous 1976 earthquake in Tangshan was linked by many to the deaths of several Chinese leaders (Zhou Enlai, Zhu De, Mao Zedong) that occurred in the same year. The chairmanship of the Communist Party and the premiership passed on to Hua Guofeng, putting an end to the chaos of the Cultural Revolution.
Ancient Chinese philosophy saw man as an integral part of the cycles of nature or "the natural order of things". Any change in the human world had its echoes in the natural world and vice versa, with the monarch representing an embodied connection between the two. All human behaviour therefore had to be in harmony with "the natural order of things", which was not a set of rules governing human conduct but a reflection of nature's harmony. The concept of "rules of human conduct" thus referred to a set of metaphysically grounded norms. The monarch was considered responsible not only for the legal acts he issued but also for any expression of popular dissatisfaction and even for natural disasters – droughts, floods or earthquakes. All these could be seen as crises of the natural order of things caused by the ruler's wrong conduct, a deviation from moral norms, and as such they were perceived as unmistakeable signs that the dynasty was weakening, that Heaven was turning away from it and would pass the mantle of sub-celestial rule on to another of the chosen.

FIGHTING CORRUPTION

As it is understood today, the Mandate of Heaven presupposes the ability of its holders – nowadays the Communist Party – to analyse and address the various phenomena that undermine their authority, including corruption as one of the most pressing concerns. Corruption undermines no only the influence of the party but also the Chinese model of state administration. This is why fight against corruption has been at the centre of Xi Jinping's efforts ever since he became General Secretary of the CCP Central Committee in 2012. The predictions that the anti-corruption campaign would be short lived remain unfulfilled: in fact, it has become a long-term feature of Xi Jinping's rule.

Many analysts of Chinese politics have observed that the anti-corruption crusade may, in fact, also serve another purpose, namely that of eliminating political opponents. The Czech sinologist Martin Hála believes, for example, that "the large-scale purge undertaken under the pretext of fighting corruption (a fight that, in a corrupted system, may target and victimize anybody) has terrorised the Party into blind obedience of its leader." Spence, M. Empowering China's New Miracle Workers. In: Project Syndicate [online]. 24. 10. 2017 [2018-07-23]. Available at: <https://www.project-syndicate.org/commentary/china-19th-national-party-congress-new-generation-by-michael-spence-2017-10?barrier=accessreg>.

Henry Kissinger, with his extensive knowledge of Chinese political realities, believes that the massive reform effort will eventually create a system that, while not democratic,
should nevertheless be more transparent, with outcomes determined to a greater degree by legal procedures rather than by an entrenched network of personal and family relationships. The criticism now aimed at many established institutions and practices – state-run enterprises, the arbitrary rule of local bureaucrats and large-scale corruption – is audacious and not without visionary qualities but is also sure to bring a period of confusion and uncertainty.\textsuperscript{32}

At any rate, corruption \textit{is} a major and serious phenomenon in the modern Chinese society. Minxin Pei, a Chinese expert on governance, believes that China, like other fast-growing countries, is now plagued by endemic corruption. In its case this has not been – and is not – only a temporary concomitant of fast growth. Rather, corruption has been an integral part of the whole system of changes implemented in China since the start of the reforms. Pei mentions the privatization of state enterprises and sales of land as two processes from whose management Chinese bureaucrats extracted fat profits.\textsuperscript{33}

But Xi Jinping has clearly decided to break away from this “tradition”. A mere two months after the election of the new leadership, in December 2012, the Party adopted a list of Eight Points regulating the conduct and actions of the 25 members of the Politburo of the CCP Central Committee.\textsuperscript{34} At the sixth plenary session of the CCP Central Committee in October 2016, he also put the problem of corruption in the wider context of loose party discipline: high party and state officials abuse the powers entrusted to them and achieve notoriety for moral excesses and extravagant conduct.\textsuperscript{35} At the latest party congress, combatting corruption was explicitly mentioned as a priority since corruption provokes strong feelings among the public and poses a most significant threat to the foundations of Communist rule.\textsuperscript{36}


\textsuperscript{33} MINXIN P. \textit{China’s Crony Capitalism: The Dynamics of Regime Decay.} Harvard University Press, 2016. Yukon Huang, a former World Bank Director for China who now works as advisor to World Bank, Asian Development Bank and Asian Infrastructure and Investment Bank, has recently come up with a “heretic” view on corruption, claiming that many Chinese and western economists see corruption as necessary for maintaining high growth. According to Huang, “corruption is said to impede growth in developing economies because it dampens investment, both public and private. But China is different because the state controls all the major resources such as land, finance, and the right to operate commercial activities. Since privatization of those resources is not politically realistic, corruption allows for the transfer of use rights of these assets to private interests through formal or informal contractual arrangements with party and local officials. Such an arrangement encourages investment in infrastructure and industrial expansion in support of growth, with both sides sharing the gains. It is the major reason China has done so well economically even though it has lacked strong institutions and the rule of law.” (See YUKON, H. What the West Gets Wrong About China’s Economy. In: \textit{Foreign Affairs} [online]. 14.9.2017 [2018-07-23]. Available at: <https://www.foreignaffairs.com/articles/china/2017-09-14/what-west-gets-wrong-about-chinas-economy>).

\textsuperscript{34} Eight-point regulation. In: \textit{CPC China} [online]. [2018-07-23]. Available at: <http://cpcchina.chinadaily.com.cn/2012-12/05/content_15992256.htm>.


The scope of the anti-corruption campaign is therefore considerable. According to published statistics, 240 high state officials and one million lower-level officials have been investigated on suspicion of corruption since 2013. According to the Central Disciplinary Commission of the CCP, 66,000 leading party officials at district level have already been investigated on suspicion of bribery and corruption. Between 2013 and mid-2017, 1,375,000 members of the Chinese Communist Party received administrative penalties for breaches of party discipline. The scope of the anti-corruption campaign can also be illustrated by the large amount of money that had been gained illicitly through corruption and was later seized and returned. The total adds up to CNY 9.36 billion (USD 1.4 billion).

But the anti-corruption campaign has its weak points. Somewhat paradoxically, they stem from the ancient Chinese methods of legal interpretation. Traditional Chinese law put great emphasis on the accountability that was connected with the discharge of public office. However, it was also influenced by the Confucian notion of hierarchy, promoting the view that “those with higher status do not have to face court proceedings” and “those of noble blood cannot be punished publicly”. While the Constitution of the People’s Republic of China does guarantee equality before the law, in practice the courts often punish the misdeeds of state officials more leniently or refrain from punishment altogether. As the perpetrators tend to be well-known local personalities, this lenient approach sometimes reflects gratitude for their previous contributions to the development of the city or region. In many cases, their superiors plead for them, insisting that “previous good deeds and merits” should be taken into account. This mostly refers to an official’s role in increasing the welfare of people in a particular area. In such cases, pardon is usually demanded not just by the judges and prosecutors – mostly members of the local elite – but also by public opinion. This comes very close to the Confucian dictum that an official who has done some good – or much good – is a “virtuous man”, and any single breach of a “mere” law on his part should be judged very cautiously. The judges, too, tend to sympathise with this class of offenders because of the traditional Confucian respect for public officials. After all, they, too, see themselves as public officials in the Confucian sense, and as such they try to imaginatively enter into the offender’s mental state, which leads them to greater leniency. Their thinking is influenced especially by two Confucian imperatives. The first dictates that “one must try to enter mentally into the situation of another” and the second that “one must not force on others what one would not want to endure oneself”. The judges live in the same environment as the offenders, they are members of the same Communist Party and know the kinds of pressure public officials have to face, both from above and from below. In cases of this kind, judicial decision-making is also influenced by another ancient Chinese phenomenon, namely personal connections (guanxi). In ancient China, public officials were a privileged social group, and their social clout in the People’s Republic is also considerable. The offenders’ personal connections thus usually have some bear-

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38 China Daily/European Weekly, 13–19 October 2017. The campaign against corruption reached even the highest echelons of the Party. In 2015, Zhou Yongkang, a former member of the Politburo Standing Committee (the highest Party organ) who had served as Minister for Public Security from 2002, was expelled from the Party on corruption grounds and subsequently sentenced to life imprisonment.
ing on the judicial proceedings, and sometimes they actually influence the outcome. This influence could be limited, though probably not completely eliminated, if the trials were routinely held outside the respective home regions of the accused.39

Fighting corruption with tools provided by administrative law is a complicated task, for the notion of suing a public official is completely alien to the Chinese tradition. For this reason, the idea of instituting judicial review of administrative action was seen as a great challenge to Confucian paternalism. There had been concerns that citizens might take the principle too far and challenge all administrative decisions. The functioning of judicial review was therefore first observed on a “test case”: the year 1986 saw the establishment of the first experimental administrative court in the Hubei province, and in 1988 the Supreme People’s Court of the People’s Republic of China formed a separate administrative law division to harmonize the lower courts’ application of administrative law. The Act on Administrative Judicial Review in the People’s Republic of China was passed on 4 April 1989. A leading Chinese administrative law expert, Gong Xianrui of Peking University, wrote on this occasion that the adoption of the law provides a unique opportunity for combatting corruption and abuse of power among state officials. According to him, the procedures of administrative judicial review are superior to other instruments when it comes to defining unlawful actions of administrative authorities and redressing the ensuing wrongs.40 Politically, the adoption of the act was explained as part of a campaign to combat corruption and promote the rights of individuals. When countering the mistaken notion that high officials may escape punishment, the Chinese administrative law doctrine does not invoke the rule-of-law concept (法治), however, but speaks instead of the “rule of man” (人治). The rule-of-law principle does not lend itself to easy understanding in the context of Chinese culture.

Law has never been the main or the highest governing principle of Chinese society. That place belonged to morality. Law was seen merely as a formal instrument ensuring the observance of moral rules. It therefore seems quite bold to assume that the Chinese society would accept the rule-of-law principle and give it precedence over the traditional values of Confucian morality. The concept of the rule of man may seem – but need not be – a mere political commonplace. Let us remember the Confucian notion of a virtuous man as the highest embodiment of moral values. The 1999 Act on Administrative Judicial Review is often referred to by Chinese authorities to highlight the protection of citizens’ rights in China. In fact, its amendment from 2009 enables the citizens to challenge instructions issued by authorities below the central government level also by way of oral complaints to “independent” bodies, particularly the people’s courts. The principal role of the people’s courts is to act as a brake on the executive branch. They should hear administrative lawsuits but should not interfere with the authority of administrative bodies or, still less, usurp their decision-making powers. As a rule, judicial review of administrative action only applies to decisions addressed to specific individuals or legal entities, not to acts with general binding force. Last but not least, great emphasis is placed on the transparency of state ad-

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ministration.\textsuperscript{41} At the 17\textsuperscript{th} CCP National Congress in 2007, the then Chinese President Hu Jintao said: “Power must be exercised in the sunshine to ensure that it is exercised correctly.”

OVERCOMING CONTRADICTIONS AND THE CHINESE DREAM

In any case, it is clear that the corruption of party and government officials is strongly perceived as a problem that, if ignored, could further exacerbate “social contradictions” in China. In fact, the phenomenon of social contradictions has been the subject of much discussion among the party leadership since the very start of the reforms in the late 1970s.

The period of reforms initiated by Deng Xiaoping (officially dated from 1978 to 2012, i.e. from the start of the reforms to the 18\textsuperscript{th} CCP National Congress) was, at least from 1981 on, described in terms of the following principal contradiction: \textit{the ever-growing material and cultural needs of the people versus backward social production}.

According to Xi Jinping’s speech at the 19\textsuperscript{th} CCP National Congress, the current reform period that began in 2012 can be characterized by another contradiction, namely that between \textit{the people’s ever-growing need for a better life and an unbalanced, inadequate development}. Xi explained that people today needed not only a high level of material comfort but also democracy, rule of law, fairness, justice, security and a better environment.\textsuperscript{42} The new definition of the principal social contradiction implies that economic growth is no longer enough and that the quantitative indicators of GDP growth must henceforth translate into actual improvement in people’s quality of life.

After four decades of reforms, the Chinese leadership realised that a new reform period would require a new vision of China’s future development. Immediately after Xi Jinping’s assumption of party leadership, this led to his public declaration of a new “Chinese Dream of National Rejuvenation” which, according to Xi, represents the desires of many generations of Chinese people and the unity of their interests. Xi specified that the essence of the Chinese Dream is to make China strong and prosperous, achieve rejuvenation of the Chinese nation and bring happiness to the Chinese people.\textsuperscript{43}

The Chinese Dream presents the traditional narrative: only under the leadership of the Communist Party can the Chinese people fulfil their aim of building a new society. This vision goes back to Mao Zedong (his “dream” about building Socialism) and to other Chinese leaders before Xi who also presented their ideas about China’s social and economic development – let us mention the idea of “opening China up” put forward by Deng Xiaoping and Jiang Zemin or Hu Jintao’s concept of a Harmonious Society.

However, the Chinese Dream has broader, mutually intertwined political, historical and economic roots. According to Xi Jinping it is the grandest idea formulated in the

\textsuperscript{41} TOMÁŠEK, M., Správní právo a správní vedení na Dálném východě. Správní právo. 2017, No. 5, pp. 269–282.


recent decades, encapsulating prosperity and national rejuvenation. The use of the latter word is no coincidence as it underscores the importance of the changes now happening in China: a return to former greatness and a definitive overcoming of the negative legacy of the “century of national humiliation”, the period between the First Opium War (1839–1842) and the end of the Second Sino-Japanese War in 1945. It is telling that Xi Jinping first publicly referred to the Chinese Dream in his speech at a national history exhibition entitled “Road to Revival” on 29 November 2012. The exhibition in the National Historical Museum documented China's development from the Opium War to the present, with special emphasis on the “century of national humiliation”. In his comments on this period, Xi Jinping said that the Chinese nation has overcome unprecedented difficulties and borne colossal losses in modern world history.

“The Chinese Dream” is thus also the leitmotif of a renewed political life, a national idea animating the Chinese people, whose basic elements are Socialist economic development, promotion of the Scientific Outlook on Development, and a harmony of cultural and material values.

These are the basic ideas on which the Chinese leadership has been drawing since 2016 as it defined the future goals and tasks of China's development. At the 19th National Congress of the Chinese Communist Party in 2017, these goals and tasks were situated on a 33-year time scale whose main reference points are the years 2020, 2035 and 2050. The CCP wants to finish “building a moderately prosperous society” by 2020 and by 2050 “build China into a great modern Socialist country that is prosperous, strong, democratic, culturally advanced, harmonious, and beautiful”. Within this time horizon, China should also become “a global leader in terms of composite national strength and international influ-

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45 The First Opium War (also called the First Anglo-Chinese War) was a war between the United Kingdom and the Manchurian Qing dynasty that began on 25 August 1839 with the battle of Kowloon and was terminated by a peace agreement signed in Nanjing on 29 August 1842. Its cause was a dispute over the legalization of opium trade in China, the opening of Chinese ports to western merchants and the establishment, on an equal footing, of diplomatic relations between British representatives, merchants, and imperial China. The British demonstrated their superiority on land and sea in both military material and professional training and achieved a decisive victory, which was subsequently translated into a number of very advantageous peace agreements. For China, however, this outcome meant a curbing of its sovereignty for the following hundred years. The consequences of the war shaped China's attitude to western nations for several decades.
47 In contrast, the Chinese sinologist Willy Lam from the Chinese University of Hong Kong sees the Chinese Dream as a super-nationalist narrative of a prospective superpower.
ence” (a major step toward achieving this goal will clearly be the implementation of the Belt and Road Initiative, the large-scale new “silk road” project).

The above-mentioned time horizons (and the respective sets of goals attached to them) are basically consistent with what was publicly declared at previous party congresses. These focused on 2021, the year when the CCP will celebrate a hundred years since its foundation, and 2049, the centenary of the People’s Republic of China. Xi Jinping’s speech did introduce a new element, however: he also mentioned 2035 as the year in which China should, in principle, achieve “socialist modernization”. The rather abstract “centenary goals” have thus become somewhat more specific.

Xi Jinping himself described the above-mentioned aims as a strategic vision for developing socialism with Chinese characteristics in the new era. This statement, in an almost identical form, was also included in the new party statutes as “Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era”. This is a major development, since the only two people who have previously enjoyed the privilege of having their thoughts included in the party statutes and attributed to them by name were Mao Zedong (Mao Zedong Thought) and the reformer Deng Xiaoping (Deng Xiaoping Theory) – the latter’s ideas, however, were only included in the statutes after his death in 1997.

“Xi Jinping Thought”, which has also been incorporated into the Chinese Constitution at one of the sessions of the National People’s Congress (Chinese parliament), is a compendium of statements, official declarations and slogans uttered by Xi Jinping after his accession to the post of CCP General Secretary in October 2012. The official Chinese media have referred to this selection as to “the Essence of General Secretary Xi Jinping’s Series of Important Remarks”. It is supposed to introduce new concepts, ideas and strategies in the field of political, economic and social construction, party and army construction and the cultivation of “environmental civilization”. According to Xinhua, the official Chinese press agency, it includes one core idea and two fundamental points. The core idea is the “Chinese Dream” and the two fundamental points refer to “comprehensively deepening reform and upholding the mass line”. The main emphasis is put on the party’s “purity”, which includes energetic fight against corruption and immoral behaviour within the CCP.


49 Earlier, the party statutes were amended to include “Thoughts” of Xi Jinping’s immediate predecessors Hu Jintao and Jiang Zemin but without identifying the two by name. In the case of Jiang Zemin it was the concept of “Three Representatives” (party membership should be open not only to industrial and agricultural workers but also to private sector businessmen – this idea was officially declared in 2001 on the occasion of the 80th anniversary of party establishment. In the case of Hu Jintao it was the “Scientific Outlook on Development”.


51 In the given case, Xi Jinping actually innovated Mao’s concept of “mass line” tactics from 1950–1951. “Mass line” involves communication with the masses, whose views are interpreted in the context of Marxism-Leninism and subsequently translated into policy.
The inclusion of “Xi Jinping Thought” into party statutes and the constitution is also linked to a major change in the Chinese political system: the abolition of the constitutional limit of two presidential terms. This change will most probably also apply to the posts of General Secretary of the CCP Central Committee and Chairman of the Military Commission (which are both of more actual importance), even though no limits have been officially codified with regard to these two. This means that Xi Jinping may enjoy the exceptional political power he now holds in his hands for an indefinite period of time.

The late 2010s are thus witnessing the emergence of a new, comprehensive Chinese political doctrine. Linking domestic political, economic and social development to geopolitical and geo-economic aims, this doctrine will guide China's future course as it assumes, with a strong leader at the helm, a new, more prominent and active role on the global stage. The Chinese political leadership may well have considered the current moment propitious and seen it as a “strategic opportunity” since the United States is withdrawing from global politics and is reluctant to address the major crisis phenomena in the western world.

After the first stage of China's development – Mao's unification of the country after the civil war – and the second stage connected with Deng's economic reforms, there comes the third stage of Xi in which an economically strong China will endeavour not only to confirm, but also expand its great-power status.